WEST virginia legislature

2022 regular session

ENROLLED

Committee Substitute

for

Senate Bill 518

By Senators Blair (Mr. President) and Baldwin
(By Request Of The Executive)

[Passed March 12, 2022; in effect from passage]

AN ACT to repeal §30-7-1a, §30-7-15e, and §30-7-20 of the Code of West Virginia, 1931, as amended, and to amend and reenact §30-7-3, §30-7-4, §30-7-6, §30-7-7, §30-7-8, §30-7-8a, §30-7-20, all relating to the practice of registered nursing; updating the board membership; updating the board's powers; updating licensure requirements; updating the requirements for temporary permits; providing license requirements for license renewal; reconstituting the nursing shortage study commission; and removing outdated provisions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-1a. Eligibility for licensure by meeting requirements which existed prior to the legislative enactments during the 2012 legislative session.

[Repealed].

§30-7-3. Board of examiners for registered professional nurses.

(a) The West Virginia Board of Examiners for Registered Professional Nurses is renamed the West Virginia Board of Registered Nurses effective July 1, 2022. The members of the West Virginia Board of Examiners for Registered Professional Nurses shall remain as members until the new appointments are made.

(b) By July 1, 2022, the Governor, by and with the advice and consent of the Senate, shall appoint a new board as follows:

(1) One person licensed as an advanced practice registered professional nurse by the board;

(2) One person who is certified as a dialysis technician by the board;

(3) Four persons licensed as a registered professional nurse by the board and meet the following requirements:

(A) One registered professional nurse, who provides direct patient care in a long-term care facility, home health or hospice;

(B) Two registered professional nurses, who provide direct patient care in a hospital setting or acute care setting; and,

(C) One registered professional nurse, who teaches nursing; and,

(4) One citizen member who is not licensed under the provisions of this chapter and who has never performed any services as a health care professional.

(c) Organizations that represent nurses may submit to the Governor recommendations for the appointment of the licensed board members.

(d) The appointment term is four years. A member may not serve more than two consecutive terms. A member may continue to serve until his or her successor has been appointed and qualified.

(e) Each member of the board shall be a resident of this state during the appointment term.

(f) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office is vacant.

(g) The Governor may remove any member from the board for neglect of duty, incompetency, or official misconduct.

(h) A licensed member of the board immediately and automatically forfeits membership to the board if his or her license to practice is disciplined in any jurisdiction.

(i) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(j) The board shall elect one of its members as president and one member as secretary who shall serve at the will and pleasure of the board.

(k) A member of the board is entitled to receive compensation and expense reimbursement in accordance with §30-1-1 *et seq.* of this code.

(l) A simple majority of the membership serving on the board at a given time is a quorum for the transaction of business.

(m) The board shall hold at least two meetings annually. Other meetings shall be held at the call of the president or upon the written request of four members, at the time and place as designated in the call or request.

(n) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

(o) A board member, when acting in good faith and without malice, shall enjoy immunity from individual civil liability while acting within the scope of their duties as board members.

§30-7-4. Organization and meetings of board; quorum; powers and duties generally; executive secretary; funds.

(a) The board has all the powers and duties set forth in this article, in §30-1-1 *et seq.* of this code and elsewhere in law, including the ability to:

(1) Hold meetings;

(2) Establish procedures for submitting, approving, and rejecting applications for a license and permit;

(3) Determine the qualifications of an applicant for a license and permit;

(4) Establish the fees charged under the provisions of this article;

(5) Issue, renew, restrict, deny, suspend, revoke, or reinstate a license and permit;

(6) Prepare, conduct, administer, and grade written, oral, or written and oral examinations for a license;

(7) Contract with third parties to administer the examinations required under the provisions of this article;

(8) Maintain records of the examinations the board, or a third party, administers, including the number of persons taking the examination and the pass and fail rate;

(9) Maintain an office and hire, discharge, establish the job requirements, and fix the compensation of employees, and contract with persons necessary to enforce the provisions of this article;

(10) Employ investigators, attorneys, hearing examiners, consultants, and other employees as may be necessary who are exempt from the classified service and who serve at the will and pleasure of the board;

(11) Delegate hiring of employees to the executive director;

(12) Investigate alleged violations of the provisions of this article and legislative rules, orders, and final decisions of the board;

(13) Conduct disciplinary hearings of persons regulated by the board;

(14) Determine disciplinary action and issue orders;

(15) Institute appropriate legal action for the enforcement of the provisions of this article;

(16) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(17) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(18) Public meeting minutes to its website within 14 days of a meeting;

(19) Propose rules in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article;

(20) Sue and be sued in its official name as an agency of this state;

(21) Approve a nursing school;

(22) Establish a nurse health program;

(23) Implement the provisions of the enhanced nurse licensure compact in accordance with §30-7B-1 et seq. of this code;

(24) Coordinate with and assist the Center for Nursing in accordance with §30-7B-1 *et seq.* of this code; and

(25) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

(b) All fees and other moneys collected by the board pursuant to the provisions of this article shall be kept in a separate fund and expended solely for the purpose of this article. No part of this special fund shall revert to the General Funds of this state. The compensation provided by this article and all expenses incurred under this article shall be paid from this special fund. No compensation or expense incurred under this article shall be a charge against the General Funds of this state.

§30-7-6. License to practice registered professional nursing.

(a) The board may issue a license to practice registered nursing to an applicant who meets the following requirements:

(1) Is at least 18 years of age;

(2) Has completed an approved four-year high school course of study or the equivalent thereof, as determined by the appropriate educational agency;

(3) Has completed a nursing education program;

(4) Has passed an examination approved by the board;

(5) Has paid the application fee specified by rule;

(6) Has completed a criminal background check, as required by §30-1D-1 *et seq.* of this code; and

(7) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code, unless an applicant in an active recovery process, which may be evidenced by participation in a Nurse Health Program, structured aftercare, or a 12-step program or other similar group or process, may be considered.

(b) A license to practice registered professional nursing issued by the board shall for all purposes be considered a license issued under this section: *Provided,* That a person holding a license shall renew the license.

§30-7-7. License to practice advanced practice registered nursing.

(a) The board may issue an advanced practice registered nurse license to an applicant who meets the following requirements:

(1) Is at least 18 years of age;

(2) Is currently certified by a national certification organization, approved by the board, in one or more of the following nationally recognized advance practice registered nursing roles: Certified registered nurse anesthetist, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner;

(3) Has paid the application fee specified by legislative rule; and

(4) Is not an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code, unless an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in a Nurse Health Program, structured aftercare, or a 12-step program or other similar group or process, may be considered.

(b) An advanced practice registered nurse license issued by the board and in good standing on the effective date of the amendments to this section shall for all purposes be considered an advanced practice registered nurse license issued under this section: *Provided*, That a person holding an advanced practice registered nurse license shall renew the license.

(c) An applicant, who is licensed in another jurisdiction as an advanced practice registered nurse, is eligible to apply for licensure.

(d) By virtue of being a licensed advanced practice registered nurse that person is also licensed as a registered professional nurse. The board may not charge an additional fee for registered professional nurse license

§30-7-8. License renewal.

(a) Persons regulated by this article shall annually or biennially, renew his or her board authorization by completing a form prescribed by the board and submitting any other information required by the board.

(b) The board shall charge a fee for each renewal of a board authorization and shall charge a late fee for any renewal not paid by the due date.

(c) The board may deny an application for renewal for any reason which would justify the denial of an original application.

§30-7-8a. Temporary permits.

The board may issue a temporary permit to a person applying for a license under this article.

§30-7-15e. Joint Advisory Council on Limited Prescriptive Authority.

 [Repealed.]

§30-7-18. Nursing shortage study commission.

(a) A nursing shortage study commission shall be created by the board. The board shall appoint 9 members to the commission. The board shall appoint:

(1) One individual who is on the board;

(2) Two individuals that are employed as registered professional nurses in a hospital and who work primarily providing direct patient care;

(3) Two registered professional nurses who work as long-term care nurses, one of whom works in a nursing home and one of whom works for a home health agency, both of whom work primarily providing direct patient care;

(4) One nursing administrator;

(5) The Chancellor of the Higher Education Policy Commission;

(6) The West Virginia Nurses' Association President; and

(7) The Executive Director of the Center for Nursing.

(b) Members of the commission are not entitled to compensation for services performed as members, but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties. Five of the appointed members is a quorum for the purpose of conducting business. The board shall meet at least monthly. The board shall designate a chair, who is not a public official. The commission shall conduct all meetings in accordance with the open meeting law pursuant to §6-9A-1 *et seq.* of this code.

(c) The commission shall:

(1) Study the nursing shortage in West Virginia and ways to alleviate it, including, but not limited to:

(A) Evaluating mechanisms currently available in the state and elsewhere intended to enhance education, recruitment, and retention of nurses in the workforce and to improve quality of care;

(B) Assessing the impact of shortages in nursing personnel on access to, and the delivery of, quality patient care;

(C) Developing recommendations on strategies to reverse the growing shortage of qualified nursing personnel in the state, including:

(i) Determining what changes are needed to existing programs, current scholarship programs and funding mechanisms to better reflect and accommodate the changing health care delivery environment and to improve quality of care to meet the needs of patients;

(ii) Facilitating career advancement within nursing;

(iii) Identifying more accurately specific shortage areas in a more timely manner;

(iv) Attracting middle and high school students into nursing as a career; and

(v) Projecting a more positive and professional image of nursing.

(2) Report its findings and recommendation to the Joint Committee on Health by December 1, 2022.

(3) Terminate January 1, 2023.

§30-7-20. Pilot program.

[Repealed].