

SENATE BILL NO. 331

INTRODUCED BY SQUIRES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS APPLYING TO THE PRACTICE OF NURSING; ~~PROVIDING AN EXCLUSION FOR CHARGE-NURSE SERVICES AT A CORRECTIONAL FACILITY OR INSTITUTION WITH NONACUTE PATIENTS;~~ ELIMINATING THE REQUIREMENT THAT THE PRACTICE OF NURSING APPLIES ONLY TO THOSE PRACTICING FOR COMPENSATION; AMENDING SECTIONS 37-8-102, 37-8-431, AND 37-8-443, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-8-102, MCA, is amended to read:

"37-8-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Advanced practice registered nurse" means a registered professional nurse who has completed educational requirements related to the nurse's specific practice role, in addition to basic nursing education, as specified by the board pursuant to 37-8-202(5)(a).

(2) "Board" means the board of nursing provided for in 2-15-1734.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Nursing education program" means any board-approved school that prepares graduates for initial licensure under this chapter. Nursing education programs for:

(a) professional nursing may be a department, school, division, or other administrative unit in a junior college, college, or university;

(b) practical nursing may be a department, school, division, or other administrative unit in a vocational-technical institution or junior college.

(5) "Practice of nursing" embraces ~~two classes of nursing service and activity, as follows:~~ the practice of practical nursing and the practice of professional nursing.

(6) (a) "Practice of practical nursing" means the performance ~~for compensation~~ of services requiring

1 basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing
2 procedures. Practical nursing practice uses standardized procedures in the observation and care of the ill,
3 injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the administration
4 of medications and treatments prescribed by a physician, advanced practice registered nurse, dentist, osteopath,
5 or podiatrist authorized by state law to prescribe medications and treatments. These services are performed
6 under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state
7 law to prescribe medications and treatments.

8 (b) These services may include a charge-nurse capacity in a long-term care facility that provides skilled
9 nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a registered
10 nurse.

11 ~~—— (c) These services may include charge-nurse services performed under the general supervision of a~~
12 ~~registered nurse in a correctional facility or institution with nonacute patients.~~

13 ~~(b)(7)~~ "Practice of professional nursing" means the performance for compensation of services requiring
14 substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological
15 sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment,
16 nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health, the
17 prevention, casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function.
18 The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing
19 practice and the administration of medications and treatments prescribed by physicians, advanced practice
20 registered nurses, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and
21 treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of
22 nursing care rendered. As used in this subsection ~~(5)(b)~~ (7):

23 ~~(i)~~(a) "nursing analysis" is the identification of those client problems for which nursing care is indicated
24 and may include referral to medical or community resources;

25 ~~(ii)~~(b) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish
26 defined goals."
27

28 **Section 2.** Section 37-8-431, MCA, is amended to read:

29 **"37-8-431. Renewal of license.** (1) The license of a person licensed under this chapter must be
30 renewed on the date set by department rule. At least 30 days prior to the renewal date, the department shall mail

1 an application form for renewal of a license to each person to whom a license was issued or renewed. The
2 applicant shall carefully complete and sign the application form and return it to the department with a renewal
3 fee prescribed by the board on or before the renewal date.

4 (2) The board may increase or decrease the license fee ~~so as~~ in order to maintain in the state special
5 revenue fund at all times an adequate amount to be used for the purpose of administering, policing, and
6 enforcing the provisions of Title 37, chapter 1, and this chapter. On receipt of the application and fee, the
7 department shall verify the accuracy of the application against its record and from other sources the board
8 considers reliable and issue to the applicant a certificate of renewal. The certificate of renewal renders the holder
9 a legal practitioner of nursing for the period stated in the certificate of renewal.

10 (3) A licensee who allows the license to lapse by failing to renew the license may be reinstated by the
11 board on satisfactory explanation for the failure to renew the license and on payment of the current renewal fee
12 prescribed by the board.

13 ~~(4) A person practicing nursing during the time following the date the license has expired is an illegal~~
14 ~~practitioner and is subject to the penalties provided for violations of this chapter.~~

15 ~~(5)~~(4) The board may establish a reasonable late fee for licensees who fail to renew their license by the
16 renewal date."

17
18 **Section 3.** Section 37-8-443, MCA, is amended to read:

19 **"37-8-443. Violation of chapter -- penalties.** (1) It is a misdemeanor for a person, ~~{~~including a
20 corporation, association, or individual~~}~~, to:

21 (a) sell or fraudulently obtain or furnish any nursing diploma, license, or record or aid ~~or abet therein~~
22 in the sale of or in fraudulently obtaining or furnishing a nursing diploma, license, or record;

23 (b) practice nursing, as defined by this chapter, under cover of any diploma, license, or record illegally
24 or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

25 ~~(c) practice professional nursing unless duly licensed to do so;~~

26 ~~— (d) practice practical nursing unless duly licensed to do so;~~

27 ~~(e)~~(c) use in connection with the person's name any designation tending to imply that the person is a
28 registered professional nurse or a licensed practical nurse unless ~~duly~~ licensed to ~~so~~ practice;

29 ~~(f)~~(d) practice nursing during the time the person's license is suspended, revoked, or on inactive status;

30 ~~(g)~~(e) conduct a school of nursing or a course unless the school or course has been approved by the

1 board;

2 ~~(h)~~(f) otherwise violate any provision of this chapter.

3 (2) ~~Such~~ A misdemeanor, as provided in subsection (1) is punishable by a fine of not less than \$100
4 for the first offense. Each subsequent offense is punishable by a fine of \$300, by imprisonment of not more than
5 6 months in the county jail, or ~~by both such fine and imprisonment.~~

6 (3) ~~The several district~~ District courts within their respective county jurisdictions may hear, try, and
7 determine ~~such a~~ a misdemeanor and impose ~~in full the~~ prescribed punishment and fines ~~prescribed~~. It is
8 necessary to prove, in any prosecution for misdemeanor under this section, only a single act prohibited by law
9 or a single holding out or an attempt. It is not necessary to prove a general course of conduct in order to
10 constitute a violation."

11
12 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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