

1-1 By: McReynolds, Pena (Senate Sponsor - Nelson) H.B. No. 3961  
1-2 (In the Senate - Received from the House April 29, 2009;  
1-3 May 1, 2009, read first time and referred to Committee on Health  
1-4 and Human Services; May 11, 2009, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 8,  
1-6 Nays 0; May 11, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3961 By: Nelson

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

1-10 relating to the regulation of nursing.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 301.155(c), Occupations Code, is amended  
1-13 to read as follows:

1-14 (c) The board shall assess a [~~\$3~~] surcharge of not less than  
1-15 \$3 or more than \$5 for a registered nurse and a [~~\$2~~] surcharge of not  
1-16 less than \$2 or more than \$3 for a vocational nurse to the fee  
1-17 established by the board under Subsection (a) for a license holder  
1-18 to renew a license under this chapter. The board may use nine cents  
1-19 of the registered nurse surcharge and six cents of the vocational  
1-20 nurse surcharge to cover the administrative costs of collecting and  
1-21 depositing the surcharge. The board quarterly shall transmit the  
1-22 remainder of each surcharge to the Department of State Health  
1-23 Services to be used only to implement the nursing resource section  
1-24 under Section 105.002, Health and Safety Code. The board is not  
1-25 required to collect the surcharge if the board determines the funds  
1-26 collected are not appropriated for the purpose of funding the  
1-27 nursing resource section.

1-28 SECTION 2. Section 301.157, Occupations Code, is amended by  
1-29 amending Subsection (d-4) and adding Subsections (d-8), (d-9),  
1-30 (d-10), and (d-11) to read as follows:

1-31 (d-4) The board may recognize and accept as approved under  
1-32 this section a school of nursing or educational program operated in  
1-33 another state and approved by a state board of nursing or other  
1-34 regulatory body of that [another] state. The board shall develop  
1-35 policies to ensure that the other state's [~~state board's~~] standards  
1-36 are substantially equivalent to the board's standards.

1-37 (d-8) For purposes of Subsection (d-4), a nursing program  
1-38 is considered to meet standards substantially equivalent to the  
1-39 board's standards if the program:

1-40 (1) is part of an institution of higher education  
1-41 located outside this state that is approved by the appropriate  
1-42 regulatory authorities of that state;

1-43 (2) holds regional accreditation by an accrediting  
1-44 body recognized by the United States secretary of education and the  
1-45 Council for Higher Education Accreditation;

1-46 (3) holds specialty accreditation by an accrediting  
1-47 body recognized by the United States secretary of education and the  
1-48 Council for Higher Education Accreditation, including the National  
1-49 League for Nursing Accrediting Commission;

1-50 (4) requires program applicants to be a licensed  
1-51 practical or vocational nurse, a military service corpsman, or a  
1-52 paramedic, or to hold a college degree in a clinically oriented  
1-53 health care field with demonstrated experience providing direct  
1-54 patient care; and

1-55 (5) graduates students who:

1-56 (A) achieve faculty-determined program outcomes,  
1-57 including passing criterion-referenced examinations of nursing  
1-58 knowledge essential to beginning a registered nursing practice and  
1-59 transitioning to the role of registered nurse;

1-60 (B) pass a criterion-referenced summative  
1-61 performance examination developed by faculty subject matter  
1-62 experts that measures clinical competencies essential to beginning  
1-63 a registered nursing practice and that meets nationally recognized

2-1 standards for educational testing, including the educational  
2-2 testing standards of the American Educational Research  
2-3 Association, the American Psychological Association, and the  
2-4 National Council on Measurement in Education; and

2-5 (C) pass the National Council Licensure  
2-6 Examination for Registered Nurses at a rate equivalent to the  
2-7 passage rate for students of approved in-state programs.

2-8 (d-9) A graduate of a clinical competency assessment  
2-9 program operated in another state and approved by a state board of  
2-10 nursing or other regulatory body of another state is eligible to  
2-11 apply for an initial license under this chapter if:

2-12 (1) the board allowed graduates of the program to  
2-13 apply for an initial license under this chapter continuously during  
2-14 the 10-year period preceding January 1, 2007;

2-15 (2) the program does not make any substantial changes  
2-16 in the length or content of its clinical competency assessment  
2-17 without the board's approval;

2-18 (3) the program remains in good standing with the  
2-19 state board of nursing or other regulatory body in the other state;  
2-20 and

2-21 (4) the program participates in the research study  
2-22 under Section 105.008, Health and Safety Code.

2-23 (d-10) In this section, the terms "clinical competency  
2-24 assessment program" and "supervised clinical learning experiences  
2-25 program" have the meanings assigned by Section 105.008, Health and  
2-26 Safety Code.

2-27 (d-11) Subsections (d-8), (d-9), (d-10), and (d-11) expire  
2-28 December 31, 2017. As part of the first review conducted under  
2-29 Section 301.003 after September 1, 2009, the Sunset Advisory  
2-30 Commission shall:

2-31 (1) recommend whether Subsections (d-8) and (d-9)  
2-32 should be extended; and

2-33 (2) recommend any changes to Subsections (d-8) and  
2-34 (d-9) relating to the eligibility for a license of graduates of a  
2-35 clinical competency assessment program operated in another state.

2-36 SECTION 3. Section 301.160(a)(2), Occupations Code, is  
2-37 amended to read as follows:

2-38 (2) "Targeted continuing nursing education" means  
2-39 continuing education focusing on a skill that would likely benefit  
2-40 a significant proportion of [~~registered~~] nurses in a particular  
2-41 practice area.

2-42 SECTION 4. Sections 301.160(b) and (j) are amended to read  
2-43 as follows:

2-44 (b) The board may develop pilot programs to evaluate the  
2-45 effectiveness of mechanisms, including proactive nursing peer  
2-46 review and targeted continuing nursing education, for maintenance  
2-47 of the clinical competency of a [~~registered~~] nurse in the nurse's  
2-48 area of practice and the understanding by [~~registered~~] nurses of  
2-49 the laws, including regulations, governing the practice of  
2-50 [~~professional~~] nursing.

2-51 (j) The board shall issue an annual report regarding any  
2-52 pilot programs developed or approved and a status report on those  
2-53 programs, including preliminary or final findings concerning their  
2-54 effectiveness. The board shall mail the report to statewide  
2-55 associations of [~~registered~~] nurses and [~~registered nurse~~]  
2-56 educators[~~]~~ and employers of [~~registered~~] nurses that request a  
2-57 copy. [~~The board shall issue a final report not later than~~  
2-58 ~~September 1, 2000.~~]

2-59 SECTION 5. Sections 301.1605(a) and (c), Occupations Code,  
2-60 are amended to read as follows:

2-61 (a) The board may approve and adopt rules regarding pilot  
2-62 programs for innovative applications in the practice and regulation  
2-63 of [~~professional~~] nursing.

2-64 (c) In approving a pilot program, the board may grant the  
2-65 program an exception to the mandatory reporting requirements of  
2-66 Sections 301.401-301.409 or to a rule adopted under this chapter or  
2-67 Chapter 303 that relates to the practice of [~~professional~~] nursing,  
2-68 including education and reporting requirements for [~~registered~~]  
2-69 nurses. The board may not grant an exception to:

3-1 (1) the education requirements of this chapter unless  
3-2 the program includes alternate but substantially equivalent  
3-3 requirements; or

3-4 (2) the mandatory reporting requirements unless the  
3-5 program:

3-6 (A) is designed to evaluate the efficiency of  
3-7 alternative reporting methods; and

3-8 (B) provides consumers adequate protection from  
3-9 ~~[registered]~~ nurses whose continued practice is a threat to public  
3-10 safety.

3-11 SECTION 6. Sections 301.1606(a) and (b), Occupations Code,  
3-12 are amended to read as follows:

3-13 (a) The ~~[Before January 1, 2004, the]~~ board may ~~[shall]~~  
3-14 solicit proposals for pilot programs designed to evaluate the  
3-15 efficacy and effect on protection of the public of reporting  
3-16 systems designed to encourage identification of system errors.

3-17 (b) The board may grant a pilot program approved under this  
3-18 section an exception to the mandatory reporting requirements of  
3-19 Sections 301.401-301.409 or to a rule adopted under this chapter or  
3-20 Chapter 303 that relates to the practice of ~~[professional]~~ nursing,  
3-21 including education and reporting requirements for ~~[registered]~~  
3-22 nurses. If the board grants an exception, the board may require  
3-23 that the program:

3-24 (1) provide for the remediation of the deficiencies of  
3-25 a ~~[registered]~~ nurse who has knowledge or skill deficiencies that  
3-26 unless corrected may result in an unreasonable risk to public  
3-27 safety;

3-28 (2) provide for supervision of the nurse during  
3-29 remediation of deficiencies under Subdivision (1);

3-30 (3) require reporting to the board of a ~~[registered]~~  
3-31 nurse:

3-32 (A) who fails to satisfactorily complete  
3-33 remediation, or who does not make satisfactory progress in  
3-34 remediation, under Subdivision (1);

3-35 (B) whose incompetence in the practice of  
3-36 ~~[professional]~~ nursing would pose a continued risk of harm to the  
3-37 public; or

3-38 (C) whose error contributed to a patient death or  
3-39 serious patient injury; or

3-40 (4) provide for a nursing peer review committee to  
3-41 review whether a ~~[registered]~~ nurse is appropriate for remediation  
3-42 under Subdivision (1).

3-43 SECTION 7. Subchapter E, Chapter 301, Occupations Code, is  
3-44 amended by adding Sections 301.206 and 301.207 to read as follows:

3-45 Sec. 301.206. CONFIDENTIALITY OF INFORMATION COLLECTED FOR  
3-46 EMERGENCY RELIEF PROGRAMS. (a) In this section, "emergency relief  
3-47 program" means a program operated or sponsored by the federal  
3-48 government, the state, or a nonprofit organization to provide  
3-49 nurses to assist in providing health care to victims or potential  
3-50 victims of a disaster or state or local emergency.

3-51 (b) A nurse's personal contact information, including  
3-52 e-mail addresses, telephone numbers, and fax numbers, collected by  
3-53 the board for use by an emergency relief program is:

3-54 (1) confidential and not subject to disclosure under  
3-55 Chapter 552, Government Code; and

3-56 (2) not subject to disclosure, discovery, subpoena, or  
3-57 other means of legal compulsion for release to anyone other than for  
3-58 the purpose of contacting the nurse to assist in an emergency relief  
3-59 program.

3-60 Sec. 301.207. CONFIDENTIALITY OF HEALTH INFORMATION  
3-61 PROVIDED FOR LICENSURE. Information regarding a person's diagnosis  
3-62 or treatment for a physical condition, mental condition, or  
3-63 chemical dependency that the person submits to the board for a  
3-64 petition for a declaratory order of eligibility for a license or for  
3-65 an application for an initial license or a license renewal under  
3-66 this chapter is confidential to the same extent information  
3-67 collected on a nurse as part of an investigation of a complaint is  
3-68 confidential under Section 301.466.

3-69 SECTION 8. Section 301.257(a), Occupations Code, is amended

4-1 to read as follows:

4-2 (a) A person may petition the board for a declaratory order  
4-3 as to the person's eligibility for a license under this chapter if  
4-4 the person has reason to believe that the person is ineligible for  
4-5 the license and:

4-6 (1) is enrolled or planning to enroll in an  
4-7 educational program that prepares a person for an initial license  
4-8 as a registered nurse or vocational nurse; ~~or [and]~~

4-9 (2) is an applicant for a [has reason to believe that  
4-10 the person is ineligible for the] license.

4-11 SECTION 9. Section 301.401(2), Occupations Code, is amended  
4-12 to read as follows:

4-13 (2) "Minor incident" means conduct by a nurse that  
4-14 does not indicate that the nurse's continued practice poses a risk  
4-15 of harm to a patient or another person. This term is synonymous  
4-16 with "minor error" or "minor violation of this chapter or board  
4-17 rule."

4-18 SECTION 10. Subchapter J, Chapter 301, Occupations Code, is  
4-19 amended by adding Section 301.4521 to read as follows:

4-20 Sec. 301.4521. PHYSICAL AND PSYCHOLOGICAL EVALUATION. (a)  
4-21 In this section:

4-22 (1) "Applicant" means:

4-23 (A) a petitioner for a declaratory order of  
4-24 eligibility for a license; or

4-25 (B) an applicant for an initial license or  
4-26 renewal of a license.

4-27 (2) "Evaluation" means a physical or psychological  
4-28 evaluation conducted to determine a person's fitness to practice  
4-29 nursing.

4-30 (b) The board may require a nurse or applicant to submit to  
4-31 an evaluation only if the board has probable cause to believe that  
4-32 the nurse or applicant is unable to practice nursing with  
4-33 reasonable skill and safety to patients because of:

4-34 (1) physical impairment;

4-35 (2) mental impairment; or

4-36 (3) chemical dependency or abuse of drugs or alcohol.

4-37 (c) A demand for an evaluation under Subsection (b) must be  
4-38 in writing and state:

4-39 (1) the reasons probable cause exists to require the  
4-40 evaluation; and

4-41 (2) that refusal by the nurse or applicant to submit to  
4-42 the evaluation will result in an administrative hearing to be held  
4-43 to make a final determination of whether probable cause for the  
4-44 evaluation exists.

4-45 (d) If the nurse or applicant refuses to submit to the  
4-46 evaluation, the board shall schedule a hearing on the issue of  
4-47 probable cause to be conducted by the State Office of  
4-48 Administrative Hearings. The nurse or applicant must be notified  
4-49 of the hearing by personal service or certified mail. The hearing  
4-50 is limited to the issue of whether the board had probable cause to  
4-51 require an evaluation. The nurse or applicant may present testimony  
4-52 and other evidence at the hearing to show why the nurse or applicant  
4-53 should not be required to submit to the evaluation. The board has  
4-54 the burden of proving that probable cause exists. At the conclusion  
4-55 of the hearing, the hearing officer shall enter an order requiring  
4-56 the nurse or applicant to submit to the evaluation or an order  
4-57 rescinding the board's demand for an evaluation. The order may not  
4-58 be vacated or modified under Section 2001.058, Government Code.

4-59 (e) If a nurse or applicant refuses to submit to an  
4-60 evaluation after an order requiring the evaluation is entered under  
4-61 Subsection (d), the board may:

4-62 (1) refuse to issue or renew a license;

4-63 (2) suspend a license; or

4-64 (3) issue an order limiting the license.

4-65 (f) The board may request a nurse or applicant to consent to  
4-66 an evaluation by a practitioner approved by the board for a reason  
4-67 other than a reason listed in Subsection (b). A request for an  
4-68 evaluation under this subsection must be in writing and state:

4-69 (1) the reasons for the request;

- 5-1 (2) the type of evaluation requested;
- 5-2 (3) how the board may use the evaluation;
- 5-3 (4) that the nurse or applicant may refuse to submit to
- 5-4 an evaluation; and
- 5-5 (5) the procedures for submitting an evaluation as
- 5-6 evidence in any hearing regarding the issuance or renewal of the
- 5-7 nurse's or applicant's license.

5-8 (g) If a nurse or applicant refuses to consent to an  
 5-9 evaluation under Subsection (f), the nurse or applicant may not  
 5-10 introduce an evaluation into evidence at a hearing to determine the  
 5-11 nurse's or applicant's right to be issued or retain a nursing  
 5-12 license unless the nurse or applicant:

5-13 (1) not later than the 30th day before the date of the  
 5-14 hearing, notifies the board that an evaluation will be introduced  
 5-15 into evidence at the hearing;

5-16 (2) provides the board the results of that evaluation;

5-17 (3) informs the board of any other evaluations by any  
 5-18 other practitioners; and

5-19 (4) consents to an evaluation by a practitioner that  
 5-20 meets board standards established under Subsection (h).

5-21 (h) The board shall establish by rule the qualifications for  
 5-22 a licensed practitioner to conduct an evaluation under this  
 5-23 section. The board shall maintain a list of qualified  
 5-24 practitioners. The board may solicit qualified practitioners  
 5-25 located throughout the state to be on the list.

5-26 (i) A nurse or applicant shall pay the costs of an  
 5-27 evaluation conducted under this section.

5-28 (j) The results of an evaluation under this section are:

5-29 (1) confidential and not subject to disclosure under  
 5-30 Chapter 552, Government Code; and

5-31 (2) not subject to disclosure by discovery, subpoena,  
 5-32 or other means of legal compulsion for release to anyone, except  
 5-33 that the results may be:

5-34 (A) introduced as evidence in a proceeding before  
 5-35 the board or a hearing conducted by the State Office of  
 5-36 Administrative Hearings under this chapter; or

5-37 (B) included in the findings of fact and  
 5-38 conclusions of law in a final board order.

5-39 (k) If the board determines there is insufficient evidence  
 5-40 to bring action against a person based on the results of any  
 5-41 evaluation under this section, the evaluation must be expunged from  
 5-42 the board's records.

5-43 (l) The board shall adopt guidelines for requiring or  
 5-44 requesting a nurse or applicant to submit to an evaluation under  
 5-45 this section.

5-46 (m) The authority granted to the board under this section is  
 5-47 in addition to the board's authority to make licensing decisions  
 5-48 under this chapter.

5-49 SECTION 11. Sections 301.453(a) and (b), Occupations Code,  
 5-50 are amended to read as follows:

5-51 (a) If the board determines that a person has committed an  
 5-52 act listed in Section 301.452(b), the board shall enter an order  
 5-53 imposing one or more of the following:

5-54 (1) denial of the person's application for a license,  
 5-55 license renewal, or temporary permit;

5-56 (2) issuance of a written warning;

5-57 (3) administration of a public reprimand;

5-58 (4) limitation or restriction of the person's license,  
 5-59 including:

5-60 (A) limiting to or excluding from the person's  
 5-61 practice one or more specified activities of nursing; or

5-62 (B) stipulating periodic board review;

5-63 (5) suspension of the person's license [~~for a period~~  
 5-64 ~~not to exceed five years~~];

5-65 (6) revocation of the person's license; or

5-66 (7) assessment of a fine.

5-67 (b) In addition to or instead of an action under Subsection  
 5-68 (a), the board, by order, may require the person to:

5-69 (1) submit to care, counseling, or treatment by a

6-1 health provider designated by the board as a condition for the  
6-2 issuance or renewal of a license;

6-3 (2) participate in a program of education or  
6-4 counseling prescribed by the board, including a program of remedial  
6-5 education;

6-6 (3) practice for a specified period under the  
6-7 direction of a registered nurse or vocational nurse designated by  
6-8 the board; or

6-9 (4) perform public service the board considers  
6-10 appropriate.

6-11 SECTION 12. Section 301.4535, Occupations Code, is amended  
6-12 by adding Subsection (a-1) and amending Subsection (b) to read as  
6-13 follows:

6-14 (a-1) An applicant or nurse who is refused an initial  
6-15 license or renewal of a license or whose license is suspended under  
6-16 Subsection (a) is not eligible for a probationary, stipulated, or  
6-17 otherwise encumbered license unless the board establishes by rule  
6-18 criteria that would permit the issuance or renewal of the license.

6-19 (b) On final conviction or a plea of guilty or nolo  
6-20 contendere for an offense listed in Subsection (a), the board, as  
6-21 appropriate, may not issue a license to an applicant, shall refuse  
6-22 to renew a license, or shall revoke a license [~~if the applicant or~~  
6-23 ~~license holder did not previously disclose the conviction or plea~~  
6-24 ~~and the fifth anniversary of the date the person successfully~~  
6-25 ~~completed community supervision or parole has not occurred].~~

6-26 SECTION 13. Subchapter J, Chapter 301, Occupations Code, is  
6-27 amended by adding Section 301.4551 to read as follows:

6-28 Sec. 301.4551. TEMPORARY LICENSE SUSPENSION FOR DRUG OR  
6-29 ALCOHOL USE. The board shall temporarily suspend the license of a  
6-30 nurse as provided by Section 301.455 if the nurse is under a board  
6-31 order prohibiting the use of alcohol or a drug or requiring the  
6-32 nurse to participate in a peer assistance program, and the nurse:

6-33 (1) tests positive for alcohol or a prohibited drug;

6-34 (2) refuses to comply with a board order to submit to a  
6-35 drug or alcohol test; or

6-36 (3) fails to participate in the peer assistance  
6-37 program and the program issues a letter of dismissal and referral to  
6-38 the board for noncompliance.

6-39 SECTION 14. Section 301.468, Occupations Code, is amended  
6-40 by amending Subsection (a) and adding Subsections (e) and (f) to  
6-41 read as follows:

6-42 (a) The board may determine that an order denying a license  
6-43 application or suspending a license be probated. A person subject  
6-44 to a probation order shall conform to each condition the board sets  
6-45 as the terms of probation, including a condition:

6-46 (1) limiting the practice of the person to, or  
6-47 excluding, one or more specified activities of professional nursing  
6-48 or vocational nursing; ~~or~~

6-49 (2) requiring the person to submit to supervision,  
6-50 care, counseling, or treatment by a practitioner designated by the  
6-51 board; or

6-52 (3) requiring the person to submit to random drug or  
6-53 alcohol tests in the manner prescribed by the board.

6-54 (e) A hearing under this section is limited to a  
6-55 determination of whether the person violated the terms of the  
6-56 probation order under Subsection (a) and whether the board should:

6-57 (1) continue, rescind, or modify the terms of  
6-58 probation, including imposing an administrative penalty; or

6-59 (2) enter an order denying, suspending, or revoking  
6-60 the person's license.

6-61 (f) If one of the conditions of probation is the  
6-62 prohibition of using alcohol or a drug or participation in a peer  
6-63 assistance program, violation of that condition is established by:

6-64 (1) a positive drug or alcohol test result;

6-65 (2) refusal to submit to a drug or alcohol test as  
6-66 required by the board; or

6-67 (3) a letter of noncompliance from the peer assistance  
6-68 program.

6-69 SECTION 15. Section 63.202(f), Education Code, is amended

7-1 to read as follows:

7-2 (f) Notwithstanding the limitation provided by Subsection  
 7-3 (b), grants awarded under Subsection (c) for the state fiscal  
 7-4 biennium ending on August 31, 2009, and the fiscal biennium ending  
 7-5 on August 31, 2011, by the Texas Higher Education Coordinating  
 7-6 Board shall be awarded to programs preparing students for initial  
 7-7 licensure as registered nurses or programs preparing qualified  
 7-8 faculty members with a master's or doctoral degree for the program,  
 7-9 including programs at two-year institutions of higher education,  
 7-10 four-year general academic teaching institutions, health science  
 7-11 centers, and independent or private institutions of higher  
 7-12 education, or to the nursing resource section established under  
 7-13 Section 105.002(b), Health and Safety Code. In awarding grants  
 7-14 under this subsection, the coordinating board may:

7-15 (1) give priority to institutions proposing to address  
 7-16 the shortage of registered nurses by promoting innovation in  
 7-17 education, recruitment, and retention of nursing students and  
 7-18 qualified faculty;

7-19 (2) award grants on a competitive basis; [~~and~~]

7-20 (3) consider the availability of matching funds; and

7-21 (4) fund a study by the nursing resource section to  
 7-22 evaluate the competencies of clinical judgment and behaviors that  
 7-23 professional nursing students should possess at the time of  
 7-24 graduation.

7-25 SECTION 16. Chapter 105, Health and Safety Code, is amended  
 7-26 by adding Section 105.008 to read as follows:

7-27 Sec. 105.008. STUDY OF ALTERNATE WAYS TO ASSURE CLINICAL  
 7-28 COMPETENCY OF GRADUATES OF NURSING EDUCATIONAL PROGRAMS. (a) In  
 7-29 this section:

7-30 (1) "Clinical competency assessment program" means a  
 7-31 professional nursing prelicensure program that employs a  
 7-32 criterion-referenced summative performance examination, developed  
 7-33 by subject matter experts, to verify its graduates' attainment of  
 7-34 the clinical competency necessary for initial licensure as a  
 7-35 registered nurse.

7-36 (2) "Professional nursing prelicensure program" means  
 7-37 a professional nursing educational program that prepares students  
 7-38 to obtain an initial license as a registered nurse.

7-39 (3) "Research study" means the study described by  
 7-40 Subsection (b).

7-41 (4) "Supervised clinical learning experiences  
 7-42 program" means a professional nursing prelicensure program that  
 7-43 requires students to complete a required number of supervised  
 7-44 clinical learning experiences provided by qualified clinical  
 7-45 faculty involving multiple, ongoing assessments and feedback.

7-46 (b) To the extent funding is available, the nursing resource  
 7-47 section established under Section 105.002(b) shall conduct a  
 7-48 research study to identify:

7-49 (1) a set of expected student outcomes in terms of  
 7-50 clinical judgment and behaviors that professional nursing students  
 7-51 should possess at the time of graduation from a professional  
 7-52 nursing prelicensure program;

7-53 (2) standardized, reliable, and valid clinical exit  
 7-54 evaluation tools that could be used to evaluate the competencies in  
 7-55 clinical judgment and behaviors that professional nursing students  
 7-56 possess at the time of graduation from a professional nursing  
 7-57 prelicensure program;

7-58 (3) any correlation between the success rate of  
 7-59 graduates of professional nursing prelicensure programs on  
 7-60 standardized clinical exit evaluation tools and their educational  
 7-61 and experiential background, including:

7-62 (A) length and type of health care work  
 7-63 experience before entering the professional nursing prelicensure  
 7-64 programs;

7-65 (B) health care work experience during the  
 7-66 professional nursing prelicensure programs; and

7-67 (C) alternative methods of teaching clinical  
 7-68 judgment and behaviors, including supervised clinicals and  
 7-69 simulation laboratories; and

8-1                   (4) any correlation between the required number of  
8-2 hours in supervised clinical learning experiences and expected  
8-3 student outcomes in terms of clinical judgment and behaviors.  
8-4                   (c) In addition to any other objective, the research study  
8-5 must be designed to determine if the graduates of a clinical  
8-6 competency assessment program are substantially equivalent to the  
8-7 graduates of supervised clinical learning experiences programs in  
8-8 terms of clinical judgments and behaviors. For purposes of this  
8-9 subsection, the clinical competency assessment program must be one  
8-10 that:

8-11                   (1) has been requiring a clinical competency  
8-12 assessment for at least 10 years;  
8-13                   (2) has students who reside in this state;  
8-14                   (3) has graduates who have been considered by the  
8-15 Texas Board of Nursing to be eligible to apply for a registered  
8-16 nurse license as a result of graduating from the program on or  
8-17 before January 1, 2007; and  
8-18                   (4) conducts the clinical competency assessment at a  
8-19 facility or facilities located in this state under the supervision  
8-20 of a qualified clinical faculty member who is a registered nurse and  
8-21 who holds a master's or doctoral degree in nursing.

8-22                   (d) Considerations to be used in determining substantial  
8-23 equivalence under Subsection (c) must include the differences  
8-24 between the clinical competency assessment program and the  
8-25 supervised clinical learning experiences program in:

8-26                   (1) the methods of evaluating students' clinical  
8-27 judgment and behaviors;  
8-28                   (2) performance on standardized clinical exit  
8-29 evaluation tools;  
8-30                   (3) the ability of graduates to transition to and  
8-31 assimilate in the registered nurse's role; and  
8-32                   (4) passage rates on the National Council Licensure  
8-33 Examination.

8-34                   (e) The nursing resource section shall contract with an  
8-35 independent researcher to develop the research design and conduct  
8-36 the research. The independent researcher must be selected by a  
8-37 selection committee composed of:

8-38                   (1) one representative elected by a majority of the  
8-39 nursing advisory committee under Section 104.0155, who is the chair  
8-40 of the selection committee;  
8-41                   (2) one representative designated by the Texas Health  
8-42 Care Policy Council;  
8-43                   (3) the presiding officer of the Texas Board of  
8-44 Nursing;  
8-45                   (4) one representative of the Texas Higher Education  
8-46 Coordinating Board, designated by the governor;  
8-47                   (5) one representative designated by the Texas  
8-48 Hospital Association;  
8-49                   (6) one representative designated by the Texas  
8-50 Association of Business;  
8-51                   (7) one representative designated by a clinical  
8-52 competency assessment program that meets the requirements of  
8-53 Section 301.157(d-8), Occupations Code; and  
8-54                   (8) the nurse researcher member of the nursing  
8-55 advisory committee under Section 104.0155.

8-56                   (f) The nursing resource section shall complete the study  
8-57 not later than June 30, 2014, and shall submit a report to the  
8-58 office of the governor, the Senate Committee on Health and Human  
8-59 Services, and the House Committee on Public Health. The report must  
8-60 include a research abstract prepared by the independent researcher.

8-61                   (g) The nursing resource section may cooperate with the  
8-62 Texas Board of Nursing and the Texas Higher Education Coordinating  
8-63 Board in conducting the study.

8-64                   (h) The nursing advisory committee formed under Section  
8-65 104.0155 shall serve as the oversight committee for the study.

8-66                   (i) Any data collected as part of the study that contains  
8-67 information identifying specific students, patients, or health  
8-68 care facilities is confidential, is not subject to disclosure under  
8-69 Chapter 552, Government Code, and may not be released unless all



9-1 identifying information is removed.

9-2 (j) In addition to funds appropriated by the legislature,  
9-3 the nursing resource section may solicit, receive, and spend  
9-4 grants, gifts, and donations from public or private sources for the  
9-5 purpose of conducting the study.

9-6 (k) If grants or other funds are available through the  
9-7 National Council of State Boards of Nursing that could be used to  
9-8 fund the study, the nursing resource section shall apply for the  
9-9 funds to the maximum amount available up to the estimated cost of  
9-10 the study. In making the application or accepting the funding, the  
9-11 nursing resource section may not relinquish any oversight  
9-12 responsibility for the study, including responsibility for  
9-13 designing and conducting the research or developing the findings.

9-14 SECTION 17. Section 301.202(b), Occupations Code, is  
9-15 repealed.

9-16 SECTION 18. (a) The change in law made by Section 301.4521,  
9-17 Occupations Code, as added by this Act, applies only to an  
9-18 application filed with the Texas Board of Nursing on or after the  
9-19 effective date of this Act. An application filed before the  
9-20 effective date of this Act is covered by the law in effect when the  
9-21 application was filed, and the former law is continued in effect for  
9-22 that purpose.

9-23 (b) The changes in law made by Section 301.4551, Occupations  
9-24 Code, as added by this Act, and Section 301.468, Occupations Code,  
9-25 as amended by this Act, apply only to a violation of an order issued  
9-26 by the Texas Board of Nursing on or after the effective date of this  
9-27 Act. A violation of an order issued by the Texas Board of Nursing  
9-28 before the effective date of this Act is covered by the law in  
9-29 effect when the order was issued, and the former law is continued in  
9-30 effect for that purpose.

9-31 SECTION 19. This Act takes effect immediately if it  
9-32 receives a vote of two-thirds of all the members elected to each  
9-33 house, as provided by Section 39, Article III, Texas Constitution.  
9-34 If this Act does not receive the vote necessary for immediate  
9-35 effect, this Act takes effect September 1, 2009.

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