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Registered Nurses (RNs) and Advanced Practice Registered Nurses (APRNs), such as Nurse Practitioners, Clinical Nurse Specialists, Nurse Anesthetists, or Nurse Midwives are regulated in most states by their respective State Board of Nursing (Nursing Board). This article is intended to provide a general overview of the complaint process and address issues that you may face if a complaint is filed against you. Please keep in mind, the specific procedures, timelines and rights you may have as a licensee may vary from one state to another. The disciplinary process followed in a number of states is set out on our website for your further review. I. Receiving Notice of a State Nursing Board Complaint: While an RN or APRN (collectively referred to as a "licensee") may first learn that a complaint has been filed after receiving a letter from the Nursing Board, a licensee often has notice that certain conduct or facts could potentially lead to a complaint, long before formal notice is sent out by the Nursing Board. When this is the case, it is recommended that you contact experienced legal counsel to discuss whether affirmative steps should be taken to protect your rights and / or preserve evidence. Depending on the facts, it may be possible to take remedial steps to minimize the severity of a problem and the adverse impact that an alleged deficiency can have on your nursing license. Alternatively, a licensee may first learn of potential a problem after being contacted by letter from the Nursing Board. Should you fail to respond to the notice of a complaint, the Nursing Board may choose to take further disciplinary action against you, up to and including, the suspension or revocation of your nursing license. II. Overview of the Typical Complaint Process: Many Nursing Boards receive literally thousands of complaints each year. For example, at last count, more than 16,000 complaints were filed against licensees with the Texas Board of Nursing. A significant portion of the complaints filed against licensees are closed without action after being reviewed by the Nursing Board. In such cases, the Nursing Board may conclude that even if the allegations levied against a licensee are shown to be true, the conduct would not constitute a violation of the state's Nurse Practice Act. Initial Review of a Complaint to the State Board of Nursing. At the outset, it is important to keep in mind that specific complaint procedures followed by a State Board of Nursing will vary from jurisdiction to jurisdiction, depending on the specific provisions outlined in a specific state's Nursing Practice Act. If an initial review of the allegations set out in a complaint does not constitute a violation of the Nurse Practice Act, the investigator will often recommend that the complaint be dismissed and the case be closed. Similarly, many states will not take action against a licensee if a complaint is "incomplete." The way a Nursing Board may handle an "anonymous" complaint will vary from state to state. For instance, the California Board of Registered Nursing will investigate an anonymous complaint but has made clear that it may be difficult to take any action against a licensee in the absence of further supporting evidence. In all likelihood, you will be notified of the allegations and given an opportunity to provide an initial response to the complaint that has been filed. Working with legal counsel, you should use this opportunity to assess your potential exposure and the likelihood that the Nursing Board will ultimately seek to impose some time type of disciplinary action against your license. Equally important, you should use this opportunity to tell your side of the story. Take care. Any statement that you make can constitute an admission. While you likely have an obligation to cooperate with the Nursing Board's investigation, legal counsel can assist you in presenting your response in a factual, persuasive manner. Informal Settlement Process. If the facts in a case suggest that a violation of the state's Nurse Practice Act has been committed, an investigator will often make a sanctions recommendation to a panel or subcommittee of the Nursing Board. In most cases, this panel will then enter into informal settlement negotiations with a licensee in an effort to resolve a case. After meeting with a licensee, the panel will often privately meet to discuss the licensee's responses to the allegations presented. In most cases, the panel will then reconvene and notify the licensee of how they propose to handle the case. If the panel determines that disciplinary action is necessary, it will issue an informal settlement offer. If the licensee accepts the informal settlement offer that has been made, the licensee will be provided (not necessarily at the time of the informal settlement conference) a proposed "Agreed Order" that sets out a brief discussion of the allegations, the investigative findings reached, any conclusions of law that may have been reached and any stipulated sanction that has been agreed to by the licensee. Notably, any settlement agreement reached at the informal stage will still normally require the approval of a state's Nursing Board before it becomes final. A Nursing Board may accept the Agreed Order as it has been proposed. Alternatively, the Nursing Board may make modifications to the proposed Agreed Order, or reject the proposed Agreed Order entirely. If a licensee rejects a proposed settlement that has been offered by the panel, the licensee can typically make a counter-offer to the Nursing Board's consideration. Formal Appeal Process. If a licensee is unable to reach an informal settlement with the review panel, an action will advance to the formal stage of the disciplinary appeals process. At this point, the Nursing Board will file formal disciplinary charges against a licensee. The parties will often then engage in administrative discovery and begin preparations for their case to be presented in front of an Administrative Law Judge (ALJ). During the ALJ hearing process, attorneys for both sides will present evidence in support of their case. In most instances, this stage of the formal appeal process will be governed by a state's Administrative Procedures Act. It is strongly recommended that a licensee engage counsel to represent his / her interests throughout the formal appeals process. After both sides have presented their case, the ALJ will issue findings of fact, conclusions of law. Despite the fact that the ALJ hearing process is often extensive and protracted, in many states, a Nursing Board is not bound by the ALJ's findings and recommendations. Unfortunately, our attorneys have seen a number of cases over the years where an ALJ issued a ruling in favor of a licensee that was later overruled by the Nursing Board. In such a case, a licensee may have to seek redress through the courts. III. Types of Discipline that May be Taken by a State Nursing Board: Assuming that you are not successful in persuading a Nursing Board that a complaint should be dismissed, there are a number of disciplinary actions that may be pursued by the state. The types of discipline that may be taken by a specific Nursing Board generally include: Informal discipline. This type of disciplinary action is often not reported to the public. It may take the form of a "warning" letter. While not disclosed to the public, this action will still be part of a licensee's record and can be considered by the Nursing Board if subsequent violations of the Nurse Practice Act are alleged. Public reprimand. This is often the least onerous disciplinary action that will be taken by a Nursing Board that is disclosed to the public. Fines or civil penalty. Nursing Boards often assess a fine or penalty in conjunction with other disciplinary action taken against a licensee. Restrictions placed on a nurse's license. Depending on the nature of the sanction that is imposed, a licensee may ultimately be excluded from participation in state and / or federal health benefits programs. V. How Long Does the Complaint Process Last? Every case is different. Depending on the nature of the allegations levied against the licensee and the size of any complaint backlogs that may exist, a case may be resolved in six months or it may take one to two years if the allegations are not informally resolved and the case proceeds to an ALJ hearing. NATIONWIDE REPRESENTATION - Call 1 (800) 475-1906 for a Free Consultation Liles Parker attorneys are experienced in representing RNs and APRNs in connection with State Nursing Board complaints. Are you currently facing an investigation by the State Nursing Board? Give us a call. For a free consultation regarding your case, please call: 1 (800) 475-1906. Board of Registered Nursng Attn: Complaint Intake PO Box 944210 Sacramento, CA 94244-2100 Fax: (916) 574-7693in filing your complaint, the information you provide will determine the action the Board will take. The most effective complaints are those that contain firsthand, verifiable information. Therefore, please provide a statement, in your own words, which describes the nature of your complaint. Please include as many specific details as possible, including dates and times, as well as any documentary evidence related to your complaint. The emphasis should be on providing necessary factual information. While anonymous complaints will be reviewed, they may be impossible to pursue unless they document evidence of the allegations made.Please visit The Complaint Process page for helpful information regarding the complaint process. What is an 805 report? An 805 report is the mechanism in which peer review bodies, most commonly found in hospitals, are required to report specific information regarding licensees to the Board of Registered Nursing. Does the Board of Registered Nursing only process 805 reports filed on Nurse Practitioners? The Board processes 805 reports on the following health care professionals: Certified Nurse Practitioners Certified Nurse Practitioners Furnishing What events must be reported to the Board? An 805 Report must be filed if one of the following actions occurs: A peer review body denies or rejects a licensee's applications for staff privileges or membership for a medical disciplinary cause or reason; A licensee's staff privileges, membership, or employment are revoked for a medical disciplinary cause or reason; Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a total of 30 days or more within any 12 month period for medical disciplinary reasons; If the resignation, leave of absence, withdrawal or abandonment of application or for renewal of privileges occurs after receiving notice of a pending investigation initiated for a medical disciplinary cause or reason; A summary suspension of staff privileges, membership, or employment is imposed for a period in excess of 14 days; What is the timeframe for reporting these events? An 805 Report must be filed within 15 days after: The effective date of the action to deny or reject an application for staff privileges or membership; The effective date of the action to revoke staff privileges, membership, or employment; The effective date of the action to impose restrictions on staff privileges, membership, or employment for a total of 30 days or more within any 12 month period; The Imposition of a summary suspension of staff privileges, membership, or employment for a period in excess of 14 days; The licentiate resigns, takes a leave of absence, withdraws or abandons the application for privileges or the application to renew privileges after receiving notice of a pending investigation. What is "medical disciplinary cause or reason"? "Medical disciplinary cause or reason" as defined in 805(a)(6) means that aspect of a licentiate's competence or professional conduct that is reasonably likely to be detrimental to patient safety or to the delivery of patient care. Who files the 805 report? Any peer review body from: A health care facility or clinic licensed under Division 2 of the Health and Safety Code or a facility certified to participate in the federal Medicare Program as an ambulatory surgical center. A health care service plan licensed under Chapter 2.2 of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates. A medical or podiatric professional society having as members at least 25% of the eligible licentiates in the area in which it functions, which is not organized for profit and which has been determined to be exempt from taxes. A committee organized by any entity consisting of or employing more than 25 licentiates of the same class that functions for the purpose of reviewing the quality of care provided by members or employees. Who must sign the 805 Report? The chief of staff of a medical or professional staff; Other chief executive officer; Medical director, or administrator of any peer review body; or Chief executive officer or administrator of any licensed health care facility or clinic. What information must be provided in the 805 report? Name of licensee License number; and Description of the facts and circumstances of the medical disciplinary cause or reason and any other relevant information deemed appropriate by the reporter. Are 805 reports confidential? 805 reports are not public documents available to consumers; however, copies may be requested by certain health care facilities licensed pursuant to California Health and Safety Code 1200-1209 for credentialing purposes. This does not cause the 805 report to become public record. Is 805 information posted to the nurses profile? Only if the 805 report indicates hospital disciplinary action that resulted in the termination or revocation of a licensee's staff privileges based on medical disciplinary cause or reason. The licensee's profile will display "Hospital Discipline" as secondary status. Further details if the report results in a Disciplinary Action. What are the penalties for failing to file an 805 report? Failure to report may result in a \$50,000 fine per violation. Intentional or willful failure to report may result in a \$100,000 fine per violation. What if the licensee disagrees with the 805 report? Pursuant to Business and Professions Code Sections 800 and 805(f), a licensee may submit "additional exculpatory or explanatory statements" to supplement the 805 report. This addendum will be disseminated with the 805 report to any eligible requesting party. What is the 805.01 reporting form? An 805.01 report is a mechanism in which peer review bodies are required to report a final decision or recommendation of certain actions being taken against a licensee after an investigation. If an 805.01 report was previously filed, is an 805 report still necessary? Yes. An 805 report is still required once the recommendations are made final by the reporting entity. The main objective of the 805.01 is to allow the Board to expedite the investigation process. Are 805.01 reports confidential? 805.01 reports are not disseminated and not posted on a licensee's profile. Complete this task to confirm you are a human generating this request. Thank you! No nurse wants to contemplate being on the receiving end of any type of disciplinary action. However, any nurse—regardless of dedication and competence—could end up facing an SBON complaint and prudence dictates that you have in place a way to defend against an allegation should that occur. As a nurse, you could be subject to a claim of malpractice, but also to a complaint filed with your state board of nursing (SBON). In that case, you'll need to defend against the claim. In this article, we'll look at how SBON complaints work and the steps you can take to mitigate the risk of such actions. SBONs Are "Vital to Nursing" As you know, an SBON governs nursing practice. The SBON's primary edict is to protect the public and promote the progress of the profession, notes Georgia Reiner, senior risk specialist with Nurses Service Organization. "The role is 'vital to nursing,'" she says. SBONs ensure that licensed nurses practice safely, competently, and ethically, notes Reiner. And it is from this role that an SBON complaint can arise. The SBON can take multiple actions against a nurse, up to and including revoking the nurse's license. SBON Complaints versus Malpractice Both malpractice claims and SBON complaints are aspects of your professional liability. However, in a malpractice lawsuit "the patient or plaintiff has to prove that negligence occurred, and there's a pretty high legal bar that they have to clear in order to prove that," says Reiner. For an SBON complaint, allegations can be directly related to a nurse's clinical responsibilities and the professional services that he or she offers, notes Reiner, but they can also be of a nonclinical nature, such as substance abuse, unprofessional behavior or billing fraud — "things that aren't directly related to patient care," Reiner says. In multiple states, SBON complaints can be filed anonymously, she notes. Most often, according to an analysis of NSO claims, the complaints are filed by an employer, coworker or patient. Relatives and friends of the nurse have filed reports, she notes, and in some states, nurses must self-report certain violations such as misdemeanors, felonies or plea agreements, as well as medical malpractice verdicts or settlements. Complaints are on the Rise When it comes to the type of SBON complaint a nurse might receive, professional conduct, scope of practice, and documentation error or omission account for 67 percent of all license report closed matters, according to the Nurse Professional Liability Exposure Claim Report: 4th Edition from CNA/NSO. This report uses a 2020 claim report dataset of license protection matters that closed between January 1, 2015 and December 31, 2019 that resulted in a defense expense/payment of at least one dollar. The number of license protection matters, notes the report, has increased 22% from the 2011 claim report to the 2020 report. What's more, the average cost (\$5,330) of defending allegations against a nurse's license increased 59 percent compared to the 2011 report. The 2020 report also finds that about 55 percent of license board matters led to some type of board action against a nurse's license, similar to the 2011 and 2015 reports. Get Help from an Attorney The first notice you may receive about an SBON complaint is a letter, email, or call from the SBON. At that stage, "that's when it's critical that the nurse contact their professional liability insurer or an attorney before they respond or appear for any interview," Reiner says. This helps ensure that your best interests are kept in mind and that you don't inadvertently worsen the situation. Your attorney will help you walk through the process, gather and produce evidence, and perhaps resolve the matter before a formal hearing. As the case proceeds, "having an attorney and having representation throughout that process is critical," Reiner says. The SBON can make use of a range of disciplinary actions, such as issuing a reprimand or even loss of license. Mitigating Your Risk Obviously, you'll want to do all you can to avoid receiving an SBON complaint. To mitigate your risk, ensure that you're practicing within the requirements of your state's nurse practice act, says Reiner. In addition, make sure to comply with your employer's policies and procedures and to practice within the standard of care. If any of those requirements or policies differ, "the nurse is responsible for ensuring that they comply with the most stringent of those applicable regulations or policies," Reiner says. If you're ensure, you could contact the state board of nursing, a specialty professional nursing association, or your organization's risk manager or legal counsel. "Beyond that, we always say documentation is the best defense, not only in malpractice cases, but in state licensing matters as well," Reiner says. That can include patient care assessments, observations, communication with other care providers, and actions taken. "It's also great practice to maintain files that can be helpful with respect to the nurse's character," Reiner says. Those could include letters of recommendation, performance evaluation reports from patients, records of volunteer work, and continuing education certificates. "All of those are great records to keep on hand in the event that the nurse is involved in some type of licensing or board action, because those can speak to the nurse's character and competence, and can make a difference when it comes to the board deciding whether or not to impose disciplinary action." Certainly, no nurse wants to contemplate the prospect of an SBON complaint. But, Reiner says, you need to "make sure that you are prepared to defend yourself because, at the end of the day when the board has the power to potentially revoke your license, that's your livelihood and so you need to make sure that you invest the time and resources required to defend it properly." As a longtime writer, editor, and product director, Louis Pilla has provided information, analysis, and insight for nurses and other clinicians. Now a freelance writer and editor, he served as a Director at Elsevier, where he was instrumental in the development of major online nursing reference and procedure products. Previously, he served as Editorial Director at Nurses.com, one of the first nursing websites, and was Executive Editor at Nursing magazine, a premier large-circulation journal. Today, he continues to serve nurses and other clinicians by reporting on developments and trends in healthcare with meaning, context, and insight. October 31, 2024 In the healthcare profession, nurses hold positions of trust and responsibility. This trust extends not only to patient care but also to upholding the ethical and legal standards that govern their profession. You are a nurse 24/7 and are held to ethical standards whether at work or personal life. One key legal responsibility is self-reporting criminal matters to the appropriate nursing board or regulatory body. Failing to do so can result in severe disciplinary actions, including license suspension or revocation. But when exactly does a nurse need to report criminal offenses, and what are the timelines for doing so? Understanding the Obligation to Self-Report Each state has its own regulations for when healthcare providers, including nurses, must self-report criminal matters. The types of reportable offenses can range from misdemeanors to felonies, with timelines that vary from state to state. The required timeframe shows professionalism and accountability, which may help during any subsequent board investigation. 3. Keep Records. Document any communication you have with law enforcement or legal representatives related to the offense, as well as your notification to the board. Do not talk to anyone without your attorney present. 4. Consult an Attorney: If you are unsure about how or when to report, seek legal advice to ensure you meet your state's requirements. Conclusion Self-reporting criminal matters is not only a legal obligation but an ethical one. As nurses, maintaining the trust of patients and colleagues is paramount, and being transparent about any legal issues can help safeguard both your career and the reputation of the nursing profession as a whole. Always familiarize yourself with your state's laws, and when in doubt, report as soon as possible. Can you file a complaint against a nurse? If you witness unsafe or unethical behavior from a nursing professional, you can take action by making a report to your state board of nursing (BON). But filing a report is a serious decision that requires careful consideration, and it's not always the first course of action. How can you know whether a situation requires a BON report? Here are some of the top reasons to report a nurse to the board of nursing in your state. Nurses have a duty to provide safe care. 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