

TITLE 43. PROFESSIONS AND BUSINESSES
CHAPTER 26. NURSES
ARTICLE 2. LICENSED PRACTICAL NURSES

§ 43-26-30. Short title

This article shall be known and may be cited as the "Georgia Practical Nurses Practice Act."

HISTORY: Code 1981, § 43-26-30, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-31. Purpose of article

The purpose of this article is to protect, promote, and preserve the public health, safety, and welfare through regulation and control of practical nursing education and practice. This article ensures that any person practicing or offering to practice practical nursing or using the title "Licensed Practical Nurse," as defined in this article, within the State of Georgia, shall be licensed as provided in this article.

HISTORY: Code 1981, § 43-26-31, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-32. Definitions

As used in this article, the term:

(1) "Active practice as a licensed practical nurse" means to practice practical nursing as a licensed practical nurse by performing for compensation acts authorized by the board.

(1.1) "Approved nursing education program" located in this state means a nursing education program approved by the board as meeting criteria established by the board. An "approved nursing education program" located outside this state means a nursing education program that the board has determined to meet criteria similar to and not less stringent than criteria established by the board. In order to be approved by the board, a nursing education program must be one that is offered by:

(A) A unit of the University System of Georgia accredited by the Commission on Colleges of the Southern Association of Colleges and Schools;

(B) An institution of the Technical College System of Georgia;

(C) A nonprofit postsecondary institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education; or

(D) A proprietary institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education.

(2) "Board" means the Georgia Board of Examiners of Licensed Practical Nurses

created in Code Section 43-26-34.

(3) "Consumer member" means a United States citizen and Georgia resident who is knowledgeable about consumer health concerns, does not derive that person's primary livelihood from the practice of nursing, and shall neither be nor ever have been a health care provider or enrolled in any health related educational program.

(4) "License" means a current document, issued by the board, permitting a person to practice practical nursing as a licensed practical nurse.

(5) "Licensed practical nurse" means a person who has completed a board approved nursing program necessary to qualify for examination for licensure and who is authorized by a license issued under this article to practice practical nursing.

(6) "Licensure" means the bestowing of a current license by the board permitting a person to practice practical nursing as a licensed practical nurse.

(7) "The practice of licensed practical nursing" means the provision of care for compensation, under the supervision of a physician practicing medicine, a dentist practicing dentistry, a podiatrist practicing podiatry, or a registered nurse practicing nursing in accordance with applicable provisions of law. Such care shall relate to the maintenance of health and prevention of illness through acts authorized by the board, which shall include, but not be limited to, the following:

(A) Participating in the assessment, planning, implementation, and evaluation of the delivery of health care services and other specialized tasks when appropriately trained and consistent with board rules and regulations;

(B) Providing direct personal patient observation, care, and assistance in hospitals, clinics, nursing homes, or emergency treatment facilities, or other health care facilities in areas of practice including, but not limited to: coronary care, intensive care, emergency treatment, surgical care and recovery, obstetrics, pediatrics, outpatient services, home health care, or other such areas of practice;

(C) Performing comfort and safety measures;

(D) Administering treatments and medication; and

(E) Participating in the management and supervision of unlicensed personnel in the delivery of patient care.

HISTORY: Code 1981, § 43-26-32, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 1; Ga. L. 2009, p. 210, § 4/ HB 475.

§ 43-26-33. Use of title by licensed practical nurse or applicant

(a) Any person who is licensed as a practical nurse shall have the right to use the title "Licensed Practical Nurse" and the abbreviation "L.P.N." and shall identify that he or she is so licensed by displaying either such title or abbreviation on a name tag or similar form of identification during times when such person is providing direct patient care. No other person shall assume such title or use such abbreviation or any other words, letters, signs, or symbols to indicate that such person is a licensed practical nurse in Georgia.

(b) Any applicant for examination who holds an active temporary permit may use the title "Graduate Practical Nurse" and the abbreviation "G.P.N." until the license to practice practical nursing has been issued except that an applicant who fails the first examination may no longer use the title "Graduate Practical Nurse" or the abbreviation "G.P.N." An individual who is qualified to use the title "Graduate Practical Nurse" may engage in limited practice as defined by board rules and must practice under the on-site supervision of a registered professional nurse or licensed physician.

(c) No person shall use the title "nurse" or any other title or abbreviation that would represent to the public that a person is authorized to practice nursing unless the person is licensed or otherwise authorized under this article or Article 1 of this chapter.

HISTORY: Code 1981, § 43-26-33, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 2000, p. 1154, § 1; Ga. L. 2005, p. 60, § 43/HB 95; Ga. L. 2011, p. 779, § 1B/SB 100.

§ 43-26-34. Board of examiners created; appointment of members; terms; filling of vacancies; meetings; reimbursement of expenses

(a) The Georgia Board of Examiners of Licensed Practical Nurses shall consist of seven members appointed by the Governor. The members in office on July 1, 1992, shall serve out the remainder of their respective terms and until their successors are appointed and qualified. Members shall serve a three-year term and until their successors are duly appointed and qualified. No member shall be appointed to more than two consecutive full terms and, for the purpose of this limitation, an appointment to fill a vacancy for an unexpired term which exceeds two full years shall constitute an appointment for a full term.

(b) A vacancy on the board for any reason other than expiration of the term shall be filled for the remainder of the unexpired term by appointment of the Governor. Vacancies shall be filled in a timely manner.

(c) Each of the seven members appointed to the board shall be a citizen of the United States and a resident of Georgia. One member shall be a registered professional nurse who is currently engaged in practical nurse education and has been a graduate of an accredited or approved school of nursing for a minimum of five years. One member shall be a nurse currently serving in an administrative position in a hospital or nursing home and who is a graduate of an accredited or approved nursing program. One member shall

be a consumer. The remaining four members shall be licensed practical nurses and graduates of an accredited or approved school of practical nursing. All members except the consumer shall have a current license in good standing, at least three years' experience in nursing, and shall be currently employed in the health care delivery system. In order to have equal representation of the board members, consideration in selection should be given for geographical location and areas of specialty.

(d) No two members of the current board shall be employed by the same private school, school within the Georgia Department of Technical and Adult Education, private employer, agency of state government, or other public employer. In the event a board member changes employment which causes a conflict defined by this subsection, the position of the member making the change shall be immediately vacant and a new member appointed to fill the vacancy.

(e) The board shall meet a minimum of six times a year and may have called meetings upon notice issued by its chairman.

(f) The members of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2.

HISTORY: Code 1981, § 43-26-34, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-35. Duties of board generally

The board shall:

(1) Be responsible for the enforcement of the provisions of this article and shall be specifically granted all of the necessary duties, powers, and authority to carry out this responsibility;

(2) Be authorized to draft, adopt, amend, repeal, and enforce such rules as it deems necessary for the administration and enforcement of this article in the protection of the public health, safety, and welfare;

(3) License duly qualified applicants by examination, endorsement, or reinstatement;

(4) Enforce qualifications for licensure;

(5) Be authorized to set standards for competency of licensees continuing in or returning to practice;

(6) Be authorized to enact rules and regulations for licensed practical nurses as they apply to the practice of practical nursing;

(7) Be authorized to issue temporary permits;

- (8) Renew licenses of licensed practical nurses in accordance with this article;
- (9) Develop and enforce reasonable and uniform standards for practical nurse education and practical nurse practice;
- (10) Periodically evaluate practical nurse education programs and approve such programs as meeting the board's requirements;
- (11) Deny or withdraw approval from noncompliant practical nurse education programs;
- (12) Implement the disciplinary process;
- (13) Be authorized to issue orders when a license is surrendered to the board while a complaint, investigation, or disciplinary act against such license is pending;
- (14) Issue a limited license to practice practical nursing subject to such terms and conditions as the board may impose;
- (15) Provide consultation and conduct conferences, forums, studies, and research on practical nurse education and practical nurse practice;
- (16) Be authorized to appoint standing or ad hoc committees as necessary to inform and make recommendations to the board about issues and concerns and to facilitate communication among the board, licensees, and the community;
- (17) Maintain membership in the national organization which develops and regulates the practical nursing licensing examination;
- (18) Be authorized to collect data regarding existing licensed practical nursing resources in Georgia and coordinate planning for practical nursing education and practical nursing practice;
- (19) Determine fees; and
- (20) Adopt a seal which shall be in the care of the executive director and shall be affixed only in such a manner as prescribed by the board.

HISTORY: Code 1981, § 43-26-35, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-36. Application for licensure; examination; temporary permits

(a)(1) All applicants for a license to practice as a licensed practical nurse shall make application through the board. An applicant for licensure who has not been duly examined according to the prescribed examination approved by the board and who does not otherwise qualify for licensure under this article must apply by examination. Such

applicants shall submit to the board a designated fee and written evidence verifying that the applicant:

(A) Is at least 18 years of age;

(B) Has graduated from high school or the equivalent thereof;

(C) Has graduated from an approved nursing education program, as defined in Code Section 43-26-32;

(D) Is in good physical and mental health; and

(E) In the case of an applicant who has graduated from a program conducted in a foreign country, has demonstrated the ability to speak, write, and understand the English language.

(2) A person who is at least 17 years of age and meets all of the criteria set forth in paragraph (1) of this subsection may apply to the board for special consideration to take the examination for licensure.

(b)(1) The board may issue a temporary permit to applicants for licensure by examination pursuant to paragraph (7) of Code Section 43-26-35. A temporary permit issued to an applicant for licensure by examination shall be valid from the date of issuance until the first examination scheduled for the applicant is graded and a license is issued. If the applicant does not appear for the examination, the temporary permit is automatically invalid the day of the examination. If the applicant fails the examination, the permit shall automatically become invalid when the examination is graded and may not be reissued.

(2) An applicant who fails to appear at the first examination and can show proper cause for failure to appear may receive a second temporary permit upon reapplying to take the examination. Such second permit shall be governed by the same validity provisions as the first permit. Upon failure to appear at a second examination, the applicant shall not be eligible to receive another temporary permit.

HISTORY: Code 1981, § 43-26-36, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 2; Ga. L. 2009, p. 210, § 5/HB 475.

§ 43-26-36.1. Fingerprint record and criminal background checks for applicants for licensure; fees

Any applicant for licensure under this article shall have satisfactory results from a fingerprint record check report conducted by the Georgia Crime Information Center and the Federal Bureau of Investigation, as determined by the board. Application for a license under this article shall constitute express consent and authorization for the board or its representative to perform a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all

information necessary to run a criminal background check, including, but not limited to, classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of such background check.

HISTORY: Code 1981, § 43-26-36.1, enacted by Ga. L. 2011, p. 437, § 1/ HB 99.

§ 43-26-37. Issuance of license upon passing examination; requirements for admission to subsequent examination

(a) Any applicant who meets the license requirements stated in Code Section 43-26-36 or subsection (b) of Code Section 43-26-38 and passes the required exam may be issued a license to practice as a licensed practical nurse.

(b) Effective July 1, 1995, an applicant who has not passed the examination within five years from the date of eligibility of such applicant to take the licensure examination as determined by the board shall be required to complete successfully a regular full-time board approved practical nursing program before such applicant is admitted to another examination. Upon completion of the program, an application may be made for licensure as a new applicant.

HISTORY: Code 1981, § 43-26-37, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 3.

§ 43-26-38. License by endorsement; temporary permit

(a) The board, at its discretion, may issue a license to practice as a licensed practical nurse, without examination, to any person who has a high school diploma or general educational development (GED) diploma and has been duly licensed or registered as a practical or vocational nurse or who is entitled to perform similar service under a different designation under the laws of another state or territory of the United States if the license or registration in that other state or territory is current and in good standing and was issued based upon completion of an approved nursing education program, as defined in Code Section 43-26-32, and passage of an examination, which examination has been determined by the board to be substantially equal to or greater than the requirements for licensure as a licensed practical nurse in this state and if such person has engaged in the active practice of practical nursing as a licensed practical nurse within five years immediately preceding the application; provided, however, that the requirement for active practice shall not apply to an applicant who has graduated from an approved nursing education program within one year of the date of application or who was initially licensed within one year of the date of application.

(b) The board, at its discretion, may issue a license to practice as a licensed practical nurse, with examination, to any person who has a high school diploma or general educational development (GED) diploma and has been duly licensed or registered as a practical or vocational nurse or who is entitled to perform similar service under a different designation under the laws of another state or territory of the United States if the license or registration in that other state or territory is current and in good standing and was issued based upon completion of an approved nursing education program, as defined

in Code Section 43-26-32, except however, such applicant has not been duly examined according to the prescribed examination approved by this board and if such person has engaged in active practice of practical nursing as a licensed practical nurse within five years immediately preceding the application.

(c) Applicants for endorsement who have not been engaged in the active practice of practical nursing as licensed practical nurses for a period which exceeds five years shall be required to complete additional education and training as provided in the rules and regulations of the board, which may include but not be limited to returning to school for full training and taking the licensing examination.

(d) The approval or denial of a license by endorsement under this Code section shall be in the sole discretion of the board, and a denial thereof shall not be considered to be a contested case within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The applicant shall be allowed to appear before the board if the applicant so desires.

(e) Nothing in this Code section shall be construed to prevent an applicant who is denied a license by endorsement from taking the examination for licensure, provided that such applicant is otherwise eligible to take the examination and meets the requirements specified.

(f) The board may issue a temporary permit to qualified applicants under such terms and conditions as specified in the rules and regulations of the board, but in no event shall such a temporary permit be issued to an applicant who has failed to pass the required examination.

HISTORY: Code 1981, § 43-26-38, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 4; Ga. L. 1995, p. 354, § 1; Ga. L. 2002, p. 415, § 43; Ga. L. 2009, p. 210, § 6/HB 475.

§ 43-26-39. Renewal of license; voluntary surrender; application for reinstatement; temporary permit

(a) Licenses issued under this article shall be renewed biennially prior to the expiration of the license according to schedules and fees decided by the board and approved by the division director.

(b) A license shall be renewed for any licensed practical nurse who remits the required fee and complies with the requirements established by the board.

(c) The voluntary surrender of a license or the failure to renew a license by the end of an established renewal period shall have the same effect as revocation of said license, subject to reinstatement at the discretion of the board. The board may restore and reissue a license, and, as a condition thereof, may impose any disciplinary sanction provided by Code Section 43-1-19 upon such grounds as specified in Code Sections 43-1-19 and 43-26-40.

(d) Any license that is not renewed by the end of the renewal period may not thereafter be renewed, and the licensee must apply for reinstatement. Applicants for reinstatement who have not been engaged in the active practice of practical nursing as licensed practical nurses for a period which exceeds five years shall be required to obtain such additional education and training as provided in the rules and regulations of the board, which may include but not be limited to returning to school for full training and taking the licensing examination. Upon completion of the program, an application may be made for licensure as a new applicant.

(e) The board may issue a temporary permit to qualified applicants under such terms and conditions as specified in the rules and regulations of the board, but in no event shall such a temporary permit be issued to an applicant who has failed to pass the required examination.

(f) Other criteria for reinstatement may be determined by the rules of the board, including, but not limited to, the following: additional coursework, a refresher course, supervised clinical practice, or examination by the board.

HISTORY: Code 1981, § 43-26-39, enacted by Ga. L. 1992, p. 2151, § 1; Ga. L. 1993, p. 471, § 5; Ga. L. 2000, p. 1706, § 19.

§ 43-26-40. Refusal to grant license; revocation of license; disciplining of licensees

(a) In addition to the authority granted in Code Section 43-1-19, the board shall have the authority to refuse to grant a license to an applicant, to revoke the license of a licensee, or to discipline a licensee upon a finding by the board that the applicant or licensee has:

(1) Been convicted of a felony, a crime involving moral turpitude, or any crime violating a federal or state law relating to controlled substances or dangerous drugs or marijuana in the courts of this state, any other state, territory, or country, or in the courts of the United States, including, but not limited to, a plea of nolo contendere entered to the charge;

(2) Had a license to practice nursing revoked, suspended, or annulled by any lawful licensing authority, had other disciplinary action taken by any lawful licensing authority, or was denied a license by any lawful licensing authority;

(3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or practice harmful to the public, which conduct or practice need not have resulted in actual injury to any person. As used in this paragraph, the term "unprofessional conduct" includes the improper charting of medication and any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing nursing practice;

(4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation of this state, any other state, the board, the United States, or any other lawful

authority, without regard to whether the violation is criminally punishable, which statute, law, or rule or regulation relates to or in part regulates the practice of nursing, when the licensee or applicant knows or should know that such action is violative of such law or rule;

(5) Violated a lawful order of the board previously entered by the board in a disciplinary hearing; or

(6) Displayed an inability to practice nursing as a licensed practical nurse or graduate practical nurse with reasonable skill and safety due to illness, use of alcohol, drugs, narcotics, chemicals, or any other types of material, or as a result of any mental or physical condition:

(A) In enforcement of this paragraph, the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by a board approved health care professional. The expense of such mental or physical examination shall be borne by the licensee or applicant. The results of such examination shall be admissible in any hearing before the board, notwithstanding any claim of privilege under contrary law or rule. Every person who is licensed to practice practical nursing as a licensed practical nurse or graduate practical nurse in this state, or an applicant for examination, endorsement, or reinstatement shall be deemed to have given such person's consent to submit to such mental or physical examination and to have waived all objections to the admissibility of the results in any hearing before the board upon the grounds that the same constitutes a privileged communication. If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, unless such failure was due to circumstances beyond that person's control, the board may enter a final order upon proper notice, hearing, and proof of such refusal. Any licensee or applicant who is prohibited from practicing under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate to the board that such person can resume or begin to practice practical nursing as a licensed practical nurse or graduate practical nurse with reasonable skill and safety; and

(B) In enforcement of this paragraph, the board may, upon reasonable grounds, obtain any and all records relating to the mental or physical condition of a licensee or applicant, including psychiatric records; such records shall be admissible in any hearing before the board, notwithstanding any privilege under a contrary rule, law, or statute. Every person who is licensed in this state or who shall file an application for said license shall be deemed to have given such person's consent to the board's obtaining such records and to have waived all objections to the admissibility of such records in any hearing before the board upon the grounds that the same constitute a privileged communication.

(b) Neither denial of an initial license, the issuance of a private reprimand, the denial of a license by endorsement under Code Section 43-26-38, nor the denial of a request for reinstatement of a license on the grounds that the applicant or licensee has failed to meet the minimum requirements shall be considered a contested case within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act"; and notice and

hearing within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or licensee shall be allowed to appear before the board if he or she so requests.

HISTORY: Code 1981, § 43-26-40, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-41. Exceptions to licensure requirements; burden of proof

(a) No provision in this article shall be construed to require licensure in Georgia as a licensed practical nurse in:

(1) The practice of practical nursing by students when such practice is an integral part of a curriculum in a board approved practical nursing education program leading to initial licensure;

(2) The rendering of assistance by anyone in the case of an emergency or disaster;

(3) The incidental care of the sick by members of the family, friends, or persons primarily utilized as housekeepers, provided that such care does not constitute the practice of practical nursing within the meaning of this article and individuals do not hold themselves out as being licensed practical nurses;

(4) Caring for the sick in accordance with tenets or practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing;

(5) The performance of auxiliary services in the care of patients when such care and activities do not require the knowledge and skill required of a person practicing practical nursing as a licensed practical nurse and when such care and activities are performed under orders or directions of a licensed physician, licensed dentist, licensed podiatrist, or person licensed to practice nursing as a registered professional nurse;

(6) The practice of practical nursing as a licensed practical nurse by a person so licensed to practice in another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of that person's official duties; and

(7) The practice of practical nursing as a licensed practical nurse by a person currently licensed to practice in another state who is employed by an individual, agency, or corporation located in another state, whose employment responsibilities include transporting patients into, out of, or through this state for a period not to exceed 24 hours.

(b) In a civil or administrative proceeding under this article, a person claiming an exemption or an exception pursuant to subsection (a) of this Code section has the burden of proving this exemption or exception. In a criminal proceeding, the burden of going forward with evidence of a claim of exemption or exception pursuant to subsection (a) of this Code section is on the person claiming the exemption or exception.

HISTORY: Code 1981, § 43-26-41, enacted by Ga. L. 1992, p. 2151, § 1.

§ 43-26-42. Criminal violations

It shall be a misdemeanor for any person, including any corporation, association, or individual, to:

- (1) Practice practical nursing as a licensed practical nurse without a valid current license, except as otherwise permitted under Code Section 43-26-41;
- (2) Practice practical nursing as a licensed practical nurse under cover of any diploma, license, or record illegally or fraudulently obtained, signed, or issued;
- (3) Practice practical nursing as a licensed practical nurse during the time the license is suspended, revoked, surrendered, or administratively revoked for failure to renew;
- (4) Use any words, abbreviations, figures, letters, title, sign, card, or device implying that such person is a licensed practical nurse or graduate practical nurse unless such person is duly licensed to practice under the provisions of this article;
- (5) Fraudulently furnish a license to practice nursing as a licensed practical nurse;
- (6) Knowingly employ any person to practice practical nursing as a licensed practical nurse who is not a licensed practical nurse;
- (7) Conduct a nursing education program in this state unless the program has been approved by the board; or
- (8) Knowingly aid or abet any person to violate this article.

HISTORY: Code 1981, § 43-26-42, enacted by Ga. L. 1992, p. 2151, § 1.

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