

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2061

6
7 S.P. 816

In Senate, February 24, 1986

8 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 26.

9 Reference to the Committee on Business and Commerce suggested and
ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Clark of Cumberland.

11 Cosponsored by Senator Gill of Cumberland, Representative Dexter of
Kingfield and Representative Murray of Bangor.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT to Amend the Regulation
18 of the Practice of Nursing.
19
20

21 Be it enacted by the People of the State of Maine as
22 follows:

23 Sec. 1. 32 MRSA §2101, 2nd ¶, as amended by PL
24 1967, c. 263, §1, is repealed.

25 Sec. 2. 32 MRSA §2102, sub-§2, as amended by PL
26 1977, c. 497, §10, is repealed and the following en-
27 acted in its place:

28 2. Professional nursing. The practice of "pro-
29 fessional nursing" means the performance, by a reg-
30 istered professional nurse, for compensation of pro-
31 fessional services defined as follows:

32 A. Diagnosis and treatment of human responses to
33 actual or potential physical and emotional health
34 problems, through such services as case finding,

1 health teaching, health counseling and provision
2 of care supportive to or restorative of life and
3 well-being and execution of the medical regimen
4 as prescribed by a licensed or otherwise legally
5 authorized physician or dentist;

6 (1) "Diagnosis" in the context of nursing
7 practice means that identification of and
8 discrimination between physical and
9 psychosocial signs and symptoms essential to
10 effective execution and management of the
11 nursing regimen;

12 (2) "Human responses" means those signs,
13 symptoms and processes which denote the
14 individual's health needs or reaction to an
15 actual or potential health problem; and

16 (3) "Treatment" means selection and per-
17 formance of those therapeutic measures es-
18 sential to the effective management and exe-
19 cution of the nursing regimen;

20 B. Prescription of therapeutic or corrective
21 measures when those services are delegated by a
22 licensed or otherwise legally authorized physi-
23 cian to a registered nurse who has completed the
24 necessary additional educational program required
25 for the proper performance of those services and
26 whose credentials must be approved by the board;

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

39 D. Delegation of selected nursing services to
40 unlicensed personnel who have completed a
41 board-approved standardized course sponsored by a

1 state-accredited facility. The board shall issue
2 such rules concerning delegation as it deems nec-
3 essary to ensure quality of health care to the
4 patient;

5 E. Supervision and teaching of nursing person-
6 nel; and

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

13 Sec. 3. 32 MRSA §2102, sub-§3, as repealed and
14 replaced by PL 1977, c. 395, §2, is repealed and the
15 following enacted in its place:

16 3. Practical nursing. The practice of "practi-
17 cal nursing" means performing tasks and responsibili-
18 ties, by a licensed practical nurse, for compensation
19 within a structured health care setting, reinforcing
20 the patient and family teaching program through
21 health teaching, health counseling and provision of
22 supportive and restorative care, under the direction
23 of a registered nurse or licensed or otherwise legal-
24 ly authorized physician or dentist.

25 Sec. 4. 32 MRSA §2102, sub-§§4 to 7 are amended
26 to read:

27 4. License. A "license" is an authorization to
28 practice nursing as a professional nurse or practical
29 nurse ~~designated~~ thereon.

30 5. Professional nurse. The terms "professional
31 nurse," "registered nurse" or "registered profession-
32 al nurse" mean a person who is currently licensed under
33 this chapter and who practices professional nursing as
34 defined in subsection 2. "R.N." is the abbreviation
35 for the title of "registered professional
36 nurse".

37 6. Licensed practical nurse. The term "licensed
38 practical nurse" means a person who is currently li-
39 censed under this chapter and who practices practical

1 nursing as defined in subsection 3. "L.P.N." is the
2 abbreviation for the title of "licensed practical
3 nurse".

4 7. Approved nursing school. An "~~accredited~~
5 approved nursing school" or "~~accredited approved~~
6 nursing education program" means a school of nursing
7 or a nursing department or division of a university
8 or college or a school for the ~~training~~ education of
9 practical nurses ~~accredited~~ approved by the board as
10 provided in this chapter.

11 Sec. 5. 32 MRSA §2103, sub-§1 is amended to
12 read:

13 1. Emergency. The ~~furnishing~~ rendering of nurs-
14 ing assistance in ~~an~~ the case of emergency;

15 Sec. 6. 32 MRSA §2103, sub-§2 is repealed and
16 the following enacted in its place:

17 2. Students. The practice of nursing that is an
18 integral part of a program by students enrolled in
19 board-approved nursing education programs leading to
20 initial licensure; and the practice of nursing by
21 graduates of board-approved programs pending the re-
22 sults of the first licensing examination for which
23 they are eligible following graduation, provided that
24 they practice under on-site delegation and supervi-
25 sion of a registered professional nurse and only in
26 the practice setting. The board may, by rule, define
27 what constitutes supervision and practice setting;

28 Sec. 7. 32 MRSA §2103, sub-§3 is repealed.

29 Sec. 8. 32 MRSA §2103, sub-§4, as amended by PL
30 1967, c. 263, §3, is repealed and the following en-
31 acted in its place:

32 4. Licensure in another state. The practice of:

33 A. Nursing by a registered nurse or a licensed
34 practical nurse currently licensed in another
35 state for a period of 90 days pending licensure
36 in Maine provided that the nurse, upon employ-
37 ment, has furnished the employer with satisfacto-
38 ry evidence of current licensure in another state

1 and provided that the nurse furnishes a letter of
2 authorization to the prospective employer of hav-
3 ing submitted proper application and fees to the
4 board for licensure prior to employment;

5 B. Any currently licensed nurse of another
6 United States jurisdiction or foreign country who
7 is providing educational programs or consultative
8 services within this State for a period not to
9 exceed a total of 21 days per year;

10 C. Any currently licensed nurse of another state
11 who is transporting patients into, out of or
12 through this State. The exemption shall be lim-
13 ited to a period not to exceed 48 hours for each
14 transport; or

15 D. Nursing in this State by any currently li-
16 icensed nurse whose employment was made outside
17 this State but required the nurse to accompany
18 and care for the patient while in this State.
19 This practice is limited to the particular pa-
20 tient, to 3 months within one year and is at the
21 discretion of the board; or

22 Sec. 9. 32 MRSA §2104, sub-§§1 and 2 are amended
23 to read:

24 1. Application for approval. An institution de-
25 siring to conduct a nursing education program to pre-
26 pare professional or practical nurses shall apply to
27 the board and submit evidence that:

28 A. It is prepared to carry out the prescribed
29 professional nursing curriculum or the prescribed
30 curriculum for practical nursing, as the case may
31 be; and

32 B. It is prepared to meet such other standards
33 as shall be established by this chapter and by
34 the board.

35 2. Survey. A survey of the institution and its
36 entire nursing education program shall be made by ei-
37 ther or both the executive director or other autho-
38 rized appointee of the board, who shall submit a
39 written report of the survey to the board. If, in the

1 opinion of the board, the requirements for an
2 ~~accredited~~ approved nursing education program are
3 met, it shall be ~~accredited~~ approved as a nursing ed-
4 ucation program for professional or practical nurses.

5 From time to time as deemed necessary by the board,
6 it shall be the duty of the board, through its execu-
7 tive director or other authorized representative of
8 the board, to survey all nursing education programs
9 in the State. Written reports of such surveys shall
10 be submitted to the board. If the board determines
11 that any accredited nursing education program is not
12 maintaining the standards required by statute and by
13 the board, notice thereof in writing specifying the
14 defect or defects shall be immediately given to the
15 institution conducting the program. A program which
16 fails to correct these conditions to the satisfaction
17 of the board within a reasonable time shall be dis-
18 continued after a hearing.

19 Sec. 10. 32 MRSA §2105-A, sub-§1, as amended by
20 PL 1983, c. 769, §1, is repealed.

21 Sec. 11. 32 MRSA §2105-A, sub-§1-A is enacted to
22 read:

23 1-A. Disciplinary proceedings and sanctions. The
24 board shall investigate a complaint, on its own
25 motion or upon receipt of a written complaint filed
26 with the board, regarding noncompliance with or vio-
27 lation of this chapter or of any rules adopted by the
28 board. Investigation may include a hearing before
29 the board to determine whether grounds exist for sus-
30 pension, revocation or denial of a license, or as
31 otherwise deemed necessary to the fulfillment of its
32 responsibilities under this chapter. Hearings shall
33 be conducted in conformity with the Maine Administra-
34 tive Procedure Act, Title 5, chapter 375, subchapter
35 IV, to the extent applicable. The board may subpoena
36 witnesses, records and documents, including records
37 and documents maintained by a health care facility,
38 in any hearing it conducts.

39 The board shall notify the licensee of the content of
40 a complaint filed against the licensee as soon as
41 possible, but in no event later than within 60 days
42 of receipt of this information. The licensee shall

1 respond within 30 days. If the licensee's response
2 to the complaint satisfies the board that the com-
3 plaint does not merit further investigation or ac-
4 tion, the matter may be dismissed, with notice of the
5 dismissal to the complainant, if any.

6 If, in the opinion of the board, the factual basis of
7 the complaint is or may be true, and it is of suffi-
8 cient gravity to warrant further action, the board
9 may request an informal conference with the licensee.
10 The board shall provide the licensee with adequate
11 notice of the conference and of the issues to be dis-
12 cussed. The conference shall be conducted in execu-
13 tive session of the board, unless otherwise requested
14 by the licensee. Statements made at the conference
15 may not be introduced at a subsequent formal hearing
16 unless all parties consent.

17 If the board finds that the factual basis of the com-
18 plaint is true and is of sufficient gravity to war-
19 rarrant further action, it may take any of the following
20 actions it deems appropriate:

21 A. Warn, censure or reprimand;

22 B. With the consent of the licensee, enter into
23 a consent agreement which fixes the period and
24 terms of probation best adapted to protect the
25 public health and safety and to rehabilitate or
26 educate the licensee. A consent agreement may be
27 used to terminate a complaint investigation, if
28 entered into by the board, the licensee and the
29 Attorney General's office;

30 C. In consideration for acceptance of a volun-
31 tary surrender of the license, negotiate stipula-
32 tions, including terms and conditions for rein-
33 statement, which ensure protection of the public
34 health and safety and which serve to rehabilitate
35 or educate the licensee. These stipulations shall
36 be set forth only in a consent agreement signed
37 by the board, the licensee and the Attorney
38 General's office;

39 D. If the board concludes that modification or
40 nonrenewal of the license might be in order, hold
41 an adjudicatory hearing in accordance with the

1 provisions of the Maine Administrative Procedure
2 Act, Title 5, chapter 375, subchapter IV; or

3 E. If the board concludes that suspension or
4 revocation of the license is in order, file a
5 complaint in the Administrative Court in accord-
6 ance with Title 4, chapter 25.

7 Sec. 12. 32 MRSA §2152, as repealed and replaced
8 by PL 1975, c. 258, §2, is repealed and the following
9 enacted in its place:

10 §2152. Qualifications

11 Each member of the board must be a citizen of the
12 United States and a resident of this State for at
13 least 3 consecutive years prior to appointment and
14 shall file with the Secretary of State an oath of of-
15 fice before beginning his term of office. The State
16 Board of Nursing shall be composed of:

17 1. Professional nurses. 5 professional nurses,
18 each of whom:

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

21 B. Holds a current Maine license to practice
22 nursing;

23 C. Has at least 3 years' experience in active
24 practice immediately preceding appointment; and

25 D. Must have a minimum of a baccalaureate degree
26 in nursing or graduate degree in nursing;

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

31 2. Licensed practical nurse. One licensed prac-
32 tical nurse who:

33 A. Must be a graduate of a state approved educa-
34 tional program in practical nursing;

1 B. Holds a current Maine license to practice
2 practical nursing; and

3 C. Has at least 3 years' experience in active
4 practice immediately preceding appointment; and

5 3. Public member. One public member. No person
6 may qualify for appointment as a public member of the
7 board if that person or any member of his immediate
8 family is currently serving as:

9 A. A member of any other state licensing board;

10 B. On the board of any other health care agency;
11 and

12 C. Engaged for compensation in the provision of
13 health services or the provision of health re-
14 search, instruction or insurance.

15 Sec. 13. 32 MRSA §2153, first ¶, as amended by
16 PL 1975, c. 575, §29, is further amended to read:

17 The board shall hold annual meetings at which it
18 shall elect from its members a president and a secre-
19 tary ~~who shall also be treasurer~~. It may hold such
20 other meetings during the year as may be deemed nec-
21 essary to transact its business. Special meetings
22 shall be called by the secretary on request of any 2
23 members. Four members of the board shall constitute
24 a quorum at any meeting.

25 Sec. 14. 32 MRSA §2153, sub-§§2, 5 and 6 are
26 amended to read:

27 2. Seal. Adopt a seal which shall be placed in
28 the care of the ~~secretary~~ executive director;

29 5. Approval. ~~Accredit~~ Approve such nursing edu-
30 cational programs within the State of Maine as meet
31 the requirements of this chapter and of the board;

32 6. Denial. Deny or withdraw ~~accreditation~~
33 approval from nursing educational programs for fail-
34 ure to meet approved curricula or other standards as
35 established by this chapter or pursuant to law;

1 Sec. 15. 32 MRSA §2153, sub-§11, as repealed and
2 replaced by PL 1971, c. 328, §2, is repealed and the
3 following enacted in its place:

4 11. Executive director. Appoint and employ a
5 qualified person, not a member of the board, to serve
6 as executive director to the board and define his du-
7 ties; and

8 Sec. 16. 32 MRSA §2153, sub-§12 is repealed and
9 the following enacted in its place:

10 12. Other employees. Ensure that the personnel
11 policies of the State are followed in the employment
12 practices of the board.

13 Sec. 17. 32 MRSA §2154, as amended by PL 1975,
14 c. 258, §3, is further amended to read:

15 §2154. Qualifications of executive employee

16 The executive director shall meet all the quali-
17 fications for professional nurse board members re-
18 quired in section 2152 and shall, in addition, hold a
19 master's degree ~~from a recognized college or univer-~~
20 ~~sity with an educational preparation which shall have~~
21 ~~included courses in administration and teaching in~~
22 ~~schools of~~ in nursing.

23 Sec. 18. 32 MRSA §2155, as amended by PL 1983,
24 c. 812, §217, is further amended to read:

25 §2155. Compensation

26 The Eligible members of the board shall be com-
27 pensated according to the provisions of Title 5,
28 chapter 379.

29 Sec. 19. 32 MRSA §2201, sub-§§2 and 3 are
30 amended to read:

31 2. High school. Has completed an approved 4-year
32 high school course of study or the equivalent there-
33 of; and

34 3. Professional school. Has completed a course
35 of not less than 2 years in an accredited profession-
36 al school of nursing and holds a diploma.

1 In case of transfer of a student from one accredited
2 school of nursing to another, the time allowance for
3 previous preparation shall be determined by the
4 board, provided that not less than one year shall
5 have been spent in the school from which she receives
6 her diploma. In case of transfer of a student because
7 of closing of a school of nursing, the board shall
8 determine the length of time required to be spent in
9 the school of nursing granting her diploma;

10 Sec. 20. 32 MRSA §2201, sub-§§4 and 5 are en-
11 acted to read:

12 4. Baccalaureate or graduate degree. To be-
13 come effective in 1995, all applicants for profes-
14 sional nursing licensure must have completed an ap-
15 proved baccalaureate or graduate degree program in
16 nursing; and

17 5. Person holding license or certificate. Any
18 person holding a license or certificate of registra-
19 tion as a registered nurse in this State issued by
20 the State Board of Nursing which is valid on December
21 31, 1994, shall continue to hold the title of regis-
22 tered nurse with powers and duties of a registered
23 nurse, as defined under section 2102, subsection 2,
24 and the renewal of the license for such a person
25 shall be governed by this section.

26 Sec. 21. 32 MRSA §2202 is amended to read:

27 §2202. Licenses; examination

28 The applicant shall be required to pass a written
29 examination in such subjects deemed by the board nec-
30 essary to determine the fitness of the applicant to
31 practice professional nursing. Upon successfully
32 passing such examination, the board shall issue to
33 the applicant a license to practice professional
34 nursing as a registered nurse, ~~said~~ the license to be
35 in force ~~from the date of issue thereof until one~~
36 ~~year from and after the first day of the following~~
37 ~~January for a period of at least one year until the~~
38 ~~birth date of the licensee.~~

39 Sec. 22. 32 MRSA §2206, first ¶, as repealed and
40 replaced by PL 1983, c. 176, Pt. A, §13, is amended
41 to read:

1 Starting January 1, 1985, the ~~The~~ license of ev-
2 ery registered nurse licensed under this chapter
3 shall be renewed annually, except as otherwise pro-
4 vided. At least 30 days before the anniversary of
5 his birth, the board shall mail an application for
6 renewal of license to each professional nurse who
7 holds a valid license, which application shall be
8 mailed to the most recent address of that person as
9 it appears on the records of the board. That person
10 shall complete the renewal application and return it
11 to the board with a renewal fee of \$10 before the an-
12 niversary of his birth. Upon receipt of the applica-
13 tion and fee, the board shall verify the accuracy of
14 the application and issue to the applicant a certifi-
15 cate of renewal of license for the year expiring on
16 the anniversary of the applicant's birth.

17 Sec. 23. 32 MRSA §2206, 2nd ¶, as repealed and
18 replaced by PL 1983, c. 176, Pt. A, §13, is repealed.

19 Sec. 24. 32 MRSA §2208 is amended to read:

20 §2208. Title and abbreviation

21 Any person who holds a current license to prac-
22 tice professional nursing in this State shall have
23 the right to use the title "Registered Nurse" and the
24 abbreviation "R.N.". No other person shall assume
25 such title or use such abbreviation or any other
26 words, letters, signs or devices to indicate that the
27 person using the same is a registered nurse.

28 Sec. 25. 32 MRSA §2251, as amended by PL 1983,
29 c. 378, §23, is repealed.

30 Sec. 26. 32 MRSA §2251-A is enacted to read:

31 §2251-A. Qualifications

32 An applicant for a license to practice as a li-
33 icensed practical nurse shall submit to the board
34 written evidence, verified by oath, that the appli-
35 cant has the following qualifications.

36 1. Associate degree. To become effective in
37 1995, all applicants for license as a practical nurse
38 must have completed an approved associate degree pro-
39 gram in nursing.

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

4 3. Accredited program. The applicant must have
5 completed a prescribed curriculum in a
6 state-accredited program for the preparation of prac-
7 tical nurses and holds a diploma or certificate.

8 4. Person holding license or certificate. Any
9 person holding a license or certificate of registra-
10 tion as a licensed practical nurse in this State is-
11 ssued by the State Board of Nursing which is valid on
12 December 31, 1994, shall continue to hold the title
13 of licensed practical nurse with the powers and du-
14 ties of licensed practical nurse, as defined in sec-
15 tion 2102, subsection 3, and the renewal of the li-
16 cence for such a person shall be governed by this
17 section.

18 Sec. 27. 32 MRSA §2252 is amended to read:

19 §2252. License; examination

20 The applicant shall be required to pass a written
21 examination in such subjects deemed by the board nec-
22 cessary to determine the fitness of the applicant to
23 practice practical nursing. Each written examination
24 may be supplemented by an oral or practical examina-
25 tion. Upon successfully passing such examination the
26 board shall issue to the applicant a license to prac-
27 tice as a licensed practical nurse, ~~said that license~~
28 ~~to be in force from the date of issue until one year~~
29 ~~from and after the first day of the following July~~
30 ~~for a period of at least one year until the birth~~
31 ~~date of the licensee.~~

32 Sec. 28. 32 MRSA §2255, first ¶, as repealed and
33 replaced by PL 1983, c. 176, Pt. A, §14, is amended
34 to read:

35 ~~Starting July 1, 1985, the~~ The license of every
36 practical nurse licensed under this chapter shall be
37 renewed annually, except as otherwise provided. At
38 least 30 days before the anniversary of his birth,
39 the board shall mail an application for renewal of
40 license to each practical nurse who holds a valid li-

1 cense, which application shall be mailed to the most
2 recent address of the person as it appears on the
3 records of the board. That person shall complete the
4 renewal application and return it to the board with a
5 renewal fee of \$10 before the anniversary of his
6 birth. Upon receipt of the application and fee, the
7 board shall verify the accuracy of the application
8 and issue to the applicant a certificate of renewal
9 of license for the year expiring on the anniversary
10 of the applicant's birth.

11 Sec. 29. 32 MRSA §2255, 2nd ¶, as repealed and
12 replaced by PL 1983, c. 176, Pt. A, §14, is repealed.

13 Sec. 30. 32 MRSA §2257 is amended to read:

14 §2257. Title and abbreviation

15 Any person who holds a current license to prac-
16 tice as a licensed practical nurse in this State
17 shall have the right to use the title "Licensed Prac-
18 tical Nurse" and abbreviation "L.P.N.". No other per-
19 son shall assume such title or use such abbreviation
20 or any other words, letters, signs or figures to in-
21 dicate that the person using the same is a licensed
22 practical nurse.

1

STATEMENT OF FACT

2 This bill updates "The Law Regulating the Prac-
3 tice of Nursing" to reflect contemporary nursing
4 practice. This revision of the Nurse Practice Act
5 incorporates a broad definition of nursing to reflect
6 current changes in health care. Nurses are providing
7 a much more complex and acute level of care than ever
8 before. Earlier discharge and new technological de-
9 velopments have led to more intensive nursing care
10 being delivered in settings outside the traditional,
11 acute care hospital, where supervision and consulta-
12 tion were readily available. Nurses are cost effec-
13 tive in promoting health and in providing care to
14 those who are ill in a variety of settings, including
15 homes and schools, clinics and industries, long-term
16 care facilities and hospices.

17 This bill also includes changes in future educa-
18 tional requirements for nurses to assure that future
19 nurses have the breadth and depth of educational
20 preparation that justify entrusting overall responsi-
21 bility for nursing services to the judgment of the
22 registered nurse. This proposal provides stimulus to
23 strengthen nursing education by focusing on resources
24 on 2 clearly defined paths: BSN and AD. It serves
25 to clarify future roles for nurses and to distinguish
26 the services which they will provide. It will bring
27 the educational requirement for the professional
28 nurse to the minimal level already required by most
29 other health professionals. Two clearly defined
30 paths of nursing education will facilitate a closer
31 match between preparation for nursing practice and
32 the expectations of employers and consumers. This
33 improved match of nurse to role will lead to more ef-
34 fective utilization of nurses in the health care de-
35 livery system.

36

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