

Proposed Adoption of Amendments to 22 Tex. Admin. Code §217.2, relating to Licensure by Examination for Graduates of Nursing Education Programs Within the United States, its Territories, including Written Comments Received and Results of Public Hearing, if any

Proposed amendments to 22 Tex. Admin. Code §217.2 were approved by the Board at its October meeting for submission to the *Texas Register* for public comment. The proposed text was published in the December 8, 2017 issue of the *Texas Register*. The comment period ended on January 7, 2018. The Board received one written comment from a representative of Excelsior College and one written comment from a representative of the Coalition for Nurses in Advanced Practice (CNAP). The comments are attached as Attachment "A." A summary of the comments and Staff's responses to the written comments are attached as Attachment "B". The proposed amendments, as approved by the Board and published in the *Texas Register*, can be found in Attachment "C". Staff's recommended changes to the rule text, with highlighted changes responsive to the written comments, can be found in Attachment "D". If approved by the Board, the amendments will become effective 20 days from the date of filing with the *Texas Register*.

Board Action: Move to adopt the amendments to 22 Texas Administrative Code §217.2, pertaining to *Licensure by Examination for Graduates of Nursing Education Programs within the United States, its Territories*, 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".



December 26, 2017

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

Re: Proposed changes to Rule 217.2

Dear Mr. Johnston,

Thank you for the opportunity to respond to the proposed changes to Section 217.2, TAC, found in the December 8, 2017 edition of the *Texas Register*. Our greatest concern is with the broad application of the language in Sec. 217.2(a)(4)(E). Whereas the preamble to the rules states three times that the intent is “to provide a clear pathway to initial licensure for graduates of out-of-state programs the Board determines are not substantially equivalent to Board standards for Texas programs”, the proposed rule applies the possible pathways to any applicant for RN licensure who has completed a clinical competency assessment program. That was certainly not the intent of the Sunset Commission or HB 2950.

We recommend this section be amended as indicated by the language highlighted in yellow:

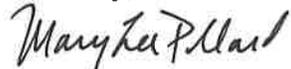
(E) If an applicant for licensure as a registered nurse has completed a clinical competency assessment program deemed not to be substantially equivalent to Board standards for Texas programs, the Board may issue a provisional license to the applicant once the applicant has passed the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination). The applicant will be eligible for full licensure if the applicant completes the requirements of clause (i) or (ii) below:

Minor changes that you may want to also consider for clarity include:

1. In Section 217.2(a)(4), inserting the word “approved” after “Texas” and before “nursing” to be consistent with the language throughout the rest of the rule that refers to “a Texas approved nursing program”;
2. In Section 217.2(a)(4)(D), delete “paragraph” and insert “section”, as the qualifications for a substantially equivalent education is not just in paragraph D; and
3. In Section 217.2(a)(4)(E)(ii), toward the end of the 2nd sentence, delete “may” and insert “to”.

We appreciate your consideration of these changes and look forward to discussing them with you. Please do not hesitate to contact me if you have questions.

Sincerely,



Mary Lee Pollard, PhD, RN, CNE
Dean, School of Nursing

cc: Senator Juan Hinojosa
Representative Cindy Burkett
Kathy Hutto, Jackson Walker L.L.P.
Denise Rose, Jackson Walker L.L.P.

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)
2229 River Valley Dr.
West Columbia TX 77486-9640
(979) 345-5974 - home/office

Attachment “B”

§217.2(a)(4)

Comment: A representative of Excelsior College commented that there is a potential ambiguity in §217.2(a)(4) referring to pathways to licensure for graduates of clinical assessment programs. The commenter states that this ambiguity could mislead graduates into believing that any graduate of any clinical competency assessment is required to use the alternate pathway to licensure, even while such program is deemed to be substantially equivalent by statute.

Response: To further clarify that the rule recognizes the statutory scheme governing Clinical Competency Assessment Programs, the Board agrees with adding language explicitly stating that the alternative pathways to licensure for clinical competency assessment programs are only necessary when the program is not deemed substantially equivalent by law is useful.

§217.2(a)(4)

Comment: The commenter suggests adjusting the terminology in §217.2(a)(4) as it refers to “Texas nursing program.” The commenter suggests that the text be re-worded to state “Texas approved nursing program” for consistency with the other portions of the rule.

Response: The Board intends the phrase *Texas approved nursing program* to mean a nursing program, approved by the Board of Nursing, and located in Texas. As such, the Board believes that a change is appropriate based on this comment to

improve consistency through the section.

§217.2(a)(4)(D)

Comment: In §217.2(a)(4)(D), the commenter suggests a change of the word “paragraph” to “section” in the second sentence. The sub-paragraph sentence to which the comment refers currently reads “If an applicant does not have substantially equivalent education under this paragraph, the applicant may become eligible for licensure if the applicant enrolls in an approved Texas program and completes the necessary educational requirements.”

Response: The Board declines to make this change. The relevant wording is contained in paragraph (4). All of the requirements outlined in paragraph (4) of subsection (a) are applicable to substantially equivalent education. Thus, the rule text is correct as proposed.

217.2(a)(4)(E)

Comment: An individual representing Excelsior College suggests changing the word “may” to the “to” in §217.2(a)(4)(E).

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

§217.2(a)(4)(E)(ii)

Comment: An individual representing the Coalition for Nurses in Advanced Practice recommended that the term “which” should be changed to “that” in §217.2(a)(4)(E)(ii).

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

“Attachment C”

§217.2. Licensure by Examination for Graduates of Nursing Education Programs

Within the United States, its Territories, or Possessions.

(a) All applicants for initial licensure by examination shall:

(1) - (3) (No change.)

(4) graduate from a Texas nursing program or a program with substantially equivalent education standards to a Texas approved nursing program as defined below.

(A) A professional nursing education program operated in another state may be determined to have substantially equivalent education standards to a Texas approved nursing program if:

(i) the program is approved by a state board of nursing or other governmental entity to offer a pre-licensure professional nursing program of study that awards a nursing diploma or degree upon completion;

(ii) the program includes general education courses providing a sound foundation for nursing education for the level of preparation;

(iii) the program's nursing courses include didactic content and supervised clinical learning experiences in medical-surgical, maternal/child health, pediatrics, geriatrics, and mental health nursing that teach students to use a systematic approach to clinical decision-making and safe patient care across the life span; and

(iv) for baccalaureate degree nursing programs, nursing courses must also include didactic content and supervised clinical learning experiences, as appropriate, in community, research, and leadership.

(B) A vocational nursing education program operated in another state may be determined to have substantially equivalent education standards to a Texas approved nursing program if:

(i) the program is approved by a state board of nursing or other governmental entity to offer a pre-licensure vocational/practical nursing program of study that awards a vocational/practical nursing certificate, diploma, or degree upon completion;

(ii) the program's nursing courses include didactic and supervised clinical learning experiences in medical-surgical, maternal/child health, pediatrics, geriatrics, and mental health nursing that teach students to use a systematic approach to clinical decision-making and safe patient care across the life span; and

(iii) the program includes support courses providing a sound foundation for nursing education for the level of preparation.

(C) A clinical competency assessment program shall be deemed substantially equivalent to a Texas approved nursing program while compliant with Tex. Occ. Code §301.157(d-8) and (d-9). A clinical competency assessment program will be deemed to not be substantially equivalent to a Texas approved nursing program if the program fails to meet applicable requirements of Tex. Occ. Code §301.157(d-11) and

(d-12).

(D) If an applicant does not have substantially equivalent education under this paragraph, the applicant may become eligible for licensure if the applicant enrolls in an approved Texas program and completes the necessary educational requirements.

(E) If an applicant for licensure as a registered nurse has completed a clinical competency assessment program which is deemed not to be substantially equivalent to Board standards for Texas programs, the Board may issue a provisional license to the applicant once the applicant has passed the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination). The applicant will be eligible for full licensure if the applicant completes the requirements of clause (i) or (ii) below:

(i) The applicant completes 500 hours of clinical practice under the direct supervision of an approved preceptor. The applicant, prior to beginning practice, must submit the name and license number of a potential preceptor for Board approval. After completion of 500 hours of clinical practice under direct supervision of the approved preceptor and the preceptor's signature that the applicant is competent and safe to practice nursing, the applicant may be eligible for full licensure.

(ii) The applicant completes an educational program at an approved Texas program 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.

“Attachment D”

§217.2. Licensure by Examination for Graduates of Nursing Education Programs

Within the United States, its Territories, or Possessions.

(a) All applicants for initial licensure by examination shall:

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(4) graduate from a Texas **approved** nursing program or a program with substantially equivalent education standards to a Texas approved nursing program as defined below.

(A) A professional nursing education program operated in another state may be determined to have substantially equivalent education standards to a Texas approved nursing program if:

(i) the program is approved by a state board of nursing or other governmental entity to offer a pre-licensure professional nursing program of study that awards a nursing diploma or degree upon completion;

(ii) the program includes general education courses providing a sound foundation for nursing education for the level of preparation;

(iii) the program's nursing courses include didactic content and supervised clinical learning experiences in medical-surgical, maternal/child health, pediatrics, geriatrics, and mental health nursing that teach students to use a systematic approach to clinical decision-making and safe patient care across the life span; and

(iv) for baccalaureate degree nursing programs, nursing courses must also include didactic content and supervised clinical learning experiences,

as appropriate, in community, research, and leadership.

(B) A vocational nursing education program operated in another state may be determined to have substantially equivalent education standards to a Texas approved nursing program if:

(i) the program is approved by a state board of nursing or other governmental entity to offer a pre-licensure vocational/practical nursing program of study that awards a vocational/practical nursing certificate, diploma, or degree upon completion;

(ii) the program's nursing courses include didactic and supervised clinical learning experiences in medical-surgical, maternal/child health, pediatrics, geriatrics, and mental health nursing that teach students to use a systematic approach to clinical decision-making and safe patient care across the life span; and

(iii) the program includes support courses providing a sound foundation for nursing education for the level of preparation.

(C) A clinical competency assessment program shall be deemed substantially equivalent to a Texas approved nursing program while compliant with Tex. Occ. Code §301.157(d-8) and (d-9). A clinical competency assessment program will be deemed to not be substantially equivalent to a Texas approved nursing program if the program fails to meet applicable requirements of Tex. Occ. Code §301.157(d-11) and (d-12).

(D) If an applicant does not have substantially equivalent education under this paragraph, the applicant may become eligible for licensure if the applicant enrolls in an approved Texas program and completes the necessary

educational requirements.

(E) If an applicant for licensure as a registered nurse has completed a clinical competency assessment program that is not deemed to be substantially equivalent to Board standards for Texas approved programs, the Board may issue a provisional license to the applicant once the applicant has passed the National Council Licensure Examination for Registered Nurses (NCLEX-RN® Examination). The applicant will be eligible for full licensure if the applicant completes the requirements of clause (i) or (ii) below:

(i) The applicant completes 500 hours of clinical practice under the direct supervision of an approved preceptor. The applicant, prior to beginning practice, must submit the name and license number of a potential preceptor for Board approval. After completion of 500 hours of clinical practice under direct supervision of the approved preceptor and the preceptor's signature that the applicant is competent and safe to practice nursing, the applicant may be eligible for full licensure.

(ii) The applicant completes an educational program at an approved Texas program that 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 to be eligible for full licensure. The applicant must provide the Board evidence of completion of the approved program.