

## **20 CSR 2200-4.030 Public Complaint Handling and Disposition Procedure**

*PURPOSE: This rule establishes a procedure for the receipt, handling, and disposition of public complaints by the board.*

- (1) Only complaints containing sufficient information to investigate and alleging conduct that would violate the Nursing Practice Act shall be investigated in the manner set forth in sections (3) through (10) below.
- (2) The Board of Nursing encourages potential complainants to immediately alert the nurse and administration of the facility where the nurse is employed of the concern or complaint in an effort to provide the facility with the opportunity to address and correct concerns immediately.
- (3) The State Board of Nursing shall receive and process each complaint made against any licensee or permit holder, which complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 335, RSMo. This only applies to complaints where there is sufficient information to investigate and the allegation(s), if true, would be a violation of the Nursing Practice Act. Any member of the public or profession, or any federal, state, or local officials may make and file a complaint with the board. No member of the State Board of Nursing shall file a complaint with this board while holding that office, unless that member is excused from further board deliberations or activity concerning the matters alleged within that complaint. The executive director or any staff member of the board may file a complaint pursuant to this rule in the same manner as any member of the public.
- (4) Complaints should be mailed, faxed, or delivered to the following address: Executive Director, Missouri State Board of Nursing, 3605 Missouri Boulevard, PO Box 656, Jefferson City, MO 65102-0656.
- (5) All complaints shall be made in writing and shall fully identify the complainant by name and address. Complaints may be made on forms which are provided by the board and available upon request or can be accessed at the board's website.
- (6) Each complaint received under this rule shall be logged in a book maintained by the board for that purpose. Complaints shall be logged in consecutive order as received. The logbook shall contain a record of each complainant's name and address; the name and address of the subject(s) of the complaint; the date each complaint is received by the board; a brief statement of the acts complained of; a notation whether the complaint resulted in its dismissal by the board or informal charges being filed with the Administrative Hearing Commission; and the ultimate disposition of the complaint. This logbook shall be a closed record of the board.
- (7) Each complaint received under this rule shall be acknowledged in writing. The complainant shall be informed as to whether the complaint is being investigated and later, if applicable, as to whether the complaint has been dismissed by the board. The complainant shall be notified of the disciplinary action taken, if any. The provisions of this section shall not apply to complaints filed by staff members of the board based on information and belief, acting in reliance on third-party information received by the board.
- (8) Both the complaint and any information obtained as a result of the investigation of the complaint shall be considered a closed record and shall not be available for inspection by the general public.
- (9) This rule shall not be deemed to limit the board's authority to file a complaint with the Administrative Hearing Commission charging a licensee of the board with any actionable conduct or violation, whether or not such a complaint exceeds the scope of the acts charged in a preliminary public complaint filed with the board and whether or not any public complaint has been filed with the board.
- (10) The board interprets this rule, which is required by law, to exist for the benefit of those members of the public who submit complaints to the board and for those persons or entities within the legislative and executive branches of government having supervisory or other responsibilities or control over the professional licensing boards. This rule is not deemed to protect or insure to the benefit of those licensees, permit holders, registrants or other persons against whom the board has instituted or may institute administrative or judicial proceeding concerning possible violations of the provisions of Chapter 335, RSMo.

*AUTHORITY: section 335.036, RSMo Supp. 2013.\* This rule originally filed as 4 CSR 200-4.030. Original rule filed Feb. 10, 1982, effective May 13, 1982. Amended: Filed June 28, 2002, effective Dec. 30, 2002. Moved to 20 CSR 2200-4.030, effective Aug.28, 2006. Amended: Filed May 27, 2008, effective Nov. 30, 2008. Amended: Filed Aug. 28, 2013, effective Feb. 28, 2014.*

*\*Original authority: 335.036, RSMo 1975, amended 1981, 1985, 1993, 1995, 1999, 2007 and 620.010, RSMo 1973, amended 1981, 1983, 1986, 1989, 1990, 1993, 1994, 1995, 1999, 2001, 2007, 2008.*

## **20 CSR 2200-4.040 Mandatory Reporting Rule**

*PURPOSE: This rule establishes a procedure and guidelines regarding reports required from hospitals, ambulatory surgical centers, or temporary nursing staffing agencies by section 383.133, RSMo concerning any final disciplinary action against a nurse licensed under Chapter 335, RSMo or the voluntary resignation of any such nurse.*

- (1) The State Board of Nursing shall receive and process any report from a hospital, ambulatory surgical center, or temporary nursing staffing agency concerning any disciplinary action against a nurse licensed under Chapter 335, RSMo or the voluntary resignation of any such nurse against whom any complaints or reports have been made which might have led to disciplinary action. Disciplinary action is defined in section 383.130, RSMo as any final action taken by the board of trustees or similarly empowered officials of a hospital or ambulatory surgical center, or owner or operator of a temporary nursing staffing agency, to reprimand, discipline, or restrict the practice of a health care professional. Only such reprimands, discipline, or restrictions in response to activities which are also grounds for disciplinary actions according to the professional licensing law for that health care professional shall be considered disciplinary actions for purposes of this definition.

(2) Reports to the board shall be in writing and shall comply with the minimum requirements as set forth in this rule. The Board of Nursing will assume that all reports received from hospitals, ambulatory surgical centers, or temporary nursing staffing agencies will be treated as under section 383.133, RSMo. The information shall be submitted within fifteen (15) days of the final disciplinary action, and shall contain, but need not be limited to—

(A) The name, address and telephone number of the person making the report;

(B) The name, address and telephone number of the person who is the subject of the report;

(C) A description of the facts, including as much detail and information as possible, which gave rise to the issuance of the report, including the dates of occurrence deemed to necessitate the filing of the report. Whenever possible, the report should include:

1. The date of each alleged incident;

2. The name of the patient involved;

3. If the incident involves medication, the name of the medication;

4. Very specific details describing the events;

5. List witnesses to the incident(s) and their contact information; and

6. If you conducted an internal investigation, provide a copy of the report;

(D) If court action is involved and known to the reporting agent, the identity of the court, including the date of filing and the docket number of the action; and

(E) A statement as to what final action was taken by the institution.

(3) Reports made to the board under the mandated reporting requirements as defined in Chapter 383, RSMo shall not be deemed a violation of the federal Health Insurance Portability and Accountability Act (HIPAA) and the privacy rules located in the Act because the Missouri State Board of Nursing qualifies as a health oversight agency as defined in the HIPAA privacy rules.

(4) Any activity that is construed to be a cause for disciplinary action according to section 335.066, RSMo shall be deemed reportable to the board. Nothing in this rule shall be construed as limiting or prohibiting any person from reporting a violation of the Nursing Practice Act directly to the State Board of Nursing.

(5) In cases where a nurse voluntarily submits to an employee assistance program or to a rehabilitation program for alcohol or drug impairment and no disciplinary action is taken by the facility, the facility is not mandated to report but may report. If the nurse is subsequently disciplined by the facility for violating provisions of the employee assistance program or rehabilitation program or voluntarily resigns in lieu of discipline, the facility must report to the board under the above provision.

*AUTHORITY: sections 335.036 and 383.133, RSMo Supp. 2007.\* This rule originally filed as 4 CSR 200-4.040. Original rule filed Aug. 5, 1987, effective Nov. 12, 1987. Amended: Filed Jan. 8, 1988, effective April 28, 1988. Amended: Filed April 19, 1996, effective Nov. 30, 1996. Amended: Filed July 11, 2000, effective Jan. 30, 2001. Moved to 20 CSR 2200-4.040, effective Aug. 28, 2006. Amended: Filed May 27, 2008, effective Nov. 30, 2008.*

*\*Original authority: 335.036, RSMo 1975, amended 1981, 1985, 1993, 1995, 1999, 2007 and 383.133, RSMo 1986, amended 2007.*