

BILL ANALYSIS

C.S.H.B. 3100
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2003, legislation passed combining the boards and the licensing acts for registered nurses (RNs) and licensed vocational nurses (LVNs). Additional 2003 legislation amended the Nursing Practice Act (NPA). After these pieces of legislation were completed it was realized that clarification is needed because in some cases provisions were amended differently and in other cases LVNs were excluded altogether.

The substitute is an omnibus bill which reconciles these differences and addresses several additional issues relating to the practice and regulation of nursing. This bill clarifies confidentiality of certain information collected by the Nursing Workforce Data Section and adds more detail to the definition of “vocational nursing”. It clarifies that a nurse’s conduct is reportable to BNE only when the conduct creates an unnecessary risk or harm to a patient. The relationship between employer reporting and conducting of nursing peer review when a terminated nurse elects not to participate in peer review is clarified. The bill also makes permanent the Nurse Licensure Compact, an interstate compact facilitating the licensure of nurses by multiple states and repeals outdated provisions of the NPA.

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

The substitute deletes outdated references to the Vocational Nurse Act that was repealed, and restores the \$2 license renewal surcharge on LVN for Nursing Workforce Data Section that was inadvertently changed, when nursing boards were combined in 2003. The bill clarifies that patient data collected by the Nursing Workforce Data Section is confidential.

The substitute redefines “professional nursing” to delete the requirement that an act be compensated to fall within definition of nursing as well as adding the development of the nursing care plan and “vocational nursing” to provide more detail and change format to parallel definition of “professional nursing.” The bill also makes language relating to information on nametags for RN also apply to LVNs.

The substitute clarifies that nurses do not lose non-retaliation protections for refusing to engage certain conduct because conduct is defined as a minor incident and establishes the requirement that LVNs practice under the supervision of a registered nurse, physician, physician assistant, podiatrist, or dentist.

The substitute corrects an inadvertent change in meaning when Nursing Practice Act was codified, by clarifying that a nurse is reportable to board for causing harm or risk of harm only when that harm or risk is unjustified. The bill also extends the whistleblower protections for nurses to reporting to accrediting bodies and clarifies applicable standards when nurses report an organization.

The substitute clarifies the content of the report when a nursing peer review committee reports a nurse to the BNE and requires that employers’ reporting nurses to BNE are to extend reporting to action taken against temporary agency nurses, clarify content of reports to BNE, and change the extent of nursing peer review required when a nurse is reported to the BNE when terminated for

a practice incident and elects not to participate in nursing peer review. The bill also simplifies committee composition requirements for nursing peer review and clarifies that a nurse has right to file a rebuttal statement whenever a nursing peer review committee makes an adverse finding against the nurse.

The substitute makes disclosure by the BNE of information of reports from nurses, employers and others consistent with disclosure of information by the board relating about complaints. The bill also deletes outdated references to Board of Vocational Nurse Examiners.

The substitute repeals three Sections of the Occupations Code, the first is an outdated section relating to nursing bureaus, the second made unnecessary by amendments to a section within the substitute, and the third repeals the expiration date for the Nurse Licensure Compact.

EFFECTIVE DATE

Upon passage, or, if the act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute puts the filed version of the bill into legislative council form.