

(H.B. 4851)

(No. 306)

(Approved September 15, 2004)

AN ACT

To amend Sections 1, 1-A, 3, 4, 6, 8, 9, 10, 11, 13 and 14 and repeal Section 12 of Act No. 82 of June 1, 1973, as amended, known as the “College of Nursing Professionals of Puerto Rico Act,” in order to adjust the same to the present realities of the profession and to Act No. 9 of October 11, 1987, as amended, known as the “Act to Regulate the Practice of Nursing in the Commonwealth of Puerto Rico;” increase penalties and for other purposes.

STATEMENT OF MOTIVES

Nursing is one of the oldest professions in the field of health. The basic law that regulated the practice of the nursing profession in Puerto Rico was Act No. 77 of May 15, 1930, approved over seventy (70) years ago. Act No. 121 of June 30, 1965, which created the Board of Nurse Examiners of Puerto Rico, was then approved in order to recognize the level of prominence the nursing profession had achieved and to further the exercise of the profession according to the social and service needs that had been created by the economic development and the increase in the population of Puerto Rico at that time.

Act No. 82 of June 1, 1973, was approved in the decade of the 70’s, creating the “College of Nursing Professionals of Puerto Rico”, which authorized said entity to represent its member nursing professionals and

protect them through the creation of insurance systems, special funds or in any other legal way, help those members who were unemployed, or that retired due to some physical disability or because of advanced age, as well as their heirs or the beneficiaries of those who died. Said entity was also empowered to adopt and implement the standards that would govern the conduct of its members.

Then, Act No. 11 of June, 23, 1976, as amended, known as the “Puerto Rico Health Services Integral Reform Act,” gave a mandate to all Boards of Examiners, including all health professions, to certify all licenses on the basis of Continuing Education programs and revise the laws through which they were created according to legal postulates. The Board of Female and Male Nurse Examiners of Puerto Rico was one of those included in the aforementioned Act No. 11.

Subsequently, the regulations governing the practice of the nursing profession were reformed and the Board of Female and Male Nurse Examiners reorganized through Act No. 9 of October 11, 1987, to encourage the best use of the existing nursing resources by providing nursing services of the highest quality and excellence. That law was approved with the best of intentions; it was however promulgated without apparently considering the “College of Nursing Professionals of Puerto Rico Act,” to see the impact it would have over the latter.

We are through this Act, promulgating amending Act No. 82 of June 1, 1973, so as to eliminate Sections which were already complied with by the establishment of the College of Nursing Professional; to clarify definitions that suffered changes through Act No, 9 of October 11, 1987; to add definitions that were omitted in Act No. 82; and to add a subsection as to powers in harmony with the procedures established in this Act. The

regulatory provisions for their performance must be adjusted according to the changes that have taken place in the field of health that affect the practice of the members of this noble profession.

For all of the above, the Legislature of the Commonwealth of Puerto Rico believes it timely and necessary to correct the error of neglecting to harmonize both laws.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-Section 1 of Act No. 82 of June 1, 1973 is hereby amended to read as follows:

“Section 1.-Creation

Professional nurses authorized by the Board of Nurse Examiners of Puerto Rico are hereby empowered to practice as such in the Commonwealth of Puerto Rico and to constitute themselves into a legal entity under the name of ‘College of Nursing Professionals of Puerto Rico.’ The official domicile of the College shall be determined by its Board of Governors.”

Section 2.-Subsections (b), (c) and (d) are hereby amended and subsections (e) and (f) added to Section 1-A of Act No. 82 of June 1, 1973 to read as follows:

“Section 1-A.-Definitions

For the purposes of this Act, the terms listed below shall have the meaning herein expressed:

- (a) ...
- (b) Female Nurse or Male Nurse: any person authorized by the Board of Female and Male Nurse Examiners of Puerto Rico to practice the nursing profession in the categories of specialist, female or male advanced practice nurse, generalist or associate nurse, as these are defined in Act No. 9 of October 11, 1987, as

amended. Licensed practical nurses, who by the provisions of Act No, 86 of July 2, 1987, as amended, are affiliated to the College of Licensed Practical Nursing of Puerto Rico, are excluded from this Act.

- (c) Retired female nurse or retired Male nurse: person retired or pensioned from the practice of the nursing profession. Such a person would have had to have his/her license currently in force and would have had to belong to the College of Nursing Professionals until his/her retirement for years of service, age or disability.
- (d) Board of Examiners: The Board of Female and Male Nurse Examiners created by virtue of Act No. 9 of October 11, 1987, as amended.
- (e) Board of Governors: refers to the officials who constitute the governing body of the College of Nursing Professionals of Puerto Rico, as established in the Bylaws.
- (f) Bylaws: body of rules or precepts duly approved by the General Assembly that governs the College of Nursing Professionals of Puerto Rico.”

Section 3.-Subsection (e) of Section 2 of Act No. 82 of June 1, 1973, as amended is hereby amended to read as follows:

“Section 2.-Powers

The College shall have the power to:

- (a) ...
- (e) Appoint the directors, officials or officers who shall constitute the Board of Governors, pursuant to what was adopted in the Bylaws. The members of the Board of Female and Male Nurse Examiners of

Puerto Rico, of the Office of the Assistant Secretary for Nursing of the Department of Health and those who work at the College be it by regular appointment or by contract may not hold office as members of the Board of Governors. Neither may those persons who have been convicted of a felony or of a misdemeanor that entails moral turpitude or dishonesty or those persons who have been removed from office as officials of the governing bodies of the College for violations of their fiduciary duties or violations of the Code of Ethics that governs the nursing profession be members of the Board of Governors nor of any of the governing bodies of the College.

(i) ...”

Section 4.-Section 3 of Act No. 82 of June 1, 1973, as amended, is hereby amended to read as follows:

“Section 3.- Membership

All female nurses and male nurses, according to the categories defined in Act No. 9 of October 11, 1987, as amended, who have been authorized by the Board of Female and Male Nurse Examiners of Puerto Rico to practice as such in the Commonwealth of Puerto Rico and who comply with the duties of this Act and the bylaws approved by the College, shall be members of the College. All retired female nurses and male nurses shall also belong to the College.”

Section 5.-Section 4 of Act No. 82 of June 1, 1973, as amended, is hereby amended to read as follows:

“Section 4.-Compulsory Membership

No person may practice the nursing profession in Puerto Rico, as defined in Act No. 9 of October 11, 1987, as amended, if he/she is not affiliated to the College. Any person who practices the profession not being

a member of the College shall be subject to the penalties provided in this Act.”

Section 6.-Section 6 of Act No. 82 of June 1, 1973, as amended, is hereby amended to read as follows:

“Section 6.-Organization

The College officials shall constitute the Board of Governors. The General Assembly shall determine, through the adoption of bylaws, its composition, internal organization and the terms of office of its components.’

Section 7.-Section 8 of Act No. 82 of June 1, 1973, as amended, is hereby amended to read as follows:

“Section 8.-Dues

The members shall pay annual dues on the date or in the manner established in the Bylaws, which shall be fixed by disposition of the Regular Annual Assembly of the College. The quorum established in the bylaws to fix the dues shall be of not less than five (5) percent of the total number of active members on the date of the Assembly.”

Section 8.-Section 9 of Act No. 82 of June 1, 1973, as amended, is hereby amended to read as follows:

“Section 9.-Obligation of all employers to require compulsory evidence of annual College membership

Any female nurse or male nurse who in the practice of his/her profession works for the federal government (with the exception of those agencies or institutions of the Federal Government to whom the Laws of the Commonwealth of Puerto Rico do not apply by express provision of the Law), or for the Commonwealth or municipal governments or for the private sector, must be a duly certified College member. For this reason, any

employer or person who contracts the services of a female nurse or a male nurse shall be obligated to require, at the time of recruitment or annually, a certification as member of the College which shall include the date of issue, the expiration date, the membership number, the social security number and the College seal. The female nurses and male nurses that work as independent contractors and receive compensation directly from the client or patient shall show evidence of membership in the College.”

Section 9.-Section 10 of Act No. 82 of June 1, 1973, as amended, is hereby amended to read as follows:

“Section 10.-Suspension for failure to pay

Any member of the College who fails to pay his/her dues on the regulatory date shall not be entitled to vote. The debtor shall be deemed as a passive member of the College for a maximum term of thirty (30) days during which the College shall notify said person in writing by certified mail indicating that he/she:

- (a) is indebted to the College on account of the membership dues;
- (b) must show cause, before the person designated by the Board of Governors within a term of ten (10) working days, as of the date of the notice, as to why the College should not cancel his/her membership.
- (c) after the aforementioned term has expired and the corresponding payment has not been made and no proof in his/her favor has been presented, the membership shall be cancelled and notice thereof shall be forwarded to his/her employer.
- (d) shall be advised of the intention of the College to petition the Board of Examiners as to the immediate suspension of his/her

license to practice the nursing profession in Puerto Rico through the process established in the Bylaws of the Board of Examiners for such a purpose. Once the aforementioned process has been completed, the College shall present a petition for the suspension of the license for noncompliance with the payment of the membership dues before the Board of Examiners, within a period of thirty (30) days after the member has been declared as suspended and has not presented any documentation whatsoever or settled his/her debt.

Once the member, whose license has been suspended, pays the amount owed, the same shall recover all rights and duties proceeding from having an active and current license.”

Section 10.-Section 11 of Act No. 82 of June 1, 1973, as amended, is hereby amended to read as follows:

“Section 11.-Injunctions against illegal acts

The College shall have the power to solicit that the court issue an injunction, a writ of prohibition or any other pertinent interlocutory order to cease and desist from committing acts or practices against the provisions of this Act.

Said order may also be solicited against any natural or juridical person that uses or allows to be used, the services of any female nurse or male nurse who fails to comply with the provisions of this Act and who lacks a valid license to practice the nursing profession. This action of the College is independent from any other action or recourse initiated by the Board of Examiners against a nursing professional for the same acts or practices.”

Section 11.-Section 12 of Act No. 82 of June 1, 1973, as amended, is hereby repealed.

Section 12.-Section 13 of Act No. 82 of June 1, 1973, as amended, is hereby amended and renumbered as Section 12 to read as follows:

“Section 12.-Representation of members

The College hereby established shall assume the representation of all College members and shall have the authority to speak on their behalf and as their representative according to the terms established in this Act and the Bylaws to be approved and the decisions adopted by the College members in the regular and special annual assemblies held.”

Section 13.-Section 14 of Act No. 82 of June 1, 1973, as amended, is hereby amended and renumbered as Section 13 to read as follows:

“Section 13.-Penalties

Any person who practices the Nursing profession in Puerto Rico in any of the categories described in Act No. 9 of October 11, 1987, amended, without being a duly registered member of the College; any natural or juridical person who helps, facilitates or employs a non-member of the College of female or male nurses and any person who practices or advertises him/herself as a female nurse or as a male nurse without being duly licensed by the Board; shall incur a misdemeanor and be punished with a fine of not less than two hundred (200) dollars, nor of more that five hundred (500) dollars or with a term of imprisonment of not less than one (1) month, nor of more than three (3) months, or with both penalties at the discretion of the court. In case of recidivism the fine shall be of not less than three thousand (3,000) dollar, nor of more than five thousand (5,000) dollars and the term of imprisonment shall be of not less than three (3) months nor of more than six (6) months, or with both penalties at the discretion of the Court.

The Secretary of Justice, on his/her own initiative, or at the request of the College, may initiate before a competent court, the corresponding criminal proceedings and actions against those persons who practice illegally.”

Section 14.-Effectiveness

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 306 (H.B. 4851) of the 7th Session of the 14th Legislature of Puerto Rico:

AN ACT to amend Sections 1, 1-A, 3, 4, 6, 8, 9, 10, 11, 13 and 14 and repeal Section 12 of Act No. 82 of June 1, 1973, as amended, known as the “College of Nursing Professionals of Puerto Rico Act,” in order to adjust the same to the present realities of the profession and to Act No. 9 of October 11, 1987, as amended, known as the “Act to Regulate the Practice of Nursing in the Commonwealth of Puerto Rico;” increase penalties and for other purposes,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 2nd of November of 2005.

Francisco J. Domenech
Director

