Policy Statement.
The Nursing Practice Act and the Vocational Nurse Act require health science centers to develop a written plan for identifying and reporting professional/vocational nurses in its service who expose or are likely to expose patients or other persons unnecessarily to a risk of harm, engage in unprofessional conduct, fail to care adequately for a patient, or fail to conform to the minimum standards of acceptable professional/vocational nursing practice, or whose practice is or is likely to be impaired by chemical dependency. Any incident that is reportable under the Nursing Practice Act and the Vocational Nurse Act will be reviewed by the appropriate nurse peer review committee. The affected nurse may submit rebuttal information to the committee.

Application of Policy.
UNTCHC registered and licensed nurses

Definitions.
1. NURSE:
   A registered nurse licensed under Chapter 301 of the Texas Occupations Code or a licensed vocational nurse licensed under Chapter 302 of the Texas Occupations Code.

2. NURSING PEER REVIEW:
   An evaluation of nursing services, the qualifications of a nurse, the quality of patient care rendered by a nurse, the merits of a complaint concerning a nurse or nursing care, and a determination or recommendation regarding a complaint. The term includes:
   - the evaluation of the accuracy of a nursing assessment and observation and the appropriateness and quality of care rendered by a nurse;
   - a report made to a nursing peer review committee concerning an activity under the committee’s review authority;
   - a report made by a nursing peer review committee to another committee or to the licensing board as permitted or required by law; and
   - implementation of a duty of a nursing peer review committee by a member, an agent, or an employee of the committee.
   Nursing peer review may include a recommendation following an evaluation.
3. **NURSING PEER REVIEW COMMITTEE:**
   A committee established under the authority of the governing body of a national, state or local nursing association, school of nursing, the nursing staff of a hospital, health science center, nursing home, home health agency, temporary nursing service, or other health care facility, or state agency or political subdivision for the purpose of conducting peer review. The Committee includes an employee or agent of the committee, including an assistant, an investigator, an intervener, an attorney, and any other person who services the committee in any capacity.

4. **MINOR INCIDENT:**
   Is defined by the statutes and regulations as conduct that does not indicate that the nurse’s continuing to practice nursing poses a risk of harm to the client or other person. A minor incident need not be reported to nursing peer review or the licensing board if certain steps are followed and certain factors exist. Nothing contained within this policy is intended to prevent reporting of a potential violation directly to the licensing board.

5. **LICENSING BOARD:**
   Refers to the Board of Nurse Examiners for the State of Texas (BNE)

**Procedures and Responsibilities.**

<table>
<thead>
<tr>
<th>Procedure / Duty</th>
<th>Responsible Party</th>
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<tr>
<td>1. UNTHSC shall establish a Nursing Peer Review Committee(s) to comply with</td>
<td>UNTHSC Nursing Staff, Nursing</td>
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<tr>
<td>Chapter 303 of the Texas Occupations Code Annotated, as amended and the rules</td>
<td>Peer Review Committee</td>
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<td>and regulations relating to the Nursing Practice Act and the Vocational Nurse Act.</td>
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<td>Registered nurses and licensed vocational nurses are expected to be familiar</td>
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<td>with the peer review process as with other components of their practice and</td>
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<td>licensure.</td>
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UNTHSC recognizes that there may be registered nurses and licensed vocational nurses that practice in its facilities but are employed and directly compensated by an entity other than the UNTHSC. Section 303.004 of the Texas Occupations Code Annotated permits the UNTHSC, the nurse’s employer, or both to conduct peer review and share information. To the extent feasible and not prohibited by any rule, regulation or contractual arrangement between the UNTHSC and the nurse’s employer, the UNTHSC will defer such cases for peer review to the nurse’s employer.
2. Each Nursing Peer Review Committee shall be composed of no more than 7-voting members. The Professional Peer Review Committee MUST have registered nurses as three-fourths of its members and may have only registered nurses as voting members. A peer review committee involving only the practice of vocational nursing must have registered nurses and vocational nurses as three-fourths of its members, to the extent feasible must include licensed vocational nurses as its members, and may have only registered nurses and vocational nurses as voting members. Additionally, to the extent feasible the peer review committee will include at least one nurse who has a working familiarity with the area of nursing practice in which the nurse being reviewed practices. A person with administrative authority over a nurse may only appear as a fact witness.

3. PROFESSIONAL NURSE PEER REVIEW (PNPR):
   - Staff Nurses (RNs) representing each discipline, as applicable (i.e., Family Medicine, Internal Medicine, Surgery, Obstetrics, Pediatrics, Osteopathic Manipulative Medicine)
   - Additional Staff Nurses (RNs) from Family Medicine and Internal Medicine, as needed, to provide committee with seven voting members
   - Non-voting Chairperson
   - Ex-officio, non-voting members as necessary:
     - Unit Manager / Clinic Supervisor

4. VOCATIONAL NURSE PEER REVIEW (VNPR):
   - Staff Nurses (LVNs) representing each discipline, as applicable (i.e., Medicine, Surgery, Obstetrics, Pediatrics)
   - Staff Nurses (RNs) from various disciplines, as needed, to provide committee with seven voting members
   - Non-voting Chairperson
   - Ex-officio, non-voting members as necessary:
     - Unit Manager / Clinic Supervisor

5. Since peer review is an intra-professional, non-adversarial process, legal staff from the UNT System Office of Vice Chancellor/General Counsel’s participation

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shall be at the discretion of the peer review committee and limited in scope. Furthermore, attendance shall be by invitation and the legal staff member shall not be allowed to vote.

6. Appointment of and replacement of members to the Peer Review Committee(s) shall be made by the Chief Nursing Officer. Each member is appointed for a 2-year term. Each member shall be responsible for maintaining confidentiality of the complaint and proceedings of the Committee. Each member must sign a statement affirming the confidentiality of the peer review process and that they will abide by all applicable laws, policies and procedures concerning confidentiality.

7. Committee members with potential or actual conflicts of interest may be disqualified from participating in a peer review proceeding. An affected nurse may object to a committee member's participation in peer review by providing written objections to the Nurse Peer Review Chairperson at least 10 days prior to the scheduled committee meeting. The Director of Regulatory Compliance for MSRDP will review all objections and requests for removal of a committee member for appropriateness.

- Appointments to the committee may be staggered.
- Situations which may require replacement of members may include, but are not limited to:
  1. expiration of term
  2. promotion from staff position
  3. transfer to a different service / department
  4. lack of participation and/or support of Peer Review activities
  5. conflicts of interest
  6. termination or resignation of employment with the UNTHSC.

A cause of action does not accrue for an act, statement, determination, or recommendation made, or act reported, without malice, in the course of peer review against a health science center, member, agent, or employee of a nursing peer review committee.
8. The Committee Chairperson will call meetings of the Peer Review Committee. A meeting will be held annually for the election of officers, orientation of new members, and other matters as deemed necessary.  

9. **OFFICERS and DUTIES:**

   **CHAIRPERSON:**
   The Chief Nursing Officer will serve as the permanent non-voting Chairperson of the Peer Review Committee.

   **Duties:**
   - Sends the “Notice of Peer Review Letter” to the nurse under review and serves as contact person.
   - Notifies members of the meeting time and location.
   - Prepares an agenda for the meeting.
   - Presides over the meetings.
   - Signs the committee report forms.
   - Obtains a signed confidentiality statement from new members.
   - Reminds the committee members of confidentiality of need to maintain confidentiality of committee information, discussions, deliberations and proceedings.
   - Provides written notice to the nurse under review of the committee’s findings when the review has been completed.

10. **VICE-CHAIRPERSON:**
   Staff Nurse (RN) will be elected by the committee members.

   **Duties:**
   - Assumes the duties of Chairperson in the temporary absence of the Chairperson.

11. **SECRETARY:**
   Will be elected by the committee members.

   **Duties:**
   - Monitors attendance of the committee members and notifies the Chairperson of members who have missed three consecutive meetings or more.
   - Passes out and counts the ballots of the committee immediately following the evaluation and voting by the committee.

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- Prepares the committee report for review and signature by the Chairperson
- Maintains all minutes, records and reports of the committee proceedings.

12. **VOTING:**
No less than five (5) voting members MUST be present in order for the meeting to be conducted. A confidential ballot for each nurse review shall be conducted. A decision to report or not to report the incident to the appropriate licensing board shall be asked of each voting member via a confidential ballot. The member must briefly explain his/her decision against reporting or state the standard that was violated for reporting. Additionally, each member will be asked whether formal disciplinary action by the licensing board against the nurse is recommended.

13. **CONFIDENTIALITY OF PEER REVIEW PROCEEDINGS:**
All peer review proceedings are confidential and any communications made to the nursing peer review committee is privileged. All participants including members, employees, agents, witnesses, the nurse being reviewed and his or her legal representative shall maintain the confidentiality of the peer review process and protect patient identity. Disclosure and discussion by the nurse under review with then nurse’s attorney will not constitute a breach of confidentiality. The attorney is bound by the same confidentiality requirements as the nurse under review. The identity of patients and witnesses shall be protected to the extent possible.

- A member, agent, or employee of a nursing peer review committee or a participant in a proceeding before the committee may not disclose or be required to disclose a communication made to the committee or a record or proceeding of the committee.
- A person who attends a nursing peer review committee proceeding may not disclose or be required to disclose information acquired in connection with the proceeding; or an opinion, recommendation, or evaluation of the committee or a committee member.

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A nursing peer review committee member and a person who provides information to the committee may not be questioned about the person’s testimony before the committee; or an opinion formed as a result of the committee proceedings.

A nursing peer review committee and a patient safety committee established by the same entity may share information and that information is not subject to subpoena or discovery and is not admissible in any civil or administrative proceeding subject to the provisions of Tex. Occupations Code section 303.0075.

14. REQUEST FOR INITIATION OF PEER REVIEW:
To request that an incident be reviewed by the Peer Review Committee, the Request for Nursing Peer Review form describing the facts/allegations should be forwarded along with any additional pertinent data to the Peer Review Committee, c/o Committee Chairperson. Peer review may also be initiated pursuant to the Safe Harbor provisions of section 303.005 of the Texas Occupations Code Annotated.

15. REQUEST FOR PEER REVIEW DETERMINATION UNDER “SAFE HARBOR”:
If a registered nurse is asked to engage in conduct that the nurse believes violates his/her duty to a patient, the nurse may request, on a form produced by the licensing board, a determination by the nursing peer review committee of whether the conduct violates the nurse’s duty to a patient. Pursuant to section 301.352 of the Texas Occupations Code, the registered nurse may not be suspended, terminated, or otherwise disciplined for refusing to engage in an act or omission relating to patient care that would constitute grounds for reporting the nurse to the licensing board if the nurse notifies the person making the request at the time of the refusal. The form produced by the licensing board is to be used only if the registered nurse who has been asked to engage in the questioned conduct has discussed his/her concerns with the person making the assignment, request or directive and has been unable to determine that compliance with the request would not violate the
nurse’s duty. The protections of Section 301.352 and Chapter 303 of the Texas Occupations Code apply only if the request is made in good faith and on the approved form.

- “Duty to a patient” means conduct required by standards of practice or professional conduct adopted by the licensing board. The term includes administrative decisions directly affecting a registered nurse’s ability to comply with that duty.
- A registered nurse who in good faith requests a peer review determination under this paragraph:
  1. may not engage in the requested conduct pending the peer review
  2. may not be disciplined by the licensing board for engaging in that conduct while the peer review is pending.
  3. may not be disciplined or discriminated against for making the request
- The determination of the peer review committee shall be considered in a decision to discipline the nurse, but the determinations are not binding if a registered nurse administrator believes in good faith that the peer review committee has incorrectly determined a registered nurse’s duty.
- If the conduct for which the peer review is requested involves the medical reasonableness of physician’s order, the medical staff or medical director shall be requested to make a determination as to the medical reasonableness of the physician’s order, and that determination is determinative of that issue.

16. DISCLOSURE OF INFORMATION:
   Peer review records shall be maintained separately from personnel records.

17. Disclosure of information relating to Safe Harbor to a prospective employer (Texas Labor Code, Chapter 103)
   - An employer may disclose information about a
current or former employee’s job performance to a prospective employer of the current or former employee on the request of the prospective employer or the employee.

- An employer may not disclose information about a licensed registered nurse or licensed vocational nurse that relates to conduct that is protected under the Safe Harbor Peer Review. The employer must provide an affected nurse an opportunity to submit a statement of reasonable length to the employer to establish the application of the Safe Harbor provisions.

18. Pursuant to section 303.007 of the Texas Occupations Code Annotated, as amended, a nursing peer review committee on request shall disclose written and oral communications made to the committee and the records and proceedings of the committee to (1) a licensing authority of any state; or (2) a law enforcement agency investigating a criminal matter.

A nursing peer review committee may disclose written or oral communications made to the committee and the records and proceedings of the committee to:

- a licensing agency of any state;
- a law enforcement agency investigating a criminal matter;
- the association, school, agency, facility, or other organization under whose authority the committee is established;
- another nursing peer review committee;
- a peer assistance program approved by the licensing board under Chapter 467 of the Texas Health and Safety Code Annotated;
- an appropriate state or federal agency or accrediting organization that accredits a health care facility or school of nursing or surveys a facility for quality of care; or
- a person engaged in bona fide research, if all information that identifies a specific individual is deleted.

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- a person engaged in bona fide research, if all information that identifies a specific individual is deleted.
Code, the committee does by that action waive the privilege of nondisclosure of committee information and proceedings. A peer review committee that disclosed information under Section 303.007 and each person who receives the information shall protect, to the extent possible, the identity of the patient.

19. EMPLOYER REPORTING:
If a nurse is terminated, suspended for more than 7-days, or other substantive disciplinary action is taken as defined by the licensing board against a nurse for unnecessarily exposing a patient or other person to a risk or harm, for unprofessional conduct, for failure to care adequately for the patient, for failing to conform to the minimum standards of acceptable nursing practice or due to the impairment or likely impairment related to chemical dependency or mental illness, then the UNTHSC shall report in writing to the licensing board the identity of the nurse and any additional information that the board requires. The Chairperson shall complete and submit the Employer’s Report form to the applicable licensing board.

- The nursing peer review committee shall review the incident and the affected nurse will be offered an opportunity to submit rebuttal information to the committee. The review of the incident by the peer review committee will include a determination as to whether a ground listed in the above paragraph exists to report the nurse undergoing review. The peer review committee’s determination must be included in the report to the licensing board along with the nurse’s rebuttal information.

- The peer review committee’s determination and review is advisory only and does not limit what administrative/personnel action the employer may take against the nurse. The employer is not prohibited from taking administrative and/or disciplinary action prior to completion of the peer review process.

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20. REPORTING OF NURSE TO APPROVED PEER ASSISTANCE PROGRAM IN LIEU OF BEING REPORTED TO LICENSING BOARD

(Section 301.410 of the Tex. Occupations Code
Nurses whose conduct results from mental illness or chemical dependency can be reported to a BNE-approved peer assistance program in lieu of being reported to the licensing board. Nurses and Administrators are encouraged to consult the laws that regulate their practice for any changes or amendments to the above provisions.

- The nurse must participate in a board-approved program. The Texas Peer Assistance Program for Nurses ("TPAPN") is currently the only board-approved program. Reporting to an employer’s peer assistance program or an employee assistance program ("EAP") will not satisfy the duty to report a nurse to the appropriate licensing board.
- Participation in TPAPN is voluntary. Nurses who elect to participate must enter into return to work agreements with their employer. The TPAPN participant’s conduct is monitored by such measures as random drug screens, work performance reviews, compliance with treatment plans, etc.
- If a nurse is reported to TPAPN by an employer or other third party and elects not to participate or does not successfully complete the program, TPAPN is required to report the nurse to the licensing board.
- If the nurse self-refers to TPAPN and subsequently elects not to participate or fails to successfully complete the program, TPAPN is not required to report the nurse to the licensing board unless the nurse’s continuing to practice is an immediate threat to the public.

21. REVIEW OF DOCUMENTS BY NURSE UNDER REVIEW PRIOR TO PEER REVIEW MEETING:

The nurse being reported shall be provided the opportunity to review any documents concerning the event(s) under review in person or by attorney, no less than 15-calendar days prior to appearing before the
Peer Review Committee. The documents may include any patient medical records (with patient’s names redacted to preserve confidentiality), witness statements, investigator’s notes and employee reports. It is the nurse’s responsibility to contact the Peer Review Committee Chairperson or his/her designee to make arrangements to review the documents.

The review will occur in a designated location to be determined by the Chairperson. The nurse and/or his or her attorney or representative shall not be permitted to remove any documents or records from the premises or to make copies without authorization of the Chairperson.

22. PARITY OF PARTICIPATION:
IF the Peer Review Committee(s) has an attorney as a member of the committee, the nurse is entitled to legal representation and parity of participation by counsel. Parity of participation by counsel means that the nurse's attorney is able to participate in the peer review process to the same extent and level as the facility's attorney; e.g., if the facility's attorney can question witnesses, the nurse's attorney must have the same right.
If the affected nurse intends to have an attorney present, the nurse must notify the chairperson at least five days before the scheduled meeting. Failure to do so will waive the nurse’s right to have an attorney present during the meeting.

23. NOTICE OF PEER REVIEW DETERMINATION/RECOMMENDATIONS
The nurse shall be notified in writing, no more than 14 calendar days after the Committee meeting date of the recommendation of the committee. The nurse will be given 14 calendar days to provide a written rebuttal to the Committee’s findings, which shall become a part of the proceedings and formal report to the licensing board, if applicable. The nurse shall send the rebuttal to the Nurse Peer Review Committee, c/o Committee Chairperson or other designee as directed.
24. If the CNO believes the peer review was conducted in “bad faith” or otherwise made an incorrect determination, the CNO must document her/his rationale for disagreeing with the peer review committee determination and this must be retained in the peer review records. In addition, if the believes that the peer review was done in “bad faith” she/he has a duty to report the nurses who participated on the committee to the BON. Otherwise, the findings and recommendations of the peer review committee are final.

25. PROCEDURE: RESPONSIBLE PARTY ACTION

**Supervisor**

1. Notifies the nurse he/she will be referred to the Peer Review Committee at the Unit/Dept Manager time of counseling or soon thereafter.
2. Completes a Request to Conduct Nursing Peer Review form.
3. Submits Request to Conduct Nursing Peer Review form, employee report and/or other pertinent documentation to Chairperson for Nurse Peer Review.

**Chair or Vice-Chair**

1. Notifies the nurse that his/her practice or conduct will be evaluated by the Nursing Chairperson Peer Review Committee by way of a written letter (Nursing Peer Review Notice) that provides:
   - a description of the event(s) to be evaluated in sufficient detail to inform the nurse of the incident
   - individual(s) involved
   - name, address, and telephone number of contact person to receive the nurse’s response.
   - a copy of the Request to Conduct Nursing Peer Review form and a written copy of the peer review plan, policies and procedures.
2. Sets a meeting date that is not more than 30-calendar days from the date of notice to the affected nurse that his/her practice or conduct will be evaluated by the committee.
3. Notifies the committee members of the meeting date, time, and location.
4. Arranges for the review of documents concerning the event under review, if requested by the affected nurse.

5. Presides over the meeting: Reminds committee members of need to maintain confidentiality of information and proceedings.

6. Reviews with committee any and all information regarding the incident /event (e.g., investigation report, any written statements, patient care record, personnel / department records and any verbal testimony)

7. Provides the affected nurse the opportunity to appear before the committee to make a verbal statement, ask questions and respond to questions of the committee and provide a written statement regarding the event under review.

8. Allows the committee time for discussion after the affected nurse and any other non-committee members have completed their presentations and left the room.


10. Sends copy of Summary of Peer Review Committee Findings Report form to nurse with the Committee’s evaluation and recommendation no more than 14 calendar days from the committee meeting date.

11. Files a written report with the licensing board, if applicable, providing the identity of the nurse and such additional information as the licensing board may require. The identity of patients will be protected to the extent possible.

12. Responds to subpoenaed requests by the licensing board after consultation with the UNTHSC Legal Department

13. Forwards Summary of Peer Review Committee Findings and affected nurse’s rebuttal statement(s) to the applicable licensing board in the event the nursing peer review committee decides to report a nurse to the licensing board.
26. **NOTE:** The nurse manager, nursing supervisor, or other individual requesting peer review of the affected nurse’s conduct/practice may present information to the committee in lieu of the chairperson.

27. **RESPONSIBLE PARTY ACTION**

   **Secretary**
   1. Passes out ballots to committee members.
   2. Collects and counts ballots.
   3. Takes minutes as necessary.
   4. Monitors attendance of committee members through sign-in sheets.
   5. Maintains record of proceedings.
   7. Submits Report form to Committee Chairperson for review and signature.

   **Nurse**
   1. Makes arrangements, if desired, to review the documents concerning the event(s) under review at least 15 calendar days prior to the scheduled meeting.
   2. Notifies Chairperson at least 5-days prior to scheduled meeting if represented by an attorney and intends to have the attorney present at the peer review meeting. Failure to do so will waive the right to have an attorney present at the meeting.
   3. If desired, provides a written statement regarding the event(s).
   4. Attends Peer Review Committee to ask or answer any questions and to make written or oral statements.
   5. Consults with attorney or other representative, if present, only for advisement during the proceedings.
   6. Reviews Peer Review Committee findings (Summary of Peer Review Committee Findings Report).
   7. Submits a rebuttal statement of reasonable length to the Nursing Peer Review Chairperson or designee within 14-days of receipt of the Summary of Peer Review Committee Findings Report.
28. Note: The nurse may submit written statements and bring own witnesses if desired. The attorney or representative may be present at the meeting but participation will be limited to consulting and advising client/nurse. Any questions during the meeting should be directed to the peer review chairperson or UNTHSC Legal Department, if present.

The nurse shall have the opportunity to call witnesses, question witnesses, and be present when testimony or evidence is being presented; be provided copies of the witness list and written testimony or evidence at least 48 hours in advance of the proceedings; make an opening statement to the committee; and make a statement to the committee after all evidence is submitted.

References and Cross-references.
Texas Occupations Code
Texas Health and Safety Code
Nursing Practice Act and the Vocational Nurse Act

Forms and Tools.
(Available through Department of Healthcare Quality & Risk Management)
Request to Conduct Nursing Peer Review
Nursing Peer Review Notice
Nursing Peer Review Committee Ballot
Summary of Peer Review Committee Findings Report

Approved: April 4, 2009
Effective: April 4, 2009
Revised: