

Amend CSSB 1952 (house committee report) by adding an appropriately numbered part to the bill as follows and renumbering the parts of the bill appropriately:

PART __. NURSING

ARTICLE __. SINGLE NURSING BOARD

SECTION __. The heading to Chapter 301, Occupations Code, is amended to read as follows:

CHAPTER 301. [~~REGISTERED~~] NURSES

SECTION __. Section 301.002, Occupations Code, is amended by adding Subdivisions (3), (4), and (5) to read as follows:

(3) "Nurse" means a person required to be licensed under this chapter to engage in professional or vocational nursing.

(4) "Nursing" means professional or vocational nursing.

(5) "Vocational nursing" means nursing, other than professional nursing, that generally requires experience and education in biological, physical, and social sciences sufficient to qualify as a licensed vocational nurse.

SECTION __. Section 301.003, Occupations Code, is amended to read as follows:

Sec. 301.003. APPLICATION OF SUNSET ACT. The Board of Nurse Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2007 [~~2005~~].

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

(a) This chapter does not apply to:

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

(2) [~~nursing care by a licensed vocational nurse licensed under Chapter 302,~~

~~(3)] nursing care provided during a disaster under the state emergency management plan adopted under Section 418.042, Government Code, if the person providing the care does not hold the person out as a [~~registered or professional~~] nurse unless the person is licensed in another state;~~

(3) [~~(4)~~] nursing care in which treatment is solely by

prayer or spiritual means;

(4) ~~[(5)]~~ an act performed by a person under the delegated authority ~~[control or supervision or at the instruction]~~ of a person licensed by the Texas State Board of Medical Examiners;

(5) ~~[(6)]~~ an act performed by a person licensed by another state agency if the act is authorized by the statute under which the person is licensed;

(6) ~~[(7)]~~ the practice of nursing that is incidental to a program of study by a student enrolled in a board-approved ~~[board-accredited]~~ nursing education program leading to an initial license as a ~~[professional]~~ nurse; or

(7) ~~[(8)]~~ the practice of nursing by a person ~~[registered nurse]~~ licensed in another state who is in this state on a nonroutine basis for a period not to exceed 72 hours to:

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

(B) provide ~~[professional]~~ nursing consulting services; or

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

SECTION _____. Subchapter A, Chapter 301, Occupations Code, is amended by adding Section 301.005 to read as follows:

Sec. 301.005. OCCUPATION TAX AND FEE EXEMPTION. A vocational nurse organization that operates a nonprofit registry to enroll members to provide nursing to the public is not liable for the payment of an occupation tax or license fee unless the law imposing the tax or fee specifically imposes the tax or fee on vocational nurse organizations that operate nonprofit registries.

SECTION _____. Section 301.051(a), Occupations Code, is amended to read as follows:

(a) The Board of Nurse Examiners consists of 13 ~~[nine]~~ members appointed by the governor with the advice and consent of the senate as follows:

(1) six ~~[registered]~~ nurse members, including:

(A) one advanced practice nurse;

(B) two registered nurses who are not advanced practice nurses or members of a nurse faculty; and

(C) three vocational nurses who are not members of a nurse faculty;

(2) three members who are nurse faculty members of schools of nursing:

(A) one of whom is a nurse faculty member of a school of nursing offering a ~~[the]~~ baccalaureate degree program in preparing registered nurses;

(B) one of whom is a nurse faculty member of a school of nursing offering an ~~[the]~~ associate degree program in preparing registered nurses; and

(C) one of whom is a nurse faculty member of a ~~[graduate]~~ school of nursing at an institution of higher education preparing vocational ~~[advanced practice]~~ nurses; and

(3) four ~~[(2) three]~~ members who represent the public.

SECTION _____. Section 301.052(a), Occupations Code, is amended to read as follows:

(a) A person is not eligible for appointment as a registered nurse or vocational nurse member of the board unless the person has practiced ~~[engaged in the]~~ nursing in the role for which the member was appointed ~~[profession]~~ for at least three of the five years preceding the date of appointment.

SECTION _____. Section 301.054, Occupations Code, is amended to read as follows:

Sec. 301.054. TERMS. Members of the board serve staggered six-year terms, with the terms of as near to one-third of the members as possible ~~[one member who is a practicing registered nurse, one member who is a registered nurse engaged in nurse education, and one member who is a representative of the public]~~ expiring on January 31 of each odd-numbered year.

SECTION _____. Section 301.151, Occupations Code, is amended to read as follows:

Sec. 301.151. GENERAL RULEMAKING AUTHORITY. The board may adopt and enforce rules consistent with this chapter and necessary to:

(1) perform its duties and conduct proceedings before the board;

(2) regulate the practice of professional nursing and vocational nursing;

(3) establish standards of professional conduct for license holders under this chapter; and

(4) determine whether an act constitutes the practice of professional nursing or vocational nursing.

SECTION _____. Section 301.154(a), Occupations Code, is amended to read as follows:

(a) The board may recommend to the Texas State Board of Medical Examiners the adoption of rules relating to the delegation by physicians of medical acts to registered nurses and vocational nurses licensed by the board. In making a recommendation, the board may distinguish between nurses on the basis of special training and education.

SECTION _____. The heading to Section 301.157, Occupations Code, is amended to read as follows:

Sec. 301.157. PROGRAMS OF STUDY AND APPROVAL [~~ACCREDITATION~~].

SECTION _____. Sections 301.157(b), (c), and (d), Occupations Code, are amended to read as follows:

(b) The board shall:

(1) prescribe two programs of study to prepare vocational nurses as follows:

(A) a program conducted by an educational unit in nursing within the structure of a school, including a college, university, or proprietary school; and

(B) a program conducted by a hospital;

(2) prescribe and publish the minimum requirements and standards for a course of study in each program that prepares registered nurses or vocational [~~professional~~] nurses;

(3) [~~(2)~~] prescribe other rules as necessary to conduct approved [~~accredited~~] schools of nursing and educational programs for the preparation of registered nurses or vocational [~~professional~~] nurses;

(4) approve [~~(3) —accredit~~] schools of nursing and educational programs that meet the board's requirements; and

(5) [~~(4)~~] deny or withdraw approval [~~accreditation~~]

from a school of nursing or educational program that fails to meet the prescribed course of study or other standard.

(c) A program approved to prepare registered nurses [~~The board~~] may not be [~~require a program that is composed of~~] less than two academic years or more than four calendar years.

(d) A person may not be certified as a graduate of any school of nursing or educational program unless the person has completed the requirements of the prescribed course of study, including clinical practice, of an approved [~~accredited~~] school of nursing or educational program.

SECTION _____. Section 301.158, Occupations Code, is amended to read as follows:

Sec. 301.158. DISSEMINATION OF INFORMATION. The board shall disseminate, at least twice a year and at other times the board determines necessary, information that is of significant interest to [~~professional~~] nurses and employers of [~~professional~~] nurses in this state, including summaries of final disciplinary action taken against [~~registered~~] nurses by the board since its last dissemination of information.

SECTION _____. Section 301.251, Occupations Code, is amended to read as follows:

Sec. 301.251. LICENSE REQUIRED. (a) A person may not practice or offer to practice professional nursing or vocational nursing in this state unless the person is licensed as provided by this chapter.

(b) Unless the person holds a license under this chapter, a person may not use, in connection with the person's name:

(1) the title "Registered Nurse," "Professional Nurse," "Licensed Vocational Nurse," "Vocational Nurse," "Licensed Practical Nurse," "Practical Nurse," or "Graduate Nurse";

(2) the abbreviation "R.N.," "L.V.N.," "V.N.," "L.P.N.," or "P.N."; or

(3) any other designation tending to imply that the person is a licensed registered nurse or vocational nurse.

(c) This section does not apply to a person entitled to practice professional nursing or vocational nursing in this state under Chapter 304, as added by Chapter 1420, Acts of the 77th

Legislature, Regular Session, 2001.

SECTION ____ . Section 301.252, Occupations Code, is amended to read as follows:

Sec. 301.252. LICENSE APPLICATION. (a) Each applicant for a registered nurse license or a vocational nurse license must submit to the board a sworn application that demonstrates the applicant's qualifications under this chapter, accompanied by evidence that the applicant [~~has~~]:

(1) has good professional character; and

(2) has successfully completed an approved [~~accredited~~] program of professional or vocational nursing education.

(b) The board may waive the requirement of Subsection (a)(2) for a vocational nurse applicant if the applicant provides satisfactory sworn evidence that the applicant has completed an acceptable level of education in:

(1) a professional nursing school approved by the board; or

(2) a school of professional nurse education located in another state or a foreign country.

(c) The board by rule shall determine acceptable levels of education under Subsection (b).

SECTION ____ . Section 301.253(c), Occupations Code, is amended to read as follows:

(c) The examination shall be designed to determine the fitness of the applicant to practice professional nursing or vocational nursing.

SECTION ____ . Section 301.256, Occupations Code, is amended to read as follows:

Sec. 301.256. ISSUANCE OF LICENSE. If the results of an examination taken under Section 301.253 or 301.255 satisfy the criteria established by the board under that section, the board shall issue to the applicant a license to practice professional nursing or vocational nursing in this state. The license must be signed by the board's presiding officer and the executive director and attested by the board's seal.

SECTION ____ . Sections 301.257(a) and (g), Occupations Code,

are amended to read as follows:

(a) A person may petition the board for a declaratory order as to the person's eligibility for a license under this chapter if the person:

(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license as a registered nurse or vocational nurse; and

(2) has reason to believe that the person is ineligible for the license.

(g) The board may require an individual accepted for enrollment or enrolled in an educational program preparing a student for initial licensure as a registered nurse or vocational nurse to submit information to the board to permit the board to determine whether the person is aware of the conditions that may disqualify the person from licensure as a registered nurse or vocational nurse on graduation and of the person's right to petition the board for a declaratory order under this section. Instead of requiring the person to submit the information, the board may require the educational program to collect and submit the information on each person accepted for enrollment or enrolled in the program.

SECTION _____. Sections 301.258(a), (d), and (f), Occupations Code, are amended to read as follows:

(a) Pending the results of a licensing examination, the board may issue to an applicant who is a graduate of an approved educational program a permit to practice professional nursing under the direct supervision of a registered nurse or to practice vocational nursing under the direct supervision of a registered nurse or vocational nurse.

(d) The board may issue a temporary permit to practice professional nursing or vocational nursing for the limited purpose of allowing a nurse to satisfy a requirement imposed by the board necessary for:

(1) renewal of an expired license;

(2) reactivation of an inactive license; or

(3) reissuance of a suspended, revoked, or surrendered license.

(f) A person who holds a temporary permit issued under this section is considered to be a licensed registered nurse or vocational nurse for all purposes except to the extent of any stipulation or limitation on practice imposed by the board as a condition of issuing the permit.

SECTION _____. Section 301.259, Occupations Code, is amended to read as follows:

Sec. 301.259. RECIPROCAL LICENSE BY ENDORSEMENT FOR CERTAIN FOREIGN APPLICANTS. On payment of a fee established by the board, the board may issue a license to practice as a registered nurse or vocational nurse in this state by endorsement without examination to an applicant who holds a registration certificate as a registered nurse or vocational nurse, as applicable, issued by a territory or possession of the United States or a foreign country if the board determines that the issuing agency of the territory or possession of the United States or foreign country required in its examination the same general degree of fitness required by this state.

SECTION _____. Section 301.260(a), Occupations Code, is amended to read as follows:

(a) An applicant for a license under this chapter who is licensed as a registered nurse or vocational nurse by another state may qualify for a temporary license by endorsement to practice as a registered nurse or vocational nurse, as applicable, by submitting to the board:

(1) an endorsement fee as determined by the board and a completed sworn application in the form prescribed by the board;

(2) evidence that the person possessed, at the time of initial licensing as a [~~registered~~] nurse, the other qualifications necessary at that time to have been eligible for licensing in this state; and

(3) proof of initial licensing by examination and proof that the license and any other license issued to the applicant by another state have not been suspended, revoked, canceled, surrendered, or otherwise restricted.

SECTION _____. Sections 301.261(a), (c), and (e), Occupations Code, are amended to read as follows:

(a) The board may place on inactive status the license of a person under this chapter who is not actively engaged in the practice of professional nursing or vocational nursing if the person submits a written request to the board in the form and manner determined by the board. The inactive status begins on the expiration date of the person's license.

(c) A person whose license is on inactive status may not perform any professional nursing or vocational nursing service or work.

(e) The board by rule shall permit a person whose license is on inactive status and who is 65 years or older to use, as applicable, the title "Registered Nurse Retired," [~~or~~] "R.N. Retired," "Licensed Vocational Nurse Retired," "Vocational Nurse Retired," "L.V.N. Retired," or "V.N. Retired."

SECTION _____. Section 301.301(f), Occupations Code, is amended to read as follows:

(f) A registered nurse who practices professional nursing or a vocational nurse who practices vocational nursing after the expiration of the nurse's license is an illegal practitioner whose license may be revoked or suspended.

SECTION _____. Section 301.302(a), Occupations Code, is amended to read as follows:

(a) The board may renew without examination the expired license of a person who was licensed to practice professional nursing or vocational nursing in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application.

SECTION _____. Section 301.304(a), Occupations Code, is amended to read as follows:

(a) As part of any continuing education requirements under Section 301.303, a registered nurse [~~license holder~~] shall participate in not less than two hours of continuing education relating to hepatitis C. This subsection applies only to a registered nurse [~~license holder~~] who renews a license on or after June 1, 2002.

SECTION _____. Subchapter G, Chapter 301, Occupations Code, is amended by adding Section 301.305 to read as follows:

Sec. 301.305. BIOTERRORISM RESPONSE COMPONENT IN CONTINUING EDUCATION. (a) As part of continuing education requirements under Section 301.303, a license holder shall participate during each two-year licensing period in at least two hours of continuing education relating to preparing for, reporting medical events resulting from, and responding to the consequences of an incident of bioterrorism.

(b) The continuing education required under Subsection (a) must be part of a program approved under Section 301.303(c).

(c) A license holder who does not comply with the continuing education required under Subsection (a) is subject only to one or both of the following sanctions:

(1) completion of the instruction in a period set by the board of 30 days or less; or

(2) an administrative penalty imposed under Subchapter K.

(d) A license holder who fails to comply with a sanction imposed under Subsection (c) is subject to any sanction imposed under Section 301.453 or Subchapter K.

(e) The board, in consultation with the Texas Department of Health, shall adopt rules establishing the content of the continuing education required under Subsection (a). The board may adopt other rules to implement this section, including rules under Section 301.303(c) for the approval of education programs and providers.

(f) The board may divide the content of the continuing education required under Subsection (a) into one-hour segments and may require that those segments be taken in a certain sequence.

(g) This section expires September 1, 2007.

SECTION ____ . Section 301.351, Occupations Code, is amended to read as follows:

Sec. 301.351. DESIGNATIONS. (a) A person who holds a license as a registered nurse under this chapter:

- (1) is referred to as a registered nurse; and
- (2) may use the abbreviation "R.N."

(b) A person who holds a license as a vocational nurse under this chapter:

(1) is referred to as a licensed vocational nurse or vocational nurse; and

(2) may use the abbreviation "L.V.N." or "V.N."

(c) While on duty providing direct care to a patient, each licensed registered nurse shall wear an insignia identifying the nurse as a registered nurse and each licensed vocational nurse shall wear an insignia identifying the nurse as a vocational nurse.

SECTION __. Sections 301.352(a) and (c), Occupations Code, are amended to read as follows:

(a) A person may not suspend, terminate, or otherwise discipline or discriminate against a [~~registered~~] nurse who refuses to engage in an act or omission relating to patient care that would constitute grounds for reporting the nurse to the board under Subchapter I if the nurse notifies the person at the time of the refusal that the reason for refusing is that the act or omission:

(1) constitutes grounds for reporting the nurse to the board; or

(2) is a violation of this chapter or a rule of the board.

(c) A [~~registered~~] nurse's rights under this section may not be nullified by a contract.

SECTION ____. Section 301.401, Occupations Code, is amended to read as follows:

Sec. 301.401. GROUNDS FOR REPORTING [~~REGISTERED~~] NURSE. The following are grounds for reporting a [~~registered~~] nurse under Section 301.402, 301.403, 301.405, or 301.407:

(1) unnecessary or likely exposure by the [~~registered~~] nurse of a patient or other person to a risk of harm;

(2) unprofessional conduct by the [~~registered~~] nurse;

(3) failure by the [~~registered~~] nurse to adequately care for a patient;

(4) failure by the [~~registered~~] nurse to conform to the minimum standards of acceptable professional nursing practice; or

(5) impairment or likely impairment of the [~~registered~~] nurse's practice by chemical dependency.

SECTION ____. Section 301.402, Occupations Code, is amended

to read as follows:

Sec. 301.402. DUTY OF [~~REGISTERED~~] NURSE TO REPORT. (a) In this section:

(1) "Nursing [~~Professional nursing~~] educational program" means a board-approved [~~board-accredited~~] educational program leading to initial licensure as a registered nurse or vocational nurse.

(2) "Nursing [~~Professional nursing~~] student" means an individual who is enrolled in a professional nursing or vocational nursing educational program.

(b) A [~~registered~~] nurse shall report to the board in the manner prescribed under Subsection (d) if the nurse has reasonable cause to suspect that:

(1) another [~~registered~~] nurse is subject to a ground for reporting under Section 301.401; or

(2) the ability of a [~~professional~~] nursing student to perform the services of the nursing profession would be, or would reasonably be expected to be, impaired by chemical dependency.

(c) In a written, signed report to the appropriate licensing board, a [~~registered~~] nurse may report a licensed health care practitioner, agency, or facility that the nurse has reasonable cause to believe has exposed a patient to substantial risk of harm as a result of failing to provide patient care that conforms to the minimum standards of acceptable and prevailing nursing [~~professional~~] practice.

(d) A report by a [~~registered~~] nurse under Subsection (b) must:

(1) be written and signed; and

(2) include the identity of the [~~registered~~] nurse or student and any additional information required by the board.

(e) A [~~registered~~] nurse may make a report required under Subsection (b)(2) to the [~~professional~~] nursing educational program in which the student is enrolled instead of reporting to the board.

SECTION _____. Section 301.403, Occupations Code, is amended to read as follows:

Sec. 301.403. DUTY OF PEER REVIEW COMMITTEE TO REPORT. A

~~[professional]~~ nursing peer review committee operating under Chapter 303 that has a ground for reporting a ~~[registered]~~ nurse under Section 301.401 shall file with the board a written, signed report that includes:

- (1) the identity of the nurse;
- (2) a description of any corrective action taken against the nurse;
- (3) a statement whether the ~~[professional]~~ nursing peer review committee recommends that the board take formal disciplinary action against the nurse; and
- (4) any additional information the board requires.

SECTION ____ . Section 301.404, Occupations Code, is amended to read as follows:

Sec. 301.404. DUTY OF NURSING EDUCATIONAL PROGRAM TO REPORT. (a) In this section, "~~[professional]~~ nursing educational program" and "~~[professional]~~ nursing student" have the meanings assigned by Section 301.402(a).

(b) A ~~[professional]~~ nursing educational program that has reasonable cause to suspect that the ability of a ~~[professional]~~ nursing student to perform the services of the nursing profession would be, or would reasonably be expected to be, impaired by chemical dependency shall file with the board a written, signed report that includes the identity of the student and any additional information the board requires.

SECTION ____ . Section 301.405, Occupations Code, is amended to read as follows:

Sec. 301.405. DUTY OF PERSON EMPLOYING ~~[REGISTERED]~~ NURSE TO REPORT. (a) This section applies only to a person who employs, hires, or contracts for the services of a ~~[registered]~~ nurse, including:

- (1) a health care facility, including a hospital, health science center, nursing home, or home health agency;
- (2) a state agency;
- (3) a political subdivision;
- (4) a school of ~~[professional]~~ nursing; and
- (5) a temporary nursing service.

(b) A person that terminates, suspends for more than seven

days, or takes other substantive disciplinary action, as defined by the board, against a [~~registered~~] nurse because a ground under Section 301.401 exists to report the nurse shall report in writing to the board the identity of the nurse and any additional information the board requires.

(c) Except as provided by Subsection (g), each [~~Each~~] person subject to this section that regularly employs, hires, or otherwise contracts for the services of 10 or more [~~registered~~] nurses shall develop a written plan for identifying and reporting a [~~registered~~] nurse in its service against whom a ground under Section 301.401 exists. The plan must include an appropriate process for the review by a [~~professional~~] nursing peer review committee established and operated under Chapter 303 of any incident reportable under this section and for the affected nurse to submit rebuttal information to that committee. Review by the committee is only advisory.

(d) The review by the peer review committee must include a determination as to whether a ground under Section 301.401 exists to report the [~~registered~~] nurse undergoing review. The peer review committee's determination must be included in the report made to the board under Subsection (b).

(e) The requirement that a report to the board be reviewed by a [~~professional~~] nursing peer review committee:

(1) applies only to a required report; and

(2) does not subject a person's administrative decision to discipline a [~~registered~~] nurse to the peer review process or prevent a person from taking disciplinary action before review by the peer review committee is conducted.

(f) The board shall enter into memoranda of understanding with each state agency that licenses, registers, or certifies a health care facility or agency or surveys that facility or agency with respect to [~~professional~~] nursing care as to how that state agency can promote compliance with Subsection (c).

(g) A person is not required to develop a written plan under Subsection (c) for peer review of:

(1) a registered nurse, unless the person regularly employs, hires, or otherwise contracts for the services of at least five registered nurses; or

(2) a vocational nurse, unless the person regularly employs, hires, or otherwise contracts for the services of at least five vocational nurses.

SECTION ____ . Section 301.406, Occupations Code, is amended to read as follows:

Sec. 301.406. DUTY OF CERTAIN PROFESSIONAL ASSOCIATIONS AND ORGANIZATIONS TO REPORT. A professional association of [~~registered~~] nurses or an organization that conducts a certification or accreditation program for [~~registered~~] nurses and that expels, decertifies, or takes any other substantive disciplinary action, as defined by the board, against a [~~registered~~] nurse as a result of the nurse's failure to conform to the minimum standards of acceptable [~~professional~~] nursing practice shall report in writing to the board the identity of the nurse and any additional information the board requires.

SECTION ____ . Section 301.407, Occupations Code, is amended to read as follows:

Sec. 301.407. DUTY OF STATE AGENCY TO REPORT. (a) This section applies only to a state agency that:

(1) licenses, registers, or certifies:

(A) a hospital;

(B) a nursing home;

(C) a health science center;

(D) a home health agency; or

(E) another health care facility or agency; or

(2) surveys a facility or agency listed in Subdivision (1) regarding the quality of [~~professional~~] nursing care provided by the facility or agency.

(b) Unless expressly prohibited by state or federal law, a state agency that has reason to believe a ground for reporting a [~~registered~~] nurse exists under Section 301.401 shall report in writing to the board the identity of that [~~registered~~] nurse.

SECTION ____ . Section 301.408, Occupations Code, is amended to read as follows:

Sec. 301.408. DUTY OF [~~PROFESSIONAL~~] LIABILITY INSURER TO REPORT. (a) Each insurer that provides to a [~~registered~~] nurse [~~professional~~] liability insurance that covers claims arising from

providing or failing to provide [~~professional~~] nursing care shall submit to the board the report or data required by this section at the time prescribed.

(b) The report or data must be provided for:

(1) a complaint filed in court against a [~~registered~~] nurse that seeks damages related to the nurse's conduct in providing or failing to provide [~~professional~~] nursing care; and

(2) a settlement of a claim or lawsuit made on behalf of a nurse.

(c) Not later than the 30th day after the date the insurer receives a complaint subject to Subsection (b), the insurer shall provide to the board:

(1) the name of the [~~registered~~] nurse against whom the claim is filed;

(2) the policy number;

(3) the policy limits;

(4) a copy of the petition;

(5) a copy of the answer; and

(6) other relevant information known by the insurer, as required by the board.

(d) Not later than the 30th day after the date of a judgment, dismissal, or settlement of a suit involving an insured [~~registered~~] nurse or settlement of a claim on behalf of the nurse without the filing of a lawsuit, the insurer shall provide to the board information regarding the date of the judgment, dismissal, or settlement and, if appropriate:

(1) whether an appeal has been taken from the judgment and by which party;

(2) the amount of the settlement or judgment against the nurse; and

(3) other relevant information known by the insurer, as required by the board.

(e) A [~~registered~~] nurse shall report the information required to be reported under this section if the nurse is named as a defendant in a claim arising from providing or failing to provide [~~professional~~] nursing care and the nurse:

(1) does not carry or is not covered by [~~professional~~]

liability insurance; or

(2) is insured by a nonadmitted carrier.

SECTION _____. Section 301.409(a), Occupations Code, is amended to read as follows:

(a) The attorney representing the state shall cause the clerk of the court of record in which the conviction, adjudication, or finding is entered to prepare and forward to the board a certified true and correct abstract of the court record of the case not later than the 30th day after the date:

(1) a person known to be a [~~registered~~] nurse who is licensed, otherwise lawfully practicing in this state, or applying to be licensed to practice is convicted of:

(A) a felony;

(B) a misdemeanor involving moral turpitude;

(C) a violation of a state or federal narcotics or controlled substance law; or

(D) an offense involving fraud or abuse under the Medicare or Medicaid program; or

(2) a court finds that a [~~registered~~] nurse is mentally ill or mentally incompetent.

SECTION _____. Section 301.410, Occupations Code, is amended to read as follows:

Sec. 301.410. REPORT REGARDING IMPAIRMENT BY CHEMICAL DEPENDENCY OR MENTAL ILLNESS. A person who is required to report a [~~registered~~] nurse under this subchapter because the nurse is impaired or suspected of being impaired by chemical dependency or mental illness may report to a peer assistance program approved by the board under Chapter 467, Health and Safety Code, instead of reporting to the board or requesting review by a [~~professional~~] nursing peer review committee.

SECTION _____. Section 301.414, Occupations Code, is amended to read as follows:

Sec. 301.414. NOTICE AND REVIEW OF REPORT. (a) The board shall notify each [~~registered~~] nurse who is reported to the board under Section 301.402, 301.403, 301.405, 301.406, 301.407, 301.408, or 301.409 of the filing of the report unless the notification would jeopardize an active investigation.

(b) The [~~registered~~] nurse or the nurse's authorized representative is entitled on request to review any report submitted to the board under a section specified under Subsection (a) unless doing so would jeopardize an active investigation. The board may not reveal the identity of the person making or signing the report.

SECTION _____. Section 301.415(a), Occupations Code, is amended to read as follows:

(a) A [~~registered~~] nurse who is entitled to receive notice under Section 301.414 or the authorized representative of the nurse may file with the board a statement of reasonable length containing the nurse's rebuttal of any information in the report to the board.

SECTION _____. Section 301.416(b), Occupations Code, is amended to read as follows:

(b) If the board determines that the reported conduct does not indicate that the continued practice of [~~professional~~] nursing by the nurse poses a risk of harm to a client or other person, the board, with the written consent of the nurse and the person making the report, may elect not to proceed with an investigation or to file formal charges. The board shall:

- (1) maintain a record of the report; and
- (2) investigate the report if it receives two or more reports involving separate incidents regarding the nurse in any five-year period.

SECTION _____. Sections 301.418(b) and (c), Occupations Code, are amended to read as follows:

(b) A report or information submitted as required or authorized by this subchapter arising out of the provision or failure to provide [~~professional~~] nursing services may not be made available in a liability action for:

- (1) discovery;
- (2) court subpoena; or
- (3) introduction into evidence.

(c) A person is not prevented from taking disciplinary action against a [~~registered~~] nurse by:

- (1) the filing of a report under this subchapter with the board;

- (2) an investigation by the board; or
- (3) the disposition of a matter by the board.

SECTION ____ . Sections 301.419(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) In this section, "minor incident" means conduct that does not indicate that the continuing practice of [~~professional~~] nursing by an affected nurse poses a risk of harm to a client or other person.

(c) If the board determines that a report submitted under this subchapter is without merit, the board shall expunge the report from the [~~registered~~] nurse's file.

(d) The board shall inform, in the manner the board determines appropriate, [~~registered~~] nurses, facilities, agencies, and other persons of their duty to report under this subchapter.

SECTION ____ . Section 301.451, Occupations Code, is amended to read as follows:

Sec. 301.451. CERTAIN PROHIBITED PRACTICES. A person may not:

(1) sell, fraudulently obtain, or fraudulently furnish a nursing diploma, license, renewal license, or record;

(2) assist another person in selling, fraudulently obtaining, or fraudulently furnishing a nursing diploma, license, renewal license, or record;

(3) practice [~~professional~~] nursing under a diploma, license, or record that was:

(A) obtained unlawfully or fraudulently; or

(B) signed or issued unlawfully or under false representation; or

(4) practice [~~professional~~] nursing in a period in which the person's license is suspended or revoked.

SECTION ____ . Sections 301.452(a) and (b), Occupations Code, are amended to read as follows:

(a) In this section, "intemperate use" includes practicing [~~professional~~] nursing or being on duty or on call while under the influence of alcohol or drugs.

(b) A person is subject to denial of a license or to disciplinary action under this subchapter for:

(1) a violation of this chapter, a rule or regulation not inconsistent with this chapter, or an order issued under this chapter;

(2) fraud or deceit in procuring or attempting to procure a license to practice professional nursing or vocational nursing;

(3) a conviction for a felony or for a misdemeanor involving moral turpitude;

(4) conduct that results in the revocation of probation imposed because of conviction for a felony or for a misdemeanor involving moral turpitude;

(5) use of a nursing license, diploma, or permit, or the transcript of such a document, that has been fraudulently purchased, issued, counterfeited, or materially altered;

(6) impersonating or acting as a proxy for another person in the licensing examination required under Section 301.253 or 301.255;

(7) directly or indirectly aiding or abetting an unlicensed person in connection with the unauthorized practice of [~~professional~~] nursing;

(8) revocation, suspension, or denial of, or any other action relating to, the person's license or privilege to practice nursing in another jurisdiction;

(9) intemperate use of alcohol or drugs that the board determines endangers or could endanger a patient;

(10) unprofessional or dishonorable conduct that, in the board's opinion, is likely to deceive, defraud, or injure a patient or the public;

(11) adjudication of mental incompetency;

(12) lack of fitness to practice because of a mental or physical health condition that could result in injury to a patient or the public; or

(13) failure to care adequately for a patient or to conform to the minimum standards of acceptable [~~professional~~] nursing practice in a manner that, in the board's opinion, exposes a patient or other person unnecessarily to risk of harm.

SECTION ____ . Sections 301.453(a), (b), and (c), Occupations

Code, are amended to read as follows:

(a) If the board determines that a person has committed an act listed in Section 301.452(b), the board shall enter an order imposing one or more of the following:

(1) denial of the person's application for a license, license renewal, or temporary permit;

(2) issuance of a written warning;

(3) administration of a public reprimand;

(4) limitation or restriction of the person's license, including:

(A) limiting to or excluding from the person's practice one or more specified activities of [~~professional~~] nursing; or

(B) stipulating periodic board review;

(5) suspension of the person's license for a period not to exceed five years;

(6) revocation of the person's license; or

(7) assessment of a fine.

(b) In addition to or instead of an action under Subsection (a), the board, by order, may require the person to:

(1) submit to care, counseling, or treatment by a health provider designated by the board as a condition for the issuance or renewal of a license;

(2) participate in a program of education or counseling prescribed by the board;

(3) practice for a specified period under the direction of a registered nurse or vocational nurse designated by the board; or

(4) perform public service the board considers appropriate.

(c) The board may probate any penalty imposed on a [~~registered~~] nurse and may accept the voluntary surrender of a license. The board may not reinstate a surrendered license unless it determines that the person is competent to resume practice.

SECTION _____. Section 301.455(a), Occupations Code, is amended to read as follows:

(a) The license of a [~~registered~~] nurse shall be temporarily

suspended on a determination by a majority of the board or a three-member committee of board members designated by the board that, from the evidence or information presented, the continued practice of the [~~registered~~] nurse would constitute a continuing and imminent threat to the public welfare.

SECTION ____ . Section 301.457, Occupations Code, is amended to read as follows:

Sec. 301.457. COMPLAINT AND INVESTIGATION. (a) The board or any person may initiate a proceeding under this subchapter by filing with the board a complaint against a [~~registered~~] nurse. The complaint must be in writing and signed by the complainant.

(b) Except as otherwise provided by this section, the board or a person authorized by the board shall conduct each investigation. Each complaint against a [~~registered~~] nurse that requires a determination of [~~professional~~] nursing competency shall be reviewed by a board member, consultant, or employee with a [~~professional~~] nursing background the board considers sufficient.

(c) On the filing of a complaint, the board:

(1) may conduct a preliminary investigation into the identity of the [~~registered~~] nurse named or described in the complaint;

(2) shall make a timely and appropriate preliminary investigation of the complaint; and

(3) may issue a warning or reprimand to the [~~registered~~] nurse.

(d) After any preliminary investigation to determine the identity of the subject of the complaint, unless it would jeopardize an investigation, the board shall notify the [~~registered~~] nurse that a complaint has been filed and the nature of the complaint. If the investigation reveals probable cause to take further disciplinary action, the board shall either attempt an informal disposition of the complaint or file a formal charge against the [~~registered~~] nurse stating the provision of this chapter or board rule that is alleged to have been violated and a brief description of each act or omission that constitutes the violation.

(e) The board shall conduct an investigation of the

complaint to determine:

(1) whether the [~~registered~~] nurse's continued practice of [~~professional~~] nursing poses a risk of harm to clients or other persons; and

(2) whether probable cause exists that a [~~registered~~] nurse committed an act listed in Section 301.452(b) or that violates other law.

SECTION _____. Sections 301.458(a) and (c), Occupations Code, are amended to read as follows:

(a) Unless there is an agreed disposition of the complaint under Section 301.463, and if probable cause is found under Section 301.457(e)(2), the board or the board's authorized representative shall initiate proceedings by filing formal charges against the [~~registered~~] nurse.

(c) A copy of the formal charge shall be served on the [~~registered~~] nurse or the nurse's counsel of record.

SECTION _____. Section 301.459(b), Occupations Code, is amended to read as follows:

(b) In any hearing under this section, a [~~registered~~] nurse is entitled to appear in person or by counsel.

SECTION _____. Section 301.462, Occupations Code, is amended to read as follows:

Sec. 301.462. VOLUNTARY SURRENDER OF LICENSE. The board may revoke a [~~registered~~] nurse's license without formal charges, notice, or opportunity of hearing if the nurse voluntarily surrenders the nurse's license to the board and executes a sworn statement that the nurse does not desire to be licensed.

SECTION _____. Section 301.463(b), Occupations Code, is amended to read as follows:

(b) An agreed disposition of a complaint is considered to be a disciplinary order for purposes of reporting under this chapter and an administrative hearing and proceeding by a state or federal regulatory agency regarding the practice of [~~professional~~] nursing.

SECTION _____. Section 301.466, Occupations Code, is amended to read as follows:

Sec. 301.466. CONFIDENTIALITY. (a) A complaint and

investigation concerning a [~~registered~~] nurse under this subchapter and all information and material compiled by the board in connection with the complaint and investigation are:

(1) confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the board or a board employee or agent involved in license holder discipline.

(b) Notwithstanding Subsection (a), information regarding a complaint and an investigation may be disclosed to:

(1) a person involved with the board in a disciplinary action against the nurse;

(2) a [~~professional~~] nursing licensing or disciplinary board in another jurisdiction;

(3) a peer assistance program approved by the board under Chapter 467, Health and Safety Code;

(4) a law enforcement agency; or

(5) a person engaged in bona fide research, if all information identifying a specific individual has been deleted.

(c) The filing of formal charges against a [~~registered~~] nurse by the board, the nature of those charges, disciplinary proceedings of the board, and final disciplinary actions, including warnings and reprimands, by the board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

SECTION _____. Section 301.467(a), Occupations Code, is amended to read as follows:

(a) On application, the board may reinstate a license to practice professional nursing or vocational nursing to a person whose license has been revoked, suspended, or surrendered.

SECTION _____. Section 301.468(a), Occupations Code, is amended to read as follows:

(a) The board may determine that an order denying a license application or suspending a license be probated. A person subject to a probation order shall conform to each condition the board sets as the terms of probation, including a condition:

(1) limiting the practice of the person to, or excluding, one or more specified activities of professional nursing or vocational nursing; or

(2) requiring the person to submit to supervision, care, counseling, or treatment by a practitioner designated by the board.

SECTION _____. Section 301.469, Occupations Code, is amended to read as follows:

Sec. 301.469. NOTICE OF FINAL ACTION. If the board takes a final disciplinary action, including a warning or reprimand, against a [~~registered~~] nurse under this subchapter, the board shall immediately send a copy of the board's final order to the nurse and to the last known employer of the nurse.

ARTICLE _____. CONFORMING AMENDMENTS FOR SINGLE NURSING BOARD

SECTION _____. Section 84.003(5), Civil Practice and Remedies Code, is amended to read as follows:

(5) "Volunteer health care provider" means an individual who voluntarily provides health care services without compensation or expectation of compensation and who is:

(A) an individual who is licensed to practice medicine under Subtitle B, Title 3, Occupations Code;

(B) a retired physician who is eligible to provide health care services, including a retired physician who is licensed but exempt from paying the required annual registration fee under Section 156.002, Occupations Code;

(C) a physician assistant licensed under Chapter 204, Occupations Code, or a retired physician assistant who is eligible to provide health care services under the law of this state;

(D) a registered nurse, including an advanced nurse practitioner, or vocational nurse, licensed under Chapter 301, Occupations Code, or a retired vocational nurse or registered nurse, including a retired advanced nurse practitioner, who is eligible to provide health care services under the law of this state;

(E) [~~a licensed vocational nurse licensed under Chapter 302, Occupations Code, or a retired licensed vocational~~

~~nurse who is eligible to provide health care services under the law of this state;~~

~~(F)~~ a pharmacist licensed under Subtitle J, Title 3, Occupations Code, or a retired pharmacist who is eligible to provide health care services under the law of this state;

(F) ~~(C)~~ a podiatrist licensed under Chapter 202, Occupations Code, or a retired podiatrist who is eligible to provide health care services under the law of this state;

(G) ~~(H)~~ a dentist licensed under Subtitle D, Title 3, Occupations Code, or a retired dentist who is eligible to provide health care services under the law of this state;

(H) ~~(I)~~ a dental hygienist licensed under Subtitle D, Title 3, Occupations Code, or a retired dental hygienist who is eligible to provide health care services under the law of this state; or

(I) ~~(J)~~ an optometrist or therapeutic optometrist licensed under Chapter 351, Occupations Code, or a retired optometrist or therapeutic optometrist who is eligible to provide health care services under the law of this state.

SECTION ____ . Section 61.657(b), Education Code, is amended to read as follows:

(b) The board shall appoint an eight-member advisory committee to advise the board concerning assistance provided under this subchapter to vocational nursing students. The advisory committee consists of:

- (1) a chair named by the board;
- (2) one representative named by the Licensed Vocational Nurses Association of Texas;
- (3) one representative named by the Texas Organization of Nurse Executives;
- (4) one representative named by the Board of ~~Vocational~~ Nurse Examiners;
- (5) two representatives of vocational nursing educational programs named by the Texas Association of Vocational Nurse Educators;
- (6) one representative named by the Texas Health Care Association; and

(7) one representative named by the Texas Association of Homes for the Aging.

SECTION ____ . Section 232.002, Family Code, is amended to read as follows:

Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. The following are licensing authorities subject to this chapter:

- (1) Department of Agriculture;
- (2) Texas Commission on Alcohol and Drug Abuse;
- (3) Texas Alcoholic Beverage Commission;
- (4) Texas Appraiser Licensing and Certification Board;
- (5) Texas Board of Architectural Examiners;
- (6) State Board of Barber Examiners;
- (7) Texas Board of Chiropractic Examiners;
- (8) Comptroller of Public Accounts;
- (9) Texas Cosmetology Commission;
- (10) Court Reporters Certification Board;
- (11) State Board of Dental Examiners;
- (12) Texas State Board of Examiners of Dietitians;
- (13) Texas Funeral Service Commission;
- (14) Texas Department of Health;
- (15) Texas Department of Human Services;
- (16) Texas Board of Professional Land Surveying;
- (17) Texas Department of Licensing and Regulation;
- (18) Texas State Board of Examiners of Marriage and Family Therapists;
- (19) Texas State Board of Medical Examiners;
- (20) Midwifery Board;
- (21) Texas Commission on Environmental Quality
~~[Natural Resource Conservation Commission]~~;
- (22) Board of Nurse Examiners;
- (23) Texas Board of Occupational Therapy Examiners;
- (24) Texas Optometry Board;
- (25) Parks and Wildlife Department;
- (26) Texas State Board of Examiners of Perfusionists;
- (27) Texas State Board of Pharmacy;
- (28) Texas Board of Physical Therapy Examiners;

- (29) Texas State Board of Plumbing Examiners;
- (30) Texas State Board of Podiatric Medical Examiners;
- (31) Polygraph Examiners Board;
- (32) Texas Commission on Private Security;
- (33) Texas State Board of Examiners of Professional Counselors;
- (34) Texas Board of Professional Engineers;
- (35) Department of Protective and Regulatory Services;
- (36) Texas State Board of Examiners of Psychologists;
- (37) Texas State Board of Public Accountancy;
- (38) Department of Public Safety of the State of Texas;
- (39) Public Utility Commission of Texas;
- (40) Railroad Commission of Texas;
- (41) Texas Real Estate Commission;
- (42) State Bar of Texas;
- (43) Texas State Board of Social Worker Examiners;
- (44) State Board of Examiners for Speech-Language Pathology and Audiology;
- (45) Texas Structural Pest Control Board;
- (46) Board of Tax Professional Examiners;
- (47) Secretary of State;
- (48) Supreme Court of Texas;
- (49) Texas Transportation Commission;
- (50) State Board of Veterinary Medical Examiners;
- (51) ~~Board of Vocational Nurse Examiners;~~
- ~~(52)~~ Texas Ethics Commission;
- (52) ~~(53)~~ Advisory Board of Athletic Trainers;
- (53) ~~(54)~~ State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;
- (54) ~~(55)~~ Texas Board of Licensure for Professional Medical Physicists;
- (55) ~~(56)~~ Texas Department of Insurance;
- (56) ~~(57)~~ Texas Board of Orthotics and Prosthetics;
- (57) ~~(58)~~ savings and loan commissioner;
- (58) ~~(59)~~ Texas Juvenile Probation Commission; and

(59) [~~60~~] Texas Lottery Commission under Chapter 466, Government Code.

SECTION ____ . Section 487.101(3), Government Code, is amended to read as follows:

(3) "Postsecondary educational institution" means:

(A) an institution of higher education, as defined by Section 61.003, Education Code;

(B) a nonprofit, independent institution approved under Section 61.222, Education Code; or

(C) a nonprofit, health-related school or program accredited by the Southern Association of Colleges and Schools, the Liaison Committee on Medical Education, the American Osteopathic Association, the Board of Nurse Examiners, [~~the Board of Vocational Nurse Examiners,~~] or, in the case of allied health, an accrediting body recognized by the United States Department of Education.

SECTION ____ . Section 487.151(2), Government Code, is amended to read as follows:

(2) "Postsecondary educational institution" means:

(A) an institution of higher education, as defined by Section 61.003, Education Code;

(B) a nonprofit, independent institution approved under Section 61.222, Education Code; or

(C) a nonprofit, health-related school or program accredited by the Southern Association of Colleges and Schools, the Liaison Committee on Medical Education, the American Osteopathic Association, the Board of Nurse Examiners, [~~the Board of Vocational Nurse Examiners,~~] or, in the case of allied health, an accrediting body recognized by the United States Department of Education.

SECTION ____ . Section 531.051(f), Government Code, is amended to read as follows:

(f) Section 301.251(a), Occupations Code, does not apply to delivery of a service for which payment is provided under the voucher payment program developed under this section if:

(1) the person who delivers the service:

(A) has not been denied a license under Chapter

301 [~~or 302~~], Occupations Code;

(B) has not been issued a license under Chapter 301, Occupations Code, that is revoked or suspended; and

(C) provides a service listed under Subsection (h); and

(2) the consumer who receives the service:

(A) has a functional disability and the service would have been performed by the consumer, or the parent or guardian for the consumer, except for that disability; and

(B) if:

(i) the consumer is capable of training the person in the proper performance of the service, the consumer directs the person to deliver the service; or

(ii) the consumer is not capable of training the person in the proper performance of the service, the consumer's parent or guardian is capable of training the person in the proper performance of the service and directs the person to deliver the service.

SECTION ____ . Section 2054.252(a), Government Code, as added by Chapter 353, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

(a) The following licensing authorities shall participate in the system established under Section 2054.253, as added by Chapter 353, Acts of the 77th Legislature, Regular Session, 2001:

- (1) State Board of Barber Examiners;
- (2) Texas Board of Chiropractic Examiners;
- (3) Texas Cosmetology Commission;
- (4) Court Reporters Certification Board;
- (5) State Board of Dental Examiners;
- (6) Texas Funeral Service Commission;
- (7) Texas Board of Professional Land Surveying;
- (8) Texas State Board of Medical Examiners;
- (9) Board of Nurse Examiners;
- (10) [~~Board of Vocational Nurse Examiners,~~
- [~~11~~] Texas Optometry Board;
- (11) [~~12~~] Texas Structural Pest Control Board;
- (12) [~~13~~] Texas State Board of Pharmacy;

(13) [~~(14)~~] Executive Council of Physical Therapy and Occupational Therapy Examiners;

(14) [~~(15)~~] Texas State Board of Plumbing Examiners;

(15) [~~(16)~~] Texas State Board of Podiatric Medical Examiners;

(16) [~~(17)~~] Board of Tax Professional Examiners;

(17) [~~(18)~~] Polygraph Examiners Board;

(18) [~~(19)~~] Texas State Board of Examiners of Psychologists;

(19) [~~(20)~~] State Board of Veterinary Medical Examiners;

(20) [~~(21)~~] Texas Real Estate Commission;

(21) [~~(22)~~] Texas Appraiser Licensing and Certification Board; and

(22) [~~(23)~~] Texas Department of Licensing and Regulation.

SECTION ____ . Section 81.010(c), Health and Safety Code, is amended to read as follows:

(c) The council consists of one representative from each of the following agencies appointed by the executive director or commissioner of each agency:

(1) the department;

(2) the Texas Department of Mental Health and Mental Retardation;

(3) the Texas Department of Human Services;

(4) the Texas Commission on Alcohol and Drug Abuse;

(5) the Texas Rehabilitation Commission;

(6) the Texas Youth Commission;

(7) the Texas Department of Criminal Justice;

(8) the Texas Juvenile Probation Commission;

(9) the Texas Commission for the Blind;

(10) the Texas Commission for the Deaf and Hard of Hearing;

(11) the Department of Protective and Regulatory Services;

(12) the Texas Education Agency;

(13) the Texas State Board of Medical Examiners;

- (14) the Board of Nurse Examiners;
- (15) ~~[the Board of Vocational Nurse Examiners;~~
- ~~[(16)]~~ the State Board of Dental Examiners;
- (16) ~~[(17)]~~ the Health and Human Services Commission;
- (17) ~~[(18)]~~ the Texas Department on Aging; and
- (18) ~~[(19)]~~ the Texas Workforce Commission.

SECTION ____ . Section 142.022, Health and Safety Code, is amended to read as follows:

Sec. 142.022. EXEMPTIONS FOR NURSING STUDENTS AND MEDICATION AIDE TRAINEES. (a) Sections 142.021 and 142.029 do not apply to:

(1) a graduate nurse holding a temporary permit issued by the Board of Nurse Examiners;

(2) a student enrolled in an accredited school of nursing or program for the education of registered nurses who is administering medications as part of the student's clinical experience;

(3) a graduate vocational nurse holding a temporary permit issued by the Board of ~~[Vocational]~~ Nurse Examiners;

(4) a student enrolled in an accredited school of vocational nursing or program for the education of vocational nurses who is administering medications as part of the student's clinical experience; or

(5) a trainee in a medication aide training program approved by the department under Section 142.024 who is administering medications as part of the trainee's clinical experience.

(b) The administration of medications by persons exempted under Subdivisions (1) through (4) of Subsection (a) is governed by the terms of the memorandum of understanding executed by the department and the Board of Nurse Examiners ~~[or the department and the Board of Vocational Nurse Examiners, as appropriate]~~.

SECTION ____ . Section 164.003(6), Health and Safety Code, is amended to read as follows:

- (6) "Mental health professional" means a:
 - (A) "physician" as defined by Section 571.003;
 - (B) "licensed professional counselor" as defined

by Section 503.002, Occupations Code;

(C) "chemical dependency counselor" as defined by Section 504.001, Occupations Code;

(D) "psychologist" offering "psychological services" as defined by Section 501.003, Occupations Code;

(E) "registered nurse" licensed under Chapter 301, Occupations Code;

(F) "~~licensed~~ vocational nurse" licensed under Chapter 301 [~~as defined by Section 302.001~~], Occupations Code;

(G) "licensed marriage and family therapist" as defined by Section 502.002, Occupations Code; and

(H) "social worker" as defined by Section 505.002, Occupations Code.

SECTION ____ . Section 242.607, Health and Safety Code, is amended to read as follows:

Sec. 242.607. EXEMPTIONS FOR NURSING STUDENTS AND MEDICATION AIDE TRAINEES. (a) Sections 242.606 and 242.614 do not apply to:

(1) a graduate nurse holding a temporary permit issued by the Board of Nurse Examiners;

(2) a student enrolled in an accredited school of nursing or program for the education of registered nurses who is administering medications as part of the student's clinical experience;

(3) a graduate vocational nurse holding a temporary permit issued by the Board of [~~Vocational~~] Nurse Examiners;

(4) a student enrolled in an accredited school of vocational nursing or program for the education of vocational nurses who is administering medications as part of the student's clinical experience; or

(5) a trainee in a medication aide training program approved by the department under this subchapter who is administering medications as part of the trainee's clinical experience.

(b) The administration of medications by persons exempted under Subdivisions (1) through (4) of Subsection (a) is governed by the terms of the memorandum of understanding executed by the

department and the Board of Nurse Examiners [~~or the department and the Board of Vocational Nurse Examiners, as appropriate~~].

SECTION ____ . Section 36.132(a)(2), Human Resources Code, is amended to read as follows:

- (2) "Licensing authority" means:
- (A) the Texas State Board of Medical Examiners;
 - (B) the State Board of Dental Examiners;
 - (C) the Texas State Board of Examiners of Psychologists;
 - (D) the Texas State Board of Social Worker Examiners;
 - (E) the Board of Nurse Examiners;
 - (F) [~~the Board of Vocational Nurse Examiners,~~
[~~(C)~~] the Texas Board of Physical Therapy Examiners;
 - (G) [~~(H)~~] the Texas Board of Occupational Therapy Examiners; or
 - (H) [~~(I)~~] another state agency authorized to regulate a provider who receives or is eligible to receive payment for a health care service under the Medicaid program.

SECTION ____ . Section 101.002, Occupations Code, is amended to read as follows:

Sec. 101.002. COMPOSITION OF COUNCIL. The council consists of 14 [~~15~~] members, with one member appointed by each of the following:

- (1) the Texas Board of Chiropractic Examiners;
- (2) the State Board of Dental Examiners;
- (3) the Texas Optometry Board;
- (4) the Texas State Board of Pharmacy;
- (5) the Texas State Board of Podiatric Medical Examiners;
- (6) the State Board of Veterinary Medical Examiners;
- (7) the Texas State Board of Medical Examiners;
- (8) the Board of Nurse Examiners;
- (9) the Texas State Board of Examiners of Psychologists;
- (10) [~~the Board of Vocational Nurse Examiners,~~

~~[(11)]~~ the Texas Funeral Service Commission;

(11) ~~[(12)]~~ the entity that regulates the practice of physical therapy;

(12) ~~[(13)]~~ the entity that regulates the practice of occupational therapy;

(13) ~~[(14)]~~ the health licensing division of the Texas Department of Health; and

(14) ~~[(15)]~~ the governor's office.

SECTION _____. Section 201.003(a), Occupations Code, is amended to read as follows:

(a) This chapter does not apply to a registered nurse licensed under Chapter 301, a vocational nurse licensed under Chapter 301 ~~[302]~~, a person who provides spinal screening services as authorized by Chapter 37, Health and Safety Code, a physical therapist licensed under Chapter 453, or a massage therapist or a massage therapy instructor qualified and registered under Chapter 455 if:

(1) the person does not represent to the public that the person is a chiropractor or use the term "chiropractor," "chiropractic," "doctor of chiropractic," "D.C.," or any derivative of those terms or initials in connection with the person's name or practice; and

(2) the person practices strictly within the scope of the license or registration held in compliance with all laws relating to the license and registration.

SECTION _____. Section 203.402, Occupations Code, is amended to read as follows:

Sec. 203.402. PROHIBITED REPRESENTATION. A midwife may not:

(1) except as provided by Section 203.403, use in connection with the midwife's name a title, abbreviation, or designation tending to imply that the midwife is a "registered" or "certified" midwife as opposed to one who is documented under this chapter;

(2) advertise or represent that the midwife is a physician or a graduate of a medical school unless the midwife is licensed to practice medicine by the Texas State Board of Medical

Examiners;

(3) use advertising or an identification statement that is false, misleading, or deceptive; or

(4) except as authorized by rules adopted by the Board of Nurse Examiners [~~and the Board of Vocational Nurse Examiners~~], use in combination with the term "midwife" the term "nurse" or another title, initial, or designation that implies that the midwife is licensed as a registered nurse or [~~licensed~~] vocational nurse.

SECTION ____ . Section 206.253(a), Occupations Code, is amended to read as follows:

(a) This chapter does not authorize a person who holds a license issued under this chapter to engage in the practice of:

(1) medicine, as defined by Subtitle B [~~, Title 3, Occupations Code~~]; or

(2) [~~professional~~] nursing, as defined by Chapter 301 [~~, Occupations Code, or~~

~~[(3) nursing, as defined by Chapter 302, Occupations Code]~~.

SECTION ____ . Section 22.011(c)(3), Penal Code, is amended to read as follows:

(3) "Health care services provider" means:

(A) a physician licensed under Subtitle B, Title 3, Occupations Code;

(B) a chiropractor licensed under Chapter 201, Occupations Code;

(C) [~~a licensed vocational nurse licensed under Chapter 302, Occupations Code,~~

~~[(D)]~~ a physical therapist licensed under Chapter 453, Occupations Code;

(D) [~~(E)~~] a physician assistant licensed under Chapter 204, Occupations Code; or

(E) [~~(F)~~] a registered nurse, a vocational nurse, or an advanced practice nurse licensed under Chapter 301, Occupations Code.

SECTION ____ . Sections 303.001(2) and (3), Occupations Code, are amended to read as follows:

(2) "Nurse" means a registered nurse [~~licensed under Chapter 301~~] or a [~~licensed~~] vocational nurse licensed under Chapter 301 [~~302~~].

(3) "Nursing" has the meaning assigned by Section 301.002 [~~means professional nursing as defined by Chapter 301 or vocational nursing as defined by Chapter 302~~].

SECTION _____. Section 303.002(b), Occupations Code, is amended to read as follows:

(b) The board shall enter into a memorandum of understanding with each state agency that licenses, registers, or certifies a facility required by law to have a nursing [~~registered nurse~~] peer review committee. The memorandum of understanding must:

(1) state the actions the board and agency are to take to encourage compliance with the requirement to have a nursing [~~registered nurse~~] peer review committee; and

(2) be adopted as a rule of the board and the agency.

SECTION _____. Sections 303.003(b) and (c), Occupations Code, are amended to read as follows:

(b) A nursing peer review committee that conducts a peer review that involves only the practice of vocational nursing must have registered nurses and [~~licensed~~] vocational nurses as three-fourths of its members, to the extent feasible must include [~~licensed~~] vocational nurses as members, and may have only registered nurses and [~~licensed~~] vocational nurses as voting members.

(c) A nursing peer review committee that conducts a peer review that involves the practice of both professional nursing and [~~licensed~~] vocational nursing:

(1) must have registered nurses and [~~licensed~~] vocational nurses as four-fifths of its members, with registered nurses as three-fifths of its members;

(2) to the extent feasible must include [~~licensed~~] vocational nurses as members; and

(3) may have only:

(A) registered nurses and [~~licensed~~] vocational nurses as voting members when a [~~licensed~~] vocational nurse is being reviewed; and

(B) registered nurses as voting members when a registered nurse is being reviewed.

SECTION ____ . Section 303.005, Occupations Code, is amended by amending Subsections (a), (b), (c), (d), and (f) and adding Subsection (h) to read as follows:

(a) In this section, "duty to a patient" means conduct required by standards of practice or professional conduct adopted by the board for nurses. The term includes administrative decisions directly affecting a [~~registered~~] nurse's ability to comply with that duty.

(b) If a person who regularly employs, hires, or otherwise contracts for the services of at least 10 [~~registered~~] nurses requests one of those nurses to engage in conduct that the nurse believes violates a [~~registered~~] nurse's duty to a patient, the nurse may request, on a form produced by the board, a determination by a nursing peer review committee under this chapter of whether the conduct violates a [~~registered~~] nurse's duty to a patient.

(c) A [~~registered~~] nurse who in good faith requests a peer review determination under Subsection (b):

(1) may not be disciplined or discriminated against for making the request;

(2) may engage in the requested conduct pending the peer review;

(3) is not subject to the reporting requirement under Subchapter I, Chapter 301; and

(4) may not be disciplined by the board for engaging in that conduct while the peer review is pending.

(d) The determinations of the peer review committee shall be considered in a decision to discipline the nurse, but the determinations are not binding if a [~~registered~~] nurse administrator believes in good faith that the peer review committee has incorrectly determined a [~~registered~~] nurse's duty.

(f) A [~~registered~~] nurse's rights under this section may not be nullified by a contract.

(h) A person is not required to provide a peer review determination under this section for a request made by:

(1) a registered nurse, unless the person regularly

employs, hires, or otherwise contracts for the services of at least five registered nurses; or

(2) a vocational nurse, unless the person regularly employs, hires, or otherwise contracts for the services of at least five vocational nurses.

SECTION ____ . Section 304.002, Occupations Code, as added by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 304.002. ADMINISTRATION OF COMPACT. The executive director [~~directors~~] of the Board of Nurse Examiners is [~~and the Board of Vocational Nurse Examiners are~~] the Nurse Licensure Compact administrator [~~administrators~~] for this state. [~~The executive director of the Board of Nurse Examiners is responsible for administering matters relating to registered nurses. The executive director of the Board of Vocational Nurse Examiners is responsible for administering matters relating to licensed vocational nurses.~~]

SECTION ____ . Section 304.003, Occupations Code, as added by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 304.003. RULES. The Board of Nurse Examiners [~~and the Board of Vocational Nurse Examiners~~] may adopt rules necessary to implement this chapter.

SECTION ____ . Sections 304.004(b) and (c), Occupations Code, as added by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, are amended to read as follows:

(b) Unless the context indicates otherwise or doing so would be inconsistent with the Nurse Licensure Compact, nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact have the same rights and obligations as imposed by the laws of this state on license holders of the Board of Nurse Examiners [~~or the Board of Vocational Nurse Examiners~~].

(c) The Board of Nurse Examiners has [~~and the Board of Vocational Nurse Examiners have~~] the authority to determine whether a right or obligation imposed on license holders applies to nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact unless that determination is

inconsistent with the Nurse Licensure Compact.

SECTION _____. Section 304.005, Occupations Code, as added by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 304.005. ENFORCEMENT. The Board of Nurse Examiners is [~~and the Board of Vocational Nurse Examiners are~~] the state agency [~~agencies~~] responsible for taking action against registered and vocational nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact as authorized by the Nurse Licensure Compact. The action shall be taken in accordance with the same procedures for taking action against registered and vocational nurses licensed by this state.

SECTION _____. Section 304.006(a), Occupations Code, as added by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

(a) On request and payment of a reasonable fee, the Board of Nurse Examiners [~~and the Board of Vocational Nurse Examiners~~] shall provide a registered or vocational nurse licensed by this state with a copy of information regarding the nurse maintained by the coordinated licensure information system under Article 7 of the Nurse Licensure Compact.

SECTION _____. Section 304.007, Occupations Code, as added by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 304.007. ACCESS TO PRACTICE-RELATED INFORMATION. Practice-related information provided by the Board of Nurse Examiners [~~or the Board of Vocational Nurse Examiners~~] to registered or vocational nurses licensed by this state shall be made available by the board [~~boards~~] on request and at a reasonable cost to nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact.

SECTION _____. Section 304.008(a), Occupations Code, as added by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

(a) In reporting information to the coordinated licensure information system under Article 7 of the Nurse Licensure Compact, the Board of Nurse Examiners [~~and the Board of Vocational Nurse~~

~~Examiners]~~ may disclose personally identifiable information about the nurse, including social security number.

SECTION ____ . Section 304.009, Occupations Code, as added by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 304.009. WITHDRAWAL FROM COMPACT. (a) The governor may withdraw this state from the Nurse Licensure Compact if the Board of Nurse Examiners [~~or the Board of Vocational Nurse Examiners]~~ notifies the governor that a state that is party to the compact changed, after January 1, 1999, the state's requirements for licensing a nurse and that the state's requirements, as changed, are substantially lower than the requirements for licensing a nurse in this state.

(b) The governor may completely withdraw this state from the Nurse Licensure Compact or may limit withdrawal to the application of the compact to registered nurses or [~~licensed~~] vocational nurses.

SECTION ____ . Section 304.001(3), Occupations Code, as added by Chapter 1489, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

(3) "Nurse" means a registered nurse or a [~~licensed~~] vocational nurse.

ARTICLE ____ . TEMPORARY LICENSE SUSPENSIONS

SECTION ____ . Sections 301.455(c) and (d), Occupations Code, are amended to read as follows:

(c) The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 30th [~~14th~~] day after the date of the temporary suspension to determine, de novo, whether probable cause exists that a continuing and imminent threat to the public welfare exists.

(d) A final hearing on the matter shall be held not later than the 91st [~~61st~~] day after the date of the temporary suspension.

SECTION ____ . This article applies only to a hearing held on or after the effective date of this part.

ARTICLE ____ . CRIMINAL HISTORY RECORDS

SECTION ____ . Subchapter D, Chapter 301, Occupations Code, is amended by adding Section 301.1615 to read as follows:

Sec. 301.1615. OBTAINING CRIMINAL HISTORY RECORD INFORMATION; HEARING. (a) In addition to the information to which the board is entitled under Section 411.125, Government Code, the board may request and receive criminal history record information from the Federal Bureau of Investigation as provided by Section 411.087, Government Code.

(b) Criminal history record information received by the board may be used only by the board and is privileged. The information may not be disclosed to any person other than:

(1) as required under a court order; or

(2) to a nursing board that is a member of the nurse licensure compact under Chapter 304.

(c) If, on the basis of criminal history record information obtained by the board, the board proposes to deny an application for a license, refuse to renew a license, or suspend or revoke a license or temporary permit, the applicant or license holder is entitled to a hearing under Section 301.454.

SECTION ____ . Subchapter F, Chapter 301, Occupations Code, is amended by adding Section 301.2511 to read as follows:

Sec. 301.2511. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE APPLICANTS. (a) An applicant for a registered nurse license must submit to the board, in addition to satisfying the other requirements of this subchapter, a complete and legible set of fingerprints, on a form prescribed by the board, for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The board may deny a license to an applicant who does not comply with the requirement of Subsection (a). Issuance of a license by the board is conditioned on the board obtaining the applicant's criminal history record information under this section.

(c) The board by rule may develop a system for initiating the process of obtaining criminal history record information for applicants for a license under this chapter by requiring persons who enroll or plan to enroll in an educational program that prepares a person for a license as a registered nurse to submit to the board a

set of fingerprints that meets the requirements of Subsection (a).
The board may require payment of a fee by a person who is required to
submit a set of fingerprints under this subsection.

SECTION ____ . Subchapter G, Chapter 301, Occupations Code, is amended by adding Section 301.3011 to read as follows:

Sec. 301.3011. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR RENEWAL. (a) The board may require that an applicant for renewal of an unexpired license submit to the board, in addition to satisfying any other requirements for license renewal, a complete and legible set of fingerprints, on a form prescribed by the board, for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The board may refuse to renew the license of a person who does not comply with the requirement of Subsection (a). Renewal of a license by the board is conditioned on the board obtaining the person's criminal history record information under this section.

SECTION ____ . Section 411.125(a), Government Code, is amended to read as follows:

(a) The Board of Nurse Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is an applicant for or the holder of a license issued by [~~from~~] the board;

(2) has requested a determination of eligibility for a license from the board; or

(3) is subject to investigation by the board in connection with a complaint or formal charge against the person.

SECTION ____ . The change in law made by this article applies only to an application for the issuance or renewal of a license that is filed with the Board of Nurse Examiners on or after the effective date of this part. An application for the issuance or renewal of a license that is filed before the effective date of this part is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

ARTICLE ____ . REPEALER; TRANSITION; EFFECTIVE DATE

SECTION ____ . On February 1, 2004, the following laws are

repealed:

- (1) Chapter 302, Occupations Code; and
- (2) Section 303.002(a), Occupations Code.

SECTION _____. (a) This section provides for the appointment of members to the Board of Nurse Examiners for terms beginning February 1, 2004, to establish the staggering of members' terms in accordance with Sections 301.051 and 301.054, Occupations Code, as amended by this part.

(b) The term of one of two registered nurse members of the Board of Nurse Examiners scheduled to expire in 2007 expires January 31, 2004. Those members shall agree or draw lots to determine whose term expires on that date. Effective February 1, 2004, the governor shall appoint one person who is a nurse faculty member of a school of nursing offering vocational nurse training to fill that vacancy and to serve a term expiring January 31, 2007.

(c) Effective February 1, 2004, the governor shall appoint one person who shall serve as a public member of the Board of Nurse Examiners with a term expiring January 31, 2009, as provided under Section 301.051, Occupations Code, as amended by this part.

(d) Effective February 1, 2004, the governor shall appoint three additional members to the Board of Nurse Examiners to serve in the position of vocational nurse, as provided under Section 301.051, Occupations Code, as amended by this part. In appointing those members, the governor shall appoint one person to a term expiring January 31, 2005, one to a term expiring January 31, 2007, and one to a term expiring January 31, 2009.

SECTION _____. (a) On February 1, 2004:

(1) all functions and activities performed by the Board of Vocational Nurse Examiners immediately before that date are transferred to the Board of Nurse Examiners;

(2) a rule or form adopted by the Board of Vocational Nurse Examiners is a rule or form of the Board of Nurse Examiners and remains in effect until amended or replaced by that board;

(3) a reference in law or an administrative rule to the Board of Vocational Nurse Examiners means the Board of Nurse Examiners;

(4) a complaint, investigation, or other proceeding

before the Board of Vocational Nurse Examiners is transferred without change in status to the Board of Nurse Examiners, and the Board of Nurse Examiners assumes, as appropriate and without a change in status, the position of the Board of Vocational Nurse Examiners in an action or proceeding to which the Board of Vocational Nurse Examiners is a party;

(5) all money, contracts, leases, property, and obligations of the Board of Vocational Nurse Examiners are transferred to the Board of Nurse Examiners;

(6) a license issued by the Board of Vocational Nurse Examiners is a license of the Board of Nurse Examiners;

(7) an employee of the Board of Vocational Nurse Examiners, except for the Board of Vocational Nurse Examiners' executive director, becomes an employee of the Board of Nurse Examiners; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Board of Vocational Nurse Examiners is transferred to the Board of Nurse Examiners.

(b) Before February 1, 2004, the Board of Vocational Nurse Examiners may agree with the Board of Nurse Examiners to transfer any property of the Board of Vocational Nurse Examiners to the Board of Nurse Examiners to implement the transfer required by this section.

(c) In the period beginning on the effective date of this Act and ending on January 31, 2004, the Board of Vocational Nurse Examiners shall continue to perform functions and activities under Chapter 302, Occupations Code, or other law as if that chapter had not been repealed or other law had not been amended by this part, and the former law is continued in effect for that purpose.

SECTION _____. (a) Not later than June 1, 2004, the Board of Nurse Examiners shall adopt the rules required by Section 301.305, Occupations Code, as added by this part.

(b) A license holder may not be required to complete the continuing education requirements imposed by Section 301.305, Occupations Code, as added by this part, before June 1, 2006.

(c) As part of the next review conducted under Section 301.003, Occupations Code, as amended by this part, the Sunset

Advisory Commission shall evaluate the necessity and effectiveness of mandating continuing education courses for nurses on specific topics.

SECTION _____. In the event of a conflict between a provision of this Act and another Act passed by the 78th Legislature, Regular Session, 2003, that becomes law, this Act prevails and controls regardless of the relative dates of enactment.

SECTION _____. (a) Except as provided by Subsection (b) of this section, this part takes effect September 1, 2003.

(b) Article ____ of this part (Conforming Amendments For Single Nursing Board) takes effect February 1, 2004.