

Agency Mission: To assure the citizens of Kansas safe and competent practice by nurses and mental health technicians.

**Kansas State Board of Nursing
Investigative Committee Agenda
September 14, 2020**

NOTE: The meeting will be held via Zoom. Link to access meeting to follow agenda.

Time: 9:00 a.m. – Until Finished

Committee Members: Rebecca Sander, MSN, RN, Chair
Julianna Rieschick, RN, MSN, NEA-BC V. Chair
Jade Ramsdell, BHS, COTA/L, Public Member

Staff: Linda Davies, BSN, RN, Practice Specialist
Victoria Bond, Administrative Specialist

- I. Call to Order
- II. Review of onsite packets
- III. Additions/Revisions to the agenda
- IV. Announcements
- V. Approval of minutes – June 15 & 16, 2020
- VI. Complaints/Concerns
- VII. Unfinished Business
 - a. Update on change in Retention of Investigative Files
 - b. Update on Setting Priorities and Assignment of Investigative Cases
- VIII. New Business
 - a. Process Updates
 - a) KNAP
 - b) Applications with Legal History
 - b. Employer quarterly report format
 - c. 5 Year Legislative Review Schedule
 - a) Professional and Practical Nurses
 - a) 65-1129 Rules & Regs – due 2019
 - b) 65-1135 Complaint – due 2019
 - d. Review statutory proposed revisions
- IX. Closure for quasi-judicial deliberations on investigations until concluded, or if necessary, recessed until 8:30 a.m., September 15, 2020, for further deliberation and action.
- X. Reconvene meeting for action
- XI. Adjourn

Please Note: Additional items, which have come to the attention of the Board or Committee, will be handled as time permits. Agenda is subject to change based upon items to come before the Board. Handouts or copies of materials brought to the board or committees for discussion by committee members or visitors must be submitted to staff 30 calendar days prior to start of the meeting. Any items received after the 30th calendar day may be addressed at the meeting at the discretion of the President of the Board or chairperson of the committee.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/89707287562?pwd=cGoxME0wK0RMK3pMelBpbEtlbVPUT09>

Passcode: KsbnINVCom

Or iPhone one-tap :

US: +16699006833,,89707287562#,,,,,0#,,0213571439# or
+12532158782,,89707287562#,,,,,0#,,0213571439#

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International numbers available: <https://us02web.zoom.us/j/kuDdEWHuO>

Website link to access meeting materials: <https://ksbn.kansas.gov/board-packet/>

Alternate Meeting Viewing Via KSBN YouTube Live:

<https://www.youtube.com/user/ksnursing>

The Committee may discuss, vote to approve, vote to disapprove, vote to table, change the sequence of any agenda item, or vote to strike or not discuss any agenda item.

In the event electronic communications are lost or compromised during the meeting, the Kansas State Board of Nursing will attempt to restore communications for a maximum of (2) two hours. If unable to restore communications the meeting will be adjourned.

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Investigative Files Retention Schedule

Current:

Series ID: 0021-482

Title: Investigative Files

Description: Documents relating to board investigations of possible violations by nursing professionals of the Nurse Practice Act and the Mental Health Technicians Licensure Act.

Retention: Permanent

Disposition: Permanent

Restrictions: KSA 45-221(a)(3)(9)(10)(11)(14)(20)(25)(30)

Approved: 2015-04-16

K.A.R. Number: 53-2-185

Proposed:

Series ID: 0021-482

Title: Investigative Files

Description: Documents relating to board investigations and enforcement of possible violations by nursing professionals of the Nurse Practice Act and the Mental Health Technicians Licensure Act.

Retention: Retain 10 years after case is closed

Disposition: Destroy.

Restrictions: K.S.A. 45-221(a)(2)(3)(9)(10)(11)(14)(25)(30), K.S.A. 65-4915, K.S.A. 4925, K.S.A. 65-1135, K.S.A. 65-5601, and 42 C.F.R. Part II.

Approved:

K.A.R. Number: 53-2-185

Legal Records at KSBN

Agency Record: Contains legal documents, which includes summary, initial and final orders for a discipline case

Investigative Files: Contains all documents the Investigator has collected while investigating a possible violation of the Nurse Practice Act. These files can contain PHI.

Everything we want to track we can utilize My License Office (our licensure database) and spreadsheets utilized by the Investigative Division of KSBN. We would not go back through Investigative files that are being stored to gather data.



Xxx

Xxx

Xxx

Xxx

Dear Xxx,

This letter will serve to inform you that KSBN has received a letter from the Kansas Nurse Assistance Program (KNAP) which indicates that you are non-compliant with your signed agreement. Please know that KSBN is monitoring your adherence to the KNAP program. It is *extremely* important that you remain compliant with all requirements by KNAP or your case will be reviewed for possible disciplinary action.

- KSBN is now aware of your **first** non-compliance with the KNAP program. This is your **FIRST** warning to remain compliant.

- KSBN is now aware of your **second** non-compliance with the KNAP program. This is your **FINAL** warning to remain compliant.

- KSBN has received a report of your **third** non-compliance with the KNAP program. Your case is **REFERRED** for further disciplinary action, which may include license suspension or revocation enforced by the Assistant Attorney General assigned to KSBN.

Please do your part to ensure compliance. It is our hope that you take your rehabilitation and the Kansas Nurse Assistance Program seriously.

XXXX

XXXX

Coordinator:

KS Board of Nursing Work Performance Evaluation

Participant: _____ Position Title: _____

Month(s) Year Evaluated: _____, _____ Date of Hire: _____

Licensee's is a participant in the (check one) Alternative Program for Chemical Dependency

Chemical Dependency Discipline Program Probation License – Drug Screening

As a condition, Work Performance Evaluations completed by the clinical supervisor are due as scheduled to:

Compliance Coordinator

900 SW Jackson, Ste 1051 Topeka, KS 66612-1230

Fax: 785-296-3929

Clinical Supervisor: _____

Phone(s): _____ Email: _____

Facility: _____ Unit: _____

Status (check one): Part-Time Full-Time PRN

Shift (check all that apply): Days Evenings Nights Rotate

Hours Worked Per Week: _____ **Must average 64h worked per month for work to satisfy conditions of program.*

Quality of work: Satisfactory Needs improvement* Unsatisfactory*

Please explain: _____

Does the Licensee administer or have access to controlled substances? YES NO

If YES, have there been errors or discrepancies? YES NO

If YES, please explain: _____

To the best of your knowledge, since the last evaluation, has the nurse:

- Changed Work Location YES NO

- Changed Shift YES NO

- Changed Hours Scheduled YES NO

- Changed Position YES NO

- Changed Supervisor YES NO

- Used drugs or alcohol YES NO

- Been counseled (including conference, oral or written) YES NO

If YES to any of the above, please explain and provide copy of counseling (if applicable):

Are you aware of the reasons the KS Board of Nursing is requiring evaluations? YES NO

(Signature and Title of Approved Clinical Evaluator)

Date

65-1129. Rules and regulations. The board shall adopt and promulgate rules and regulations as are necessary to carry out the provisions of this act [*].

History: L. 1978, ch. 240, § 9; July 1.

* This act means 65-1113, 65-1114, 65-1117, 65-1119, 65-1120, 65-1121, 65-1122 and 65-1128.

65-1135. Complaint or information relating to complaint confidential; exceptions. (a) Any complaint or report, record or other information relating to the investigation of a complaint about a person licensed by the board which is received, obtained or maintained by the board is confidential and shall not be disclosed by the board or its employees in a manner which identified or enables identification of the person who is the subject or source of such information except:

(1) In a disciplinary proceeding conducted by the board pursuant to law or in an appeal of the order of the board entered in such proceeding, or to any party to such proceeding or appeal or such party's attorney;

(2) to the proper licensing or disciplinary authority of another jurisdiction, if any disciplinary action authorized by K.S.A. 65-1120 and amendments thereto has at any time been taken against the licensee or the board has at any time denied a license certificate or authorization to the person; or

(3) to the person who is the subject of the information, but the board may require disclosure in such a manner as to prevent identification of any other person who is the subject or source of the information.

(b) This section shall be part of and supplemental to the Kansas nurse practice act.

History: L. 1993, ch. 194, § 8; July 1.

65-1117. Renewal of license; inactive license, fee; continuing education requirements; rules and regulations; reinstatement of lapsed license; notification of change in name or address or criminal conviction.

- (a) All licenses issued under the provisions of this act, whether initial or renewal, shall expire every two years. The expiration date shall be established by the rules and regulations of the board. The board shall send a notice for renewal of license to every registered professional nurse and licensed practical nurse at least 60 days prior to the expiration date of such person's license. Every person so licensed who desires to renew such license shall file with the board, on or before the date of expiration of such license, a renewal application together with the prescribed biennial renewal fee established by K.S.A. 65-1118 and amendments thereto. Every licensee who is no longer engaged in the active practice of nursing may so state by affidavit and submit such affidavit with the renewal application. An inactive license may be requested along with payment of a fee which shall be fixed by rules and regulations of the board. Except for the first renewal for a license that expires within 30 months following licensure examination or for renewal of a license that expires within the first nine months following licensure by reinstatement or endorsement, every licensee with an active nursing license shall submit with the renewal application evidence of satisfactory completion of a program of continuing nursing education required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing nursing education. Continuing nursing education means learning experiences intended to build upon the educational and experiential bases of the registered professional and licensed practical nurse for the enhancement of practice, education, administration, research or theory development to the end of improving the health of the public. Upon receipt of such application, payment of fee, upon receipt of the evidence of satisfactory completion of the required program of continuing nursing education and upon being satisfied that the applicant meets the requirements set forth in K.S.A. 65-1115 or 65-1116 and amendments thereto in effect at the time of initial licensure of the applicant, the board shall verify the accuracy of the application and grant a renewal license.
- (b) The board may by rule and regulations of the board establish a grace period following expiration of a license in which the license is not invalidated lapsed. The license will not be invalidated-lapsed if the licensee pays during the grace period the renewal and penalty fees established by K.S.A. 65-1118 and amendments thereto. Failure of a licensee to renew a license within the grace period shall cause the license to become invalidated lapsed without further action by the board. A licensee whose license is invalidated-lapsed shall not engage in the practice of the profession until the license is reinstated by the board. Any person who fails to secure a renewal license within the time specified herein may secure a apply for reinstatement of such lapsed invalidated license by making verified application therefor on a form provided by the board, by rules and regulations, and upon furnishing proof that the applicant is competent and qualified to act as a registered professional nurse or licensed practical nurse and by satisfying all of the requirements for reinstatement including payment to the board of a reinstatement fee as established by the board K.S.A. 65-1118 and amendments thereto. A reinstatement application for licensure will be held awaiting completion of such documentation as may be required, but such application shall not be held for a period of time in excess of that specified in rules and regulations.
- (c) The board may issue an inactive license to any registered professional nurse or licensed practical nurse who completes an application form provided by the board, who remits the fee as established pursuant to K.S.A. 65-1118, and amendments thereto, and who is not regularly engaged in nursing in Kansas. The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by K.S.A. 65-1117 and amendments thereto. An inactive license shall not entitle the holder to engage in the nursing in this state. Each inactive license shall expire every two years and may be renewed subject to the provisions of this section. A inactive licensee may apply for a license to regularly engage in the practice of nursing upon filing a reinstatement application form with the board. The reinstatement application shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-1118, and amendments thereto. An applicant for a license to practice as a registered professional nurse and licensed practical nurse who has not been licensed to practice nursing for five years preceding the reinstatement application shall be required to successfully complete a refresher course as defined by the board. The board shall be rules and regulations establish appropriate continuing education requirements for inactive licensees to become licensed to regularly engage in nursing in this state. A registered professional nurse or licensed practical nurse who has been granted an inactive license pursuant to this subsection shall be exempt from the requirements of K.S.A. 40-3402 and 40-3404, and amendments thereto..
- (e) (d) (1) Each licensee shall notify the board in writing of
- (A) a change in name or address within 30 days of the change or

(B) a conviction of any felony or misdemeanor, that is specified in rules and regulations adopted by the board, within 30 days from the date the conviction becomes final.

- (2) As used in this subsection, "conviction" means a final conviction without regard to whether the sentence was suspended or probation granted after such conviction. Also, for the purposes of this subsection, a forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. Failure to so notify the board shall not constitute a defense in an action relating to failure to renew a license, nor shall it constitute a defense in any other proceeding.

History: (History: L. 1949, ch. 331, § 6; L. 1975, ch. 316, § 5; L. 1976, ch. 274, § 1; L. 1978, ch. 240, § 4; L. 1980, ch. 187, § 1; L. 1983, ch. 206, § 8; L. 1988, ch. 242, § 1; L. 1993, ch. 194, § 11; L. 1995, ch. 97, § 1; L. 1997, ch. 146, § 1; L. 2007, ch. 99, § 1; L. 2011, ch. 114, § 79; June 9.)

65-1118. Fees.

- (a) The Board shall collect in advance fees provided for in this act as fixed by the board, but not exceeding:
- | | |
|---|--------------------------|
| Application for single-state license – professional nurse..... | 150.00 |
| Application for single-state license – practical nurse..... | 100.00 |
| Application for single-state biennial renewal of license – professional nurse and practical nurse | 120.00 |
| Application for single-state reinstatement of license..... | 150.00 300.00 |
| Application for single-state reinstatement of licenses with temporary permit..... | 175.00 |
| Application for multi-state license – professional nurse | 300.00 |
| Application for multi-state license – practical nurse | 300.00 |
| Application for multi-state biennial renewal of license – professional nurse and practical nurse..... | 200.00 |
| Application for multi-state reinstatement of license | 300.00 |
| Application for multi-state reinstatement of license with temporary permit | 300.00 |
| Application for reinstatement of revoked license | 1,000.00 |
| <u>Application for reinstatement of suspended license</u> | <u>300.00</u> |
| <u>Application for reinstatement of late invalidated lapsed license</u> | <u>300.00</u> |
| <u>Late renewal penalty charge</u> | <u>300.00</u> |
| Certified copy of license | 25.00 |
| Duplicate of license..... | 25.00 |
| <u>Application for an inactive license.....</u> | <u>20.00</u> |
| <u>Application for renewal of an inactive license</u> | <u>?????</u> |
| <u>Application for reinstatement of inactive license</u> | <u>?????</u> |
| Application for license – advanced practice registered nurse | 50.00 |
| Application for license with temporary permit – advanced practice registered nurse | 100.00 |
| Application for renewal of license – advanced practice registered nurse | 60.00 |
| Application for reinstatement of license – advanced practice registered nurse | 75.00 |
| Application for authorization – registered nurse anesthetist | 75.00 |
| Application for authorization with temporary authorization - registered nurse anesthetist | 10.00 |
| Application for biennial renewal of authorization – registered nurse anesthetist..... | 60.00 |
| Application for reinstatement of authorization – registered nurse anesthetist | 75.00 |
| Application for reinstatement of authorization with | |
| Temporary authorization – registered nurse anesthetist..... | 100.00 |
| Verification of license to another state | 30.00 |
| Application for exempt license – professional and practical nurse..... | 50.00 |
| Application for biennial renewal of exempt license – professional and practical nurse | 50.00 |
| Application for exempt license – advanced practice registered nurse | 50.00 |
| Application for biennial renewal of exempt license – advanced practice registered nurse | 50.00 |
- (b) The board may require that fees paid for any examination under the Kansas nurse practice act be paid directly to the examination service by the person taking the examination.
- (c) The board shall accept for payment of fees under this section personal checks, certified checks, cashier’s checks, money orders or credit cards. The board may designate other methods of payment, but shall not refuse payment in the form of a personal check. The board may impose additional fees and recover any costs incurred by reason of payments made by personal checks with insufficient funds and payments made by credit cards.

History: (L. 1949, ch. 331, § 7; L. 1963, ch. 314, § 4; L. 1973, ch. 249, § 1; L. 1975, ch. 316, § 6; L. 1978, ch. 347, § 11; L. 1980, ch. 188, § 1; L. 1986, ch. 233, § 3; L. 1988, ch. 242, § 2; L. 1992, ch. 135, § 1; L. 1993, ch. 194, § 12; L. 1997, ch. 158, § 3; L. 1999, ch. 84, § 5; L. 2011, ch. 114, § 41; L. 2017, ch. 31, § 1; July 1)

65-1120. Grounds for disciplinary actions; proceedings; witnesses; costs; professional incompetency defined; criminal justice record information.

(a) Grounds for disciplinary actions. The board may deny, revoke, limit or suspend any license or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a temporary permit or authorization, if the applicant, licensee or holder of a temporary permit or authorization is found after hearing:

- (1) To ~~be guilty of~~ have committed fraud or deceit or made a misrepresentation in practicing nursing or in procuring or attempting to procure a license to practice nursing;
- (2) to have been ~~guilty of a felony or to have been convicted of:~~
 - (a) any felony offense
 - (b) a misdemeanor involving alcohol or drugs, or
 - (c) a misdemeanor involving illegal drugs
 - (d) ~~a misdemeanor classified as a guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-1120, and amendments thereto,~~ no license or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 chapter 21 of the Kansas Statutes annotated, or K.S.A. 2014 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto or similar crime in another jurisdiction;
- (3) to have committed an act of professional incompetency as defined in subsection (e);
- (4) to be unable to practice with skill and safety due to ~~current abuse of drugs or alcohol mental or physical impairment including deterioration through aging process, loss of motor skills or abuse of drugs or alcohol;~~
- (5) to ~~be a person who has~~ have been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;
- (6) to ~~be guilty of~~ have committed unprofessional conduct as defined by rules and regulations of the board;
- (7) to have willfully or repeatedly violated ~~the any~~ provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122 and amendments thereto;
- (8) to have had a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority in Kansas, another of another state, an agency of the United States government, a territory of the United States or a country or to have other disciplinary action taken against the applicant or licensee by a licensing authority in Kansas, of another state, an agency of the United States government, a territory of the United States or a country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another any state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8); or
- (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012 Supp. 21-5407, and amendments thereto, as established by any of the following:
 - (A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal or K.S.A. 2012 Supp. 21-5407, and amendments thereto.
 - (B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 2012 Supp. 60-4404, and amendments thereto.
 - (C) A copy of the record of a judgment assessing damages under K.S.A. 2012 Supp. 60-4405, and amendments thereto.

(10) to have practiced while the license was invalidated lapsed or inactive pursuant to K.S.A. 65-1117 and 65-1133 and amendments thereto:

(11) to have cheated on an examination administered under this act for licensure;

(12) to have failed to comply with any order of the board;

(13) patient abandonment

(14) to have exceeded the terms of the collaborative agreement with a physician, or

(15) to have not successfully completed the intervention program as set forth in K.S.A. 65-11XX and amendments thereto, or the alternative program as set forth in K.S.A. 65-11XX and amendments thereto; (note: this may not be necessary if board prefers Missouri statute that has a specific provision for not successfully completing the alternative or intervention programs)

(b) **Civil fine.** In addition to or in lieu of any other penalty prescribed in subsection (a) the board may assess a civil fine in an amount not to exceed \$1,000 2,000 for the first violation, \$2,000 3,000 for the second violation and \$3,000 5,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto.

Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

~~(c)~~ Proceedings. Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate the charges, or the board may designate and authorize an employee or employees of the board to conduct such investigation. After investigation, the board may institute charges. If an investigation, in the opinion of the board, reveals reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

~~(d)~~ (c) Witnesses. No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 2012 Supp. 21-5903, and amendments thereto.

~~(e)~~ (d) Costs. If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

~~(f)~~ (e) Professional incompetency defined. As used in this section, "professional incompetency" means:

- (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;
- (2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or
- (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

~~(g)~~ (f) Criminal justice information. The board upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board.

(g) The board may defer discipline or other action against any impaired licensee who enters into a binding agreement, in a form satisfactory to the board, under terms of which such licensee agrees not to practice nursing or to practice nursing with limitations or conditions and to enter into, and comply with the requirements of, a board-approved treatment and/or monitoring program in accordance with regulations adopted by the board; provided that this subsection shall not apply to any licensee who has been convicted of, pleads guilty to, or enters a plea of *nolo contendere* to a felony offense involving a controlled substance. If a licensee fails to comply with the board-approved program, the board may then give the licensee notice of its intent to lift the stay or deferment and impose discipline or other action.

History: (L. 1949, ch. 331, § 9; L. 1963, ch. 314, § 6; L. 1972, ch. 231, § 10; L. 1975, ch. 316, § 7; L. 1978, ch. 240, § 6; L. 1981, ch. 245, § 1; L. 1983, ch. 206, § 10; L. 1985, ch. 88, § 6; L. 1986 ch, 233, § 4; L. 1990, ch. 221, § 5; L. 1993, ch. 194, § 1, L. 1995, ch. 97, § 2, L. 1997, ch. 158, § 4; L. 1998, ch. 142 § 8; L. 2011, ch. 114 § 42; Jan. 1, 2012.)

65-1120a. Reinstatement of revoked licenses; burden of proof; board of nursing report to legislature.

- (a) A person whose license has been revoked may apply for reinstatement of the license after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form approved by the board and shall be accompanied by a reinstatement fee established by the board under K.S.A. 65-1118, and amendments thereto. ~~The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement of the license to warrant the public trust by clear and convincing evidence.~~
- (b) The board may reinstate a revoked license upon a finding that the applicant is otherwise qualified for licensure under the Kansas nurse practice act and amendments thereto and is sufficiently rehabilitated to warrant the public trust. The burden shall be upon the applicant to establish rehabilitation by clear and convincing evidence.
- (c) ~~In determining whether an applicant is sufficiently rehabilitated to warrant the public trust, the board may consider any relevant evidence, and may, but shall not be required, to consider the following factors:~~
 - ~~(1) the present moral fitness of the applicant to practice nursing;~~
 - ~~(2) the demonstrated consciousness of the wrongful conduct and the disrepute which the conduct has brought to the nursing profession;~~
 - ~~(3) the extent of the applicant's rehabilitation;~~
 - ~~(4) the seriousness of the original misconduct;~~
 - ~~(5) the applicant's conduct subsequent to discipline;~~
 - ~~(6) the time elapsed since the original discipline;~~
 - ~~(7) the applicant's character, maturity, and experience at the time of the original discipline;~~
 - ~~and~~
 - ~~(8) the applicant's present competence to engage in the nursing profession; and~~
 - ~~(9) other relevant factors bearing on the applicant's ability to practice nursing~~
- (d) If the board determines a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial.
- (e) All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act. ~~The board, on its own motion, may stay the effectiveness of an order of revocation of license.~~
- (f) ~~On or before January 8, 2018, and on or before the first day of the regular session of the Kansas legislature each year thereafter,~~ the board of nursing shall submit a written report to the senate standing committee on public health and welfare and the house of representatives standing committee on health and human services that includes on an anonymous but individual and itemized basis: The number of individuals who applied for reinstatement of a revoked license during the immediately preceding calendar year; the amount of moneys charged to each such applicant; the number of such reinstatement applications that were granted and denied; and the basis given to deny any such reinstatement application.
- (g) This section shall be part of and supplemental to the Kansas nurse practice act.

History: L. 2017, ch. 31, § 2; July 1.

65-1121a. Administrative Proceedings; Judicial review of board's actions.

(a) All administrative proceedings regarding licensure under this act shall be conducted under Kansas administrative procedures act. Any agency action of the board of nursing pursuant to the Kansas nurse practice act is subject to review in accordance with the Kansas judicial review acts.

(b) This section shall be part of and supplemental to the Kansas nurse practice act.

History: (L. 1986, ch. 318, § 145; L. 2010, ch. 17, § 128; July 1.)

74-1110. **Civil fine.** The board of nursing, in addition to any other penalty prescribed by law, may assess a civil fine, after proper notice and an opportunity to be heard, against any person granted a license, certificate of qualification or authorization to practice by the board of nursing for a violation of a law or rule and regulation applicable to the practice for which such person has been granted a license, certificate of qualification or authorization by the board in an amount not to exceed \$1,000 for the first violation, \$2,000 for the second violation and \$3,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. **Disciplinary action.** In all matters pending before the Kansas state board of nursing, the board shall have the power to revoke a license or authorization issued by the board to a person who does not renew the license or authorization or who voluntarily surrenders such person's license or authorization pending an investigation of misconduct a violation of any provision of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act or while charges of misconduct a violation of any provision of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act against such person are pending or anticipated. **History:** (L. 1992, ch. 151, § 6; L. 2001, ch. 5, § 304; July 1.)

West's Arkansas Code Annotated
 Title 17. Professions, Occupations, and Businesses (Refs & Annos)
 Subtitle 3. Medical Professions (Chapters 80 to 107) (Refs & Annos)
 Chapter 87. Nurses (Refs & Annos)
 Subchapter 8--. Alternative to Discipline Act

Arkansas

Effective: August 1, 2017

A.C.A. § 17-87-801

§ 17-87-801. Title

Currentness

This subchapter shall be known and may be cited as the "Alternative to Discipline Act".

Credits

Acts of 2017, Act 325, § 1, eff. Aug. 1, 2017.

A.C.A. § 17-87-801, AR ST § 17-87-801.

The constitution and statutes are current through (1) laws passed in the 2018 Fiscal Session and the Second Extraordinary Session of the 91st Arkansas General Assembly, (2) ballot issues adopted at the November 6, 2018, general election, and (3) changes made by the Arkansas Code Revision Commission received through October 31, 2018.

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West's Arkansas Code Annotated
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Chapter 87. Nurses (Refs & Annos)
Subchapter 8—. Alternative to Discipline Act

Effective: August 1, 2017

A.C.A. § 17-87-802

§ 17-87-802. Purpose

Currentness

The purpose of this subchapter is to:

- (1) Provide for the identification and treatment of nurses licensed by the Arkansas State Board of Nursing who suffer from impairments;
- (2) Promote public health and safety; and
- (3) Ensure the continued availability of the skills of highly trained nursing professionals for the benefit of the public.

Credits

Acts of 2017, Act 325, § 1, eff. Aug. 1, 2017.

A.C.A. § 17-87-802, AR ST § 17-87-802

The constitution and statutes are current through (1) laws passed in the 2018 Fiscal Session and the Second Extraordinary Session of the 91st Arkansas General Assembly, (2) ballot issues adopted at the November 6, 2018, general election, and (3) changes made by the Arkansas Code Revision Commission received through October 31, 2018.

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Chapter 87. Nurses (Refs & Annos)
Subchapter 8--. Alternative to Discipline Act

Effective: August 1, 2017

A.C.A. § 17-87-803

§ 17-87-803. Definitions

Currentness

As used in this subchapter:

- (1) "Alternative to discipline program" means a plan approved by the Arkansas State Board of Nursing for intervention, treatment, and rehabilitation of an impaired nurse;
- (2) "Impairment" means the inability or significant potential for inability to practice with reasonable safety and skill as a result of a diagnosed substance use disorder or any diagnosed mental or physical health condition;
- (3) "Participant" means an applicant or licensee who:
 - (A) Self reports an impairment to the board;
 - (B) Is referred to the alternative to discipline program by the board; or
 - (C) Signs an initial agreement with the program coordinator to oversee the impaired nurse; and
- (4) "Rehabilitation" means the process whereby an impaired nurse advances in an alternative to discipline program to an optimal level of competence to practice nursing without endangering the public.

Credits

Acts of 2017, Act 325, § 1, eff. Aug. 1, 2017.

A.C.A. § 17-87-803, AR ST § 17-87-803

The constitution and statutes are current through (1) laws passed in the 2018 Fiscal Session and the Second Extraordinary Session of the 91st Arkansas General Assembly, (2) ballot issues adopted at the November 6, 2018, general election, and (3) changes made by the Arkansas Code Revision Commission received through October 31, 2018.

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West's Arkansas Code Annotated
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Chapter 87. Nurses (Refs & Annos)
Subchapter 8--. Alternative to Discipline Act

Effective: August 1, 2017

A.C.A. § 17-87-804

§ 17-87-804. Alternative to Discipline Program--Program coordinator
duties--Board review

Currentness

(a) The Arkansas State Board of Nursing shall create an alternative to discipline program which shall:

- (1) Serve as a diversion program to which the board may refer licensees when appropriate in lieu of or in addition to other disciplinary action; and
- (2) Be a source of referral for nurses who, on a strictly voluntary basis, desire to avail themselves of its services.

(b) The board may perform the following duties and powers while operating the alternative to discipline program:

- (1) Approve addiction evaluators and treatment programs available through the alternative to discipline program;
- (2) Contract with providers of treatment programs;
- (3) Receive and evaluate reports of suspected impairment, regardless of the source of the report;
- (4) Intervene in cases of verified impairment;
- (5) Refer impaired nurses to the program coordinator of the alternative to discipline program or another treatment program, or both;
- (6) Monitor the treatment and rehabilitation of impaired nurses and the post-treatment of impaired nurses who are rehabilitated; and
- (7) Perform other activities deemed necessary to accomplish the purposes of this subchapter.

(c)(1) The board shall employ a program coordinator to organize and administer the alternative to discipline program.

(2) The program coordinator shall:

- (A) Review and evaluate nurses who request participation in or are recommended for the alternative to discipline program;
- (B) Review and designate treatment facilities and services to which nurses in the alternative to discipline program may be referred;
- (C) Receipt and review of information relating to the participation of nurses in the alternative to discipline program;
- (D) Preparation of reports for the board; and

(E) Other duties as deemed necessary by the board.

(3)(A) The board shall review the activities of the program coordinator.

(B) As part of this evaluation, the board may review files of all participants in the alternative to discipline program.

(C) The board shall also resolve complaints voiced regarding the alternative to discipline program.

Credits

Acts of 2017, Act 325, § 1, eff. Aug. 1, 2017.

A.C.A. § 17-87-804, AR ST § 17-87-804

The constitution and statutes are current through (1) laws passed in the 2018 Fiscal Session and the Second Extraordinary Session of the 91st Arkansas General Assembly, (2) ballot issues adopted at the November 6, 2018, general election, and (3) changes made by the Arkansas Code Revision Commission received through October 31, 2018.

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 Chapter 87. Nurses (Refs & Annos)
 Subchapter 8--. Alternative to Discipline Act

Effective: August 1, 2017

A.C.A. § 17-87-805

§ 17-87-805. Reporting procedure

Currentness

The Arkansas State Board of Nursing shall develop rules and procedures for:

(1) Reporting to the board:

(A) The names and results of any contact or investigation regarding an impaired nurse who is believed to be an imminent danger to the public or to himself or herself;

(B) An impaired nurse who:

(i) Fails or refuses to:

(a) Cooperate with the program coordinator; or

(b) Submit to treatment;

(ii) Exhibits professional incompetence; or

(iii) Does not have alleviation through treatment for his or her impairment; and

(C) A participant of the alternative to discipline program resuming the practice of nursing;

(2) Informing each participant of the alternative to discipline program regarding the alternative to discipline program requirements, alternative to discipline program procedures, responsibilities of the participant, and consequences of noncompliance; and

(3) Performing other activities as necessary to implement this subchapter.

Credits

Acts of 2017, Act 325, § 1, eff. Aug. 1, 2017.

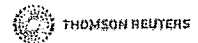
A.C.A. § 17-87-805, AR ST § 17-87-805

The constitution and statutes are current through (1) laws passed in the 2018 Fiscal Session and the Second Extraordinary Session of the 91st Arkansas General Assembly, (2) ballot issues adopted at the November 6, 2018, general election, and (3) changes made by the Arkansas Code Revision Commission received through October 31, 2018.

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 Chapter 87. Nurses (Refs & Annos)
 Subchapter 8--. Alternative to Discipline Act

Effective: August 1, 2017

A.C.A. § 17-87-806

Arkansas

§ 17-87-806. Program requirements

Currentness

(a)(1) Eligibility to participate in the alternative to discipline program is at the sole discretion of the Arkansas State Board of Nursing.

(2) A person is not entitled to participate in the alternative to discipline program.

(b) To establish eligibility, a nurse shall:

- (1) Have a license issued or an application for licensure in the State of Arkansas;
- (2) Acknowledge that the nurse has a drug or alcohol abuse problem or addiction; and
- (3) Meet any other requirements determined by the board.

(c) A participant in the alternative to discipline program shall:

(1) Agree to:

(A) Complete an evaluation conducted by a board-approved evaluator in order to outline the treatment required;

(B) Place his or her nursing license on inactive status until a treatment provider determines that the participant can safely practice nursing;

(C) Comply with:

- (i) The written terms of the agreement to participate in the alternative to discipline program; and
- (ii) The terms and conditions of any contract between the board and participant;

(D) Pay all costs for treatment and monitoring;

(E) Select from board-approved evaluators, treatment facilities, counselors, and laboratory facilities before utilization of services;

(F) Admit in an affidavit to violations of § 17-87-101 et seq.; and

(2) Perform other activities as determined necessary by the board.

Credits

Acts of 2017, Act 325, § 1, eff. Aug. 1, 2017.

A.C.A. § 17-87-806, AR ST § 17-87-806

The constitution and statutes are current through (1) laws passed in the 2018 Fiscal Session and the Second Extraordinary Session of the 91st Arkansas General Assembly, (2) ballot issues adopted at the November 6, 2018, general election, and (3) changes made by the Arkansas Code Revision Commission received through October 31, 2018.

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Subchapter 8--. Alternative to Discipline Act

Effective: August 1, 2017

A.C.A. § 17-87-807

§ 17-87-807. Failure to comply

Currentness

(a) Participation in the alternative to discipline program under this subchapter is not a defense to any disciplinary action that may be taken by the Arkansas State Board of Nursing.

(b) This subchapter does not preclude the board from commencing disciplinary action against a nurse who is terminated from or fails to comply with the alternative to discipline program.

Credits

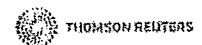
Acts of 2017, Act 325, § 1, eff. Aug. 1, 2017.

A.C.A. § 17-87-807, AR ST § 17-87-807

The constitution and statutes are current through (1) laws passed in the 2018 Fiscal Session and the Second Extraordinary Session of the 91st Arkansas General Assembly, (2) ballot issues adopted at the November 6, 2018, general election, and (3) changes made by the Arkansas Code Revision Commission received through October 31, 2018.

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Chapter 87. Nurses (Refs & Annos)
Subchapter 8--. Alternative to Discipline Act

Effective: August 1, 2017

A.C.A. § 17-87-808

§ 17-87-808. Liability

Currentness

(a) A person acting on behalf of the Arkansas State Board of Nursing in the alternative to discipline program under this section is considered an officer or employee of the State of Arkansas for purposes of:

- (1) Immunity from civil liability under § 19-10-301 et seq.; and
- (2) Payment of actual damages on behalf of state officers or employees under § 21-9-201 et seq.

(b)(1) Except as provided in subdivision (b)(3) of this section, all participant records shall be confidential and shall not be subject to public inspection except under an order of a court of competent jurisdiction.

(2) However, the records may be introduced as evidence in any relevant proceedings before the board and shall be produced upon board request.

(3) The records regarding an impaired nurse or a participant of the alternative to discipline program shall be available to:

- (A) The board;
- (B) The staff of the board;
- (C) An employer;
- (D) A treating healthcare provider;
- (E) Nursing education programs; and
- (F) Other states' nursing boards.

Credits

Acts of 2017, Act 325, § 1, eff. Aug. 1, 2017.

A.C.A. § 17-87-808, AR ST § 17-87-808

The constitution and statutes are current through (1) laws passed in the 2018 Fiscal Session and the Second Extraordinary Session of the 91st Arkansas General Assembly, (2) ballot issues adopted at the November 6, 2018, general election, and (3) changes made by the Arkansas Code Revision Commission received through October 31, 2018.

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West's Annotated California Codes
Business and Professions Code (Refs & Annos)
Division 2. Healing Arts (Refs & Annos)
Chapter 6. Nursing (Refs & Annos)
Article 3.1. Intervention Program (Refs & Annos)

West's Ann.Cal.Bus. & Prof.Code § 2770.7

§ 2770.7. Acceptance, denial or termination of registered nurses in program; nurse under investigation; unprofessional conduct; agreement of understanding

Effective: January 1, 2018

Currentness

(a) The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the intervention program. Only those registered nurses who have voluntarily requested to participate in the intervention program shall participate in the program.

(b) A registered nurse under current investigation by the board may request entry into the intervention program by contacting the board. Prior to authorizing a registered nurse to enter into the intervention program, the board may require the registered nurse under current investigation for any violations of this chapter or any other provision of this code to execute a statement of understanding that states that the registered nurse understands that his or her violations that would otherwise be the basis for discipline may still be investigated and may be the subject of disciplinary action in accordance with this section.

(c)(1) Neither acceptance nor participation in the intervention program shall preclude the board from investigating or continuing to investigate, or, except as provided in this subdivision, taking disciplinary action or continuing to take disciplinary action against, any registered nurse for any unprofessional conduct committed before, during, or after participation in the intervention program.

(2) The board may investigate at its discretion complaints against registered nurses participating in the intervention program.

(3) Disciplinary action with regard to acts committed before or during participation in the intervention program shall not take place unless the registered nurse withdraws or is terminated from the program.

(d) All registered nurses shall sign an agreement of understanding that the withdrawal or termination from the intervention program at a time when the program manager or intervention evaluation committee determines the licentiate presents a threat to the public's health and safety shall result in the utilization by the board of intervention program treatment records in

disciplinary or criminal proceedings.

(e) Any registered nurse terminated from the intervention program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the intervention program. A registered nurse who has been under investigation by the board and has been terminated from the intervention program by an intervention evaluation committee shall be reported by the intervention evaluation committee to the board.

Credits

(Added by Stats.1984, c. 865, § 1. Amended by Stats.2008, c. 548 (S.B.1441), § 18; Stats.2015, c. 426 (S.B.800), § 25, eff. Jan. 1, 2016; Stats.2017, c. 520 (S.B.799), § 6, eff. Jan. 1, 2018.)

West's Ann. Cal. Bus. & Prof. Code § 2770.7, CA BUS & PROF § 2770.7

Current with urgency legislation through Ch. 31 of 2020 Reg.Sess. Some statute sections may be more current, see credits for details.

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West's Annotated California Codes
Business and Professions Code (Refs & Annos)
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Chapter 6. Nursing (Refs & Annos)
Article 3.1. Intervention Program (Refs & Annos)

West's Ann.Cal.Bus. & Prof.Code § 2770.11

§ 2770.11. Rehabilitation program; cooperation

Effective: January 1, 2016

Currentness

(a) Each registered nurse who requests participation in an intervention program shall agree to cooperate with the rehabilitation program designed by the committee and approved by the program manager. Any failure to comply with a rehabilitation program may result in termination of the registered nurse's participation in a program. The name and license number of a registered nurse who is terminated for any reason, other than successful completion, shall be reported to the board's enforcement program.

(b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all intervention program records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding.

Credits

(Added by Stats.1984, c. 865, § 1. Amended by Stats.1999, c. 655 (S.B.1308), § 38; Stats.2002, c. 1011 (S.B.2021), § 7; Stats.2008, c. 548 (S.B.1441), § 20; Stats.2015, c. 426 (S.B.800), § 28, eff. Jan. 1, 2016.)

West's Ann. Cal. Bus. & Prof. Code § 2770.11, CA BUS & PROF § 2770.11

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West's District of Columbia Code Annotated 2001 Edition
Division I. Government of District.
Title 3. District of Columbia Boards and Commissions. (Refs & Annos)
Subtitle I. General.
Chapter 12A. Nurse's Rehabilitation Program.

DC ST § 3-1251.09

§ 3-1251.09. Description of the Program.

Currentness

- (a) Admission to the Program is voluntary.

- (b) A colleague, employer, or the Board may refer impaired nurses to the Program through a self-report, formal complaint.

- (c) A nurse requesting admission to the Program may not have:
 - (1) Caused an injury to an individual while practicing nursing;

 - (2) Malpractice litigation pending against him or her alleging that he or she caused an injury to an individual while practicing nursing; or

 - (3) Been arrested for diversion of controlled substances for sale or distribution.

- (d) The Committee and the nurse shall enter into a written contract that sets forth the requirements and conditions for the nurse's participation in the Program.

- (e) A nurse who fails to comply with the requirements and conditions of the written contract shall be reported to the Board for disciplinary action. The Board may take such action as described in § 3-1205.14 (revocation, suspension, or denial of license or privilege, civil penalty, reprimand) against a nurse who is expelled from the rehabilitation program for noncompliance. The Board shall not be required to recommend a course of remediation, as described in § 3-1205.14(c)(6), for a nurse who is expelled from a rehabilitation program. The license of a nurse who is expelled from the rehabilitation program for noncompliance may be immediately suspended or restricted as described in § 3-1205.15 (summary action).

§ 3-1251.09. Description of the Program., DC CODE § 3-1251.09

(f) Evaluation of a nurse for participation in the Program shall be the responsibility of the Committee.

(g) At the request of the Board, the Committee, in consultation with the treatment providers, may evaluate a nurse with a drug or alcohol abuse problem, or mental illness, for readiness to return to the practice of nursing.

(h) An impaired nurse who is participating in the rehabilitation program may voluntarily limit or surrender any license issued under Chapter 12 of this title in accordance with § 3-1205.18.

Credits

(May 1, 2001, D.C. Law 13-297, § 10, 48 DCR 2036.)

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DC CODE § 3-1251.09
Current through August 6, 2020

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House Status: [Adjourned until Monday, January 14, 2019 at 02:00 p.m.](#)
Senate Status: [Adjourned until Monday, January 14, 2019 at 02:00 p.m.](#)

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65-2842. Mental or physical examination or drug screen, or any combination thereof, of licensee, registrant, permit holder or certificate holder; requirement by board; confidentiality of records; computation of time limit for hearing. (a) Upon reasonable suspicion that a person's ability to practice such person's profession with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or condition or use of alcohol, drugs or controlled substances, the board shall have authority to compel the person to submit to a mental or physical examination, substance abuse evaluation or drug screen or any combination thereof, by such persons as the board may designate either in the course of an investigation or a disciplinary proceeding.

(b) To determine whether reasonable suspicion of impaired ability exists, the investigative information shall be presented to the board as a whole, or to a committee consisting of the officers of the board elected pursuant to K.S.A. 65-2818, and amendments thereto, and the executive director appointed pursuant to K.S.A. 65-2878, and amendments thereto, or to a presiding officer authorized pursuant to K.S.A. 77-514, and amendments thereto. The determination shall be made by a majority vote of the entity which reviewed the investigative information. Information submitted to the board as a whole or a committee of the officers and executive director of the board or presiding officer and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity.

(c) The person shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. Any person affected by this section shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of such person's profession with reasonable skill and safety to patients. For the purposes of this section, every person who accepts the privilege to practice any profession regulated by the board in this state by practicing or by the making and filing of a renewal application in this state shall be deemed to have consented to submit to a mental or physical examination, substance abuse evaluation or a drug screen, or any combination thereof, when directed in writing by the board. Further, such person shall be deemed to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication.

(d) In any proceeding by the board pursuant to the provisions of this section, the records of any board proceedings involving the mental and physical examination, substance abuse evaluation or drug screen, or any combination thereof, shall be considered confidential and shall not be used in any civil, criminal or administrative action, other than an administrative or disciplinary proceeding by the board.

(e) Whenever the board directs, that a licensee, registrant, permit holder or certificate holder submit to a mental or physical examination, substance abuse evaluation or drug screen, or any combination thereof, the time from the date of the board's directive until the submission to the board of the report of the examination or drug screen, or both, shall not be included in the computation of the time limit for hearing prescribed by the Kansas administrative procedure act.

History: L. 1957, ch. 343, § 42; L. 1979, ch. 198, § 6; L. 1983, ch. 214, § 3; L. 1984, ch. 238, § 14; L. 1984, ch. 313, § 119; L. 1991, ch. 192, § 4; L. 2014, ch. 131, § 16; July 1, 2015.

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House Status: Adjourned until Monday, January 14, 2019 at 02:00 p.m.
Senate Status: Adjourned until Monday, January 14, 2019 at 02:00 p.m.

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47-846. **Definitions.** As used in this act:

- (a) "Board" means the state board of veterinary examiners.
- (b) "Committee" means an executive or review committee of a state professional society or organization or an impaired veterinarian committee.
- (c) "Impaired veterinarian" means a veterinarian who is unable to practice veterinary medicine with reasonable skill and safety due to physical or mental disabilities, including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol.
- (d) "Veterinarian" means an individual licensed to practice veterinary medicine in this state.

History: L. 1989, ch. 155, § 1; July 1.

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2018. Powered by KLISS. Rendered: 2018-06-21T12:23:10. Head Rev No: 548241(E)

House Status: Adjourned until Monday, January 14, 2019 at 02:00 p.m.
Senate Status: Adjourned until Monday, January 14, 2019 at 02:00 p.m.

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47-847. Reports relating to impaired veterinarians; board or committee investigation. (a) Any person may report to the board or to an appropriate state professional society or organization of veterinarians any information such person may have relating to an alleged impaired veterinarian. If the report is made to the appropriate state professional society or organization, such society or organization shall refer the matter to an impaired veterinarian committee duly constituted pursuant to the society's or organization's bylaws. The committee shall investigate all such reports and take appropriate action.

(b) If information concerning an alleged impaired veterinarian is reported to the board, the board may investigate the report or may refer the report to an impaired veterinarian committee.

(c) The impaired veterinarian committee referred to in subsection (a) shall submit to the board, on a form promulgated by such board, at least once every three months, a report summarizing the reports received pursuant[to] this section. The report shall include the number of reports concerning impaired veterinarians, whether an investigation was conducted and any action taken.

(d) If the board determines that the impaired veterinarian committee referred to in subsection (a) is not fulfilling its duties under this section, the board, upon notice and an opportunity to be heard, may require such state professional society or organization to transfer to the board all reports made pursuant to this section to such state professional society or organization.

History: L. 1989, ch. 155, § 2; July 1.

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House Status: Adjourned until Monday, January 14, 2019 at 02:00 p.m.
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47-848. Same; board agreement with committee; responsibilities; evaluations; restricted license; immunity from civil liability for report or investigation; diagnostic examination. (a) The board may refer reports under K.S.A. 47-847, and amendments thereto, and other reports or complaints filed with such board which relate to impaired veterinarians to an impaired veterinarian committee of the appropriate state professional society or organization.

(b) The board shall have the authority to enter into an agreement with the impaired veterinarian committee of the appropriate state professional society or organization to undertake those functions and responsibilities specified in the agreement and to provide for payment therefor from moneys appropriated to the agency for that purpose. Such functions and responsibilities may include any or all of the following:

- (1) Contracting with providers of treatment programs;
- (2) receiving and evaluating reports of suspected impairment from any source;
- (3) intervening in cases of verified impairment;
- (4) referring impaired veterinarians to treatment programs;
- (5) monitoring the treatment and rehabilitation of impaired veterinarians;
- (6) providing posttreatment monitoring and support of rehabilitated impaired veterinarians; and
- (7) performing such other activities as agreed upon by the board and the impaired veterinarian committee.

(c) The impaired veterinarian committee shall develop procedures in consultation with the board for:

- (1) Periodic reporting of statistical information regarding impaired veterinarian program activity;
- (2) periodic disclosure and joint review of such information as the board considers appropriate regarding reports received, contacts or investigations made and the disposition of each report;
- (3) immediate reporting to the board of the name and results of any contact or investigation regarding any impaired veterinarian who is believed to constitute an imminent danger to the public or to self;
- (4) reporting to the board, in a timely fashion, any impaired veterinarian who refuses to cooperate with the impaired veterinarian committee or refuses to submit to treatment, or whose impairment is not substantially alleviated through treatment, and who in the opinion of the committee exhibits professional incompetence; and
- (5) informing each participant of the impaired veterinarian committee of the procedures, the responsibilities of participants and the possible consequences of noncompliance.

(d) If the board has reasonable cause to believe that a veterinarian is impaired, the board may cause an evaluation of such veterinarian to be conducted by the impaired veterinarian committee or its designee for the purpose of determining if there is an impairment. The impaired veterinarian committee or its designee shall report the findings of its evaluation to the board.

(e) An impaired veterinarian may submit a written request to the board for a restriction of such veterinarian's license. The board may grant such request for restriction and shall have authority to attach conditions to the licensure of the veterinarian to practice within specified limitations. Removal of a voluntary restriction on licensure to practice shall be subject to the statutory procedure for reinstatement of license.

(f) Notwithstanding any other provision of law, a state professional society or organization and the members thereof shall not be liable to any person for any acts, omissions or recommendations made in good faith while acting within the scope of the responsibilities imposed pursuant to this section.

(g) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the board. If the board requires a licensee to submit to such an examination, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

History: L. 1989, ch. 155, § 3; L. 1993, ch. 129, § 18; July 1.

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47-849. Same; contents of; reports, records and proceedings confidential and privileged. (a) The reports and records made pursuant to K.S.A. 47-847 or 47-848, and amendments thereto, shall be confidential and privileged, including:

- (1) Reports and records of executive or review committees of a professional society or organization;
- (2) reports and records of the board or impaired veterinarian committee of a professional society or organization; and
- (3) reports made pursuant to this act to or by any committee or any consultant.

Such reports and records shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in any civil or administrative action other than a disciplinary proceeding by the board.

(b) No person in attendance at any meeting of an executive or review committee of a state professional society or organization while such committee is engaged in the duties imposed by K.S.A. 47-847 and amendments thereto shall be compelled to testify in any civil, criminal or administrative action, other than a disciplinary proceeding by the board, as to any committee discussions or proceedings.

(c) No person in attendance at any meeting of an impaired veterinarian committee shall be required to testify, nor shall the testimony of such person be admitted into evidence, in any civil, criminal or administrative action, other than a disciplinary proceeding by the board, as to any committee discussions or proceedings.

(d) Nothing in this section shall limit the authority, which may otherwise be provided by law, of the board to require an executive or review committee or officer or impaired veterinarian committee to report to the board any action or recommendation of such committee or officer or to transfer to the board records of such committee's or officer's proceedings or actions. Reports and records so furnished shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in evidence in any judicial or administrative proceeding other than a disciplinary proceeding by the board.

(e) A committee or officer may report to and discuss its activities, information and findings with other committees or officers without waiver of the privilege provided under this section, and the records of all such committees or officers relating to such report shall be privileged as provided under this section.

History: L. 1989, ch. 155, § 4; July 1.

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47-850. Immunity from civil liability for report or investigation, limits. No person or entity which, in good faith, reports or provides information or investigates any veterinarian as authorized by K.S.A. 47-847 or 47-848, and amendments thereto, shall be liable in a civil action for damages or other relief arising from the reporting, providing of information or investigation except upon clear and convincing evidence that the report or information was completely false, or that the investigation was based on false information, and that the falsity was actually known to the person making the report, providing the information or conducting the investigation at the time thereof.

History: L. 1989, ch. 155, § 5; July 1.

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47-851. Failure to report; immunity from civil liability. (a) No person or entity shall be subject to liability in a civil action for failure to report as authorized by K.S.A. 47-847 or 47-848, and amendments thereto.

(b) In no event shall a professional society or organization or impaired veterinarian committee be liable in damages for the alleged failure to properly investigate or act upon any report made pursuant to K.S.A. 47-847 and amendments thereto.

History: L. 1989, ch. 155, § 6; July 1.

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47-852. Employer retribution for reporting; prohibition; remedy. (a) No employer shall discharge or otherwise discriminate against any employee for making any report pursuant to K.S.A. 47-847 or 47-848, and amendments thereto.

(b) Any employer who violates the provisions of subsection (a) shall be liable to the aggrieved employee for damages for any wages or other benefits lost due to the discharge or discrimination plus a civil penalty in an amount not exceeding the amount of such damages. Such damages and civil penalty shall be recoverable in an individual action brought by the aggrieved employee. If the aggrieved employee substantially prevails on any of the allegations contained in the pleadings in an action allowed by this section, the court, in its discretion, may allow the employee reasonable attorney fees as part of the costs.

History: L. 1989, ch. 155, § 7; July 1.

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47-853. **Purpose of reporting impaired veterinarians; status of entities conducting programs; antitrust immunity.** (a) The legislature of the state of Kansas recognizes the importance and necessity of protecting the public from impaired veterinarians to help insure the provision of quality veterinary services. The provisions of this act effectuate this policy.

(b) Veterinarians, review, executive or impaired veterinarian committees performing duties under this act for the purposes expressed in subsection (a) shall be considered to be state officers engaged in a discretionary function and all immunity of the state shall be extended to such persons and committees, including that from the federal and state antitrust laws.

(c) Nothing in this section shall be construed to require veterinarians or review, executive or impaired veterinarian committees to be subject to or comply with any other law relating to or regulating state agencies, officers or employees.

History: L. 1989, ch. 155, § 8; July 1.

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47-854. Act supplemental to existing law. K.S.A. 47-846 to 47-853, inclusive, shall be supplemental to and a part of the Kansas veterinary practice act.

History: L. 1989, ch. 155, § 9; July 1.

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2018. Powered by KLISS. Rendered: 2018-06-27T10:51:34. Head Rev No: 548336(E)

Vernon's Annotated Missouri Statutes Title XXII. Occupations and Professions Chapter 335. Nurses (Refs & Annos)

Proposed Legislation

Missouri

Effective: August 28, 2018

V.A.M.S. 335.067

335.067 Intervention programs may be established by the board--purpose of program--screening--completion of program, effect of--disciplinary action for failure to complete--confidentiality

Currentness

1. The state board of nursing may establish an intervention program and an alternative program to promote the identification, intervention, treatment, and monitoring of nurses or applicants for a nursing license who may be impaired by reason of substance abuse or the potential for substance abuse.

2. The intervention program is available, upon board discretion, to licensees and applicants for licensure who self-refer, test positive in a pre-employment or for-cause drug or alcohol screen, individuals who have pled guilty to or been found guilty of any drug offense, whether felony or misdemeanor, or individuals who have pled guilty to or been found guilty of three or more criminal offenses resulting from or related to the use of drugs or alcohol, whether a felony or misdemeanor. The program shall be a minimum of one year in duration and require random drug and alcohol testing at the participant's expense.

3. The alternative program is available, upon board discretion, to licensees and applicants for licensure who admit to having a substance use disorder. The program shall be from three to five years in duration and at a minimum require random drug and alcohol testing at the participant's expense.

4. Upon receiving a complaint or an application, the board shall screen the information submitted to determine whether the individual may be eligible for the intervention or alternative program. If eligible for one of the programs, the board may contact the individual and offer the program. If accepted, the board and individual may enter into a written agreement setting forth the requirements of the program. If declined, the board may proceed with its regular process of investigating a complaint or application as set forth in this chapter and chapter 324. The board shall retain sole discretion to offer the program at any time.

5. Upon successful completion of the intervention or alternative program, the licensee shall be deemed to have no disciplinary action against his or her license and shall not be required to disclose participation in the program. All records shall be deemed confidential and not public records under chapter 610 and not subject to court or administration subpoena or subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings.

6. If a licensee or applicant violates any term of the intervention program and the licensee or applicant denies the violation, the board may convene a hearing, after due notice to the licensee or applicant to determine whether such violation has occurred. The hearing shall be confidential and not open to the public under chapter 610. Records from the program shall be deemed admissible in the hearing. If the licensee or applicant admits to the violation, no hearing is required. If a violation is found by the board or admitted to by the licensee or applicant, the licensee's license shall be

indefinitely suspended or the applicant's application shall not be acted upon until the licensee or applicant continues to fully participate in the program, has one year with no positive drug or alcohol screens, and completes a sobriety notebook. The licensee may then request that his or her license be reinstated or the applicant may then request the board act upon his or her application.

7. If a licensee does not successfully complete the intervention program, the board may pursue disciplinary action as set forth in section 335.066 and chapter 621. If an applicant does not successfully complete the intervention program, the board may issue an order pursuant to the provisions of chapters 324, 335, 536, and 621. Records from the program may be used as evidence in any such proceedings initiated under chapters 324, 335, 536, and 621. Any such licensee disciplined by the board pursuant to this section or applicant subject to an order pursuant to this section shall not be eligible to participate in the alternative program.

8. If a licensee or applicant violates any term of the alternative program and the licensee or applicant denies the violation, the board may convene a hearing, after due notice to the licensee or applicant to determine whether such violation has occurred. The hearing shall be confidential and not open to the public under chapter 610. Records from the program shall be deemed admissible in the hearing. If the licensee or applicant admits to the violation, no hearing is required. If a violation is found by the board or admitted to by the licensee or applicant, the licensee's license shall be indefinitely suspended or the applicant's application shall not be acted upon until the licensee or applicant continues to fully participate in the program, has one year with no positive drug or alcohol screens, and completes a sobriety notebook. The licensee may then request that his or her license be reinstated or the applicant may then request the board act upon his or her application.

9. If a licensee does not successfully complete the alternative program, the board may pursue disciplinary action as set forth in section 335.066 and chapter 621. If an applicant does not successfully complete the alternative program, the board may issue an order pursuant to the provisions of chapters 324, 335, and 621. Records from the program may be used as evidence in any such proceedings conducted pursuant to the provisions of chapters 324, 335, and 621.

10. The board may promulgate administrative rules subject to the provisions of this section and chapter 536 to effectuate and implement any programs formed pursuant to this section.

11. The board may expend appropriated funds necessary to provide for operational expenses of the programs formed pursuant to this section.

12. Any board member, board staff member, members of the programs, as well as any administrator, staff member, consultant, agent, or employee of the programs, acting within the scope of his or her duties and without actual malice, and all other persons who furnish information to the programs in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation, or action taken by the programs, or by any individual member of the programs, by any board member, or by any board staff member.

13. All information, interviews, reports, statements, memoranda, drug or alcohol testing results, or other documents furnished to or produced by the programs, as well as communications to or from the programs, any findings, conclusions, interventions, treatment, rehabilitation, or other proceedings of the programs which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential, except that the board may share information with the licensee's employer or potential employer upon verification with the licensee that he or she is employed with the employer or actively seeking employment with the potential employer. Any records produced in conjunction with either program shall not be considered public records under chapter 610 and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal, or administrative

proceedings except as set forth in subsections 14 and 15 of this section.

14. Information may be disclosed relative to a licensee or applicant in either program only when:

- (1) It is essential to disclose the information to further the intervention, treatment, or rehabilitation needs of the licensee or applicant and only to those persons or organizations with a need to know;
- (2) Its release is authorized in writing by the licensee or applicant;
- (3) A licensee has breached his or her contract with the program; or
- (4) The information is subject to a court order.

15. The statute of limitations set forth in section 324.043 shall be tolled while a licensee or applicant is participating in either the intervention program or the alternative program.

Credits

(L.2007, S.B. No. 308, § A. Amended by L.2018, H.B. No. 1719, § A, eff. Aug. 28, 2018.)

V. A. M. S. 335.067, MO ST 335.067

Statutes are current through the end of the 2018 Second Regular Session and First Extraordinary Session of the 99th General Assembly. Constitution is current through the November 6, 2018 General Election.

**End of
Document**

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2018 Legislative Proposal

Department:	DIFP/PR/Nursing			Proposal #:	2			
Proposal Title:	Nursing Consumer Protection Bill							
Previously Submitted:	Yes	X	No	New Idea:	X	Yes		No
Contact Person:	Lori Scheidt			Phone:	751-0069			

1. Description of Proposal (if the proposal contains more than one provision, then provide a bulleted list of subjects).

Grounds for Discipline

335.066.2.(1) This subsection clarifies that a nurse who uses or unlawfully possesses a controlled substance or any substance that requires a prescription regardless of whether there is evidence of impairment is subject to discipline. Also, expands definition of a controlled substance to be or as defined by the federal government or the Department of Health and Senior Services by regulation.

335.066.2(6) Specifies six (6) more grounds that may constitute the basis for discipline and clarifies that a change of residence must be reported within 30 days.

335.066.2(20) Adds any substance requiring a prescription and a pattern of abuse of any prescription medication.

335.066.2(23) Adds failure to submit to a drug or alcohol screening when requested by an employer as a basis for discipline and creates a presumption that the test would have been positive.

335.066.2(24) Adds adjudged in need of a guardian or conservator or obtaining a guardian or conservator as a basis for discipline until restored to capacity.

335.066.2(25) Adds diversion of medications, controlled substances or medical supplies as a basis for discipline.

335.066.2(26) Adds failure to answer, disclose, or failure to fully provide all information on a renewal or application as a basis for discipline and clarifies that confidential cases must be disclosed.

335.066.2(27) Adds physical or mental illness or disability inferring with the nurse's ability to safely practice nursing as a basis for discipline.

335.066.2(28) Adds the Board may seek discipline for any conduct that constitutes a serious danger to the health safety or welfare of a patient or the public.

Substance Use Disorder Programs

This proposal would give the Board of Nursing authority to establish an intervention program and alternative program to nurses who are dependent on alcohol and/or other mind-altering drugs. These programs rest on the rationale that we would be able to quickly remove someone from practice and provide a path to recovery for nurses with a substance use disorder. With proper monitoring harm to the public can be averted and once a nurse is determined to be safe to return to practice, help to retain the nurse in the workforce. This diversion program would be established by the State Board of Nursing as a confidential alternative to formal disciplinary action for nurses who may be chemically dependent because of habitual or regular use of drugs and/or alcohol.

2. Federal compliance/incentive information

- a. Is any section of this legislation a federal mandate, required for federal compliance or does the legislation provide an incentive for adoption? No.**
- i. If yes, explain and include the reference to the federal law or rule. What is the deadline for compliance, the penalty for non-compliance and when/if it is likely to be applied, or incentive for compliance?**
 - ii. Detail Missouri's mandate/compliance status and attach any communication from the federal agency.**
 - iii. If there are multiple components to meet compliance, please include a summary table.**

3. Department Rationale for Support of Proposal (nine-part question)

- a. Summarize the existing law. Explain the difficulty/limitation with current law.**

Grounds for Discipline

Practice has evolved over time but the grounds for which a nursing license may be discipline has not been updated.

Substance Use Disorder Programs

Legislative authority was granted in 2007 to allow the board to contract for an impaired nurse program. Rules were effective August 30, 2008. The board issued two requests for proposal (RFPs) and received no compliant bids.

- b. Describe the proposed change to solve the issue and how the proposed language will change current practice.**

Grounds for Discipline

These changes will assist the board in ensuring that only qualified nurses are licensed to practice in the State of Missouri and will grant the board the ability to quickly discipline the licensees of incompetent and/or impaired licensees.

Substance Use Disorder Programs

The board engaged a firm, Citizens Advocacy Center, to consult on this issue. A conflict was identified. That conflict is this would be a confidential program carried out by a public entity charged with a public protection mission.

- c. What will you be able to do or do better, that you cannot do now, with this proposed change?**

Grounds for Discipline

Improve protection of the public. The proposed amendments will assist the Board in insuring that only competent licensees are practicing and also allow the Board to remove or restrict impaired and/or incompetent licensees from practicing. The proposed amendments will also provide clarification and clearer direction to applicants for licensure and the Board's licensees.

Substance Use Disorder Programs

This proposed change would allow the Board of Nursing to offer diversion/treatment programs to nurses or nurse applicants with a substance use disorder. The board would administer both programs. This action would provide immediate intervention to protect the public, as an effective alternative to a longer disciplinary process.

- d. What barriers exist that prevent you from making this change administratively?
Explain why the proposed solution was chosen.**

Statutory authority required for all proposals. On the substance use disorder programs, board staff attended numerous conferences, studied the literature and did an in depth review of programs in Arizona, Oklahoma, Kentucky, Wyoming and North Carolina.

- e. What/who brought the issue to the department's attention?**

Grounds for Discipline

The Administrative Hearing Commission (AHC) is extremely licensee friendly and interprets laws strictly against the Board and in favor of the licensee. The AHC is supposed to be consumer friendly, but there are nurses who are not subject to discipline as a result who are serious dangers to the public. Research has also been done regarding what other states have done in their Nursing Practice Acts. Several states have recently updated their acts as it pertains to grounds for discipline. Some of the additional language is in response to certain decisions issued by the AHC and also in comparing Missouri's language with other states' language, it was discovered that some of the language contained in Missouri's statute could be improved and will provide nurses with more sufficient notice of what actions or inactions may be grounds to discipline a license.

Substance Use Disorder Programs

Nurse groups have long advocated for a non-punitive remedy for nurses with a substance use disorder.

- f. Which customers/constituents will be better served by this proposed change?**

The public to whom the board owes a duty to protect. It would increase accountability by licensed nurses. All health care consumers and employers would benefit.

g. Have there been any discussions with stakeholders regarding this proposal?

Yes

h. Provide a list of all possible proponents and any others who will push for passage.

Missouri Nurses Association, Missouri Hospital Association and Missouri Association of Nurse Practitioners

i. Provide any further information you believe supports your reasons for pursuing this change.

Substance Use Disorder Programs

These programs rest on the rationale that we would be able to quickly remove someone from practice and provide a path to recovery for nurses with a substance use disorder. With proper monitoring we can avert harm to the public and once the nurse is determined to be safe to practice, help to retain the nurse in the workforce. Public safety is protected by suspension of practice, when needed, and by careful monitoring of the nurse.

4. Complete Department/Legislative History

- a. Department History: Has this issue been previously proposed by the department? If yes, then please complete the following table.**
- b. General Assembly History: Please complete the following table for any legislative history on the proposed language or similar language.**

5. Impact of proposal on other agencies:

- a. Does this proposal affect any other state departments? No.**
- b. Discuss the proposal with all other affected state departments and note the outcome of the department discussions here.**

6. Do similar laws exist or has legislation been proposed in other states, is this an issue in other states (research the issue and provide detailed information for other states research)?

Grounds for Discipline

The National Council of State Boards of Nursing has a model Nursing Practice Act. This model act is reviewed and approved by all boards of nursing. Similar language is included in that model act. This also incorporates language from other states that fits within Missouri's circumstances and current issues

Substance Use Disorder Programs

Yes. 42 boards of nursing offer programs for nurses with a substance use disorder.

7. **List of probable opponents:** None known.
8. **Explain all potential obstacles to passage:**
 - a. **Policy (groups or individuals who would oppose and why)** There could be pushback from attorneys who represent nurses on the grounds for discipline piece.
 - b. **Process (lack of support from the General Assembly members, leadership, committee chairs, etc.)**
9. **Proposed bill sponsors and rationale for your selection.**
10. **Estimated FY2019 fiscal impact, proposed source(s) of funding total state revenue impact, new FTE required to implement, and other fiscal information.**

Table of Contents for Provisions Included in the Attached Draft Language

<u>Grounds for Discipline</u>			
Section #	Subject (a couple of keywords – similar to process used to markup the TAFP bill during bill reviews)	Change/s Proposed (brief summary or bulleted list)	Reason/s for Change/s
335.066.2(1)	Substance Use	<ul style="list-style-type: none"> • Adds to definition of what constitutes a controlled substance to include as defined by federal law or DHSS regulation • Adds a BAC of .08 creates presumption of impairment. 	<p>Chapter 195 does not include all substances that are controlled under federal law or by State regulation that are addictive. For example, Tramadol, an opiate, is not controlled under chapter 195, but is a controlled substance pursuant to federal regulation and state regulation.</p> <p>BAC of .08 or greater creating presumption of impairment is consistent with driving laws. Impairment must be demonstrated now through lay witness testimony who may not be experienced in the signs of impairment.</p>
335.066.2(6)	Professional standards	<ul style="list-style-type: none"> • Clarifies that licensees must update new address with the Board within 30 days of changing residence. • Adds departure from or failure to conform to nursing standards as ground for discipline. • Adds failure to maintain professional boundaries with current or former patient as a ground for discipline • Adds violating the confidentiality or privacy rights of patient as a ground for discipline • Adds failing to assess, accurately 	<p>Currently, the Board's regulation requires that a license update his or her address within 30 days. Adding to the statute provides more clarity.</p> <p>The six additional causes for discipline protect the public by specifying that these acts are causes for discipline. Currently, the Board must prove that these acts fall under incompetency, gross negligence, misconduct, fraud, or dishonesty etc., which the Board may or may not be able to prove. However, these acts can significantly impact patient care.</p>

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		<p>document or report the status of a patient or falsely assessing, documenting or reporting the status of a patient as a ground for discipline.</p> <ul style="list-style-type: none"> • Adds intentionally or negligently causing physical or emotional harm to a patient as a ground for discipline. • Adds failing to furnish appropriate details of a patient's nursing needs to a succeeding nurses as a ground for discipline. 	
335.066.2(17)	Substance Use disorder programs	<ul style="list-style-type: none"> • Changes current language to any impaired nurse, intervention or alternative program for substance use disorder. 	Clarifies that cause exists for failing to complete any substance use disorder program. Mo does not have an impaired nurse program at this time. The way this section is currently worded, it can be argued that it only applies to a program that does not exist. This does not protect the public as currently worded.
335.066.2(20)	Personal use of a controlled substance	<ul style="list-style-type: none"> • Adds any substance which requires a prescription to what can be abused. • Adds pattern of abuse of any prescription medication. 	Non-controlled substances can also be abused causing impairment as can abuse of prescribed medications. Adding these provisions protect the public from impaired nurses or nurses with substance use disorders. Currently, the board has little recourse to protect patients from a nurse who abuses non-controlled substances or who abuse prescribed substances.
335.066.2(23)	Failure to submit to a test	<ul style="list-style-type: none"> • Adds failure to submit to a drug or alcohol screening when requested by an employer or the board as a cause for discipline and creates a presumption that the results would be positive upon a refusal. 	Nurses suspected of being under the influence or of diverting are frequently asked to be drug or alcohol screened, but refuse the screen and leave employment for another health care setting. This often leaves the Board without any evidence to pursue disciplinary action and endangers the public.
335.066.2(24)	Incapacity	<ul style="list-style-type: none"> • Adds being adjudged being in need of or obtaining a guardian or conservator as a 	Currently, the Board has no means to stop an incapacitated nurse from practicing, unless there is

		<p>ground for discipline until the nurse is restored to capacity.</p>	<p>evidence of substance abuse. The board had a case where a nurse was appointed a guardian to make decisions for her that she was not able to make for herself. However, she was not officially adjudicated as insane or incompetent. As a result, the Board could not pursue any disciplinary action against her license. She was continuing to bill DHSS for Medicaid services she was allegedly rendering but should not have been rendering any services or billing Medicaid for services when she was in need of a guardian to make decisions for her.</p>
335.066.2(25)	Diversion	<ul style="list-style-type: none"> • Adds diversion of any medication, controlled substance or medical supply as a ground for discipline. 	<p>Adding this provision makes it clear that diverting or attempting to divert medications, controlled substances and medical supplies is a basis for seeking discipline without having to prove it is also misconduct or fraud in the performance of a nurse's duty. This type of conduct frequently occurs and includes stealing supplies, including but not limited to, saline, needles, tubing, and tourniquets, which can be associated with drug use.</p>
335.066.2(26)	Failing to accurately complete application	<ul style="list-style-type: none"> • Specifies that failing to answer, failing to disclose or failure to fully provide all information requested on an application or renewal for licensure including SIS cases is grounds for discipline. 	<p>This provision clarifies that a basis for discipline is not answering, disclosing or providing full information on an application or renewal. Currently, the Board has to prove mens rea on behalf of the individual to pursue discipline, which is difficult as most claim the failure was an oversight or misunderstanding, when that may not be the case. Also, this clarifies that pleas of guilt or findings of guilt where the imposition of sentence was suspended must be disclosed even if the case is closed. Many applicants state that their criminal defense attorney instructed them that they are not required to disclose pleas where the imposition of sentence was suspended because it is not considered a conviction and is a closed record. This will alleviate that misconception or misunderstanding.</p>
335.066.2(27)	Physical or mental illness	<ul style="list-style-type: none"> • Physical or mental illness that impairs the 	<p>This provision will cover nurses who are continuing to</p>

		licensee's ability to practice nursing safely.	practice that have suffered a stroke or dementia or some other long term physical or mental illness that would not otherwise be covered as a basis for discipline. For example, the Board previously had a case where the nurse had a stroke and was not capable of performing her duties safely. Fortunately, she voluntarily surrendered her license, but the board would not likely succeed in pursuing disciplinary action against her since currently there is no basis in the disciplinary grounds to pursue any action against someone with a physical or mental incapacity not due to substance abuse.
335.066.2(28)	Serious danger	<ul style="list-style-type: none"> Adds any conduct that constitutes a serious danger to the health, safety or welfare of a patient or the public as a ground for discipline. 	This provision is necessary to catch conduct that may not be specifically covered above but the conduct presents a serious danger to the public or patients. For example, the Board received a phone call in the past from a nurse who was obviously experiencing some mental health issues and was not safe to practice. She stated over the phone that she had gone into work and had taken care of patients but has no recollection of clocking in or what care she had given patients. The Board has no basis to pursue discipline under current law, but this nurse presents a serious danger to the health, safety or welfare of patients and the public. The Board could only encourage her to seek help through a mental health professional and not work until that professional released her to work.

Substance Use Disorder Programs

Section #	Subject (a couple of keywords – similar to process used to markup the TAFP bill)	Change/s Proposed (brief summary or bulleted list)	Reason/s for Change/s
335.067.1.	Establish intervention program and alternative	Allows the Board to establish an intervention program and an alternative program to	These programs are more in line with what other states are doing to successfully protect the public from nurses

	program	promote the identification and treatment for nurses with the potential for a substance use disorder.	with a substance use disorder or potential substance use disorder and potentially getting the nurse into a treatment program for successful intervention
335.067.2.	Intervention program	Sets forth criteria for eligibility in the intervention program.	This program is a shorter program designed for nurses who may have the potential for a substance use disorder or for the Board to determine that the nurse does not have a disorder. This is an early intervention program to try to avert a nurse from developing a substance abuse/use disorder.
335.067.3.	Alternative program	Sets forth criteria for eligibility in the alternative program.	This is a longer program designed to help nurses with an admitted substance use disorder.
335.067.4.	Board screening for eligibility	Sets forth the procedure for Board staff to screen nurses who have complaints filed against them for eligibility for either program.	A process needed to be established by which the Board could streamline the normal process to screen a nurse for eligibility and offer a program to him/her early on for early intervention.
335.067.5.	Confidentiality	Makes successful completion of either program non-disciplinary action and all records confidential.	Creates an incentive for a nurse to successfully complete the program assigned to by allowing the nurse's license to reflect no discipline and makes the records confidential.
335.067.6.	Violations of the intervention program.	Establishes procedures to handle violations of the intervention program.	A process needed to be established on how the Board should handle a nurse violating the condition(s) of the intervention program.

335.067.7.	Unsuccessful completion of intervention program	Establishes procedures to handle unsuccessful completion of the intervention program.	A process needed to be established on how the Board handles unsuccessful completion of the intervention programs.
335.067.8.	Violation(s) of the alternative program	Establishes procedures to handle violation(s) of the alternative program	A process needed to be established on how the Board handles violations of the alternative program. As these nurses have a substance use disorder, an emergent procedure needed to be established to prohibit them from practicing nursing until certain requirements were met including proof of sobriety.
335.067.9.	Unsuccessful completion of the alternative program	Establishes procedures to handle unsuccessful completion of the alternative program.	A process needed to be established on how the Board handles unsuccessful completion of the alternative program.
335.067.10.	Contract and regulation	Authorizes the Board to contract with a nonprofit corporation or nursing association and authorizes the Board to promulgate rules.	This is similar to the current language in 335.067.2, but moves it and changes impaired nurse program to intervention program and alternative program.
335.067.11.	Operational expenses	Authorizes the Board to expend funds necessary for the operation of the programs.	This is the same language to the current version of 335.067.3, but moves it and makes the word program plural.
335.067.12.	Immunity	Establishes immunity for staff acting within the scope of his or her duties.	Added immunity for board members and board staff.

335.067.13.	Confidentiality of documents	Makes records/documents for each program confidential, but allows Board staff to share information with a verified employer or potential employer.	Allows board to share information with a verified employer or potential employer of an individual in either program so the employer can assist with monitoring for the protection of the public.
335.067.14.	Release of information	Provides when information may be disclosed.	Cleans up the language from the current 335.067.7 to make it flow with the two new programs.

DRAFT Language – Proposal # Nursing Consumer Protection Bill

335.066. 1. The board may refuse to issue or reinstate any certificate of registration or authority, permit or license required pursuant to chapter 335 for one or any combination of causes stated in subsection 2 of this section or the board may, as a condition to issuing or reinstating any such permit or license, require a person to submit himself or herself for identification, intervention, treatment, or rehabilitation by the impaired nurse program as provided in section 335.067. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by sections 335.011 to 335.096 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, **by the federal government or by the Department of Health and Senior Services by regulation, regardless of impairment**, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 335.011 to 335.096. **A blood alcohol content of .08 shall create a presumption of impairment;**

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 335.011 to 335.096, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to sections 335.011 to 335.096 or in obtaining permission to take any examination given or required pursuant to sections 335.011 to 335.096;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, gross negligence, or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by chapter 335. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

(6) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:

(a) Willfully and continually overcharging or overtreating patients; or charging for visits which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests, or nursing services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience, or licensure to perform such responsibilities;

(e) Performing nursing services beyond the authorized scope of practice for which the individual is licensed in this state;

(f) Exercising influence within a nurse-patient relationship for purposes of engaging a patient in sexual activity;

(g) Being listed on any state or federal sexual offender registry;

(h) Failure of any applicant or licensee to cooperate with the board during any investigation;

(i) Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;

(j) Failure to timely pay license renewal fees specified in this chapter;

(k) Violating a probation agreement, order, or other settlement agreement with this board or any other licensing agency;

(l) Failing to inform the board of the nurse's current residence **within thirty days of changing residence**;

- (m) Any other conduct that is unethical or unprofessional involving a minor;
 - (n) A departure from or failure to conform to nursing standards;**
 - (o) Failure to maintain professional boundaries with a current or former patient, client or resident or a member of a patient's, client's or resident's immediate family;**
 - (p) Violating the confidentiality or privacy rights of the patient, resident or client;**
 - (q) Failing to assess, accurately document, or report the status of a patient, resident or client or falsely assessing, documenting or reporting the status of a patient, resident or client;**
 - (r) Intentionally or negligently causing physical or emotional harm to a patient, resident or client;**
 - (r) Failing to furnish appropriate details of a patient's, client's or resident's nursing needs to succeeding nurses legally qualified to provide continuing nursing services to a patient, client or resident.**
- (7) Violation of, or assisting or enabling any person to violate, any provision of sections 335.011 to 335.096, or of any lawful rule or regulation adopted pursuant to sections 335.011 to 335.096;
- (8) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;
- (9) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 335.011 to 335.096 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;
- (10) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;
- (11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 335.011 to 335.096 who is not registered and currently eligible to practice pursuant to sections 335.011 to 335.096;
- (12) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;
- (13) Violation of any professional trust or confidence;
- (14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(16) Placement on an employee disqualification list or other related restriction or finding pertaining to employment within a health-related profession issued by any state or federal government or agency following final disposition by such state or federal government or agency;

(17) Failure to successfully complete any impaired nurse, **intervention or alternative program for substance use disorder**;

(18) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208 or chapter 630, or for payment from Title XVIII or Title XIX of the federal Medicare program;

(19) Failure or refusal to properly guard against contagious, infectious, or communicable diseases or the spread thereof; maintaining an unsanitary office or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office of a physician or in any health care facility to the board, in writing, within thirty days after the discovery thereof;

(20) A pattern of personal use or consumption of any controlled substance **or any substance which requires a prescription** unless it is prescribed, dispensed, or administered by a provider who is authorized by law to do so **or a pattern of abuse of any prescription medication**;

(21) Habitual intoxication or dependence on alcohol, evidence of which may include more than one alcohol-related enforcement contact as defined by section 302.525;

(22) Failure to comply with a treatment program or an aftercare program entered into as part of a board order, settlement agreement, or licensee's professional health program.

(23) Failure to submit to a drug or alcohol screening when requested by an employer or by the Board of Nursing. Failure to submit to a drug or alcohol screening shall create the presumption that the test would have been positive for a drug for which the individual did not have a prescription in a drug screening or positive for alcohol in an alcohol screening;

(24) Adjudged by a court in need of a guardian or conservator, or both, obtaining a guardian or conservator, or both, and who has not been restored to capacity;

(25) Diversion or attempting to divert any medication, controlled substance or medical supplies;

(26) Failure to answer, failure to disclose or failure to fully provide all information requested on any application or renewal for a license. This includes disclosing all pleas of

guilt or findings of guilt in a case where the imposition of sentence was suspended, whether or not the case is now confidential;

(27) Physical or mental illness, including but not limited to deterioration through the aging process or loss of motor skill, or disability that impairs the licensee's ability to practice the profession with reasonable judgment, skill or safety. This does not include temporary illness which is expected to resolve within a short period of time;

(28) Any conduct that constitutes a serious danger to the health, safety, or welfare of a patient or the public.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

4. For any hearing before the full board, the board shall cause the notice of the hearing to be served upon such licensee in person or by certified mail to the licensee at the licensee's last known address. If service cannot be accomplished in person or by certified mail, notice by publication as described in subsection 3 of section 506.160 shall be allowed; any representative of the board is authorized to act as a court or judge would in that section; any employee of the board is authorized to act as a clerk would in that section.

5. An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the board after compliance with all the requirements of sections 335.011 to 335.096 relative to the licensing of an applicant for the first time.

6. The board may notify the proper licensing authority of any other state concerning the final disciplinary action determined by the board on a license in which the person whose license was suspended or revoked was also licensed of the suspension or revocation.

7. Any person, organization, association or corporation who reports or provides information to the board of nursing pursuant to the provisions of sections 335.011 to 335.259* and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

8. The board may apply to the administrative hearing commission for an emergency suspension or restriction of a license for the following causes:

(1) Engaging in sexual conduct ** as defined in section 566.010, with a patient who is not the licensee's spouse, regardless of whether the patient consented;

(2) Engaging in sexual misconduct with a minor or person the licensee believes to be a minor. "Sexual misconduct" means any conduct of a sexual nature which would be illegal under state or federal law;

(3) Possession of a controlled substance in violation of chapter 195 or any state or federal law, rule, or regulation, excluding record-keeping violations;

(4) Use of a controlled substance without a valid prescription;

(5) The licensee is adjudicated incapacitated or disabled by a court of competent jurisdiction;

(6) Habitual intoxication or dependence upon alcohol or controlled substances or failure to comply with a treatment or aftercare program entered into pursuant to a board order, settlement agreement, or as part of the licensee's professional health program;

(7) A report from a board-approved facility or a professional health program stating the licensee is not fit to practice. For purposes of this section, a licensee is deemed to have waived all objections to the admissibility of testimony from the provider of the examination and admissibility of the examination reports. The licensee shall sign all necessary releases for the board to obtain and use the examination during a hearing; or

(8) Any conduct for which the board may discipline that constitutes a serious danger to the health, safety, or welfare of a patient or the public.

9. The board shall submit existing affidavits and existing certified court records together with a complaint alleging the facts in support of the board's request for an emergency suspension or restriction to the administrative hearing commission and shall supply the administrative hearing commission with the last home or business addresses on file with the board for the licensee. Within one business day of the filing of the complaint, the administrative hearing commission shall return a service packet to the board. The service packet shall include the board's complaint and any affidavits or records the board intends to rely on that have been filed with the administrative hearing commission. The service packet may contain other information in the discretion of the administrative hearing commission. Within twenty-four hours of receiving the packet, the board shall either personally serve the licensee or leave a copy of the service packet at all of the licensee's current addresses on file with the board. Prior to the hearing, the licensee may file affidavits and certified court records for consideration by the administrative hearing commission.

10. Within five days of the board's filing of the complaint, the administrative hearing commission shall review the information submitted by the board and the licensee and shall determine based on that information if probable cause exists pursuant to subsection 8 of this section and shall issue its findings of fact and conclusions of law. If the administrative hearing commission finds that there is probable cause, the administrative hearing commission shall enter

the order requested by the board. The order shall be effective upon personal service or by leaving a copy at all of the licensee's current addresses on file with the board.

11. (1) The administrative hearing commission shall hold a hearing within forty-five days of the board's filing of the complaint to determine if cause for discipline exists. The administrative hearing commission may grant a request for a continuance, but shall in any event hold the hearing within one hundred twenty days of the board's initial filing. The board shall be granted leave to amend its complaint if it is more than thirty days prior to the hearing. If less than thirty days, the board may be granted leave to amend if public safety requires.

(2) If no cause for discipline exists, the administrative hearing commission shall issue findings of fact, conclusions of law, and an order terminating the emergency suspension or restriction.

(3) If cause for discipline exists, the administrative hearing commission shall issue findings of fact and conclusions of law and order the emergency suspension or restriction to remain in full force and effect pending a disciplinary hearing before the board. The board shall hold a hearing following the certification of the record by the administrative hearing commission and may impose any discipline otherwise authorized by state law.

12. Any action under this section shall be in addition to and not in lieu of any discipline otherwise in the board's power to impose and may be brought concurrently with other actions.

13. If the administrative hearing commission does not find probable cause and does not grant the emergency suspension or restriction, the board shall remove all reference to such emergency suspension or restriction from its public records. Records relating to the suspension or restriction shall be maintained in the board's files. The board or licensee may use such records in the course of any litigation to which they are both parties. Additionally, such records may be released upon a specific, written request of the licensee.

14. If the administrative hearing commission grants temporary authority to the board to restrict or suspend the nurse's license, such temporary authority of the board shall become final authority if there is no request by the nurse for a full hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the nurse named in the complaint, set a date to hold a full hearing under the provisions of chapter 621 regarding the activities alleged in the initial complaint filed by the board.

15. If the administrative hearing commission refuses to grant temporary authority to the board or restrict or suspend the nurse's license under subsection 8 of this section, such dismissal shall not bar the board from initiating a subsequent disciplinary action on the same grounds.

16. (1) The board may initiate a hearing before the board for discipline of any licensee's license or certificate upon receipt of one of the following:

(a) Certified court records of a finding of guilt or plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States for any offense involving the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(b) Evidence of final disciplinary action against the licensee's license, certification, or registration issued by any other state, by any other agency or entity of this state or any other state, or the United States or its territories, or any other country;

(c) Evidence of certified court records finding the licensee has been judged incapacitated or disabled under Missouri law or under the laws of any other state or of the United States or its territories.

(2) The board shall provide the licensee not less than ten days' notice of any hearing held pursuant to chapter 536.

(3) Upon a finding that cause exists to discipline a licensee's license, the board may impose any discipline otherwise available.

335.067 Impaired nurse program may be established by the board — purpose of program — contracts — immunity from liability, when — confidentiality of records. —

1. The state board of nursing may establish an intervention program and an alternative [~~impaired nurse~~] program to promote the [~~early~~] identification, intervention, treatment, and [~~rehabilitation~~] monitoring of nurses or applicants for a nursing license who may be impaired by reason[~~s of illness,~~] of substance abuse or the potential for substance abuse. [~~or as a result of any mental condition. This program shall be available to anyone holding a current license and may be entered voluntarily, as part of an agreement with the board of nursing, or as a condition of a disciplinary order entered by the board of nursing.~~]

2. The intervention program is available, upon board discretion, to licensees and applicants for licensure who self-refer, test positive in a pre-employment or for-cause drug or alcohol screen; individuals who have pled guilty to or been found guilty of any drug offense, whether felony or misdemeanor; or individuals who have pled guilty to or been found guilty of three or more criminal offenses resulting from or related to the use of drugs and/or alcohol, whether a felony or misdemeanors. The program shall be a minimum of one year in duration and require random drug and alcohol testing at the participant's expense.

3. The alternative program is available, upon board discretion, to licensees and applicants for licensure who admit to having a substance use disorder. The program shall be from three to five years in duration and at a minimum require random drug and alcohol testing at the participant's expense.

4. Upon receiving a complaint or an application, the board shall screen the information submitted to determine whether the individual may be eligible for the intervention or alternative program. If eligible for one of these programs, the board may contact the individual and offer the program. If accepted, the board and individual may enter into a written agreement setting forth the requirements of the program. If declined, the board may proceed with its regular process of investigating a complaint or application as set forth in this chapter and chapter 324. The board shall retain sole discretion to offer the program at any time.

5. Upon successful completion of the intervention or alternative program, the licensee will be deemed to have no disciplinary action against his or her license and will not be required to disclose participation in the program. All records shall be deemed confidential and not public records under chapter 610 and not subject to court or administrative subpoena or subject to discovery or introduction as evidence in any civil, criminal or administrative proceedings.

6. If a licensee or applicant violates any term of the intervention program and the licensee or applicant denies the violation, the board may convene a hearing, after due notice to the licensee or applicant to determine whether such violation has occurred. The hearing shall be confidential and not open to the public under chapter 610. Records from the program shall be deemed admissible in the hearing. If the licensee or applicant admits to the violation, no hearing is required to be held. If a violation is found by the board or admitted to by the licensee or applicant, the licensee's license shall be indefinitely suspended or the applicant's application will not be acted upon until the licensee or applicant continues to fully participate in the program, has one year with no positive drug or alcohol screens and completes a sobriety notebook. The licensee may then request that his or her license be reinstated or the applicant may then request the board act upon the application.

7. If a licensee does not successfully complete the intervention program, the board may pursue disciplinary action as set forth in section 335.066 and chapter 621. If the applicant does not successfully complete the intervention program, the board may issue an order pursuant to the provisions of chapters 324, 335, 536 and 621. Records from the program may be used as evidence in any such proceedings initiated under chapters 324, 335, 536 and 621. Any such licensee disciplined by the board pursuant to this section or applicant subject to an order pursuant to this section shall not be eligible to participate in the alternative program.

8. If a licensee or applicant violates any term of the alternative program and the licensee or applicant denies the violation, the board may convene a hearing, after due notice to the licensee or applicant, to determine whether such violation has occurred. The hearing shall be confidential and not open to the public under chapter 610. Records from the program shall be deemed admissible in the hearing. If the licensee or applicant admits to the violation, no hearing is required to be held. If a violation is found by the board or admitted to by the licensee or applicant, the licensee's license shall be indefinitely suspended or the applicant's application will not be acted upon until the licensee or applicant continues to fully participate in the program, has one year with no positive drug or alcohol screens, and completes a sobriety notebook. The licensee may then request that his or her license be reinstated or the applicant may then request the board act upon the application.

9. If a licensee does not successfully complete the alternative program, the board may pursue disciplinary action as set forth in section 335.066 and chapter 621. If the applicant does not successfully complete the alternative program, the board may issue an order pursuant to the provisions of chapters 324, 335 and 621. Records from the program may be used as evidence in any such proceedings conducted pursuant to the provisions of chapters 324, 335, 536 and 621.

~~[2]10. [The board may enter into a contractual agreement with a nonprofit corporation or a nursing association for the purpose of creating, supporting, and maintaining a program to be designated as the impaired intervention nurse program.]~~ The board may promulgate administrative rules subject to the provisions of this section and chapter 536 to effectuate and implement any programs formed pursuant to this section.

[3]11. The board may expend appropriated funds necessary to provide for operational expenses of the programs formed pursuant to this section.

[4]12. Any board member, board staff member, member of the programs, as well as any administrator, staff member, consultant, agent, or employee of the programs, acting within the scope of his or her duties and without actual malice, and all other persons who furnish information to the programs in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation, or action taken by the programs, ~~[or]~~ by any individual member of the programs, by any board member or by any board staff member.

[5]13. All information, interviews, reports, statements, memoranda, drug or alcohol testing results, or other documents furnished to or produced by the programs, as well as communications to or from the programs, any findings, conclusions, interventions, treatment, rehabilitation, or other proceedings of the program which in any way pertain to a licensee who

may be, or who actually is, impaired shall be privileged and confidential, except that the Board may share information with the licensee's employer or potential employer upon verification with the licensee that he or she is employed with the employer or actively seeking employment with the potential employer. Any records produced in conjunction with either program shall not be considered public records under chapter 610 and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal or administrative proceedings except as set forth below.

~~[6. All records and proceedings of the program which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the program and its members only in the exercise of the proper function of the program and shall not be considered public records under chapter 610 and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as provided in subsection 7 of this section.]~~

[7]14. ~~[The program shall disclose information]~~ Information may be disclosed relative to a ~~[n impaired]~~ licensee or applicant in either program only when:

(1) It is essential to disclose the information to further the intervention, treatment, or rehabilitation needs of the ~~[impaired]~~ licensee or applicant and only to those persons or organizations with a need to know;

(2) Its release is authorized in writing by the ~~[impaired]~~ licensee or applicant;

(3) A licensee has breached his or her contract with the program. ~~[In this instance, the breach may be reported only to the board of nursing];~~ or

(4) The information is subject to a court order.

15. The statute of limitations as set forth in 324.043, RSMo, shall be tolled while a licensee or applicant is participating in either the intervention program or the alternative program.

~~[8. When pursuing discipline against a licensed practical nurse, registered nurse, or advanced practice registered nurse for violating one or more causes stated in subsection 2 of section 335.066, the board may, if the violation is related to chemical dependency or mental health, require that the licensed practical nurse, registered nurse, or advanced practice registered nurse complete the impaired nurse program under such terms and conditions as are agreed to by the board and the licensee for a period not to exceed five years. If the licensee violates a term or condition of an impaired nurse program agreement entered into under this section, the board may elect to pursue discipline against the licensee pursuant to chapter 621~~

~~for the original conduct that resulted in the impaired nurse program agreement, or for any subsequent violation of subsection 2 of section 335.066. While the licensee participates in the impaired nurse program, the time limitations of section 620.154 shall toll under subsection 7 of section 620.154. All records pertaining to the impaired nurse program agreements are confidential and may only be released under subdivision (7) of subsection 14 of section 620.010.~~

~~9. The board may disclose information and records to the impaired nurse program to assist the program in the identification, intervention, treatment, and rehabilitation of licensed practical nurses, registered nurses, or advanced practice registered nurses who may be impaired by reason of illness, substance abuse, or as the result of any physical or mental condition. The program shall keep all information and records provided by the board confidential to the extent the board is required to treat the information and records closed to the public under chapter 620.]~~

BEFORE THE BOARD OF NURSING OF THE STATE OF MISSOURI

In the matter of:)
)
NAME)

NON-DISCIPLINARY CONSENT AGREEMENT

This matter is before the Missouri Board of Nursing ("Board") regarding NAME, RN/PN, (Licensee). Licensee knowingly and voluntarily waives the right to a formal hearing before the Administrative Hearing Commission and before the Board and any judicial review of such hearing(s) in the above-referenced matter. Both parties stipulate and agree to the findings of fact and conclusions of law recited herein and Licensee agrees to comply with the terms of this **AGREEMENT** in order to avoid the Board seeking formal discipline against Licensee's nursing license. By consent, Licensee also stipulates that she/he knowingly and voluntarily waives the right to appeal this **AGREEMENT** or challenge in any way the sufficiency of the findings of this **AGREEMENT**. Licensee also waives his/her right to claim attorney's fees and costs. Licensee admits and the Board finds that:

FINDINGS OF FACT

1. The Missouri Board of Nursing is a body duly organized under the Laws of Missouri and is the proper body for this proceeding under the authority granted it in Chapter 335 RSMo, and the rules and regulations promulgated thereunder for the protection of the public welfare.
2. Licensee is licensed by the Board as a registered professional nurse/licensed practical nurse, license number RN/PN. Licensee's license was current and active all times relevant herein.
3. On DATE, the Board received the following...
4. Licensee was employed at ?????.
5. On DATE, Licensee....
6. Licensee.....
7. Licensee's conduct as described herein constitutes.
8. On or about DATE, Licensee agreed to enter the Intervention Program (IP).
9. Licensee admits the allegations and stipulates that such allegations violate §§335.066.2 (1), (2) and (15) RSMo, as specified in the Findings of Fact and Conclusions of Law. In the event that the terms of the **AGREEMENT** are not fulfilled

and the Board files a violation complaint, Licensee stipulates that this Consent Agreement may be introduced into evidence as admitted facts.

CONCLUSIONS OF LAW

1. This matter is properly before the Board and the Board has jurisdiction over Licensee and the subject matter of this case.

2. Licensee's conduct, as set out in the findings of fact above, constitutes grounds for discipline/denial pursuant to §§335.066.2 (1), (2) and 15 RSMo as follows:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by sections 335.011 to 335.096 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, by the federal government, or by the department of health and senior services by regulation, regardless of impairment, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 335.011 to 335.096. A blood alcohol content of .08 shall create the presumption of impairment;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 335.011 to 225.096, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(15) Violation of the drug laws or rules and regulations of this state, or any other state or the federal government[.]

3. Grounds exist pursuant to §§335.066.2 (1), (2), and (15) RSMo for the Board to revoke or suspend/deny a license to practice nursing and invoke other such disciplinary measures such as censure or probative terms against a Licensee as it deems fit and proper.

Based upon the foregoing Findings of Fact and Conclusions of Law without further notice of proceedings, the Board and Licensee enter into the following Agreement:

ORDER AND TERMS OF AGREEMENT

1. Licensee agrees to enter into and fully comply with the Intervention Program (IP) and all of its terms and conditions.
2. This **AGREEMENT** shall take effect immediately upon its return to the Board office after proper execution by both the Licensee and the Board.
3. Licensee shall provide a valid email address to receive communications from Board staff. The email shall be set up so that messages from the Board will not go to the email account's junk mail folder.
4. It is the Licensee's responsibility to keep the Board informed of any change of address or email address immediately. Any notices sent to the Licensee's last known home and/or email address on file with the Board shall be deemed proper notice to Licensee of the notice of violation(s) and will start the time for filing an objection to the notice of any violation(s).
5. Contact information for the Board is as follows: Mail – 3605 Missouri Boulevard, P.O. Box 656, Jefferson City, MO 65102; email – nursingcompliance@pr.mo.gov; facsimile – 573-522-2143.
6. Licensee shall meet with the Director of Compliance when directed. Failure to meet with the Director of Compliance shall constitute a violation of this Agreement.
7. Licensee is responsible for all costs associated in participating in this Agreement.
8. Licensee shall keep the State Board of Nursing informed of Licensee's current place of employment and of any changes in Licensee's place of employment by notifying the Board within ten (10) working days of such a change. This form is located at <http://pr.mo.gov/boards/nursing/monitoring/Contact%20and%20Change%20of%20Information%20Form.pdf>.
9. During the IP period, Licensee shall abstain completely from the use or consumption of alcohol in any form, including over the counter products. The presence of any alcohol whatsoever in any biological sample obtained from the Licensee, regardless of the source, shall constitute a violation of Licensee's consent agreement.
10. During the IP period, Licensee shall abstain completely from the personal use or possession of any controlled substance or other drug for which a prescription is

required, unless use of the drug has been prescribed by a person licensed to prescribe such drug and with whom Licensee has a bona-fide relationship as a patient. Such prescribed drug shall only be consumed as directed and only for the condition for which it was prescribed. Licensee shall not consume hemp seeds/oil products or poppy seeds or any product or by-product containing the same. Licensee shall not ingest or consume synthetic drugs/cannabinoids; bath salts; foreign medications, teas, products; expired and/or outdated prescriptions; or illicit drugs or street drugs. An outdated prescription is deemed to be one (1) or more year old.

11. Licensee shall be subject to the conditions of the IP until Licensee successfully completes a minimum of one (1) year of successful drug screening.
12. In accordance with the Nurse Licensure Compact, the Licensee shall not practice in any other compact state while participating in the IP. Licensee shall maintain a current nursing license in the state of Missouri, which shall be deemed a single state license. If Licensee holds a multistate license, the multistate licensure privilege shall be deactivated during participation in the IP.
13. After successful completion of the IP, Licensee's license shall be fully restored and this shall not be deemed disciplinary action against Licensee's license and not subject to disclosure. Failure to comply with the IP may result in the Board pursuing formal disciplinary action against Licensee's nursing license.

AUTHORIZED DISCLOSURE AND CONFIDENTIALITY

1. Any and all information related to Licensee's participation in the program shall be confidential and not subject to disclosure to anyone except as set forth in §335.067 RSMo and this Agreement. Any and all records produced in conjunction with the IP are not public records and not subject to court subpoena or subject to discovery or subject to introduction as evidence in any civil, criminal or administrative proceedings except to the extent authorized by §335.067 RSMo.
2. Licensee understands that any and all records of his/her participation in the IP will be disclosed and are admissible without objection in any administrative or judicial proceedings.
3. Licensee understands that, pursuant to the Nurse Licensure Compact, the Board may share information with other state boards of nursing.
4. Licensee understands that information pertaining to this program may be disclosed to further the intervention, treatment or rehabilitation needs of Licensee and only to those organizations with a need to know.
5. Licensee may authorize, in writing, the release of any information.

6. Licensee understands that information pertaining to this program may be disclosed if the Board is court ordered to release the information.

DRUG SCREENINGS

1. Licensee shall contract with the Board's third-party administrator (TPA) for drug and alcohol screening within three business days of the effective date of this agreement.
2. Licensee's failure to comply with the Licensee's contract with the TPA shall constitute a violation of the terms of the consent agreement.
3. Licensee shall follow the instructions of the TPA to contact the TPA each day of the week, including weekends, holidays, and each day that the licensee is on vacation. Licensee shall fully complete the contact to the TPA pursuant to the requirements of the TPA. Failure to do so shall constitute a violation of the terms of the consent agreement.
4. Failure to complete the contact with the TPA as required by the TPA in the contract shall constitute a violation of the consent agreement.
5. If selected by the TPA, Licensee shall submit to drug and alcohol screening prior to a collection site closing for business on the day that Licensee is selected to be tested. Licensee shall report to the collection site in sufficient time as to allow a collection site adequate time to retrieve the sample prior to the close of its business hours.
6. Failure to timely submit to drug and alcohol screening by the end of the business day of the collection site when selected by the TPA shall constitute a violation of the consent agreement.
7. It is Licensee's responsibility to assure that lab personnel observe all urine specimen collections. This requires direct observation of the urine sample exiting the body of Licensee. If the urine specimen collection is not observed, the Board, in its discretion, may consider the results to be invalid.
8. Licensee shall show this agreement to any healthcare professional prescribing a prescription for Licensee and inform the healthcare professional of Licensee's participation in the IP.
9. Upon request, Licensee shall execute a medical release authorizing the Board to access all records pertaining to Licensee's condition, treatment and prescription(s) maintained by the healthcare professional that prescribed the controlled substance.

10. The presence of any controlled substance or other drug requiring a prescription whatsoever in any biological sample obtained from the Licensee for which Licensee does not hold a valid prescription or was not consumed for the purpose for which it was prescribed shall constitute a violation of Licensee's consent agreement.
11. If Licensee receives a prescription for a controlled substance or any other drug, Licensee shall have the prescribing healthcare professional fill out and send to the Board office a prescription identification form the same day the controlled substance or other drug is prescribed. Licensee shall inform each healthcare professional who prescribes a controlled substance or other drug of each and every prescription Licensee received sixty (60) days prior to obtaining the new prescription. All such prescriptions shall be listed on the prescription identification form.
12. Urine samples with creatinine readings below 20 are deemed diluted specimens and will be considered failed drug and alcohol tests by the Board and a violation of the terms of the consent agreement.

MEDICAL TREATMENT AND REPORTING REQUIREMENTS

1. Any medication, whether controlled or non-controlled under state or federal law, that has been prescribed on a PRN basis must be verified on a prescription identification form. The form is available from the Board at <https://pr.mo.gov/nursing-monitoring.asp>. A prescription for a PRN medication of any kind will only be considered valid for a period of one (1) year and may only be used for the purpose prescribed/recommended.
2. Licensee must inform the Director of Compliance of all prescribed medications as well as over the counter medications taken by Licensee. Some over the counter medications including vitamins and herbs may affect the results of drug screens, some food and beverage supplements could affect drug screens and Licensee should carefully read all ingredients before consuming or using or consult with a treating practitioner before use. A positive drug screen due to these medications/supplements will be a violation of the consent agreement. Read all ingredients before consuming or using a product.
3. Licensee shall submit documentation of all prescription medications, whether controlled or non-controlled pursuant to state or federal law, to the Director of Compliance and the TPA within five (5) business days of receipt, for the duration of the IP. Licensee shall submit a written statement to the Director of Compliance within seventy-two (72) hours of taking any antihistamine, cough syrup and/or decongestant medication that may be purchased over the counter.

4. License shall notify the Director of Compliance by telephone within twenty-four (24) hours and in writing via email, facsimile, or US mail postmarked within five (5) days of:
 - a. Any charge(s) of DWI/DUI, including a municipal charge;
 - b. Any charge(s) of a misdemeanor or felony (other than a minor traffic violation);
 - c. The final disposition of any charges; and
 - d. Licensee shall provide certified records from the Court(s) of any final disposition of the charge(s).

5. Licensee shall notify the Director of Compliance of the following in writing, by facsimile, by email, or by mail (US mail, UPS or FedEx) postmarked within the time frames set forth below:
 - a. Any hospitalization for any reason within 24 hours of being admitted;
 - b. Any urgent care and emergency department visits within 24 hours of visit;
 - c. Any scheduled surgical procedures, regardless of setting, within 24 hours of the surgery being scheduled;
 - d. Any admittance into any treatment facility, whether in-patient or out-patient;
 - e. Any change in name, address or telephone number within five (5) days of the change; and
 - f. Any planned travel out of country. Monitoring time will stop while out of country and will resume upon return.

VIOLATION(S) OF AGREEMENT

1. If during the period of this **AGREEMENT** Board staff receives evidence that the Licensee has violated any of the above conditions and Board staff determines that such violation(s) has occurred, then Board staff may suspend the license indefinitely if Licensee admits the violation or after a hearing before the Board if the violation is properly denied and the Board finds that Licensee violated any conditions. The License shall be suspended until Licensee continues to fully participate in the program, including checking in with the third-party administrator every day and submitting to testing when selected, has one (1) year with no positive drug or alcohol screens, and completes a sobriety notebook. The licensee may then request the license be reinstated.

2. If Licensee requests the license be reinstated, the required sobriety notebook shall include:
 - a. Current resume and documentation of all employment since the suspension of the license;
 - b. Documentation of substance abuse treatment(s) received with admission and discharge summaries;
 - c. Letter from substance abuse counselor detailing aftercare participation;
 - d. A written relapse prevention plan;

- e. An evaluation, completed within the two (2) months prior to submission of the notebook, by a Board participating addictionologist and evidence of compliance with all recommendations;
 - f. A minimum of one (1) full year support group (AA/NA, other) participation with a minimum of three (3) meetings per week and a letter from Sponsor;
 - g. A minimum of one (1) year of clean/non-failed drug screens through the Board's third-party administrator;
 - h. Certified criminal record documents and signed attestation regarding history of criminal convictions;
 - i. Criminal background check (fingerprint), completed within the three (3) months prior to submission of the notebook;
 - j. Letters from all health care providers documenting knowledge of substance use disorder, diagnosis, prognosis and medications prescribed;
 - k. Pharmacy profile from all pharmacies used in the year prior to submission of the notebook;
 - l. Any other documentation requested by the Board.
3. If Board staff determines that Licensee has violated any of the above terms or conditions, Licensee shall be notified in writing at the last known address on file with the Board of the alleged violations by overnight mail via US mail, UPS or FedEx and by email. It is Licensee's responsibility to keep the Board informed of any change of address or email address immediately. Any notices sent to the Licensee's last known home and/or email address on file with the Board shall be deemed proper notice to Licensee of the notice of violation(s) and will start the time for filing an objection to the notice of any violation(s).
 4. In the event the Board staff determines that Licensee has violated any of the conditions of this **AGREEMENT**, and the Licensee disputes that such a violation of the condition(s) has occurred, Licensee must file such objection in writing with the Board **WITHIN TEN (10) BUSINESS DAYS** of the date of the notice of violations to Licensee. The notice of objection to the Board shall contain with specificity the violations disputed. Failure to submit a timely notice of objection shall constitute a waiver of Licensee's right to dispute the Board determination. The objection may be filed in writing with the Board by mail (USPS, UPS or FedEx) to 3605 Missouri Boulevard, P.O. Box 656, Jefferson City, MO 65102; via email to nursingcompliance@pr.mo.gov; or by facsimile to 573-522-2143. The objection must be signed by Licensee. If mailed, the objection must be postmarked within ten (10) business days of the date of notice of the violation(s) was sent to Licensee.
 5. When proper notice of an objection has been filed with the Board, Licensee will be provided a hearing before the Board at the next available Board meeting for which appropriate notice can be provided, or scheduled by consent of the parties. Licensee understands that all records from his or her participation in the IP shall be admissible in any proceeding without objection.

6. If Licensee does not successfully complete the IP, the Board may pursue disciplinary action against Licensee's nursing license pursuant to the provisions in §§335.066 and Chapter 621 RSMo. Licensee understands that any and all records of Licensee's participation in the IP are admissible in any proceedings without objection.
7. Licensee understands that he/she is not eligible to participate in the Alternative Program if the IP is not successfully completed and disciplinary action pursuant to a Board Order is taken against the license.
8. Licensee understands that he/she is not eligible to participate in the IP again if the program is not successfully completed.

LICENSEE WITHDRAWAL FROM PROGRAM

1. Licensee may terminate this **AGREEMENT** at any time by submitting a signed and notarized Consent to Withdraw form. Withdrawal from this **AGREEMENT** will result in the Board pursuing disciplinary action against the nursing license pursuant to §§335.066 and chapter 621 RSMo, as the Board deems appropriate. Licensee understands that all records of participation in the IP will be admissible in any administrative or judicial proceeding without objection.
2. Licensee understands that she/he will not be eligible for the Alternative Program if this Agreement is terminated by Licensee.

SUCCESSFUL COMPLETION OF INTERVENTION PROGRAM

1. After full and successful compliance with the IP, Licensee may request that his/her license be reinstated and the multistate licensure privilege be restored if otherwise eligible.

STATUTE OF LIMITATIONS

1. Licensee understands that the statute of limitations set forth in §324.043 RSMo is tolled while participating in the IP.

RELEASE OF LIABILITY

1. Licensee understands and releases any Board member, Board staff member, members of the program, as well as any administrator, staff member, consultant, agent, or employee of the IP, acting within the scope of his or her duties and without actual malice, and all other persons who furnish information to the program in good faith and without actual malice, from any liability for any claim of damages as a result of any statement, decision, opinion, investigation or action

taken by the program or by any individual member of the program, by any board member or by any board staff member.

LICENSEE

BOARD OF NURSING

RN/PN

LORI SCHEIDT,
EXECUTIVE DIRECTOR

DATE: _____

DATE: _____

drug(s) of choice, including alcohol, and/or any drugs, including alcohol, Licensee has used.

9. Upon request, Licensee shall execute a medical release authorizing the Board to access all records pertaining to Licensee's condition, treatment and prescription(s) maintained by the healthcare professional that prescribed the controlled substance.
10. The presence of any controlled substance or other drug requiring a prescription whatsoever in any biological sample obtained from the Licensee/ for which Licensee does not hold a valid prescription or was not consumed for the purpose for which it was prescribed shall constitute a violation of Licensee's consent agreement.
11. If Licensee receives a prescription for a controlled substance or any other drug, Licensee shall have the prescribing healthcare professional fill out and send to the Board office a prescription identification form the same day the controlled substance or other drug is prescribed. Licensee shall inform each healthcare professional who prescribes a controlled substance or other drug of each and every prescription Licensee received sixty (60) days prior to obtaining the new prescription. All such prescriptions shall be listed on the prescription identification form.
12. Urine samples with creatinine readings below 20 are deemed diluted specimens and will be considered failed drug and alcohol tests by the Board and a violation of the terms of the consent agreement.

MEDICAL TREATMENT AND REPORTING REQUIREMENTS

1. Licensee agrees to have only one primary care provider/group (PCP), dentist and pharmacy while participating in the AP. Licensee will notify his/her PCP and dentist of participation in the AP and will require they submit the appropriate health care acknowledgement form to the Board office within ninety (90) days or within five (5) days of obtaining any medical/dental care, whichever comes first.
2. Any medication, whether controlled or non-controlled under state or federal law, that has been prescribed on a PRN basis must be verified on a prescription identification form. The form is available from the Board at <https://pr.mo.gov/nursing-monitoring.asp>. A prescription for a PRN medication of any kind will only be considered valid for a period of one (1) year and may only be used for the purpose prescribed/recommended.
3. Licensee must abstain completely from the use of all the following substances unless prescribed for Licensee for a medical condition by a licensed practitioner who is knowledgeable of the Licensee's substance use disorder. Licensee must be a bona-fide patient of any and all licensed health care practitioner(s)

prescribing controlled and non-controlled medications. Controlled and/or potentially abusable medications include, but are not limited to:

- a. all opioid medications
 - b. barbiturates
 - c. sedative-hypnotics
 - d. benzodiazepines
 - e. tranquilizers
 - f. stimulants
4. Licensee shall not use the following:
- a. poppy seeds and hemp seeds/oil products
 - b. products containing ethyl alcohol; i.e. vanilla extract, cooking wine, communion wine, cough syrups including Nyquil, and hand sanitizers
 - c. all alcoholic beverages including Near Beer, non-alcoholic beer or similar products
 - d. unauthorized controlled medications or other abusable or potentially abusable medications
 - e. expired and/or outdated prescriptions
 - f. foreign medications/teas/products
 - g. illicit drugs/street drugs
5. Licensee must inform the Director of Compliance of all prescribed medications as well as over the counter medications taken by Licensee. Some over the counter medications including vitamins and herbs may affect the results of drug screens, some food and beverage supplements could affect drug screens and Licensee should carefully read all ingredients before consuming or using or consult with a treating practitioner before use. A positive drug screen due to these medications/supplements will be a violation of the consent agreement. Read all ingredients before consuming or using a product.
6. Licensee shall submit documentation of all prescription medications, whether controlled or non-controlled pursuant to state or federal law, to the Director of Compliance and the TPA within five (5) business days of receipt, for the duration of the IP. Licensee shall submit a written statement to the Director of Compliance within seventy-two (72) hours of taking any antihistamine, cough syrup and/or decongestant medication that may be purchased over the counter.
7. If Licensee experiences chronic pain due to injury or a debilitating disease process, Licensee shall have a pain management physician/addictionologist submit documentation regarding Licensee's diagnosis, plan of care, compliance with treatment, copy of any pain management contract(s), and a letter verifying that Licensee is safe to practice as a nurse while on the prescribed medication. An updated report from the pain management specialist and/or addictionologist must be submitted at least three times per year according to the documentation submission schedule, which shall be set by the Board.

8. License shall notify the Director of Compliance by telephone within twenty-four (24) hours and in writing via email, facsimile, or US mail postmarked within five (5) days of:
 - a. Any charge(s) of DWI/DUI, including a municipal charge;
 - b. Any charge(s) of a misdemeanor or felony (other than a minor traffic violation);
 - c. The final disposition of any charges; and
 - d. Licensee shall provide certified records from the Court(s) of any final disposition of the charge(s).

9. Licensee shall notify the Director of Compliance of the following in writing, by facsimile, by email, or by mail (US mail, UPS or FedEx) postmarked within the time frames set forth below:
 - a. Any hospitalization for any reason within 24 hours of being admitted;
 - b. Any urgent care and emergency department visits within 24 hours of visit;
 - c. Any scheduled surgical procedures, regardless of setting, within 24 hours of the surgery being scheduled;
 - d. Any admittance into any treatment facility, whether in-patient or out-patient;
 - e. Any change in name, address or telephone number within five (5) days of the change; and
 - f. Any planned travel out of country. Monitoring time will stop while out of country and will resume upon return.

10. Licensee shall immediately report relapse to the Director of Compliance by telephone within twenty-four (24) hours **AND** in writing within three (3) days. Relapse shall be grounds for termination of the AP and suspension of Licensee's license.

11. Licensee shall seek approval from the Director of Compliance before accepting unlicensed healthcare related employment for the duration of the AP. Licensee may NOT be employed in any position providing access to or accountability for controlled substances or prescription pads.

VIOLATION(S) OF AGREEMENT

1. If during the period of this **AGREEMENT** Board staff receives evidence that the Licensee has violated any of the above conditions and Board staff determines that such violation(s) has occurred, then Board staff may suspend the license indefinitely if Licensee admits the violation or after a hearing before the Board if the violation is properly denied and the Board finds that Licensee violated any conditions. The Licensee's license shall be suspended for a minimum of twelve (12) months. Licensee may apply to have his/her license reinstated after having at least one (1) year with no positive drug or alcohol screens and completes a sobriety notebook.

2. If Licensee requests the license be reinstated, the required sobriety notebook shall include:
 - a. Current resume and documentation of all employment since the suspension of the license;
 - b. Documentation of substance abuse treatment(s) received with admission and discharge summaries;
 - c. Letter from substance abuse counselor detailing aftercare participation;
 - d. A written relapse prevention plan;
 - e. An evaluation, completed within the two (2) months prior to submission of the notebook, by a Board participating addictionologist and evidence of compliance with all recommendations;
 - f. A minimum of one (1) full year support group (AA/NA, other) participation with a minimum of three (3) meetings per week and a letter from Sponsor;
 - g. A minimum of one (1) year of clean/non-failed drug screens through the Board's third-party administrator;
 - h. Certified criminal record documents and signed attestation regarding history of criminal convictions;
 - i. Criminal background check (fingerprint), completed within the three (3) months prior to submission of the notebook;
 - j. Letters from all health care providers documenting knowledge of substance use disorder, diagnosis, prognosis and medications prescribed;
 - k. Pharmacy profile from all pharmacies used in the year prior to submission of the notebook;
 - l. Any other documentation requested by the Board.
3. If Board staff determines that Licensee has violated any of the above terms or conditions, Licensee shall be notified in writing at the last known address on file with the Board of the alleged violations by overnight mail via US mail, UPS or FedEx and by email. It is Licensee's responsibility to keep the Board informed of any change of address or email address immediately. Any notices sent to the Licensee last known home and/or email address on file with the Board shall be deemed proper notice to Licensee of the notice of violation(s) and will start the time for filing an objection to the notice of any violation(s).
4. In the event the Board staff determines that Licensee has violated any of the conditions of this **AGREEMENT**, and the Licensee disputes that such a violation of the condition(s) has occurred, Licensee must file such objection in writing with the Board **WITHIN TEN (10) BUSINESS DAYS** of the date of the notice of violations to Licensee. The notice of objection to the Board shall contain with specificity the violations disputed. Failure to submit a timely notice of objection shall constitute a waiver of Licensee right to dispute the Board determination. The objection may be filed in writing with the Board by mail (USPS, UPS or FedEx) to 3605 Missouri Boulevard, P.O. Box 656, Jefferson City, MO 65102; via email to nursingcompliance@pr.mo.gov; or by facsimile to 573-522-2143. The objection must be signed by Licensee. If mailed, the objection must be

postmarked within ten (10) business days of the date of notice of the violation(s) was sent to Licensee.

5. When proper notice of an objection has been filed with the Board, Licensee will be provided a hearing before the Board at the next available Board meeting for which appropriate notice can be provided, or scheduled by consent of the parties. Licensee understands that all records from his or her participation in the AP shall be admissible in any proceeding without objection.
6. Licensee shall have an evaluation by a Board approved addictionologist prior to being considered for reinstatement of the license. Licensee shall follow any and all recommendations by the addictionologist.
7. If Licensee does not successfully complete the AP, the Board may pursue disciplinary action against Licensee's nursing license pursuant to the provisions in §§335.066 and Chapter 621 RSMo. Licensee understands that any and all records of Licensee's participation in the AP are admissible in any proceedings without objection. If the license is suspended for failure to comply with the conditions of this **AGREEMENT** or Licensee withdraws from participation in the AP, the suspension becomes a disciplinary action. All disciplinary actions taken by the Board will be reported to the appropriate entities as outlined in Board policy and as required by state and/or federal guidelines. Those entities include, but are not limited to, NURSIS, National Practitioner Data Bank (NPDB), the Office of the Inspector General (OIG) and any other jurisdiction in which the Licensee is or has been licensed.
8. Licensee understands that he/she is not eligible to participate in the Intervention Program if the AP is not successfully completed and disciplinary action pursuant to a Board Order is taken against the license.
9. Licensee understands that he/she is not eligible to participate in the AP again if the program is not successfully completed.

LICENSEE WITHDRAWAL FROM PROGRAM

1. Licensee may terminate this **AGREEMENT** at any time by submitting a signed and notarized Consent to Withdraw form. Withdrawal from this **AGREEMENT** will result in the Board pursuing disciplinary action against the nursing license pursuant to §§335.066 and chapter 621 RSMo, as the Board deems appropriate.
2. Licensee understands that she/he will not be eligible for the Alternative or Intervention Program if this Agreement is terminated by Licensee.

SUCCESSFUL COMPLETION OF ALTERNATIVE PROGRAM

1. After full and successful compliance with the AP, Licensee may request that his/her license be reinstated and the multistate licensure privilege be restored if otherwise eligible.

STATUTE OF LIMITATIONS

1. Licensee understands that the statute of limitations set forth in §324.043 RSMo is tolled while participating in the AP.

RELEASE OF LIABILITY

1. Licensee understands and releases any Board member, Board staff member, members of the program, as well as any administrator, staff member, consultant, agent, or employee of the AP, acting within the scope of his or her duties and without actual malice, and all other persons who furnish information to the program in good faith and without actual malice, from any liability for any claim of damages as a result of any statement, decision, opinion, investigation or action taken by the program or by any individual member of the program, by any board member or by any board staff member.

LICENSEE

BOARD OF NURSING

RN/PN

LORI SCHEIDT,
EXECUTIVE DIRECTOR

DATE: _____

DATE: _____

BEFORE THE BOARD OF NURSING OF THE STATE OF MISSOURI

In the matter of:)
NAME) Case No:
)

NON-DISCIPLINARY CONSENT AGREEMENT

This matter is before the Missouri Board of Nursing ("Board") regarding NAME, RN/PN, (Licensee). Licensee knowingly and voluntarily waives the right to a formal hearing before the Administrative Hearing Commission and before the Board and any judicial review of such hearing(s) in the above-referenced matter. Both parties stipulate and agree to the findings of fact and conclusions of law recited herein and Licensee agrees to comply with the terms of this **AGREEMENT** in order to avoid the Board seeking formal discipline against Licensee's nursing license. Licensee also stipulates that she/he knowingly and voluntarily waives the right to appeal this **AGREEMENT** or challenge in any way the sufficiency of the findings of this **AGREEMENT**. Licensee also waives his/her right to claim attorney's fees and costs. Licensee admits and the Board finds that:

FINDINGS OF FACT

1. The Missouri Board of Nursing is a body duly organized under the Laws of Missouri and is the proper body for this proceeding under the authority granted it in Chapter 335 RSMo, and the rules and regulations promulgated thereunder for the protection of the public welfare.
2. Licensee is licensed by the Board as a registered professional nurse/licensed practical nurse, license number RN/PN. Licensee's license was current and active all times relevant herein.
3. On DATE, the Board received the following complaint.
4. Licensee was employed at ??????
5. On DATE, Licensee.
6. Licensee.
7. Licensee's conduct as described herein constitutes.
8. Licensee admits that he/she has a substance abuse disorder
9. On or about DATE, Licensee agreed to enter the Alternative Program (AP).

10. Licensee admits the allegations and stipulates that such allegations violate §§335.066.2 (1), (2) and (15) RSMo, as specified in the Findings of Fact and Conclusions of Law. In the event that the terms of the **ORDER** are not fulfilled and the Board files a violation complaint, Licensee stipulates that this Consent Agreement may be introduced into evidence as admitted facts.

CONCLUSIONS OF LAW

1. This matter is properly before the Board and the Board has jurisdiction over Licensee and the subject matter of this case.

2. Licensee's conduct, as set out in the findings of fact above, constitutes grounds for discipline/denial pursuant to §§335.066.2 (1), (2) and 15 RSMo as follows:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by sections 335.011 to 335.096 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use or unlawful possession of any controlled substance, as defined in chapter 195, by the federal government, or by the department of health and senior services by regulation, regardless of impairment, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 335.011 to 335.096. A blood alcohol content of .08 shall create the presumption of impairment;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 335.011 to 225.096, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(15) Violation of the drug laws or rules and regulations of this state, or any other state or the federal government[.]

3. Grounds exist pursuant to §§335.066.2 (1), (2), and (15) RSMo for the Board to revoke or suspend/deny a license to practice nursing and invoke other such disciplinary measures such as censure or probative terms against a Licensee as it deems fit and proper.

Based upon the foregoing Findings of Fact and Conclusions of Law without further notice of proceedings, the Board and Licensee enter into the following Agreement:

ORDER AND TERMS OF AGREEMENT

1. Licensee agrees to enter into and fully comply with the Alternative Program (AP) and all of its terms and conditions.
2. This **AGREEMENT** shall take effect immediately upon its return to the Board office after proper execution by both the Licensee and the Board.
3. Licensee shall provide a valid email address to receive communications from Board staff. The email shall be set up so that messages from the Board will not go to the email account's junk mail folder.
4. It is Licensee's responsibility to keep the Board informed of any change of address or email address immediately. Any notices sent to the Licensee's last known home and/or email address on file with the Board shall be deemed proper notice to Licensee of the notice of violation(s) and will start the time for filing an objection to the notice of any violation(s).
5. Licensee shall meet with the Director of Compliance when directed. Failure to meet with the Director of Compliance shall constitute a violation of this Agreement.
6. Licensee is responsible for all costs associated in participating in this Agreement.
7. Licensee shall be subject to the conditions of the AP until Licensee completes a minimum of three (3) years of satisfactory employment in a licensed nursing position in Missouri or after five (5) years of drug screening.

SUBSTANCE USE DISORDER ASSESSMENT AND TREATMENT

1. Licensee agrees that, upon execution of this Agreement, Licensee's license shall be suspended for a minimum of three (3) months or until the Board receives evidence that the licensee has submitted to an assessment from an American Society of Addiction Medicine (ASAM) board certified addictionologist and is safe to practice nursing.
 - a. Licensee shall show this agreement to the addictionologist before the assessment is performed.
 - b. The assessment should probe related problem areas such as:
 1. Medical history, including status and problems;
 2. Psychological status and psychiatric disorders
 3. Psychosocial problems and social functioning;
 4. Family history and peer relations;

5. Educational and job performance;
 6. Administrative, criminal or delinquent behaviors and legal problems;
 7. Types of drugs and/or alcohol used;
 8. Frequency and patterns of use;
 9. Severity of addiction, including history of previous treatment;
 10. Motivation to participate in treatment or readiness for treatment;
 11. Socioeconomic status and problems;
 12. Withdrawal symptoms;
 13. Other concurrent addictions, i.e., eating disorders, gambling, smoking, etc.;
 14. The nurse's needs, support systems, financial resources, and insurance coverage.
- c. Licensee shall have the addictionologist send the results of the assessment in a written report directly to the State Board of Nursing, Attn: Director of Compliance, P.O. Box 656, Jefferson City, Missouri 65102; by fax to 573-522-2143; or by email to nursingcompliance@pr.mo.gov within ten (10) working days after the evaluation is complete.
 - d. The written report shall include:
 1. Confirmation that the addictionologist has reviewed this Agreement as part of his/her evaluation;
 2. A description of what neuropsychiatric and/or psychometric tests were conducted and the test results (minimum of two required);
 3. Discussion of relevant clinical interview findings/interpretations;
 4. Specification of DSM (most current version) diagnosis/es; and
 5. Discussion of appropriate treatment recommendations/plan. If there is no diagnosis requiring treatment, this should be specified in the evaluation.
 6. Evaluation of suitability for and the timing of return to nursing practice
 - e. If the assessment states that Licensee is not safe to practice nursing, Licensee's license shall remain suspended and Licensee shall not:
 - i. Seek employment in a licensed nursing position;
 - ii. Use the title of RN, LPN, or APRN;
 - iii. Use a position title in any mode of communication (electronic, verbal or print) conferring the requirement for RN, LPN or APRN;
 - iv. Participate in education or training programs requiring an RN or LPN license.
2. Licensee shall enter treatment for a Substance Use Disorder within ten (10) days of the effective date of this Agreement.
 - a. The treatment facility staff and services must have:

- i. Licensure and/or accreditation by appropriate regulatory agencies;
 - ii. Sufficient resources available to adequately evaluate the physical and mental needs of the client and provide for safe detoxification and manage any medical emergency;
 - iii. Professional staff who are competent and experienced members of the clinical staff;
 - iv. Treatment planning involving a multidisciplinary approach and specific aftercare plans; and
 - v. Means to provide treatment or progress documentation to the Director of Compliance.
 - b. Facility treatment providers must incorporate the following recovery program components and philosophies:
 - i. Use a 12-step recovery model with 12-step group participation as a treatment expectation or comparable substitute;
 - ii. Advocate total abstinence from mood- or mind-altering drugs, including alcohol;
 - iii. Offer educational components to address, at a minimum, the disease concepts, recovery process and recovery-oriented lifestyle changes;
 - iv. Use a variety of therapeutic modalities to meet the treatment needs of clients which may include group therapy, individual counseling, lectures, family or couples therapy, written materials and written assignments; and
 - v. Use treatment plans which reflect client-specific assessment recommendations.
 - c. Licensee shall sign a release of information to permit the treatment facility to share treatment records with the Board and to discuss issues relating to Licensee's Substance Use Disorder and recovery program with the Board. Licensee must have the treatment facility submit a copy of the intake assessment, treatment plan and evidence that the Licensee has entered treatment within ten (10) business days of signing this Agreement. This should be sent directly to the State Board of Nursing, Attn: Director of Compliance, P.O. Box 656, Jefferson City, MO 65102; by fax to 573-522-2143; or by email to nursingcompliance@pr.mo.gov.
 - d. Licensee shall participate and successfully complete all conditions of treatment set forth by the treatment facility.
3. The AP requires participation in aftercare for a minimum of one (1) year following initial treatment. Aftercare involves a minimum of three (3) in-person meetings per week.
 - a. Licensee shall participate in an approved self-help recovery program, Alcoholics Anonymous (AA) and/or Narcotics Anonymous (NA). Participation requires a minimum of three (3) in-person meetings per week and evidence of working with a Sponsor. A self-help recovery program other than AA or NA must be approved in writing by a Board approved treatment facility and the Board. Licensee shall be subject to the

conditions of the AP for a minimum of one three (3) years of successful drug screening.

- b. Licensee shall submit evidence of attendance to the Board at such times as required by the Board, but not less than quarterly. The documentation shall include the date and name of the meeting and shall bear a signature or abbreviated signature of another person verifying attendance. Documentation should be sent to the State Board of Nursing, Attn: Director of Compliance, P.O. Box 656, Jefferson City, MO 65102; by fax to 573-522-2143; or by email to nursingcompliance@pr.mo.gov.

4. Licensee shall submit a Re-entry to Nursing Practice packet to request the suspension be lifted and to return to nursing practice. The earliest Licensee may submit the request is three (3) months from the date he/she entered treatment with evidence of a minimum of two (2) months of satisfactory drug screening. Noncompliance shall delay Licensee's eligibility to request re-entry to practice. Licensee may be required to meet with the Director of Compliance prior to being considered for approval to return to practice.
 - a. Licensee shall submit a criminal background check prior to approval to re-enter nursing practice if the license has been suspended for six (6) months or more from the date of this agreement. The criminal background check shall be valid for one (1) year from the date of the criminal background check report.
5. During the AP period, Licensee shall abstain completely from the use or consumption of alcohol in any form, including over the counter products. The presence of any alcohol whatsoever in any biological sample obtained from the Licensee, regardless of the source, shall constitute a violation of Licensee's consent agreement.
6. During the AP period, Licensee shall abstain completely from the personal use or possession of any controlled substance or other drug for which a prescription is required, unless use of the drug has been prescribed by a person licensed to prescribe such drug and with whom Licensee has a bona-fide relationship as a patient. Such prescribed drug shall only be consumed as directed and only for the condition for which it was prescribed. Licensee shall not consume hemp seeds/oil products or poppy seeds or any product or by-product containing the same. Licensee shall not ingest or consume synthetic drugs/cannabinoids; bath salts; foreign medications, tea, products; expired and/or outdated prescriptions; or illicit drugs or street drugs. An outdated prescription is deemed to be one or more year old.
7. Licensee shall be subject to the conditions of the AP until Licensee completes a minimum of three (3) years of satisfactory employment in a licensed nursing position in Missouri or after five (5) years of drug screening.

8. After successful completion of the AP, Licensee's license shall be fully restored and this shall not be deemed disciplinary action against Licensee's license and not subject to disclosure. Failure to comply with the AP may result in the Board pursuing formal disciplinary action against Licensee's nursing license.

EMPLOYMENT REQUIREMENTS

1. Licensee shall keep the State Board of Nursing informed of Licensee's current place of employment and of any changes in Licensee place of employment by notifying the Board within ten (10) working days of such a change. This form is located at
<http://pr.mo.gov/boards/nursing/monitoring/Contact%20and%20Change%20of%20Information%20Form.pdf>.
 - a. If Licensee seeks employment in a nursing position, he/she must inform the Director of Compliance within ten (10) working days of applying for a position.
2. Licensee shall provide a copy of this Consent Agreement to any current nursing employer and to any potential nursing employer. Licensee shall provide a copy of this Consent Agreement to Licensee's current nursing employer as soon as it is received and no later than during Licensee's next work shift or the employer's next working day, whichever is sooner. In addition, Licensee shall provide a copy of this Consent Agreement to any potential nursing employer prior to acceptance of any offer of employment. In the event that Licensee is enrolled or attempts to enroll in nursing school during the monitoring period, Licensee shall provide a copy of this Consent Agreement to the school as soon as it is received or the next class day or upon attempting to enroll.
3. Licensee shall cause an evaluation, using the form supplied by the Board, from each and every nursing employer to be completed for the Board at least quarterly, with due dates to be determined by the Board. The evaluation form shall be completed by Licensee's supervisor within a four-week period prior to the date it is due. If Licensee ends employment with an employer, Licensee shall, in addition request that a final evaluation form from that supervisor to be submitted to the Board within a six-week period following the last day of employment. This evaluation shall be an evaluation of Licensee's job performance and shall be sent to: State Board of Nursing, Attn: Director of Compliance, P.O. Box 656, Jefferson City, Missouri 65102 or by fax to 573-522-2143. The preferred method of submitting the evaluation is that the evaluation is sent directly by the employer. The Licensee may submit the form to the Board; however, Board staff may verify with the employer the authenticity of the evaluation submitted by Licensee. This form may be found at
<http://pr.mo.gov/nursing-monitoring.asp>.
4. If Licensee is not employed at any time during the period of monitoring, Licensee shall submit the Employment Status Report form stating the period(s) of

unemployment. This form is located on the Board of Nursing website at the website address provided in paragraph 3 above.

5. If Licensee is employed in a non-nursing job, Licensee shall submit an Employment Status Report form stating where Licensee is employed, at least quarterly with due dates to be determined by the Board. The form is located on the Board of Nursing website at the address provided in paragraph 3 above.
6. Licensee shall execute any release or provide any other authorization necessary for the Board to obtain records of Licensee's employment during the period covered by this Consent Agreement.
7. Licensee shall notify the Board of Nursing within five (5) calendar days if Licensee has a disciplinary meeting or employment counseling meeting.

EMPLOYMENT RESTRICTIONS

1. In accordance with the Nurse Licensure Compact, the Licensee shall not practice in any other compact state while participating in the AP. Licensee shall maintain a current nursing license in the state of Missouri, which shall be deemed a single state license. If Licensee holds a multistate license, the multistate licensure privilege shall be deactivated during participation in the AP.
2. The following conditions are on the license for a minimum of one (1) year from the date of return to employment in an approved licensed nursing position:
 - a. Shall not work 11:00 p.m. – 7:00 a.m. and may not work for more than eighty (80) hours per two weeks or more than forty-eight (48) hours in a seven (7) day interval;
 - b. Shall not work more than twelve (12) hours in a twenty-four (24) hour period;
 - c. Shall not have access to or be accountable for controlled substances;
 - d. Shall not work in critical care specialty areas, including but not limited to the Emergency Department, Intensive Care Unit (ICU), Cardiac Catheterization Lab, Labor and Delivery, Operating Room (OR)/Post-Operative Anesthesia Care Unit (PACU);
 - e. Shall not work in a substance abuse treatment facility;
 - f. Shall not work for more than one (1) nursing employer at a time;
 - g. Shall not float from unit to unit within a facility;
 - h. Shall work under the direction of an on-site RN or, with approval from the Director of Compliance, under the direction of an on-site work monitor who is a licensed healthcare provider.
3. The following conditions are on the license for a minimum of two (2) years from the date of return to employment in an approved licensed nursing position:
 - a. Shall not work as a Certified Registered Nurse Anesthetist (CRNA);
 - b. Shall not work for a staffing agency or as a traveler;

- c. Shall not work in home health or in home care;
 - d. Shall not work in home hospice;
 - e. Shall not make home visits.
4. The following conditions are on the license for a minimum of three (3) years from the date of return to employment in an approved licensed nursing position:
- a. Licensee shall cause an evaluation, using the form supplied by the Board, from each and every nursing employer to be completed for the Board at least quarterly, with due dates to be determined by the Board. The evaluation form shall be completed by Licensee's supervisor within a four week period prior to the date it is due. The evaluation should verify the following:
 - i. Licensee worked an average of sixty-four (64) hours per month;
 - ii. Licensee's performance rated satisfactory or better by the employer.
 - b. If Licensee ends employment with a nursing employer, Licensee shall, in addition, request that a final evaluation form from the supervisor be submitted to the board within a six-week period following the last day of employment.
 - c. Employment Status Report forms shall be sent to the State Board of Nursing, Attn: Director of Compliance, P.O. Box 656, Jefferson City, Missouri 65102, or by fax to 573-522-2143.
5. Licensee shall not volunteer in any capacity providing direct or indirect nursing care or services in any setting.

AUTHORIZED DISCLOSURE AND CONFIDENTIALITY

1. Any and all information related to Licensee participation in the program shall be confidential and not subject to disclosure to anyone except as set forth in §335.067 RSMo and this Agreement. Any and all records produced in conjunction with the AP are not public records and not subject to court subpoena or subject to discovery or subject to introduction as evidence in any civil, criminal or administrative proceedings except to the extent authorized by §335.067 RSMo.
2. Licensee understands that any and all records of his/her participation in the AP will be disclosed and are admissible without objection in any administrative or judicial proceedings.
3. Licensee understands that the Board may share information with Licensee's employer or potential employer upon verification that Licensee is employed with the employer or actively seeking employment with the potential employer.
4. Licensee understands that, pursuant to the Nurse Licensure Compact, the Board may share information with other state boards of nursing.

5. Licensee understands that information pertaining to this program may be disclosed to further the intervention, treatment or rehabilitation needs of Licensee and only to those organizations with a need to know.
6. Licensee may authorize, in writing, the release of any information.
7. Licensee understands that information pertaining to this program may be disclosed if the Board is court ordered to release the information.

DRUG SCREENINGS

1. Licensee shall contract with the Board's third-party administrator (TPA) for drug and alcohol screening within three (3) business days of the effective date of this agreement.
2. Licensee's failure to comply with the Licensee's contract with the TPA shall constitute a violation of the terms of the consent agreement.
3. Licensee shall follow the instructions of the TPA to contact the TPA each day of the week, including weekends, holidays, and each day that the licensee is on vacation. Licensee shall fully complete the contact to the TPA pursuant to the requirements of the TPA. Failure to do so shall constitute a violation of the terms of the consent agreement.
4. Failure to complete the contact with the TPA as required by the TPA in the contract shall constitute a violation of the consent agreement.
5. If selected by the TPA, Licensee shall submit to drug and alcohol screening prior to a collection site closing for business on the day that Licensee is selected to be tested. Licensee shall report to the collection site in sufficient time as to allow a collection site adequate time to retrieve the sample prior to the close of its business hours.
6. Failure to timely submit to drug and alcohol screening by the end of the business day of the collection site when selected by the TPA shall constitute a violation of the consent agreement.
7. It is Licensee's responsibility to assure that lab personnel observe all urine specimen collections. This requires direct observation of the urine sample exiting the body of Licensee. If the urine specimen collection is not observed, the Board, in its discretion, may consider the results to be invalid.
8. Licensee shall show this agreement to any healthcare professional prescribing a prescription for Licensee and inform the healthcare professional of Licensee's

Vernon's Texas Statutes and Codes Annotated
Occupations Code (Refs & Annos)
Title 3. Health Professions
Subtitle E. Regulation of Nursing
Chapter 301. Nurses (Refs & Annos)
Subchapter J. Prohibited Practices and Disciplinary Actions

Jhas

Effective: September 1, 2013

V.T.C.A., Occupations Code § 301.453

§ 301.453. Disciplinary Authority of Board; Methods of **Discipline**

Currentness

(a) If the board determines that a person has committed an act listed in Section 301.452(b), the board shall enter an order imposing one or more of the following:

- (1) denial of the person's application for a license, license renewal, or temporary permit;
- (2) issuance of a written warning;
- (3) administration of a public reprimand;
- (4) limitation or restriction of the person's license, including:
 - (A) limiting to or excluding from the person's practice one or more specified activities of nursing; or
 - (B) stipulating periodic board review;
- (5) suspension of the person's license;
- (6) revocation of the person's license; or
- (7) assessment of a fine.

(b) In addition to or instead of an action under Subsection (a), the board, by order, may require the person to:

- (1) submit to care, counseling, or treatment by a health provider designated by the board as a condition for the issuance or renewal of a license;
- (2) participate in a program of education or counseling prescribed by the board, including a program of remedial education;
- (3) practice for a specified period under the direction of a registered nurse or vocational nurse designated by the board;
- (4) perform public service the board considers appropriate; or
- (5) abstain from the consumption of alcohol or the use of drugs and submit to random periodic screening for alcohol or drug use.

(c) The board may probate any penalty imposed on a nurse and may accept the voluntary surrender of a license. The board may not reinstate a surrendered license unless it determines that the person is competent to resume practice.

(d) If the board suspends, revokes, or accepts surrender of a license, the board may impose conditions for reinstatement that the person must satisfy before the board may issue an unrestricted license.

Vernon's Texas Statutes and Codes Annotated
Occupations Code (Refs & Annos)
Title 3. Health Professions
Subtitle E. Regulation of Nursing
Chapter 301. Nurses (Refs & Annos)
Subchapter J. Prohibited Practices and Disciplinary Actions

Effective: September 1, 2017

V.T.C.A., Occupations Code § 301.452

§ 301.452. Grounds for Disciplinary Action

Currentness

(a) In this section, "intemperate use" includes practicing nursing or being on duty or on call while under the influence of alcohol or drugs.

(b) A person is subject to denial of a license or to disciplinary action under this subchapter for:

- (1) a violation of this chapter, a rule or regulation not inconsistent with this chapter, or an order issued under this chapter;
- (2) fraud or deceit in procuring or attempting to procure a license to practice professional nursing or vocational nursing;
- (3) a conviction for, or placement on deferred adjudication community supervision or deferred disposition for, a felony or for a misdemeanor involving moral turpitude;
- (4) conduct that results in the revocation of probation imposed because of conviction for a felony or for a misdemeanor involving moral turpitude;
- (5) use of a nursing license, diploma, or permit, or the transcript of such a document, that has been fraudulently purchased, issued, counterfeited, or materially altered;
- (6) impersonating or acting as a proxy for another person in the licensing examination required under Section 301.253 or 301.255;
- (7) directly or indirectly aiding or abetting an unlicensed person in connection with the unauthorized practice of nursing;
- (8) revocation, suspension, or denial of, or any other action relating to, the person's license or privilege to practice nursing in another jurisdiction or under federal law;
- (9) intemperate use of alcohol or drugs that the board determines endangers or could endanger a patient;
- (10) unprofessional conduct in the practice of nursing that is likely to deceive, defraud, or injure a patient or the public;
- (11) adjudication of mental incompetency;
- (12) lack of fitness to practice because of a mental or physical health condition that could result in injury to a patient or the public; or
- (13) failure to care adequately for a patient or to conform to the minimum standards of acceptable nursing practice in a manner that, in the board's opinion, exposes a patient or other person unnecessarily to risk of harm.

(c) The board may refuse to admit a person to a licensing examination for a ground described under Subsection (b).

(d) The board by rule shall establish guidelines to ensure that any arrest information, in particular information on arrests in which criminal action was not proven or charges were not filed or adjudicated, that is received by the board under this section is used consistently, fairly, and only to the extent the underlying conduct relates to the practice of nursing.

(e) The board shall adopt rules to ensure that license denials and disciplinary action under Subsection (b)(10) are based on the application of objective criteria that are clearly and rationally connected to the applicant's or license holder's conduct and that any negative outcome resulting from that conduct is determined to affect the person's ability to effectively practice nursing.

Credits

Acts 1999, 76th Leg., ch. 388, § 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, § 14.124(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 553, § 1.045, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1058, § 3, eff. Sept. 1, 2005; Acts 2007, 80th Leg., ch. 889, § 26, eff. Sept. 1, 2007; Acts 2013, 83rd Leg., ch. 1189 (S.B. 1058), § 5, eff. Sept. 1, 2013; Acts 2017, 85th Leg., ch. 509 (H.B. 2950), § 13, eff. Sept. 1, 2017.

Editors' Notes

REVISOR'S NOTE

2012 Main Volume

(1) Subsection (a), V.A.C.S. Article 4525, as amended by Chapter 436, Acts of the 73rd Legislature, Regular Session, 1993, refers to a "certificate of registration," "certificate of renewal," and "certificate," and Subsection (b)(4), V.A.C.S. Article 4525, as amended by Chapter 840, Acts of the 73rd Legislature, Regular Session, 1993, refers to a "certificate." "License" is substituted for those references because those terms are included within the meaning of "license."

(2) Subsection (a)(3), V.A.C.S. Article 4525, as amended by Chapter 436, Acts of the 73rd Legislature, Regular Session, 1993, and Subsection (b)(3), V.A.C.S. Article 4525, as amended by Chapter 840, Acts of the 73rd Legislature, Regular Session, 1993, refer to a "felony, or crime of lesser grade which involves moral turpitude." The revised law substitutes "misdemeanor" for a "crime of lesser grade" to be consistent with the terminology used in the Penal Code.

(3) Subsection (a)(8), V.A.C.S. Article 4525, as amended by Chapter 436, Acts of the 73rd Legislature, Regular Session, 1993, and Subsection (b)(8), V.A.C.S. Article 4525, as amended by Chapter 840, Acts of the 73rd Legislature, Regular Session, 1993, states that intemperate use "includes but is not limited to" certain activity. "[B]ut is not limited to" is omitted as unnecessary because Section 311.005(13), Government Code (Code Construction Act), and Section 312.011(19), Government Code, provide that "includes" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are excluded.

(4) Subsection (b), V.A.C.S. Article 4525, as amended by Chapter 436, Acts of the 73rd Legislature, Regular Session, 1993, refers to the application of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). That law was codified in 1993 as Chapters 2001 and 2002, Government Code. Chapters 2001 and 2002, Government Code, apply to this chapter and prescribe the procedures the board must follow. The omitted law reads:

(b) . . . Proceedings for a disciplinary action are governed by the Administrative Procedure and Texas Register Act (Article 6252-13a,