

# STATE OF NEW YORK

8936

## IN SENATE

August 21, 2020

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to the practice protocol for nurse practitioners; and to amend part D of chapter 56 of the laws of 2014, amending the education law relating to enacting the "nurse practitioners modernization act", in relation to the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraphs (i) and (iv) of paragraph (a) of subdivision  
2 3 of section 6902 of the education law, as amended by section 2 of part  
3 D of chapter 56 of the laws of 2014, is amended to read as follows:

4 (i) The practice of registered professional nursing by a nurse practi-  
5 tioner, certified under section six thousand nine hundred ten of this  
6 article, may include the diagnosis of illness and physical conditions  
7 and the performance of therapeutic and corrective measures within a  
8 specialty area of practice, in collaboration with a licensed physician  
9 or nurse practitioner practicing pursuant to paragraph (b) of this  
10 subdivision, qualified to collaborate in the specialty involved,  
11 provided such services are performed in accordance with a written prac-  
12 tice agreement and written practice protocols except as permitted by  
13 paragraph (b) of this subdivision. The written practice agreement shall  
14 include explicit provisions for the resolution of any disagreement  
15 between the collaborating physician and the nurse practitioner regarding  
16 a matter of diagnosis or treatment that is within the scope of practice  
17 of both. To the extent the practice agreement does not so provide, then  
18 the collaborating physician's diagnosis or treatment shall prevail.

19 (iv) The practice protocol shall reflect current accepted medical and  
20 nursing practice[~~., The protocols shall be filed with the department~~  
21 ~~within ninety days of the commencement of the practice]~~ and may be  
22 updated periodically. [~~The commissioner shall make regulations estab-~~  
23 ~~lishing the procedure for the review of protocols and the disposition of~~  
24 ~~any issues arising from such review.~~]

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

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1 § 2. Paragraph (b) of subdivision 3 of section 6902 of the education  
2 law, as added by section 2 of part D of chapter 56 of the laws of 2014,  
3 is amended to read as follows:

4 (b) Notwithstanding subparagraph (i) of paragraph (a) of this subdivi-  
5 sion, a nurse practitioner, certified under section sixty-nine hundred  
6 ten of this article and practicing for more than three thousand six  
7 hundred hours ~~[may comply with this paragraph in lieu of complying]~~  
8 shall not be required to comply with the requirements of paragraph (a)  
9 of this subdivision relating to collaboration with a physician, a writ-  
10 ten practice agreement and written practice protocols~~[. A nurse practi-~~  
11 ~~titioner complying with this paragraph shall have collaborative relation-~~  
12 ~~ships with one or more licensed physicians qualified to collaborate in~~  
13 ~~the specialty involved or a hospital, licensed under article twenty-~~  
14 ~~eight of the public health law, that provides services through licensed~~  
15 ~~physicians qualified to collaborate in the specialty involved and having~~  
16 ~~privileges at such institution. As evidence that the nurse practitioner~~  
17 ~~maintains collaborative relationships, the nurse practitioner shall~~  
18 ~~complete and maintain a form, created by the department, to which the~~  
19 ~~nurse practitioner shall attest, that describes such collaborative~~  
20 ~~relationships. For purposes of this paragraph, "collaborative relation-~~  
21 ~~ships" shall mean that the nurse practitioner shall communicate, whether~~  
22 ~~in person, by telephone or through written (including electronic) means,~~  
23 ~~with a licensed physician qualified to collaborate in the specialty~~  
24 ~~involved or, in the case of a hospital, communicate with a licensed~~  
25 ~~physician qualified to collaborate in the specialty involved and having~~  
26 ~~privileges at such hospital, for the purposes of exchanging information,~~  
27 ~~as needed, in order to provide comprehensive patient care and to make~~  
28 ~~referrals as necessary. Such form shall also reflect the nurse practi-~~  
29 ~~titioner's acknowledgement that if reasonable efforts to resolve any~~  
30 ~~dispute that may arise with the collaborating physician or, in the case~~  
31 ~~of a collaboration with a hospital, with a licensed physician qualified~~  
32 ~~to collaborate in the specialty involved and having privileges at such~~  
33 ~~hospital, about a patient's care are not successful, the recommendation~~  
34 ~~of the physician shall prevail. Such form shall be updated as needed and~~  
35 ~~may be subject to review by the department. The nurse practitioner shall~~  
36 ~~maintain documentation that supports such collaborative relationships.~~  
37 ~~Failure to comply with the requirements found in this paragraph by a~~  
38 ~~nurse practitioner who is not complying with such provisions of para-~~  
39 ~~graph (a) of this subdivision, shall be subject to professional miscon-~~  
40 ~~duct provisions as set forth in article one hundred thirty of this~~  
41 ~~title].~~

42 § 3. Section 3 of part D of chapter 56 of the laws of 2014, amending  
43 the education law relating to enacting the "nurse practitioners modern-  
44 ization act", is amended to read as follows:

45 § 3. This act shall take effect on the first of January after it shall  
46 have become a law ~~[and shall expire June 30 of the sixth year after it~~  
47 ~~shall have become a law, when upon such date the provisions of this act~~  
48 ~~shall be deemed repealed]~~; provided, however, that effective immediate-  
49 ly, the addition, amendment and/or repeal of any rule or regulation  
50 necessary for the implementation of this act on its effective date is  
51 authorized and directed to be made and completed on or before such  
52 effective date.

53 § 4. This act shall take effect immediately.