

CHAPTER 11

LICENSURE OF NURSES IN FLORIDA, THE CREDENTIALS COMMITTEE AND QUESTIONS AND ANSWERS

The basic licensure requirements for nurses in Florida are enacted into law by the Florida Legislature. Licensure requirements are, basically, for the purpose of protecting the public from unsafe, unskilled, untrained or impaired nurses. Florida requires licensing for many professionals, including doctors, attorneys, engineers, nursing professionals, and even auctioneers, just to name a few.

This chapter concentrates on the basic requirements for a nurse to become licensed in Florida and the role the Credentials Committee of the Florida Board of Nursing plays in the matter.

I. THE FLORIDA NURSE PRACTICE ACT

The requirements an individual must meet before becoming licensed as a nurse are found in The Florida Nurse Practice Act can be found in Chapter 464, Florida Statutes. More specifically Sections 464.001 - 464.027, Florida Statutes, set forth the requirements for licensure. The Florida Nurse Practice Act requires nurses to be licensed by the Florida Department of Health before practicing nursing in Florida or holding themselves out as a nurse in Florida. The requirements for each type of nursing professional are discussed below.

A. REGISTERED NURSES

A license to practice professional nursing may be obtained either by examination or by endorsement.

1. Licensure by Examination

Section 464.008, Florida Statutes, sets forth the rules for applying for licensure by examination. To be considered for taking the examination, a registered nurse (RN) applicant must:

1. Complete an application;
2. Remit an application fee;
3. Remit an examination fee;
4. Have completed high school;
5. Have completed required courses in HIV/AIDS and domestic violence;
6. Met the requirements for graduation from an approved nursing program;
and

7. Have the ability to communicate in English.

Upon passing the examination and providing proof of graduation from an approved nursing program, the applicant is entitled to licensure as a registered professional nurse, unless licensure is denied because the Board of Nursing finds that grounds for disciplinary action exist under Section 464.018, Florida Statutes. Disciplinary actions are discussed in Chapter 15 of this manual.

If an applicant fails the nursing examination three consecutive times, regardless of the state in which the examination is taken, the applicant is required to complete a board-approved remedial course before the applicant will be approved to take a subsequent examination. The applicant must apply for reexamination within six months after completion of the remedial course. Approval to retake the examination may be granted for up to three additional times before the applicant is required to retake the remedial course.

A copy of the required application and the regulations concerning this can be obtained in writing from:

The Florida Board of Nursing
4052 Bald Cypress Way, BIN C02
Tallahassee, Florida 32399.

You can also obtain the regulations and an application from the Florida Board of Nursing's website: www.myflorida.com/mqa/nursing.

2. Licensure by Endorsement

In addition to obtaining a license by examination, a registered nurse may be licensed by endorsement in Florida. Section 464.009, Florida Statutes, sets forth the requirements for licensure by endorsement. To be licensed by endorsement, the nurse must:

1. Apply to the Florida Department of Health;
2. Remit an application fee;
3. Demonstrate that he or she holds a valid license to practice professional nursing in another state whose licensure was at least equivalent to that of Florida's at the time of licensure.

Alternatively, the nurse may show that he or she meets the requirements for licensure by examination and has successfully completed a state, regional, or national examination which is substantially the same or more stringent than the examination given by the Florida Department of Health.

A license by endorsement will not be issued to any applicant who is under investigation in another state for an act which would constitute a violation of the Florida Nurse Practice Act until such time as the investigation in the other state is complete. Even then, the applicant may be denied a license if the Florida

Board of Nursing finds that grounds for disciplinary action exist under Section 464.018, Florida Statutes, based on the acts investigated in another state.

According to Section 64B9-3.009, Florida Administrative Code, an applicant for licensure by endorsement holding a current license in another state may perform nursing services in Florida for sixty (60) days after furnishing the employer the following:

1. Evidence of current licensure in another state; and
2. Verification from the Board of Nursing that the applicant has submitted a proper endorsement form and fee.

3. Renewal of Licenses

Licenses to practice nursing must be renewed biennially. The rules and regulations for renewal change frequently and are set forth in Section 64B9-3.013, Florida Administrative Code.

B. LICENSED PRACTICAL NURSES

Licensed practical nurses (LPNs) are subject to the same rules regarding obtaining and renewing licenses that apply to RNs, discussed above.

C. ADVANCED REGISTERED NURSE PRACTITIONERS

In addition to obtaining a license to practice nursing, as discussed above, an Advanced Registered Nurse Practitioner (ARNP) must also obtain certification to practice as an ARNP by applying to the Florida Department of Health. Section 464.012(1), Florida Statutes, sets forth the requirements for procuring certification as an ARNP. The nurse must provide proof of a valid license to practice professional nursing and demonstrate that he or she meets the following requirements, as set forth in Section 464.012(1) and in Section 64B9-4, Florida Administrative Code:

1. Satisfactory completion of a formal post-basic educational advanced or specialized practice program of at least one academic year;
2. Certification by an appropriate specialty board (this is required for certification or re certification as a registered nurse anesthetist or nurse midwife);
3. Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills (in some instances this is required for initial certification as a nurse practitioner or as a registered nurse anesthetist);
4. Certification that the ARNP is in good mental and physical health;

5. Certification that the applicant holds a current unencumbered license to practice professional nursing in Florida; and
6. The nurse must demonstrate that she has malpractice insurance or proof of financial responsibility as set forth in Section 64B9-4.002(5), Florida Administrative Code.

The additional certification requirements were established because ARNPs have a much broader scope of practice than registered nurses or licensed practical nurses. Within an established protocol, an ARNP may monitor and alter drug therapies, initiate appropriate therapies for certain medical conditions, perform additional functions as may be promulgated in rules established by the Florida Board of Nursing and order diagnostic tests and physical and occupational therapy.

Please see the separate chapter in this Manual on advanced registered nurse practitioners for additional information.

D. CERTIFICATION OF NURSING ASSISTANTS

A certified nursing assistant (CNA) is not considered to be a nurse or a professional and does not have a professional license. Instead, in order to practice as a CNA in Florida, a CNA must obtain certification from the Board of Nursing. To acquire certification, a CNA must demonstrate:

1. A minimum ability to read and write;
2. That they successfully pass the required employment screening required by statute; and
3. That they meet one of the requirements set forth in Section 464.203(1), Florida Statutes, which provides that the nurse:
 - a. Has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department.
 - b. Has achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department, and has a high school diploma, or its equivalent, or is at least 18 years of age.

- c. Is currently certified in another state; is listed on that state's certified nursing assistant registry; and has not been found to have committed abuse, neglect, or exploitation in that state.

- d. Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department.

II. IMPORTANT TIPS CONCERNING APPLYING FOR A NURSING LICENSE

It is very important that an applicant for a license or certification in Florida heed the following warnings:

1. Answer all questions completely. An answer may be considered to be a false answer if you leave out certain information such as failing to mention a prior conviction of a crime or the suspension of a professional license (even if it is in a profession not related to health care).

2. Read all questions carefully and provide the exact information that is requested. You do not need to volunteer harmful information if the question does not request it. For example, if the question asks you about any prior felony convictions, you do not need to disclose prior speeding tickets, driving infractions or misdemeanor convictions. When in doubt, consult with a lawyer.

3. Answer all questions truthfully. It is better to be truthful and provide harmful information than to lie and get caught. You have the opportunity to explain any adverse information and you should usually do so. However, investigations conducted on those applying for professional licenses are fairly extensive and, chances are that if you provide false information in an answer, this will be discovered. This in itself is grounds for denial of an application. Even if the application is approved based on false or incorrect information, and you receive a license, action can always be taken no matter how many years later to revoke your license as one that was granted in error or based on erroneous information provided.

4. If you have harmful information in your past that you know you must disclose, consult with a competent health care attorney familiar with

licensing issues on how best to answer the question and address any concerns that your answer may raise. For example, if you have had to go through alcohol rehabilitation or drug treatment some time in the past, if you have had a professional license in another state or another profession revoked, suspended or disciplined, or if you have been convicted of some criminal act that you are required to reveal, an experienced attorney may be able to help you word your answer so as to provide complete information which will address in advance any concerns that the Board of Nursing may have. Additionally, an attorney may be able to advise you early as to measures which you may have to take to prove that you are rehabilitated, that you are not a threat to patient safety, or otherwise help you prepare in case you are required to appear before the Board of Nursing, in person, to answer questions about your application.

5. Do not disclose information that is not requested. If the application asks about convictions, do not disclose arrests that did not result in a conviction. However, there is a fine line here. You must be certain that you are answering the question asked truthfully and completely. You must be certain that you review and are familiar with the definitions and instructions that accompany the application. If in doubt, you should consult with an attorney who is experienced in Board of Nursing matters. Request written guidance or advice from that attorney as this is the only way you can be certain that you obtain qualified advice that you can rely upon.

6. If you receive notice that you must appear before the Credentials Committee of the Board of Nursing, this means that there are some serious concerns which the Board of Nursing has regarding your application. These may be related to prior disciplinary matters, prior criminal activities, action taken against a different professional license of some type that you had in the past, prior drug or alcohol abuse, mental health conditions or problems, or concerns regarding your truthfulness and honesty, especially if it appear that you have failed to answer questions truthfully and completely. Although rare, occasionally the Board of Nursing or Department of Health obtains information that is incorrect or that may be about a different person with a similar name. If this occurs, it is important that you consult with or obtain the services of an attorney experienced in Board of Nursing matters. An experienced attorney will assist you in clarifying any incorrect information that may have been provided to the Board of Nursing, may be able to file additional documents or information that will help you and will be there to be sure that you are not intimidated and that you respond to all questions correctly.

III. UNLICENSED PRACTICE OF NURSING

The Nurse Practice Act, Section 464.016(1)(a), provides that practicing nursing in Florida without a Florida license to practice nursing is a third degree felony. In addition, it is a third degree felony to obtain or to attempt to obtain a license by supplying misleading statements or knowing misrepresentations. Finally, using the name or title "Nurse," "Registered Nurse," "Licensed Practical Nurse," "Advanced Registered Nurse Practitioner," or any other name or title which implies that a person was licensed or certified as such is punishable as a misdemeanor, unless the person using the name or title is duly licensed or certified as such. In Florida, a third degree felony is punishable by a term of imprisonment not exceeding five years and/or a fine of up to Five Thousand Dollars (\$5,000.00) for each offense, per Sections 775.082 and 775.083, Florida Statutes.

If you are ever contacted by the Florida Board of Nursing, the Department of Health, or any other governmental agency regarding your license to practice as a nurse, you should immediately contact an experienced health care attorney for advice. For information on selecting an attorney to represent you in a licensing matter, see the separate chapter in this Manual on "Selecting an Attorney."

IV. THE CREDENTIALS COMMITTEE OF THE BOARD OF NURSING

The Board of Nursing has a number of committees and subcommittees. One of these is the Credentials Committee. See separate Chapter in this Manual on "What Happens at a Board of Nursing Meeting" for additional information on the other committees.

When a question arises about a nurse's qualifications, competence, truthfulness, or any other issue that may reflect on her skills, training and ability to practice, the Credentials Committee may scrutinize the application and its supporting documents. The Credentials Committee may also request the nurse to appear before it to answer questions regarding these issues. When this occurs, the nurse will receive advance notice of when and where to appear. It is important to be prepared for such an appearance. We strongly recommend that the nurse obtain representation by a health care attorney experienced in such matters and not appear alone at such a hearing. Additionally, advance preparation, and sometimes, additional documents, may be required to be submitted in order to properly explain a discrepancy or issue that draws the attention of the Credentials Committee.

These are the types of issues which we see that may cause an applicant to be called before the Credentials Committee for questioning:

1. Answering a question on the application dishonestly or incompletely.
2. Prior arrest or conviction (including a plea of nolo contendere or guilty to a criminal offense or having a finding of guilty, adjudication deferred or withheld adjudication on a criminal offense).
3. Failing to disclose prior suspension, probation, leaves of absence or other academic problems during college or nursing school.
4. Unexplained gaps in education, work or training (which may be an indication of something more serious, such as being incarcerated).

5. Prior drug or alcohol abuse or other type of impairment (you may be required to obtain an evaluation by the Intervention Project for Nurses or IPN, before appearing).
6. Discipline imposed against any prior professional licenses.

Because of the large number of applicants in Florida, and the many applications which wind up being questioned, a Credentials Committee meeting may have fifty or more applicants appearing before it in one day. It is important to be prepared for what occurs at such meetings so that one is able to answer the questions which may arise truthfully and completely and in such a manner as to assure those on the credentials committee that the applicant is safe to practice and will not have problems in the future.

The Credentials Committee will make recommendation that are later voted on by the Board of Nursing at a regularly scheduled meeting. It is rare that the Board of Nursing does not follow the recommendation of the Credentials Committee.

A summary of the different recommendations that the Credentials Committee may make, as previously published by the Board of Nursing, is set forth in Appendix 11-1 of this Chapter.

If the recommendation is against granting a license and the Board of Nursing upholds this recommendation, then the applicant will also be advised of her right to request a later formal administrative hearing in accordance with the Florida Administrative Procedure Act (APA). Please see the separate chapter in this Manual on administrative hearings and the APA.

V. QUESTIONS AND ANSWERS REGARDING NURSE LICENSING AND SCOPE OF PRACTICE

The Board of Nursing has published the following commonly asked questions and answers for nurses as of June 2008 regarding applying for a license in the State of Florida:

LICENSURE BY EXAMINATION

- Q:** How long does it take to be approved for the licensure examination?
- A:** You may practice nursing under the direct supervision of a Registered Nurse if you meet the following qualifications; you have been authorized by the Board to practice as a graduate nurse or graduate practical nurse, it is within six months following completion of the requirements for the licensure level for which the application is submitted, and you have been authorized to test by the examination vendor. Any applicant who fails to appear for the first examination for which eligible shall not practice nursing until such time as the applicant passes a licensing examination.

Only persons who are graduates of approved programs or the equivalent may use the term "Graduate Nurse" and the abbreviation "G.N.," pending the results of the first licensure examination for which they are eligible.

Only persons who are graduates of approved programs or the equivalent may use the term "Graduate Practical Nurse" and the abbreviation "G.P.N.," pending the results of the first licensure examination for which they are eligible.

Q: Can I work as a Graduate Nurse (G.N.) or a Graduate Practical Nurse (G.P.N.) while I am waiting for approval?

A: To work as a Graduate Nurse (G.N.) or Graduate Practical Nurse (G.P.N.), you must apply for the examination within 6 months of graduation from an approved nursing program. You may not work in graduate status until you have received both an eligibility letter from the Board of Nursing AND an Authorization to Test from Pearson, the testing group. If you are retaking the examination because you failed to pass on a previous attempt, you may not work as a G.N. or G.P.N.

Q: When will I get the Authorization to Test?

A: Five to ten days after receiving the eligibility receipt approving you to take the NCLEX, you will receive an Authorization to Test from Pearson, the testing group.

Q: Where can I take the licensure examination?

A: NCLEX testing takes place at Pearson Vue centers. You will receive a list of all centers and their telephone numbers when you receive your Authorization to Test. You may schedule an appointment for any center. You do not have to take the NCLEX in the same jurisdiction in which you are seeking licensure.

Q: How long do I have after I graduate to take the licensure examination?

A: Six months if you desire to work as a G.N. or G.P.N. If you do not plan on working as a G.N. or G.P.N. there is no time limit between graduation date and exam date.

Q: How long do I have after I am approved to actually take the NCLEX?

A: After the Florida Board of Nursing declares you eligible, your eligibility connects electronically with the testing vendor, Pearson Vue, and generates your Authorization to Test (ATT). The ATT contains your test authorization number, candidate identification number, and an expiration date. Each ATT is valid for 90 days. Once the board of nursing declares you eligible to test and your ATT is

issued, you must test within the validity dates of your ATT. These validity dates cannot be extended for any reason.

Test centers may fill up quickly because of high volumes and previously scheduled special events. Waiting to call to schedule your testing appointment may significantly limit the dates the center can seat you. Additionally, if you wait until your ATT is close to expiring, Pearson Professional Centers may not be able to seat you prior to its expiration. If this occurs, you will be required to re-register and re-pay to take the examination.

Q: Is there a limit on how many times I can take the NCLEX?

A: Yes. After three failures of the same level of examination (RN, LPN), regardless of jurisdiction, the applicant must successfully complete a Florida Board of Nursing approved remedial training program. The program must include classroom and clinical components and proof of completion must be submitted at the time of application for the fourth attempt. NOTE: Contact the Board office for further information and clarification.

Q: What should I do if I fail the exam?

A: You will have to reapply by submitting a new completed application, with a retake fee. You will also have to reapply for the NCLEX examination to Pearson and pay a non-refundable fee.

Q: If I fail the exam, how long do I have to wait to retake it?

A: You must wait a minimum of 45 days between each examination.

Q: Can I change my application from examination to endorsement or from endorsement to examination?

A: Yes, but you must request a change in the status of the application in writing to the Board office. The request for the change will not be granted if the application has already been approved.

Q: How can I find out if I passed the NCLEX?

A: According to 456 FS, results may not be given to the applicant, or anyone, by telephone for any reason. Results are mailed to the address on the application within 10 - 15 days of testing. You may register with Pearson to obtain your scores via their Internet site.

Q: Is there any other way to find out if I passed the NCLEX?

A: You can determine if you have been issued a license number on the Internet 5-10 days after testing by visiting the Health Provider Lookup Screen.

Q: When will I receive my license?

A: Your license will be sent to the address on file at the Board office 10-15 days after the Board office receives notification you passed the examination.

LICENSURE BY ENDORSEMENT

Q: What is endorsement? Is it the same as reciprocity?

A: Endorsement is the endorsing of your active license in another state to a license in Florida. It is not the same as reciprocity. Reciprocity indicates Florida honors other state licenses and you would be allowed to work in Florida without obtaining a Florida License. Currently Florida law precludes any health care worker from working in Florida without a Florida license.

Q: Can I endorse into Florida if I have an active license in another state but have never taken the NCLEX or State Board Test Pool exam.

A: If you can prove you have been working in another state, jurisdiction or U.S. territory for 2 of the last 3 years you may apply by endorsement.

- Q: Who gets the license verification form? Do they mail it in or do I?
- A: The license verification form is sent to the state(s) you are licensed in they will return the form to the Florida Board office.
- Q: How long does it take to process my application?
- A: The Board office is allowed 30 days to process your application

INFORMATION FOR APPLICANTS REGARDING PRIOR CRIMINAL HISTORY AND DISCIPLINARY ACTIONS

The Florida Board of Nursing receives numerous questions from applicants regarding prior criminal offenses. The following are the most frequently asked questions to assist applicants for licenses who have such problems.

[Note: If you have any prior disciplinary actions, convictions or arrests in your background, even if they have been sealed or expunged, the Editor recommends that you immediately retain the services of an experienced health law attorney familiar with Board of Nursing matters to represent you.]

- Q: What crimes or license discipline must be reported on the application?
- A: All convictions, guilty pleas and nolo contendere pleas must be reported, except for minor traffic violations not related to the use of drugs or alcohol. This includes misdemeanors, felonies, "driving while intoxicated (DWI)" and "driving under the influence "(DUI). Crimes must be reported even if they are a suspended imposition of sentence. All prior or current disciplinary action against another professional license must be reported, whether it occurred in Florida or in another state or territory.
- Q: Can a person obtain a license as a nurse if they have a misdemeanor or felony crime on their record?
- A: Each application is evaluated on a case-by-case basis. The Board of Nursing considers the nature, severity, and recency of offenses, as well as rehabilitation and other factors. The Board cannot make a determination for approval or denial of licensure without evaluating the entire application and supporting documentation.

Q: Do I have to report charges if I completed a period of probation and the charges were dismissed or closed?

A: Yes. Offenses must be reported to the Board even if you received a suspended imposition of sentence and the record is now considered closed.

Q: What types of documentation do I need to submit in support of my application if I have a prior criminal record or license discipline?

A: Certified official court document(s) relative to your criminal record, showing the date(s) and circumstance(s) surrounding your arrest(s)/conviction(s), sections of the law violated, and disposition of the case. This would normally consist of the Complaint or Indictment, the Judgment, Docket Sheet or other documents showing disposition of your case. This can also be referred to as the Order of Probation. The court clerk must certify these court documents.

Certified copy of the documents relative to any disciplinary action taken against any license. The documents must come from the agency that took the disciplinary action and must be certified by that agency.

A detailed description of the circumstances surrounding your criminal record or disciplinary action and a thorough description of the rehabilitative changes in your lifestyle since the time of the offence or disciplinary action, which would enable you to avoid future occurrences. It would be helpful to include factors in your life, which you feel, may have contributed to your crime or disciplinary action, what you have learned about yourself since that time, and the changes you have made that support your rehabilitation.

Note: The burden of proof lies with the applicant to demonstrate evidence of rehabilitation. Examples of rehabilitation evidence include, but are not limited to:

If applicable to your crime or discipline, documented evidence of professional treatment and counseling you may have completed. Please provide a discharge summary, if available.

Letters of reference on an official letterhead from employers, nursing program administrator, nursing instructors, health professionals, professional counselors, support group sponsors, parole or probation officers, or other individuals in positions of authority who are knowledgeable about your rehabilitation efforts.

Proof of community work, education, and/or self-improvement efforts.

Court-issued certificate of rehabilitation or evidence of expungement, proof of compliance with criminal probation or parole, and orders of the court.

Q: How can I help facilitate how quickly my application is reviewed?

- A: The Board of Nursing strongly encourages all individuals with a criminal or discipline history to be fully prepared with information regarding their background and to start the application process early.

Applications with previous arrest or disciplinary action on a license will not be authorized to practice nursing until all documentation is cleared by Board staff or reviewed by the Board. The temporary permit may be revoked pending results of the national background screening.

VI. CONCLUSION

Nursing professionals may not practice nursing without a license or, in the case of CNAs, a certificate. Obtaining a license or certificate is the first step in a professional nursing career. However, it is only the first step. In order to continue practicing nursing or to practice as a CNA, a nurse or CNA must retain his or her license or certificate. In order to keep nursing licenses, RNs, LPNs or ARNPs must apply for renewal every two years. These nurses must also attend continuing education courses in order to maintain a license. Also, note that any application, including the application fee, submitted for licensure may not be used for more than one year from the date of the original submission. Finally, nurses and CNAs must refrain from engaging in activities that would subject them to discipline. Grounds for discipline and the types of discipline that the Board of Nursing may take against a nurse are discussed in detail in a different Chapter of this manual.