

Government of the District of Columbia
Department of Health

District of Columbia
Board of Nursing



District of Columbia
Nurse Practice Act

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Health Occupation Revision Act

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§ 38-631. Definitions

Title 38. Educational Institutions

Subtitle I. Public Education – Primary and Secondary

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Subchapter III. Administration of Medication by Public School Employees

§ 38-632.

Administration of Medication by a Public
School Employee [Formerly § 31-2432]

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Unit A. General.

Subchapter I. Definitions; Scope.

§ 3-1201.01. General definitions.

For the purposes of this chapter, the term:

- (1) “Board” means the Board of Chiropractic, the Board of Dentistry, the Board of Dietetics and Nutrition, the Board of Medicine, the Board of Nursing, the Board of Nursing Home Administration, the Board of Occupational Therapy, the Board of Optometry, the Board of Pharmacy, the Board of Physical Therapy, the Board of Podiatry, the Board of Professional Counseling, the Board of Psychology, the Board of Respiratory Care, or the Board of Social Work, established by this chapter, as the context requires.
- (2) “Collaboration” means the process in which health professionals jointly contribute to the health care of patients with each collaborator performing actions he or she is licensed or otherwise authorized to perform pursuant to this chapter.
 - (A)—(C) **Repealed**
- (3) “Corporation Counsel” means the Corporation Counsel of the District of Columbia.
- (4) “Council” means the Council of the District of Columbia.
- (5) “Day” means calendar day unless otherwise specified in this chapter.
- (6) “District” means the District of Columbia.
- (7) “Health occupation” means a practice that is regulated under the authority of this chapter.

- (8) “Health professional” means a person licensed under this chapter or permitted by this chapter to practice a health occupation in the District.
- (9) “Impaired health professional” means a health professional who is unable to perform his or her professional responsibilities reliably due to a mental or physical disorder, excessive use of alcohol, or habitual use of any narcotic or controlled substance or any other drug in excess of therapeutic amounts or without valid medical indication.
- (10) “Mayor” means the Mayor of the District of Columbia.
- (11) “Person” means an individual, corporation, trustee, receiver, guardian, representative, firm, partnership, society, school, or other entity.
- (12) Repealed.
- (13) “State” means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
- (14) “Superior Court” means the superior court of the District of Columbia.

§ 3-1201.02. Definitions of health occupations.

“(2) **“Practice of advanced practice registered nursing”** means the performance of advanced-level nursing actions, with or without compensation, by a licensed registered nurse with advanced education, knowledge, skills, and scope of practice who has been certified to perform such actions by a national certifying body acceptable to the Board of Nursing. The practice of advanced practice registered nursing includes:

- “(A) Advanced assessment;
- “(B) Medical diagnosis;
- “(C) Prescribing;

- “(D) Selecting, administering, and dispensing therapeutic measures;
- “(E) Treating alterations of the health status; and
- “(F) Carrying out other functions identified in title VI of this act and in accordance with procedures required by this act.”.

“(7)(B) **“Practice by nursing assistive personnel”** means the performance by unlicensed personnel of assigned patient care tasks which do not require professional skill or judgment within a health care, residential or community support setting; provided, that such patient care tasks are performed under the general supervision of a licensed health care professional. Nursing assistive personnel includes:

- “(A) Nursing assistants;
- “(B) Health aides;
- “(C) Home-health aides;
- “(D) Nurse aides;
- “(E) Trained medication employees;
- “(F) Dialysis technicians; and
- “(G) Any other profession as determined by the Mayor through

rulemaking.”.

“(15) **“Practice of practical nursing”** means the performance of specific nursing services, with or without compensation, designed to promote and maintain health, prevent illness and injury, and provide care based on standards established or recognized by the Board of Nursing; provided, that performance of such services is under the supervision of a registered nurse, advanced practice registered nurse, licensed physician, or other health care provider, as authorized by the Board of Nursing. The practice of practical nursing includes:

- “(A) Collecting data on the health status of patients;
- “(B) Evaluating a patient’s status and situation at hand;
- “(C) Participating in the performance of ongoing comprehensive nursing assessment process;
- “(D) Supporting ongoing data collection;
- “(E) Planning nursing care episodes for patients with stable conditions;
- “(F) Participating in the development and modification of the comprehensive plan of care for all types of patients;

“(G) Implementing appropriate aspects of the strategy of care within a patient-centered health care plan;

“(H) Participating in nursing care management through delegating to assistive personnel and assigning to other licensed practical nurses nursing interventions that may be performed by others and do not conflict with this act;

“(I) Maintaining safe and effective nursing care rendered directly or indirectly;

“(J) Promoting a safe and therapeutic environment;

“(K) Participating in health teaching and counseling to promote, attain, and maintain optimum health levels of patients;

“(L) Serving as an advocate for patients by communicating and collaborating with other health care service personnel; and

“(M) Participating in the evaluation of patient responses to interventions.”.

“(17) **“Practice of registered nursing”** means the performance of the full scope of nursing services, with or without compensation, designed to promote and maintain health, prevent illness and injury, and provide care to all patients in all settings based on standards established or recognized by the Board of Nursing. The practice of registered nursing includes:

“(A) Providing comprehensive nursing assessment of the health status of patients, individuals, families, and groups;

“(B) Addressing anticipated changes in a patient’s condition as well as emerging changes in a patient’s health status;

“(C) Recognizing alterations of previous physiologic patient conditions;

“(D) Synthesizing biological, psychological, spiritual and social nursing diagnoses;

“(E) Planning nursing interventions, and evaluating the need for different interventions and the need for communication and consultation with other health care team members;

“(F) Collaborating with health care team members to develop an integrated client-centered health care plan as well as providing direct and indirect nursing services of a therapeutic, preventive, and restorative nature in response to an assessment of the patient’s requirements;

“(G) Developing a strategy of nursing care for integration within the patient-centered health plan that establishes nursing diagnoses, sets goals to meet identified health care needs, determines nursing interventions, and implements nursing care through the execution of independent nursing strategies and regimens requested, ordered or prescribed by authorized health care providers;

“(H) Performing services such as:

“(i) Counseling;

“(ii) Educating for safety, comfort, and personal hygiene;

“(iii) Preventing disease and injury; and

“(iv) Promoting the health of individuals, families, and communities;

“(l) Delegating and assigning interventions to implement a plan of care;

“(J) Administering nursing services within a health care facility, including the delegation and supervision of direct nursing functions and the evaluation of the performance of these functions;

“(K) Delegating and assigning nursing interventions in the implementation of a plan of care along with evaluation of the delegated interventions;

“(L) Providing for the maintenance of safe and effective nursing care rendered directly or indirectly as well as educating and training persons in the direct nursing care of patients;

“(M) Engaging in nursing research to improve methods of practice;

“(N) Managing, supervising, and evaluating the practice of nursing;

“(O) Teaching the theory and practice of nursing; and

“(P) Participating in the development of policies, procedures, and systems to support the patient.”.

§ 3-1201.03. Scope of chapter.

(a) This chapter does not limit the right of an individual to practice a health occupation that he or she is otherwise authorized to practice under this chapter, nor does it limit the right of an individual to practice any other profession that he or she is authorized to practice under the laws of the District.

- (b) The practices of health occupations regulated by this chapter are not intended to be mutually exclusive.
- (c) This chapter shall not be construed to prohibit the practice of a health occupation by an individual enrolled in a recognized school or college as a candidate for a degree or certificate in a health occupation, or enrolled in a recognized postgraduate training program provided that the practice is:
 - (1) Performed as a part of the individual's course of instruction;
 - (2) Under the supervision of a health professional who is either licensed to practice in the District or qualified as a teacher of the practice of the health occupation by the board charged with the regulation of the health occupation;
 - (3) Performed at a hospital, nursing home, or health facility operated by the District or federal government, a health education center, or other health-care facility considered appropriate by the school or college; and
 - (4) Performed in accordance with procedures established by the board charged with the regulation of the health occupation.
- (d) Nothing in this chapter shall be construed to require licensure for or to otherwise regulate, restrict, or prohibit individuals from engaging in the practices, services, or activities set forth in the paragraphs of this subsection if the individuals do not hold themselves out, by title, description of services, or otherwise, to be practicing any of the health occupations regulated by this chapter. Nothing in this subsection shall be construed as exempting any of the following categories from other applicable laws and regulations of the District or federal government:
- (e) This chapter shall not be construed to prohibit the practice of a health occupation by an individual who has filed an initial application for licensure in the health occupation and is awaiting action on that initial application, provided the practice is performed:
 - (1) Under the supervision of a health professional licensed in the District;
 - (2) At a hospital, nursing home, health facility operated by the District or federal government, or other health care facility considered appropriate by the Board; and
 - (3) In accordance with any other requirements established by the Mayor.

§ 3-1201.04. Persons licensed under prior law.

- (a) Except as expressly provided to the contrary in this chapter, any person licensed, registered, or certified by any agency of the District established or continued by any statute amended, repealed, or superseded by this act is considered for all purposes to be licensed, registered, or certified by the appropriate health occupations board established under this chapter for the duration of the term for which the license, registration, or certification was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this chapter.
- (b) Except as provided to the contrary in this chapter, an individual who was originally licensed, registered, or certified under a provision of law that has been deleted by this act continues to meet the education and experience requirements as if that provision had not been deleted.
- (c) Each employee of the Commission on Mental Health Services who was employed at St. Elizabeth's Hospital prior to October 1, 1987, and who accepted employment with the District government on October 1, 1987, without a break in service, shall, within 27 months of appointment by the District government, meet all licensure requirements. If the employee does not meet all licensure requirements, the employee shall be issued a limited license subject to the provisions, limitations, conditions, or restrictions that shall be determined by the appropriate board or commission. The limited license shall not exceed the term of employment with the Commission on Mental Health Services.

Subchapter II. Establishment of Health Occupation Boards and Advisory Committees; Membership; Terms.

§ 3-1202.04. Board of Nursing.

- (a) There is established a Board of Nursing to consist of 11 members appointed by the Mayor with the advice and consent of the Council.
- (b)(1) The Board shall regulate the practice of advanced practice registered nursing, registered nursing, and practical nursing. Advanced practice registered nursing includes, but is not limited to, the categories of nurse midwife, nurse anesthetist, nurse-practitioner, and clinical nurse specialist.

- (2) The Board shall recommend for promulgation by the Mayor minimum curricula and standards for the accreditation of nursing schools and programs, and shall accredit those District of Columbia schools and programs which meet the standards established. The Board may also recommend to the Mayor rules governing the procedure for the granting and withdrawal of accreditation.
- (c) Of the members of the Board, 7 shall be registered nurses licensed and practicing in the District; 2 shall be practical nurses licensed in the District; and 2 shall be consumer members.
- (d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.
- (e) Of the members initially appointed under this section, 3 shall be appointed for a term of 1 year, 4 shall be appointed for a term of 2 years, and 4 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date that a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.
- “(f) The Mayor shall appoint an executive director who shall be a full-time employee of the District to administer and implement the orders of the Board in accordance with this title and rules and regulations issued pursuant to this title.”.

Subchapter IV. General Provisions Relating to Health Occupations Boards.

§ 3-1204.01. Qualifications of members.

- (a) The members of each board shall be residents of the District at the time of their appointments and while they are members of the Board.
- (b)(1) Each professional member of a board, in addition to the requirements of subsection (a) of this section, shall have been engaged in the practice of the health occupation regulated by the board for at least 3 years preceding appointment.
- (2) The advanced registered nurse members initially appointed to the Board of Nursing shall be licensed in the District as registered nurses, shall meet the qualifications of this

chapter to practice their respective specialties, shall have practiced their respective specialties for at least 3 years preceding appointment, and shall file a timely application for certification to practice their respective specialties.

- (c) Each consumer member of a board, in addition to the requirements of subsection (a) of this section, shall:
- (1) Be at least 18 years old;
 - (2) Not be a health professional or in training to become a health professional;
 - (3) Not have a household member who is a health professional or is in training to become a health professional; and
 - (4) Not own, operate, or be employed in or have a household member who owns, operates, or is employed in a business which has as its primary purpose the sale of goods or services to health professionals or health-care facilities.
- (d) Within the meaning of subsection (c) of this section, the term “household member” means a relative, by blood or marriage, or a ward of an individual who shares the individual’s actual residence.
- (e) The office of a member of a board of advisory committee shall be forfeited upon the member’s failure to maintain the qualifications required by this chapter.
- (f) Each professional member of a board of advisory committee shall disqualify himself or herself from acting on his or her own application for licensure or license renewal or on any other matter related to his or her practice of a health occupation.

§3-1204.02 Terms of members; filling of vacancies.

- (a) The terms of members of a board or advisory committee, after the initial terms, shall expire on the 3rd anniversary of the date the 1st members constituting a quorum take the oath of office.
- (b) At the end of a term, a member shall continue to serve until a successor is appointed and sworn into office.
- (c) A vacancy on a board or advisory committee shall be filled in the same manner as the original appointment was made.
- (d) A member appointed to fill a vacancy shall serve only until the expiration of the term or until a successor is appointed and sworn into office.

§ 3-1204.03. Limitation on consecutive terms.

No member of a board or advisory committee shall be appointed to serve more than 3 full consecutive 3-year terms.

§ 3-1204.04. Removal.

(a) The Mayor may remove a member of a board or advisory committee for incompetence, misconduct, or neglect of duty, after due notice and a hearing.

(b) The failure of a member of a board or advisory committee to attend at least ½ of the regular, scheduled meetings of the board or advisory committee within a 12-month period shall constitute neglect of duty within the meaning of subsection (a) of this section.

§ 3-1204.05. Officers; meetings; quorum.

(a) From among the members of each board and advisory committee, the Mayor shall designate a chairperson.

(b) Each board and advisory committee shall determine the times and places of its meetings and shall publish notice of regular meetings at least 1 week in advance in the District of Columbia Register.

(c) A majority of the members of each board and advisory committee shall constitute a quorum.

§ 3-1204.06. Compensation.

Members of each board and advisory committee shall be entitled to receive compensation in accordance with § 1-611.08, and in addition shall be reimbursed for reasonable travel and other expenses incurred in the performance of their duties.

§ 3-1204.07. Staff.

For each board, the Mayor may set the compensation of personnel he or she deems advisable, subject to available appropriations, in accordance with Chapter 6 of Title 1.

§ 3-1204.08. General powers and duties.

Each board shall:

- (1) Administer and enforce the provisions of this chapter, and rules and regulations issued pursuant to this chapter, related to the health occupation regulated by the board;
- (2) Evaluate the qualifications and supervise the examinations of applicants for licenses, either personally or through the use of consultant services;
- (3) Make recommendations to the Mayor, upon request by the Mayor or when the board determines it necessary, for standards and procedures to be used in determining the acceptability of foreign education and training programs as substantially equivalent to the requirements of this chapter;
- (4) Issue licenses to qualified applicants;
- (5) Issue subpoenas, examine witnesses, and administer oaths;
- (6) Receive and review complaints of violations of this chapter or rules and regulations issued pursuant to this chapter;
- (7) Request the Mayor, on its own initiative or on the basis of a complaint, to conduct investigations of allegations of practices violating the provisions of this chapter with respect to the health occupation regulated by the board; and
- (8) Conduct hearings and keep records and minutes necessary to carry out its functions.
- (9) Issue advisory opinions regarding compliance with acceptable standards of practice.

§ 3-1204.09. Fees.

The Mayor is authorized to establish a fee schedule for all services related to the regulation of all health occupations under this chapter, in accordance with the requirements of District law.

§ 3-1204.10. Disposition of funds.

All fees, civil fines, and other funds collected pursuant to this chapter shall be deposited to the General Fund of the District.

§ 3-1204.11. Annual report.

Each board shall, before January 1 of each year, submit a report to the Mayor and the Council of its official acts during the preceding fiscal year.

Subchapter V. Licensing of Health Professionals.

§ 3-1205.01. License required.

A license issued pursuant to this chapter is required to practice medicine, acupuncture, chiropractic, registered nursing, practical nursing, dentistry, dental hygiene, dietetics, massage therapy, nutrition, nursing home administration, occupational therapy, optometry, pharmacy, physical therapy, podiatry, psychology, social work, professional counseling, and respiratory care or to practice as a physician assistant or occupational therapy assistant in the District, except as provided in this chapter. A certification issued pursuant to this chapter is required to practice advanced practice registered nursing.

§ 3-1205.02. Exemptions.

The provisions of this chapter prohibiting the practice of health occupation without a license shall not apply:

- (1) To an individual who administers treatment or provides advice in any case of emergency;
- (2) To an individual employed in the District by the federal government, while he or she is acting in the official discharge of the duties of employment;

- (3) To an individual, licensed to practice a health occupation in a state, who is called from the state in professional consultation by or on behalf of a specific patient to visit, examine, treat, or advise the specific patient in the District, or to give a demonstration, or clinic in the District, provided that the individual engages in the consultation, demonstration, or clinic in affiliation with a comparable health professional licensed pursuant to this chapter;
- (4) To a health professional who is authorized to practice a health occupation in any state adjoining the District who treats patients in the District if:
 - (A) The health professional does not have an office or other regularly appointed place in the District to meet patients;
 - (B) The health professional registers with the appropriate board and pays the registration fee prescribed by the board prior to practicing in the District; and
 - (C) The state in which the individual is licensed allows individuals licensed by the District in that particular health profession to practice in that state under the conditions set forth in this subsection.
 - (D) Notwithstanding the provisions of subparagraphs (A), (B), and (C) of this paragraph, a health professional practicing in the District pursuant to this paragraph shall not see patients or clients in the office or other place of practice of a District licensee, or otherwise circumvent the provisions of this chapter.

§ 3-1205.03. General qualifications of applicants.

- (a) An individual applying for a license under this chapter shall establish to the satisfaction of the board regulating the health occupation that the individual:
 - (1) Has not been convicted of an offense which bears directly on the fitness of the individual to be licensed;
 - (2) Is at least 18 years of age;

(3) Has successfully completed the additional requirements set forth in § 3-1205.04 and subchapters VI, VII, and VIII of this chapter, as applicable;

(4) Has passed an examination, administered by the board or recognized by the Mayor pursuant to § 3-1205.06, to practice the health occupation; and

(5) Meets any other requirements established by the Mayor by rule to assure that the applicant has had the proper training, experience, and qualifications to practice the health occupation.

(b) The board may grant a license to a applicant whose education and training in the health occupation has been successfully completed in a foreign school, college, university, or training program if the applicant otherwise qualifies for licensure and if the board determines, in accordance with rules issued by the Mayor, that the education and training are substantially equivalent to the requirements of this chapter in assuring that the applicant has the proper training, experience, and qualifications to practice the health occupation.

(c) The board may deny a license to an applicant whose license to practice a health occupation was revoked or suspended in another state if the basis of the license revocation or suspension would have caused a similar result in the District, or if the applicant is the subject of pending disciplinary action regarding his or her right to practice in another state.

(d) The references in § 3-1205.04 and subchapters VI, VII, and VIII of this chapter to named professional organizations and governmental entities for purposes of accreditation or the administration of national examinations shall be considered to refer to successor organizations or entities upon a determination by the Mayor that the successor is substantially equivalent in standards and purposes as the organization or entity named in this chapter.

§ 3-1205.04. Additional qualifications of applicants.

“(m) An individual applying for a license to practice practical nursing under this chapter shall establish to the satisfaction of the Board of Nursing that the individual has successfully completed an educational program in practical nursing that is approved by the Board or by a state board of nursing with standards substantially equivalent to the standards of the District of Columbia.”.

(n) An individual applying for a license to practice registered nursing under this chapter shall establish to the satisfaction of the Board of Nursing that the individual has successfully completed an educational program in registered nursing approved by the Board or by a state board of nursing with standards substantially equivalent to the standards of the District.

§ 3-1205.05. Application for license.

(a) An applicant for a license shall:

(1) Submit an application to the board regulating the health occupation on the form required by the board; and

(2) Pay the applicable fees established by the Mayor.

(b) The social security number of each applicant for a license issued pursuant to this chapter shall be recorded on the application. If a number other than the social security number is used on the face of the license, the issuing agency or entity shall keep the applicant’s social security number on file and the applicant shall be so advised.

§ 3-1205.06. Examinations.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided by this chapter.

(b)(1) Each board that administers examinations shall give examinations to applicants at least twice a year at times and places to be determined by the Board.

(2) When the Mayor, pursuant to subsection (e)(2) of this section, determines that a national examination is acceptable, then the frequency, time, and place that the national examination is given shall be considered acceptable and in accordance with this chapter.

(c) Each board shall notify each qualified applicant of the time and place of examination.

- (d) Except as otherwise provided by this chapter, each board shall determine the subjects, scope, form, and passing score for examinations to assess the ability of the applicant to practice effectively the health occupation regulated by the board.
- (e) Each board, in its discretion, may waive the examination requirements:
 - (1) For any applicant who meets the requirements of § 3-1205.07 for licensure by reciprocity or endorsement; or
 - (2) For any person who has been certified by a national examining board if the Mayor determines by rule that the examination was as effective for the testing of professional competence as that required in the District.

§ 3-1205.07. Reciprocity and endorsement.

Each board shall issue a license by reciprocity or endorsement to an applicant:

- (1) Who is licensed or certified and in good standing under the laws of another state with requirements which, in the opinion of the Board, were substantially equivalent at the time of licensure to the requirements of this chapter, and which state admits health professionals licensed by the District in a like manner; or
- (2) Who is certified or accredited by a recognized national accrediting association, acceptable to the Board, as a qualified professional according to standards that were the substantial equivalent at the time of the certification or accreditation to the standards for that profession as set forth in this chapter and who has continually remained in good standing with the certifying or accrediting association from the date of certification or accrediting until the date of licensing; and
- (3) Who pays the applicable fees established by the Mayor.

§ 3-1205.08. Issuance of license.

Each board shall issue a license to an applicant who meets the requirements of this chapter and rules and regulations issued pursuant to this chapter to practice the health occupation regulated by the board.

§ 3-1205.09. Scope of license.

- (a)(1) A person licensed under this chapter to practice a health occupation is authorized to practice that occupation in the District while the license is effective.
- (2) A person certified to practice advanced registered nursing is authorized to practice the specialty for which he or she has been certified by the Board of Nursing.
- (b) An individual who fails to renew a license to practice a health occupation shall be considered to be unlicensed and subject to the penalties set forth in this chapter and other applicable laws of the District, if he or she continues to practice the health occupation.

§ 3-1205.10. Term and renewal of licenses.

- (a) A license expires 1 year from the date of its first issuance or renewal unless renewed by the board that issued it as provided in this section, except that the Mayor, by rule, may provide for a period of licensure of not more than 3 years.
- (b) The Mayor may establish by rule continuing education requirements as a condition for renewal of licenses under this section.
- (c) At least 30 days before the license expires, or a greater period as established by the Mayor by rule, each board shall send to the licensee, by first class mail to the last known address of the licensee, a renewal notice that states:
 - (1) The date on which the current license expires;
 - (2) The date by which the renewal application must be received by the board for renewal to be issued and mailed before the license expires; and
 - (3) The amount of the renewal fee.
- (d) Before the license expires, the licensee may renew it for an additional term, if the licensee:
 - (1) Submits a timely application to the board;
 - (2) Is otherwise entitled to be licensed;
 - (3) Pays the renewal fee established by the Mayor; and
 - (4) Submits to the board satisfactory evidence of compliance with any continuing education requirements established by the board for license renewal.
- (e) Each board shall renew the license of each licensee who meets the requirements of this section.

§ 3-1205.11. Inactive status.

- (a) Upon application by a licensee and payment of the inactive status fee established by the Mayor, each board shall place a licensee on inactive status.
- (b) While on inactive status, the individual shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice the health occupation in the District.
- (c) Each board shall issue a license to an individual who is on inactive status and who desires to resume the practice of a health occupation if the individual:
 - (1) Pays the fees established by the Mayor;
 - (2) Complies with the continuing education requirements in effect when the licensee seeks to reactivate the license; and
 - (3) Complies with the current requirements for renewal of licenses.

§ 3-1205.12. Reinstatement of expired licenses.

- (a) If a health professional fails for any reason to renew the license issued under this subchapter, the board regulating the health occupation shall reinstate the license if the health professional:
 - (1) Applies to the board for reinstatement of the license within 5 years after the license expires;
 - (2) Complies with current requirements for renewal of a license as set forth in this subchapter;
 - (3) Pays a reinstatement fee established by the Mayor; and
 - (4) Submits to the board satisfactory evidence of compliance with the qualifications and requirements established under this subchapter for license reinstatements.
- (b) The board shall not reinstate the license of a health professional who fails to apply for reinstatement of a license within 5 years after the license expires. The health professional may become licensed by meeting the requirements then in existence for obtaining an initial license under this subchapter.

§ 3-1205.13. Display of licenses; change of address.

- (a) Each licensee shall display the license conspicuously in any and all places of business or employment of the licensee.

- (b) Each licensee shall notify the board of any change of address of the place of residence or place of business or employment within 30 days after the change of address.
- (c) Each licensee shall be subject to the penalties provided by this chapter for failure to comply with the requirements of this section.

**§ 3-1205.14. Revocation, suspension, or denial of license or privilege;
civil penalty; reprimand.**

- (a) Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a majority of its members then serving, may take 1 or more of the disciplinary actions provided in subsection (c) of this section against any applicant, licensee, or person permitted by this subchapter to practice the health occupation regulated by the board in the District who:
 - (1) Fraudulently or deceptively obtains or attempts to obtain a license for an applicant or licensee or for another person;
 - (2) Fraudulently or deceptively uses a license;
 - (3) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any jurisdiction for conduct that would be grounds for disciplinary action under this section;
 - (4) Has been convicted in any jurisdiction of any crime involving moral turpitude, if the offense bears directly on the fitness of the individual to be licensed;
 - (5) Is professionally or mentally incompetent or physically incapable;
 - (6) Is addicted to, or habitually abuses, any narcotic or controlled substance as defined by Unit A of Chapter 9 of Title 48;
 - (7) Provides, or attempts to provide, professional services while under the influence of alcohol or while using any narcotic or controlled substance as defined by Unit A of chapter 9 of title 48, or other drug in excess of therapeutic amounts or without valid medical indication;
 - (8) Willfully makes or files a false report or record in the practice of a health occupation;
 - (9) Willfully fails to file or record any medical report as required by law, impedes or obstructs the filing or recording of the report, or induces another to fail or file or record the report;
 - (10) On proper request in accordance with law, fails to provide details of a patient's medical record to a hospital or another health professional licensed under this chapter or

- under the laws of another jurisdiction;
- (11) Willfully makes a misrepresentation in treatment;
 - (12) Willfully practices a health occupation with an unauthorized person or aids an unauthorized person in the practice of a health occupation;
 - (13) Submits false statements to collect fees for which services are not provided or submits statements to collect fees for services which are not medically necessary;
 - (14) Pays or agrees to pay anything of value to, or to split or divide fees for professional services with, any person for bringing or referring a patient;
 - (15) Fails to pay a civil fine imposed by a board, other administrative officer, or court;
 - (16) Willfully breaches a statutory, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient or client of the health professional, unless ordered by a court;
 - (17) Refuses to provide service to a person in contravention of Chapter 14 of Title 2;
 - (18) Violates any of the conditions of an agreement between the licensee and the board to voluntarily limit the practice of the licensee made pursuant to § 3-1205.18;
 - (19) Prescribes, dispenses, or administers drugs when not authorized to do so;
 - (20) Practices without a protocol when required by subchapter VI of this chapter;
 - (21) Performs, offers, or attempts to perform services beyond the scope of those authorized by the license held by the health professional;
 - (22) Maintains an unsanitary office or performs professional services under unsanitary conditions;
 - (23) Engages in sexual harassment of a patient or client;
 - (24) Violates any provision of this chapter or rules and regulations issued pursuant to this chapter;
 - (25) Violates any District of Columbia or federal law, regulation, or rule related to the practice of a health profession or drugs;
 - (26) Fails to conform to standards of acceptable conduct and prevailing practice within a health profession;
 - (27) Violates an order of the board or the Mayor, or violates a consent decree or negotiated settlement entered into with a board or the Mayor;
 - (28) Demonstrates a willful or careless disregard for the health, welfare, or safety of a patient, regardless of whether the patient sustains actual injury as a result; or

- (29) Fails to pay the applicable fees established by the Mayor.
- (b)(1) A board may require a health professional to submit to a mental or physical examination whenever it has probable cause to believe the health professional is impaired due to the reasons specified in subsection (a)(5), (6), and (7) of this section. The examination shall be conducted by 1 or more health professionals designated by the board, and he, she, or they shall report their findings concerning the nature and extent of the impairment, if any, to the board and to the health professional who was examined.
- (2) Notwithstanding the findings of the examination commissioned by the board, the health professional may submit, in any proceedings before a board or other adjudicatory body, the findings of an examination conducted by 1 or more health professionals of his or her choice to rebut the findings of the examination commissioned by the board.
- (3) Willful failure or refusal to submit to an examination requested by a board shall be considered as affirmative evidence that the health professional is in violation of subsection (a)(5), (6), or (7) of this section, and the health professional shall not then be entitled to submit the findings of another examination in disciplinary or adjudicatory proceedings related to the violation.
- (c) Upon determination by the board that an applicant, licensee, or person permitted by this subchapter to practice in the District has committed any of the acts described in subsection (a) of this section, the board may:
- (1) Deny a license to any applicant;
 - (2) Revoke or suspend the license of any licensee;
 - (3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;
 - (4) Reprimand any licensee or person permitted by this subchapter to practice in the District;
 - (5) Impose a civil fine not to exceed \$5,000 for each violation by any applicant, licensee, or person permitted by this subchapter to practice in the District;
 - (6) Require a course of remediation, approved by the board, which may include:
 - (A) Therapy or treatment;
 - (B) Retraining; and
 - (C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation;

- (7) Require a period of probation; or
 - (8) Issue a cease and desist order pursuant to § 3-1205.16.
- (d) Nothing in this subchapter shall preclude prosecution for a criminal violation of this chapter regardless of whether the same violation has been or is the subject of 1 or more of the disciplinary actions provided by this subchapter. Criminal prosecution may proceed prior to, simultaneously with, or subsequent to administrative enforcement action.
- (e) A person licensed to practice a health occupation in the District of Columbia is subject to the disciplinary authority of the board although engaged in practice elsewhere. Subsection (a) of this section shall not be construed to limit the disciplinary authority of the board only to conduct or activities engaged in outside of the District that result in the imposition of discipline by a licensing or disciplinary authority where the conduct occurred.

§ 3-1205.15. Summary action.

- (a) If the Mayor determines, after investigation, that the conduct of a licensee presents an imminent danger to the health and safety of the residents of the District, the Mayor may summarily suspend or restrict, without a hearing, the license to practice a health occupation.
- (b) The Mayor, at the time of the summary suspension or restriction of a license, shall provide the licensee with written notice stating the action being taken, the basis for the action, and the right of the licensee to request a hearing.
- (c) A licensee shall have the right to request a hearing within 72 hours after service of notice of the summary suspension or restriction of license. The Mayor shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.
- (d) Every decision and order adverse to a licensee shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings shall be supported by, and in accordance with, reliable, probative, and substantial evidence. The Mayor shall provide a copy of the decision and order and accompanying findings of fact and conclusions of law to each party to a case or to his or her attorney of record.

(e) Any person aggrieved by a final summary action may file an appeal in accordance with subchapter I of Chapter 5 of Title 2.

§ 3-1205.16. Cease and desist orders.

(a) When a board or the Mayor, after investigation but prior to a hearing, has cause to believe that any person is violating any provision of this chapter and the violation has caused or may cause immediate and irreparable harm to the public, the board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

(b)(1) The alleged violator may, within 15 days of the service of the order, submit a written request to the board or the Mayor to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the board or the Mayor shall conduct a hearing and render a decision pursuant to § 3-1205.19.

(c)(1) The alleged violator may, within 10 days of the service of an order, submit a written request to the board or the Mayor for an expedited hearing on the alleged violation, in which case he or she shall waive his or her right to the 15-day notice required by § 3-1205.19(d).

(2) Upon receipt of a timely request for an expedited hearing, the board or the Mayor shall conduct a hearing within 10 days of the date of receiving the request and shall deliver to the alleged violator at his or her last known address a written notice of the hearing by any means guaranteed to be received at least 5 days before the hearing date.

(3) The board or the Mayor shall issue a decision within 30 days after an expedited hearing.

(d) If a request for a hearing is not made, the order of the board or the Mayor to cease and desist is final.

(e) If, after a hearing, the board determines that the alleged violator is not in violation of this chapter, the board or the Mayor shall revoke the order to cease and desist.

(f) If any person fails to comply with a lawful order of a board of the Mayor issued pursuant to this section, the board or the Mayor may petition the court to issue an

order compelling compliance or take any other action authorized by this chapter.

§ 3-1205.17. Voluntary surrender of license.

- (a) Any health professional who is the subject of an investigation into, or a pending proceeding involving, allegations involving misconduct may voluntarily surrender his or her license or privilege to practice in the District, but only by delivering to the board regulating the health occupation an affidavit stating that the health professional desires to surrender the license or privilege and that the action is freely and voluntarily taken, and not the result of duress or coercion.
- (b) Upon receipt of the required affidavit, the board shall enter an order revoking or suspending the license of the health professional or the privilege to practice.
- (c) The voluntary surrender of a license shall not preclude the imposition of civil or criminal penalties against the licensee.

§ 3-1205.18. Voluntary limitation or surrender of license by impaired health professional.

- (a)(1) Any license issued under this chapter may be voluntarily limited by the licensee either:
 - (A) Permanently;
 - (B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or
 - (C) For a definite period of time under an agreement between the licensee and the board.
- (2) During the period of time that the license has been limited, the licensee shall not engage in the practices or activities to which the voluntary limitation of practice relates.
- (3) As a condition for accepting the voluntary limitation of practice, the board may require the licensee to do 1 or more of the following:

- (A) Accept care, counseling, or treatment by physicians or other health professionals acceptable to the board;
 - (B) Participate in a program of education prescribed by the board; and
 - (C) Practice under the direction of a health professional acceptable to the board for a specified period of time.
- (b)(1) Any license issued under this chapter may be voluntarily surrendered to the board by the licensee either:
- (A) Permanently;
 - (B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or
 - (C) For a definite period of time under an agreement between the licensee and the board.
- (2) During the period of time that the license has been surrendered, the individual surrendering the license shall not practice, attempt to practice, or offer to practice the health occupation for which the license is required, shall be considered as unlicensed, and shall not be required to pay the fees for the license.
- (c) All records, communications, and proceedings of the board related to the voluntary limitation or surrender of a license under this section shall be confidential.

§ 3-1205.19. Hearings.

- (a) Before a board denies an applicant a license, revokes or suspends a license or privilege to practice, reprimands a licensee, imposes a civil fine, requires a course of remediation or a period of probation, or denies an application for reinstatement, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the board except where the denial of the license is based solely on an applicant's failure to meet minimum age requirements, hold a required degree, pass a required examination, pay the applicable fees established by the Mayor, or where there are no material facts at issue.

- (b) A board, at its discretion, may request the applicant or licensee to attend a settlement conference prior to holding a hearing under this section, and may enter into negotiated settlement agreements and consent decrees to carry out its functions.
- (c) Except to the extent that this chapter specifically provides otherwise, a board shall give notice and hold the hearing in accordance with subchapter 1 of Chapter 5 of Title 2.
- (d) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 15 days before the hearing.
- (e) The individual may be represented at the hearing by counsel.
- (f)(1) A board may administer oaths and require the attendance and testimony of witnesses and the production of books, papers, and other evidence in connection with any proceeding under this section.

(2) A board shall require the attendance of witnesses and the production of books, papers, and other evidence reasonably requested by the person against whom an action is contemplated.

(3) In case of contumacy by or refusal to obey a subpoena issued by the board to any person, a board may refer the matter to the Superior Court of the District of Columbia, which may by order require the person to appear and give testimony or produce books, papers, or other evidence bearing on the hearing. Refusal to obey such an order shall constitute contempt of court.
- (g) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, a board may nevertheless hear and determine the matter.
- (h) A board shall issue its final decision in writing within 90 days after conducting a hearing.
- (i) A board may delegate its authority under this chapter to hold hearings and issue final decisions to a panel of 3 or more members of the board in accordance with rules promulgated by the Mayor. Final decisions of a hearing panel shall be

considered final decisions of the board for purposes of appeal to the District of Columbia Court of Appeals.

§ 3-1205.20. Judicial and administrative review of actions of board.

Any person aggrieved by a final decision of a board or the Mayor may appeal the decision to the District of Columbia Court of Appeals pursuant to § 2-510.

§ 3-1205.21. Reinstatement of suspended or revoked license.

(a) Except as provided in subsection (b) of this section, a board may reinstate the license or privilege of an individual whose license or privilege has been suspended or revoked by the board only in accordance with:

(1) The terms and conditions of the order of suspension or revocation; or

(2) A final judgment or order in any proceeding for review.

(b)(1) If an order of suspension or revocation was based on the conviction of a crime which bears directly on the fitness of the individual to be licensed, and the conviction subsequently is overturned at any stage of an appeal or other postconviction proceeding, the suspension or revocation shall end when the conviction is overturned.

(2) After the process of review is completed, the clerk of the court issuing the final disposition of the case shall notify the board or the Mayor of that disposition.

**Subchapter VI. Advanced Registered Nursing; Scope of Practice;
Requirement of Protocol; Collaboration.**

§ 3-1206.01. General authorization.

(a) The advanced practice registered nurse may perform actions of medical diagnosis, treatment, prescription, and other functions authorized by this subchapter.

(b) **Repealed.**

§ 3-1206.03. Collaboration.

(a) Generally, advanced practice registered nurses shall carry out acts of advanced registered nursing in collaboration with a licensed health care provider.

(b), (c) **Repealed.**

(d) Notwithstanding the provisions of this section, hospitals, facilities, and agencies, in requiring specific levels of collaboration and licensed health care providers in agreeing to the levels of collaboration, shall apply reasonable, nondiscriminatory standards, free of anticompetitive intent or purpose, in accordance with Chapter 14 of Title 2, Chapter 45 of Title 28, and § 44-507.

§ 3-1206.04. Authorized acts.

An advanced practice registered nurse may:

- (1) Initiate, monitor, and alter drug therapies;
- (2) Initiate appropriate therapies or treatments;
- (3) Make referrals for appropriate therapies or treatments; and
- (4) Perform additional functions within his or her specialty determined in accordance with rules and regulations promulgated by the board.

“Sec. 907. Nursing Assistive Personnel.

“(a) A person who is engaged as nursing assistive personnel in the District shall register with the Mayor, renew the registration as required by rule, and pay the required registration fee established by the Mayor.

“(b) In accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), the Mayor shall issue rules setting forth the required standards for education and experience one needs to qualify as nursing assistive personnel.”.

Subchapter X. Prohibited Acts; Penalties; Injunctions.

§ 3-1210.01. Practicing without license.

No person shall practice, attempt to practice, or offer to practice a health occupation licensed or regulated under this chapter in the District unless currently licensed, or exempted from licensing, under this chapter.

§ 3-1210.02. Misrepresentation.

Unless authorized to practice a health occupation under this chapter, a person shall not represent to the public by title, description of services, methods, or procedures, or otherwise that the person is authorized to practice the health occupation in the District.

§ 3-1210.03. Certain representations prohibited.

(b) Unless authorized to practice as an advanced practice registered nurse under this chapter, a person shall not use or imply the use of the words or terms “advanced practice registered nurse”, “A.P.R.N.”, “certified registered nurse anesthetist”, “C.R.N.A.”, “certified nurse midwife”, “C.N.M.”, “clinical nurse specialist”, “C.N.S.”, “nurse practitioner”, “N.P.”, or

any similar title or description of services with the intent to represent that the person practices advanced registered nursing.

- (r) Unless authorized to practice registered nursing under this chapter, a person shall not use the words or terms “registered nurse,” “certified nurse,” “graduate nurse,” “trained nurse,” “R.N.,” or any similar title or description of services with the intent to represent that the person practices registered nursing.

§ 3-1210.04. Filing false document or evidence; false statements.

- (a) No person shall file or attempt to file with any board or the Mayor any statement, diploma, certificate, credential, or other evidence if the person knows, or should know, that it is false or misleading.

- (b) No person shall knowingly make a false statement that is in fact material under oath or affirmation administered by any board or hearing officer.

§ 3-1210.05. Fraudulent sale, obtaining, or furnishing of documents.

No person shall sell or fraudulently obtain or furnish any diploma, license, certificate or registration, record, or other document required by this chapter, by any board, or by the Mayor.

§ 3-1210.07. Criminal penalties.

- (a) Any person who violates any provision of this chapter shall, upon conviction, be subject to imprisonment not to exceed 1 year, or a fine not to exceed \$10,000, or both.
- (b) Any person who has been previously convicted under this chapter shall, upon conviction, be subject to imprisonment not to exceed 1 year, or a fine not to exceed \$25,000, or both.

§ 3-1210.08. Prosecutions.

(a) Prosecutions for violations of this chapter shall be brought in the name of the District of Columbia by the Corporation Counsel.

(b) In any prosecution brought under this chapter, any person claiming an exemption from licensing under this chapter shall have the burden of providing entitlement to the exemption.

§ 3-1210.09. Alternative sanctions.

Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2.

§ 3-1210.10. Injunctions.

(a) The Corporation Counsel may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful practice of any health occupation or any other action which is grounds for the imposition of a criminal penalty or disciplinary action under this chapter.

(b) The Corporation Counsel may bring an action in the Superior court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful sale of drugs or the unlawful trade practice or unlawful operation of a pharmacy, nursing home, community residential facility, or any other establishment purporting to provide health services.

(c) Remedies under this section are in addition to criminal prosecution or any disciplinary action by a board.

(d) In any proceeding under this section, it shall not be necessary to prove that any person is individually injured by the action or actions alleged.

Subchapter XII. Transitional Provisions.

§ 3-1212.01. Transfer of personnel, records, property, and funds.

(c) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Nurses' Examining Board are transferred to the Board of Nursing established by this chapter.

§ 3-1212.02. Members of boards abolished.

Members of boards or commissions abolished by section 1104 shall serve as members of the successor boards to which their functions are transferred until the expiration of their terms or the appointment of their successors, whichever occurs first.

§ 3-1212.03. Pending actions and proceedings; existing rules and orders.

- (a) No suit, action, or other judicial proceeding lawfully commenced by or against any board or commission specified in section 1104, or against any member, officer or employee of the board or commission in the official capacity of the officer or employee, shall abate by reason of the taking effect of this chapter, but the court or agency, unless it determines that survival of the suit, action, or other proceeding is not necessary for purposes of settlement of the question involved, shall allow the suit, action, or other proceeding to be maintained, with substitutions as to parties as are appropriate.
- (b) No disciplinary action against a health professional or other administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this chapter, but the action or proceeding shall be continued with substitutions as to parties and officers or agencies as are appropriate.
- (c) Except as otherwise provided in this chapter, all rules and orders promulgated by the boards abolished by this act shall continue in effect and shall apply to their successor boards until the rules or orders are repealed or suspended.

Subchapter XIII.

Appropriations.

§ 3-1213.01

Appropriations.

Funds may be appropriated to carry out the purposes of this chapter.

Unit B. Special Programs Associated with Board Duties

Subchapter I.

Nurse's Rehabilitation Program.

§ 3-1251.01.

Definitions.

- (a) For the purposes of this subchapter, the term:

- (1) "Board" means the District of Columbia Board of Nursing.
- (2) "Committee" means the Committee on Impaired Nurses.
- (3) "Contract" means a written agreement between the impaired nurse and the Committee providing the terms and conditions of the nurse's participation in the Program.
- (4) "Disciplinary action" means any proceeding which may lead to a fine or probation, or to reprimand, restriction, revocation, suspension, denial or other order relating to the licensure or certification of a nurse by the Board of Nursing.
- (5) "Impaired nurse" means a nurse who is unable to perform his or her professional responsibilities due to drug or alcohol dependency or mental illness.
- (6) "Licensed Nurse" means an advanced practice registered nurse, a registered nurse, or a licensed practical nurse.
- (7) "Program" means the treatment and rehabilitation program for impaired nurses described in this subchapter. Program shall also refer to the facility where program services shall be provided.
- (8) "Provider" means an experienced and licensed, registered, or certified individual approved by the Board.
- (9) "Treatment facility" means a facility for the treatment of impairments that meets the certification requirements of the District of Columbia's Department of Health, the Joint Commission on the Accreditation of Health Care Organizations, the Commission on the Accreditation of Rehabilitation Facilities, or other accrediting body approved by the Board.

§ 3-1251.02. Formation of Committee Impaired Nurses.

- (a) A Committee on Impaired Nurses is established to supervise operation of the Program. The Committee shall be composed of 5 nurses licensed in the District of Columbia who shall be appointed by the Board. The Board may establish additional committees as may be necessary to perform the functions described in this subchapter.
- (b) All members of the Committee shall be knowledgeable about impairment and rehabilitation.
- (c) The members of the Committee shall be appointed for a 3-year term, except in the first year of any Committee, when the terms shall be staggered. At the end of a term, a member shall continue to serve until a successor is appointed.
- (d) A committee member who is appointed after a term has begun, or to replace a former member of the Committee, shall serve for the rest of the term of his or her predecessor. The appointed member shall continue to serve until a successor is appointed.
- (e) The Board may appoint a Committee member for successive terms.
- (f) The Committee shall select a chairperson from among its members.
- (g) The Board may remove a committee member for cause.
- (h) The Board shall review and approve all procedures established by the Committee.

§ 3-1251.03.

Committee meetings.

- (a) The committee shall determine where meetings are held and the frequency of meetings.
- (b) Minutes of Committee meetings shall be confidential. Only Committee members shall have access to these documents.

- (c) Records of the Committee shall be privileged and confidential, and shall not be disclosed. The records shall be used by the Committee only in the exercise of the proper functions of the Committee, as set forth in this subchapter, and shall not be public records. The records shall not be subject to court order, except as provided in § 3-1251.07, nor subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings, except those conducted by a health regulatory board.
- (d) A majority of the members serving on the Committee shall be required to establish a quorum.

§ 3-1251.04. Committee staff.

The Committee may employ staff or engage the services of a consultant to carry out its functions in accordance with the approved budget of the District of Columbia and as approved by the Board.

§ 3-1251.05. Committee powers and duties.

In addition to the powers and duties set forth elsewhere in this subchapter, the Committee shall:

- (1) Evaluate a nurse who requests participation in the Program according to the guidelines prescribed by the Committee and consider recommendations for a nurse's admission into the Program;
- (2) Designate and review facilities and providers to which nurses in the Program may be referred for treatment and services;
- (3) Receive and review information concerning a nurse participating in the Program;
- (4) Consider whether a nurse participating in the Program may safely continue or resume the practice of nursing;

- (5) Hold meetings, as necessary, to consider the requests of nurses to participate in the Program and the reports regarding nurses participating in the Program;
- (6) Establish rules and guidelines for the operation of the Program, including the evaluation of facilities and providers that provide treatment and services to nurses eligible to participate in the program;
- (7) Prepare reports to be submitted to the Board; and
- (8) Set forth in writing a rehabilitation program established for each nurse participating in the Program, including the requirements for supervision and surveillance.

§ 3-1251.06. Notice of Program procedures.

Each nurse who requests to participate in the Program shall be informed in writing of the Program's procedures, including the rights and responsibilities of the nurse, and the consequences of noncompliance with the procedures, including suspension and termination of the nursing license.

§ 3-1251.07. Disclosure of records.

- (a) The Committee may disclose records relating to an impaired nurse only:
 - (1) When disclosure of the information is essential to the intervention, treatment, or rehabilitation needs of the impaired nurse;
 - (2) When release of the information has been authorized in writing by the impaired nurse;
 - (3) To the Board, if the nurse fails to comply with the conditions of the contract; or

(4) Pursuant to an order issued by a court of competent jurisdiction.

(b) A court shall order disclosure of records relating to an impaired nurse only upon a showing of good cause, including the need to avert a substantial risk of death or serious bodily harm. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the potential for injury to the patient, to the nurse-patient relationship, and to the treatment services. In determining the extent to which any disclosure of all or any part of any record is necessary, the court shall impose appropriate protections against unauthorized disclosures.

(c) The proceedings of the Committee which in any way pertain or refer to a specific nurse who may be, or who actually is, impaired and who may be or is, by reason of the impairment, subject to disciplinary action by the Board shall be excluded from the requirements of subchapter II of Chapter 5 of Title 2 ("Freedom of Information Act"), and may be closed to the public. Such proceedings shall be privileged and confidential.

§ 3-1251.08. Immunity from liability.

The members of the Committee shall be immune from liability in the exercise of their duties.

§ 3-1251.09. Description of the Program.

(a) Admission to the Program is voluntary.

(b) A colleague, employer, or the Board may refer impaired nurses to the Program through a self-report, formal complaint.

(c) A nurse requesting admission to the Program may not have:

(1) Caused an injury to an individual while practicing nursing;

(2) Malpractice litigation pending against him or her alleging that he or she caused an injury to an individual while practicing nursing; or

(3) Been arrested for diversion of controlled substances for sale or distribution.

(d) The Committee and the nurse shall enter into a written contract that sets forth the requirements and conditions for the nurse's participation in the Program.

(d) A nurse who fails to comply with the requirements and conditions of the written contract shall be reported to the Board for disciplinary action. The Board may take such action as described in § 3-1205.14 (revocation, suspension, or denial of license or privilege, civil penalty, reprimand) against a nurse who is expelled from the rehabilitation program for noncompliance. The Board shall not be required to recommend a course of remediation, as described in § 3-1205.14 (c)(6), for a nurse who is expelled from the rehabilitation program for noncompliance may be immediately suspended or restricted as described in § 3-1205.15 (summary action).

(f) Evaluation of a nurse for participation in the Program shall be the responsibility of the Committee.

(g) At the request of the Board, the Committee in consultation with the treatment providers, may evaluate a nurse with a drug or alcohol abuse problem, or mental illness, for readiness to return to the practice of nursing.

(h) An impaired nurse who is participating in the rehabilitation program may voluntarily limit or surrender any license issued under Unit A of this chapter in accordance with § 3-1205.18.

§ 3-1251.10. Approval of treatment facilities.

(a) To qualify as a designated treatment facility to which a nurse in the Program may be referred, the treatment facility shall meet the following criteria:

- (1) The treatment facility shall have a specific, identified contact person to whom the nurse can be referred for assistance;
- (2) The treatment facility shall have convenient hours of operation;
- (3) The costs of treatment services shall be clearly stated and defined to the Committee and to the nurse seeking assistance;
- (4) Treatment and rehabilitation services shall be available and used in conjunction with appropriate individual and group therapy and other appropriate treatment modalities;
- (5) The treatment facility shall have a provider who is available to conduct timely assessments and evaluations on site or at a convenient location;
- (6) The treatment facility provider shall agree to submit written reports of the assessments and evaluations to the Committee within a designated period of time;
- (7) The treatment facility provider shall agree to disclose to the Committee, upon request, all information in its possession regarding a nurse's impairment or disability and the nurse's participation in the treatment facility, in accordance with a signed release of information from the nurse;
- (8) The treatment facility shall agree to submit progress reports at least quarterly and upon request, and immediately if a significant event should occur in treatment that is related to the issues of impairment or disability and its effect on the nurse's practice;
and
- (9) The treatment facility shall conduct random, supervised testing to screen for drug use. The treatment facility shall agree to make available all results of drug screens to the Committee, and shall agree to inform the Committee immediately should a drug screen be positive.

- (b) The Committee shall evaluate the Program and participating treatment facilities at least annually to ensure that the criteria listed in subsection (a) of this section are maintained.

§ 3-1251.11. Maintenance of records.

- (a) Records shall be confidential and maintained in a locked file in the office of the Board.
- (b) A nurse's records shall be destroyed 2 years after the nurse's satisfactory discharge from the Program.

§ 3-1251.12. Nurses leaving the District of Columbia or applying for licensure in another state.

- (a) A nurse participating in the Program who moves to a jurisdiction where a rehabilitation program is in place and applies for licensure in that jurisdiction shall be transferred to that jurisdiction's rehabilitation program.
- (b) A nurse participating in the Program who moves to a jurisdiction where there is no rehabilitation program and applies for licensure in that jurisdiction shall have his or her records transferred to that jurisdiction's equivalent of the Board.
- (c) Whenever a nurse who applies for licensure in another jurisdiction continue to practice nursing in the District of Columbia:
 - (1) If the jurisdiction has a rehabilitation program in place, the program shall be notified that the nurse is participating in a rehabilitation program in the District of Columbia; or
 - (2) If there is no rehabilitation program in the jurisdiction, the jurisdiction's equivalent of the Board shall be notified that the nurse is participating in a rehabilitation program in the District of Columbia.

§ 3-1251.13. Information booklet.

The Committee shall publish an informational booklet describing the Program for the public. The booklet shall be updated as may be necessary.

§ 3-1251.14. Reports to the Board.

(a) The Board shall require reports from the Committee annually and at such other times as it believes may be necessary and appropriate. The reports shall include:

(1) Information concerning the number of cases accepted, denied, and terminated, with compliance or noncompliance; and

(2) A cost analysis of the Program.

§ 3-1251.15. Rules.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this subchapter.

TITLE 38. EDUCATIONAL ADDITIONAL LAWS IN RESPECT
TO NURSING INSTITUTIONS
SUBTITLE I. PUBLIC EDUCATION – PRIMARY AND SECONDARY
CHAPTER 6. STUDENT HEALTH CARE
SUBCHAPTER II. PUBLIC SCHOOL NURSES

D. C. Code § 38-621 (2003)

§ 38-621. Assignment to schools; hours; level of services; nurse or athletic trainer at sponsored athletic events; funding [Formerly § 31-2421]

(a) A registered nurse shall be assigned to each District of Columbia (“District”) elementary and secondary public school a minimum of 12 hours per week during each semester and during summer school if a summer school program is operated.

(b) (1) The minimum hours per week of registered nurse services at each school shall increase from 12 to 16 hours per week beginning 1 year after December 10, 1987. The minimum hours per week of registered nurse services at each school shall increase from 16 to 20 hours per week beginning 2 years after December 10, 1987.

(2) Licensed practical nurses may be used to supplement the registered nurse work force in meeting the required 20 hours per week minimum registered nurse services at each elementary and middle school. The licensed practical nurse shall perform their duties under the appropriate supervision and in general collaboration with the registered nurses.

(c) Any school that, on May 1, 1987, exceeded the standards for registered nurse services prescribed by subsection (a) or (b) of this section shall continue that level of service, or the level prescribed by subsection (a) or (b) of this section, whichever is greater. No reduction shall be made in the level of registered nurse services at any school except in response to a reduced need based on a reduced student enrollment or a reduced proportion of students requiring special services because of handicapping conditions.

(d) Appropriate medical coverage, as defined in rules issued by the Board of Education in accordance with subchapter 1 of Chapter 5 of Title 2, and in consultation with the Director, Department of Health, shall be provided by the Board of Education at any interscholastic athletic event if the event is sponsored by a District public school, occurs in the District, and is identified as requiring medical coverage by rule. This medical coverage may include, but is not limited to:

(1) A licensed medical doctor;

(2) A registered nurse;

(3) A certified athletic trainer;

(4) An emergency medical technician ("EMT") or paramedic;

(5) A certified prehospital care provider (as determined by the Director, Department of Health); or

(6) An adult trained by the Red Cross with current certification in cardiopulmonary resuscitation (“CPR”), first aid, or life-saving.

(e) (1) Appropriate medical coverage shall be consistent with the risk of injury involved in the interscholastic athletic event. The medical personnel that shall be present at an interscholastic athletic event that occurs in the District and that is sponsored by a District secondary public school shall be detailed as follows:

(A) For varsity football, a licensed medical doctor and for non-varsity football, a licensed medical doctor or certified athletic trainer;

(B) For basketball, wrestling, soccer, indoor or outdoor track and field events, or cross-country, at least 1 licensed doctor, certified athletic trainer, registered nurse, EMT or paramedic, or any other certified prehospital care provider as determined by the Director, Department of Health;

(C) For volleyball, baseball, softball, or swimming, at least 1 licensed medical doctor, certified athletic trainer, registered nurse, EMT or paramedic, any other certified prehospital care provider, as determined by the Director, Department of Health, or adult trained by the American Red Cross with current certification in CPR, first aid, or life-saving;

(D) For tennis or golf, medical personnel coverage shall be optional as financial resources allow; and

(E) For any other sport, the appropriate level of medical personnel coverage, commensurate with the risk of injury involved, shall be set by the Superintendent of Schools of the District of Columbia, in consultation with the Director, Department of Health, and approved by the Board of Education; and

(2) The medical personnel coverage services shall be in addition to the minimum hours of registered nurse services required by subsection (a) or (b) of this section.

- (f) Sufficient funds to carry out the requirements of this section shall be appropriated out of the general revenues of the district.
- (g) Beginning with the fiscal year 1991, the responsibility for implementation of this act shall be transferred from the Department of Human Services to the Board of Education.

TITLE 38. EDUCATIONAL INSTITUTIONS
SUBTITLE I. PUBLIC EDUCATION – PRIMARY AND SECONDARY
CHAPTER 6. STUDENT HEALTH CARE
SUBCHAPTER II. PUBLIC SCHOOL NURSES

D. C. Code § 38-631 (2003)

§ 38-631. Definitions [Formerly § 31-2431]

For purposes of this subchapter, the term:

(1) “Administer” means:

(A) The direct application of medication to the human body whether by ingestion, inhalation, or topical means; and

(B) Subcutaneous and intramuscular injections in emergency circumstances only.

(2) “General supervision” means:

(A) A registered nurse or licensed practitioner is available to the public school employee for consultation either in person or by a communication device; and

- (B) The physical presence of the registered nurse or licensed practitioner is not required during the time medication is given to a student.
- (3) “Licensed nurse” means either a registered nurse or licensed practical nurse.
- (4) “Licensed practitioner” means a licensed physician, dentist, podiatrist, or advanced registered nurse.
- (5) “Medication” means a controlled or noncontrolled substance or treatment regarded as effective in bringing about recovery or restoration of health or the normal functioning of the body.
- (6) “Prescription” means an order for medication signed by a licensed practitioner or transmitted by the practitioner to a pharmacist by word of mouth, telephone, telegraph, or other means of communication and recorded in writing by the pharmacist.
- (7) “Principal” means the chief administrative officer of a public school.
- (8) “Student” means a minor student enrolled in a District of Columbia public school program of a nonemancipated adult student enrolled in a District of Columbia public school special education program.

TITLE 38. EDUCATIONAL INSTITUTIONS
SUBTITLE I. PUBLIC EDUCATION – PRIMARY AND SECONDARY
CHAPTER 6. STUDENT HEALTH CARE
SUBCHAPTER III. ADMINISTRATION OF MEDICATION BY PUBLIC SCHOOL EMPLOYEES

D. C. Code § 38-632 (2003)

§ 38-632. Administration of medication by a public school employee [Formerly § 31-2432]

(a) Notwithstanding any other law, rule, or regulation, an employee of a public school who has been trained in accordance with § 38-634(b), pursuant to written authorization by the principal of a public school, may administer prescription or nonprescription medication to a student in compliance with the signed, written instructions of a licensed practitioner if:

(1) The parent, guardian, or other adult having care and charge of the student has administered the initial dosage to the student except in emergency circumstances requiring the administration of epipen;

(2) The parent, guardian, or other adult having care and charge of the student has hand-delivered the medication to the school;

(3) The parent, guardian, or other adult having care and charge of the student has consented to the administration of the medication in writing; and

(4) The employee is under the general supervision of a registered nurse or licensed practitioner pursuant to rules and regulations jointly promulgated by the District of Columbia Board of Education and the Department of Human Services.

(b) An employee of the District Government or the Board of Education who administers medication in accordance with this subchapter, or authorizes or performs general supervision of, or trains a public school employee in medication administration shall be immune from civil liability arising from an act or omission in authorizing, supervising, training, or administering medication. An employee shall not be immune from civil liability if the act or omission in authorizing, supervising, training or administering medication is intentional or manifests a willful or wanton disregard for the health or safety of the student to whom the medication is administered. Neither the District Government nor the Board of Education shall be liable in circumstances where the employee is immune under this section, unless the conduct of the employee is gross negligence.