

**CHAPTER 9****FSM Nursing Practice Act****SECTIONS**

- § 901. Title.**
- § 902. Purpose.**
- § 903. Definitions.**
- § 904. National Board of Nursing established; Membership.**
- § 905. Initial terms of office.**
- § 906. Terms of office.**
- § 907. Notification of expiration of terms.**
- § 908. Vacancies.**
- § 909. Quorum.**
- § 910. Officers and employees.**
- § 911. Meetings.**
- § 912. Expenses—Compensation.**
- § 913. Indemnification of members.**
- § 914. Powers and duties.**
- § 915. Application of administrative procedures.**
- § 916. License requirements.**
- § 917. License required.**
- § 918. Discipline.**
- § 919. Criminal prosecution.**
- § 920. Grounds for reporting to the Board.**
- § 921. Confidentiality.**
- § 922. Immunity of Board members and individuals and institutions complying with this chapter.**
- § 923. Practices affected.**
- § 924. Establishment.**

- § 925. **Purpose.**
- § 926. **Deposits.**
- § 927. **Administration.**
- § 928. **Budget report.**
- § 929. **Persons licensed under previous law.**
- § 930. **Persons seeking renewal or reinstatement of nursing license.**
- § 931. **Severability.**

### **§ 901. Title.**

This chapter shall be known and cited as the “Federated States of Micronesia Nursing Practice Act.”

**Source:** PL 8-45 § 1.

**Cross-reference:** This Act was signed into law by the President on December 22, 1993.

### **§ 902. Purpose.**

The purpose of this chapter is to promote, preserve and protect the public's health, safety and welfare by regulating the practice of and educational preparation and title use for the nursing profession.

**Source:** PL 8-45 § 2.

### **§ 903. Definitions.**

In this chapter, unless the context otherwise requires, the following words and phrases shall have the following meanings:

- (1) “Board” or “Board of Nursing” means the National Board of Nursing established under this chapter.
- (2) “Board Administrator” means a person employed by the National Nursing Board to perform administrative responsibilities of the Board.
- (3) “Fund” means the National Board of Nursing Fund established pursuant to section 924 of this chapter.
- (4) “General Fund” means the General Fund of the Federated States of Micronesia.
- (5) “Institution” means, unless otherwise specified in the chapter, any health agency, organization, hospital, or clinical facility, private or public, employing nurses or providing a site for clinical training of nursing students.

(6) “Licensee” means a Licensed Practical Nurse, Registered Nurse or Advanced Practice Nurse, such as a nurse practitioner, nurse midwife or nurse anesthetist, who is duly licensed by the Board of Nursing under the chapter and regulations promulgated pursuant to this chapter.

(7) “Petitioner” means a licensee, a potential licensee or a person representing an institution who is petitioning the Board of Nursing for a hearing or who is participating in a hearing before the Board in accordance with procedures established under this chapter and in chapter 1 of title 17 of this code.

(8) “Practice of nursing” means assisting an individual, family or community to maintain or attain optimal health by the actions, behaviors and attitudes of nurses as delineated in the regulations promulgated pursuant to this chapter. The practice of nursing shall include meeting basic needs of direct care such as safety, nutrition, comfort, confidentiality, personal hygiene and by implementing a strategy of care that is based on the established nursing process. The practice of nursing includes promoting health and preventing illness through health education, counseling and primary care measures as well as practicing advanced clinical skills in caring for those in ill health. The practice of nursing includes a professional commitment towards providing care in a systematic and caring manner, acting as an advocate for the patient/client, family, or community, collaborating with other health professionals and agencies, as well as engaging in self-evaluation, self-initiated and self-directed actions for growth and development.

(9) “President” means the President of the Federated States of Micronesia.

(10) “Secretary” means the Secretary of the Federated States of Micronesia National Government Department of Health Services.

**Source:** PL 8-45 § 3, modified.

**Cross-reference:** Chapter 1 of title 17 of this code is on Administrative Procedures.

#### **§ 904. National Board of Nursing established; Membership.**

(1) The President shall establish a National Board of Nursing, within the Federated States of Micronesia National Government Department of Health Services, consisting of five members:

(a) Four members, one from each State, shall be appointed by the President after consultation with the Governor of each State, based upon recommendations of each respective State Nursing Association. Each Board member shall be a citizen of the Federated States of Micronesia with five years of experience as a Licensed Graduate Nurse, or Registered Nurse.

(b) The President shall appoint one additional Board member who is a nurse representing the nursing profession in the National Government and a citizen of the Federated States of Micronesia.

(2) All Board members shall be voting members with equal voting power.

**Source:** PL 8-45 § 4, modified; PL 12-63 § 1.

**Cross-reference:** Section 501 of title 3 (Legislative) of this code is on advise and consent appointments. The statutory provisions on the

President and Executive are found in title 2 of this code.

### **§ 905. Initial terms of office.**

At the creation of the Board, the initial terms of office shall be decided by each member drawing lots. Two Board members shall serve an initial two-year term; two Board members shall serve an initial three-year term; and one Board member shall serve an initial four-year term. After the initial terms have been completed, the regular terms of office shall be as provided in section 906 of this chapter.

**Source:** PL 8-45 § 5.

### **§ 906. Terms of office.**

The regular term of office for all Board members shall be three years. No Board member, including members of the initial Board, shall serve more than two consecutive terms, except that members of the Board may serve beyond the expiration date of their terms until their successors have been appointed.

**Source:** PL 8-45 § 6.

### **§ 907. Notification of expiration of terms.**

The Board, through its chairperson, shall provide written notification to the President, the Congress and each State Nursing Association, of the upcoming expiration of any Board member's term. Written notice shall be given within 90 days of any term expiring.

**Source:** PL 8-45 § 7.

### **§ 908. Vacancies.**

Any vacancy on the Board shall be filled pursuant to section 904 of this chapter and notice shall be given by the Board to the President, the Congress, and each State Nursing Association, pursuant to section 907 of this chapter.

**Source:** PL 8-45 § 8, modified.

**Cross-reference:** The statutory provisions on the President and Executive are found in title 2 of this code. The statutory provisions on FSM Congress are found in title 3 of this code.

**§ 909. Quorum.**

A quorum of the Board shall consist of a majority of all members. All official business of the Board shall be conducted by a majority of those voting once a quorum is established.

**Source:** PL 8-45 § 9.

**§ 910. Officers and employees.**

(1) The Board shall appoint annually three officers: a chairperson to preside at meetings and represent the Board in its official capacity, which shall include performing the functions of a hearing officer as specified in chapter 1 of title 17 of this code; a vice chairperson to undertake activities of the chairperson in the chairperson's absence; and a secretary-treasurer who shall oversee the Board's financial and recordkeeping obligations.

(2) The Secretary may employ a full-time Board Administrator, as recommended by the Board, to perform administrative responsibilities of the Board and undertake other activities as the Board request. The Secretary may employ other personnel as requested by the Board to assist in performing the Board's duties and responsibilities.

**Source:** PL 8-45 § 10, modified.

**Cross-reference:** Chapter 1 of title 17 of this code is on Administrative Procedures.

**§ 911. Meetings.**

The Board shall hold meetings within the Federated States of Micronesia, rotating meetings among the States, on a regular basis at least twice annually and more often, if necessary, to conduct its business. The meetings shall be open to the public unless the Board is conducting a hearing regarding a disciplinary matter. When the Board is conducting a hearing regarding a disciplinary matter, the hearing will be closed to the public unless the petitioner requests in writing that the hearing be open.

**Source:** PL 8-45 § 11.

**§ 912. Expenses—Compensation.**

The members of the Board shall receive airfare, per diem and car rental, where justified and necessary, at standard National Government rates while on Board-approved business. Those members who are employees of the National Government shall be granted administrative leave and receive their regular salaries while on business of the Board. Other members who are not otherwise being compensated shall receive compensation on a daily basis while on Board-approved business. The rate of compensation shall be established by the Board, but shall not exceed \$50 per day.

**Source:** PL 8-45 § 12.

### **§ 913. Indemnification of members.**

Every member of the Board shall be indemnified by the Board against all expenses and liabilities reasonably incurred or imposed upon such member of the Board in connection with any threatened, pending, or completed action, suit or proceeding to which the member may become involved by reason of being or having been a member of the Board. Indemnity applies whether or not such member of the Board is a member of the Board at the time such expenses are incurred. Indemnity applies only to actions performed within the duties of office. The right of indemnity shall be in addition to, and not exclusive of, all other rights to which such members of the Board may be entitled.

**Source:** PL 8-45 § 13.

### **§ 914. Powers and duties.**

The Board shall be responsible for enforcing the provisions of this chapter and the regulations promulgated pursuant to this chapter.

- (1) In carrying out its activities, the Board shall have the following powers:
  - (a) To make, adopt, amend, repeal and enforce regulations and issue guidelines consistent with this chapter;
  - (b) To develop and enforce minimum qualifications for licensure of nurses and define categories of nurses to be authorized by the Board to practice nursing in the Federated States of Micronesia;
  - (c) To grant an advanced practice nurse prescriptive authority, subject to applicable law and as defined and regulated by the regulations promulgated pursuant to this chapter;
  - (d) To develop and enforce reasonable and uniform minimum standards throughout the Federated States of Micronesia for nursing practice and education, including the power to inspect and certify institutions providing nursing education and clinical training within the Federated States of Micronesia;
  - (e) To examine, license and renew the licenses of duly qualified individuals based upon nondiscriminatory, written criteria;
  - (f) To develop and enforce minimum standards for continued competency of licensees continuing or returning to practice;
  - (g) To restrict the practice or limit the license of individuals determined by the Board to constitute a risk to the public's health, safety or welfare;
  - (h) To impose and collect reasonable fees and receive and expend funds in addition to any appropriations from the Federated States of Micronesia, provided the funds are received and expended for the pursuit of authorized objectives of the Board. Such funds shall be kept in a separate account, and financial reports shall be filed no later than October 1 of each year with the President and the Congress;
  - (i) To seek injunctions and court orders to ensure compliance of individuals or institutions with provisions of this chapter when the Board determines that the public's health, safety and welfare is threatened;

(j) To assemble and remunerate ad hoc committees and individuals to advise the Board in carrying out its functions under this chapter;

(k) To join organizations that develop and regulate the national nursing licensure examinations and promote improved standards of nursing practice;

(l) To develop and institute bylaws to govern the functioning of the Board;

(m) To adopt and use a seal in official activities of the Board;

(n) To institute studies and collect data on nursing practice and education;

(o) To provide consultation on nursing and conduct conferences on nursing; and

(p) To carry out other activities which are necessary for the Board to perform its functions according to the purpose of this chapter and that are not in conflict with other laws.

(2) In addition to the powers listed above, the Board has the following duties:

(a) To provide adequate notice to all licensees about changes in the nursing law and regulations;

(b) To implement a disciplinary process;

(c) To provide confidentiality to individuals and institutions under investigation by the Board for any possible violation of this chapter or regulations promulgated pursuant to this chapter;

(d) To reasonably manage funds the Board receives from collection of fees and from government appropriations and other sources;

(e) To maintain a current register of nurses licensed to practice nursing in the Federated States of Micronesia. The register shall reflect any disciplinary action taken against a licensee and shall be made available upon request only to employers or potential employers of nurses, to an individual licensee who wishes to confirm his or her license status, and to nursing boards outside the Federated States of Micronesia. The Board may charge a reasonable administrative fee for releasing a copy of the license; and

(f) To take such other actions and assume such other responsibilities as may be necessary or appropriate to carry out the powers and duties granted to or imposed upon it by this chapter.

**Source:** PL 8-45 § 14.

**Cross-reference:** FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

-

The statutory provisions on the President and Executive are found in title 2 of this code. The statutory provisions on FSM Congress are found in title 3 of this code.

### **§ 915. Application of administrative procedures.**

The procedures set forth in title 17 of this code, including any amendments to it, are expressly adopted and incorporated herein as if all of the provisions of that title were included in this chapter, except that the “highest administration official of the department” shall be the Board; the “hearing officer” shall be the chairperson of the Board; disciplinary hearings shall be closed to the public unless the petitioner requests in writing that the hearing be open to the public; and the Board has the express authority to promulgate regulations.

**Source:** PL 8-45 § 15, modified.

**Cross-reference:** Title 17 of this code is on Administrative Procedure.

### **§ 916. License requirements.**

The Board, in accordance with its powers established pursuant to section 914 of this chapter, shall develop regulations stating the requirements for obtaining a license to practice nursing and use the title of Licensed Practical Nurse, Registered Nurse or Advanced Practice Nurse in the Federated States of Micronesia.

**Source:** PL 8-45 § 16.

### **§ 917. License required.**

No person shall practice nursing as defined in this chapter, or use the title of Licensed Practical Nurse, Registered Nurse or Advanced Practice Nurse, or in any way hold herself or himself out to the public or to any person or institution as entitled to practice nursing in the Federated States of Micronesia, without a valid license issued by the Board of Nursing.



**Source:** PL 8-45 § 17.

### **§ 918. Discipline.**

Every licensee and applicant for a license may be disciplined as provided in this section. The proceedings under this section shall be conducted in accordance with title 17 of this code and section 915 of this chapter.

(1) The Board may take action against a licensee or an applicant for a license upon reasonable proof that such a person:

(a) Has been convicted by a court or another board of nursing or has entered a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a nurse;

(b) Has been disciplined by a board of nursing in another jurisdiction, including having a nursing license in another jurisdiction revoked, denied, suspended or otherwise restricted for reasons other than failure to renew a license or failure to maintain continuing education standards;

(c) Has engaged in any act that is inconsistent with the standards of nursing practice as defined by regulations promulgated pursuant to this chapter;

(d) Has practiced fraud or deceit in procuring or attempting to procure a license to practice nursing;

(e) Has practiced nursing in another jurisdiction or within the Federated States of Micronesia without a valid current nursing license;

(f) Has violated, attempted to violate, directly or indirectly, or assisted in the violation of any provision of this chapter or the regulations promulgated pursuant to this chapter;

(g) Is addicted to or dependent on alcohol or other habit-forming drugs or is a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;

(h) Has a physical or mental disability that renders the licensee unable to perform nursing services or duties with reasonable skill or safety to the patient;

(i) Has engaged in any act in the course of routine practice which exceeds the nurse's education and training; or

(j) Has engaged in any act in the course of routine practice that the Board may find constitutes unprofessional conduct as defined in the regulations promulgated pursuant to this chapter.

(2) When the Board finds a person unqualified based on any of the grounds set forth in subsection (1) above, it may impose one or more of the following sanctions:

(a) Deny his or her application for a license;

(b) Administer a public or private reprimand;

(c) Suspend, limit, or restrict his or her license;

(d) Revoke his or her license;

(e) Require him or her to submit to care, counseling or treatment by persons approved or designated by the Board, as a condition for initial, continued, or renewed licensure;

(f) Require him or her to practice under the supervision of a registered nurse designated by the Board for a specified period of time;

(g) Impose a fine of up to \$1,000 per violation; or

(h) Take such other action in relation to discipline as the Board in its discretion may deem proper.

(3) The Board may take action against an institution employing nurses, institutions certified to provide education and training for nurses and institutions applying or which should apply for certification upon reasonable proof that such an institution:

(a) Employs or has employed a person as a nurse and knows or should have known that the individual is not or was not in compliance with this chapter or the rules and regulations promulgated under this chapter;

(b) Failed to report to the Board any violation of this chapter or of regulations promulgated pursuant to this chapter;

(c) Has compelled a nurse to practice beyond the nurse's education and training;

(d) Provides or has provided nursing education, including clinical training, without the Board's certification;

(e) Provides nursing education, including clinical training, after receiving notice from the Board regarding deficiencies in the institution's operations, without correcting those deficiencies.

(4) When the Board finds that an institution has committed any act or omission detailed in section 918(3) of this section, it may impose one or more of the following sanctions:

(a) Deny the institution's application for certification as a training and educational facility for nurses;

(b) Suspend, limit, or restrict the institution's certification as a training and educational facility for nurses;

(c) Revoke the institution's certification as a training and educational facility for nurses;

(d) Place the institution, insofar as it operates as a training and educational facility for nurses, on probation;

(e) Impose a fine of up to \$1,000 per violation; or

(f) Take such other action as the Board in its discretion may deem proper.

(5) All money collected by the Board as the result of fines imposed by the Board shall be deposited in the General Fund of the Federated States of Micronesia.

**Source:** PL 8-45 § 18.

**Cross-reference:** Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

### **§ 919. Criminal prosecution.**

Nothing in this chapter shall be construed as a bar to criminal prosecution for seeking injunctive relief for violating any provision of this chapter.

**Source:** PL 8-45 § 19.

### **§ 920. Grounds for reporting to the Board.**

Institutions shall report in writing to the Board under the following circumstances:

(1) Hospitals and other employers of nurses shall report in writing when a nurse has been terminated voluntarily or involuntarily for any reason that would constitute a violation of this chapter or regulations promulgated pursuant to this chapter. The employer shall provide to the Board the name of the nurse and the reasons for termination of employment;

(2) Nursing associations shall report in writing when, after investigation and using written, objective criteria, the association determines that a nurse is a threat to the public's health, safety and welfare. The association shall provide to the Board the name of the nurse and the reasons for its determination;

(3) Insurance companies shall report in writing when they are involved in any malpractice settlement, verdict or court award based on a claim of negligence or willful misconduct on the part of a nurse. The insurance company shall provide to the Board the name of the nurse and a description of the legal action; and

(4) Other circumstances that may be reasonably required under regulations.

**Source:** PL 8-45 § 20.

### **§ 921. Confidentiality.**

The information provided to the Board pursuant to section 920 of this chapter shall be provided in a confidential manner and maintained, to the extent practicable, by the Board in a confidential manner.

**Source:** PL 8-45 § 21.

### **§ 922. Immunity of Board members and individuals and institutions complying with this chapter.**

Any member of the Board or any individual or institution reporting to the Board in good faith shall be immune from any civil action for damages to the extent provided by law as a result of reporting or otherwise complying with this chapter. The immunity provided in this section shall apply to any members of a professional review committee and witnesses appearing before the Board in fulfilling the requirements of this chapter.

**Source:** PL 8-45 § 22.

**§ 923. Practices affected.**

No provision in this chapter shall be construed to prohibit:

- (1) The practice of nursing that is an integral part of a nursing education program, provided that nursing students are supervised;
- (2) The rendering of assistance by anyone in the case of an emergency or disaster;
- (3) The incidental care of the sick by members of the family, friends, domestic helpers or persons primarily employed as housekeepers, provided that such care does not constitute the practice of nursing within the meaning of this chapter;
- (4) The practice of spiritual healing in accordance with religious beliefs;
- (5) The practice of any other occupation or profession licensed under the laws of the Federated States of Micronesia, provided that the practice does not constitute the practice of nursing within the meaning of this chapter;
- (6) The practice of traditional healing arts as customarily employed by citizens of the Federated States of Micronesia; and
- (7) Nurses employed outside of the Federated States of Micronesia who enter the Federated States of Micronesia to provide temporary nursing care to a patient during transport into or out of the Federated States of Micronesia.

**Source:** PL 8-45 § 23.

**§ 924. Establishment.**

This chapter hereby establishes a National Board of Nursing Fund (“Fund”) which shall be separate from the General Fund of the Federated States of Micronesia (“General Fund”).

**Source:** PL 8-45 § 24.

**Cross-reference:** The statutory provisions of other Funds are found in chapter 6 of title 55 (Government Finance and Contracts) of this code.

**§ 925. Purpose.**

The purpose of the Fund is to provide an ongoing fund to allow the Board, in its discretion, to expend funds consistent with the goals of the Board and the purposes of this chapter.

**Source:** PL 8-45 § 25.

### **§ 926. Deposits.**

All future appropriations for the Board, as well as revenues received from any source other than fines imposed by the Board, shall be deposited in the Fund. Any unexpended monies in this Fund shall remain in the Fund and shall not lapse. Fines imposed by the Board shall be deposited into the General Fund only.

**Source:** PL 8-45 § 26.

### **§ 927. Administration.**

The Fund shall be administered by the President of the Federated States of Micronesia or the President's designee, who shall establish regulations and procedures necessary to implement the provisions of this chapter.

**Source:** PL 8-45 § 27.

**Cross-reference:** The statutory provisions on the President and Executive are found in title 2 of this code.

### **§ 928. Budget report.**

The Board shall submit to the Congress and the President a written report of the Board's budget and expenditure of funds. The Board shall submit the report no later than October 1 of each year or whenever Congress or the President requests it.

**Source:** PL 8-45 § 28.

**Cross-reference:** The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

### **§ 929. Persons licensed under previous law.**

Any person holding a valid nursing license issued from the Government of the Federated States of Micronesia that is valid on the effective date of this chapter shall be deemed licensed under the provisions of this chapter and shall be subject to the conditions and standards prescribed by the regulations promulgated pursuant to this chapter.

**Source:** PL 8-45 § 29.

**§ 930. Persons seeking renewal or reinstatement of nursing license.**

Persons seeking a renewal or reinstatement of a nursing license at the effective time of this chapter shall follow the procedures established by the Board of Nursing through regulations promulgated pursuant to this chapter. Any Board member seeking renewal or reinstatement of his or her license may not be part of any Board discussions pertaining to the application, or vote on the renewal or reinstatement.

**Source:** PL 8-45 § 30.

**§ 931. Severability.**

The provisions of this chapter are severable. If any provision of this chapter is declared unconstitutional, illegal or invalid, the remaining portions of the chapter shall be unaffected and remain in full force and effect.

**Source:** PL 8-45 § 31.