



# Board of Nurse Examiners

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H.B. 2426 Truitt, et al. (Deuell)

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## Summary

The mission of the Board of Nurse Examiners (the Board) is to protect the public and promote the welfare of Texans by regulating the practices of professional and vocational nursing. The Board seeks to accomplish its mission by licensing qualified individuals to practice nursing; authorizing the advanced practice of qualified professional nurses for such things as issuing prescriptions; establishing standards for and approving nursing education programs; and investigating and taking disciplinary action to enforce the Nursing Practice Act and Board rules. The agency operated with a budget of about \$6.5 million in fiscal year 2006 and employs 79 staff.

House Bill 2426 continues the Board of Nurse Examiners and contains all of the Sunset Commission's recommendations, including legislative guidance in areas such as approving nursing education programs and the Board's use of criminal history information. The list below summarizes the major provisions of H.B. 2426, and a more detailed discussion follows.

## Sunset Provisions

1. Streamline the Nurse Board's process for approving nursing education programs to remove unnecessary complexity, eliminate duplication, and accommodate changes in the delivery of nursing education.
2. Encourage an innovative approach by the Board for dealing with the nursing shortage.
3. Require the Board to clarify how it will use criminal history and arrest information in licensing and disciplining nurses.
4. Change the way the Board uses advisory committees to ensure objective, independent advice on Board functions and policies.
5. Adopt the Advanced Practice Registered Nurse Multistate Compact to make it easier for nurses to come to Texas.
6. Improve the Board's ability to deal with impaired nurses who commit practice violations.
7. Strengthen the Board's oversight of targeted continuing education to make the requirements workable for the Board and beneficial for nurses.
8. Conform key elements of the Board's licensing and enforcement functions to commonly applied licensing practices.
9. Continue the Board of Nurse Examiners for 10 years.

## Provisions Added by the Legislature

10. Change the name of the agency to the Texas Board of Nursing.
11. Establish the Texas Hospital-Based Nursing Education Partnership Grant Program.
12. Allow flexibility in employment policies for nurses in medical and dental units.

## *Sunset Provisions*

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### **1. Streamline the Nurse Board's process for approving nursing education programs to remove unnecessary complexity, eliminate duplication, and accommodate changes in the delivery of nursing education.**

The bill allows any nursing program that maintains accreditation through a nursing accrediting agency recognized by the U.S. Department of Education, and determined by the Board to have acceptable standards, to be approved by the Board and exempt from Board rules regarding ongoing program approval if the program's pass rate on the licensing examination does not indicate a problem. The Legislature modified this provision to require approved nursing education programs to provide the Board reports related to their accreditation and to provide other information for nursing workforce analysis in Texas. The Legislature added language to clarify that the Board can withdraw its approval from a nursing program that fails to meet the standard under which it is approved by the Board.

House Bill 2426 also clarifies that the Board can recognize and accept as approved for educational and licensing purposes, nursing education programs that are approved by another state board of nursing that meet the Texas Board's standards. The Board may no longer consider students in Texas enrolled in these programs to be practicing nursing without a license. In addition, the bill limits the Board to approving only nursing education programs that lead to initial licensure as a professional or vocational nurse.

The bill requires the Board to streamline its initial approval process by identifying and eliminating tasks that are duplicated or overlap between the Board and the Texas Higher Education Coordinating Board or the Texas Workforce Commission. The Board must work with these agencies to establish guidelines for initial program approval, specifying that approval by either of these agencies must precede the Board's approval because of those agencies' primary roles in approving education programs.

The Legislature modified the Sunset provision regarding phasing out hospital-based diploma programs by 2015 to specify that such a program of study completed on or after December 31, 2014 must entitle a student to receive a degree upon successful completion of a degree program of a public or private institution of higher education recognized by the Coordinating Board.

The Legislature further modified the bill's provisions regarding nursing education to require the governing institution of a professional nursing school to be accredited by an agency recognized by the Coordinating Board, or be in the process of gaining accreditation. The bill prohibits the Nurse Board from requiring such accreditation on its own.

**2. Encourage an innovative approach by the Board for dealing with the nursing shortage.**

The bill requires the Board to implement, monitor, and evaluate a plan for creating innovative models for nursing education that promote increased enrollment in Texas nursing programs as part of a plan to alleviate the nursing shortage in Texas. The Legislature modified the Sunset provision to include the Texas Health Care Policy Council with the Coordinating Board and nursing education stakeholders in the collaboration to create the plan. The Board must implement a statewide plan for creating these models and must report back to the Sunset Commission by September 1, 2008, regarding the plan and the Board's efforts to increase enrollment in nursing education programs.

**3. Require the Board to clarify how it will use criminal history and arrest information in licensing and disciplining nurses.**

House Bill 2426 requires the Board to establish guidelines to ensure that criminal history and arrest information used in making license eligibility and disciplinary decisions relates to the individual's ability to practice nursing.

**4. Change the way the Board uses advisory committees to ensure objective, independent advice on Board functions and policies.**

The bill requires the Board to adopt rules regarding the purpose, structure, and use of its advisory committees. The bill prohibits Board members from serving on the Board's advisory committees, and requires the Board to change its current advisory committee structure to ensure that it is consistent with these requirements. The Legislature modified the Sunset provision to delete language that had prohibited Board members from being entitled to travel expenses for attending advisory committee meetings as a liaison from the Board.

**5. Adopt the Advanced Practice Registered Nurse Multistate Compact to make it easier for nurses to come to Texas.**

House Bill 2426 adopts the Advanced Practice Registered Nurse (APRN) Multistate Compact and allows qualified advanced practice nurses from other member states to practice in Texas without having to go through the Board's authorization process. Authority to establish criteria for recognizing advanced practice nurses remains with the Board and is not dictated by the APRN Compact. The Board must adopt rules necessary for implementation of the APRN Compact by December 31, 2011 or the authority to implement the Compact expires.

**6. Improve the Board's ability to deal with impaired nurses who commit practice violations.**

The bill requires third parties, who already have an obligation to report impaired nurses to a peer assistance program, to report to the Board when a practice violation occurs as a result of a nurse's chemical dependency or diminished mental capacity. In these cases, the Board is responsible for determining if a nurse violated the Act, and is therefore subject to appropriate discipline by the Board. The Board must also develop guidelines, in rule, to improve information sharing and communication between the Board and its peer assistance provider.

**7. Strengthen the Board’s oversight of targeted continuing education to make the requirements workable for the Board and beneficial for nurses.**

House Bill 2426 requires the Board to define the parameters of targeted continuing education (CE) requirements imposed by the Legislature or the Board. The Board’s guidelines may specify the nurses affected, the types of courses required, the time frames for completing the CE and other requirements. The bill does not preclude targeted CE from being required for nurses and does not change the current requirement for 20 hours of CE in each two-year period.

**8. Conform key elements of the Board’s licensing and enforcement functions to commonly applied licensing practices.**

The bill includes 10 provisions that bring the Nurse Board in line with standard licensing agency practices, including the following.

- ◆ Requires applicants to pass a jurisprudence exam as a condition of licensure.
- ◆ Requires the Board to adopt clear procedures governing all parts of the testing process, including test admission and administration.
- ◆ Directs the Board to establish a policy for nonrefundable examination fees.
- ◆ Changes the basis for the Board’s late renewal penalties, as modified by the Legislature to provide for the Board to establish late fees to encourage timely renewal of licenses and to remove the requirement for a person whose license is expired for more than one year to obtain new license through reexamination.
- ◆ Requires the Board to adopt an enforcement matrix in rule.
- ◆ Requires the Board to develop a method for analyzing trends in complaints and violations.
- ◆ Authorizes staff to dismiss baseless cases.
- ◆ Increases the amount of the Board’s administrative penalty authority.
- ◆ Authorizes the Board to require refunds as part of the agreed settlement process.
- ◆ Authorizes the Board to issue cease-and-desist orders, as modified by the Legislature to issue the order without first having to provide notice and opportunity for hearing.
- ◆ Authorizes Board members to receive reimbursement for travel expenses.

**9. Continue the Board of Nurse Examiners for 10 years.**

House Bill 2426 continues the Board as an independent agency for 10 years, until 2017. The 10-year renewal period will put the Board on the same review schedule as other similar healthcare regulatory boards, such as the Texas Medical Board.

## *Provisions Added by the Legislature*

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### **10. Change the name of the agency to the Texas Board of Nursing.**

The bill changes the name of the agency from the “Board of Nurse Examiners” to “Texas Board of Nursing” and updates references in the Nursing Practice Act and other statutes to reflect the name change. The bill also clarifies that current Board members continue to serve as members of the Texas Board of Nursing for the remainder of their terms.

### **11. Establish the Texas Hospital-Based Nursing Education Partnership Grant Program.**

House Bill 2426 establishes a new Texas Hospital-Based Nursing Education Partnership Grant Program. The bill requires the Texas Higher Education Coordinating Board, to the extent funds are available through legislative appropriation or from gifts, grants, and donations, to make grants to hospital-based nursing education partnerships to assist those partnerships to meet the State’s needs for registered nurses. Nursing education programs participating in the partnership must meet Nurse Board standards for instruction and student competency.

### **12. Allow flexibility in employment policies for nurses in medical and dental units.**

The bill requires the president of a medical and dental unit to determine whether a nurse employed by the unit for patient care or clinical activities is a full-time employee for purposes of employees group benefits, leave, and longevity pay. The bill also allows the medical or dental unit to contribute to the cost of any coverage or benefit above the state contribution from money other than that appropriated from general revenue.

## *Fiscal Implication Summary*

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House Bill 2426 will not have a fiscal impact to the State. Although the bill establishes the Texas Hospital-Based Nursing Education Partnership Grant Program, the Legislature did not appropriate funding for this provision.