

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 329
Human Resources Committee Substitute Adopted 5/13/91

Short Title: Nursing Act/Technical Amend.

(Public)

Sponsors:

Referred to:

March 28, 1991

A BILL TO BE ENTITLED

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.

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

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

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

7 **"§ 90-171.30. Licensure by examination.**

8 At least twice each year the Board shall give an examination at the time and place it
9 determines, to applicants for licensure to practice as a registered nurse or licensed
10 practical nurse. The Board shall give advance notice to applicants and to persons
11 conducting approved nursing programs of the time and place of each examination. The
12 Board shall adopt regulations, not inconsistent with this Article, governing
13 qualifications of applicants, the conduct of applicants during the examination, and the
14 conduct of the examination. The applicants shall be required to pass ~~a written~~ an
15 examination approved and administered by the Board. When the Board determines that
16 an applicant has passed the required examination, submitted the required fee, and has
17 demonstrated to the Board's satisfaction that he or she is mentally and physically
18 competent to practice nursing, the Board shall issue a license to the applicant."

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

20 **"§ 90-171.33. Temporary license.**

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

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

36 **"§ 90-171.37. Revocation, suspension, or denial of licensure.**

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

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

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

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

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

26 "**§ 90-171.38. Standards for nursing programs.**

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

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

43 "(b) If the program offers to teach nurses to perform advance skills, the Board
 44 may grant approval for the program and the performance of the advanced skills by those

1 successfully completing the program when it finds that the nature of the procedures
2 taught in the program and the program facilities and faculty are such that a nurse
3 successfully completing the program can reasonably be expected to carry out those
4 procedures safely and ~~properly-competently.~~"

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

6 **"§ 90-171.44. Prohibited acts.**

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

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

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

17 **"§ 90-171.47. Reports: immunity from suit.**

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

27 Sec. 9. This act is effective upon ratification.