

By: Nelson

S.B. No. 193

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the practice of nursing.

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

SECTION 1. Section 301.261(e), Occupations Code, is amended to read as follows:

(e) The board by rule shall 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 [~~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 the board. [~~"]~~

SECTION 2. Section 301.352(b), Occupations Code, is amended to read as follows:

(b) An act by a person under Subsection (a) does not constitute a violation of this section if a nursing peer review committee under Chapter 303 determines:

(1) that the act or omission the nurse refused to engage in was not:

(A) [~~not~~] conduct reportable to the board under Section 301.403;

(B) a minor incident; or

(C) a violation of this chapter or a board rule;

or

1 (2) that:

2 (A) the act or omission in which the nurse
3 refused to engage was conduct reportable to the board, a minor
4 incident, or a violation of this chapter or a board rule; and

5 (B) the person:

6 (i) rescinds any disciplinary or
7 discriminatory action taken against the nurse;

8 (ii) compensates the nurse for lost wages;
9 and

10 (iii) restores to the nurse any lost
11 benefits.

12 SECTION 3. Section 301.4521(j), Occupations Code, is
13 amended to read as follows:

14 (j) The results of an evaluation under this section are:

15 (1) confidential and not subject to disclosure under
16 Chapter 552, Government Code; and

17 (2) not subject to disclosure by discovery, subpoena,
18 or other means of legal compulsion for release to anyone, except
19 that the results may be:

20 (A) introduced as evidence in a proceeding before
21 the board or a hearing conducted by the State Office of
22 Administrative Hearings under this chapter; ~~[or]~~

23 (B) included in the findings of fact and
24 conclusions of law in a final board order; and

25 (C) disclosed to a peer assistance program
26 approved by the board under Chapter 467, Health and Safety Code, and
27 to which the board has referred the nurse.

1 SECTION 4. Section 301.4551, Occupations Code, is amended
2 to read as follows:

3 Sec. 301.4551. TEMPORARY LICENSE SUSPENSION FOR DRUG OR
4 ALCOHOL USE. (a) The board shall temporarily suspend the license
5 of a nurse as provided by Section 301.455 if the nurse is under a
6 board order prohibiting the use of alcohol or a drug or requiring
7 the nurse to participate in a peer assistance program, and the
8 nurse:

9 (1) tests positive for alcohol or a prohibited drug;

10 (2) refuses to comply with a board order to submit to a
11 drug or alcohol test; or

12 (3) fails to participate in the peer assistance
13 program and the program issues a letter of dismissal and referral to
14 the board for noncompliance.

15 (b) For the purposes of Section 301.455(c), proof of the
16 elements required for the board to suspend a license under this
17 section is proof that probable cause of a continuing and imminent
18 threat to the public welfare exists.

19 SECTION 5. Chapter 303, Occupations Code, is amended by
20 adding Section 303.012 to read as follows:

21 Sec. 303.012. ERROR CLASSIFICATION SYSTEM. (a) The board
22 may develop a standardized error classification system for use by a
23 nursing peer review committee in evaluating the conduct of a nurse.
24 The board shall make the system available to the committee at no
25 cost.

26 (b) Information collected as part of an error
27 classification system is a record of the nursing peer review

1 committee and is confidential under Section 303.006.

2 (c) A nursing peer review committee may report the
3 information collected using the error classification system to the
4 board. The committee may not report information to the board that
5 includes the identity of an individual nurse or patient.

6 (d) Information the board receives under this section that
7 contains information identifying a specific patient, nurse, or
8 health care facility, the committee, or the sponsoring organization
9 of the committee is confidential and is not subject to disclosure
10 under Chapter 552, Government Code. The board must remove the
11 identifying information from the information before making the
12 remaining information available to the public.

13 SECTION 6. Section 301.355, Occupations Code, is repealed.

14 SECTION 7. (a) The change in law made by this Act to
15 Section 301.352(b), Occupations Code, applies only to an act or
16 omission that occurs on or after the effective date of this Act. An
17 act or omission that occurs before the effective date of this Act is
18 covered by the law in effect when the act or omission occurred, and
19 the former law is continued in effect for that purpose.

20 (b) The change in law made by this Act to Section 301.4551,
21 Occupations Code, applies only to a violation of an order issued by
22 the Texas Board of Nursing that occurs on or after the effective
23 date of this Act. A violation of an order that occurs before the
24 effective date of this Act is covered by the law in effect when the
25 order was violated, and the former law is continued in effect for
26 that purpose.

27 SECTION 8. This Act takes effect September 1, 2011.