

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S3/23/99

A Bill

Act 1208 of 1999
SENATE BILL 711

5 By: Senator Bradford
6
7

For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE
10 PERTAINING TO THE ARKANSAS STATE BOARD OF NURSING; AND
11 FOR OTHER PURPOSES. "

Subtitle

13 "TO AMEND VARIOUS SECTIONS OF THE
14 ARKANSAS CODE PERTAINING TO THE ARKANSAS
15 STATE BOARD OF NURSING. "

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code 17-87-102(2) is amended to read as follows:

22 "(2) 'Practice of professional nursing' means the performance for
23 compensation of any acts involving:

24 (A) The observation, care, and counsel of the ill, injured, or
25 infirm;

26 (B) The maintenance of health or prevention of illness of others;

27 (C) The supervision and teaching of other personnel;

28 (D) The delegation of certain nursing practices to other
29 personnel as set forth in regulations established by the board; or

30 (E) The administration of medications and treatments as
31 prescribed by ~~an advanced practice nurse holding a certificate of prescriptive~~
32 ~~authority, a licensed physician, or licensed dentist practitioners authorized~~
33 to prescribe and treat in accordance with state law where such acts require
34 substantial specialized judgment and skill based on knowledge and application
35 of the principles of biological, physical, and social sciences; "
36

1 SECTION 2. Arkansas Code 17-87-302(a)(3) is amended to read as follows:

2 "(3) Certified Nurse Midwife. To qualify as a certified nurse midwife,
3 an applicant must:

4 (A) Hold current certification as a nurse midwife from the
5 American College of Nurse Midwives or other nationally recognized certifying
6 body; and

7 (B) Have an agreement with a consulting physician ~~on file with~~
8 the board if providing intrapartum care;"

9

10 SECTION 3. Arkansas Code 17-87-309 is amended to read as follows:

11 "17-87-309. Disciplinary actions.

12 (a) The board shall have sole authority to deny, ~~or~~ suspend, revoke or
13 limit any license to practice nursing or certificate of prescriptive authority
14 issued by the board or applied for in accordance with the provisions of this
15 chapter or to otherwise discipline a licensee upon proof that the person:

16 (1) Is guilty of fraud or deceit in procuring or attempting to
17 procure a license to practice nursing;

18 (2) Is guilty of a crime or gross immorality;

19 (3) Is unfit or incompetent by reason of negligence, habits, or
20 other causes;

21 (4) Is habitually intemperate or is addicted to the use of habit-
22 forming drugs;

23 (5) Is mentally incompetent;

24 (6) Is guilty of unprofessional conduct;

25 (7) Has had a license, certificate, or registration revoked,
26 suspended, or placed on probation or under disciplinary order in any
27 jurisdiction;

28 (8) Has voluntarily surrendered a license, certification, or
29 registration and has not been reinstated in any jurisdiction; or

30 (9) Has willfully or repeatedly violated any of the provisions of
31 this chapter.

32 (b) The board shall refuse to issue or shall revoke the license of any
33 person who is found guilty of or pleads guilty or nolo contendere to any
34 offense listed in §17-87-312(f) unless the person requests and the board
35 grants a waiver pursuant to §17-87-312(h).

36 ~~(b)~~ (c) Proceedings under this section shall be as provided in the

1 Arkansas Administrative Procedure Act, beginning at as amended, § 25-15-201 ~~et~~
2 seq. "

3
4 SECTION 4. Title 17, Chapter 87, Subchapter 3 is amended to add the
5 following section to be numbered by the Arkansas Code Revision Commission:

6 "Criminal background checks.

7 (a) After October 1, 1999, each first-time applicant for a license
8 issued by the board may be required to apply to the Identification Bureau of
9 the Arkansas State Police for a state and national criminal background check,
10 to be conducted by the Federal Bureau of Investigation.

11 (b) The check shall conform to the applicable federal standards and
12 shall include the taking of fingerprints.

13 (c) The applicant shall sign a release of information to the board and
14 shall be responsible to the Arkansas State Police for the payment of any fee
15 associated with the criminal background check.

16 (d) Upon completion of the criminal background check, the
17 Identification Bureau of the Arkansas State Police shall forward all
18 information obtained concerning the applicant in the commission of any offense
19 listed in subsection (f) of this section to the board.

20 (e) At the conclusion of any background check required by this section,
21 the Identification Bureau of the Arkansas State Police shall promptly destroy
22 the fingerprint card of the applicant.

23 (f) No person shall be eligible to receive or hold a license issued by
24 the board if that person has pleaded guilty or nolo contendere to, or been
25 found guilty of, any of the following offenses by any court in the State of
26 Arkansas, or of any similar offense by a court in another state, or of any
27 similar offense by a federal court:

28 (1) Capital murder, as prohibited in § 5-10-101;

29 (2) Murder in the first degree and second degree, as prohibited
30 in §§ 5-10-102 and 5-10-103;

31 (3) Manslaughter, as prohibited in § 5-10-104;

32 (4) Negligent homicide, as prohibited in § 5-10-105;

33 (5) Kidnapping, as prohibited in § 5-11-102;

34 (6) False imprisonment in the first degree, as prohibited in § 5-
35 11-103;

36 (7) Permanent detention or restraint, as prohibited in § 5-11-

- 1 106;
- 2 (8) Robbery, as prohibited in § 5-12-102;
- 3 (9) Aggravated robbery, as prohibited in § 5-12-103;
- 4 (10) Battery in the first degree, as prohibited in § 5-13-201;
- 5 (11) Aggravated assault, as prohibited in § 5-13-204;
- 6 (12) Introduction of controlled substance into body of another
- 7 person, as prohibited in § 5-13-210;
- 8 (13) Terroristic threatening in the first degree, as prohibited
- 9 in § 5-13-301;
- 10 (14) Rape and carnal abuse in the first degree, second degree,
- 11 and third degree, as prohibited in §§ 5-14-103 - 5-14-106;
- 12 (15) Sexual abuse in the first degree and second degree, as
- 13 prohibited in §§ 5-14-108 and 5-14-109;
- 14 (16) Sexual solicitation of a child, as prohibited in § 5-14-110;
- 15 (17) Violation of a minor in the first degree and second degree,
- 16 as prohibited in §§ 5-14-120 and 5-14-121;
- 17 (18) Incest, as prohibited in § 5-26-202;
- 18 (19) Offenses against the family, as prohibited in §§ 5-26-303 -
- 19 5-26-306;
- 20 (20) Endangering the welfare of incompetent person in the first
- 21 degree, as prohibited in § 5-27-201;
- 22 (21) Endangering the welfare of a minor in the first degree, as
- 23 prohibited in § 5-27-203;
- 24 (22) Permitting child abuse, as prohibited in § 5-27-221(a)(1)
- 25 and (3);
- 26 (23) Engaging children in sexually explicit conduct for use in
- 27 visual or print media, transportation of minors for prohibited sexual conduct,
- 28 or pandering or possessing visual or print medium depicting sexually explicit
- 29 conduct involving a child, or use of a child or consent to use of a child in a
- 30 sexual performance by producing, directing, or promoting a sexual performance
- 31 by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402, and 5-27-403;
- 32 (24) Felony adult abuse, as prohibited in § 5-28-103;
- 33 (25) Theft of property, as prohibited in § 5-36-103;
- 34 (26) Theft by receiving, as prohibited in § 5-36-106;
- 35 (27) Arson, as prohibited in § 5-38-301;
- 36 (28) Burglary, as prohibited in § 5-39-201;

1 (29) Felony violation of the Uniform Controlled Substances Act,
2 as prohibited in § 5-64-401;

3 (30) Promotion of prostitution in the first degree, as prohibited
4 in § 5-70-104;

5 (31) Stalking, as prohibited in § 5-71-229; and

6 (32) Criminal attempt, criminal complicity, criminal
7 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-
8 3-301, and 5-3-401, to commit any of the offenses listed in this subsection.

9 (g)(1) The board may issue a six-month nonrenewable letter of
10 provisional eligibility for licensure to a first-time applicant pending the
11 results of the criminal background check.

12 (2) Upon receipt of information from the Identification Bureau of
13 the Arkansas State Police that the person holding such letter of provisional
14 licensure has pleaded guilty or nolo contendere to, or been found guilty of,
15 any offense listed in subsection (f) of this section, the board shall
16 immediately revoke the provisional license.

17 (h)(1) The provisions of subsections (f) and (g)(2) of this section may
18 be waived by the board upon the request of:

19 (A) An affected applicant for licensure; or

20 (B) The person holding a license subject to revocation.

21 (2) Circumstances for which a waiver may be granted shall
22 include, but not be limited to, the following:

23 (A) The age at which the crime was committed;

24 (B) The circumstances surrounding the crime;

25 (C) The length of time since the crime;

26 (D) Subsequent work history;

27 (E) Employment references;

28 (F) Character references; and

29 (G) Other evidence demonstrating that the applicant does
30 not pose a threat to the health or safety of children.

31 (i) Any information received by the board from the Identification
32 Bureau of the Arkansas State Police pursuant to this section shall not be
33 available for examination except by the affected applicant for licensure, or
34 his authorized representative, or the person whose license is subject to
35 revocation, or his authorized representative. No record, file, or document
36 shall be removed from the custody of the Arkansas State Police.

1 (j) Any information made available to the affected applicant for
2 licensure or the person whose license is subject to revocation shall be
3 information pertaining to that person only.

4 (k) Rights of privilege and confidentiality established in this section
5 shall not extend to any document created for purposes other than this
6 background check.

7 (l) The board shall adopt the necessary rules and regulations to fully
8 implement the provisions of this section.

9 (m) Persons licensed by the board may be required to apply for a
10 criminal history check in the same manner as an applicant for licensure under
11 this section. The board shall develop and adopt a regulation that prescribes
12 how criminal history checks for persons licensed by the board may be
13 conducted."

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15 SECTION 5. All provisions of this Act of a general and permanent nature
16 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
17 Revision Commission shall incorporate the same in the Code.

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19 SECTION 6. If any provision of this Act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the Act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 Act are declared to be severable.

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25 SECTION 7. All laws and parts of laws in conflict with this Act are
26 hereby repealed.

27
28 /s/ Bradfor

 APPROVED: 4/7/1999d