

## **BILL ANALYSIS**

C.S.H.B. 2950  
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Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas Board of Nursing regulates nurses and nursing education programs in Texas, is subject to the Texas Sunset Act, and will be abolished September 1, 2017, unless continued by the legislature. C.S.H.B. 2950 seeks to continue the board with several statutory modifications.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Nursing in SECTIONS 3, 5, and 8 of this bill.

### **ANALYSIS**

C.S.H.B. 2950 amends the Occupations Code to postpone from September 1, 2017, to September 1, 2029, the date on which the Texas Board of Nursing is abolished unless continued in existence as provided by the Texas Sunset Act. The bill revises the information required to be provided by the training program for a person who is appointed to and qualifies for office as a member of the board and which must be completed by the member prior to voting, deliberating, or being counted in attendance at a board meeting and requires the executive director of the board to create a training manual that includes that information. The bill requires the executive director to distribute a copy of the training manual annually to each board member and requires each member, on receipt of the manual, to sign and submit to the executive director a statement acknowledging receipt. The bill's provisions relating to board member training and the training manual apply to a member of the board appointed before, on, or after the bill's effective date. The bill requires a board member who, before the bill's effective date, completed the training program as it existed before the bill's effective date to complete additional training only on subjects added to the training program and prohibits such a board member from voting, deliberating, or being counted as a member in attendance at a meeting of the board held on or after December 1, 2017, until the member completes the additional training.

C.S.H.B. 2950 replaces the requirement that the board develop policies to ensure that the standards of another state with regard to nursing educational programs that the board recognizes and accepts are substantially equivalent to the board's standards with the requirement that the board adopt rules to ensure such equivalency. The bill revises provisions establishing the manner by which such a nursing program is considered to meet standards substantially equivalent to the board's standards and requires the board by rule to develop a process for students enrolled in a school of nursing or educational program operated in another state that does not meet standards substantially equivalent to the board's standards to apply for an initial license under the Nursing Practice Act. The bill sets out provisions relating to the recognition and approval by the board of

a clinical competency assessment program operated in another state, including provisions related to such consideration on the basis of student passage rates for such a program. The bill removes provisions relating to the expiration of certain provisions regarding programs of study and approval by the board. The bill requires the board to adopt rules to implement these provisions not later than May 31, 2018, and sets out provisions relating to those rules. The bill applies certain provisions regarding exam passage rates beginning with the passage rates available in January 2018, reflecting the passage rates for the preceding year, and sets out provisions relating to the required self-study of the program if passage rates in January 2018 do not meet a requisite level.

C.S.H.B. 2950 specifies that evidence of a registered nurse license or a vocational nurse license applicant's good professional character required to be submitted to the board as an accompaniment to an application is evidence of good professional character related to the practice of nursing. The bill establishes that an applicant who provides satisfactory evidence that the applicant has not committed a violation of the Nursing Practice Act or a rule adopted under that act is considered to have good professional character related to the practice of nursing. The bill requires a determination by the board that an applicant does not have good professional character related to the practice of nursing to be based on a showing by the board of a clear and rational connection between a violation of the act or a rule adopted under the act and the applicant's ability to effectively practice nursing. The bill requires the board to adopt rules necessary to implement these provisions not later than March 1, 2018, and requires the board to seek comments from relevant interested parties in adopting those rules.

C.S.H.B. 2950 authorizes the board to require in a declaratory order of license eligibility that a person begin participation in a peer assistance program at the time of receipt of an initial license and requires the board to notify the person that, on issuance of the person's initial license, the person may request reevaluation of the person's required participation in the peer assistance program. The bill requires the board by rule to develop a process to determine whether a person should continue to be required to participate in a peer assistance program and sets out certain factors the board must consider in making that determination. The bill revises the purposes for which the board is required by rule to develop certain guidelines in relation to peer assistance programs.

C.S.H.B. 2950 prohibits an advanced practice registered nurse authorized to prescribe or order a drug or device from prescribing opioids, benzodiazepines, barbiturates, or carisoprodol to a patient unless the advanced practice registered nurse has reviewed the patient's prescription history by accessing the prescription information submitted to the Texas State Board of Pharmacy. The bill makes a failure by an advanced practice registered nurse to comply with that prohibition grounds for disciplinary action. These provisions apply only to a prescription issued on or after September 1, 2018.

C.S.H.B. 2950 revises certain conduct that constitutes a basis for denial of a license or disciplinary action under the Nursing Practice Act to replace unprofessional or dishonorable conduct that, in the board's opinion, is likely to deceive, defraud, or injure a patient or the public with unprofessional conduct in the practice of nursing that is likely to so deceive, defraud, or injure. The bill requires the board to adopt rules to ensure that license denials and disciplinary action for such a reason are based on the application of objective criteria that are clearly and rationally connected to the applicant's or license holder's conduct and that any negative outcome resulting from that conduct is determined to affect the person's ability to effectively practice nursing. The bill requires the board to adopt rules necessary to implement these provisions not later than March 1, 2018, and requires the board to seek comments from relevant interested parties in adopting those rules.

C.S.H.B. 2950 requires the board to periodically check the prescribing information submitted to the Texas State Board of Pharmacy to determine whether an advanced practice registered nurse is engaging in potentially harmful prescribing patterns or practices. The bill requires the board,

in coordination with the board of pharmacy, to determine the conduct that constitutes a potentially harmful prescribing pattern or practice and sets out certain required considerations when making that determination. The bill authorizes the board to notify an advanced practice registered nurse the board suspects may be engaging in potentially harmful prescribing patterns or practices of the potentially harmful prescribing pattern or practice and authorizes the board to initiate a complaint against an advanced practice registered nurse based on information obtained through such periodic checks.

C.S.H.B. 2950 repeals the current Nurse Licensure Compact and a provision relating to withdrawal from the compact by the governor effective December 31, 2018, and provides for the adoption of the revised Nurse Licensure Compact effective on the earlier of the date of legislative enactment of the compact into law by no less than 26 states or December 31, 2018. The bill sets out the contents of the compact, including provisions providing for withdrawal from the compact. The bill prohibits the Interstate Commission of Nurse Licensure Compact Administrators established under that compact from adopting rules that alter the requirements or scope of practice of a license issued under the Nursing Practice Act and establishes that any rule adopted by the commission that purports to alter those requirements or scope of practice is not enforceable.

C.S.H.B. 2950 repeals provisions authorizing the board to develop pilot programs to evaluate the effectiveness of mechanisms for maintenance of the clinical competency of a nurse in the nurse's area of practice and the understanding by nurses of the laws, including regulations, governing the practice of nursing. The bill repeals provisions requiring the board to keep a record of its proceedings under the Nursing Practice Act and to make an annual report to the governor.

C.S.H.B. 2950 repeals the following provisions of the Occupations Code:

- Section 301.160
- Section 301.163
- Section 304.001, effective December 31, 2018
- Section 304.009, effective December 31, 2018

#### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2017.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2950 differs from the original in minor or nonsubstantive ways to make technical corrections.