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Bill Analysis
Legislative Service Commission

Sub. H.B. 511*

123rd General Assembly

(As Reported by S. Health, Human Services & Aging)

Reps. Schuring, Van Vyven, Vesper, Grendell, Aslanides, Mottley, Tiberi, Goodman, Ogg, Hollister, Terwilleger, Widener, Stevens, Patton, Sykes, Krupinski, Myers, Oلمان, Austria, Britton, Barrett, Bender, Salerno

BILL SUMMARY

- Specifies that a nursing student must practice under the auspices of a prelicensure nursing education program and under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor.
- Expands the activities permitted in Ohio by individuals licensed to practice nursing in another jurisdiction.
- Adds chiropractors to the health care professionals who may direct the practice of nursing by licensed practical nurses.
- Requires an employer to report to the Board of Nursing any nurse the employer believes has violated any statute or rule governing the practice of nursing.
- Eliminates the provision that authorized the Board to discipline a nurse for failing to return to the Board a license or certificate that has lapsed or been suspended or revoked.
- Modifies certain aspects of investigating and disciplining a nurse, including procedures for conducting a license suspension without a hearing, access to criminal background information, and jurisdiction over nurses with inactive licenses.

* *This analysis was prepared before the report of the Senate Health, Human Services & Aging Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Specifies that any disciplinary action taken by the Board may be permanent.
- Subjects a nurse to discipline by the Board for failing to establish and maintain professional boundaries with a patient.
- Permits the Board to enter into a consent agreement with a license holder to resolve an alleged violation of the nursing law.
- Provides that the Board is not required to act on a minor violation of the nursing law if certain circumstances exist.
- Permits employees of the Board to have access to certain drug records.
- Modifies the Alternative Program for Chemically Dependent Nurses by specifying that the program is a monitoring program, making the program available to additional persons, and eliminating the Board's duty to approve treatment providers.
- Changes the five-year term of office for Board members to four years.
- Requires the Board to elect one of its registered nurse members to serve as the supervising member for disciplinary matters.
- Requires the Board to provide guidance and make recommendations to certain governmental entities regarding the regulation of the practice of nursing and the enforcement of the nursing laws.
- Modifies the procedure the Board must follow when issuing a license to practice nursing and renewing a license to practice nursing or certificate to practice in a specialized area of nursing.
- Modifies the fees for renewal of a certificate to practice in a specialized area of nursing and establishes a fee for reinstatement of a lapsed license or certificate.
- Modifies the schedule for authorization to approve continuing nursing education (CNE) programs and courses, adds a required CNE topic to the program, and permits the Board to use random sampling to ensure completion of CNE.

- Eliminates specific references to agreements between the Board and the Department of Health regarding nurse aide training.
- Increases the penalty for engaging in certain acts that are prohibited in the law governing nurses.
- Establishes immunity from civil liability for entities that provide remediation services through the Board's Practice Intervention and Improvement Program.
- Allows the Board's supervising member for disciplinary matters to issue notices to persons who allegedly have engaged in the unauthorized practice of nursing.
- Specifies that a person has immunity from civil liability and protection from retaliation by an employer when reporting to or testifying before the Board of Nursing regarding any violation of the nursing laws.
- Requires the Department of Health to maintain a toll-free telephone line for accepting complaints regarding patient safety.
- Permits the Public Health Council to adopt rules that require hospitals to report any information the Council considers relevant to patient safety.
- Extends confidentiality and immunity provisions applicable to hospital utilization review and peer review committees to long-term care facility utilization review and peer review committees.

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CONTENT AND OPERATION

Exceptions to the law governing nurses

Nursing students

(sec. 4723.32(A))

Currently, the law governing nurses, including the prohibition against the unlicensed practice of nursing, does not prohibit the practice of nursing by students as an integral part of a program of study leading to initial licensure and approved by the Board. The bill specifies that the nursing student exception applies only if the

student's practice is under the auspices of a prelicensure nursing education program approved by the Board and the student acts under the supervision of a registered nurse (RN) serving for the program as a faculty member, teaching assistant, or preceptor.

Nurses licensed in other jurisdictions

(sec. 4723.32(G))

Currently, the law governing nurses does not prohibit the activities of a nurse licensed in another jurisdiction if one of the following is the case:

(1) The nurse is engaging in the practice of nursing by discharging official duties while employed by the U.S. government or any agency thereof;

(2) The nurse is an employee of an individual, agency, or corporation located in the other jurisdiction in a position with employment responsibilities that include transporting patients into, out of, or through Ohio, as long as each trip in Ohio does not exceed 48 hours.

With respect to the exception for nurses practicing for the federal government, the bill extends the exception to a person who is under contract with the government, but not necessarily an employee. With respect to the exception for nurses transporting patients, the bill increases the maximum period from 48 hours to 72 hours.

The bill creates additional exceptions to the law governing nurses for nurses licensed in other jurisdictions. These exceptions apply to a nurse who engages in any of the following activities:

(1) Consulting with an individual licensed in Ohio to practice any health-related profession;

(2) Engaging in activities associated with teaching in Ohio as a guest lecturer at or for a nursing education program, continuing nursing education program, or in-service presentation;

(3) Conducting evaluations of nursing care that are undertaken on behalf of any nationally recognized accrediting organization;

(4) Providing nursing care to an individual who is in Ohio on a temporary basis, not to exceed six months in any calendar year, if the nurse is directly employed by or under contract with the individual or a guardian or other person acting on behalf of the individual;

(5) Providing nursing care during any disaster, natural or otherwise, that has been officially declared to be a disaster by a public announcement issued by an appropriate federal, state, county, or municipal official.

In addition, the bill specifies that for the activities of an individual licensed in another jurisdiction to be permitted, the individual's license in the other jurisdiction must not have been revoked, the individual must not be currently under suspension or on probation, and the individual must not represent that the individual is licensed in Ohio.

Practice of nursing by licensed practical nurses

(sec. 4723.01)

Under current law, the practice of nursing as a licensed practical nurse (LPN) includes providing to individuals and groups nursing care that requires the application of basic knowledge of the biological, physical, behavioral, social, and nursing sciences at the direction of a licensed physician, dentist, podiatrist, optometrist, or RN. The bill adds chiropractors to the individuals who may direct the practice of an LPN.

Reports by employers of nurses who violate the law

(sec. 4723.34)

Under current law, every employer of RNs or LPNs must report to the Board the name of any nurse whose employment has been voluntarily or involuntarily terminated due to conduct that would be grounds for disciplinary action by the Board. Under the bill, a report is required with respect to any former employee, regardless of how the nurse's employment ceased. Further, the bill requires a report to be made while a nurse is currently employed.

Sanctioning power of the Board

Actions taken by the Board may be permanent

(sec. 4723.28(K))

Current law permits the Board to deny, permanently revoke, suspend, or place restrictions on any license or certificate issued by the Board. Under the bill, when the Board refuses to grant a license or certificate, revokes a license or certificate, or refuses to reinstate a license or certificate, the Board may specify that its action is permanent. An individual subject to permanent action taken by the Board is forever ineligible to hold a license or certificate of the type that was refused or revoked and

the Board must not accept from the individual an application for reinstatement of the license or certificate or for a new license or certificate.

Cases of a plea of no contest or a finding of eligibility for intervention in lieu of conviction

(sec. 4723.28(B); Section 4)

Under current law, the reasons for which the Board may impose a sanction include the conviction of, plea of guilty to, or a judicial finding of guilt for various crimes. Regarding these crimes, the bill authorizes the Board to also impose a sanction if there is a judicial finding of guilt resulting from a plea of no contest or a judicial finding of eligibility for intervention in lieu of a conviction. The bill specifies that this provision extends to a person who was found eligible for "treatment" in lieu of conviction, which is now included in cases of intervention in lieu of conviction.

Failure to establish and maintain professional boundaries

(secs. 4723.07(Q) and 4723.28(B)(31))

The bill permits the Board to sanction a license or certificate holder for failure to establish and maintain professional boundaries with a patient. The bill requires the Board to adopt rules that establish the actions, omissions, or other circumstances that constitute a nurse's failure to establish and maintain professional boundaries with a patient. The rules must be adopted in accordance with the provisions of the Administrative Procedure Act (R.C. Chapter 119.) that require a public hearing.

Failure to return license

(sec. 4723.28(B))

The bill eliminates a provision authorizing the Board to discipline a nurse for failing to return a license or certificate that has lapsed or been suspended or revoked.

Inactive and expired licenses

(sec. 4723.28(L))

The bill specifies that the Board maintains jurisdiction to take disciplinary action even when an individual has a license or certificate of authority classified as inactive or fails to renew a license or certificate.

Consent agreement to resolve an alleged violation of the law

(sec. 4723.28(C))

The bill permits the Board to enter into a consent agreement with an individual to resolve an allegation of a violation of a statute or rule governing the practice of nursing. A consent agreement, when ratified by a vote of a quorum, constitutes the findings and order of the Board with respect to the matter addressed in the agreement. If the Board refuses to ratify a consent agreement, the admissions and findings contained in the agreement are of no effect.

Minor violations

(sec. 4723.061)

The bill provides that the Board is not required to act on minor violations of the nursing law or rules adopted under it, if the violations are committed by individuals licensed under the nursing law and the Board determines that the public is adequately protected by issuing a notice or warning to the alleged offender.

Criminal background investigations

(sec. 4723.28(F))

The bill permits the Board to investigate an individual's criminal background.

Board records unaffected by sealing of court records

(sec. 4723.28(E))

Under current law, if the court seals a record of conviction on which the Board has based a disciplinary action, the sealing of the record has no effect on the Board's action or any sanction imposed by the Board. The bill specifies that the Board is not required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

Summary suspensions

(sec. 4723.281)

Under current law, the Board may impose a suspension without a hearing on a person licensed to practice nursing if it determines there is evidence that the license holder is subject to disciplinary action and there is clear and convincing evidence that the person's continued practice presents a danger of immediate and serious harm to the public. The Board president and director are to make the preliminary

determinations and present the evidence to the Board. The Board may then, by an affirmative vote of seven of its members not including the president, impose a suspension without a hearing.

The bill eliminates the requirement that the Board vote on imposing a summary suspension. Instead, the bill provides for the Board president and executive director to impose the summary suspension, with a written order from the Board to follow. With respect to the standards for determining when to impose a summary suspension, the bill retains the standard of finding clear and convincing evidence that continued practice presents a danger of immediate and serious harm to the public. The requirement that the nurse be found to be subject to disciplinary action by the Board, however, is eliminated by the bill. For purposes of the imposing summary suspensions, the bill specifies that an individual serving as president or executive director, in the absence of the president or executive director, is permitted to take any action that the president or executive director may take.

Failure to request a hearing

(sec. 4723.28(D))

The bill provides that in situations in which it would otherwise be required to hold a hearing, the Board is not required to hold the hearing if the applicant or license holder does not make a timely request for a hearing. If a hearing is not held, the Board may adopt, by vote of a quorum, a final order that contains the Board's findings. In the final order, the Board may order any of the sanctions authorized by the nursing law.

Access to certain drug records

(sec. 3719.13)

Under current law, prescriptions, orders, and other drug records required by the law governing dangerous drugs and controlled substances are open for inspection to federal, state, county, and municipal officers, and employees of the State Board of Pharmacy whose duty it is to enforce the laws of this state or of the United States relating to controlled substances. The prescriptions, orders, records, and stocks are also open for inspection by employees of the State Medical Board for enforcement of the laws governing physicians. The bill expands access to these materials by requiring that they be open for inspection to employees of the Board of Nursing for purposes of enforcing the laws governing the practice of nursing.

Monitoring of chemically dependent nurses

(secs. 4723.06 and 4723.35)

Current law requires that the Board of Nursing establish the Alternative Program for Chemically Dependent Nurses, a program for nurses who abuse alcohol, controlled substances, harmful intoxicants, or other dangerous drugs. Under rules adopted by the Board, the program has been implemented as a monitoring program. The bill makes changes to reflect the monitoring nature of the program and that dialysis technicians have the opportunity to participate. Rather than having the program's name specified in statute, the bill requires the Board to select the name. The bill changes the title of the program's administrator to coordinator.

As a condition of being admitted to the monitoring program, an individual is required to surrender to the program coordinator the license or certificate that the individual holds. While the surrender is in effect, the individual is prohibited from engaging in the practice of nursing or the provision of dialysis care.

If the program coordinator determines that a participant is capable of resuming practice according to acceptable and prevailing standards of safe care, the coordinator is required to return the participant's license or certificate. If the participant violates the terms and conditions of resumed practice, the program coordinator must require the participant to surrender the license or certificate as a condition of continued participation in the program. The coordinator is authorized to require the surrender only on the approval of the Board's supervising member for disciplinary matters.

The bill specifies that the surrender of a license or certificate on admission to the monitoring program or while participating in the program does not constitute a disciplinary action by the Board. The bill allows a participant to rescind the surrender at any time, after which the Board is authorized to proceed with formal disciplinary action.

If the program coordinator determines that a participant is significantly out of compliance with the terms and conditions for participation, the coordinator is required to notify the Board's supervising member for disciplinary matters, who then temporarily suspends the participant's license or certificate. The program coordinator is required to notify the participant of the suspension by certified mail sent to the last known address and refer the matter to the Board for formal disciplinary action.

The bill eliminates provisions of current law that limit the Board's authority to conduct investigations and impose sanctions against persons who participate in the monitoring program, particularly with respect to voluntary participants.

Under current law, records of participants in the program are not public records and are confidential, except to the extent that the Board is given reports on individuals who fail to complete the program. The bill continues to provide for the



confidentiality of the records, but allows the program's coordinator to disclose to the Board more than failure to complete the program. Under the bill, the coordinator may disclose information regarding an individual's progress in the program to any person or government entity that the participant authorizes in writing to be given the information. In making these disclosures, the coordinator is prohibited from including any information that is protected under state or federal law providing for the confidentiality of medical, mental health, or substance abuse records. If the information is disclosed properly, the bill provides that the program coordinator, the Board, and the Board's employees and representatives are immune from civil liability as a result of making the disclosure.

Each program applicant or participant is required to sign a waiver allowing the program coordinator to receive and send information as needed to monitor the participant. The bill specifies that this information includes information provided to and by employers, probation officers, law enforcement agencies, peer assistance programs, health professionals, and treatment providers. The bill prohibits any entity from divulging its knowledge that information has been provided to the monitoring program.

Approval of treatment providers

(secs. 4723.341 and 4723.342 (repealed))

The bill eliminates the provisions of current law requiring that the Board approve and designate treatment providers for "impaired" nurses.

Modifications relative to the Board of Nursing

Term of office

(sec. 4723.02; Section 3)

Under current law, Board of Nursing members are appointed for a term of five years. The bill reduces the term of office to four years. The change does not affect the terms of the Board members holding office on the bill's effective date.

Current law allows a person to serve one full term as a member of the Board. The bill permits a member to serve two full terms. A partial term of 30 months continues to be considered a full term.

Election of an RN to oversee disciplinary matters

(sec. 4723.02)



Current law requires that eight of the 13 members of the Board of Nursing be registered nurses. The bill requires the Board to elect one of its registered nurse members to serve as the supervising member for disciplinary matters.

Additional duty of the Board

(sec. 4723.06)

The bill adds to the duties of the Board the duty to provide guidance and make recommendations to the General Assembly, the Governor, state agencies, and the federal government with respect to the regulation of the practice of nursing and the enforcement of the nursing laws.

File on applicants

(sec. 4723.06)

Under current law, the Board is required to maintain and have open for public inspection a file of applicants for and holders of licenses, registrations, and certificates granted by the Board. The bill eliminates the requirement that the Board maintain a file with respect to applicants.

Changes in procedure for licensing and license renewal

Licensing examination

(secs. 4723.06, 4723.07, 4723.09, and 4723.10)

Current law requires that the Board examine applicants for licensure to practice as an RN or LPN and permits the Board to use, in administering examinations for licensure, all or any part of the licensure examination of the National Council of State Boards of Nursing or any other national standardized nursing examination that determines whether a person is competent to commence practicing nursing as an RN or LPN. The bill eliminates the requirement that the Board administer the licensing examinations; instead it requires that the Board accept all or any part of a national standardized licensing examination. The bill provides that if the Board incurs any cost in its acceptance of an examination or in making the accepted examination available to applicants, the Board may require applicants to pay an amount sufficient to cover the cost incurred.

Board to provide application for renewal

(secs. 4723.24 and 4723.42(B))

Current law requires the Board to mail an application for renewal of a license to practice nursing to every active license holder and a renewal application for authorization to practice as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to certificate holders. The bill modifies this procedure and requires that the Board "provide" a renewal application to every holder of an active license and certificate holders, except when the Board is aware that an individual is ineligible for license or certificate renewal for any reason, including the following: (1) pending criminal charges in Ohio or another jurisdiction, (2) failure to comply with a disciplinary order from the Board or the terms of a consent agreement entered into with the Board, (3) failure to pay fines or fees owed to the Board, or (4) failure to provide on the Board's request documentation of having completed continuing nursing education requirements.

Fees

(sec. 4723.08)

The bill reduces, to \$85 from \$100, the fee for biennial renewal of a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner. The reduction applies to certificates that expire on or after September 1, 2005.

The bill creates a new fee of \$100 for reinstatement of a lapsed license or certificate.

Status of specialized nursing certificate when license is inactive

(sec. 4723.47)

Under current law, if a certified registered nurse anesthetist's, clinical nurse specialist's, certified nurse-midwife's, or certified nurse practitioner's license to practice nursing expires for failure to renew, the nurse's certificate of authority to practice nursing in one of specialized areas of nursing is automatically suspended until the license is reinstated. If the license is revoked or suspended due to sanctioning by the Board, the certificate of authority is automatically revoked or suspended. The bill adds that if the license is classified as inactive, the certificate of authority is automatically classified as inactive while the license remains inactive.

Continuing nursing education

(secs. 4723.06, 4723.07, and 4723.24(C))

Current law requires, for license renewal, that holders of active licenses to practice nursing complete in each two-year period 24 hours of continuing nursing

education. The bill adds the requirement that at least one hour be directly related to the statutes and rules pertaining to the practice of nursing in Ohio.

The bill authorizes the Board to conduct a random sample of license holders to determine completion of required continuing nursing education.

Under current law, the Board authorizes, for a period of two years with the possibility of renewal, persons to approve continuing nursing education programs and courses. Instead of authorization for the specified two-year period, the bill permits the Board to establish by rule a schedule for authorization and renewal of authorization for those persons.

Training of nurse aides used by nursing homes

(secs. 3721.34, 4723.061, and 4723.082)

Current law requires that the nurse aides used in nursing homes be trained and evaluated for competency to perform nursing and nursing-related services. In implementing this requirement, the Director of Health is authorized to enter into agreements with the Board of Nursing or another state agency to conduct the process of approving programs for training and competency evaluation. In turn, the Board is authorized to enter into the agreements with the Director.

The bill eliminates the Board's express authority to enter into the agreements with the Director. In so doing, it eliminates the Nurse Aide Fund created in the state treasury for the Board's use in carrying out the agreements. Although the bill also eliminates the Director's express authority to advise, consult or cooperate with, or enter into agreements with the Board, it retains the Director's general authority to enter into agreements and otherwise work with any state agency.

Criminal penalties for violations of the nursing law

(sec. 4723.99)

Under current law, a person who engages in certain acts prohibited in the nursing law may be fined \$500, imprisoned up to 90 days, or both.¹ The bill increases the penalty, with one exception, to a fifth degree felony on a first offense

¹ Those acts include (1) the unauthorized practice of nursing as an RN or LPN, (2) the unauthorized practice of a nursing specialty, (3) the use of certain titles to represent that the person is authorized to practice nursing in Ohio (with some exceptions for nurses licensed in Ohio), (4) with respect to nurses practicing in a nursing specialty, practicing outside the nurse's specialty, and (5) employing persons other than nurses to practice nursing (R.C. 4723.03 and 4723.44, not in the bill).

and a fourth degree felony on a second offense.² The exception applies to an RN or LPN who engages in the unauthorized practice of nursing by reason of a license that has lapsed for failure to renew or is classified as inactive. In this case, the person is guilty of a minor misdemeanor.³

Practice Intervention and Improvement Program

(secs. 4723.021 and 4723.282)

Current law authorizes the Board to abstain from taking disciplinary action against an individual who has practiced deficiency and agrees to undergo remediation. This authority is implemented through the Practice Intervention and Improvement Program.

The bill requires an entity that provides remediation services to report to the Board if the individual does not make satisfactory progress in remediation.

Further, it establishes immunity from civil liability for an entity that provides remediation services. Under the bill, the state is required to defend an entity that requests to be defended by the state against any claim or action arising out of the entity's official duties.

Dialysis technicians

(secs. 4723.07, 4723.34, and 4723.74)

With respect to the Board's regulation of dialysis technicians, the bill provides the following:

(1) Any action taken by the Board to withdraw its approval of a dialysis technician training program must be taken in accordance with the Administrative Procedure Act (Chapter 119.);

(2) Dialysis technician associations must report to the Board the name of any dialysis technician who has been investigated and found to be a danger to the public;

² A fifth degree felony may result in a prison term ranging from six to 12 months, a fine of up to \$2,500, or both. A fourth degree felony may result in a prison term ranging from six to 18 months, a fine of up to \$5,000, or both (R.C. 2929.14 and 2929.18, not in the bill).

³ A minor misdemeanor may result in a fine alone of up to \$100 (R.C. 2929.21, not in the bill).

(3) Rules are to be adopted establishing criteria for evaluating whether an out-of-state license to practice as a dialysis technician should receive the Board's endorsement.

Injunctions and notices against the unlawful practice of nursing

(sec. 4723.40)

Under current law, the Board may apply to an appropriate court for an order enjoining the violation of any provision of the nursing law. The bill specifies that the Board acts through the Attorney General or a prosecuting attorney. The court hearing the petition must give the same preference to the proceeding as is given to hearings under the Administrative Procedure Act, irrespective of the position of the proceeding on the court's calendar.

If the Board's supervising member receives information sufficient to determine that a person may have engaged in the unauthorized practice of nursing, the supervising member is required to notify the alleged offender by registered mail that the information has been received. To be considered as sufficient, the information must include (1) a description of the alleged violation, (2) if a particular individual can be identified, the name of the person involved in the violation, (3) the name and address of the facility, institution, or other place where the violation occurred, and (4) the approximate dates that the violation occurred.

The alleged offender has 30 days to respond to the notice. If that person fails to provide a timely and sufficient response, the supervising member must investigate. Based on the investigation's findings, the supervising member may request that the Board proceed by seeking an injunction. The bill specifies that injunction proceedings and notice requirements are in addition to penalties and other remedies provided in the nursing law.

Toll-free patient safety telephone line

(sec. 3701.91)

The bill requires that the Department of Health maintain a toll-free telephone line for accepting calls regarding patient safety. Calls may be accepted from any person seeking to report an action or failure to act in the provision of health care that the person in good faith believes has resulted in or is likely to result in harm to a patient. The bill authorizes the Department to make the toll-free line available by obtaining a separate line or by using a line that the Department maintains for accepting calls for other purposes. The Department cannot use the provisions of the bill to accept calls regarding long-term care facilities.

The person submitting the report is not required to provide any information that could reveal the person's identity. The bill provides that the information reported is not a public record.

Employee reports regarding patient safety

(sec. 4113.512)

Current law prohibits an employer from taking disciplinary or retaliatory action against an employee who reports that the employer is violating any local, state, or federal law, if the employee has made a reasonable and good faith effort to determine the accuracy of the information reported and has complied with statutory procedures. An employee is required to make a report to a supervisor or other responsible employment officer if the employee (1) becomes aware of a violation that the employer has the authority to correct and (2) reasonably believes that the violation is a felony or a criminal offense likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety. If the employer does not correct the violation within 24 hours, the employee may report the violation to a prosecuting attorney, a peace officer, the Inspector General, or another appropriate public official or agency that has authority over the employer.

Under the bill, the employer of an employee whose duties include providing or supervising the provision of health care is required to make information available to the employee explaining the employee's duty to make reports under existing law, as well as the employee's opportunity to make reports regarding patient safety through the Department of Health's patient safety toll-free telephone line.

General immunity for reporting to the Board

(secs. 4723.33 and 4723.341)

Current law provides that, in the absence of fraud or bad faith, an individual, a Board of Nursing member or employee, a health care facility, association, or society, or an insurer is not subject to civil actions or liable for damages as a result of making a report to the Board or testifying in an adjudication involving specified incidents. These incidents are identified as (1) incidents of negligence or malpractice, (2) acts that subject a nurse to disciplinary action by the Board, and (3) a person's qualifications, fitness, or character to practice nursing.

The bill modifies the immunity provision by applying it to persons or entities reporting or testifying about any matter subject to the nursing laws. It also prohibits an employer from disciplining or dismissing an RN, LPN, or dialysis technician for making a report or testifying with regard to a violation of the nursing laws. The bill provides that the employee has the same rights and duties as those conferred by

existing employment laws. Under those laws, the employee may bring a civil action against the employer and may be entitled to injunctive relief or other remedies, including reemployment, payment of back wages, reinstatement of fringe benefits and seniority rights, or any combination of these remedies.

Information reported by hospitals

(sec. 3701.07)

Under current law that authorizes the Public Health Council to adopt rules, hospitals and dispensaries are required to report specified information to the Department of Health. The information is limited to that necessary to classify the facilities as general or specialty facilities.

The bill provides for the reporting of information from a hospital or dispensary for purposes other than classification. It permits the Council to adopt rules requiring the reporting of any information that the Council considers relevant to the safety of patients served by the institution. In place of the existing requirement to prescribe forms for reporting information, the bill requires the Council to prescribe the manner in which reports must be submitted.

Long-term care facility quality assurance committee

(sec. 2305.24, 2305.25, and 2305.251)

Current law provides that the proceedings and records of a hospital quality assurance or utilization review committee are confidential, as is information provided to such a committee. It also provides immunity from damages to health care entities and individuals who are members of or work on behalf of a utilization review or peer review committee of a hospital, medical society, or insurer. The bill extends these confidentiality and immunity provisions to long-term care facilities and to health care entities and individuals who are members of or work on behalf of a utilization review or peer review committee of a long-term care facility.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-29-99	p. 1375
Reported, H. Health, Retirement & Aging	04-12-00	p. 1821
Passed House (96-0)	05-16-00	pp. 1953-1954
Reported, S. Health, Human Services & Aging	---	---



H0511-RS.123/ss

