

**Consideration of Issuing a Charge to the Advisory Committee on Licensure, Eligibility and Discipline to Review and Make Recommendations Regarding the Board's Disciplinary Guidelines for Criminal Conduct and the Board's Eligibility and Disciplinary Sanction Policies**

The Board's Guidelines for Criminal Conduct (Guidelines) were originally approved by the Board and published in the *Texas Register* on March 9, 2007. The Guidelines are incorporated by reference into the Board's Disciplinary Matrix<sup>1</sup> and other eligibility and disciplinary rules<sup>2</sup>. The Board's Eligibility and Disciplinary Sanction Policies<sup>3</sup> (Sanction Policies) were published in the *Texas Register* on February 22, 2008, and are also incorporated into the Board's eligibility and disciplinary rules<sup>4</sup>. The Board's Sanction Policies were first adopted by the Board in 2002 and have undergone several revisions. The last revision occurred in January, 2008 and was based on the recommendations of the Eligibility and Disciplinary Task Force (predecessor to the Advisory Committee on Licensure, Eligibility and Discipline [Committee]). Neither the Guidelines nor the Sanction Policies have undergone formal review and amendment since their respective publication dates. However, after several years of application, interpretation, and Administrative Law Judge (ALJ) comment, amendments may be appropriate.

As a result, Staff is recommending that the Committee<sup>5</sup> review the Guidelines and Sanction Policies and make recommendations for amendments, if necessary. The Committee's review should include, but is not limited to: (i) whether portions of the Guidelines and Sanction Policies have become outdated/obsolete; (ii) whether the Guidelines should establish a minimally acceptable sanction ( a "floor") for each criminal offense; (iii) whether the recommended sanctions in the Guidelines are appropriate; and (iv) the type and/or amount of mitigating evidence necessary to support a more lenient sanction under the Guidelines.

**Board Action:** Move to issue a charge to the Advisory Committee on Licensure, Eligibility and Discipline to review and make recommendations regarding the Board's Disciplinary Guidelines for Criminal Conduct and the Board's Eligibility and Disciplinary Sanction Policies.

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<sup>1</sup> 22 Tex. Admin. Code §213.33(b).

<sup>2</sup> 22 Tex. Admin. Code §§213.27, 213.28, 213.29, 213.30, 213.33.

<sup>3</sup> Collectively include the Board's Disciplinary Sanctions for Fraud, Theft, and Deception; Lying and Falsification; Sexual Misconduct; and Nurses with Substance Abuse, Misuse, Substance Dependency, or other Substance Use Disorder.

<sup>4</sup> 22 Tex. Admin. Code §§213.27, 213.28, 213.29, 213.30, 213.33.

<sup>5</sup> The Advisory Committee on Licensure, Eligibility and Discipline (Committee) is a standing committee of the Board, reserved for advising the Board on eligibility and disciplinary matters. Over the last few years, the Committee has reviewed the Board's Guidelines and Sanction Policies, as well as the Board's Disciplinary Matrix, and has made recommendations for amendment when necessary.