

OPINION 11

OFFICIAL OPINION NO. 11

March 30, 1961

Caroline Hauenstein, R. N.
Executive Secretary
Indiana State Board of Nurses'
Registration and Nursing Education
1018 State Office Building
Indianapolis 4, Indiana

Dear Miss Hauenstein:

Your letter of March 20, 1961, has been received and reads as follows:

"This Board would like to issue licenses for a period of two (2) years rather than annually, in accord with the provisions of HOUSE ENROLLED ACT NO. 159, with the first biennial period of registration beginning January 1, 1962.

"A question has arisen as to whether an agency changing to biennial registration would need to delay sending 'applications for renewal' to registrants until October 1, 1961, which is the effective date of the Act.

"The Indiana State Board of Nurses' Registration and Nursing Education does not plan to issue any licenses for the next registration period until after October 1, 1961; however, renewal applications have customarily been mailed to all active registrants in July as provided in the Nurse Practice Act, Burns' Indiana Statutes Replacement Annotated, Sections 63-901 through 63-929, inclusive being the same as Chapter 159 of the Acts of 1949, as amended by Chapter 34 of the Acts of 1951.

"An *Official Opinion* is requested in regard to whether renewal applications for biennial registration can be mailed to the 16 to 18,000 active registered nurses in July, 1961 providing licenses for the 1962 to 1963 biennial registration period would be issued after October 1, 1961."

Acts of 1949, Ch. 159, Sec. 16, as amended by Acts of 1951, Ch. 34, Sec. 3, as found in Burns' (1951 Repl.), Section 63-916, provides as follows:

"Each person who holds a license issued pursuant to the laws of this state which permits such person within to practice as a registered nurse or to practice as a licensed practical nurse shall renew the same annually, except as hereinafter provided. It shall be the duty of the board to mail an application for renewal of license to every person, whose license was renewed during the current year, on or before September 1.

"The applicant shall fill in the application blank and return the same to the board together with a renewal fee of two dollars [\$2.00] on or before December 31 of such year. Failure to renew by December 31 of each year, as provided in this act, shall automatically suspend the license of the licensee failing to renew, except as specifically provided in section 19 of this act. The board shall verify the accuracy of each application which has been returned with the fee and thereupon issue to said applicant a certificate of renewal of license for the next ensuing calendar year beginning January 1 and expiring December 31. Said certificate of renewal shall entitle the holder thereof, subject to revocation or suspension, to practice during the period stated on the certificate of renewal. Forms of applications and certificates shall be determined by the board."

House Enrolled Act No. 159, being Acts of 1961, Ch. 79, reads in part as follows:

"SECTION 1. It is the declared intent of the General Assembly by the enactment of this law to require those agencies which are authorized to issue the licenses, hereinafter designated in Section 2 hereof, in the interests of efficiency and economy in the administration of government, to issue such designated permits, licenses, certificates of registration and other evidences of compliance with statute or regulation, and renewals thereof, for periods of two years duration rather than upon an annual basis, and at the time

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of issuance or reissuance, or at the time designated by law for the collection of fees therefor, to require the payment of such fees for a period of two years rather than for one year.

“SEC. 2. All permits, licenses, certificates of registration or evidences of authority granted by any state agency, but only as specifically enumerated in this section, shall be issued for a period of two years rather than annually, such being for the right to engage in the following professions, occupations or businesses:

“* * * nurses * * *

“SEC. 3. Commencing with the effective date of this act, such licensing agencies as are authorized to issue any of the foregoing shall issue and reissue such licenses and collect the fees for the same on the basis of two years and the dates by month and day which govern the issuance or reissuance of licenses for one year shall govern the issuance or reissuance of licenses for two years: PROVIDED, That entire fees for a two year period shall be payable before issuance thereof on the day and month designated for payment of fees for one year licenses.

* * *

“SEC. 5. Notice shall be given and forms prepared by such licensing agencies as necessary to execute the provisions of this act and in order to expedite and effectuate the conversion from one year licensing periods to those of two years, such licensing agencies may adopt and promulgate such rules and regulations they may deem necessary in the manner prescribed by law.

“SEC. 6. This act shall be in full force and effect on and after October 1, 1961.”

Under the last referred to statute, it is required that forms be prepared and notices given for the renewal of licenses as required under the first quoted statute. The new statute, although it is not in full force and effect until October 1, 1961, applies to all licenses and renewal of licenses issued by your Board after that date. From its declaration of intent, as well

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as the other provisions of the act, it is clear that the Legislature intended, and has made ample provisions for, each agency there designated to take all necessary steps to effectuate and expedite the purposes of the statute.

When these provisions are applied to your renewal statute, there appears to be no conflict in the application of the provisions of the two statutes as your statute on renewal of nurses' licenses only requires an application for renewal of license to be mailed by your Board "on or before September 1" for the period beginning the following January 1. It further requires such renewal applications, with the required renewal fee, to be returned to your Board "on or before December 31 of such year," for the period beginning the following January 1.

I am, therefore, of the opinion that your Board is not required to issue a certificate of renewal of license prior to October 1, 1961, for the 1962 calendar year, and that, if such renewal certificates are issued after October 1, 1961, they must be for a two-year period and require payment of a two-year renewal fee.

It is my further opinion that application forms for renewal of such licenses must be mailed to persons requiring renewal of their licenses on or before September 1, 1961, such renewal application form to provide for a two-year renewal upon payment of fees for such two-year period.

OFFICIAL OPINION NO. 12

April 3, 1961

Honorable Matthew E. Welsh
Governor of Indiana
206 State House
Indianapolis, Indiana

Dear Governor Welsh:

You have requested my opinion as to the legal status of House Enrolled Act No. 376, passed by the recent General Assembly, and you have forwarded to me the following written statement received by you from the office of the Secretary