

CHAPTER 85

AN ACT concerning advanced practice nurses, amending P.L.1947, c.262, amending the title and body of P.L.1991, c.377 and supplementing that act.

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

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

C.45:11-23 Definitions.

1. As used in this act:

- a. The words "the board" mean the New Jersey Board of Nursing created by this act.

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

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

The terms "nursing," "professional nursing," and "practical nursing" as used in this act shall not be construed to include nursing by students enrolled in a school of nursing accredited or approved by the board performed in the prescribed course of study and training, nor nursing performed in hospitals, institutions and agencies approved by the board for this purpose by graduates of such schools pending the results of the first licensing examination scheduled by the board following completion of a course of study and training and the attaining of age qualification for examination, or thereafter with the approval of the board in the case of each individual pending results of subsequent examinations; nor shall any of said terms be construed to include nursing performed for a period not exceeding 12 months unless the board shall approve a longer period, in hospitals, institutions or agencies by a nurse legally qualified under the laws of another state or country, pending results of an application for licensing under this act, if such nurse does not represent or hold himself or herself out as a nurse licensed to practice under this act; nor shall any of said terms be construed to include the practice of nursing in this State by any legally qualified nurse of another state whose engagement made outside of this State requires such nurse to accompany and care for the patient while in this State during the period of such engagement, not to exceed six months in this State, if such nurse does not represent or hold himself or herself out as a nurse licensed to practice in this State; nor shall any of said terms be construed to include nursing performed by employees or officers of the United States Government or any agency or service thereof while in the discharge of his or her official duties; nor shall any of said terms be construed to include services performed by nurses aides, attendants, orderlies and ward helpers in hospitals, institutions and agencies or by technicians, physiotherapists, or medical secretaries, and such duties performed by said persons aforementioned shall not be subject to rules or regulations which the board may prescribe concerning nursing; nor shall any of said terms be construed to include first aid nursing assistance, or gratuitous care by friends or members of the family of a sick or infirm person, or incidental care of the sick by a person employed primarily as a domestic or housekeeper, notwithstanding that the occasion for such employment may be sickness, if such incidental care does not constitute professional nursing and such person does not claim or purport to be a licensed nurse; nor shall any of said terms be construed to include services rendered in accordance with the practice of the religious tenets of any well-recognized church or

denomination which subscribes to the art of healing by prayer. A person who is otherwise qualified shall not be denied licensure as a professional nurse or practical nurse by reason of the circumstances that such person is in religious life and has taken a vow of poverty.

c. "Homemaker-home health aide" means a person who is employed by a home care services agency and who is performing delegated nursing regimens or nursing tasks delegated through the authority of a duly licensed registered professional nurse. "Home care services agency" means home health agencies licensed by the Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et al.), nonprofit homemaker-home health aide agencies, and employment agencies and temporary help services firms regulated by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety and the Attorney General pursuant to P.L.1989, c.331 (C.34:8-43 et seq.) and P.L.1960, c.39 (C.56:8-1 et seq.) respectively, which are engaged in the business of procuring or offering to procure employment for homemaker-home health aides, where a fee is exacted, charged or received directly or indirectly for procuring or offering to procure that employment.

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

e. "Collaborating physician" means a person licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes who agrees to work with an advanced practice nurse.

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

2. Section 2 of P.L.1947, c.262 (C.45:11-24) is amended to read as follows:

C.45:11-24 The board; appointment; terms; qualifications; duties; compensation.

2. a. The board; appointment; terms. In addition to the members appointed to represent the interests of the public pursuant to P.L.1971, c.60 as amended by P.L.1977, c.285 (C.45:1-2.2) the New Jersey Board of Nursing shall consist of 10 members, six of whom shall be registered professional nurses, two of whom shall be licensed practical nurses, one of whom shall be an advanced practice nurse, and one of whom shall be an additional public member, all to be appointed by the Governor. Appointments to the board shall be for terms of five years or for the unexpired portion of a term in the case of a vacancy for any cause within a term, and until a successor shall be appointed and qualified. In making appointments the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the various nurses' professional associations of this State. Upon notice and hearing, the Governor may remove from office any member of the board for neglect of duty, incompetency, unprofessional or dishonorable conduct.

b. Qualifications for appointment. The advanced practice nurse member shall be a resident of this State, shall be a graduate of an accredited advanced practice nurse program, shall have had at least five years' experience in professional nursing, shall at the time of appointment be actively working as an advanced practice nurse, and, except for the member first appointed, shall hold a certification as an advanced practice nurse pursuant to P.L.1991, c.377 (C.45:11-45 et al.). Each registered professional nurse member of the board shall be a citizen of the United States and a resident of this State; shall be a graduate of an accredited school of nursing within the United States; shall be a registered nurse in this State; shall have had at least five years' experience in professional nursing following graduation from an accredited school of nursing; and shall at the time of appointment be actively engaged in nursing or work relating thereto. The licensed practical nurse members of the board shall be citizens of the United States and residents of this State; shall hold a valid license to practice practical nursing in this State; shall have had at least three years' experience in practical nursing; and shall at the time of appointment be actively engaged in practical nursing or work related thereto.

c. Oath or affirmation of office. Within 30 days after receipt of the commission, each appointee shall take, subscribe and file in the office of the Secretary of State the oath or affirmation prescribed by law.

d. Duties and powers. The board shall have the following duties and powers: (1) It shall

hold annual meetings and such other meetings as it may deem necessary at such times and places as the board shall prescribe and a majority of the board including one officer shall constitute a quorum. (2) It shall elect from its members and prescribe the duties of a president and secretary-treasurer, each of whom shall serve for one year and until a successor is elected. (3) It shall appoint and prescribe the duties of an executive secretary to the board who need not be a member thereof but who shall be a citizen of the United States, a graduate of a college or university with a major in nursing education, a registered nurse of this State with at least five years' experience in teaching or administration or both in an accredited school of professional nursing, or have equivalent qualifications as determined by the board. The executive secretary shall hold office during the will and pleasure of the board. (4) It shall employ and prescribe the duties of such persons as in its judgment shall be necessary for the proper performance and execution of the duties and powers of the board. (5) It shall determine and pay reasonable compensation and necessary expenses of the executive secretary and all employees of the board. (6) It shall pay to each member of the board the compensation hereinafter provided. (7) It shall have a common seal, keep an official record of all its meetings, and through its secretary-treasurer report annually to the Governor the work of the board. (8) It shall examine applicants for a license or renewals thereof, issue, renew, revoke and suspend licenses, as hereinafter provided. (9) It shall in its discretion investigate and prosecute all violations of provisions of this act. (10) It shall keep an official record which shall show the name, age, nativity and permanent place of residence of each applicant and licensee and such further information concerning each applicant and licensee as the board shall deem advisable. The record shall show also whether the applicant was examined, licensed or rejected under this and any prior act. Copies of any of the entries of the record or of any certificate issued by the board may be authenticated by any member of the board under its seal and when so authenticated shall be evidence in all courts of this State of the same weight and force as the original thereof. For authenticating a copy of any entry or entries contained in its record the board shall be paid a fee of \$3.00, but such authentication, if made at the request of any public agency of this or any other jurisdiction, may be without fee. (11) In its discretion it may publish at such times as it shall determine a list of nurses licensed under this act, a list of schools of nursing accredited or approved under this act, and such other information as it shall deem advisable. (12) It shall prescribe standards and curricula for schools of nursing and evaluate and approve courses for affiliation. (13) It shall hear and determine applications for accreditation of schools of professional nursing, conduct investigations before and after accreditation of such schools and institutions with which they are affiliated, and issue, suspend or revoke certificates of accreditation as hereinafter provided. (14) It shall approve schools of practical nursing which shall conform to the standards, curricula, and requirements prescribed by the board, and suspend or revoke approval for violations thereof; provided, that this power shall not extend to schools operated by any board of education in this State. (15) It may consult with the Medical Society of New Jersey and the New Jersey Hospital Association with respect to any matter relating to the administration of this act and shall consult with those associations with respect to standards and curricula and any change thereof for schools of nursing. (16) It shall issue subpoenas for the attendance of witnesses and production of documents at any hearing before the board authorized by this act and any member of the board shall administer an oath or affirmation to persons appearing to give testimony at such hearings. (17) It may conduct any investigations, studies of nursing and nursing education and related matters, and prepare and issue such publications as in the judgment of the board will advance the profession of nursing and its service to the public. (18) It shall perform all other functions which are provided in this act to be performed by it or which in the judgment of the board are necessary or proper for the administration of this act. (19) It shall from time to time prescribe rules and regulations not inconsistent with this act. (20) It shall prescribe standards and curricula for homemaker-home health aide education and training programs which a homemaker-home health aide shall complete in order to work in this State. (21) It shall review applications to provide homemaker-home health aide training programs and shall issue, suspend or revoke program approval. (22) It shall establish and maintain a registry of all individuals who have successfully completed a homemaker-home health aide training and competency evaluation program. (23) It shall

prescribe standards and requirements for a competency evaluation program resulting in certification of the homemaker-home health aide, and the renewal, revocation, and suspension of that certification. (24) It shall review applications for homemaker home-health aide certification and shall issue, suspend, revoke, or fail to renew certifications and conduct investigations pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.).

e. Compensation. Each member of the board shall receive \$15.00 per day for each day in which such member is actually engaged in the discharge of duties and traveling and other expenses necessarily incurred in the discharge of duties.

3. The Title of P.L.1991, c.377 is amended to read as follows:

AN ACT providing for the certification of advanced practice nurses and granting them prescriptive powers under certain circumstances, and revising parts of the statutory law.

4. Section 1 of P.L.1991, c.377 (C.45:11-45) is amended to read as follows:

C.45:11-45 Short title.

1. This act shall be known and may be cited as the "Advanced Practice Nurse Certification Act."

5. Section 7 of P.L.1991, c.377 (C.45:11-46) is amended to read as follows:

C.45:11-46 Certification required.

7. a. (1) No person shall practice as an advanced practice nurse or present, call or represent himself as an advanced practice nurse unless certified in accordance with section 8 or 9 of P.L.1991, c.377 (C.45:11-47 or 45:11-48).

(2) Nothing in this act shall be construed to limit, preclude, or otherwise interfere with the practices of other persons licensed by appropriate agencies of the State of New Jersey, provided that such duties are consistent with the accepted standards of the person's profession and the person does not represent himself as an advanced practice nurse.

b. No person shall assume, represent himself as, or use the title or designation advanced practice nurse or the abbreviation "A.P.N." or any other title or designation which indicates or implies that he is an advanced practice nurse unless certified pursuant to section 8 or 9 of P.L.1991, c.377 (C.45:11-47 or 45:11-48).

c. Whenever the titles or designations "nurse practitioner," "clinical nurse specialist" or "nurse practitioner/clinical nurse specialist" occur or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the title or designation "advanced practice nurse."

6. Section 8 of P.L.1991, c.377 (C.45:11-47) is amended to read as follows:

C.45:11-47 Certification requirements.

8. a. The New Jersey Board of Nursing may issue a certification as an advanced practice nurse to an applicant who fulfills the following requirements:

- (1) Is at least 18 years of age;
- (2) Is of good moral character;
- (3) Is a registered professional nurse;
- (4) Has successfully completed an educational program, including pharmacology, approved by the board; and
- (5) Has passed a written examination approved by the board.

b. In addition to the requirements of subsection a. of this section, an applicant for renewal of a certification as an advanced practice nurse shall present satisfactory evidence that, in the period since the certification was issued or last renewed, all continuing education requirements have been completed as required by regulations adopted by the board.

c. The board may accept, in lieu of the written examination required by paragraph (5) of subsection a. of this section, proof that an applicant for certification holds a current certification

in a state which has standards substantially equivalent to those of this State.

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

C.45:11-49 Permitted duties of advanced practice nurse.

10. a. In addition to all other tasks which a registered professional nurse may, by law, perform, an advanced practice nurse may manage specific common deviations from wellness and stabilized long-term illnesses by:

(1) initiating laboratory and other diagnostic tests; and
(2) prescribing or ordering medications and devices, as authorized by subsections b. and c. of this section.

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

(1) Controlled dangerous substances may be ordered:
(a) to continue or reissue an order or prescription for a controlled dangerous substance originally ordered or prescribed by the collaborating physician or to otherwise adjust the dosage of that medication, provided there is prior consultation with the collaborating physician or a physician designated by the collaborating physician; or
(b) for a patient in an end-of-life situation or as part of a treatment plan for a patient with a terminal illness.

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

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

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

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

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

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

(1) Controlled dangerous substances may be prescribed:

(a) to continue or reissue an order or prescription for a controlled dangerous substance originally ordered or prescribed by the collaborating physician or to otherwise adjust the dosage of that medication, provided there is prior consultation with the collaborating physician or a physician designated by the collaborating physician; or

(b) for a patient in an end-of-life situation or as part of a treatment plan for a patient with a terminal illness.

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

(3) the advanced practice nurse writes the prescription on the prescription blank of the collaborating physician, signs his name to the prescription and prints his name and certification number;

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

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

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

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

d. The joint protocols employed pursuant to subsections b. and c. of this section shall

conform with standards adopted by the Director of the Division of Consumer Affairs pursuant to section 12 of P.L.1991, c.377 (C.45:11-51) or section 10 of P.L.1999, c.85 (C.45:11-49.2)), as applicable.

e. As used in this section: "end-of-life situation" means having an incurable medical condition caused by injury, disease or illness which to a reasonable degree of medical certainty makes death imminent, and from which there can be no recovery despite the application of life-sustaining procedures; and "terminal illness" means a medical condition which results in a patient's life expectancy being 12 months or less.

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

C.45:11-50 New Jersey Board of Nursing; additional powers and duties.

11. In addition to such other powers as it may by law possess, the New Jersey Board of Nursing shall have the following powers and duties;

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

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

c. To evaluate and pass upon national accreditation organizations and the holders of certificates from those organizations as necessary to award certificates pursuant to section 9 of P.L.1991, c.377 (C.45:11-48);

d. To establish specialty areas of practice for advanced practice nurses;

e. To take disciplinary action, in accordance with P.L.1978, c.73 (C.45:1-14 et seq.) against an advanced practice nurse who violates the provisions of this act, any regulation promulgated thereunder, or P.L.1978, c.73 (C.45:1-14 et seq.);

f. To approve the examination to be taken by candidates for certification;

g. To set standards of professional conduct for advanced practice nurses;

h. To set fees for examinations, certification and other services consistent with section 2 of P.L.1974, c.46 (C.45:1-3.2);

i. To set standards for and approve continuing education programs; and

j. To determine whether the requirements of another state with respect to certification as an advanced practice nurse are substantially equivalent to those of this State in accordance with subsection c. of section 8 of P.L.1991, c.377 (C.45:11-47).

9. Section 13 of P.L.1991, c.377 (C.45:11-52) is amended to read as follows:

C.45:11-52 Review of charts, records of patients treated by advanced practice nurse.

13. The Commissioner of Health and Senior Services shall, by rule adopted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establish the periods of time within which the charts and records of the patients treated by the advanced practice nurse in an inpatient setting shall be reviewed by the advanced practice nurse and the collaborating physician, as required by paragraph (5) of subsection b. of section 10 of P.L.1991, c.377 (C.45:11-49).

C.45:11-49.2 Standards for joint protocols applicable to ordering, prescription of controlled dangerous substances.

10. No later than the 180th day after the enactment of P.L.1999, c.85, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall adopt standards for the joint protocols required by subsection d. of section 10 of P.L.1991, c.377 (C.45:11-49), which shall apply to the ordering or prescription of controlled dangerous substances by an advanced practice nurse pursuant to that section. The standards shall be adopted by regulation in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

11. This act shall take effect on the 180th day after enactment, except that section 10 shall take effect immediately.

Approved April 30, 1999.