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National Council of State Boards of Nursing

Boards of Nursing Complaint Process - Video Transcript

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- I'd like to speak with you when you're finished up here.

- Oh. OK. I'll be right there.

[narrator] Whether you're the subject of a complaint regarding your nursing license or just interested in learning about the disciplinary process for nurses, we will cover all of the important steps you need to know over the next few minutes.

A Board of Nursing is charged with the oversight of nursing practices. It consists of nurses and other members who are appointed to serve for a period of time. The board protects the public by licensing nurses and enforcing the state's laws that govern nursing practice. An important public protection responsibility of a board is to provide an objective form for resolving complaints involving nurses and to determine if discipline of the involved nurse is appropriate. The Complaint. Complaints are received by the board of nursing from anyone for this concern that a nurse's practice of behavior is unsafe, incompetent or unethical. The board also receives complaints where one believes that a nurse's practice is affected by substance abuse or a physical or a mental condition. Some states may take disciplinary action against the nurse for convictions of certain crimes or for issues such as non-payment of child support, student loans or taxes.

Complaints can be filed by anyone, including patients, patient family members, employers or other nurses, co-workers or professionals. A nurse may also self-report, however matters that are clearly employment issue such as absenteeism, personality conflicts and dress code concerns are not within the board's authority. An individual filing a complaint with the Board of Nursing regarding a nurse's practice or behavior may also file criminal or civil charges against that nurse.

So, what happens when a complaint is filed?

The Complaint Resolution Process. Throughout the complaint resolution process, the Board of Nursing assures the nurses due process rights are protected because the license to practice nursing maybe at risk. Due process means that the nurse is informed of any allegations regarding the nurse's practice and that the nurse has an opportunity to respond and defend against the allegations and that the matter is resolved through a fair and impartial process. Due process also includes the right to an attorney at the nurse's own expense and the right to appeal a board decision.

Upon receipt of a complaint, a determination is made as to whether or not the facts as stated in the complaint are a violation of the laws that govern nurse's practice. Once this determination is

made, an investigation into the complaint is initiated. During the course of an investigation, the trained investigator may interview witnesses, obtain court or police records or a personnel information, obtain and review client records, obtain and review employer policies and procedures, conduct site visits, consider standards of care and obtain the medical records of the nurse.

Once sufficient information is gathered, an important part of the process is providing the nurse an opportunity to respond to the allegations and present her or his side of the story. Boards vary in the methods used to obtain the nurse's perspective on what happened. If no violation of nursing law is found, the complaint will be closed. Otherwise, the complaint proceeds to a defined process toward resolution which varies by a state.

Complaint Resolution Without an Administrative Hearing. Most complaints are resolved without a formal administrative hearing. This method for a complaint resolution varies by state and may include informal or alternative disciplinary or non-disciplinary negotiated agreements. Agreement negotiations between the nurse and the board or their respective representatives maybe conducted by mail, phone or in person. The results will be communicated in writing and include whether the resolution is disciplinary or non-disciplinary and whether the agreement will be made public. Nurses undergoing discipline should contact the board of nursing regarding the availability and the specifics of alternative complaint resolution processes in their jurisdiction.

Complaint Resolution Via Administrative Hearing. Administrative hearings provide another means for complaint resolution. While the procedures and formats for administrative hearings differ depending on the jurisdiction, it is usually the board's responsibility to decide whether the state has proven its case if disciplinary action is warranted and the type of disciplinary action to take. State law will vary as to the standard of proof required in administrative law cases. If the board determines that disciplinary action is warranted, the board must then decide on the type of action. If you are a nurse who has had a complaint filed against you, you should contact the specific board of nursing for additional information regarding how these hearings are conducted. Whether the action was the result of a formal or informal process, a board considers the underlying cause extenuating circumstances and the risk of harm to patients or the public in determining its actions. The language used to describe the types of actions available to boards varies according to state law. Although terminology may differ, board action may affect the nurse's licensure status and ability to practice nursing. Board actions may include:

- A reprimand,
- Letters of concern or caution,
- A fine or civil penalty, the recovery of costs,
- Referral to an alternative to discipline program for practice monitoring and recovery support for chemically dependent nurses or for other mental or physical conditions.

Requirements for monitoring education or other provision tailored to the particular situation. A limitation or a restriction of one or more aspects of practice such as:

- Limiting rule,
- Work setting,
- Work activities or hours worked,
- Probation,

- The removal from practice for a period of time.

In more serious cases complaint resolution may result in: revocation or surrender of license, denial of licensure.

The board's number one goal is public safety and it also considers the ability of the nurse to return to the safe practice of nursing. Whatever action is taken, board action in one state may affect the nurse's ability to practice in another state. Adverse action data may be available to state and federal agencies, provider organizations such as hospitals, insurance companies, professional societies and the public. Federal Law requires certain adverse actions taken against the licenses of healthcare providers including nurses to be reported to National Databases.

In addition, many boards have determined that it is in the public's best interest to be made aware of actions against the nurse's license. Boards may include a list of disciplinary actions in their periodic newsletters, other publications or their websites. Check with the specific Boards of Nursing regarding access to information about disciplinary actions.

Boards of Nursing are charged to protect the public and an important public protection responsibility is to provide an objective forum for resolving complaints involving nurses and to determine whether action against the nurse is warranted fairly and justly.

Should you be the subject of a nursing complaint. Take it seriously. The Board of Nursing is here to investigate the claim and to follow up, but is also here to ensure you receive fair and just due process. The system has been designed to protect both you and the public. So when the Board of Nursing comes to a resolution, you are encouraged to comply and remember, every state has its own rules. It's important for you to understand what those are and to abide by them. For more information, contact your state's Board of Nursing. You can also access many helpful resources online at NCSBN.org.