

What Conduct by a Nurse Licensee Would Allow the Board of Nursing to Take Disciplinary Action Against a Nurse?

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This bulletin discusses some of the grounds upon which a board can take disciplinary action against a nurse if they are proven.

The nurse practice act and/or its rules will include the basis upon which a board of nursing can take disciplinary action against a nurse licensee. In the act itself, the section may be titled "Disciplinary Grounds" or "Violations of the Act" or something similar. Keep in mind that because each state has the authority to pass its own act and rules, disciplinary grounds may vary somewhat from state to state, so it is important that you read your own act and rules as well as applicable acts and rules if you are licensed in more than one state.

One ground that is often included as a basis for discipline of a nurse licensee is if the nurse is convicted of some kind of crime under the laws of any United States jurisdiction. The conviction can be by a jury verdict, by a plea of guilty, or by a finding of guilt, as examples.

Some states may include only felony convictions (a serious crime such as murder, forgery, or diversion of controlled substances) while others also include a misdemeanor conviction, which is a lesser crime, such as battery or a traffic violation. Still others, like Illinois, include any misdemeanor conviction that requires dishonesty as an essential element or that is directly related to the practice of the profession. (1)

A second basis for discipline of the nurse licensee is if the individual uses chemical substances, such as alcohol or narcotics, which could impair the individual's ability to practice with reasonable skill, judgment or safety. Because chemical use and abuse is a major problem, some states have established non-disciplinary treatment programs for nurse licensees who are eligible for the program. As an example, if the nurse enters into the treatment program, surrenders his or her license during the treatment, and successfully completes its requirements, including aftercare, no discipline is taken against the nurse and no public record of the treatment takes place. (2)

If a nurse licensee engages in conduct that is determined to be unethical, unprofessional, or dishonorable, and such conduct could deceive, defraud or harm the public as defined in the act or its rules, disciplinary action can be taken against the individual. Often, this allegation is included with other violations of the act. Examples of reported disciplines that includes such conduct are falsifying or knowingly making incorrect entries in the patient record or related documents, failing to document and maintain accurate records, diverting controlled substances from the employer, and misappropriating property, equipment, materials, drugs or money from an employer or patient. (3)

Crossing professional boundaries with a patient, whether sexual or otherwise, is another common ground for which the board of nursing can take action. Examples include dating a patient, harassing a patient in some way, keeping secrets with a patient, witnessing legal documents for the patient, and excessive self-disclosure. (4)

If a nurse licensee's clinical practice is not "up to par"—that is, not meeting standards of practice—the nurse can be disciplined as well. Because patient safety is always at issue when clinical difficulties exist in a nurse's practice, he or she can be disciplined. If the nurse is experiencing mental or physical problems that make it problematic for the nurse to function with safety and skill, discipline can be imposed as well.

It is important to remember that a patient does not need to be injured for a discipline to be imposed against a nurse when his or her clinical practice is under question. Rather, it is the risk to the patient, potential or real, that is the basis of any discipline that might be imposed by the board of nursing.

Maintaining patient confidentiality and privacy is essential for the nurse-patient relationship, both ethically and legally. A breach by the nurse licensee, except as may be required by law (e.g., a court order requiring the nurse to speak about a particular patient), is an often included basis for discipline by the state board of nursing.

If a nurse is licensed in several states and a state board of nursing in one of those states takes disciplinary action against the nurse, the other state boards of nursing can also take disciplinary action against the nurse when the other boards have similar grounds for discipline. You may ask how another board of nursing would find out about a discipline in another state.

Disciplinary actions by state boards of nursing are shared with other boards of nursing across state lines through various means, one being the National Council of State Boards of Nursing's Disciplinary Data Bank established in 1981.

The National Healthcare Integrity and Practitioner Data Bank is another entity that stores disciplinary actions against health care providers, including nurses. State boards have access to this information as do employers. Employers check the Data Bank to determine if a licensee has been disciplined and do so for new applicants and for current nurse employees (the latter check is on a regular basis).

Additionally, many nurse practice acts and/or rules require a nurse licensee to self-report to any board of nursing where licensed a discipline by a board of nursing in another state. If not reported, the nurse can face discipline for this violation as well.

The examples listed are but a few of the bases upon which a disciplinary action by a state board of nursing can occur. Check out your nurse practice act and rules for what types of violations can

result in a disciplinary action against you. You might be surprised at some of the categories. However, surprise at receiving a notice of a possible action being taken against you is no fun. Know what your state board of nursing requires of you. It will hold you accountable and responsible when any violations of those expectations takes place.

FOOTNOTES

1. Illinois Nurse Practice Act, 225 ILCS 65/70 (b) 3 (2007).
2. Examples of state boards of nursing taking this approach with a chemically impaired nurse include Ohio, Indiana, Rhode Island, and Illinois.
3. Pennsylvania State Board of Nursing Newsletter (August 2009). Disciplinary Actions. Available at www.dos.state.pa.us . Accessed March 18, 2012.
4. National Council of State Boards of Nursing. Professional Boundaries: A Nurse's Guide To The Importance Of Professional Boundaries. Available on the Council's website at www.ncsbn.org . Accessed January 4, 2012.

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