

SENATE, No. 1961

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 22, 2018

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)

SYNOPSIS

“Consumer Access to Health Care Act”; eliminates requirement of joint protocol with physician for advanced practice nurses to prescribe medication.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT concerning advanced practice nurses and designated as the
2 “Consumer Access to Health Care Act,” and amending and
3 repealing parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1947, c.262 (C.45:11-23) is amended to
9 read as follows:

10 1. As used in this act:

11 a. The words “the board” mean the New Jersey Board of
12 Nursing created by this act.

13 b. The practice of nursing as a registered professional nurse is
14 defined as diagnosing and treating human responses to actual or
15 potential physical and emotional health problems, through such
16 services as casefinding, health teaching, health counseling, and
17 provision of care supportive to or restorative of life and well-being,
18 and executing medical regimens as prescribed by a licensed or
19 otherwise legally authorized physician or dentist. Diagnosing in the
20 context of nursing practice means the identification of and
21 discrimination between physical and psychosocial signs and
22 symptoms essential to effective execution and management of the
23 nursing regimen within the scope of practice of the registered
24 professional nurse. Such diagnostic privilege is distinct from a
25 medical diagnosis. Treating means selection and performance of
26 those therapeutic measures essential to the effective management
27 and execution of the nursing regimen. Human responses means
28 those signs, symptoms, and processes which denote the individual’s
29 health need or reaction to an actual or potential health problem.

30 The practice of nursing as a licensed practical nurse is defined as
31 performing tasks and responsibilities within the framework of
32 casefinding; reinforcing the patient and family teaching program
33 through health teaching, health counseling, and provision of
34 supportive and restorative care, under the direction of a registered
35 nurse or licensed or otherwise legally authorized physician or
36 dentist.

37 The terms “nursing,” “professional nursing,” and “practical
38 nursing” as used in this act shall not be construed to include nursing
39 by students enrolled in a school of nursing accredited or approved
40 by the board performed in the prescribed course of study and
41 training, nor nursing performed in hospitals, institutions, and
42 agencies approved by the board for this purpose by graduates of
43 such schools pending the results of the first licensing examination
44 scheduled by the board following completion of a course of study
45 and training and the attaining of age qualification for examination,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 or thereafter with the approval of the board in the case of each
2 individual pending results of subsequent examinations; nor shall
3 any of said terms be construed to include nursing performed for a
4 period not exceeding 12 months unless the board shall approve a
5 longer period, in hospitals, institutions, or agencies by a nurse
6 legally qualified under the laws of another state or country, pending
7 results of an application for licensing under this act, if such nurse
8 does not represent or hold himself or herself out as a nurse licensed
9 to practice under this act; nor shall any of said terms be construed to
10 include the practice of nursing in this State by any legally qualified
11 nurse of another state whose engagement made outside of this State
12 requires such nurse to accompany and care for the patient while in
13 this State during the period of such engagement, not to exceed six
14 months in this State, if such nurse does not represent or hold
15 himself **or herself** out as a nurse licensed to practice in this State;
16 nor shall any of said terms be construed to include nursing
17 performed by employees or officers of the United States
18 Government or any agency or service thereof while in the discharge
19 of his **or her** official duties; nor shall any of said terms be
20 construed to include services performed by **nurses** nurses' aides,
21 attendants, orderlies and ward helpers in hospitals, institutions, and
22 agencies or by technicians, physiotherapists, or medical secretaries,
23 and such duties performed by said persons aforementioned shall not
24 be subject to rules or regulations which the board may prescribe
25 concerning nursing; nor shall any of said terms be construed to
26 include first aid nursing assistance, or gratuitous care by friends or
27 members of the family of a sick or infirm person, or incidental care
28 of the sick by a person employed primarily as a domestic or
29 housekeeper, notwithstanding that the occasion for such
30 employment may be sickness, if such incidental care does not
31 constitute professional nursing and such person does not claim or
32 purport to be a licensed nurse; nor shall any of said terms be
33 construed to include services rendered in accordance with the
34 practice of the religious tenets of any well-recognized church or
35 denomination which subscribes to the art of healing by prayer. A
36 person who is otherwise qualified shall not be denied licensure as a
37 professional nurse or practical nurse by reason of the circumstances
38 that such person is in religious life and has taken a vow of poverty.

39 c. "Homemaker-home health aide" means a person who is
40 employed by a home care services agency and who is performing
41 delegated nursing regimens or nursing tasks delegated through the
42 authority of a duly licensed registered professional nurse. "Home
43 care services agency" means home health agencies, assisted living
44 residences, comprehensive personal care homes, assisted living
45 programs or alternate family care sponsor agencies licensed by the
46 Department of Health **and Senior Services** pursuant to P.L.1971,
47 c.136 (C.26:2H-1 et al.), nonprofit homemaker-home health aide
48 agencies, and health care service firms regulated by the Director of

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1 the Division of Consumer Affairs in the Department of Law and
2 Public Safety and the Attorney General pursuant to P.L.1989,
3 c.331 (C.34:8-43 et seq.) and P.L.1960, c.39 (C.56:8-1 et seq.)
4 respectively, which are engaged in the business of procuring or
5 offering to procure employment for homemaker-home health aides,
6 where a fee may be exacted, charged, or received directly or
7 indirectly for procuring or offering to procure that employment.

8 d. “Advanced practice nurse” means a person who holds a
9 certification in accordance with section 8 or 9 of P.L.1991,
10 c.377 (C.45:11-47 or 45:11-48).

11 e. **【**“Collaborating physician” means a person licensed to
12 practice medicine and surgery pursuant to chapter 9 of Title 45 of
13 the Revised Statutes who agrees to work with an advanced practice
14 nurse.**】** (Deleted by amendment, P.L. , c.) (pending before the
15 Legislature as this bill)

16 f. “Collaborating provider” means a physician licensed to
17 practice medicine and surgery pursuant to chapter 9 of Title 45 of
18 the Revised Statutes or an advanced practice nurse issued a
19 certification pursuant to section 8 or 9 of P.L.1991, c.377 (C.45:11-
20 47 or 45:11-48).

21 g. “Global signature authority” means the authority of an
22 advanced practice nurse to sign, stamp, verify, or endorse a
23 document which requires the signature, stamp, verification, or
24 endorsement of a physician.

25 Nothing in this act shall confer the authority to a person licensed
26 to practice nursing to practice another health profession as currently
27 defined in Title 45 of the Revised Statutes.

28 (cf: P.L.2004, c.122, s.1)

29

30 2. Section 10 of P.L.1991, c.377 (C.45:11-49) is amended to
31 read as follows:

32 10. a. In addition to all other tasks which a registered
33 professional nurse may, by law, perform, an advanced practice
34 nurse may manage preventive care services and diagnose and
35 manage deviations from wellness and long-term illnesses, consistent
36 with the needs of the patient and within the scope of practice of the
37 advanced practice nurse, by:

38 (1) initiating laboratory and other diagnostic tests;

39 (2) prescribing or ordering medications and devices, as
40 authorized by subsections **【b. and c.】** g. and h. of this section; and

41 (3) prescribing or ordering treatments, including referrals to
42 other licensed health care professionals, and performing specific
43 procedures in accordance with the provisions of this **【subsection】**
44 section.

45 b. **【**An advanced practice nurse may order medications and
46 devices in the inpatient setting, subject to the following conditions:

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1 (1) the collaborating physician and advanced practice nurse
2 shall address in the joint protocols whether prior consultation with
3 the collaborating physician is required to initiate an order for a
4 controlled dangerous substance;

5 (2) the order is written in accordance with standing orders or
6 joint protocols developed in agreement between a collaborating
7 physician and the advanced practice nurse, or pursuant to the
8 specific direction of a physician;

9 (3) the advanced practice nurse authorizes the order by signing
10 the nurse's own name, printing the name and certification number,
11 and printing the collaborating physician's name;

12 (4) the physician is present or readily available through
13 electronic communications;

14 (5) the charts and records of the patients treated by the advanced
15 practice nurse are reviewed by the collaborating physician and the
16 advanced practice nurse within the period of time specified by rule
17 adopted by the Commissioner of Health pursuant to section 13 of
18 P.L.1991, c.377 (C.45:11-52);

19 (6) the joint protocols developed by the collaborating physician
20 and the advanced practice nurse are reviewed, updated, and signed
21 at least annually by both parties; and

22 (7) the advanced practice nurse has completed six contact hours
23 of continuing professional education in pharmacology related to
24 controlled substances, including pharmacologic therapy, addiction
25 prevention and management, and issues concerning prescription
26 opioid drugs, including responsible prescribing practices,
27 alternatives to opioids for managing and treating pain, and the risks
28 and signs of opioid abuse, addiction, and diversion, in accordance
29 with regulations adopted by the New Jersey Board of Nursing. The
30 six contact hours shall be in addition to New Jersey Board of
31 Nursing pharmacology education requirements for advanced
32 practice nurses related to initial certification and recertification of
33 an advanced practice nurse as set forth in N.J.A.C.13:37-7.2.】
34 (Deleted by amendment, P.L. , c.) (pending before the
35 Legislature as this bill)

36 c. 【An advanced practice nurse may prescribe medications and
37 devices in all other medically appropriate settings, subject to the
38 following conditions:

39 (1) the collaborating physician and advanced practice nurse
40 shall address in the joint protocols whether prior consultation with
41 the collaborating physician is required to initiate a prescription for a
42 controlled dangerous substance;

43 (2) the prescription is written in accordance with standing orders
44 or joint protocols developed in agreement between a collaborating
45 physician and the advanced practice nurse, or pursuant to the
46 specific direction of a physician;

47 (3) the advanced practice nurse writes the prescription on a New
48 Jersey Prescription Blank pursuant to P.L.2003, c.280 (C.45:14-40

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1 et seq.), signs the nurse's own name to the prescription and prints
2 the nurse's name and certification number;

3 (4) the prescription is dated and includes the name of the patient
4 and the name, address, and telephone number of the collaborating
5 physician;

6 (5) the physician is present or readily available through
7 electronic communications;

8 (6) the charts and records of the patients treated by the advanced
9 practice nurse are periodically reviewed by the collaborating
10 physician and the advanced practice nurse;

11 (7) the joint protocols developed by the collaborating physician
12 and the advanced practice nurse are reviewed, updated, and signed
13 at least annually by both parties; and

14 (8) the advanced practice nurse has completed six contact hours
15 of continuing professional education in pharmacology related to
16 controlled substances, including pharmacologic therapy, addiction
17 prevention and management, and issues concerning prescription
18 opioid drugs, including responsible prescribing practices,
19 alternatives to opioids for managing and treating pain, and the risks
20 and signs of opioid abuse, addiction, and diversion, in accordance
21 with regulations adopted by the New Jersey Board of Nursing. The
22 six contact hours shall be in addition to New Jersey Board of
23 Nursing pharmacology education requirements for advanced
24 practice nurses related to initial certification and recertification of
25 an advanced practice nurse as set forth in N.J.A.C.13:37-7.2.】
26 (Deleted by amendment, P.L. , c.) (pending before the
27 legislature as this bill)

28 d. 【The joint protocols employed pursuant to subsections b.
29 and c. of this section shall conform with standards adopted by the
30 Director of the Division of Consumer Affairs pursuant to section 12
31 of P.L.1991, c.377 (C.45:11-51) or section 10 of P.L.1999, c.85
32 (C.45:11-49.2), as applicable.】 (Deleted by amendment, P.L. , c.)
33 (pending before the legislature as this bill)

34 e. (Deleted by amendment, P.L.2004, c.122.)

35 f. An attending advanced practice nurse may determine and
36 certify the cause of death of the nurse's patient and execute the
37 death certification pursuant to R.S.26:6-8 if no collaborating
38 physician is available to do so and the nurse is the patient's primary
39 caregiver.

40 g. An advanced practice nurse may order medications and
41 devices, subject to the following conditions:

42 (1) The advanced practice nurse shall issue a prescription on a
43 New Jersey Prescription Blank in accordance with the provisions of
44 P.L.2003, c.280 (C.45:14-40 et seq.), and include on the
45 prescription blank the advanced practice nurse's signature, printed
46 name, certification number, and patient information, and any other
47 information required pursuant to regulations adopted by the New
48 Jersey Board of Nursing;

1 (2) The advanced practice nurse shall have completed six
2 contact hours of continuing professional education in pharmacology
3 related to controlled substances, including pharmacologic therapy
4 and addiction prevention and management, in accordance with
5 regulations adopted by the New Jersey Board of Nursing. The six
6 contact hours shall be in addition to New Jersey Board of Nursing
7 pharmacology education requirements for advanced practice nurses
8 related to initial certification and recertification of an advanced
9 practice nurse as set forth in regulations adopted by the New Jersey
10 Board of Nursing;

11 (3) The advance practice nurse shall have completed 10 contact
12 hours of continuing professional education in pharmacology each
13 biennial period, in accordance with regulations adopted by the New
14 Jersey Board of Nursing. The 10 contact hours shall be in addition
15 to New Jersey Board of Nursing requirements for renewal of a
16 registered professional nursing license, as set forth in regulations
17 adopted by the board; and

18 (4) An advanced practice nurse with fewer than 24 months or
19 2,400 hours of licensed, active, advanced nursing practice in an
20 initial role shall have a formal collaborating agreement with a
21 collaborating provider. The collaborating agreement shall be
22 required only with respect to prescribing medications. An advanced
23 practice nurse subject to this paragraph shall maintain signed and
24 dated copies of all required collaborating agreements, and shall
25 notify the board that the requirements of this paragraph have been
26 met.

27 h. Any provision of State law or regulation that requires the
28 signature, stamp, verification, affidavit, or endorsement of a
29 physician shall be deemed to require the signature, stamp,
30 verification, affidavit, or endorsement of a physician or an advanced
31 practice nurse, to the extent consistent with the scope of practice of
32 an advanced practice nurse.

33 (cf: P.L.2017, c.28, s.15)

34

35 3. Section 11 of P.L.1991, c.377 (C.45:11-50) is amended to
36 read as follows:

37 11. In addition to such other powers as it may by law possess,
38 the New Jersey Board of Nursing shall have the following powers
39 and duties**【;】**:

40 a. To promulgate, pursuant to the “Administrative Procedure
41 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to
42 effectuate the purposes of this act**【**, except for those subjects of
43 rule-making authority allocated to the Director of the Division of
44 Consumer Affairs pursuant to section 12 of P.L.1991,
45 c.377 (C.45:11-51) or to the Commissioner of Health and Senior
46 Services pursuant to section 13 of P.L.1991, c.377 (C.45:11-52)**】**;

47 b. To evaluate and pass upon the qualifications of candidates
48 for certification as advanced practice nurses;

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- 1 c. To evaluate and pass upon national accreditation
2 organizations and the holders of certificates from those
3 organizations as necessary to award certificates pursuant to section
4 9 of P.L.1991, c.377 (C.45:11-48);
5 d. To establish specialty areas of practice for advanced practice
6 nurses;
7 e. To take disciplinary action, in accordance with P.L.1978,
8 c.73 (C.45:1-14 et seq.) against an advanced practice nurse who
9 violates the provisions of this act, any regulation promulgated
10 thereunder, or P.L.1978, c.73 (C.45:1-14 et seq.);
11 f. To approve the examination to be taken by candidates for
12 certification;
13 g. To set standards of professional conduct for advanced
14 practice nurses;
15 h. To set fees for examinations, certification, and other services
16 consistent with section 2 of P.L.1974, c.46 (C.45:1-3.2);
17 i. To set standards for and approve continuing education
18 programs; and
19 j. To determine whether the requirements of another state with
20 respect to certification as an advanced practice nurse are
21 substantially equivalent to those of this State in accordance with
22 subsection c. of section 8 of P.L.1991, c.377 (C.45:11-47).
23 (cf: P.L.1999, c.85, s.8)

- 24
25 4. The following sections are repealed:
26 Section 10 of P.L.1999, c.85 (C.45:11-49.2);
27 Section 12 of P.L.1991, c.377 (C.45:11-51); and
28 Section 13 of P.L.1991, c.377 (C.45:11-52).
29
30 5. This act shall take effect on the first day of the fourth month
31 next following the date of enactment.
32
33

34 **STATEMENT**

35
36 This bill which is designated as the "Consumer Access to Health
37 Care Act," eliminates the requirement that a joint protocol be in
38 place before an advanced practice nurse (APN) may prescribe
39 medications, and sets forth the conditions under which an APN may
40 prescribe medications. These conditions include use of the New
41 Jersey Prescription Blank and satisfaction of continuing
42 professional education requirements related to prescribing
43 controlled substances. An APN with fewer than 24 months or 2,400
44 hours of licensed, active, advanced nursing practice in an initial role
45 would be permitted to prescribe medication only if a formal
46 collaborating agreement with a provider is in place. The bill also
47 provides that any State law or regulation that requires the signature
48 or similar endorsement of a physician would be deemed to require

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1 the same of an APN, to the extent consistent with an APN's scope
2 of practice.

3 The bill incorporates recommendations of the National Council
4 of State Boards of Nursing, which also adopted a model act. The
5 model act does not condition an APN's prescribing authority on a
6 joint protocol with a collaborating physician, because collaboration
7 with other health care professionals is currently a professional
8 responsibility. This bill is consistent with the Institute of Medicine
9 (IOM) recommendation that barriers to APN scope of practice be
10 eliminated and that states adopt the model act. The IOM has
11 suggested that federal funding for nursing education programs be
12 limited to only those programs in states that adopt the model act,
13 because it has found that restrictive collaboration requirements are
14 barriers to nursing practices and to patient access to primary care.