



*2016 NCSBN Discipline Case Management Conference - Guidance for Staff in*

professional character, must complete an accredited program. And pass a licensure exam." But I beg to differ. I don't think nurses in our state have to have good professional character. And I don't think they have to have it in yours. I think they have to have superlative character, right? So how are we going to judge that? Well, we do so by sometimes looking at criminal history, right? Criminal history could be relevant to professional character. We have a statute in our state that covers all occupations. It's called Chapter 53 of the Occupations Code. And it deals with, what are the consequences of reviewing someone's criminal history whenever they seek licensure for an occupation. And in our Nurse Practice Act: "it is grounds for disciplinary action...whether it be a conviction, or placement on deferred adjudication for a felony or a misdemeanor involving moral turpitude." And of course, pursuant to that, sort of authority to deny licensure or to take disciplinary action based on criminal behavior, we have of course adopted a rule, and our rule is 213.28 in our Texas Admin Code. Let's look at...again this is our enabling legislation. This gives us the authority to review criminal history, to take action on it if we see it. I want to add a little note here...maybe some of your states have a similar evaluation. In 2009, we were...before then we were taking a lot of disciplinary action on people, like, murdered, and raped



213.28, and eventually they were developed in a format that should be part of...or part of it is part of you all's materials. Some of our disciplinary guidelines for criminal conduct, a few pages are in there. If you go to our website, and you go to Discipline and Complaints drop down menu, Board Policies, and Guidelines, it can take you to our full 45, or 50 page guidelines which list every crime that we believe relates to the practice of nursing. And I'll get to some examples of that right now. You all probably can't see that. I know I was sitting in the back earlier. It's kind of blurry, but this is what our guidelines look like, and this is sort of an example regarding murder. On the left you have murder. It has some asterisks there it leads you to a footnote or an asterisk note. It says murder is one of those, what we call 4535 crimes. That's a crime that you are sort of automatically revoked on, and are barred from licensure. And so it sort of goes through, and there's a section on what penalty are we talking about. Are we talking about a felony, or misdemeanor? We have a jump page there so that you can hit felony, or misdemeanor, and it will go to our criminal code that talks about well, a felony is one that can be... I think it's at least a year in prison. Misdemeanors are broken down into how...it's based

another little section of guidance. This continues this big long...that's why those guidelines are 45 pages. We have to cover every contingency because whenever we fight these litigation battles, everyone's looking for a rule and everybody's looking for a policy, and everybody's looking for... And of course, our staff, sort of the whole point of this, our staff needs these to help evaluate these thousands of cases which I'll get to in a minute. And so we have the ability to force someone to get an evaluation. One of the last sort of considerations is if you're on for either a felony or misdemeanor, a chemical dependency evaluation may be required in order to help guide staff in the determination of what's the right remedy. I kind of threw in a...oh, I didn't go over this last column. But the last column is our, the board's adopted rationale for why the crime relates to the practice. And here is sort of a misdemeanor one I threw in there for you all to review. It's called "Deadly Conduct." It's a misdemeanor. It's an offense against a person that involves causing bodily injury to another person. How many think that relates to the practice of nursing? Maybe, maybe not. If it's a misdemeanor, it's a misdemeanor, and even though if the order is less than five years old, it says: "Impose discipline. License with





who committed a series of drug, and theft type offenses at 17, and then whenever they turn 18 they go to college. You get fingerprint checks, and you're not going to get that information,