

Consideration of Proposed New 22 Tex. Admin. Code §217.21, Pertaining to Remedial Education Course Providers and Remedial Education Courses and Proposed Amendments to 22 Tex. Admin. Code §223.1, Pertaining to Fees

Summary of Request: Consider proposal of proposed new 22 Tex. Admin. Code §217.21, pertaining to *Remedial Education Course Providers and Remedial Education Courses* and proposed amendments to 22 Tex. Admin. Code §223.1, pertaining to *Fees*.

At the Board's January, 2011, meeting, Staff presented a proposed approval process for remedial education course providers and remedial education courses for the Board's consideration. In its presentation, Staff identified two main areas of concern. First, Staff had received an increased number of inquiries and applications from individuals who were interested in becoming Board approved remedial education course providers. However, the applicants frequently lacked professional nursing experience, educational experience, and advanced academic degrees. Second, Staff had received several complaints regarding certain remedial education course providers. However, no process was in place for Staff to evaluate or timely withdraw a remedial education course provider's approval. As a result, Staff recommended formalizing a process for the approval of remedial education course providers and courses, which would include charging a nominal fee of \$300 for the approval of a remedial education course and authorization for withdrawing a provider's approval, if necessary. The Board voted to approve the proposed approval process set forth by Staff. A copy of Staff's report is attached hereto as Attachment "A" for reference.

Attached hereto as Attachment "B" is proposed new §217.21, which implements the approval process for remedial education course providers and remedial education courses approved by the Board at its January, 2011, meeting. Also attached hereto as Attachment "B" are proposed amendments to existing §223.1, which implement the new fee of \$300 for the approval of a remedial education course.

Summary of Proposed New Section and Amendments

- Establishes the requirements for the approval of remedial education course providers and remedial education courses.
- Defines "remedial education course". Excludes a remedial education course currently approved by another licensing board (TDADS or another state board of nursing) or another organization recognized by the Board (NCSBN).
- Remedial education courses in the following subjects must be approved by the Board: nursing jurisprudence and ethics, medication administration, physical assessment, pharmacology, and nursing documentation.
- An individual or organization seeking Board approval must submit an application to the Board and \$300 for each remedial education course they wish to have

- approved.
- A remedial education course instructor must: (i) hold a current license or privilege to practice as a RN in the state in which the remedial education course will be provided;(ii) hold a master's degree in nursing; (iii) show evidence of teaching abilities and maintaining current knowledge, clinical expertise, and safety in the subject matter the instructor will teach; (iv) have a minimum of five years professional nursing experience; and (v) not be the subject of a current eligibility or disciplinary order from a board of nursing and/or nursing disciplinary authority or have a history of more than one eligibility or disciplinary order from a board of nursing and/or nursing disciplinary authority.
 - A remedial education course must meet the requirements specified by the Board (in an eligibility/disciplinary order and/or guidelines for course content).
 - Provider and course approval is valid for a period of up to 24 months and must be renewed by March 31st of each odd numbered year.
 - A provider that has been approved by the Board prior to, or on the effective date of the adopted rule, will not be required to renew its approval, but must seek approval and renewal of approval for the courses it seeks to offer.
 - If a provider and/or course fails to comply with the requirements of this section, the Board may withdraw its approval.

Board Action: Move to approve proposed new 22 Tex. Admin. Code §217.21, pertaining to *Remedial Education Course Providers and Remedial Education Courses* and proposed amendments to 22 Tex. Admin. Code §223.1, pertaining to *Fees*, 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 proposed new 22 Tex. Admin. Code §217.21, pertaining to *Remedial Education Course Providers and Remedial Education Courses* and proposed amendments to 22 Tex. Admin. Code §223.1, pertaining to *Fees*, as proposed.

Consideration of Approval Process for Board Approved Remedial Education Providers

Summary of Request:

Consider the approval process for Board approved Remedial Education providers.

Background:

- In the Texas Board of Nursing disciplinary process, Agreed Orders are the Board's form of consent orders in which the licensee agrees to the imposition of certain disciplinary sanctions, such as Remedial Education courses.
- Agreed Orders mandate that Remedial Education courses are offered by Board approved providers.
- During fiscal year 2010, the Board of Nursing issued more than 2,000 Agreed Orders to Registered Nurses and Licensed Vocational Nurses, the majority requiring completion of Remedial Education courses.
- Individuals who have been issued Agreed Orders have demonstrated knowledge, judgement, or skills deficits related to the practice of nursing. Therefore, a critical need exists to provide Remedial Education courses throughout the vast geographical regions of Texas to enable Respondents to fulfill requirements of Board Agreed Orders within the designated time period.
- To meet the intent of remediation, it is essential that Remedial Education courses be well developed, based on sound educational principles, address the needs of adult learners, and taught by qualified instructors.

Proposed Approval Process for Providers:

During the past year, Board staff have received an increased number of inquiries and applications from individuals interested in becoming Board approved Remedial Education providers. From reviewing the applications and interviewing the individuals, Board staff have realized that the applicants frequently lack professional nursing experience, educational experience, and advanced academic degrees. Therefore, Board staff propose the establishment of a formal approval process. The first step in the process requires applicants to submit a completed application and appropriate fee.

Qualifications for Providers:

- Current license or privilege to practice as an RN in Texas;
- Evidence of teaching abilities and maintaining current knowledge, clinical expertise, and safety in the subject area of teaching responsibility;
- Master's degree in nursing;
- Five years varied professional nursing experience; and
- Must not have current Board Order or history of more than one Board Order.

Implications for Current Providers:

- Currently, ten Board approved Remedial Education providers offer courses in Nursing Jurisprudence and Ethics, Nursing Documentation, Medication Administration, and Physical Assessment.
- Medication Administration and Physical Assessment courses have clinical components in addition to the required didactic content.
- Seven of the ten Board approved providers are master's prepared nurses, including one who is doctorally prepared. Thus, three of the Board approved providers do not possess a graduate degree.
- Board staff do not propose to withdraw approval from any of the currently approved providers that do not meet the identified criteria, as the proposed criteria would be utilized to determine future approval of applicants.

Proposed Fee for Approval Process:

Considering the amount of time the assigned Education Consultant spends with the applicant regarding course development and approval, Board staff recommend that an approval fee of \$300 per course be established. The aforementioned fee is not intended to be a barrier but rather an assurance of the applicant's commitment to the process.

Yearly Evaluation Process:

- Prior to Board staffs' yearly renewal of approval of each Remedial Education course, Board staff will mail a survey to a random sample of Respondents who completed Remedial Education courses during the previous year to determine Respondents' perceptions of course content, instructor/learner interactions, and the learning environment.
- Board staff will mail a survey to all Board approved Remedial Education providers to assess provider's perceptions and identify future needs.
- Board staff will compile and analyze the data. Outcomes will assist Board staff to determine if any potential issues exist that need further inquiry.

Proposed Procedure for Handling Complaints and Withdrawing Approval:

Board staff have also become aware of issues surrounding current Remedial Education providers as substantial complaints have been received telephonically. Complainants include Respondents who attended courses, as well as attorneys representing Respondents. At this time, there is no process in place for Board staff to evaluate or ultimately withdraw approval from a Board approved provider. Therefore, Board staff propose consideration of the following complaint procedure:

- Board staff will notify Provider of summary of complaint.
- Provider must submit written response within 10 business days of receipt of notification letter.
- Board staff will review and evaluate response.
- Board staff will recommend corrective actions, if indicated, or withdraw approval.
- If complaints continue, Board staff may immediately withdraw approval.

Recommendations:

Move to approve the proposed process for Board approval of Remedial Education Providers, including criteria for providers, application fee, and procedure for withdrawal of approval.

§217.21. Remedial Education Course Providers and Remedial Education Courses.

(a) Purpose. In situations where an individual has demonstrated a knowledge, judgment, or skills deficit, the Board believes that educational courses can serve as an effective form of remediation provided that the courses are well developed, based on sound educational principles, and taught by qualified instructors. This section establishes the requirements for the approval of remedial education course providers and remedial education courses.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Remedial education course--An educational course that:

(A) meets the requirements of subsection (e) of this section;

(B) is not currently accredited or approved by a licensing authority or organization recognized by the Board;

(C) is designed to address an individual's competency deficiencies;

and

(D) is required to be completed by the Board as part of a disciplinary and/or eligibility order.

(2) Remedial education course provider--An individual or organization that meets the requirements of subsection (d) of this section and is approved by the Board to offer a remedial education course to an individual.

(c) Approval Required. A remedial education course in nursing jurisprudence and ethics, medication administration, physical assessment, pharmacology, and nursing documentation must be approved by the Board. A remedial education course provider seeking to offer one of these remedial education courses must be approved by the Board prior to offering the course to an individual.

(d) Remedial Education Course Providers. A remedial education course provider applicant seeking initial approval from the Board must submit a completed remedial education course provider application to the Board. The provider applicant must verify the application by attesting to the truth and accuracy of the information in the application.

(1) Application. The Board may require the following items in order to approve or disapprove the application:

(A) the name, physical address, and mailing address of the provider applicant;

(B) the name and contact information of the provider applicant's designated authorized representative;

(C) the process used by the provider applicant for evaluating the credentials and teaching competency of its instructors;

(D) a statement certifying that the provider applicant will comply with all requirements set forth in this section; and

(E) any other relevant information reasonably necessary to approve or disapprove the application, as specified by the Board.

(2) Course Instructors. Provider applicants must certify that all course instructors meet the following requirements:

(A) An instructor must hold a current license or privilege to practice as a registered nurse (RN) in the state in which the remedial education course will be provided;

(B) An instructor must hold a master's degree in nursing from an approved or accredited institution;

(C) An instructor must show evidence of teaching abilities and maintaining current knowledge, clinical expertise, and safety in the subject matter the instructor will teach;

(D) An instructor must have a minimum of five years professional nursing experience; and

(E) An instructor may not be the subject of a current eligibility or disciplinary order from a board of nursing and/or nursing disciplinary authority or have a history of more than one eligibility or disciplinary order from a board of nursing and/or nursing disciplinary authority.

(3) Records.

(A) An approved remedial education course provider must maintain as a part of the provider's records a written statement from each instructor certifying that the instructor is qualified as an instructor, the basis of qualification, and that the instructor agrees to comply with all course requirements outlined in this section.

(B) An approved remedial education course provider must maintain verification of an individual's participation and completion of a remedial education course and all information described or required under this section for a period of not less than five years.

(4) Renewal. The Board's approval of a remedial education course provider is valid for a period of up to twenty four months from the date of issuance and shall expire on the last day of the month of March in odd numbered years. A remedial education course provider must renew its Board approval by submitting a renewal application to the Board in advance of its renewal date. A remedial education course provider that has been approved by the Board prior to, or on the effective date of this section, is not required to renew its approval, but must seek the Board's approval and the renewal of such approval for each remedial education course it seeks to offer.

(e) Remedial Education Courses. A remedial education course provider must submit a completed remedial education course application to the Board for each course the provider wishes to offer and pay the required fee specified by §223.1 of this title (relating to Fees), which is not refundable.

(1) Application. A remedial education course application must include the following:

(A) a statement identifying the knowledge, skills, or abilities an individual is expected to obtain through completion of the remedial education course;

(B) a detailed course content outline, measurable learning objectives, and the length of the remedial education course in hours;

(C) a description of how adult educational and learning principles are reflected in the remedial education course;

(D) a method of verifying an individual's participation and successful completion of the remedial education course;

(E) a method of evaluation by which a remedial education course provider measures how effectively the remedial education course meets its objectives and provides for input; and

(F) any other relevant information reasonably necessary to approve or disapprove the application, as specified by the Board.

- (2) Course content. The course content must:
- (A) meet the requirements specified by the Board for each type of course; and
 - (B) be consistent with the following:
 - (i) the Occupations Code Chapters 301, 303, 304, and 305;
 - (ii) 22 Tex. Admin. Code Chapters 211 - 227;
 - (iii) Board position statements 15.1 - 15.26;
 - (iv) the Board's adopted Eligibility and Disciplinary Sanction Policies regarding Sexual Misconduct; Fraud, Theft and Deception; Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder; and Lying and Falsification; and
 - (v) the Board's adopted Guidelines for Criminal Conduct.
 - (f) Remedial education courses may consist of classroom, classroom equivalent, or clinical courses, as specified by the Board.
 - (g) Renewal. Unless withdrawn, a remedial education course is approved until the approval of the sponsoring remedial education course provider expires. The approval of a remedial education course may be renewed simultaneously with the renewal of the approval of the sponsoring remedial education course provider if the provider certifies on the renewal application that the remedial education course continues to meet the requirements of this section. The approval of a remedial education course that has been approved by the Board prior to, or on the effective date of this section, will expire on March 31, 2013, and must be timely renewed.
 - (h) Withdrawal of Approval. The Board may withdraw the approval of a remedial education course provider that fails to maintain compliance with the requirements of this section. If the Board withdraws the approval of a remedial education course provider, the provider shall cease offering all remedial education courses upon notice from the Board. The Board may withdraw the approval of a remedial education course if it fails to comply with the requirements of this section. If the Board withdraws the approval of a remedial education course, the sponsoring remedial education course provider shall cease offering the course upon notice from the Board. Notice is presumed to be effective on the third day after the date on which the Board mails the notice.

§223.1. Fees.

- (a) The Texas Board of Nursing has established reasonable and necessary fees for the administration of its functions.
 - (1) - (22) (No change.)
 - (23) Disciplinary monitoring fees as stated in a Board order; ~~and~~]
 - (24) Nursing Jurisprudence Examination fee: not to exceed \$25; and [-:]
 - (25) approval of remedial education course: \$300 per course.
- (b) (No change.)