STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2128 By: Vaughn (Ray)

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 567.2, 567.3a, 567.7, 567.8 and 567.11, which relate to the Oklahoma Nursing Practice Act; changing term; modifying certain definitions; authorizing names of certain retirees to be placed on nonpracticing list in accordance with rules of the Board; deleting language; adding certain offense to list of offenses which the Board may take action against relating to licenses; deleting and modifying certain exceptions to the Oklahoma Nursing Practice Act; deleting severability clause; establishing the peer assistance program; stating purpose; authorizing the appointment of peer assistance committees; providing for appointment, qualification, membership, duties, and reimbursement of members of such committees; authorizing the appointment of a program coordinator; providing for duties, compensation and subjugation of such coordinator; authorizing certain rules for certain purposes; authorizing a portion of certain fees to be used for such program; providing for confidentiality of certain records; authorizing disclosure of such records under certain circumstances; limiting civil and criminal liability of certain persons; authorizing additional proceedings unrelated and related to such program; defining terms; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 567.2, is amended to read as follows:

Section 567.2 The purpose of this act is to safeguard the public health and welfare by requiring any person who practices or offers to practice registered nursing or practical nursing in this state to be a registered nurse or a licensed practical nurse, and to submit sufficient evidence that he or she is qualified so to practice and shall be licensed as hereinafter provided. It shall be unlawful for any person to practice or offer to practice registered nursing, practical nursing or to practice or offer to

practice as an advanced ~~practitioner~~ practice nurse, or use any title, abbreviation, sign or device to indicate that he or she is a licensed registered nurse, or is a licensed practical nurse or an advanced ~~practitioner~~ practice nurse unless he or she has been duly licensed and registered and recognized as meeting the qualifications as provided for in this act.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 567.3a, is amended to read as follows:

Section 567.3a As used in ~~this act~~ the Oklahoma Nursing Practice Act:

1. "Board" means the Oklahoma Board of Nursing;

2. "The practice of nursing" means the performance of services provided for purposes of nursing diagnosis and treatment of human responses to actual or potential health problems consistent with educational preparation. Knowledge and skill are the basis for assessment, analysis, planning, intervention, and evaluation used in the promotion and maintenance of health and nursing management of illness, injury, infirmity, restoration or optimal function, or death with dignity. Practice is based on understanding the human condition across lifespan and understanding the relationship of the individual within the environment. This practice includes execution of the medical regime including the administration of medications and treatments prescribed by any person authorized by state law to so prescribe;

3. "Registered nursing" means the practice of the full scope of nursing which includes, but is not limited to:

a. assessing the health status of individuals, families and groups,

b. analyzing assessment data to determine nursing care needs,

c. establishing goals to meet identified health care needs,

d. planning a strategy of care,

e. establishing priorities of nursing intervention to implement the strategy of care,

f. implementing the strategy of care,

g. delegating such tasks as may safely be performed by others, consistent with educational preparation and that do not conflict with this act,

h. providing safe and effective nursing care rendered directly or indirectly,

i. evaluating responses to interventions,

j. teaching the principles and practice of nursing,

k. managing and supervising the practice of nursing,

l. collaborating with other health professionals in the management of health care, and

m. performing additional nursing functions in accordance with knowledge and skills acquired beyond basic nursing preparation;

4. "Licensed practical nursing" means the practice of nursing under the supervision or direction of a registered nurse, licensed physician or dentist. This directed scope of nursing practice includes, but is not limited to:

a. contributing to the assessment of the health status of individuals and groups,

b. participating in the development and modification of the plan of care,

c. implementing the appropriate aspects of the plan of care,

d. delegating such tasks as may safely be performed by others, consistent with educational preparation and that do not conflict with this act,

e. providing safe and effective nursing care rendered directly or indirectly,

f. participating in the evaluation of responses to interventions,

g. teaching basic nursing skills and related principles, and

h. performing additional nursing procedures in accordance with knowledge and skills acquired through education beyond nursing preparation;

5. "Advanced ~~practitioner~~ practice nurse" means a licensed registered nurse who:

a. has successfully completed a formal program of study approved by the Board which is designed to prepare registered nurses to perform in an expanded role in the delivery of health care,

b. is nationally certified by an appropriate certifying body, recognized by the Board, and

c. has received a certificate of recognition from the Board.

The term advanced ~~practitioner~~ practice nurse shall include advanced registered nurse practitioners, clinical nurse specialists, nurse midwives and certified registered nurse anesthetists~~.~~;

Recognition pending certification: A registered nurse who has completed educational requirements as an advanced practice nurse and has registered for a Board-approved national certifying exam may apply for temporary recognition pending certification. Temporary recognition shall not exceed one (1) year from date of graduation.

The recognition expires when advanced practice status is granted or one hundred twenty (120) days following test date, whichever comes first. If the recognition certification holder fails to be certified, the permit shall expire upon receipt of the test results. It is not renewable;

6. "Advanced registered nurse practitioner" means a licensed registered nurse who has met the requirements of paragraph 5 of this section. The advanced registered nurse practitioner performs in an expanded role in the delivery of health care that is:

a. consistent with advanced educational preparation as ~~a~~ an advanced practice nurse ~~practitioner~~ in an area of specialty,

b. functions within the advanced registered nurse practitioner scope of practice denoted for the area of specialization, and

c. is in accord with the standards for advanced ~~nurse practitioners~~ practice nurses as identified by the certifying body and approved by the Board.

Any person who is recognized by the Board as an advanced registered nurse practitioner and wishes to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "Advanced Registered Nurse Practitioner" and to the abbreviation "ARNP";

7. "Clinical nurse specialist" means a licensed registered nurse who holds:

a. a master's degree in nursing with clinical specialization preparation to function in an expanded role,

b. specialty certification from a national certifying organization recognized by the Board,

c. a certificate of recognition from the Board, and

d. any nurse holding a specialty certification as a clinical nurse specialist valid on January 1, 1994, granted by a national certifying organization recognized by the Board, shall be deemed to be a clinical nurse specialist under the provisions of this act.

In the expanded role, the clinical nurse specialist performs at an advanced practice level which shall include but not be limited to:

a. practicing as an expert clinician in the provision of direct nursing care to a selected population of patients or clients in any setting, including private practice,

b. managing the care of patients or clients with complex nursing problems, ~~and~~

c. enhancing patient or client care by integrating the competencies of clinical practice, education, consultation, and research, and

d. referring patients or clients to other services.

Any person who is recognized by the Board as a clinical nurse specialist shall have the right to use the title "Clinical Nurse Specialist" and abbreviation "CNS";

8. "Nurse-midwife" means a qualified registered nurse who has received a certificate of recognition from the Oklahoma Board of Nursing who possesses evidence of certification according to the requirements of the American College of Nurse-Midwives, and has the right to use the title Certified Nurse-Midwife and the abbreviation "CNM";

9. "Nurse-midwifery practice" means providing management of care of normal newborns and women, antepartally, intrapartally, postpartally and gynecologically, occurring within a health care system which provides for medical consultation, medical management or referral, and is in accord with the standards for nurse-midwifery practice as defined by the American College of Nurse-Midwives; and

10. "Certified registered nurse anesthetist" means any person who holds a license to practice as a registered nurse in this state and who:

a. has successfully completed the educational program of a school of nurse anesthetists accredited by the American Association of Nurse Anesthetists,

b. is certified by the American Association of Nurse Anesthetists as a Certified Registered Nurse Anesthetist within one (1) year following completion of such educational program, and continues to maintain such certification current,

c. administers anesthesia under the supervision of a medical doctor, an osteopathic physician or a dentist licensed in this state and under conditions in which timely onsite consultation by such doctor, osteopath or dentist is available, and

d. has received a certificate of recognition from the Board.

Any person who is recognized by the Board as a certified registered nurse anesthetist shall have the right to use both the

title "Certified Registered Nurse Anesthetist" and the abbreviation "C.R.N.A."

This paragraph shall not prohibit the administration of local or topical anesthetics as now permitted by law. Provided further, nothing in this paragraph shall limit the authority of the Board of Governors of Registered Dentists to establish the qualifications for dentists who direct the administration of anesthesia.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 567.7, is amended to read as follows:

Section 567.7 A. Licenses issued under this act shall be renewed every two (2) years according to a schedule published by the Board.

B. Licensees who apply for reinstatement of their license must meet such requirements as the Board may prescribe in its rules ~~and regulations~~.

C. Any licensee who desires to retire temporarily from the practice of nursing in this state shall send a written notice to that effect to the Board. It shall be the duty of the Board to place the name of such licensee upon the nonpracticing list <u>in accordance with the rules of the Board</u>. During the period of temporary retirement the licensee shall not practice nursing nor be subject to the payment of any renewal fees. When the licensees desire to resume practice, they must meet such requirements as the Board may prescribe in its rules ~~and regulations~~.

D. Initial applications to practice as a registered nurse shall be accompanied by a fee established by the Board not to exceed the actual administrative and material costs not to exceed One Hundred Twenty-five Dollars ($125.00). Initial applications for a license to practice as a licensed practical nurse shall be accompanied by a fee established by the Board not to exceed the actual administrative and material costs not to exceed Eighty-five Dollars ($85.00).

E. The Board is authorized to fix the biennial renewal license fee for the registered nurse and licensed practical nurse which shall not exceed Sixty Dollars ($60.00).

F. The Board shall by rules ~~or regulations~~ establish the fees for reexamination of any applicant who fails an examination but such fees shall not exceed the amounts specified herein for licensure.

G. Initial applications and renewal applications for recognition for advanced practice shall be accompanied by a fee established by the Board not to exceed the actual administrative and material costs of One Hundred Dollars ($100.00) for initial application and Sixty Dollars ($60.00) for biennial renewal.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 567.8, is amended to read as follows:

Section 567.8 A. The Board shall have power to deny, revoke or suspend any license to practice registered nursing, or licensed practical nursing, or recognition for practice as an advanced ~~practitioner~~ practice nurse or to otherwise discipline a licensee upon proof that the person~~, (1) is~~:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license to practice registered nursing, or licensed practical nursing or advanced practice nursing~~, or (2) is~~;

2. Is guilty of a felony or of any offense that shall constitute a felony under the laws of this state~~, or (3) is~~;

3. Is unfit or incompetent by reason of negligence~~, or (4) is~~;

4. Is habitually intemperate or addicted to habit-forming drugs~~, or (5) exhibits~~;

5. Exhibits actual or potential inability to practice nursing with sufficient knowledge or reasonable skills and safety due to impairment caused by illness, use of alcohol, drugs, chemicals or any other substance, or as a result of any mental or physical condition~~, or (6) has~~;

6. Has been adjudicated as mentally incompetent, mentally ill, chemically dependent or dangerous to the public or has been committed by a court of competent jurisdiction, within or without this state~~, or (7) is~~;

7. Is guilty of unprofessional conduct as defined in the rules ~~and regulations, or (8) is~~;

8. Is guilty of any ~~deliberate~~ act that jeopardizes a patient's life, health or safety as defined in the rules ~~and regulations, or (9) violated~~;

9. Violated a rule adopted by the Board, an order of the Board, or a state or federal law relating to the practice of registered, practical or advanced practice nursing, or a state or federal narcotics or controlled dangerous substance law~~, or (10) has~~;

10. Has had disciplinary actions taken against the individual's registered or practical nursing license, or any health-related license, in this or any state, territory or country; or

11. Is guilty of any crime involving moral turpitude.

B. Any person who supplies the Board information in good faith shall not be liable in any way for damages with respect to giving such information.

C. The Board may cause to be investigated all reported violations of the Oklahoma Nursing Practice Act.

D. All individual proceedings before the Board shall be conducted in accordance with the Oklahoma Administrative Procedures Act.

E. At a hearing the accused shall have the right to appear either personally or by counsel, or both, to produce witnesses and evidence on his or her behalf, to cross-examine witnesses and to have subpoenas issued by the Board. If the accused is found guilty of the charges the Board may refuse to issue a renewal of license to the applicant, revoke or suspend a license, or otherwise discipline a licensee.

F. Persons who have their license revoked may not apply for reinstatement during the time period set by the Board, which shall not exceed five (5) years. The Board on its own motion may at any time reconsider its action.

G. Any person whose license is revoked or who applies for renewal of registration and who is rejected by the Board, shall have the right to appeal from such action to the district court of the county of his residence.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 567.11, is amended to read as follows:

Section 567.11 ~~This act~~ The Oklahoma Nursing Practice Act shall not be construed to affect or apply to ~~gratuitous~~:

1. Gratuitous nursing of the sick by friends or members of the family~~. Provided further, that this act shall not be construed to affect or apply to:~~;

~~1.~~ 2. Registered or licensed practical nurses from any state called in attendance temporarily to a patient in any county in this state~~.~~;

~~2.~~ 3. The practice of nursing which is associated with a program of study by students enrolled in nursing education programs approved by the Board~~.~~;

~~3. Graduates of such nursing programs pending the results of the first licensing examination scheduled by the Board following such graduation.~~

4. ~~The performance by any person of such duties as required in the physical or mental care of a patient or carrying out medical orders prescribed by a licensed physician in a currently licensed hospital or a currently licensed nursing home, state institution, or rendering nursing care in the recipient's own home by a person certified as qualified to perform such services in any program of medical care or other program financed by the Department of Human Services; provided, that such person shall not hold herself or himself out to the public as a registered, graduate, or licensed practical nurse.~~ Persons trained and competency-certified to provide care pursuant to state or federal law, rules or regulations;

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

6. The rendering of service by a physician's trained assistant under the direct supervision and control of a licensed physician, all as authorized by ~~59 O.S.,~~ Section 492~~.~~ of this title; or

7. ~~Nothing in this act shall prohibit any person licensed in the healing arts in this state under any other act from engaging in the practice for which he or she is duly licensed.~~

~~8. Nothing in this act shall be construed to affect or apply to the~~ The practice of nursing in connection with healing by prayer or spiritual means alone in accordance with the tenets and practice of any well-recognized church or religious denomination provided that no person practicing such nursing holds himself out to be a graduate or registered nurse or licensed practical nurse.

~~9. The provisions of this act are severable and if any part or provision shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.~~

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 567.17 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established a peer assistance program to rehabilitate nurses whose competency may be compromised because of the abuse of drugs or alcohol, so that such nurses can be treated and can return to or continue the practice of nursing in a manner which will benefit the public. The program shall be under the supervision and control of the Oklahoma Board of Nursing.

B. The Board shall appoint one or more peer assistance evaluation advisory committees hereinafter called the "peer assistance committees". Each of these committees shall be composed of members, the majority of which shall be licensed nurses with expertise in chemical dependency. The peer assistance committees shall function under the authority of the Oklahoma Board of Nursing in accordance with the rules of the Board. The committee members shall serve without pay, but may be reimbursed for the expenses incurred in the discharge of their official duties in accordance with the State Travel Reimbursement Act.

C. The Board shall appoint and employ a qualified person, who shall be a registered nurse, to serve as program coordinator and shall fix such person's compensation. The Board shall define the duties of the program coordinator who shall report directly to the

Executive Director of the Board and be subject to the Executive Director's direction and control.

D. The Board is authorized to adopt and, from time to time, revise such rules, not inconsistent with the Oklahoma Nursing Practice Act, as may be necessary to enable it to carry into effect the provisions of this section.

E. A portion of licensing fees for each nurse not to exceed Ten Dollars ($10.00) may be used to implement and maintain the peer assistance program.

F. Records of the nurse enrolled in the peer assistance program shall be maintained in the program office in a place separate and apart from the Board's records. The records shall be made public only by subpoena and court order. Confidential treatment shall be cancelled upon the default by the nurse in complying with the requirements of the program.

G. Any person making a report to the Board or to a peer assistance committee regarding a nurse suspected of practicing nursing while habitually intemperate or addicted to the use of habit-forming drugs, or a nurse's progress or lack of progress in rehabilitation, shall be immune from any civil or criminal action resulting from such reports, provided such reports are made in good faith.

H. A nurse's participation in the peer assistance program in no way precludes additional proceedings by the Board for acts or omissions of acts not specifically related to the circumstances resulting in the nurse's entry into the program. However, in the event the nurse defaults from the program, the Board may discipline the nurse for those acts which led to the nurse entering the program.

I. As used in this section, unless the context otherwise requires:

1. "Board" means the Oklahoma Board of Nursing; and

2. "Peer assistance committee" means the peer assistance evaluation advisory committee created in this section, which is appointed by the Oklahoma Board of Nursing to carry out specified duties.

SECTION 7. This act shall become effective July 1, 1994.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-8923 KSM