

BILL ANALYSIS

Senate Research Center
88R6163 EAS-F

S.B. 681
By: Johnson
Health & Human Services
4/3/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Health and Human Services Commission (HHSC) Long-term Care Regulation (LTCR) is responsible for the licensing of nursing facility administrators (NFAs), the certification of certified nurse aides (CNAs), and the permitting of medication aides (MAs). Given the broad definition in the Occupations Code, all three of these programs are subject to Occupations Code Chapter 53, which allows an agency to determine whether a conviction is related directly to an individual's license. However, Health and Safety Code Chapter 250 identifies criminal convictions that bar an individual from working in an LTCR facility, and these convictions do not correspond with those in Occupations Code Chapter 53. Given the requirements to be considered for each individual applicant's conviction, it is possible to have someone licensed who cannot work in a long-term care facility or for a home and community support service agency.

S.B. 681 would exempt occupations regulated by LTCR from Occupations Code Chapter 53, thus aligning the convictions used to determine licensure/certification/permitting with the convictions used to determine employability.

As proposed, S.B. 681 amends current law relating to the applicability of certain laws regarding the occupational licensing of individuals with criminal convictions to the licensing of certain long-term health care facility personnel.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter I, Chapter 242, Health and Safety Code, as added by Section 1.01, Chapter 1280 (S.B. 84), Acts of the 75th Legislature, Regular Session, 1997, by adding Section 242.3061, as follows:

Sec. 242.3061. APPLICABILITY OF OTHER LAW. Provides that Chapter 53 (Consequences of Criminal Conviction), Occupations Code, does not apply to the issuance or renewal of a license under Subchapter I (Nursing Facility Administration).

SECTION 2. Amends Subchapter I, Chapter 242, Health and Safety Code, as added by Section 2.01, Chapter 1280 (S.B. 84), Acts of the 75th Legislature, Regular Session, 1997, by adding Section 242.3115, as follows:

Sec. 242.3115. APPLICABILITY OF OTHER LAW. Provides that Chapter 53, Occupations Code, does not apply to the issuance or renewal of a license under this subchapter.

SECTION 3. Amends Subchapter N, Chapter 242, Health and Safety Code, by adding Section 242.6111, as follows:

Sec. 242.6111. APPLICABILITY OF OTHER LAW. Provides that Chapter 53, Occupations Code, does not apply to the issuance or renewal of a permit to administer medication under this Subchapter N (Administration of Medication).

SECTION 4. Amends Section 250.0035, Health and Safety Code, by adding Subsection (c-1), as follows:

(c-1) Provides that Chapter 53, Occupations Code, does not apply to the issuance or renewal of a nurse aide's certificate of registration or an applicant's inclusion in the nurse aide registry under Section 250.0035 (Certificate of Registration; Requirements for Inclusion in Nurse Aide Registry).

SECTION 5. Makes application of the changes in law made by this Act to Chapters 242 and 250, Health and Safety Code, prospective.

SECTION 6. Effective date: September 1, 2023.