



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

September 9, 1959

Honorable George M. Hilliard
Board of Vocational Nurse Examiners
904 Lavaca Street
Austin 1, Texas

Opinion No. WW-697

Re: Whether a Licensed Vocational Nurse, as defined by Article 4528c, Vernon's Civil Statutes, is equivalent to a Licensed Practical Nurse; whether one Registered Nurse may be in charge of nursing at two or more hospitals affiliating in one vocational nursing school; and related questions.

Dear Dr. Hilliard:

Your request for an opinion from this office concerns two questions. Each will be dealt with separately. Your first question is as follows:

"Is a Licensed Vocational Nurse, as defined by the subject statute, (Art. 4528c, VRCS), equivalent to Licensed Practical Nurse, as the latter term is defined and regulated by statute in other states, or are there in Texas an indefinite number of classifications of persons who may practice the nursing arts for hire without qualifying as professional Registered Nurses or as Tubercular Nurses, only one of which classifications, Licensed Vocational Nurse, is regulated by statute?"

The laws of the State of Texas provide for the establishment and set out the qualifications for the following types of nurses. First, a Registered Nurse, who is under the control and supervision of the Board of Nurse Examiners of the State of Texas. Second, there are Tuberculosis Nurses, who are under the control and supervision of a Board of

Honorable George M. Hilliard, page 2 (WW-697)

Tuberculosis Nurses Examiners. A third group is called Licensed Vocational Nurses, and their status has been provided for under Chapter 118, Acts of the 52nd Legislature, 1951 (Art. 4528c, R.C.S.).

Article 4528, Revised Civil Statutes, provides as follows:

"This law shall not be construed to apply to the gratuitous nursing of the sick by friends, nor any person nursing the sick for hire who does not in any way assume or profess to practice as a graduate certified registered nurse." (Emphasis ours).

Section 3 of Article 4528c, Revised Civil Statutes, provides as follows:

"The provisions of this Act shall not apply to gratuitous nursing of the sick by friends or members of the family; nor shall the provisions of this Act apply to persons licensed by the Board of Nurse Examiners; nor shall the provisions of this Act apply to those persons who have graduated or may hereinafter graduate from the State Tuberculosis Sanatorium School of Nurses, so long as such persons nurse only tubercular patients; nor to persons employed by hospitals as maids, porters or orderlies; nor shall the provisions of this Act apply to persons who do not hold themselves out to the public as being Licensed Vocational Nurses or using the abbreviation L. V. N." (Emphasis ours).

From these two sections above quoted, it is seen that we have then a fourth classification of nurses, they being the ones that do not fall under the category of a Registered Nurse, a Graduate Tuberculosis Nurse or a Licensed Vocational Nurse. But, nurses of the fourth classification can neither use the title of Registered Nurse, Graduate Tuberculosis Nurse or Licensed Vocational Nurse, nor hold themselves out at any time to be in any of the first three categories.

Your letter also concerns the interpretation of Section 7 of Article 4528c, in regard to the intention of the Legislature in granting reciprocity to applicants coming into this State. Said Section reads as follows:

"Any applicant of good character who holds a license as an Attendant Nurse, Nursing Attendant,

Honorable George M. Hilliard, page 3 (WW-697)

Nurse Aid, Nursing Aid, Practical Nurse, Technical Nurse, Nurse Technician, Vocational Nurse or any similar title used for a non-professional nurse unqualified for licensure as a Registered Nurse from another state whose requirements are equal to those of Texas, and whose individual qualifications shall be equivalent to those required by this law, may be granted a license to practice non-professional nursing as a Licensed Vocational Nurse in this State without examination provided a fee of Ten Dollars (\$10) is paid to the Board by such applicant."

It is our opinion that the Legislature intended by Section 7 of this Act to provide any applicant outside the State of Texas who holds a license below that of a Registered Nurse and who has completed a course of study and has complied with the general qualifications similar to those provided for by the Texas law to be given reciprocity without an examination regardless of the licensed name used by such applicant.

Your second question is as follows:

"Under Section 12a of our law, may the same 'Registered Nurse' be in charge of nursing at two or more hospitals affiliating in one vocational nursing school?"

Section 12a of Article 4528c reads as follows:

"Any general hospital in regular use for patients which has a registered nurse in charge of nursing, and whose staff consists of one or more licensed physicians licensed by the State Board of Medical Examiners, may qualify as an accredited hospital for Vocational Nurse Training, provided it can and will meet requirements of the Board for the training of Vocational Nurses."

The above statute requires that a hospital which seeks to come under the provisions of this Act by qualifying as an accredited hospital for Vocational Nurse Training have a Registered Nurse in charge of nursing.

It is therefore our opinion that under Section 12a of Article 4528c, it is possible that a Registered Nurse may be in charge of nursing at two or more hospitals affiliating in one vocational nursing school.

Honorable George M. Hilliard, page 4 (WW-697)

SUMMARY

A Licensed Vocational Nurse is equivalent to a Licensed Practical Nurse, as the term is defined and regulated by statute in other states, where the statutes of other states set out the same general qualifications that the statutes of Texas set out and reciprocity will be given by Texas to an applicant who holds a license from a state having these same general qualifications without examination regardless of the licensed name used by such applicant.

Under Section 12a of Article 4528c, the same Registered Nurse may be in charge of nursing at two or more hospitals affiliating in one vocational nursing school.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
Leon F. Pesek
Assistant

LFP:mg

APPROVED:

OPINION COMMITTEE
Geo. P. Blackburn, Chairman

Raymond V. Loftin, Jr.
Elmer McVey
Robert A. Rowland

REVIEWED FOR THE ATTORNEY GENERAL
BY: W. V. Geppert