

Creating a Complaint Resolution Analysis for Professional Accountability and Public Protection

Christine M. Sansom, MSN, RN

As nursing practice becomes more complex, so do nursing practice complaints and the subsequent investigations. To address the need for fair, efficient complaint resolution, the Nevada State Board of Nursing's (BON's) staff created a complaint resolution analysis (CRA) for professional accountability and public protection protocol, which includes a complaint resolution screening tool that provides an effective benchmarking system for practice complaint case resolution by BON staff. A 6-month pilot study and a 1-year review of the CRA yielded consistent results, and an independent statistical review found it reliable and valid. The consensus among the BON and staff was that the CRA protocol and complaint resolution screening tool have been effective and efficient in leading complaint investigations to fair and consistent resolutions that support the mission of public protection.

Keywords: Complaint resolution, evidence-based regulation, investigation, nursing discipline, nursing regulation

As nursing practice evolves in scope and complexity, so do nursing practice complaints and the investigations of them. The Nevada State Board of Nursing (BON), an independent self-funded agency, must balance limited human and fiscal resources, legislative mandates, and consumer and stakeholder expectations with increasingly complex nursing practice complaints that require effective outcomes to support public protection. The largest share of the Nevada BON's resources is consumed by investigations of complaints filed to the BON about nurses who have allegedly violated the state's Nurse Practice Act (NPA). The BON, which regulates 47,000 active advanced practice registered nurse, certified registered nurse anesthetist, registered nurse (RN), and licensed practical nurse licensees and certified nursing assistants (Nevada State Board of Nursing, 2016), is administered by a governor-appointed board of volunteers consisting of four licensees, one certified nursing assistant, and one member of the general public.

Background

BONs employ various methods for processing complaints that allege a violation of the state's NPA. Some BONs require a governing board member to be involved in all aspects of complaint processing and resolution. Other BONs, including Nevada, delegate authority to board staff to initiate an investigation, close a complaint following an investigation, employ board-defined sanctioning guidelines, and offer a settlement/consent agreement to resolve a complaint. In Nevada, disciplinary action against a

licensee is not delegated to board staff and may only be imposed by the governing board in the form of a ratified settlement/consent agreement or through an administrative order. Board-defined sanctioning guidelines have streamlined the complaint resolution process in Nevada and afforded efficient and consistent dispositions for investigations related to applications for licensure, unlicensed practice, and criminal conviction issues, for example. However, these complaint types are only a fraction of the alleged violations of the NPA submitted to the board. All complaints submitted to the BON follow a similar process regardless of the nature of the alleged violation.

Processing a complaint submitted to Nevada's BON staff includes the following:

- Determination of legal jurisdiction
- Identification of the alleged violation of nursing law
- Verification that the named respondent is a licensee
- Identification of high-risk/priority cases
- Assignment to investigative staff.

Respondents are notified of the allegations and provided due process rights. BON staff complete a thorough investigation and gather evidence. If sanctioning guidelines apply to the specific violation, they are followed. Otherwise, complaint resolution recommendations are reached by consensus of investigative and administrative staff following presentation of the evidence and consideration of the historical perspective of the board in a case review format. Recommendations for complaint closure or educational remediation alone are implemented by staff, while those

TABLE 1

Complaint Resolution Analysis Critical Assessment Criteria

Public Harm Assessment	Nursing Practice Risk Assessment	Knowledge and/or Skill Deficit of Nurse	Nurse's Ability to Practice Safely	Complaint Resolution for Risk Control, Management, and Reduction
<ul style="list-style-type: none"> • No harm • Risk of harm • Harm 	<ul style="list-style-type: none"> • No risk identified • Human error • At risk • Reckless • Bad intent 	<ul style="list-style-type: none"> • No deficit identified • Isolated lapse in critical thinking • Substandard and/or inadequate • Incompetence 	<ul style="list-style-type: none"> • Without supervision • With supervision • Unable to practice safely 	<ul style="list-style-type: none"> • Close with no action • Focused education with concern • Focused education • Fine • Reprimand • Suspension • Monitoring/probation • Voluntary surrender • Revocation

subject to disciplinary action are presented to the board for final disposition.

The Nevada BON recognized that alleged violations of the NPA, particularly related to nursing practice issues, are becoming more complex and that the process could be enhanced by creating a sound framework for complaint resolution analysis. Complaint resolution decision making requires a high level of staff competence, particularly when complex cases are being reviewed, and the volume of evidence and information can be overwhelming. Complaint investigations may be fraught with emotion brought on by negative and sometimes egregious outcomes to patients. Creating a framework that brings critical evaluation criteria into focus benefits expert and novice staff by providing structure, by eliminating or reducing bias, and by streamlining the investigative review process leading to efficient complaint processing times to ensure public protection.

Early attempts to develop complaint resolution guidelines were ineffective because they were created for each possible violation of the NPA and were thus overly broad, redundant, not user friendly, and did not provide a focus for decision making. Thus, in 2014, the BON staff created a complaint resolution analysis (CRA) for professional accountability and public protection. This work facilitated the creation of the CRA protocol, which includes a complaint resolution screening tool (CRST) that is presented in this article. The CRA protocol and CRST instrument provided the Nevada BON—and can similarly provide other BONs—with a framework that focuses an investigation, streamlines the case review process, and leads to consistent complaint resolution decision making that has been found to be statistically reliable and valid.

Criteria for the CRA

The goal was to create a nursing practice CRA protocol with a numeric scoring tool to facilitate complaint resolution decision making by the BON staff. A weighted numeric scoring instru-

ment was determined to be the most effective, efficient, and consistent in providing the objective data needed to make the best decisions possible. The criteria were that the CRA protocol would:

- Support public protection
- Be targeted to the violation
- Be consistent with the historical perspective of the BON
- Allow for flexibility by considering mitigating and aggravating factors
- Limit or eliminate unintended evaluator bias
- Limit or eliminate unintended score manipulation
- Be user friendly.

Developing a CRA Protocol and a CRST Instrument

The creation of the CRA protocol was based on a compilation of several methodologies and conceptual frameworks that form its critical concepts. Discipline sanctioning guidelines were generously shared by other BONs, and the staff's evaluation of them reinforced the complexity of developing guidelines to address the many practice issues that challenge BONs. Four factors were identified as key evaluation points for complaint resolution decision making:

- Risk assessment (Burhans, Chastain, & George, 2012; Marks, 2001; Marks, 2009; Miller, Griffith, & Vogelsmeier, 2010; National Council of State Boards of Nursing; 2015)
- Numerical benchmarking (Keehley & Abercrombie, 2008; U. S. Sentencing Commission, n.d., 2015)
- Proportionality, consistency, and accountability (Brous, 2014; Goeschel, 2011; The Professional Standards Authority, 2015)
- Remediation of nursing error (Crigger & Godfrey, 2014).

In March 2015, the criteria for the CRA protocol were identified (See Table 1), and a CRA evaluation criteria guide was created to assist with evidence review, decision making, and case resolution (See Table 2). Every complaint is evaluated based on the evidence discovered during an investigation. Complaint evi-

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