

**Discussion, Deliberation, and Consideration of Adoption of Amendments to  
22 Tex. Admin. Code §214.6, relating to Administration and Organization**

Background: On October 23, 2014, the Board charged the Advisory Committee on Education (ACE) with examining and recommending rule changes related to limitations of teaching responsibilities for vocational nursing program directors. The Committee met on July 31, 2015 and September 18, 2015 to consider the Board's charge. The Committee recommended an amendment limiting the teaching hours of a program director or coordinator of a vocational nursing education program to four (4) clock hours per week to allow the director/coordinator to focus on the duties associated with the administration of the program.

Proposed amendments to §214.8 were approved by the Board at its January 2016 meeting for submission to the *Texas Register* for public comment. The proposed amendments were published in the *Texas Register* on February 26, 2016, and the comment period ended on March 27, 2016.

No formal, written comments were received on the proposal. However, Staff has informally discussed the real possibility that some vocational nursing program directors may have their salary negatively effected by not being allowed to teach over four hours while administering the program. This potential effect on vocational nursing program directors is a concern as there a lack of objective data which supports that the limitation proposed serves to protect the public. A rule which limits the ability of constituents to operate their businesses or supplement their salary should be approached conservatively.

See generally, *North Carolina State Board of Dental Examiners v. FTC*, 135 S. Ct. 1101 (2015). A rule that can be viewed as effecting the marketplace by people who work in that market, such as any nurses or nurse educators on the Board, should be evaluated as to whether its value to public protection outweighs its negative impacts.

As there is a lack of concrete data which shows that this will effect public safety, Staff recommends that the Board withdraw the proposal at this time in order to consider whether there may be data which supports this rule and whether this rule is necessary to protect the public. After Staff has time to further investigate and discuss relevant issues with stakeholders, a new proposal can be considered by the Board at a future date.

Though Staff recommends that this rule be withdrawn at this time, Staff will continue to review vocational nursing program director teaching load in its assessment of programs and intends to promulgate a guideline which will be helpful in a vocational nursing program's decision regarding proper teaching load for a vocational nursing program director.

Staff's Recommendation: Move to withdraw the proposed amendment to 22 Tex. Administrative Code §214.6, relating to Administration and Organization as was published in the Texas Register on February 26, 2016.