

Agenda Item: 6.3
Board Meeting on July 17-18, 2014
Prepared by: Jena Abel

Adoption of Proposed Amendments to 22 Tex. Admin. Code §213.34, Pertaining to Deferred Disciplinary Action Pilot Program

Background: The proposed amendments were approved by the Board at its April 2014 meeting for submission to the *Texas Register* for public comment. The amendments were published in the *Texas Register* on May 23, 2014, and the comment period ended on June 23, 2014.

The Board received one comment in support of the proposed amendments, which is attached hereto as Attachment "A". The adoption of the proposal will be published in the *Texas Register* on July 25, 2014, and will become effective on July 31, 2014.

THE AMERICAN ASSOCIATION OF NURSE ATTORNEYS

TEXAS CHAPTER

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June 23rd, 2014

Dear Madam President and Texas Board of Nursing Members and Staff:

The members of the Texas chapter of The American Association of Nurse Attorneys (TAANA-Texas) and the clients we represent before the Texas Board of Nursing support the proposed amendments to Board Rules §213.32 (concerning corrective actions) and §213.34 (concerning deferred disciplinary actions) as proposed in the May 23rd edition of the Texas Register.

It is the position of TAANA-Texas that any disciplinary action by the Texas Board of Nursing should address the violations found by the Board and not be unduly burdensome on the nurse being disciplined. The members of TAANA-Texas have been concerned in recent years by what appears to be a slow process of increasing the severity of disciplinary actions for relatively minor violations of the Nursing Practice Act and Board of Nursing Rules and Regulations.

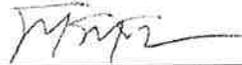
Concerning the change in Board Rule §213.32, TAANA-Texas agrees with the Board that corrective actions can safely be expanded to include certain low risk practice violations. The negative consequences of any public Board order in these matters, including potential inability to find jobs, can be devastating to a nurse receiving a public Board order. However, limiting these potential corrective actions to those practice violations eligible for one of the Remedial Education-level orders balances the confidentiality needs of the nurse and the public disclosure concerns of the Board associated with higher-level violations.

The change in Board Rule §213.34 addresses a similar concern of TAANA-Texas. The successful pilot project involving deferred disciplinary actions has shown that the program was successful, at least in the short term, in providing guidance to nurses with certain types of violations of the Nursing Practice Act and limiting recidivism while allowing a nurse a certain

amount of confidentiality in the future. Notwithstanding the continuing concerns that TAANA-Texas has regarding the Healthcare Integrity and Protection Data Bank, the National Practitioner Data Bank and Nursys handling of the deferred action orders, TAANA-Texas believes that making this program permanent is well justified by the successful pilot program.

Therefore, TAANA-Texas supports both proposed rules changes. We greatly appreciate your consideration of our position.

Respectfully submitted,



Marc M. Meyer, RN, JD,
As *President* of the Texas Chapter of
TAANA

Dusty,

Please see the attached document from TAANA-Texas regarding our support of the changes the Board is contemplating regarding Board rules 213.32 and 213.34.

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