

**Consideration of Proposed Amendments to 22 Tex. Admin. Code §216.1,
Pertaining to *Definitions* and §216.3, Pertaining to *Requirements***

Summary of Request: Consider proposal of amendments to §216.1, Pertaining to *Definitions* and §216.3, Pertaining to *Requirements*.

Background: Over the last few years, the Board has extensively studied, reviewed, and discussed continuing competency initiatives in nursing. Board staff presented summaries of continuing competency methodologies and national and local initiatives to the Board during its April, 2006; July, 2006; October, 2006; January, 2007; April, 2007; July, 2007; October, 2007; January, 2008; April, 2008; July 2008; October, 2008; January, 2009; April, 2009; and July, 2009 meetings.

At its April, 2009, meeting, the Board considered proposed amendments to its continuing education rules. The proposed amendments provided nurses with several options for demonstrating continuing competency in their practice, including: (1) completion of 20 contact hours of continuing education in the nurse's area of practice and in programs approved by a credentialing agency recognized by the Board; (2) achievement, maintenance, or renewal of an approved national nursing certification in the nurse's area of practice; or (3) attendance of an academic course meeting certain, specified criteria. The Board approved the proposed amendments, and they were published in the *Texas Register* on May 15, 2009. The public comment period ended on June 14, 2009, and the Board received several written comments and a request for a public rule hearing. A public rule hearing was held on July 9, 2009, and oral and written comments were received.

The Board considered the oral and written public comments at its July, 2009 meeting. In general, commenters expressed concern that the proposed rules indirectly required licensed nurses to engage in the practice of nursing by requiring all nurses who renew their licenses to have an "area of practice". The commenters further stated that this requirement would leave a nurse who did not practice nursing within the previous renewal period (thus, not having a corresponding "area of practice") without an avenue through which to renew his/her license. Commenters also expressed concern about the proposed rule's effect upon non-traditional nursing occupations.

In response to these comments, the Board adopted the proposed rules without an "area of practice" requirement. However, the Board re-iterated that it continued to support the demonstration of continuing competency in a nurse's specific area of practice, and that an "area of practice" component should be incorporated into the continuing competency requirements at some point in the future. As such, the Board charged the Nursing Practice Advisory Committee and the Advisory Committee on Education (Committees) to study, develop, and recommend a rule regarding the demonstration of continuing competency

through continuing education in a nurse's area of practice and to consider its effect upon non-traditional nursing occupations.

The Committees convened on May 17, 2010, to consider the Board's charge. Initially, some Committee members expressed concern that an "area of practice" requirement might be too limiting or restrictive for nurses in non-traditional nursing occupations, such as nursing education or medical supply sales. Following a lengthy discussion of this issue, however, the majority of the Committee members ultimately agreed that the intent of the requirement was to broaden, and not narrow, the range of courses that a nurse could complete to satisfy his or her continuing competency requirements. Further, the majority of the Committee members felt that the proposal only required a reasonable connection between a nurse's "area of practice" and a particular continuing education course. The Committees also discussed the potentially subjective nature of a Board audit of continuing education courses in a nurse's "area of practice". The members recognized, however, that the Board's existing audit and appeals process would be sufficient to provide a nurse an opportunity to defend his or her choice of completing a particular continuing education course. Several members expressed their belief that the Board should establish a minimum standard for continuing education courses, and should not rely on individual nurses to determine appropriate coursework for themselves, as many nurses wait to complete their continuing education hours on the last day of the reporting period and do not take courses that enhance their skills or provide opportunity for professional growth, but instead take courses that are available on-line and are as convenient as possible. Collectively, the Committees agreed that it was important to move towards a continuing competency standard in continuing education, and despite a few possible "growing pains" associated with an "area of practice" requirement, the proposed amendments were an important step in establishing meaningful standards in continuing competency. At the conclusion of the Committee's discussions, the Committees voted to recommend the adoption of the proposed amendments to §216.1 and §216.3 to the Board, a copy of which is attached hereto as Attachment "A".

Board Action: Move to approve the proposed amendments to 22 Tex. Admin. Code §216.1, Pertaining to *Fees*, and §216.3, Pertaining to *Requirements*, and authorize Staff to publish the proposal 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 and no request for a public hearing are received, move to adopt the proposed amendments to 22 Tex. Admin. Code §216.1, Pertaining to *Fees*, and §216.3, Pertaining to *Requirements*, as proposed.

Attachment “A”

§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) - (3) (No change.)

(4) Area of Practice--Any activity, assignment, or task in which the nurse utilized nursing knowledge, judgment, or skills during the licensure renewal cycle. If a nurse does not have a current area of practice, the nurse may refer to his or her last area of practice or most recent area of practice.

(5) - (18) (No change.)

§216.3. Requirements.

(a) A nurse must meet either the requirements of this subsection or subsection (b) of this section. A nurse may choose to complete 20 contact hours of continuing education within the two years immediately preceding renewal of registration in his or her area of practice. These hours shall be obtained by participation 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.

(b) -(e) (No change.)