

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 9, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

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

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

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

General Revenue-Related Funds, Five-Year Impact:

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

All Funds, Five-Year Impact:

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

Fiscal Analysis

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

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

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

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

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

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

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

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

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

Methodology

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

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

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

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

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

Local Government Impact

No fiscal implication to units of local government is anticipated.

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

LBB Staff: UP, JQ, KCA, EH