

m1 MINNESOTA
BOARD OF NURSING

Understanding the MN Board of Nursing
Disciplinary Process

Medi-Sota
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Mission of the Board

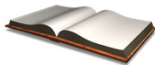
The mission of the Minnesota Board of Nursing is to protect the public's health and safety through the regulation of nursing education, licensure and practice.

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The Nurse Practice Act –
Minnesota Statute section 148.171-148.285

Statutory authority includes:

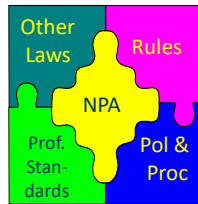
- Provides definition of nursing
 - Outlines scope of practice
 - Differentiates nursing from other professions
- Sets requirements for licensure
- Sets grounds for disciplinary action



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So, I know about the NPA. Does anything else impact my nursing practice?

- Other laws (State and Federal)
- Rules
- Professional standards
- Employer policies and procedures



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Who, What, and When?

- Who can be reported to the Board?
 - Nurses (RN, LPN, APRN) and applicants for licensure
- Who can make a report to the Board?
 - Permissive reporting
 - Mandatory reporting

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Mandatory reporting

Institutions: "The CNO...shall report to the board any action taken by the institution ... to revoke, suspend, limit, or condition a nurse's privilege to practice in the institution, ... any denial of privileges, any dismissal from employment, or other disciplinary action. ... shall also report the resignation of any nurse before the conclusion of any disciplinary proceedings, or before the commencement of formal charges, but after the nurse had knowledge that formal charges were contemplated or in preparation. The reporting described ... is required only if the action pertains to grounds for disciplinary action under section 148.261."

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Mandatory reporting

Licensed professionals: "A licensed health professional ...shall report to the board personal knowledge of any conduct the person reasonably believes constitutes grounds for disciplinary action under sections 148.181 to 148.285 by any nurse including conduct indicating that the nurse may be incompetent, may have engaged in unprofessional or unethical conduct, or may be mentally or physically unable to engage safely in the practice of ... nursing."

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Grounds 5

Failure or inability to perform professional or practical nursing...**with reasonable skill and safety**, including failure of a registered nurse to supervise or a licensed practical nurse to monitor adequately the performance of acts by any person working at the nurse's direction.



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Grounds 6

Engaging in **unprofessional conduct**, including, but not limited to, a departure from or failure to conform to board rules of professional or practical nursing practice ... or, if no rule exists, to the **minimal standards of acceptable and prevailing professional or practical nursing practice**, or any nursing practice that may create unnecessary danger to a patient's life, health, or safety. **Actual injury to a patient need not be established under this clause.**

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Grounds 8


Delegating or accepting the delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care.



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Grounds 9

Actual or potential inability to practice nursing with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of any mental or physical condition.

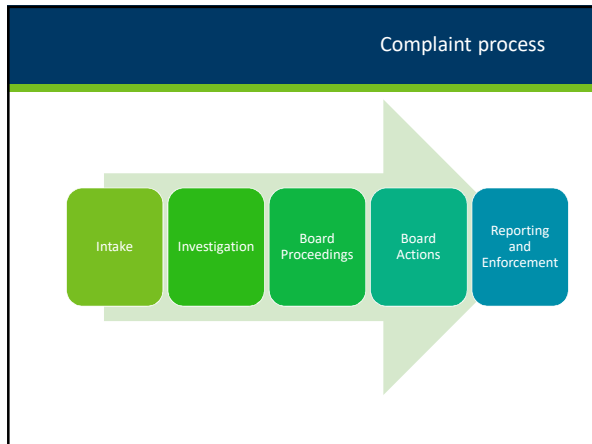


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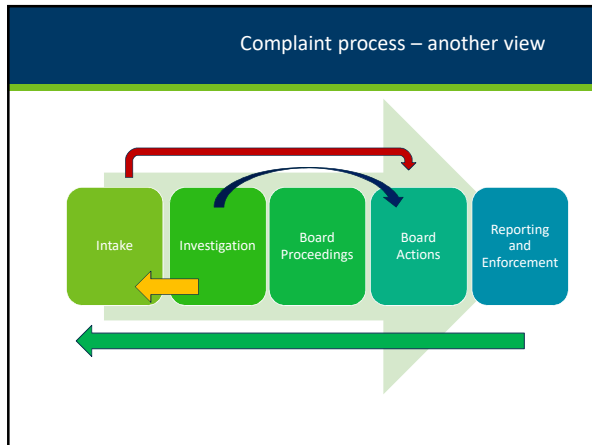
Roles of Board Members and Staff

- Staff of the Board carry out the day-to-day tasks of complaint investigation and review.
- Board members are the decision-makers.
- Goal: Obtain sufficient information for board members to make knowledgeable decisions.
- Considering each case on its individual merits while treating similarly situated individuals in a similar manner.

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Intake

- Complaints can come from anyone; most come from employers.
- Complaints are received via fax, email or mail. Coming: on-line submission
- All reports are reviewed and coded.
- All reports are acknowledged, in writing.

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Intake

Coding

- Review for jurisdictional authority
 - A person over whom the board has authority
 - Conduct which, if substantiated, provides a basis for disciplinary action.
- Non-jurisdictional complaints will be referred to another agency, if applicable.
- Determine priority code
- Assign the case to a practice specialist
- Identify next step

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Investigation

- Most complaints need additional records, which can be subpoenaed.
 - Employment records
 - Medical records of nurse or patient
 - Police and Court records
 - Investigations by other agencies
- AGO investigation – small number (1%) of complaints need a field investigation (interviews, site visit, etc.)

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Investigation

Inquiry letters

- Drafted by Practice Specialist starting with boilerplate; letters tailored to the case
- Response reviewed by assigned Practice Specialist
- Outcomes:
 - Need more information from nurse or additional records
 - Recommendation for dismissal
 - Discipline conference
 - Referral to HPSP

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Investigation - Conferences

- Nurse is sent a Notice of Conference. Identifies the allegations to be discussed, time and place of the conference and notification of rights.
- Conducted by Review Panel (Board member, Staff member and Assistant Attorney General)
- Conference process:
 - Opening by AAG or staff (required legal warnings, description of process)
 - Opening statement by licensee or attorney, if desired
 - Questions by Review Panel
 - Recess for deliberation
 - Proposal offered to licensee

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Investigation - Conferences

Possible outcomes:

- Licensee fails to appear; attempt to reschedule or close case or proceed to hearing
- Conference continued for more information
- Recommend dismissal (will need approval of 2nd board member)
- Recommend non-disciplinary remedy (Agreement for Corrective Action, Referral to HPSP, Stipulated Monitoring Plan)
- Recommend disciplinary action

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Investigation -Hearings

- If the licensee fails to attend the conference or the Review Panel and Licensee fail to reach a mutually acceptable resolution, the Board may initiate a contested case hearing.
- Hearings are a more formal, trial-like process.
- Administrative Law Judge issues a report with findings of fact, conclusions of law and recommendation of whether discipline should be taken.
- Board makes final Findings of Fact, Conclusions of Law and Order, considering the ALJ's report, the hearing record and oral arguments of the parties.

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Process Outcomes/Actions

Non-Disciplinary Remedies

- Dismissal
- Agreement for Corrective Action
- Referral to Health Professionals Services Program
- Stipulated Monitoring Plan
- Stipulation to Cease Practicing

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Process Outcomes/Actions

Disciplinary Action

- Reprimand
- Civil Penalty
- Unremunerated Service
- Limited/Restricted/Conditional License
- Voluntary Surrender
- Inactive Status
- Suspension/Stay of Suspension
- Revocation

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Compliance monitoring

- Orders that remove a licensee from practice (e.g. revocation, suspension, voluntary surrender) do not require active monitoring until the licensee seeks to have their license reinstated.
- Conditions (examples)
 - Reports from: the nurse, the nurse's supervisor, health care provider
 - Audits – documentation, med administration
 - Additional education
 - Maintain sobriety, attend support groups, submit drug screens
- Limitations (examples)
 - Must work under supervision
 - Restrictions on work hours or settings/role
 - No access to controlled substances

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Compliance monitoring

- Failure to comply with the requirements of a Board order or Agreement is a basis for additional disciplinary action. Process used for non-compliance depends on the type of initial action.
- The reinstatement process (in most cases) is referred to as "Petitioning."

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Health Professionals Services Program

Provides boards with a non-public and non-disciplinary method to manage impaired or potentially impaired regulated health professionals who recognize their illness and need for continuing care and agree to monitoring.

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Health Professionals Services Program

The HPSP is designed to monitor the treatment and continuing care of regulated health professionals who may be unable to practice with reasonable skill and safety if their illnesses are not appropriately managed.

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 Questions?

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