

JUST CULTURE IN NURSING REGULATION

South Carolina Board of Nursing

SCBON OFFICIALLY ADOPTS JUST CULTURE PRINCIPLES

- Over the past year, the SCBON studied the Just Culture model which is already used by many in the industry to see how they could apply it regulation.
- The Board has been applying many Just Culture principles for licensees that come before them for a Final Order Hearings; now they will start incorporating those principles at the beginning of the investigative/disciplinary process.
- Board's mission is to protect the public. There is a wealth of information that shows a Just Culture model fosters an environment that safeguards the public while encouraging growth as a licensee.





JUST CULTURE CONCEPTS

- Not a “blame-free” response to all errors
- Focuses on behavioral choices
- Degree of risk-taking behavior
- Holds individuals accountable who makes unsafe or reckless choices that endanger patients
- Moving away from a culture of “blame and shame”
- Moving toward a culture of quality improvement
- Promotion of practice enhancement and patient safety

WE
LEARN
FROM
MISTAKES.



JUST CULTURE CONCEPTS (CONTINUED)

- Learning from practice errors
- Assigning accountability for behavior(s)
- Consistently evaluate event (ongoing process for improvement)
- Comply with mandatory reporting requirements (by statute)

EMPLOYER COMPLAINT EVALUATION TOOL (ECET)

- This tool is used to determine if an employer should make a formal report to the board.
- Every employer should complete the ECET analysis before filing a complaint
- Based on the “just culture” algorithm
- Addresses events in the practice setting
- Board consultation is available

EXAMPLES OF NON-REPORTABLE OFFENSES

Failure to follow employment (non-clinical) policies	Rudeness or inappropriate verbal interactions with patients or staff
Mental/emotional issues that do not impact or relate to nurse's practice	System issues (eg. Malfunctioning equipment, staffing/work hour issues, outdated policies/procedures, etc)
Minor Medication Errors	Minor Documentation Errors

EXAMPLES OF REPORTABLE EVENTS

SC CODE §40-33-110 – This rule provides detail regarding specific behaviors which may result in disciplinary action; events are conduct and health related and must be reported the BON.

Fraud	Theft	Sexual Misconduct
Impairment on Duty (Mental, Physical, Substance Abuse, etc)	Inappropriate Prescribing	Drug Diversion
Positive Drug Screen	Fraudulent Prescription for Controlled or Abusable Substance	Breach of Confidentiality

CULPABILITY STANDARDS IN JUST CULTURE

- Human Error
- At Risk Behavior
- Reckless Behavior



HUMAN ERROR

Nurse inadvertently, unintentionally did something other than intended or other than what should have been done;

A slip;

A lapse; or

An honest mistake.

Isolated event, not a pattern of behavior.

Examples:

- Single Medication Event/Error (wrong dose, route, time or patient)
- Failure to implement a treatment order due to oversights

Repetitive human error or pattern of behavior requires further evaluation.

AT-RISK BEHAVIOR

Behavioral choices that increase risk where risk may not be recognized or is mistakenly believed to be justified;

Nurses do not appreciate risk;

Unintentional risk taking; and

Nurse's performance or conduct does not pose a continuing practice risk to clients or others.

Examples

- Exceeding the scope of practice
- Pre-documentation
- Minor deviation from established practice

Evaluate on a case by case basis and may warrant a consultation with the board's practice consultant

RECKLESS BEHAVIOR

- Nurse consciously disregards a substantial and unjustifiable risk;
- Nurse's action or inaction is intentional and purposeful; or
- Nurse puts own self/personal interest above that of a client, organization, or others

- Examples:
 - Nurse leaves workplace without completing all assigned patient care nor reports off to another nurse
 - Nurse observes patient starting to climb over bedrails but walks away without intervening (not assigned to nurse)
 - Nurse makes serious medication error, realizes it when patient experiences adverse reaction, tells no one, denies any knowledge of reason for change in client condition and falsifies documentation to conceal error

OTHER FACTORS TO CONSIDER

 Mitigating Factors

Aggravating Factors 

MITIGATING FACTORS

- Communication breakdown
- Limited or unavailable resources
- To meet agency needs, worked in excess
 - Of 12 hours in 24 hour period or
 - Of 60 hours in a 40 hour work week.
- Interruptions or chaotic environment with multiple distractions
- High work volume or staffing issues
- Unclear policies and/or procedures
- Insufficient orientation or training
- Non-supportive environment (interdepartmental conflicts)
- Client factors (combative, threatening, cognitively impaired)



AGGRAVATING FACTORS



- Took advantage of leadership position
- Heinous, cruel or violent act
- Knowingly created risk for more than one patient
- Threatening or bullying behaviors
- Disciplinary action related to practice in previous 13-24 months
- Vulnerable patient: geriatric, pediatric, mentally or physically challenged, sedated
- To meet personal needs, worked in excess
 - Of 12 hours in a 24 hour period or
 - Of 40 hours in a 60 hour work week to meet personal needs

OTHER HELPFUL RESOURCES

- Event Investigation Guide
- Substance Abuse Section:
 - “When to Refer”
 - Self test for possible substance abuse issues
 - South Carolina Recovering Professionals Program (RPP)

EVENT INVESTIGATION GUIDE

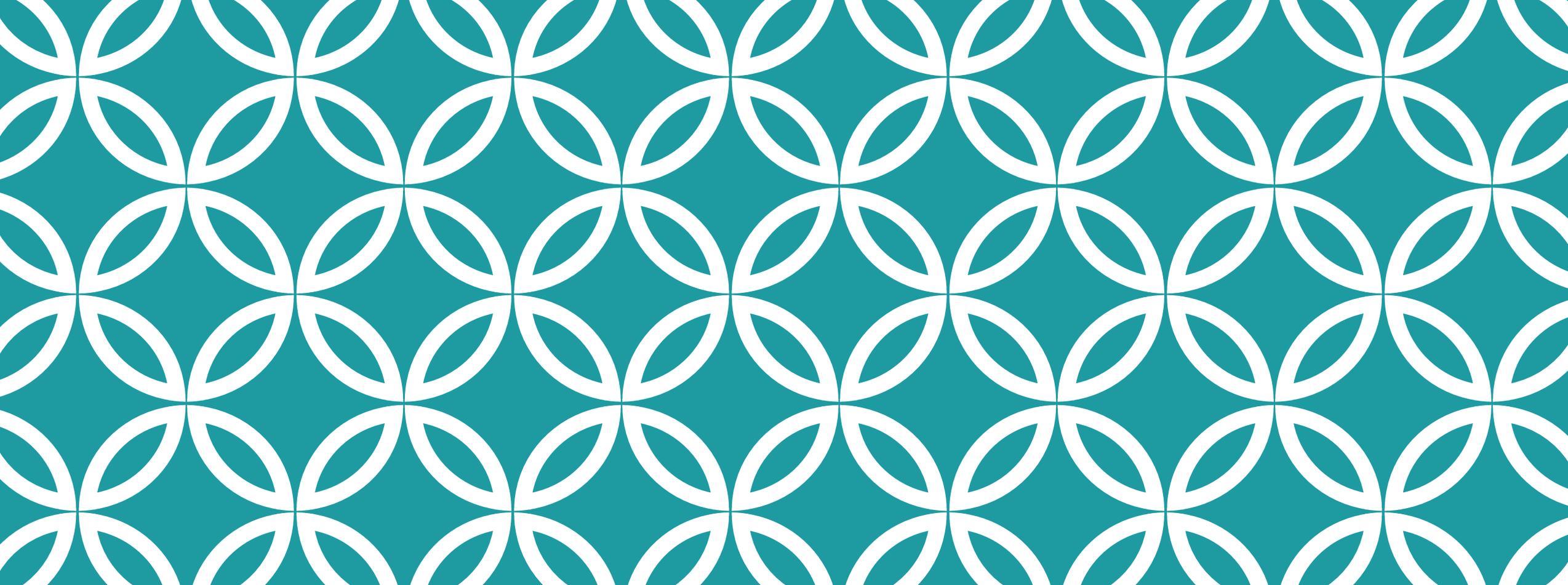
Different sections of questions you can consider using in your internal investigations:

- How was the event discovered
- When was the event discovered
- Where did the event occur
- Who has direct knowledge of the event
- What happened
- Why did the event occur



WHEN TO REFER TO THE BOARD

- Positive pre-employment drug screens
- Positive results on a “for-cause” drug screen
- Signs & symptoms of impairment
- Reports of excessive use of controlled substances, increased wastage, sloppy or careless wasting, consistent failure to follow policies for wasting, documentation discrepancies, manipulation of medication dispensing systems
- Any violation of the nurse practice act (after ECET analysis)



APPLYING THE CONCEPTS TO THE PROCESS

How to use the ECET
and file a complaint

**South Carolina Board of Nursing (SCBON)
EMPLOYER COMPLAINT EVALUATION TOOL (ECET)**

Allegation(s): _____

Licensee 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 last 12 months.	Prior written counseling for single related practice issue within past 12 months	Prior written counseling for various practice issues within the last 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 experience in nursing or with 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 / orders	Unintentional breach or no policy / standard / order exists.	Policy / standard / order has not been enforced as evidenced by cultural norm (common deviation of staff) or policy / standard / order was misinterpreted.	Policy / standard / 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 / 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 / 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 to 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 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.	

Criteria Score _____

**South Carolina Board of Nursing (SCBON)
EMPLOYER COMPLAINT EVALUATION TOOL (ECET)**

Mitigating Factors -check all identified		Aggravating Factors - check all identified	
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 / or 60 hours in 40 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 40 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 # mitigating factors identified		Total # aggravating factors identified	

Criteria Score from page 1 _____

No Board Contact Required	Board Consultation Required	Board Report Required
<p>Contact with SCBON is not required if:</p> <ul style="list-style-type: none"> o 3 or more criteria in green <u>OR</u> o Criteria score of 6 or less* 	<p>Consult with SCBON if:</p> <ul style="list-style-type: none"> o 3 or more criteria in yellow <u>OR</u> o Criteria score 7 – 15* <hr/> <p>How to Contact the Practice Consultant Email: BON.Complaint@lir.sc.gov Telephone: (803) 896-6003</p> <p>For more information, please see our website www.lir.state.sc.us/POL/Nursing</p>	<p>Mandatory report to SCBON if:</p> <ul style="list-style-type: none"> o 2 or more criteria in red <u>OR</u> o Criteria score 16 or more <u>OR</u> o Incident involves fraud, theft, drug abuse/diversion, sexual misconduct, mental / physical impairment.*

CET Completed by: _____ Facility Name: _____
 Contact Number & Email address: _____
 Date of Consultation with SCBON _____ SCBON Consultant: _____ Action Taken: _____

* If the results are inconsistent, please chose the result with the highest level of scrutiny.

HOW TO CALCULATE THE CRITERIA SCORE

- Each event is rated using the GUIDE horizontal rows and culpability standards in the vertical columns
- Use GUIDE criteria in the five horizontal rows.
 - G – General Nursing Practice
 - U – Understanding/Level of Experience
 - I – Internal Polices/Standards/Orders
 - D – Decision/Choice
 - E – Ethics/Credibility/Accountability
- The culpability standards provide criteria descriptors indicative of Human Error (Green), At-Risk Behavior (Yellow), and Reckless (Red). Point values are designated at the top of each column and are scored in the far right column.

MITIGATING AND AGGRAVATING FACTORS

- After calculating the criteria score, go to the next page.
- Mitigating and Aggravating Factors:
 - If the criteria score is from 7-15 or there are 3 more more criteria in yellow, complete the Mitigating Factors and Aggravating Factors sections on the second page by checking each box that applies
 - These will be discussed and considered during the consultation with the Practice Consultant in determining the reportability of the event.

RIGHT! BUT SEE, THERE ARE CERTAIN THINGS A GOOD KID COULD DO THAT MIGHT LOOK **BAD** IN A CERTAIN LIGHT, IF ONE DIDN'T CONSIDER ALL THE MITIGATING CIRCUMSTANCES.



HOW TO INTERPRET ECET RESULTS

- Do not file a complaint:
 - Criteria Score of 6 or less OR
 - 3 or more criteria in green
- Contact Board's Practice Consultant:
 - Criteria Score of 7-15 OR
 - 3 or more criteria in yellow
- File a Complaint:
 - Criteria Score of 16 or more OR
 - 2 or more in the red category OR
 - the incident involves fraud, theft, drug abuse, diversion, sexual misconduct, or mental/physical impairment.
 - Please upload your completed ECET with your supporting documents when filing the complaint.



-If the results are inconsistent, chose the option with the highest level of scrutiny.

-Example: If the Criteria Score is less than 6 but there is 3 or more criteria in yellow, you would chose the yellow option.

-Contacting the Practice Consultant

-By Email

-BON.Complaint@llr.sc.gov

-Attach your completed ECET for her review.

-By Phone

-(803) 896.6003

-The Practice Consultant will want to review your ECET before speaking with you.

CASE STUDY 1

Leigh (RN) is a new nurse and recently finished her probationary period. She has had no practice issues to date. A pharmacy audit discovered that she was not documenting her wastage of medication in a timely manner. After being questioned, Leigh admitted that she knew should have been documenting earlier and was remorseful.

- (G)eneral Nursing Practices: No prior counseling for practice issues (0)
- (U)nderstanding: Limited Understanding of Correct Procedure (1)
- (I)nternal Policies: Policy has not been enforced as evidenced by cultural norm (1)
- (D)ecision: Chose to act without weighing options. Used poor judgment (3)
- (E)thics: Readily admitted to error and accepted responsibility (1)

Criteria Score: 6; 4 yellow/1 green

→ Contact Practice Consultant

CASE STUDY 2

Pat (RN) has been working for a hospital for 15 years. While the doctor is bedside, the patient makes a complaint of pain. The doctor orally orders 2 mg of morphine. Pat overrides the system to remove the medication from the Pyxis and administers it to the patient. Pat did not document its administration. The pharmacy noted that there was no order after the medication was pulled. When confronted, Pat readily admitted to his mistake and was remorseful. He was written up and counseled a few months prior to this incident for failing to document assessment of a patient prior to administering medicine

(G)eneral Nursing Practice: Prior written counseling for related incident – 2

(U)nderstanding: Has knowledge and skills. Inadvertent oversight – 0

(I)nternal Policies: Unintentional Breach - 0

(D)ecision: Accident/mistake – 0

(E)thics: Readily admitted error – 1

Criteria Score – 3; 3 green/2 yellow

→ DO NOT REPORT

CASE STUDY 3

Jane has been a nurse for 13 years and started working in a long term care facility 3 years ago. Most days, she is the only RN on the shift but she is supported by a handful of LPNs and CNAs. A CNA informed Jane that a patient fell coming back from the bathroom. Jane went to the patient's room as another CNA was helping the patient back in to bed. Jane did not do an assessment of the patient, did not document that it happened, and did not contact the doctor because she was busy with other patients. After the patient's health began declining that night, the Night Nurse was told by the CNA of the fall. Jane denied responsibility. She had been counseled in the last year for non-related issues.

(G)eneral Nursing Practice: Prior written counseling for non-related event (1)

(U)nderstanding: Intentional gross negligence (5)

(I)nternal Policy: Policy clear but deviated as a time saver (3)

(D)ecision: Clearly prudent nurse would not have taken same action (4)

(E)thics: Denied responsibility despite evidence (4)

Criteria Score: 17, 2 yellow/3 red

→ FILE A COMPLAINT

NEW INFO ON BOARD WEBSITE

Discipline and Compliance Page

- Just Culture
- What I Can Expect When a Complaint is Filed Against Me
- Employer Event Investigation Guide
- Recovering Professionals Program
- Substance Abuse Disorder Information for Employers and Licensees
- Board Orders
- Continuing Education Courses Required by Board Order
- Should I File a Complaint
- ECET
- How to File a Complaint



NEW COMPLAINT FORMS

- The BON has created new supplemental complaint forms that will paint a clearer picture of the reportable event.
- Like ECET, you will be prompted many times to complete a Supplemental Complaint Form
- You will be directed to upload the new supplemental complaint forms with other supporting documentation at the conclusion of the submission process.

THREE TYPES OF NEW SUPPLEMENTAL COMPLAINT FORMS

Public Complaint Form - is for members of the public or for licensees to self-report misconduct if the allegations do not involve diversion or impairment.

Employer Complaint Form – is for employers or supervisors to make complaints against their employees that do not involve diversion or impairment. Please remember to complete the ECET prior to filing a complaint.

Supplemental Diversion or Impairment Complaint Form – is for employers, members of the public, self-report, or law enforcement to make a complaint involving diversion or impairment.

EXAMPLES OF CONTENT FROM NEW SUPPLEMENTAL COMPLAINT FORMS

Respondent Factors

Identify factors that contributed to the practice breakdown. Check all that apply:

- Language Barriers
- High Work Volume/Stress
- Drug/Alcohol/Impairment/Substance Abuse
- Inexperience (with clinical event, procedure, or patient condition)
- Lack of Orientation/Training
- Lack of Team Support
- Conflict with Team Members
- Lack of Adequate Staff
- Cognitive Impairment
- Fatigue/Lack of Sleep
- Functional Ability Deficit
- No Rest Breaks or Meal Breaks
- Overwhelming Assignment
- Mental Health Issues
- Nurse's Personal Pain Management
- None
- Other: (Please specify) _____

EXAMPLES OF NEW CONTENT IN SUPPLEMENTAL COMPLAINTS

Patient Demographics

Were specific patient care issues identified? Yes No (If **No**, then skip this section)

Patient Name: _____

Patient DOB: _____

Patient Gender: Female Male

Were the patient's friends and family present at the time of the incident? Yes No

Pertinent patient characteristics at the time of the incident. Check all that apply:

- Agitation/Combativeness
- Altered Level of Consciousness
- Cognitive Impairment
- Communication/Language Difficulty
- Depression/Anxiety
- Incontinence
- Inadequate Coping/Stress Management
- Insomnia
- Sensory Deficits (hearing/vision/touch)
- Pain
- None
- Unknown

Patient's two primary diagnoses: (1) _____ (2) _____

EXAMPLES OF NEW CONTENT IN SUPPLEMENTAL COMPLAINTS

Checklist for Accompanying Documents

- Witness Statements
- Facility policies and procedure related to the alleged incident
- Internal Investigation Documents
- MAR
- Nurse/physician/provider progress notes
- Nurse Flow Sheet
- Controlled Substance Logs
- Employee Personnel Record
- Facility Policy
- Photographs
- Duty roster, time cards, assignment sheets
- Facility incident/occurrence reports
- Toxicology
- Other
- Drug Screens
- Facility Incident Reports



HOW TO FILE A COMPLAINT

- LLR is an umbrella agency which handles over 40 Boards. We have a universal complaint system. Some things will not change.
- The *actual* online complaint process will not look that much different from old system.
- You have 60 minutes to finish the online complaint process before it times you out. You will want to complete the Supplemental Forms BEFORE starting the process!

what's new?

- If you are an employer or supervisor - Required to complete ECET prior to filing complaint.
- You will be asked to complete a Supplemental Complaint Form and gather supporting documents prior to beginning the online process
- The “Complaint Details” section will not be required if you have already filled out a narrative section on the Supplemental Complaint. Can type “See Supplemental Complaint Form”
- You will upload the Supplemental Complaint Form and supporting documents at the VERY END of the process

'HOW TO FILE A COMPLAINT' PAGE

- Reach this page by either the sidebar or from the *Discipline and Compliance* page
- Content
 - Another link to ECET
 - Links to each of the Supplemental Complaint Forms
 - Link to PDF of detailed Instructions on how to complete the Supplemental Complaint Forms and online process.

COMPLAINT DETAIL INFORMATION: YOU DON'T HAVE TO TYPE THE NARRATIVE TWICE

☰ Complaint Detail Information

🕒 12/5/2018 4:27:58 PM

Please enter specific information about your complaint (Maximum of 500 characters).

The system will be timed out in 10 minutes.

If you are timed out, the information you have entered will not be saved, and you will have to begin the process again. You will have the opportunity to upload supporting documents later in the process.

**Complaint Detail
Information**

Please see Supplemental Complaint Form. |



Characters left: 960

UPLOADING FORMS ON THE CONFIRMATION PAGE

WAIT!!! You're not done after the electronic signature!

You still need to upload your documents on the Confirmation Information Page!!!

☰ Confirmation Information:

🕒 12/5/2018 4:08:17 PM

✂ Rectangular Snip

Your complaint submitted successfully. Below is the confirmation information.

Confirmation Number: 339-3271723154

Once a complaint has been received in our office, it may take up to 3 weeks for it to be reviewed by a complaint analyst. Once your complaint has been reviewed by the complaint analyst, you will receive written notification advising either that the complaint could not be opened for investigation or that it was opened and assigned to an investigator. If you have any further questions or concerns, please contact the Office of Investigations and Enforcement at 803-896-4470.

Complaint Information Summary

Complainant Information:

Last Name public

First Name sally

Address 123 Main St

City Columbia

State SC

Zip 29205

Phone 803 123-4567

Email sallypublic@email.com

Respondent Information:

Last Name/Business Name [REDACTED]

First Name [REDACTED]

Name [REDACTED]

Address

License [REDACTED]

City Not Available

State

Zip

Phone

Email

Board Name NURSING

Complaint Detail Information

Please see Supplemental Report.



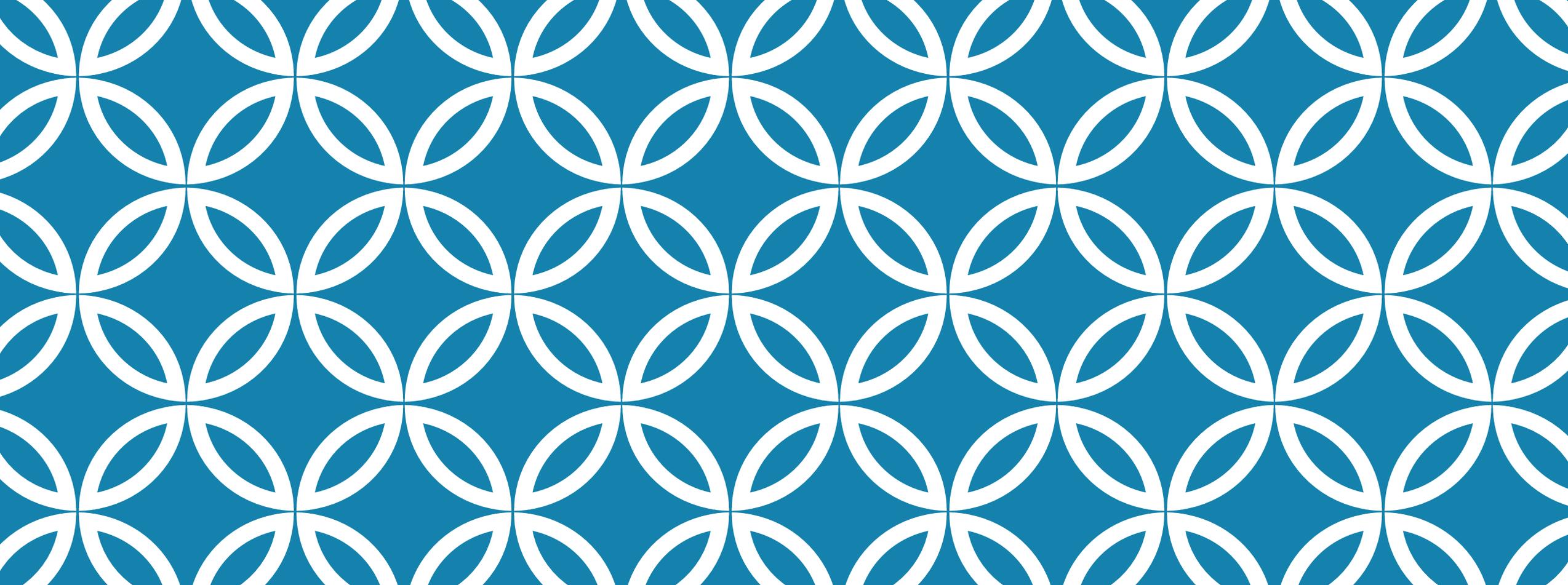
Finish

Upload Additional Document

FINAL THOUGHTS

- The Board is following suit with what many in the industry are already doing.
- We are still a mandatory reporting state. The Board wants to encourage you to complete the ECET analysis to determine if the event would be a mandatory report.
- The Board began a year long study and voted to adopt the Just Culture model because they believed it fostered a nursing environment that promotes professional development which in turn promotes better public protection.

Goes live January 1, 2019



QUESTIONS

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