CHAPTER 302. TEXAS OCCUPATIONS CODE – LICENSED VOCATIONAL NURSES

(FORMERLY VOCATIONAL NURSE ACT – ARTICLE 4528C)

CHAPTER 303. TEXAS OCCUPATIONS CODE – NURSING PEER REVIEW

ARTICLE 4528B. NURSE LICENSURE COMPACT

Issued by:

TEXAS BOARD OF VOCATIONAL NURSE EXAMINERS
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CHAPTER 302. LICENSED VOCATIONAL NURSES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 302.001. DEFINITIONS. In this chapter:

(1) "Board" means the Board of Vocational Nurse Examiners.

(2) "Licensed practical nurse" means the title used in other states for a nurse with licensure requirements similar to those for a licensed vocational nurse. The term is synonymous with "practical nurse."

(3) "Licensed vocational nurse" means a person licensed under this chapter.

(4) "Nursing" means attending to or caring for a person's illness or health for compensation.

(5) "Vocational nursing" means nursing that generally requires experience and education in biological, physical, and social sciences sufficient to qualify as a licensed vocational nurse.

Sec. 302.002. APPLICATION OF SUNSET ACT.
The Board of Vocational Nurse Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2005.

Sec. 302.003. APPLICATION OF CHAPTER. This chapter does not apply to:

(1) nursing of the sick provided without charge by a friend or family member; or

(2) a person who does not:

(A) represent to the public that the person is a licensed vocational nurse; or

(B) use the abbreviation "L.V.N."

SUBCHAPTER B. BOARD OF VOCATIONAL NURSE EXAMINERS

Sec. 302.051. BOARD MEMBERSHIP; ELIGIBILITY. (a) The Board of Vocational Nurse Examiners consists of 15 members appointed by the governor with the advice and consent of the senate as follows:

(1) seven licensed vocational nurse members who:

(A) are graduates of approved schools of vocational nursing;

(B) have actively engaged in the practice of vocational nursing for the five years preceding appointment; and

(C) are not licensed physicians, registered nurses, or hospital administrators;

(2) one registered nurse member licensed by the Board of Nurse Examiners who:

(A) is actively engaged in a teaching, administrative, or supervisory capacity in a vocational nursing educational program; and

(B) is not a licensed physician, licensed vocational nurse, or hospital administrator;

(3) one physician member licensed by the Texas State Board of Medical Examiners who:

(A) has actively engaged in the practice of medicine for the five years preceding appointment; and

(B) is not a registered nurse, licensed vocational nurse, or hospital administrator;

(4) one hospital administrator member who:

(A) has actively engaged in hospital administration for a period of five years; and

(B) is not a licensed physician, registered nurse, or licensed vocational nurse; and

(5) five members who represent the public.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, or national origin of the appointee.

(c) Each appointee shall qualify by taking the constitutional oath of office not later than the 15th day after the date of appointment.

Sec. 302.052. PUBLIC MEMBER ELIGIBILITY. A person is not eligible for appointment to the board as a public member if the person or the person's

spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a business entity or other organization regulated by the board or receiving funds from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving funds from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 302.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) An officer, employee, or paid consultant of a Texas trade association in the field of health care may not be a board member.

(c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health care may not be a board member.

(d) A person may not serve as a member of the board or act as general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the board's operation.

Sec. 302.054. TERMS; VACANCY. (a) Board members serve staggered six-year terms.

(b) A member may not immediately succeed the member's term in office.

(c) If a vacancy occurs on the board, the governor shall appoint a member to fill the vacant office for the remainder of the unexpired term not later than the 60th day after the date the vacancy occurs.

Sec. 302.055. GROUNDS FOR REMOVAL. (a) It is a ground for removal from

the board that a member:

(1) does not have at the time of appointment the qualifications required by Section 302.051 or 302.052;

(2) does not maintain during service on the board the qualifications required by Section 302.051 or 302.052;

(3) violates a prohibition established by Section 302.053;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year, unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the president of the board of the potential ground. The president shall then notify the governor that a potential ground for removal exists.

Sec. 302.056. PER DIEM; REIMBURSEMENT. (a) Each board member is entitled to receive a per diem as set by the General Appropriations Act for each day the member engages in the business of the board.

(b) A board member may not receive reimbursement for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to reimbursement for transportation expenses as provided by the General Appropriations Act.

Sec. 302.057. OFFICERS. (a) The governor shall designate a board member as the president of the board to serve in that capacity at the will of the governor.

(b) The board shall elect a vice president and secretary-treasurer annually.

(c) The secretary-treasurer shall keep:

(1) minutes of each board meeting;

(2) a register of the names of all nurses licensed under this chapter.

(3) records of fees received and disbursements.

(d) The secretary-treasurer shall be bonded by the board in an amount recommended by the state auditor.

Sec. 302.058. MEETINGS; ANNUAL MEETING. (a) The board shall hold a regular meeting at least twice each year. One regular meeting must be designated as an annual meeting. At the annual meeting, officers shall be elected and auditors' reports shall be read.

(b) The board shall hold a special meeting at the request of five board members or the call of the president.

(c) If a quorum does not exist on the day appointed for a board meeting, the members present may adjourn from day to day for a period not to exceed three days until a quorum exists.

Sec. 302.059. TRAINING. (a) Before a board member may assume the member's duties, the member must complete at least one course of a training program established by the board under this section.

(b) The training program shall provide information to the member regarding:

(1) this chapter;

(2) the programs operated by the board;

(3) the role and functions of the board;

(4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the board;

(6) the results of the most recent formal audit of the board;

(7) the requirements of Chapters 551, 552, 2001, and 2002, Government Code;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) In developing the training program, the board shall consult with the

governor's office, the attorney general's office, and the Texas Ethics Commission.

(d) If another state agency or entity is given the authority to establish the training requirements for board members, the board shall allow that training instead of developing its own program.

SUBCHAPTER C. EXECUTIVE DIRECTOR AND PERSONNEL

Sec. 302.101. EXECUTIVE DIRECTOR. The board shall employ an executive director who is not a board member to perform the board's administrative functions.

Sec. 302.102. DIRECTOR OF EDUCATION. The board shall employ a full-time director of education who:

(1) is a licensed vocational nurse or a registered nurse; and

(2) has taught nursing for at least five years in:

(A) an accredited school of nursing; or

(B) an approved vocational nursing program.

Sec. 302.103. PERSONNEL. The board shall employ other persons that the board considers necessary to carry out this Chapter.

Sec. 302.104. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The board shall provide, as often as necessary, to its members and employees information regarding their:

(1) qualifications for office or employment under this chapter; and

(2) responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 302.105. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on measurable job tasks. All merit pay for board employees must be based on the system

established under this subsection.

Sec. 302.106. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT.

(a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to ensure implementation of an equal employment opportunity program under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, application, training, and promotion of personnel that are in compliance with the requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the board workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the board workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must:

(1) cover an annual period;

(2) be updated annually;

(3) be reviewed by the Texas Commission on Human Rights for compliance with Subsection (a)(1); and

(4) be filed with the governor.

(c) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as part of other biennial reports to the legislature.

SUBCHAPTER D. GENERAL POWERS AND DUTIES OF BOARD

Sec. 302.151. GENERAL POWERS AND DUTIES OF BOARD; RULEMAKING AUTHORITY. (a) The board shall enforce this chapter.

(b) The board may adopt rules as necessary to govern its proceedings and to implement the purposes of this chapter.

Sec. 302.152. RULES REGARDING ADVERTISING AND COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a license holder under this chapter except to prohibit false, misleading, or deceptive practices by the license holder.

(b) The board may not include in its rules to prohibit false, misleading, or deceptive practices by a license holder a rule that:

(1) restricts the license holder's use of any medium for advertising;

(2) restricts the license holder's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement used by the license holder; or

(4) restricts the use of a trade name in advertising by the license holder.

Sec. 302.153. FEES. (a) The board by rule shall establish reasonable and necessary fees that in the aggregate produce revenue sufficient to cover the cost of administering this chapter. The board may not establish a fee that was assessed on September 1, 1993, in an amount less than the amount of that fee on that date.

(b) The board may not maintain unnecessary fund balances, and fee amounts shall be established in accordance with this requirement.

(c) All expenses under this chapter shall be paid from fees collected by the board under this chapter.

Sec. 302.154. OCCUPATIONAL TAX AND FEE EXEMPTION. A licensed vocational nurse organization that operates a *nonprofit* registry to enroll members to provide nursing to the public is not liable for the payment of an occupation tax or license fee imposed under any law unless the licensed vocational nurse registry is specifically named in the law.

Sec. 302.155. DISSEMINATION OF INFORMATION. The board shall disseminate, at least twice a year and at other times the board determines necessary, information that is of significant interest to licensed vocational nurses and employers of licensed vocational nurses in this state, including summaries of final disciplinary action taken by the board against licensed vocational nurses since the previous dissemination of information.

Sec. 302.156. BOARD DUTIES REGARDING COMPLAINTS. (a) The board by rule shall:

(1) adopt a form to standardize information concerning complaints made to the board; and

(2) prescribe information to be provided to a person when the person files a complaint with the board.

(b) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

Sec. 302.157. LEGAL COUNSEL. The *board may* retain outside legal counsel to represent the board if first:

(1) the board requests the attorney general to represent the board; and

(2) the attorney general certifies to the board that the attorney general cannot provide those services.

Sec. 302.158. ANNUAL REPORT. (a) The board shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year.

(b) The report must be in the form and reported in the time provided by the General Appropriations Act.

SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 302.201. PUBLIC INTEREST INFORMATION. (a) The board shall prepare information of public interest describing the functions of the board and the board's procedures by which complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

Sec. 302.202. COMPLAINTS. (a) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notice:

(1) on each registration form, application, or written contract for services of a person regulated by the board;

(2) on a sign prominently displayed in the place of business of each person regulated by the board; or

(3) in a bill for service provided by a person regulated by the board.

(b) The board shall enter into memoranda of understanding with each state agency that licenses health care facilities or agencies to coordinate the notification requirements under Subsection (a) with notification requirements that may be imposed on the health care facility or agency by any other state agency.

(c) The board shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a health professional.

Sec. 302.203. RECORDS OF COMPLAINTS. (a) The board shall keep an information file about each complaint filed with the board relating to a license holder. The information file must be kept current and must contain a record for each complaint of:

(1) each person contacted in relation to the complaint;

(2) a summary of findings made at each step of the complaint process;

(3) an explanation of the legal basis and reason for a complaint that is dismissed;

(4) the schedule required under Section 302.205(a) and a notation about any change in that schedule; and

(5) other relevant information.

(b) If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Sec. 302.204. GENERAL RULES REGARDING COMPLAINT INVESTIGATION.

(a) The board shall adopt rules concerning the investigation of a complaint filed with the board.

(b) The rules adopted under this section must:

(1) distinguish between categories of complaints;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator.

Sec. 302.205. DISPOSITION OF COMPLAINTS. (a) The board shall:

(1) dispose of all complaints in a timely manner; and

(2) establish a schedule for conducting each phase of a complaint that is under the control of the board not later than the 30th day after the date the board receives the complaint.

(b) Each party shall be notified of the projected schedule for the complaint. Each party to the complaint must be notified of any change in the schedule not later than the seventh day after the date the change is made.

(c) The executive director shall notify the board of a complaint that is not resolved within the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

Sec. 302.206. PUBLIC PARTICIPATION. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

(b) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs.

SUBCHAPTER F. PROGRAM APPROVAL

Sec. 302.251. DEFINITION. In this subchapter, "institution" includes a school or hospital in which a vocational nurse education program is located.

Sec. 302.252. APPLICATION. (a) To operate an approved vocational nurse education program under board rules, an institution must apply to the board.

(b) The application must be accompanied by:

(1) evidence that the institution is prepared to give a vocational nurse education program approved by the Board; and

(2) the required fee.

Sec. 302.253. ADDITIONAL APPROVAL REQUIREMENTS FOR HOSPITALS.

A hospital may operate an approved vocational nurse education program if the hospital:

(1) is in regular use for patients;

(2) has a registered nurse in charge of nursing;

(3) has a staff that consists of at least one physician licensed by the Texas State Board of Medical Examiners; and

(4) meets board requirements for vocational nurse education.

Sec. 302.254. SURVEY; PLACEMENT ON LIST OF INSTITUTIONS.

(a) On receipt of an application under Section 302.252, a qualified representative of the board shall survey the applicant.

(b) If in the opinion of the board, an institution meets the requirements for an approved vocational nurse education program, the institution shall be placed on a list of institutions offering approved programs for educating vocational nurses.

Sec. 302.255. DUTIES OF DIRECTOR OF EDUCATION; VISIT AND SURVEY.

(a) The director of education shall visit and survey each vocational nursing institution to determine whether the board's minimum requirements for vocational nurse education programs are being met.

(b) The board shall prescribe the methods and rules for conducting the survey and methods of reporting.

Sec. 302.256. PERIODIC SURVEY OF PROGRAMS; FEE. (a) The board periodically shall survey each vocational nurse education program offered in this state. A written report of the survey must be submitted to the board.

(b) If the board determines as a result of the survey that a vocational nursing institution does not maintain the standards required by law and board rules, the board shall:

(1) immediately notify the institution operating the program; and

(2) require the institution to comply with the standards within a reasonable time established by the board and stated in the notice.

(c) If the institution does not comply with the standards as required in the notice under Subsection (b), the board shall remove the institution from the list of institutions offering approved vocational nursing programs.

(d) The board by rule may establish a separate fee for the survey of approved programs.

SUBCHAPTER G. LICENSE REQUIREMENTS

Sec. 302.301. LICENSE REQUIRED. A person may not use the designation "Licensed Vocational Nurse" or the abbreviation "L.V.N." unless the person holds a license under this chapter.

Sec. 302.302. LICENSE APPLICATION. Each applicant for a vocational nurse license must submit to the board an application on a form furnished by the board that contains satisfactory sworn evidence that the applicant:

(1) holds a high school diploma issued by an accredited secondary school or equivalent educational credentials; and

(2) has completed a vocational nurse education program in an institution that is approved by the board or another state.

Sec. 302.303. ALTERNATIVE EDUCATIONAL REQUIREMENTS. (a) The board may waive the requirement of Section 302.302(2) if the applicant provides satisfactory sworn evidence that the applicant has completed an acceptable level of education in:

(1) a nursing school approved by the Board of Nurse Examiners; or

(2) a school of professional nurse education located in another state or a foreign country.

(b) The board by rule shall determine acceptable levels of education.

Sec. 302.304. TRAINING IN OTHER JURISDICTIONS. An applicant who received training in another state or a foreign country must provide evidence satisfactory to the board that the education received is equivalent to that required for licensure as a vocational nurse in this state.

Sec. 302.305. EXAMINATION. (a) Except as provided by Section 302.308, an applicant must pass an examination to be licensed as a licensed vocational nurse.

(b) At least twice each year, the board shall hold examinations in various cities in this state for qualified applicants under this chapter.

(c) An examination may be held under the supervision of a board member or another person the board specifies.

(d) The board shall have the written portion of the examination, if any, validated by an independent testing professional.

Sec. 302.306. EXAMINATION RESULTS. (a) The board shall notify each examinee of the results of the examination not later than the 30th day after the date a licensing examination is administered. If an examination is graded or reviewed by a national testing service, the board shall notify each examinee of the results of the examination not later than the 14th day after the date the board receives the results from the testing service.

(b) If the notice of the examination graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the board shall notify each examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails an examination, the board shall provide to the person:

(1) an analysis of the person's performance on the examination; or

(2) other information the board has available to it after the tests are graded.

Sec. 302.307. TEMPORARY PERMIT. (a) Pending the results of a licensing examination, the board may issue to an applicant a temporary permit to practice vocational nursing under the direct supervision of a licensed vocational

nurse, licensed registered nurse, or licensed physician if the applicant has:

(1) graduated from an approved education program in vocational nursing in this state or another state; or

(2) completed successfully an acceptable level of education in a professional nursing program in this state or another state.

(b) A temporary permit expires on the date:

(1) the applicant receives a permanent license from the board; or

(2) a failing examination result for the applicant is reported to the board.

(c) The board may not issue a temporary permit to an applicant who has previously failed an examination administered by the board or by another state.

Sec. 302.308. TEMPORARY LICENSE BY ENDORSEMENT. (a) An applicant for a license under this chapter may qualify for a temporary license by endorsement to practice as a licensed vocational nurse by submitting to the board:

(1) an application fee and a completed sworn application in the form prescribed by the board;

(2) evidence that the person possessed, at the time of initial licensing as a licensed vocational nurse, the qualifications necessary to have been eligible for licensing at that time in this state; and

(3) proof of initial licensing by examination and proof that the license and any other license issued to the applicant by another state have not been suspended, revoked, canceled, surrendered, or otherwise restricted.

(b) A holder of a temporary license under this section is entitled to receive a permanent license if the applicant:

(1) verifies the applicant's academic and professional credentials; and

(2) satisfies any other requirement established by statute.

(c) The board shall grant or deny an application for a permanent license not later than the 180th day after the date the board receives all required forms or information. The board may extend the deadline to allow for the receipt

and tabulation of examination results.

(d) The board shall specify training, education, or examination requirements that an applicant may complete instead of the requirements of Subsection (a)(2).

Sec. 302.309. RULES FOR TRANSPORTING PATIENTS. The board shall adopt rules to address the practice of vocational nursing in this state by a vocational nurse who:

(1) holds a license issued by another state; and

(2) is in this state on a nonroutine basis for a period not to exceed five days or 120 hours to provide care to a patient who is being transported into, out of, or through this state.

Sec. 302.310. INACTIVE STATUS. (a) The board may place on inactive status the license of a person who is not actively engaged in the practice of vocational nursing if the person submits a written request to the board in the manner determined by the board. The inactive status begins on the expiration date of the person's license.

(b) The board shall maintain a list of each person whose license is on inactive status.

(c) A person whose license is on inactive status may not practice vocational nursing or violate this chapter or a board rule.

(d) The board shall remove a person's license from inactive status if the person:

(1) requests that the board remove the person's license from inactive status;

(2) pays each appropriate fee; and

(3) meets the requirements set forth in substantive board rules.

Sec. 302.311. INSIGNIA. A licensed vocational nurse who is on duty in a licensed health care facility, including a public or private hospital or nursing home, shall wear insignia identifying the nurse as a licensed vocational nurse.

SUBCHAPTER H. LICENSE RENEWAL

Sec. 302.351. LICENSE RENEWAL. (a) The board by rule shall adopt a system under which licenses expire on various dates during the year.

(b) A person may renew an unexpired license on payment of the required renewal fee and compliance with any other renewal requirements adopted by the board.

(c) A person whose license has been expired for 90 days or less may renew the license by paying to the board the required renewal fee and a fee that is equal to one-half the amount of the license examination fee. If a license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the board all unpaid renewal fees and a fee that is equal to the amount of the license examination fee.

(d) The board by rule shall set a length of time beyond which an expired license may not be renewed. The board by rule may establish additional requirements that apply to the renewal of a license that has been expired for more than one year but less than the time limit set by the board beyond which a license may not be renewed. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

(e) At least 30 days before the expiration of the person's license, the board shall send written notice of the impending license expiration to the person at the person's last known address according to the records of the board.

(f) A person who practices vocational nursing after the expiration of the person's license under this chapter is an illegal practitioner whose license may be revoked or suspended.

Sec. 302.352. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) The board may renew without examination an expired license of a person who was licensed to practice vocational nursing in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application.

(b) The person must pay to the board a fee that is equal to the license examination fee.

Sec. 302.353. CONTINUING EDUCATION. (a) To renew a license, a license holder must demonstrate to the satisfaction of the board completion of the requirement for continuing professional education.

(b) The board shall adopt rules relating to the operation of mandatory continuing education programs. In establishing the requirement for continuing education, the board shall consider:

(1) factors that lead to the competent performance of professional

duties; and

(2) the continuing education needs of license holders.

(c) The board shall adopt rules:

(1) for the adoption or approval of mandatory continuing education programs and providers; and

(2) to evaluate the effectiveness of the programs and a license holder's participation and performance in the programs.

SUBCHAPTER I. PROHIBITED PRACTICES AND DISCIPLINARY ACTIONS

Sec. 302.401. CERTAIN PROHIBITED PRACTICES. A person may not:

(1) sell, fraudulently obtain, or fraudulently furnish to the board a vocational nursing diploma, license, or other document;

(2) assist another person in selling, fraudulently obtaining, or fraudulently furnishing to the board a vocational nursing diploma, license, or other document;

(3) practice vocational nursing under a vocational nursing diploma, license, or other document that is:

(A) obtained unlawfully; or

(B) signed or issued unlawfully or under a false representation;

(4) practice vocational nursing in a period in which the person's license is suspended or revoked; or

(5) use the designation "Licensed Practical Nurse," "L.P.N.," "Practical Nurse," "P.N.," "Licensed Technical Nurse," "L.T.N.," "Technical Nurse," or "T.N."

NOTE: *HB 1342 SECTION 6 amended Section 2 (a) Chapter 118, Acts of the 52nd Legislature, Regular Session, 1951 (Article 4528c, Vernon's Texas Civil Statutes), to read:*

A person may not use the designation Licensed Vocational Nurse or the abbreviation L.V.N., unless such person shall hold a license issued by the Board pursuant to the provisions of this Act. This subsection does not apply to a person practicing vocational nursing under the Nurse Licensure Compact under Article 4528b, Revised Statutes.

(This is new language, effective January 1, 2000 is relative to the Nurse Licensure Compact and shall be codified during next legislative session)

Sec. 302.402. GROUNDS FOR DISCIPLINARY ACTION. (a) A person is subject to disciplinary action under Section 302.403 for:

(1) a violation of this chapter or a rule or order issued under this chapter;

(2) fraud or deceit in obtaining or attempting to obtain a license to practice vocational nursing;

(3) a conviction for:

(A) a felony; or

(B) a misdemeanor that involves moral turpitude;

(4) use of a nursing license, certificate, diploma, or permit or a transcript of such a document that has been fraudulently purchased, issued, counterfeited, or materially altered;

(5) impersonating or acting as a proxy for another person in an examination required by law to obtain a license to practice vocational nursing;

(6) knowingly aiding or abetting an unlicensed person in connection with the unauthorized practice of vocational nursing;

(7) revocation, suspension, or denial of the person's license to practice vocational or practical nursing in another jurisdiction;

(8) revocation, suspension, or denial of a license to practice professional nursing in this state or in another jurisdiction;

(9) intemperate use of alcohol or drugs;

(10) unprofessional or dishonorable conduct that, in the board's opinion, is likely to deceive, defraud, or injure the public;

(11) adjudication of mental incompetency; or

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

(b) For purposes of Subsections (a)(7) and (a)(8), a certified copy of an order

of denial, suspension, or revocation of a license is conclusive evidence of that fact.

Sec. 302.403. DISCIPLINARY AUTHORITY OF BOARD; METHODS OF DISCIPLINE. After a hearing is held on specific sworn written charges filed by the secretary-treasurer, if the board determines that a person has committed an act listed in Section 302.402, the board may:

(1) refuse to admit the person to a board examination;

(2) deny the person's application for a license, license renewal, or temporary permit;

(3) issue a warning or reprimand;

(4) suspend or revoke the person's license as a vocational nurse; or

(5) place on probation a person whose license has been suspended.

NOTE: *HB 1342 amended SECTION 7. Section 10 (a)(7) Chapter 118, Acts of the 52nd Legislature, Regular Session, 1951 (Article 4528c, Vernon's Texas Civil Statutes), to read:*

Revocation, suspension, or denial of a license to practice vocational or practical nursing in another jurisdiction or revocation, suspension or denial of a license or a privilege to practice professional nursing in this state or in another jurisdiction; certified copy of the order of denial, suspension, or revocation shall be conclusive of that fact;
(This is new language effective January 1, 2000 is relative to the Nurse Licensure Compact and shall be codified during next legislative session)

Sec. 302.404. HEARING. (a) A person is entitled to a hearing if:

(1) the board proposes to deny the person's application for a license; or

(2) the person is a licensed vocational nurse and the board proposes to:

(A) reprimand the person;

(B) place on probation the person if the person's license has been suspended; or

(C) suspend or revoke the license.

(b) A proceeding based on a board action under Subsection (a) is subject to Chapter 2001, Government Code.

Sec. 302.405. SUBPOENA AND OTHER PROCEDURAL POWERS. (a) The board may:

(1) issue a subpoena;

(2) compel the attendance of a witness;

(3) administer an oath to a person giving testimony at a board hearing; and

(4) initiate the prosecution of a person who violates this chapter.

(b) The board shall keep a record of the board's proceedings.

Sec. 302.406. REQUEST FOR INFORMATION; SUBPOENA. (a) A person shall respond promptly and fully to a request for information from the board or to a subpoena issued by the board. The person may not refuse, deny, or resist the request or subpoena unless the information requested or subpoenaed is subject to the attorney-client privilege. A privilege other than the attorney-client privilege does not apply to a board proceeding.

(b) A subpoena issued by the board may be served personally by a board investigator, by certified mail, or in any other manner authorized by law.

(c) The board may pay a reasonable fee for a photocopy subpoenaed by the board. The fee may not exceed the amount the board charges for a copy of a board record.

(d) To the extent possible, the board shall protect the identity of each patient named in information received by the board.

Sec. 302.407. TEMPORARY SUSPENSION OF LICENSE. (a) The board or a three-member committee of board members designated by the board shall temporarily suspend the license of a licensed vocational nurse if a majority of the board or committee determines from information presented to the board or committee that continued practice of vocational nursing by the nurse constitutes a continuing and imminent threat to the public welfare.

(b) A license may be suspended under this section without notice or hearing on the complaint if:

(1) proceedings for a hearing before the State Office of Administrative Hearings are initiated simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.

(c) The State Office of Administrative Hearings shall conduct a preliminary hearing not later than the 21st day after the date the temporary suspension order is issued to determine whether probable cause exists that a continuing and imminent threat to the public welfare is still occurring. The office shall conduct a final hearing on the matter not later than the 91st day after the date the temporary suspension order is issued.

Sec. 302.408. SCHEDULE OF SANCTIONS. The State Office of Administrative Hearings shall use the schedule of sanctions adopted by the board by rule for a sanction imposed as a result of a hearing conducted by that office.

Sec. 302.409. APPEAL. A person may appeal a board order disciplining the person in a district court of the county of the person's residence.

Sec. 302.410. VOLUNTARY SURRENDER OF LICENSE. The board may revoke a vocational nurse's license without formal charges, notice, or opportunity of hearing if the nurse voluntarily surrenders the nurse's license to the board and executes a sworn statement that the nurse does not desire to be licensed.

Sec. 302.411. INFORMAL PROCEEDINGS. (a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) informal proceedings held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under this section must:

(1) provide the complainant and the licensed vocational nurse an opportunity to be heard; and

(2) require the presence of a representative of the attorney general or the board's legal staff to advise the board or the board's employees.

SUBCHAPTER J. ADMINISTRATIVE PENALTY

Sec. 302.451. IMPOSITION OF PENALTY. The board may impose an administrative penalty on a person licensed or regulated under this chapter who violates this chapter or a rule or order adopted under this chapter.

Sec. 302.452. AMOUNT OF PENALTY. (a) The amount of an administrative penalty may not exceed $1,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(b) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of a prohibited act; and

(B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

Sec. 302.453. REPORT AND NOTICE OF VIOLATION AND PENALTY. (a) If the executive director determines that a violation has occurred, the executive director may issue to the board a report stating:

(1) the facts on which the determination is based; and

(2) the director's recommendation on the imposition of an administrative penalty, including a recommendation on the amount of the penalty.

(b) Not later than the 14th day after the date the report is issued, the executive director shall give written notice of the report to the person on whom the penalty may be imposed. The notice may be given by certified mail. The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Sec. 302.454. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Not later than the 20th day after the date the person receives the notice under Section 302.453, the person may:

(1) accept in writing the executive director's determination and recommended administrative penalty; or

(2) make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the executive director's determination and recommended penalty, the board by order shall approve the determination and impose the recommended penalty.

Sec. 302.455. HEARING. (a) If the person requests a hearing or fails to respond in a timely manner to the notice, the executive director shall set a hearing and give notice of the hearing to the person.

(b) An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

(c) The administrative law judge shall:

(1) make findings of fact and conclusions of law; and

(2) promptly issue to the board a proposal for a decision about the occurrence of the violation and the amount of any proposed administrative penalty.

Sec. 302.456. DECISION BY BOARD. (a) Based on the findings of fact, conclusions of law, and proposal for decision, the board by order may determine that:

(1) a violation occurred and impose an administrative penalty; or

(2) a violation did not occur.

(b) The notice of the board's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to

judicial review of the order.

Sec. 302.457. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. (a) Not later than the 30th day after the date the board's order becomes final, the person shall:

(1) pay the administrative penalty;

(2) pay the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both; or

(3) without paying the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court and that:

(i) is for the amount of the penalty; and

(ii) is effective until judicial review of the board's order is final;

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(c) On receipt of a copy of an affidavit under Subsection (b)(2), the executive director may file with the court, not later than the fifth day after the date the copy is received, a contest to the affidavit.

(d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of

proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Sec. 302.458. DETERMINATION BY COURT. (a) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced penalty.

(b) If the court does not sustain the occurrence of the violation, the court shall order that an administrative penalty is not owed.

Sec. 302.459. REMITTANCE OF PENALTY AND INTEREST. (a) If after judicial review the administrative penalty is reduced or not imposed by the court, the court shall, after the judgment becomes final:

(1) order that the appropriate amount, plus accrued interest, be remitted to the person if the person paid the penalty; or

(2) order the release of the bond if the penalty is not imposed or order the release of the bond after the person pays the penalty if the person posted a supersedeas bond.

(b) The interest paid under Subsection (a)(1) is the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Sec. 302.460. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection of the penalty.

Sec. 302.461. ADMINISTRATIVE PROCEDURE. A proceeding under this subchapter is subject to Chapter 2001, Government Code.

Sec. 302.462. DEPOSIT OF PENALTY. A penalty collected under this subchapter shall be sent to the comptroller for deposit in the general revenue fund.

SUBCHAPTER K. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 302.501. INJUNCTIONS. On petition of the board, a district court may enjoin a person who is violating this chapter from continuing the violation.

Sec. 302.502. MONITORING OF LICENSED VOCATIONAL NURSES. The board by rule shall develop a system for monitoring the compliance of license holders with the requirements of this chapter. Rules adopted under this section

must include procedures to:

(1) monitor for compliance a licensed vocational nurse who is ordered by the board to perform certain acts; and

(2) identify and monitor each licensed vocational nurse who represents a risk to the public.

Sec. 302.503. CIVIL PENALTY. (a) A person who violates this chapter is liable to the state for a civil penalty not to exceed $1,000 a day.

(b) The civil penalty may be collected in a suit initiated by the board.

Sec. 302.504. CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly violates this chapter.

(b) An offense under this section is a Class B misdemeanor.

CHAPTER 303. NURSING PEER REVIEW

Sec. 303.001. DEFINITIONS. In this chapter:

(1) "Board" means the Board of Nurse Examiners

(2) "Nurse" means a registered nurse licensed under Chapter 301 or a licensed vocational nurse licensed under Chapter 302.

(3) "Nursing" means professional nursing as defined by Chapter 301 or vocational nursing as defined by Chapter 302.

(4) "Nursing peer review committee" means a committee established under the authority of the governing body of a national, state, or local nursing association, a school of nursing, the nursing staff of a hospital, health science center, nursing home, home health agency, temporary nursing service, or other health care facility, or state agency or political subdivision for the purpose of conducting peer review. The committee includes an employee or agent of the committee, including an assistant, an investigator, an intervenor, an attorney, and any other person who serves the committee in any capacity.

(5) "Peer review" means the evaluation of nursing services, the qualifications of a nurse, the quality of patient care rendered by a nurse, the merits of a complaint concerning a nurse or nursing care, and a determination or recommendation regarding a complaint. The term includes:

(A) the evaluation of the accuracy of a nursing assessment and observation and the appropriateness and quality of the care rendered by a nurse;

(B) a report made to a nursing peer review committee concerning an activity under the committee's review authority;

(C) a report made by a nursing peer review committee to another committee or to the board as permitted or required by law; and

(D) implementation of a duty of a nursing peer review committee by a member, an agent, or an employee of the committee.

Sec. 303.002. GENERAL PROVISIONS REGARDING PEER REVIEW. (a) In adopting rules under this chapter, the board shall consult with the Board of Vocational Nurse Examiners.

(b) The board shall enter into a memorandum of understanding with each state agency that licenses, registers, or certifies a facility required by law to have a registered nurse peer review committee. The memorandum of understanding must:

(1) state the actions the board and agency are to take to encourage compliance with the requirement to have a registered nurse peer review committee; and

(2) be adopted as a rule of the board and the agency.

(c) A court may not enjoin the activities of a nursing peer review committee under this chapter.

(d) This chapter may not be nullified by a contract.

(e) The committee shall give the nurse being reviewed at least minimum due process, including notice and opportunity for a hearing.

Sec. 303.003. COMMITTEE MEMBERSHIP. (a) A nursing peer review committee that conducts a peer review that involves only the practice of professional nursing must have registered nurses as three-fourths of its members and may have only registered nurses as voting members.

(b) A nursing peer review committee that conducts a peer review that involves only the practice of vocational nursing must have registered nurses and licensed vocational nurses as three-fourths of its members, to the extent feasible must include licensed vocational nurses as members, and may have only registered nurses and licensed vocational nurses as voting members.

(c) A nursing peer review committee that conducts a peer review that involves the practice of both professional nursing and licensed vocational nursing:

(1) must have registered nurses and licensed vocational nurses as four-fifths of its members, with registered nurses as three-fifths of its members;

(2) to the extent feasible must include licensed vocational nurses as members; and

(3) may have only:

(A) registered nurses and licensed vocational nurses as voting members when a licensed vocational nurse is being reviewed; and

(B) registered nurses as voting members when a registered nurse is being reviewed.

(d) The committee shall include to the extent feasible at least one nurse who has a working familiarity with the area of nursing practice in which the nurse being reviewed practices.

Sec. 303.004. PEER REVIEW BY TWO ENTITIES. (a) A nurse who, as a temporary agency nurse, faculty member, or similar staff member, practices nursing for an educational institution, health care facility, agency, or entity, or a person other than the person who employs or directly compensates the nurse is subject to peer review by both the employer and the other person.

(b) For the purpose of exchanging information, the peer review committee reviewing the nurse's conduct is considered to be established under the authority of both entities.

(c) The two entities may contract as to which entity will conduct peer review of the nurse.

Sec. 303.005. REQUEST FOR PEER REVIEW COMMITTEE DETERMINATION. (a) In this section, "duty to a patient" means conduct required by standards of practice or professional conduct adopted by the board. The term includes administrative decisions directly affecting a registered nurse's ability to comply with that duty.

(b) If a person who regularly employs, hires, or otherwise contracts for the services of at least 10 registered nurses requests one of those nurses to engage in conduct that the nurse believes violates a registered nurse's duty to a patient, the nurse may request, on a form produced by the board, a determination by a nursing peer review committee under this chapter of whether the conduct violates a registered nurse's duty to a patient.

(c) A registered nurse who in good faith requests a peer review determination under Subsection (b):

(1) may not be disciplined or discriminated against for making the request;

(2) may engage in the requested conduct pending the peer review;

(3) is not subject to the reporting requirement under Subchapter I, Chapter 301; and

(4) may not be disciplined by the board for engaging in that conduct while the peer review is pending.

(d) The determinations of the peer review committee shall be considered in a decision to discipline the nurse, but the determinations are not binding if a registered nurse administrator believes in good faith that the peer review committee has incorrectly determined a registered nurse's duty.

(e) If the conduct for which the peer review is requested under Subsection (b) involves the medical reasonableness of a physician's order, the medical staff or medical director shall be requested to make a determination as to the medical reasonableness of the physician's order, and that determination is determinative of that issue.

(f) A registered nurse's rights under this section may not be nullified by a contract.

(g) An appropriate licensing agency may take action against a person who violates this section.

Sec. 303.006. CONFIDENTIALITY OF PEER REVIEW PROCEEDINGS. (a) Except as otherwise provided by this chapter, a nursing peer review committee proceeding is confidential and any communication made to a nursing peer review committee is privileged.

(b) A member, agent, or employee of a nursing peer review committee or a participant in a proceeding before the committee may not disclose or be required to disclose a communication made to the committee or a record or proceeding of the committee.

(c) A person who attends a nursing peer review committee proceeding may not disclose or be required to disclose:

(1) information acquired in connection with the proceeding; or

(2) an opinion, recommendation, or evaluation of the committee or a committee member.

(d) A nursing peer review committee member and a person who provides information to the committee may not be questioned about:

(1) the person's testimony before the committee; or

(2) an opinion formed as a result of the committee proceedings.

(e) Except as permitted by this chapter, information that is confidential under this section:

(1) is not subject to subpoena or discovery in any civil matter;

(2) is not admissible as evidence in a judicial or administrative proceeding; and

(3) may not be introduced into evidence in a nursing liability suite arising out of the provision of or a failure to provide nursing services.

Sec. 303.007. DISCLOSURE INFORMATION. (a) A nursing peer review committee on request shall disclose written or oral communications made to the committee and the records and proceedings of the committee to:

(1) a licensing authority of any state; or

(2) a law enforcement agency investigating a criminal matter.

(b) A nursing peer review committee may disclose written or oral communications made to the committee and the records and proceedings of the committee to:

(1) a licensing agency of any state;

(2) a law enforcement agency investigating a criminal matter;

(3) the association, school, agency, facility, or other organization under whose authority the committee is established;

(4) another nursing peer review committee;

(5) a peer assistance program approved by the board under Chapter 467, Health and Safety Code;

(6) an appropriate state or federal agency or accrediting organization that accredits a health care facility or school of nursing or surveys a facility for quality of care; or

(7) a person engaged in bona fide research, if all information that

identifies a specific individual is deleted.

(c) If a committee discloses information under this section, the committee does not by that action waive the privilege of nondisclosure of committee information and proceedings.

(d) A peer review committee that discloses information under this section and each person who receives the information shall protect, to the extent possible, the identity of each patient.

Sec. 303.008. REBUTTAL STATEMENT. (a) If a nursing peer review committee discloses information under Section 303.007 (a) that could result in the reprimand, suspension, or termination or other disciplinary action against, a nurse, or itself recommends or takes such an action, the committee shall provide the nurse with a detailed summary of information disclosed or the basis of its action or recommendations.

(b) The peer review committee shall give the nurse the opportunity to offer rebuttal information and to submit a rebuttal statement of reasonable length. Any rebuttal statement must be included with the information disclosed by the committee.

Sec. 303.009. RETALIATORY ACTIONS. (a) A nursing peer review committee, a person participating in peer review, or an organization named as a defendant in a civil action or subjected to other retaliatory action as a result of participation in a peer review may file a counterclaim in a pending action or prove a cause of action in a subsequent suit to recover defense costs, including court cost, reasonable attorney's fees, and actual and punitive damages if the suit or retaliatory action is determined to be frivolous, unreasonable, without foundation, or taken in bad faith.

(b) A nursing peer review committee member or a person participating in peer review under this chapter named as a defendant in a civil action or subjected to other retaliatory action as a result of participation in peer review may use information that is otherwise confidential under this chapter to defend the civil action or a civil action that alleges retaliation for the person's participation in peer review.

(c) A person who discloses information under Subsection (b) does not by that action waive the privilege of nondisclosure of all other information privileged under this chapter.

Sec. 303.010. CIVIL LIABILITY. (a) A cause of action does not accrue for an act, statement, determination, or recommendation made, or act reported, without malice, in the course of peer review against:

(1) a member, agent, or employee of a nursing peer review committee; or

(2) a school of nursing, hospital, nursing home, home health agency, health science center, or other health care facility, the nursing staff of such a facility, or a nursing association or other organization.

(b) A person who, without malice, provides records, information, or assistance to a nursing peer review committee:

(1) is not liable in a civil action based on the person's participation or assistance in peer review; and

(2) may not be subjected to retaliatory action as a result of that act.

SECTION 1. Chapter 7, Title 71, Revised Statutes, is amended by adding Article 4528b to read as follows:

ARTICLE 4528B. NURSE LICENSURE COMPACT

Sec. 1. The Nurse Licensure Compact is enacted and entered into with all other jurisdictions that legally join in the compact, which is as follows:

NURSE LICENSURE COMPACT

ARTICLE 1. FINDINGS AND DECLARATION OF PURPOSE. (a) The party states find that:

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

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

(3) the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensing and regulation;

(4) new practice modalities and technology make compliance with each state nurse licensing laws difficult and complex; and

(5) the current system of the duplicative licensing of nurses practicing in multiple states is cumbersome and redundant to both nurses and the states.

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

(1) facilitate the states' responsibilities to protect the public's health and safety;

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

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

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

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

ARTICLE 2. DEFINITIONS. In this compact:

(a) "Adverse action" means a home or remote state action.

(b) "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

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

(d) "current significant investigative information" means:

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

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

(e) "Home state" means the party state that is the nurse's primary state of residence.

(f) "Home state action" means any administrative, civil, equitable, or criminal action permitted by the home state's laws that are imposed on a nurse by the home state's licensing board or other authority, including actions against an individual's license such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice.

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

(h) "Multistate licensing privilege" means current, official authority from a remote state permitting the practice of nursing as a registered nurse, licensed practical nurse, or licensed vocational nurse in the party state. All party states have the authority, in accordance with existing state due process laws, to take actions against the nurse's privilege, including revocation, suspension, probation, or any other action that affects a nurse's authorization to practice.

(i) "Nurse" means a registered nurse, licensed practical nurse, or licensed vocational nurse as those terms are defined by each party state's practice laws.

(j) "Party state" means any state that has enacted this compact.

(k) "Remote state" means a party state, other than the home state, in which:

(1) a patient is located at the time nursing care is provided; or

(2) in the case of the practice of nursing not involving a patient, the recipient of nursing practice is located.

(l) "Remote state action" means:

(1) an administrative, civil, equitable, or criminal action permitted by a remote state's laws that are imposed on a nurse by the remote state's licensing board or other authority, including an action against an individual's multistate licensing privilege to practice in the remote state; and

(2) a cease and desist order and other injunction or equitable orders issued by remote states or the licensing boards of remote states.

(m) "State" means a state, territory, possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(n) "State practice laws" means a party state's laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The term does not include the initial qualifications for licensing or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE 3. GENERAL PROVISIONS AND JURISDICTION. (a) A license to

practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensing privilege to practice as a registered nurse in the party state. A license to practice licensed practical nursing or licensed vocational nursing issued by a home state to resident in that state will be recognized by each party state as authorizing a multistate licensing privilege to practice as a licensed practical nurse or vocational nurse in the party state. To obtain or retain a license, an applicant must meet the home state's qualifications for a license and license renewal as well as all other applicable state laws.

(b) A party state may, in accordance with state due process laws, limit or revoke the multistate licensing privilege of any nurse to practice in the party state and may take any other necessary actions under the party state's applicable laws to protect the health and safety of the party state's citizens. If a party state takes this action, the party state shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(c) A nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is provided. The practice of nursing includes patient care and all nursing practice defined by the party state's practice laws. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board, the courts, and the laws of the party state.

(d) This compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensing privilege to practice registered nursing granted by a party a party state shall be recognized by another party state as a license to practice registered nursing if the state's law requires the license as a precondition for qualifying for advanced practice registered nurse authorization.

(e) Individuals not residing in a party state may apply for a nurse license under the laws of a party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

ARTICLE 4. APPLICATION FOR LICENSE IN A PARTY STATE. (a) Once an application for a license is submitted, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether:

(1) the applicant has held or is the holder of a license issued by

another state;

(2) a restriction exists on the multistate licensing privilege; and

(3) any other adverse action by any state has been taken against the license.

(b) A nurse in a party state shall hold a license that is issued by the home state in only one party state at a time.

(c) A nurse who intends to change the nurse's primary state of residence may apply for a license in the new home state in advance of the change. However, a new license will not be issued by a party state until a nurse provides satisfactory evidence to the new home state's licensing board of a change in the nurse's primary state of residence.

(d) When a nurse changes the nurse's primary state of residence by moving from:

(1) a party state to another party state and obtains a license from the new home state, the license from the former home state is no longer valid.

(2) a non-party state to a party state and obtains a license from the new home state, the individual state license issued by the non-party state is not affected and remains in full force if provided by the laws of the non-party state; and

(3) a party state to a non-party state, the license issued by the prior home state converts to a state license valid only in the former home state and does not entitle the nurse to the multistate licensing privilege to practice in other party states.

ARTICLE 5. ADVERSE ACTIONS. (a) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system a remote state action and the factual and legal basis for the action, if known. The licensing board of a remote state shall promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of these reports.

(b) The licensing board of a party state shall have the authority to complete a pending investigation of a nurse who changes the nurse's primary state of residence during the course of the investigation and to take appropriate action. The licensing board shall promptly report the

conclusions of the investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any action.

(c) A remote state may take adverse action affecting the multistate licensing privilege to practice in that party state. However, only the home state has the power to impose adverse action against the license issued by the home state.

(d) For the purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would to conduct occurring in the home state. In so doing, the licensing board shall apply its state laws to determine appropriate action.

(e) The home state may take adverse action based on the factual findings of the remote state only if each state follows its own procedures for imposing the adverse action.

(f) This compact does not affect a party state's decision that participation in an alternative program may be used instead of licensing action and that the participation shall remain non-public if required by the party state's laws. Party states must require a nurse who enters an alternative program to agree not to practice in any other party state during the term of the alternative program without prior authorization from the other party state.

ARTICLE 6. ADDITIONAL AUTHORITIES OF PARTY STATE NURSE LICENSING BOARDS. (a) Notwithstanding any other powers, party state nurse licensing boards have the authority to:

(1) if otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against the nurse;

(2) issue subpoenas for hearings and investigations that require the attendance and testimony of witnesses and the production of evidence;

(3) issue a cease and desist order to limit or revoke a nurse's authority to practice in the state; and

(4) adopt uniform rules as provided under Article 8 (c) of this compact.

(b) A subpoena issued by a nurse licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the non-issuing party state by a court of competent jurisdiction in accordance with the practice and procedure applicable to subpoenas issued in proceedings pending before the court. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which a witness or evidence is located.

ARTICLE 7. COORDINATED LICENSURE INFORMATION SYSTEM. (a) All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses, licensed practical nurses, and licensed vocational nurses. This system will include information on the licensing and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensing and enforcement efforts.

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

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

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

(e) Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system may not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

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

(g) Each compact administrator shall act jointly and in consultation with the administrator of the coordinated licensure information system to formulate necessary and proper procedures for the identification,

collection, and exchange of information under this compact.

ARTICLE 8. COMPACT ADMINISTRATION AND EXCHANGE OF INFORMATION. (a) The presiding officer of the nurse licensing board of a party state or the presiding officer's designee shall be the administrator of this compact for the state.

(b) The compact administrator of each party state shall furnish to the compact administrator of each other party state information and documents including a uniform data set of investigations, identifying information, licensing data, and disclosable alternative program participation information to facilitate the administration of this compact.

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

ARTICLE 9. IMMUNITY. A party state or an officer, employee, or agent of a party state's nurse licensing board who acts in accordance with the provisions of this compact is not liable for any good faith act or omission that occurs while the person is performing the person's duties under this compact. Good faith in this article does not include wilful misconduct, gross negligence, or recklessness.

ARTICLE 10. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT. (a) This compact enters into force and takes effect for a state when the state enacts this compact as law. A party state may withdraw from the compact by enacting a statute repealing the compact, but a withdrawal takes effect six months after the date the withdrawing states gives notice of the withdrawal to the executive heads of all other party states.

(b) No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

(c) This compact does not invalidate or prevent any nurse licensing agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

(d) This compact may be amended by the party states. An amendment to this compact is not effective or binding on the party states unless and until all party states enact the amendment into the law of each state.

ARTICLE 11. CONSTRUCTION AND SEVERABILITY. (a) This compact shall be liberally construed to effectuate the compact's purposes.

(b) This compact is severable. If a phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of a party state or the United States or the applicability of this compact to a government, agency, person, or circumstance is held invalid, the validity and applicability of the remainder of the compact to a government, agency, person, or circumstance is not affected. If this compact is held to be contrary to the constitution of a party state, the compact remains in full force and effect for the party state affected for all severable matters.

(c) If the party states need to settle a dispute under the compact the party states may submit the issues in dispute to an arbitration panel comprised of:

(A) an individual appointed by the compact administrator in the home state;

(B) an individual appointed by the compact administrator in each remote state involved; and

(C) an individual mutually agreed upon by the compact administrators of each party state involved in the dispute.

(d) The decision of a majority of the arbitrators shall be final and binding.

Sec. 2. The executives of the Board of Nurse Examiners and the Board of Vocational Nurse Examiners are the nurse licensure compact administrators for this state. The executive director of the Board of Nurse Examiners is responsible for administering matters relating to registered nurses. The executive director of the Board of Vocational Nurse Examiners is responsible for administering matters relating to licensed vocational nurses.

Sec. 3. The Board of Nurse Examiners and the Board of Vocational Nurse Examiners may adopt rules necessary to implement this article.

Sec. 4. The terms "nurse", "registered nurse", and "vocational nurse" include nurses licensed as registered nurses or vocational nurses by a state that is a party to the Nurse Licensure Compact. Unless the context indicates otherwise or doing so would be inconsistent with the Nurse Licensure Compact, nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact have the same rights and obligations as imposed by the laws of this state on license holders of the Board of Nurse Examiners or the

Board of Vocational Nurse Examiners. The Board of Nurse Examiners and the Board of Vocational Nurse Examiners have the authority to determine whether a right or obligation imposed on license holders applies to nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact unless that determination is inconsistent with the Nurse Licensure Compact.

Sec. 5. The Board of Nurse Examiners and the Board of Vocational Nurse Examiners are the state agencies responsible for taking action against registered and vocational nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact as authorized by the Nurse Licensure Compact. The action shall be taken in accordance with the same procedures for taking action against registered and vocational nurses licensed by this state.

Sec. 6. On request and payment of a reasonable fee, the Board of Nurse Examiners and the Board of Vocational Nurse Examiners shall provide a registered or vocational nurse licensed by this state with a copy of information regarding the nurse maintained by the coordinated licensure information system under Article 7 of the Nurse Licensure Compact. A board is not obligated to provided information not available to the board or information that is not available to the nurse under the laws of the state contributing the information to the coordinated licensure information system.

Sec. 7. Practice-related information provided by the Board of Nurse Examiners or the Board of Vocational Nurse Examiners to registered or vocational nurses licensed by this state shall be made available by the boards on request at a reasonable cost to nurses practicing in this state under a license issued by a state that is a party to the Nurse Licensure Compact.

Sec. 8. In reporting information to the coordinated licensure information system under Article 7 of the Nurse Licensure Compact, the Board of Nurse Examiners and the Board of Vocational Nurse Examiners may disclose personally identifiable information about the nurse, including social security number. The coordinated licensure information system may not share personally identifiable information with a state not a party to the compact unless the state agrees not to disclose that information to other persons.

Sec. 9. (a) The governor may withdraw this state from the Nurse Licensure Compact if the Board of Nurse Examiners or the Board of Vocational Nurse Examiners notifies the governor that a state that is party to the compact changed, after January 1, 1999, the state's requirements for licensing a nurse and that the state's requirements, as changed, are substantially lower than the requirements for licensing a nurse in this state.

(b) The governor may completely withdraw this state from the Nurse

Licensure Compact or may limit withdrawal to the application of the compact to registered nurses or licensed vocational nurses.

Sec. 10. The Nurse Licensure Compact expires on December 31, 2005, unless this section is repealed or the expiration date is extended.

SECTION 2. Section 4, Article 4518, Revised Statutes, is amended to read as follows:

Sec. 4. Any person practicing or offering to practice professional nursing in this state for compensation, shall hereafter be required to submit evidence to the Board that the person is qualified to practice and shall be registered as provided by this law unless the person is entitled to practice in this state under the Nurse Licensure Compact under Article 4528b, Revised Statutes.

SECTION 3. Section 1, Article 4519a, Revised Statutes, is amended to read as follows;

Sec. 1. (a) An individual enrolled or planning to enroll in an educational program that prepares an individual for an initial license as a registered nurse who has reason to believe that the individual is ineligible for the license may petition the board for a declaratory order as to the individual's eligibility. The petition must state the basis for the individual's potential ineligibility. The board shall have the same powers to investigate the petition and the individual's eligibility that it has to investigate a person applying for a license. The petitioning individual or the board may amend the petition at any time before a final determination is made to include additional grounds for potential ineligibility.

(b) The board finds that a ground for ineligibility does not exist, the board, instead of issuing an order, shall notify the petitioner in writing listing each ground of potential ineligibility and the board's determination.

(c) If the board proposes to find the petitioner ineligible for a license, the petitioner is entitled to a hearing before the board in accordance with Subsection (a), Article 4525, Revised Statutes, as amended by Section 8, Chapter 840, Acts of the 73rd Legislature, 1993. The board's order must set out each basis for potential ineligibility and the board's determination as to eligibility.

(d) In the absence of new evidence known to but not disclosed by the petitioner or not reasonably available to the board at the time the order is issued, the board's ruling on the petition determines the individual's eligibility with respect to the basis for potential ineligibility set out in the written notice or order.

SECTION 4. Chapter 7, Title 71, Revised Statutes, is amended by adding Article 4525.01 to read as follows:

Art. 4525.01 ADDITIONAL GROUNDS FOR DISCIPLINARY ACTION. (a) A person is subject to being refused admission to a licensing examination, to denial of a license, or to disciplinary action by the board if the person's privilege to practice nursing in another jurisdiction is revoked, suspended, denied, or subjected to any other disciplinary action.

(b) A certified copy of the order of denial suspension, or revocation of the privilege or the other action by the jurisdiction is conclusive evidence of that action.

SECTION 5. Section 3, Article 4527a, Revised Statutes, is amended to read as follows:

Sec. 3. (a) No person, unless he or she is licensed under this chapter, may practice professional nursing or use in connection with his or her name the title "registered nurse", "professional nurse", or "graduate nurse", the abbreviation "R.N.", or any designation tending to imply that he or she is a licensed registered nurse.

(b) This section does not apply to a person practicing professional nursing under the Nurse Licensure Compact under Article 4528b, Revised Statutes.

SECTION 6. Section 2 (a), Chapter 118, Acts of the 52nd Legislature, Regular Session, 1951 (Article 4528c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A person may not use the designation Licensed Vocational Nurse or the abbreviation L.V.N., unless such person shall hold a license issued by the Board pursuant to the provisions of this Act. This subsection does not apply to a person practicing vocational nursing under the Nurse Licensure Compact under Article 4528b, Revised Statutes.

SECTION 7. Section 10 (a), Chapter 118, Acts of the 52nd Legislature, Regular Session, 1951 (Article 4528c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Board may refuse to admit persons to its examinations, may refuse to issue or renew a license, may refuse to issue a temporary permit, may issue a warning or reprimand, may place on probation a person whose license has been suspended, or may suspend or may revoke the license of any practitioner of vocational nursing for any of the following

reasons:

(1) violation of this Act or of any rule, regulation, or order issued under this Act;

(2) commission of fraud or deceit in procuring or attempting to procure a license to practice vocational nursing;

(3) conviction of a crime of the grade of felony or a crime of a lesser grade which involves moral turpitude;

(4) use of any nursing license, certificate, diploma, or permit or transcript of the license, certificate, diploma, or permit which has been fraudulently purchased, issued, counterfeited, or materially altered;

(5) impersonation of or the acting as a proxy for another in any examination required by law to obtain a license to practice vocational nursing;

(6) knowingly aiding or abetting any unlicensed person in connection with the unauthorized practice of vocational nursing;

(7) revocation, suspension, or denial of a license to practice vocational or practical nursing in another jurisdiction or revocation, suspension or denial of a license or a privilege to practice professional nursing in this state or in another jurisdiction; certified copy of the order of denial, suspension, or revocation shall be conclusive evidence of that fact;

(8) intemperate use of alcohol or drugs;

(9) unprofessional or dishonorable conduct that, in the opinion of the Board, is likely to deceive, defraud, or injure the public;

(10) adjudication of mental incompetency; or

(11) lack of fitness to practice by reason of mental or physical health that may result in injury to patients or the public.

SECTION 8. Section 12, Chapter 118, Acts of the 52nd Legislature, Regular Session, 1951 (Article 4528c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. APPROVAL OF VOCATIONAL NURSING PROGRAMS. (a) Any

hospital in regular use for patients which has a registered nurse in charge of nursing, and whose staff consists of one or more licensed physicians licensed by the State Board of Medical Examiners, may qualify as an approved hospital for Vocational Nurse Education, provided it can and will meet requirements of the Board for the Education of Vocational Nurses.

(b) Any institution which shall be qualified under Section 5, and under regulations promulgated by the Board to conduct a course in Vocational Nursing shall apply to the Board and shall accompany said application with evidence that is prepared to give a course approved by the Board for the education of Vocational Nurses; such application shall be accompanied by the appropriate fee provided for in Section 9 of this Act; upon receipt of such application the Board shall cause a survey of the institution making such application to be made by a qualified representative of such Board. If in the opinion of a majority of the members of the Board, the requirements for an approved course for Vocational Nursing are met by such institution, such institution shall be placed on a list of such institutions given for educating Vocational Nurses. It shall further be the duty of the Board, from time to time, to survey all courses for such education of Vocational Nurses offered within the state. Written reports of such surveys shall be submitted to the Board. If the Board shall determine as a result of such surveys that any school, hospital or institution heretofore approved as an institution of Vocational Nursing is not maintaining the standards required by law and by the rules and regulations promulgated by the Board, notice thereof shall immediately be given to such school, hospital or institution. If the requirements of the Board are not complied with within a reasonable time set by the Board in such notices, such institution shall be removed from the list of approved schools, hospitals, or institutions offering courses for Vocational Nurses within this state.

SECTION 9. (a) Not later than January 1, 2000, the Board of Nurse Examiners and the Board of Vocational Nurse Examiners shall participate in a nurse licensure compact evaluation initiative designed to evaluate the effectiveness and operability of the Nurse Licensure Compact.

(b) The evaluation initiative shall be conducted by a qualified researcher. A component of the evaluation initiative shall be a state practice identification system through which nurses designate the states in which they practice and that provides for updating the information at the time of issuance and renewal of licenses.

(c) The evaluation initiative shall be continue at least through June 1, 2004, after which a report shall be produced and submitted for comment by the Board of Nurse Examiners and the Board of

Vocational Nurse Examiners.

(d) The report and the boards' comments shall be submitted to the Legislature not later than October 1, 2004, in the form of a Nurse Licensure Compact evaluation report.

(e) The boards may accept and spend money made available by the federal or state government or by another public or private source to fund participation in the evaluation initiative.

SECTION 10. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2000.

(b) Article 4528b, Revised Statutes, as added by this Act, takes effect January 1, 2000, unless the governor, on the recommendation of the Board of Nurse Examiners and the Board of Vocational Nurse Examiners, determines a later date would be in the best interest of the state.