

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
REPRESENTATIVES
THIS DATE 3-19-65

#761

ENROLLED
House Bill No. 761

(By MR. MYLES and MR. MARSTILLER)

[Passed March 11, 1965; in effect ninety 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
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 reappoinment.

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 Kautz

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

Howard W. Carson

President of the Senate

H. Saban White

Speaker House of Delegates

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

Street C. Smith

Governor

