

**Proposed Revisions to Rule 211.7 Relating to
Executive Director's Delegated Authority to Enter Certain Orders.**

Background:

The Board, by policy has authorized the Executive Director to offer proposed disciplinary orders upon evaluation of the investigation findings. The Executive Director may make these offers by mail at the conclusion of an investigation; or in person following an informal conference. Similarly, the Executive Director is authorized by Board policy to accept the voluntary surrender of a license and Board ratification is not required. The Executive Director is authorized to accept and enter the several types of agreed orders on behalf of the Board and ratification by the Board is not necessary.

These agreed orders include those for remedial education and fine for violations including practice on a delinquent license; aiding, abetting or permitting a nurse to practice on a delinquent license; failure to comply with CE requirements; failure to comply with mandatory reporting requirements; failure to assure licensure/credentials of personnel for whom the nurse is administratively responsible; failure to provide employers, potential employers or the Board with complete and accurate answers to specific questions regarding employment or background (e.g., presenting incomplete employment history); failure to report unauthorized practice; failure to comply with Board requirements for change of name/address; failure to develop, maintain and implement a peer review plan according to statutory peer review requirements; failure to file, or cause to be filed, complete, accurate and timely reports required by Board Order; and failure to make complete and timely compliance with the terms of any stipulation contained in a Board Order. Additionally, the Executive Director may enter Orders requiring a licensee to comply with a peer assistance program.

The ED may also grant certain motion for rehearings on default orders.

The Executive Director is to report summaries of dispositions to the Board at its regular meetings.

Summary of Request:

The proposed amendments to 211.7 outline the Board's current policies that delegate authority to the Executive Director in a rule to published in the Texas Register for public comment and adoption.

Staff Recommendations:

Move to propose amendments to Rule 211.7, in the Texas Register for a 30-day comment period and if no negative comments are received, move to adopt new amendments to 211.7 as proposed.

211.7. Executive Director.

(a) The board shall determine qualifications for and retain an executive director who shall be the chief executive officer of the agency.

(b) The executive director shall have the authority and responsibility for the operations and administration of the agency and such additional powers and duties as prescribed by the board. As chief executive of the board the executive director shall manage all aspects of the agency, including personnel, financial and other resources, in support of the NPA, rules and policies, the board's mission and strategic plan. The executive director shall attend all meetings of the board and may offer recommendations to the board, but shall not vote on matters brought before the board.

(c) The executive director shall have the authority to dismiss a complaint if an investigation demonstrates that a violation did not occur, or the subject of the complaint is outside the board's jurisdiction. At each public meeting of the board, the executive director shall report to the board each complaint dismissed since the board's last public meeting.

(d) The Executive Director, or the Executive Director's designee, is authorized to offer proposed disciplinary orders upon evaluation of the investigation findings. Such an offer may be made:

(1) by mail at the conclusion of an investigation; or

(2) in person following an informal conference.

(e) The Executive Director is authorized to accept the voluntary surrender of a license. Board ratification is not required. The Executive Director will report summaries of dispositions to the Board at its regular meetings.

(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 consisting of a fine and/or education stipulations. The following violations may be appropriate for disposition by fine with or without educational stipulations:

(A) practice on a delinquent license for more than six months but less than two years;

(B) practice on a delinquent license for two to four years;

(C) practice on a delinquent license over four years;

(D) aiding, abetting or permitting a nurse to practice on a delinquent license;

(E) failure to comply with CE requirements;

(F) failure to comply with mandatory reporting requirements;

(G) failure to assure licensure/credentials of personnel for whom the nurse is administratively responsible;

(H) failure to provide employers, potential employers or the Board with complete and accurate answers to specific questions regarding employment or background (e.g., presenting incomplete employment history);

(I) failure to report unauthorized practice;

(J) failure to comply with Board requirements for change of name/address;

(K) failure to develop, maintain and implement a peer review plan according to statutory peer review requirements;

(L) failure to file, or cause to be filed, complete, accurate and timely reports required by Board Order; and

(M) failure to make complete and timely compliance with the terms of any stipulation contained in a Board Order.

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

(g) The Executive Director may grant any motion for rehearing if he/she is of the opinion that the motion has merit based on the criteria of 22 TAC § 213.16(j). Otherwise, any motion considered untimely or without merit under the criteria of 213.16(j) would be scheduled without prejudice before the next practicable full Board or Eligibility and Disciplinary meeting for review and determination.