

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 165

By: Senator J. Cooper

For An Act To Be Entitled

AN ACT TO REPEAL LICENSURE FOR PSYCHIATRIC TECHNICIAN
NURSES; AND FOR OTHER PURPOSES.

Subtitle

TO REPEAL LICENSURE FOR PSYCHIATRIC
TECHNICIAN NURSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for substantive legislative reform, which are to:

(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;



(B) Extend Acts 2017, No. 781, to allow repeal of subsections of rules;

(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

(E) Establish a systematic process for review of:

(i) New occupational licensure and occupational licensing entities; and

(ii) Existing occupational licensure and occupational licensing entities;

(5) Several occupational licenses are needlessly regulated and could be deregulated or de-licensed without causing detrimental harm to the citizens of the State of Arkansas and the economy of the this state; and

(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services.

(b) It is the intent of the General Assembly to deregulate or de-license the occupation or profession of psychiatric technician nurses.

SECTION 2. Arkansas Code § 6-51-701(f), concerning the establishment of the Associate of Applied Science Degree in Nursing Program, is amended to read as follows:

(f)(1) The program of instruction as authorized in this subchapter may be offered to licensed practical nurses ~~or licensed psychiatric technician nurses~~ duly licensed by the Arkansas State Board of Nursing.

(2) For admittance to the nursing program, the nurse ~~must~~ shall have:

(A) A minimum of two thousand (2,000) total hours of documented work and occupational experience in a ~~health-care~~ healthcare institution; and

(B) Documentation from an official of a ~~health-care~~ healthcare institution that the candidate has been an employee for the required length of time.

(3) For purposes of this subsection, a "~~health-care~~ healthcare

institution" means a hospital, a long-term care facility, a medical doctor's office or clinic, an outpatient clinic, a residential care facility, any of several state agencies, or employment as a public health, industrial, or school nurse.

SECTION 3. Arkansas Code § 6-51-702 is amended to read as follows:

6-51-702. Nature of program.

(a) The licensed practical nurse ~~or licensed psychiatric technician nurse~~ to registered nurse program is an upward-mobility program for licensed practical nurses ~~or licensed psychiatric technician nurses~~ who have completed one (1) calendar year, or two thousand (2,000) hours minimum, of work in a ~~health care~~ healthcare institution.

(b) The program of study will lead to the Associate of Applied Science Degree in Nursing.

SECTION 4. Arkansas Code § 17-87-101 is amended to read as follows:

17-87-101. License required – Purpose.

(a) In order to safeguard life and health, a person practicing or offering to practice nursing for compensation shall ~~be required to~~ submit evidence that he or she is qualified to ~~so~~ practice and shall be licensed to practice as provided in this chapter:

- (1) Professional nursing;
- (2) Advanced practice registered nursing;
- (3) Registered practitioner nursing; or
- (4) Practical nursing; ~~or~~
- ~~(5) Psychiatric technician nursing.~~

(b) It is unlawful for any person not licensed by the Arkansas State Board of Nursing:

(1) To practice or offer to practice professional nursing, advanced practice registered nursing, registered practitioner nursing, or practical nursing, ~~or psychiatric technician nursing~~; or

(2) To use any sign, card, or device to indicate that the person is a professional registered nurse, an advanced practice registered nurse, a registered nurse practitioner, or a licensed practical nurse, ~~or a licensed psychiatric technician nurse.~~

SECTION 5. Arkansas Code § 17-87-102(11), concerning the definition of "practice of psychiatric technician nursing", is repealed.

~~(11) "Practice of psychiatric technician nursing" means the performance for compensation of nursing practices by a licensed psychiatric technician nurse that are relevant to the care of the physically and mentally impaired, injured, or infirm or the delegation of certain nursing practices to other personnel as set forth in regulations established by the board, and the carrying out of medical orders under the direction of a professional registered nurse, an advanced practice registered nurse, a licensed physician, or a licensed dentist, when such activities do not require the substantial specialized skill, judgment, and knowledge required in professional nursing; and~~

SECTION 6. Arkansas Code § 17-87-104(a)(1), concerning penalties regarding nursing, is amended to read as follows:

(a)(1) It ~~shall be~~ is a misdemeanor for any person to:

(A) Sell or fraudulently obtain or furnish any nursing diploma, license, renewal, or record, or aid or abet therein;

(B) Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(C) Practice professional nursing, advanced practice nursing, registered nurse practitioner nursing, or practical nursing, ~~or psychiatric technician nursing~~ as defined by this chapter unless licensed by the Arkansas State Board of Nursing to do so;

(D) Use in connection with his or her name any of the following titles, names, or initials, if the user is not properly licensed under this chapter:

(i) Nurse;

(ii) Registered nurse or R.N.;

(iii) Advanced practice nurse, advanced practice registered nurse, A.P.N., ~~or~~ A.P.R.N., or any of the following:

(a) Advanced registered nurse practitioner, certified nurse practitioner, A.R.N.P., A.N.P., or C.N.P.;

(b) Nurse anesthetist, certified nurse anesthetist, certified registered nurse anesthetist, or C.R.N.A.;

(c) Nurse midwife, certified nurse midwife, licensed nurse midwife, C.N.M., or L.N.M.; or

(d) Clinical nurse specialist or C.N.S.;

(iv) Registered nurse practitioner, N.P., or R.N.P.;

(v) Licensed practical nurse, practical nurse, or L.P.N.; or

~~(vi) Licensed psychiatric technician nurse, psychiatric technician nurse, L.P.T.N., or P.T.N.; or~~

~~(vii)~~(vi) Any other name, title, or initials that would cause a reasonable person to believe the user is licensed under this chapter;

(E) Practice professional nursing, advanced practice nursing, registered nurse practitioner nursing, or practical nursing, ~~or psychiatric technician nursing~~ during the time his or her license ~~shall be~~ is suspended;

(F) Conduct a nursing education program for the preparation of professional nurses, advanced practice registered nurses, nurse practitioners, or practical nurses, ~~or psychiatric technician nurses~~ unless the program has been approved by the board;

(G) Prescribe any drug or medicine as authorized by this chapter unless certified by the board as having prescriptive authority, except that a certified registered nurse anesthetist ~~shall not be~~ is not required to have prescriptive authority to provide anesthesia care, including the administration of drugs or medicines necessary for the care; or

(H) Otherwise violate any provisions of this chapter.

SECTION 7. Arkansas Code § 17-87-201(d), concerning the creation of the Arkansas State Board of Nursing, is amended to read as follows:

(d)(1) Three (3) members ~~shall be~~ are required to be licensed practical nurses ~~or licensed psychiatric technician nurses~~.

(2) Each licensed practical nurse board member ~~or licensed psychiatric technician nurse board member shall have the following qualifications~~ is required to:

(A) Be an Arkansas resident;

(B) Have at least five (5) years of successful experience as a practical nurse ~~or psychiatric technician nurse~~ or as a teacher in an

educational program to prepare practitioners of nursing;

(C) Be licensed in Arkansas as a licensed practical nurse ~~or licensed psychiatric technician nurse~~; and

(D) Have been employed as a licensed practical nurse ~~or as a licensed psychiatric technician nurse~~ for at least three (3) years immediately preceding appointment, two (2) years of which ~~shall~~ have been in Arkansas.

SECTION 8. Arkansas Code § 17-87-203(8), concerning the powers and duties of the Arkansas State Board of Nursing, is amended to read as follows:

(8) Prescribe minimum standards and approve curricula for educational programs preparing persons for licensure as registered nurses, advanced practice registered nurses, registered nurse practitioner nurses, and licensed practical nurses, ~~and licensed psychiatric technician nurses~~;

SECTION 9. Arkansas Code § 17-87-203(14), concerning the powers and duties of the Arkansas State Board of Nursing, is amended to read as follows:

(14) Examine, license, and renew the licenses of qualified applicants for professional nursing, and practical nursing, ~~and psychiatric technician nursing~~;

SECTION 10. Arkansas Code § 17-87-305 is repealed.

~~17-87-305. Licensed psychiatric technician nurses.~~

~~(a) Qualifications.—An applicant for a license to practice psychiatric technician nursing shall submit to the Arkansas State Board of Nursing evidence, verified by oath, that the applicant:~~

~~(1) Is of good moral character;~~

~~(2) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency; and~~

~~(3) Has completed a prescribed curriculum in a state approved program for the preparation of psychiatric technician nurses and holds a diploma or certificate therefrom. However, the board may waive this requirement if the board determines the applicant to be otherwise qualified.~~

~~(b) Issuance of License.—A license to practice as a psychiatric technician nurse may be issued:~~

~~(1) By Examination.—The applicant shall be required to pass a~~

~~written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral examination. Upon successfully passing the examination, the board shall issue to the applicant a license to practice as a psychiatric technician nurse. All such examinations shall be conducted by an examiner, who shall be a registered nurse, and by an assistant examiner, who shall be a licensed psychiatric technician nurse; or~~

~~(2) By Endorsement.—The board may issue a license to practice psychiatric technician nursing by endorsement to an applicant who has duly been licensed or registered as a licensed psychiatric technician nurse or a person entitled to perform similar services under a different title under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed psychiatric technician nurses in this state at the time of graduation and if the board so recommends.~~

~~(c) Person Licensed Before to March 29, 1971.—Any person holding a license to practice as a psychiatric technician issued by the board in accordance with Acts 1953, No. 124 [repealed], and which was valid on March 29, 1971, shall be deemed to be licensed as a psychiatric technician nurse under the provisions of this chapter.~~

~~(d) Title and Abbreviation.—Any person who holds a license to practice psychiatric technician nursing in this state shall have the right to use the title “licensed psychiatric technician nurse” and the abbreviation “L.P.T.N.”.~~

SECTION 11. Arkansas Code § 17-87-307(a) and (b), concerning temporary permits regarding the practice of nursing, are amended to read as follows:

(a)(1) Upon application and payment of the required fee, the Arkansas State Board of Nursing may issue a temporary permit to practice professional, or practical, ~~or psychiatric technician~~ nursing to a qualified applicant who has:

(A) Completed a program in professional, or practical, ~~or psychiatric technician~~ nursing approved by the appropriate state or national authorizing agency of this state or country and by the appropriate authorizing agency of other states or territories or foreign countries; and

(B) Applied for or is awaiting results of the first examination he or she is eligible to take after the permit is issued.

(2) The permit shall become invalid upon notification to the applicant of the results of the first examination he or she is eligible to take after the permit is issued.

(b)(1) Upon application and payment of the required fee, the board shall issue a temporary permit to a qualified applicant holding a current professional, or practical, ~~or psychiatric technician~~ license from another jurisdiction from any other state or territory awaiting endorsement.

(2) This permit ~~must~~ shall have an issuance date and an expiration date. The permit shall be valid for no more than six (6) months.

SECTION 12. Arkansas Code § 17-87-401(a) and (b), concerning nursing education programs, are amended to read as follows:

(a) An institution desiring to conduct a nursing education program to prepare professional, advanced practice, nurse practitioner, and practical, ~~and psychiatric technician~~ nurses shall apply to the Arkansas State Board of Nursing and submit evidence that:

(1) It is prepared to carry out a program in professional nursing education, advanced practice nursing education, nurse practitioner nursing education, or practical nursing education, ~~or psychiatric technician nursing training~~, as the case may be; and

(2) It is prepared to meet such standards as shall be established by this chapter and by the board.

(b)(1) A survey of the institution and its entire nursing education program shall be made by an authorized representative of the board, who shall submit a written report of the survey to the board.

(2) If, in the opinion of the board, the requirements for an approved nursing education program are met, the program shall be approved as a nursing education program for professional, advanced practice, nurse practitioner, and practical, ~~and psychiatric technician~~ nurses.