

**Consideration of Adoption of Amendments to 22 Tex. Admin. Code §213.27,  
relating to Good Professional Character, including Written Comments Received  
and Results of Public Hearing, if any**

**Background:** Proposed amendments to §213.27 were approved by the Board at its October 2017 meeting for submission to the *Texas Register* for public comment. The proposed amendments were published in the *Texas Register* on December 8, 2017, and the comment period ended on January 7, 2018. The Board received two written comments on the proposal. The Board did not receive any requests for a public hearing. A copy of the written comments are attached hereto as Attachment "A".

The Board received a positive written comment from a representative of the Texas Nurses Association (TNA) expressing support of the proposed changes to §213.27. The Board also received one written comment from a representative of the Coalition for Nurses in Advanced Practice (CNAP) recommending a minor grammatical change to the text in subsection (b) of the rule. Staff recommends that the recommended changes be made.

A summary of the comments received and Staff's proposed responses to the written comments are attached as Attachment "B". The relevant portion of the proposed rule text, as approved by the Board and published in the *Texas Register*, is included in Attachment "C". Staff's recommended changes to the relevant portion of the rule text, with highlighted changes responsive to the written comments, are included in Attachment "D". If approved by the Board, the amendments will become effective in February 2018.

**Board Action:** Move to adopt the amendments to 22 Texas Administrative Code §213.27, pertaining to *Good Professional Character*, with changes, as set out in Attachment "D". Further, authorize Staff to publish the summary of comments and response to comments attached hereto as Attachment "B".

## Attachment "B"

### Summary of Comments Received

#### *In general*

*Comment:* A representative of the Texas Nurses Association states that the Board has done an outstanding job of eliminating subjective language in the rule and that the new, objective criteria will assist nurses in understanding their duties and responsibilities.

*Response:* The Board appreciates the comment.

#### *Subsection (b)*

*Comment:* A representative of the Coalition for Nurses in Advanced Practice suggests a grammatical change in subsection (b) of the rule text to eliminate an "s" from the end of the word "indicates" for subject-verb agreement and to eliminate the word "that" from the text, as it is unnecessary and redundant.

*Response:* The Board agrees and has amended the text as adopted accordingly.

Attachment "C" (relevant portion of rule text as originally proposed)

(b) The Board defines good professional character as the integrated pattern of personal, academic, and occupational behaviors ~~that [which, in the judgment of the Board;]~~ indicates that an individual is able to consistently conform his/her conduct to the requirements of the Nursing Practice Act, the Board's rules ~~[and regulations]~~, and generally accepted standards of nursing practice. An individual who provides satisfactory evidence that he/she has not committed a violation of the Nursing Practice Act or a rule adopted by the Board is considered to have good professional character related to the practice of nursing. ~~[An individual must maintain good professional character to ensure that he/she is able to consistently act in the best interest of patients/clients and the public. In all cases, it is the individual's burden to provide evidence of good professional character in order to obtain or retain licensure.]~~

Attachment "D" (suggested changes to the relevant rule text highlighted in blue)

(b) The Board defines good professional character as the integrated pattern of personal, academic, and occupational behaviors ~~that [which, in the judgment of the Board;]~~ indicate [indicates that] an individual is able to consistently conform his/her conduct to the requirements of the Nursing Practice Act, the Board's rules ~~[and regulations]~~, and generally accepted standards of nursing practice. An individual who provides satisfactory evidence that he/she has not committed a violation of the Nursing Practice Act or a rule adopted by the Board is considered to have good professional character related to the practice of nursing. ~~[An individual must maintain good professional character to ensure that he/she is able to consistently act in the best interest of patients/clients and the public. In all cases, it is the individual's burden to provide evidence of good professional character in order to obtain or retain licensure.]~~



January 9, 2018

James W. Johnston, General Counsel  
Texas Board of Nursing  
333 Guadalupe, Suite 3-460  
Austin, Texas 78701

Mr. Johnston,

Thank you for taking the Texas Nurses Association's comments on changes to Board of Nursing rules as proposed in the December 8, 2017 issue of the *Texas Register*.

The Texas Nurses Association worked closely with the Legislature and the Board of Nursing during the legislative session on the bill that lead to these proposed amendments. We would like to thank the Board for their efforts to implement the policies adopted by the legislature during the 85th Legislative Session.

The changes to 213.23, *Decisions of the Board*, reflect the statutory changes regarding how the Board will consider findings of fact and conclusions of law in a proposal for decision (PFD). We feel that this is a step in the right direction for nurses' due process rights.

The Board has done an outstanding job of eliminating subjective language in 213.27, *Good Professional Character*, and 217.12, *Unprofessional Conduct*. We expect that the new, objective criteria will assist nurses in understanding their duties and responsibilities. Likewise, we appreciate the Board's changes to 213.28, *Licensure of Individuals with Criminal History*. The changes to all of these rules, taken together, will minimize administrative burdens for the state while continuing to protect the public from serious offenders.

TNA would like to thank the Board and their staff for promoting open and honest discussions between stakeholders throughout this rulemaking process. The process was inclusive and productive.

The Texas Nurses Association appreciates this opportunity to comment on the Board rules and welcome any feedback.

Sincerely,

A handwritten signature in black ink that reads "Jeff Watson". The signature is written in a cursive, flowing style.

Jeff Watson, DNP, RN-BC, NEA-BC, NE-BC, CRRN  
President

Dusty & Jena,

The BON rule amendments proposed in the December 8th issue of the Texas Register looked good and CNAP supports the changes. I just have a couple of editorial recommendations.

In §213.27(b), on line 2, I suggest deleting the "s" on "indicates" and "that". Eliminating the "s" needs to be changed for subject-verb agreement. Changing "which" to that on line 1, makes a second "that" unnecessary. The changes I suggest are highlighted as follows:

(b) The Board defines good professional character as the integrated pattern of personal, academic, and occupational behaviors that [which, in the judgment of the Board,] indicate[s that] an individual is able to consistently conform his/her conduct to the requirements of the Nursing Practice Act, the Board's rules [and regulations], and generally accepted standards of nursing practice.

In accordance with the Legislative drafting manual, "which" should be changed to "that" as highlighted below in Subparagraph 217.2(a)(4)(E)(ii) and Section 217.12.

§217.2(a)(4)(E)(ii)

(ii) The applicant completes an educational program at an approved Texas program that [which] is designed to assess and improve clinical skills for applicants who have not completed supervised clinical experiences in their prior educational program. The applicant must seek and receive the Board's approval prior to entering into the program to ensure that the program will allow the applicant may be eligible for full licensure. The applicant must provide the Board evidence of completion of the approved program.

§217.12.Unprofessional Conduct.

The following unprofessional conduct rules are intended to protect clients and the public from incompetent, unethical, or illegal conduct of licensees. The purpose of these rules is to identify [unprofessional or dishonorable] behaviors in the practice of nursing [of a nurse] that [which] [the board believes] are likely to deceive, defraud, or injure clients or the public. Actual injury to a client need not be established. These behaviors include but are not limited to:

It has been a pleasure working with you on the Board's Licensure, Eligibility and Disciplinary Advisory Committee. Please let me know if you have any questions.

Lynda

Lynda Woolbert, MS, RN, CPNP-PC, FAANP  
CEO, Coalition for Nurses in Advanced Practice (CNAP)  
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West Columbia TX 77486-9640  
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## Attachment "B"

### Summary of Comments Received

#### *In general*

*Comment:* A representative of the Texas Nurses Association states that the Board has done an outstanding job of eliminating subjective language in the rule and that the new, objective criteria will assist nurses in understanding their duties and responsibilities.

*Response:* The Board appreciates the comment.

#### *Subsection (b)*

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*Response:* The Board agrees and has amended the text as adopted accordingly.

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