

CONSIDERATION OF PROPOSED AMENDMENTS TO 22 TEX. ADMIN. CODE, SECTION 217.2(a)(4)(B), PERTAINING TO LICENSURE BY EXAMINATION FOR GRADUATES OF NURSING EDUCATION PROGRAMS WITHIN THE UNITED STATES, ITS TERRITORIES, OR POSSESSIONS AND TO 22 TEX. ADMIN. CODE, SECTION 217.4(a)(1)(B), PERTAINING TO REQUIREMENTS FOR INITIAL LICENSURE BY EXAMINATION FOR NURSES WHO GRADUATE FROM NURSING EDUCATION PROGRAM OUTSIDE OF UNITED STATES' JURISDICTIONS

SUMMARY OF REQUEST:

Consider the proposed amendments to §217.2(a)(4)(B) pertaining to *Licensure by Examination for Graduates of Nursing Education Programs Within the United States, its Territories, or Possessions* and §217.4(a)(1)(B) pertaining to *Requirements for Initial Licensure by Examination for Nurses Who Graduate from Nursing Education Programs Outside of United States' Jurisdictions* based on the recommendation from the Advisory Committee on Education (ACE).

HISTORICAL PERSPECTIVE:

- Currently, Texas Board of Nursing (BON) Rule 217 permits individuals who have attended a professional nursing education program and who meet all of the requirements for licensure by examination as stated in Rule 217, to substitute completion of an acceptable level of a board-approved professional nursing education program as determined by the board, and apply to take the NCLEX-PN® examination.
- The Texas BON is a member of the Nurse Licensure Compact and one of the general purposes of this compact is to “ensure and encourage the cooperation of party states in the areas of nurse licensing and regulation.”
- Most other states who are parties in the Nurse Licensure Compact do not offer the option for individuals who have attended a professional nursing educational program and who meet all of the requirements for licensure by examination, to substitute completion of an acceptable level of a board-approved professional nursing educational program as determined by the board, and apply to take the NCLEX-PN® examination and these states do not allow these individuals to be licensed by endorsement.
- Concerns have been voiced that the nurses who become licensed vocational nurses (LVNs) in Texas by means of utilizing the above option often lack education in the areas of role performance and scope of practice appropriate for an licensed vocational nurse (LVN).
- Deans and directors of professional nursing educational programs have expressed difficulty in completing the *Director Affidavit, For Out-of-State and US Territories PN/VN Graduates and RN Under-Grads ONLY* form because required vocational nursing (VN) educational curricula content and contact hours are not easily equated to the curricula content and contact hours in professional nursing educational programs, particularly in regard to content addressing the role, responsibilities, and scope of practice of the LVN (See Attachment One). Great variation exists in the interpretation of equitable curricula content and contact hours.
- At the July 2008 Board meeting, the Board issued a charge to the ACE to study and make recommendations regarding the issues involved with permitting a student who has partially completed a professional nursing educational program or graduated from a professional nursing educational program and then failed the NCLEX-RN® Examination, to apply for licensure as a vocational nurse in Texas by taking the NCLEX-PN® Examination.
- ACE addressed this charge during the November 17, 2008 ACE meeting in Austin and finalized the ACE recommendation to the Board during the December 15, 2008 ACE conference call meeting.
- Current data from the National Council of State Boards of Nursing (NCSBN) covering the time period of 01/01/2003 through 12/30/2008 shows that only an average of approximately thirty-nine (39) individuals each year partially complete a professional nursing educational program and become an LVN in Texas by taking the NCLEX-PN® examination and only an average of approximately seven (7) individuals each year graduate from a professional nursing educational program, fail the NCLEX-RN® examination, and then become an LVN in Texas by taking the NCLEX-PN® examination.

- The ACE recommendation related to the above charge is: “Eliminate the possibility for anyone who has not completed a state-board approved vocational nursing educational program to apply for licensure in Texas as a licensed vocational nurse by either examination or endorsement and to recommend applicable amendments to Rule 217.2 and Rule 217.4.”
- The proposed amendments to Rule 217.2 and Rule 217.4 are indicated as follows: Deleted sections of rule language are denoted by ~~strike-outs~~ and wording that is underlined refers to rule language that has been revised, as applicable (See Attachment Two and Attachment Three).

PROS AND CONS:

Pros -

- The proposed amendments to Rule 217.2 and Rule 217.4 will:
 - reflect the intent of the ACE recommendation to eliminate the possibility for anyone who has not completed a state-board approved VN educational program to apply for licensure in Texas as an LVN by either examination or endorsement;
 - eliminate the need for deans and directors of professional nursing educational programs to complete the *Director Affidavit, For Out-of-State and US Territories PN/VN Graduates and RN Under-Grads ONLY* form and will ensure that individuals applying for licensure as an LVN in Texas have required content and contact hours addressing the role, responsibilities, and scope of practice of the LVN;
 - eliminate the option in Texas that most other states who are parties in the Nurse Licensure Compact do not offer for individuals who have attended a professional nursing educational program to substitute completion of an acceptable level of a board-approved professional nursing educational program as determined by the board, and apply to take the NCLEX-PN® examination or allow these individuals to be licensed by endorsement; and
 - effect only an average of approximately thirty-nine (39) individuals each year, based on data from the NCSBN between 01/01/2003 through 12/30/2008, who partially complete a professional nursing educational program and become an LVN in Texas by taking the NCLEX-PN® examination and only an average of approximately seven (7) individuals each year, based on data from the NCSBN between 01/01/2003 through 12/30/2008, who graduate from a professional nursing educational program, fail the NCLEX-RN® examination and then become an LVN in Texas by taking the NCLEX-PN® examination.
- Currently, individuals completing an acceptable level of a state board-approved professional nursing educational program have at least two other options for vocational nursing licensure in Texas. These options include enrolling in a state board-approved:
 - MEEP (multi entry/exit VN educational program), as determined by the program, completing the required VN course of study and graduating from the MEEP; or
 - traditional VN educational program utilizing advance placement credit and completing only required portions of the VN course of study, as determined by the program, and graduating from the traditional VN program.

Cons -

The proposed amendments to Rule 217.2 and Rule 217.4 will affect two of the available options for vocational nursing licensure for those students not completing an entire professional nursing educational program or those graduates who are not successful on the NCLEX-RN® examination. Other available options for these individuals to become an LVN in Texas are:

- enrollment in, completion of a MEEP, and graduation from the MEEP; or
- enrollment in, completion of select portions of a traditional VN educational program utilizing advance placement credit, and graduation from the traditional VN program.

STAFF RECOMMENDATION:

Move to approve the proposed amendments to §217.2(a)(4)(B) pertaining to *Licensure by Examination for Graduates of Nursing Education Programs Within the United States, its Territories, or Possessions* and §217.4(a)(1)(B) pertaining to *Requirements for Initial Licensure by Examination for Nurses Who Graduate from Nursing Education Programs Outside of United States' Jurisdictions*, as indicated in Attachment Two and Attachment Three, and authorize staff to publish the rules with the proposed amendments in the *Texas Register* for a 30-day comment period. If negative comments are not received, adopt Rule 217.2 and Rule 217.4 with the proposed amendments.

Texas Board of Nursing
 333 Guadalupe, Ste. 3-460, Austin, TX 78701-3944
 Phone: 512-305-7400 – Web Site: www.bon.state.tx.us

Director Affidavit
 For Out-of-State and US Territories PN/VN Graduates and RN Under-Grads ONLY

This form is required for individuals who are requesting to take the NCLEX-PN® examination based on educational preparation. This form applies to individuals who have attended and have not met requirements for graduation from an ADN/BSN nursing program, individuals who have failed the NCLEX-RN® examination and PN/VN graduates from other states and US Territories.

Directions: The Dean/Director of the nursing program must complete and sign this document. **THE AFFIDAVIT MUST BE SENT DIRECTLY TO THE BOARD OFFICE FROM THE NURSING PROGRAM FOR THE AFFIDAVIT TO BE ACCEPTED.**

Name: _____ DOB: ____/____/____
First Name Middle Initial Last Name Mo Day Yr

Social Security #: _____ Admission Date: ____/____/____ Graduation Date: ____/____/____
Mo Day Yr Mo Day Yr

Dates of attendance: _____ to _____ (For RN Under-Grads ONLY)
Mo/Yr Mo/Yr

Numerical grading scale for the "C" = _____ Only courses with a minimum grade of "C" may be counted.

Required Board Course	Course Number/Name	Theory Clock Hours	Lab/Clinical Clock Hours
Personal & Vocational Adjustments			
Vocational Nursing Skills			
Pediatrics			
Maternal/Newborn			
Mental Illness/Mental Health			
Geriatrics			
Adult Medical/Surgical Nursing			
Pharmacology			
Growth and Development			
Anatomy & Physiology (THEORY HOURS ONLY)			
Microbiology (THEORY HOURS ONLY)			
Nutrition			
TOTALS			

I am the Dean/Director for the program listed below and attest that the factual statements contained in the information provided on this affidavit are within my personal knowledge and are true and correct. Furthermore, I acknowledge this is a legal document and understand that it is a violation of the 22 Texas Administrative Code, §§ 217.12 (8)(H) and the Penal Code, sec 37.10, to submit a false statement to a government agency.

Signature of Dean/Director _____ Date: _____

(Must bear School Seal)

Name of Nursing Program: _____

Revised 02/2000

City State County

**PROPOSED AMENDMENTS TO §217.2.
LICENSURE BY EXAMINATION FOR GRADUATES OF NURSING
EDUCATION PROGRAMS WITHIN THE UNITED STATES, ITS TERRITORIES, OR POSSESSIONS**

Note: Deleted sections of rule language are denoted by ~~strike-outs~~ and wording that is underlined refers to rule language that has been revised.

§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) file a complete application containing data required by the board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading, and the required application processing fee which is not refundable;

(2) submit verification of completion of all requirements for graduation from an approved nursing education program, or certification from the nursing program director of completion of certificate/degree requirements. Prerequisites of an accredited master's degree program leading to a first degree in professional nursing must be approved by the board;

(3) pass the NCLEX-PN (LVN applicant) or NCLEX-RN (RN applicant);

(4) Licensed vocational nurse applicants:

(A) must hold a high school diploma issued by an accredited secondary school or equivalent educational credentials as established by the General Education Development Equivalency Test (GED);

~~(B) who have attended a professional nursing education program shall meet all of the requirements for licensure by examination as stated in this section, but may substitute completion of an acceptable level of a board-approved professional nursing education program as determined by the board;~~

~~(B)~~ (B) who have graduated from another U.S. jurisdiction's nursing education program must satisfactorily have completed curriculum comparable to the curriculum requirements for graduates of board-approved vocational nurse education programs; .

(5) submit FBI fingerprint cards provided by the Board for a complete criminal background check; and

(6) pass the jurisprudence exam approved by the board, effective September 1, 2008.

(b) Should it be ascertained from the application filed, or from other sources, that the applicant should have had an eligibility issue determined by way of a Petition for Declaratory Order, (see §213.30 of this title relating to Declaratory Order of Eligibility for Licensure and Texas Occupations Code §301.257 relating to Declaratory Order of License Eligibility) then the application will be treated and processed as a Petition for Declaratory Order and the applicant will be required to pay the appropriate non-refundable fees for determination of eligibility. Should the Board in its final determination find that the individual is not eligible for licensure, then that individual is precluded from again petitioning, or applying to the Board for admission to the examination except when the impediment to eligibility has been removed. In no event, may an applicant repetition for a declaratory order before the first anniversary of the date of the Board's determination to deny eligibility. Any subsequent petition must be made in the manner and form the Board requires.

(c) An applicant for initial licensure by examination shall pass the NCLEX-PN or NCLEX-RN within four years of completion of requirements for graduation.

(d) An applicant who has not passed the NCLEX-PN or NCLEX-RN within four years from the date of completion of requirements for graduation must complete a board approved nursing education program in order to take or retake the examination.

(e) Upon initial licensure by examination, the license is issued for a period ranging from six months to 29 months depending on the birth month. Licensees born in even-numbered years shall renew their license in even-numbered years; licensees born in odd-numbered years shall renew their licenses in odd-numbered years.

(f) The U.S. Army Practical Nurse Course (formerly the 91C Clinical Specialist Course) is the only military program acceptable for vocational nurse licensure by examination.

**PROPOSED AMENDMENTS TO §217.4.
REQUIREMENTS FOR INITIAL LICENSURE BY EXAMINATION FOR NURSES WHO GRADUATE
FROM NURSING EDUCATION PROGRAMS OUTSIDE OF UNITED STATES' JURISDICTIONS**

Note: Deleted sections of rule language are denoted by ~~strike-outs~~.

§217.4. Requirements for Initial Licensure by Examination for Nurses Who Graduate from Nursing Education Programs Outside of United States' Jurisdiction.

(a) Nurse applicants for initial licensure applying under this section.

(1) A licensed vocational nurse applicant must:

(A) hold a high school diploma issued by an accredited secondary school or equivalent educational credentials as established by the General Education Development Equivalency Test (GED);

(B) have successfully completed an approved program for educating vocational/practical (second level general nurses) nurses ~~or curriculum content comparable to the Texas curriculum requirements for graduates of approved vocational nursing education programs~~ by providing a Credential Evaluation Service Full Education Course-by-Course Report from the Commission on Graduates of Foreign Nursing Schools (CGFNS), Educational Records Evaluation Service (ERES), or the International Education Research Foundation (IERF); and

(C) have achieved an approved score on an English proficiency test acceptable to the Board.

(2) A registered nurse applicant must provide a Credential Evaluation Service Full Education Course-by-Course Report from the Commission on Graduates of Foreign Nursing Schools (CGFNS), Educational Records Evaluation Service (ERES), or the International Education Research Foundation (IERF) and an English proficiency test acceptable to the Board, or the equivalent which verifies that the applicant:

(A) has the educational credentials equivalent to graduation from a governmentally accredited/approved, post-secondary general nursing program of at least two academic years in length;

(B) received both theory and clinical education in each of the following: nursing care of the adult which includes both medical and surgical nursing, maternal/infant nursing, nursing care of children, and psychiatric/mental health nursing;

(C) received initial registration/license as a first-level, general nurse in the country where the applicant completed general nursing education;

(D) is currently registered/licensed as a first-level general nurse; and

(E) has achieved an approved score on an English proficiency test acceptable to the Board.

(3) all applicants must file a complete application for registration containing data required by the board attesting that all information contained in, or referenced by, the application is complete and accurate and is not false or misleading, and the required application processing fee which is not refundable;

(4) all applicants must pass the NCLEX-PN (LVN applicants) or NCLEX-RN (RN applicants) as a Texas applicant;

(A) within four years of completion of the requirements for graduation from the nursing education program if the applicant has not practiced as a second-level or first-level general nurse since completing the requirements for graduation; or

(B) within four years of the date of eligibility for the NCLEX-PN or NCLEX-RN if the applicant has practiced as a second-level or first-level general nurse at least two years since completing the requirements for graduation;

(5) all nurse applicants must submit FBI fingerprint cards provided by the Board for a complete criminal background check; and

(6) all nurse applicants must pass the jurisprudence exam approved by the board, effective September 1, 2008.

(b) An applicant who has completed the requirements for graduation and has practiced as a second-level or first-level general nurse for at least two years but has not practiced as a second-level or first-level general nurse within the four years immediately preceding the filing of an application for initial licensure will be issued a six month limited permit (temporary authorization) upon passing the NCLEX-PN or NCLEX-RN examination and must complete a nurse refresher course that meets the criteria defined by the Board in order to be eligible for licensure under this section.

(c) An applicant who has not passed the NCLEX-PN or NCLEX-RN within four years of completion of the requirements for graduation or within four years of the date of eligibility must complete an appropriate nursing education program in order to be eligible to take or retake the examination.

(d) Should it be ascertained from the application filed, or from other sources, that the applicant should have had an eligibility issue settled by way of a Petition for Declaratory Order, (see §213.30 of this title relating to Declaratory Order of Eligibility for Licensure and Texas Occupations Code §301.257 relating to Declaratory Order of License Eligibility) then the application will be treated and processed as a Petition for Declaratory Order and the applicant will be required to pay the appropriate non-refundable processing fees. Should the Board finally determine that the individual is not eligible to be admitted to the examination, then that individual is precluded from again petitioning, or applying to the Board for admission to the examination except when the impediment to eligibility for licensure has been removed. In no event, may an applicant re-petition for a declaratory order before the first anniversary of the date of the Board's determination to deny eligibility. Any subsequent petition must be made in the manner and form the Board requires.

(e) Upon initial licensure by examination, the license is issued for a period ranging from six months to 29 months depending on the birth month. Licensees born in even-numbered years shall renew their licenses in even-numbered years; licensees born in odd-numbered years shall renew their licenses in odd-numbered years.