

*§217.10. Restrictions to Use of Designations for Licensed Vocational or Registered Nurse.*

- (a) Use of title
- (1) A person who holds a valid current license as a registered nurse under this chapter:
    - (A) is referred to as a registered nurse; and
    - (B) may use the abbreviation "R.N."
  - (2) A person who holds a valid current license as a vocational nurse under this chapter:
    - (A) is referred to as a licensed vocational nurse or vocational nurse; and
    - (B) may use the abbreviation "L.V.N." or "V.N."
  - (3) An applicant for initial licensure by examination in Texas who has valid temporary authorizations to practice professional nursing as a graduate nurse pending the results of the licensing examination may use the initials "GN" or the title "graduate nurse."
  - (4) An applicant for initial licensure by examination in Texas who has valid temporary authorization to practice vocational nursing as a graduate vocational nurse pending the results of the licensing examination may use the initials "GVN" or the title "graduate vocational nurse."
  - (5) A person who is eligible for licensure by endorsement in Texas, holding a valid Texas temporary license to engage in professional nursing practice, may use the title "registered nurse" or "RN."
  - (6) A person who is eligible for licensure by endorsement in Texas, holding a valid Texas temporary license to engage in vocational nursing practice, may use the title "licensed vocational nurse," "vocational nurse," "LVN," and "VN."
  - (7) No other person, other than designated in paragraphs (1) - (6) of this section, may use, where applicable, titles or abbreviations with the word "nurse" such as office nurse, staff nurse, head nurse, charge nurse, school nurse, supervisor of nursing or nurses, or any other title tending to imply to the public that the person holds a license to practice nursing in Texas.
  - (8) Any person other than as permitted by law or rule who uses any of the above titles or abbreviations deemed by the board misleading or implying that the individual is a licensed nurse may be subject to potential violation or prosecution under the applicable law.
  - (9) If a nurse holds herself or himself out to the public as being engaged in the practice of nursing, or uses the designations "licensed vocational nurse," "vocational nurse," "LVN," "VN," "registered nurse," or "RN" or any combination or variation of those terms and abbreviations, alone or in combination with any other terms, then they must practice in accordance with the Nursing Practice Act and the Rules and Regulations Relating to Nurse Education, Licensure and Practice.
  - (10) Unless the person is practicing under the delegated authority of a registered nurse or is otherwise authorized by state or federal law, a person may not use, in connection with the person's name:
    - (A) the title "nurse aide," "nurse assistant," or "nurse technician" or any other similar title; and
    - (B) may not abbreviate the title to "nurse."
- (b) Display of Designations.
- (1) While interacting with the public in a nursing role, each licensed nurse shall wear a clearly legible insignia that:
    - (A) displays the nurse's name, but the manner in which the name appears, in reference to use of first name and/or last name, is the nurse's preference in accordance with facility policy, if applicable; and
    - (B) identifies the nurse as a registered nurse or vocational nurse according to licensure.
  - (2) Although the board does not require the inclusion of any other designations, with the exception of the specific authorization of advanced practice nurses, the insignia may not contain information other than:
    - (A) the registered nurse or licensed vocational nurse designation;
    - (B) the nurse's name, certifications, academic degrees, or practice position;
    - (C) the name of the employing facility or agency, or other employer; or
    - (D) a picture of the nurse.
- (c) Duty to Document Designations. While functioning in a nursing role, each licensed nurse shall document in his/her written communications:
- (1) the nurse's name, but the manner in which the name appears, in reference to use of first name and/or last name, is the nurse's preference in accordance with facility policy, if applicable; and
  - (2) the nurse's designation as a registered nurse or vocational nurse according to licensure.

The provisions of this §217.10 adopted to be effective September 1, 1999, 24 TexReg 4001; amended to be effective July 5, 2004, 29 TexReg 6296.

*§217.11. Standards of Nursing Practice.*

The Texas Board of Nursing is responsible for regulating the practice of nursing within the State of Texas for Vocational Nurses, Registered Nurses, and Registered Nurses with advanced practice authorization. The standards of practice establish a minimum acceptable level of nursing practice in any setting for each level of nursing

licensure or advanced practice authorization. Failure to meet these standards may result in action against the nurse's license even if no actual patient injury resulted.

- (1) Standards Applicable to All Nurses. All vocational nurses, registered nurses and registered nurses with advanced practice authorization shall:
  - (A) Know and conform to the Texas Nursing Practice Act and the board's rules and regulations as well as all federal, state, or local laws, rules or regulations affecting the nurse's current area of nursing practice;
  - (B) Implement measures to promote a safe environment for clients and others;
  - (C) Know the rationale for and the effects of medications and treatments and shall correctly administer the same;
  - (D) Accurately and completely report and document:
    - (i) the client's status including signs and symptoms;
    - (ii) nursing care rendered;
    - (iii) physician, dentist or podiatrist orders;
    - (iv) administration of medications and treatments;
    - (v) client response(s); and
    - (vi) contacts with other health care team members concerning significant events regarding client's status;
  - (E) Respect the client's right to privacy by protecting confidential information unless required or allowed by law to disclose the information;
  - (F) Promote and participate in education and counseling to a client(s) and, where applicable, the family/significant other(s) based on health needs;
  - (G) Obtain instruction and supervision as necessary when implementing nursing procedures or practices;
  - (H) Make a reasonable effort to obtain orientation/training for competency when encountering new equipment and technology or unfamiliar care situations;
  - (I) Notify the appropriate supervisor when leaving a nursing assignment;
  - (J) Know, recognize, and maintain professional boundaries of the nurse-client relationship;
  - (K) Comply with mandatory reporting requirements of Texas Occupations Code Chapter 301 (Nursing Practice Act), Subchapter I, which include reporting a nurse:
    - (i) who violates the Nursing Practice Act or a board rule and contributed to the death or serious injury of a patient;
    - (ii) whose conduct causes a person to suspect that the nurse's practice is impaired by chemical dependency or drug or alcohol abuse;
    - (iii) whose actions constitute abuse, exploitation, fraud, or a violation of professional boundaries; or
    - (iv) whose actions indicate 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.
    - (v) except for minor incidents (Texas Occupations Code §§301.401(2), 301.419, 22 TAC §217.16), peer review (Texas Occupations Code §§301.403, 303.007, 22 TAC §217.19), or peer assistance if no practice violation (Texas Occupations Code §301.410) as stated in the Nursing Practice Act and Board rules (22 TAC Chapter 217).
  - (L) Provide, without discrimination, nursing services regardless of the age, disability, economic status, gender, national origin, race, religion, health problems, or sexual orientation of the client served;
  - (M) Institute appropriate nursing interventions that might be required to stabilize a client's condition and/or prevent complications;
  - (N) Clarify any order or treatment regimen that the nurse has reason to believe is inaccurate, non-efficacious or contraindicated by consulting with the appropriate licensed practitioner and notifying the ordering practitioner when the nurse makes the decision not to administer the medication or treatment;
  - (O) Implement measures to prevent exposure to infectious pathogens and communicable conditions;
  - (P) Collaborate with the client, members of the health care team and, when appropriate, the client's significant other(s) in the interest of the client's health care;
  - (Q) Consult with, utilize, and make referrals to appropriate community agencies and health care resources to provide continuity of care;
  - (R) Be responsible for one's own continuing competence in nursing practice and individual professional growth;
  - (S) Make assignments to others that take into consideration client safety and that are commensurate with the educational preparation, experience, knowledge, and physical and emotional ability of the person to whom the assignments are made;
  - (T) Accept only those nursing assignments that take into consideration client safety and that are commensurate with the nurse's educational preparation, experience, knowledge, and physical and emotional ability;
  - (U) Supervise nursing care provided by others for whom the nurse is professionally responsible; and
  - (V) Ensure the verification of current Texas licensure or other Compact State licensure privilege and

credentials of personnel for whom the nurse is administratively responsible, when acting in the role of nurse administrator.

- (2) Standards Specific to Vocational Nurses. The licensed vocational nurse practice is a directed scope of nursing practice under the supervision of a registered nurse, advanced practice registered nurse, physician's assistant, physician, podiatrist, or dentist. Supervision is the process of directing, guiding, and influencing the outcome of an individual's performance of an activity. The licensed vocational nurse shall assist in the determination of predictable healthcare needs of clients within healthcare settings and:
- (A) Shall utilize a systematic approach to provide individualized, goal-directed nursing care by:
    - (i) collecting data and performing focused nursing assessments;
    - (ii) participating in the planning of nursing care needs for clients;
    - (iii) participating in the development and modification of the comprehensive nursing care plan for assigned clients;
    - (iv) implementing appropriate aspects of care within the LVN's scope of practice; and
    - (v) assisting in the evaluation of the client's responses to nursing interventions and the identification of client needs;
  - (B) Shall assign specific tasks, activities and functions to unlicensed personnel commensurate with the educational preparation, experience, knowledge, and physical and emotional ability of the person to whom the assignments are made and shall maintain appropriate supervision of unlicensed personnel.
  - (C) May perform other acts that require education and training as prescribed by board rules and policies, commensurate with the licensed vocational nurse's experience, continuing education, and demonstrated licensed vocational nurse competencies.
- (3) Standards Specific to Registered Nurses. The registered nurse shall assist in the determination of healthcare needs of clients and shall:
- (A) Utilize a systematic approach to provide individualized, goal-directed, nursing care by:
    - (i) performing comprehensive nursing assessments regarding the health status of the client;
    - (ii) making nursing diagnoses that serve as the basis for the strategy of care;
    - (iii) developing a plan of care based on the assessment and nursing diagnosis;
    - (iv) implementing nursing care; and
    - (v) evaluating the client's responses to nursing interventions;
  - (B) Delegate tasks to unlicensed personnel in compliance with Chapter 224 of this title, relating to clients with acute conditions or in acute care environments, and Chapter 225 of this title, relating to independent living environments for clients with stable and predictable conditions.
- (4) Standards Specific to Registered Nurses with Advanced Practice Authorization. Standards for a specific role and specialty of advanced practice nurse supersede standards for registered nurses where conflict between the standards, if any, exist. In addition to paragraphs (1) and (3) of this subsection, a registered nurse who holds authorization to practice as an advanced practice nurse (APN) shall:
- (A) Practice in an advanced nursing practice role and specialty in accordance with authorization granted under Board Rule Chapter 221 of this title (relating to practicing in an APN role; 22 TAC Chapter 221) and standards set out in that chapter.
  - (B) Prescribe medications in accordance with prescriptive authority granted under Board Rule Chapter 222 of this title (relating to APNs prescribing; 22 TAC Chapter 222) and standards set out in that chapter and in compliance with state and federal laws and regulations relating to prescription of dangerous drugs and controlled substances.

The provisions of this §217.11 adopted to be effective September 28, 2004, 29 TexReg 9192; amended to be effective November 15, 2007, 32 TexReg 8165.

***The Board has adopted position statements and interpretive guidelines that are intended to clarify § 217.11 or address specific practice-related issues. These items are located at the Board's web site, [www.bon.state.tx.us](http://www.bon.state.tx.us), in the "Practice Practice" section of the "Table of Contents."***

**§ 217.12. Unprofessional Conduct.**

The unprofessional conduct rules are intended to protect clients and the public from incompetent, unethical, or illegal conduct of licensees. The purpose of these rules is to identify unprofessional or dishonorable behaviors of a nurse which the board believes are likely to deceive, defraud, or injure clients or the public. Actual injury to a client need not be established. These behaviors include but are not limited to:

- (1) Unsafe Practice — actions or conduct including, but not limited to:
  - (A) Carelessly failing, repeatedly failing, or exhibiting an inability to perform vocational, registered or advanced practice nursing in conformity with the standards of minimum acceptable level of nursing practice set out in Rule 217.11;

- (B) Carelessly or repeatedly failing to conform to generally accepted nursing standards in applicable practice settings;
  - (C) Improper management of client records;
  - (D) Delegating or assigning nursing functions or a prescribed health function when the delegation or assignment could reasonably be expected to result in unsafe or ineffective client care;
  - (E) Accepting the assignment of nursing functions or a prescribed health function when the acceptance of the assignment could be reasonably expected to result in unsafe or ineffective client care;
  - (F) Failing to supervise the performance of tasks by any individual working pursuant to the nurse's delegation or assignment; or
  - (G) Failure of a clinical nursing instructor to adequately supervise or to assure adequate supervision of student experiences.
- (2) Failure of a chief administrative nurse to follow appropriate and recognized standards and guidelines in providing oversight of the nursing organization and nursing services for which the nurse is administratively responsible.
  - (3) Failure to practice within a modified scope of practice or with the required accommodations, as specified by the board in granting a coded license or any stipulated agreement with the board.
  - (4) Careless or repetitive conduct that may endanger a client's life, health, or safety. Actual injury to a client need not be established.
  - (5) Inability to Practice Safely — demonstration of actual or potential inability to practice nursing with reasonable skill and safety to clients by reason of illness, use of alcohol, drugs, chemicals, or any other mood-altering substances, or as a result of any mental or physical condition.
  - (6) Misconduct — actions or conduct that include, but are not limited to:
    - (A) Falsifying reports, client documentation, agency records or other documents;
    - (B) Failing to cooperate with a lawful investigation conducted by the board;
    - (C) Causing or permitting physical, emotional or verbal abuse or injury or neglect to the client or the public, or failing to report same to the employer, appropriate legal authority and/or licensing board;
    - (D) Violating professional boundaries of the nurse/client relationship including but not limited to physical, sexual, emotional or financial exploitation of the client or the client's significant other(s);
    - (E) Engaging in sexual conduct with a client, touching a client in a sexual manner, requesting or offering sexual favors, or language or behavior suggestive of the same;
    - (F) Threatening or violent behavior in the workplace;
    - (G) Misappropriating, in connection with the practice of nursing, anything of value or benefit, including but not limited to, any property, real or personal of the client, employer, or any other person or entity, or failing to take precautions to prevent such misappropriation;
    - (H) Providing information which was false, deceptive, or misleading in connection with the practice of nursing;
    - (I) Failing to answer specific questions or providing false or misleading answers that would have affected the decision to license, employ, certify or otherwise utilize a nurse; or
    - (J) 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 client in connection with the performance of professional services.
  - (7) Failure to repay a guaranteed student loan, as provided in the Texas Education Code § 57.491, or pay child support payments as required by the Texas Family Code § 232.001, *et seq.*
  - (8) Drug Diversion — diversion or attempts to divert drugs or controlled substances.
  - (9) Dismissal from a board-approved peer assistance program for noncompliance and referral by that program to the BON.
  - (10) Other Drug Related — actions or conduct that include, but are not limited to:
    - (A) Use of any controlled substance or any drug, prescribed or unprescribed, or device or alcoholic beverages while on duty or on call and to the extent that such use may impair the nurse's ability to safely conduct to the public the practice authorized by the nurse's license;
    - (B) Falsification of or making incorrect, inconsistent, or unintelligible entries in any agency, client, or other record pertaining to drugs or controlled substances;
    - (C) Failing to follow the policy and procedure in place for the wastage of medications at the facility where the nurse was employed or working at the time of the incident(s);
    - (D) A positive drug screen for which there is no lawful prescription; or
    - (E) Obtaining or attempting to obtain or deliver medication(s) through means of misrepresentation, fraud, forgery, deception and/or subterfuge.

- (11) Unlawful Practice — actions or conduct that include, but are not limited to:
  - (A) Knowingly aiding, assisting, advising, or allowing an unlicensed person to engage in the unlawful practice of vocational, registered or advanced practice nursing;
  - (B) Violating an order of the board, or carelessly or repetitively violating a state or federal law relating to the practice of vocational, registered or advanced practice nursing, or violating a state or federal narcotics or controlled substance law;
  - (C) Knowingly aiding, assisting, advising, or allowing a nurse under Board Order to violate the conditions set forth in the Order; or
  - (D) Failing to report violations of the Nursing Practice Act and/or the Board’s rules and regulations.
- (12) Leaving a nursing assignment, including a supervisory assignment, without notifying the appropriate personnel.
- (13) Criminal Conduct — including, but not limited to, conviction or probation, with or without an adjudication of guilt, receipt of a judicial order involving a crime or criminal behavior or conduct that could affect the practice of nursing.

The provisions of this §217.12 adopted to be effective September 28, 2004, 29 TexReg 9192.

*§217.13. Peer Assistance Program.*

- (a) A peer assistance program for nurses approved by the Board under chapter 467, Health and Safety Code, will identify, monitor, and assist with locating appropriate treatment for those nurses whose practice is impaired or suspected of being impaired by chemical dependency, mental illness or diminished mental capacity so that they may return to practice safe nursing.
- (b) Role of the Board of Nursing and Peer Assistance Program.
  - (1) The Board of Nursing will retain the sole and exclusive authority to discipline a nurse who has committed a practice violation under §301.452(b) of the Nursing Practice Act regardless of whether such violation was influenced by chemical dependency, mental illness, or diminished mental capacity. The Board will balance the need to protect the public and the need to ensure the nurse seeks treatment in determining whether the nurse is appropriate for participation in an approved peer assistance program.
  - (2) The program shall report to the board, in accordance with policies adopted by the board, a nurse reported to the program who is impaired or suspected of being impaired for chemical dependency, mental illness, or diminished mental capacity if the nurse was reported to the program by third party. A third party report is a report concerning a nurse suspected of chemical dependency, mental illness, or diminished mental capacity that comes to the attention of the program through any source other than a self report.
- (c) General Criteria for Approved Peer Assistance Program.
  - (1) The program will provide statewide peer advocacy services to all nurses licensed to practice in Texas whose practice may be impaired by chemical dependency, certain mental illnesses, or diminished mental capacity.
  - (2) The program shall have a statewide monitoring system that will be able to track the nurse while preserving confidentiality.
  - (3) The program shall have a network of trained peer volunteer advocates located throughout the state.
  - (4) The program shall have a written plan for the education and training of volunteer advocates and other program personnel.
  - (5) The program shall have a written plan for the education of nurses, other practitioners, and employers.
  - (6) The program shall demonstrate financial stability and funding sufficient to operate the program.
  - (7) The program shall have a mechanism for documenting program compliance and for timely reporting of noncompliance to the board.
  - (8) The program shall be subject to periodic evaluation by the board or its designee in order for the board to evaluate the success of the program.
- (d) Evaluation of Peer Assistance Program.
  - (1) The program shall collect and make available to the board and other appropriate persons data relating to program operations and participant outcomes. At a minimum, the program shall submit the following statistical information quarterly to the Board for the purpose of evaluating the success of the program:
    - (A) Number and source of referral;
    - (B) Number of individuals who sign participation agreements;
    - (C) Type of participation agreement signed, i.e., Extended Evaluation Program; substance abuse or dependency, dual diagnosis, mental illness;
    - (D) Number of cases referred to program by Board of Nursing (this number should include all third party referrals that are reported to the board, but remain in participation pending board review);
    - (E) Number of participants referred to program by Board order;

*§217.16. Reporting of Minor Incidents.*

- (a) Purpose. The Board believes protection of the public is not enhanced by the reporting of every minor incident that may be a violation of the Texas Nursing Practice Act or a board rule. This is particularly true when there are mechanisms in place in the nurse's practice setting to identify nursing errors, detect patterns of practice, and take corrective action to remediate deficits in a nurse's judgment, knowledge, training, or skill. This rule is intended to provide guidance to nurses, nursing peer review committees and others in determining whether a nurse has engaged in conduct that indicates the nurse's continued practice would pose a risk of harm to patients or others and should be reported to the board.
- (b) Definition. A "minor incident" as defined under Nursing Practice Act §301.401(2) means conduct by a nurse that may be a violation of the Nursing Practice Act or a Board rule but does not indicate the Nurse's continued practice poses a risk of harm to a patient or another person.
- (c) Factors to be Considered in Evaluating if Conduct Must Be Reported to the Board.
  - (1) A nurse involved in a minor incident need not be reported to the Board unless the conduct indicates the nurse:
    - (A) ignored a substantial risk that exposed a patient or other person to significant physical, emotional or financial harm or the potential for such harm;
    - (B) lacked a conscientious approach to or accountability for his/her practice;
    - (C) lacked the knowledge and competencies to make appropriate clinical judgments and such knowledge and competencies cannot be easily remediated; or
    - (D) indicates the nurse has engaged in a pattern of multiple minor incidents that demonstrate the nurse's continued practice would pose a risk of harm to patients or others.
  - (2) Evaluation of Multiple Incidents.
    - (A) Evaluation of Conduct. In evaluating whether multiple incidents constitute grounds for reporting it is the responsibility of the nurse manager or supervisor or peer review committee to determine if the minor incidents indicate a pattern of practice that demonstrates the nurse's continued practice poses a risk and should be reported.
    - (B) Evaluation of Multiple Incidents. In practice settings with nursing peer review, the nurse must be reported to peer review if a nurse commits five minor incidents within a 12-month period. In practice settings with no nursing peer review, the nurse who commits five minor incidents within a 12 month period must be reported to the Board.
    - (C) Nurse Manager and Nurse Supervisor Responsibilities. Regardless of the time frame or number of minor incidents, if a nurse manager or supervisor believes the minor incidents indicate a pattern of practice that poses a risk of harm that cannot be remediated, the nurse should be reported to the Board or Peer Review Committee.
  - (3) Other factors that may be considered in determining whether a minor incident should be reported to the Board are:
    - (A) the significance of the nurse's conduct in the particular practice setting; and
    - (B) the presence of contributing or mitigating circumstances, including systems issues or factors beyond the nurse's control, in relation to the nurse's conduct.
- (d) Conduct Required to be Reported.
  - (1) A nurse must be reported to the board or to a nursing peer review committee for the following conduct:
    - (A) An error that contributed to a patient's death or serious harm.
    - (B) Criminal Conduct defined in Texas Occupations Code §301.4535.
    - (C) A serious violation of the board's Unprofessional Conduct rule §217.12 of this title (relating to Unprofessional Conduct) involving intentional or unethical conduct including but not limited to fraud, theft, patient abuse or patient exploitation.
    - (D) A practice-related violation involving impairment or suspected impairment by reason of chemical dependency, intemperate use, misuse or abuse of drugs or alcohol, mental illness, or diminished mental capacity required to be reported in accordance with §301.410(b) of the Nursing Practice Act and §217.19(g) of this title (relating to Incident Based Nursing Peer Review and Whistle Blower Protections).
  - (2) If a nursing peer review committee determines that a nurse engaged in the conduct listed in subsection (c)(1)(A) - (D) of this section the committee must report the nurse to the board. For errors involving the death or serious injury of a patient, if a nursing peer review committee makes a determination that a nurse has not engaged in conduct subject to reporting to the board, the committee must maintain documentation of the rationale for their belief that the nurse's conduct failed to meet each of the factors in paragraph (1)(A) - (D) of this subsection.
- (e) Conduct Normally Not Required to Be Reported to the Board.
  - (1) An incident should be evaluated to determine if:

- (A) the incident is primarily the result of factors beyond the nurse's control and addressing those factors is more likely to prevent the incident from reoccurring; or
  - (B) the incident was a medication error caused primarily by factors beyond the nurse's control rather than failure of the nurse to exercise proper clinical judgment. Board Position Statement 15.17 Texas Board of Nursing/Board of Pharmacy Joint Position Statement/Medication Error provides guidelines for evaluating medication errors found at <http://www.bon.state.tx.us/practice/position.html#15.17>.
- (2) If either of the conditions listed in paragraph (1) of this subsection are present, a presumption should exist that the nurse's conduct does not indicate the nurse's continued practice poses a risk of harm to a patient or another person and does not need to be reported to the board.
- (f) Documentation of Minor Incidents. A minor incident should be documented as follows:
- (1) A report must be prepared and maintained for a minimum of 12 months that contains a complete description of the incident, patient record number, witnesses, nurse involved and the action taken to correct or remedy the problem.
  - (2) If a medication error is attributable or assigned to the nurse as a minor incident, the record of that incident should indicate why the error is being attributed or assigned to the nurse.
- (g) Nursing Peer Review Committee.
- (1) If a report is made to the peer review committee, the committee must investigate and conduct incident-based nursing peer review in compliance with Nursing Peer Review Law in Texas Occupations Code §303 and §217.19 of this title.
  - (2) Review of a nurse's conduct or practice may be accomplished by either an informal work group of the nursing peer review committee as provided under §217.19(e) of this title or the full nursing peer review committee prior to a report being made to the board.
  - (3) A nursing peer review committee receiving a report involving a minor incident or incidents must review the incident(s) and other conduct of the nurse during the previous 12 months to determine if the nurse's continuing to practice poses a risk of harm to patients or other persons and whether remediation would be reasonably expected to adequately mitigate such risk if it exists. The committee must consider the special considerations set out in subsection (c) of this section.
  - (4) The nursing peer review committee need not report the nurse to the Board if the peer review committee determines that either:
    - (A) the nurse's continuing to practice does not pose a risk of harm to patients or other persons; or
    - (B) remediation could reasonably be expected to adequately mitigate any such risk and the nurse successfully completes the remediation.
  - (5) If a nurse terminates employment while undergoing remediation activities as directed by a peer review committee under paragraph (3) of this subsection, the peer review committee may either:
    - (A) report the nurse to the BON;
    - (B) report to the peer review committee of the new employer, if known, with the nurses written consent;
    - (C) re-evaluate the nurse's current conduct to determine if the nurse did complete sufficient remediation and is deemed safe to practice.
- (h) A Right to Report. Nurses and other persons are encouraged not to report minor incidents to the Board unless required to do so by this rule, but nothing in this rule is intended to prevent reporting of a potential violation directly to the Board or to a nursing peer review committee.
- (i) Mis-classifying to Avoid Reporting. Intentionally mis-classifying an incident to avoid reporting may result in violation of the mandatory reporting statute.
- (j) Chief Nursing Officer or Nurse Administrator Responsibility. The Chief Nursing Officer, Nurse Administrator or registered nurse by any title who is responsible for nursing services shall be responsible for taking reasonable steps to assure that minor incidents are handled in compliance with this rule and any other applicable law.
- (k) Nurses Reported to the Board. If a nurse is reported to the board, the board shall review the nurse's conduct to determine if it indicates the nurse's continued practice poses a risk of harm to a patient or another person. If it does not the board may elect not to proceed with filing formal charges.

The provisions of this §217.16 adopted to be effective September 1, 1999, 24 TexReg 4001; amended to be effective February 19, 2003, 28 TexReg 1378; amended to be effective July 5, 2004, 29 TexReg 6296; amended to be effective May 17, 2006, 31 TexReg 3873; amended to be effective January 4, 2009, 33 TexReg 10432.

*§217.17. Texas Nursing Jurisprudence Exam (NJE).*

- (a) Exam Development.
  - (1) The Board will develop a Nursing Jurisprudence Exam (NJE) as authorized by Nursing Practice Act (NPA) §301.252.