Texas Jurisprudence and Ethics
Objectives

- Review nurses' duty to provide safe competent care to patients, and Texas Board of Nursing's role in protecting the welfare of the people of Texas
- Incorporate principles of nursing ethics and professional boundaries in current practice
- Integrate Standards for Nursing Practice in current practice and distinguish two types of peer review
Legal Disclaimer

• The information contained in this presentation does not constitute legal advice, and the presenter is not acting as your attorney.

• There are no claims, promises, or guarantees about the accuracy, completeness, or adequacy of the information contained in this presentation or in the responses to questions.

• You must not rely on the information in this presentation as an alternative to legal advice from your attorney or other professional legal services provider.
Why Nursing Jurisprudence and Ethics?

• Each nurse, including an APRN, is required to complete at least two hours of CNE, as defined in this chapter, relating to nursing jurisprudence and nursing ethics before the end of every third, two-year licensing period.

• The CNE course(s) shall contain information related to:
  1. the Texas Nursing Practice Act,
  2. the Board’s rules, including §217.11 of this title (relating to Standards of Nursing Practice),
  3. the Board’s position statements,
  4. principles of nursing ethics, and professional boundaries.

• The hours of continuing education required under this subsection shall count towards completion of the 20 contact hours of CNE required in subsection (a) of this section.
IT IS A NURSE’S RESPONSIBILITY TO KNOW NPA/RULES AND REGULATIONS
Laws and Regulations Regarding Nursing

• Texas Nurse Practice Act (NPA)
• Texas board of Nursing (BON) rules and Regulations
• BON Position Statements

  Don’t have the force of law, but the Board strongly encourages nurses to choose those position statements applicable to their practice setting and incorporate them into their daily practice to ensure patient safety
Nurse Practice Act

Texas Occupational Code
Subtitle E-Regulations of Nursing
Chapter 301-Nurse Practice Act
Chapter 303-Nursing Peer Review
Chapter 304-Nurse Licensure
Compact
Chapter 305-APRN Licensure
Compact

Source of the Texas Board of Licensing’s authority
Texas Administrative Code (TAC)
TITLE 22. EXAMINING BOARDS
PART 11. TEXAS BOARD OF NURSING
CHAPTER 211. GENERAL PROVISIONS

§211.1. Introduction.
(a) Name. Board of Nurse Examiners for the State of Texas...a
decision-making board appointed by the Governor
of the State of Texas...
(b) Location. The administrative offices shall be located in
Austin, Texas.
(c) Legal Authority. Chapters 301, 303 and 304 of the Texas
Occupations Code.
(d) Composition. The board shall be composed of those persons
appointed by the Governor with the advice and consent
of the Senate.
The Texas Board of Nursing (BON)

• Established by passage of the NPA
• BON empowered by NPA with the responsibility and legal authority for ensuring competent practitioners of nursing
• Grants authority to the BON to make the rules and regulations to carry out the act.
Board of Nursing Responsibilities and Services

- Licensing qualified practitioners
- Enforcement - investigating violations of the NPA and initiating appropriate legal actions when necessary
- Establishing minimum standards for educational programs
Board of Nursing Mission Statement

• To Protect and promote the welfare of the people of Texas to ensure that each person holding a license as a nurse in the State of Texas us competent to practice safely
BON Mission fulfilled through

1. The regulations of the practice of nursing and

2. The approval of nursing education programs
Texas BON Website

http://www.bon.texas.gov
The BON consists of 13 Members

6 members including:

a) One advanced practice nurse

b) Two registered nurses who are not advanced practice nurses or members of a nurse faculty

c) Three vocational nurses who are not a member of nurse faculty.
The BON consists of 13 Members

3 members who are faculty members of a nursing school

One is a member of the faculty of a baccalaureate program that prepares students to become registered nurses

One is a member of the faculty of a associates degree program that prepares students to become registered nurses

One is a member of the faculty of a program that prepares students to become vocational nurses
The BON consists of 13 Members

Four members that represent the public
• Appointments to the Board are made without regards to race, color, disability, sex, religion, age, or national origin of the person being appointed

• Member Eligibility

• A person is only eligible for appointment as a registered nurse of vocational nurse if they have been practicing nursing in the role for which the member was appointed for three of the five years preceding the appointment

• A person is not eligible for appointment if they or their spouse is:
  a) Registered, licensed or certified by a occupational regulatory agency in the field of healthcare
  b) Is employed or participates in the management of a business entity or organization that: Provides healthcare services
  – Sells, manufactures, or distributes health care supplies or equipment is regulated or receives money from the board
The BON consists of 13 Members

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  - Is employed or participates in the management of a business entity or organization that: Provides healthcare services
  - Sells, manufactures, or distributes health care supplies or equipment
  - Is regulated or receives money from the board
  - Owns or controls directly or indirectly more than 10 percent interest in a business or other organization that:
    a) Provides healthcare services
    b) Sells, manufactures, or distributes health care supplies or equipment
    c) Is regulated or receives money from the board
    d) Uses or receives a large amount of goods, services, or funds from the board other than the funds allowed by law for board membership, attendance, or expenses
    e) A person may not be a member of the board if they or their spouse are an officer, consultant, of a Texas trade association in healthcare
Terms

The members serve a staggered six year term ending with one third of the members terms ending on January 31 of each odd numbered year.
Reason for Removal

REASON FOR REMOVAL

• Does not have time to fulfill their obligation to the board

• Does not maintain their qualifications to be on the board

• Is ineligible for membership due to previously stated eligibility qualifications

• Due to illness, or disability which does not allow them to participate for a substantial part of members term

• Is absent for more than half of the regularly scheduled board meetings during the calendar year unless a majority of board members have voted an excuse the member
Licensure Required

• A person may not practice or offer to practice professional nursing or vocational nursing in this state unless the person is licensed [NPA § 301.251]

This section of the NPA establishes the NPA as a practice control act for RNs and LVNs
Exceptions to Required Licensure

- Those who provide free-of-charge care of a sick friend
- Nursing care provided during a disaster under Texas state emergency management plan when the person does not hold himself or herself to be a nurse (unless licensed in another state)
- Nursing care based solely by the prayer or spiritual means
- The practice of nursing incidental to a program of study in a nursing education program
- The practice of nursing by a person licensed in another state who is in Texas on non routine basis for a period of time not exceeding 72 hours to provide patient care during transport, provide nursing consultation services or attend or present continuing nursing education program.
Exceptions to Required Licensure (continued)

- Those entitled to practice in Texas under the Nurse Licensure Compact, (NLC) (TOC, Subchapter A [General Provisions], Section 301.004[A]- {7};TOC, Title 3, Subchapter E [Regulations of Nursing], Section 304 [Nurse Licensure compact].
Licensure

• Each applicant must submit to the Board a sworn application that demonstrates the applicants qualifications under Section 301.252. (A), (1) –(3) and evidence of that the applicant:

1) Has good professional character
2) Has successfully completed a program of professional or vocational nursing education
3) Has passed the jurisprudence examination approved by the Board.
Temporary Permits

• Pending the results of licensing exam a temporary permit may be issued to practice nursing under the direct supervision of an RN or LVN

• The board will not issue a temporary license to an individual who has previously administered by the board or another state

• The temporary permit will expire upon the receipt of
  – The date of receipt of a permanent license
  – a notice from the Board that the permit holder has failed the examination
Temporary Permits (continued)

The Board may issue a temporary permit to practice for the limited purpose of allowing a RN/LVN to satisfy a requirement imposed by the Board necessary for
1. renewal of an expired license
2. reactivation of an inactive license
3. reissuance of a suspended, revoked, or surrendered license

These permits will expire when
1. the date a permanent license is received
2. six months after the date the permit is issued

The person holding a permit in this section is considered to be a RN/LVN for all purposes except of any stipulation or limitation on practice imposed by the Board issuing the permit.
Reciprocal license by Endorsement for Some Foreign Applicants

• On payment of a fee the Board may issue a license to practice as a RN/LVN without examination if the applicants holds a registration as an RN or LVN in another Territory or possession of the United states or foreign country required in its examination the same degree of fitness as Texas.
Temporary License by Endorsement

A temporary license will be granted if the applicant has:

1. Paid the determined fee by the Board
2. Evidence that the applicant possessed at the time of initial licensing, the other qualifications to be eligible for licensing
3. Proof of initial licensing examination and proof that the other state license have not been suspended, revoked, canceled, surrendered, or otherwise restricted
Temporary License by Endorsement (continued)

• A holder of a temporary license may receive a permanent license if the applicant:
• Verifies their academic and professional credentials and
• Satisfies an other requirement established by the state
Use of Title

Must hold a license to use the title:

• Registered Nurse or RN
• Professional Nurse
• Licensed Vocational Nurse or LVN
• Any designation that implies that the person is a licensed registered or vocational nurse
Clearly Legible Insignia

• When interacting with the public in a nursing role, RNs and LVNs must wear an insignia identifying them as RNs or LVNs [NPA § 301.351]

• APRNs practicing in an advance practice role must identify themselves with their APRN title

• BON Rule 217.10(b) requires the nurse’s first or last name and licensure level
Paper licenses are obsolete

The BON discontinued issuing wallet-sized paper licenses for nurses renewing their licenses beginning September 1, 2008

• Paper license certificates are issued for:
  - Graduate nurses who pass the NCLEX® exam and obtain their initial license in Texas;
  - Nurses who hold licenses in other states and are obtaining a Texas license for the first time; and
  - Nurses who receive full licensure as APRNs
Licensure Verification

Employers may verify the licensure status of all nurses seeking employment online or by phone.
Renewal of Licensure

- 60 days prior to license expiration, the BON will mail a postcard reminder to renew online.

- This is one of the reasons it is important to keep your contact information up to date!
Continuing Competency

Purpose:

to ensure nurses stay abreast of current industry practices, enhance their professional competence, learn about new technology and treatment regimens, and update their clinical skills. [TAC § 216.2]

All nurses are required to demonstrate continuing competency for renewal of licensure.
Continuing Competency  
(TAC Chapter 216)

Methods:

Complete 20 hours of continuing education,  
or  
Attain, maintain, or renew an approved national nursing certification in the area of practice
Continuing Competency (TAC Chapter 216)

- Nursing Jurisprudence & Ethics – 2 hours [Rule 216.3 (g)]
- Older Adult or Geriatric Care – 2 hours [Rule 216.3 (h)]
Nurse Licensure Compact

• The Nurse Licensure Compact (NLC) allows RNs and LVNs to have one multistate license, with the ability to practice in both their home state and other NLC states.

• The APRN Compact allows an advanced practice registered nurse to hold one multistate license with a privilege to practice in other compact states.
Nurse Licensure Compact

• Agreement among states to mutually recognize each others’ licenses
• Texas among first to adopt
• Premise: current licensure requirements essentially the same from state to state
• Does not interfere with each state defining scope of practice
• Only defines requirements to hold license
Nurse Licensure Compact - Definitions

- Party states – states who have adopted the compact
- Home state license – where you permanently reside
- Remote state – where you practice using multistate privilege (must be a party state)
Nurse Licensure Compact - Requirements

Maintain home state license

• Adhere to state practice laws of state in which patient is located at the time care is provided
• Use multistate privilege only in party states
• Hold home state license in only one party state at a time.
Practice in a Non-Party State

• To practice in a state that is not part of the Compact, the nurse must obtain license from the non-party state
• May concurrently hold a home state license and a license to practice in a non-party state
• If you live in a non-party state, you must obtain a non-resident Texas license in order to practice in Texas
The National Council of State Boards of Nursing (NCSBN) created this mutual recognition plan in 1997. The 24 states that have implemented the compact as of January 2013 are:

<table>
<thead>
<tr>
<th>Arizona,</th>
<th>Idaho</th>
<th>Maryland</th>
<th>New Hampshire</th>
<th>Rhode Island</th>
<th>Utah</th>
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<td>Wisconsin</td>
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Ethical Conduct

Year after year, Nursing is recognized as one of the most trusted professions.

It is important to maintain that trust, so we can practice efficiently.
Good Professional Character

Integrated pattern of personal, academic and occupational behaviors which, in the judgment of the Board, indicates that an individual is able to consistently conform his or her conduct to the requirements of the Nursing Practice Act, the Board’s rules and regulations, and generally accepted standards of nursing practice including, but not limited to, behaviors indicating honesty, accountability, trustworthiness, reliability, and integrity (TAC § 213.27(a)).
Factors Indicating Good Professional Character

• Distinguish right from wrong;
• Think and act rationally;
• Keep promises and honor obligations;
• Accountable for own behavior;
• Able to practice nursing in an autonomous role with patients/clients, their families, significant others, and members of the public who are or who may become physically, emotionally, or financially vulnerable;
Factors Indicating Good Professional Character (Continued)

• Recognize and honor the interpersonal boundaries appropriate to any therapeutic relationship or health care setting; and

• Promptly and fully self-disclose facts, circumstances, events, errors, and omissions when such disclosure could enhance the health status of patients/clients or the public or could protect patients/clients or the public from unnecessary risk of harm [Rule213.27(b)(2)(A-G)].
Factors Indicating Good Professional Character (Continued)

• Any conviction for a felony or for a misdemeanor involving moral turpitude or order of probation with or without an adjudication of guilt for an offense that would be a felony or misdemeanor involving moral turpitude if guilt were adjudicated [Rule 213.27 (b)(3)].

• Any revocation, suspension, or denial of, or any other adverse action relating to, the person’s license or privilege to practice nursing in another jurisdiction [Rule 213.27 (b)(4)].
Criminal Behavior Disclosure

• Requirement for criminal history for applicants for a license [NPA § 301.2511].
• Requirement for criminal history for renewal of license [NPA § 301.3011].

Disclose:
• Convictions
• Deferred adjudications
• Probated sentences
• Domestic offenses
Professional Boundaries

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.
Professional Boundaries

TOO LITTLE Care Provider Involvement

Patient Centered Care

TOO MUCH Care Provider Involvement

Professional Boundaries

Rule 217.11. Standards of Nursing Practice

(J) Know, recognize, and maintain professional boundaries of the nurse-client relationship
Rule 217.12. Unprofessional Conduct

(6) Misconduct — actions or conduct that include, but are not limited to:

(D) 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)
Unprofessional Conduct

Rule 217.12. Unprofessional Conduct
• Using fraud or deceit in procuring a license
• Improperly using a nursing license
• Impersonating another person in examination
• Aiding and abetting someone in unlawful practice
• Failing to cooperate with a lawful investigation
• Behaving in a threatening or violent manner in the workplace
Unprofessional Conduct (Continued)

Rule 217.12. Unprofessional Conduct

• 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 in connection with the performance of professional services.
Standards of Nursing Practice

Respect the client’s right to privacy by protecting confidential information

• Promote and participate in education and counseling
• Notify the appropriate supervisor when leaving a nursing assignment
• Know, recognize, and maintain professional boundaries of the nurse-client relationship
Professional Nursing definition

- The performance of an act that requires substantial judgment and skill, the proper performance which is based on knowledge and application of the principals of biological, physical, and social science acquired by completing a course in an approved school of professional nursing. The term does not include acts of medical diagnosis, or the prescription of therapeutic or corrective measures.
Professional Nursing Involves

- The observation of, assessment, intervention, evaluation, rehabilitation, care and counsel, or health teachings of a person who is ill, injured, or experiencing a change in normal health process
- Maintenance of health or prevention of illness
- Administration of medication or treatment as ordered by a physician, podiatrist or dentist
- Supervision or teaching of nursing, administration, supervision, and evaluation of practices, polices and procedures
- Requesting, receiving, signing for, and distributing prescription drug samples to patients at a practice where and advanced practice registered nurse is authorized to sign prescription orders as provided by Subsection B, Chapter 157
- The development of nursing care plans
Nurse means a person required to be licensed under the BON to engage in either professional or vocational nursing.

Nursing means professional or vocational.
Vocational Nursing Definition

• A directed scope of practice, including performance of an act that requires specialized judgment and skill, the proper performance of which is based on knowledge and application of the principals of biological, physical, and social science as acquired by completing a course in an approved school of vocational nursing. The term does not include acts of medical diagnosis, or the prescription of therapeutic or corrective measures.
Vocational Nursing involves

- Collecting data and performing focused nursing assessments of the health status of individuals
- Participating in the planning of the nursing care needs
- Participating in the development and modifications of nursing care plans
- Participating in health teaching and counseling to promote, attain and maintain the optimal health level of all individuals
- Assisting in the evaluation of an individual’s response to a nursing intervention and identifying the individual’s needs
- Engaging in other acts that require education and training as prescribed by the BON rules and policies commensurate with the nurse’s experience, continuing education and demonstrated competency
Scope of Practice

Role of LVN
• Directed scope of practice that must be supervised
• Educated to care for clients with stable and predictable conditions
• Educated to use hands on assessments using their senses

Role of RN
• Works in structured and unstructured healthcare environments
• Responsible for well being of all patients
• Function with in the scope of the NPA and Board rules
<table>
<thead>
<tr>
<th>Professional Nursing Only</th>
<th>Vocational Nursing</th>
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</thead>
<tbody>
<tr>
<td>Practice independently within NPA and Board Rules</td>
<td>Participate in planning of nursing care</td>
</tr>
<tr>
<td>Make nursing diagnoses</td>
<td>Assist in evaluating patient response to nursing care</td>
</tr>
<tr>
<td>Develop a nursing care plan</td>
<td>Perform focused assessment</td>
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<tr>
<td>Perform comprehensive assessment</td>
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<tr>
<td>Evaluate patient response</td>
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<tr>
<td>Evaluate patient response to nursing care</td>
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LVN Supervision

NPA § 301.353 Supervision of Vocational Nurse:

- The practice of vocational nursing must be performed under the supervision of a registered nurse, physician, physician assistant, podiatrist, or dentist.
Duty of a Nurse in any Practice Setting

Position Statement 15.14

• Establishes, through the NPA and Board Rules, that a nurse has a responsibility and duty to a client/patient to provide and coordinate the delivery of safe, effective nursing care.

• This duty supersedes any facility policy or physician order.
Duty of a Nurse in any Practice Setting (Continued)

- Duty to the patient

The court in affirming the disciplinary action of the Board, held that a nurse has a duty to the patient which cannot be superseded by hospital policy or physician's order.
The Texas Nursing Practice Act (NPA) and the Board’s Rules and Regulations define the legal scope of practice for nurses.
Scope of Practice (Continued)

Graduate Nurses

- Supervision for a period of six months
- Lesser time, if agreed upon by the newly licensed nurse and the supervising nurse
- Experienced nurses should supervise and mentor
Nurses transitioning back to practice or to new primary practice area

- Should not act as charge nurse for at least six months, unless a lesser time period is agreed upon by the nurse and his/her supervisor, based on the competency of the nurse
Six-Step Decision-Making Model

Tool developed by the BON to assist nurses in making good professional judgments about the nursing tasks or procedures they choose to undertake.

- Goal is making sure that he/she only accepts those assignments for which the nurse has the education, training, and skill competency

http://www.bne.state.tx.us/pdfs/publication_pdfs/dectree.pdf
Six-Step Decision-Making Model

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

Yes → Continue  No → Stop
Six-Step Decision-Making Model

2. Is the activity appropriately authorized by valid order/protocol and in accordance with established policies and procedures?

Yes ➔ Continue        No ➔ Stop
Six-Step Decision-Making Model

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
Six Step Decision Making Model

Six-Step Decision-Making Model

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

Yes  Continue  No  Stop
6. Would a reasonable and prudent nurse perform this activity in this setting?

Yes → Continue  No → Stop
Six Step Decision Making Model

Six-Step Decision-Making Model

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

Yes    →    Continue    No    →    Stop the activity
Delegation

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

• According to the BON website, many find delegation to be a perplexing concept with multiple nuances.

• The BON created the Delegation Resource Packet to afford RNs clearer direction for delegation in a variety of settings thereby improving the delegation process.

• http://www.bne.state.tx.us/practice_delegation_resource_packet.asp
Criteria for Delegation

• RNs may delegate
• LVNs may supervise
• The RN is responsible for the evaluation of the delegated task to ensure it was completed and completed correctly [Rule 224.3].
Nursing Tasks Prohibited from Delegation

Rule 224.8 (c)

- 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 require professional nursing judgment or intervention;
Nursing Tasks Prohibited from Delegation

Rule 224.8 (c)

• 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; and

• Administration of medications, including intravenous fluids, except by medication aides as permitted under §224.9 of this title (relating to The Medication Aide Permit Holder).
Nursing Peer Review
Mandatory Reporting Requirement

A nurse shall report to the board if the nurse has reasonable cause to suspect that:
1. Another nurse has engaged in conduct subject to reporting; or
2. The ability of a nursing student to perform the services of the nursing profession would be, or would reasonably be expected to be, impaired by chemical dependency.
Alternative to Mandatory Reporting

Instead of reporting to the board under a nurse may make a report to:

1. a nursing peer review committee under Chapter 303;

or

2. to the nursing educational program in which the student is enrolled.
**Employer Duty to Report**

If an employer terminates a nurse (voluntarily or involuntarily), suspends for seven (7) or more days, or takes other substantive disciplinary action against a nurse or substantially equivalent action against an agency nurse for nursing practice errors/concerns, the employer must report to the Board (BON) in writing [NPA § 301.405 (b)]
Minor Incidents

A "minor incident" is defined by the NPA §301.419(a) as:

• "conduct that does not indicate that the continuing practice of nursing by an affected nurse poses a risk of harm to the client or other person."
Minor Incident Exclusions [Rule 217.16(c)]

Conduct that cannot be considered a minor incident:
1. Any error that contributed to a patient’s death;
2. Criminal conduct defined in NPA § 301.4535; or
3. A serious violation of the board’s Unprofessional Conduct Rule 217.12 involving intentional or unethical conduct such as fraud, theft, patient abuse or patient exploitation.
TOC Chapter 303. Nursing Peer Review

Defined by NPA §303.001(5) as the evaluation of:

- 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
- a determination or recommendation regarding a complaint.
Incident-Based Peer Review

• Incident-Based, because it relates to an incident reported after the fact, so it starts with an error or incident

• Initiated by a nurse, facility, association, school, agency, or any other setting that utilizes the services of nurses
Safe Harbor Peer Review

• May be initiated by a LVN, RN or APRN prior to accepting an assignment or engaging in requested conduct that the nurse believes would place patients at risk of harm, thus potentially causing the nurse to violate his/her duty to the patient(s).

• Invoking safe harbor in accordance with Rule 217.20 protects the nurse from licensure action by the BON as well as from retaliatory action by the employer.
Safe Harbor Peer Review

• Employers of 10 or more licensed nurses must have a Peer Review Committee [TOC § 303.0015 (a) (1) and (2)].

• The committee shall give the nurse being reviewed at least minimum due process [TOC § 303.002 (e)].
Due Process Rights

A facility conducting incident-based peer review shall:

• Have written policies and procedures about peer review

• Nurse must receive notice regarding the review, and have an opportunity to respond to the notice

• Nurse may have an attorney, will get feedback after the decision, and have a chance to respond to the decision
Minimum Due Process Rights Include

• Notice must be provided in writing in person or by certified mail
• Notice must include a description of the event(s) to be evaluated in sufficient detail to inform the nurse of the incident, circumstances and conduct (error or omission)
• The nurse must have the opportunity to:
  (i) submit a written statement regarding the event under review;
  (ii) call witnesses, question witnesses, and be present when testimony or evidence is being presented
Employer Disciplinary Action

• Employment and licensure issues are separate.
• An employer may take disciplinary action before review by the peer review committee is conducted, as peer review cannot determine issues related to employment.
• The role of incident-based peer review is to determine if licensure violations have occurred and, if so, if the violations require reporting to the board.
Disciplinary Action by the BON (Continued)

Cases that result in disciplinary action become public information
Safe Harbor Peer Review

- Safe Harbor must be invoked prior to engaging in the conduct or assignment for which peer review is requested, and may be invoked at any time during the work period when the initial assignment changes.

- Examples of Safe Harbor situations include clinical assignments related to staffing and/or acuity of patients where the nurse believes patient harm may result [TAC § 217.11(1)(B) and (T)].
Safe Harbor Peer Review

• Safe Harbor allows nurses to accept assignments, and do the best patient care they are capable of, without fear of licensure action by the Board if they accidentally commit an error.

• It is important to remember; however, that NPA § 301.352 gives a nurse the right to refuse to engage in conduct related to patient care if they believe the conduct would violate the NPA or any BON rule.
Activation of Safe Harbor Peer Review

• Notify the supervisor making the assignment in writing that the nurse is invoking Safe Harbor.
• This must be done prior to engaging in the conduct or assignment for which safe harbor is requested.
• The "Comprehensive Request for Safe Harbor Nursing Peer Review" must be completed by the end of the work period and before leaving the practice setting.
Activation of Safe Harbor Peer Review

• Please DO NOT mail or fax your request for Safe Harbor Nursing Peer Review to the Board of Nursing.

• The BON cannot conduct Peer Review – this must be done through the facility or agency where the assignment was made to you.
Protections for the Nurse

• A nurse who in good faith requests Safe Harbor peer review:
  1. may not be disciplined or discriminated against for making the request;
  2. may engage in the requested conduct pending the peer review; and
  3. may not be disciplined by the board for engaging in that conduct while the peer review is pending.
Withdrawal of Request for Safe Harbor

• The nurse's request for Safe Harbor Peer Review does not become invalid and the nurse does not have to withdraw his/her request for Safe Harbor just because a supervisor is able to respond with adequate staff, equipment, or whatever else was at issue with the original requested assignment.

• It is the nurse's choice whether or not he/she wishes to still have a nursing peer review of the situation.
Safe Harbor

- Idea is that patients are better off with the nurse than without the nurse in the vast majority of cases.
Safe Harbor (Continued)

Rule 217.20(g) a nurse may engage in an assignment or requested conduct unless the requested assignment or conduct is one that:

– constitutes a criminal act
– constitutes unprofessional conduct, or
– the nurse lacks the basic knowledge, skills, and abilities necessary to deliver nursing care that is safe and that meets the minimum standards of care to such an extent that accepting the assignment would expose one or more patients to an unjustifiable risk of harm.
Blue Print for Conversation:

1. Licensure & Regulation Nursing Ethics
2. Nursing Practice 90
3. Nursing Peer Review
4. Disciplinary Action
Rule 217.11. Standards of Nursing Practice

- Texas Administrative Code
- TITLE 22 EXAMINING BOARDS
- PART 11 TEXAS BOARD OF NURSING
- CHAPTER 217 LICENSURE, PEER ASSISTANCE AND PRACTICE
- RULE §217.11 Standards of Nursing Practice
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.
Rule 217.11. Standards of Nursing Practice

• Standards Applicable to All Nurses. All vocational nurses, registered nurses and registered nurses with advanced practice authorization shall...

• Standards Specific to Vocational Nurses...

• Standards Specific to Registered Nurses...

• Standards Specific to Registered Nurses with Advanced Practice Authorization...
Rule 217.12. Unprofessional Conduct

Texas Administrative Code

• TITLE 22 EXAMINING BOARDS
• PART 11 TEXAS BOARD OF NURSING
• CHAPTER 217 LICENSURE, PEER ASSISTANCE AND PRACTICE
• RULE §217.12 Unprofessional Conduct
Rule 217.12. Unprofessional Conduct

• The unprofessional conduct rules are intended to protect clients and the public from incompetent, unethical, or illegal conduct of licensees.
• The purpose of these rules is to identify unprofessional or dishonorable behaviors of a nurse which the board believes are likely to deceive, defraud, or injure clients or the public.
• Actual injury to a client need not be established.
BON & Complaints

• More than 16,000 complaints per year are typically received by the BON.
• Not all complaints result in an investigation or disciplinary action by the Board.
• In all cases, the identity of the complainant is kept confidential.
Investigation of Complaints

• The nurse is notified of the investigation and invited to respond.
• The investigator gathers and reviews evidence, and then reviews the nurse's response.
• Then, a decision is made by the Board.
Responsibilities During Investigation

• Respond promptly to all requests for information by the investigator assigned to your case.
• Ask your investigator questions so you are certain you understand what is happening
• Keep the investigator informed about how, when, and where you can be reached, and supply a phone number
• Respond promptly to the notice letter informing you of the allegations against you
• The response should be concise, clearly written, and should address the facts as you know them
Disciplinary Action by the BON

• Denial of an individual’s application for a license, license renewal, or temporary permit;
• A written warning;
• A public reprimand;
• Restriction or limitation of the person’s license (e.g., limiting one or more specified nursing activities);
• Suspension of the license;
• Revocation of the license;
• Assessment of a fine;
Disciplinary Action by the BON (Continued)

• Submit to care, counseling or treatment designated by the Board;
• Participate in a program of education or counseling, including remedial education;
• Practice for a specified period of time under the direction of an RN or VN designated by the Board;
• Perform public service the Board considers appropriate;
• Abstain from the consumption of alcohol or the use of drugs and submit to random periodic drug screens;
Disciplinary Action by the BON (Continued)

• Accept a voluntary surrender of a license;
• Impose conditions for reinstatement of a license if the license has been revoked, suspended, or voluntarily surrendered;
• Place a probationary status on a license;
• Order a licensee to pay a refund to a consumer;
• Issue an emergency “cease and desist” order; and
• Enjoin a violation of the Nursing Practice Act or Board rule