

BILL ANALYSIS

Senate Research Center

S.B. 193
By: Nelson
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 193 makes clarifying changes and updates to the Board of Nursing's (BON) regulation of nurses to improve the practice of nursing and patient safety.

Specifically, S.B. 193 permits nurses younger than 65 years old who go on inactive status to use a title approved by BON to indicate that the license is in good standing but inactive; gives BON authority to establish a confidential, voluntary error reporting system for nursing peer review committees so that educational efforts can be made to reduce those errors; and adds the Texas Peer Assistance Program for Nurses to the entities BON is allowed to disclose physical or psychological evaluations to if the nurse has been referred to the program by BON.

S.B. 193 amends current law relating to the regulation of the practice of nursing.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Board of Nursing is modified in SECTION 2 (Section 301.261, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 301.207, Occupations Code, as follows:

Sec. 301.207. New heading: CONFIDENTIALITY OF INFORMATION PROVIDED FOR LICENSURE. Provides that the following information, rather than information regarding a person's diagnosis or treatment for a physical condition, mental condition, or chemical dependency, that a person submits to the Texas Board of Nursing (BON) for a petition for a declaratory order of eligibility for a license or for an application for an initial license or a license renewal under this chapter is confidential to the same extent information collected on a nurse as part of an investigation of a complaint is confidential under Section 301.466 (Confidentiality):

- (1) information, including diagnosis and treatment, regarding a person's physical or mental condition, intemperate use of drugs or alcohol, or chemical dependency;
- (2) information regarding a person's criminal history; and
- (3) any other information in the petition for declaratory order of eligibility.

Makes nonsubstantive changes.

SECTION 2. Amends Section 301.261(e), Occupations Code, to require BON by rule to permit a person whose license is on inactive status and who was in good standing with BON on the date the license became inactive, rather than a person whose license is on inactive status and who is 65 years or older, to use, as applicable, the title "Registered Nurse Retired," "R.N. Retired," "Licensed Vocational Nurse Retired," "Vocational Nurse Retired," "L.V.N. Retired," or "V.N. Retired" or another appropriate title approved by BON. Makes a nonsubstantive change.

SECTION 3. Amends Section 301.352(b), Occupations Code, to provide that an act by a person under Subsection (a) (relating to the prohibition on suspending, terminating, or otherwise disciplining or discriminating against a nurse who refuses to engage in a certain act or omission) does not constitute a violation of this section if a nursing peer review committee under Chapter 303 (Nursing Peer Review) determines that the act or omission the nurse refused to engage in was not conduct reportable to BON under Section 301.403 (Duty of Peer Review Committee to Report), a minor incident, or a violation of this chapter or a BON rule; or that the act or omission in which the nurse refused to engage was conduct reportable to BON, a minor incident, or a violation of this chapter or a BON rule, and the person rescinds any disciplinary or discriminatory action taken against the nurse, compensates the nurse for lost wages, and restores to the nurse any lost benefits.

SECTION 4. Amends Section 301.4521(j), Occupations Code, to provide that the results of an evaluation under this section are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code, and not subject to disclosure by discovery, subpoena, or other means of legal compulsion for release to anyone, except that the results may be, introduced as evidence in a proceeding before BON or a hearing conducted by the State Office of Administrative Hearings (SOAH) under this chapter, included in the findings of fact and conclusions of law in a final BON order, and disclosed to a peer assistance program approved by BON under Chapter 467 (Peer Assistance Programs), Health and Safety Code, and to which BON has referred the nurse.

SECTION 5. Amends Section 301.455(c), Occupations Code, to require SOAH to hold a preliminary hearing not later than the 17th day, rather than the 14th day, after the date of the temporary suspension or restriction to determine whether probable cause exists that a continuing and imminent threat to the public welfare exists.

SECTION 6. Amends Section 301.4551, Occupations Code, as follows:

Sec. 301.4551. TEMPORARY LICENSE SUSPENSION FOR DRUG OR ALCOHOL USE. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Provides that, for the purposes of Section 301.455(c) (relating to a preliminary hearing to determine whether probable cause exists that a continuing and imminent threat to the public welfare exists), proof of the elements required for BON to suspend a license under this section is proof that probable cause of a continuing and imminent threat to the public welfare exists.

SECTION 7. Amends Chapter 303, Occupations Code, by adding Section 303.012, as follows:

Sec. 303.012. ERROR CLASSIFICATION SYSTEM. (a) Authorizes BON to develop a standardized error classification system for use by a nursing peer review committee (committee) in evaluating the conduct of a nurse. Requires BON to make the system available to the committee at no cost.

(b) Provides that information collected as part of an error classification system is a record of the committee and is confidential under Section 303.006 (Confidentiality of Peer Review Proceedings).

(c) Authorizes the committee to report the information collected using the error classification system to BON. Prohibits the committee from reporting to BON under this section information that includes the identity of an individual nurse or patient.

(d) Provides that information BON receives under this section that contains information indentifying a specific patient, nurse, or health care facility, the committee, or the sponsoring organization of the committee is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government

Code. Requires BON to remove the identifying information from the information before making the remaining information available to the public.

(e) Provides that this section does not affect the obligation or authority of a committee to disclose information under Section 303.007.

SECTION 8. Repealer: Section 301.355 (Policies Applicable to Nurses Employed by Medical and Dental Units), Occupations Code.

SECTION 9. (a) Makes application of Section 301.352(b), Occupations Code, as amended by this Act, prospective.

(b) Makes application of Section 301.455(c), Occupations Code, as amended by this Act, prospective.

(c) Makes application of Section 301.4551, Occupations Code, as amended by this Act, prospective.

SECTION 10. Effective date: September 1, 2011.