

A photograph of two nurses in scrubs. The nurse on the left is wearing blue scrubs and has a black stethoscope around her neck. The nurse on the right is wearing teal scrubs and has a red stethoscope around her neck. They are both looking down at a white sheet of paper they are holding together. A semi-transparent teal rectangular box is overlaid on the center of the image, containing the main title text.

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**FIFTEEN SECRET FACTS  
YOU MUST KNOW  
TO AVOID THE BRN**

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# SIX WAYS TO AVOID THE BRN MINEFIELD

By Paul Goyette, Managing Partner of Goyette & Associates and Founder and CEO of RN Guardian

Many types of incidents at work and even outside of work, can lead to both employer disciplinary investigations and investigations by the Board of Registered Nursing ("BRN"). The difference is your employer conducts an investigation to determine if you committed some form of misconduct and, accordingly, whether they need to take some type of remedial action. The BRN conducts an investigation to determine whether they should take some type of action against your license. The most critical time to avoid the BRN/disciplinary minefield is shortly following the incident that gives rise to the investigation. Unfortunately, many RNs make critical mistakes during this time which causes them huge problems. If you follow the simple guidelines below, you will greatly reduce your chances of wandering into the BRN/disciplinary minefield.



## 1. DO NOT GIVE A VOLUNTARY STATEMENT WITHOUT COUNSEL

If an incident occurs that might give rise to an investigation your natural inclination may be to talk about it. This is the last thing you want to do at this point. First, voluntary statements are admissible in all types of legal proceedings. That means voluntary statements are admissible in criminal proceedings, civil proceedings, and administrative investigations and hearings such as BRN hearings. Voluntary statements are also readily available to the media and members of the public. On the other hand, a compelled, coerced, or ordered statement cannot be used against you in any type of criminal proceeding. Also, a compelled statement enjoys a much higher level of confidentiality and cannot be readily released to the media or members of the public.

Many investigations involve some element of criminal allegations. For example, if the incident giving rise to the investigation has to do with missing property or property that was used for personal reasons, you may be facing a theft or embezzlement investigation. If the investigation involves improper touching of any other person you might be facing an assault and battery investigation. Personal use of the employer's cell phones and computer systems have been prosecuted as embezzlement cases. Therefore, it is very important that at least initially, you do not give a voluntary statement.

## 2. SLOW THE PROCESS DOWN

Avoid giving any kind of statement, whether voluntary or compelled, without having sufficient information and being thoroughly prepared. Gathering information and preparing simply takes time. Many RNs have gotten into trouble by giving rushed, off-the-cuff statements that contain inaccurate information. Remember, when you are under investigation and in a stressful environment, your ability to recollect, observe, and perceive is significantly diminished. It is very common for people to give inaccurate and differing descriptions of events that are observed in quickly evolving, stressful, or uncertain circumstances. The best way to ensure you give accurate information is to take the time to adequately prepare. And remember, if you give an inaccurate statement, your employer or the BRN usually will not conclude that it was a simple, honest mistake. Rather, they will conclude you are intentionally misleading them to cover up some form of misconduct.

Please give me a call at 1-800- 506-9766 or fill out the online submission form, and I will get right back to you.

### 3. GET A REPRESENTATIVE

One of the easiest ways to protect yourself is to get a representative to help you in the investigation and to assist you during the investigatory interview. You should have several options available to you including your RN Guardian lawyer, union representative, or shop steward. The primary role of the representative is to help you prepare to give an accurate statement. The representative can gather information on your behalf and conduct an investigation (which you should not be doing). The representative can act as a buffer between you and the investigator and between you and your employer. Your representative can give you valuable advice on your actions to minimize the impact of any investigation.

### 4. BE HONEST WHEN YOU DO GIVE A STATEMENT

When you finally do give a statement be sure to be accurate and honest. A statement may be in the form of a written statement such as a report or a chart entry or it may be a verbal statement such as a formal investigatory interrogation. Either way, be careful to give only accurate information. Also, be concise. The less said the better—usually. Answer questions completely, accurately, and honestly but efficiently. Remember, you are not there to tell your life's story. You are not there to get a promotion or to convince people what a great registered nurse you are. You are there to convey accurate and basic facts to refute the allegations of the investigation.

Many RNs turn an inconsequential or minor investigation into a career-ender by giving inaccurate or dishonest information during the investigation. By following steps 1 through 3, above, and giving an accurate statement you will greatly minimize your chances of wandering into the minefield.



### 5. DO NOT DO YOUR OWN INVESTIGATION

Do not talk to other witnesses or do your own investigation. This is a job for your lawyer or representative. If you do talk to witnesses about the event giving rise to the investigation inevitably, there will be an allegation that you attempted to dissuade the witness's statement, or you collaborated with a witness to come up with a story. This is especially true if there is a disagreement between the witnesses as to what occurred and who is the party at fault. If you come under investigation you should not discuss the matter with anyone except your appropriate representative. This is especially true with any person who might be a witness in the investigation.

### 6. BE CONFIDENT

If you remember only one piece of advice remember this: Be Confident. Be calm, focused, and act like you committed no form of misconduct whatsoever. Your statements, demeanor, and body language should convey one message: "I did nothing wrong and I will easily be cleared." Remember, we live in a world of perceptions where perceptions become reality. If your supervisors and coworkers perceive you to be guilty, regardless of the facts of your case, they will conclude you are in fact guilty. On the other hand, if you're confident and your coworkers and supervisors perceive you to be innocent, they will inevitably conclude you are innocent. It is extraordinarily important to maintain your confidence.

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## THE TOP NINE REASONS NURSES GET IN LICENSING TROUBLE WITH THE BRN

By Jennifer Coalson-Perez, Executive Director and Case Management Coordinator

### 1. DUI - ALCOHOL

A Driving Under the Influence charge, while not a career killer, will certainly land you in trouble with the BRN. A misdemeanor conviction will almost always result in probation of some sort. A Wet & Reckless conviction is suitable for a Letter of Public Reprimand but a Felony DUI Conviction will almost always result in revocation of a license.

### 2. MEDICATION ERRORS

An error in wasting medication properly, especially if the medication is a controlled substance and if the error has happened on multiple occasions, will usually result in an investigation by the BRN. Facilities are obligated to report medication errors and once reported and investigated, it is very difficult for the RN to prove that they have not taken the medication for personal use.

### 3. DUI - PRESCRIPTION MEDICATION

Even if a medication is prescribed, a DUI is still a possibility. Nurses work long shifts, are exhausted after work, and may drive drowsy. However, if there is any medication involved, beware. The BRN does not look favorably on ANY mood-altering substances, prescribed or not.

### 4. INCOMPETENCE

Incompetence is one of those nasty sounding charges that any nurse can be accused of on any given day: charting errors, medication discrepancies, not following protocol, not being timely, you name it. If you're concerned that something you've done could be construed as incompetent, make sure to keep your own notes and your own records.

### 5. GROSS NEGLIGENCE

Gross Negligence is a charge that usually is the result of harming a patient or doing something that may have harmed a patient. Of all the accusations that we defend RN's against, this is the most difficult. Personal notes and charts are imperative in this Situation.

### 6. WORKING OUTSIDE THE COURSE AND SCOPE OF PRACTICE

While this does not happen often because nurses are sensitive to working within their scope, it does happen and it is usually for something personal that the nurse does every day, like an x-ray for your toe you think may be broken.

### 7. DOMESTIC ISSUES

Anytime there is a domestic disturbance and an arrest is made, the BRN assumes that alcohol or drugs were involved and they will contact the Nurse with an offer for diversion or have an Investigator contact the nurse to find out more about the incident.

### 8. SELF-PRESCRIBING OR FORGING PRESCRIPTIONS

Nurses, especially NP's will self-diagnose and sometimes will write their own prescriptions. Nurses also get investigated for forging prescriptions for out-of-work or uninsured friends or family members.

### 9. NON-COMPLIANCE WITH PROBATION

If placed on probation, RNs must rigorously adhere to the requirements. Noncompliance with probation will result in the order for probation to be rescinded and the RN's license will be revoked.

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