

## Virginia Board of Nursing

### Noncompliance with Board Orders by Individual Licensees

~~A licensee may be placed under terms of continued practice by Order of the Board of Nursing that may include probation with terms, paying a monetary penalty, completing courses, submitting to a mental health and chemical dependency evaluation, and/or entering into and complying with the Health Practitioner's Monitoring Program (HPMP).~~

The Board of Nursing may order licensees under terms of continued practice that may include probation with terms, paying a monetary penalty, completing courses, submitting to an evaluation (mental health, substance misuse, neurological, and/or physical) and/or entering into and complying with the *Health Practitioner's Monitoring Program* ("HPMP").

When such licensees do not comply with the terms stated in said Order, they are deemed "noncompliant" and may be scheduled for an administrative proceeding to consider further disciplinary action up to and including suspension or revocation of a license.

~~The Board will typically take the following actions based upon the following types of noncompliance with a prior Board order. Further, the Board authorizes professional discipline staff of the Board to offer prehearing consent orders consistent with the guidance listed below, in lieu of conducting an administrative proceeding for such cases of noncompliance:~~

Alternatively, the Board authorizes professional discipline staff to offer a prehearing consent order for certain types of noncompliance in lieu of conducting an administrative proceeding. Guidance regarding typical Board action(s) for the types of non-compliance are as follows:

<b>Type(s) of Non-Compliance</b>	<b>Typical Board Action(s)</b>
<u>1.</u> Failure to pay monetary penalty within specified time in Order (or granted extension)	Reprimand and indefinite suspension <del>until meets the term</del>
<u>2.</u> Failure to submit verification of completing course(s), watching video, or other remedial term(s) within specified time in Order (or granted extension)	Reprimand and indefinite suspension <del>until meets the term</del>
<u>3.</u> Failure to obtain and submit evidence of <del>a mental health/chemical dependency evaluation</del> <u>an evaluation (mental health, substance misuse, neurological, and/or physical)</u> within time specified in Order (or granted extension)	Reprimand and indefinite suspension <del>until meets the term; then original Order continues (if applicable)</del>

<p><u>4.</u> Failure to <del>follow</del> <u>comply with</u> treatment recommendations within 60 days following a <del>mental health/chemical dependency evaluation an</del> <u>evaluation (mental health, substance misuse, neurological, and/or physical)</u></p>	<p>Reprimand and indefinite suspension <del>until evidence has done so; then original Order continues (if applicable)</del></p>
<p><u>5.</u> Failure to enter the Virginia HPMP within time specified in Order (or granted extension)</p>	<p>Reprimand and indefinite suspension, which may be stayed <del>if enters HPMP</del> <u>upon HPMP entry</u>. Note: The Board may also consider other justifiable facts for an alternative action (<i>i.e.</i>, Reprimand and place on probation with similar monitoring terms)</p>
<p><u>6.</u> Noncompliance constituting dismissal from HPMP when a Board order required entry into and remaining in compliance with HPMP</p>	<p>Reprimand and indefinite suspension</p>
<p><u>7.</u> Noncompliant, but evidence shows licensee is back in compliance with terms of Order by the time of the proceeding</p>	<p>Reprimand and extend <del>period</del> <u>length of probation</u> monitoring equivalent to the period the licensee was noncompliant. <u>Second instance results in indefinite suspension.</u></p>
<p><u>8.</u> Noncompliant on probation with late reports on more than three (3) occasions</p>	<p>Reprimand and extend length of <del>probation</del> <u>monitoring</u> for 6 months. <u>Second instance results in indefinite suspension.</u></p>
<p><u>9.</u> One positive urine drug screen test, without appropriate prescription documentation</p>	<p>Reprimand and extend <u>length of probation</u> <u>monitoring</u> for 6 months and increase frequency of urine drug screening. <u>Second instance results in indefinite suspension.</u></p>
<p><u>10.</u> Two or more positive urine drug screen tests, without appropriate prescription documentation</p>	<p>Reprimand and indefinite suspension</p>
<p><del>Licensee who has not contacted Compliance Case Manager of Board of Nursing at all in response to Order and has demonstrated no evidence of compliance with any terms of Order, within 60 days of entry of said Order</del> <u>11. Failure to contact Compliance staff within 60 days of entry of the Order and no evidence of compliance with any term of the Order</u></p>	<p>Reprimand and indefinite suspension</p>

<p><del>Licensee on probation who has contacted Compliance Case Manager of Board of Nursing, but has not complied with any terms of Order for any 6 month (two quarters of reports due) period of monitoring.</del></p> <p><u>12. No evidence of compliance with any term of the Order for any six-month period of monitoring (any two quarters of reports).</u></p>	Reprimand and indefinite suspension
<p>Second incidence of noncompliance of the same Board Order being adjudicated</p>	Reprimand and indefinite suspension
<p><del>Licensee has stayed compliant for more than 5 years with terms of a probation order entered prior to December 1, 2011, except that the period of work as a nurse is not met.</del></p> <p><b>Subsequent Noncompliance:</b> If all terms of the modified order are not met within the three year specified time frame</p>	<p><del>Modify existing probation order to continue on indefinite probation, require licensee begin employment no later than one (1) year from entry of the modified order, and require completion of two (2) years of employment within a period of three (3) years from entry date of the modified order. Further, during the two-year period of practice, all other relevant terms and conditions of the previous order are re-imposed.</del></p> <p><del>Reprimand and Indefinite Suspension</del></p>
<p><u>13. Failure to comply within five (5) years with all terms of a probation Order entered after December 1, 2011. (This does not apply to HPMP orders.)</u></p>	Reprimand and indefinite suspension

Adopted: July 20, 2010

Revised: January 29, 2019