



The Attorney General of Texas

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Ms. Joyce A. Hammer
Executive Director
Board of Vocational Nurse Examiners
1300 East Anderson Lane
Building C, Suite 285
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Opinion No. JM-375

Re: Whether an individual who is both a registered nurse and a licensed vocational nurse is eligible for appointment to the Board of Vocational Nurse Examiners

Dear Ms. Hammer:

Section 5(a) of article 4528c, V.T.C.S., the Licensed Vocational Nurses Act, provides the following:

Sec. 5. (a) There is hereby created a board to be known as the Board of Vocational Nurse Examiners, consisting of twelve (12) members to be appointed by the Governor and confirmed by the State Senate. Appointments to the Board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

Seven (7) members of the Board must be Licensed Vocational Nurses who are graduates of approved schools of vocational nursing, who have been actively engaged in the practice of vocational nursing for five (5) years immediately preceding their appointments, and who are not licensed physicians, registered professional nurses, or hospital administrators.

One (1) member of the Board must be a Registered Nurse licensed by the Board of Nurse Examiners who is actively engaged in a teaching, administrative, or supervisory capacity in a vocational nursing educational program and who is not a licensed physician, hospital administrator, or licensed vocational nurse.

One (1) member of the Board must be a physician licensed by the Texas State Board of Medical Examiners who has been actively engaged in the practice of medicine for five (5) years immediately preceding appointment and who is not a

hospital administrator, registered professional nurse, or licensed vocational nurse.

One (1) member of the Board must be a hospital administrator who has been actively engaged in hospital administration for a period of five (5) years and who is not a licensed physician, registered professional nurse, or licensed vocational nurse.

Two (2) members of the Board must be representatives of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse is licensed by an occupational regulatory agency in the field of health care or is employed by, participates in the management of, or has, other than as a consumer, a financial interest in a business entity or other organization that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment. (Emphasis added).

You inform us that a recently confirmed appointment to the Board of Vocational Nurse Examiners is both a licensed vocational nurse and a registered nurse. You ask whether she is eligible to serve on the board. We conclude that, by the clear terms of the statute, she is not.

We are required to construe a statute in such a way as to express "only the will of the makers of the law, not forced or strained, but simply such as the words of the law in their plain sense fairly sanction and will clearly sustain." Railroad Commission of Texas v. Miller, 434 S.W.2d 670, 672 (Tex. 1968). Subsection 5(a) of article 4528c, V.T.C.S., clearly prohibits the appointment to the Board of Vocational Nurse Examiners of any member who is both a licensed vocational nurse and a registered nurse. Accordingly, we conclude that such an appointee is not eligible to serve.

S U M M A R Y

Section 5(a) of article 4528c, V.T.C.S., the Licensed Vocational Nurses Act, prohibits the appointment to the Board of Vocational Nurse Examiners of any member who is both a licensed vocational nurse and a registered nurse.

Very truly yours



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