



NURSING
STUDENT
HANDBOOK

2022-2024

PROGRAM DESCRIPTIONS

GENERAL DESCRIPTION: ASSOCIATE DEGREE NURSING

The Lee College ADN Program is a two-year program awarding an Associate of Applied Science Degree (AAS) upon satisfactory validation of all college and program requirements. Upon completion of the program, graduates will be eligible to apply for the National Council of Licensure Exam for Registered Nurses (NCLEX-RN).

GENERAL DESCRIPTION: LVN-ADN TRACK

The Lee College LVN-ADN track is a 3.5 semester track awarding an Associate of Applied Science Degree (AAS) upon satisfactory validation of all college and program requirements. Upon completion of the program, graduates will be eligible to apply for the National Council of Licensure Exam for Registered Nurses (NCLEX-RN).

GENERAL DESCRIPTION: LVN

The Lee College LVN Program is a one-year program awarding a certificate upon satisfactory validation of all college and program requirements. Upon completion of the program, graduates will be eligible to apply for the National Council of Licensure Exam for Practical Nurses (NCLEX-PN).

NURSING PROGRAMS PERSONNEL

Dean of Nursing & Allied Health	Dr. Janena Norris
Director of Nursing	Dr. Sybil Rollins
Vocational Nursing Faculty	Dr. Nora James
Vocational Nursing Faculty	Debra Radomski
Vocational Nursing Faculty	Patricia Fincher
Vocational Nursing Faculty	Joy Onubogu
Associate Degree Nursing Faculty	Rizza Martinez-Atain
Associate Degree Nursing Faculty	Dr. Cheryl Sheffield
Associate Degree Nursing Faculty	Dr. Michelle Theriot
Associate Degree Nursing Faculty	Elouise Ford
Associate Degree Nursing Faculty	Dr. Helen Manibusan
Associate Degree Nursing Faculty	Kathleen Murphy
Associate Degree Nursing Faculty	Dr. Janice Johnson-Umezulike
Associate Degree Nursing Faculty	Alexa-Marie Ramirez
Lab & Simulation Center Coordinator	Daniel CoVan
Clinical Coordinator	Jahnea Palfrey
Lab Technician	Gloria Burke
Admission & Progression Coordinator	Courtney Allison
Admission & Progression Assistant	Andrea Conner
Division Secretary, Nursing & Allied Health	Ivory JohnBaptiste
Advisor	NaJean Preiss

CHAIN OF COMMAND



PHILOSOPHY

The faculty believes the person is a dynamic system encompassing the interrelatedness of: physiological, psychosocial, economic, cultural, cognitive, developmental and spiritual variables interacting to adapt and function as a complex whole. Culture encompasses groups of people who share an ethnic heritage, a language, and sets of values, a disability or some outstanding skill in an environment. The individual and family/significant others are part of a diverse population within a community and its environment. Fluctuating levels of wellness occur throughout the life span. Determinants of wellness include health beliefs and behaviors, lifestyle, and healthcare needs. Maslow's Hierarchy of Needs guides the individual and the nurse to prioritize the patient's health care needs, identify actual and potential health problems, to enter into shared decision making and provide patient-centered care mobilizing the patient's strengths.

The faculty believes nursing is a profession guided by scientific principles, research, and the nursing code of ethics. Knowledge acquired from natural and social sciences, informatics and nursing research provide the foundation to understand evidence-based practice and apply clinical reasoning. The purpose and practice of nursing is to employ competent decision-making and implement therapeutic and caring interventions that assist the person and family/significant others as they respond to health and illness. To attain and maintain wellness throughout the life span is the expected outcome. The nurse demonstrates professional behaviors and effective management by collaborating and communicating with the interdisciplinary healthcare team members, while always mindful of the role of patient advocacy, political awareness and sound fiscal responsibility.

The faculty believes that nursing education encompasses concepts from education and nursing. Active learner participation and faculty facilitation of learning strategies are the essential components of the teaching/learning process. Creating environments both inside and outside the classroom for student learning to take place with innovative strategies involving technology, simulation, lab and clinical experiences reflects a commitment to the

teaching learning process. These strategies demonstrate filtering the explosion of healthcare information with evidence-based practice principles that impact effective patient-centered care decisions.

The faculty believes the foundation of nursing education is the nursing process utilizing assessment, analysis, planning, implementation, and evaluation as the bases to provide patient-centered care. Clinical reasoning is at the core of the nursing process. The acquisition and continued development of clinical reasoning skills are reflected as the student progresses throughout the curriculum as they move from memorizing to reasoning and from a basic understanding to problem solvers. Faculty adopt an atmosphere of mutual respect between student and instructor consistent with the values and ethics of the nursing profession by advocating flexibility and adjustment of teaching strategies that reach the depth of student understanding. Engaging teaching strategies and principles relevant to today's healthcare settings should be clear and concise. The faculty respects the diversity of students and endeavors to challenge the advanced student, to support and encourage the average student, and to develop and implement a plan of remediation for the student experiencing difficulty. The faculty strives to develop teacher-learner connectedness and a sense of community while providing tools for the student to take ownership in their own educational pathway in the learning process. The faculty recognize diversity encompasses but is not limited to age, gender, race, ethnicity, culture, disability, religion, socioeconomic status and family composition.

The faculty affirms and adopts the roles of member of the profession, provider of patient-centered care, patient safety advocate and member of the health care team. As a provider of patient-centered care, the nurse utilizes clinical reasoning skills and demonstrates effective assessment techniques. In the role of patient safety advocate, the nurse recognizes the importance of nursing research to deliver safe, effective and efficient patient care. As member of the healthcare team the nurse effectively collaborates and communicates with the interdisciplinary healthcare team members to manage care, while always mindful of the importance of patient advocacy and appropriate utilization of resources. Also, as a member of the healthcare team, the nurse adheres to standards of professional practice, exercises accountability for actions and behaviors and practices within legal, ethical and regulatory frameworks of nursing. The nurse values the profession of nursing and demonstrates professional behaviors within the appropriate scope of practice when caring for others. By participating in ongoing professional development and advancing education, the nurse demonstrates commitment to lifelong learning.

OUR MISSION	
Lee College	Lee College Nursing Programs
Lee College serves the community by providing innovative and quality education to our diverse students along guided pathways to gainful employment, personal enrichment, and life-long learning.	Lee College Nursing Programs serves the community by collaborating with our community partners in the preparation of entry level nursing graduates who demonstrate competency in patient centered care as a quality member of an interdisciplinary healthcare team.

OUR VISION	
Lee College	Lee College Nursing Programs
Lee College will empower students by providing knowledge and skills to confidently navigate their future.	Lee College Nursing Programs will collaborate with our community partners to enhance the health and wellness of the citizens in our service area and across the globe by educating competent, caring, compassionate nurses.

END OF PROGRAM OUTCOMES

Associate Degree Nursing

1. Graduates will complete the Lee College Associate Degree Nursing Program successfully.
2. Graduates will obtain licensure by successfully passing the National Council Licensure Examination (NCLEX-RN).
3. Graduates will gain employment as an entry-level Registered Nurse.

Vocational Nursing

1. Graduates will complete the Lee College Vocational Nursing Program successfully.
2. Graduates will obtain licensure by successfully passing the National Council Licensure Examination (NCLEX-PN).
3. Graduates will gain employment as an entry-level Vocational Nurse.

END OF PROGRAM STUDENT LEARNING OUTCOMES

Associate Degree Nursing

At the end of the program, students will be able to:

1. Provide and direct nursing care that enhances the care delivery setting in order to protect clients and promote client outcomes.
2. Assess for and identify health and environmental hazards and implement appropriate interventions to protect clients and health care personnel.
3. Promote optimal health by providing and directing nursing care of the client that incorporates knowledge of expected growth and development, prevention and early detection of health problems, and strategies to achieve optimal health.
4. Manage and provide nursing care that provides and supports the emotional, mental, and social well-being of the client experiencing stressful events, as well as acute or chronic mental illness.
5. Provide care and comfort to clients, reduce client risk potential, and manage health alterations in order to promote physical health and wellness.
6. Apply principles of medication administration and parenteral therapies in the provision of patient care.
7. Plan and implement appropriate care for the client to reduce the likelihood of complications or health problems related to existing conditions, treatments, or procedures.
8. Manage and provide care for clients with acute, chronic, or life-threatening physical health conditions.

Vocational Nursing

At the end of the program, students will be able to:

1. Collaborate with health care team members to facilitate effective client care.
2. Contribute to the protection of clients and healthcare personnel from health and environmental hazards.
3. Provide nursing care for clients that incorporate knowledge of expected stages of growth and development, and prevention and/or early detection of health problems.
4. Provide nursing care that assists with promotion and support of the emotional, mental, and social well-being of clients.
5. Provide comfort to clients and assistance in the performance of activities of daily living.
6. Apply principles of medication administration and monitor clients who are receiving parenteral therapies.
7. Implement appropriate care for the client to reduce the likelihood of complications or health problems related to treatments, procedures, or existing conditions.
8. Participate in providing nursing care for clients with acute, chronic, or life-threatening physical health conditions.

TEXAS BOARD OF NURSING DIFFERENTIATED ESSENTIAL COMPETENCIES

- I. Member of a Profession
 - A. Function within the nurse's legal scope of practice and in accordance with regulation and the policies and procedures of the employing health care institution or practice setting.
 - B. Assume responsibility and accountability for the quality of nursing care provided to patients and their families.
 - C. Participate in activities that promote the development and practice of professional nursing.
 - D. Demonstrate responsibility for continued competence in nursing practice, and develop insight through reflection, self-analysis, self-care, and lifelong learning.

- II. Provider of Patient-Centered Care
 - A. Use clinical reasoning and knowledge based on the diploma or associate degree nursing program of study and evidence-based practice outcomes as a basis for decision-making in nursing practice.
 - B. Determine the physical and mental health status, needs, and preferences influenced by culture, spirituality, ethnicity, identity, and social diversity of patients and their families, and the interpretation of comprehensive health assessment findings compared with evidence-based health data derived from the diploma or associate degree nursing program of study.
 - C. Analyze comprehensive assessment data to identify problems, formulate goals/outcomes, and develop plans of care for patients and their families using information from evidence-based practice in collaboration with patients, their families, and the interdisciplinary health care team.
 - D. Provide safe, compassionate, comprehensive nursing care to patients and their families through a broad array of health care services.
 - E. Implement the plan of care for patients and their families within legal, ethical, and regulatory parameters and in consideration of disease prevention, wellness, and promotion of healthy lifestyles.
 - F. Evaluate and report patient outcomes and responses to therapeutic interventions in comparison to benchmarks from evidence-based practice, and plan follow-up nursing care.
 - G. Develop, implement, and evaluate teaching plans for patients and their families to address health promotion, maintenance, and restoration.
 - H. Coordinate human, information, and physical resources in providing care for patients and their families.

- III. Patient Safety Advocate
 - A. Demonstrate knowledge of the Texas Nursing Practice Act and the Texas Board of Nursing Rules that emphasize safety, as well as all federal, state, and local government and accreditation organization safety requirements and standards.
 - B. Implement measures to promote quality and a safe environment for patients, self, and others.
 - C. Formulate goals and outcomes using evidence-based data to reduce patient risks.
 - D. Obtain instruction, supervision, or training as needed when implementing nursing procedures or practices.
 - E. Comply with mandatory reporting requirements of the Texas Nursing Practice Act.
 - F. Accept and make assignments and delegate tasks that take into consideration patient safety and organizational policy.

- IV. Member of the Health Care Team
 - A. Coordinate, collaborate, and communicate in a timely manner with patients, their families, and the interdisciplinary health care team to plan, deliver, and evaluate patient-centered care.
 - B. Serve as a health care advocate in monitoring and promoting quality and access to health care for patients and their families.
 - C. Refer patients and their families to resources that facilitate continuity of care; health promotion, maintenance, and restoration; and ensure confidentiality.
 - D. Communicate and manage information using technology to support decision-making to improve patient care.
 - E. Assign and/or delegate nursing activities to other members of the health care team based upon an analysis of patient or work place need.
 - F. Supervise nursing care by others for whom the nurse is responsible by using evidence-based nursing practice.
 - G. Participate with health care teams during local or global health emergencies or pandemics to promote health and safety, and prevent disease.

ACCREDITATION INFORMATION

Lee College is accredited by:
Southern Association of Colleges and Schools Commission on Colleges
(SACS-COC)
1866 Southern Lane
Decatur, GA 30033-4097
P: 404-679-4500 www.sacscoc.org

The Lee College Nursing Programs are approved by:
Texas Board of Nursing
333 Guadalupe Suite, 3-460
Austin, Texas 78701-3944
P: 512-305-7400 www.bne.state.tx.us

The Lee College Associate Degree Nursing Program is accredited by:
Accreditation Commission for Education in Nursing (ACEN)
3390 Peachtree Road NE, Suite 1400
Atlanta, GA 30326
P: 404-975-5000 www.acenursing.org
The most recent accreditation decision made by the ACEN Board of Commissioners for the Associate Degree Nursing program is:
Continuing Education

PROGRAM POLICIES AND PROCEDURES

* Nursing students are held accountable for reading and following all college and program policies. Nursing program policies and procedures are in addition to Lee College policies but do not contradict college policies or exempt a student from complying with college policies.

ADMISSION REQUIREMENTS

1. Admission is two-step and competitive.
 - Admission to the college is step one, followed by application to the nursing program.
 - Completed applications are reviewed and selection is based on a point system which ranks academic ability through pre-requisite GPA and HESI readiness assessment.
 - After all applicants are scored, selected applicants are invited to complete admission to the program.
 - **All pre-requisite courses must be complete upon admission to the nursing program.**
2. Full admission is not complete until all program admission requirements, satisfactory FBI Criminal Background Check, and specific applicant contingencies are completed on time.
 - All required documents **MUST** be submitted and approved through Complio **BEFORE** the first day of class.
 - If above items are not received prior to first day of class, the student will be unable to participate and will therefore not be eligible to continue in the program.
3. Applicants must complete a urine drug screen.
 - **Drug screens must be ordered and scheduled through Complio.**
 - Any positive result will be reviewed and may disqualify the applicant from admission to the program.
4. Immunizations must be current and include:
 - Tdap (within 10 years), **must have the pertussis component**
 - MMR vaccination series (2 vaccines) – does not have to be repeated if received as a child
 - Varicella vaccination series (2 vaccines) – does not have to be repeated if received as a child
 - COVID vaccination series and boosters
 - Annual flu vaccine (**administered during flu season**)
 - Hepatitis B **titer** showing immunity once 3-shot series has been completed – vaccination series does not have to be repeated if received as a child
 - If titer is negative, non-reactive, or not immune, must repeat the Hepatitis B vaccination series (3 vaccines)
 - **Annual** negative Tuberculin Skin Test (PPD) or negative QuantiFERON-TB Gold; or chest x-ray every two years.
5. Current BLS CPR (**MUST BE American Heart Association Basic Life Support for Healthcare Providers**). Other providers such as Red Cross are **NOT** accepted.
6. Immunizations, titers, and BLS certification are at student expense.
7. ALL verification documents must be uploaded to Complio. **DO NOT** submit any paper medical records to the Nursing office!

TRANSFER STUDENTS

Because of differences in program curricula, Lee College Nursing Programs do not accept transfer students. Students who have previously attended another nursing program must apply to the program, meet admission requirements, and follow the program curriculum as written.

INTERNATIONAL APPLICANTS

Lee College does not accept international applicants at this time due to clinical limitations.

BON ELIGIBILITY QUESTIONS

The Board of Nursing looks at responses to questions relating to criminal conduct to determine eligibility for renewal. To check your eligibility for renewing your license, please review the following:

To check your eligibility for renewing your license, please review the following questions:

1. Have you ever had any disciplinary action on a nursing license or a privilege to practice in any state, country, or province?

2. Do you have an investigation or complaint pending on a nursing license or a privilege to practice in any state, country, or province?

3. Have you, in the last 5 years*, been addicted to and/or treated for the use of alcohol or any other drug?

4. For any criminal offense*, including those pending appeal, have you:

(You may only exclude Class C misdemeanor traffic violations or offenses previously disclosed to the Texas Board of Nursing on an initial or renewal application.)

been arrested and have a pending criminal charge?

been convicted of a misdemeanor?

been convicted of a felony?

pled nolo contendere, no contest, or guilty?

received deferred adjudication?

been placed on community supervision or court-ordered probation, whether or not adjudicated guilty?

been sentenced to serve jail, prison time, or court-ordered confinement?

been granted pre-trial diversion?

been cited or charged with any violation of the law?

been subject of a court-martial; Article 15 violation; or received any form of military judgment/punishment/action?

NOTE: Expunged and Sealed Offenses: While expunged or sealed offense, arrests, tickets, or citations need not be disclosed, it is your responsibility to ensure the offense, arrest, ticket or citation has, in fact, been expunged or sealed. It is recommended that you submit a copy of the Court Order expunging or sealing the record in question to our office with your application. Non-disclosure of relevant offenses raises questions related to truthfulness and character. (See 22 TAC §213.27)

NOTE: Orders of Non-Disclosure: Pursuant to Tex. Gov't Code § 552.142(b), if you have criminal matters that are the subject of an order of non-disclosure you are not required to reveal those criminal matters. However, a criminal matter that is the subject of an order of non-disclosure may become a character and fitness issue. Pursuant to Gov't Code chapter 411, the Texas Nursing Board is entitled to access criminal history record information that is the subject of an order of non-disclosure. If the Board discovers a criminal matter that is the subject of an order of non-disclosure, even if you properly did not reveal that matter, the Board may require you to provide information about any conduct that raises issues of character and fitness.

5. Have you ever had any licensing (other than a nursing license) or regulatory authority in any state, jurisdiction, country, or province revoked, annulled, cancelled, accepted surrender of, suspended, placed on probation, refused to renew or otherwise discipline any other professional or occupational license, certificate, nurse aide registration or multistate privilege to practice that you held?

6. Are you currently suffering from any condition for which you are not being appropriately treated that impairs your judgment or that would otherwise adversely affect your ability to practice nursing in a competent, ethical, and professional manner?

7. *Are you currently the target or subject of a grand jury or governmental agency investigation?

8. *Are you currently a participant in an alternative to discipline, diversion, or a peer assistance program? (This includes all confidential programs)

NOTE: Any positive response will remain confidential and not subject to public disclosure unless required by law.

9. Have you ever been granted the authority to practice nursing in any country, state, province, or territory?

NOTE: This does not apply to any nursing license(s) issued by another US state or territory, excluding Puerto Rico. If you were licensed in Puerto Rico, you should be answering yes.

*Pursuant to the Texas Occupations Code §301.207, information, including diagnosis and treatment, regarding an individual's physical or mental condition, intemperate use of drugs or alcohol, or chemical dependency and information regarding an individual's criminal history is confidential to the same extent that information collected as part of an investigation is confidential under the Texas Occupations Code §301.466.

NOTE: If you answered "YES" to # 1-5, please refer to "instructions for eligibility questions" for more information.

PROGRESSION

1. Once a student has entered a Lee College nursing program, all nursing courses must be completed in the sequence shown in the program curriculum.
2. Students must earn a FINAL COURSE GRADE of 78 or better in all nursing courses in order to progress in the program. Grades are not rounded. Students who earn a course average of 77.9 or less will receive an “F” in the course and will not be able to progress in the program.
3. Students must pass each Math Competency Exam with the required score each semester in order to continue in the program. Students have three (3) attempts to successfully pass the exam. (See Math Competency Exam policy). Students who fail to pass each Math Competency Exam within the three (3) attempts will be dismissed from the program.
4. Students must pass all skills check-offs within three (3) attempts. Students who fail to pass all required skills check-offs within the three (3) attempts will receive an “F” in the course and will not be able to progress in the program.

WITHDRAWALS

Refer to Lee College Catalog for information regarding course withdrawals. Withdrawal deadlines can be found on the Lee College Academic Calendar.

PROBATION/DISMISSAL

Behavioral

Students are expected to follow Lee College Nursing Programs Handbook policies, as well as college policies, at all times. Infractions in course policies will be handled as follows unless otherwise specified:

- First offense: First written warning
- Second offense: Second written warning with probation
- Third offense: Program dismissal

***Any serious infractions related to a potential safety risk may result in immediate probation or program dismissal without previous warnings.**

Academic

1. Final course average less than 78% in any course will result in program dismissal due to course failure.
2. Failure to earn required score on Math Competency Exam (in 3 attempts) will result in program dismissal.
3. Failure to pass ANY nursing skill checkoff (in 3 attempts) will result in program dismissal due to course failure.

GRADING

A minimum course grade of 78 (“C”) is required to successfully pass nursing courses. Grades are not rounded. The following grading system applies to all nursing courses:

A = 90 – 100

B = 80 – 89.9

C = 78 – 79.9

D = grades of “D” cannot be earned in nursing courses

F = 77.9 or below

REINSTATEMENT/READMISSION

Students enrolled in the Lee College Nursing Programs who do not successfully complete the program are not eligible for automatic readmission in subsequent years and must be considered along with all other candidates. Students are not allowed to join the program mid-curriculum; therefore, if a student is readmitted, they must start the program at the beginning and retake and complete all courses previously passed or failed following the course requirements at time of readmission.

Each student may only attempt to complete a Lee College Nursing Program twice then must wait 5 years to reapply. Students who are dismissed from the program due to conduct or safety related issues are not eligible for readmission.

STUDENT CONTACT INFORMATION

Students are required to provide current name, address, and phone numbers to the Director of Nursing and registrar's office. Students are responsible and accountable for providing accurate information. **Any** change in contact and address information **must** be provided to the nursing program and college registrar. Students are accountable and responsible for any information conveyed to students using on-file contact information.

EMAIL

Students are expected to USE and check their Lee College email address daily. Your Lee College email is the official form of communication. Other email address formats are unacceptable and unreliable. All student-faculty communications will occur via Lee College email. Students should contact Lee College Help Desk for college email issues.

TRANSPORTATION

Students are responsible for transportation to and from the college, assigned clinical agencies, and field trips.

VACATION AND HOLIDAYS

Refer to the Lee College catalog for specific semester dates and college closings due to vacations or holidays.

ATTENDANCE

It is imperative that students be present for classroom and clinical learning experiences in order to meet course and program objectives and requirements. The program does not offer "make-up time" for hours missed. **Absences due to extenuating circumstances (hospitalization, severe illness, etc) will be handled on a case-by-case basis.**

Class Attendance

Students are expected to attend all classroom activities in order to maximize learning and program success. Students are responsible for content missed when not present for class. **Students who expect to be absent for class must email the course instructor prior to the start of class to inform them of their absence.**

Clinical attendance

Students are expected to attend all clinical activities in order to apply learned concepts to the care of patients. Students who expect to be absent for clinical must **email** the clinical instructor AND the clinical coordinator at least 1 hour prior to the start of their clinical day. Students who miss clinical may be assigned a mandatory clinical activity to provide an opportunity for clinical learning; however, the assignment is not a replacement for hours missed. Students in excess of **1 clinical absence** during a clinical course may be subject to disciplinary action including program dismissal **unless extenuating circumstances apply** (see above).

SMOKING

Lee College is a tobacco-free campus. All clinical agencies are smoke-free facilities. Students should not smoke while wearing clinical uniform. Students presenting to clinical agencies wearing clinical uniform smelling of cigarette smoke will be sent home and a clinical absence earned.

SUBSTANCE ABUSE, DRUG SCREENING, AND IMPAIRMENT

1. In accordance with state law, Lee College prohibits unlawful possession, use or distribution of illicit drugs or alcohol by students on College property, at clinical sites, or any College sponsored off campus function.
2. Students are required to have a drug screen performed as a component of admission. Students are not allowed to take medications that could cause any impairment while in the clinical setting.
3. Lee College Nursing Programs reserve the right to perform drug testing on students at any time when there is self- disclosure or reasonable suspicion that student is under influence of alcohol or any prescription, illicit, or over the counter drug. Reasonable suspicion is satisfied when student is in apparent state of emotional, mental, or physical impairment or exhibits changes in personal behavior otherwise unexplainable. **A positive test after medical review will result in program dismissal.**

EMPLOYMENT

1. Work must not interfere with academic or clinical performance.
2. No accommodation is made for work schedules.
3. Students who accept paid positions providing patient care do so as unlicensed individuals and must not wear Nursing program uniform, ID badge, or other student or college insignia.
4. Students who work during the program are not allowed to attend a clinical rotation if they have worked a night shift beforehand. If the clinical rotation is for a night shift, students are not to work the day of the assignment. Policy infraction will result in the student being sent home, and disciplinary action taken.

LICENSURE

Minimum safe entry-level nursing practice is assessed by the NCLEX-PN and NCLEX-RN licensure exams. The National Council of State Boards of Nursing (NCSBN <https://www.ncsbn.org>) maintains and revises the NCLEX-PN and NCLEX-RN licensure exams. NCLEX exams are revised every three (3) years. Exam revisions are based on comprehensive research of new graduate nurse activities. The NCLEX-PN and NCLEX-RN test blueprints contain weighted assessment categories based on graduate nurse activities. Nurse activities describe expectations, duties, and responsibilities.

Students are provided with the necessary information to apply for the National Council Licensure Examination for Registered Nurses (NCLEX-RN) prior to graduation. Students are expected to visit the Texas Board of Nursing web site regularly at <https://www.bon.texas.gov/>

CRIMINAL BACKGROUND CHECK

1. Background checks are conducted as a condition of the Texas Board of Nursing and admission to Lee College Nursing programs. Results are valid for duration of student enrollment if: there has been no interruption in college or program enrollment, AND if the applicant/student has no disqualifying allegations or convictions while enrolled.
2. Lee College and the Texas Board of Nursing (BON) determine agency selected to do criminal background screening. Results of background check are sent directly to the student and communicated with the Director of Nursing. Applicants/students pay any cost of background check. Applicants/students give written permission for criminal background check. Applicants submit a criminal background check questionnaire. False information disqualifies applicants for admission.
3. Applicants or students MUST complete the FBI criminal background check as described in admission policies and procedures and mandated by the Texas Board of Nursing. **Applicants must bring the original blue card or declaratory order outcome letter sent by the BON to the Nursing Programs Office prior to or by the first day of class.**

CRIMINAL ACTIVITY DURING NURSING PROGRAM ENROLLMENT

All students who have been fully accepted into Lee College Nursing Programs have successfully completed the Texas Board of Nurses (BON) mandated DPS/FBI criminal background check (CBC). Nurses have access to persons who are physically, emotionally, and financially vulnerable and who are easily exploited by virtue of illness, injury, age, and / or cognitive ability. Nurses are also in a position to have access to privileged / confidential information concerning their patients. Therefore, criminal behavior, whether violent or non-violent, directed against persons, property, and / or public order and decency is considered by the BON to be highly relevant to an individual's fitness to practice nursing. Nurses who commit crimes outside the workplace raise concerns about the nurse's propensity to repeat the same conduct in the patient care setting which raises further concerns about the nurse's ability to provide safe, competent care to patients.

Because of this, the following policies will be strictly enforced by the Lee College Nursing Programs:

- A student has two school business days to inform the Director of Nursing of any legal infractions committed while enrolled in the program. If the student fails to do so, the student will be dismissed from the program and not be allowed to reapply.
- If a student reveals legal charges to the Director of Nursing within the required time frame, one of two things will occur:

1. The Director of Nursing will review the charges and confer with the student. The Director of Nursing will allow the student to remain in the program. The student will be required to file a “Petition for Declaratory Order” with the Texas BON. The student will have five school business days to file the petition.
2. The Director of Nursing will review the charges and confer with the student. The student will be required to file a “Petition for Declaratory Order” with the Texas BON. The student will have five school business days to file the petition. The student will be suspended from clinical until a positive “Outcome Letter” from the BON is received by the student stating that the student will be allowed to sit for the appropriate NCLEX exam.
 - a. If a student is suspended from clinical for criminal activity and is absent for the maximum allowed clinical hours per the clinical syllabi, the student will be dismissed from the program and will have to reapply to begin the program from the first semester of the curriculum.

Note: If the legal infraction incurred is a felony, the student cannot continue in the program until the legal matter is resolved and the student will be immediately dismissed from the program.

Applicant and Student Rights

Applicants/students sign a release giving the nursing program permission to conduct and receive criminal background information from the investigating agency in addition to the BON background check. When an applicant/student believes the background check information is incorrect, the applicant/student is responsible for providing evidence of inaccurate information to the investigating agency.

Applicants/students cannot enroll or progress in the nursing program until the issue is resolved.

Applicants/students ineligible to participate in clinical experiences prevents students from meeting course objectives and results in course failure.

UNIFORMS

Students are required to be in the designated school uniform for all classes and clinical activities. See specific uniform requirements below:

VOCATIONAL NURSING	ASSOCIATE DEGREE NURSING
<p>Classroom & Clinical:</p> <ol style="list-style-type: none"> 1. Red scrub pants 2. Red scrub top 3. Black socks 4. Black shoes – tennis shoe or nursing shoe style; must be waterproof (ie. Leather); no mesh or cloth; no open backs or toes 5. Red scrub jacket may be worn if desired. <p>*ALL scrub tops and jackets MUST have appropriate Lee College Nursing logo embroidered to chest. (Uniform ordering information will be provided and must be purchased from designated vendor). *Pant legs should fit appropriately and not extend over the top of the shoe or drag the floor. No sagging waist bands are allowed. *Black t-shirts (short or long-sleeved) may be worn under the scrub top if desired.</p>	<p>Classroom & Clinical:</p> <ol style="list-style-type: none"> 1. Black scrub pants 2. Black scrub top 3. Black socks 4. Black shoes – tennis shoe or nursing shoe style; must be waterproof (ie. Leather); no mesh or cloth; no open backs or toes 5. Black scrub jacket may be worn if desired. <p>*ALL scrub tops and jackets MUST have appropriate Lee College Nursing logo embroidered to chest. (Uniform ordering information will be provided and must be purchased from designated vendor). *Pant legs should fit appropriately and not extend over the top of the shoe or drag the floor. No sagging waist bands are allowed. *Black t-shirts (short or long-sleeved) may be worn under the scrub top if desired.</p>

CHANGE IN HEALTH STATUS

In the event of a change in health status, the Director of Nursing should be notified so that appropriate accommodations can be met.

STUDENT CONDUCT

Students are expected to maintain professional conduct while on campus, in clinical facilities, and during participation in Lee College events. Students displaying unprofessional conduct will be dismissed from class/clinical and disciplinary action will be taken. Code of conduct infractions include, but are not limited to, the following:

Impairment by reason of mental or physical health, alcohol, or other mind-altering drugs which could expose patients, public, students, and faculty unnecessarily top risk.

- a. Demonstration of hallucination, delusion or combative behavior
- b. Physically or verbally attacking or threatening to attack patients, family, or other students or faculty

Unprofessional or dishonorable conduct which may deceive, defraud, or injure patients, public, school personnel, other students, and faculty

- a. Carrying any kind of knife, firearm, or instrument that could be used as weapon on campus or clinical property
- b. Falsifying records
- c. Stealing

Failure to care adequately for patients or to conform to minimum standards of acceptable practice under faculty supervision or faculty designee

- a. Failure to follow plan of care including medications, treatments, and other treatment activities
- b. Failure to administer medications responsibly, according to current legal practice and student code
- c. Failure to follow physician's prescribed orders held to be prudent by other nursing personnel
- d. Failure to wait for instructor supervision when directed to do so by faculty or student policy
- e. Disclosing confidential information or knowledge concerning patients, except where required by law
- f. Performing any act which is beyond scope of approved level of practice

Aiding another student in deceiving or attempting to deceive faculty in obtaining an exam or care plan grade, or grade on any required paper or assignment.

Examples may include but are not limited to:

- a. Cheating on an exam or allowing another student to copy answers
- b. Plagiarizing data for any reason
- c. Utilizing advanced technology for sharing information via text messaging, internet, or other means

Damaging or destroying school or hospital property or equipment or removing property or equipment from campus or clinical site

- a. Destroying Lee College property including lab equipment and models, computers, etc
- b. Removing equipment from the lab without permission

Using profane language or gestures

- a. Using profane or obscene language or obscenities, derogatory, or demeaning words and phrases
- b. Using language or engaging in conduct that could be construed as sexual harassment under college and program policy on sexual harassment
- c. Displaying obscene gestures
- d. Making derogatory statements regarding a specific cultural or ethnic group or other

Refusing to adhere to the specified dress code and code of conduct

- a. Dressing in a garment that is not designated uniform
- b. Refusing to follow guidelines for hair, nails, and jewelry
- c. Smoking, vaping, or chewing gum during clinical hours
- d. Arriving at clinical site unprepared and not adhering to uniform code

Being disruptive, habitually late, or absent from class or clinical

- a. Arguing with instructors about assignments, exams, or other academic or clinical issues. The program recognizes value of class discussion and debate. However, the Program will not tolerate students to be knowingly confrontational or knowingly attempt to embarrass, intimidate, making gestures, slamming down books, or talking loudly when someone else has attention of group
- b. Habitually arriving to class late and disrupting instruction
- c. Excessive clinical or class absence
- d. Failing to email instructor to report absence
- e. Having smart phones, smart watches, tablets, computers, or informational devices not on silent mode during clinical/class time

Physically or verbally assaulting others, demonstrating poor coping mechanisms, or becoming confrontational during instruction process

- a. Grabbing, hitting, or assaulting a student, patient, faculty, or other persons affiliated with college or clinical site
- b. Using menacing, aggressive verbal or physical behavior
- c. Using or writing obscene or abusive words
- d. Being argumentative and menacing
- e. Threatening others with physical or personal injury

Demonstrating behaviors that could be categorized as harassment

- a. Following or stalking a faculty member around campus, faculty member's home or other places. Except in an emergency or under conditions previously approved by faculty member, appropriate method to discuss matters is visit instructor during office hours, or make an appointment
- b. Calling faculty/administrators at home without specific permission
- c. Making repeated phone calls, emails, or other inappropriate communication to faculty member's office or home to challenge grade or assignment
- d. Making obscene calls to faculty members
- e. Harassing another student, faculty member, patient, staff in violation of colleges' policy on sexual harassment

EXAM POLICIES

1. Course exams may include course content from current and previous semesters.
2. Talking is not permitted and will be treated as academic dishonesty. (See Lee College catalog for Academic Dishonesty policy). Students with questions or computer issues should raise their hand and wait for the faculty member proctor.
3. No extra time is allowed for late students. Faculty have the right to deny admission to late students.
4. Students may not leave the room and return once the exam begins. Students needing to leave must be accompanied or will be denied re-entry. Extra time is not awarded.
5. Students are expected to be present for course exams unless extenuating circumstances apply (hospitalization, severe illness, etc). Students must notify course faculty if they will be absent for an exam **prior to the start of the exam**. Students are responsible for contacting the testing center to schedule their make-up exam for the day they return to campus. Make-up exams should not be scheduled during class time. Once scheduled, students should notify the course instructor of their exam day/time so the exam can be available in ExamSoft. Make-up exams may contain different questions than the original exam and may include alternative format items (essay, etc).

REMEDICATION

All students who score less than a 78% on any course exam must seek remediation from the course instructor. Remediation should occur within 1 week. It is the student's responsibility to schedule a remediation time with the faculty.

POLICY ON ACADEMIC DISHONESTY

Academic Dishonesty is prohibited in the Lee College Nursing Programs and is punishable by penalties including failing grades, probation, and program dismissal.

Definitions and Examples of Academic Dishonesty:

Cheating

Unauthorized use or attempted use of material, information, notes, study aids, devices or communication during an academic exercise. The following are some examples of cheating, but is not all-inclusive.

1. Copying from another student during an examination or allowing another to copy your work.
2. Unauthorized collaboration on a take home assignment or examination.
3. Using notes during a closed book examination.
4. Taking an examination for another student, or asking or allowing another student to take and examination for you.
5. Submitting substantial portions of the same paper to more than one course without consulting with each instructor.
6. Allowing others to research and write assigned papers or do assigned projects, including use of commercial term paper services.
7. Aiding others in acts of academic misconduct/dishonesty.
8. Fabricating data (all or part).
9. Submitting someone else's work as your own.
10. Unauthorized use during an examination of any electronic devices such as smart phones, smart watches, tablets, computers, or other technologies to retrieve or send information.

Plagiarism

Act of presenting another person's ideas, research or writing as your own. The following are some examples of plagiarism, but is not all-inclusive.

1. Copying another person's actual words without the use of quotation marks and footnotes attributing the words to their course.
2. Presenting another person's ideas or theories in your own words without acknowledging the source.
3. Using information that is not common knowledge without acknowledging the source.
4. Failing to acknowledge collaborators on homework and laboratory assignments.

Falsification of Records and Official Documents

The following are some examples of falsification, but is not all-inclusive.

1. Forging signatures of authorization or information on an official document

Students are responsible for reading the full Lee College policy regarding academic dishonesty at the following link:

<https://lee.smartcatalogiq.com/current/Lee-College-Catalog/Student-Life-Opportunities-Services-and-Policies/Academic-Honesty-Code>

SOCIAL MEDIA

General Information:

Social media is defined as mechanisms for communication designed to be disseminated through social interaction. Examples of social media-based sites include but are not limited to: blogs, podcasts, RSS feeds, Allnurses.com, Twitter, Facebook, YouTube, Instagram, Snapchat, and TikTok.

Lee College Nursing Programs social media policy is to protect sensitive and confidential information. Social media often spans traditional boundaries between professional and personal relationships and thus takes additional vigilance to make sure that one is protecting personal, professional, and college reputations.

As a professional nursing student you will want to represent Lee College in a fair, accurate, and legal manner while protecting the brand and reputation of the institution.

When publishing information on social media sites, remain cognizant that information

may be public for anyone to see and can be traced back to you as an individual. Since social media typically enables two-way communication with your audience, you have less control about how materials you post will be used by others.

Policy:

1. Protect confidential, sensitive, and proprietary information: Do not post confidential or proprietary information about the college, faculty, staff, students, clinical facilities, patients/clients, or others with whom one has contact in the role of a Lee College Nursing student.
2. Respect copyright and fair use. When posting, be mindful of the copyright and intellectual property rights of others and of the college.
3. Do not use Lee College marks, such as logos and graphics, on personal social media sites. Do not use Lee College's name to promote a product, cause, or political party or candidate.
4. Be aware of your association with Lee College Nursing Programs in online social networks. If you identify yourself as a student, ensure your profile and related content is consistent with how you wish to present yourself to colleagues, patients, and potential employers. Identify your views as your own. When posting your point of view, you should **neither** claim **nor** imply you are speaking on Lee College Nursing Program's behalf, unless you are authorized to do so in writing.
5. HIPPA guidelines must be followed at all times. Identifiable information concerning patients/clinical rotations must not be posted in any online forum or webpage.
6. No student shall videotape faculty/instructors or fellow students for personal or social media use without the express written permission of the faculty or fellow student. At NO time shall patients/clients be videotaped or photographed.
7. Ultimately, you have sole responsibility for what you post. Be smart about protecting yourself, your and others privacy, and confidential information.
8. Nursing students are preparing for a profession which provides services to a public that also expects high standards of behavior.
9. You are legally liable for what you post on your own site and on the sites of others. Individual bloggers have been held liable for commentary deemed to be proprietary, copyrighted, defamatory, libelous or obscene (as defined by the courts).
10. Don't use ethnic slurs, personal insults, obscenity, pornographic images, or engage in any conduct that would not be acceptable in the professional workplace.

Consequences:

1. Violations of patient privacy with an electronic device will be subject to HIPAA procedures/guidelines and consequences.
2. Students who share confidential or unprofessional information do so at the risk of disciplinary action including failure in a course and/or dismissal from the program.
3. Each student is legally responsible for individual postings and may be subject to liability if individual postings are found defamatory, harassing, or in violation of any other applicable law.

CLINICAL POLICIES

MATH COMPETENCY EXAM

Students will be required to pass a math competency exam each semester. Students will be allowed three (3) attempts to pass the exam. The following scores are required on the Math Competency Exam:

VN PROGRAM	ADN PROGRAM	LVN-ADN TRANSITION
Semesters 1 – 90%	Semesters 1 & 2 – 90%	Semesters 1 & 2 – 90%
Semester 2 – 100%	Semester 3 – 100%	Semester 3 – 100%

Students who do not successfully earn the required score on the Math Competency Exam will not be allowed to continue in the program.

CLINICAL DRESS CODE

In addition to the uniform requirements (per page 13), the following dress code requirements apply in the clinical areas. **Clinical areas include outside clinical agencies, as well as simulation or skills labs.**

- **HAIR:** Hair should be neat, clean and moderately styled to denote a professional appearance. It must be confined from falling forward over the work area and kept off the face. Bangs must be cut above the eyebrows or pulled out of the view of the eyes. Hair ornaments must not be worn (i.e. ribbons, bows, scarves, jewelry, or ornate barrettes). For men, beards must be short, well-manicured, and capable of being covered by a surgical mask. Hair color should be a natural hair color.
- **MAKE-UP:** Make up should be conservative and not distracting.
- **PERFUME:** Perfume or strongly scented lotions are not to be worn.
- **NAILS:** Nails must be short, clean, and manicured. No nail polish, shellac, or powder/gel may be worn. Artificial nails are not allowed.
- **EYELASHES:** Artificial eyelashes are not allowed.
- **JEWELRY:** One watch (waterproof band and second hand required) and one plain ring may be worn. Rings with raised stones should not be worn due to risk of injury to patients. One pair of stud-type earrings may be worn on the lobes of the ears only. Visible body piercing is not allowed. Facial or cartilage piercings or gauges must be removed or have clear inserts.
- **TATTOOS:** Visible tattoos should be covered.
- **SMOKING:** No smoking is allowed in Lee College uniform.

REQUIRED CLINICAL SUPPLIES

Students are required to have the following supplies for lab/clinical. Students who arrive to lab or clinical without their required supplies can be dismissed from clinical and a clinical absence incurred.

- Stethoscope
- Blood pressure cuff (not automatic)
- Penlight
- Bandage scissors

MEDICATION EXCEPTION POLICY

Students are not allowed to administer any medications without faculty supervision (or a faculty-designated licensed personnel). Administration of medications without proper supervision is cause for immediate program dismissal. Students are not allowed to administer the following medications under ANY circumstances:

VN STUDENTS	ASSOCIATE DEGREE STUDENTS
Blood products IV push medications Oxytocin Tocolytics Chemotherapeutic agents (oral or IV) IV narcotics Any titrated IV medication	Blood products Oxytocin Tocolytics Chemotherapeutic agents (oral or IV) Any titrated IV medication

The following medications require dosage to be verified by a licensed registered nurse:

- Insulin
- Anticoagulants
- Cardiac glycosides
- Narcotics

MEDICATION ERRORS

In the event of a medication error by a student, the following steps should occur:

1. Student must inform the primary nurse IMMEDIATELY.
2. Student must notify the clinical instructor IMMEDIATELY.
3. Student must follow the institution's policy regarding incident reporting.
4. A report of the incident will be completed by the clinical faculty and become a part of the student's permanent record.

If a student places a patient in physical or psychological jeopardy, dismissal from the program may result.

SKILLS

Students are not allowed to perform ANY skills in which they have not completed checkoffs successfully. This includes Medication Administration procedures.

INFECTION CONTROL

Students may be exposed to communicable diseases in the clinical setting and are expected to follow infection control policies according to the clinical facility policy.

MANAGEMENT OF EXPOSURE

In the event of exposure requiring treatment (i.e. needlestick injuries, splashing/spilling of bodily fluids, etc), students will notify the clinical instructor immediately and follow agency policy for exposure. Medical treatment obtained due to accidental exposure may be at the expense of the student.

MEALS & BREAKS

Students are allowed a 30-minute lunch and two (2) 15-minute breaks during a clinical day. Students may NOT leave the clinical agency during meals/breaks. The student must report off to the assigned nurse and/or instructor when leaving the unit.

LEAVING THE ASSIGNED AREA

The student must have permission from agency personnel AND the instructor to accompany a patient to another unit/area of the hospital or clinical site. It is the student's responsibility to obtain permission from the instructor prior to leaving the assigned unit.

PHONES

Cell phones should not be visible in patient care areas. If a student needs to communicate with their clinical instructor, the student should leave the patient care area and enter a break room, restroom, or other non-patient area to communicate. **PERSONAL PHONE CALLS, TEXTS, EMAILS ARE NOT ALLOWED DURING THE CLINICAL DAY.**

EMERGENCIES

Students should provide family members the main nursing office phone number (281-425-6229) to use in the event of an **emergency only**. The clinical instructor will be notified in the event of an emergency and allow the student to call their family member.

LEE COLLEGE NURSING PROGRAMS

Student Name (Print): _____

HANDBOOK ACKNOWLEDGMENT

This certifies that I have received a copy of the Lee College Nursing Programs Student Handbook. I have read and understand the procedures and policies set forth in the Handbook and accept them as a condition of my enrollment in the program.

Student Signature: _____ Date: _____

FERPA RELEASE

Lee College Nursing Programs are required to follow the guidelines set forth in the Family Educational Rights and Privacy Act (FERPA). This act mandates that we safeguard and maintain the privacy and confidentiality of all student records. By signing below, you give us permission to send information from your student records to clinical affiliates.

Released information may include, but is not limited to:

- Driver's license information;
- Health information including documentation of vaccinations, TB screen, and negative drug screen;
- Results of background investigation and Office of Inspector General;
- Verification of CPR certification

In the event you wish to cancel this release, you must do so in writing with the Nursing office. Lee College will not be responsible for disclosure of information made before written cancellation is received by the Health Professions office.

I hereby authorize Lee College Nursing Programs to send student information to my assigned clinical agency as required for my participation in the clinical rotation.

Student Signature: _____ Date: _____

LICENSURE ELIGIBILITY NOTIFICATION

I _____ (Legibly print your name) hereby verify that I have received and have had the following documents regarding licensure eligibility for Professional Nursing in Texas explained to me (Texas Occupation Code 301.252, 301.257 and 301.452-302.469 and Sections 213.27 -213.30 of Texas Administrative Code, relating to Good Professional Character, Licensure of Persons with Criminal Offenses, Criteria and Procedure Regarding Intemperate Use and Lack of Fitness in Eligibility and Disciplinary Matters, Declaratory Order of Eligibility for Licensure.)

Student Signature: _____ Date: _____

CONSENT to RECORD FACULTY MEMBER, PEER, STUDENT or OTHERS

Students, peers, family, friends, and any individual are absolutely prohibited from recording lectures, conversations, class sessions, phone conversations by use of any recording device. A student may seek permission and consent directly from the faculty member to record lecture (only). Recordings, videos, web cam, and other types of recording cannot be shared by any means including posting to social media. Severe consequences including program dismissal will occur with any deviation from this policy.

Student Signature: _____ Date: _____

TEXAS OCCUPATIONS CODE SECTIONS 301.252, 301.257, and 301.452 – 301.469

Sec. 301.252. License Application.

- (a) Each applicant for a registered nurse license or a vocational nurse license must submit to the board a sworn application that demonstrates the applicant's qualifications under this chapter, accompanied by evidence that the applicant:
- (1) has good professional character related to the practice of nursing;
 - (2) has successfully completed a program of professional or vocational nursing education approved under Section 301.157(d); and
 - (3) has passed the jurisprudence examination approved by the board as provided by Subsection (a-1).
(a-1) The jurisprudence examination shall be conducted on the licensing requirements under this chapter and board rules and other laws, rules, or regulations applicable to the nursing profession in this state. The board shall adopt rules for the jurisprudence examination under Subsection (a)(3) regarding:
 - (1) the development of the examination;
 - (2) applicable fees;
 - (3) administration of the examination;
 - (4) reexamination procedures;
 - (5) grading procedures; and
 - (6) notice of results.
- (a-2) An applicant who provides satisfactory evidence that the applicant has not committed a violation of this chapter or a rule adopted under this chapter is considered to have good professional character related to the practice of nursing. A determination by the board that an applicant does not have good professional character related to the practice of nursing must be based on a showing by the board of a clear and rational connection between a violation of this chapter or a rule adopted under this chapter and the applicant's ability to effectively practice nursing.
- (b) The board may waive the requirement of Subsection (a)(2) for a vocational nurse applicant if the applicant provides satisfactory sworn evidence that the applicant has completed an acceptable level of education in:
- (1) a professional nursing school approved under Section 301.157(d); or
 - (2) a school of professional nurse education located in another state or a foreign country.
- (c) The board by rule shall determine acceptable levels of education under Subsection (b).
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.015, eff. Sept. 1, 2003.

Sec. 301.257. Declaratory Order of License Eligibility.

- (a) A person may petition the board for a declaratory order as to the person's eligibility for a license under this chapter if the person has reason to believe that the person is ineligible for the license and:
- (1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license as a registered nurse or vocational nurse; or
 - (2) is an applicant for a license.
(b) The petition must state the basis for the person's potential ineligibility.
- (c) The board has the same powers to investigate the petition and the person's eligibility that it has to investigate a person applying for a license.
- (d) The petitioner or the board may amend the petition to include additional grounds for potential ineligibility at any time before a final determination is made.
- (e) If the board determines that a ground for ineligibility does not exist, instead of issuing an order, the board shall notify the petitioner in writing of the board's determination on each ground of potential ineligibility. If the board proposes to find that the petitioner is ineligible for a license, the petitioner is entitled to a hearing before the State Office of Administrative Hearings.
- (f) The board's order must set out each basis for potential ineligibility and the board's determination as to eligibility. In the absence of new evidence known to but not disclosed by the petitioner or not reasonably available to the board at the time the order is issued, the board's ruling on the petition determines the person's eligibility with respect to the grounds for potential ineligibility set out in the written notice or order.

- (g) The board may require an individual accepted for enrollment or enrolled in an educational program preparing a student for initial licensure as a registered nurse or vocational nurse to submit information to the board to permit the board to determine whether the person is aware of the conditions that may disqualify the person from licensure as a registered nurse or vocational nurse on graduation and of the person's right to petition the board for a declaratory order under this section. Instead of requiring the person to submit the information, the board may require the educational program to collect and submit the information on each person accepted for enrollment or enrolled in the program.
- (h) The information required under Subsection (g) must be submitted in a form approved by the board.
- (i) If, as a result of information provided under Subsection (g), the board determines that a person may not be eligible for a license on graduation, the board shall notify the educational program of its determination.
- (j) The board may file a petition under this section based on the results of a criminal history record information check conducted under Section 301.2511. The board by rule shall adopt requirements for the petition and determination under this subsection. The rules must:
- (1) identify the criminal offenses that constitute grounds for the board to file the petition; and
 - (2) describe the documents required by the board to make a determination of license eligibility.
- (k) The board shall make a determination of license eligibility under Subsection (j) not later than the 120th day after the date the person submits the required documents to the board under that subsection.
- (l) The board may require in a declaratory order under this section that a person begin participation in a peer assistance program at the time of receipt of an initial license under this chapter. The board shall notify the person that, on issuance of the person's initial license, the person may request reevaluation of the person's required participation in the peer assistance program.
- (m) The board by rule shall develop a process to determine whether a person should continue to be required to participate in a peer assistance program. In making the determination, the board shall:
- (1) review the person's criminal history record information and, if applicable, determine whether participation in the program is warranted based on the time that has elapsed since the conviction or end of community supervision;
 - (2) reevaluate or require a contractor administering a peer assistance program to reevaluate the treatment plan or the time the person is required to participate in the peer assistance program based on the person's individualized needs; and
 - (3) authorize, as appropriate, a waiver of peer assistance program completion if the board is satisfied the person has achieved a satisfactory period of treatment or documented sobriety, as defined by board rules, and continued participation is not necessary.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.123(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 553, Sec. 1.018, eff. Sept. 1, 2003.
- Amended by:
Acts 2009, 81st Leg., R.S., Ch. 999 (H.B. 3961), Sec. 8, eff. June 19, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 1189 (S.B. 1058), Sec. 3, eff. September 1, 2013.
Acts 2017, 85th Leg., R.S., Ch. 509 (H.B. 2950), Sec. 10, eff. September 1, 2017.
- Sec. 301.452. Grounds for Disciplinary Action.**
- (a) In this section, "intemperate use" includes practicing nursing or being on duty or on call while under the influence of alcohol or drugs.
- (b) A person is subject to denial of a license or to disciplinary action under this subchapter for:
- (1) a violation of this chapter, a rule or regulation not inconsistent with this chapter, or an order issued under this chapter;
 - (2) fraud or deceit in procuring or attempting to procure a license to practice professional nursing or vocational nursing;
 - (3) a conviction for, or placement on deferred adjudication community supervision or deferred disposition for, a felony or for a misdemeanor involving moral turpitude;
 - (4) conduct that results in the revocation of probation imposed because of conviction for a felony or for a misdemeanor involving moral turpitude;
 - (5) use of a nursing license, diploma, or permit, or the transcript of such a document, that has been fraudulently purchased, issued, counterfeited, or materially altered;
 - (6) impersonating or acting as a proxy for another person in the licensing examination required under Section 301.253 or 301.255;

- (7) directly or indirectly aiding or abetting an unlicensed person in connection with the unauthorized practice of nursing;
 - (8) revocation, suspension, or denial of, or any other action relating to, the person's license or privilege to practice nursing in another jurisdiction or under federal law;
 - (9) intemperate use of alcohol or drugs that the board determines endangers or could endanger a patient;
 - (10) unprofessional conduct in the practice of nursing that is likely to deceive, defraud, or injure a patient or the public;
 - (11) adjudication of mental incompetency;
 - (12) lack of fitness to practice because of a mental or physical health condition that could result in injury to a patient or the public; or
 - (13) failure to care adequately for a patient or to conform to the minimum standards of acceptable nursing practice in a manner that, in the board's opinion, exposes a patient or other person unnecessarily to risk of harm.
- (c) The board may refuse to admit a person to a licensing examination for a ground described under Subsection (b).
- (d) The board by rule shall establish guidelines to ensure that any arrest information, in particular information on arrests in which criminal action was not proven or charges were not filed or adjudicated, that is received by the board under this section is used consistently, fairly, and only to the extent the underlying conduct relates to the practice of nursing.
- (e) The board shall adopt rules to ensure that license denials and disciplinary action under Subsection (b)(10) are based on the application of objective criteria that are clearly and rationally connected to the applicant's or license holder's conduct and that any negative outcome resulting from that conduct is determined to affect the person's ability to effectively practice nursing.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.124(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 553, Sec. 1.045, eff. Sept. 1, 2003.
- Amended by:
 Acts 2005, 79th Leg., Ch. 1058 (H.B. 1366), Sec. 3, eff. September 1, 2005.
 Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. 2426), Sec. 26, eff. September 1, 2007.
 Acts 2013, 83rd Leg., R.S., Ch. 1189 (S.B. 1058), Sec. 5, eff. September 1, 2013.
 Acts 2017, 85th Leg., R.S., Ch. 509 (H.B. 2950), Sec. 13, eff. September 1, 2017.

Sec. 301.4521. Physical and Psychological Evaluation.

- (a) In this section:
- (1) "Applicant" means:
 - (A) a petitioner for a declaratory order of eligibility for a license; or
 - (B) an applicant for an initial license or renewal of a license.
 - (2) "Evaluation" means a physical or psychological evaluation conducted to determine a person's fitness to practice nursing.
- (b) The board may require a nurse or applicant to submit to an evaluation only if the board has probable cause to believe that the nurse or applicant is unable to practice nursing with reasonable skill and safety to patients because of:
- (1) physical impairment;
 - (2) mental impairment; or
 - (3) chemical dependency or abuse of drugs or alcohol.
- (c) A demand for an evaluation under Subsection (b) must be in writing and state:
- (1) the reasons probable cause exists to require the evaluation; and
 - (2) that refusal by the nurse or applicant to submit to the evaluation will result in an administrative hearing to be held to make a final determination of whether probable cause for the evaluation exists.
- (d) If the nurse or applicant refuses to submit to the evaluation, the board shall schedule a hearing on the issue of probable cause to be conducted by the State Office of Administrative Hearings. The nurse or applicant must be notified of the hearing by personal service or certified mail. The hearing is limited to the issue of whether the board had probable cause to require an evaluation. The nurse or applicant may present testimony and other evidence at the hearing to show why the nurse or applicant should not be required to submit to the evaluation. The board has the burden of proving that probable cause exists. At the conclusion of the hearing, the hearing officer shall enter an order requiring the nurse or applicant to

submit to the evaluation or an order rescinding the board's demand for an evaluation. The order may not be vacated or modified under Section 2001.058, Government Code.

- (e) If a nurse or applicant refuses to submit to an evaluation after an order requiring the evaluation is entered under Subsection (d), the board may:
 - (1) refuse to issue or renew a license;
 - (2) suspend a license; or
 - (3) issue an order limiting the license.
 - (f) The board may request a nurse or applicant to consent to an evaluation by a practitioner approved by the board for a reason other than a reason listed in Subsection (b). A request for an evaluation under this subsection must be in writing and state:
 - (1) the reasons for the request;
 - (2) the type of evaluation requested;
 - (3) how the board may use the evaluation;
 - (4) that the nurse or applicant may refuse to submit to an evaluation; and
 - (5) the procedures for submitting an evaluation as evidence in any hearing regarding the issuance or renewal of the nurse's or applicant's license.
 - (g) If a nurse or applicant refuses to consent to an evaluation under Subsection (f), the nurse or applicant may not introduce an evaluation into evidence at a hearing to determine the nurse's or applicant's right to be issued or retain a nursing license unless the nurse or applicant:
 - (1) not later than the 30th day before the date of the hearing, notifies the board that an evaluation will be introduced into evidence at the hearing;
 - (2) provides the board the results of that evaluation;
 - (3) informs the board of any other evaluations by any other practitioners; and
 - (4) consents to an evaluation by a practitioner that meets board standards established under Subsection (h).
 - (h) The board shall establish by rule the qualifications for a licensed practitioner to conduct an evaluation under this section. The board shall maintain a list of qualified practitioners. The board may solicit qualified practitioners located throughout the state to be on the list.
 - (i) A nurse or applicant shall pay the costs of an evaluation conducted under this section.
 - (j) The results of an evaluation under this section are:
 - (1) confidential and not subject to disclosure under Chapter 552, Government Code; and
 - (2) not subject to disclosure by discovery, subpoena, or other means of legal compulsion for release to anyone, except that the results may be:
 - (A) introduced as evidence in a proceeding before the board or a hearing conducted by the State Office of Administrative Hearings under this chapter;
 - (B) included in the findings of fact and conclusions of law in a final board order; and
 - (k) If the board determines there is insufficient evidence to bring action against a person based on the results of any evaluation under this section, the evaluation must be expunged from the board's records.
 - (l) The board shall adopt guidelines for requiring or requesting a nurse or applicant to submit to an evaluation under this section.
 - (m) The authority granted to the board under this section is in addition to the board's authority to make licensing decisions under this chapter.
- Added by Acts 2009, 81st Leg., R.S., Ch. 999 (H.B. 3961), Sec. 10, eff. June 19, 2009.
- Amended by:
 Acts 2011, 82nd Leg., R.S., Ch. 878 (S.B. 193), Sec. 4, eff. September 1, 2011.
- Sec. 301.453. Disciplinary Authority of Board; Methods of Discipline.**
- (a) If the board determines that a person has committed an act listed in Section 301.452(b), the board shall enter an order imposing one or more of the following:
 - (1) denial of the person's application for a license, license renewal, or temporary permit;
 - (2) issuance of a written warning;
 - (3) administration of a public reprimand;
 - (4) limitation or restriction of the person's license, including:
 - (A) limiting to or excluding from the person's practice one or more specified activities of nursing; or

- (B) stipulating periodic board review;
 - (5) suspension of the person's license;
 - (6) revocation of the person's license; or
 - (7) assessment of a fine.
- (b) In addition to or instead of an action under Subsection (a), the board, by order, may require the person to:
- (1) submit to care, counseling, or treatment by a health provider designated by the board as a condition for the issuance or renewal of a license;
 - (2) participate in a program of education or counseling prescribed by the board, including a program of remedial education;
 - (3) practice for a specified period under the direction of a registered nurse or vocational nurse designated by the board;
 - (4) perform public service the board considers appropriate; or
 - (5) abstain from the consumption of alcohol or the use of drugs and submit to random periodic screening for alcohol or drug use.
- (c) The board may probate any penalty imposed on a nurse and may accept the voluntary surrender of a license. The board may not reinstate a surrendered license unless it determines that the person is competent to resume practice.
- (d) If the board suspends, revokes, or accepts surrender of a license, the board may impose conditions for reinstatement that the person must satisfy before the board may issue an unrestricted license.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.046, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 999 (H.B. 3961), Sec. 11, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1189 (S.B. 1058), Sec. 6, eff. September 1, 2013.

Sec. 301.4531. Schedule of Sanctions.

- (a) The board by rule shall adopt a schedule of the disciplinary sanctions that the board may impose under this chapter. In adopting the schedule of sanctions, the board shall ensure that the severity of the sanction imposed is appropriate to the type of violation or conduct that is the basis for disciplinary action.
- (b) In determining the appropriate disciplinary action, including the amount of any administrative penalty to assess, the board shall consider:
 - (1) whether the person:
 - (A) is being disciplined for multiple violations of either this chapter or a rule or order adopted under this chapter; or
 - (B) has previously been the subject of disciplinary action by the board and has previously complied with board rules and this chapter;
 - (2) the seriousness of the violation;
 - (3) the threat to public safety; and
 - (4) any mitigating factors.
 - (c) In the case of a person described by:
 - (1) Subsection (b)(1)(A), the board shall consider taking a more severe disciplinary action, including revocation of the person's license, than the disciplinary action that would be taken for a single violation; and
 - (2) Subsection (b)(1)(B), the board shall consider taking a more severe disciplinary action, including revocation of the person's license, than the disciplinary action that would be taken for a person who has not previously been the subject of disciplinary action by the board.

Added by Acts 2007, 80th Leg., R.S., Ch. 889 (H.B. 2426), Sec. 27, eff. September 1, 2007.

Sec. 301.4535. Required Suspension, Revocation, or Refusal of License for Certain Offenses.

- (a) The board shall suspend a nurse's license or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of:
 - (1) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or manslaughter under Section 19.04, Penal Code;
 - (2) kidnapping or unlawful restraint under Chapter 20, Penal Code, and the offense was punished as a felony or state jail felony;
 - (3) sexual assault under Section 22.011, Penal Code;

- (4) aggravated sexual assault under Section 22.021, Penal Code;
- (5) continuous sexual abuse of young child or children under Section 21.02, Penal Code, or indecency with a child under Section 21.11, Penal Code;
- (6) aggravated assault under Section 22.02, Penal Code;
- (7) intentionally, knowingly, or recklessly injuring a child, elderly individual, or disabled individual under Section 22.04, Penal Code;
- (8) intentionally, knowingly, or recklessly abandoning or endangering a child under Section 22.041, Penal Code;
- (9) aiding suicide under Section 22.08, Penal Code, and the offense was punished as a state jail felony;
- (10) an offense involving a violation of certain court orders or conditions of bond under Section 25.07, 25.071, or 25.072, Penal Code, punished as a felony;
 - (11) an agreement to abduct a child from custody under Section 25.031, Penal Code;
 - (12) the sale or purchase of a child under Section 25.08, Penal Code;
 - (13) robbery under Section 29.02, Penal Code;
 - (14) aggravated robbery under Section 29.03, Penal Code;
- (15) an offense for which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or
- (16) an offense under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense listed in this subsection.
 - (a-1) An applicant or nurse who is refused an initial license or renewal of a license or whose license is suspended under Subsection (a) is not eligible for a probationary, stipulated, or otherwise encumbered license unless the board establishes by rule criteria that would permit the issuance or renewal of the license.
- (b) On final conviction or a plea of guilty or nolo contendere for an offense listed in Subsection (a), the board, as appropriate, may not issue a license to an applicant, shall refuse to renew a license, or shall revoke a license.
- (c) A person is not eligible for an initial license or for reinstatement or endorsement of a license to practice nursing in this state before the fifth anniversary of the date the person successfully completed and was dismissed from community supervision or parole for an offense described by Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 1058 (H.B. 1366), Sec. 4, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.46, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 999 (H.B. 3961), Sec. 12, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 96 (S.B. 743), Sec. 8, eff. September 1, 2013.

Sec. 301.454. Notice and Hearing.

- (a) Except in the case of a temporary suspension authorized under Section 301.455 or 301.4551 or an action taken in accordance with an agreement between the board and a license holder, the board may not take any disciplinary action relating to a license unless:
 - (1) the board has served notice to the license holder of the facts or conduct alleged to warrant the intended action; and
 - (2) the license holder has been given an opportunity, in writing or through an informal meeting, to show compliance with all requirements of law for the retention of the license.
- (b) If an informal meeting is held, a board member, staff member, or board representative who attends the meeting is considered to have participated in the hearing of the case for the purposes of ex parte communications under Section 2001.061, Government Code.
- (c) A person is entitled to a hearing conducted by the State Office of Administrative Hearings if the board proposes to:
 - (1) refuse to admit the person to examination;
 - (2) refuse to issue a license or temporary permit;
 - (3) refuse to renew a license; or
 - (4) suspend or revoke the person's license or permit.
- (d) The State Office of Administrative Hearings shall use the schedule of sanctions adopted by the board for any sanction imposed as the result of a hearing conducted by that office.
- (e) Notwithstanding Subsection (a), a person is not entitled to a hearing on a refusal to renew a license if the person:

- (1) fails to submit a renewal application; or
- (2) submits an application that:
 - (A) is incomplete;
 - (B) shows on its face that the person does not meet the renewal requirements; or
 - (C) is not accompanied by the correct fee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1189 (S.B. 1058), Sec. 7, eff. September 1, 2013.

Sec. 301.455. Temporary License Suspension or Restriction.

(a) The license of a nurse shall be temporarily suspended or restricted on a determination by a majority of the board or a three-member committee of board members designated by the board that, from the evidence or information presented, the continued practice of the nurse would constitute a continuing and imminent threat to the public welfare.

(b) A license may be temporarily suspended or restricted under this section without notice or hearing on the complaint if:

(1) institution of proceedings for a hearing before the State Office of Administrative Hearings is initiated simultaneously with the temporary suspension or determination to restrict; and

(2) a hearing is held as soon as possible under this chapter and Chapter 2001, Government Code.

(c) The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 17th day after the date of the temporary suspension or restriction to determine whether probable cause exists that a continuing and imminent threat to the public welfare exists. The probable cause hearing shall be conducted as a de novo hearing.

(d) A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension or restriction.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.047, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1058 (H.B. 1366), Sec. 5, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 878 (S.B. 193), Sec. 5, eff. September 1, 2011.

Sec. 301.451. Temporary License Suspension for Drug or Alcohol Use.

(a) The board shall temporarily suspend the license of a nurse as provided by Section 301.455 if the nurse is under a board order prohibiting the use of alcohol or a drug or requiring the nurse to participate in a peer assistance program, and the nurse:

- (1) tests positive for alcohol or a prohibited drug;
- (2) refuses to comply with a board order to submit to a drug or alcohol test; or
- (3) fails to participate in the peer assistance program and the program issues a letter of dismissal and referral to the board for noncompliance.

(b) For the purposes of Section 301.455(c), proof of the elements required for the board to suspend a license under this section is proof that probable cause of a continuing and imminent threat to the public welfare exists.

Added by Acts 2009, 81st Leg., R.S., Ch. 999 (H.B. 3961), Sec. 13, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 878 (S.B. 193), Sec. 6, eff. September 1, 2011.

Sec. 301.456. Evidence. A certified copy of the order of the denial, suspension, or revocation or other action under Section 301.452(b)(8) is conclusive evidence of that action.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.124(b), eff. Sept. 1, 2001.

Sec. 301.457. Complaint and Investigation.

(a) The board or any person may initiate a proceeding under this subchapter by filing with the board a complaint against a nurse. The complaint must be in writing and signed by the complainant.

(b) Except as otherwise provided by this section, the board or a person authorized by the board shall conduct each investigation. Each complaint against a nurse that requires a determination of nursing competency shall be reviewed by a board member, consultant, or employee with a nursing background the board considers sufficient.

(c) On the filing of a complaint, the board:

(1) may conduct a preliminary investigation into the identity of the nurse named or described in the complaint;

(2) shall make a timely and appropriate preliminary investigation of the complaint; and

(3) may issue a warning or reprimand to the nurse.

(d) After any preliminary investigation to determine the identity of the subject of the complaint, unless it would jeopardize an investigation, the board shall notify the nurse that a complaint has been filed and the nature of the complaint. If the investigation reveals probable cause to take further disciplinary action, the board shall either attempt an informal disposition of the complaint or file a formal charge against the nurse stating the provision of this chapter or board rule that is alleged to have been violated and a brief description of each act or omission that constitutes the violation.

(e) The board shall conduct an investigation of the complaint to determine:

- (1) whether the nurse's continued practice of nursing poses a risk of harm to clients or other persons; and
- (2) whether probable cause exists that a nurse committed an act listed in Section 301.452(b) or that violates other law.

(f) In making a determination under Subsection (e), the board shall review the evidence to determine the extent to which a deficiency in care by the registered nurse was the result of deficiencies in the registered nurse's judgment, knowledge, training, or skill rather than other factors beyond the nurse's control. A determination that a deficiency in care is attributable to a registered nurse must be based on the extent to which the registered nurse's conduct was the result of a deficiency in the registered nurse's judgment, knowledge, training, or skill.

(g) If the board determines after investigating a complaint under Subsection (e) that there is reason to believe that a nurse's deficiency in care was the result of a factor beyond the nurse's control, the board shall report that determination to the patient safety committee at the facility where the nurse's deficiency in care occurred, or if the facility does not have a patient safety committee, to the chief nursing officer. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.048, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 876, Sec. 9, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 803 (S.B. 993), Sec. 15, eff. September 1, 2007.

Sec. 301.458. Initiation of Formal Charges; Discovery.

(a) Unless there is an agreed disposition of the complaint under Section 301.463, if probable cause is found under Section 301.457(e)(2), the board or the board's authorized representative shall file formal charges against the nurse.

(b) A formal charge must:

- (1) be written;
- (2) be specific enough to enable a person of common understanding to know what is meant by the formal charge; and
- (3) contain a degree of certainty that gives the person who is the subject of the formal charge notice of each particular act alleged to violate a specific statute, board rule, or board order.

(c) A copy of the formal charge shall be served on the nurse or the nurse's counsel of record.

(d) The board shall adopt reasonable rules to promote discovery by each party to a contested case.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.049, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1189 (S.B. 1058), Sec. 8, eff. September 1, 2013.

Sec. 301.459. Formal Hearing.

(a) The board by rule shall adopt procedures under Chapter 2001, Government Code, governing formal disposition of a contested case. An administrative law judge employed by the State Office of Administrative Hearings shall conduct a formal hearing. After receiving the administrative law judge's findings of fact and conclusions of law for a contested case, the board shall dispose of the case by issuing a final order based on the administrative law judge's findings of fact and conclusions of law.

(a-1) Notwithstanding Section 2001.058(e), Government Code, the board in a contested case may not change a finding of fact or conclusion of law or vacate or modify an order of the administrative law judge. The board may obtain judicial review of any finding of fact or conclusion of law issued by the administrative law judge as provided by Section 2001.058(f)(5), Government Code. For each case, the

administrative law judge may make a recommendation regarding an appropriate action or sanction. The board has the sole authority and discretion to determine the appropriate action or sanction.

(b) In any hearing under this section, a nurse is entitled to appear in person or by counsel. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.050, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 509 (H.B. 2950), Sec. 14, eff. September 1, 2017.

Sec. 301.460. Access to Information.

(a) Except for good cause shown for delay and subject to any other privilege or restriction set forth by statute, rule, or legal precedent, the board shall, not later than the 30th day after the date the board receives a written request from a license holder who is the subject of a formal charge filed under Section 301.458 or from the license holder's counsel of record, provide the license holder with access to:

(1) all known exculpatory information in the board's possession; and
(2) information in the board's possession that the board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint.

(b) The board is not required to provide:

(1) board investigative reports or investigative memoranda;
(2) the identity of nontestifying complainants;
(3) attorney-client communications;
(4) attorney work product; or
(5) other materials covered by a privilege as recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) The provision of information under Subsection (a) does not constitute a waiver of privilege or confidentiality under this chapter or other applicable law.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 301.461. Assessment of Costs Prohibited.

The board may not assess a person who is found to have violated this chapter the administrative costs of conducting a hearing to determine the violation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 509 (H.B. 2950), Sec. 15, eff. September 1, 2017.

Sec. 301.462. Voluntary Surrender of License.

The board may revoke a nurse's license without formal charges, notice, or opportunity of hearing if the nurse voluntarily surrenders the nurse's license to the board and executes a sworn statement that the nurse does not desire to be licensed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.051, eff. Sept. 1, 2003.

Sec. 301.463. Agreed Disposition.

(a) Unless precluded by this chapter or other law, the board may dispose of a complaint by:

(1) stipulation;
(2) agreed settlement;
(3) agreed order; or
(4) dismissal.

(b) An agreed disposition of a complaint is considered to be a disciplinary order for purposes of reporting under this chapter and an administrative hearing and proceeding by a state or federal regulatory agency regarding the practice of nursing.

(c) An agreed order is a public record.

(d) In civil or criminal litigation an agreed disposition is a settlement agreement under Rule 408, Texas Rules of Evidence.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.052, eff. Sept. 1, 2003.

Sec. 301.464. Informal Proceedings.

(a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and
(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under this section must:

(1) provide the complainant and the license holder an opportunity to be heard; and
(2) require the presence of a representative of the board's legal staff or of the attorney general to advise the board or the board's employees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 301.465. Subpoenas; Request for Information.

(a) Notwithstanding Section 2001.089, Government Code, the board may request issuance of a subpoena to be served in any manner authorized by law, including personal service by a board investigator or by certified mail.

(b) Each person shall respond promptly and fully to a request for information by the board or to a subpoena issued by the board. A request or subpoena may not be refused, denied, or resisted unless the request or subpoena calls for information within the attorney-client privilege. No other privilege applies to a board proceeding.

(c) The board may pay a reasonable fee for photocopies subpoenaed at the board's request. The amount paid may not exceed the amount the board charges for copies of its records.

(d) The board shall protect, to the extent possible, the identity of each patient named in information received by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1189 (S.B. 1058), Sec. 9, eff. September 1, 2013.

Sec. 301.466. Confidentiality.

(a) A complaint and investigation concerning a nurse under this subchapter, all information and material compiled by the board in connection with the complaint and investigation, and the information described by Subsection (d) are:

(1) confidential and not subject to disclosure under Chapter 552, Government Code; and
(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the board or a board employee or agent involved in license holder discipline.

(b) Notwithstanding Subsection (a), information regarding a complaint and an investigation may be disclosed to:

(1) a person involved with the board in a disciplinary action against the nurse;
(2) a nursing licensing or disciplinary board in another jurisdiction;
(3) a peer assistance program approved by the board under Chapter 467, Health and Safety Code;
(4) a law enforcement agency; or
(5) a person engaged in bona fide research, if all information identifying a specific individual has been deleted.

(c) The filing of formal charges against a nurse by the board, the nature of those charges, disciplinary proceedings of the board, and final disciplinary actions, including warnings and reprimands, by the board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

(d) Notwithstanding Subsection (c), if the board orders a nurse to participate in a peer assistance program approved by the board under Section 467.003, Health and Safety Code, the complaint, filing of formal charges, nature of those charges, final board order, and disciplinary proceedings are subject to disclosure:

(1) only to the same extent as information regarding a complaint is subject to disclosure under Subsection (b); or
(2) in a subsequent matter relating to the board order or a subsequent violation of this chapter or a board rule.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.053, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1189 (S.B. 1058), Sec. 10, eff. September 1, 2013.

Sec. 301.467. Reinstatement.

(a) On application, the board may reinstate a license to practice professional nursing or vocational nursing to a person whose license has been revoked, suspended, or surrendered.

(b) An application to reinstate a revoked license:

(1) may not be made before the first anniversary of the date of the revocation; and
(2) must be made in the manner and form the board requires.

(c) If the board denies an application for reinstatement, it may set a reasonable waiting period before the applicant may reapply for reinstatement.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.054, eff. Sept. 1, 2003.

Sec. 301.468. Probation.

- (a) The board may determine that an order denying a license application or suspending a license be probated. A person subject to a probation order shall conform to each condition the board sets as the terms of probation, including a condition:
- (1) limiting the practice of the person to, or excluding, one or more specified activities of professional nursing or vocational nursing;
 - (2) requiring the person to submit to supervision, care, counseling, or treatment by a practitioner designated by the board; or
 - (3) requiring the person to submit to random drug or alcohol tests in the manner prescribed by the board.
- (b) At the time the probation is granted, the board shall establish the term of the probationary period.
- (c) At any time while the person remains subject to the probation order, the board may hold a hearing and rescind the probation and enforce the board's original action in denying or suspending the license. The hearing shall be called by the presiding officer of the board, who shall issue a notice to be served on the person or the person's counsel not later than the 20th day before the date scheduled for the hearing that:
- (1) sets the time and place for the hearing; and
 - (2) contains the charges or complaints against the probationer.
- (d) Notice under Subsection (c) is sufficient if sent by registered or certified mail to the affected person at the person's most recent address as shown in the board's records.
- (e) A hearing under this section is limited to a determination of whether the person violated the terms of the probation order under Subsection (a) and whether the board should:
- (1) continue, rescind, or modify the terms of probation, including imposing an administrative penalty; or
 - (2) enter an order denying, suspending, or revoking the person's license.
- (f) If one of the conditions of probation is the prohibition of using alcohol or a drug or participation in a peer assistance program, violation of that condition is established by:
- (1) a positive drug or alcohol test result;
 - (2) refusal to submit to a drug or alcohol test as required by the board; or
 - (3) a letter of noncompliance from the peer assistance program.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.055, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 999 (H.B. 3961), Sec. 14, eff. June 19, 2009.

Sec. 301.469. Notice of Final Action.

If the board takes a final disciplinary action, including a warning or reprimand, against a nurse under this subchapter, the board shall immediately send a copy of the board's final order to the nurse and to the last known employer of the nurse.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 553, Sec. 1.056, eff. Sept. 1, 2003.

BON LICENSURE INSTRUCTIONS

213.27, 213.28, 213.29, 213.30, 217.11, 217.12, 217.2

§213.27. Good Professional Character.

- (a) Every individual who seeks to practice nursing in Texas must have good professional character related to the practice of nursing. This requirement includes all individuals seeking to obtain or retain a license or privilege to practice nursing in Texas.
- (b) The Board defines good professional character as the integrated pattern of personal, academic, and occupational behaviors that indicate an individual is able to consistently conform his/her conduct to the requirements of the Nursing Practice Act, the Board's rules, and generally accepted standards of nursing practice. An individual who provides satisfactory evidence that he/she has not committed a violation of the Nursing Practice Act or a rule adopted by the Board is considered to have good professional character related to the practice of nursing.

(c) A determination that an individual does not have good professional character related to the practice of nursing must be based on a showing by the Board of a clear and rational connection between a violation of the Nursing Practice Act or a rule adopted by the Board and the individual's ability to effectively practice nursing. When evaluating the rationale connection between the relevant conduct and the ability to effectively practice nursing, the Board will consider the following factors:

- (1) whether the individual will be able to practice nursing in an autonomous role with patients/clients, their families, significant others, healthcare professionals, and members of the public who are or who may become physically, emotionally, or financially vulnerable;
 - (2) whether the individual will be able to recognize and honor the interpersonal boundaries appropriate to any therapeutic relationship or health care setting;
 - (3) whether the individual will be able to make appropriate judgments and decisions that could affect patients/clients and/or the public;
 - (4) whether the individual has exhibited an inability to conform his/her behavior to the requirements of the Nursing Practice Act, Board rules and regulations, including §217.11 (relating to Standards of Nursing Practice) and §217.12 (relating to Unprofessional Conduct) of this title, and generally accepted standards of nursing practice; and
 - (5) whether the individual will be able to promptly and fully self-disclose facts, circumstances, events, errors, and omissions, when such disclosure could enhance the health status of patients/clients or the public and/or could protect patients/clients or the public from an unnecessary risk of harm.
- (d) Actions from Other Jurisdictions A certified copy of the order of the denial, suspension, or revocation or other action relating to an individual's license or privilege to practice nursing in another jurisdiction or under federal law is conclusive evidence of that action.

Source Note: The provisions of this §213.27 adopted to be effective October 29, 2015, 40 TexReg 7403; amended to be effective February 25, 2018, 43 TexReg 863

§213.28. Licensure of Individuals with Criminal History.

- (a) Purpose and Applicability. This section establishes the criteria utilized by the Board in determining the effect of criminal history on nursing licensure and eligibility for nursing licensure and implements the requirements of Texas Occupations Code §53.025. This section applies to all individuals seeking to obtain or retain a license or multistate licensure privilege to practice nursing in Texas.
- (b) An individual is subject to denial of licensure or to disciplinary action for a conviction for, or placement on deferred adjudication community supervision or deferred disposition for, a felony that is directly related to the practice of nursing or for a misdemeanor involving moral turpitude that is directly related to the practice of nursing (collectively referred to as *crimes* hereafter). This section applies to crimes that have been adjudicated through agreement or judicial order by a state or federal criminal justice system, without re-litigation of the underlying factual basis for the agreement or judicial order.
- (c) The Board considers the crimes listed in the attached Criminal Guidelines (Guidelines) to be directly related to the practice of nursing. The Guidelines reflect the most common or well known crimes. The vast majority of an individual's criminal history that is reviewed by the Board will fall within the Guidelines. However, the Guidelines are not intended to be an exhaustive listing, and they do not prohibit the Board from considering an offense not specifically listed in the Guidelines. In matters involving an offense that is not specifically listed in the Guidelines, such as a violation of another state's law, federal law, or the Uniform Code of Military Justice, a determination shall be made by comparing that offense to the crime listed in the Guidelines that contains substantially similar elements. The offense must meet the requirements of subsection (b) of this section to be actionable.

Abandonment/Endangerment of a Child {TPC §22.041}

Agree to Abduct Child for Remuneration: Younger than Eighteen {TPC §25.031}

Aiding Suicide: Serious Bodily Injury/Death {TPC §22.08}

Assault, Aggravated {TPC §22.02}

Attempt, Conspiracy, or Solicitation of ch. 62 offense {TRCP Ch. 62}

Burglary (if punishable under Penal Code §30.02(d) and ch. 62 offense) {TRCP Ch. 62 (§62.001(5)(D))}
 Capital Murder {TPC §19.03}
 Child Pornography, Possession or Promotion {TPC §43.26(a), (e) (Texas Rules of Criminal Procedure Ch. 62)}
 Continuous Sexual Abuse of Young Child or Children {TPC §21.02}
 Indecency with a Child {TPC §21.11 (TRCP Ch. 62)}
 Indecent exposure (2 or more counts and/or required to register as sex offender) {TPC §21.08 (TRCP Ch. 62)}
 Injury to Child, Elderly, Disabled {TPC §22.04}
 Kidnapping {TPC §20.03, §20.04 (TRCP Ch. 62)}
 Manslaughter {TPC §19.04}
 Murder {TPC §19.02}
 Offenses for Which Registration as a Sex Offender is Required Under Ch. 62 {TRCP §62.001(5)}
 Online Solicitation of a Minor {TPC §33.021(b), (c), (f); (TRCP Ch. 62)}
 Prostitution, Compelling {TPC §43.05 (TRCP Ch. 62)}
 Protective Order, Violation {TPC §25.07, §25.071}
 Robbery {TPC §29.02}
 Robbery, Aggravated {TPC §29.03}
 Sale or Purchase of a Child {TPC §25.08}
 Sexual Assault {TPC §22.011 (TRCP Ch. 62)}
 Sexual Assault, Aggravated {TPC §22.021 (TRCP Ch. 62)}
 Sexual Conduct, Prohibited {TPC §25.02 (TRCP Ch. 62)}
 Sexual Performance by Child {TPC §43.24 (d), §43.25(b) (TRCP Ch. 62)}
 Unlawful Restraint {TPC §0.02}
 Assault {TPC §22.01(a)(1), (b), (c)}
 Criminally negligent homicide {TPC §19.05}
 Improper Relationship between Educator and Student {TPC §21.12}
 Improper photography {TPC §21.15}
 Obscenity, Wholesale promotion {TPC §43.23(a), (h)}
 Prostitution (3 or more counts) or Aggravated Promotion {TPC §43.02, §43.04}
 Resisting Arrest, Use of Deadly Weapon {TPC §38.03(d)}
 Stalking {TPC §42.072(b)}
 Harassment {TPC §42.07}
 Prostitution or Promotion of {TPC §43.02}
 Protective Order, Violation {TPC §25.07, §38.112}
 Resisting Arrest {TPC §38.03(a)}
 Deadly conduct {TPC §22.05(a)}
 Obscenity, Participates {TPC §43.23(c), (h)}
 Terroristic Threat {TPC §22.07}
 Criminal Attempt or Conspiracy {TPC §15.01, §15.02}

(d) The Board has determined that the crimes listed in the Guidelines in subsection (c) of this section are directly related to the practice of nursing for the following reasons.

(1) Nursing is a unique profession. Nurses practice autonomously in a wide variety of settings and provide care to individuals who are, by virtue of their illness or injury, physically, emotionally, and financially vulnerable. These individuals include the elderly; children; individuals with mental disorders; sedated and anesthetized patients; individuals with mental or cognitive disorders; and disabled and immobilized individuals. Nurses that engage in criminal conduct potentially place patients, healthcare employers, and the public at future risk of harm.

(2) Crimes involving fraud or theft. Nurses often have unfettered access to individuals' privileged information, financial information, and valuables, including medications, money, jewelry, credit cards/checkbook, and sentimental items. Nurses also provide around the clock care, working night and weekend shifts at hospitals, long term care facilities, nursing homes, assisted living facilities, and in home health and home-like settings, where there is often no direct supervision of the nurse. Patients in these settings are particularly vulnerable to the unethical, deceitful, and illegal conduct of a nurse. When a nurse has engaged in criminal behavior involving fraud or theft in the past, the Board is mindful that similar

misconduct may be repeated in these nursing settings, thereby placing patients, healthcare employers, and the public at risk.

(3) Crimes involving sexual misconduct. Nurses also frequently provide care to partially clothed or fully undressed individuals, who are particularly vulnerable to exploitation. Due to the intimate nature of nursing care, professional boundaries in the nurse-patient relationship are extremely important. When a nurse has engaged in criminal behavior involving any type of sexual misconduct in the past, the Board is mindful that similar misconduct may be repeated in nursing settings. Such conduct may involve touching intimate body parts when the touch is not necessary for care, voyeurism, exposure of body parts when not necessary, and surreptitious touching. As such, the Board considers crimes involving any type of sexual misconduct to be highly relevant to an individual's ability to provide safe nursing care.

(4) Crimes involving lying, falsification, and deception. Nurses are expected to accurately and honestly report and record information in a variety of sources, such as medical records, pharmacy records, billing records, nursing notes, and plans of care, as well as report errors in their own nursing practice. When a nurse has engaged in criminal behavior involving lying, falsification, or deceptive conduct, the Board is mindful that similar misconduct may be repeated in nursing settings, thereby placing patients, healthcare employers, and the public at risk.

(5) Crimes involving drugs and alcohol. Nurses have a duty to their patients to provide safe, effective nursing care and to be fit to practice. Nurses who have a substance use disorder may exhibit impairment in both cognitive and motor functioning. A nurse affected by a substance use disorder may be unable to accurately assess patients, make appropriate judgments, or intervene in a timely and appropriate manner. This danger may be heightened when the nurse works in an autonomous setting where other healthcare providers are not present to provide interventions for the patient. As such, the Board considers crimes related to the use or possession of drugs or alcohol to be highly relevant to a nurse's fitness to practice.

(6) Crimes involving violence or threatening behavior. Nurses provide care to the most vulnerable of populations, including individuals who often have no voice of their own and cannot advocate for themselves. Further, patients are dependent on the nurse-patient relationship for their daily care. When a nurse has engaged in violent or threatening criminal behavior in the past, the Board is mindful that patients may be at risk for similar behavior in a healthcare setting. As such, the Board considers crimes involving violence and threatening behavior to be highly relevant to a nurse's fitness to practice.

(e) The Board has considered the nature and seriousness of each of the crimes listed in the Guidelines in subsection (c) of this section, the relationship of the crime to the purposes for requiring a license to engage in nursing; the extent to which a license to practice nursing might offer an opportunity to engage in further criminal activity of the same type as that in which the individual previously was involved; and the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities associated with the practice of nursing. The Board has determined that each crime listed in the Guidelines in subsection (c) of this section raises concerns about the propensity of the individual to repeat similar misconduct in the workplace, if provided the opportunity. The Board has also determined that similar misconduct in the workplace would place vulnerable individuals at risk of exploitation or victimization. As a result, if an individual has committed a crime listed in the Guidelines in subsection (c) of this section, the Board will evaluate that conduct to determine if disciplinary action is warranted.

(f) Additionally, a crime will be considered to be directly related to the practice of nursing if the act:

- (1) arose out of the practice of vocational, professional, or advanced practice nursing, as those terms are defined by the Nursing Practice Act (NPA);
- (2) involves a current or former patient;
- (3) arose out of the practice location of the nurse;
- (4) involves a healthcare professional with whom the nurse has had a professional relationship; or
- (5) constitutes a criminal violation of the NPA or another statute regulating another profession in the healing arts that also applies to the individual.

(g) Sanction. Not all criminal conduct will result in a sanction. The Board recognizes that an individual may make a mistake, learn from it, and not repeat it in the nursing practice setting. As such, each case will be evaluated on its own merits to determine if a sanction is warranted. If multiple crimes are present in a single case, a more severe sanction may be considered by the Board pursuant to Texas Occupations Code §301.4531. If a sanction is warranted, the Board will utilize the schedule of sanctions set forth in §213.33(e) (relating to Factors Considered for Imposition of Penalties/Sanctions) of this chapter. At a minimum, an individual will be required to successfully complete the terms of his/her criminal probation

and provide evidence of successful completion to the Board. If an individual's criminal behavior is due to, or associated with, a substance use disorder or a mental health condition, evidence of ongoing sobriety, effective clinical management, and/or appropriate ongoing treatment may be required. Further, if an individual's criminal history implicates his/her current fitness to practice, the individual may also be required to meet the requirements of §213.29 to ensure he/she is safe to practice nursing.

(h) Factors. The following factors will be considered when determining the appropriate sanction, if any, in eligibility and disciplinary matters involving criminal conduct:

- (1) the nature, seriousness, and extent of the individual's past criminal activity;
- (2) the age of the individual when the crime was committed;
- (3) the amount of time that has elapsed since the individual's last criminal activity;
- (4) the conduct and work activity of the individual before and after the criminal activity;
- (5) evidence of the individual's rehabilitation or rehabilitative effort while incarcerated or after release;
- (6) other evidence of the individual's fitness, including letters of recommendation from prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the individual; the sheriff or chief of police in the community where the individual resides; and any other individual in contact with the convicted individual;
- (7) a record of steady employment;
- (8) support of the individual's dependents;
- (9) a record of good conduct;
- (10) successful completion of probation/community supervision or early release from probation/community supervision;
- (11) payment of all outstanding court costs, supervision fees, fines, and restitution ordered;
- (12) the actual damages, physical or otherwise, resulting from the criminal activity;
- (13) the results of an evaluation performed pursuant to Texas Occupations Code §301.4521 and §213.33(k) and (l) of this chapter;
- (14) evidence of remorse and having learned from past mistakes;
- (15) evidence of current support structures that will prevent future criminal activity;
- (16) evidence of current ability to practice nursing in accordance with the NPA, Board rules, generally accepted standards of nursing; and other laws that affect nursing practice; and
- (17) any other matter that justice requires.

(i) Evaluations. Pursuant to Texas Occupations Code §301.4521 and §213.33(k) and (l) of this chapter, the Board may request or require an individual to undergo an evaluation with a Board-approved evaluator to better determine whether the individual is safe to practice nursing and is able to comply with the NPA, Board rules, and generally accepted standards of nursing. If an individual's criminal behavior is due to, or associated with, a substance use disorder or a mental health condition, evidence of ongoing sobriety, effective clinical management, and/or appropriate ongoing treatment may also be required.

(j) Youthful Indiscretions. Some criminal behavior may be deemed a youthful indiscretion under this paragraph. In that event, a sanction will not be imposed. The following criteria will be considered in making such a determination:

- (1) the offense was not classified as a felony;
- (2) absence of criminal plan or premeditation;
- (3) presence of peer pressure or other contributing influences;
- (4) absence of adult supervision or guidance;
- (5) evidence of immature thought process/judgment at the time of the activity;
- (6) evidence of remorse;
- (7) evidence of restitution to both victim and community;
- (8) evidence of current maturity and personal accountability;
- (9) absence of subsequent criminal conduct;
- (10) evidence of having learned from past mistakes;
- (11) evidence of current support structures that will prevent future criminal activity; and
- (12) evidence of current ability to practice nursing in accordance with the NPA, Board rules, generally accepted standards of nursing, and other laws that affect nursing practice.

(k) Bars to Licensure.

(1) Texas Occupations Code §301.4535. The Board is required under Texas Occupations Code §301.4535(b) to deny an individual initial licensure or licensure renewal and to revoke an individual's

nursing license or privilege to practice nursing in Texas upon a final conviction or a plea of guilty or nolo contendere for a criminal offense specified in §301.4535(a). Further, an individual is not eligible for initial licensure or licensure endorsement in Texas or for licensure reinstatement before the fifth anniversary of the date the individual successfully completed and was dismissed from community supervision or parole for an offense specified in §301.4535(a).

(2) Imprisonment. Pursuant to Texas Occupations Code §53.021(b), an individual's license or multistate licensure privilege to practice nursing in Texas will be revoked by operation of law upon the individual's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.

(l) Arrests. The fact that an individual has been arrested will not be used as grounds for sanction. If, however, evidence ascertained through the Board's own investigation from information contained in the arrest record regarding the underlying conduct suggests actions violating the NPA or Board rules, the Board may consider such evidence.

(m) The Executive Director is authorized to close an eligibility file when the individual seeking licensure has failed to respond to a request for information, a proposed eligibility order, or denial of licensure within 60 days of the request for information, proposed eligibility order, or denial.

(n) Pursuant to the Nurse Licensure Compact, Texas Occupations Code §304.0015, Article III, (c)(7), an individual will not be eligible to hold a multistate licensure privilege if the individual has been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law. Further, pursuant to the Nurse Licensure Compact, Texas Occupations Code §304.0015, Article III, (c)(8), an individual will not be eligible to hold a multistate licensure privilege if the individual has been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing, as determined on a case-by-case basis by the Board.

Source Note: The provisions of this §213.28 adopted to be effective February 25, 2018, 43 TexReg 867

§213.29. Fitness to Practice.

(a) Each individual who seeks to practice nursing in Texas must possess current fitness to practice. This requirement includes all individuals seeking to obtain or retain a license or privilege to practice nursing in Texas and applies in all eligibility and disciplinary matters. Each individual has a duty to self-evaluate to ensure that he/she is fit to practice before providing nursing care.

(b) An individual's fitness to practice will be determined by evaluating the individual's ability to consistently comply with the requirements of the Nursing Practice Act, the Board's rules and regulations, and generally accepted standards of nursing practice. An individual's fitness to practice may be subject to Board review due to an individual's substance use disorder; possession, abuse, or misuse of alcohol or drugs, prescribed or otherwise; or physical or mental health condition. This is not an exhaustive list. If an individual exhibits any conduct that may prevent him/her from practicing nursing with reasonable skill and safety, the Board will review the individual's conduct to determine if he/she possesses current fitness to practice.

(c) Evaluations. If an individual exhibits conduct that raises questions about his/her fitness to practice, the Board may require the individual to undergo a physical and/or psychological evaluation that meets the criteria of the Occupations Code §301.4521 and §213.33 of this chapter (relating to Factors Considered for Imposition of Penal-ties/Sanctions). Pursuant to §301.4521, an individual subject to this rule is responsible for paying the costs of the evaluation. Utilizing the results of the evaluation and the individualized facts of the case, the Board may deny licensure (including renewal, reinstatement/reactivation, or the return to direct patient care from a limited license); suspend or revoke the individual's license or privilege to practice nursing in this state; or impose probationary conditions or restrictions on the individual's ability to practice nursing in this state.

(d) Substance Use Disorders and Abuse/Misuse of Alcohol or Drugs.

(1) Individuals who have been diagnosed, treated, or hospitalized for a substance use disorder that may impair their ability to practice nursing safely, will, at a minimum, be required to demonstrate sobriety and abstinence from drugs and alcohol for a minimum of twelve consecutive months, through verifiable and reliable evidence, in order to obtain or retain licensure. Verifiable and reliable evidence of sobriety

and abstinence from drugs and alcohol may include evidence of the completion of inpatient, outpatient, or aftercare treatment, random drug screens, individual or group therapy, and/or support group attendance. Depending upon the individualized facts of each case, an individual may be required to establish this period of sobriety and abstinence prior to being permitted to practice nursing in this state. If appropriate, based upon the individualized facts of the case, an individual may also be eligible to obtain or retain licensure and practice nursing under an encumbered license with conditions/restrictions determined by the Board or through participation in a Board-approved peer assistance program created pursuant to the Texas Health and Safety Code Chapter 467 or other lawfully authorized peer assistance program. Licensure conditions/restrictions may include the completion of inpatient, outpatient, or aftercare treatment, random drug screens, individual or group therapy, and/or support group attendance. The outcome of any particular case will be based upon an evaluation of the individualized factors of the case and the potential risk of harm the individual's practice may pose to patients/clients and/or the public.

(2) Individuals who have not been diagnosed, treated, or hospitalized for a substance use disorder, but have nonetheless exhibited behaviors raising concerns about the individual's ability to practice nursing with reasonable skill and safety due to the possession, misuse, or abuse of alcohol or drugs, prescribed or otherwise, including related criminal conduct, may be required to demonstrate sobriety and abstinence from drugs and alcohol for a minimum of twelve consecutive months, through verifiable and reliable evidence, in order to obtain or retain licensure. Verifiable and reliable evidence of sobriety and abstinence from drugs and alcohol may include evidence of the completion of inpatient, outpatient, or aftercare treatment, random drug screens, individual or group therapy, and/or support group attendance. If appropriate, and depending upon the individualized facts of each case, an individual may be eligible to obtain or retain licensure and practice nursing under an encumbered license with conditions/restrictions determined by the Board, which may include the completion of inpatient, outpatient, or aftercare treatment, random drug screens, individual or group therapy, and/or support group attendance. The outcome of any particular case will be based upon an evaluation of the individualized factors of the case and the potential risk of harm the individual's practice may pose to patients/clients and/or the public.

(3) An individual's prior substance use disorder diagnosis or history of prior criminal conduct involving drugs or alcohol, prescribed or otherwise; or misuse or abuse of alcohol or drugs, prescribed or otherwise; will be considered by the Board only to the extent that it may be indicative of the individual's current lack of fitness to practice nursing.

(e) Mental Health Conditions and Diminished Capacity.

(1) Individuals who have been diagnosed, treated, or hospitalized for a mental health condition that may impair their ability to practice nursing safely, will, at a minimum, be required to demonstrate controlled behavior and consistent compliance with recommended treatment, including compliance with a prescribed medication regime, for a reasonable amount of time, through verifiable and reliable evidence, in order to obtain or retain licensure. Depending upon the individualized facts of each case, an individual may be required to establish controlled behavior and compliance with recommended treatment, including compliance with a prescribed medication regime, prior to being permitted to practice nursing in this state. If appropriate, and depending upon the individualized facts of the case, an individual may also be eligible to obtain or retain licensure and practice nursing under an encumbered license with conditions/restrictions determined by the Board or through participation in a Board-approved peer assistance program created pursuant to the Texas Health and Safety Code Chapter 467. The outcome of any particular case will be based upon an evaluation of the individualized factors of the case and the potential risk of harm the individual's practice may pose to patients/clients and/or the public.

(2) Individuals who have not been diagnosed, treated, or hospitalized for a mental health condition, but have nonetheless exhibited behaviors raising concerns about the individual's fitness to practice due to a mental health condition or diminished capacity may be required to demonstrate controlled behavior and compliance with recommended treatment, including compliance with a prescribed medication regime, for a reasonable amount of time, through verifiable and reliable evidence, in order to obtain or retain licensure. If appropriate, and depending upon the individualized facts of each case, an individual may also be eligible to obtain or retain licensure and practice nursing under an encumbered license with conditions/restrictions determined by the Board. The outcome of any particular case will be based upon an evaluation of the individualized factors of the case and the potential risk of harm the individual's practice may pose to patients/clients and/or the public.

(3) An individual's prior mental health diagnosis or behavioral history will be considered by the Board only to the extent that it may be indicative of the individual's current lack of fitness to practice nursing.

(f) Other Medical Conditions.

(1) The Board recognizes that individuals may have a variety of medical conditions that require medical treatment and/or a medication regime that includes prescription drugs. Although authorized by law and medically necessary, prescription drugs may affect an individual's fitness to practice. An individual must be able to function safely while under the effects of prescription drugs. An individual who abuses his/her prescription drugs or who has been unable to stabilize the synergistic effect of his/her medications may not possess current fitness to practice. Further, some prescription medications may cause side effects that affect an individual's fitness to practice, even when taken properly. In some cases, an individual's physical condition may prevent the individual from practicing nursing safely. In addition to an individual's medication regime, the Board will review an individual's behavior, diagnosis/condition, and treatment plan to determine if he/she possesses current fitness to practice. Based upon the individualized facts of the case, including the results of a required evaluation, if any, the Board may deny licensure (including renewal, reinstatement/reactivation, or the return to direct patient care from a limited license); suspend or revoke the individual's license or privilege to practice nursing in this state; or impose probationary conditions or restrictions on the individual's ability to practice nursing in this state, including limiting the practice setting to one in which the individual is safe to practice nursing.

(2) An individual's prior medical condition and/or diagnosis will be considered by the Board only to the extent that it may be indicative of the individual's current lack of fitness to practice nursing.

(g) Authority of Executive Director. In eligibility and disciplinary matters involving an individual's fitness to practice, the Executive Director may:

(1) review information submitted by the individual and materials and information gathered or prepared by Board Staff; including evidence of the individual's safe practice, compliance with the Nursing Practice Act, Board rules and regulations, and generally accepted standards of nursing practice; verification of compliance with treatment; and evidence of sobriety;

(2) identify any deficiencies in the information necessary for a determination regarding the individual's current fitness to practice;

(3) close any eligibility file in which the individual seeking licensure has failed to respond to a request for information from the Board or to a proposal for denial of licensure within 60 days of the request or proposed denial, as applicable;

(4) approve an individual's eligibility for licensure, enter eligibility orders as authorized in §211.7 (relating to Executive Director) of this title, and approve renewals, without Board ratification, when the evidence is clearly insufficient to support denial of licensure; and

(5) propose eligibility and disciplinary orders in eligibility, disciplinary, and renewal matters consistent with the Board's rules and regulations and the interests of public safety and enter disciplinary orders as authorized in §211.7 of this title.

(h) The following eligibility and disciplinary sanction policies, as applicable, shall be used by the Executive Director, SOAH, and the Board in evaluating the impact of criminal conduct on nurse licensure in eligibility and disciplinary matters:

(1) Sanctions for Behavior Involving Fraud, Theft, and Deception, approved by the Board and published on August 28, 2015, in the *Texas Register* and available on the Board's website at <http://www.bon.state.tx.us/disciplinaryaction/dsp.html>;

(2) Sanctions for Behavior Involving Lying and Falsification, approved by the Board and published on August 28, 2015, in the *Texas Register* and available on the Board's website at <http://www.bon.state.tx.us/disciplinaryaction/dsp.html>;

(3) Sanctions for Sexual Misconduct approved by the Board and published on February 22, 2008, in the *Texas Register* (33 TexReg 1649) and available on the Board's website at <http://www.bon.state.tx.us/disciplinaryaction/dsp.html>; and

(4) Sanctions for Substance Use Disorders and Other Alcohol and Drug Related Conduct, approved by the Board and published on August 28, 2015, in the *Texas Register* and available on the Board's website at <http://www.bon.state.tx.us/disciplinaryaction/dsp.html>.

Source Note: The provisions of this §213.29 adopted to be effective October 29, 2015, 40 TexReg 7416

§213.30 Declaratory Order of Eligibility for Licensure

(a) For purposes of this section only, "petitioner" means an individual who:

(1) is enrolled or planning to enroll in an educational nursing program that prepares individuals for initial licensure as a registered or vocational nurse;

(2) seeks licensure by endorsement pursuant to §217.5 of this title (relating to Temporary License and Endorsement); or

(3) seeks licensure by examination pursuant to §217.2 (relating to Licensure by Examination for Graduates of Nursing Education Programs Within the United States, its Territories, or Possessions) or §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 title.

(b) An individual who has reason to believe that he or she may be ineligible for initial licensure or licensure by endorsement due to issues discussed in this rule may petition the Board for a declaratory order as to his or her eligibility.

(c) A petitioner must submit a petition, on forms provided by the Board, and the following information:

(1) a statement by the petitioner indicating the reason(s) and basis of his/her potential ineligibility;

(2) if the potential ineligibility is due to the petitioner's criminal history, all court documents, including, but not limited to: indictments, agreements for pre-trial diversion or deferred prosecution, orders of deferred adjudication, judgments, probation records, and evidence of completion of probation, as applicable;

(3) if the potential ineligibility is due to the petitioner's mental health condition or diminished capacity, verifiable and reliable evidence of controlled behavior and consistent compliance with recommended treatment, including compliance with a prescribed medication regime, for a reasonable amount of time, as applicable;

(4) if the potential ineligibility is due to the petitioner's substance use disorder and/or the abuse/misuse of alcohol or drugs, verifiable and reliable evidence of sobriety and abstinence from drugs and alcohol, which may include evidence of the completion of inpatient, outpatient, or aftercare treatment, random drug screens, individual or group therapy, and/or support group attendance;

(5) the required fee, which is not refundable; and

(6) an evaluation that meets the criteria of the Occupations Code §301.4521 and §213.33 of this chapter (relating to Factors Considered for Imposition of Penalties/Sanctions), as applicable.

(d) Once the Board has received all necessary information, including the information required by subsection (c) of this section, an investigation of the petition and the petitioner's eligibility shall be conducted. The investigation will be based upon an evaluation of the individualized factors of the case, the potential risk of harm the individual's practice may pose to patients/clients and/or the public, and the petitioner's ability to meet the requirements of §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 chapter, as applicable. Based upon the individualized facts of the case, the Board may approve licensure without encumbrance, impose probationary conditions or restrictions on the individual's ability to practice nursing in this state, or deny licensure.

(e) The petitioner or the Board may amend the petition to include additional grounds for potential ineligibility at any time before a final determination is made.

(f) If an individual is seeking licensure by endorsement pursuant to §217.5 of this title and has been licensed to practice nursing in any jurisdiction and has been disciplined in that jurisdiction or allowed to surrender in lieu of discipline in that jurisdiction, the provisions of §213.27(e) of this chapter will apply to the eligibility of the petitioner.

(g) If a petitioner's potential ineligibility is due to his/her criminal history, the provisions of §213.28 of this chapter will apply to the eligibility of the petitioner.

(h) If a petitioner's potential ineligibility is due to a substance use disorder and/or the abuse/misuse of alcohol or drugs, a mental health condition or diminished capacity, or another issue relating to the individual's fitness to practice, the provisions of §213.29 of this chapter will apply to the eligibility of the petitioner.

(i) If the Executive Director proposes to find the petitioner ineligible for licensure, the petitioner may obtain a hearing before the State Office of Administrative Hearings (SOAH). The Executive Director shall have discretion to set a hearing and give notice of the hearing to the petitioner. The hearing shall be

conducted in accordance with §213.22 of this chapter (relating to Formal Proceedings) and the rules of SOAH. When in conflict, SOAH's rules of procedure will prevail. The decision of the Board shall be rendered in accordance with §213.23 of this chapter (relating to Decision of the Board).

(j) A final Board order is issued after an appeal results in a Proposal for Decision from SOAH. The Board's final order must set out each basis for potential ineligibility and the Board's determination as to eligibility. In the absence of new evidence not disclosed by the petitioner or not reasonably available to the Board at the time the order is issued, the Board's ruling determines the petitioner's eligibility with respect to the grounds for potential ineligibility as set out in the order. An individual whose petition is denied by final order of the Board may not file another petition or seek licensure by endorsement or examination until after the expiration of three years from the date of the Board's order denying the petition. If the petitioner does not appeal or request a formal hearing at SOAH after a letter proposal to deny eligibility made by the Eligibility and Disciplinary Committee of the Board or the Executive Director, the petitioner may re-petition or seek licensure by endorsement or examination after the expiration of one year from the date of the proposal to deny eligibility, in accordance with this section and the Occupations Code §301.257.

(k) The following eligibility and disciplinary sanction policies, as applicable, shall be used by the Executive Director, SOAH, and the Board in evaluating an eligibility matter under this section:

(1) Sanctions for Behavior Involving Fraud, Theft, and Deception, approved by the Board and published on August 28, 2015, in the *Texas Register* and available on the Board's website at <http://www.bon.state.tx.us/disciplinaryaction/dsp.html>;

(2) Sanctions for Behavior Involving Lying and Falsification, approved by the Board and published on August 28, 2015, in the *Texas Register* and available on the Board's website at <http://www.bon.state.tx.us/disciplinaryaction/dsp.html>;

(3) Sanctions for Sexual Misconduct approved by the Board and published on February 22, 2008, in the *Texas Register* (33 TexReg 1649) and available on the Board's website at <http://www.bon.state.tx.us/disciplinaryaction/dsp.html>; and

(4) Sanctions for Substance Use Disorders and Other Alcohol and Drug Related Conduct, approved by the Board and published on August 28, 2015, in the *Texas Register* and available on the Board's website at <http://www.bon.state.tx.us/disciplinaryaction/dsp.html>.

(l) If an individual seeking licensure by endorsement under §217.5 of this title or licensure by examination under §217.2 or §217.4 of this title should have had an eligibility issue addressed pursuant to the Occupations Code §301.257, the filed application will be treated and processed as a petition for declaratory order under this section, and the individual will be treated as a petitioner under this section and will be required to pay the non-refundable fee required by this section and §223.1 of this title (relating to Fees).

(m) This section implements the requirements of the Occupations Code Chapter 53 Subchapter D and the Occupations Code §301.257.

Source Note: The provisions of this §213.30 adopted to be effective August 15, 2002, 27 TexReg 7107; amended to be effective May 17, 2004, 29 TexReg 4884; amended to be effective February 19, 2006, 31 TexReg 847; amended to be effective October 10, 2007, 32 TexReg 7058; amended to be effective July 2, 2008, 33 TexReg 5007; amended to be effective November 15, 2009, 34 TexReg 7812; amended to be effective July 12, 2010, 35 TexReg 6074; amended to be effective July 10, 2013, 38 TexReg 4342; amended to be effective October 29, 2015, 40 TexReg 7422

§217.11. Standards of Nursing Practice.

The Texas Board of Nursing is responsible for regulating the practice of nursing within the State of Texas for Vocational Nurses, Registered Nurses, and Registered Nurses with advanced practice authorization. The standards of practice establish a minimum acceptable level of nursing practice in any setting for each level of nursing licensure or advanced practice authorization. Failure to meet these standards may result in action against the nurse's license even if no actual patient injury resulted.

(1) Standards Applicable to All Nurses. All vocational nurses, registered nurses and registered nurses with advanced practice authorization shall: