

SUPPLEMENTAL MATERIALS

Committee on Academic and Workforce Success

AGENDA ITEM V-J (17)

Consideration and possible action to adopt new Board Rules, Chapter 10, Subchapter E, Sections 10.110-10.117, concerning administration of the Professional Nursing Shortage Reduction Grant Program

RECOMMENDATION: Adoption

Background Information:

The Texas Higher Education Coordinating Board (Coordinating Board) proposes adoption of new rules in Title 19, Part 1, Chapter 10, Subchapter E, §10.111, Professional Nursing Shortage Reduction Program. Specifically, the proposed rules will replace the existing Professional Nursing Shortage Reduction Program rules currently in Chapter 22, Subchapter S, which will be repealed in future rulemaking. The adopted rules clarify grant award requirements based on statute. The Coordinating Board used negotiated rulemaking to develop these proposed rules.

Rule 10.110, Purpose, establishes the purpose for the subchapter is to administer the Professional Nursing Shortage Reduction Program.

Rule 10.111, Authority, establishes authority for this subchapter is found in Texas Education Code, §§61.9621 - 61.9628, which grants the Coordinating Board with authority to adopt rules to administer the Professional Nursing Shortage Reduction Program.

Rule 10.112, Definitions, defines terms related to administration of the grant program.

Rule 10.113, Eligibility, establishes eligibility criteria for grant funding. Language clarifies eligibility of existing and new professional nursing programs.

Rule 10.114, Application Process, contains requirements for application submission and funding increases.

Rule 10.115, Evaluation of Applications, establishes selection criteria for awards.

Rule 10.116, Grant Awards, establishes how grant funding is appropriated and distributed. This section clarifies allowable and reasonable costs associated with the award.

Rule 10.117, Reporting, establishes reporting requirements for grantees.

Subsequent to the posting of the rules in the *Texas Register*, the following changes are incorporated into the adopted rule.

Section 10.110, Purpose, is amended to remove unclear language in the section in response to comment from the Texas Hospital Association.

The following comments were received regarding the adoption of the new rules.

Comment regarding rule 10.110, Purpose, received from the Texas Hospital Association: “THA seeks clarity on how THECB intends to define the word “type” as used in proposed rule 10 TAC §10.110. All nurses are registered nurses upon initial licensure. While some nurses may provide care in a specialized area of medicine (pediatrics, women’s health, intensive care, etc.) for a majority of their careers, we are unaware of nursing education programs or degrees that allow registered nurses to specialize. As such, we simply would like to understand THECB’s interpretation of the word “type” in hopes that this is not simply a rule which restates the statute.”

Response: The Coordinating Board agrees with the comment and amends rule text by striking “both in number and type” from rule 10.110.

Comment regarding rule 10.114, Application Process, received from Texas Hospital Association: “THA recommends that the THECB revise proposed §10.114(c)(1) to include elements related to classroom space and clinical slots needed to properly accommodate the education of the additional enrollments or graduates using NSRP funds. [...]

Section 61.9623(a)(4), Education Code requires that grant funds awarded to increase enrollments must be contingent on the professional nursing program’s ability to have the necessary classroom space and clinical slots available to properly educate these additional nursing students. According to the Teaching Hospitals of Texas, citing a 2021 report by the Texas Center for Nursing Workforce Studies, ‘associate degree nursing students receive an average of 843 clinical hours of training while bachelor’s level nursing students receive, on average 908 hours of clinical training. Acute care sites, including hospitals, are the primary sites for nursing students’ clinical training....’ Since most clinical training takes place in hospitals, it is important that professional nursing programs ensure that the necessary clinical spots are secured and available to accommodate training these additional students at Texas hospitals and other health care facilities. ‘Lack of clinical training capacity and clinical preceptors are identified by numerous sources as the primary obstacles to growing Texas’ nurse workforce.’ We urge the THECB to revise and improve the rule per our recommendation.”

THA recommended adding language to include secured classroom space and clinical slot capacity in the grant application.

Response: The grant is contingent upon the professional nursing program's ability to have the necessary classroom space and clinical slots. The statute does not authorize the Coordinating Board to make a determination as to classroom space and clinical slots prior to the award of the grant. However, the Coordinating Board could request such information from the grantee in required reporting.

Comment regarding rule 10.116, Grant Awards, received from Texas Hospital Association: "THA recommends that the THECB revise proposed §10.116(g)(2) to include the specific statutory allowance to use NSRP funds on innovative mechanisms to recruit and retain Spanish-speaking and bilingual students. [...]"

"The use of grant fund requirements listed in proposed §10.116(g) are restricted to those set forth in Section 61.9623, Education Code. Section 61.9623(a)(1)(c) requires that grant funds are expended exclusively on costs related to ... 'encouraging innovation in the recruitment and retention of students, including the recruitment and retention of Spanish-speaking and bilingual students[.]' The statute does not limit the use of funds solely on 'evidenced-based' practices, but 'evidenced-based practices' could be included under an 'innovation' umbrella. We note that the legislature was focused on innovation, because – as all stakeholders are aware – current practices of recruiting and retaining nursing students are not working. We also think it important to include criteria that specifically allow for the recruitment of students who speak one or more foreign languages. As the Texas population grows increasingly diverse, foreign language skills are greatly needed in our hospitals amongst our health care workforce. We encourage the THECB to incorporate these important skills in its proposed rule for use of fund allowances."

THA recommended the inclusion of the term "innovative" and specific language about the recruitment of Spanish speaking and bilingual students.

Response: The Coordinating Board thanks the organization for the comment but does not agree that this language is necessary to add to the rule.

Comment regarding implementation of General Appropriations Act budgetary rider, submitted by the Texas Hospital Association: "THA requests clarity and information from the THECB on how the proposed rules will implement the appropriations requirements set forth in Article III, Rider 26 for the NSRP. For example, it is unclear from the proposed rules how the THECB will a) ensure allocation of 'up to 50 percent in each fiscal year of the biennium and any unexpended amounts to community colleges,' b) ensure grant funds will be distributed in an equitable manner based on the total number of doctoral level and master's in nursing education students graduating from a program each year, c) ensure institutions that do spend funds on nonqualifying expenditures, or do not spend funds within the designated timeframes, will return those funds to the THECB, and d) ensure that nonresident students enrolled in online professional nursing programs while residing outside of Texas will be used to calculate program awards. THA notes the THECB acknowledged that the purpose of proposing these new rules (and repealing current rules at a later date) is to 'provide alignment with budgetary provisions included in rider.' THA looks forward to the THECB's explanations on how and which portions of the proposed rules will address the rider's requirements."

Response: The Coordinating Board's rulemaking authority is derived from the statute. The budgetary rider does not impart rulemaking authority. The Coordinating Board acknowledges that the reference to the rider was an error in the introductory language of the proposed rules.

The new sections are adopted under Texas Education Code, Sections 61.9621 - 61.9628, which provides the Coordinating Board with the authority to administer the Professional Nursing Shortage Reduction Program, supervise institutional reporting requirements, and adopt program rules.

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, will present this item and be available to answer questions.

CHAPTER 10. GRANT PROGRAMS

SUBCHAPTER E. NURSING SHORTAGE REDUCTION PROGRAM

§10.110. Purpose.

The purpose of this subchapter is to administer the Professional Nursing Shortage Reduction Program to provide and oversee grants to eligible entities to meet the needs of the state of Texas for initially registered nurses.

§10.111. Authority.

The authority for this subchapter is found in Texas Education Code, chapter 61, §§61.9621 - 61.9628, which provides the Board with the authority to adopt rules to administer the Professional Nursing Shortage Reduction Program.

§10.112. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Board--The governing body of the agency known as the Texas Higher Education Coordinating Board.
- (2) CBM Reporting Manual--The Coordinating Board's manual that defines deadlines and procedures for submitting data into the CBM the CBM Reporting System.
- (3) CBM Reporting System--The Coordinating Board's Management Reporting System for collecting institutional data.
- (4) Commissioner--The Texas Commissioner of Higher Education.
- (5) Coordinating Board--The agency and staff that report to the Board and Commissioner of the agency known as the Texas Higher Education Coordinating Board.
- (6) New Professional Nursing Program--A professional nursing program that only has two (2) years of graduation data.
- (7) Private or Independent Institution of Higher Education--Includes only a private or independent college or university as defined in Texas Education Code, §61.003(15).
- (8) Professional Nursing Program--An educational program that prepares a student for initial licensure as a registered nurse.
- (9) Public Institution of Higher Education--Any public technical institute, public junior college, public senior college or university, medical or dental unit, or other agency of higher education as defined in Texas Education Code, §61.003(8).
- (10) Request for Applications (RFA)--A type of solicitation notice in which the Coordinating Board announces available grant funding, sets forth the guidelines governing the program, provides evaluation criteria for submitted applications, and provides instructions for eligible entities to submit applications for such funding. The guidelines governing the program may include a Letter of Intent, eligibility requirements, performance expectations, budget guidelines, reporting requirements, and other standards of accountability for this program.

§10.113. Eligibility.

(a) To be eligible to apply for and receive funding under the Program an applicant must:

- (1) Be a Texas public or private institution of higher education as defined by Texas Education Code, §61.003, or an entity that was eligible to receive a grant under the Program prior to September 1, 2009;
- (2) Have a professional nursing program or new professional nursing program that is approved by and in good standing with the Texas Board of Nursing;
- (3) Submit required nursing program data in the CBM Reporting System as outlined in the CBM Reporting Manual, including:
 - (A) Enrollments; and
 - (B) Graduates; and
- (4) Any other eligibility criteria set forth in the RFA.
- (b) The RFA may allow for a consortium of institutions to collaborate on a joint or regional basis to increase professional nursing program enrollment or graduates. Any eligibility criteria for a consortium application shall be set forth in the RFA.

§10.114. Application Process.

- (a) Unless otherwise specified in the RFA, an eligible applicant may submit a maximum of one application.
- (b) To qualify for funding consideration, an eligible applicant shall submit an application to the Coordinating Board. Each application shall:
 - (1) Be submitted electronically in a format specified in the RFA;
 - (2) Adhere to the grant program requirements contained in the RFA; and
 - (3) Be submitted with proper authorization on or before the day and time specified in the RFA.
- (c) Each application shall at a minimum:
 - (1) State the number of additional enrollments or graduates over the prior academic year the professional nursing program intends to enroll or graduate if the institution receives a grant;
 - (2) List at least three benchmark targets and dates to monitor adequate progress toward reaching the goal set for in paragraph (1) of this subsection;
 - (3) Provide a budget, including a proposed payment schedule, for the grant funds reasonable and necessary to meet the planned increase in professional nursing program enrollment or graduation;
 - (4) Include a commitment letter signed by the applicant's President, Chief Executive Officer or designee that the applicant will meet or exceed the planned increase in enrollment or graduation for the professional nursing program for the grant term as specified in the RFA; and
 - (5) Meet any other requirement specified in the RFA.

§10.115. Evaluation of Applications.

The Commissioner shall approve applicants for funding based on requirements and award criteria provided in the RFA and in compliance with these rules.

§10.116. Grant Awards.

- (a) The amount of funding available to the program is dependent on the legislative appropriation for the program for each biennial state budget.
- (b) The Coordinating Board shall approve awards as authorized in §1.16 of this title (relating to Contracts, Including Grants, for Materials and/or Services).
- (c) Subject to subsection (b) of this section, the Commissioner may negotiate or adjust a grant award to best fulfill the purpose of the RFA and ensure an equitable distribution of grant funds

among the types of professional nursing programs in order to increase the number of enrolling and graduating students.

(d) The Coordinating Board may advance a grant award to a grantee.

(e) A grant shall demonstrate through reporting that the grantee is in compliance with the terms of the grant award and is, at a minimum, meeting application benchmark requirements before the Coordinating Board may issue the next periodic grant award installment.

(f) The Coordinating Board shall set forth the determination of the allowability of administrative costs in the RFA.

(g) A grantee may use a grant award only on necessary and reasonable costs exclusively related to:

(1) enrolling additional nursing students;

(2) evidenced-based practices in the recruitment and retention of students;

(3) identifying, developing, or implementing innovative or evidenced-based practices to make effective and efficient use of professional nursing program faculty, instructional or clinical space, or other necessary resources including:

(A) regional shared services, courses, personnel, facilities, and responsibilities among two or more professional nursing programs; or

(B) employing or contracting with preceptors or part-time faculty to provide clinical instruction to accommodate increased student enrollment; and

(4) education, recruitment, or retention of professional nursing program faculty.

§10.117. Reporting.

Each grantee shall file an annual report, pursuant to Texas Education Code, §61.9626, in the format required by the Coordinating Board by the deadline set forth in the RFA. Grantees shall provide information that includes the following:

(1) Status of the grant project activities;

(2) Budget expenditures by budget category;

(3) Student enrollment, retention, and demographic data as applicable;

(4) Graduation status, as applicable;

(5) Faculty hiring and retention data as applicable;

(6) Matching contributions, if applicable; and

(7) Any other information required by the RFA.