

By: Villarreal

H.B. No. 311

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of licensed vocational nurses.

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

SECTION 1. Subchapter A, Chapter 302, Occupations Code, is amended by adding Section 302.0001 to read as follows:

Sec. 302.0001. SHORT TITLE. This chapter may be cited as the Licensed Vocational Nursing Practice Act.

SECTION 2. Section 302.003, Occupations Code, is amended to read as follows:

Sec. 302.003. APPLICATION OF CHAPTER. (a) This chapter does not apply to:

(1) gratuitous nursing care of the sick that is provided [without charge] by a friend;

(2) nursing care provided by a registered nurse licensed under Chapter 301;

(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 represent that the person is a licensed vocational nurse, unless the person is licensed in another state;

(4) nursing care in which treatment is provided solely by prayer or spiritual means;

(5) an act performed by a person under the control or supervision or at the instruction of a person licensed by the Texas

1 State Board of Medical Examiners;

2 (6) an act performed by a person licensed by another
3 state agency if the act is authorized by the statute under which the
4 person is licensed;

5 (7) the practice of nursing that is incidental to a
6 program of study by a student enrolled in a board-accredited
7 vocational nurse education program leading to an initial license as
8 a licensed vocational nurse; or

9 (8) the practice of nursing by a licensed vocational
10 nurse or licensed practical nurse licensed in another state who is
11 in this state on a nonroutine basis for a period not to exceed 120
12 hours to:

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

15 (B) provide vocational nursing consulting
16 services; or

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

19 (b) This chapter does not authorize the practice of medicine
20 as defined by Chapter 151. [~~or family member, or~~

21 ~~(2) a person who does not:~~

22 ~~[(A) represent to the public that the person is a~~
23 ~~licensed vocational nurse; or~~

24 ~~[(B) use the abbreviation "L.V.N."]~~

25 SECTION 3. Section 302.056(b), Occupations Code, is amended
26 to read as follows:

27 (b) A board member may [~~not~~] receive reimbursement for

1 travel expenses[, ~~including expenses for meals and lodging, other~~
2 ~~than transportation expenses. A member is entitled to~~
3 ~~reimbursement for transportation expenses]~~ as provided by the
4 General Appropriations Act.

5 SECTION 4. Section 302.151(b), Occupations Code, is amended
6 to read as follows:

7 (b) The board may adopt and enforce rules consistent with
8 this chapter and [~~as~~] necessary to:

9 (1) perform [~~govern~~] its duties and conduct
10 proceedings before the board;

11 (2) regulate the practice of vocational nursing;

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

14 (4) determine whether an act constitutes the practice
15 of vocational nursing [~~and to implement the purposes of this~~
16 ~~chapter~~].

17 SECTION 5. Section 302.255(a), Occupations Code, is amended
18 to read as follows:

19 (a) The director of education or the director of education's
20 designee shall visit and survey each vocational nursing institution
21 to determine whether the board's minimum requirements for
22 vocational nurse education programs are being met.

23 SECTION 6. Section 302.256(a), Occupations Code, is amended
24 to read as follows:

25 (a) The director of education or the director of education's
26 designee [~~board~~] periodically shall survey each vocational nurse
27 education program offered in this state. A written report of the

1 survey must be submitted to the board.

2 SECTION 7. Section 302.301(a), Occupations Code, is amended
3 to read as follows:

4 (a) A person may not practice vocational nursing or use the
5 designation "Licensed Vocational Nurse" or the abbreviation
6 "L.V.N." unless the person holds a license under this chapter.

7 SECTION 8. Section 302.307(b), Occupations Code, is amended
8 to read as follows:

9 (b) A temporary permit expires on the date:

10 (1) the applicant receives a permanent license from
11 the board; or

12 (2) the board notifies the applicant that the
13 applicant has failed the examination [~~a failing examination result~~
14 ~~for the applicant is reported to the board~~].

15 SECTION 9. Subchapter G, Chapter 302, Occupations Code, is
16 amended by adding Section 302.312 to read as follows:

17 Sec. 302.312. PROTECTION FOR REFUSAL TO ENGAGE IN CERTAIN
18 CONDUCT. (a) A person may not suspend, terminate, or otherwise
19 discipline or discriminate against a licensed vocational nurse who
20 refuses to engage in an act or omission relating to patient care
21 that would constitute a ground for disciplinary action under
22 Section 302.403 if the licensed vocational nurse notifies the
23 person at the time of the refusal that the reason for refusing is
24 that the act or omission:

25 (1) constitutes a ground for disciplinary action by
26 the board; or

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

1 board.

2 (b) An act by a person under Subsection (a) does not
3 constitute a violation of this section if a nursing peer review
4 committee under Chapter 303 determines:

5 (1) that the act or omission the licensed vocational
6 nurse refused to engage in was not a ground for disciplinary action
7 under Section 302.403; or

8 (2) that:

9 (A) the act or omission the licensed vocational
10 nurse refused to engage in was a ground for disciplinary action
11 under Section 302.403; and

12 (B) the person:

13 (i) rescinds any disciplinary or
14 discriminatory action taken against the licensed vocational nurse;

15 (ii) compensates the licensed vocational
16 nurse for lost wages; and

17 (iii) restores to the licensed vocational
18 nurse any lost benefits.

19 (c) A licensed vocational nurse's rights under this section
20 may not be nullified by a contract.

21 (d) An appropriate licensing agency may take action against
22 a person who violates this section.

23 SECTION 10. Sections 302.057(c) and (d), Occupations Code,
24 are repealed.

25 SECTION 11. This Act takes effect September 1, 2003.