

CHAPTER 144**(HB 184)**

AN ACT relating to health care.

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

Section 1. 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 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 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 one who is licensed under the provisions of this chapter to engage in registered nursing practice;
- (6) "Registered nursing practice" means 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; and
- (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 one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;
- (8) "Advanced registered nursing practice" means 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 one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice;
- (10) "Licensed practical nursing practice" means 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; and

- (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 a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;
- (12) "Continuing education" means 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 the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;
- (14) "Sexual assault nurse examiner" means 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(4);
- (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; ~~and~~
- (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;
- (18) *"Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane; and*
- (19) *"Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician.*

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

- (1) *It shall be unlawful for any person, other than a nurse, a physician assistant, or a physician, to provide dialysis care in a licensed renal dialysis facility unless that person holds a current active credential from the board to practice as a dialysis technician.*
- (2) *It shall be unlawful for any person to practice as a dialysis technician who is listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.*

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

The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

- (1) *Establish educational requirements for credentialing as a dialysis technician;*

- (2) *Establish required standards for training programs for dialysis technicians;*
- (3) *Establish credentialing requirements for dialysis technicians;*
- (4) *Establish provisions for discipline of dialysis technicians;*
- (5) *Establish fees for initial credentialing, renewal of credentials, reinstatement of credentials, and other fees as may be necessary, for dialysis technicians; and*
- (6) *Further regulate, as necessary, dialysis technicians.*

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

- (1) *There is hereby created, under the Board of Nursing, the Dialysis Technician Advisory Council, which shall advise the board regarding qualifications, standards for training, competency determination of dialysis technicians, and all other matters related to dialysis technicians.*
- (2) *The council shall be appointed by the board and shall consist of:*
 - (a) *One (1) member of the board, who shall serve as chair of the council;*
 - (b) *Three (3) dialysis technicians; and*
 - (c) *Three (3) nurses who regularly perform dialysis and care for patients who receive dialysis.*
- (3) *The board may solicit nominations for the council from interested parties or organizations.*
- (4) *The board shall specify the terms for the council members. Members shall serve at the discretion of the board and shall receive reimbursement for their actual and necessary expenses incurred in the performance of their official duties.*

Section 5. KRS 314.991 is amended to read as follows:

- (1) Any person who violates any provision of this chapter for which no other penalty has been provided shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). Each day he violates any provisions of this chapter shall be considered a separate offense.
- (2) Any person who willfully makes any false representation to the board in applying for a license under this chapter shall be fined not more than five hundred dollars (\$500).
- (3) For any violation of this chapter where the board has the power to deny, revoke, probate, limit, or suspend a license, the board may, in lieu thereof or in addition to other remedies, impose a civil penalty against the violator of not more than ten thousand dollars (\$10,000).
- (4) Any person who knowingly violates KRS 314.031(1) *or subsection (1) of Section 2 of this Act* shall, for the first occurrence, be imprisoned for not more than twelve (12) months or fined not more than five hundred dollars (\$500), or both.
- (5) Any person who knowingly violates KRS 314.031(1) *or subsection (1) of Section 2 of this Act* on a second or subsequent occasion shall be imprisoned for not more than five (5) years or fined not more than ten thousand dollars (\$10,000), or both.

- (6) Any unlicensed person who knowingly poses as someone else who does hold a license under this chapter shall be guilty of a violation of KRS 314.031(1), and the penalties set out in subsections (4) and (5) of this section all apply to such conduct.
- (7) In addition to the penalties provided in subsections (4) and (5) of this section, the board may impose civil penalties for violations of KRS 314.031(1) *or subsection (1) of Section 2 of this Act* in an amount equal to one hundred dollars (\$100) for each day during which a violation occurred or continued.
- (8) All civil penalties received and collected by the board shall be deposited with the State Treasurer of the Commonwealth of Kentucky, who shall place the money to the credit of the revolving fund of the board.
- (9) Any civil penalty received and collected by the board may be recovered in an action brought thereon in the name of the Commonwealth of Kentucky in the Circuit Court.
- (10) Whenever the board has reason to believe that any person is in violation or is about to violate any provision of this chapter, it may seek a restraining order, temporary or permanent injunction, or other civil remedy against such person in the Circuit Court.
- (11) In order to obtain a temporary or permanent restraining order, or other equitable remedy, it shall not be necessary to allege or prove that an adequate remedy at law does not exist, nor shall it be necessary to allege or prove that irreparable injury, loss, or damage will result if the injunctive relief is denied. Further, it shall not be necessary to allege or prove that criminal action has been first instituted.

Approved March 20, 2001