



Arizona State Board of Nursing

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MANDATORY REPORTING

LAWS & RULES

I. THE LAWS

32-1664. Investigation of complaint; hearing; notice

- A. The board on its own motion may investigate any evidence that appears to show that a licensee or a certificate holder is or may be guilty of violating this chapter or rules adopted pursuant to this chapter.
- B. A licensee, a certificate holder and a health care institution as defined in section 36-401 shall, and any other person may, report to the board any information the licensee, certificate holder, health care institution or individual may have that appears to show that a licensee or certificate holder is, was or may be a threat to the public health or safety.
- C. The board retains jurisdiction to proceed with an investigation or a disciplinary proceeding against a person whose license or certificate expired not more than five years before the board initiates the investigation.
- D. Any licensee, certificate holder, health care institution or other person that reports or provides information to the board in good faith is not subject to civil liability. If requested the board shall not disclose the name of the reporter unless the information is essential to proceedings conducted pursuant to this section.
- E. On receipt by the board of a complaint charging a licensee or certificate holder with an act of unprofessional conduct, the board may conduct an investigation of the complaint. For purposes of the investigation, the board may employ investigators.
- F. For reasonable cause the board may require a licensee or certificate holder to undergo any combination of mental, physical or psychological examinations or skills evaluations necessary to determine the person's competence and conduct. These examinations may include bodily fluid testing.
- G. If after completing its investigation the board finds that the information provided pursuant to this section is not of sufficient seriousness to merit direct action against the licensee or certificate holder it may take either of the following actions:
1. Dismiss if in the opinion of the board the information is without merit.
 2. File a letter of concern if in the opinion of the board there is insufficient evidence to support direct action against the licensee or certificate holder but sufficient evidence for the board to notify that person of its concern.

H. Except as provided pursuant to section 32-1663, subsection G and subsection I of this section, if the investigation in the opinion of the board reveals reasonable grounds to support the charge, the licensee or certificate holder is entitled to an administrative hearing pursuant to title 41, chapter 6, article 10. If notice of the hearing is served by certified mail, service is complete on the date the notice is placed in the mail.

I. A licensee or certificate holder shall respond in writing to the board within thirty days after notice of the hearing is served as prescribed in subsection H of this section. The board shall consider a person's failure to respond within this time as an admission by default to the allegations stated in the complaint. The board may then take disciplinary actions allowed by this chapter without conducting a hearing.

J. An administrative law judge or a panel of board members may conduct hearings pursuant to this section.

K. In any matters pending before it the board may issue subpoenas under its seal and compel the attendance of witnesses and the production of relevant and necessary papers, books, records, documentary evidence and materials including hospital records, medical staff records and medical staff review committee records. Any person failing to comply with a subpoena may, on application by the board to any superior court judge, be ordered by the judge to comply with the subpoena and on failure to comply shall be punished as in the case of disobedience of lawful process issued by the superior court. Subpoenas shall be served by regular or certified mail or in the manner required by the rules of civil procedure for the superior court.

L. Patient records, including clinical records, medical reports, laboratory statements and reports, any file, film, other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or a patient's family might be identified or information received and records kept by the board as a result of the investigation procedure outlined in this chapter are not available to the public and are not subject to discovery in civil or criminal proceedings.

M. Hospital records, medical staff records, medical staff review committee records, testimony concerning these records and proceedings related to the creation of these records shall not be available to the public. They shall be kept confidential by the board and shall be subject to the same provisions

concerning discovery and use in legal actions, as are the original records in the possession and control of hospitals, their medical staffs and their medical staff review committees. The board shall use these records and testimony during the course of investigations and proceedings pursuant to this chapter.

N. If the licensee or certificate holder is found to have committed an act of unprofessional conduct, the board may revoke or suspend the license or the certificate.

O. The board may subsequently issue a denied license or certificate and may reissue a revoked or suspended license or a revoked certificate.

P. If a complaint is filed with the board against an approved nursing program or an approved nursing assistant training program, the nursing program is entitled to an administrative hearing pursuant to the requirements of section 32-1663, subsection G and subsection H of this section.

32-1601 Definitions

16. "Unprofessional conduct" includes the following whether occurring in this state or elsewhere:
- (a) Committing fraud or deceit in obtaining, attempting to obtain or renewing a license or a certificate issued pursuant to this chapter.
 - (b) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
 - (c) Aiding or abetting in a criminal abortion or attempting, agreeing or offering to procure or assist in a criminal abortion.
 - (d) Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public.
 - (e) Being mentally incompetent or physically unsafe to a degree that is or might be harmful or dangerous to the health of a patient or the public.
 - (f) Having a license, certificate, permit or registration to practice a health care profession denied, suspended, conditioned, limited or revoked in another jurisdiction and not reinstated by that jurisdiction.
 - (g) Willfully or repeatedly violating a provision of this chapter or a rule adopted pursuant to this chapter.
 - (h) Committing an act that deceives, defrauds or harms the public.
 - (i) Failing to comply with a stipulated agreement, consent agreement or board order.
 - (j) Violating a rule that is adopted by the board pursuant to this chapter.
 - (k) Failing to report to the board any evidence that a professional or practical nurse or a nursing assistant is or may be:
 - (i) Incompetent to practice.
 - (ii) Guilty of unprofessional conduct
 - (iii) Mentally or physically unable to safely practice nursing or to perform nursing related duties. A nurse who is providing therapeutic counseling for a nurse who is in a drug rehabilitation program is required to report that nurse only if the nurse providing therapeutic counseling has personal knowledge that patient safety is being jeopardized.
 - (l) Failing to self-report a conviction for a felony or undesignated offense within ten days after the conviction.

II. THE RULES

R4-19-403. Unprofessional Conduct

A. For the purpose of this Section:

1. "Failure to maintain professional boundaries" means any conduct or behavior of a nurse that, regardless of the nurse's intention, is likely to lessen the benefit of care to a patient, resident, or the family of a patient or resident and places the patient, resident, or family of the patient or resident at risk of being exploited financially, emotionally, or sexually; and
2. "Dual relationship" means a nurse simultaneously engages in both a professional and nonprofessional relationship with a patient that is avoidable, non-incidental, and results in the patient being exploited financially, emotionally, or sexually.

B. For purposes of A.R.S. § 32-1601(16)(d), any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public includes one or more of the following:

1. A pattern of failure to maintain minimum standards of acceptable and prevailing nursing practice;
2. Intentionally or negligently causing physical or emotional injury;
3. Failing to maintain professional boundaries or engaging in a dual relationship with a patient, resident, or any family member of a patient or resident;
4. Engaging in sexual conduct with a patient, resident, or any family member of a patient or resident who does not have a pre-existing relationship with the nurse, or any conduct in the work place that a reasonable person would interpret as sexual;
5. Abandoning or neglecting a patient who requires immediate nursing care without making reasonable arrangement for continuation of care;
6. Removing a patient's life support system without appropriate medical or legal authorization;
7. Failing to maintain for a patient a record that accurately reflects the nursing assessment, care, treatment, and other nursing services provided to the patient;
8. Falsifying or making a materially incorrect, inconsistent, or unintelligible entry in any record:
 - a. Regarding a patient, health care facility, school, institution, or other work place location; or
 - b. Pertaining to obtaining, possessing, or administering any controlled substance as defined in the federal Uniform Controlled Substances Act, 21 U.S.C. 801 et seq., or Arizona's Uniform Controlled Substances Act, A.R.S. Title 36, Chapter 27;
9. Failing to take appropriate action to safeguard a patient's welfare or follow policies and procedures of the nurse's employer designed to safeguard the patient;
10. Failing to take action in a health care setting to protect a patient whose safety or welfare is at risk from incompetent health care practice, or to report the incompetent health care practice to employment or licensing authorities;
11. Failing to report to the Board a licensed nurse whose work history includes conduct, or a pattern of

- conduct, that leads to or may lead to an adverse patient outcome;
12. Assuming patient care responsibilities that the nurse lacks the education to perform, for which the nurse has failed to maintain nursing competence, or that are outside the scope of practice of the nurse;
 13. Failing to supervise a person to whom nursing functions are delegated;
 14. Delegating services that require nursing judgment to an unauthorized person;
 15. Removing, without authorization, any money, property, or personal possessions, or requesting payment for services not performed from a patient, employer, co-worker, or member of the public.
 16. Removing, without authorization, a narcotic, drug, controlled substance, supply, equipment, or medical record from any health care facility, school, institution, or other work place location;
 17. A pattern of using or being under the influence of alcohol, drugs, or a similar substance to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location;
 18. Obtaining, possessing, administering, or using any narcotic, controlled substance, or illegal drug in violation of any federal or state criminal law, or in violation of the policy of any health care facility, school, institution, or other work location at which the nurse practices;
 19. Providing or administering any controlled substance or prescription-only drug for other than accepted therapeutic or research purposes;
 20. Engaging in fraud, misrepresentation, or deceit in taking a licensing examination or on an initial or renewal application for a license or certificate;
 21. Impersonating a nurse licensed or certified under this Chapter;
 22. Permitting or allowing another person to use the nurse's license for any purpose;
 23. Advertising the practice of nursing with untruthful or misleading statements;
 24. Practicing nursing without a current license or while the license is suspended;
 25. Failing to:
 - a. Furnish in writing a full and complete explanation of a matter reported pursuant to A.R.S. § 32-1664, or
 - b. Respond to a subpoena issued by the Board;
 26. Making a written false or inaccurate statement to the Board or the Board's designee in the course of an investigation;
 27. Making a false or misleading statement on a nursing or health care related employment or credential application concerning previous employment, employment experience, education, or credentials;
 28. If a licensee or applicant is charged with a felony or a misdemeanor involving conduct that may affect patient safety, failing to notify the Board in writing, as required under A.R.S. § 32-3208, within 10 days of being charged. The licensee or applicant shall include the following in the notification:
 - a. Name, address, telephone number, social security number, and license number, if applicable;
 - b. Date of the charge; and
 - c. Nature of the offense;

29. Failing to notify the Board, in writing, of a conviction for a felony or an undesignated offense within 10 days of the conviction. The nurse or applicant shall include the following in the notification:
 - a. Name, address, telephone number, social security number, and license number, if applicable;
 - b. Date of the conviction; and
 - c. Nature of the offense;
30. For a registered nurse granted prescribing privileges, any act prohibited under R4-19-511 (D); or
31. Practicing in any other manner that gives the Board reasonable cause to believe the health of a patient or the public may be harmed.

R4-19-814. Standards of Conduct for Certified Nursing Assistants

A. For the purpose of this Section:

1. “Failure to maintain professional boundaries” means any conduct or behavior by a nursing assistant, regardless of the nursing assistant’s intention, that is likely to lessen the benefit of care to a patient, resident, or their family, and places the patient, resident, or their family, at risk of being exploited financially, emotionally, or sexually; and
2. “Dual relationship” means a nursing assistant simultaneously engages in a professional and a nonprofessional relationship with a patient, resident, or their family that is avoidable, non-incident, and places the patient or resident at risk for financial, emotional, or sexual exploitation.

B. For purposes of A.R.S. § 32-1601 (16), a practice or conduct that is or might be harmful or dangerous to the health of a patient or the public and constitutes a basis for disciplinary action on a certificate includes the following:

1. Failing to maintain professional boundaries or engaging in a dual relationship with a patient, resident, or any member of the patient’s or resident’s family.
2. Engaging in sexual conduct with a patient, resident, or any member of the patient’s or resident’s family who does not have a pre-existing relationship with the nursing assistant, or any conduct in the work place that a reasonable person would interpret as sexual;
3. Leaving an assignment or abandoning a patient or resident who requires care without properly notifying the immediate supervisor;
4. Failing to accurately document care and treatment provided to a patient or resident;
5. Falsifying or making a materially incorrect entry in a health care record;
6. Failing to follow an employer’s policies and procedures, designed to safeguard the patient or resident;
7. Failing to take action to protect a patient or resident whose safety or welfare is at risk from potential or actual incompetent health care practice, or to report the practice to the immediate supervisor or a facility administrator;
8. Failing to report signs, symptoms, and changes in patient or resident conditions to the immediate supervisor in an ongoing and timely manner;
9. Violating the rights or dignity of a patient or resident;

10. Violating a patient or resident's right of privacy by disclosing confidential information or knowledge concerning the patient or resident, unless disclosure is otherwise required by law;
11. Neglecting or abusing a patient or resident physically, verbally, emotionally, or financially;
12. Soliciting, or borrowing, property or money from a patient or resident, or any member of the patient's or resident's family;
13. Removing, without authorization, any money, property, or personal possessions, or requesting payment for services not performed from a patient, resident, employer, co-worker, or member of the public.
14. Repeated use or being under the influence of alcohol, medication, or any other substance to the extent that judgment may be impaired and practice detrimentally affected or while on duty in any work setting;
15. Accepting patient or resident care tasks that the nursing assistant lacks the education or competence to perform;
16. Removing, without authorization, narcotics, drugs, supplies, equipment, or medical records from any work setting;
17. Obtaining, possessing, using, or selling any narcotic, controlled substance, or illegal drug in violation of any employer policy or any federal or state law;
18. Permitting or assisting another person to use the nursing assistant's certificate or identity for any purpose;
19. Making untruthful or misleading statements in advertisements of the individual's practice as a certified nursing assistant;
20. Offering or providing certified nursing assistant services for compensation without a designated registered nurse supervisor;
21. Threatening, harassing, or exploiting an individual;
22. Using violent or abusive behavior in any work setting;
23. Failing to cooperate with the Board during an investigation by :
 - a. Not furnishing in writing a complete explanation of a matter reported under A.R.S. §32-1664;
 - b. Not responding to a subpoena issued by the Board;
 - c. Not completing and returning a Board-issued questionnaire within 30 days; or
 - d. Not informing the Board of a change of address or phone number within 10 days of each change;
24. Engaging in fraud or deceit regarding the certification exam or an initial or renewal application for certification;
25. Making a written false or inaccurate statement to the Board or the Board's designee during the course of an investigation;
26. Making a false or misleading statement on a nursing assistant or health care related employment or credential application concerning previous employment, employment experience, education, or credentials;
27. If an applicant or certified nursing assistant is charged with a felony or a misdemeanor, involving conduct that may affect patient safety, failing to notify the Board, in writing, within 10 days of being charged under A.R.S. §32-3208. The applicant or certified nursing assistant shall include the following in the

notification:

- a. Name, current address, telephone number, Social Security number, and license number, if applicable;
 - b. Date of the charge; and
 - c. Nature of the offense;
28. Failing to notify the Board, in writing, of a conviction for a felony or an undesignated offense within 10 days of the conviction. The nursing assistant or applicant shall include the following in the notification:
- a. Name, current address, telephone number, social security number, and license number, if applicable;
 - b. Date of the conviction;
 - c. Nature of the offense; and
29. Practicing in any other manner that gives the Board reasonable cause to believe that the health of a patient, resident, or the public may be harmed.