

Chapter 509

H.B. No. 2950

1 AN ACT
2 relating to the continuation and functions of the Texas Board of
3 Nursing and to the regulation of the practice of nursing.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 193.005, Health and Safety Code, is
6 amended by amending Subsections (a), (b), and (c) and adding
7 Subsection (a-1) to read as follows:

8 (a) A person required to file a death certificate or fetal
9 death certificate shall obtain the required medical certification
10 from the decedent's [an] attending physician, or, subject to
11 Subsection (a-1), an advanced practice registered nurse of the
12 decedent, if the death occurred under [medical attendance for] the
13 care of the person in connection with the [and] treatment of the
14 condition or disease process that contributed to the death.

15 (a-1) An advanced practice registered nurse may only
16 complete the medical certification for a death certificate or fetal
17 death certificate under this section if:

18 (1) a patient who has executed a written certification
19 of a terminal illness has elected to receive hospice care and is
20 receiving hospice services, as defined under Chapter 142, from a
21 qualified hospice provider; or

22 (2) a patient is receiving palliative care.

23 (b) The attending physician or advanced practice registered
24 nurse shall complete the medical certification not later than five

1 days after receiving the death certificate.

2 (c) An associate physician, the chief medical officer of the
3 institution where the death occurred, or the physician who
4 performed an autopsy on the decedent may complete the medical
5 certification if:

6 (1) the attending physician and the advanced practice
7 registered nurse described by Subsection (a) are [~~is~~] unavailable;

8 (2) the attending physician or the advanced practice
9 registered nurse described by Subsection (a) approves; and

10 (3) the person completing the medical certification
11 has access to the medical history of the case and the death is due to
12 natural causes.

13 SECTION 2. Section 671.001(d), Health and Safety Code, is
14 amended to read as follows:

15 (d) A registered nurse, including an advanced practice
16 registered nurse, or physician assistant may determine and
17 pronounce a person dead in situations other than those described by
18 Subsection (b) if permitted by written policies of a licensed
19 health care facility, institution, or entity providing services to
20 that person. Those policies must include physician assistants who
21 are credentialed or otherwise permitted to practice at the
22 facility, institution, or entity. If the facility, institution, or
23 entity has an organized nursing staff and an organized medical
24 staff or medical consultant, the nursing staff and medical staff or
25 consultant shall jointly develop and approve those policies. The
26 executive commissioner of the Health and Human Services Commission
27 shall adopt rules to govern policies for facilities, institutions,

1 or entities that do not have organized nursing staffs and organized
2 medical staffs or medical consultants.

3 SECTION 3. Section 671.002(a), Health and Safety Code, is
4 amended to read as follows:

5 (a) A physician who determines death in accordance with
6 Section 671.001(b) or a registered nurse, including an advanced
7 practice registered nurse, or physician assistant who determines
8 death in accordance with Section 671.001(d) is not liable for civil
9 damages or subject to criminal prosecution for the physician's,
10 registered nurse's, or physician assistant's actions or the actions
11 of others based on the determination of death.

12 SECTION 4. Section 301.003, Occupations Code, is amended to
13 read as follows:

14 Sec. 301.003. APPLICATION OF SUNSET ACT. The Texas Board of
15 Nursing is subject to Chapter 325, Government Code (Texas Sunset
16 Act). Unless continued in existence as provided by that chapter,
17 the board is abolished September 1, 2029 [~~2017~~].

18 SECTION 5. Subchapter A, Chapter 301, Occupations Code, is
19 amended by adding Section 301.006 to read as follows:

20 Sec. 301.006. CLAIM OR DEFENSE FOR PROHIBITED RULE OR
21 POLICY. (a) The board may not adopt a rule, regulation, or policy
22 that violates Chapter 110, Civil Practice and Remedies Code.

23 (b) A person may assert a violation of Subsection (a) as an
24 affirmative defense in an administrative hearing or as a claim or
25 defense in a judicial proceeding under Chapter 37, Civil Practice
26 and Remedies Code.

27 SECTION 6. Section 301.059, Occupations Code, is amended by

1 amending Subsection (b) and adding Subsection (d) to read as
2 follows:

3 (b) The training program must provide the person with
4 information regarding:

5 (1) the law governing [~~legislation that created the~~
6 ~~board and~~] the board's operations;

7 (2) the programs, functions, rules, and budget of the
8 board;

9 (3) the scope of and limitations on the board's
10 rulemaking authority;

11 (4) the types of board rules, interpretations, and
12 enforcement actions that may implicate federal antitrust law by
13 limiting competition or impacting prices charged by persons engaged
14 in a profession or business the board regulates, including rules,
15 interpretations, and enforcement actions that:

16 (A) regulate the scope of practice of persons in
17 a profession or business the board regulates;

18 (B) restrict advertising by persons in a
19 profession or business the board regulates;

20 (C) affect the price of goods or services
21 provided by persons in a profession or business the board
22 regulates; and

23 (D) restrict participation in a profession or
24 business the board regulates;

25 (5) [~~2~~] the results of the most recent formal audit
26 of the board;

27 (6) [~~3~~] the requirements of:

1 (A) laws relating to open meetings, public
2 information, administrative procedure, and disclosing conflicts of
3 interest; and

4 (B) other laws applicable to members of the board
5 in performing their duties; and

6 (7) [(4)] any applicable ethics policies adopted by
7 the board or the Texas Ethics Commission.

8 (d) The executive director of the board shall create a
9 training manual that includes the information required by
10 Subsection (b). The executive director shall distribute a copy of
11 the training manual annually to each board member. On receipt of
12 the training manual, each board member shall sign and submit to the
13 executive director a statement acknowledging receipt of the
14 training manual.

15 SECTION 7. Section 301.157, Occupations Code, is amended by
16 amending Subsections (d-4), (d-8), (d-9), and (d-11) and adding
17 Subsection (d-12) to read as follows:

18 (d-4) The board may recognize and accept as approved under
19 this section a school of nursing or educational program operated in
20 another state and approved by a state board of nursing or other
21 regulatory body of that state. The board shall adopt rules [~~develop~~
22 ~~policies~~] to ensure that the other state's standards are
23 substantially equivalent to the board's standards. The board by
24 rule shall develop a process for students enrolled in a school of
25 nursing or educational program operated in another state that does
26 not meet standards substantially equivalent to the board's
27 standards to apply for an initial license under this chapter.

1 (d-8) For purposes of Subsection (d-4), a nursing program
2 is considered to meet standards substantially equivalent to the
3 board's standards if the program:

4 (1) is part of an institution of higher education
5 located outside this state that is approved by the appropriate
6 regulatory authorities of that state;

7 (2) holds regional accreditation by an accrediting
8 body recognized by the United States secretary of education and the
9 Council for Higher Education Accreditation;

10 (3) holds specialty accreditation by an accrediting
11 body recognized by the United States secretary of education and the
12 Council for Higher Education Accreditation[~~, including the~~
13 ~~National League for Nursing Accrediting Commission~~];

14 (4) requires program applicants to be a licensed
15 practical or vocational nurse, a military service corpsman, or a
16 paramedic, or to hold a college degree in a clinically oriented
17 health care field with demonstrated experience providing direct
18 patient care; and

19 (5) graduates students who:

20 (A) achieve faculty-determined program outcomes,
21 including passing criterion-referenced examinations of nursing
22 knowledge essential to beginning a registered nursing practice and
23 transitioning to the role of registered nurse;

24 (B) pass a criterion-referenced summative
25 performance examination developed by faculty subject matter
26 experts that measures clinical competencies essential to beginning
27 a registered nursing practice and that meets nationally recognized

1 standards for educational testing, including the educational
2 testing standards of the American Educational Research
3 Association, the American Psychological Association, and the
4 National Council on Measurement in Education; and

5 (C) pass the National Council Licensure
6 Examination for Registered Nurses at a rate equivalent to the
7 board's required passage rate for students of approved in-state
8 programs.

9 (d-9) A graduate of a clinical competency assessment
10 program operated in another state and approved by a state board of
11 nursing or other regulatory body of another state is eligible to
12 apply for an initial license under this chapter if:

13 (1) ~~[the board allowed graduates of the program to~~
14 ~~apply for an initial license under this chapter continuously during~~
15 ~~the 10-year period preceding January 1, 2007,~~

16 ~~[(2)]~~ the program does not make any substantial
17 changes in the length or content of its clinical competency
18 assessment without the board's approval; and

19 (2) ~~[(3)]~~ the program remains in good standing with
20 the state board of nursing or other regulatory body in the other
21 state~~, and~~

22 ~~[(4) the program participates in the research study~~
23 ~~under Section 105.008, Health and Safety Code].~~

24 (d-11) If a clinical competency assessment program operated
25 in another state graduates students who pass the National Council
26 Licensure Examination for Registered Nurses at a rate lower than
27 the board's required passage rate for graduating students of

1 approved in-state programs, not later than May 31 of the next school
2 year the program shall:

3 (1) for the first year the student passage rate is
4 lower than the board's required passage rate for students of
5 approved in-state programs, complete and submit to the board for
6 review and comment a self-study of the program in accordance with
7 the board's guidelines;

8 (2) for the second consecutive year the student
9 passage rate is lower than the board's required passage rate for
10 students of approved in-state programs, allow the board to conduct
11 a desk review to evaluate the program using the criteria typically
12 used in an on-site visit and make recommendations to improve the
13 program; and

14 (3) for the third consecutive year the student passage
15 rate is lower than the board's required passage rate for students of
16 approved in-state programs, provide notice on the program's
17 Internet website that prospective students of the program may need
18 to complete additional requirements to apply for an initial license
19 in this state because the program has failed to meet the board's
20 standards related to the required passage rate on the National
21 Council Licensure Examination for Registered Nurses [~~Subsections~~
22 ~~(d-8), (d-9), (d-10), and (d-11) expire December 31, 2017. As part~~
23 ~~of the first review conducted under Section 301.003 after September~~
24 ~~1, 2009, the Sunset Advisory Commission shall:~~

25 [~~(1) recommend whether Subsections (d-8) and (d-9)~~
26 ~~should be extended; and~~

27 [~~(2) recommend any changes to Subsections (d-8) and~~

1 ~~(d-9) relating to the eligibility for a license of graduates of a~~
2 ~~clinical competency assessment program operated in another state].~~

3 (d-12) A clinical competency assessment program operated in
4 another state is not considered to meet standards substantially
5 equivalent to the board's standards if the program fails to meet the
6 applicable requirements under Subsection (d-11) or if the program's
7 graduating student passage rate on the National Council Licensure
8 Examination for Registered Nurses is lower than the board's
9 required passage rate for graduating students of approved in-state
10 programs for four consecutive years. A student enrolled in a
11 program described by this subsection before December 31 of the
12 fourth consecutive year is eligible to apply for an initial license
13 under this chapter. The program shall notify a student who enrolls
14 in the program after December 31 of the fourth consecutive year that
15 the student is required to complete additional requirements
16 established by the board under Subsection (d-4) to apply for an
17 initial license under this chapter.

18 SECTION 8. Subchapter D, Chapter 301, Occupations Code, is
19 amended by adding Section 301.1583 to read as follows:

20 Sec. 301.1583. DISCIPLINARY ACTION. (a) The board shall
21 remove a disciplinary action from the nurse licensure verification
22 page on the board's Internet website if:

23 (1) the disciplinary action is the only disciplinary
24 action taken against the nurse;

25 (2) the disciplinary action was taken by the board for
26 a violation that is not related to the practice of nursing;

27 (3) the disciplinary action did not result in the

1 suspension or revocation of, or the probation of the suspension or
2 revocation of, the nurse's license;

3 (4) the disciplinary action does not provide any
4 indication that continued practice by the nurse may risk harm to a
5 patient; and

6 (5) the nurse has successfully completed the
7 requirements imposed by the board in the disciplinary order related
8 to the disciplinary action.

9 (b) A disciplinary action that is removed from the nurse
10 licensure verification page on the board's Internet website under
11 Subsection (a) shall be removed from the public portion of the
12 coordinated licensure information system, as defined by Section
13 304.0015 in Article II of the Nurse Licensure Compact.

14 SECTION 9. Section 301.252, Occupations Code, is amended by
15 amending Subsection (a) and adding Subsection (a-2) to read as
16 follows:

17 (a) Each applicant for a registered nurse license or a
18 vocational nurse license must submit to the board a sworn
19 application that demonstrates the applicant's qualifications under
20 this chapter, accompanied by evidence that the applicant:

21 (1) has good professional character related to the
22 practice of nursing;

23 (2) has successfully completed a program of
24 professional or vocational nursing education approved under
25 Section 301.157(d); and

26 (3) has passed the jurisprudence examination approved
27 by the board as provided by Subsection (a-1).

1 (a-2) An applicant who provides satisfactory evidence that
2 the applicant has not committed a violation of this chapter or a
3 rule adopted under this chapter is considered to have good
4 professional character related to the practice of nursing. A
5 determination by the board that an applicant does not have good
6 professional character related to the practice of nursing must be
7 based on a showing by the board of a clear and rational connection
8 between a violation of this chapter or a rule adopted under this
9 chapter and the applicant's ability to effectively practice
10 nursing.

11 SECTION 10. Section 301.257, Occupations Code, is amended
12 by adding Subsections (l) and (m) to read as follows:

13 (l) The board may require in a declaratory order under this
14 section that a person begin participation in a peer assistance
15 program at the time of receipt of an initial license under this
16 chapter. The board shall notify the person that, on issuance of the
17 person's initial license, the person may request reevaluation of
18 the person's required participation in the peer assistance program.

19 (m) The board by rule shall develop a process to determine
20 whether a person should continue to be required to participate in a
21 peer assistance program. In making the determination, the board
22 shall:

23 (1) review the person's criminal history record
24 information and, if applicable, determine whether participation in
25 the program is warranted based on the time that has elapsed since
26 the conviction or end of community supervision;

27 (2) reevaluate or require a contractor administering a

1 peer assistance program to reevaluate the treatment plan or the
2 time the person is required to participate in the peer assistance
3 program based on the person's individualized needs; and

4 (3) authorize, as appropriate, a waiver of peer
5 assistance program completion if the board is satisfied the person
6 has achieved a satisfactory period of treatment or documented
7 sobriety, as defined by board rules, and continued participation is
8 not necessary.

9 SECTION 11. Section 301.301(b), Occupations Code, is
10 amended to read as follows:

11 (b) A person may renew an unexpired license issued under
12 this chapter on payment to the board of the required renewal fee
13 before the expiration date of the license[, ~~payment to the board of~~
14 ~~any costs assessed under Section 301.461,~~] and compliance with any
15 other renewal requirements adopted by the board. A person whose
16 license has expired may not engage in activities that require a
17 license until the license has been renewed.

18 SECTION 12. Section 301.4106, Occupations Code, is amended
19 to read as follows:

20 Sec. 301.4106. PEER ASSISTANCE PROGRAMS. The board by rule
21 shall develop guidelines to:

22 (1) outline the roles and responsibilities of the
23 board and a peer assistance program established or approved by the
24 board under Chapter 467, Health and Safety Code;

25 (2) outline the process for a peer assistance program
26 to refer to the board complaints alleging a violation of the
27 practice of nursing;

1 (3) establish requirements for successfully
2 completing a peer assistance program and for notification of the
3 board of the successful completion by a nurse the board has ordered
4 to attend or referred to the program; [~~and~~]

5 (4) establish a clear procedure based on meaningful
6 performance goals for evaluating the success of a peer assistance
7 program established or approved by the board under Chapter 467,
8 Health and Safety Code;

9 (5) establish individualized requirements for
10 participants in a peer assistance program, including the duration
11 of participation in a peer assistance program for substance use,
12 based on the individual's diagnosis and needs; and

13 (6) ensure that participation requirements and
14 treatment plans for peer assistance program participants who are
15 referred to peer assistance for similar reasons are administered
16 consistently.

17 SECTION 13. Section 301.452, Occupations Code, is amended
18 by amending Subsection (b) and adding Subsection (e) to read as
19 follows:

20 (b) A person is subject to denial of a license or to
21 disciplinary action under this subchapter for:

22 (1) a violation of this chapter, a rule or regulation
23 not inconsistent with this chapter, or an order issued under this
24 chapter;

25 (2) fraud or deceit in procuring or attempting to
26 procure a license to practice professional nursing or vocational
27 nursing;

1 (3) a conviction for, or placement on deferred
2 adjudication community supervision or deferred disposition for, a
3 felony or for a misdemeanor involving moral turpitude;

4 (4) conduct that results in the revocation of
5 probation imposed because of conviction for a felony or for a
6 misdemeanor involving moral turpitude;

7 (5) use of a nursing license, diploma, or permit, or
8 the transcript of such a document, that has been fraudulently
9 purchased, issued, counterfeited, or materially altered;

10 (6) impersonating or acting as a proxy for another
11 person in the licensing examination required under Section 301.253
12 or 301.255;

13 (7) directly or indirectly aiding or abetting an
14 unlicensed person in connection with the unauthorized practice of
15 nursing;

16 (8) revocation, suspension, or denial of, or any other
17 action relating to, the person's license or privilege to practice
18 nursing in another jurisdiction or under federal law;

19 (9) intemperate use of alcohol or drugs that the board
20 determines endangers or could endanger a patient;

21 (10) unprofessional [~~or dishonorable~~] conduct in the
22 practice of nursing that [~~, in the board's opinion,~~] is likely to
23 deceive, defraud, or injure a patient or the public;

24 (11) adjudication of mental incompetency;

25 (12) lack of fitness to practice because of a mental or
26 physical health condition that could result in injury to a patient
27 or the public; or

1 (13) failure to care adequately for a patient or to
2 conform to the minimum standards of acceptable nursing practice in
3 a manner that, in the board's opinion, exposes a patient or other
4 person unnecessarily to risk of harm.

5 (e) The board shall adopt rules to ensure that license
6 denials and disciplinary action under Subsection (b)(10) are based
7 on the application of objective criteria that are clearly and
8 rationally connected to the applicant's or license holder's conduct
9 and that any negative outcome resulting from that conduct is
10 determined to affect the person's ability to effectively practice
11 nursing.

12 SECTION 14. Section 301.459, Occupations Code, is amended
13 by amending Subsection (a) and adding Subsection (a-1) to read as
14 follows:

15 (a) The board by rule shall adopt procedures under Chapter
16 2001, Government Code, governing formal disposition of a contested
17 case. An administrative law judge employed by the [The] State
18 Office of Administrative Hearings shall conduct a formal hearing.
19 After receiving the administrative law judge's findings of fact and
20 conclusions of law for a contested case, the board shall dispose of
21 the case by issuing a final order based on the administrative law
22 judge's findings of fact and conclusions of law.

23 (a-1) Notwithstanding Section 2001.058(e), Government
24 Code, the board in a contested case may not change a finding of fact
25 or conclusion of law or vacate or modify an order of the
26 administrative law judge. The board may obtain judicial review of
27 any finding of fact or conclusion of law issued by the

1 administrative law judge as provided by Section 2001.058(f)(5),
2 Government Code. For each case, the administrative law judge may
3 make a recommendation regarding an appropriate action or sanction.
4 The board has the sole authority and discretion to determine the
5 appropriate action or sanction.

6 SECTION 15. Section 301.461, Occupations Code, is amended
7 to read as follows:

8 Sec. 301.461. ASSESSMENT OF COSTS PROHIBITED. The board
9 may not assess a person who is found to have violated this chapter
10 the administrative costs of conducting a hearing to determine the
11 violation.

12 SECTION 16. Chapter 304, Occupations Code, is amended by
13 adding Section 304.0015 to read as follows:

14 Sec. 304.0015. NURSE LICENSURE COMPACT. The Nurse
15 Licensure Compact is enacted and entered into with all other
16 jurisdictions that legally join in the compact, which reads as
17 follows:

18 NURSE LICENSURE COMPACT

19 ARTICLE I. FINDINGS AND DECLARATION OF PURPOSE

20 (a) The party states find that:

21 (1) the health and safety of the public are affected by
22 the degree of compliance with and the effectiveness of enforcement
23 activities related to state nurse licensure laws;

24 (2) violations of nurse licensure and other laws
25 regulating the practice of nursing may result in injury or harm to
26 the public;

27 (3) the expanded mobility of nurses and the use of

1 advanced communication technologies as part of our nation's health
2 care delivery system require greater coordination and cooperation
3 among states in the areas of nurse licensure and regulation;

4 (4) new practice modalities and technology make
5 compliance with individual state nurse licensure laws difficult and
6 complex;

7 (5) the current system of duplicative licensure for
8 nurses practicing in multiple states is cumbersome and redundant
9 for both nurses and states; and

10 (6) uniformity of nurse licensure requirements
11 throughout the states promotes public safety and public health
12 benefits.

13 (b) The general purposes of this compact are to:

14 (1) facilitate the states' responsibility to protect
15 the public's health and safety;

16 (2) ensure and encourage the cooperation of party
17 states in the areas of nurse licensure and regulation;

18 (3) facilitate the exchange of information between
19 party states in the areas of nurse regulation, investigation, and
20 adverse actions;

21 (4) promote compliance with the laws governing the
22 practice of nursing in each jurisdiction;

23 (5) invest all party states with the authority to hold
24 a nurse accountable for meeting all state practice laws in the state
25 in which the patient is located at the time care is rendered through
26 the mutual recognition of party state licenses;

27 (6) decrease redundancies in the consideration and

1 issuance of nurse licenses; and

2 (7) provide opportunities for interstate practice by
3 nurses who meet uniform licensure requirements.

4 ARTICLE II. DEFINITIONS

5 As used in this compact:

6 (a) "Adverse action" means any administrative, civil,
7 equitable, or criminal action permitted by a state's laws that is
8 imposed by a licensing board or other authority against a nurse,
9 including actions against an individual's license or multistate
10 licensure privilege such as revocation, suspension, probation,
11 monitoring of the licensee, limitation on the licensee's practice,
12 or any other encumbrance on licensure affecting a nurse's
13 authorization to practice, including issuance of a cease and desist
14 action.

15 (b) "Alternative program" means a nondisciplinary
16 monitoring program approved by a licensing board.

17 (c) "Coordinated licensure information system" means an
18 integrated process for collecting, storing, and sharing
19 information on nurse licensure and enforcement activities related
20 to nurse licensure laws that is administered by a nonprofit
21 organization composed of and controlled by licensing boards.

22 (d) "Current significant investigative information" means:

23 (1) investigative information that a licensing board,
24 after a preliminary inquiry that includes notification and an
25 opportunity for the nurse to respond, if required by state law, has
26 reason to believe is not groundless and, if proven true, would
27 indicate more than a minor infraction; or

1 (2) investigative information that indicates that the
2 nurse represents an immediate threat to public health and safety
3 regardless of whether the nurse has been notified and had an
4 opportunity to respond.

5 (e) "Encumbrance" means a revocation or suspension of, or
6 any limitation on, the full and unrestricted practice of nursing
7 imposed by a licensing board.

8 (f) "Home state" means the party state which is the nurse's
9 primary state of residence.

10 (g) "Licensing board" means a party state's regulatory body
11 responsible for issuing nurse licenses.

12 (h) "Multistate license" means a license to practice as a
13 registered or a licensed practical/vocational nurse (LPN/VN)
14 issued by a home state licensing board that authorizes the licensed
15 nurse to practice in all party states under a multistate licensure
16 privilege.

17 (i) "Multistate licensure privilege" means a legal
18 authorization associated with a multistate license permitting the
19 practice of nursing as either a registered nurse (RN) or LPN/VN in a
20 remote state.

21 (j) "Nurse" means RN or LPN/VN, as those terms are defined
22 by each party state's practice laws.

23 (k) "Party state" means any state that has adopted this
24 compact.

25 (l) "Remote state" means a party state, other than the home
26 state.

27 (m) "Single-state license" means a nurse license issued by a

1 party state that authorizes practice only within the issuing state
2 and does not include a multistate licensure privilege to practice
3 in any other party state.

4 (n) "State" means a state, territory, or possession of the
5 United States and the District of Columbia.

6 (o) "State practice laws" means a party state's laws, rules,
7 and regulations that govern the practice of nursing, define the
8 scope of nursing practice, and create the methods and grounds for
9 imposing discipline. "State practice laws" do not include
10 requirements necessary to obtain and retain a license, except for
11 qualifications or requirements of the home state.

12 ARTICLE III. GENERAL PROVISIONS AND JURISDICTION

13 (a) A multistate license to practice registered or licensed
14 practical/vocational nursing issued by a home state to a resident
15 in that state will be recognized by each party state as authorizing
16 a nurse to practice as a registered nurse (RN) or as a licensed
17 practical/vocational nurse (LPN/VN), under a multistate licensure
18 privilege, in each party state.

19 (b) A state must implement procedures for considering the
20 criminal history records of applicants for initial multistate
21 license or licensure by endorsement. Such procedures shall include
22 the submission of fingerprints or other biometric-based
23 information by applicants for the purpose of obtaining an
24 applicant's criminal history record information from the Federal
25 Bureau of Investigation and the agency responsible for retaining
26 that state's criminal records.

27 (c) Each party state shall require the following for an

1 applicant to obtain or retain a multistate license in the home
2 state:

3 (1) meets the home state's qualifications for
4 licensure or renewal of licensure, as well as all other applicable
5 state laws;

6 (2)(i) has graduated or is eligible to graduate from a
7 licensing board-approved RN or LPN/VN prelicensure education
8 program; or

9 (ii) has graduated from a foreign RN or LPN/VN
10 prelicensure education program that (a) has been approved by the
11 authorized accrediting body in the applicable country and (b) has
12 been verified by an independent credentials review agency to be
13 comparable to a licensing board-approved prelicensure education
14 program;

15 (3) has, if a graduate of a foreign prelicensure
16 education program not taught in English or if English is not the
17 individual's native language, successfully passed an English
18 proficiency examination that includes the components of reading,
19 speaking, writing, and listening;

20 (4) has successfully passed an NCLEX-RN or NCLEX-PN
21 Examination or a recognized predecessor, as applicable;

22 (5) is eligible for or holds an active, unencumbered
23 license;

24 (6) has submitted, in connection with an application
25 for initial licensure or licensure by endorsement, fingerprints or
26 other biometric data for the purpose of obtaining criminal history
27 record information from the Federal Bureau of Investigation and the

1 agency responsible for retaining that state's criminal records;

2 (7) has not been convicted or found guilty, or has
3 entered into an agreed disposition, of a felony offense under
4 applicable state or federal criminal law;

5 (8) has not been convicted or found guilty, or has
6 entered into an agreed disposition, of a misdemeanor offense
7 related to the practice of nursing as determined on a case-by-case
8 basis;

9 (9) is not currently enrolled in an alternative
10 program;

11 (10) is subject to self-disclosure requirements
12 regarding current participation in an alternative program; and

13 (11) has a valid United States social security number.

14 (d) All party states shall be authorized, in accordance with
15 existing state due process law, to take adverse action against a
16 nurse's multistate licensure privilege such as revocation,
17 suspension, probation, or any other action that affects a nurse's
18 authorization to practice under a multistate licensure privilege,
19 including cease and desist actions. If a party state takes such
20 action, it shall promptly notify the administrator of the
21 coordinated licensure information system. The administrator of the
22 coordinated licensure information system shall promptly notify the
23 home state of any such actions by remote states.

24 (e) A nurse practicing in a party state must comply with the
25 state practice laws of the state in which the client is located at
26 the time service is provided. The practice of nursing is not
27 limited to patient care, but shall include all nursing practice as

1 defined by the state practice laws of the party state in which the
2 client is located. The practice of nursing in a party state under a
3 multistate licensure privilege will subject a nurse to the
4 jurisdiction of the licensing board, the courts, and the laws of the
5 party state in which the client is located at the time service is
6 provided.

7 (f) Individuals not residing in a party state shall continue
8 to be able to apply for a party state's single-state license as
9 provided under the laws of each party state. However, the
10 single-state license granted to these individuals will not be
11 recognized as granting the privilege to practice nursing in any
12 other party state. Nothing in this compact shall affect the
13 requirements established by a party state for the issuance of a
14 single-state license.

15 (g) Any nurse holding a home state multistate license, on
16 the effective date of this compact, may retain and renew the
17 multistate license issued by the nurse's then-current home state,
18 provided that:

19 (1) a nurse, who changes primary state of residence
20 after this compact's effective date, must meet all applicable
21 Article III(c) requirements to obtain a multistate license from the
22 new home state; or

23 (2) a nurse who fails to satisfy the multistate
24 licensure requirements in Article III(c) due to a disqualifying
25 event occurring after this compact's effective date shall be
26 ineligible to retain or renew a multistate license, and the nurse's
27 multistate license shall be revoked or deactivated in accordance

1 with applicable rules adopted by the Interstate Commission of Nurse
2 Licensure Compact Administrators ("commission").

3 ARTICLE IV. APPLICATIONS FOR LICENSURE IN A PARTY STATE

4 (a) Upon application for a multistate license, the
5 licensing board in the issuing party state shall ascertain, through
6 the coordinated licensure information system, whether the
7 applicant has ever held, or is the holder of, a license issued by
8 any other state, whether there are any encumbrances on any license
9 or multistate licensure privilege held by the applicant, whether
10 any adverse action has been taken against any license or multistate
11 licensure privilege held by the applicant, and whether the
12 applicant is currently participating in an alternative program.

13 (b) A nurse may hold a multistate license, issued by the
14 home state, in only one party state at a time.

15 (c) If a nurse changes primary state of residence by moving
16 between two party states, the nurse must apply for licensure in the
17 new home state, and the multistate license issued by the prior home
18 state will be deactivated in accordance with applicable rules
19 adopted by the commission.

20 (1) The nurse may apply for licensure in advance of a
21 change in primary state of residence.

22 (2) A multistate license shall not be issued by the new
23 home state until the nurse provides satisfactory evidence of a
24 change in primary state of residence to the new home state and
25 satisfies all applicable requirements to obtain a multistate
26 license from the new home state.

27 (d) If a nurse changes primary state of residence by moving

1 from a party state to a nonparty state, the multistate license
2 issued by the prior home state will convert to a single-state
3 license, valid only in the former home state.

4 ARTICLE V. ADDITIONAL AUTHORITIES INVESTED IN PARTY STATE

5 LICENSING BOARDS

6 (a) In addition to the other powers conferred by state law,
7 a licensing board shall have the authority to:

8 (1) take adverse action against a nurse's multistate
9 licensure privilege to practice within that party state.

10 (i) Only the home state shall have the power to
11 take adverse action against a nurse's license issued by the home
12 state.

13 (ii) For purposes of taking adverse action, the
14 home state licensing board shall give the same priority and effect
15 to reported conduct received from a remote state as it would if such
16 conduct had occurred within the home state. In so doing, the home
17 state shall apply its own state laws to determine appropriate
18 action.

19 (2) issue cease and desist orders or impose an
20 encumbrance on a nurse's authority to practice within that party
21 state.

22 (3) complete any pending investigation of a nurse who
23 changes primary state of residence during the course of such
24 investigation. The licensing board shall also have the authority
25 to take appropriate action(s) and shall promptly report the
26 conclusions of such investigations to the administrator of the
27 coordinated licensure information system. The administrator of the

1 coordinated licensure information system shall promptly notify the
2 new home state of any such actions.

3 (4) issue subpoenas for both hearings and
4 investigations that require the attendance and testimony of a
5 witness, as well as the production of evidence. Subpoenas issued by
6 a licensing board in a party state for the attendance and testimony
7 of witnesses or the production of evidence from another party state
8 shall be enforced in the latter state by any court of competent
9 jurisdiction, according to the practice and procedures of that
10 court applicable to subpoenas issued in proceedings pending before
11 it. The issuing authority shall pay any witness fees, travel
12 expenses, mileage, and other fees required by the service statutes
13 of the state in which the witnesses or evidence are located.

14 (5) obtain and submit, for each nurse licensure
15 applicant, fingerprint or other biometric-based information to the
16 Federal Bureau of Investigation for criminal background checks,
17 receive the results of the Federal Bureau of Investigation record
18 search on criminal background checks, and use the results in making
19 licensure decisions.

20 (6) if otherwise permitted by state law, recover from
21 the affected nurse the costs of investigations and disposition of
22 cases resulting from any adverse action taken against that nurse.

23 (7) take adverse action based on the factual findings
24 of the remote state, provided that the licensing board follows its
25 own procedures for taking such adverse action.

26 (b) If adverse action is taken by the home state against a
27 nurse's multistate license, the nurse's multistate licensure

1 privilege to practice in all other party states shall be
2 deactivated until all encumbrances have been removed from the
3 multistate license. All home state disciplinary orders that impose
4 adverse action against a nurse's multistate license shall include a
5 statement that the nurse's multistate licensure privilege is
6 deactivated in all party states during the pendency of the order.

7 (c) Nothing in this compact shall override a party state's
8 decision that participation in an alternative program may be used
9 in lieu of adverse action. The home state licensing board shall
10 deactivate the multistate licensure privilege under the multistate
11 license of any nurse for the duration of the nurse's participation
12 in an alternative program.

13 ARTICLE VI. COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE
14 OF INFORMATION

15 (a) All party states shall participate in a coordinated
16 licensure information system of all licensed registered nurses
17 (RNs) and licensed practical/vocational nurses (LPNs/VNs). This
18 system will include information on the licensure and disciplinary
19 history of each nurse, as submitted by party states, to assist in
20 the coordination of nurse licensure and enforcement efforts.

21 (b) The commission, in consultation with the administrator
22 of the coordinated licensure information system, shall formulate
23 necessary and proper procedures for the identification,
24 collection, and exchange of information under this compact.

25 (c) All licensing boards shall promptly report to the
26 coordinated licensure information system any adverse action, any
27 current significant investigative information, denials of

1 applications (with the reasons for such denials), and nurse
2 participation in alternative programs known to the licensing board
3 regardless of whether such participation is deemed nonpublic or
4 confidential under state law.

5 (d) Current significant investigative information and
6 participation in nonpublic or confidential alternative programs
7 shall be transmitted through the coordinated licensure information
8 system only to party state licensing boards.

9 (e) Notwithstanding any other provision of law, all party
10 state licensing boards contributing information to the coordinated
11 licensure information system may designate information that may not
12 be shared with nonparty states or disclosed to other entities or
13 individuals without the express permission of the contributing
14 state.

15 (f) Any personally identifiable information obtained from
16 the coordinated licensure information system by a party state
17 licensing board shall not be shared with nonparty states or
18 disclosed to other entities or individuals except to the extent
19 permitted by the laws of the party state contributing the
20 information.

21 (g) Any information contributed to the coordinated
22 licensure information system that is subsequently required to be
23 expunged by the laws of the party state contributing that
24 information shall also be expunged from the coordinated licensure
25 information system.

26 (h) The compact administrator of each party state shall
27 furnish a uniform data set to the compact administrator of each

1 other party state, which shall include, at a minimum:

2 (1) identifying information;

3 (2) licensure data;

4 (3) information related to alternative program
5 participation; and

6 (4) other information that may facilitate the
7 administration of this compact, as determined by commission rules.

8 (i) The compact administrator of a party state shall provide
9 all investigative documents and information requested by another
10 party state.

11 ARTICLE VII. ESTABLISHMENT OF INTERSTATE COMMISSION OF NURSE

12 LICENSURE COMPACT ADMINISTRATORS

13 (a) The party states hereby create and establish a joint
14 public entity known as the Interstate Commission of Nurse Licensure
15 Compact Administrators.

16 (1) The commission is an instrumentality of the party
17 states.

18 (2) Venue is proper and judicial proceedings by or
19 against the commission shall be brought solely and exclusively in a
20 court of competent jurisdiction where the principal office of the
21 commission is located. The commission may waive venue and
22 jurisdictional defenses to the extent it adopts or consents to
23 participate in alternative dispute resolution proceedings.

24 (3) Nothing in this compact shall be construed to be a
25 waiver of sovereign immunity.

26 (b) Membership, Voting, and Meetings

27 (1) Each party state shall have and be limited to one

1 administrator. The head of the state licensing board or a designee
2 shall be the administrator of this compact for each party state.
3 Any administrator may be removed or suspended from office as
4 provided by the law of the state from which the administrator is
5 appointed. Any vacancy occurring in the commission shall be filled
6 in accordance with the laws of the party state in which the vacancy
7 exists.

8 (2) Each administrator shall be entitled to one (1)
9 vote with regard to the promulgation of rules and the creation of
10 bylaws and shall otherwise have an opportunity to participate in
11 the business and affairs of the commission. An administrator shall
12 vote in person or by such other means as provided in the bylaws. The
13 bylaws may provide for an administrator's participation in meetings
14 by telephone or other means of communication.

15 (3) The commission shall meet at least once during
16 each calendar year. Additional meetings shall be held as set forth
17 in the bylaws or rules of the commission.

18 (4) All meetings shall be open to the public, and
19 public notice of meetings shall be given in the same manner as
20 required under the rulemaking provisions in Article VIII.

21 (5) The commission may convene in a closed, nonpublic
22 meeting if the commission must discuss:

23 (i) noncompliance of a party state with its
24 obligations under this compact;

25 (ii) the employment, compensation, discipline,
26 or other personnel matters, practices, or procedures related to
27 specific employees or other matters related to the commission's

1 internal personnel practices and procedures;

2 (iii) current, threatened, or reasonably
3 anticipated litigation;

4 (iv) negotiation of contracts for the purchase or
5 sale of goods, services, or real estate;

6 (v) accusing any person of a crime or formally
7 censuring any person;

8 (vi) disclosure of trade secrets or commercial or
9 financial information that is privileged or confidential;

10 (vii) disclosure of information of a personal
11 nature where disclosure would constitute a clearly unwarranted
12 invasion of personal privacy;

13 (viii) disclosure of investigatory records
14 compiled for law enforcement purposes;

15 (ix) disclosure of information related to any
16 reports prepared by or on behalf of the commission for the purpose
17 of investigation of compliance with this compact; or

18 (x) matters specifically exempted from
19 disclosure by federal or state statute.

20 (6) If a meeting or portion of a meeting is closed
21 pursuant to this provision, the commission's legal counsel or
22 designee shall certify that the meeting may be closed and shall
23 reference each relevant exempting provision. The commission shall
24 keep minutes that fully and clearly describe all matters discussed
25 in a meeting and shall provide a full and accurate summary of
26 actions taken, and the reasons therefor, including a description of
27 the views expressed. All documents considered in connection with

1 an action shall be identified in such minutes. All minutes and
2 documents of a closed meeting shall remain under seal, subject to
3 release by a majority vote of the commission or order of a court of
4 competent jurisdiction.

5 (c) The commission shall, by a majority vote of the
6 administrators, prescribe bylaws or rules to govern its conduct as
7 may be necessary or appropriate to carry out the purposes and
8 exercise the powers of this compact, including but not limited to:

9 (1) establishing the fiscal year of the commission;

10 (2) providing reasonable standards and procedures:

11 (i) for the establishment and meeting of other
12 committees; and

13 (ii) governing any general or specific
14 delegation of any authority or function of the commission;

15 (3) providing reasonable procedures for calling and
16 conducting meetings of the commission, ensuring reasonable advance
17 notice of all meetings, and providing an opportunity for attendance
18 of such meetings by interested parties, with enumerated exceptions
19 designed to protect the public's interest, the privacy of
20 individuals, and proprietary information, including trade secrets.

21 The commission may meet in closed session only after a majority of
22 the administrators vote to close a meeting in whole or in part. As
23 soon as practicable, the commission must make public a copy of the
24 vote to close the meeting revealing the vote of each administrator,
25 with no proxy votes allowed;

26 (4) establishing the titles, duties and authority, and
27 reasonable procedures for the election of the officers of the

1 commission;

2 (5) providing reasonable standards and procedures for
3 the establishment of the personnel policies and programs of the
4 commission. Notwithstanding any civil service or other similar
5 laws of any party state, the bylaws shall exclusively govern the
6 personnel policies and programs of the commission; and

7 (6) providing a mechanism for winding up the
8 operations of the commission and the equitable disposition of any
9 surplus funds that may exist after the termination of this compact
10 after the payment or reserving of all of its debts and obligations.

11 (d) The commission shall publish its bylaws and rules, and
12 any amendments thereto, in a convenient form on the website of the
13 commission.

14 (e) The commission shall maintain its financial records in
15 accordance with the bylaws.

16 (f) The commission shall meet and take such actions as are
17 consistent with the provisions of this compact and the bylaws.

18 (g) The commission shall have the following powers:

19 (1) to promulgate uniform rules to facilitate and
20 coordinate implementation and administration of this compact. The
21 rules shall have the force and effect of law and shall be binding in
22 all party states;

23 (2) to bring and prosecute legal proceedings or
24 actions in the name of the commission, provided that the standing of
25 any licensing board to sue or be sued under applicable law shall not
26 be affected;

27 (3) to purchase and maintain insurance and bonds;

1 (4) to borrow, accept, or contract for services of
2 personnel, including, but not limited to, employees of a party
3 state or nonprofit organizations;

4 (5) to cooperate with other organizations that
5 administer state compacts related to the regulation of nursing,
6 including, but not limited to, sharing administrative or staff
7 expenses, office space, or other resources;

8 (6) to hire employees, elect or appoint officers, fix
9 compensation, define duties, grant such individuals appropriate
10 authority to carry out the purposes of this compact, and to
11 establish the commission's personnel policies and programs
12 relating to conflicts of interest, qualifications of personnel, and
13 other related personnel matters;

14 (7) to accept any and all appropriate donations,
15 grants, and gifts of money, equipment, supplies, materials, and
16 services, and to receive, utilize, and dispose of the same;
17 provided that at all times the commission shall avoid any
18 appearance of impropriety or conflict of interest;

19 (8) to lease, purchase, accept appropriate gifts or
20 donations of, or otherwise to own, hold, improve, or use, any
21 property, whether real, personal, or mixed; provided that at all
22 times the commission shall avoid any appearance of impropriety;

23 (9) to sell, convey, mortgage, pledge, lease,
24 exchange, abandon, or otherwise dispose of any property, whether
25 real, personal, or mixed;

26 (10) to establish a budget and make expenditures;

27 (11) to borrow money;

1 (12) to appoint committees, including advisory
2 committees comprised of administrators, state nursing regulators,
3 state legislators or their representatives, consumer
4 representatives, and other such interested persons;

5 (13) to provide and receive information from, and to
6 cooperate with, law enforcement agencies;

7 (14) to adopt and use an official seal; and

8 (15) to perform such other functions as may be
9 necessary or appropriate to achieve the purposes of this compact
10 consistent with the state regulation of nurse licensure and
11 practice.

12 (h) Financing of the Commission

13 (1) The commission shall pay, or provide for the
14 payment of, the reasonable expenses of its establishment,
15 organization, and ongoing activities.

16 (2) The commission may also levy on and collect an
17 annual assessment from each party state to cover the cost of its
18 operations, activities, and staff in its annual budget as approved
19 each year. The aggregate annual assessment amount, if any, shall be
20 allocated based upon a formula to be determined by the commission,
21 which shall promulgate a rule that is binding upon all party states.

22 (3) The commission shall not incur an obligation of
23 any kind prior to securing the funds adequate to meet the same; nor
24 shall the commission pledge the credit of any of the party states,
25 except by and with the authority of such party state.

26 (4) The commission shall keep accurate accounts of all
27 receipts and disbursements. The receipts and disbursements of the

1 commission shall be subject to the audit and accounting procedures
2 established under its bylaws. However, all receipts and
3 disbursements of funds handled by the commission shall be audited
4 yearly by a certified or licensed public accountant, and the report
5 of the audit shall be included in and become part of the annual
6 report of the commission.

7 (i) Qualified Immunity, Defense, and Indemnification

8 (1) The compact administrators, officers, executive
9 directors, employees, and representatives of the commission shall
10 be immune from suit and liability, either personally or in their
11 official capacity, for any claim for damage to or loss of property,
12 or personal injury or other civil liability caused by or arising out
13 of any actual or alleged act, error, or omission that occurred, or
14 that the person against whom the claim is made had a reasonable
15 basis for believing occurred, within the scope of commission
16 employment, duties, or responsibilities; provided that nothing in
17 this subdivision shall be construed to protect any such person from
18 suit or liability for any damages, loss, injury, or liability
19 caused by the intentional, wilful, or wanton misconduct of that
20 person.

21 (2) The commission shall defend any administrator,
22 officer, executive director, employee, or representative of the
23 commission in any civil action seeking to impose liability arising
24 out of any actual or alleged act, error, or omission that occurred
25 within the scope of commission employment, duties, or
26 responsibilities, or that the person against whom the claim is made
27 had a reasonable basis for believing occurred within the scope of

1 commission employment, duties, or responsibilities; provided that
2 nothing herein shall be construed to prohibit that person from
3 retaining his or her own counsel; and provided further that the
4 actual or alleged act, error, or omission did not result from that
5 person's intentional, wilful, or wanton misconduct.

6 (3) The commission shall indemnify and hold harmless
7 any administrator, officer, executive director, employee, or
8 representative of the commission for the amount of any settlement
9 or judgment obtained against that person arising out of any actual
10 or alleged act, error, or omission that occurred within the scope of
11 commission employment, duties, or responsibilities, or that such
12 person had a reasonable basis for believing occurred within the
13 scope of commission employment, duties, or responsibilities;
14 provided that the actual or alleged act, error, or omission did not
15 result from the intentional, wilful, or wanton misconduct of that
16 person.

17 ARTICLE VIII. RULEMAKING

18 (a) The commission shall exercise its rulemaking powers
19 pursuant to the criteria set forth in this article and the rules
20 adopted thereunder. Rules and amendments shall become binding as
21 of the date specified in each rule or amendment and shall have the
22 same force and effect as provisions of this compact.

23 (b) Rules or amendments to the rules shall be adopted at a
24 regular or special meeting of the commission.

25 (c) Prior to promulgation and adoption of a final rule or
26 rules by the commission, and at least sixty (60) days in advance of
27 the meeting at which the rule will be considered and voted upon, the

1 commission shall file a notice of proposed rulemaking:

2 (1) on the website of the commission; and

3 (2) on the website of each licensing board or the
4 publication in which each state would otherwise publish proposed
5 rules.

6 (d) The notice of proposed rulemaking shall include:

7 (1) the proposed time, date, and location of the
8 meeting in which the rule will be considered and voted upon;

9 (2) the text of the proposed rule or amendment, and the
10 reason for the proposed rule;

11 (3) a request for comments on the proposed rule from
12 any interested person; and

13 (4) the manner in which interested persons may submit
14 notice to the commission of their intention to attend the public
15 hearing and any written comments.

16 (e) Prior to adoption of a proposed rule, the commission
17 shall allow persons to submit written data, facts, opinions, and
18 arguments, which shall be made available to the public.

19 (f) The commission shall grant an opportunity for a public
20 hearing before it adopts a rule or amendment.

21 (g) The commission shall publish the place, time, and date
22 of the scheduled public hearing.

23 (1) Hearings shall be conducted in a manner providing
24 each person who wishes to comment a fair and reasonable opportunity
25 to comment orally or in writing. All hearings will be recorded, and
26 a copy will be made available upon request.

27 (2) Nothing in this section shall be construed as

1 requiring a separate hearing on each rule. Rules may be grouped for
2 the convenience of the commission at hearings required by this
3 section.

4 (h) If no one appears at the public hearing, the commission
5 may proceed with promulgation of the proposed rule.

6 (i) Following the scheduled hearing date, or by the close of
7 business on the scheduled hearing date if the hearing was not held,
8 the commission shall consider all written and oral comments
9 received.

10 (j) The commission shall, by majority vote of all
11 administrators, take final action on the proposed rule and shall
12 determine the effective date of the rule, if any, based on the
13 rulemaking record and the full text of the rule.

14 (k) Upon determination that an emergency exists, the
15 commission may consider and adopt an emergency rule without prior
16 notice, opportunity for comment, or hearing; provided that the
17 usual rulemaking procedures provided in this compact and in this
18 section shall be retroactively applied to the rule as soon as
19 reasonably possible, and in no event later than ninety (90) days
20 after the effective date of the rule. For the purposes of this
21 provision, an emergency rule is one that must be adopted
22 immediately in order to:

23 (1) meet an imminent threat to public health, safety,
24 or welfare;

25 (2) prevent a loss of commission or party state funds;
26 or

27 (3) meet a deadline for the promulgation of an

1 administrative rule that is required by federal law or rule.

2 (1) The commission may direct revisions to a previously
3 adopted rule or amendment for purposes of correcting typographical
4 errors, errors in format, errors in consistency, or grammatical
5 errors. Public notice of any revisions shall be posted on the
6 website of the commission. The revision shall be subject to
7 challenge by any person for a period of thirty (30) days after
8 posting. The revision may be challenged only on grounds that the
9 revision results in a material change to a rule. A challenge shall
10 be made in writing, and delivered to the commission, prior to the
11 end of the notice period. If no challenge is made, the revision
12 will take effect without further action. If the revision is
13 challenged, the revision may not take effect without the approval
14 of the commission.

15 ARTICLE IX. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

16 (a) Oversight

17 (1) Each party state shall enforce this compact and
18 take all actions necessary and appropriate to effectuate this
19 compact's purposes and intent.

20 (2) The commission shall be entitled to receive
21 service of process in any proceeding that may affect the powers,
22 responsibilities, or actions of the commission, and shall have
23 standing to intervene in such a proceeding for all purposes.
24 Failure to provide service of process in such proceeding to the
25 commission shall render a judgment or order void as to the
26 commission, this compact, or promulgated rules.

27 (b) Default, Technical Assistance, and Termination

1 (1) If the commission determines that a party state
2 has defaulted in the performance of its obligations or
3 responsibilities under this compact or the promulgated rules, the
4 commission shall:

5 (i) provide written notice to the defaulting
6 state and other party states of the nature of the default, the
7 proposed means of curing the default, or any other action to be
8 taken by the commission; and

9 (ii) provide remedial training and specific
10 technical assistance regarding the default.

11 (2) If a state in default fails to cure the default,
12 the defaulting state's membership in this compact may be terminated
13 upon an affirmative vote of a majority of the administrators, and
14 all rights, privileges, and benefits conferred by this compact may
15 be terminated on the effective date of termination. A cure of the
16 default does not relieve the offending state of obligations or
17 liabilities incurred during the period of default.

18 (3) Termination of membership in this compact shall be
19 imposed only after all other means of securing compliance have been
20 exhausted. Notice of intent to suspend or terminate shall be given
21 by the commission to the governor of the defaulting state and to the
22 executive officer of the defaulting state's licensing board and
23 each of the party states.

24 (4) A state whose membership in this compact has been
25 terminated is responsible for all assessments, obligations, and
26 liabilities incurred through the effective date of the termination,
27 including obligations that extend beyond the effective date of

1 termination.

2 (5) The commission shall not bear any costs related to
3 a state that is found to be in default or whose membership in this
4 compact has been terminated unless agreed upon in writing between
5 the commission and the defaulting state.

6 (6) The defaulting state may appeal the action of the
7 commission by petitioning the U.S. District Court for the District
8 of Columbia or the federal district in which the commission has its
9 principal offices. The prevailing party shall be awarded all costs
10 of such litigation, including reasonable attorneys' fees.

11 (c) Dispute Resolution

12 (1) Upon request by a party state, the commission
13 shall attempt to resolve disputes related to the compact that arise
14 among party states and between party and nonparty states.

15 (2) The commission shall promulgate a rule providing
16 for both mediation and binding dispute resolution for disputes, as
17 appropriate.

18 (3) In the event the commission cannot resolve
19 disputes among party states arising under this compact:

20 (i) the party states may submit the issues in
21 dispute to an arbitration panel, which will be comprised of
22 individuals appointed by the compact administrator in each of the
23 affected party states and an individual mutually agreed upon by the
24 compact administrators of all the party states involved in the
25 dispute; and

26 (ii) the decision of a majority of the
27 arbitrators shall be final and binding.

1 (d) Enforcement

2 (1) The commission, in the reasonable exercise of its
3 discretion, shall enforce the provisions and rules of this compact.

4 (2) By majority vote, the commission may initiate
5 legal action in the U.S. District Court for the District of Columbia
6 or in the federal district in which the commission has its principal
7 offices against a party state that is in default to enforce
8 compliance with the provisions of this compact and its promulgated
9 rules and bylaws. The relief sought may include both injunctive
10 relief and damages. In the event judicial enforcement is
11 necessary, the prevailing party shall be awarded all costs of such
12 litigation, including reasonable attorneys' fees.

13 (3) The remedies herein shall not be the exclusive
14 remedies of the commission. The commission may pursue any other
15 remedies available under federal or state law.

16 ARTICLE X. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENTS

17 (a) This compact shall become effective and binding on the
18 earlier of the date of legislative enactment of this compact into
19 law by no less than twenty-six (26) states or December 31, 2018. All
20 party states to this compact that also were parties to the prior
21 Nurse Licensure Compact, superseded by this compact ("prior
22 compact"), shall be deemed to have withdrawn from said prior
23 compact within six (6) months after the effective date of this
24 compact.

25 (b) Each party state to this compact shall continue to
26 recognize a nurse's multistate licensure privilege to practice in
27 that party state issued under the prior compact until the party

1 state has withdrawn from the prior compact.

2 (c) Any party state may withdraw from this compact by
3 enacting a statute repealing the same. A party state's withdrawal
4 shall not take effect until six (6) months after enactment of the
5 repealing statute.

6 (d) A party state's withdrawal or termination shall not
7 affect the continuing requirement of the withdrawing or terminated
8 state's licensing board to report adverse actions and significant
9 investigations occurring prior to the effective date of such
10 withdrawal or termination.

11 (e) Nothing contained in this compact shall be construed to
12 invalidate or prevent any nurse licensure agreement or other
13 cooperative arrangement between a party state and a nonparty state
14 that is made in accordance with the other provisions of this
15 compact.

16 (f) This compact may be amended by the party states. No
17 amendment to this compact shall become effective and binding upon
18 the party states unless and until it is enacted into the laws of all
19 party states.

20 (g) Representatives of nonparty states to this compact
21 shall be invited to participate in the activities of the
22 commission, on a nonvoting basis, prior to the adoption of this
23 compact by all states.

24 ARTICLE XI. CONSTRUCTION AND SEVERABILITY

25 This compact shall be liberally construed so as to effectuate
26 the purposes thereof. The provisions of this compact shall be
27 severable, and if any phrase, clause, sentence, or provision of

1 this compact is declared to be contrary to the constitution of any
2 party state or the United States, or if the applicability thereof to
3 any government, agency, person, or circumstance is held invalid,
4 the validity of the remainder of this compact and the applicability
5 thereof to any government, agency, person, or circumstance shall
6 not be affected thereby. If this compact shall be held to be
7 contrary to the constitution of any party state, this compact shall
8 remain in full force and effect as to the remaining party states and
9 in full force and effect as to the party state affected as to all
10 severable matters.

11 SECTION 17. Chapter 304, Occupations Code, is amended by
12 adding Section 304.0025 to read as follows:

13 Sec. 304.0025. RULES ADOPTED UNDER COMPACT. The Interstate
14 Commission of Nurse Licensure Compact Administrators established
15 under the Nurse Licensure Compact under Section 304.0015 may not
16 adopt rules that alter the requirements or scope of practice of a
17 license issued under Chapter 301. Any rule adopted by the
18 Interstate Commission of Nurse Licensure Compact Administrators
19 that purports to alter the requirements or scope of practice of a
20 license issued under Chapter 301 is not enforceable.

21 SECTION 18. Section 304.006(a), Occupations Code, is
22 amended to read as follows:

23 (a) On request and payment of a reasonable fee, the Texas
24 Board of Nursing shall provide a registered or vocational nurse
25 licensed by this state with a copy of information regarding the
26 nurse maintained by the coordinated licensure information system
27 under Article VI [7] of the Nurse Licensure Compact.

1 SECTION 19. Section 304.008(a), Occupations Code, is
2 amended to read as follows:

3 (a) In reporting information to the coordinated licensure
4 information system under Article VI [7] of the Nurse Licensure
5 Compact, the Texas Board of Nursing may disclose personally
6 identifiable information about the nurse, including the nurse's
7 social security number.

8 SECTION 20. (a) Sections 301.160 and 301.163, Occupations
9 Code, are repealed.

10 (b) Effective December 31, 2018, Sections 304.001 and
11 304.009, Occupations Code, are repealed.

12 SECTION 21. (a) Except as provided by Subsection (b) of
13 this section, Section 301.059, Occupations Code, as amended by this
14 Act, applies to a member of the Texas Board of Nursing appointed
15 before, on, or after the effective date of this Act.

16 (b) A member of the Texas Board of Nursing who, before the
17 effective date of this Act, completed the training program required
18 by Section 301.059, Occupations Code, as that law existed before
19 the effective date of this Act, is required to complete additional
20 training only on subjects added to the training program required by
21 Section 301.059, Occupations Code, as amended by this Act. A board
22 member described by this subsection may not vote, deliberate, or be
23 counted as a member in attendance at a meeting of the board held on
24 or after December 1, 2017, until the member completes the
25 additional training.

26 SECTION 22. (a) Not later than May 31, 2018, the Texas
27 Board of Nursing shall adopt the rules necessary to implement the

1 changes in law made by this Act to Section 301.157, Occupations
2 Code. In adopting rules under this subsection, the board shall
3 provide an opportunity for public comment and, through the board's
4 Advisory Committee on Education, seek comment from interested
5 parties. The rules must:

6 (1) clearly define substantially equivalent education
7 standards for purposes of recognizing a school of nursing or
8 educational program operated in another state; and

9 (2) establish a process for enabling students enrolled
10 in an out-of-state school of nursing or educational program that
11 does not meet standards substantially equivalent to the board's
12 standards to apply for initial licensure under Chapter 301,
13 Occupations Code.

14 (b) Not later than March 1, 2018, the Texas Board of Nursing
15 shall adopt the rules necessary to implement the changes in law made
16 by this Act to Sections 301.252 and 301.452, Occupations Code. In
17 adopting rules under this subsection, the board shall seek comments
18 from relevant interested parties.

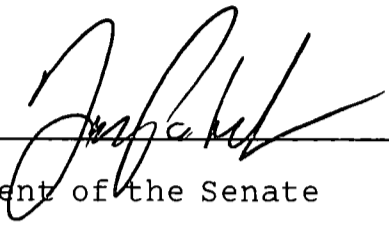
19 (c) Section 301.157(d-11), Occupations Code, as amended by
20 this Act, applies beginning with the passage rates available in
21 January 2018, reflecting the passage rates for the preceding year.
22 If the passage rate for a clinical competency assessment program
23 available in January 2018 does not meet the Texas Board of Nursing's
24 required passage rate for students of approved in-state programs,
25 the clinical competency assessment program shall complete the
26 self-study required under Section 301.157(d-11)(1), Occupations
27 Code, as amended by this Act, not later than May 31, 2018.

1 (d) Sections 301.301(b) and 301.461, Occupations Code, as
2 amended by this Act, apply only to the assessment of the
3 administrative costs of conducting a hearing to determine a
4 violation on or after the effective date of this Act. The
5 assessment of the administrative costs of conducting a hearing to
6 determine a violation before the effective date of this Act is
7 governed by the law in effect on the date the administrative costs
8 were assessed, and the former law is continued in effect for that
9 purpose.

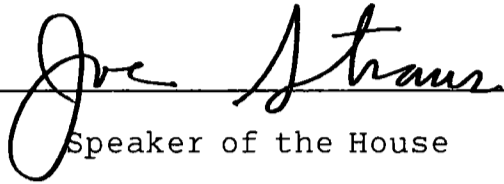
10 (e) Section 301.459, Occupations Code, as amended by this
11 Act, applies only to a contested case for which an administrative
12 law judge employed by the State Office of Administrative Hearings
13 issues written findings of fact and conclusions of law on or after
14 the effective date of this Act. A contested case for which an
15 administrative law judge employed by the State Office of
16 Administrative Hearings issues written findings of fact and
17 conclusions of law before the effective date of this Act is governed
18 by the law in effect on the date the findings of fact and
19 conclusions of law were issued, and the former law is continued in
20 effect for that purpose.

21 (f) Not later than March 1, 2019, the Texas Board of Nursing
22 shall implement Section 301.1583, Occupations Code, as added by
23 this Act, and remove any disciplinary actions from the nurse
24 licensure verification page on the board's Internet website that
25 meet the requirements of that section.

26 SECTION 23. Except as otherwise provided by this Act, this
27 Act takes effect September 1, 2017.



President of the Senate



Speaker of the House

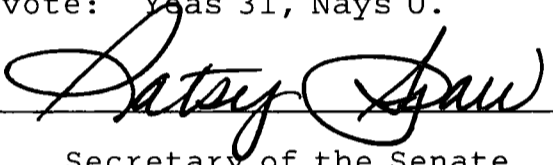
I certify that H.B. No. 2950 was passed by the House on May 3, 2017, by the following vote: Yeas 145, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2950 on May 24, 2017, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2950 on May 27, 2017, by the following vote: Yeas 134, Nays 11, 2 present, not voting.



Chief Clerk of the House


H.B. No. 2950

I certify that H.B. No. 2950 was passed by the Senate, with amendments, on May 19, 2017, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2950 on May 28, 2017, by the following vote: Yeas 31, Nays 0.


Secretary of the Senate

APPROVED: 6-7-2017
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
7:00 PM O'CLOCK
JUN 09 2017

Secretary of State

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 27, 2017

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
 Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2950 by Burkett (Relating to the continuation and functions of the Texas Board of Nursing and to the regulation of the practice of nursing.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2950, Conference Committee Report: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1
2018	\$0	\$0
2019	(\$50,050)	\$50,050
2020	\$0	\$0
2021	\$0	\$0
2022	\$0	\$0

Fiscal Analysis

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Board of Nursing (BON) and the regulation of the practice of nursing. The bill would continue BON for twelve years until September 1, 2029.

The bill would require BON to develop a path to initial licensure for graduates of out-of-state programs that are determined not to be substantially equivalent to Texas programs.

The bill would require BON, not later than March 1, 2019, to ensure that license denials and disciplinary actions are connected to the applicant's or license holder's conduct, and that the conduct is determined to affect the person's ability to practice nursing. The bill would require the board to remove a nurse's disciplinary action from the board's website if the nurse and action meet certain criteria: 1) the disciplinary action is the only disciplinary action taken against the nurse; 2) the disciplinary action was taken by the board for a violation that is not related to the practice of nursing; 3) the disciplinary action did not result in the suspension or revocation of, or the probation of the suspension or revocation of, the nurse's license; 4) the disciplinary action does not provide any indication that continued practice by the nurse may risk harm to a patient; and 5) the nurse has successfully completed the requirements imposed by the board in the disciplinary order related to the disciplinary action.

The bill would prohibit the board from charging a nurse for the administrative costs of conducting a hearing at the state office for administrative hearings.

The bill would require BON to develop guidelines in rule to establish individualized requirements for participants in a peer assistance program, and to notify a person that they can request a reevaluation of the requirement to participate in the peer assistance program. The bill would require BON to develop guidelines to establish meaningful performance goals for evaluating the success of the peer assistance program.

The bill would repeal the current Nurse Licensure Compact and replace it with an updated version of the compact. The new compact will go into effect when 26 states have adopted it or on December 31, 2018.

The bill would discontinue two reporting requirements regarding pilot programs and records of the board's proceedings.

Except as otherwise specified by the bill, the bill would take effect September 1, 2017.

Methodology

BON indicates the removal of disciplinary data for those orders already cleared would require the assistance of a temporary administrative employee. BON estimates there are 5,718 orders that were cleared between 1991 and 2012, and that each order would require an average of 15 minutes to both search for and remove all relevant references. In total, this would require approximately 1,430 hours at \$35 per hour, which would result in a cost of \$50,050 in fiscal year 2019.

According to analysis by the Sunset Commission, provisions that limit disciplinary actions to conduct relevant to the practice of nursing may eventually reduce the number of disciplinary actions, which may result in minimal savings. Provisions that allow for flexible program

requirements and reevaluations of participation in the peer assistance program may also yield minimal savings if fewer nurses are required to participate or they have shorter monitoring periods.

This analysis assumes that any increased cost to BON, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue.

The Sunset Advisory Commission, the State Office of Administrative Hearings, the Office of the Attorney General, and the Comptroller of Public Accounts anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 507 Texas Board of Nursing, 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 302 Office of the Attorney General, 515 Board of Pharmacy

LBB Staff: UP, JQ, KCA, EH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 21, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2950 by Burkett (Relating to the continuation and functions of the Texas Board of Nursing and to the regulation of the practice of nursing.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2950, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1
2018	\$0	\$0
2019	(\$50,050)	\$50,050
2020	\$0	\$0
2021	\$0	\$0
2022	\$0	\$0

Fiscal Analysis

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Board of Nursing (BON) and the regulation of the practice of nursing. The bill would continue BON for twelve years until September 1, 2029.

The bill would require BON to develop a path to initial licensure for graduates of out-of-state programs that are determined not to be substantially equivalent to Texas programs.

The bill would require BON, not later than March 1, 2019, to ensure that license denials and disciplinary actions are connected to the applicant's or license holder's conduct, and that the conduct is determined to affect the person's ability to practice nursing. The bill would require the board to remove a nurse's disciplinary action from the board's website if the nurse and action meet certain criteria: 1) the disciplinary action is the only disciplinary action taken against the nurse; 2) the disciplinary action was taken by the board for a violation that is not related to the practice of nursing; 3) the disciplinary action did not result in the suspension or revocation of, or the probation of the suspension or revocation of, the nurse's license; 4) the disciplinary action does not provide any indication that continued practice by the nurse may risk harm to a patient; and 5) the nurse has successfully completed the requirements imposed by the board in the disciplinary order related to the disciplinary action.

The bill would prohibit the board from charging a nurse for the administrative costs of conducting a hearing at the state office for administrative hearings.

The bill would require BON to develop guidelines in rule to establish individualized requirements for participants in a peer assistance program, and to notify a person that they can request a reevaluation of the requirement to participate in the peer assistance program. The bill would require BON to develop guidelines to establish meaningful performance goals for evaluating the success of the peer assistance program.

The bill would repeal the current Nurse Licensure Compact and replace it with an updated version of the compact. The new compact will go into effect when 26 states have adopted it or on December 31, 2018.

The bill would discontinue two reporting requirements regarding pilot programs and records of the board's proceedings.

Except as otherwise specified by the bill, the bill would take effect September 1, 2017.

Methodology

BON indicates the removal of disciplinary data for those orders already cleared would require the assistance of a temporary administrative employee. BON estimates there are 5,718 orders that were cleared between 1991 and 2012, and that each order would require an average of 15 minutes to both search for and remove all relevant references. In total, this would require approximately 1,430 hours at \$35 per hour, which would result in a cost of \$50,050 in fiscal year 2019.

According to analysis by the Sunset Commission, provisions that limit disciplinary actions to conduct relevant to the practice of nursing may eventually reduce the number of disciplinary actions, which may result in minimal savings. Provisions that allow for flexible program

requirements and reevaluations of participation in the peer assistance program may also yield minimal savings if fewer nurses are required to participate or they have shorter monitoring periods.

This analysis assumes that any increased cost to BON, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue.

The Sunset Advisory Commission, the State Office of Administrative Hearings, the Office of the Attorney General, and the Comptroller of Public Accounts anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 507 Texas Board of Nursing, 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 302 Office of the Attorney General, 515 Board of Pharmacy

LBB Staff: UP, JQ, KCA, EH

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 16, 2017

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2950 by Burkett (Relating to the continuation and functions of the Texas Board of Nursing and to the regulation of the practice of nursing.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2950, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1
2018	(\$50,050)	\$50,050
2019	\$0	\$0
2020	\$0	\$0
2021	\$0	\$0
2022	\$0	\$0

Fiscal Analysis

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Board of Nursing (BON) and the regulation of the practice of nursing. The bill would continue BON for twelve years until September 1, 2029.

The bill would require BON to develop a path to initial licensure for graduates of out-of-state programs that are determined not to be substantially equivalent to Texas programs.

The bill would require BON to ensure that license denials and disciplinary actions are connected to the applicant's or license holder's conduct, and that the conduct is determined to affect the person's ability to practice nursing. The bill would require the board to remove a nurse's disciplinary action from the board's website if the nurse and action meet certain criteria: 1) the nurse applies to the board to remove the disciplinary action; 2) the nurse has only one disciplinary action; 3) the disciplinary action was administrative, clerical, or a minor violation that did not cause harm to a patient; 4) the disciplinary action did not result in suspension, revocation, or probation of the nurse's license; 5) the disciplinary action did not indicate that the nurse may be harmful to patients in the future; and 6) the disciplinary action occurred at least five years before the date the nurse asks for the removal.

The bill would prohibit the board from charging a nurse for the administrative costs of conducting a hearing at the state office for administrative hearings.

The bill would require BON to develop guidelines in rule to establish individualized requirements for participants in a peer assistance program, and to notify a person that they can request a reevaluation of the requirement to participate in the peer assistance program. The bill would require BON to develop guidelines to establish meaningful performance goals for evaluating the success of the peer assistance program.

The bill would repeal the current Nurse Licensure Compact and replace it with an updated version of the compact. The new compact will go into effect when 26 states have adopted it or on December 31, 2018.

The bill would discontinue two reporting requirements regarding pilot programs and records of the board's proceedings.

Except as otherwise specified by the bill, the bill would take effect September 1, 2017.

Methodology

BON indicates the removal of disciplinary data for those orders already cleared would require the assistance of a temporary administrative employee. BON estimates there are 5,718 orders that were cleared between 1991 and 2012, and that each order would require an average of 15 minutes to both search for and remove all relevant references. In total, this would require approximately 1,430 hours at \$35 per hour, which would result in a cost of \$50,050 in fiscal year 2018.

According to analysis by the Sunset Commission, provisions that limit disciplinary actions to conduct relevant to the practice of nursing may eventually reduce the number of disciplinary actions, which may result in minimal savings. Provisions that allow for flexible program requirements and reevaluations of participation in the peer assistance program may also yield minimal savings if fewer nurses are required to participate or they have shorter monitoring periods.

This analysis assumes that any increased cost to BON, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue.

The Sunset Advisory Commission, the State Office of Administrative Hearings, the Office of the Attorney General, and the Comptroller of Public Accounts anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 507 Texas Board of Nursing, 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 302 Office of the Attorney General, 515 Board of Pharmacy

LBB Staff: UP, JQ, KCA, EH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 9, 2017

TO: Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2950 by Burkett (Relating to the continuation and functions of the Texas Board of Nursing and to the regulation of the practice of nursing.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2950, As Engrossed: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i>	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i>
	1	1
2018	(\$50,050)	\$50,050
2019	\$0	\$0
2020	\$0	\$0
2021	\$0	\$0
2022	\$0	\$0

Fiscal Analysis

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Board of Nursing (BON) and the regulation of the practice of nursing. The bill would continue BON for twelve years until September 1, 2029.

The bill would require BON to develop a path to initial licensure for graduates of out-of-state programs that are determined not to be substantially equivalent to Texas programs.

The bill would require BON to ensure that license denials and disciplinary actions are connected to the applicant's or license holder's conduct, and that the conduct is determined to affect the person's ability to practice nursing. The bill would require the board to remove a nurse's disciplinary action from the board's website if the nurse and action meet certain criteria: 1) the nurse applies to the board to remove the disciplinary action; 2) the nurse has only one disciplinary action; 3) the disciplinary action was administrative, clerical, or a minor violation that did not cause harm to a patient; 4) the disciplinary action did not result in suspension, revocation, or probation of the nurse's license; 5) the disciplinary action did not indicate that the nurse may be harmful to patients in the future; and 6) the disciplinary action occurred at least five years before the date the nurse asks for the removal.

The bill would prohibit the board from charging a nurse for the administrative costs of conducting a hearing at the state office for administrative hearings.

The bill would require BON to develop guidelines in rule to establish individualized requirements for participants in a peer assistance program, and to notify a person that they can request a reevaluation of the requirement to participate in the peer assistance program. The bill would require BON to develop guidelines to establish meaningful performance goals for evaluating the success of the peer assistance program.

The bill would require BON to periodically check prescribing information submitted by licensees to the Texas State Board of Pharmacy (TSBP) in the Prescription Monitoring Program to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices. The bill requires BON, in coordination with TSBP, to determine conduct that constitutes such patterns or practices. The bill permits BON, if it suspects that a licensee is engaging in such patterns or practices, to notify the licensee and to initiate a complaint against the licensee.

The bill would repeal the current Nurse Licensure Compact and replace it with an updated version of the compact. The new compact will go into effect when 26 states have adopted it or on December 31, 2018.

The bill would discontinue two reporting requirements regarding pilot programs and records of the board's proceedings.

Except as otherwise specified by the bill, the bill would take effect September 1, 2017.

Methodology

BON indicates the removal of disciplinary data for those orders already cleared would require the assistance of a temporary administrative employee. BON estimates there are 5,718 orders that were cleared between 1991 and 2012, and that each order would require an average of 15 minutes to both search for and remove all relevant references. In total, this would require approximately 1,430 hours at \$35 per hour, which would result in a cost of \$50,050 in fiscal year 2018.

According to analysis by the Sunset Commission, provisions that limit disciplinary actions to conduct relevant to the practice of nursing may eventually reduce the number of disciplinary actions, which may result in minimal savings. Provisions that allow for flexible program requirements and reevaluations of participation in the peer assistance program may also yield minimal savings if fewer nurses are required to participate or they have shorter monitoring periods.

Based on information provided by the TSBP, it is assumed the periodic check of prescribing information to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices would require a query of information by the administrator of the program at TSBP. Based on the LBB's analysis of TSBP, duties and responsibilities associated with implementing the provisions of this bill at TSBP could be accomplished by utilizing existing resources.

This analysis assumes that any increased cost to BON, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue.

The Sunset Advisory Commission, the State Office of Administrative Hearings, the Office of the Attorney General, and the Comptroller of Public Accounts anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 507 Texas Board of Nursing, 302 Office of the Attorney General, 515 Board of Pharmacy

LBB Staff: UP, JQ, KCA, EH

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 17, 2017

TO: Honorable Four Price, Chair, House Committee on Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2950 by Burkett (Relating to the continuation and functions of the Texas Board of Nursing and to the regulation of the practice of nursing.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Board of Nursing (BON) and the regulation of the practice of nursing. The bill would continue BON for twelve years until September 1, 2029.

The bill would require BON to develop a path to initial licensure for graduates of out-of-state programs that are determined not to be substantially equivalent to Texas programs.

The bill would require BON to ensure that license denials and disciplinary actions are connected to the applicant's or license holder's conduct, and that the conduct is determined to affect the person's ability to practice nursing.

The bill would require BON to develop guidelines in rule to establish individualized requirements for participants in a peer assistance program, and to notify a person that they can request a reevaluation of the requirement to participate in the peer assistance program. The bill would require BON to develop guidelines to establish meaningful performance goals for evaluating the success of the peer assistance program.

The bill would require BON to periodically check prescribing information submitted by licensees to the Texas State Board of Pharmacy (TSBP) in the Prescription Monitoring Program to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices. The bill requires BON, in coordination with TSBP, to determine conduct that constitutes such patterns or practices. The bill permits BON, if it suspects that a licensee is engaging in such patterns or practices, to notify the licensee and to initiate a complaint against the licensee.

The bill would repeal the current Nurse Licensure Compact and replace it with an updated version of the compact. The new compact will go into effect when 26 states have adopted it or on December 31, 2018.

The bill would discontinue two reporting requirements regarding pilot programs and records of the board's proceedings.

Except as otherwise specified by the bill, the bill would take effect September 1, 2017.

According to analysis by the Sunset Commission, provisions that limit disciplinary actions to conduct relevant to the practice of nursing may eventually reduce the number of disciplinary actions, which may result in minimal savings. Provisions that allow for flexible program requirements and reevaluations of participation in the peer assistance program may also yield minimal savings if fewer nurses are required to participate or they have shorter monitoring periods.

Based on information provided by the TSBP, it is assumed the periodic check of prescribing information to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices would require a query of information by the administrator of the program at TSBP. Based on the LBB's analysis of TSBP, duties and responsibilities associated with implementing the provisions of this bill at TSBP could be accomplished by utilizing existing resources.

The Board of Nursing, the Sunset Advisory Commission, the State Office of Administrative Hearings, the Office of the Attorney General, and the Comptroller of Public Accounts anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 507 Texas Board of Nursing, 515 Board of Pharmacy

LBB Staff: UP, JQ, KCA, EH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 2, 2017

TO: Honorable Four Price, Chair, House Committee on Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2950 by Burkett (Relating to the continuation and functions of the Texas Board of Nursing and to the regulation of the practice of nursing.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Occupations Code relating to the continuation and functions of the Texas Board of Nursing (BON) and the regulation of the practice of nursing. The bill would continue BON for twelve years until September 1, 2029.

The bill would require BON to develop a path to initial licensure for graduates of out-of-state programs that are determined not to be substantially equivalent to Texas programs.

The bill would require BON to ensure that license denials and disciplinary actions are connected to the applicant's or license holder's conduct, and that the conduct is determined to affect the person's ability to practice nursing.

The bill would require BON to develop guidelines in rule to establish individualized requirements for participants in a peer assistance program, and to notify a person that they can request a reevaluation of the requirement to participate in the peer assistance program. The bill would require BON to develop guidelines to establish meaningful performance goals for evaluating the success of the peer assistance program.

The bill would require BON to periodically check prescribing information submitted by licensees to the Texas State Board of Pharmacy (TSBP) in the Prescription Monitoring Program to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices. The bill requires BON, in coordination with TSBP, to determine conduct that constitutes such patterns or practices. The bill permits BON, if it suspects that a licensee is engaging in such patterns or practices, to notify the licensee and to initiate a complaint against the licensee.

The bill would repeal the current Nurse Licensure Compact and replace it with an updated version of the compact. The new compact will go into effect when 26 states have adopted it or on December 31, 2018.

The bill would discontinue two reporting requirements regarding pilot programs and records of the board's proceedings.

Except as otherwise specified by the bill, the bill would take effect September 1, 2017.

According to analysis by the Sunset Commission, provisions that limit disciplinary actions to conduct relevant to the practice of nursing may eventually reduce the number of disciplinary actions, which may result in minimal savings. Provisions that allow for flexible program requirements and reevaluations of participation in the peer assistance program may also yield minimal savings if fewer nurses are required to participate or they have shorter monitoring periods.

Based on information provided by the TSBP, it is assumed the periodic check of prescribing information to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices would require a query of information by the administrator of the program at TSBP. Based on the LBB's analysis of TSBP, duties and responsibilities associated with implementing the provisions of this bill at TSBP could be accomplished by utilizing existing resources.

The Board of Nursing, the Sunset Advisory Commission, the State Office of Administrative Hearings, the Office of the Attorney General, and the Comptroller of Public Accounts anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 507 Texas Board of Nursing, 515 Board of Pharmacy

LBB Staff: UP, KCA, EH, JQ