

BOARD REPORTING BEST PRACTICES

A GUIDE FOR HEALTHCARE STAFFING AGENCIES



Introduction

This board reporting best practices guide is intended to inform and educate NATHO member healthcare staffing agencies on industry best practices regarding when and how to file complaints with licensing and credentialing boards.

Disclaimer

Member agencies are advised that the following discussion is general in nature and should not be considered advice for any specific licensing complaint situation. As such, NATHO hereby disclaims all warranties, expressed or implied. Member agencies should consult with the licensing authority, HR, legal, or other licensing compliance professional for specific guidance rather than relying solely on the discussion herein. Moreover, changes are made periodically to licensing regulations, administrative rules, and other materials and guidance, which may or may not be fully incorporated into the discussion below. Also, any general compliance advice provided in the discussion below is not intended to be used, and cannot be used, by the member agency for the purpose of avoiding penalties that may be imposed under state licensing regulations.



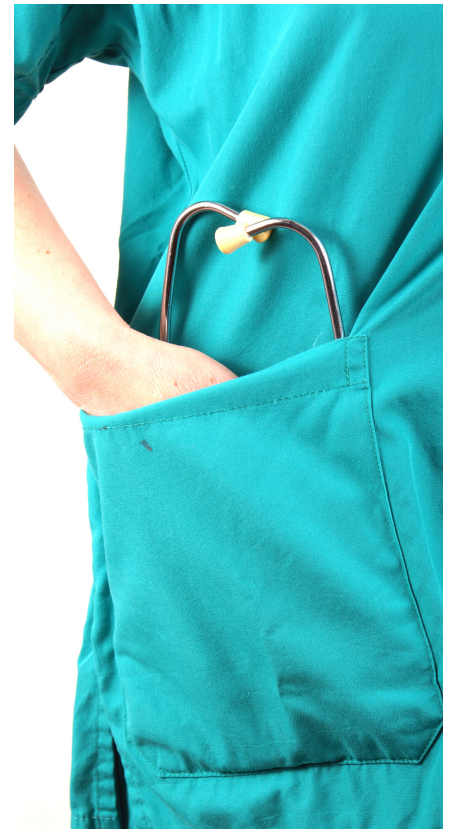
Responsibilities as a Healthcare Employer

As an employer of licensed healthcare professionals, there is an ethical and, in many states, a legal obligation to report unsafe practice and failures to abide by standard of care committed by healthcare professionals employed by the agency. Reporting is the primary responsibility of the employer of the practitioner, regardless if your client or another entity indicates that they will report the offense. This reporting obligation extends to include professionals with state licenses as well as those with national certifications. It is not the responsibility of the employer to make a determination if the actions represent a violation of standard of care, but rather, in good faith, report actions that may be unsafe, unethical, criminal, or otherwise may represent a failure to uphold practice standards.

As a staffing agency, we have an obligation to investigate each occurrence or complaint to the best of our ability. This includes interview and/or data collection from the healthcare professional who is subject to the complaint, as well as from our client facilities where the incident occurred. Notification to the appropriate licensing or certification board(s) for each reportable offense, provides a service to all future employers of the professional. It ensures that any future employer, be it a healthcare facility or healthcare staffing agency, can make well-informed hiring decisions and protect the safety of the patients and communities they serve. Termination of employment alone accomplishes neither, and failing to report potential violations may also damage the reputation of the healthcare staffing industry.

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What to Report

Violations of the Nurse Practice Act (Nursing) and/or standards of practice (all professionals) including unsafe, incompetent, or unethical practice are required to be reported to the licensing boards. The list below is not meant to be all-inclusive and each state may have different guidelines as to incidents that require reporting. In general, the recommendation is to err on the side of caution and/or call the state licensing board for guidance.

Examples:

- Impaired practice by drugs or alcohol while working or suspected of being impaired
- Refusing “for cause” or suspicion drug testing
- Stealing from a patient/client, including medications
- Providing treatment or care that should be provided only by a physician or APRN or more generally, practicing beyond the licensing scope of practice
- Documentation errors or discrepancies, including narcotic documentation discrepancies
- Falsifying records - including falsification of medical records, personal credentialing & occupational screening documents, resume & work history, payroll/timekeeping records, etc
- Patient abuse: physical, verbal, mental, or sexual
- Unprofessional conduct including harassing or bullying behavior
- Not following accepted standards of practice while caring for patients, including medication or other treatment errors
- Criminal conduct or certain criminal convictions
- Failing a pre-employment drug screen

Complaints or incidents reported by our clients are one of the primary ways staffing agencies are first notified about potential violations of standard practice that may necessitate a board report. In many cases, agencies may lack the full details of the incident and often do not have the ability to conduct detailed interviews with the client. While clients may suggest or request that a board report be filed by the agency, agencies should not rely exclusively on the client to provide that guidance. Agencies should make the independent decision to file board reports based upon the information reported from the client or others.

When trying to determine if a report should be filed, the agency should keep in mind that the responsibility is to report offenses or behavior that may represent a deviation from practice or ethical standards. It is the licensing board’s responsibility to conduct a full investigation, determine if an actual violation occurred, and enforce disciplinary action. Meaning that it is not the job of the agency to determine if an actual violation occurred, only to report incidents.

REPORTING NON-EMPLOYEES

An agency’s responsibility to file complaints with licensing boards extends to non-employees or applicants that have submitted an application but may have not yet been hired or placed on assignment. This most often includes incidents where an applicant has provided falsified information related to education or work history, fraudulent certifications, references, or other documents. An applicant failing a pre-employment/pre-hire drug screen would also be included in the offenses requiring a board complaint. Despite the individual not being any employee, there is still a responsibility of the agency to report these types of violations.

CLIENT VS STAFFING AGENCY REPORTING RESPONSIBILITY

The National Council of State Boards of Nursing provides guidance indicating that anyone that has knowledge of conduct or actions that may violate standard practice is asked to report the alleged violations. This general guidance should be followed for all licensed practitioners. A client may choose to make it the exclusive responsibility of the agency to report violations or may choose to file a complaint themselves. Regardless of the decision made by your client, you as the agency, with knowledge of the reportable offense, are also responsible for filing a complaint with the licensing board. A client’s decision to file a complaint does not release the agency from responsibility to also file a complaint. Conversely, a client’s decision NOT to file a complaint also does not release the responsibility of an agency to file a complaint when one is warranted.



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How to Report

Any person, including employers, who has knowledge of conduct by a nurse or other licensed or certified healthcare professional that may violate a nursing/practitioner law or rule, or related state or federal law, should report the alleged violation to the licensing or certifying board where the situation occurred. Many licensing regulatory agencies have standards that mandate reporting. A nurse or other licensed practitioner, as well as a licensed facility, such as a state-licensed agency, may be required by regulation to file a report of any instances of unsafe practice or misconduct committed by another practitioner to their licensing authority.

Each state board provides guidance and instructions for reporting complaints. In the event a practitioner holds multiple licenses and/or national certifications, multiple reports may need to be filed to notify all impacted regulatory organizations of the complaint. Of primary importance, file a report with the state licensing authority in which the alleged violation occurred and the practitioner's primary state of licensure (if different). While not comprehensive, links to state-specific regulatory contact information for many types of traveling professionals is provided below:

- [Nursing](#)
- [Radiologic Technologist](#)
- [Respiratory Care Practitioner](#)
- [Physical Therapy](#)
- [Occupational Therapy](#)
- [Laboratory Technologists](#)
- [Certified Surgical Technicians](#)
- [Nurse Aide](#)

AGENCY EFFORTS TO INVESTIGATE COMPLAINTS

Agencies should take reasonable steps to investigate complaints made about a practitioner. Interviewing all parties involved in the complaint including witnesses, client representatives/managers, as well as the practitioner, is a critical step to securing specific details surrounding the alleged violation and obtaining all viewpoints. Using an objective party to conduct the investigation, someone who does not already have an established relationship with either the client (primary account manager) or the employee (recruiter), is considered best practice to avoid unintentional bias.

It is important to involve the practitioner in the investigative process, including obtaining their written statement about the alleged violation and keep them informed of the steps being taken. It is natural for the subject of the complaint to be fearful and initially display defensiveness or anger. Communicating honestly and without judgment during the investigation helps to mitigate these negative behaviors. When possible, obtain copies of supporting documentation and written statements and include these with your report to the board. As applicable to your situation, obtain and include contact information from your client or other witnesses in your report that can provide further information regarding the alleged violation.

PRACTITIONER SELF-REPORTING

It is imperative the practitioner is well versed in the guidelines which govern the practice within their license, certification, or registration. In some cases, self-reporting can be viewed positively by the licensing board, as a practitioner taking accountability for their actions, and offering the practitioner eligibility for alternatives to discipline programs. Many of the respective entities require self-reporting for specific violations, including those involving drug or alcohol abuse. Additionally, there are often time frames imposed upon the practitioner dictating deadlines for self-reporting. 30-days is the most common time frame associated with self-reporting, but there are some entities that have shorter time expectations such as within 10 days. The practitioner should be encouraged to review and understand the respective guidelines from their regulatory agency. The staffing agency should not advise on steps to follow; however, they may advise they review the guidance from their regulatory body and ensure they are familiar with the expectations when an event occurs.

- [NCSBN Substance Abuse Disorder Guidance](#)
- [NCSBN Nurse Manager Guide to Substance Abuse](#)
- [NCBN Alternative to Discipline Programs](#)



Depending on the severity of the incident, the timeliness of the complaint that was filed, and any number of other factors, this investigation may take weeks or months to complete.

Board Investigation Procedures

While each board may have its own process, the general procedure remains the same. First, a complaint must be filed. This could be from the healthcare professional themselves, from an employer, a patient, or other witnesses to an incident.

The board will complete an initial review of the complaint to evaluate jurisdiction, meaning a decision for whether or not they have the authority to make a judgment. If the board has jurisdiction, the incident is reviewed against the nurse practice act, to determine which category the violation would fall under; clinical practice, drugs, boundary violations, sexual misconduct, abuse, fraud, or other findings on a criminal background check.

The next step is for a full investigation to be completed. Depending on the severity of the incident, the timeliness of the complaint that was filed, and any number of other factors, this investigation may take weeks or months to complete. The investigation is likely to include an interview of all parties involved, a review of records and documents to support the complaint, and may include an onsite visit to the location in which the incident occurred. Typically this will include requests for personnel records and other documents via legal subpoenas to the staffing agency that reported the offense, any other prior or current employers, the client facility where the incident occurred, as well as others. Staffing agencies are legally obligated to respond within the time frame stipulated in the subpoena.

The findings of this investigation will determine whether disciplinary action or some other type of permanent notification, such as Reprimand or Censure, would be placed against the license.

If reporting a complaint for the first time, the National Council for State Boards of Nursing (NCSBN) has a [video](#) that outlines the nursing complaint and investigative process in greater detail.

The individual that filed the complaint is typically kept informed by the licensing board as to the status of the complaint.



Disciplinary Actions

It is important to understand the disciplinary actions taken in response to a complaint as it can impact your ability to employ a practitioner.

Board disciplinary actions typically allowing for an unencumbered license:

- Fine or civil penalty
- Remediation (various educational content or exercises)
- Public reprimand or censure for minor practice violations often with no restrictions on license

Board disciplinary actions typically resulting in an encumbered license

Imposition of requirements for monitoring/supervision or other provision tailored to the particular situation

- Often requires quarterly reporting to the board from onsite supervising practitioner

Limitation or restriction of one or more aspects of practice

- e.g., probation with certain restrictions, limiting role, setting, activities, hours worked
- Often include restrictions on working for a temporary agency

Referral to an alternative to discipline program for practice monitoring and recovery support (drug or alcohol dependency, or, in some cases, other mental or physical conditions)

- Nurses participating in these programs lose compact licensing privileges
- Other stipulations or limitations on practitioner practice are often imposed while participating in an alternative program

Separation from practice for a period of time (suspension) or

Loss of license (revocation or voluntary surrender)

THE NURSYS REPORT

NURSYS is the only national database for licensed nurses and can provide all licensure statuses and disciplinary actions as the majority of state boards of nursing report to NURSYS. It is critical that healthcare staffing agencies understand how to read and interpret the NURSYS report. This includes the meaning and limitations that are imposed when a license is encumbered as well as discipline issued against one license and the potential implications to other state licenses. In most circumstances, links to state disciplinary reports are available in the detailed NURSYS report. Agencies should use the NURSYS report as well as the primary state report to obtain all of the information regarding a nurse's disciplinary history.

RECIPROCAL ACTIONS

Reciprocal actions are disciplinary actions taken by licensing boards in response to the discipline imposed by another state. These reciprocal disciplinary actions are not due to a new violation, but rather related to the original violation that occurred. Agencies should understand how to interpret disciplinary actions taken by multiple jurisdictions related to one unique incident versus multiple disciplinary actions taken related to different incidents.

IMPACT TO COMPACT LICENSE

Disciplinary actions, especially when taken by a practitioner's primary state licensing board, can negatively impact the compact status of their license, often rendering it as a single state. Additionally, a state board may impose discipline against a practitioner's ability to practice in their state under another compact or emergency license. This may occur when an incident occurs in that state resulting in a complaint being filed. In lieu of deferring to the primary compact state, the impacted licensing board may take their own actions to prevent the practitioner from practicing in their state and report that discipline to NURSYS.



Disciplinary Actions Continued

EMERGENCY LICENSING RULES AND PRIOR DISCIPLINE

We have seen many states provide for emergency licensing procedures or the ability for practitioners licensed in one state to practice under emergency licensing rules in another state. These emergency licensing procedures do not override restrictions imposed from prior disciplinary actions taken by the state that is providing for emergency licensing. As an example, a practitioner whose license was revoked or suspended in the state of CA would not be allowed to work in CA under another state license under emergency licensing rules. It is always recommended to speak with the state licensing board if there is ever a question about a practitioner's eligibility to practice in their state.

A STANDARDIZED PROCESS TO REVIEW DISCIPLINE

Agencies should develop a standardized process to review licensure discipline that include factors to consider when making hiring decisions to ensure a consistent and equitable review in determining eligibility for employment. These factors may include the age of the offense, the type of offense, the discipline imposed, the frequency or number of violations or disciplinary occurrences, and discipline imposed upon other state licenses other than the license under which the practitioner will be practicing. While each practitioner's situation and disciplinary actions should be reviewed uniquely, it is beneficial for the agency to have some standardized rules around decision making as it relates to the assessment of disciplinary actions and employment eligibility. The more serious the disciplinary action such as probation, suspension, or revocation as well as the status of the license being encumbered, the greater the need for a higher level of review.

It is important for agencies to read licensure discipline reports in detail including identifying when practitioners are restricted from working for temporary staffing agencies. Agencies should be prepared to be compliant with licensing board disciplinary requirements including supervision and quarterly reporting in the event the decision is made to place a practitioner with an encumbered license on assignment.

Links/Resources

[National Council of State Boards of Nursing
NURSYS: https://www.nursys.com/Default.aspx](https://www.nursys.com/Default.aspx)

