

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1957



ENROLLED

HOUSE BILL No. 59

(By Mr. Brotherton)



PASSED Feb 26, 1957

In Effect 90 days from Passage



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House Bill No. 59

(By MR. BROTHERTON)

[Passed February 26, 1957; in effect ninety days from passage.]

AN ACT to amend chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be numbered article seven-a, relating to the licensure of practical nurses in the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

That chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be numbered article seven-a, to read as follows:

Section 1. *Definition.*—(a) The term “practical nurse”,
2 as used in this article, shall mean a person prepared by an
3 approved educational program to share in the care of the
4 sick, in rehabilitation and in prevention of illness, always
5 under the supervision of a licensed physician.

6 (b) The term "board" as used in this article shall mean
7 the board of examiners for practical nurses as set forth
8 in section five of this article.

Sec. 2. *Who May Practice.*—After the thirtieth day of
2 June, one thousand nine hundred fifty-eight, it shall be
3 unlawful for any person practicing or offering to practice
4 as a licensed practical nurse to use any title, figure, sign,
5 card or device to indicate such person is a licensed practi-
6 cal nurse unless such person has been duly qualified and
7 licensed under the provisions of this article.

Sec. 3. *Qualifications of Applicants for License.*—Except
2 as otherwise provided in section six of this article, any
3 person desiring to obtain a license to practice as a licensed
4 practical nurse shall submit to the board satisfactory evi-
5 dence that he or she; (a) is of a good moral character;
6 (b) has completed at least the ninth grade of school or
7 its equivalent; (c) has completed a course of study in an
8 accredited school for practical nurses as defined by the
9 board and holds a diploma therefrom; and (d) has com-
10 pleted such other general educational requirements as
11 may be prescribed by the board.

Sec. 4. *Application for License or Registration Examination Fee.*—The provisions of section six article one, chapter thirty of the code shall apply to this article, except that an applicant for license as a practical nurse shall pay a fee of fifteen dollars.

Sec. 5. *Board of Examiners; Powers; Duties.*—The governor shall appoint, by and with the advice and consent of the senate, seven citizens of the state of West Virginia who shall constitute the “West Virginia State Board of Examiners for Practical Nurses” and they shall be charged with the duty of administering the provisions of this article. Of the seven members so appointed two shall be licensed practical nurses, except that in the initial appointment, the two practical nurses shall be persons eligible for licensure under the provisions of this article; two shall be registered professional nurses duly licensed in this state; two shall be doctors of medicine licensed in this state; and one shall be a hospital administrator actively engaged as such in this state. Such appointments shall be for terms of five years each, except that in the initial appointments, one person eligible for licensure as a

17 licensed practical nurse hereunder and one registered pro-
18 fessional nurse shall be appointed for terms of five years
19 each, one person eligible for licensure as a licensed practi-
20 cal nurse hereunder and one registered professional nurse
21 shall be appointed for terms of four years each, one doctor
22 of medicine shall be appointed for a term of three years,
23 one hospital administrator shall be appointed for a term
24 of two years, and one licensed doctor of medicine shall be
25 appointed for a term of one year. The practical nurses so
26 to be appointed, initially and subsequently, shall be select-
27 ed by the governor from a list to be submitted to him by
28 the practical nurses' association of West Virginia, inc.; the
29 registered professional nurses so to be appointed, initially
30 and subsequently, shall be selected by the governor from
31 a list to be submitted to him by the West Virginia state
32 nurses' association, inc.; the doctor of medicine so to be
33 appointed, initially and subsequently, shall be selected by
34 the governor from a list to be submitted to him by the
35 West Virginia state medical association; and the hospital
36 administrator so to be appointed, initially and subsequent-
37 ly, shall be selected by the governor from a list submitted

38 to him by the West Virginia hospital association: *Provided*,
39 *however*, That each of such lists shall contain the names of
40 at least three persons for each person so to be appointed.
41 Any member of the board may be eligible for reappoint-
42 ment, but no member shall serve longer than two suc-
43 cessive terms. The board is hereby authorized to appoint
44 and employ a qualified person to perform the duties of
45 executive secretary and to act as educational advisor to
46 the board. Such secretary shall act under the direction
47 of the board. The board shall furnish the secretary a head-
48 quarters and shall provide such office equipment and cleri-
49 cal assistance as the duties of the office may require. The
50 board shall have power to appoint such nurses, deputies,
51 clerks, assistants, inspectors and employees as shall be
52 necessary for the proper exercise of the powers and duties
53 of the board. The compensation and expenses of the mem-
54 bers of the board and its appointees and employees shall
55 be paid out of such funds as are allocated to the board in
56 its annual budget. The secretary shall keep the records
57 of proceedings of the board, and shall keep a registry of
58 the names and addresses of all practical nurses registered

59 under this article, which registry shall be a public record.
60 Said board shall hold not less than two regular meetings
61 each year and such additional meetings at such times and
62 places as the board may determine. The board is author-
63 ized to adopt and, from time to time, to revise such rules
64 and regulations not inconsistent with this article, as may
65 be necessary to enable it to carry into effect the provisions
66 hereof. The board shall prescribe curricula and standards
67 for schools and courses preparing persons for licensure
68 under this article. It shall provide for surveys of such
69 schools and courses at such times as it may deem necessary.
70 It shall accredit such schools and courses as meet the re-
71 quirements of this article and of the board. It may evalu-
72 ate and approve courses for affiliation. It shall examine,
73 license and renew the license of duly qualified applicants.

Sec. 6. *Examination and Licensure of Practical Nurses;*

2 *Present Practitioners.*—The applicant, except as herein-
3 after provided, shall be required to pass a written exami-
4 nation in such subjects as the board shall determine. Each
5 written examination may be supplemented by such oral
6 or practical examination as the board may deem necessary.

7 The board shall determine the times and places for the
8 examination and notices thereof shall be published in two
9 newspapers of general circulation in the state. Notices of
10 examination shall be sent by mail to each person known
11 by the secretary to be an applicant for an examination or
12 registration at least thirty days previous to any such meet-
13 ing. Upon the applicant's successful completion of such
14 examination and satisfaction of the other requirements of
15 this article, the board shall issue to the applicant a license
16 to practice as a licensed practical nurse. The board shall
17 issue such license by endorsement to any applicant who
18 has been duly licensed or registered as such, or to a person
19 entitled to perform similar services under a different title,
20 in another state, territory or foreign country if, in the
21 opinion of the board, the applicant meets the other re-
22 quirements for licensed practical nurses in this state. On
23 or before the thirtieth day of June, one thousand nine
24 hundred fifty-nine, any practical nurse who has been
25 engaged in practical nursing in this state for a period of
26 three years, as verified by two doctors of medicine licensed
27 in this state having personal knowledge of the applicant's

28 qualifications, shall be issued a license by waiver by said
29 board.

30 Any person obtaining a license by waiver who has
31 completed extension courses equal in theory to those for
32 the graduate practical nurses, as determined by the board,
33 may at any time thereafter take the examination pre-
34 scribed by the board and obtain a license without the
35 designation of "waiver" thereon.

Sec. 7. *Renewal or Reinstatement of License.*—The
2 license of every person licensed under the provisions of
3 this article shall expire on the thirtieth day of June, next
4 following the date of license. In order for such license
5 to be renewed, the licensee shall comply with such rules
6 and regulations of the board as are applicable to renewals.
7 The renewal fee for all licenses shall be five dollars. Upon
8 receipt of the renewal fee the board shall issue to the
9 licensee a certificate of renewal for the current year, be-
10 ginning July first and expiring June thirtieth of the fol-
11 lowing year. Such certificate shall render the holder
12 thereof a legal practitioner for the period stated on the
13 certificate of renewal. Any licensee who allows his or her

14 license to lapse by failing to renew the license as pro-
15 vided above may be reinstated by the board on satisfac-
16 tory explanation for such failure to renew his or her
17 license and on payment of a reinstatement fee of five
18 dollars, in addition to the renewal fee of five dollars here-
19 inbefore set out. Any person practicing as a licensed prac-
20 tical nurse during the time his or her license has lapsed
21 shall be considered an illegal practitioner and shall be
22 subject to the penalties provided for violation of this ar-
23 ticle. A person licensed under the provisions of this article
24 desiring to retire from practice temporarily shall give
25 written notice of such desire to the board. Upon receipt
26 of such notice the board shall place the name of such
27 person upon the non-practicing list. While remaining on
28 this list the person shall not be subject to the payment of
29 any renewal fees and shall not practice as a licensed prac-
30 tical nurse in the state. When such person desires to re-
31 sume practice, application for renewal of license and pay-
32 ment of the renewal fee for the current year shall be made
33 to the board.

Sec. 8. *Use of Title "Licensed Practical Nurse".*—Any

2 person who holds a license to practice nursing as a
3 licensed practical nurse under the provisions of this ar-
4 ticle may use the title licensed practical nurse and the
5 abbreviation L. P. N. No other person shall assume such
6 title or use such abbreviation or any other words, letters,
7 figures, signs, or devices to indicate that the person using
8 the same is a licensed practical nurse.

Sec. 9. *Schools of Practical Nursing.*—The board shall
2 prescribe curricula and standards for schools and courses
3 preparing persons for licensure under this article; it shall
4 provide for surveys of such schools and courses at such
5 times as it may deem necessary. It shall accredit such
6 schools and courses as meet the requirements of this ar-
7 ticle and of the board. An institution desiring to conduct
8 a school of practical nursing to be accredited by the board
9 as such shall file an application therefor with the board,
10 together with the information required and a fee of ten
11 dollars. It shall submit satisfactory evidence that: (1) It
12 is prepared to give the course of instruction and practical
13 experience in practical nursing as prescribed in the cur-
14 ricula adopted by the board; and (2) It is prepared to

15 meet other standards established by this law and by the
16 board.

17 A survey of the institution or institutions, with which
18 the school is to be, or is, affiliated, shall be made by the
19 executive secretary of the board. The executive secretary
20 shall submit a written report of the survey to the board.
21 If, in the opinion of the board, the requirements for an
22 accredited school of practical nursing are met, it shall
23 approve the school as an accredited school of practical
24 nursing. From time to time as deemed necessary by the
25 board, it shall be the duty of the board, through its execu-
26 tive secretary, to survey all schools of practical nursing
27 in the state. Written reports of such surveys shall be
28 submitted to the board. If the board determines that any
29 accredited school of practical nursing is not maintaining
30 the standards required by the statutes and by the board,
31 notice thereof in writing specifying the defect or defects
32 shall be immediately given to the school. A school which
33 fails to correct these conditions to the satisfaction of the
34 board within a reasonable time shall be removed from the
35 list of accredited schools of practical nursing. Nothing

36 contained in this article shall infringe upon the rights or
37 power of the state board of education, or county boards
38 of education to establish and conduct a program of prac-
39 tical nurse education or other health occupation.

Sec. 10. *Construction of Article.*—The provisions of
2 this article shall not be construed as prohibiting:

3 (1) The care of a sick, disabled, injured, crippled or
4 infirm person by a member or members of such person's
5 family, or by close relatives, or by domestic servants,
6 housekeepers or household aides thereof, whether em-
7 ployed regularly or because of emergency circumstances
8 due to illness or other disabilities.

9 (2) The work and services of auxiliary **hospital per-**
10 **sonnel**, such as nursing aides, maids, orderlies, techni-
11 cians, volunteer workers and other like hospital em-
12 ployees.

13 (3) The domestic administration of family remedies.

14 (4) Practical nursing by students enrolled in accred-
15 ited schools for practical nursing incidental to their course
16 of study.

17 (5) Practice of nursing in this state by any legally

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18 qualified practical nurse of another state or county whose
19 engagement requires such practical nurse to accompany
20 and care for a patient temporarily residing in this state
21 during the period of such engagement.

22 (6) Practical nursing by any person eligible for licen-
23 sure under provisions of this article, whose application for
24 admission to a licensing examination has been approved
25 by the board and who enters the first licensing examina-
26 tion scheduled by the board after filing such application
27 or has been granted leave by the board in writing to enter
28 upon a subsequently scheduled examination.

29 But no person, not licensed and authorized to engage
30 in practical nursing in this state, as provided in this arti-
31 cle, shall represent himself or herself to be or shall accept
32 employment as a licensed practical nurse in this state.

Sec. 11. *Disciplinary Proceeding; Grounds for Disci-*
2 *pline.*—The board shall have the right to refuse to admit
3 an applicant for the licensure examination for the here-
4 inafter stated reasons, and also the board shall have the
5 power to revoke or suspend any license to practice as a
6 licensed practical nurse issued by the board in accordance

7 with the provisions of this article, or to otherwise disci-
8 pline a licensee upon satisfactory proof that the person:
9 (1) Is guilty of fraud or deceit in procuring or attempting
10 to procure a license to practice nursing; or (2) Is con-
11 victed of a felony; or (3) Is habitually intemperate or
12 is addicted to the use of habit-forming drugs; or (4) Is
13 unfit or incompetent by reason of negligence or habits;
14 or (5) Is mentally incompetent; or (6) Is guilty of con-
15 duct derogatory to the moral or standing of the occupa-
16 tion of practical nursing; or (7) Who practices or attempts
17 to practice without a license or who wilfully or repeatedly
18 violates any of the provisions of this article.

Sec. 12. *Penalties.*—It shall be a misdemeanor for any
2 person, firm, corporation or association of persons to: (1)
3 Sell or fraudulently obtain or furnish any nursing diploma,
4 license or record or aid or abet therein; or (2) Practice
5 as a licensed practical nurse under cover of any diploma,
6 license or record illegally or fraudulently obtained or
7 signed or issued unlawfully or under fraudulent repre-
8 sentation; or (3) Practice as a licensed practical nurse
9 unless duly licensed to do so under the provisions of this

10 article; or (4) Use in connection with his or her name
11 any designation tending to imply that he or she is a
12 licensed practical nurse unless duly licensed so to practice
13 under the provisions of this article; or (5) Practice as a
14 licensed practical nurse during the time his or her license
15 issued under the provisions of this article shall be sus-
16 pended or revoked; or (6) Conduct a school of practical
17 nursing or a course for training of practical nurses unless
18 the school or course has been accredited by the board;
19 or (7) Otherwise violate any provisions of this article.
20 Any person convicted of any such misdemeanor shall
21 be punishable by a fine of not less than twenty-five nor
22 more than one hundred dollars.

Sec. 13. *Severability*.—If any provisions of this article
2 or the application thereof to any person or circumstance
3 shall be held invalid, such invalidity shall not affect the
4 provisions or applications of this article which can be
5 given effect without the invalid provisions or application,
6 and to this end the provisions of this article are declared
7 to be severable.

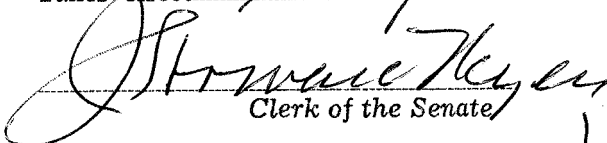
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

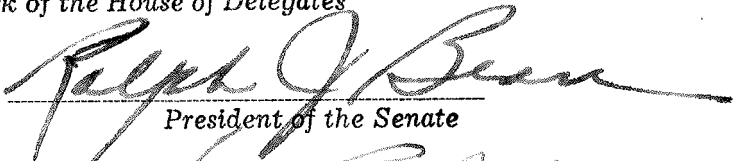

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

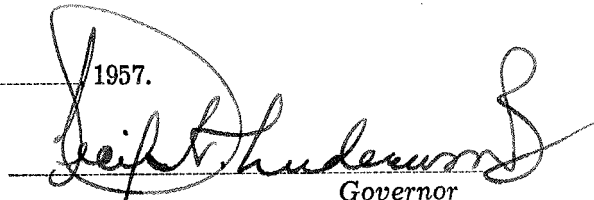

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker, House of Delegates

The within approved this the 7th
day of March 1957.


Governor

