

4846--B

2013-2014 Regular Sessions

I N A S S E M B L Y

February 11, 2013

Introduced by M. of A. GOTTFRIED, GUNTHER, PAULIN, LIFTON, LUPARDO, ENGLEBRIGHT, HOOPER, JAFFEE, SCARBOROUGH, ROSENTHAL, CAHILL, PRETLOW, ORTIZ, BENEDETTO, 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 -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- 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 conditions
8 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 collaborating
15 physician and the nurse practitioner regarding a matter of diag-

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

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1 nosis or treatment that is within the scope of practice of both. To the
2 extent the practice agreement does not so provide, then the collaborat-
3 ing physician's diagnosis or treatment shall prevail.

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

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

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

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

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

55 [(f)] (B) NOTWITHSTANDING SUBPARAGRAPH (I) OF PARAGRAPH (A) OF THIS
56 SUBDIVISION, A NURSE PRACTITIONER, CERTIFIED UNDER SECTION SIXTY-NINE

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

26 (C) Nothing in this subdivision shall be deemed to limit or diminish
27 the practice of the profession of nursing as a registered professional
28 nurse under this article or any other law, rule, regulation or certifi-
29 cation, nor to deny any registered professional nurse the right to do
30 any act or engage in any practice authorized by this article or any
31 other law, rule, regulation or certification.

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

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

55 S 3. This act shall take effect on the first day of January after it
56 shall have become a law and shall expire June 30 of the sixth year after

1 it shall have become a law, when upon such date the provisions of this
2 act shall be deemed repealed; provided, however, that effective imme-
3 diately, the addition, amendment and/or repeal of any rule or regulation
4 necessary for the implementation of this act on its effective date is
5 authorized and directed to be made and completed on or before such
6 effective date.