

MAINE STATE LEGISLATURE

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N I N E T Y - N I N T H L E G I S L A T U R E

Legislative Document

No. 1339

S. P. 475

In Senate, April 24, 1959

Reported by Senator Lord of Cumberland from the Committee on Public Health, and printed under Joint Rules No. 10.

CHESTER T. WINSLOW, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

AN ACT to Regulate the Practice of Nursing.

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

Sec. 1. R. S., c. 69-A, additional. The Revised Statutes are amended by adding a new chapter, to be numbered 69-A, to read as follows:

'Chapter 69-A.

Practice of Nursing.

Sec. 1. Purpose. In order to safeguard the life and health of the people in this State, any person who for compensation practices or offers to practice professional nursing or practical nursing as a licensed practical nurse in this State shall hereafter be required to submit evidence that he or she is qualified so to practice, and shall be licensed as hereinafter provided. After December 31, 1961 it shall be unlawful for any person not licensed under this chapter to practice or to offer to practice professional nursing in this State; or to use any sign, card or device to indicate that such person is a professional registered nurse or a licensed practical nurse.

This chapter does not affect or prohibit the practice of practical nursing by any person not representing himself or herself to be a licensed practical nurse, nor does it affect or prohibit the employment of persons functioning under supervision as nursing aides, attendants, orderlies and other auxiliary workers in private homes, offices, hospitals, nursing or rest homes or institutions.

Sec. 2. Definitions.

I. "Board" means the State Board of Nursing.

II. The practice of "professional nursing" means the performance for compensation of any of the services which necessitate the specialized knowledge, judgment and skill required for the application of nursing as based upon principals of biological, physical and social sciences in the:

- A. Observation and care of the ill, injured or infirm;
- B. Maintenance of health or prevention of illness of others;
- C. Supervision and teaching of other personnel;
- D. Administration of medications and treatment as prescribed by a licensed physician or dentist. The foregoing shall not be deemed to include diagnosis of illness or the prescription of therapeutic or corrective measures.

III. The practice of "practical nursing" means the performance for compensation of services in the care of the ill, injured or infirm as selected by and under the direction of a registered professional nurse or a licensed physician or dentist which do not require the substantial specialized skill, judgment and knowledge required in professional nursing.

IV. A "license" is an authorization to practice nursing as a professional nurse or practical nurse designated thereon.

V. The terms "professional nurse," "registered nurse" or "registered professional nurse" mean a person who is licensed under this chapter and who practices professional nursing as defined in subsection II. "R.N." is the abbreviation for the title of "registered professional nurse."

VI. The term "licensed practical nurse" means a person who is licensed under this chapter and who practices practical nursing as defined in subsection III. "L.P.N." is the abbreviation for the title of "licensed practical nurse."

VII. An "accredited nursing school" or "accredited nursing education program" means a school of nursing or a nursing department or division of a university or college or a school for the training of practical nurses accredited by the board as hereinafter provided.

Sec. 3. State Board of Nursing.

I. Appointment, term of office and removal from office. There is hereby created a State Board of Nursing consisting of 5 professional nurses, one of whom, when feasible, shall be active in practical nurse education or in a school of practical nursing at the time of appointment, who shall be appointed by the Governor with the advice and consent of the Council. The present members and officers of the Maine Board of Registration of Nurses holding office under chapter 69 shall comprise the State Board of Nursing created by this chapter until the expiration of their respective terms under said chapter 69 or until their successors have been appointed under this chapter. Except to fill vacancies in unexpired terms, all appointments shall be for terms of 5 years after such appointment or until their successors have been duly appointed and qualified. No person shall be eligible for more than one re-appointment.

All appointments shall be made from a list of 3 candidates, qualified as hereinafter provided, selected by the board of directors of the Maine State Nurses'

Association and submitted to the Governor not less than 60 days before the time of appointment. Any vacancy occurring on the board shall be filled for the unexpired term by appointment to be made by the Governor from like nominations submitted by the Maine State Nurses' Association in the manner aforesaid. If said nominations in either case are not submitted within 60 days after the vacancy occurs, the Governor may appoint to fill such vacancy such person, qualified as hereinafter provided, as to him seems best.

The Governor may remove any member from the board for cause with the advice and consent of the Council.

II. Qualifications of board members. Each member of the board shall be a citizen of the United States, a resident of this State and shall file with the Secretary of State oath of office before beginning his or her term of office. Three members shall possess the following qualifications:

- A. Graduation from a basic professional nursing program accredited by the state agency having the power to accredit such schools in the State in which the program was conducted;
- B. Graduation from a recognized college or university, with at least a baccalaureate degree, with either a major in the field of nursing or with a major in education with advanced courses in nursing.
- C. The status of professional nurse licensed to practice in Maine;
- D. At least 5 years' successful experience since graduation in administration or teaching in an educational program to prepare practitioners of nursing;
- E. Three years in the active practice of professional nursing immediately preceding appointment.

Two members shall qualify under paragraphs A, C and E above.

III. Duties and powers of the board. The board shall hold annual meetings at which it shall elect from its members a president and a secretary who shall also be treasurer. It may hold such other meetings during the year as may be deemed necessary to transact its business. Special meetings shall be called by the secretary on request of any 2 members. Three members of the board shall constitute a quorum at any meeting.

The board is authorized and empowered to:

- A. Adopt such by-laws, rules and regulations for the transaction of the business of the board and the government and management of its affairs, not inconsistent with the laws of this State and of the United States, as it may deem expedient;
- B. Adopt a seal which shall be placed in the care of the secretary;
- C. Prescribe curricula and standards for educational programs preparing persons for licensure under this chapter;
- D. Provide for surveys of such programs at such times as it may deem necessary;

- E.** Accredit such nursing educational programs within the State of Maine as meet the requirements of this chapter and of the board;
- F.** Deny or withdraw accreditation from nursing educational programs for failure to meet approved curricula or other standards as established by this chapter or pursuant to law;
- G.** Examine, license and renew the licenses of duly qualified applicants;
- H.** Conduct hearings upon charges calling for discipline of a licensee or revocation of a license;
- I.** Issue subpoenas, compel the attendance of witnesses, compel the production of records, books, papers and documents and administer oaths to persons giving testimony at hearings;
- J.** Cause the prosecution and enjoinder of all persons violating this chapter and incur necessary expenses therefor;
- K.** Keep a record of all its proceedings;
- L.** Make an annual report to the Governor and Council for each fiscal year showing its receipts and disbursements and giving a full account of its activities during the previous 12-month period;
- M.** Appoint and employ a qualified person, who shall not be a member of the board, to serve as executive director to the board and to fix her compensation and define her duties;
- N.** Employ such other persons as may be necessary to carry on the work of the board.

IV. Qualifications of executive employee. The executive director shall meet all the qualifications for board members required in section 3 and shall, in addition, hold a master's degree from a recognized college or university with an educational preparation which shall have included courses in administration and teaching in schools of nursing.

V. Compensation. The members of the board shall receive \$15 per day and actual necessary expenses incurred while in performance of their official duties.

Sec. 4. Registered nurse.

I. Qualifications of applicants. An applicant for a license to practice professional nursing shall submit to the board written evidence, verified by oath, that the applicant:

- A.** Is of good moral character; and
- B.** Has completed an approved 4-year high school course of study or the equivalent thereof; and
- C.** Has completed a course of not less than 2 years in an accredited professional school of nursing and holds a diploma.

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

II. License.

A. By examination. The applicant shall be required to pass a written examination in such subjects deemed by the board necessary to determine the fitness of the applicant to practice professional nursing. Upon successfully passing such examination, the board shall issue to the applicant a license to practice professional nursing as a registered nurse, said license to be in force from the date of issue thereof until one year from and after the first day of the following January.

B. Place of examination. On request of the board, the State Director of Public Improvements shall provide a suitable room, or rooms, at the seat of Government, for its meetings and for the administration of the licensing examination.

C. Time of examination. The board shall hold at least one examination annually at such place and at such time as the board shall fix and determine. Notice thereof shall be given by publication at least one month previous to date of examination in such newspapers and nursing journals as the board may determine.

D. By endorsement. The board may issue a license to practice professional nursing as a registered professional nurse by endorsement to an applicant who has been duly licensed by examination as a registered nurse under the laws of another state, territory or foreign country, if in the opinion of the board the applicant meets the qualifications required of registered nurses in this State at the time of graduation.

E. By waiver. All applications for license by waiver must be made within 2 years of the effective date of this chapter. The board may issue a license to practice as a professional nurse to any person who shall submit to the board written evidence, verified by oath, that said applicant:

1. Is of good moral character; and
2. Has completed an approved 4-year high school course of study or the equivalent thereof; and
3. Has practiced professional nursing in Maine at least 3 years within the 5-year period immediately preceding the effective date of this chapter. The board may accept, as proof thereof, the written statements, verified by oath, of one physician licensed to practice in the State of Maine, who has knowledge of the applicant's having practiced professional nursing in Maine during said period, and of at least 2 nurse administrators who have such knowledge; and

4. Has completed a professional nursing education program which, at the time of completion, would have enabled such person to take an examination and be licensed as a professional nurse in the State of Maine; and

5. Has passed in writing the licensing examination to be administered by the Board of Nursing.

III. Fee. Every applicant applying for a license to practice as a registered nurse shall pay a fee of \$20 to the board. The fee for re-examination shall be determined by the board and shall not exceed \$20.

IV. Title and abbreviation. Any person who holds a license to practice professional nursing in this State shall have the right to use the title "Registered Nurse" and the abbreviation "R.N.". No other person shall assume such title or use such abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a registered nurse.

V. Nurses registered under a previous law. Any person holding a license or certificate of registration as a registered nurse in Maine issued by the former Board of Registration of Nurses, which is valid on the effective date hereof, shall be licensed as a registered nurse under the provisions of this chapter, and the renewal of said licenses for said persons shall be effectuated under this section.

VI. Renewal of license as registered nurse. The license of every registered nurse licensed under this chapter shall be renewed annually, except as herein-after provided. On or before November first of each year, the board shall mail an application for renewal of license to each professional nurse to whom a license was issued or renewed during the current year, which application shall be mailed to the most recent address of said person as it appears on the records of the board. Such person shall complete the renewal application and return it to the board with a renewal fee of \$2 before December 31st of the year in which said application was received. Upon receipt of the application and fee, the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal of license for the current year beginning January 1st and expiring December 31st.

Any registered nurse who allows his or her license to lapse by failing to renew the license as herein provided may be reinstated by the board on satisfactory explanation for such failure to renew his license and on payment of a reinstatement fee of \$5.

Any person practicing professional nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of this chapter.

A person who is not engaged in professional nursing in the State shall not be required to pay a renewal fee for so long as he or she does not so practice, but shall notify the board of his or her inactive status in writing. Prior to resumption of his or her practice of professional nursing such person shall be required to notify the board and remit a renewal fee for the current annual period.

Sec. 5. Licensed practical nurse.

I. Qualifications of applicants. An applicant for a license to practice as a licensed practical nurse shall submit to the board written evidence, verified by oath, that the applicant:

- A.** Is at least 19 years of age; and
- B.** Is of good moral character; and
- C.** Is of good physical and mental health; and
- D.** Has completed at least one year of high school or its equivalent and such other preliminary qualification requirements as the board may prescribe; applicants over 30 years of age shall have completed at least the 8th grade or its equivalent; and
- E.** Has completed a prescribed curriculum in a state accredited program for the preparation of practical nurses and holds a diploma or certificate therefrom; or
- F.** Has completed at least 2 years of study in an accredited professional school of nursing; and provided, that in the discretion of the board, the said study completed in the professional school of nursing shall be equivalent to the approved program required in practical nursing schools and shall have included 4 basic nursing services.

II. License.

A. By examination. The applicant shall be required to pass a written examination in such subjects deemed by the board necessary to determine the fitness of the applicant to practice practical nursing. Each written examination may be supplemented by an oral or practical examination. Upon successfully passing such examination the board shall issue to the applicant a license to practice as a licensed practical nurse, said license to be in force from the date of issue until one year from and after the first day of the following July.

B. Time and place of examination. Time and place of examination shall be as provided in section 4.

C. By endorsement. The board may issue a license to practice as a licensed practical nurse by endorsement to any applicant who has been duly licensed or registered as a licensed practical nurse or a person entitled to perform similar services under a different title, under laws of another state, territory or foreign country, if in the opinion of the board the applicant meets the requirements for licensed practical nurses in this State.

III. Fee. The applicant applying for a license to practice as a licensed practical nurse shall pay a fee of \$15 to the board. The fee for re-examination shall be determined by the board and shall not exceed \$15.

IV. Title and abbreviation. Any person who holds a license to practice as a licensed practical nurse in this State shall have the right to use the title

“Licensed Practical Nurse” and abbreviation “L.P.N.”. No other person shall assume such title or use such abbreviation or any other words, letters, signs or figures to indicate that the person using the same is a licensed practical nurse.

V. Practical nurses licensed under a previous law. Any person holding a license as a licensed practical nurse in Maine issued by the former Board of Registration of Nurses, which is valid on the effective date hereof, shall be licensed as a licensed practical nurse under this chapter, and the renewal of said licenses for said persons shall be effectuated under this section.

VI. Renewal of practical nurse license. The license of every practical nurse licensed under this chapter shall be renewed annually, except as hereinafter provided. On or before May 1st of each year, the board shall mail an application for renewal of license to each practical nurse to whom a license was issued or renewed during the current year, which application shall be mailed to the most recent address of said person as it appears on the records of the board. Such person shall complete the renewal application and return it to the board with a renewal fee of \$1 before July first of the year in which said application was received. Upon receipt of the application and fee, the board shall verify the accuracy of the application and issue to the applicant a renewal of license for the current year beginning July 1st and expiring June 30th.

Any licensee who allows his or her license to lapse by failing to renew the license as provided may be reinstated by the board on satisfactory explanation of such failure to renew his or her license and on payment of a reinstatement fee of \$3.

Any person practicing nursing as a licensed practical nurse during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of this chapter.

Sec. 6. Disposition of funds. All moneys received by the board under this chapter shall be paid to the Treasurer of State. The Treasurer of State shall place the money to the credit of the State Board of Nursing Fund. All amounts paid into this fund shall be held subject to the order of the board to be used only for the expenses incurred in the performance of the purpose of this chapter and the duties imposed thereby, as well as the promotion of nursing education and standards of nursing care in this State.

All funds which may have accumulated to the credit of the board under chapters 69 and 70 shall be continued for use by the Board of Nursing in the administration of this chapter.

Sec. 7. Nursing education programs.

I. Application for accreditation. An institution desiring to conduct a nursing education program to prepare professional or practical nurses shall apply to the board and submit evidence that:

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

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

II. Survey. A survey of the institution and its entire nursing education program shall be made by either or both the executive director or other authorized appointee of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an accredited nursing education program are met, it shall be accredited as a nursing education program for professional or practical nurses.

From time to time as deemed necessary by the board, it shall be the duty of the board, through its executive director or other authorized representative of the board, to survey all nursing education programs in the State. Written reports of such surveys shall be submitted to the board. If the board determines that any accredited nursing education program is not maintaining the standards required by statute and by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the institution conducting the program. A program which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after a hearing.

III. In-service training. Nothing in this chapter applies to in-service teaching or training programs for paramedical personnel.

Sec. 8. Disciplinary proceedings.

I. Grounds for discipline. The board shall have power to deny, revoke or suspend any license to practice nursing issued by the board or applied for in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon proof that the person:

- A. Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; or
- B. Is guilty of a crime or gross immorality; or
- C. Is unfit or incompetent by reason of negligence, habits or other causes; or
- D. Is habitually intemperate or is addicted to the use of habit-forming drugs; or
- E. Is mentally incompetent; or
- F. Is guilty of unprofessional conduct; or
- G. Has wilfully or repeatedly violated any of the provisions of this chapter.

II. Proceedings. Upon filing of a sworn complaint with the board, charging a person with having been guilty of any of the actions specified as a ground for disciplinary action, the executive director of the board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the accused

at least 30 days prior thereto. When personal service cannot be effected and such fact is certified on oath by any person duly authorized to make legal service, the executive director of the board shall cause to be published, once a week for 4 successive weeks, a notice of the hearing in a newspaper published in the county in which the accused last practiced according to the records of the board and shall mail a copy of the charges and of such notice to the accused at the last address of said accused appearing in the board's records. When publication of the notice is necessary, the date of the hearing shall not be less than 10 days after the last publication thereof, and said published notice need give notice only of the time and place of hearing by the board, the name of the accused, and that the hearing involves proceedings under this section. If any person served with a subpoena, to appear and testify, or to produce books, papers, accounts and documents, issued by the board in the course of an inquiry or hearing conducted under this chapter, shall, in disobedience of such subpoena, refuse, neglect or fail to appear or to testify, or to produce such books, papers, accounts or documents, then the board may apply to any Justice of the Superior Court, in term time or vacation. Thereupon the said justice shall issue a subpoena requiring such person to appear and to testify and to produce such books, papers, accounts and documents before the board. Any person failing or refusing to obey a subpoena of such justice shall be liable for proceedings as for contempt. The board shall not be bound by strict rules of procedure in the conduct of its proceedings, but the determination shall be based upon sufficient legal evidence to sustain it. At the hearing the accused shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence on his or her own behalf, to cross-examine witnesses and to have subpoenas issued by the board. If the accused is found guilty of the charges, the board may refuse to issue a license to the applicant or may revoke, suspend or otherwise discipline a licensee. A revoked or suspended license may be reissued thereafter by the board in its discretion. A person whose license has been revoked or suspended may obtain judicial review in the manner provided by chapter 76, section 13.

Sec. 9. Exceptions. This chapter does not prohibit:

I. The furnishing of nursing assistance in an emergency.

II. The practice of nursing which is incidental to their program of study by students enrolled in nursing education programs accredited by the board, or by graduates of such accredited nursing educational program pending the results of the first licensing examination scheduled by the board following such graduation, provided they practice under supervision of a registered nurse.

III. The practice of any legally qualified nurse of another state who is employed by the United States Government or any bureau, division or agency thereof, while in the discharge of his or her official duties.

IV. The practice of nursing by a registered nurse currently licensed in another state for a period of 60 days pending licensure in Maine, providing, however, the nurse, upon employment, has furnished the employer with satisfactory evidence of current licensure in another state, and provided also, such nurse furnishes evidence to the prospective employer of having submitted proper application and fees to the board for license prior to employment.

V. The practice of "practical nursing" as defined in section 2, subsection III, by unlicensed persons.

Sec. 10. Violation of chapter; penalties. It shall be a misdemeanor for any person, including any corporation, association or individual to:

I. Sell or fraudulently obtain or furnish any nursing diploma, license, renewal or record or aid or abet therein; or

II. Practice nursing as defined by this chapter under cover of any diploma, license or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation; or

III. Practice professional nursing as defined by this chapter unless duly licensed to do so under this chapter; or

IV. Use in connection with his or her name any designation tending to imply that he or she is a licensed registered nurse or a licensed practical nurse unless duly licensed so to practice under this chapter; or

V. Practice professional nursing during the time his or her license issued under this chapter shall be suspended or revoked; or

VI. Otherwise violate any provisions of this chapter. Such misdemeanor shall be punishable by a fine of not more than \$100 for a first offense, or by imprisonment of not more than 10 days. Each subsequent offense shall be punishable by a fine of not more than \$200, or by imprisonment of not less than 10 days nor more than 30 days, or by both.

Trial justices in their respective counties shall have original and concurrent jurisdiction with municipal courts and the Superior Court over all prosecutions for violation of the provisions of this chapter. All fines and forfeitures collected under this chapter shall accrue to the county where the offense is prosecuted. It shall be necessary to prove in any prosecution or hearing under this section only a single act prohibited by law or a single holding out or an attempt without proving a general course of conduct, in order to constitute a violation. Such misdemeanors shall be prosecuted by the county attorney.

Sec. 11. Injunctive relief. The Supreme Judicial Court and the Superior Court shall have jurisdiction in equity, upon information filed by the county attorney at the request of the board, to restrain or enjoin any person from committing any act declared to be a misdemeanor by this chapter. If it be established that the defendant has been or is committing an act declared to be a misdemeanor by this chapter, the court or any judge thereof shall enter a decree perpetually enjoining said defendant from further committing such act. In case of violation of any injunction issued under this section, the court or any judge thereof may summarily try and punish the offender for contempt of court. Such injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.'

Sec. 2. R. S., cc. 69, 70, repealed. Chapter 69 and 70 of the Revised Statutes, which relate to Registered Nurse and Practical Nurses, as amended, are repealed,

except as their continued effectiveness is required to permit the carrying out of the provisions of chapter 69-A, sections 3 and 6.

Sec. 3. R. S., c. 18, § 31, amended. The first sentence of the first paragraph of section 31 of chapter 18 of the Revised Statutes, as repealed and replaced by section 14 of chapter 397 of the public laws of 1957 and as amended by section 23 of chapter 429 of the public laws of 1957 is further amended to read as follows:

'All money received by the Treasurer of State from the Board of Registration in Medicine, the Board of Examiners in Physical Therapy, the Board of Examiners of Psychologists, the ~~Board of Registration of Nurses~~ **State Board of Nursing**, the Board of Examiners of Applicants for Admission to the Bar, the Board of Accountancy, the Board of Veterinary Examiners, the Board of Osteopathic Examination and Registration, the Board of Examiners of Funeral Directors and Embalmers, the State Board of Registration and Examination in Optometry, the Board of Dental Examiners, the State Board of Registration for Professional Engineers, the State Board of Architects, the Electricians' Examining Board, the Oil Burnermen's Licensing Board, the State Board of Barbers and Hairdressers, the Examiners of Podiatrists, the Board of Chiropractic Examination and Registration and the Board of Commissioners of the Profession of Pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the provisions of law relating to each board respectively, and so much thereof as may be required is appropriated for said purposes.'