Nurse Practitioner Board Complaint Case Study



State Board of Nursing matter involving allegations of inappropriate business practices and working outside of a Family Nurse Practitioner's (FNP) scope of practice.

> Advanced Practice Registered Nurses and Licensure Defense Expenses Case Study with Risk Management Strategies, Presented by CNA and NSO

A regulatory board complaint may be filed against an advanced practice registered nurse (APRN) by a patient, colleague, employer, former employer, and/or regulatory agency. Allegations in these matters may be directly related to the APRN's clinical responsibilities and professional services, although they may be of a nonclinical nature as well. For example, such complaints may assert unprofessional behavior, substance abuse, or billing fraud. Complaints are subsequently investigated by the State Board of Nursing (SBON), leading to outcomes ranging from no action against the APRN to revocation of their license to practice. The following scenario highlights the risks posed to an APRN's license when a business is not established per regulatory requirements.

Summary – Case Study

An insured FNP received a letter from the SBON notifying him of their investigation into alleged unprofessional prescribing practices. The allegations against the FNP included:

- Prescribing medications without having a bona fide practitioner-patient relationship;
- Working outside an FNP's scope of practice;
- Practicing outside of the prescriptive authority set out in his practice agreement;
- Practicing outside of the prescriptive authority requirements set forth by the Committee of the Joint Boards.

The SBON's letter provided a date and time for an interview with the FNP to review the information obtained from their investigation and allow him an opportunity to provide a response to the allegations.

At the interview, the FNP and his attorney were made aware that the SBON's investigation into the insured was prompted by a regulatory complaint and referral from the Food and Drug Administration (FDA) Office of Criminal Investigations.

The FDA's complaint revealed that it had conducted an undercover operation into a telehealth services company following a referral from the FNP's state licensing authority. The complaint alleged that the FNP, through an online business arrangement, prescribed ivermectin, antibiotics, and inhaler medications to a first-time patient based primarily on a questionnaire and email communications.

In the undercover operation, a special agent posing as a patient requested ivermectin through the business. An automated response directed the undercover individual to complete an intake questionnaire that collected basic information such as height, weight, medical history, and current medications. The undercover agent received a $125 invoice from the telehealth services company under the FNP's name, paid the invoice, and subsequently had a prescription called into a pharmacy several states away. The FNP prescribed medications without seeing or examining the individual and only communicated with him by email.

During the SBON interview, the FNP reported that in December 2022, he started operating the telehealth services company as an "offshoot" of his full-time employer. However, the FNP's practice agreement with the collaborating team physician dated December 1, 2021, did not include the telehealth services company. The administrator of the employer's practice confirmed that they were not associated with the telehealth services company, nor was his collaborating team physician aware that the FNP was prescribing a variety of medications outside his employment. It is also important to note that the FNP did not work in a state that allowed FNPs to practice autonomously.

The telehealth services company was established by the FNP and another individual, with the FNP as the only healthcare provider. It did not have a physical location and instead had a website and email address where potential patients could initiate contact and submit the required questionnaires and forms in order to receive treatment.

The FNP further admitted that from December 2022 to October 2024, he prescribed a variety of medications to approximately 250 patients via telehealth without following telehealth practice standards or guidelines.

The SBON produced ample evidence to support the allegations, and over the next few weeks, the FNP and his attorney negotiated a consent agreement with the SBON in regard to disciplinary actions.

The SBON publicly reprimanded the FNP with the following requirements:

SBON's Response and Resolution

1. **Continuing Education:** Within 60 days, he must complete committee-approved courses totaling at least six contact hours in:
   a. Proper medical assessments
   b. Evidence-based prescribing practices

   The courses must be approved in advance, include a knowledge assessment, and cannot be used toward license renewal requirements.
2. **Collaborative Practice Agreement:** Within 60 days, he must provide a copy of his current collaborative practice agreement to the Committee.
3. **Written Regulatory Statement:** Within 60 days, he must submit a written summary demonstrating understanding of his state regulations as well as the regulations governing prescriptive authority for APRNs.
4. **Ongoing Compliance:** He must comply with all state laws and regulations governing APRN practice.
5. **Future Violations:** Any violation of the Order or applicable APRN laws and regulations may result in additional disciplinary action.

The signed agreement is a public record maintained by the SBON and is available for public inspection.

The cost to defend the FNP totaled over **$21,000**.

Risk Management Recommendations

Below are some proactive concepts and behaviors to include in your practice to help mitigate the risk of SBON matters:

- **Practice within the parameters of your state nurse practice act, in compliance with organizational policies and procedures, and within the standard of care.** If regulatory requirements and organizational scope of practice differ, comply with the most stringent of the applicable regulations or policy. If in doubt, contact your SBON or specialty professional nursing association for clarification.
- **Adhere to federal and state requirements for online prescribing of medications** and document compliance actions in the virtual healthcare information record.
- **Review all employment and collaborative practice agreements at least annually** to ensure roles, responsibilities, and expectations regarding outside employment are clearly defined and understood.
- **Maintain files that can be helpful with respect to your character**. Retain copies of letters of recommendation, performance evaluations, thank-you letters from patients, awards, records of volunteer work and continuing education certificates.
- **Finally, immediately contact your professional liability insurer if you:**
  - Become aware of a filed or potential professional liability or licensure defense expenses matter against you.
  - Receive a subpoena to testify in front of the SBON.
  - Have any reason to believe that there may be a potential threat to your license to practice. ■

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