

ARIZONA STATE BOARD OF NURSING COMPLAINT AND INVESTIGATION PROCESS

*An Information Guide for
Arizona Nurses*

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DISCLAIMER AND INTRODUCTION

This brochure is intended to provide Arizona nurses background information regarding a typical complaint and investigation process conducted by the Arizona State Board of Nursing.

However, every case is different and this brochure is not intended to be a guideline for your specific complaint. Providing this information does not create an attorney-client relationship. If you have received notice of a nursing board complaint, you should consult an attorney experienced in nursing board matters to discuss the details of your situation. This article is not intended to substitute for an attorney's consultation and is provided for informational purposes only.

BACKGROUND REGARDING THE ARIZONA STATE BOARD OF NURSING INVESTIGATION PROCESS

The Arizona State Board of Nursing receives an overwhelming number of complaints per year. Complaints are submitted from a variety of sources including former employers, disgruntled romantic partners, co-workers, law enforcement, and patients. Anyone can submit a grievance to the Arizona State Board of Nursing online or through the telephone. Many Board complaints relate to substance abuse issues and practice concerns regarding substance abuse.

In an effort to carry out its mission statement to “protect and promote the welfare of the public by ensuring that each person holding a nursing license or certificate is competent to practice safely”, the Arizona State Board of Nursing takes every complaint very seriously. Therefore, you should not assume that the Board will dismiss your complaint even if the complaint appears frivolous to you.

When a complaint is submitted, the Board assigns an investigator to conduct a thorough investigation. The Board uses its subpoena power to obtain documents and information about you that may be only marginally relevant to the concerns identified in the original complaint. The Board's legal authority to obtain personal information on you is rarely challenged and often the Board uncovers detailed personal information from 3rd parties without your knowledge.



Notice of Complaint and Questionnaire

**THIS IS THE BEST TIME TO CONSULT WITH AN ATTORNEY
EXPERIENCED IN NURSING BOARD MATTERS**

Notice of Complaint

If a complaint has been filed against your license, you will receive a letter from AZBN notifying you that a complaint has been submitted. DO NOT ignore the notice of complaint. This is the best time to hire an attorney because an experienced attorney can help you respond to the allegations and prevent disclosure of unnecessary or damaging information in the investigative questionnaire.

Investigative Questionnaire

The Board generally sends a detailed questionnaire and requests that the nurse provide responses to all questions. This questionnaire can be confusing and many of the questions may appear irrelevant to your situation. You should consult an attorney to assist you in responding to the questionnaire.

**TIP : YOU SHOULD ALWAYS UPDATE YOUR ADDRESS WITH THE BOARD
BECAUSE IF YOU DO NOT RECEIVE THE NOTICE OF THE COMPLAINT BECAUSE
YOUR ADDRESS HAS NOT BEEN UPDATED THEN THE BOARD CAN TAKE
ACTION AGAINST YOUR LICENSE *WITHOUT YOUR KNOWLEDGE***

INVESTIGATION

The Board investigator will begin the investigation by collecting personal information about you. The Board has subpoena power and will generally subpoena anything that could be marginally relevant to the complaint.

In connection with an investigation, the board or its duly authorized agents or employees may obtain any documents, reports, records, papers, books and materials, including hospital records, medical staff records and medical staff review committee records, or any other physical evidence that indicates that a person or regulated party may have violated this chapter or a rule adopted pursuant to this chapter

See A.R.S. 32-1664(A)

You can assume the Board will subpoena your employee file from former and current employers identified on the investigative questionnaire. Board investigations are thorough. They leave no stone unturned and the investigation can take a significant time depending on the complexity of your complaint.

Board investigators have a tremendous case load and if you do not have an attorney to advocate for you then your case can remain in the investigation stage for a significant period of time before the case will go to the Board for a vote. Board investigators are experienced and they take these investigations very seriously.

An attorney can conduct a parallel investigation to interview witness, obtain documents, and present information to assist the investigative process. An attorney can present your case information and background in the best possible light for the Board. Do not assume that the Board will dismiss the complaint even if it is obvious to you that the complaint lacks merit.

The Board investigator may ask you to come to the Board offices for an investigative interview. It is unwise to attend this interview without an attorney because you may be subject to an interrogation that you are not prepared for. If you perform poorly or make a bad impression during the interview then the investigator may include this information in his/her investigative report.

INVESTIGATIVE REPORT

Your investigator will summarize the findings of the investigation in an Investigative Report. You are not allowed to see what is contained within the investigative report until after the Board meeting.

The investigative report is like a police report and summarizes the investigator's interviews with witnesses and review of documents. These reports are reviewed by the Board to determine the appropriate resolution of your case. However, the investigative report is often one-sided and may contain information that you believe is inaccurate or misstated.

An attorney can submit a response to the complaint and tell your side of the story based on his/her investigation.

BOARD MEETING

The Arizona State Board of nursing meets every 2 months. Board meetings are devoted to resolving complaints by majority vote of the Board.

When your case is called, the Board will review the investigative report and any information submitted by your attorney. The Board will listen to the investigator's presentation and comments from your attorney. At the conclusion of the investigative report the investigator provides options for Board to consider.

The Board can select one of these options or a Board member can make a motion for a different option. The Board has several options for resolving the complaint against you including dismissal, letter of concern, civil penalty, decree of censure, probation, suspension, and others. Each of these options will have different consequences for your nursing career and it is important to discuss these options with an attorney.

In the majority of cases the Board will vote to offer you a settlement agreement called a consent agreement. The consent agreement requires you to admit certain facts, waive legal rights, and accept the sanction issued by the Board. It is your decision whether to accept or reject the Board's consent agreement

The Board will not provide you copies of documents from their investigative file and you may not be aware of the evidence they have obtained.

CONSENT AGREEMENT

If the Board offers you a consent agreement then you will have to decide whether you are willing to admit the facts in the consent agreement and accept the Board sanction.

If you sign the consent agreement you will be required to give up your legal right to a hearing with an independent administrative law judge to review the evidence and witness testimony.

This is an important decision and you should consult with an attorney before making this decision because the discipline could have a significant impact on your nursing career and ability to secure employment.

ADMINISTRATIVE HEARING

If you choose to reject the Board's consent agreement you will have the opportunity to present your case to an administrative law judge during a hearing.

It is in your best interest to retain the services of an attorney to represent you at this hearing to ensure the best outcome for you.

Summary

Responding to a nursing board complaint can be an extremely stressful and confusing experience.

An attorney can help you navigate the process and assist you by communicating with the Board on your behalf, preparing you for interviews with the Board investigator, preparing a response to the allegations, interviewing witnesses on your behalf and providing an honest case assessment regarding the anticipated outcome of your case.

DAVID KLINK, ESQ.

David Klink is an attorney with significant experience representing nurses before the Arizona State Board of Nursing. Mr. Klink is licensed as an attorney in both Arizona and Nevada and has represented health care providers in both states. He is committed to providing effective representation in nursing board matters. He will take the time to listen to you, understand your situation, and develop a strategy to resolve your complaint with the least possible impact on your career.

If you need representation in front of the Arizona State Board of Nursing contact David Klink today to schedule a consultation.

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