

Proposed Amendments to 22 Tex. Admin. Code §217.11, Standards of Nursing Practice

Senate Bill 993 amends the Nursing Practice Act by addressing the areas of nursing peer review and various aspects of the regulation of nursing practice. Section 301.401 (formerly entitled Grounds for Reporting Nurse) was partly modified as follows:

Sec. 301.401. DEFINITIONS [~~GROUND FOR REPORTING NURSE~~]. In this subchapter: (1) "Conduct subject to reporting" means conduct by a nurse that:
(A) violates this chapter or a board rule and contributed to the death or serious injury of a patient; (B) causes a person to suspect that the nurse's practice is impaired by chemical dependency or drug or alcohol abuse;
(C) constitutes abuse, exploitation, fraud, or a violation of professional boundaries; or
(D) indicates 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.

This section also provides a statutory definition for "minor incident" as follows:

(2) "Minor incident" means conduct by a nurse that does not indicate that the nurse's continued practice poses a risk of harm to a patient or another person.

In addition, House Bill 2426 amended the Nursing Practice Act, section 301.410, entitled Report Regarding Impairment by Chemical Dependency, Mental Illness, or Diminished Mental Capacity, to include the following provision: ...(b) A person who is required to report a nurse under this subchapter because the nurse is impaired or suspected of being impaired by chemical dependency or diminished mental capacity must report to the board if the person believes that an impaired nurse committed a practice violation.

To implement these changes to the Nursing Practice Act into Board rule, section 217.11(1)(K) addressing mandatory reporting is recommended for amendment to track the language of the statutes.

Staff requests that the Board move to propose an amendment to section 217.11 and publish it in the *Texas Register* for a 30-day comment period, and if negative comments are not received in the 30 day comment period, adopt and publish the amendment in the *Texas Register*.

§217.11. Standards of Nursing Practice.

The Texas Board of ~~Nursing Nurse Examiners~~ is responsible for regulating the practice of nursing within the State of Texas for Vocational Nurses, Registered Nurses, and Registered Nurses with advanced practice authorization. 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.

(1) Standards Applicable to All Nurses. All vocational nurses, registered nurses and registered nurses with advanced practice authorization shall:

(A) - (J) No change.

(K) Comply with mandatory reporting requirements of Texas Occupations Code ch. 301, Subchapter I, which include reporting a nurse:

~~(i) unnecessary or likely exposure by the nurse of a client or other person to a risk of harm;~~

~~(ii) unprofessional conduct by a nurse;~~

~~(iii) failure by a nurse to adequately care for a client;~~

~~(iv) failure by a nurse to conform to the minimum standards of acceptable nursing practice;~~

~~(v) impairment or likely impairment of a nurse's practice by chemical dependency; or~~

(i) who violates this chapter or a board rule and contributed to the death or serious injury of a patient;

(ii) whose conduct causes a person to suspect that the nurse's practice is impaired by chemical dependency or drug or alcohol abuse;

(iii) whose actions constitute abuse, exploitation, fraud, or a violation of professional boundaries;
or

(iv) 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.

(v)(vi) exclusions except for minor incidents (Tex. Occ. Code §§ 301.401(2), 301.419, 22 TAC §217.16), peer review (Tex. Occ. Code §§301.403, 303.007, 22 TAC §217.19), or peer assistance if no practice violation (Tex. Occ. Code §301.410) as stated in the Nursing Practice Act and Board rules (22 TAC ch. 217).

(L) - (V) No change.

(2) - (4) No change.