

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1965



ENROLLED

HOUSE BILL No. 761

(By Mr. Myers and Mr. Mausteller)



PASSED March 11, 1965

In Effect thirty days from Passage



FILED BY THE CLERK OF  
THE HOUSE OF DELEGATES  
SECRETARY OF STATE  
THIS DATE 3-19-65

#761

**ENROLLED**  
**House Bill No. 761**

(By MR. MYLES and MR. MARSTILLER)

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[Passed March 11, 1965; in effect ninety days from passage.]

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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

2 term:

3 (a) “Board” shall mean the West Virginia board of  
4 examiners for registered professional nurses;

5 (b) The practice of “registered professional nursing”  
6 shall mean the performance for compensation of any

7 service requiring substantial specialized judgment and  
8 skill based on knowledge and application of principles  
9 of nursing derived from the biological, physical and social  
10 sciences, such as responsible supervision of a patient re-  
11 quiring skill in observation of symptoms and reactions  
12 and the accurate recording of the facts, or the supervision  
13 and teaching of other persons with respect to such prin-  
14 ciples of nursing, or in the administration of medications  
15 and treatments as prescribed by a licensed physician or  
16 a licensed dentist, or the application of such nursing  
17 procedures as involve understanding of cause and effect  
18 in order to safeguard life and health of a patient and  
19 others.

**Sec. 2. Purposes; Who May Practice.**—In order to  
2 safeguard life and health, any person practicing or offer-  
3 ing to practice registered professional nursing in this  
4 state for compensation shall hereafter be required to sub-  
5 mit evidence that he or she is qualified so to practice,  
6 and shall be licensed as hereinafter provided. After the  
7 thirtieth day of June, one thousand nine hundred sixty-  
8 five, it shall be unlawful for any person not licensed

9 under the provisions of this article to practice or to offer  
10 to practice registered professional nursing in this state,  
11 or to use any title, sign, card or device to indicate that  
12 such person is a registered professional nurse.

**Sec. 3. Board of Examiners for Registered Professional  
2 Nurses; Qualifications; Appointment and Reappointment;  
3 Compensation.**—The governor shall appoint, by and with  
4 the advice and consent of the senate, a board consisting  
5 of five members who shall constitute and be known as the  
6 West Virginia board of examiners for registered pro-  
7 fessional nurses: *Provided, however,* That the present  
8 members of the West Virginia state board of examiners  
9 for registered nurses in office on the effective date of this  
10 article shall, unless sooner removed, continue to serve  
11 as members of the board hereby created until their re-  
12 spective terms of membership shall have expired and  
13 their successors are appointed under the provisions of  
14 this article. Appointments hereunder shall be made by  
15 the governor, by and with the advice and consent of the  
16 senate, from lists submitted to the governor by the West  
17 Virginia nurses association. Such lists shall contain the

18 names of at least three persons eligible for membership  
19 for each membership or vacancy to be filled and shall be  
20 submitted to the governor on or before the first day of  
21 June of each year and at such other time or times as a  
22 vacancy on the board shall exist. Appointments under  
23 the provisions of this article shall be for a term of five  
24 years each or for the unexpired term, if any, of the  
25 present members. Any member may be eligible for re-  
26 appointment, but no member shall serve longer than two  
27 successive terms. Vacancies shall be filled in the same  
28 manner as is provided for appointment in the first in-  
29 stance. The governor may remove any member for  
30 neglect of duty, for incompetence, or for unprofessional  
31 or dishonorable conduct.

32 Each member of the board hereafter appointed shall  
33 (a) be a citizen of the United States and a resident of  
34 this state, (b) be a graduate from an accredited educa-  
35 tional program in this or any other state for the prepara-  
36 tion of practitioners of registered professional nursing,  
37 or be a graduate from an accredited college or university  
38 with a major in the field of nursing, (c) be a graduate from

39 an accredited college or university, (d) be a registered  
40 professional nurse licensed in this state or eligible for  
41 licensure as such, (e) have had at least five years of ex-  
42 perience in teaching in an educational program for the  
43 preparation of practitioners of registered professional  
44 nursing, or in a combination of such teaching and either  
45 nursing service administration or nursing education ad-  
46 ministration, and (f) have been actually engaged in reg-  
47 istered professional nursing for at least three years pre-  
48 ceding his or her appointment or reappointment.

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

**Sec. 4. Powers and Duties of the Board; Executive  
2 Secretary; Funds.**—The board shall meet at least once  
3 each year and shall elect from its members a president  
4 and a secretary. The secretary shall also act as treasurer  
5 of the board. The board may hold such other meetings  
6 during the year as it may deem necessary to transact its  
7 business. A majority, including one officer, of the board

8 shall constitute a quorum at any meeting. The board is  
9 hereby authorized and empowered to:

10 (a) Adopt and, from time to time, amend such rules  
11 and regulations, not inconsistent with this article, as may  
12 be necessary to enable it to carry into effect the provi-  
13 sions of this article;

14 (b) Prescribe standards for educational programs pre-  
15 paring persons for licensure to practice registered pro-  
16 fessional nursing under this article;

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

19 (d) Accredite such educational programs for the prepa-  
20 ration of practitioners of registered professional nursing  
21 as shall meet the requirements of this article and of the  
22 board;

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

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

28 (g) Conduct hearings upon charges calling for dis-

29 cipline of a licensee or revocation or suspension of a  
30 license;

31 (h) Keep a record of all proceedings of the board;

32 (i) Make a biennial report to the governor;

33 (j) Appoint and employ a qualified person, who shall  
34 not be a member of the board, to serve as executive sec-  
35 retary to the board;

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

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

40 The executive secretary shall possess all of the qualifi-  
41 cations prescribed in section three for members of the  
42 board, except that he or she shall (a) have had at least  
43 eight years of experience in the practice of registered  
44 professional nursing since graduation from a college or  
45 university, at least five of which shall have been devoted  
46 to the teaching in or to the administration of an edu-  
47 cational program for the preparation of practitioners of  
48 registered professional nursing, or to a combination of  
49 such teaching and administration, and (b) shall have

50 been actively engaged in the practice of registered pro-  
51 fessional nursing for at least five years preceding his or  
52 her appointment by the board.

53 All fees and other moneys collected by the board pur-  
54 suant to the provisions of this article shall be kept in a  
55 separate fund and expended solely for the purpose of  
56 this article. No part of this special fund shall revert to  
57 the general funds of this state. The compensation pro-  
58 vided by this article and all expenses incurred under  
59 this article shall be paid from this special fund. No com-  
60 pensation or expense incurred under this article shall be  
61 a charge against the general funds of this state.

**Sec. 5. Schools for Preparation of Practitioners of**  
2 **Registered Professional Nursing; Accreditation.**—An insti-  
3 tution desiring to be accredited by the board for the  
4 preparation of practitioners of registered professional  
5 nursing shall file an application therefor with the board,  
6 together with the information required and a fee of fifty  
7 dollars. It shall submit written evidence that: (a) It  
8 is prepared to give a program of nursing education which  
9 meets the standards prescribed by the board; and (b)

10 it is prepared to meet all other standards prescribed in  
11 this article and by the board.

12 Instruction and practice may be secured in one or more  
13 institutions approved by the board. Such institution or  
14 institutions with which the school is to be affiliated shall  
15 be surveyed by the executive secretary of the board, who  
16 shall submit a written report of the survey to the board.  
17 If, in the opinion of the board, the requirements for an  
18 accredited school to prepare practitioners of registered  
19 professional nursing are met, it shall approve the school  
20 as an accredited school. From time to time as deemed  
21 necessary by the board, it shall be the duty of the board,  
22 through its executive secretary, to survey all such schools.  
23 Written reports of such surveys shall be submitted to the  
24 board. If the board determines that any such accredited  
25 school is not maintaining the standards required by this  
26 article and by the board, notice thereof in writing speci-  
27 fying the defect or defects shall be immediately given to  
28 the school. A school which fails to correct these condi-  
29 tions to the satisfaction of the board within a reasonable  
30 time shall be removed from the list of accredited schools.

**Sec. 6. Qualifications and Examinations of Persons****2 Seeking Licensure to Practice Registered Professional****3 Nursing; Fees; Present Practitioners; Temporary Per-****4 mits.**—To obtain a license to practice registered profes-

5 sional nursing, an applicant for such license shall submit

6 to the board written evidence, verified by oath, that he

7 or she (a) is of good moral character; (b) has completed

8 an approved four-year high school course of study or

9 the equivalent thereof, as determined by the appropriate

10 educational agency; and (c) has completed an accredited

11 program of registered professional nursing education and

12 holds a diploma of a school accredited by the board.

13 The applicant shall also be required to pass a written

14 examination in such subjects as the board may deter-

15 mine. Each written examination may be supplemented

16 by an oral examination. Upon successfully passing such

17 examination or examinations, the board shall issue to

18 the applicant a license to practice registered professional

19 nursing. The board shall determine the times and places

20 for examinations. In the event an applicant shall have

21 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

43 board of examiners for registered nurses and which would  
44 have rendered the applicant eligible to take an examina-  
45 tion for licensure under the provisions of chapter ninety-  
46 six of the acts of the Legislature, one thousand nine hun-  
47 dred forty-five, or which at the time of the applicant's  
48 completion of such program was accredited by the duly  
49 constituted licensing authority of the state, territory or  
50 country wherein such program was conducted and which  
51 would have made the applicant eligible to take an ex-  
52 amination for licensure in such state, territory or country:  
53 *Provided, however,* That no license shall be issued by the  
54 board under the provisions of this paragraph unless the  
55 applicant therefor shall have filed his or her written  
56 application with the board prior to the thirtieth day of  
57 June, one thousand nine hundred sixty-seven.

58 Any person holding a valid license designated as a  
59 "waiver license" pursuant to the provisions of the next  
60 preceding paragraph may, at any time after the issuance  
61 of such license, submit an application to the board for  
62 a license containing no reference to the fact that such  
63 person has theretofore been issued such "waiver license."

64 The provisions of this section relating to examination  
65 and fees and the provisions of all other sections of this  
66 article shall apply to any application submitted to the  
67 board pursuant to the provisions of this paragraph.

68 Any person applying for a license to practice registered  
69 professional nursing, including a "waiver license," under  
70 the provisions of this article shall, with his or her applica-  
71 tion, pay to the board a fee of thirty dollars, except that  
72 the fee to be paid by any person applying for a license  
73 by endorsement hereunder shall be fifteen dollars. In  
74 the event it shall be necessary for the board to re-examine  
75 any applicant for a license, an additional fee of ten dol-  
76 lars shall be paid to the board by the applicant for each  
77 subject in which re-examination shall be necessary: *Prō-*  
78 *vided, however,* That the total of such additional fees  
79 shall in no case exceed thirty dollars for any one ex-  
80 amination.

81 Any person holding a license heretofore issued by the  
82 West Virginia state board of examiners for registered  
83 nurses and which license is valid on the date this article  
84 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-

4 ica unless such person has legally declared his or her  
5 intention of becoming a citizen. Any license which may  
6 be issued to any such person shall terminate and become  
7 void at the end of five years from the date of such declara-  
8 tion of intention if the holder of such license has not  
9 then become a citizen. A license so terminated may be  
10 reissued by the board at any time thereafter upon its  
11 receipt of evidence of citizenship and an explanation of  
12 the delay satisfactory to the board. Every person apply-  
13 ing for a license pursuant to this section shall, with his  
14 or her application for a license, submit for the board's  
15 inspection his or her declaration of intention to become  
16 a citizen of the United States.

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

**Sec. 8. Renewal of Licenses; Reinstatement; Fees; Pen-**  
2 **alties; Inactive List.**—The license of every person licensed  
3 and registered under the provisions of this article shall  
4 be annually renewed except as hereinafter provided. On  
5 or before January first, one thousand nine hundred sixty-

6 six, the board shall mail an application for renewal of  
7 license to every known active nurse who has ever  
8 been licensed as a registered nurse in this state. At  
9 such time or times as the board in its discretion may  
10 determine each year thereafter, the board shall mail a re-  
11 newal application to every person whose license was  
12 renewed during the previous year and every such person  
13 shall fill in such application blank and return it to the  
14 board with a renewal fee of three dollars within thirty  
15 days after receipt of said renewal application. Upon  
16 receipt of the application and fee, the board shall verify  
17 the accuracy of the application and, if the same be ac-  
18 curate, issue to the applicant a certificate of renewal for  
19 the current year. Such certificate of renewal shall en-  
20 title the holder thereof to practice registered professional  
21 nursing for the period stated on the certificate of re-  
22 newal. Any licensee who allows his or her license to  
23 lapse by failing to renew the license as provided above  
24 may be reinstated by the board on satisfactory explana-  
25 tion for such failure to renew his or her license and on  
26 payment to the board of the renewal fee hereinabove

27 provided and a reinstatement fee of three dollars. Any  
28 person practicing registered professional nursing during  
29 the time his or her license has lapsed shall be considered  
30 an illegal practitioner and shall be subject to the penalties  
31 provided for violation of this article. A person licensed  
32 under the provisions of this article desiring to retire from  
33 practice temporarily shall send a written notice of such  
34 desire to the board. Upon receipt of such notice the board  
35 shall place the name of such person upon the inactive  
36 list. While remaining on this list the person shall not be  
37 subject to the payment of any renewal fees and shall not  
38 practice registered professional nursing in this state.  
39 When the person desires to resume active practice, ap-  
40 plication for renewal of license and payment of the re-  
41 newal fee for the current year shall be made to the  
42 board.

**Sec. 9. Contents of License or Certificate.**—Each li-  
2 cense or certificate issued by the board shall bear a serial  
3 number, the full name of the applicant, the date of ex-  
4 piration of any such license and the date of issuance of  
5 any such certificate, the seal of the board, and shall be

6 signed by the executive secretary of the board.

**Sec. 10. Use of Title "Registered Nurse" and Abbrevi-**  
2 **ation Thereof.**—Any person who holds a license to prac-  
3 tice registered professional nursing in this state shall  
4 have the right to use the title "registered nurse" and the  
5 abbreviation "R. N." No other person shall assume such  
6 title or use such abbreviation or any other words, letters,  
7 signs or devices to indicate that the person using the  
8 same is a registered professional nurse.

**Sec. 11. Denial, Revocation or Suspension of a License;**  
2 **Grounds for Discipline.**—The board shall have the power  
3 to deny, revoke or suspend any license to practice reg-  
4 istered professional nursing issued or applied for in ac-  
5 cordance with the provisions of this article, or to other-  
6 wise discipline a licensee or applicant upon proof that  
7 he or she:  
8 (a) Is or was guilty of fraud or deceit in procuring or  
9 attempting to procure a license to practice registered  
10 professional nursing; or  
11 (b) Has been convicted of a felony; or  
12 (c) Is unfit or incompetent by reason of negligence,  
13 habits or other causes; or

14 (d) Is habitually intemperate or is addicted to the  
15 use of habit-forming drugs; or

16 (e) Is mentally incompetent; or

17 (f) Is guilty of conduct derogatory to the morals or  
18 standing of the profession of registered nursing; or

19 (g) Is practicing or attempting to practice registered  
20 professional nursing without a license or re-registration;  
21 or

22 (h) Has wilfully or repeatedly violated any of the  
23 provisions of this article.

**Sec. 12. Exceptions.**—This article shall not be con-  
2 strued to prohibit:

3 (a) The furnishing of nursing assistance in an emer-  
4 gency; or

5 (b) The practice of nursing incidental to a program  
6 of study by students enrolled in a nursing education pro-  
7 gram accredited by the board; or

8 (c) The practice of any legally qualified nurse of  
9 another state who is employed by the United States or  
10 any bureau, division or agency thereof, while in the dis-  
11 charge of his or her official duties.

**Sec. 13. Prohibitions and Penalties.**—It shall be a mis-

2 demeanor for any person, including any corporation or  
3 association, to:

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

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

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

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

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

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

23 or

24 (g) Otherwise violate any provisions of this article.

25 Upon conviction, each such misdemeanor shall be pun-

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

27 than two hundred fifty dollars.

**Sec. 14. Injunction or Other Relief Against Un-**

2 **lawful Acts.**—The practice of registered professional

3 nursing by any person who has not been licensed under

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

5 pired or has been suspended or revoked, is hereby

6 declared to be inimical to the public health and welfare

7 and to be a public nuisance. Whenever in the judgment

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

9 or is about to engage in the practice of registered pro-

10 fessional nursing without holding a valid license here-

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

12 in any act which constitutes, or will constitute, a viola-

13 tion of this article, the board may make application to

14 the appropriate court having equity jurisdiction for an

15 order enjoining such practices or acts, and upon a show-

16 ing that such person has engaged, is engaging or is about

17 to engage, in any such practices or acts, an injunction,  
18 restraining order, or such other order as the court may  
19 deem appropriate shall be entered by the court.

20 The remedy provided in this section shall be in addition  
21 to, and not in lieu of, all other penalties and remedies  
22 provided in this article.

**Sec. 15. Administration of Anesthetics.**—In any case  
2 where it is lawful for a duly licensed physician or den-  
3 tist practicing medicine or dentistry under the laws of  
4 this state to administer anesthetics, such anesthetics may  
5 lawfully be given and administered by any person (a)  
6 who has been licensed to practice registered professional  
7 nursing under this article, and (b) who holds a diploma  
8 or certificate evidencing his or her successful completion  
9 of the educational program of a school of anesthesia duly  
10 accredited by the american association of nurse anes-  
11 thetists: *Provided*, That such anesthesia is administered  
12 by such person in the presence and under the super-  
13 vision of such physician or dentist.

**Sec. 16. General Law Applicable.**—Except to the ex-  
2 tent that the provisions of this article may be inconsistent

3 therewith, the board shall conform to the requirements  
4 prescribed in article one of this chapter.

**Sec. 17. Severability.**—If any provision of this article  
2 or the application thereof to any person or circumstance  
3 shall be held invalid, the remainder of the article and  
4 the application of such provision to other persons or cir-  
5 cumstances shall not be affected thereby.

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

*A Roy Kauter*  
\_\_\_\_\_  
Chairman Senate Committee

*James W. Dyer*  
\_\_\_\_\_  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*Thomas Hayes*  
\_\_\_\_\_  
Clerk of the Senate

*C. Blankenship*  
\_\_\_\_\_  
Clerk of the House of Delegates

*Harold W. Carson*  
\_\_\_\_\_  
President of the Senate

*H. Saban White*  
\_\_\_\_\_  
Speaker House of Delegates

The within *approved* this the *19*  
day of *March*, 1965.

*Walter C. Smith*  
\_\_\_\_\_  
Governor

