



# HOUSE BILL 195: Board of Nursing Technical Changes.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2019-2020 General Assembly

<b>Committee:</b>	House Health. If favorable, re-refer to Judiciary. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	March 18, 2019
<b>Introduced by:</b>	Reps. White, Riddell, Szoka, Cunningham	<b>Prepared by:</b>	Theresa Matula
<b>Analysis of:</b>	PCS to First Edition H195-CSSHf-2		Committee Staff

**OVERVIEW:** House Bill 195 amends the Nursing Practice Act by making a number of changes, most of which are technical and conforming, and increases the ceiling on several fees for licensure. The PCS makes further technical and conforming changes throughout the bill.

### BILL ANALYSIS:

**Section 1** includes a definition for "licensee" which is a term that has been used in the Article, but never included in the definition section of the Article.

**Section 2** makes the following changes to the Board of Nursing (BON):

- Changes the term "current, unencumbered " to "active, unencumbered" as it applies to the license a registered nurse member must have to serve on the Board. An "active, unencumbered license" is the same terminology used in G.S. 90-171.95(c)(5) for the Nurse Licensure Compact (S.L. 2017-190).
- Provides that a public member, whether appointed by the Governor or General Assembly under G.S. 90-171.21(b), is prohibited from being a licensed nurse or licensed health care professional; being employed by a health care institution, health care insurer, or health care professional school; and from having an immediate family who is currently, or was previously, employed as a licensed nurse.
- Provides that daily compensation allowance for Board members is limited to \$200.00 for time spent in the performance and discharge of duties as a member, previously G.S. 93B-5 limited it to \$100.

**Section 3** amends the BON powers and duties to empower the Board to:

- Determine whether an applicant or licensee is mentally and physically capable of practicing nursing with reasonable skill and safety and permits the BON to require a physical or mental health examination.
- Clarifies authority to administer appropriate disciplinary action against all parties found in violation of the Nursing Practice Act (Chapter 90, Article 9A) or rules adopted by the BON.
- Makes a conforming change to specify the BON can withdraw approval of a nursing program which is authority already provided in G.S. 90-171.39 and G.S. 90-171.40.
- Establish programs monitoring (rather than aiding) the treatment, recovery, and safe practice of nurses with substance use disorders, mental health disorders, or physical conditions that impact the delivery of safe care.
- Enter into agreements (rather than establish programs) to aid in the remediation of nurses who experience practice deficiencies.

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# House PCS 195

Page 2

- Clarifies that the BON may order or subpoena the production of records or documents for matters before the Board.

**Section 4** increases the ceiling for the following five fees collected by the BON:

- Application for examination leading to a license as a registered nurse from \$75 to \$100.
- Reexamination for a license as a registered nurse from \$75 to \$100.
- Renewal of a license to practice as a registered nurse (two-year period) from \$100 to \$200.
- Reexamination for a license as a licensed practical nurse from \$75 to \$100.
- Reinstatement of a retired registered nurse or licensed practical nurse (two-year period) from \$100 to \$200.

**Section 5** removes language pertaining to the implementation of a computer adaptive licensure examination, which according to the BON is no longer needed since the system is in place.

**Section 6** does the following:

- Clarifies the BON's disciplinary authority to include probation; implementing limitations and conditions; accepting voluntary surrender; publicly reprimanding; issuing public letters of concern; requiring completion of treatment programs or remedial or educational training; denying or refusing to issue a license; denying or refusing to issue a license renewal; issuing a fine; suspending a license; and revoking a license.
- Adds items to the list of prohibited activities for which the BON can take action. The additional prohibited acts include: committing acts of moral turpitude; engaging in unprofessional or unethical conduct, or conduct that does not conform to nursing practice standards even if a patient is not injured; acts of dishonesty, injustice, or immorality in the course of practice; having had a license or privilege to practice nursing denied, revoked, suspended, restricted, or acted against by any jurisdiction; failure to respond to the Boards' inquiries in a reasonable manner or time regarding a matter affecting the license to practice nursing.
- Provides that the BON retains jurisdiction over an expired, inactive, or voluntarily surrendered license.
- Provides that the Board of Nursing, members of the Board, and staff are not liable in any civil or criminal proceeding for exercising the powers and duties authorized by law, provided the person was acting in good faith.

**Section 7** allows witness testimony to be received by telephone or videoconferencing at a hearing.

**Section 8** adds three new sections to the Article pertaining to the right to appeal a disciplinary action, public records, and the service of notices. *G.S. 90-171.37B* provides that a licensee may appeal any public disciplinary action within 30 days and within 30 days of receiving the appeal the Board must prepare, certify and file the record, charges, notice of hearing, transcript of testimony, documents and written evidence produced at the hearing, the Board's decision, and a licensee's notice of appeal with the clerk of superior court where the licensee appealed the Board's decision. *G.S. 90-171.37C* provides that records, papers, investigative information and other documents gathered or received as a result of a licensing complaint, appeal, assessment, potential impairment matter, or disciplinary matter shall not be public records under Chapter 132. Any licensee's notice of statement of charges, notice of hearing, and related information shall be a public record under Chapter 132. The BON is required to report information indicating a crime may have been committed to the appropriate law enforcement agency or district attorney and the information will be confidential under G.S. 132-1.4. Allows the BON to release confidential information concerning denial, annulment, suspension, or revocation of a license to any other health care licensing board or authorized Department of Health and Human Services personnel. The BON can withhold the identity of a patient. *G.S. 90-171.37D* pertains to the service of notices.

**Section 9** provides the BON surveys proposed nursing programs but not clinical facilities.

# House PCS 195

Page 3

**Section 10** increases from 8 to 10 years the frequency with which the BON must review all nursing programs in the state. Clarifies that the BON has the responsibility to evaluate and take appropriate action, including withdrawing approval from a nursing program that fails to correct deficiencies within a reasonable time.

**Section 11** clarifies the BON has the authority to promulgate rules to enforce the provisions G.S. 90-171.43 which requires a license to practice as registered nurse, license practical nurse, or to use the "nurse" title.

**Section 12** adds a new section to the Article to allow the BON to waive requirements of the Article to allow emergency health services to the public when the Governor declares a state of emergency, or a county or municipality enacts ordinances under the following authority:

- Power of municipalities and counties to enact ordinances to deal with state of emergency under the NC Emergency Management Act (G.S. 166A-19.31).
- General ordinance-making power for cities and towns (G.S. 160A-174).
- General ordinance-making power for counties (G.S. 153A-121).
- A terrorist incident using nuclear, biological, or chemical agents (Chapter 130A, Article 22).

**Section 13** makes amendments that conform to changes in Section 6.

**Section 14** makes a change to the criminal record checks of applicants for licensure to conform to changes in Section 6.

**EFFECTIVE DATE:** The bill becomes effective October 1, 2019, and applies to licenses granted or renewed on or after that date and actions taken by the Board of Nursing on or after that date.