

By: Rose

H.B. No. 3533

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to criminal history record checks for nurse aides and  
3 applicants for listing on the nurse aide registry; authorizing a  
4 fee.

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

6 SECTION 1. Chapter 250, Health and Safety Code, is amended  
7 by adding Section 250.0025 to read as follows:

8 Sec. 250.0025. VERIFICATION OF ELIGIBILITY. (a) In this  
9 section:

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

12 (2) "Executive commissioner" means the executive  
13 commissioner of the Health and Human Services Commission.

14 (b) An applicant for listing on the nurse aide registry must  
15 obtain the commission's verification for eligibility before the  
16 nurse aide may be listed on the registry. The executive  
17 commissioner by rule shall establish standards for verification as  
18 necessary to protect the public health and safety.

19 (c) An applicant for listing on the nurse aide registry  
20 shall submit an application for verification of eligibility to the  
21 commission on the form and in the manner prescribed by commission  
22 rule. The application must include a complete set of the  
23 applicant's fingerprints for purposes of conducting a criminal  
24 history record check.

1       (d) The commission may not verify the eligibility of an  
2 applicant under this section unless the commission obtains the  
3 criminal history record information for the applicant and  
4 determines that the applicant has not committed an offense listed  
5 in Section 250.006. In determining whether to verify the  
6 eligibility of an applicant, the commission shall consider:

7           (1) the information provided to the commission by the  
8 applicant;

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

14           (3) the commission's records.

15       (e) The commission may require an applicant for  
16 verification of eligibility under this section to pay to the  
17 commission a fee set by commission rule in an amount not to exceed  
18 the administrative costs the commission incurs in processing an  
19 application submitted under Subsection (c).

20       SECTION 2. Section 250.006(d), Health and Safety Code, is  
21 amended to read as follows:

22       (d) For purposes of this section, a person [~~who~~] is  
23 considered to have been convicted of an offense listed in this  
24 section if the person is placed on deferred adjudication community  
25 supervision for that [an] offense [~~listed in this section,~~  
26 ~~successfully completes the period of deferred adjudication~~  
27 ~~community supervision, and receives a dismissal and discharge in~~

1 ~~accordance with Article 42A.111, Code of Criminal Procedure, is not~~  
2 ~~considered convicted of the offense for which the person received~~  
3 ~~deferred adjudication community supervision].~~

4 SECTION 3. Section 411.1106(b), Government Code, is amended  
5 to read as follows:

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

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

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

16 (B) the commission's office of inspector  
17 general; ~~or~~

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

21 (3) a nurse aide who is the subject of an application  
22 for verification of eligibility submitted under Section 250.0025,  
23 Health and Safety Code.

24 SECTION 4. (a) As soon as practicable after the effective  
25 date of this Act, the executive commissioner of the Health and Human  
26 Services Commission shall adopt rules necessary to implement  
27 Section 250.0025, Health and Safety Code, as added by this Act.

1           (b) Notwithstanding Section 250.0025, Health and Safety  
2 Code, as added by this Act, an applicant for the nurse aide registry  
3 is not required to comply with that section or rules adopted under  
4 that section until January 1, 2020.

5           SECTION 5. (a) Section 250.0025, Health and Safety Code, as  
6 added by this Act, applies only to a nurse aide registry listing  
7 occurring on or after the effective date of this Act.

8           (b) Section 250.006, Health and Safety Code, as amended by  
9 this Act, applies only to a criminal history record check conducted  
10 on or after the effective date of this Act. A criminal history  
11 record check conducted before the effective date of this Act is  
12 governed by the law in effect immediately before the effective date  
13 of this Act, and that law is continued in effect for that purpose.

14           SECTION 6. This Act takes effect September 1, 2019.