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Martin
2/26/14

CS FOR SENATE BILL NO. 166()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR GIESSEL BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to nursing and to the Board of Nursing."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 08.68.010 is amended to read:

4 **Sec. 08.68.010. Creation and membership of Board of Nursing.** There is
5 created a Board of Nursing, consisting of seven members appointed by the governor
6 as follows:

7 (1) one [. ONE] member shall be a licensed practical nurse who is
8 currently engaged in licensed practical nursing and has practiced for at least two
9 years immediately preceding appointment;

10 (2) [CURRENTLY INVOLVED IN INSTITUTIONAL NURSING
11 SERVICE,] one member shall be a registered nurse engaged in
12 [BACCALAUREATE] nursing education at an academic institution at the
13 graduate, baccalaureate, or associate degree level;

14 (3) one member shall be an advanced nurse practitioner who is
15 currently engaged in advanced practice nursing and has practiced for at least

1 four years immediately preceding appointment;

2 (4) two [, THREE] members shall be registered nurses at large who
3 are currently engaged in registered nursing and have practiced for at least four
4 years immediately preceding appointment; [,] and

5 (5) two members shall be persons who have no direct financial interest
6 in the health care industry.

7 * Sec. 2. AS 08.68.100(a) is amended to read:

8 (a) The board shall

9 (1) adopt regulations necessary to implement this chapter, including
10 regulations

11 (A) pertaining to practice as an advanced nurse practitioner and
12 a certified registered nurse anesthetist;

13 (B) [, AND REGULATIONS] necessary to implement
14 AS 08.68.331 - 08.68.336 relating to certified nurse aides in order to protect
15 the health, safety, and welfare of clients served by nurse aides;

16 (C) pertaining to retired nurse status; and

17 (D) establishing criteria for approval of practical nurse
18 education programs that are not accredited by a national nursing
19 accrediting body;

20 (2) approve curricula and adopt standards for basic education programs
21 that prepare persons for licensing under AS 08.68.190;

22 (3) provide for surveys of the basic nursing education programs in the
23 state at the times it considers necessary;

24 (4) approve education programs that meet the requirements of this
25 chapter and of the board, and deny, revoke, or suspend approval of education
26 programs for failure to meet the requirements;

27 (5) examine, license, and renew the licenses of qualified applicants;

28 (6) prescribe requirements for competence before a former nurse may
29 resume the practice of nursing under this chapter;

30 (7) define by regulation the qualifications and duties of the executive
31 administrator [SECRETARY] and delegate authority to the executive administrator

[SECRETARY] that is necessary to conduct board business;

(8) develop reasonable and uniform standards for nursing practice;

(9) publish advisory opinions regarding whether nursing practice procedures or policies comply with acceptable standards of nursing practice as defined under this chapter;

(10) require applicants under this chapter to submit fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the department shall submit the fingerprints and fees to the Department of Public Safety for a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

* **Sec. 3.** AS 08.68.111(a) is amended to read:

(a) The Department of Commerce, Community, and Economic Development, in consultation with the board, shall employ a licensed [,] registered nurse who holds, at a minimum, a master's degree in nursing and [,] who is not a member of the board [,] to serve as executive administrator [SECRETARY] of the board.

* **Sec. 4.** AS 08.68.111(b) is amended to read:

(b) The executive administrator [SECRETARY] shall perform duties as prescribed by the board.

* **Sec. 5.** AS 08.68.170 is repealed and reenacted to read:

Sec. 08.68.170. Qualifications of registered or practical nurse applicants.

(a) An applicant for a license to practice registered nursing shall submit to the board, on forms and in the manner prescribed by the board, written evidence, verified by oath, that the applicant has successfully completed a registered nurse education program accredited by a national nursing accrediting body and approved by the board.

(b) An applicant for a license to practice practical nursing shall submit to the board, on forms and in the manner prescribed by the board, written evidence, verified by oath, that the applicant has successfully completed

(1) a practical nurse education program accredited by a national nursing accrediting body;

(2) a practical nurse education program that meets the criteria

established by the board under AS 08.68.100; or

(3) a registered nurse education program accredited by a national nursing accrediting body and approved by the board and, if the applicant has failed the registered nurse licensing examination, a practical nurse scope of practice course approved by the board.

* Sec. 6. AS 08.68.190 is amended to read:

Sec. 08.68.190. License by examination. The applicant shall pass a registered nursing or practical nursing licensing [WRITTEN] examination as prescribed by the board. The board shall issue a license to an applicant who passes the licensing examination to practice registered or practical nursing provided the other qualifications outlined in AS 08.68.170 [AND 08.68.180] are also met. [THE BOARD SHALL CONDUCT EXAMINATIONS ANNUALLY AND AS OFTEN AS IT CONSIDERS NECESSARY AT LOCATIONS DESIGNATED BY THE BOARD.]

* Sec. 7. AS 08.68.200 is amended to read:

Sec. 08.68.200. License by endorsement. (a) The board may issue a license by endorsement to practice as a registered or practical nurse, whichever is appropriate, to an applicant who has worked as a nurse within the past five years if the applicant

[(1)] is licensed as either a registered or practical nurse under the laws of another state if, in the opinion of the board, the applicant meets the qualifications required for licensing in the state and meets the requirements of AS 08.68.170 [; OR

(2) MEETS THE REQUIREMENTS OF AS 08.68.170 AND HAS SUCCESSFULLY COMPLETED THE CANADIAN NURSES' ASSOCIATION TESTING SERVICE EXAMINATION IF THE BOARD DETERMINES IT IS COMPARABLE TO THE EXAMINATION ADMINISTERED BY THIS STATE.

(b) The board may issue a license by endorsement to practice as a registered or practical nurse, whichever is appropriate, to an applicant who has not worked as a nurse within the past five years if the applicant meets the requirements of (a) [EITHER (a)(1) OR (a)(2)] of this section and

- (1) meets the continuing competency requirements of the board; or
- (2) completes a course of study approved by the board.

* Sec. 8, AS 08.68.210 is amended to read:

Sec. 08.68.210. Temporary permits. (a) The board may issue a temporary permit, nonrenewable and valid for a period not exceeding six months, to an applicant for a license by endorsement if the applicant

(1) submits proof satisfactory to the board that the applicant is currently licensed in another state [OR CANADIAN PROVINCE OR CANADIAN TERRITORY THAT ADMINISTERS AN EXAMINATION APPROVED BY THE BOARD] under **AS 08.68.200(a)** [AS 08.68.200(a)(2)];

- (2) meets the requirements of AS 08.68.170; and
- (3) pays the required fee.

(b) The board may issue a nonrenewable permit to an applicant for license by examination if the applicant [(1)] meets the qualifications of AS 08.68.170 [; OR (2) IS A GRADUATE OF A FOREIGN SCHOOL OF NURSING AND HAS SUCCESSFULLY COMPLETED THE EXAMINATION ADMINISTERED BY THE COMMISSION ON GRADUATES OF FOREIGN NURSING SCHOOLS]. The permit is valid for a period not to exceed six months or [EXTENDING BEYOND] the date on which [TIME WHEN] the results [ARE PUBLISHED] of the licensing [FIRST] examination taken by the applicant are received by the applicant, whichever is sooner. If [IS ELIGIBLE TO TAKE AFTER THE PERMIT IS ISSUED; HOWEVER, IF] the applicant does not take the examination for which the applicant is scheduled, the permit lapses on the day of the examination.

* Sec. 9. AS 08.68.230(b) is amended to read:

(b) A person licensed to practice practical nursing in the state may use the title "licensed practical nurse" [OR "LICENSED VOCATIONAL NURSE"] and the abbreviation "L.P.N." [OR "L.V.N."]

* Sec. 10. AS 08.68.251 is amended to read:

Sec. 08.68.251. Lapsed licenses. (a) A lapsed license may be reinstated if it has not remained lapsed for more than five years by payment of the license fees for the current renewal period and the penalty fee. The board, by regulation, shall establish continuing competency and criminal background check requirements for reinstatement of a lapsed license [PERSON SEEKING REINSTATEMENT SHALL MEET THE CONTINUING COMPETENCY REQUIREMENTS OF THE BOARD].

(b) If a license is lapsed for more than five years, in addition to the requirements in (a) of this section,

(1) the board shall require the applicant to complete a course of study approved by the board or to pass an examination prescribed by the board, and to pay the fees prescribed by this chapter; or

(2) if the board determines that the person applying for reinstatement was actively employed in nursing in another state **or jurisdiction** during the time that the license has lapsed in this state, the license that has lapsed may be reinstated by payment of fees **and completion of the other requirements in** [AS REQUIRED BY] (a) of this section.

* **Sec. 11.** AS 08.68.265 is amended to read:

Sec. 08.68.265. Supervision of practical nurses. A practical nurse shall work under the supervision of a licensed registered nurse, a licensed physician, a licensed physician's assistant, or a licensed dentist.

* Sec. 12. AS 08.68.270 is amended to read:

Sec. 08.68.270. Grounds for denial, suspension, or revocation. The board may deny, suspend, or revoke the license of a person who

(1) has obtained or attempted to obtain a license to practice nursing by fraud or deceit;

(2) has been convicted of a felony or other crime if the felony or other crime is substantially related to the qualifications, functions or duties of the licensee;

(3) habitually abuses alcoholic beverages, or illegally uses controlled substances;

(4) has impersonated a registered or practical nurse;

(5) has intentionally or negligently engaged in conduct that has resulted in a significant risk to the health or safety of a client or in injury to a client;

(6) practices or attempts to practice nursing while afflicted with physical or mental illness, deterioration, or disability that interferes with the individual's performance of nursing functions;

(7) is guilty of unprofessional conduct as defined by regulations adopted by the board;

(8) has wilfully or repeatedly violated a provision of this chapter or regulations adopted under **this chapter or AS 08.01 [IT]**;

(9) is professionally incompetent;

(10) denies care or treatment to a patient or person seeking assistance if the sole reason for the denial is the failure or refusal of the patient or person seeking assistance to agree to arbitrate as provided in AS 09.55.535(a).

* Sec. 13. AS 08.68 is amended by adding a new section to read:

Sec. 08.68.277. Duty of employers to report. (a) An employer of a nurse licensed under this chapter or a nurse aide certified under this chapter practicing within the scope of that license or certification that fires or suspends a nurse or nurse aide or conditions or restricts the practice of a nurse or nurse aide shall, within seven working days after the action, report to the board the name and address of the person and the reason for the action. An employer shall report to the board the name and address of a nurse or nurse aide who resigns while under investigation by the employer.

(b) Upon receipt of a report under (a) of this section, the board shall investigate the matter and take appropriate action under AS 08.68.275.

* Sec. 14. AS 08.68.278 is amended to read:

Sec. 08.68.278. Immunity for certain reports to the board. A person who, [UNDER OATH AND] in good faith, reports information to the board relating to alleged incidents of incompetent, unprofessional, or unlawful conduct of a nurse licensed under this chapter, a nurse aide certified under this chapter, or an employer of a nurse licensed under this chapter or a nurse aide certified under this chapter who reports to the board the information required under AS 08.68.277 is not liable in a civil action for damages resulting from the reporting of the information.

* Sec. 15. AS 08.68.279 is repealed and reenacted to read:

Sec. 08.68.279. Whistleblower protection. An employer may not discharge, threaten, or otherwise discriminate against a nurse employed by the employer regarding the nurse's compensation, terms, conditions, location, or privileges of employment if

(1) the discharge, threat, or discrimination is based on the nurse's refusal to

(A) perform a task or assignment that is not within the scope of practice of a nurse;

(B) perform a task or assignment that the nurse has not been educated to perform;

(C) delegate a task that the board finds is not delegable; or

(D) delegate a task to an individual who has not been properly educated to perform the task; and

(2) the board finds that the attempted delegation was improper or the to perform an assignment or task was proper.

* Sec. 16. AS 08.68.279 is amended by adding new subsections to read:

(b) The nurse must report the improper attempt to assign or delegate a task to the board within 72 hours after the attempted improper assignment or delegation was made.

(c) A person who is discharged, threatened, or otherwise discriminated against in violation of (a) of this section may bring a civil action, and the court may grant appropriate relief, including punitive damages.

(d) The Department of Labor and Workforce Development may impose a civil penalty of not more than \$10,000 on a person who knowingly violates (a) of this section.

* Sec. 17. AS 08.68.060, 08.68.180, 08.68.230(c), and 08.68.240 are repealed.