§ 90-171.19. Legislative findings.

The General Assembly of North Carolina finds that mandatory licensure of all who engage in the practice of nursing is necessary to ensure minimum standards of competency and to provide the public safe nursing care. (1981, c. 360, s. 1.)

§ 90-171.20. Definitions.

As used in this Article, unless the context requires otherwise:

(1) "Board" means the North Carolina Board of Nursing.

(2) "Health care provider" means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this Article, a person enrolled in a program that prepares the person to be a licensed health care professional or an allied health professional shall be deemed a health care provider.

(3) "License" means a permit issued by the Board to practice nursing as a registered nurse or as a licensed practical nurse, including a renewal thereof.

(3a) "Licensee" means any person issued a license by the Board, whether the license is active or inactive, including an inactive license by means of surrender.

(4) "Nursing" is a dynamic discipline which includes the assessing, caring, counseling, teaching, referring and implementing of prescribed treatment in the maintenance of health, prevention and management of illness, injury, disability or the achievement of a dignified death. It is ministering to; assisting; and sustained, vigilant, and continuous care of those acutely or chronically ill; supervising patients during convalescence and rehabilitation; the supportive and restorative care given to maintain the optimum health level of individuals, groups, and communities; the supervision, teaching, and evaluation of those who perform or are preparing to perform these functions; and the administration of nursing programs and nursing services. For purposes of this Article, the administration of required lethal substances or any assistance whatsoever rendered with an execution under Article 19 of Chapter 15 of the General Statutes does not constitute nursing.

(5) "Nursing program" means any educational program in North Carolina offering to prepare persons to meet the educational requirements for licensure under this Article.

(6) "Person" means an individual, corporation, partnership, association, unit of government, or other legal entity.

(7) The "practice of nursing by a registered nurse" consists of the following 10 components:

a. Assessing the patient's physical and mental health, including the patient's reaction to illnesses and treatment regimens.

b. Recording and reporting the results of the nursing assessment.

c. Planning, initiating, delivering, and evaluating appropriate nursing acts.

d. Teaching, assigning, delegating to or supervising other personnel in implementing the treatment regimen.

e. Collaborating with other health care providers in determining the appropriate health care for a patient but, subject to the provisions of

G.S. 90-18.2, not prescribing a medical treatment regimen or making a medical diagnosis, except under supervision of a licensed physician.

f. Implementing the treatment and pharmaceutical regimen prescribed by any person authorized by State law to prescribe the regimen.

g. Providing teaching and counseling about the patient's health.

h. Reporting and recording the plan for care, nursing care given, and the patient's response to that care.

i. Supervising, teaching, and evaluating those who perform or are preparing to perform nursing functions and administering nursing programs and nursing services.

j. Providing for the maintenance of safe and effective nursing care, whether rendered directly or indirectly.

(8) The "practice of nursing by a licensed practical nurse" consists of the following seven components:

a. Participating in the assessment of the patient's physical and mental health, including the patient's reaction to illnesses and treatment regimens.

b. Recording and reporting the results of the nursing assessment.

c. Participating in implementing the health care plan developed by the registered nurse and/or prescribed by any person authorized by State law to prescribe such a plan, by performing tasks assigned or delegated by and performed under the supervision or under orders or directions of a registered nurse, physician licensed to practice medicine, dentist, or other person authorized by State law to provide the supervision.

c1. Assigning or delegating nursing interventions to other qualified personnel under the supervision of the registered nurse.

d. Participating in the teaching and counseling of patients as assigned by a registered nurse, physician, or other qualified professional licensed to practice in North Carolina.

e. Reporting and recording the nursing care rendered and the patient's response to that care.

f. Maintaining safe and effective nursing care, whether rendered directly or indirectly. (1981, c. 360, s. 1; 2001-98, s. 1; 2013-154, s. 1(d); 2019-180, s. 3.)

§ 90-171.21. Board of Nursing; composition; selection; vacancies; qualifications; term of office; compensation.

(a) The Board shall consist of 14 members. Eight members shall be registered nurses. Three members shall be licensed practical nurses. Three members shall be representatives of the public.

(b) Selection. – The North Carolina Board of Nursing shall conduct an election each year to fill vacancies of nurse members of the Board scheduled to occur during the next year. Nominations of candidates for election of registered nurse members shall be made by written petition signed by not less than 10 registered nurses eligible to vote in the election. Nominations of candidates for election of licensed practical nurse members shall be made

by written petition signed by not less than 10 licensed practical nurses eligible to vote in the election. Every licensed registered nurse holding an active license shall be eligible to vote in the election of registered nurse board members. Every licensed practical nurse holding an active license shall be eligible to vote in the election of licensed practical nurse board members. The list of nominations shall be filed with the Board after January 1 of the year in which the election is to be held and no later than midnight of the first day of April of such year. Before preparing ballots, the Board shall notify each person who has been duly nominated of the person's nomination and request permission to enter the person's name on the ballot. A member of the Board who is nominated for reelection and who does not withdraw the member's name from the ballot is disqualified to participate in conducting the election. Elected members shall begin their term of office on January 1 of the year following their election.

Nominations of persons to serve as public members of the Board may be made to the Governor or the General Assembly by any citizen or group within the State. The Governor shall appoint one public member to the Board, and the General Assembly shall appoint two public members to the Board. Of the public members appointed by the General Assembly, one shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

Board members shall be commissioned by the Governor upon their election or appointment.

(c) Vacancies. – All unexpired terms of Board members appointed by the General Assembly shall be filled within 45 days after the term is vacated. The Governor shall fill all other unexpired terms on the Board within 30 days after the term is vacated. For vacancies of registered nurse or licensed practical nurse members, the Governor shall appoint the person who received the next highest number of votes to those elected members at the most recent election for board members. Appointees shall serve the remainder of the unexpired term and until their successors have been duly elected or appointed and qualified.

(d) Qualifications. – Of the eight registered nurse members on the Board, one shall be a nurse administrator employed by a hospital or a hospital system, who shall be accountable for the administration of nursing services and not directly involved in patient care; one shall be an individual who meets the requirements to practice as a certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse specialist, or a nurse practitioner; two shall be staff nurses, defined as individuals who are primarily involved in direct patient care regardless of practice setting; one shall be an at-large registered nurse who meets the requirements of sub-subdivisions (1) a., a1., and b. of this subsection, but is not currently an educator in a program leading to licensure or any other degree-granting program; and three shall be nurse educators. Minimum ongoing employment requirements for every registered nurse and licensed practical nurse shall include continuous employment equal to or greater than fifty percent (50%) of a full-time position that meets the criteria for the specified Board member position. Of the three nurse educators, one shall be a practical nurse educator, one shall be an associate degree or diploma nurse educator,

and one shall be a baccalaureate or higher degree nurse educator. All nurse educators shall meet the minimum education requirement as established by the Board's education program standards for nurse faculty. Candidates eligible for election to the Board as nurse educators are not eligible for election as the at-large member.

(1) Except for the at-large member, every registered nurse member shall meet the following criteria:
   - a. Hold an active, unencumbered license to practice as a registered nurse in North Carolina.
   - a1. Be a resident of North Carolina.
   - b. Have a minimum of five years of experience as a registered nurse.
   - c. Have been engaged continuously in a position that meets the criteria for the specified Board position for at least three years immediately preceding election.
   - d. Show evidence that the employer of the registered nurse is aware that the nurse intends to serve on the Board.

(2) Every licensed practical nurse member shall meet the following criteria:
   - a. Hold an active, unencumbered license to practice as a licensed practical nurse in North Carolina.
   - a1. Be a resident of North Carolina.
   - c. Have a minimum of five years of experience as a licensed practical nurse.
   - d. Have been engaged continuously in the position of a licensed practical nurse for at least three years immediately preceding election.
   - e. Show evidence that the employer of the licensed practical nurse is aware that the nurse intends to serve on the Board.

(3) A public member shall not be a licensed nurse or licensed health care professional or employed by a health care institution, health care insurer, or a health care professional school. No public member or person in the public member's immediate family as defined by G.S. 90-405(8) shall be currently employed as a licensed nurse or been previously employed as a licensed nurse.

(4) The nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist member shall be recognized by the Board as a registered nurse who meets the following criteria:
   - a. Has graduated from or completed a graduate level advanced practice nursing education program accredited by a national accrediting body.
   - b. Maintains current certification or recertification from a national credentialing body approved by the Board or meets other requirements established by rules adopted by the Board.
   - c. Practices in a manner consistent with rules adopted by the Board and other applicable law.

(e) Term. – Members of the Board shall serve four-year staggered terms. No member shall serve more than two consecutive four-year terms or eight consecutive years after January 1, 2005.

(f) Removal. – The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from Board business until the charges are resolved.

(g) Compensation. – Board members are entitled to receive compensation and reimbursement for all expenses proper and necessary as determined by the Board to discharge its duties and to enforce the laws regulating the practice of nursing. The per diem compensation of Board members shall not exceed two hundred dollars ($200.00) per member for time spent in the performance and discharge of duties as a member. (1981, c. 360, s. 1; c. 852, s. 1; 1987, c. 651, s. 2; 1991, c. 643, s. 1; 1991 (Reg. Sess., 1992), c. 1011, s. 3; 1997-456, s. 27; 2001-98, s. 2; 2003-146, s. 1; 2004-199, s. 26(a); 2006-264, s. 47; 2019-180, s. 4.)

§ 90-171.22. Officers.

The officers of the Board shall be a chair, a vice-chair, and any other officers the Board considers necessary. All officers shall be elected annually by the Board for terms of one year and shall serve until their successors have been elected and qualified. (1981, c. 360, s. 1; 2003-146, s. 2.)

§ 90-171.23. Duties, powers, and meetings.

(a) Meetings. – The Board shall hold at least two meetings each year to transact its business. The Board shall adopt rules with respect to calling, holding, and conducting regular and special meetings and attendance at meetings. The majority of the Board members constitutes a quorum.

(b) Duties; powers. – The Board is empowered to:

(1) Administer this Article.

(2) Issue its interpretations of this Article.

(3) Adopt, amend or repeal rules and regulations as may be necessary to carry out the provisions of this Article.

(4) Establish qualifications of, employ, and set the compensation of an executive officer who shall be a registered nurse and who shall not be a member of the Board.

(5) Employ and fix the compensation of other personnel that the Board determines are necessary to carry into effect this Article and incur other expenses necessary to effectuate this Article.

(6) Examine, license, and renew the licenses of duly qualified applicants for licensure.

(6a) Determine whether an applicant or licensee is mentally and physically capable of practicing nursing with reasonable skill and safety. The Board may require an applicant or licensee to submit to a mental health examination by a licensed mental health professional designated by the Board and to a physical examination by a physician or other licensed health care professional designated by the Board. The Board may order an applicant or licensee to be examined before or after charges are presented against the applicant or licensee. The results of the mental health examination or physical examination shall be reported directly to the Board and shall be admissible into evidence in a hearing before the Board.

(7) Determine and administer appropriate disciplinary action against all regulated parties who are found to be in violation of this Article or rules adopted by the Board.

(8) Establish standards to be met by the students, and to pertain to faculty, curricula, facilities, resources, and administration for any nursing program as provided in G.S. 90-171.38.

(9) Review all nursing programs at least every eight years or more often as considered necessary by the Board or program director.

(10) Grant, deny, or withdraw approval for nursing programs as provided in G.S. 90-171.39.

(11) Upon request, grant or deny approval of continuing education programs for nurses as provided in G.S. 90-171.42.

(12) Keep a record of all proceedings and make an annual summary of all actions available.

(13) Appoint, as necessary, advisory committees which may include persons other than Board members to deal with any issue under study.

(14) Appoint and maintain a subcommittee of the Board to work jointly with the subcommittee of the North Carolina Medical Board to develop rules and regulations to govern the performance of medical acts by registered nurses and to determine reasonable fees to accompany an application for approval or renewal of such approval as provided in G.S. 90-8.2. The fees and rules developed by this subcommittee shall govern the performance of medical acts by registered nurses and shall become effective when they have been adopted by both Boards.

(15) Recommend and collect such fees for licensure, license renewal, examinations and reexaminations as it deems necessary for fulfilling the purposes of this Article.

(16) Adopt a seal containing the name of the Board for use on all certificates, licenses, and official reports issued by it.

(17) Enter into interstate compacts to facilitate the practice and regulation of nursing.

(18) Establish programs for monitoring the treatment, recovery, and safe practice of nurses with substance use disorders, mental health disorders, or physical conditions impacting the ability to deliver safe care.

(18a) Enter into agreements for aiding in the remediation of nurses who experience practice deficiencies.

(19) Request that the Department of Public Safety conduct criminal history record checks of applicants for licensure pursuant to G.S. 143B-940.

(20) Adopt rules requiring an applicant to submit to the Board evidence of the applicant's continuing competence in the practice of nursing at the time of license renewal or reinstatement.

(21) Proceed in accordance with G.S. 90-171.37A, notwithstanding G.S. 150B-40(b), when conducting a contested case hearing in accordance with Article 3A of Chapter 150B of the General Statutes.

(22) Designate one or more of its employees to serve papers or subpoenas issued by the Board. Service under this subdivision is permitted in addition to any other methods of service permitted by law.

(23) Acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(24) Order or subpoena the production of any patient records, documents, or other materials concerning any matter to be heard before or inquired into by the Board, notwithstanding any other provision of law providing for the application of any health care provider-patient privilege regarding records, documents, or other materials. All records, documents, or other materials compiled by the Board are subject to G.S. 90-171.37C. Upon written request and after a hearing, the Board shall revoke a subpoena if the Board finds the evidence does not relate to a matter in issue, or if the subpoena does not describe the required evidence with sufficient particularity, or if the subpoena is invalid for any other legal reason. (1981, c. 360, s. 1; c. 665, s. 2; c. 852, s. 4; 1995, c. 94, s. 28; 1997-491, s. 1; 1999-291, s. 1; 2001-98, s. 3; 2001-371, s. 3; 2003-146, s. 3; 2005-186, s. 1; 2007-148, s. 1; 2009-133, s. 1; 2014-100, s. 17.1(jj); 2019-180, s. 5.)

§ 90-171.24. Executive director.

The executive director shall perform the duties prescribed by the Board and serve as secretary/treasurer to the Board. (1981, c. 360, s. 1; 1993, c. 198, s. 1; 2009-133, s. 2.)

§ 90-171.25. Custody and use of funds.

The executive director shall deposit in financial institutions designated by the Board as official depositories all fees payable to the Board. The funds shall be deposited in the name of the Board and shall be used to pay all expenses incurred by the Board in carrying out the purposes of this Article. (1981, c. 360, s. 1; 1993, c. 198, s. 2; c. 257, s. 4; 1995, c. 509, s. 41.)

§ 90-171.26. The Board may accept contributions, etc.

The Board may accept grants, contributions, devises, and gifts which shall be kept in a separate fund and shall be used by it to enhance the practice of nursing. (1981, c. 360, s. 1; 2011-284, s. 63.)

§ 90-171.27. Expenses payable from fees collected by Board.

(a) All salaries, compensation, and expenses incurred or allowed for the purposes of carrying out this Article shall be paid by the Board exclusively out of the fees received by the Board as authorized by this Article, or funds received from other sources. In no case shall any salary, expense, or other obligation of the Board be charged against the treasury of the State of North Carolina. All moneys and receipts shall be kept in a special fund by and for the use of the Board for the exclusive purpose of carrying out the provisions of this Article.

(b) **(See editor's note for initial fee)** The schedule of fees shall not exceed the following rates:

Application for examination leading to certificate and license as registered nurse $75.00

Application for certificate and license as registered nurse by endorsement 150.00
Application for each re-examination leading to certificate and license as registered nurse 75.00
Renewal of license to practice as registered nurse (two-year period) 100.00
Reinstatement of lapsed license to practice as a registered nurse and renewal fee 180.00
Application for examination leading to certificate and license as licensed practical nurse by examination 75.00
Application for certificate and license as licensed practical nurse by endorsement 150.00
Application for each re-examination leading to certificate and license as licensed practical nurse 75.00
Renewal of license to practice as a licensed practical nurse (two-year period) 100.00
Reinstatement of lapsed license to practice as a licensed practical nurse and renewal fee 180.00
(See editor's note for initial fee) Application fee for retired registered nurse status or retired licensed practical nurse status 50.00
Reinstatement of retired registered nurse to practice as a registered nurse or a retired licensed practical nurse to practice as a licensed practical nurse (two-year period) 100.00
Reasonable charge for duplication services and materials.

A fee for an item listed in this schedule shall not increase from one year to the next by more than twenty percent (20%).

(c) No refund of fees will be made.

(d) The Board may assess costs of disciplinary action against a nurse found in violation of the North Carolina Nursing Practice Act. (1947, c. 1091, s. 1; 1953, c. 750; c. 1199, ss. 1, 4; 1955, c. 1266, ss. 2, 3; 1961, c. 431, s. 2; 1965, c. 578, s. 1; 1971, c. 534; 1981, c. 360, s. 1; c. 661; 1987, c. 651, s. 1; 1997-384, s. 1; 2003-29, s. 2.)

§ 90-171.28. Nurses registered under previous law.

On June 30, 1981, any nurse who holds a license to practice nursing as a registered nurse or licensed practical nurse, issued by a competent authority pursuant to laws providing for the licensure of nurses in North Carolina, shall be deemed to be licensed under the provisions of this Article, but such person shall otherwise comply with the provisions of this Article including those provisions governing licensure renewal. (1953, c. 1199, s. 1; 1965, c. 578, s. 1; 1981, c. 360, s. 1.)

§ 90-171.29. Qualifications of applicants for examination.

In order to be eligible for licensure by examination, the applicant shall make a written application to the Board on forms furnished by the Board and shall submit to the Board an application fee and written evidence, verified by oath, sufficient to satisfy the Board that the applicant has graduated from a course of study approved by the Board and is mentally and physically competent to practice nursing. (1947, c. 1091, s. 1; 1953, c. 750; c. 1199, ss. 1, 4; 1955, c. 1266, s. 2; 1961, c. 431, s. 2; 1965, c. 578, s. 1; 1973, c. 93, s. 4; 1981, c. 360, s. 1.)

§ 90-171.30. Licensure by examination.

At least twice each year the Board shall give an examination, at the time and place it determines, to applicants for licensure to practice as a registered nurse or licensed practical nurse. The Board shall adopt rules, not inconsistent with this Article, governing qualifications of applicants, the conduct of applicants during the examination, and the conduct of the examination. The applicants shall be required to pass the examination required by the Board. The Board shall adopt rules which identify the criteria which must be met by an applicant in order to be issued a license. When the Board determines that an applicant has met those criteria, passed the required examination, submitted the required fee, and has demonstrated to the Board's satisfaction that he or she is mentally and physically competent to practice nursing, the Board shall issue a license to the applicant. (1947, c. 1091, s. 1; 1953, c. 1199, s. 1; 1965, c. 578, s. 1; 1981, c. 360, s. 1; 1991, c. 643, s. 2; 1993, c. 198, s. 3.)

§ 90-171.31. Reexamination.

Any applicant who fails to pass the first licensure examination may take subsequent examinations in accordance with the rules of the Board. (1981, c. 360, s. 1; 1993, c. 198, s. 4.)

§ 90-171.32. Qualifications for license as a registered nurse or a licensed practical nurse without examination.

The Board may, without examination, issue a license to an applicant who is duly licensed as a registered nurse or licensed practical nurse under the laws of another state, territory of the United States, the District of Columbia, or foreign country when that jurisdiction's requirements for licensure as a registered nurse or a licensed practical nurse, as the case may be, are substantially equivalent to or exceed those of the State of North Carolina at the time the applicant was initially licensed, and when, in the Board's opinion, the applicant is competent to practice nursing in this State. The Board may require such applicant to prove competence and qualifications to practice as a registered nurse or licensed practical nurse in North Carolina. (1947, c. 1091, s. 1; 1953, c. 1199, s. 1; 1961, c. 431, s. 2; 1965, c. 578, s. 1; 1981, c. 360, s. 1.)

§ 90-171.33. Temporary license.

(a), (b) Repealed by Session Laws 2019-180, s. 6, effective October 1, 2019, and applicable to licenses granted or renewed on or after that date and actions taken by the Board of Nursing on or after that date.

(c) The Board may issue a nonrenewable temporary license to persons applying for licensure under G.S. 90-171.32 for a period not to exceed the lesser of six months or until the Board determines whether the applicant is qualified to practice nursing in North Carolina. Temporary licensees may perform patient-care services within limits defined by the Board. In defining these limits, the Board shall consider the ability of the temporary licensee to safely and properly carry out patient-care services. Temporary licensees shall be held to the standard of care of a fully licensed nurse. (1981, c. 360, s. 1; 1991, c. 643, s. 3; 1993, c. 198, s. 5; 2019-180, s. 6.)

§ 90-171.34. Licensure renewal.

Every unencumbered license, except temporary license, issued under this Article shall be renewed for two years. On or before the date the current license expires, every person who desires to continue to practice nursing shall apply for licensure renewal to the Board on forms furnished by the Board and shall also file the required fee. Failure to renew the license before the expiration date shall result in automatic forfeiture of the right to practice nursing in North Carolina until such time that the license has been reinstated. (1981, c. 360, s. 1; 1993, c. 198, s. 6; 2009-133, s. 3.)

§ 90-171.35. Reinstatement.

A licensee who has allowed license to lapse by failure to renew as herein provided may apply for reinstatement on a form provided by the Board. The Board shall require the applicant to return the completed application with the required fee and to furnish a statement of the reason for failure to apply for renewal prior to the deadline. If the license has lapsed for at least five years, the Board shall require the applicant to complete satisfactorily a refresher course approved by the Board, or provide proof of active licensure within the past five years in another jurisdiction. The Board may require any applicant for reinstatement to satisfy the Board that the license should be reinstated. If, in the opinion of the Board, the applicant has so satisfied the Board, it shall issue a renewal of license to practice nursing, or it shall issue a license to practice nursing for a limited time. (1981, c. 360, s. 1; 1993, c. 198, s. 7.)

§ 90-171.36. Inactive list.

(a) When a licensee submits a request for inactive status, the Board shall issue to the licensee a statement of inactive status and shall place the licensee's name on the inactive list. While on the inactive list, the person shall not be subjected to renewal requirements and shall not practice nursing in North Carolina.

(b) When such person desires to be removed from the inactive list and returned to the active list within five years of being placed on inactive status, an application shall be submitted to the Board on a form furnished by the Board and the fee shall be paid for license renewal. The Board shall require evidence of competency to resume the practice of nursing before returning the applicant to active status. If the person has been on the inactive list for more than five years, the applicant must satisfactorily complete a refresher course approved by the Board or provide proof of active licensure within the past five years in another jurisdiction. (1981, c. 360, s. 1; 1993, c. 198, s. 8.)

§ 90-171.36A. Retired nurse status; reinstatement.

(a) After a registered nurse or a licensed practical nurse has retired, upon payment of the one-time fee required by G.S. 90-171.27(b), the Board may issue a special license to a registered nurse or licensed practical nurse in recognition of the nurse's retired status.

(b) If a retired registered nurse or licensed practical nurse wishes to return to the practice of nursing, the retired nurse shall apply for reinstatement on a form provided by the Board and satisfy any requirements the Board deems necessary to reinstate the license. (2003-29, s. 1.)

§ 90-171.37. Disciplinary authority.

(a) The Board may initiate an investigation upon receipt of information about any practice that might violate any provision of this Article or any rule or regulation promulgated by the Board. In accordance with the provisions of Chapter 150B of the General Statutes, the Board shall have the power and authority to take the following

actions: (i) place on probation, with or without conditions; (ii) impose limitations and conditions; (iii) accept voluntary surrender of a license; (iv) publicly reprimand; (v) issue public letters of concern; (vi) require satisfactory completion of treatment programs or remedial or educational training; (vii) deny or refuse to issue a license, deny or refuse to issue a license renewal, issue a fine, suspend a license, and revoke a license or privilege to practice nursing in this State for any person the Board finds to have done any of the following:

(1) Has given false information or has withheld material information from the Board in procuring or attempting to procure a license to practice nursing.

(2) Has been convicted of or pleaded guilty or nolo contendere to any crime which indicates that the nurse is unfit or incompetent to practice nursing or that the nurse has deceived or defrauded the public.

(3) Is unable to practice nursing with reasonable skill and safety to patients by reason of illness, excessive use of alcohol, drugs, chemicals, or any other type of material, or by reason of any physical or mental abnormality.

(4) Engages in conduct that endangers the public health.

(5) Is unfit or incompetent to practice nursing by reason of deliberate or negligent acts or omissions regardless of whether actual injury to the patient is established.

(6) Engages in conduct that deceives, defrauds, or harms the public in the course of professional activities or services.

(6a) Engages in unprofessional conduct that is nonconforming to the standards of acceptable and prevailing nursing practice or the ethics of the nursing profession, even if a patient is not injured.

(6b) Commits acts of dishonesty, injustice, or immorality in the course of the licensee's practice or otherwise, including acts outside of this State.

(6c) Has had a license or privilege to practice nursing denied, revoked, suspended, restricted, or acted against by any jurisdiction. For purposes of this subdivision, the licensing authority's acceptance of a license to practice nursing that is voluntarily relinquished by a nurse, by stipulation, consent order, or other settlement in response to or in anticipation of the filing of administrative charges against the nurse's license, is an action against a license to practice nursing. The Board is empowered and authorized to take action based on the factual findings of the licensing authority that took action.

(6d) Fails to respond to the Board's inquiries in a reasonable manner or time regarding any matter affecting the license to practice nursing.

(7) Has violated any provision of this Article or any provision of the rules adopted by the Board under this Article.

(8) Repealed by Session Laws 2019-180, s. 7, effective October 1, 2019, and applicable to licenses granted or renewed on or after that date and actions taken by the Board of Nursing on or after that date.

(b) The Board may take any of the actions specified above in this section when a registered nurse approved to perform medical acts has violated rules governing the performance of medical acts by a registered nurse; provided this shall not interfere with the

authority of the North Carolina Medical Board to enforce rules and regulations governing the performance of medical acts by a registered nurse.

(c) The Board may reinstate a revoked license, revoke censure or probation, or remove other licensure restrictions when it finds that the reasons for revocation, censure or probation, or other licensure restrictions no longer exist and that the licensee or applicant for a license can reasonably be expected to safely and properly practice nursing.

(d) The Board retains jurisdiction over an expired, inactive, or voluntarily surrendered license. The Board's jurisdiction over the licensee extends for all matters, known or unknown to the Board, at the time of the expiration, inactivation, or surrender of the license.

(e) The Board, members of the Board, and staff shall not be held liable in any civil or criminal proceeding for exercising the powers and duties authorized by law provided the person was acting in good faith. (1981, c. 360, s. 1; c. 852, s. 3; 1987, c. 827, s. 1; 1991, c. 643, s. 4; 1991 (Reg. Sess., 1992), c. 1030, s. 22; 1995, c. 94, s. 29; 2001-98, s. 4; 2009-133, s. 4; 2019-180, s. 7.)

§ 90-171.37A. Use of hearing committee and depositions.

(a) The Board, in its discretion, may designate in writing three or more of its members to conduct hearings as a hearing committee to receive evidence. A majority of the hearing committee shall be licensed nurses.

(b) Evidence and testimony may be presented at hearings before the Board or a hearing committee in the form of depositions before any person authorized to administer oaths in accordance with the procedure for the taking of depositions in civil actions in the superior court. At the discretion of the Board, witness testimony may be received by telephone or videoconferencing at a hearing.

(c) The hearing committee shall submit a recommended decision that contains findings of fact and conclusions of law to the Board. Before the Board makes a final decision, it shall give each party an opportunity to file written exceptions to the recommended decision made by the hearing committee and to present oral arguments to the Board. A majority of the qualified members present and voting of the full Board shall issue a final decision. (2007-148, s. 2; 2019-180, s. 8.)

§ 90-171.37B. Appeal from Board's disciplinary action of licensee.

(a) A licensee may appeal a public disciplinary action made by the Board under G.S. 90-171.37(a). A licensee may appeal any public disciplinary action made by the Board to the superior court located in the county where the licensee resides or where the Board is located by filing written notice of appeal within 30 days after receipt of the Board's decision. A licensee must state all exceptions to the Board's decision in the licensee's written notice of appeal and properly identify the general court of justice where the licensee intends the appeal to be heard.

(b) Within 30 days of receiving a licensee's written notice of appeal, the Board shall 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 in the county where the licensee appealed the Board's decision. (2019-180, s. 9.)

§ 90-171.37C. Confidentiality of Board investigative information; Board to keep public records; cooperation with law enforcement; self-reporting requirements; patient protection.

(a) All records, papers, investigative information, and other documents containing information that the Board, its members, or its employees possess, gather, or receive as a result of investigations, inquiries, assessments, or interviews conducted in connection with a licensing complaint, appeal, assessment, potential impairment matter, or disciplinary matter shall not be considered public records under Chapter 132 of the General Statutes, and are privileged, confidential, not subject to discovery, subpoena, or any means of legal compulsion for release to anyone other than the Board, its employees, or consultants involved in the application for license, impairment assessment, or discipline of a licensee, except as provided in subsection (b) of this section. For the purposes of this section, "investigative information" means investigative files and reports, information relating to the identity and report of a physician or other professional performing an expert review for the Board, and any of the Board's deposition transcripts related to a hearing not admitted into evidence.

(b) The Board shall provide the licensee or applicant for a license access to all information in its possession that the Board intends to offer into evidence at the licensee's or applicant's hearing, unless good cause is shown for delay. This information shall be subject to any privilege or restriction set forth by rule, statute, or legal precedent and must be requested in writing from the licensee or applicant who is the subject of the complaint or investigation. The Board shall not be required to produce (i) information subject to attorney-client privilege or (ii) investigative information that the Board will not offer into evidence, and is related to advice, opinions, or recommendations of the Board's staff, consultants, or agents.

(c) Any licensee's notice of statement of charges, notice of hearing, and all information contained in those documents shall be public records under Chapter 132 of the General Statutes.

(d) If the Board, its employees, or its agents possess investigative information indicating a crime may have been committed, the Board may report the information to the appropriate law enforcement agency or district attorney of the district in which the offense was committed. The Board shall cooperate with and assist any law enforcement agency or district attorney conducting a criminal investigation or prosecution of a licensee by providing relevant information. This information shall be confidential under G.S. 132-1.4 and shall remain confidential after disclosure to a law enforcement agency or district attorney.

(e) All licensees shall self-report to the Board any of the following within 30 days of their arrest or indictment:

(1) Any felony arrest or indictment.

(2) Any arrest for driving while impaired or driving under the influence.

(3) Any arrest or indictment for the possession, use, or sale of any controlled substance.

(f) The Board, its members, or its staff may release confidential information concerning the denial, annulment, suspension, or revocation of a license to any other health care licensing board in this State, other state, or country, or authorized Department of Health and Human Services personnel who are charged with the enforcement or investigative responsibilities of licensure.

If the Board releases this confidential information, the Board shall notify and provide a summary of the information to the licensee within 60 days after the information is transmitted. The licensee may make a written request that the Board provide the licensee a copy of all information transmitted within 30 days of receiving notice of the initial transmittance. The Board shall not provide the information if the information relates to an ongoing criminal investigation by any law enforcement agency or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities.

(g) Notwithstanding the provisions of this section, the Board shall withhold the identity of a patient, including information relating to dates and places of treatment, or any other information that would tend to identify the patient, in any proceeding, record of a hearing, and in the notice of charges against any licensee, unless the patient or the patient's representative expressly consents to the public disclosure. (2019-180, s. 9.)

§ 90-171.37D. Service of notices.

(a) Any notice required by this Article may be served either personally by an employee of the Board or by an officer authorized by law to serve process, or by registered or certified mail, return requested, directed to the licensee or applicant at his or her last known address as shown by the records of the Board. If notice is served personally, it shall be deemed to have been served at the time when the officer or employee of the Board delivers the notice to the person addressed or delivers the notice at the licensee's or applicant's last known address as shown by records of the Board with a person of suitable age and discretion then residing therein. Where notice is served in a manner authorized by Rule 4(j) of the North Carolina Rules of Civil Procedure, it shall be deemed to have been served on the date borne by the return receipt showing delivery of the notice to the licensee's or applicant's last known address as shown by the records of the Board, regardless of whether the notice was actually received or whether the notice was unclaimed or undeliverable for any reason.

(b) Reserved. (2019-180, s. 9.)

§ 90-171.38. Standards for nursing programs.

(a) A nursing program may be operated under the authority of a general hospital, or an approved post-secondary educational institution. The Board shall establish, revise, or repeal standards for nursing programs. These standards shall specify program requirements, curricula, faculty, students, facilities, resources, administration, and describe the approval process. Any institution desiring to establish a nursing program shall apply to

the Board and submit satisfactory evidence that it will meet the standards established by the Board. Those standards shall be designed to ensure that graduates of those programs have the education necessary to safely and competently practice nursing.

(b) Any individual, organization, association, corporation, or institution may establish a program for the purpose of training or educating any registered nurse licensed under G.S. 90-171.30, 90-171.32, or 90-171.33 in the skills, procedures, and techniques necessary to conduct examinations for the purpose of collecting evidence from the victims of first-degree forcible rape as defined in G.S. 14-27.21, second-degree forcible rape as defined in G.S. 14-27.22, statutory rape of a child by an adult as defined in G.S. 14-27.23, first-degree statutory rape as defined in G.S. 14-27.24, statutory rape of a person who is 15 years of age or younger as defined in G.S. 14-27.25, first-degree forcible sexual offense as defined in G.S. 14-27.26, second-degree forcible sexual offense as defined in G.S. 14-27.27, statutory sexual offense with a child by an adult as defined in G.S. 14-27.28, first-degree statutory sexual offense as defined in G.S. 14-27.29, statutory sexual offense with a person who is 15 years of age or younger as defined in G.S. 14-27.30, attempted first-degree or second-degree forcible rape, attempted first-degree statutory rape, attempted first-degree or second-degree forcible sexual offense, or attempted first-degree statutory sexual offense. The Board, pursuant to G.S. 90-171.23(b)(14), shall establish, revise, or repeal standards for any such program. Any individual, organization, association, corporation, or institution which desires to establish a program under this subsection shall apply to the Board and submit satisfactory evidence that it will meet the standards prescribed by the Board. (1981, c. 360, s. 1; 1987, c. 827, s. 1; 1991, c. 643, s. 5; 1997-375, s. 1; 2003-146, s. 4; 2009-133, s. 5; 2015-181, s. 37.)

§ 90-171.39. Approval.

The Board shall designate persons to survey proposed nursing programs. The persons designated by the Board shall submit a written report of the survey to the Board. If in the opinion of the Board the standards for approved nursing education are met, the program shall be given approval. (1981, c. 360, s. 1; 2019-180, s. 10.)

§ 90-171.40. Ongoing approval.

The Board shall review all nursing programs in the State at least every 10 years or more often as considered necessary. If the Board determines that any approved nursing program does not meet or maintain the standards required by the Board, the Board shall give written notice specifying the deficiencies to the institution responsible for the program. The Board shall evaluate and take appropriate action, including withdrawing approval, for a program that fails to correct deficiencies within a reasonable time. The Board shall publish a list of nursing programs in this State showing their approval status. (1981, c. 360, s. 1; 2003-146, s. 5; 2019-180, s. 11.)

§ 90-171.41. Baccalaureate in nursing candidate credits.

Every graduate of a diploma or associate degree school of nursing in this State who has passed the registered nurse examination shall, upon admission to any State-supported institution of higher

learning offering baccalaureate education in nursing, be granted credit for previous experience in the diploma or associate degree school of nursing on an individual basis by the utilization of the most effective method of evaluation to the end that the applicant shall receive optimum credit and that upon graduation the applicant will have earned the baccalaureate degree in nursing. (1969, c. 547, s. 1; 1981, c. 360, s. 1.)

§ 90-171.42. Continuing education programs.

(a) Upon request, the Board shall grant approval to continuing education programs upon a finding that the program offers an educational experience designed to enhance the practice of nursing.

(b) If the program offers to teach nurses to perform advance skills, the Board may grant approval for the program and the performance of the advanced skills by those successfully completing the program when it finds that the nature of the procedures taught in the program and the program facilities and faculty are such that a nurse successfully completing the program can reasonably be expected to carry out those procedures safely and competently. (1981, c. 360, s. 1; 1991, c. 643, s. 6.)

§ 90-171.43. License required; rules.

(a) No person shall practice or offer to practice as a registered nurse or licensed practical nurse, or use the word "nurse" as a title for herself or himself, or use an abbreviation to indicate that the person is a registered nurse or licensed practical nurse, unless the person is currently licensed as a registered nurse or licensed practical nurse as provided by this Article. If the word "nurse" is part of a longer title, such as "nurse's aide", a person who is entitled to use that title shall use the entire title and may not abbreviate the title to "nurse". This Article shall not, however, be construed to prohibit or limit the following:

(1) The performance by any person of any act for which that person holds a license issued pursuant to North Carolina law;

(2) The clinical practice by students enrolled in approved nursing programs, continuing education programs, or refresher courses under the supervision of qualified faculty;

(3) The performance of nursing performed by persons who hold a temporary license issued pursuant to G.S. 90-171.33;

(4) The delegation to any person, including a member of the patient's family, by a physician licensed to practice medicine in North Carolina, a licensed dentist or registered nurse of those patient-care services which are routine, repetitive, limited in scope that do not require the professional judgment of a registered nurse or licensed practical nurse; [or]

(5) Assistance by any person in the case of emergency.

Any person permitted to practice nursing without a license as provided in subdivision [(a)](2) or [(a)](3) of this section shall be held to the same standard of care as any licensed nurse.

(b) The Board shall have the authority to promulgate rules to enforce the provisions of this section. (1981, c. 360, s. 1; 1993, c. 198, s. 9; 1999-320, s. 2; 2019-180, s. 12.)

§ 90-171.43A. Mandatory employer verification of licensure status.

(a) Before hiring a registered nurse or a licensed practical nurse in North Carolina, a health care facility shall verify that the applicant has a current, valid license to practice nursing pursuant to G.S. 90-171.43.

(b) For purposes of this section, "health care facility" means:

(1) Facilities described in G.S. 131E-256(b).

(2) Public health departments, physicians' offices, ambulatory care facilities, and rural health clinics. (2003-146, s. 6.)

§ 90-171.44. Prohibited acts.

It shall be a violation of this Article, and subject to action under G.S. 90-171.37, for any person to:

(1) Sell, fraudulently obtain, or fraudulently furnish any nursing diploma or aid or abet therein.

(2) Practice nursing under cover of any fraudulently obtained license.

(3) Practice nursing without a license. This subdivision shall not be construed to prohibit any licensed registered nurse who has successfully completed a program established under G.S. 90-171.38(b) from conducting medical examinations or performing procedures to collect evidence from the victims of offenses described in that subsection.

(4) Conduct a nursing program or a refresher course for activation of a license, that is not approved by the Board.

(5) Employ unlicensed persons to practice nursing. (1981, c. 360, s. 1; 1991, c. 643, s. 7; 1993, c. 198, s. 10; 1997-375, s. 2.)

§ 90-171.45. Violation of Article.

The violation of any provision of this Article, except G.S. 90-171.47, shall be a Class 1 misdemeanor. (1981, c. 360, s. 1; 1993, c. 539, s. 632; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 90-171.46. Injunctive authority.

The Board may apply to the superior court for an injunction to prevent violations of this Article or of any rules enacted pursuant thereto. The court is empowered to grant such injunctions regardless of whether criminal prosecution or other action has been or may be instituted as a result of such violation. (1981, c. 360, s. 1.)

§ 90-171.47. Reports: immunity from suit.

Any person who has reasonable cause to suspect misconduct or incapacity of a licensee or who has reasonable cause to suspect that any person is in violation of this Article, including those actions specified in G.S. 90-171.37, G.S. 90-171.43, and G.S. 90-171.44, shall report the relevant facts to the Board. Upon receipt of such charge or upon its own initiative, the Board may give notice of an administrative hearing or may, after diligent investigation, dismiss unfounded charges. Any person making a report pursuant to this section shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the

report was false. (1981, c. 360, s. 1; 1991, c. 643, s. 8; 1993, c. 198, s. 11; 2019-180, s. 14.)

§ 90-171.48. Criminal history record checks of applicants for licensure.

(a) Definitions. – The following definitions shall apply in this section:

(1) Applicant. – A person applying for initial licensure as a registered nurse or licensed practical nurse either by examination pursuant to G.S. 90-171.29 or G.S. 90-171.30 or without examination pursuant to G.S. 90-171.32. The term "applicant" shall also include a person applying for reinstatement of licensure pursuant to G.S. 90-171.35 or returning to active status pursuant to G.S. 90-171.36 as a registered nurse or licensed practical nurse.

(2) Criminal history. – A history of conviction of a State crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice nursing. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant applying for initial licensure as a registered nurse or licensed practical nurse either by examination pursuant to G.S. 90-171.29 or G.S. 90-171.30 or without examination pursuant to G.S. 90-171.32 is checked. The Board may request a criminal history record check for applicants applying for reinstatement of licensure pursuant to G.S.90-171.35 or returning to active status pursuant to G.S. 90-171.36 as a registered nurse or licensed practical nurse.

The Board shall be responsible for providing to the North Carolina Department of Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Public Safety. The Board shall keep all information obtained pursuant to this section confidential.

(c) If an applicant's criminal history record check reveals one or more convictions listed under subsection [subdivision] (a)(2) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
(6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
(7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

If, after reviewing the factors, the Board determines that the grounds set forth in G.S. 90-171.37 exist, the Board may deny licensure of the applicant. The Board may disclose to the applicant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited immunity. – The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record check. (2001-371, s. 2; 2009-133, s. 6; 2012-12, s. 2(ii); 2014-100, s. 17.1(o); 2015-181, s. 47; 2019-180, s. 15.)

§ 90-171.49. Disasters and emergencies.

If the Governor declares a state of emergency or a county or municipality enacts ordinances under G.S. 153A-121, 160A-174, 166A-19.31, or Article 22 of Chapter 130A of the General Statutes, the Board may waive the requirements of this Article to allow emergency health services to the public. (2019-180, s. 13.)