

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

**SESSION LAW 2003-146  
SENATE BILL 522**

AN ACT TO CHANGE THE METHOD BY WHICH CERTAIN MEMBERS ON THE NORTH CAROLINA BOARD OF NURSING ARE ELECTED OR APPOINTED, TO MAKE TECHNICAL CHANGES TO THE NURSING PRACTICE ACT, AND TO REQUIRE THAT HEALTH CARE FACILITIES VERIFY THE LICENSURE STATUS OF APPLICANTS SEEKING EMPLOYMENT AS NURSES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 90-171.21 reads as rewritten:

**"§ 90-171.21. Board of Nursing; composition; selection; vacancies; qualifications; term of office; compensation.**

(a) The Board shall consist of ~~15~~ 14 members. ~~Nine~~ Eight members shall be registered nurses. ~~Four~~ Three members shall be licensed practical nurses. ~~Two~~ Three members shall be representatives of the public.

(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~~ the person's nomination and request permission to enter ~~his~~ the person's name on the ballot. A member of the Board who is nominated ~~to succeed himself for reelection~~ and who does not withdraw ~~his~~ the member's 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 or the General Assembly by any citizen or group within the State. The Governor shall appoint ~~the two public members~~ one public member to the ~~Board~~ Board, and the General Assembly shall appoint two public members to the Board. Of the public members appointed by the General Assembly, one shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

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

(c) Vacancies. – All unexpired terms of Board members appointed by the General Assembly shall be filled within 45 days after the term is vacated. The Governor shall fill all other unexpired terms on the Board within 30 days after the term is vacated. For vacancies of registered nurse or licensed practical nurse members, the Governor

shall appoint the person who received the next highest number of votes to those elected members at the most recent election for board members. ~~The Governor shall select the public member to fill any vacancy of a public member.~~ Appointees shall serve the remainder of the unexpired term and until their successors have been duly elected or appointed and qualified.

(d) ~~Qualifications. – Three of the registered nurse members shall hold positions with primary responsibility in nursing education and shall hold baccalaureate or advanced degrees. Six shall hold positions with primary responsibility in providing nursing care to patients. Of the six registered nurse members with primary responsibility in providing nursing care to patients, two shall be employed by a hospital and at least one shall be a hospital nursing service director; one shall be employed by a physician licensed to practice medicine in North Carolina and engaged in the private practice of medicine; one shall be employed by a skilled or intermediate care facility; one shall be either a nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist; and one shall be a community health nurse. If no nurse is nominated in one of the categories, the position shall be an at-large registered nursing position. Of the eight registered nurse members on the Board, one shall be a nurse administrator employed by a hospital or a hospital system, who shall be accountable for the administration of nursing services and not directly involved in patient care; one shall be an individual who meets the requirements to practice as a certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse specialist, or a nurse practitioner; two shall be staff nurses, defined as individuals who are primarily involved in direct patient care regardless of practice setting; one shall be an at-large registered nurse who meets the requirements of sub-subdivisions (1)a., a1., and b. of this subsection, but is not currently an educator in a program leading to licensure or any other degree-granting program; and three shall be nurse educators. Of the three nurse educators, one shall be a practical nurse educator, one shall be an associate degree or diploma nurse educator, and one shall be a baccalaureate or higher degree nurse educator. All nurse educators shall meet the minimum education requirement as established by the Board's education program standards for nurse faculty. Candidates eligible for election to the Board as nurse educators are not eligible for election as the at-large member.~~

- (1) ~~All~~ Except for the at-large member, every registered nurse ~~members~~ member shall meet the following criteria:
  - a. ~~Hold a current~~ current, unencumbered license to practice as a registered nurse in North Carolina.
  - a1. Be a resident of North Carolina.
  - b. ~~Have at least a minimum of five years' years of experience in nursing practice, nursing administration, and/or nursing education as a registered nurse.~~
  - c. ~~Have been engaged continuously in nursing practice, nursing administration, or nursing education~~ a position that meets the criteria for the specified Board position for at least three years immediately preceding election.
  - d. Show evidence that the employer of the registered nurse is aware that the nurse intends to serve on the Board.
- (2) ~~Licensed~~ Every licensed practical nurse ~~members~~ member shall meet the following criteria:
  - a. ~~Hold a current~~ current, unencumbered license to practice as a licensed practical nurse in North Carolina.
  - a1. Be a resident of North Carolina.
  - b. ~~Be a graduate of a board approved program for the preparation of practical nurses.~~
  - c. ~~Have at least a minimum of five years' years of experience as a licensed practical nurse.~~

- d. Have been engaged continuously in the position of a licensed practical nursing nurse for at least three years immediately preceding election.
  - e. Show evidence that the employer of the licensed practical nurse is aware that the nurse intends to serve on the Board.
- (3) ~~A public member shall not be a health care provider nor the spouse of a health care provider. Public members shall reasonably represent the population of the State of health services, employed in the health services field, or hold a vested interest at any level in the provision of health services as defined by the North Carolina Board of Ethics. No public member or person in the public member's immediate family as defined by G.S. 90-405(8) shall be currently employed as a licensed nurse or been previously employed as a licensed nurse.~~
- (4) The nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist member shall be recognized by the Board as a registered nurse who meets the following criteria:
- a. Has graduated from or completed a graduate level advanced practice nursing education program accredited by a national accrediting body.
  - b. Maintains current certification or recertification from a national credentialing body approved by the Board or meets other requirements established by rules adopted by the Board.
  - c. Practices in a manner consistent with rules adopted by the Board and other applicable law.

(e) Term. – ~~The term of office for board members shall be three years. Members of the Board shall serve four-year staggered terms. No member shall serve more than two consecutive three year terms after July 1, 1981. four-year terms or eight consecutive years after January 1, 2005.~~

(f) Removal. – The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from Board business until the charges are resolved.

(g) Reimbursement. – Board members are entitled to receive compensation and reimbursement as authorized by G.S. 93B-5."

**SECTION 2.** G.S. 90-171.22 reads as rewritten:

**"§ 90-171.22. Officers.**

The officers of the Board shall be a ~~chairman, chair, who shall be a registered nurse,~~ a ~~vice chairman, vice-chair,~~ and ~~such any~~ other officers as the Board ~~may deem~~ considers necessary. All officers shall be elected annually by the Board for terms of one year and shall serve until their successors have been elected and qualified."

**SECTION 3.** G.S. 90-171.23(b) reads as rewritten:

"(b) Duties, powers. The Board is empowered to:

- ...  
(8) ~~Prescribe~~ Establish standards to be met by the students, and to pertain to faculty, curricula, facilities, resources, and administration for any nursing program as provided in G.S. 90-171.38.
- (9) ~~Survey~~ Review all nursing programs at least every ~~five~~ eight years or more often as ~~deemed~~ considered necessary by the Board or program director.

...  
**SECTION 4.** G.S. 90-171.38(a) reads as rewritten:

"(a) A nursing program may be operated under the authority of a general hospital, or an approved post-secondary educational institution. 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. Any institution desiring to establish a nursing program

shall apply to the Board and submit satisfactory evidence that it will meet the standards ~~prescribed established~~ by the Board. Those standards shall be designed to ensure that graduates of those programs have the 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.~~"

**SECTION 5.** G.S. 90-171.40 reads as rewritten:

**"§ 90-171.40. Periodic surveys. Ongoing approval.**

The Board shall ~~designate persons to survey~~ review all nursing programs in the State at least every ~~five-eight~~ years or more often as ~~deemed~~ considered necessary. ~~Written reports of such surveys shall be submitted to the Board.~~ If the Board determines that any approved nursing program does not meet or maintain the standards required by the Board, ~~the Board shall give written notice thereof in writing~~ specifying the deficiencies shall be given immediately to the institution responsible for the program. The Board shall withdraw approval from a program ~~which that~~ fails to correct deficiencies within a reasonable time. The Board shall publish annually a list of nursing programs in this State showing their approval status."

**SECTION 6.** Article 9A of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-171.43A. Mandatory employer verification of licensure status.**

(a) Before hiring a registered nurse or a licensed practical nurse in North Carolina, a health care facility shall verify that the applicant has a current, valid license to practice nursing pursuant to G.S. 90-171.43.

(b) For purposes of this section, 'health care facility' means:

- (1) Facilities described in G.S. 131E-256(b).
- (2) Public health departments, physicians' offices, ambulatory care facilities, and rural health clinics."

**SECTION 7.** The terms of members serving on the Board of Nursing on December 31, 2004, expire on that date. To establish staggered terms for the appointments of public members made pursuant to G.S. 90-171.21(b), as enacted in Section 1 of this act, the Governor shall appoint one member for a four-year term, the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint one member for a three-year term, and the General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint one member for a two-year term.

To stagger terms for members elected to the Board, the Board shall conduct an election in 2004 pursuant to G.S. 90-171.21(b) to elect members as follows:

- (1) An at-large registered nurse and a licensed practical nurse, to serve for a one-year term.
- (2) A staff registered nurse, a registered nurse who is an associate degree or diploma nurse educator, and a licensed practical nurse, each to serve for a two-year term.
- (3) A registered nurse who is a baccalaureate or higher degree nurse educator, a registered nurse administrator employed by a hospital or a hospital system, and a licensed practical nurse, each to serve for a three-year term.
- (4) A staff registered nurse, a registered nurse who is a practical nurse educator, and either a certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse specialist, or a nurse practitioner, each to serve for a four-year term.

All members appointed and elected to the Board pursuant to this section shall begin serving their terms on January 1, 2005. After staggered terms have been established, all subsequent appointments and elections to the Board shall be for four-year terms. For the purpose of initial application of the provisions of G.S. 90-171.21(e) that limit members to eight consecutive years of service, consecutive service as of December 31, 2004, shall count, and if the member reaches the eight-year maximum during a term of office,

that person is not eligible to continue in office and a vacancy is created to be filled for the remainder of the unexpired term.

**SECTION 8.** This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of May, 2003.

s/ Beverly E. Perdue  
President of the Senate

s/ Richard T. Morgan  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 11:36 p.m. this 4<sup>th</sup> day of June, 2003