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ARIZONA ATTORNEY GENERAL

September 16, 1954
Letter Opinion
No. 54-226-L

The Honorable Kel M. Fox
State Senator, Yavapai County
Box 75
Sedona, Arizona

Re: Proof of present
qualifications and com-
petency of applicant for
licensure under the
Nursing Act.

Dear Senator Fox:

This is in response to your request for this office's opinion concerning whether or not the Arizona State Board of Nurse Registration and Nursing Education can adopt, under its general powers and duties, the following rule, to-wit:

"The graduate professional nurses who have not practiced for a period of five years or more, must practice under supervision on a 'graduate student level' for a period of at least three months and/or until such time as the hospital certifies to their safety to practice professional nursing, before an application for registration may be entertained or a temporary permit may be issued."

Although your correspondence was not explicit, it is assumed that the nurse in question originally secured a temporary permit or, in the alternative, secured a license which was allowed to expire, or possibly requested the Board to carry her name on its inactive list. Consequently, in order to reach a decision in this matter the statute governing renewals must first be examined. Section 67-1314, A.C.A. 1939, as amended, reads in pertinent part as follows:

"67-1314. Renewal of license.--Each license issued under the provisions of this act, except temporary permits which shall expire on the date therein specified, shall expire on the 31st day of December next following the effective date of the license, and each license or registration to practice as a registered nurse and now in good standing shall expire on December 31, 1952. But on evidence of satisfactory service rendered, temporary permits shall be rendered from year to year as long as such evidence of efficiency continues.* * *A licensee who shall fail to secure a renewal license within the time specified herein may secure a renewal license by making verified application therefor, in such form as the board may prescribe, upon furnishing proof that he or she is then qualified and competent to act as a professional or practical nurse, as the case may be, and such additional information and material as may be required by the board, and payment of the renewal fee and penalty for each year or portion of a year such license has been lapsed and expired.

Upon written request to the board a licensee in good standing may cause his or her name and license to be transferred to an inactive list and such licensee shall not practice during the time such license is inactive and no renewal fees shall accrue. Should such licensee desire to resume the practice of nursing the board shall renew such license upon satisfactory showing that such licensee is then qualified and competent to practice and upon payment of the current renewal fee." (Emphasis supplied)

This code section distinctly states that the applicant must show that she is currently qualified and competent to practice nursing at the time of application. The statute is not clear as to what kind of showing must be made, however, the Board is authorized to adopt such rules and regulations as may be necessary to carry into effect the provisions of the Nursing Act.

Under Section 67-1310, A.C.A. 1939, as amended, it is provided in part:

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"67-1310.--Board of nurse registration and
nursing education.--* * *

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c. * * *The board is authorized to adopt and from time to time revise such rules and regulations not inconsistent with this act as may be necessary to carry into effect the provisions of this act, and such rules and regulations shall be published and copies thereof furnished to any person upon application."

* * * * *

The preceding statutes clearly give the Board of Nurse Registration and Nursing Education power to require evidence of an applicant's present qualifications and competency.

It would appear to this office that the rule providing for three months graduate student level training is entirely within the express powers of the Board to protect the health and welfare of the community at large.

We trust that this opinion will satisfactorily answer your request. If we may be of further aid in the future please call upon us.

Sincerely,

JRE:jlb

JOHN R. ELLIOTT
Assistant to the
Attorney General