

CHAPTER 364

H.B. No. 593

An Act relating to the regulation of nursing home administrators.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 4(5), Texas Nursing Home Administrators Licensure Act (Article 4442d, Vernon's Texas Civil Statutes), is amended to read as follows:

(5) The Texas Board of Licensure for Nursing Home Administrators shall cooperate to the fullest extent possible with the State Purchasing and General Services Commission, the Texas Department of Human Resources, the Texas Department of Health, and the office of the attorney general. The board shall obtain administrative support through interagency contracts that eliminate duplication and are economical for the State. The board may exchange information obtained through investigation with other State agencies. ~~The [be administratively attached to the Texas Department of Health. The department shall provide administrative assistance to the board, and the department and the board shall coordinate administrative responsibilities in order to avoid unnecessary duplication and in furtherance of the~~

objective of providing quality nursing home services. The department shall submit the board's budget requests to the legislature. The department and the board shall share investigative staff and other employees. However, the] board may employ its own [additional] investigative staff as authorized by the legislature.

SECTION 2. Section 6, Texas Nursing Home Administrators Licensure Act (Article 4442d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. FUNCTIONS AND DUTIES OF THE BOARD. It shall be the function and duty of the board to:

(1) develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator and standards which must be met by licensees, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the fields [field] of gerontology and institutional administration, are qualified to serve as nursing home administrators and satisfactorily perform the duties of nursing home administrators;

(2) develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(3) issue licenses to individuals determined, after application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(4) establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(5) receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;

(6) conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such;

(7) conduct or cause to be conducted, one or more courses of instruction and training sufficient to meet the requirements of this Act, [and] make provisions for the conduct of such courses and their accessibility to residents of this State, and establish and collect reasonable fees to be deposited into the general fund for instruction or training courses conducted by the board in amounts determined by the board to be sufficient to cover the costs of the courses, unless it finds that there are a sufficient number of courses conducted by others within this State to meet the needs of the State. In lieu thereof the board may approve courses conducted within and without the State as sufficient to meet the education and training requirements of this Act; and

(8) on request, provide to each individual who fails an examination administered by the board an analysis of the individual's performance on the examination.

SECTION 3. Section 7A, Texas Nursing Home Administrators Licensure Act (Article 4442d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7A. PROVIDING INFORMATION TO THE PUBLIC. (a) The board shall prepare information of public interest describing the functions of the board and describing the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the general public and appropriate state agencies.

(b) The board shall promulgate rules and regulations establishing methods by which consumers or service recipients can be notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board shall provide for that notification through inclusion of the information:

(1) on each registration form, application, or information form for services of a person or entity regulated or authorized by this Act; and

(2) on a sign prominently displayed in every nursing home regulated by the state in which the words "Administrator Complaints" are in letters no smaller than one inch in height and the name, mailing address, and telephone number of the board are in letters no smaller than one-half inch in height; and

(3) in a bill for service provided by a person or entity regulated or authorized by this Act.

(c) The board shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board. [There shall at all times be prominently displayed in every nursing home regulated by the state, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the Texas

Board of Licensure for Nursing Home Administrators and which shall contain a statement informing consumers that complaints against nursing home administrators can be directed to the board.]

SECTION 4. Section 10A, Texas Nursing Home Administrators Licensure Act (Article 4442d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10A. The board by rule may adopt a system under which licenses expire on various dates during the year. ~~For the year in which the expiration date is changed, license fees payable on June 30 shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license fee is payable.~~

SECTION 5. Subsection (1), Section 11, Texas Nursing Home Administrators Licensure Act (Article 4442d, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) The board shall be authorized to revoke, suspend, or refuse to renew, a nursing home administrator's license after due notice and hearing upon the following grounds or any of them:

(a) upon proof that such licensee has wilfully or repeatedly violated any of the provisions of this Act or the rules adopted in accordance therewith;

(b) upon proof that such licensee has wilfully or repeatedly acted in a manner inconsistent with the health and safety of the patients of the home of which he is administrator;

(c) ~~upon~~ ~~Upon~~ proof that the licensee ~~obtained or attempted to obtain a~~ ~~was guilty of fraud in securing his~~ license through misrepresentation or deceit, or by making a material misstatement of fact in a license application;

(d) upon proof of the intemperate use of alcohol or drugs which in the opinion of the board creates a hazard to patients;

(e) upon proof of a judgment of a court of competent jurisdiction finding the licensee insane;

(f) upon proof that such licensee has been convicted in a court of competent jurisdiction of a misdemeanor or a felony involving moral turpitude; and

(g) upon proof that the licensee has been grossly negligent in his duties as a nursing home administrator.

SECTION 6. Hearings for which charges were filed before September 1, 1985, are covered by the law as it existed before amendment by this Act and that law is continued in effect for this purpose.

SECTION 7. This Act takes effect September 1, 1985.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 16, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 593 on May 15, 1985, by a non-record vote; passed by the Senate, with amendments, on May 9, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 10, 1985

Effective: September 1, 1985