

NURSING PRACTICE ACT

Signed by the Governor July 17, 1939

Became a law September 19, 1939

Amended 1941, 1943, 1945, 1947, 1949, 1951, 1953, 1955, 1957, 1959, 1961, 1963, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001

Extracted From

Business and Professions Code of California

DIVISION 2. Healing Arts

CHAPTER 6. Nursing

Article 1. Administration

2700. Construction and Citation of Chapter

This chapter of the Business and Professions Code constitutes the chapter on professional nursing and shall be construed as revisory and amendatory of the laws heretofore enacted. It may be cited as the Nursing Practice Act.

(Added by Stats. 1939, c. 807, p. 2346, § 2.).

2701. Board of Registered Nursing

There is in the Department of Consumer Affairs the Board of Registered Nursing consisting of nine members.

Within the meaning of this chapter, board, or the board, refers to the Board of Registered Nursing. Any reference in state law to the Board of Nurse Examiners of the State of California or California Board of Nursing Education and Nurse Registration shall be construed to refer to the Board of Registered Nursing. This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

(Amended by Stats. 1994, c. 908 (SB 2036), § 15; Stats. 1994, c. 1275 (SB 2101), § 10; Stats. 1995, c. 599 (AB 778), § 2; Stats. 1997, c. 759 (SB 827), § 15.)

2702. Qualifications of Members

Each member of the board shall be a citizen of the United States and a resident of the State of California. Three members shall represent the public at large, and shall not be licensed under any board under this division or any board referred to in Section 1000 or 3600 and shall have no pecuniary interests in the provision of health care services. Three members shall be licensed registered nurses under the provisions of this chapter, each of whom shall be active in the practice of his profession engaged primarily in direct patient care with at least five continuous years of experience, and who shall not be engaged as an educator or administrator of a nursing education program under the provisions of this chapter. One member shall be a licensed registered nurse under the provisions of this chapter who shall be active as an educator or administrator in an approved program to train registered nurses. One member shall be a licensed registered nurse who is an administrator of a nursing service with at least five continuous years of experience. One member shall be a licensed physician active in the practice of his profession with at least five years of continuous experience.

(Amended by Stats. 1976, c. 1188, p. 5339, § 12.)

2703. Appointment and Tenure of Members; Vacancies

All appointments shall be for a term of four years and vacancies shall be filled for the unexpired term. No person shall serve more than two consecutive terms.

The Governor shall appoint one of the public members and the licensed members of the board qualified as provided in Section 2702. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

(Amended by Stats. 1982, c. 676, p. 2750, § 10.)

2706. Removal of Member

The Governor has the power to remove any member of the board from office for neglect of any duty required by law, or for incompetency, or unprofessional or dishonorable conduct.

(Added by Stats. 1939, c. 807, p. 2347, § 2.)

2707. Officers of Board

The board shall annually elect from its members a president, vice president, and any other officers as it may deem necessary. The officers of the board shall hold their respective positions during its pleasure.

(Amended by Stats. 1994, c. 1275 (SB 2101), § 11.)

2708. Executive Officer of Board

The board shall appoint an executive officer who shall perform the duties delegated by the board and who shall be responsible to it for the accomplishment of those duties.

The executive officer shall be a nurse currently licensed under this chapter and shall possess other qualifications as determined by the board.

The executive officer shall not be a member of the board.

This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 1994, c. 908 (SB 2036), § 16; Stats. 1997, c. 759 (SB 827), § 16.)

2709. Regular Meetings

The board for the purpose of transacting its business shall meet at least once every three months, at times and places it designates by resolution.

(Added by Stats. 1939, c. 807, p. 2347, § 2.)

2709.5. Manner of Payment of Fees

The board shall accept in payment of any fee required by this chapter cash or any customary or generally accepted medium of exchange, including check, cashier's check, certified check or postal money order. For the purposes of this section, customary or generally accepted medium of exchange does not include postage stamps.

(Added by Stats. 1957, c. 1468, p. 2791, § 1.)

2710. Special Meetings on Notice

Special meetings may be held at such times as the board may elect, or on the call of the president of the board, or of not less than three members thereof.

A written notice of the time, place and object of any special meeting shall be mailed by the executive officer to all members of the board who are not parties to the call, at least fifteen days before the day of the meeting.

(Amended by Stats. 1983, c. 742, § 2.)

2710.5. Advisory Committees

The board, with permission of the Director of the Department of Consumer Affairs, may form advisory committees to advise the board on the implementation of this chapter. Members of such advisory committees shall be entitled to a per diem and expenses as provided in Section 103.

(Added by Stats. 1974, c. 632, p. 1483, § 5.)

2712. Quorum

Five members of the board constitute a quorum for the transaction of business at any meeting.

(Amended by Stats. 1985, c. 1055, § 1.)

2713. Record of Proceedings

The board shall keep a record of all its proceedings, including a register of all applicants for licenses under this chapter and the action of the board upon each application.

(Amended by Stats. 1983, c. 742, § 4.)

2714. Offices; Venue of Legal Proceedings

The office of the board shall be in the city of Sacramento. Suboffices may be established in Los Angeles and San Francisco and such records as may be necessary may be transferred temporarily to them. Legal proceedings against the board may be instituted in any county in which any of the three cities above mentioned is located.

(Added by Stats. 1939, c. 807, p. 2348, § 2.)

2715. Prosecutions by Board; Employees; Seal; Rules and Regulations

The board shall prosecute all persons guilty of violating the provisions of this chapter. Except as provided by Section 159.5, the board, in accordance with the provisions of the Civil Service Law, may employ such personnel as it deems necessary to carry into effect the provisions of this chapter. The board shall have and use a seal bearing the name "Board of Registered Nursing." The board may adopt, amend, or repeal, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of this chapter. This section will become inoperative July 1, 2004, and is repealed by its own terms on Jan. 1, 2005.

(Amended by Stats. 1974, c. 632, p. 1483, § 6.)

2716. Compensation of Members; Per Diem; Expenses

Each member of the board shall receive a per diem and expenses as provided in Section 103.

(Added by Stats. 1959, c. 1645, p. 4022, § 10.)

Article 2. Scope of Regulation

2725. Legislative Declaration; Practice of Nursing; Functions

(a) In amending this section at the 1973-74 session, the Legislature recognizes that nursing is a dynamic field, the practice of which is continually evolving to include more sophisticated patient care activities. It is the intent of the Legislature in amending this section at the 1973-74 session to provide clear legal authority for functions and procedures that have common acceptance and usage. It is the legislative intent also to recognize the existence of overlapping functions between physicians and registered nurses and to permit additional sharing of functions within organized health care systems that provide for collaboration between physicians and registered nurses. These organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

(b) The practice of nursing within the meaning of this chapter means those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill, including all of the following:

- (1) Direct and indirect patient care services that ensure the safety, comfort, personal hygiene, and protection of patients; and the performance of disease prevention and restorative measures.
- (2) Direct and indirect patient care services, including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety Code.
- (3) The performance of skin tests, immunization techniques, and the withdrawal of human blood from veins and arteries.

(4) Observation of signs and symptoms of illness, reactions to treatment, general behavior, or general physical condition, and (A) determination of whether the signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and (B) implementation, based on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or changes in treatment regimen in accordance with standardized procedures, or the initiation of emergency procedures.

(c) "Standardized procedures," as used in this section, means either of the following:

(1) Policies and protocols developed by a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code through collaboration among administrators and health professionals including physicians and nurses.

(2) Policies and protocols developed through collaboration among administrators and health professionals, including physicians and nurses, by an organized health care system which is not a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

The policies and protocols shall be subject to any guidelines for standardized procedures that the Division of Licensing of the Medical Board of California and the Board of Registered Nursing may jointly promulgate. If promulgated, the guidelines shall be administered by the Board of Registered Nursing.

(d) Nothing in this section shall be construed to require approval of standardized procedures by the Division of Licensing of the Medical Board of California, or by the Board of Registered Nursing.

(Amended by Stats. 1995, c. 279 (AB 1471), § 15; Stats. 1996, c. 124 (AB 3470), § 2.)

2725.1. Dispensing Drugs or Devices; Registered Nurses; Limitations

Notwithstanding any other provision of law, a registered nurse may dispense drugs or devices upon an order by a licensed physician and surgeon if the nurse is functioning within a licensed clinic as defined in paragraphs (1) and (2) of subdivision (a) of Section 1204 of, or within a clinic as defined in subdivision (b) or (c) of Section 1206, of the Health and Safety Code.

No clinic shall employ a registered nurse to perform dispensing duties exclusively. No registered nurse shall dispense drugs in a pharmacy, keep a pharmacy, open shop, or drugstore for the retailing of drugs or poisons. No registered nurse shall compound drugs. Dispensing of drugs by a registered nurse, except a certified

nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51 or a nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, shall not include substances included in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code). Nothing in this section shall exempt a clinic from the provisions of Article 13 (commencing with Section 4180) of Chapter 9.

(Amended by Stats. 1999, c. 83 (S.B.966), § 3; Stats. 1999, c. 914 (A.B.1545), § 1; Stats. 2001, c. 289 (S.B. 298), § 2.)

2725.3. Health Facility; Use of Unlicensed Personnel in Lieu of Registered Nurse; Authorized Acts

(a) A health facility licensed pursuant to subdivision (a), (b), or (f), of Section 1250 of the Health and Safety Code shall not assign unlicensed personnel to perform nursing functions in lieu of a registered nurse and may not allow unlicensed personnel to perform functions under the direct clinical supervision of a

registered nurse that require a substantial amount of scientific knowledge and technical skills, including, but not limited to, any of the following:

- (1) Administration of medication.
 - (2) Venipuncture or intravenous therapy.
 - (3) Parenteral or tube feedings.
 - (4) Invasive procedures including inserting nasogastric tubes, inserting catheters, or tracheal suctioning.
 - (5) Assessment of patient condition.
 - (6) Educating patients and their families concerning the patient's health care problems, including postdischarge care.
 - (7) Moderate complexity laboratory tests.
- (b) This section shall not preclude any person from performing any act or function that he or she is authorized to perform pursuant to Division 2 (commencing with Section 500) or pursuant to existing statute or regulation as of July 1, 1999.

(Added by Stats.1999, c. 945 (A.B.394), § 2.)

2726. Authority Not Conferred

Except as otherwise provided herein, this chapter confers no authority to practice medicine or surgery.

(Amended by Stats. 1974, c. 355, p. 687, § 2.)

2727. Exceptions in General

This chapter does not prohibit:

- (a) Gratuitous nursing of the sick by friends or members of the family.
- (b) Incidental care of the sick by domestic servants or by persons primarily employed as housekeepers as long as they do not practice nursing within the meaning of this chapter.
- (c) Domestic administration of family remedies by any person.
- (d) Nursing services in case of an emergency. "Emergency," as used in this subdivision includes an epidemic or public disaster.
- (e) The performance by any person of such duties as required in the physical care of a patient and/or carrying out medical orders prescribed by a licensed physician; provided, such person shall not in any way assume to practice as a professional, registered, graduate or trained nurse.

(Amended by Stats. 1943, c. 573, p. 2142, § 1.)

2727.5. Emergency Care; Immunity from Liability; Gross Negligence

A person licensed under this chapter who in good faith renders emergency care at the scene of an emergency which occurs outside both the place and the course of that person's employment shall not be liable for any civil damages as the result of acts or omissions by that person in rendering the emergency care.

This section shall not grant immunity from civil damages when the person is grossly negligent.

(Amended by Stats. 1984, c. 1391, § 2.)

2728. Attendants and Technicians in Institutions; Supervision

If adequate medical and nursing supervision by a professional nurse or nurses is provided, nursing service may be given by attendants, psychiatric technicians, or psychiatric technician interim permittees in institutions under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services or subject to visitation by the State Department of Health Services or the Department of Corrections. Services so given by a psychiatric technician shall be limited to services which he or she is authorized to perform by his or her license as a psychiatric technician. Services so given by a psychiatric technician interim permittee shall be limited to skills included in his or her basic course of study and performed under the supervision of a licensed psychiatric technician or registered nurse.

The Directors of Mental Health, Developmental Services, and Health Services shall determine what shall constitute adequate medical and nursing supervision in any institution under the jurisdiction of the State

Department of Mental Health or the State Department of Developmental Services or subject to visitation by the State Department of Health Services.

Notwithstanding any other provision of law, institutions under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services may utilize graduates of accredited psychiatric technician training programs who are not licensed psychiatric technicians or psychiatric technician interim permittees to perform skills included in their basic course of study when supervised by a licensed psychiatric technician or registered nurse, for a period not to exceed nine months.

(Amended by Stats. 1987, c. 464, § 1, eff. Sept. 9, 1987.)

2728.5. Psychiatric Technicians or Interim Permittees

Except for those provisions of law relating to directors of nursing services, nothing in this chapter or any other provision of law shall prevent the utilization of a licensed psychiatric technician or psychiatric technician interim permittee in performing services used in the care, treatment, and rehabilitation of mentally ill, emotionally disturbed, or developmentally disabled persons within the scope of practice for which he or she is licensed or authorized in facilities under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services or licensed by the State Department of Health Services, that he or she is licensed to perform as a psychiatric technician, or authorized to perform as a psychiatric technician interim permittee including any nursing services under Section 2728, in facilities under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services or subject to visitation by the State Department of Health Services.

(Amended by Stats. 1987, c. 464, § 2, eff. Sept. 9, 1987.)

2729. Students

Nursing services may be rendered by a student when these services are incidental to the course of study of one of the following:

- (a) A student enrolled in a board-approved prelicensure program or school of nursing.
- (b) A nurse licensed in another state or country taking a board-approved continuing education course or a postlicensure course.

(Amended by Stats. 1978, c. 212, p. 455, § 1, eff. June 6, 1978.)

2730. Out-of-State Nurse Attending Temporary Resident

If he does not represent or hold himself out as a professional nurse licensed to practice in this State and if he has an engagement, made in another State or country, requiring him to accompany and care for a patient temporarily residing in this State during the period of such engagement, a nurse legally qualified by another State or country may give nursing care to such patient in this State.

(Added by Stats. 1939, c. 807, p. 2350, § 2.)

2731. Nursing in Connection with Practice of Religious Tenets

This chapter does not prohibit nursing or the care of the sick, with or without compensation or personal profit, when done by the adherents of and in connection with the practice of the religious tenets of any well recognized church or denomination, so long as they do not otherwise engage in the practice of nursing.

(Added by Stats. 1939, c. 807, p. 2350, § 2.)

2732. Practice without License; Terms “Registered Nurse” and “R.N.”

No person shall engage in the practice of nursing, as defined in Section 2725, without holding a license which is in an active status issued under this chapter except as otherwise provided in this act.

Every licensee may be known as a registered nurse and may place the letter “R. N.” after his name.

(Amended by Stats. 1976, c. 1053, p. 4679, § 1, eff. Sept. 20, 1976.)

2732.05. Duty of Employer to Ascertain Nurses’ Current Authority to Practice

Every employer of a registered nurse, and every person acting as an agent for such a nurse in obtaining employment, shall ascertain that such nurse is currently authorized to practice as a registered professional nurse within the provisions of this chapter. As used in this section, the term "agent" includes, but is not limited to, a nurses registry.

Examination by an employer or agent of evidence satisfactory to the board showing the nurse's current authority to practice under this chapter, prior to employment, shall constitute a determination of authority to so practice.

Nothing in this section shall apply to a patient, or other person acting for a specific patient, who engages the services of a registered nurse to provide nursing care to a single patient.

(Amended by Stats. 1970, c. 524, p. 1021, § 1.)

2732.1. Application for License; Interim Permit; Issuance of License without Examination; Fee

(a) An applicant for license by examination shall submit a written application in the form prescribed by the board.

Upon approval of the application, the board may issue an interim permit authorizing the applicant to practice nursing pending the results of the first licensing examination following completion of his or her nursing course or for a maximum period of six months, whichever occurs first.

If the applicant passes the examination, the interim permit shall remain in effect until a regular renewable license is issued by the board. If the applicant fails the examination, the interim permit shall terminate upon notice thereof by first-class mail.

(b) The board upon written application may issue a license without examination to any applicant who is licensed or registered as a nurse in a state, district or territory of the United States or Canada having, in the opinion of the board, requirements for licensing or registration equal to or higher than those in California at the time the application is filed with the Board of Registered Nursing, if he or she has passed an examination for the license or registration that is, in the board's opinion, comparable to the board's examination, and if he or she meets all the other requirements set forth in Section 2736.

(c) Each application shall be accompanied by the fee prescribed by this chapter for the filing of an application for a regular renewable license.

The interim permit shall terminate upon notice thereof by first-class mail, if it is issued by mistake or if the application for permanent licensure is denied.

(Amended by Stats. 1992, c. 1289 (AB 2743), § 20; Stats. 1994, c. 26 (AB 1807), § 57.5, eff. March 30, 1994.)

2733. Temporary License

(a) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (k) of Section 2815, the board may issue a temporary license to practice professional nursing, and a temporary certificate to practice as a certified nurse midwife, certified nurse practitioner, certified public health nurse, certified clinical nurse specialist, or certified nurse anesthetist for a period of six months from the date of issuance. A temporary license or temporary certificate shall terminate upon notice thereof by certified mail, return receipt requested, if it is issued by mistake or if the application for permanent licensure is denied.

(b) Upon written application, the board may reissue a temporary license or temporary certificate to any person who has applied for a regular renewable license pursuant to subdivision (b) of Section 2732.1 and who, in the judgment of the board has been excusably delayed in completing his or her application for or the minimum requirements for a regular renewable license, but the board may not reissue a temporary license or temporary certificate more than twice to any one person.

(Amended by Stats. 1992, c. 1135 (SB 2044), § 2.3; Stats. 1994, c. 26 (AB 1807), § 58, eff. March 30, 1994; Stats. 2000, c. 568 (AB 2888), § 7.)

2734. Inactive Status Licenses

Upon application in writing to the board and payment of the biennial renewal fee, a licensee may have his license placed in an inactive status for an indefinite period of time. A licensee whose license is in an

inactive status may not practice nursing. However, such a licensee does not have to comply with the continuing education standards of Section 2811.5.

(Added by Stats.1976, c. 1053, p. 4679, § 2, eff. Sept. 20, 1976.)

2736. Qualifications in General

- (a) An applicant for licensure as a registered nurse shall comply with each of the following:
 - (1) Have completed such general preliminary education requirements as shall be determined by the board.
 - (2) Have successfully completed the courses of instruction prescribed by the board for licensure, in a program in this state accredited by the board for training registered nurses, or have successfully completed courses of instruction in a school of nursing outside of this state which, in the opinion of the board at the time the application is filed with the Board of Registered Nursing, are equivalent to the minimum requirements of the board for licensure established for an accredited program in this state.
 - (3) Not be subject to denial of licensure under Section 480.
- (b) An applicant who has received his or her training from a school of nursing in a country outside the United States and who has complied with the provisions of subdivision (a), or has completed training equivalent to that required by subdivision (a), shall qualify for licensure by successfully passing the examination prescribed by the board.

(Amended by Stats.1992, c. 1289 (AB 2743), § 21.)

2736.1. Alcoholism and Other Chemical Substance Dependency; Spousal or Partner Abuse; Courses of Instruction

- (a) The course of instruction for an applicant who matriculates on or after September 1, 1985, shall include training in the detection and treatment of alcohol and chemical substance dependency.
- (b) The course of instruction for an applicant who matriculates on or after January 1, 1995, shall include training in the detection and treatment of client abuse, including, but not limited to, spousal or partner abuse. The requirement for coursework in spousal or partner abuse detection and treatment shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(Amended by Stats.1993, c. 1234 (AB 890), § 5.)

2736.5. Equivalence of Armed Services Duty and Instruction; Evaluation; Records; Report to Legislature; Notice to Qualified Persons

- (a) Any person who has served on active duty in the medical corps of any of the armed forces of the United States and who has successfully completed the course of instruction required to qualify him for rating as a medical service technician--independent duty, or other equivalent rating in his particular branch of the armed forces, and whose service in the armed forces has been under honorable conditions, may submit the record of such training to the board for evaluation.
- (b) If such person meets the qualifications of paragraphs (1) and (3) of subdivision (a) of Section 2736, and if the board determines that his education and experience would give reasonable assurance of competence to practice as a registered nurse in this state, he shall be granted a license upon passing the standard examination for such licensure.
- (c) The board shall, by regulation, establish criteria for evaluating the education and experience of applicants under this section.
- (d) The board shall maintain records of the following categories of applicants under this section:
 - (1) Applicants who are rejected for examination, and the areas of such applicants' preparation which are the causes of rejection.
 - (2) Applicants who are qualified by their military education and experience alone to take the examination, and the results of their examinations.
 - (3) Applicants who are qualified to take the examination by their military education and experience plus supplementary education, and the results of their examinations.

(e) The board shall attempt to contact by mail or other means individuals meeting the requirements of subdivision (a) who have been or will be discharged or separated from the armed forces of the United States, in order to inform them of the application procedure provided by this section. The board may enter into an agreement with the federal government in order to secure the names and addresses of such individuals.

(Amended by Stats.1979, c. 373, p. 1258, § 12.)

2736.6. Additional Preparation Required for Vocational Nurse to Take Examination for Licensure as Registered Nurse

The board shall determine by regulation the additional preparation in nursing, in a school approved by the board, which is required for a vocational nurse, licensed under Chapter 6.5(commencing with Section 2840) of this division, to be eligible to take the examination for licensure under this chapter as a registered nurse. The board shall not require more than 30 units in nursing and related science subjects to satisfy such preparation.

(Added by Stats.1969, c. 1541, p. 3135, § 2.)

2737. Payment of Application Fee

An applicant for a license authorizing him to practice nursing in this State under this chapter, upon the filing of his application shall pay the fee required by this chapter.

(Added by Stats.1939, c. 807, p. 2351, § 2.)

2738. Times and Places of Examinations

The board shall hold not less than two examinations each year at such times and places as the board may determine.

(Amended by stats.1953, c. 1174, p. 2672, § 10.)

2740. Conduct of Examination

Examinations shall be written, but in the discretion of the board may be supplemented by an oral or practical examination in such subjects as the board determines. All examinations shall be conducted by such persons and in such manner and under such rules and regulations as the board may prescribe. The board shall finally pass or reject all applicants. Its actions shall be final and conclusive and not subject to review by any court or other authority.

(Added by Stats.1939, c. 807, p. 2351, § 2.)

2741. Re-examination

Notwithstanding Section 135, an applicant who fails to pass the examination may be reexamined within that period of time as the board, by regulation, deems appropriate, but not more frequently than once every three months. An application for reexamination shall be accompanied by the fees prescribed by this chapter.

(Amended by Stats.1994, c. 26 (AB 1807), § 60, eff. March 30, 1994.)

2742. Issuance and Form of License

The board shall issue a license to each applicant who passes the examination and meets all other licensing requirements. The form of the license shall be determined in accordance with Section 164.

(Amended by Stats.1987, c. 850, § 13.)

Article 2.5 Midwives

2746. Issuance of Certificate to Practice

The board shall issue a certificate to practice nurse-midwifery to any person who qualifies under this article and is licensed pursuant to the provisions of this chapter.

(Added by Stats.1974, c. 1407, p. 3081, § 1.)

2746.1. Compliance

Every applicant for a certificate to practice nurse-midwifery shall comply with all the provisions of this article in addition to the provisions of this chapter.

(Added by Stats.1974, c. 1407, p. 3081, § 1.)

2746.2. Educational Standards

Each applicant shall show by evidence satisfactory to the board that he has met the educational standards established by the board or has at least the equivalent thereof. The board is authorized to appoint a committee of qualified physicians and nurses, including, but not limited to, obstetricians and nurse-midwives, to develop the necessary standards relating to educational requirements, ratios of nurse-midwives to supervising physicians, and associated matters.

(Added by Stats.1974, c. 1407, p. 3081, § 1.)

2746.3. Renewal of Midwife's Certificate

Midwife's certificates issued by the Medical Board of California prior to the effective date of this article shall be renewable only by such board.

(Amended by Stats.1989, c. 886, § 53.)

2746.4. Continued Practice by Holder of Midwife's Certificate

Nothing in this article shall be construed to prevent the practice of midwifery by a person possessing a midwife's certificate issued by the Medical Board of California on the effective date of this article.

(Amended by Stats.1989, c. 886, § 54.)

2746.5. Practice of Nurse-Midwifery

The certificate to practice nurse-midwifery authorizes the holder, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn. As used in this chapter, the practice of nurse-midwifery constitutes the furthering or undertaking by any certified person, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal. All complications shall be referred to a physician immediately. The practice of nurse-midwifery does not include the assisting of childbirth by any artificial, forcible, or mechanical means, nor the performance of any version. As used in this article, "supervision" shall not be construed to require the physical presence of the supervising physician. A nurse-midwife is not authorized to practice medicine and surgery by the provisions of this chapter.

(Added by Stats.1974, c. 1407, p. 3081, § 1.)

2746.51. Furnishing Drugs or Devices

(a) Neither this chapter nor any other provision of law shall be construed to prohibit a certified nurse-midwife from furnishing or ordering drugs or devices, including controlled substances classified in Schedule III, IV, or V under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code), when all of the following apply:

(1) The drugs or devices are furnished or ordered incidentally to the provision of any of the following:

- (A) Family planning services, as defined in Section 14503 of the Welfare and Institutions Code.
- (B) Routine health care or perinatal care, as defined in subdivision (d) of Section 123485 of the Health and Safety Code.
- (C) Care rendered to essentially healthy persons within a facility specified in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the Health and Safety Code, a clinic as specified in Section 1204 of the Health and Safety Code, a general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code, a licensed birth center as defined in Section 1204.3 of the Health and Safety Code, or a special hospital specified as a maternity hospital in subdivision (f) of Section 1250 of the Health and Safety Code.
- (2) The drugs or devices are furnished or ordered by a certified nurse-midwife in accordance with standardized procedures or protocols. For purposes of this section, standardized procedure means a document, including protocols, developed and approved by the supervising physician and surgeon, the certified nurse-midwife, and the facility administrator or his or her designee. The standardized procedure covering the furnishing or ordering of drugs or devices shall specify all of the following:
- (A) Which certified nurse-midwife may furnish or order drugs or devices.
- (B) Which drugs or devices may be furnished or ordered and under what circumstances.
- (C) The extent of physician and surgeon supervision.
- (D) The method of periodic review of the certified nurse-midwife's competence, including peer review, and review of the provisions of the standardized procedure.
- (3) If Schedule III controlled substances, as defined in Section 11056 of the Health and Safety Code, are furnished or ordered by a certified nurse-midwife, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician and surgeon.
- (4) The furnishing or ordering of drugs or devices by a certified nurse-midwife occurs under physician and surgeon supervision. For purposes of this section, no physician and surgeon shall supervise more than four certified nurse-midwives at one time. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include all of the following:
- (A) Collaboration on the development of the standardized procedure or protocol.
- (B) Approval of the standardized procedure or protocol.
- (C) Availability by telephonic contact at the time of patient examination by the certified nurse-midwife.
- (b) (1) The furnishing or ordering of drugs or devices by a certified nurse-midwife is conditional on the issuance by the board of a number to the applicant who has successfully completed the requirements of paragraph (2). The number shall be included on all transmittals of orders for drugs or devices by the certified nurse-midwife. The board shall maintain a list of the certified nurse-midwives that it has certified pursuant to this paragraph and the number it has issued to each one. The board shall make the list available to the California State Board of Pharmacy upon its request.
- Every certified nurse-midwife who is authorized pursuant to this section to furnish or issue a drug order for a controlled substance shall register with the United States Drug Enforcement Administration.
- (2) The board has certified in accordance with paragraph (1) that the certified nurse-midwife has satisfactorily completed at least six month's physician and surgeon supervised experience in the furnishing or ordering of drugs or devices and a course in pharmacology covering the drugs or devices to be furnished or ordered under this section. The board shall establish the requirements for satisfactory completion of this paragraph.
- (3) A copy of the standardized procedure or protocol relating to the furnishing or ordering of controlled substances by a certified nurse-midwife shall be provided upon request to any licensed pharmacist who is uncertain of the authority of the certified nurse-midwife to perform these functions.
- (c) Drugs or devices furnished or ordered by a certified nurse-midwife may include Schedule II controlled substances under the California Uniform Controlled Substances Act, (Division 10 (commencing with Section 11000) of the Health and Safety Code) under the following conditions:
- (1) The drugs and devices are furnished or ordered in a hospital as described in subdivision (a) of Section 1250 of the Health and Safety Code and are furnished or ordered in accordance with requirements referenced in paragraphs (2) to (4), inclusive, of subdivision (a) and in paragraphs (1) to (3), inclusive, of subdivision (b).
- (2) When Schedule II controlled substances, as defined in Section 11055 of the Health and Safety Code, are furnished or ordered by a certified nurse-midwife, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician and surgeon.

(d) Furnishing of drugs or devices by a certified nurse-midwife means the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure or protocol. Use of the term “furnishing” in this section shall include the following:

(1) The ordering of a drug or device in accordance with the standardized procedure or protocol.

(2) Transmitting an order of a supervising physician and surgeon.

(e) “Drug order” or “order” for purposes of this section means an order for medication or for a drug or device that is dispensed to or for an ultimate user, issued by a certified nurse-midwife as an individual practitioner, within the meaning of Section 1306.03 of Title 21 of the Code of Federal Regulations.

Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician; (2) all references to “prescription” in this code and the Health and Safety Code shall include drug orders issued by certified nurse-midwives; and (3) the signature of a certified nurse-midwife on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(f) Nothing in this section, nor any other provision of law, shall be construed to authorize a nurse-midwife in solo practice to furnish drugs or devices, under any circumstances.

(Added by Stats.1991, c. 87 (AB 1350), § 2. Amended by Stats.2001, c. 289 (S.B. 298), § 3.)

2746.52. Episiotomies; Repair of Lacerations of the Perineum

Notwithstanding Section 2746.5, the certificate to practice nurse-midwifery authorizes the holder to perform and repair episiotomies, and to repair first-degree and second-degree lacerations of the perineum, in a licensed acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, and a licensed alternate birth center, as defined in paragraph (4) of subdivision (b) of Section 1204 of the Health and Safety Code, but only if all of the following conditions are met:

(a) The supervising physician and surgeon and any backup physician and surgeon is credentialed to perform obstetrical care in the facility.

(b) The episiotomies are performed pursuant to protocols developed and approved by all of the following:

(1) The supervising physician and surgeon.

(2) The certified nurse-midwife.

(3) The director of the obstetrics department or the director of the family practice department, or both, if a physician and surgeon in the obstetrics department or the family practice department is a supervising physician and surgeon, or an equivalent person if there is no specifically identified obstetrics department or family practice department.

(4) The interdisciplinary practices committee, if applicable.

(5) The facility administrator or his or her designee.

(c) The protocols, and the procedures which shall be developed pursuant to the protocols, shall relate to the performance and repair of episiotomies and the repair of first-degree and second-degree lacerations of the perineum, and shall do all of the following:

(1) Ensure that all complications are referred to a physician and surgeon immediately.

(2) Ensure immediate care of patients who are in need of care beyond the scope of practice of the certified nurse midwife, or emergency care for times when the supervising physician and surgeon is not on the premises.

(3) Establish the number of certified nurse-midwives that a supervising physician and surgeon may supervise.

(Added by Stats.1996, c. 158 (SB 1738), § 1, eff. July 12, 1996.)

2746.7. Application Fee

An applicant for certification pursuant to this article shall submit a written application in the form prescribed by the board, accompanied by the fee prescribed by Section 2815.5.

(Added by Stats.1974, c. 1407, p. 3082, § 1.)

2746.8. Renewal; Expiration and Reinstatement

Each certificate issued pursuant to this article shall be renewable biennially, and each person holding a certificate under this article shall apply for a renewal of his certificate and pay the biennial renewal fee

required by Section 2815.5 every two years on or before the last day of the month following the month in which his birthday occurs, beginning with the second birthday following the date on which the certificate was issued, whereupon the board shall renew the certificate.

Each such certificate not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by Section 2815.5 and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired certificate which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of nurse-midwifery.

(Added by Stats. 1974, c. 1407, p. 3082, § 1.)

Article 3. Disciplinary Proceedings

2750. Powers and Proceedings

Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(Amended by Stats. 1994, c. 1275 (SB 2101), § 13.)

2759. Mode of Discipline

The board shall discipline the holder of any license, whose default has been entered or who has been heard by the board and found guilty, by any of the following methods: (a) Suspending judgment. (b) Placing him upon probation. (c) Suspending his right to practice nursing for a period not exceeding one year. (d) Revoking his license. (e) Taking such other action in relation to disciplining him as the board in its discretion may deem proper.

(Added by Stats. 1939, c. 807, p. 2354, § 2.)

2760. Practice During Suspension; Reinstatement or Revocation

If the holder of a license is suspended, he or she shall not be entitled to practice nursing during the term of suspension. Upon the expiration of the term of suspension, he or she shall be reinstated by the board and shall be entitled to resume his or her practice of nursing unless it is established to the satisfaction of the board that he or she has practiced nursing in this state during the term of suspension. In this event, the board shall revoke his or her license.

(Amended by Stats. 1994, c. 1275 (SB 2101), § 14.)

2760.1. Reinstatement; Modification of Penalty; Petition; Hearing

(a) A registered nurse whose license has been revoked, or suspended or who has been placed on probation may petition the board for reinstatement or modification of penalty, including reduction or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action, or if the order of the board or any portion of it is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety:

(1) Except as otherwise provided in this section, at least three years for reinstatement of a license that was revoked, except that the board may, in its sole discretion, specify in its order a lesser period of time provided that the period shall be not less than one year.

(2) At least two years for early termination of a probation period of three years or more.

- (3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination of probation of less than three years.
- (b) The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.
- (c) The hearing may be continued from time to time as the board deems appropriate.
- (d) The board itself shall hear the petition and the administrative law judge shall prepare a written decision setting forth the reasons supporting the decision.
- (e) The board may grant or deny the petition, or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction of penalty.
- (f) The petitioner shall provide a current set of fingerprints accompanied by the necessary fingerprinting fee.
- (g) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole, or subject to an order of registration pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.
- (h) Except in those cases where the petitioner has been disciplined for violation of Section 822, the board may in its discretion deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

(Added by Stats.1994, c. 1275 (SB 2101), § 15. Amended by Stats.1997, c. 758 (SB 1346), § 33; Stats.1998, c. 970 (AB 2802), § 11.)

2761. Grounds for Discipline; Evidence of Conviction

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
 - (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.
 - (2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event the record of conviction shall be conclusive evidence thereof.
 - (3) The use of advertising relating to nursing which violates Section 17500.
 - (4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.
- (b) Procuring his or her certificate or license by fraud, misrepresentation, or mistake.
- (c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion.
- (d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.
- (e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
- (g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a certificate or license.
- (h) Impersonating another certified or licensed practitioner, or permitting or allowing another person to use his or her certificate or license for the purpose of nursing the sick or afflicted.
- (i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of, or arranging for, a violation of any of the provisions of Article 12 (commencing with Section 2220) of Chapter 5.
- (j) Holding oneself out to the public or to any practitioner of the healing arts as a “nurse practitioner” or as meeting the standards established by the board for a nurse practitioner unless meeting the standards established by the board pursuant to Article 8 (commencing with Section 2834) or holding oneself out to the

public as being certified by the board as a nurse anesthetist, nurse midwife, clinical nurse specialist, or public health nurse unless the person is at the time so certified by the board.

(k) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensed or certified nurse to patient, from patient to patient, and from patient to licensed or certified nurse. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1(commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, the Dental Board of California, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision. The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates to minimize the risk of transmission of blood-borne infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

(Amended by Stats.1991, c. 1180 (SB 1070), § 4; Stats.1992, c. 1350 (SB 1813), § 4; Stats.1994, c. 26 (AB 1807), § 61, eff. March 30, 1994; Stats.1994, c. 1275 (SB 2101), § 16; Stats.1997, c. 759 (SB 827), § 17.)

2762. Unprofessional Conduct Relating to Controlled Substance or Dangerous Drugs

In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10(commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
- (b) Use any controlled substance as defined in Division 10(commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- (c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.
- (d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.
- (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section

(Amended by Stats.1998, c. 970 (AB 2802), § 12.)

2764. Jurisdiction to Investigate or Discipline Notwithstanding Lapse or Suspension of License

The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.

(Added by Stats.1953, c. 1053, p. 2521, § 4.)

2765. Conviction Defined; Authority to Suspend, Revoke, or Refuse License

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(Amended by Stats.1983, c. 696, § 3.)

Article 3.1 Diversion Program

2770. Intent of Legislature

It is the intent of the Legislature that the Board of Registered Nursing seek ways and means to identify and rehabilitate registered nurses whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness so that registered nurses so afflicted may be rehabilitated and returned to the practice of nursing in a manner which will not endanger the public health and safety. It is also the intent of the Legislature that the Board of Registered Nursing shall implement this legislation by establishing a diversion program as a voluntary alternative to traditional disciplinary actions.

(Added by Stats.1984, c. 865, § 1.)

2770.1. Definitions

As used in this article:

- (a) "Board" means the Board of Registered Nursing.
- (b) "Committee" means a diversion evaluation committee created by this article.

(Added by Stats.1984, c. 865, § 1.)

2770.2. Diversion Evaluation Committees; Members

One or more diversion evaluation committees is hereby created in the state to be established by the board. Each committee shall be composed of five persons appointed by the board. No board member shall serve on any committee. Each committee shall have the following composition:

- (a) Three registered nurses, holding active California licenses, who have demonstrated expertise in the field of chemical dependency or psychiatric nursing.
- (b) One physician, holding an active California license, who specializes in the diagnosis and treatment of addictive diseases or mental illness.
- (c) One public member who is knowledgeable in the field of chemical dependency or mental illness. It shall require a majority vote of the board to appoint a person to a committee. Each appointment shall be at the pleasure of the board for a term not to exceed four years. In its discretion the board may stagger the terms of the initial members appointed.

(Added by Stats.1984, c. 865, § 1. Amended by Stats.1999, c. 655 (SB 1308), § 36.)

2770.3. Per Diem and Expenses

Each member of a committee shall receive per diem and expenses as provided in Section 103.

(Added by Stats.1984, c. 865, § 1.)

2770.4. Quorum; Majority Vote

Three members of a committee shall constitute a quorum for the transaction of business at any meeting. Any action requires a majority vote of the committee.

(Added by Stats.1984, c. 865, § 1.)

2770.5. Chairperson; Vice Chairperson

Each committee shall elect from its membership a chairperson and a vice chairperson.

(Added by Stats.1984, c. 865, § 1.)

2770.6. Board to Administer Article

The board shall administer the provisions of this article.

(Added by Stats.1984, c. 865, § 1.)

2770.7. Acceptance, Denial, or Termination of Registered Nurses in Program

The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the diversion program. Only those registered nurses who have voluntarily requested diversion and supervision by a committee shall participate in the program.

(Added by Stats.1984, c. 865, § 1.)

2770.8. Duties and Responsibilities of Committees

Each committee shall have the following duties and responsibilities:

- (a) To evaluate those registered nurses who request participation in the program according to the guidelines prescribed by the board.
- (b) To review and designate that treatment services to which registered nurses in a diversion program may be referred.
- (c) To receive and review information concerning a registered nurse participating in the program.
- (d) To consider in the case of each registered nurse participating in a program whether he or she may with safety continue or resume the practice of nursing.
- (e) To call meetings as necessary to consider the requests of registered nurses to participate in a diversion program, and to consider reports regarding registered nurses participating in a program.
- (f) To set forth in writing for each registered nurse participating in a program a rehabilitation program established for that registered nurse with the requirements for supervision and surveillance.

(Added by Stats.1984, c. 865, § 1. Amended by Stats.1999, c. 655 (SB 1308), § 37.)

2770.9. Required Information to Nurses Requesting participation in Program

The committee shall inform each registered nurse who requests participation in a program of the procedures followed in the program, of the rights and responsibilities of the registered nurse in the program, and of the possible results of noncompliance with the program.

(Added by Stats.1984, c. 865, § 1.)

2770.10. Committee Meetings; Closed Sessions

Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a committee may convene in closed session to consider reports pertaining to any registered nurse requesting or participating in a diversion program. A committee shall only convene in closed session to the extent that it is necessary to protect the privacy of such a licensee.

(Added by Stats.1984, c. 865, § 1. Amended by Stats.1993, c. 589 (AB 2211), § 6.)

2770.11. Rehabilitation Program; Cooperation

- (a) Each registered nurse who requests participation in a diversion program shall agree to cooperate with the rehabilitation program designed by a committee. Any failure to comply with the provisions of a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.
- (b) If a committee determines that a registered nurse, who is terminated from the program, presents a threat to the public or his or her own health and safety, the committee shall report the name and license

number, along with a copy of all diversion records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding.

(Added by Stats.1984, c. 865, § 1. Amended by Stats.1999, c. 655 (SB 1308), § 38.)

2770.12. Completion of Diversion Programs; Purging of Diversion Program Records

(a) After a committee in its discretion has determined that a registered nurse has successfully completed the diversion program, all records pertaining to the registered nurse's participation in the diversion program shall be purged.

(b) All board and committee records and records of a proceeding pertaining to the participation of a registered nurse in the diversion program shall be kept confidential and are not subject to discovery or subpoena, except as specified in subdivision (b) of Section 2770.11 and subdivision (c).

(c) A registered nurse shall be deemed to have waived any rights granted by any laws and regulations relating to confidentiality of the diversion program, if he or she does any of the following

(1) Presents information relating to any aspect of the diversion program during any stage of the disciplinary process subsequent to the filing of an accusation, statement of issues, or petition to compel an examination pursuant to Article 12.5 (commencing with Section 820) of Chapter 1. The waiver shall be limited to information necessary to verify or refute any information disclosed by the registered nurse.

(2) Files a lawsuit against the board relating to any aspect of the diversion program.

(3) Claims in defense to a disciplinary action, based on a complaint that led to the registered nurse's participation in the diversion program, that he or she was prejudiced by the length of time that passed between the alleged violation and the filing of the accusation. The waiver shall be limited to information necessary to document the length of time the registered nurse participated in the diversion program.

(Added by Stats.1999, c. 655 (SB 1308), § 39.1.)

2770.13. Action for Defamation; Representation for Persons Making Reports to Committee or Board

The board shall provide for the legal representation of any person making reports under this article to a committee or the board in any action for defamation directly resulting from those reports regarding a registered nurse's participation in a diversion program.

(Added by Stats.1984, c. 865, § 1. Amended by Stats.1999, c. 655 (SB 1308), § 40.)

2770.14. Reports on Number of Cases Accepted, Denied, or Terminated with Compliance or Noncompliance; Cost Analysis

(a) The board shall produce reports which include, but are not limited to, information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance.

(b) The board shall conduct a periodic cost analysis of the program.

(Added by Stats.1984, c. 865, § 1. Amended by Stats.1999, c. 655 (SB 1308), § 41.)

Article 3.5 Nursing Corporations

2775. Corporate Status; Governmental Agency

A nursing corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are registered nurses are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

With respect to a nursing corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Registered Nursing.

(Added by Stats.1981, c. 621, p. 2371, § 2.)

2776. Unprofessional Conduct; Violations

It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

(Added by Stats.1981, c. 621, p. 2371, § 2.)

2777. Unprofessional Conduct, Compliance with Other Statutes and Regulations

A nursing corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation, now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person holding a license under this chapter.

(Added by Stats.1981, c. 621, p. 2371, § 2.)

2778. Name

The name of a nursing corporation and any name or names under which it may render professional services shall contain the words “nursing” or “registered nursing,” and wording or abbreviations denoting corporate existence.

(Added by Stats.1981, c. 621, p. 2371, § 2.)

2779. Shareholders, Directors and Officers; License Requirements

Except as provided in Sections 13401.5 and 13403 of the Corporations Code, each shareholder, director and officer of a nursing corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in Section 13401 of the Corporations Code.

(Added by Stats.1981, c. 621, p. 2371, § 2.)

2780. Income; Exclusion of Disqualified Shareholders

The income of a nursing corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of such shareholder or his or her shares in the nursing corporation.

(Added by Stats.1981, c. 621, p. 2371, § 2.)

2781. Regulations

The board may adopt and enforce regulations to carry out the purposes and objectives of this article, including regulations requiring (a) that the bylaws of a nursing corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that a nursing corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

(Added by Stats.1981, c. 621, p. 2371, § 2.)

Article 4. Nursing Schools

2785. List of Approved Schools

The board shall prepare and maintain a list of approved schools of nursing in this state whose graduates, if they have the other necessary qualifications provided in this chapter, shall be eligible to apply for a license to practice nursing in this state.

(Added by Stats.1939, c. 807, p. 2355, § 2. Amended by Stats.1983, c. 742, § 5.)

2786. Approved Schools; Required Subjects for Instruction; Minimum Units of Theory and Clinical Experience; Analysis of Practice at Entry Level

(a) An approved school of nursing is one which has been approved by the board, gives the course of instruction approved by the board, covering not less than two academic years, and is affiliated or conducted in connection with one or more hospitals, and is an institution of higher education or is affiliated with an institution of higher education. For purposes of this section, "institution of higher education" includes community colleges offering an associate degree. An approved school of nursing which is not an institution of higher education shall make an agreement with an institution of higher education in the same general location to grant an associate of arts degree to individuals who graduate from such school of nursing or to grant a baccalaureate degree in nursing with successful completion of an additional course of study as approved by the board and the institution involved.

(b) The board shall determine by regulation the required subjects of instruction to be completed in an approved school of nursing for licensure as a registered nurse and shall include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry level of the registered nurse. The board's standards shall be designed to encourage all schools to provide clinical instruction in all phases of the educational process.

(c) The board shall perform or cause to be performed an analysis of the practice of the registered nurse no less than every five years. Results of the analysis shall be utilized to assist in the determination of the required subjects of instruction, validation of the licensing examination, and assessment of the current practice of nursing.

(Amended by Stats.1985, c. 1055, § 2; Stats.2001, c. 435 (S.B349), § 6.)

2786.6. Denial or Revocation of Approval; Failure to Credit Student Education and Knowledge; Discrimination Against students; Regulation Concerning Credit

The board shall deny the application for approval made by, and shall revoke the approval given to, any school of nursing which:

(a) Does not give to student applicants credit, in the field of nursing, for previous education and the opportunity to obtain credit for other acquired knowledge by the use of challenge examinations or other methods of evaluation; or,

(b) Is operated by a community college and discriminates against an applicant for admission to a school solely on the grounds that the applicant is seeking to fulfill the units of nursing required by Section 2736.6. The board shall prescribe, by regulation, the education for which credit is to be given and the amount of credit which is to be given for each type of education. The word "credit," as used in the preceding sentence, is limited to credit for licensure only. The board is not authorized to prescribe the credit which an approved school of nursing shall give toward an academic certificate or degree.

(Added by Stats.1969, c. 1541, p. 3135, § 3. Amended by Stats.1976, c. 1405, p. 6324, § 1; Stats.1983, c. 742, § 8.)

2788. Inspection; Reports; Notice to School of Defects; Removal from Approved List

It shall be the duty of the board, through its executive officer, to inspect all schools of nursing in this state at such times as the board shall deem necessary. Written reports of the executive officer's visits shall be made to the board, which shall thereupon approve those schools of nursing that meet the requirements provided by the board.

Upon receiving the report of the executive officer, if the board determines that any approved school of nursing is not maintaining the standard required by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the school. If the defects are not corrected within a reasonable time, the school of nursing may be removed from the approved list and notice thereof in writing given to it.

(Amended by Stats.1983, c. 742, § 10.)

2789. Exemption of Religious Schools

None of the provisions of this chapter shall be applicable to any school or schools conducted by any well recognized church or denomination for the purpose of training the adherents of such church or denomination in the care of the sick in accordance with its religious tenets.

(Added by Stats.1939, c. 807, p. 2355, § 2.)

Article 5. Penal Provisions

2795. Unlicensed Practice or Indication of Practice

Except as provided in this chapter, it is unlawful for any person to do any of the following:

- (a) To practice or to offer to practice nursing in this state unless the person holds a license in an active status.
- (b) To use any title, sign, card, or device to indicate that he or she is qualified to practice or is practicing nursing, unless the person has been duly licensed or certified under this chapter.

(Amended by Stats.1990, c. 350 (SB 2084), § 2.)

2796. Use of Title; Impersonation or Pretense of Being Professional Nurse

It is unlawful for any person or persons not licensed or certified as provided in this chapter to use the title “registered nurse,” the letters “R.N.,” or the words “graduate nurse,” “trained nurse,” or “nurse anesthetist.”

It is unlawful for any person or persons not licensed or certified as provided in this chapter to impersonate a professional nurse or pretend to be licensed to practice professional nursing as provided in this chapter.

(Amended by Stats.1983, c. 696, § 5.)

2797. Misrepresentation or Impersonation Connected with License Application or Examination

It is unlawful for a person to wilfully make any false representation or to impersonate any other person or permit or aid any person in any manner to impersonate him in connection with any examination or application for a license, or request to be examined or licensed.

(Added by Stats.1939, c. 807, p. 2536, § 2.)

2798. Conducting Unaccredited School; Exception of Religious Schools

It is unlawful for anyone to conduct a school of nursing unless the school has been approved as an accredited school by the board.

This section is not applicable to schools conducted under Section 2789 of this chapter.

(Amended by Stats.1961, c. 1823, p. 3891, § 6.)

2799. Violation as Misdemeanor

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and upon a conviction thereof shall be punished by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000), or by both such fine and imprisonment.

(Amended by Stats.1983, c. 1092, § 10, eff. Sept. 27, 1983, operative Jan. 1, 1984.)

2800. Exceptions; Use of Word “Nurse” Alone

None of the sections in this article, except Sections 2796 and 2797, shall be applicable to any person or persons specifically exempted from the general provisions of this act by Section 2731 hereof, or to schools conducted by any well recognized church or denomination for the purpose of training the adherents of such church or denomination in the care of the sick in accordance with its religious tenets; and any adherent of any well recognized church or denomination who engages in nursing or the care of the sick in connection with the practice of the religious tenets of such well recognized church or denomination may use the word “nurse” in connection with or following his or her name, provided he or she shall not use the title “registered nurse,” the letters “R.N.,” the words “graduate nurse,” “trained nurse,” “nurse anesthetist,” or

any other name, word or symbol in connection with or following his or her name so as to lead another or others to believe that he or she is a professional nurse licensed under the provisions of this chapter.

(Amended by Stats.1983, c. 696, § 6.)

Article 6. Revenue

2810. Establishment of Fund

There is established in the State Treasury a Board of Registered Nursing Fund. The California Board of Nursing Education and Nurse Registration Fund of the State of California is abolished. The Controller, on, January 1, 1975, shall transfer any balance in that fund to the Board of Registered Nursing Fund. Any reference in state law to the Board of Nurse Examiners Fund or the Board of Nurse Examiners Fund of the State of California shall be construed to refer to the Board of Registered Nursing Fund.

(Amended by Stats.1974, c.632, p. 1484, § 8.)

2811. Renewals; Fees; Expiration and Reinstatement

(a) Each person holding a regular renewable license under this chapter, whether in an active or inactive status, shall apply for a renewal of his license and pay the biennial renewal fee required by this chapter each two years on or before the last day of the month following the month in which his birthday occurs, beginning with the second birthday following the date on which the license was issued, whereupon the board shall renew the license.

(b) Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of nonpayment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.

(c) A license in an inactive status may be restored to an active status if the licensee meets the continuing education standards of Section 2811.5.

(Amended by Stats.1976, c. 1053, p. 4680, § 6, eff. Sept. 20, 1976.)

2811.5. Renewals; Proof of Continuing Education; Regulations Establishing Standards

(a) Each person renewing his or her license under Section 2811 shall submit proof satisfactory to the board that, during the preceding two-year period, he or she has been informed of the developments in the registered nurse field or in any special area of practice engaged in by the licensee, occurring since the last renewal thereof, either by pursuing a course or courses of continuing education in the registered nurse field or relevant to the practice of the licensee, and approved by the board, or by other means deemed equivalent by the board.

(b) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to assure that a variety of alternative forms of continuing education are available to licensees, including, but not limited to, academic studies, in-service education, institutes, seminars, lectures, conferences, workshops, extension studies, and home study programs. The standards shall take cognizance of specialized areas of practice. The continuing education standards established by the board shall not exceed 30 hours of direct participation in a course or courses approved by the board, or its equivalent in the units of measure adopted by the board.

(c) The board shall encourage continuing education in spousal or partner abuse detection and treatment. In the event the board establishes a requirement for continuing education coursework in spousal or partner abuse detection or treatment, that requirement shall be met by each licensee within no more than four years from the date the requirement is imposed.

(d) In establishing standards for continuing education, the board shall consider including a course in the special care needs of individuals and their families facing end-of-life issues, including, but not limited to, all of the following:

- (1) Pain and symptom management.
- (2) The psycho-social dynamics of death.
- (3) Dying and bereavement.
- (4) Hospice care.

(e) In establishing standards for continuing education, the board may include a course on pain management.

(f) This section shall not apply to licensees during the first two years immediately following their initial licensure in California or any other governmental jurisdiction.

(g) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for licensees residing in another state or country, or for reasons of health, military service, or other good cause.

(Amended by Stats.1990, c. 1207 (AB 3242, § 2; stats.1993, c. 1234 (AB 809), § 6; Stats.1998, c. 791 (SB 1140), § 3.)

2811.6. Continuing Education Programs; Records of Courses; Inspection

Providers of continuing education programs approved by the board pursuant to Section 2811.5 shall make available for board inspection records of continuing education courses given to registered nurses.

(Added by Stats.1978, c. 167, p. 396, § 1.)

2812. Monthly Report and Disposition of Collections

Within 10 days after the beginning of each month, the board shall report to the State Controller the amount and source of all collections made under this chapter. At the same time, all amounts shall be paid into the State Treasury, where they shall be placed to the credit of the Board of Registered Nursing Fund and to the Registered Nurse Education Fund, as specified in Section 128400 of the Health and Safety Code.

(Amended by Stats.1996, c. 1023 (SB 1497), § 11, eff. Sept. 29, 1996.)

2814. Appropriation of Fund

All money in the Board of Registered Nursing Fund is hereby appropriated to carry out the provisions of this chapter, and the promotion of nursing education in this state.

(Amended by Stats.1974, c. 632, p. 1484, § 10.)

2815. Fees; Registered Nurses

Subject to the provisions of Section 128.5, the amount of the fees prescribed by this chapter in connection with the issuance of licenses for registered nurses under its provisions is that fixed by the following schedule:

- (a) The fee to be paid upon the filing of an application for a licensure by examination shall be fixed by the board at not less than seventy-five dollars (\$75) nor more than one hundred fifty dollars (\$150).
- (b) The fee to be paid for taking each examination shall be the actual cost to purchase an examination from a vendor approved by the board.
- (c) The fee to be paid for application for licensure by endorsement shall be fixed by the board at not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).
- (d) The biennial fee to be paid upon the filing of an application for renewal of the license shall be not less than seventy-five dollars (\$75) nor more than one hundred fifty dollars (\$150). In addition, an assessment of five dollars (\$5) shall be collected and credited to the Registered Nurse Education Fund, pursuant to Section 2815.1.
- (e) The penalty fee for failure to renew a license within the prescribed time shall be fixed by the board at not more than 50 percent of the regular renewal fee, but not less than thirty-seven dollars (\$37) nor more than seventy-five dollars (\$75).
- (f) The fee to be paid for approval of a continuing education provider shall be fixed by the board at not less than two hundred dollars (\$200) nor more than three hundred dollars (\$300).

- (g) The biennial fee to be paid upon the filing of an application for renewal of provider approval shall be fixed by the board at not less than two hundred dollars (\$200) nor more than three hundred dollars (\$300).
 - (h) The penalty fee for failure to renew provider approval within the prescribed time shall be fixed at not more than 50 percent of the regular renewal fee, but not less than one hundred dollars (\$100) nor more than one hundred fifty dollars (\$150).
 - (i) The penalty for submitting insufficient funds or fictitious check, draft or order on any bank or depository for payment of any fee to the board shall be fixed at not less than fifteen dollars (\$15) nor more than thirty dollars (\$30).
 - (j) The fee to be paid for an interim permit shall be fixed by the board at not less than thirty dollars (\$30) nor more than fifty dollars (\$50).
 - (k) The fee to be paid for a temporary license shall be fixed by the board at not less than thirty dollars (\$30) nor more than fifty dollars (\$50).
 - (l) The fee to be paid for processing endorsement papers to other states shall be fixed by the board at not less than sixty dollars (\$60) nor more than one hundred dollars (\$100).
 - (m) The fee to be paid for a certified copy of a school transcript shall be fixed by the board at not less than thirty dollars (\$30) nor more than fifty dollars (\$50).
 - (n) The fee to be paid for a duplicate license shall be fixed by the board at not less than thirty dollars (\$30) nor more than fifty dollars (\$50).
 - (o) The fee to be paid by a registered nurse for an evaluation of his or her qualifications to use the title "nurse practitioner" shall be fixed by the board at not less than seventy-five dollars (\$75) nor more than one hundred fifty dollars (\$150).
- No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

(Amended by Stats.1991, c. 352 (AB 485), § 1.)

2815.1. Biennial Licensure Renewal; Assessment

As provided in subdivision (d) of Section 2815, the Board of Registered Nursing shall collect an additional five dollar (\$5) assessment at the time of the biennial licensure renewal. This amount shall be credited to the Registered Nurse Education Fund. This assessment is separate from those fees prescribed in Section 2815.

(Amended by Stats.1991, c. 352 (AB 485), § 2; Stats.1999, c. 146 (AB 1107), § 1, eff. July 22, 1999; Stats.1999, c. 149 (SB 308), § 1, eff. July 22, 1999.)

2815.5. Fees; Nurse-Midwives

The amount of the fees prescribed by this chapter in connection with the issuance of certificates as nurse-midwives is that fixed by the following schedule:

- (a) The fee to be paid upon the filing of an application for a certificate shall be fixed by the board at not less than seventy-five dollars (\$75) nor more than one hundred fifty dollars (\$150).
- (b) The biennial fee to be paid upon the application for a renewal of a certificate shall be fixed by the board at not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).
- (c) The penalty fee for failure to renew a certificate within the prescribed time shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50).
- (d) The fee to be paid upon the filing of an application for the nurse-midwife equivalency examination shall be fixed by the board at not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200).

(Amended by Stats.1991, c. 352 (AB 485), § 3.)

2815.7. Fee Increases; Proposal or Adoption; Report to Committees

The board shall report to the appropriate policy and fiscal committees of each house of the Legislature whenever the board proposes or adopts an increase in any fee imposed pursuant to this chapter. The board shall specify the reasons for each fee increase and shall identify the percentage of the funds derived from an increase in any fee that will be used for investigational or enforcement related activities by the board.

(Added by Stats.1991, c. 352 (AB 485), § 4.)

Article 6.5 Public Health Nurse Certification

2816. Fee for Evaluation of Qualifications

The nonrefundable fee to be paid by a registered nurse for an evaluation of his or her qualifications to use the title “public health nurse” shall be equal to the fees set out in subdivision (o) of Section 2815. All fees payable under this section shall be collected by and paid to the Registered Nursing Fund. It is the intention of the Legislature that the costs of carrying out the purposes of this article shall be covered by the revenue collected pursuant to this section.

(Added by Stats.1992, c. 1135 (SB 2044), § 2.8.)

2817. Training Requirements

The qualifications prescribed by the board under this article shall include a requirement that an applicant for employment as a public health nurse and all public health nurses employed on or after January 1, 1981, acquire training in child abuse and neglect detection.

(Added by Stats.1992, c. 1135 (SB 2044), § 2.8.)

2818. Certification Requirement; Legislative Findings

(a) The Legislature recognizes that public health nursing is a service of crucial importance for the health, safety, and sanitation of the population in all of California's communities. These services currently include, but are not limited to:

- (1) Control and prevention of communicable disease.
- (2) Promotion of maternal, child, and adolescent health.
- (3) Prevention of abuse and neglect of children, elders, and spouses.
- (4) Outreach screening, case management, resource coordination and assessment, and delivery and evaluation of care for individuals, families, and communities.

(b) The Legislature also finds that conflicting definitions of “public health nurse” have been created by various state and local agencies within California. The Legislature also finds that the public is harmed by the conflicting usage of the title “public health nurse” and lack of consistency between the use of the term and the qualifications required in state law and in administrative regulations. Therefore, the Legislature finds that the public interest would be served by determining the conditions for the legitimate use by registered nurses of a title which includes the term “public health nurse.”

(c) No individual shall hold himself or herself out as a public health nurse or use a title which includes the term “public health nurse” unless that individual is in possession of a valid California public health nurse certificate issued pursuant to this article.

(d) No employer subject to regulation by Section 602 of the Health and Safety Code shall hold out any employee to be a public health nurse or grant a title to any employee including the term “public health nurse” unless that employee holds a valid California public health nurse certificate pursuant to this article.

(Added by Stats.1992, c. 1135 (SB 2044), § 2.8.)

2819. Regulations for Issuance of Public Nursing Certificates

In order to effect a speedy and efficient transfer of public health nurse certification from the State Department of Health Services to the board, existing Sections 4500 to 4504, inclusive, of Title 17 of the California Code of Regulations shall be repealed by the State Department of Health Services and adopted by the board to place them in Chapter 14 of Title 16 of the California Code of Regulations, and any reference to the State Department of Health Services in those regulations shall be changed to refer to the board. The repeal of the regulations and adoption of the revised regulations pursuant to this section shall be exempt from the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except that the repealed and adopted regulations shall be filed with the Office of Administrative Law for publication in the California Code of Regulations.

(Added by Stats.1992, c. 1135 (SB 2044), § 2.8.)

2820. Scope of Registered Nurse Practice

Nothing in this article shall be construed as expanding the scope of practice of a registered nurse beyond that which is authorized under Section 2725.

(Added by Stats.1992, c. 1135 (S.B.2044), § 2.8.)

Article 7. Nurse Anesthetists

2825. Short Title

This article may be cited as the Nurse Anesthetists Act.

(Added by Stats.1983, c. 696, § 7.)

2826. Definitions

As used in this article:

- (a) “Nurse anesthetist” means a person who is a registered nurse, licensed by the board and who has met standards for certification from the board. In the certification and recertification process the board shall consider the standards of the Council on Certification of Nurse Anesthetists and the Council on Recertification of Nurse Anesthetists and may develop new standards if there is a public safety need for standards more stringent than the councils' standards. In determining the adequacy for public safety of the councils' standards or in developing board standards, the board shall comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) “Accredited Program” means a program for the education of nurse anesthetists which has received approval from the board. In the approval process the board shall consider the standards of the Council on Accreditation of Nurse Anesthesia Education Programs and Schools and may develop new standards if the councils' standards are determined to be inadequate for public safety. In determining the adequacy for public safety of the councils' standards or in developing board standards, the board shall comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (c) “Appropriate committee” means the committee responsible for anesthesia practice which is responsible to the executive committee of the medical staff.
- (d) “Trainee” means a registered nurse enrolled in an accredited program of nurse anesthesia.
- (e) “Graduate” means a nurse anesthetist who is a graduate of an accredited program of nurse anesthesia awaiting initial certification results for not more than one year from the date of graduation.

(Added by Stats.1983, c. 696, § 7.)

2827. Utilization; Acute Care Facility; Approval; Dental Offices

The utilization of a nurse anesthetist to provide anesthesia services in an acute care facility shall be approved by the acute care facility administration and the appropriate committee, and at the discretion of the physician, dentist or podiatrist. If a general anesthetic agent is administered in a dental office, the dentist shall hold a permit authorized by Section 1646.

(Added by Stats.1983, c. 696, § 7.)

2828. Subjection to Bylaws of Acute Care Facility; Liability for Professional Acts

In an acute care facility, a nurse anesthetist who is not an employee of the facility shall, nonetheless, be subject to the bylaws of the facility and may be required by the facility to provide proof of current professional liability insurance coverage. Notwithstanding any other provision of law, a nurse anesthetist shall be responsible for his or her own professional conduct and may be held liable for those professional acts.

(Added by Stats.1983, c. 696, § 7.)

2829. Use of Title

It is unlawful for any person or persons to advertise, use any title, sign, card, or device, or to otherwise hold himself or herself out as a “nurse anesthetist” unless the person meets the requirements of subdivision (a) of Section 2826 and has been so certified under the provisions of this article.

(Added by Stats.1983, c. 696, § 7.)

2830. Certificate to Practice; Issuance to Qualified Person

The board shall issue a certificate to practice nurse anesthesia to any person who qualifies under this article and is licensed pursuant to the provisions of this chapter.

(Added by Stats.1983, c. 696, § 7.)

2830.5. Evidence of Qualifications; Presentation by Applicant

Every applicant shall show by evidence satisfactory to the board that he or she has met the requirements of this article.

(Added by Stats.1983, c. 696, § 7.)

2830.6. Certification; Standards; Documentation; Filing; Issuance of Certificate

Notwithstanding Section 2830, the board shall certify all applicants who can show certification by the Council on Certification of Nurse Anesthetists or the Council on Recertification of Nurse Anesthetists as of the effective date of this chapter. This certification shall be documented to the board in a manner to be determined by the board. Proof of certification shall be filed with the board within six months from the effective date of this article and the board shall, within one year from the effective date of this article, issue a certificate to applicants who have filed proof of certification within that six-month period.

(Added by Stats.1983, c. 696, § 7.)

2830.7. Fee Schedule

The amount of the fees prescribed by this chapter in connection with the issuance of certificates as nurse anesthetists is that fixed by the following schedule:

- (a) The fee to be paid upon the filing of an application for a certificate shall be fixed by the board at not less than seventy-five dollars (\$75) nor more than one hundred fifty dollars (\$150).
- (b) The biennial fee to be paid upon the application for a renewal of a certificate shall be fixed by the board at not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).
- (c) The penalty fee for failure to renew a certificate within the prescribed time shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50).

(Added by Stats.1991, c. 352 (AB 485), § 4.5.)

2831. Written Application; Fee; Submission

An applicant for certification pursuant to this article shall submit a written application in the form prescribed by the board, accompanied by the fee prescribed by Section 2830.7 which shall also apply to the issuance of a certificate under the provisions of this article.

(Amended by Stats.1991, c. 352 (AB 485), § 5.)

2832. Applicants; Compliance with Provisions of Article

Every applicant for a certificate to practice nurse anesthesia shall comply with all the provisions of this article in addition to the provisions of this chapter.

(Added by Stats.1983, c. 696, § 7.)

2833. Certificates; Biennial Renewal; Fee; Expiration; Reinstatement

Each certificate issued pursuant to this article shall be renewable biennially, and each person holding a certificate under this article shall apply for a renewal of his or her certificate and pay the biennial renewal fee required by Section 2830.7 every two years on or before the last day of the month following the month in which his or her birthday occurs, beginning with the second birthday following the date on which the certificate was issued, whereupon the board shall renew the certificate.

Each certificate not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by Section 2830.7 and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during that eight-year period no examination shall be required as a condition for the reinstatement of any expired certificate which has lapsed solely by reason of nonpayment of the renewable fee. After the expiration of the eight-year period the board may require as a condition of reinstatement that the applicant pass an examination as it deems necessary to determine his or her present fitness to resume the practice of nurse anesthesia.

(Amended by stats.1991, c. 352 (AB 485), § 6.)

2833.3. Applicability of Article to Practice of Nursing

Nothing in this article shall be construed to limit a certified nurse anesthetist's ability to practice nursing.

(Added by Stats.1983, c. 696, § 7.)

2833.5. Practice of Nurse Anesthetist to Not Confer Authority to Practice Medicine or Surgery

Except as provided in Section 2725 and in this section, the practice of nurse anesthetist does not confer authority to practice medicine or surgery.

(Added by Stats.1983, c. 696, § 7.)

2833.6. Inapplicability of Chapter to Scope of Practice of Nurse Anesthetist

This chapter is not intended to address the scope of practice of, and nothing in this chapter shall be construed to restrict, expand, alter, or modify the existing scope of practice of, a nurse anesthetist.

(Added by Stats.1983, c. 696, § 7.)

Article 8. Nurse Practitioners

2834. Legislative Findings

The Legislature finds that various and conflicting definitions of the nurse practitioner are being created by state agencies and private organizations within California. The Legislature also finds that the public is harmed by conflicting usage of the title of nurse practitioner and lack of correspondence between use of the title and qualifications of the registered nurse using the title. Therefore, the Legislature finds the public interest served by determination of the legitimate use of the title "nurse practitioner" by registered nurses.

(Added by Stats.1977, c. 439, p. 1475, § 2.)

2835. Necessity to Be Licensed and Meet Board Standards

No person shall advertise or hold himself out as a "nurse practitioner" who is not a nurse licensed under this chapter and does not, in addition, meet the standards for a nurse practitioner established by the board.

(Added by Stats.1977, c. 439, p. 1475, § 2.)

2835.5. Submission of Information and Credentials for Determination of Qualification for Use of Title; Certificate: Application of Section

On and after January 1, 1985, any registered nurse who is holding himself or herself out as a nurse practitioner or who desires to hold himself or herself out as a nurse practitioner shall, within the time prescribed by the board and prior to his or her next license renewal or the issuance of an initial license, submit educational, experience, and other credentials and information as the board may require for it to determine that the person qualifies to use the title "nurse practitioner," pursuant to the standards and qualifications established by the board.

Upon finding that a person is qualified to hold himself or herself out as a nurse practitioner, the board shall appropriately indicate on the license issued or renewed, that the person is qualified to use the title "nurse practitioner." The board shall also issue to each qualified person a certificate evidencing that the person is qualified to use the title "nurse practitioner."

Any person who has been found to be qualified by the board to use the title "nurse practitioner" prior to the effective date of this section, shall not be required to submit any further qualifications or information to the board and shall be deemed to have met the requirements of this section.

(Added by Stats.1984, c. 525, § 2.)

2836. Establishment of Categories and Standards; Consultations

The board shall establish categories of nurse practitioners and standards for nurses to hold themselves out as nurse practitioners in each category. Such standards shall take into account the types of advanced levels of nursing practice which are or may be performed and the clinical and didactic education, experience, or both needed to practice safely at those levels. Insetting such standards, the board shall consult with nurse practitioners, physicians and surgeons with expertise in the nurse practitioner field, and health care organizations utilizing nurse practitioners. Established standards shall apply to persons without regard to the date of meeting such standards. If the board sets standards for use of nurse practitioner titles which include completion of an academically affiliated program, it shall provide equivalent standards for registered nurses who have not completed such a program.

(Added by Stats.1977, c. 439, p. 1475, § 2.)

2836.1. Furnishing Drugs or Devices

Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing or ordering drugs or devices when all of the following apply:

- (a) The drugs or devices are furnished or ordered by a nurse practitioner in accordance with standardized procedures or protocols developed by the nurse practitioner and his or her supervising physician and surgeon under any of the following circumstances:
 - (1) When furnished or ordered incidental to the provision of family planning services.
 - (2) When furnished or ordered incidental to the provision of routine health care or prenatal care.
 - (3) When rendered to essentially healthy persons.
- (b) The nurse practitioner is functioning pursuant to standardized procedure, as defined by Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or his or her designee.
- (c) The standardized procedure or protocol covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish or order drugs or devices, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.
- (d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.
- (e) For purposes of this section, no physician and surgeon shall supervise more than four nurse practitioners at one time.

(f) Drugs or devices furnished or ordered by a nurse practitioner may include Schedule III through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and surgeon and specified in the standardized procedure. When Schedule III controlled substances, as defined in Section 11056 of the Health and Safety Code, are furnished or ordered by a nurse practitioner, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the nurse practitioner's standardized procedure relating to controlled substances shall be provided upon request, to any licensed pharmacist who dispenses drugs or devices, when there is uncertainty about the nurse practitioner furnishing the order.

(g) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed (1) at least six month's physician and surgeon-supervised experience in the furnishing or ordering of drugs or devices and (2) a course in pharmacology covering the drugs or devices to be furnished or ordered under this section. The board shall establish the requirements for satisfactory completion of this subdivision.

(h) Use of the term "furnishing" in this section, in health facilities defined in subdivisions (b), (c), (d), (e), and (i) of Section 1250 of the Health and Safety Code, shall include (1) the ordering of a drug or device in accordance with the standardized procedure and (2) transmitting an order of a supervising physician and surgeon.

(i) Nothing in this section, nor any other provision of law, shall be construed to authorize a nurse practitioner in solo practice to furnish drugs or devices, under any circumstances.

(j) "Drug order" or "order" for purposes of this section means an order for medication which is dispensed to or for an ultimate user, issued by a nurse practitioner as an individual practitioner, within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician; (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by nurse practitioners; and (3) the signature of a nurse practitioner on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

(Amended by Stats.1991, c. 870 (AB 1350), § 3; Stats.1996, c. 455 (AB 10977), § 1; Stats.1999, c. 749 (SB 816), § 1.)

2836.2. Furnishing of Drugs or Devices Defined

Furnishing or ordering of drugs or devices by nurse practitioners is defined to mean the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure. All nurse practitioners who are authorized pursuant to Section 2831.1 to furnish or issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration.

(Amended by Stats.1999, c. 749 (SB 816), § 2.)

2836.3. Issuance of Numbers to Nurse Applicants; Fees; Renewal

(a) The furnishing of drugs or devices by nurse practitioners is conditional on issuance by the board of a number to the nurse applicant who has successfully completed the requirements of subdivision (g) of Section 2836.1. The number shall be included on all transmittals of orders for drugs or devices by the nurse practitioner. The board shall make the list of numbers issued available to the Board of Pharmacy. The board may charge the applicant a fee to cover all necessary costs to implement this section.

(b) The number shall be renewable at the time of the applicant's registered nurse license renewal.

(c) The board may revoke, suspend, or deny issuance of the numbers for incompetence or gross negligence in the performance of functions specified in Sections 2836.1 and 2836.2.

(Added by Stats.1986, c. 493, § 4.)

2837. Construction of Article

Nothing in this article shall be construed to limit the current scope of practice of a registered nurse authorized pursuant to this chapter.

(Added by stats.1977, c. 439, p. 1475, § 2.)

Article 9. Clinical Nurse Specialists

2838. Advertising or Holding Self Out as Clinical Nurse Specialist; Standards

No person shall advertise or hold himself or herself out as a “clinical nurse specialist” unless he or she is a nurse licensed under this chapter, and meets the standards for a clinical nurse specialist established by the board.

(Added by Stats.1997, c. 159 (AB 90), § 3, operative July 1, 1998.)

2838.1. Board Determination of Qualifications as Clinical Nurse Specialist; Submission of Education, Experience, and Other Information; Certificate

(a) On and after July 1, 1998, any registered nurse who holds himself or herself out as a clinical nurse specialist or who desires to hold himself or herself out as a clinical nurse specialist shall, within the time prescribed by the board and prior to his or her next license renewal or the issuance of an initial license, submit his or her education, experience, and other credentials, and any other information as required by the board to determine that the person qualifies to use the title “clinical nurse specialist.”

(b) Upon finding that a person is qualified to hold himself or herself out as a clinical nurse specialist, the board shall appropriately indicate on the license issued or renewed that the person is qualified to use the title “clinical nurse specialist.” The board shall also issue to each qualified person a certificate indicating that the person is qualified to use the title “clinical nurse specialist.”

(Added by Stats.1997, c. 159 (AB 90), § 3, operative July 1, 1998.)

2838.2. Categories and Standards; Application Requirements; Fees for Applications, Renewals, and Failure to Renew

(a) A clinical nurse specialist is a registered nurse with advanced education, who participates in expert clinical practice, education, research, consultation, and clinical leadership as the major components of his or her role.

(b) The board may establish categories of clinical nurse specialists and the standards required to be met for nurses to hold themselves out as clinical nurse specialists in each category. The standards shall take into account the types of advanced levels of nursing practice that are or may be performed and the clinical and didactic education, experience, or both needed to practice safely at those levels. In setting the standards, the board shall consult with clinical nurse specialists, physicians and surgeons appointed by the Medical Board with expertise with clinical nurse specialists, and health care organizations that utilize clinical nurse specialists.

(c) A registered nurse who meets one of the following requirements may apply to become a clinical nurse specialist:

(1) Possession of a master's degree in a clinical field of nursing.

(2) Possession of a master's degree in a clinical field related to nursing with course work in the components referred to in subdivision (a).

(3) On or before July 1, 1998, meets the following requirements:

(A) Current licensure as a registered nurse.

(B) Performs the role of a clinical nurse specialist as described in subdivision (a).

(C) Meets any other criteria established by the board.

(d) A nonrefundable fee of not less than seventy-five dollars (\$75), but not to exceed one hundred fifty dollars (\$150), shall be paid by a registered nurse applying to be a clinical nurse specialist for the evaluation of his or her qualifications to use the title “clinical nurse specialist.” A biennial renewal fee shall be paid upon submission of an application to renew the clinical nurse specialist certificate and shall be established by the board at no less than fifty dollars (\$50) and no more than one hundred dollars (\$100). The penalty fee for failure to renew a certificate within the prescribed time shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than twenty-five dollars (\$25), nor more than fifty dollars (\$50). The fees authorized by this subdivision shall not exceed the amount necessary to cover the costs to the board to administer this section.

(Added by Stats.1997, c. 159 (AB 90), § 3, operative July 1, 1998.)

2838.3. Operative Date

This article shall become operative on July 1, 1998.

(Added by Stats.1997, c. 159 (AB 90), § 3, operative July 1, 1998.)

2838.4. Scope of Practice of Registered Nurses; Limitations, Revisions, and Expansions

Nothing in this article shall be construed to limit, revise, or expand the current scope of practice of a registered nurse.

(Added by Stats.1997, c. 159 (AB 90), § 3, operative July 1, 1998.)

Resolution of Chapter 156

Assembly Concurrent Resolution No. 103 – Relative to nursing.

[Filed with Secretary of State November 27, 1972.]

WHEREAS, The licensing laws for physicians, registered nurses, and licensed vocational nurses are ambiguous concerning the performance of certain roles by registered nurses and vocational nurses, and of the congruent roles of nurses and physicians; and

WHEREAS, commencing in 1957, the California Nurses' Association, the California Medical Association, and the California Hospital Association have developed and distributed a series of joint statements on the role of the registered nurse in meeting new and changing needs of patient care and on the congruent roles of the nurse and the physician; and

WHEREAS, the joint statements have primarily functioned to validate developments in practice after the changes have become common practice, and have not been used to anticipate new needs or to encourage responsible innovative demonstrations of methods and practice for registered nurses and licensed vocational nurses; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring,

That it will best serve the public interest if such joint statements are utilized in cases of conflicting or absent statutory definition to validate generally accepted practices or patterns of care, and in addition, to assist the Legislature, licensing boards, other appropriate agencies, and responsible professional associations in anticipating new needs, making responsible innovations in practice patterns, and developing demonstration projects, all in the interest of patient care; and be it further

Resolved, That it is in the public interest that such joint statements are made a matter of public record for information and guidance to educators, practitioners, the public and the Legislature, and it is therefore directed that permanent files of such joint statements be maintained by the State Department of Public Health, the Board of Medical Examiners of the State of California, the California Board of Nursing Education and Nurse Registration and the Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, for public inspection; and it is further directed that the State Department of Public Health report annually to the Legislature as to new joint statements or modifications of existing joint statements; and be it further

Resolved, That the appropriate professional organizations representing physicians, registered nurses, vocational nurses, and hospitals are encouraged to form a joint practice commission which shall have as one of its purposes the encouragement, development, modification and publication of joint statements and interdisciplinary accords relating to needs and methodology of better and more effective nursing care.