

SENATE BILL 205

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EMERGENCY BILL

9lr0012

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request - Departmental - Health and Mental Hygiene)**

Introduced and read first time: January 23, 2009

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2009

CHAPTER _____

1 AN ACT concerning

2 **State Board of Nursing - Licensing - Licensure by Endorsement -**
3 **Provisional Practice Permits Temporary Limited Licenses**

4 FOR the purpose of authorizing certain applicants for licensure by examination to
5 enter into a remedial study agreement plan approved by the State Board of
6 Nursing if they are deficient in certain qualifications; requiring prior Board
7 approval before commencing a remedial study plan; requiring proof of successful
8 completion of a remedial study plan; requiring the Board to adopt regulations
9 for remedial training programs; authorizing the Board to waive certain
10 ~~education~~ clinical experience requirements under certain circumstances for
11 licensure by endorsement; requiring the Board to adopt regulations for licensure
12 by endorsement; establishing a ~~provisional practice program~~ temporary limited
13 license for an applicant for licensure with a certain deficient ~~qualifications~~
14 qualification; authorizing an applicant for licensure by endorsement to petition
15 the Board for a ~~provisional practice permit~~ temporary limited license;
16 authorizing the Board to issue a ~~provisional practice permit~~ temporary limited
17 license under certain circumstances; requiring the ~~provisional practice permit~~
18 temporary limited license to designate ~~certain areas~~ a certain area in which a
19 ~~provisional practice permit~~ temporary limited license holder may practice;
20 providing that a ~~provisional practice permit~~ temporary limited license is
21 nonrenewable; limiting the term of a ~~provisional practice permit~~ temporary
22 limited license; requiring certain conditions be met during a ~~provisional practice~~
23 period of limited licensure; requiring the Board to adopt regulations for the
24 ~~provisional practice program~~ temporary limited license; requiring the Board to
25 submit a certain report to the General Assembly on or before a certain date;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 making certain stylistic changes; clarifying certain eligibility requirements;
 2 providing for the termination of certain provisions of this Act; making this Act
 3 an emergency measure; defining a certain term; and generally relating to the
 4 regulation and licensure of professional nurses by the State Board of Nursing.

5 BY repealing and reenacting, with amendments,
 6 Article – Health Occupations
 7 Section 8–101, 8–302, and 8–307
 8 Annotated Code of Maryland
 9 (2005 Replacement Volume and 2008 Supplement)

10 BY adding to
 11 Article – Health Occupations
 12 Section 8–307.1
 13 Annotated Code of Maryland
 14 (2005 Replacement Volume and 2008 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Health Occupations**

18 8–101.

19 (a) In this title the following words have the meanings indicated.

20 (b) “Board” means the State Board of Nursing.

21 (c) “License” means, unless the context requires otherwise, a license issued
 22 by the Board to practice:

23 (1) Registered nursing; or

24 (2) Licensed practical nursing.

25 (d) “Licensed practical nurse” means, unless the context requires otherwise,
 26 an individual who is licensed by the Board to practice licensed practical nursing.

27 (e) **“LICENSURE BY ENDORSEMENT” MEANS A LICENSE ISSUED BY THE**
 28 **BOARD, WITHOUT EXAMINATION, TO AN APPLICANT WHO IS ALREADY LICENSED**
 29 **IN ANOTHER STATE OR COUNTRY AND WHO THE BOARD HAS DETERMINED:**

30 (1) **MEETS THE QUALIFICATIONS REQUIRED OF LICENSED**
 31 **NURSES IN THE STATE AT THE TIME OF GRADUATION;**

1 **(2) HAS TAKEN AND PASSED AN EXAMINATION IN ANOTHER**
2 **STATE OR COUNTRY THAT IS THE SAME AS, OR SUBSTANTIALLY EQUIVALENT TO,**
3 **THE EXAMINATION REQUIRED UNDER THIS SUBTITLE; AND**

4 **(3) HAS AN ACTIVE, UNENCUMBERED LICENSE.**

5 **[(e)] (F) “Practice licensed practical nursing” means to perform in a team**
6 **relationship an act that requires specialized knowledge, judgment, and skill based on**
7 **principles of biological, physiological, behavioral, or sociological science to:**

8 **(1) Administer treatment or medication to an individual;**

9 **(2) Aid in the rehabilitation of an individual;**

10 **(3) Promote preventive measures in community health;**

11 **(4) Give counsel to an individual;**

12 **(5) Safeguard life and health;**

13 **(6) Teach or supervise; or**

14 **(7) Perform any additional acts authorized by the Board under §**
15 **8–205 of this title.**

16 **[(f)] (G) (1) “Practice registered nursing” means the performance of acts**
17 **requiring substantial specialized knowledge, judgment and skill based on the**
18 **biological, physiological, behavioral or sociological sciences as the basis for assessment,**
19 **nursing diagnosis, planning, implementation and evaluation of the practice of nursing**
20 **in order to:**

21 **(i) Maintain health;**

22 **(ii) Prevent illness; or**

23 **(iii) Care for or rehabilitate the ill, injured, or infirm.**

24 **(2) For these purposes, “practice registered nursing” includes:**

25 **(i) Administration;**

26 **(ii) Teaching;**

27 **(iii) Counseling;**

28 **(iv) Supervision, delegation and evaluation of nursing practice;**

1 (v) Execution of therapeutic regimen, including the
2 administration of medication and treatment;

3 (vi) Independent nursing functions and delegated medical
4 functions; and

5 (vii) Performance of additional acts authorized by the Board
6 under § 8–205 of this title.

7 [(g)] (H) “Registered nurse” means, unless the context requires otherwise,
8 an individual who is licensed by the Board to practice registered nursing.

9 8–302.

10 (a) Except as otherwise provided in this title, to qualify for a license or
11 certification, an applicant shall be an individual who submits to a criminal history
12 records check in accordance with § 8–303 of this subtitle and meets the requirements
13 of this section.

14 (b) An applicant for certification as a certified nurse practitioner shall:

15 (1) Be a registered nurse;

16 (2) Complete a nurse practitioner program approved by the Board; and

17 (3) Meet the other requirements that the Board sets.

18 (c) An applicant for a license to practice registered nursing shall complete
19 satisfactorily and meet all requirements for a diploma or degree from:

20 (1) A registered nursing education program approved by the Board; or

21 (2) An education program in registered nursing in [any other]
22 **ANOTHER** state or country that the Board finds substantially equivalent to the
23 program in this State.

24 (d) An applicant for a license to practice licensed practical nursing shall:

25 (1) Meet all requirements for a high school diploma or its equivalent;
26 and

27 (2) Complete satisfactorily and meet all requirements for a diploma
28 from:

29 (i) A licensed practical nursing education program or its
30 equivalent approved by the Board; or

1 (ii) An education program in licensed practical nursing in [any
2 other] **ANOTHER** state or country that the Board finds substantially equivalent to the
3 program in this State.

4 (e) Except as otherwise provided in this title, the applicant shall pass an
5 examination approved by the Board.

6 (f) (1) Except as otherwise provided in this subsection, the Board shall
7 require as part of its examination or licensing procedures that an applicant for a
8 license to practice registered nursing or licensed practical nursing demonstrate an oral
9 competency in the English language.

10 (2) Graduation from a recognized English-speaking undergraduate
11 school after at least 3 years of enrollment, or from a recognized English-speaking
12 professional school is acceptable as proof of proficiency in the oral communication of
13 the English language under this section.

14 (3) By regulation, the Board shall develop a procedure for testing
15 individuals who because of their speech impairment are unable to complete
16 satisfactorily a Board approved standardized test of oral competency.

17 (4) If any disciplinary charge or action that involves a problem with
18 the oral communication of the English language is brought against a licensee under
19 this title, the Board shall require the licensee to take and pass a Board approved
20 standardized test of oral competency.

21 (5) The Board may not require that an applicant for a license to
22 practice registered nursing or licensed practical nursing who was previously licensed
23 in [any other] **ANOTHER** state to practice registered nursing or licensed practical
24 nursing to demonstrate an oral competency in the English language as part of its
25 examination or licensing procedures if the other state has a similar oral competency
26 component as part of its examination or licensing procedures.

27 (6) (i) The Board may issue a temporary license to any applicant
28 for a license to practice registered nursing or licensed practical nursing who was
29 previously licensed in [any other] **ANOTHER** state to practice registered nursing or
30 licensed practical nursing and who, except for the oral competency in the English
31 language component, is otherwise qualified for a license.

32 (ii) A temporary license issued under this subsection is valid
33 only until the date when the next test to demonstrate oral competency in the English
34 language is given.

35 (g) An applicant for a license or certification under this section shall be of
36 good moral character.

1 **(H) (1) IF AN APPLICANT FOR LICENSURE BY EXAMINATION DOES**
2 **NOT MEET THE EDUCATIONAL QUALIFICATIONS UNDER SUBSECTIONS (C) AND**
3 **(D) OF THIS SECTION BUT HAS GRADUATED FROM A PROGRAM APPROVED BY A**
4 **BOARD RECOGNIZED NURSING ACCREDITATION AGENCY, THE APPLICANT:**

5 **(I) MAY PETITION THE BOARD TO ENTER INTO A REMEDIAL**
6 **STUDY PLAN PRIOR TO TAKING THE EXAMINATION;**

7 **(II) SHALL ARRANGE A REMEDIAL STUDY PLAN AGREEMENT**
8 **WITH AN ACCREDITED SCHOOL OF NURSING; AND**

9 **(III) SHALL SUBMIT THE PLAN TO THE BOARD FOR**
10 **APPROVAL BEFORE COMMENCING THE REMEDIAL STUDY PROGRAM.**

11 **(2) AN APPLICANT FOR LICENSURE BY EXAMINATION SHALL**
12 **SUBMIT WRITTEN PROOF THAT THE APPLICANT HAS COMPLETED**
13 **SUCCESSFULLY A REMEDIAL PLAN OF STUDY.**

14 **(3) THE BOARD SHALL ADOPT REGULATIONS TO ESTABLISH**
15 **RULES FOR REMEDIAL TRAINING PROGRAMS THAT ARE APPROVED BY THE**
16 **BOARD FOR EXAMINATION APPLICANTS.**

17 8–307.

18 (a) Subject to the provisions of this section, the Board may waive any
19 [appropriate] examination requirement of this title for an applicant who [is licensed or
20 registered] **HAS AN ACTIVE LICENSE** to practice registered nursing or licensed
21 practical nursing in [any other] **ANOTHER** state or country.

22 (b) The Board may grant a waiver under this section only if the applicant:

23 **(1) COMPLETES THE BOARD APPLICATION;**

24 **(2) COMPLIES WITH THE REQUIREMENTS OF § 8–303 OF THIS**
25 **SUBTITLE;**

26 **[(1)] (3)** Pays the application fee set by the Board under § 8–304 of
27 this subtitle; and

28 **[(2)] (4)** Provides adequate evidence that:

29 (i) At the time the applicant graduated from a nursing
30 education program approved **BY THE APPROPRIATE LICENSING AUTHORITY** in [the
31 other] **ANOTHER** state or country, the applicant met the educational qualifications
32 then required by the laws of this State;

1 (ii) At the time the applicant became licensed or registered in
 2 [the other] **ANOTHER** state or country, the applicant passed in that [or any other]
 3 state or country an examination [that was] similar to the examination [that] then
 4 [was] given in this State; and

5 (iii) The applicant meets the qualifications otherwise required by
 6 this title.

7 (C) **IF AN APPLICANT FOR LICENSURE BY ENDORSEMENT DOES NOT**
 8 **QUALIFY UNDER SUBSECTION (B) OF THIS SECTION BUT HAS GRADUATED FROM**
 9 **A PROGRAM ACCREDITED BY A BOARD RECOGNIZED NURSING ACCREDITATION**
 10 **AGENCY, THE BOARD MAY WAIVE ~~THE EDUCATION~~ ANY CLINICAL EXPERIENCE**
 11 **REQUIRED BY THIS ~~SUBSECTION~~ SUBTITLE IF THE APPLICANT HAS:**

12 (1) **1,000 HOURS OF CLINICAL PRACTICE IN THE 5 YEARS**
 13 **IMMEDIATELY PRECEDING THE SUBMISSION OF THE APPLICATION FOR A**
 14 **LICENSE BY ENDORSEMENT; OR**

15 (2) **350 HOURS OF CLINICAL PRACTICE IN THE 12 MONTHS**
 16 **IMMEDIATELY PRECEDING THE SUBMISSION OF AN APPLICATION FOR A**
 17 **LICENSE BY ENDORSEMENT.**

18 (D) **THE BOARD SHALL ADOPT REGULATIONS FOR LICENSURE BY**
 19 **ENDORSEMENT.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 21 read as follows:

22 **Article - Health Occupations**

23 **8-307.1.**

24 (A) **THERE SHALL BE A ~~PROVISIONAL PRACTICE PROGRAM~~ TEMPORARY**
 25 **LIMITED LICENSE.**

26 (B) **IF AN ENDORSEMENT APPLICANT WHOSE NURSING PROGRAM**
 27 **LACKED A ~~CLINICAL OR~~ SINGLE DIDACTIC COMPONENT REQUIRED IN A**
 28 **BOARD APPROVED PROGRAM, OR A SUBSTANTIALLY EQUIVALENT PROGRAM,**
 29 **COMPLIES WITH THE REQUIREMENTS OF THIS SECTION, THE BOARD MAY ISSUE**
 30 **A ~~PROVISIONAL PRACTICE PERMIT~~ TEMPORARY LIMITED LICENSE TO THE**
 31 **APPLICANT.**

32 (C) **A TEMPORARY LIMITED LICENSE SHALL BE SUBJECT TO THE**
 33 **PROVISIONS OF § 8-307(A) AND (B) OF THIS SUBTITLE AND THE**
 34 **QUALIFICATIONS OTHERWISE REQUIRED BY THIS TITLE.**

1 ~~(C)~~ (D) ~~THE PROVISIONAL PRACTICE PERMIT~~ THE TEMPORARY
2 LIMITED LICENSE SHALL DESIGNATE:

3 (1) THE AREAS OF NURSING PRACTICE IN WHICH THE APPLICANT
4 IS QUALIFIED AND PERMITTED TO PROVIDE CARE;

5 (2) THE ~~AREAS~~ AREA OF NURSING PRACTICE IN WHICH THE
6 APPLICANT IS DEFICIENT AND IS PROHIBITED FROM PROVIDING CARE EXCEPT
7 ACCORDING TO THE TERMS OF THE ~~PROVISIONAL PRACTICE PERMIT~~
8 TEMPORARY LIMITED LICENSE; AND

9 (3) THE PLAN OF ~~CLINICAL OR~~ DIDACTIC STUDY REQUIRED FOR
10 THE APPLICANT BY THE BOARD.

11 ~~(D)~~ (E) A ~~PROVISIONAL PRACTICE PERMIT~~ TEMPORARY LIMITED
12 LICENSE IS NOT RENEWABLE AND EXPIRES ON THE EARLIER OF:

13 (1) ~~18~~ 12 MONTHS FROM THE DATE OF ISSUE; OR

14 (2) WHEN THE ~~PROVISIONAL~~ DIDACTIC REQUIREMENT HAS BEEN
15 MET AND A ~~PERMANENT~~ LICENSE IS ISSUED TO THE APPLICANT.

16 ~~(E)~~ (F) AN APPLICANT SHALL BE ON ~~PROVISIONAL~~ LIMITED STATUS
17 UNTIL THE APPLICANT SUBMITS ACCEPTABLE PROOF TO THE BOARD THAT THE
18 APPLICANT HAS COMPLETED THE REQUIRED PLAN OF ~~CLINICAL AND~~ DIDACTIC
19 TRAINING IN THE AREA OF DEFICIENCY OR UNTIL THE EXPIRATION OF THE
20 PERMIT.

21 ~~(F)~~ (G) THE APPLICANT SHALL SUBMIT TO THE BOARD A
22 ~~PROVISIONAL PLAN OF~~ TO COMPLETE THE ~~CLINICAL AND~~ DIDACTIC TRAINING
23 ~~FOR BOARD REVIEW.~~

24 ~~(G)~~ (H) ON APPROVAL OF THE PLAN BY THE BOARD, THE APPLICANT
25 SHALL BE RESPONSIBLE FOR ENTERING INTO AN ~~AGREEMENT WITH AN ACUTE~~
26 ~~HEALTH CARE FACILITY, AS DEFINED BY § 19-301(F) OF THE HEALTH~~
27 ~~GENERAL ARTICLE, OR ARRANGING A PROVISIONAL PLAN OF STUDY WITH AN~~
28 ACCREDITED SCHOOL OF NURSING TO COMPLETE THE DIDACTIC TRAINING.

29 ~~(H)~~ (I) AN APPLICANT WHO HAS COMPLETED A ~~PROVISIONAL~~ PLAN
30 OF TRAINING SHALL PROVIDE THE BOARD WITH ~~A WRITTEN STATEMENT FROM~~
31 ~~THE SUPERVISING NURSE AND THE FACILITY'S CHIEF EXECUTIVE NURSE~~
32 WRITTEN PROOF THAT THE APPLICANT HAS SUCCESSFULLY COMPLETED THE
33 REQUIRED NUMBER OF ~~CLINICAL AND~~ DIDACTIC ~~EXPERIENCE~~ HOURS.

1 ~~(I)~~ (J) **THE BOARD SHALL ADOPT REGULATIONS TO SET STANDARDS**
2 **FOR THE ~~PROVISIONAL PRACTICE PROGRAM~~ TEMPORARY LIMITED LICENSE.**

3 ~~(J)~~ (K) **THE BOARD SHALL REPORT TO THE GENERAL ASSEMBLY ON**
4 **OR BEFORE DECEMBER 1, 2012, IN ACCORDANCE WITH § 2-1246 OF THE STATE**
5 **GOVERNMENT ARTICLE, ON THE EFFECTIVENESS OF THE ~~PROVISIONAL~~**
6 **~~PRACTICE PROGRAM UNDER THIS SECTION~~ TEMPORARY LIMITED LICENSE.**

7 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
8 remain effective through June 30, ~~2013~~ 2014, and, at the end of June 30, ~~2013~~ 2014,
9 with no further action required by the General Assembly, Section 2 of this Act shall be
10 abrogated and of no further force and effect.

11 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
12 measure, is necessary for the immediate preservation of the public health or safety,
13 has been passed by a yea and nay vote supported by three-fifths of all the members
14 elected to each of the two Houses of the General Assembly, and shall take effect from
15 the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.