

By: Howard

H.B. No. 4176

Substitute the following for H.B. No. 4176:

By: Klick

C.S.H.B. No. 4176

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the summary suspension of a nursing license in  
3 connection with a fraudulently or unlawfully obtained diploma,  
4 license, or other document.

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

6 SECTION 1. Section 301.454(a), Occupations Code, is amended  
7 to read as follows:

8 (a) Except in the case of a temporary suspension authorized  
9 under Section 301.455, ~~[or]~~ 301.4551, or 301.4552, or an action  
10 taken in accordance with an agreement between the board and a  
11 license holder, the board may not take any disciplinary action  
12 relating to a license unless:

13 (1) the board has served notice to the license holder  
14 of the facts or conduct alleged to warrant the intended action; and

15 (2) the license holder has been given an opportunity,  
16 in writing or through an informal meeting, to show compliance with  
17 all requirements of law for the retention of the license.

18 SECTION 2. Subchapter J, Chapter 301, Occupations Code, is  
19 amended by adding Section 301.4552 to read as follows:

20 Sec. 301.4552. SUMMARY SUSPENSION FOR CERTAIN VIOLATIONS  
21 INVOLVING FRAUDULENT CONDUCT. (a) Notwithstanding any other law,  
22 on a showing of probable cause that the holder of a license issued  
23 under this chapter has violated Section 301.451(1), (2), or (3),  
24 the board may issue an order suspending the license without notice.

1 A showing of probable cause that an individual has violated Section  
2 301.451(1), (2), or (3) constitutes a continuing and imminent  
3 threat to the public welfare.

4 (b) On the issuance of a summary suspension order under this  
5 section, the board shall serve notice of the suspension, including  
6 the basis for the suspension, personally or by certified mail, on  
7 the individual whose license is suspended at the individual's last  
8 known address on file with the board. Service is complete when the  
9 board personally serves the individual or sends the notice.

10 (c) An individual whose license is suspended under this  
11 section may request a hearing to be held by the State Office of  
12 Administrative Hearings. A hearing requested under this section  
13 must be held not later than the 90th day after the date the order of  
14 suspension was issued. If a hearing is not requested under this  
15 subsection on or before the 20th business day after the date the  
16 suspension order was issued, the right to a hearing is waived and  
17 the license shall remain suspended.

18 (d) In a hearing under this section, the State Office of  
19 Administrative Hearings shall consider whether evidence exists to  
20 support a finding that the individual violated Section 301.451(1),  
21 (2), or (3). The individual shall have the opportunity to rebut the  
22 evidence that provided the basis for the summary suspension. The  
23 individual has the burden of proving by a preponderance of the  
24 evidence that the license was lawfully obtained if the individual  
25 submitted, as part of the individual's application, a transcript,  
26 diploma, or other document required for licensure that was issued  
27 or purportedly issued by an entity that has been implicated in a

1 scheme of fraud relating to the issuance of transcripts, diplomas,  
2 or similar documents.

3 (e) If the State Office of Administrative Hearings makes a  
4 finding in a hearing under this section that an individual violated  
5 Section 301.451(1), (2), or (3), the board shall issue an order  
6 revoking the individual's license. If the State Office of  
7 Administrative Hearings makes a finding in a hearing under this  
8 section that an individual did not violate Section 301.451(1), (2),  
9 or (3), the board shall immediately issue an order to reinstate the  
10 individual's license.

11 (f) An individual whose license is revoked under Subsection  
12 (e) may not apply for a license under this chapter until:

13 (1) the first anniversary of the date of issuance of  
14 the order revoking the license under Subsection (e); and

15 (2) the applicant provides evidence of completion of a  
16 nursing education program that meets the requirements of Section  
17 301.157 and board rules adopted under that section.

18 SECTION 3. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2023.