

4611

2013-2014 Regular Sessions

I N   S E N A T E

April 15, 2013

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Introduced by Sens. YOUNG, AVELLA, ESPAILLAT, MONTGOMERY, RITCHIE, ROBACH, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to establishing the nurse practitioners modernization act; and providing for the repeal of such provisions upon the expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "nurse practitioners modernization act".  
3     S 2. Subdivision 3 of section 6902 of the education law, as added by  
4     chapter 257 of the laws of 1988, is amended to read as follows:  
5     3. (a) (I) The practice of registered professional nursing by a nurse  
6     practitioner, certified under section [six thousand nine] SIXTY-NINE  
7     hundred ten of this article AND PRACTICING FOR FEWER THAN THIRTY-SIX  
8     MONTHS AND THREE THOUSAND SIX HUNDRED HOURS, may include the diagnosis  
9     of illness and physical conditions and the performance of therapeutic  
10    and corrective measures within a specialty area of practice, in collab-  
11    oration with a licensed physician qualified to collaborate in the  
12    specialty involved, provided such services are performed in accordance  
13    with a written practice agreement and written practice protocols. The  
14    written practice agreement shall include explicit provisions for the  
15    resolution of any disagreement between the collaborating physician and  
16    the nurse practitioner regarding a matter of diagnosis or treatment that  
17    is within the scope of practice of both. To the extent the practice  
18    agreement does not so provide, then the collaborating physician's diag-  
19    nosis or treatment shall prevail. IN THE EVENT THAT (A) AN EXISTING  
20    WRITTEN PRACTICE AGREEMENT WITH A COLLABORATING PHYSICIAN TERMINATES AS  
21    A RESULT OF THE COLLABORATING PHYSICIAN MOVING, RETIRING, NO LONGER  
22    NEEDING THE SERVICES OF THE NURSE PRACTITIONER, NO LONGER BEING QUALI-  
23    FIED TO PRACTICE OR UPON HIS OR HER DEATH AND THE NURSE PRACTITIONER IS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD10172-01-3

1 UNABLE TO ENTER INTO A NEW WRITTEN PRACTICE AGREEMENT WITH ANOTHER  
2 COLLABORATING PHYSICIAN; OR IF (B) A NURSE PRACTITIONER OBTAINS APPROVAL  
3 BY THE DEPARTMENT BASED ON A DEMONSTRATION TO THE DEPARTMENT THAT AN  
4 EXISTING WRITTEN PRACTICE AGREEMENT WAS TERMINATED DUE TO NO FAULT ON  
5 THE PART OF THE NURSE PRACTITIONER, AND THAT THE NURSE PRACTITIONER IS  
6 UNABLE TO ENTER INTO A NEW WRITTEN PRACTICE AGREEMENT WITH ANOTHER  
7 COLLABORATING PHYSICIAN FOLLOWING A SHOWING OF GOOD FAITH EFFORT; THEN:  
8 SUCH NURSE PRACTITIONER MAY CONTINUE TO PRACTICE PURSUANT TO THIS PARA-  
9 GRAPH WITHIN A SPECIALTY AREA OF PRACTICE FOR A PERIOD OF UP TO SIX  
10 MONTHS, IN COLLABORATION WITH A NURSE PRACTITIONER WHO HAS BEEN CERTI-  
11 FIED UNDER SECTION SIXTY-NINE HUNDRED TEN OF THIS ARTICLE, WHO HAS BEEN  
12 PRACTICING FOR MORE THAN THIRTY-SIX MONTHS AND THREE THOUSAND SIX  
13 HUNDRED HOURS AND WHO IS QUALIFIED TO COLLABORATE IN THE SPECIALTY  
14 INVOLVED, PROVIDED THAT SERVICES ARE PERFORMED IN ACCORDANCE WITH A  
15 WRITTEN PRACTICE AGREEMENT AND WRITTEN PRACTICE PROTOCOLS; SUCH SIX  
16 MONTH TIME PERIOD FOR COLLABORATION BETWEEN NURSE PRACTITIONERS MAY BE  
17 EXTENDED FOR A PERIOD OF TIME NOT TO EXCEED AN ADDITIONAL SIX MONTHS  
18 UPON A SHOWING OF GOOD CAUSE SUBJECT TO THE APPROVAL OF THE DEPARTMENT.

19 [(b)] (II) Prescriptions for drugs, devices and immunizing agents may  
20 be issued by a nurse practitioner, under this [subdivision] PARAGRAPH  
21 and section [six thousand nine] SIXTY-NINE hundred ten of this article,  
22 in accordance with the practice agreement and practice protocols. The  
23 nurse practitioner shall obtain a certificate from the department upon  
24 successfully completing a program including an appropriate pharmacology  
25 component, or its equivalent, as established by the commissioner's regu-  
26 lations, prior to prescribing under this [subdivision] PARAGRAPH. The  
27 certificate issued under section [six thousand nine] SIXTY-NINE hundred  
28 ten of this article shall state whether the nurse practitioner has  
29 successfully completed such a program or equivalent and is authorized to  
30 prescribe under this [subdivision] PARAGRAPH.

31 [(c)] (III) Each practice agreement shall provide for patient records  
32 review by the collaborating physician OR, WHERE APPLICABLE, THE COLLAB-  
33 ORATING NURSE PRACTITIONER, in a timely fashion but in no event less  
34 often than every three months. The names of the nurse practitioner and  
35 the collaborating physician OR, WHERE APPLICABLE, THE COLLABORATING  
36 NURSE PRACTITIONER shall be clearly posted in the practice setting of  
37 the nurse practitioner.

38 [(d)] (IV) The practice protocol shall reflect current accepted  
39 medical and nursing practice, OR WHERE APPLICABLE THE CURRENT ACCEPTED  
40 NURSING PRACTICE. The protocols shall be filed with the department  
41 within ninety days of the commencement of the practice and may be  
42 updated periodically. The commissioner shall make regulations establish-  
43 ing the procedure for the review of protocols and the disposition of any  
44 issues arising from such review.

45 [(e)] (V) No physician OR, WHERE APPLICABLE, NURSE PRACTITIONER, shall  
46 enter into practice agreements with more than four nurse practitioners  
47 who are not located on the same physical premises as the collaborating  
48 physician OR COLLABORATING NURSE PRACTITIONER.

49 [(f)] (B) (I) THE PRACTICE OF REGISTERED PROFESSIONAL NURSING BY A  
50 NURSE PRACTITIONER, CERTIFIED UNDER SECTION SIXTY-NINE HUNDRED TEN OF  
51 THIS ARTICLE AND PRACTICING FOR MORE THAN THIRTY-SIX MONTHS AND THREE  
52 THOUSAND SIX HUNDRED HOURS, MAY INCLUDE THE DIAGNOSIS OF ILLNESS AND  
53 PHYSICAL CONDITIONS AND THE PERFORMANCE OF THERAPEUTIC AND CORRECTIVE  
54 MEASURES WITHIN A SPECIALTY AREA OF PRACTICE.

55 (II) PRESCRIPTIONS FOR DRUGS, DEVICES AND IMMUNIZING AGENTS MAY BE  
56 ISSUED BY A NURSE PRACTITIONER, UNDER THIS PARAGRAPH AND SECTION SIXTY-

1 NINE HUNDRED TEN OF THIS ARTICLE. THE NURSE PRACTITIONER SHALL OBTAIN A  
2 CERTIFICATE FROM THE DEPARTMENT UPON SUCCESSFULLY COMPLETING A PROGRAM  
3 INCLUDING AN APPROPRIATE PHARMACOLOGY COMPONENT, OR ITS EQUIVALENT, AS  
4 ESTABLISHED BY THE COMMISSIONER'S REGULATIONS, PRIOR TO PRESCRIBING  
5 UNDER THIS PARAGRAPH; PROVIDED THAT ANY CERTIFICATE ISSUED PURSUANT TO  
6 SUBPARAGRAPH (II) OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL ALSO SATIS-  
7 FY THE REQUIREMENTS OF THIS SUBPARAGRAPH. THE CERTIFICATE ISSUED UNDER  
8 SECTION SIXTY-NINE HUNDRED TEN OF THIS ARTICLE SHALL STATE WHETHER THE  
9 NURSE PRACTITIONER HAS SUCCESSFULLY COMPLETED SUCH A PROGRAM OR EQUIV-  
10 ALENT AND IS AUTHORIZED TO PRESCRIBE UNDER THIS PARAGRAPH.

11 (III) A NURSE PRACTITIONER, CERTIFIED UNDER SECTION SIXTY-NINE HUNDRED  
12 TEN OF THIS ARTICLE AND PRACTICING FOR MORE THAN THIRTY-SIX MONTHS AND  
13 THREE THOUSAND SIX HUNDRED HOURS, SHALL HAVE COLLABORATIVE RELATIONSHIPS  
14 WITH ONE OR MORE LICENSED PHYSICIANS QUALIFIED TO COLLABORATE IN THE  
15 SPECIALTY INVOLVED OR A HOSPITAL, LICENSED UNDER ARTICLE TWENTY-EIGHT OF  
16 THE PUBLIC HEALTH LAW, THAT PROVIDES SERVICES THROUGH LICENSED PHYSI-  
17 CIANS QUALIFIED TO COLLABORATE IN THE SPECIALTY INVOLVED AND HAVING  
18 PRIVILEGES AT SUCH INSTITUTION BUT SHALL NOT BE REQUIRED TO HAVE A WRIT-  
19 TEN PRACTICE AGREEMENT, PROVIDED THAT SUCH NURSE PRACTITIONER SHALL  
20 COMPLETE AND MAINTAIN A FORM, CREATED BY THE DEPARTMENT, WHICH NURSE  
21 PRACTITIONER SHALL ATTEST TO, THAT SUMMARIZES WRITTEN PRACTICE PROTO-  
22 COLS, PROVIDES THE CRITERIA TO BE USED REGARDING CONSULTATION, INCLUDING  
23 METHODS AND FREQUENCY OF HOW CONSULTATION SHALL BE PROVIDED, COLLABORA-  
24 TIVE MANAGEMENT AND REFERRAL, AND EMERGENCY REFERRAL PLANS, TO ADDRESS  
25 THE HEALTH STATUS AND RISK OF PATIENTS. SUCH FORMS SHALL BE UPDATED AS  
26 NEEDED AND MAY BE SUBJECT TO REVIEW BY THE DEPARTMENT. THE NURSE PRACTI-  
27 TIONER SHALL MAKE CURRENT INFORMATION CONTAINED IN THIS FORM AVAILABLE  
28 TO HIS OR HER PATIENTS UPON REQUEST. DOCUMENTATION OF SUCH COLLABORA-  
29 TIVE RELATIONSHIPS SHALL BE MAINTAINED BY THE NURSE PRACTITIONER AND MAY  
30 BE SUBJECT TO REVIEW BY THE DEPARTMENT. FAILURE TO COMPLY WITH THE  
31 REQUIREMENTS FOUND IN THIS SUBPARAGRAPH SHALL BE SUBJECT TO PROFESSIONAL  
32 MISCONDUCT PROVISIONS AS SET FORTH IN ARTICLE ONE HUNDRED THIRTY OF THIS  
33 TITLE.

34 (C) Nothing in this subdivision shall be deemed to limit or diminish  
35 the practice of the profession of nursing as a registered professional  
36 nurse under this article or any other law, rule, regulation or certifi-  
37 cation, nor to deny any registered professional nurse the right to do  
38 any act or engage in any practice authorized by this article or any  
39 other law, rule, regulation or certification.

40 [(g)] (D) The provisions of this subdivision shall not apply to any  
41 activity authorized, pursuant to statute, rule or regulation, to be  
42 performed by a registered professional nurse in a hospital as defined in  
43 article twenty-eight of the public health law.

44 (E) THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH,  
45 SHALL ISSUE A REPORT ON THE IMPLEMENTATION OF THE PROVISIONS OF THIS  
46 SECTION ALONG WITH INFORMATION THAT INCLUDES, BUT IS NOT LIMITED TO: THE  
47 NUMBER OF NURSE PRACTITIONERS PRACTICING FOR FEWER THAN THIRTY-SIX  
48 MONTHS AND THREE THOUSAND SIX HUNDRED HOURS THAT PRACTICE PURSUANT TO A  
49 COLLABORATIVE AGREEMENT WITH A PHYSICIAN; THE NUMBER OF NURSE PRACTI-  
50 TIONERS PRACTICING FOR FEWER THAN THIRTY-SIX MONTHS AND THREE THOUSAND  
51 SIX HUNDRED HOURS THAT PRACTICE PURSUANT TO A COLLABORATIVE AGREEMENT  
52 WITH A NURSE PRACTITIONER FOR SIX MONTHS AND THE NUMBER OF THESE NURSE  
53 PRACTITIONERS THAT EXTEND A COLLABORATIVE AGREEMENT FOR AN ADDITIONAL  
54 SIX MONTHS UPON A SHOWING OF GOOD CAUSE SUBJECT TO THE APPROVAL OF THE  
55 DEPARTMENT; THE NUMBER OF NURSE PRACTITIONERS PRACTICING FOR MORE THAN  
56 THIRTY-SIX MONTHS AND THREE THOUSAND SIX HUNDRED HOURS THAT PRACTICE

1 PURSUANT TO COLLABORATIVE RELATIONSHIPS WITH PHYSICIANS; OTHER INFORMA-  
2 TION THE DEPARTMENT DEEMS RELEVANT, INCLUDING BUT NOT LIMITED TO, ANY  
3 RECOMMENDATIONS FOR THE CONTINUATION OR AMENDMENTS TO THE PROVISIONS OF  
4 THIS SECTION RELATING TO COLLABORATIVE AGREEMENTS OR COLLABORATIVE  
5 RELATIONSHIPS. THE COMMISSIONER SHALL SUBMIT THIS REPORT TO THE GOVER-  
6 NOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE,  
7 AND THE CHAIRS OF THE ASSEMBLY AND SENATE HIGHER EDUCATION COMMITTEES BY  
8 SEPTEMBER FIRST, TWO THOUSAND SEVENTEEN.

9 S 3. This act shall take effect on the one hundred eightieth day after  
10 it shall have become a law and shall expire June 30, 2019 when upon such  
11 date the provisions of this act shall be deemed repealed; provided,  
12 however, that effective immediately, the addition, amendment and/or  
13 repeal of any rule or regulation necessary for the implementation of  
14 this act on its effective date is authorized and directed to be made and  
15 completed on or before such effective date.