

CHAPTER 391

(HB 676)

AN ACT relating to nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

The board may require a criminal background investigation of an applicant for endorsement by means of a fingerprint check by the State Police and the Federal Bureau of Investigation.

SECTION 2. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

- (1) ***The board may, on petition by an interested party, issue a declaratory ruling relating to the applicability to any person, property, or state of facts of a statute, administrative regulation, decision, order, or other written statement of law or policy within the jurisdiction of the board.***
- (2) ***A declaratory ruling shall be binding on the board and all parties to the proceedings on the statement of facts alleged.***
- (3) ***The board may not retroactively change a declaratory ruling, but nothing in this section shall prevent the board from prospectively changing a declaratory ruling.***
- (4) ***The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A on procedures for submission, consideration, and disposition of a petition for a declaratory ruling.***
- (5) ***A declaratory ruling of the board may be appealed to the Circuit Court of the county in which the board's offices are located within thirty (30) days of the date of the final ruling by the board.***

SECTION 3. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Any person licensed by the board shall maintain a current mailing address with the board and immediately notify the board in writing of a change of mailing address. As a condition of holding a license from the board, a licensee is deemed to have consented to service of notices or orders of the board at the mailing address on file with the board, and any notice or order of the board mailed or delivered to the mailing address on file with the board constitutes valid service of the notice or order.

SECTION 4. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Any person licensed by the board shall immediately notify the board in writing if any professional or business license that is issued to the person by any agency of the Commonwealth or any other jurisdiction is surrendered or terminated under threat of disciplinary action or is refused, suspended, or revoked, or if renewal of continuance is denied.

SECTION 5. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Any person licensed by the board shall, within thirty (30) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony criminal conviction in this or any other jurisdiction. Upon learning of any failure to notify the board under this section, the board may initiate an action for immediate temporary suspension under KRS 314.089 until the person submits the required notification.

Section 6. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

- (1) "Board" *means*~~{shall mean}~~ Kentucky Board of Nursing.
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A.
- (3) "Nurse" *means*~~{shall mean}~~ a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
 - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
 - (b) Planning, implementation, and evaluation based on nationally-accepted standards of nursing practice.
- (5) "Registered nurse" *means*~~{shall mean}~~ one who is licensed under the provisions of this chapter to engage in registered nursing practice.
- (6) "Registered nursing practice" *means*~~{shall mean}~~ the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
 - (a) The care, counsel, and health teaching of the ill, injured, or infirm.
 - (b) The maintenance of health or prevention of illness of others.
 - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
 1. Preparing and giving medications in the prescribed dosage, route, and frequency;
 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 3. Intervening when emergency care is required as a result of drug therapy;
 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 6. Instructing an individual regarding medications.
- (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.
 - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses.
- (7) "Advanced registered nurse practitioner" *means*~~[shall mean]~~ one who is registered and designated to engage in advanced registered nursing practice including~~[, but not limited to,]~~ the nurse anesthetist, nurse midwife, *clinical nurse specialist*, and nurse practitioner pursuant to KRS 314.042.
 - (8) "Advanced registered nursing practice" *means*~~[shall mean]~~ the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally-established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for *and dispense* nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation.
 - (9) "Licensed practical nurse" *means*~~[shall mean]~~ one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice.
 - (10) "Licensed practical nursing practice" *means*~~[shall mean]~~ the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
 - (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist.
 - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.
 - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.

- (d) Teaching, supervising, and delegating except as limited by the board.
 - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.
- (11) "School of nursing" ~~means~~~~shall mean~~ a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.
 - (12) "Continuing education" ~~means~~~~shall mean~~ offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.
 - (13) "Nursing assistance" ~~means~~~~shall mean~~ the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.
 - (14) "Sexual assault nurse examiner" ~~means~~~~shall mean~~ a registered nurse who has completed the required education and clinical experience and been credentialed by the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(2).
 - (15) ***"Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare.***
 - (16) ***"Credential" means a current license, registration, or certificate that is issued by the board and that permits the practice of nursing.***
 - (17) ***"Dispense" means to receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party.***

Section 7. KRS 314.025 is amended to read as follows:

- (1) There is hereby created the Kentucky nursing incentive scholarship fund.
- (2) It is the intent of the General Assembly of the Commonwealth of Kentucky to address the nursing workforce needs throughout the Commonwealth; further it is the intent of the General Assembly to give preference for these scholarships to financially needy residents, registered nurses pursuing graduate nursing education, and licensed practical nurses of the Commonwealth. ***The fund also may issue grants for nursing workforce competency development.***
- (3) ***It further is the intent of the General Assembly that an applicant who has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property may not be eligible for a Kentucky nursing incentive scholarship.***

Section 8. KRS 314.031 is amended to read as follows:

- (1) It shall be unlawful for any person to call or hold herself or himself out as or use the title of nurse or to practice or offer to practice as a nurse unless licensed under the provisions of this chapter.

- (2) It shall be unlawful for any person to operate or to offer to operate or to represent or advertise the operation of a school of nursing unless the school of nursing has been approved under the provisions of this chapter.
- (3) It shall be unlawful for any person knowingly to employ a nurse unless the nurse is licensed under the provisions of this chapter.
- (4) It shall be unlawful for any nurse, employer of nurses, or any person having knowledge of facts to refrain from reporting to the board a nurse who:
 - (a) Has been convicted of a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing; or
 - (b) Is suspected of fraud or deceit in procuring or attempting to procure a license to practice nursing; or
 - (c) *Is suspected* of negligently or willfully acting in a manner inconsistent with the practice of nursing; or
 - (d) *Is suspected* of being unfit or incompetent to practice nursing by reason of negligence or other causes including, but not limited to, being unable to practice nursing with reasonable skill or safety; or
 - (e) *Is suspected* of ~~willfully or repeatedly~~ violating any provisions of this chapter; or
 - (f) ~~(e)~~ Has a license to practice as a nurse denied, limited, suspended, probated, ~~or~~ revoked, *or otherwise disciplined* in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, ~~or~~ revoked, *or otherwise disciplined* in this Commonwealth; or
 - (g) ~~(d)~~ Is practicing nursing without a current active license or valid temporary work permit issued by the board; *or*
 - (h) *Is suspected of abusing, misusing, or misappropriating any drugs placed in the custody of the nurse for administration, or for use of others; or*
 - (i) *Is suspected of falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records.*

Section 9. KRS 314.041 is amended to read as follows:

- (1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath: ~~;~~
 - (a) That the applicant ~~has completed at least an approved four (4) year high school course of study or the equivalent thereof;~~ has completed the basic curriculum for preparing registered nurses in an approved school of nursing and *has completed requirements for graduation* ~~holds a diploma~~ therefrom;
 - (b) Has fulfilled the requirements of KRS 214.615(1); and
 - (c) Is able to understandably speak and write the English language and to read the English language with comprehension.
- (2) An applicant shall be required to pass an examination in any subjects as the board may *determine* ~~prescribe. Each written examination may be supplemented by an oral or practical~~

~~examination~~]. Application for licensure by examination shall be received by the board at such time as **determined**~~prescribed~~ by regulation by the board.

- (3) Upon successfully completing all requirements for licensure, the board **may**~~shall~~ issue to the applicant a license to practice nursing as a registered nurse, ***if in the determination of the board the applicant is qualified to practice as a registered nurse in this state.***
- (4) The board may issue a license to practice nursing as a registered nurse to any applicant who has passed the examination prescribed by the board or its equivalent and been licensed as a registered nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant is qualified to practice ***as a registered nurse***~~professional nursing~~ in this state.
- (5) The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board promulgated pursuant to the provisions of KRS Chapter 13A.
- (6) Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.
- (7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed ***in accordance with regulations promulgated by the board in accordance with KRS Chapter 13A***~~at least biennially~~ and those persons granted inactive status shall not be governed by the continuing ***competency***~~education~~ provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in KRS Chapter 314 and by regulation of the board.
- (8) Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.
- (9) A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 10. KRS 314.042 is amended to read as follows:

- (1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally-established organization or agency recognized by the board to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.
- (2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the

qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or *clinical nurse specialist*~~[any other designation as determined by the board]~~.

- (3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.
- (4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.
- (5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.
- (6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.
- (7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."
- (8) Before an advanced registered nurse practitioner engages in the prescribing *or dispensing* of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.
- (9) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative practice agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

Section 11. KRS 314.051 is amended to read as follows:

- (1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant:
 - (a)~~— Has completed at least an approved four (4) year high school course of study or its equivalent;~~
 - ~~(b)~~—Has fulfilled the requirements of KRS 214.615(1);
 - ~~(b)~~~~(e)~~—Has completed the required educational program in practical nursing at an approved school of nursing and *has completed requirements for graduation*~~[holds a diploma or certificate]~~ therefrom; and

- (c)~~(d)~~ Is able to understandably speak and write the English language and to read the English language with comprehension.
- (2) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.
 - (3) An applicant shall be required to pass an examination in any subjects the board may determine.~~[Each written examination may be supplemented by an oral or practical examination.]~~ Application for licensure by examination shall be received by the board at the time as **determined**~~[prescribed]~~ by regulation by the board.
 - (4) Upon successfully completing all requirements for licensure, the board **may**~~[shall]~~ issue to the applicant a license to practice as a licensed practical nurse ***if, in the determination of the board, the applicant is qualified to practice as a licensed practical nurse in this state.***
 - (5) The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the examination prescribed by the board or its equivalent, and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state.
 - (6) Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.
 - (7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed ***in accordance with administrative regulations promulgated by the board in accordance with KRS Chapter 13A,*** ~~[at least biennially]~~ and those persons granted inactive status shall not be governed by the continuing ***competency***~~[education]~~ provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in this chapter and by regulation of the board.
 - (8) Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.
 - (9) A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 12. KRS 314.061 is amended to read as follows:

- (1) Every ***credential***~~[license]~~ issued by the board shall have the seal of the board affixed. A ***holder of a credential***~~[licensee]~~ shall~~[sign his license,]~~ retain it in his possession, and be prepared to exhibit ***it***~~[his license or board certification of licensure]~~ upon demand by an employer or anyone to whom the ***holder of the credential***~~[licensee]~~ offers nursing services, or any board or staff member of the Kentucky Board of Nursing.

- (2) Failure or refusal to produce a license or certification thereof upon demand shall be prima facie evidence that no such license exists.

Section 13. KRS 314.073 is amended to read as follows:

- (1) Except for the first licensure renewal following the issuance of an original license by the board, as a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document~~[the completion of]~~ continuing **competency during the immediate past**~~[education requirements not to exceed thirty (30) contact hours in a given]~~ licensure period as prescribed in regulations promulgated by the board.~~[A "contact hour" is defined as fifty (50) minutes of an approved, organized learning experience.]~~
- (2) ~~[Contact hours required to satisfy]~~The continuing **competency**~~[education]~~ requirement shall be **documented**~~[completed]~~ and reported **as**~~[in accordance with board requirements]~~ set forth by **the board in administrative regulations promulgated in accordance with KRS Chapter 13A**~~[regulation]~~.
- (3) The board shall approve providers of continuing education. The approval may include recognition of providers approved by national organizations and state boards of nursing with comparable standards. Standards for these approvals shall be set by the board in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A.
- (4) The board shall work cooperatively with professional nursing organizations, approved nursing schools, and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.
- (5) The board shall be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing **competency**~~[education]~~ requirements.
- (6) The continuing **competency requirements**~~[education]~~ shall include the completion of the course described in KRS 214.610(1).
- (7) In order to offset administrative costs incurred in the implementation of the mandatory continuing **competency**~~[education]~~ requirements, the board may charge reasonable fees as established by regulation in accordance with the provisions of KRS Chapter 13A.
- (8) The continuing **competency**~~[education]~~ requirements shall include at least five (5) contact hours in pharmacology **continuing education** for any person registered as an advanced registered nurse practitioner.

Section 14. KRS 314.085 is amended to read as follows:

- (1) If the board has reasonable cause to believe that any licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a mental or physical examination by a physician or psychologist it designated. Upon the failure of the person to submit to a mental or physical examination, unless due to circumstances beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 **or deny the application** until the person submits to the required examination.

- (2) Every licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit shall be deemed to have given consent to submit to a mental or physical examination when so directed in writing by the board. The direction to submit to an examination shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining physician's or psychologist's testimony or examination reports on the ground of privileged communication.
- (3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit shall bear the cost of any mental or physical examination ordered by the board.

Section 15. KRS 314.091 is amended to read as follows:

- (1) The board shall have power to **reprimand**, deny, limit, revoke, probate, or suspend any license **or credential** to practice nursing issued by the board or applied for in accordance with this chapter, or to otherwise discipline a licensee, **credential holder, or applicant**, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:
- (a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;
 - (b) Has been convicted of a misdemeanor or felony which involved **fraud, deceit, a breach of trust, or physical harm or endangerment to others**, acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing;
 - (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;
 - (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
 - (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
 - (f) Abuses use of controlled substances, **prescription medications, or alcohol**; ~~or~~
 - (g) Has misused or misappropriated any drugs placed in the custody of the nurse for **administration** ~~medication~~, or **for** use of others;
 - ~~(h)~~ ~~(g)~~ Has falsified or in a ~~repeatedly~~ negligent manner made incorrect entries or failed to make essential entries on essential records;
 - ~~(i)~~ ~~(h)~~ Has a license **or credential** to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth; ~~or~~
 - ~~(j)~~ ~~(i)~~ —Has ~~willfully or repeatedly~~ violated any of the provisions of this chapter; ~~or~~
 - ~~(k)~~ **Has** violated any lawful order or directive previously entered by the board; ~~or~~

- (l) *Has violated* any administrative regulation promulgated by the board; *or*
- (m) *Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.*
- (2) All hearings~~[for denial, limitation, probation, suspension, or revocation of the license of a registered or practical nurse]~~ shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license *or credential* may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.
- (3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.
- (4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.
- (5) A final order of the board shall be by majority vote thereof.
- (6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.
- (7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license *or credential* may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 16. KRS 314.101 is amended to read as follows:

- (1) This chapter does not prohibit: the furnishing of nursing assistance in an emergency; the practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing; 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; or the practice of any currently licensed nurse of another state whose responsibilities include transporting patients into, out of, or through this state.
- (2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.
- (3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.
- (4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by examination or endorsement. Temporary work permits shall be issued only for the length of time required to process

applications for endorsement or, in the case of applications for licensure by examination, for no longer than six (6) months from the first day of the month following completion of the program of nursing requirements, and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

- (5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.
- (6) A new graduate who holds a temporary work permit shall have the right to use the title "registered nurse applicant" and the abbreviation "RN App" or "licensed practical nurse applicant" and the abbreviation "LPN App" according to the type of permit issued.
- (7) Any nurse educated outside the United States who has passed the state board test pool examination or its equivalent as determined by the board ~~or who has passed the commission on graduates of foreign nursing schools examination~~ may be issued a temporary work permit.

Section 17. KRS 314.111 is amended to read as follows:

- (1) An institution desiring to conduct a school of nursing shall apply to the board and submit evidence that it is prepared to carry out the minimum approved basic curriculum in nursing and that it is prepared to fulfill other requirements of standards which are established by KRS 314.011 to 314.161 and KRS 314.991 and the administrative regulations promulgated by the board. No person shall operate a nursing education program or school of nursing without complying with the provisions of this section.
- (2) A survey of the institution and its proposed education program shall be made by the executive director or an authorized employee 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 or school of nursing are met it shall approve the school.
- (3) ~~Periodic surveys of all schools of nursing shall be made under the supervision of the board. Written reports of such surveys shall be submitted to the board.~~ If the board determines that any approved school of nursing is not maintaining the standards required by the statutes and the administrative regulations of the board, notice thereof in writing specifying their deficiencies shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after an administrative hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.

Section 18. KRS 314.121 is amended to read as follows:

- (1) The Governor shall appoint a Board of Nursing consisting of *sixteen (16)* ~~fifteen (15)~~ members;
 - (a) *Nine (9)* ~~Eight (8)~~ members shall be registered nurses licensed to practice in the Commonwealth;
 - (b) Three (3) members shall be practical nurses licensed to practice in the Commonwealth;
 - (c) One (1) member shall be a nurse service administrator who is a registered nurse licensed to practice in the Commonwealth;

- (d) One (1) member shall be engaged in practical nurse education who is a registered nurse licensed to practice in the Commonwealth; and
 - (e) Two (2) members shall be citizens at large, who are not associated with or financially interested in the practice or business regulated.
- (2) Each appointment shall be for a term of four (4) years expiring on June 30 of the fourth year. The cycle for appointments and expiration of terms shall be as follows:
- (a) The first year of the four (4) year cycle, the terms for *three (3)*~~two (2)~~ registered nurses and one (1) licensed practical nurse shall expire;
 - (b) The second year of the four (4) year cycle, the terms for three (3) registered nurses and one (1) citizen at large shall expire;
 - (c) The third year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and the one (1) member engaged in practical nurse education who is a registered nurse shall expire; and
 - (d) The fourth year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and one (1) citizen at large shall expire.
- (3) (a) By March 1, the Kentucky Nurses Association shall submit to the Governor a list of members qualified for appointment as R.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments necessary by July 1.
- (b) By March 1, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments as necessary by July 1.
 - (c) By March 1 of the year in which the nurse service administrator's term shall expire, the Kentucky Organization of Nurse Executives, an affiliate of the Kentucky Hospital Association, shall submit to the Governor two (2) names of qualified individuals for appointment as the nurse service administrator from which list the Governor shall make an appointment as necessary by July 1.
 - (d) By March 1, the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc., shall submit to the Governor two (2) names of qualified individuals for appointments as its R.N. representative to the board, from which the Governor shall make an appointment by July 1.
 - (e) By March 1 of the year in which the Kentucky Association of Health Care Facilities representative's term shall expire, the Kentucky Association of Health Care Facilities shall submit to the Governor two (2) names of qualified individuals for appointment as its R.N. representative to the board, from which list the Governor shall make an appointment as necessary by July 1.
 - (f) Initially, the Governor shall appoint one (1) member to serve as the registered nurse who is engaged in practical nurse education to serve the term remaining according to the cycle specified in subsection (2) of this section. By August 1, 1996, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor two (2) names of qualified individuals for the appointment, from which list the Governor shall

make the appointment by September 1, 1996. Thereafter, by March 1 of the year in which the practical nurse educator's term expires, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor two (2) names of qualified individuals for the appointment, from which list the Governor shall make the appointment by July 1.

- (g) The Governor shall appoint two (2) members who shall be citizens at large, who are not associated with or financially interested in the practice or business regulated. The Governor shall make the appointments by July 1 of the year in which the citizen members' terms expire.
- (4) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.
- (5) The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.
- (6) Each R.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of nursing, and a registered nurse in this state. All shall have had at least five (5) years of experience in nursing, three (3) of which shall immediately precede such appointment. Five (5) members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; ***one (1) shall be engaged in advanced registered nursing practice***; and one (1) shall be in nursing administration.
- (7) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state, ~~and~~ have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment, ***and be currently engaged in nursing practice***.

Section 19. KRS 314.131 is amended to read as follows:

- (1) The board shall meet at least annually and shall elect from its members a president ***and any other officers that it deems necessary*** ~~[a president elect, and a secretary]~~. ***Nine members*** ~~[A majority]~~ of the board including one (1) officer shall constitute a quorum at any meeting. The board is authorized to promulgate administrative regulations not inconsistent with the law and subject to the provisions of KRS Chapter 13A, as may be necessary to enable it to carry into effect the provisions of this chapter.
- (2) The board shall approve ***programs*** ~~[curricula and standards for schools]~~ of nursing ~~[and courses preparing persons for licensure]~~ and shall monitor ***compliance with*** standards for nurse competency under this chapter. It shall ~~[provide for surveys of schools and courses at any time as may be necessary, approve schools and courses meeting the requirements of this chapter and of the board, evaluate and approve courses for affiliation, and]~~ examine, license, and renew the license of duly-qualified applicants; determine notice of place and time of licensure examinations; approve providers of continuing education; administer continuing education requirements; issue advisory opinions ***or declaratory rulings*** dealing with the practice of nursing; register and designate those persons qualified to engage in advanced nursing practice; and it shall conduct administrative hearings in accordance with KRS Chapter 13B upon charges calling for discipline of a licensee and cause the prosecution of all persons

violating any provisions of this chapter. It shall keep a record of all its proceedings and make an annual report to the Governor.

- (3) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a nurse licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a nurse is falsely accused.
- (4) The board and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.
- (5) The board shall employ a qualified person to serve as executive director to the board, and shall fix the compensation and define the duties of the executive director. It may employ other persons as may be necessary to carry on the work of the board.
- (6) The executive director shall have at least the qualifications for board members, and a master's degree in nursing or equivalent and shall have had at least two (2) years of experience in nursing administration immediately preceding the time of appointment.
- (7) Each member of the board shall receive, in addition to traveling, hotel, and other necessary expenses, one hundred *fifty* dollars (~~\$150~~)[~~(\$100)~~] for each day the member is actually engaged in the discharge of official duties.
- (8) The board may, in its discretion, purchase liability insurance for board and staff members against acts performed in good faith discharge of duties.
- (9) The board may, by administrative regulation issued pursuant to the provisions of KRS Chapter 13A, determine which disciplinary action records may be expunged. Any records which are expunged shall be exempt from disclosure under the Kentucky Open Records Law, KRS 61.870 to 61.884. The board shall not report its disciplinary actions for any purpose other than statistical.
- (10) ***The board may reimburse any person appointed by direction of the board to any committee, subcommittee, or task force created by the board for his or her travel and subsistence expenses as established through the promulgation of administrative regulations in accordance with KRS Chapter 13A.*** Section 20. KRS 314.181 is amended to read as follows:
 - (1) ***A registered nurse who is employed by an ambulance service shall complete training in determination of death and preservation of evidence as required by the board through the promulgation of administrative regulations in accordance with KRS Chapter 13A.***
 - (2) ***A registered nurse who is employed by an ambulance service shall determine whether or not a patient served by the ambulance service is dead. The registered nurse shall utilize the protocol specified by the board by administrative regulations. The registered nurse shall, when responding to a patient, first attempt resuscitation, unless the protocol indicates that the patient is not capable of being resuscitated***~~[When it appears that a person whom a registered nurse who has successfully completed training in determination of death has been called to attend is dead, the registered nurse shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead after resuscitation of the patient is attempted by the registered nurse or a paramedic or an emergency medical~~

~~technician who has responded with or after the registered nurse, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the nurse may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead].~~

- (3) If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the registered nurse *who is employed by an ambulance service* may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.
- ~~(4)(2)~~ In the event that a registered nurse *who is employed by an ambulance service* determines that a person is dead, the registered nurse shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.
- ~~(5)(3)~~ Any registered nursing course taught in pre licensure programs after July 15, 1998, shall include a course of instruction on the determination of death and preservation of evidence as required by the Board of Nursing by administrative regulation.
- (4) Any registered nurse within the two (2) years following July 15, 1998, shall successfully complete in-service training required by the Board of Nursing by administrative regulation relating to determination of death and preservation of evidence.
- (5) Any registered nurse from another jurisdiction desiring to become a registered nurse in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection (4) of this section.
- ~~(6)~~ The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person, prior to the arrival of the registered nurse *who is employed by an ambulance service*, by any person~~, for the purposes of this section and KRS 446.400,~~ shall not be considered as artificial maintenance of respiration and circulation *for the purposes of this section and KRS 446.400*. The administration of advanced cardiac life support procedures by any person, other than a paramedic rendering care pursuant to KRS 311.660, prior to the arrival of the registered nurse shall preclude the determination of death by the registered nurse, and the provisions of KRS 446.400 shall apply. ~~However,~~ Nothing in this section shall preclude the supervising physician from directing the registered nurse *who is employed by an ambulance service* to cease resuscitative efforts under approved agency medical protocols.
- ~~(6)(7)~~ The resuscitative efforts of a nurse under protocols authorized by this section shall not invoke the provisions of KRS 446.400.

SECTION 21. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Jurisdiction, both as to person and subject matter, under KRS 314.011 to 314.161 vests with the board upon application for licensure and shall continue during periods of licensure and lapse of licensure. The jurisdiction of the board shall be continuous over the individual applicant or licensee and shall not be divested by voluntary surrender of a license or withdrawal of an application.

Section 22. KRS 315.040 is amended to read as follows:

- (1) Nothing in this chapter shall be construed to prevent, restrict, or otherwise interfere with the sale of nonprescription drugs in their original packages by any retailer. No rule or regulation shall be adopted by the Board of Pharmacy under this chapter which shall require the sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist.
- (2) Nothing in this chapter shall interfere with the professional activities of any licensed practicing physician, or prevent the physician from keeping any drug or medicine that he or she may need in his or her practice, from compounding the physician's own medications, or from dispensing or supplying to patients any article that seems proper to the physician.
- (3) Nothing in this chapter shall be construed to interfere with the activities of a midlevel health care practitioner as provided in KRS 216.925.
- (4) Nothing in this chapter pertaining to the use of collaborative care agreements shall apply in any hospital or other health facility operated by a hospital without the express written permission of the hospital's governing body. Collaborative care agreements may be restricted by the policies and procedures of the facility.
- (5) Nothing in this chapter shall interfere with the activities of a physician assistant as authorized in KRS Chapter 311.
- (6) ***Nothing in this chapter shall interfere with the activities of an advanced registered nurse practitioner as authorized in KRS Chapter 314.***

Section 23. The following KRS section is repealed:

314.074 In-service training for nurses on child sexual abuse.

Section 24. To provide for the initial appointment of the advanced registered nurse practitioner member to the Board of Nursing under Section 18 of this Act, the Kentucky Nurses Association shall submit two (2) names to the Governor by August 1, 2000, and the Governor shall make the appointment no later than August 15, 2000. The initial term of this member shall be for a period of four (4) years.

Approved April 7, 2000