

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 360
HOUSE BILL 218

AN ACT TO REGULATE THE PRACTICE OF NURSING.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 90 of the General Statutes is hereby rewritten as follows:

"ARTICLE 9.

"Nursing Practice Act.

"§ 90-158. **Legislative findings.** — The General Assembly of North Carolina finds that mandatory licensure of all who engage in the practice of nursing is necessary to ensure minimum standards of competency and to provide the public safe nursing care.

"§ 90-159. **Definitions.** — As used in this Article, unless the context requires otherwise:

- (a) 'Board' means the North Carolina Board of Nursing.
- (b) 'Health care provider' means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this Article, a person enrolled in a program to prepare him to be a licensed health care professional or an allied health professional shall be deemed a health care provider.
- (c) 'License' means a permit issued by the board to practice nursing as a registered nurse or as a licensed practical nurse, including a renewal thereof.
- (d) 'Nursing' is a dynamic discipline which includes the caring, counseling, teaching, referring and implementing of prescribed treatment in the prevention and management of illness, injury, disability or the achievement of a dignified death. It is ministering to, assisting, and sustained, vigilant, and continuous care of those acutely or chronically ill; supervising patients during convalescence and rehabilitation; the supportive and restorative care given to maintain the optimum health level of individuals and communities; the supervision, teaching, and evaluation of those who perform or are preparing to perform these functions; and the administration of nursing programs and nursing services.
- (e) 'Nursing program' means any educational program in North Carolina offering to prepare persons to meet the educational requirements for licensure under this Article.
- (f) 'Person' means an individual, corporation, partnership, association, unit of government, or other legal entity.
- (g) The 'practice of nursing by a registered nurse' consists of the following nine components:
 - (1) assessing the patient's physical and mental health; including the patient's reaction to illnesses and treatment regimens;
 - (2) recording and reporting the results of the nursing assessment;
 - (3) planning, initiating, delivering, and evaluating appropriate nursing acts;
 - (4) teaching, delegating to or supervising other personnel in implementing the treatment regimen;
 - (5) collaborating with other health care providers in determining the appropriate health care for a patient but, subject to the provisions of G.S. 90-18.2, not

- prescribing a medical treatment regimen or making a medical diagnosis, except under supervision of a licensed physician;
- (6) implementing the treatment and pharmaceutical regimen prescribed by any person authorized by State law to prescribe such a regimen;
- (7) providing teaching and counseling about the patient's health care;
- (8) reporting and recording the plan for care, nursing care given, and the patient's response to that care; and
- (9) supervising, teaching, and evaluating those who perform or are preparing to perform nursing functions and administering nursing programs and nursing services.

(h) The 'practice of nursing by a licensed practical nurse' consists of the following five components:

- (1) participating in assessing the patient's physical and mental health including the patient's reaction to illnesses and treatment regimens;
- (2) recording and reporting the results of the nursing assessment;
- (3) participating in implementing the health care plan developed by the registered nurse and/or prescribed by any person authorized by State law to prescribe such a plan, by performing tasks delegated by and performed under the supervision or under orders or directions of a registered nurse, physician licensed to practice medicine, dentist, or other person authorized by State law to provide such supervision;
- (4) reinforcing the teaching and counseling of a registered nurse, physician licensed to practice medicine in North Carolina, or dentist; and
- (5) reporting and recording the nursing care rendered and the patient's response to that care.

"§ 90-160. Board of Nursing; composition; selection; vacancies; qualifications; term of office; compensation; immunity. — (a) The board shall consist of 15 members. Nine members shall be registered nurses. Four members shall be licensed practical nurses. Two members shall be representatives of the public.

(b) Selection. The North Carolina Board of Nursing shall conduct an election each year to fill vacancies of nurse members of the board scheduled to occur during the next year. Nominations of candidates for election of registered nurse members shall be made by written petition signed by not less than 10 registered nurses eligible to vote in the election. Nominations of candidates for election of licensed practical nurse members shall be made by written petition signed by not less than 10 licensed practical nurses eligible to vote in the election. Every licensed registered nurse shall be eligible to vote in the election of registered nurse board members. Every licensed practical nurse shall be eligible to vote in the election of licensed practical nurse board members. The list of nominations shall be filed with the board after January 1 of the year in which the election is to be held and no later than midnight of the first day of April of such year. Before preparing ballots, the board shall notify each person who has been duly nominated of his nomination and request permission to enter his name on the ballot. A member of the board who is nominated to succeed himself and who does not withdraw his name from the ballot is disqualified to participate in conducting the election. Elected members shall begin their term of office on January 1 of the year following their election.

Nominations of persons to serve as public members of the board may be made to the Governor by any citizen or group within the State. The Governor shall appoint the two public members to the board.

Board members shall be commissioned by the Governor upon their election or appointment.

(c) Vacancies. The Governor shall fill all unexpired terms on the board within 30 days after the term is vacated. For vacancies of registered nurse or licensed practical nurse members,

the Governor shall appoint the person who received the next highest number of votes to those elected members at the most recent election for board members. The Governor shall select the public member to fill any vacancy of a public member. Appointees shall serve the remainder of the unexpired term and until their successors have been duly elected or appointed and qualified.

(d) Qualifications. Three of the registered nurse members shall hold positions with primary responsibility in nursing education and shall hold baccalaureate or advanced degrees. Six shall hold positions with primary responsibility in providing nursing care to patients. Of the six registered nurse members with primary responsibility in providing nursing care to patients, two shall be employed by a hospital and at least one shall be a hospital nursing service director; one shall be employed by a physician licensed to practice medicine in North Carolina and engaged in the private practice of medicine; one shall be employed by a skilled or intermediate care facility; one shall be a registered nurse, approved to perform medical acts; and one shall be a community health nurse. If no nurse is nominated in one of the categories, the position shall be an at-large registered nursing position. All registered nurse members shall meet the following criteria:

- (1) hold a current license to practice as a registered nurse in North Carolina;
- (2) have at least five years' experience in nursing practice, nursing administration, and/or nursing education; and
- (3) have been engaged in nursing practice, nursing administration, or nursing education for at least three years immediately preceding election.

Licensed practical nurse members shall meet the following criteria:

- (1) hold a current license to practice as a licensed practical nurse in North Carolina;
- (2) be a graduate of a board-approved program for the preparation of practical nurses;
- (3) have at least five years' experience as a licensed practical nurse; and
- (4) have been engaged in practical nursing for at least three years immediately preceding election.

A public member shall not be a health care provider nor the spouse of a health care provider. Public members shall reasonably represent the population of the State.

(e) Term. The term of office for board members shall be three years. No member shall serve more than two consecutive three-year terms after July 1, 1981.

(f) Removal. The board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from board business until the charges are resolved.

(g) Reimbursement. Board members are entitled to receive compensation and reimbursement as authorized by G.S. 93B-5.

"§ 90-160.1. Officers. — The officers of the board shall be a chairman, who shall be a registered nurse, a vice-chairman, and such other officers as the board may deem necessary. All officers shall be elected annually by the board for terms of one year and shall serve until their successors have been elected and qualified.

"§ 90-160.2. Duties, powers, and meetings. — (a) Meetings. The board shall hold at least two meetings each year to transact its business. The board shall adopt rules with respect to calling, holding, and conducting regular and special meetings and attendance at meetings. The majority of the board members constitutes a quorum.

(b) Duties, powers. The board is empowered to:

- (1) administer this Article;
- (2) issue its interpretations of this Article;
- (3) adopt, amend or repeal rules and regulations as may be necessary to carry out the provisions of this Article;

- (4) establish qualifications of, employ, and set the compensation of an executive officer who shall be a registered nurse and who shall not be a member of the board;
- (5) employ and fix the compensation of other personnel that the board determines are necessary to carry into effect this Article and incur other expenses necessary to effectuate this Article;
- (6) examine, license, and renew the licenses of duly qualified applicants for licensure;
- (7) cause the prosecution of all persons violating this Article;
- (8) prescribe standards to be met by the students, and to pertain to faculty, curricula, facilities, resources, and administration for any nursing program as provided in G.S. 90-164;
- (9) survey all nursing programs at least every five years or more often as deemed necessary by the board or program director;
- (10) grant or deny approval for nursing programs as provided in G.S. 90-164.1;
- (11) upon request, grant or deny approval of continuing education programs for nurses as provided in G.S. 90-165;
- (12) keep a record of all proceedings and make available to the Governor and licensees an annual summary of all actions taken;
- (13) appoint, as necessary, advisory committees which may include persons other than board members to deal with any issue under study;
- (14) appoint and maintain a subcommittee of the board to work jointly with the subcommittee of the Board of Medical Examiners to develop rules and regulations to govern the performance of medical acts by registered nurses. The rules developed by this subcommittee shall govern the performance of medical acts by registered nurses and shall become effective when they have been adopted by both boards. The boards shall act upon any application by a registered nurse to perform medical acts within 60 days of receipt of the completed application. The Board of Medical Examiners shall have the responsibility and authority to secure compliance with these regulations;
- (15) recommend and collect such fees for licensure, license renewal, examinations and reexaminations as it deems necessary for fulfilling the purposes of this Article; and
- (16) adopt a seal containing the name of the board for use on all certificates, licenses, and official reports issued by it.

"§ 90-160.3. Executive director. — The executive director shall perform the duties prescribed by the board, serve as treasurer to the board, and furnish a surety bond as provided in G.S. 128-8. The bond shall be made payable to the board.

"§ 90-160.4. Custody and use of funds. — The executive director shall deposit in financial institutions designated by the board as official depositories all fees payable to the board. The funds shall be deposited in the name of the board and shall be used to pay all expenses incurred by the board in carrying out the purposes of this Article. Such funds shall be annually audited by the State Auditor.

"§ 90-160.5. The board may accept contributions, etc. — The board may accept grants, contributions, devices, bequests, and gifts which shall be kept in a separate fund and shall be used by it to enhance the practice of nursing.

"§ 90-160.6. Expenses payable from fees collected. — (a) Any expenses incurred or allowed for the purpose of carrying out this Article may be paid by the board out of the fees received by the board and authorized by this Article.

- (b) The schedule of fees shall not exceed the following rates:

Application for examination leading to certificate and license as registered nurse	\$30.00
Application for certificate and license as registered nurse by endorsement	\$30.00
Application for each reexamination leading to certificate and license as registered nurse	\$30.00
Renewal of license to practice as registered nurse (2-year period)	\$15.00
Reinstatement of lapsed license to practice as a registered nurse and renewal fee	\$30.00
Application for examination leading to certificate and license as licensed practical nurse by examination	\$30.00
Application for certificate and license as licensed practical nurse by endorsement	\$30.00
Application for each reexamination leading to certificate and license as licensed practical nurse	\$30.00
Renewal of license to practice as a licensed practical nurse (2-year period)	\$15.00
Reinstatement of lapsed license to practice as a licensed practical nurse and renewal fee	\$30.00

Reasonable charge for duplication services and materials.

(c) No refund of fees will be made.

"§ 90-161. Nurses registered under previous law. — On June 30, 1981, any nurse who holds a license to practice nursing as a registered nurse or licensed practical nurse, issued by a competent authority pursuant to laws providing for the licensure of nurses in North Carolina, shall be deemed to be licensed under the provisions of this Article, but such person shall otherwise comply with the provisions of this Article including those provisions governing licensure renewal.

"§ 90-161.1. Qualifications of applicants for examination. — In order to be eligible for licensure by examination, the applicant shall make a written application to the board on forms furnished by the board and shall submit to the board an application fee and written evidence, verified by oath, sufficient to satisfy the board that the applicant has graduated from a course of study approved by the board and is mentally and physically competent to practice nursing.

"§ 90-161.2. Licensure by examination. — At least twice each year the board shall give an examination at the time and place it determines, to applicants for licensure to practice as a registered nurse or licensed practical nurse. The board shall give advance notice to applicants and to persons conducting approved nursing programs of the time and place of each examination. The board shall adopt regulations, not inconsistent with this Article, governing qualifications of applicants, the conduct of applicants during the examination, and the conduct of the examination. The applicants shall be required to pass a written examination approved and administered by the board. When the board determines that an applicant has passed the required examination, submitted the required fee, and has demonstrated to the board's satisfaction that he or she is mentally and physically competent to practice nursing, the board shall issue a license to the applicant.

"§ 90-161.3. Reexamination. — Any applicant who fails to pass the first licensure examination may take subsequent examinations in accordance with the rules and regulations of the board, provided that any person who has graduated from a nursing program after July 1, 1981, must pass the examination within three years of graduation. After this three-year period, the applicant must reenter and successfully complete a board-approved nursing program before being allowed to take subsequent examinations.

"§ 90-161.4. Qualifications for license as a registered nurse or a licensed practical nurse without examination. — The board may, without examination, issue a license to an applicant

who is duly licensed as a registered nurse or licensed practical nurse under the laws of another state, territory of the United States, the District of Columbia, or foreign country when that jurisdiction's requirements for licensure as a registered nurse or a licensed practical nurse, as the case may be, are substantially equivalent to or exceed those of the State of North Carolina at the time the applicant was initially licensed, and when, in the board's opinion, the applicant is competent to practice nursing in this State. The board may require such applicant to prove competence and qualifications to practice as a registered nurse or licensed practical nurse in North Carolina.

"§ 90-161.5. Temporary license. — The board shall issue a nonrenewable temporary license to persons applying for licensure under G.S. 90-161.2 for a period not to exceed the lesser of six months or the date of applicant's receipt of the results of the licensure examination. The board shall revoke the temporary license of any person who has failed the examination for licensure as provided by this act. The board shall issue a nonrenewable temporary license to persons applying for licensure under G.S. 90-161.4 for a period not to exceed the lesser of six months or until the board determines whether the applicant is qualified to practice nursing in North Carolina. Temporary licensees may perform patient-care services within limits defined by the board. In defining these limits, the board shall consider the ability of the temporary licensee to safely and properly carry out patient-care services. Temporary licensees shall be held to the standard of care of a fully licensed nurse.

"§ 90-161.6. Licensure renewal. — Every license issued under this Article shall be renewed every two years. On or before the date the current license expires, every person who desires to continue to practice nursing shall apply for licensure renewal to the board on forms furnished by the board and shall also file the required fee. The board shall provide space on the renewal form for the licensee to specify the amount of continuing education received during the renewal period. Failure to renew the license within 30 days after the expiration date shall result in automatic forfeiture of the right to practice nursing in North Carolina.

"§ 90-161.7. Reinstatement. — A licensee who has allowed license to lapse by failure to renew as herein provided may apply for reinstatement on a form provided by the board. The board shall require the applicant to return the completed application with the required fee and to furnish a statement of the reason for failure to apply for renewal prior to the deadline. If the license has lapsed for at least five years, the board shall require the applicant to complete satisfactorily a refresher course approved by the board. The board may require any applicant for reinstatement to satisfy the board that the license should be reinstated. If, in the opinion of the board, the applicant has so satisfied the board, it shall issue a renewal of license to practice nursing, or it shall issue a license to practice nursing for a limited time.

"§ 90-162. Inactive list. — (a) When a licensee submits a request for inactive status, the board shall issue to the licensee a statement of inactive status and shall place the licensee's name on the inactive list. While on the inactive list, the person shall not be subjected to renewal requirements and shall not practice nursing in North Carolina.

(b) When such person desires to be removed from the inactive list and returned to the active list, an application shall be submitted to the board on a form furnished by the board and the fee shall be paid for license renewal. The board shall require evidence of competency to resume the practice of nursing before returning the applicant to active status.

"§ 90-163. Revocation, suspension, or denial of licensure. — In accordance with the provisions of Chapter 150A of the General Statutes, the board may require remedial education, issue a letter of reprimand, restrict, revoke, or suspend any license to practice nursing in North Carolina or deny any application for licensure if the board determines that the nurse or applicant:

- (1) has given false information or has withheld material information from the board in procuring or attempting to procure a license to practice nursing;

- (2) has been convicted of or pleaded guilty or nolo contendere to any crime which indicates that the nurse is unfit or incompetent to practice nursing or that the nurse has deceived or defrauded the public;
- (3) has a mental or physical disability or uses any drug to a degree that interferes with his or her fitness to practice nursing;
- (4) engages in conduct that endangers the public health;
- (5) is unfit or incompetent to practice nursing by reason of deliberate or negligent acts or omissions regardless of whether actual injury to the patient is established;
- (6) engages in conduct that deceives, defrauds, or harms the public in the course of professional activities or services; or
- (7) has willfully violated any provision of this Article or of regulations enacted by the board.

The board may take any of the actions specified in subdivisions (1) through (7) of this section when a registered nurse approved to perform medical acts has violated rules governing the performance of medical acts by a registered nurse; provided this shall not interfere with the authority of the Board of Medical Examiners to enforce rules and regulations governing the performance of medical acts by a registered nurse.

The board may reinstate a revoked license or remove licensure restrictions when it finds that the reasons for revocation or restriction no longer exist and that the nurse or applicant can reasonably be expected to safely and properly practice nursing.

"§ 90-164. Standards for nursing programs. — A nursing program may be operated under the authority of a general hospital, an educational institution or agency, or any other authority satisfactory to the board. The board shall establish, revise, or repeal standards for nursing programs. These standards shall specify program requirements, curricula, faculty, students, facilities, resources, administration, and describe the approval process. The standards approved by the board and in effect on June 30, 1980, shall be the prescribed standards. Before making any substantive change in the standards the board shall hold a hearing in accordance with G.S. Chapter 150A. Any institution desiring to establish a nursing program shall apply to the board and submit satisfactory evidence that it will meet the standards prescribed by the board. Those standards shall be designed to ensure that graduates of those programs have the educational training to safely and properly practice nursing. The board shall encourage the continued operation of all present programs that meet the standards approved by the board and the board shall promote the establishment of additional programs.

"§ 90-164.1. Approval. — The board shall designate persons to survey proposed nursing programs, including the clinical facilities. The persons designated by the board shall submit a written report of the survey to the board. If in the opinion of the board the standards for approved nursing education are met, the program shall be given approval.

"§ 90-164.2. Periodic surveys. — The board shall designate persons to survey all nursing programs in the State at least every five years or more often as deemed necessary. Written reports of such surveys shall be submitted to the board. If the board determines that any approved nursing program does not meet or maintain the standards required by the board, notice thereof in writing specifying the deficiencies shall be given immediately to the institution responsible for the program. The board shall withdraw approval from a program which fails to correct deficiencies within a reasonable time. The board shall publish annually a list of nursing programs in this State showing their approval status.

"§ 90-164.3. Baccalaureate in nursing candidate credits. — Every graduate of a diploma or associate degree school of nursing in this State who has passed the registered nurse examination shall, upon admission to any State-supported institution of higher learning offering baccalaureate education in nursing, be granted credit for previous experience in the diploma or associate degree school of nursing on an individual basis by the utilization of the most effective

method of evaluation to the end that the applicant shall receive optimum credit and that upon graduation the applicant will have earned the baccalaureate degree in nursing.

"§ 90-165. Continuing education programs. — (a) Upon request, the board shall grant approval to continuing education programs upon a finding that the program offers an educational experience designed to enhance the practice of nursing.

(b) If the program offers to teach nurses to perform advance skills, the board may grant approval for the program and the performance of the advanced skills by those successfully completing the program when it finds that the nature of the procedures taught in the program and the program facilities and faculty are such that a nurse successfully completing the program can reasonably be expected to carry out those procedures safely and properly.

"§ 90-166. License required. — No person shall practice or offer to practice as or use any card, title or abbreviation to indicate that such person is a registered nurse or licensed practical nurse unless that person is currently licensed as provided by this Article. This Article shall not, however, be construed to prohibit or limit the following:

- (1) the performance by any person of any act for which that person holds a license issued pursuant to North Carolina law;
- (2) the clinical practice by students enrolled in approved nursing programs under the supervision of qualified faculty;
- (3) the performance of nursing performed by persons who hold a temporary license issued pursuant to G.S. 90-161.5;
- (4) the delegation to any person, including a member of the patient's family, by a physician licensed to practice medicine in North Carolina, a licensed dentist or registered nurse of those patient-care services which are routine, repetitive, limited in scope that do not require the professional judgment of a registered nurse or licensed practical nurse;
- (5) assistance by any person in the case of emergency.

Any person permitted to practice nursing without a license as provided in subdivision (2) or (3) of this section shall be held to the same standard of care as any licensed nurse.

"§ 90-167. Prohibited acts. — It shall be a violation of this Article for any person to:

- (1) sell, fraudulently obtain, or fraudulently furnish any nursing diploma or aid or abet therein;
- (2) practice nursing under cover of any fraudulently obtained license;
- (3) practice nursing without a license;
- (4) conduct a nursing program that is not approved by the board; or
- (5) employ unlicensed persons to practice nursing in violation of this Article.

"§ 90-168. Violation of Article. — The violation of any provision of this Article, except G.S. 90-169, shall be a misdemeanor punishable in the discretion of the court.

"§ 90-168.1. Injunctive authority. — The board may apply to the superior court for an injunction to prevent violations of this Article or of any rules enacted pursuant thereto. The court is empowered to grant such injunctions regardless of whether criminal prosecution or other action has been or may be instituted as a result of such violation.

"§ 90-169. Reports: immunity from suit. — Any person who has reasonable cause to suspect misconduct or incapacity of a licensee or who has reasonable cause to suspect that any person is in violation of this Article, including those actions specified in G.S. 90-163(1) through (7), should report the relevant facts to the board. Upon receipt of such charge or upon its own initiative, the board may give notice of an administrative hearing or may, after diligent investigation, dismiss unfounded charges. Any person making a report pursuant to this section shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false."

Sec. 2. On January 1, 1982, the terms of office of the physician and hospital administrator board members shall expire and the Governor shall appoint two public members

to the board as follows: one for a two-year term and one for a three-year term. The terms of office of the registered nurse members and licensed practical nurse members shall expire at the times they would have if this Article had not been enacted. The North Carolina Board of Nursing shall conduct an election in 1981 to elect: (1) for a one-year term, a community health nurse, a nurse educator, and two licensed practical nurses; (2) for a two-year term, one licensed practical nurse, one registered nurse approved to perform medical acts, one nurse educator, and one hospital-employed nursing service director; and (3) for a three-year term, one physician-employed nurse, one nurse employed by a skilled or intermediate care facility, one registered nurse employed by a hospital primarily engaged in providing patient care services, and one licensed practical nurse. Thereafter, members shall serve a three-year term and shall be selected as provided in G.S. 90-160.

Sec. 3. Severability. If any provision of this Article or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and of the application of such provision to other persons and circumstances shall not be affected thereby.

Sec. 4. G.S. 143-34.12 is amended by deleting line 8 which reads as follows: "Chapter 90, Article 9, entitled 'Nurse Practice Act'."

Sec. 5. This act shall become effective July 1, 1981.

In the General Assembly read three times and ratified, this the 12th day of May, 1981.