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STATE OF MAINE  
BOARD OF NURSING  
158 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0158

JANET T. MILLS  
GOVERNOR

KIM ESQUIBEL, PHD, M.S.N., R.N.  
EXECUTIVE DIRECTOR

February 12, 2021

Senator Heather Sanborn, Chair  
Representative Denise Tepler, Chair  
Committee on Health Coverage, Insurance and Financial Services  
100 State House Station  
Augusta, ME 04333

**Re: *LD 2133 An Act to Implement Recommendations for Review of the Licensing Laws for Certain Licensed Health Professionals Pursuant to the State Government Evaluation Act.***

Dear Senator Sanborn, Representative Tepler, and members of the Committee on Health Coverage, Insurance and Financial Services:

On March 18, 2020, the Maine Legislature passed LD 2133 into law following receipt and review of Government Evaluation Act (GEA) reports filed by a number of licensing boards, including the State Board of Nursing (BON).

LD 2133 directed the board to review Title 32, Chapter 31 and any rules adopted by the board – in consultation with interested parties – and report recommended changes to the Committee on Health Coverage, Insurance and Financial Services (HCIFS) no later than February 15, 2021.

This letter is to inform the Committee that the board has reviewed its law and rules, in consultation with the interested parties listed below, regarding the recommended statutory changes to the laws affecting it in its GEA report to the Legislature (<http://legislature.maine.gov/doc/3476>); specifically, pages 27-30 and attachments J through O.

- Maine Hospital Association (MHA)
- Maine Health Care Association (MHCA)
- Organization of Maine Nurse Executives (OMNE)
- Maine Association of Nurse Anesthetists (MeANA)
- Maine Nurse Practitioners Association (MNPA)
- Maine Association of American College of Nurse-Midwives
- DHHS, Division of Licensing and Certification
- Maine Registry of Certified Nursing Assistants and Direct Care Workers



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- Maine Department of Education – School Nurse Consultant
- Maine – American Nurses Association (ANA-Maine)
- Maine State Nurses Association (MSNA)
- MaineHealth
- Northern Light Health Nursing Leadership Council
- Home Care and Hospice Alliance of Maine

The laws referenced in the BON GEA report, pursuant to which it performs its duties of protecting the public, included:

1. Title 10 M.R.S. § 8003(5) The BON proposes that this law be amended to allow it to revoke a license following a hearing in conformance with the Maine Administrative Procedure Act and without a de novo review in district court. This change will make the law consistent with the laws affecting licensing boards and commissions within the Office of Licensing and Regulation (OLR) and would eliminate the need to routinely pend license renewal applications when an individual has an open complaint. The board received no comments from the interested parties opposing this proposed change.

2. Title 24 M.R.S. Chapter 21:

- § 2502 to amend the definition of “board” in the Maine Health Security Act to also include the State Board of Nursing (definition already refers to Board of Licensure in Medicine, Board of Osteopathic Medicine and Board of Dental Practice). The board received no comments from the interested parties opposing this proposed change.
- § 2505 to mandate reports to the boards by “health care practitioners” (broadening the mandated reporting beyond physicians and physician assistants) and distinguish between “mandated reporting” and “permissive reporting.” The board received no comments from the interested parties opposing this proposed change.
- § 2506 to eliminate the need for the board to request information from mandated reporters and instead require the mandated reporters to provide the information with their reports to the board. The board received no comments from the interested parties opposing this proposed change.
- § 2510 to update “physician-patient privilege” to health care professional-patient privilege” and make other clarifying changes to confidentiality provisions. The board received comments from the MNPA regarding this proposed change and supports their recommendation to change the language “health care professional-patient” to “health care practitioner – patient” to be consistent with section 2 of § 2510.

3. 32 M.R.S. § 2105-A sub-§1 to authorize the establishment of standing committees of the board to address complaint investigation and adjudicatory hearings. The board received no comments from the interested parties opposing this proposed change.

4. Title 32 M.R.S., Chapter 31 – The statute of the Board of Nursing; more specifically:

- Update the language to reflect current processes and alternative delivery systems to carry out its mission. The board received comments from the MNPA in support of the recommended changes with the exception of the proposed addition to 32 M.R.S. § 2153-A which resulted in elimination of the proposed language to this section. The board received comments from the Northern Light Nursing Leadership Council and OMNE in support of the recommended changes with the exception of the proposed addition to Title 32 M.R.S. §§ 2202, 2204, 2252 and 2254 which resulted in elimination of the proposed language to these sections.
- 32 M.R.S § 2102-2(H) Amend “coordination and oversight” of patient care services provided by unlicensed health care assistive personnel to “delegation” of patient care services provided by unlicensed health care assistive personnel to align with current health care delivery models. The proposed amendment of replacing “coordination and oversight” with “delegation” will require a comprehensive review (and replacement) of Chapter 6 Rule: *Regulations Relating to Coordination and Oversight of Patient Care Services by Unlicensed Assistive Personnel* to address the scope, education, and definition of unlicensed health care assistive personnel, and the nursing role as it relates to unlicensed assistive health care personnel. The board received comments from MNPA, MHA, Me-ANA, Northern Light Health Nursing Leadership Council, OMNE, Home Care & Hospice Alliance of Maine, MeANA, and the Maine Association of American College of Nurse-Midwives supporting the proposed change. The proposed amendment would require the board to adopt, pursuant to Title 5, chapter 375, subchapter II-A, major substantive rules for the application of the proposed change to nursing practice. The board looks forward to working with interested parties and stakeholders on the chapter 6 rule should the committee approve the proposed amendment of replacing the term “coordination and oversight” with “delegation”.

The board received no other comments from interested parties opposing any other proposed changes to 32 M.R.S. Chapter 31. The final proposed changes and comments from interested parties are included in this report.

Thank you for the opportunity to provide this report and recommended changes to the Committee as directed by LD 2133.

Sincerely,



Kim Esquibel, PhD, MSN, RN  
Executive Director

**CHAPTER 31**

**NURSES AND NURSING**

**SUBCHAPTER 1**

**GENERAL PROVISIONS**

**§2101. Purpose**

The State Board of Nursing is the state regulatory agency charged with protection of the public health and welfare in the area of nursing service. In order to safeguard the life and health of the people in this State, an individual who for compensation practices or offers to ~~practice professional nursing or~~ practical nursing, professional nursing or advanced practice registered nursing in this State shall submit evidence that the individual is qualified so to practice, and that individual must be licensed. It is unlawful for an individual not licensed under this chapter to practice or to offer to practice practical nursing, professional nursing or advanced practice registered nursing~~practical nursing~~ in this State; to use a sign, card or device to indicate that the individual is a practical nurse, professional registered nurse or advanced practice registered nurse~~licensed practical nurse~~; or to hold oneself out to the public as a licensed practical nurse, professional registered nurse or an ~~practical nurse~~ advanced practice registered nurse. [PL 1993, c. 600, Pt. A, §108 (AMD).]

**SECTION HISTORY**

PL 1967, c. 263, §1 (AMD). PL 1985, c. 724, §1 (AMD). PL 1993, c. 600, §A108 (AMD).

**§2102. Definitions**

As used in this chapter, unless the context indicates otherwise, the following words have the following meanings. [PL 1993, c. 600, Pt. A, §109 (AMD).]

- 1. Board.** "Board" means the State Board of Nursing.
- 2. Professional nursing.** The practice of "professional nursing" means the performance by a registered professional nurse for compensation of professional services defined as follows:
  - A. Diagnosis and treatment of human responses to actual or potential physical and emotional health problems through such services as case finding, health teaching, health counseling and provision of care supportive to or restorative of life and well-being and execution of the medical regimen as prescribed by a legally authorized licensed professional acting within the scope of the licensed professional's authority to prescribe medications, substances or devices or otherwise legally authorized individual acting under the delegated authority of a legally authorized licensed professional acting within the scope of the licensed professional's authority to prescribe medications, substances or devices:
    - (1) "Diagnosis" in the context of nursing practice means that identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen. This diagnostic privilege is distinct from medical diagnosis;
    - (2) "Human responses" means those signs, symptoms and processes that denote the individual's health needs or reaction to an actual or potential health problem; and

(3) "Treatment" means selection and performance of those therapeutic measures essential to the effective management and execution of the nursing regimen; [PL 2013, c. 540, §1 (AMD); PL 2013, c. 540, §2 (AFF).]

B. [PL 1995, c. 379, §3 (RP); PL 1995, c. 379, §11 (AFF).]

C. Delegation of selected nursing services to licensed practical nurses when the services use standardized protocols and procedures leading to predictable outcomes in the observation and care of the ill, injured and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by an individual authorized by state law to prescribe. The board shall issue such rules concerning delegation as it considers necessary to ensure quality health care to the patient; [PL 1993, c. 600, Pt. A, §110 (AMD).]

D. Delegation of selected nursing services to assistants to nurses who have completed or are currently enrolled in a course sponsored by a state-approved facility or a facility licensed by the Department of Health and Human Services. This course must include a curriculum approved by the board. The board shall issue such rules concerning delegation as it considers necessary to ensure quality of health care to the patient; [PL 1995, c. 625, Pt. B, §11 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

E. ~~Supervision and teaching of nursing personnel~~Nursing education and supervision including nursing staff development within facilities, companies and organizations; and the didactic and clinical instruction of students in a nursing education program; [PL 1985, c. 724, §2 (RPR).]

F. Administration of medications and treatment as prescribed by a legally authorized individual. Nothing in this section may be construed as limiting the administration of medication by licensed or unlicensed health care personnel as provided in other laws; [PL 1995, c. 670, Pt. C, §4 (AMD); PL 1995, c. 670, Pt. D, §5 (AFF).]

G. Teaching activities of daily living to care providers designated by the patient and family; and [PL 1995, c. 670, Pt. C, §5 (AMD); PL 1995, c. 670, Pt. D, §5 (AFF).]

H. ~~Coordination and oversight~~Delegation of patient care services provided by unlicensed health care assistive personnel. Nothing in this paragraph prohibits a nurse in the exercise of professional judgment from refusing to ~~provide such coordination and oversight~~ delegate in any care setting. The board shall adopt, pursuant to Title 5, chapter 375, subchapter II-A, major substantive rules for the application of this paragraph to nursing practice. [PL 1995, c. 670, Pt. C, §6 (NEW); PL 1995, c. 670, Pt. D, §5 (AFF).]

[PL 2013, c. 540, §1 (AMD); PL 2013, c. 540, §2 (AFF).]

I. Nursing administrative duties that include providing oversight of nursing staff and patient care, and development of the framework for nursing practice.

**2-A. Advanced practice registered nursing.** "Advanced practice registered nursing" means the delivery of expanded professional health care by an advanced practice registered nurse that is:

A. [PL 2003, c. 204, Pt. H, §1 (RP).]

B. Within the advanced practice registered nurse's scope of practice as specified by the board by rulemaking, taking into consideration any national standards that exist; and [PL 1995, c. 379, §4 (NEW); PL 1995, c. 379, §11 (AFF).]

C. In accordance with the standards of practice for advanced practice registered nurses as specified by the board by rulemaking, taking into consideration any national standards that may exist. Advanced practice registered nursing includes consultation with or referral to medical and other health care providers when required by client health care needs. [PL 1995, c. 379, §4 (NEW); PL 1995, c. 379, §11 (AFF).]

A certified nurse practitioner or a certified nurse midwife who qualifies as an advanced practice registered nurse may prescribe and dispense drugs or devices, or both, in accordance with rules adopted by the board.

A certified nurse practitioner who qualifies as an advanced practice registered nurse must practice, for at least 24 months, under the supervision of a licensed physician or a supervising nurse practitioner or must be employed by a clinic or hospital that has a medical director who is a licensed physician. The certified nurse practitioner shall submit written evidence to the board upon completion of the required clinical experience.

The board shall adopt rules necessary to effectuate the purposes of this chapter relating to advanced practice registered nursing.

[PL 2007, c. 316, §1 (AMD).]

**3. Practical nursing.** The practice of "practical nursing" means performing tasks and responsibilities, by a licensed practical nurse, for compensation within a structured health care setting, reinforcing the patient and family teaching program through health teaching, health counseling and provision of supportive and restorative care, under the direction of a registered nurse or licensed or otherwise legally authorized physician, podiatrist or dentist.

[PL 1991, c. 731, §2 (AMD).]

**4. License.** A "license" is an authorization to practice nursing as a professional nurse, practical nurse or advanced practice registered nurse.

[PL 2007, c. 498, §1 (AMD); PL 2007, c. 498, §3 (AFF).]

**5. Professional nurse.** The terms "professional nurse," "registered nurse" or "registered professional nurse" mean an individual who is currently licensed under this chapter and who practices professional nursing as defined in subsection 2. "R.N." is the abbreviation for the title of "registered professional nurse."

[PL 1993, c. 600, Pt. A, §111 (AMD).]

**5-A. Advanced practice registered nurse.** "Advanced practice registered nurse" means an individual who is currently licensed under this chapter to practice advanced practice registered nursing as defined in subsection 2-A. "A.P.R.N." is the abbreviation for the title of "advanced practice registered nurse." An advanced practice registered nurse may use the abbreviation "A.P.R.N." or the title or abbreviation designated by the national certifying body.

"Advanced practice registered nurse" includes a certified nurse practitioner, a certified nurse midwife, a certified clinical nurse specialist and a certified nurse anesthetist who are licensed under this chapter to practice advanced practice registered nursing.

[PL 2007, c. 498, §2 (AMD); PL 2007, c. 498, §3 (AFF).]

**6. Licensed practical nurse.** The term "licensed practical nurse" means an individual who is currently licensed under this chapter and who practices practical nursing as defined in subsection 3. "L.P.N." is the abbreviation for the title of "licensed practical nurse."

[PL 1993, c. 600, Pt. A, §111 (AMD).]

**7. Approved nursing ~~school~~ education program.** An "approved nursing school" or "approved nursing education program" means a school of nursing or a nursing department or division of a university or college or a school for the education of practical nurses and registered professional nurses approved by the board as provided in this chapter.

[PL 1985, c. 724, §4 (AMD).]

**8. Certified nursing assistant.** "Certified nursing assistant" means an individual whose duties are assigned by a registered professional nurse and who:

A. Has successfully completed a training program or course with a curriculum prescribed by the board, holds a certificate of training from that program or course and is listed on the Maine Registry of Certified Nursing Assistants and Direct Care Workers; or [PL 2011, c. 257, §19 (AMD).]

B. Was certified before September 29, 1987 and is listed on the Maine Registry of Certified Nursing Assistants and Direct Care Workers. [PL 2011, c. 257, §20 (AMD).]  
[PL 2011, c. 257, §§19, 20 (AMD).]

**9. Maine Registry of Certified Nursing Assistants and Direct Care Workers.** "Maine Registry of Certified Nursing Assistants and Direct Care Workers" has the same meaning as in Title 22, section 1812-G.

[PL 2011, c. 257, §21 (AMD).]

**10. Supervising nurse practitioner.** "Supervising nurse practitioner" means a certified nurse practitioner who qualifies as an advanced practice registered nurse who has:

A. Completed 24 months of supervised practice in accordance with subsection 2-A; [PL 2007, c. 316, §2 (NEW).]

B. Practiced as an advanced practice registered nurse for a minimum of 5 years in the same specialityspecialty; [PL 2007, c. 316, §2 (NEW).]

C. Worked in a clinical health care field for a minimum of 10 years; and [PL 2007, c. 316, §2 (NEW).]

D. Been approved by the board. [PL 2007, c. 316, §2 (NEW).]

The board shall adopt rules necessary to effectuate the purposes of this chapter relating to supervising nurse practitioners. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 316, §2 (NEW).]

11. Unlicensed Health Care Assistive Personnel. "Unlicensed Health Care Assistive Personnel" means any unlicensed personnel, regardless of title, to whom nursing tasks are delegated.

## SECTION HISTORY

PL 1967, c. 263, §2 (AMD). PL 1973, c. 495, §§1,2 (AMD). PL 1973, c. 737, §1 (AMD). PL 1973, c. 788, §155 (AMD). PL 1977, c. 395, §§1, 2 (AMD). PL 1977, c. 497, §10 (AMD). PL 1977, c. 696, §244 (AMD). PL 1985, c. 724, §§2-4 (AMD). PL 1985, c. 748, §42 (AMD). PL 1985, c. 819, §§A27, 28 (AMD). PL 1987, c. 195, §3 (AMD). PL 1991, c. 421, §§2, 3 (AMD). PL 1991, c. 731, §§1, 2 (AMD). PL 1993, c. 600, §§A109-112 (AMD). PL 1995, c. 379, §§3-5 (AMD). PL 1995, c. 379, §11 (AFF). PL 1995, c. 625, §B11 (AMD). PL 1995, c. 670, §§C4-6 (AMD). PL 1995, c. 670, §D5 (AFF). RR 2001, c. 2, §A42 (COR). PL 2003, c. 204, §H1 (AMD). PL 2003, c. 510, §B10 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 316, §§1, 2 (AMD). PL 2007, c. 498, §§1, 2 (AMD). PL 2007, c. 498, §3 (AFF). PL 2011, c. 257, §§19-21 (AMD). PL 2013, c. 540, §1 (AMD). PL 2013, c. 540, §2 (AFF).

### §2103. Exceptions

This chapter does not prohibit:

**1. Emergency.** The rendering of nursing assistance in the case of emergency;  
[PL 1985, c. 724, §5 (AMD).]

**2. Students.** The practice of nursing that is an integral part of a program by students enrolled in board-approved nursing education programs leading to initial licensure, or the practice of nursing by graduates of board-approved programs who are participating in a structured orientation program specifically designed for graduates of board-approved nursing programs as defined by the board, if they practice under on-site delegation and supervision of a registered professional nurse and only in the



practice setting. The board may, by rule or by policy, define what constitutes supervision and a practice setting;

[PL 2005, c. 163, §1 (AMD).]

**3. United States Government.**

[PL 1985, c. 724, §7 (RP).]

**4. Licensure in another state or jurisdiction.** The practice of:

A. Nursing by a registered nurse or a licensed practical nurse currently licensed in another state or United States territory for a period of 90 days pending licensure in the State if the nurse, upon employment, ~~has furnished~~ furnishes a letter of authorization to the prospective employer from the board. ~~the employer with satisfactory evidence of current licensure in another state or United States territory and the nurse furnishes a letter of authorization to the prospective employer of having submitted proper application and fees to the board for licensure prior to employment;~~ [PL 2003, c. 204, Pt. H, §2 (AMD).]

B. A currently licensed nurse of another United States jurisdiction or foreign country who is providing educational programs or consultative services within this State for a period not to exceed a total of 21 days per year; [PL 1993, c. 600, Pt. A, §113 (AMD).]

C. A currently licensed nurse of another state who is transporting patients into, out of or through this State. The exemption is limited to a period not to exceed 48 hours for each transport; [PL 2003, c. 204, Pt. H, §2 (AMD).]

D. Nursing in this State by a currently licensed nurse whose employment was contracted outside this State but requires the nurse to accompany and care for ~~clients~~ the patient while in this State. This practice is limited to ~~the particular~~ clients patient to 3 months within one year and is at the discretion of the board; or [PL 1993, c. 600, Pt. A, §113 (AMD).]

E. Nursing by a registered nurse or licensed practical nurse currently licensed in a jurisdiction outside the United States or its territories for a period not to exceed 90 days pending receipt of a United States social security number as long as all other requirements for licensure have been submitted and verified and the registered or licensed nurse has furnished upon employment a letter of authorization to the prospective employer from the board; ~~satisfactory evidence of current licensure in another jurisdiction and the nurse furnishes a letter of authorization to the prospective employer of having submitted proper application and fees to the board for licensure prior to employment;~~ [PL 2003, c. 204, Pt. H, §2 (NEW).]

[PL 2003, c. 204, Pt. H, §2 (AMD).]

**5. Practice of practical nursing.**

[PL 1967, c. 263, §4 (RP).]

**6. Nursing services; practice of religious principles.** Nursing services performed in accordance with the practice of the religious principles or tenets of a church or denomination that relies upon prayer or spiritual means alone for healing; or

[PL 2003, c. 204, Pt. H, §3 (AMD).]

**7. Nursing services by successful candidates of the National Council of State Boards of Nursing, Inc.'s National Council Licensure Examination pending receipt of United States social security number.** The practice of nursing for a period not to exceed 90 days by an applicant for licensure as a registered professional nurse or practical nurse who has passed the National Council of State Boards of Nursing, Inc.'s National Council Licensure Examination and has met all requirements for licensure except obtaining a United States social security number, as required by Title 36, section 175.

[PL 2005, c. 163, §2 (AMD).]

## SECTION HISTORY

PL 1967, c. 263, §§3,4 (AMD). PL 1985, c. 724, §§5-9 (AMD). PL 1993, c. 600, §A113 (AMD). PL 1999, c. 386, §H1 (AMD). PL 2001, c. 260, §D1 (AMD). PL 2003, c. 204, §§H2-4 (AMD). PL 2005, c. 163, §§1,2 (AMD).

**§2104. Education programs**

**1. Application for approval.** An institution desiring to conduct a nursing education program to prepare professional or practical nurses must 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 other standards as established by this chapter and by the board. [PL 1993, c. 600, Pt. A, §114 (AMD).]

[PL 1993, c. 600, Pt. A, §114 (AMD).]

**2. Survey.** A survey of the institution and its entire nursing education program must 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 approved nursing education program are met, the institution must be approved as a nursing education program for professional or practical nurses.

From time to time as determined necessary by the board, it is 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 the surveys must be submitted to the board. If the board determines that an approved nursing education program is not maintaining the standards required by statute and by the board, notice in writing specifying the defect or defects must be immediately given to the institution conducting the program. If a program fails to correct these conditions to the satisfaction of the board within a reasonable time, the board shall take appropriate action pursuant to section 2153.

[PL 1993, c. 600, Pt. A, §114 (AMD).]

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

**4. Approval and monitoring of nursing assistant training curriculum and faculty.** An educational institution or health care facility desiring to conduct an educational program for nursing assistants to prepare individuals for a certificate of training and subsequent listing on the Maine Registry of Certified Nursing Assistants and Direct Care Workers must apply to the Department of Health and Human Services and submit evidence:

A. That it is prepared to carry out the curriculum for nursing assistants as prescribed by the board; [PL 1993, c. 600, Pt. A, §114 (AMD).]

B. That it is prepared to meet those standards established by the board; and [PL 1993, c. 600, Pt. A, §114 (AMD).]

C. That it is prepared to meet those standards for educational programming and faculty as established by the Department of Health and Human Services; ~~and~~. [PL 2009, c. 628, §3 (AMD).]

~~D. With respect to an application by a health care facility, that an educational institution cannot provide a nursing assistant training program within 30 days of the application date.~~ [PL 1993, c. 600, Pt. A, §114 (AMD).]

The Department of Health and Human Services shall issue a notice of approval to an educational institution or health care facility that meets the requirements of this subsection.

[PL 2011, c. 257, §22 (AMD).]

## SECTION HISTORY

PL 1985, c. 724, §10 (AMD). PL 1987, c. 195, §4 (AMD). PL 1989, c. 700, §A145 (AMD). PL 1991, c. 421, §4 (AMD). PL 1993, c. 600, §A114 (AMD). PL 2009, c. 628, §3 (AMD). PL 2011, c. 257, §22 (AMD).

#### **§2104-A. Nurse orientation in institutions**

A nurse who is employed in ~~a hospital or nursing home and involved in a position involving~~ direct patient care shall, at the beginning of the nurse's employment, participate in an individualized controlled learning experience adjusted for competency based upon practice standards and protocols. ~~Each hospital or nursing home~~ The health care facility shall develop a plan with the employee for compliance with this section, which must contain a mutually agreed upon completion date. A copy of the plan must be made a part of the nurse's personnel file. The staffing plan for the ~~hospital or nursing home~~ health care facility must reflect current trainee competence. [PL 1993, c. 600, Pt. A, §115 (AMD).]

#### **SECTION HISTORY**

PL 1989, c. 579, §7 (NEW). PL 1993, c. 600, §A115 (AMD).

#### **§2105. Disciplinary proceedings**

##### **(REPEALED)**

#### **SECTION HISTORY**

PL 1973, c. 303, §3 (AMD). PL 1977, c. 694, §590 (AMD). PL 1983, c. 378, §20 (RP).

#### **§2105-A. Disciplinary actions**

##### **1. Disciplinary proceedings and sanctions.**

[PL 1985, c. 724, §11 (RP).]

**1-A. Disciplinary proceedings and sanctions.** The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of rules adopted by the board. Investigation may include a hearing before the board to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise considered necessary to the fulfillment of its responsibilities under this chapter. The board may subpoena witnesses, records and documents, including records and documents maintained by a health care facility, in an investigation or hearing it conducts.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but, absent unusual circumstances justifying the delay, not later than 60 days from receipt of this information. The licensee shall respond within 30 days. The board shall share the licensee's response with the complainant, unless the board determines that it would be detrimental to the health of the complainant to ~~obtain share~~ the response. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The complainant may attend the conference and may be accompanied by up to 2 individuals, including legal counsel. The conference must be conducted in executive session of the board or its subcommittee, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Before the board or its subcommittee decides what action to take at the conference or as a result of the conference, the board or its subcommittee shall give the complainant a reasonable opportunity to speak. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

When a complaint has been filed against a licensee and the licensee moves or has moved to another state, the board may report to the appropriate licensing board in that state the complaint that has been filed, other complaints in the licensee's record on which action was taken and disciplinary actions of the board with respect to that licensee.

When an individual applies for a license under this chapter, the board may investigate the professional record of that individual, including professional records that the individual may have as a licensee in other states. The board may deny a license or authorize a restricted license based on the record of the applicant in other states.

If the board or its subcommittee finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, the board or its subcommittee may take any of the following actions the board or its subcommittee considers appropriate:

A. Warn, censure or reprimand; [PL 1985, c. 724, §12 (NEW).]

B. With the consent of the licensee, enter into a consent agreement that fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office; [PL 1993, c. 600, Pt. A, §116 (AMD).]

C. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement that ensure protection of the public health and safety and serve to rehabilitate or educate the licensee. These stipulations may be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office; [PL 1993, c. 600, Pt. A, §116 (AMD).]

D. If the board or its subcommittee concludes that modification or nonrenewal of the license is in order, hold an adjudicatory hearing in accordance with the provisions of Title 5, chapter 375, subchapter 4; or [PL 2013, c. 23, §1 (AMD).]

E. If the board or its subcommittee concludes that suspension or revocation of the license is in order, file a complaint in the District Court in accordance with Title 4, chapter 5. [PL 2001, c. 260, Pt. D, §2 (AMD).]

[PL 2013, c. 23, §1 (AMD).]

**2. Grounds for discipline.** The board may suspend or revoke a license pursuant to Title 5, section 10004. The following are grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of an individual licensed under this chapter:

A. The practice of fraud, ~~or~~ deceit **or misrepresentation** in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued; [PL 1983, c. 378, §21 (NEW).]

B. Misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients; [PL 2013, c. 105, §5 (AMD).]

C. A professional diagnosis of a mental or physical condition that has resulted or is foreseeably likely to result in the licensee performing the licensee's duties in a manner that endangers the health or safety of the licensee's patients; [PL 1993, c. 600, Pt. A, §116 (AMD).]

D. Aiding or abetting the practice of nursing by an individual not licensed under this chapter and who claims to be legally licensed; [PL 1993, c. 600, Pt. A, §116 (AMD).]

E. Incompetence in the practice for which the licensee is licensed. A licensee is considered incompetent in the practice if the licensee has:

(1) Engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed; [PL 1993, c. 600, Pt. A, §116 (AMD).]

F. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior, including engaging in disruptive behavior, that has been established in the practice for which the licensee is licensed. For the purposes of this paragraph, “disruptive behavior” means aberrant behavior that interferes with or is likely to interfere with the delivery of care; [PL 1993, c. 600, Pt. A, §116 (AMD).]

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement or that relates directly to the practice for which the licensee is licensed or conviction of a crime for which incarceration for one year or more may be imposed; [PL 1993, c. 600, Pt. A, §116 (AMD).]

H. A violation of this chapter or a rule adopted by the board; [PL 2015, c. 488, §10 (AMD).]

I. Engaging in false, misleading or deceptive advertising; [PL 2019, c. 165, §5 (AMD).]

J. Failure to comply with the requirements of Title 22, section 7253; ~~or~~ [PL 2019, c. 165, §6 (AMD).]

K. A violation of section 2112. [PL 2019, c. 165, §7 (NEW).]  
[PL 2019, c. 165, §§5-7 (AMD).]

L. Revocation, suspension or restriction of a license to practice nursing or other disciplinary action; denial of an application for a license; or surrender of a license to practice nursing following the institution of disciplinary action by another state or a territory of the United States or a foreign country if the conduct resulting in the disciplinary or other action involving the licensee would, if committed in this State, constitute grounds for discipline under the laws or rules of this State;

M. Engaging in any activity requiring a license under the governing law of the board that is beyond the scope of acts authorized by the license held;

N. Continuing to act in the capacity requiring a license under the governing law of the board after expiration, suspension or revocation of that license;

O. Noncompliance with an order or consent agreement of the board;

P. Failure to produce upon request of the board any documents in the licensee’s possession or under the licensee’s control concerning a pending complaint or proceeding or any matter under investigation by the board, unless otherwise prohibited by state or federal law; or

Q. Failure to timely respond to a complaint notification sent by the board.

**3. Confidentiality of information.** Reports, information or records provided to the board by a health care facility pursuant to this chapter are confidential insofar as the reports, information or records identify or permit identification of a patient, except that the board may disclose confidential information:

A. In an adjudicatory hearing or informal conference before the board or in a subsequent formal proceeding to which the information is relevant; and [PL 1993, c. 600, Pt. A, §116 (AMD).]

B. In a consent agreement or other written settlement when the information constitutes or pertains to the basis of board action. [PL 1993, c. 600, Pt. A, §116 (AMD).]

A copy of a report, information or record received by the board under this subsection must be provided to the licensee.

[PL 1993, c. 600, Pt. A, §116 (AMD).]

**4. Authority to request mental and physical examinations.** For the purposes of this section, by application for and acceptance of a license to practice, a nurse is considered to have given consent to a mental or physical examination when directed by the board. The board may direct a nurse to submit to an examination whenever the board determines the nurse may be suffering from a mental illness that may be interfering with the competent practice of nursing or from the use of intoxicants or drugs to an extent that they are preventing the nurse from practicing nursing competently and with safety to patients. A nurse examined pursuant to an order of the board may not prevent the testimony of the examining individual or prevent the acceptance into evidence of the report of an examining individual in a proceeding under subsection 1-A. Failure to comply with an order of the board to submit to a mental or physical examination results in the immediate suspension of the license of the nurse by order of the District Court until the nurse submits to the examination.

[PL 2009, c. 47, §2 (NEW).]

**5. Nurse health program.** The board may establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee's reporting information the board considers appropriate regarding reports received, contracts or investigations made and the disposition of each report, as long as the committee is not required to disclose any personally identifiable information. The protocols may not prohibit an impaired nurse from seeking alternative forms of treatment.

The board may contract with other agencies, individuals, firms or associations for the conduct and operation of a nurse health program operated by a professional review committee as that term is defined in Title 24, section 2502, subsection 4-A.

[PL 2009, c. 47, §3 (NEW).]

## SECTION HISTORY

PL 1983, c. 378, §21 (NEW). PL 1983, c. 769, §§1,2 (AMD). PL 1985, c. 724, §§11,12 (AMD). PL 1993, c. 600, §A116 (AMD). PL 1999, c. 547, §B62 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 260, §D2 (AMD). PL 2009, c. 47, §§2, 3 (AMD). PL 2013, c. 23, §1 (AMD). PL 2013, c. 105, §5 (AMD). PL 2015, c. 488, §§10-12 (AMD). PL 2019, c. 165, §§5-7 (AMD).

### §2106. Criminal violations; penalties

It is a crime for any person, including a corporation, or association or individual, to: [PL 1993, c. 600, Pt. A, §117 (AMD).]

**1. Fraudulent diploma or record.** Sell or fraudulently obtain or furnish a nursing diploma, license, renewal or record or provide aid in doing so;  
[PL 1993, c. 600, Pt. A, §117 (AMD).]

**2. Fraudulent license.** Practice nursing as defined by this chapter under cover of a diploma, license or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;  
[PL 1993, c. 600, Pt. A, §117 (AMD).]

**3. Practice without license.** Practice advanced practice nursing, professional nursing or practical nursing as defined by this chapter unless licensed to do so;  
[PL 1993, c. 600, Pt. A, §117 (AMD).]

**4. Implying license.** Use in connection with the person's name a designation tending to imply that the person is a licensed advanced practice registered nurse, licensed registered nurse or ~~a~~-licensed practical nurse unless so licensed under this chapter;  
[PL 1993, c. 600, Pt. A, §117 (AMD).]

**5. License suspended or revoked.** Practice advanced practice registered nursing, professional nursing or practical nursing during the time the person's license issued under this chapter is suspended or revoked; or  
[PL 1991, c. 797, §15 (AMD).]

**6. Violation of chapter.**  
[PL 2001, c. 421, Pt. B, §97 (RP); PL 2001, c. 421, Pt. C, §1 (AFF).]

A person who violates this section commits a Class E crime. [PL 1991, c. 797, §15 (RPR).]

The District Court has original and concurrent jurisdiction with the Superior Court over all prosecutions for violation of this chapter. All fines and forfeitures collected under this chapter must accrue to the county where the offense is prosecuted. It is necessary to prove in a 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. These crimes are prosecuted by the district attorney. [PL 1993, c. 600, Pt. A, §117 (AMD).]

#### SECTION HISTORY

PL 1967, c. 263, §5 (AMD). PL 1973, c. 567, §20 (AMD). PL 1991, c. 797, §15 (AMD). PL 1993, c. 600, §A117 (AMD). PL 2001, c. 421, §B97 (AMD). PL 2001, c. 421, §C1 (AFF).

#### §2106-A. Civil violations; penalties

A person who violates any provision of this chapter for which a penalty is not prescribed commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged. [PL 2001, c. 421, Pt. B, §98 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

#### SECTION HISTORY

PL 2001, c. 421, §B98 (NEW). PL 2001, c. 421, §C1 (AFF).

#### §2107. Injunctions

The Superior Court has jurisdiction, upon information filed by the county attorney at the request of the board, to restrain or enjoin an individual from committing an act declared to be a misdemeanor by this chapter. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by this chapter, the court shall enter a decree perpetually enjoining the defendant from further committing that act. In case of violation of an injunction issued under this section, the court may summarily try and punish the offender for contempt of court. Injunction proceedings are in addition to, and not in lieu of, all penalties and other remedies provided in this chapter. [PL 1993, c. 600, Pt. A, §118 (AMD).]

#### SECTION HISTORY

PL 1993, c. 600, §A118 (AMD).

#### §2108. Immunity

**(REPEALED)**

#### SECTION HISTORY

PL 1971, c. 371 (NEW). PL 1975, c. 452, §3 (RP).

#### §2108-A. Immunity

An individual or health care facility acting in good faith is immune from civil liability to the licensee or applicant for licensure for the following actions: [PL 1993, c. 600, Pt. A, §119 (AMD).]

**1. Making information available to the board.** Making a report or other information available to the board under this chapter; and  
[PL 1993, c. 600, Pt. A, §119 (AMD).]

**2. Assisting the board.** Assisting the board in carrying out its duties. [PL 1993, c. 600, Pt. A, §119 (AMD).]

#### SECTION HISTORY

PL 1983, c. 769, §3 (NEW). PL 1993, c. 600, §A119 (AMD).

#### **§2109. Confidentiality of personal information of applicant or licensee**

For applications for licensure and for renewal of licensure submitted on or after July 1, 2004, an applicant or licensee shall provide the board with a current professional address and telephone number, which is the public contact address, and a personal residence address and telephone number. An applicant's or licensee's personal residence address and telephone number, and e-mail address if provided by the applicant, are confidential information and may not be disclosed except as permitted by this section or as required by law unless the personal residence address, telephone number and e-mail address have been provided as the public contact address. Personal health information submitted as part of any application is confidential information and may not be disclosed except as permitted or required by law. [PL 2003, c. 64, §1 (NEW).]

#### SECTION HISTORY

PL 2003, c. 64, §1 (NEW).

#### **§2109-A. Inspection or copying of record; procedure**

**1. Request for record; redaction.** When the board receives a request to inspect or copy all or part of the record of an applicant or licensee, the board shall redact information that is not public before making the record available for inspection or copying. [PL 2019, c. 499, §1 (NEW).]

**2. Notice and opportunity to review.** When the board acknowledges a request to inspect or copy an applicant's or a licensee's record as required by Title 1, section 408-A, subsection 3, the board shall send a notice to the applicant or licensee at the applicant's or licensee's last address on file with the board explaining that the request has been made and that the applicant or licensee may review the redacted record before it is made available for inspection or copying. The acknowledgment to the requester must include a description of the review process provided to the applicant or licensee pursuant to this section, including the fact that all or part of the record may be withheld if the board finds that disclosure of all or part of the redacted record creates a potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party. The applicant or licensee has 10 business days from the date the board sends the notice to request the opportunity to review the redacted record. If the applicant or licensee so requests, the board shall send a copy of the redacted record to the applicant or licensee for review. The board shall make the redacted record available to the requester for inspection or copying 10 business days after sending the redacted record to the applicant or licensee for review unless the board receives a petition from the applicant or licensee under subsection 4. [PL 2019, c. 499, §1 (NEW).]

**3. Reasonable costs.** Reasonable costs related to the review of a record by the applicant or licensee are considered part of the board's costs to make the redacted record available for inspection or copying under subsection 2 and may be charged to the requester. [PL 2019, c. 499, §1 (NEW).]

**4. Action based on personal safety.** An applicant or licensee may petition the board to withhold the release of all or part of a record under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the record is disclosed to the public. The applicant or licensee must petition the board to withhold all or part of the record within 10 business days after the board sends the applicant or licensee the redacted record. The petition must include an explanation of the potential safety risks and a list of items requested to be withheld. Within 60 days of



receiving the petition, the board shall notify the applicant or licensee of its decision on the petition. If the applicant or licensee disagrees with the board's decision, the applicant or licensee may file a petition in Superior Court to enjoin the release of the record under subsection 5.  
[PL 2019, c. 499, §1 (NEW).]

**5. Injunction based on personal safety.** An applicant or licensee may bring an action in Superior Court to enjoin the board from releasing all or part of a record under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the record is disclosed to the public. The applicant or licensee must file the action within 10 business days after the board notifies the applicant or licensee under subsection 4 that the board will release all or part of the redacted record to the requester. The applicant or licensee shall immediately provide written notice to the board that the action has been filed, and the board may not make the record available for inspection or copying until the action is resolved.  
[PL 2019, c. 499, §1 (NEW).]

**6. Hearing.** The hearing on an action filed under subsection 5 may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.  
[PL 2019, c. 499, §1 (NEW).]

**7. Application.** This section does not apply to requests for records from other governmental licensing or disciplinary authorities or from any health care providers located within or outside this State that are concerned with granting, limiting or denying an applicant's or licensee's employment or privileges.  
[PL 2019, c. 499, §1 (NEW).]

#### SECTION HISTORY

PL 2019, c. 499, §1 (NEW).

#### §2110. Expedited partner therapy

An individual licensed under this chapter may not be disciplined for providing expedited partner therapy in accordance with the provisions of Title 22, chapter 251, subchapter 3, article 5. [PL 2009, c. 533, §2 (NEW).]

#### SECTION HISTORY

PL 2009, c. 533, §2 (NEW).

#### §2111. Criminal history record information; fees

**1. Background check.** The board shall request a background check for each person who submits an application for initial licensure or licensure by endorsement under this chapter, including an application for multistate licensure under subchapter 2-A. The background check must include criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation. The following provisions apply.

A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8. [PL 2017, c. 258, Pt. B, §5 (NEW).]

B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information. [PL 2017, c. 258, Pt. B, §5 (NEW).]

C. An applicant shall submit to having fingerprints taken. The State Police, upon payment of a fee established by the board by rule by the applicant, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the

payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety. [PL 2017, c. 258, Pt. B, §5 (NEW).]

D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709. [PL 2017, c. 258, Pt. B, §5 (NEW).]

E. State and federal criminal history record information may be used by the board for the purpose of screening each applicant. A board action against an applicant under this subsection is subject to the provisions of Title 5, chapter 341. [PL 2017, c. 258, Pt. B, §5 (NEW).]

F. Information obtained pursuant to this subsection is confidential. The results of background checks received by the board are for official use only and may not be disseminated to the Interstate Commission of Nurse Licensure Compact Administrators established in section 2177 or to any other person or entity. [PL 2017, c. 258, Pt. B, §5 (NEW).]

G. An applicant whose license has expired and who has not applied for renewal may request in writing that the State Bureau of Identification remove the applicant's fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the applicant's fingerprints from the fingerprint file and provide written confirmation of that removal. [PL 2017, c. 258, Pt. B, §5 (NEW).]

[PL 2017, c. 258, Pt. B, §5 (NEW).]

**2. Rules.** The board, following consultation with the State Bureau of Identification, shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2017, c. 258, Pt. B, §5 (NEW).]

#### SECTION HISTORY

PL 2017, c. 258, Pt. B, §5 (NEW).

#### **§2112. Prohibition on providing conversion therapy to minors**

An individual licensed or certified under this chapter may not advertise, offer or administer conversion therapy to a minor. [PL 2019, c. 165, §8 (NEW).]

#### SECTION HISTORY

PL 2019, c. 165, §8 (NEW).

## SUBCHAPTER 2

### STATE BOARD OF NURSING

#### **§2151. Appointment; term; removal**

The State Board of Nursing, as established by Title 5, section 12004-A, subsection 25, consists of 9 members who are appointed by the Governor. A full-term appointment is for 4 years. Appointment of members must comply with Title 10, section 8009. Members of the board may be removed from office for cause by the Governor. [PL 2007, c. 695, Pt. B, §9 (AMD).]

#### SECTION HISTORY

PL 1975, c. 258, §1 (RPR). PL 1975, c. 575, §28 (AMD). PL 1975, c. 771, §§350,351 (AMD). PL 1983, c. 176, §A12 (RPR). PL 1983, c. 812, §216 (AMD). PL 1985, c. 280 (AMD). PL 1985, c. 819, §§A29,30 (AMD). PL 1987, c. 195, §6 (AMD). PL 1989, c. 503, §B133 (AMD). PL 1993, c. 600, §A120 (AMD). PL 2007, c. 695, Pt. B, §9 (AMD).

### §2152. Qualifications

Each member of the board must be a citizen of the United States and a resident of this State for at least 3 consecutive years prior to appointment and shall file with the Secretary of State an oath of office before beginning service. The board is composed of: [PL 1993, c. 600, Pt. A, §121 (AMD).]

#### 1. Professional nurses. Six professional nurses, each of whom:

- A. Must be a graduate of a state-approved educational program in professional nursing; [PL 1985, c. 724, §13 (RPR).]
- B. Holds a current state license to practice nursing; and [PL 1993, c. 600, Pt. A, §121 (AMD).]
- C. Has at least 3 years' experience in active practice immediately preceding appointment. [PL 1985, c. 724, §13 (RPR).]

A minimum of 2 professional nurses must be active in an approved educational program in nursing. A minimum of 2 professional nurses must be active in nursing service. One of the professional nurse members of the board must be practicing long-term care nursing. One of the professional nurse members of the board must be an advanced practice registered nurse; [PL 1995, c. 379, §6 (AMD).]

#### 2. Licensed practical nurse. One licensed practical nurse who:

- A. Must be a graduate of a state-approved educational program in practical nursing; [PL 1993, c. 600, Pt. A, §121 (AMD).]
- B. Holds a current state license to practice practical nursing; and [PL 1993, c. 600, Pt. A, §121 (AMD).]
- C. Has at least 3 years' experience in active practice immediately preceding appointment; and [PL 1985, c. 724, §13 (NEW).]

[PL 1995, c. 379, §6 (AMD).]

**3. Public members.** Two public members. A person may not qualify for appointment as a public member of the board if that person or a member of that person's immediate family is serving as:

- A. A member of another state licensing board; [PL 1993, c. 600, Pt. A, §121 (AMD).]
- B. On the board of another health care agency; and [PL 1993, c. 600, Pt. A, §121 (AMD).]
- C. Engaged for compensation in the provision of health services or the provision of health research, instruction or insurance. [PL 1985, c. 724, §13 (NEW).]

[PL 1993, c. 600, Pt. A, §121 (AMD).]

### SECTION HISTORY

PL 1975, c. 258, §2 (RPR). PL 1985, c. 724, §13 (RPR). PL 1993, c. 600, §A121 (AMD). PL 1995, c. 379, §6 (AMD).

### §2153. Powers and duties

**(REPEALED)**

### SECTION HISTORY

PL 1969, c. 552, §3 (AMD). PL 1971, c. 328, §2 (AMD). PL 1975, c. 575, §29 (AMD). PL 1977, c. 78, §179 (AMD). PL 1977, c. 604, §§20,21 (AMD). PL 1985, c. 724, §§14,15 (AMD). PL

1985, c. 748, §42 (AMD). PL 1985, c. 819, §§A31,32 (AMD). PL 1993, c. 600, §A122 (RP). PL 1993, c. 659, §§B8,9 (AMD). PL 1995, c. 462, §A89 (AFF).

### §2153-A. Powers and duties

The board shall hold annual meetings at which it shall elect from its members a chair and a secretary. It may hold such other meetings during the year as it determines necessary to transact its business. Special meetings must be called by the secretary on the request of 2 members. Five members of the board constitute a quorum at a meeting. The secretary of the board shall perform such duties as delegated by the board, including license application review functions. [PL 1993, c. 600, Pt. A, §123 (NEW).]

The board: [PL 1993, c. 600, Pt. A, §123 (NEW).]

**1. Bylaws.** May adopt bylaws, rules 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 considers expedient;

[PL 1993, c. 600, Pt. A, §123 (NEW).]

**2. Seal.** May adopt a seal, which must be placed in the care of the executive director;

[PL 1993, c. 600, Pt. A, §123 (NEW).]

**3. Curricula.** May prescribe curricula and standards for educational programs preparing individuals for licensure under this chapter;

[PL 1993, c. 600, Pt. A, §123 (NEW).]

**4. Surveys.** May provide for surveys of the programs described in subsection 3 as it determines necessary;

[PL 1993, c. 600, Pt. A, §123 (NEW).]

**5. Approval.** May approve such nursing educational programs within the State as meet the requirements of this chapter and of the board;

[PL 1993, c. 600, Pt. A, §123 (NEW).]

**6. Denial.** May place nursing educational programs on probation, or warn, or deny, condition, withdraw or discontinue approval from nursing educational programs for failure to meet approved curricula or other standards as established by this chapter or pursuant to law;

[PL 1993, c. 600, Pt. A, §123 (NEW).]

**7. Licenses.** May examine, license and renew the licenses of qualified applicants;

[PL 1993, c. 600, Pt. A, §123 (NEW).]

**8. Prosecution.** May cause the prosecution and enjoinder of individuals violating this chapter and incur necessary expenses for those activities;

[PL 1993, c. 600, Pt. A, §123 (NEW).]

**9. Records.** May keep a record of all its proceedings;

[PL 1993, c. 600, Pt. A, §123 (NEW).]

**10. Report.** May make an annual report to the Commissioner of Professional and Financial Regulation for each fiscal year showing its receipts and disbursements and giving a full account of its activities during the previous 12-month period;

[PL 1993, c. 600, Pt. A, §123 (NEW).]

**11. Budget.** Shall submit to the Commissioner of Professional and Financial Regulation its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without any revision, alteration or change unless alterations are mutually agreed upon by the Department of

Professional and Financial Regulation and the board or the board's designee. The budget submitted by the board to the commissioner must be sufficient to enable the board to comply with this subchapter; [PL 1995, c. 625, Pt. A, §37 (RPR).]

**12. Executive and assistant director.** May appoint and employ qualified individuals, not members of the board, to serve as executive director and assistant executive director to the board, fix their compensation and define their duties; [PL 1993, c. 600, Pt. A, §123 (NEW).]

**13. Other employees.** May employ other individuals as may be necessary to carry out the work of the board; [PL 2011, c. 1, Pt. AA, §2 (AMD).]

**14. Funds.** May set aside and budget funds for, make contracts for, and procure goods or services the board determines necessary to accomplish its duties under this chapter; ~~and~~ [PL 2011, c. 1, Pt. AA, §3 (AMD).]

**15. Accept federal funds.** Notwithstanding section 2156, may accept for the State any federal funds appropriated under any federal law relating to the authorized programs of the board. The board may undertake the necessary duties and tasks to implement federal law with respect to the authorized programs of the board.

**16. Training Materials.** May approve the training materials for the Certified Nursing Assistant and the Certified Nursing Assistant – Medication courses;

**17. Rules.** Adopt rules as the board determines necessary and proper to carry out this chapter; and

**18. Other services and functions.** Provide services and carry out functions necessary to fulfill the board's statutory responsibilities. The board may set reasonable fees for services such as providing license certification and verifications, providing copies of board law and rules, and providing copies of documents.

[PL 2011, c. 1, Pt. AA, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 600, §A123 (NEW). PL 1995, c. 397, §§41,42 (AMD). PL 1995, c. 462, §§A56,57 (AMD). PL 1995, c. 625, §§A37,38 (AMD). PL 2005, c. 163, §3 (AMD). PL 2011, c. 1, Pt. AA, §§2-4 (AMD).

#### §2153-B. Liaison; limitations

The Commissioner of Professional and Financial Regulation shall act as a liaison between the board and the Governor. The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter. [PL 2005, c. 163, §4 (NEW).]

#### SECTION HISTORY

PL 2005, c. 163, §4 (NEW).

#### §2154. Qualifications of executive employee

The executive director must meet all the qualifications for professional nurse board members required in section 2152 and must, in addition, hold a master's degree in nursing. [PL 1993, c. 600, Pt. A, §124 (AMD).]

**SECTION HISTORY**

PL 1975, c. 258, §3 (AMD). PL 1985, c. 724, §16 (AMD). PL 1993, c. 600, §A124 (AMD).

**§2155. Compensation**

Eligible members of the board shall be compensated according to the provisions of Title 5, chapter 379. [PL 1985, c. 724, §17 (AMD).]

**SECTION HISTORY**

PL 1979, c. 39 (RPR). PL 1983, c. 812, §217 (AMD). PL 1985, c. 724, §17 (AMD).

**§2156. Disposition of funds**

All money received by the board under this chapter must 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 must 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 by it as well as the promotion of nursing education and standards of nursing care in this State. [PL 1993, c. 600, Pt. A, §125 (AMD).]

**SECTION HISTORY**

PL 1993, c. 600, §A125 (AMD).

**§2157. Nursing Education Mobility Advisory Group**

**(REPEALED)**

**SECTION HISTORY**

PL 1989, c. 609, §2 (NEW). PL 1991, c. 622, §S32 (RP).

**SUBCHAPTER 2-A****NURSE LICENSURE COMPACT****§2171. Short title; findings and declaration of purpose -- Article 1**

**1. Short title.** This chapter may be known and cited as "the Nurse Licensure Compact," or "the compact."

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**2. Legislative intent.** This compact is the Maine enactment of the Nurse Licensure Compact as revised by the National Council of State Boards of Nursing. The form, format and text of the compact have been changed minimally so as to conform to Maine statutory conventions. The changes are technical in nature, and it is the intent of the Legislature that this Act be interpreted as substantively the same as the Nurse Licensure Compact that is enacted by other party states.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**3. Findings.** The party states find that:

A. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws; [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public; [PL 2017, c. 258, Pt. A, §1 (NEW).]

- C. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - D. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - E. The system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - F. Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits. [PL 2017, c. 258, Pt. A, §1 (NEW).]
- [PL 2017, c. 258, Pt. A, §1 (NEW).]

**4. Purpose.** The general purposes of this compact are to:

- A. Facilitate the states' responsibility to protect the public's health and safety; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - B. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - C. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - D. Promote compliance with the laws governing the practice of nursing in each jurisdiction; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - E. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - F. Decrease redundancies in the consideration and issuance of nurse licenses; and [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - G. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements. [PL 2017, c. 258, Pt. A, §1 (NEW).]
- [PL 2017, c. 258, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

#### §2172. Definitions -- Article 2

As used in this compact, unless the context otherwise indicates, the following terms have the following meanings. [PL 2017, c. 258, Pt. A, §1 (NEW).]

**1. Adverse action.** "Adverse action" means an administrative, civil, equitable or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**2. Alternative program.** "Alternative program" means a nondisciplinary monitoring program approved by a licensing board.  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**3. Commission.** "Commission" means the Interstate Commission of Nurse Licensure Compact Administrators established in this compact.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**4. Coordinated licensure information system.** "Coordinated licensure information system" means an integrated system for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**5. Current significant investigative information.** "Current significant investigative information" means:

A. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for a nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, indicates more than a minor infraction; or [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Investigative information that indicates that a nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**6. Encumbrance.** "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**7. Head of the state licensing board.** "Head of the state licensing board" means the executive director of the State Board of Nursing.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**8. Home state.** "Home state" means the party state that is a nurse's primary state of residence.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**9. Licensing board.** "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**10. Multistate license.** "Multistate license" means a license to practice as a registered or a licensed practical or vocational nurse issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**11. Multistate licensure privilege.** "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse or licensed practical or vocational nurse in a remote state.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**12. Nurse.** "Nurse" means a registered nurse or licensed practical or vocational nurse, as those terms are defined by each party state's practice laws.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**13. Party state.** "Party state" means a state that has adopted this compact.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**14. Prior compact.** "Prior compact" means the prior nurse licensure compact that is superseded by this compact.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**15. Remote state.** "Remote state" means a party state other than the home state.

[PL 2017, c. 258, Pt. A, §1 (NEW).]



**16. Single-state license.** "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**17. State.** "State" means a state, territory or possession of the United States and the District of Columbia.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**18. State practice laws.** "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice and create the methods and grounds for imposing discipline. "State practice laws" does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

## SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

### §2173. General provisions and jurisdiction -- Article 3

**1. Multistate license.** A multistate license to practice registered or licensed practical or vocational nursing issued by a home state to a resident in that state is recognized by each party state as authorizing a nurse to practice as a registered nurse or as a licensed practical or vocational nurse, under a multistate licensure privilege, in each party state.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**2. Criminal history records.** A party state shall implement procedures for considering the criminal history records of an applicant for an initial multistate license or licensure by endorsement. Such procedures must include the submission of fingerprints or other biometric-based information by an applicant for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**3. Requirements.** Each party state shall require that an applicant to obtain or retain a multistate license in the home state:

A. Meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable laws; [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Have graduated or be eligible to graduate from a registered nurse or licensed practical or vocational nurse prelicensure education program approved by a licensing board or have graduated in a country other than the United States from a registered nurse or licensed practical or vocational nurse prelicensure education program that has been approved by an authorized accrediting body in the applicable country and has been verified by an independent credentials review agency to be comparable to a prelicensure education program approved by a licensing board; [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. Have, if a graduate of a prelicensure education program not taught in English or if English is not the applicant's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening; [PL 2017, c. 258, Pt. A, §1 (NEW).]

D. Have successfully passed a National Council Licensure Examination for registered nurses or a National Council Licensure Examination for practical or vocational nurses given by the National Council of State Boards of Nursing or an exam given by a predecessor or successor organization, as applicable; [PL 2017, c. 258, Pt. A, §1 (NEW).]

E. Be eligible for or hold an active, unencumbered nurse license; [PL 2017, c. 258, Pt. A, §1 (NEW).]

F. Have submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric-based information for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records; [PL 2017, c. 258, Pt. A, §1 (NEW).]

G. Have not been convicted or found guilty, or have entered into an agreed disposition, of a felony offense under applicable state or federal criminal law; [PL 2017, c. 258, Pt. A, §1 (NEW).]

H. Have not been convicted or found guilty, or have entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis; [PL 2017, c. 258, Pt. A, §1 (NEW).]

I. Be not currently enrolled in an alternative program; [PL 2017, c. 258, Pt. A, §1 (NEW).]

J. Be subject to self-disclosure requirements regarding current participation in an alternative program; and [PL 2017, c. 258, Pt. A, §1 (NEW).]

K. Have a valid social security number. [PL 2017, c. 258, Pt. A, §1 (NEW).]  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**4. Adverse action.** A party state is authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes an action under this subsection, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any action under this subsection by a remote state.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**5. Practice of nursing.** A nurse practicing in a party state shall comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but includes all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege subjects a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**6. Single-state license.** A person not residing in a party state may apply for a party state's single-state license as provided under the laws of each party state; however, a single-state license granted under this subsection is not recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact affects the requirements established by a party state for the issuance of a single-state license.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**7. Licenses active on the effective date of compact.** A nurse holding a home state multistate license on the effective date of this compact may retain and renew the multistate license issued by the nurse's then-current home state, except that:

A. A nurse who changes primary state of residence after the effective date of this compact must meet all applicable requirements under subsection 3 to obtain a multistate license from a new home state; and [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. A nurse who fails to satisfy the multistate licensure requirements in subsection 3 due to a disqualifying event occurring after the effective date of this compact is ineligible to retain or renew

a multistate license, and the nurse's multistate license must be revoked or deactivated in accordance with applicable rules adopted by the commission. [PL 2017, c. 258, Pt. A, §1 (NEW).]  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

#### §2174. Applications for licensure in a party state -- Article 4

**1. Other licenses.** Upon receiving an application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on a license or multistate licensure privilege held by the applicant, whether an adverse action has been taken against a license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**2. Multistate license.** A nurse may hold a multistate license issued by the home state in only one party state at a time.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**3. Change of residence.** If a nurse changes primary state of residence by moving between 2 party states, the nurse shall apply for licensure in the new home state, and the multistate license issued by the prior home state must be deactivated in accordance with applicable rules adopted by the commission.

A. A nurse may apply for licensure under this compact in advance of a change in primary state of residence. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. A multistate license may not be issued by the new home state under this subsection until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**4. Change of residence to nonparty state.** If a nurse changes primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state converts to a single-state license, valid only in the former home state.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

#### §2175. Additional authorities invested in party state licensing boards -- Article 5

**1. Authority.** In addition to other powers conferred by state law, a licensing board has the authority to:

A. Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

(1) Only the home state has the power to take adverse action against a nurse's license issued by the home state.

(2) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to a report of conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state licensing board shall apply its own state laws to determine appropriate action; [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state; [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. Complete any pending investigation of a nurse who changes primary state of residence during the course of such investigation. The licensing board also has the authority to take appropriate action and shall promptly report the conclusions of an investigation to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any action under this paragraph; [PL 2017, c. 258, Pt. A, §1 (NEW).]

D. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. A subpoena issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state may be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence is located; [PL 2017, c. 258, Pt. A, §1 (NEW).]

E. Obtain and submit, for each nurse licensure applicant, fingerprints or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions; [PL 2017, c. 258, Pt. A, §1 (NEW).]

F. If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse; and [PL 2017, c. 258, Pt. A, §1 (NEW).]

G. Take adverse action based on the factual findings of the remote state, as long as the licensing board follows its own procedures for taking such adverse action. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**2. Adverse action.** If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states is deactivated until all encumbrances have been removed from the multistate license. A home state disciplinary order that imposes adverse action against a nurse's multistate license must include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order. [PL 2017, c. 258, Pt. A, §1 (NEW).]

**3. Alternative program.** Nothing in this compact overrides a decision by a licensing board of a party state that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of a nurse for the duration of the nurse's participation in an alternative program. [PL 2017, c. 258, Pt. A, §1 (NEW).]

## SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

### §2176. Coordinated licensure information system and exchange of information -- Article 6

**1. Participation.** A party state shall participate in the coordinated licensure information system for all licensed registered nurses and licensed practical or vocational nurses. The coordinated licensure information system includes information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts. [PL 2017, c. 258, Pt. A, §1 (NEW).]

**2. Procedures.** The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this compact.  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**3. Reports.** A licensing board shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications, including the reasons for such denials, and nurse participation in alternative programs known to the licensing board regardless of whether such participation is considered nonpublic or confidential under state law.  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**4. Information restrictions.** Current significant investigative information and participation in nonpublic or confidential alternative programs may be transmitted through the coordinated licensure information system only to party state licensing boards.  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**5. Confidentiality.** Notwithstanding any other provision of law, a party state licensing board contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state licensing board.  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**6. Personally identifiable information.** Personally identifiable information obtained from the coordinated licensure information system by a party state licensing board may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**7. Expungement.** Information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information must also be expunged from the coordinated licensure information system.  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**8. Uniform data set.** The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which must include, at a minimum:

- A. Identifying information; [PL 2017, c. 258, Pt. A, §1 (NEW).]
- B. Licensure data; [PL 2017, c. 258, Pt. A, §1 (NEW).]
- C. Information related to alternative program participation; and [PL 2017, c. 258, Pt. A, §1 (NEW).]
- D. Other information that may facilitate the administration of this compact, as determined by commission rules. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**9. Investigative documents.** The compact administrator of a party state shall provide all investigative documents and information requested by another party state.  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

**§2177. Establishment of the Interstate Commission of Nurse Licensure Compact Administrators**  
-- Article 7

**1. Commission established.** The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

A. The commission is an instrumentality of the party states. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Venue is proper, and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. Nothing in this compact may be construed to be a waiver of sovereign immunity. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**2. Membership, voting and meetings.** This subsection governs the membership, voting and meetings of the commission.

A. Each party state has and is limited to one administrator. The head of the state licensing board or the head of the state licensing board's designee is the administrator of this compact for each party state. An administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission must be filled in accordance with the laws of the party state in which the vacancy exists. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Each administrator is entitled to one vote with regard to the promulgation of rules and creation of bylaws and must otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws or rules of the commission. [PL 2017, c. 258, Pt. A, §1 (NEW).]

D. All meetings must be open to the public, and public notice of meetings must be given in the same manner as required under the rule-making provisions in section 2178. [PL 2017, c. 258, Pt. A, §1 (NEW).]

E. The commission may convene in a closed, nonpublic meeting if the commission must discuss:

- (1) Noncompliance of a party state with its obligations under this compact;
- (2) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;
- (3) Current, threatened or reasonably anticipated litigation;
- (4) Negotiation of contracts for the purchase or sale of goods, services or real estate;
- (5) Accusing a person of a crime or formally censuring a person;
- (6) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- (7) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (8) Disclosure of investigatory records compiled for law enforcement purposes;
- (9) Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

(10) Matters specifically exempted from disclosure by federal or state statute. [PL 2017, c. 258, Pt. A, §1 (NEW).]

F. If a meeting, or portion of a meeting, is closed pursuant to paragraph E, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons for those actions, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**3. Bylaws and rules.** The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to:

A. Establishing the fiscal year of the commission; [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Providing reasonable standards and procedures:

(1) For the establishment and meetings of other committees; and

(2) Governing any general or specific delegation of any authority or function of the commission; [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission shall make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed; [PL 2017, c. 258, Pt. A, §1 (NEW).]

D. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the commission; [PL 2017, c. 258, Pt. A, §1 (NEW).]

E. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws exclusively govern the personnel policies and programs of the commission; and [PL 2017, c. 258, Pt. A, §1 (NEW).]

F. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**4. Publishing.** The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the publicly accessible website of the commission.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**5. Financial records.** The commission shall maintain its financial records in accordance with the bylaws.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**6. Meetings.** The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**7. Powers.** The commission has the following powers:

- A. To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules have the force and effect of law and are binding in all party states; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - B. To bring and prosecute legal proceedings or actions in the name of the commission; however, the standing of any licensing board to sue or be sued under applicable law is not affected; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - C. To purchase and maintain insurance and bonds; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - D. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - E. To cooperate with other organizations that administer state compacts related to the regulation of nursing, including, but not limited to, sharing administrative or staff expenses, office space or other resources; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - F. To hire employees, elect or appoint officers, fix compensation, define duties, grant appropriate authority to carry out the purposes of this compact and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - G. To accept all appropriate donations, grants and gifts of money, equipment, supplies, materials and services and to receive, use and dispose of the same, as long as at all times the commission avoids any appearance of impropriety or conflict of interest; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - H. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed, as long as at all times the commission avoids any appearance of impropriety; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - I. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - J. To establish a budget and make expenditures; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - K. To borrow money; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - L. To appoint committees, including advisory committees composed of administrators, state nursing regulators, state legislators or their representatives, consumer representatives and other interested persons; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - M. To provide and receive information from, and to cooperate with, law enforcement agencies; [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - N. To adopt and use an official seal; and [PL 2017, c. 258, Pt. A, §1 (NEW).]
  - O. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice. [PL 2017, c. 258, Pt. A, §1 (NEW).]
- [PL 2017, c. 258, Pt. A, §1 (NEW).]

**8. Financing of commission.** This subsection governs the financial operations of the commission.

- A. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities. [PL 2017, c. 258, Pt. A, §1 (NEW).]
- B. The commission may levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, must be allocated based upon a formula to be



determined by the commission, which shall promulgate a rule that is binding upon all party states. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. The commission may not incur obligations of any kind prior to securing the funds adequate to those obligations; nor may the commission pledge the credit of any of the party states except by and with the authority of that party state. [PL 2017, c. 258, Pt. A, §1 (NEW).]

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the commission. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**9. Qualified immunity; defense and indemnification.** This subsection governs immunity provisions and defense and indemnification requirements of the commission.

A. An administrator, officer, executive director, employee or representative of the commission is immune from suit and liability, either personally or in that person's official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, except that nothing in this paragraph may be construed to protect any person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. The commission shall defend an administrator, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct. Nothing in this paragraph may be construed to prohibit that person from retaining counsel. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. The commission shall indemnify and hold harmless an administrator, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

#### §2178. Rulemaking -- Article 8

**1. Rule-making powers.** The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted under this section. Rules and amendments to rules become binding as of the date specified in each rule or amendment and have the same force and effect as provisions of this compact.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**2. Adoption.** Rules or amendments to rules must be adopted at a regular or special meeting of the commission.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**3. Notice publication.** Prior to promulgation and adoption of a final rule or rules by the commission, and at least 60 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

A. On the publicly accessible website of the commission; and [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. On the publicly accessible website of each licensing board or in the publication in which each party state would otherwise publish proposed rules. [PL 2017, c. 258, Pt. A, §1 (NEW).]  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**4. Notice contents.** The notice of proposed rulemaking under subsection 3 must include:

A. The proposed time, date and location of the meeting in which the rule will be considered and voted upon; [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. The text of the proposed rule or amendment and the reason for the proposed rule or amendment; [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. A request for comments on the proposed rule from any interested person; and [PL 2017, c. 258, Pt. A, §1 (NEW).]

D. The manner in which an interested person may submit notice to the commission of the intention to attend the public hearing and any written comments. [PL 2017, c. 258, Pt. A, §1 (NEW).]  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**5. Materials submission.** Prior to adoption of a proposed rule, the commission shall allow any interested person to submit written data, facts, opinions and arguments, which must be made available to the public.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**6. Public hearing opportunity.** The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**7. Public hearing procedure.** The commission shall publish the place, time and date of the scheduled public hearing.

A. A public hearing must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All public hearings must be recorded, and a copy must be made available upon request. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Nothing in this section may be construed as requiring a separate public hearing on each rule. Rules may be grouped for the convenience of the commission at public hearings required by this section. [PL 2017, c. 258, Pt. A, §1 (NEW).]  
[PL 2017, c. 258, Pt. A, §1 (NEW).]

**8. Attendance.** If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**9. Consideration of comments.** Following the scheduled public hearing date, or by the close of business on a scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**10. Final action.** The commission shall, by majority vote of all administrators, take final action on a proposed rule and determine the effective date of the rule, if any, based on the rule-making record and the full text of the rule.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**11. Emergency rulemaking.** Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or public hearing, in which case the usual rule-making procedures provided in this compact and in this section must be retroactively applied to the rule as soon as reasonably possible and in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:

A. Meet an imminent threat to public health, safety or welfare; [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. Prevent a loss of commission or party state funds; or [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**12. Revisions.** The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions must be posted on the publicly accessible website of the commission. The revision is subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision takes effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

### §2179. Oversight, dispute resolution and enforcement -- Article 9

**1. Oversight.** This subsection governs enforcement and proceedings under the compact.

A. Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. The commission is entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the commission and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process in a proceeding to the commission renders a judgment or order void as to the commission, this compact or promulgated rules. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**2. Default, technical assistance and termination.** This subsection governs default, technical assistance and termination under the compact.

A. If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

- (1) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the commission; and

(2) Provide remedial training and specific technical assistance regarding the default. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. If a party state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. Termination of membership in this compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states. [PL 2017, c. 258, Pt. A, §1 (NEW).]

D. A party state whose membership in this compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination. [PL 2017, c. 258, Pt. A, §1 (NEW).]

E. The commission may not bear any costs related to a party state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state. [PL 2017, c. 258, Pt. A, §1 (NEW).]

F. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**3. Dispute resolution.** This subsection governs dispute resolution under the compact.

A. Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. In the event the commission cannot resolve disputes among party states arising under this compact:

(1) The party states may submit the issues in dispute to an arbitration panel composed of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(2) The decision of a majority of the arbitrators under this paragraph is final and binding. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**4. Enforcement.** This subsection governs enforcement under the compact.

A. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact. [PL 2017, c. 258, Pt. A, §1 (NEW).]

B. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and

its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees. [PL 2017, c. 258, Pt. A, §1 (NEW).]

C. The remedies provided in this section are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law. [PL 2017, c. 258, Pt. A, §1 (NEW).]

[PL 2017, c. 258, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

#### §2180. Effective date, withdrawal and amendment -- Article 10

**1. Effective date.** This compact becomes effective and binding on the date of legislative enactment of this compact into law by no fewer than 26 states or December 31, 2018, whichever is earlier. All party states to this compact that were parties to the prior compact are deemed to have withdrawn from the prior compact within 6 months after the effective date of this compact.

[PL 2017, c. 475, Pt. B, §1 (AMD).]

**2. Prior compact.** Each party state shall continue to recognize a multistate licensure privilege of a nurse to practice in that party state issued under the prior compact until that party state has withdrawn from the prior compact.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**3. Withdrawal.** A party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal does not take effect until 6 months after enactment of the repealing statute.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**4. Continuing requirements.** A party state's withdrawal or termination does not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of the withdrawal or termination.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**5. Agreements with nonparty states.** Nothing contained in this compact may be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**6. Amendments to compact.** This compact may be amended by a party state. An amendment to this compact does not become effective and binding upon the party states until it is enacted into the laws of all party states.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

**7. Representative participation.** Representatives of nonparty states to this compact must be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

[PL 2017, c. 258, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW). PL 2017, c. 475, Pt. B, §1 (AMD).

#### §2181. Construction and severability -- Article 11

This compact may be liberally construed so as to effectuate its purposes. The provisions of this compact are severable, and if any phrase, clause, sentence or provision of this compact is declared to

be contrary to the constitution of any party state or of the United States or if its applicability to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person or circumstance are not affected. If this compact is held to be contrary to the constitution of any party state, this compact remains in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters. [PL 2017, c. 258, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 258, Pt. A, §1 (NEW).

### SUBCHAPTER 3

#### REGISTERED NURSES

##### §2201. Qualifications

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

**1. Character.**

[PL 1983, c. 378, §22 (RP).]

**2. High school.**

[PL 2003, c. 204, Pt. H, §5 (RP).]

**3. Professional school.** Has completed a course of study of not less than 2 years in an approved program in professional nursing and holds a degree, diploma or certificate.

In case of transfer of a student from one approved school of nursing to another, the time allowance for previous preparation must be determined by the board, except that not less than one year must have been spent in the school from which the diploma is received. 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 the diploma.

[PL 1993, c. 600, Pt. A, §126 (AMD).]

In case of a generic to master's degree accelerated program, the director of the program shall submit to the board a letter indicating when the applicant completed the registered nurse component of the program and was deemed eligible to apply to the board to sit for the registered professional nurse licensure exam (NCLEX-RN).

#### SECTION HISTORY

PL 1983, c. 378, §22 (AMD). PL 1985, c. 724, §18 (AMD). PL 1987, c. 402, §A169 (AMD). PL 1993, c. 600, §A126 (AMD). PL 2003, c. 204, §H5 (AMD).

##### §2201-A. Qualifications for advanced practice registered nurse

An applicant for approval licensure to practice advanced practice registered nursing shall submit to the board written evidence verified by oath that the applicant: [PL 1995, c. 379, §7 (NEW); PL 1995, c. 379, §11 (AFF).]

**1. License.** Holds a current license to practice as a registered professional nurse in this State; [PL 1995, c. 379, §7 (NEW); PL 1995, c. 379, §11 (AFF).]

**2. Education.** Has successfully completed a formal education program that is acceptable to the board in an advanced nursing specialty area; and [PL 1995, c. 379, §7 (NEW); PL 1995, c. 379, §11 (AFF).]

**3. Credential.** Holds a current certification credential for advanced nursing from a national certifying body whose certification program is acceptable to the board.

[PL 1995, c. 379, §7 (NEW); PL 1995, c. 379, §11 (AFF).]

A registered professional nurse who is approved by the board to practice in accordance with former section 2102, subsection 2, paragraph B on the effective date of this section is considered to have met the requirements of subsections 2 and 3. [PL 1995, c. 379, §7 (NEW); PL 1995, c. 379, §11 (AFF).]

#### SECTION HISTORY

PL 1995, c. 379, §7 (NEW). PL 1995, c. 379, §11 (AFF).

#### §2202. Licenses; examination

The applicant is required to pass a written examination in subjects determined necessary by the board to ascertain the fitness of the applicant to practice professional nursing. If the applicant successfully passes the examination, the board shall issue to the applicant a license to practice professional nursing as a registered nurse, the license to be in force for a period of at least one year until the birth date of the licensee. The initial license is renewable as provided in section 2206. [PL 1993, c. 600, Pt. A, §127 (AMD).]

#### SECTION HISTORY

PL 1985, c. 724, §19 (AMD). PL 1991, c. 153, §1 (AMD). PL 1991, c. 153, §5 (AFF). PL 1993, c. 600, §A127 (AMD).

#### §2202-A. Certificates; nursing assistants

**(REPEALED)**

#### SECTION HISTORY

PL 1987, c. 195, §5 (NEW). PL 1989, c. 700, §A146 (AMD). PL 1991, c. 421, §5 (RP).

#### §2202-B. Certification fee; disposition of fee; nursing assistants

**1. Fees authorized.** The Commissioner of Health and Human Services may assess fees for certification of nursing assistants, for the competency testing of nursing assistants and for validation of test results to determine eligibility for certification and charge fees for certificates issued and duplicated for out-of-state vocational reciprocity, renewal of certificates and replacement of certificates.

[PL 2009, c. 628, §4 (AMD).]

**2. Amounts.** Amounts of fees are as follows:

A. For competency testing, \$45, which must be included in the training course fee; [PL 2009, c. 628, §4 (AMD).]

B. For initial certificate, \$5; [PL 1991, c. 528, Pt. III, §24 (NEW); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. III, §24 (NEW).]

C. For replacement certificate, \$5; [PL 1991, c. 528, Pt. III, §24 (NEW); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. III, §24 (NEW).]

D. For letter of verification of completion of a certified nursing assistant program, \$20; [PL 2009, c. 628, §4 (AMD).]

E. For converted certificate, \$5; [PL 1993, c. 435, §12 (AMD).]

F. For renewal certificate, \$5; and [PL 1993, c. 435, §12 (AMD).]

G. For validation of test results, \$5. [PL 1993, c. 435, §13 (NEW).]  
[PL 2009, c. 628, §4 (AMD).]

**3. Accounting.** The Commissioner of Health and Human Services shall:

A. Collect and account for testing and certification fees; and [PL 1991, c. 528, Pt. III, §24 (NEW); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. III, §24 (NEW).]

B. Report and pay fees to the Treasurer of State to be credited to the General Fund. [PL 1991, c. 528, Pt. III, §24 (NEW); PL 1991, c. 528, Pt. RRR (AFF); PL 1991, c. 591, Pt. III, §24 (NEW).]

[PL 2009, c. 628, §4 (AMD).]

**4. Staff.** The Commissioner of Health and Human Services shall employ staff necessary to carry out the requirements of this section.

[PL 2009, c. 628, §4 (AMD).]

#### SECTION HISTORY

PL 1991, c. 528, §III24 (NEW). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 591, §III24 (NEW). PL 1993, c. 435, §§11-13 (AMD). PL 2009, c. 628, §4 (AMD).

#### §2203. -- place

**(REPEALED)**

#### SECTION HISTORY

PL 2005, c. 163, §5 (RP).

#### §2204. Examination; time

~~The board shall hold at least one examination annually at a place and at a time determined by the board.~~ [PL 1993, c. 600, Pt. A, §128 (AMD).]

#### SECTION HISTORY

PL 1993, c. 600, §A128 (AMD).

#### §2205. -- endorsement

**(REPEALED)**

#### SECTION HISTORY

PL 1985, c. 361, §1 (RP).

#### §2205-A. Licensure of persons licensed by another jurisdiction

The board may issue a license to practice professional nursing as a registered professional nurse under the following circumstances. [PL 1985, c. 361, §2 (NEW).]

**1. Applicants licensed by other states, United States territories and Canadian provinces.** The board may issue a license without examination of the applicant by the board to an applicant licensed to practice by a state or territory of the United States or a province of Canada if the applicant:

A. Has graduated from an educational program approved by the official approving authority of a state or territory of the United States or a province of Canada, which at the time of graduation had standards considered by the board to be equivalent to those of Maine schools; [PL 1985, c. 361, §2 (NEW).]

B. Has been duly licensed by examination by the nursing board of a state or territory of the United States or a province of Canada, provided that the examination is considered by the board to be equivalent in all essentials to Maine's examination and provided that the license of the applicant is in good standing and that there is no cause for suspension or revocation of that license. Acceptable examinations include the State Board Examination, State Board Test Pool Examination, the National Council Licensure Examination and, for a person licensed prior to December 31, 2006,



the Canadian Nurses' Association Testing Service Examination; and [PL 2005, c. 473, §1 (AMD).]

C. If licensed in the other jurisdiction by passing an examination in a language other than English, has passed ~~the Test of English as a Foreign Language~~ English Proficiency Exam. The board shall provide information regarding the test to applicants who are required to take that test. [PL 1985, c. 361, §2 (NEW).]

[PL 2005, c. 473, §1 (AMD).]

**2. Applicants licensed by other jurisdictions.** The board may issue a license to an applicant licensed to practice by a jurisdiction other than those listed in subsection 1, if the applicant:

A. Has graduated from an educational program approved by the official approving authority of a jurisdiction other than those listed in subsection 1, which at the time of graduation had standards considered by the board to be equivalent to those of Maine schools; [PL 1985, c. 361, §2 (NEW).]

B. Has been duly licensed by examination by the nursing board of a jurisdiction other than those listed in subsection 1, provided that the examination is considered by the board to be equivalent in all essentials to Maine's examination and provided that the license of the applicant is in good standing and that there is no cause for suspension or revocation of that license; [PL 1985, c. 361, §2 (NEW).]

C. Has passed the National Council Licensure Examination for registered nurses; and [PL 1985, c. 361, §2 (NEW).]

D. If licensed in the other jurisdiction by passing an examination in a language other than English, has either passed the Test of English as a Foreign Language or fulfilled the requirements of paragraph C by passing a test given in English. [PL 1985, c. 361, §2 (NEW).]

[PL 1985, c. 361, §2 (NEW).]

## SECTION HISTORY

PL 1985, c. 361, §2 (NEW). PL 2005, c. 473, §1 (AMD).

### §2205-B. License Approval as advanced practice registered nurses

The board may grant licensure approval to practice as an advanced practice registered nurse to a person who qualifies pursuant to section 2201-A. [PL 1995, c. 379, §8 (NEW); PL 1995, c. 379, §11 (AFF).]

**1. Temporary approval to practice.** Temporary approval to practice as an advanced practice registered nurse may be granted by the board for new graduates of advanced practice programs. The board by rule will determine the requirements. ~~Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

A. ~~For a period of 90 days to an applicant who is currently approved to practice as an advanced practice registered nurse in another jurisdiction with requirements at least equivalent to those of this State; or~~ [PL 1995, c. 379, §8 (NEW); PL 1995, c. 379, §11 (AFF).]

B. ~~For a period of 12 months to an applicant who meets the requirements of section 2201-A, subsections 1 and 2 and who qualifies to take and takes the next available certification examination.~~ [PL 1995, c. 379, §8 (NEW); PL 1995, c. 379, §11 (AFF).]

[PL 1995, c. 379, §8 (NEW); PL 1995, c. 379, §11 (AFF).]

**2. Termination.** The board may terminate a person's advanced practice registered nurse designation when the person no longer holds a current certification credential.

[PL 1995, c. 379, §8 (NEW); PL 1995, c. 379, §11 (AFF).]

**3. Delegated performance of services.**

[PL 2009, c. 512, §1 (RP).]

**4. Supervision of support staff.** A certified nurse practitioner may delegate to the employees or support staff of the certified nurse practitioner certain activities relating to advanced practice registered nursing carried out by custom and usage when the activities are under the control of the certified nurse practitioner. The certified nurse practitioner delegating these activities to such persons is legally liable for the activities of those persons, and any person in this relationship is considered the certified nurse practitioner's agent when performing such delegated activities.

[PL 2007, c. 197, §1 (NEW).]

**5. Global signature authority of a certified nurse practitioner or certified nurse midwife.** When a provision of law or rule requires a signature, certification, stamp, verification, affidavit or endorsement by a physician, that requirement may be fulfilled by a certified nurse practitioner or a certified nurse midwife. This subsection may not be construed to expand the scope of practice of a certified nurse practitioner or a certified nurse midwife.

[PL 2009, c. 259, §1 (NEW).]

#### SECTION HISTORY

PL 1995, c. 379, §8 (NEW). PL 1995, c. 379, §11 (AFF). PL 2007, c. 197, §1 (AMD). PL 2009, c. 259, §1 (AMD). PL 2009, c. 512, §1 (AMD).

#### §2206. Renewals

The license of every registered professional nurse and advanced practice registered nurse licensed under this chapter is renewable every 2 years, except as otherwise provided. At least ~~60~~30 days before the date that the license expires, the board shall email an application for a notification for -renewal of license to each registered professional nurse and advanced practice registered nurse who holds a valid license. The ~~notification application must~~ shall be emailed to the most recent address of that individual as it appears on the records of the board. That individual shall complete the renewal application online and ~~return it to the board with the~~ submit the renewal fee designated by the board, but not to exceed \$100 for registered professional nurses and \$125 for advanced practice registered nurses, at the time of online renewal before the expiration date of the license. 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 a period of 2 years, expiring on the anniversary of the applicant's birth. [PL 1993, c. 600, Pt. A, §129 (AMD).]

A registered professional nurse or advanced practice registered nurse who fails to renew the license as provided may be reinstated by the board on satisfactory explanation for failure to renew the license and on payment of a reinstatement fee of \$10 in addition to the current renewal fee. [PL 1993, c. 600, Pt. A, §129 (AMD).]

An individual practicing professional nursing and advanced practice nursing during the time the individual's license has lapsed is considered an illegal practitioner and is subject to the penalties provided for violations of this chapter. [PL 1993, c. 600, Pt. A, §129 (AMD).]

An individual who is not engaged in professional nursing or advanced practice nursing in the State is not required to pay a renewal fee for as long as the individual does not practice but shall notify the board of inactive status in writing. Prior to resumption of the practice of professional nursing or advanced practice nursing, that individual is required to notify the board and remit a renewal fee for the current period. [PL 1993, c. 600, Pt. A, §129 (AMD).]

#### SECTION HISTORY

PL 1965, c. 206, §1 (AMD). PL 1969, c. 26, §§1,2 (AMD). PL 1975, c. 114, §§1,2 (AMD). PL 1983, c. 176, §A13 (RPR). PL 1985, c. 724, §§20,21 (AMD). PL 1989, c. 609, §§3,4 (AMD). PL 1991, c. 153, §2 (AMD). PL 1991, c. 153, §5 (AFF). PL 1993, c. 600, §A129 (AMD).

#### §2207. Registered professional nurse and advanced practice registered nurse; fees

Every applicant applying for ana initial license to practice as a registered nurse or advanced practice registered nurse shall pay a fee to the board as follows:

**1. Examination.** For registered professional nurse examination, a fee not to exceed \$100 payable on application;  
[PL 1993, c. 600, Pt. A, §130 (AMD).]

**2. Reexamination.** For registered professional nurse reexamination, a fee determined by the board not to exceed \$100; ~~and~~  
[PL 2005, c. 163, §6 (AMD).]

**3. Endorsement.** For registered professional nurse endorsement, a fee not to exceed \$100 payable on application. For advanced practice registered nurse endorsement, a fee not to exceed \$125;

**4. Initial licensure: advanced practice registered nurse.** For advanced practice registered nurse initial application, a fee not to exceed \$125 payable on application;

**4. Renewal.** For registered professional nurse renewal, a fee not to exceed \$100 payable on application. For advanced practice registered nurse renewal, a fee not to exceed \$125; and

**5. Reinstatement.** For registered professional nurse reinstatement, a fee not to exceed \$100 payable on application. For advanced practice registered nurse reinstatement, a fee not to exceed \$125.

[PL 1993, c. 600, Pt. A, §130 (AMD).]

#### SECTION HISTORY

PL 1965, c. 206, §2 (AMD). PL 1973, c. 283 (AMD). PL 1975, c. 114, §3 (AMD). PL 1989, c. 609, §5 (AMD). PL 1993, c. 600, §A130 (AMD). PL 2005, c. 163, §6 (AMD).

#### §2208. Title and abbreviation

An individual who holds a current license to practice professional nursing in this State has the right to use the title "Registered Nurse" and the abbreviation "R.N." No other individual may assume the title or use the abbreviation or other words, letters, signs or devices to indicate that the individual using the same is a registered nurse. [PL 1993, c. 600, Pt. A, §131 (AMD).]

An individual who holds a current license to practice as an advanced practice registered nurse and a current national certification as an advanced practice registered nurse may use the title "Advanced Practice Registered Nurse" and the abbreviation "A.P.R.N."

#### SECTION HISTORY

PL 1985, c. 724, §22 (AMD). PL 1993, c. 600, §A131 (AMD).

#### §2209. Registration under prior law

An individual holding a license as a registered nurse in the State issued by the former Board of Registration of Nurses that is valid on September 12, 1959 is licensed as a registered nurse under this chapter, and the renewal of the licenses for those individuals must be effectuated under this section. [PL 1993, c. 600, Pt. A, §132 (AMD).]

#### SECTION HISTORY

PL 1993, c. 600, §A132 (AMD).

#### §2210. Requirements regarding prescription of opioid medication

**1. Limits on opioid medication prescribing.** Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe:

A. To a patient any combination of opioid medication in an aggregate amount in excess of 100 morphine milligram equivalents of opioid medication per day; [PL 2015, c. 488, §13 (NEW).]

B. To a patient who, on the effective date of this section, has an active prescription for opioid medication in excess of 100 morphine milligram equivalents of an opioid medication per day, an opioid medication in an amount that would cause that patient's total amount of opioid medication to exceed 300 morphine milligram equivalents of opioid medication per day; except that, on or after July 1, 2017, the aggregate amount of opioid medication prescribed may not be in excess of 100 morphine milligram equivalents of opioid medication per day; [PL 2015, c. 488, §13 (NEW).]

C. On or after January 1, 2017, within a 30-day period, more than a 30-day supply of an opioid medication to a patient under treatment for chronic pain. "Chronic pain" has the same meaning as in Title 22, section 7246, subsection 1-C; or [PL 2015, c. 488, §13 (NEW).]

D. On or after January 1, 2017, within a 7-day period, more than a 7-day supply of an opioid medication to a patient under treatment for acute pain unless the opioid product is labeled by the federal Food and Drug Administration to be dispensed only in a stock bottle that exceeds a 7-day supply as prescribed, in which case the amount dispensed may not exceed a 14-day supply. "Acute pain" has the same meaning as in Title 22, section 7246, subsection 1-A. [PL 2017, c. 213, §12 (AMD).]

[PL 2017, c. 213, §12 (AMD).]

**2. Exceptions.** An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 only:

A. When prescribing opioid medication to a patient for:

(1) Pain associated with active and aftercare cancer treatment;

(2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;

(3) End-of-life and hospice care;

(4) Medication-assisted treatment for substance use disorder; or

(5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and [PL 2015, c. 488, §13 (NEW).]

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B. [PL 2017, c. 213, §13 (AMD).]

[PL 2017, c. 213, §13 (AMD).]

**3. Electronic prescribing.** An individual licensed under this chapter whose scope of practice includes prescribing opioid medication and who has the capability to electronically prescribe shall prescribe all opioid medication electronically by July 1, 2017. An individual who does not have the capability to electronically prescribe must request a waiver from this requirement from the Commissioner of Health and Human Services stating the reasons for the lack of capability, the availability of broadband infrastructure and a plan for developing the ability to electronically prescribe opioid medication. The commissioner may grant a waiver for circumstances in which exceptions are appropriate, including prescribing outside of the individual's usual place of business and technological failures.

[PL 2015, c. 488, §13 (NEW).]

**4. Continuing education.** By December 31, 2017, an individual licensed under this chapter must successfully complete 3 hours of continuing education every 2 years on the prescription of opioid medication as a condition of prescribing opioid medication. The board shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2015, c. 488, §13 (NEW).]

**5. Penalties.** An individual who violates this section commits a civil violation for which a fine of \$250 per violation, not to exceed \$5,000 per calendar year, may be adjudged. The Department of Health and Human Services is responsible for the enforcement of this section.

[PL 2015, c. 488, §13 (NEW).]

**6. Opioid medication policy.** No later than January 1, 2018, a health care entity that includes an individual licensed under this chapter whose scope of practice includes prescribing opioid medication must have in place an opioid medication prescribing policy that applies to all prescribers of opioid medications employed by the entity. The policy must include, but is not limited to, procedures and practices related to risk assessment, informed consent and counseling on the risk of opioid use. For the purposes of this subsection, "health care entity" has the same meaning as in Title 22, section 1718-B, subsection 1, paragraph B.

[PL 2017, c. 186, §1 (NEW).]

#### SECTION HISTORY

PL 2015, c. 488, §13 (NEW). PL 2017, c. 186, §1 (AMD). PL 2017, c. 213, §§12, 13 (AMD).

#### §2211. Nurse anesthetist; authority

**1. Definitions.** For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Critical access hospital" has the same meaning as in Title 22, section 7932, subsection 10. [PL 2017, c. 188, §1 (NEW).]

B. "Rural area" has the same meaning as in Title 22, section 5104, subsection 10. [PL 2017, c. 188, §1 (NEW).]

[PL 2017, c. 188, §1 (NEW).]

**2. Authority generally.** A certified registered nurse anesthetist is responsible and accountable to a licensed physician or dentist for aspects of anesthesia practice that require execution of the medical regimen as prescribed by that physician or dentist, except as provided in subsection 3.

[PL 2017, c. 188, §1 (NEW).]

**3. Authority; critical access hospitals and rural hospitals.** In a critical access hospital or in a hospital located in a rural area, a certified registered nurse anesthetist may, in accordance with the bylaws and policies of the facility in which the certified registered nurse anesthetist is practicing, formulate and implement a patient-specific plan for anesthesia care, which may include:

A. A preanesthetic assessment; [PL 2017, c. 188, §1 (NEW).]

B. Verification of informed consent; [PL 2017, c. 188, §1 (NEW).]

C. Adjustments and corrective actions as indicated; [PL 2017, c. 188, §1 (NEW).]

D. Ordering appropriate laboratory tests and diagnostic imaging tests in the preoperative period and immediate postoperative period; and [PL 2017, c. 188, §1 (NEW).]

E. Ordering and prescribing prescription drugs in the preoperative period and immediate postoperative period in accordance with this paragraph. For controlled substances listed in United States Drug Enforcement Administration Schedules III, IIIN, IV and V, a certified registered nurse anesthetist may prescribe drugs only:

- (1) For a supply of not more than 4 days, with no prescription refills; and
- (2) For an individual for whom the certified registered nurse anesthetist has, at the time of the prescription, established a client or patient record. [PL 2017, c. 188, §1 (NEW).]

[PL 2017, c. 188, §1 (NEW).]

**4. Rules.** The board shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

[PL 2017, c. 188, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 188, §1 (NEW).

#### §2212. Dispensing opioid medication to patients in opioid treatment programs

A registered professional nurse and a certified nurse practitioner may dispense opioid medication for substance use disorder treatment purposes to patients within an opioid treatment program under the direction of the medical director of the opioid treatment program. [PL 2017, c. 407, Pt. A, §125 (AMD).]

#### SECTION HISTORY

PL 2017, c. 305, §1 (NEW). PL 2017, c. 407, Pt. A, §125 (AMD).

### SUBCHAPTER 4

#### PRACTICAL NURSES

#### §2251. Qualifications

**(REPEALED)**

#### SECTION HISTORY

PL 1965, c. 206, §§3,4 (AMD). PL 1967, c. 263, §6 (AMD). PL 1971, c. 601, §§1,2 (AMD). PL 1983, c. 378, §23 (AMD). PL 1985, c. 724, §23 (RP).

#### §2251-A. Qualifications

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 satisfies one of the following qualifications: [PL 2017, c. 476, §1 (AMD).]

##### 1. Education.

[PL 2003, c. 204, Pt. H, §6 (RP).]

**2. Approved program.** The applicant completed a prescribed curriculum in a state-approved program for the preparation of practical nurses and holds a diploma or certificate; or [PL 2017, c. 476, §1 (AMD).]

##### 3. Military training and experience.

The applicant:

A. Served on active duty in the medical corps of any branch of the Armed Forces of the United States and spent an aggregate of at least 12 months rendering bedside patient care; [PL 2017, c. 476, §1 (NEW).]

B. Completed the basic course of instruction in nursing required by the branch of the Armed Forces of the United States in which the applicant served; and [PL 2017, c. 476, §1 (NEW).]

C. Was honorably discharged from active duty. [PL 2017, c. 476, §1 (NEW).]

[PL 2017, c. 476, §1 (NEW).]

#### SECTION HISTORY

PL 1985, c. 724, §24 (NEW). PL 1993, c. 600, §A133 (AMD). PL 2003, c. 204, §H6 (AMD). PL 2017, c. 476, §1 (AMD).

#### §2252. License; examination

The applicant is required to pass a written examination in subjects considered necessary by the board to determine the fitness of the applicant to practice practical nursing. Upon the applicant's successfully passing the examination, the board shall issue to the applicant a license to practice as a licensed practical nurse, that license to be in force for a period of at least one year until the birth date of the licensee. The initial license is renewable as provided in section 2255. [PL 2005, c. 163, §7 (AMD).]

#### SECTION HISTORY

PL 1983, c. 553, §46 (AMD). PL 1985, c. 724, §25 (AMD). PL 1991, c. 153, §3 (AMD). PL 1991, c. 153, §5 (AFF). PL 2005, c. 163, §7 (AMD).

#### ~~§2253. — time and place~~

~~Time and place of examination shall be as provided in subchapter 3.~~

#### §2254. -- endorsement

**(REPEALED)**

#### SECTION HISTORY

PL 1985, c. 361, §3 (RP).

#### §2254-A. Licensure of persons licensed by another jurisdiction

The board may issue a license to practice as a licensed practical nurse under the following circumstances: [PL 1985, c. 361, §4 (NEW).]

**1. Applicants licensed by other states, United States territories and Canadian provinces.** The board may issue a license without examination of the applicant by the board to an applicant licensed to practice by a state or territory of the United States or a province of Canada if the applicant:

A. Has graduated from an educational program approved by the official approving authority of a state or territory of the United States or a province of Canada, which at the time of graduation had standards considered by the board to be equivalent to those of Maine schools; [PL 1985, c. 361, §4 (NEW).]

B. Has been duly licensed by examination by the nursing board of a state or territory of the United States or a province of Canada, provided that the examination is considered by the board to be equivalent in all essentials to Maine's examination and provided that the license of the applicant is in good standing and that there is no cause for suspension or revocation of that license. Acceptable examinations include the State Board Test Pool Examination, the National Council Licensure Examination and, for a person licensed prior to December 31, 2006, the Canadian Nurses' Association Testing Service Examination; and [PL 2005, c. 473, §2 (AMD).]

C. If licensed in the other jurisdiction by passing an examination in a language other than English, has passed ~~the Test of English as a Foreign Language~~ English Proficiency Exam. The board shall provide information regarding the test to applicants who are required to take that test. [PL 1985, c. 361, §4 (NEW).]

[PL 2005, c. 473, §2 (AMD).]

**2. Applicants licensed by other jurisdictions.** The board may issue a license to an applicant licensed to practice by a jurisdiction other than those listed in subsection 1, if the applicant:

A. Has graduated from an educational program approved by the official approving authority of a jurisdiction other than those listed in subsection 1, which at the time of graduation had standards considered by the board to be equivalent to those of Maine schools; [PL 1985, c. 361, §4 (NEW).]

B. Has been duly licensed by examination by the nursing board of a jurisdiction other than those listed in subsection 1, provided that the examination is considered by the board to be equivalent in all essentials to Maine's examination and provided that the license of the applicant is in good standing and that there is no cause for suspension or revocation of that license; [PL 1985, c. 361, §4 (NEW).]

C. Has passed the National Council Licensure Examination for practical nurses; and [PL 1985, c. 361, §4 (NEW).]

D. If licensed in the other jurisdiction by passing an examination in a language other than English, has either passed the Test of English as a Foreign Language or fulfilled the requirements of paragraph C by passing a test given in English. [PL 1985, c. 361, §4 (NEW).]

[PL 1985, c. 361, §4 (NEW).]

#### SECTION HISTORY

PL 1985, c. 361, §4 (NEW). PL 2005, c. 473, §2 (AMD).

#### §2255. Renewals

The license of every practical nurse licensed under this chapter is renewable every 2 years, except as otherwise provided. At least ~~60~~30 days before the date that the license expires, the board shall ~~email~~mail an ~~application~~notification for renewal of license to each practical nurse who holds a valid license. The ~~application must~~notification shall be ~~emailed~~mailed to the most recent address of that individual as it appears on the records of the board. That individual shall complete the renewal application ~~online~~ and ~~submit~~return it to the board with the renewal fee designated by the board, but not to exceed \$100, ~~before the expiration date of the license~~at the time of online renewal. ~~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 a period of 2 years, expiring on the anniversary of the applicant's birth.~~ [PL 1993, c. 600, Pt. A, §134 (AMD).]

A practical nurse who fails to renew the license as provided may be reinstated by the board on satisfactory explanation for failure to renew the license and on payment of a reinstatement fee of \$10 in addition to the renewal fee. [PL 1993, c. 600, Pt. A, §134 (AMD).]

An individual practicing nursing as a licensed practical nurse during the time the individual's license has lapsed is considered an illegal practitioner and is subject to the penalties provided for violations of this chapter. [PL 1993, c. 600, Pt. A, §134 (AMD).]

An individual who is not engaged in practical nursing in the State is not required to pay a renewal fee as long as the individual does not practice but shall notify the board of inactive status in writing prior to the expiration date of that individual's current license. Before the resumption of practice as a licensed practical nurse and transfer to active status, that individual is required to notify the board, complete a renewal application and remit the current renewal fee. [PL 1993, c. 600, Pt. A, §134 (AMD).]

#### SECTION HISTORY

PL 1965, c. 206, §§5,6 (AMD). PL 1969, c. 26, §§3,4 (AMD). PL 1975, c. 114, §§4,5 (AMD). PL 1983, c. 176, §A14 (RPR). PL 1985, c. 724, §§26,27 (AMD). PL 1989, c. 609, §§6,7 (AMD). PL 1991, c. 153, §4 (AMD). PL 1991, c. 153, §5 (AFF). PL 1993, c. 600, §A134 (AMD).



**§2256. Licensed practical nurse; fees**

Every applicant applying for a license to practice as a licensed practical nurse shall pay a fee to the board as follows:

1. **Examination.** For examination, a fee not to exceed \$100 payable on application; [PL 1993, c. 600, Pt. A, §135 (AMD).]
2. **Reexamination.** For reexamination, a fee to be determined by the board not to exceed \$100; and [PL 1993, c. 600, Pt. A, §135 (AMD).]
3. **Endorsement.** For endorsement, a fee not to exceed \$100 payable on application; [PL 1993, c. 600, Pt. A, §135 (AMD).]
4. **Renewal.** For renewal, a fee not to exceed \$100 payable on application; and
5. **Reinstatement.** For reinstatement, a fee not to exceed \$100 payable on application.

**SECTION HISTORY**

PL 1965, c. 206, §7 (AMD). PL 1969, c. 26, §5 (AMD). PL 1975, c. 114, §§6,7 (AMD). PL 1989, c. 609, §§8,9 (AMD). PL 1993, c. 600, §A135 (AMD).

**§2257. Title and abbreviation**

An individual who holds a current license to practice as a licensed practical nurse in this State has the right to use the title "Licensed Practical Nurse" and abbreviation "L.P.N." No other individual may assume that title or use that abbreviation or other words, letters, signs or figures to indicate that the individual using the same is a licensed practical nurse. [PL 1993, c. 600, Pt. A, §136 (AMD).]

**SECTION HISTORY**

PL 1985, c. 724, §28 (AMD). PL 1993, c. 600, §A136 (AMD).

**§2258. Registration under prior law**

An individual holding a license as a licensed practical nurse in the State issued by the former Board of Registration of Nurses that is valid on September 12, 1959 is licensed as a licensed practical nurse under this chapter, and the renewal of the licenses for those individuals must be effectuated under this subchapter. [RR 2009, c. 2, §88 (COR).]

**SECTION HISTORY**

PL 1993, c. 600, §A137 (AMD). RR 2009, c. 2, §88 (COR).

**§2258-A. Administration of medication**

Any employee of an institution under the control of the Department of Health and Human Services or of an institution licensed by the State as a hospital, nursing home, extended care facility or boarding home who, in the exercise of due care, is authorized by the head of that institution or a designee to perform selected activities in the administration of medications and any individual who, in the exercise of due care, is delegated those functions by a licensed allopathic or osteopathic physician is immune from criminal prosecution and civil liability for that administration of medication prior to January 1, 1978 but not after January 1, 1978. [PL 1995, c. 560, Pt. K, §82 (AMD); PL 1995, c. 560, Pt. K, §83 (AFF); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

**SECTION HISTORY**

PL 1973, c. 535 (NEW). PL 1973, c. 737, §2 (AMD). PL 1975, c. 698, §5 (AMD). PL 1977, c. 497, §11 (AMD). PL 1993, c. 600, §A138 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV).

**§2258-B. Dispensing opioid medication to patients in opioid treatment programs**

A licensed practical nurse may dispense opioid medication for substance use disorder treatment purposes to patients within an opioid treatment program under the direction of the medical director of the opioid treatment program. [PL 2017, c. 407, Pt. A, §126 (AMD).]

## SECTION HISTORY

PL 2017, c. 305, §2 (NEW). PL 2017, c. 407, Pt. A, §126 (AMD).

**§2259. Waiver**

**(REPEALED)**

## SECTION HISTORY

PL 1967, c. 263, §7 (NEW). PL 1971, c. 601, §3 (RP). PL 1971, c. 622, §117 (RP).

**SUBCHAPTER 5****COMMISSION ON NURSING SUPPLY AND EDUCATIONAL ACCESSIBILITY****§2261. Commission**

**(REPEALED)**

## SECTION HISTORY

PL 1985, c. 724, §29 (NEW). PL 1985, c. 819, §§A33-36 (AMD). PL 1987, c. 769, §A121 (AMD). PL 1989, c. 443, §§86,87 (AMD). PL 1999, c. 668, §119 (RP).

**SUBCHAPTER 6****JOINT PRACTICE COUNCIL ON ADVANCED PRACTICE REGISTERED NURSING****§2265. Council**

**(REPEALED)**

## SECTION HISTORY

PL 1995, c. 379, §9 (NEW). PL 1997, c. 245, §19 (AMD). PL 1999, c. 668, §120 (RP).

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*26 Years of Full Practice Authority as Healthcare Providers for the People of Maine*

January 19, 2021

Virgina deLorimier  
Assistance Executive director  
Maine State Board of Nursing  
158 State House Station  
Augusta, Maine 04333-0158

Dear Ms deLorimier

On behalf of the Maine Nurse Practitioner Association I am responding to your request for comments regarding changes in the Nurse Practice Act, specifically the coordination and oversight of unlicensed assistive personnel by registered professional nurses.

At MNPA's Board of Directors meeting on January 13, 2021 these changes were discussed and the board voted unanimously to support the recommended changes.

Thank you for contacting MNPA. Please let me know if we can be of further assistance.

Sincerely yours,

Pamela Cahill, Executive Director  
Maine Nurse Practitioner Association

## Delorimier, Virginia E

---

**From:** Sandra Parker <sparker@themha.org>  
**Sent:** Wednesday, January 20, 2021 8:39 AM  
**To:** Delorimier, Virginia E  
**Subject:** Re: Recommendations for a Proposed Change to the Nurse Practice Act

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Good morning,

The Maine Hospital Association has no objections to the proposed language, and thank you for the opportunity to offer comment.

Sandra Parker  
Vice President & General Counsel  
Maine Hospital Association

---

**From:** Delorimier, Virginia E <Virginia.E.Delorimier@maine.gov>  
**Sent:** Tuesday, January 5, 2021 11:50:59 AM  
**To:** Montejo, William <William.Montejo@maine.gov>; Richard Erb <rerb@mehca.org>; Harvey-McPherson, Lisa <lmcperson@northernlight.org>; 'laurie@homecarealliance.org' <laurie@homecarealliance.org>; 'algagnon@tamc.org' <algagnon@tamc.org>; 'robertabelrn@comcast.net' <robertabelrn@comcast.net>; 'oneturkeyrun@comcast.net' <oneturkeyrun@comcast.net>; Poland, Emily <Emily.Poland@maine.gov>; 'msna@nnoc.net' <msna@nnoc.net>; Hurley, J Sam <J.Sam.Hurley@maine.gov>; 'pam@mnpa.us' <pam@mnpa.us>; 'sdecarlo@namecrna.com' <sdecarlo@namecrna.com>; Sandra Parker <sparker@themha.org>  
**Cc:** Esquibel, Kim <Kim.Esquibel@maine.gov>  
**Subject:** Recommendations for a Proposed Change to the Nurse Practice Act

Good Afternoon:

I am contacting you because I would like your input into potential revisions to the Nurse Practice Act; specifically, coordination and oversight of unlicensed assistive personnel by registered professional nurses. In 1997, Chapter 6 Coordination and Oversight of Unlicensed Assistive Personnel became effective. This rule was adopted by the Board after development of the rule by a Board initiated Special Interest Group Committee representing Home Care, Licensing and Certification, Emergency Medical Services, the Maine State Nurses Association, the Legislature, the Maine Hospital Association, and other interested parties. The rule provided direction to the registered nurses working with unlicensed assistive personnel that they could not delegate to by statute.

The rule has been in place for 23 years. Registered Nurses work with many more unlicensed personnel than when this rule was implemented. Understanding the difference between coordination and oversight, and delegation, is confusing. The two concepts appear to look alike but the nurse is actually at the helm of nursing delegation and on the sideline of coordination and oversight with unlicensed assistive personnel reporting to a non-nursing entity. The COVID-19 pandemic has brought to light the difficulties registered nurses face when using their nursing knowledge and skill to provide care for COVID-19 patients utilizing other unlicensed assistive personnel. By statute they can only delegate to certified nursing assistants.

If a registered nurse could delegate to unlicensed assistive personnel in general, the registered nurse would always be at the helm of nursing care with all unlicensed and licensed staff and would be able to have flexibility in decision making, staff assignments and the outcomes of patient care.

Virginia E. deLorimier, MSN, RN

Assistant Executive Director



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H. ~~Coordination and oversight of Delegation~~ of patient care services provided by unlicensed health care assistive personnel. The registered professional nurse shall not delegate to unlicensed health care assistive personnel; health counseling, teaching or any task that requires independent, specialized nursing knowledge, skill or judgment. Nothing in this paragraph prohibits a nurse in the exercise of professional judgment from refusing to ~~provide such coordination and oversight~~ delegate in any care setting. ~~The board shall adopt, pursuant to Title 5, chapter 375, subchapter II-A, major substantive rules for the application of this paragraph to nursing practice.~~ [PL 1995

Virginia E. deLorimier, MSN, RN

Assistant Executive Director



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## Delorimier, Virginia E

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**From:** Juliana L'Heureux <juliewriter@hotmail.com>  
**Sent:** Thursday, January 14, 2021 3:10 PM  
**To:** Delorimier, Virginia E  
**Subject:** rules

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Dear Virginia, ANA-Maine is inclined to support the update to the nursing delegation regulations but we look forward to seeing the final proposed language. Thanks for sending us the notice!

Juliana L'Heureux, BS, MHSA, RN

*Co-author: Maine Nursing- Interviews and History on Caring and Competence*

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Northern Light  
Health.

January 19, 2021

Virginia E. deLorimier, MSN, RN  
Assistant Executive Director  
State of Maine Board of Nursing  
Augusta, ME 04333-0158

Dear Ms. deLorimier,

Thank you for the opportunity to provide feedback on potential revisions to the Nurse Practice Act regarding coordination and oversight of unlicensed assistive personnel. The Northern Light Health Nursing Leadership Council reviewed the proposal to replace the term "coordination and oversight" with "delegation" of patient care services provided by unlicensed health care assistive personnel. We discussed the various unlicensed assistive personnel roles at Northern Light Health and in each example delegation by the nurse supports safe delivery of patient care services.

We also discussed language in Chapter 6; Coordination and Oversight of Unlicensed Assistive Personnel, specifically reviewing the definition of unlicensed assistive personnel that was approved in 1997. As we modernize language in the Nurse Practice Act we ask that the Board of Nursing conduct a review of the various unlicensed assistive personnel tasks and roles to advise an updated definition of unlicensed assistive personnel. We are glad to work with the Board of Nursing and various stakeholders on this review and recommendation.

Sincerely,

Bette Neville RNC, MSN  
Vice President & Chief Nursing Officer  
Northern Light Health

Lisa Harvey-McPherson RN, MBA, MPPM  
Vice President Government Relations  
Northern Light Health

Northern Light Health  
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A.R. Gould Hospital  
Beacon Health  
Blue Hill Hospital  
C.A. Dean Hospital  
Eastern Maine Medical Center  
Home Care & Hospice  
Inland Hospital  
Maine Coast Hospital  
Mercy Hospital  
Northern Light Health Foundation  
Sebasticook Valley Hospital

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JAN 22 2021

MAINE STATE  
BOARD OF NURSING



## **Northern Light Health Nursing Leadership Council**

Tammy Beaulier-Fuller RN  
AVP Nursing & Patient Care Services  
Northern Light AR Gould Hospital

Angela Macera RN  
VP Nursing & Patient Care Services  
Northern Light Acadia Hospital

Kristen Cyr RN  
VP Nursing & Patient Care Services  
Northern Light Blue Hill Hospital  
Northern Light Maine Coast Hospital

Lorraine Rodgerson RN  
VP Nursing & Patient Care Services  
Northern Light Charles A Dean Hospital

Deborah Sanford RN  
VP Nursing & Patient Care Services  
Northern Light Eastern Maine Medical Center

Rick Barry RN  
VP Nursing & Patient Care Services  
Northern Light Inland Hospital

Denise Scuderi RN  
VP Nursing & Patient Care Services  
Northern Light Mayo Hospital

Tracy Bonney-Corson RN  
VP Nursing & Patient Care Services  
Northern Light Sebasticook Hospital

Elizabeth Rolfe RN  
VP Post Acute Care  
Northern Light Home Care & Hospice

Tori Gaetani RN  
VP Patient Care Services & Care Coordination  
Northern Light Beacon Health

January 18, 2021



Virginia E. deLorimier, MSN, RN  
Assistant Executive Director  
State of Maine Board of Nursing  
Augusta, ME 04333-0158

Dear Ms. deLorimier,

On behalf of the Organization of Maine Nurse Leaders (OMNL) I thank you for the opportunity to provide feedback on potential revisions to the Nurse Practice Act. We agree that it is time to modernize language originally developed in 1993 defining the relationship between the nurse and unlicensed health care assistive personnel. The potential revision involves removing the term "coordination and oversight" replaced by the term "delegation". We believe allowing nurses to delegate selected nursing tasks to unlicensed health care assistive personnel strengthens patient care as the nurse is then leading the provision of care provided to patients in a variety of health care settings where unlicensed assistive personnel are employed.

The OMNL Executive Committee discussed the potential revision at length and reached out to our nursing colleagues for additional feedback. As we discussed our support for the change, we also reviewed Chapter 6; Regulations Relating to Coordination and Oversight of Patient Care Services by Unlicensed Health Care Assistive Personnel. Should the Maine State Board of Nursing, with legislative approval, amend the Nurse Practice Act as proposed we strongly believe the board should also amend the definition of unlicensed health care assistive personnel. Today the definition states that unlicensed health care assistive personnel are personnel who are not licensed by the board to practice nursing. Should delegation be authorized we believe the current definition is too broad and should be amended. We offer our support to work with Board of Nursing leadership and stakeholders to amend the definition and work on any additional revisions that result from the statutory change.

In closing, we offer this correspondence of support for the proposed revision.

Sincerely,

Andrew Gagnon  
President - Organization of Maine Nursing Leaders.

Cc. ANA - Maine  
Maine Hospital Association  
Home Care & Hospice Alliance of Maine



January 22, 2021

Virginia deLorimier, MSN, RN  
Assistant Executive Director  
State of Maine Board of Nursing  
161 Capitol Street  
Augusta, ME 04330

Re: Proposed Revisions to the Nurse Practice Act

Dear Ms. deLorimier:

On behalf of Maine's home care, home health and hospice providers, I wish to thank you for the opportunity to provide input on the Board of Nursing's proposed changes to Chapter 6: Regulation Regarding Coordination and Oversight of Unlicensed Assistive Personnel. As with most services, nursing has evolved significantly over the past two decades – and even more rapidly throughout 2020 due to the pandemic.

The proposed amendment of replacing “coordination and oversight” with “delegation” within Chapter 6, thus allowing nurses to delegate specific nursing tasks to unlicensed health assistive personnel (UAP), would be a reasonable standard within an institutional setting. However, the implications within the home setting need closer examination. It would be helpful to clarify the amendment's affect to the ability of clients to self-direct care (particularly when PSS staff delivers care that is patient-directed such as trach care, vent care, g-tube feeds, etc.), as well as the impact on home care providers without an RN (would it alter the capacity for a specially-trained PSS staff to complete certain tasks that they currently perform).

We echo the recommendation by the Nursing Leaders of Maine to participate in more comprehensive review (or replacement) of Chapter 6 to address the scope, education and definition of UAP; and the nursing role as it relates to the UAP. It would be imperative to hear the voices of those nurses who regularly intersect with UAPs across the full healthcare continuum.

Thank you once again for this opportunity to provide comments. I and other Alliance leaders look forward to working with the BON as you consider amending the language related to UAPs.

Sincerely,  
*Laurie Belden*

Laurie Belden  
Executive Director



Northern Light  
Health.

January 29, 2021

Kim Esquibel, PhD, MSN, RN  
Executive Director  
Maine State Board of Nursing  
158 State House Station  
161 Capitol Street  
Augusta, ME 04333-0158

Dear Ms. Esquibel,

Thank you for the opportunity to provide feedback on potential legislative revisions to the Maine Nurse Practice Act, MRS Title 32, Chapter 31. Members of the Northern Light Health Nursing Leadership Council reviewed the proposed changes and offer the following feedback.

Our first comment focuses on the proposal to add a new requirement that registered nurse and practical nurse licensure examination applicants must pass a written examination within five years of graduating from an approved nursing education program. While we agree that nursing practice is transforming at a rapid pace, we also discussed real person experiences of nurses that delayed passing the exam and today function as valued and skilled licensed nursing professionals. In some examples individuals delayed passing licensure exams due to child related priorities, others had test taking challenges that they ultimately were able to over come and in one case the individual is now an advanced practice registered nurse. We do not support adding the 5-year timeframe to the Nurse Practice Act. This rigid standard would require nurse licensure candidates to return to nursing school if the license exam is not successfully completed. We further believe that when an applicant successfully passes the exam they possess the base knowledge required. It is then up to the nursing employer to ensure that the nurse demonstrates the competency to practice and provide an individualized orientation as needed.

We also oppose the proposal that nurses applying for licensure by endorsement must provide evidence of active nursing practice within 5 years of applying for licensure or evidence of a nursing refresher course completion. Once again we believe that the nursing employer has the responsibility to ensure that the nurse demonstrates competency to practice and provide an individualized orientation if necessary. Today when we have new hire nurses who have not practiced for a long period of time or come to us from foreign countries we precept the nurse in our new graduate nursing

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Northern Light Health Foundation  
Sebasticook Valley Hospital

orientation program, in our experience these nurses have successfully transitioned into their patient care roles.

We feel very strongly that the proposals we have commented on do not belong in statute. Thank you for the opportunity to provide feedback on the proposed changes.

Sincerely,



Bette Neville RNC, MSN  
Vice President & Chief Nursing Officer  
Northern Light Health



Lisa Harvey-McPherson RN, MBA, MPPM  
Vice President Government Relations  
Northern Light Health

**Northern Light Health Nursing Leadership Council**

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Deborah Sanford RN  
VP Nursing & Patient Care Services  
Northern Light Eastern Maine Medical  
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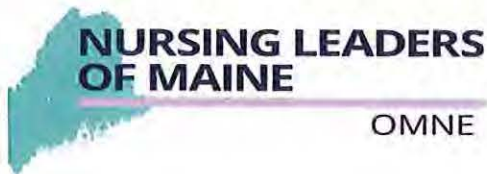
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Northern Light Home Care & Hospice

Tori Gaetani RN  
VP Patient Care Services & Care  
Coordination  
Northern Light Beacon Health



January 29, 2021

Kim Esquibel, PhD, MSN, RN  
Executive Director  
Maine State Board of Nursing  
158 State House Station  
161 Capitol Street  
Augusta, ME 04333-0158

Subject: Feedback Regarding Possible Changes

Dear Ms. Esquibel,

Once again, I would like to thank you for the opportunity for the Maine Nurses Leaders (OMNL) to provide feedback as it relates to potential revisions to the current Nurse Practice Act.

The OMNL Executive committee met to review proposed revisions and would like to specifically comment on the proposed requirement of a nursing candidate to pass the written examination within five years of graduating from an approved nursing educational program. Members of the OMNL executive committee spent a significant amount of time discussing this and believe that this could indeed result in limiting or preventing potential nurses from entering the profession and workforce. NCLEX examination is the standard in testing for licensure of nursing and we believe that if a nursing candidate has proven success in an approved nursing education program and has in turn passed the NCLEX examination licensure should be granted regardless if that time interval is greater than five years. Multiple OMNL executive committee members were able to recall and present instances in which nurses in their facilities have for various reasons required or exceeded five years between successful course completion and sitting for NCLEX examination yet have proven to be extremely competent and valuable nurses. We also understand that a five-year interval may result in the need for longer or more intense nursing orientation program. However, due to the nursing workforce challenges being faced nationally and in Maine it was the sentiment that facilities would be overall be willing to take the ownness of this.

We believe that this would also hold true regarding the proposed change requiring a registered professional nurse applying for licensure by endorsement from another U.S. Jurisdiction, Canada, or a foreign county having to provide evidence of practice within the past five years. If a nurse requesting Maine nursing licensure by endorsement has completed acceptable examinations and license is in good standing we would support not having the proposed five-year timeframe. Again, placing the ownness on the hiring facility or organization to provide an adequate orientation.

In closing, we offer this correspondence of support and comment for the proposed changes. Thank you.

Best regards,

  
Andrew L. Gagnon

President- Organization of Maine Nursing Leaders



11 Columbia St.  
Augusta, ME 04330  
Tel.: (207) 621-0313  
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www.mnpa.us

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26 Years of *Full Practice Authority* as Healthcare Providers for the People of Maine

February 1, 2021

Kim Esquibel  
Maine State Board of Nursing  
State House Station  
Augusta, Maine 04333

RE: Comments on suggested statutory changes to 24 MRSA §2510 Confidentiality of Information and 32 MRSA §2153-A Powers and Duties

Dear Ms. Esquibel,

Thank you for the opportunity to respond to the BON's recommended changes to the above Maine Revised Statutes.

On behalf of the Maine Nurse Practitioner Association the executive committee has reviewed and supports the recommended changes with the exception of two items below.

**24 MRSA §2510 Confidentiality of Information**

5. Health care professional – patient: ~~Physician-patient~~ proceedings by the board. The health care professional-patient physician-patient privilege shall, as a matter of law, be deemed to have been waived by the patient and shall not prevail in any investigation or proceeding by the board acting within the scope of its authority, provided that the disclosure of any information pursuant to this subsection shall not be deemed a waiver of such privilege in any proceeding.

Recommendation: health care professional-patient be changed to health care practitioner to be consistent with section 2 of 24 MRS §2510

**32 MRSA §2153-A Powers and Duties**

9. Practice. May review information related to nursing scopes of practice and determine appropriateness based on education, licensure and certification as applicable;

Recommendation:

9. Practice. May review information related to nursing ~~scopes of practice~~ competency to determine appropriateness based on education, licensure, certification and evidence of experiential expertise as applicable.

MNPA's concern is that if new areas of practice are required to go through the Board process, the result may delay access to care and may result in inadvertent limitations on practice.

Again, thank you for your time in answering our questions and for considering our recommended changes.

Sincerely yours,

Pamela Cahill, Executive Director

**From:** [Susan DeCarlo Piccirillo](#)  
**To:** [Esquibel, Kim](#)  
**Cc:** [Chris Jackson](#)  
**Subject:** Re: Interested Parties Request for Feedback  
**Date:** Tuesday, January 26, 2021 1:00:11 PM

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Kim,

Thank you so much for your quick response. I will inform the MeANA board. And again, let me know if I can be of any further assistance.

I appreciate your offer to help.

Stay safe,

Susan

Sent from my iPhone

On Jan 26, 2021, at 12:18 PM, Esquibel, Kim <[Kim.Esquibel@maine.gov](mailto:Kim.Esquibel@maine.gov)> wrote:

Good afternoon Susan,

Thank you for providing feedback on the proposed changes to the statute. Anesthesia Assistants would not fall into the category of "Unlicensed Assistive Personnel" (UAPs). The Board will be required to adopt a rule that is or is intended to be judicially enforceable and implements, interprets or makes specific the law administered by the Board. In this case, the Board will propose a rule that has more specific language, including those individuals that fall into the category of UAPs. Interested parties will certainly be consulted during the drafting of the rule related to delegation to UAPs and will be given the opportunity to comment when the rule goes out for public comments.

Please don't hesitate to contact me with any questions or if I can be of assistance in any way.

Kim

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[Kim Esquibel, PhD, MSN, RN](#)  
[Executive Director](#)  
[Maine State Board of Nursing](#)  
[158 State House Station](#)  
[161 Capitol Street](#)  
[Augusta, ME 04333-0158](#)  
[TEL: \(207\) 287-1148](#)  
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---

**From:** Susan DeCarlo-Picirillo <[sdecarlo@namecrna.com](mailto:sdecarlo@namecrna.com)>



**Sent:** Tuesday, January 26, 2021 12:40 AM  
**To:** Esquibel, Kim <Kim.Esquibel@maine.gov>  
**Cc:** Chris Jackson <chris@mitchelltardyjackson.com>  
**Subject:** Re: Interested Parties Request for Feedback

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Hi Dr. Esquibel ( Kim),

Thank you so much for the opportunity to review LD2133. My only concern was one section in the legislation, specifically Title32ch31 on page 4, #11. It makes reference to "Unlicensed Assistive Personal". Could an Anesthesia Assistant be considered to fit this category? If so, this is concerning to me.

Otherwise, I did not see any other areas of concern. As you are aware, we hope in the near future to remove barriers in our ability to practice to the full extent of our licensing and education. And we are very grateful for the Board of Nursing's support in this endeavor. Please let me know if I can be of any help in the future and/or if you have any questions or concerns you would like to discuss.

Stay safe and well,

Susan

On Fri, Jan 15, 2021 at 9:02 AM Esquibel, Kim <[Kim.Esquibel@maine.gov](mailto:Kim.Esquibel@maine.gov)> wrote:

Good morning,

You are receiving this email because you have been identified as a potential interested party regarding possible changes to the laws affecting the Board of Nursing (BON).

On March 18, 2020, the Maine Legislature passed LD 2133 (attached) into law following receipt and review of Government Evaluation Act (GEA) reports filed by a number of licensing boards, including the BON. A copy of the BON GEA report may be found at: <http://legislature.maine.gov/doc/3476>

The law directs the boards to review their laws – in consultation with interested parties – and report recommended changes to the laws no later than February 15, 2021.

The BON included suggested changes to the laws affecting it in its GEA report to the Legislature (BON GEA Report at pages 27-60). The laws referenced in the BON GEA report, pursuant to which it performs its duties of protecting the public, include:

1. Title 10 M.R.S. § 8003(5). The BON proposes that this law be amended to allow it to revoke a license following a hearing in conformance with the Maine Administrative Procedure Act and without

a de novo review in district court. This change will make the law consistent with the laws affecting licensing boards and commissions with the Office of Professional and Occupational Regulation and would eliminate the need to routinely pend license renewal applications.

2. Title 32 M.R.S., Chapter 31 – The statute of the Board of Nursing; more specifically:
  - a. Updating the language to reflect alternative delivery systems to carry out its mission
  - b. Updating the complaints and investigations and hearings section of the statute to permit the creation of separate and distinct “investigatory committees” and “hearing committees.
3. Title 24 M.R.S., Chapter 21 – to update the language to specifically include the Board of Nursing; require mandated reports to the boards by “health care practitioners” (broadening the mandated reporting beyond physicians and physician assistants); distinguish between “mandated reporting” and “permissive reporting”; simplify the process for mandated reporting by health care entities; and other changes to reflect the current practice of the licensing boards.

In addition to the possible statutory changes identified in the BON GEA report, the Board staff has identified the need to update the language regarding advanced practice registered nurses for the licensure section of the statute to reflect that advanced practice registered nurses are “licensed”, as opposed to “approved”.

A copy of the possible draft changes to the statute is attached.

If you would like to provide feedback to the BON regarding any of these proposed changes, please send or email them to me no later than January 31, 2021. Please feel free to forward and/or share this email to any other interested parties whom have not been included in this email.

Sincerely,

Kim

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Kim Esquibel, PhD, MSN, RN  
Executive Director  
Maine State Board of Nursing  
158 State House Station

161 Capitol Street  
Augusta, ME 04333-0158  
TEL: (207) 287-1148  
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**Susan DeCarlo-Piccirillo, DNP, CRNA, APRN**

*Maine Association of Nurse Anesthetists*

MeANA President

|

<~WRD000.jpg>

Maine Association of Nurse Anesthetists (MEANA)

P.O. Box 2579

Bangor, ME 04402

(217) 528-3434

Email: [meanaorg@gmail.com](mailto:meanaorg@gmail.com)

**From:** [Linda Robinson](#)  
**To:** [Esquibel, Kim](#)  
**Subject:** Re: Interested Parties Request for Feedback  
**Date:** Friday, January 29, 2021 7:58:01 AM

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Dear Kim,

I've reviewed the changes and had a few others in the affiliate of nurse-midwives review them as well and the changes appear appropriate. We have no comments.

Thank you,

Linda Robinson, CNM

On Jan 28, 2021, at 2:35 PM, Esquibel, Kim <[Kim.Esquibel@maine.gov](mailto:Kim.Esquibel@maine.gov)> wrote:

Good afternoon,

Thank you to those that have provided us feedback regarding the email sent out on January 15, 2021 (below). We would appreciate hearing from those of you that have not responded as to whether you have any concerns with the Board's suggested changes to the laws affecting it in its GEA report to the Legislature (BON GEA Report at pages 27-60) and the suggested changes to the Board statute.

If you would like to provide feedback to the BON regarding any of these proposed changes, please send or email them to me no later than January 31, 2021. I would also be happy to set up a meeting, if needed.

Thank you,

Kim

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[Kim Esquibel, PhD, MSN, RN](#)  
[Executive Director](#)  
[Maine State Board of Nursing](#)  
[158 State House Station](#)  
[161 Capitol Street](#)  
[Augusta, ME 04333-0158](#)  
[TEL: \(207\) 287-1148](#)  
[FAX: \(207\) 287-1149](#)

---

**From:** Esquibel, Kim

**Sent:** Friday, January 15, 2021 9:02 AM

**To:** Andrew Gagnon <[nagagnon@nmcc.edu](mailto:nagagnon@nmcc.edu)>; Lisa Harvey-McPherson <[lmcpherson@emh.org](mailto:lmcpherson@emh.org)>; Cahill, Pam <[pam@mnpa.us](mailto:pam@mnpa.us)>; Montejo, William <[William.Montejo@maine.gov](mailto:William.Montejo@maine.gov)>; Carr, Robert E <[Robert.E.Carr@maine.gov](mailto:Robert.E.Carr@maine.gov)>; Richard Erb <[rerb@mehca.org](mailto:rerb@mehca.org)>; [laurie@homecarealliance.org](mailto:laurie@homecarealliance.org); Poland, Emily <[Emily.Poland@maine.gov](mailto:Emily.Poland@maine.gov)>; [robertabelrn@comcast.net](mailto:robertabelrn@comcast.net); [linda\\_orsi@hotmail.com](mailto:linda_orsi@hotmail.com); [ljobinson54@gmail.com](mailto:ljobinson54@gmail.com); [sdecarlo@namecrna.com](mailto:sdecarlo@namecrna.com); Sandra Parker <[sparker@themha.org](mailto:sparker@themha.org)>; [msna@nnoc.net](mailto:msna@nnoc.net); Chris Jackson <[chris@mitchelltardyjackson.com](mailto:chris@mitchelltardyjackson.com)>

**Cc:** Delorimier, Virginia E <[Virginia.E.Delorimier@maine.gov](mailto:Virginia.E.Delorimier@maine.gov)>

**Subject:** RE: Interested Parties Request for Feedback

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The law directs the boards to review their laws – in consultation with interested parties – and report recommended changes to the laws no later than February 15, 2021.

The BON included suggested changes to the laws affecting it in its GEA report to the Legislature (BON GEA Report at pages 27-60). The laws referenced in the BON GEA report, pursuant to which it performs its duties of protecting the public, include:

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Sincerely,

Kim

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<LD 2133.pdf><title32ch31-Draft Revisions.pdf>