

**Consideration of Adoption of Proposed Amendments to 22 Tex. Admin. Code  
§221.12, relating to *Scope of Practice***

**Background:** At its October 2021 Board meeting, the Board charged the Advanced Practice Nursing Advisory Committee (APNAC) with reviewing and making recommendations for amendments to Board Rule 221.12, regarding the scope of practice of advanced practice registered nurses (APRNs). The APNAC convened on March 3, 2022, and June 13, 2022, to consider the Board's charge. APNAC's recommended amendments were considered by the Board at its July 2022 meeting, and the Board approved proposed amendments to §221.12 for submission to the *Texas Register* for public comment. The proposal was published in the *Texas Register* on August 19, 2022, and the comment period ended on September 19, 2022. The Board received two written comments on the proposal. The Board did not receive any requests for a public hearing. A copy of the written comments received are attached hereto as Attachment "A".

On January 5, 2023, APNAC re-convened to review the submitted written comments and provide recommendations to the Board regarding whether the proposed rule should be modified in light of the comments received.

Summary of APNAC's discussion

In response to the commenters' general comments, APNAC felt that the commenters may have misunderstood the intent of the proposal. APNAC re-iterated that APRN practice necessarily requires a licensee to engage in a life-long learning process. The standard of care, by its very nature, is not stagnant; it requires constant adaption as improvements are made to technology, pharmacology, and techniques, skills, and treatments. As such, the proposal is intended to assist practitioners and the public in understanding the limits of a practitioner's scope of practice in light of the constantly evolving standard of care. A key point in understanding the proposal is to understand the difference between expanding one's knowledge and skill set *within* one's scope of practice and expanding one's knowledge and skill set *outside* of one's scope of practice. While the former is permissible under the rule, the latter is not.

APNAC also felt that specifying a time frame for training as suggested by the commenters was not appropriate. APNAC instead emphasized that mastery of the skill through demonstration of competency was the better measure, especially since some skills could be accomplished satisfactorily with a shorter time of training, while some other skills may take considerably longer. Because it would be impractical to create a one-size-fits-all time frame, APNAC recommended relying on the *quality* of the training and the documented demonstration of the mastery of the skill.

Ultimately, APNAC voted to recommend no substantive changes be made to the proposal, with the exception of one of the commenter's suggested wording changes to proposed §221.12(b), which APNAC delegated to Board Staff for further review and recommendation to the Board.

A summary of the written comments received and Staff's recommended responses is attached as Attachment "B". A copy of the recommended changes to the rule text as proposed is attached Attachment "C".

**Board Action:** Move to adopt 22 Texas Administrative Code §221.12, relating to Scope of Practice, with changes, as set forth in Attachment "C". Further, authorize Staff to publish the summary of comments and response to comments attached hereto as Attachment "B".



Sept. 19, 2022

James W. Johnston, General Counsel  
Texas Board of Nursing  
333 Guadalupe, Suite 3-460  
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Via email to [Dusty.Johnston@bon.texas.gov](mailto:Dusty.Johnston@bon.texas.gov)

Re: Comments on Proposed Rule 22 Tex. Admin. Code § 221.12, Scope of Practice  
(47 Tex. Reg. 33, Pages 4891-5036, Aug. 19, 2022)

Dear Mr. Johnston:

On behalf of Texas Medical Association (TMA), and our over 56,000 physician and medical student members, we submit the following comments on the Texas Board of Nursing's (BON's or board's) proposed amendments to 22 Tex. Admin. Code § 221.12, as published in the Aug. 19, 2022 Texas Register.

In the preamble, it states that the BON is acting in response to “an increased number of questions and complaints from the public regarding certain procedures and patient care activities being performed by APRNs.”<sup>1</sup> While we understand the impetus for the rule proposal and appreciate the desire to provide more clarity regarding the scope of practice of APRNs in Texas, we have strong concerns about the proposal's drafting. Therefore, we are opposed to the proposal in its current form. Our concerns focus on potentially conflicting provisions in the rules and preamble that may allow inappropriate scope expansion. We have included our specific concerns below, and we respectfully reserve the right to amend our comments as the rulemaking process continues. Thank you in advance for your consideration and attention to our comments.

## **COMMENTS**

### **I. Comments on Preamble.**

Again, TMA understands BON's stated desire to act on “an increased number of questions and complaints from the public regarding certain procedures and patient care activities being performed by APRNs” by attempting to address these issues through rulemaking. We also understand BON's stated intent to “remind[] licensees of the importance of ensuring that all

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<sup>1</sup> See Preamble, Proposed Rules 221.12.

patient care activities are performed in conformity with their respective scopes of practice.”<sup>2</sup> However, we are concerned that some of the language in the preamble and proposed rules appears inconsistent with this intent and may inappropriately expand scope and/or increase confusion in this area. We are particularly concerned about these issues unless BON provides further clarification in the proposed rules that the Nursing Practice Act (the Act) is the basic framework for the scope of practice for APRNs. Training, education, experience, professional specialty guidance, and hospital credentialing may be important to determine if an APRN is qualified to perform a service, but only in the context of whether the Act first provides that the service is part of their licensure at all. *See, e.g.*, Tex. Occ. Code 301.002(2) defining “professional nursing”; and 301.004 (prohibition on practicing medicine). This is why we suggest further clarification, recommended herein.

## II. Comments on Proposed Section 221.12.

### A. Subsection (b).

In our first comment on the proposed rule itself, we ask BON to add “applicable” between “other” and “laws” in subsection (b). At first glance, our request may appear to be a distinction without a difference, but we hope our subsequent explanation adequately articulates why this edit is very important.

The existing, unedited rule includes additional limitations that were not included in this proposed language—“other laws and regulations of the State of Texas”. The “of the State of Texas” language added an important guardrail on the scope rule to avoid confusion with federal laws that may not be applicable to the APRN where state scope of licensure laws control. However, we also recognize there are some federal laws that do apply to parts of certain APRNs’ practices in Texas without interfering with scope of licensure. If BON’s intent is to capture those applicable federal laws, we understand and would like to provide our suggestion to avoid a potential misapplication of the proposed rules in a manner that violates Texas’ scope of licensure laws.

We recommend making the following **bolded** change to the proposed rule in subsection (b) to account for the state and federal laws that apply to an APRN’s practice:

(b) APRNs may only perform those functions that are within their Board authorized scope of practice for their role and population focus area and that are consistent with the Nursing Practice Act, Board rules, and other **applicable** laws and regulations affecting their practice **in Texas**.

### B. Subsection (c).

We are also concerned the proposed factors in standalone subsection (c) may create ambiguity for APRNs about whether these factors provide an alternative measure for what is considered

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<sup>2</sup> *Id.*

within their scope of practice in Texas outside of the Act. This misapplication would violate state licensure laws where inconsistent with the Act.

For example, subsection (c)(2) states:

(2) Whether the action falls within generally acceptable standards of care appropriate for the APRN's role and population focus area, *as determined by a professional specialty organization*

By allowing this factor to be solely defined by a professional specialty organization, it creates ambiguity about what exactly is controlling the APRN's scope of practice.

As another example, (c)(4) states:

(4) Whether the APRN has been *credentialed by a health care facility's credentialing body and/or holds a privilege to perform the action* at a health care facility;

Again, it does not matter if a hospital credentials and/or provides privileges to an APRN to perform an act that falls outside of the APRN's legal scope of practice in Texas—if the APRN performs such act in Texas, the APRN has violated the laws governing the APRN's state licensure.

Our concerns are increased by some parts of the preamble, which may be misconstrued, including this statement:

*“If an APRN is unsure if a particular action falls within his/her scope of practice, the proposed amendments are intended to provide additional clarity as to the factors that should be reviewed and considered before performing the activity or action.”*

To avoid potential negative and dangerous consequence—including a misinterpretation that violates scope of licensure laws—we recommend combining (b) and (c) to better set the parameters for how scope is defined:

(b) APRNs may only perform those functions that are within their Board authorized scope of practice for their role and population focus area and that are consistent with the Nursing Practice Act, Board rules, and other **applicable** laws and regulations affecting their practice in Texas.

~~[(c)]~~ In determining whether a particular action falls within an APRN's authorized scope of practice, **the Board will first determine if the action is allowed under the applicable laws and regulations affecting the APRN's practice in Texas, including the Nursing Practice Act. If so, the Board will then consider the following factors** ~~[will be considered]:~~

(1) Whether the APRN received training regarding the performance of the particular action in his/her advanced educational program;

(2) Whether the action falls within generally acceptable standards of care appropriate for the APRN's role and population focus area, as determined by a professional specialty organization;

- (3) Whether the APRN has demonstrable clinical competence and/or clinical experience in performing the action in the role of an APRN, obtained through supervision and/or training by a qualified practitioner;
- (4) Whether the APRN has been credentialed by a health care facility's credentialing body and/or holds a privilege to perform the action at a health care facility;
- (5) Whether the APRN has completed additional training for the specific action being performed. Additional training means education obtained by the APRN post-APRN licensure in ~~his/her~~ **the APRN's** role and population focus area that is adequate for the action being performed by the APRN.
- (A) To determine whether the additional training obtained by an APRN is adequate for the action being performed by the APRN, the following factors will be considered:
- (i) the type of instruction provided, by way of example, and not limitation, online instruction; in-person instruction; didactic instruction; or clinical instruction;
  - (ii) the learning objectives, content, materials, and methods for evaluating participation contained in the training curriculum;
  - (iii) the length and/or quantity of the training;
  - (iv) the qualifications of the person/entity providing the training;
  - (v) whether the training has been certified or recognized by a professional specialty organization for the APRN's role and population focus area;
  - (vi) whether the training is consistent with evidence-based practice;
  - (vii) whether the training is sponsored by an educational institution, such as a formal fellowship or precepted experience; and
  - (viii) whether the training is provided by an entity in conjunction with the use of the entity's product, drug, or medical apparatus/equipment.
- (B) All training must include a method of objective, verifiable participant competency following completion of the training.

### **C. Subsection (g).**

We also object to the “may” disciplinary language in proposed subsection (g). This proposed subsection states:

(g) An action that is determined to have been committed outside an APRN's authorized scope of practice *may* subject the APRN to discipline.

This is a bad public policy precedent to set. If an APRN is acting outside the professional's scope of licensure, there should be disciplinary consequences, albeit the level of discipline may vary based on the factors underlying the infraction.

Further, this proposed language is inconsistent with the board's existing Rule 221.17. Rule 221.17, Enforcement for APRNs, states:

**“Any nurse** who violates the rules set forth in this chapter **shall** be subject to disciplinary action and/or termination of the authorization by the board....”

Proposed subsection (g) should align with Rule 221.17; and we therefore ask BON to change “may” to “shall”.

#### **D. Additional Comments:**

We are confused on what BON means by “population focus area” and “new roles”. We note that BON uses “specialty area” and “population focus area” with some inconsistency in its rules and informational resources. We suggest using consistent, well-defined terms to provide clear communication to licensees.

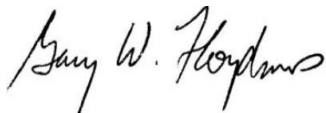
We also suggest referencing Rule 221.13 in this proposed rule as one of the factors for whether the board determines an APRN was acting within appropriate scope of licensure. Rule 221.13 sets out the “Core Standards for Advanced Practice” and provides additional factors likely important to the board’s determination of whether an APRN is acting within the APRN’s scope of practice.

Finally, the board refers to “a professional specialty organization” and “an educational institution” in its proposed rules for the purpose of considering standards of care and training; however, there are no reasonable limitations on what type of professional specialty organization (e.g., nationally recognized) or educational institution (e.g., accredited, board-approved) that standard of care or training may come from. We suggest including additional qualifications on these terms to prevent a licensee from using a sham specialty organization or educational institution to verify the licensee’s actions/training/education.

#### **CONCLUSION**

Thank you for considering the above comments. We appreciate BON’s role in this process and the board’s attempt to clarify scope of licensure for APRN’s in its rules. If you have any questions, please contact any of the following TMA staff by email: Kelly M. Walla, JD, LLM, vice president and deputy general counsel, at [kelly.walla@texmed.org](mailto:kelly.walla@texmed.org); Laura J. Thetford, JD, associate general counsel, at [laura.thetford@texmed.org](mailto:laura.thetford@texmed.org); or Michelle Romero, associate vice president of advocacy, at [michelle.romero@texmed.org](mailto:michelle.romero@texmed.org); by phone at 512-370-1300; or at our mailing address: 401 West 15<sup>th</sup> Street, Austin, Texas 78701.

Sincerely,

A handwritten signature in black ink that reads "Gary W. Floyd". The signature is written in a cursive, flowing style.

Gary W. Floyd, MD  
President



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September 19, 2022

VIA EMAIL: Dusty.Johnston@bon.texas.gov

James W. Johnston  
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Re: Comments on Proposed Rule 22 Tex. Admin. Code § 221.12, Scope of Practice (47 Tex. Reg. 33, Pages 4891-5036, Aug. 19, 2022)

Dear Mr. Johnston:

This firm acts as General Counsel to the Texas Pain Society (TPS), a trade association comprised of Texas physicians practicing pain management. This letter serves as our comments to the Board of Nurses' proposed amendments relating to Scope of Practice of Advanced Practice of Registered Nurses.

We are concerned with the dearth of clear standards by which a supervising physician can measure an APRN's competency within their self-designated specialty.

The proposed changes arose from public questions and complaints regarding certain procedures and patient care activities being performed by APRNs. While we appreciate the Board's efforts in this regard to clarify Scope of Practice, the new rules do not go far enough to alleviate the public's concern (as well as physician employers) that APRN's may self-designate their own specialties without proven training or measurable competency.

TPS objects to the Board of Nursing's proposed amendments relating to Scope of Practice of Advanced Practice Registered Nurses, 22 TAC sec. 221.12, and in particular section (c), which is intended to clarify how the Board will determine if a particular patient care activity falls within an APRN's scope of practice. We propose the language highlighted in yellow, below, to ensure that the APRN has been supervised by someone in that field of specialty. As it is currently proposed, the word "qualified" is too vague to be enforceable.





- 3) Whether the APRN has demonstrable clinical competence and/or clinical experience in performing the action in the role of an APRN, obtained through supervision and/or training by a qualified practitioner in his/her advanced educational program;

Further, proposed sec. 221.12(c)(5)(A) is a list of factors to determine the adequacy of the APRN's training. We believe that training should be required by a qualified practitioner in his/her educational program rather than by a supervising physician, and that that training should be for no less than one year. Thus, we would suggest adding to the proposed language:

- (i) the type of instruction provided, by way of example, and not limitation; online instruction, in-person instruction; didactic instruction; or clinical instruction in his/her advanced educational program;
- (iii) the length, one year being the minimum length of training required, and/or quantity of the training in his/her advanced educational program;

Finally, we suggest that the Board put more teeth into these rules, by changing the "may" to "will" in section (g), so that it the proposed rule reads:

- (g) An action that is determined to have been committed outside an APRN's authorized scope of practice may will subject the APRN to discipline.

TPS' members are committed to quality of care and need assurances that the APRNs it hires are fully competent in the field of pain management. While we agree that the new language is a step in the right direction, the above additional language and qualifications provide concrete requirements that will prove helpful to physicians and the public in determining an APRN's competency within their scope of practice.

Sincerely,

Robbyn P. Wysocki  
General Counsel, Texas Pain Society

## Attachment "B"

### Summary of Comments Received

#### *Preamble and §221.12(c)*

*Comment:* A commenter representing the Texas Medical Association states that, unless the Board provides further clarification in the rule that the Nursing Practice Act (NPA) is the basic framework for the scope of practice for APRNs, the commenter is concerned that the rule may inappropriately expand the scope of practice and increase confusion in this area. Further, the commenter states that training, education, experience, professional specialty guidance, and hospital credentialing may be important to determining if an APRN is qualified to perform a service, but only in the context of whether the NPA first provides that service is part of their licensure at all.

Regarding proposed §221.12(c) specifically, the commenter further states that the proposed factors in proposed subsection (c) create ambiguity for APRNs about what controls their scope of practice. The commenter further suggests combining proposed subsections (b) and (c) and adding the phrase "the Board will first determine if the action is allowed under the applicable laws and regulations affecting the APRN's practice in Texas, including the NPA. If so, the Board will then consider" to the combined subsection.

**Agency Response to Comments: The Board declines to make the commenter's specific changes but agrees some additional clarification in the rule text as adopted is necessary. The NPA authorizes advanced nursing practice in a**

specific role based upon the completion of an advanced practice nursing education program. However, just as the Medical Practice Act does not do so for physicians, the NPA does not define the professional scope of practice for APRNs. The professional scope of advanced nursing practice is derived from three sources: an advanced practice nursing education program; the certifying body that issues individual certification required for APRN licensure in a role and population focus area; and professional specialty organization guidance that addresses advanced practice nursing in a specified role and population focus area. The professional scope of practice derived from these sources applies equally to all APRNs in a specified role and population focus area. An APRN cannot practice outside of the established professional scope of practice for a role and population focus area, and the proposed rule does not purport to permit an APRN to do so.

However, advanced nursing practice is dynamic and necessarily requires an APRN to engage in a life-long learning process. The standard of care, by its very nature, is not stagnant; it requires constant adaptation as advancements are made. As such, practitioners are expected to adapt their practice as the standard of care evolves in order to provide evidence-based, patient-centered care within their authorized scope of practice. This will necessarily require APRNs to practice in new settings, perform new procedures, and develop new skills during their professional careers.

As such, an APRN may expand his/her *individual* scope of practice so long as it does not extend beyond the professional scope of practice for the APRN's role and population focus area. An APRN's individual scope of practice is based upon the mastered competencies of the individual and will necessarily vary from one practitioner to another depending upon the opportunities and professional experiences each individual has had in his/her education program, clinical experiences, and practice setting. The review of an APRN's individualized training, credentialing, and demonstrable clinical competencies/experiences is necessary to determine the APRN's *individual* scope of practice. While an APRN is permitted to expand his/her individual scope of practice, the proposed rule limits such expansion to the confines of the established professional scope of practice for the APRN's role and population focus area. The proposed rule simultaneously ensures that the APRN has also obtained the necessary competencies to perform the new skill(s) within the standard of care.

For example, while inserting an intrauterine device (IUD) may be within the professional scope of practice for a women's health nurse practitioner in his/her role, a particular practitioner may never have inserted a specific type of IUD in his/her practice. As such, before doing so, the APRN would need to acquire additional training sufficient for the APRN to demonstrate a mastered competency in inserting the specific device. If the APRN was able to obtain such training and demonstrate competency and mastery of the skill, the individual would have appropriately expanded his/her individual scope of practice under the proposed rule. However, the converse is not true. No matter how much additional training a pediatric nurse practitioner obtains, he/she could not

**treat an adult patient for the management of high blood pressure because the professional scope of practice for a pediatric nurse practitioner is limited to the treatment of pediatric patients. This is true even if a physician is willing to delegate such a task to the practitioner.**

**The Board declines to make the commenter’s specific changes to §221.12(c) as adopted. An APRN must practice within both his/her professional scope of practice, as well as his/her individual scope of practice, at all times. The Board finds that the specified factors in proposed subsection (c) appropriately apply to the evaluation of both an APRN’s *professional* scope of practice, as well as the APRN’s *individual* scope of practice for any given situation. The evaluation of both is needed to ensure safe practice and patient safety. However, to clarify the effect of the proposed rule in this regard, the Board has made changes to §221.12(b) and §221.12(c) as adopted to reflect the evaluation of both professional and individual scopes of practice.**

*§221.12(b)*

*Comment:* A commenter representing the Texas Medical Association suggests that the word “applicable” be added between the words “other” and “laws” in proposed subsection (b). The commenter also recommends that the phrase “in Texas” be added to the end of proposed subsection (b). The commenter states these changes are needed to account for the state and federal laws that apply to an APRN’s practice and to avoid a

potential misapplication of the proposed rules in a manner that violates Texas' scope of licensure laws.

**Agency Response to Comment: The Board agrees and has made the commenter's suggested changes in the rule text as adopted.**

§221.12(c)(3)

*Comment:* A commenter representing the Texas Pain Society recommends adding the phrase "in his/her advanced educational program" to the end of proposed (c)(3). The commenter states that the term "qualified" is too vague to be enforceable and the recommended phrase is necessary to ensure the APRN has been supervised by someone in that field of specialty.

§221.12(c)(5)(A)

*Comment:* A commenter representing the Texas Pain Society states that the training referenced in proposed (c)(5)(A) should be required by a qualified practitioner in his/her educational program rather than by a supervising physician and that training should be for no less than one year. The commenter recommends adding the phrase "in his/her advanced educational program" to the end of proposed (c)(5)(A)(i) and "one year being the minimum length of training required" and "in his/her advanced educational program" to proposed (c)(5)(A)(ii).

**Agency Response to Comment: The Board declines to make the commenter's**

suggested changes. While the Board shares the commenter's concern that additional training and/or precepted experiences are sufficient to ensure competency, the Board declines to place unnecessary restrictions on the kinds of training and precepted experiences that an APRN may participate in. The Board finds the demonstration of competency to be a better measure, particularly when the mastery of one skill may be accomplished satisfactorily within a shorter period of time, while the mastery of another skill may take considerably longer. Because it would be impractical and unreasonable to impose a one-size-fits-all time requirement, the Board finds it preferable to also evaluate the quality of the training and/or precepted experience, as well as the demonstration of the mastery of the skill in lieu of an artificially prescribed timeframe. Further, the length of the training is already included as a factor for evaluation in proposed subsection (c)(5)(A)(iii). So, although a prescribed minimum time frame is not included in the rule, the specific length associated with a particular training would be considered. Further, the qualifications of the person providing training, as well as the content and structure of the training, are also factors for evaluation already included in proposed subsection (c)(5)(A)(i) and (iv). Finally, a variety of practitioners, not only those practicing in the same field of specialty as the APRN, may be qualified and appropriate to provide instruction/training and test the clinical competency of the APRN. Because APRNs are not currently required, via either statute or rule, to be supervised by a delegating physician in the same specialty, the Board finds the commenter's suggestion in this regard to be unduly restrictive. Further, the proposal already requires an evaluation of the credentials of instructors to ensure

**appropriate instruction and demonstration of competency.**

§221.12(g)

*Comment:* A commenter representing the Texas Medical Association objects to the word “may” in proposed subsection (g). The commenter states that an APRN acting outside the professional’s scope of practice should face disciplinary consequences, although the level of discipline may vary based on the factors underlying the situation. The commenter recommends changing “may” to “shall” in proposed subsection (g).

A commenter representing the Texas Pain Society suggests putting more teeth into the rule by changing “may” to “will” in proposed subsection (g).

**Agency Response to Comment:** The Board declines to make the commenters’ suggested changes. The Board has authority to investigate violations of the NPA and Board rules, to include violations associated with practicing outside of one’s authorized scope of practice. If such violations are found, they can subject the licensee to discipline. However, the commenters’ suggested language seeks to impose an absolute duty to impose discipline in such situations. While the likelihood is that discipline would be imposed in any given scenario substantiating such a violation, the Board retains discretion to resolve contested cases in a variety of ways under the NPA , including through corrective actions, which are not disciplinary in nature, and through alternative dispute resolution. Further, the primary purpose of proposed subsection (g) is to emphasize to licensees the



**importance of evaluating their own practice to ensure compliance with the rule and to remind licensees that the Board will evaluate their practice in accordance with the rule if a complaint is received. The Board does not find it necessary to change the proposed subsection in order to retain its ability to impose discipline when appropriate.**

*Miscellaneous*

*Comment:* A commenter representing the Texas Medical Association suggests using consistent, well-defined terms to provide communication to licensees and states that the terms “population focus area”, “specialty area”, and “new roles” are confusing. The commenter also suggests referencing Rule 221.13 as one of the factors the Board considers when determining if an APRN was acting within appropriate scope of licensure. The commenter further states that there are no reasonable limitations on what type of professional specialty organization or educational institution the standards of care or training may come from and suggests including additional qualifications on these terms to prevent a licensee from using a sham specialty organization or educational institution to verify the licensee’s actions/training/education.

**Agency Response to Comment:** The Board declines to make changes to the rule in response to the commenter’s comments. While the Board recognizes that there may be some attempts to create sham specialty organizations or educational institutions, the Board finds that the proposal ensures a sufficiently rigorous review of the additional education and/or training proffered by an APRN to justify

the performance of a particular action. Further, while the terms “population focus area”, “specialty”, and “roles” are specific to APRN practice, the Board does not find their use in the proposed rule confusing. Further, these terms are used throughout the Board’s rules regarding advanced nursing practice and are specifically defined in Board Rule 221.2 (*relating to APRN Titles and Abbreviations*). The Board does not find additional clarification in the rule necessary. Finally, the Board does not find it necessary to specifically reference Board Rule 221.13 in this proposal for that rule to remain valid and enforceable, and to the extent applicable, relevant to a determination of scope of practice in a given situation. However, because Rule 221.13 relates primarily to the core standards of practice for APRNs, and includes topics other than those specifically addressed by the proposal, the Board finds that its addition to this proposal could cause unnecessary confusion.

Attachment "C" (changes to the proposed text highlighted below)

Text.

§221.12. Scope of Practice.

(a) Advanced practice registered nurses (APRNs) practice in a variety of settings and provide a broad range of health care services to a variety of patient populations within their Board authorized role and population focus area.

(b) APRNs may only perform those functions that are within their Board authorized professional and individual scopes of practice for their role and population focus area and that are consistent with the Nursing Practice Act, Board rules, and other applicable laws and regulations affecting their practice in Texas.

(c) In determining whether a particular action falls within an APRN's authorized professional and/or individual scope of practice, the following factors will be considered:

(1) Whether the APRN received training regarding the performance of the particular action in his/her advanced educational program;

(2) Whether the action falls within generally acceptable standards of care appropriate for the APRN's role and population focus area, as determined by a professional specialty organization;

(3) Whether the APRN has demonstrable clinical competence and/or clinical experience in performing the action in the role of an APRN, obtained through supervision and/or training by a qualified practitioner;

(4) Whether the APRN has been credentialed by a health care facility's

credentialing body and/or holds a privilege to perform the action at a health care facility;

(5) Whether the APRN has completed additional training for the specific action being performed. Additional training means education obtained by the APRN post-APRN licensure in his/her role and population focus area that is adequate for the action being performed by the APRN.

(A) To determine whether the additional training obtained by an APRN is adequate for the action being performed by the APRN, the following factors will be considered:

(i) the type of instruction provided, by way of example, and not limitation, online instruction; in-person instruction; didactic instruction; or clinical instruction;

(ii) the learning objectives, content, materials, and methods for evaluating participation contained in the training curriculum;

(iii) the length and/or quantity of the training;

(iv) the qualifications of the person/entity providing the training;

(v) whether the training has been certified or recognized by a professional specialty organization for the APRN's role and population focus area;

(vi) whether the training is consistent with evidence-based practice;

(vii) whether the training is sponsored by an educational institution, such as a formal fellowship or precepted experience; and

(viii) whether the training is provided by an entity in

conjunction with the use of the entity's product, drug, or medical apparatus/equipment.

(B) All training must include a method of objective, verifiable participant competency following completion of the training.

(d) It is the responsibility of the APRN to maintain records of all completed training and competencies.

(e) An APRN is not prohibited from providing nursing care within the scope of practice of a registered nurse.

(f) Nothing in this section shall be construed to authorize an APRN to practice in a role or population focus area for which the APRN has not been licensed.

(g) An action that is determined to have been committed outside an APRN's authorized scope of practice may subject the APRN to discipline.

~~[The advanced practice nurse provides a broad range of health services, the scope of which shall be based upon educational preparation, continued advanced practice experience and the accepted scope of professional practice of the particular specialty area. Advanced practice nurses practice in a variety of settings and, according to their practice specialty and role, they provide a broad range of health care services to a variety of patient populations.]~~

~~[(1) The scope of practice of particular specialty areas shall be defined by national professional specialty organizations or advanced practice nursing organizations recognized by the Board. The advanced practice nurse may perform only those functions which are within that scope of practice and which are consistent with the Nursing Practice Act, Board rules, and other laws and regulations of the State of Texas.]~~

~~[(2) The advanced practice nurse's scope of practice shall be in addition to~~

~~the scope of practice permitted a registered nurse and does not prohibit the advanced practice nurse from practicing in those areas deemed to be within the scope of practice of a registered nurse.]~~