WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1965

ENROLLED

HOUSE BILL No. 761

(By Mr. [Signature] and Mr. [Signature])

PASSED March 11, 1965

In Effect [Signature] days from Passage
AN ACT to amend and reenact article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the regulation of the practice of registered professional nursing; providing penalties; and providing for injunctive relief.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 7. Nurses.

Section 1. Definitions.—As used in this article the term:

(a) "Board" shall mean the West Virginia board of examiners for registered professional nurses;

(b) The practice of "registered professional nursing" shall mean the performance for compensation of any
service requiring substantial specialized judgment and skill based on knowledge and application of principles of nursing derived from the biological, physical and social sciences, such as responsible supervision of a patient requiring skill in observation of symptoms and reactions and the accurate recording of the facts, or the supervision and teaching of other persons with respect to such principles of nursing, or in the administration of medications and treatments as prescribed by a licensed physician or a licensed dentist, or the application of such nursing procedures as involve understanding of cause and effect in order to safeguard life and health of a patient and others.

Sec. 2. Purposes; Who May Practice.—In order to safeguard life and health, any person practicing or offering to practice registered professional nursing in this state for compensation shall hereafter be required to submit evidence that he or she is qualified so to practice, and shall be licensed as hereinafter provided. After the thirtieth day of June, one thousand nine hundred sixty-five, it shall be unlawful for any person not licensed
under the provisions of this article to practice or to offer
to practice registered professional nursing in this state,
or to use any title, sign, card or device to indicate that
such person is a registered professional nurse.

Sec. 3. Board of Examiners for Registered Professional
Nurses; Qualifications; Appointment and Reappointment;
Compensation.—The governor shall appoint, by and with
the advice and consent of the senate, a board consisting
of five members who shall constitute and be known as the
West Virginia board of examiners for registered pro-
fessional nurses: Provided, however, That the present
members of the West Virginia state board of examiners
for registered nurses in office on the effective date of this
article shall, unless sooner removed, continue to serve
as members of the board hereby created until their re-
spective terms of membership shall have expired and
their successors are appointed under the provisions of
this article. Appointments hereunder shall be made by
the governor, by and with the advice and consent of the
senate, from lists submitted to the governor by the West
Virginia nurses association. Such lists shall contain the
names of at least three persons eligible for membership for each membership or vacancy to be filled and shall be submitted to the governor on or before the first day of June of each year and at such other time or times as a vacancy on the board shall exist. Appointments under the provisions of this article shall be for a term of five years each or for the unexpired term, if any, of the present members. Any member may be eligible for re-appointment, but no member shall serve longer than two successive terms. Vacancies shall be filled in the same manner as is provided for appointment in the first instance. The governor may remove any member for neglect of duty, for incompetence, or for unprofessional or dishonorable conduct.

Each member of the board hereafter appointed shall (a) be a citizen of the United States and a resident of this state, (b) be a graduate from an accredited educational program in this or any other state for the preparation of practitioners of registered professional nursing, or be a graduate from an accredited college or university with a major in the field of nursing, (c) be a graduate from
(a) be a graduate of an accredited college or university, (d) be a registered professional nurse licensed in this state or eligible for licensure as such, (e) have had at least five years of experience in teaching in an educational program for the preparation of practitioners of registered professional nursing, or in a combination of such teaching and either nursing service administration or nursing education administration, and (f) have been actually engaged in registered professional nursing for at least three years preceding his or her appointment or reappointment.

Each member of the board shall receive twenty dollars for each day actually spent in attending meetings of the board, or of its committees, and shall also be reimbursed for actual and necessary expenses.

Sec. 4. Powers and Duties of the Board; Executive Secretary; Funds.—The board shall meet at least once each year and shall elect from its members a president and a secretary. The secretary shall also act as treasurer of the board. The board may hold such other meetings during the year as it may deem necessary to transact its business. A majority, including one officer, of the board
shall constitute a quorum at any meeting. The board is hereby authorized and empowered to:

(a) Adopt and, from time to time, amend such rules and regulations, not inconsistent with this article, as may be necessary to enable it to carry into effect the provisions of this article;

(b) Prescribe standards for educational programs preparing persons for licensure to practice registered professional nursing under this article;

(c) Provide for surveys of such educational programs at such times as it may deem necessary;

(d) Accredit such educational programs for the preparation of practitioners of registered professional nursing as shall meet the requirements of this article and of the board;

(e) Deny or withdraw accreditation of educational programs for failure to meet or maintain prescribed standards required by this article and by the board;

(f) Examine, license and renew the licenses of duly qualified applicants;

(g) Conduct hearings upon charges calling for dis-
(h) Keep a record of all proceedings of the board;

(i) Make a biennial report to the governor;

(j) Appoint and employ a qualified person, who shall not be a member of the board, to serve as executive secretary to the board;

(k) Define the duties and fix the compensation for the executive secretary; and

(l) Employ such other persons as may be necessary to carry on the work of the board.

The executive secretary shall possess all of the qualifications prescribed in section three for members of the board, except that he or she shall (a) have had at least eight years of experience in the practice of registered professional nursing since graduation from a college or university, at least five of which shall have been devoted to the teaching in or to the administration of an educational program for the preparation of practitioners of registered professional nursing, or to a combination of such teaching and administration, and (b) shall have
been actively engaged in the practice of registered professional nursing for at least five years preceding his or her appointment by the board.

All fees and other moneys collected by the board pursuant to the provisions of this article shall be kept in a separate fund and expended solely for the purpose of this article. No part of this special fund shall revert to the general funds of this state. The compensation provided by this article and all expenses incurred under this article shall be paid from this special fund. No compensation or expense incurred under this article shall be a charge against the general funds of this state.

Sec. 5. Schools for Preparation of Practitioners of Registered Professional Nursing; Accreditation.—An institution desiring to be accredited by the board for the preparation of practitioners of registered professional nursing shall file an application therefor with the board, together with the information required and a fee of fifty dollars. It shall submit written evidence that: (a) It is prepared to give a program of nursing education which meets the standards prescribed by the board; and (b)
it is prepared to meet all other standards prescribed in this article and by the board.

Instruction and practice may be secured in one or more institutions approved by the board. Such institution or institutions with which the school is to be affiliated shall be surveyed by the executive secretary of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an accredited school to prepare practitioners of registered professional nursing are met, it shall approve the school as an accredited school. From time to time as deemed necessary by the board, it shall be the duty of the board, through its executive secretary, to survey all such schools. Written reports of such surveys shall be submitted to the board. If the board determines that any such accredited school is not maintaining the standards required by this article and by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be removed from the list of accredited schools.
Sec. 6. Qualifications and Examinations of Persons Seeking Licensure to Practice Registered Professional Nursing; Fees; Present Practitioners; Temporary Permits.—To obtain a license to practice registered professional nursing, an applicant for such license shall submit to the board written evidence, verified by oath, that he or she (a) is of good moral character; (b) has completed an approved four-year high school course of study or the equivalent thereof, as determined by the appropriate educational agency; and (c) has completed an accredited program of registered professional nursing education and holds a diploma of a school accredited by the board. The applicant shall also be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral examination. Upon successfully passing such examination or examinations, the board shall issue to the applicant a license to practice registered professional nursing. The board shall determine the times and places for examinations. In the event an applicant shall have failed to pass examinations on two occasions, the appli-
22 cant shall, in addition to the other requirements of this
23 section, present to the board such other evidence of his
24 or her qualifications as the board may prescribe.
25 The board may, upon application, issue a license to
26 practice registered professional nursing by endorsement
27 to an applicant who has been duly licensed as a registered
28 professional nurse under the laws of another state, ter-
29 ritory or foreign country if in the opinion of the board
30 the applicant meets the qualifications required of reg-
31 istered professional nurses at the time of graduation.
32 The board shall, upon application, issue a license, desig-
33 nated as a “waiver license,” to practice registered profes-
34 sional nursing to any person who shall submit to the
35 board written evidence, verified by oath, that the appli-
36 cant: (a) Is of good moral character; (b) has practiced
37 professional nursing in this state for at least three years
38 during the five-year period immediately preceding the
39 effective date of this article; and (c) has completed a
40 registered professional nursing education program which,
41 at the time of the applicant's completion of such pro-
42 gram, was either accredited by the West Virginia state
board of examiners for registered nurses and which would
have rendered the applicant eligible to take an examination for licensure under the provisions of chapter ninety-six of the acts of the Legislature, one thousand nine hundred forty-five, or which at the time of the applicant's completion of such program was accredited by the duly constituted licensing authority of the state, territory or country wherein such program was conducted and which would have made the applicant eligible to take an examination for licensure in such state, territory or country:

Provided, however, That no license shall be issued by the board under the provisions of this paragraph unless the applicant therefor shall have filed his or her written application with the board prior to the thirtieth day of June, one thousand nine hundred sixty-seven.

Any person holding a valid license designated as a "waiver license" pursuant to the provisions of the next preceding paragraph may, at any time after the issuance of such license, submit an application to the board for a license containing no reference to the fact that such person has theretofore been issued such "waiver license."
The provisions of this section relating to examination and fees and the provisions of all other sections of this article shall apply to any application submitted to the board pursuant to the provisions of this paragraph.

Any person applying for a license to practice registered professional nursing, including a "waiver license," under the provisions of this article shall, with his or her application, pay to the board a fee of thirty dollars, except that the fee to be paid by any person applying for a license by endorsement hereunder shall be fifteen dollars. In the event it shall be necessary for the board to re-examine any applicant for a license, an additional fee of ten dollars shall be paid to the board by the applicant for each subject in which re-examination shall be necessary: Provided, however, That the total of such additional fees shall in no case exceed thirty dollars for any one examination.

Any person holding a license heretofore issued by the West Virginia state board of examiners for registered nurses and which license is valid on the date this article becomes effective shall be deemed to be duly licensed
85 under the provisions of this article for the remainder of
86 the period of any such license heretofore issued. Any
87 such license heretofore issued shall also, for all purposes,
88 be deemed to be a license issued under this article and
89 to be subject to the provisions hereof.
90 The board shall, upon receipt of a duly executed ap-
91 plication for licensure and of the accompanying fee of
92 thirty dollars, issue a temporary permit to practice reg-
93 istered professional nursing to any applicant who has
94 received a diploma from a school of nursing approved
95 by the board pursuant to this article after the date the
96 board last scheduled a written examination for persons
97 eligible for licensure: Provided, however, That no such
98 temporary permit shall be renewable nor shall any such
99 permit be valid for any purpose subsequent to the date
100 the board has announced the results of the first written
101 examination given by the board following the issuance
102 of such permit.

Sec. 7. Licensure of Aliens.—No license to practice
2 registered professional nursing shall be issued to any
3 person who is not a citizen of the United States of Amer-
ica unless such person has legally declared his or her
intention of becoming a citizen. Any license which may
be issued to any such person shall terminate and become
void at the end of five years from the date of such declara-
tion of intention if the holder of such license has not
then become a citizen. A license so terminated may be
reissued by the board at any time thereafter upon its
receipt of evidence of citizenship and an explanation of
the delay satisfactory to the board. Every person apply-
ing for a license pursuant to this section shall, with his
or her application for a license, submit for the board's
inspection his or her declaration of intention to become
a citizen of the United States.

All other provisions of this article shall be applicable
to any application for or license issued pursuant to this
section.

Sec. 8. Renewal of Licenses; Reinstatement; Fees; Pen-
taxies; Inactive List.—The license of every person licensed
and registered under the provisions of this article shall
be annually renewed except as hereinafter provided. On
or before January first, one thousand nine hundred sixty-
six, the board shall mail an application for renewal of license to every known active nurse who has ever been licensed as a registered nurse in this state. At such time or times as the board in its discretion may determine each year thereafter, the board shall mail a renewal application to every person whose license was renewed during the previous year and every such person shall fill in such application blank and return it to the board with a renewal fee of three dollars within thirty days after receipt of said renewal application. Upon receipt of the application and fee, the board shall verify the accuracy of the application and, if the same be accurate, issue to the applicant a certificate of renewal for the current year. Such certificate of renewal shall entitle the holder thereof to practice registered professional nursing 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 to the board of the renewal fee hereinabove
provided and a reinstatement fee of three dollars. Any person practicing registered professional 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 send a written notice of such desire to the board. Upon receipt of such notice the board shall place the name of such person upon the inactive list. While remaining on this list the person shall not be subject to the payment of any renewal fees and shall not practice registered professional nursing in this state. When the person desires to resume active practice, application for renewal of license and payment of the renewal fee for the current year shall be made to the board.

Sec. 9. Contents of License or Certificate.—Each license or certificate issued by the board shall bear a serial number, the full name of the applicant, the date of expiration of any such license and the date of issuance of any such certificate, the seal of the board, and shall be
Sec. 10. Use of Title "Registered Nurse" and Abbreviation Thereof.—Any person who holds a license to practice registered professional nursing in this state shall have the right to use the title "registered nurse" and the abbreviation "R. N." No other person shall assume such title or use such abbreviation or any other words, letters, signs or devices to indicate that the person using the same is a registered professional nurse.

Sec. 11. Denial, Revocation or Suspension of a License; Grounds for Discipline.—The board shall have the power to deny, revoke or suspend any license to practice registered professional nursing issued or applied for in accordance with the provisions of this article, or to otherwise discipline a licensee or applicant upon proof that he or she:

(a) Is or was guilty of fraud or deceit in procuring or attempting to procure a license to practice registered professional nursing; or

(b) Has been convicted of a felony; or

(c) Is unfit or incompetent by reason of negligence, habits or other causes; or
(d) Is habitually intemperate or is addicted to the use of habit-forming drugs; or
(e) Is mentally incompetent; or
(f) Is guilty of conduct derogatory to the morals or standing of the profession of registered nursing; or
(g) Is practicing or attempting to practice registered professional nursing without a license or re-registration; or
(h) Has wilfully or repeatedly violated any of the provisions of this article.

Sec. 12. Exceptions.—This article shall not be construed to prohibit:
(a) The furnishing of nursing assistance in an emergency; or
(b) The practice of nursing incidental to a program of study by students enrolled in a nursing education program accredited by the board; or
(c) The practice of any legally qualified nurse of another state who is employed by the United States or any bureau, division or agency thereof, while in the discharge of his or her official duties.

Sec. 13. Prohibitions and Penalties.—It shall be a mis-
demeanor for any person, including any corporation or
association, to;

(a) Sell or fraudulently obtain or furnish any nursing
diploma, license or record or aid or abet therein; or

(b) Practice registered professional nursing under
cover of any diploma, license or record illegally or fraud-
ulently obtained or signed or issued or under fraudulent
representation; or

(c) Practice registered professional nursing unless
duly licensed to do so under the provisions of this article;
or

(d) Use in connection with his or her name any desig-
nation tending to imply that he or she is licensed to prac-
tice registered professional nursing unless duly licensed
so to practice under the provisions of this article; or

(e) Practice registered professional nursing during
the time his or her license issued under the provisions of
this article shall be suspended or revoked; or

(f) Conduct a nursing education program for the
preparation of registered professional nursing practition-
ers unless such program has been accredited by the board;
or

(g) Otherwise violate any provisions of this article.

Upon conviction, each such misdemeanor shall be pun-

ishable by a fine of not less than twenty-five nor more

than two hundred fifty dollars.

Sec. 14. Injunction or Other Relief Against Un-

lawful Acts.—The practice of registered professional

nursing by any person who has not been licensed under

the provisions of this article, or whose license has ex-

pired or has been suspended or revoked, is hereby

declared to be inimical to the public health and welfare

and to be a public nuisance. Whenever in the judgment

of the board any person has engaged in, is engaging in

or is about to engage in the practice of registered pro-
fessional nursing without holding a valid license here-

under, or has engaged, is engaging or is about to engage

in any act which constitutes, or will constitute, a viola-
tion of this article, the board may make application to

the appropriate court having equity jurisdiction for an

order enjoining such practices or acts, and upon a show-
ing that such person has engaged, is engaging or is about
to engage, in any such practices or acts, an injunction, restraining order, or such other order as the court may deem appropriate shall be entered by the court. The remedy provided in this section shall be in addition to, and not in lieu of, all other penalties and remedies provided in this article.

Sec. 15. Administration of Anesthetics.—In any case where it is lawful for a duly licensed physician or dentist practicing medicine or dentistry under the laws of this state to administer anesthetics, such anesthetics may lawfully be given and administered by any person (a) who has been licensed to practice registered professional nursing under this article, and (b) who holds a diploma or certificate evidencing his or her successful completion of the educational program of a school of anesthesia duly accredited by the American Association of Nurse Anesthetists: Provided, That such anesthesia is administered by such person in the presence and under the supervision of such physician or dentist.

Sec. 16. General Law Applicable.—Except to the extent that the provisions of this article may be inconsistent
therewith, the board shall conform to the requirements prescribed in article one of this chapter.

Sec. 17. Severability.—If any provision of this article or the application thereof to any person or circumstance shall be held invalid, the remainder of the article and the application of such provision to other persons or circumstances shall not be affected thereby.
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.

Takes effect ninety 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 19 day of March, 1965.

Governor