

SECOND REGULAR SESSION

# HOUSE BILL NO. 2383

## 101ST GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE LEWIS (25).

4998H.011

DANA RADEMAN MILLER, Chief Clerk

---

### AN ACT

To repeal sections 197.400, 197.405, 197.445, 334.104, and 335.175, RSMo, and to enact in lieu thereof five new sections relating to health care professionals, with an emergency clause.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 197.400, 197.405, 197.445, 334.104, and 335.175, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 197.400, 197.405, 197.445, 334.104, and 335.175, to read as follows:

197.400. As used in sections 197.400 to 197.475, unless the context otherwise requires, the following terms mean:

(1) **"Advanced practice registered nurse", the same meaning given to the term in section 335.016;**

(2) "Council", the home health services advisory council created by sections 197.400 to 197.475;

~~(2)~~ (3) "Department", the department of health and senior services;

~~(3)~~ (4) "Home health agency", a public agency or private organization or a subdivision or subunit of an agency or organization that provides two or more home health services at the residence of a patient according to a ~~physician's~~ written ~~and signed~~ plan of treatment **signed by a physician, advanced practice registered nurse, or physician assistant;**

~~(4)~~ (5) "Home health services", any of the following items and services provided at the residence of the patient on a part-time or intermittent basis: nursing, physical therapy, speech therapy, occupational therapy, home health aid, or medical social service;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16           ~~[(5)]~~ (6) "Part-time or intermittent basis", the providing of home health services in an  
17 interrupted interval sequence on the average of not to exceed three hours in any twenty-four-  
18 hour period;

19           ~~[(6)]~~ (7) "Patient's residence", the actual place of residence of the person receiving  
20 home health services, including institutional residences as well as individual dwelling units;

21           ~~[(7)]~~ (8) "Physician", a person licensed by the state board of registration for the  
22 healing arts pursuant to the provisions of chapter 334 to practice in this state as a physician  
23 and surgeon;

24           ~~[(8)]~~ (9) **"Physician assistant", a person licensed by the state board of**  
25 **registration for the healing arts under the provisions of chapter 334 to practice in this**  
26 **state as a physician assistant;**

27           (10) "Plan of treatment", a plan reviewed and signed as often as medically necessary  
28 by a physician ~~[or]~~, podiatrist, **advanced practice registered nurse, or physician assistant,**  
29 not to exceed sixty days in duration, prescribing items and services for an individual patient's  
30 condition;

31           ~~[(9)]~~ (11) "Podiatrist", a person licensed by the state board of podiatry pursuant to the  
32 provisions of chapter 330 to practice in this state as a podiatrist;

33           ~~[(10)]~~ (12) "Subunit" or "subdivision", any organizational unit of a larger  
34 organization which can be clearly defined as a separate entity within the larger structure,  
35 which can meet all of the requirements of sections 197.400 to 197.475 independent of the  
36 larger organization, which can be held accountable for the care of patients it is serving, and  
37 which provides to all patients care and services meeting the standards and requirements of  
38 sections 197.400 to 197.475.

197.405. No home health agency, including Medicare and Medicaid providers, shall  
2 provide two or more of the home health services covered by subdivision ~~[(4)]~~ (5) of section  
3 197.400 or shall hold itself out as providing such home health services or as a home health  
4 agency unless it is licensed and registered in accordance with the provisions of sections  
5 197.400 to 197.475.

197.445. 1. The department may adopt reasonable rules and standards necessary to  
2 carry out the provisions of sections 197.400 to 197.477. The rules and standards adopted  
3 shall not be less than the standards established by the federal government for home health  
4 agencies under Title XVIII of the Federal Social Security Act. The reasonable rules and  
5 standards shall be initially promulgated within one year of September 28, 1983.

6           2. The rules and standards adopted by the department pursuant to the provisions of  
7 sections 197.400 to 197.477 shall apply to all health services covered by sections 197.400 to  
8 197.477 rendered to any patient being served by a home health agency regardless of source of  
9 payment for the service, patient's condition, or place of residence, at which the home health

10 services are ordered by the physician [or], podiatrist, **advanced practice registered nurse, or**  
11 **physician assistant**. No rule or portion of a rule promulgated pursuant to the authority of  
12 sections 197.400 to 197.477 shall become effective unless it has been promulgated pursuant  
13 to the provisions of section 536.024.

334.104. 1. A physician may enter into collaborative practice arrangements with  
2 registered professional nurses. Collaborative practice arrangements shall be in the form of  
3 written agreements, jointly agreed-upon protocols, or standing orders for the delivery of  
4 health care services. Collaborative practice arrangements, which shall be in writing, may  
5 delegate to a registered professional nurse the authority to administer or dispense drugs and  
6 provide treatment as long as the delivery of such health care services is within the scope of  
7 practice of the registered professional nurse and is consistent with that nurse's skill, training  
8 and competence.

9 2. Collaborative practice arrangements, which shall be in writing, may delegate to a  
10 registered professional nurse the authority to administer, dispense or prescribe drugs and  
11 provide treatment if the registered professional nurse is an advanced practice registered nurse  
12 as defined in subdivision (2) of section 335.016. Collaborative practice arrangements may  
13 delegate to an advanced practice registered nurse, as defined in section 335.016, the authority  
14 to administer, dispense, or prescribe controlled substances listed in Schedules III, IV, and V of  
15 section 195.017, and Schedule II - hydrocodone; except that, the collaborative practice  
16 arrangement shall not delegate the authority to administer any controlled substances listed in  
17 Schedules III, IV, and V of section 195.017, or Schedule II - hydrocodone for the purpose of  
18 inducing sedation or general anesthesia for therapeutic, diagnostic, or surgical procedures.  
19 Schedule III narcotic controlled substance and Schedule II - hydrocodone prescriptions shall  
20 be limited to a one hundred twenty-hour supply without refill. Such collaborative practice  
21 arrangements shall be in the form of written agreements, jointly agreed-upon protocols or  
22 standing orders for the delivery of health care services. An advanced practice registered nurse  
23 may prescribe buprenorphine for up to a thirty-day supply without refill for patients receiving  
24 medication-assisted treatment for substance use disorders under the direction of the  
25 collaborating physician.

26 3. The written collaborative practice arrangement shall contain at least the following  
27 provisions:

28 (1) Complete names, home and business addresses, zip codes, and telephone numbers  
29 of the collaborating physician and the advanced practice registered nurse;

30 (2) A list of all other offices or locations besides those listed in subdivision (1) of this  
31 subsection where the collaborating physician authorized the advanced practice registered  
32 nurse to prescribe;

33 (3) A requirement that there shall be posted at every office where the advanced  
34 practice registered nurse is authorized to prescribe, in collaboration with a physician, a  
35 prominently displayed disclosure statement informing patients that they may be seen by an  
36 advanced practice registered nurse and have the right to see the collaborating physician;

37 (4) All specialty or board certifications of the collaborating physician and all  
38 certifications of the advanced practice registered nurse;

39 (5) The manner of collaboration between the collaborating physician and the  
40 advanced practice registered nurse, including how the collaborating physician and the  
41 advanced practice registered nurse will:

42 (a) Engage in collaborative practice consistent with each professional's skill, training,  
43 education, and competence; **and**

44 (b) ~~Maintain geographic proximity, except the collaborative practice arrangement~~  
45 ~~may allow for geographic proximity to be waived for a maximum of twenty-eight days per~~  
46 ~~calendar year for rural health clinics as defined by P.L. 95-210, as long as the collaborative~~  
47 ~~practice arrangement includes alternative plans as required in paragraph (c) of this~~  
48 ~~subdivision. This exception to geographic proximity shall apply only to independent rural~~  
49 ~~health clinics, provider-based rural health clinics where the provider is a critical access~~  
50 ~~hospital as provided in 42 U.S.C. Section 1395i-4, and provider-based rural health clinics~~  
51 ~~where the main location of the hospital sponsor is greater than fifty miles from the clinic. The~~  
52 ~~collaborating physician is required to maintain documentation related to this requirement and~~  
53 ~~to present it to the state board of registration for the healing arts when requested; and~~

54 (e) Provide coverage during absence, incapacity, infirmity, or emergency by the  
55 collaborating physician;

56 (6) A description of the advanced practice registered nurse's controlled substance  
57 prescriptive authority in collaboration with the physician, including a list of the controlled  
58 substances the physician authorizes the nurse to prescribe and documentation that it is  
59 consistent with each professional's education, knowledge, skill, and competence;

60 (7) A list of all other written practice agreements of the collaborating physician and  
61 the advanced practice registered nurse;

62 (8) The duration of the written practice agreement between the collaborating  
63 physician and the advanced practice registered nurse;

64 (9) A description of the time and manner of the collaborating physician's review of  
65 the advanced practice registered nurse's delivery of health care services]. ~~The description~~  
66 ~~shall include provisions that the advanced practice registered nurse shall submit a minimum~~  
67 ~~of ten percent of the charts documenting the advanced practice registered nurse's delivery of~~  
68 ~~health care services to the collaborating physician for review by the collaborating physician,~~

69 ~~or any other physician designated in the collaborative practice arrangement, every fourteen~~  
70 ~~days]; and~~

71 (10) The collaborating physician, or any other physician designated in the  
72 collaborative practice arrangement, shall review every fourteen days a minimum of twenty  
73 percent of the charts in which the advanced practice registered nurse prescribes controlled  
74 substances. ~~[The charts reviewed under this subdivision may be counted in the number of~~  
75 ~~charts required to be reviewed under subdivision (9) of this subsection.]~~

76 4. The state board of registration for the healing arts pursuant to section 334.125 and  
77 the board of nursing pursuant to section 335.036 may jointly promulgate rules regulating the  
78 use of collaborative practice arrangements. Such rules shall be limited to ~~[specifying~~  
79 ~~geographic areas to be covered,]~~ the methods of treatment that may be covered by  
80 collaborative practice arrangements and the requirements for review of services provided  
81 pursuant to collaborative practice arrangements including delegating authority to prescribe  
82 controlled substances. Any rules relating to dispensing or distribution of medications or  
83 devices by prescription or prescription drug orders under this section shall be subject to the  
84 approval of the state board of pharmacy. Any rules relating to dispensing or distribution of  
85 controlled substances by prescription or prescription drug orders under this section shall be  
86 subject to the approval of the department of health and senior services and the state board of  
87 pharmacy. In order to take effect, such rules shall be approved by a majority vote of a  
88 quorum of each board. Neither the state board of registration for the healing arts nor the  
89 board of nursing may separately promulgate rules relating to collaborative practice  
90 arrangements. Such jointly promulgated rules shall be consistent with guidelines for  
91 federally funded clinics. The rulemaking authority granted in this subsection shall not extend  
92 to collaborative practice arrangements of hospital employees providing inpatient care within  
93 hospitals as defined pursuant to chapter 197 or population-based public health services as  
94 defined by 20 CSR 2150-5.100 as of April 30, 2008.

95 5. The state board of registration for the healing arts shall not deny, revoke, suspend  
96 or otherwise take disciplinary action against a physician for health care services delegated to a  
97 registered professional nurse provided the provisions of this section and the rules  
98 promulgated thereunder are satisfied. Upon the written request of a physician subject to a  
99 disciplinary action imposed as a result of an agreement between a physician and a registered  
100 professional nurse or registered physician assistant, whether written or not, prior to August  
101 28, 1993, all records of such disciplinary licensure action and all records pertaining to the  
102 filing, investigation or review of an alleged violation of this chapter incurred as a result of  
103 such an agreement shall be removed from the records of the state board of registration for the  
104 healing arts and the division of professional registration and shall not be disclosed to any  
105 public or private entity seeking such information from the board or the division. The state

106 board of registration for the healing arts shall take action to correct reports of alleged  
107 violations and disciplinary actions as described in this section which have been submitted to  
108 the National Practitioner Data Bank. In subsequent applications or representations relating to  
109 his **or her** medical practice, a physician completing forms or documents shall not be required  
110 to report any actions of the state board of registration for the healing arts for which the  
111 records are subject to removal under this section.

112         6. Within thirty days of any change and on each renewal, the state board of  
113 registration for the healing arts shall require every physician to identify whether the physician  
114 is engaged in any collaborative practice agreement, including collaborative practice  
115 agreements delegating the authority to prescribe controlled substances, or physician  
116 assistant agreement and also report to the board the name of each licensed professional  
117 with whom the physician has entered into such agreement. The board may make this  
118 information available to the public. The board shall track the reported information and may  
119 routinely conduct random reviews of such agreements to ensure that agreements are carried  
120 out for compliance under this chapter.

121         7. Notwithstanding any law to the contrary, a certified registered nurse anesthetist as  
122 defined in subdivision (8) of section 335.016 shall be permitted to provide anesthesia services  
123 without a collaborative practice arrangement provided that he or she is under the supervision  
124 of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if  
125 needed. Nothing in this subsection shall be construed to prohibit or prevent a certified  
126 registered nurse anesthetist as defined in subdivision (8) of section 335.016 from entering into  
127 a collaborative practice arrangement under this section, except that the collaborative practice  
128 arrangement may not delegate the authority to prescribe any controlled substances listed in  
129 Schedules III, IV, and V of section 195.017, or Schedule II - hydrocodone.

130         8. A collaborating physician shall not enter into a collaborative practice arrangement  
131 with more than six full-time equivalent advanced practice registered nurses, full-time  
132 equivalent licensed physician assistants, or full-time equivalent assistant physicians, or any  
133 combination thereof. This limitation shall not apply to collaborative arrangements of hospital  
134 employees providing inpatient care service in hospitals as defined in chapter 197 or  
135 population-based public health services as defined by 20 CSR 2150-5.100 as of April 30,  
136 2008, or to a certified registered nurse anesthetist providing anesthesia services under the  
137 supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately  
138 available if needed as set out in subsection 7 of this section.

139         9. It is the responsibility of the collaborating physician to determine and document  
140 the completion of [~~at least a one month~~] a period of time during which the advanced practice  
141 registered nurse shall practice with the collaborating physician continuously present before  
142 practicing in a setting where the collaborating physician is not continuously present. This

143 limitation shall not apply to collaborative arrangements of providers of population-based  
144 public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

145 10. No agreement made under this section shall supersede current hospital licensing  
146 regulations governing hospital medication orders under protocols or standing orders for the  
147 purpose of delivering inpatient or emergency care within a hospital as defined in section  
148 197.020 if such protocols or standing orders have been approved by the hospital's medical  
149 staff and pharmaceutical therapeutics committee.

150 11. No contract or other agreement shall require a physician to act as a collaborating  
151 physician for an advanced practice registered nurse against the physician's will. A physician  
152 shall have the right to refuse to act as a collaborating physician, without penalty, for a  
153 particular advanced practice registered nurse. No contract or other agreement shall limit the  
154 collaborating physician's ultimate authority over any protocols or standing orders or in the  
155 delegation of the physician's authority to any advanced practice registered nurse, but this  
156 requirement shall not authorize a physician in implementing such protocols, standing orders,  
157 or delegation to violate applicable standards for safe medical practice established by hospital's  
158 medical staff.

159 12. No contract or other agreement shall require any advanced practice registered  
160 nurse to serve as a collaborating advanced practice registered nurse for any collaborating  
161 physician against the advanced practice registered nurse's will. An advanced practice  
162 registered nurse shall have the right to refuse to collaborate, without penalty, with a particular  
163 physician.

335.175. 1. No later than January 1, 2014, there is hereby established within the state  
2 board of registration for the healing arts and the state board of nursing the "Utilization of  
3 Telehealth by Nurses". ~~[An advanced practice registered nurse (APRN) providing nursing  
4 services under a collaborative practice arrangement under section 334.104 may provide such  
5 services outside the geographic proximity requirements of section 334.104 if the  
6 collaborating physician and advanced practice registered nurse utilize telehealth in the care  
7 of the patient and if the services are provided in a rural area of need.]~~ Telehealth providers  
8 shall be required to obtain patient consent before telehealth services are initiated and ensure  
9 confidentiality of medical information.

10 2. As used in this section, "telehealth" shall have the same meaning as such term is  
11 defined in section 191.1145.

12 3. (1) The boards shall jointly promulgate rules governing the practice of telehealth  
13 under this section. Such rules shall address, but not be limited to, appropriate standards for  
14 the use of telehealth.

15 (2) Any rule or portion of a rule, as that term is defined in section 536.010, that is  
16 created under the authority delegated in this section shall become effective only if it complies

17 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
18 This section and chapter 536 are nonseverable and if any of the powers vested with the  
19 general assembly pursuant to chapter 536 to review, to delay the effective date, or to  
20 disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
21 rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid  
22 and void.

23 ~~[4. For purposes of this section, "rural area of need" means any rural area of this state~~  
24 ~~which is located in a health professional shortage area as defined in section 354.650.]~~

Section B. Because immediate action is necessary to increase the independence of  
2 certain health care professionals in order to ensure the residents of this state have access to  
3 health care during the ongoing COVID-19 pandemic, section A of this act is deemed  
4 necessary for the immediate preservation of the public health, welfare, peace, and safety, and  
5 is hereby declared to be an emergency act within the meaning of the constitution, and section  
6 A of this act shall be in full force and effect upon its passage and approval.

✓