

**Consideration of Proposed Repeal of 22 Tex. Admin. Code Chapter 216,
Pertaining to *Continuing Education* and Proposed New 22 Tex. Admin. Code, Chapter 216,
Pertaining to *Continuing Competency***

Summary of Request:

The Board charged staff with the task of revising the Continuing Education rules in Chapter 216 at the October 2008 Board meeting. A progress report was given at the January 2009 Board meeting. This agenda item is for review, discussion, and action by the Board.

Historical Perspective:

Continuing competence in nursing has been discussed nationally and during several Board meetings during the last two years.

- April - 2006 Report on groups that are developing initiatives to evaluate and test graduate and continued nursing competency.

- October - 2006 Report on the North Texas Competency Consortium composed of schools of nursing in the north Texas area that developed teaching strategies for 10 high risk, high volume, problem prone patient conditions.

- January - 2007 Report on recommendations for changes in the NPA to eliminate named groups out of Section 301.303 (d) to clarify that there are no “official” CE approval bodies of the Board.

- April - 2007 Report on the Texas Nurses Association’s (TNA) Continuing Competency Task Force which outlined four domains of competencies.

- October - 2007 Report on Board participation in the TNA Continuing Competency Task Force to provide LVN stakeholder input into the Committee.

- July - 2008 Report to the Board containing the *Nursing Competency: Movement Towards Assurance in Nursing Report* outlining suggested CE changes in the 2009 - 2011 and 2011 - 2013 Biennium and the proceedings of the Texas Nursing Competency Consortium Invitational Conference *Bridging the Gap Between Patient Safety and Nursing Competency*.

At the October 2008 Board meeting, there was discussion of making changes to Rule 216. The Board charged Board Staff to incorporate new methods in the rule to allow nurses to document continued competency through either 20 hours of continuing education in their area of practice or national nursing certification in the nurse’s specialty area.

Attachment A is proposed new 22 Tex. Admin. Code, Chapter 216, Pertaining to *Continuing Competency*. Attachment B is the proposed Repeal of 22 Tex. Admin. Code Chapter 216, Pertaining to *Continuing Education*.

Pros and Cons:

Pros: The recommended revisions to Chapter 216 reflect the requirement for continuing education or certification in a nurse's specific area of practice an initial step in making changes to promote a more comprehensive approach to continued competency.

Cons: Changes in the Board's processes to monitor continuing competency compliance will require more resources to evaluate and monitor these new methodologies.

Staff Recommendations:

Board Action: Move to approve the proposed repeal of 22 Tex. Admin. Code Chapter 216, Pertaining to *Continuing Education* and proposed new 22 Tex. Admin. Code Chapter 216, Pertaining to *Continuing Competency* and authorize staff to publish the proposals in the *Texas Register* for a 30-day comment period, with authority for 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 are received, move to adopt the repeal of 22 Tex. Admin. Code Chapter 216, Pertaining to *Continuing Education*, and new 22 Tex. Admin. Code Chapter 216, Pertaining to *Continuing Competency* as proposed.

CHAPTER 216. CONTINUING COMPETENCY

§216.1. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Academic course--A specific set of learning experiences offered in an accredited school, college or university. Academic credit will convert on the following basis: One academic quarter hour = 10 contact hours; one academic semester hour = 15 contact hours.

(2) Advanced Practice Registered Nurse (APRN)--A nurse anesthetist, nurse practitioner, nurse midwife, or clinical nurse specialist approved by the board to practice as an advanced practice registered nurse based on completion of an advanced educational program acceptable to the board.

(3) Approved-- Recognized as having met established standards and pre-determined criteria of the:

(A) credentialing agencies recognized by the board (applies to providers and programs); and

(B) certifying bodies accredited by a national certification accreditation body recognized by the board.

(4) Area of Practice--Any nursing practice the nurse engaged in during the licensure renewal cycle.

(5) Audit--A random sample of licensees taken to verify satisfactory completion of the board's requirements for continuing competency during a biennial license renewal period.

(6) Authorship--Development and publication of a manuscript related to nursing and health care.

(7) Certification--Nursing certification from an approved certifying body accredited by a national accreditation body recognized by the board.

(8) Classroom instruction--Workshops, seminars, institutes, conferences or short-term courses which the individual attends which may be acceptable for continuing education credit.

(9) Clinical learning experiences--Faculty-planned and guided learning experiences designed to assist students to meet the course objectives and to apply nursing knowledge and skills in the direct care of patients/clients. This includes laboratories, acute care facilities, extended care facilities, and other community resources.

(10) Competency--The application of knowledge and the interpersonal decision-making, and psychomotor skills expected for the nurse's practice role, within the context of public health, safety, and welfare.

(11) Contact hour--Sixty consecutive minutes of participation in a learning activity.

(12) Continuing Education (CE)--Programs beyond the basic preparation which are designed to promote and enrich knowledge, improve skills and develop attitudes for the enhancement of nursing practice, thus improving health care to the public.

(13) Continuing education program--An organized educational activity, e.g, self-paced (online), classroom, approved through an external review process based on a predetermined set of criteria. The review is conducted by an organization(s) recognized by the board to approve programs and providers.

(14) Credentialing agency--An organization recognized by the board as having met nationally predetermined criteria to approve programs and providers of CE.

(15) Prescriptive Authority--Authorization granted to an advanced practice registered nurse who meets the requirements to carry out or sign a prescription drug order.

(16) Program number--A unique number assigned to a program upon approval which shall identify it regardless of the number of times it is presented.

(17) Provider--An individual, partnership, organization, agency or institution approved by an organization recognized by the board which offers continuing education programs.

(18) Provider number--A unique number assigned to the provider upon approval by the credentialing agency or organization.

§216.2. Purpose. The purpose of continuing competency is to ensure that nurses stay abreast of current industry practices, enhance their professional competence, learn about new technology and treatment regimens, and update their clinical skills. Continuing education in nursing includes programs beyond the basic preparation which are designed to promote and enrich knowledge, improve skills and develop attitudes for the enhancement of nursing practice, thus improving health care to the public. Nursing certification is another method of demonstrating continuing competence. Pursuant to authority set forth in Texas Occupations Code §301.303, the board requires participation in continuing competency activities for license renewal. The procedures set forth in these rules provide guidance to fulfilling the continuing competency requirement. The board requires nurses

to participate in continuing education courses that relate to their practice area or to attain, maintain, or renew an approved national nursing certification in their practice area, which benefits the public welfare.

§216.3. Requirements.

(a) Twenty contact hours of continuing education within the two years immediately preceding renewal of registration are required. These hours shall be obtained in the nurse's area of practice and be in programs approved by a credentialing agency recognized by the board. A list of these agencies/organizations may be obtained from the board's office or web site; or

(b) Achievement, maintenance, or renewal of an approved national nursing certification in the nurse's area of practice. A list of approved national nursing certification criteria may be obtained from the board's office or web site.

(c) Requirements for the Advanced Practice Registered Nurse. The licensee authorized by the board as an advanced practice registered nurse (APRN) is required to obtain 20 contact hours of continuing education or attain, maintain or renew the national certification recognized by the board as meeting the certification requirement for the advanced practice registered nurse's role and population focus area of licensure within the previous two years of licensure. National certification as discussed in this section will only meet the requirement for licensure renewal.

(1) The required hours are not in addition to the requirements of subsection (a) or (b) of this section.

(2) The 20 contact hours of continuing education must be appropriate to the advanced specialty area and role recognized by the board.

(3) The APRN who holds prescriptive authority must complete, in addition to the required contact hours in paragraph (2) of this subsection, at least five (5) contact hours of continuing education in pharmacotherapeutics..

(4) Category I Continuing Medical Education (CME) contact hours will meet requirements as described in this chapter.

(d) Forensic Evidence Collection.

(1) Each nurse licensed in Texas and employed in an emergency room (ER) setting on or after September 1, 2006 shall complete a minimum of two hours of continuing education relating to forensic evidence collection, as required by Texas Occupations Code §301.306 and this rule by:

(A) September 1, 2008 for nurses to whom this requirement applies who are employed in an ER setting on or before September 1, 2006, or

(B) within two years of the initial date of employment in an ER setting. This requirement may be met through completion of approved continuing education activities, as set forth in §216.4 of this chapter (relating to Criteria for Acceptable Continuing Education Activity).

(2) This requirement shall apply to nurses who work in an ER setting that is:

(A) the nurse's home unit;

(B) an ER unit to which the nurse "floats" or schedules shifts; or

(C) a nurse employed under contractual, temporary, per diem, agency, traveling, or other employment relationship whose duties include working in an ER.

(3) A licensed nurse in Texas who would otherwise be exempt from CE requirements during the nurse's initial licensure or first renewal periods under §216.8(b) or (c) of this chapter (relating to Relicensure Process) shall comply with the requirements of this section. This is a one-time requirement for each nurse employed in an ER setting. In compliance with §216.7(b) of this chapter (relating to Responsibilities of Individual Licensee), each licensee is responsible for maintaining records of CE attendance. Validation of course completion in Forensic Evidence Collection should be retained by the nurse indefinitely, even if a nurse changes employment.

(4) The minimum 2 hours of continuing education requirement shall include information relevant to forensic evidence collection and age or population-specific nursing interventions that may be required by other laws and/or are necessary in order to assure evidence collection that meets requirements under Texas Government Code §420.031 regarding use of a service-approved evidence collection kit and protocol. Content may also include but is not limited to documentation, history-taking skills, use of sexual assault kit, survivor symptoms, and emotional and psychological support interventions for victims.

(5) The required hours are included in the continuing education requirements for nurses.

(e) A nurse who is 65 years old or older and who holds or is seeking to hold a valid volunteer retired (VR) nurse authorization in compliance with Texas Occupations Code §112.051 and §217.9(d) of this title (relating to Inactive Status):

(1) Must have completed at least 10 hours of continuing education in the nurse's area of nursing practice during the previous biennium, unless the nurse also holds valid recognition as

an advanced practice registered nurse or is a Volunteer Retired Registered Nurse (VR-RN) with advanced practice authorization in a given role and specialty in the State of Texas.

(2) Must have completed at least 20 hours of CE as defined in this chapter if authorized by the board in a specific advanced practice role and specialty. The 20 hours of CE must meet the same criteria as APRN CE defined under subsection (c) of this section. An APRN authorized as a VR-RN with APRN authorization may not hold prescriptive authority. This does not preclude a registered nurse from placing his/her APRN authorization on inactive status and applying for authorization only as a VR-RN.

(3) Is exempt from fulfilling targeted CE requirements except as required for volunteer retired advanced practice registered nurses.

§216.4. Criteria for Acceptable Continuing Education Activity. Continuing Education programs must be approved by a credentialing agency or an affiliated entity of one of these agencies, and must be in the nurse's area of practice. Proof of successful completion shall contain the name of the provider; the program title, date, and location; number of contact hours; provider number; and credentialing agency.

§216.5. Additional Criteria for Specific Education Programs. In addition to those programs reviewed by a board-approved entity, a licensee may attend an academic course that meets the following criteria:

(1) The course shall be within the framework of a curriculum that leads to an academic degree in nursing or any academic course relevant to nursing practice.

(2) Participants, upon audit by the board, shall be able to present an official transcript indicating completion of the course with a grade of "C" or better, or a "Pass" on a Pass/Fail grading system.

§216.6. Activities Which are not Acceptable as Continuing Education. The following activities do not meet continuing education requirements for licensure renewal.

(1) Basic Life Support (BLS) or cardiopulmonary resuscitation (CPR) courses.

(2) In service programs. Programs sponsored by the employing agency to provide specific information about the work setting and orientation or other programs which address the

institution's philosophy, policies and procedures; on-the-job training; basic CPR; and equipment demonstration are not acceptable for CE credit.

(3) Nursing refresher courses. Programs designed to update knowledge or current nursing theory and clinical practice, which consist of a didactic and clinical component to ensure entry level competencies into professional practice are not accepted for CE credit.

(4) Orientation programs. A program designed to introduce employees to the philosophy, goals, policies, procedures, role expectations and physical facilities of a specific work place are not acceptable for CE credit.

(5) Courses which focus upon self-improvement, changes in attitude, self-therapy, self-awareness, weight loss, and yoga.

(6) Economic courses for financial gain, e.g., investments, retirement, preparing resumes, and techniques for job interview.

(7) Courses which focus on personal appearance in nursing.

(8) Liberal art courses in music, art, philosophy, and others when unrelated to patient/client care.

(9) Courses designed for lay people.

(10) Self-directed study--An educational activity wherein the learner takes the initiative and the responsibility for assessing, planning, implementing and evaluating the activity including, but not limited to:

(A) academic courses that are audited, or that are healthcare-related courses but not part of a nursing degree program, or that are prerequisite courses such as mathematics, physiology, biology, government, or other similar courses are not acceptable;

(B) authorship; and

(C) program development and presentation.

(11) CE that is not the nurses area of practice unless required by Texas Occupations Code or this rule.

§216.7. Responsibilities of Individual Licensee.

(a) It shall be the licensee's responsibility to select and participate in continuing competency activities that will meet the criteria listed in this chapter.

(b) The licensee shall be responsible for maintaining a record of CE activities. These records shall document attendance as evidenced by original certificates of attendance, contact hour

certificates, academic transcripts, or grade slips and copies of these shall be submitted to the board upon audit.

(c) These records shall be maintained by the licensee for a minimum of two consecutive renewal periods or four years.

§216.8. Relicensure Process.

(a) Renewal of license.

(1) Upon renewal of the license, the licensee shall sign a statement attesting that the CE or approved national nursing certification requirements have been met.

(2) The contact hours must have been completed in the biennium immediately preceding the license renewal. CE contact hours from a previous renewal period will not be accepted. Additional contact hours earned may not be used for subsequent renewal periods.

(b) Persons licensed by examination. A candidate licensed by examination shall be exempt from the CE or approved national nursing certification requirement for issuance of the initial license and for the immediate renewal period following licensure.

(c) Persons licensed by endorsement. An applicant licensed by endorsement shall be exempt from the CE or approved national nursing certification requirement for the issuance of the initial Texas license and for the immediate renewal period following initial Texas licensure.

(d) Delinquent license.

(1) A license that has been delinquent for less than four years may be renewed by the licensee showing evidence of having completed 20 contact hours in their current or prior area of practice of acceptable continuing education or an approved national nursing certification within two years immediately preceding the application for relicensure and by meeting all other board requirements. A licensee shall be exempt from the continuing education requirement for the immediate renewal period following renewal of the delinquent license.

(2) A license that has been delinquent for four or more years may be renewed upon completion of requirements listed in §217.6(b) of this title (relating to Failure to Renew License).

(e) Reactivation of a license.

(1) A license that has been inactive for less than four years may be reactivated by the licensee submitting verification of having completed at least 20 contact hours of continuing education in their current or prior area of practice or a current approved national nursing certification

in their current or prior area of practice within the past two years immediately prior to application for reactivation.

(2) A license that has been inactive for four or more years may be reactivated upon completion of requirements in §217.9(e) of this title (relating to Reactivation from Inactive Status).

(f) Reinstatement of a license. A licensee whose license has been revoked and subsequently applies for reinstatement must show evidence that the continuing competency requirement and other board requirements have been met prior to reinstatement of the license by the board.

§216.9. Audit Process. The board shall select a random sample of licensees 90 days prior to each renewal month. Audit forms shall be sent to selected licensees to substantiate compliance with the continuing competency requirements.

(1) Within 30 days following notification of audit these selected licensees shall submit audit form, and

(A) documentation as specified in §216.4 and §216.5 of this chapter (relating to Criteria for Acceptable Continuing Education Activity and Additional Criteria for Specific Continuing Education Programs) and any additional documentation the board deems necessary to verify compliance with continuing education requirements for the period of licensure being audited;
or

(B) a copy of the current approved national nursing certification and any additional documentation the board deems necessary to verify compliance with continuing competency requirements for the period of licensure being audited.

(2) Failure to notify the board of a current mailing address will not absolve the licensee from audit requirements.

(3) By this rule, an audit shall be automatic for a licensee who has been found non-compliant in an immediately preceding audit.

(4) Failure to complete the audit satisfactorily or falsification of records shall constitute unprofessional conduct and provide grounds for disciplinary action.

§216.10. Appeals.

(a) Any individual who wishes to appeal a determination of non-compliance with continuing competency requirements must submit a letter of appeal within 20 days of notification of the audit results.

(b) The board or its designee shall conduct a review in which the appellant may appear in person to present reasons why the audit decision should be set aside or modified.

(c) The decision of the board after the appeal shall be considered final and binding.

§216.11. Consequences of Non-Compliance. Failure to comply with the board's continuing competency requirements will result in the denial of renewal.

CHAPTER 216. CONTINUING EDUCATION.

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