ENFORCING CONDITIONS OF THE NURSES BOARD OF WESTERN AUSTRALIA FOLLOWING DISCIPLINARY PROCEEDINGS

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Introduction

The Nurses Board of Western Australia is established under the Nurses Act 1992, which is an Act of Parliament. The Act provides for the regulation of the practice of approximately 25,000 nurses in the state of Western Australia and gives the Board powers to deal with complaints against nurses. These can be formal written complaints or information that Board receives in relation to misconduct of nurses. The complainant is required to submit the complaint in writing and sign a statutory declaration and an authority to release information to the nurse. This paper will address the strategies Board uses to ascertain whether nurses are meeting imposed conditions following disciplinary proceedings.

Types of Complaints Within Board’s Jurisdiction

The registration of a person is obtained by fraud or misrepresentation: An example of this is a person who did not have any nursing education but desperately wanted to work as a nurse. Her niece was a nurse. This lady stole her niece’s annual registration certificate, erased her niece’s name, typed her own name on it and presented the certificate to a nursing employer. She was employed as a second level nurse. One of the services provided by the Board is that employers can obtain information about a nurse’s registration status for free just by phoning the office. The nurse manager got suspicious of the skills demonstrated by this person and contacted the Board to find out if she was registered. Board took this person to court and she had to pay a very heavy fine. Following this incident Board stopped giving out paper registration certificates and nurses are now provided with a plastic, credit card type license to practice.

A person has been convicted of an offence the nature of which renders the person unfit to practise as a nurse. A few years ago the Board received an application for registration from a person who had served thirteen years for willful murder. The circumstances of the crime were horrific. The person was first sentenced to death, the sentence was then changed to a life imprisonment and later changed to 13 years. It was during the parole period that this person undertook nursing education. Board spent many months debating the person’s eligibility for registration. This person withdrew the application for registration.

A person is disqualified for carrying out the practice of nursing by another Board or authority outside the State: One of the outcomes following the completion of the disciplinary process is notification to other Boards and registering authorities of the nurse’s details and outcomes of the disciplinary process. Many nurses do not realize that this happens and try to move to other states to practice nursing. The Act allows the Board to impose the same conditions on nursing practice in Western Australia as placed by the other state.

A person is addicted or habitually misuses alcohol to a degree that renders the person unfit to practise as a nurse.

A person is addicted or habitually misuses any deleterious drugs to a degree that renders the person unfit to practise as a nurse.

Person suffers from a mental or physical disorder to a degree that renders the person unfit to practise as a nurse.

The above three are the most common complaints received by Board in relation to nurses.

If a nurse is guilty of unethical conduct by reason of carelessness, incompetence, impropriety or misconduct, breach of the Act or non-compliance with any conditions imposed by the Board: These complaints include instances of nurses being careless or incompetent in providing patient care, complaints of sexual misconduct and non-compliance with conditions imposed by Board. I will elaborate on these with detailed examples later.
I would now like to present the Board’s policies on enforcement of conditions following disciplinary process with four examples.

**Nurse A**
At 4.45pm on a Friday afternoon I had a call from a distraught nursing employer. He was seeking guidance in relation to information that a community mental health nurse had allegedly acted in a very unprofessional manner with a mental health patient. The patient had confided to another staff member of the organization and had made her promise that the information would not be revealed to anyone. The nature of the allegations was so serious that the staff member decided to report it to the employer. The patient had severe mental illness and is an alcoholic. The allegations were that:

- In July-August 1999 whilst on duty the patient had suggested to Nurse A that they should go to a hotel in Perth and have sex. The nurse took the patient to a five star hotel, withdrew $500 from the ATM using the patient’s card and pin number. He paid $250 for the hotel room. They then spent the day together. She could not recall how much money the nurse had returned to her. The nurse was on duty at this time. The patient admitted flirting with the nurse during July-August 1999.
The nurse had sex with the same patient’s neighbour in the patient’s house when she and her current partner were in the house. This happened on more than one occasion whilst the nurse was on duty. The nurse allegedly paid the neighbour $20 each time for her services. The patient’s statement was corroborated by her partner.

The nurse visited the patient and asked her for her ATM card so that he could borrow $300 from her. When she refused he threatened to admit her to the mental hospital. The partner then intervened and lent him the $300, which the nurse returned 2 months later. Apparently the nurse had threatened to admit the patient to the hospital before because of her alcoholism.

There were other allegations of sexual harassment of an employee of the organisation.

Minor allegations that the nurse did not complete documentation and fabricated information in patient’s notes when he had not even assessed them were made.

The Board appointed an investigator to investigate the matter. During the investigation the patient firmly refused to formally assist the Board. The employee being harassed by the nurse also refused to cooperate. Because of the lack of evidence in relation to the sexual misconduct, these allegations were dropped. The investigation revealed however that there were sixty allegations of providing inappropriate care, lack of documentation and medication errors.

A formal inquiry was conducted. The nurse did not attend nor was he represented. He pleaded “not guilty” to the allegations as contained in the notice of formal inquiry by way of not returning a plea form as requested. The Professional Standards Committee found the nurse not guilty in some instances of not providing adequate care because of lack of evidence. By and large the committee found the nurse guilty of misconduct. The Committee determined that the allegations against him were of a very serious nature and recommended to Board to strike the nurse off the Register. This was the outcome of the disciplinary proceedings against this nurse.

**Enforcement of outcome**  
Being struck off means that the nurse is not allowed to practice nursing in the state for a maximum period of two years. The nurse has to return their initial and annual license to practice. All other registering authorities in the country and other countries that the nurse is registered in are informed of the outcome. The nurse’s employer and union are informed of the decision. The name, registration number and outcome are published in the Saturday’s West Australian newspaper. The registration number and outcome is published in the Board’s journal.

Following completion of two years, the nurse is eligible to apply for restoration of his name to the Register. The nurse’s registration is not automatic. The Board may require him to provide relevant information prior to allowing him back on the Register.

**Nurse B**  
An employer in a regional area of Western Australia provided Board with a newspaper article of a man convicted of having a sexual relationship with a child. The man’s name was not mentioned in the newspaper. The employer provided the Board with details of the man who was registered as a nurse and practised in the paediatric area. The nurse was sentenced to 3 years imprisonment. It was considered that the Board had jurisdiction to deal with the matter because the nurse was convicted of an offence, the nature of which rendered him unfit to practice as a nurse. The nurse was notified that Board would be dealing with the issue as a disciplinary matter. Following receipt of the court transcript and release of the nurse from prison, a formal inquiry was conducted. The nurse pleaded guilty to the allegations.
The Board suspended the nurse’s registration for a period of six months from the time of his re-registration. He was also put on a good behaviour bond for a period of two years following his period of suspension. During the period of his good behaviour bond he was prohibited from practising in paediatric settings.

**Strategies used by the Board to enforce these conditions are:**

- Obtain signed declaration from the nurse that they will abide by the conditions imposed
- Highlighting conditions on electronic documents.
- Informing other authorities of conditions
- Publishing information in the newspaper and journal
- Providing the nurse with a different looking license to practice card, which has printed on it, “conditions apply contact Registrar”. This print cannot be erased. Employers are required to sight the license of all nurses they employ.
- Automatic reminder on the computer when the two years are complete.
- Nurse is then sent a “normal” license to practice and is put on good standing on the Register.

This nurse is currently completing the conditions of his bond and practising in Western Australia.

**Nurse C**

A Director of Nursing at a nursing home phoned in to say that a registered nurse was found unconscious on the floor of the treatment room during night duty. She was rushed to the emergency department of a major teaching hospital. The nurse had stolen opioids from a patient and self-medicated herself, she had also ingested her own medications. This complaint was considered by Board as an urgent matter. Board suspended the nurse pending the outcome of a formal inquiry because of the danger she posed to the public and to herself. On further investigation it was revealed that the nurse suffered from severe depression and was suicidal.

A formal inquiry was convened to consider the conduct of the nurse. The nurse was placed on a two year good behaviour bond, was required to work under supervision for the two years, she had to continue rehabilitation with her psychiatrist and general practitioner with regular reports to be provided to Board, she was also required to complete a pharmacology course.

When conditions are imposed on nurses’ practice, a running sheet of their outstanding requirements is maintained and provided to the Professional Standards Committee nearer to the due date. These requirements are ticked off as they are met. When all the requirements are met, the nurse is notified that all the conditions have been met and their registration is reinstated on good standing. This nurse has met all her requirements and completed her good behaviour bond. She is currently undertaking Masters studies in nursing.

**Example of Breach of Good Behaviour Bond**

As you probably have gathered, our Act allows the Board to obtain an undertaking from the nurse to be of good behaviour for a specific period of time. Any subsequent proven allegations against the nurse whilst on the good behaviour bond may then result in Board taking action against the nurse for breach of the good behaviour bond. The following is such an example. Nurse D had been disciplined by the Board for not providing safe care to patients. It was identified that the nurse suffered from major
depression. She was placed on a good behaviour bond for two years with a requirement that she had to continue psychiatric treatment and counseling regularly with reports to be forwarded to Board. Four months prior to completion of the good behaviour bond, the nurse was reported to the Board because she was found inhaling nitrous oxide on duty in the labour ward where she worked. A formal inquiry was convened. One of the allegations included in the inquiry was the breach of the good behaviour bond. During the inquiry evidence was obtained from the nurse’s psychiatrists that she had responded well to treatment and was fit to practice as a nurse. Based on this evidence the nurse was placed on a good behaviour bond for another two years, with the requirement that she sees her psychiatrist more frequently and provide the Board with more frequent reports.

Three months into the good behaviour bond, the nurse was reported by another hospital for inhaling nitrous oxide on duty. This time the Board suspended the nurse pending the outcome of a formal inquiry. The breach of the good behaviour bond was considered to be a serious offence. The nurse was asked to show cause as to why Board should not discipline her just for breach of the good behaviour bond. A formal inquiry was conducted. The nurse was found guilty by her own admission of compromising patient care and breaching the good behaviour bond. She was struck off the Register and cannot apply to be registered for another year. A show cause notice can be sent to nurses who do not meet the requirements even if there is no new complaint against them.

**Summary of Strategies Used by Board to Enforce Imposed Conditions**

- Obtain signed declaration from the nurse that they will abide by the conditions imposed
- Highlighting conditions on electronic documents.
- Informing other authorities of conditions
- Publishing information in the newspaper and journal
- Providing the nurse with a different looking license to practice card which has printed on it,“conditions apply contact Registrar”
- Seeking regular reports from care providers
- Maintaining a running sheet of outstanding requirements and when they are met.
- Disciplinary action can be taken for breach of good behaviour bonds.

**Conclusion**

Four case studies with different outcomes and conditions imposed have been presented. Strategies that the Board uses to ensure the requirements are met within appropriate time frames were also addressed. The view of the Board in disciplinary matters is to take a rehabilitative approach with nurses whilst also meeting their role to protect the community. Everything that the Board does is to fulfil this responsibility whilst at the same time “supporting those who care”.

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