

BILL ANALYSIS

C.S.H.B. 1366
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The substitute updates the Nursing Practice Act making it more consistent with other professional practice acts in Texas. It allows the Board of Nurse Examiners (board) to obtain criminal background information on licensees and applicants. Additionally, it adds "deferred adjudication or deferred disposition" as a basis for the denial of a license. Furthermore, it requires suspension or revocation of a license for certain offenses.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Authorizes the Board to establish a criminal investigations unit to investigate suspected criminal acts relating to the practice of nursing as authorized by this chapter and to assist federal, state, or local law enforcement agencies in the investigation and prosecution of crimes related to the practice of nursing.

Payment of any administrative costs assessed in conducting a hearing to determine a violation before renewal of expired license.

A nurse is subject to denial of a license or disciplinary action if they are placed on deferred adjudication community supervision or deferred disposition for a felony or misdemeanor involving moral turpitude.

Requires the board to suspend, revoke or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of murder, capital murder, manslaughter, kidnapping, sexual assault, aggravated sexual assault, indecency, aggravated assault, injures a child, elderly individual, or disabled individual, aides in suicide, violates a protective order, a protective order involving prejudice or bias, agreement to abduct a child from custody, sale or purchase of a child, robbery, aggravated robbery, an offense which the defendant is required to register as a sex offender, or any law of another state or the Uniform Code of Military Justice that are similar to offenses listed above.

Provides that the board, on final conviction or a plea of guilty or nolo contendere for an offense described above, is prohibited from issuing or renewing a license, or revoke a license if the applicant or license holder did not previously disclose the conviction or plea, and are prohibited from initial, reinstatement or endorsement of a license to practice nursing before the fifth anniversary of the date the person successfully completed community supervision or parole.

Provides that a license may be temporarily restricted, in addition to suspended. Requires a probable cause hearing required under this section to be conducted as a de novo hearing. Makes conforming changes.

Repeals the expiration date of the Nurse Licensure Compact.

EFFECTIVE DATE

September 1, 2005.

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COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute removes the authorization of the board to commission a peace officer, as well as removing the amended definition of a peace officer. Instead, it adds that the Board may establish a criminal investigations unit to investigate suspected criminal acts relating to the practice of nursing, and the Board may assist federal, state, or local law enforcement agencies in the investigation and prosecution of crimes related to the practice of nursing.

The substitute also changes the original bill by specifically listing the types of felony offense convictions for which a person's license is required to be revoked, suspended or refused. The substitute removes that subject to an initial finding by the trier of fact of guilt of a felony under the Texas Controlled Substances Act, Dangerous Drugs section, or inhalant paraphernalia subsection.

The substitute provides that the board, on final conviction or a plea of guilty or nolo contendere for an offense described above, is prohibited from issuing or renewing a license, or revoke a license if the applicant or license holder did not previously disclose the conviction or plea, and are prohibited from initial, reinstatement or endorsement of a license to practice nursing before the fifth anniversary of the date the person successfully completed community supervision or parole.

The substitute removes the provision that the State Office of Administrative Hearings hold a preliminary hearing not later than the 30th day after the date of temporary suspension or restriction and changes it back to 14 days. It also removes the provision that a final hearing is required to be heard not later than the 91st day, and changes it back to the 61st day.

The substitute removes the authorization of the Board to assess a person the administrative costs of conducting a hearing to determine a violation.

The substitute repeals the expiration date of the Nurse Licensure Compact.