

4846--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 11, 2013

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Introduced by M. of A. GOTTFRIED, GUNTHER, PAULIN, LIFTON, LUPARDO, ENGLEBRIGHT, GABRYSZAK, HOOPER, JAFFEE, SCARBOROUGH, ROSENTHAL, CAHILL, PRETLOW, ORTIZ, BENEDETTO, GIBSON, RUSSELL, BRINDISI, RIVERA -- Multi-Sponsored by -- M. of A. ABINANTI, BOYLAND, BRENNAN, CROUCH, CUSICK, GALEF, HEVESI, LAVINE, LENTOL, MILLMAN, PEOPLES-STOKES, PERRY -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 hundred ten of  
7     this article, may include the diagnosis of illness and physical condi-  
8     tions and the performance of therapeutic and corrective measures within  
9     a specialty area of practice, in collaboration with a licensed physician  
10    qualified to collaborate in the specialty involved, provided such  
11    services are performed in accordance with a written practice agreement  
12    and written practice protocols EXCEPT AS PERMITTED BY PARAGRAPH (B) OF  
13    THIS SUBDIVISION. The written practice agreement shall include explicit  
14    provisions for the resolution of any disagreement between the collab-  
15    orating physician and the nurse practitioner regarding a matter of diag-  
16    nosis or treatment that is within the scope of practice of both. To the  
17    extent the practice agreement does not so provide, then the collaborat-  
18    ing physician's diagnosis or treatment shall prevail.  
19    (II) IN THE EVENT THAT (A) AN EXISTING WRITTEN PRACTICE AGREEMENT WITH  
20    A COLLABORATING PHYSICIAN TERMINATES AS A RESULT OF: THE COLLABORATING  
21    PHYSICIAN MOVING, RETIRING, NO LONGER NEEDING THE SERVICES OF THE NURSE

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

LBD06944-05-3

1 PRACTITIONER, NO LONGER BEING QUALIFIED TO PRACTICE; OR THE WRITTEN  
2 PRACTICE AGREEMENT TERMINATING DUE TO NO FAULT ON THE PART OF THE NURSE  
3 PRACTITIONER; AND (B) THE NURSE PRACTITIONER DEMONSTRATES THAT HE OR SHE  
4 HAS MADE A GOOD FAITH EFFORT TO ENTER INTO A NEW WRITTEN PRACTICE AGREE-  
5 MENT WITH A COLLABORATING PHYSICIAN AND HAS BEEN UNABLE TO DO SO, THEN  
6 UPON APPROVAL BY THE DEPARTMENT, SUCH NURSE PRACTITIONER MAY CONTINUE TO  
7 PRACTICE PURSUANT TO THIS PARAGRAPH WITHIN A SPECIALTY AREA OF PRACTICE  
8 FOR A PERIOD OF UP TO SIX MONTHS, IN COLLABORATION WITH A NURSE PRACTI-  
9 TIONER WHO HAS BEEN CERTIFIED UNDER SECTION SIX THOUSAND NINE HUNDRED  
10 TEN OF THIS ARTICLE, WHO HAS BEEN PRACTICING FOR MORE THAN THREE THOU-  
11 SAND SIX HUNDRED HOURS AND WHO IS QUALIFIED TO COLLABORATE IN THE  
12 SPECIALTY INVOLVED, PROVIDED THAT SERVICES ARE PERFORMED IN ACCORDANCE  
13 WITH A WRITTEN PRACTICE AGREEMENT AND WRITTEN PRACTICE PROTOCOLS; SUCH  
14 SIX MONTH TIME PERIOD FOR COLLABORATION BETWEEN NURSE PRACTITIONERS MAY  
15 BE EXTENDED FOR A PERIOD OF TIME NOT TO EXCEED AN ADDITIONAL SIX MONTHS  
16 UPON A SHOWING OF GOOD CAUSE SUBJECT TO THE APPROVAL OF THE DEPARTMENT.

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

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

37 [(d)] (V) The practice protocol shall reflect current accepted medical  
38 and nursing practice, OR FOR COLLABORATING WITH ANOTHER NURSE PRACTI-  
39 TIONER PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE CURRENT  
40 ACCEPTED NURSING PRACTICE. The protocols shall be filed with the  
41 department within ninety days of the commencement of the practice and  
42 may be updated periodically. The commissioner shall make regulations  
43 establishing the procedure for the review of protocols and the disposi-  
44 tion of any issues arising from such review.

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

49 [(f)] (B) NOTWITHSTANDING SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS  
50 SUBDIVISION, A NURSE PRACTITIONER, CERTIFIED UNDER SECTION SIXTY-NINE  
51 HUNDRED TEN OF THIS ARTICLE AND PRACTICING FOR MORE THAN THREE THOUSAND  
52 SIX HUNDRED HOURS MAY COMPLY WITH THIS PARAGRAPH IN LIEU OF COMPLYING  
53 WITH THE REQUIREMENTS OF PARAGRAPH (A) OF THIS SUBDIVISION RELATING TO  
54 COLLABORATION WITH A PHYSICIAN, A WRITTEN PRACTICE AGREEMENT AND WRITTEN  
55 PRACTICE PROTOCOLS. A NURSE PRACTITIONER COMPLYING WITH THIS PARAGRAPH  
56 SHALL HAVE COLLABORATIVE RELATIONSHIPS WITH ONE OR MORE LICENSED PHYSI-

1 CIANS QUALIFIED TO COLLABORATE IN THE SPECIALTY INVOLVED OR A HOSPITAL,  
2 LICENSED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, THAT  
3 PROVIDES SERVICES THROUGH LICENSED PHYSICIANS QUALIFIED TO COLLABORATE  
4 IN THE SPECIALTY INVOLVED AND HAVING PRIVILEGES AT SUCH INSTITUTION. AS  
5 EVIDENCE THAT THE NURSE PRACTITIONER MAINTAINS COLLABORATIVE RELATION-  
6 SHIPS, THE NURSE PRACTITIONER SHALL COMPLETE AND MAINTAIN A FORM,  
7 CREATED BY THE DEPARTMENT, WHICH THE NURSE PRACTITIONER SHALL ATTEST TO,  
8 THAT IDENTIFIES WRITTEN PRACTICE PROTOCOLS AND THE METHODS BY WHICH THE  
9 NURSE PRACTITIONER WILL COLLABORATE SUCH AS: THE CRITERIA TO BE USED  
10 REGARDING CONSULTATION, INCLUDING METHODS AND FREQUENCY OF HOW CONSULTA-  
11 TION SHALL BE PROVIDED; COLLABORATIVE MANAGEMENT AND REFERRAL; AND EMER-  
12 GENCY REFERRAL PLANS. SUCH FORMS SHALL BE UPDATED AS NEEDED AND MAY BE  
13 SUBJECT TO REVIEW BY THE DEPARTMENT. THE NURSE PRACTITIONER SHALL MAKE  
14 INFORMATION CONTAINED IN THIS FORM AVAILABLE TO HIS OR HER PATIENTS UPON  
15 REQUEST. FAILURE TO COMPLY WITH THE REQUIREMENTS FOUND IN THIS PARAGRAPH  
16 BY A NURSE PRACTITIONER WHO IS NOT COMPLYING WITH SUCH PROVISIONS OF  
17 PARAGRAPH (A) OF THIS SUBDIVISION, SHALL BE SUBJECT TO PROFESSIONAL  
18 MISCONDUCT PROVISIONS AS SET FORTH IN ARTICLE ONE HUNDRED THIRTY OF THIS  
19 TITLE.

20 (C) Nothing in this subdivision shall be deemed to limit or diminish  
21 the practice of the profession of nursing as a registered professional  
22 nurse under this article or any other law, rule, regulation or certifi-  
23 cation, nor to deny any registered professional nurse the right to do  
24 any act or engage in any practice authorized by this article or any  
25 other law, rule, regulation or certification.

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

30 (E) THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH,  
31 SHALL ISSUE A REPORT ON THE IMPLEMENTATION OF THE PROVISIONS OF THIS  
32 SECTION, ALONG WITH INFORMATION THAT INCLUDES, BUT IS NOT LIMITED TO:  
33 THE NUMBER OF NURSE PRACTITIONERS PRACTICING FOR FEWER THAN THREE THOU-  
34 SAND SIX HUNDRED HOURS THAT PRACTICE PURSUANT TO A WRITTEN PRACTICE  
35 AGREEMENT WITH A PHYSICIAN; THE NUMBER OF NURSE PRACTITIONERS THAT PRAC-  
36 TICE PURSUANT TO A WRITTEN PRACTICE AGREEMENT WITH A NURSE PRACTITIONER  
37 FOR SIX MONTHS AND THE NUMBER OF THESE NURSE PRACTITIONERS THAT EXTEND A  
38 WRITTEN PRACTICE AGREEMENT FOR AN ADDITIONAL SIX MONTHS UPON A SHOWING  
39 OF GOOD CAUSE SUBJECT TO THE APPROVAL OF THE DEPARTMENT; THE NUMBER OF  
40 NURSE PRACTITIONERS THAT PRACTICE PURSUANT TO COLLABORATIVE RELATION-  
41 SHIPS WITH PHYSICIANS; AND OTHER INFORMATION THE DEPARTMENT DEEMS RELE-  
42 VANT, INCLUDING BUT NOT LIMITED TO, ANY RECOMMENDATIONS FOR THE CONTIN-  
43 UATION OF OR AMENDMENTS TO THE PROVISIONS OF THIS SECTION RELATING TO  
44 WRITTEN PRACTICE AGREEMENTS OR COLLABORATIVE RELATIONSHIPS. THE COMMIS-  
45 SIONER SHALL SUBMIT THIS REPORT TO THE GOVERNOR, THE SPEAKER OF THE  
46 ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE CHAIRS OF THE  
47 ASSEMBLY AND SENATE HIGHER EDUCATION COMMITTEES BY SEPTEMBER FIRST, TWO  
48 THOUSAND SEVENTEEN.

49 S 3. This act shall take effect on the first day of January after it  
50 shall have become a law and shall expire June 30 of the sixth year after  
51 it shall have become a law, when upon such date the provisions of this  
52 act shall be deemed repealed; provided, however, that effective imme-  
53 diately, the addition, amendment and/or repeal of any rule or regulation  
54 necessary for the implementation of this act on its effective date is  
55 authorized and directed to be made and completed on or before such  
56 effective date.