



**BOARD ACTIONS
AGAINST NURSES**

WHAT TO DO IF YOUR STATE
LICENSING BOARD CONTACTS
YOU

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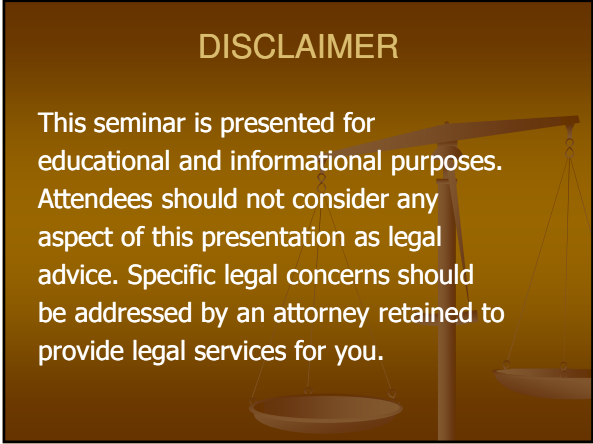


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DISCLAIMER

This seminar is presented for educational and informational purposes. Attendees should not consider any aspect of this presentation as legal advice. Specific legal concerns should be addressed by an attorney retained to provide legal services for you.

STATE BOARDS OF NURSING

- CONTROL THE PRACTICE OF NURSING
- CONTROL LICENSEES
- CONSUMER DRIVEN - BOARDS EXIST TO PROTECT THE HEALTH CARE CONSUMER, NOT TO HELP THE NURSE

BOARD STRUCTURE

- STATE BOARDS WERE CREATED BY STATE STATUTES – PRACTICE ACTS
- WHERE A BOARD IS "HOUSED" DIFFERS BY STATE
- A BOARD IS COUNSELED BY ATTORNEYS AND HAS ATTORNEYS WHO PROSECUTE ACTIONS AGAINST NURSES

BOARD STRUCTURE

- COMPRISED OF A NUMBER OF MEMBERS
- RNs, LPNs/VNs, APNs, LAY PEOPLE, STATE REPRESENTATIVES, etc.
- MAY BE REQUIRED TO HAVE CERTAIN LEVEL OF EXPERIENCE
- APPOINTED BY GOVERNOR
- TERMS
- BOARD STAFF ARE NOT "MEMBERS"

KNOW YOUR BOARD

LICENSEES ARE CONSIDERED TO KNOW THE STATUTES AND REGULATIONS THAT PERTAIN TO THEIR PRACTICE.

IGNORANCE IS NO EXCUSE!

STATUTES/REGULATIONS

- CONTROL THE PRACTICE OF NURSING for RNs, LPNs/VNs, APNs, and sometimes ancillary personnel
- DELINEATE SCOPE OF PRACTICE
- ADDRESS DELEGATION OF NURSING TASKS
- PROVIDE FOR ACCREDITATION OF NURSING SCHOOLS & APPROVE CLINICAL AFFILIATIONS
- PERMIT INVESTIGATIONS AND REQUIRE COOPERATION OF THE LICENSEE
- ALLOW BOARDS TO TAKE ACTION AGAINST A LICENSE

BOARD AUTHORITY

- LICENSE TO PRACTICE: IS IT A PRIVILEGE OR A PROPERTY RIGHT?
- BOARDS HAVE SUBPOENA POWER TO OBTAIN DOCUMENTS/RECORDS, GAIN ACCESS TO PREMISES, etc.
- BOARDS CAN COMPEL LICENSEES TO PROVIDE WRITTEN STATEMENTS and/or TESTIFY UNDER OATH, UNDERGO SKILLS ASSESSMENT, MEDICAL EXAMINATION, TREATMENT, etc.

BOARD CAN TAKE ACTION IF LICENSEE:

- OBTAINED LICENSURE THROUGH FRAUD, DECEPTION OR MISREPRESENTATION
- ENGAGED IN THE USE OR EMPLOYMENT OF DISHONESTY, FRAUD, DECEPTION, MISREPRESENTATION, FALSE PROMISE OR FALSE PRETENSE
- ENGAGED IN GROSS NEGLIGENCE, GROSS MALPRACTICE OR GROSS INCOMPETENCE WHICH DAMAGED OR ENDANGERED A PERSON
- ENGAGED IN REPEATED ACTS OF NEGLIGENCE, MALPRACTICE OR INCOMPETENCE

BOARD CAN TAKE ACTION IF LICENSEE

- ENGAGED IN PROFESSIONAL OR OCCUPATIONAL MISCONDUCT
- CONVICTED OF CRIME OR OFFENSE INVOLVING MORAL TURPITUDE OR RELATING ADVERSELY TO ACTIVITY REGULATED BY THE BOARD
- ENGAGED IN PRACTICE WHILE REVOKED OR SUSPENDED IN ANOTHER STATE
- VIOLATED OR FAILED TO COMPLY WITH ANY ACT OR REGULATION OF THE BOARD

BOARD CAN TAKE ACTION IF LICENSEE

- INCAPABLE OF DISCHARGING FUNCTIONS OF A LICENSEE
- COMMITTED ACTS OF INSURANCE FRAUD
- ENGAGED IN DRUG OR ALCOHOL USE
- HAS PRESCRIBED OR DISPENSED CONTROLLED SUBSTANCES INDISCRIMINATELY OR WITHOUT GOOD CAUSE OR FOR UNAUTHORIZED CONSUMPTION OR DISTRIBUTION
- PERMITTED UNLICENSED PERSON TO PERFORM ACT WHICH REQUIRES A LICENSE
- ADVERTISED FRAUDULENTLY

HOW A NURSE GETS BEFORE THE BOARD

- PATIENT COMPLAINT
- REPORTING BY EMPLOYER OR A COLLEAGUE – OFTEN REQUIRED BY LAW
- REPORT FROM ANOTHER INVESTIGATING AGENCY
- SELF REPORTING/LICENSEE IS REQUIRED TO REPORT CERTAIN INFORMATION
- FLAGGING
- NEWS REPORTS

ONCE BEFORE THE BOARD

- INVESTIGATION PROCEEDS
- STATE INVESTIGATORS INTERVIEW WITNESSES, OBTAIN AND REVIEW DOCUMENTATION, etc.
- LICENSEE USUALLY LAST TO BE INTERVIEWED and/or ASKED TO PROVIDE SWORN STATEMENT, TESTIFY UNDER OATH, etc.
- BOARD REVIEWS INVESTIGATION REPORT AND DECIDES NEXT STEPS

FACTORS BOARD MAY CONSIDER

- Level of Experience
- Previous Problems
- Commitment to Improvement
- Demeanor & Level of Cooperation
- Results of Systems Analysis
- Level of Patient Harm

ACTIONS BY THE BOARD

- NO ACTION
- ALTERNATIVE TO DISCIPLINE OFFERED IF 1st TIME SUD OR MENTAL HEALTH ISSUE
- BOARD WILL OFTEN RECOMMEND RESOLUTION BY CONSENT
- CAN PROCEED TO FORMAL CASE

OTHER ACTIONS TAKEN BY THE BOARD

- A FORMAL CASE IS PUBLIC AND ENTITLES LICENSEE TO DUE PROCESS HEARING BEFORE BOARD OR ADJUDICATORY BODY.
- BOARDS CAN OVERRULE AN ADJUDICATOR
- IF MATTER POSES AN IMMEDIATE DANGER THEN SUMMARY SUSPENSION OR REVOCATION CAN BE IMPOSED AFTER EMERGENT HEARING.
- APPEAL RIGHTS EXIST

PENALTIES

- WARNING
- REPRIMAND
- PROBATION
- SUSPENSION
- REVOCATION
- COSTS OF INVESTIGATION
- ATTORNEYS FEES
- CIVIL MONETARY PENALTIES

ONCE PUBLIC ACTION IS TAKEN

- POSTED ON BOARD WEB-SITE – COULD RESULT IN STATE GOVERNMENT DEBARRMENT
- REPORTED AND POSTED ON NATIONAL COUNCIL OF STATE BOARDS OF NURSING (NCSBN) WEB-SITE - NURSYS.COM
- REPORTED TO NPDB
- THEREFORE:
 - OTHER SINGLE STATE LICENSES AND MULTISTATE LICENSE AFFECTED
 - FEDERAL GOVERNMENT AGENCIES SUCH AS OIG COULD IMPOSE EXCLUSION

CASE EXAMPLES

WHAT KINDS OF SITUATIONS CAN LEAD TO BOARD ACTION?



HOT TOPICS

- MULTISTATE LICENSURE
- MARIJUANA
- COVID-19

PROTECT YOURSELF IF CONTACTED BY THE BOARD:

SECURE COUNSEL

- DO NOT SPEAK WITH AN INVESTIGATOR WITHOUT COUNSEL
- DO NOT DEAL WITH A BOARD ATTORNEY WITHOUT COUNSEL
- DO NOT DEAL WITH THE BOARD WITHOUT COUNSEL
- HAVING AN ATTORNEY DOES NOT MAKE YOU LOOK GUILTY! IT MEANS YOU ARE SMART!

BEST ADVICE

- DO NOT TAKE ANY ACTION THAT WILL GET YOU CALLED BEFORE THE BOARD
