

# MAINE STATE LEGISLATURE

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L.D. 2061

2

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STATE OF MAINE

4

SENATE

5

112TH LEGISLATURE

6

SECOND REGULAR SESSION

7

COMMITTEE AMENDMENT " A " to S.P. 816, L.D.

8

2061, Bill, "AN ACT to Amend the Regulation of the

9

Practice of Nursing."

10

Amend the bill by striking out all of section 2

11

and inserting in its place the following:

12

'Sec. 2. 32 MRSA §2102, sub-§2, as amended by PL

13

1977, c. 497, §10, is repealed and the following en-

14

acted in its place:

15

2. Professional nursing. The practice of "pro-

16

essional nursing" means the performance, by a reg-

17

istered professional nurse, for compensation of pro-

18

fessional services defined as follows:

19

A. Diagnosis and treatment of human responses to

20

actual or potential physical and emotional health

21

problems, through such services as case finding,

22

health teaching, health counseling and provision

23

of care supportive to or restorative of life and

24

well-being and execution of the medical regimen

25

as prescribed by a licensed physician or dentist

26

or otherwise legally authorized person acting un-

27

der the delegated authority of a physician or

28

dentist:

29

(1) "Diagnosis" in the context of nursing

30

practice means that identification of and

31

discrimination between physical and

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psychosocial signs and symptoms essential to

33

effective execution and management of the

34

nursing regimen. This diagnostic privilege

35

is distinct from medical diagnosis;

36

(2) "Human responses" means those signs,

37

symptoms and processes which denote the

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1 individual's health needs or reaction to an  
2 actual or potential health problem; and

3 (3) "Treatment" means selection and per-  
4 formance of those therapeutic measures es-  
5 sential to the effective management and exe-  
6 cution of the nursing regimen;

7 B. Medical diagnosis or prescription of  
8 therapeutic or corrective measures when those  
9 services are delegated by a licensed or otherwise  
10 legally authorized physician to a registered  
11 nurse who has completed the necessary additional  
12 educational program required for the proper per-  
13 formance of those services and whose credentials  
14 must be approved by the board;

15 The board may adopt, pursuant to the Maine Admin-  
16 istrative Procedure Act, Title 5, chapter 375,  
17 subchapter II, rules defining the appropriate  
18 scope of practice for nurses practicing under  
19 this paragraph. The rules shall also define the  
20 appropriate relationship with the physician. In  
21 adopting the rules, the board shall invite com-  
22 ment from the Board of Registration in Medicine.

23 C. Delegation of selected nursing services to  
24 licensed practical nurses when the services use  
25 standardized protocols and procedures leading to  
26 predictable outcomes in the observation and care  
27 of the ill, injured and infirm; in the mainte-  
28 nance of health; in action to safeguard life and  
29 health; and in the administration of medications  
30 and treatments prescribed by any person autho-  
31 rized by state law to prescribe. The board shall  
32 issue such rules concerning delegation as it  
33 deems necessary to ensure quality health care to  
34 the patient;

35 D. Delegation of selected nursing services to  
36 assistants to nurses who have completed or are  
37 currently enrolled in a course sponsored by a

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1 state-approved facility or a facility licensed by  
2 the Department of Human Services. This course  
3 shall include a curriculum approved by the State  
4 Board of Nursing. The board shall issue such  
5 rules concerning delegation as it deems necessary  
6 to ensure quality of health care to the patient;

7 E. Supervision and teaching of nursing person-  
8 nel;

9 F. Administration of medications and treatment  
10 as prescribed by a legally authorized person.  
11 Nothing in this section may be construed as lim-  
12 iting the administration of medication by li-  
13 icensed or unlicensed personnel as provided in  
14 other laws; and

15 G. Teaching activities of daily living to care  
16 providers designated by the patient and family.'

17 Further amend the bill by inserting after section  
18 8 the following:

19 'Sec. 9. 32 MRSA §2103, sub-§6 is enacted to  
20 read:

21 6. Nursing services; practice of religious prin-  
22 ciples. This chapter does not prohibit nursing ser-  
23 vices by anyone when done in accordance with the  
24 practice of the religious principles or tenets of any  
25 church or denomination which relies upon prayer or  
26 spiritual means alone for healing.'

27 Further amend the bill in section 9 in subsection  
28 2 by striking out all of the last paragraph and in-  
29 sserting in its place the following:

30 'From time to time as deemed necessary by the board,  
31 it shall be the duty of the board, through its execu-  
32 tive director or other authorized representative of  
33 the board, to survey all nursing education programs  
34 in the State. Written reports of such surveys shall

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1 be submitted to the board. If the board determines  
2 that any ~~accredited~~ approved nursing education pro-  
3 gram is not maintaining the standards required by  
4 statute and by the board, notice thereof in writing  
5 specifying the defect or defects shall be immediately  
6 given to the institution conducting the program. A  
7 program which fails to correct these conditions to  
8 the satisfaction of the board within a reasonable  
9 time shall be discontinued after a hearing.'

10 Further amend the bill in section 11 in subsec-  
11 tion 1-A in the first paragraph by striking out all  
12 of the last 2 underlined sentences and inserting in  
13 their place the following:

14 'The board may subpoena witnesses, records and docu-  
15 ments, including records and documents maintained by  
16 a health care facility, in any investigation or hear-  
17 ing it conducts.'

18 Further amend the bill in section 12 in that part  
19 designated "§2152." by striking out all of subsection  
20 1 and inserting in its place the following:

21 '1. Professional nurses. Five professional  
22 nurses, each of whom:

23 A. Must be a graduate of a state-approved educa-  
24 tional program in professional nursing;

25 B. Holds a current Maine license to practice  
26 nursing; and

27 C. Has at least 3 years' experience in active  
28 practice immediately preceding appointment.

29 A minimum of 2 professional nurses must be active in  
30 an approved educational program in nursing. A mini-  
31 imum of 2 professional nurses must be active in nurs-  
32 ing service;'

33 Further amend the bill in section 12 in that part

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1 designated "§2152." in subsection 2 in the first par-  
2 agraph by striking out all of the first underlined  
3 sentence and inserting in its place the following:

4 'Two licensed practical nurses who:'

5 Further amend the bill in section 12 in that part  
6 designated "§2152." in subsection 3 by striking out  
7 all of the first paragraph and inserting in its place  
8 the following:

9 '3. Public members. Two public members. No  
10 person may qualify for appointment as a public member  
11 of the board if that person or any member of his im-  
12 mediate family is currently serving as:'

13 Further amend the bill by striking out all of  
14 sections 15 and 16.

15 Further amend the bill in section 19 in subsec-  
16 tion 3 in the first paragraph in the 2nd line (page  
17 10, line 35 in L.D.) by striking out the word "ac-  
18 credited" and inserting in its place the following:  
19 'accredited approved'

20 Further amend the bill in section 19 in subsec-  
21 tion 3 in the 2nd paragraph in the first line (page  
22 11, line 1 in L.D.) by striking out the word "accred-  
23 ited" and inserting in its place the following:  
24 'accredited approved'

25 Further amend the bill by striking out all of  
26 section 20.

27 Further amend the bill in section 26 by striking  
28 out all of that part designated "§2251-A." and in-  
29 sserting in its place the following:

30 '§2251-A. Qualifications

31 An applicant for a license to practice as a li-

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1 censed practical nurse shall submit to the board  
2 written evidence, verified by oath, that the appli-  
3 cant has the following qualifications.

4 1. Education. The applicant must have completed  
5 an approved 4-year high school course of study or the  
6 equivalent thereof.

7 2. Approved program. The applicant must have  
8 completed a prescribed curriculum in a state-approved  
9 program for the preparation of practical nurses and  
10 holds a diploma or certificate.'

11 Further amend the bill by inserting at the end  
12 before the statement of fact the following:

13 'Sec. 31. 32 MRSA c. 31, sub-c. V is enacted to  
14 read:

15 SUBCHAPTER V  
16 COMMISSION ON NURSING SUPPLY AND  
17 EDUCATIONAL ACCESSIBILITY

18 §2261. Commission

19 1. Commission established. There is established  
20 a Commission on Nursing Supply and Educational Acces-  
21 sibility. This commission shall be composed of 15  
22 persons appointed by the Governor, with 2 members  
23 representing the general public and 13 members repre-  
24 senting respectively the Maine State Nurses' Associa-  
25 tion, the Maine Council of Nursing Service Adminis-  
26 trators, the Maine Hospital Association, the Maine  
27 Society for Hospital Personnel Administrators, the  
28 Maine Licensed Practical Nurses' Association, the  
29 Maine Community Health Association, the State Board  
30 of Nursing, the Longterm Care Nursing Council, Con-  
31 sortium United Maine Nurses, public baccalaureate  
32 nursing education, private baccalaureate nursing edu-  
33 cation, Vocational-technical institutes and Maine

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- 1 Council of Associate Degree Nursing Programs. All  
2 regions of the State must be fairly represented. Ap-  
3 pointments shall be for 3-year terms, except that no  
4 more than 3 members' terms may expire in any one cal-  
5 endar year and appointments for terms of less than 3  
6 years may be made in order to comply with this limi-  
7 tation.
- 8 2. Staff. The commission shall be provided  
9 staff support by the Office of Vital Statistics.  
10 Funding for staff support and data collection shall  
11 come from the dedicated revenue fund of the State  
12 Board of Nursing.
- 13 3. Study. Commencing in 1986, the commission  
14 shall study the following:
- 15 A. The educational accessibility of approved  
16 courses for both the associated and baccalaureate  
17 degree levels throughout the State;
- 18 B. The availability of education programs for  
19 upgrading all levels of nurses throughout the  
20 State;
- 21 C. The extent that credits are transferable be-  
22 tween vocational-technical institutes and the  
23 university system and whether full credit for  
24 courses will be granted toward a baccalaureate  
25 degree;
- 26 D. Whether there will be a sufficient supply of  
27 both levels or nurses to meet needs throughout  
28 the State if associate or baccalaureate degrees  
29 are required;
- 30 E. The extent to which there is access to as-  
31 essment of prior learning of nursing knowledge  
32 and transferability of nursing credits throughout  
33 the State, including areas that are geographical-  
34 ly underserved;



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- 1           F. Which titles should be used by each level of  
2           nursing and how each level should be defined;
- 3           G. Whether competency testing should be required  
4           and whether certain educational requirements  
5           should be waived if new levels of education are  
6           implemented; and
- 7           H. Whether nurses coming in from other states  
8           will or should continue to have endorsement from  
9           the State and how this will affect the supply of  
10           nurses throughout the State.
- 11           4. Intent. It is the intent of the Legislature  
12           that by 1995 or as soon as possible thereafter and  
13           when the commission reports that all criteria have  
14           been met which will ensure the availability and edu-  
15           cational needs of nurses throughout the State the  
16           following will be implemented:
- 17           A. That there be 2 levels of nurses requiring  
18           either an associate degree or a baccalaureate de-  
19           gree; and
- 20           B. That provisions be made concerning education-  
21           al requirements that take into consideration the  
22           protection of those currently licensed and the  
23           availability of nurses throughout the State.
- 24           5. Report; dissolution of commission. The com-  
25           mission shall report its findings to the joint stand-  
26           ing committee of the Legislature having jurisdiction  
27           over business and commerce by January 1, 1990 and ev-  
28           ery 2 years thereafter until provisions concerning  
29           educational levels, educational requirements and ti-  
30           tles have been implemented at which time the commis-  
31           sion shall be dissolved.
- 32           Further amend the bill by renumbering the sec-  
33           tions to read consecutively.

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1 STATEMENT OF FACT

2 This amendment addresses the concerns of several  
3 groups of health care professionals regarding draft-  
4 ing errors and scope of practice. These changes are  
5 technical rather than substantive.

6 Other changes in this amendment are substantive.  
7 The major change is the establishment of a commission  
8 which will report back to the Legislature in 1990 re-  
9 garding educational accessibility and projected sup-  
10 ply of nurses to meet future needs throughout the  
11 State. Included in this section is a statement that  
12 the Legislature intends to implement new levels of  
13 education and new titles if the commission finds that  
14 there will be opportunities throughout the State to  
15 upgrade education and that no nursing shortage will  
16 occur. Sections in the bill regarding these educa-  
17 tional levels and titles have been deleted from sec-  
18 tions which would have amended current law and have  
19 been incorporated in this new section regarding the  
20 commission.

21 This amendment also adds an exemption from the  
22 Nurse Practice Law for nursing services performed in  
23 accordance with religious principles of any church  
24 which relies only upon prayer or spiritual means for  
25 healing.

26 Some changes in the board have also been made.  
27 Another licensed practical nurse and another public  
28 member have been added bringing the total to 9.

29

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Reported by Sen. Bustin for the Committee on Business  
and Commerce. Reproduced and Distributed Pursuant to  
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