

1 AN ACT

2 relating to the regulation of the practice of nursing by the Board
3 of Nurse Examiners and to the abolition of the Board of Vocational
4 Nurse Examiners and the transfer of the functions of that agency to
5 the Board of Nurse Examiners.

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

7 ARTICLE 1. SINGLE NURSING BOARD

8 SECTION 1.001. The heading to Chapter 301, Occupations
9 Code, is amended to read as follows:

10 CHAPTER 301. [~~REGISTERED~~] NURSES

11 SECTION 1.002. Section 301.002, Occupations Code, is
12 amended by adding Subdivisions (3), (4), and (5) to read as follows:

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

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

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

21 SECTION 1.003. Section 301.003, Occupations Code, is
22 amended to read as follows:

23 Sec. 301.003. APPLICATION OF SUNSET ACT. The Board of Nurse
24 Examiners is subject to Chapter 325, Government Code (Texas Sunset

1 Act). Unless continued in existence as provided by that chapter,
2 the board is abolished September 1, 2007 [2005].

3 SECTION 1.004. Section 301.004(a), Occupations Code, is
4 amended to read as follows:

5 (a) This chapter does not apply to:

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

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

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

15 (3) [~~(4)~~] nursing care in which treatment is solely by
16 prayer or spiritual means;

17 (4) [~~(5)~~] an act performed by a person under the
18 delegated authority [~~control or supervision or at the instruction~~]
19 of a person licensed by the Texas State Board of Medical Examiners;

20 (5) [~~(6)~~] an act performed by a person licensed by
21 another state agency if the act is authorized by the statute under
22 which the person is licensed;

23 (6) [~~(7)~~] the practice of nursing that is incidental
24 to a program of study by a student enrolled in a board-approved
25 [~~board-accredited~~] nursing education program leading to an initial
26 license as a [~~professional~~] nurse; or

27 (7) [~~(8)~~] the practice of nursing by a person

1 ~~[registered nurse]~~ licensed in another state who is in this state on
2 a nonroutine basis for a period not to exceed 72 hours to:

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

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

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

9 SECTION 1.005. Subchapter A, Chapter 301, Occupations Code,
10 is amended by adding Section 301.005 to read as follows:

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

17 SECTION 1.006. Section 301.051(a), Occupations Code, is
18 amended to read as follows:

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

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

23 (A) one advanced practice nurse;

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

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

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

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

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

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

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

14 SECTION 1.007. Section 301.052(a), Occupations Code, is
15 amended to read as follows:

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

21 SECTION 1.008. Section 301.054, Occupations Code, is
22 amended to read as follows:

23 Sec. 301.054. TERMS. Members of the board serve staggered
24 six-year terms, with the terms of as near to one-third of the
25 members as possible [~~one member who is a practicing registered~~
26 ~~nurse, one member who is a registered nurse engaged in nurse~~
27 ~~education, and one member who is a representative of the public]~~

1 expiring on January 31 of each odd-numbered year.

2 SECTION 1.009. Section 301.151, Occupations Code, is
3 amended to read as follows:

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

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

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

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

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

15 SECTION 1.010. Section 301.154(a), Occupations Code, is
16 amended to read as follows:

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

23 SECTION 1.011. The heading to Section 301.157, Occupations
24 Code, is amended to read as follows:

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

27 SECTION 1.012. Sections 301.157(b), (c), and (d),

1 Occupations Code, are amended to read as follows:

2 (b) The board shall:

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

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

8 (B) a program conducted by a hospital;

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

12 (3) [~~2~~] prescribe other rules as necessary to
13 conduct approved [accredited] schools of nursing and educational
14 programs for the preparation of registered nurses or vocational
15 [professional] nurses;

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

18 (5) [~~4~~] deny or withdraw approval [accreditation]
19 from a school of nursing or educational program that fails to meet
20 the prescribed course of study or other standard.

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

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

1 educational program.

2 SECTION 1.013. Section 301.158, Occupations Code, is
3 amended to read as follows:

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

11 SECTION 1.014. Section 301.251, Occupations Code, is
12 amended to read as follows:

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

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

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

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

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

26 (c) This section does not apply to a person entitled to
27 practice professional nursing or vocational nursing in this state

1 under Chapter 304, as added by Chapter 1420, Acts of the 77th
2 Legislature, Regular Session, 2001.

3 SECTION 1.015. Section 301.252, Occupations Code, is
4 amended to read as follows:

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

10 (1) has good professional character; and

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

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

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

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

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

24 SECTION 1.016. Section 301.253(c), Occupations Code, is
25 amended to read as follows:

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

1 vocational nursing.

2 SECTION 1.017. Section 301.256, Occupations Code, is
3 amended to read as follows:

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

11 SECTION 1.018. Sections 301.257(a) and (g), Occupations
12 Code, are amended to read as follows:

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

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

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

21 (g) The board may require an individual accepted for
22 enrollment or enrolled in an educational program preparing a
23 student for initial licensure as a registered nurse or vocational
24 nurse to submit information to the board to permit the board to
25 determine whether the person is aware of the conditions that may
26 disqualify the person from licensure as a registered nurse or
27 vocational nurse on graduation and of the person's right to

1 petition the board for a declaratory order under this section.
2 Instead of requiring the person to submit the information, the
3 board may require the educational program to collect and submit the
4 information on each person accepted for enrollment or enrolled in
5 the program.

6 SECTION 1.019. Sections 301.258(a), (d), and (f),
7 Occupations Code, are amended to read as follows:

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

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

- 18 (1) renewal of an expired license;
19 (2) reactivation of an inactive license; or
20 (3) reissuance of a suspended, revoked, or surrendered
21 license.

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

27 SECTION 1.020. Section 301.259, Occupations Code, is

1 amended to read as follows:

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

13 SECTION 1.021. Section 301.260(a), Occupations Code, is
14 amended to read as follows:

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

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

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

26 (3) proof of initial licensing by examination and
27 proof that the license and any other license issued to the applicant

1 by another state have not been suspended, revoked, canceled,
2 surrendered, or otherwise restricted.

3 SECTION 1.022. Sections 301.261(a), (c), and (e),
4 Occupations Code, are amended to read as follows:

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

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

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

19 SECTION 1.023. Section 301.301(f), Occupations Code, is
20 amended to read as follows:

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

25 SECTION 1.024. Section 301.302(a), Occupations Code, is
26 amended to read as follows:

27 (a) The board may renew without examination the expired

1 license of a person who was licensed to practice professional
2 nursing or vocational nursing in this state, moved to another
3 state, and is currently licensed and has been in practice in the
4 other state for the two years preceding application.

5 SECTION 1.025. Section 301.304(a), Occupations Code, is
6 amended to read as follows:

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

13 SECTION 1.026. Subchapter G, Chapter 301, Occupations Code,
14 is amended by adding Section 301.305 to read as follows:

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

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

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

27 (1) completion of the instruction in a period set by

1 the board of 30 days or less; or

2 (2) an administrative penalty imposed under
3 Subchapter K.

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

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

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

16 (g) This section expires September 1, 2007.

17 SECTION 1.027. Section 301.351, Occupations Code, is
18 amended to read as follows:

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

21 (1) is referred to as a registered nurse; and

22 (2) may use the abbreviation "R.N."

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

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

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

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

5 SECTION 1.028. Sections 301.352(a) and (c), Occupations
6 Code, are amended to read as follows:

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

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

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

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

19 SECTION 1.029. Section 301.401, Occupations Code, is
20 amended to read as follows:

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

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

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

27 (3) failure by the [~~registered~~] nurse to adequately

1 care for a patient;

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

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

7 SECTION 1.030. Section 301.402, Occupations Code, is
8 amended to read as follows:

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

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

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

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

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

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

26 (c) In a written, signed report to the appropriate licensing
27 board, a [~~registered~~] nurse may report a licensed health care

1 practitioner, agency, or facility that the nurse has reasonable
2 cause to believe has exposed a patient to substantial risk of harm
3 as a result of failing to provide patient care that conforms to the
4 minimum standards of acceptable and prevailing nursing
5 [~~professional~~] practice.

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

- 8 (1) be written and signed; and
9 (2) include the identity of the [~~registered~~] nurse or
10 student and any additional information required by the board.

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

15 SECTION 1.031. Section 301.403, Occupations Code, is
16 amended to read as follows:

17 Sec. 301.403. DUTY OF PEER REVIEW COMMITTEE TO REPORT. A
18 [~~professional~~] nursing peer review committee operating under
19 Chapter 303 that has a ground for reporting a [~~registered~~] nurse
20 under Section 301.401 shall file with the board a written, signed
21 report that includes:

- 22 (1) the identity of the nurse;
23 (2) a description of any corrective action taken
24 against the nurse;

25 (3) a statement whether the [~~professional~~] nursing
26 peer review committee recommends that the board take formal
27 disciplinary action against the nurse; and

1 (4) any additional information the board requires.

2 SECTION 1.032. Section 301.404, Occupations Code, is
3 amended to read as follows:

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

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

15 SECTION 1.033. Section 301.405, Occupations Code, is
16 amended to read as follows:

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

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

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

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

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

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

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

23 (1) applies only to a required report; and

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

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

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

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

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

14 SECTION 1.034. Section 301.406, Occupations Code, is
15 amended to read as follows:

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

26 SECTION 1.035. Section 301.407, Occupations Code, is
27 amended to read as follows:

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

3 (1) licenses, registers, or certifies:

4 (A) a hospital;

5 (B) a nursing home;

6 (C) a health science center;

7 (D) a home health agency; or

8 (E) another health care facility or agency; or

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

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

16 SECTION 1.036. Section 301.408, Occupations Code, is
17 amended to read as follows:

18 Sec. 301.408. DUTY OF [~~PROFESSIONAL~~] LIABILITY INSURER TO
19 REPORT. (a) Each insurer that provides to a [~~registered~~] nurse
20 [~~professional~~] liability insurance that covers claims arising from
21 providing or failing to provide [~~professional~~] nursing care shall
22 submit to the board the report or data required by this section at
23 the time prescribed.

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

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

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

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

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

8 (2) the policy number;

9 (3) the policy limits;

10 (4) a copy of the petition;

11 (5) a copy of the answer; and

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

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

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

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

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

26 (e) A [~~registered~~] nurse shall report the information
27 required to be reported under this section if the nurse is named as

1 a defendant in a claim arising from providing or failing to provide
2 [~~professional~~] nursing care and the nurse:

3 (1) does not carry or is not covered by [~~professional~~]
4 liability insurance; or

5 (2) is insured by a nonadmitted carrier.

6 SECTION 1.037. Section 301.409(a), Occupations Code, is
7 amended to read as follows:

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

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

16 (A) a felony;

17 (B) a misdemeanor involving moral turpitude;

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

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

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

24 SECTION 1.038. Section 301.410, Occupations Code, is
25 amended to read as follows:

26 Sec. 301.410. REPORT REGARDING IMPAIRMENT BY CHEMICAL
27 DEPENDENCY OR MENTAL ILLNESS. A person who is required to report a

1 ~~[registered]~~ nurse under this subchapter because the nurse is
2 impaired or suspected of being impaired by chemical dependency or
3 mental illness may report to a peer assistance program approved by
4 the board under Chapter 467, Health and Safety Code, instead of
5 reporting to the board or requesting review by a ~~[professional]~~
6 nursing peer review committee.

7 SECTION 1.039. Section 301.414, Occupations Code, is
8 amended to read as follows:

9 Sec. 301.414. NOTICE AND REVIEW OF REPORT. (a) The board
10 shall notify each ~~[registered]~~ nurse who is reported to the board
11 under Section 301.402, 301.403, 301.405, 301.406, 301.407,
12 301.408, or 301.409 of the filing of the report unless the
13 notification would jeopardize an active investigation.

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

20 SECTION 1.040. Section 301.415(a), Occupations Code, is
21 amended to read as follows:

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

26 SECTION 1.041. Section 301.416(b), Occupations Code, is
27 amended to read as follows:

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

7 (1) maintain a record of the report; and

8 (2) investigate the report if it receives two or more
9 reports involving separate incidents regarding the nurse in any
10 five-year period.

11 SECTION 1.042. Sections 301.418(b) and (c), Occupations
12 Code, are amended to read as follows:

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

17 (1) discovery;

18 (2) court subpoena; or

19 (3) introduction into evidence.

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

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

24 (2) an investigation by the board; or

25 (3) the disposition of a matter by the board.

26 SECTION 1.043. Sections 301.419(a), (c), and (d),
27 Occupations Code, are amended to read as follows:

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

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

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

11 SECTION 1.044. Section 301.451, Occupations Code, is
12 amended to read as follows:

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

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

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

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

22 (A) obtained unlawfully or fraudulently; or

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

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

27 SECTION 1.045. Sections 301.452(a) and (b), Occupations

1 Code, are amended to read as follows:

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

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

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

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

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

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

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

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

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

27 (8) revocation, suspension, or denial of, or any other

1 action relating to, the person's license or privilege to practice
2 nursing in another jurisdiction;

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

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

8 (11) adjudication of mental incompetency;

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

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

16 SECTION 1.046. Sections 301.453(a), (b), and (c),
17 Occupations Code, are amended to read as follows:

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

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

23 (2) issuance of a written warning;

24 (3) administration of a public reprimand;

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

27 (A) limiting to or excluding from the person's

1 practice one or more specified activities of [~~professional~~]
2 nursing; or

3 (B) stipulating periodic board review;

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

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

7 (7) assessment of a fine.

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

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

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

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

18 (4) perform public service the board considers
19 appropriate.

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

24 SECTION 1.047. Section 301.455(a), Occupations Code, is
25 amended to read as follows:

26 (a) The license of a [~~registered~~] nurse shall be temporarily
27 suspended on a determination by a majority of the board or a

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

5 SECTION 1.048. Section 301.457, Occupations Code, is
6 amended to read as follows:

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

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

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

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

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

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

25 (d) After any preliminary investigation to determine the
26 identity of the subject of the complaint, unless it would
27 jeopardize an investigation, the board shall notify the

1 ~~[registered]~~ nurse that a complaint has been filed and the nature of
2 the complaint. If the investigation reveals probable cause to take
3 further disciplinary action, the board shall either attempt an
4 informal disposition of the complaint or file a formal charge
5 against the ~~[registered]~~ nurse stating the provision of this
6 chapter or board rule that is alleged to have been violated and a
7 brief description of each act or omission that constitutes the
8 violation.

9 (e) The board shall conduct an investigation of the
10 complaint to determine:

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

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

17 SECTION 1.049. Sections 301.458(a) and (c), Occupations
18 Code, are amended to read as follows:

19 (a) Unless there is an agreed disposition of the complaint
20 under Section 301.463, and if probable cause is found under Section
21 301.457(e)(2), the board or the board's authorized representative
22 shall initiate proceedings by filing formal charges against the
23 ~~[registered]~~ nurse.

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

26 SECTION 1.050. Section 301.459(b), Occupations Code, is
27 amended to read as follows:

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

3 SECTION 1.051. Section 301.462, Occupations Code, is
4 amended to read as follows:

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

10 SECTION 1.052. Section 301.463(b), Occupations Code, is
11 amended to read as follows:

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

17 SECTION 1.053. Section 301.466, Occupations Code, is
18 amended to read as follows:

19 Sec. 301.466. CONFIDENTIALITY. (a) A complaint and
20 investigation concerning a [~~registered~~] nurse under this
21 subchapter and all information and material compiled by the board
22 in connection with the complaint and investigation are:

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

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

1 discipline.

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

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

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

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

10 (4) a law enforcement agency; or

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

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

19 SECTION 1.054. Section 301.467(a), Occupations Code, is
20 amended to read as follows:

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

24 SECTION 1.055. Section 301.468(a), Occupations Code, is
25 amended to read as follows:

26 (a) The board may determine that an order denying a license
27 application or suspending a license be probated. A person subject

1 to a probation order shall conform to each condition the board sets
2 as the terms of probation, including a condition:

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

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

9 SECTION 1.056. Section 301.469, Occupations Code, is
10 amended to read as follows:

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

16 ARTICLE 2. CONFORMING AMENDMENTS

17 SECTION 2.001. Section 84.003(5), Civil Practice and
18 Remedies Code, is amended to read as follows:

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

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

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

1 (C) a physician assistant licensed under Chapter
2 204, Occupations Code, or a retired physician assistant who is
3 eligible to provide health care services under the law of this
4 state;

5 (D) a registered nurse, including an advanced
6 nurse practitioner, or vocational nurse, licensed under Chapter
7 301, Occupations Code, or a retired vocational nurse or registered
8 nurse, including a retired advanced nurse practitioner, who is
9 eligible to provide health care services under the law of this
10 state;

11 ~~(E) [a licensed vocational nurse licensed under
12 Chapter 302, Occupations Code, or a retired licensed vocational
13 nurse who is eligible to provide health care services under the law
14 of this state,~~

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

18 (F) ~~[(G)]~~ a podiatrist licensed under Chapter
19 202, Occupations Code, or a retired podiatrist who is eligible to
20 provide health care services under the law of this state;

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

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

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

5 SECTION 2.002. Section 61.657(b), Education Code, is
6 amended to read as follows:

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

11 (1) a chair named by the board;

12 (2) one representative named by the Licensed
13 Vocational Nurses Association of Texas;

14 (3) one representative named by the Texas Organization
15 of Nurse Executives;

16 (4) one representative named by the Board of
17 [~~Vocational~~] Nurse Examiners;

18 (5) two representatives of vocational nursing
19 educational programs named by the Texas Association of Vocational
20 Nurse Educators;

21 (6) one representative named by the Texas Health Care
22 Association; and

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

25 SECTION 2.003. Section 232.002, Family Code, is amended to
26 read as follows:

27 Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER.

1 The following are licensing authorities subject to this chapter:

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

- 1 (24) Texas Optometry Board;
- 2 (25) Parks and Wildlife Department;
- 3 (26) Texas State Board of Examiners of Perfusionists;
- 4 (27) Texas State Board of Pharmacy;
- 5 (28) Texas Board of Physical Therapy Examiners;
- 6 (29) Texas State Board of Plumbing Examiners;
- 7 (30) Texas State Board of Podiatric Medical Examiners;
- 8 (31) Polygraph Examiners Board;
- 9 (32) Texas Commission on Private Security;
- 10 (33) Texas State Board of Examiners of Professional
11 Counselors;
- 12 (34) Texas Board of Professional Engineers;
- 13 (35) Department of Protective and Regulatory
14 Services;
- 15 (36) Texas State Board of Examiners of Psychologists;
- 16 (37) Texas State Board of Public Accountancy;
- 17 (38) Department of Public Safety of the State of
18 Texas;
- 19 (39) Public Utility Commission of Texas;
- 20 (40) Railroad Commission of Texas;
- 21 (41) Texas Real Estate Commission;
- 22 (42) State Bar of Texas;
- 23 (43) Texas State Board of Social Worker Examiners;
- 24 (44) State Board of Examiners for Speech-Language
25 Pathology and Audiology;
- 26 (45) Texas Structural Pest Control Board;
- 27 (46) Board of Tax Professional Examiners;

- 1 (47) Secretary of State;
- 2 (48) Supreme Court of Texas;
- 3 (49) Texas Transportation Commission;
- 4 (50) State Board of Veterinary Medical Examiners;
- 5 (51) ~~[Board of Vocational Nurse Examiners;~~
- 6 ~~[(52)]~~ Texas Ethics Commission;
- 7 (52) ~~[(53)]~~ Advisory Board of Athletic Trainers;
- 8 (53) ~~[(54)]~~ State Committee of Examiners in the
- 9 Fitting and Dispensing of Hearing Instruments;
- 10 (54) ~~[(55)]~~ Texas Board of Licensure for Professional
- 11 Medical Physicists;
- 12 (55) ~~[(56)]~~ Texas Department of Insurance;
- 13 (56) ~~[(57)]~~ Texas Board of Orthotics and Prosthetics;
- 14 (57) ~~[(58)]~~ savings and loan commissioner;
- 15 (58) ~~[(59)]~~ Texas Juvenile Probation Commission; and
- 16 (59) ~~[(60)]~~ Texas Lottery Commission under Chapter
- 17 466, Government Code.

18 SECTION 2.004. Section 487.101(3), Government Code, is

19 amended to read as follows:

- 20 (3) "Postsecondary educational institution" means:
- 21 (A) an institution of higher education, as
- 22 defined by Section 61.003, Education Code;
- 23 (B) a nonprofit, independent institution
- 24 approved under Section 61.222, Education Code; or
- 25 (C) a nonprofit, health-related school or
- 26 program accredited by the Southern Association of Colleges and
- 27 Schools, the Liaison Committee on Medical Education, the American

1 Osteopathic Association, the Board of Nurse Examiners, [~~the Board~~
2 ~~of Vocational Nurse Examiners,~~] or, in the case of allied health, an
3 accrediting body recognized by the United States Department of
4 Education.

5 SECTION 2.005. Section 487.151(2), Government Code, is
6 amended to read as follows:

7 (2) "Postsecondary educational institution" means:

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

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

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

19 SECTION 2.006. Section 531.051(f), Government Code, is
20 amended to read as follows:

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

24 (1) the person who delivers the service:

25 (A) has not been denied a license under Chapter
26 301 [~~or 302~~], Occupations Code;

27 (B) has not been issued a license under Chapter

1 301, Occupations Code, that is revoked or suspended; and

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

4 (2) the consumer who receives the service:

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

8 (B) if:

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

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

17 SECTION 2.007. Section 2054.252(a), Government Code, as
18 added by Chapter 353, Acts of the 77th Legislature, Regular
19 Session, 2001, is amended to read as follows:

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

- 23 (1) State Board of Barber Examiners;
24 (2) Texas Board of Chiropractic Examiners;
25 (3) Texas Cosmetology Commission;
26 (4) Court Reporters Certification Board;
27 (5) State Board of Dental Examiners;

- 1 (6) Texas Funeral Service Commission;
- 2 (7) Texas Board of Professional Land Surveying;
- 3 (8) Texas State Board of Medical Examiners;
- 4 (9) Board of Nurse Examiners;
- 5 (10) [~~Board of Vocational Nurse Examiners;~~
- 6 ~~(11)~~] Texas Optometry Board;
- 7 (11) [~~(12)~~] Texas Structural Pest Control Board;
- 8 (12) [~~(13)~~] Texas State Board of Pharmacy;
- 9 (13) [~~(14)~~] Executive Council of Physical Therapy and
- 10 Occupational Therapy Examiners;
- 11 (14) [~~(15)~~] Texas State Board of Plumbing Examiners;
- 12 (15) [~~(16)~~] Texas State Board of Podiatric Medical
- 13 Examiners;
- 14 (16) [~~(17)~~] Board of Tax Professional Examiners;
- 15 (17) [~~(18)~~] Polygraph Examiners Board;
- 16 (18) [~~(19)~~] Texas State Board of Examiners of
- 17 Psychologists;
- 18 (19) [~~(20)~~] State Board of Veterinary Medical
- 19 Examiners;
- 20 (20) [~~(21)~~] Texas Real Estate Commission;
- 21 (21) [~~(22)~~] Texas Appraiser Licensing and
- 22 Certification Board; and
- 23 (22) [~~(23)~~] Texas Department of Licensing and
- 24 Regulation.

25 SECTION 2.008. Section 81.010(c), Health and Safety Code,

26 is amended to read as follows:

27 (c) The council consists of one representative from each of

1 the following agencies appointed by the executive director or
2 commissioner of each agency:

- 3 (1) the department;
- 4 (2) the Texas Department of Mental Health and Mental
5 Retardation;
- 6 (3) the Texas Department of Human Services;
- 7 (4) the Texas Commission on Alcohol and Drug Abuse;
- 8 (5) the Texas Rehabilitation Commission;
- 9 (6) the Texas Youth Commission;
- 10 (7) the Texas Department of Criminal Justice;
- 11 (8) the Texas Juvenile Probation Commission;
- 12 (9) the Texas Commission for the Blind;
- 13 (10) the Texas Commission for the Deaf and Hard of
14 Hearing;
- 15 (11) the Department of Protective and Regulatory
16 Services;
- 17 (12) the Texas Education Agency;
- 18 (13) the Texas State Board of Medical Examiners;
- 19 (14) the Board of Nurse Examiners;
- 20 (15) ~~[the Board of Vocational Nurse Examiners,~~
- 21 ~~[(16)]~~ the State Board of Dental Examiners;
- 22 (16) ~~[(17)]~~ the Health and Human Services Commission;
- 23 (17) ~~[(18)]~~ the Texas Department on Aging; and
- 24 (18) ~~[(19)]~~ the Texas Workforce Commission.

25 SECTION 2.009. Section 142.022, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 142.022. EXEMPTIONS FOR NURSING STUDENTS AND

1 MEDICATION AIDE TRAINEES. (a) Sections 142.021 and 142.029 do not
2 apply to:

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

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

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

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

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

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

24 SECTION 2.010. Section 164.003(6), Health and Safety Code,
25 is amended to read as follows:

26 (6) "Mental health professional" means a:

27 (A) "physician" as defined by Section 571.003;

1 (B) "licensed professional counselor" as defined
2 by Section 503.002, Occupations Code;

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

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

7 (E) "registered nurse" licensed under Chapter
8 301, Occupations Code;

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

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

13 (H) "social worker" as defined by Section
14 505.002, Occupations Code.

15 SECTION 2.011. Section 242.607, Health and Safety Code, is
16 amended to read as follows:

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

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

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

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

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

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

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

14 SECTION 2.012. Section 36.132(a)(2), Human Resources Code,
15 is amended to read as follows:

16 (2) "Licensing authority" means:

- 17 (A) the Texas State Board of Medical Examiners;
- 18 (B) the State Board of Dental Examiners;
- 19 (C) the Texas State Board of Examiners of
20 Psychologists;
- 21 (D) the Texas State Board of Social Worker
22 Examiners;
- 23 (E) the Board of Nurse Examiners;
- 24 (F) [~~the Board of Vocational Nurse Examiners,~~
25 [~~(G)~~] the Texas Board of Physical Therapy
26 Examiners;
- 27 (G) [~~(H)~~] the Texas Board of Occupational

1 Therapy Examiners; or

2 (H) [~~(I)~~] another state agency authorized to
3 regulate a provider who receives or is eligible to receive payment
4 for a health care service under the Medicaid program.

5 SECTION 2.013. Section 101.002, Occupations Code, is
6 amended to read as follows:

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

- 10 (1) the Texas Board of Chiropractic Examiners;
- 11 (2) the State Board of Dental Examiners;
- 12 (3) the Texas Optometry Board;
- 13 (4) the Texas State Board of Pharmacy;
- 14 (5) the Texas State Board of Podiatric Medical
15 Examiners;
- 16 (6) the State Board of Veterinary Medical Examiners;
- 17 (7) the Texas State Board of Medical Examiners;
- 18 (8) the Board of Nurse Examiners;
- 19 (9) the Texas State Board of Examiners of
20 Psychologists;
- 21 (10) [~~the Board of Vocational Nurse Examiners,~~
- 22 [~~(11)~~] the Texas Funeral Service Commission;
- 23 (11) [~~(12)~~] the entity that regulates the practice of
24 physical therapy;
- 25 (12) [~~(13)~~] the entity that regulates the practice of
26 occupational therapy;
- 27 (13) [~~(14)~~] the health licensing division of the Texas

1 Department of Health; and

2 (14) [~~(15)~~] the governor's office.

3 SECTION 2.014. Section 201.003(a), Occupations Code, is
4 amended to read as follows:

5 (a) This chapter does not apply to a registered nurse
6 licensed under Chapter 301, a vocational nurse licensed under
7 Chapter 301 [~~302~~], a person who provides spinal screening services
8 as authorized by Chapter 37, Health and Safety Code, a physical
9 therapist licensed under Chapter 453, or a massage therapist or a
10 massage therapy instructor qualified and registered under Chapter
11 455 if:

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

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

20 SECTION 2.015. Section 203.402, Occupations Code, is
21 amended to read as follows:

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

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

1 chapter;

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

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

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

14 SECTION 2.016. Section 206.253(a), Occupations Code, is
15 amended to read as follows:

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

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

20 (2) [~~professional~~] nursing, as defined by Chapter
21 301 [~~, Occupations Code, or~~

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

24 SECTION 2.017. Section 22.011(c)(3), Penal Code, is amended
25 to read as follows:

26 (3) "Health care services provider" means:

27 (A) a physician licensed under Subtitle B, Title

1 3, Occupations Code;

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

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

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

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

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

13 SECTION 2.018. Sections 303.001(2) and (3), Occupations
14 Code, are amended to read as follows:

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

18 (3) "Nursing" has the meaning assigned by Section
19 301.002 [~~means professional nursing as defined by Chapter 301 or~~
20 ~~vocational nursing as defined by Chapter 302~~].

21 SECTION 2.019. Section 303.002(b), Occupations Code, is
22 amended to read as follows:

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

27 (1) state the actions the board and agency are to take

1 to encourage compliance with the requirement to have a nursing
2 [~~registered nurse~~] peer review committee; and

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

4 SECTION 2.020. Sections 303.003(b) and (c), Occupations
5 Code, are amended to read as follows:

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

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

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

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

21 (3) may have only:

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

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

27 SECTION 2.021. Section 303.005, Occupations Code, is

1 amended by amending Subsections (a), (b), (c), (d), and (f) and
2 adding Subsection (h) to read as follows:

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

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

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

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

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

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

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

25 (d) The determinations of the peer review committee shall be
26 considered in a decision to discipline the nurse, but the
27 determinations are not binding if a [~~registered~~] nurse

1 administrator believes in good faith that the peer review committee
2 has incorrectly determined a [~~registered~~] nurse's duty.

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

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

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

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

13 SECTION 2.022. Section 304.002, Occupations Code, as added
14 by Chapter 1420, Acts of the 77th Legislature, Regular Session,
15 2001, is amended to read as follows:

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

25 SECTION 2.023. Section 304.003, Occupations Code, as added
26 by Chapter 1420, Acts of the 77th Legislature, Regular Session,
27 2001, is amended to read as follows:

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

4 SECTION 2.024. Sections 304.004(b) and (c), Occupations
5 Code, as added by Chapter 1420, Acts of the 77th Legislature,
6 Regular Session, 2001, are amended to read as follows:

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

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

19 SECTION 2.025. Section 304.005, Occupations Code, as added
20 by Chapter 1420, Acts of the 77th Legislature, Regular Session,
21 2001, is amended to read as follows:

22 Sec. 304.005. ENFORCEMENT. The Board of Nurse Examiners is
23 [~~and the Board of Vocational Nurse Examiners are~~] the state agency
24 [~~agencies~~] responsible for taking action against registered and
25 vocational nurses practicing in this state under a license issued
26 by a state that is a party to the Nurse Licensure Compact as
27 authorized by the Nurse Licensure Compact. The action shall be

1 taken in accordance with the same procedures for taking action
2 against registered and vocational nurses licensed by this state.

3 SECTION 2.026. Section 304.006(a), Occupations Code, as
4 added by Chapter 1420, Acts of the 77th Legislature, Regular
5 Session, 2001, is amended to read as follows:

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

12 SECTION 2.027. Section 304.007, Occupations Code, as added
13 by Chapter 1420, Acts of the 77th Legislature, Regular Session,
14 2001, is amended to read as follows:

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

22 SECTION 2.028. Section 304.008(a), Occupations Code, as
23 added by Chapter 1420, Acts of the 77th Legislature, Regular
24 Session, 2001, is amended to read as follows:

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

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

3 SECTION 2.029. Section 304.009, Occupations Code, as added
4 by Chapter 1420, Acts of the 77th Legislature, Regular Session,
5 2001, is amended to read as follows:

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

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

18 SECTION 2.030. Section 304.001(3), Occupations Code, as
19 added by Chapter 1489, Acts of the 77th Legislature, Regular
20 Session, 2001, is amended to read as follows:

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

23 ARTICLE 3. REPEALER; TRANSITION; EFFECTIVE DATE

24 SECTION 3.001. On February 1, 2004, the following laws are
25 repealed:

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

1 SECTION 3.002. (a) This section provides for the
2 appointment of members to the Board of Nurse Examiners for terms
3 beginning February 1, 2004, to establish the staggering of members'
4 terms in accordance with Sections 301.051 and 301.054, Occupations
5 Code, as amended by this Act.

6 (b) The term of one of two registered nurse members of the
7 Board of Nurse Examiners scheduled to expire in 2007 expires
8 January 31, 2004. Those members shall agree or draw lots to
9 determine whose term expires on that date. Effective February 1,
10 2004, the governor shall appoint one person who is a nurse faculty
11 member of a school of nursing offering vocational nurse training to
12 fill that vacancy and to serve a term expiring January 31, 2007.

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

17 (d) Effective February 1, 2004, the governor shall appoint
18 three additional members to the Board of Nurse Examiners to serve in
19 the position of vocational nurse, as provided under Section
20 301.051, Occupations Code, as amended by this Act. In appointing
21 those members, the governor shall appoint one person to a term
22 expiring January 31, 2005, one to a term expiring January 31, 2007,
23 and one to a term expiring January 31, 2009.

24 SECTION 3.003. (a) On February 1, 2004:

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

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

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

7 (4) a complaint, investigation, or other proceeding
8 before the Board of Vocational Nurse Examiners is transferred
9 without change in status to the Board of Nurse Examiners, and the
10 Board of Nurse Examiners assumes, as appropriate and without a
11 change in status, the position of the Board of Vocational Nurse
12 Examiners in an action or proceeding to which the Board of
13 Vocational Nurse Examiners is a party;

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

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

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

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

26 (b) Before February 1, 2004, the Board of Vocational Nurse
27 Examiners may agree with the Board of Nurse Examiners to transfer

1 any property of the Board of Vocational Nurse Examiners to the Board
2 of Nurse Examiners to implement the transfer required by this
3 section.

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

10 SECTION 3.004. (a) Not later than June 1, 2004, the Board
11 of Nurse Examiners shall adopt the rules required by Section
12 301.305, Occupations Code, as added by this Act.

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

16 (c) As part of the next review conducted under Section
17 301.003, Occupations Code, as amended by this Act, the Sunset
18 Advisory Commission shall evaluate the necessity and effectiveness
19 of mandating continuing education courses for nurses on specific
20 topics.

21 SECTION 3.005. In the event of a conflict between a
22 provision of this Act and another Act passed by the 78th
23 Legislature, Regular Session, 2003, that becomes law, this Act
24 prevails and controls regardless of the relative dates of
25 enactment.

26 SECTION 3.006. (a) Except as provided by Subsection (b) of
27 this section, this Act takes effect September 1, 2003.

1 (b) Article 2 of this Act takes effect February 1, 2004.

President of the Senate

Speaker of the House

I certify that H.B. No. 1483 was passed by the House on May 8, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1483 on May 30, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 1483 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor