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2016 NCSBN Discipline Case Management Conference - When Lines are Crossed, Remediation of Boundary Violations

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Event
2016 NCSBN Discipline Case Management Conference

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Presenter
Kathie Pohlman, LCSW-BACS, MBA, Recovering Nurse Program Manager, Louisiana State Board of Nursing

- [Kathie] Good morning everyone or good afternoon everyone. I want to draw your attention initially to the resources I've provided you in your packet. You'll see that in rather than having provided the PowerPoint notes I've provided you guidelines and resources for dealing with nurses who need remediation of boundary violations. I'm going to be focusing due to the small amount of time that we have... I'm going to be focusing on... I'm going to be focusing on pages one-- I'm just going to briefly touch on pages one through four, and I'm going to be focusing on page nine, but you don't have to worry about that right now. I'm going to tell you when you need to turn to that. In the mean time just sit back, listen and relax. All right, today we're going to talk about remediation of RNs who cross the line. This presentation will cover the disciplinary process, sanctioning guidelines, remediation tools, how the remediation tools are used and application through case study. Boundary violators, yup, those people from those who exhibit poor judgment to those who violate confidentiality or engage an inappropriate behavior with patients and peers. You know they don't happen all that often, but when they do, what they've done is usually jaw dropping. They are the ones that when they get reported your first thought is, "Oh my goodness." We experience a combination of shock, horror and embarrassment that these people are even nurses. And once these RNs come to the attention of the board, a thorough investigation is done, all the facts we know them are gathered and presented to the executive director who says, "Oh my goodness, " and she signs some form of action against the RN and these eventually...these RNs eventually make at to the board and the board says, "Oh my goodness." So now what? Well, fortunately for the LSBN we have the tools of sanctioning guidelines, similar to what was just presented in another speech that not only help us determine action against RNs, but also gives guidance for remediation. The sanctioning guidelines that I have provided are...pages one through four...inappropriate communication with a client, inappropriate interaction with a client and breach of patient confidentiality. Of course the board might find that the behavior that this nurse has engaged in is so outrageous that they just revoke their license. In Louisiana that's permanent, there's no going back. However, if the RN does eventually make a back of practice we're now faced with two problems. How do we protect the public and how do we fix this RN? This is where

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remediation comes into play. The definition of remediation is the act of correcting an error or stopping something bad from happening. So remediation is a magical combination of both restorative and preventive measures that's just quintissential, and what are the tools of remediation? First one is evaluation. You know, what's going on with this RN and, you know, what can we do to address the problem or are they even fit for practice. Well I'm going to tell you, good evaluation is going to give you the answer to all three, okay? The next tool that we have is education and/or treatment. Would the RN benefit from further training or CEUs or do they need treatment of some sort? The next tool is financial accountability. Now this is going to allow an RN to pay back as a way to undo whatever it is they've done, and it also helps defray the cost of whatever services you're providing to them. Then finally of course is monitoring. This is the opportunity to demonstrate that the issue which brought them to the attention of the board is either no longer a threat or no longer exists. It also provides a platform for the board to take immediate action if problems continue, it's very valuable. So if you would take a moment to open up your handouts to page seven and I saw that there was one thing missing and I want you to add it on to because later on you're going to go back and say what was she talking about? It would be under education and/or treatment and I just want you to enter professional boundaries/anger management course. In three to five days I often refer to this as in-patient, they're not being admitted as a patient, but often these are provided at in patient settings or in hospital assessment settings. Now I'm going to provide a couple cases to you and as I provide these cases you'll get a better idea of how these tools are going to be applied and look over what you have as I go along. And just as a matter of disclosure, all the cases I'm about to share with you today did indeed happen in Louisiana. Case one that I call, nurses behaving badly. A charge RN along with another RN drew with charcoal on the face of a patient unconscious from a drug overdose. Oh my goodness, huh. After also placing a pair of thick eyeglasses on his head, the RN took a picture of the patient with her cell phone and shared the photo with other staff members as form of entertainment. Has a line been crossed? Yes, yes. The sanctioning guidelines the boards took on this was inappropriate interaction with a client and breach of patient confidentiality. The determination...the board determined that the risk of the public was moderate, they imposed one year suspension and followed by one year...oops, followed by one year of probation. Now the remediation employed at this point and again follow along was education. They gave her 30 hours of CEs, financial accountability, $5,000 in fines. They went for it. And monitoring, so yeah why $5,000? It's significant, but this nurse showed no remorse, no insight and she was an RN in a leadership position. She's running the floor and this is what's going on. Goodness help her, what happens when she's not around? Also they actually had a competition going on who has going to have the best picture. And think about it, you know in my heart of hearts if that were my loved one who just OD-ed and that could be their last day on earth be very upsetting to say the least. Okay, the next case baby mama. RN was investigated her job due to allegations of having a sexual/romantic relationship with a dialysis patient. RN denied all allegations of misconduct but resigned her position. The patient died and the RN gave birth to a child. Wait for it okay. A complaint was filed by the widow of the patient after the RN's child was granted social security survivor benefits as a child of a deceased parent. All right now, has a line been crossed? Yes. Okay, yeah you are all so smart. Okay, the sanctioning guideline involved here of course is inappropriate interaction with a client. The risk to the public determined by the board was high and extreme and they sought revocation. The sanctions that they imposed was suspension with stay for three years and the remediation employed was evaluation and an in-patient

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professional boundaries evaluation at site, education and/or treatment they required individual therapy, 15 hours of CEs and also professional boundaries course for health care professionals 3-day in-patient. They also-- this is unusual when in order to protect the public you can come up with some really creative ways to do that, how do you know that she's not a predator, how do you know she isn't seeking sex and money and God knows what. We don't know. So what they did was they required as part of her monitoring to have biannual polygraphs and 360 degree workplace monitoring. Yeah, they were not happy. Case three, the comedian. An RN in her second day on thejob in ER stepped behind and undressed an elderly male patient, clamp her hands on his shoulders and said, "Do you know what this is? It's what you don't want to feel during a prostate exam." Yeah, she said some other stuff, too, but I can't say that. Has a boundary been crossed? Has a line been crossed? You bet. Now the determination, the sanctioning guideline used was inappropriate communication with a client. The risk was deemed low and part of this is that the RN was already participating in the recovering nurse program. They gave her an informal reprimand, and then she was assessed, had an evaluation by the LSBN medical consultant who recommended that she have CEs and boundaries and hopefully she'll get her act together. Okay, let's walk one through together, you got your page nine open. I'm going to read this. This one I call the cell phone voyeur. At around 2:00 a.m.while working in a psychiatric hospital, RN was assigned to the care of a 19-year-old female patient, just PECed for major depressive disorder. In the course of completing her paperwork RN asked the patient "where do you work?" She told them she worked at a gentleman's club. RN told her how cool that was and that she looked like a model. The patient was momentarily called away her, leaving her cell phone behind. While she was gone, the RN scrolled through her cell phone, found nude pictures of the patient and he texted the pictures to his cell phone along with several others numbers including a number one digit off of his own. When the patient returned, she realized text messages had just been sent from her phone and when she asks RN about it he denied he'd been on her phone. Concerned for her safety, the patient forwarded the pictures of the text to her mother, clever girl, and told another staff member what had happened. When approached by his employer, the RN stated he didn't send the text and maintained that the patient's cell phone had automatically "airdropped" this is a function...the pictures to his phone. The mother presented the saved text, the RN was terminated, and the hospital filed the complaint to the board. Now some other information about this fella, he's 47 years old, he's practiced as a nurse for seven years and had just been investigated and released by the board for allegations of sexual harassment towards co-workers. Was a line crossed? - [participants] Oh yeah. - Oh yeah, yeah. The sanctioning guidelines, there's a little bit of a hybrid with this but was inappropriate contact with a client and breach of patient confidentiality. I weighed in on the patient confidentiality, because, you know, this IT stuff is weird because he had no contact with her. But he certainly...it's kind of questionable but the board did a hybrid. They determined his behavior, the risk to the public was moderate to high to extreme, revocation was sought. The aggravating factors here and this is one where this is a vulnerable victim. It's not just because she's 19, it's not just because she just got PECed, she probably threatened suicide, but no one is going to believe her. She's a crazy girl in a psych factory. Who's going to believe her? It's just this...that is a part that lent to some of the action taken against him. He was automatically suspended and reinstated with probation for three years. So now if you open up your page seven, be looking at that. Look at your tools of remediation and based on the information you have what remediation tools would you use in terms of evaluation? Does he need an evaluation? - [participants] Yes. - But what

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was the nature of the complaint? That will tell you the kind of evaluation you have. Was it mental health issues or substance use? I'm going from the bottom up, no. Does he demonstrate impairment? No. Truthfulness issues possibly. Criminal act or anger issues, we don't know that at this time. Sexual? Yeah, yeah. So the board recommended that he have a comprehensive in-patient evaluation at a recognized treatment center that evaluates for sexual misconduct, that's one. Education and/or treatment? Does he need some information, something might change this, CEs not sure, therapy yeah. The board did recommend therapy. In-patient treatment we don't know at this time. An IOP or begin recovery which is an online program, don't know that but on complete professional boundaries course for health care professionals 3-day, yeah. Definitely minimal and they did recommend that. All right, financial accountability. Should he pay for what he did? Yes, he sure did, and he had to do all of it. He had a $1,500 board fine, $300 cost of hearing, over $2,500 cost of legal fees, $200 consent order and then he's monitored which is going to be $25 a month. Now monitoring, he had the standard things referred to him. He wasn't referred to as a determined substance use disorder, so there's nothing on that. He wasn't requested to have polygraphs. We had just one issue of him potentially lying. We did request that he had the prescription monitoring records apparently there was some...you know, we want to rule it out because something ain't right, something ain't right. So he was required to submit of course an employers agreement and this is critical because we want...one of the first things we do when somebody has an employers agreement, I ask him have you seen the consent order? Tell me what is says. Do you have all the pages? We have people who love to have the last part of what they have to do but not front end story. So he did he have to do 360 degree workplace monitoring? No. He did have to submit medication reports, submit to alcohol and drug screening, because they sure are not quite certain what the heck is going on with him. And then the interesting part is the determination of ability to practice with skill. He had to have the quarterly nurse performance evaluations. They upped the amount of time he needed to work. It's normally work a minimum of 24 hours a week for 12 months, they have 18 or more. So they want to make sure that he's okay and he's stable. The thing that they added onto his consent order, which I really liked is he has to be accompanied by a female staff member if assigned to females. This is a good thing and the amazing...there are several amazing things about this. He still maintains that those pictures were automatically "dropped" onto his cell phone. Anybody just raise your hand if you got why that was impossible. It was...oh, go, just call it out. - [Audience member] [Inaudible 00:16:43] - Exactly, there are many steps-- and this is a good thing. You know if you're working with the board make sure they understand that instead of that they think it's something magical about an app and it happens out of the blue, it doesn't. There are many steps to go through to accept, receive, and send. So that had holes in it, but there's another, just critical element here of why that was a bunch of baloney. - [Audience member] It happens out of the blue. - [Audience member] Licensed... - No. - [Audience member] Other numbers. - The other numbers but one was one digit off. Apple is not going to make an app that sends it to the wrong number. And if it was automatic, it's already stored in the phone. So that was it. It's impossible, but I have had people where he goes and applies and they say, “Well, it was only because this app did that. ” And I said do you have his consent order? Let's walk that through. And we do, and then they get a little queasy, yeah. So the other thing that's interesting about this case and you know for empathy of the board and some of the black holes and the dark spaces that we deal with are with this particular case it's not only what we knew but what we didn't know. We don't know, was this a sexual crime or just a violation of privacy? Is this

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routine for this RN or just a crime of opportunity? Because remember, he has access to all...everyone's possessions and was this something he did? I mean when do people who work psych, when do you get those vulnerable young suicidal girls? Middle of the night, and he works nights. So we don't really know. And would you consider this RN a voyeur or we have no evidence he used these pictures for sexual gratification, we don't know, what's going on which is part of why we're going to have that evaluation. The other thing is we don't know how he intended to use the pictures. Was he going to sell them, post them or blackmail? Creepy. All right, I know that it's been very short and very quick and I'm hoping that the information provided will be helpful to you. You'll find a list of resources and my contact information in my handout. And something I just want to say because we deal with some really yucky stuff sometimes. At the end of the day, all of us, all of us, are fiercely committed to protecting the public and in our heart of hearts we really hope that these nurses will take advantage of the things we're offering them and hope they'll take them to heart and make changes and that they'll never be reported to the board again. But if they don't and they don't change and again bad things happen, I just want you all to go easy on yourself. We're doing the best we can, it's not our fault, we're trying. So the next time you're faced with an RN that has crossed the line, you will have these tools of remediation for guidance and support and this won't be you. Questions or comments? Anybody, any questions about the handouts? I'm really loving how the two speeches before me or the presentation kind of dove tail into this, because we have some very specific guidelines. And again, they're guidelines and it helps. I'm sure you all have felt that with board members. They come up with weird stuff and it comes out of the blue and you're, like, herding cats to like "over here, over here." And it kind of helps you do that and they really want that guidance. And part of one of the points in my presentation is some of the stuff they do, it's visceral. I mean you have a reaction to that and I would tell you I would not be... I'd be wearing orange today if that was my daughter. That was in the hospital and this guy took this picture. It's hard not to get emotional and react. Any other questions or input? - [Woman] The breach of patient confidentiality, does that include accessing online health records for patients? Because I don't normally think of that as a boundary but...so that's kind of different. - Sure, sure... - Okay. - Especially if it's personal, it's not your patient, maybe your boyfriend's sister or ex-girlfriend whatever, yeah, it sure it does. - Okay, thanks. - [Woman] I'm not familiar with the phrase 360 degree workplace monitoring. Can you describe that? - Okay, that's where someone from a treatment facility typically they go and they set up monitoring for the person with peers where they report on a quarterly basis and it talks about...you know were they appropriate...did they touch you, did you feel comfortable? Have they been...it's a long list and they report it and they prepare a quarterly report from it. But it's where they have the peers all around you. And one of the ones that we use is through Pine Grove which is in Mississippi. They will also and I insist on it specially if I have somebody who is a pathological liar that they have this. They call all the staff that are the affected parties and they sit down, and this person has to tell them what brought them to the attention of the board because they will lie. It's always some little thing that "Oh it's nothing, I just have to do this because the board is being mean to me, and you know how strict and ridiculous they are." And so they have to come clean, and so there will be somebody there who truly knows the story and they have to come clean. And if that person's in recover, that's huge because as they say you're as sick as your secrets and it's time to come clean. And people need to know what they looking for. Sometimes staff don't realize, you know, it's not okay that he's patting you on the butt every time he passes you by or asking you out or whatever. Following you into the bathroom or

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showing you, you know, sexting you or something. You know, it's not appropriate. Anybody else? All right, thank you so much.

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