

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

1

HOUSE BILL 1222

Short Title: Regulate Nurse Practitioners/Nurse Midwives. (Public)

Sponsors: Representatives Nesbitt, Insko, Wright; Morris and Wainwright.

Referred to: Health.

April 12, 2001

A BILL TO BE ENTITLED

1
2 AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO
3 REGULATE THE PRACTICE OF NURSING BY NURSE PRACTITIONERS
4 AND NURSE MIDWIVES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 90-171.20 reads as rewritten:

7 **"§ 90-171.20. Definitions.**

8 As used in this Article, unless the context requires otherwise:

9 (1) "Approval" means authorization by the Board to practice nursing as a
10 nurse practitioner or as a nurse midwife, including renewal of
11 approval.

12 ~~(1)~~(1a) "Board" means the North Carolina Board of Nursing.

13 (2) "Health care provider" means any licensed health care professional and
14 any agent or employee of any health care institution, health care
15 insurer, health care professional school, or a member of any allied
16 health profession. For purposes of this Article, a person enrolled in a
17 program to prepare him to be a licensed health care professional or an
18 allied health professional shall be deemed a health care provider.

19 (3) "License" means a permit issued by the Board to practice nursing as a
20 registered nurse or as a licensed practical nurse, including a renewal
21 thereof.

22 (4) "Nursing" is a dynamic discipline which includes the caring,
23 counseling, teaching, diagnosing, prescribing preventive, therapeutic,
24 or corrective measures, referring and implementing of prescribed
25 treatment in the prevention and management of illness, injury,
26 disability or the achievement of a dignified death. It is ministering to;
27 assisting; and sustained, vigilant, and continuous care of those acutely
28 or chronically ill; supervising patients during convalescence and

1 rehabilitation; the supportive and restorative care given to maintain
2 the optimum health level of individuals and communities; the
3 supervision, teaching, and evaluation of those who perform or are
4 preparing to perform these functions; and the administration of nursing
5 programs and nursing services.

6 (5) "Nursing program" means any educational program in North Carolina
7 offering to prepare persons to meet the educational requirements for
8 licensure under this Article.

9 (6) "Person" means an individual, corporation, partnership, association,
10 unit of government, or other legal entity.

11 (7) The "practice of nursing by a registered nurse" consists of the
12 following nine components:

13 a. Assessing the patient's physical and mental health, including the
14 patient's reaction to illnesses and treatment regimens;

15 b. Recording and reporting the results of the nursing assessment;

16 c. Planning, initiating, delivering, and evaluating appropriate
17 nursing acts;

18 d. Teaching, delegating to or supervising other personnel in
19 implementing the treatment regimen;

20 e. Collaborating with other health care providers in determining
21 the appropriate health care for a patient but, subject to the
22 provisions of G.S. 90-18.2, not prescribing a medical treatment
23 regimen or making a medical diagnosis, except under
24 supervision of a licensed physician;

25 f. Implementing the treatment and pharmaceutical regimen
26 prescribed by any person authorized by State law to prescribe
27 such a regimen;

28 g. Providing teaching and counseling about the patient's health
29 care;

30 h. Reporting and recording the plan for care, nursing care given,
31 and the patient's response to that care; and

32 i. Supervising, teaching, and evaluating those who perform or are
33 preparing to perform nursing functions and administering
34 nursing programs and nursing services.

35 (8) The "practice of nursing by a licensed practical nurse" consists of the
36 following five components:

37 a. Participating in assessing the patient's physical and mental
38 health including the patient's reaction to illnesses and treatment
39 regimens;

40 b. Recording and reporting the results of the nursing assessment;

41 c. Participating in implementing the health care plan developed by
42 the registered nurse and/or prescribed by any person authorized
43 by State law to prescribe such a plan, by performing tasks
44 delegated by and performed under the supervision or under

orders or directions of a registered nurse, physician licensed to practice medicine, dentist, or other person authorized by State law to provide such supervision;

d. Reinforcing the teaching and counseling of a registered nurse, physician licensed to practice medicine in North Carolina, or dentist; and

e. Reporting and recording the nursing care rendered and the patient's response to that care.

(9) The 'practice of a nurse practitioner or nurse midwife' consists of acts of prevention, diagnosis, and health management that may include prescribing, administering, or dispensing therapeutic, pharmacologic, or corrective measures as authorized by this Article or in rules adopted by the Board."

SECTION 2. G.S. 90-171.23(b)(13) reads as rewritten:

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

...
 (13) ~~Appoint, as necessary, Appoint~~ advisory committees ~~which may include~~including persons other than Board members to deal with advanced practice issues and, as necessary, to deal with any other issues under study;

...."

SECTION 3. G.S. 90-171.23(b)(14) reads as rewritten:

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

...
 (14) ~~Appoint and maintain a subcommittee of the Board to work jointly with the subcommittee of the North Carolina Medical Board to develop rules and regulations to govern the performance of medical acts by registered nurses and to determine reasonable fees to accompany an application for approval or renewal of such approval as provided in G.S. 90-6. The fees and rules developed by this subcommittee shall govern the performance of medical acts by registered nurses and shall become effective when they have been adopted by both Boards;~~Approve and renew approval to practice and grant temporary approval to practice to duly qualified applicants as nurse practitioners or nurse midwives;

...."

SECTION 4. G.S. 90-171.23(b) is amended by adding a new subdivision to

read:

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

...
 (14a) Authorize duly qualified nurse practitioners and nurse midwives to prescribe, order, dispense, and procure legend drugs, controlled substances, and therapeutic devices in accordance with applicable laws and rules;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

...."

SECTION 5. G.S. 90-171.27(b) reads as rewritten:

"(b) The schedule of fees shall not exceed the following rates:

Application for examination leading to certificate and license as registered nurse	\$75.00
Application for certificate and license as registered nurse by endorsement	150.00
Application for each re-examination leading to certificate and license as registered nurse	75.00
Renewal of license to practice as registered nurse (two-year period).....	100.00
Reinstatement of lapsed license to practice as a registered nurse and renewal fee	180.00
Application for examination leading to certificate and license as licensed practical nurse by examination.....	75.00
Application for certificate and license as licensed practical nurse by endorsement.....	150.00
Application for each re-examination leading to certificate and license as licensed practical nurse	75.00
Renewal of license to practice as a licensed practical nurse (two-year period)	100.00
Reinstatement of lapsed license to practice as a licensed practical nurse and renewal fee	180.00
<u>Application for approval to practice as a nurse practitioner or nurse midwife.....</u>	<u>200.00</u>
<u>Renewal of approval to practice as a nurse practitioner or nurse midwife (one-year period).....</u>	<u>150.00</u>

Reasonable charge for duplication services and materials.

A fee for an item listed in this schedule shall not increase from one year to the next by more than twenty percent (20%)."

SECTION 6. G.S. 90-171.28 reads as rewritten:

"§ 90-171.28. Nurses registered under previous law.

~~On June 30, 1981, any~~Any nurse who holds a license to practice nursing as a registered nurse or licensed practical nurse, issued by a competent authority pursuant to laws providing for the licensure of nurses in North Carolina, shall be deemed to be licensed under the provisions of this Article, but such person shall otherwise comply with the provisions of this Article including those provisions governing licensure renewal. Any nurse practitioner approved to practice under G.S. 90-6 and G.S. 90-171.23 or any certified nurse midwife approved to practice under G.S. 90-178.5 shall be deemed to be approved to practice as an advanced practice registered nurse and shall otherwise comply with the provisions of this Article."

SECTION 7. G.S. 90-171.32 reads as rewritten:

1 **"§ 90-171.32. Qualifications for license as a registered nurse or a licensed practical**
2 **nurse or approval to practice as a nurse practitioner or nurse midwife**
3 **without examination.**

4 The Board may, without examination, issue a license to an applicant who is duly
5 licensed as a registered nurse or licensed practical nurse or approve a registered nurse as
6 a nurse practitioner or nurse midwife who is duly approved to practice as a nurse
7 practitioner or nurse midwife under the laws of another state, territory of the United
8 States, the District of Columbia, or foreign country when that jurisdiction's requirements
9 for licensure as a registered nurse or a licensed practical ~~nurse,~~nurse or approval as a
10 nurse practitioner or nurse midwife, as the case may be, are substantially equivalent to
11 or exceed those of the State of North Carolina at the time the applicant was initially
12 ~~licensed,~~licensed or approved to practice, and when, in the Board's opinion, the
13 applicant is competent to practice nursing in this State. The Board may require such
14 applicant to prove competence and qualifications to practice as a registered ~~nurse~~
15 ~~or nurse,~~ licensed practical ~~nurse—~~nurse, nurse practitioner, or nurse midwife in North
16 Carolina."

17 **SECTION 8.** G.S. 90-171.36 is amended by adding a new subsection to
18 read:

19 "(c) The Board may grant inactive status to a registered nurse approved to practice
20 as a nurse practitioner or nurse midwife while the nurse practitioner or nurse midwife
21 maintains active licensure as a registered nurse. When the registered nurse desires to
22 return to active status pursuant to this Article, the registered nurse shall meet all of the
23 requirements in effect at the time of his or her initial approval, provide documented
24 evidence to the Board that the licensee has received continuing education relevant to the
25 practice of nursing during the two years immediately preceding the request to return to
26 active status, and meet any other requirements that nurse practitioners or nurse
27 midwives are required to meet regardless of initial approval requirements described
28 under this Article or in rules adopted by the Board."

29 **SECTION 9.** G.S. 90-171.37 reads as rewritten:

30 **"§ 90-171.37. Revocation, suspension, or denial of ~~licensure.~~licensure or approval.**

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

- 38 (1) Has given false information or has withheld material information from
39 the Board in procuring or attempting to procure a license to practice
40 ~~nursing;~~nursing or approval to practice as a nurse practitioner or nurse
41 midwife;
- 42 (2) Has been convicted of or pleaded guilty or nolo contendere to any
43 crime which indicates that the nurse is unfit or incompetent to practice
44 nursing or that the nurse has deceived or defrauded the public;

- 1 (3) Has a mental or physical disability or uses any drug to a degree that
- 2 interferes with his or her fitness to practice nursing;
- 3 (4) Engages in conduct that endangers the public health;
- 4 (5) Is unfit or incompetent to practice nursing by reason of deliberate or
- 5 negligent acts or omissions regardless of whether actual injury to the
- 6 patient is established;
- 7 (6) Engages in conduct that deceives, defrauds, or harms the public in the
- 8 course of professional activities or services;
- 9 (7) Has violated any provision of this Article; or
- 10 (8) Has willfully violated any rules enacted by the Board.

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

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

20 **SECTION 10.** G.S. 90-171.43 reads as rewritten:

21 "**§ 90-171.43. License or approval required.**

22 No person shall practice or offer to practice as a registered ~~nurse or nurse~~, licensed
 23 practical nurse, ~~or nurse practitioner, or nurse midwife~~, use the word "nurse" as a title for
 24 herself or himself, or use an abbreviation to indicate that the person is a registered ~~nurse~~
 25 ~~or nurse~~, licensed practical nurse, nurse practitioner, or nurse midwife unless the person
 26 is currently licensed as a registered nurse or licensed practical nurse or approved to
 27 practice as a nurse practitioner or nurse midwife as provided by this Article. If the word
 28 "nurse" is part of a longer title, such as "nurse's aide", a person who is entitled to use
 29 that title shall use the entire title and may not abbreviate the title to "nurse". This Article
 30 shall not, however, be construed to prohibit or limit the following:

- 31 (1) The performance by any person of any act for which that person holds
- 32 a license issued pursuant to North Carolina ~~law~~; law.
- 33 (2) The clinical practice by students enrolled in approved nursing
- 34 programs, continuing education programs, or refresher courses under
- 35 the supervision of qualified ~~faculty~~; faculty.
- 36 (3) The performance of nursing performed by persons who hold a
- 37 temporary license issued pursuant to G.S. ~~90-171.33~~; 90-171.33 or
- 38 temporary approval pursuant to G.S. 90-171.23(14).
- 39 (4) The delegation to any person, including a member of the patient's
- 40 family, by a physician licensed to practice medicine in North Carolina,
- 41 a licensed dentist or registered nurse of those patient-care services
- 42 which are routine, repetitive, limited in scope that do not require the
- 43 professional judgment of a registered ~~nurse or nurse~~, licensed practical
- 44 ~~nurse~~; nurse, nurse practitioner, or nurse midwife.

1 (5) Assistance by any person in the case of emergency.

2 Any person permitted to practice nursing without a license or approval as provided
3 in subdivision (2) or (3) of this section shall be held to the same standard of care as any
4 ~~licensed nurse-nurse~~ licensed or approved to practice pursuant to this Article or rules
5 adopted by the Board."

6 **SECTION 11.** G.S. 90-171.47 reads as rewritten:

7 "**§ 90-171.47. Reports: immunity from suit.**

8 Any person who has reasonable cause to suspect misconduct or incapacity of a
9 licensee or person approved to practice as a nurse practitioner or nurse midwife or who
10 has reasonable cause to suspect that any person is in violation of this Article, including
11 those actions specified in G.S. 90-171.37(1) through (8), G.S. 90-171.43, and G.S.
12 90-171.44, shall report the relevant facts to the Board. Upon receipt of such charge or
13 upon its own initiative, the Board may give notice of an administrative hearing or may,
14 after diligent investigation, dismiss unfounded charges. Any person making a report
15 pursuant to this section shall be immune from any criminal prosecution or civil liability
16 resulting therefrom unless such person knew the report was false or acted in reckless
17 disregard of whether the report was false."

18 **SECTION 12.** This act is effective when it becomes law.