

BILL ANALYSIS

Senate Research Center
78R7417 MXM-F

C.S.S.B. 718
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Health & Human Services
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Committee Report (Substituted)

DIGEST AND PURPOSE

Texas has had a critical shortage of registered nurses (RNs) for a number of years. In the fall of 2000, a study by the Center for Health and Economic Policy at The University of Texas Health Science Center at San Antonio reported that the current shortage is driven by demographics rather than economic factors. The RN population is aging, which means more RNs are reaching retirement age. The study also reported a high level of dissatisfaction among RNs. C.S.S.B. 718 creates a more attractive practice environment for nurses in an effort to attract individuals to the profession and retain them once they have become licensed as RNs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Board of Nurse Examiners in SECTION 1 (Section 301.1605, Occupations Code) and SECTION 5 (Section 301.351, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 301D, Occupations Code, by adding Sections 301.1605 and 301.1606, as follows:

Sec. 301.1605. PILOT PROGRAMS FOR INNOVATIVE APPLICATIONS. (a) Authorizes the Board of Nurse Examiners (BNE) to approve and adopt rules regarding pilot programs for innovative applications in the practice and regulation of professional nursing.

(b) Requires BNE to specify the procedures to be followed in applying for approval of a pilot program. Authorizes BNE to condition approval of a program on compliance with this section and rules adopted under this section.

(c) Authorizes BNE, in approving a pilot program, to grant the program an exception to the mandatory reporting requirements of Sections 301.401-301.409 or to a rule adopted under this chapter or Chapter 303 that relates to the practice of professional nursing, including education and reporting requirements. Prohibits BNE from granting an exception to the mandatory reporting requirements unless the program meets certain requirements.

Sec. 301.1606. PILOT PROGRAMS ON NURSE REPORTING SYSTEMS. (a) Requires BNE to solicit proposals for pilot programs designed to evaluate the efficacy and effect on protection of the public of reporting systems designed to encourage identification of system errors.

(b) Authorizes BNE to grant a pilot program approved under this section an exception to the mandatory reporting requirements of Sections 301.401-301.409 or to a rule adopted under this chapter or Chapter 303 that relates to the practice of professional nursing, including education and reporting requirements for registered nurses. Authorizes BNE, if BNE grants an exception, to require that the program take certain actions.

(c) Authorizes BNE to require that the entity conducting a pilot program under this section reimburse BNE for the cost of monitoring and evaluating the pilot program.

(d) Authorizes BNE to contract with a third party to perform the monitoring and evaluation.

(e) Authorizes BNE to limit the number of pilot programs that it approves under this section.

SECTION 2. Amends Section 301.251, Occupations Code, by adding Subsection (d), to prohibit a person from using, unless the person holds a license under this chapter or as a vocational nurse under Chapter 302, certain information tending to imply that the person is licensed to provide nursing care.

SECTION 3. Amends the heading to Section 301.303, Occupations Code, to read as follows:

Sec. 301.303. CONTINUING COMPETENCY.

SECTION 4. Amends Sections 301.303(a) and (d), Occupations Code, as follows:

(a) Authorizes BNE to recognize, prepare, or implement continuing competency, rather than education, programs for license holders under this chapter and require participation in continuing competency, rather than education, programs as a condition of renewal of a license. Authorizes the programs to allow a license holder to demonstrate competency through certain various methods.

(d) Provides that BNE, in adopting rules under Subsection (c), to consider, is required but is not obligated to approve certain programs.

SECTION 5. Amends Section 301.351, Occupations Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires each licensed registered nurse, while interacting with the public in a professional nursing role, rather than on duty providing direct care to a patient, to wear a clearly legible insignia identifying the nurse as a registered nurse. Prohibits the insignia from containing information other than the registered nurse designation, the nurse's name, certifications, academic degrees, or practice position, and the name of the employing facility or agency, or other employer.

(c) Authorizes BNE to adopt rules establishing specifications for the insignia.

SECTION 6. Amends Section 301.401, Occupations Code, to make a conforming change. Provides that Subsection (a) does not apply to a minor incident, as defined by Section 301.419, if the incident is not required to be reported under a rule adopted under Section 301.419.

SECTION 7. Amends Section 301.402, Occupations Code, by adding Subsection (f), to authorize a registered nurse to report to the nurse's employer or another entity at which the nurse is authorized to practice any situation that the nurse has reasonable cause to believe exposes a patient to substantial risk of harm as a result of a failure to provide patient care that conforms to minimum standards of acceptable and prevailing professional nursing practice. Provides that an employer or entity includes an employee or agent of the employer or entity, for purposes of this subsection.

SECTION 8. Amends Chapter 301J, Occupations Code, by adding Section 301.4515, as follows:

Sec. 301.4515. USE OF CERTAIN NURSING TITLES. Prohibits a person from using, in connection with the person's name certain titles, unless the person is practicing under the delegated authority of a registered nurse or is otherwise authorized by state or federal

law.

SECTION 9. Amends Section 301.457, Occupations Code, by adding Subsection (f), to require BNE to review the evidence to determine the extent to which a deficiency in care by a registered nurse was the result of deficiencies in the registered nurse's judgment, knowledge, training, or skill rather than other factors beyond the nurse's control, in making a determination under Subsection (e). Requires a determination that deficiency in care is attributable to a registered nurse to be based on the extent to which the registered nurse's conduct was the result of a deficiency in the registered nurse's judgment, knowledge, training, or skill.

SECTION 10. Amends Sections 303.005(a), (b), (c), (d), and (f), Occupations Code, as follows:

(a) Adds standards adopted by the Board of Vocational Nurse Examiners for licensed vocational nurses to the definition of "duty to a patient." Deletes modifier "registered" referring to a nurse.

(b)-(d) and (f) Make conforming changes.

SECTION 11. Amends Section 303.006, Occupations Code, by adding Subsection (f), to prohibit a member of the peer review committee whose knowledge of the nurse's conduct was acquired only through the peer review from reporting that nurse to the licensing board for that conduct, if a peer review committee determines that a nurse has not engaged in conduct required to be reported to the nurse's licensing board. Provides that a committee member is not prohibited from reporting certain information.

SECTION 112. Amends Chapter 303, Occupations Code, by adding Section 303.011, as follows:

Sec. 303.011. EVALUATION BY COMMITTEE. Requires the nursing peer review committee to review the evidence to determine the extent to which a deficiency in care by the nurse was the result of deficiencies in the nurse's judgment, knowledge, training, or skill rather than other factors beyond the nurse's control, in evaluating nurse's conduct. Requires a determination that deficiency in care is attributable to a nurse to be based on the extent to which the nurse's conduct was the result of a deficiency in the nurse's judgment, knowledge, training, or skill.

SECTION 13. Amends Chapter 241B, Health and Safety Code, by adding Section 241.029, as follows:

Sec. 241.029. POLICIES AND PROCEDURES RELATING TO WORKPLACE SAFETY. (a) Requires the governing body of a hospital to adopt policies and procedures related to the work environment for nurses to improve workplace safety and reduce the risk of injury, occupation illness, and violence and to increase the use of ergonomic principals and ergonomically designed devices to reduce injury and fatigue.

(b) Requires the policies and procedures adopted under Subsection (a), at a minimum, to include certain conditions.

SECTION 14. Requires a hospital to adopt policies and procedures required by Section 241.029, Health and Safety Code, as added by this Act, not later than January 1, 2004.

SECTION 15. Effective date: upon passage or September 1, 2003.

SUMMARY OF COMMITTEE CHANGES

Differs from original in the relating clause to provide that this Act relates to the practice and regulatory environment for registered nurses and licensed vocational nurses.

Differs from original in SECTION 1 by authorizing the Board of Nurse Examiners (BNE), in

approving a pilot program, to grant the program an exception to the mandatory reporting requirements of Sections 301.401-301.409 or to a rule adopted under this chapter or Chapter 303 that relates to the practice of professional nursing, including education and reporting requirements. Prohibits BNE from granting an exception to the mandatory reporting requirements unless the program meets certain requirements, in Section 301.1605(c). Authorizes BNE to grant a pilot program approved under this section an exception to the mandatory reporting requirements of Sections 301.401-301.409 or to a rule adopted under this chapter or Chapter 303 that relates to the practice of professional nursing, including education and reporting requirements for registered nurses, in Section 301.1606(b).

Differs from original by creating new SECTION 3.

Differs from original by redesignating original SECTION 3 as SECTION 5. Adds the name of the employing facility or agency, or other employer to the list of information the insignia is prohibited from containing.

Differs from original by redesignating original SECTION 4 as SECTION 6. Provides that Subsection (a) does not apply to a minor incident, as defined by Section 301.419, if the incident is not required to be reported under a rule adopted under Section 301.419.

Differs from original by redesignating original SECTION 5 as SECTION 7. Provides that the employer or entity includes an employee or agent of the employer or entity, for purposes of this subsection.

Differs from original by redesignating SECTIONS 6-10 as SECTIONS 8-12.

Differs from original by creating new SECTIONS 13 and 14.

Differs from original by redesignating original SECTION 11 as SECTION 15.