

**ARIZONA STATE BOARD OF NURSING
ALCOHOL AND/OR DRUGS
INVESTIGATIVE AND DISCIPLINARY GUIDELINES**

ARS 41-1091 (B)

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I. Introduction

Complaints regarding licensed nurses, related to chemical misuse, abuse and dependency are some of the most prevalent complaints to be investigated and reviewed by Boards of Nursing. The Board has a duty to protect the public health, safety and welfare and individuals who misuse, abuse and/or are active in a chemical addiction have the potential to place the patient/public at risk.

It has been generally accepted that healthcare professionals, who are active in their disease of chemical dependency, have high potential to negatively impact patient safety and should not be practicing until such time as they can demonstrate a recovery process. What is not always easily known is when misuse and/or abuse of a chemical(s) places the patient/public at risk and at what point does one's personal use of a chemical(s) become a professional liability.

II. Definition of Terms and Concepts

A. Chemical Dependency/Addiction: A multiphasic disease which effects individuals physically, mentally (cognitive), emotionally and spiritually. It follows a predictable and progressive course and has the following symptoms:

- Compulsion
- Loss of control
- Changes in tolerance
- Continued substance use, despite the obvious potential for negative consequences.

Some drugs produce psychological dependence where the individual uses the drug to alter feelings but no physical addiction occurs. **Psychological dependence** is characterized by excessive thinking, planning, and living life around access to and ability to use chemicals. Other drugs produce physical as well as psychological addiction where increased tolerance and physical dependence are symptomatic. **Physical dependence** is characterized by physiological withdrawal symptoms in the absence or decreasing levels of the drug and which may be life threatening without appropriate medical intervention.

B. Chemical Abuse: The use of a drug for purposes other than the purpose for which the drug is intended; in amounts higher than therapeutically recognized; and/or any use that puts others at risk of harm. Although the abuse of a drug(s) is symptomatic of chemical dependency, abuse without the other signs/symptoms of chemical dependency is not sufficient to warrant a diagnosis of chemical dependency. In general, the risks associated with drug abuse increase as the amount or frequency of use increases, including the risk of

developing chemical dependency. However, there are individuals who have demonstrated signs and symptoms of addiction immediately following their initial exposure to a drug and/or following therapeutically prescribed drugs. An additional concern for the Board is that abuse of mood or thought altering chemicals by a licensee/certificate holder, has the potential to adversely effect patient/public safety.

- C. Drug Screen, For Cause: A drug screen that is requested/obtained secondary to observed behavioral indicators of a potential impairment concern. A “for cause” drug screen that is positive is highly suggestive of chemical dependency as the symptoms of loss of control and continued use despite the potential for negative consequences are apparent.
- D. Drug Screen, Random: A drug screen that is obtained on a random basis and not based upon observed behavioral indicators. Although the potential for chemical dependency must be ruled out, in general, an individual that randomly tests positive in a drug screen without any other documented concerns/findings, is a less immediate risk of being a threat to patient/public safety than the individual who tests positive in a for cause screen. Employers who institute/utilize random drug screening have policies that define their testing protocols. These employers generally require that employees read the policies and sign their consent for random drug testing. Therefore, testing positive in a random drug screen when one is well informed of the potential for testing is symptomatic of continued use, despite the obvious potential for negative consequences, a symptom of chemical dependency.
- E. Drug Screen, Pre-employment: A drug screen that is obtained as a condition of employment offering. It is not a new trend, but it is a growing trend that many healthcare employers are requiring pre-employment drug screening prior to the final job offer. Therefore, when a licensee/certificate holder fails a pre-employment drug screen, there is high potential for abuse and chemical dependency because failure to pass a pre-employment drug screen is symptomatic of the inability to control one’s use and the continued use despite the obvious negative consequences.
- F. Employment Indicators of Chemical Abuse/Dependency: For healthcare professionals, the professional work environment is one of the last places that indicators of chemical abuse/dependency is apparent. Healthcare professionals strive to maintain their professional identity and respect from others. Therefore when workplace indicators are present, the risk for potential adverse effects to patients/public is increased. Employment indicators include, but are not limited, to the following:
- Changes in time and attendance (or failure to adhere to the established standard) both in arriving to duty as well as accountability for their time while on duty.
 - Changes in behavior and changes in relationships with others or behavior that is not appropriate in the professional work environment.
 - Declining performance (reflective of the cognitive disruption that takes place as a result of abuse/dependency) as indicated by failure to follow through with assignments, difficulty with decision making, failure to appropriately account for and document controlled drugs, and decreased productivity.
 - Reporting to duty with the odor of alcohol present.
 - Failure to follow through with a request for a for cause drug screen.
 - Frequent job losses and changes.

G. Legal Indicators of Chemical Dependency/Abuse include but are not limited, to the following:

- History of arrests and/or encounters with law enforcement personnel that involves alcohol and/or drugs.
- DUI arrests: In order for a DUI arrest to occur, four factors must simultaneously occur. These factors include the consumption of alcohol and/or drugs, driving a vehicle, doing something while driving the vehicle that draws the attention of others, and an officer present to see/witness the behavior and/or outcome (accident) of the behavior. Not that any DUI is without concern but the **higher the alcohol level is, the higher the risk factor is of ongoing abuse/dependence because a high alcohol level is indicative of tolerance, a symptom of chemical dependency**. Additionally, a DUI arrest related to drugs (verses alcohol) is of great concern in that law enforcement individuals generally do not conduct a sobriety test, absent the odor of alcohol, unless the behavior/responses of the individual reflect obvious impairment. The average social drinker does not normally engage in activity leading towards a DUI arrest/conviction. Each arrest is therefore of concern, with each additional arrest increasing the likelihood that an individual is chemically dependent.

H. Evaluation of Chemical Dependency: When there are indicators suggestive of chemical dependency and the licensee/certificate holder denies abuse and/or dependence upon chemicals, an expert evaluation should be obtained. There are four types of evaluations available to the Board in assessing a licensee/certificate holder's need for treatment. They are as follows:

- **Addictionologist**: A physician, a medical doctor (M.D.) or osteopathic (D.O.) who is certified by the American Society of Addiction Medicine (ASAM) should be considered when the licensee/certificate holder does not believe/acknowledge that he/she abuses chemicals, and indicators present suggest they may abuse chemicals and **concurrent medical issues** put them at risk for abuse/dependence. Examples of medical issues that may put one at risk for abuse and/or dependence include: a history of chronic pain; a history of migraines; fibromyalgia; and/or any other ongoing medical or dental event which has required frequent or long term narcotic analgesics.
- **Addictionist**: An individual who is doctorally prepared and who specializes in diagnosing and treating chemical dependency should be considered when the licensee/certificate holder does not believe/acknowledge the abuse of chemicals, has indicators present that suggest that he/she may abuse chemicals and **lacks concurrent medical issues** that put the individual at risk for abuse/dependence.
- **Certified Chemical Dependency Therapist**: An individual who is certified by a certifying organization for the provision of treatment for chemically dependent individuals is appropriate to provide an evaluation and recommendations for treatment when the licensee/certificate holder acknowledges being active or recently having been active in the disease of chemical dependency (the individual acknowledges being chemically dependent and therefore the evaluation is related to treatment not diagnosis).
- **Relapse Prevention Therapist**: An individual who meets the qualifications of any of the above three categories and who is certified as a relapse prevention

therapist and/or has extensive employment experience focusing on relapse prevention therapy. A relapse evaluation should be considered when the licensee/certificate holder has previously participated in treatment/recovery activities and has indicators present that suggest the individual may have relapsed or when it is deemed appropriate to obtain an evaluation of current recovery status.

The Board has previously approved guidelines for case disposition. The following disciplinary guidelines for cases involving potential alcohol/drug misuse, abuse and dependency are intended to be used in those cases that either do not meet or are not appropriate for case disposition. They are also intended to be utilized in cases where the licensee has not had previous disciplinary action on their license/certificate and therefore may not necessarily be appropriate in cases where there has been previous discipline for related violations.

The Board has approved that licensees who are eligible for the CANDO Program may enter the CANDO Program as a non-disciplinary resolution to a complaint/self report, contingent upon the licensee voluntarily entering the CANDO Program prior to the initiation of an investigation. Licensees whom the Board has received a complaint/self report and who are not eligible for the CANDO Program and/or who decline entry into the CANDO Program will be placed under investigation and the complaint will be assigned to an investigator. Because CANDO is not an option available for certificate holders complaints received regarding certificate holders will be reviewed and assigned per the standard protocol.

III. Guidelines

A. First Time DUI of a Licensee:

1. Licensee admits chemically dependency: If eligible for CANDO, offer CANDO. If not eligible or declines entry into CANDO, a (3) year CD Probation.
2. Licensee denies chemical dependency: If no patient/public harm and no employment related concerns, Decree of Censure. If the DUI involves an alcohol level greater than .149, drugs other than alcohol, or resulted in patient/public harm and/or employment related concerns are identified during the investigation, an addiction evaluation should be obtained to provide an expert assessment of potential risk to patient/public and to identify recommendations, if any, for treatment.

Disciplinary options include but are not limited to:

- Decree of Censure: No treatment is recommended and employment review does not reflect indicators of drug/alcohol related symptoms.
- CD Probation (3 year) or Suspension pending the completion of treatment, followed by a (3) year CD Probation: Addiction evaluation recommends intensive treatment and monitoring of status.
- Practice/Monitoring Probation: If no CD treatment is recommended but recommends monitoring of drug screens, specialized counseling, for example, anger management, and/or periodic employment review. Examples of cases where this may occur include cases where the employment review reflects indicators of alcohol/drug related symptoms and/or information in arrest records or other document review reflects high potential for other than an isolated event.

Non-disciplinary options include:

- Letter of Concern

B. Second Time DUI of a Licensee:

1. Licensee admits chemically dependency: If eligible for CANDO, offer CANDO. If not eligible or declines entry into CANDO, a (3) year CD Probation.
2. Licensee denies chemical dependency: Investigative review should include an employment review for, at minimum, the previous (5) years, a review of any legal history in addition to motor vehicle history, and an addiction evaluation should be obtained to provide for an expert assessment of potential risk to patient/public and to identify recommendations, if any, for treatment.

Disciplinary options include but are not limited to:

- CD Probation, (3) years or Suspension pending the completion of treatment, followed by a (3) year CD Probation: Consider for cases where the addiction evaluation recommends intensive treatment and monitoring of status.
- Practice/Monitoring Probation: Consider for cases where the addiction evaluation does not identify a need for CD treatment but recommends monitoring of drug screens, specialized counseling, for example, anger management, and/or periodic employment review.

C. Three or More DUI's of a Licensee

1. Licensee admits that they are chemically dependent: If eligible for CANDO, offer CANDO. If not eligible or declines entry into CANDO, **disciplinary options include but are not limited to:**
 - CD Probation, (3) year: Consider for cases where licensee has begun treatment and is demonstrating commitment to a recovery process, and who otherwise is eligible to maintain licensure.
 - Suspension pending the completion of treatment, followed by a (3) year CD Probation: Consider for those who have not begun treatment and/or who are not demonstrating a commitment to a recovery process, and who otherwise are eligible to maintain licensure.
 - Revocation: Consider for those who are not eligible for continued licensure (felony), and/or whose conduct has compromised patient/public safety.
2. Licensee denies chemical dependency. Investigative review should include an employment review for, at minimum, the previous (5) years, a review of any legal history in addition to motor vehicle history, and an addiction evaluation should be obtained to provide an expert assessment of potential risk to patient/public and to identify recommendations, if any, for treatment.

Disciplinary options include but are not limited to:

- Suspension pending an addiction evaluation with treatment recommendations and completion of treatment, if recommended. Upon successful completion of terms of suspension, (3) year CD Probation.
- Revocation: Consider for those who are not eligible for continued licensure (felony), and/or whose conduct has compromised patient/public safety, and/or who refuse to undergo the requested evaluation(s).

D. New Graduate/Applicant First Time DUI or Drug Related Misdemeanor Conviction.

1. Applicant admits to being chemically dependent. If eligible for CANDO, options may include grant licensure upon entry into CANDO. If not eligible for CANDO, options

include grant licensure contingent upon signing a Consent Agreement for a (3) year CD Probation or denial of licensure.

2. Applicant admits to being chemically dependent and is able to validate, through documentation, successful completion of a treatment program and/or evidence of at minimum, (3) years recovery, option recommended is to grant licensure with a Letter of Concern.
3. Applicant denies chemical dependence: If no patient/public harm and no other related concerns, option recommended is grant licensure with a Letter of Concern (Decree of Censure is not an option available for initial licensure). If the event involves a DUI with an alcohol level greater than .149; a DUI related to drugs other than alcohol; an arrest for drugs other than alcohol related; and/or resulted in public harm; and/or other related concerns are identified during the investigation, an addiction evaluation should be obtained to provide for an expert assessment of potential risk to patient/public and identify recommendations, if any, for treatment. Pending the evaluation, **disciplinary options include but are not limited to:**
 - Grant Licensure with a Letter of Concern: No treatment is recommended and investigative review does not reflect other indicators of drug/alcohol related symptoms.
 - Grant Licensure contingent upon signing a Consent Agreement for a (3) year CD Probation: Addiction evaluation supports licensure but the evaluator recommends treatment and monitoring of status. Additionally, the applicant demonstrates a willingness to follow all treatment/monitoring recommendations.
 - Grant Licensure contingent upon the applicant signing a Consent Agreement for a Practice/Monitoring Probation: Addiction evaluation does not identify a need for treatment but the investigative review reflects indicators of alcohol/drug related symptoms and/or information in the arrest records reflect high potential for other than an isolated event.
 - Denial of Licensure: Addiction evaluation reflects need for intensive treatment and/or reflects that there is high potential for compromise of patient/public safety.

E. New Graduate/Applicant With Multiple DUI/Drug Related Offenses and/or a Felony Conviction (eligible for licensure consideration)

1. Applicant admits to being chemically dependent. If eligible for CANDO, options may include grant licensure upon entry into CANDO. If not eligible for CANDO, options include, but are not limited to grant licensure contingent upon signing a Consent Agreement for a (3) year CD Probation or denial of licensure.
2. Applicant denies chemical dependency. Investigative review should include a review of legal history, motor vehicle history and an addiction evaluation should be obtained to provide for an expert assessment of potential risk to patient/public and identify recommendations, if any, for treatment. **Disciplinary/licensure options, pending an evaluation, include but are not limited to:**
 - Grant Licensure Contingent Upon Signing a Consent for a (3) year CD Probation: Addiction evaluation supports licensure but recommends treatment and monitoring of status.
 - Grant Licensure Contingent Upon Signing a Consent Agreement for a Practice/Monitoring Probation: Addiction evaluation supports licensure and does not identify a need for treatment. However, monitoring through urine drug screens and employment settings is recommended.

- Denial of Licensure: Addiction evaluation recommends intensive treatment and or reflects that there is high potential for compromise of patient/public safety.
3. Applicant denies chemical dependency and fails to undergo the requested addiction evaluation. **Disciplinary/licensure options include:**
- Deny Licensure
 - Grant Licensure Contingent Upon Signing a Consent Agreement for a Practice/Monitoring Probation
 - Grant Licensure with a Letter of Concern

F. First Time Positive Pre-Employment Urine Drug Screen (UDS) or Positive

Random UDS (assuming no other licensure, employment or legal related indicators)

1. Licensee admits chemical dependence: If eligible for CANDO, offer CANDO. If not eligible or declines entry into CANDO, **disciplinary options include but are not limited to:**
 - CD Probation (3) years
 - Suspension pending the completion of treatment, followed by a (3) year CD Probation
2. Licensee denies chemical dependency: Investigative review should include an employment review for at minimum the previous (5) years, a review of any legal history in addition to motor vehicle history, and an addiction evaluation should be obtained to provide for an expert assessment of potential risk to patient/public and to identify recommendations, if any, for treatment. **Disciplinary options include but are not limited to:**
 - Decree of Censure: No treatment is recommended and no previous licensure, employment or legal related indicators are identified.
 - Probation: No treatment is recommended but the addiction evaluation recommends monitoring UDSs to further assure that there is no ongoing use of chemicals.
 - CD Probation, (3) years: Addiction evaluation recommends treatment.
 - Suspension: Addiction evaluation assesses high potential for risk.

G. Second Positive Pre-Employment UDS and/or Random UDS

1. Licensee admits chemical dependence: If eligible for CANDO, offer CANDO. If not eligible or declines entry into CANDO, **disciplinary options include but are not limited to :**
 - CD Probation, (3) years
 - Suspension pending the completion of treatment, followed by a (3) year CD Probation
2. Licensee denies chemical dependency: Investigative review should include an employment review for at minimum the previous (5) years, a review of any legal history in addition to motor vehicle history, and an addiction evaluation should be obtained to provide for an expert assessment of potential risk to patient/public and to identify recommendations, if any, for treatment. If there are no previous licensure, practice or legal related issues, **disciplinary options include but are not limited to:**
 - Probation: No treatment is recommended but the addiction evaluation recommends monitoring to further assure that there is no ongoing use of chemicals.
 - CD Probation, (3) years: Addiction evaluation recommends treatment and monitoring.

- Suspension: Addiction evaluation assesses high potential for risk.
3. Licensee denies chemical dependency and the investigation identifies that there are previous licensure, practice and/or legal related issues, the **disciplinary options include but are not limited to:**
 - Suspension pending an addiction evaluation and completion of treatment, if recommended.
 - CD Probation, (3) years
 - Revocation

H. Positive Urine Drug Screen Obtained “For Cause”

1. Licensee admits chemical dependence: If eligible for CANDO, offer CANDO. If not eligible or declines entry into CANDO, **disciplinary options include but are not limited to:**
 - CD Probation, (3) years.
 - Suspension pending the completion of treatment, followed by a (3) year CD Probation.
2. Licensee denies chemical dependency and based upon the investigative findings, there **are no** previous licensure, practice or legal related issues: An addiction evaluation should be obtained to provide for an expert assessment of potential risk and recommendations, if any, for treatment. **Disciplinary options include but are not limited to:**
 - Probation: No treatment is recommended but the addiction evaluation recommends monitoring to further assure that there is no ongoing use of chemicals.
 - CD Probation, (3) years: Addiction evaluation recommends treatment.
 - Suspension: Addiction evaluation assesses high potential for risk.
3. Licensee denies chemical dependency and based upon the investigative findings, there **are** previous licensure, practice and/or legal related issues. **Disciplinary options include but are not limited to:**
 - Suspension pending an addiction evaluation and completion of treatment, if recommended.
 - Probation
 - Revocation

I. CANDO Discharge Disciplinary Options

1. CANDO discharge related to non-compliance with treatment, UDS, failure to submit documentation of required reports...but no direct evidence of chemical relapse. **Disciplinary options include but are not limited to:**
 - Suspension pending consecutive months of compliance and to include a relapse/treatment evaluation. Upon successful completion of suspension, a (3) year CD probation.
 - Revocation with a stay pending compliance with at minimum, a 12 month suspension and to include further evaluations and treatment. Upon successful completion of stay of revocation, a (3) year CD probation.
 - Revocation
2. CANDO discharge related to failure to notify/disclose to employer participation in CANDO. **Disciplinary options include but are not limited to:**
 - Revocation, stayed, with at minimum, (12) month suspension and to include further evaluations and treatment. Upon successful completion of stay of revocation, a (3) year CD probation.

- Revocation
3. CANDO discharge related to relapse.
 - a) If no evidence of diversion, **disciplinary options include but are not limited to:**
 - Suspension pending further evaluation(s) for treatment and pending 12 consecutive months of compliance. Upon successful completion of suspension, a (3) year CD probation.
 - Revocation
 - b) If evidence of diversion, **disciplinary options include but are not limited to:**
 - Suspension, pending further evaluation(s) for treatment and completion of treatment, if recommended, and pending, at minimum, 12 consecutive months of compliance. Upon successful completion of suspension, (3) year CD probation to include a restriction from working in an environment where controlled drugs are utilized.
 - Revocation stayed, with at minimum, (12) month suspension and to include further evaluations and treatment. Upon successful completion of stay of revocation, a (3) year CD probation to include a restriction from working in an environment where controlled drugs are utilized.
 - Revocation

J. Summary Suspensions should be considered under the following circumstances:

1. The licensee/certificate holder is currently employed and/or unwilling to stop practicing and there is evidence of current use of drugs/alcohol and that use has high potential to negatively impact patient safety. The evidence should include at least one of the following include:
 - a) Recent evidence of diversion.
 - b) Recent evidence of impairment on the job.
2. There is evidence of multiple violations of the licensee's current terms of probation/CANDO with a high potential for patient harm.
3. The licensee/certificate holder has a cognitive or psychiatric impairment, resulting in the documented inability to function in the practice setting and/or a recent evaluation that documents a potential for high risk to compromise patient/public safety.

The guidelines do not attempt to identify all categories of complaints of potential chemical dependency and/or abuse but rather identify the most common categories of complaints received by the Board. The disciplinary guidelines related to chemical abuse and/or dependency may be modified upon approval by the Board.

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