



Substance Use Disorders and Other Alcohol and Drug Related Conduct

Purpose

The Texas Board of Nursing (Board) is committed to its mission to protect the public health, safety, and welfare. In keeping with this mission, the Board is concerned about conduct that may prevent an individual from practicing nursing with reasonable skill and safety due to a substance use disorder or other alcohol and drug related conduct, such as the possession, intemperate use, misuse, or abuse of alcohol or drugs, prescribed or otherwise.

This policy is intended to explain the Board's position regarding substance use disorders¹ and alcohol and drug related conduct and inform licensees, petitioners, applicants and the public about the Board's process for reviewing such conduct.

Effect on Practice

Nurses, by virtue of the license issued to them by the Board, have a duty to their patients to provide safe, effective nursing care and to be fit to practice at all times. The nurse-patient relationship is a dependent one, and patients under the care of a nurse are, by their very nature, vulnerable. This is particularly true of the elderly, children, persons with mental disorders, sedated or anesthetized patients, patients whose mental or cognitive ability is compromised, and patients who are disabled or immobilized. It is incumbent upon the nurse to ensure that he/she is able to provide safe and effective nursing care to these vulnerable populations at all times.

Nurses who have a substance use disorder may exhibit impairment in both cognitive and motor functioning. A nurse affected by a substance use disorder may be unable to accurately assess patients, make appropriate judgments, or intervene in a timely and appropriate manner. This danger may be heightened when a nurse works in an

¹ The Diagnostic and Statistical Manual of Mental Disorders (DSM) was amended May 2013. The amended version, the DSM-V, utilizes the term *substance use disorder*. The use of the term *substance use disorder* in this policy reflects the terminology utilized in the amended version of the manual. Under the DSM-V, a *substance use disorder* may be mild, moderate, or severe. Further, the term may include matters that were formerly categorized as drug or alcohol abuse or misuse or chemical dependency.

autonomous setting, like home health, where other healthcare providers are not present to provide interventions for the patient.

However, a nurse need not have a diagnosed substance use disorder in order for patient care to be affected. Other alcohol and drug related conduct, such as the intemperate use, misuse, or abuse of alcohol or drugs, prescribed or otherwise, may affect a nurse's ability to provide safe and effective nursing care. This may include behavior that occurs while a nurse is not on duty or subject to call. For example, a nurse's criminal history may raise questions about his/her ability to practice nursing safely. Arrests or convictions for drug or alcohol related crimes, such as *Driving While Intoxicated* or *Possession of a Controlled Substance*, are relevant when determining if a nurse possess current fitness to practice. Theft of drugs or other substances by a nurse may also cause concerns about the potential for impaired nursing care.

A nurse may also exhibit impaired behavior while on duty, with or without a confirming employer drug screen. In some instances, a nurse may produce a pre-employment drug screen that results positive for a prohibited substance. A nurse may also demonstrate a pattern of mishandling controlled substances, such as excessive withdrawals of drugs from a computerized dispensing machine (such as a pyxis), failing to properly waste drugs, or failing to properly document the administration of drugs in medical records. A nurse may also have a physical condition that requires the use of prescription drugs. Although the use of prescription drugs is authorized by law and may be necessary, the nurse's ability to function safely while under the effects of the drugs will be carefully considered by the Board if it affects the practice of nursing. This is particularly true in situations where a nurse may be abusing his/her prescription drugs or has been unable to stabilize the synergistic effect of his/her medications. In any of these situations, the Board's primary goal is to ensure the delivery of safe and effective nursing care.

Although any of these situations may affect the ability of a nurse to safely perform his/her duties, these examples are not exhaustive. The Board is authorized to, and does, investigate any situation that may affect a nurse's ability to provide safe and effective nursing care.

Disciplinary Action

Not all complaints involving a nurse's ability to practice safely will require the same amount of Board intervention or will result in a disciplinary action. The particular facts of each case must be carefully considered. The Board believes that substance use disorders are treatable conditions, and nurses who achieve stable recovery may be able to safely provide care to patients under certain conditions. Likewise, the Board also believes that nurses who have engaged in behaviors involving the intemperate use, misuse, or abuse of alcohol or drugs may also be able to safely provide care to patients under certain conditions. In all situations involving an individual's fitness to practice, the Board's primary objective is to ensure the protection of the public. However, the Board will consider the unique facts and circumstances of each situation and may utilize various options in resolving the matter, including returning nurses to practice under structured requirements.

A nurse whose fitness to practice is in question due to a substance use disorder or drug or alcohol related behavior may be required to undergo an evaluation that meets the requirements of [Tex. Occ. Code §301.4521](#) and [Board Rule 213.33](#). Under the authority of [Tex. Occ. Code §301.4521](#), the Board may require an individual to submit to a physical and/or psychological evaluation to determine if the individual is able to safely provide nursing care. [Board Rule 213.33](#) and the [Board's adopted Guidelines for Physical and Psychological Evaluations](#) contain additional information regarding the types of evaluations that may be required in a particular situation and the applicable requirements that evaluators must meet. The Board will consider the individualized results of the evaluation, along with the facts of the case in determining the most appropriate resolution for the particular situation.

In more serious cases, it may be necessary for the Board to deny licensure or remove a nurse from nursing practice until the nurse is deemed safe to return to those duties. In these situations, the nurse will be given the opportunity to seek treatment and may return to nursing care when he/she is able to provide evidence of sustained sobriety and stable recovery. Verifiable evidence of sobriety may include random drug screens, letters of recommendation, evaluations from present and past employers, and signed logs of support group attendance. If an individual meets these requirements and returns to nursing practice, the individual may be subject to Board monitoring and random drug screening for a period of time.

In other cases, it may be determined that an individual's participation in a Board-approved peer assistance program² will sufficiently minimize the risk to patients/clients and the public. Under certain conditions, this may even be accomplished through a confidential, non-public Board order. [See Tex. Occ. Code §301.466\(d\)](#)³. There may also be situations where an individual's behavior warrants an eligibility or disciplinary order that includes random drug screening and monitored practice for a minimal period of time. These types of orders may be appropriate when an individual does not have a substance use disorder diagnosis, but has engaged in behaviors involving alcohol or drugs that raises questions about the individuals' ability to safely practice nursing. If an individual's conduct involves a criminal offense, the Board will utilize its adopted [Disciplinary Guidelines for Criminal Conduct](#) and [Tex. Occ. Code Chapter 53](#), in addition to the principles outlined in this policy, when evaluating the individual's behavior.

Matters involving an individual's fitness to practice are varied, and each case must be evaluated on its own merits and in light of the risk the individual's practice may pose to

² An individual must meet eligibility criteria for participation in a peer assistance program. For example, an individual may not be eligible to participate if he/she is on criminal probation or community supervision; has prior Board discipline; or has previously participated in the program. Further, an individual must be willing to participate in a peer assistance program and such participation is available through an agreed order only.

³ In September 2013, the Board was granted the authority to issue confidential, non-public orders for participation in a Board-approved peer assistance program. Such orders may remain confidential so long as the individual complies with, and successfully completes, the terms of the order.

patients/clients and the public. For additional information, please review the Nursing Practice Act (NPA), [Tex. Occ. Code Chapter 301](#), the Board's rules, located at [22 Texas Administrative Code Chapters 211 - 227](#), including §§213.27 - 213.33, and the Board's [adopted policies](#) located on the Board's web site, at www.bon.texas.gov. The Board's adopted [Disciplinary Matrix](#) may also contain additional information that may be applicable in certain situations involving a nurse's substance use disorder or alcohol or drug related conduct.