

HOUSE BILL NO. 810

INTRODUCED BY J. ETCHART

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING SUPERVISION REQUIREMENTS FOR CERTAIN  
ADVANCED PRACTICE REGISTERED NURSES; REQUIRING COLLABORATIVE AGREEMENTS WITH  
SPECIFIED PROVIDERS FOR THE FIRST 2 YEARS OF PRACTICE; PROVIDING DEFINITIONS;  
EXTENDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-8-102, 37-8-202, AND 37-8-409, MCA;  
AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Requirements for use of advanced practice registered nurse -- collaborative agreement -- exception.** (1) Except as provided in subsection (4), an advanced practice registered nurse who has been practicing as an advance practice registered nurse for less than 2 years may not be employed or practice as an advanced practice registered nurse unless the nurse:

- (a) has an agreement with a collaborating provider meeting the requirements of [section 2]; and
- (b) has submitted an advanced practice registered nurse collaborative agreement to the board on a form prescribed by the board.

(2) A collaborating provider and the advanced practice registered nurse shall execute a written agreement constituting a contract that defines the professional relationship between the provider and the nurse and the limitations on the nurse's practice. The collaborative agreement must be kept current, by amendment or substitution, to reflect changes in the duties of each party over time. The board may by rule specify other requirements for the agreement.

(3) An advanced practice registered nurse and the collaborating provider shall keep the written agreement at their place of work and provide a copy on request to a health care provider, a health care facility, a state or federal agency, the board, and any other individual.

(4) This section does not apply to an advanced practice registered nurse certified as a nurse anesthetist.

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**NEW SECTION. Section 2. Qualifications of collaborating provider and advanced practice registered nurse.** (1) A collaborating provider named in the written agreement required under [section 1]:

- (a) must possess a current, active license in this state and must be:
  - (i) a physician; or
  - (ii) an advanced practice registered nurse with 2 or more years of experience practicing as an advanced practice registered nurse;
- (b) shall supervise the advanced practice registered nurse in accordance with rules adopted by the board; and
- (c) shall retain professional and legal responsibility for the care and treatment of patients by the advanced practice registered nurse.

(2) An advanced practice registered nurse named in the collaborative agreement required by [section 1] must have a current, active Montana license issued in accordance with this chapter.

**NEW SECTION. Section 3. Advanced practice registered nurse as agent of collaborating provider -- degree of supervision required -- scope of practice.** (1) An advanced practice registered nurse is:

- (a) considered the agent of the collaborating provider with regard to all duties delegated to the advanced practice registered nurse; and
- (b) professionally and legally responsible for the care and treatment of a patient by the advanced practice registered nurse.

(2) A health care provider shall consider the instructions of an advanced practice registered nurse as being the instructions of the collaborating provider if the instructions concern the duties delegated to the advanced practice registered nurse.

(3) Onsite or direct supervision of an advanced practice registered nurse by a collaborating provider is not required if the collaborating provider has established a means of communication between the provider and the advanced practice registered nurse or an alternate means of supervision in the event of the provider's absence.

1           (4)     An advanced practice registered nurse requiring supervision under [sections 1 through 4] may  
2     diagnose, examine, and treat human conditions, ailments, diseases, injuries, or infirmities, either physical or  
3     mental, by any means, method, device, or instrumentality authorized by the collaborating provider.  
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5           NEW SECTION. **Section 4. Prescribing and dispensing authority -- discretion of collaborating**  
6 **provider on limitation of authority.** (1) An advanced practice registered nurse practicing under a collaborative  
7 agreement may, if granted prescriptive authority by the board pursuant to 37-8-202, prescribe, dispense, and  
8 administer drugs to the extent authorized by the collaborating provider and this section.

9           (2)     All dispensing activities allowed by this section must comply with 37-2-104 and with packaging  
10    and labeling guidelines developed by the board of pharmacy under Title 37, chapter 7.

11          (3)     (a) The prescribing and dispensing authority granted to an advanced practice registered nurse  
12    may include the following:

13          (i)     prescribing, dispensing, and administering Schedule III drugs listed in 50-32-226, Schedule IV  
14    drugs listed in 50-32-229, and Schedule V drugs listed in 50-32-232; and

15          (ii)    prescribing, dispensing, and administering Schedule II drugs listed in 50-32-224 for limited  
16    periods not to exceed 34 days.

17          (b)     Records must be kept on any dispensed or administered scheduled drugs.

18          (4)     An advanced practice registered nurse practicing under a collaborative agreement shall  
19    maintain registration with the federal drug enforcement administration if the advanced practice registered nurse  
20    is authorized by the collaborating provider to prescribe controlled substances.

21          (5)     A prescription written by an advanced practice registered nurse must comply with regulations  
22    relating to prescriptions adopted by the board of pharmacy.  
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24           **Section 5.** Section 37-8-102, MCA, is amended to read:

25           **"37-8-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions  
26    apply:

27          (1)     "Advanced practice registered nurse" means a registered professional nurse who has  
28    completed educational requirements related to the nurse's specific practice role, in addition to basic nursing

1 education, as specified by the board pursuant to 37-8-202.

2 (2) "Board" means the board of nursing provided for in 2-15-1734.

3 ~~(3)~~ "Collaborating provider" means a person meeting the requirements of [section 2].

4 ~~(4)~~ "Collaborative agreement" means the written agreement required under [section 1] between a  
5 collaborating provider and an advanced practice registered nurse with less than 2 years of experience  
6 practicing as an advanced practice registered nurse.

7 ~~(3)~~~~(5)~~ "Department" means the department of labor and industry provided for in Title 2, chapter 15,  
8 part 17.

9 ~~(4)~~~~(6)~~ "Medication aide I" means a person who in an assisted living facility uses standardized  
10 procedures in the administration of drugs, as defined in 37-7-101, that are prescribed by a physician,  
11 naturopathic physician, physician assistant, optometrist, advanced practice registered nurse, dentist, osteopath,  
12 or podiatrist authorized by state law to prescribe drugs.

13 ~~(5)~~~~(7)~~ "Medication aide II" means a person who in a long-term care facility licensed to provide skilled  
14 nursing care, as defined in 50-5-101, uses standardized procedures in the administration of drugs, as defined in  
15 37-7-101, that are prescribed by a physician, naturopathic physician, physician assistant, optometrist, advanced  
16 practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe drugs.

17 ~~(6)~~~~(8)~~ "Nursing education program" means any board-approved school that prepares graduates for  
18 initial licensure under this chapter. Nursing education programs for:

19 (a) professional nursing may be a department, school, division, or other administrative unit in a  
20 junior college, college, or university;

21 (b) practical nursing may be a department, school, division, or other administrative unit in a  
22 vocational-technical institution or junior college.

23 ~~(7)~~~~(9)~~ "Practice of nursing" embraces the practice of practical nursing and the practice of professional  
24 nursing.

25 ~~(8)~~~~(10)~~ (a) "Practice of practical nursing" means the performance of services requiring basic  
26 knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing  
27 procedures. The practice of practical nursing uses standardized procedures in the observation and care of the  
28 ill, injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the

1 administration of medications and treatments prescribed by a physician, naturopathic physician, physician  
 2 assistant, optometrist, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state  
 3 law to prescribe medications and treatments. These services are performed under the supervision of a  
 4 registered nurse or a physician, naturopathic physician, physician assistant, optometrist, dentist, osteopath, or  
 5 podiatrist authorized by state law to prescribe medications and treatments.

6 (b) These services may include a charge-nurse capacity in a long-term care facility that provides  
 7 skilled nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a  
 8 registered nurse.

9 ~~(9)~~(11) "Practice of professional nursing" means the performance of services requiring substantial  
 10 specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of  
 11 nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis,  
 12 planning, nursing intervention, and evaluation in the promotion and maintenance of health, the prevention,  
 13 casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function. The term  
 14 also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice  
 15 and the administration of medications and treatments prescribed by physicians, naturopathic physicians,  
 16 physician assistants, optometrists, advanced practice registered nurses, dentists, osteopaths, or podiatrists  
 17 authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable  
 18 and responsible to the consumer for the quality of nursing care rendered. As used in this subsection ~~(9)~~ (11):

19 (a) "nursing analysis" is the identification of those client problems for which nursing care is  
 20 indicated and may include referral to medical or community resources;

21 (b) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish  
 22 defined goals."  
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24 **Section 6.** Section 37-8-202, MCA, is amended to read:

25 **"37-8-202. Organization -- meetings -- powers and duties.** (1) The board shall:

26 (a) meet annually and elect from among the members a president and a secretary;

27 (b) hold other meetings when necessary to transact its business;

28 (c) prescribe standards for schools preparing persons for registration and licensure under this

1 chapter;

2 (d) provide for surveys of schools at times the board considers necessary;

3 (e) approve programs that meet the requirements of this chapter and of the board;

4 (f) conduct hearings on charges that may call for discipline of a licensee, revocation of a license,  
5 or removal of schools of nursing from the approved list;

6 (g) cause the prosecution of persons violating this chapter. The board may incur necessary  
7 expenses for prosecutions.

8 (h) adopt rules ~~regarding authorization for prescriptive authority of~~ for advanced practice registered  
9 nurses regarding:

10 (i) practice under a collaborative agreement; and

11 (ii) prescriptive authority. If considered appropriate for an advanced practice registered nurse who  
12 applies to the board for authorization, prescriptive authority must be granted.

13 (i) adopt rules to define criteria for the recognition of registered nurses who are certified through a  
14 nationally recognized professional nursing organization as registered nurse first assistants; and

15 (j) establish a medical assistance program to assist licensees who are found to be physically or  
16 mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug  
17 or substance or by mental illness or chronic physical illness. The program must provide for assistance to  
18 licensees in seeking treatment for mental illness or substance abuse and monitor their efforts toward  
19 rehabilitation. The board shall ensure that a licensee who is required or volunteers to participate in the medical  
20 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to  
21 enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a  
22 qualified treatment program outside the state unless the board finds that there is no qualified treatment program  
23 in this state. For purposes of funding this medical assistance program, the board shall adjust the renewal fee to  
24 be commensurate with the cost of the program.

25 (2) The board may:

26 (a) participate in and pay fees to a national organization of state boards of nursing to ensure  
27 interstate endorsement of licenses;

28 (b) define the educational requirements and other qualifications applicable to recognition of

1 advanced practice registered nurses. Advanced practice registered nurses are nurses who must have  
2 additional professional education beyond the basic nursing degree required of a registered nurse. Additional  
3 education must be obtained in courses offered in a university setting or the equivalent. The applicant must be  
4 certified or in the process of being certified by a certifying body for advanced practice registered nurses.  
5 Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse anesthetists, and  
6 clinical nurse specialists.

7 (c) establish qualifications for licensure of medication aides, including but not limited to educational  
8 requirements. The board may define levels of licensure of medication aides consistent with educational  
9 qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the  
10 type of drugs that are allowed to be administered and the method of administration.

11 (d) adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons;

12 (e) adopt rules necessary to administer this chapter; and

13 (f) fund additional staff, hired by the department, to administer the provisions of this chapter."  
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15 **Section 7.** Section 37-8-409, MCA, is amended to read:

16 **"37-8-409. Advanced practice registered nursing -- when professional nurse may practice.** (1) A  
17 Subject to the requirements of [sections 1 through 4] and this section, a person licensed under this chapter who  
18 holds a certificate in a field of advanced practice registered nursing may practice in the specified field of  
19 advanced practice registered nursing upon approval by the board of an amendment to the person's license  
20 granting a certificate in a field of advanced practice registered nursing. The board shall grant a certificate in a  
21 field of advanced practice registered nursing to a person who submits written verification of certification by a  
22 board-approved national certifying body appropriate to the specific field of advanced practice registered nursing  
23 and who meets any other qualification requirements that the board prescribes.

24 (2) The board may give temporary approval to practice in a specific field of advanced practice  
25 registered nursing to a person who:

26 (a) intends to apply for approval under subsection (1); and

27 (b) has completed the advanced practice registered nursing education required in order for the  
28 person to apply to take the first national certification examination available from a board-approved national

1 certifying body appropriate to the specific field of advanced practice registered nursing.

2 (3) If the person fails to obtain certification upon the person's first examination, the temporary  
3 approval provided for in subsection (2) expires on receipt of the examination results. The temporary approval  
4 may not be extended.

5 (4) An advanced practice registered nurse other than a certified nurse anesthetist who has less  
6 than 2 years of experience practicing as an advanced practice registered nurse may practice only if the nurse  
7 has a collaborative agreement with a collaborating provider.

8 (4)(5) In order to protect the public, the board may, in consultation with persons in the specific field of  
9 advanced practice registered nursing, adopt specific rules for each field of advanced practice registered nursing  
10 for the granting of temporary approval to practice and for determining the supervision of the licensee with  
11 temporary approval."

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13 NEW SECTION. Section 8. Codification instruction. [Sections 1 through 4] are intended to be  
14 codified as a new part in Title 37, chapter 8, and the provisions of Title 37, chapter 8, apply to [sections 1  
15 through 4].

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17 NEW SECTION. Section 9. Applicability. [This act] applies to advanced practice registered nurses  
18 licensed on or after October 1, 2023.

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