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RN UPDATE

A Quarterly Publication of the Board of Nurse Examiners For the State of Texas

Accreditation

Licensure

Practice

Compliance



July 1997

Volume 28, No. 3

BOARD ADOPTS EMERGENCY RULES

NCLEX Exam accepted exclusively after May 6, 1997

On May 22, 1997, the Board of Nurse Examiners (Board) adopted emergency revisions to Rule 217, Licensure and Practice. Effective May 27, 1997, the emergency rules require all applicants for licensure by endorsement into Texas to show proof of passing the appropriate United States (U.S.) licensure examination for registered nurses [State Board Test Pool Examination (SBTPE) or National Council Licensure Examination (NCLEX-RN)]. Once the endorsee shows proof of passing the appropriate U.S. exam and meets all other Board requirements, he/she is issued a permanent Texas RN license.

In addition, Rule 217 was further revised to require all graduates of nursing schools outside the United States, including Canada, who apply for initial licensure by examination in Texas to provide evidence of passing the Commission on Graduates of Foreign Nursing Schools (CGFNS) pre-licensure examination prior to being considered eligible to take the NCLEX-RN in Texas. Information regarding the CGFNS examination may be obtained by calling (215) 349-8767.

This emergency rule was adopted due to the drastic drop in the passing rate of Canadian nursing school graduates taking the NCLEX-RN. Last year the passing rate for first time Canadian educated candidates dropped from 89% to 66%. A pass rate of

75% for 1st time Candidates from Texas nursing schools is considered minimally acceptable. The Board voted to require all applicants for licensure by endorsement to take the NCLEX-RN which has been determined to be a valid measure of minimum nursing knowledge necessary for safe entry level practice.

Now, exactly what does this mean? It means that, effective May 27, 1997, the Board no longer accepts licensure by endorsement based on the Canadian Nurses Association Testing Service Examination or CNATSE. The only exam accepted will be the NCLEX-RN licensure examination. This emergency rule has NO effect on those licensed by endorsement through CNATSE prior to May 27, 1997. Currently licensed nurses will not be affected as long as they adhere to all Board rules for current licensure.

Notice of the rule change has been mailed to many Texas nursing employers and nurse recruiters. If you have any questions regarding these emergency rule changes, please contact the Licensing Department at (512)305-6809 for endorsement information or (512) 305-6818 for initial licensure by examination. The Board's licensure applications and instructions have changed to accommodate the emergency rules. Employers and recruiting agencies need to use the current licensure applications.

IN THIS ISSUE: APN Changes, New Governance Policy, Scope of Practice

A Word from the Executive Director



Kathy Thomas, MN, RN

In 1995, the Pew Health Professions Commission released a report entitled, Reforming Health Care Workforce Regulation: Policy Considerations for the 21st Century. This report contained 10 recommendations for changes to the current regulatory system for health care professionals. Although many of the recommendations already had been addressed to some degree by nursing regulation, one recommendation stood out as a legitimate concern:

States should require each board to develop, implement and evaluate continuing competency requirements to assure the continuing competence of regulated health care professionals.
(Pew Commission, 1995)

The report criticized state boards for failing to implement mechanisms to assure competence beyond the examination for entry into the profession. "The credential earned at the beginning of a career may have little direct relationship to skills used and required later in practice" (Pew Commission, 1995).

Mandatory continuing education (CE) is one mechanism chosen by states to address the continued competence issue. However, this regulatory method was described by the report as unsatisfactory for several reasons. The relevance of the CE to the individual's practice is generally not subject to regulatory review. Further, most CE programs do not consider the application of the knowledge in the appropriate setting. Finally, research has not shown a correlation between CE and job performance or clinical outcomes. The report also suggests that CE targeted to the individual licensee's needs may be a more appropriate method.

The Pew Commission challenged state boards to develop mechanisms to enhance protection of the public by measuring competency throughout the careers of licensees. With the passage of Senate Bill 617, the Texas Board of Nurse Examiners (BNE) now has the opportunity to explore models of continued competence. This legislation is summarized on page 4 of this issue. One critical component of this bill is that it enables the BNE to conduct a pilot study of continued competence models.

This is an exciting opportunity for nursing regulation to proactively meet our responsibilities to the public by assuring that nurses maintain competence throughout their professional careers. While it may result in additional licensure requirements and fees, it is hard to argue that our competence should not be measured after we enter the profession.

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APAC Recommends APN Degree Requirement

At the May meeting of the Board of Nurse Examiners, action was taken to approve the recommendation of the Advanced Practice Nursing Advisory Committee (APAC) to require a master's degree for APN recognition beginning January 1, 2007. Proposed rules were published in the June 10, 1997 issue of the *Texas Register*. Following public comment, the response will be returned to the Board at its July 10, 1997 meeting for consideration of final adoption.

The charge to the Advanced Practice Nursing Advisory Committee was made over a year ago to "establish a date beyond which a minimum of a master's degree will be required for advanced practice and identify issues relating to the implementation of this requirement." The master's degree is not restricted to a school of nursing program. Certifying bodies now require master's degree preparation for certification for all Nurse Practitioners, Nurse Anesthetists, and Clinical Nurse Specialists by the year 2007 (see *RN Update*, January 1997). The only category of advanced practice nurses who do not have a plan to require a master's degree to be certified is the Nurse Midwives.

Consistent with the Board's past, "grandfathering" those APNs who have not met this requirement prior to 2007 is expected. Currently in Texas, APNs with a master's or higher degree are: CNSs - 100%, NPs - 59%, CRNAs - 31%, and CNMs - 57% (BNE statistics, June 1996).

Included in the Board's action was a directive for staff to monitor the movement in and out of Texas of midwives and to identify any impact of the rule change and to continue to work with educational programs to increase access and availability of master's education programs.

Board Adopts Governance Philosophy

Through its strategic planning processes, the Board of Nurse Examiners periodically examines the way it conducts its business and sets or revises goals for the agency. Approximately two years ago, the Board identified the need to create a new vision of governance in order to carry out its business in a more efficient and effective manner. During this interval the Board conducted a careful analysis of the way it governs based on the work of John Carver, author of *Boards That Make a Difference: A New Design for Leadership in Nonprofit and Public Organizations*.

The Board sought to emphasize its central role as a policy making body. These policies would serve as a guide for all decision making by the Board and the agency and would reflect the values and perspectives of the Board.

One of the first products of this process was the development of a governance philosophy which was centered around four central themes: responsibility, unity, vision, and communication. This philosophy reflected the Board's values as a governing body and included a commitment to the public which the Board is charged to protect, collective decision making or "speaking with one voice," an openness to innovation in regulatory approaches, and a commitment to educating licensees and the public about nursing regulation.

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Legislative Update

75th Legislative Session

January - May 1997

The 75th Legislative Session has concluded and a number of bills passed into law will impact the practice of nursing in Texas. The Board of Nurse Examiners currently is studying the legislation that passed in order to write rules and regulations necessary to implement amendments to the Nursing Practice Act and comply with the intent of the new legislation. Only three of the many health care bills that passed through the Legislature this session are highlighted in this early summary. Also, please refer to the article in this *RN Update* on radiological technicians which includes post legislative session information affecting this group of RNs.

Senate Bill 617, authored by Senator Mike Moncrief, relates to licensure and regulation of nurses as well as development of certain pilot programs by the Board of Nurse Examiners pertaining to continued clinical competence.

- SB 617 sets forth the terms by which the BNE is authorized to develop programs to evaluate the effectiveness of mechanisms for assuring maintenance of clinical competence by RNs, as well as to evaluate ways to ensure that RNs understand the laws and regulations governing the practice of professional nursing. As part of the plans for the pilot programs:
 - The BNE would be authorized to expend funds to develop or fund pilot programs, and contract with or make other arrangements with entities and individuals to implement these pilot studies.
 - The composition of the advisory committee with which the board is required to consult in developing, administering, and funding pilot programs is set forth.
- The composition of the Board will be changed by removing the Diploma Nursing Educator's position and replacing it with a nurse faculty member in a graduate school preparing APNs (Effective 1/31/99).
- The BNE will be allowed to require individuals entering nursing schools to complete an affidavit attesting that they have been made aware of the grounds for licensure and that potential eligibility issues may result in ineligibility for licensure upon graduation.
- The BNE is not required to provide a hearing on a refusal to renew a license if a person:
 1. does not submit a renewal application;
 2. submits an application that is incomplete;
 3. shows requirements for renewal have not been met; or
 4. does not include the correct fee.

This bill was signed by Governor Bush and becomes law on September 1, 1997.

Bills to Consider - Continued

Senate Bill 1081, authored by Senator Gonzalo Barrientos, addresses Peer Review Protection for registered nurses who refuse to engage in conduct the RN believes is a violation of the RN's duty to a patient. This bill amends Article 4525(d) of the Nursing Practice Act to allow the RN to request a finding by a nursing peer review committee of whether the requested conduct violates duty to a patient. An RN who in good faith requests a peer review determination regarding the conduct as specified is not subject to reporting requirements and may not be disciplined while the peer review is pending. Should the conduct involve medical reasonableness of a physician's order, the medical staff or the Medical Director is required to make a determination as to the medical reasonableness. The new law also establishes that a RN's rights under this article may not be nullified by contract. This bill was signed by Governor Bush and becomes law on September 1, 1997.

House Bill 2846, authored by Representative Hugo Berlanga, facilitates collaborative practices between Advanced Practice Nurses or Physician Assistants and Physicians and their reimbursement for services paid by health benefit plans. Required physician site visits at locations serving medically underserved populations are extended from once a week to once every ten business days. The Medical Practice Act is further amended to expand the definition of a physician's "primary practice site" at which APNs and PAs may be delegated prescriptive authority to include clinics of a school district providing care to students and their siblings. Insurance reimbursement problems for APNs are addressed by prohibiting certain types of discrimination by managed care organizations. This bill was signed by Governor Bush and becomes law on September 1, 1997.

Implementation of Senate Bill 617 and the Appropriations Bill will require increases in the licensing fees administered by the Board. The Board is currently researching the costs of implementing this legislation. Proposed increases in fees will be published in the *Texas Register* later this summer. Fees paid by Texas registered nurses to the Board, compared to other states' licensing fees, fall in the lower third of fees charged to nurses nationwide. In the October issue of the *RN Update*, a comprehensive guide and further analysis of the bills passed into law in the 75th Legislature will be published as a pullout insert for your reference.

Governance Philosophy - continued from page 3

The philosophy was then used as a framework to develop four sets of policies to guide the agency. These policies include: 1) the ends/results/goals for the agency, 2) executive limitations which include the principles of prudence and ethics that guide the staff, 3) the relationship between the Board and the Executive Director (ED) which include the manner in which authority is passed to the ED, and 4) the Board's own process of leadership.

This work represents an intentional shift to a leadership model which emphasizes the accountability of the Board, the responsibility of the agency, and a commitment to creating a vision for the future of nursing regulation. The Board's governance policy is not intended to be stagnant, but rather the evolving pursuit of excellence in governance which reflects a dedication to quality regulation.

Current Texas Department of Health Rules Apply to RNs who Perform Radiological Procedures

by Kim Flores, MSN, RN, Nursing Consultant for Practice

The BNE has provided information concerning RNs who perform radiologic procedures in the last two issues of the *RN Update*. Several bills addressing this issue were introduced during the recent legislative session which had the possibility of amending the recently adopted requirement that RNs who perform these procedures receive additional education; however, none of the proposed bills were passed into law.

RNs who perform any type of radiologic procedure are required to complete additional training by January 1, 1998. Through the rule making authority of the Texas Department of Health, all RNs, whether they perform *Dangerous or Hazardous* procedures or other less invasive radiologic procedures, are affected by this training requirement. Unfortunately, the article in the April 1997 *RN Update* advised RNs not performing *Dangerous or Hazardous* procedures would be exempt from the educational requirement and this information was incorrect. We apologize for the confusion.

Under the TDH rules, adopted March 24, 1997, any Non-Certified person performing radiological procedures will have to meet the education requirements in TDH Rule 143.16 or Rule 143.20 which addresses the RN/PA. The RN may decide to meet the training requirements of either Rule 143.16 or Rule 143.20; however, Rule 143.20, which recognizes the health science background of the RN/PA, substantially reduces the required number of educational hours for the RN/PA. Lists of available educational entities which offer the required instruction may be obtained from TDH. The RN contemplating attendance is encouraged to exercise responsible consumer choice in selecting the appropriate provider.

Additional rulemaking by the Medical Radiologic Technologist Advisory Committee is anticipated for Summer 1997. Each RN performing radiological procedures, especially *Dangerous or Hazardous* procedures, is encouraged to contact TDH to be placed on the list to receive information on this rulemaking as it becomes available.

Finally, TDH Rule 143.19 contains language which provides for a one year hardship exemption from these educational requirements if the RN (1) does not perform *Dangerous or Hazardous* procedures and (2) if the employer, i.e. hospital, practitioner, or federally qualified health center, files the appropriate paperwork obtained from TDH and meets any one of ten hardship criteria. As mentioned previously the hardship exemption is for a twelve month period and may be renewed on an annual basis.

Inquiries, requests for the list of *Dangerous or Hazardous* procedures, copies of TDH rules, grandfathering application forms (grandfathering criteria was explained in the January 1997 edition of the *RN Update*), hardship exemption forms, lists of educational entities that provide the required instruction, and other requests for information regarding this issue should be directed to: MRT Program, TDH, Phone: (512) 834-6617, Fax: (512) 834-6677.

SCOPE OF PRACTICE: PART II

Helene Harris, RN, MSN, CNS

This is the second of a three part series by the BNE concerning scope of practice. The first article included a general overview of scope of practice as it is legislatively defined in Texas. Part II will focus on the nurse-client relationship and the role it plays in managing professional boundary issues. The RN is guided by standards of professional nursing which are specifically delineated in the Board's Rule 217.11.

The underlying basis of every nurse-client relationship is trust. Clients expect their nurses to treat them with dignity and act in their best interest. The relationship between nurses and clients is a unique one in that the nurse has power and influence over a vulnerable clientele, and therefore, it becomes incumbent on the nurse to be cognizant of the boundaries which define the relationship. The National Council of State Boards of Nursing describes professional boundaries as "the spaces between the nurse's power and the client's vulnerability." Nurses who understand and appropriately adhere to the concepts of professional boundaries exhibit professional behavior. Those who are not knowledgeable about the concepts or who violate the boundaries are behaving in an unprofessional manner, which violates the nurse-patient relationship and disregards the safety and dignity of the client.

Three ways that boundaries may be crossed or violated have been identified. The first is boundary crossings. Boundary crossings, as defined by the National Council of State Boards of Nursing, are "brief excursions across boundaries that may be inadvertent, thoughtless or even purposeful if done to meet a therapeutic need." Boundary crossings are made by the nurse to satisfy a personal need, not a client need. One example of a boundary crossing is over-involvement, such as the nurse who believes that only he/she can adequately care for a client. In this situation, the nurse might change assignments to ensure that no other nurse cares for the client. Boundary crossings should be examined and evaluated by the nurse to determine the reason for and ways to avoid future crossings.

A second, more serious breakdown in boundaries is a boundary violation. Boundary violations occur when the nurse's needs interfere with client needs. In this case, the nurse's power is used to take advantage of the client. Boundary violations entail acts such as secrecy, intimate or personal disclosure by the nurse to the client, or entering into a business relationship with the client/family. Behaviors such as these create role reversal in which the client becomes a friend or intimate or even becomes the caregiver in the relationship.

An extreme form of a boundary violation is sexual misconduct. Sexual misconduct occurs when the nurse ignores or uses his/her power or influence to obtain sexual gratification. Any behavior by a nurse that is flirtatious, sexually harassing, or interpreted by a client as sexual in nature can be construed as sexual misconduct. Even if the client initiates the sexual contact or consents to a sexual encounter, it is still considered sexual misconduct. Sexual misconduct is a serious breach of trust. It is the responsibility of the nurse, not the client, to recognize signs of a sexual nature, whether originating from the client or oneself. It is imperative that the RN recognize sexual feelings either from a client or towards a client but never act on them.

We have an obligation as professional nurses to ensure a safe environment for our clients by maintaining professional boundaries. In doing so, the client can feel secure in the nurse-client relationship. The nurse-client relationship provides the client with trust for the nurse and the reassurance that his/her needs will

SCOPE: PART II - continued

be met.

In addition, the RN is expected to exhibit good professional character in his or her personal, academic, and occupational life, including recognizing and honoring interpersonal boundaries. By putting the dignity of all clients foremost, acting in their best interests, and following the legislative parameters for nursing practice, the RN can adhere to and maintain professional boundaries.

For further information on professional boundaries and sexual misconduct you may contact the National Council of State Boards of Nursing Inc., at 676 N. St. Clair St, Suite 550, Chicago, IL 60611. The Council has a complete packet of informative materials, including a nurse's guide, a consumer's guide, nursing faculty guide, an evaluator's guide, and disciplinary guidelines.

In Part III of this series, the concluding article in the series will focus on the necessary steps to be taken by the RN to determine if a situation falls within one's scope of practice, and the article will also discuss legislative efforts in Texas directed at the continued competence of RNs.

References

- National Council of State Boards of Nursing, Inc. (1996). Disciplinary Guidelines for Managing Sexual Misconduct Cases
- National Council of State Boards of Nursing, Inc. (1996). Professional Boundaries: A nurse's guide to the importance of appropriate professional boundaries.
- National Council of State Boards of Nursing, Inc. (1996). Quick Reference for Professional Boundaries and Sexual Misconduct Cases: Evaluator's Information Packet.
- Nursing Practice Act, Article 4518, Section 5, Texas Revised Civil Statutes, Annotated, as amended 1995.
- Rule 217.11 and Rule 217.13 at 22 Texas Administrative Code

Committee Actions**Nursing Practice Advisory Committee**

The Nursing Practice Advisory Committee is next scheduled to meet August 15th, 1997, in Tower II, Room 2.225, of the Hobby Building. The agenda will include a discussion on laser therapy by RNs following a proposal made at the May Board meeting. The BNE currently has a Position Statement, 15.9 Performance of Laser Therapy by RNs.

APN Advisory Committee

The Advanced Practice Nursing Advisory Committee (APNAC) met on April 11, 1997. The committee decided to require a master's degree for APN recognition beginning January 1, 2007. This decision was presented to the Board for approval. For further information, see the article on page three of this RN Update.

Advisory Committee on Education

A meeting of the Advisory Committee on Education (ACE) was held on April 18, 1997. The committee reviewed rules for extended campuses/extension sites and distance learning from other state boards of nursing and made a recommendation to the board that a subcommittee be developed to consist of persons with experience using distance learning technologies. The board authorized a subcommittee to collect and analyze information regarding distance learning technologies in relation to the Board's existing regulations for extended campuses and extension sites.

An evaluation process for the Nursing Education Advisory Committee (NEAC) Report "Essential Competencies of Texas Graduates of Education Programs in Nursing" was discussed. The plan will be presented to the board at the July 1997 board meeting. The next ACE meeting is scheduled for October 3, 1997.

EDUCATION REPORT

by Donna Carlin, M.S.N., R.N.

March 1997 Board Actions:

St. Philip's College, San Antonio

- Approved to proceed with the development of an associate degree nursing program that is a transition program for licensed vocational nurses

Continued full accreditation following review of annual reports:

Alvin Community College, ADN, Alvin

Amarillo College, ADN, Amarillo

Angelina College, ADN, Lufkin

Angelo State University, ADN, San Angelo

Collin County Community College, ADN, McKinney

Howard College, ADN, Big Spring

Lamar University at Beaumont, ADN, Beaumont

Lee College, ADN, Baytown

Midland College, ADN, Midland

Paris Junior College, ADN, Paris

San Jacinto College, Central, ADN, Pasadena

Victoria College, ADN, Victoria

Stephen F. Austin State University, BSN, Nacogdoches

The University of Texas at Austin, BSN, Austin

The University of Texas Health Science Center at Houston, BSN, Houston

The University of Texas Health Science Center at San Antonio, BSN, San Antonio

The University of Texas at Pan American, BSN, Edinburg

The University of Texas at Austin, Alternate-Entry MSN, Austin

Texas A & M International University, RN-BSN, Laredo

The University of Texas at Brownsville/Texas Southmost College, RN-BSN, Brownsville

- Continued initial accreditation following review of annual reports

Approved the following faculty petition until December 31, 1997:

Lori Wingate, RN, Odessa College, ADN, Odessa

May 1997 Board Actions

Lamar University Port Arthur, LVN-ADN, Port Arthur

- Continued initial accreditation following review of annual reports

(continued on next page...)

EDUCATION REPORT - Continued

Approved the following faculty petition until December 31, 1997:

Evelyn Lim, El Centro College, ADN, Dallas

Abilene Intercollegiate School of Nursing Family Nurse Practitioner Option

-Approved Janet Noles as Interim Director with requirements to be met

Continued full accreditation following review of annual reports:

Baptist Memorial Healthcare System, Diploma, San Antonio

Methodist Hospital, Diploma, Lubbock

El Centro College, ADN, Dallas

El Paso Community College, ADN, El Paso

Grayson County College, ADN, Denison

Houston Community College, ADN, Houston

McLennan Community College, ADN, Waco

San Antonio College, ADN, San Antonio

South Plains College, ADN, Levelland

Tarrant County Junior College, ADN, Fort Worth

Tyler Junior College, ADN, Tyler

The University of Texas at Brownsville/Texas Southmost College, ADN, Brownsville

East Texas Baptist University, BSN, Marshall

Lamar University at Beaumont, BSN, Beaumont

Midwestern State University, BSN, Wichita Falls

Texas Christian University, BSN, Fort Worth

Texas Tech University Health Sciences Center, BSN, Lubbock

Texas Woman's University, BSN, Denton

The University of Texas at Arlington, BSN, Arlington

University of Mary Hardin-Baylor, BSN, Belton

West Texas A & M University, BSN, Canyon

University of Texas Southwestern Medical Center, Women's Health Care APN, Dallas

Continued full accreditation with recommendations and/or requirements to be met based on review of annual reports and survey visits:

Blinn College, ADN, Bryan

Kilgore College, ADN, Kilgore

Panola College, ADN, Carthage

San Jacinto College, South, ADN, Houston

Texas A & M University at Corpus Christi, BSN, Corpus Christi

The University of Texas at El Paso, BSN, El Paso

The University of Texas at Tyler, BSN, Tyler

Continued full accreditation with recommendations and/or requirements to be met based on review of annual reports and survey visits:

Austin Community College, Mobility II Option (Paramedic-RN), ADN, Austin

Galveston College, ADN, Galveston

Lamar University at Orange, LVN-ADN, Orange

(continued on next page...)

EDUCATION REPORT - Continued

South Texas Community College

-Approved to proceed with the development of an associate degree nursing program with a LVN to RN Transition Track

The University of Texas at Pan American, Edinburg

-Granted full accreditation to the Adult Health Clinical Nurse Specialist track

San Jacinto College, Central, ADN, Pasadena

-Approved closure of the extended campus at Holly Hall in the Harris County Hospital District effective June 1, 1997

TEXAS RNS PARTICIPATE ON NATIONAL COUNCIL COMMITTEES

The following nurses have volunteered their time and expertise as members of committees for the National Council of State Boards of Nursing, Inc.:

Clinical Simulation Testing (CST) Pilot Study Scoring Key Development Committee:

Patricia Bechelmayer, University of Texas, Specialty: Maternal/Newborn

Brenda Routh, Brookhaven Community College, Specialty: Medical-Surgical

NCLEX-RN Examination Item Writers:

April Mitchell, Baptist School of Professional Nursing, Diploma Program, San Antonio, Specialty: Medical Surgical

Nursing Education Advisory Council:

Dee Miller, Tyler Community College

WORKSHOP UPDATE

We are currently in the planning stages for our fall 1997 and 1998 workshops. Projected sites include: Houston, Ft. Worth, San Antonio, Odessa-Midland, San Angelo, Amarillo, McAllen/Brownsville, and El Paso.

The next two workshops for the "Update on Nursing Practice: 1997" will be held in:

Nacogdoches-July 31, 1997

Lubbock-September 17, 1997

These two workshops will initiate the next biennial series and will include the changes affecting nursing practice by the 1997 Legislature as well as a section illustrating the use of professional boundaries by the nurse.

Watch the October *RN Update* for future workshop dates.

Practice Questions & Answers

by Kim Flores, MSN, RN

Q. I have just graduated from my nursing program and am awaiting my opportunity to take the NCLEX. As a graduate nurse (GN) what are the Board requirements concerning my practice?

A. Rule 217.3 addresses your question. This rule explains that "(1) New graduates of accredited nursing programs in the United States who are applying for initial licensure in Texas will be issued a temporary permit after they have been determined eligible and (2) the permit, which is not renewable, is valid for 90 days from the date of eligibility or until NCLEX-RN results are received." The rule goes on to advise that "(3) The graduate nurse must work under the direct supervision of a registered professional nurse who is working on the same unit and is readily available to the GN for consultation and assistance. The GN shall not be placed in a charge position or work in independent practice settings."

Q. I am a nursing administrator in a home health setting. I have had two RNs leave my employment only to move to a position with another home health agency. Within two weeks of their departure I have been advised that the patients assigned to these RNs have made the decision to also move to the other home health agency. Does the NPA address this situation?

A. This situation is often discussed by the nursing practice consultants at the Board. We hear from both the home health nursing administrators and the RNs who have moved from one home health agency to another. Of course, the BNE staff is aware that only one side of a story is heard at any given time. Rule 217.13(18) states "(unprofessional conduct includes) offering, giving, soliciting, or receiving or agreeing to receive, directly or indirectly, any fee or other consideration with the performance of professional services."

The RN who leaves one home health agency and moves to another home health agency should be aware of this rule and be cautious of the effect of the RN's transfer of employment on his/her patients. There may be agency policy which directs the RN as to conduct towards a client in this regard. Any RN who is involved in a change in agency should follow agency policy with regard to informing clients that he/she is leaving an agency. Under no circumstances should an RN accept money or other consideration to "entice" patients from one agency to another. The nursing administrator who elects to file a complaint predicated upon this unprofessional conduct definition may do so in writing to the BNE.

**GRADUATES OF NURSING PROGRAMS IN TEXAS TO MEET
ESSENTIAL COMPETENCIES**

In March 1993 the Board of Nurse Examiners and Board of Vocational Nurse Examiners published the report of the Nursing Education Advisory Committee (NEAC) entitled "Essential Competencies of Texas Graduates of Education Programs in Nursing." Rule 215.12(a)(5), related to the inclusion of the essential competencies for graduates of nursing programs in Texas, goes into effect on September 1, 1997 in accordance with Board action of August 1995. Many programs have already verified inclusion of the competencies within their curricula or have initiated curricular changes to address the competencies. An evaluation process for schools is under development to assure that all nursing education programs in Texas are in compliance with Rule 215.12 (a)(5). Look for future articles on the essential competencies in the RN UPDATE.

Fraudulent Practices in Professional Nursing

By Penny Puryear Burt, Of Counsel and Anthony L. Diggs, Director of Investigations

Fraudulent conduct is not the behavior that comes to mind when we think of registered nurses. We see ourselves as: competent, nurturing, vigilant, meticulous, energetic, honest, trustworthy and reliable. We expect nurses to care for our friends and families, not to defraud them. Nevertheless, the Investigations Department routinely receives complaints from individuals, patients and institutions alleging fraud on the part of a nurse. Over the past two years, investigations have yielded admissible evidence that fraud actually occurred in an increasing number of cases. Substantiated cases of fraud fall into four major categories:

1. Intentional deceit, misrepresentation or overreaching for the purpose of inducing another person who relies on the perversion of truth to part with a valuable thing or a legal right. Examples of actual fraud in a nursing setting include:
 - Documenting for reimbursement regardless of the facts. Nurses who record that patients are bed-bound and helpless when they are actually ambulatory, continent and self-sufficient often say they were pressured by employers to falsify clinical notes so that patients can be retained and jobs preserved. Variations of this conduct include: charting and billing on visits that were never made; overstating the acuity level of the patient or the nature, extent and frequency of services provided; and falsifying the credentials of the person providing care for the purpose of generating or increasing fees.
 - Clocking in for a drug-dependent colleague who is chronically late to work because of headaches, dizzy spells and dysfunctional family members. Covering for the coworker's absence by telling supervisors that she is "off the unit to take care of urgent errands to other departments."
2. Words, deeds or concealments contrary to a position of trust or a requirement of law or professional standards that permit a person in power to take advantage of another. In nursing, this kind of fraud is usually referred to as "violation of professional boundaries" or "exploitation of the therapeutic relationship," examples include:
 - Using the patient to satisfy the nurse's need for personal amusement, gratification, power, control, sexual stimulation/satisfaction.
 - Using patients and their families as a ready market for goods and services that have no legitimate place in the therapeutic relationship (e.g.: cleaning products, pyramid real-estate schemes, life insurance, bogus treatments and cures). The nurse uses his/her position to imply that the patient's health, safety or well-being will be protected, preserved or enhanced by whatever the nurse happens to be selling.
 - Intruding into the private and business affairs of the patient and encouraging dependence on the part of the patient for the purpose of obtaining money or other property from the patient either during life or after death.
3. Fraud involving dangerous drugs or controlled substances. Nurses are authorized to possess medications for administration to patients as ordered by a licensed practitioner. Drug fraud includes:
 - Diverting medications for personal or family use or for delivery or sale to others.
 - Diverting discontinued drugs or drugs of deceased patients for charitable use by other

Insufficient Funds Items

As of June 1, 1997, the following nurses appear on the records of the Board of Nurse Examiners as debits for failure to respond to notices of returned checks. Should any of these nurses be in your employ or seek employment with your agency/institution, please contact the Board's office. If any of these nurses are practicing in Texas as a registered nurse, they are in violation of the Nursing Practice Act and would be subject to disciplinary action by the Board.

<u>NAME</u>	<u>LICENSE #</u>	<u>TEMP.#</u>	<u>NAME</u>	<u>LICENSE #</u>	<u>TEMP.#</u>
Arnold, Sharon Louise	221754		Lee, Linda Karen		53762
Asble, Alex Walter	564983		Lemke, Jennifer Ruth	575523	
Bablitz, Nancy Elizabeth	553715		Levingston, Lynnell		73626
Bain, Beverly	566432		Masters, Mary Jane	550218	
Bargas, Virginia	257121		Mealor, Helen		50375
Barr, Lori Anne	537652		Mitchell, Sandra	565160	
Bhatia, Helen	568844		Nims, Teresa Masadie	565233	
Buol, Kolleen Kay	516233		Ohlheiser, Donna	575718	
Butler, Norma Powell		57324	Olivier, Marie Claudia	514361	
Claridge, James Leslie	437694		Olson, Leanne	565952	
Clark, Mandy	575824		Pangilinan, Julie	445792	
Clark, Victoria		50398	Payne, Traci Lee	569734	
Conti, Angela Rose	552231		Pierce-Berkil, Kristie		71891
De John, Ida C. Caperna	424176		Pinel, Jo Ann	421279	
Dennis, Patricia Ann	503975		Powell, Susan McCraw		58984
Elias, Angela		01142	Rae, Lisbeth Sue	538984	
Falkner, Barbara Marie	587013		Raffaele, Mark		74257
Farra, Diane Rae	560781		Rosko, Lisa Marie	538707	
Felkins, Bettye Lisa	557452		Royal, Barbara A.	534601	
Filler, Marcia Ann	553220		Russell, Brenda	569701	
Fryer, Renee Marie	578735		Sanderson, Brenda Mary	538111	
Gazey, Patricia Mary		69539	Shelest, Martha		66974
Glisson, James M.	239549		Sloane, Gail Theresa	550406	
Gunnels, Lorrie Ann V.	623930		Smith, Helen D.V.	209920	
Guthrie, Kelly R.	547982		Todorovich, Susan	580496	
Handlin, Kathy L.	512842		Vasquez, Emerald	207588	
Hart, Janet		70678	Vinson, Patricia	625747	
Hess, Cathy Christine	628267		Weable, Tonya Ingrid		64138
Howell, Sharon	459387		Wilson, Kevin	536325	
James, Karen Louise	577702		Worley, Cynthia Anne	256472	
Jenkins, Victor I.	517158				
Jones, Gwendolyn		63362			
Kirk, Sandra Andrews	521416				
Kishbaugh, Shari Elizabeth	575583				
Kuntz, Eileen Marie	514331				
Kurylo, Kim Diane	580995				

Enforcement Update

NOTICE OF DISCIPLINARY ACTION

The following registered nurses had disciplinary action taken against their license. If you would like to receive additional information regarding the disciplinary action which has been imposed, please send your request to the Board of Nurse Examiners, Department of Investigations, P.O. Box 430, Austin, Texas, 78767-0430.

<u>NAME</u>	<u>LICENSE #</u>	<u>DISCIPLINE</u>	<u>DATE OF ACTION</u>
Alexander, Elizabeth Ann	553654	Warning with Stipulations	April 29, 1997
Blackwell, Pepper	516118	Warning	April 29, 1997
Boncler, Jane Mathews	431020	Reprimand with Stipulations	June 17, 1997
Boyd, Rosalind Machelie	593709	Warning with Stipulations	May 22, 1997
Brogan, Kay Marie	538804	Revoke	April 29, 1997
Diaz, Jr., Jose R.	610461	Warning	May 22, 1997
Drory, Mary Rebecca	511705	Reprimand with Stipulations	April 29, 1997
Dunbar, Carmen Yvette	600814	Warning with Remedial Ed.	June 17, 1997
Fellers, Christine Bernice	554363	Reprimand with Stipulations	May 22, 1997
Ferguson, Karen Marie	564512	Reprimand with Stipulations	June 17, 1997
Gerding, Gloria Jean	533341	Revoke	May 22, 1997
Guest, James Stephen	438897	Revoke	April 29, 1997
Hogan, Diane Marie	572236	Reprimand with Stipulations	April 29, 1997
Julian, Deborah Ann	560030	Reprimand with Stipulations	June 17, 1997
Kauffman, Cheryl J. C.	231637	Reprimand with Stipulations	June 17, 1997
Launsby, Mavis Aileen	557645	Suspend/Probated	May 22, 1997
Ledbetter, Peggy L.	245987	Stipulations	April 29, 1997
Lopez, Adrienne Dawn	601447	Reprimand with Stipulations	April 29, 1997
Marshall, Kenneth Daniel	568129	Warning with Remedial Ed.	June 17, 1997
Mitchell, Allison Victoria	598516	Warning with Stipulations	April 29, 1997
Monroe, Paula	255889	Warning with Remedial Ed.	June 17, 1997
Mueller, Mary Frances	563665	Reprimand with Stipulations	April 29, 1997
Navarro, Mary Christine	560177	Reprimand with Stipulations	April 29, 1997
Nicholson, Brenda Diana	611647	Warning with Stipulations	June 17, 1997
Onwuachi, Veronica Comfort	615649	Reprimand with Stipulations	May 22, 1997
Oringderff, Orvel L.	541152	Reprimand with Stipulations	June 17, 1997
Rhone, Judith Alese	580405	Warning with Stipulations	June 17, 1997
Rosenkrans-Tracy, Marsha L.D.	575231	Revoke	May 22, 1997
Seals, Cynthia Louise	584431	Reprimand with Stipulations	June 17, 1997
Shaw, Margaret Lorane	574880	Reprimand	May 22, 1997
Simi, Louis Bruno	587685	Revoke	May 22, 1997
Sinding, Joyce Arleen	450578	Warning with Stipulations	June 17, 1997
Slater, Linda Lee	588076	Reprimand with Stipulations	April 29, 1997
Stanberry, Ann Marie	526926	Reprimand with Stipulations	June 17, 1997
Stine, Margaret Earlene	224765	Reprimand with Stipulations	June 17, 1997

DISCIPLINARY ACTION - continued

<u>NAME</u>	<u>LICENSE #</u>	<u>DISCIPLINE</u>	<u>DATE OF ACTION</u>
Summers, David Wayne	590026	Warning with Stipulations	March 20, 1997
Thompson, Leigh Anne	582405	Reprimand with Stipulations	June 17, 1997
Vaughn, Gary Lee	605650	Warning with Stipulations	May 22, 1997
Walton-Rearick, Carol Louise	587329	Revoke	May 22, 1997
Weiss, Doris White	212153	Reprimand	June 17, 1997
Whigham, Cynthia Lee	563949	Revoke	May 22, 1997
Wiley, Stephen Douglas	602363	Reprimand with Stipulations	May 22, 1997
Wright, Amanda Mary	527379	Reprimand with Stipulations	April 29, 1997
Young, Jacqueline Elizabeth	592367	Enforced Suspension with Stipulations	March 20, 1997

The following individuals were reinstated to practice professional nursing in the State of Texas.

<u>NAME</u>	<u>LICENSE #</u>	<u>DISCIPLINE</u>	<u>DATE OF ACTION</u>
Bailey, Mary Ann	524660	Reinstated with Stipulations	June 17, 1997
Barger, Helga A.	253708	Reinstated with Stipulations	June 17, 1997
Guidry, Joey Gerard	560997	Reinstated with Probation	June 17, 1997
Herrington, Susan Gordon	510585	Reinstated with Stipulations	June 17, 1997
Ingleheart, Robert Glen	504080	Reinstated	April 29, 1997
Jones, Nereida	525803	Reinstated with Stipulations	April 29, 1997
Merson, Deborah Anne	553499	Reinstated with Stipulations	June 17, 1997
Patton, Elizabeth R.	237969	Reinstated with Stipulations	June 17, 1997
Warren, Lauri Evelyn	548770	Reinstated with Stipulations	April 29, 1997

The following individuals have voluntarily surrendered their licenses to practice professional nursing in the State of Texas:

<u>NAME</u>	<u>LICENSE #</u>	<u>DATE OF SURRENDER</u>
Allbright, Mary E.	599818	May 19, 1997
Bland, Janice Merel	252615	April 4, 1997
Clark, Dawn Rene	588694	June 10, 1997
Colvin, Cindy	613640	March 11, 1997
Davis, Dawna Delphene	548173	June 5, 1997
Foley, Colleen Bernice	547340	April 9, 1997
Hsu, Wei	624492	June 3, 1997
James, Kimberlee Ann	591275	April 25, 1997
Kauffold, Mary Stephens	245567	March 5, 1997
Longo, Michele	432203	April 1, 1997
Nievera, Maria Theresa Rivera	586602	June 5, 1997
Oloan, Janette B.	611186	April 21, 1997

DISCIPLINARY ACTION - continued

<u>NAME</u>	<u>LICENSE #</u>	<u>DATE OF SURRENDER</u>
Popp, James William	616391	March 19, 1997
Rapasky, John Kenneth	575934	May 6, 1997
Sethi, Tejinder Singh	607006	April 23, 1997
St. Croix, William Albert	560229	May 23, 1997
Vanneil, Kathleen Mary	598806	April 23, 1997
Watkins, Joseph T.	249400	April 1, 1997
Wood, Jenny Ruth	560691	March 24, 1997

As of June 11, 1997, eight (8) registered nurses have paid a fine for failure to comply with Board Continuing Education requirements.

Continuing Education Update

Mark W. Majek, M.A., PHR

Although the majority of continuing education (CE) hours completed by licensees are of Type I status, the majority of questions received by the Licensing Department regarding CE are on Type II. As a short refresher, below are general definitions of Type I and II CE:

Type I - programs that have been approved by one of the Board's recognized credentialing agencies, other state boards of nursing, or certain nursing academic courses; and

Type II- programs that meet the same criteria set out in the Board's rules for Type I but have not been approved by one of the recognized credentialing organizations or other state boards of nursing.

If you are offering or thinking of attending a Type II program, ask the following questions:

1. Does the program address nursing practice issues?
2. Are registered nurses included in the target audience?
3. Does the program meet the definition of nursing continuing education?
4. If audited, would the provider be able to show compliance with Type I criteria as set out in the Board's Rules and Regulations, Rule 217.15?

If you can answer yes to all four questions above, it is probably safe to count the program as Type II. Please remember the Board does not approve continuing education programs and can only provide guidance in this area as they apply to our rules. If you have questions regarding Type II CE, we suggest that you ask the CE provider the four questions above. We hope this will help licensees and providers to better understand Type II continuing education.

The compliance rate with CE requirements for the most recent reported months are as follows:

December, 1996	95%
January, 1997	94%
February 1997	87%

Fraudulent Practices - continued from page 13

- patients or in free clinics.
 - Falsifying, destroying or omitting required documentation in inventories or clinical notes.
4. Violations of laws affecting practice which contain statutory definitions of fraud. The Medicare and Medicaid programs have specific provisions governing the services that can be paid for from public funds. Practitioners are sometimes faced with a patient who needs services that the programs will not provide. Many nurses find legitimate and creative ways to maximize payment for these services. The danger lies in failing to recognize the risks in pushing such a practice to its outer limits and beyond. The danger can be avoided by periodically reviewing the services covered, the conditions of payment and the documentation required as proof on the post service audit.

These are but a few of the fraudulent practices the investigators see on a regular basis. We hope by raising the general level of awareness that nurses will self police and help reverse this trend.

BNE Publications Order Form

	<u>Quantity</u>	<u>Price w/o Tax</u>	<u>Price w/Tax</u>	<u>TOTAL</u>
A. <u>Nursing Practice Act (NPA)</u>				
1.) 1- 49 copies	_____	\$2.00 each	\$2.17 each	_____
2.) 50 or more copies	_____	\$1.50 each	\$1.62 each	_____
B. <u>Rules and Regulations</u>	_____	\$10.00 each	\$10.83 each	_____
C. <u>NPA/Rules and Regulations Package (One copy each of both)</u>	_____	\$11.00 package	\$11.91 package	_____
D. <u>Nursing Programs In Texas -- A Fact Book</u>	_____	\$10.00 each	\$10.83 each	_____
E. <u>Nursing Education Advisory Committee (NEAC) Report</u>				
2.) Volume I -- "Essential Competencies of Texas Graduates of Educational Programs of Nursing"	_____	\$10.00 each	\$10.83 each	_____
F. <u>Disciplined Professional Nurses In the State of Texas</u>	_____	\$10.00 each	\$10.83 each	_____
G. <u>RN Update -- Quarterly newsletter published by the BNE</u>	_____	\$5.00 per year	\$5.42 per year	_____
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 IF CLAIMING TAX EXEMPT STATUS.**

Fill out the order form completely and mail with your check or money order to: Board of Nurse Examiners, P.O. Box 430, Austin, TX, 78767-0430. Full payment must be received before any publications will be shipped

BNE INFORMATION PAGE

Who To Call For Assistance

In an ongoing effort to assist callers by answering questions about the Board's policies, the telephone system now includes more direct numbers, recorded information messages and voice mail. Voice mail and information features are available during and after regular office hours and on weekends and holidays. The following is a list of helpful numbers:

HELPFUL NUMBERS

MAIN NUMBER(512) 305-7400

- 24 Hour Access
- License Verification
- General Information

ACCOUNTING SERVICES.....(512) 305-6853

- Returned checks
- Refunds
- Debits

ADVANCED PRACTICE.....(512) 305-6843

- APN application and Prescriptive Authority processes

APN APPLICATIONS

REQUESTS.....(512) 305-6867 (Voice Box Only)

- Initial Authorization to Practice
- Prescriptive Authority

EDUCATION AND

EXAMINATION.....(512) 305-6818

- RN nursing programs
- Extended campuses
- NCLEX-RN applications
- Graduate Nurse permits
- Declaratory orders

ENFORCEMENT.....(512) 305-6838

- Violations of NPA rules and regulations
- Complaint and disciplinary action inquiries
- Monitoring of disciplined RNs

LICENSING.....(512) 305-6809

- Endorsement/Reciprocity
- Continuing Education for RNs

NURSING PRACTICE.....(512) 305-6844

- Nursing practice issues
- Legislation

SALES OF LISTS.....(512) 305-6848

- Computerized RN mailing lists or labels

Office Hours and Location

The office of the Board of Nurse Examiners is located in The Hobby Building, 333 Guadalupe, Suite 3-460, in Austin, Texas. The mailing address is P.O. Box 430, Austin, Texas 78767-0430. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except for designated holidays.

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Change of Address

**Are you moving? Have you already moved?
Let us know within ten days of the move.**

**Mail to: Board of Nurse Examiners,
P.O. Box 430, Austin, TX 78767-0430**

Last Name _____

First Name _____

Middle Name _____

SSN: _____ / _____ / _____

RN# _____

Old Address: _____

Address _____

City _____

St. _____ **Zip** _____

New Address: _____

Address: _____

City _____

St. _____ **Zip** _____

ACKNOWLEDGEMENTS



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