

BILL ANALYSIS

Senate Research Center

H.B. 2426
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Government Organization
5/1/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Board of Nurse Examiners (board) regulates the practices of professional and vocational nursing by licensing qualified individuals to practice nursing, authorizing the advanced practice of qualified professional nurses for such things as issuing prescriptions, establishing standards for and approving nursing education programs, and investigating and taking disciplinary action to enforce the Nursing Practice Act and board rules.

The board is subject to the Sunset Act and will be abolished on September 1, 2007 unless continued by the legislature. The Sunset Advisory Commission found that Texas has a continuing need for the board to protect the public by ensuring that nurses are competent, meet established standards, and are held accountable for their actions. Without clear statutory direction, however, the board has been left to develop many of its rules and policies without expressed legislative guidance or approval, resulting in actions that test the legislature's intent as to how the state should regulate nurses. Clearer legislative direction in certain areas – such as the board's authority to approve nursing education programs and the board's use of criminal history information – would better focus the board's mission and allow it to better serve its licensees and the public.

H.B. 2426 renames the board as the Texas Board of Nursing, removes unnecessary complexity and duplication in the board's process for approving nursing education programs, and accommodates changes in the delivery of nursing education. Coordinating the roles of entities that approve nursing education, and using accrediting agencies in lieu of certain board approval processes, could more effectively ensure the quality of nursing education programs without unnecessarily restricting opportunities for nursing programs in Texas. The bill also requires the board to work with education stakeholders to create innovative models for nursing education that promote increased enrollment in Texas nursing programs as part of a plan to alleviate the nursing shortage in Texas.

The legislature has directed occupational licensing agencies, including the board, to tie criminal activity to the regulated profession. However, the board has adopted an overly broad approach regarding the criminal activity that relates to the practice of nursing. Further, when determining whether individuals' past criminal activity affects their ability to hold a license, the board considers arrests, although the board has not established guidelines to direct its use of this information. Identifying the types of crimes that relate directly to the practice of nursing and prioritizing licensing and enforcement activities on those areas would allow the board to better protect the public, while ensuring that applicants and license holders are treated consistently and fairly.

The bill also addresses the lack of purpose and structure of the board's advisory committees that may undermine the advisory purpose for which these committees were established. The bill would help facilitate the interstate movement of advanced practice registered nurses by adopting a multistate compact to make it easier for these nurses to practice temporarily in Texas. The bill improves the board's ability to deal with impaired nurses who commit practice violations who currently are not required to be reported to the board. The bill improves the board's ability to ensure the continued competence of nurses by clarifying its authority to establish guidelines for targeted continuing education requirements that may not benefit all nurses. The bill standardizes licensing and regulatory functions that do not conform to commonly applied licensing practices.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Board of Nursing in SECTIONS 12, 14, 18, 19, 23, 25, 26, 27, and 30 (Sections 301.1545, 301.1595, 301.204, 301.252, 301.303, 301.4105, 301.452, 301.4531, and 305.003, Occupations Code) of this bill.

Rulemaking authority is expressly granted to party state licensing boards in SECTION 30 (Section 305.001, Occupations Code, (Articles 6(a) and 8(c)) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 301.002(1), Occupations Code, to redefine "board."

SECTION 2. Amends Section 301.003, Occupations Code, to provide that the Texas Board of Nursing (board), rather than the Board of Nurse Examiners, is subject to Chapter 325 (Texas Sunset Act), Government Code and is abolished September 1, 2017, rather than 2007, unless continued in existence as provided by that chapter.

SECTION 3. Amends Section 301.004(a), Occupations Code, to make a conforming change and provide that this chapter (Nurses) does not apply to certain acts and practices, including 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), rather than by the board, leading to an initial license as a nurse.

SECTION 4. Amends Subchapter A, Chapter 301, Occupations Code, by adding Section 301.005, as follows:

Sec. 301.005. REFERENCE IN OTHER LAW. Provides that a reference in any other law to the former Board of Nurse Examiners means the Texas Board of Nursing.

SECTION 5. Amends the heading to Subchapter B, Chapter 301, Occupations Code, to read as follows:

SUBCHAPTER B. TEXAS BOARD OF NURSING

SECTION 6. Amends Section 301.051(a), Occupations Code, to make a conforming change.

SECTION 7. Amends Section 301.052(b), Occupations Code, as follows:

(b) Provides that a person is not eligible for appointment as a public member of the board under certain circumstances, including if the person or the person's spouse is registered, certified, or licensed by an occupational regulatory agency in the field of health care; or is employed by, participates in the management of, or owns or controls more than a 10 percent interest in certain business entities or organizations, including one that is regulated by or receives money from the board.

SECTION 8. Amends Section 301.053, Occupations Code, as follows:

Sec. 301.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) Redefines "Texas trade association."

(b) Prohibits a person from being a member of the board and from being a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for the purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938, if the person is an officer, employee, paid consultant of a Texas trade association in the field of health care, or if the person's spouse is an officer, manager, or paid consultant with a Texas trade association in the field of health care. Deletes existing text prohibiting membership on the board for certain persons.

(c) Makes nonsubstantive changes.

SECTION 9. Amends Sections 301.055(a) and (c), Occupations Code, as follows:

(a) Provides the circumstances under which a ground for removing a member of the board exists, including that the member does not have at the time of taking office, rather than appointment, the qualifications required by Section 301.051(a) (relating to certain board membership requirements); or that the member is ineligible for membership under, rather than violates a prohibition established by, Section 301.053 (Membership and Employee Restrictions).

(c) Sets forth required procedures in the event that a potential ground for removal exists, including to require the presiding officer of the board to notify the governor and the attorney general that a potential ground for removal exists. Requires the executive director of the board, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the board, who is then required to notify the governor and the attorney general that a potential ground for removal exists.

SECTION 10. Amends Sections 301.056(b), Occupations Code, to entitle, rather than to not entitle, a board member to reimbursement for travel expenses incurred while conducting board business, including expenses for transportation, meals, and lodging, as provided by the General Appropriations Act. Deletes existing text entitling a board member only to reimbursement for transportation expenses.

SECTION 11. Amends Sections 301.059(a), (b), and (c), Occupations Code, as follows:

(a) Prohibits a person who is appointed to and qualifies for office as a member of the board from voting, deliberating, or being counted in attendance at a board meeting until the person completes a training program that complies with this section (Training). Deletes existing text requiring such a person to complete at least one training program before he or she may be confirmed by the senate.

(b) Requires the training program to provide the person with certain information.

(c) Entitles a person appointed to the board to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office. Deletes existing text requiring the board to consult with certain entities in developing the training program.

SECTION 12. Amends Subchapter D, Chapter 301, Occupations Code, by adding Section 301.1545, as follows:

Sec. 301.1545. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION OR DEFERRED ADJUDICATION. (a) Requires the board to adopt rules and guidelines necessary to comply with Chapter 53 (Consequence of Criminal Conviction), except to the extent the requirements of this subtitle (General Powers and Duties of Board) are stricter than the requirements of that chapter.

(b) Requires the board, in its rules under this section, to list the offenses for which a conviction would constitute grounds for the board to take action or for which placement on deferred adjudication community supervision would constitute grounds for the board to take action under this chapter.

SECTION 13. Amends Section 301.157, Occupations Code, by amending Subsections (a), (b), and (d) adding Subsections (a-1), (b-1), (d-1) through (d-7), and (h), as follows:

(a) Requires the board to prescribe three programs of study to prepare a person to receive an initial license as a registered nurse under this chapter in a certain manner.

(a-1) Requires a diploma program of study in this state that leads to an initial license as a registered nurse under this chapter and that is completed on or after December 31, 2014,

to be entitled to receive a degree on the student's successful completion of a degree program of a public or private institution of higher education by an agency recognized by the Texas Higher Education Coordinating Board (THECB).

(b) Requires the board to take certain actions, including to prescribe two programs of study to prepare a person to receive an initial vocational nurse license under this chapter in a certain manner; to select one or more national nursing accrediting agencies, recognized by the United States Department of Education and determined by the board to have acceptable standards, to accredit schools or nursing and educational programs; and to deny or withdraw approval from a school or nursing or educational program that fails to meet certain criteria.

(b-1) Prohibits the board from requiring accreditation of the governing institution of a nursing school. Requires the board to accept the requirements established by THECB for accrediting the governing institution of a nursing school. Requires the governing institution of a professional nursing school, not including a diploma program, to be accredited by an agency recognized by THECB or hold a certificate of authority from THECB under provisions leading to accreditation of the institution in due course.

(d) Prohibits a person from being certified as a graduate of any school of nursing or educational program unless the person has completed the requirements of the prescribed course of study, including clinical practice, of a nursing school or educational program that meets certain requirements.

(d-1) Provides that a school of nursing or educational program is considered approved by the board and, except as provided by Subsection (d-7), is exempt from board rules that require ongoing approval if the school or program meets certain criteria.

(d-2) Provides that a school of nursing or educational program that fails to meet or maintain an acceptable pass rate on applicable licensing examinations under this chapter is subject to review by the board. Authorizes the board to assist the school or program in its effort to achieve compliance with the board's standards.

(d-3) Authorizes a school or program from which approval has been withdrawn under this section to reapply for approval.

(d-4) Authorizes the board to recognize and accept as approved under this section a school of nursing or educational program operated in another state and approved by a state board of nursing of another state. Requires the board to develop policies to ensure that the other state board's standards are substantially equivalent to the board's standards.

(d-5) Requires the board to streamline the process for initially approving a school of nursing or educational program under this section by identifying and eliminating tasks performed by the board that duplicate or overlap tasks performed by THECB or the Texas Workforce Commission (TWC).

(d-6) Requires the board, in cooperation with THECB and TWC, to establish guidelines for the initial approval of schools of nursing or educational programs. Requires the guidelines to meet certain criteria.

(d-7) Requires a school of nursing or educational program approved under Subsection (d-1) to provide the board with copies of any reports submitted to or received from the national nursing accrediting agency selected by the board; notify the board of any change in accreditation status; and provide other information required by the board as necessary to evaluate and establish nursing education and workforce policy in this state.

(h) Requires the board, in collaboration with the nursing educators, THECB, and the Texas Health Care Policy Council, to implement, monitor, and evaluate a plan for the creation of innovative nursing education models that promote increased enrollment in this state's nursing programs.

SECTION 14. Amends Subchapter D, Chapter 301, Occupations Code, by adding Section 301.1595, as follows:

Sec. 301.1595. **ADVISORY COMMITTEES.** (a) Authorizes the board to appoint advisory committees to perform the advisory functions assigned by the board.

(b) Requires an advisory committee to provide independent expertise on board functions and policies, but prohibits an advisory committee from being involved in setting board policy.

(c) Requires the board to adopt rules regarding the purpose, structure, and use of advisory committees, including certain rules.

(d) Prohibits a board member from serving as a member of an advisory committee, but authorizes a board member to serve as a liaison between an advisory committee and the board. Authorizes a board member liaison who attends advisory committee meetings to do so only as an observer and not as a participant. Provides that a board member liaison is not required to attend those meetings, and that the role of a board member liaison is limited to clarifying the board's charge and intent to the advisory committee.

(e) Provides that, to the extent of any conflict with Chapter 2110 (State Agency Advisory Committees), Government Code, this section and board rules adopted under this section control.

SECTION 15. Amends Subchapter D, Chapter 301, Occupations Code, by adding Sections 301.166 and 301.167, as follows:

Sec. 301.166. **USE OF TECHNOLOGY.** Requires the board to implement a policy requiring the board to use appropriate technological solutions to improve the board's ability to perform its functions. Requires the policy to ensure that the public is able to interact with the board on the Internet.

Sec. 301.167. **NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION.** (a) Requires the board to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of board rules; and of appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) Requires the board's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires the board to designate a trained person to perform certain duties.

SECTION 16. Amends Section 301.203, Occupations Code, as follows:

Sec. 301.203. **New heading: RECORDS AND ANALYSIS OF COMPLAINTS.** (a) Requires the board to maintain a system to promptly and efficiently act on complaints, rather than to keep an information file about each complaint, filed with the board. Requires the board to maintain certain information and deletes existing text requiring the board to maintain certain information relating to complaints.

(b) Requires the board to make information available describing its procedures for complaint investigation and resolution.

(c) Requires the board to periodically notify the parties to a complaint of the status of the complaint until final disposition unless notice would jeopardize an

undercover investigation. Deletes existing text requiring such a notification to be sent on the condition that a written complaint is filed with the board at certain periodic intervals.

(d) Requires the board to develop a method for analyzing the sources and types of complaints and violations and establish categories for the complaints and violations. Requires the board to use the analysis to focus its information and education efforts on specific problem areas identified through the analysis.

(e) Requires the board to analyze complaints filed with the board to identify any trends or issues related to certain violations.

SECTION 17. Amends the heading to Section 301.204, Occupations Code, to read as follows:

Sec. 301.204. GENERAL RULES, POLICIES, AND PROCEDURES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION.

SECTION 18. Amends Section 301.204, Occupations Code, by amending Subsection (a) and adding Subsection (f), as follows:

(a) Requires the board to adopt rules, policies, and procedures concerning the investigation of a complaint filed with the board. Sets forth requirements for the rules, policies, or procedures adopted under this subsection, including, by rule to allow appropriate employees of the board to dismiss a complaint if an investigation demonstrates certain facts.

(f) Requires the executive director, at each public meeting of the board, to report to the board each complaint dismissed under Subsection (a) since the board's last meeting.

SECTION 19. Amends Section 301.252, Occupations Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Requires each applicant for a registered nurse license or a vocational nurse license to submit to the board a sworn application that demonstrates the applicant's qualifications under this chapter, accompanied by certain evidence, including evidence that the applicant has successfully completed a program of professional or vocational nursing education approved under Section 301.157(d) and has passed the jurisprudence examination approved by the board as provided by Subsection (a-1).

(a-1) Requires the jurisprudence examination to be conducted on the licensing requirements under this chapter and board rules and other laws, rules, or regulations, applicable to the nursing profession in this state. Requires the board to adopt rules for the jurisprudence examination under Subsection (a) regarding the development and administration of the examination, reexamination and grading procedures, applicable fees, and notice of results.

(b) Makes a conforming change.

SECTION 20. Amends Section 301.253, Occupations Code, by amending Subsection (b) and adding Subsections (c-1), (f), and (g), as follows:

(b) Requires each examination to be prepared by a national testing service or the board and requires the board to ensure that the examination is administered in various cities throughout the state.

(c-1) Requires the board to adopt policies and guidelines detailing the procedures for the testing process, including test admission, test administration, and national examination requirements, and requires the board to post on the board's Internet website the policies that reference the testing procedures by the national organization selected by the board to administer an examination.

(f) Requires the board to develop a written refund policy regarding examination fees that defines the reasonable notification period and the emergencies that would qualify for a refund and a refund policy that does not conflict with any examination fee or refund policy of the testing service involved in administering the examination.

(g) Authorizes the board to recommend to a national testing service selected by the board to offer examinations under this section the board's written policy for refunding an examination fee for certain applicants.

SECTION 21. Amends Section 301.301, Occupations Code, by amending Subsections (b) and (c) and adding Subsection (c-1), as follows:

(b) Authorizes a person to renew an unexpired license issued under this chapter on payment to the board of the required renewal fee before the expiration date of license, payment to the board of any costs assessed under Section 301.461, and compliance with any other renewal requirements adopted by the board. Prohibits a person whose license has expired from engaging in activities that require a license until the license has been renewed.

(c) Authorizes a person whose license has been expired for 90 days or less to renew the license by paying to the board the required renewal fee and a late fee in the amount considered appropriate by the board to encourage timely renewal, instead of an amount equal to one-half the amount charged for license examination.

(c-1) Authorizes a person whose license has been expired for more than 90 days but less than one year to renew the license by paying to the board all unpaid renewal fees and a late fee equal to twice the amount of a late fee under Subsection (c), rather than the amount charged for a license examination.

SECTION 22. Amends Section 301.302(a), Occupations Code, to make a nonsubstantive change.

SECTION 23. Amends Section 301.303, Occupations Code, by adding Subsection (g), to authorize the board to establish guidelines for targeted continuing education required under this chapter and to set forth the requirements that the rules adopted under this subsection are required to address.

SECTION 24. Amends Section 301.410, Occupations Code, as follows:

Sec. 301.410. New heading: **REPORT REGARDING IMPAIRMENT BY CHEMICAL DEPENDENCY, MENTAL ILLNESS, OR DIMINISHED MENTAL CAPACITY.** (a) Creates this subsection from existing text.

(b) Requires a person who is required to report a nurse under this subchapter (Grounds for Reporting Nurse) because the nurse is impaired or suspected of being impaired by chemical dependency or diminished mental capacity to report to the board if the person believes that an impaired nurse committed a practice violation.

SECTION 25. Amends Subchapter I, Chapter 301, Occupations Code, by adding Sections 301.4105 and 301.4106, as follows:

Sec. 301.4105. **BOARD RESPONSIBILITY FOLLOWING REPORT.** Requires the board to determine whether a nurse violated this chapter or a rule adopted under this chapter for any case reported to the board in which the nurse's ability to perform the practice of nursing was impaired or suspected of being impaired by chemical dependency or diminished mental capacity and in which the nurse is suspected of committing a practice violation. Requires the board, in deciding whether to take disciplinary action against the nurse for a violation of this chapter or board rules, to balance the need to protect the public and the need to ensure the impaired nurse seeks treatment.

Sec. 301.4106. PEER ASSISTANCE PROGRAMS. Requires the board by rule to develop certain guidelines regarding peer assistance.

SECTION 26. Amends Section 301.452, Occupations Code, by adding Subsection (d), as follows:

(d) Requires the board by rule to establish guidelines to ensure that any arrest information, and in particular information on arrests in which criminal action was not proven or charges were not filed or adjudicated, that is received by the board under this section is used consistently, fairly, and only to the extent the underlying conduct relates to the practice of nursing.

SECTION 27. Amends Subchapter J, Chapter 301, Occupations Code, by adding Section 301.4531, as follows:

Sec. 301.4531. SCHEDULE OF SANCTIONS. (a) Requires the board by rule to adopt a schedule of the disciplinary sanctions that the board may impose under this chapter. Requires the board, in adopting the schedule of sanctions, to ensure that the severity of the sanction imposed is appropriate to the type of violation or conduct that is the basis for disciplinary action.

(b) Requires the board, in determining the appropriate disciplinary action, including the amount of any administrative penalty to assess, to consider certain information regarding the person's actions and certain factors relating to the violation.

(c) Requires the board to consider taking a more severe disciplinary action, including revocation of the person's license, than the disciplinary action that would be taken for a single violation in the case of a person described by Subsection (b)(1)(A) (regarding multiple violations). Requires the board to consider taking a more severe disciplinary action, including revocation of the person's license, than the disciplinary action that would be taken for a person who has not previously been the subject of disciplinary action by the board in the case of a person described by Subsection (b)(1)(B) (regarding previous disciplinary action).

SECTION 28. Amends Subchapter J, Chapter 301, Occupations Code, by adding Sections 301.470 and 301.471, as follows:

Sec. 301.470. REFUND. (a) Authorizes the board, subject to Subsection (b), to order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) Prohibits the amount of a refund ordered as provided in an agreement resulting from an informal settlement conference from exceeding the amount the consumer paid to a nurse for a service regulated by this chapter or the actual amount stolen or defrauded from a patient by the nurse. Prohibits the board from requiring payment of other damages or estimate harm in a refund order.

Sec. 301.471. EMERGENCY CEASE AND DESIST ORDER. (a) Authorizes the board to take certain action if it appears to the board that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the practice of professional nursing or vocational nursing and the board determines that the unauthorized activity constitutes a clear, imminent, or continuing threat to the public health and safety.

(b) Provides certain requirements of an order issued under Subsection (a).

(c) Provides that an order is final and nonappealable as to that person unless the person against whom the emergency cease and desist order is directed requests a

board hearing in writing before the 11th day after the date it is served on the person. Requires a request for a board hearing to be in writing and directed to the board, and state the grounds for the request to set aside or modify the order.

(d) Requires the board, on receiving a request for a hearing, to serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. Requires the hearing to be held not later than the 10th day after the date the board receives the request for a hearing unless the parties agree to a later hearing date. Provides that a hearing under this subsection is subject to Chapter 2001 (Administrative Procedure), Government Code.

(e) Requires the board, after the hearing, to affirm, modify, or set aside wholly or partly the emergency cease and desist order. Provides that an order affirming or modifying the emergency cease and desist order is immediately final for purposes of enforcement and appeal.

(f) Provides that an order under this section continues in effect unless the order is stayed by the board. Authorizes the board to impose any condition before granting a stay of the order.

(g) Authorizes the board to release to the public a final cease and desist order issued under this section or information regarding the existence of the order if the board determines that the release would enhance the effective enforcement of the order or will serve the public interest.

(h) Provides that a violation of an order issued under this section constitutes grounds for imposing an administrative penalty under this chapter.

SECTION 29. Amends Section 301.502(a), Occupations Code, to prohibit the amount of an administrative penalty from exceeding \$5,000, rather than \$2,500, for each violation.

SECTION 30. Amends Subtitle E, Title 3, Occupations Code, by adding Chapter 305, as follows:

CHAPTER 305. NCSBN ADVANCED PRACTICE REGISTERED NURSE COMPACT

Sec. 305.001. NCSBN ADVANCED PRACTICE REGISTERED NURSE COMPACT. Provides that the NCSBN Advanced Practice Registered Nurse Compact is enacted and entered into with all other jurisdictions that legally join in the compact, which is as follows:

NCSBN ADVANCED PRACTICE REGISTERED NURSE COMPACT

ARTICLE 1. FINDINGS AND DECLARATION OF PURPOSE

- (a) Provides certain findings of the party states.
- (b) Provides certain general purposes of this compact.

ARTICLE 2. DEFINITIONS

(a)-(r) Defines "advanced practice registered nurse" or "APRN," "adverse action," "alternative program," "APRN licensure/authority to practice," "APRN uniform licensure/authority to practice requirements," "coordinated licensure information system," "current significant investigative information," "home state," "home state action," "licensing board," "multistate advanced practice privilege," "party state," "prescriptive authority," "remote state," "remote state action," "state," "state practice laws," and "unencumbered."

ARTICLE 3. GENERAL PROVISIONS AND JURISDICTION

- (a) Requires all party states to participate in the nurse licensure compact for registered nurses and licensed practical/vocational nurses in order to enter into the APRN compact.
- (b) Prohibits a state from entering the APRN compact until the state adopts, at a minimum, the APRN uniform licensure/authority to practice requirements for each APRN role and title recognized by the state seeking to enter the APRN compact.
- (c) Provides that an APRN licensure/authority to practice issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate advanced practice privilege to the extent that the role and title are recognized by each party state. Requires an applicant to meet the home state's qualifications for authority or renewal of authority as well as all other applicable state laws to obtain or retain APRN licensure/authority to practice as an APRN.
- (d) Provides that the APRN multistate advanced practice privilege does not include prescriptive authority, and does not affect any requirements imposed by states to grant to an APRN initial and continuing prescriptive authority according to state practice laws. Authorizes a party state to grant prescriptive authority to an individual on the basis of a multistate advanced practice privilege to the extent permitted by state practice laws.
- (e) Authorizes a party state, in accordance with state due process laws, to limit or revoke the multistate advanced practice privilege in the party state and to take any other necessary actions under the party state's applicable laws to protect the health and safety of the party state's citizens. Requires a party state, if action is taken, to promptly notify the administrator of the coordinated licensure information system. Requires the administrator of the coordinated licensure information system to promptly notify the home state of any such actions by remote states.
- (f) Requires an APRN practicing in a party state to comply with the state practice laws and licensing board rules of the state in which the patient is located at the time care is provided. Provides that the APRN practice includes patient care and all advanced nursing practice defined by the party state's practice laws. Provides that the APRN practice will subject an APRN to the jurisdiction of the licensing board, the courts, and the laws of the party state.
- (g) Authorizes individuals not residing in a party state to apply for APRN licensure/authority to practice as an APRN under the laws of a party state. Provides that the authority to practice granted to these individuals will not be recognized as granting the privilege to practice as an APRN in any other party state unless explicitly agreed to by that party state.

ARTICLE 4. APPLICATIONS FOR APRN LICENSURE/AUTHORITY TO PRACTICE IN A PARTY STATE

- (a) Requires a party state, once an application for APRN licensure/authority to practice is submitted, to ascertain, through the coordinated licensure information system, certain information.
- (b) Requires an APRN in a party state to hold APRN licensure/authority to practice in only one party state at a time, issued by the home state.
- (c) Authorizes an APRN who intends to change the APRN's primary state of residence to apply for APRN licensure/authority to practice in the new home state in advance of such change. Provides that a new licensure/authority to practice will not be issued by a party state until after an APRN provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.
- (d) Provides certain provisions relating to validity of a license when an APRN changes primary state of residence.

ARTICLE 5. ADVERSE ACTIONS

(a) Requires the licensing board of a remote state to promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for such action, if known. Requires the licensing board of a remote state to also promptly report any significant current investigative information yet to result in a remote state action. Requires the administrator of the coordinated licensure information system to promptly notify the home state of any such reports.

(b) Requires the licensing board of a party state to have the authority to complete any pending investigations for an APRN who changes primary state of residence during the course of such investigations. Requires the licensing board of a party state to also have the authority to take appropriate action, and is required to promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. Requires the administrator of the coordinated licensure information system to promptly notify the new home state of any such actions.

(c) Authorizes a remote state to take adverse action affecting the multistate advanced practice privilege to practice within that party state. Requires only the home state to have the power to impose adverse action against the APRN licensure/authority to practice issued by the home state.

(d) Requires the licensing board of the home state, for purposes of imposing adverse action, to give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. Requires the licensing board of the home state, in doing so, to apply its own state laws to determine appropriate action.

(e) Authorizes the home state to take adverse action based on the factual findings of the remote state, provided that each state follows its own procedures for imposing such adverse action.

(f) Provides that nothing in this compact overrides a party state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the party state's laws. Requires party states to require APRNs who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

(g) Requires all home state licensing board disciplinary orders, agreed or otherwise, which limit the scope of the APRN's practice or require monitoring of the APRN as a condition of the order to include the requirements that the APRN will limit her or his practice to the home state during the pendency of the order. Authorizes this requirement to allow the APRN to practice in other party states with prior written authorization from both the home state and party state licensing boards.

ARTICLE 6. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE LICENSING BOARDS

(a) Requires a party state licensing boards, notwithstanding any other powers, to have authority to issue certain orders.

(b) Requires subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, to be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. Requires the issuing authority to pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located.

ARTICLE 7. COORDINATED LICENSURE INFORMATION SYSTEM

(a) Requires all party states to participate in a cooperative effort to create a coordinated database of all APRNs. Provides that the system will include information on the APRN licensure/authority to practice and disciplinary history of each APRN, as contributed by party states, to assist in the coordination of APRN licensure/authority to practice and enforcement efforts.

(b) Requires all party states' licensing boards, notwithstanding any other provision of law, to promptly report adverse actions, actions against multistate advanced practice privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials to the coordinated licensure information system.

(c) Requires current significant investigative information to be transmitted through the coordinated licensure information system only to party state licensing boards.

(d) Authorizes all party states' licensing boards contributing information to the coordinated licensure information system, notwithstanding any other provision of law, to designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(e) Prohibits any personally identifiable information obtained by a party states' licensing board from the coordinated licensure information system from being shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(f) Requires any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information to also be expunged from the coordinated licensure information system.

(g) Requires the compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, to formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

ARTICLE 8. COMPACT ADMINISTRATION AND INTERCHANGE OF INFORMATION

(a) Requires the head of the licensing board, or his/her designee, of each party state to be the administrator of this compact for his/her state.

(b) Requires the compact administrator of each party state to furnish to the compact administrator of each other party state any information and documents including, but not limited to, a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

(c) Requires compact administrators to have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. Requires these uniform rules to be adopted by party states, under the authority invested under Article 6(a)(4).

ARTICLE 9. IMMUNITY

Prohibits any party state or the officers or employees or agents of a party state's licensing board who act in accordance with the provisions of this compact from being held liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Prohibits good faith in this article from including willful misconduct, gross negligence, or recklessness.

ARTICLE 10. ENTRY INTO FORCE, WITHDRAWAL, AND AMENDMENT

(a) Requires this compact to enter into force and become effective as to any state when it has been enacted into the laws of that state. Authorizes any party state to withdraw from

this compact by enacting a statute repealing the same. Requires no such withdrawal to take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

(b) Prohibits a withdrawal from affecting the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

(c) Prohibits anything contained in this compact from being construed to invalidate or prevent any APRN licensure/authority to practice agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(d) Authorizes this compact to be amended by the party states. Prohibits any amendment to this compact from becoming effective and binding upon the party states unless and until it is enacted into the laws of all party states.

ARTICLE 11. CONSTRUCTION AND SEVERABILITY

(a) Requires this compact to be liberally construed so as to effectuate the purposes thereof. Requires the provisions of this compact to be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. Requires the compact, if it is held contrary to the constitution of any state party thereto, to remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

(b) Authorizes the party states to submit the issues in dispute to an arbitration panel which will be composed of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote state involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute in the event party states find a need for settling disputes arising under this compact. Requires the decision of a majority of the arbitrators to be final and binding in the event party states find a need for settling disputes arising under this compact.

Sec. 305.002. BOARD AUTHORITY. Authorizes the Texas Board of Nursing, notwithstanding any provision of this chapter, to establish criteria for recognizing advanced practice registered nurses under the NCSBN APRN Compact.

Sec. 305.003. RULES; EXPIRATION OF CHAPTER. (a) Authorizes the Texas Board of Nursing may adopt rules necessary to implement this chapter.

(b) Prohibits the board from implementing the NCSBN APRN Compact and provides that this chapter expires December 31, 2011, if the board does not adopt rules to implement the compact under this chapter before December 31, 2011.

Sec. 305.004. APPLICABILITY OF CHAPTER. Provides that the laws of this state prevail if a provision of this chapter or another state's law under the NCSBN APRN Compact conflicts with the laws of this state.

Sec. 305.005. RIGHTS AND OBLIGATIONS. (a) Provides that nurses practicing in this state under a license issued by a state that is a party to the NCSBN APRN Compact have the same rights and obligations as imposed by the laws of this state on license holders of the Texas Board of Nursing, unless the context indicates otherwise, or doing so would be inconsistent with the NCSBN APRN Compact.

(b) Provides that the Texas Board of Nursing has the authority to determine whether a right or obligation imposed on license holders applies to nurses practicing in this state under a license issued by a state that is a party to the NCSBN APRN Compact unless that determination is inconsistent with the NCSBN APRN Compact.

Sec. 305.006. ENFORCEMENT. Provides that the Texas Board of Nursing is the state agency responsible for taking action against nurses practicing in this state under a license issued by a state that is a party to the NCSBN APRN Compact as authorized by the NCSBN APRN Compact. Requires the action to be taken in accordance with the same procedures for taking action against nurses licensed by this state.

SECTION 31. Amends Section 101.002, Occupations Code, make conforming changes.

SECTION 32. Amends Section 157.052(a)(3), Occupations Code, to redefine "registered nurse" and make conforming changes.

SECTION 33. Amends Section 157.059(b), Occupations Code, to make a conforming change.

SECTION 34. Amends Section 162.102(c), Occupations Code, to make a conforming change.

SECTION 35. Amends Section 203.002(2), Occupations Code, to make a conforming change.

SECTION 36. Amends Section 203.402, Occupations Code, to make conforming changes.

SECTION 37. Amends Section 258.001, Occupations Code, to make conforming changes,

SECTION 38. Amends Section 303.001, Occupations Code, to make a conforming change.

SECTION 39. Amends Sections 304.002 and 304.003, Occupations Code, to make conforming changes.

SECTION 40. Amends Sections 304.004(b) and (c), Occupations Code, to make conforming changes.

SECTION 41. Amends Section 304.005, Occupations Code, to make a conforming change.

SECTION 42. Amends Section 304.006(a), Occupations Code, to make a conforming change.

SECTION 43. Amends Section 304.007, Occupations Code, to make a conforming change.

SECTION 44. Amends Section 304.008(a), Occupations Code, to make a conforming change.

SECTION 45. Amends Section 304.009(a), Occupations Code, to make a conforming change.

SECTION 46. Amends Section 401.052, Occupations Code, to make a conforming change.

SECTION 47. Amends Section 601.002(11), Occupations Code, to redefine "registered nurse" and make conforming changes.

SECTION 48. Amends Section 601.251, Occupations Code, to make conforming changes.

SECTION 49. Amends Section 601.252(a), Occupations Code, to make a conforming change.

SECTION 50. Amends Section 601.253, Occupations Code, to make conforming changes.

SECTION 51. Amends Sections 61.657(a) and (b), Education Code, to make conforming changes.

SECTION 52. Amends Section 61.9623(a), Education Code, to make conforming changes.

- SECTION 53. Amends Section 232.002, Family Code, to make conforming changes.
- SECTION 54. Amends Section 411.081(i), Government Code, to make conforming changes.
- SECTION 55. Amends Section 411.125, Government Code, to make conforming changes.
- SECTION 56. Amends Section 487.101(3), Government Code, to make a conforming change.
- SECTION 57. Amends Section 487.151(2), Government Code, to redefine "postsecondary educational institution" and make conforming changes.
- SECTION 58. Amends Section 531.02172(b), Government Code, to make conforming changes.
- SECTION 59. Amends Section 2054.352(a), Government Code, to make conforming changes.
- SECTION 60. Amends Section 47.001(3), Health and Safety Code, to make conforming changes.
- SECTION 61. Amends Section 81.010(c), Health and Safety Code, to make conforming changes.
- SECTION 62. Amends Section 105.002(c), Health and Safety Code, to make a conforming change.
- SECTION 63. Amends Section 142.001(22), Health and Safety Code, to redefine "personal assistance service" and make conforming changes.
- SECTION 64. Amends Sections 142.016(a) and (c), Health and Safety Code, to make conforming changes.
- SECTION 65. Amends Section 142.021, Health and Safety Code, to make a conforming change.
- SECTION 66. Amends Section 142.022, Health and Safety Code, to make conforming changes.
- SECTION 67. Amends Section 241.003(1), Health and Safety Code, to redefine "advanced practice nurse" by making a conforming change.
- SECTION 68. Amends Section 241.026(a), Health and Safety Code, to make a conforming change.
- SECTION 69. Amends Section 242.607, Health and Safety Code, to make conforming changes.
- SECTION 70. Amends Section 36.132(a)(2), Human Resources Code, to redefine "licensing authority" by making conforming changes.
- SECTION 71. Amends Section 1451.001(2), Insurance Code, to redefine "advanced practice nurse" by making a conforming change.
- SECTION 72. Repealer: Section 301.059(d) (relating to the training requirements of another authority), Occupations Code.
- Repealer: Sections 301.160(f) (relating to the consultation with certain entities when developing a pilot program), (g) (relating to the composition of the Competency Advisory Committee), and (h) (relating to the composition of the Law and Regulations Advisory Committee), Occupations Code.
- SECTION 73. (a) Provides that the name of the Board of Nurse Examiners is changed to the Texas Board of Nursing on the effective date of this Act.

(b) Authorizes a member serving on the Board of Nurse Examiners on the effective date of this Act to continue to serve as a member of the Texas Board of Nursing (board) for the remainder of the member's term.

(c) Requires the board to comply with and implement certain nonstatutory recommendations and to report to the Sunset Advisory Commission the information the commission requires regarding the board's nonstatutory recommendations not later than November 1, 2008.

SECTION 74. (a) Requires the board to adopt certain policies and rules, required by Chapter 301, as amended by this Act, not later than January 1, 2008.

(b) Requires the board to develop the jurisprudence examination required by Section 301.252, and implement the plan for creating innovative nursing education models as required under Section 301.157(h), Occupations Code, as amended by this Act, respectively, and report to the Sunset Advisory Commission regarding the plan and the board's efforts to increase enrollment in nursing education programs.

SECTION 75. Make application of Section 301.252, Occupations Code, as amended by this Act, prospective to September 1, 2008.

SECTION 76. (a) Provides that the changes in law made by Sections 301.052 and 301.053, Occupations Code, as amended by this Act, regarding the prohibitions on or qualifications of members of the board do not affect the entitlement of a member serving on the Board of Nurse Examiners immediately before September 1, 2007, to continue to serve and function as a member of the board for the remainder of the member's term and makes the changes in law made by those sections prospective.

(b)-(d) Makes application of this Act prospective.

SECTION 77. Effective date: September 1, 2007.