86R6616 SCL-D

By:  Zedler H.B. No. 3400

A BILL TO BE ENTITLED

AN ACT

relating to required criminal history checks for nurse aides; authorizing a fee.

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

SECTION 1.  Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 250A to read as follows:

CHAPTER 250A. EMPLOYMENT OF OR CONTRACTS WITH NURSE AIDES

Sec. 250A.0001.  DEFINITIONS. In this chapter:

(1)  "Commission" means the Health and Human Services Commission.

(2)  "Executive commissioner" means the executive commissioner of the commission.

(3)  "Nurse aide" means an individual who provides nursing or nursing-related services under the delegated authority of a nurse. The term includes an individual who is required to be listed in the nurse aide registry under Chapter 250, Health and Safety Code. The term does not include an individual licensed under Chapter 301, Occupations Code.

Sec. 250A.0002.  COMMISSION VERIFICATION OF EMPLOYABILITY REQUIRED; FEE. (a) A health care facility or practitioner may not employ a nurse aide or contract for nurse aide services with a nurse aide unless the facility or practitioner obtains the commission's verification of employability for the nurse aide's employment or contract. The executive commissioner by rule shall establish standards for verification of employability as necessary to protect the public health and safety.

(b)  A health care facility or practitioner shall request, in the form and manner prescribed by commission rule, the commission to verify the employability of a nurse aide who is applying for employment or requesting a contract with the facility or practitioner. The commission may not verify the employability of a nurse aide unless the commission obtains the criminal history record information for the nurse aide and determines that nothing in the information would disqualify the individual from employment as a nurse aide. In determining whether to verify the employability of a nurse aide, the commission shall consider:

(1)  the information provided to the commission by the facility or practitioner;

(2)  the information made available by the Department of Public Safety of the State of Texas under Section 411.1106, Government Code, or by the Federal Bureau of Investigation or another criminal justice agency under Section 411.087, Government Code; and

(3)  the commission's records, including any information included in a registry maintained by the commission.

(c)  The commission may require a health care facility or practitioner requesting the commission to verify employability under Subsection (b) to pay to the commission a fee set by commission rule in an amount not to exceed the administrative costs the commission incurs in complying with a request under Subsection (b).

Sec. 250A.0003.  ENFORCEMENT. A health care facility or practitioner who violates this chapter is subject to review and disciplinary action by the appropriate licensing authority of the facility or practitioner under other regulatory law.

SECTION 2.  Section 411.1106(b), Government Code, is amended to read as follows:

(b)  The executive commissioner of the commission, or the executive commissioner's designee, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1)  an applicant for employment for a position in which the person, as an employee, would have access to sensitive personal or financial information, as determined by the executive commissioner, in:

(A)  the eligibility services division of the commission; or

(B)  the commission's office of inspector general; [~~or~~]

(2)  an employee of the commission who has access to sensitive personal or financial information, as determined by the executive commissioner; or

(3)  a nurse aide who is the subject of a verification of employability request submitted under Section 250A.0002, Health and Safety Code.

SECTION 3.  (a) As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement Chapter 250A, Health and Safety Code, as added by this Act.

(b)  Notwithstanding Chapter 250A, Health and Safety Code, as added by this Act, a health care facility or practitioner is not required to comply with that chapter or rules adopted under that chapter until January 1, 2020.

SECTION 4.  Section 250A.0002, Health and Safety Code, as added by this Act, applies only to the employment of a nurse aide or a contract entered into for a nurse aide on or after the effective date of this Act.

SECTION 5.  This Act takes effect September 1, 2019.