

## ABOUT THE BOARD . . .

- The West Virginia Board of Examiners for Registered Professional Nurses is a public agency empowered by the legislature to protect the public by regulating the practice of registered professional nurses in West Virginia.

- The Board exists to protect the public's health, safety and welfare.

- One way the Board regulates the practice of registered professional nurses is through its disciplinary process. Pursuant to W.Va. Code §30-7-11, the Board has the authority to take disciplinary action against a registered nurse or deny licensure to an applicant who is guilty of conduct outlined in that law. The Board also has the authority to assess fines and administrative costs.

- The Disciplinary Review Committee (DRC) is a Committee of the Board composed of two Board members and the Board's Executive Director. The Committee is empowered by the Board to enter into consent agreements with licensees, dismiss complaints, issue reprimands, modify consent agreements and handle other disciplinary matters as directed by the Board. All decisions made by the DRC are ratified by the Board.

### **How is a complaint filed?**

A complaint may be written, typed or verbal. The complaint should be mailed or faxed to the Board office. The Board has complaint forms available upon request or downloadable from our website

### **Who can/should file a complaint?**

**As a member of the public** you may file a complaint when you feel you have been mistreated or received improper nursing care or you believe that a licensee of the Board has engaged in incompetent, unethical, illegal or impaired activities which are related to his/her professional responsibilities.

**Registered Nurses** are required to report to the Board the incompetent, unethical, illegal or impaired practice of other registered professional nurses (19CSR3).

**All persons filing a complaint** are responsible for being honest and providing the Board with information as specific as possible, so the Board may conduct a thorough investigation.

### **After a complaint is received, how is it processed by the Board?**

Once a complaint is received, the person filing the complaint is sent a letter acknowledging receipt of the complaint. The registered nurse is notified of the complaint through a Letter of Inquiry or a formal letter called a Notice of Complaint.

The registered nurse has fourteen (14) days after receipt of the Notice of Complaint to respond. He/she may request an extension in writing to the Board.

### **How is a complaint investigated?**

Board staff begin investigating the complaint immediately after it is received in the Board office. Some investigative techniques include interviewing witnesses, subpoenaing documents and performing on site visits.

The length of time to complete the investigation process varies depending on the complexity of the case.

While a complaint is being investigated, the information involved is kept confidential and may not be discussed with individuals outside the investigation.

### **After the investigation is completed, what are the possible outcomes?**

The possible outcomes could include:

- Dismissal
- Consent Agreement for:
  1. Reprimand
  2. Probation
  3. Suspension
  4. Revocation
- Summary Suspension
- Hearing-which results in a Final Order which may include one or more of the actions listed above.

#### Dismissal

If the Board is unable to substantiate a violation of the law, the complaint is dismissed by the Disciplinary Review Committee.

#### Consent Agreements

When disciplinary action is taken, most disciplinary cases result in a consent agreement being entered into by the licensee and the Board. A consent agreement is a contract in which the licensee agrees to certain disciplinary action to be taken against his/her license and the Board allows the licensee to practice under certain terms and conditions.

A consent agreement can be for a Reprimand, Probation, Suspension or Revocation.

A Reprimand is the least restrictive form of disciplinary action the Board will take against the licensee. A Reprimand may be with or without terms.

Probation means the licensee is allowed to keep his/her license but must practice under certain enumerated conditions for a specified period of time.

A Suspension or Revocation does not allow the licensee to maintain his/her license. He/she will be without a license for a specified period of time. The licensee may be able to petition for reinstatement of his/her license. Upon reinstatement, the licensee is usually reinstated to a Probationary status with terms. If the licensee is on Probation, he/she may petition the Board for full reinstatement of his/her license after the requirements of the agreement have been met.

The registered nurse is not obligated to enter into a consent agreement with the Board. A consent agreement is voluntary and the terms may be negotiable. The consent agreement is not effective until the Disciplinary Review Committee has signed the agreement.

The registered nurse is responsible for fulfillment of the terms. If he/she violates the terms, the license will immediately be suspended.

### **If a complaint is filed, can the Board take the registered nurse's license?**

#### Summary Suspension

The registered nurse is subject to all due process rights guaranteed by the law. The Board cannot discipline the licensee without an agreement or

going through the disciplinary process. However, if the Board finds that public health, safety and welfare require emergency action and incorporates a finding to that effect into an order, the Board shall order Summary Suspension or immediately take a license pending proceedings for revocation or other action. The Board shall promptly institute and determine further disciplinary action. (19CSR3)

### What if an agreement is not reached?

#### Hearing

If the Board and the licensee cannot agree to the disciplinary action and terms contained in a consent agreement, the case will be set for an administrative hearing. The licensee will receive a Complaint and Notice of Hearing at least thirty (30) days before the hearing date.

A Hearing Examiner, also known as an Administrative Law Judge, will preside over the hearing. The Board and the licensee will have an opportunity to call witnesses to testify in support of each case.

After the hearing, both parties may provide the Hearing Officer findings of fact, conclusions of law and a recommendation. A transcript of the hearing and the Hearing Officer's recommendation will be given to Board members for review. The Board will issue a final order at a Board meeting. In its final order, the Board can dismiss the complaint or order the license be reprimanded, probated, suspended or revoked. If the licensee does not agree with the Board's order, the Board's decision can be appealed to Circuit Court.

### Do I need an attorney?

As a member of the public who files a complaint against a nurse, you do not need an attorney to represent you in the Board's process. Your role is as a witness. The Board's objective is the protection of the public. As a member of the public, you may or may not agree with the

Board's decision in regard to the complaint you filed. However, once the Board receives the complaint, it has the sole responsibility in how or whether to proceed. The Board is represented by the Office of the Attorney General.

It is the registered nurse's sole decision whether or not to be represented by an attorney in the disciplinary process. Many nurses that have had a complaint filed against his/her license with the Board are represented by legal counsel.

### What types of complaints are filed with the Board?

The majority of complaints filed with the Board involve nurses with an addiction to drugs or alcohol or nurses who have illegally used and/or abused drugs or alcohol. This issue generally causes other violations to surface, such as drug diversion, false documentation, impaired behavior, which are negligent and incompetent practices. Other complaints involve practice related issues, such as medication errors, documentation errors, patient abuse, both verbal and physical, falsification of applications, patient abandonment and negligence in practice. Other complaints received by the Board deal with nurses having psychiatric disabilities and criminal convictions.

The Board also receives complaints from individuals involving personnel related matters, such as personality conflicts between co-workers, mandatory overtime and wrongful discharge. These issues are not within the Board's jurisdiction.

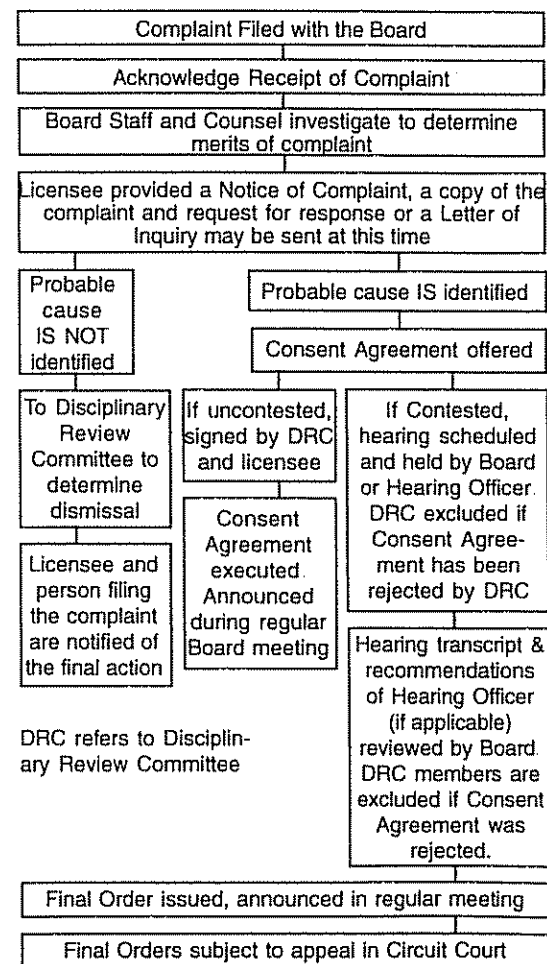
The Board investigates all complaints to determine merit. The Board does accept anonymous complaints. However, without knowing the identity of the person filing the complaint, it can be very difficult to investigate the complaint. Therefore, if a complaint is anonymous, it has to be very specific as to the nurse's identity against whom the complaint is filed, the time and place of the alleged conduct

and witnesses.

For more information on the Board's disciplinary process or to obtain a complaint form, please call (304) 558-3596 or 1-877-743-NURS (6877). Or you may visit our web site at [www.mboard.com](http://www.mboard.com), or e-mail us at [westvirginiarn@ncsbn.org](mailto:westvirginiarn@ncsbn.org).

Relevant Laws and Rules:  
WV Code § 30-7-11  
WV CSR § 19-3-14 et seq  
WV CSR § 19-5-1 et seq.

### FLOW CHART FOR DISCIPLINARY PROCEEDINGS



**WEST VIRGINIA BOARD OF EXAMINERS FOR REGISTERED PROFESSIONAL NURSES**

**THE DISCIPLINARY PROCESS**

*What the Public and the Registered Nurse Should Know*

101 Dee Drive, Suite 120  
Charleston, WV 25311-1620  
Phone: (304) 558-3596  
or 1-877-743-6877 (Message system only)  
Fax (304) 558-3666