

NURSE PRACTICE ACT AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca D. Lockhart

Senate Sponsor: Allen M. Christensen

LONG TITLE

General Description:

This bill amends how a licensee or potential licensee charged with a felony is treated under the Nurse Practice Act for purposes of licensure.

Highlighted Provisions:

This bill:

- ▶ deletes existing licensing provisions under the Nurse Practice Act for persons charged with a felony;
- ▶ enacts new provisions that make a distinction between violent and nonviolent felonies; and
- ▶ specifies what impact a felony charge has on a person's license or ability to seek licensure under the Nurse Practice Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-31b-302, as last amended by Chapter 291, Laws of Utah 2006

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

Section 1. Section **58-31b-302** is amended to read:

58-31b-302. Qualifications for licensure or certification -- Criminal background

30 **checks.**

- 31 (1) An applicant for certification as a medication aide shall:
- 32 (a) submit an application to the division on a form prescribed by the division;
- 33 (b) pay a fee to the division as determined under Section 63-38-3.2;
- 34 (c) have a high school diploma or its equivalent;
- 35 (d) have a current certification as a nurse aide, in good standing, from the Department
- 36 of Health;
- 37 (e) have a minimum of 2,000 hours of experience within the two years prior to
- 38 application, working as a certified nurse aide in a long-term care facility;
- 39 (f) obtain letters of recommendation from a long-term care facility administrator and
- 40 one licensed nurse familiar with the applicant's work practices as a certified nurse aide;
- 41 (g) be in a condition of physical and mental health that will permit the applicant to
- 42 practice safely as a medication aide certified;
- 43 (h) have completed an approved education program or an equivalent as determined by
- 44 the division in collaboration with the board;
- 45 (i) have passed the examinations as required by division rule made in collaboration
- 46 with the board; and
- 47 (j) meet with the board, if requested, to determine the applicant's qualifications for
- 48 certification.
- 49 (2) An applicant for licensure as a licensed practical nurse shall:
- 50 (a) submit to the division an application in a form prescribed by the division;
- 51 (b) pay to the division a fee determined under Section 63-38-3.2;
- 52 (c) have a high school diploma or its equivalent;
- 53 (d) be in a condition of physical and mental health that will permit the applicant to
- 54 practice safely as a licensed practical nurse;
- 55 (e) have completed an approved practical nursing education program or an equivalent
- 56 as determined by the board;
- 57 (f) have passed the examinations as required by division rule made in collaboration

58 with the board; and

59 (g) meet with the board, if requested, to determine the applicant's qualifications for
60 licensure.

61 (3) An applicant for licensure as a registered nurse shall:

62 (a) submit to the division an application form prescribed by the division;

63 (b) pay to the division a fee determined under Section 63-38-3.2;

64 (c) have a high school diploma or its equivalent;

65 (d) be in a condition of physical and mental health that will allow the applicant to
66 practice safely as a registered nurse;

67 (e) have completed an approved registered nursing education program;

68 (f) have passed the examinations as required by division rule made in collaboration
69 with the board; and

70 (g) meet with the board, if requested, to determine the applicant's qualifications for
71 licensure.

72 (4) Applicants for licensure as an advanced practice registered nurse shall:

73 (a) submit to the division an application on a form prescribed by the division;

74 (b) pay to the division a fee determined under Section 63-38-3.2;

75 (c) be in a condition of physical and mental health which will allow the applicant to
76 practice safely as an advanced practice registered nurse;

77 (d) hold a current registered nurse license in good standing issued by the state or be
78 qualified at the time for licensure as a registered nurse;

79 (e) have earned a graduate degree in an advanced practice registered nurse nursing
80 education program or a related area of specialized knowledge as determined appropriate by the
81 division in collaboration with the board;

82 (f) have completed course work in patient assessment, diagnosis and treatment, and
83 pharmacotherapeutics from an education program approved by the division in collaboration
84 with the board;

85 (g) have successfully completed clinical practice in psychiatric and mental health

86 nursing, including psychotherapy as defined by division rule, after completion of the masters
87 degree required for licensure, to practice within the psychiatric and mental health nursing
88 specialty;

89 (h) have passed the examinations as required by division rule made in collaboration
90 with the board;

91 (i) be currently certified by a program approved by the division in collaboration with
92 the board and submit evidence satisfactory to the division of the certification; and

93 (j) meet with the board, if requested, to determine the applicant's qualifications for
94 licensure.

95 (5) An applicant for licensure as a certified registered nurse anesthetist shall:

96 (a) submit to the division an application on a form prescribed by the division;

97 (b) pay to the division a fee determined under Section 63-38-3.2;

98 (c) be in a condition of physical and mental health which will allow the applicant to
99 practice safely as a certified registered nurse anesthetist;

100 (d) hold a current registered nurse license in good standing issued by the state or be
101 qualified at the time for licensure as a registered nurse;

102 (e) complete a nurse anesthesia program which is approved by the Council on
103 Accreditation of Nurse Anesthesia Educational Programs;

104 (f) be currently certified by a program approved by the division in collaboration with
105 the board and submit evidence satisfactory to the division of the certification; and

106 (g) meet with the board, if requested, to determine the applicant's qualifications for
107 licensure.

108 (6) ~~[An]~~ For each applicant for licensure or certification under this chapter:

109 (a) ~~[†]~~ the applicant shall:

110 (i) submit fingerprint cards in a form acceptable to the division at the time the ~~[license]~~
111 application is filed; and ~~[shall]~~

112 (ii) consent to a fingerprint background check by the Utah Bureau of Criminal
113 Identification and the Federal Bureau of Investigation regarding the application; and

114 ~~[(i)]~~ (b) the division shall request the Department of Public Safety to complete a
115 Federal Bureau of Investigation criminal background check ~~[for each applicant]~~ through the
116 national criminal history system (NCIC) or any successor system~~[-and].~~

117 ~~[(b) if convicted of one or more felonies, must receive an absolute discharge from the~~
118 ~~sentences for all felony convictions five or more years prior to the date of filing an application~~
119 ~~for licensure or certification under this chapter.]~~

120 (7) For purposes of conducting the criminal background checks required in Subsection
121 (6), the division shall have direct access to criminal background information maintained
122 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

123 (8) (a) (i) Any new nurse license or certification issued under this section shall be
124 conditional, pending completion of the criminal background check.

125 (ii) If the criminal background check discloses the applicant has failed to accurately
126 disclose a criminal history, the license or certification shall be immediately and automatically
127 revoked.

128 (b) (i) Any person whose conditional license or certification has been revoked under
129 Subsection (8)(a) shall be entitled to a postrevocation hearing to challenge the revocation.

130 (ii) The hearing shall be conducted in accordance with Title 63, Chapter 46b,
131 Administrative Procedures Act.

132 (9) (a) If a person has been charged with a violent felony, as defined in Subsection
133 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of guilty or
134 nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the
135 successful completion of probation:

136 (i) the person is disqualified for licensure under this chapter; and

137 (ii) (A) if the person is licensed under this chapter, the division:

138 (I) shall act upon the license as required under Section 58-1-401; and

139 (II) may not renew or subsequently issue a license to the person under this chapter; and

140 (B) if the person is not licensed under this chapter, the division may not issue a license
141 to the person under this chapter.

142 (b) If a person has been charged with a felony other than a violent felony, as defined in
143 Subsection 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of
144 guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance
145 pending the successful completion of probation:

146 (i) if the person is licensed under this chapter, the division shall determine whether the
147 felony disqualifies the person for licensure under this chapter and act upon the license, as
148 required, in accordance with Section 58-1-401; and

149 (ii) if the person is not licensed under this chapter, the person may not file an
150 application for licensure under this chapter any sooner than five years after having completed
151 the conditions of the sentence or plea agreement.