



Behavior Involving Fraud, Theft, and Deception

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 the fraudulent or dishonest conduct of an individual, whether occurring in the workplace or outside the workplace, that may place patients/clients or the public at risk.

All individuals wishing to practice nursing in Texas must possess good professional character. Nurses hold the highest position of trust to the most vulnerable of our society. Conduct involving the misappropriation of property, money, or other possessions; fraudulent behavior towards patients, governmental programs or funds, (e.g., Medicare and/or Medicaid), or other private reimbursement programs; and criminal behavior involving fraud, theft, or deception raises questions about an individual's fitness to practice and professional character.

This policy is intended to explain the Board's position regarding fraudulent and deceptive behaviors and inform licensees, petitioners, applicants and the public about the Board's process for reviewing such conduct. This policy is also consistent with, and supports, the Governor's Executive Order RP36, July 12, 2004, relating to preventing, detecting, and eliminating fraud, waste, and abuse. The Governor's Executive Order RP36 may be found at: <http://governor.state.tx.us/news/executive-order/10997/>.

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 demonstrate honesty, integrity, and good professional character 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 especially 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. Patient care settings are intimate ones and patients frequently bring valuables (medications, money, jewelry, items of sentimental value, checkbooks, credit cards) with them to health care facilities. Further, nurses frequently provide care in private homes and home-like settings where all of a patient's property and valuables are

accessible to the nurse. In autonomous settings, like home health, other healthcare providers are not present, and there is no direct supervision of the nurse. Patients in these types of healthcare settings may be particularly vulnerable to the unethical, deceitful, or illegal conduct of the nurse. Further, although some nurses may not work in these settings, an individual with an unencumbered license is not restricted from them. When a nurse has exhibited fraudulent or deceitful conduct in the past, the Board is mindful that similar misconduct may be repeated in the workplace, thereby placing patients at a heightened risk.

Theft is an intentional act. Theft from a patient or fraudulent or deceitful behavior involving a patient is never acceptable. Theft of patient money, property, medicine, valuables, or items of sentimental value is extremely serious and constitutes grounds for disciplinary action, including the suspension or revocation of licensure or licensure denial. Fraud, theft, or deception toward an employer in a healthcare setting is also concerning to the Board, as such behavior may be repeated or involve patients.

Crimes involving fraudulent and/or deceitful behavior are concerning to the Board, as they may indicate a lack of good professional character. The Board may rely solely on the disposition of a crime (with or without an adjudication of guilt) to initiate disciplinary action against a nurse's license, which may include licensure denial, suspension, revocation, or other limitation.

The Board is also concerned with fraudulent behaviors involving government funds or programs, such as Medicare or Medicaid, or other private reimbursement programs. This type of fraud increases the price employers pay for worker's compensation, drains the unemployment insurance fund, and steals from those in need of vital Medicaid and/or Medicare services.

Disciplinary Action

In all situations involving an individual's fraudulent or deceitful conduct, the Board's primary objective is to ensure the protection of the public. However, not all matters involving a nurse's fraudulent or deceptive behavior will require the same amount of Board intervention or will necessarily result in disciplinary action. The Board will consider each case on its own merit. Factors that may be particularly relevant to fraudulent or deceitful conduct include: the nature and seriousness of the conduct, the actual harm resulting from the conduct, the individual's history, premeditation, lack of remorse, and/or restitution, and the risk the individual's practice poses to patients and the public. Depending on the particular circumstances, an individual may be able to obtain or retain licensure under an encumbered license, with conditions/restrictions determined by the Board, for a specified period of time. Because patients in autonomous healthcare settings are particularly vulnerable to acts involving fraud, theft, and deception, an individual who has previously exhibited such conduct will likely be precluded from working in a home health or independent practice setting for a period of time. Further, if the individual circumstances do not necessarily warrant removal of an individual from practice or from an independent practice setting, supervision and/or additional restrictions applicable to the setting will likely be required to

ensure adequate protection of patients and the public. A fine and/or restitution as authorized by the Nursing Practice Act and Board rules may also be required.

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. [Tex. Occ. Code Chapter 53](#), [22 Tex. Admin. Code §213.28](#), and the [Board's Guidelines for Criminal Conduct](#) contain additional provisions that specifically apply to criminal behavior. The Board will also consider its adopted [Disciplinary Matrix](#), which contains recommended sanctions for violations of the Nursing Practice Act and/or Board rules and an individual's good professional character under [22 Tex. Admin. Code §213.27](#).