

Agenda Item: 7.4
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January 27-28, 2011

**Consideration of Proposed Amendments to 22 Tex. Admin. Code §213.33,
Pertaining to *Factors Considered for Imposition of Penalties/Sanctions***

Summary of Request: Consider proposal of amendments to 22 Tex. Admin. Code §213.33, Pertaining to *Factors Considered for Imposition of Penalties/Sanctions*.

Historically, it has been the Board's practice to revoke the nursing license of an individual who, after being sent proper notice, fails to appear for a contested case hearing at the State Office of Administrative Hearings (SOAH). Such cases are referred to as "default" cases. The proposed amendments to §213.33 formalize the Board's historical practice with regard to "default" cases and provide additional notice that the Board is entitled to seek the revocation of a nursing license in such matters.

The proposed amendments are attached hereto as Attachment "A".

Board Action: Move to approve the proposed amendments to 22 Tex. Admin. Code §213.33, Pertaining to *Factors Considered for Imposition of Penalties/Sanctions*, with authority for General Counsel to make editorial changes as necessary to clarify rule and Board intent and to comply with the formatting requirements of the *Texas Register*. If no negative comments and no request for a public hearing are received, move to adopt the proposed amendments to 22 Tex. Admin. Code §213.33, Pertaining to *Factors Considered for Imposition of Penalties/Sanctions*, as proposed.

Attachment "A"

§213.33. Factors Considered for Imposition of Penalties/Sanctions.

(a) - (l) (No change.)

(m) Notwithstanding any other provision herein, a person's failure to appear in person or by attorney on the day and at the time set for hearing in a contested case shall entitle the Board to revoke the person's license.