

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 1589

By: Monson of the Senate

and

Seikel of the House

An Act relating to professions and occupations; amending 59 O.S. 1991, Section 567.8, as last amended by Section 3, Chapter 288, O.S.L. 1996 (59 O.S. Supp. 1999, Section 567.8), which relates to nursing licensure and certification; expanding powers of the Oklahoma Board of Nursing; modifying criteria for imposition of disciplinary action; allowing levying of fines and imposing of payment of costs as a condition of disciplinary action; and providing an effective date.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to professions and occupations; amending 59 O.S. 1991, Section 567.8, as last amended by Section 3, Chapter 288, O.S.L. 1996 (59 O.S. Supp. 1999, Section 567.8), which relates to nursing licensure and certification; expanding powers of the Oklahoma Board of Nursing; modifying criteria for imposition of disciplinary action; providing for administrative penalties; specifying maximum; requiring certain considerations; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 567.8, as last amended by Section 3, Chapter 288, O.S.L. 1996 (59 O.S. Supp. 1999, Section 567.8), is amended to read as follows:

Section 567.8 A. The Oklahoma Board of Nursing shall have the power ~~to~~:

1. To deny, revoke or suspend any:

- a. license to practice registered nursing~~7~~ or licensed practical nursing, ~~or~~
- b. recognition for practice as an advanced practice nurse, or
- c. certification as an advanced unlicensed assistive person~~7~~;

2. To assess administrative penalties; or ~~to~~

3. To otherwise discipline a licensee or advanced unlicensed assistive person.

B. The Board shall impose a disciplinary action pursuant to the provisions of subsection A of this section upon proof that the person:

1. Is guilty of fraud or deceit in procuring or attempting to procure:

- a. a license to practice registered nursing, ~~or~~ licensed practical nursing~~7~~, or advanced practice nursing~~7~~, or
- b. certification as an advanced unlicensed assistive person;

2. Is guilty of a felony or of any offense that shall constitute a felony under the laws of this state;

3. Is unfit or incompetent by reason of negligence;

4. Is habitually intemperate or addicted to habit-forming drugs;

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;

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;

7. Is guilty of unprofessional conduct as defined in the rules of the Board;

8. Is guilty of any act that jeopardizes a patient's life, health or safety as defined in the rules of the Board;

9. Violated a rule ~~adopted~~ promulgated 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 advanced unlicensed assisting, or a state or federal narcotics or controlled dangerous substance law; or

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

~~B.~~ C. 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.~~ D. The Board may cause to be investigated all reported violations of the Oklahoma Nursing Practice Act, ~~Section 567.1 et seq. of this title.~~

~~D.~~ E. All individual proceedings before the Board shall be conducted in accordance with the Administrative Procedures Act, ~~Section 308a et seq. of Title 75 of the Oklahoma Statutes.~~

~~E.~~ F. 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 of the accused, 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.~~ G. A person whose license is 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. H. 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 the person's residence~~ pursuant to the Administrative Procedures Act.

I. 1. Any person who has been determined by the Board to have violated any provisions of the Oklahoma Nursing Practice Act or any rule or order issued pursuant thereto shall be liable for an administrative penalty of not more than One Hundred Dollars (\$100.00) for each day that said violation continues. The maximum administrative penalty shall not exceed Five Hundred Dollars (\$500.00) for each count of which any holder of a certificate or license has been determined to be in violation of the Oklahoma Nursing Practice Act or rule promulgated or order issued thereto.

2. The amount of the penalty shall be assessed by the Board pursuant to the provisions of this section, after notice and an opportunity for hearing is given to the accused. In determining the amount of the penalty, the Board shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to practice, and any show of good faith in attempting to achieve compliance with the provisions of the Oklahoma Nursing Practice Act.

SECTION 2. This act shall become effective November 1, 2000."

Passed the House of Representatives the 17th day of April, 2000.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 2000.

President of the Senate