

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 successfully complete the requirements of
12 any:

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

15 (2) agreed settlement or alternative dispute
16 resolution approved by the board.

17 (c) In determining a nurse's eligibility for the expunction
18 of records under this section, the board may consider:

19 (1) whether the nurse has committed additional or
20 repeated violations of this chapter or board rule during a period
21 established by the board; or

22 (2) the seriousness of previous violations of this
23 chapter or board rule, as demonstrated by the sanctions imposed on
24 the nurse.

25 (d) A disciplinary order expunged under this section is
26 void.

27 (e) A disciplinary order and any related investigatory

1 document, including any previously filed formal charge, expunged
2 from a nurse's record under this section:

3 (1) is not subject to disclosure, discovery, subpoena,
4 or other means of legal compulsion for release; and

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

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

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

13 (h) A nurse whose disciplinary record has been expunged
14 under this section may state in response to an inquiry that the
15 expunged disciplinary record does not exist.

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

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

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