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 reported by the Senate Health, Human Services and Senior Citizens Committee on June 3, 2019, with amendments.
AN ACT concerning advanced practice nurses and designated as the
“Consumer Access to Health Care Act,” and amending and
repealing parts of the statutory law.

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:
   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 the identification of and
discrimination between physical and psychosocial signs and
symptoms essential to effective execution and management of the
nursing regimen within the scope of practice of the registered
professional nurse. 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,

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.
Matter enclosed in superscript numerals has been adopted as follows:
Senate SHH committee amendments adopted June 3, 2019.
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, assisted living residences, comprehensive personal care homes, assisted living programs or alternate family care sponsor 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 health care service 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 may be 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. (Deleted by amendment, P.L. , c.) (pending before the
Legislature as this bill)
f. “Collaborating provider” means a physician licensed to
practice medicine and surgery pursuant to chapter 9 of Title 45 of
the Revised Statutes or an advanced practice nurse issued a
certification pursuant to section 8 or 9 of P.L.1991, c.377 (C.45:11-
47 or 45:11-48).
g. “Global signature authority” means the authority of an
advanced practice nurse to sign, stamp, verify, or endorse a
document which requires the signature, stamp, verification, or
endorsement of a physician.

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.
(cf: P.L.2004, c.122, s.1)"
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. No homemaker-home health aide shall follow a delegated nursing regimen or perform tasks which are delegated unless the homemaker-home health aide is under the supervision of a duly licensed registered professional nurse provided by the home care services agency that directly employs the homemaker-home health aide. "Home care services agency" means home health agencies, assisted living residences, comprehensive personal care homes, assisted living programs or alternate family care sponsor agencies licensed by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et al.), nonprofit homemaker-home health aide agencies, and health care service 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 may be exacted, charged or received directly or indirectly for procuring or offering to procure that employment.


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.¹

(cf: P.L.2019, c.48, s.2)

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

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

(1) initiating laboratory and other diagnostic tests;
(2) prescribing or ordering medications and devices, as
authorized by subsections [b. and c.] g. and h. of this section; and
(3) prescribing or ordering treatments, including referrals to
other licensed health care professionals, and performing specific
procedures in accordance with the provisions of this [subsection]
section.

b. [An advanced practice nurse may order medications and
devices in the inpatient setting, subject to the following conditions:
(1) the collaborating physician and advanced practice nurse
shall address in the joint protocols whether prior consultation with
the collaborating physician is required to initiate an order for a
controlled dangerous substance;
(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
the nurse's 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 pursuant to section 13 of
P.L.1991, c.377 (C.45:11-52);
(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; and
(7) the advanced practice nurse has completed six contact hours
of continuing professional education in pharmacology related to
controlled substances, including pharmacologic therapy, addiction
prevention and management, and issues concerning prescription
opioid drugs, including responsible prescribing practices,
alternatives to opioids for managing and treating pain, and the risks
and signs of opioid abuse, addiction, and diversion, in accordance
with regulations adopted by the New Jersey Board of Nursing. The
six contact hours shall be in addition to New Jersey Board of
Nursing pharmacology education requirements for advanced
practice nurses related to initial certification and recertification of
an advanced practice nurse as set forth in N.J.A.C.13:37-7.2.]
(Deleted by amendment, P.L. , c. ) (pending before the
Legislature as this bill)
c. An advanced practice nurse may prescribe medications and devices in all other medically appropriate settings, subject to the following conditions:

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

(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 a New Jersey Prescription Blank pursuant to P.L.2003, c.280 (C.45:14-40 et seq.), signs the nurse's own name to the prescription and prints the nurse's 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;

(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; and

(8) the advanced practice nurse has completed six contact hours of continuing professional education in pharmacology related to controlled substances, including pharmacologic therapy, addiction prevention and management, and issues concerning prescription opioid drugs, including responsible prescribing practices, alternatives to opioids for managing and treating pain, and the risks and signs of opioid abuse, addiction, and diversion, in accordance with regulations adopted by the New Jersey Board of Nursing. The six contact hours shall be in addition to New Jersey Board of Nursing pharmacology education requirements for advanced practice nurses related to initial certification and recertification of an advanced practice nurse as set forth in N.J.A.C.13:37-7.2.]

(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.] (Deleted by amendment, P.L. , c. ) (pending before the legislature as this bill)

e. (Deleted by amendment, P.L.2004, c.122.)
f. An attending advanced practice nurse may determine and certify the cause of death of the nurse's patient and execute the death certification pursuant to R.S.26:6-8 if no collaborating physician is available to do so and the nurse is the patient's primary caregiver.

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

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

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

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

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

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

(cf: P.L.2017, c.28, s.15)
3. Section 13 of P.L.2017, c.341 (C.45:11-49.3) is amended to read as follows:

13. a. Notwithstanding any other provision of law to the contrary, an advanced practice nurse may dispense narcotic drugs for maintenance treatment or detoxification treatment if the advanced practice nurse has met the training and registration requirements set forth in subsection (g) of 21 U.S.C. s.823. An advanced practice nurse who is authorized to dispense such drugs may do so regardless of whether the advanced practice nurse's collaborating physician has met the training and registration requirements set forth in subsection (g) of 21 U.S.C. s.823, provided that the joint protocol established by the advanced practice nurse and the collaborating physician include the collaborating physician's written approval for the advanced practice nurse to dispense the drugs.

b. Notwithstanding any other provision of law to the contrary, an advanced practice nurse, under the joint protocol established by the advanced practice nurse and the collaborating physician, may make the determination as to the medical necessity for services for the treatment of substance use disorder, as provided in P.L.2017, c.28 (C.17:48-6nn et al.), and may prescribe such services.

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

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).

The following sections are repealed:
Section 10 of P.L.1999, c.85 (C.45:11-49.2);
Section 12 of P.L.1991, c.377 (C.45:11-51); and

This act shall take effect on the first day of the fourth month next following the date of enactment.