

1-1 By: Janek S.B. No. 1053
1-2 (In the Senate - Filed March 7, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 April 7, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 7, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1053 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the enforcement of the regulation of nursing.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Section 301.161, Occupations Code, is amended by
1-13 adding Subsections (d) and (e) to read as follows:
1-14 (d) The board may establish a criminal investigations unit
1-15 to investigate suspected criminal acts relating to the practice of
1-16 nursing as authorized by this chapter.
1-17 (e) The board may assist federal, state, or local law
1-18 enforcement agencies in the investigation and prosecution of crimes
1-19 related to the practice of nursing.
1-20 SECTION 2. Subsection (b), Section 301.301, Occupations
1-21 Code, is amended to read as follows:
1-22 (b) A person may renew an unexpired license issued under
1-23 this chapter on payment of the required renewal fee, payment of any
1-24 costs assessed under Section 301.461, and compliance with any other
1-25 renewal requirements adopted by the board.
1-26 SECTION 3. Subsection (b), Section 301.452, Occupations
1-27 Code, is amended to read as follows:
1-28 (b) A person is subject to denial of a license or to
1-29 disciplinary action under this subchapter for:
1-30 (1) a violation of this chapter, a rule or regulation
1-31 not inconsistent with this chapter, or an order issued under this
1-32 chapter;
1-33 (2) fraud or deceit in procuring or attempting to
1-34 procure a license to practice professional nursing or vocational
1-35 nursing;
1-36 (3) a conviction for, or placement on deferred
1-37 adjudication community supervision or deferred disposition for, a
1-38 felony or for a misdemeanor involving moral turpitude;
1-39 (4) conduct that results in the revocation of
1-40 probation imposed because of conviction for a felony or for a
1-41 misdemeanor involving moral turpitude;
1-42 (5) use of a nursing license, diploma, or permit, or
1-43 the transcript of such a document, that has been fraudulently
1-44 purchased, issued, counterfeited, or materially altered;
1-45 (6) impersonating or acting as a proxy for another
1-46 person in the licensing examination required under Section 301.253
1-47 or 301.255;
1-48 (7) directly or indirectly aiding or abetting an
1-49 unlicensed person in connection with the unauthorized practice of
1-50 nursing;
1-51 (8) revocation, suspension, or denial of, or any other
1-52 action relating to, the person's license or privilege to practice
1-53 nursing in another jurisdiction;
1-54 (9) intemperate use of alcohol or drugs that the board
1-55 determines endangers or could endanger a patient;
1-56 (10) unprofessional or dishonorable conduct that, in
1-57 the board's opinion, is likely to deceive, defraud, or injure a
1-58 patient or the public;
1-59 (11) adjudication of mental incompetency;
1-60 (12) lack of fitness to practice because of a mental or
1-61 physical health condition that could result in injury to a patient
1-62 or the public; or
1-63 (13) failure to care adequately for a patient or to

2-1 conform to the minimum standards of acceptable nursing practice in
2-2 a manner that, in the board's opinion, exposes a patient or other
2-3 person unnecessarily to risk of harm.

2-4 SECTION 4. Subchapter J, Chapter 301, Occupations Code, is
2-5 amended by adding Section 301.4535 to read as follows:

2-6 Sec. 301.4535. REQUIRED SUSPENSION, REVOCATION, OR REFUSAL
2-7 OF LICENSE FOR CERTAIN OFFENSES. (a) The board shall suspend a
2-8 nurse's license or refuse to issue a license to an applicant on
2-9 proof that the nurse or applicant has been initially convicted of:

2-10 (1) murder under Section 19.02, Penal Code, capital
2-11 murder under Section 19.03, Penal Code, or manslaughter under
2-12 Section 19.04, Penal Code;

2-13 (2) kidnapping or unlawful restraint under Chapter 20,
2-14 Penal Code, and the offense was punished as a felony or state jail
2-15 felony;

2-16 (3) sexual assault under Section 22.011, Penal Code;

2-17 (4) aggravated sexual assault under Section 22.021,
2-18 Penal Code;

2-19 (5) indecency with a child under Section 21.11, Penal
2-20 Code;

2-21 (6) aggravated assault under Section 22.02, Penal
2-22 Code;

2-23 (7) intentionally, knowingly, or recklessly injuring
2-24 a child, elderly individual, or disabled individual under Section
2-25 22.04, Penal Code;

2-26 (8) intentionally, knowingly, or recklessly
2-27 abandoning or endangering a child under Section 22.041, Penal Code;

2-28 (9) aiding suicide under Section 22.08, Penal Code,
2-29 and the offense was punished as a state jail felony;

2-30 (10) an offense under Section 25.07, Penal Code,
2-31 punished as a felony;

2-32 (11) an offense under Section 25.071, Penal Code,
2-33 punished as a felony;

2-34 (12) an agreement to abduct a child from custody under
2-35 Section 25.031, Penal Code;

2-36 (13) the sale or purchase of a child under Section
2-37 25.08, Penal Code;

2-38 (14) robbery under Section 29.02, Penal Code;

2-39 (15) aggravated robbery under Section 29.03, Penal
2-40 Code;

2-41 (16) an offense for which a defendant is required to
2-42 register as a sex offender under Chapter 62, Code of Criminal
2-43 Procedure; or

2-44 (17) an offense under the law of another state,
2-45 federal law, or the Uniform Code of Military Justice that contains
2-46 elements that are substantially similar to the elements of an
2-47 offense listed in this subsection.

2-48 (b) On final conviction or a plea of guilty or nolo
2-49 contendere for an offense listed in Subsection (a), the board, as
2-50 appropriate, may not issue a license to an applicant, shall refuse
2-51 to renew a license, or shall revoke a license if the applicant or
2-52 license holder did not previously disclose the conviction or plea
2-53 and the fifth anniversary of the date the person successfully
2-54 completed community supervision or parole has not occurred.

2-55 (c) A person is not eligible for an initial license or for
2-56 reinstatement or endorsement of a license to practice nursing in
2-57 this state before the fifth anniversary of the date the person
2-58 successfully completed and was dismissed from community
2-59 supervision or parole for an offense described by Subsection (a).

2-60 SECTION 5. Section 301.455, Occupations Code, is amended to
2-61 read as follows:

2-62 Sec. 301.455. TEMPORARY LICENSE SUSPENSION OR
2-63 RESTRICTION. (a) The license of a nurse shall be temporarily
2-64 suspended or restricted on a determination by a majority of the
2-65 board or a three-member committee of board members designated by
2-66 the board that, from the evidence or information presented, the
2-67 continued practice of the nurse would constitute a continuing and
2-68 imminent threat to the public welfare.

2-69 (b) A license may be temporarily suspended or restricted

3-1 under this section without notice or hearing on the complaint if:
3-2 (1) institution of proceedings for a hearing before
3-3 the State Office of Administrative Hearings is initiated
3-4 simultaneously with the temporary suspension or determination to
3-5 restrict; and

3-6 (2) a hearing is held as soon as possible under this
3-7 chapter and Chapter 2001, Government Code.

3-8 (c) The State Office of Administrative Hearings shall hold a
3-9 preliminary hearing not later than the 14th day after the date of
3-10 the temporary suspension or restriction to determine whether
3-11 probable cause exists that a continuing and imminent threat to the
3-12 public welfare exists. The probable cause hearing shall be
3-13 conducted as a de novo hearing.

3-14 (d) A final hearing on the matter shall be held not later
3-15 than the 61st day after the date of the temporary suspension or
3-16 restriction.

3-17 SECTION 6. Section 304.010, Occupations Code, is repealed.

3-18 SECTION 7. (a) The change in law made by this Act by the
3-19 amendment of Subsection (b), Section 301.301, Occupations Code,
3-20 applies only to the renewal of a license that expires on or after
3-21 the effective date of this Act. The renewal of a license that
3-22 expires before the effective date of this Act is governed by the law
3-23 in effect on the date the license expired, and the former law is
3-24 continued in effect for that purpose.

3-25 (b) The change in law made by this Act by the enactment of
3-26 Section 301.4535, Occupations Code, applies only to a person who is
3-27 initially convicted of an offense or placed on deferred
3-28 adjudication after a plea of guilty or nolo contendere for an
3-29 offense on or after the effective date of this Act. A person
3-30 initially convicted of an offense or placed on deferred
3-31 adjudication before that date is governed by the law in effect on
3-32 the date the conviction or plea occurred, and the former law is
3-33 continued in effect for that purpose.

3-34 (c) The change in law made by this Act by the amendment of
3-35 Section 301.455, Occupations Code, applies only to a proceeding
3-36 commenced on or after the effective date of this Act. A proceeding
3-37 commenced before that date is governed by the law in effect on the
3-38 date the proceeding was commenced, and the former law is continued
3-39 in effect for that purpose.

3-40 SECTION 8. This Act takes effect September 1, 2005.

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