

**Consideration of Proposed Amendments to 22 Tex. Admin. Code §217.9,
Pertaining to *Inactive Status***

Summary of Request: Consider proposed amendments to 22 Tex. Admin. Code §217.9, pertaining to *Inactive Status*.

Background: During the past legislative session, the Legislature passed Senate Bill (SB) 193, which eliminates the former age restriction (age 65 or older) required for a nurse to place his/her license in retired status. In lieu of an age restriction, the bill requires a nurse's license to be in good standing with the Board when it is placed in retired status. Further, the bill authorizes the Board to approve additional titles that a retired nurse may use in connection with his/her retired status.

The proposed amendments, attached as Attachment "A", eliminate the current age restriction associated with "retired" status, implement the bill's requirements related to "good standing", and clarify the Board's procedures and requirements for placing a license in "inactive", "retired", or "volunteer retired" status. Further, the amendments prescribe new titles that may be used by retired nurses with advanced practice recognition. Finally, the amendments reduce redundancy within the rule text, update the Board's website address, and include clarifying language with regard to the completion of reactivation requirements.

Board Action: Move to approve the proposed amendments to §217.9, pertaining to *Inactive Status*, 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 §217.9, pertaining to *Inactive Status*, as proposed.

Attachment "A"

§217.9. Inactive and Retired Status.

(a) A nurse may ~~[who elects to]~~ change his/her licensure status from "active" ~~[active licensure status]~~ to "inactive" ~~[inactive]~~ status by ~~[must]~~:

(1) submitting ~~[submit]~~ a written request to the Board prior to the expiration of his/her license; or

(2) designating ~~[designate]~~ "inactive" on the renewal form, if at the time of renewal.

(b) A nurse may change his/her licensure status from "active" or "inactive" to "retired" or "volunteer retired" status. A nurse who elects to change his/her licensure status from "active" or "inactive" to "retired" or "volunteer retired" status may do so only if he/she is in good standing with the Board. For purposes of this section, good standing means that the nurse's license is not in delinquent status and that there is no current disciplinary action, disciplinary probation, or pending investigation/s on his/her nursing license/s or authorization/s. A nurse will be not eligible for "retired" or "volunteer retired" status until all outstanding disciplinary issues have been resolved. Further, a nurse who wishes to change his/her licensure status from "inactive" to "retired" or "volunteer retired" status may do so only if his/her license was in good standing with the Board on the date his/her license became inactive.

~~[(b) A nurse on inactive status, who is 65 or older, and requests to use the title "Licensed Vocational Nurse, Retired," "LVN, Retired," "Vocational Nurse, Retired," "VN, Retired," "Registered Nurse, Retired," or "RN, Retired," must submit the following:]~~

~~[(1) a written request to use the title; and]~~

~~[(2) the required, non-refundable fee.]~~

(c) Retired Status. A nurse who wishes to change his/her licensure status to “retired” status and is eligible to do so under subsection (b) of this section must submit the following information to the Board:

(1) a written request to use one of the following titles:

(A) “Licensed Vocational Nurse, Retired”; “LVN, Retired”; “Vocational Nurse, Retired”; or “VN, Retired”;

(B) “Registered Nurse, Retired” or “RN, Retired”; or

(C) “RN, Nurse Anesthetist, Retired”; “RN, Nurse-Midwife, Retired”; “RN, Nurse Practitioner, Retired”; or “RN, Clinical Nurse Specialist, Retired”; and

(2) the required, non-refundable fee.

~~[(c) An individual who is permitted under §301.261 to use the title “Licensed Vocational Nurse, Retired,” “LVN, Retired,” “Vocational Nurse, Retired,” “VN, Retired,” “Registered Nurse, Retired,” “R.N., Retired may not use that title to practice as a nurse for compensation.]~~

(d) A nurse whose license is in “retired” status may not practice as a nurse for compensation (monetary or non-monetary benefits).

(e)[(d)] Volunteer Retired [Nurse] Authorization. In compliance with the [Texas] Occupations Code §112.051, the Board shall adopt rules providing for reduced fees and continuing education requirements for retired health care practitioners whose only practice is voluntary charity care. The Board shall also define voluntary charity care.

(1) A nurse who wishes to change his/her licensure status to “volunteer retired” status and is eligible to do so under subsection (b) of this section must request authorization from the Board. The nurse must meet the following criteria:

~~[(1) A licensed nurse whose license is designated as “retired” status, or who chooses to place his/her nursing license on “retired” status, as defined in Texas Occupations Code §301.261(e), or who seeks to renew authorization as a Volunteer Retired Nurse must meet the following criteria to qualify for Volunteer Retired (VR) Nurse Authorization:]~~

~~[(A) Must have no current action or pending investigation on his/her nursing license or VR authorization. This qualifier applies to all licenses/authorizations or APN authorizations held;]~~

~~[(A)][(B)] Must claim Texas as the nurse's Primary State of Residence in accordance with the [Texas] Occupations Code Chapter 304, Nurse Licensure Compact, and Chapter 220 of this title; and [-]~~

~~[(B)][(C)] If applying as a vocational or registered nurse [for VR-VN or VR-RN], must have completed at least 10 contact hours of [either Type 1 or Type 2] continuing education as required by [defined in] Chapter 216 of this title during the previous biennium. If applying as a registered nurse with advanced practice recognition [for VR-RN with APN authorization], [the nurse] must meet the continuing education requirements [(C)] of [as described under] §216.3(c) [§216.3(7) of this title].~~

~~[(D) If a nurse's license is delinquent, suspended, surrendered, or revoked, the nurse is not eligible for a volunteer retired nurse license until the resolution of any outstanding issues in relation to the nurse's license. Likewise a nurse whose~~

license is "inactive" must also be eligible for "retired" authorization status under Texas Occupations Code §301.261 in order to apply for "volunteer retired" nurse authorization.]

(2) Application. An applicant for [a] "volunteer retired" authorization [~~Volunteer Retired Nurse Authorization~~] must complete and submit to the Board an application requesting [~~for~~] "volunteer retired" authorization [~~Volunteer Retired Nurse Authorization~~] as a vocational nurse, registered nurse, or registered nurse with advanced practice authorization in a given role and population focus area [~~specialty~~].

(3) Scope of Authorization for LVN or RN. A nurse holding "volunteer retired" authorization [~~a Volunteer Retired Nurse Authorization~~] may only practice nursing at the level for which he/she formerly held an active/unencumbered license to practice nursing. To qualify as volunteer practice, such practice must be without compensation or expectation of compensation as a direct service volunteer of a charitable organization. When engaging in practice as a volunteer retired nurse, the nurse must comply with the Nursing Practice Act (NPA) [~~NPA~~] and Board rules in their entirety.

(4) Scope of Authorization for APRN [~~APN~~]. A nurse [~~VR-RN~~] who has authorization in an advanced practice role and population focus area [~~specialty~~] at the time of application for "volunteer retired" [~~VR-RN~~] authorization must continue to practice in collaboration/supervision with a physician qualified in the APRN's [~~advanced practice nurse's~~] role and population focus area [~~specialty~~], as well as in compliance with all other laws applicable to the APRN's [~~APN's~~] practice setting, both within the NPA and Board rules, as well as other applicable laws.

(5) Charitable Organization. A charitable organization is defined in §84.003 of the Texas Civil Practice and Remedies Code and includes any bona fide charitable, religious, prevention of cruelty to children or animals, youth sports and youth recreational, neighborhood crime prevention or patrol, or educational organization (excluding fraternities, sororities, and secret societies), or other organization promoting the common good and general welfare for the people in a community, including these types of organizations with a §501(c)(3) or (4) exemption from federal income tax, some chambers of commerce, and volunteer centers certified by the Department of Public Safety.

(6) Renewal. A nurse's "volunteer retired" authorization [~~A Volunteer Retired Nurse Authorization~~] expires on the same date as the [a] nurse's regular license previously expired. Each volunteer retired nurse [~~licensee~~] seeking to renew his/her "volunteer retired" authorization [~~status~~] must [~~shall~~] meet all of the requirements of this section, including the continuing education requirements [~~as~~] set forth in this section for the applicable renewal period.

(7) Penalty. A nurse whose license is in "volunteer retired" status [~~The holder of a Volunteer Retired Nurse Authorization~~] shall not receive compensation (monetary or non-monetary benefits) for the practice of nursing. To do so would constitute the practice of vocational, professional, or advanced practice nursing (as applicable) without a license and will subject the volunteer retired nurse to the penalties imposed for this violation.

(8) Titles. A nurse holding [a valid] "volunteer retired" [~~volunteer retired nurse~~] authorization may hold him/herself out as and may use one of the [~~appropriate~~]

titles specified in subsection (c) of this section to reflect the individual nurse's "volunteer retired" [~~volunteer retired nurse~~] authorization [(i.e., VR-VN; VR-RN; VR-RN, FNP, etc.)]. Titles representing to the public that a nurse holds [a] "volunteer retired" authorization [~~Volunteer Retired Nurse Authorization~~] are protected in the same manner as titles listed in the [~~Texas~~] Occupations Code §301.351 and §217.10 of this chapter [~~title~~].

(9) Authorization Verification. Authorization verification may be accomplished by accessing the Board's [BNE] web page at <http://www.bon.texas.gov/> [<http://www.bne.state.tx.us>].

~~(f)~~[(e)] A nurse who has not practiced nursing in Texas and whose license has been in an inactive status for less than four years may reactivate the license by completing the reactivation application form, paying the required reactivation fee and the current licensure fee which are non-refundable, and submitting verification of completion of 20 contact hours of continuing education that meets the requirements of Chapter 216 of this title (relating to Continuing Competency) within the two years immediately preceding the application for reactivation.

~~(g)~~[(f)] A nurse who has not practiced nursing and whose license has been in an inactive status for four or more years must submit to the Board:

(1) a completed reactivation application;

(2) verification of successful completion of a refresher course, extensive orientation to the practice of nursing, or a nursing program of study that meets the requirements prescribed by the Board. The nurse must submit an application to the Board for a temporary permit for the limited purpose of completing a refresher course, extensive orientation to the practice of nursing, or a nursing program of study;

(3) evidence of completion of 20 contact hours of acceptable continuing education for the two years immediately preceding the application for reactivation that meets the requirements of Chapter 216 of this title;

(4) a successful course completion form from one of the following:

(A) the online Texas Board of Nursing Jurisprudence Prep Course;

(B) the Texas Board of Nursing Jurisprudence and Ethics Workshop; or

(C) a Texas Board of Nursing approved Nursing Jurisprudence and Ethics course;

(5) a certificate of successful completion from the Texas Nursing Jurisprudence Exam; and

(6) the required reactivation fee, plus the current licensure fee, which are non-refundable.

(h)~~(g)~~ The Board adopts by reference the following forms, which comprise the instructions and requirements for a refresher course, extensive orientation to the practice of nursing, and a nursing program of study required by this section, and which are available at <http://www.bon.state.tx.us/olv/forms.html>:

(1) Application for Six Month Temporary Permit (RN); and

(2) Application for Six Month Temporary Permit (LVN).

(i)~~(h)~~ A nurse whose license has been in an inactive status for four years or more and who is licensed and has practiced in another state during the previous four years preceding the application for reactivation in Texas must comply with the

requirements of subsection ~~(g)(1)(f)(4)~~ and (3) - (6) of this section.