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H.B. No. 2426

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of the practice of nursing and the
3 renaming of the Board of Nurse Examiners as the Texas Board of
4 Nursing.

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

6 SECTION 1. Section 301.002(1), Occupations Code, is amended
7 to read as follows:

8 (1) "Board" means the Texas Board of Nursing [~~Nurse~~
9 ~~Examiners~~].

10 SECTION 2. Section 301.003, Occupations Code, is amended to
11 read as follows:

12 Sec. 301.003. APPLICATION OF SUNSET ACT. The Texas Board of
13 Nursing [~~Nurse Examiners~~] is subject to Chapter 325, Government
14 Code (Texas Sunset Act). Unless continued in existence as provided
15 by that chapter, the board is abolished September 1, 2017 [~~2007~~].

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

18 (a) This chapter does not apply to:

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

21 (2) nursing care provided during a disaster under the
22 state emergency management plan adopted under Section 418.042,
23 Government Code, if the person providing the care does not hold the
24 person out as a nurse unless the person is licensed in another

1 state;

2 (3) nursing care in which treatment is solely by
3 prayer or spiritual means;

4 (4) an act performed by a person under the delegated
5 authority of a person licensed by the Texas Medical [~~State~~] Board
6 [~~of Medical Examiners~~];

7 (5) an act performed by a person licensed by another
8 state agency if the act is authorized by the statute under which the
9 person is licensed;

10 (6) the practice of nursing that is incidental to a
11 program of study by a student enrolled in a [~~board-approved~~]
12 nursing education program approved under Section 301.157(d)
13 leading to an initial license as a nurse; or

14 (7) the practice of nursing by a person licensed in
15 another state who is in this state on a nonroutine basis for a
16 period not to exceed 72 hours to:

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

19 (B) provide nursing consulting services; or

20 (C) attend or present a continuing nursing
21 education program.

22 SECTION 4. Subchapter A, Chapter 301, Occupations Code, is
23 amended by adding Section 301.005 to read as follows:

24 Sec. 301.005. REFERENCE IN OTHER LAW. A reference in any
25 other law to the former Board of Nurse Examiners means the Texas
26 Board of Nursing.

27 SECTION 5. The heading to Subchapter B, Chapter 301,

1 Occupations Code, is amended to read as follows:

2 SUBCHAPTER B. TEXAS BOARD OF NURSING [~~NURSE EXAMINERS~~]

3 SECTION 6. Section 301.051(a), Occupations Code, is amended
4 to read as follows:

5 (a) The Texas Board of Nursing [~~Nurse Examiners~~] consists of
6 13 members appointed by the governor with the advice and consent of
7 the senate as follows:

8 (1) six nurse members, including:

9 (A) one advanced practice nurse;

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

12 (C) three vocational nurses who are not members
13 of a nurse faculty;

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

16 (A) one of whom is a nurse faculty member of a
17 school of nursing offering a baccalaureate degree program in
18 preparing registered nurses;

19 (B) one of whom is a nurse faculty member of a
20 school of nursing offering an associate degree program in preparing
21 registered nurses; and

22 (C) one of whom is a nurse faculty member of a
23 school of nursing at an institution of higher education preparing
24 vocational nurses; and

25 (3) four members who represent the public.

26 SECTION 7. Section 301.052(b), Occupations Code, is amended
27 to read as follows:

1 (b) A person is not eligible for appointment as a public
2 member of the board if the person or the person's spouse:

3 (1) is registered, certified, or licensed by an
4 occupational regulatory agency in the field of health care;

5 (2) is employed by or participates in the management
6 of a business entity or other organization that:

7 (A) provides health care services; [~~or~~]

8 (B) sells, manufactures, or distributes health
9 care supplies or equipment; or

10 (C) is regulated by or receives money from the
11 board;

12 (3) owns or controls, directly or indirectly, more
13 than a 10 percent interest in a business entity or other
14 organization that:

15 (A) provides health care services; [~~or~~]

16 (B) sells, manufactures, or distributes health
17 care supplies or equipment; or

18 (C) is regulated by or receives money from the
19 board; or

20 (4) uses or receives a substantial amount of tangible
21 goods, services, or funds from the board, other than compensation
22 or reimbursement authorized by law for board membership,
23 attendance, or expenses.

24 SECTION 8. Section 301.053, Occupations Code, is amended to
25 read as follows:

26 Sec. 301.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)
27 In this section, "Texas trade association" means a [~~nonprofit,~~]

1 cooperative~~[7]~~ and voluntarily joined statewide association of
2 business or professional competitors in this state designed to
3 assist its members and its industry or profession in dealing with
4 mutual business or professional problems and in promoting their
5 common interest.

6 (b) A person may not be a member of the board and may not be a
7 board employee employed in a "bona fide executive, administrative,
8 or professional capacity," as that phrase is used for the purposes
9 of establishing an exemption to the overtime provisions of the
10 federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et
11 seq.), if:

12 (1) the person is an ~~[An]~~ officer, employee, or paid
13 consultant of a Texas trade association in the field of health care;
14 or

15 (2) the person's ~~[may not be a member of the board and~~
16 ~~may not be an employee of the board who is exempt from the state's~~
17 ~~position classification plan or is compensated at or above the~~
18 ~~amount prescribed by the General Appropriations Act for step 1,~~
19 ~~salary group A17, of the position classification salary schedule.~~

20 ~~[(c) A person who is the]~~ spouse is ~~[of]~~ an officer,
21 manager, or paid consultant of a Texas trade association in the
22 field of health care ~~[may not be a member of the board and may not be~~
23 ~~an employee of the board who is exempt from the state's position~~
24 ~~classification plan or is compensated at or above the amount~~
25 ~~prescribed by the General Appropriations Act for step 1, salary~~
26 ~~group A17, of the position classification salary schedule].~~

27 (c) ~~[(d)]~~ A person may not be ~~[serve as]~~ a ~~[board]~~ member of

1 the board or act as the general counsel to the board if the person is
2 required to register as a lobbyist under Chapter 305, Government
3 Code, because of the person's activities for compensation on behalf
4 of a profession related to the board's operation.

5 SECTION 9. Sections 301.055(a) and (c), Occupations Code,
6 are amended to read as follows:

7 (a) It is a ground for removal from the board that a member:

8 (1) does not have at the time of taking office
9 ~~[appointment]~~ the qualifications required by Section 301.051(a);

10 (2) does not maintain during service on the board the
11 qualifications required by Section 301.051(a);

12 (3) is ineligible for membership under ~~[violates a~~
13 ~~prohibition established by]~~ Section 301.053;

14 (4) cannot, because of illness or disability,
15 discharge the member's duties for a substantial part of the member's
16 term; or

17 (5) is absent from more than half of the regularly
18 scheduled board meetings that the member is eligible to attend
19 during a calendar year unless the absence is excused by majority
20 vote of the board.

21 (c) If the executive director has knowledge that a potential
22 ground for removal exists, the executive director shall notify the
23 presiding officer of the board of the potential ground. The
24 presiding officer shall then notify the governor and the attorney
25 general that a potential ground for removal exists. If the
26 potential ground for removal involves the presiding officer, the
27 executive director shall notify the next highest ranking officer of

1 the board, who shall then notify the governor and the attorney
2 general that a potential ground for removal exists.

3 SECTION 10. Section 301.056(b), Occupations Code, is
4 amended to read as follows:

5 (b) A board member is [~~not~~] entitled to reimbursement for
6 travel expenses incurred while conducting board business,
7 including expenses for transportation, meals, and lodging, [~~other~~
8 ~~than transportation expenses. A member is entitled to~~
9 ~~reimbursement for transportation expenses]~~ as provided by the
10 General Appropriations Act.

11 SECTION 11. Sections 301.059(a), (b), and (c), Occupations
12 Code, are amended to read as follows:

13 (a) A person who is appointed to and qualifies for office as
14 a member of the board may not vote, deliberate, or be counted in
15 attendance at a meeting of the board until the person completes
16 [~~Before a board member may assume the member's duties and before the~~
17 ~~member may be confirmed by the senate, the member must complete at~~
18 ~~least one course of]~~ a training program that complies with
19 [~~established by the board under]~~ this section.

20 (b) The training program must [~~shall~~] provide the person
21 with information [~~to a participant~~] regarding:

22 (1) the legislation that created the board and the
23 board's programs, functions, rules, and budget [~~this chapter~~];

24 (2) the results of the most recent formal audit of
25 [~~programs operated by]~~ the board;

26 (3) the requirements of laws relating to open
27 meetings, public information, administrative procedure, and

1 conflicts of interest [~~role and functions of the board~~]; and

2 (4) [~~the rules of the board, with an emphasis on the~~
3 ~~rules that relate to disciplinary and investigatory authority,~~

4 [~~(5) the current budget for the board,~~

5 [~~(6) the results of the most recent formal audit of the~~
6 ~~board,~~

7 [~~(7) the requirements of Chapters 551, 552, 2001, and~~
8 ~~2002, Government Code,~~

9 [~~(8) the requirements of the conflict of interest laws~~
10 ~~and other laws relating to public officials, and~~

11 [~~(9)~~] any applicable ethics policies adopted by the
12 board or the Texas Ethics Commission.

13 (c) A person appointed to the board is entitled to
14 reimbursement, as provided by the General Appropriations Act, for
15 the travel expenses incurred in attending the training program
16 regardless of whether the attendance at the program occurs before
17 or after the person qualifies for office. [~~In developing the~~
18 ~~training program, the board shall consult with the governor's~~
19 ~~office, the attorney general's office, and the Texas Ethics~~
20 ~~Commission.]~~

21 SECTION 12. Subchapter D, Chapter 301, Occupations Code, is
22 amended by adding Section 301.1545 to read as follows:

23 Sec. 301.1545. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION
24 OR DEFERRED ADJUDICATION. (a) The board shall adopt rules and
25 guidelines necessary to comply with Chapter 53, except to the
26 extent the requirements of this subtitle are stricter than the
27 requirements of that chapter.

1 (b) In its rules under this section, the board shall list
2 the offenses for which a conviction would constitute grounds for
3 the board to take action under Section 53.021 or for which placement
4 on deferred adjudication community supervision would constitute
5 grounds for the board to take action under this chapter.

6 SECTION 13. Section 301.157, Occupations Code, is amended
7 by amending Subsections (a), (b), and (d) and adding Subsections
8 (a-1), (b-1), (d-1) through (d-7), and (h) to read as follows:

9 (a) The board shall prescribe three programs of study to
10 prepare a person to receive an initial license as a registered nurse
11 under this chapter [~~nurses~~] as follows:

12 (1) a baccalaureate degree program that is conducted
13 by an educational unit in nursing that is a part of a senior college
14 or university and that leads to a baccalaureate degree in nursing;

15 (2) an associate degree program that is conducted by
16 an educational unit in nursing within the structure of a college or
17 a university and that leads to an associate degree in nursing; and

18 (3) a diploma program that is conducted by a
19 single-purpose school, usually under the control of a hospital, and
20 that leads to a diploma in nursing.

21 (a-1) A diploma program of study in this state that leads to
22 an initial license as a registered nurse under this chapter and that
23 is completed on or after December 31, 2014, must entitle a student
24 to receive a degree on the student's successful completion of a
25 degree program of a public or private institution of higher
26 education accredited by an agency recognized by the Texas Higher
27 Education Coordinating Board.

1 (b) The board shall:

2 (1) prescribe two programs of study to prepare a
3 person to receive an initial vocational nurse license under this
4 chapter [~~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 nurses;

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

15 (4) approve schools of nursing and educational
16 programs that meet the board's requirements;

17 (5) select one or more national nursing accrediting
18 agencies, recognized by the United States Department of Education
19 and determined by the board to have acceptable standards, to
20 accredit schools of nursing and educational programs; and

21 (6) [~~(5)~~] deny or withdraw approval from a school of
22 nursing or educational program that:

23 (A) fails to meet the prescribed course of study
24 or other standard under which it sought approval by the board;

25 (B) fails to meet or maintain accreditation with
26 the national nursing accrediting agency selected by the board under
27 Subdivision (5) under which it was approved or sought approval by

1 the board; or

2 (C) fails to maintain the approval of the state
3 board of nursing of another state and the board under which it was
4 approved.

5 (b-1) The board may not require accreditation of the
6 governing institution of a school of nursing. The board shall
7 accept the requirements established by the Texas Higher Education
8 Coordinating Board for accrediting the governing institution of a
9 school of nursing. The governing institution of a professional
10 nursing school, not including a diploma program, must be accredited
11 by an agency recognized by the Texas Higher Education Coordinating
12 Board or hold a certificate of authority from the Texas Higher
13 Education Coordinating Board under provisions leading to
14 accreditation of the institution in due course.

15 (d) A person may not be certified as a graduate of any school
16 of nursing or educational program unless the person has completed
17 the requirements of the prescribed course of study, including
18 clinical practice, of a a [~~an approved~~] school of nursing or
19 educational program that:

20 (1) is approved by the board;

21 (2) is accredited by a national nursing accreditation
22 agency determined by the board to have acceptable standards; or

23 (3) is approved by a state board of nursing of another
24 state and the board, subject to Subsection (d-4).

25 (d-1) A school of nursing or educational program is
26 considered approved by the board and, except as provided by
27 Subsection (d-7), is exempt from board rules that require ongoing

1 approval if the school or program:

2 (1) is accredited and maintains accreditation through
3 a national nursing accrediting agency selected by the board under
4 Subsection (b)(5); and

5 (2) maintains an acceptable pass rate as determined by
6 the board on the applicable licensing examination under this
7 chapter.

8 (d-2) A school of nursing or educational program that fails
9 to meet or maintain an acceptable pass rate on applicable licensing
10 examinations under this chapter is subject to review by the board.
11 The board may assist the school or program in its effort to achieve
12 compliance with the board's standards.

13 (d-3) A school or program from which approval has been
14 withdrawn under this section may reapply for approval.

15 (d-4) The board may recognize and accept as approved under
16 this section a school of nursing or educational program operated in
17 another state and approved by a state board of nursing of another
18 state. The board shall develop policies to ensure that the other
19 state board's standards are substantially equivalent to the board's
20 standards.

21 (d-5) The board shall streamline the process for initially
22 approving a school of nursing or educational program under this
23 section by identifying and eliminating tasks performed by the board
24 that duplicate or overlap tasks performed by the Texas Higher
25 Education Coordinating Board or the Texas Workforce Commission.

26 (d-6) The board, in cooperation with the Texas Higher
27 Education Coordinating Board and the Texas Workforce Commission,

1 shall establish guidelines for the initial approval of schools of
2 nursing or educational programs. The guidelines must:

3 (1) identify the approval processes to be conducted by
4 the Texas Higher Education Coordinating Board or the Texas
5 Workforce Commission;

6 (2) require the approval process identified under
7 Subdivision (1) to precede the approval process conducted by the
8 board; and

9 (3) be made available on the board's Internet website
10 and in a written form.

11 (d-7) A school of nursing or educational program approved
12 under Subsection (d-1) shall:

13 (1) provide the board with copies of any reports
14 submitted to or received from the national nursing accrediting
15 agency selected by the board;

16 (2) notify the board of any change in accreditation
17 status; and

18 (3) provide other information required by the board as
19 necessary to evaluate and establish nursing education and workforce
20 policy in this state.

21 (h) The board, in collaboration with the nursing educators,
22 the Texas Higher Education Coordinating Board, and the Texas Health
23 Care Policy Council, shall implement, monitor, and evaluate a plan
24 for the creation of innovative nursing education models that
25 promote increased enrollment in this state's nursing programs.

26 SECTION 14. Subchapter D, Chapter 301, Occupations Code, is
27 amended by adding Section 301.1595 to read as follows:

1 Sec. 301.1595. ADVISORY COMMITTEES. (a) The board may
2 appoint advisory committees to perform the advisory functions
3 assigned by the board.

4 (b) An advisory committee shall provide independent
5 expertise on board functions and policies, but may not be involved
6 in setting board policy.

7 (c) The board shall adopt rules regarding the purpose,
8 structure, and use of advisory committees, including rules on:

9 (1) the purpose, role, responsibility, and goal of an
10 advisory committee;

11 (2) the size and quorum requirements for an advisory
12 committee;

13 (3) the composition and representation of an advisory
14 committee;

15 (4) the qualifications of advisory committee members,
16 such as experience or area of residence;

17 (5) the appointment procedures for advisory
18 committees;

19 (6) the terms of service for advisory committee
20 members;

21 (7) the training requirements for advisory committee
22 members, if necessary;

23 (8) the method the board will use to receive public
24 input on issues addressed by an advisory committee; and

25 (9) the development of board policies and procedures
26 to ensure advisory committees meet the requirements for open
27 meetings under Chapter 551, Government Code, including

1 notification requirements.

2 (d) A board member may not serve as a member of an advisory
3 committee, but may serve as a liaison between an advisory committee
4 and the board. A board member liaison that attends advisory
5 committee meetings may attend only as an observer and not as a
6 participant. A board member liaison is not required to attend
7 advisory committee meetings. The role of a board member liaison is
8 limited to clarifying the board's charge and intent to the advisory
9 committee.

10 (e) To the extent of any conflict with Chapter 2110,
11 Government Code, this section and board rules adopted under this
12 section control.

13 SECTION 15. Subchapter D, Chapter 301, Occupations Code, is
14 amended by adding Sections 301.166 and 301.167 to read as follows:

15 Sec. 301.166. USE OF TECHNOLOGY. The board shall implement
16 a policy requiring the board to use appropriate technological
17 solutions to improve the board's ability to perform its functions.
18 The policy must ensure that the public is able to interact with the
19 board on the Internet.

20 Sec. 301.167. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
21 RESOLUTION. (a) The board shall develop and implement a policy to
22 encourage the use of:

23 (1) negotiated rulemaking procedures under Chapter
24 2008, Government Code, for the adoption of board rules; and

25 (2) appropriate alternative dispute resolution
26 procedures under Chapter 2009, Government Code, to assist in the
27 resolution of internal and external disputes under the board's

1 jurisdiction.

2 (b) The board's procedures relating to alternative dispute
3 resolution must conform, to the extent possible, to any model
4 guidelines issued by the State Office of Administrative Hearings
5 for the use of alternative dispute resolution by state agencies.

6 (c) The board shall designate a trained person to:

7 (1) coordinate the implementation of the policy
8 adopted under Subsection (a);

9 (2) serve as a resource for any training needed to
10 implement the procedures for negotiated rulemaking or alternative
11 dispute resolution; and

12 (3) collect data concerning the effectiveness of those
13 procedures, as implemented by the board.

14 SECTION 16. Section 301.203, Occupations Code, is amended
15 to read as follows:

16 Sec. 301.203. RECORDS AND ANALYSIS OF COMPLAINTS. (a) The
17 board shall maintain a system to promptly and efficiently act on
18 complaints [~~keep an information file about each complaint~~] filed
19 with the board. The board shall maintain information about
20 [~~information file must be kept current and must contain a record for~~
21 ~~each complaint of~~]:

22 (1) parties to the complaint [~~each person contacted in~~
23 ~~relation to the complaint~~];

24 (2) the subject matter of the complaint [~~a summary of~~
25 ~~findings made at each step of the complaint process~~];

26 (3) a summary of the results of the review or
27 investigation of the complaint [~~an explanation of the legal basis~~

1 ~~and reason for a complaint that is dismissed]; and~~

2 (4) the complaint's disposition [~~the schedule~~
3 ~~required under Section 301.204 and a notation of any change in the~~
4 ~~schedule; and~~

5 ~~[(5) other relevant information].~~

6 (b) The board shall make information available describing
7 its procedures for complaint investigation and resolution.

8 (c) The board shall periodically [~~If a written complaint is~~
9 ~~filed with the board that the board has authority to resolve, the~~
10 ~~board, at least quarterly and until final disposition of the~~
11 ~~complaint, shall]~~ notify the parties to the complaint of the status
12 of the complaint until final disposition unless notice would
13 jeopardize an undercover investigation.

14 (d) The board shall develop a method for analyzing the
15 sources and types of complaints and violations and establish
16 categories for the complaints and violations. The board shall use
17 the analysis to focus its information and education efforts on
18 specific problem areas identified through the analysis.

19 (e) The board shall analyze complaints filed with the board
20 to identify any trends or issues related to certain violations,
21 including:

22 (1) the reason for each complaint;

23 (2) how each complaint was resolved; and

24 (3) the subject matter of each complaint that was not
25 within the jurisdiction of the board and how the board responded to
26 the complaint.

27 SECTION 17. The heading to Section 301.204, Occupations

1 Code, is amended to read as follows:

2 Sec. 301.204. GENERAL RULES, POLICIES, AND PROCEDURES
3 REGARDING COMPLAINT INVESTIGATION AND DISPOSITION.

4 SECTION 18. Section 301.204, Occupations Code, is amended
5 by amending Subsection (a) and adding Subsection (f) to read as
6 follows:

7 (a) The board shall adopt rules, policies, and procedures
8 concerning the investigation of a complaint filed with the board.
9 The rules, policies, or procedures adopted under this subsection
10 must:

11 (1) distinguish between categories of complaints;
12 (2) ensure that complaints are not dismissed without
13 appropriate consideration;

14 (3) require that the board be advised of a complaint
15 that is dismissed and that a letter be sent to the person who filed
16 the complaint explaining the action taken on the dismissed
17 complaint;

18 (4) ensure that the person who filed the complaint has
19 an opportunity to explain the allegations made in the complaint;
20 [~~and~~]

21 (5) prescribe guidelines concerning the categories of
22 complaints that require the use of a private investigator and the
23 procedures for the board to obtain the services of a private
24 investigator; and

25 (6) by rule allow appropriate employees of the board
26 to dismiss a complaint if an investigation demonstrates that:

27 (A) a violation did not occur; or

1 (B) the subject of the complaint is outside the
2 board's jurisdiction.

3 (f) At each public meeting of the board, the executive
4 director shall report to the board each complaint dismissed under
5 Subsection (a)(6) since the board's last public meeting.

6 SECTION 19. Section 301.252, Occupations Code, is amended
7 by amending Subsections (a) and (b) and adding Subsection (a-1) to
8 read as follows:

9 (a) Each applicant for a registered nurse license or a
10 vocational nurse license must submit to the board a sworn
11 application that demonstrates the applicant's qualifications under
12 this chapter, accompanied by evidence that the applicant:

13 (1) has good professional character; ~~and~~

14 (2) has successfully completed a ~~[an approved]~~ program
15 of professional or vocational nursing education approved under
16 Section 301.157(d); and

17 (3) has passed the jurisprudence examination approved
18 by the board as provided by Subsection (a-1).

19 (a-1) The jurisprudence examination shall be conducted on
20 the licensing requirements under this chapter and board rules and
21 other laws, rules, or regulations applicable to the nursing
22 profession in this state. The board shall adopt rules for the
23 jurisprudence examination under Subsection (a)(3) regarding:

24 (1) the development of the examination;

25 (2) applicable fees;

26 (3) administration of the examination;

27 (4) reexamination procedures;

1 (5) grading procedures; and

2 (6) notice of results.

3 (b) The board may waive the requirement of Subsection (a)(2)
4 for a vocational nurse applicant if the applicant provides
5 satisfactory sworn evidence that the applicant has completed an
6 acceptable level of education in:

7 (1) a professional nursing school approved under
8 Section 301.157(d) [by the board]; or

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

11 SECTION 20. Section 301.253, Occupations Code, is amended
12 by amending Subsection (b) and adding Subsections (c-1), (f), and
13 (g) to read as follows:

14 (b) Each examination administered under this section must
15 be prepared by a national testing service or the board. The board
16 shall ensure that the [give the] examination is administered in
17 various cities throughout the state.

18 (c-1) The board shall:

19 (1) adopt policies and guidelines detailing the
20 procedures for the testing process, including test admission, test
21 administration, and national examination requirements; and

22 (2) post on the board's Internet website the policies
23 that reference the testing procedures by the national organization
24 selected by the board to administer an examination.

25 (f) The board shall develop a written refund policy
26 regarding examination fees that:

27 (1) defines the reasonable notification period and the

1 emergencies that would qualify for a refund; and

2 (2) does not conflict with any examination fee or
3 refund policy of the testing service involved in administering the
4 examination.

5 (g) The board may recommend to a national testing service
6 selected by the board to offer examinations under this section the
7 board's written policy for refunding an examination fee for an
8 applicant who:

9 (1) provides advance notice of the applicant's
10 inability to take the examination; or

11 (2) is unable to take the examination because of an
12 emergency.

13 SECTION 21. Section 301.301, Occupations Code, is amended
14 by amending Subsections (b) and (c) and adding Subsection (c-1) to
15 read as follows:

16 (b) A person may renew an unexpired license issued under
17 this chapter on payment to the board of the required renewal fee
18 before the expiration date of the license, payment to the board of
19 any costs assessed under Section 301.461, and compliance with any
20 other renewal requirements adopted by the board. A person whose
21 license has expired may not engage in activities that require a
22 license until the license has been renewed.

23 (c) A person whose license has been expired for 90 days or
24 less may renew the license by paying to the board the required
25 renewal fee and a late fee in the amount considered appropriate by
26 the board to encourage timely renewal [~~that is equal to one-half the~~
27 ~~amount charged for examination for the license~~].

1 (c-1) A person whose [~~If a~~] license has been expired for
2 more than 90 days but less than one year[~~, the person~~] may renew the
3 license by paying to the board all unpaid renewal fees and a late
4 fee that is equal to twice the amount of a late fee under Subsection
5 (c) [~~the amount charged for examination for the license~~].

6 SECTION 22. Section 301.302(a), Occupations Code, is
7 amended to read as follows:

8 (a) A [~~The board may renew without examination the expired~~
9 ~~license of a~~] person who was licensed to practice professional
10 nursing or vocational nursing in this state, moved to another
11 state, and is currently licensed and has been in practice in the
12 other state for the two years preceding application may obtain a new
13 license without examination.

14 SECTION 23. Section 301.303, Occupations Code, is amended
15 by adding Subsection (g) to read as follows:

16 (g) The board by rule may establish guidelines for targeted
17 continuing education required under this chapter. The rules
18 adopted under this subsection must address:

19 (1) the nurses who are required to complete the
20 targeted continuing education program;

21 (2) the type of courses that satisfy the targeted
22 continuing education requirement;

23 (3) the time in which a nurse is required to complete
24 the targeted continuing education;

25 (4) the frequency with which a nurse is required to
26 meet the targeted continuing education requirement; and

27 (5) any other requirement considered necessary by the

1 board.

2 SECTION 24. Section 301.410, Occupations Code, is amended
3 to read as follows:

4 Sec. 301.410. REPORT REGARDING IMPAIRMENT BY CHEMICAL
5 DEPENDENCY, ~~[OR]~~ MENTAL ILLNESS, OR DIMINISHED MENTAL CAPACITY.

6 (a) A person who is required to report a nurse under this
7 subchapter because the nurse is impaired or suspected of being
8 impaired by chemical dependency or mental illness may report to a
9 peer assistance program approved by the board under Chapter 467,
10 Health and Safety Code, instead of reporting to the board or
11 requesting review by a nursing peer review committee.

12 (b) A person who is required to report a nurse under this
13 subchapter because the nurse is impaired or suspected of being
14 impaired by chemical dependency or diminished mental capacity must
15 report to the board if the person believes that an impaired nurse
16 committed a practice violation.

17 SECTION 25. Subchapter I, Chapter 301, Occupations Code, is
18 amended by adding Sections 301.4105 and 301.4106 to read as
19 follows:

20 Sec. 301.4105. BOARD RESPONSIBILITY FOLLOWING REPORT. The
21 board shall determine whether a nurse violated this chapter or a
22 rule adopted under this chapter for any case reported to the board
23 in which the nurse's ability to perform the practice of nursing was
24 impaired or suspected of being impaired by chemical dependency or
25 diminished mental capacity and in which the nurse is suspected of
26 committing a practice violation. The board, in deciding whether to
27 take disciplinary action against the nurse for a violation of this

1 chapter or board rules, shall balance the need to protect the public
2 and the need to ensure the impaired nurse seeks treatment.

3 Sec. 301.4106. PEER ASSISTANCE PROGRAMS. The board by rule
4 shall develop guidelines to:

5 (1) outline the roles and responsibilities of the
6 board and a peer assistance program established or approved by the
7 board under Chapter 467, Health and Safety Code;

8 (2) outline the process for a peer assistance program
9 to refer to the board complaints alleging a violation of the
10 practice of nursing;

11 (3) establish requirements for successfully
12 completing a peer assistance program and for notification of the
13 board of the successful completion by a nurse the board has ordered
14 to attend or referred to the program; and

15 (4) establish a procedure for evaluating the success
16 of a peer assistance program established or approved by the board
17 under Chapter 467, Health and Safety Code.

18 SECTION 26. Section 301.452, Occupations Code, is amended
19 by adding Subsection (d) to read as follows:

20 (d) The board by rule shall establish guidelines to ensure
21 that any arrest information, in particular information on arrests
22 in which criminal action was not proven or charges were not filed or
23 adjudicated, that is received by the board under this section is
24 used consistently, fairly, and only to the extent the underlying
25 conduct relates to the practice of nursing.

26 SECTION 27. Subchapter J, Chapter 301, Occupations Code, is
27 amended by adding Section 301.4531 to read as follows:

1 Sec. 301.4531. SCHEDULE OF SANCTIONS. (a) The board by
2 rule shall adopt a schedule of the disciplinary sanctions that the
3 board may impose under this chapter. In adopting the schedule of
4 sanctions, the board shall ensure that the severity of the sanction
5 imposed is appropriate to the type of violation or conduct that is
6 the basis for disciplinary action.

7 (b) In determining the appropriate disciplinary action,
8 including the amount of any administrative penalty to assess, the
9 board shall consider:

10 (1) whether the person:

11 (A) is being disciplined for multiple violations
12 of either this chapter or a rule or order adopted under this
13 chapter; or

14 (B) has previously been the subject of
15 disciplinary action by the board and has previously complied with
16 board rules and this chapter;

17 (2) the seriousness of the violation;

18 (3) the threat to public safety; and

19 (4) any mitigating factors.

20 (c) In the case of a person described by:

21 (1) Subsection (b)(1)(A), the board shall consider
22 taking a more severe disciplinary action, including revocation of
23 the person's license, than the disciplinary action that would be
24 taken for a single violation; and

25 (2) Subsection (b)(1)(B), the board shall consider
26 taking a more severe disciplinary action, including revocation of
27 the person's license, than the disciplinary action that would be

1 taken for a person who has not previously been the subject of
2 disciplinary action by the board.

3 SECTION 28. Subchapter J, Chapter 301, Occupations Code, is
4 amended by adding Sections 301.470 and 301.471 to read as follows:

5 Sec. 301.470. REFUND. (a) Subject to Subsection (b), the
6 board may order a license holder to pay a refund to a consumer as
7 provided in an agreement resulting from an informal settlement
8 conference instead of or in addition to imposing an administrative
9 penalty under this chapter.

10 (b) The amount of a refund ordered as provided in an
11 agreement resulting from an informal settlement conference may not
12 exceed the amount the consumer paid to a nurse for a service
13 regulated by this chapter or the actual amount stolen or defrauded
14 from a patient by the nurse. The board may not require payment of
15 other damages or estimate harm in a refund order.

16 Sec. 301.471. EMERGENCY CEASE AND DESIST ORDER. (a) If it
17 appears to the board that a person who is not licensed under this
18 chapter is violating this chapter, a rule adopted under this
19 chapter, or another state statute or rule relating to the practice
20 of professional nursing or vocational nursing and the board
21 determines that the unauthorized activity constitutes a clear,
22 imminent, or continuing threat to the public health and safety, the
23 board may:

24 (1) issue an emergency cease and desist order
25 prohibiting the person from engaging in the activity; and

26 (2) report the activity to a local law enforcement
27 agency or the attorney general for prosecution.

1 (b) An order issued under Subsection (a) must:

2 (1) be delivered on issuance to the person affected by
3 the order by personal delivery or registered or certified mail,
4 return receipt requested, to the person's last known address;

5 (2) state the acts or practices alleged to be an
6 unauthorized activity and require the person immediately to cease
7 and desist from the unauthorized activity; and

8 (3) contain a notice that a request for hearing may be
9 filed under this section.

10 (c) Unless the person against whom the emergency cease and
11 desist order is directed requests a board hearing in writing before
12 the 11th day after the date it is served on the person, the order is
13 final and nonappealable as to that person. A request for a board
14 hearing must:

15 (1) be in writing and directed to the board; and

16 (2) state the grounds for the request to set aside or
17 modify the order.

18 (d) On receiving a request for a hearing, the board shall
19 serve notice of the time and place of the hearing by personal
20 delivery or registered or certified mail, return receipt requested.
21 The hearing must be held not later than the 10th day after the date
22 the board receives the request for a hearing unless the parties
23 agree to a later hearing date. A hearing under this subsection is
24 subject to Chapter 2001, Government Code.

25 (e) After the hearing, the board shall affirm, modify, or
26 set aside wholly or partly the emergency cease and desist order. An
27 order affirming or modifying the emergency cease and desist order

1 is immediately final for purposes of enforcement and appeal.

2 (f) An order under this section continues in effect unless
3 the order is stayed by the board. The board may impose any
4 condition before granting a stay of the order.

5 (g) The board may release to the public a final cease and
6 desist order issued under this section or information regarding the
7 existence of the order if the board determines that the release
8 would enhance the effective enforcement of the order or will serve
9 the public interest.

10 (h) A violation of an order issued under this section
11 constitutes grounds for imposing an administrative penalty under
12 this chapter.

13 SECTION 29. Section 301.502(a), Occupations Code, is
14 amended to read as follows:

15 (a) The amount of the administrative penalty may not exceed
16 \$5,000 [~~\$2,500~~] for each violation. Each day a violation continues
17 or occurs is a separate violation for purposes of imposing a
18 penalty.

19 SECTION 30. Subtitle E, Title 3, Occupations Code, is
20 amended by adding Chapter 305 to read as follows:

21 CHAPTER 305. NCSBN ADVANCED PRACTICE REGISTERED NURSE COMPACT

22 Sec. 305.001. NCSBN ADVANCED PRACTICE REGISTERED NURSE
23 COMPACT. The NCSBN Advanced Practice Registered Nurse Compact is
24 enacted and entered into with all other jurisdictions that legally
25 join in the compact, which is as follows:

1 NCSBN ADVANCED PRACTICE REGISTERED NURSE COMPACT

2 ARTICLE 1. FINDINGS AND DECLARATION OF PURPOSE

3 (a) The party states find that:

4 (1) the health and safety of the public are affected by
5 the degree of compliance with APRN licensure/authority to practice
6 requirements and the effectiveness of enforcement activities
7 related to state APRN licensure/authority to practice laws;

8 (2) violations of APRN licensure/authority to
9 practice and other laws regulating the practice of nursing may
10 result in injury or harm to the public;

11 (3) the expanded mobility of APRNs and the use of
12 advanced communication technologies as part of our nation's health
13 care delivery system require greater coordination and cooperation
14 among states in the areas of APRN licensure/authority to practice
15 and regulation;

16 (4) new practice modalities and technology make
17 compliance with individual state APRN licensure/authority to
18 practice laws difficult and complex;

19 (5) the current system of duplicative APRN
20 licensure/authority to practice for APRNs practicing in multiple
21 states is cumbersome and redundant to both APRNs and states;

22 (6) uniformity of APRN requirements throughout the
23 states promotes public safety and public health benefits; and

24 (7) access to APRN services increases the public's
25 access to health care, particularly in rural and underserved areas.

26 (b) The general purposes of this compact are to:

27 (1) facilitate the states' responsibilities to protect

1 the public's health and safety;

2 (2) ensure and encourage the cooperation of party
3 states in the areas of APRN licensure/authority to practice and
4 regulation, including promotion of uniform licensure requirements;

5 (3) facilitate the exchange of information between
6 party states in the areas of APRN regulation, investigation, and
7 adverse actions;

8 (4) promote compliance with the laws governing APRN
9 practice in each jurisdiction; and

10 (5) invest all party states with the authority to hold
11 an APRN accountable for meeting all state practice laws in the state
12 in which the patient is located at the time care is rendered through
13 the mutual recognition of party state licenses.

14 ARTICLE 2. DEFINITIONS

15 (a) "Advanced practice registered nurse" or "APRN" means a
16 nurse anesthetist, nurse practitioner, nurse midwife, or clinical
17 nurse specialist to the extent a party state licenses or grants
18 authority to practice in that APRN role and title.

19 (b) "Adverse action" means a home or remote state
20 disciplinary action.

21 (c) "Alternative program" means a voluntary,
22 non-disciplinary monitoring program approved by a licensing board.

23 (d) "APRN licensure/authority to practice" means the
24 regulatory mechanism used by a party state to grant legal authority
25 to practice as an APRN.

26 (e) "APRN uniform licensure/authority to practice
27 requirements" means those minimum uniform licensure, education,

1 and examination requirements as agreed to by the compact
2 administrators and adopted by licensing boards for the recognized
3 APRN role and title.

4 (f) "Coordinated licensure information system" means an
5 integrated process for collecting, storing, and sharing
6 information on APRN licensure/authority to practice and
7 enforcement activities related to APRN licensure/authority to
8 practice laws, which is administered by a nonprofit organization
9 composed of and controlled by state licensing boards.

10 (g) "Current significant investigative information" means:

11 (1) investigative information that a licensing board,
12 after a preliminary inquiry that includes notification and an
13 opportunity for the APRN to respond if required by state law, has
14 reason to believe is not groundless and, if proved true, would
15 indicate more than a minor infraction; or

16 (2) investigative information that indicates that the
17 APRN represents an immediate threat to public health and safety
18 regardless of whether the APRN has been notified and had an
19 opportunity to respond.

20 (h) "Home state" means the party state that is the APRN's
21 primary state of residence.

22 (i) "Home state action" means any administrative, civil,
23 equitable, or criminal action permitted by the home state's laws
24 which are imposed on an APRN by the home state's licensing board or
25 other authority, including actions against an individual's
26 license/authority to practice such as: revocation, suspension,
27 probation, or any other action which affects an APRN's

1 authorization to practice.

2 (j) "Licensing board" means a party state's regulatory body
3 responsible for issuing APRN licensure/authority to practice.

4 (k) "Multistate advanced practice privilege" means current
5 authority from a remote state permitting an APRN to practice in that
6 state in the same role and title as the APRN is licensed/authorized
7 to practice in the home state to the extent that the remote state
8 laws recognize such APRN role and title. A remote state has the
9 authority, in accordance with existing state due process laws, to
10 take actions against the APRN's privilege, including revocation,
11 suspension, probation, or any other action that affects an APRN's
12 multistate privilege to practice.

13 (l) "Party state" means any state that has adopted this
14 compact.

15 (m) "Prescriptive authority" means the legal authority to
16 prescribe medications and devices as defined by party state laws.

17 (n) "Remote state" means a party state, other than the home
18 state:

19 (1) where the patient is located at the time APRN care
20 is provided; or

21 (2) in the case of APRN practice not involving a
22 patient, in such party state where the recipient of APRN practice is
23 located.

24 (o) "Remote state action" means:

25 (1) any administrative, civil, equitable, or criminal
26 action permitted by a remote state's laws which are imposed on an
27 APRN by the remote state's licensing board or other authority,

1 including actions against an individual's multistate advanced
2 practice privilege in the remote state; and

3 (2) cease and desist and other injunctive or equitable
4 orders issued by remote states or the licensing boards thereof.

5 (p) "State" means a state, territory, or possession of the
6 United States.

7 (q) "State practice laws" means a party state's laws and
8 regulations that govern APRN practice, define the scope of advanced
9 nursing practice, including prescriptive authority, and create the
10 methods and grounds for imposing discipline. State practice laws
11 do not include the requirements necessary to obtain and retain APRN
12 licensure/authority to practice as an APRN, except for
13 qualifications or requirements of the home state.

14 (r) "Unencumbered" means that a state has no current
15 disciplinary action against an APRN's license/authority to
16 practice.

17 ARTICLE 3. GENERAL PROVISIONS AND JURISDICTION

18 (a) All party states shall participate in the nurse
19 licensure compact for registered nurses and licensed
20 practical/vocational nurses in order to enter into the APRN
21 compact.

22 (b) No state shall enter the APRN compact until the state
23 adopts, at a minimum, the APRN uniform licensure/authority to
24 practice requirements for each APRN role and title recognized by
25 the state seeking to enter the APRN compact.

26 (c) APRN licensure/authority to practice issued by a home
27 state to a resident in that state will be recognized by each party

1 state as authorizing a multistate advanced practice privilege to
2 the extent that the role and title are recognized by each party
3 state. To obtain or retain APRN licensure/authority to practice as
4 an APRN, an applicant must meet the home state's qualifications for
5 authority or renewal of authority as well as all other applicable
6 state laws.

7 (d) The APRN multistate advanced practice privilege does
8 not include prescriptive authority, and does not affect any
9 requirements imposed by states to grant to an APRN initial and
10 continuing prescriptive authority according to state practice
11 laws. However, a party state may grant prescriptive authority to an
12 individual on the basis of a multistate advanced practice privilege
13 to the extent permitted by state practice laws.

14 (e) A party state may, in accordance with state due process
15 laws, limit or revoke the multistate advanced practice privilege in
16 the party state and may take any other necessary actions under the
17 party state's applicable laws to protect the health and safety of
18 the party state's citizens. If a party state takes action, the
19 party state shall promptly notify the administrator of the
20 coordinated licensure information system. The administrator of the
21 coordinated licensure information system shall promptly notify the
22 home state of any such actions by remote states.

23 (f) An APRN practicing in a party state must comply with the
24 state practice laws and licensing board rules of the state in which
25 the patient is located at the time care is provided. The APRN
26 practice includes patient care and all advanced nursing practice
27 defined by the party state's practice laws. The APRN practice will

1 subject an APRN to the jurisdiction of the licensing board, the
2 courts, and the laws of the party state.

3 (g) Individuals not residing in a party state may apply for
4 APRN licensure/authority to practice as an APRN under the laws of a
5 party state. However, the authority to practice granted to these
6 individuals will not be recognized as granting the privilege to
7 practice as an APRN in any other party state unless explicitly
8 agreed to by that party state.

9 ARTICLE 4. APPLICATIONS FOR APRN LICENSURE/AUTHORITY TO PRACTICE
10 IN A PARTY STATE

11 (a) Once an application for APRN licensure/authority to
12 practice is submitted, a party state shall ascertain, through the
13 coordinated licensure information system, whether:

14 (1) the applicant has held or is the holder of a
15 nursing license/authority to practice issued by another state;

16 (2) the applicant has had a history of previous
17 disciplinary action by any state;

18 (3) an encumbrance exists on any license/authority to
19 practice; and

20 (4) any other adverse action by any other state has
21 been taken against a license/authority to practice.

22 This information may be used in approving or denying an application
23 for APRN licensure/authority to practice.

24 (b) An APRN in a party state shall hold APRN
25 licensure/authority to practice in only one party state at a time,
26 issued by the home state.

27 (c) An APRN who intends to change the APRN's primary state

1 of residence may apply for APRN licensure/authority to practice in
2 the new home state in advance of such change. However, new
3 licensure/authority to practice will not be issued by a party state
4 until after an APRN provides evidence of change in primary state of
5 residence satisfactory to the new home state's licensing board.

6 (d) When an APRN changes primary state of residence by:

7 (1) moving between two party states, and obtains APRN
8 licensure/authority to practice from the new home state, the APRN
9 licensure/authority to practice from the former home state is no
10 longer valid;

11 (2) moving from a nonparty state to a party state, and
12 obtains APRN licensure/authority to practice from the new home
13 state, the individual state license issued by the nonparty state is
14 not affected and will remain in full force if so provided by the
15 laws of the nonparty state; and

16 (3) moving from a party state to a nonparty state, the
17 APRN licensure/authority to practice issued by the prior home state
18 converts to an individual state license, valid only in the former
19 home state, without the multistate licensure privilege to practice
20 in other party states.

21 ARTICLE 5. ADVERSE ACTIONS

22 (a) The licensing board of a remote state shall promptly
23 report to the administrator of the coordinated licensure
24 information system any remote state actions, including the factual
25 and legal basis for such action, if known. The licensing board of a
26 remote state shall also promptly report any significant current
27 investigative information yet to result in a remote state action.

1 The administrator of the coordinated licensure information system
2 shall promptly notify the home state of any such reports.

3 (b) The licensing board of a party state shall have the
4 authority to complete any pending investigations for an APRN who
5 changes primary state of residence during the course of such
6 investigations. It shall also have the authority to take
7 appropriate action, and shall promptly report the conclusions of
8 such investigations to the administrator of the coordinated
9 licensure information system. The administrator of the coordinated
10 licensure information system shall promptly notify the new home
11 state of any such actions.

12 (c) A remote state may take adverse action affecting the
13 multistate advanced practice privilege to practice within that
14 party state. However, only the home state shall have the power to
15 impose adverse action against the APRN licensure/authority to
16 practice issued by the home state.

17 (d) For purposes of imposing adverse action, the licensing
18 board of the home state shall give the same priority and effect to
19 reported conduct received from a remote state as it would if such
20 conduct had occurred within the home state. In so doing, it shall
21 apply its own state laws to determine appropriate action.

22 (e) The home state may take adverse action based on the
23 factual findings of the remote state, so long as each state follows
24 its own procedures for imposing such adverse action.

25 (f) Nothing in this compact shall override a party state's
26 decision that participation in an alternative program may be used
27 in lieu of adverse action and that such participation shall remain

1 nonpublic if required by the party state's laws. Party states must
2 require APRNs who enter any alternative programs to agree not to
3 practice in any other party state during the term of the alternative
4 program without prior authorization from such other party state.

5 (g) All home state licensing board disciplinary orders,
6 agreed or otherwise, which limit the scope of the APRN's practice or
7 require monitoring of the APRN as a condition of the order shall
8 include the requirements that the APRN will limit her or his
9 practice to the home state during the pendency of the order. This
10 requirement may allow the APRN to practice in other party states
11 with prior written authorization from both the home state and party
12 state licensing boards.

13 ARTICLE 6. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE

14 LICENSING BOARDS

15 (a) Notwithstanding any other powers, party state licensing
16 boards shall have the authority to:

17 (1) if otherwise permitted by state law, recover from
18 the affected APRN the costs of investigations and disposition of
19 cases resulting from any adverse action taken against that APRN;

20 (2) issue subpoenas for both hearings and
21 investigations, which require the attendance and testimony of
22 witnesses, and the production of evidence;

23 (3) issue cease and desist orders to limit or revoke an
24 APRN's privilege or licensure/authority to practice in their state;
25 and

26 (4) promulgate uniform rules and regulations as
27 provided for in Article 8(c).

1 (b) Subpoenas issued by a licensing board in a party state
2 for the attendance and testimony of witnesses, and/or the
3 production of evidence from another party state, shall be enforced
4 in the latter state by any court of competent jurisdiction,
5 according to the practice and procedure of that court applicable to
6 subpoenas issued in proceedings pending before it. The issuing
7 authority shall pay any witness fees, travel expenses, mileage, and
8 other fees required by the service statutes of the state where the
9 witnesses and/or evidence are located.

10 ARTICLE 7. COORDINATED LICENSURE INFORMATION SYSTEM

11 (a) All party states shall participate in a cooperative
12 effort to create a coordinated database of all APRNs. This system
13 will include information on the APRN licensure/authority to
14 practice and disciplinary history of each APRN, as contributed by
15 party states, to assist in the coordination of APRN
16 licensure/authority to practice and enforcement efforts.

17 (b) Notwithstanding any other provision of law, all party
18 states' licensing boards shall promptly report adverse actions,
19 actions against multistate advanced practice privileges, any
20 current significant investigative information yet to result in
21 adverse action, denials of applications, and the reasons for such
22 denials to the coordinated licensure information system.

23 (c) Current significant investigative information shall be
24 transmitted through the coordinated licensure information system
25 only to party state licensing boards.

26 (d) Notwithstanding any other provision of law, all party
27 states' licensing boards contributing information to the

1 coordinated licensure information system may designate information
2 that may not be shared with nonparty states or disclosed to other
3 entities or individuals without the express permission of the
4 contributing state.

5 (e) Any personally identifiable information obtained by a
6 party states' licensing board from the coordinated licensure
7 information system may not be shared with nonparty states or
8 disclosed to other entities or individuals except to the extent
9 permitted by the laws of the party state contributing the
10 information.

11 (f) Any information contributed to the coordinated
12 licensure information system that is subsequently required to be
13 expunged by the laws of the party state contributing that
14 information shall also be expunged from the coordinated licensure
15 information system.

16 (g) The compact administrators, acting jointly with each
17 other and in consultation with the administrator of the coordinated
18 licensure information system, shall formulate necessary and proper
19 procedures for the identification, collection, and exchange of
20 information under this compact.

21 ARTICLE 8. COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION

22 (a) The head of the licensing board, or his/her designee, of
23 each party state shall be the administrator of this compact for
24 his/her state.

25 (b) The compact administrator of each party state shall
26 furnish to the compact administrator of each other party state any
27 information and documents including, but not limited to, a uniform

1 data set of investigations, identifying information, licensure
2 data, and disclosable alternative program participation
3 information to facilitate the administration of this compact.

4 (c) Compact administrators shall have the authority to
5 develop uniform rules to facilitate and coordinate implementation
6 of this compact. These uniform rules shall be adopted by party
7 states, under the authority invested under Article 6(a)(4).

8 ARTICLE 9. IMMUNITY

9 No party state or the officers or employees or agents of a party
10 state's licensing board who act in accordance with the provisions
11 of this compact shall be liable on account of any act or omission in
12 good faith while engaged in the performance of their duties under
13 this compact. Good faith in this article shall not include willful
14 misconduct, gross negligence, or recklessness.

15 ARTICLE 10. ENTRY INTO FORCE, WITHDRAWAL, AND AMENDMENT

16 (a) This compact shall enter into force and become effective
17 as to any state when it has been enacted into the laws of that state.
18 Any party state may withdraw from this compact by enacting a statute
19 repealing the same, but no such withdrawal shall take effect until
20 six months after the withdrawing state has given notice of the
21 withdrawal to the executive heads of all other party states.

22 (b) No withdrawal shall affect the validity or
23 applicability by the licensing boards of states remaining party to
24 the compact of any report of adverse action occurring prior to the
25 withdrawal.

26 (c) Nothing contained in this compact shall be construed to
27 invalidate or prevent any APRN licensure/authority to practice

1 agreement or other cooperative arrangement between a party state
2 and a nonparty state that is made in accordance with the other
3 provisions of this compact.

4 (d) This compact may be amended by the party states. No
5 amendment to this compact shall become effective and binding upon
6 the party states unless and until it is enacted into the laws of all
7 party states.

8 ARTICLE 11. CONSTRUCTION AND SEVERABILITY

9 (a) This compact shall be liberally construed so as to
10 effectuate the purposes thereof. The provisions of this compact
11 shall be severable and if any phrase, clause, sentence, or
12 provision of this compact is declared to be contrary to the
13 constitution of any party state or of the United States or the
14 applicability thereof to any government, agency, person, or
15 circumstance is held invalid, the validity of the remainder of this
16 compact and the applicability thereof to any government, agency,
17 person, or circumstance shall not be affected thereby. If this
18 compact shall be held contrary to the constitution of any state
19 party thereto, the compact shall remain in full force and effect as
20 to the remaining party states and in full force and effect as to the
21 party state affected as to all severable matters.

22 (b) In the event party states find a need for settling
23 disputes arising under this compact:

24 (1) the party states may submit the issues in dispute
25 to an arbitration panel which will be composed of an individual
26 appointed by the compact administrator in the home state, an
27 individual appointed by the compact administrator in the remote

1 state involved, and an individual mutually agreed upon by the
2 compact administrators of all the party states involved in the
3 dispute; and

4 (2) the decision of a majority of the arbitrators
5 shall be final and binding.

6 Sec. 305.002. BOARD AUTHORITY. Notwithstanding any
7 provision of this chapter, the Texas Board of Nursing may establish
8 criteria for recognizing advanced practice registered nurses under
9 the NCSBN APRN Compact.

10 Sec. 305.003. RULES; EXPIRATION OF CHAPTER. (a) The Texas
11 Board of Nursing may adopt rules necessary to implement this
12 chapter.

13 (b) If the board does not adopt rules to implement the
14 compact under this chapter before December 31, 2011, the board may
15 not implement the NCSBN APRN Compact and this chapter expires
16 December 31, 2011.

17 Sec. 305.004. APPLICABILITY OF CHAPTER. If a provision of
18 this chapter or another state's law under the NCSBN APRN Compact
19 conflicts with the laws of this state, the laws of this state
20 prevail.

21 Sec. 305.005. RIGHTS AND OBLIGATIONS. (a) Unless the
22 context indicates otherwise, or doing so would be inconsistent with
23 the NCSBN APRN Compact, nurses practicing in this state under a
24 license issued by a state that is a party to the NCSBN APRN Compact
25 have the same rights and obligations as imposed by the laws of this
26 state on license holders of the Texas Board of Nursing.

27 (b) The Texas Board of Nursing has the authority to

1 determine whether a right or obligation imposed on license holders
2 applies to nurses practicing in this state under a license issued by
3 a state that is a party to the NCSBN APRN Compact unless that
4 determination is inconsistent with the NCSBN APRN Compact.

5 Sec. 305.006. ENFORCEMENT. The Texas Board of Nursing is
6 the state agency responsible for taking action against nurses
7 practicing in this state under a license issued by a state that is a
8 party to the NCSBN APRN Compact as authorized by the NCSBN APRN
9 Compact. The action shall be taken in accordance with the same
10 procedures for taking action against nurses licensed by this state.

11 SECTION 31. Section 101.002, Occupations Code, is amended
12 to read as follows:

13 Sec. 101.002. COMPOSITION OF COUNCIL. The council consists
14 of 14 members, with one member appointed by each of the following:

- 15 (1) the Texas Board of Chiropractic Examiners;
- 16 (2) the State Board of Dental Examiners;
- 17 (3) the Texas Optometry Board;
- 18 (4) the Texas State Board of Pharmacy;
- 19 (5) the Texas State Board of Podiatric Medical
20 Examiners;
- 21 (6) the State Board of Veterinary Medical Examiners;
- 22 (7) the Texas [~~State Board of~~] Medical Board
23 [~~Examiners~~];
- 24 (8) the Texas Board of Nursing [~~Nurse Examiners~~];
- 25 (9) the Texas State Board of Examiners of
26 Psychologists;
- 27 (10) the Texas Funeral Service Commission;

1 (11) the entity that regulates the practice of
2 physical therapy;

3 (12) the entity that regulates the practice of
4 occupational therapy;

5 (13) the health licensing division of the [~~Texas~~]
6 Department of State Health Services; and

7 (14) the governor's office.

8 SECTION 32. Section 157.052(a)(3), Occupations Code, is
9 amended to read as follows:

10 (3) "Registered nurse" means a registered nurse
11 recognized by the Texas Board of Nursing [~~Nurse Examiners~~] as
12 having the specialized education and training required under
13 Section 301.152.

14 SECTION 33. Section 157.059(b), Occupations Code, is
15 amended to read as follows:

16 (b) A physician may delegate to a physician assistant
17 offering obstetrical services and certified by the board as
18 specializing in obstetrics or an advanced practice nurse recognized
19 by the Texas Board of Nursing [~~Nurse Examiners~~] as a nurse midwife
20 the act of administering or providing controlled substances to the
21 physician assistant's or nurse midwife's clients during intrapartum
22 and immediate postpartum care.

23 SECTION 34. Section 162.102(c), Occupations Code, is
24 amended to read as follows:

25 (c) The board shall cooperate with the Texas Board of
26 Nursing [~~Nurse Examiners~~] in the adoption of rules under this
27 subchapter to eliminate, to the extent possible, conflicts between

1 the rules adopted by each board.

2 SECTION 35. Section 203.002(2), Occupations Code, is
3 amended to read as follows:

4 (2) "Certified nurse-midwife" means a person who is:

5 (A) a registered nurse under Chapter 301;

6 (B) recognized as an advanced nurse practitioner
7 by the Texas Board of Nursing [~~Nurse-Examiners~~]; and

8 (C) certified by the American College of
9 Nurse-Midwives.

10 SECTION 36. Section 203.402, Occupations Code, is amended
11 to read as follows:

12 Sec. 203.402. PROHIBITED REPRESENTATION. A midwife may
13 not:

14 (1) except as provided by Section 203.403, use in
15 connection with the midwife's name a title, abbreviation, or
16 designation tending to imply that the midwife is a "registered" or
17 "certified" midwife as opposed to one who is licensed under this
18 chapter;

19 (2) advertise or represent that the midwife is a
20 physician or a graduate of a medical school unless the midwife is
21 licensed to practice medicine by the Texas [~~State Board of~~ Medical
22 Board [~~Examiners~~];

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

25 (4) except as authorized by rules adopted by the Texas
26 Board of Nursing [~~Nurse-Examiners~~], use in combination with the
27 term "midwife" the term "nurse" or another title, initial, or

1 designation that implies that the midwife is licensed as a
2 registered nurse or vocational nurse.

3 SECTION 37. Section 258.001, Occupations Code, is amended
4 to read as follows:

5 Sec. 258.001. IMPERMISSIBLE DELEGATIONS. A dentist may not
6 delegate:

7 (1) an act to an individual who, by board order, is
8 prohibited from performing the act;

9 (2) any of the following acts to a person not licensed
10 as a dentist or dental hygienist:

11 (A) the removal of calculus, deposits, or
12 accretions from the natural and restored surfaces of exposed human
13 teeth and restorations in the human mouth;

14 (B) root planing or the smoothing and polishing
15 of roughened root surfaces or exposed human teeth; or

16 (C) any other act the delegation of which is
17 prohibited by board rule;

18 (3) any of the following acts to a person not licensed
19 as a dentist:

20 (A) comprehensive examination or diagnosis and
21 treatment planning;

22 (B) a surgical or cutting procedure on hard or
23 soft tissue;

24 (C) the prescription of a drug, medication, or
25 work authorization;

26 (D) the taking of an impression for a final
27 restoration, appliance, or prosthesis;

1 (E) the making of an intraoral occlusal
2 adjustment;

3 (F) direct pulp capping, pulpotomy, or any other
4 endodontic procedure;

5 (G) the final placement and intraoral adjustment
6 of a fixed or removable appliance; or

7 (H) the placement of any final restoration; or

8 (4) the authority to an individual to administer a
9 local anesthetic agent, inhalation sedative agent, parenteral
10 sedative agent, or general anesthetic agent if the individual is
11 not licensed as:

12 (A) a dentist with a permit issued by the board
13 for the procedure being performed, if a permit is required;

14 (B) a certified registered nurse anesthetist
15 licensed by the Texas Board of Nursing [~~Nurse Examiners~~], only if
16 the delegating dentist holds a permit issued by the board for the
17 procedure being performed, if a permit is required; or

18 (C) a physician anesthesiologist licensed by the
19 Texas [~~State Board of~~] Medical Board [~~Examiners~~].

20 SECTION 38. Section 303.001(1), Occupations Code, is
21 amended to read as follows:

22 (1) "Board" means the Texas Board of Nursing [~~Nurse~~
23 ~~Examiners~~].

24 SECTION 39. Sections 304.002 and 304.003, Occupations Code,
25 are amended to read as follows:

26 Sec. 304.002. ADMINISTRATION OF COMPACT. The executive
27 director of the Texas Board of Nursing [~~Nurse Examiners~~] is the

1 Nurse Licensure Compact administrator for this state.

2 Sec. 304.003. RULES. The Texas Board of Nursing [~~Nurse~~
3 ~~Examiners~~] may adopt rules necessary to implement this chapter.

4 SECTION 40. Sections 304.004(b) and (c), Occupations Code,
5 are amended to read as follows:

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

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

18 SECTION 41. Section 304.005, Occupations Code, is amended
19 to read as follows:

20 Sec. 304.005. ENFORCEMENT. The Texas Board of Nursing
21 [~~Nurse Examiners~~] is the state agency responsible for taking action
22 against registered and vocational nurses practicing in this state
23 under a license issued by a state that is a party to the Nurse
24 Licensure Compact as authorized by the Nurse Licensure Compact.
25 The action shall be taken in accordance with the same procedures for
26 taking action against registered and vocational nurses licensed by
27 this state.

1 SECTION 42. Section 304.006(a), Occupations Code, is
2 amended to read as follows:

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

8 SECTION 43. Section 304.007, Occupations Code, is amended
9 to read as follows:

10 Sec. 304.007. ACCESS TO PRACTICE-RELATED INFORMATION.
11 Practice-related information provided by the Texas Board of Nursing
12 [~~Nurse Examiners~~] to registered or vocational nurses licensed by
13 this state shall be made available by the board on request and at a
14 reasonable cost to nurses practicing in this state under a license
15 issued by a state that is a party to the Nurse Licensure Compact.

16 SECTION 44. Section 304.008(a), Occupations Code, is
17 amended to read as follows:

18 (a) In reporting information to the coordinated licensure
19 information system under Article 7 of the Nurse Licensure Compact,
20 the Texas Board of Nursing [~~Nurse Examiners~~] may disclose
21 personally identifiable information about the nurse, including
22 social security number.

23 SECTION 45. Section 304.009(a), Occupations Code, is
24 amended to read as follows:

25 (a) The governor may withdraw this state from the Nurse
26 Licensure Compact if the Texas Board of Nursing [~~Nurse Examiners~~]
27 notifies the governor that a state that is party to the compact

1 changed, after January 1, 1999, the state's requirements for
2 licensing a nurse and that the state's requirements, as changed,
3 are substantially lower than the requirements for licensing a nurse
4 in this state.

5 SECTION 46. Section 401.052, Occupations Code, is amended
6 to read as follows:

7 Sec. 401.052. NURSES. This chapter does not prevent or
8 restrict a communication, speech, language, or hearing screening,
9 as defined by board rule, from being conducted by a registered
10 nurse:

- 11 (1) licensed in this state; and
- 12 (2) practicing in accordance with the standards of
13 professional conduct and ethics established by rules adopted by the
14 Texas Board of Nursing [~~Nurse Examiners~~].

15 SECTION 47. Section 601.002(11), Occupations Code, is
16 amended to read as follows:

17 (11) "Registered nurse" means a person licensed by the
18 Texas Board of Nursing [~~Nurse Examiners~~] to practice professional
19 nursing.

20 SECTION 48. Section 601.251, Occupations Code, is amended
21 to read as follows:

22 Sec. 601.251. APPLICABILITY. This subchapter applies to
23 the:

- 24 (1) Texas Board of Nursing [~~Nurse Examiners~~];
- 25 (2) Texas Board of Chiropractic Examiners;
- 26 (3) State Board of Dental Examiners;
- 27 (4) Texas [~~State Board of~~] Medical Board [~~Examiners~~];

1 and

2 (5) Texas State Board of Podiatric Medical Examiners.

3 SECTION 49. Section 601.252(a), Occupations Code, is
4 amended to read as follows:

5 (a) Each agency subject to this subchapter, other than the
6 Texas Board of Nursing [~~Nurse Examiners~~], shall adopt rules to
7 regulate the manner in which a person who holds a license issued by
8 the agency may order, instruct, or direct another authorized person
9 in the performance of a radiologic procedure.

10 SECTION 50. Section 601.253, Occupations Code, is amended
11 to read as follows:

12 Sec. 601.253. TEXAS BOARD OF NURSING [~~NURSE EXAMINERS~~].

13 (a) The Texas Board of Nursing [~~Nurse Examiners~~] may adopt rules
14 governing registered nurses performing radiologic procedures under
15 Section 601.151 or 601.154 and shall require registered nurses
16 performing radiologic procedures under Section 601.151 to register
17 with the Texas Board of Nursing [~~Nurse Examiners~~] and to identify
18 the practitioner ordering the procedures.

19 (b) The Texas Board of Nursing [~~Nurse Examiners~~] shall
20 notify the agency licensing the practitioner that the nurse has
21 registered under this section.

22 SECTION 51. Sections 61.657(a) and (b), Education Code, are
23 amended to read as follows:

24 (a) The board shall appoint a 10-member advisory committee
25 to advise the board concerning assistance provided under this
26 subchapter to professional nursing students. The advisory
27 committee consists of:

1 (1) a chair named by the board;

2 (2) one representative named by the Texas Nurses
3 Association;

4 (3) one representative named by the Texas Organization
5 of Nurse Executives;

6 (4) one representative named by the Texas Board of
7 Nursing [~~Nurse Examiners~~];

8 (5) a head of each of the three types of professional
9 nursing educational programs, named by the deans and directors of
10 nursing programs in this state;

11 (6) a representative of graduate nursing education
12 named by the deans and directors of nursing programs in this state;

13 (7) one representative named by the Texas Health Care
14 Association; and

15 (8) one representative named by the Texas Association
16 of Homes for the Aging.

17 (b) The board shall appoint an eight-member advisory
18 committee to advise the board concerning assistance provided under
19 this subchapter to vocational nursing students. The advisory
20 committee consists of:

21 (1) a chair named by the board;

22 (2) one representative named by the Licensed
23 Vocational Nurses Association of Texas;

24 (3) one representative named by the Texas Organization
25 of Nurse Executives;

26 (4) one representative named by the Texas Board of
27 Nursing [~~Nurse Examiners~~];

1 (5) two representatives of vocational nursing
2 educational programs named by the Texas Association of Vocational
3 Nurse Educators;

4 (6) one representative named by the Texas Health Care
5 Association; and

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

8 SECTION 52. Section 61.9623(a), Education Code, is amended
9 to read as follows:

10 (a) A grant from the professional nursing shortage
11 reduction program to a professional nursing program or other entity
12 involved with a professional nursing program in the preparation of
13 students for initial licensure as registered nurses must be:

14 (1) expended exclusively on costs related to:

15 (A) enrolling additional students;

16 (B) nursing faculty enhancement in accordance
17 with Section 61.96231;

18 (C) encouraging innovation in the recruitment
19 and retention of students, including the recruitment and retention
20 of Spanish-speaking and bilingual students; or

21 (D) identifying, developing, or implementing
22 innovative methods to make the most effective use of limited
23 professional nursing program faculty, instructional or clinical
24 space, and other resources, including:

25 (i) sharing administrative or
26 instructional personnel, facilities, and responsibilities between
27 two or more professional nursing programs located in the same

1 region of this state; and

2 (ii) using preceptors to provide clinical
3 instruction in order to reduce the number of new faculty needed to
4 accommodate increased student enrollment in the professional
5 nursing program;

6 (2) contingent on the professional nursing program's
7 having been approved as a professional nursing program by the board
8 or the Texas Board of Nursing [~~Nurse Examiners~~], as appropriate, by
9 September 1, 2001;

10 (3) contingent on the professional nursing program's
11 not being on probation with the Texas Board of Nursing [~~Nurse
12 Examiners~~] or other accrediting body; and

13 (4) if granted to increase enrollments, contingent on
14 the professional nursing program's ability to enroll additional
15 students, including having the necessary classroom space and
16 clinical slots.

17 SECTION 53. Section 232.002, Family Code, is amended to
18 read as follows:

19 Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER.
20 The following are licensing authorities subject to this chapter:

- 21 (1) Department of Agriculture;
- 22 (2) Texas Alcoholic Beverage Commission;
- 23 (3) Texas Appraiser Licensing and Certification
24 Board;
- 25 (4) Texas Board of Architectural Examiners;
- 26 (5) Texas Board of Chiropractic Examiners;
- 27 (6) Comptroller of Public Accounts;

- 1 (7) Court Reporters Certification Board;
- 2 (8) State Board of Dental Examiners;
- 3 (9) Texas State Board of Examiners of Dietitians;
- 4 (10) Texas Funeral Service Commission;
- 5 (11) Department of State Health Services;
- 6 (12) Department of Aging and Disability Services;
- 7 (13) Texas Board of Professional Land Surveying;
- 8 (14) Texas Department of Licensing and Regulation;
- 9 (15) Texas State Board of Examiners of Marriage and
10 Family Therapists;
- 11 (16) Texas [~~State Board of~~] Medical Board [~~Examiners~~];
- 12 (17) Midwifery Board;
- 13 (18) Texas Commission on Environmental Quality;
- 14 (19) Texas Board of Nursing [~~Nurse Examiners~~];
- 15 (20) Texas Board of Occupational Therapy Examiners;
- 16 (21) Texas Optometry Board;
- 17 (22) Parks and Wildlife Department;
- 18 (23) Texas State Board of Examiners of Perfusionists;
- 19 (24) Texas State Board of Pharmacy;
- 20 (25) Texas Board of Physical Therapy Examiners;
- 21 (26) Texas State Board of Plumbing Examiners;
- 22 (27) Texas State Board of Podiatric Medical Examiners;
- 23 (28) Polygraph Examiners Board;
- 24 (29) Texas Private Security Board;
- 25 (30) Texas State Board of Examiners of Professional
26 Counselors;
- 27 (31) Texas Board of Professional Engineers;

- 1 (32) Department of Family and Protective Services;
- 2 (33) Texas State Board of Examiners of Psychologists;
- 3 (34) Texas State Board of Public Accountancy;
- 4 (35) Department of Public Safety of the State of
5 Texas;
- 6 (36) Public Utility Commission of Texas;
- 7 (37) Railroad Commission of Texas;
- 8 (38) Texas Real Estate Commission;
- 9 (39) State Bar of Texas;
- 10 (40) Texas State Board of Social Worker Examiners;
- 11 (41) State Board of Examiners for Speech-Language
12 Pathology and Audiology;
- 13 (42) Texas Structural Pest Control Board;
- 14 (43) Board of Tax Professional Examiners;
- 15 (44) Secretary of State;
- 16 (45) Supreme Court of Texas;
- 17 (46) Texas Transportation Commission;
- 18 (47) State Board of Veterinary Medical Examiners;
- 19 (48) Texas Ethics Commission;
- 20 (49) Advisory Board of Athletic Trainers;
- 21 (50) State Committee of Examiners in the Fitting and
22 Dispensing of Hearing Instruments;
- 23 (51) Texas Board of Licensure for Professional Medical
24 Physicists;
- 25 (52) Texas Department of Insurance;
- 26 (53) Texas Board of Orthotics and Prosthetics;
- 27 (54) savings and loan commissioner;

- 1 (55) Texas Juvenile Probation Commission; and
2 (56) Texas Lottery Commission under Chapter 466,
3 Government Code.

4 SECTION 54. Section 411.081(i), Government Code, is amended
5 to read as follows:

6 (i) A criminal justice agency may disclose criminal history
7 record information that is the subject of an order of nondisclosure
8 to the following noncriminal justice agencies or entities only:

- 9 (1) the State Board for Educator Certification;
10 (2) a school district, charter school, private school,
11 regional education service center, commercial transportation
12 company, or education shared service arrangement;
13 (3) the Texas [~~State Board of~~] Medical Board
14 [~~Examiners~~];
15 (4) the Texas School for the Blind and Visually
16 Impaired;
17 (5) the Board of Law Examiners;
18 (6) the State Bar of Texas;
19 (7) a district court regarding a petition for name
20 change under Subchapter B, Chapter 45, Family Code;
21 (8) the Texas School for the Deaf;
22 (9) the Department of Family and Protective Services;
23 (10) the Texas Youth Commission;
24 (11) the Department of Assistive and Rehabilitative
25 Services;
26 (12) the Department of State Health Services, a local
27 mental health service, a local mental retardation authority, or a

1 community center providing services to persons with mental illness
2 or retardation;

3 (13) the Texas Private Security Board;

4 (14) a municipal or volunteer fire department;

5 (15) the Texas Board of Nursing [~~Nurse Examiners~~];

6 (16) a safe house providing shelter to children in
7 harmful situations;

8 (17) a public or nonprofit hospital or hospital
9 district;

10 (18) the Texas Juvenile Probation Commission;

11 (19) the securities commissioner, the banking
12 commissioner, the savings and loan commissioner, or the credit
13 union commissioner;

14 (20) the Texas State Board of Public Accountancy;

15 (21) the Texas Department of Licensing and Regulation;

16 (22) the Health and Human Services Commission; and

17 (23) the Department of Aging and Disability Services.

18 SECTION 55. Section 411.125, Government Code, is amended to
19 read as follows:

20 Sec. 411.125. ACCESS TO CRIMINAL HISTORY RECORD
21 INFORMATION: TEXAS BOARD OF NURSING [~~NURSE EXAMINERS~~]. [~~(a)~~] The
22 Texas Board of Nursing [~~Nurse Examiners~~] is entitled to obtain from
23 the department criminal history record information maintained by
24 the department that relates to a person who:

25 (1) is an applicant for or the holder of a license
26 issued by the board;

27 (2) has requested a determination of eligibility for a

1 license from the board; or

2 (3) is subject to investigation by the board in
3 connection with a complaint or formal charge against the person.

4 SECTION 56. Section 487.101(3), Government Code, is amended
5 to read as follows:

6 (3) "Postsecondary educational institution" means:

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

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

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

17 SECTION 57. Section 487.151(2), Government Code, is amended
18 to read as follows:

19 (2) "Postsecondary educational institution" means:

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

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

24 (C) a nonprofit, health-related school or
25 program accredited by the Southern Association of Colleges and
26 Schools, the Liaison Committee on Medical Education, the American
27 Osteopathic Association, the Texas Board of Nursing [~~Nurse~~

1 ~~Examiners~~], or, in the case of allied health, an accrediting body
2 recognized by the United States Department of Education.

3 SECTION 58. Section 531.02172(b), Government Code, is
4 amended to read as follows:

5 (b) The advisory committee must include:

6 (1) representatives of health and human services
7 agencies and other state agencies concerned with the use of
8 telemedical consultations in the Medicaid program and the state
9 child health plan program, including representatives of:

10 (A) the commission;

11 (B) the ~~[Texas]~~ Department of State Health
12 Services;

13 (C) the Office of Rural Community Affairs;

14 (D) the Telecommunications Infrastructure Fund
15 Board;

16 (E) the Texas Department of Insurance;

17 (F) the Texas ~~[State Board of]~~ Medical Board
18 ~~[Examiners]~~;

19 (G) the Texas Board of Nursing ~~[Nurse Examiners]~~;

20 and

21 (H) the Texas State Board of Pharmacy;

22 (2) representatives of health science centers in this
23 state;

24 (3) experts on telemedicine, telemedical
25 consultation, and telemedicine medical services or telehealth
26 services; and

27 (4) representatives of consumers of health services

1 provided through telemedical consultations and telemedicine
2 medical services or telehealth services.

3 SECTION 59. Section 2054.352(a), Government Code, is
4 amended to read as follows:

5 (a) The following licensing entities shall participate in
6 the system established under Section 2054.353:

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

- 1 (20) Texas Department of Licensing and Regulation;
- 2 (21) Texas State Board of Public Accountancy;
- 3 (22) State Board for Educator Certification;
- 4 (23) Texas Board of Professional Engineers;
- 5 (24) Department of State Health Services;
- 6 (25) Texas Board of Architectural Examiners;
- 7 (26) Texas Racing Commission;
- 8 (27) Commission on Law Enforcement Officer Standards
9 and Education; and
- 10 (28) Texas Private Security Board.

11 SECTION 60. Section 47.001(3), Health and Safety Code, is
12 amended to read as follows:

13 (3) "Health care provider" means a registered nurse
14 recognized as an advanced practice nurse by the Texas Board of
15 Nursing [~~Nurse Examiners~~] or a physician assistant licensed by the
16 Texas [~~State Board of~~] Physician Assistant Board [~~Examiners~~].

17 SECTION 61. Section 81.010(c), Health and Safety Code, is
18 amended to read as follows:

19 (c) The council consists of one representative from each of
20 the following agencies appointed by the executive director or
21 commissioner of each agency:

- 22 (1) the department;
- 23 (2) the Texas Department of Mental Health and Mental
24 Retardation;
- 25 (3) the Texas Department of Human Services;
- 26 (4) the Texas Commission on Alcohol and Drug Abuse;
- 27 (5) the Texas Rehabilitation Commission;

- 1 (6) the Texas Youth Commission;
- 2 (7) the Texas Department of Criminal Justice;
- 3 (8) the Texas Juvenile Probation Commission;
- 4 (9) the Texas Commission for the Blind;
- 5 (10) the Texas Commission for the Deaf and Hard of
6 Hearing;
- 7 (11) the Department of Protective and Regulatory
8 Services;
- 9 (12) the Texas Education Agency;
- 10 (13) the Texas Medical [~~State~~] Board [~~of Medical~~
11 ~~Examiners~~];
- 12 (14) the Texas Board of Nursing [~~Nurse Examiners~~];
- 13 (15) the State Board of Dental Examiners;
- 14 (16) the Health and Human Services Commission;
- 15 (17) the Texas Department on Aging; and
- 16 (18) the Texas Workforce Commission.

17 SECTION 62. Section 105.002(c), Health and Safety Code, is
18 amended to read as follows:

19 (c) If the nursing resource section established under
20 Subsection (b) is funded from surcharges collected under Section
21 301.155(c), Occupations Code, the council shall provide the Texas
22 Board of Nursing [~~Nurse Examiners~~] with an annual accounting of the
23 money received from the board. The council may expend a reasonable
24 amount of the money to pay administrative costs of maintaining the
25 nursing resource section.

26 SECTION 63. Section 142.001(22), Health and Safety Code, is
27 amended to read as follows:

1 (22) "Personal assistance service" means routine
2 ongoing care or services required by an individual in a residence or
3 independent living environment that enable the individual to engage
4 in the activities of daily living or to perform the physical
5 functions required for independent living, including respite
6 services. The term includes:

7 (A) personal care;

8 (B) health-related services performed under
9 circumstances that are defined as not constituting the practice of
10 professional nursing by the Texas Board of Nursing [~~Nurse~~
11 ~~Examiners~~] through a memorandum of understanding with the
12 department in accordance with Section 142.016; and

13 (C) health-related tasks provided by unlicensed
14 personnel under the delegation of a registered nurse or that a
15 registered nurse determines do not require delegation.

16 SECTION 64. Sections 142.016(a) and (b), Health and Safety
17 Code, are amended to read as follows:

18 (a) The Texas Board of Nursing [~~Nurse Examiners~~] and the
19 department shall adopt a memorandum of understanding governing the
20 circumstances under which the provision of health-related tasks or
21 services do not constitute the practice of professional nursing.
22 The agencies periodically shall review and shall renew or modify
23 the memorandum as necessary.

24 (b) The Texas Board of Nursing [~~Nurse Examiners~~] and the
25 department shall consult with an advisory committee in developing,
26 modifying, or renewing the memorandum of understanding. The
27 advisory committee shall be appointed by the Texas Board of Nursing

1 ~~[Nurse Examiners]~~ and the department and at a minimum shall
2 include:

3 (1) one representative from the Texas Board of Nursing
4 ~~[Nurse Examiners]~~ and one representative from the department to
5 serve as cochairmen;

6 (2) one representative from the Texas Department of
7 Mental Health and Mental Retardation;

8 (3) one representative from the Texas Nurses
9 Association;

10 (4) one representative from the Texas Association for
11 Home Care, Incorporated, or its successor;

12 (5) one representative from the Texas Hospice
13 Organization, Incorporated, or its successor;

14 (6) one representative of the Texas Respite Resource
15 Network or its successor; and

16 (7) two representatives of organizations such as the
17 Personal Assistance Task Force or the Disability Consortium that
18 advocate for clients in community-based settings.

19 SECTION 65. Section 142.021, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 142.021. ADMINISTRATION OF MEDICATION. A person may
22 not administer medication to a client of a home and community
23 support services agency unless the person:

24 (1) holds a license under state law that authorizes
25 the person to administer medication;

26 (2) holds a permit issued under Section 142.025 and
27 acts under the delegated authority of a person who holds a license

1 under state law that authorizes the person to administer
2 medication;

3 (3) administers a medication to a client of a home and
4 community support service agency in accordance with rules of the
5 Texas Board of Nursing [~~Nurse Examiners~~] that permit delegation of
6 the administration of medication to a person not holding a permit
7 under Section 142.025; or

8 (4) administers noninjectable medication under
9 circumstances authorized by the memorandum of understanding
10 adopted under Section 142.016.

11 SECTION 66. Section 142.022, Health and Safety Code, is
12 amended to read as follows:

13 Sec. 142.022. EXEMPTIONS FOR NURSING STUDENTS AND
14 MEDICATION AIDE TRAINEES. (a) Sections 142.021 and 142.029 do not
15 apply to:

16 (1) a graduate nurse holding a temporary permit issued
17 by the Texas Board of Nursing [~~Nurse Examiners~~];

18 (2) a student enrolled in an accredited school of
19 nursing or program for the education of registered nurses who is
20 administering medications as part of the student's clinical
21 experience;

22 (3) a graduate vocational nurse holding a temporary
23 permit issued by the Texas Board of Nursing [~~Nurse Examiners~~];

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

1 (5) a trainee in a medication aide training program
2 approved by the department under Section 142.024 who is
3 administering medications as part of the trainee's clinical
4 experience.

5 (b) The administration of medications by persons exempted
6 under Subdivisions (1) through (4) of Subsection (a) is governed by
7 the terms of the memorandum of understanding executed by the
8 department and the Texas Board of Nursing [~~Nurse Examiners~~].

9 SECTION 67. Section 241.003(1), Health and Safety Code, is
10 amended to read as follows:

11 (1) "Advanced practice nurse" means a registered nurse
12 recognized as an advanced practice nurse by the Texas Board of
13 Nursing [~~Nurse Examiners~~].

14 SECTION 68. Section 241.026(a), Health and Safety Code, is
15 amended to read as follows:

16 (a) The board shall adopt and enforce rules to further the
17 purposes of this chapter. The rules at a minimum shall address:

18 (1) minimum requirements for staffing by physicians
19 and nurses;

20 (2) hospital services relating to patient care;

21 (3) fire prevention, safety, and sanitation
22 requirements in hospitals;

23 (4) patient care and a patient bill of rights;

24 (5) compliance with other state and federal laws
25 affecting the health, safety, and rights of hospital patients; and

26 (6) compliance with nursing peer review under
27 Subchapter I, Chapter 301, and Chapter 303, Occupations Code, and

1 the rules of the Texas Board of Nursing [~~Nurse Examiners~~] relating
2 to peer review.

3 SECTION 69. Section 242.607, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 242.607. EXEMPTIONS FOR NURSING STUDENTS AND
6 MEDICATION AIDE TRAINEES. (a) Sections 242.606 and 242.614 do not
7 apply to:

8 (1) a graduate nurse holding a temporary permit issued
9 by the Texas Board of Nursing [~~Nurse Examiners~~];

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

14 (3) a graduate vocational nurse holding a temporary
15 permit issued by the Texas Board of Nursing [~~Nurse Examiners~~];

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

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

24 (b) The administration of medications by persons exempted
25 under Subdivisions (1) through (4) of Subsection (a) is governed by
26 the terms of the memorandum of understanding executed by the
27 department and the Texas Board of Nursing [~~Nurse Examiners~~].

1 SECTION 70. Section 36.132(a)(2), Human Resources Code, is
2 amended to read as follows:

3 (2) "Licensing authority" means:

4 (A) the Texas [~~State Board of~~] Medical Board
5 [~~Examiners~~];

6 (B) the State Board of Dental Examiners;

7 (C) the Texas State Board of Examiners of
8 Psychologists;

9 (D) the Texas State Board of Social Worker
10 Examiners;

11 (E) the Texas Board of Nursing [~~Nurse Examiners~~];

12 (F) the Texas Board of Physical Therapy
13 Examiners;

14 (G) the Texas Board of Occupational Therapy
15 Examiners; or

16 (H) another state agency authorized to regulate a
17 provider who receives or is eligible to receive payment for a health
18 care service under the Medicaid program.

19 SECTION 71. Section 1451.001(2), Insurance Code, is amended
20 to read as follows:

21 (2) "Advanced practice nurse" means an individual
22 licensed by the Texas Board of Nursing [~~Nurse Examiners~~] as a
23 registered nurse and recognized by that board as an advanced
24 practice nurse.

25 SECTION 72. The following laws are repealed:

26 (1) Section 301.059(d), Occupations Code; and

27 (2) Sections 301.160(f), (g), and (h), Occupations

1 Code.

2 SECTION 73. (a) On the effective date of this Act, the name
3 of the Board of Nurse Examiners is changed to the Texas Board of
4 Nursing.

5 (b) A member serving on the Board of Nurse Examiners on the
6 effective date of this Act may continue to serve as a member of the
7 Texas Board of Nursing for the remainder of the member's term.

8 (c) The Texas Board of Nursing shall:

9 (1) comply with and implement any nonstatutory
10 recommendations regarding the board adopted by the Sunset Advisory
11 Commission as a result of its review of the board; and

12 (2) report to the commission the information the
13 commission requires regarding the board's implementation of the
14 commission's nonstatutory recommendations not later than November
15 1, 2008.

16 SECTION 74. (a) Not later than January 1, 2008, the Texas
17 Board of Nursing shall:

18 (1) adopt the policies required by Sections 301.166
19 and 301.167, Occupations Code, as added by this Act; and

20 (2) adopt the rules required by Chapter 301,
21 Occupations Code, as amended by this Act.

22 (b) Not later than September 1, 2008, the Texas Board of
23 Nursing shall:

24 (1) develop the jurisprudence examination required by
25 Section 301.252, Occupations Code, as amended by this Act; and

26 (2) implement the plan for creating innovative nursing
27 education models as required under Section 301.157(h), Occupations

1 Code, as added by this Act, and report to the Sunset Advisory
2 Commission regarding the plan and the board's effort to increase
3 enrollment in nursing education programs.

4 SECTION 75. The requirement to pass a jurisprudence
5 examination under Section 301.252, Occupations Code, as amended by
6 this Act, applies only to an individual who applies for a license as
7 a nurse under Chapter 301, Occupations Code, on or after September
8 1, 2008.

9 SECTION 76. (a) The changes in law made by Sections 301.052
10 and 301.053, Occupations Code, as amended by this Act, regarding
11 the prohibitions on or qualifications of members of the Texas Board
12 of Nursing do not affect the entitlement of a member serving on the
13 Board of Nurse Examiners immediately before September 1, 2007, to
14 continue to serve and function as a member of the Texas Board of
15 Nursing for the remainder of the member's term. The changes in law
16 made by those sections apply only to a member appointed on or after
17 September 1, 2007.

18 (b) The changes in law made by this Act related to the
19 filing, investigation, or resolution of a complaint under Chapter
20 301, Occupations Code, as amended by this Act, apply only to a
21 complaint filed with the Texas Board of Nursing on or after the
22 effective date of this Act. A complaint filed before the effective
23 date of this Act is governed by the law as it existed immediately
24 before that date, and the former law is continued in effect for that
25 purpose.

26 (c) The changes in law made by this Act governing the
27 authority of the Texas Board of Nursing to issue, renew, or revoke a

1 license under Chapter 301, Occupations Code, apply only to an
2 application for an original or renewal license filed with the board
3 under Chapter 301, Occupations Code, as amended by this Act, on or
4 after the effective date of this Act. A license application filed
5 before the effective date of this Act is governed by the law in
6 effect at the time the application was filed, and the former law is
7 continued in effect for that purpose.

8 (d) The change in law made by this Act with respect to
9 conduct that is grounds for imposition of a disciplinary sanction,
10 including a refund, temporary license suspension, or cease and
11 desist order, applies only to conduct that occurs on or after the
12 effective date of this Act. Conduct that occurs before the
13 effective date of this Act is governed by the law in effect on the
14 date the conduct occurred, and the former law is continued in effect
15 for that purpose.

16 SECTION 77. This Act takes effect September 1, 2007.