1. I received a letter from the Board of Nursing saying someone has filed a Complaint against me. What should I do?

We recommend that you immediately contact an attorney. At Lindsay Hart, we have over 30 years of combined experience representing nurses in front of the Board of Nursing. We will use that experience to guide you through the complaint process, and to provide you with advice regarding the best way to present your side of the story. We will also discuss the possible outcomes of your case, depending on the facts that we can prove, and depending on our experience with similar cases in the past.

The initial letter you receive often contains a very short deadline within which you must provide a response; therefore, the sooner you call us, the better.

2. The investigator from the Board of Nursing called me and wanted to ask me some questions. Should I talk to him or her?

If you receive a call from the Board of Nursing, we suggest you tell them that, although you are happy to cooperate with their investigation, you prefer not to give a statement until your attorney is present.

Remember, the Board of Nursing's job is to protect the public; it cannot give you legal advice, and it is not there to represent your interests. Any statement that you make can be used against you later. Sometimes, even a seemingly harmless statement can be hurtful. For example, the Board may ask whether or not you treated a particular patient. You don’t remember if you did or not, but, in an effort to try and be helpful, you provide an answer like: “I think I may have,” or “Yes, I probably did.” This type of statement may cause significant difficulty for you later. First, the Board can use this as an admission later. Second, if there is no charting to confirm that you did in fact treat this patient, then you have now raised a whole new concern about your failure to properly chart your care. To avoid these situations, we will meet with you before your interview to help you prepare for the anticipated questions. Although our number one rule is to always tell the truth, we help you to present the truth, whatever it may be, in the best light possible.

3. I am worried I won’t be able to afford an attorney. Will my insurance cover the cost of my defense?

If you have nursing malpractice insurance, then the cost of defense for a Board of Nursing matter may be entirely covered. We suggest you consult with your insurance provider to determine if you have coverage. Many insurance providers will allow you to pick your own attorney, rather than simply assigning one to you (whether you agree with their choice or not).
If you do not have malpractice insurance, we strongly recommend that you obtain coverage. When inquiring about insurance, make sure to ask whether or not the insurance covers the cost of defending you for any professional licensing matters. You will want to make sure that any professional liability insurance purchased has at least a $50,000 limit to cover the cost of your defense in front of the licensing Board.

Finally, if you don’t have malpractice insurance at the time you receive the complaint, we are happy to work with you to create a legal defense plan that you can afford. For example, although we believe the best case scenario is to have an attorney represent you throughout the entire complaint process, we are willing to meet with you for just one hour to help you better understand the complaint process.

4. **The Board has presented me with a Stipulated Order that states it is just a “reprimand.” I really just want this process to be over with. Can’t I just sign this and be done with it?**

We strongly recommend against signing anything the Board has presented to you without having an attorney look at it first. Anything that you sign will likely be a public record, and may be reported to the National Practitioner’s Databank. This means that your future employers will be able to perform a “query” and discover this prior discipline. Many employers are extremely hesitant to hire someone that has a history of discipline. In addition, a public record of discipline may make obtaining malpractice insurance in the future difficult. We strongly recommend that you have an attorney review the proposed Order before you sign it.

5. **But if I hire an attorney, won’t that make me look uncooperative or like I have something to hide?**

No. It is very typical for nursing professionals to hire an attorney to help them navigate this highly technical process. The Board of Nursing is familiar with our firm, and respects a nurse’s right to obtain legal counsel.

6. **Will my employer know about the investigation?**

Maybe. In general, until discipline is actually imposed, the Board’s investigation is entirely confidential and nobody gets to know about it. However, in investigating the claim, the Board may contact your employer if your employer has relevant information about the complaint. In addition, your employer may be the one who filed the complaint against you.
7. There is no truth to the allegations against me. Why do I have to go through this process if the allegations are bogus?

The Board of Nursing has an obligation to investigate every complaint that it receives. If there really is no evidentiary support for the allegations against you, then the matter will usually be closed within 30 to 90 days after the Board’s initial investigation.

8. When do I get to find out who filed the complaint against me?

Never. The identity of the person who complained is entirely confidential, and we never get to find out who it was (although sometimes you may have a pretty good guess).

9. I think I know who filed the complaint—can’t I just call them and talk to them?

We strongly recommend against talking to the person whom you think filed the complaint, even if you are certain you know who it was. Talking to the person who you think filed the complaint runs the risk of creating the impression that you are trying to interfere with the Board’s investigation.

10. How long does the complaint process take?

The length of the process varies from case to case. The resolution of your case may be anywhere from 30 days to over a year. The length of your case depends on many factors, such as whether or not the Board’s initial investigation turns up anything substantial, whether or not we recommend that you settle with the Board, or whether or not we recommend that you demand a hearing.

Receiving a complaint from the Board of Nursing can be extremely distressing. At Lindsay Hart, we like to think that our expertise in these matters can help take some of the stress off of your shoulders. We are here to be your advocate. If you would like to contact one of our attorneys specializing in Board of Nursing matters, please call the number below and we will assign an attorney to assist you.

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