

SENATE No. 844

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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 striking out the definition of “Nurse practitioner”.

3 SECTION 2. The definition of “Practitioner” in said section 1 of said chapter
4 94C, as so appearing, is hereby amended by striking out clause (c) and inserting in place thereof
5 the following 3 clauses:—

6 (c) An optometrist authorized to utilize and prescribe therapeutic pharmaceutical
7 agents under section 66B of chapter 112 and registered under subsection (h) of section 7.

8 (d) A physician assistant authorized to issue written prescriptions under section
9 9E of said chapter 112 and registered under subsection (g) of section 7.

10 (e) An advanced practice nurse authorized to issue written prescriptions under
11 section 80E of said chapter 112 and registered under subsection (g) of section 7.

12 SECTION 3. Subsection (g) of said section 7 of said chapter 94C, as so
13 appearing, is hereby amended by striking out the second and third paragraphs and inserting in
14 place thereof the following paragraph:—

15 The commissioner shall promulgate regulations that provide for the registration of
16 advance practice nurses who are authorized to issue written prescriptions under section 80E of
17 chapter 112. Prior to promulgation, the commissioner shall consult with board of registration in
18 nursing, the board of registration in medicine and the board of registration in pharmacy regarding
19 those schedules for controlled substances for which advanced practice nurses may be registered.

20 SECTION 4. Said chapter 94C is hereby further amended by striking out section
21 9, as so appearing, and inserting in place thereof the following section:—

22 Section 9. (a) When acting in accordance with applicable state and federal law,
23 in good faith and in the course of a professional practice, a practitioner or nurse authorized by a
24 practitioner may possess and administer such controlled substances as may reasonably be
25 required for the alleviation of pain and suffering or for the treatment or alleviation of disease for
26 the purposes of patient treatment.

27 A practitioner may authorize a licensed dental hygienist to possess and administer
28 controlled substances for the purposes of local anesthesia only.

29 (b) Notwithstanding section 17, when acting in accordance with applicable state
30 and federal law, in good faith and in the course of professional practice, a practitioner or a nurse
31 authorized by a practitioner may possess and dispense a controlled substance in a single dose or
32 in the quantity that, in the opinion of that practitioner, is required for the immediate treatment of

33 the patient until a prescription is filled by a pharmacy; provided, however, that all such
34 controlled substances shall be dispensed by prescription in accordance with this chapter.

35 (c) Notwithstanding subsection (b) and section 17, when acting in accordance
36 with applicable state and federal law, in good faith and in the course of professional practice, a
37 practitioner or nurse authorized by a practitioner may possess, administer and dispense a
38 controlled substance classified as Schedule VI that is provided free of charge by the
39 manufacturer as part of an indigent patient program or for use as samples if it is provided free of
40 charge to the patient and, if dispensed, is done so in the package provided by the manufacturer.

41 (d) The department shall promulgate rules and regulations governing the
42 dispensing of medication under this section, including the types and amounts of medications that
43 may be dispensed and the appropriate safeguards for the labeling and dispensing of such
44 medications.

45 (e) A nurse who has obtained a controlled substance for administration under
46 subsection (a) or dispensing under subsection (b) shall return to the authorizing practitioner any
47 unused portion of the substance which is no longer required by the patient.

48 A licensed dental hygienist who has obtained a controlled substance for
49 administration to an ultimate user under subsection (a) shall return to the authorizing practitioner
50 any unused portion of the substance which is no longer required by the patient.

51 (f) Every practitioner shall keep and maintain records containing: (i) the name and
52 quantity of any controlled substance in Schedule I, II or III the practitioner has received; and (ii)
53 the name and address of the patient to whom the practitioner has administered or dispensed the
54 controlled substance, the date of the administration or dispensing, and the name, dosage and

55 strength per dosage unit. These records shall be open to inspection by the commissioner during
56 reasonable business hours.

57 (g) Notwithstanding the provisions of subsection (b) and section 17, when acting
58 in accordance with applicable state and federal law, in good faith and in the course of
59 professional practice, a practitioner or nurse authorized by a practitioner who is providing care
60 under a program funded in whole or in part by 42 U.S.C. 300 or in a clinic licensed by the
61 department to provide comparable medical services may dispense a controlled substance under
62 Schedule VI to recipients of such services in the quantity that, in the opinion of the practitioner,
63 is required for treatment; provided, however, that the nurse shall only dispense as provided in
64 section 17.

65 The department may establish rules and regulations to control dispensing under
66 this subsection, including, but not limited to, the types and amounts dispensed and appropriate
67 safeguards for dispensing.

68 SECTION 5. Section 9E of chapter 112 of the General Laws, as so appearing, is hereby
69 amended by striking out, in line 14, the word “paragraph” and inserting in place thereof the
70 word:— subsection.

71 SECTION 6. Section 79 of said chapter 112, as so appearing, is hereby amended by
72 striking out, in lines 2 and 3, the words “seventy-four to seventy-eight” and inserting in place
73 thereof the following words:— 74 to 81C.

74 SECTION 7. Section 80B of said chapter 112, as so appearing, is hereby amended by
75 striking out, in lines 11 to 13, inclusive, the words “nurses in advanced roles, including certified

76 nurse midwives, nurse practitioners and psychiatric nurse mental health clinical specialists” and
77 inserting in place thereof the following words:— advanced practice nurses.

78 SECTION 8. Section 80B of said chapter 112, as so appearing, is hereby further
79 amended by striking out the fifth to ninth paragraphs, inclusive, and inserting in place thereof the
80 following paragraph:—

81 The practice of advanced practice nursing shall include the roles of certified nurse
82 midwife, nurse practitioner, psychiatric nurse mental health clinical specialist and nurse
83 anesthetist. Advanced practice nurses shall be authorized to practice in these roles by the board
84 under section 80E.

85 SECTION 9. Section 80C of said chapter 112 is hereby repealed.

86 SECTION 10. Said chapter 112 is hereby further amended by striking out section
87 80E, as so appearing, and inserting in place thereof the following section:—

88 Section 80E. (a) The board may authorize a person to practice as an advanced
89 practice nurse if the person: (i) is a registered nurse; (ii) has received either a degree in advanced
90 nursing practice from a graduate school approved by a national accrediting body acceptable to
91 the board, or have received a certificate of completion of an educational program in advanced
92 nursing practice approved by a national accrediting body acceptable to the board, (iii) and has a
93 current certification in advanced nursing practice from a national professional or specialty
94 certifying organization acceptable to the board.

95 (b) An advanced practice nurse may issue written prescriptions and may order
96 tests and therapeutics: (i) if doing so under guidelines mutually agreed upon and signed by that

97 nurse and a supervising physician and (ii) if that nurse is registered and authorized to do so under
98 subsection (g) of section 7 of chapter 94C. A prescription shall include the name of the
99 supervising physician.

100 The board and the board of registration in medicine shall consult with the board of
101 registration in pharmacy and shall jointly promulgate regulations governing the issuance of
102 prescriptions and the ordering of tests and therapeutics. The regulations shall be promulgated
103 only after the 2 boards have met, consulted and concurred on their content.

104 The standards of care required of advanced practice nurses when issuing
105 prescriptions or ordering tests or therapeutics shall protect consumers and provide them with safe
106 and comprehensive care and shall be comparable to other professionals, including physicians,
107 providing the same services.

108 The administration of anesthesia by a nurse anesthetist directly to a patient shall
109 not require a written prescription or be considered to be prescribing medication.

110 (c) Advanced practice nurses shall have professional malpractice liability
111 insurance or a suitable bond or other indemnity against liability for professional malpractice in
112 such amounts as may be determined by the board.

113 (d) A nurse-midwife shall function as a member of a health care team that
114 includes a qualified physician who is licensed to practice medicine in the commonwealth and
115 who has admitting privileges in a hospital licensed by the department of public health for the
116 operation of maternity and newborn services.

117 (e) The board may promulgate regulations relative to the roles of advanced
118 practice nurses and to effectuate the purposes of this section.

119 SECTION 11. Section 80G of said chapter 112 is hereby repealed.