

**Rule Review of 22 Tex. Admin. Code Chapter 213, Including Consideration of  
Proposed Changes to §213.1 and §213.20**

**Background:**

Texas Government Code §2001.039 requires the Board to review its rules every four years. In accordance with Government Code §2001.039, the Texas Board of Nursing (Board) must file notice of its intention to review and consider for re-adoption, re-adoption with amendments, or repeal, Chapter 213 in Title 22, Part 11, of the Texas Administrative Code, pursuant to the 2019 rule review plan adopted by the Board at its July 2018 meeting.

As part of its review of the chapter, Staff has identified editorial changes that need to be made to §213.1 and §213.20. Specifically, amendments are necessary to correct references to the “Board of Nurse Examiners” within these sections. These proposed amendments, along with the proposed rule review, will be published in the *Texas Register* for a thirty day public comment period.

**Board Action:** Move to approve the proposed Rule Review of Chapter 213, with amendments to 22 Texas Administrative Code §213.1 and §213.20, pertaining to *Practice and Procedure*, 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 §213.1 and §213.20 and the Rule Review of Chapter 213, pertaining to *Practice and Procedure*.

**RULE §213.1      Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) (No Change.)

(2) Address of record--The address of each licensee as provided to the Board of Nursing Nurse Examiners (as required by Board rules relating to Change of Name and/or Address) and currently found in §217.7 of this title (relating to Change of Name and/or Address).

(3)-(7) (No Change.)

(8) Board--The Board of Nursing Nurse Examiners appointed pursuant to Texas Occupations Code Annotated §301.051. For purposes of this section, "Board" also includes a three member standing committee designated by the Board to determine matters of eligibility for licensure and discipline of licensees.

(9)-(16) (No Change.)

(17) Executive director--The executive director of the Board of Nursing Nurse Examiners.

(18) – (27) (No Change.)

(28) Party--A person who holds a license issued by the Board of Nursing Nurse Examiners or multistate licensure privilege, a person who seeks to obtain, retain, modify his or her license, or a multistate licensure privilege, or the Board of Nursing Nurse Examiners.

(29) – (38) (No Change.)

**RULE §213.20      Informal Proceedings and Alternate Dispute Resolution (ADR)**

(a) – (g) (No Changes.)

(h) Referral to peer assistance after report to the Board.

(1) A nurse required to be reported under Texas Occupations Code Annotated §§301.401 - 301.409, may obtain informal disposition through referral to a peer assistance program as specified in Texas Occupations Code Annotated §301.410, as amended, if the nurse:

(A) makes a written stipulation of the nurse's impairment by dependency on chemicals or by mental illness;

(B) makes a written waiver of the nurse's right to administrative hearing and judicial review of:

(i) all matters contained in the stipulation of impairment;

(ii) any future modification or extension of the peer assistance contract;

(iii) the future imposition of sanctions under Texas Occupations Code Annotated §301.453 in the event the executive director should determine the nurse has failed to comply with the requirements of the peer assistance program; and

(C) makes a written contract with the Board of Nursing through its executive director promising to:

(i) undergo and pay for such physical and mental evaluations as the peer assistance program determines to be reasonable and necessary to evaluate the

nurse's impairment; to plan, implement and monitor the nurse's rehabilitation; and, to determine if, when and under what conditions the nurse can safely return to practice;

(ii) sign a participation agreement with the peer assistance program;

(iii) comply with each and every requirement of the peer assistance program in full and timely fashion for the duration of the contract and any extension(s) thereof; and

(iv) waive confidentiality and privilege and authorize release of information about the nurse's impairment and rehabilitation to the peer assistance program and the executive director of the Board of Nursing. ~~Nurse Examiners.~~

(2) Disposition of a complaint by referral to a peer assistance program is not a finding which requires imposition of a sanction under Texas Occupations Code Annotated §301.453.

(3) In the event the nurse fails to comply with the nurse's contract with the Board of Nursing ~~Nurse Examiners~~ or the nurse's participation agreement with the peer assistance program, such non-compliance will be considered by the executive director at an informal proceeding after notice to the nurse of the non-compliance and opportunity to respond. At the informal proceeding, the executive director may consider facts relevant to the alleged non-compliance, modify or extend the contract or participation agreement, declare the contract satisfied or impose §301.453 sanctions on the nurse which will result in public discipline and reporting to the National Council of State Boards of Nursing's Disciplinary Data Bank.

(i) – (l) (No Changes.)