

NAVIGATING YOUR NURSING LICENSE IN TEXAS

A COMPREHENSIVE GUIDE

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A LAW FIRM OF ATTORNEYS AND COUNSELORS

Navigating Your Nursing License in Texas: A Comprehensive Guide

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Chapter 1: Introduction – The Texas Board of Nursing and Your License

The nursing profession in Texas is overseen by the **Texas Board of Nursing (BON)**, a state agency dedicated to protecting and promoting the welfare of Texans by regulating nursing practice. The BON achieves this by establishing and enforcing standards for nursing education, licensure, and practice, prioritizing public safety above all else. This guide will explore the critical aspects of maintaining a Texas nursing license, from initial acquisition to understanding disciplinary processes and defending your career.

The BON issues, renews, and disciplines licenses for various types of nurses, including Registered Nurses (RNs), Licensed Vocational Nurses (LVNs), and Advanced Practice Registered Nurses (APRNs). It also accredits nursing schools. Unlike organizations that advocate for nurses, the BON's primary mission is public protection. Given the high stakes involved, understanding the regulations and the potential for disciplinary action is paramount for every nurse in Texas.

Chapter 2: Obtaining and Renewing a Texas Nursing License

Becoming and remaining a licensed nurse in Texas involves specific requirements set forth by the BON.

Licensure Requirements

To obtain a professional nursing license in Texas, applicants must meet several qualifications to ensure they can provide competent care. The process includes:

- **Graduation from an Approved Nursing Program:** Individuals must complete a course of study at an accredited nursing school approved by relevant regulatory bodies. These programs provide comprehensive education in theory, clinical practice, anatomy, physiology, pharmacology, and patient care techniques.
- **Licensure by Examination:** After completing their education, aspiring nurses must pass the appropriate licensure examination, such as the NCLEX-RN for registered nurses or NCLEX-PN for practical/vocational nurses. This exam assesses a candidate's knowledge, critical thinking, and application of healthcare principles.
- **Application to the BON:** Once educational and examination requirements are met, individuals apply for a nursing license through the BON, submitting necessary forms, fees, and supporting documents like transcripts.
- **Criminal Background Checks:** The BON conducts criminal background checks as part of the application process and may require fingerprint cards.

The Renewal Process and Continuing Education Requirements

Maintaining an active nursing license requires periodic renewal. The BON oversees this process and provides guidelines to ensure continued competence.

- **Renewal Application:** Nurses must submit a renewal application form and pay the specified fees within defined time limits to avoid lapses in licensure.
- **Continuing Education (CNE):** The BON mandates continuing education to ensure nurses stay current with advancements and maintain competence. Nurses can demonstrate competency by completing 20 contact hours of CNE in their area of practice within the licensing period, or by achieving a Board-ap-

proved national nursing certification. CNE hours must be from programs approved by the Board or a credentialing agency.

- **Renewal Period:** In Texas, the renewal period is typically two years.

Nurse Licensure Compact (NLC) and Relocation Rules

The **Enhanced Nurse Licensure Compact (eNLC)**, which took effect in Texas in January 2018, allows registered nurses (RNs) and licensed vocational nurses (LVNs) to practice in their home state and other eNLC states with one multistate license. This compact aims to increase nurse mobility across state borders and enhance access to healthcare while maintaining public protection.

Key rules regarding the NLC and relocation include:

- **Felony Convictions:** Under the eNLC, applicants convicted of or who plead guilty to a felony are generally **not eligible for a multistate license**. If deemed eligible for a Texas license, they will receive a single-state license only. Nurses with past felony convictions *prior to* the compact's effective date may be eligible to maintain a multistate license if they retain their Texas license.
- **Relocation Requirement:** A new NLC rule effective January 2, 2024, requires a multistate licensee who changes their primary state of residence to another compact state to **apply for a multistate license in the new state within 60 days**. This 60-day period begins when the nurse is physically present and intends to establish primary residence in the new state.
- **Temporary Assignments:** Travel nurses or those temporarily working in a different state are not subject to this 60-day rule, unless they accept a permanent assignment in that state.
- **Practicing While Awaiting New License:** Nurses can continue to practice on their old state's license if it remains valid while awaiting their new multistate compact license. However, if the old license expires, it cannot be renewed as they no longer live in that state.
- **Exceptions:** Exceptions exist for nurses employed by federal government divisions (e.g., VA, U.S. military), who only need a single state license. Military spouses may also be exempt from applying for a new multistate license if they have not taken action to change their legal state of residency.

Chapter 3: Understanding the Scope of Nursing Practice in Texas

Nurses in Texas operate under a defined **scope of practice**, ensuring they provide safe and effective patient care within legal and professional boundaries.

Definition of Professional Nursing

Professional nursing is defined as “the performance of an act that requires substantial specialized judgment and skill, the proper performance of which is based on knowledge and application of biological, physical, and social science principles as acquired by a completed course in an approved school of professional nursing”. It **does not include medical diagnosis or prescription of therapeutic or corrective measures**.

Scope of Practice for Registered Nurses (RNs)

RNs engage in professional nursing, which involves a broad range of responsibilities and duties towards their patients. These include:

- Observation, assessment, intervention, evaluation, rehabilitation, care, counsel, or health teachings for individuals who are ill, injured, infirm, or experiencing changes in health.
- Maintenance of health or prevention of illness.
- Administration of medication or treatment as ordered by a physician, podiatrist, or dentist.
- Supervision or teaching of nursing.
- Administration, supervision, and evaluation of nursing practices, policies, and procedures.
- Requesting, receiving, signing for, and distributing prescription drug samples in practices where an APRN can sign orders.
- Performance of acts delegated by a physician.
- Development of the nursing care plan.

RNs are expected to utilize a systematic approach to provide individualized, goal-directed nursing care, including comprehensive assessments, nursing diagnoses, care plan development, implementation, and evaluation of patient responses. They also delegate tasks to unlicensed personnel in various settings, for which they retain responsibility and must provide supervision.

Scope of Practice for Advanced Practice Registered Nurses (APRNs)

APRNs are registered nurses approved by the BON to practice as advanced practice nurses after completing a board-approved advanced educational program, typically a master's degree or higher. APRNs include Certified Nurse Practitioners (CNP), Certified Nurse-Midwives (CNMs), Certified Registered Nurse Anesthetists (CRNAs), and Clinical Nurse Specialists (CNSs). They specialize in focus areas like adult-gerontology, family care, pediatrics, psychiatric/mental health, and women's health.

APRNs can provide a broad range of healthcare services based on their education, experience, and the accepted scope of practice for their specialty. Their functions must align with the Texas Nursing Practice Act, BON rules, and applicable state and federal laws. The BON considers various factors when determining an APRN's scope, including specific training, adherence to professional specialty organization standards, demonstrable clinical competence, facility credentialing, and additional relevant training.

- **Prescribing Authority:** APRNs have the authority to prescribe certain medications, including controlled substances, under specific conditions set by the US Drug Enforcement Administration (DEA) and Texas Administrative Code. This involves limits on supply (e.g., 90-day supply for Schedule III-V) and consultation requirements for certain patients (e.g., children aged 2 or younger). Schedule II controlled substances can only be prescribed in hospital facilities under strict policies, for patients expected to stay over 24 hours or seen in an emergency room, or for terminally ill patients in hospice.
- **Prescription Monitoring Program (PMP):** APRNs must register with the PMP and check a patient's history for opioids, benzodiazepines, barbiturates, and carisoprodol before prescribing controlled substances, with exceptions for hospice or certain cancer patients.
- **Protocols and Authorization:** When providing medical aspects of care, APRNs must use protocols or other written authorizations jointly developed and signed with appropriate physicians, reviewed annually, and maintained in the practice setting.

The Decision-Making Model (DMM) for Scope of Practice

The BON recommends that all nurses use its **Scope of Practice Decision-Making Model (DMM)** to determine if an assignment is safe and legally within their scope of practice. The DMM consists of eight questions, and if the answer to any question is "no," the nurse should not proceed with the activity:

1. Is the activity prohibited by the Texas NPA, Board Rules, guidelines, position statements, or any other law?
2. Is the activity authorized by a valid order?
3. Is the activity consistent with current policies and procedures in your employing organization or facility?
4. Is performing the activity consistent with current evidence-based practice findings/guidelines or national nursing organization statements?
5. Is there documented evidence of your current competence (education, knowledge, skills, abilities, experience, judgment) to perform the activity safely and effectively?
6. Would a reasonable and prudent nurse perform the activity in a similar circumstance?
7. Are you prepared to accept accountability for safe care and its outcome?
8. If you are an LVN, will adequate supervision be available? (RNs skip this question)

If all answers are “yes,” the nurse may proceed, but they are still expected to provide care that meets prevailing standards of safe nursing.

Nurses’ Duty to Patients (Lunsford v. Board of Nurse Examiners)

A landmark Texas court case, **Lunsford v. Board of Nurse Examiners (1983)**, fundamentally changed nursing practice by establishing that a nurse’s license and duty to the patient **supersedes hospital policies and physician orders**. Nurses cannot defend their actions by simply stating they followed policy if that policy contradicts evidence-based practice or current standards. In this case, the court affirmed disciplinary action against a nurse who turned away a heart attack patient, finding that her knowledge and skills imposed a duty to act in the patient’s best interest, regardless of an unverified physician’s instruction or facility policy.

Chapter 4: Common Reasons for Disciplinary Action

Nurses risk disciplinary action by the Texas Board of Nursing (BON) for various types of misconduct, some of which may even lead to ineligibility for licensure. Disciplinary actions are often taken to protect patients and maintain professional standards.

Crimes Directly Related to Nursing

The BON’s Disciplinary Guidelines for Criminal Conduct lists crimes considered directly related to nursing practice that can lead to disciplinary action, including revocation or non-renewal of a license. These guidelines are not exhaustive, and other unlisted crimes may also serve as a basis for action. Common categories of crimes include:

- **Crimes involving fraud or theft:** Nurses often have access to patient valuables, financial information, and medications, and work without direct supervision. Engaging in fraud or theft creates concerns about similar misconduct in the workplace. Examples include forgery, insurance fraud, Medicaid fraud, money laundering, any type of theft, and unauthorized use of a vehicle.
- **Crimes involving drugs or alcohol:** These include Driving While Intoxicated (DWI), drug violations, intoxication assault, and intoxication manslaughter. Such crimes often indicate a substance abuse disorder that can impair a nurse’s ability to provide safe care, thereby endangering patients.
- **Crimes involving lying, falsification, and deception:** These crimes are considered directly related to nursing because accurate, prompt, and honest documentation is a main function of nurses. Falsified or missing records can seriously endanger patients. Examples include false reports or statements, fraudulent use or possession of identifying information, fraudulent destruction or concealment of writing, misapplication of fiduciary property, perjury, securing execution of documents by deception, and tampering

with a government record.

The BON may take disciplinary action for any felony directly related to nursing practice or any misdemeanor involving moral turpitude directly related to nursing.

Substance Abuse and Addiction

The BON recognizes substance use disorders as treatable conditions, and nurses in recovery may safely provide care. However, drug or alcohol abuse can lead to severe consequences, including license loss. The American Nurses Association estimates that approximately 10% of all U.S. nurses are drug-dependent.

BON Policy on Substance Abuse:

- The BON strives to balance public protection with the understanding that substance use disorders are treatable.
- The BON may require nurses to undergo physical or psychological evaluations if their fitness to practice is questioned due to chemical dependency or abuse.
- In severe cases, the BON may remove a nurse from practice until they demonstrate sobriety and stable recovery, supported by negative drug screens, recommendation letters, support group attendance, and employer evaluations.
- Upon return to practice, monitoring, including random drug screening, may be required.
- For less serious cases, nurses may continue practice while participating in a BON-approved peer assistance program, possibly under a non-public Board order or a more closely monitored disciplinary order.

Texas Peer Assistance Program for Nurses (TPAPN):

- TPAPN is a **non-punitive, confidential, and voluntary program** for RNs and LVNs dealing with psychiatric disorders or substance use problems. It aims to identify, monitor, and assist nurses in treatment and recovery to return to safe practice.
- Nurses can self-refer or be referred by third parties (e.g., employers, colleagues, healthcare providers, or the BON), but not anonymously. Common referral reasons include workplace impairment, forgery, drug diversion/theft, illegal substance use, or legal incidents involving substances.
- Participants undergo an initial evaluation (drug test, substance abuse, and mental health assessment) to determine diagnosis, treatment recommendations, recovery support, fitness to practice, and monitoring needs.
- Individualized requirements may include treatment, drug testing, refraining from practice, recovery support, and practice monitoring (supervision/restrictions). Compliance typically results in no further BON action.
- **Failure to comply** with TPAPN requirements leads to referral to the BON for investigation and potential disciplinary proceedings, including possible license revocation.
- TPAPN participants must sign a release allowing the program to communicate with the BON if necessary. Information remains confidential if the individual complies with all requirements, otherwise the BON has access.

Disciplinary Sanctions for Substance Abuse:

- “Intemperate use of alcohol or drugs that the board determines endangers or could endanger a patient” is grounds for disciplinary action or license denial. This includes practicing nursing while under the influence.

- The BON's Disciplinary Matrix outlines sanctions based on severity.
 - **First Tier Offense:** Misuse without patient interaction or harm, no prior history. Sanction: Warning with Stipulations (remedial education, supervised practice, public service, random drug testing, activity limits, BON review).
 - **Second Tier Offense:** Misuse without patient interaction or harm, but with prior peer assistance/Board order. Sanction Level I: Board-ordered TPAPN participation or Reprimand with stipulations. Sanction Level II: License suspension until treatment/one year sobriety, then stay of suspension with stipulations, or probated suspension.
 - **Third Tier Offense:** Misuse with risk of patient harm or adverse effects. Sanction Level I: Board-ordered TPAPN if no actual harm/aggravating circumstances, or Warning/Reprimand with stipulations. Denial of licensure until treatment/one year sobriety, then license with stipulations.
 - **Fourth Tier Offense:** Misuse resulting in serious physical injury or patient death, or risk thereof. Sanction: Denial of licensure, revocation, or voluntary surrender. Temporary suspension may also be imposed if there is an imminent threat to public health and safety.

Unprofessional Conduct

Unprofessional conduct can significantly impact a nurse's license. The BON defines it as actions likely to deceive, defraud, or injure a patient or the public.

- **Sexual Misconduct:** Any sexual misconduct or inappropriate behavior towards patients is a serious violation of professional boundaries and patient trust, leading to disciplinary action and potential legal consequences.
- **Physical or Verbal Abuse:** Physical assault, harsh verbal exchanges, or other intentional harm towards patients are unacceptable and lead to disciplinary action.
- **Breach of Confidentiality (HIPAA Violations):** Nurses are required to respect patient privacy and protect confidential information unless legally required or allowed to disclose it. Unauthorized access to patient medical records for personal reasons, using personal email/computers for patient information, or communicating patient information to others are HIPAA violations. Such breaches are unprofessional conduct and can result in sanctions ranging from remedial education and fines to license revocation in extreme situations, depending on intent, number of incidents, history, and severity of harm.
- **Social Media Misuse:** Nurses have a duty to maintain professional boundaries, which extend to social media. Inappropriate use of social media, such as disclosing patient-related information, identifying patients by name, or posting disparaging remarks about patients, can lead to disciplinary action, employer termination, and even criminal charges. Privacy settings are not sufficient to ensure patient privacy online.

Scope of Practice Violations

Nurses must operate within their legal and individual scope of practice. Functions outside this scope can result in disciplinary action.

- **Administering Wrong Medication or Improper Dosage:** Prescription medication errors, such as prescribing or administering the wrong medication or improper dosage, are common complaints against APRNs.
- **Performing Experimental Treatments:** Nurses performing treatments outside standard medical practices may need to justify their actions before a peer-review committee.
- **Acting Outside Authority:** The line between a nurse's and physician's roles can be unclear, especially for nurse practitioners. Providing treatments, making medical diagnoses reserved for physicians, or dispensing medications without explicit physician approval can lead to discipline. An LPN performing a comprehensive assessment (which is an RN scope of practice in Texas) that is signed off by an RN, for

example, can even escalate to criminal conduct and insurance fraud investigations.

- **Improper Drug Compounding:** Nurses may prepare compounded drugs for immediate on-site usage if consistent with their scope and an order/delegation. However, they cannot prepare them for off-site use. Improper compounding, lacking necessary training, resources, or failing to adhere to standards like those from the United States Pharmacopeia (USP), can lead to adverse patient events and disciplinary action. Nurses have a duty to clarify any order they believe is inaccurate or contraindicated.

Documentation and Record-Keeping Errors

Accurate, complete, and honest documentation is a fundamental duty of nurses.

- **Failure to Record Procedures:** Inadequate patient records, improper documentation, or failure to document care can result in sanctions. This includes accurately documenting client status, nursing care, physician orders, medication administration, client responses, and communications with other health-care team members.
- **Falsification of Documents:** Falsifying reports, client documentation, agency records, or other documents is misconduct that violates BON rules and is considered unprofessional conduct. This raises serious concerns about a nurse's ability to provide safe care, as it prevents subsequent caregivers from having a complete and accurate picture of the patient's condition.

Failure to Report

Texas nurses have a **mandatory duty to report** certain conduct to the BON. Failure to report when required can lead to disciplinary action. Nurses "shall" report if they have reasonable cause to suspect that:

- Another nurse has engaged in conduct subject to reporting.
- A nursing student's ability to perform nursing services would be impaired by chemical dependency.

"Conduct subject to reporting" includes:

- Violations of the NPA or BON rules that contributed to a patient's death or serious injury.
- Abuse, exploitation, fraud, or professional boundary violations.
- Conduct indicating a nurse lacks knowledge, skill, judgment, or conscientiousness to an extent that poses a risk of harm to a patient.
- Suspected impairment due to chemical dependency, drug/alcohol abuse.

Reports must be in writing, signed, and include the nurse's identity and any additional required information.

Failure to Meet Continuing Education Requirements

As noted in Chapter 2, nurses are required to demonstrate ongoing competency through continuing education or national nursing certification. Failure to meet these requirements means a nurse's license will not be renewed.

Criminal History

A criminal background, particularly convictions related to violence, theft, fraud, or drug offenses, can raise concerns about a nurse's fitness to practice and lead to disciplinary action.

- **Felonies and Misdemeanors:** The BON may deny licensure or take disciplinary action for any felony directly related to nursing or any misdemeanor involving moral turpitude directly related to nursing. Accepting a plea deal or a deferred disposition agreement can also trigger license denial or disciplinary action.
- **Full Disclosure:** Texas law requires **full disclosure** of all prior criminal offenses, including dismissed cases and those resolved through deferred adjudication, on nursing applications. Failure to report is considered a separate violation and often treated more harshly than the underlying charge.
- **Mandatory Revocation/Denial:** The BON is required by law to deny or revoke a license for convictions of certain severe crimes, including but not limited to: sexual assault, manslaughter, murder, offenses requiring sex offender registration, child endangerment, robbery, and aggravated assault. Individuals convicted of these offenses are ineligible for reinstatement for at least five years after completing community supervision or parole.
- **Misdemeanors:** While some misdemeanors (e.g., shoplifting, DWI) raise more concern, the BON may still issue or renew a license depending on case details. Applicants must prove the misdemeanor won't affect patient care, demonstrating good moral character, responsibility, and sound judgment. Factors like the recency of the offense, compliance with court orders, remorse, and alignment of personal statements with court records are reviewed. Even dismissed or expunged misdemeanors may still require explanation if related to public safety.
- **Reporting Requirements for Working Nurses:** Once licensed, nurses must continue to report certain criminal activity, including alcohol-related arrests, assault/family violence charges, drug possession/diversion, and theft-related incidents. Repeat offenses can signal a pattern of poor judgment and trigger a full investigation of the nurse's entire record.

Chapter 5: The Texas Board of Nursing Complaint Process

The Texas Board of Nursing (BON) receives over 16,000 complaints annually, though many lack sufficient information or do not constitute a violation of the Nursing Practice Act (NPA). When a valid complaint is filed, the BON initiates a structured process to investigate and adjudicate the allegations.

Initiation of a Complaint

- **Who Can File:** A complaint against a nurse can be filed by anyone, including patients, patient family members, supervisors, co-workers, hospital administrators, or other medical personnel. Nurses may also **self-report** certain conduct.
- **Notice to Nurse:** The BON provides due process to a nurse when a complaint is filed by giving notice of the investigation and allegations. In rare situations where notification could hinder the investigation, this step may be bypassed.
- **Confidentiality of Filer:** The identity of the person who filed the complaint is generally kept confidential throughout the investigation process, and even after disciplinary action or license revocation. This is largely due to patient confidentiality.

Investigation Phase

An investigation typically takes 3 to 12 months, though some complex cases can take years. During this time, the nurse is given the opportunity to respond to the alleged conduct and demonstrate compliance with the

NPA.

- **Process:** The majority of investigations are conducted via mail or phone, but on-site investigations can occur. The BON may interview witnesses, review the nurse's records, and gather relevant evidence. Nurses have the right to be represented by an attorney at all stages.
- **Review and Determination:** Once evidence is collected, the investigations team determines if an NPA violation has occurred. If no violation is found or if the complaint has insufficient information, the case may be closed. If a violation is found, the BON will pursue sanctions.

Role of Nursing Peer Review Committees (NPRC)

Employers are required to establish a nursing peer review committee (NPRC) if they regularly employ, hire, or contract for eight or more vocational nurses, or eight or more nurses with at least four being registered nurses. NPRCs consist of at least 75% nurses, with specific requirements for LVN and RN representation and voting members.

- **Purpose:** Nursing peer review evaluates nursing services, nurse qualifications, quality of patient care, merits of a complaint, and makes determinations or recommendations regarding complaints. Employers use NPRCs to decide whether to report an incident to the BON or report findings to a patient safety committee or nursing administrator.
- **Types of Review:**
 - **Incident-Based Nursing Peer Review (IBNPR):** Determines if a single event or a series of up to five minor incidents within a year warrants a BON report or can be resolved through remediation. It also considers external factors beyond the nurse's control that contributed to the incident.
 - **Safe Harbor Nursing Peer Review (SHNPR):** Protects a nurse from employer retaliation, discipline, discrimination, and license sanction when they make a good faith request to review an assignment or conduct that they believe could violate the NPA or BON rules.
- **Confidentiality:** NPRC meetings and all communications within them are confidential and privileged. Information is not subject to subpoena, discovery, or admissible as evidence in legal proceedings. Disclosure is limited to entities such as licensing agencies, law enforcement, the establishing organization, other NPRCs, peer assistance programs, and accrediting organizations, or for bona fide research with identifying information removed.
- **Due Process Rights:** Nurses have due process rights during peer review, including prior notice of a hearing (21-45 days), detailed description of the event, access to documents (at least 15 days prior), the right to make statements, ask questions, present and question witnesses, and receive written notification of the outcome within 10 days of the review's completion. They also have the option to submit a written rebuttal statement.
- **Employer Discretion:** An employer can take disciplinary action against a nurse regardless of the NPRC outcome.

Informal Settlement Process

If the investigations team determines a violation occurred, the process may begin with the BON offering the nurse a **proposed Order** outlining sanctions and requirements for license retention. This is an "Agreed Order".

- **Agreed Order:** This document explicitly describes the discipline the nurse will be subjected to if accepted, including remedial education, probation, suspension, or other actions. Accepting it can conclude the investigation.
- **Considerations:** Nurses should carefully consider an Agreed Order as it becomes a permanent part of their licensing record, potentially affecting current and future employment. Failure to fulfill the respon-

sibilities in an Agreed Order can lead to a noncompliance investigation and further discipline, including possible license revocation. Nurses can suggest revisions or be invited to an informal settlement conference.

Formal Settlement Process and Disciplinary Hearings

If an agreement cannot be reached during the informal settlement process, the BON files formal charges, requiring the nurse to file a written answer. Failure to respond can result in license revocation by default. The case then proceeds to a disciplinary hearing before an Administrative Law Judge (ALJ).

- **Right to Hearing:** If the BON refuses to renew a license, the nurse has a right to a hearing before the State Office of Administrative Hearings (SOAH). An ALJ manages the case, hears evidence from both the BON and the nurse, and submits a proposed decision.
- **Temporary Suspension Hearings:** For mandatory temporary suspensions due to imminent public threat, the BON must initiate SOAH proceedings simultaneously, with a preliminary hearing within 17 days to determine probable cause and a final hearing within 61 days.

Chapter 6: Disciplinary Sanctions and Their Impact

If the Texas Board of Nursing (BON) determines that a nurse has violated applicable laws or rules, it has the authority to impose various disciplinary actions. These sanctions aim to maintain the integrity of nursing practice and protect public safety.

Range of Potential Sanctions

The BON can impose one or more of the following disciplinary actions, as outlined in Tex. Occ. Code §301.453:

- **Revocation of a nursing license:** A permanent termination of the authorization to practice.
- **Refusal to renew a nursing license:** The BON may refuse renewal for the same reasons it would deny an initial license or take disciplinary action, including violations of the NPA, fraud, criminal convictions (felonies or misdemeanors involving moral turpitude), intemperate use of alcohol/drugs, unprofessional conduct, mental/physical health conditions impairing practice, or failure to adequately care for a patient.
- **Suspension of a nursing license:** A temporary prohibition from practicing, which can be probated (allowing practice under conditions) or outright (no practice allowed).
- **Restrictions placed on a nursing license:** Limiting areas of practice or requiring periodic BON review.
- **A public reprimand:** A formal public notice outlining the violation.
- **Assessment of a fine:** Monetary penalties, which can vary based on severity.
- **A warning letter:** A formal notice outlining the violation, often with educational guidance.
- **Placement on probation:** Imposing conditions for license retention, such as:
 - Submitting to care, counseling, or treatment by a health provider.
 - Participating in prescribed education or counseling, including remedial education.
 - Practicing under the direction of a designated nurse for a specified period.
 - Performing appropriate public service.
 - Abstaining from alcohol/drugs and submitting to random periodic screening.
- **Require a temporary and/or probationary license.**

BON's Disciplinary Matrix

The BON, along with administrative law judges (ALJs) from the State Office of Administrative Hearings (SOAH), uses a **Disciplinary Matrix** (22 Tex. Admin. Code §213.33) to determine appropriate sanctions for NPA or BON rule violations. If there are multiple violations in one case, the most severe sanction for any individual offense under the Matrix is considered.

The Matrix categorizes common NPA violations into sections, and then into First, Second, and Third Tier Offenses, reflecting increasing seriousness. Each tier has two levels of sanctions (Level I more lenient, Level II more severe), and specific aggravating and mitigating factors apply to each violation.

Factors Affecting Sanction Determination: In addition to specific mitigating and aggravating factors in the Matrix, the BON and SOAH consider other factors:

- Evidence of actual or potential harm to patients, clients, or the public.
- Evidence of a lack of truthfulness or trustworthiness, or misrepresentation of credentials/skills.
- Practice history and present fitness to practice.
- Previous disciplinary action by the BON or other health care licensing agencies, and compliance history with those actions.
- Length of time the person has practiced.
- Actual damages (physical, economic, or otherwise) resulting from the violation.
- Deterrent effect of the penalty.
- Attempts by the person to correct or stop the violation.
- Extent to which system dynamics in the practice setting contributed to the problem.
- Whether the person is being disciplined for multiple violations.
- Seriousness of the violation and threat to public safety.
- Evidence of good professional character.
- Participation in relevant continuing education.
- Any other matter that justice may require.

The BON also publishes disciplinary policies on specific behaviors like fraud, theft, deception, lying, falsification, sexual misconduct, and substance use disorders, which decision-makers must consider.

Mandatory Suspensions and Revocations for Certain Crimes

Texas law mandates license suspension, revocation, or refusal to renew for convictions of specific criminal offenses (Tex. Occ. Code §301.4535). These include severe felonies like murder, sexual assault, aggravated assault, child endangerment, robbery, and offenses requiring sex offender registration. Upon conviction or plea of guilty/no contest for these crimes, the license **must be revoked or non-renewed**. Reinstatement is not possible until at least five years from the completion and dismissal of community supervision or parole.

Mandatory Temporary License Restrictions and Suspensions

The BON is also required to temporarily suspend or restrict a nurse's license under certain conditions.

- **Imminent Public Threat:** A majority of the BON or a three-member committee must temporarily suspend or restrict a license if continued practice poses a **continued and imminent threat to public welfare**. This can occur without notice or hearing, but SOAH proceedings for a hearing must be initiated

simultaneously, with a preliminary hearing within 17 days and a final hearing within 61 days.

- **Substance Abuse Violations:** The BON must temporarily suspend a license if a nurse under a board order prohibiting alcohol/drug use or requiring peer assistance program participation:
 - Tests positive for alcohol or a prohibited drug.
 - Refuses to comply with a board order for a drug/alcohol test.
 - Fails to participate in the peer assistance program, leading to dismissal and referral to the board for noncompliance.
 - This suspension requires probable cause that continued practice poses a continuing and imminent threat to public welfare.

Impact of Disciplinary Action on Career

Most BON orders become **public records** and are a permanent part of a nurse's licensing record, except for successfully completed deferred disciplinary orders.

- **National Practitioner Data Bank:** Adverse actions are reported to the National Practitioner Data Bank, a clearinghouse used by licensing boards, employers, hospitals, and clinics for hiring and privileging decisions. While a negative report cannot be changed, a nurse can submit a written statement to clarify the situation and potentially ameliorate the negative impact.
- **Employment:** Employers can set their own standards and may deny applicants with convictions for theft, drug-related offenses, or assault, even if the BON issues a license. Stricter rules often apply in sensitive units like pediatrics or psychiatry, and some employers may offer conditional employment or require supervision.

Chapter 7: Defending Your Nursing License

Facing a complaint or investigation by the Texas Board of Nursing (BON) can have significant adverse effects on a nurse's career, potentially leading to permanent marks on their licensing record or even loss of their license. Acting quickly and securing legal representation is crucial.

When to Hire a Nursing License Defense Lawyer

It is essential to hire a nursing license defense lawyer **as soon as possible**, ideally immediately upon receiving notice of a complaint or being investigated. Early involvement allows the attorney to gather fresh evidence, interview witnesses, and build a strong defense from the outset. Legal representation is warranted in several common situations:

- **Complaints or Allegations:** When a complaint is filed against your license, a lawyer can assess its nature, gather evidence, challenge allegations, present counterarguments, and protect your rights.
- **Investigations:** If a regulatory body investigates your practice, a lawyer can protect your rights, provide legal advice, help understand allegations, develop a strategic defense, ensure compliance, aid with document preparation, and represent you in interviews or hearings.
- **Criminal Charges:** If accused of crimes like patient abuse or substance abuse, a lawyer can handle both criminal defense aspects and protect your professional license simultaneously.
- **Uncertainty/Overwhelm:** If you are unsure how to describe an incident or feel overwhelmed by the process, seeking legal help early is beneficial. Delaying action by assuming an issue will resolve on its own is ill-advised.

What a Defense Lawyer Does

An experienced nursing license defense lawyer provides comprehensive support throughout the disciplinary process. They are well-versed in nursing regulations, laws, policies, and procedures.

- **Case Evaluation:** They evaluate your situation, discuss the allegations, and determine the best defense strategy.
- **Defense Building:** They build a strong defense, gather evidence (e.g., medical records, documentation, training records, surveillance footage), question witnesses, and prepare robust arguments against misconduct allegations.
- **Negotiation and Representation:** They represent your interests and communicate with regulatory bodies, negotiate with the BON for favorable outcomes (such as dismissal or reduced sanctions), and represent you at informal settlement conferences, SOAH hearings, or other legal proceedings.
- **Protecting Your Record:** They work to protect your license, reputation, financial interests, and career, understanding that a disciplinary action can become a permanent part of your licensing record.

Characteristics of a Good Defense Lawyer

When selecting an attorney, look for specific traits:

- **Track Record of Success:** The lawyer should have a positive track record in defending nursing licenses, ideally with results similar to your situation.
- **Personalized Legal Representation:** The attorney should approach your case individually, devising a defense strategy tailored to your specific circumstances rather than using a generic approach.
- **Transparency:** An honest lawyer will provide clear information about the validity of your case, costs, case developments, and potential weaknesses.

Strategies for Strengthening Your Position

Even after an incident, proactive steps can strengthen your defense:

- **Honest Disclosure:** Fully disclose all prior criminal offenses, as failure to report is viewed seriously.
- **Personal Statement:** Submit a personal statement providing context and reflection on the incident, demonstrating genuine remorse and personal insight.
- **Proof of Remediation:** Provide proof of completed community service, treatment, or education.
- **Character References:** Gather character references or professional letters of support from supervisors, mentors, and peers.
- **Professional Development:** Stay current on continuing education and certifications, and show consistent employment or volunteer service.
- **Compliance with Orders:** Demonstrate compliance with any court orders or stipulations.

Voluntary Surrender and Reinstatement Process

- **Voluntary Surrender:** Nurses can voluntarily surrender their license at any time, but it is considered a disciplinary action. Reinstatement eligibility requires waiting a minimum of one year.
- **Reinstatement:** Restoring a revoked nursing license is challenging but possible if you can demonstrate that the issue has been resolved, you no longer pose a threat to public safety, and you are currently competent to practice. The process may involve:

- Assessing eligibility based on state licensure requirements.
- Fulfilling mandatory restorative actions, such as counseling, rehabilitation, or additional education/training.
- Submitting a reinstatement application with documentation proving resolution of issues and fitness to practice.
- Participating in a hearing or meeting with the BON to present evidence and testimony.
- Satisfying additional requirements like new background checks (DPS and FBI), monitoring, or new licensing examinations.

Chapter 8: Alternative Career Paths and Independent Practice

Losing a nursing license can be devastating, but it does not necessarily mean the end of a professional life. Nurses possess transferable skills that open doors to other opportunities. Additionally, many nurses are choosing independent practice within their scope to avoid burnout and pursue more fulfilling work.

Working Independently as an RN

The Texas Nursing Practice Act states that Registered Nurses (RNs) can engage in independent nursing practice without supervision by another healthcare provider, provided they perform duties within their legal scope of practice and maintain licensing and education requirements set by the Texas Board of Nursing (BON).

Examples of Independent Roles

Working independently offers nurses freedom in scheduling and the ability to focus on specific demographics or interests. Some potential independent roles include:

- **Fitness and Nutritional Consulting:** Utilizing nursing education and bedside skills to provide full-time guidance for individuals, such as those with life-changing diseases, or developing customized nutrition and wellness plans for private clients.
- **Health Education:** For nurses comfortable with public speaking and planning, opportunities exist as health educators for colleges, institutions, or businesses offering wellness workshops. This can also extend to becoming a Certified Nurse Educator to train future nursing students.
- **Private Nursing:** Working as a concierge or in-home nurse, visiting patients regularly or living with clients. This includes caring for older patients, new mothers needing post-C-section care, or providing recovery services after elective surgeries or hospice care.
- **Specialized Nursing Consultant:** Focusing on niche areas like lactation or fertility consulting, or advising legal professionals on nursing issues in their cases. Nurses can also advise medical device manufacturers on product improvement for nursing environments.
- **Writer or Blogger:** Researching and writing on nursing topics to explain complex medical issues to patients through company newsletters, magazines, newspapers, online forums, or social media platforms like TikTok and YouTube. This can serve as a full-time career or a transition into private work.

Considerations for Independent Practice

Transitioning to independent practice requires careful consideration of various factors.

- **Regulations:** Nurses must thoroughly review regulations concerning the services they are allowed to offer and ensure any proposed business is legal in their area, potentially requiring additional licenses or

certifications beyond their nursing license (e.g., for dietitians or midwives).

- **Business Aspects:** This includes creating a business entity (like an LLC), obtaining a business license, determining staffing needs, and managing tax and payroll commitments.
- **Work-Life Balance:** Objectively assessing strengths and weaknesses, such as time management skills and willingness to commit more hours initially, is important. Many nurses start independent work as a “side hustle” to ensure viability before leaving a traditional position. Developing a list of preferred tasks and those to reduce can help tailor work to personal enjoyment.
- **Family and Home Life:** Independent work can be stressful, so having a plan with loved ones to support professional goals is beneficial.

Chapter 9: Conclusion

Maintaining a nursing license in Texas is a dynamic and demanding responsibility, governed by the Texas Board of Nursing (BON) to safeguard public welfare. Nurses must adhere to a comprehensive set of rules and regulations, from the initial licensure and continuing education requirements to understanding the nuanced scope of practice for RNs and APRNs. The legal landscape, particularly illuminated by cases like *Lunsford v. Board of Nurse Examiners*, emphasizes that a nurse’s professional judgment and duty to the patient supersede institutional policies or physician orders.

Disciplinary actions by the BON can arise from a wide range of conduct, including criminal activities (especially those involving fraud, theft, lying, or drugs/alcohol), substance abuse, unprofessional conduct, scope of practice violations, and failures in documentation or mandatory reporting. The consequences can be severe, ranging from warnings and fines to license suspension or permanent revocation, impacting a nurse’s livelihood and professional reputation. Mandatory revocations exist for certain serious crimes, highlighting the BON’s commitment to public safety.

Navigating the BON’s complaint and investigation process requires diligence and a clear understanding of due process rights, including the role of nursing peer review committees and the intricacies of informal and formal settlement procedures. Faced with such challenges, the most critical step is to seek legal assistance from an experienced nursing license defense attorney as early as possible. These legal professionals can provide personalized representation, build strong defenses, negotiate with the Board, and advocate for the nurse’s rights, potentially leading to more favorable outcomes or successful license reinstatement.

Furthermore, for those considering a shift in their career, the nursing profession offers diverse opportunities for independent practice, such as consulting, health education, or private nursing. However, these paths also necessitate a thorough understanding of relevant regulations and careful business planning.

Ultimately, the journey of a Texas nurse is one of continuous learning, adherence to high ethical and professional standards, and proactive engagement with the regulatory framework to protect their license and their invaluable commitment to patient care.