Fitness to Practice: Substance Use Disorder (SUD) and Positive Criminal Background Check for SUD

In addition to the assumptions for all conduct evaluations, the Board also assumes the following for this conduct category:

1. Because individuals in society as a whole have drug and alcohol problems, it is reasonable to expect that applicants for licensure and certification as nurses/nurse assistants may apply with active drug or alcohol use, abuse, or dependence, which may affect their ability to safely practice nursing or perform the duties of a nursing assistant.
2. Nurses/nursing assistants who abuse or are dependent on substances and whose judgment may be impaired while caring for patients are at risk for harming patients.
3. SUD and substance dependence are conditions with different diagnostic criteria and therefore may be considered separately in terms of eligibility for licensure/certification.
4. The diagnosis of substance abuse may not, in the absence of other factors such as recommendation for treatment, prevent a person from safely practicing as a nurse/nursing assistant.
5. The diseases of SUD and dependence are treatable diseases and nurses/nursing assistants in active recovery may be able to safely provide care to vulnerable patients. Recovery is a process of learning new behaviors, attitudes and lifestyle that takes time after initial treatment to ensure that the person is in a stable state of recovery.
6. An applicant for licensure/certification who applies through interstate endorsement and who can demonstrate that he/she has a record of ability to function safely as a nurse/nursing assistant may be permitted the opportunity for licensure/certification despite a diagnosis of SUD or substance dependence.
7. An applicant for initial licensure/certification by examination, who has never been licensed or certified in another jurisdiction, and who has a diagnosis of SUD or substance dependence with a recommendation for treatment may be required to demonstrate a period of sobriety before being permitted to care for vulnerable patients. In general, the Board requires at least two years of sobriety prior to initial licensure.

High Risk Factors:
The following factors, if present alone or in combination, place the applicant at high risk for ability to safely care for patients. As a result, the applicant will have a high probability of application denial. The applicant bears the burden of presenting evidence sufficient to prove to the satisfaction of the Board that the applicant is not impaired and does not present a high risk to public safety. High risk factors include:

- The diagnosis of substance dependence.
- A history of substance abuse/dependence that began in latency or early adolescence and continued into adulthood before successful treatment.
- A history of substance abuse/dependence for the majority of the person’s life.
- The diagnosis of substance abuse with a recommendation for treatment.
- Applied for licensure/certification by examination and has not been licensed or certified in another state.
- Sobriety of less than two years.
- Not completed the level of treatment as recommended by a drug and alcohol evaluator, but chose another kind of treatment instead.
• Completed the intensive portion of a treatment program and failed to complete the recommended aftercare.
• Dropped out of a treatment program but claims to attend 12-step meetings.
• Refused to attend or did not attend treatment.
• Never successfully completed treatment.
• Admitted to an occasional drink and use, thinks he/she can “control it” (following a diagnosis of substance dependence).
• Relapsed or engaged in relapse behavior without immediately seeking intervention.
• Demonstrated other addictive behaviors that have not been treated.
• A dual diagnosis that has not been treated (treatment should be by a psychiatrist).
• Drug and alcohol related arrests/convictions both before and after treatment.
• Current court ordered probation.
• Has not completed court-ordered restitution or community service.
• A current disciplinary sanction in another state, for any reason, unless the nurse has not had the opportunity to participate in an alternative to discipline program.
• Been the subject of removal of parental rights.
• Other conduct or conditions that the Board finds to constitute a high risk factor.

The more factors listed above that apply to the applicant, the more the applicant is at high risk for ability to safely care for patients.

Moderate Risk Factors:
Applicants with the risk factors listed below may be offered a period of monitored practice in order to be awarded a license/certificate. The monitored practice is in the form of a Stipulation for Probation. This probation stipulation is a public document and will be listed on the OSBN website. Should the applicant not agree to the Stipulation for Probation, the Board may issue a Notice for other sanctions possibly including denial of licensure. Moderate risk factors include:

• The diagnosis of substance abuse or dependence with a recommendation for treatment.
• Has a history of substance abuse/dependence that did not occupy a majority of the person’s life.
• Applied for licensure/certification by interstate endorsement, has had treatment and a significant (18-24 months or more) of documented sobriety.
• Applied for licensure/certification by interstate endorsement, has had treatment for substance abuse or dependence and a favorable practice record in another state.
• Enrolled in several treatment programs before successful completion.
• Relapsed or engaged in relapse behaviors, sought intervention immediately and is being or had been treated.
• A dual diagnosis that is being successfully treated by a psychiatrist.
• Drug and alcohol related convictions, all of which occurred before treatment.
• Completed all, or is close to completing all court requirements related to convictions.
• Had a disciplinary sanction (for any reason) in another state, recently (less than 2 years) resolved.
• Had parental rights removed for drug and alcohol abuse, resolved since treatment.

This is not an all-inclusive list, and the Board may review other factors in determining the conditions of licensure/certification.
Low Risk Factors: Applicants who have the following factors and are otherwise judged to be fit to practice nursing or perform the duties of a nursing assistant could be issued a license or certification without monitoring based upon an overall review of their application. Low risk factors include:

- The diagnosis of substance abuse or dependence, evidence of treatment and sobriety of five or more years.
- Completed a treatment program and all aftercare recommendations.
- Demonstrated lifestyle changes.
- An identified support system including sponsor and family.
- Articulated life changes and attitudes as a result of treatment and sobriety.
- A strong and active program of recovery.
- Expressed remorse for acts committed while drinking/using and behavior is consistent with verbal expressions of remorse.
- Sought immediate intervention if concerned about relapse behavior.
- Had no further drug and alcohol related arrests or convictions since treatment.
- Past disciplinary sanctions in another state that have been resolved for at least three years with no further problems.

Individuals who are already licensed or certified by the Board may also come to the Board’s attention because of impairment issues or crimes. Investigations will generally be opened and, based upon the fact pattern, the Board will consider appropriate sanctions. Available sanctions include dismissal, reprimand, revocation, suspension, or probation. The Board could also allow the licensee to be placed in the alternative to discipline program, the Oregon Health Professionals Services Program (RN and LPN only), which is administered thru a third party monitoring program. Rules regarding fitness for duty issues involving substance use disorder, substance dependence, mental health or physical impairment are found in OAR 851-70.

Next Review Date: March 2018