

**SENATE . . . . . No. 844**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Mark C. Montigny**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

**An Act Relative to Nurse Anesthetists.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mark C. Montigny	Second Bristol and Plymouth
Richard T. Moore	Worcester and Norfolk
Susan C. Fargo	Third Middlesex
Anthony D. Galluccio	Middlesex, Suffolk and Essex

# The Commonwealth of Massachusetts

In the Year Two Thousand and 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 Official  
2 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 94C, as so  
4 appearing, is hereby amended by striking out clause (c) and inserting in place thereof the following 3  
5 clauses:—

6 (c) An optometrist authorized to utilize and prescribe therapeutic pharmaceutical agents under  
7 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 9E of said chapter  
9 112 and registered under subsection (g) of section 7.

10 (e) An advanced practice nurse authorized to issue written prescriptions under section 80E of said  
11 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 appearing, is hereby  
13 amended by striking out the second and third paragraphs and inserting in place thereof the following  
14 paragraph:—

15 The commissioner shall promulgate regulations that provide for the registration of advance  
16 practice nurses who are authorized to issue written prescriptions under section 80E of chapter 112. Prior  
17 to promulgation, the commissioner shall consult with board of registration in nursing, the board of

18 registration in medicine and the board of registration in pharmacy regarding those schedules for  
19 controlled substances for which advanced practice nurses may be registered.

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

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

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

28 (b) Notwithstanding section 17, when acting in accordance with applicable state and federal law,  
29 in good faith and in the course of professional practice, a practitioner or a nurse authorized by a  
30 practitioner may possess and dispense a controlled substance in a single dose or in the quantity that, in the  
31 opinion of that practitioner, is required for the immediate treatment of the patient until a prescription is  
32 filled by a pharmacy; provided, however, that all such controlled substances shall be dispensed by  
33 prescription in accordance with this chapter.

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

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

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

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

49 (f) Every practitioner shall keep and maintain records containing: (i) the name and quantity of any  
50 controlled substance in Schedule I, II or III the practitioner has received; and (ii) the name and address of  
51 the patient to whom the practitioner has administered or dispensed the controlled substance, the date of  
52 the administration or dispensing, and the name, dosage and strength per dosage unit. These records shall  
53 be open to inspection by the commissioner during reasonable business hours.

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

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

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

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

68 SECTION 7. Section 80B of said chapter 112, as so appearing, is hereby amended by striking  
69 out, in lines 11 to 13, inclusive, the words “nurses in advanced roles, including certified nurse midwives,  
70 nurse practitioners and psychiatric nurse mental health clinical specialists” and inserting in place thereof  
71 the following words:— advanced practice nurses.

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

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

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

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

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

87           (b) An advanced practice nurse may issue written prescriptions and may order tests and  
88 therapeutics: (i) if doing so under guidelines mutually agreed upon and signed by that nurse and a  
89 supervising physician and (ii) if that nurse is registered and authorized to do so under subsection (g) of  
90 section 7 of chapter 94C. A prescription shall include the name of the supervising physician.

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

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

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

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

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

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

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