School Nurse Communication with a Student’s Primary Care Provider Without a Release of Information from the Student’s Parent/Guardian

**Purpose:** Utilizing the OSBN Scope of Practice Decision Making model to determine if a nurse employed in the school setting can communicate with a student’s primary care provider without a release of information from the student’s parent/guardian authorizing such communication.

**Scope of Practice Decision Model:** This model has been adopted by the Oregon State Board of Nursing (OSBN) to determine if a licensee of the Board is working within their scope of practice. The model and instructions for using the model are found on the OSBN Policies & Interpretive Statements webpage at [www.oregon.gov/OSBN/pages/position_papers.aspx](http://www.oregon.gov/OSBN/pages/position_papers.aspx)

Application of the Scope of Practice Decision Making model cues a licensee to clarify or describe the specific role, intervention, or activity in question. Then, the model presents a series of specific and sequential questions to which the licensee must respond. Depending on a licensee’s response to the first question, one of two things will happen:

1. Progression through the model will be stopped as it will have been determined that the role/intervention/activity is not within the scope of the Oregon licensee, or
2. The licensee will be allowed to continue to the next question.

It is only when a licensee’s responses to each question allow progression through all questions, and the licensee has an affirmative response to the final question, that the licensee may engage in the role, intervention, or activity to acceptable and prevailing standards of safe nursing care.

For the purposes of this interpretive statement, the activity in question is described as: *School nurse communication with a student’s primary care provider regarding the health care of the student without a release of information authorizing such communication from the student’s parent/guardian.*

The first question of the Scope of Practice Decision Making model asks the licensee: *Is the role, intervention, or activity prohibited by the Nurse Practice Act and Rules/ Regulations or any other applicable laws, rules/regulations or accreditation standards?*

To this question, a licensee would have to answer “yes” because the activity is prohibited by other applicable laws. Specifically, the Family Education Rights and Privacy Act (FERPA). FERPA is a federal law that protects the privacy of student education records. FERPA applies to education agencies and
institutions that receive funds under any program administered by the U.S. Department of Education (U.S. Department of Health and Human Services & U.S. Department of Education 2008). The licensed nurse cannot practice in violation of FERPA.

Questions about application of the Family Education Rights and Privacy Act should be directed to your school district, the Oregon Department of Education, and the U.S. Department of Education.

Frequently asked questions:

**What if the student is experiencing an emergency situation – can’t I contact their PCP then?**

**Isn’t a student’s health record different from their education record?**
The Family Educational Rights and Privacy Act defines the term "education records" as those records that contain information directly related to a student and which are maintained by an educational agency/institution or by a party acting for the agency or institution. This includes records maintained by a school nurse (U.S. Department of Health and Human Services & U.S. Department of Education 2008).

**What happens if I contact the student’s prescriber anyway and the parent files a compliant to the Board of Nursing about me?**
If a complaint were to be made to the Board of Nursing alleging that a nurse communicated with student’s primary care provider without the consent of the student’s parents, an investigation would ensue to collect facts regarding the case. An OSBN investigator would first validate whether there is concern about the nurse’s practice or conduct. If there is evidence of a practice or conduct problem, an investigator would meet with the licensee or applicant in person or by phone. If there are grounds for disciplinary action, the investigator would present a report of the case to the Board that would make a decision regarding the facts presented based on the OSBN discipline theory model, OSBN disciplinary policies, and past Board decisions.

**References**
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.