

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 643
SENATE BILL 329

AN ACT TO MAKE VARIOUS TECHNICAL AND CLARIFYING AMENDMENTS
TO THE NURSING PRACTICE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-171.21(b) reads as rewritten:

"(b) Selection. – The North Carolina Board of Nursing shall conduct an election each year to fill vacancies of nurse members of the Board scheduled to occur during the next year. Nominations of candidates for election of registered nurse members shall be made by written petition signed by not less than 10 registered nurses eligible to vote in the election. Nominations of candidates for election of licensed practical nurse members shall be made by written petition signed by not less than 10 licensed practical nurses eligible to vote in the election. Every licensed registered nurse holding an active license shall be eligible to vote in the election of registered nurse board members. Every licensed practical nurse holding an active license shall be eligible to vote in the election of licensed practical nurse board members. The list of nominations shall be filed with the Board after January 1 of the year in which the election is to be held and no later than midnight of the first day of April of such year. Before preparing ballots, the Board shall notify each person who has been duly nominated of his nomination and request permission to enter his name on the ballot. A member of the Board who is nominated to succeed himself and who does not withdraw his name from the ballot is disqualified to participate in conducting the election. Elected members shall begin their term of office on January 1 of the year following their election.

Nominations of persons to serve as public members of the Board may be made to the Governor by any citizen or group within the State. The Governor shall appoint the two public members to the Board.

Board members shall be commissioned by the Governor upon their election or appointment."

Sec. 2. G.S. 90-171.30 reads as rewritten:

"§ 90-171.30. Licensure by examination.

At least twice each year the Board shall give an examination at the time and place it determines, to applicants for licensure to practice as a registered nurse or licensed practical nurse. The Board shall give advance notice to applicants and to persons conducting approved nursing programs of the time and place of each examination. The Board shall adopt regulations, not inconsistent with this Article, governing qualifications of applicants, the conduct of applicants during the examination, and the conduct of the examination. The applicants shall be required to pass a ~~written~~ an

examination approved and administered by the Board. When the Board determines that an applicant has passed the required examination, submitted the required fee, and has demonstrated to the Board's satisfaction that he or she is mentally and physically competent to practice nursing, the Board shall issue a license to the applicant."

Sec. 3. G.S. 90-171.33 reads as rewritten:

"§ 90-171.33. Temporary license.

The Board shall issue a nonrenewable temporary license to persons ~~applying for licensure under G.S. 90-171.30~~ who are applying for licensure under G.S. 90-171.30, and who are scheduled for the licensure examination at the first opportunity after graduation, for a period not to exceed the lesser of ~~six~~ nine months or the date of applicant's ~~receipt~~ notification of the results of the licensure examination. The Board shall revoke the temporary license of any person who does not take the examination as scheduled, or who has failed the examination for licensure as provided by this act. The Board shall issue a nonrenewable temporary license to persons applying for licensure under G.S. 90-171.32 for a period not to exceed the lesser of six months or until the Board determines whether the applicant is qualified to practice nursing in North Carolina. Temporary licensees may perform patient-care services within limits defined by the Board. In defining these limits, the Board shall consider the ability of the temporary licensee to safely and properly carry out patient-care services. Temporary licensees shall be held to the standard of care of a fully licensed nurse."

Sec. 4. G.S. 90-171.37 reads as rewritten:

"§ 90-171.37. Revocation, suspension, or denial of licensure.

The Board shall initiate an investigation upon receipt of information about any practice that might violate any provision of this Article or any rule or regulation promulgated by the Board. In accordance with the provisions of Chapter 150B of the General Statutes, the Board may require remedial education, issue a letter of reprimand, restrict, revoke, or suspend any license to practice nursing in North Carolina or deny any application for licensure if the Board determines that the nurse or applicant:

- (1) Has given false information or has withheld material information from the Board in procuring or attempting to procure a license to practice nursing;
- (2) Has been convicted of or pleaded guilty or **nolo contendere** to any crime which indicates that the nurse is unfit or incompetent to practice nursing or that the nurse has deceived or defrauded the public;
- (3) Has a mental or physical disability or uses any drug to a degree that interferes with his or her fitness to practice nursing;
- (4) Engages in conduct that endangers the public health;
- (5) Is unfit or incompetent to practice nursing by reason of deliberate or negligent acts or omissions regardless of whether actual injury to the patient is established;
- (6) Engages in conduct that deceives, defrauds, or harms the public in the course of professional activities or services; or
- (7) Has ~~willfully~~ violated any provision of this ~~Article~~ Article, or of ~~regulations enacted by the Board.~~

(8) Has willfully violated any rules enacted by the Board.

The Board may take any of the actions specified above in this section when a registered nurse approved to perform medical acts has violated rules governing the performance of medical acts by a registered nurse; provided this shall not interfere with the authority of the Board of Medical Examiners to enforce rules and regulations governing the performance of medical acts by a registered nurse.

The Board may reinstate a revoked license or remove licensure restrictions when it finds that the reasons for revocation or restriction no longer exist and that the nurse or applicant can reasonably be expected to safely and properly practice nursing."

Sec. 5. G.S. 90-171.38 reads as rewritten:

"§ 90-171.38. Standards for nursing programs.

A nursing program may be operated under the authority of a general hospital, or an approved post-secondary educational institution. ~~an educational institution or agency, or any other authority satisfactory to the Board.~~ The Board shall establish, revise, or repeal standards for nursing programs. These standards shall specify program requirements, curricula, faculty, students, facilities, resources, administration, and describe the approval process. ~~The standards approved by the Board and in effect on June 30, 1980, shall be the prescribed standards. Before making any substantive change in the standards the Board shall hold a hearing in accordance with Chapter 150B.~~ Any institution desiring to establish a new nursing program shall apply to the Board and submit satisfactory evidence that it will meet the standards prescribed by the Board. Those standards shall be designed to ensure that graduates of those programs have the educational training to safely and properly education necessary to safely and competently practice nursing. The Board shall encourage the continued operation of all present programs that meet the standards approved by the Board ~~and the Board shall promote the establishment of additional programs.~~ Board."

Sec. 6. G.S. 90-171.42(b) reads as rewritten:

"(b) If the program offers to teach nurses to perform advance skills, the Board may grant approval for the program and the performance of the advanced skills by those successfully completing the program when it finds that the nature of the procedures taught in the program and the program facilities and faculty are such that a nurse successfully completing the program can reasonably be expected to carry out those procedures safely and ~~properly.~~ competently."

Sec. 7. G.S. 90-171.44 reads as rewritten:

"§ 90-171.44. Prohibited acts.

It shall be a violation of this Article for any person to:

- (1) Sell, fraudulently obtain, or fraudulently furnish any nursing diploma or aid or abet therein;
- (2) Practice nursing under cover of any fraudulently obtained license;
- (3) Practice nursing without a license;
- (4) Conduct a nursing program or a refresher course for activation of a license, that is not approved by the Board; or
- (5) Employ unlicensed persons to practice nursing in violation of this Article."

Sec. 8. G.S. 90-171.47 reads as rewritten:

"§ 90-171.47. Reports: immunity from suit.

Any person who has reasonable cause to suspect misconduct or incapacity of a licensee or who has reasonable cause to suspect that any person is in violation of this Article, including those actions specified in G.S. 90-171.37 (1) through (7), ~~should~~ shall report the relevant facts to the Board. Upon receipt of such charge or upon its own initiative, the Board may give notice of an administrative hearing or may, after diligent investigation, dismiss unfounded charges. Any person making a report pursuant to this section shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false."

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives