

Disciplinary Actions by the Board of Nursing

Complaint received.

Reviewed by Board Staff	Request a formal investigation
	Gathers additional information
	Determines no additional information is needed
General Counsel reviews complaints and investigative information	Determines charges of violation of <i>Nurse Practice Act (NPA)</i>
	Determines whether disciplinary action should be pursued

If disciplinary action is pursued, this can be accomplished in one of three ways:

Letter of Reprimand	The Board issues a reprimand on the license of the nurse. Licensee may be required to complete stipulations, such as educational courses, to satisfy the terms of the Letter of Reprimand within a certain time frame. Failure to comply may result in suspension until the terms are met.
Consent Agreement	The Board staff determines the violations and proposed stipulations. Board attorney draws up a legally binding agreement. The licensee receives a copy of the agreement, agrees to the terms, including waiving their right to a hearing before the Board, signs the agreement and returns to Board office. (If the licensee declines to sign the agreement, the Disciplinary Hearing process begins.) Board President signs the agreement following a majority approval by the Board.
Disciplinary Hearing	The General Counsel files formal charges. This may be done initially or after the licensee declines a Consent Agreement. Disciplinary Hearing is held – If the Board finds that the conduct which was charged did not occur or that the conduct which did occur is not a violation of the <i>NPA</i> , the case is dismissed, and no further action is taken. <i>OR</i> If the Board finds the nurse violated the <i>NPA</i> : Disciplinary Order – The Board issues an Order setting forth the discipline. This Order becomes effective the day it is signed. Appeal – The licensee may appeal this decision to the circuit court of the county in which he/she resides or the Circuit Court of Pulaski County, AR

ARKANSAS DEPARTMENT OF HEALTH

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The Disciplinary PROCESS

The *Arkansas Nurse Practice Act (NPA)* and its *Rules* provide that the Arkansas State Board of Nursing (ASBN) may deny, suspend, revoke, limit, or otherwise discipline any license to practice nursing or certificate of prescriptive authority for certain causes.

The Board is able to regulate the practice of licensed nurses through its disciplinary process. Pursuant to Arkansas Code § 17-87-309, the Board has the authority to deny, suspend, revoke, or limit any license to practice nursing or to otherwise discipline a licensee who is guilty of conduct outlined in that law.

WHAT IS A COMPLAINT?

A complaint is a detailed, written description of an alleged behavior that, if proven true, would constitute a violation of the *NPA*.

What are the common types of violations?

- Addiction/abuse of drugs
- Negligence, abuse, exploitation, unprofessional conduct
- Criminal convictions
- Fraudulent applicants (e.g., not reporting criminal convictions or previous disciplinary actions on NCLEX®, endorsement and renewal applications)

HOW IS THE COMPLAINT FILED?

A complaint can be made by anyone who has information that a licensed nurse may have violated the *NPA*. This includes, but is not limited to: consumers, other nurses or professionals and associates. The complaint must be filed via written document or submitted online and may be done anonymously. Some nurses report themselves.

WHAT HAPPENS WHEN THE BOARD RECEIVES A COMPLAINT?

The complaint is reviewed to ensure that it includes the name of the offending licensed nurse and names the alleged violation of the *NPA*. ASBN staff then determine whether there is enough information and evidence to conduct a formal investigation. The case is assigned to one of the investigators if the complaint appears to be a violation of the *NPA*.

WHAT HAPPENS DURING THE INVESTIGATION?

The investigator assigned to the case could be a licensed nurse from the ASBN, a pharmacist or a licensed nurse from Pharmacy Services and Drug Control of the Health Department, an agent from Drug Enforcement Agency (DEA), local law enforcement, an investigator contracted with the ASBN, or the Attorney General's Medicaid Fraud Division. An investigation includes gathering and reviewing documents, some of which may be subpoenaed, and interviewing witnesses. The fact that an investigation is taking place is public information under the "Freedom of Information Act of 1967."

WHAT ARE THE POSSIBLE OUTCOMES ONCE THE INVESTIGATION IS COMPLETE?

Dismissal — If there is not enough evidence to sufficiently support a violation of the *NPA*, the complaint may be closed by the ASBN staff.

Letter of Warning — This is a non-disciplinary action meant to alert the licensee of the potential for a violation.

Letter of Reprimand — This is a disciplinary action permanently reflected on the nurse's license. It is issued by the ASBN, who might also require the nurse to attend certain educational courses pertaining to their offense.

Consent Agreement — This is a contract between the licensee and the ASBN in which the licensee admits to a violation and disciplinary terms are agreed upon. The licensee is allowed to practice under certain terms and conditions agreed upon by the Board. This action of discipline is permanently reflected on the license of the nurse. The ASBN can require the nurse to pay fines, attend classes, submit reports, and participate in a drug screening process.

Formal Hearing Before the ASBN — If the matter remains unresolved or the nurse requests a formal hearing, the case will be presented to the Board. A notice will be sent by certified mail to the licensee at his or her last known address on file and through the Arkansas Nurse Portal message center. During the hearing, general counsel for the ASBN presents the Board's case. The licensee and/or their attorney are allowed to present their case and call witnesses. The Board can question the licensee at the appropriate time. The Board will come to a decision during deliberation and the outcome will be voted on and announced on the record.

Decisions include:

- **Not Guilty** — The licensee is found not in violation of the *NPA*.
- **Reprimand** — The licensee is found in violation of the *NPA*, is allowed to keep his/her license, and may be ordered to pay a fine and/or take courses.
- **Probation** — The licensee is found in violation of the *NPA* but is allowed to keep his/her license to practice under certain conditions set forth by the Board for a certain period. The Board can require the nurse to pay fines, attend classes, submit reports, and participate in a drug screening process.
- **Suspension** — The licensee is found in violation of the *NPA* and his/her license is suspended until certain conditions and time set forth by the Board are met. The Board can require the nurse to pay fines, attend classes, submit reports, and participate in a drug screening process.
- **Revocation** — The licensee is found in violation of the *NPA* and his/her license is permanently revoked. He or she will be permanently restricted from practicing as a nurse in Arkansas.
- **Appeal** — The licensee may appeal any decision to the circuit court of the county in which he or she resides or the Circuit Court of Pulaski County, Arkansas, within 30 days of the Board's decision.

All discipline is permanently reflected on the license of the nurse.

WILL THE RESULTS OF MY HEARING BE MADE PUBLIC?

Timely reports of all disciplinary actions are sent to multiple databanks including:

1. ASBN databank
2. Nursys® — a state board of nursing linked national databank
3. Healthcare Integrity and Protection Data Bank (HIPDB) — a federally mandated reporting database
4. Certain actions are also reported to the Office of The Inspector General.

It is also published on the ASBN website and in the ASBN publication, *ASBN Update*. Action taken by the Board may affect the licensee's ability to practice in another state.