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Don't resign your professional license in the midst of an investigation

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Do you have a medical, pharmacy or nursing license in several different states? Do you have a license in more than one health profession? Have you been notified that an investigation has been opened against you? Are you thinking about resigning your professional license or voluntarily relinquishing such a license? Then you must be aware of the following.

First, you should never voluntarily relinquish or resign your license after you know that an investigation has been opened or that disciplinary action has been taken against you. Such a resignation is considered to be a "disciplinary relinquishment" and is treated the same as if your license had been revoked on disciplinary grounds.

Second, this will be reported out to other states, agencies, to the National Practitioner Data Bank (NPDB), to any certifying bodies for certifications you have and to other reporting agencies (such as the National Council of State Board of Nursing, the National Association of Boards of Pharmacy or the American Board of Internal Medicine). Other states and other professional boards will most likely initiate disciplinary action based upon the first one.

Protect your license from these adverse actions

The following is a list of some of the adverse actions that you can expect to be taken against you after discipline on your license or after you resign your professional license after receiving notice of investigation:

1. A mandatory report to the National Practitioner Data Base (NPDB) which remains there for 50 years. Note: The Healthcare Integrity and Protection Data Bank or HIPDB recently merged into the NPDB.
2. Must be reported to and included in the Department of Health (DOH) profile that is available to the public online (for those having one), and remains for at least ten years.
3. Any other states or jurisdictions in which the nurse has a license will also initiate an investigation and possible disciplinary action against him or her in that jurisdiction. (Note: I have had two clients who had licenses in seven other states and all, even ones that were inactive or not renewed years ago, initiated action).
4. The Office of the Inspector General (OIG) of the U.S. Department of Health and Human Services (HHS) will take action to exclude the provider from the Medicare Program. If this occurs (and most of these offenses require mandatory exclusion) the provider will be placed on the List of Excluded Individuals and Entities (LEIE) maintained by the HHS OIG.
 - If this happens, you are prohibited by law from working in any position in any capacity for any individual or business, including hospitals, nursing homes, home health agencies, physicians, medical groups, insurance companies, etc., that contract with or bill Medicare or Medicaid. This means, for example, you are prohibited from working as a janitor in a nursing home that accepts Medicare or Medicaid, even as an independent contractor.
 - If this happens, you are also automatically "debarred" or prohibited from participating in any capacity in any federal contracting, and you are placed on the U.S. General Services Administration's (GSA) debarment list. This means you are prohibited by law from working in any capacity for any government contractor or anyone who takes government funding. This applies, for example, to prevent you from being a real estate agent involved in selling property financed by a government backed loan, prohibited from working for an electrical company that bids on contracts for government housing projects, working as a school teacher in a public school, etc.
 - If this happens, your state Medicaid program is required to terminate you "for cause" from the state Medicaid program. In many states, this is also grounds for revocation of your license.
5. Any profile or reporting system maintained by a national organization or federation (e.g., NURSIS profile maintained by the National Council of State Boards of Nursing, American Medical Association physician profile, or the Federation of State Board of Physical Therapy profile) will include the adverse action in it, generally available to the public.
6. If you are a nurse practitioner or other professional with clinical privileges at a hospital, nursing home, HMO or clinic, action will be taken to revoke or suspend the clinical privileges and staff membership if you have such. This may be in a hospital, ambulatory surgical center, skilled nursing facility, staff model HMO or clinic. This will usually be for physicians, physician assistants (PAs), advance registered nurse practitioners (ARNPs), certified registered nurse anesthetists (CRNAs), nurse midwives or certified nurse anesthetists (CNAs), podiatrists, clinical psychologist or clinical pharmacists.
7. Third party payors (health insurance companies, HMOs, etc.) will terminate the professional's contract or panel membership with that organization.
8. The U.S. Drug Enforcement Administration (DEA) will act to revoke the professional's DEA registration if he or she has one.
9. Many employers will not hire you or will terminate your employment if they discover your license has been disciplined in another state.

What should you do?

- Don't take the easy way out by immediately relinquishing your license if you are notified you are under investigation.
- Don't hide your head in the sand by thinking the case will just go away on its own.
- Don't take the easy way out. If you are innocent of the charges, request a formal hearing and contest the charges; defend yourself.
- Do not request an informal hearing or a settlement agreement in which you admit the facts alleged against you are all true. If you do this, you are "pleading guilty."
- Do immediately seek the advice of an attorney who has experience in such professional licensing matters and administrative hearings. They are out there, but you may have to search for one. Do this as soon as you get notice of any investigation and especially before you have talked to or made any statement (including a written one) to any investigator.
- Do purchase professional liability insurance that includes legal defense coverage for any professional license investigation against you, whether it is related to a malpractice claim or not. This insurance is cheap and will provide needed legal assistance at the time when you may be out of a job and not have money to hire an attorney. Beware of the insurance policy that only covers professional license defense if it is related to a malpractice claim.

Professional liability insurance

We strongly encourage all licensed health professionals and facilities to purchase their own, independent insurance coverage. Make sure it covers professional license defense under all circumstances. Make sure you have enough coverage to actually get you through a hearing. \$25,000 coverage for just professional licensure defense is the absolute minimum you should purchase; \$50,000 may be adequate but \$75,000 or \$100,000 may be what you really need in such a situation. For a few dollars more (and I do mean only a few) you can usually purchase the higher limits.

Also, I will repeat, make sure it covers your legal defense in an administrative disciplinary proceeding against your license, even if there is no malpractice claim filed against you or likely to be filed against you.

We also recommend that you purchase coverage through an insurance company that allows you to select your own attorney and does not make you use one that the insurance company picks for you.

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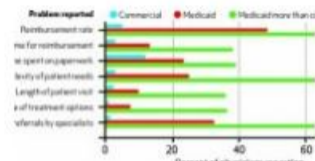
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