

ACT NO. 6736

BILL NO. 26-0028

TWENTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS OF THE UNITED STATES

Regular Session

2005

To amend the title 27 Virgin Islands Code, by adding subchapter V to enact the Advanced Practice Registered Nurse Prescription Act of 2005 and for other related purposes.

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BE IT ENACTED by the Legislature of the Virgin Islands:

SECTION 1. Title 27 Virgin Islands Code, chapter 1, section 91 is amended by inserting subsections (d) through (h) to read:

- (d) Description of advanced practice or A.P.N.-Advanced Practice Registered Nurse or 'APRN' means a person who:
- (1) is licensed as a registered nurse under this chapter;
 - (2) meets the requirements for licensure as an advanced practice registered nurse under Section 101 (a)(2);
 - (3) has a written collaborative agreement with a collaborating physician in the diagnosis of illness and management of wellness and other conditions as appropriate to the level and area of his practice in accordance with Section 101 (b); and
 - (4) cares for patients
- (A) by using advanced diagnostic skills, the results of diagnostic tests and procedures ordered by the advanced practice nurse, a physician assistant, a dentist, a podiatrist, or a physician, and professional judgment to initiate and coordinate the care of patients;
- (B) by ordering diagnostic tests, prescribing medications and drugs accordance with Section 101 (c), and administering medications and drugs; and
- (C) by using medical, therapeutic, and corrective measures to treat illness and improve health status. Categories include certified nurse midwife (CNM), certified nurse practitioner (CNP), certified clinical nurse specialist (CCNS) or certified registered nurse anesthetist (CRNA).

- (e) 'Board' means the Virgin Islands Board of Nurse Licensure.
- (f) "Collaborating physician" means a physician licensed to practice medicine in accordance with title 27 Virgin Islands Code, chapter 1, subchapter 1, who works with and advance practice nurse and provides medical consultation as documented in a written collaborate agreement required under section 101 (b).
- (g) 'Collaborative practice agreement' means a written agreement by and between an advance practice registered nurse and a collaborating physician wherein the physician collaborates with the advances practice registered nurse to administer, dispense, and order drugs, devises, medical treatments, and diagnostic tests, and execute verbal and written prescription drug or device orders therefore, and which provides for the terms and conditions for the execution of a prescription drug of device order.
- (h) 'Dispense drugs' means to dispense pharmaceutical samples at no charge.'

SECTION 2. Title 27 Virgin Islands Code, chapter 1 is amended by adding subchapter V to read as follows:

"Subchapter V. **Advances Practice Nurse.**

This subchapter shall be known and may be cited as the 'Virgin islands Advanced Practice Registered nurse Prescription Act'.

§101 Qualifications. (a) A person is qualified for licensure as an advanced practice registered nurse if that person:

- (1) has applied in writing in form and substance satisfactory to the Board as has not violated a provision of this chapter or the rules adopted under this chapter. The Board may take into consideration any felony conviction of the applicant, but a conviction does not operate as an absolute bar to licensure;
- (2) holds a current license to practice to practice as a registered nurse in the Virgin Islands;
- (3) has successfully completed requirements to practice as, and holds a current, national certification as, a nurse midwife, clinical nurse specialist, nurse practitioner, or nurse anesthetist from the appropriate national certifying body as determined by rule of the Board;
- (4) has paid the required fees as set by rule;
- (5) Has successfully completed a post-basic, advanced practice, formal education program on the area of his nursing specialty. The Board shall maintain a separate roster of

advanced practice nurses licensed under this section and their licenses shall indicate advanced practice registered nurse;

- (6) In addition to meeting the requirements for subsection (a), except paragraph (5) of that section, beginning July 1, 2005, or 12 months after the adoption of final rules to implement this section, whichever is sooner, applicants for initial licensure must have a graduate degree appropriate for national certification in a clinical, advanced-practice nursing specialty. The Board shall provide by rule for APRN licensure of registered nurses who apply for licensure after July 1, 2005; and
- (7) Submit evidence of completion of a program described in subparagraph (5) of subsection (a) or in subsection (b) and evidence of practice for at least 5 years as an advanced practice registered nurse.

(b) (1) **Written collaborative agreements.** No person may engage in the practice of advanced practice nursing except when licensed under this section and pursuant to a written collaborative agreement with a collaborating physician.

(2) (A) A written collaborative agreement must describe the working relationship of the advanced practice nurse with the collaborating physician. Collaboration does not require an employment relationship between the collaborating physician and advanced practice registered nurse. Collaboration means the relationship under which an advanced practice nurse works with a collaborating physician in an active clinical practice to deliver health care services in accordance with (i) the advanced practice nurse's training, education, and experience and (ii) medical practice as documented in a jointly developed written collaborative agreement.

(B) The agreement must be defined to promote the exercise of professional judgment by the advanced practice registered nurse commensurate with his education and experience. The services to be provided by the advanced practice registered nurse must be services that the collaborating physician generally provides to his patients in the normal course of his clinical medical practice. The agreement need not describe the exact steps that an advanced practice registered nurse must take with respect to each specific condition, disease, or symptom, but must specify which authorized procedures require a physician's presence as the procedures are being performed. The collaborative relationship under an agreement may not be construed to require the personal presence of a physician at all times at the place where services are rendered. Methods of communication must be available for consultation with the collaborating physician in person or by telecommunications in accordance with established written guidelines as set forth in the written agreement.

(3) Physician medical consultation under an agreement is adequate if a collaborating physician:

- (A) participates with the advanced practice registered nurse in the formulation and approval of the agreement, and in periodically reviewing medical services provided to patients by the advanced practice registered nurse in order to maintain compliance with the agreement;
- (B) is on site at least once a week to provide medical consultation; and

(C) is available in person or through secured telecommunications for consultation on medical problems, complications, emergencies or patient referral.

(4) A copy of the signed, written collaborative agreement must be submitted to the Board and the Composite Virgin Islands Board of Medical Examiners from both the advanced practice registered nurse, and the collaborating physician and must be annually updated. An advanced practice registered nurse shall inform each collaborating physician of all collaborate agreements he has and provide a copy of these to and collaborating physician, upon request.

(c) (1) **Prescriptive authority.** The APRN may prescribe, dispense and administer drugs and medical devices to the extent established by the Rules and Regulations of the Board. This authority may, but is not required to, include prescription and dispensing of legend drugs and legend controlled substances categorized as Scheduled IV, or V controlled substances, as defined in the title 19 Virgin Islands code, section 595 (Virgin islands Controlled Substances Law).

(2) To prescribe Schedule IV, or V controlled substances under this section, an advanced practice registered nurse must obtain a mid-level practitioner controlled substance license. Medication orders must be reviewed periodically by the collaborating physician.

(3) The collaborating physician shall file with the board and the Composite Virgin Islands Board of medical Examiners notice of prescriptive authority in accordance with rules of the Board. Upon the Board's receipt of the notice delegating authority to prescribe Schedule IV, or V controlled substances, the licensed advanced practice registered nurse is eligible to register for a mid-level practitioner controlled substance license under section 599, title 19.

(4) Nothing in this subchapter may be construed to limit the delegation of task of duties by a physician to a licensed practical nurse, a registered professional nurse, or other personnel.

(d) (1) **Title.** No person may use any words, abbreviations, figures, letters, title, sign, card, or devise tending to imply that he or she is an advanced practice registered nurse, including but not limited to using the titles or initials "Advanced Practice Registered Nurse" "APRN", "Certified Nurse Midwife" "CNM", "Certified Nurse Practitioner" "CNP" or similar titles, with the intention of indicating practice as an advanced practice registered nurse without meeting the requirements of the section. No advanced practice registered nurse may use the title of doctor or associate with his name or any other term to indicate to other persons that he is qualified to engage in the general practice of medicine.

(2) An advanced practice registered nurse shall verbally identify himself as an advanced practical nurse including specialty certification to each patient.

(3) Nothing in this section may be construed to relieve a physician of professional or legal responsibility for the care and treatment of persons attended by him or to relieve an advanced practice registered nurse of the professional or legal responsibility for the care and treatment of persons attended by him.

(e) **Continuing education.** The Board shall adopt rules pertaining to continuing education for persons licensed under this subchapter which require 30 hours of continuing education per two-year license renewal cycle. The rules may not be inconsistent with requirements of relevant, national certifying bodies or State or national professional associations. The rules must also address variances in part or in whole for good cause, including but not limited to illness or hardship. The continuing education rules must assure that licenses are given the opportunity to participate in programs sponsored by or through their State or national professional associations, hospitals, or records of completion of continuing education and must be prepared to produce the records when requested by the Board.

(f) (1) **Grounds for disciplinary action.** The Board may refuse to issue or to renew, or may revoke, suspend, place on probation, censure or reprimand, or take other disciplinary actions as the Board may consider appropriate with regard to a license issued under this subchapter, including the issuance of fines not to exceed \$5,000 for each violation, for any one or combination of the grounds for discipline set forth in this subsection or for any one or combination of the following causes:

- (A) Gross negligence in the practice of advanced practice nursing.
- (B) Exceeding the terms of a collaborative agreement or the prescriptive authority delegated to the advanced practice registered nurse by his collaborating physician or alternate collaborating physician in guidelines established under a written collaboration agreement.
- (C) Making a false or misleading statement licensee's skill or the efficacy or value of the medicine, treatment, or remedy prescribed by him in the course of treatment.
- (D) Prescribing, selling, administering, disturbing, giving, or self-administering a drug classified as a controlled substance, designated product, or narcotic for other than medically accepted therapeutic purposes.
- (E) Promotion of the sale of drugs, devices, appliances, or goods provided for a patient in a manner to exploit the patient for financial gain.
- (F) Violating federal, state, or territorial laws or regulations relating to controlled substances.
- (G) Willfully or negligently violating the confidentiality between advanced practice registered nurse, collaborating physician, and patient, except as required by law.
- (H) Failure of a licensee to report to the Board any adverse final action taken against such licensee by another licensing jurisdiction, including any jurisdiction of the United States or any foreign, state or country, any peer review body, any health care institution, a professional or nursing or advanced practice nursing society or association, a governmental agency, a law enforcement agency, or a court or a liability claim relating to acts or conduct

similar to acts or conduct that would constitute grounds for action as defined in this section.

- (I) Failure of a licensee to report to the Board any adverse final action taken against such licensee by another licensing jurisdiction, including any jurisdiction of the United States or any foreign, state or country, any peer review body, any health care institution, a professional or nursing or advanced practice nursing society or association, a governmental agency, a law enforcement agency, or a court or a liability claim relating to acts or conduct similar to acts or conduct the would constitute grounds for action as defined in this section.
- (J) Failing, within 60 days to provide information in response to a written request made by the Board.
- (K) Failure to establish and maintain records or patient care and treatment as required by law.
- (L) Any violation of any Section of this subchapter.

When the Board has received written reports concerning incidents required to be reported in a subparagraphs (H) and (I), the licensee's failure to report the incident to the Board under those subparagraphs may not be the sole grounds for disciplinary action.

(2) In enforcing this section, the Board, upon a showing of a possible violation, may compel an individual licensed to practice under this subchapter, or who has applied for licensure under this subchapter, to submit to a mental or physical examination or both, as required by and at the expense of the Board. The Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information may be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physician must be specifically designated by the Board. The individual to be examined may have, at the individual's own expense, another physician of the individual's choice present during all aspects of this examination. Failure of an individual to submit a mental or physical examination when directed shall be ground for suspension of the individual's license until the individual submits to the examination, if the Board finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Board finds an individual unable to practice because of the reasons set forth in this section, the Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Board as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Board may file a complaint to immediately suspend, revoke, the license or otherwise discipline the individual. An individual disciplined whose license was granted, continued, reinstated, renewed, or supervised subject to terms, conditions, or restrictions, and who fails to comply with the terms, conditions, or restrictions, shall be referred to the Board for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Board.

In instances in which the Board immediately suspends an individual's license under this section, a hearing on that individual's license must be convened by the Board within 15 days after the suspension and must be completed without appreciable delay. The Board has the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this subchapter and affected under this section shall be afforded an opportunity to demonstrate to the Board that he can resume practice in compliance with acceptable and prevailing standards under the provisions of his license.

(g)(1) Reports relating to professional conduct and capacity; entities required to report.

(A) Health Care Institutions. The chief administrator or executive officer of a health care institution licensed by the Department of Health, and the hospitals shall report to the Board when a license's organized, professional staff clinical privileges are terminated or are restricted based on a final determination, in accordance with that institution's bylaws or rules and regulations, that (i) a license has either committed an act or acts that may directly threaten patient care and that are not of an administrative nature or (ii) that a license may be mentally or physically disabled in a manner that may endanger patients under that person's care. The chief administrator or officer shall also report if a licensee accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon conduct related directly to patient care and not of an administrative nature, or in lieu of formal action seeking to determine whether a licensee may be mentally or physically disabled in a manner that may endanger patients under that person's care. The Board shall provide by rule for the reporting to it of all instances in which a person licensed under this title, who is impaired by reason of age, drug, or alcohol abuse or physical or mental impairment, is under supervision and, where appropriate, is in a program of rehabilitation. Reports submitted under this subsection are strictly confidential and may be reviewed and considered only by the members of the Board or authorized staff as provided by rule of the Board. Provisions shall be made for the periodic report of the status of any such reported person not less than twice annually in order that the Board has current information upon this subsection must be construed as the filing of a report for purposes of subsection (3) of this section.

(B) Professional Associations. The President or Chief Executive Officer of an association or society of persons licensed under this chapter, operating within the Virgin Islands, shall report to the Board when the association or society renders a final determination that a person licensed under this title has committed unprofessional conduct related directly to patient care or that a person may be mentally or physically disabled in a manner that may endanger patients under the person's care.

(C) Professional Liability Insurers. Every insurance company that offers policies of professional liability insurance to persons licensed under this chapter, or any other entity that seeks to indemnify the professional liability of a person

(10A)

(6) **Summary Reports.** The Board shall prepare, on a timely basis, but no event less than one every other month, a summary report of final actions taken upon disciplinary files maintained by the Board. The summary reports must be sent by the board to every health care facility licensed by the Department of Health, the hospitals and every professional association and society of persons licensed under this title functioning on a territory-wide basis in the Virgin Islands, all insurers providing professional liability insurance to persons licensed under this Title in the Virgin Islands, and the Virgin Islands Pharmacist Association.

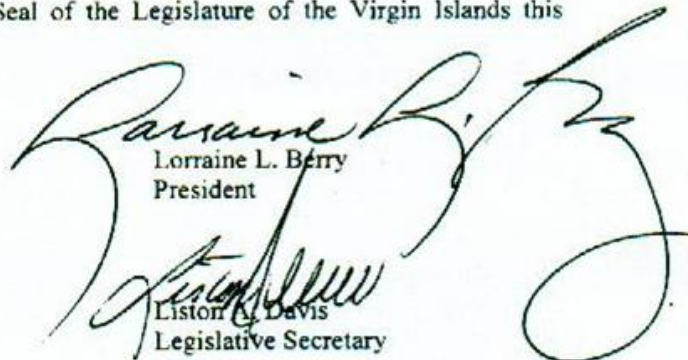
(7) Any violation of this section shall constitute a misdemeanor.


(8) If a person violates the provisions of this section, an action may be brought in the name of the people of the Virgin Islands, through the Attorney General of the Virgin Islands, for an order enjoining the violation or for an order enforcing compliance with this section. Upon filing of a verified petition in court, the court may issue a temporary restraining order without notice or bond and may preliminarily or violating the injunction, the court may punish the offender for contempt of court. Proceedings under this subsection are in addition to, and not in lieu of, all other remedies and penalties provided for by this section.”

Thus passed by the Legislature of the Virgin Islands on May 5, 2005.

13th Witness our Hands and the Seal of the Legislature of the Virgin Islands this
Day of May, A.D., 2005.

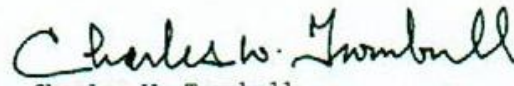



Lorraine L. Berry
President


Liston A. Davis
Legislative Secretary

The above bill is hereby approved.

Witness my hand and the Seal of the
Government of the United States
Virgin Islands at Charlotte Amalie,
St. Thomas, this 28th day of May,
A.D., 2005.


Charles W. Turnbull
Governor