



Department of Health Professions

NCSBN Discipline Case Management Conference

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Delegating Disciplinary Proceedings
Without Usurping Board of Nursing
Decision Making Authority



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Delegation of discipline informal fact finding conferences to an agency subordinate (individual)

Code of Virginia 54.1- 2400 (10)



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Legislative authority obtained in 2006 initiated as a result of high case volume, limited resources and burden being placed on Board members.

Goal was to decrease number of days Board members were required to be present at the Board while preserving the Boards decision making authority



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License Count (04/25/13)

Authorization to Prescribe	4,516
Licensed Nurse Practitioner	7,241
Clinical Nurse Specialist	427
Registered Nurse	100,717
Licensed Practical Nurse	31,336
Certified Massage Therapist	6,553
Registered Medication Aide	5,156
Certified Nurse Aide	54,314
<u>Advanced Certified Nurse Aide</u>	<u>97</u>
TOTAL	210,357

2012 Board of Nursing caseload 2,140



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Board adopted broad criteria for delegation initially that only excluded “cases that involve intentional or negligent conduct that caused serious harm to a patient”

Initially certain case types scheduled while Board members became familiar and comfortable with the process;

- Violation of terms of probation
- Dismissal from Health Practitioners Monitoring Program (HPMP)



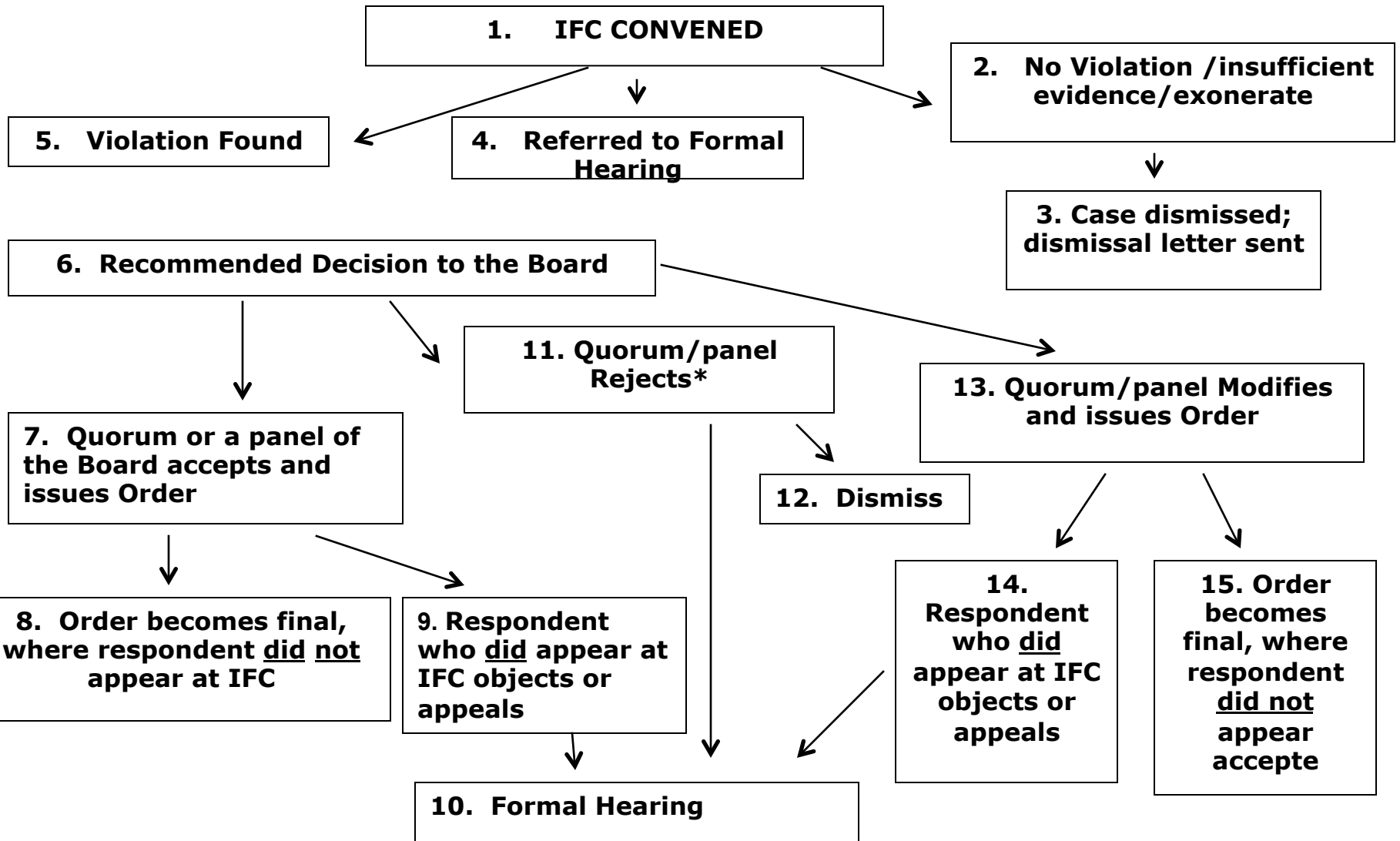
Who Are Agency Subordinates?

- Former Board members
- Former Board staff
- Current Board staff

Agency subordinates are paid as contract or part-time staff



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Key Procedural Points

- Respondent noticed per APA
- Agency subordinate hears case, makes findings of fact, conclusions of law and recommended sanction
- Sanction Reference Point (SRP) Program guidelines used to determine sanction
- Recommended decision sent to respondent with date and time of consideration by Board, SRP worksheet included
- Decision not announced at proceeding
- Agency subordinate has authority to close case, no violation



Board Consideration of Recommended Decision

- Full Board or panel of 5 Board members
- If respondent appeared at IFC, may address the Board when recommendation is considered
- If respondent did not appear at IFC, may not address the Board



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Appeal Process

- If respondent did not appear at IFC, Board decision is considered final order – only appeal is to circuit court
- If respondent did appear at IFC, and objects to decision, may appeal to a formal hearing



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Effectiveness of Innovation

- Total cases heard by agency subordinate – 1,578
- Average Board agreement rate with agency sub recommendations 2006 – 2012 is 84%
- Gradual increase in agreement rate demonstrated from 75% in 2006 to 94% in 2012
- Remaining 6% in 2012 referred to formal hearing or modified by the Board
- Final outcome following formal hearing if convened 42% agreement with original recommendation
- Board members scheduled 58% less days for disciplinary process
- 3 Appeals to Circuit Court from “no shows” to IFC (2006-2012)



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Data Collected by Board Staff

- Total recommendations considered
- Total % accepted by Board
- Total % modified by Board
- Total % rejected by Board
- Final Outcome – difference from recommendation
- Number of days and cases heard by agency sub versus Board members
- The above data reported to the Board at each meeting.



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Conclusions and Suggestions for Boards

- Effective and efficient process
- Collect data and report to Board regularly
- Intense training of staff and Board essential
- Address any areas of reluctance and discomfort with Board Members



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Conclusions and Suggestions (Cont)

- Make information available to the public ,e.g Guidance Document
- Ensure Clear notification to Respondents
- Ground Agency Subordinates well in their role as “ recommender “ versus “decision maker”
- Discourage defensiveness or reaction by Agency Subs when recommendation not accepted
- Evaluate carefully the value of allowing Respondent to present information to the Board when recommendation being considered



References

- 54.1-2400(10) of Code of Virginia
- Section 2.2 -4019 of Code of Virginia
- BON Regulations 18 VAC 90-15-10 et seq
- BON Guidance Document 90-54 Agency Subordinate Process
- BON Guidance Document 90-7 Sanction Reference Point Manual