

CHAPTER XVIII
RULES AND REGULATIONS CONCERNING
REPORTING REQUIREMENTS
3 CCR 716-1

General Authority: C.R.S. 12-38-108(1)(j) and (k), C.R.S. 12-38.1-103(3)

Specific Authority: C.R.S. 12-38-116.5(3)(b)(l) and 12-38-117(1)(f); C.R.S. 12-38.1-114(12) and 12-38.1-111(1)(f); and C.R.S. 12-42-113(1)(f)

1. STATEMENT OF BASIS AND PURPOSE

The Board of Nursing ("the Board") hereby finds that in order to safeguard the life, health, property and public welfare of the people of this state and in order to protect the people of this state from the unauthorized, unqualified and improper application of services by nurses, nurse aides, and psychiatric technicians ("licensees"), it is necessary to receive timely reports regarding licensees whose practice may have failed to meet generally accepted standards or whose conduct appears to have violated the Nurse Practice Act, the Nurse Aide Practice Act or the Psychiatric Technicians Act.

The obligation to report a nurse whose conduct may constitute grounds for discipline under section 12-38-117 of the Nurse Practice Act derives from C.R.S. 12-38-116.5(3)(b)(l) and 12-38-117(1)(f). The obligation to report a psychiatric technician whose conduct may constitute grounds for discipline under section 12-42-113 of the Psychiatric Technician Act derives from C.R.S. 12-38-117(1)(f), 12-38-116.5(3)(b)(l) and 12-42-113(1)(f). The obligation to report a nurse aide whose conduct may constitute a violation of the Nurse Aide Practice Act derives from C.R.S. 12-38-117(1)(f), 12-38.1-114(12) and 12-38.1-111(1)(f). The Board therefore finds it necessary to promulgate the following rules with respect to reporting requirements.

It is the intent of the Board to require reporting of licensees whose continued practice may pose a risk of harm to persons under the care of the licensee. The Board believes protection of the public is not enhanced by the reporting of every minor incident that may be a violation of the Nurse Practice Act. This

is particularly true when there are mechanisms in place in the licensee's employment setting to take corrective action, remediate deficits, and detect patterns of behavior.

2. DEFINITIONS

- 2.1 "Disciplinary action" means suspension by an employer after an internal investigation or termination of employment when such suspension or termination is due to substandard practice, conduct which poses a risk to the health and safety of the public, chemical dependency or drug diversion.
- 2.2 "Complainant" means any person filing a report.
- 2.3 "Licensee" means any person under the jurisdiction of the Colorado Nurse Practice Act, C.R.S. 12-38-101, et. seq., the Colorado Nurse Aide Practice Act, C.R.S. 12-38.1-101, et. seq., or the Colorado Psychiatric Technicians Act C.R.S. 12-42-101, et. seq.

3. FACTORS TO BE CONSIDERED IN THE DECISION TO REPORT

- 3.1 Anyone may report a licensee whose practice appears to be in violation of generally accepted standards of practice for that licensee.
- 3.2 Unless reporting is required by Rule 4 below, the complainant need not report the licensee when all of the following factors are present:
 - (a) the potential risk of physical, emotional, or financial harm to patients due to the incident is very low;
 - (b) the incident is a singular event without any pattern of poor practice by the licensee;
 - (c) the licensee demonstrates accountability and a conscientious approach in his/her practice (relative to the incident); and
 - (d) the licensee appears to have the knowledge and skill to practice safely.
- 3.3 Other factors to consider include:
 - (a) the significance of the patient outcome in the specific practice setting;
 - (b) the circumstances under which the event occurred; and

- (c) the presence of contributing or mitigating circumstances in the health care delivery system.

4. INFORMATION THAT MUST BE REPORTED

4.1 Information regarding the following shall always be reported to the Board:

- (a) Failure to meet generally accepted standards of practice by the licensee that creates or results in serious harm or risk to the persons under the licensee's care, or a demonstrated pattern of practice which fails to meet generally accepted standards.
- (b) Reasonable cause to believe the licensee is unable to practice with reasonable skill and safety to patients as the result of a physical or mental disability or substance abuse.
- (c) Disciplinary action taken against a licensee as defined in section 2.1.
- (d) Failure by a licensee to comply with the terms of Board orders, including stipulations, and final agency orders.
- (e) A person who practices or offers to practice as a nurse, nurse aide, or psychiatric technician when such person has not been licensed, registered, or certified, or who uses any title, abbreviation, card, or device to indicate that such person is licensed, registered or certified to practice in Colorado while not so licensed, registered, or certified.
- (f) Patient abuse including but not limited to physical, emotional, psychological, verbal, sexual, or financial abuse.
- (g) Conviction of a felony by a licensee that relates to the licensee's ability to practice safely.
- (h) Conduct by a licensee which constitutes a crime and is relevant to such licensee's ability to practice safely. Such conduct includes but is not limited to felonies, all assaults and sexual assaults, fraud and theft. Such conduct need not have resulted in a conviction.
- (i) Signs or symptoms of current addiction or dependence on alcohol or other habit-forming drugs, habitual use of controlled substances, as defined in C.R.S. 12-22-303(7) or other drugs having similar effect that negatively impacted the licensee's practice. If diversion of medications has not occurred, and there has been no negative impact on the licensee's

practice, a licensee who voluntarily participates in a treatment plan designed to end such addiction or dependence need not be reported.

- (j) Actions, behavior, or information that suggest or substantiate diversion of controlled substances by the licensee as defined in C.R.S. 12-22-303(7), or other drugs having similar effects. Referral to the Impaired Professional Diversion Program (C.R.S. 12-38-131) is not a substitute for the reporting required under this rule and does not create an exemption from reporting.