

CHAPTER 19

THE INTERVENTION PROJECT FOR NURSES (IPN)

SUBSTANCE ABUSE, REHABILITATION AND DISCIPLINE

I. INTRODUCTION

Nurses and other medical professionals are constantly faced with high-stress situations. Nurses, like other citizens, also face stress outside of their work environment. These pressures can have negative effects on nurses, as they can on other citizens.

As our daily lives become increasingly more hectic and stressful, individuals may turn to drugs or alcohol as a means of escape. Often, nurses have easy access to a wide variety of pharmaceuticals that can provide that escape. The Impaired Practitioner Program for Nurses, formerly known as the Intervention Project for Nurses or “IPN,”¹ was established via legislative action in 1984 to assist, treat and monitor impaired nursing professionals. This impairment may be the result of drug abuse, alcohol abuse, mental impairment or physical illness.

The IPN is currently authorized by the Florida Legislature as set forth in Section 456.076, Florida Statutes. A copy of this law is included in the Appendix for this chapter. IPN becomes involved with a nurse when an allegation of impairment is made regarding a nurse. An allegation may be made by anyone: an employer, a hospital, another medical professional, law enforcement authorities, or the nurse may even report himself/herself. Allegations of impairment may come from investigators for the Agency for Health Care Administration, treatment providers, employee assistance programs, and schools of nursing.

Under Section 464.018(j), Florida Statutes, a nurse may be disciplined if he or she is unable to safely practice nursing due to use of drugs, narcotics, alcohol or other substances. Often the nurse may agree to voluntarily participate in IPN as an alternative means to address allegations of impairment instead of having to face disciplinary action against his or her license. However, IPN can also be ordered by the Board of Nursing, Department of Health as part of the disciplinary process to require the nurse to attempt rehabilitation with the threat of loss of license or other punishment if the nurse fails to do so.

It is very important to consult with a health care attorney familiar and experienced with IPN and Board of Nursing actions prior to making any decisions regarding self-reporting to IPN, evaluation by IPN, or agreeing to an IPN contract. You should fully understand the implication of the IPN's requirements and what you may be agreeing to before undertaking any communications with or regarding IPN.

¹ This program is officially called “the Intervention Project for Nurses.” Section 456.076, Florida Statutes. It was previously known as “the Impaired Practitioner Program for Nurses.” It is commonly referred to by the acronym “IPN.” We will refer to it by the same acronym in this Manual. There is an equivalent program for physicians and other healthcare practitioners known as the Professionals Resources Network or “PRN.”

II. STATED OBJECTIVES OF THE IPN PROGRAM

The main objective of the IPN program is, as stated by IPN, to ensure public health and safety through the provision of close monitoring of nurses who are unsafe to practice, due to the use of drugs, including alcohol and/or psychiatric, psychological or physical condition. The safety of the public is ensured by the IPN program by requiring participating health care providers to withdraw from practice immediately. The provider may not return to practice until such time that the IPN program is assured that the provider is able to safely return to the practice of nursing.

In addition to providing a mechanism to protect the community, the IPN program was also established to assist nurses with recovery from drug dependence. This objective is accomplished by facilitating early intervention, thereby decreasing the time between the nurse's acknowledgment of the problem and his/her entry into a recovery program. The program is centered around a non-punitive and confidential healing process, which provides rehabilitation to affected nurses. However, there are significant exceptions to this confidentiality which you should fully understand prior to agreeing to enter the IPN program. The IPN program is also a means of providing a statewide network of resources to meet the individual needs of an impaired nurse.

III. DISCIPLINARY PROCEEDINGS RELATED TO IMPAIRMENT ALLEGATIONS

Once an allegation of impairment is made, a nurse has several options. First, a nursing professional should always find an experienced health care attorney and consult with him or her. Allegations of impairment have serious consequences, including suspension or revocation of any license to practice nursing in the State of Florida. In addition, any actions taken in connection with a Florida license will be reported to other states in which a nurse holds a license to practice nursing. Involving an attorney immediately will provide a nurse with a greater chance of success in the licensure proceedings which will follow.

Like any other disciplinary proceeding, the first step is an investigation by the Agency for Health Care Administration (AHCA). When a complaint regarding impairment is received, an AHCA investigator is assigned to the case. The investigator will gather evidence of the impairment. The investigator will take statements of witnesses, including the accused nurse. If an investigator calls, a nurse should not provide any statement to the investigator - written or oral.

The second step is a probable cause determination. A panel, composed of nursing professionals appointed by the Board of Nursing, makes a determination of whether enough probable cause exists to believe that the accused nurse cannot practice nursing safely due to alcohol, drug use or other impairment. If the panel finds probable cause, disciplinary action may be taken against the accused nurse and the nurse may be ordered to submit to an examination by a physician approved by the Department of Health, pursuant to Section 464.018(j), Florida Statutes. Typically in impairment cases, the Board of Nursing recommends nursing license suspension. In egregious or repeat cases, revocation of the license is recommended.

The third step is an administrative hearing. After the Board recommends disciplinary action, the accused nurse has the right to request an administrative hearing, pursuant to Section 120.569, Florida Statutes. An administrative hearing is less formal than traditional court hearings. While an attorney is not

required for the hearing, retaining an attorney for representation at the hearing is advised.

Throughout the disciplinary process, the nurse may try to reach a settlement with the Department of Health. Often the Department will forward a Stipulation Agreement to the accused nurse, requesting that the nurse surrender his or her nursing license. This is similar to a "plea bargain." It is most strongly recommended that you have an experienced health care attorney review any Stipulation and advise you of alternative options. Alternatives include going forward with the probable cause determination or an administrative hearing. Another alternative is entering into an IPN program contract, which is supposed to provide a confidential alternative to disciplinary action. However, to avoid disciplinary action, a nurse must agree to comply with the strict requirements of the IPN policies and procedures referenced above.

Section 464.018(j), Florida Statutes, guarantees a nurse the opportunity to demonstrate that he or she is capable of practicing safely. However, continued compliance with the IPN requirements and satisfactory completion of an IPN contract does not necessarily ensure reinstatement of a nursing license. While a nurse may feel that he or she is competent to practice nursing with reasonable skill and safety, officials with the IPN program and the Board of Nursing may disagree. It may take years for a nurse to be recommended for reinstatement by the IPN program.

IV. PERSPECTIVES OF AN ATTORNEY WHO REPRESENTS IPN PARTICIPANTS

The following discussion is from the perspective of an attorney who is routinely consulted by nurses who are being required to consult with IPN for an evaluation by their employers or by the Department of Health and of nurses who are already participants in the IPN Program who are attempting to get out of the program.

We routinely work with nurses who are accused by their employers of impairment due to drug or alcohol abuse. We are very familiar with the Intervention Project for Nurses (IPN), its advantages and disadvantages, its contracts, its personnel, and its policies and procedures. We are also quite familiar with the interactions between IPN and the Board of Nursing. We have had a great deal of experience in working with the different psychiatrists, certified addictions professionals (CAPs) and evaluators which IPN routinely employs to perform its initial evaluations on nurses.

Our clients routinely include nurses who are alleged to be impaired because of drug abuse, alcohol abuse or mental or physical impairments. We routinely consult, advise and work with nurses who are alleged to have sexual boundary issues. We routinely are consulted by nurses who have a positive urinalysis screening on a pre-employment drug test, who have false positives on drug tests because of the ingestion of a non-drug substance which causes a positive drug screen (such as coca leaf tea or poppy seed rolls), because of allegations that an ill or fatigued nurse who tries to do her job is "on drugs," who are accused of addiction and theft of drugs because of discrepancies in drug inventories or in the hospital Pyxis machine, or for any other number of reasons.

We routinely consult with, advise and defend nurses facing all of the foregoing types of problems. It is crucial that the nurse obtain qualified legal representation and advice (and many nursing malpractice insurance companies will pay for your defense in such cases), immediately, before speaking to anyone about the matter, before giving a urinalysis sample, before reporting yourself to the Intervention Project for Nurses (IPN) and before going for an evaluation by a psychiatrist or a certified addictions professional

(CAP).

These types of allegations made against a nurse are extremely serious because they are usually treated by the Department of Health as "Priority 1" or Fast Track" offenses. This means that the charges against the nurse will usually be automatically considered for an Emergency Suspension Order (ESO) by the Department of Health. This means that the investigation will be "fast and dirty" with a requirement that the DOH investigator have the entire investigation completed and the report in Tallahassee within 45 days. Then, unless a qualified, experienced attorney is able to immediately produce reliable documentation and other evidence showing the nurse is not impaired and is not a threat to patient health or safety, the Surgeon General (formerly the Secretary of the Department of Health) will issue an Emergency Suspension Order (ESO). This suspends the nurse's license until all proceedings are completed and finalized (which often takes a year or more). The nurse will be unable to work as a nurse during any period when her license is suspended and, even if she has a license in another jurisdiction, since the suspension is a public record which is widely published and other jurisdictions are notified, she may find her licenses in other states also suspended.

However, even where the nurse may actually have committed the offense, there are a number of administrative and procedural measures which an experienced health care attorney, one familiar with Board of Nursing and IPN cases, may be able to use to avoid a suspension. This will also prevent the matter from becoming public until much later in the process.

For the innocent nurse, an experienced attorney familiar with such matters may be able to obtain additional drug testing, polygraph (lie detector) testing, scientific evidence, expert witnesses, evaluations by certified addictions professionals, character references, or other evidence which shows that the nurse is innocent of the charges.

IPN does have some advantages for the truly impaired nurse. It provides an avenue of monitoring, rehabilitation, monitoring and treatment for a truly impaired nurse. It is an invaluable tool to assist a nurse with a real problem to retain her ability to practice. Some nurses should not be practicing except through IPN. However, IPN also has some serious disadvantages and may, among other things, cause the nurse to lose his or her job, require the nurse to enter into long term inpatient rehabilitation, cause the nurse to undertake extremely expensive treatment, counseling and therapy, and impose very onerous burdens of time and money on the nurse, as well as work limitations.

In many cases, the nurse who is the victim of a termination action by an employer or a complaint against his or her nursing license involving allegations of drug abuse, alcohol abuse, or impairment may view IPN as an easy way to avoid discipline. This is a complete fallacy. Such an apparent easy way out should be avoided at all costs.

If the nurse is not truly an impaired provider or addicted to drugs or alcohol, there may be other alternatives that do not involve discipline. IPN is not "easy" and this is not an easy way out.

It is extremely important that before you "self-report" to IPN you contact an experienced health care attorney who has experience in dealing with IPN. It is extremely important that before you agree to go to the initial evaluation by an IPN recommended physician (usually one specializing in addictionology) (as IPN always requires), contact us for legal advice. We are familiar with many of the physicians that are

used by IPN for these evaluations. Some are better than others and some are to be avoided at all costs.

Before you give any blood, urine, hair samples or other drug or alcohol testing, you should contact us for advice. We have access to the same or similar testing labs as IPN. We can arrange to have you tested first so that you will know whether or not you should have any concerns. For example, did you know that the use of certain prohibited drugs (including cocaine) will leave a residue in your hair which can be detected for months or longer after use? Are you aware that there are now tests being used which can tell if you have had one regular size alcoholic beverage within the past thirty (30) days? There are even tests being used now to test health care professionals for the illicit use of anesthetic gases such as Aldan.

Often a report against a nurse will be based totally on the suspicions of a supervisor, after observing a nurse at work who is actually exhibiting signs of illness or fatigue. Often circumstances which are totally beyond the control of the nurse, such as a shortage of drugs from an inventory for which the nurse is not responsible, or because there is a higher use of a certain drug on a certain ward or shift, or other factors for which there is no concrete evidence of abuse or impairment. An evaluation of your case by an experienced health care attorney may be invaluable in deciding whether you should defend yourself against the charges or enter the IPN program.

We are consulted by just as many nurses who want to get out of the IPN Program after they agreed to enter it without proper legal advice. Even though at the time it seemed like a good idea, or the nurse incorrectly thought she had no choice in the matter, it turns out to be a big mistake for that person.

We are told about 60 day, 90 day, and longer periods of inpatient drug or alcohol treatment required before the nurse can return to work. Nurses accepted into IPN must sign a five (5) year contract agreeing to monitoring, weekly counseling meetings, regular psychiatric visits, random urinalysis testing (with a mandatory call in every day of your life for the five (5) years), mandatory notification of all employers that you are in IPN and why, a strict prohibition on drinking any alcoholic beverage, or taking any medication (even over the counter medications) without the prior approval of IPN, possible loss of your privilege to administer narcotics, possible loss of your privilege to access any prescription medications, a possible requirement that you only work under the supervision of another registered nurse, and other possible requirements.

In most cases, it is not possible to leave the IPN Program after agreeing to it without giving up your nursing license. And this can have some extremely adverse consequences for a nurse, including a report to the National Practitioner Data Bank (NPDB), exclusion from the Medicare and Medicaid Programs and debarment from all federal government contracting.

The bottom line is: If you are accused of stealing drugs, of sexual boundary issues or sexual misconduct, or of being impaired, immediately contact an attorney experienced with IPN and Board of Nursing matters before doing anything else.

V. WARNINGS REGARDING ENTERING THE IPN PROGRAM

In addition to the discussion in the section immediately above, you should be aware of the following.

Compliance with the requirements of the IPN program can be quite burdensome. Requirements include frequent group and individual therapy meetings conducted by IPN-approved professionals, as well as calling IPN each day to verify if you are required to submit a random drug test that day. Additionally, you will probably be required to sign a contract stating that you will agree to comply with the IPN requirements for a number of years, usually a five (5) years minimum. The IPN program also requires the nurse to disclose his or her participation in an IPN program to employers. The requirement alone may make it exceptionally difficult for a nurse in the IPN program to obtain employment.

The IPN program has other possible requirements, depending on each individual case. Some of these other requirements may include the following:

1. Mandatory Aftercare/Continuing Care upon completion of the IPN program.
2. Mandatory Attendance at a Nurse Support Group.
3. Mandatory Attendance at Alcoholics Anonymous or Narcotics Anonymous, anywhere from once a week to twice a day.
4. Random Drug Screens (approximately \$50.00).
5. Establishment of a primary care physician, who monitor the nurse and report to IPN.
6. Bimonthly forms that must be completed by your work supervisor and Nurse Support Group Facilitator
7. The nurse may only be able to work 40 hours/week with no floating allowed
8. A prohibition on use of any over the counter medications without reporting these to IPN and obtaining IPN approval in advance.
9. A prohibition on use of any prescription medication without reporting this to IPN and obtaining IPN approval in advance.
10. Total abstinence from any use of any alcoholic beverages.
11. Reporting any move out of the State of Florida.

It is important to note that the nurse is required to pay for all group sessions, therapy, urinalysis tests, evaluations, physicians visits, etc. This expense can pose quite a burden on an out of work nurse or a nurse who has been required to take a non-nursing job.

Another consideration before entering the IPN program is that it is directly linked to the Florida Board of Nursing and the Agency for Healthcare Administration. This means that if you relapse or if you fail to progress throughout the program, you may be reported to the Florida Board of Nursing and/or the Agency for Healthcare Administration by IPN. These agencies will then start proceedings against your license as discussed below.

There may also be restrictions on your access to narcotics or other types of drugs that may hinder your abilities to perform at work.

If you feel you are impaired or may have charges of impairment or incompetence made against you because of a substance abuse, we most strongly recommend that you consult with an experienced health care attorney first. Even providing IPN with your name may result in a disciplinary action being initiated against you to attempt to force you to undergo a psychiatric or substance abuse evaluation by an IPN Program physician.

VI. IPN FACT SHEET

Following is an IPN "Fact Sheet" supplied by IPN to the Board of Nursing for distribution at Board of Nursing meetings. Remember, however, that this is information put out by IPN and the Board of Nursing.

Mission Statement

The mission of IPN is to ensure public health and safety by providing an avenue for swift intervention/close monitoring and advocacy of nurses whose practice may be impaired due to the use, misuse, or abuse of alcohol or drugs, or a mental and/or physical condition. IPN is authorized by Florida Statute, Chapter 464/455, to assist those nurses whose practice is affected.

IPN Services

Confidential consultation

Evaluate incoming referrals to determine appropriate action

Provide intervention training

Conduct state-wide training sessions for nursing employers, DOH/FBON, schools of nursing and all other interested parties.

Facilitate evaluations and/or treatment

Establish monitoring upon treatment discharge

Coordinate monitoring between regional areas and IPN

Provide on-going advocacy for participants (DOH Board/Councils, employers/partners, insurance carriers, attorneys)

Random urine call system to monitor contract compliance of chemically dependent participants

Oversee IPN Monitored Nurse Support Groups throughout Florida by tracking meeting attendance of participants and consulting with group facilitators for feedback on participant's progress.

Detect relapses and provide a format for early intervention

Report non-compliance of participants to DOH for appropriate action to ensure public safety and welfare.

Perform day to day case management on all monitored participants

Provide a system to screen applicants with a history of impairment

Implement and monitor IPN requirements in all DOH Final Orders

VII. CONTACT INFORMATION FOR IPN

For additional information or assistance, you may contact the IPN program at:

Florida's Intervention Project for Nurses
P.O. Box 49130
Jacksonville Beach, Florida 32240-9130
Telephone: (904) 270-1620
Toll free number: (800) 840-2720
Telefax: (904) 270-1633
website: <http://www.ipnfl.org>