

FIRST REGULAR SESSION

HOUSE BILL NO. 720

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REDMON.

1641H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 195.070 and 334.104, RSMo, and to enact in lieu thereof two new sections relating to controlled substances prescribed by advanced practice registered nurses.

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

Section A. Sections 195.070 and 334.104, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 195.070 and 334.104, to read as follows:

195.070. 1. A physician, podiatrist, dentist, a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, or an assistant physician in accordance with section 334.037 or a physician assistant in accordance with section 334.747 in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense controlled substances or he or she may cause the same to be administered or dispensed by an individual as authorized by statute.

2. An advanced practice registered nurse, as defined in section 335.016, but not a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, who holds a certificate of controlled substance prescriptive authority from the board of nursing under section 335.019 and who is delegated the authority to prescribe controlled substances under a collaborative practice arrangement under section 334.104 may prescribe any controlled substances listed in Schedules **II**, **III**, **IV**, and **V** of section 195.017. However, no such certified advanced practice registered nurse shall prescribe controlled substance for his or her own self or family. Schedule **[III] II** narcotic controlled substance prescriptions shall be limited to a one hundred twenty-hour supply without refill.

3. A veterinarian, in good faith and in the course of the veterinarian's professional practice only, and not for use by a human being, may prescribe, administer, and dispense

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.

18 controlled substances and the veterinarian may cause them to be administered by an assistant or
19 orderly under his or her direction and supervision.

20 4. A practitioner shall not accept any portion of a controlled substance unused by a
21 patient, for any reason, if such practitioner did not originally dispense the drug.

22 5. An individual practitioner shall not prescribe or dispense a controlled substance for
23 such practitioner's personal use except in a medical emergency.

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 **II**, III, IV, and V of section
15 195.017; except that, the collaborative practice arrangement shall not delegate the authority to
16 administer any controlled substances listed in [schedules] **Schedules II**, III, IV, and V of section
17 195.017 for the purpose of inducing sedation or general anesthesia for therapeutic, diagnostic,
18 or surgical procedures. Schedule [III] **II** narcotic controlled substance prescriptions shall be
19 limited to a one hundred twenty-hour supply without refill. Such collaborative practice
20 arrangements shall be in the form of written agreements, jointly agreed-upon protocols or
21 standing orders for the delivery of health care services.

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

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

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

29 (3) A requirement that there shall be posted at every office where the advanced practice
30 registered nurse is authorized to prescribe, in collaboration with a physician, a prominently

31 displayed disclosure statement informing patients that they may be seen by an advanced practice
32 registered nurse and have the right to see the collaborating physician;

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

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

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

40 (b) Maintain geographic proximity, except the collaborative practice arrangement may
41 allow for geographic proximity to be waived for a maximum of twenty-eight days per calendar
42 year for rural health clinics as defined by P.L. 95-210, as long as the collaborative practice
43 arrangement includes alternative plans as required in paragraph (c) of this subdivision. This
44 exception to geographic proximity shall apply only to independent rural health clinics,
45 provider-based rural health clinics where the provider is a critical access hospital as provided in
46 42 U.S.C. 1395i-4, and provider-based rural health clinics where the main location of the
47 hospital sponsor is greater than fifty miles from the clinic. The collaborating physician is
48 required to maintain documentation related to this requirement and to present it to the state board
49 of registration for the healing arts when requested; and

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

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

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

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

60 (9) A description of the time and manner of the collaborating physician's review of the
61 advanced practice registered nurse's delivery of health care services. The description shall
62 include provisions that the advanced practice registered nurse shall submit a minimum of ten
63 percent of the charts documenting the advanced practice registered nurse's delivery of health care
64 services to the collaborating physician for review by the collaborating physician, or any other
65 physician designated in the collaborative practice arrangement, every fourteen days; and

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

71 4. The state board of registration for the healing arts pursuant to section 334.125 and the
72 board of nursing pursuant to section 335.036 may jointly promulgate rules regulating the use of
73 collaborative practice arrangements. Such rules shall be limited to specifying geographic areas
74 to be covered, the methods of treatment that may be covered by collaborative practice
75 arrangements and the requirements for review of services provided pursuant to collaborative
76 practice arrangements including delegating authority to prescribe controlled substances. Any
77 rules relating to dispensing or distribution of medications or devices by prescription or
78 prescription drug orders under this section shall be subject to the approval of the state board of
79 pharmacy. Any rules relating to dispensing or distribution of controlled substances by
80 prescription or prescription drug orders under this section shall be subject to the approval of the
81 department of health and senior services and the state board of pharmacy. In order to take effect,
82 such rules shall be approved by a majority vote of a quorum of each board. Neither the state
83 board of registration for the healing arts nor the board of nursing may separately promulgate rules
84 relating to collaborative practice arrangements. Such jointly promulgated rules shall be
85 consistent with guidelines for federally funded clinics. The rulemaking authority granted in this
86 subsection shall not extend to collaborative practice arrangements of hospital employees
87 providing inpatient care within hospitals as defined pursuant to chapter 197 or population-based
88 public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

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

102 applications or representations relating to his medical practice, a physician completing forms or
103 documents shall not be required to report any actions of the state board of registration for the
104 healing arts for which the records are subject to removal under this section.

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

113 7. Notwithstanding any law to the contrary, a certified registered nurse anesthetist as
114 defined in subdivision (8) of section 335.016 shall be permitted to provide anesthesia services
115 without a collaborative practice arrangement provided that he or she is under the supervision of
116 an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if
117 needed. Nothing in this subsection shall be construed to prohibit or prevent a certified registered
118 nurse anesthetist as defined in subdivision (8) of section 335.016 from entering into a
119 collaborative practice arrangement under this section, except that the collaborative practice
120 arrangement may not delegate the authority to prescribe any controlled substances listed in
121 Schedules III, IV, and V of section 195.017.

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

127 9. It is the responsibility of the collaborating physician to determine and document the
128 completion of at least a one-month period of time during which the advanced practice registered
129 nurse shall practice with the collaborating physician continuously present before practicing in
130 a setting where the collaborating physician is not continuously present. This limitation shall not
131 apply to collaborative arrangements of providers of population-based public health services as
132 defined by 20 CSR 2150-5.100 as of April 30, 2008.

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

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

146 12. No contract or other agreement shall require any advanced practice registered nurse
147 to serve as a collaborating advanced practice registered nurse for any collaborating physician
148 against the advanced practice registered nurse's will. An advanced practice registered nurse shall
149 have the right to refuse to collaborate, without penalty, with a particular physician.

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