

HOUSE No. 1144

By Ms. Khan of Newton, petition of Kay Khan and others relative to advanced practice nursing. Health Care Financing.

The Commonwealth of Massachusetts

PETITION OF:

Kay Khan	Anne M. Gobi
Charles A. Murphy	Thomas P. Kennedy
Christine E. Canavan	Denise Provost

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO ADVANCED PRACTICE NURSING.

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 80B of Chapter 112 of the Massachusetts
2 General Laws, as so appearing in the 2004 Official Edition is hereby
3 amended by striking the second paragraph and inserting in place
4 there of the following:—
5 “Nursing practice involves clinical decision making leading to the
6 development and implementation of a strategy of care to accomplish
7 defined goals, the administration of medication, therapeutics and
8 treatment prescribed by duly authorized nurses in advanced practice,
9 as defined by the board of registration in nursing; dentists; physi-
10 cians; and physician assistants’ and the evaluation of responses to
11 care and treatment. It shall include, but not be limited to the perfor-
12 mance of services which promote and support optimal functioning
13 across the life span; the collaboration with other members of the
14 health team to achieve defined goals; health counseling and
15 teaching; the provision of comfort measures; teaching and super-
16 vising others; and participation in research which contributes to the
17 expansion of nursing knowledge.”

1 SECTION 2. Section 80B of said Chapter 112, is further
2 amended by striking the sixth paragraph and inserting in place
3 thereof the following paragraph:— “Advanced practice nursing reg-
4 ulations which govern the ordering and interpretation of tests,
5 ordering therapeutics and prescribing of medications shall be pro-
6 mulgated by the board.”

1 SECTION 3. Section 80E of said Chapter 112, is hereby amended
2 by striking the entire section and inserting thereof the following
3 section:—

4 “Section 80E. A nurse authorized to practice as a nurse practi-
5 tioner or a psychiatric nurse mental health clinical specialist may
6 order and interpret tests, order therapeutics and prescribe medica-
7 tions in accordance with regulations promulgated by the board and
8 subject to the provisions of paragraph (i) of Section seven of Chapter
9 ninety-four C.”

1 SECTION 4. Section 80G of said Chapter 112 is hereby amended
2 by striking the entire section and inserting in place thereof the
3 following new section:—

4 “Section 80G. A nurse authorized to practice as a nurse-midwife
5 may order and interpret tests, order therapeutics and prescribe med-
6 ications in accordance with regulations promulgated by the board
7 and subject to the provisions of paragraph (i) of Section seven of
8 Chapter ninety-four C.”

1 SECTION 5. Said Chapter 112 is hereby further amended by
2 adding the following new section:—

3 “Section 80H. A nurse authorized to practice as a nurse anes-
4 thetist may order and interpret tests, order therapeutics and prescribe
5 medications in accordance with regulations promulgated by the
6 board and subject to the provisions of paragraph (i) of Section seven
7 of Chapter ninety-four C.”

1 SECTION 6. Section 1 of Chapter 94C of the General Laws, as so
2 appearing in the 2004 Official Edition, is hereby amended by adding
3 a new subsection to the definition of “Practitioner”:—

4 “(d) An Advanced Practice Nurse authorized by Sections 80B,
5 80E, 80G, and 80H of Chapter 112 and registered pursuant in para-

6 graph (i) of Section 7 to utilize and prescribe therapeutic pharmaceu-
7 tical agents in the course of professional practice in the Common-
8 wealth.”

1 SECTION 7. Section 7 of said Chapter 94C is hereby amended by
2 striking out paragraphs two and three in subsection (g).

1 SECTION 8. Section 7 of said Chapter 94C is hereby further
2 amended at the end thereof with the following:—

3 “(i) The commissioner shall promulgate regulations which pro-
4 vide for the automatic registration of advanced practice nurses, upon
5 the receipt of the fee as herein provided, to written issue prescrip-
6 tions in accordance with the provisions of Sections 80B, 80E, 80G,
7 and 80H of Chapter 112, unless the registration of such advanced
8 practice nurse has been suspended or revoked pursuant to the provi-
9 sions of Section 13 or Section 14 or unless such registration is
10 denied for cause by the commissioner pursuant to the provisions of
11 Chapter 30A. Prior to promulgating such regulations, the commis-
12 sioner shall consult with the board of registration in nursing.”

1 SECTION 9. Section 9 of said Chapter 94C is hereby amended by
2 striking out the entire section and inserting in place thereof the
3 following section:—

4 “Section 9. (a) A physician, dentist, podiatrist, optometrist as lim-
5 ited by Sections 66 and 6613 of Chapter 112 and paragraph (h) of
6 Section 7, advanced practice nurse as limited by Sections 80B, 80E,
7 80G or 80H of Chapter 112 and paragraph (i) of Section 7, physician
8 assistant as limited by said paragraph (g) of said Section 7 and
9 Section 9E of said Chapter 112, or a veterinarian when registered
10 pursuant to the provisions of said Section 7 and acting in accordance
11 with the provisions of applicable federal law and any provision of
12 this Chapter which is consistent with federal law, in good faith and
13 in the course of a professional practice for the alleviation of pain all
14 suffering or for the treatment or alleviation of disease, may possess
15 such controlled substances as may reasonably be required for the
16 purpose of patient treatment and may administer controlled sub-
17 stances or may cause the same to be administered under his direction
18 by a nurse. A practitioner, as defined in Section 1, may cause con-

19 trolled substances to be administered under his direction by a
20 licensed dental hygienist, for the purposes of local anesthesia only.

21 (b) Notwithstanding the provisions of Section 17, a physician,
22 physician assistant, dentist, podiatrist, optometrist, advanced prac-
23 tice nurse, or veterinarian who is registered pursuant to the provi-
24 sions of Section 7, when acting in good faith and in the practice of
25 medicine, dentistry, podiatry, optometry, advanced practice nursing
26 or veterinary medicine or a nurse, when authorized by a physician,
27 dentist, podiatrist, optometrist, advanced practice nurse or veteri-
28 narian in the course of such nurse's professional practice, may dis-
29 pense by delivering to an ultimate user, a controlled substance in a
30 single dose or in such quantity as is, in the opinion of such physi-
31 cian, dentist, podiatrist, optometrist, advanced practice nurse, physi-
32 cian assistant, or veterinarian, essential for the treatment of the
33 patient; provided, however, that such amount or quantity of such
34 controlled substance shall not exceed the amount needed for the
35 immediate treatment of the patient and that all such controlled sub-
36 stances required by the patient as part of such, treatment shall be dis-
37 pensed by prescription to such ultimate user in accordance with the
38 provisions of this chapter.

39 For the purposes of this section, the words "amount needed for
40 the immediate treatment of the patient" shall mean the quantity of, a
41 controlled substance which is necessary for the proper treatment of
42 the patient until it is possible for such patient to have a prescription
43 filled by a pharmacy.

44 This section shall not be construed to prohibit or limit the dis-
45 pensing of any prescription medication that is classified by the
46 department of public health as schedule VI and that is provided free
47 of charge by the manufacturer as part of an indigent patient program
48 or for use as samples if such prescription medications are: (1) dis-
49 pensed to the patient, by a professional authorized to dispense con-
50 trolled substances pursuant to this section; (2) dispensed in the
51 package provided by the manufacturer; and (3) provided at no
52 charge to the patient.

53 The department shall promulgate rules and regulations governing
54 the dispensing of medication pursuant to this section. Said rules and
55 regulations shall include, but not be limited to, the types and
56 amounts of medications that may be dispensed and the appropriate
57 safeguards for the labeling and dispensing of such medications.

58 (c) An nurse who has obtained from a physician, dentist, physi-
59 cian assistant, podiatrist, advanced practice nurse, or veterinarian, a
60 controlled substance for dispensing to an ultimate user, pursuant to
61 the provisions of paragraph (b) or for administration to a patient pur-
62 suant to the provisions of paragraph (a), during the absence of such
63 physician, physician assistant, dentist, podiatrist, advanced practice
64 nurse or veterinarian shall return to such physician, physician assis-
65 tant, dentist, podiatrist, advanced practice nurse or veterinarian any
66 unused portion of such substance which is no longer required by the
67 patient.

68 A licensed dental hygienist who has obtained a controlled sub-
69 stance from a practitioner, as defined in section 1, for dispensing to
70 an ultimate user pursuant to paragraph (a) shall return to such practi-
71 tioner any unused portion of the substance which is no longer
72 required by the patient.

73 (d) Every physician, physician assistant, dentist, podiatrist,
74 advanced practice nurse or veterinarian shall, in the course of a pro-
75 fessional practice, keep and maintain records open to inspection by
76 the commissioner during reasonable business hours, which shall
77 contain the names and quantities of any controlled substances in
78 Schedule I, II or III received by such practitioner; the name and
79 address of the patient to whom such controlled substance is adminis-
80 tered or dispensed; the name, dosage and strength per dosage unit of
81 such controlled substance and the date of such administration or dis-
82 pensing.

83 (e) Notwithstanding the provisions of. paragraph (b), a physician,
84 advanced practice nurse , physician assistant, or , when acting in
85 good faith and providing care under a program funded in whole or in
86 part by 42 USC 300, or in a clinic licensed by the department to pro-
87 vide comparable medical services or a registered nurse, registered
88 pursuant to the provisions of section seventy-four of Chapter one
89 hundred and twelve and authorized by such physician, advanced
90 practice nurse , physician assistant or , may lawfully dispense con-
91 trolled substances pursuant to Schedule VI to recipients of such
92 services in such quantity as needed for treatment, and shall be
93 exempt from the requirement that such dispensing be in a single
94 dosage or as necessary for immediate treatment; provided, however,
95 that such registered nurse shall not so dispense except as provided in
96 Section seventeen. The department may establish rules and regula-

97 tions controlling the dispensing of said medications including, but
98 not limited to, the types and amounts of medications dispensed and
99 appropriate safeguards for dispensing.”

1 SECTION 10. Section 18 (c) of said Chapter 112 is hereby
2 amended by striking the entire section and inserting thereof the
3 following section:—

4 “(c) A prescription for a controlled substance contained in sched-
5 ules III to VI, inclusive, as defined in Section three may also be
6 issued by an authorized practitioner who is duly licensed to practice
7 medicine and duly registered in the state wherein he resides, if
8 required, and duly registered under federal law to write prescrip-
9 tions; or by an authorized advanced practice nurse who is duly
10 licensed to so practice and duly registered under federal law to write
11 prescriptions. It is the duty of the registered pharmacist who is
12 filling a prescription under this paragraph to determine, in accord-
13 dance with professional standards and personal judgment, that such
14 prescription is authentic and valid; provided, however, that if the
15 substance is in schedules III to V, inclusive, the registered pharma-
16 cist shall verify the prescription by telephone or other means. A
17 pharmacist shall not fill a prescription for which said verification
18 cannot be obtained. The pharmacist shall not be held liable for
19 refusing to fill a prescription for which said verification cannot be
20 obtained, provided that documented good faith efforts were made to
21 determine the authenticity and validity of the prescription. This para-
22 graph shall be valid only for the purpose of authorizing the filling of
23 prescriptions, issued within the preceding thirty days, and shall not
24 authorize said physician or advanced practice nurse to process,
25 administer or dispense controlled substances as provided in Section
26 nine or to practice medicine or advanced practice nursing within the
27 Commonwealth. In the case of any oral prescription for a schedule
28 III through V substance, the pharmacist shall record that he has
29 requested that the practitioner deliver or mail to the dispensing phar-
30 macy a written prescription for the controlled substance within seven
31 days or such shorter period required by Federal law. Any prescrip-
32 tion issued under this paragraph shall be issued in the manner pre-
33 scribed in Section twenty-two and all relevant provisions of this
34 chapter shall apply to such physician and prescription. Nothing con-

35 tained in this section shall be deemed to authorize any mail order
36 pharmacies.”

1 SECTION 11. Section 18 (d) of said Chapter 112 is hereby further
2 amended by striking the entire section and inserting thereof the
3 following section:—

4 “(d) A prescription for a controlled substance contained in
5 Schedule II of Section three may also be issued by a physician who
6 is licensed to practice medicine and registered in a another state
7 where he resides or practices, if required, and registered under fed-
8 eral law to write prescriptions; or by an advanced practice nurse who
9 is so licensed to practice and registered in another state where she
10 resides or practices, if required, and registered under federal law to
11 write prescriptions. A registered pharmacist filling a prescription
12 under the provisions of this paragraph shall determine, in accordance
13 with professional standards and personal judgment, that such pre-
14 scription is authentic and valid; and shall verify such prescription by
15 telephone or other means. A pharmacist shall not fill a prescription
16 for which said verification cannot be obtained. A pharmacist shall
17 not be held liable for refusing to fill such prescription for which said
18 verification cannot be obtained; provided, however, that documented
19 good faith efforts were made to determine the authenticity and
20 validity of such prescription. This paragraph is only for the purpose
21 of authorizing the filling of prescriptions within the Commonwealth,
22 issued within the preceding five days, and shall not authorize such
23 practitioner to possess, administer or dispense controlled substances
24 as provided in Section nine, or to practice medicine or advanced
25 practice nursing within the Commonwealth. Any prescription issued
51 under the provisions of this paragraph shall be issued in the manner
52 prescribed in Section twenty-two and all relevant provisions of this
53 chapter shall apply to such practitioner and prescription. In the case
54 of any prescription for a Schedule II substance filled under the pro-
55 visions of this paragraph, a pharmacist filling such prescription shall
56 within thirty days after the filling of such prescription deliver to the
57 department a copy of each such Schedule II prescription; provided,
58 however, that such copy shall not include the name and address of
59 the patient for whom the prescription is issued and that such copy
60 and the information contained thereon shall not be deemed to be
61 public record within the meaning of Section seven of Chapter four

62 and shall be subject to the restrictions set forth in Section two of
63 Chapter sixty-six A. Nothing contained in this section shall be
64 deemed to authorize any mail order pharmacies.”