

BILL ANALYSIS

Senate Research Center
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S.B. 1415
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 80th Legislature, Regular Session, 2007, passed S.B. 993, authored by Senator Nelson and sponsored by Representative McReynolds, in order to promote a less punitive regulatory environment for nurses who have committed minor violations and to have the Texas Board of Nursing (board) focus its disciplinary efforts and resources on nurses whose continued practice poses a risk of harm to patients. This legislation is in keeping with the recommendations of the Institute of Medicine's report, *To Err Is Human and Keeping Patients Safe: Transforming the Work Environment of Nurses*, which concluded that patient safety is best promoted by a regulatory environment which focuses more on system issues and less on individual blame for minor infractions.

Deferred disciplinary action is a decision made by the board to defer taking final disciplinary action against a nurse, and if the nurse meets certain conditions, dismissing the complaint. This bill would build on S.B. 993 by directing the board to determine the feasibility of conducting a pilot program to evaluate a model of deferred disciplinary action for minor violations, and if determined to be feasible, to conduct such a pilot program.

As proposed, S.B. 1415 requires the Texas Board of Nursing to develop and implement a pilot program designed to evaluate the efficacy and effect on the public's protection of board deferral of disciplinary action against a nurse in cases in which the board proposes to impose a sanction other than a reprimand or a denial, suspension, or revocation of a license, if the board determines the pilot program is feasible. This bill also requires the board to appoint an advisory committee to assist the board in overseeing the pilot program and its evaluation.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 301, Occupations Code, by adding Section 301.1607, as follows:

Sec. 301.1607. PILOT PROGRAM ON DEFERRAL OF FINAL DISCIPLINARY ACTION. (a) Defines "deferred disciplinary action."

(b) Requires the Texas Board of Nursing (board), not later than February 1, 2010, to determine the feasibility of conducting a pilot program designed to evaluate the efficacy and effect on the public's protection of board deferral of disciplinary action against a person licensed or regulated under this chapter in cases in which the board proposes to impose a sanction other than a reprimand or a denial, suspension, or revocation of a license. Requires the board, if it determines the pilot program is feasible, to develop and implement the pilot program not later than February 1, 2011. Requires that the pilot program conclude not later than January 1, 2014.

(c) Prohibits the pilot program from including cases in which the board proposes to issue a reprimand or to deny, suspend, or revoke a license.

(d) Authorizes the board, during the time the pilot program is implemented and for any action or complaint for which the board proposes to impose a sanction other than a reprimand or a denial, suspension, or revocation of a license, to defer final disciplinary action the board has proposed against a person licensed or regulated under this chapter if the person conforms to conditions imposed by the board, including any condition the board could impose as a condition of probation under Section 301.468 (Probation), and if the person successfully meets the imposed conditions, dismiss the complaint.

(e) Provides that except as otherwise provided by this subsection, a deferred disciplinary action by the board under the pilot program is not confidential and is subject to disclosure in accordance with Chapter 552 (Public Information), Government Code. Provides that if the person successfully meets the conditions imposed by the board in deferring final disciplinary action and the board dismisses the action or complaint, the deferred disciplinary action of the board is confidential to the same extent as a complaint filed under Section 301.466 (Confidentiality).

(f) Authorizes the board to contract with a third party to evaluate the pilot program established under this section.

(g) Requires the board to appoint an advisory committee to assist the board in overseeing the pilot program and its evaluation. Requires the committee to include representatives of public advocacy organizations.

(h) Provides that this section expires September 1, 2014.

SECTION 2. Effective date: September 1, 2009.