

BILL ANALYSIS

S.B. 718
By: Madla
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas has had a critical shortage of RNs for a number of years. In Fall 2000, the Center for Health and Economic Policy at the University of Texas Health Science Center San Antonio issued a report about the extent and causes of this shortage. The conclusions of the study were that Texas was facing a severe shortage which was different from the periodic nursing shortages of years past and it was likely to worsen unless significant steps were taken to address it. The difference with the current shortage is primarily driven by demographics rather than economic factors. The RN population was aging (average age of 45) which meant more RNs would be reaching retirement age and the elderly population was growing which meant more demand for health care and nursing services. It was this combination of declining supply and increasing demand that makes the shortage critical. The study also found a high level of dissatisfaction among RNs. They were being required to care for more and sicker patients with lower staffing levels. To adequately address the shortage, Texas needed to achieve two goals: 1) significantly increase enrollments in nursing schools and 2) create a more attractive practice environment for nurses.

The first step toward achieving these two goals were taken by 77th Legislature by making approximately \$11 million dollars of dramatic growth funds available to increase RN enrollments and another \$3 million in tobacco lawsuit settlement fund proceeds for grants to promote innovation in the recruitment and retention of students. Using these funds nursing school in public colleges and universities were able to increase enrollments by 21% between Fall 2000 and Fall 2002.

In August 2001, the Texas Department of Health's initiated its rulemaking process to address one of the greatest concerns RNs have about the workplace – adequate staffing. The result was TDH adopting comprehensive regulations governing nurse staffing in hospitals that included written staffing plans, use of outcome measures to evaluate adequacy of staffing, establishment of a nurse staffing advisory committee, and prohibiting discrimination against nurses raising concerns about staffing levels.

Despite these steps, Texas continues to face a critical shortage of RNs in 2003 with an average statewide vacancy rate in hospitals of over 12%.

SB 718 is designed to continue the process begun by TDH's adoption of its hospital nurse staffing rules of creating a more attractive practice environment for nurses – an environment that is more likely to attract individuals to the profession and to retain them once they have become licensed as RNs. SB 718 enacts several measures. It will clarify the RN mandatory reporting law so that RNs do not have to fear being reported to the licensing board for minor incidents such as a single medication error that causes no risk of harm to the patient. It will authorize the BNE to conduct pilots designed to maximize the reporting of system errors as opposed to simply blaming individual RNs for outcomes caused more by system deficiencies than any deficiency in the nurse's knowledge or skills. It will provide greater non-retaliation protections for RNs that raise patient care concerns within the facility so RNs don't have to fear negative consequences for advocating for their patients. It will protect the use of title "nurse" and require RNs to be clearly identified so that patients know who is providing their nursing care. It will require hospitals to have policies addressing workplace safety for nurses so that nurses can practice in a workplace with less risk of injury and violence.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Board of Nurse Examiners in SECTION 5 (Section 301.351, Occupations Code) of this bill. It is the committee's opinion that rulemaking authority is expressly granted to the Board of Nurse Examiners in SECTION 1, Section

301.1605, Occupations Code of this bill.

ANALYSIS

SECTION 1 adds Sections 301.1605 and 301.1606 to the Nursing Practice Act to give the Board of Nurse Examiners authority to conduct pilots to research innovative applications in the practice and regulation of registered nurses. Section 301.1605 gives the board general authority to conduct pilot projects. Section 301.1606 directs the board to specifically solicit pilots that evaluate reporting of errors involving nurse that are designed to promote greater identification of system errors.

SECTION 2 limits the persons who can use of the title “nurse” to registered nurses and licensed vocational nurses.

SECTION 3: Amends the heading to section 301.303, Occupations Code by replacing education with competency.

SECTION 4: Authorizes the board to utilize mechanisms in addition continuing education to assure the continued competency of registered nurses a s part of the license renewal process.

SECTION 5: Requires that the insignia that registered nurses wear to identify themselves to the public as registered nurses be legible and limits the information that can be included on that insignia.

SECTION 6: Clarifies that reportable conduct as defined by the Nursing Practice Act does not require the reporting of minor incidents not required to be reported under rules adopted by the board.

SECTION 7: Authorizes registered nurses to report patient care concerns to the facility where they practice or an agent of the facility. Authorizing such reporting makes the non-retaliation protections of the Nursing Practice Act applicable to such reports.

SECTION 8: Limits who can use the title “nurse assistant,” “nurse aide,” or similar title to those individuals who actually function in an assistive role to a nurse.

SECTION 9: Requires the Board of Nurse Examiners in disciplining a registered nurse to consider the extent to which any deficiency in care by the RN was the result of factors beyond the RN’s control such as system errors.

SECTION 10: Extends to licensed vocational nurses the protections of safe harbor peer review currently available only to registered nurses.

SECTION 11: Requires individual members of a nursing peer review committee to abide by the decision reached by the committee as a whole by prohibiting an individual member from reporting a nurse to the licensing board simply because disagrees with the committee’s decision.

SECTION 12: Requires the a nursing peer review committee in reviewing a nurse to consider the extent to which any deficiency in care by the nurse was the result of factors beyond the RN’s control such as system errors

SECTION 13: Requires hospitals to adopt policies and procedures relating to work environment for nurses and other personnel to reduce risk of violence and injury and improve application of ergonomic principles and use of ergonomically designed devices.

SECTION 14: Requires a hospital to adopt policies and procedures required by section 241.029, of this bill no later than January 1, 2004.

SECTION 15: Contains the effective date of this Act.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the act takes effect September 1, 2003.