

Health Law

Quality & Liability

Tuesday, November 13, 2018

Questions

ERISA preemption

Credentialing

Fall Spring Term	
Thanksgiving Break	November 20 – 25, 2018
Last Day of Classes	November 30, 2018
Make Up/Reading Days	December 1 – 4, 2018
Exam Period	December 5 – 17, 2018

No classes next week

Last 2 classes

11/27

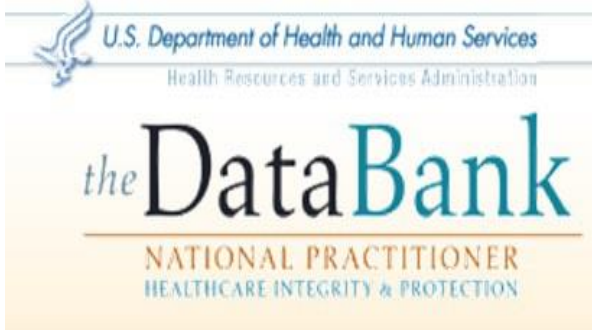
11/29

Last quiz 11/25

Thursday 11/15

Move from clinician
licensing to **facility**
licensing

NPDB



Can the
public check?
No.



BUT



**Licensing
Case**



WHERE LAW AND BUSINESS MEET®



Home care nurse
cares for 100-year
old patient

Patient **later** goes
to facility care

Nurse no longer
cares for patient

Patient later
dies

Patient leaves
house to nurse
in her will

Estranged family
is **angry** that they
did not inherit

Family reports
nurse to **Board**

Board takes action
against nurse

Board
arg.

Nurse
arg.

2017 Minnesota Statutes

148.261 GROUNDS FOR DISCIPLINARY ACTION.

§ Subdivision 1. **Grounds listed.** The board may deny, revoke, suspend, limit, or condition the license and registration of any person to practice advanced practice, professional, or practical nursing under sections [148.171](#) to [148.285](#), or to otherwise discipline a licensee or applicant as described in section [148.262](#). The following are grounds for disciplinary action:

Step 1

Practice-related: breakdowns or errors during aspects of the nursing process

Drug-related: mishandling, misappropriation, or misuse of controlled substances

Sexual misconduct: inappropriate physical or sexual contact with a client

Abuse: maltreatment of clients that is physically, mentally, or emotionally harmful

Boundary violations: nontherapeutic relationships formed between a nurse and a client in which the nurse derives a benefit at the client's expense

Fraud: misrepresentation of the truth for gain or profit (usually related to credentials, time, or payment)

Positive criminal background checks:

(13) Obtaining money, property, or services from a patient, other than reasonable fees for services provided to the patient, through the use of undue influence, harassment, duress, deception, or fraud.

Step 2

(11) Engaging in any unethical conduct, including, but not limited to, conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient. Actual injury need not be established under this clause.

License

Gatekeeping

Discipline

Gatekeeping

Unlicensed practice
is a **crime**

1

Not just CAM &
impersonators

2

Outside scope of practice

Licensed provider (e.g. nurse)
but did service authorized for
another license

3

Really a physician

Lost license



Spyros
Panos

United States Department of Justice Offices of the United States Attorney

THE UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF NEW YORK

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Southern District of New York

FOR IMMEDIATE RELEASE Tuesday, April 30, 2008

Previously Convicted Physician Arrested For Fraud And Aggravated Identity Theft

Geoffrey S. Berman, the United States Attorney for the Southern District of New York, announced today that SPYROS PANOS, a former orthopedic surgeon, who was previously restricted of health care fraud



Discipline

Can be based on
anything else we
discussed + more

EMTALA
Informed consent
Abandonment

