

Consideration of Proposed Amendments to 22 Tex. Admin. Code §215.2, Relating to *Definitions*, Including Authorization for Emergency Rule Adoption

Background: The current examination year for Texas vocational nursing education programs is based on the calendar year (January 1 - December 31). The current examination year for Texas professional nursing education programs is October 1 – September 30. The purpose of the proposed rule amendments, attached as Attachment “A”, is to align the professional nursing program exam year with the vocational nursing program exam year, as well as with the exam year utilized by most accreditors and other boards of nursing.

Staff sent out a survey, through the National Council State Boards of Nursing, to other member boards on August 14, 2020. Thirty-four (34) member boards responded to the survey. Eighteen percent (18%) of the responding member boards indicated their examination year was an academic year (one with a specific beginning and ending other than the calendar year); seventy-four percent (74%) indicated their examination year was the calendar year; and eight percent (8%) indicated they used another measure (‘other’). Staff also reached out to nursing accreditation agencies and other state agencies in Texas to see if changing the exam year for Texas professional nursing programs would cause any issues they could identify. None were identified.

Use of the academic year for the Texas professional nursing education programs causes inconsistencies in dates used for reporting NCLEX pass rates, since education programs have different academic years/graduation schedules. The National Council State Boards of Nursing reports state NCLEX data as a calendar year, and many non-education settings require calendar year information. Accreditation agencies usually base their data on the calendar year, as well. Aligning program exam years would also permit Staff to calculate and report pass rates for all programs at the same time.

Board Action: Move to approve the proposed amendments to 22 Texas Administrative Code §215.2, pertaining to *Definitions*, 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 §215.2, pertaining to *Definitions*, as proposed.

Attachment "A"

§215.2. Definitions.

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

(1) – (19) (No change.)

(20) Examination year--the period beginning January 1 [~~October 1~~] and ending December 31 [~~September 30~~] used for the purposes of determining a professional nursing education program's annual NCLEX-RN® examination pass rate.

(21) – (45) (No change.)

Potential Need for Emergency Rule Adoption and Board Approval

Due to the effect of the COVID-19 pandemic, both didactic and clinical learning experiences were disrupted across the state. Many clinical facilities closed their doors to students. These disruptions in clinical education persist in areas of the state with high levels of virus activity. In some instances, graduations have been delayed, even with the current rule waiver that allows programs to exceed the 50% ceiling on simulated clinical experiences. In addition to delayed graduations, the ability for graduates to schedule appointments to sit for the NCLEX-RN examination was affected by temporary closure of testing centers. To date, NCLEX-RN examination results this year are consistent with results last year, but more will be known as future cohorts of graduates whose education was affected by the pandemic sit for the exam.

Due to these challenges, it may become necessary to effectuate the proposed rule change *on an emergency basis* in order to extend professional nursing education programs' examination year through December 31, 2020. This would enable those programs' NCLEX-RN examination pass rates to be calculated utilizing first time testers who test from October 1, 2019 through December 31, 2020, for the purpose of ongoing program approval. Should it become evident as pass rates become known to Board Staff that an earlier adoption of the proposed rule is necessary to account for COVID-19 pandemic related contingencies, Staff recommends Board approval of the proposed amendments set forth in Attachment "A" on an emergency basis, with Executive Director delegation and discretion to implement the emergency adoption of the rule change.

Board Action: Move to approve the emergency adoption of proposed amendments to 22 Texas Administrative Code §215.2, pertaining to *Definitions*, as set out in Attachment "A", with delegation and authority for the Executive Director to implement the emergency adoption of the rule amendments as she deems necessary, based upon Staff review of the NCLEX-RN examination results for the 2020 examination year.