

LVN Reference Resources - Former Rules and Regulations

The following rules are frequently requested for comparison to current Board rules and regulations relating to LVNs. The rule excerpts below were established by the Board of Vocational Nurse Examiners (BVNE), which ceased to exist on February 1, 2004, due to passage of HB 1483 during the 78th Regular Texas Legislative Session (2003). Passage of HB 1483 created a single licensing act and board of nursing for RNs and LVNs in Texas.

Former Texas Administrative Code §239.11. Unprofessional Conduct.

Unprofessional or dishonorable conduct, likely to deceive, defraud, or injure the public, may include the following described acts or omissions:

- (1) misappropriating supplies, equipment, or medications or personal items of the patient/client, employer, or any other person or entity;
- (2) administering medications and treatments in a negligent manner;
- (3) failing to accurately or intelligibly report and/or document a patient's/client's status including signs, symptoms, or responses and the nursing care delivered;
- (4) failing to make entries, destroying entries, and/or making false entries in records pertaining to care of patients/clients;
- (5) passing or attempting to pass forged, altered, falsified or unauthorized prescription(s) by electronic, telephonic, written communication or any other means;
- (6) obtaining or attempting to obtain or deliver medication(s) through means of misrepresentation, fraud, forgery, deception, and/or subterfuge;
- (7) knowingly falsifying and/or forging a physician's order/prescription;
- (8) providing information which was false, deceptive, or misleading in connection with the practice of vocational nursing or failing to answer specific questions that would have affected the decision to license, employ, certify or otherwise utilize a vocational nurse;
- (9) practicing vocational nursing in this state without a current license from Texas or a compact state;
- (10) practicing as a vocational nurse holding a license or temporary permit or a graduate making application for licensure, and/or applying for employment or by virtue of being an LVN in an educational program, while the individual's ability to practice is impaired by alcohol, drugs, physical or mental disability and/or testing positive for alcohol, illicit drugs or other substances not prescribed.
- (11) aiding and abetting the practice of vocational nursing by any person not licensed to practice vocational or practical nursing;
- (12) impersonating a licensee, or permitting another person to use an individual's vocational nursing license for any purpose.
- (13) failing to report to the Board or to a Board approved peer assistance program, if applicable, within

a reasonable time of the occurrence, any violation or attempted violation of Chapter 302, Texas Occupations Code or duly promulgated rules, regulations or orders;

- (14) failing to report the unauthorized practice of vocational nursing;
- (15) failing to cooperate with the agency by:
 - (A) not furnishing any papers or documents requested; or
 - (B) not responding to subpoenas issued by the agency;
- (16) interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts before the agency or the Board, or by the use of threats or harassment against any patient/client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;
- (17) knowingly engaging in a profession involving contact with the public while suffering from an infectious and communicable disease which presents a serious risk to public health;
- (18) knowingly performing an exposure-prone procedure while suffering from an infectious and communicable disease which presents a serious risk to public health, without counsel from a personal physician with knowledge of infectious disease, infection control, the epidemiology of the disease and procedures performed by the licensed vocational nurse.
- (19) knowingly failing to adhere to universal precautions for infection control as defined in subsection 239.1 of this title (relating to Definitions);
- (20) refusing to treat a patient/client, or other person who suffers from an infectious and communicable disease involving serious risk to public health;
- (21) disclosing confidential information or knowledge concerning the patient/client except where required or allowed by law;
- (22) knowingly causing or permitting physical or emotional injury to any person, or engaging in sexual contact with a patient/client;
- (23) physically, emotionally or financially exploiting the patient/client or the patient's/client's significant other(s);
- (24) 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 patient/client in connection with the performance of professional services;
- (25) failing to repay a guaranteed student loan, as provided in the Texas Education Code;
- (26) failing to comply with board rules regarding continuing education, and/or knowingly providing false information regarding completion of educational programs;
- (27) failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained, including but not limited to:
 - (A) failing to assess and evaluate a patient's/client's status or failing to institute nursing intervention, including but not limited to basic life support measures, such as CPR, which might be required to stabilize a patient's/client's condition or prevent complications;

- (B) accepting an assignment when one's physical or emotional condition prevents the safe and effective delivery of care or accepting an assignment for which one lacks the educational preparation, experience, knowledge or ability;
 - (C) failing to obtain instruction or supervision when implementing nursing procedures or practices for which one lacks the educational preparation, ability, knowledge and/or experience;
 - (D) performing or attempting to perform nursing techniques or procedures or both in which the nurse is untrained by education or experience;
 - (E) assigning nursing care functions or responsibilities to an individual lacking the ability or knowledge to perform the function or responsibilities in question;
 - (F) causing or permitting physical, sexual, emotional or verbal abuse or injury to the patient/client or the public, or failing to report same to the employer, appropriate legal authority and/or licensing Board;
 - (G) knowingly or consistently failing to follow the policy and procedure for the wastage of medications(s) in effect at the facility at which the nurse is employed or working;
 - (H) abandoning patients/clients by terminating responsibility for nursing care, intervention, or observation without properly notifying another licensed medical professional and ensuring the safety of patients/clients;
 - (I) engaging in unnecessary violence towards any person in connection with the practice of vocational nursing;
 - (J) failing to comply with a supervisor's valid directives;
 - (K) negligently or intentionally violating a physician's order addressing patient care;
 - (L) failing to recognize and honor the professional interpersonal boundaries appropriate to any therapeutic relationship or health care setting.
- (28) violating state or federal laws relative to drugs, including controlled substances and dangerous drugs;
- (29) being convicted of a crime that relates to the practice of vocational nursing;
- (A) those crimes which the Board considers to be directly related to the duties and responsibilities of a licensed vocational nurse shall include, but are not limited to:
 - (i) offenses against the person;
 - (ii) offenses against property;
 - (iii) offenses involving fraud, dishonesty or deceit;
 - (iv) offenses related to drugs/ alcohol;
 - (v) offenses which include attempting or conspiring to commit any of the offenses in the subsection;

- (B) In determining whether a crime not listed above relates to vocational nursing, the Board will consider:
- (i) the nature and seriousness of the crime;
 - (ii) the relationship of the crime to the purposes for requiring a license to practice vocational nursing;
 - (iii) the extent to which a license might offer opportunities to engage in further criminal activity of the same type as that in which the person was previously engaged; and
 - (iv) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and to discharge the responsibilities of a vocational nurse.

Former §239.11 was effective September 1, 1993 through September 28, 2004.