

Nursing Practice Act

State of North Carolina

JULY, 2007

**(Includes Nurses Aides Registry Act,
Nurse Licensure Compact and
Criminal Background Check)**

Amendments enacted by the General Assembly in 1981, 1987, 1991, 1993, 1997, 1999, 2001, 2003, 2004, 2005, 2006 and 2007 are incorporated as they appear in the General Statutes of North Carolina.

July, 2007

STATEMENT OF COST OF PUBLIC DOCUMENTS:

10,000 copies of this public document were printed at a cost of approximately \$.29 each.

AN ACT TO REGULATE THE PRACTICE OF NURSING.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 90 of the General Statutes is hereby rewritten as follows:

ARTICLE 9A.
Nursing Practice Act.

§ 90-171.19. *Legislative findings.* — The General Assembly of North Carolina finds that mandatory licensure of all who engage in the practice of nursing is necessary to ensure minimum standards of competency and to provide the public safe nursing care.

§ 90-171.20. *Definitions.* — As used in this Article, unless the context requires otherwise:

(1) ‘Board’ means the North Carolina Board of Nursing.

(2) ‘Health care provider’ means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this Article, a person enrolled in a program that prepares the person to be a licensed health care professional or an allied health professional shall be deemed a health care provider.

(3) ‘License’ means a permit issued by the Board to practice nursing as a registered nurse or as a licensed practical nurse, including a renewal thereof.

(4) ‘Nursing’ is a dynamic discipline which includes the assessing, caring, counseling, teaching, referring and implementing of prescribed treatment in the maintenance of health, prevention and management of illness, injury, disability or the achievement of a dignified death. It is ministering to, assisting, and sustained, vigilant, and continuous care of those acutely or chronically ill; supervising patients during convalescence and rehabilitation; the supportive and restorative care given to maintain the optimum health level of individuals, groups, and communities; the supervision, teaching, and evaluation of those who perform or are preparing to perform these functions; and the administration of nursing programs and nursing services.

(5) ‘Nursing program’ means any educational program in North Carolina offering to prepare persons to meet the educational requirements for licensure under this Article.

(6) ‘Person’ means an individual, corporation, partnership, association, unit of government, or other legal entity.

(7) The “practice of nursing by a registered nurse” consists of the following ten components:

- a. Assessing the patient's physical and mental health including the patient's reaction to illnesses and treatment regimens.
- b. Recording and reporting the results of the nursing assessment.
- c. Planning, initiating, delivering, and evaluating appropriate nursing acts.
- d. Teaching, assigning, delegating to or supervising other personnel in implementing the treatment regimen.
- e. Collaborating with other health care providers in determining the appropriate health care for a patient but, subject to the provisions of G.S. 90-18.2, not prescribing a medical treatment regimen or making a medical diagnosis, except under supervision of a licensed physician.
- f. Implementing the treatment and pharmaceutical regimen prescribed by any person authorized by State law to prescribe the regimen.
- g. Providing teaching and counseling about the patient's health.
- h. Reporting and recording the plan for care, nursing care given, and the patient's response to that care.
- i. Supervising, teaching, and evaluating those who perform or are preparing to perform nursing functions and administering nursing programs and nursing services.
- j. Providing for the maintenance of safe and effective nursing care, whether rendered directly or indirectly.

- (8) The “practice of nursing by a licensed practical nurse” consists of the following seven components:
- a. Participating in the assessment of the patient's physical and mental health, including the patient's reaction to illnesses and treatment regimens.
 - b. Recording and reporting the results of the nursing assessment.
 - c. Participating in implementing the health care plan developed by the registered nurse and/or prescribed by any person authorized by State law to prescribe such a plan, by performing tasks assigned or delegated by and performed under the supervision or under orders or directions of a registered nurse, physician licensed to practice medicine, dentist, or other person authorized by State law to provide the supervision.
 - d. Assigning or delegating nursing interventions to other qualified personnel under the supervision of the registered nurse.
 - e. Participating in the teaching and counseling of patients as assigned by a registered nurse, physician, or other qualified professional licensed to practice in North Carolina.
 - f. Reporting and recording the nursing care rendered and the patient's response to that care.
 - g. Maintaining safe and effective nursing care, whether rendered directly or indirectly.

§ 90.171.21. *Board of Nursing; composition; selection; vacancies; qualifications; term of office; compensation.*

(a) The Board shall consist of 14 members. Eight members shall be registered nurses. Three members shall be licensed practical nurses. Three members shall be representatives of the public.

(b) Selection. The North Carolina Board of Nursing shall conduct an election each year to fill vacancies of nurse members of the Board scheduled to occur during the next year. Nominations of candidates for election of registered nurse members shall be made by written petition signed by not less than 10 registered nurses eligible to vote in the election. Nominations of candidates for election of licensed practical nurse members shall be made by written petition signed by not less than 10 licensed practical nurses eligible to vote in the election. Every licensed registered nurse holding an active license shall be eligible to vote in the election of registered nurse Board members. Every licensed practical nurse holding an active license shall be eligible to vote in the election of licensed practical nurse Board members. The list of nominations shall be filed with the Board after January 1 of the year in which the election is to be held and no later than midnight of the first day of April of such year. Before preparing ballots, the Board shall notify each person who has been duly nominated of the person's nomination and request permission to enter the person's name on the ballot. A member of the Board who is nominated for reelection and who does not withdraw the member's name from the ballot is disqualified to participate in conducting the election. Elected members shall begin their term of office on January 1 of the year following their election.

Nominations of persons to serve as public members of the Board may be made to the Governor or the General Assembly by any citizen or group within the State. The Governor shall appoint one public member to the Board, and the General Assembly shall appoint two public members to the Board. Of the public members appointed by the General Assembly, one shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

Board members shall be commissioned by the Governor upon their election or appointment.

(c) Vacancies. All unexpired terms of Board members appointed by the General Assembly shall be filled within 45 days after the term is vacated. The Governor shall fill all

other unexpired terms on the Board within 30 days after the term is vacated. For vacancies of registered nurse or licensed practical nurse members, the Governor shall appoint the person who received the next highest number of votes to those elected members at the most recent election for Board members. Appointees shall serve the remainder of the unexpired term and until their successors have been duly elected or appointed and qualified.

(d) Qualifications. Of the eight registered nurse members on the Board, one shall be a nurse administrator employed by a hospital or a hospital system, who shall be accountable for the administration of nursing services and not directly involved in patient care; one shall be an individual who meets the requirements to practice as a certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse specialist, or a nurse practitioner; two shall be staff nurses, defined as individuals who are primarily involved in direct patient care regardless of practice setting; one shall be an at-large registered nurse who meets the requirements of sub-divisions (1)a., al., and b. of this subsection, but is not currently an educator in a program leading to licensure or any other degree-granting program; and three shall be nurse educators. Of the three nurse educators, one shall be a practical nurse educator, one shall be an associate degree or diploma nurse educator, and one shall be a baccalaureate or higher degree nurse educator. All nurse educators shall meet the minimum education requirement as established by the Board's education program standards for nurse faculty. Candidates eligible for election to the Board as nurse educators are not eligible for election as the at-large member. Minimum ongoing employment requirements for every registered nurse and licensed practical nurse shall include continuous employment equal to or greater than fifty percent (50%) of a full-time position that meets the criteria for the specified Board member position.

- (1) Except for the at-large member, every registered nurse member shall meet the following criteria:
 - a. Hold a current, unencumbered license to practice as a registered nurse in North Carolina.
 - a 1. Be a resident of North Carolina.
 - b. Have a minimum of five years of experience as a registered nurse.
 - c. Have been engaged continuously in a position that meets the criteria for the specified Board position for at least three years immediately preceding election.
 - d. Show evidence that the employer of the registered nurse is aware that the nurse intends to serve on the Board.
- (2) Every licensed practical nurse member shall meet the following criteria:
 - a. Hold a current, unencumbered license to practice as a licensed practical nurse in North Carolina.
 - a 1. Be a resident of North Carolina.
 - b. Have a minimum of five years of experience as a licensed practical nurse.
 - c. Have been engaged continuously in the position of a licensed practical nurse for at least three years immediately preceding election.
 - d. Show evidence that the employer of the licensed practical nurse is aware that the nurse intends to serve on the Board.
- (3) A public member appointed by the Governor shall not be a provider of health services or employed in the health services field. No public member appointed by the Governor or person in the public member's immediate family as defined by G.S. 90-405(8) shall be currently employed as a licensed nurse or been previously employed as a licensed nurse.
- (4) The nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist member shall be recognized by the Board as a registered nurse who meets the following criteria:
 - a. Has graduated from or completed a graduate level advanced practice nursing education program accredited by a national accrediting body.
 - b. Maintains current certification or recertification from a national

credentialing body approved by the Board or meets other requirements established by rules adopted by the Board.

- c. Practices in a manner consistent with rules adopted by the Board and other applicable law.

(e) Term. Members of the Board shall serve four-year staggered terms. No member shall serve more than two consecutive four-year terms or eight consecutive years after January 1, 2005.

(f) Removal. The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from Board business until the charges are resolved.

(g) Reimbursement. Board members are entitled to receive compensation and reimbursement as authorized by G.S. 93B-5.

§ 90-171.22. Officers. — The officers of the Board shall be a chair, a vice-chair, and any other officers the Board considers necessary. All officers shall be elected annually by the Board for terms of one year and shall serve until their successors have been elected and qualified.

§ 90-171.23. Duties, powers and meetings. —

(a) Meetings. The Board shall hold at least two meetings each year to transact its business. The Board shall adopt rules with respect to calling, holding, and conducting regular and special meetings and attendance at meetings. The majority of the Board members constitutes a quorum.

(b) Duties, powers. The Board is empowered to:

- (1) Administer this Article.
- (2) Issue its interpretations of this Article.
- (3) Adopt, amend or repeal rules and regulations as may be necessary to carry out the provisions of this Article.
- (4) Establish qualifications of, employ, and set the compensation of an executive officer who shall be a registered nurse and who shall not be a member of the Board.
- (5) Employ and fix the compensation of other personnel that the Board determines are necessary to carry into effect this Article and incur other expenses necessary to effectuate this Article.
- (6) Examine, license, and renew the licenses of duly qualified applicants for licensure.
- (7) Cause the prosecution of all persons violating this Article.
- (8) Establish standards to be met by the students, and to pertain to faculty, curricula, facilities, resources, and administration for any nursing program as provided in G. S. 90-171.38.
- (9) Review all nursing programs at least every eight years or more often as considered necessary by the Board or program director.
- (10) Grant or deny approval for nursing programs as provided in G. S. 90-171.39.
- (11) Upon request, grant or deny approval of continuing education programs for nurses as provided in G. S. 90-171.42.
- (12) Keep a record of all proceedings and make available to the Governor and licensees an annual summary of all actions taken.
- (13) Appoint, as necessary, advisory committees which may include persons other than Board members to deal with any issue under study.
- (14) Appoint and maintain a subcommittee of the Board to work jointly with the subcommittee of the Board of Medical Examiners to develop rules and regulations to govern the performance of medical acts by registered nurses and to determine reasonable fees to accompany an application for approval or renewal of such approval as provided in G. S. 90-6. The fees and rules developed by this subcommittee shall govern the performance of medical acts

by registered nurses and shall become effective when they have been adopted by both Boards.

- (15) Recommend and collect such fees for licensure, license renewal, examinations and re-examinations as it deems necessary for fulfilling the purposes of this Article.
- (16) Adopt a seal containing the name of the Board for use on all certificates, licenses, and official reports issued by it.
- (17) Enter into interstate compacts to facilitate the practice and regulation of nursing.
- (18) Establish programs for aiding in the recovery and rehabilitation of nurses who experience chemical addiction or abuse or mental or physical disabilities and programs for monitoring such nurses for safe practice.
- (19) Request that the Department of Justice conduct criminal history record checks of applicants for licensure pursuant to G.S.114-19.11.
- (20) Adopt rules requiring an applicant to submit to the Board evidence of the applicant's continuing competence in the practice of nursing at the time of license renewal or reinstatement.
- (21) Proceed in accordance with G.S. 90-171.37A, notwithstanding G.S. 150B-40(b), when conducting a contested case hearing in accordance with Article 3A of Chapter 150B or the General Statutes.
- (22) Designate one or more of its employees to serve papers or subpoenas issued by the Board. Service under this subdivision is permitted in addition to any other methods of service permitted by law.
- (23) Acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to assets, income, and revenues of the Board.

§ 90-171.24. Executive director. — The executive director shall perform the duties prescribed by the Board, serve as secretary/treasurer to the Board, and furnish a surety bond as provided in G. S. 128-8. The bond shall be made payable to the Board.

§ 90-171.25. Custody and use of funds. — The executive director shall deposit in financial institutions designated by the Board as official depositories all fees payable to the Board. The funds shall be deposited in the name of the Board and shall be used to pay all expenses incurred by the Board in carrying out the purposes of this Article. Such funds shall be annually audited in accordance with State law.

§ 90-171.26. The Board may accept contributions, etc. — The Board may accept grants, contributions, devices, bequests, and gifts which shall be kept in a separate fund and shall be used by it to enhance the practice of nursing.

§ 90-171.27. Expenses payable from fees collected.—

(a) All salaries, compensation, and expenses incurred or allowed for the purposes of carrying out this Article shall be paid by the Board exclusively out of the fees received by the Board as authorized by this Article, or funds received from other sources. In no case shall any salary, expense, or other obligation of the Board be charged against the treasury of the State of North Carolina. All moneys and receipts shall be kept in a special fund by and for the use of the Board for the exclusive purpose of carrying out the provisions of this Article.

(b) The schedule of fees shall not exceed the following rates:

Application for examination leading to certificate and license as registered nurse	\$ 75.00
Application for certificate and license as registered nurse by endorsement	\$150.00
Application for each re-examination leading to certificate and license as registered nurse	\$ 75.00

Renewal of license to practice as registered nurse (two-year period)	\$100.00
Reinstatement of lapsed license to practice as a registered nurse and renewal fee	\$180.00
Application for examination leading to certificate and license as licensed practical nurse by examination	\$ 75.00
Application for certificate and license as licensed practical nurse by endorsement	\$150.00
Application for each re-examination leading to certificate and license as licensed practical nurse	\$ 75.00
Renewal of license to practice as a licensed practical nurse (two-year period)	\$100.00
Reinstatement of lapsed license to practice as a licensed practical nurse and renewal fee	\$180.00
Application fee for retired registered nurse status or retired licensed practical nurse status	\$ 50.00
Reinstatement of retired registered nurse to practice as a registered nurse or a retired licensed practical nurse to practice as a licensed practical nurse (two-year period)	\$100.00
Reasonable charge for duplication services and materials.	

(c) A fee for an item listed in this schedule shall not increase from one year to the next by more than twenty percent (20%).

(d) No refund of fees will be made.

(e) The Board may assess costs of disciplinary action against a nurse found in violation of the North Carolina Nursing Practice Act.

§ 90-171.28. *Nurses registered under previous law.* — On June 30, 1981, any nurse who holds a license to practice nursing as a registered nurse or licensed practical nurse, issued by a competent authority pursuant to laws providing for the licensure of nurses in North Carolina shall be deemed to be licensed under the provisions of this Article, but such person shall otherwise comply with the provisions of this Article including those provisions governing licensure renewal.

§ 90-171.29. *Qualifications of applicants for examination.* — In order to be eligible for licensure by examination, the applicant shall make a written application to the Board on forms furnished by the Board and shall submit to the Board an application fee and written evidence, verified by oath, sufficient to satisfy the Board that the applicant has graduated from a course of study approved by the Board and is mentally and physically competent to practice nursing.

§ 90-171.30. *Licensure by examination.* — At least twice each year the Board shall cause an examination to be given to applicants for licensure to practice as a registered nurse or licensed practical nurse. The Board shall adopt rules, not inconsistent with this Article, governing qualifications of applicants, the conduct of applicants during the examination, and the conduct of the examination. The applicants shall be required to pass the examination required by the Board. The Board shall adopt rules which identify the criteria which must be met by an applicant in order to be issued a license. When the Board determines that an applicant has met those criteria, passed the required examination, submitted the required fee, and has demonstrated to the Board's satisfaction that he or she is mentally and physically competent to practice nursing, the Board shall issue a license to the applicant.

§ 90-171.31. *Reexamination.* — Any applicant who fails to pass the first licensure examination may take subsequent examinations in accordance with the rules of the Board.

§ 90-171.32. *Qualifications for license as a registered nurse or a licensed practical nurse without examination.* — The Board may, without examination, issue a license to an applicant who is duly licensed as a registered nurse or licensed practical nurse under the laws of another state, territory of the United States, the District of Columbia, or foreign country when that jurisdiction's requirements for licensure as a registered nurse or a licensed practical nurse,

as the case may be, are substantially equivalent to or exceed those of the State of North Carolina at the time the applicant was initially licensed, and when, in the Board's opinion, the applicant is competent to practice nursing in this State. The Board may require such applicant to prove competence and qualifications to practice as a registered nurse or licensed practical nurse in North Carolina.

§ 90-171.33. Temporary license. —

(a) Until the implementation of the computer-adaptive licensure examination, the Board may issue a nonrenewable temporary license to persons who are applying for licensure under G.S. 90-171.30, and who are scheduled for the licensure examination at the first opportunity after graduation, for a period not to exceed the lesser of nine months or the date of applicant's notification of the results of the licensure examination. The Board shall revoke the temporary license of any person who does not take the examination as scheduled, or who has failed the examination for licensure as provided by this act.

(b) Upon implementation of the computer-adaptive licensure examination, no temporary licenses will be issued to persons who are applying for licensure under G.S. 90-171.30.

(c) The Board may issue a nonrenewable temporary license to persons applying for licensure under G.S. 90-171.32 for a period not to exceed the lesser of six months or until the Board determines whether the applicant is qualified to practice nursing in North Carolina. Temporary licensees may perform patient-care services within limits defined by the Board. In defining these limits, the Board shall consider the ability of the temporary licensee to safely and properly carry out patient-care services. Temporary licensees shall be held to the standard of care of a fully licensed nurse.

§ 90-171.34. Licensure renewal. — Every unencumbered license, except temporary license, issued under this Article shall be renewed for two years. On or before the date the current license expires, every person who desires to continue to practice nursing shall apply for licensure renewal to the Board on forms furnished by the Board and shall also file the required fee. The Board shall provide space on the renewal form for the licensee to specify the amount of continuing education received during the renewal period. Failure to renew the license before the expiration date shall result in automatic forfeiture of the right to practice nursing in North Carolina until such time that the license has been reinstated.

§ 90-171.35. Reinstatement. — A licensee who has allowed license to lapse by failure to renew as herein provided may apply for reinstatement on a form provided by the Board. The Board shall require the applicant to return the completed application with the required fee and to furnish a statement of the reason for failure to apply for renewal prior to the deadline. If the license has lapsed for at least five years, the Board shall require the applicant to complete satisfactorily a refresher course approved by the Board, or provide proof of active licensure within the past five years in another jurisdiction. The Board may require any applicant for reinstatement to satisfy the Board that the license should be reinstated. If, in the opinion of the Board, the applicant has so satisfied the Board, it shall issue a renewal of license to practice nursing, or it shall issue a license to practice nursing for a limited time.

§ 90-171.36. Inactive list. —

(a) When a licensee submits a request for inactive status, the Board shall issue to the licensee a statement of inactive status and shall place the licensee's name on the inactive list. While on the inactive list, the person shall not be subjected to renewal requirements and shall not practice nursing in North Carolina.

(b) When such person desires to be removed from the inactive list and returned to the active list within five years of being placed on inactive status, an application shall be submitted to the Board on a form furnished by the Board and the fee shall be paid for license renewal. The Board shall require evidence of competency to resume the practice of nursing before returning the applicant to active status. If the person has been on the inactive list for more than five years, the applicant must satisfactorily complete a refresher course approved by the Board or provide proof of active licensure within the past five years in another jurisdiction.

§ 90-171.36A. Retired nurse status; reinstatement. —

(a) After a registered nurse or a licensed practical nurse has retired, upon payment of the one-time fee required by G.S. 90-171.27(b), the Board may issue a special license to a registered nurse or licensed practical nurse in recognition of the nurse's retired status.

(b) If a retired registered nurse or licensed practical nurse wishes to return to the practice of nursing, the retired nurse shall apply for reinstatement on a form provided by the Board and satisfy any requirements the Board deems necessary to reinstate the license.

§ 90-171.37. Revocation, discipline, suspension, probation, or denial of licensure. —

The Board shall initiate an investigation upon receipt of information about any practice that might violate any provision of this Article or any rule or regulation promulgated by the Board. In accordance with the provisions of Chapter 150B of the General Statutes, the Board shall have the power and authority to: (i) refuse to issue a license to practice nursing; (ii) refuse to issue a certificate of renewal of a license to practice nursing; (iii) revoke or suspend a license to practice nursing; and (iv) invoke other such disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper; in any instance or instances in which the Board is satisfied that the applicant or licensee:

(1) Has given false information or has withheld material information from the Board in procuring or attempting to procure a license to practice nursing.

(2) Has been convicted of or pleaded guilty or nolo contendere to any crime which indicates that the nurse is unfit or incompetent to practice nursing or that the nurse has deceived or defrauded the public.

(3) Has a mental or physical disability or uses any drug to a degree that interferes with his or her fitness to practice nursing.

(4) Engages in conduct that endangers the public health.

(5) Is unfit or incompetent to practice nursing by reason of deliberate or negligent acts or omissions regardless of whether actual injury to the patient is established.

(6) Engages in conduct that deceives, defrauds, or harms the public in the course of professional activities or services.

(7) Has violated any provision of this Article.

(8) Has willfully violated any rules enacted by the Board.

The Board may take any of the actions specified above in this section when a registered nurse approved to perform medical acts has violated rules governing the performance of medical acts by a registered nurse; provided this shall not interfere with the authority of the Board of Medical Examiners to enforce rules and regulations governing the performance of medical acts by a registered nurse.

The Board may reinstate a revoked license, revoke censure or probative terms, or remove other licensure restrictions when it finds that the reasons for revocation, censure or probative terms, or other licensure restrictions no longer exist and that the nurse or applicant can reasonably be expected to safely and properly practice nursing.

§ 90-171.37A. Use of hearing committee and depositions. —

(a) The Board, in its discretion, may designate in writing three or more of its members to conduct hearings as a hearing committee to take evidence. A majority of the hearing committee shall be licensed nurses.

(b) Evidence and testimony may be presented at hearings before the Board or a hearing committee in the form of depositions before any person authorized to administer oaths in accordance with the procedure for the taking of depositions in civil actions in the superior court.

(c) The hearing committee shall submit a recommended decision that contains findings of fact and conclusions of law to the Board. Before the Board makes a final decision, it shall give each party an opportunity to file written exceptions to the recommended decision made by the hearing committee and to present oral arguments to the Board. A majority of the qualified members present and voting of the full Board shall issue a final decision.

§ 90-171.38. Standards for nursing programs. —

(a) A nursing program may be operated under the authority of a general hospital, or an

approved post-secondary educational institution. The Board shall establish, revise, or repeal standards for nursing programs. These standards shall specify program requirements, curricula, faculty, students, facilities, resources, administration, and describe the approval process. Any institution desiring to establish a new nursing program shall apply to the Board and submit satisfactory evidence that it will meet the standards established by the Board. Those standards shall be designed to ensure that graduates of those programs have the education necessary to safely and competently practice nursing.

(b) Any individual, organization, association, corporation, or institution may establish a program for the purpose of training or educating any registered nurse licensed under G.S. 90-171.30, 90-171.32, or 90-171.33 in the skills, procedures, and techniques necessary to conduct medical examinations for the purpose of collecting evidence from the victims of first-degree rape as defined in G.S. 14-27.2, second-degree rape as defined in G.S. 14-27.3, statutory rape as defined in G.S. 14-27.7A, first-degree sexual offense as defined in G.S. 14-27.4, second-degree sexual offense as defined in G.S. 14-27.5 or attempted first-degree or second-degree rape or attempted first-degree or second-degree sexual offense as defined in G.S. 14-27.6. The Board, pursuant to G.S. 90-171.23 (b)(14) and, in cooperation with the North Carolina Medical Board as described in G.S. 90-6, shall establish, revise, or repeal standards for any such program. Any individual, organization, association, corporation, or institution which desires to establish a program under this subsection shall apply to the Board and submit satisfactory evidence that it will meet the standards prescribed by the Board.

§ 90-171.39. Approval. — The Board shall designate persons to survey proposed nursing programs, including the clinical facilities. The persons designated by the Board shall submit a written report of the survey to the Board. If in the opinion of the Board the standards for approved nursing education are met, the program shall be given approval.

§ 90-171.40. Ongoing approval. — The Board shall review all nursing programs in the State at least every eight years or more often as considered necessary. If the Board determines that any approved nursing program does not meet or maintain the standards required by the Board, the Board shall give written notice specifying the deficiencies to the institution responsible for the program. The Board shall withdraw approval from a program that fails to correct deficiencies within a reasonable time. The Board shall publish annually a list of nursing programs in this State showing their approval status.

§ 90-171.41. Baccalaureate in nursing candidate credits. — Every graduate of a diploma or associate degree school of nursing in this State who has passed the registered nurse examination shall, upon admission to any State-supported institution of higher learning offering baccalaureate education in nursing, be granted credit for previous experience in the diploma or associate degree school of nursing on an individual basis by the utilization of the most effective method of evaluation to the end that the applicant shall receive optimum credit and that upon graduation the applicant will have earned the baccalaureate degree in nursing.

§ 90-171.42. Continuing education programs. —

(a) Upon request, the Board shall grant approval to continuing education programs upon a finding that the program offers an educational experience designed to enhance the practice of nursing.

(b) If the program offers to teach nurses to perform advanced skills, the Board may grant approval for the program and the performance of the advanced skills by those successfully completing the program when it finds that the nature of the procedures taught in the program and the program facilities and faculty are such that a nurse successfully completing the program can reasonably be expected to carry out those procedures safely and competently.

§ 90-171.43. License required. — No person shall practice or offer to practice as a registered nurse or licensed practical nurse, or use the word ‘nurse’ as a title for herself or himself, or use an abbreviation to indicate that the person is a registered nurse or licensed practical nurse, unless the person is currently licensed as a registered nurse or licensed practical nurse as provided by this Article. If the word ‘nurse’ is part of a longer title, such

as 'nurse's aide', a person who is entitled to use that title shall use the entire title and may not abbreviate the title to 'nurse'. This Article shall not, however, be construed to prohibit or limit the following:

- (1) the performance by any person of any act for which that person holds a license issued pursuant to North Carolina law;
- (2) the clinical practice by students enrolled in approved nursing programs, continuing education programs, or refresher courses under the supervision of qualified faculty;
- (3) the performance of nursing performed by persons who hold a temporary license issued pursuant to G. S. 90-171.33;
- (4) the delegation to any person, including a member of the patient's family, by a physician licensed to practice medicine in North Carolina, a licensed dentist or registered nurse of those patient-care services which are routine, repetitive, limited in scope that do not require the professional judgment of a registered nurse or licensed practical nurse;
- (5) assistance by any person in the case of emergency.

Any person permitted to practice nursing without a license as provided in subdivision (2) or (3) of this section shall be held to the same standard of care as any licensed nurse.

§ 90-171.43A. Mandatory employer verification of licensure status. —

(a) Before hiring a registered nurse or a licensed practical nurse in North Carolina, a health care facility shall verify that the applicant has a current, valid license to practice nursing pursuant to G.S. 90-171.43.

(b) For purposes of this section, 'health care facility' means:

- (1) Facilities described in G.S. 131E-256(b).
- (2) Public health departments, physicians' offices, ambulatory care facilities, and rural health clinics.

§ 90-171.44. Prohibited acts. — It shall be a violation of this Article, and subject to action under G.S. 90-171.37, for any person to:

- (1) Sell, fraudulently obtain, or fraudulently furnish any nursing diploma or aid or abet therein.
- (2) Practice nursing under cover of any fraudulently obtained license.
- (3) Practice nursing without a license. This subdivision shall not be construed to prohibit any licensed registered nurse who has successfully completed a program established under G.S. 90-171.38(b) from conducting medical examinations or performing procedures to collect evidence from the victims of offenses described in that subsection.
- (4) Conduct a nursing program or a refresher course for activation of a license that is not approved by the Board.
- (5) Employ unlicensed persons to practice nursing.

§ 90-171.45. Violation of Article. — The violation of any provision of this Article, except G. S. 90-171.47, shall be a misdemeanor punishable in the discretion of the court.

§ 90-171.46. Injunctive authority. — The Board may apply to the superior court for an injunction to prevent violations of this Article or of any rules enacted pursuant thereto. The court is empowered to grant such injunctions regardless of whether criminal prosecution or other action has been or may be instituted as a result of such violation.

§ 90-171.47. Reports: immunity from suit. — Any person who has reasonable cause to suspect misconduct or incapacity of a licensee or who has reasonable cause to suspect that any person is in violation of this Article, including those actions specified in G. S. 90-171.37 (1) through (8), G.S. 90-171.43 and G.S. 90-171.44, shall report the relevant facts to the Board. Upon receipt of such charge or upon its own initiative, the Board may give notice of an administrative hearing or may, after diligent investigation, dismiss unfounded charges. Any person making a report pursuant to this section shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false.

§ 90-171.48. *Criminal history record checks of applicants for licensure.* —

- (a) Definitions. — The following definitions shall apply in this section:
- (1) Applicant. — A person applying for licensure as a registered nurse or licensed practical nurse either by examination pursuant to G.S.90-171.29 and G.S.90-171.30 or without examination pursuant to G.S.90-171.32.
 - (2) Criminal history. — A history of conviction of a State crime, whether a misdemeanor or felony, that bears on an applicant’s fitness for licensure to practice nursing. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.
- (b) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.
- (c) If an applicant’s criminal history record check reveals one or more convictions listed under subsection (a)(2) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:
- (1) The level of seriousness of the crime.
 - (2) The date of the crime.
 - (3) The age of the person at the time of the conviction.
 - (4) The circumstances surrounding the commission of the crime, if known.
 - (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
 - (6) The person’s prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
 - (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

If, after reviewing the factors, the Board determines that the grounds set forth in subsections (1), (2), (3), (4), (5), or (6) of G.S. 90-171.37 exist, the Board may deny licensure of the applicant. The Board may disclose to the applicant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

- (d) Limited immunity. — The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record check.

Section 2. The terms of members serving on the Board of Nursing on December 31, 2004, expire on that date. To establish staggered terms for the appointment of public members made pursuant to G. S. 90-171.21(b), as enacted in Section 1 of this act, the Governor shall appoint one member for a four-year term, the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint one member for a three-year term, and the General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint one member for a two-year term.

To stagger terms for members elected to the Board, the Board shall conduct an election in 2004 pursuant to G.S. 90-171.21(b) to elect members as follows:

- (1) An at-large registered nurse and a licensed practical nurse, to serve for a one-year term.
- (2) A staff registered nurse, a registered nurse who is an associate degree or diploma nurse educator, and a licensed practical nurse, each to serve for a two-year term.
- (3) A registered nurse who is a baccalaureate or higher degree nurse educator, a registered nurse administrator employed by a hospital or a hospital system, and a licensed practical nurse, each to serve for a three-year term.
- (4) A staff registered nurse, a registered nurse who is a practical nurse educator, and either a certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse specialist, or a nurse practitioner, each to serve for a four-year term.

All members appointed and elected to the Board pursuant to this section shall begin serving their terms on January 1, 2005. After staggered terms have been established, all subsequent appointments and elections to the Board shall be for four-year terms. For the purpose of initial application of the provisions of G.S. 90-171.21(e) that limit members to eight consecutive years of service, consecutive service as of December 31, 2004, shall count, and if the member reaches the eight-year maximum during a term of office, that person is not eligible to continue in office and a vacancy is created to be filled for the remainder of the unexpired term.

Section 3. Severability. If any provision of this Article or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and of the application of such provision to other persons and circumstances shall not be affected thereby.

Section 4. G. S. 143-34.12 is amended by deleting line 8 which reads as follows: "Chapter 90, Article 9, entitled 'Nurse Practice Act'."

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified, this the 29th day of May, 2003.

As amended by the 1997 Session of the North Carolina General Assembly.
As amended by the 1999 Session of the North Carolina General Assembly.
As amended by the 2001 Session of the North Carolina General Assembly.
As amended by the 2003 Session of the North Carolina General Assembly.
As amended by the 2004 Session of the North Carolina General Assembly.
As amended by the 2005 Session of the North Carolina General Assembly.

AN ACT TO AUTHORIZE THE BOARD OF NURSING TO ESTABLISH A NURSES AIDES REGISTRY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

ARTICLE 9C.
Nurses Aides Registry Act.

§ 90-171.55. *Nurses Aides Registry.*

(a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing facilities who meet applicable State and federal registry requirements as adopted by the North Carolina Medical Care Commission as having fulfilled the training and registry requirements of the Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board may charge an annual fee of twelve dollars (\$12.00) for each nurse aide II registry applicant. The Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer or prospective employer of the registry applicant. Fees collected may be used by the Board in administering the registry. The Board's authority granted by this Article shall not conflict with the authority of the Medical Care Commission.

(b) (1) Each nurses aide training program, except for those operated by (i) institutions under the Board of Governors of The University of North Carolina, (ii) institutions of the North Carolina Community College System, (iii) public high schools, and (iv) hospital authorities acting pursuant to G.S. 131E-23(31), shall provide a guaranty bond unless the program has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board of Nursing may revoke the approval of a program that fails to maintain a bond or an alternative to a bond pursuant to this subsection or G.S. 115D-95.

(2) When application is made for approval or renewal of approval, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the program will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the program to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a program's approval, bankruptcy, foreclosure, or the program ceasing to operate.

The bond shall be in an amount determined by the Board to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. The bond amount for a program shall be at least equal to the maximum amount of prepaid tuition held at any time during the last fiscal year by the program. The bond amount shall also be at least ten thousand dollars (\$10,000).

Each application for a license shall include a letter signed by an authorized representative of the program showing in detail the calculations made and the method of computing the amount of the bond pursuant to this subdivision and rules of the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the

bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

- (3) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subdivision. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the program will be located, in lieu of a bond:
 - a. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection.
 - b. A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection.

§ 90-171.56. Medication aide requirements.

The Board of Nursing shall do the following:

- (1) Establish standards for faculty and applicant requirements for medication aide training.
- (2) Provide ongoing review and evaluation, and recommend changes, for faculty and medication aide training requirements to support safe medication administration and improve client, resident, and patient outcomes.

This act became effective July 1, 1989.

As amended by the 1999 Session of the North Carolina General Assembly.

As amended by the 2005 Session of the North Carolina General Assembly.

As amended by the 2007 Session of the North Carolina General Assembly.

Effective July 1, 2000, the North Carolina General Assembly adopted the Nurse Licensure Compact, Article 9G of Chapter 90 as it appears below:

Section 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

ARTICLE 9G.
Nurse Licensure Compact.

§ 90-171.80. *Entering into Compact.*

The Nurse Licensure Compact is hereby enacted into law and entered into by this State with all other states legally joining therein, in the form substantially as set forth in this Article.

§ 90-171.81. *Findings and declaration of purpose.*

- (a) The General Assembly of North Carolina makes the following findings:
- (1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to states' nurse licensure laws.
 - (2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.
 - (3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.
 - (4) New practice modalities and technology make compliance with individual states' nurse licensure laws difficult and complex.
 - (5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.
- (b) The purposes of this Compact are to:
- (1) Facilitate the states' responsibility to protect the public's health and safety.
 - (2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.
 - (3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions.
 - (4) Promote compliance with the laws governing the practice of nursing in each jurisdiction.
 - (5) Through the mutual recognition of party state licenses, grant all party states the authority to hold nurses accountable for meeting all state practice laws in the states in which their patients are located at the time care is rendered.

§ 90-171.82. *Definitions.*

The following definitions apply in this Article:

- (1) Adverse action. — A home or remote state action.
- (2) Alternative program. — A voluntary, nondisciplinary monitoring program approved by a nurse licensing board.
- (3) Compact. — This Article.
- (4) Coordinated licensure information system. — An integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by state nurse licensing boards.
- (5) Current significant investigative information. —
 - (a) Investigative information that indicates a licensee has committed more than a minor infraction.
 - (b) Investigative information that indicates a licensee represents an immediate threat to public health and safety.

- (6) Home state. — The party state that is the nurse's primary state of residence.
- (7) Home state action. — Any administrative, civil, equitable, or criminal action permitted by the home state's laws that is imposed on a nurse by the home state's licensing board or another authority. The term includes the revocation, suspension, or probation of a nurse's license or any other action that affects a nurse's authorization to practice.
- (8) Licensee. — A person licensed by the North Carolina Board of Nursing or the nurse licensing board of a party state.
- (9) Licensing board. — A party state's regulatory agency that is responsible for licensing nurses.
- (10) Multistate licensure privilege. — Current official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical or vocational nurse in that state.
- (11) Nurse. — A registered nurse or licensed practical or vocational nurse as those terms are defined by each party state's practice laws.
- (12) Party state. — Any state that has adopted this Compact.
- (13) Remote state. — A party state, other than the home state, where the patient is located at the time nursing care is provided. In the case of the practice of nursing not involving a patient, the term means the party state where the recipient of nursing practice is located.
- (14) Remote state action. — Any administrative, civil, equitable, or criminal action permitted by the laws of a remote state that are imposed on a nurse by the remote state's nursing licensing board or other authority, including actions against a nurse's multistate licensure privilege to practice in the remote state. The term also includes cease and desist and other injunctive or equitable orders issued by remote states or their nurse licensing boards.
- (15) State. — A state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.
- (16) State practice laws. — The laws and regulations of individual party states that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for disciplining nurses. The term does not include the initial qualifications for licensure or the requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

§ 90-171.83. *General Provisions and jurisdiction.*

(a) A license to practice registered nursing that is issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in each party state. A license to practice practical or vocational nursing that is issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical or vocational nurse in each party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

(b) Party states may, in accordance with each state's due process laws, revoke, suspend, or limit the multistate licensure privilege of any licensee to practice in their state and may take any other actions under their applicable state laws that are necessary to protect the health and safety of their citizens. If a party state takes an action authorized in this subsection, it shall promptly notify the administrator of the coordinated licensure information system. The administrator shall promptly notify the home state of any actions taken by remote states.

(c) Every licensee practicing in a party state shall comply with the state practice laws of the state in which the patient is located at the time care is rendered. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing in a party state shall subject a nurse to

the jurisdiction of the nurse licensing board and the laws and the courts in that party state.

(d) The Compact does not affect additional requirements imposed by states for advanced-practice registered nursing. A multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if a license to practice registered nursing is required by state law as a precondition for qualifying for advanced-practice registered nurse authorization.

(c) Persons not residing in a party state may continue to apply for nurse licensure in party states as provided for under the laws of each party state. The license granted to such persons shall not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

§ 90-171.84. *Application for licensure in a party state.*

(a) Upon receiving an application for a license, the licensing board in a party state shall ascertain through the coordinated licensure information system whether the applicant holds or has ever held a license issued by any other state, whether there are any restrictions on the applicant's multistate licensure privilege, and whether any other adverse action by any state has been taken against the applicant's license.

(b) A licensee in a party state shall hold licensure in only one party state at a time. The license shall be issued by the home state.

(c) A licensee who intends to change his or her primary state of residence may apply for licensure in the new home state in advance of the change. However, a new license shall not be issued by a party state until after the licensee provides evidence of a change in his or her primary state of residence that is satisfactory to the new home state's licensing board.

(d) When a licensee changes his or her primary state of residence by moving between two party states and obtaining a license from the new home state, the license from the former home state is no longer valid.

(e) When a licensee changes his or her primary state of residence by moving from a nonparty state to a party state and obtaining a license from the new home state, the license issued by the nonparty state shall not be affected and shall remain in full force if the laws of the nonparty state so provide.

(f) When a licensee changes his or her primary state of residence by moving from a party state to a nonparty state, the license issued by the former home state converts to an individual state license that is valid only in the former home state. The license does not grant the multistate licensure privilege to practice in other party states.

§ 90-171.85. *Adverse actions.*

(a) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for the actions, if known. The licensing board of a remote state shall also promptly report any current significant investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

(b) The licensing board of a party state may complete any pending investigation of a licensee who changes his or her primary state of residence during the course of the investigation. It may also take appropriate action against a licensee and shall promptly report the conclusion of the investigation to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any action taken against a licensee.

(c) A remote state may take adverse action that affects the multistate licensure privilege to practice within that party state. However, only the home state may take adverse action that affects a license that was issued by the home state.

(d) For purposes of taking adverse action, the licensing board of the home state shall give to conduct reported by a remote state the same priority and effect that it would if the conduct had occurred within the home state. The board shall apply its own state laws to determine the appropriate action that should be taken against the licensee.

(e) The home state may take adverse action based upon the factual findings of the remote state if each state follows its own procedures for imposing the adverse action.

(f) This Compact does not prohibit a party state from allowing a licensee to participate in an alternative program instead of taking adverse action against the licensee. If required by the party state's laws, the licensee's participation in an alternative program shall be confidential information. Party states shall require licensees who enter alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from the other party state.

§ 90-171.86. *Current significant investigative information.*

(a) If a licensing board finds current significant investigative information as defined in G.S. 90-171.82(5)a., the licensing board shall, after giving the licensee notice and an opportunity to respond if required by state law, conduct a hearing and decide what adverse action, if any, should be taken against the licensee.

(b) If a licensing board finds current significant investigative information as defined in G.S. 90-171.82(5)b., the licensing board may take adverse action against the licensee without first providing the licensee notice or an opportunity to respond to the information. A hearing shall be promptly commenced and determined.

§ 90-171.87. *Additional authority of party state nursing licensing boards.*

Notwithstanding any other powers, party state nurse licensing boards may do any of the following:

- (1) If otherwise permitted by state law, recover from licensees the costs of investigating and disposing of cases that result in adverse action.
- (2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the other party state by any court of competent jurisdiction according to the practice and procedure of that court. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the laws of the party state where the witnesses or evidence are located.
- (3) Issue cease and desist orders to limit or revoke a licensee's authority to practice in the board's state.
- (4) Adopt uniform rules and regulations that are developed by the Compact administrators as provided in G.S. 90-171.89(c).

§ 90-171.88. *Coordinated licensure information system.*

(a) All party states shall participate in a cooperative effort to create a coordinated data base of all licensed registered nurses and licensed practical or vocational nurses. This system shall include information on the licensure and disciplinary history of each licensee, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) Notwithstanding any other provision of law, all party states' licensing boards shall promptly report to the coordinated licensure information system any adverse action taken against licensees, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, and any denials of applications for licensure and the reasons for the denials.

(c) Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(d) Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that shall not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing party state.

(e) Any personally identifiable information obtained by a party state licensing board from the coordinated licensure information system shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing to information.

(f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing the information shall be expunged from the coordinated licensure information system.

(g) The Compact administrators, acting jointly and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this Compact.

§ 90-171.89. Compact administration and interchange of information.

(a) The executive director of the nurse licensing board of each party state or the executive director's designee shall be the administrator of this Compact for that state.

(b) To facilitate the administration of this Compact, the Compact administrator of each party state shall furnish to the Compact administrators of all other party states information and documents concerning each licensee, including a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation.

(c) Compact administrators shall develop uniform rules and regulations to facilitate and coordinate implementation of this Compact. These uniform rules shall be adopted by party states as authorized in G.S. 90-171.87(4).

§ 90-171.90. Immunity.

A party state or the officers, employees, or agents of a party state's nurse licensing board who act in accordance with this Compact shall not be liable for any good faith act or omission committed while they were engaged in the performance of their duties under this Compact.

§ 90-171.91. Effective date, withdrawal, and amendment.

(a) This Compact shall become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this Compact by enacting a statute repealing the Compact, but the withdrawal shall not take effect until six months after the withdrawing state has given notice of the withdrawal of the Compact administrators of all other party states.

(b) No withdrawal shall affect the validity or applicability of any report of adverse action taken by the licensing board of a state that remains a party to the Compact if the adverse action occurred prior to the withdrawal.

(c) This Compact does not invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with this Compact.

(d) This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

§ 90-171.92. Dispute resolution.

If there is a dispute that cannot be resolved by the party states involved, the following procedure shall be used:

(1) The party states shall submit the issues in dispute to an arbitration panel that shall consist of an individual appointed by the Compact administrator in the home state, an individual appointed by the Compact administrator in the remote states involved, and an individual appointed by the Compact administrators of all the party states involved in the dispute.

(2) The decision of a majority of the arbitrators shall be final and binding.

§ 90-171.93. *Construction and severability.*

This Compact shall be liberally construed so as to effectuate the purposes as stated in G.S. 90-171.81(b). The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of the Compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

§ 90-171.94. *Applicability of compact.*

This Article is applicable only to nurses whose home states are determined by the North Carolina Board of Nursing to have licensure requirements that are substantially equivalent or more stringent than those of North Carolina.

Section 2. Any nurse whose license has been restricted by the North Carolina Board of Nursing on the date this act becomes effective shall not practice in any other party state as defined in G.S. 90-171.82(12), as enacted in Section 1 of this act, during the time in which the license is restricted unless the nurse receives prior authorization from such other party state.

Section 3. The North Carolina Board of Nursing shall report to the General Assembly on the implementation of the provisions of this Compact no later than March 1, 2005.

Section 4. This act becomes effective July 1, 2000.

**State of North Carolina
Chapter 245, 1999 Session Laws
Ratified June 22, 1999**

NOTES

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