

SECOND REGULAR SESSION

# HOUSE BILL NO. 3040

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE OVERCAST.

6773H.011

JOSEPH ENGLER, Chief Clerk

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## AN ACT

To repeal sections 195.070, 334.104, and 335.019, RSMo, and to enact in lieu thereof three new sections relating to advanced practice registered nurses.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 195.070, 334.104, and 335.019, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 195.070, 334.104, and 335.019,  
3 to read as follows:

195.070. 1. A physician, podiatrist, dentist, a registered optometrist certified to  
2 administer pharmaceutical agents as provided in section 336.220, or an assistant physician in  
3 accordance with section 334.037 or a physician assistant in accordance with section 334.747  
4 in good faith and in the course of his or her professional practice only, may prescribe,  
5 administer, and dispense controlled substances or he or she may cause the same to be  
6 administered or dispensed by an individual as authorized by statute.

7 2. An advanced practice registered nurse, as defined in section 335.016, but not a  
8 certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, who  
9 holds a certificate of controlled substance prescriptive authority from the board of nursing  
10 under section 335.019 and who is delegated the authority to prescribe controlled substances  
11 under a collaborative practice arrangement under section 334.104 may prescribe any  
12 controlled substances listed in Schedules III, IV, and V of section 195.017, and may have  
13 restricted authority in Schedule II. Prescriptions for Schedule II medications prescribed by an  
14 advanced practice registered nurse who has a certificate of controlled substance prescriptive  
15 authority are restricted to only those medications containing hydrocodone [~~and~~], Schedule II  
16 controlled substances for hospice patients, **and Schedule II stimulants for behavioral**

EXPLANATION — Matter enclosed in bold-faced brackets [~~thus~~] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **health patients** pursuant to the provisions of section 334.104. However, no such certified  
18 advanced practice registered nurse shall prescribe controlled substance for his or her own self  
19 or family. Schedule III narcotic controlled substance and Schedule II - hydrocodone  
20 prescriptions shall be limited to a one hundred twenty-hour supply without refill.

21 3. A veterinarian, in good faith and in the course of the veterinarian's professional  
22 practice only, and not for use by a human being, may prescribe, administer, and dispense  
23 controlled substances and the veterinarian may cause them to be administered by an assistant  
24 or orderly under his or her direction and supervision.

25 4. A practitioner shall not accept any portion of a controlled substance unused by a  
26 patient, for any reason, if such practitioner did not originally dispense the drug, except:

27 (1) When the controlled substance is delivered to the practitioner to administer to the  
28 patient for whom the medication is prescribed as authorized by federal law. Practitioners  
29 shall maintain records and secure the medication as required by this chapter and regulations  
30 promulgated pursuant to this chapter; or

31 (2) As provided in section 195.265.

32 5. An individual practitioner shall not prescribe or dispense a controlled substance for  
33 such practitioner's personal use except in a medical emergency.

334.104. 1. A physician may enter into collaborative practice arrangements with  
2 registered professional nurses. Collaborative practice arrangements shall be in the form of  
3 written agreements, jointly agreed-upon protocols, or standing orders for the delivery of  
4 health care services. Collaborative practice arrangements, which shall be in writing, may  
5 delegate to a registered professional nurse the authority to administer or dispense drugs and  
6 provide treatment as long as the delivery of such health care services is within the scope of  
7 practice of the registered professional nurse and is consistent with that nurse's skill, training  
8 and competence.

9 2. (1) Collaborative practice arrangements, which shall be in writing, may delegate to  
10 a registered professional nurse the authority to administer, dispense or prescribe drugs and  
11 provide treatment if the registered professional nurse is an advanced practice registered nurse  
12 as defined in subdivision (2) of section 335.016. Collaborative practice arrangements may  
13 delegate to an advanced practice registered nurse, as defined in section 335.016, the authority  
14 to administer, dispense, or prescribe controlled substances listed in Schedules III, IV, and V of  
15 section 195.017, ~~and~~ Schedule II - hydrocodone, **and for behavioral health patients,**  
16 **Schedule II stimulants**; except that, the collaborative practice arrangement shall not delegate  
17 the authority to administer any controlled substances listed in Schedules III, IV, and V of  
18 section 195.017, or Schedule II - hydrocodone for the purpose of inducing sedation or general  
19 anesthesia for therapeutic, diagnostic, or surgical procedures. Schedule III narcotic controlled

20 substance and Schedule II - hydrocodone prescriptions shall be limited to a one hundred  
21 twenty-hour supply without refill.

22 (2) Notwithstanding any other provision of this section to the contrary, a collaborative  
23 practice arrangement may delegate to an advanced practice registered nurse the authority to  
24 administer, dispense, or prescribe Schedule II controlled substances for hospice patients;  
25 provided, that the advanced practice registered nurse is employed by a hospice provider  
26 certified pursuant to chapter 197 and the advanced practice registered nurse is providing care  
27 to hospice patients pursuant to a collaborative practice arrangement that designates the  
28 certified hospice as a location where the advanced practice registered nurse is authorized to  
29 practice and prescribe.

30 (3) Such collaborative practice arrangements shall be in the form of written  
31 agreements, jointly agreed-upon protocols or standing orders for the delivery of health care  
32 services.

33 (4) An advanced practice registered nurse may prescribe buprenorphine for up to a  
34 thirty-day supply without refill for patients receiving medication-assisted treatment for  
35 substance use disorders under the direction of the collaborating physician.

36 3. The written collaborative practice arrangement shall contain at least the following  
37 provisions:

38 (1) Complete names, home and business addresses, zip codes, and telephone numbers  
39 of the collaborating physician and the advanced practice registered nurse;

40 (2) A list of all other offices or locations besides those listed in subdivision (1) of this  
41 subsection where the collaborating physician authorized the advanced practice registered  
42 nurse to prescribe;

43 (3) A requirement that there shall be posted at every office where the advanced  
44 practice registered nurse is authorized to prescribe, in collaboration with a physician, a  
45 prominently displayed disclosure statement informing patients that they may be seen by an  
46 advanced practice registered nurse and have the right to see the collaborating physician;

47 (4) All specialty or board certifications of the collaborating physician and all  
48 certifications of the advanced practice registered nurse;

49 (5) The manner of collaboration between the collaborating physician and the  
50 advanced practice registered nurse, including how the collaborating physician and the  
51 advanced practice registered nurse will:

52 (a) Engage in collaborative practice consistent with each professional's skill, training,  
53 education, and competence;

54 (b) Maintain geographic proximity, except as specified in this paragraph. The  
55 following provisions shall apply with respect to this requirement:

56 a. Until August 28, 2025, an advanced practice registered nurse providing services in  
57 a correctional center, as defined in section 217.010, and his or her collaborating physician  
58 shall satisfy the geographic proximity requirement if they practice within two hundred miles  
59 by road of one another. An incarcerated patient who requests or requires a physician  
60 consultation shall be treated by a physician as soon as appropriate;

61 b. The collaborative practice arrangement may allow for geographic proximity to be  
62 waived for a maximum of twenty-eight days per calendar year for rural health clinics as  
63 defined by Pub.L. 95-210 (42 U.S.C. Section 1395x, as amended), as long as the collaborative  
64 practice arrangement includes alternative plans as required in paragraph (c) of this  
65 subdivision. This exception to geographic proximity shall apply only to independent rural  
66 health clinics, provider-based rural health clinics where the provider is a critical access  
67 hospital as provided in 42 U.S.C. Section 1395i-4, and provider-based rural health clinics  
68 where the main location of the hospital sponsor is greater than fifty miles from the clinic;

69 c. The collaborative practice arrangement may allow for geographic proximity to be  
70 waived when the arrangement outlines the use of telehealth, as defined in section 191.1145;

71 d. In addition to the waivers and exemptions provided in this subsection, an  
72 application for a waiver for any other reason of any applicable geographic proximity shall be  
73 available if a physician is collaborating with an advanced practice registered nurse in excess  
74 of any geographic proximity limit. The board of nursing and the state board of registration  
75 for the healing arts shall review each application for a waiver of geographic proximity and  
76 approve the application if the boards determine that adequate supervision exists between the  
77 collaborating physician and the advanced practice registered nurse. The boards shall have  
78 forty-five calendar days to review the completed application for the waiver of geographic  
79 proximity. If no action is taken by the boards within forty-five days after the submission of  
80 the application for a waiver, then the application shall be deemed approved. If the application  
81 is denied by the boards, the provisions of section 536.063 for contested cases shall apply and  
82 govern proceedings for appellate purposes; and

83 e. The collaborating physician is required to maintain documentation related to this  
84 requirement and to present it to the state board of registration for the healing arts when  
85 requested; and

86 (c) Provide coverage during absence, incapacity, infirmity, or emergency by the  
87 collaborating physician;

88 (6) A description of the advanced practice registered nurse's controlled substance  
89 prescriptive authority in collaboration with the physician, including a list of the controlled  
90 substances the physician authorizes the nurse to prescribe and documentation that it is  
91 consistent with each professional's education, knowledge, skill, and competence;

92 (7) A list of all other written practice agreements of the collaborating physician and  
93 the advanced practice registered nurse;

94 (8) The duration of the written practice agreement between the collaborating  
95 physician and the advanced practice registered nurse;

96 (9) A description of the time and manner of the collaborating physician's review of  
97 the advanced practice registered nurse's delivery of health care services. The description shall  
98 include provisions that the advanced practice registered nurse shall submit a minimum of ten  
99 percent of the charts documenting the advanced practice registered nurse's delivery of health  
100 care services to the collaborating physician for review by the collaborating physician, or any  
101 other physician designated in the collaborative practice arrangement, every fourteen days;

102 (10) The collaborating physician, or any other physician designated in the  
103 collaborative practice arrangement, shall review every fourteen days a minimum of twenty  
104 percent of the charts in which the advanced practice registered nurse prescribes controlled  
105 substances. The charts reviewed under this subdivision may be counted in the number of  
106 charts required to be reviewed under subdivision (9) of this subsection; and

107 (11) If a collaborative practice arrangement is used in clinical situations where a  
108 collaborating advanced practice registered nurse provides health care services that include the  
109 diagnosis and initiation of treatment for acutely or chronically ill or injured persons, then the  
110 collaborating physician or any other physician designated in the collaborative practice  
111 arrangement shall be present for sufficient periods of time, at least once every two weeks,  
112 except in extraordinary circumstances that shall be documented, to participate in a chart  
113 review and to provide necessary medical direction, medical services, consultations, and  
114 supervision of the health care staff.

115 4. The state board of registration for the healing arts pursuant to section 334.125 and  
116 the board of nursing pursuant to section 335.036 may jointly promulgate rules regulating the  
117 use of collaborative practice arrangements. Such rules shall be limited to the methods of  
118 treatment that may be covered by collaborative practice arrangements and the requirements  
119 for review of services provided pursuant to collaborative practice arrangements including  
120 delegating authority to prescribe controlled substances. Any rules relating to geographic  
121 proximity shall allow a collaborating physician and a collaborating advanced practice  
122 registered nurse to practice within two hundred miles by road of one another until August 28,  
123 2025, if the nurse is providing services in a correctional center, as defined in section 217.010.  
124 Any rules relating to dispensing or distribution of medications or devices by prescription or  
125 prescription drug orders under this section shall be subject to the approval of the state board  
126 of pharmacy. Any rules relating to dispensing or distribution of controlled substances by  
127 prescription or prescription drug orders under this section shall be subject to the approval of  
128 the department of health and senior services and the state board of pharmacy. In order to take

129 effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the  
130 state board of registration for the healing arts nor the board of nursing may separately  
131 promulgate rules relating to collaborative practice arrangements. Such jointly promulgated  
132 rules shall be consistent with guidelines for federally funded clinics. The rulemaking  
133 authority granted in this subsection shall not extend to collaborative practice arrangements of  
134 hospital employees providing inpatient care within hospitals as defined pursuant to chapter  
135 197 or population-based public health services as defined by 20 CSR 2150-5.100 as of April  
136 30, 2008.

137         5. The state board of registration for the healing arts shall not deny, revoke, suspend  
138 or otherwise take disciplinary action against a physician for health care services delegated to a  
139 registered professional nurse provided the provisions of this section and the rules  
140 promulgated thereunder are satisfied. Upon the written request of a physician subject to a  
141 disciplinary action imposed as a result of an agreement between a physician and a registered  
142 professional nurse or registered physician assistant, whether written or not, prior to August  
143 28, 1993, all records of such disciplinary licensure action and all records pertaining to the  
144 filing, investigation or review of an alleged violation of this chapter incurred as a result of  
145 such an agreement shall be removed from the records of the state board of registration for the  
146 healing arts and the division of professional registration and shall not be disclosed to any  
147 public or private entity seeking such information from the board or the division. The state  
148 board of registration for the healing arts shall take action to correct reports of alleged  
149 violations and disciplinary actions as described in this section which have been submitted to  
150 the National Practitioner Data Bank. In subsequent applications or representations relating to  
151 his or her medical practice, a physician completing forms or documents shall not be required  
152 to report any actions of the state board of registration for the healing arts for which the  
153 records are subject to removal under this section.

154         6. Within thirty days of any change and on each renewal, the state board of  
155 registration for the healing arts shall require every physician to identify whether the physician  
156 is engaged in any collaborative practice arrangement, including collaborative practice  
157 arrangements delegating the authority to prescribe controlled substances, or physician  
158 assistant collaborative practice arrangement and also report to the board the name of each  
159 licensed professional with whom the physician has entered into such arrangement. The board  
160 shall make this information available to the public. The board shall track the reported  
161 information and may routinely conduct random reviews of such arrangements to ensure that  
162 arrangements are carried out for compliance under this chapter.

163         7. Notwithstanding any law to the contrary, a certified registered nurse anesthetist as  
164 defined in subdivision (8) of section 335.016 shall be permitted to provide anesthesia services  
165 without a collaborative practice arrangement provided that he or she is under the supervision

166 of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if  
167 needed. Nothing in this subsection shall be construed to prohibit or prevent a certified  
168 registered nurse anesthetist as defined in subdivision (8) of section 335.016 from entering into  
169 a collaborative practice arrangement under this section, except that the collaborative practice  
170 arrangement may not delegate the authority to prescribe any controlled substances listed in  
171 Schedules III, IV, and V of section 195.017, or Schedule II - hydrocodone.

172 8. A collaborating physician shall not enter into a collaborative practice arrangement  
173 with more than six full-time equivalent advanced practice registered nurses, full-time  
174 equivalent licensed physician assistants, or full-time equivalent assistant physicians, or any  
175 combination thereof. This limitation shall not apply to collaborative arrangements of hospital  
176 employees providing inpatient care service in hospitals as defined in chapter 197 or  
177 population-based public health services as defined by 20 CSR 2150-5.100 as of April 30,  
178 2008, or to a certified registered nurse anesthetist providing anesthesia services under the  
179 supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately  
180 available if needed as set out in subsection 7 of this section.

181 9. It is the responsibility of the collaborating physician to determine and document  
182 the completion of at least a one-month period of time during which the advanced practice  
183 registered nurse shall practice with the collaborating physician continuously present before  
184 practicing in a setting where the collaborating physician is not continuously present. This  
185 limitation shall not apply to collaborative arrangements of providers of population-based  
186 public health services, as defined by 20 CSR 2150-5.100 as of April 30, 2008, or to  
187 collaborative practice arrangements between a primary care physician and a primary care  
188 advanced practice registered nurse or a behavioral health physician and a behavioral health  
189 advanced practice registered nurse, where the collaborating physician is new to a patient  
190 population to which the advanced practice registered nurse is familiar.

191 10. No agreement made under this section shall supersede current hospital licensing  
192 regulations governing hospital medication orders under protocols or standing orders for the  
193 purpose of delivering inpatient or emergency care within a hospital as defined in section  
194 197.020 if such protocols or standing orders have been approved by the hospital's medical  
195 staff and pharmaceutical therapeutics committee.

196 11. No contract or other term of employment shall require a physician to act as a  
197 collaborating physician for an advanced practice registered nurse against the physician's will.  
198 A physician shall have the right to refuse to act as a collaborating physician, without penalty,  
199 for a particular advanced practice registered nurse. No contract or other agreement shall limit  
200 the collaborating physician's ultimate authority over any protocols or standing orders or in the  
201 delegation of the physician's authority to any advanced practice registered nurse, but this  
202 requirement shall not authorize a physician in implementing such protocols, standing orders,

203 or delegation to violate applicable standards for safe medical practice established by hospital's  
204 medical staff.

205 12. No contract or other term of employment shall require any advanced practice  
206 registered nurse to serve as a collaborating advanced practice registered nurse for any  
207 collaborating physician against the advanced practice registered nurse's will. An advanced  
208 practice registered nurse shall have the right to refuse to collaborate, without penalty, with a  
209 particular physician.

210 13. (1) **The provisions of this section shall not apply to an advanced practice**  
211 **registered nurse who has been in a collaborative practice arrangement for a cumulative**  
212 **two thousand documented hours with a collaborating physician and whose license is in**  
213 **good standing. Any such advanced practice registered nurse shall not be required to**  
214 **enter into or remain in an arrangement in order to practice in this state. Any other**  
215 **provisions of law requiring a collaborative practice arrangement or delegation shall not**  
216 **be required for an advanced practice registered nurse described in this subsection.**

217 (2) **The provisions of this subsection shall not apply to certified registered nurse**  
218 **anesthetists.**

219 (3) **Notwithstanding any provision of this section to the contrary, an advanced**  
220 **practice registered nurse applying for licensure by endorsement may demonstrate to the**  
221 **state board of nursing completion of a cumulative two thousand documented hours of**  
222 **practice. Such advanced practice registered nurses shall not be required to enter into a**  
223 **collaborative practice arrangement in order to practice in this state.**

335.019. 1. An advanced practice registered nurse's prescriptive authority shall  
2 include authority to:

3 (1) Prescribe, dispense, and administer medications and nonscheduled legend drugs,  
4 as defined in section 338.330, **and controlled substances, as provided in subsection 2 of**  
5 **section 195.070**, within such APRN's practice and specialty; and

6 (2) Notwithstanding any other provision of this chapter to the contrary, receive,  
7 prescribe, administer, and provide nonscheduled legend drug samples from pharmaceutical  
8 manufacturers to patients at no charge to the patient or any other party.

9 2. **In addition to advanced practice registered nurses who have a collaborative**  
10 **practice arrangement, the provisions of subsection 1 of this section shall apply to an**  
11 **advanced practice registered nurse who meets the requirements described in subsection**  
12 **13 of section 334.104 and is no longer required to hold a collaborative practice**  
13 **arrangement.**

14 3. The board of nursing may grant a certificate of controlled substance prescriptive  
15 authority to an advanced practice registered nurse who:

16 (1) Submits proof of successful completion of an advanced pharmacology course that  
17 shall include preceptorial experience in the prescription of drugs, medicines, and therapeutic  
18 devices; and

19 (2) Provides documentation of a minimum of three hundred clock hours preceptorial  
20 experience in the prescription of drugs, medicines, and therapeutic devices with a qualified  
21 preceptor; and

22 (3) Provides evidence of a minimum of one thousand hours of practice in an advanced  
23 practice nursing category prior to application for a certificate of prescriptive authority. The  
24 one thousand hours shall not include clinical hours obtained in the advanced practice nursing  
25 education program. The one thousand hours of practice in an advanced practice nursing  
26 category may include transmitting a prescription order orally or telephonically or to an  
27 inpatient medical record from protocols developed in collaboration with and signed by a  
28 licensed physician; and

29 (4) **(a)** Has a controlled substance prescribing authority delegated in the collaborative  
30 practice arrangement under section 334.104 with a physician who has an unrestricted federal  
31 Drug Enforcement Administration registration number and who is actively engaged in a  
32 practice comparable in scope, specialty, or expertise to that of the advanced practice  
33 registered nurse; **or**

34 **(b) Provides documentation of a minimum of two thousand hours of practice in**  
35 **advanced practice nursing, as provided in subsection 13 of section 334.104.**

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