

HOUSE BILL NO. 681  
INTRODUCED BY E. CLARK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LICENSURE OF MEDICATION AIDES; DEFINING "MEDICATION AIDE"; PROVIDING THE BOARD OF NURSING AUTHORITY TO ESTABLISH QUALIFICATIONS; PROVIDING THAT MEDICATION AIDES MAY PRACTICE ONLY IN PERSONAL-CARE FACILITIES AND UNDER THE GENERAL SUPERVISION OF A LICENSED NURSE; AND AMENDING SECTIONS 37-8-101, 37-8-102, AND 37-8-202, MCA."

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

**Section 1.** Section 37-8-101, MCA, is amended to read:

**"37-8-101. Purpose.** ~~(1)~~ In order to safeguard life and health, ~~any~~ a person practicing or offering to practice:

(1) professional nursing in this state for compensation or personal gain ~~shall be~~ is required to submit evidence that ~~he or she~~ the person is qualified to practice and ~~shall be~~ is licensed as ~~hereinafter~~ provided in this chapter;

(2) ~~In order to safeguard life and health, any person practicing or offering to practice~~ practical nursing in this state for compensation or personal gain ~~shall be~~ is required to submit evidence that ~~he or she~~ the person is qualified to practice and ~~shall be~~ is licensed as ~~hereinafter~~ provided in this chapter;

(3) as a medication aide in this state is required to submit evidence that the person is qualified to practice and is licensed as provided in this chapter."

**Section 2.** 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) "Medication aide" means a person who uses standardized procedures in the administration of medications DRUGS, AS DEFINED IN ~~37-7-704~~ 37-7-101, in a personal-care facility that are prescribed by a physician, an advanced practice registered nurse with prescriptive authority, a dentist, an osteopath, or a podiatrist authorized by state law to prescribe medications DRUGS.

~~(4)~~(5) "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)~~(6) "Practice of nursing" embraces two classes of nursing service and activity, as follows:

(a) "Practice of practical nursing" means the performance for compensation of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. Practical nursing practice uses standardized procedures in the observation and care of the ill, injured, and infirm, in the maintenance of health, in action to safeguard life and health, and in the administration of medications and treatments prescribed by a physician, advanced practice registered nurse, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services may include a charge-nurse capacity in a long-term care facility that provides skilled nursing care or intermediate nursing care, as defined in 50-5-101, under the general supervision of a registered nurse.

(b) "Practice of professional nursing" means the performance for compensation of services requiring substantial specialized knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing theory as a basis for the nursing process. The nursing process is the assessment, nursing analysis, planning, nursing intervention, and evaluation in the promotion and maintenance of health, the prevention, casefinding, and management of illness, injury, or infirmity, and the restoration of optimum function. The term also includes administration, teaching, counseling, supervision, delegation, and evaluation of nursing practice and the administration of medications and treatments prescribed by physicians, advanced practice registered nurses, dentists, osteopaths, or podiatrists authorized by state law to prescribe medications and treatments. Each registered nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. As used in this subsection ~~(5)(b)~~ (6)(b):

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

(ii) "nursing intervention" is the implementation of a plan of nursing care necessary to accomplish defined goals."

**Section 3.** Section 37-8-202, MCA, is amended to read:

**"37-8-202. Organization -- meetings -- powers and duties.** (1) The board shall meet annually and shall elect from among the nine members a president and a secretary. The board shall hold other meetings when necessary to transact its business. The department shall keep complete minutes and records of the meetings and rules and orders promulgated by the board.

(2) The board may make rules necessary to administer this chapter. The board shall prescribe standards for schools preparing persons for registration and licensure under this chapter. It shall provide for surveys of schools at times it considers necessary. It shall approve programs that meet the requirements of this chapter and of the board. The department shall, subject to 37-1-101, examine and issue to and renew licenses of qualified applicants. The board shall conduct hearings on charges that may call for discipline of a licensee, revocation of a license, or removal of schools of nursing from the approved list. It shall cause the prosecution of persons violating this chapter and may incur necessary expenses for prosecutions.

(3) The board may adopt and the department shall publish forms for use by applicants and others, including license, certificate, and identity forms and other appropriate forms and publications convenient for the proper administration of this chapter. The board may fix reasonable fees for incidental services, within the subject matter delegated by this chapter.

(4) The board may participate in and pay fees to a national organization of state boards of nursing to ensure interstate endorsement of licenses.

(5) (a) The board may define the educational requirements and other qualifications applicable to recognition of advanced practice registered nurses. Advanced practice registered nurses are nurses who must have additional professional education beyond the basic nursing degree required of a registered nurse. Additional education must be obtained in courses offered in a university setting or its equivalent. The applicant must be certified or in the process of being certified by a certifying body for advanced practice registered nurses. Advanced practice registered nurses include nurse practitioners, nurse-midwives, nurse-anesthetists, and clinical nurse specialists.

(b) The board shall adopt rules regarding authorization for prescriptive authority of nurse specialists. If

considered appropriate for a nurse specialist who applies to the board for authorization, prescriptive authority must be granted.

(6) The board may establish qualifications for licensure of medication aides, including but not limited to educational requirements. The board may define levels of licensure of medication aides consistent with educational qualifications, responsibilities, and the level of acuity of the medication aides' patients. The board may limit the type of ~~medications~~ DRUGS that are allowed to be administered and the method of ~~medication~~ administration.

~~(6)~~(7) The board shall establish a program to assist licensed nurses who are found to be physically or mentally impaired by habitual intemperance or the excessive use of narcotic drugs, alcohol, or any other drug or substance. The program must provide assistance to licensees in seeking treatment for substance abuse and monitor their efforts toward rehabilitation. For purposes of funding this program, the board shall adjust the license fee provided for in 37-8-431 commensurate with the cost of the program.

~~(7)~~(8) The board may adopt rules for delegation of nursing tasks by licensed nurses to unlicensed persons.

~~(8)~~(9) The board may fund additional staff, hired by the department, to administer the provisions of this chapter."

NEW SECTION. **Section 4. Medication aide scope of practice.** A medication aide may:

- (1) perform services requiring basic knowledge of medications and medication administration under specific circumstances as determined by the board by administrative rule;
- (2) practice only in a licensed personal-care facility, as defined in 50-5-101; and
- (3) practice only under the general supervision of a licensed professional or practical nurse.

NEW SECTION. **Section 5. Codification instruction.** [Section 4] is intended to be codified as an integral part of Title 37, chapter 8, part 4, and the provisions of Title 37, chapter 8, part 4, apply to [section 4].

NEW SECTION. **Section 6. Instructions to code commissioner.** If House Bill No. 51 and [this act] are both passed and approved, the commissioner is instructed to change the phrase "personal-care facility" to "assisted living facility" in [section 4].

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