BILL ANALYSIS

BACKGROUND AND PURPOSE

Interested parties assert that certain clarifying changes and updates to provisions of law relating to the Texas Board of Nursing's regulation of nurses are necessary to improve the practice of nursing and patient safety. S.B. 193 seeks to address this issue by amending current law relating to the regulation of the practice of nursing.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Nursing in SECTION 2 of this bill.

ANALYSIS

S.B. 193 amends the Occupations Code to extend the protection of confidentiality given to certain information that a person submits to the Texas Board of Nursing for a petition for a declaratory order of eligibility for a nursing license or for an application for an initial license or a license renewal to apply to information, including diagnosis and treatment, regarding a person's intemperate use of drugs or alcohol; information regarding a person's criminal history; and any other information in the petition for declaratory order of eligibility. The bill makes conforming changes.

S.B. 193 requires the board by rule to permit a person whose license is on inactive status and who was in good standing with the board on the date the license became inactive to use, as applicable, a specific title indicating the person's status as a retired nurse or another appropriate title approved by the board. The bill removes a requirement for the board to permit the use of a title by such a person who is 65 years or older.

S.B. 193 clarifies a provision establishing that an act by a person does not constitute a violation of provisions of law prohibiting retaliation against a nurse who refuses to engage in certain conduct if a nursing peer review committee determines that the act or omission the nurse refused to engage in was not conduct reportable to the board, a minor incident, or a violation of existing protection laws or a board rule.

S.B. 193 authorizes the disclosure of the results of a physical and psychological evaluation of a nurse that was conducted to determine a person's fitness to practice nursing to a peer assistance program approved by the board to which the board has referred the nurse. The bill extends the deadline by which the State Office of Administrative Hearings is required to hold a preliminary hearing on the suspension or restriction of a nurse's license to determine whether there is probable cause that a continuing and imminent threat to the public welfare exists from not later than the 14th day to not later than the 17th day after the date the license was temporarily suspended or restricted. The bill provides that proof of the elements required for the board to temporarily suspend a license for drug or alcohol use by a nurse who is under a board order prohibiting such use or requiring the nurse to participate in a peer assistance program is proof that probable cause of a continuing and imminent threat to the public welfare exists.

S.B. 193 authorizes the board to develop a standardized error classification system for use by a nursing peer review committee in evaluating the conduct of a nurse and requires the board to make the system available to the committee at no cost. The bill provides that information collected as part of an error classification system is a record of the nursing peer review committee and is confidential. The bill authorizes a nursing peer review committee to report the information collected using the error classification system to the board but prohibits the committee from reporting to the board information that includes the identity of an individual nurse or patient. The bill provides that information the board receives that identifies a specific patient, nurse, or health care facility; the committee; or the sponsoring organization of the committee is confidential and not subject to disclosure under the state's open records law. The bill requires the board to remove the identifying information before making the remaining information available to the public. The bill establishes that the provisions relating to the error classification system do not affect the obligation or authority of a nursing peer review committee to disclose certain written or oral communications and certain records and proceedings of the committee.

S.B. 193 repeals Section 301.355, Occupations Code, relating to employee group benefits, leave, and longevity pay applicable to nurses employed by medical and dental units.

EFFECTIVE DATE

September 1, 2011.