PROFESSIONAL / LEGAL CASE STUDY   ANSWERS
(answers from OSBN Nurse Practice Act)

A former nurse is getting ready to complete re-entry requirements for relicensure and wants to make sure he is familiar with the OSBN’s “Standards and Scope of Practice for the Licensed Practical Nurse and Registered Nurse”. He reads Division 45, understands and is able to answer the following questions. (summarize and answer for either LPN or RN:, when applicable, depending on which licensure you are applying for)

1. What is the purpose of the standards and scope of practice?
   (a) To establish acceptable levels of safe practice for the licensed practical nurse (LPN) and registered nurse (RN); (b) To serve as a guide for the Board to evaluate safe and effective nursing care as well as a guide to determine when nursing practice is below the expected standard of care; (c) To interpret standards and the scope of practice for the licensed practical nurse and the registered nurse.

2. What roles does the R.N. scope of practice encompass?
   Standards for Registered Nurse Scope of Practice 851-045-0010 (1) The Board recognizes that the scope of practice for the registered nurse encompasses a variety of roles, including, but not limited to: (a) Provision of client care; (b) Supervision of others in the provision of care; (c) Development and implementation of health care policy; (d) Consultation in the practice of nursing; (e) Nursing administration; (f) Nursing education; (g) Case management; (h) Nursing research; (i) Teaching health care providers and prospective health care providers; (j) Specialization in advanced practice.

3. What are the standards related to the nursing process regarding?
   a. Data collection:
      RN: (2) Standards related to the registered nurse’s responsibility to apply the nursing process. The registered nurse shall: (a) Conduct and document nursing assessments of the health status of individuals and groups by: (A) Collecting objective and subjective data from observations, examinations, interviews, and written records in an accurate and timely manner as appropriate to the client’s health care needs. The data include, but are not limited to: (i) Physical and emotional status; (ii) Growth and development; (iii) Cultural, religious, and socio-economic background; (iv) Client and family health history; (v) Information collected by other health team members; (vi) Information gathered from family or significant others; (vii) Client knowledge and perception about health status and potential for maintaining health status; (viii) Ability to perform activities of daily living; (ix) Patterns of coping and interacting; (x) Consideration of client’s health goals; (xi) Environmental factors, e.g. physical, social, emotional, and ecological; (xii) Available and accessible human and material resources. (B) Sorting, selecting, reporting, and recording the data; (C) Validating, refining and modifying the data by utilizing available resources including interactions with the client, family and health team members.
      LPN: The licensed practical nurse shall: (a) Collect data regarding a client’s status, record objective and subjective data in an accurate and timely manner, and report the data in a timely manner to the registered nurse to utilize in completing a nursing assessment of the client. Data collection includes, but is not limited to: (A) Observation about the condition or change in condition of the client; (B) Signs and symptoms of deviation from normal health status;

   b. Nursing Diagnosis:
RN: (b) Establish and document nursing diagnoses which serve as a basis for the plan of care.

LPN: (b) Contribute to the establishment of the nursing diagnosis.

c. Development of Plan of Care

RN: (c) Develop and modify the plan of care based on assessment and nursing diagnosis. This includes: (A) Identifying priorities in the plan of care; (B) Setting realistic and measurable goals to implement the plan of care; (C) Identifying nursing intervention(s) based on the nursing diagnosis; (D) Prescribing nursing orders based on the nursing diagnosis; (E) Identifying measures to maintain comfort, to support human functions and responses, to maintain an environment conducive to well being and to provide health teaching and health counseling.

LPN: (c) Participate in the development of the plan of care by: (A) Providing data; (B) Contributing to the identification of priorities; (C) Contributing to setting realistic and measurable goals; (D) Assisting in the identification of nursing interventions.

d. Implementation of Plan of Care

RN: (d) Implement the plan of care by: (A) Initiating nursing interventions through: (i) Giving direct care; (ii) Assisting with care; (iii) Following nursing orders; (iv) Assigning, delegating and supervising care; (v) Teaching clients, family members or significant others; (vi) Referring to appropriate resources. (B) Providing an environment conducive to safety and health

LPN: (d) Participate in the implementation of the plan of care by: (A) Following nursing orders; (B) Providing care for clients whose conditions are stable or predictable under minimal supervision of the registered nurse, nurse practitioner, licensed physician, dentist, or other independent health care provider recognized by the Board. (C) Assisting with the provision of care for clients whose conditions are critical and/or fluctuating under the direct supervision of the registered nurse, nurse practitioner, licensed physician, or dentist; (D) Providing an environment conducive to safety and health; (E) Implementing nursing care according to the established priority of needs and according to accepted standards of nursing practice;

e. Evaluation of Nursing Interventions

RN: (e) Evaluate the responses of individuals or groups to nursing interventions. Evaluation should involve the client, family, significant others, and health team members. (A) Evaluation data shall be documented and communicated to appropriate members of the health care team: (B) Evaluation data shall be used as a basis for reassessing the client’s status, modifying nursing diagnoses, revising the plan of care, prescribing changes in nursing interventions and issuing nursing orders.

LPN: (e) Contribute to the evaluation of the responses of individuals or groups to nursing interventions by: (A) Documenting and communicating evaluation data to appropriate members of the health care team; (B) Contributing to the modification of the plan of care on the basis of the evaluation; (C) Evaluating the responses of individuals to nursing interventions.

f. Documentation

RN: (C) Documenting nursing interventions and responses to care;

LPN: (G) Documenting nursing interventions and responses to care. All documentation shall be accurate, legible, and intelligible;

g. Communication

RN: (D) Communicating nursing interventions and responses to care to other members of the health team;

LPN: (H) Communicating nursing interventions and responses to care to appropriate members of the health team;

h. Health Teaching
RN: (v) Teaching clients, family members or significant others; (o) Teach health care practices to other health care providers.

LPN: (F) Providing, under the direction of the registered nurse, health teaching to clients utilizing established protocols;

i. Client Advocacy

RN: (E) Providing client advocacy by defending the client's right to receive care based on the plan of care, which includes receiving complete and accurate information and ensuring that this right is protected.

LPN: (I) Providing client advocacy by defending the client's right to receive care which includes receiving complete and accurate information;

4. What are the standards regarding responsibilities as a member of the nursing profession?

a. Legal boundaries, responsibility, competency, obtaining help:

RN: (3) Standards related to the registered nurse's responsibilities as a member of the nursing profession. The registered nurse shall: (a) Have knowledge of the statutes and regulations governing nursing and function within the legal boundaries of registered nurse practice. (b) Accept responsibility for individual nursing actions and maintain competency in one's area of practice. (c) Obtain instruction and supervision as necessary when implementing nursing techniques or practices.

LPN: The licensed practical nurse shall: (a) Have knowledge of statutes and regulations governing nursing and function within the legal boundaries of practical nursing practice. (b) Accept responsibility for individual nursing actions and maintain competence in one's area of practice. (c) Consult with the registered nurse and/or other health team members and seek guidance as necessary. (d) Obtain instruction and supervision as necessary when implementing nursing techniques or practices.

b. Member of health care team:

RN: (d) Function as a member of the health team. (e) Collaborate with other members of the health team to provide optimum client care. (f) Consult with nurses and other health team members and make referrals if necessary. (o) Teach health care practices to other health care providers.

LPN: (e) Function as a member of the health team.

c. Client care assignments:

LPN: (f) Accept only client care assignments from the registered nurse, nurse practitioner, licensed physician, dentist or other independent health care provider recognized by the Board for which one is educationally prepared and when competency has been maintained. (g) Act as an advocate for the client.

d. Unsafe Practices:

RN: (h) Report unsafe nursing practices either directly to the Board or through appropriate channels and unsafe practice conditions to the appropriate regulatory agency(s). (i) Accept only client care assignments for which one is educationally prepared and when competency has been maintained. (j) Act as an advocate for the client.

LPN: (h) Report unsafe nursing practices either directly to the Board of Nursing or through appropriate channels and unsafe practice conditions to the appropriate regulatory agency(s).

e. Employment policies:

RN: (g) Contribute to the formulation, interpretation, implementation, and evaluation of the objectives and policies related to nursing practice within the employment setting. (p) Contribute
to policy development and implement policies in a manner which meets the needs of the clients served by the agency/facility in which the nurse practices.

**LPN**: (i) Contribute to the formulation, interpretation, implementation and evaluation of the objectives and policies within the employment setting.

### f. Delegation:

**RN**: (k) Assign or delegate to others only those nursing measures which that person is prepared to perform and qualified to perform and are within that person's scope of practice/scope of duties.  
(l) Delegate, in settings where a registered nurse is not regularly scheduled, specific tasks of nursing care to an unlicensed person only as described in the Board’s delegation rules (Division 47).  
(m) Supervise others to whom nursing interventions have been assigned or delegated.  
(n) Retain professional accountability for nursing care when assigning or delegating nursing interventions.  

**LPN**: (j) Practice under the direction and orders for client care of a registered nurse, nurse practitioner, licensed physician, dentist or other independent health care provider recognized by the Board.  
(k) Retain accountability for those tasks when assigning tasks of client care by: (A) Directing a subordinate to perform only those nursing tasks which the person is prepared and qualified to perform; (B) Supervising only subordinates to whom tasks of client care have been assigned; (C) Providing instruction in health care practices to other health care providers under the direction and orders of a registered nurse, nurse practitioner, licensed physician, dentist or other independent health care provider recognized by the Board.

### g. Orders:

**RN**: (a) & **LPN**: (a) The registered nurse and licensed practical nurse may accept and implement orders for client care from licensed health care professionals who are authorized to independently diagnose and treat. These health care professionals are (ORS licensed): NPs, Chiropractors, Dentists, Naturopaths, Physicians, Podiatrists.  

**RN**: (b) In addition to the health care professionals identified in subsection (a) of this rule, the registered nurse may accept and implement recommendations for care in collaboration with the following health care professionals. Psychologists. Social Workers. Occupational, Physical Speech and Respiratory Therapists. Dietitians. Pharmacists. Optometrists. (c) In accepting and implementing orders or recommendations for client care from the individuals listed in (a) and (b) above, the registered nurse must have knowledge that the order or recommendation is within the health care professional's scope of practice and determine that the order or recommendation is consistent with the overall plan for the client's care. (d) The registered nurse has the authority and responsibility to question any order or recommendation which is not clear, perceived as unsafe, contraindicated for the client or inconsistent with the plan of care.  

**LPN**: (b) The licensed practical nurse has the authority and responsibility to question any order which is not clear, perceived as unsafe, contraindicated for the client, or not within the health care professional's scope of practice. (c) The licensed practical nurse may implement recommendations for care issued by health care professionals other than those indicated in subsection (a) of this rule under the direction of a registered nurse.

### 5. What does conduct derogatory to the standards of nursing include?

#### a. General:

*(851-045-0015) Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:*

#### b. Client's safety and integrity:
(1) Conduct related to the client's safety and integrity: (a) Developing, modifying, or implementing standards of nursing practice/care which jeopardize patient safety. (b) Failing to take action to preserve or promote the client's safety based on nursing assessment and judgment. (c) Failing to implement and/or follow through with the plan of care. (d) Failing to modify, or failing to attempt to modify the plan of care as needed based on nursing assessment and judgment, either directly or through proper channels. (e) Assigning persons to perform functions for which they are not prepared or which are beyond their scope of practice/scope of duties. (f) Improperly delegating tasks of nursing care to unlicensed persons in settings where a registered nurse is not regularly scheduled. (g) Failing to supervise persons to whom nursing tasks have been assigned. (h) Failing to teach and supervise unlicensed persons to whom nursing tasks have been delegated. (i) Leaving a client care assignment during the previously agreed upon work time period without notifying the appropriate supervisory personnel and confirming that nursing care for the client(s) will be continued. (j) Leaving any nursing assignment, including a supervisory assignment, without notifying the appropriate personnel and confirming that nursing assignment responsibilities will be met. (k) Failing to report through proper channels facts known regarding the incompetent, unethical, unsafe or illegal practice of any health care provider. (l) Failing to respect the dignity and rights of clients, regardless of social or economic status, age, race, religion, sex, sexual preference, national origin, nature of health problems or disability. (m) Engaging in sexual contact with a client.

c. Other federal or state statute/rule violations:

(2) Conduct related to other federal or state statute/rule violations: (a) Abusing a client. The definition of abuse includes but is not limited to intentionally causing physical harm or discomfort, striking a client, intimidating, threatening or harassing a client. (b) Neglecting a client. The definition of neglect includes but is not limited to carelessly allowing a client to be in physical discomfort or be injured. (c) Engaging in other unacceptable behavior towards or in the presence of a client such as using derogatory names or gestures or profane language. (d) Failing to report actual or suspected incidents of client abuse through the proper channels in the work place and to the appropriate state agencies. (e) Unauthorized removal or attempted removal of narcotics, other drugs, supplies, property, or money from clients, the work place, or any person. (f) Soliciting or borrowing money, materials, or property from clients, the work place, or any person. (g) Using the nurse client relationship to exploit the client by gaining property or other items of value from the client either for personal gain or sale, beyond the compensation for nursing services. (h) Possessing, obtaining, attempting to obtain, filling or administering prescription or controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs. (i) Aiding, abetting, or assisting an individual to violate or circumvent any law, rule or regulation intended to guide the conduct of nurses or other health care providers. (j) Failing to conduct practice without discrimination on the basis of age, race, religion, sex, sexual preference, national origin, nature of health problems or disability. (k) Violating the rights of privacy, confidentiality of information, or knowledge concerning the client unless required by law to disclose such information or unless there is a "need to know." (l) Violating the rights of privacy, confidentiality of information, or knowledge concerning the client by obtaining the information without proper authorization or when there is no "need to know." (m) Unauthorized removal of client records, client information, facility property, policies or written standards from the work place. (n) Dispensing or administering Methadone except as permitted under state and federal law.

d. Communication:

(3) Conduct related to communication: (a) inaccurate recordkeeping in client or agency records. (b) Incomplete recordkeeping regarding client care; including but not limited to failure to document care given or other information important to the client's care or documentation which is inconsistent with the care given. (c) Falsifying a client or agency record; including but not limited to filling in someone else's omissions, signing someone else's name, recording care not given, fabricating data/values. (d) Altering a client or agency record; including but not limited to changing
words/letters/numbers from the original document to mislead the reader of the record, adding to the record after the original time/date without indicating a late entry. (e) Destroying a client or agency record. (f) Directing another person to falsify, alter or destroy client or agency records. (g) Failing to maintain client records in a timely manner which accurately reflects management of client care, including failure to make a late entry within a reasonable time period. (h) Failing to communicate information regarding the client's status to members of the health care team (physician, nurse practitioner, nursing supervisor, nurse co-worker) in an ongoing and timely manner. (i) Failing to communicate information regarding the client's status to other individuals who need to know; for example, family, facility administrator.

e. Clinical competency:
(4) Conduct related to achieving and maintaining clinical competency: (a) Performing acts beyond the authorized scope or the level of nursing for which the individual is licensed. (b) Failing to conform to the essential standards of acceptable and prevailing nursing practice. Actual injury need not be established. (c) Assuming duties and responsibilities within the practice of nursing for direct client care, supervisory, managerial or consulting roles without documented preparation for the duties and responsibilities and when competency has not been established and maintained. (d) Performing new nursing techniques or procedures without documented education specific to the technique or procedure and clinical preceptored experience to establish competency.

f. Impaired function:
(5) Conduct related to impaired function: (a) Practicing nursing when unable/unfit to perform procedures and/or make decisions due to physical impairment as evidenced by documented deterioration of functioning in the practice setting and/or by the assessment of a health care provider qualified to diagnose physical condition/status. (b) Practicing nursing when unable/unfit to perform procedures and/or make decisions due to psychological or mental impairment as evidenced by documented deterioration of functioning in the practice setting and/or by the assessment of a health care provider qualified to diagnose mental condition/status. (c) Practicing nursing when physical or mental ability to practice is impaired by use of drugs, alcohol or mind-altering substances.

g. Licensure or certification violations:
(6) Conduct related to licensure or certification violations: (a) Practicing nursing without a current Oregon license or certificate. (b) Practicing as a nurse practitioner or clinical nurse specialist without a current Oregon certificate. (c) Allowing another person to use one's nursing license or certificate for any purpose. (d) Using another's nursing license or certificate for any purpose. (e) Resorting to fraud, misrepresentation, or deceit during the application process for licensure or certification, while taking the examination for licensure or certification, while obtaining initial licensure or certification or renewal of licensure or certification. (f) Impersonating any applicant or acting as a proxy for the applicant in any nurse licensure or certification examination. (g) Disclosing the contents of the examination or soliciting, accepting or compiling information regarding the contents of the examination before, during or after its administration.

h. Licensee's relationship with the Board:
(7) Conduct related to the licensee's relationship with the Board: (a) Failing to provide the Board with any documents requested by the Board. (b) Failing to answer truthfully and completely any question asked by the Board on an application for licensure or during the course of an investigation or any other question asked by the Board. (c) Failing to fully cooperate with the Board during the course of an investigation, including, but not limited to, waiver of confidentiality privileges, except client-attorney privilege. (d) Violating the terms and conditions of a Board order.

i. Client's family
6. What could cause the OSBN to deny an application for licensure (as specified in 851-045-0016)?

a. Criminal conviction history
(1) As of the effective date of this rule, the Board will issue a Notice to Deny Licensure to an applicant for initial licensure or relicensure as a practical nurse or registered nurse, following the provisions of the Administrative Procedure Act in contested case hearings, to persons who have been convicted as an adult, or found responsible except for mental illness, or adjudicated as a juvenile for the following crimes as set forth in Oregon law or comparable law in other jurisdictions (as in ORS statutes-see Nurse Practice Act for details): Aggravated murder; First Degree Kidnapping; First and Second Degree: Manslaughter, Assault, Criminal Mistreatment, Unlawful Sexual Penetration, Sexual Abuse; First, Second and Third Degree: Rape, Sodomy; Contributing to the Sexual Delinquency of a Minor; Sexual Misconduct; Child Abandonment. (2) Any individual who applies for initial licensure or relicensure as a practical nurse or registered nurse from the effective date of these rules, who has a history of arrests and convictions over an extended period of time will be issued a Notice to Deny Licensure following the provisions of the Administrative Procedure Act in contested case hearings. (3) All other applicants with conviction histories, other than those listed above, including crimes which are drug and alcohol related, will be considered on an individual basis. The following factors will be considered by the Board: (a) Evidence of rehabilitation; (b) The length of time since the conviction to the time of application for licensure as a practical nurse or registered nurse; (c) The circumstances surrounding the commission of the crime which demonstrate that a repeat offense is not likely; and (d) Character references.

b. Falsification of application
(4) As of the effective date of these rules, any individual who applies for initial licensure or relicensure as a practical nurse or registered nurse, and supplies false or incomplete information to the Board on an application for licensure regarding the individual's criminal conviction record, will be issued a Notice to Deny Licensure under the provisions of the Administrative Procedure Act in contested case hearings.

7. What will need to be reported and to whom (as specified in Mandatory Reporting Defined 851-045-0020)?
(1) It is not the intent of the Board of Nursing that each and every nursing error be reported. (2) It is not the intent of the Board of Nursing that mandatory reporting take away the disciplinary ability and responsibility from the employer of the nurse. (3) Anyone knowing of a licensed nurse whose behavior or nursing practice fails to meet accepted standards for the level at which the nurse is licensed, shall report the nurse to the person in the work setting who has authority to institute corrective action. Anyone who has knowledge or concerns: that the nurse's behavior or practice presents a potential for, or actual danger to the public health, safety and welfare, shall report or cause a report to be made to the Board of Nursing. Failure of any licensed nurse to comply with this reporting requirement may in itself constitute a violation of nursing standards. (4) Any organization representing licensed nurses shall report a suspected violation of ORS Chapter 678 or the rules adopted thereunder in the manner prescribed by sections (5) and (6) of this rule. (5) The decision to report a suspected violation of ORS Chapter 678 or the rules adopted
8.

When are civil penalties imposed?

(1) Imposition of a civil penalty does not preclude disciplinary sanction against the nurse's license. Disciplinary sanction against the nurse's license does not preclude imposing a civil penalty. Criminal conviction does not preclude imposition of a civil penalty for the same offense.

(2) Civil penalties may be imposed according to the following schedule:

(a) Practicing nursing as a Licensed Practical Nurse (LPN), Registered Nurse (RN), Nurse Practitioner (NP), Certified Registered Nurse Anesthetist (CRNA) or Clinical Nurse Specialist (CNS) without a current license or certificate; or prescribing, dispensing, or distributing drugs without current nurse practitioner prescription writing authority, due to failure to renew and continuing to practice: $100 each 30 day period up to $5,000.

(b) Using a limited license to practice nursing for other than its intended purpose: $100 per day.

(c) Nurses not licensed in Oregon hired to meet a temporary staffing shortage who fail to make application for an Oregon license by the day placed on staff: $100 per day up to (d) Practicing nursing prior to obtaining an Oregon license by examination or endorsement: $100 per day.

(e) Nurse imposter: up to $5,000. "Nurse Imposter" means an individual who has not attended or completed a nursing education program or who is ineligible for nursing licensure as a LPN or RN and who practices or offers to practice nursing or uses any title, abbreviation, card, or device to indicate that the individual is licensed to practice nursing in Oregon.

(f) Conduct derogatory to the standards of nursing: $500 - $5,000. The following factors will be considered in determining the dollar amount, to include, but not be limited to: (A) Intent; (B) Damage and/or injury to the client; (C) History of performance in current and former employment settings; (D) Potential danger to the public health, safety and welfare; (E) Prior offenses or violations including prior complaints filed with the Board and past disciplinary actions taken by the Board; (F) Severity of the incident; (G) Duration of the incident; (H) Economic impact on the person. (g) Violation of any disciplinary sanction imposed by the Board of Nursing: $500 - $2,500. (h) Conviction of a crime which relates adversely to the practice of nursing or the ability to safely practice: $1,000 - $5,000. (i) Gross incompetence in the practice of nursing: $2,500 - $5,000. (j) Gross negligence in the practice of nursing: $2,500 - $5,000. (k) Employing any person without a current Oregon LPN, RN; or CRN:A license, nurse practitioner or clinical nurse specialist certificate to function as a LPN, RN; CRN:A, nurse practitioner or clinical nurse specialist subject to the following conditions: (A) Knowingly hiring an individual in a position of a licensed nurse when the individual does not have a current, valid Oregon license: $500 - $5,000; (B) Allowing an individual to continue practicing as a LPN, RN; NP, CRN:A or CNS knowing that the individual does not have a current, valid Oregon license: $500 - $5,000. (l) Employing a LPN, RN; NP, CRN:A or CNS without a procedure in place for checking the current status of that
nurse’s license to ensure that only those nurses with a current, valid Oregon license be allowed to practice nursing: $500 - $5,000. (m) Supplying false information regarding conviction of a crime, discipline in another state, physical or mental illness/physical handicap, or meeting the practice requirement on an application for initial licensure or relicensure: $500 - $5,000.