

SUBJECT: Revising license suspension procedures for fraudulent licenses

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Klick, Campos, Jetton, J. Jones, V. Jones, Oliverson, Price, Smith
0 nays
3 absent — Collier, A. Johnson, Tinderholt

WITNESSES: For — None
Against — None
On — Katherine Thomas, Board of Nursing; Dusty Johnston, Texas Board of Nursing; Jack Frazee, Texas Nurses Association

BACKGROUND: Some have suggested that immediately revoking the licenses of nurses selling fraudulent nursing degree diplomas or practicing under illegitimate credentials would ensure that these individuals did not continue providing care to patients once evidence of illegitimate credentials was uncovered.

DIGEST: CSHB 4176 would authorize the Texas Board of Nursing to issue an order suspending the license without notice on a showing of probable cause that the holder of a nursing license had violated the following prohibited practices:

- sold, fraudulently obtained, or fraudulently furnished a nursing diploma, license, renewal license, or record, or assisted another person in doing so; or
- practiced nursing under a diploma, license, or record that was obtained unlawfully or frequently or signed or issued unlawfully or under false representation.

The bill would establish that a showing of probable cause that an

individual had engaged in such practices would constitute a continuing and imminent threat to the public welfare.

Upon the issuance of a summary suspension order, the board would be required to serve notice of the suspension, including the basis for the suspension, on the individual whose license was suspended. An individual whose license was suspended could request a hearing to be held by the State Office of Administrative Hearings, which would be required to be held within 90 days after the date the order of suspension was issued.

The State Office of Administrative Hearings would consider in such a hearing whether evidence existed to support a finding that the individual engaged in a prohibited practice. The individual would have the opportunity to rebut the evidence and would have the burden of proving by a preponderance of the evidence that the license was lawfully obtained.

If the office made a finding in a hearing that an individual engaged in a prohibited practice, the board would be required to issue an order revoking the individual's license. If the office found that the individual did not engage in a prohibited practice, the board would immediately issue an order to reinstate the individual's license.

An individual whose license was revoked could not apply for a new license until one year after the date of issuance of the order revoking the license. The applicant also would be required to provide evidence of completion of a nursing education program that met certain requirements and board rules before the individual could apply for a license.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, CSHB 4176 would have a negative impact on general revenue related funds of \$703,833 during fiscal 2024-25.