

**SENATE, No. 1961**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

INTRODUCED FEBRUARY 22, 2018

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

**Co-Sponsored by:**  
**Senator Diegnan**

**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.

**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:

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 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, 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] 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)

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

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 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).

(cf: P.L.1999, c.85, s.8)

4. 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  
Section 13 of P.L.1991, c.377 (C.45:11-52).
  
5. This act shall take effect on the first day of the fourth month next following the date of enactment.

## STATEMENT

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

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