

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

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:

Kay Khan

DISTRICT/ADDRESS:

11th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4518 OF 2007-2008.]

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

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

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

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

11 (e) An advanced practice nurse authorized to issue written prescriptions under section
12 80E of said chapter 112 and registered under subsection (g) of section 7.

13

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

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

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

25

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

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

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

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

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

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

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

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

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

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

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

74

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

78

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

83

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

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

91

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

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

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

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

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

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

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

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

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

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

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