CHAPTER 33

Nurses

ARTICLE 1

Nurse Practice Act

**SECTION 40‑33‑5.** Application of Chapter 1, Article 1; conflicts.

Unless otherwise provided for in this chapter, Article 1, Chapter 1, Title 40 applies to the profession of nursing. However, if there is a conflict between this chapter and Article 1, Chapter 1, Title 40, the provisions of this chapter control.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑10.** State Board of Nursing; membership; seal; promulgation of regulations; powers and duties.

(A) There is created the State Board of Nursing composed of eleven members. Two must be licensed practical nurses from the State at large, and two must be lay members from the State at large. Seven must be registered nurses, each representing one congressional district, and at least one must be employed in a hospital setting and at least one must be licensed as an advanced practice registered nurse. When appointing members to the board, consideration should be given to including a diverse representation of principal areas of nursing including, but not limited to, hospital, acute care, advanced practice, community health, and nursing education. Registered nurse and licensed practical nurse members must be licensed in South Carolina, must be employed in nursing, must have at least three years of practice in their respective professions immediately preceding their appointment, and shall reside in the district they represent. Lay members must not be licensed or employed as a health care provider but shall represent the public at large as a consumer of nurse services. No member may serve as an officer of a professional health related state association. The chairman or designee of the State Board of Medical Examiners shall serve as an advisory nonvoting member to the board to provide consultation on matters requested by the Board of Nursing.

(B) Members shall serve terms of four years and until their successors are appointed and qualify. Board members must be appointed by the Governor with the advice and consent of the Senate. An individual, group, or association may nominate qualified persons and submit them to the Governor for consideration. Vacancies must be filled for the unexpired portion of a term by appointment of the Governor.

(C) The Governor may remove members pursuant to Section 1‑3‑240(C) or members who have been guilty of continued neglect of their duties or members who are found to be incompetent, unprofessional, or dishonorable. No members may be removed without first giving them the opportunity to refute the charges filed against them. The member must be given copies of the charges at the time they are filed.

(D) A board member, or person authorized and approved by the board, engaged in business for the board may receive for board service the usual per diem, mileage, and subsistence as provided by law. These expenses must be paid from the fees received by the board under this chapter.

(E) The board may have and use an official seal bearing the words: "State Board of Nursing for South Carolina". The board may promulgate regulations as it considers necessary for the purposes of carrying out the provisions of this chapter.

(F) The board shall meet at least quarterly for the purpose of transacting business. A majority of the members of the board constitutes a quorum; however, if there is a vacancy on the board, a majority of the members serving constitutes a quorum. A board member is required to attend meetings or to provide proper notice and justification of inability to do so. Unexcused absences from meetings may result in removal from the board as provided in Section 1‑3‑245.

(G) A chairman, a vice chairman, and a secretary comprise the officers of the board. The election of the chairman must be from the registered nurse members of the board, and the vice chairman and secretary must be elected from the members. Officers shall serve terms of one year and until their successors are elected. The administrator shall certify to the Governor the names of the officers elected for regular and unexpired terms.

(H) The Chairman of the State Board of Nursing, or the chairman's designee, shall serve as an advisory nonvoting member of the State Board of Medical Examiners to provide consultation on matters requested by the State Board of Medical Examiners. The Board of Medical Examiners shall send written notice at least ten days before meetings that the Board of Medical Examiners wants the chairman or designee of the State Board of Nursing to attend. The Chairman of the State Board of Nursing, or the chairman's designee, and the State Board of Medical Examiners shall meet at least twice a year and more often as necessary.

(I) In addition to the powers and duties enumerated in Section 40‑1‑70, the board may:

(1) publish advisory opinions and position statements relating to nursing practice procedures or policies authorized or acquiesced to by any agency, facility, institution, or other organization that employs persons authorized to practice under this chapter to comply with acceptable standards of nursing practice;

(2) develop minimum standards for continued competency of licensees continuing in or returning to practice;

(3) conduct surveys of educational enrollments and licensure and report to the public;

(4) conduct investigations and hearings concerning alleged violations of this chapter;

(5) develop minimum standards for nursing education programs;

(6) approve nursing education programs that meet the prescribed standards;

(7) deny or withdraw approval or limit new student admissions of nursing education programs that fail to meet the prescribed standards;

(8) use minimum standards as a basis for evaluating safe and effective nursing practice;

(9) examine, license, and renew the authorizations to practice of qualified applicants;

(10) join organizations that develop and regulate the national nursing licensure examinations and promote the improvement of the practice of nursing for the protection of the public;

(11) collect any information the board considers necessary, including social security numbers or alien identification numbers, in order to report disciplinary actions to national databanks of disciplinary information;

(12) establish guidelines to assist employers of nurses when errors in nursing practice can be handled through corrective action in the employment setting.

HISTORY: 2004 Act No. 225, Section 1; 2012 Act No. 222, Section 5, eff June 7, 2012.

Editor's Note

Prior Laws:1942 Code Section 5224; 1935 (39) 173; 1947 (45) 579; 1952 Code Section 56‑961; 1959 (51) 307; 1962 Code Section 56‑961; 1974 (58) 1943; 1975 (59) 563; 1981 Act No. 89, Sections 2, 3, 5; 1990 Act No. 513, Section 1; 1976 Code Section 40‑33‑210.

2012 Act No. 222, Section 15, provides as follows:

"SECTION 15. Notwithstanding any other provision of law to the contrary, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member on it as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires."

Effect of Amendment

The 2012 amendment rewrote subsection (A) and removed subsection (I)(13) relating to fee schedule regulations.

**SECTION 40‑33‑20.** Definitions.

In addition to the definitions provided in Section 40‑1‑20, for purposes of this chapter:

(1) "Accreditation" means official authorization or status granted by an agency other than a state board of nursing.

(2) "Active license" means the status of a license that has been renewed for the current period and authorizes the licensee to practice nursing in this State.

(3) "Additional acts" means activities performed by a nurse that expand the scope of practice, as established in law. The following must be submitted in writing to the board for approval before a nurse implements additional acts:

(a) additional activity being requested;

(b) statement with rationale as to how the activity will improve client outcomes;

(c) documentation based on the literature review to support the nurse's performing the additional activity;

(d) qualification requirements, including educational background and experience needed;

(e) special training required, including theory and clinical practice. A nurse must successfully complete a course of "special education and training" acceptable to the board to perform additional acts;

(f) evaluation and follow‑up procedures.

Additional acts that constitute delegated medical acts must be agreed to jointly by both the Board of Nursing and the Board of Medical Examiners and must be promulgated by the Board of Nursing in regulation.

(4) "Administration of medications" means the acts of preparing and giving drugs in accordance with the orders of a licensed, authorized nurse practitioner, certified nurse‑midwife, clinical nurse specialist, or a physician, dentist, or other authorized licensed provider as to drug, dosage, route, and frequency; observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy; intervening when emergency care is required as a result of drug therapy; appropriately instructing the patient regarding the medication; recognizing accepted prescribing limits and reporting deviations to the prescribing nurse practitioner, certified nurse‑midwife, or clinical nurse specialist, physician, dentist, or other authorized licensed provider.

(5) "Advanced Practice Registered Nurse" or " APRN" means a registered nurse who is prepared for an advanced practice registered nursing role by virtue of additional knowledge and skills gained through an advanced formal education program of nursing in a specialty area that is approved by the board. The categories of APRN are nurse practitioner, certified nurse‑midwife, clinical nurse specialist, and certified registered nurse anesthetist. An advanced practice registered nurse shall hold a doctorate, a post‑nursing master's certificate, or a minimum of a master's degree that includes advanced education composed of didactic and supervised clinical practice in a specific area of advanced practice registered nursing. In addition to those activities considered the practice of registered nursing, an APRN may perform delegated medical acts.

(6) "Agreed to jointly" means the agreement by the Board of Nursing and Board of Medical Examiners on delegated medical acts which nurses perform and which are promulgated by the Board of Nursing in regulation.

(7) "Ancillary services" means services associated with the basic services provided to an individual in need of in‑home care who needs one or more of the basic services and includes:

(a) homemaker‑type services, including shopping, laundry, cleaning, and seasonal chores;

(b) companion‑type services, including transportation, letter writing, reading mail, and escorting; and

(c) assistance with cognitive tasks, including managing finances, planning activities, and making decisions.

(8) "Approval" means the process by which the board evaluates nursing education programs, which must meet established uniform and reasonable standards.

(9) "Approved written guidelines" means specific statements developed by a certified registered nurse anesthetist and a supervising licensed physician or dentist or by the medical staff within the facility where practice privileges have been granted.

(10) "Approved written protocols" means specific statements developed collaboratively by a physician or the medical staff and a NP, CNM, or CNS that establishes physician delegation for medical aspects of care, including the prescription of medications.

(11) "Attendant care services" means those basic and ancillary services that enable an individual in need of in‑home care to live in the individual's home and community rather than in an institution and to carry out functions of daily living, self‑care, and mobility.

(12) "Authorized licensed provider" means a provider of health care services who is authorized to practice by a licensing board in this State where the scope of practice includes authority to order and prescribe drugs in treating patients.

(13) "Basic services" includes:

(a) getting in and out of a bed, wheelchair, motor vehicle, or other device;

(b) assistance with routine bodily functions including health maintenance activities, bathing and personal hygiene, dressing and grooming, and feeding, including preparation and cleanup.

(14) "Board" means the State Board of Nursing for South Carolina.

(15) "Board‑approved credentialing organization" means an organization that offers a certification examination in a specialty area of nursing practice, establishes scope and standards of practice statements, and provides a mechanism for evaluating continuing competency in a specialized area of nursing practice which has been approved by the board.

(16) "Business days" means every day except Saturdays, Sundays, and legal holidays.

(17) "Cancellation" means the withdrawal or invalidation of an authorization to practice that was issued to an ineligible person either in error or based upon a false, fraudulent, or deceptive representation in the application process.

(18) "Certification" of a registered nurse means approval by an established body, other than the board, but recognized by the board, that recognizes the unique, minimal requirements of specialized areas of nursing practice. Certification requires completion of a recognized formal program of study and specialty board examination, if the specialty board exists, and certification of competence in nursing practice by the certifying agency.

(19) "Certified Nurse‑Midwife" or "CNM" means an advanced practice registered nurse who holds a master's degree in the specialty area and provides nurse‑midwifery management of women's health care, focusing particularly on pregnancy, childbirth, postpartum, care of the newborn, family planning, and gynecological needs of women.

(20) "Certified Registered Nurse Anesthetist" or " CRNA" means an advanced practice registered nurse who:

(a) has successfully completed an advanced, organized formal CRNA education program at the master's level accredited by the national accrediting organization of this specialty area and that is recognized by the board;

(b) is certified by a board‑approved national certifying organization; and

(c) demonstrates advanced knowledge and skill in the delivery of anesthesia services.

A CRNA must practice in accordance with approved written guidelines developed under supervision of a licensed physician or dentist or approved by the medical staff within the facility where practice privileges have been granted.

(21) "Clinical Nurse Specialist" or "CNS" means an advanced practice registered nurse who is a clinician with a high degree of knowledge, skill, and competence in a practice discipline of nursing. This nurse shall hold a master's degree in nursing, with an emphasis in clinical nursing. These nurses are directly available to the public through the provision of nursing care to clients and indirectly available through guidance and planning of care with other nursing personnel. A CNS who performs delegated medical acts is required to have physician support and to practice within approved written protocols. A CNS who does not perform delegated medical acts is not required to have physician support or to practice within approved written protocols as provided in Section 40‑33‑34.

(22) "Competence" means the ability of a licensed nurse to perform safely, skillfully, and proficiently the functions within the role of the licensee. The role encompasses the possession and interrelation of essential knowledge, judgment, attitudes, values, skills, and abilities, which are varied and range in complexity. Competence is a dynamic concept, changing as the licensed nurse achieves a higher stage of development, responsibility, and accountability within the role.

(23) "Delegated medical acts" means additional acts delegated by a physician or dentist to the NP, CNM, or CNS and may include formulating a medical diagnosis and initiating, continuing, and modifying therapies, including prescribing drug therapy, under approved written protocols as provided in Section 40‑33‑34. Delegated medical acts must be agreed to jointly by both the Board of Nursing and the Board of Medical Examiners. Delegated medical acts must be performed under the general supervision of a physician or dentist who must be readily available for consultation.

(24) "Delivering" means the act of handing over to a patient medications as ordered by an authorized licensed provider and prepared by an authorized licensed provider.

(25) "Dentist" means a dentist licensed by the South Carolina Board of Dentistry.

(26) "Entity" means a sole proprietorship, partnership, limited liability partnership, limited liability corporation, association, joint venture, cooperative, company, corporation, or other public or private legal entity authorized by law.

(27) "Expanded role" of a registered nurse means a process of diffusion and implies multi‑directional change. Expansion, as a process of role change, is undertaken to fill perceived needs in the health care system, and also to project new components or systems of health care. The authority base for practice from which the expanded role emanates is the body of knowledge that constitutes a nurse's preparation for practice. The expanded role of a registered nurse requires specialized knowledge, judgment, and skill, but does not require or permit medical diagnosis or medical prescription of therapeutic or corrective measures. The expanded role of a licensed practical nurse with special education and training includes performing delegated professional nursing activities, as authorized by the board under the direction and supervision of a registered nurse, but does not authorize violation of state law pertaining to medical or pharmacy practice.

(28) "Graduate Registered Nurse Anesthetist" or " GRNA" means a new graduate of an advanced organized formal education program for nurse anesthetists accredited by the national accrediting organization who must achieve certification within one year of graduation of program completion.

(29) "Graduate Registered Nurse‑Midwife" or " GRNM" means a new graduate of an advanced organized formal education program for nurse‑midwives accredited by the national accrediting organization. A GRNA is required to become certified within one year of graduation or program completion.

(30) "Health maintenance activities" include, but are not limited to, catheter irrigation, administration of medications, enemas and suppositories, and wound care, if these activities could be performed by an individual if the individual were physically and mentally capable.

(31) "Inactive license" means the official temporary retirement of a person's authorization to practice nursing upon the person's notice to the board that the person does not plan to practice nursing or the status of a license that does not currently authorize a licensee to practice nursing in this State.

(32) "Incompetence" means the failure of a nurse to demonstrate and apply the knowledge, skill, and care that is ordinarily possessed and exercised by other nurses of the same licensure status and required by the generally accepted standards of the profession. Charges of incompetence may be based upon a single act of incompetence or upon a course of conduct or series of acts or omissions that extend over a period of time and that, taken as a whole, demonstrate incompetence. It is not necessary to show that actual harm resulted from the act or omission or series of acts or omissions if the conduct is such that harm could have resulted to the patient or to the public from the act or omission or series of acts or omissions.

(33) "Individual in need of in‑home care" means a functionally disabled individual in need of attendant care services because of impairment who requires assistance to complete functions of daily living, self‑care, and mobility, including attendant care services.

(34) "Lapsed license" means the termination of a person's authorization to practice nursing due to the person's failure to renew his or her nursing license within the renewal period.

(35) "Letter of caution" means a written caution or warning about past or future conduct issued when it is determined that no misconduct has been committed or that only minor misconduct not warranting the imposition of a sanction has been committed. The issuance of a letter of caution is not a form of discipline and does not constitute a finding of misconduct unless the letter of caution specifically states that misconduct has been committed. The fact that a letter of caution has been issued must not be considered in a subsequent disciplinary proceeding against a person authorized to practice unless the caution or warning contained in the letter of caution is relevant to the misconduct alleged in the proceedings.

(36) "License" means a current document issued by the board authorizing a person to practice as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse.

(37) "Licensed Practical Nurse" or "LPN" means a person to whom the board has issued an authorization to practice as a licensed practical nurse.

(38) "Misconduct" means violation of any of the provisions of this chapter or regulations promulgated by the board pursuant to this chapter or violation of any of the principles of nursing ethics as adopted by the board or incompetence or unprofessional conduct.

(39) "NCLEX" means the National Council Licensure Examination for Registered Nurses or Licensed Practical Nurses.

(40) "Nurse" means a person licensed as an advanced practice registered nurse, registered nurse, or licensed practical nurse pursuant to this chapter.

(41) "Nurse Practitioner" or "NP" means a registered nurse who has completed an advanced formal education program at the master's level acceptable to the board, and who demonstrates advanced knowledge and skill in assessment and management of physical and psychosocial health, illness status of persons, families, and groups. Nurse practitioners who perform delegated medical acts must have a supervising physician or dentist who is readily available for consultation and shall operate within the approved written protocols.

(42) "Nursing diagnosis" means a clinical judgment about a person, family, or community that is derived through a nursing assessment and the standard nursing taxonomy.

(43) "Orientation" means any introductory instruction into a new practice environment or employment situation where being a nurse is a requirement of employment or where the individual uses any title or abbreviation indicating that the individual is a nurse. Orientation is considered the practice of nursing in this State.

(44) "Person" means a natural person, male or female.

(45) "Physician" means a physician licensed by the South Carolina Board of Medical Examiners.

(46) "Practice of nursing" means the provision of services for compensation, except as provided in this chapter, that assists persons and groups to obtain or promote optimal health. Nursing practice requires the use of nursing judgment. Nursing judgment is the logical and systematic cognitive process of identifying pertinent information and evaluating data in the clinical context in order to produce informed decisions, which guide nursing actions. Nursing practice is provided by advanced practice registered nurses, registered nurses, and licensed practical nurses. The scope of nursing practice varies and is commensurate with the educational preparation and demonstrated competencies of the person who is accountable to the public for the quality of nursing care. Nursing practice occurs in the state in which the recipient of nursing services is located at the time nursing services are provided.

(47) "Practice of practical nursing" means the performance of health care acts that require knowledge, judgment, and skill and must be performed under the supervision of an advanced practice registered nurse, registered nurse, licensed physician, licensed dentist, or other practitioner authorized by law to supervise LPN practice. The practice of practical nursing includes, but is not limited to:

(a) collecting health care data to assist in planning care of persons;

(b) administering and delivering medications and treatments as prescribed by an authorized licensed provider;

(c) implementing nursing interventions and tasks;

(d) providing basic teaching for health promotion and maintenance;

(e) assisting in the evaluation of responses to interventions;

(f) providing for the maintenance of safe and effective nursing care rendered directly or indirectly;

(g) participating with other health care providers in the planning and delivering of health care;

(h) delegating nursing tasks to qualified others;

(i) performing additional acts that require special education and training and that are approved by the board including, but not limited to, intravenous therapy and other specific nursing acts and functioning as a charge nurse.

(48) "Practice of registered nursing" means the performance of health care acts in the nursing process that involve assessment, analysis, intervention, and evaluation. This practice requires specialized independent judgment and skill and is based on knowledge and application of the principles of biophysical and social sciences. The practice of registered nursing includes, but is not limited to:

(a) assessing the health status of persons and groups;

(b) analyzing the health status of persons and groups;

(c) establishing outcomes to meet identified health care needs of persons and groups;

(d) prescribing nursing interventions to achieve outcomes;

(e) implementing nursing interventions to achieve outcomes;

(f) administering and delivering medications and treatments prescribed by an authorized licensed provider;

(g) delegating nursing interventions to qualified others;

(h) providing for the maintenance of safe and effective nursing care rendered directly or indirectly;

(i) providing counseling and teaching for the promotion and maintenance of health;

(j) evaluating and revising responses to interventions, as appropriate;

(k) teaching and evaluating the practice of nursing;

(l) managing and supervising the practice of nursing;

(m) collaborating with other health care professionals in the management of health care;

(n) participating in or conducting research, or both, to enhance the body of nursing knowledge;

(o) consulting to improve the practice of nursing; and

(p) performing additional acts that require special education and training and that are approved by the board.

(49) "Private reprimand" means a statement by the board that a violation was committed by a person authorized to practice which has been declared confidential and which is not subject to disclosure as a public document.

(50) "Probation" means the issuance of an authorization to practice with terms and conditions imposed by the board. The holder of the authorization to practice on probation may petition the board for reinstatement to full, unrestricted practice upon compliance with all terms and conditions imposed by the board.

(51) "Public reprimand" means a publicly available statement of the board that a violation was committed by a person authorized to practice.

(52) "Readily available" means the physician must be in near proximity and is able to be contacted either in person or by telecommunications or other electronic means to provide consultation and advice to the nurse practitioner, certified nurse‑midwife, or clinical nurse specialist performing delegated medical acts. When application is made for more than three NP's, CNM's, or CNS's to practice with one physician, or when a NP, CNM, or CNS is performing delegated medical acts in a practice site greater than forty‑five miles from the physician, the Board of Nursing and Board of Medical Examiners shall each review the application to determine if adequate supervision exists.

(53) "Registered Nurse" means a person to whom the board has issued an authorization to practice as a registered nurse.

(54) "Restriction" means a limitation on the activities in which a licensee may engage under an authorization to practice, including revocation, suspension, or probation.

(55) "Revocation" means the cancellation or withdrawal of a license or other authorization issued by the board either permanently or for a period specified by the board before the person is eligible to reapply. A person whose license or other authorization has been permanently revoked by the board is permanently ineligible for a license or other authorization of any kind from the board.

(56) "Special education and training" means an organized advanced course of study acceptable to the board, required to expand a nurse's scope of practice. This educational training must be completed after graduation from one's basic nursing education program and includes both theory and clinical practice.

(57) "Supervision" means the process of critically observing, directing, and evaluating another's performance.

(58) "Suspension" means the temporary withdrawal of authorization to practice for either a definite or indefinite period of time ordered by the board. The holder of a suspended authorization to practice may petition the board for reinstatement to practice upon compliance with all terms and conditions imposed by the board.

(59) "State or jurisdiction in this country" means a state of the United States or the District of Columbia and does not include a territory or dependency of the United States.

(60) "Temporary permit" means a current time‑limited document that authorizes the practice of nursing at the level for which one is seeking licensure.

(61) "Unlicensed assistive personnel" or "UAP" are persons not currently licensed by the board as nurses who perform routine nursing tasks that do not require a specialized knowledge base or the judgment and skill of a licensed nurse. Nursing tasks performed by a UAP must be performed under the supervision of an advanced practice registered nurse, registered nurse, or selected licensed practical nurse.

(62) "Unprofessional conduct" means acts or behavior that fail to meet the minimally acceptable standard expected of similarly situated professionals including, but not limited to, conduct that may be harmful to the health, safety, and welfare of the public, conduct that may reflect negatively on one's fitness to practice nursing, or conduct that may violate any provision of the code of ethics adopted by the board or a specialty.

(63) "Voluntary surrender" means the invalidation of a nursing license at the time of its surrender and thereafter. A person whose license is voluntarily surrendered may not practice nursing or represent oneself to be a nurse until the board takes action.

(64) "Volunteer license" means authorization of a retired nurse to provide nursing services to others through an identified charitable organization without remuneration.

HISTORY: 2004 Act No. 225, Section 1; 2005 Act No. 122, Section 1.

Editor's Note

Prior Laws:1935 (39) 173; 1942 Code Section 5223; 1947 (45) 579; 1952 Code Section 56‑951; 1959 (51) 307; 1962 Code Section 56‑951; 1969 (56) 263; 1975 (59) 563; 1987 Act No. 114, Section 1; 1989 Act No. 137, Section 1; 2002 Act No. 337, Section 2A; 1976 Code Section 40‑33‑10.

**SECTION 40‑33‑25.** Criminal records checks; dishonored check as evidence of act of moral turpitude.

(A) In addition to other requirements established by law and for the purpose of determining an applicant's eligibility for licensure to practice nursing, the department may require a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the applicant. The department shall keep information received pursuant to this section confidential, except that information relied upon in denying licensure may be disclosed as may be necessary to support the administrative action.

(B) In an investigation or disciplinary proceeding concerning a licensee, the department may require a state criminal records check, supported by fingerprints, by the South Carolina Law Enforcement Division, and a national criminal records check, supported by fingerprints, by the Federal Bureau of Investigation. The results of these criminal records checks must be reported to the department. The South Carolina Law Enforcement Division is authorized to retain the fingerprints for certification purposes and for notification of the department regarding criminal charges. Costs of conducting a criminal history background check must be borne by the department and may be recovered as administrative costs associated with an investigation or hearing pursuant to this chapter unless ordered by the board as a cost in a disciplinary proceeding. The department shall keep information received pursuant to this section confidential, except that information relied upon in an administrative action may be disclosed as may be necessary to support the administrative action.

(C) Notwithstanding any other provision of this section or any other provision of law, the dismissal of a prosecution of a fraudulent intent in drawing a dishonored check case by reason of want of prosecution or proof of payment of restitution and administrative costs must not be used as evidence of an act of moral turpitude for disciplinary purposes or for the purposes of disqualifying a person seeking licensure or renewal of licensure pursuant to this chapter.

HISTORY: 2008 Act No. 345, Section 1.

**SECTION 40‑33‑30.** Licensing requirement; use of title "nurse"; exceptions; establishment of policies to cover special health care needs.

(A) A person may not practice nursing without an active license issued in accordance with this chapter. A South Carolina license as an advanced practice registered nurse or registered nurse is required for a person located in another state to provide nursing services to a recipient located in this State at the time nursing services are provided. A licensee located in this State who provides nursing services to a recipient located in another state must be properly licensed in this State and comply with any applicable licensing requirements where the recipient of nursing services is located at the time the services are provided.

(B) It is unlawful for a person to practice as an advanced practice registered nurse, a registered nurse, or a licensed practical nurse in this State, or to use the abbreviation "APRN", "RN", or "LPN" or any variation or subdesignation of these, or use any title, sign, card, or device to indicate that the person is a nurse, or that the person is practicing as a nurse, within the meaning of this chapter, unless the person is actively licensed under the provisions of this chapter.

(C) A person may not use the word "nurse" as a title, or use an abbreviation to indicate that the person is practicing in this State as a nurse, unless the person is actively licensed as a nurse as provided for in this chapter. If the term "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 does not prohibit the use of the title "nurse" by persons who hold a temporary permit pending licensure by endorsement from another jurisdiction, and it does not prohibit the use of the title "nurse" by persons enrolled in a board‑approved refresher course for the purpose of obtaining an active South Carolina license.

(D) A provision of this chapter may not be construed to prohibit:

(1) gratuitous nursing care by friends or members of the family;

(2) the incidental care of the sick by domestic servants or persons primarily employed as housekeepers as long as they do not practice nursing within the meaning of this chapter;

(3) nursing assistance in case of an emergency;

(4) the practice of nursing by students enrolled in approved nurse education programs;

(5) the practice of nursing in this State by a legally qualified nurse of another state whose engagement requires the nurse to accompany and care for a patient temporarily residing in this State during the period of one engagement, not to exceed six months, if the person does not represent or hold herself or himself out as a nurse licensed to practice in this State;

(6) the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency of the United States government, while in the discharge of official duties;

(7) care given to maternity patients, in the performance of their duties by licensed midwives trained and supervised under the authority of the South Carolina Department of Health and Environmental Control, so long as these midwives confine care to maternity patients only and do not claim to be licensed nurses or certified nurse‑midwives;

(8) the practice of nursing by a licensed nurse of another state who is enrolled in a board‑approved course of study or board‑approved experimental or experiential project requiring nursing practice as a part of the educational program;

(9) a person not licensed under this chapter from providing attendant care services directed by or on behalf of an individual in need of in‑home care; and

(10) performance of an act which a person would normally perform if the person were physically and cognitively able.

(E) The South Carolina Department of Health and Environmental Control may establish policies that authorize licensed registered nurses to provide health care under the direction of a physician licensed to practice medicine in this State and under the guidance of a registered pharmacist including, but not limited to, the dispensing of drugs for the treatment of tuberculosis and sexually transmitted diseases, HIV/AIDS, maternal and child care, children with special health care needs, family planning, immunizations, and any other public health program. The original diagnosis and treatment as prescribed by the physician must be maintained on the individual patient's records. The provisions of this chapter must not be construed to require the employment of registered pharmacists at local health clinics for the guidance of registered nurses in the dispensing of drugs in accordance with these provisions.

HISTORY: 2004 Act No. 225, Section 1; 2005 Act No. 122, Section 1.

Editor's Note

Prior Laws:1935 (39) 173; 1942 Code Sections 5230, 5223; 1947 (45) 579; 1952 Code Sections 56‑953, 56‑981; 1962 Code Sections 56‑953, 56‑981; 1969 (56) 263; 1987 Act No. 114, Section 2; 1989 Act No. 137, Section 2; 1976 Code Sections 40‑33‑20; 40‑33‑510.

**SECTION 40‑33‑32.** Initial licensure examination; foreign educated nurses.

(A) An applicant for initial licensure must pass the appropriate National Council Licensure Examination (NCLEX) prescribed by the board. The applicant shall comply with all application procedures established by the governing body of the NCLEX and by the board. Applications for licensure are valid for one year from the date of filing with the board. An applicant who fails to attain licensure during this period shall submit a new application with the prescribed fee.

(B) The board shall admit an applicant for licensure examination if the applicant:

(1) submits a completed application on a form provided by the board;

(2) submits a 2" x 2" photograph, signed and dated;

(3) submits the appropriate application fee;

(4) submits satisfactory proof of identity and age demonstrating that the applicant is eighteen years of age or older;

(5) submits a copy of the applicant's social security card or permanent resident card; a resident alien who does not have a social security number must have an alien identification number;

(6) has not committed any acts that are grounds for disciplinary action;

(7) has completed all requirements for graduation from an approved school of nursing or nursing education program approved by the state or jurisdiction in this country or territory or dependency of the United States in which the program is located.

(C) Credit may not be given in an initial application for an unapproved correspondence course or for experience gained through employment.

(D) The board shall accept applicants for the National Council Licensure Examination‑PN who:

(1) have successfully completed an approved nursing education program for professional nursing within the past five years of the date of the application;

(2) have received an equivalent education from an approved nursing education program within the past three years of the date of the application.

(E) An applicant who does not pass the licensure examination on the first attempt may retake the examination not more frequently than once every forty‑five days for up to one year from the first attempt. An applicant who does not pass the examination within one year of the first examination shall provide evidence satisfactory to the board of remediation approved by the board before reexamination. An applicant who has not passed the National Council Licensure Examination within three years of graduation must requalify to take the examination by enrolling in an approved nursing education program and demonstrating knowledge, skills, and ability of a graduate nurse.

(F) A foreign educated nurse who holds a license to practice in a jurisdiction outside a state or jurisdiction in this country or territory or dependency of the United States who applies for licensure as a nurse shall satisfy all the requirements of this section and the following:

(1) An applicant's general education and nursing education must be at a level required of graduates of nursing education programs in this State who are candidates for licensure as verified by a certificate of the Commission on Graduates of Foreign Nursing Schools or another board‑approved credentials evaluation service. An applicant whose native language is not English shall submit evidence of passing the Test of English as First Language (TOEFL), Test of Written English (TWE), and Test of Spoken English (TSE) offered by TOEFL/TSE Services or another service approved by the board. An applicant whose education for nursing is not verified as equivalent may qualify for a license by completing a supplemental course as prescribed by the board to be covered in an approved nursing education program and, upon completion of the course, writing and passing the licensing examination.

(2) An applicant shall pass the appropriate National Council Licensure Examination and shall comply with all application procedures established by the governing body of the NCLEX and by the board. Applications for licensure are valid for one year from the date of filing with the board. An applicant who fails to attain licensure during this period shall submit a new application with the prescribed fee.

(3) An applicant shall submit verification of authorization to practice as a registered nurse, licensed practical nurse, or comparable title from the country of original licensure.

(4) A foreign educated applicant who does not become licensed within three years of first taking the examination shall requalify to take the National Council Licensure Examination (NCLEX) by enrolling in an approved nursing education program and demonstrating knowledge, skills, and ability of a graduate nurse.

HISTORY: 2004 Act No. 225, Section 1; 2008 Act No. 194, Section 1.

**SECTION 40‑33‑33.** Inactive status of certain licenses.

(A) When a licensed practical nurse becomes licensed as a registered nurse, the person's LPN license must be placed on inactive status.

(B) When a registered nurse becomes licensed as an advanced practice registered nurse, the person's RN license must be placed on inactive status. However, an APRN is authorized to practice as a RN while the person's APRN license is in good standing, unless otherwise specifically authorized by the board.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑34.** Performance of delegated medical acts; qualifications; protocols; prescriptive authorization; anesthesia care.

(A) An advanced practice registered nurse applicant shall furnish evidence satisfactory to the board that the applicant:

(1) has met all qualifications for licensure as a registered nurse; and

(2) holds current specialty certification by a board‑approved credentialing organization. New graduates shall provide evidence of certification within one year of program completion; however, psychiatric clinical nurse specialists shall provide evidence of certification within two years of program completion; and

(3) has earned a master's degree from an accredited college or university, except for those applicants who:

(a) provide documentation as requested by the board that the applicant was graduated from an advanced, organized formal education program appropriate to the practice and acceptable to the board before December 31, 1994; or

(b) graduated before December 31, 2003, from an advanced, organized formal education program for nurse anesthetists accredited by the national accrediting organization of that specialty. CRNA's who graduate after December 31, 2003, must graduate with a master's degree from a formal CRNA education program for nurse anesthetists accredited by the national accreditation organization of the CRNA specialty. An advanced practice registered nurse must achieve and maintain national certification, as recognized by the board, in an advanced practice registered nursing specialty;

(4) has paid the board all applicable fees; and

(5) has declared specialty area of nursing practice and the specialty title to be used must be the title which is granted by the board‑approved credentialing organization or the title of the specialty area of nursing practice in which the nurse has received advanced educational preparation.

(B) An APRN is subject, at all times, to the scope and standards of practice established by the board‑approved credentialing organization representing the specialty area of practice and shall function within the scope of practice of this chapter and must not be in violation of Chapter 47.

(C)(1) A licensed nurse practitioner, certified nurse‑midwife, or clinical nurse specialist must provide evidence of approved written protocols, as provided in this section. A licensed NP, CNM, or CNS performing delegated medical acts must do so under the general supervision of a licensed physician or dentist who must be readily available for consultation.

(2) When application is made for more than three NP's, CNM's, or CNS's to practice with one physician or when a NP, CNM, or CNS is performing delegated medical acts in a practice site greater than forty‑five miles from the supervising physician, the Board of Nursing and Board of Medical Examiners shall each review the application to determine if adequate supervision exists.

(D)(1) Delegated medical acts performed by a nurse practitioner, certified nurse‑midwife, or clinical nurse specialist must be performed pursuant to an approved written protocol between the nurse and the physician and must include, but is not limited to:

(a) this general information:

(i) name, address, and South Carolina license number of the nurse;

(ii) name, address, and South Carolina license number of the physician;

(iii) nature of practice and practice locations of the nurse and physician;

(iv) date the protocol was developed and dates the protocol was reviewed and amended;

(v) description of how consultation with the physician is provided and provision for backup consultation in the physician's absence;

(b) this information for delegated medical acts:

(i) the medical conditions for which therapies may be initiated, continued, or modified;

(ii) the treatments that may be initiated, continued, or modified;

(iii) the drug therapies that may be prescribed;

(iv) situations that require direct evaluation by or referral to the physician.

(2) The original protocol and any amendments to the protocol must be reviewed at least annually, dated and signed by the nurse and physician, and made available to the board for review within seventy‑two hours of request. Failure to produce protocols upon request of the board is considered misconduct and subjects the licensee to disciplinary action. A random audit of approved written protocols must be conducted by the board at least biennially.

(3) Licensees who change practice settings or physicians shall notify the board of the change within fifteen business days and provide verification of approved written protocols. NP's, CNM's, and CNS's who discontinue their practice shall notify the board within fifteen business days.

(E)(1) A NP, CNM, or CNS who applies for prescriptive authority:

(a) must be licensed by the board as a nurse practitioner, certified nurse‑ midwife, or clinical nurse specialist;

(b) shall submit a completed application on a form provided by the board;

(c) shall submit the required fee;

(d) shall provide evidence of completion of forty‑five contact hours of education in pharmacotherapeutics acceptable to the board, within two years before application or shall provide evidence of prescriptive authority in another state meeting twenty hours in pharmacotherapeutics acceptable to the board, within two years before application;

(e) shall provide at least fifteen hours of education in controlled substances acceptable to the board as part of the twenty hours required for prescriptive authority if the NP, CNM, or CNS has equivalent controlled substance prescribing authority in another state;

(f) shall provide at least fifteen hours of education in controlled substances acceptable to the board as part of the forty‑five contact hours required for prescriptive authority if the NP, CNM, or CNS initially is applying to prescribe in Schedules III through V controlled substances.

(2) The board shall issue an identification number to the NP, CNM, or CNS authorized to prescribe medications. Authorization for prescriptive authority is valid for two years unless terminated by the board for cause. Initial authorization expires concurrent with the expiration of the Advanced Practice Registered Nurse license.

(3) Authorization for prescriptive authority must be renewed after the applicant meets requirements for renewal and provides documentation of twenty hours acceptable to the board of continuing education contact hours every two years in pharmacotherapeutics. For a NP, CNM, or CNS with controlled substance prescriptive authority, two of the twenty hours must be related to prescribing controlled substances.

(F)(1) Authorized prescriptions by a nurse practitioner, certified nurse‑midwife, or clinical nurse specialist with prescriptive authority:

(a) must comply with all applicable state and federal laws;

(b) is limited to drugs and devices utilized to treat common well‑defined medical problems within the specialty field of the nurse practitioner or clinical nurse specialist, as authorized by the physician and listed in the approved written protocols. The Board of Nursing, Board of Medical Examiners, and Board of Pharmacy jointly shall establish a listing of classifications of drugs that may be authorized by physicians and listed in approved written protocols;

(c) do not include prescriptions for Schedule II controlled substances; however, Schedules III through V controlled substances may be prescribed if listed in the approved written protocol and as authorized by Section 44‑53‑300;

(d) must be signed by the NP, CNM, or CNS with the prescriber's identification number assigned by the board and all prescribing numbers required by law. The prescription form must include the name, address, and phone number of the NP, CNM, or CNS and physician and must comply with the provisions of Section 39‑24‑40. A prescription must designate a specific number of refills and may not include a nonspecific refill indication;

(e) must be documented in the patient record of the practice and must be available for review and audit purposes.

(2) A NP, CNM, or CNS who holds prescriptive authority may request, receive, and sign for professional samples, except for controlled substances in Schedule II, and may distribute professional samples to patients as listed in the approved written protocol, subject to federal and state regulations.

(G) Prescriptive authorization may be terminated by the board if a NP, CNM, or CNS with prescriptive authority has:

(1) not maintained certification in the specialty field;

(2) failed to meet the education requirements for pharmacotherapeutics;

(3) prescribed outside the scope of the approved written protocols;

(4) violated a provision of Section 40‑33‑110; or

(5) violated any state or federal law or regulations applicable to prescriptions.

(H)(1) Nothing in this section may be construed to require a CRNA to obtain prescriptive authority to deliver anesthesia care.

(2) A CRNA shall practice pursuant to approved written guidelines developed with the supervising licensed physician or dentist or by the medical staff within the facility where practice privileges have been granted and must include, but are not limited to:

(a) the following general information:

(i) name, address, and South Carolina license number of the registered nurse;

(ii) name, address, and South Carolina license number of the supervising physician, dentist, or the physician director of anesthesia services or the medical director of the facility;

(iii) dates the guidelines were developed, and dates the guidelines were reviewed and amended;

(iv) physical address of the primary practice and any additional practice sites;

(b) these requirements for providing anesthesia services:

(i) documentation of clinical privileges in the institutions where anesthesia services are provided, if applicable;

(ii) copy of job description;

(iii) policies and procedures that outline the pre‑anesthesia evaluation, induction, intra‑operative maintenance, and emergence from anesthesia.

(iv) evidence of outcome evaluation for anesthesia services.

(3) The original and any amendments to the approved written guidelines must be reviewed at least annually, dated and signed by the CRNA and physician or dentist, and must be made available to the board for review within seventy‑two hours of request. Failure to produce the guidelines is considered misconduct and subjects the licensee to disciplinary action. A random audit of approved written guidelines must be conducted by the board at least biennially.

(4) A person who changes primary practice settings or physician or dentist shall notify the board of this change within fifteen business days and provide verification of approved written guidelines. A CRNA who discontinues his or her practice shall notify the board within fifteen business days.

(5) The physician or dentist responsible for the supervision of a CRNA must be identified on the anesthesia record before administration of anesthesia.

HISTORY: 2004 Act No. 225, Section 1; 2008 Act No. 194, Section 2.

**SECTION 40‑33‑35.** Licensing of applicant authorized to practice in other states.

An applicant for a license who currently holds or has held an authorization to practice nursing in another state or jurisdiction in this country or territory or dependency of the United States may be licensed by the board by endorsement, without examination, if the applicant:

(1) submits a completed application on a form provided by the board;

(2) submits one 2" × 2" photograph signed and dated;

(3) submits the appropriate application fee;

(4) submits satisfactory proof of identity and age demonstrating that the applicant is eighteen years of age or older;

(5) submits a copy of the applicant's social security card or permanent resident card; a resident alien who does not have a social security number must have an alien identification number;

(6) has not committed any acts that are grounds for disciplinary action;

(7) has completed all requirements for graduation from a nursing education program approved by the state or jurisdiction in this country or territory or dependency of the United States in which the program is located, as evidenced by a graduation transcript or other proof of education satisfactorily demonstrating graduation as determined by the board. The applicant's education must be equivalent to that required in this State at the time of the applicant's initial licensure in the other jurisdiction. An applicant shall comply with these educational requirements for basic RN licensure and satisfy the requirements of Section 40‑33‑34 to practice as an APRN;

(8) submits verification of current or prior authorization to practice as a nurse in another state or jurisdiction or territory or dependency of the United States and that a license:

(a) has been issued on the basis of passing the State Board Test Pool Examination before 1983 or the appropriate National Council Licensure Examination;

(b) was not issued on the basis of passing the State Board Test Pool Examination before 1983 or the appropriate National Council Licensure Examination, in which case the applicant shall demonstrate not fewer than three years of successful practice as a licensed nurse in another state or jurisdiction in this country without disciplinary action that resulted in restriction of practice, including probation;

(9) evidence of continued competency as provided in this chapter; and

(10) whose native language is not English, submits evidence of passing the Test of English as First Language (TOEFL), Test of Written English (TWE), and Test of Spoken English (TSE) offered by the TOEFL/TSE Services or another service approved by the board.

HISTORY: 2004 Act No. 225, Section 1; 2008 Act No. 194, Section 3.

Editor's Note

Prior Laws:1935 (39) 173; 1942 Code Section 5228; 1947 (45) 579; 1952 Code Section 56‑986; 1959 (51) 307; 1962 Code Section 56‑986; 1969 (56) 263; 1987 Act No. 114, Section 9; 1976 Code Section 40‑33‑560.

**SECTION 40‑33‑36.** Issuance of licenses; temporary or limited licenses.

(A) The board shall examine all candidates for licensure as nurses, pass upon their qualifications to practice nursing in this State, and issue each successful applicant a license. A license is the property of the State and subject to return upon demand.

(B) A license must be issued in the person's legal name as verified by a birth certificate or other legal document acceptable to the board. If a licensee changes her or his name after a license has been issued, notification of the change must be filed with the board within fifteen business days, accompanied by a copy of the legal document that authorizes the change. A licensee's name may not be changed on a record in the office of the board without written authorization for the change and an adequate identification of the applicant.

(C) A statement verifying current license status may be secured from the board by a licensee who submits adequate identification and a written statement explaining the reason for the request, if the reason is satisfactory to the board.

(D)(1) The board may issue a temporary or limited license to practice nursing, in accordance with this subsection, or as may be provided for in regulation, to an applicant:

(a) for licensure as an advanced practice registered nurse, a registered nurse, or as a licensed practical nurse, if the applicant's preliminary credentials have been approved and whose fee has been paid;

(b) for licensure by endorsement as an advanced practice registered nurse, a registered nurse, or as a licensed practical nurse, for up to sixty days, unless further authorized by the administrator or designee, pending completion and approval of the application, if the applicant has filed an application, paid the fee, and has produced a valid license to practice in another jurisdiction;

(c) while participating in a refresher course for up to ninety days, unless further authorized by the administrator or designee, when the applicant is seeking reinstatement of a lapsed or an inactive license or licensure by endorsement and must submit evidence of nursing competence before returning to nursing practice.

(2) An applicant who has failed the licensing examination is not eligible for a temporary permit to practice nursing.

(3) The board or department may immediately cancel a temporary permit or license that was issued based upon false, fraudulent, or misleading information provided by an applicant.

HISTORY: 2004 Act No. 225, Section 1; 2008 Act No. 194, Section 4.

**SECTION 40‑33‑37.** Volunteer licenses.

(A) The board may issue a volunteer license without a fee to a retired nurse, upon written application, to donate nursing services through one specific charitable organization approved by the board if the nurse:

(1) has been granted inactive status and has practiced not less than twenty‑five years or until age sixty‑five after a minimum of fifteen years of practice;

(2) submits evidence of completing not less than twenty‑five hours of initial training with the charitable organization; and

(3) has been on the official inactive status list for not more than ten years.

(B) A volunteer license is not transferable and authorizes the retired nurse to provide nursing services to others without remuneration of any kind. A separate application must be filed and a separate license must be issued for every charitable organization to which the retired nurse wishes to donate nursing services.

(C) A volunteer license may be renewed annually, except as otherwise provided in Section 40‑1‑50, upon application and satisfactory demonstration of continued competency or not less than twenty‑five hours of service or additional training per year with the same charitable organization. A volunteer license may be renewed if the license has been renewed without interruption with the same charitable organization and all other qualifications have been met.

(D) The board may promulgate regulations to carry out the provisions of this section.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑38.** Renewal of licenses.

(A) A license issued pursuant to this chapter may be renewed biennially or as otherwise provided by the board in regulation. A licensee who has not demonstrated continuing nursing competence, as required by this chapter, is not eligible for renewal or issuance of an active license.

(B) A licensee shall complete the renewal form and submit it to the board with the renewal fee. Upon receipt of the application and the fee, the board shall verify the accuracy of the application and renew the license for the applicable period. If a licensee fails to timely renew his or her license, the license is deemed lapsed at the close of the renewal period, and the licensee may not practice nursing in this State until the licensee is reinstated to practice. The board may reinstate the licensee on payment of a reinstatement fee, the current renewal fee, and demonstration of continued competency satisfactory to the board. The board may deny reinstatement based on evidence of misconduct.

(C) A licensee shall notify the board in writing within fifteen business days of any change of address.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑39.** Identification badges.

A licensed nurse must clearly identify himself or herself as officially licensed by the board. A licensed nurse shall wear a clearly legible identification badge or other adornment at least one inch by three inches in size bearing the nurse's first or last name, or both, and title as officially licensed.

HISTORY: 2008 Act No. 345, Section 2.

**SECTION 40‑33‑40.** Demonstration of competency for initial and renewal of licenses.

(A) Demonstration of competency for initial licensure requires documented evidence of the following:

(1) graduation from an approved nursing education program; and

(2) successful completion of the NCLEX appropriate to the area of licensure and appropriate credentials for advanced practice registered nursing licensure, if applicable.

(B) Demonstration of competency for:

(1) renewal of an active license biennially requires documented evidence of at least one of the following requirements during the licensure period:

(a) completion of thirty contact hours from a continuing education provider recognized by the board;

(b) maintenance of certification or recertification by a national certifying body recognized by the board;

(c) completion of an academic program of study in nursing or a related field recognized by the board; or

(d) verification of competency and the number of hours practiced, as evidenced by employer certification on a form approved by the board;

(2) reinstatement from lapsed or inactive status of five years or less requires documented evidence of at least one of the following within the preceding two years:

(a) completion of thirty contact hours from a continuing education provider recognized by the board and successful completion of a course in legal aspects approved by the board;

(b) maintenance of certification or recertification by a national certifying body recognized by the board;

(c) completion of an academic program of study in nursing or a related field recognized by the board;

(d) verification of competency and the number of hours practiced, as evidenced by employer certification on a form approved by the board; or

(e) successful completion of a refresher course approved by the board;

(3) reinstatement from lapsed or inactive status of more than five years requires documented evidence of at least one of the following within the preceding two years:

(a) successful completion of a refresher course approved by the board; or

(b) successful completion of the NCLEX appropriate to the area of licensure.

(C) Demonstration of competency for reinstatement from lapsed or inactive status or licensure of a person who holds a current authorization to practice in another state or jurisdiction in this country or territory or dependency of the United States requires documented evidence of at least one of the requirements in subsection (B) during the preceding two years.

(D) Failure to comply with applicable continued competency requirements results in nonrenewal or denial of the application. A licensee shall maintain all documented evidence of compliance for at least four years. This documented evidence must be presented by the licensee within five business days of request by a representative of the department acting in its discretion or in accordance with a random audit of a sample of licensees. Failure to provide satisfactory documented evidence of compliance within the prescribed time results in the immediate temporary suspension or cancellation of the license pending compliance with all requirements for licensure and until order of the board.

HISTORY: 2004 Act No. 225, Section 1; 2008 Act No. 194, Section 5.

**SECTION 40‑33‑41.** Request for inactive status.

Upon request on a form provided by the board and payment of the applicable fee, the board shall place a person on the official inactive status if the person is currently licensed under this chapter and does not meet the minimum continued competency requirement for renewal or wishes to retire from practice temporarily. While on inactive status the person is not subject to the payment of any renewal fees and must not practice nursing in this State. To apply for reinstatement, the person shall submit an application, pay a reinstatement fee for the current period, and demonstrate continued competency as defined in regulation. The board may deny reinstatement based on evidence of unlawful acts, incompetence, unprofessional conduct, or other misconduct.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑42.** Delegation of tasks to unlicensed assistive personnel.

(A) An advanced practice registered nurse, registered nurse, or licensed practical nurse is responsible for the delegation and supervision of nursing tasks to unlicensed assistive personnel. Tasks that may be assigned to unlicensed assistive personnel must be stated in the employers' policies, and the employer shall verify the training of this personnel and their competencies to perform the tasks.

(B) Tasks which may be delegated and performed under supervision may include, but are not limited to:

(1) meeting patients' needs for personal hygiene;

(2) meeting patients' needs relating to nutrition;

(3) meeting patients' needs relating to ambulation;

(4) meeting patients' needs relating to elimination;

(5) taking vital signs;

(6) maintaining asepsis;

(7) observing, recording, and reporting any of the tasks enumerated in the subsection.

(C) Subject to the rights of licensed physicians and dentists under state law, the administration of medications is the responsibility of a licensed nurse as prescribed by the licensed physician, dentist, other authorized licensed provider or as authorized in an approved written protocol or guidelines. Unlicensed assistive personnel must not administer medications, except as otherwise provided by law.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑43.** Provision of medications in community residential facilities by selected unlicensed persons.

In community residential care facilities, the provision of medications may be performed by selected unlicensed persons with documented medication training and skill competency evaluation. The provision of medications by selected unlicensed persons is limited to oral and topical medications, and regularly scheduled insulin, and prescribed anaphylactic treatments under established medical protocol and does not include sliding scale insulin or other injectable medications. Licensed nurses may train and supervise selected unlicensed persons to provide medications and, after reviewing their competency evaluations, may approve selected unlicensed persons for the provision of medications.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑44.** Exceptions to supervision requirements for licensed practical nurses.

Notwithstanding any other provision of law, requiring the practice of practical nursing to be performed under the direction of an advanced practice registered nurse, registered nurse, licensed physician, or licensed dentist, a licensed practical nurse may provide nursing care authorized for licensed practical nurses under this chapter without the on‑site supervision of an advanced practice registered nurse, registered nurse, licensed physician, or licensed dentist in:

(1) home or residential settings, if a registered nurse has approved the plan of care;

(2) public schools and in institutions and facilities of the Department of Juvenile Justice and Department of Corrections, if the licensed practical nurse follows the policies, procedures, and guidelines of the employing entity and if a registered nurse is available on call by telecommunications.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑50.** Administrative support of board activities; establishment of fees.

(A) The Department of Labor, Licensing and Regulation shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40‑1‑50.

(B) Initial fees must be established by the board in regulation and shall serve as the basis for necessary adjustments in accordance with Section 40‑1‑50(D) to ensure that they are sufficient, but not excessive, to cover expenses, including the total of the direct and indirect costs to the State for the operations of the board.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑70.** Code of ethics.

Nurses shall conduct themselves in accordance with the code of ethics adopted by the board in regulation.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑80.** Investigation of complaints and violations.

The department shall investigate complaints and violations of this chapter as provided in Section 40‑1‑80.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑90.** Administration of oaths.

In addition to the powers and duties enumerated in Section 40‑1‑90, the presiding officer of the board may administer oaths when taking of testimony upon any and all matters pertaining to the business or duties of the board.

HISTORY: 2004 Act No. 225, Section 1.

Editor's Note

Prior Laws:1935 (39) 173; 1942 Code Section 5226; 1947 (45) 579; 1952 Code Section 56‑968; 1962 Code Section 56‑968; 1976 Code Section 40‑33‑280.

**SECTION 40‑33‑100.** Issuance of restraining orders and cease and desist orders.

Restraining orders and cease and desist orders may be issued in accordance with Section 40‑1‑100.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑110.** Grounds for discipline of licensees.

(A) In addition to the grounds provided in Section 40‑1‑110, upon finding misconduct the board may cancel, fine, suspend, revoke, issue a public reprimand or a private reprimand, or restrict, including probation or other reasonable action such as requiring additional education and training, the authorization to practice of a person who has:

(1) violated a federal, state, or local law involving alcohol or drugs or committed an act involving a crime of moral turpitude. A conviction is not required to prove misconduct under this item. The board may receive evidence to reach an independent conclusion as to the commission of the violation; however, the determination may be used only in making the administrative decision regarding the proposed discipline;

(2) allowed another person to use the licensee's authorization to practice;

(3) wilfully or repeatedly followed a course of conduct that, by reasonable professional or ethical standards, renders the licensee incompetent to assume, perform, or be entrusted with the duties, responsibilities, or trusts which normally devolve upon a licensed nurse;

(4) had a license to practice nursing in another state suspended or revoked or had other disciplinary action taken by another state; in which case, the action by another state creates a rebuttable presumption that a South Carolina nursing license may be acted upon similarly. The finding may be based solely upon the record in the other state, and there is no requirement for a de novo hearing on the facts established in that proceeding. Other evidence is admissible to support or rebut this presumption. The licensee must produce a copy of all transcripts, documents, orders, or other items from the other state's proceedings upon request by the department. Failure to produce all requested items within ninety days of the request results in the immediate temporary suspension of the license until further order of the board;

(5) violated a provision of this chapter or a regulation or order of the board;

(6) failed to cooperate with an investigation or other proceeding of the board;

(7) failed to comply with a directive or order of the department or board;

(8) disseminated a patient's health or personal information acquired during the course of practice to persons not entitled by law or hospital or agency policy to disclosure of this information;

(9) falsified or altered, for the purpose of reflecting incorrect or incomplete information, any organization's records, including personnel records or patient records;

(10) misappropriated money, property, or drugs from an employer or patient;

(11) obtained or attempted to obtain a fee for patient service for one's self or for another through fraud, misrepresentation, or deceit;

(12) wilfully aided, abetted, assisted, or hired an individual to violate a provision of this chapter or a regulation of the board;

(13) obtained, possessed, administered, or furnished prescription drugs to a person including, but not limited to, one's self, except as directed by a person authorized by law to prescribe drugs;

(14) engaged in the practice of nursing when judgment or physical ability is impaired by alcohol, drugs, or controlled substances or has declined or been unsuccessful in accomplishing rehabilitation;

(15) sustained a physical or mental disability that renders further practice dangerous to the public;

(16) omitted, in a grossly negligent fashion, to record information concerning a patient that would be relevant to that patient's condition;

(17) indicated the witnessing of wastage of narcotics or controlled substances on record when the wastage was not witnessed or failed to obtain a witness to the wastage of narcotics or controlled substances;

(18) failed to make or keep accurate, intelligible entries in records as required by law, policy, or standards for the practice of nursing;

(19) obtained, or attempted to obtain, a license to practice nursing for one's self or for another through fraud, deceit, misrepresentation, or any other dishonesty in any phase of the licensing process including, but not limited to, the examination;

(20) practiced nursing without a valid, current South Carolina license or aided, abetted, or assisted another to practice nursing without a valid, current South Carolina license;

(21) practiced outside the scope of the license by assuming duties and responsibilities without adequate education as determined by the board;

(22) failed to report incompetent or unprofessional practice of a licensed nurse to the appropriate authorities, including the board;

(23) assigned unqualified persons to perform nursing care functions, tasks, or responsibilities or failed to effectively supervise persons to whom nursing functions are delegated or assigned;

(24) abandoned a patient after accepting the patient assignment and establishing a nurse‑patient relationship and disengaged the nurse‑patient relationship without giving reasonable notice to the appropriate personnel responsible for making arrangements for continuation of nursing care;

(25) failed to comply with best practice standards and recommendations to minimize transmission of infectious or communicable diseases;

(26) failed to timely notify the department of changes in information required in an original or renewal application.

(B)(1) Acts or omissions by a licensee or applicant causing the denial, revocation, suspension, or restriction of a license to practice in another state supports the issuance of a formal complaint and the commencement of disciplinary proceedings. This subsection applies only if the disciplinary action taken in another state is based on grounds that would constitute misconduct in this State. Proof of these acts or omissions may be shown by a copy of the transcript of record of the disciplinary proceedings in another state or a copy of the final order, consent order, or similar order stating the basis for the action taken.

(2) Upon filing an application or an initial complaint alleging that the applicant or licensee has been disciplined in another state, the applicant or licensee must produce copies of all transcripts, documents, and orders used, relied upon, or issued by the licensing authority in the other state. Failure to produce these items within ninety days of written request results in the denial of the individual's application or suspension of the individual's license to practice in this State until these items have been provided.

(3) The applicant or licensee may present mitigating testimony to the board or hearing panel regarding disciplinary action taken in another state or evidence that the acts or omissions committed in another state do not constitute misconduct under this chapter.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑111.** Reporting misconduct; review of findings of board.

(A) An employer, including an agency, or supervisor of nurses, shall report any instances of the misconduct or the incapacities described in Section 40‑33‑110 to the State Board of Nursing not more than fifteen business days, excepting Saturdays, Sundays, and legal holidays, from the discovery of the misconduct or incapacity. A nurse supervisor who fails to timely report the misconduct or incapacity may be subject to disciplinary action and civil sanctions as provided for in Section 40‑33‑120. An employer who is not licensed by the board and who fails to timely report the misconduct or incapacity shall pay a civil penalty of one thousand dollars per violation upon notice of the board.

(B) The findings of the board, including the amount of the fine, are final unless within thirty days after receipt of their notice the employer submits a request in writing to the board for a review of the findings or the amount of the fine. If a request for review is made to the board, a final determination must be made after an opportunity for a hearing pursuant to the Administrative Procedures Act.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑115.** Jurisdiction of the board.

The board has jurisdiction over the acts and omissions of current and former licensees as provided in Section 40‑1‑115.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑116.** Mental or physical examinations; consent to submit; review hearing; admissibility of medical records.

(A) If the board finds that probable cause exists that a licensee or applicant may be addicted to alcohol or drugs or may have sustained a physical or mental disability that may render practice by the licensee or applicant dangerous to the public, the board, without a formal complaint or opportunity for hearing, may require a licensee or applicant to submit to a mental or physical examination by authorized practitioners designated by the board. The results of an examination are admissible in a hearing before the board, notwithstanding a claim of privilege under a contrary rule of law or statute. A person who accepts the privilege of engaging in the licensed practice of nursing in this State, or who files an application for a license to practice under this chapter, is deemed to have consented to submit to a mental or physical examination and to have waived all objections to the admissibility of the results in a hearing before the board upon the grounds that this constitutes a privileged communication. If a licensee or applicant fails to submit to an examination when properly directed to do so by the board, unless the failure was due to circumstances beyond the person's control, the board shall enter an order automatically suspending or denying the license pending compliance and further order of the board. A licensee or applicant who is required to submit to a mental or physical examination may request within twenty‑four hours of receipt of the requirement a review by an administrative hearing officer appointed by the board or its designee. Filing of a written request for a review by an administrative hearing officer does not stay the time directed in which to submit to a mental or physical examination, and no stay may be issued, except as provided in this section. Upon proper written request, a review hearing must be conducted within forty‑eight hours of receipt of the request. Failure to provide a review hearing within the prescribed time stays the time required to submit to a mental or physical examination until a decision is issued by the administrative hearing officer. The review hearing for purposes of this section must be limited to the issues of whether the person is a licensee or applicant, whether reasonable grounds exist to require a mental or physical examination, and whether the licensee or applicant has been informed that failure to submit to an examination will result in the entry of an order automatically suspending or denying the license pending compliance and further order of the board. The administrative hearing officer's decision is not subject to appeal. A licensee or applicant who is prohibited from practicing under this subsection must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice with reasonable skill and safety.

(B) The board upon probable cause may obtain records relating to the mental or physical condition of a licensee or applicant including, but not limited to, psychiatric records; and these records are admissible in a hearing before the board, notwithstanding any other provision of law. A person who accepts the privilege of engaging in the licensed practice of nursing in this State, or who files an application to practice under this chapter, is deemed to have consented to the board obtaining these records and to have waived all objections to the admissibility of these records in a hearing before the board upon the grounds that this constitutes a privileged communication. If a licensee or applicant refuses to sign a written consent for the board to obtain these records when properly requested by the board, unless the failure was due to circumstances beyond the person's control, the board shall enter an order automatically suspending or denying the license pending compliance and further order of the board. A licensee or applicant who is prohibited from practicing under this subsection must be afforded at reasonable intervals an opportunity to demonstrate to the board the ability to resume or begin the practice of nursing with reasonable skill and safety.

(C) An order requiring a licensee or applicant to submit to a mental or physical examination or an order requiring the submission of records relating to the mental or physical condition of a licensee or applicant is confidential and must not be disclosed, except to the extent necessary for the proper disposition of the matter before the board. An order automatically suspending or denying a license pending compliance and further order of the board is public information under the South Carolina Freedom of Information Act. A decision of an administrative hearing officer is confidential, unless an order automatically suspending or denying a license pending compliance and further order of the board has been issued, in which case the administrative hearing officer's decision and the order requiring an examination of records is public information under the South Carolina Freedom of Information Act.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑120.** Fines and other discipline; effective date; stay or supersedeas.

(A) In addition to the powers and duties enumerated in Section 40‑1‑120, the board may issue private reprimands. The board may impose a fine of up to two thousand dollars for each violation of a provision of this chapter or of a regulation promulgated by the board, not to exceed a total of ten thousand dollars. Fines are payable immediately upon the effective date of discipline unless otherwise provided by the board. Interest accrues after fines are due at the maximum rate allowed by law. No licensee against whom a fine is levied is eligible for reinstatement until the fine has been paid in full.

(B) A decision by the board to revoke, suspend, or restrict a license or to limit or discipline a licensee becomes effective upon delivery of a copy of the decision to the licensee and a petition for review does not operate as a supersedeas or stay.

(C) No stay or supersedeas may be granted pending an appeal from a decision by the board to revoke, suspend, or restrict the license for six months or more. An appeal taken to an administrative law judge as provided under Article 5, Chapter 23, Title 1 has precedence on the calendar of an administrative law judge, is considered an emergency appeal if the board has revoked, suspended, or restricted a license for six months or more, and should be heard not later than thirty days from the date the petition is filed. The review is limited to the record established by the board hearing.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑130.** Denial of licensure.

As provided in Section 40‑1‑130, the board may deny licensure to an applicant based on the same grounds for which the board may take disciplinary action against a licensee.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑140.** Effect of criminal record.

As provided for in Section 40‑1‑140, a license may not be denied based solely on a person's prior criminal record.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑150.** Surrender of license.

A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter may voluntarily surrender the license to practice in accordance with and subject to the provisions of Section 40‑1‑150.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑160.** Appeal; board decision not stayed pending appeal.

A person aggrieved by a final action of the board may seek review of the decision to the Administrative Law Court in accordance with Section 40‑1‑160. Service of a petition for review does not stay the board's decision pending completion of the appellate process.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑170.** Costs.

A person found in violation of this chapter or regulations promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40‑1‑170.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑180.** Payment of costs and fines.

All costs and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Section 40‑1‑180. No person against whom a fine is levied is eligible for the issuance or reinstatement of an authorization to practice until the fine has been paid in full.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑190.** Matters relating to complaint and proceeding privileged.

(A) No person connected with any complaint, investigation, or other proceeding before the board including, but not limited to, a witness, counsel, counsel's secretary, board member, board employee, court reporter, or investigator may mention the existence of the complaint, investigation, or other proceeding, disclose any information pertaining to the complaint, investigation, or other proceeding, or discuss any testimony or other evidence in the complaint, investigation, or proceeding, and then only to the extent necessary for the proper disposition of the complaint, investigation, or other proceeding.

(B) Every communication, oral or written, to the board, department, staff, counsel, or any other person acting on behalf of the board or department during the investigation, hearing, or adjudication of the disciplinary matters including, but not limited to, investigative reports concerning interviews and issues under investigation, correspondence, summaries, incident reports, computer printouts, and documents created during peer review proceedings are privileged and these persons are immune from liability.

(C) Information that has been declared confidential or personal under this chapter or other applicable law must not be disclosed, except to the extent necessary for the proper disposition of the matter before the board, and is protected in the same manner as provided in Section 40‑71‑20, or as otherwise provided by law.

(D) The identity of the initial complainant and any confidential informants or other witnesses who do not testify must not be disclosed to other parties, entities, or persons, and all information contained in confidential investigative files is privileged from disclosure for any reason whatsoever, except as provided for in subsection (E).

(E) Whenever the department receives information indicating a violation of state or federal law, the department may provide that information, to the extent the department considers necessary, to the appropriate state or federal law enforcement or regulatory body.

(F) No information in investigative files or disciplinary proceedings is required to be expunged pursuant to any other provision of state law.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑200.** Unauthorized practice; penalty.

A person who practices or offers to practice nursing in this State in violation of this chapter or who knowingly submits false information for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than fifty thousand dollars. Each violation constitutes a separate offense. The provisions of this chapter apply to a person or entity aiding and abetting in a violation of this chapter.

HISTORY: 2004 Act No. 225, Section 1.

Editor's Note

Prior Laws:1935 (39) 173; 1942 Code Section 5230; 1947 (45) 579; 1952 Code Section 56‑953; 1962 Code Section 56‑953; 1969 (56) 263; 1987 Act No. 114, Section 2; 1976 Code Section 40‑33‑20.

**SECTION 40‑33‑210.** Civil action for injunctive relief.

The department, in addition to instituting a criminal proceeding, may institute a civil action through the Administrative Law Court, in the name of the State, for injunctive relief against a person violating this chapter, a regulation promulgated under this chapter, or an order of the board. For each violation the administrative law judge may impose a fine of not more than ten thousand dollars.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑220.** Severability.

If a provision of this chapter or the application of a provision of this chapter to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this statute which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

HISTORY: 2004 Act No. 225, Section 1.

**SECTION 40‑33‑230.** Licensure requirements for foreign‑educated nurses.

Beginning January 1, 2007, the State Board of Nursing shall require foreign‑educated candidates for licensing as registered nurses to pass:

(1) the National Council Licensure Examination (NCLEX); and

(2) an English language proficiency test that determines whether or not the license applicant is proficient in conversational English with regard to medical terminology and the skills required of a registered nurse.

HISTORY: 2005 Act No. 87, Section 5.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

ARTICLE 15

Nurse Licensure Compact

**SECTION 40‑33‑1305.** Purposes; financial support.

(A) The Nurse Licensure Compact is created and entered into by this State with all other states legally joining in the form substantially as set forth in this article.

(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.

(C) All costs associated with the financial support of the compact operation must be borne by the hiring agencies or agents.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1310.** Definitions.

As used in this article:

(1) "Adverse action" means a home or remote state action.

(2) "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

(3) "Coordinated licensure information system" means 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.

(4) "Current significant investigative information" means:

(a) investigative information that a licensing board, after a preliminary inquiry, which includes notification and an opportunity for the nurse to respond, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(5) "Home state" means the party state that is the nurse's primary state of residence.

(6) "Home state action" means an 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. This term includes the revocation or suspension of a nurse's license, placing a nurse on probation, or any other action that affects a nurse's authorization to practice.

(7) "Licensee" means a person licensed by the South Carolina Board of Nursing or the nurse licensing board of a party state.

(8) "Licensing board" means a party state's regulatory agency that is responsible for licensing nurses.

(9) "Multi‑State licensure privilege" means 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. All party states have the authority, in accordance with existing state law, to take actions against a nurse's privilege including, but not limited to, revocation, suspension, probation, or any other action which affects a nurse's authorization to practice.

(10) "Nurse" means a registered nurse or licensed practical or vocational nurse as those terms are defined by each party state's practice laws.

(11) "Party state" means any state that has adopted this compact.

(12) "Remote state" means 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.

(13) "Remote state action" means:

(a) an 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 nurse licensing board or other authority, including actions against a nurse's multi‑state licensure privilege to practice in the remote state;

(b) cease and desist and other injunctive or equitable orders issued by a remote state or its nurse licensing board.

(14) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(15) "State practice laws" means 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. This 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.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1315.** Recognition of multistate licensure privilege; revocation or suspension of license; nonparty state license applicants.

(A) A license to practice registered nursing that is issued by a home state to a resident in that state must be recognized by each party state as authorizing a multi‑state 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 must be recognized by each party state as authorizing a multi‑state 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 and all other applicable state laws.

(B) A party state may, in accordance with that state's due process laws, revoke, suspend, or limit the multi‑state licensure privilege of any licensee to practice in its state and may take any other actions under its applicable state laws that are necessary to protect the health and safety of its 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) A 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 and includes 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)(1) A registered nurse who has been granted multi‑state licensing privileges by a party state may practice registered nursing in this State.

(2) A licensed practical nurse who has been granted multi‑state licensing privileges by a party state may practice practical nursing in this State.

(3) A nurse who has been granted multi‑state licensing privileges as provided for in subsection (D)(1) or (2) shall notify the board, on a standard form provided by the board, before commencing any nursing practice in this State, of the identity and location of the nurse's prospective practice location, the nurse's current address, and other contact information as requested. A nurse shall maintain at all times a current address and contact information during practice in this State.

(E) The compact does not effect additional requirements imposed by states for advanced‑practice registered nursing. A multi‑state licensure privilege to practice registered nursing granted by a party state must 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.

(F) A person who does not reside in a party state may continue to apply for nurse licensure in party states as provided for under the laws of each party state. If a license is granted to the person, the license does not grant the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1320.** Licensees to only be licensed in home state; change of primary state of residence.

(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 multi‑state 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 must 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 must 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 obtains a license from the new home state, the license issued by the nonparty state is not affected and shall remain in full force if authorized under the laws of the nonparty state.

(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 multi‑state licensure privilege to practice in other party states.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1325.** Adverse actions affecting license; reporting to coordinated licensure information system.

(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 these 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. The licensing board of that state also may 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 party state may take adverse action that affects the multi‑state 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 the purposes of imposing an adverse action, the licensing board of the home state shall give the same priority and effect to the reported conduct received from a remote party state as it would if the conduct had occurred in the home state. In so doing, the licensing board of the home state shall apply its own state laws to determine appropriate action to be taken against the licensee.

(E) The home state may take adverse action based upon the factual findings of the remote party 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 is confidential information. A party state shall require a licensee who enters an alternative program 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.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1330.** Actions by licensing board against licensee.

(A) If a licensing board finds current significant investigative information, the licensing board, after giving the licensee notice and an opportunity to respond, shall conduct a hearing and decide what adverse action, if any, to take against the licensee.

(B) If a licensing board finds current significant investigative information, 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 must be promptly commenced and determined.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1335.** Powers of licensing board; recovery of investigative costs; subpoenas; cease and desist orders; regulations.

A party state nurse licensing board may:

(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 must 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) promulgate uniform regulations that are developed by the compact administrators.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1340.** Creation of coordinated data base; reporting adverse action; sharing information with nonparty states.

(A) A party state 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 must 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, a party state's licensing board shall promptly report to the coordinated licensure information system any adverse action taken against a licensee, action against multi‑state 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 must be transmitted through the coordinated licensure information system only to party state licensing boards.

(D) Notwithstanding any other provision of law, a party state's licensing board, which contributes information to the coordinated licensure information system, may designate information that must 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 must 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 the 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 must 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.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1345.** Head of nurse licensing board designated administrator of compact for state; furnishing information on licensees; development of uniform rules and regulations.

(A) The administrator or head of the nurse licensing board of each party state or that person's designee must 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 and regulations must be adopted by party states as authorized in this article.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1350.** Immunity of officers and employees of party state licensing boards.

A party state or the officers, employees, or agents of a party state's nurse licensing board who act in accordance with this compact are not liable for any good faith act or omission committed while engaged in the performance of their duties under this compact. "Good faith" as used in this section does not include wilful misconduct, gross negligence, or recklessness.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1355.** Compact; effective date; withdrawal; agreements with nonparty state; amendment.

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

(B) No withdrawal affects 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 before the withdrawal.

(C) This compact does not invalidate or prevent a 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; however, an amendment to this compact does not become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1360.** Arbitration.

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

(1) The party states may submit the issues in dispute to an arbitration panel that consists 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 is final and binding.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."

**SECTION 40‑33‑1365.** Construction; severability.

(A) This compact must be liberally construed so as to effectuate the purposes as stated in Section 40‑43‑1305(B).

(B) The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability of any of them to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of it to any government, agency, person, or circumstance is not affected. If this compact is held contrary to the constitution of any party state, the compact remains 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.

HISTORY: 2005 Act No. 87, Section 2.

Editor's Note

2005 Act No. 87, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to nursing licenses applied for after September 30, 2006."