

History of Nursing Regulation

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Introduction

The right to practice a recognized profession is not an absolute or unqualified right. The right is granted by the state to individuals who have met predetermined qualifications. Nurses are licensed in two ways: either initially by examination or by endorsement into South Dakota practice. Regulation affects all areas of nursing including education, practice and licensure. Professionals, including nurses, are subject to two kinds of regulation-- internal and external.

Internal regulation refers to professional self-governance activities that occur at the level of the individual, work group, institution or association. Internal or self-regulation exists to primarily advance the profession in the public's interest and secondarily serves to ensure quality service and protection of the public.

External regulation occurs or arises from formal, legal authorities and includes the laws, rules and standards that require conformity by the nurse. These sources of authority occur on the Federal level, as in Federal Drug Administration (FDA) or Occupational Safety and Health Association (OSHA) regulations; on the state level the most familiar source of authority is the Board of Nursing. The state's interest is protection of the public. Consequently, the state controls certain aspects of professional practice including admission to practice and removal from practice, standards of practice and continuing competency. In practical terms, "state" means the administrative agency or board to which the state legislature has delegated the authority to administer licensing procedures. This is not to say that licensing boards can operate in whatever fashion they desire in determining whether one shall or shall not be admitted to or removed from practice. The criteria established by the board, in law and rule, must have a rational relationship to the applicant's qualifications and capacity to practice the given profession.

The Legislature of South Dakota has delegated the authority and responsibility to the South Dakota Board of Nursing (SDBN) to: 1) safeguard life, health and the public welfare; and 2) protect citizens from the unauthorized, unqualified and improper application of nursing education programs and nursing practice. No other nursing organization has the protection of the public as its primary mission. In 1976, the Legislature set forth that the practice of nursing is continually evolving to include more sophisticated patient care

activities and that the Nurse Practice Act serves to provide clear, legal authority for functions and procedures that have common acceptance and usage. In addition, the Legislature recognized the existence of overlapping functions within the practice of nursing and medicine and permitted additional sharing of functions within organized health care systems providing for collaboration between nursing and other health team members.

History of Nursing Practice and Regulation

The evolution of nursing practice acts parallels that of other recognized professions. As professions have developed over the decades, they have sought the protection of registration acts. Physicians were the first group of health professionals to gain legislative recognition of their practice. In doing so, an extremely broad scope of practice was defined along with provisions that made it illegal for anyone not licensed as a physician to carry out the acts of diagnosing or prescribing. This resulted in a preemptive strike by the medical profession to totally occupy the health care field so that all other health care providers have had to "carve out" tasks and functions from the all-encompassing medical scope of practice, no matter how traditional or long-standing their activities.

During the early 1900s, nursing practice acts were merely registration acts or lists of trained nurses. North Carolina was the first state to enact a nursing practice act in 1903, and by 1923 all states had nurse practice acts in place.

Mandatory licensure laws for nurses were enacted from the 1930s through the 1950s. The goals of these licensure laws were to define the practice of RNs and LPNs and to prevent unlicensed individuals from practicing nursing. During this time, nursing was narrowly defined. Supervision of patients, observation of signs and symptoms and accurate record keeping were a few of the identified independent nursing functions. All others were considered dependent functions to be carried out only with a physician's order.

In 1955, the American Nurses Association issued a model definition of nursing which affirmed that physician supervision was not required of all nursing functions. It did, however, prohibit nurses from diagnosing and prescribing. A gradual expansion of nursing practice occurred during the 1960s because of a national shortage of primary care physicians. The first nurse practitioner and physician assistant programs were developed in response to this physician shortage.

The 1970s to the present have focused on the regulation of advanced practice nurses. Idaho was the first state to recognize advanced practice nurses in statute under joint control of the Nursing and Medical Boards. In addition, regulatory changes focused on clarifying the definitions of RN and LPN practice and emphasizing professional accountability.

The South Dakota Board of Nursing was created in 1917 becoming the SD Code of 1939. The Board identified basic nursing education curriculum and licensure requirements. The focus of nursing education was on technical tasks primarily preparing practitioners for positions in the acute care settings. In 1947, the laws were repealed and an Act Regulating the Profession of Nursing reorganized the State Nurses Examining Board followed by an

Act Regulating the Occupation of Practical Nursing in 1949. Mandatory licensure for RNs was enacted in South Dakota in 1955 and in 1967 for LPNs.¹

Statute and rule changes in 1976 provided for LPNs to perform additional functions after specialized training in an Expanded Role, which initially included five additional functions. The Practice of Nursing rules, *ARSD* 20:48:04, were amended in 1995 and 2000 and redefined several of the Expanded Role functions as Basic Role LPN practice. Currently, only kidney dialysis is defined as an Expanded Role LPN act.

In 1994, a major addition to the Practice of Nursing rules occurred with *ARSD* 20:48-04.01 Delegation of Nursing Tasks. This chapter established guidelines for the delegation of nursing tasks to unlicensed assistive personnel, specified parameters for nurses supervising unlicensed assistive personnel, and established training requirements for unlicensed assistive personnel performing delegated nursing tasks to assure that nursing care would be provided safely and effectively.

The mission and functions of the Board of Nursing were established by law in 1976. Several updates have followed including amendments to the Board's rule-making authority in 1994, composition of members in 1994 and 1995, term limits in 1994, disciplinary proceedings in 1994 and 1995 and quorum requirements in 1996. An alternative to the discipline program for nurses, physicians, and pharmacists dealing with chemical dependency problems, the Health Professionals Assistance Program was enacted in 1996. The first participants in this program were admitted during the Fall of 1996.

In 1972, the South Dakota Legislature authorized nurses to perform in "extended roles" as "nurse practitioners". The first nurse practitioners were "certified" by the Board of Nursing in February 1976; however, the first national certification examination for nurse practitioners was not available through the American Nurses Association until 1981. Prior to the development of this examination, many nurse practitioners completed the certification examination for physician assistants.

During the late 1970s, the majority of nurse practitioners were practicing in the rural areas of the state and the South Dakota Board of Medical and Osteopathic Examiners began to express concern about nurse practitioners' desire for prescriptive authority. Legislative changes in 1979 created *SDCL* Chapter 36-9A, which defined the practice of nurse practitioners and nurse midwives as "delegated medical acts," including prescriptive authority, performed under the supervision of a licensed physician. These laws placed nurse practitioners and nurse midwives under joint control of the Board of Nursing and the Board of Medical and Osteopathic Examiners. In addition, amendments to *SDCL* 36-9 in 1979 recognized nurse anesthetists under the regulation of the Board of Nursing.

Rule promulgation related to the 1979 legislative changes was not completed until April 1993 and within these rules, *ARSD* Chapter 20:62, physician supervision was defined as on site a minimum of one-half day per week. Prescriptive authority was further defined to include legend drugs and Controlled Substances Schedule III and IV. Amendments were further made to *SDCL* 36-9A in 1995 to clarify the method of regulation for nurse practitioners and nurse midwives as licensure. The original language in the 1979 legislation

¹ R. Esther Erickson, *Nursing History in South Dakota*, (n.d. ~1973; no publisher).

"certified" nurse practitioner and nurse midwives to practice their defined legal scopes of practice. In addition, physician supervision required while working on a temporary permit was modified and practice setting limitations were removed. Separate legislation in 1995 authorized nurse practitioners and nurse midwives to prescribe limited supplies of Schedule II drugs. In 1996, *ARSD* Chapter 20-62 was revised to include the American Academy of Nurse Practitioner Certification Exam for purposes of meeting the examination requirement for licensure as a nurse practitioner. Changes in the Controlled Substances regulations and the 1995 expansion of prescriptive authority for limited supplies of Schedule II drugs resulted in the need for nurse practitioners and nurse midwives to obtain independent State Controlled Substances Numbers and Federal Drug Enforcement Administration (DEA) numbers for purposes of prescribing controlled substances.

Clinical Nurse Specialists (CNS) received legal recognition in 1995 with the passage of licensure laws placing the role under the jurisdiction of the Board of Nursing. The statute defining the scope of practice for the CNS provided for the practice of nursing at the advanced level unlike the other advanced practice roles, which are defined as delegated medical acts.

Nursing Licensure Examinations - A Historical Perspective

The history of licensure examinations started in the early years of this century. Each State Board of Nursing developed its own examination. The exams usually included an essay examination and a clinical performance evaluation. Each Board graded their exams and set their own passing scores.

In 1944, the idea of a national pooling of tests emerged. A framework was developed and the State Board Test Pool Examination was created. This examination had thirteen sections including basic sciences that were tested. Each state set its own passing standard for the test.

South Dakota began using the State Board Test Pool Examination in 1950. By this time, almost every state in the country was using this exam for licensure decisions. This exam was revised in 1952 and became a five-part exam testing the major nursing areas of medical, surgical, pediatrics, obstetrics and psychiatry. In 1972, this exam was again revised to a more comprehensive model focusing on nursing process and decision making in nursing. During this time, the exam was developed, revised and scored by the National League for Nursing.

In 1978, the National Council of State Boards of Nursing was created as an organization through which Boards of Nursing could act and counsel together on matters of common interest and concern affecting the public health, safety and welfare, including the development of licensing examinations in nursing. Prior to this time, representatives of state boards of nursing met as a council within the American Nurses Association. Due to the concern about potential conflicts of interest between the goals of the profession and protection of the public, a separate entity was formed.

The National Council of State Boards of Nursing introduced the NCLEX (National Council Licensing Examination) for LPNs and RNs. This new exam integrated the five major nursing areas into one comprehensive examination. This exam was administered by

all State Boards of Nursing in the country on the same dates. It was a two day paper and pencil examination. Boards of Nursing had to adhere to strict security measures enforced by the National Council to use the examination. Scoring was done by a national testing service with results reported to the individual State Boards. Candidates could expect to receive their results six to eight weeks later.

In 1994, the National Council implemented a change in the administration of the NCLEX to a computerized examination. Computerized adaptive testing replaced the paper and pencil examination on April 1, 1994. This is the current method of licensure by examination in this country. Each candidate receives a unique examination that is assembled interactively as the candidate tests. Results are known within a week to 10 days. The exam is scored on a pass/fail basis. Testing centers were created in every state to administer this examination. Sioux Falls has the only testing center in South Dakota for administration of this exam.

History of Nursing Education in South Dakota and Board Approved Programs

Nursing education in South Dakota has its historical roots embedded in hospital-based diploma programs. Board of Nursing records indicate that a total of 31 diploma nursing schools were in existence prior to the inception of the Board of Nursing in 1917. Nursing students were used to assist hospital nursing staff in providing patient care. No standardized curricula were in place and licensure by examination did not exist. This was consistent with the prevailing educational philosophy of apprenticeship in nurse training schools. The nursing education programs were designed to meet the needs of the individual hospital.²

In 1917, the SD State Board of Nursing started a process of accrediting nursing education programs. The State Board issued a requirement that all hospital training schools approved by the SD State Nurses Examining Board must have a capacity of 30 beds and an average daily census of 20 patients. The requirement was aimed at emphasizing education rather than training. This requirement caused many of the schools to affiliate with larger programs. Eventually it became more profitable for the hospitals to employ graduate nurses rather than to train their own, and many of the programs closed. Board of Nursing records indicate that in 1926 there were 20 accredited diploma programs educating nurses in the state.

The first national standards for nursing education were published in 1917. The Board of Nursing defined the specific areas of instruction and practical experience necessary for state accreditation. They included practical experience in caring for men, women, and children together with instruction in medical, surgical, obstetrical and diseases of children, elementary hygiene, anatomy and physiology, materia medica, dietetics, the rules and regulations relating to infectious diseases and quarantine, and other subjects as the examining board may require from time to time.³

Diploma Nursing Education in South Dakota

² Ibid.

³ *Minutes* of the SD State Nurses' Examining Board, July 20, 1917.

The first hospital based nursing education program started in 1898 at the Sioux Falls Lutheran Hospital known today as Sioux Valley Hospital. The program was known as the Sioux Falls Training School for Nursing and in 1925 became known as the *Sioux Valley Hospital School of Nursing* in Sioux Falls. The school's first graduate, Miss Gena Stevens, received her diploma in 1900.

In 1912, the curriculum of the school was increased to three years in keeping with the trend toward higher standards. In 1942, the diploma program was affiliated with South Dakota State University and Augustana College and a five-year degree program was initiated. The three-year diploma program was continued as an alternate plan until 1954 when the program administration attempted to reorganize the entire program. The diploma program was reactivated in 1956. South Dakota State University and Augustana College continued to utilize the clinical facilities of the hospital. Sioux Valley Hospital School of Nursing received National League for Nursing (NLN) accreditation in 1959 and continued to educate nurses until the diploma program closed in 1986.

St. Luke's Hospital School of Nursing was founded in Aberdeen in 1901 and became the first institution to enter into affiliations with other small hospital schools in the state, which could not provide some of the experiences required by the Nurses Examining Board. The name of the school was changed to Presentation School of Nursing in 1942 following a reorganization of the four nursing schools operated by the Presentation Sisters. The headquarters for the school was established in Aberdeen with units in Aberdeen, Mitchell, Sioux Falls and Miles City, Montana. In 1954, Presentation Junior College was founded and a six-month affiliation was established named the Freshman Nursing Program. In 1957, the Presentation School of Nursing was decentralized and reorganized into four independent schools with a centralized Freshman Nursing Program. During this same year the school received accreditation from NLN. The program continued to operate until the costs of operating the hospital school and the trend toward making nursing education an integral part of a college or university caused the Board of Directors to close the program in 1968.

Sacred Heart Hospital School of Nursing in Yankton was established in 1905. The school was exclusively for Sisters of the Benedictine Order. It was opened to lay students in 1914 and was placed on the state list of accredited programs in 1921. In 1937, the school established a course affiliation with Mount Marty Junior College. NLN accreditation was received in 1956. The program continued to operate until it was phased out in 1964.

The *McKenna Hospital School of Nursing* was organized by the Presentation Sisters in 1912. It was accredited by the State Board in 1917. It became the Presentation School of Nursing in 1942 as a result of a reorganization by the Presentation Sisters and was accredited by NLN in 1958. This Sioux Falls program closed in 1964.

Methodist Hospital School of Nursing in Mitchell officially opened in 1918 and received State Board accreditation during the same year. The program developed a relationship with Dakota Wesleyan University (DWU) in 1961 for the students to spend the first two semesters at DWU as full-time college students as well as nursing students. The program operated until 1975.

St. John's McNamara School of Nursing in Rapid City was founded by the Sisters of St. Benedict of Sturgis in 1927. It was the only three year diploma school of nursing in the West River area. The program received NLN accreditation in 1960. St. John's McNamara Hospital formed a merger with Bennett-Clarkson Hospital and became known as Rapid City Regional Hospital. With this merger, the nursing program became known as *Rapid City Regional Hospital School of Nursing*. The program offered diploma nursing education in Rapid City until its closure in 1991.

St. John's School of Nursing in Huron began as the Sprague Hospital School of Nursing. It was accredited by the State Board in 1921. The name was changed to St. John's in 1947 following the construction of a new hospital in Huron. The program was accredited by NLN in 1960; it closed in 1977.

Baccalaureate Nursing Education

South Dakota State University (SDSU) established a nursing education program in 1935 in Brookings. From 1936 to 1952, the program was five years in length with Sioux Valley Hospital providing the clinical experiences. The four year program was initiated in 1952. The clinical experience remained at Sioux Valley Hospital and was jointly sponsored by SDSU and Augustana College. In 1956, the Department of Nursing became the Division of Nursing with its first Dean. NLN accreditation was granted in 1960. An Upward Mobility program for RNs started in 1977 and a master's in nursing program was approved. SDSU currently continues to offer all three programs.

Augustana College has offered a program of study for nursing since 1941. Initially, the program was five years in length, with three years spent in the diploma nursing program at Sioux Valley Hospital. The first and last years were devoted to liberal studies at Augustana College in Sioux Falls. A degree in education or biology was offered to those who completed the program. From 1952 to 1968, Augustana contracted with SDSU for clinical courses for the nursing students. In 1964, at the suggestion of NLN, Augustana began a program in which both theory and clinical components were offered by the college; accreditation was granted in 1969. A master's program started in 1995 preparing nurses for Advanced Nursing Practice in Emerging Health Care Systems. Augustana currently offers both baccalaureate and master's level nursing programs.

The *University of South Dakota* in Vermillion initiated a baccalaureate program in nursing in 1954 that was offered until 1964.

Mount Marty College in Yankton initiated a program of study in nursing in 1961. The program continues to offer a baccalaureate degree in nursing. The program is accredited by NLN. Mount Marty College currently is the only college in the state that offers master's level preparation in nurse anesthesia. This program is located in Sioux Falls and is independent of the Mount Marty College Nursing Program.

These three programs were the providers of baccalaureate nursing education in South Dakota until 1988 when *Presentation College* received approval from the Board to offer baccalaureate nursing education in addition to their associate degree nursing program. Presentation currently offers a generic baccalaureate program on campus and the associate degree program is offered only at the Eagle Butte site. In 1997, Presentation College

received Board approval for reorganization of their BSN program in Aberdeen to include a satellite at the North Dakota State School of Science in Wahpeton, North Dakota.

Huron University admitted 10 students to a BSN Completion Program in 1997. The program is currently Board approved. This program was developed as the result of community need for baccalaureate prepared nurses. The program was reorganized in 2000 to offer generic baccalaureate education as well.

Associate Degree Nursing Education

The University of South Dakota closed their baccalaureate nursing education program and initiated an associate degree program in 1962. The program received NLN accreditation in 1976 and currently offers associate degree nursing education throughout the state. The University has satellite programs in Sioux Falls, Watertown, Pierre and Rapid City.

Presentation College initiated an associate degree program in Aberdeen in 1966. The program is NLN accredited and currently is being offered at a satellite location in Eagle Butte.

Dakota Wesleyan University initiated an associate degree nursing program in Mitchell in 1973. They currently continue to offer this NLN accredited program.

Huron College initiated an associate degree program in 1981. The program was closed by Huron University in 2000 and reorganized to a generic BSN.

Oglala Lakota College in Pine Ridge is a tribally based community college that received Board approval to offer an associate degree nursing program in 1986. They currently provide this program.

Sisseton Wahpeton Community College, a tribally based college located near Sisseton, received approval to offer an associate degree nursing program in 1991. They currently offer this program of study.

LPN Nursing Education

South Dakota's first LPN program opened in Pierre in 1949. Board of Nursing records indicate that by 1975 there were 6 LPN programs approved by the Board of Nursing. They were located in Pierre, Rapid City, Sioux Falls, Watertown, Mitchell and Freeman. In 1985, the LPN programs in Pierre, Mitchell and Sioux Falls did not accept applications for admission. In 1986 the programs in Rapid City and Freeman did not admit students. This left one remaining LPN program operating at Lake Area Vocational-Technical Institute in Watertown. The Rapid City program reopened in 1989. South Dakota currently has two approved LPN Programs operating at Lake Area Technical Institute in Watertown and Western Dakota Technical Institute in Rapid City. Combined enrollment in these programs averages around 60 students annually. The program at Lake Area Technical Institute is part of a 1+1 program with the University of South Dakota whereby the first year of study prepares the student for licensure as a LPN and the second year prepares the student for RN licensure.

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