

HOUSE No. 4593

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to nurse anesthetists..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 94C of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting after the definition “Nurse” the following
3 definition: -----

4 “Nurse Anesthetist”, a nurse with advanced training who is authorized to practice by the
5 board of registration in nursing as a nurse anesthetist, as provided in Section 80B of chapter 112.

6 SECTION 2. Subsection(g) of Section 7 of said chapter 94C, as so appearing, is hereby
7 amended by adding the paragraph: -----

8 The Commissioner shall promulgate regulations which provide for the registration of
9 nurse anesthetists, as defined in section 80B of chapter 112, to issue written prescriptions for
10 patients pursuant to section 80H of chapter 112 and pursuant to guidelines mutually developed
11 and agreed upon by the nurse and supervising physician in accordance with the provisions of
12 section 80H of chapter 112 and regulations approved by the board of registration in nursing and
13 the board of registration in medicine. Prior to promulgating such regulations, the commissioner

14 shall consult with the board or registration in nursing, board of registration in medicine and the
15 board of registration in pharmacy with regard to those schedules of controlled substances for
16 which nurse anesthetists may be registered.

17 SECTION 3. Said Chapter 94C is hereby further amended by striking out section 9, as
18 so appearing, and serving in place thereof the following Section: ---

19 Section 9. (a) A physician, dentist, podiatrist, optometrist as limited by sections 66 and
20 66B of chapter 112 and subsection (h) of section 7, nurse practitioner and psychiatric nurse
21 mental health clinical specialist as limited by subsection (g) of said Section 7 and section 80E of
22 said chapter 112, physician assistant as limited by said subsection (g) of said section 7 and
23 section 9E of said chapter 112, certified nurse-mid-wife as provided in section 80C of said
24 chapter 112, nurse anesthetist, as limited by subsection (g) of said section 7 and section 80H of
25 said chapter 112, pharmacist as limited by said subsection (g) of said section 7 and section 24B
26 1/2/ of said chapter 112, or veterinarian when registered pursuant to said section 7, may, when
27 acting in accordance with applicable federal law and any provision of this chapter which is
28 consistent with federal law and in good faith and in the course of a professional practice for the
29 alleviation of pain and suffering or for the treatment or alleviation of disease, possess controlled
30 substances as may reasonably be required for the purpose of patient treatment and may
31 administer controlled substances or may cause the same to be administered under his direction by
32 a nurse.

33 A practitioner may cause controlled substances to be administered under his direction by
34 a licensed dental hygienist for the purposes of local anesthesia only.

35 (b) Notwithstanding section 17, a physician, physician assistant, dentist, podiatrist,
36 optometrist, certified nurse-midwife, nurse practitioner, psychiatric nurse mental health clinical
37 specialist, nurse anesthetist, pharmacist as limited by said subsection (g) of said section 7 and
38 section 24B1/2/ of said chapter 112, or veterinarian registered pursuant to said section 7, may,
39 when acting in good faith and in the practice of medicine, dentistry, podiatry, optometry, nurse-
40 midwifery, pharmacy or veterinary medicine or as a nurse, as the case may be, and when
41 authorized by a physician, dentist, podiatrist, optometrist, nurse practitioner, physician assistant,
42 certified nurse-midwife, psychiatric nurse mental health clinical specialist, nurse anesthetist, or
43 veterinarian in the course of such nurse's professional practice, dispense by delivering to an
44 ultimate user a controlled substance in a single dose or in a quantity that is, in the opinion of such
45 physician, dentist, podiatrist, optometrist, nurse practitioner, physician assistant, certified
46 midwife, psychiatric nurse mental health clinical specialist, nurse anesthetist, pharmacist or
47 veterinarian, essential for the treatment of a patient. The amount or quantity of any controlled
48 substance dispensed under this subsection shall not exceed the quantity of a controlled substance
49 necessary for the immediate and proper treatment of the patient until it is possible for the patient
50 to have a prescription filled by a pharmacy. All controlled substances required by the patient as
51 part of his treatment shall be dispensed by prescription to the ultimate user in accordance with
52 this chapter.

53 This section shall not prohibit or limit the dispensing of a prescription medication that is
54 classified by the department as schedule VI and that is provided by the manufacturer as part of
55 an indigent patient program or for use as samples if the prescription medication is: (i) dispensed
56 to the patient by a professional authorized to dispense controlled substances pursuant to this
57 section; (ii) dispensed in the package provided by the manufacturer; and (iii) provided at no

58 charge to the patient. The department shall promulgate rules and regulations governing the
59 dispensing of medication pursuant to this section. These rules and regulations shall include, but
60 not be limited to, those concerning the types and amounts of medications that may be dispensed
61 and the appropriate safeguards for the labeling and dispensing of such medications.

62 (c) A nurse who has obtained from a physician, dentist, physician assistant, podiatrist,
63 certified nurse-midwife, nurse practitioner, psychiatric nurse mental health clinical specialist,
64 nurse anesthetist, pharmacist or veterinarian a controlled substance for dispensing to an ultimate
65 user pursuant to subsection (b) or for administration to a patient pursuant to subsection (a) during
66 the absence of the physician, physician assistant, dentist, podiatrist, certified nurse-midwife,
67 nurse practitioner, psychiatric nurse mental health clinical specialist, nurse anesthetist,
68 pharmacist or veterinarian, shall return to the physician, physician assistant, dentist, podiatrist,
69 certified nurse-midwife, nurse practitioner, psychiatric nurse mental health clinical specialist,
70 nurse anesthetist, pharmacist or veterinarian any unused portion of the controlled substance
71 which is no longer required by the patient.

72 A licensed dental hygienist who has obtained a controlled substance from a practitioner
73 for dispensing to an ultimate user pursuant to subsection (a) shall return to such practitioner any
74 unused portion of the substance which is no longer required by the patient.

75 (d) Every physician, physician assistant, dentist, podiatrist, certified nurse-midwife,
76 nurse practitioner, psychiatric nurse mental health clinical specialist, nurse anesthetist,
77 pharmacist or veterinarian shall, in the course of a professional practice, keep and maintain
78 records, open to inspection by the commissioner during reasonable business hours, which shall
79 include the following: the names and quantities of any controlled substances in schedules I, II or

80 III received by the practitioner; the name and address of each patient to whom such controlled
81 substance is administered or dispensed; the name, dosage and strength per dosage unit of each
82 such controlled substance; and the date of such administration or dispensing.

83 (e) Notwithstanding subsection (b), a physician, nurse practitioner, physician assistant,
84 pharmacist as limited by subsection (g) of section 7 and section 24B1/2/ of said chapter 112 or
85 certified nurse mid-wife, when acting in good faith and providing care under a program funded
86 in whole or in part by 42 U.S.C. 300, or in a clinic licensed by the department to provide
87 comparable medical services or a registered nurse, registered pursuant to section 74 of said
88 chapter 112 and authorized by such physician, nurse practitioner, physician assistant, pharmacist
89 as limited by said subsection (g) of said section 7 and section 24B1/2/ of said chapter 112,
90 certified nurse-midwife may lawfully dispense controlled substances pursuant to schedule VI to
91 recipients of such services in such quantity as needed for treatment and shall be exempt from the
92 requirement that such dispensing be in a single dose or as necessary for immediate and proper
93 treatment under subsection (b). A registered nurse shall dispense under this subsection only as
94 provide in section 17. The department may establish rules and regulations controlling the
95 dispensing of these medications, including, but not limited to, the types and amounts of
96 medications dispensed and appropriate safeguards for dispensing.

97 SECTION 4. Chapter 112 is hereby amended by inserting after section 80G the
98 following new Section:-

99 Section 80H. A nurse anesthetist may issue written prescriptions and order tests and
100 therapeutics for the immediate perioperative care of a patient pursuant to guidelines mutually
101 developed and agreed upon by the nurse and the supervising physician in accordance with

102 regulations promulgated jointly by the board and the board of registration in medicine after
103 consultation with the board of registration of pharmacy. For the purposes of this section the
104 immediate perioperative care of a patient shall be defined as the period commencing on the day
105 prior to surgery and ending upon discharge of the patient from post anesthesia care. A
106 prescription made by a nurse anesthetist shall include the name of the physician with whom such
107 nurse developed and signed mutually agreed upon guidelines approved by said board and said
108 board of registration in medicine pursuant to section 80B. The administration of anesthesia by a
109 nurse anesthetist directly to a patient shall not require a written prescription.