

Consideration of Proposed Amendments to 22 Tex. Admin. Code §217.5, Relating to Temporary License and Endorsement

Background: Senate Bill (SB) 1200 was enacted by the 86th Texas Legislature and became effective September 1, 2019. The bill requires agencies to establish a process to permit qualifying military spouses to practice nursing in Texas without obtaining a license. The bill permits agencies to issue licenses, however, to qualifying military spouses, if the agency chooses to do so.

To qualify, a military spouse must be currently licensed by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for nursing licensure in Texas and be in good standing in that state. The bill limits the amount of time a military spouse may practice in Texas under these provisions. Further, agencies who issues licenses under these provisions are prohibited from charging a military spouse a licensure fee. The bill requires agencies to adopt rules to implement these provisions by December 1, 2019.

The remaining proposed amendments are necessary to implement these statutory requirements. Further, the proposed amendments make minor, clarifying changes to conform to the Board's existing licensing processes (including accepting the Canadian NCLEX-RN).

Board Action: Move to approve the proposed amendments to 22 Texas Administrative Code §217.5, pertaining to *Temporary License and Endorsement*, as set out in Attachment "A", 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 Texas Administrative Code §217.5, pertaining to *Temporary License and Endorsement*, as proposed.

Attachment "A"

§217.5. Temporary License and Endorsement.

(a) A nurse who has practiced nursing in another state within the four years immediately preceding a request for temporary licensure and/or permanent licensure by endorsement may obtain a non-renewable temporary license, which is valid for 120 days, and/or a permanent license for endorsement by meeting the following requirements:

(1) (No change.)

(2) Satisfactory completion of the licensure examination according to Board established minimum passing scores:

(A) (No change).

(B) Registered Nurse Licensure Examination:

(i) (No change.)

(ii) Prior to February 1989--a minimum score of 1600 on the NCLEX-RN; ~~and~~

(iii) February 1989 and after, must have achieved a passing report on the NCLEX-RN; and

(iv) January 2015 and after, for applicants taking the Canadian NCLEX-RN, must have achieved a passing report on the Canadian NCLEX-RN;

(3) Licensure by another U.S. jurisdiction or licensure from a Canadian province by NCLEX-RN;

(4) – (8) (No change.)

(b) A nurse who has not practiced nursing in another state or taken the NCLEX-RN or NCLEX-PN, as applicable, within the four years immediately preceding a request for

temporary licensure and/or permanent licensure by endorsement will be required to:

(1) – (4) (No change.)

(c) - (f) (No change.)

(g) Out-of-State Licensure of Military Spouse.

(1) Pursuant to Texas Occupations Code §55.0041, a military spouse is eligible to practice nursing in Texas if the military spouse:

(A) holds an active, current license to practice nursing in another state or territory:

(i) has licensing requirements, including education requirements, that are determined by the Board to be substantially equivalent to the requirements for nursing licensure in Texas; and

(ii) is not subject to any current restriction, eligibility order, disciplinary order, probation, suspension, or other encumbrance;

(B) submits proof of the military spouse's residency in Texas and a copy of the spouse's military identification card;

(C) notifies the Board of the military spouse's intent to practice nursing in Texas on a form prescribed by the Board; and

(D) meets the Board's fitness to practice and eligibility criteria set forth in §213.27 (relating to Good Professional Character), §213.28 (relating to Licensure of Individuals with Criminal History), and §213.29 (relating to Fitness to Practice) of this title.

(2) If a military spouse meets the criteria set forth in this subsection, the Board will issue a license to the military spouse to practice nursing in Texas. A license issued under this subsection expires no later than the third anniversary of the date of the

issuance of the license and may not be renewed. The military spouse will not be charged a fee for the issuance of the license.

(3) A military spouse who is unable to meet the criteria set forth in this subsection remains eligible to seek licensure in Texas, as set forth in §217.2 (relating to Licensure by Examination for Graduates of Nursing Education Programs Within the United States, its Territories, or Possessions) and §217.4 (relating to Requirements for Initial Licensure by Examination for Nurses Who Graduate from Nursing Education Programs Outside of United States' Jurisdiction) of this chapter, §213.30 (relating to Declaratory Order of Eligibility for Licensure) of this title, and the other remaining subsections of this section.

(4) While practicing nursing in Texas, the military spouse must comply with all laws and regulations applicable to the practice of nursing in Texas.

AN ACT

relating to the authority of certain military spouses to engage in a business or occupation in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 55, Occupations Code, is amended by adding Section 55.0041 to read as follows:

Sec. 55.0041. RECOGNITION OF OUT-OF-STATE LICENSE OF MILITARY SPOUSE. (a) Notwithstanding any other law, a military spouse may engage in a business or occupation for which a license is required without obtaining the applicable license if the spouse is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

(b) Before engaging in the practice of the business or occupation, the military spouse must:

(1) notify the applicable state agency of the spouse's intent to practice in this state;

(2) submit to the agency proof of the spouse's residency in this state and a copy of the spouse's military identification card; and

(3) receive from the agency confirmation that:

(A) the agency has verified the spouse's license in the other jurisdiction; and

(B) the spouse is authorized to engage in the

1 business or occupation in accordance with this section.

2 (c) The military spouse shall comply with all other laws and
3 regulations applicable to the business or occupation in this state.

4 (d) A military spouse may engage in the business or
5 occupation under the authority of this section only for the period
6 during which the military service member to whom the military
7 spouse is married is stationed at a military installation in this
8 state but not to exceed three years from the date the spouse
9 receives the confirmation described by Subsection (b)(3).

10 (e) A state agency that issues a license shall adopt rules
11 to implement this section. The rules must establish a process for
12 the agency to:

13 (1) identify, with respect to each type of license
14 issued by the agency, the jurisdictions that have licensing
15 requirements that are substantially equivalent to the requirements
16 for the license in this state; and

17 (2) verify that a military spouse is licensed in good
18 standing in a jurisdiction described by Subdivision (1).

19 (f) In addition to the rules adopted under Subsection (e), a
20 state agency that issues a license may adopt rules to provide for
21 the issuance of a license to a military spouse to whom the agency
22 provides confirmation under Subsection (b)(3). A license issued
23 under this subsection must expire not later than the third
24 anniversary of the date the agency provided the confirmation and
25 may not be renewed. A state agency may not charge a fee for the
26 issuance of the license.

27 SECTION 2. Not later than December 1, 2019, a state agency

1 to which Section 55.0041, Occupations Code, as added by this Act,
2 applies, shall adopt rules to implement that section.

3 SECTION 3. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1200 passed the Senate on April 30, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2019, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1200 passed the House, with amendment, on May 22, 2019, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor