

**Consideration of Proposed Amendments to 22 Tex. Admin. Code §211.7,
Pertaining to Executive Director**

Background: An individual whose license is temporarily suspended pursuant to the Occupations Code §301.455 and/or §301.4551 must cease working immediately. Although the individual is entitled to a probable cause hearing at the State Office of Administrative Hearings within 17 days of the suspension, the individual's license will remain in suspended status until an order is issued by the administrative law judge (ALJ). Further, if the ALJ finds that probable cause exists to uphold the suspension, the individual's license will remain in suspended status until the contested case is finally resolved. This may take an additional 60 -90 days or longer. During this time, the individual may not work as a nurse.

Some individuals wish to resolve the contested case with an agreed order and will tender a signed certification page to Board Staff. However, under current practice, the individual's license remains in suspended status until the agreed order is ratified by the Board. During this time period, the individual is prohibited from working as a nurse.

The proposed amendments are intended to provide relief to these individuals by permitting the Executive Director to accept these agreed orders without Board ratification, thereby allowing the individual to return to work under the terms of the agreed order as soon as the Executive Director approves the order. A copy of the proposed amendments is attached hereto as Attachment "A".

Board Action: Move to approve the proposed amendments to 22 Tex. Admin. Code §211.7, Pertaining to *Executive Director*, with authority for the General Counsel to make editorial changes as necessary to clarify rule and Board intent and to comply with the formatting requirements of the *Texas Register*. If no negative comments and no request for a public hearing are received, move to adopt the proposed amendments to 22 Tex. Admin. Code §211.7, Pertaining to *Executive Director*, as proposed.

Attachment “A”

§211.7. Executive Director.

(a) - (e) (No change.)

(f) The Executive Director is authorized to accept the following orders on behalf of the Board and ratification by the Board is not necessary. The Executive Director will report summaries of dispositions to the Board at its regular meetings.

(1) Orders issued under §213.32(2) and (5) of this title (relating to Corrective Action Proceedings and Schedule of Administrative Fines).

(2) Orders requiring a licensee to comply with a peer assistance program.

(3) Orders issued under subsection (i) of this section.

(g) - (h) (No change.)

(i) Following the temporary suspension of an individual’s license pursuant to the Occupations Code §301.455 or §301.4551, the Executive Director may approve and accept on behalf of the Board an agreed order resolving the contested case if he/she is of the opinion that the agreed order falls within, and is consistent with, public safety and the parameters of §213.27 (relating to Good Professional Character); §213.29 (relating to Criteria and Procedure Regarding Intemperate Use and Lack of Fitness in Eligibility and Disciplinary Matters); and §213.33 of this title (relating to Factors Considered for Imposition of Penalties/Sanctions). The Executive Director shall report summaries of dispositions under this subsection to the Board at its regularly scheduled meetings.