

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Seventeenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME V**

**FIRST REGULAR SESSION**

**Senate**

June 19, 1995 to June 30, 1995

**FIRST CONFIRMATION SESSION**

September 14, 1995

**FIRST SPECIAL SESSION**

**House of Representatives**

November 28, 1995 to November 30, 1995

**Senate**

November 28, 1995 to November 30, 1995

ROLL CALL

YEAS: Senators: AMERO, BEGLEY, BENOIT, CAREY, CARPENTER, CASSIDY, CIANCHETTE, FERGUSON, HALL, HANLEY, HARRIMAN, HATHAWAY, KIEFFER, LORD, O'DEA, PENDEXTER, SMALL, STEVENS, and the PRESIDENT, Senator BUTLAND

NAYS: Senators: ABROMSON, BERUBE, BUSTIN, CLEVELAND, ESTY, FAIRCLOTH, GOLDTHWAIT, LAWRENCE, LONGLEY, McCORMICK, MICHAUD, MILLS, PARADIS, PINGREE, RAND, RUHLIN

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the Bill was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

---

An Act to Provide Greater Access to Health Care  
 S.P. 343 L.D. 948  
 (S "A" S-304 to C  
 "A" S-279)

**THE PRESIDENT:** The Chair recognizes the Senator from Cumberland, Senator Pendexter.

Senator **PENDEXTER:** Thank you, Mr. President, Men and Women of the Senate. An Act to Provide Greater Access to Health Care is the proverbial nurse practitioner bill. I just can't have enactment go by without reminding you of a few things. I promise to be brief. I continue to have some very serious concerns about legislating out in a nurse practice act that famous old paragraph 2B that we have come to know so well that legislates out any linkage between medicine and nurse practitioners. We are left now, the only choice we have is total independent practice. The bill has returned to us the same way it left, not any better, in fact, I think it is seriously flawed. For those of you who are voting for this measure because you supported it last year, I must remind you that this is a very different bill. At least last year we were talking collaboration. But now we are advocating that nurse practitioners can go out and practice medicine totally independent of any input from medicine. Some of you say we refer and we consult just like physicians do. But that's not what we are talking about. I remind you, in the twenty-three years that I have practiced as a nurse practitioner, the questions that I always have, and that I always refer to my medical linkage for, are the questions within my primary care arena. The simple questions, like medication questions, just touching bases to make sure that I have made the right decisions. It's not referring to another specialty. Those ones are easy. So, now we have a nurse who is going to be practicing independently, who has a question, and

there will only be two options. That patient will have to go to the emergency room, or will have to go to another physician. That, to me, spells out increased costs because if a nurse practitioner hasn't made those arrangements beforehand, and I continue to remind you, on any given day I know I am going to need some help, that I should prepare for that before I go hang out my shingle, and we are now saying, in this legislative body, that's okay, we trust you. A physician is not going to be on the other end men and women of the Senate, because that arrangement won't have been made. I think that's acting very irresponsible. The consumers are the ones who are going to suffer. Some of you have said, and it's an important issue for me, I understand it better than any of you in this body, you say to me primary care is easy to do, it's not that big a deal. Let me share with you one experience that happened to me several years ago. I was practicing independently, by the way, all by myself on the Munjoy Hill Health Station. I had a three-month old presented to me who I thought was breathing a little funny. He looked fine, didn't have a fever, wasn't particularly acting strange, but there was just something about the way the kid was breathing. It just so happened that my physician coverage was coming in that afternoon, so I had the mother stay. Nothing in particular was decided about this child. We sent him back home. But, guess what happened? He died the next day, and it wasn't AIDS, it was some kind of a viral thing. I know some of you are looking at me and saying the physician missed it too. That's correct. What I am saying to you is that primary care is serious business. For those of you who think that it's easy to do, I challenge you to go try it. A missed case of appendicitis ends up with a very sick person in the ICU. Some people die of it. We are talking about serious scenarios men and women of the Senate. We are not talking about doing very simple little physical exams and giving shots, because our scope of practice allows us to diagnose and treat within what we define as our scope of practice. I continue to remind you, scope of practice is not definable, it's in my head, it's what I tell you I am prepared to do or what I can do. Most nurse practitioners who practice define their scope of practice by the experiences they have had working under supervision and direction of physicians. There are nurse practitioners who can do abortions, but not all nurse practitioners can do abortions because it's not all within our scope of practice if we have not all learned how to do that. For some nurse practitioners, they have the knowledge and the capability to do it. I use that as an example to say to you, scope of practice is very variable. You can't define it and we ought not to be using it to be setting public policy. We ought not to be using it. We can't define it. There is no parameter with which to judge how far nurse practitioners can go. The title gives you the idea that this is a great thing, we are going to have increased access to rural health care and all this stuff, and that's all bogus. I cited to you a magazine I just received. There are three rural opportunities advertised, Calais, Lubec, Dover-Foxcroft, Fort Kent. There are rural opportunities now men and women of the Senate. Nurse practitioners aren't going there.

In 1979 Oregon permitted independent prescriptive

authority to nurse practitioners, thinking that they would settle in rural areas. In 1991 they looked to see where were those nurse practitioners. Guess where they were? They were all settled nice and comfy in urban areas. It doesn't work, because nurse practitioners don't settle where physicians don't go either for the same reasons that physicians don't go there. But, my biggest concern about all of this is that right now, and this is the very biggest difference from last year's bill, we now are going to have liberal independent prescriptive authority. I can, right now, whip out a prescription pad and write any schedule three, four, and five drug I want to. Right now it's schedule because there is a mutual agreement with the physician I practice with, what those medications will be, but when you legislate that out I could treat glaucoma. I could write out all those prescriptions. I have the authority to do it. That is scary. We are deregulating how medicine is practiced. The Maine Legislature is getting soft on regulation. Right now medicine is the profession that is being attacked. Let me share with you another profession. What about the legal profession? What if the bill was that paralegals were before us saying, "Gee whiz, there are a lot of legal scenarios I can practice in. I can do certain things within my own scope of practice and I would really like to divorce myself from the lawyer because I can do some of these things and I ought to be able to practice. Because, you know, a lot of people out there need legal counsel and gee, I'll go out there and help the poor." Will we allow that? Will we allow dental hygienists to come to us with a bill of their own to say, "Gee, we want to clean teeth on our own." At least that's a scope of practice we can all relate to, we know what they do. I can go on and on and on with all kinds of other professions. Medicine is on the block right now but I tell you, we are heading down a slippery slope when we start deregulating how certain professions are going to be regulated. Medicine, in my opinion, is a very serious profession and we are really headed in the wrong direction. We are giving the Board of Nursing total control over everything nurse practitioners will do, what kinds of drugs we can do, what scope of practice we can practice, and in an arena legislatively, when we are trying to take away all the rulemaking powers of some of these agencies, we are giving the Board of Nursing total authority. I don't understand it. I will end, because I know you probably didn't read it all, but I think it's a letter that behooves a little reference. It's written by a physician who used to be a nurse practitioner. She finished her training in 1992 and she said, "While I greatly value my experience as a nurse practitioner, I found that I wanted to address my patient's health care needs more completely. Therefore, I consequently chose to attend medical school." She went to the University of New England. "I began practicing medicine in 1992. I have been following L.D. 948 that would permit nurse practitioners to prescribe without physician involvement. As a nurse practitioner with six years of experience prior to becoming a physician, I am very concerned with this proposal. L.D. 948 moves in the wrong direction, since it assumes that a nurse practitioner can perform medical acts without physician involvement. It's frightening to think that this legislature is considering allowing nurse practitioners to make diagnosis and prescribe

medication without a relationship with a physician. I now understand the gaps in knowledge better between a physician and a nurse practitioner due to my training experiences as a nurse practitioner and as a physician. If I had not attended medical school, and if I had taken advantage of this proposal, I would never have known what I was lacking in knowledge. The impact that this type of legislation could have on patients could be enormous." I ask you to seriously consider your vote and hope that you can join me in voting no. Mr. President, when the vote is taken, I request the yeas and nays.

On motion by Senator **PENDEXTER** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I was half expecting an amendment that said that nurse practitioners can only fish 1000 traps, because that's about the only thing that has not been done to this bill. Now we have brought abortion into the question. Next I presume it will be that this will allow nurse practitioners to clear cut forests and kill dolphins. Maine State law says it is the public policy of the State that all abortions be performed only by a physician. So, I do not believe that is an appropriate issue for discussion regarding this bill. It is a bill that has had a long and arduous history. It has been amended once in a way that I believe strengthens the bill and was a positive amendment. It has received, in the last two weeks, nine votes of support, nine votes in favor of passing this legislation. I would urge you to vote against the motion to Indefinitely Postpone, so that we can go on and enact this bill, because it deserves it. Thank you.

**THE PRESIDENT:** The pending question before the Senate is Enactment. The Chair recognizes the Senator from York, Senator Hathaway.

Senator **HATHAWAY:** Thank you, Mr. President, Ladies and Gentlemen of the Senate. I would just like to thank Senator Pendexter for her very passionate and well-reasoned remarks. I learned a great deal from the debate and the effort you put into this issue this year. I appreciate it very much. Thank you.

**THE PRESIDENT:** The pending question before the Senate is **ENACTMENT**.

A vote of Yes will be in favor of **ENACTMENT**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators: BENOIT, BUSTIN, CIANCHETTE,  
CLEVELAND, ESTY, FAIRCLOTH,  
FERGUSON, GOLDTHWAIT, HARRIMAN,  
LAWRENCE, LONGLEY, LORD,  
McCORMICK, MICHAUD, MILLS,  
O'DEA, PARADIS, PINGREE, RAND

NAYS: Senators: ABROMSON, AMERO, BEGLEY, BERUBE,  
CAREY, CARPENTER, CASSIDY, HALL,  
HANLEY, HATHAWAY, KIEFFER,  
PENDEXTER, RUHLIN, SMALL,  
STEVENS, and the PRESIDENT,  
Senator BUTLAND

Senator BERUBE of Androscoggin requested and received leave of the Senate to change her vote from YEA to NAY.

Senator HARRIMAN of Cumberland requested and received leave of the Senate to change his vote from NAY to YEA.

19 Senators having voted in the affirmative and 16 Senators having voted in the negative, the Bill was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

---

An Act to Reform the Process of Periodic Review of Programs and Agencies

H.P. 959 L.D. 1348  
H "A" H-598 to C "A"  
H-516)

On motion by Senator HANLEY of Oxford, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

---

An Act Concerning the Termination of Parental Rights

S.P. 508 L.D. 1367  
(C "A" S-316)

On motion by Senator HANLEY of Oxford, Tabled until Later in Today's Session, pending ENACTMENT.

---

An Act to Exclude Certain Parks from the Definition of Mobile Home Parks

H.P. 372 L.D. 507  
(H "D" H-560)

THE PRESIDENT: The pending question before the Senate is ENACTMENT.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

30 Senators having voted in the affirmative and 1 Senator having voted in the negative, the Bill was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

---

Emergency

An Act to Strengthen Maine's Live Harness Racing Industry

H.P. 619 L.D. 829  
(H "B" H-580)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senator having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

---

Emergency

An Act to Provide for Alternative Dispute Resolution in Domestic Relations Matters and to Provide for the Recodification and Revision of the Maine Revised Statutes, Title 19

H.P. 1024 L.D. 1439  
(C "A" H-591)

On motion by Senator HANLEY of Oxford, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

---

Emergency

An Act to Preserve Fishing Stocks

H.P. 1045 L.D. 1464  
(H "A" H-576)