Sec. 301.251. License Required.

(a) A person may not practice or offer to practice professional nursing or vocational nursing in this state unless the person is licensed as provided by this chapter.

(b) Unless the person holds a license under this chapter, a person may not use, in connection with the person’s name:

(1) the title “Registered Nurse,” “Professional Nurse,” “Licensed Vocational Nurse,” “Vocational Nurse,” “Licensed Practical Nurse,” “Practical Nurse,” or “Graduate Nurse”;

(2) the abbreviation “R.N.,” “L.V.N.,” “V.N.,” “L.P.N.,” or “P.N.”; or

(3) any other designation tending to imply that the person is a licensed registered nurse or vocational nurse.

(c) This section does not apply to a person entitled to practice nursing in this state under Chapter 304.

(d) Unless the person holds a license under this chapter, a person may not use, in connection with the person’s name:

(1) the title “nurse”; or

(2) any other designation tending to imply that the person is licensed to provide nursing care.

[Amended by Acts 2005 (S.B. 1000), 79th Leg., eff. May 20, 2005]

Sec. 301.2511. Criminal History Record Information for License Applicants.

(a) An applicant for a registered nurse license must submit to the board, in addition to satisfying the other requirements of this subchapter, a complete and legible set of fingerprints, on a form prescribed by the board, for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) The board may deny a license to an applicant who does not comply with the
requirement of Subsection (a). Issuance of a license by the board is conditioned on the board obtaining the applicant’s criminal history record information under this section.

(c) The board by rule may develop a system for initiating the process of obtaining criminal history record information for applicants for a license under this chapter by requiring persons who enroll or plan to enroll in an educational program that prepares a person for a license as a registered nurse to submit to the board a set of fingerprints that meets the requirements of Subsection (a). The board may require payment of a fee by a person who is required to submit a set of fingerprints under this subsection.

Sec. 301.253. Examination.

(a) Except as provided by Section 301.452, an applicant is entitled to take the examination prescribed by the Board if:

(1) the Board determines that the applicant meets the qualifications required by Section 301.252; and

(2) the applicant pays the fees required by the Board.

(b) The Board shall give the examination in various cities throughout the state.

(c) The examination shall be designed to determine the fitness of the applicant to practice professional nursing or vocational nursing.

(d) The Board shall determine the criteria that determine a passing score on the examination. The criteria may not exceed those required by the majority of the states.

(e) A written examination prepared, approved, or offered by the Board, including a standardized national examination, must be validated by an independent testing professional.

Sec. 301.257. Declaratory Order of License Eligibility.

(a) A person may petition the board for a declaratory order as to the person’s eligibility for a license under this chapter if the person:

(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license as a registered nurse or vocational nurse; and

(2) has reason to believe that the person is ineligible for the license.
(b) The petition must state the basis for the person’s potential ineligibility.

(c) The Board has the same powers to investigate the petition and the person’s eligibility that it has to investigate a person applying for a license.

(d) The petitioner or the Board may amend the petition to include additional grounds for potential ineligibility at any time before a final determination is made.

(e) If the Board determines that a ground for ineligibility does not exist, instead of issuing an order, the Board shall notify the petitioner in writing of the Board’s determination on each ground of potential ineligibility. If the Board proposes to find that the petitioner is ineligible for a license, the petitioner is entitled to a hearing before the State Office of Administrative Hearings.

(f) The Board’s order must set out each basis for potential ineligibility and the Board’s determination as to eligibility. 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 person’s eligibility with respect to the grounds for potential ineligibility set out in the written notice or order.

(g) The Board may require an individual accepted for enrollment or enrolled in an educational program preparing a student for initial licensure as a registered nurse or vocational nurse to submit information to the Board to permit the Board to determine whether the person is aware of the conditions that may disqualify the person from licensure as a registered nurse or vocational nurse on graduation and of the person’s right to petition the Board for a declaratory order under this section. Instead of requiring the person to submit the information, the Board may require the educational program to collect and submit the information on each person accepted for enrollment or enrolled in the program.

(h) The information required under Subsection (g) must be submitted in a form approved by the Board.

(i) If, as a result of information provided under Subsection (g), the Board determines that a person may not be eligible for a license on graduation, the Board shall notify the educational program of its determination.

Sec. 301.452. Grounds for Disciplinary Action.

(a) In this section, “intemperate use” includes practicing nursing or being on duty or on call while under the influence of alcohol or drugs.

(b) A person is subject to denial of a license or to disciplinary action under this subchapter for:
(1) a violation of this chapter, a rule or regulation not inconsistent with this chapter, or an order issued under this chapter;

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

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

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

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

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

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

(8) revocation, suspension, or denial of, or any other action relating to, the person’s license or privilege to practice nursing in another jurisdiction;

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

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

(11) adjudication of mental incompetency;

(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; or

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

(c) The Board may refuse to admit a person to a licensing examination for a ground described under Subsection (b).

[Sections (b)(3) amended by Acts 2005 (H.B. 1366), 79th Leg., eff. Sept. 1, 2005]
Sec. 301.453. Disciplinary Authority of Board; Methods of Discipline.

(a) If the Board determines that a person has committed an act listed in Section 301.452(b), the Board shall enter an order imposing one or more of the following:

(1) denial of the person’s application for a license, license renewal, or temporary permit;

(2) issuance of a written warning;

(3) administration of a public reprimand;

(4) limitation or restriction of the person’s license, including:

(A) limiting to or excluding from the person’s practice one or more specified activities of nursing; or

(B) stipulating periodic board review;

(5) suspension of the person’s license for a period not to exceed five years;

(6) revocation of the person’s license; or

(7) assessment of a fine.

(b) In addition to or instead of an action under Subsection (a), the Board, by order, may require the person to:

(1) submit to care, counseling, or treatment by a health provider designated by the Board as a condition for the issuance or renewal of a license;

(2) participate in a program of education or counseling prescribed by the Board;

(3) practice for a specified period under the direction of a registered nurse or vocational nurse designated by the Board; or

(4) perform public service the Board considers appropriate.

(c) The Board may probate any penalty imposed on a nurse and may accept the voluntary surrender of a license. The Board may not reinstate a surrendered license unless it determines that the person is competent to resume practice.

(d) If the Board suspends, revokes, or accepts surrender of a license, the Board may impose conditions for reinstatement that the person must satisfy before the Board may issue an unrestricted license.
Sec. 301.4535. Required Suspension, Revocation, or Refusal of License for Certain Offenses.

(a) The board shall suspend a nurse's license or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of:

(1) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or manslaughter under Section 19.04, Penal Code;

(2) kidnapping or unlawful restraint under Chapter 20, Penal Code, and the offense was punished as a felony or state jail felony;

(3) sexual assault under Section 22.011, Penal Code;

(4) aggravated sexual assault under Section 22.021, Penal Code;

(5) indecency with a child under Section 21.11, Penal Code;

(6) aggravated assault under Section 22.02, Penal Code;

(7) intentionally, knowingly, or recklessly injuring a child, elderly individual, or disabled individual under Section 22.04, Penal Code;

(8) intentionally, knowingly, or recklessly abandoning or endangering a child under Section 22.041, Penal Code;

(9) aiding suicide under Section 22.08, Penal Code, and the offense was punished as a state jail felony;

(10) an offense under Section 25.07, Penal Code, punished as a felony;

(11) an offense under Section 25.071, Penal Code, punished as a felony;

(12) an agreement to abduct a child from custody under Section 25.031, Penal Code;

(13) the sale or purchase of a child under Section 25.08, Penal Code;

(14) robbery under Section 29.02, Penal Code;

(15) aggravated robbery under Section 29.03, Penal Code;

(16) an offense for which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or
an offense under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense listed in this subsection.

(b) On final conviction or a plea of guilty or nolo contendere for an offense listed in Subsection (a), the board, as appropriate, may not issue a license to an applicant, shall refuse to renew a license, or shall revoke a license if the applicant or license holder did not previously disclose the conviction or plea and the fifth anniversary of the date the person successfully completed community supervision or parole has not occurred.

(c) A person is not eligible for an initial license or for reinstatement or endorsement of a license to practice nursing in this state before the fifth anniversary of the date the person successfully completed and was dismissed from community supervision or parole for an offense described by Subsection (a).

[Sec. 301.4535 added by Acts 2005 (H.B. 1366), 79th Leg., eff. Sept. 1, 2005. The change in law made by this Act by the enactment of Section 301.4535, Occupations Code, applies only to a person who is initially convicted of an offense or placed on deferred adjudication after a plea of guilty or nolo contendere for an offense on or after the effective date of this Act. A person initially convicted of an offense or placed on deferred adjudication before that date is governed by the law in effect on the date the conviction or plea occurred, and the former law is continued in effect for that purpose.]

Sec. 301.454. Notice and Hearing.

(a) Except in the case of a temporary suspension authorized under Section 301.455 or an action taken in accordance with an agreement between the board and a license holder, the Board may not initiate a disciplinary action relating to a license unless:

(1) the Board has served notice to the license holder of the facts or conduct alleged to warrant the intended action; and

(2) the license holder has been given an opportunity, in writing or through an informal meeting, to show compliance with all requirements of law for the retention of the license.

(b) If an informal meeting is held, a board member, staff member, or board representative who attends the meeting is considered to have participated in the hearing of the case for the purposes of ex parte communications under Section 2001.061, Government Code.
(c) A person is entitled to a hearing conducted by the State Office of Administrative Hearings if the Board proposes to:

(1) refuse to admit the person to examination;

(2) refuse to issue a license or temporary permit;

(3) refuse to renew a license; or

(4) suspend or revoke the person’s license or permit.

(d) The State Office of Administrative Hearings shall use the schedule of sanctions adopted by the Board for any sanction imposed as the result of a hearing conducted by that office.

(e) Notwithstanding Subsection (a), a person is not entitled to a hearing on a refusal to renew a license if the person:

(1) fails to submit a renewal application; or

(2) submits an application that:

(A) is incomplete;

(B) shows on its face that the person does not meet the renewal requirements; or

(C) is not accompanied by the correct fee.