

Agenda Item: 7.6
April 16-17, 2014
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**Consideration of Proposed Amendments to 22 Tex. Admin. Code §213.32,
Pertaining to *Corrective Action Proceedings and Schedule of Administrative
Fines***

Background: Senate Bill (SB) 1415, enacted by the 81st Texas Legislature, Regular Session, effective September 1, 2009, authorized the Board to offer a corrective action as a resolution to certain violations of the Nursing Practice Act and Board rules and/or policies. A corrective action is a confidential, non-disciplinary action that may consist of a fine, remedial education, or a combination of a fine and remedial education.

In November, 2009, the Board adopted rules to specify the types of violations that may be resolved through a corrective action and to prescribe the circumstances under which an individual is eligible to receive a corrective action. Because the idea of a corrective action proceeding was new at the time of implementation, the adopted rules excluded practice violations from resolution through a corrective action until more evidence concerning the program's feasibility and success could be shown.

Since the enactment of SB 1415, the Board has issued 983 corrective actions. Of these corrective actions, only eight (8) cases have resulted in subsequent orders relating to an individual's non-compliance with the corrective action, making the recidivism rate of individuals receiving corrective actions extremely low, at 0.8%. Based on this trend, Staff is recommending that certain practice violations (those that, pursuant to the Board's Disciplinary Matrix, are appropriate for resolution through the sanction of remedial education or lower) now be eligible for resolution through a corrective action. A corrective action will still be at the sole discretion of the Executive Director and will not be a remedy available as the result of a contested case hearing at the State Office of Administrative Hearings. A copy of the proposed amendments are attached hereto as Attachment "A".

Board Action: Move to approve the proposed amendments to 22 Tex. Admin. Code §213.32, Pertaining to *Corrective Action Proceedings and Schedule of Administrative Fines*, with authority for the 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 §213.32, Pertaining to *Corrective Action Proceedings and Schedule of Administrative Fines*, as proposed.

§213.32. Corrective Action Proceedings and Schedule of Administrative Fines.

A corrective action may be imposed by the Board as specified in the following circumstances.

(1) (No change.)

(2) Pursuant to the Occupations Code §301.652, the Board may impose a corrective action for the first occurrence of each of the following violations:

(A) - (E) (No change.)

(F) failure to develop, maintain, and implement a peer review plan according to statutory peer review requirements; ~~and~~

(G) failure of an advanced practice registered nurse to register for prescriptive authority in an additional role and population focus area, where the advanced practice registered nurse otherwise meets all requirements for prescriptive authority as specified in Chapter 222 of this title (relating to Advanced Practice Registered Nurses With Prescriptive Authority); and [-]

(H) other violations of the Nursing Practice Act and/or Board rules that are appropriate for resolution at the sanction level of Remedial Education, Remedial Education with a Fine, or a Fine, in accordance with the Board’s Disciplinary Matrix.

(3) (No change).

(4) The opportunity to enter into an agreed corrective action order is at the sole discretion of the Executive Director as a condition of settlement by agreement and is not available as a result of a contested case proceeding conducted pursuant to the Government Code Chapter 2001.

(5) - (7) (No change.)