

**Consideration of Request to begin an Alternative Discipline Pilot with
Texas A & M Health Sciences Center Rural and Community Health Institute**

Summary of Request:

Consider implementing the Knowledge, Skills, Training Assessment and Research (KSTAR) pilot for nurses, as an alternative form of discipline with Texas A & M Health Sciences Center Rural and Community Health Institute (RCHI). Partnering with RCHI to evaluate the effectiveness of this type of evidence-based program may inform nursing regulation and future public policy in Texas.

Historical Perspective:

The Texas Board of Nursing (TBON) has authority under the Texas Occupations Code Sections 301.453(b) to require a nurse who violates the Nursing Practice Act (NPA) to complete a remedial program as a form of discipline. Additionally, the Board has authority under section 301.1605(a) to approve and adopt guidelines and rules regarding pilot programs for innovation in nurse regulation.

The Disciplinary Matrix adopted in Board Rule 213.33, discusses certain forms of discipline including those for violations related specifically to practice breakdowns. When practice breakdowns occur, a nurse's level of competency is questioned and the Board must attempt to ensure minimum competency. The sanctions that may be imposed usually include remedial education and monitoring under the supervision of another nurse for at least one year.

Nevertheless, The Board and Staff continue to explore regulatory options related to discipline that are consistent with Just Culture concepts and that rehabilitates or corrects the knowledge deficits that are seen when nursing practice breakdowns occur with less emphasis on being punitive. The Board's Deferred Discipline pilot and Corrective Action strategies are examples. Staff and RCHI, for the last few years, have engaged in discussions aimed at utilizing innovative alternatives to discipline that may remediate a nurse's practice and eliminate the on-going monitoring and supervisory requirement.

Texas A & M Health Sciences Center Rural and Community Health Institute (RCHI) has plans to develop a program called KSTAR for Nurses, which is a comprehensive program for nurses designed to perform a competency assessment and provide individualized remediation to ensure minimum nurse competency. KSTAR for Nurses is modeled after a similar program for physicians known by the same name. KSTAR for physicians is designed to assess a physician's knowledge base and level of expertise; and if deficits exist, develop an individualized education plan that includes a period of monitoring and follow-up. The Texas Medical Board and sixteen other State Boards of Medicine currently order physicians into KSTAR following practice violations. In addition, physicians who desire to re-enter practice after an extended period of time or who believe a practice deficit exists may also enter the KSTAR program. RCHI and Staff believe the application of the KSTAR program to nursing may also have similar success.

Partnering with RCHI creates an opportunity for the TBON to someday design a non-punitive alternative to discipline for nurses with practice related errors. A more individualized approach to education and demonstration of competency may enhance the TBON's ability to reassure the public that a nurse's practice can be remediated.

Pilot Project Implementation:

The KSTAR program for nurses would be approved as a two-year pilot. Because of the innovative nature of KSTAR, the pilot would be limited until more evidence based information concerning its ongoing feasibility and success are shown. It would be limited to the lower tier sanction of Warning or below. Those violations considered appropriate for sanction of revocation, reprimand or suspension would not be eligible for the pilot. Violations involving sexual misconduct, criminal conduct, intentional acts, falsification, deception, chemical dependency, or substance abuse would not be eligible for resolution through the KSTAR pilot. The program would include assessment and remediation for minimum competency in nursing ethics and jurisprudence.

Licensed vocational nurses (LVNs) and registered nurses (RNs) found to have engaged in a practice breakdown listed in the Board's Disciplinary Matrix that result in an issuance of a disciplinary action or a deferred disciplinary action at the level of a Warning, a Warning with Stipulations, a Warning with Stipulations and a Fine, a Warning with a Fine, Remedial Education, Remedial Education with a Fine, or a Fine would be eligible for an agreed order to participate in the KSTAR pilot for nurses. Participation in KSTAR would be voluntary and through an agreed order. For example, rather than the traditional Warning with Stipulations, the Agreed Order would be a Warning with the stipulation that the nurse successfully complete KSTAR for Nurses. Each nurse would be responsible for their own costs associated with participation including travel to the KSTAR facility. RCHI estimates the cost to be \$2,750.00. This fee includes all the testing and teaching materials and resources and a report to the Board upon completion of the pilot. The report will inform the Board as to whether the nurse successfully completed the pilot project, thus verifying a minimum level of competency, or will make recommendations for further action by the Board.

Similar to the Texas Peer Assistance Program for Nurses (TPAPN), nurses who fail to complete the KSTAR for Nurses pilot will be reported back to the Board by RCHI for traditional or additional disciplinary action. The Board would maintain some level of ongoing oversight of the pilot in part by approving the agreed orders to KSTAR as they would all Warning with Stipulations. Like traditional Warning orders, the KSTAR agreed orders would be public orders, become a part of the nurse's permanent record and reported to the National Practitioner Data Bank (NPDB). Because of the nature of KSTAR's individualized assessment, education and demonstration of competency, the program may also provide an opportunity to reeducate those individuals seeking to reenter nursing practice after an extended absence from nursing practice. This reeducation may assure the Board a nurse has demonstrated minimum competency before relicensure.

In order to demonstrate successful remediation, RCHI with its academic affiliation to Texas A & M Health Sciences Center has designed a research study for the two-year pilot project and is seeking funding from the National Council of State Boards of Nursing (NCSBN) Center for Regulatory Excellence (CRE). A grant proposal was submitted on October 4, 2013 and if awarded, would begin early in 2014.

Pros and Cons:

Pros:

The KSTAR for nurses pilot is an innovation in nursing regulation and creates an opportunity for the Board to have input into the design and evaluation of an alternative discipline for nurses with practice-related errors. The remediation may prove less burdensome on the nurses than traditional disciplinary stipulations. The nurse may have better opportunity to reenter into practice with fewer employment

barriers, yet still provide evidence-based assurance to the public of their competency. A more individualized approach to education and demonstration of competency may enhance the Board's ability to reassure the public that a nurse's practice has been remediated. A KSTAR approach may lead to a more non-punitive approach to discipline and may increase the likelihood that a nurse who has been remediated remains in the workforce. A KSTAR for nurses pilot may assist individuals who choose to re-enter nursing practice after an extended absence of four or more years. The knowledge gained from this type of evidence-based program will inform nursing regulation and future public policy.

Cons:

The cost of the program or travel requirements may prohibit some nurses with disciplinary action from participating in the pilot. There may be a perceived or real unfairness between treating nurses with similar violations differently by not having the same opportunities equally available for nurses under a Board order.

Staff Recommendation:

Consistent with the Board's authority under the Texas Occupations Code (Nursing Practice Act) Sections 301.453(b) and 301.1605(a), move to approve a two-year pilot with Texas A & M Health Sciences Center Rural and Community Health Institute to offer the KSTAR program for nurses with practice violations that result in a disciplinary sanction of a warning and below. Staff will develop guidelines and rules as necessary to implement the pilot.