

CHAPTER 84

(SB 10)

AN ACT relating to nursing and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

As used in KRS 314.042 and Sections 2, 3, and 4 of this Act, "good standing" means the nurse's license, certification, or privilege to practice is not:

- (1) *Limited, suspended, probated, revoked, or otherwise disciplined;*
- (2) *Under investigation; or*
- (3) *Subject to monitoring, alternative discipline, or peer assistance.*

➔Section 2. 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, that the applicant:
 - (a) Has completed the basic curriculum for preparing registered nurses in an approved school of nursing and has completed requirements for graduation therefrom;
 - (b) Is able to understandably speak and write the English language and to read the English language with comprehension; and
 - (c) Has passed the jurisprudence examination approved by the board as provided by subsection (4) of this section.
- (2) *Except as authorized by subsection (7) of this section*, an applicant shall be required to pass a licensure examination in any subjects as the board may determine. Application for licensure by examination shall be received by the board at the time determined by the board by administrative regulation.
- (3) Upon request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance.
- (4) The jurisprudence examination shall be prescribed by the board and be conducted on the licensing requirements under this chapter and board regulations and requirements applicable to the nursing profession in this Commonwealth. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.
- (5) An individual who holds a provisional license shall have the right to use the title "registered nurse applicant" and the abbreviation "R.N.A." An R.N.A. shall only work under the direct supervision of a registered nurse and shall not engage in independent nursing practice.
- (6) Upon the applicant's successful completion of all requirements for registered nurse licensure, the board may 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.
- (7)
 - (a) *The board shall issue a temporary work permit to practice nursing as a registered nurse to any applicant who has been licensed as a registered nurse under the laws of another state or territory, if the applicant is a currently licensed registered nurse in good standing in each state or territory in which the applicant has worked.*
 - (b) *The board shall issue a license to practice nursing as a registered nurse to any applicant who has passed the jurisprudence examination prescribed by the board or its equivalent and who has been licensed as a registered nurse under the laws of another state or territory if the applicant is a currently licensed registered nurse in good standing in each state or territory in which the applicant has worked.*
 - (c) *The board shall accept the licensure examination of another state as sufficient for licensure under this subsection.*

- (d) *The board may require a registered nurse practicing as authorized by this subsection to submit to a background check as required by KRS 314.103.*
- (e) *This subsection shall not apply to an applicant who holds a multistate license in good standing in a state or territory that is a member of the Nurse Licensure Compact established in KRS 314.475.*
- (8) The board may issue a license to practice nursing as a registered nurse to any applicant who has passed the licensure examination and the jurisprudence examination prescribed by the board or their equivalent and been licensed as a registered nurse under the laws of ~~a~~ another state, territory, or foreign country, if in the opinion of the board the applicant is qualified to practice as a registered nurse in this state.
- (9) *The board shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish temporary work permit requirements for a registered nurse who is a graduate of a foreign nursing school and is pursuing licensure by endorsement under subsection (10) of this section.*
- (10) *The board shall immediately issue a license by endorsement to practice nursing as a registered nurse to an applicant who:*
- (a) *Is a graduate of a foreign nursing school;*
- (b) *Provides:*
1. *Documentation that the applicant has taken and received a passing score on the National Council Licensure Examination (NCLEX); and*
 2. *One (1) of the following:*
 - a. *A satisfactory Credentials Evaluation Service Professional Report issued by the Commission on Graduates of Foreign Nursing Schools International, Inc. (CGFNS) or other international nurse credentialing organization recognized by the board; or*
 - b. *A satisfactory VisaScreen ICHP Certificate Verification Letter issued by CGFNS or other international nurse credentialing organization recognized by the board; and*
- (c) *Meets the other requirements of this section.*
- ~~(11)(8)~~ The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and licensure examination fees if applicable, as set forth in a regulation by the board promulgated pursuant to the provisions of KRS Chapter 13A.
- ~~(12)(9)~~ 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.
- ~~(13)(10)~~ (a) On November 1, 2006, and thereafter, a registered nurse who is retired, upon payment of a one-time fee, may apply for a special license in recognition of the nurse's retired status. A retired nurse may not practice nursing but may use the title "registered nurse" and the abbreviation "R.N."
- (b) A retired registered nurse who wishes to return to the practice of nursing shall apply for reinstatement.
- (c) The board shall promulgate an administrative regulation pursuant to KRS Chapter 13A to specify the fee required in paragraph (a) of this subsection and reinstatement under paragraph (b) of this subsection.
- ~~(14)(11)~~ 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. A person whose license has lapsed for one (1) year or more shall pass the jurisprudence examination approved by the board as provided in subsection (4) of this section.
- ~~(15)(12)~~ 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.
- ~~(16)(13)~~ A person who has completed a prelicensure registered nurse program and holds a current, active licensed practical nurse license from another jurisdiction may apply for licensure by endorsement as a licensed practical nurse in this state.

➔Section 3. 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 the required educational program in practical nursing at an approved school of nursing and has completed requirements for graduation therefrom;
 - (b) Is able to understandably speak and write the English language and to read the English language with comprehension; and
 - (c) Has passed the jurisprudence examination approved by the board as provided by subsection (4) of this section.
- (2) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and licensure examination fees if applicable, as set forth in a regulation by the board.
- (3) ***Except as authorized by subsection (8) of this section***, an applicant shall be required to pass a licensure examination in any subjects the board may determine. Application for licensure by examination shall be received by the board at the time determined by the board by administrative regulation.
- (4) The jurisprudence examination shall be prescribed by the board and be conducted on the licensing requirements under this chapter and board regulations and requirements applicable to the nursing profession in this Commonwealth. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.
- (5) Upon request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance.
- (6) An individual who holds a provisional license shall have the right to use the title "licensed practical nurse applicant" and the abbreviation "L.P.N.A." An L.P.N.A. shall only work under the direct supervision of a nurse and shall not engage in independent nursing practice.
- (7) Upon the applicant's successful completion of all requirements for licensed practical nurse licensure, the board may 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.
- (8)
 - (a) ***The board shall issue a temporary work permit to practice nursing as a licensed practical nurse to any applicant who has been licensed as a licensed practical nurse under the laws of another state or territory, if the applicant is currently a licensed practical nurse in good standing in each state or territory in which the applicant has worked.***
 - (b) ***The board shall issue a license to practice nursing as a licensed practical nurse to any applicant who has passed the jurisprudence examination prescribed by the board or its equivalent and who has been licensed as a licensed practical nurse under the laws of another state or territory if the applicant is currently a licensed practical nurse in good standing in each state or territory in which the applicant has worked.***
 - (c) ***The board shall accept the licensure examination of another state as sufficient for licensure under this subsection.***
 - (d) ***The board may require a licensed practical nurse practicing as authorized by this subsection to submit to a background check as required by KRS 314.103.***
 - (e) ***This subsection shall not apply to an applicant who holds a multistate license in good standing in a state or territory that is a member of the Nurse Licensure Compact established in KRS 314.475.***
- (9) The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the licensure examination and the jurisprudence examination prescribed by the board or their 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 ~~a~~ 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.
- (10) ***The board shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish temporary work permit requirements for a licensed practical nurse who is a graduate of a foreign nursing school and is pursuing licensure by endorsement under subsection (11) of this section.***

(11) *The board shall immediately issue a license by endorsement to practice nursing as a licensed practical nurse to an applicant who:*

(a) *Is a graduate of a foreign nursing school;*

(b) *Provides:*

1. *Documentation that the applicant has taken and received a passing score on the National Council Licensure Examination (NCLEX); and*

2. *One (1) of the following:*

a. *A satisfactory Credentials Evaluation Service Professional Report issued by the Commission on Graduates of Foreign Nursing Schools International, Inc. (CGFNS) or other international nurse credentialing organization recognized by the board; or*

b. *A satisfactory VisaScreen ICHP Certificate Verification Letter issued by CGFNS or other international nurse credentialing organization recognized by the board; and*

(c) *Meets the other requirements of this section.*

(12)~~(9)~~ 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.

(13)~~(10)~~ (a) Beginning November 1, 2005, for a licensed practical nurse who is retired, upon payment of a one-time fee, the board may issue a special license to a licensed practical nurse in recognition of the nurse's retired status. A retired nurse may not practice nursing but may use the title "licensed practical nurse" and the abbreviation "L.P.N."

(b) A retired licensed practical nurse who wishes to return to the practice of nursing shall apply for reinstatement.

(c) The board shall promulgate an administrative regulation pursuant to KRS Chapter 13A to specify the fee required in paragraph (a) of this subsection and reinstatement under paragraph (b) of this subsection.

(14)~~(11)~~ 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. A person whose license has lapsed for one (1) year or more shall pass the jurisprudence examination approved by the board as provided in subsection (4) of this section.

(15)~~(12)~~ 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 4. KRS 314.101 is amended to read as follows:

(1) This chapter does not prohibit the following:

(a) The practice of any currently licensed nurse *in good standing in*~~of~~ another state *from being recognized as having a temporary work permit*~~practicing~~ in this state. *Any currently licensed nurse in good standing in another state who is practicing nursing in Kentucky shall be subject to the jurisdiction of the board under KRS 314.099*~~during an emergency occurring in this state or any other state declared by the President of the United States or the Governor of Kentucky. The duration and conditions of the practice shall be determined by the board~~;

(b) 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;

(c) 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;

(d) The practice of any currently licensed nurse of another state that is not a member of the Nurse Licensure Compact set forth in KRS 314.475~~, who is in this state on a nonroutine basis not to exceed seven (7) days~~; or

(e) ~~Notwithstanding the provisions of paragraph (a) of this subsection,~~ The practice of volunteer health practitioners under KRS 39A.350 to 39A.366.

- (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 endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement 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.

➔Section 5. 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) The board shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, set standards for the establishment and outcomes of nursing education programs that prepare advanced practice registered nurses, including clinical learning experiences, and shall approve such programs that meet the standards.
- (4) 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 or is not complying with the requirements of the administrative regulations of the board, notice thereof in writing specifying their deficiencies or compliance issues shall be given to the school. A school which fails to correct these conditions to the satisfaction of the board or fails to comply with the requirements of the administrative regulation may be fined up to five hundred dollars (\$500) per day for each day that it fails to correct the deficiencies or fails to comply with the requirements of the administrative regulations. A school may:
 - (a) Request an administrative hearing in accordance with KRS Chapter 13B to contest any fine; and
 - (b) Be subject to an administrative hearing in accordance with KRS Chapter 13B to determine whether the school shall be closed.

The board shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement this subsection.

- (5) ***If a school of nursing or nursing program has at least an eighty percent (80%) average rate of successful completion of the National Council Licensure Examination (NCLEX) during the previous three (3) years and is otherwise meeting the requirements of this section, the board shall not impose a limit on:***
 - (a) ***The total number of students attending the nursing school or nursing program; or***
 - (b) ***The number of students that the nursing school or nursing program may add to increase its enrollment, unless the nursing school or nursing program is not performing to established standards.***
- (6) (a) ***For a registered nurse program conducted at a school of nursing or nursing program, a clinical instructor shall have at least the following minimum qualifications:***
 1. ***A registered nurse for an associate degree nursing program; or***

2. *A registered nurse with a baccalaureate degree or higher for a baccalaureate degree nursing program.*
- (b) *A person with an associate degree in nursing may teach associate degree or licensed practical nurse courses.*
- (c) *A person with a baccalaureate degree in nursing may teach associate degree or baccalaureate degree courses.*
- (d)
 1. *A person with a master's degree in nursing may teach associate degree, baccalaureate degree, or master's degree courses.*
 2. *A person working toward a master's degree in nursing may teach associate degree or baccalaureate degree courses.*
 3. *A person working toward a master's degree in nursing may teach any master's degree course that the person has already successfully completed.*

➔ Section 6. KRS 314.121 is amended to read as follows:

- (1) The Governor shall appoint a Board of Nursing consisting of *seventeen (17)*~~sixteen (16)~~ members:
 - (a) *Ten (10)*~~Nine (9)~~ members shall be registered nurses licensed to practice in the Commonwealth, with the Governor ensuring that the appointees represent different specialties from a broad cross-section of the nursing profession after soliciting and receiving nominations from recognized specialty state component societies;
 - (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 *subject to confirmation by the Senate and shall be* for a term of four (4) years expiring on June 30 of the fourth year. *No board member shall serve for more than three (3) consecutive terms. Any board member who is serving at least a third consecutive term on the effective date of this Act shall be ineligible for reappointment until the passage of one (1) full four (4) year appointment cycle.* 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) 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) *Before January 1, 2024, in* 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. *Beginning on January 1, 2024, in the fourth year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) certified registered nurse anesthetist, 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. *By March 1 of the year in which the certified registered nurse anesthetist term expires, the Kentucky Nurses Association shall submit to the Governor two (2) names of qualified individuals for the appointment, and from this list the Governor shall make the appointment by July 1.*

- (b) By March 1, Kentucky Licensed Practical Nurses Organization Incorporated 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 Leaders, 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, LeadingAge Kentucky 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, Kentucky Licensed Practical Nurses Organization Incorporated 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, Kentucky Licensed Practical Nurses Organization Incorporated 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) ***Among the sixteen (16) members of the board, at all times, at least two (2) members shall be appointed from each of the six (6) congressional districts of the Commonwealth.***
- (5) ***Among the nurse board members appointed under subsection (1)(a), (b), (c), and (d) of this section, no more than six (6) nurse board members shall be nurse educators. Of these six (6) nurse educators, one (1) nurse educator member shall be appointed from each of the six (6) congressional districts of the Commonwealth. All other nurse members of the board shall be practicing nurses.***
- (6) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.
- ~~(7)(5)}~~ The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.
- ~~(8)(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 practice registered nursing; ***one (1) shall be a certified registered nurse anesthetist;*** and one (1) shall be in nursing administration.
- ~~(9)(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, 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 7. By March 1, 2023, the Kentucky Nurses Association shall submit to the Governor two names of qualified individuals for the appointment of the certified registered nurse anesthetist to the Board of Nursing under Section 6 of this Act, and from this list the Governor shall make the appointment by July 1, 2023.

➔Section 8. Whereas it is crucial to address the Commonwealth's nursing shortage and improve the state's healthcare system, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 7, 2022.