WEST VIRGINIA CODE CHAPTER 30 ARTICLE 7A

WV Legislature

§30-7A-1. Definitions.

(a) The term “practical nursing” means the performance for compensation of selected nursing acts in the care of the ill, injured, or infirm under the direction of a registered professional nurse or a licensed physician or a licensed dentist, and not requiring the substantial specialized skill, judgment and knowledge required in professional nursing.

(b) The term “practical nurse” means a person who has met all the requirements for licensure as a practical nurse and who engages in practical nursing as hereinabove defined.

(c) The term “board” as used in this article, shall mean the board of examiners for licensed practical nurses as set forth in section five of this article.

WV Legislature

§30-7A-2. Use of titles.

(a) Any person licensed pursuant to this article may use the title "licensed practical nurse," "practical nurse" and the abbreviation "L.P.N" or the term "nurse". Except as otherwise provided in article seven of this chapter, no other person may assume such title, or use such abbreviation, or any other words, letters, figures, signs, or devices to indicate that the person using the same is a licensed practical nurse or a practical nurse.

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§30-7A-3. Qualifications of applicants for license.

Except as otherwise provided in section six of this article, any person desiring to obtain a license to practice practical nursing shall submit to the board satisfactory evidence that he or she: (a) Is of good moral character; (b) has acquired at least a tenth grade education or its equivalent; (c) has completed a course of study in an accredited school for practical nurses as defined by the board and holds a diploma therefrom; and (d) has completed such other general educational requirements as may be prescribed by the board.

WV Legislature

§30-7A-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 such fee as the board shall prescribe.

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§30-7A-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 licensed 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, one of whom shall be a graduate of an approved school of practical nursing, and both of whom shall have had not less than five years' experience as licensed practical nurses, two shall be registered professional nurses, at least one of whom shall be experienced in practical nurse education; one shall be a doctor of medicine; one shall be a hospital administrator actively engaged as such in this state and one shall be a vocational educator. Such appointments shall be for terms of five years each, except that in the initial appointments, one licensed practical nurse and one registered professional nurse shall be appointed for a term of five years, one licensed practical nurse and one registered professional nurse shall be appointed for a term of four years, the doctor of medicine shall be appointed for a term of three years, the hospital administrator shall be appointed for a term of two years and the vocational educator shall be appointed for a term of one year. The practical nurses so to be appointed, initially and subsequently, shall be selected by the Governor from a list to be submitted to him by the Licensed Practical Nurses' Association of West Virginia, Inc., which list shall contain the names of at least two licensed practical nurses for each board member so to be appointed, who shall have been licensed by examination and who shall have not less than five years' experience as a licensed practical nurse. The doctor of medicine so appointed shall be selected by the Governor from two nominations submitted to him by the West Virginia state medical association; each registered professional nurse so appointed shall be selected by the Governor from two nominations submitted to him by the West Virginia Nurses Association, Inc.; the hospital administrator shall be appointed by the Governor from two nominations submitted to him by the West Virginia hospital association; and the vocational educator shall be appointed by the Governor from two nominations submitted to him by the state Board of Education. Any member of the board may be eligible for reappointment, but no member shall serve more than two successive terms. The board is hereby authorized to appoint and employ a qualified person to perform the duties of executive secretary and to act as educational advisor to the board. Such secretary shall act under the direction of the board. The board shall furnish the secretary a headquarters and shall provide such office equipment and clerical assistance as the duties of the office may require. The board shall have power to appoint such nurses, deputies, clerks, assistants, inspectors and employees as shall be necessary for the proper exercise of the powers and duties of the board. The compensation and expenses of the members of the board and its appointees and employees shall be paid out of such funds as are allocated to the board in its annual budget. The secretary shall keep the records of proceedings of the board, and shall keep a registry of the names and addresses of all practical nurses registered under this article, which registry shall be a public record. Said board shall hold not less than two regular meetings each year and such additional meetings at such times and places as the board may determine. The board is authorized to adopt and, from time to time, to revise such rules and regulations not inconsistent with this article, as

may be necessary to enable it to carry into effect the provisions hereof. The board shall prescribe curricula and standards for schools and courses preparing persons for licensure under this article. It shall survey such schools and courses at such times as it may deem necessary. It shall survey and accredit such schools, clinical practice areas and courses as meet the requirements of this article and of the board. It shall examine, license and renew the license of duly qualified applicants.

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§30-7A-6. Examination and licensure of practical nurses; present practitioners.

The applicant, except as hereinafter provided, shall be required to pass a written examination in such subjects as the board shall determine. Each written examination may be supplemented by such oral or practical examination as the board may deem necessary. The board shall determine the times and places for the examination. Notices of examination shall be sent by mail to each person known by the secretary to be an applicant for an examination or registration at least thirty days previous to any such scheduled examination. Upon the applicant's successful completion of an appropriate examination as prescribed by the board and satisfaction of the other requirements of this article, the board shall issue to the applicant a license to practice practical nursing. The board shall issue such license by endorsement to any applicant who has been duly licensed or registered as such, or to a person entitled to perform similar services under a different title, in another state, territory or foreign country if, in the opinion of the board, the applicant meets the other requirements for licensed practical nurses in this state. On or before June 30, 1968, any practical nurse who exhibits proof, satisfactory to the board, that he or she has been engaged in practical nursing in this state for a period of three years and who satisfactorily completes an appropriate examination as prescribed by the board shall be issued a license by waiver by said board, which shall be so designated on its face.

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

WV Legislature

§30-7A-6a. Special volunteer license; civil immunity for voluntary services rendered to indigents.

(a) There is established a special volunteer license for licensed practical nurses retired or retiring from the active practice of nursing who wish to donate their expertise for the care and treatment of indigent and needy patients in the clinical setting of clinics organized, in whole or in part, for the delivery of health care services without charge. The special volunteer license provided by this section shall be issued by the West Virginia Board of Examiners for licensed practical nurses to licensed practical nurses licensed or otherwise eligible for licensure pursuant to this article and the rules promulgated hereunder without the payment of an application fee, license fee or renewal fee, and the initial license shall be issued for the remainder of the licensing period, and renewed consistent with the boards other licensing requirements. The board shall develop application forms for the special license provided in this subsection which shall contain the licensed practical nurse's acknowledgment that:

(1) The licensed practical nurse's practice pursuant to the special volunteer licensed practical nurse license will be exclusively devoted to providing nursing care to needy and indigent persons in West Virginia;

(2) The licensed practical nurse will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation but may donate to the clinic the proceeds of any reimbursement, for any nursing services rendered pursuant to the special volunteer licensed practical nurse license;

(3) The licensed practical nurse will supply any supporting documentation that the board may reasonably require; and

(4) The licensed practical nurse agrees to continue to participate in continuing education as required by the board for the special volunteer licensed practical nurse license.

(b) Any person engaged in the active practice of licensed practical nursing in this state whose license is in good standing may donate their expertise for the care and treatment of indigent and needy patients pursuant to an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient. Services rendered pursuant to an arrangement may be performed in either the office of the licensed practical nurse or the clinical setting.

(c) Any licensed practical nurse who renders nursing service to indigent and needy patients of a clinic organized, in whole or in part, for the delivery of health care services without charge pursuant to a special volunteer licensed practical nurse license authorized pursuant to subsection (a) of this section or pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section without payment or compensation or the expectation or promise of payment or compensation is immune from liability for any civil action arising out of any act or omission resulting from the rendering of the nursing service

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at the clinic unless the act or omission was the result of the licensed practical nurse's gross negligence or willful misconduct. For the immunity pursuant to this subsection to apply, there must be a written agreement between the licensed practical nurse and the clinic pursuant to which the licensed practical nurse will provide voluntary uncompensated nursing services under the control of the clinic to patients of the clinic before the rendering of any services by the licensed practical nurse at the clinic: Provided, That any clinic entering into such written agreement is required to maintain liability coverage of not less than $1 million per occurrence.

(d) Notwithstanding the provisions of subsection (c) of this section, a clinic organized, in whole or in part, for the delivery of health care services without charge is not relieved from imputed liability for the negligent acts of a licensed practical nurse rendering voluntary nursing services at or for the clinic pursuant to a special volunteer licensed practical nurse license authorized pursuant to subsection (a) of this section or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

(e) For purposes of this section, "otherwise eligible for licensure" means the satisfaction of all the requirements for licensure as listed in section six of this article and in the rules promulgated thereunder, except the fee requirements of that section and of the legislative rules promulgated by the board relating to fees.

(f) Nothing in this section may be construed as requiring the board to issue a special volunteer licensed practical nurse license to any licensed practical nurse whose license is or has been subject to any disciplinary action or to any licensed practical nurse who has surrendered his or her license or caused such license to lapse, expire and become invalid in lieu of having a complaint initiated or other action taken against his or her license, or who has elected to place a licensed practical nurse license in inactive status in lieu of having a complaint initiated or other action taken against his or her license, or who has been denied a licensed practical nurse license.

(g) Any policy or contract of liability insurance providing coverage for liability sold, issued or delivered in this state to any licensed practical nurse covered pursuant to the provisions of this article shall be read so as to contain a provision or endorsement whereby the company issuing such policy waives or agrees not to assert as a defense on behalf of the policyholder or any beneficiary thereof, to any claim covered by the terms of such policy within the policy limits, the immunity from liability of the insured by reason of the care and treatment of needy and indigent patients by a licensed practical nurse who holds a special volunteer licensed practical nurse license or who renders such care and treatment pursuant to an arrangement with a clinic as authorized pursuant to subsection (b) of this section.

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§30-7A-7. Renewal or reinstatement of license.

The license of every person licensed under the provisions of this article shall expire on June 30, next following the date of license. In order for such license to be renewed, the licensee shall comply with such rules and regulations of the board as are applicable to renewals. The renewal fee for all licenses shall be $5, subject to change by the board. Upon receipt of the renewal fee the board shall issue to the licensee a certificate of renewal for the current year, beginning July first and expiring June thirtieth of the following year. Such certificate shall render the holder thereof a legal practitioner for the period stated on the certificate of renewal. Any licensee who allows his or her license to lapse by failing to renew the license as provided above may be reinstated by the board on satisfactory explanation for such failure to renew his or her license and on payment of a reinstatement fee of $5, subject to change by the board, in addition to the renewal fee hereinbefore set out. Any person practicing practical nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of this article. A person licensed under the provisions of this article desiring to retire from practice temporarily shall give written notice of such desire to the board. Upon receipt of such notice the board shall place the name of such person upon the nonpracticing list. While remaining on this list the person shall not be subject to the payment of any renewal fees and shall not practice as a licensed practical nurse in the state. When such person desires to resume practice, application for renewal of license and payment of the renewal fee for the current year shall be made to the board.

WV Legislature

§30-7A-7a. Supplemental fees to fund Center for Nursing; emergency rules.

[Repealed.]

WV Legislature

§30-7A-8. Schools of practical nursing.

(a) A practical nursing program is determined to be board approved if approved by the board, or the program is accredited by a national accrediting agency recognized by the United States Department of Education. The accreditation is considered board approved and is exempt from board rules that require ongoing approval if the school or program maintains this accreditation.

(b) By July 1, 2022, all practical nursing programs shall be accredited by a national accrediting agency recognized by the United States Department of Education. A program created after July 1, 2018, shall have 5 years to obtain accreditation by an accrediting agency recognized by the United States Department of Education.

(c) The board may require information concerning the practical nursing program to be reported to the board by legislative rule. The requested information shall be consistent with information already being collected by the schools which is required to maintain the program's accreditation.

(d) The board shall approve a new practical nursing program until the program is accredited by a national accrediting agency recognized by the United States Department of Education.

WV Legislature

§30-7A-9. Construction of article; acts not prohibited.

The provisions of this article shall not be construed as prohibiting:

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

(2) The work and services of auxiliary hospital personnel, such as nursing aides, maids, orderlies, technicians, volunteer workers and other like hospital employees.

(3) Practical nursing by students enrolled in accredited schools for practical nursing incidental to their course of study.

(4) Practice of nursing in this state by any legally qualified practical nurse of another state or country for a period not to exceed six months or whose engagement requires such practical nurse to accompany and care for a patient temporarily residing in this state during the period of such engagement.

(5) Nursing services rendered by a graduate of an approved school of practical nursing working under qualified supervision during the period between completion of his or her course of nursing education and notification of the results of the first licensing examination following graduation. In cases of hardship and upon petition to the board, the board may grant an extension of such period to such graduate.

WV Legislature

§30-7A-10. Disciplinary proceeding; grounds for discipline.

The board shall have the right, in accordance with rules and regulations promulgated under the provisions of article three, chapter twenty-nine-a of this code, to refuse to admit an applicant for the licensure examination for the hereinafter stated reasons, and also the board shall have the power to revoke or suspend any license to practice practical nursing issued by the board in accordance with the provisions of this article, or to otherwise discipline a licensee upon satisfactory proof that the person: (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing; or (2) is convicted of a felony; or (3) is habitually intemperate or is addicted to the use of habit-forming drugs; or (4) is mentally incompetent; or (5) is guilty of professional misconduct as defined by the board; or (6) who practices or attempts to practice without a license or who willfully or repeatedly violates any of the provisions of this article.

WV Legislature

§30-7A-11. Prohibited acts; penalties.

It shall be a misdemeanor for any person, firm, corporation or association of persons to: (1) Sell or fraudulently obtain or furnish any nursing diploma, license or record or aid or abet therein; or (2) practice practical nursing unless duly licensed to do so under the provisions of this article; or (3) use in connection with his or her name any designation tending to imply that he or she is a licensed practical nurse unless duly licensed so to practice under the provisions of this article; or (4) practice practical nursing during the time his or her license issued under the provisions of this article shall be suspended or revoked; or (5) conduct a school of practical nursing or a course for training of practical nurses unless the school or course has been accredited by the board; or (6) otherwise violate any provision of this article.

Any person convicted of any such misdemeanor shall be punishable by a fine of not less than twenty-five nor more than $100.

WV Legislature

§30-7A-12.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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