

By: Klick

H.B. No. 2726

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the practice of nursing, including disciplinary
3 procedures of the Texas Board of Nursing; authorizing a fee.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 301.004(a), Occupations Code, is amended
6 to read as follows:

7 (a) This chapter does not apply to:

8 (1) gratuitous nursing care of the sick that is
9 provided by a friend;

10 (2) except as provided by Section 301.452(b-1),
11 nursing care provided during a disaster under the state emergency
12 management plan adopted under Section 418.042, Government Code, if
13 the person providing the care does not hold the person out as a
14 nurse unless the person is licensed in another state;

15 (3) nursing care in which treatment is solely by
16 prayer or spiritual means;

17 (4) an act performed by a person under the delegated
18 authority of a person licensed by the Texas Medical Board;

19 (5) an act performed by a person licensed by another
20 state agency if the act is authorized by the statute under which the
21 person is licensed except that if the person also holds a license
22 under this chapter and the act is within the practice of nursing,
23 the board may take action against that license based on that act;

24 (6) the practice of nursing that is incidental to a

1 program of study by a student enrolled in a nursing education
2 program approved under Section 301.157(d) leading to an initial
3 license as a nurse; or

4 (7) the practice of nursing by a person licensed in
5 another state who is in this state on a nonroutine basis for a
6 period not to exceed 72 hours to:

7 (A) provide care to a patient being transported
8 into, out of, or through this state;

9 (B) provide nursing consulting services; or

10 (C) attend or present a continuing nursing
11 education program.

12 SECTION 2. Section 301.452, Occupations Code, is amended by
13 adding Subsection (b-1) to read as follows:

14 (b-1) Notwithstanding Section 301.004(a)(2), a person
15 practicing nursing in this state under the authority of a waiver or
16 emergency declaration issued by the governor is subject to the
17 jurisdiction of the board and requirements of this subchapter,
18 including disciplinary action under Section 301.453.

19 SECTION 3. Section 301.466(d), Occupations Code, is amended
20 to read as follows:

21 (d) Notwithstanding Subsection (c), if the board orders a
22 nurse to participate in a peer assistance program approved by the
23 board under Section 467.003, Health and Safety Code, or a pilot
24 program approved by the board under Section 301.1605, the
25 complaint, filing of formal charges, nature of those charges, final
26 board order, and disciplinary proceedings are subject to
27 disclosure:

1 (1) only to the same extent as information regarding a
2 complaint is subject to disclosure under Subsection (b); or

3 (2) in a subsequent matter relating to the board order
4 or a subsequent violation of this chapter or a board rule.

5 SECTION 4. Subchapter J, Chapter 301, Occupations Code, is
6 amended by adding Section 301.472 to read as follows:

7 Sec. 301.472. EXPUNCTION OF DISCIPLINARY RECORD. (a) The
8 board by rule shall adopt procedures to expunge records related to
9 the discipline of a nurse under this chapter.

10 (b) To be eligible for expunction of records under this
11 section, a nurse must:

12 (1) successfully complete the requirements of any:

13 (A) disciplinary order imposed on the nurse by
14 the board; and

15 (B) agreed settlement or alternative dispute
16 resolution approved by the board; and

17 (2) not have committed an additional or repeated
18 violation in the five years preceding the date of the filing of a
19 request for an expunction of a record.

20 (c) In determining a nurse's eligibility for the expunction
21 of records under this section, the board shall consider the
22 seriousness of previous violations of this chapter or board rule,
23 as demonstrated by the sanctions imposed on the nurse.

24 (d) Notwithstanding Subsections (b) and (c), the board may
25 not expunge a record related to a violation that directly harmed a
26 patient.

27 (e) A disciplinary order expunged under this section is

1 void.

2 (f) A disciplinary order and any related investigatory
3 document, including any previously filed formal charge, expunged
4 from a nurse's record under this section:

5 (1) is not subject to disclosure, unless an
6 appropriate court order or subpoena provides otherwise; and

7 (2) is not public information and not subject to
8 disclosure under Chapter 552, Government Code.

9 (g) The board shall report to the National Practitioner Data
10 Bank the expunction of a nurse's disciplinary record under this
11 section.

12 (h) The board may establish a fee for the expunction of a
13 record under this section in an amount reasonable and necessary to
14 cover the costs of administering this section.

15 (i) Except as provided by Subsection (f)(1), a nurse whose
16 disciplinary record has been expunged under this section may state
17 in response to an inquiry that the expunged disciplinary record
18 does not exist.

19 SECTION 5. Not later than December 1, 2023, the Texas Board
20 of Nursing shall adopt the rules necessary to implement the changes
21 in law made by this Act.

22 SECTION 6. Section 301.452(b-1), Occupations Code, as added
23 by this Act, applies only to a person who practices nursing on or
24 after the effective date of this Act.

25 SECTION 7. This Act takes effect September 1, 2023.