

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1465
98TH GENERAL ASSEMBLY

5017H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 334.037 and 334.104, RSMo, and to enact in lieu thereof two new sections relating to collaborative practice arrangements.

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

Section A. Sections 334.037 and 334.104, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 334.037 and 334.104, to read as follows:

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

9 2. The written collaborative practice arrangement shall contain at least the following
10 provisions:

11 (1) Complete names, home and business addresses, zip codes, and telephone numbers
12 of the collaborating physician and the assistant physician;

13 (2) A list of all other offices or locations besides those listed in subdivision (1) of this
14 subsection where the collaborating physician authorized the assistant physician to prescribe;

15 (3) A requirement that there shall be posted at every office where the assistant physician
16 is authorized to prescribe, in collaboration with a physician, a prominently displayed disclosure
17 statement informing patients that they may be seen by an assistant physician and have the right
18 to see the collaborating physician;

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.

19 (4) All specialty or board certifications of the collaborating physician and all
20 certifications of the assistant physician;

21 (5) The manner of collaboration between the collaborating physician and the assistant
22 physician, including how the collaborating physician and the assistant physician shall:

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

25 (b) Maintain geographic proximity; except, the collaborative practice arrangement may
26 allow for geographic proximity to be waived for a maximum of twenty-eight days per calendar
27 year for rural health clinics as defined by P.L. 95-210, as long as the collaborative practice
28 arrangement includes alternative plans as required in paragraph (c) of this subdivision. Such
29 exception to geographic proximity shall apply only to independent rural health clinics, provider-
30 based rural health clinics if the provider is a critical access hospital as provided in 42 U.S.C.
31 Section 1395i-4, and provider-based rural health clinics if the main location of the hospital
32 sponsor is greater than fifty miles from the clinic. The collaborating physician shall maintain
33 documentation related to such requirement and present it to the state board of registration for the
34 healing arts when requested; and

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

37 (6) A description of the assistant physician's controlled substance prescriptive authority
38 in collaboration with the physician, including a list of the controlled substances the physician
39 authorizes the assistant physician to prescribe and documentation that it is consistent with each
40 professional's education, knowledge, skill, and competence;

41 (7) A list of all other written practice agreements of the collaborating physician and the
42 assistant physician;

43 (8) The duration of the written practice agreement between the collaborating physician
44 and the assistant physician;

45 (9) A description of the time and manner of the collaborating physician's review of the
46 assistant physician's delivery of health care services. The description shall include provisions
47 that the assistant physician shall submit a minimum of ten percent of the charts documenting the
48 assistant physician's delivery of health care services to the collaborating physician for review by
49 the collaborating physician, or any other physician designated in the collaborative practice
50 arrangement, every fourteen days. **In performing the review, the collaborating physician**
51 **need not be present at the health care practitioner's site;** and

52 (10) The collaborating physician, or any other physician designated in the collaborative
53 practice arrangement, shall review every fourteen days a minimum of twenty percent of the
54 charts in which the assistant physician prescribes controlled substances. The charts reviewed

55 under this subdivision may be counted in the number of charts required to be reviewed under
56 subdivision (9) of this subsection.

57 3. The state board of registration for the healing arts under section 334.125 shall
58 promulgate rules regulating the use of collaborative practice arrangements for assistant
59 physicians. Such rules shall specify:

60 (1) Geographic areas to be covered;

61 (2) The methods of treatment that may be covered by collaborative practice
62 arrangements;

63 (3) In conjunction with deans of medical schools and primary care residency program
64 directors in the state, the development and implementation of educational methods and programs
65 undertaken during the collaborative practice service which shall facilitate the advancement of
66 the assistant physician's medical knowledge and capabilities, and which may lead to credit
67 toward a future residency program for programs that deem such documented educational
68 achievements acceptable; and

69 (4) The requirements for review of services provided under collaborative practice
70 arrangements, including delegating authority to prescribe controlled substances.

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72 Any rules relating to dispensing or distribution of medications or devices by prescription or
73 prescription drug orders under this section shall be subject to the approval of the state board of
74 pharmacy. Any rules relating to dispensing or distribution of controlled substances by
75 prescription or prescription drug orders under this section shall be subject to the approval of the
76 department of health and senior services and the state board of pharmacy. The state board of
77 registration for the healing arts shall promulgate rules applicable to assistant physicians that shall
78 be consistent with guidelines for federally funded clinics. The rulemaking authority granted in
79 this subsection shall not extend to collaborative practice arrangements of hospital employees
80 providing inpatient care within hospitals as defined in chapter 197 or population-based public
81 health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

82 4. The state board of registration for the healing arts shall not deny, revoke, suspend, or
83 otherwise take disciplinary action against a collaborating physician for health care services
84 delegated to an assistant physician provided the provisions of this section and the rules
85 promulgated thereunder are satisfied.

86 5. Within thirty days of any change and on each renewal, the state board of registration
87 for the healing arts shall require every physician to identify whether the physician is engaged in
88 any collaborative practice arrangement, including collaborative practice arrangements delegating
89 the authority to prescribe controlled substances, and also report to the board the name of each
90 assistant physician with whom the physician has entered into such arrangement. The board may

91 make such information available to the public. The board shall track the reported information
92 and may routinely conduct random reviews of such arrangements to ensure that arrangements
93 are carried out for compliance under this chapter.

94 6. A collaborating physician shall not enter into a collaborative practice arrangement
95 with more than three full-time equivalent assistant physicians. Such limitation shall not apply
96 to collaborative arrangements of hospital employees providing inpatient care service in hospitals
97 as defined in chapter 197 or population-based public health services as defined by 20 CSR 2150-
98 5.100 as of April 30, 2008.

99 7. The collaborating physician shall determine and document the completion of at least
100 a one-month period of time during which the assistant physician shall practice with the
101 collaborating physician continuously present before practicing in a setting where the
102 collaborating physician is not continuously present. Such limitation shall not apply to
103 collaborative arrangements of providers of population-based public health services as defined
104 by 20 CSR 2150-5.100 as of April 30, 2008.

105 8. No agreement made under this section shall supersede current hospital licensing
106 regulations governing hospital medication orders under protocols or standing orders for the
107 purpose of delivering inpatient or emergency care within a hospital as defined in section 197.020
108 if such protocols or standing orders have been approved by the hospital's medical staff and
109 pharmaceutical therapeutics committee.

110 9. No contract or other agreement shall require a physician to act as a collaborating
111 physician for an assistant physician against the physician's will. A physician shall have the right
112 to refuse to act as a collaborating physician, without penalty, for a particular assistant physician.
113 No contract or other agreement shall limit the collaborating physician's ultimate authority over
114 any protocols or standing orders or in the delegation of the physician's authority to any assistant
115 physician, but such requirement shall not authorize a physician in implementing such protocols,
116 standing orders, or delegation to violate applicable standards for safe medical practice
117 established by a hospital's medical staff.

118 10. No contract or other agreement shall require any assistant physician to serve as a
119 collaborating assistant physician for any collaborating physician against the assistant physician's
120 will. An assistant physician shall have the right to refuse to collaborate, without penalty, with
121 a particular physician.

122 11. All collaborating physicians and assistant physicians in collaborative practice
123 arrangements shall wear identification badges while acting within the scope of their collaborative
124 practice arrangement. The identification badges shall prominently display the licensure status
125 of such collaborating physicians and assistant physicians.

126 12. (1) An assistant physician with a certificate of controlled substance prescriptive
127 authority as provided in this section may prescribe any controlled substance listed in Schedule
128 III, IV, or V of section 195.017, and may have restricted authority in Schedule II, when delegated
129 the authority to prescribe controlled substances in a collaborative practice arrangement.
130 Prescriptions for Schedule II medications prescribed by an assistant physician who has a
131 certificate of controlled substance prescriptive authority are restricted to only those medications
132 containing hydrocodone. Such authority shall be filed with the state board of registration for the
133 healing arts. The collaborating physician shall maintain the right to limit a specific scheduled
134 drug or scheduled drug category that the assistant physician is permitted to prescribe. Any
135 limitations shall be listed in the collaborative practice arrangement. Assistant physicians shall
136 not prescribe controlled substances for themselves or members of their families. Schedule III
137 controlled substances and Schedule II - hydrocodone prescriptions shall be limited to a five-day
138 supply without refill. Assistant physicians who are authorized to prescribe controlled substances
139 under this section shall register with the federal Drug Enforcement Administration and the state
140 bureau of narcotics and dangerous drugs, and shall include the Drug Enforcement Administration
141 registration number on prescriptions for controlled substances.

142 (2) The collaborating physician shall be responsible to determine and document the
143 completion of at least one hundred twenty hours in a four-month period by the assistant physician
144 during which the assistant physician shall practice with the collaborating physician on-site prior
145 to prescribing controlled substances when the collaborating physician is not on-site. Such
146 limitation shall not apply to assistant physicians of population-based public health services as
147 defined in 20 CSR 2150-5.100 as of April 30, 2009.

148 (3) An assistant physician shall receive a certificate of controlled substance prescriptive
149 authority from the state board of registration for the healing arts upon verification of licensure
150 under section 334.036.

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 health
4 care services. Collaborative practice arrangements, which shall be in writing, may delegate to
5 a registered professional nurse the authority to administer or dispense drugs and provide
6 treatment as long as the delivery of such health care services is within the scope of practice of
7 the registered professional nurse and is consistent with that nurse's skill, training and
8 competence.

9 2. Collaborative practice arrangements, which shall be in writing, may delegate to a
10 registered professional nurse the authority to administer, dispense or prescribe drugs and provide
11 treatment if the registered professional nurse is an advanced practice registered nurse as defined

12 in subdivision (2) of section 335.016. Collaborative practice arrangements may delegate to an
13 advanced practice registered nurse, as defined in section 335.016, the authority to administer,
14 dispense, or prescribe controlled substances listed in Schedules III, IV, and V of section 195.017,
15 and Schedule II - hydrocodone; except that, the collaborative practice arrangement shall not
16 delegate the authority to administer any controlled substances listed in Schedules III, IV, and V
17 of section 195.017, or Schedule II - hydrocodone for the purpose of inducing sedation or general
18 anesthesia for therapeutic, diagnostic, or surgical procedures. Schedule III narcotic controlled
19 substance and Schedule II - hydrocodone prescriptions shall be limited to a one hundred
20 twenty-hour supply without refill. Such collaborative practice arrangements shall be in the form
21 of written agreements, jointly agreed-upon protocols or standing orders for the delivery of health
22 care services.

23 3. The written collaborative practice arrangement shall contain at least the following
24 provisions:

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

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

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

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

36 (5) The manner of collaboration between the collaborating physician and the advanced
37 practice registered nurse, including how the collaborating physician and the advanced practice
38 registered nurse will:

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

41 (b) Maintain geographic proximity, except the collaborative practice arrangement may
42 allow for geographic proximity to be waived for a maximum of twenty-eight days per calendar
43 year for rural health clinics as defined by [P.L. 95-210] **Pub. L. 95-210 (42 U.S.C. Section**
44 **1395x, as amended)**, as long as the collaborative practice arrangement includes alternative plans
45 as required in paragraph (c) of this subdivision. This exception to geographic proximity shall
46 apply only to independent rural health clinics, provider-based rural health clinics where the
47 provider is a critical access hospital as provided in 42 U.S.C. Section 1395i-4, and

48 provider-based rural health clinics where the main location of the hospital sponsor is greater than
49 fifty miles from the clinic. The collaborating physician is required to maintain documentation
50 related to this requirement and to present it to the state board of registration for the healing arts
51 when requested; and

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

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

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

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

62 (9) A description of the time and manner of the collaborating physician's review of the
63 advanced practice registered nurse's delivery of health care services. The description shall
64 include provisions that the advanced practice registered nurse shall submit a minimum of ten
65 percent of the charts documenting the advanced practice registered nurse's delivery of health care
66 services to the collaborating physician for review by the collaborating physician, or any other
67 physician designated in the collaborative practice arrangement, every fourteen days. **In**
68 **performing the review, the collaborating physician need not be present at the health care**
69 **practitioner's site;** and

70 (10) The collaborating physician, or any other physician designated in the collaborative
71 practice arrangement, shall review every fourteen days a minimum of twenty percent of the
72 charts in which the advanced practice registered nurse prescribes controlled substances. The
73 charts reviewed under this subdivision may be counted in the number of charts required to be
74 reviewed under subdivision (9) of this subsection.

75 4. The state board of registration for the healing arts pursuant to section 334.125 and the
76 board of nursing pursuant to section 335.036 may jointly promulgate rules regulating the use of
77 collaborative practice arrangements. Such rules shall be limited to specifying geographic areas
78 to be covered, the methods of treatment that may be covered by collaborative practice
79 arrangements and the requirements for review of services provided pursuant to collaborative
80 practice arrangements including delegating authority to prescribe controlled substances. Any
81 rules relating to dispensing or distribution of medications or devices by prescription or
82 prescription drug orders under this section shall be subject to the approval of the state board of
83 pharmacy. Any rules relating to dispensing or distribution of controlled substances by

84 prescription or prescription drug orders under this section shall be subject to the approval of the
85 department of health and senior services and the state board of pharmacy. In order to take effect,
86 such rules shall be approved by a majority vote of a quorum of each board. Neither the state
87 board of registration for the healing arts nor the board of nursing may separately promulgate rules
88 relating to collaborative practice arrangements. Such jointly promulgated rules shall be
89 consistent with guidelines for federally funded clinics. The rulemaking authority granted in this
90 subsection shall not extend to collaborative practice arrangements of hospital employees
91 providing inpatient care within hospitals as defined pursuant to chapter 197 or population-based
92 public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

93 5. The state board of registration for the healing arts shall not deny, revoke, suspend or
94 otherwise take disciplinary action against a physician for health care services delegated to a
95 registered professional nurse provided the provisions of this section and the rules promulgated
96 thereunder are satisfied. Upon the written request of a physician subject to a disciplinary action
97 imposed as a result of an agreement between a physician and a registered professional nurse or
98 registered physician assistant, whether written or not, prior to August 28, 1993, all records of
99 such disciplinary licensure action and all records pertaining to the filing, investigation or review
100 of an alleged violation of this chapter incurred as a result of such an agreement shall be removed
101 from the records of the state board of registration for the healing arts and the division of
102 professional registration and shall not be disclosed to any public or private entity seeking such
103 information from the board or the division. The state board of registration for the healing arts
104 shall take action to correct reports of alleged violations and disciplinary actions as described in
105 this section which have been submitted to the National Practitioner Data Bank. In subsequent
106 applications or representations relating to his medical practice, a physician completing forms or
107 documents shall not be required to report any actions of the state board of registration for the
108 healing arts for which the records are subject to removal under this section.

109 6. Within thirty days of any change and on each renewal, the state board of registration
110 for the healing arts shall require every physician to identify whether the physician is engaged in
111 any collaborative practice agreement, including collaborative practice agreements delegating the
112 authority to prescribe controlled substances, or physician assistant agreement and also report to
113 the board the name of each licensed professional with whom the physician has entered into such
114 agreement. The board may make this information available to the public. The board shall track
115 the reported information and may routinely conduct random reviews of such agreements to
116 ensure that agreements are carried out for compliance under this chapter.

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

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

126 8. A collaborating physician shall not enter into a collaborative practice arrangement
127 with more than three full-time equivalent advanced practice registered nurses. This limitation
128 shall not apply to collaborative arrangements of hospital employees providing inpatient care
129 service in hospitals as defined in chapter 197 or population-based public health services as
130 defined by 20 CSR 2150-5.100 as of April 30, 2008.

131 9. It is the responsibility of the collaborating physician to determine and document the
132 completion of at least a one-month period of time during which the advanced practice registered
133 nurse shall practice with the collaborating physician continuously present before practicing in
134 a setting where the collaborating physician is not continuously present. This limitation shall not
135 apply to collaborative arrangements of providers of population-based public health services as
136 defined by 20 CSR 2150-5.100 as of April 30, 2008, **nor to collaborative arrangements**
137 **between a physician and an advanced practice registered nurse, if the collaborative**
138 **physician is new to a patient population to which the collaborating advanced practice**
139 **registered nurse, physician assistant, or assistant physician is already familiar.**

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

145 11. No contract or other agreement shall require a physician to act as a collaborating
146 physician for an advanced practice registered nurse against the physician's will. A physician
147 shall have the right to refuse to act as a collaborating physician, without penalty, for a particular
148 advanced practice registered nurse. No contract or other agreement shall limit the collaborating
149 physician's ultimate authority over any protocols or standing orders or in the delegation of the
150 physician's authority to any advanced practice registered nurse, but this requirement shall not
151 authorize a physician in implementing such protocols, standing orders, or delegation to violate
152 applicable standards for safe medical practice established by hospital's medical staff.

153 12. No contract or other agreement shall require any advanced practice registered nurse
154 to serve as a collaborating advanced practice registered nurse for any collaborating physician

155 against the advanced practice registered nurse's will. An advanced practice registered nurse shall
156 have the right to refuse to collaborate, without penalty, with a particular physician.

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