

**ASSEMBLY, No. 854**

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**STATE OF NEW JERSEY**

**218th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Morris, Somerset and Union)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman CRAIG J. COUGHLIN**

**District 19 (Middlesex)**

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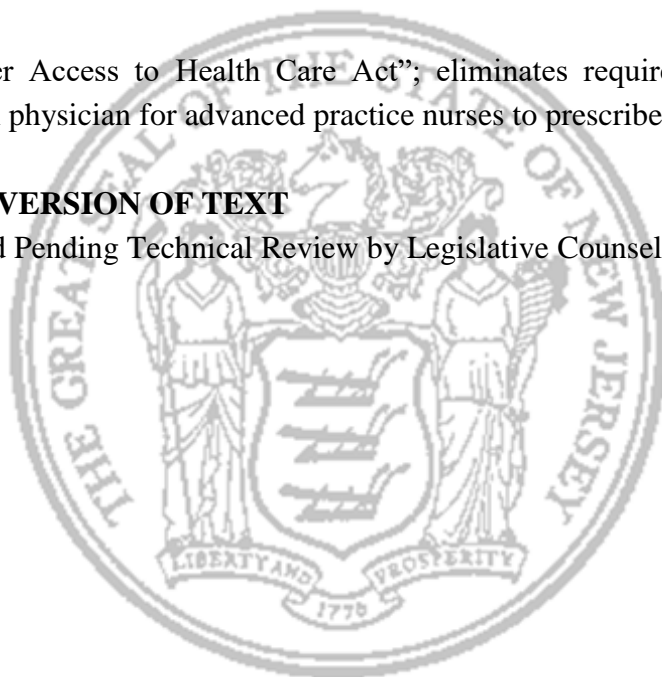
**Assemblywomen Sumter, Caride, Assemblymen McKeon, DeAngelo, Assemblywomen Schepisi, Jones, Assemblyman Dancer, Assemblywoman Downey, Assemblymen Milam, Land, Assemblywoman Speight, Assemblymen Mejia, Giblin and Assemblywoman McKnight**

**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**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 12/6/2019)**

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.

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

1 the Division of Consumer Affairs in the Department of Law and  
2 Public Safety and the Attorney General pursuant to P.L.1989, c.331  
3 (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, c.377  
10 (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, or 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.] f. and g.** 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:**

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 his own name, printing the name and certification number, and  
11 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 and Senior Services  
18 pursuant to section 13 of 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 at  
21 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 and  
25 addiction prevention and management, in accordance with  
26 regulations adopted by the New Jersey Board of Nursing. The six  
27 contact hours shall be in addition to New Jersey Board of Nursing  
28 pharmacology education requirements for advanced practice nurses  
29 related to initial certification and recertification of an advanced  
30 practice nurse as set forth in N.J.A.C.13:37-7.2 and 13:37-7.5.】  
31 (Deleted by amendment, P.L. , c. ) (pending before the  
32 Legislature as this bill)

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

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

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

44 (3) the advanced practice nurse writes the prescription on a New  
45 Jersey Prescription Blank pursuant to P.L.2003, c.280 (C.45:14-40  
46 et seq.), signs his name to the prescription and prints his name and  
47 certification number;

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

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

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

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

12 (8) the advanced practice nurse has completed six contact hours  
13 of continuing professional education in pharmacology related to  
14 controlled substances, including pharmacologic therapy and  
15 addiction prevention and management, in accordance with  
16 regulations adopted by the New Jersey Board of Nursing. The six  
17 contact hours shall be in addition to New Jersey Board of Nursing  
18 pharmacology education requirements for advanced practice nurses  
19 related to initial certification and recertification of an advanced  
20 practice nurse as set forth in N.J.A.C.13:37-7.2 and 13:37-7.5.】

21 (Deleted by amendment, P.L. , c. ) (pending before the  
22 Legislature as this bill)

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

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

30 f. An advanced practice nurse may order medications and  
31 devices, subject to the following conditions:

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

39 (2) The advanced practice nurse shall have completed six  
40 contact hours of continuing professional education in pharmacology  
41 related to controlled substances, including pharmacologic therapy  
42 and addiction prevention and management, in accordance with  
43 regulations adopted by the New Jersey Board of Nursing. The six  
44 contact hours shall be in addition to New Jersey Board of Nursing  
45 pharmacology education requirements for advanced practice nurses  
46 related to initial certification and recertification of an advanced  
47 practice nurse as set forth in regulations adopted by the New Jersey  
48 Board of Nursing;

1     (3) The advance practice nurse shall have completed 10 contact  
2     hours of continuing professional education in pharmacology each  
3     biennial period, in accordance with regulations adopted by the New  
4     Jersey Board of Nursing. The 10 contact hours shall be in addition  
5     to New Jersey Board of Nursing requirements for renewal of a  
6     registered professional nurse, as set forth in regulations adopted by  
7     the board; and

8     (4) An advanced practice nurse with fewer than 24 months or  
9     2,400 hours of licensed, active, advanced nursing practice in an  
10    initial role shall have a formal collaborating agreement with a  
11    collaborating provider. The collaborating agreement shall be  
12    required only with respect to prescribing medications. An advanced  
13    practice nurse subject to this paragraph shall maintain signed and  
14    dated copies of all required collaborating agreements, and shall  
15    notify the board that the requirements of this paragraph have been  
16    met.

17    g. Any provision of State law or regulation that requires the  
18    signature, stamp, verification, affidavit, or endorsement of a  
19    physician shall be deemed to require the signature, stamp,  
20    verification, affidavit, or endorsement of a physician or an advanced  
21    practice nurse, to the extent consistent with the scope of practice of  
22    an advanced practice nurse.

23    (cf: P.L.2004, c.122, s.2)

24  
25    3. Section 11 of P.L.1991, c.377 (C.45:11-50) is amended to  
26    read as follows:

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

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

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

39    c. To evaluate and pass upon national accreditation  
40    organizations and the holders of certificates from those  
41    organizations as necessary to award certificates pursuant to section  
42    9 of P.L.1991, c.377 (C.45:11-48);

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

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

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

3 g. To set standards of professional conduct for advanced  
4 practice\_nurses;

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

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

9 j. To determine whether the requirements of another state with  
10 respect to certification as an advanced practice nurse are  
11 substantially equivalent to those of this State in accordance with  
12 subsection c. of section 8 of P.L.1991, c.377 (C.45:11-47).  
13 (cf: P.L.1999, c.85, s.8)

14  
15 4. The following sections are repealed:  
16 Section 10 of P.L.1999, c.85 (C.45:11-49.2);  
17 Section 12 of P.L.1991, c.377 (C.45:11-51); and  
18 Section 13 of P.L.1991, c.377 (C.45:11-52).

19  
20 5. This act shall take effect on the first day of the fourth month  
21 next following the date of enactment.  
22

#### 23 24 STATEMENT

25  
26 This bill which is designated as the "Consumer Access to Health  
27 Care Act," eliminates the requirement that a joint protocol be in  
28 place before an advanced practice nurse (APN) may prescribe  
29 medications, and sets forth the conditions under which an APN may  
30 prescribe medications. These conditions include use of the New  
31 Jersey Prescription Blank and satisfaction of continuing  
32 professional education requirements related to prescribing  
33 controlled substances. An APN with fewer than 24 months or 2,400  
34 hours of licensed, active, advanced nursing practice in an initial role  
35 would be permitted to prescribe medication only if a formal  
36 collaborating agreement with a provider is in place. The bill also  
37 provides that any State law or regulation that requires the signature  
38 or similar endorsement of a physician would be deemed to require  
39 the same of an APN, to the extent consistent with an APN's scope  
40 of practice.

41 The bill incorporates recommendations of the National Council  
42 of State Boards of Nursing, which also adopted a model act. The  
43 model act does not condition an APN's prescribing authority on a  
44 joint protocol with a collaborating physician, because collaboration  
45 with other health care professionals is currently a professional  
46 responsibility. This bill is consistent with the Institute of Medicine  
47 (IOM) recommendation that barriers to APN scope of practice be  
48 eliminated and that states adopt the model act. The IOM has



1 suggested that federal funding for nursing education programs be  
2 limited to only those programs in states that adopt the model act,  
3 because it has found that restrictive collaboration requirements are  
4 barriers to nursing practices and to patient access to primary care.