

LEGISLATIVE BILL 724

Approved by the Governor April 10, 1984

Introduced by Public Health and Welfare Committee,
Fenger, 45, Chairperson; Barrett, 39;
McDonald, 31; R. Peterson, 21; Wesely,
26; Withem, 14; Rupp, 22

AN ACT relating to nurses; to amend sections 71-1,103, 71-1704, 71-1706, 71-1707, 71-1711, 71-1716, 71-1717, 71-1719, 71-1721, 71-1722, 71-1726, 71-1730, 71-1731, and 71-1736, Reissue Revised Statutes of Nebraska, 1943, and section 71-1724, Revised Statutes Supplement, 1983; to rename an act; to define and redefine terms; to provide criteria for nurse practitioner programs; to change provisions relating to the functions of certain nurses; to eliminate an advisory council; to provide powers and duties; to create a council; to provide certification and renewal requirements; to provide for temporary certification; to require the approval of certain boards as prescribed; to provide penalties; to authorize the use of certain titles; to harmonize provisions; to provide exceptions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 71-1,103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,103. The following classes of persons shall not be construed to be engaged in the unauthorized practice of medicine: (1) Persons rendering gratuitous services in cases of emergency; (2) persons administering ordinary household remedies; (3) the members of any church practicing its religious tenets, except that; ~~Provided,~~ they ~~do~~ shall not prescribe or administer drugs or medicines, perform surgical or physical operations, nor assume the title of, or hold themselves out to be physicians or surgeons; ~~and provided further, that~~ and such members shall not be exempt from the quarantine laws of this state; (4) students of medicine and surgery who are studying in an accredited school or college of medicine and who gratuitously prescribe for and treat disease under the supervision of a licensed physician; (5) physicians and surgeons of the United States armed forces or Public Health Service or United States Veterans' Administration, when acting in the line of such duty in this state; (6) physicians and surgeons who are graduates of an accredited

school or college of medicine with the degree of Doctor of Medicine and licensed in another state when incidentally called into this state for consultation with a physician and surgeon licensed in this state; (7) physicians and surgeons who are graduates of an accredited school or college of medicine with the degree of Doctor of Medicine and who reside in a state bordering this state, and who are duly licensed under the laws thereof to practice medicine and surgery but who do not open an office or maintain or appoint a place to meet patients or to receive calls within this state; (8) persons providing or instructing as to use of braces, prosthetic appliances, crutches, contact lenses, and other lenses and devices prescribed by a doctor of medicine licensed to practice while working under the direction of ~~said~~ such physician; (9) dentists practicing their profession, when licensed and practicing in accordance with the provisions of sections 71-183 to 71-193; (10) optometrists practicing their profession, when licensed and practicing under and in accordance with the provisions of sections 71-1,133 to 71-1,136; (11) osteopaths practicing their profession, if licensed and practicing under and in accordance with the provisions of sections 71-1,137 and 71-1,141; (12) chiropractors practicing their profession, if licensed and practicing under the provisions of sections 71-177 to 71-182; (13) podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of sections 71-173 to 71-176; (14) any ~~licentiates person~~, licensed or certified under the laws of this state to practice a limited field of the healing art, not heretofore specifically named, when confining themselves strictly to the field for which they are licensed or certified, not assuming the title of physician, surgeon, or physician and surgeon, and not professing or holding themselves out as qualified to ~~administer or~~ prescribe drugs in any form, or to perform operative surgery; or to practice obstetrics; and (15) physicians and surgeons who are duly licensed to practice medicine and surgery in another state, who have been recommended by the secretary of the board of examiners in the state of licensure, and who have been granted temporary practice rights by the Board of Examiners in Medicine and Surgery, with the approval of the Department of Health, for a period not to exceed three months in any twelve-month period.

Every act or practice falling within the practice of medicine and surgery as defined not specially excepted herein, shall constitute the practice of medicine and surgery and may be performed in this state only by those licensed by law to practice medicine in Nebraska.

Sec. 2. That section 71-1704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1704. This Sections 71-1704 to 71-1737 and sections 4, 6, 7, 9, 10, 15 to 19, 22, and 24 to 28 of this

act shall be known and may be cited as the Practice of Nursing in Expanded Role Nurse Practitioner Act.

Sec. 3. That section 71-1706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1706. As used in ~~sections 71-1704 to 71-1737~~ the Nurse Practitioner Act, unless the context otherwise requires, the definitions provided in sections 71-1707 to ~~71-1716~~ 71-1717 and sections 4, 6, 7, 9, and 10 of this act shall apply.

Sec. 4. Boards shall mean the Board of Nursing and the Board of Examiners in Medicine and Surgery of the State of Nebraska.

Sec. 5. That section 71-1707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1707. Nurse practitioner shall mean an individual who meets the following qualifications:

(1) Has acquired additional knowledge and skills within to deliver primary care in a particular clinical specialty in collaboration with a physician or other licensed practitioner area designed to enable him or her to practice as provided in section 71-1721;

(2) Has completed an approved basic program in nursing prior to and in preparation for licensure as a registered professional nurse;

(3) Is currently licensed as a registered professional nurse in the State of Nebraska;

(4) Has successfully completed an advanced course of study which prepares the participant for certification in a specific expanded role in nursing and which provides additional knowledge and skills in physical and psychosocial assessment and management of health and illness needs of a specialized population; and

(5) Has met the certification requirements and is currently certified by the department with the approval of the board of examiners and the Board of Nursing boards.

Sec. 6. Approved certifying body shall mean a national professional organization which certifies qualified licensed nurses in specific nurse practitioner clinical specialties whose membership is open to all qualified licensed nurses and which (1) offers an approved certification program, (2) has developed standards relating to scope of practice for certified nurse practitioners practicing in clinical specialty areas, and (3) is approved by the board.

Sec. 7. Approved certification program shall mean a certification process for nurse practitioners utilized by an approved certifying body that (1) requires evidence of completion of a formal program of study in a nurse practitioner clinical specialty, (2) requires successful completion of a nationally recognized certification examination developed by the approved certifying body, (3) provides an ongoing recertification program, and (4) is approved by the board.

Sec. 8. That section 71-1711, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1711. Educational institution shall mean any approved college, university, school of professional nursing, or agency offering accredited approved nurse practitioner educational programs for the preparation of nurse practitioners, which programs meet criteria established by the board.

Sec. 9. Practice agreement shall mean the written agreement authored and signed by the nurse practitioner and the licensed practitioner with whom he or she is associated which (1) identifies the settings within which the nurse practitioner is authorized to practice, (2) names the collaborating licensed practitioners, (3) defines or describes the agreed upon medical functions, not inconsistent with the Nurse Practitioner Act, that the nurse practitioner may perform, (4) contains such other information as required by the boards, and (5) is approved by the boards according to established criteria. More than one licensed practitioner may be party to a practice agreement.

Sec. 10. Supervision shall mean the ready availability of the collaborating licensed practitioner for consultation and direction of the activities of the nurse practitioner related to delegated medical functions as may be required by the boards.

Sec. 11. That section 71-1716, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1716. Collaboration shall mean a process and relationship in which a nurse practitioner practicing in an expanded role shall work together with a physician or another licensed practitioner and may work with other health professionals to deliver health care within the scope of authority of the various clinical specialty practices as authorized by law. With the exception of nurse practitioners certified under the provisions of sections 71-1729 to 71-1737, no one shall practice as a nurse practitioner in collaboration with a licensed practitioner except under the terms of the practice agreement, and shall not mean that a nurse practicing in an expanded role may provide medical services beyond the limits defined by each section of specific clinical specialty of the nurse practitioner acts. Prior to the establishment of a collaborative relationship in any clinical specialty area and prior to certification of any nurse practitioner in a specific clinical specialty, specific statutes relating to that clinical specialty shall be a portion of the statutes of the State of Nebraska defining specific duties and functions.

Sec. 12. That section 71-1717, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1717. In order to be certified pursuant to sections 71-1704 to 71-1727 the registered professional

nurse shall first successfully complete an approved Approved nurse practitioner program shall mean a program which meets the following requirements:

(1) The program is offered by an educational institution operated or accredited by the state in which it is located has been accredited by the appropriate national accrediting body and the graduates of the program are eligible to take a certification examination approved by the boards;

(2) The program is approved by the board as meeting the requirements of ~~sections 71-1704 to 71-1727~~ the Nurse Practitioner Act;

(3) The program is a minimum of one full-time academic year or nine months in length. The program shall include:

(a) A minimum of four months or two hundred forty contact hours of classroom instruction; and

(b) A preceptorship of at least the equivalent of five months full time or seven hundred twenty hours in the aggregate. No less than twelve hours per week or two hundred forty hours of the preceptorship shall consist of direct preceptor-preceptee collaboration in the practice setting; and

(4) The faculty of the program is qualified for faculty appointment to the controlling educational institution.

Sec. 13. That section 71-1719, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1719. The course of study of an approved nurse practitioner program shall be designed to prepare nurse practitioners to deliver health care within a specific expanded nurse practitioner role.

The course of study preparing for each specific expanded nurse practitioner role shall encompass knowledge, attitudes, and skills which enable the student to:

(1) Assess the health status of individuals by obtaining and recording a data base through the use of information from questionnaires, interviews, physical examination, or laboratory and other diagnostic procedures, as specified and approved under specific scope of practice statements; identify developmental or potential health problems, and communicate appropriately with the licensed practitioner;

(2) Develop and implement a plan of management and care;

(3) Institute and provide for continuity of health care to patients and clients, work with the patient or client to insure understanding of and compliance with the therapeutic regimen within established protocols, and recognize when to refer the patient or client to a licensed practitioner or other health care provider;

(4) Provide instruction, counseling, and health

care planning for and with individuals, families, and groups in the areas of health promotion and maintenance; and

(5) Work in collaboration with other health care providers, consumers, and agencies to provide, and, when appropriate, coordinate services to individuals and families.

Sec. 14. That section 71-1721, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1721. (1) Nurse practitioners may assess the physical and psychosocial status of individuals and families by means of nursing assessments, health history, and physical examinations. The Within his or her area of specialization, the nurse practitioner is authorized to provide certain diagnostic tests and the management of mental and physical health care in the applicable specialty area may accept a delegation of authority to perform the initial medical diagnosis and institute a plan of therapy or referral. The scope of these functions and their management shall be based upon (1) educational preparation, (2) continued experience, and (3) for nurse practitioners other than those certified under the provisions of sections 71-1729 to 71-1737, the practice agreement under which he or she is practicing, and (4) for nurse practitioners certified under the provisions of sections 71-1729 to 71-1737, the conditions specified in section 71-1734. statutorily established accepted scope of professional practice of the particular specialty area. Prior to the approval or certification of any specialty area for nurse practitioner, there shall be established specific statutes defining scope of practice and collaborative process, and establishing an advisory council, for each of the specialty areas. Protocols shall be developed jointly by the nurse practitioner and the affiliating physician or other licensed practitioner.

An advisory council shall be composed of three nurse practitioners representing each specialty area and one physician. The nurse practitioners may be selected from a list of names submitted by a professional organization. Initial terms of office shall be as follows: One appointment for a one-year term; one appointment for a two-year term; and one appointment for a three-year term. All appointments thereafter shall be for a three-year term. No one member shall be appointed to more than two consecutive terms. When possible, after the establishment of the initial council, all candidates shall have a minimum of five years practical experience. The physician member may be selected from a list submitted by a society of medical professionals for a two-year term. The physician representative shall have a current collaborative relationship with nurse practitioners.

The purpose of each advisory committee, which shall be under the supervision of and directly responsible

to the board, is to advise and make recommendations to the board before any action is taken regarding the nurse practitioner or the approval of educational programs-

(2) Each advisory council shall-

(a) Act as consultant in matters pertaining to nurse practitioner education and the scope of nurse practitioner practice;

(b) Function as a resource in matters pertaining to grievances or arbitration;

(c) Act as a resource body in matters pertaining to disciplinary action; and

(d) Review certification requirements-

Sec. 15. The specific medical functions to be performed by a nurse practitioner within the scope of permitted practice defined by section 71-1721 shall be described and defined in the nurse practitioner's practice agreement which shall be approved by the boards and a copy of which shall be maintained on file with the boards as a condition of lawful practice under the Nurse Practitioner Act. No nurse practitioner may perform any medical functions not authorized by the approved practice agreement.

Sec. 16. A nurse practitioner shall perform the medical functions of his or her specialty only under the supervision of the licensed practitioner responsible for the medical care of the patients that are described in the practice agreement. If the licensed practitioner named in the practice agreement becomes temporarily unavailable, the nurse practitioner may perform the medical functions of his or her specialty only under the supervision of another licensed practitioner designated as a temporary substitute for that purpose by the collaborating licensed practitioner.

Sec. 17. (1) A nurse practitioner may perform the medical functions of his or her specialty only in the following settings:

(a) In a licensed or certified health care facility when acting as an employee or as granted privileges by the facility;

(b) In the primary office of a licensed practitioner or in any setting authorized by the collaborating practitioner; or

(c) Within an organized public health agency.

(2) In the event a nurse practitioner renders services in a hospital or other health care facility, he or she shall be subject to the rules and regulations of that facility. Such rules and regulations may include, but not be limited to, reasonable requirements that the nurse practitioner and all collaborating licensed practitioners maintain professional liability insurance with such coverage and limits as may be established by the hospital or other health care facility upon the recommendation of the medical staff.

Sec. 18. If a nurse practitioner intends to alter his or her practice status by reason of a change in setting, supervision by a different practitioner, modification or expansion of the medical functions he or she is authorized to perform, or for any other reason, he or she shall submit a new or amended practice agreement to the boards for approval before any change may be permitted.

Sec. 19. Within sixty days after the certification of any nurse practitioner in the state, other than a certified registered nurse anesthetist, an advisory council, separate from the advisory council appointed pursuant to section 71-1736, shall be appointed by the boards. The advisory council shall be comprised of one nurse practitioner representing each nurse practitioner specialty for which certification has been issued at the time the initial advisory council is established. Thereafter, there shall be appointed a member to the advisory council representing each specialty area being practiced in Nebraska. There shall also be appointed to the advisory council a minimum of one and a maximum of five licensed practitioners who have a current collaborating relationship with a nurse practitioner. No more than one practitioner who collaborates in a given area of nurse practitioner specialization shall be appointed at one time to the advisory council. All appointments shall be for a two-year term and council members may serve no more than two consecutive terms. Physician members shall be appointed by the board of examiners and nurse practitioner members shall be appointed by the board.

The purpose of the advisory council, which shall be under the supervision of and directly responsible to the boards, shall be to advise and make recommendations to the boards.

Each advisory council shall:

(1) Act as consultant in matters pertaining to nurse practitioner education and the scope of nurse practitioner practice;

(2) Function as a resource in matters pertaining to grievances or arbitration;

(3) Act as a resource body in matters pertaining to disciplinary action; and

(4) Review certification requirements.

Sec. 20. That section 71-1722, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1722. Application requirements for certification as a nurse practitioner ~~in a specific expanded role in nursing~~ are the following:

(1) A currently valid license in good standing as a registered professional nurse in the State of Nebraska;

(2) A completed application in the applicant's own handwriting verified by oath;

(3) A certification fee in the amount of

twenty-five dollars;

(4) Evidence of having successfully completed an approved nurse practitioner program. ~~in the specific expanded role either within or outside of the state-~~ The evidence of successful completion of such a program shall consist of an official transcript showing all courses, grades, quality points, degree or diploma granted, official seal, and the appropriate registrar's signature received by the board ~~and the department~~ directly from the educational institution;

(5) ~~Writing and passing or submitting~~ Submission of proof of having passed an examination pertaining to the specific ~~expanded~~ nurse practitioner role in nursing adopted or approved by the ~~board and the board of examiners boards~~ with the approval of the department. Such examination may include any recognized national qualifying examination for nurse practitioners conducted by an approved certifying body which administers an approved certification program;

(6) Completion of a personal interview ~~with board designees~~ at the discretion of the ~~board boards~~;

(7) If more than two but less than five years have elapsed since the completion of the nurse practitioner program and the applicant has not practiced in the specific ~~expanded~~ nurse practitioner role during that time, the applicant shall meet the requirements in subdivisions (1) to (6) of this section and provide additional evidence of continuing clinical competence, as may be determined by the ~~boards, board~~ either by means of references, supervised practice, or examination; and

(8) If more than five years have elapsed since completion of the nurse practitioner program in the specific ~~expanded~~ nurse practitioner role and the applicant has not practiced as a nurse practitioner in the specific ~~expanded~~ nurse practitioner role during that time, the applicant shall be required to complete a reentry program in the appropriate specific ~~expanded~~ nurse practitioner role at an educational institution prior to recertification.

Sec. 21. That section 71-1724, Revised Statutes Supplement, 1983, be amended to read as follows:

71-1724. Renewal of certification as a nurse practitioner shall be at the same time and in the same manner as renewal of a license as a registered professional nurse and shall require that:

(1) The current license as a registered professional nurse in the State of Nebraska is valid and in good standing and continuing education requirements, if any, have been met;

(2) Documentation of continued clinical competencies be made, if deemed necessary by the ~~board boards~~, either by reference, peer review, or examination;

(3) Payment be made of a biennial certification

fee of twenty dollars; and

(4) Any nurse practitioner who fails to make application for renewal on or before January 1 of the renewal year shall be considered delinquent and shall be required to apply for reinstatement of the lapsed certification and to submit payment of the renewal fees then due, together with an additional reinstatement fee of five dollars.

Sec. 22. The department with the approval of the boards may grant temporary certification as a nurse practitioner for a period of one year to (1) graduates of an approved nurse practitioner program pending results of the initial certifying examination and (2) nurse practitioners currently licensed in another state pending completion of the application for Nebraska certification.

Sec. 23. That section 71-1726, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1726. Any person practicing as a nurse practitioner who is not currently certified as such by the department shall be subject to the same penalties and right of judicial review as a person practicing as a registered professional nurse without a license from the department. Any person practicing as a nurse practitioner who is not currently certified as such by the department and who possesses a current license to engage in any health profession for which a license is issued by the department, may have such license denied, refused renewal, suspended, or revoked or have other disciplinary action taken against him or her by the department pursuant to the provisions of Chapter 71, article 1, relating to such profession, irrespective of any criminal proceedings for practicing without a certificate.

Sec. 24. Any person, corporation, association, or other entity who engages in any of the following activities shall be guilty of a Class IV felony:

(1) Practicing as a nurse practitioner without being issued a certificate as such by the department with the approval of the boards;

(2) Employing or offering to employ any person as a nurse practitioner when knowing that such person is not certified as such by the department with the approval of the boards;

(3) Fraudulently seeking, obtaining, or furnishing a certificate as a nurse practitioner or aiding and abetting such activities; or

(4) Using in connection with his or her name the title certified nurse practitioner, the abbreviation CNP, or any other designation tending to imply that he or she is a nurse practitioner certified by the department with the approval of the boards when such person is not a nurse practitioner.

Sec. 25. The Nurse Practitioner Act shall not prohibit the performance of the delegated medical

functions of a nurse practitioner by an uncertified person if performed:

- (1) In an emergency situation;
- (2) By a legally qualified person from another state employed by the United States government and performing official duties in this state; and
- (3) By a person enrolled in an approved program for the preparation of nurse practitioners as part of that approved program.

Sec. 26. The collaborative relationship between the licensed practitioner and the nurse practitioner shall be subject to the joint control and regulation of the boards. In order for either of the boards to transact business, a quorum of such board's membership shall be present and in order for either of the boards to take any action, a majority of such board's membership shall vote in the affirmative. Except when one of the boards is specifically authorized by the Nurse Practitioner Act to take independent action, both boards shall concur when action by the boards is called for under such act. The boards shall keep a record of all their proceedings relative to such act.

Sec. 27. A person certified to practice as a nurse practitioner in this state may use the title certified nurse practitioner and the abbreviation CNP.

Sec. 28. The department shall, after consultation with the boards, adopt and promulgate necessary rules and regulations to carry out the provisions of the Nurse Practitioner Act.

Sec. 29. That section 71-1730, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1730. In order to obtain a certificate from the department as a nurse practitioner-anesthetist an individual shall meet the following requirements:

(1) Compliance with sections 71-1704 to 71-1727 and sections 4, 10, and 25 of this act unless otherwise specifically provided by sections 71-1729 to 71-1737;

(2) Successful completion of a course of study in anesthesia in a school of nurse anesthesia accredited or approved by or under the auspices of the department or the Council on Accreditation of Nurse Anesthesia and Educational Programs; and

(3) Writing and successfully passing a certifying examination approved by the department after prior approval of such examination by the ~~board and the board of examiners~~ boards. Such examination may include (a) the National Qualifying Examination of the Council on Certification of Certified Registered Nurse Anesthetists or (b) any other approved recognized national qualifying examination for nurse anesthetists.

Sec. 30. That section 71-1731, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1731. The department, with the prior

approval of the board and the board of examiners boards, may grant a temporary certification in the practice of anesthesia for a period of one year. The permit may be extended beyond one year at the discretion of the board boards for (a) graduates of an accredited school of nurse anesthesia pending results of the initial certifying examination and (b) registered nurse anesthetists currently licensed in another state pending completion of the application for Nebraska certification.

Sec. 31. That section 71-1736, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1736. (1) The board boards shall appoint three certified registered nurse anesthetists which may be from a list furnished by the Nebraska Association of Nurse Anesthetists to an advisory council. The first appointments shall be one certified registered nurse anesthetist for a one-year term, one certified registered nurse anesthetist for a two-year term, and one certified registered nurse anesthetist for a three-year term. Thereafter, one certified registered nurse anesthetist shall be appointed each year for a three-year term. The board boards shall also appoint one nonvoting board certified board-certified anesthesiologist each two years for a term of two years, which appointment may be from a list of names submitted by the Nebraska Society of Anesthesiologists.

(2) The advisory council shall:

(a) Act as consultant in matters pertaining to nurse anesthesia education and the scope of nurse anesthesia practice;

(b) Function as a resource in matters pertaining to grievances or arbitration;

(c) Act as a resource body in matters pertaining to disciplinary action; and

(d) Review certification requirements.

Sec. 32. That original sections 71-1,103, 71-1704, 71-1706, 71-1707, 71-1711, 71-1716, 71-1717, 71-1719, 71-1721, 71-1722, 71-1726, 71-1730, 71-1731, and 71-1736, Reissue Revised Statutes of Nebraska, 1943, and section 71-1724, Revised Statutes Supplement, 1983, are repealed.