

Approval of National Council of State Boards of Nursing Member Board Agreement.

Summary: Each year, the TXBON, through Executive Director, executes the membership agreement with the NCSBN and pays an annual fee of \$3000.00.

In 2012, NCSBN organized and charged a new Committee to review the Member Board Agreement, the document that establishes the duties and responsibilities of each State Board and the Council, for all Boards of Nursing. The goal for the Member Board Agreement Committee was to review and make recommendations for redrafted agreement that serves the needs of the membership and NCSBN. The Committee completed its work in 2013 and presented its recommendation to the NCSBN Delegate Assembly, August 2013.

Attached for Board approval is the new *Terms and Conditions of NCSBN Membership* that was approved by NCSBN Delegate Assembly at the annual meeting in Providence, RI, August 2013. See Exhibit 1. The proposed agreement will change the title of document *Terms and Conditions of NCSBN Membership*, streamline the agreement, provide for one-time execution, and eliminate the annual membership fee.

Background: The NCSBN Bylaws require a board of nursing (BON), as a condition of membership in NCSBN, to execute a membership agreement with NCSBN specifying the terms and conditions for the use of the NCLEX examinations. There has been no systematic review of, or Delegate Assembly approved changes in, the membership agreement for at least 10 years. Over the years, many member boards have requested specific amendments and provisions be incorporated into the agreement to comply with state contract requirements. Some member boards cannot fully participate in NCSBN activities as some states have that participation may be a violation of state laws.

The Member Board Agreement Review Committee was charged to review and make recommendations for agreement revisions for consideration by the Board of Directors (BOD) and possible adoption by the Delegate Assembly.

The goal of the committee was to have a member board agreement that serves the needs of the membership and NCSBN. The committee recognized early that the agreement was a membership agreement, not a contract for the licensure examination. The NCSBN Bylaws specifically require a BON to use the NCLEX examinations as a condition of membership in NCSBN. The committee determined that the language of the current agreement served a specific purpose when NCSBN was initially formed and the national nurse licensing examination was moved from the National League for Nursing (NLN) to NCSBN. As NCSBN has grown and matured over time, however, much of the procedures and processes outlined in the agreement have been operationalized and structured within the NCSBN Bylaws, the Pearson VUE contract, the NCLEX® Member Board Manual and NCSBN policies.

The committee revised the agreement, first changing the title to *Terms and Conditions of NCSBN Membership*, and streamlined the agreement by removing redundant language. The committee also recognized the need to amend the current NCSBN Bylaws and made suggestions to the current Bylaws Committee for proposed language. Those suggestions have been supported by the Bylaws Committee and incorporated in the proposed bylaw amendments.

Pros and Cons: The proposed agreement will streamline the agreement, provide for one-time execution, and eliminate the annual membership fee. The agreement does not otherwise alter the duties and responsibilities of the parties. No cons are noted at this time.

Staff Recommendation:

Move to accept and approve the attached *Terms and Conditions of NCSBN Membership*.

TERMS AND CONDITIONS OF NCSBN MEMBERSHIP

The Texas Board of Nursing (“Member Board” or “Board”) with principal offices at 333 Guadalupe, Suite 3-460 Austin, TX 78701 is a Member Board of the National Council of State Boards of Nursing (“NCSBN”) within the meaning of NCSBN’s Bylaws and is entitled to participate in the affairs of NCSBN as provided in the Bylaws-and agrees to the following terms and conditions of membership (“Terms and Conditions”):

1. Compliance with Membership Requirements.

(a) As a condition of membership in NCSBN, Board shall comply with all NCSBN requirements necessary to maintain its status as a Member Board in good standing as set out in the NCSBN Bylaws.

2. Nurse Licensure Examinations

(a) NCSBN shall develop and administer examinations for the licensure of Registered Nurse (RN) and Practical/Vocational Nurse (PN) licensure (“Nurse Licensure Examination”) that are valid, reliable, legally defensible and in compliance with professionally accepted psychometric standards. NCSBN shall establish passing standards for the Nurse Licensure Examinations that appropriately and reliably evaluate licensure candidates’ competence for safe and effective entry level nursing practice and report to Member Board the examination results of candidates for licensure in its jurisdiction in accordance with the applicable provisions of the NCSBN Policy and Procedures Manual.

(b) NCSBN shall provide Member Board, at no cost to the Member Board and as a privilege of membership in NCSBN, the Nurse Licensure Examination(s) and related services for use in nurse licensure in its jurisdiction.

(c) In providing Member Board the Nurse Licensure Examination(s) for use in its nurse licensing, NCSBN shall comply with all applicable federal and state non-discrimination laws and shall provide accessibility to, and Member Board authorized reasonable accommodations in, the administration of the examination(s) in compliance with the Americans with Disabilities Act and applicable law of the Member Board jurisdiction.

(d) Member Board shall use the Nurse Licensure Examination(s) as the sole and exclusive licensure examination(s) for registered and/or practical/vocational nurses in Board's jurisdiction in accordance with the terms and conditions set forth in the NCSBN Bylaws and applicable NCSBN policies and procedures. In the event Board is required by law to offer any other licensing examination in addition to said Nurse Licensure Examination(s), NCSBN shall exempt Member Board from this provision, subject to terms and conditions set by NCSBN.

(e) In using the Nurse Licensure Examination(s) for purpose of licensing in its jurisdiction, Member Board shall comply with all applicable terms and conditions for the use of the Nurse Licensure Examination(s) set out in the Bylaws, these Terms and Conditions and the NCSBN Policy and Procedures Manual.

(f) In using the Nurse Licensure Examination(s) for nurse licensure in its jurisdiction, Member Board shall be responsible for determining candidate eligibility to take the examination and the authorization for any accommodation in the administration of the examination and for complying with all applicable security and confidentiality requirements set out in the NCSBN policies and procedures.

3. NCSBN Use of Candidate Data. Member Board hereby authorizes NCSBN to use any and all candidate data collected for the purposes of (1) administering the nurse licensure

examinations, including, but not limited to, identifying candidates approved for the examination, determining their status as first-time, repeat and/or multiple application candidates, preparing the examination results related to the validity and psychometric integrity of the nurse licensure examinations and (2) developing and maintaining a comprehensive national data bank of information on nurse licensees for use by Member Boards of the NCSBN in evaluating applicants for endorsement, in monitoring disciplinary actions and in any other licensing-related actions authorized by applicable state and federal law. Candidate data collected hereunder shall not be disseminated to parties other than the Member Boards or used for other purposes without prior approval by the Member Board. Nothing in this paragraph shall limit or supercede any authorization or requirement for the disclosure and use of candidate data pursuant to, where applicable, a NURSISYS® Participation Agreement, Data Access Authorization and Restriction Requirements Form, a NPDB Data Reporting Agent Agreement duly executed by Board and/or the Nurse Licensure Compact and rules and regulations.

4. Indemnification.

(a) NCSBN hereby agrees to indemnify and hold harmless Board from all claims, losses, deficiencies, liabilities, costs, damages, liens, fines, penalties, expenses, fees and interest which Board may sustain or incur, or with which Board may be threatened, which are (i) solely caused by, or solely arising out of the breach, default, or nonfulfillment of any covenant, warranty, or agreement made by, referred to in, or to be performed by NCSBN or any of its agents or subcontractors under these Terms and Conditions or (ii) solely caused by or arising out of the acts of, or failure to act by, NCSBN, its subcontractors or directors, officers, employees, agents of any of them and resulting in injury or death of persons or damage to

property; provided that NCSBN retains the right to defend any such action on behalf of Board. Board shall provide NCSBN immediate notice of any claims, suits or actions instituted against Board by reason of its use of the Nurse Licensure Examinations. NCSBN, in its sole discretion, may permit Board to conduct such defense; however, in the event that Board undertakes such defense on its own behalf without prior written approval by NCSBN, the indemnity described within this provision shall not attach.

Texas Board of Nursing

By: _____
Executive Director

Dated: _____