Oregon State Board of Nursing Interpretive Statement

When to Report? Utilizing the Complaint Evaluation Tool

The Oregon Nurse Practice Act (NPA) requires the reporting to the Board (OSBN) of unsafe practice due to the potential or actual risk to public safety. It is not the intent, however, of the NPA that each and every nursing error be reported. OAR 851-045-0070 describes the type of conduct that is derogatory to the practice of nursing and OAR 851-063-0090 describes the conduct unbecoming a Nursing Assistant. Many of these descriptors in and of themselves could warrant reporting however, these descriptors may be benign in intent or no impact to public safety may result but are still potential risks. The OSBN has published the attached form to be used as a guide to help determine when reporting should occur. **This form is optional, any report of real or potential unsafe practice can be reported regardless of the score on this form.** The intent of the OSBN is to provide guidance for those individuals who are unsure if a report is required.

For incidents described in 851-045-0090 (6) (Mandatory Reporting) this form must not be used. These incidents are subject to mandatory reporting, the reporter is required under the NPA to report these to the OSBN.

It is important to note that:

1. If the outcome of using this form is to **Not Report** then a copy of the form should be maintained if the potential reporter is a healthcare licensee. If the OSBN does receive a report through another route and it is noted that the healthcare licensee had prior knowledge and did not report, the OSBN would need to know what decision making went into not reporting.
2. If the outcome of this form results in a **Report to the OSBN** then inclusion of this matric will help the OSBN investigate the incident. Please include the form when filing a complaint. It may be faxed or e-mailed to the OSBN.

Be sure to read all the directions on the form and make sure that the scoring is based upon objective information that can be validated if required. It is not required that the OSBN be consulted prior to making decision to report but OSBN staff is available to assist you if needed.

This is a two page report: Please make sure that both the form itself (the green/yellow/red table) is used, as well as the page that describes the "mitigating and aggravating" behaviors are used.

- Page 1 describes the behaviors associated with the incident.
- Page 2 describes the mitigating and aggravating circumstances as well as the **score resulting from the use of this form and will determine if the incident should be reported.**
- **See completed example form in Appendix A**

The Oregon State Board of Nursing (OSBN) is authorized by Oregon Revised Statutes Chapter 678 to exercise general supervision over the practice of nursing in Oregon to include regulation of nursing licensure, education, and practice in order to assure that the citizens of Oregon receive safe and effective care. The OSBN further interprets statute and rule and issues opinions in the form of Policy and Interpretive Statements. These policies and interpretive statements are advisory in nature and issued as guidelines for safe nursing practice.

OREGON STATE BOARD OF NURSING (OSBN): COMPLAINT EVALUATION TOOL

This form has been adapted, with permission, from the North Carolina Board of Nursing CET Tool. The OSBN wishes to thank the Board and staff of the North Carolina Board of Nursing for their consent to adapt this form for use in Oregon.

This form is to be used when there is a question if an incident involving nursing practice should be reported to the OSBN. It is not the intent of the Board that each and every nursing error be reported (OAR 851-045-0090 (1). This document is intended to be used to determine if an incident should be reported. If the decision is to NOT report, this form should be maintained by the individual completing the form in a manner consistent with organizational policy. If the decision is to report, please include this form with the complaint. Note that the use of this form is not required to determine if a report should be made. Any error may be reported if the reporter feels it is in the interest of public safety to do so.

Instructions:

1. This is a non-fillable PDF form; please print and complete.
2. Rate the practice event in all five horizontal rows.

   G General Nursing Practice
   U Understanding/level of experience
   I Internal policies/standards/LIP orders
   D Decision/choice
   E Ethics/credibility/accountability

3. Determine the numerical value of the criteria in the vertical columns that best describe the event, and then place that number in the far-right hand column. Note the vertical columns indicate Human Error (Green), At Risk Behavior (Yellow) and Reckless Behavior (Red).

Human Error	At Risk Behavior			Reckless Behavior	
0	1	2	3	4	5

Total the Criteria score at the bottom of the page and transfer to the second page in the section marked “Criteria Score from Page 1”.

4. Select and total number of applicable mitigating and aggravating factors. Mitigating and Aggravating Factors may influence the final decision regarding reportability.
5. Based on the total criteria score and number of color categories, follow the recommendations in each box.
6. If this form is used to make the decision to report, please include it in your complaint.
7. Board staff is available to assist if you need help completing this form: Please call the Nursing Practice Consultant group at 971-673-0685 and select the “Policy Analyst” option.

OREGON STATE BOARD OF NURSING (OSBN): COMPLAINT EVALUATION TOOL

Allegation (s): _____ **Licensee's Name:** _____

	Criteria	Human Error	At Risk Behavior			Reckless Behavior		Score
		0	1	2	3	4	5	
G	General Nursing Practice	No prior written counseling for practice issues	Prior written counseling for single non-related practice issue within the last 12 months.	Prior written counseling for single related practice issue within the past 12 months	Prior written counseling for various practice issues within the past 12 months.	Prior written counseling for same practice issue within last 12 months.	Prior written counseling for same or related practice issue within last 6 months with minimal to no evidence of improvement.	
U	Understanding/ Level of Experience	Has knowledge, skills and ability. Incident was accidental, inadvertent, or oversight.	Limited understanding of correct procedure. May be novice <6 months of experience in nursing or with the current event/activity.	Limited understanding of options/resources. Aware of correct procedure but in this instance cut corners. May be advanced beginner – 6 months to 2 years' experience in nursing or with current event/activity.	Aware of correct action/rationale but failed to apply in this incident. Did not obtain sufficient information or utilize resources before acting. May be competent > 2 years' experience in nursing or with current event/activity.	In this instance there was intentional negligence or failure to act/not act according to standards. Risk to client outweighed benefits. May be in a position to guide/influence others. May be proficient >5 years in nursing or with current event/activity.	In this instance there was intentional gross negligence/unsafe action/inaction. Licensee demonstrated no regard for client safety and harm almost certainly would occur. May hold a leader/mentor position. May be expert performer >5 years in nursing or with event/activity.	
I	Internal Policies/standards and/or LIP orders for care	Unintentional breach or no policy/standard/LIP order exists.	Policy/Standard/LIP order has not been enforced as evidenced by cultural norm (common deviation of staff) or policy/standard/LIP order was misinterpreted.	Policy/Standard/LIP order clear but nurse deviated in this instance as a time saver. Failed to identify potential risk for client. No evidence of pattern.	Aware of policy/standard/LIP order but ignored or disregarded to achieve perceived expectations of management, client, or others. Failed to utilize resources appropriately, May indicate a pattern.	Intentionally disregarded policy/standard/LIP order for own personal gain.	Intentional disregard of policy/standard/order with understanding of negative consequences for the client.	
D	Decision/Choice	Accidental/mistake/ inadvertent error	Emergent situation – quick response required to avoid client risk.	Non-emergent situation. Chose to act/not act because perceived advantage to client outweighed the risk.	Emergent or non-emergent situation. Chose to act/not act without weighing options or utilizing resources, Used poor judgment.	Clearly a prudent nurse would not have taken same action. Unacceptable risk to client/agency/public. Intentional disregard for client safety.	Willful egregious/flagrant choice, Put own interest above that of the client/agency/public. Intentionally neglected red flags. Substantial and unjustifiable risk.	
E	Ethics/credibility/ accountability	Identified own error and self-reported. Honest and remorseful.	Readily admitted to error and accepted responsibility when questioned. Identified opportunities and plan for improvement in own practice.	Reluctantly admitted to error but attributed to circumstances to justify action/inaction. Cooperative during investigation and demonstrated acceptance of performance improvement plan.	Denied responsibility until confronted with evidence, Blamed others or made excuses for action/inaction. Failed to see significance of error. Reluctantly accepted responsibility and denied need for corrective action.	Denied responsibility despite evidence, Indifferent to situation. Uncooperative, insubordinate and/or dishonest during investigation.	Took active steps to conceal error or failed to disclose known error. Provided misleading information during investigation or destroyed evidence. May have inappropriately confronted others regarding investigation.	**Total**

OREGON STATE BOARD OF NURSING (OSBN): COMPLAINT EVALUATION TOOL

Page 2: Complaint Evaluation Tool: Mitigating and Aggravating Circumstances

Definitions:

Mitigating Factor: Does not excuse or justify conduct but factors considered out of fairness in deciding the degree of the offense.

Aggravating Factor: Factors that increase the severity or culpability of the offense.

These factors do not contribute to the score decision making; however, they will describe factors to be reviewed should a report be made to the Board.

	Mitigating Factors – check all that apply		Aggravating Factors – check all that apply
	Communication breakdown (multiple handoffs, change of shift, language barrier)		Took advantage of leadership position
	Limited or unavailable resources (inadequate supplies/equipment)		Especially heinous, cruel, and/or violent act
	Interruptions/chaotic environment/emergencies–frequent interruptions/distractions.		Knowingly created risk for more than one client
	Worked in excess of 12 hours in 24 /60 hours in a work week to meet agency needs		Threatening/bullying behaviors
	High work volume/staffing issues		Disciplinary action (practice related issues) in previous 13-24 months
	Policies/procedures unclear		Vulnerable client: geriatric, pediatric, mentally/physically challenged, sedated
	Performance evaluations have been above average		Worked in excess of 12 hours in 24 or 60 hours in work week to meet personal needs.
	Insufficient orientation/training		Other (Identify)
	Client factors (combative/agitated, cognitively impaired, threatening)		
	Non-supportive environment –interdepartmental conflicts		
	Lack of response by other departments/providers		
	Other (Identify)		
	Total # of mitigating factors identified		Total # aggravating factors identified

Criteria Score from Page 1 _____

No Board Report Required	Report or call the Board for Consultation if Unsure	Board Report Required (Mandatory)
3 or more criteria in Green OR Criteria score of 6 or less	3 or more criteria in Yellow OR Criteria score 7-15	**2 or more criteria in Red** OR Criteria score 16 or more OR Incident involved fraud, client abuse, theft, diversion, sexual misconduct, mental/physical impairment, impairment due to substance use or any mandatory reporting criteria listed in OAR 851-045-0090 (6)

Complaint Evaluation Tool Completed by _____ Facility Name _____

Contact number and email address _____

If OSBN contacted prior to reporting list name of staff member consulted _____

Recommended action by OSBN staff member _____

If a report is made to the Board, please fax/submit a copy of this form to the Board. If no report is made, retain in employee file per facility HR policy. This document may be subpoenaed if the Board receives a complaint against this licensee from another source.

Appendix A: Example of Completed Form Allegation (s): _____**Posted patient private information on Facebook**_____Licensee's Name: _____**John Q. Nurse**_____

	Criteria	Human Error	At Risk Behavior			Reckless Behavior		Score
		0	1	2	3	4	5	
G	General Nursing Practice	No prior written counseling for practice issues	Prior written counseling for single non-related practice issue within the last 12 months. X	Prior written counseling for single related practice issue within the past 12 months	Prior written counseling for various practice issues within the past 12 months.	Prior written counseling for same practice issue within last 12 months.	Prior written counseling for same or related practice issue within last 6 months with minimal to no evidence of improvement.	1
U	Understanding/ Level of Experience	Has knowledge, skills and ability. Incident was accidental, inadvertent, or oversight.	Limited understanding of correct procedure. May be novice <6 months of experience in nursing or with the current event/activity.	Limited understanding of options/resources. Aware of correct procedure but in this instance cut corners. May be advanced beginner – 6 months to 2 years' experience in nursing or with current event/activity.	Aware of correct action/rationale but failed to apply in this incident. Did not obtain sufficient information or utilize resources before acting. May be competent > 2 years' experience in nursing or with current event/activity.	In this instance there was intentional negligence or failure to act/not act according to standards. Risk to client outweighed benefits. May be in a position to guide/influence others. May be proficient >5 years in nursing or with current event/activity. X	In this instance there was intentional gross negligence/unsafe action/inaction. Licensee demonstrated no regard for client safety and harm almost certainly would occur. May hold a leader/mentor position. May be expert performer >5 years in nursing ow with event/activity.	4
I	Internal Policies/standards and/or LIP orders for care	Unintentional breach or no policy/standard/LIP order exists.	Policy/Standard/LIP order has not been enforced as evidenced by cultural norm (common deviation of staff) or policy/standard/LIP order was misinterpreted. X	Policy/Standard/LIP order clear but nurse deviated in this instance as a time saver. Failed to identify potential risk for client. No evidence of pattern.	Aware of policy/standard/LIP order but ignored or disregarded to achieve perceived expectations of management, client, or others. Failed to utilize resources appropriately, May indicate a pattern.	Intentionally disregarded policy/standard/LIP order for own personal gain.	Intentional disregard of policy/standard/order with understanding of negative consequences for the client.	1
D	Decision/Choice	Accidental/mistake/ inadvertent error	Emergent situation – quick response required to avoid client risk.	Non-emergent situation. Chose to act/not act because perceived advantage to client outweighed the risk.	Emergent or non-emergent situation. Chose to act/not act without weighing options or utilizing resources, Used poor judgment.	Clearly a prudent nurse would not have taken same action. Unacceptable risk to client/agency/public. Intentional disregard for client safety.	Willful egregious/flagrant choice, Put own interest above that of the client/agency/public. Intentionally neglected red flags. Substantial and unjustifiable risk. X	5
E	Ethics/credibility/ accountability	Identified own error and self-reported. Honest and remorseful.	Readily admitted to error and accepted responsibility when questioned. Identified opportunities and plan for improvement in own practice.	Reluctantly admitted to error but attributed to circumstances to justify action/inaction. Cooperative during investigation and demonstrated acceptance of performance improvement plan.	Denied responsibility until confronted with evidence, Blamed others or made excuses for action/inaction. Failed to see significance of error. Reluctantly accepted responsibility and denied need for corrective action. X	Denied responsibility despite evidence, Indifferent to situation. Uncooperative, insubordinate and/or dishonest during investigation.	Took active steps to conceal error or failed to disclose known error. Provided misleading information during investigation or destroyed evidence. May have inappropriately confronted others regarding investigation.	3 **Total**
								14

Definitions:

Mitigating Factor: Does not excuse or justify conduct but factors considered out of fairness in deciding the degree of the offense.

Aggravating Factor: Factors that increase the severity or culpability of the offense.

These factors do not factor into the score decision making, however, they will describe factors to be reviewed should a report be made to the Board.

Mitigating Factors – check all that apply		Aggravating Factors – check all that apply	
	Communication breakdown (multiple handoffs, change of shift, language barrier)		Took advantage of leadership position
	Limited or unavailable resources (inadequate supplies/equipment)		Especially heinous, cruel, and/or violent act
	Interruptions/chaotic environment/emergencies –frequent interruptions/distractions.		Knowingly created risk for more than one client
	Worked in excess of 12 hours in 24 /60 hours in a work week to meet agency needs		Threatening/bullying behaviors
	High work volume/staffing issues		Disciplinary action (practice related issues) in previous 13-24 months
x	Policies/procedures unclear		Vulnerable client: geriatric, pediatric, mentally/physically challenged, sedated
x	Performance evaluations have been above average		Worked in excess of 12 hours in 24 or 60 hours in work week to meet personal needs.
	Insufficient orientation/training		Other (Identify)
	Client factors (combative/agitated, cognitively impaired, threatening)		
	Non-supportive environment –interdepartmental conflicts		
	Lack of response by other departments/providers		
	Other (Identify)		
2	Total # of mitigating factors identified	**0**	Total # aggravating factors identified

Criteria Score from Page 1: ____14_____

No Board Report Required	Report or call the Board for Consultation if Unsure	Board Report Required (Mandatory)
3 or more criteria in Green OR Criteria score of 6 or less	3 or more criteria in yellow OR Criteria score 7-15 ***the example scores out as a 14 but with 2 in the beige category, should be reported.***	**2 or more criteria in Red** OR Criteria score 16 or more OR Incident involved fraud, client abuse, theft, diversion, sexual misconduct, mental/physical impairment, impairment due to substance use or any mandatory reporting criteria listed in OAR 851-045-0090 (6)

Complaint Evaluation Tool Completed by ___Jane Q. Manager_____ Facility Name _____ABC Hospital_____

Contact number and email address _____555-111-2222 JaneQ.Manager @ abc hospital.org_____

If OSBN contacted prior to reporting list name of staff member consulted _____N/A_____

Recommended action by OSBN staff member _____N/A_____

If a report is made to the Board please fax submit a copy to the Board. If no report made, retain in employee file per facility HR policy. This document may be subpoenaed if the Board receives a complaint against this licensee from another source.