

Nursing Jurisprudence and Ethics for Texas Nurses

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Acknowledgements

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The author of this course does not have any conflict of interest to declare.

The planners of the educational activity have no conflicts of interest to disclose.

There is no commercial support being used for this course.

Purpose

The purpose of Nursing Jurisprudence and Ethics for Texas Nurses is to inform nurses about:

- The Texas Nurse Practice Act and Board of Nursing (BON) Rules, including Board Rule 217.11, Standards of Nursing Practice
- Texas BON Position Statements
- Principles of nursing ethics
- Professional boundaries

An additional purpose is to satisfy the Texas BON requirement for two contact hours of continuing nursing education on this topic every third license renewal cycle.

Learning Objectives

After successful completion of this course, you will be able to:

- A. Locate and explain selected provisions of the Texas Nurse Practice Act and Board of Nursing (BON) Rules, including:
 - a. Licensure and license renewal requirements
 - b. Disciplinary process, including reasons for discipline
 - c. Delegation
 - d. Board Rule 217.11: Standards of Nursing Practice
 - e. Nursing Peer Review
 - f. Nurse Licensure Compact
- B. Locate Texas BON Position Statements and identify topics which the Statements address.
- C. State the Texas BON position on:
 - a. LVNs Engaging in IV Therapy, Venipuncture or PICC Lines
 - b. Board Rules Associated with Alleged Patient “Abandonment”
 - c. Use of Social Media by Nurses
4. Give examples of applying principles of nursing ethics.
5. Identify effective behaviors to maintain professional boundaries.

Nursing Jurisprudence and Ethics: What Do These Words Mean?

Jurisprudence refers to the science or philosophy of law and to a system or body of law (Merriam-Webster, n.d.). In the context of nursing and the Texas Board of Nursing (BON), **nursing jurisprudence** refers both to the philosophy that guides the Law and Rules governing nursing in Texas and the actual law and rules themselves. The guiding philosophy, as expressed in the mission of the Texas BON is protection and promotion of the welfare of the people of Texas by ensuring that each person holding a license as a nurse in the state is competent to practice safely.

Nursing ethics are the central moral values, duties, and commitments of nurses in their practice. These values, duties, and commitments are expressed in the *Code of Ethics for Nurses*. (Fowler, 2010).

Texas Law and Rules

As you will learn in this course, Texas Law and Rules pertaining to nursing are contained in:

- The Texas Occupations Code (TOC), Chapters 301, 303, and 304.
 - This course cites references to these statutes as TOC followed by the chapter and section, for example: TOC §301.455
- The Board of Nursing (BON) Rules and Regulations which give specific regulations and requirements to implement the law contained in the TOC.
 - This course cites references to the rules and regulations as BON Rules and Regulations followed by the chapter and section, for example: BON Rules and Regulations §211.3

The Texas Nurse Practice Act (NPA)

- Chapter 301 of the Texas Occupations Code (TOC) contains the Nursing Practice Act (NPA) which creates the Board of Nursing (BON) and defines its responsibility for regulating nursing education, licensure, and practice.
- Chapter 303 relates to Nursing Peer Review.
- Chapter 304 relates to the Nurse Licensure Compact.

Mission of the Texas NPA

“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 this state is competent to practice safely.

The Board fulfills its mission through the regulation of the practice of nursing and the approval of nursing educational programs.

This mission, derived from the Nursing Practice Act, supersedes the interest of any individual, the nursing profession, or any special interest group.”

BON Rules and Regulations, p. i.

Texas Board of Nursing (BON) Rules

The NPA grants the Texas BON the statutory authority to implement and interpret the NPA and establish rules and regulations to regulate nursing education and the practice on nursing in Texas.

Texas BON Rules

Many specific rules are included in each of these sections:

- General Provisions
- Practice and Procedure
- Vocational Nursing Education
- Professional Nurse Education
- Continuing Competency
- Licensure, Peer Assistance and Practice
- Advanced Practice Nurse Education
- Nurse Licensure Compact
- Advanced Practice Nurses
- Advanced Practice Registered Nurses with Prescriptive Authority
- Fees
- Delegation of Nursing Tasks by Registered Professional Nurses to Unlicensed Personnel for Clients with Acute Conditions or in Acute Care Environments
- RN Delegation to Unlicensed Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions
- Patient Safety Pilot Programs on Nurse Reporting Systems
- Pilot Programs for Innovative Applications to Professional Nursing Education
- Pain Management. Standards of practice for the APRN who provides pain management services.

Texas BON Website

Access the website of the Texas Board of Nursing at www.bne.state.tx.us or <https://www.bon.texas.gov> and follow these steps:

- Click on the “Law & Rules” tab
- At the “Law & Rules” tab you can download:
 - The NPA
 - Rules and Regulations
 - Rules Changes
- The BON also mails a quarterly newsletter to all nurses licensed in Texas, giving information about changes

Texas NPA Chapter 301

In its various sections, Chapter 301 addresses:

- The composition, organization, powers, and duties of the Texas BON
- Public interest information and complaint procedures
- Requirements for licensure and license renewal
- Practice under the license, such as supervision of LVNs and refusal of mandatory overtime
- Reporting of violations and patient care concerns to the BON
- Prohibited practices and disciplinary actions
- Enforcement, penalties for violations, corrective action and deferred action
- Anesthesia in the outpatient setting

Nursing Licensure in Texas: Initial Licensure by Examination for USA Graduates

Graduates of nursing education programs in the USA who apply for LVN or RN initial licensure by examination must:

- Submit to a criminal background check.
- Submit a sworn application and fee.
- Verify completion of an approved nursing education program.
- Pass the NCLEX-PN or NCLEX-RN.
- Pass the jurisprudence exam with a score of 75% or higher.
 - The exam covers the Texas Nurse Practice Act and the BON Rules and Regulations.
 - Information about the 50 question exam is posted at the BON website, including specific resources for each topic.
 - The exam is administered online and test takers may use online resources during the exam to locate answers to the questions.

BON Rules and Regulations §217.2

New graduates may apply for and receive temporary authorization to practice as a Graduate Nurse or Graduate Vocational Nurse pending examination results. New graduates who have previously failed the examination are not eligible for temporary authorization.

BON Rules and Regulations §217.3

Nursing Licensure in Texas: Initial Licensure by Examination for Graduates of Nursing Education Programs Outside the USA

Graduates of nursing education programs outside the USA who apply for LVN or RN initial licensure by examination must:

- Submit to a criminal background check.
- Submit a sworn application and fee.
- Provide a Credential Evaluation Service Full Education Course-by-Course Report from the Commission on Graduates of Foreign Nursing Schools (CGFNS), Educational Records Evaluation Service (ERES), or the International Education Research Foundation (IERF), and an English proficiency test acceptable to the Board.
- Pass the NCLEX-PN or NCLEX-RN.
- Pass the jurisprudence exam with a score of 75% or higher.
 - The exam covers the Texas Nurse Practice Act and the BON Rules and Regulations.
 - Information about the 50 question exam is posted on the BON website, including specific resources for each topic.
 - The exam is administered online and test takers may use online resources during the exam to locate answers to the questions.

An applicant who meets requirements specified in the rules may apply for an accustomization permit. The accustomization permit allows the nurse to practice under direct supervision, as outlined in the rules.

BON Rules and Regulations §217.4

Nursing Licensure in Texas: Licensure by Endorsement

Nurses who have practiced within the four years immediately preceding may request and obtain a temporary license (valid for 120 days) and/or permanent license by endorsement and obtain a non-renewable temporary license.

Requirements include:

- Graduation from an approved nursing education program.
- Passing score on the NCLEX-PN or NCLEX-RN.
- Licensure in another USA jurisdiction.
- Graduates of nursing education programs outside of USA jurisdictions must verify licensure from the country of education or as evidenced in a Credential Evaluation Service (CES) Full Education Course-by-Course Report from the Commission on Graduates of Foreign Nursing Schools (CGFNS), Educational Records Evaluation Service (ERES), or the International Education Research Foundation (IERF).
- File a completed application and pay a fee. Application includes:
 - Personal identification and verification of required information outlined above.
 - Attestation that the applicant meets current Texas licensure requirements and has never had disciplinary action taken against any license in any jurisdiction, and that all information supplied is complete and accurate and is not false or misleading.
 - Submit fingerprints for a complete criminal background check.
- Obtain a passing score of 75% on the jurisprudence exam.

BON Rules and Regulations §217.4

Test Yourself: Licensure by Endorsement

In order to complete the requirements for licensure by endorsement in Texas, you must pass an exam on which topic?

- A. Medications
- B. Jurisprudence
- C. Pain management
- D. Workplace violence

The correct answer is jurisprudence. Nursing Licensure in Texas: Licensure by Endorsement must obtain a passing score of 75% on the jurisprudence exam (BON Rules and Regulations §217.4).

Chapter 304: Nurse Licensure Compact (NLC)

Chapter 304 sets forth the details and process of the NLC.

The NLC enables multistate licensure for nurses among member states.

To review NLC member states and states pending legislation, please click [here](#).

NLC Noncompact State to Texas

From a noncompact state to Texas:

- Apply for licensure by endorsement in Texas.
- Your individual state license issued by the noncompact state remains active if you maintain the licensure.

From Texas to a noncompact state:

- Apply for licensure by endorsement in new state of residency.
- Your compact license is changed to a single-state license valid only in that state.
- Notify the Texas BON that you have moved out of state.

NCSBN, 2014

TOC §304.001.4.d.2

TOC §304.001.4.d.3

NLC Noncompact State to Texas

From Texas to another compact state or from another compact state to Texas:

- You can practice on the former license for up to 30 days.
- Apply for licensure by endorsement. Recommended that you apply 1-2 months before moving.
- Pay applicable fees.
- Complete a declaration of primary state of residency in Texas.
- Notify BON in the state you are leaving.
- Proof of residency may be required.

You will receive a new multistate license and the former one is inactivated.

From Texas to another compact state or from another compact state to Texas:

- You can practice on the former license for up to 30 days.
- Apply for licensure by endorsement. Recommended that you apply 1-2 months before moving.
- Pay applicable fees.
- Complete a declaration of primary state of residency in Texas.
- Notify BON in the state you are leaving.
- Proof of residency may be required.

You will receive a new multistate license and the former one is inactivated.

NCSBN, 2014

TOC §304.001.4.d.3

TOC §304.001.4.d.1

International nurses:

- If you are on a visa from another country and wish to apply for licensure in Texas, you must apply as a Texas applicant.

NCSBN, 2014

BON Rules and Regulations, §217.4.a.4

Licensure Status

BON rules provide for:

- Active status
- Inactive and retired status
- Volunteer retired status

BON Rules and Regulations, §217.9

Renewing the License

- RN and LVN licenses are issued for a period ranging from 6-29 months depending on the birth month.
- Licensees born in even-numbered years renew their licenses in even-numbered years.
- Licensees born in odd-numbered years renew their licenses in odd-numbered years.

BON Rules and Regulations, §217

- You may renew your license online if you meet the criteria specified at the BON website.

Requirements for License Renewal

- Nurses must attest that they have completed the required continuing nursing education (CNE) requirements **or** obtained and maintained a national nursing specialty certification granted by an accredited organization.
- Nurses are responsible for maintaining their own CNE records. The BON randomly audits and requires those nurses selected for audit to supply their records of completion.
- CNE requirements must be met within the two years preceding the license renewal.
- CNE requirements must be pertinent to the nurse's area of practice or the National nursing specialty certification meets the CNE requirement.
 - 20 hours of approved continuing nursing education. The BON website lists accepted credentialing agencies and providers.
 - Academic education in nursing or pertinent to the nurse's specialty can satisfy CNE requirements. Prerequisite courses are not acceptable.
 - One academic semester hour =15 contact hours
 - One academic quarter hour = 10 contact hours
- Nurses licensed by examination or endorsement are exempt from the CNE or certification requirement for the first license renewal period.
- Every third license renewal period, the nurse must complete a two contact hour CNE course on Nursing Jurisprudence and Nursing Ethics (see the following section). The two hours count toward the 20 hour requirement. Certification cannot be substituted for this requirement.

BON Rules and Regulations, §216.3

Nursing Jurisprudence Requirement

The CNE course(s) must contain information related to:

- The Texas Nursing Practice Act
- The BON Rules and Regulations, including §217.11: Standards of Nursing Practice
- The BON position statements
- Principles of nursing ethics
- Professional boundaries

BON Rules and Regulations, §216.3.g

Patient Population-Related Requirements

Older adult or geriatric care:

- Nurses, including Advanced Practice Registered Nurses (APRNs), whose practice includes older adult populations must complete at least two contact hours of CNE related to this population in every licensure cycle. These hours count toward the 20 required hours.

BON Rules and Regulations, §216.3.h

One-time requirements for forensic evidence collection:

- Nurses, including APRNs, who perform a forensic examination on a sexual assault survivor must have basic forensic evidence collection training or the equivalent education prior to performing the examination. This requirement may be met through the completion of CNE. This is a one-time requirement. An APRN may use approved continuing medical education in forensic evidence collection to satisfy this requirement.
- Nurses, including APRNs, employed in an emergency room (ER) setting must complete a minimum of two hours of CNE relating to forensic evidence collection within two years of the initial date of the nurse's employment in an ER setting.

BON Rules and Regulations, §216.3.d

Requirements for License Renewal: APRNs

APRNs who hold prescriptive authority must complete at least five additional contact hours of continuing education in pharmacotherapeutics. In every licensure cycle after January 1, 2015, the APRN who holds prescriptive authority and prescribes controlled substances must complete, in addition to the requirements of this subsection, at least three additional contact hours of continuing education related to prescribing controlled substances. Category I Continuing Medical Education (CME) contact hours will meet APRN CNE requirements.

BON Rules and Regulations, §216.3.c

APRNs whose practice includes treatment of tickborne diseases are encouraged to participate in continuing education relating to the treatment of tickborne diseases. Completion of continuing medical education in the treatment of tickborne disease will be credited as CNE.

BON Rules and Regulations, §216.3.f

Test Yourself: License Renewal

In order to meet requirements for renewing your nursing license in Texas after your first license renewal, what must you complete **EVERY TWO YEARS**?

- A. A minimum of 2,000 hours of active practice.
- B. A two contact hour course in Nursing Jurisprudence.
- C. Either an academic degree or 30 continuing education contact hours.
- D. Either 20 continuing education contact hours or current national nursing specialty certification.

The correct answer is D. Nurses must attest that they have completed the required continuing nursing education (CNE) requirements **or** obtained and maintained a national nursing specialty certification granted by an accredited organization.

- Nurses licensed by examination or endorsement are exempt from the CNE or certification requirement for the first license renewal period.
- Every third license renewal period, the nurse must complete a two contact hour CNE course on Nursing Jurisprudence and Nursing Ethics. The two hours count toward the 20 hour requirement. Certification cannot be substituted for this requirement.

BON Rules and Regulations, §216.3

Board Rule §217.11: Standards of Nursing Practice

- *“The standards of practice establish a minimum acceptable level of nursing practice in any setting for each level of nursing licensure or advanced practice authorization.”*
- *“Failure to meet these standards may result in action against the nurse’s license even if no actual patient injury resulted.”*

BON Rules and Regulations §217.11

BON Rules and Regulations §217.11 contains four sections:

1. Standards Applicable to All Nurses
2. Standards Specific to LVNs
3. Standards Specific to RNs
4. Standards Specific to APRNs

BON Rules and Regulations §217.11. Standards of Nursing Practice

This course presents the Standards Applicable to All Nurses in a different order than they appear in the rules. For clarity, the course categorizes the Standards in three sections:

1. Patient-care Related
2. Profession-Related
3. Mandatory Reporting

Patient Care-Related Standards

- Promote a safe environment.
- Know rationale for and effects of medications and treatments.
- Correctly administer medications and treatments.
- Accurately document and completely report:
 - The client's status including signs and symptoms.
 - Nursing care rendered.
 - Physician, dentist, or podiatrist orders.
 - Administration of medications and treatments.
 - Client responses.
 - Contacts with other health care team members concerning significant events regarding client's status.
- Respect client privacy and confidentiality unless the law requires to disclose.
- Promote and participate in education and counseling for patients and families.
- Institute nursing interventions to stabilize a client's condition and/or prevent complications.
- 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.
- Implement measures to prevent exposure to infectious pathogens and communicable conditions.

BON Rules and Regulations §217.11.1

Professional Role-Related Standards

- Know and conform to the NPA, the BON Rules, and all laws and regulations affecting practice.
- Obtain instruction and supervision as necessary.
- Make a reasonable effort to obtain orientation/training for competency when encountering new equipment and technology or unfamiliar care situations.
- Be responsible for one's own continuing competence in nursing practice and individual professional growth.
- Know, recognize, and maintain professional boundaries of the nurse-client relationship.
- 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.
- Collaborate with the client, members of the healthcare team and, when appropriate, the client's significant other(s) in the interest of the client's healthcare.
- Consult with, utilize, and make referrals to appropriate community agencies and healthcare resources to provide continuity of care.
- Make assignments to others considering client safety and commensurate with the educational preparation, experience, knowledge, and physical and emotional ability of the person to whom the assignments are made.
- Accept only those nursing assignments that take into consideration client safety and that are commensurate with the nurse's educational preparation, experience, knowledge, and physical and emotional ability.
- Notify the appropriate supervisor when leaving a nursing assignment.
- Supervise nursing care provided by others for whom the nurse is professionally responsible.
- 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.

BON Rules and Regulations §217.11.1

Mandatory Reporting

Comply with mandatory reporting requirements of Texas Occupations Code Chapter 301 NPA Subchapter I, which include reporting a nurse:

- Who violates the NPA or a board rule and contributed to the death or serious injury of a patient.
- Whose conduct causes a person to suspect that the nurse's practice is impaired by chemical dependency or drug or alcohol abuse.
- Whose actions constitute abuse, exploitation, fraud, or a violation of professional boundaries.
- Whose actions indicate that the nurse lacks knowledge, skill, judgment, or conscientiousness to such an extent that the nurse's continued practice of nursing could reasonably be expected to pose a risk of harm to a patient or another person, regardless of whether the conduct consists of a single incident or a pattern of behavior.

Exception to mandatory reporting includes minor incidents, meaning conduct by a nurse that may be a violation of the NPA or a Board rule but does not indicate the nurse's continued practice poses a risk of harm to a patient or another person.

Reporting an incident to the Peer Review Committee satisfies the nurse's duty to report.

BON Rules and Regulations §217.11.1

Test Yourself: Mandatory Reporting

Which situation requires mandatory reporting?

- A. Any violation of the NPA.
- B. Any situation that causes harm or creates risk of harm to a patient.
- C. A pattern of tardiness or absenteeism.

The correct answer is B. Comply with mandatory reporting requirements of Texas Occupations Code Chapter 301 NPA Subchapter I, which include reporting a nurse:

- Whose actions indicate that the nurse lacks knowledge, skill, judgment, or conscientiousness to such an extent that the nurse's continued practice of nursing could reasonably be expected to pose a risk of harm to a patient or another person, regardless of whether the conduct consists of a single incident or a pattern of behavior.

Exception to mandatory reporting includes minor incidents, meaning conduct by a nurse that may be a violation of the NPA or a Board rule but does not indicate the nurse's continued practice poses a risk of harm to a patient or another person.

BON Rules and Regulations §217.11.1

Standards Specific to LVNs

LVN practice is a directed scope of nursing practice under the supervision of an RN, APRN, physician's assistant, physician, podiatrist, or dentist. Supervision is the process of directing, guiding, and influencing the outcome of an individual's performance of an activity.

The LVN shall assist in determining predictable healthcare needs of clients within healthcare settings and perform the following:

- Use a systematic approach to provide individualized, goal-directed nursing care by:
 - Collecting data and performing focused nursing assessments.
 - Participating in the planning of nursing care needs for clients.
 - Participating in the development and modification of the comprehensive nursing care plan for assigned clients.
 - Implementing appropriate aspects of care within the LVN's scope of practice.
 - Assisting in the evaluation of the client's responses to nursing interventions and the identification of client needs.
- Assign specific tasks, activities, and functions to unlicensed personnel commensurate with the educational preparation, experience, knowledge, and physical and emotional ability of the person to whom the assignments are made and shall maintain appropriate supervision of unlicensed personnel.
- May perform other acts that require education and training as prescribed by Board rules and policies commensurate with the licensed vocational nurse's experience, continuing education, and demonstrated licensed vocational nurse competencies.

BON Rules and Regulations §217.11.2

Test Yourself: LVN Standards

Standards of LVN practice in Texas permit LVNs to delegate to unlicensed personnel who are competent to perform the tasks to be delegated.

- A. True
- B. False

The correct answer is true. The LVN shall assist in determining predictable healthcare needs of clients within healthcare settings and assign specific tasks, activities and functions to unlicensed personnel commensurate with the educational preparation, experience, knowledge, and physical and emotional ability of the person to whom the assignments are made and shall maintain appropriate supervision of unlicensed personnel.

Standards Specific to RNs

The RN shall assist in the determination of healthcare needs of clients and perform the following:

Use a systematic approach to provide individualized, goal-directed, nursing care by:

- Performing comprehensive nursing assessments regarding the health status of the client.
- Making nursing diagnoses that serve as the basis for the strategy of care.
- Developing a plan of care based on the assessment and nursing diagnosis.
- Implementing nursing care.
- Evaluating the client's responses to nursing interventions.

Delegate tasks to unlicensed personnel in compliance with:

- Chapter 224 of this title, relating to clients with acute conditions or in acute care environments.
- Chapter 225 of this title, relating to independent living environments for clients with stable and predictable conditions.

Standards Specific to APRNs

Standards for a specific role and specialty of advanced practice nurse supersede standards for registered nurses where conflict between the standards, if any, exist. In addition to complying with Standards Applicable to All Nurses and Standards Specific to RNs, all APRNs should:

- Practice in an advanced nursing practice role and specialty in accordance with authorization granted under the Board Rule 221 relating to practicing in an APN role and standards set out in that chapter.
- Prescribe medications in accordance with prescriptive authority granted under Board Rule 222 of and standards set out in that chapter and in compliance with state and federal laws and regulations relating to prescription of dangerous drugs and controlled substances.

BON Rules and Regulations §217.11.4

Disciplinary Process: Unprofessional Conduct

BON rules identify unprofessional or dishonorable behaviors of a nurse which the BON believes are likely to deceive, defraud, or injure clients or the public. Actual injury to a client need not be established.

The rules outline unprofessional conduct in 13 different categories:

1. Unsafe Practice
2. Failure to provide appropriate oversight as a chief nurse administrator
3. Failure to practice within a modified scope of practice or with required limitations specified by the BON
4. Conduct that may endanger a client. The client need not be harmed.
5. Inability to practice safely due to impairment
6. Misconduct
7. Failure to repay a student loan or pay child support
8. Drug diversion
9. Dismissal from a BON-approved peer assistance program
10. Other drug-related actions
11. Unlawful practice
12. Leaving a nursing assignment without notifying the proper personnel
13. Criminal conduct

BON Rules and Regulations §217.12

Unsafe Practice:

Actions or conduct including, but not limited to:

- Failing to perform nursing that conforms to the standards of practice.
- Managing of client records improperly.
- Delegating or assigning nursing functions or a prescribed health function when the delegation or assignment could reasonably be expected to result in unsafe or ineffective client care.
- Accepting the assignment of nursing functions or a prescribed health function when the acceptance of the assignment could be reasonably expected to result in unsafe or ineffective client care.
- Failing to supervise the performance of tasks by any individual working pursuant to the nurse's delegation or assignment.
- Failing as a clinical nursing instructor to adequately supervise or to assure adequate supervision of student experiences.

BON Rules and Regulations §217.12

Disciplinary Process: Unprofessional Conduct

Failure as a Chief Nurse:

- Failing as a chief administrative nurse to follow appropriate and recognized standards and guidelines in providing oversight of the nursing organization and nursing services.

BON Rules and Regulations §217.12

Failure to Comply with Licensure Limitations:

- Failure to practice within a modified scope of practice or with the required accommodations, as specified by the BON in granting a coded license or any stipulated agreement with the BON.

BON Rules and Regulations §217.12

Endangering a Client:

- Careless or repetitive conduct that may endanger a client's life, health, or safety. Actual injury to a client need not be established.

BON Rules and Regulations §217.12

Impairment:

- Inability to practice safely — demonstration of actual or potential inability to practice nursing with reasonable skill and safety to clients by reason of illness, use of alcohol, drugs, chemicals, or any other mood altering substances, or as a result of any mental or physical condition.

BON Rules and Regulations §217.12

Disciplinary Process: Unprofessional Conduct

Misconduct:

Actions or conduct in connection with the practice of nursing that include, but are not limited to:

- Falsifying reports, client documentation, agency records or other documents.
- Failing to cooperate with a lawful investigation conducted by the BON.
- Causing or permitting physical, emotional or verbal abuse or injury or neglect to the client or the public, or failing to report same to the employer, appropriate legal authority and/or licensing board.
- Violating professional boundaries of the nurse/client relationship including but not limited to physical, sexual, emotional, or financial exploitation of the client or the client's significant other(s).
- Engaging in sexual conduct with a client, touching a client in a sexual manner, requesting or offering sexual favors, or language or behavior suggestive of the same.
- Threatening or violent behavior in the workplace.
- Misappropriating anything of value including but not limited to, any property of the client, employer, or any other person or entity, or failing to take precautions to prevent such misappropriation.
- Providing information which was false, deceptive, or misleading.
- Failing to answer specific questions or providing false or misleading answers that would have affected the decision to license, employ, certify or otherwise utilize a nurse.
- Offering, giving, soliciting, or receiving or agreeing to receive, directly or indirectly, any fee or other consideration to or from a third party for the referral of a client.

BON Rules and Regulations §217.12

Failure in Financial Obligations:

- Failure to repay a guaranteed student loan, as provided in the Texas Education Code §57.491, or pay child support payments.

BON Rules and Regulations §217.12

Drug Diversion:

- Diversion or attempts to divert drugs or controlled substances.

BON Rules and Regulations §217.12

Disciplinary Process: Unprofessional Conduct

Dismissal from Peer Assistance:

- Dismissal from a BON-approved peer assistance program for noncompliance and referral by that program to the board of nurse examiners.

BON Rules and Regulations §217.12

Drug-Related Actions:

Actions or conduct that include, but are not limited to:

- Use of any controlled substance or any drug, prescribed or unprescribed, or device or alcoholic beverages while on duty or on call and to the extent that such use may impair the nurse's ability to safely conduct to the public the practice authorized by the nurse's license.
- Falsification of or making incorrect, inconsistent, or unintelligible entries in any agency, client, or other record pertaining to drugs or controlled substances.
- Failing to follow the policy and procedure in place for the wastage of medications at the facility where the nurse was employed or working at the time of the incident(s).
- A positive drug screen for which there is no lawful prescription.
- Obtaining or attempting to obtain or deliver medication(s) through means of misrepresentation, fraud, forgery, deception, and/or subterfuge.

BON Rules and Regulations §217.12

Unlawful Practice:

Actions or conduct that include, but are not limited to:

- Knowingly aiding, assisting, advising, or allowing an unlicensed person to engage in the unlawful practice of vocational, registered, or advanced practice nursing.
- Violating an order of the Board, or carelessly or repetitively violating a state or federal law relating to the practice of vocational, registered, or advanced practice nursing, or violating a state or federal narcotics or controlled substance law.
- Knowingly aiding, assisting, advising, or allowing a nurse under BON Order to violate the conditions set forth in the Order.
- Failing to report violations of the NPA and/or the BON rules and regulations.

BON Rules and Regulations §217.12

Disciplinary Process: Unprofessional Conduct

Leaving an Assignment:

- Leaving a nursing assignment without notifying the proper personnel.

BON Rules and Regulations §217.12

Criminal Conduct:

- Including, but not limited to, conviction or probation, with or without an adjudication of guilt, or receipt of a judicial order involving a crime or criminal behavior or conduct that could affect the practice of nursing.

BON Rules and Regulations §217.12

Test Yourself: Unprofessional Conduct

BON Rules and Regulations provide for disciplining a nurse for unprofessional conduct only when a patient is harmed as a result of the nurse's action.

- A. True
- B. False

The correct answer is false. BON rules identify unprofessional or dishonorable behaviors of a nurse which the BON believes are likely to deceive, defraud, or injure clients or the public. Actual injury to a client need not be established.

The rules outline unprofessional conduct in 13 different categories:

- Conduct that may endanger a client. The client need not be harmed.
 - Careless or repetitive conduct that may endanger a client's life, health, or safety. Actual injury to a client need not be established.

Test Yourself: Unprofessional Conduct

What is one of the categories of unprofessional conduct outlined in BON Rules and Regulations §217.12: Unprofessional Conduct?

- A. Failing to pay local, state, or federal taxes.
- B. Failing to comply with the organization's uniform dress code.
- C. Leaving a nursing assignment without notifying the proper personnel.

The correct answer is C. The rules outline unprofessional conduct in 13 different categories; the twelfth category states "leaving a nursing assignment without notifying the proper personnel."

BON Rules and Regulations §217.12

Initiating the Disciplinary Process

- When the BON receives a complaint, BON staff serves the respondent against whom the claim is made with written notice of the complaint.
- The notice contains the statement of facts or alleged conduct and invites the respondent to show compliance with all requirements of the law.
- The respondent must file a written response within 20 days after service of the notice.

BON Rules and Regulations §213.14

- If the complaint is not resolved, the BON files formal charges, serves the respondent with a copy of the charges, and instructs the respondent to file an answer to the charges. The formal charges include the penalty which the BON recommends.
- The charges may be resolved by agreement of the parties at any time.
- If the respondent fails to file a response, the case is considered a default, meaning that the respondent admits to the allegations, waives the opportunity to show compliance, waives the opportunity for a hearing, and waives objection to the sanction which the BON recommends.
- The respondent may file a motion for a rehearing if the failure to answer the charges was due to a mistake and not intentional.

BON Rules and Regulations §213.15

Disciplinary Process: Discovery, Depositions, and Subpoenas

Discovery

- The BON requests information relevant and material to the complaint from parties who have the information. The BON instructs parties to supply information within 20 days, except for notices of depositions.

BON Rules and Regulations §213.17

Depositions

- The BON may request parties to give depositions as witnesses. The BON may request the witness to produce items, such as records, at the deposition.

BON Rules and Regulations §213.18

Subpoenas

- The BON may issue a subpoena to require attendance of a witness or production of evidence.

BON Rules and Regulations §213.19

Disciplinary Process: Information Proceedings

- The BON encourages resolution and early settlement of disputes through informal proceedings or alternative dispute resolution (ADR).
- The BON offers the complainant and the licensee the opportunity to be heard. Informal proceedings may be conducted in person, by attorney, or by electronic, telephonic, or written communication.
- The licensee has a right to representation by an attorney. The BON's counsel or assistant attorney general will participate in informal proceedings.
- The matter may be disposed of at any time in an agreed order containing terms acceptable to the executive director and finalized by the Board or an eligibility and disciplinary committee.

BON Rules and Regulations §213.20

Disciplinary Process: Alternate Dispute Resolution (ADR)

Mediation, a confidential form of ADR, offers parties an opportunity to resolve their disputes without having an administrative hearing. The mediator facilitates communication between the parties and helps them explore settlement options. The parties, not a third party, control whether or not the dispute is resolved. If the parties to a contested case try mediation, but the mediation is not successful, they still have the right to an administrative hearing.

SOAH (n.d.)

BON Rules and Regulations § 213.20

Disciplinary Process: Peer Assistance

- The BON may grant an informal disposition of charges through referral to a peer assistance program.
- If the nurse has been reported for impairment by chemical dependency or mental illness, the nurse may make a written stipulation of impairment, waive rights to a hearing, and enter into a written contract with the BON to enter a peer assistance program. BON rules spell out the required components of the contract. The peer assistance program requires that the nurse:
 - Undergo and pay for physical and mental evaluations
 - Plan, implement, and comply with monitoring in a rehabilitation program
 - Comply with the provisions of the agreement that specify when and under what conditions the nurse can safely return to practice
- The nurse's referral to a peer assistance program is not a sanction and is not reported to the National Council of State Boards of Nursing's (NCSBN's) Disciplinary Data Bank.
- If the nurse fails to comply with the contract, the nurse will have an opportunity to respond. At an informal proceeding, the executive director of the BON may modify or extend the contract, declare the contract satisfied or impose sanctions which will result in public discipline and reporting to the NCSBN's Disciplinary Data Bank.

BON Rules and Regulations §217.13

Disciplinary Process: Formal Proceedings

- When the parties continue to contest after efforts at informal resolution or ADR, State Office of Administrative Hearings (SOAH) acquires jurisdiction.
- The respondent receives a notice of hearing and must file a written answer within 20 days of the date on which the notice was served.
- If the respondent or legal representative fails to appear at the hearing, the allegations will be considered to be admitted as true and the recommendation for sanctions by the BON will be granted.
- Within a reasonable time following the hearing, the judge prepares and serves on the parties a proposal for decision including the judge's findings and a proposed order recommending a sanction, if any.
- The BON or the Eligibility and Disciplinary Committee of the BON makes the final decision on the proposal and sanctions.
- BON rules provide the details of the process for presenting additional evidence and for appeal.

BON Rules and Regulations §213.22

BON Rules and Regulations §213.23

Disciplinary Matrix

The BON Rules contain a ten page document, the Texas BON Disciplinary Matrix, which details recommended sanctions for specific violations of the NPA.

BON Rules and Regulations §213.33

An example of the Texas BON Disciplinary Matrix pertaining to a violation of a specific section of the NPA (TOC §301):

<p>§301.452(b)(13) failure to care adequately for a patient or to conform to the minimum standards of acceptable nursing practice in a manner that, in the Board's opinion, exposes a patient or other person unnecessarily to risk of harm.</p>		
<p>First Tier Offense: Practice below standard with a low risk of patient harm.</p>	<p>Sanction Level I: Remedial Education and/or fine of \$250 when there is isolated incident or a fine of more than \$250 for each additional violation.</p>	<p>Sanction Level II: Warning or Reprimand with Stipulations that may include remedial education, supervised practice, perform public service, abstain from unauthorized use of drugs and alcohol to be verified by random drug testing through urinalysis, limit specific nursing activities and/or periodic board review and/or fine of \$500 or more for each additional violation.</p>
<p>Second Tier Offense: Practice below standard with patient harm or risk of patient harm.</p>	<p>Sanction Level I: Warning or Reprimand with Stipulations that may include supervised practice, limited specific nursing activities and/or periodic board review and/or a fine of \$500 or more for each additional violation.</p>	<p>Sanction Level II: Denial, suspension of license, revocation of license, or request for voluntary surrender.</p>
<p>Third Tier Offense: Practice below standard with a serious risk of harm or death that is known or should be known. Act or omission that demonstrates level of incompetence such that the person should not practice without remediation and subsequent demonstration of competency. In addition, any intentional act or omission that risks or results in serious harm.</p>	<p>Sanction Level I: Denial, suspension of license; revocation of license or request for voluntary surrender.</p>	<p>Sanction Level II: Emergency Suspension of nursing practice in light of violation that may be a continuing and imminent threat to public health and safety pursuant to the Occupations Code §301.455 or §301.4551, which may ultimately result in revocation.</p>
<p><i>Aggravating Circumstances</i> for §301.452(b)(13): Number of events, actual harm, impairment at time of incident, severity of harm, prior complaints or discipline for similar conduct, patient vulnerability, failure to demonstrate competent nursing practice consistently during nursing career.</p>		
<p><i>Mitigating Circumstances</i> for §301.452(b)(13): Outcome not a result of care, participation in established or approved remediation or rehabilitation program and demonstrated competency, systems issues.</p>		

Remedial Education Courses

In situations in which a nurse has demonstrated a deficit in knowledge, judgment, or skills, the BON may require the nurse to successfully complete a remedial education course.

BON Rules and Regulations §217.21

Chapter 303: Nursing Peer Review

Chapter 303 sets forth the details and process of Nursing Peer Review.

- An employer must establish a peer review committee:
 - For LVNs if the employer employs ten or more LVNs
 - For RNs if the employer employs ten or more professional nurses which includes APRNs, at least five of whom are RNs.
- The employer must establish policies and procedures (P&P) governing the Nursing Peer Review Process
- The peer review committee evaluates *“nursing services, the qualifications of a nurse, the quality of patient care rendered by a nurse, the merits of a complaint concerning a nurse or nursing care, and makes a determination or recommendation regarding a complaint.”* (Chapter 303.001.5)
- The peer review committee determines whether the incident, or pattern of minor incidents, needs to be reported to the BON.

TOC §303

BON Rules and Regulations §217.16

Incident-Based Peer Review for Nurses

BON Rules identify:

- Incident-based Peer Review is the process within a healthcare organization for evaluating a complaint concerning a nurse or nursing care. The complaint may be made by anyone. A nurse's report of an incident to the Peer Review Committee satisfies the nurse's duty to report.

BON Rules and Regulations §217.19

Safe Harbor Peer Review

BON Rules and Regulations identify:

A nurse may invoke Safe Harbor if the nurse believes he or she is asked to accept an unsafe assignment, engage in conduct beyond the nurse's scope of practice, or engage in unprofessional or illegal conduct. The nurse must notify the supervisor who made the assignment. The nurse may use the forms described in the Rules, but whether or not the forms are used, the nurse must complete a detailed written statement before the end of the work period and submit it to the supervisor. The nurse is responsible for keeping a copy. The Peer Review Committee will review the incident.

BON Rules and Regulations §217.20

The forms are available at the BON website and include:

- Quick Request for Safe Harbor Form
http://www.bne.state.tx.us/pdfs/safe_harbor_forms_pdfs/SHPR-QuickRequest.pdf
- Comprehensive Request for Safe Harbor Form
http://www.bne.state.tx.us/pdfs/safe_harbor_forms_pdfs/SHPR-CompRequest.pdf
- Safe Harbor Request to Question Medical Reasonableness of a Physician's Order Form
http://www.bne.state.tx.us/pdfs/safe_harbor_forms_pdfs/SHPR-MDOrder.pdf

Test Yourself: Safe Harbor

Identify which actions a nurse must take to invoke Safe Harbor (select all that apply):

1. Leave the unit immediately to report the situation in person to the CEO.
2. Communicate your discomfort to your direct nursing supervisor immediately.
3. Communicate your discomfort to your nursing colleagues during the next break.
4. Complete and submit a written report of the situation by the end of the week to your Nursing Director.
5. Complete and submit a written report of the situation by the end of the work period to your direct supervisor.
6. Retain a copy of the report for the nurse's own records.

The correct answers are #2, 5, and 6 above. Per the Safe Harbor Peer Review, BON Rules and Regulations identify: A nurse may invoke Safe Harbor if the nurse believes he or she is asked to accept an unsafe assignment, engage in conduct beyond the nurse's scope of practice, or engage in unprofessional or illegal conduct. The nurse must notify the supervisor who made the assignment. The nurse may use the forms described in the Rules, but whether or not the forms are used, the nurse must complete a detailed written statement before the end of the work period and submit it to the supervisor. The nurse is responsible for keeping a copy. The Peer Review Committee will review the incident.

BON Rules and Regulations §217.20

Whistle-Blower Protection

Both Incident-Related Peer Review and Safe Harbor Peer Review afford whistle-blower protection.

An employer may not suspend or terminate the employment of, or otherwise discipline, retaliate, or discriminate against, a person who reports, in good faith, or who advises a nurse of the nurse's rights and obligations.

BON Rules and Regulations contain the details of these peer review processes.

BON Rules and Regulations §217.19

BON Rules and Regulations §217.20

Delegation

BON Rules and Regulations address delegation in two subsections:

1. §§ 224.1 - 224.11. Delegation of Nursing Tasks by Registered Professional Nurses to Unlicensed Personnel for Clients with Acute Conditions or in Acute Care Environments
2. §§ 225.1 - 225.14 RN Delegation to Unlicensed Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions

The Practice section of the BON website includes a Delegation Resource Packet as shown on the next slide.

§§ indicates all sections between the two numbers identified.

Delegation Resources

- Access the website of the Texas Board of Nursing at www.bne.state.tx.us or <https://www.bon.texas.gov>
- Click on the Practice tab
- You will find a number of valuable nursing practice resources:
 - Nursing Practice Information
 - APRN Nursing Practice Information
 - Scope – Vocational Nurse Practice
 - Scope – Registered Nurse Practice
 - Scope – Advanced Practice Registered Nurse Practice Guidelines
 - Delegation Resource Packet (contents shown in the next section)
 - BON Position Statements
 - Nursing Peer Review Incident-Based and Safe Harbor
 - TERCAP Pilot Project

Contents of Delegation Resources Packet

- Conflict Resolution Model
- Delegation and the Advanced Practice Registered Nurse
- Delegation FAQs
- Links to Delegation Resources
- Rule 224 – Flow Chart (pdf)
- Rule 225 – Flow Chart (pdf)
- The Five Rights of Delegation (pdf)
- Delegation Don'ts (pdf)
- Rule 225 – Professional Nursing Assessment Grid and Case Examples (pdf)
- Rule 225 – Quick Reference Guide (pdf)

RN Delegation to Unlicensed Personnel in the Acute Setting

These Rules include criteria for delegation, a list of tasks commonly delegated, discretionary delegation tasks, and tasks prohibited from delegation.

The RN is responsible for:

- Assessing the client's needs.
- Instructing the unlicensed personnel in performing the task or verifying that the individual is competent to perform the task.
- Considering the five rights of delegation; the right task, the right person to whom the delegation is made, the right circumstances, the right direction and communication by the RN, and the right supervision as determined by the RN.
- Supervising performance of the task.

BON Rules and Regulations §§ 224.1 - 224.11

Tasks Prohibited from Delegation

Tasks that are not within the scope of sound professional nursing judgment to delegate include:

- Physical, psychological, and social assessment which requires professional nursing judgment, intervention, referral, or follow-up.
- Formulation of the nursing care plan and evaluation of the client's response to the care rendered.
- Specific tasks involved in the implementation of the care plan which requires professional nursing judgment or intervention.
- The responsibility and accountability for client health teaching and health counseling which promotes client education and involves the client's significant others in accomplishing health goals.
- Administration of medications, including intravenous fluids, except by medication aides as described in the Rules.

BON Rules and Regulations §§ 224.1 - 224.11

Medication Aide Permit

An RN may delegate to medication aides the administration of medication to clients in **long term care facilities** and **home health agencies** if:

- The aide holds a valid state-issued permit and complies with the law governing the permit.
- The route of administration is oral, via a permanently placed feeding tube, sublingual or topical including eye, ear or nose drops and vaginal or rectal suppositories.

BON Rules and Regulations §224.9

Medication Aide: Tasks Prohibited

The following tasks may not be delegated to the Medication Aide Permit Holder unless allowed and in compliance with Rules of RN Delegation to Unlicensed Personnel and Tasks not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions (§225).

- Calculating any medication doses except for measuring a prescribed amount of liquid medication and breaking a tablet for administration, provided the RN has calculated the dose.
- Administering:
 - The initial dose of a medication that has not been previously administered to the client.
 - Medications by an injectable route except as permitted for administration of insulin as explained in the §225.
 - Medications used for intermittent positive pressure breathing or other methods involving.
 - Medication inhalation treatments except as permitted in §225.
 - Medications by way of a tube inserted in a cavity of the body except as stated in §225.11.
- Receiving verbal or telephone orders from a physician, dentist, or podiatrist.
- Receiving or ordering a client's medication from the pharmacy.

BON Rules and Regulations §224.9

RN Delegation to Unlicensed Personnel in Independent Living Environments

These rules provide detailed guidelines for RN delegation to unlicensed personnel in independent living environments.

The rules state that the RN will collaborate with the client and/or the client's responsible adult in pursuit of the highest possible degree of independent living for the client.

By adequately and accurately assessing the needs of the client and considering the inter-related factors impacting the client's environment, the RN can effectively make decisions in utilizing unlicensed personnel to accomplish quality supportive services and care.

The RN nurse administrator or the RN who is responsible for nursing services in settings that utilize RN delegation in independent living environments is responsible for knowing the requirements of the Rule and for taking reasonable steps to assure that RN delegation is implemented and conducted in compliance with the NPA and §225.1.

BON Rules and Regulations §§ 225.1 - 225.14

Texas BON Position Statements

BON position statements do not have the force of law, but provide direction for nurses on issues of concern to the board relevant to protection of the public. The BON annually reviews BON Position Statements for relevance and accuracy to current practice, the NPA, and BON rules.

This course includes summaries of examples of BON Position Statements. For the complete versions, visit the BON website.

At the BON website, you can read position statements by clicking on the appropriate link. At the website you will also find a current "Position Statement Synopsis" which lists the abbreviated title of each Position Statement and a brief summary. For example,

"15.1 Nurses Carrying out Orders from Physician's Assistants

Nurses may carry out physician orders relayed by a PA and/or which originate from a protocol between the PA and the physician. The nurse is expected to clarify any order he/she questions by communicating with the PA or the physician."

Texas BON, 2014

Test Yourself: Texas BON Position Statements

Texas BON Position Statements hold nurses legally accountable for actions **in addition to the actions** included in the NPA and the BON Rules and Regulations.

- A. True
- B. False

The correct answer is false. BON Position Statements do not have the force of law, but provide direction for nurses on issues of concern to the Board relevant to protection of the public.

BON Position Statements on the Texas Board of Nursing Website

- Access the website of the Texas Board of Nursing at www.bne.state.tx.us or <https://www.bon.texas.gov>
- Click on the Practice tab
- You will find a number of valuable nursing practice resources:
 - Nursing Practice Information
 - APRN Nursing Practice Information
 - Scope – Vocational Nurse Practice
 - Scope – Registered Nurse Practice
 - Scope – Advanced Practice Registered Nurse Practice Guidelines
 - Delegation Resource Packet – contents shown on the next slide
 - BON Position Statements – link to a listing and brief summary of each Position Statement. Each Statement includes the NPA and BON Rules that apply.
 - Nursing Peer Review Incident-Based and Safe Harbor
 - TERCAP (Taxonomy of Error, Root Cause Analysis and Practice Responsibility) Pilot Project
 - TERCAP is a national nursing adverse event database

Topics Addressed in BON Position Statements

Nurses Carrying Out Orders from Physicians' Assistants	Role of the Licensed Vocational Nurse in the Pronouncement of Death
LVNs Engaging in IV Therapy, Venipuncture, or PICC lines	Educational Mobility
Nurses with Responsibility for Initiating Physician Standing Orders	Board Rules Associated with Alleged Patient "Abandonment"
The Role of the Nurse in Moderate Sedation	Performance of Laser Therapy by TNs or LVNs
Continuing Education: Limitations for Expanding the Scope of Practice	Delegated Medical Acts
Use of American Psychiatric Association Diagnoses by LVNs, RNs, or APRNs	Role of LVNs and RNs as School Nurse
The Role of LVNs and RNs in Management and/or Administration of Medications via Epidural or Intrathecal Catheter Routes	Duty of a Nurse in Any Practice Setting
Board's Jurisdiction Over a Nurse's Practice in Any Role and Use of the Nursing Title	Development of Nursing Education Programs
Texas BON/Board of Pharmacy Joint Position Statement on Medication Errors	Nurses Carrying Out Orders from APRNs
Nurses Carrying Out Orders from Pharmacists for Drug Therapy Management	APRNs Providing Medical Aspects of Care for Themselves or Others with Whom There is a Close Personal Relationship
RNs Use of Complementary Modalities	Nurses Engaging in Reinsertion of Permanently Placed Feeding Tubes
Administration of Medications and Treatments by LVNs	Simulation in Prelicensure Nursing Education
The Licensed Vocational Nurse Scope of Practice	The Registered Nurse Scope of Practice
Use of Social Media by Nurses	

Texas BON Position Statement 15.3: LVNs Engaging in IV Therapy, Venipuncture, or PICC Lines

LVNs must complete post-licensure training to engage in IV therapy/venipuncture. This training is not typically included in LVN curriculum.

Insertion of PICC lines is beyond the scope of practice for LVN.

The BON does not define or set qualifications for an “IV Validation Course” or for “LVN IV certification.”

The LVN who chooses to engage in intravenous therapy must first have been instructed in the principles of intravenous therapy congruent with prevailing nursing practice standards.

All nursing actions related to peripheral and/or central intravenous lines, as well as IV administration of medications, must be completed in accordance with the orders of the prescribing practitioner, as well as written policies, procedures and job descriptions approved by the healthcare employer.

The ability of a LVN to administer specific IV fluids or drugs, to prepare and/or administer IV “piggy-back” or IV “push” medications, or to monitor and titrate “IV drip” medications of any kind is up to facility policy.

The LVN’s practice relative to IV therapy must also comply with provisions of the NPA, the BON rules, and any other regulations that may exist under the jurisdiction of other regulatory agencies or entities.

Texas BON Position Statement 15.6: Board Rules Associated with Alleged Patient “Abandonment”

The NPA and BON Rules do not define the term “abandonment”; however, the BON has investigated and disciplined nurses for issues surrounding abandonment as it relates to the *nurse’s duty to the patient*. The nurse’s duty to promote client safety also serves as the basis for behavior that could be considered unprofessional conduct by a nurse.

Employment Issues:

- A nurse leaving employment is an employment issue and **NOT** a licensure issue if the nurse leaves employment without advance notice (assuming that the nurse completed the patient care assignment), refuses additional shifts, or has other work-related issues such as tardiness, absenteeism, or interpersonal conflicts.

Licensure Issues:

- Except in emergencies as outlined by the employer, the nurse is accountable for notifying the supervisor when leaving an assignment. This does not mean that the nurse may do so and leave if patients are placed at risk for harm. Any action that places patient at risk for harm is a licensure issue.

Emergency Preparedness and Workplace Violence:

- When an active threat is present in the workplace, the nurse should take steps to protect the patients if there is time and using a method that does not jeopardize the nurse's personal safety or interfere with law enforcement personnel such as evacuating the area or preventing entry to an area where the threat is located. However, a nurse may find there is not sufficient time to do anything but to ensure his or her own safety. In this instance, as soon as the situation has resolved the nurse should promptly resume care of patients.

Texas BON Position Statement 15.6: Board Rules Associated with Alleged Patient “Abandonment”

Factors Considered Regarding Abandonment:

Examples of general factors that the BON would consider when investigating a complaint of leaving an assignment by a nurse would include, but not be limited to:

- The extent of dependency or disability of the patient.
- Stability of the patient.
- The length of time the patient was deprived of care.
- Any harm to the patient or level of risk of harm to the patient.
- Steps taken by the nurse to notify a supervisor of the inability to provide care.
- Previous history of leaving a patient-care assignment.
- Emergencies that require nurses to respond, including but not limited to disasters, disease outbreaks, and bioterrorism.
- Workplace violence, including but not limited to an active shooter situation.
- Other unprofessional conduct in relation to the practice of nursing.
- General nurse competency regarding adherence to minimum nursing standards.

Abandonment Resources:

The BON website discussion of BON Position Statement 15.6 includes links to FAQs related to abandonment issues.

Texas BON Position Statement 15.6: Abandonment and Safe Harbor

If a nurse feels he/she is being asked to accept an assignment that would potentially cause the nurse to violate his/her duty to a patient, the nurse may be able to invoke “safe harbor” depending on whether or not the nurse’s employer meets requirements that would make it mandatory for the employer to have a peer review plan in place (if the employer employs more LVNs or employs ten or more professional nurses which includes APRNs, at least five of whom are RNs).

TOC §303 *Peer Review* and BON Rules and Regulations §217.20, *Safe Harbor Peer Review and Whistleblower Protections* establish this process.

Safe Harbor has two effects related to the nurse’s license:

1. It is a means by which a nurse can request a peer review committee determination of a specific situation in relation to the nurse’s duty to a patient.
2. It affords the nurse immunity from BON action against the nurse’s license if the nurse invokes Safe Harbor in accordance with BON Rules.

For the nurse to activate this immunity status, the nurse must notify the assigning supervisor at the time the assignment request is made, and the nurse must submit the required information in writing as specified in BON Rules or using the Board’s Safe Harbor forms.

Texas BON Position Statement 15.29: Use of Social Media by Nurses

- The use of social media can be of tremendous benefit to nurses and patients alike. However, nurses must be aware of the potential consequences of disclosing patient-related information via social media.
- Nurses must always maintain professional standards, boundaries, and compliance with state and federal laws as stated in BON Rule 217.11, Standards of Nursing Practice.
- All nurses have an obligation to protect their patients’ privacy and confidentiality in all environments, including the social media environment.

Social Media Guidelines: “Do’s and Don’ts”

Do:

- Recognize your ethical and legal obligation to maintain patient privacy and confidentiality at all times.
- Maintain professional boundaries in the use of electronic media. You are obliged to establish, communicate, and enforce professional boundaries with patients in the online environment.
- Use caution when having online social contact with patients or former patients. Online contact with patients or former patients blurs the distinction between a professional and personal relationship. The fact that a patient may initiate contact with the nurse does not permit the nurse to engage in a personal relationship with the patient.
- Consult employer policies or supervisor within the organization for guidance regarding work related postings.
- Promptly report any identified breach of confidentiality or privacy.
- Be aware of and comply with employer policies regarding use of employer-owned computers, cameras, and other electronic devices and use of personal devices in the work place.
- Update privacy settings on a regular basis.

Don’ts:

- Do not transmit any patient-related images. You are restricted from transmitting any information anticipated to violate patient rights to confidentiality or privacy, or otherwise degrade or embarrass the patient.
- Do not identify patients by name or post or publish information that may lead to the identification of a patient. Limiting access to postings through privacy settings is not sufficient to ensure privacy.
- Do not refer to patients in a disparaging manner, even if the patient is not identified.
- Do not take photos or videos of patients on personal devices, including cell phones. Follow employer policies for taking photographs or video of patients for treatment or other legitimate purposed using employer-provided devices.
- Do not make disparaging remarks about employers or co-workers. Do not make threatening, harassing, profane, obscene, sexually explicit, racially derogatory, homophobic, or other offensive comments.
- Do not post content or otherwise speak on behalf of the employer unless authorized to do so and follow all applicable policies of the employer (NCSBN, 2012).

Ethical Principles

Four basic principles form the basis of moral thought in healthcare:

1. Autonomy
 - Respect the uniqueness and dignity of each person, self, and others
2. Nonmaleficence
 - Prevent harm and remove harmful conditions
3. Beneficence
 - Act to remove harm or promote benefit
4. Justice
 - Treat individuals equally

A code of ethics identifies what colleagues should expect of each other within a profession and what the public should expect from the professional.

A code of ethics is hallmark of a profession.

Scott, 2008

Test Yourself: Ethical Principles

Match each ethical principle to its correct definition:

Definition	Ethical Principle
1. Treat individuals equally.	Autonomy
2. Respect the uniqueness and dignity of each person, self, and others.	Beneficence
3. Act to remove harm or promote benefit.	Nonmaleficence
4. Prevent harm and remove of harmful conditions.	Justice

The correct answers are 1. Justice, 2. Autonomy, 3. Beneficence, and 4. Nonmaleficence

Asking Ethical Questions

Although the ethical course of action is often clear, in many situations there is more than one choice to make.

If you observe another team member doing something that places patient safety at risk, the clear ethical choice is to intervene to protect the patient. What next?

It is also clear that ethics requires that you address the team member who was performing unsafely. But how?

Certainly share your perception with the team member. *"I saw you doing...Did you realize that you were placing the patient in danger of...?"* The team member will respond in some fashion. *"You're right, I was in a hurry and got careless,"* or *"Thanks, I really didn't know that,"* or *"Thanks for helping me out,"* or *"I had everything under control. Mind your own business."* Does the response influence your next steps?

In the interest of patient safety, placing the patient first, and complying with the Texas Law and Rules you have a duty to report what you observed. To whom? Follow P&P which should include the procedure for reporting to the Peer Review Committee.

Will you report to the manager and tell the team member that you will do so? Will you make a confidential report to a compliance hotline?

Futile Treatment

You may view a current plan of care as futile, painful treatments and procedures. The patient's provider may view following the plan as an ethical responsibility to employ every technique that may possibly cure the patient's problem. The provider may have a research interest in the treatment plan, or a professional interest in the outcome of prolonging life. The patient's family may feel a responsibility to prolong the patient's life. The most important perspective, the PATIENT's, may be drowned out by all these conflicting perspectives.

In some situations, the nurse's ethical responsibility is clear. The nurse is obliged to advocate for the patient. Yet:

- What if the patient is unsure about what he wants?
- What if the patient is misinformed? Can you educate the patient without persuading to your point of view or disrespecting his cultural values?
- What are the consequences for you if you advocate for the patient in opposition with the views of the provider and the patient's family?

Your professional role is to face, and not ignore, ethical challenges, to raise questions, and to identify resources that can facilitate ethical outcomes.

In some situations there may be more than one ethical course of action. However, the patient's rights to choice, dignity, privacy, and safe care ALWAYS take priority.

Debriefing Sessions

Healthcare organizations establish formal ethics committees to provide consultation on situations in which ethical issues have arisen.

At the unit level, some clinicians have found it helpful to convene their own unit-based debriefing sessions in which staff members discuss specific patient situations. In one intensive care setting, clinicians implemented monthly debriefing meetings. Sessions include bioethicists, social workers, and chaplains, in addition to clinical personnel (Santiago & Abdool, 2011).

Known causes of moral distress for intensive care unit clinicians and nurses in other settings include the failure to respect a patient's known prior expressed capable wishes, failure to protect patients from harm, the treatment of patients as objects, and the prolongation of the dying process. Conflict between patient and family wishes often occurs.

The debriefing sessions have helped clinicians experience and express their concerns, develop consensus plans of care, and create educational programs on ethical topics.

"There are not a lot of good deaths in the ICU" (Santiago & Abdool, 2011, p. 26).

Ethics Begins Where Policy Leaves Off

P&P may state quite specifically how to report lapses in competent practice. You are legally bound to follow P&P. Know and comply with your organization's P&P regarding all aspects of practice and especially those sensitive, ethical areas involved in reporting incompetent practice, addressing end-of-life issues, and other situations.

You may find yourself in situations that require immediate action or responses to others and may not have time to consult policy at that moment.

When P&P is ambiguous, your ethical decision making kicks in.

- What does the Code of Ethics say about situations like the one you're in? Some codes of ethics specifically state the professional's responsibility to report incompetent practice.
- How do you apply principles of autonomy, nonmaleficence, beneficence, and justice in the situation?
- Where can you go for help? The ethics committee, your manager, a trusted mentor or colleague?

Code of Ethics for Nurses

The history of the *Code of Ethics for Nurses* dates back to the Nightingale Pledge written in 1893.

The 2010 American Nurses Association publication, *Guide to the Code of Ethics for Nurses: Interpretation and Application* traces the development of the *Code of Ethics* to the present day.

"Despite the changes over time in the Code's expression, interpretation, and application, the central ethical values, duties and commitments of nursing have remained stable" (Fowler, 2010, p. xiii). The 2010 publication provides discussion of the code which was last revised in 2001.

ANA, 2010

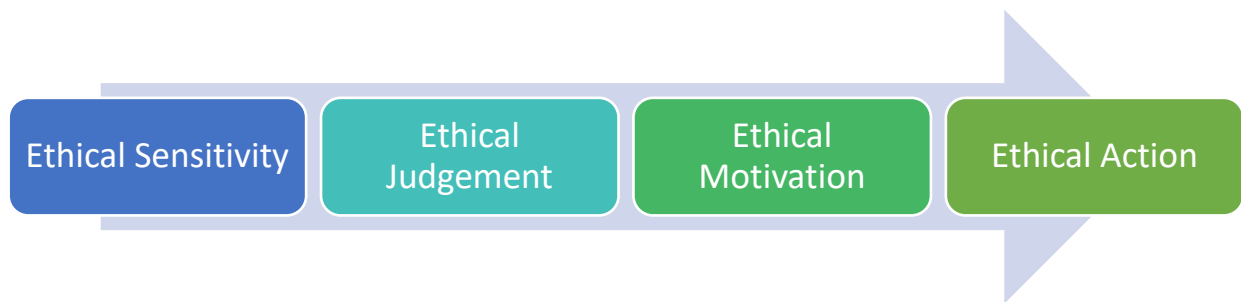
Provisions of the *Code of Ethics for Nurses*

1. The nurse, in all professional relationships, practices with compassion and respect for the inherent dignity, worth, and uniqueness of every individual, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems.
2. The nurse's primary commitment is to the patient, whether an individual, family, group, or community.
3. The nurse promotes, advocates for, and strives to protect the health, safety, and rights of the patient.
4. The nurse is responsible and accountable for individual nursing practice and determines the appropriate delegation of tasks consistent with the nurse's obligation to provide optimum patient care.
5. The nurse owes the same duty to self as to others, including the responsibility to preserve integrity and safety, to maintain competence, and to continue personal and professional growth.
6. The nurse participates in establishing, maintaining, and improving healthcare environments and conditions of employment conducive to the provision of quality healthcare and consistent with the values of the profession through individual and collective action.
7. The nurse participates in the advancement of the profession through contributions to practice, education, administration, and knowledge development.
8. The nurse collaborates with other health professionals and the public in promoting community, national, and international efforts to meet health needs.
9. The profession of nursing, as represented by associations and their members, is responsible for articulating nursing values, for maintaining the integrity of the profession and its practice, and for shaping social policy.

ANA, 2010

A Model of Moral Development

Rest (1986) proposed a four component model of moral development which describes steps in the process of attaining moral/ethical maturity. He suggests that one's development of ethical skill begins with an awareness of the impact of a situation upon others (**Sensitivity**). With this awareness, one then decides that there is a need for action and chooses a course of action (**Judgment**). One then makes a commitment, consistent with one's own values and beliefs, to take action (**Motivation**). Finally, one figures out the best course of action for this situation and persists to implement it (**Action**).



Without sensitivity to the feelings and reactions of others, ethical actions do not develop. Healthcare professionals often find it challenging to maintain this sensitivity amidst other demands and because of the discomfort that comes with it.

For an in-depth discussion that applies this model to critical care nursing situations, see Robichaux, 2012.

Professional Boundaries

The BON Rules and Regulations define professional boundaries as:

The appropriate limits which should be established by the nurse in the nurse/client relationship due to the nurse's power and the patient's vulnerability. Refers to the provision of nursing services within the limits of the nurse/client relationship which promote the client's dignity, independence, and best interests and refrain from inappropriate involvement in the client's personal relationships and/or the obtainment of the nurse's personal gain at the client's expense.

BON Rules and Regulations §217.1

BON Rules describing eligibility for licensure include that the applicant is able to recognize and honor the interpersonal boundaries appropriate to any therapeutic relationship or health care setting.

BON Rules and Regulations §213.27

Specific aspects of unprofessional conduct enumerated in the BON Rules include:

- Violating professional boundaries of the nurse/client relationship including but not limited to physical, sexual, emotional, or financial exploitation of the client or the client's significant other(s).
- Engaging in sexual conduct with a client, touching a client in a sexual manner, requesting or offering sexual favors, or language or behavior suggestive of the same.

BON Rules and Regulations § 217.12

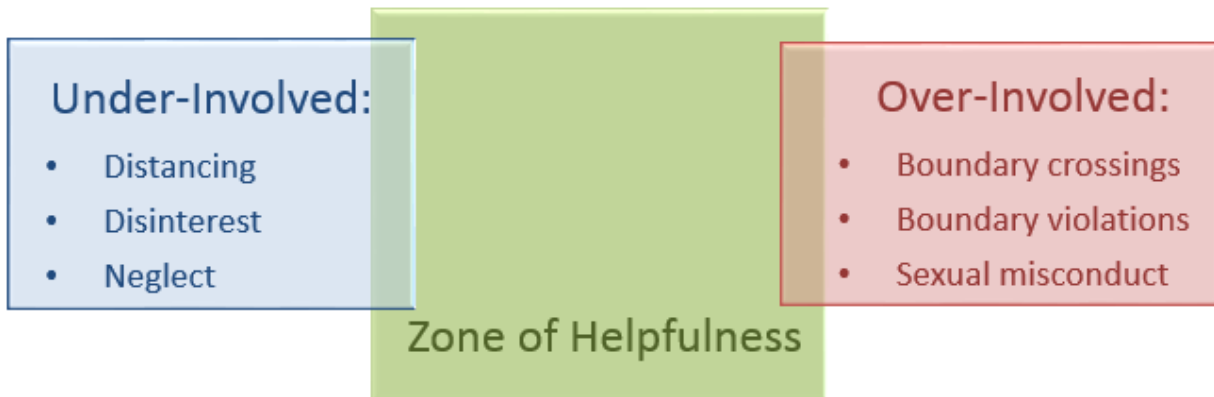
The NPA and the BON Rules, Standards of Nursing Practice identify "violations of professional boundaries" among conduct subject to reporting.

TOC 301.401; BON Rules and Regulations §217.11

A Continuum of Professional Behavior









“Professional boundaries are the spaces between the nurse’s power and the client’s vulnerability. The power of the nurse comes from the professional position and the access to private knowledge about the client. Establishing boundaries allows the nurse to control this power differential and allows a safe connection to meet the client’s needs” (NCSBN, n.d.).

A Continuum of Professional Behavior (Adapted from NCSBN, n.d.):



Boundary Violations: Red Flags

If a nurse-patient relationship waves one of these red flags, examine the relationship and/or validate with a colleague.

-  Disclosing excessively: Discussing personal problems, feelings, or personal life.
-  Keeping secrets: Keeping secrets with patients and/or becoming defensive if someone questions the interaction with a patient.
-  Becoming “Super Nurse”: Only I understand and can meet the patient’s needs.
-  Paying special attention: Spending disproportionate amounts of time, giving/receiving gifts, or trading assignments to be with a patient.
-  Communicating selectively: Failing to explain actions and aspects of care, or allowing the patient to communicate only with you and not to other staff members.
-  Flirting: Using sexual innuendo, off-color jokes, or offensive language.
-  Siding with the patient’s position, regardless of the circumstances.
-  Failing to recognize feelings of sexual attraction to a patient and consult with a supervisor or colleague, including changing the assignment if needed to protect boundaries.

Adapted from NCSBN, n.d.

Professional Boundaries: Eight Principles

Remember that your role is to provide professional nursing services. Not to play the role of a maid, a housekeeper, someone who runs errands, a therapist, a friend, a family member, or any role other than professional nurse.

1. **Empower, don't do it for them.**
 - Encourage your patients to participate in their care.
2. **Take care of yourself.**
 - Know where your professional life and your personal life begin and end. Respect those limitations. Do not encourage patient contact outside of your working hours.
3. **Limit disclosures about yourself.**
 - Answer legitimate questions straightforwardly, such as *"Where did you go to nursing school?"* or *"Where did you grow up?"* Use your judgment about answering questions about your family or any aspect of your personal life. It's perfectly appropriate to say, *"I make a rule of keeping my personal life private."* Use active listening by reflecting back what the patient has said and encouraging the patient to talk about him/herself. It may be acceptable to reveal common interests – in music, or as a fan of a sports team. Build trust, but not a personal relationship.
4. **Don't open your wallet.**
 - If the patient needs cash or items, use organizational resources or assist the patient to contact a family member or friend for help.
5. **Don't ask patients to perform services for you – even for pay.**
 - Make it clear that anything you ask the patient to do is a part of his/her care and recovery – not a favor to you.
6. **Be consistent, kind, and respectful.**
 - Build trust by consistently delivering on promises.
7. **Be a role model of professional behavior.**
 - Avoid slang and certainly profanity. Communicate the standard for the patient's behavior by behaving professionally.
8. **Be accountable.**
 - Ask for feedback from a colleague or supervisor concerning boundaries.

Adapted from Jordan, 2009

Test Yourself: Professional Boundaries

As defined in the BON Rules and Regulations, violating professional boundaries includes taking advantage of a patient or his significant others emotionally or financially.

- A. True
- B. False

The correct answer is true. According to BON Rules and Regulations §217.12:

- Violating professional boundaries of the nurse/client relationship including but not limited to physical, sexual, emotional, or financial exploitation of the client or the client's significant other(s).
- Engaging in sexual conduct with a client, touching a client in a sexual manner, requesting or offering sexual favors, or language or behavior suggestive of the same.

Conclusion

After studying this course, you have learned:

- How to access the Texas Nurse Practice Act and Board of Nursing (BON) Rules.
- Selected provisions of the Texas Nurse Practice Act and Board of Nursing (BON) Rules, including:
 - Licensure and license renewal requirements
 - Disciplinary process, including reasons for discipline
 - Delegation
 - Board Rule 217.11: Standards of Nursing Practice
 - Nursing Peer Review
 - Nurse Licensure Compact
- Topics which Texas BON Position Statements address.
- The Texas BON position on:
 - LVNs Engaging in IV Therapy, Venipuncture or PICC Lines
 - Board Rules Associated with Alleged Patient "Abandonment"
 - Use of Social Media by Nurses
- Examples of applying the principles of nursing ethics.
- Effective behaviors to maintain professional boundaries.

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