

Nursing Jurisprudence and Ethics For School Nurses

Texas School Nurse Organization
Annual Conference
11/11/17



Thank You to TSNO

This CE offering was a collaboration between TSNO and the Texas Department of State Health Services. DSHS wishes to thank the following individuals:

- Melinda Hester, DNP, RN
- Laurie Combe, MN, RN, NCSN
- Jane Tustin, MSN, RN, NCSN, FNASN



Continuing Nursing Education

Meets the BON requirement of 2 contact hours of Nursing Jurisprudence and Ethics:

- Texas Nursing Practice Act (NPA)
- BON Rules & Regulations
- Rule 217.11 Standards of Nursing Practice
- BON Position Statements
- Principles of Nursing Ethics
- Professional Boundaries

*NPA Section 301.305
Rule 216.3 (g)*



Disclosure Statements

- **Successful completion of this continuing education activity requires:**
Completion of registration and the sign in sheet
Attendance at the entire educational activity
Participation in the educational activities
Completion of the participant evaluation
- **This educational activity received no commercial support.**
- **Disclosure of Conflict of Interest**
The speakers and planning committee for this event have disclosed no financial interests.
- **Non-Endorsement Statement**
Accredited status does not imply endorsement by the DSHS, Continuing Education Service, Texas Medical Association or American Nurse Credentialing Center of any commercial products or services.
- **Off Label Use**
The speakers did not disclose the use of products for a purpose other than what it had been approved for by the Food and Drug Administration.
- **Expiration for awarding contact hours**
Attendees must complete the attendance sheet and evaluation by the end of the session in order to receive credit.



Objectives

- Discuss nursing licensure requirements in the State of Texas
- Identify the significance of the Standards of Nursing Practice and Unprofessional Conduct Rules
- Discuss the Investigatory and Disciplinary Process
- Apply the Standards of Nursing Practice to School Nurse Scenarios



The Board's Mission

The mission of the Texas Board of Nursing is to protect and promote the welfare of the people of Texas by ensuring that each person holding a license as a nurse in the State of Texas is competent to practice safely.



Texas Nursing Practice Act

Texas Nursing Practice Act

- Chapter 301 Texas Occupations Code
- Texas Legislature creates laws in the NPA
- NPA is foundation of nursing practice
- Definition of nursing

NPA Sections 301.002 (2) and 301.002(5)



BON Rules and Regulations

Texas Administrative Code (TAC)

- Rules and Regulations developed and adopted by the BON
- Rules interpret and operationalize the laws in NPA
- Laws and rules are equally enforceable and apply to school districts and school nurses
- www.bon.texas.gov



BON Position Statements

- 15.5 Nurses with Responsibility for Initiating Physician Standing Orders
- 15.13 Role of LVNs and RNs in School Health
- 15.14 Duty of a Nurse in any Practice Setting
- 15.24 Nurses Engaging in Reinsertion of Permanently Placed Feeding Tubes
- 15.25 Administration of Medication & Treatments by LVNs
- 15.27 The Licensed Vocational Nurse Scope of Practice
- 15.28 The Registered Nurse Scope of Practice
- 15.29 Use of Social Media by Nurses



BON Guidelines

- Rules and Guidelines Governing the Graduate Vocational and Registered Nurse Candidates or Newly Licensed Vocational or Registered Nurse
- Guidelines for Transitioning of the Experienced Nurse back into Clinical Practice or into a New Practice Setting
- Guidelines for Determining APRN Scope of Practice



Frequently Asked Questions

- Role of the School Nurse With Unlicensed Diabetes Care Assistants (UDCAs) (HB984)
- Co-signature on Documentation
- Co-signature on LVN Actions/Documentation
- LVNs "Supervision of Practice"
- LVNs and Nursing Care Plans



Licensure Requirements and Renewal

- License required to practice nursing
 - Renewal required every 2 years
 - NPA Section 301.251
 - Protected title
- Name badge and signature on documentation
 - Rule 217.10
- Name or Address Change
 - Rule 217.7



RN Scope of Practice

- Scope of practice defined in NPA and Rules
 - Professional Role
 - Performs comprehensive nursing assessments
 - Develops nursing care plans
 - Implements care plans
 - Evaluates nursing care
 - Delegates tasks to unlicensed personnel

NPA Section 301.002 (2) and Rule 217.11 (3)



LVN Scope of Practice

- Scope of practice defined in NPA and Rules
 - Directed scope of practice
 - Supervision required
 - RN, APRN, Physician, Physician Assistant, Dentist or Podiatrist
 - Assistive role
 - Participates in nursing process

*NPA Sections 301.002(5) and 301.353
BON Rule 217.11 (2)*





Rule 217.11

STANDARDS OF NURSING PRACTICE



Know the Laws

Know and conform to the NPA, Board Rules and Regulations as well as all the federal, state, or local laws, rules or regulations affecting the nurse's current area of practice.

Rule 217.11 (1) (A)



Safety – Assess and Reassess

Implement measures to promote a safe environment for clients and others.



Rule 217.11 (1) (B)



Safe Medication Practices

Know the rationale for and the effects of medications and treatments and shall correctly administer the same.



Rule 217.11 (1) (C)



Documentation

Accurately and completely report and document:

- The client’s status including signs and symptoms
- Nursing care rendered
- Physician, dentist or podiatrist orders
- Administration of medications and treatments
- Client responses and
- Contacts with other healthcare team members regarding the client

Rule 217.11 (1) (D)



Guard Protected Health Information

Respect the client’s right to privacy by protecting confidential information unless required or allowed by law to disclose the information.

BON Rule 217.11 (1) (E)



Teach

Promote and participate in education and counseling to a client(s) and, where applicable, the family or significant others based on health needs.

Rule 217.11 (1) (F)



Notify a Supervisor

Notify the appropriate supervisor when leaving a nursing assignment.

Rule 217.11 (1) (I)



Professional Boundaries

Know, recognize, and maintain professional boundaries of the nurse-client relationship.

• *Rule 217.11 (1) (J)*



Mandatory Reporting

Comply with mandatory reporting requirements:

- Violations of the NPA or Rules and Regulations that contributed to the death or serious injury of a patient
- Conduct that suggests a nurse's practice is impaired by chemical dependency or drug or alcohol abuse
- Actions of abuse, exploitation, fraud, or a violation of professional boundaries
- Lack of knowledge, skill, judgment, or conscientiousness and poses a risk to patients

NPA Section 301.401 and Rule 217.11 (1) (K)



Nursing Services to All

Provide, without discrimination, nursing services regardless of the age, disability, economic status, gender, national origin, race, religion, health problems, or sexual orientation of the client served.

BON Rule 217.11 (1) (L)



Stabilize and Prevent Complications

Institute appropriate nursing interventions that might be required to stabilize a client's condition and/or prevent complications.

Rule 217.11 (1) (M)



Clarify Orders

Clarify any order or treatment regimen that the nurse has reason to believe is inaccurate, non-efficacious or contraindicated by consulting with the appropriate licensed practitioner and notifying the ordering practitioner when the nurse makes the decision not to administer the medication or treatment.

Rule 217.11 (1) (N)



Infectious Pathogens

Implement measures to prevent exposure to infectious pathogens and communicable conditions.

Rule 217.11 (1) (O)



TEXAS
Department of State Health Services

Communicate

Collaborate with the client, members of the healthcare team and when appropriate, the client's significant others in the interest of the clients health care.

Rule 217.11 (1) (P)

TEXAS
Department of State Health Services

Make Referrals

Consult with, utilize, and make referrals to appropriate community agencies and health care resources to provide continuity of care.

BON Rule 217.11 (1) (Q)

TEXAS
Department of State Health Services

Continuing Competency

Obtain instruction and supervision as necessary when implementing nursing procedures or practices. *Rule 217.11 (1) (G)*

Make reasonable efforts to obtain orientation and training for competency when encountering new equipment and technology or unfamiliar care situations. *Rule 217.11 (1) (H)*

Be responsible for one's own continuing competence in nursing practice and individual professional growth. *Rule 217.11 (1) (R)*



Safely Make Assignments

Make assignments to others that take into consideration client safety and that are commensurate with the educational preparation, experience, knowledge, and physical and emotional ability of the person to whom the assignments are made.

Rule 217.11 (1) (S)



Safely Accept Assignments

Accept only those nursing assignments that take into consideration client safety and that are commensurate with the nurse's education preparation, experience, knowledge, and physical and emotional ability.

Rule 217.11 (1) (T)



Supervision

Supervise nursing care provided by others for whom the nurse is professionally responsible.

Rule 217.11 (1) (U)



Verification of Licensure

Ensure the verification of current Texas licensure or other Compact State licensure privilege and credentials of personnel for whom the nurse is administratively responsible, when acting in the role of nurse administrator.

Rule 217.11 (1) (V)





NURSING PEER REVIEW



A Few Statistics

- Here are some examples of Peer Review Committee work for School Nurses in the past 5 years. Total of 3 ESCs reporting
 - Medication Administration (9 total) (7 reported to BON)
 - Documentation (8 total) (5 reported to BON)
 - Failure to Appropriately Assess (2 total) (2 reported to BON)
 - Failure to Appropriately Intervene to prevent complications (6 total) (6 reported to BON)
 - Unprofessional Conduct or Professional Boundary violation (3 total) (2 reported to BON)
 - Failure to Appropriately Monitor a Condition (4 total) (4 reported to the BON)
 - Failure to Appropriately Follow a Provider’s Order (5) (5 reported to the BON)
 - Failure to Communicate with School Staff, Parents or Providers (2 total) (2 reported to the BON)



NPR Laws and Rules

- Nursing Peer Review (NPR) Laws
 - Texas Occupations Code Chapter 303
- Nursing Peer Review Rules
 - Texas Administrative Code
 - BON Rule 217.16 Reporting of Minor Incidents
 - BON Rule 217.19 Incident-Based Nursing Peer Review and Whistleblower Protections
 - BON Rule 217.20 Safe Harbor Peer Review for Nurses and Whistleblower Protections



Committee Membership

- School districts are required to have NPR committees
- For LVN review, if school districts hire, contract or employ more than 10 LVNs
- For RN review, at least 5 of those 10 nurses must be RNs
- Permissible to contract with outside entity to provide NPR



Incident-Based Peer Review

- Purpose of NPR is to decide if a nurse’s conduct or actions must be reported to the BON; or
- Was the conduct or actions a minor incident that can be corrected in the school setting
- External factors – systems issues and extenuating circumstances



NPR Required Reporting to the BON

- Violations of the NPA or Rules and Regulations that contributed to the death or serious injury of a patient
 - Conduct that suggests a nurse’s practice is impaired by chemical dependency or drug or alcohol abuse
 - Actions of abuse, exploitation, fraud, or a violation of professional boundaries
 - Lack of knowledge, skill, judgment, or conscientiousness and poses a risk to patients
- NPA Section 301.401 and Rule 217.11 (1) (K)*



Minor Incidents

- Nurse administrators must collect, track and document minor incidents
- 5 minor incidents in a revolving calendar year must be reported to the NPR committee
- Require or provide education to correct knowledge gaps or deficiencies in the school setting

BON Rule 217.11 (1) (B), (S) and (U)
BON Rule 217.16



Safe Harbor Peer Review

- Purpose is to use the NPR process to problem-solve when disagreements between Nurse Administrators and Nurses occur about what is safe and unsafe
- Safe Harbor is invoked prior to accepting an assignment or when an assignment changes
 - Not retroactively
- Individually or collectively

BON Rule 217.20 (d)



Two Protections

- Unlawful for a school district to suspend, terminate, discipline or retaliate against a School Nurse for speaking up when s/he believes a situation is unsafe
- School Nurse should not be reported to or disciplined by the BON if they engage in the conduct or assignment while waiting for the NPR Committee to review their Safe Harbor request

BON Rule 217.20 (e)



Safe Harbor Forms

- Invoking Safe Harbor must be done in writing
- Quick Request for Safe Harbor Form
 - Verbally discuss with your Nurse Administrator
 - Turn in the form to your Nurse Administrator when you invoke Safe Harbor
- Comprehensive Request for Safe Harbor Form
 - Turn in the form to your Nurse Administrator before you leave for the day
 - Guide to the process

BON Rule 2172.20 (d)






NURSING ETHICS



Good Professional Character

We must demonstrate good professional character in all our personal, academic and occupational behaviors:

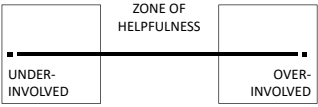
- Honesty
- Accountability
- Trustworthiness
- Reliability
- Integrity




BON Rule 213.27



Professional Boundaries



National Council of State Boards of Nursing



Unprofessional Conduct

Rules on what we should **not** do:

- Unsafe Practice
- Careless Practice
- Misconduct
- Unlawful Practice
- Criminal Conduct

BON Rule 217.12





DISCIPLINARY SANCTION POLICIES



Disciplinary Sanctions for Fraud, Theft and Deception Policy

- Grounds for disciplinary actions
- Intentional acts
- Towards patients
- Towards employers

http://www.bon.texas.gov/pdfs/disciplinary_sanction_policies_pdfs/Fraud-Theft-Deception.pdf



Disciplinary Sanctions for Lying and Falsification Policy

- Falsification of documentation
- Incomplete or inaccurate documentation
- Failure to provide care

http://www.bon.texas.gov/pdfs/disciplinary_sanction_policies_pdfs/Lying-and-Falsification.pdf



Disciplinary Sanctions for Sexual Misconduct Policy

- Crime of moral turpitude
- Extremely serious
- Grounds for denial of licensure application
- Grounds for revocation of license
- High recidivism rate

http://www.bon.texas.gov/pdfs/publication_pdfs/Disciplinary%20Sanctions%20for%20Sexual%20Misconduct.pdf



Substance Abuse, Misuse, Substance Dependency or other Substance Use Disorder

- Cognitive and motor functioning impairment
- Unable to accurately assess patients
- Unable to make appropriate judgments
- Unable to intervene in a timely manner

http://www.bon.texas.gov/pdfs/disciplinary_sanction_policies_pdfs/Substance-Use-Disorders.pdf

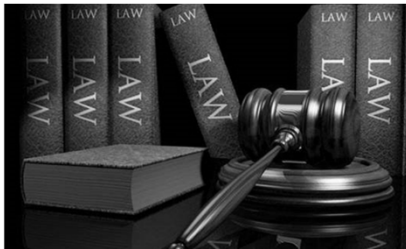


Disclosure of Criminal Offenses

- Abandonment/Endangerment of a Child
- Aggravated Assault
- Capital Murder
- Child Pornography
- Kidnapping
- Manslaughter
- Arson
- Burglary
- Medicaid Fraud
- Murder
- Prostitution
- Sexual Assault
- Terroristic Threat
- Money Laundering

BON Rule 213.28 Licensure of Persons with Criminal Offenses





INVESTIGATORY AND DISCIPLINARY PROCESS



How to File a Complaint

- Must be in writing and signed
- Complaints are kept confidential
- Forms available on the BON website at <http://www.bon.texas.gov/pdfs/cmplt.pdf>

BON Rule 213.13 Complaint Investigation and Disposition



Investigatory Process

- Complaint reviewed
- Nurse notified
 - Representation
 - Up-to-date address
- Complainant kept apprised
- Evidence collected
- Informal settlement
 - Agreed order with required stipulations



BON Rule 213.13 Complaint Investigation and Disposition
BON Rule 213.20 Informal Proceedings and Alternate Dispute Resolution (ADR)
BON Rule 213.21 Agreed Disposition



Disciplinary Action Requirements

Stipulations:

- Practice in Texas only
- Limited practice settings
- Education courses
- Employer notifications
- Quarterly reports
- Supervised practice

BON Rule 213.33 Factors Considered for Imposition of Penalties/Sanctions



Formal Resolution Process

- Difficulty reaching an agreed settlement
 - Contested case
- Formal administrative hearing
 - State Office of Administrative Hearing
 - Administrative Law Judge
 - Proposal for Decision
- Final decision rests with the BON

BON Rule 213.22 Formal Proceedings



Levels of Disciplinary Sanctions

- Corrective Action
- Deferred Discipline
- Remedial Education
- Warning
- Reprimand
- Suspension
- Revocation





SIX-STEP DECISION MAKING MODEL FOR DETERMINING SCOPE OF PRACTICE



Question 1

Is the activity consistent with the Nursing Practice Act (NPA), Board Rules, and Board Position Statements and or Guidelines?

Yes → Continue No → STOP



Step 2

Is the activity appropriately authorized by a valid order or protocol and in accordance with established policies and procedures of your school district?

Yes → Continue No → STOP



Step 3

Is the act supported by either research reported in nursing and health-related literature or in scope of practice statements by national nursing organizations?

Yes → Continue No → STOP



Step 4

Do you possess the required knowledge and have you demonstrated the competency required to carry out this activity safely?

Yes → Continue No → STOP



Step 5

Would a reasonable and prudent nurse perform this activity in this setting?

Yes → Continue No → STOP



Step 6

Are you prepared to assume accountability for the provision of safe care and the outcome of the care rendered?

Yes → Perform the Activity No → STOP





THANK-YOU



<http://www.bon.texas.gov/index.asp>

THANK-YOU BON



Q & A