

## BILL ANALYSIS

Senate Research Center

H.B. 1366  
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Health & Human Services  
5/19/2005  
Engrossed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B.1366 updates the Nursing Practice Act, making it more consistent with other professional practice acts in Texas. It allows the Board of Nurse Examiners (board) to obtain criminal background information on licensees and applicants. Additionally, it adds "deferred adjudication or deferred disposition" as a basis for the denial of a license. Furthermore, it requires suspension or revocation of a license for certain offenses.

### 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 Section 301.161, Occupations Code, by adding Subsections (d) and (e), to authorize the Board of Nurse Examiners (board) to establish a criminal investigations unit to investigate suspected criminal acts relating to the practice of nursing as authorized by this chapter, and to assist federal, state, or local law enforcement agencies in the investigation and prosecution of crimes related to the practice of nursing.

SECTION 2. Amends Section 301.301(b), Occupations Code, to include payment of any costs assessed under Section 301.461 among the amounts to be paid for renewal of an unexpired license issued under this chapter.

SECTION 3. Amends Section 301.452(b), Occupations Code, to include placement on deferred adjudication community supervision or deferred disposition amongst the reasons for which a person is subject to denial of a nurse's license or to disciplinary action under this subchapter.

SECTION 4. Amends Subchapter J, Chapter 301, Occupations Code, by adding Section 301.4535, as follows:

Sec. 301.4535. **REQUIRED SUSPENSION, REVOCATION, OR REFUSAL OF LICENSE FOR CERTAIN OFFENSES.** (a) Requires the board to suspend a nurse's license or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of certain offenses.

(b) Provides that the board, on final conviction or a plea of guilty or nolo contendere for an offense described by Subsection (a), as appropriate, is prohibited from issuing a license to an applicant, required to refuse to renew a license, or is required to revoke a license if the applicant or license holder did not previously disclose the conviction or plea and the fifth anniversary of the date the person successfully completed community supervision or parole has not occurred.

(c) Provides that a person is not eligible for an initial license or for reinstatement or endorsement of a license to practice nursing in this state before the fifth anniversary of the date the person successfully completed and was dismissed from community supervision or parole for an offense described by Subsection (a).

SECTION 5. Amends Section 301.455, Occupations Code, as follows:

Sec. 301.455. New heading: TEMPORARY LICENSE SUSPENSION OR RESTRICTION. Requires a probable cause hearing required under this section to be conducted as a de novo hearing. Makes conforming changes.

SECTION 6. Amends Subchapter H, Chapter 301, Occupations Code, by adding Section 301.354, as follows:

Sec. 301.354. NURSE FIRST ASSISTANTS; ASSISTING AT SURGERY BY OTHER NURSES. (a) Defines "nurse first assistant."

(b) Prohibits the person from using certain titles and abbreviations unless the person is a nurse first assistant.

(c) Prohibits a health maintenance organization or an insurer, including an insurer offering a preferred provider benefit plan, by contract or any other method, from requiring a physician to use the services of a nurse first assistant.

(d) Authorizes a nurse who is not a nurse first assistant to assist a physician, podiatrist, or dentist in the performance of surgery if the nurse meets certain qualifications or assists under the direct personal supervision and in the physical presence of the physician, podiatrist, or dentist, or is employed by certain persons or groups.

(e) Prohibits a patient or third-party insurer from being billed separately for the services performed by a nurse described by Subsection (d).

(f) Requires a registered nurse to perform circulating duties in the operating room. Authorizes a vocational nurse or surgical technologist, in accordance with approved medical staff policies and procedures, to assist in circulating duties under the direct supervision of the registered nurse.

SECTION 7. Repealer: Sections 301.1525 (Nurses First Assistant), 301.1526 (Certain Nurses Directly Assisting in Surgery), 301.1527 (Certain Nurses Directly Assisting in Surgery in Small Hospitals), and 304.010 (Expiration of Compact), Occupations Code.

SECTION 8. (a) Makes application of Section 301.301(b), Occupations Code, as amended by this Act, prospective.

(b) Makes application of Section 301.4535, Occupations Code, as added by this Act, prospective.

(c) Makes application of Section 301.455, Occupations Code, as amended by this Act, prospective.

SECTION 9. Effective date: September 1, 2005.