

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2305. Membership; Appointment; Term of Office; Removal; Vacancies; Qualifications; Immunity.

(a) There is hereby established an autonomous public agency of the Commonwealth of the Northern Mariana Islands, a body corporate to be known as the Northern Mariana Islands Board of Nursing or NMI Board of Nursing to serve those functions provided for in 3 CMC § 2301 et seq. and 3 CMC § 2310 et seq. The Board shall be composed of seven members, of whom four shall be Registered Nurses and/or Advance Practice Registered Nurses; one shall be a Licensed Practical/Vocational Nurse; one shall be a Certified Technician or a Certified Nursing Assistant; and one shall be a representative of the public or community; of the seven board members, one shall be from the island of Tinian, one from the island of Rota, and five from the island of Saipan. The provision of 1 CMC § 2901 shall not apply to the composition of the Board.

(b) The Governor shall appoint members to serve on the Board. Any appointment to fill a position shall be made prior to expiration of the term of the current member. A person appointed shall become a member of the Board on the first day following the appointment expiration date. Appointees to unexpired portions of full terms shall become members of the Board on the day following such appointment. Each term of office shall expire at midnight on the last day of the term of the appointment or at midnight on the date on which any vacancy occurs. Members may be removed pursuant to section 21 of article 3 of the N.M.I. Constitution. In the event that a member's term has expired and no replacement appointment has been made, that member shall continue to serve as a Board member until a replacement has been appointed and the position is filled, or the current member has been reappointed.

(c) The term of office for members of the Board shall be four years; provided, that of the members first appointed after the effective date of this chapter, the Governor shall designate two members to serve for a four-year term, two members to serve for three years, one member to serve for two years, and two members to serve for one year. After the expiration of the initial terms, all of the members subsequently appointed or reappointed shall serve the full four-year term.

(d) Any vacancy in the membership of the Board caused by death, resignation, removal, or otherwise shall be filled for the period of the unexpired term. Vacancies created by reason other than the expiration of a term shall be filled within thirty days after such vacancy occurs. Furthermore, if the position has not yet been filled ninety days after the expiration of a member's first term, the Board may reappoint the member to a second term.

(e) Each Registered Nurse and/or Advance Practice Registered Nurse appointed to the Board shall be a U.S. citizen or national of the United States who is eligible to vote, a resident of the Commonwealth for at least five years, and

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licensed in good standing under the provisions of this chapter, currently engaged in the practice of nursing as a Registered Nurse and/or Advance Practice Registered Nurse, and shall have no less than five years of experience as a Registered Nurse and/or Advanced Practice Registered Nurse, at least three years of which immediately preceded the appointment.

(f) Each Licensed Practical/Vocational Nurse and Certified Technician and/or Certified Nursing Assistant appointed to the Board shall be a U.S. citizen or national of the United States who is eligible to vote, resident of the Commonwealth for at least five years, and licensed in good standing under the provision of this chapter, currently engaged in the practice of nursing, and shall have no less than five years of experience as a Licensed Practical/Vocational Nurse, at least three of which immediately preceded appointment.

(g) The representative of the public shall be a U.S. citizen or national of the United States who is eligible to vote, and a resident of the Commonwealth for at least five years, who is knowledgeable in consumer health concerns, and shall neither be, nor ever have been, associated with the provision of health care or be enrolled in any health-related education program.

(h) The Governor may remove any member from the Board pursuant to section 21 of article 3 of the N.M.I. Constitution.

(i) Notwithstanding any law to the contrary, all members of the Board shall have immunity from individual civil liability while acting within the scope of their duties as Board members.

(j) In the event that the entire Board is, or individual members or staff/employees of the Board are sued, the Attorney General shall appoint an attorney to represent the involved party/parties, pursuant to the Public Employee Legal Defense and Indemnification Act, 7 CMC §§ 2301 through 2307.

(k) Board meetings and hearings shall be open to the public. In accordance with 1 CMC § 9912, the Board may in its discretion conduct part of the meeting in executive session closed to the public.

Source: PL 14-62, § 2 (2305), modified; (b) amended by 16-34 § 4; Subsections (a) and (d) amended by PL 18-25 §§ 2(a), (b) (Oct. 18, 2013), modified.

Commission Comment: Subsection (d) was modified pursuant to 1 CMC § 3806(e); subsection (g) was modified pursuant to 1 CMC § 3806(g) to remove an extra section symbol. The Commission added a “§” pursuant to 1 CMC § 3806(g) in subsection (a), and removed numbers that were repetitions of words pursuant to § 3806(e) in subsection (d) as amended by PL 18-25 (Oct. 18, 2013). PL 18-25 contained, in addition to savings and severability clauses, the following:

Findings and Purpose. The Commonwealth Legislature finds that there is an established Commonwealth Board of Nurse Examiners for the purpose of regulating the practice of nursing in the Commonwealth. Such establishment is to ensure that any person practicing or offering to practice

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nursing in the Commonwealth is properly licensed for the protection of the public's health, safety and welfare. Under current statute, the Board is created within the Department of Public Health and is carrying out its duties as mandated. The Commonwealth Legislature however finds it necessary and reasonable to re-establish the Commonwealth Board of Nurse Examiners as the Northern Marianas Islands Board of Nursing or the NMI Board of Nursing, an autonomous public agency along with expenditure authority over funds of the Commonwealth of the Northern Mariana Islands and provide the board with expenditure authority over its funds to ensure its ability to function independently and more effectively. Due to the Attorney General's Opinion that the CNMI Constitutional Article III § 21 invalidates the previous version of 3 CMC § 2305(d), insofar as Board members are constitutionally prohibited from serving beyond the terms for which they were appointed, the Legislature also finds it prudent to afford to the Board the power to reappoint members to a second term if no other appointment appears forthcoming after ninety days. This ninety day waiting period reinstates to the Board powers as the legislature originally envisioned without infringing upon the Governor's appointment authority. It is therefore the purpose of this Act to re-establish the NMI Board of Nursing as an autonomous public agency, to grant the Board with expenditure authority over available funds, and to give the Board power to reappoint members who have served only one term.