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State of Minnesota  
HOUSE OF REPRESENTATIVES

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SESSION

HOUSE FILE No. **1668**

March 12, 2009

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The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight

1.1 A bill for an act  
1.2 relating to health occupations; modifying practice requirements for advanced  
1.3 practice registered nurses; amending Minnesota Statutes 2008, sections 148.171,  
1.4 subdivisions 5, 10, 11, 13, 21; 148.235, subdivisions 2a, 4a, 4b; 151.01,  
1.5 subdivisions 23, 27; 151.37, subdivision 2; repealing Minnesota Statutes 2008,  
1.6 sections 148.171, subdivision 6; 148.235, subdivisions 1, 2, 4, 6.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2008, section 148.171, subdivision 5, is amended to read:

1.9 Subd. 5. **Clinical nurse specialist practice.** "Clinical nurse specialist practice"  
1.10 means the provision of patient care in a particular specialty or subspecialty of advanced  
1.11 practice registered nursing ~~within the context of collaborative management~~, and includes:  
1.12 (1) diagnosing illness and disease; (2) providing prescribing pharmacological and  
1.13 nonpharmacologic treatment, including; (3) providing psychotherapy; ~~(3)~~ (4) promoting  
1.14 wellness; and ~~(4)~~ (5) preventing illness and disease. The certified clinical nurse specialist  
1.15 is certified for advanced practice registered nursing in a specific field of clinical nurse  
1.16 specialist practice.

1.17 Sec. 2. Minnesota Statutes 2008, section 148.171, subdivision 10, is amended to read:

1.18 Subd. 10. **Nurse-midwife practice.** "Nurse-midwife practice" means the  
1.19 management of women's primary health care, focusing on pregnancy, childbirth, the  
1.20 postpartum period, care of the newborn, and the family planning and gynecological  
1.21 needs of women and includes diagnosing and providing prescribing pharmacologic and  
1.22 nonpharmacologic treatment ~~within a system that provides for consultation, collaborative~~  
1.23 ~~management, and referral as indicated by the health status of patients.~~

2.1 Sec. 3. Minnesota Statutes 2008, section 148.171, subdivision 11, is amended to read:

2.2 Subd. 11. **Nurse practitioner practice.** "Nurse practitioner practice" means;  
2.3 ~~within the context of collaborative management:~~ (1) diagnosing, directly managing, and  
2.4 preventing acute and chronic illness and disease; ~~and~~ (2) promoting wellness, ~~including~~  
2.5 ~~providing;~~ and (3) prescribing pharmacological and nonpharmacologic treatment. The  
2.6 certified nurse practitioner is certified for advanced registered nurse practice in a specific  
2.7 field of nurse practitioner practice.

2.8 Sec. 4. Minnesota Statutes 2008, section 148.171, subdivision 13, is amended to read:

2.9 Subd. 13. **Practice of advanced practice registered nursing.** (a) The "practice of  
2.10 advanced practice registered nursing" means the performance of clinical nurse specialist  
2.11 practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist  
2.12 practice as defined in subdivisions 5, 10, 11, and 21. The practice includes functioning as  
2.13 a direct care provider, case manager, consultant, educator, and researcher. The practice of  
2.14 advanced practice registered nursing also includes accepting referrals from, consulting  
2.15 with, cooperating with, or referring to all other types of health care providers, including  
2.16 but not limited to physicians, chiropractors, podiatrists, and dentists, provided that the  
2.17 advanced practice registered nurse and the other provider are practicing within their  
2.18 scopes of practice as defined in state law.

2.19 (b) The advanced practice registered nurse is accountable for:

2.20 (1) the quality of advanced nursing care rendered;

2.21 (2) planning for the management of situations beyond the advanced practice  
2.22 registered nurse's scope of practice; and

2.23 (3) consulting with, or referring patients to, other health care providers as  
2.24 appropriate.

2.25 (c) The advanced practice registered nurse must practice within a health care  
2.26 system that provides for patient-centered interdisciplinary consultation, collaborative  
2.27 management collaboration, and referral as indicated by the health status and preferences  
2.28 of the patient and the scope of practice of the advanced practice registered nurse.

2.29 (d) An advanced practice registered nurse who is practicing in a health care setting  
2.30 or group practice that does not include a physician, podiatrist, dentist, or a requirement  
2.31 to be credentialed by a hospital as defined in section 144.50, a health plan as defined in  
2.32 section 62A.011, or a health maintenance organization as defined in section 62D.02,  
2.33 must make available to patients:

3.1           (1) the designation of a physician practice group, physician, or other health care  
3.2 group practice with whom the advanced practice registered nurse has a preestablished  
3.3 relationship for consultation, collaboration, and referral;

3.4           (2) the designation of a physician practice group, physician, and other health  
3.5 care providers with whom the advanced practice registered nurse has a preestablished  
3.6 arrangement to accept the transfer of care if the advanced practice registered nurse is  
3.7 without admitting privileges or has transferred care to another provider;

3.8           (3) the designation of hospitals or other inpatient facilities where patients requiring  
3.9 admission will be referred; and

3.10          (4) the plan for transfer of or access to health records.

3.11          Sec. 5. Minnesota Statutes 2008, section 148.171, subdivision 21, is amended to read:

3.12           Subd. 21. **Registered nurse anesthetist practice.** "Registered nurse anesthetist  
3.13 practice" means the provision of anesthesia care and related services ~~within the context~~  
3.14 ~~of collaborative management~~, including selecting, obtaining, and administering drugs  
3.15 and therapeutic devices to facilitate diagnostic, therapeutic, and surgical procedures  
3.16 upon request, assignment, or referral by a patient's physician, dentist, or podiatrist other  
3.17 health care providers, including physicians, podiatrists, dentists, and advanced practice  
3.18 registered nurses.

3.19          Sec. 6. Minnesota Statutes 2008, section 148.235, subdivision 2a, is amended to read:

3.20           Subd. 2a. **Certified registered nurse anesthetists.** A certified registered nurse  
3.21 anesthetist ~~who has a written agreement with a physician based on standards established~~  
3.22 ~~by the Minnesota Nurses Association and the Minnesota Medical Association that defines~~  
3.23 ~~the delegated responsibilities related to the prescription of drugs and therapeutic devices,~~  
3.24 may prescribe and administer drugs and therapeutic devices ~~within the scope of the written~~  
3.25 ~~agreement and~~ within practice as a certified registered nurse anesthetist.

3.26          Sec. 7. Minnesota Statutes 2008, section 148.235, subdivision 4a, is amended to read:

3.27           Subd. 4a. **Other Certified clinical nurse specialists.** A certified clinical nurse  
3.28 specialist who: ~~(1)~~ has successfully completed no less than 30 hours of formal study  
3.29 from a college, university, or university health care institution, which included the  
3.30 following: instruction in health assessment, medication classifications, indications,  
3.31 dosages, contraindications, and side effects; supervised practice; and competence  
3.32 evaluation, including evidence of the application of knowledge pertaining to prescribing  
3.33 for and therapeutic management of the clinical type of patients in the certified clinical

4.1 nurse specialist's practice; and (2) ~~has a written agreement with a physician based on~~  
4.2 ~~standards established by the Minnesota Nurses Association and the Minnesota Medical~~  
4.3 ~~Association that defines the delegated responsibilities related to the prescription of drugs~~  
4.4 ~~and therapeutic devices~~; may prescribe and administer drugs and therapeutic devices  
4.5 ~~within the scope of the written agreement and~~ within the scope of practice as a certified  
4.6 clinical nurse specialist.

4.7 Sec. 8. Minnesota Statutes 2008, section 148.235, subdivision 4b, is amended to read:

4.8 Subd. 4b. **Dispensing authority.** An advanced practice registered nurse who is  
4.9 authorized under this section to prescribe drugs is authorized to dispense drugs subject to  
4.10 the same requirements established for the prescribing of drugs. ~~This authority to dispense~~  
4.11 ~~extends only to those drugs described in the written agreement entered into under this~~  
4.12 ~~section.~~ The authority to dispense includes, but is not limited to, the authority to receive  
4.13 and dispense sample drugs.

4.14 Sec. 9. Minnesota Statutes 2008, section 151.01, subdivision 23, is amended to read:

4.15 Subd. 23. **Practitioner.** "Practitioner" means a licensed doctor of medicine,  
4.16 licensed doctor of osteopathy duly licensed to practice medicine, licensed doctor of  
4.17 dentistry, licensed doctor of optometry, licensed podiatrist, licensed advanced practice  
4.18 registered nurse, or licensed veterinarian. For purposes of sections 151.15, subdivision 4,  
4.19 151.37, subdivision 2, paragraphs (b), (e), and (f), and 151.461, "practitioner" also means  
4.20 a physician assistant authorized to prescribe, dispense, and administer under chapter  
4.21 147A, ~~or an advanced practice nurse authorized to prescribe, dispense, and administer~~  
4.22 ~~under section 148.235.~~

4.23 Sec. 10. Minnesota Statutes 2008, section 151.01, subdivision 27, is amended to read:

4.24 Subd. 27. **Practice of pharmacy.** "Practice of pharmacy" means:

4.25 (1) interpretation and evaluation of prescription drug orders;

4.26 (2) compounding, labeling, and dispensing drugs and devices (except labeling by  
4.27 a manufacturer or packager of nonprescription drugs or commercially packaged legend  
4.28 drugs and devices);

4.29 (3) participation in clinical interpretations and monitoring of drug therapy for  
4.30 assurance of safe and effective use of drugs;

4.31 (4) participation in drug and therapeutic device selection; drug administration for  
4.32 first dosage and medical emergencies; drug regimen reviews; and drug or drug-related  
4.33 research;

5.1 (5) participation in administration of influenza vaccines to all eligible individuals  
5.2 over ten years of age and all other vaccines to patients 18 years of age and older under  
5.3 standing orders from a physician licensed under chapter 147 or by written protocol with a  
5.4 physician provided that:

5.5 (i) the pharmacist is trained in a program approved by the American Council of  
5.6 Pharmaceutical Education for the administration of immunizations or graduated from a  
5.7 college of pharmacy in 2001 or thereafter; and

5.8 (ii) the pharmacist reports the administration of the immunization to the patient's  
5.9 primary physician or clinic;

5.10 (6) participation in the practice of managing drug therapy and modifying drug  
5.11 therapy, according to section 151.21, subdivision 1, according to a written protocol  
5.12 between the specific pharmacist and the individual dentist, optometrist, physician,  
5.13 podiatrist, advanced practice registered nurse, or veterinarian who is responsible for the  
5.14 patient's care and authorized to independently prescribe drugs. Any significant changes in  
5.15 drug therapy must be reported by the pharmacist to the patient's medical record;

5.16 (7) participation in the storage of drugs and the maintenance of records;

5.17 (8) responsibility for participation in patient counseling on therapeutic values,  
5.18 content, hazards, and uses of drugs and devices; and

5.19 (9) offering or performing those acts, services, operations, or transactions necessary  
5.20 in the conduct, operation, management, and control of a pharmacy.

5.21 Sec. 11. Minnesota Statutes 2008, section 151.37, subdivision 2, is amended to read:

5.22 Subd. 2. **Prescribing and filing.** (a) A licensed practitioner in the course of  
5.23 professional practice only, may prescribe, administer, and dispense a legend drug, and  
5.24 may cause the same to be administered by a nurse, a physician assistant, or medical  
5.25 student or resident under the practitioner's direction and supervision, and may cause a  
5.26 person who is an appropriately certified, registered, or licensed health care professional  
5.27 to prescribe, dispense, and administer the same within the expressed legal scope of the  
5.28 person's practice as defined in Minnesota Statutes. A licensed practitioner may prescribe  
5.29 a legend drug, without reference to a specific patient, by directing a nurse, pursuant to  
5.30 section 148.235, subdivisions 8 and 9, physician assistant, pharmacist, or medical student  
5.31 or resident to adhere to a particular practice guideline or protocol when treating patients  
5.32 whose condition falls within such guideline or protocol, and when such guideline or  
5.33 protocol specifies the circumstances under which the legend drug is to be prescribed  
5.34 and administered. An individual who verbally, electronically, or otherwise transmits a  
5.35 written, oral, or electronic order, as an agent of a prescriber, shall not be deemed to have

6.1 prescribed the legend drug. This paragraph applies to a physician assistant only if the  
6.2 physician assistant meets the requirements of section 147A.18.

6.3 (b) A licensed practitioner that dispenses for profit a legend drug that is to be  
6.4 administered orally, is ordinarily dispensed by a pharmacist, and is not a vaccine, must  
6.5 file with the practitioner's licensing board a statement indicating that the practitioner  
6.6 dispenses legend drugs for profit, the general circumstances under which the practitioner  
6.7 dispenses for profit, and the types of legend drugs generally dispensed. It is unlawful to  
6.8 dispense legend drugs for profit after July 31, 1990, unless the statement has been filed  
6.9 with the appropriate licensing board. For purposes of this paragraph, "profit" means (1)  
6.10 any amount received by the practitioner in excess of the acquisition cost of a legend drug  
6.11 for legend drugs that are purchased in prepackaged form, or (2) any amount received  
6.12 by the practitioner in excess of the acquisition cost of a legend drug plus the cost of  
6.13 making the drug available if the legend drug requires compounding, packaging, or other  
6.14 treatment. The statement filed under this paragraph is public data under section 13.03.  
6.15 This paragraph does not apply to a licensed doctor of veterinary medicine or a registered  
6.16 pharmacist. Any person other than a licensed practitioner with the authority to prescribe,  
6.17 dispense, and administer a legend drug under paragraph (a) shall not dispense for profit.  
6.18 To dispense for profit does not include dispensing by a community health clinic when the  
6.19 profit from dispensing is used to meet operating expenses.

6.20 (c) A prescription or drug order for the following drugs is not valid, unless it can be  
6.21 established that the prescription or order was based on a documented patient evaluation,  
6.22 including an examination, adequate to establish a diagnosis and identify underlying  
6.23 conditions and contraindications to treatment:

- 6.24 (1) controlled substance drugs listed in section 152.02, subdivisions 3 to 5;  
6.25 (2) drugs defined by the Board of Pharmacy as controlled substances under section  
6.26 152.02, subdivisions 7, 8, and 12;  
6.27 (3) muscle relaxants;  
6.28 (4) centrally acting analgesics with opioid activity;  
6.29 (5) drugs containing butalbital; or  
6.30 (6) phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction.

6.31 (d) For the purposes of paragraph (c), the requirement for an examination shall be  
6.32 met if an in-person examination has been completed in any of the following circumstances:

- 6.33 (1) the prescribing practitioner examines the patient at the time the prescription  
6.34 or drug order is issued;  
6.35 (2) the prescribing practitioner has performed a prior examination of the patient;

7.1 (3) another prescribing practitioner practicing within the same group or clinic as the  
7.2 prescribing practitioner has examined the patient;

7.3 (4) a consulting practitioner to whom the prescribing practitioner has referred the  
7.4 patient has examined the patient; or

7.5 (5) the referring practitioner has performed an examination in the case of a  
7.6 consultant practitioner issuing a prescription or drug order when providing services by  
7.7 means of telemedicine.

7.8 (e) Nothing in paragraph (c) or (d) prohibits a licensed practitioner from prescribing  
7.9 a drug through the use of a guideline or protocol pursuant to paragraph (a).

7.10 (f) Nothing in this chapter prohibits a licensed practitioner from issuing a  
7.11 prescription or dispensing a legend drug in accordance with the Expedited Partner Therapy  
7.12 in the Management of Sexually Transmitted Diseases guidance document issued by the  
7.13 United States Centers for Disease Control.

7.14 (g) Nothing in paragraph (c) or (d) limits prescription, administration, or dispensing  
7.15 of legend drugs through a public health clinic or other distribution mechanism approved  
7.16 by the commissioner of health or a board of health in order to prevent, mitigate, or treat  
7.17 a pandemic illness, infectious disease outbreak, or intentional or accidental release of a  
7.18 biological, chemical, or radiological agent.

7.19 (h) No pharmacist employed by, under contract to, or working for a pharmacy  
7.20 licensed under section 151.19, subdivision 1, may dispense a legend drug based on a  
7.21 prescription that the pharmacist knows, or would reasonably be expected to know, is not  
7.22 valid under paragraph (c).

7.23 (i) No pharmacist employed by, under contract to, or working for a pharmacy  
7.24 licensed under section 151.19, subdivision 2, may dispense a legend drug to a resident  
7.25 of this state based on a prescription that the pharmacist knows, or would reasonably be  
7.26 expected to know, is not valid under paragraph (c).

7.27 Sec. 12. **REPEALER.**

7.28 Minnesota Statutes 2008, sections 148.171, subdivision 6; and 148.235, subdivisions  
7.29 1, 2, 4, and 6, are repealed.

**148.171 DEFINITIONS; TITLE.**

Subd. 6. **Collaborative management.** "Collaborative management" is a mutually agreed upon plan between an advanced practice registered nurse and one or more physicians or surgeons licensed under chapter 147 that designates the scope of collaboration necessary to manage the care of patients. The advanced practice registered nurse and the one or more physicians must have experience in providing care to patients with the same or similar medical problems, except that certified registered nurse anesthetists may continue to provide anesthesia in collaboration with physicians, including surgeons, podiatrists licensed under chapter 153, and dentists licensed under chapter 150A. Certified registered nurse anesthetists must provide anesthesia services at the same hospital, clinic, or health care setting as the physician, surgeon, podiatrist, or dentist.

**148.235 PRESCRIBING DRUGS AND THERAPEUTIC DEVICES.**

Subdivision 1. **Certified nurse-midwives.** A certified nurse-midwife may prescribe and administer drugs and therapeutic devices within practice as a certified nurse-midwife.

Subd. 2. **Certified nurse practitioners.** A certified nurse practitioner who has a written agreement with a physician based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a certified nurse practitioner. The written agreement required under this subdivision shall be based on standards established by the Minnesota Nurses Association and the Minnesota Medical Association as of January 1, 1996, unless both associations agree to revisions.

Subd. 4. **Certified clinical nurse specialists in psychiatric and mental health nursing.** A certified clinical nurse specialist who (1) has successfully completed no less than 30 hours of formal study in the prescribing of psychotropic medications and medications to treat their side effects which included instruction in health assessment, psychotropic classifications, psychopharmacology, indications, dosages, contraindications, side effects, and evidence of application; and (2) has a written agreement with a psychiatrist or other physician based on standards established by the Minnesota Nurses Association and the Minnesota Psychiatric Association that specifies and defines the delegated responsibilities related to the prescription of drugs in relationship to the diagnosis, may prescribe and administer drugs used to treat psychiatric and behavioral disorders and the side effects of those drugs within the scope of the written agreement and within practice as a certified clinical nurse specialist in psychiatric and mental health nursing. The written agreement required under this subdivision shall be based on standards established by the Minnesota Nurses Association and the Minnesota Psychiatric Association as of January 1, 1996, unless both associations agree to revisions.

Nothing in this subdivision removes or limits the legal professional liability of the treating psychiatrist, certified clinical nurse specialist, mental health clinic or hospital for the prescription and administration of drugs by a certified clinical nurse specialist in accordance with this subdivision.

Subd. 6. **Standards for written agreements; review and filing.** Written agreements required under this section shall be maintained at the primary practice site of the advanced practice registered nurse and of the collaborating physician. The written agreement does not need to be filed with the Board of Nursing or the Board of Medical Practice.