

Sec. 4. EFFECTIVE DATE.

This act is effective the day following final enactment.

Presented to the governor May 3, 1993

Signed by the governor May 5, 1993, 6:22 p.m.

CHAPTER 88—H.F.No. 945

An act relating to occupations and professions; modifying the membership of the board of nursing; requiring a certain examination for licensure of graduates from nursing programs in other countries; modifying requirements for a temporary permit; adding grounds for disciplinary action; amending Minnesota Statutes 1992, sections 148.181, subdivisions 1 and 3; 148.211, subdivision 1; 148.212; and 148.261, subdivision 1.

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

Section 1. Minnesota Statutes 1992, section 148.181, subdivision 1, is amended to read:

Subdivision 1. **MEMBERSHIP.** The board of nursing ~~shall consist~~ consists of ~~++ 16~~ 16 members appointed by the governor, each of whom ~~shall must~~ must be a resident of this state. ~~Five~~ Eight members ~~shall must~~ must be registered nurses, each of whom ~~shall must~~ must have graduated from an approved school of nursing, ~~shall must~~ must be licensed and currently registered as a registered nurse in this state, and ~~shall must~~ must have had at least five years experience in nursing practice, nursing administration, or nursing education immediately preceding appointment. One of the ~~five~~ eight ~~shall must~~ must have had at least two years executive or teaching experience in a ~~professional~~ baccalaureate degree nursing program approved by the board under section 148.251 during the five years immediately preceding appointment, one of the eight must have had at least two years executive or teaching experience in an associate degree nursing program approved by the board under section 148.251 during the five years immediately preceding appointment, and one of the ~~five~~ eight ~~shall must~~ must have had at least two years executive or teaching experience in a practical nursing program approved by the board under section 148.251 during the five years immediately preceding appointment, and one of the eight must have national certification as a registered nurse anesthetist, nurse practitioner, nurse midwife, or clinical nurse specialist. ~~Three~~ Four of the ~~eight~~ eight ~~must have had at least five years of experience in nursing practice or nursing administration immediately preceding appointment.~~ Four members ~~shall must~~ must be licensed practical nurses, each of whom ~~shall must~~ must have graduated from an approved school of nursing, ~~shall must~~ must be licensed and currently registered as a licensed practical nurse in this state, and ~~shall must~~ must have had at least five years experience in nursing practice immediately preceding appointment. The remaining ~~three~~ four members ~~shall must~~ must be public members as defined by section 214.02.

New language is indicated by underline, deletions by ~~strikeout~~.

A member may be reappointed but may not serve more than two full terms consecutively. The governor shall attempt to make appointments to the board that reflect the geography of the state. The board members who are nurses should as a whole reflect the broad mix of practice types and sites of nurses practicing in Minnesota.

Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements ~~shall be~~ are as provided in sections 214.07 to 214.09. Any nurse on the board who during incumbency permanently ceases to be actively engaged in the practice of nursing or otherwise becomes disqualified for board membership is automatically removed, and the governor shall fill the vacancy. The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations ~~shall be~~ are as provided in sections 148.171 to 148.285 and chapter 214. Each member of the board shall file with the secretary of state the constitutional oath of office before beginning the term of office.

Sec. 2. Minnesota Statutes 1992, section 148.181, subdivision 3, is amended to read:

Subd. 3. **DISCLOSURE.** ~~All communications or information received by or disclosed to the board relating to any person or matter subject to its regulatory jurisdiction, and all records of any action or proceedings, except a final decision of the board, are private data on individuals as defined in section 13.02, subdivision 2, and any A disciplinary hearing shall~~ must be closed to the public.

Upon application of a party in a proceeding before the board under section 148.261, the board shall produce and permit the inspection and copying, by or on behalf of the moving party, of any designated documents or papers relevant to the proceedings, in accordance with rule 34 of the Minnesota rules of civil procedure.

Sec. 3. Minnesota Statutes 1992, section 148.211, subdivision 1, is amended to read:

Subdivision 1. **LICENSURE BY EXAMINATION.** An applicant for a license to practice as a registered nurse or licensed practical nurse shall apply to the board for a license by examination on forms prescribed by the board and pay a fee in an amount determined by rule. An applicant applying for reexamination shall pay a fee in an amount determined by rule. In no case ~~shall~~ may fees be refunded.

Before being scheduled for examination, the applicant shall provide written evidence verified by oath that the applicant (1) has not engaged in conduct warranting disciplinary action as set forth in section 148.261; (2) meets secondary education requirements as determined by the board and other preliminary qualification requirements the board may prescribe by rule; and (3) ~~either~~ is completed a course of study in a nursing program approved by the board ~~or is~~

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enrolled in the final term of study in such program, another United States nursing board, or a Canadian province. An applicant who graduates from a nursing program in another country, except Canada, must also successfully complete the Commission on Graduates of Foreign Nursing Schools Qualifying Examination. The nursing program must be approved for the preparation of applicants for the type of license for which the application has been submitted.

The applicant ~~shall be required to~~ must pass a written examination in the subjects the board may determine. Written examination includes both paper and pencil examinations and examinations administered with a computer and related technology. Each written examination may be supplemented by an oral or practical examination. An applicant failing to pass the examination may apply for reexamination.

Upon submission by the applicant of an affidavit of graduation or transcript from an approved nursing program as well as proof that the applicant has passed the examination, paid the required fees, and met all other requirements stated in this subdivision, the board shall issue a license to the applicant. The board may issue a license with conditions and limitations if it considers it necessary to protect the public.

Sec. 4. Minnesota Statutes 1992, section 148.212, is amended to read:

148.212 TEMPORARY PERMIT.

Upon receipt of the applicable licensure or reregistration fee and permit fee, and in accordance with rules of the board, the board may issue a nonrenewable temporary permit to practice professional or practical nursing to an applicant for licensure or reregistration who is not the subject of a pending investigation or disciplinary action, nor disqualified for any other reason, under the following circumstances:

(a) The applicant for licensure by examination under section 148.211, subdivision 1, has graduated from an approved nursing program within the 60 days preceding board receipt of an affidavit of graduation or transcript and has applied been authorized by the board to write the first licensure examination for licensure given by the board following graduation the first time in the United States. The permit holder must practice professional or practical nursing under the direct supervision of a registered nurse. The permit is valid from the date of graduation issue until the date the board takes action on the application or for 60 days whichever occurs first.

(b) The applicant for licensure under section 148.211, subdivision 2, has graduated from an approved nursing program in another state or territory and has written the first examination for licensure given by that jurisdiction's board following graduation. The examination must be the same examination required under section 148.211. The permit holder must practice professional or practical nursing under the direct supervision of a registered nurse. The permit shall be valid from the date of graduation or completion of the examination, whichever is later, until the date of board action on the application.

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(e) The applicant for licensure by endorsement under section 148.211, subdivision 2, is currently licensed to practice professional or practical nursing in another state, territory, or Canadian province. The permit ~~shall be~~ is valid from submission of a proper request until the date of board action on the application.

(d) (c) The applicant for licensure by endorsement under section 148.211, subdivision 2, or for reregistration under section 148.231, subdivision 5, is currently registered in a formal, structured refresher course or its equivalent for nurses that includes clinical practice.

Sec. 5. Minnesota Statutes 1992, section 148.261, subdivision 1, is amended to read:

Subdivision 1. **GROUNDS LISTED.** The board ~~shall have power to~~ may deny, revoke, suspend, limit, or condition the license and registration of any person to practice professional or practical nursing ~~pursuant to~~ under sections 148.171 to 148.285, or to otherwise discipline a licensee or applicant as described in section 148.262. The following are grounds for disciplinary action:

(1) Failure to demonstrate the qualifications or satisfy the requirements for a license contained in sections 148.171 to 148.285 or rules of the board. In the case of a person applying for a license, the burden of proof is upon the applicant to demonstrate the qualifications or satisfaction of the requirements.

(2) Employing fraud or deceit in procuring or attempting to procure a permit, license, or registration certificate to practice professional or practical nursing or attempting to subvert the licensing examination process. Conduct that subverts or attempts to subvert the licensing examination process includes, but is not limited to:

(i) conduct that violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;

(ii) conduct that violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or

(iii) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(3) Conviction during the previous five years of a felony or gross misdemeanor reasonably related to the practice of professional or practical nursing. Conviction as used in this subdivision ~~shall include~~ includes a conviction of an offense that if committed in this state would be considered a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered.

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(4) Revocation, suspension, limitation, conditioning, or other disciplinary action against the person's professional or practical nursing license in another state, territory, or country; failure to report to the board that charges regarding the person's nursing license are pending in another state, territory, or country; or having been refused a license by another state, territory, or country.

(5) Failure to or inability to perform professional or practical nursing as defined in section 148.171, paragraph (3) or (5), with reasonable skill and safety, including failure of a registered nurse to supervise or a licensed practical nurse to monitor adequately the performance of acts by any person working at the nurse's direction.

(6) Engaging in unprofessional conduct, including, but not limited to, a departure from or failure to conform to board rules of professional or practical nursing practice that interpret the statutory definition of professional or practical nursing as well as provide criteria for violations of the statutes, or, if no rule exists, to the minimal standards of acceptable and prevailing professional or practical nursing practice, or any nursing practice that may create unnecessary danger to a patient's life, health, or safety. Actual injury to a patient need not be established under this clause.

(7) Delegating or accepting the delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care.

(8) Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition.

(9) Adjudication as mentally incompetent, mentally ill, a chemically dependent person, or a person dangerous to the public by a court of competent jurisdiction, within or without this state.

(10) Engaging in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient. Actual injury need not be established under this clause.

(11) Engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient, or engaging in sexual exploitation of a patient or former patient.

(12) Obtaining money, property, or services from a patient, other than reasonable fees for services provided to the patient, through the use of undue influence, harassment, duress, deception, or fraud.

(13) Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.

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(14) Engaging in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws or state medical assistance laws.

(15) Improper management of patient records, including failure to maintain adequate patient records, to comply with a patient's request made pursuant to section 144.335, or to furnish a patient record or report required by law.

(16) Knowingly aiding, assisting, advising, or allowing an unlicensed person to engage in the unlawful practice of professional or practical nursing.

(17) Violating a rule adopted by the board, an order of the board, or a state or federal law relating to the practice of professional or practical nursing, or a state or federal narcotics or controlled substance law.

(18) Knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

(19) Aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(i) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(ii) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(iii) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

(20) Practicing outside the scope of practice authorized by section 148.171, paragraph (3) or (5).

(21) Making a false statement or knowingly providing false information to the board, failing to make reports as required by section 148.263, or failing to cooperate with an investigation of the board as required by section 148.265.

(22) Engaging in false, fraudulent, deceptive, or misleading advertising.

Sec. 6. EFFECTIVE DATE.

Sections 1 to 5 are effective the day following final enactment; except that the conditions in section 4, paragraphs (a) and (b) are effective for persons applying to take a licensing examination after February 28, 1994.

Presented to the governor May 3, 1993

New language is indicated by underline, deletions by ~~strikeout~~.

Signed by the governor May 5, 1993, 6:18 p.m.

CHAPTER 89—H.F.No. 768

An act relating to retirement; Minnesota state retirement system; authorizing a purchase of service credit by a former grain inspector.

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

Section 1. **FORMER GRAIN INSPECTOR PURCHASE OF SERVICE CREDIT.**

Subdivision 1. AUTHORIZATION. A person who:

(1) was employed by the grain inspection division of the department of public service of the state of Minnesota from June 1960 until June 1967;

(2) was employed by the Duluth board of trade weighing department from June 1967 until April 1978; and

(3) was reemployed by the grain inspection division of the department of agriculture of the state of Minnesota from April 1978 until October 9, 1981.

must be considered eligible to receive a retirement annuity, upon reaching normal retirement age, from the general state employees retirement plan of the Minnesota state retirement system, notwithstanding the length of service vesting requirement in effect on the date of termination of state service by the person.

Subd. 2. REFUND REPAYMENT AUTHORIZATION. Notwithstanding Minnesota Statutes, section 352.23, the person described in this section may repay any refund previously received from the general state employees retirement fund of the Minnesota state retirement system without resuming state employment and without any minimum reemployment duration requirement. The refund repayment amount must be the amount specified in Minnesota Statutes, section 352.23.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective on the day following final enactment.

Presented to the governor May 3, 1993

Signed by the governor May 5, 1993, 6:15 p.m.

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