




**"NURSING PEER REVIEW PROCESS IN IDD FACILITIES":**  
PRESENTED BY TWOGETHER CONSULTING

Presenter:  
Beverly Weeks, MSN, RNC

### GOALS & OBJECTIVES FOR TODAY




**Goals:**  
This course is intended to inform you about Nursing Peer Review Process

**Objectives:**

1. You will understand the basic concepts for the need for the Peer Review Committees.
2. You will be able to understand the basic process of implementing your own Peer Review Committee.
3. You will understand how it relates to other committees such as Quality Assurance and Patient Safety Committees.

### WHAT IS THE FUNCTION OF A PEER REVIEW COMMITTEE?




**BON Expectation is that any Facility with 10 or more Nurses should have a Nursing Peer Review Process & Committee in place.**

**Function:**


- Evaluation of Nursing Services
- Qualifications Of The Nurse
- Quality of Patient Care
- Identification of Possible Misconduct
- Review of these Incidents of Possible Misconduct
  - 3/4 of the Committee have to be RN's (can be contracted RN's from another facility)

### WHO MAKES UP PEER REVIEW COMMITTEE




**LVN's & RN's**

- Anyone else who might attend who is not a nurse can take minutes, review information, or make inquires/ask questions, but they can't be a part of the decision making process.
- Remember at least 3/4 of the Committee must be Nurses
- BON recommends a minimum of 5 persons on the committee.
  - If it is an APN under review, at least 1 member must be an APN in the same arena of practice & the other 2/3<sup>rd</sup>s must be RN's.





### TWO TYPES OF REVIEW



**Incident-Based**

- Can be initiated by a facility, association, or school that has nursing services
- Examples:
  - Medication Errors
  - Over stepping scope of practice

**Safe Harbor**

- May be initiated by LVN, RN, or APN prior to accepting an assignment that they believe puts patients at risk or harm or potential risk or harm. In accordance with rule 217.20.
- Also if they are asked to perform a task that they are not skilled to do or within the scope of their practice. Refer to BON LVN/RN Scope of Practice.
  - Must claim safe harbor prior to performing the task.

### HOW IT RELATES TO SAFETY COMMITTEE

All information is confidential from the Peer Review but should be shared with your Patient Safety Committee.

If you do not currently have a Patient Safety Committee, you really should have one in place to improve your patient quality of care.



## CAN YOU BE REPORTED?



**Yes- if Multiple incidents of Minor Incidents (or Major)**  
**Yes- if Non-Minor (of a serious nature)**

## TWO TYPES OF INCIDENTS

### Reportable

- **Non-Minor Incidents** (of a serious nature)
- **& /or Multiple Incidents** (Minor or Non-Minor)
- **Criteria for Reportable Minor Incidents**
  - Significant risk of physical, emotional, or financial harm to the client
  - Indicates Nurse's lack of conscientious approach or accountability for her practice
  - Indicates lack of knowledge and competency to make clinical judgements
  - Indicates multiple minor incidents (5 or more within 12 month period)
  - Anything contributing to harm or death of a patient



### Non-Reportable

- **Minor Incidents**
  - Defined as conduct that does not indicate that the continuing practice of the nurse does not poses a risk of harm to the client.
  - Rule 217.116(b)

## REQUIREMENTS FOR REPORTING TO BON

- When the Peer Review Committee believes in good faith that the nurse has engaged in contact subject to reporting as defined under the Nursing Practice Act- 301.401 (1)
- This nearly always involves one or more suspected violations of Rules 217.11.
- Standards of Nursing Practice, or
- 217.12 Unprofessional Conduct.
- Or may fail to meet the criteria for consideration as a minor incident 217.16 (c) Exclusions or 217.16 (d)

### Written Report to BON must include:

- Identity of The Nurse
- Description of any Corrective Action That Was Taken
- Recommendation Whether The BON Should Take Formal Disciplinary Action Towards The Nurse
- A Description of The Conduct Subject To Reporting
- The Extent To Which Any Deficiency In Care Provided By The Nurse Was The Result of A Factor That Was Beyond The Nurses Control.
- Any Additional Info. The BON Requires.
- **Failure to report a reportable incident to the BON may result in action against the nurses on the peer review committee and the nurse involved!!!**



## TIMELINES FOR CONDUCTING PEER REVIEW



- Will meet on a specific date not less than 21 but not more than 45 days from the date of notice (when the notice is received nurse that is under review)
- A Copy of the Peer Review Plan Policy & Procedures should be included in the notice.
- A Description of the Events to Be Evaluated In Detail
- Name, Address, and Telephone # of Contact Person To Receive The Nurses Response.
- Nurse under review must have Opportunity To Review Documentation Associated With Incident either In person or by an Attorney at least 15 calendar days prior to appearing before the committee.
- Nurse is permitted at the review by the committee to make a statement including:
  - Asking Questions
  - Responding To Questions
  - And Can Provide a Written Statement Regarding the Event Under Review

## TIMELINES FOR CONDUCTING PEER REVIEW (CONT.)

### Nurse Under Review Also Has:

- The Opportunity to Call Witnesses
- Question Witnesses
- Present Testimony or Evidence
- Be Provided Copies **48 hrs in Advance** of Proceeding of the Meeting
- Make a Closing Statement to Committee After All Evidence is Presented



Committee must complete its evaluation within **14 days** of the peer review hearing

Within **10 calendar days** of completion of evaluation the committee must notify the nurse in writing of its determination.

The Nurse will be given the opportunity **within 10 calendar days** of receiving determination to write a rebuttal to the findings.

## MAY THE EMPLOYER TAKE DISCIPLINARY ACTION PRIOR TO THE PEER REVIEW?



### NO!

The Peer Review Committee Needs To have time to review the information and question persons involved.

The Nurse involved must be allowed a fair hearing /review

**■ If after the fact the employer deems that the nurse is to be terminated whether voluntary or involuntary for non-practice related incidents it is not reportable. Ex: late to work, no show to work.**

**■ If the termination is practice-related must be reported to BON.**

**■ The committee does not make employer decisions. They just give the findings.**

### QUESTIONS OF IMPAIRMENT



**If impairment is suspected:**

- Mental Illness
- Drugs or Alcohol
- Diminished Mental Capacity



**These all have to be reported to the BON**  
( or to the Peer Assistance Program if this is available.)

### WHAT IS SAFE HARBOR?



Safe Harbor is a nursing peer review process that a nurse may initiate when asked to engage in an assignment or conduct that the nurse believes in "good faith" would potentially result in a violation of BON statutes or rules. Rule 217.19 (a) (15)

Ex:  
Clinical assignments related to staffing and/or acuity.

### EXAMPLES OF CLAIMING SAFE HARBOR (CONT.)



- The Reasonableness of a Physician's Order
- Asking A Nurse To Falsify or Change Records or Medical Documentation

### LICENSURE PROTECTION UNDER SAFE HARBOR



May not be disciplined for requesting safe harbor Rule 303.005 (c) (d) (h)

May engage in the requested conduct pending peer review. But nurse is covered by safe harbor because requested it.

Not subject to reporting requirement under subchapter 1 Ch. 301.

And may not be disciplined for that conduct while the peer review is pending.

### HOW DOES THE NURSE INVOKE SAFE HARBOR



**Notify Supervisor in Writing**

•Ex: Nurse Manager, DON, etc...



**May Also Use The BON's Request Form which is online under Nursing Practice. 217.20 (d) (3) (i)-5**

- Includes name and names of persons making request for safe harbor
- Their signatures
- Date and Time o Request
- Location of Where The Conduct or Assignment Is To Be Completed
- The Name of The Person Making the Request of the Assignment or Conduct
- Brief Explanation of Why the Assignment or Conduct has Resulted in Requesting Safe Harbor

### IF A NURSE INVOKES SAFE HARBOR:



**And the Supervisor subsequently is able to remedy the situation is the nurses request for safe harbor invalid?**

- Does the Nurse have to withdraw his or her request?**
- The nurse's request for safe harbor does not become invalid
- They do not have to withdraw their request.
- These are supposed to be shared with the Peer Review Committee and The Patient Safety Committee
- It is the Nurse's choice to still have Peer Review Committee review the situation

WHEN CAN A NURSE INVOKE SAFE HARBOR & REFUSE THE ASSIGNMENT?

The nurse is permitted to refuse an assignment when she believes the requested conduct or assignment constitutes grounds for reporting to the BON under the Nursing Practice Act.

301.401 (1)



All nurses have duty to follow their Nursing Practice Act and protect their license!

RULE 217.20- BETTER THE NURSE STAY AND BE WITH THE PATIENTS THAN TO LEAVE THE PATIENTS

Unless the conduct constitutes a criminal act or unprofessional conduct or the nurse lacks the knowledge and basic skills and abilities necessary to deliver nursing care.

Better than walking off the job, but you would want to evoke safe harbor first if you choose to engage in this request. But you don't have to engage though in the request if you make the request.

At least though you have it on record that you do not agree with the request that has been given through your request for Safe Harbor.

The ability to evoke safe harbor protections and have the NPR committee to evaluate the requested assignment are the same whether or not the assignment has been accepted or declined by the nurse.

DOES SAFE HARBOR PROTECT THE NURSE FROM CIVIL OR CRIMINAL LIABILITY?



No

The BON does not have authority over Civil or Criminal Liability issues.

It does protect the nurse from retaliation by the company or entity for whom the nurse performs the service.



WHEN CAN A SMALLER WORKGROUP OF THE NPR BE UTILIZED?

Can be used anytime if the person being reviewed agrees to the smaller group.

Say 4-5 minimal if they normally had more than that in their NPR committee.



MUST THE RECOMMENDATIONS MADE BY THE SAFE HARBOR COMMITTEE BE FOLLOWED BY NURSE ADMINISTRATOR?

**Nurse administrator**- can decide to terminate if it is deemed that the request was made in "bad faith" or otherwise NPR committee made an incorrect determination.

