

# CAN A STATE BOARD OF NURSING DISCIPLINE AN APRN FOR CONDUCT RELATING TO COVID-19?

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## **Avoiding Liability Bulletin - July 2023**

As you know too well, the COVID-19 epidemic has had far-reaching effects upon your advanced nursing practice. During the height of the epidemic, one not-so-obvious effect that developed was the dissemination of misinformation about COVID-19 by health care providers, including RNs and APRNs.

As a result, in December of 2021, the National Council of State Boards of Nursing (NCSBN) published the *Policy Statement: Dissemination of Non-Scientific and Misleading COVID-19 Information by Nurses* and was endorsed by sixteen professional nursing associations and organizations, including the American Nurses Association (ANA), The National Organization of Nurse Practitioner Faculties (NONPF), and the American Association of Nurse Practitioners (AANP).

The Policy Statement clearly defined misinformation and underscored the importance of nurses upholding the truth, upholding the ANA's Code of Ethics for Nurses, and upholding scientific standards when disseminating information about COVID-19 or any other health-related condition or situation. Not doing so threatened public health.

The Statement advised all licensed nurses that providing misleading or inaccurate information to the public pertaining to "COVID-19, vaccinations, or associated treatment", in any form, may face disciplinary action by state boards of nursing. You can download the entire Policy Statement by clicking [here](#).

In a 2022 Texas Board of Nursing case, an APRN's conduct surrounding COVID-19 resulted in her facing a professional disciplinary proceeding.

### Background

Pamela was licensed to practice as an RN in Texas in 1982 and an APRN in Texas in 2002. She practiced as an RN and APRN (Family Nurse Practitioner with prescriptive authority) in many health care settings prior to the current case.

While working as an APRN at a walk-in clinic at a national drug store chain, Pamela refused to administer a COVID-19 vaccine and made "negative comments" about the vaccine to patients and customers. She also failed to wear a face mask while on duty there.

Several weeks later, at the same clinic, she provided false information regarding the COVID-19 virus to the mother of an 8-year-old patient and “exhibited unprofessional conduct” when shouting “it’s positive” after performing a COVID-19 test on another patient. That patient started to cry and asked if she was going to die.

On that same day, Pamela refused to properly wear her face mask when examining the patient who tested positive for COVID-19 and speaking with the patient and her mother.

This behavior could have “disrupted the delivery of health care to patients seeking to receive the COVID-19 vaccine”, “caused distress for the patient and her mother”, and “unnecessarily exposed her patients, the patients’ families, her co-workers, and herself to a risk of contracting COVID-19.”

After the Texas Board of Nursing received this information, it initiated a professional disciplinary action against Pamela based on its Standards of Nursing Practice and its Unprofessional Conduct Rules. The allegations included:

- Failing to conform to state, federal, local laws and rules and regulations affecting nursing practice
- Failing to implement measures to protect a safe environment for clients and others
- Failing to implement measures to prevent exposure to infectious pathogens and communicable conditions
- Providing information which was false, deceptive or misleading in connection with the practice of nursing

Although Pamela denied all the allegations against her, she decided to “retire” her nursing career rather than defend herself against the allegations. She waived her right to a hearing and entered into an Agreed Order with the Board.

#### Agreed Order Details

Pamela voluntarily surrendered both her RN and APRN license, with the following mandatory conditions:

- Inability to practice advanced practice registered nursing, inability to use the title or abbreviation “APRN”, and inability to use any designation which would lead any person to believe she was an APRN during the period in which her license is surrendered
- Same conditions pertaining to her RN practice and license
- Inability to petition for reinstatement of either license for at least one (1) year from the date of the Agreed Order
- If a petition for reinstatement is sought, she must meet all then existing requirements for re-licensure
- Conditions listed above are applicable to nurse licensure compact privileges, if any

## Inferences for You and Your APRN Practice

This case illustrates important points for you to keep in mind in your APRN practice.

First and foremost, purchasing your own professional liability insurance that names you as the insured is important. Also vital is ensuring that the policy covers professional licensing proceedings.

So, too, is notifying your insurance carrier as soon as possible about the complaint so that you are represented by a nurse attorney or attorney who is assigned to your case from its panel of attorneys or an attorney you select from its panel membership.

Although Pamela chose not to go to a hearing on the allegations against her, such proceedings can be lengthy and costly.

Second, although you can believe what you want about any aspect of health care and treatment, you can't let those beliefs interfere with your legal and ethical obligations to patients, their families, and others.

Because nurses, and you as an APRN, are seen as the most [trustworthy](#) health care provider for 21 years, it is clear that if you state something, people will listen. Misinformation, as the NCSBN Policy Statement indicated, threatens public health and safety.

In board of nursing proceedings, one option you always have is to waive your right to a hearing on any allegations and voluntarily surrender your license, as Pamela did. However, be clear that a surrender is a discipline despite it being voluntary.

Petitioning for reinstatement is a not simple process, nor does the option assure you of re-licensure. As Pamela's Agreed Order indicates, she must meet current requirements for re-licensure. Current requirements may be quite different from those you met for your initial licensure.

Remember, too, because you first need an RN license before you can obtain an APRN license, both are subject to discipline. As a result, complying with your obligations as both an RN and APRN under your nurse practice act and its rules is fundamental.

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