88R23639 DIO-F

By:  Klick H.B. No. 2726

Substitute the following for H.B. No. 2726:

By:  Klick C.S.H.B. No. 2726

A BILL TO BE ENTITLED

AN ACT

relating to the practice of nursing, including disciplinary procedures of the Texas Board of Nursing; authorizing a fee.

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

SECTION 1.  Section 301.004(a), Occupations Code, is amended to read as follows:

(a)  This chapter does not apply to:

(1)  gratuitous nursing care of the sick that is provided by a friend;

(2)  except as provided by Section 301.452(b-1), nursing care provided during a disaster under the state emergency management plan adopted under Section 418.042, Government Code, if the person providing the care does not hold the person out as a nurse unless the person is licensed in another state;

(3)  nursing care in which treatment is solely by prayer or spiritual means;

(4)  an act performed by a person under the delegated authority of a person licensed by the Texas Medical Board;

(5)  an act performed by a person licensed by another state agency if the act is authorized by the statute under which the person is licensed except that if the person also holds a license under this chapter and the act is within the practice of nursing, the board may take action against that license based on that act;

(6)  the practice of nursing that is incidental to a program of study by a student enrolled in a nursing education program approved under Section 301.157(d) leading to an initial license as a nurse; or

(7)  the practice of nursing by a person licensed in another state who is in this state on a nonroutine basis for a period not to exceed 72 hours to:

(A)  provide care to a patient being transported into, out of, or through this state;

(B)  provide nursing consulting services; or

(C)  attend or present a continuing nursing education program.

SECTION 2.  Section 301.452, Occupations Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  Notwithstanding Section 301.004(a)(2), a person practicing nursing in this state under the authority of a waiver or emergency declaration issued by the governor is subject to the jurisdiction of the board and requirements of this subchapter, including disciplinary action under Section 301.453.

SECTION 3.  Section 301.466(d), Occupations Code, is amended to read as follows:

(d)  Notwithstanding Subsection (c), if the board orders a nurse to participate in a peer assistance program approved by the board under Section 467.003, Health and Safety Code, or a pilot program approved by the board under Section 301.1605, the complaint, filing of formal charges, nature of those charges, final board order, and disciplinary proceedings are subject to disclosure:

(1)  only to the same extent as information regarding a complaint is subject to disclosure under Subsection (b); or

(2)  in a subsequent matter relating to the board order or a subsequent violation of this chapter or a board rule.

SECTION 4.  Subchapter J, Chapter 301, Occupations Code, is amended by adding Section 301.472 to read as follows:

Sec. 301.472.  EXPUNCTION OF DISCIPLINARY RECORD. (a) The board by rule shall adopt procedures to expunge records related to the discipline of a nurse under this chapter.

(b)  To be eligible for expunction of records under this section, a nurse must:

(1)  successfully complete the requirements of any:

(A)  disciplinary order imposed on the nurse by the board; and

(B)  agreed settlement or alternative dispute resolution approved by the board; and

(2)  not have committed an additional or repeated violation in the five years preceding the date of the filing of a request for an expunction of a record.

(c)  In determining a nurse's eligibility for the expunction of records under this section, the board shall consider the seriousness of previous violations of this chapter or board rule, as demonstrated by the sanctions imposed on the nurse.

(d)  Notwithstanding Subsections (b) and (c), the board may not expunge a record related to a violation that directly harmed a patient.

(e)  A disciplinary order expunged under this section is void.

(f)  A disciplinary order and any related investigatory document, including any previously filed formal charge, expunged from a nurse's record under this section:

(1)  is not subject to disclosure, unless an appropriate court order or subpoena provides otherwise; and

(2)  is not public information and not subject to disclosure under Chapter 552, Government Code.

(g)  The board shall report to the National Practitioner Data Bank the expunction of a nurse's disciplinary record under this section.

(h)  The board may establish a fee for the expunction of a record under this section in an amount reasonable and necessary to cover the costs of administering this section.

(i)  Except as provided by Subsection (f)(1), a nurse whose disciplinary record has been expunged under this section may state in response to an inquiry that the expunged disciplinary record does not exist.

SECTION 5.  Not later than December 1, 2023, the Texas Board of Nursing shall adopt the rules necessary to implement the changes in law made by this Act.

SECTION 6.  Section 301.452(b-1), Occupations Code, as added by this Act, applies only to a person who practices nursing on or after the effective date of this Act.

SECTION 7.  This Act takes effect September 1, 2023.