

1 **NURSE PRACTICE ACT EXEMPTION**

2 **AMENDMENT**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Paula F. Julander**

6 **This act modifies the Nurse Practices Act. The act modifies the exemptions from**
7 **licensure to permit a person who is self directing his own personal care in his private**
8 **residence to employ a person to assist him in his care. The act makes technical**
9 **amendments.**

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 AMENDS:

12 **58-31b-102**, as last amended by Chapter 290, Laws of Utah 2002

13 **58-31b-308**, as last amended by Chapter 290, Laws of Utah 2002

14 *Be it enacted by the Legislature of the state of Utah:*

15 Section 1. Section **58-31b-102** is amended to read:

16 **58-31b-102. Definitions.**

17 In addition to the definitions in Section 58-1-102, as used in this chapter:

18 (1) "Administrative penalty" means a monetary fine imposed by the division for acts or
19 omissions determined to constitute unprofessional or unlawful conduct in accordance with a
20 fine schedule established by rule and as a result of an adjudicative proceeding conducted in
21 accordance with Title 63, Chapter 46b, Administrative Procedures Act.

22 (2) "Applicant" means a person who applies for licensure or registration under this
23 chapter by submitting a completed application for licensure or registration and the required fees
24 to the department.

25 (3) "Approved education program" means a nursing education program that meets the
26 minimum standards for educational programs established under this chapter and by division
27 rule in collaboration with the board.



28 (4) "Board" means the Board of Nursing created in Section 58-31b-201.

29 (5) "Consultation and referral plan" means a written plan jointly developed by an
30 advanced practice registered nurse and a consulting physician that permits the advanced
31 practice registered nurse to prescribe schedule II-III controlled substances in consultation with
32 the consulting physician.

33 (6) "Consulting physician" means a physician and surgeon or osteopathic physician and
34 surgeon licensed in accordance with this title who has agreed to consult with an advanced
35 practice registered nurse with a controlled substance license, a DEA registration number, and
36 who will be prescribing schedule II-III controlled substances.

37 (7) "Diagnosis" means the identification of and discrimination between physical and
38 psychosocial signs and symptoms essential to the effective execution and management of
39 health care.

40 (8) "Examinee" means a person who applies to take or does take any examination
41 required under this chapter for licensure.

42 (9) "Health care assistant" means an individual who:

43 (a) engages in the practice of a health care assistant; and

44 (b) is subject to registration under this chapter and is not subject to registration,
45 licensure, or certification under any other chapter of this title.

46 (10) "Licensee" means a person who is licensed or registered under this chapter.

47 (11) "Practice as a health care assistant" means providing direct personal assistance or
48 care for compensation to an individual who is ill, injured, infirm, developmentally or physically
49 disabled, mentally disabled, or mentally retarded, and who is in a [~~private residence or~~]
50 regulated facility.

51 (12) "Practice of nursing" means assisting individuals or groups to maintain or attain
52 optimal health, implementing a strategy of care to accomplish defined goals and evaluating
53 responses to care and treatment. The practice of nursing requires substantial specialized or
54 general knowledge, judgment, and skill based upon principles of the biological, physical,
55 behavioral, and social sciences, and includes:

56 (a) initiating and maintaining comfort measures;

57 (b) promoting and supporting human functions and responses;

58 (c) establishing an environment conducive to well-being;

59 (d) providing health counseling and teaching;
60 (e) collaborating with health care professionals on aspects of the health care regimen;
61 (f) performing delegated procedures only within the education, knowledge, judgment,
62 and skill of the licensee; and

63 (g) delegating nurse interventions that may be performed by others and are not in
64 conflict with this chapter.

65 (13) (a) "Practice of nurse anesthesia" means the practice of nursing related to the
66 provision of preoperative, intraoperative, and postoperative anesthesia care and related services
67 upon the request of a physician, surgeon, or other licensed professional, who is acting within
68 the scope of their practice, by a person licensed under this chapter as a certified registered nurse
69 anesthetist and includes:

70 (i) preanesthesia preparation and evaluation including:

71 (A) performing a preanesthetic assessment of the patient;

72 (B) ordering and evaluating appropriate lab and other studies to determine the health of
73 the patient; and

74 (C) selecting, ordering, or administering appropriate medications;

75 (ii) anesthesia induction, maintenance, and emergence, including:

76 (A) selecting and initiating the planned anesthetic technique;

77 (B) selecting and administering anesthetics and adjunct drugs and fluids; and

78 (C) administering general, regional, and local anesthesia;

79 (iii) postanesthesia follow-up care, including:

80 (A) evaluating the patient's response to anesthesia and implementing corrective
81 actions; and

82 (B) selecting, ordering, or administering the above medications and studies; and

83 (iv) other related services within the scope of practice of a certified registered nurse
84 anesthetist, including:

85 (A) emergency airway management;

86 (B) advanced cardiac life support; and

87 (C) the establishment of peripheral, central, and arterial invasive lines.

88 (b) Nothing in this section shall be construed as to require a certified registered nurse
89 anesthetist to obtain an advance practice registered nurse license in order to select, administer,

90 or provide preoperative, intraoperative, or postoperative anesthesia care and services.

91 (14) "Practice of practical nursing" means the performance of nursing acts in the
92 generally recognized scope of practice of licensed practical nurses as defined by rule and as
93 provided in this Subsection (14) by a person licensed under this chapter as a licensed practical
94 nurse and under the direction of a registered nurse, licensed physician, or other specified health
95 care professional as defined by rule. Practical nursing acts include:

- 96 (a) contributing to the assessment of the health status of individuals and groups;
- 97 (b) participating in the development and modification of the strategy of care;
- 98 (c) implementing appropriate aspects of the strategy of care;
- 99 (d) maintaining safe and effective nursing care rendered to a patient directly or
100 indirectly; and
- 101 (e) participating in the evaluation of responses to interventions.

102 (15) "Practice of registered nursing" means performing acts of nursing as provided in
103 this Subsection (15) by a person licensed under this chapter as a registered nurse within the
104 generally recognized scope of practice of registered nurses as defined by rule. Registered
105 nursing acts include:

- 106 (a) assessing the health status of individuals and groups;
- 107 (b) identifying health care needs;
- 108 (c) establishing goals to meet identified health care needs;
- 109 (d) planning a strategy of care;
- 110 (e) prescribing nursing interventions to implement the strategy of care;
- 111 (f) implementing the strategy of care;
- 112 (g) maintaining safe and effective nursing care that is rendered to a patient directly or
113 indirectly;
- 114 (h) evaluating responses to interventions;
- 115 (i) teaching the theory and practice of nursing; and
- 116 (j) managing and supervising the practice of nursing.

117 (16) "Practice of advanced practice registered nursing" means the practice of nursing
118 within the generally recognized scope and standards of advanced practice registered nursing as
119 defined by rule and consistent with professionally recognized preparation and education
120 standards of an advanced practice registered nurse by a person licensed under this chapter as an

121 advanced practice registered nurse. Advanced practice registered nursing includes:

122 (a) maintenance and promotion of health and prevention of disease;

123 (b) diagnosis, treatment, correction, consultation, and referral for common health
124 problems; and

125 (c) prescription or administration of prescription drugs or devices including:

126 (i) local anesthesia;

127 (ii) schedule IV-V controlled substances; and

128 (iii) schedule II-III controlled substances in accordance with a consultation and referral
129 plan.

130 (17) "Regulated facility" means a health care facility subject to licensure under Title
131 26, Chapter 21, Health Care Facility Licensing and Inspection Act and does not include:

132 (a) the Utah State Hospital or the Utah State Developmental Center;

133 (b) a residential treatment or residential support facility:

134 (i) subject to licensure under Title 62A, Chapter 2, Licensure of Programs and
135 Facilities; and

136 (ii) serving people with disabilities, as defined by Department of Human Services
137 rules; or

138 (c) a covered health care facility as defined in Section 26-21-9.5.

139 (18) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-31b-501.

140 (19) "Unlicensed assistive personnel" means any unlicensed person, regardless of title,
141 to whom tasks are delegated by a licensed nurse as permitted by rule and in accordance with
142 the standards of the profession.

143 (20) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-31b-502 and
144 as may be further defined by rule.

145 Section 2. Section **58-31b-308** is amended to read:

146 **58-31b-308. Exemptions from licensure or registration.**

147 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
148 persons may engage in acts included within the definition of the practice of nursing, subject to
149 the stated circumstances and limitations, without being licensed under this chapter:

150 (a) friends, family members, foster parents, or legal guardians of a patient performing
151 gratuitous nursing care for the patient;

- 152 (b) persons providing care in a medical emergency;
- 153 (c) persons engaged in the practice of religious tenets of a church or religious
- 154 denomination; and
- 155 (d) after July 1, 2000, a person licensed to practice nursing by a jurisdiction that has
- 156 joined the Nurse Licensure Compact to the extent permitted by Section 58-31c-102.
- 157 (2) Notwithstanding Subsection (1)(d), the division may, in accordance with Section
- 158 58-31c-102, limit or revoke practice privileges in this state of a person licensed to practice
- 159 nursing by a jurisdiction that has joined the Nurse Licensing Compact.
- 160 (3) In addition to the exemptions from licensure under Section 58-1-307, the following
- 161 individuals may engage in acts or practices included in the practice of a health care assistant,
- 162 within the stated limitations, without being registered under this chapter:
- 163 (a) an individual providing gratuitous care for another individual;
- 164 (b) a volunteer, whether or not he receives token compensation other than salary or
- 165 wages:
- 166 (i) in programs sponsored or authorized by federal Public Law 93-113; or
- 167 (ii) at any regulated facility; and
- 168 (c) individuals providing:
- 169 (i) services generally considered independent living activities such as preparing meals,
- 170 shopping for personal items or groceries, managing money, using the telephone, performing
- 171 housekeeping, and other similar activities not involving direct personal assistance and care as
- 172 the division may define by rule; and
- 173 (ii) child day care or baby-sitting, whether or not the services are subject to licensure
- 174 under Title 26, Chapter 39, Utah Child Care Licensing Act; ~~or~~
- 175 (d) an individual employed on an intermittent basis to provide a specified limited
- 176 period of care for an adult or child with disabilities needing regular daily care, in order to allow
- 177 the relative or other person who is the adult or child's regular and unpaid caretaker respite from
- 178 his or her caregiver duties regarding the adult or child~~[-];~~ or
- 179 (e) an individual employed by another person who is self directing his personal care in
- 180 his private residence.

Legislative Review Note
as of 2-20-03 1:12 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0252

Nurse Practice Act Exemption Amendment

24-Feb-03
5:15 PM

State Impact

This bill will reduce revenues to the Commerce Service Fund by \$1,000. Revenue from the Commerce Service Fund affects the amount available for transfer to the General Fund.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
Commerce Service Fund	\$0	\$0	(\$1,000)	(\$1,000)
TOTAL	\$0	\$0	(\$1,000)	(\$1,000)

Individual and Business Impact

Affected persons will not have to pay for a license.

Office of the Legislative Fiscal Analyst