

# **Nursing peer Review Policy 1.14**

**Original Implementation: October 2004**

**Last Revision: May 2019**

## **BACKGROUND**

This Nursing Peer Review Policy is established pursuant to the Texas Board of Nursing (BON) Nursing Practice Act (NPA) and all provisions of this policy are meant to comply with the NPA and all the rules and regulations promulgated to implement the provisions of the act.

## **POLICY**

Peer Review means 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. This term includes:

- (A) The evaluation of the accuracy of a nursing assessment and observation and the appropriateness and quality of the care rendered by a nurse;
- (B) A report made to a nursing peer review committee concerning an activity under the committee's review authority;
- (C) A report made by a nursing peer review committee to another committee or to the BON as permitted or required by law; and
- (D) Implementation of a duty of a nursing peer review committee by a member, an agent, or an employee of the committee.

The peer review process is one of fact finding, analysis, and study of events by nurses in a climate of collegial problem solving focused on obtaining all relevant information about an event. After investigation and review, the nursing peer review committee determines whether grounds exist to report the nurse. If grounds exist, the nursing review committee makes the report to the BON.

## **PROCEDURE**

### **Conduct Subject to Reporting**

Conduct subject to reporting is that which:

- (A) Violates the NPA or a BON rule and contributes 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 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.

A person who is required to report a nurse because of impairment by chemical dependency of mental illness may report to a peer assistance program approved by the BON (TPAPN) and bypass review by the nursing peer review committee, but this bypass is not available if the impaired nurse committed a practice violation.

### **Committee Selection For Reported Faculty**

The School of Nursing (SON) Director will appoint an Ad Hoc Standards Committee. The Ad Hoc Standards Committee of the SON will consist of two administrative council members and three faculty members. The Committee will serve as the nursing peer review committee and the terms “standards committee” and “peer review committee” will be used interchangeably in this policy. The director of the SON will not be a member of this committee. If reviewing the practice of a nurse in a specialty area, the chair of the Standards Committee will request a member of the faculty considered an expert in that specialty to serve on the committee for that review if possible.

### **Committee Selection for Reported Licensed Student**

The School of Nursing (SON) Director will appoint an Ad Hoc Standards Committee. The Ad Hoc Standards Committee of the SON will consist of two faculty members from the program which the students is in and three peers in the same program appointed by the director. The Committee will serve as the nursing peer review committee and the terms “standards committee” and “peer review committee” will be used interchangeably in this policy. The director of the SON will not be a member of this committee. If reviewing the practice of a nurse in a specialty area, the chair of the Standards Committee will request a member of the faculty considered an expert in that specialty to serve on the committee for that review if possible.

### **Good Faith**

The peer review committee will at all times act in good faith as that term is defined by the BON.

### **Initiation of a Complaint**

Faculty in the SON practice and supervise students in a variety of clinical practice areas and will, to the extent possible, be subject to this nursing peer review rather than the nursing peer review of another institution. Licensed students in the SON in a variety of clinical practice areas and will, to the extent possible, be subject to this nursing peer review rather than the nursing peer review of another institution.

A written complaint will be submitted to the chair of the peer review committee on the Notice of Complaint Form of this policy. The peer review committee will then proceed as follows:

Give written notice to the nurse being reviewed on the Notice of Complaint Form of this policy:

- a. In person,
- b. By certified mail, return receipt requested, at the nurse's last known address, or
- c. Electronically via the nurse's SFASU email address

The notice should inform the nurse that:

- a. His/her practice is being evaluated,
- b. The date the committee will meet not sooner than twenty-one calendar days and not more than forty-five calendar days from date of notice,
- c. The nurse has the right to be accompanied to the hearing by a nurse peer or attorney,
- d. The nurse has the right to be represented by an attorney, but must notify the nursing peer review committee at least seven (7) days before the hearing, and if the peer review committee plans to be represented by an attorney, the nurse being reviewed is entitled to "parity of participation of counsel." Both attorneys are able to participate to the same extent.

The notice should include:

- a. A copy of this policy
- b. A copy of Rule 217.19 (Nursing Peer Review)
- c. A description of the event(s) to be evaluated in sufficient detail to inform the nurse of the incident, circumstances and conduct (error and omission), including date(s), time(s), location(s), and individual(s) involved
- d. The patient/client will be identified by initials or number to the extent possible to protect confidentiality; however, the nurse in question will be provided the name of the patient/client
- e. Name, address, telephone number and email address of the chairman of the Standards Committee to receive any response by the nurse
- f. Copies of any documents or other material concerning the event OR provide the nurse the opportunity to review, in person or by attorney, the documents or other material concerning the event at least 15 calendar days prior to appearing before the committee [217.19(d)(3)(e)]
- g. Provide the nurse the opportunity to submit a written statement regarding the event under review

### **Discovery**

The nurse will be provided with a witness list and written testimony or evidence at least 48 hours in advance of the proceeding. [217.19(d)(3)(f)(iii)]

A nurse whose practice is being evaluated may choose not to participate in the proceeding after notification. The evaluation will still be done. [217.19(d)(6)]

### **Committee Meeting**

The chairman of the Ad Hoc Standards Committee will preside at the committee meetings conducting the peer review and rules governing court proceedings and admissibility of evidence do not apply.

### **Order of Meeting**

The order of the meeting will be determined by the chairman of the Standards Committee. Opening statements may be made by each side (peer review committee and nurse being evaluated) [217.19(d)(3)(f)(iv)]. Both sides will have the opportunity to present evidence, including witnesses, documents or other evidence. The nurse will have the opportunity to question witnesses and question the validity and veracity of the documents or other evidence [217.19(d)(3)(f)(ii)]. The nurse may also ask and respond to questions of the committee [217.19(d)(3)(f)(v)].

At the conclusion of the meeting, the Standards Committee will meet in private to reach a decision. A determination that a deficiency in care is attributable to a nurse will be based on the extent to which the nurse's conduct was the result of a deficiency in the nurse's judgment, knowledge, training, or skill. It will NOT be based on factors outside the nurse's control.

### **Decision**

The chair of the Standards Committee will provide written notice to the nurse on the Ad Hoc Standards Committee Report within ten (10) calendar days of when the committee's review has been completed [217.19(d)(3)(h)] in person, or by certified mail, return receipt requested, at the last known address of the nurse, or electronically via the nurse's SFASU email address. This notice will permit the nurse to file a written rebuttal within ten (10) calendar days after receiving notice. This rebuttal will be made a permanent part of the peer review record.

If the committee finds that a nurse has engaged in conduct reportable to the BON, the committee will submit a report to the BON on Peer Review Report Form which includes: (a) the identity of the nurse; (b) a description of any corrective action taken against the nurse, and (c) a statement as to whether the committee recommends that formal disciplinary action be taken against the nurse

### **Confidentiality**

A nursing peer review committee meeting is confidential and any communication made to a nurse peer review committee is privileged. It is:

- a. Not subject to subpoena or discovery in any civil matter
- b. Is not admissible as evidence in a judicial or administrative proceeding
- c. May not be introduced into evidence in a nursing liability suit arising out of the provision of or failure to provide nursing services

If a peer review committee determines that a nurse has NOT engaged in conduct required to be reported to the BON, an individual whose knowledge of the nurse's conduct was acquired

only through peer review may not report that nurse to the BON for that conduct. An individual is not prohibited from reporting the nurse if the individual:

- a. Has independent knowledge about the nurse's conduct; or
- b. Believes the committee made its determination in bad faith

A member, agent, or employee of a nursing peer review committee or participant in a proceeding before the committee may not disclose or be required to disclose a communication made to the committee or a record or proceeding of the committee.

A person who attends a nursing peer review committee proceeding in any capacity may not disclose or be required to disclose:

- a. Information acquired in connection with the proceeding;
- b. An opinion formed;
- c. An opinion, recommendation, or evaluation of the committee or committee member

All nurses who participate in a nursing peer review process will sign a confidentiality agreement on the Confidentiality Agreement Form

### **Disclosure of Information**

The Standards Committee, **on request**, WILL disclose written or oral communications made to the committee and the records and proceedings of the committee to: (a) a licensing authority of any state; or (b) a law enforcement agency investigating a criminal matter. The Standards Committee MAY disclose written or oral communications made to the committee and the records and proceedings of the committee to:

- a. the association, school, agency, facility, or other organization under whose authority the committee is established;
- b. another nursing peer review committee;
- c. a peer assistant program approved by the BON (TPAPN);
- d. a government agency or accrediting organization that accredits health care facilities or schools of nursing or surveys a facility for quality of care;
- e. a person engaged in Institutional Review Board (IRB) approved research, if all information that identifies a specific individual is deleted