

Medical board disciplinary terms and concepts

NCMB's objective in any enforcement case is not punishment, but patient protection. Whenever possible, remediation of the licensee is attempted in order to retain a competent clinician in practice to serve North Carolina residents.

GUIDANCE FOR LICENSEES - NCMB maintains a collection of position statements that set out expectations for licensee conduct in specific circumstances. Compliance with the position statements can help licensees avoid regulatory action. Find the position statements online at www.ncmedboard.org/positionstatements.

GROUNDINGS FOR DISCIPLINE

The Board may only pursue disciplinary action against a licensee if her or she violates the Medical Practice Act. Specific grounds for discipline are outlined in N.C.G.S. § 90-14(a) and include:

- Immoral or dishonorable conduct
- Being unable to practice for substance abuse or other health reasons
- Unprofessional conduct (lots of flexibility here)
- Departing from acceptable and prevailing medical practice
- Unethical conduct
- Conduct contrary to honesty, justice, or good morals
- Being adjudicated mentally incompetent
- Lack of professional competence; dyscompetence
- Failure to respond reasonably to inquiries of the Board
- Failure to get prescribed Continuing Medical Education

ACTIONS THAT CONTINUE AN INVESTIGATION

At times, Disciplinary Committee members do not feel that have enough information about a case to decide how it should be resolved. When this happens, the Committee may order one or more of the following actions to gather more information:

Order assessment/evaluation: Typically done as part of an investigation, an assessment or evaluation obtains specific information of interest to the Board.

Examples:

- Order for NCPHP evaluation
- Order for competency assessment
- Order for neuropsychiatric examination

Invite for Investigative Interview (II): This action initiates an "invitation" to meet with members of the Board for a confidential interview to discuss specific details of a case. An "II" allows Board Members to ask specific questions about the case to gain an understanding of the licensee's thoughts, motivations and intentions. The manner in which the licensee "presents" during the interview can influence how the Board decides to proceed in the case. Licensees are usually represented by an attorney when participating in an interview.

Investigate Further – Additional chart review: This action directs NCMB to obtain additional patient charts for review by the Board's medical staff and/or independent expert medical reviewers. This may be done when review of charts obtained initially are mixed (some charts are within accepted standards of care, while some are below accepted standards of care) or simply when Board Members feel they need to take a closer look at patient care to more accurately assess the licensee's clinical competence.

ACTIONS THAT RESOLVE A CASE

Accept as Information (AAI): No formal action is taken in the case, which is closed and retained in the licensee's historical records with the Board. This action is **confidential** and most often is taken when the Board finds no violation of the Medical Practice Act (MPA; NCGS 90-14.)

Interim- or Private Letter of Concern (ILOC or PLOC): A **confidential** action which takes the form of a non-disciplinary letter wherein the Board notes areas of concern with a licensee's conduct or competence and may make specific suggestions for improvement. If an ILOC is issued and the licensee completes recommended corrective actions, the case is typically finally resolved with a PLOC.

Public Letter of Concern (PUBLOC): A non-disciplinary, **public** letter that states the Board's concerns about a practitioner's behavior or clinical performance; A warning letter. PUBLOCs are posted on the licensee's online public information page and create a public record of the concern.

Reprimand: A **public**, formal censure by the Board. Does not impose limitations or restrictions on the licensee.

Impose conditions: Public. Actions the Board requires a licensee to take in order to address identified deficiencies or areas of concern. Examples: Ordering a licensee to complete continuing medical education (CME) hours is a condition; ordering a licensee to sign a contract to be monitored for alcohol or substance use is a condition; so is requiring the licensee to pay a fine. Conditions may be imposed in a PUBLOC, but more often are part of the terms of a settlement agreement (see "Offer Consent Order") or final disciplinary order issued following a hearing.

Impose limitations on license: Public. A restriction placed on a licensee's practice. When practicing under a restriction, it is not lawful for the licensee to engage in the prohibited activity. Examples: restricting authority to prescribe controlled substances, prohibiting a licensee from treating male or female patients.

Offer Consent Order: Public. A Consent Order is an official order of the Board stating the terms of a negotiated settlement agreement between the Board and the practitioner. It is a method for resolving a dispute without a formal hearing. Voting to offer a Consent Order authorizes the Board's attorneys to negotiate a settlement in the case. Often, the Board has a specific resolution in mind when voting to offer a Consent Order. Sample action: Offer Consent Order with reprimand and \$1,000 fine.

Suspension: Public. Withdrawal of authorization to practice, either indefinitely or for a stipulated period of time. The Board may impose an active suspension, which requires the licensee to cease practice during the term of suspension, or "stay" the suspension. A "stay" allows the licensee to continue practicing as long as they comply with terms and conditions set by the Board.

Summary suspension: Public. Immediate cancellation of authorization to practice; Ordered when the Board finds the public health, safety, or welfare is in immediate threat, thereby requiring emergency action.

Voluntary Surrender: Public. The practitioner's relinquishing of authorization to practice pending or during a Board investigation. Surrender does not preclude the Board bringing charges against the practitioner, or from taking subsequent action against the licensee. The Board may suggest that a licensee surrender if NCMB believes the licensee may be unsafe to practice and/or an imminent threat to patient safety. An alternative to summary suspension.

Revocation: Cancellation of authorization to practice. Under North Carolina law, authorization to practice may not be reissued for a period of at least two years.