

### **Health Professional's Obligation to Report Incapacity**

Under Section 43 of the *Nurses Act 1999*, health professionals who have a nurse/midwife as a patient or client have an obligation to provide a written report to the Nurses Board if they believe that the ability of the nurse/midwife to provide nursing care is seriously impaired. The report must state the grounds on which the belief is based and address the information prescribed in Regulation 8, Regulations under the *Nurses Act 1999*.

### **Employer's Obligation to Report Unprofessional Conduct**

Under Section 45 of the *Nurses Act 1999*, employers have an obligation to provide a report to the Nurses Board if they believe that a nurse employed by them has been guilty of unprofessional conduct. The report should comply with, and respond to, the requirements for prescribed information in accordance with Regulation 9, Regulations under the *Nurses Act 1999*.

### **For further information**

For further confidential advice and information contact the Registrations and Investigations Service on **08 8223 9747** or email **complaints@nursesboard.sa.gov.au**

### **The report should be either mailed to:**

The Registrar  
Nurses Board of South Australia  
PO Box 7176 Hutt Street  
Adelaide SA 5000

or delivered to:

The Registrar  
Nurses Board of South Australia  
200 East Terrace Adelaide SA 5000



**nursesboardsouthaustralia**

PO Box 7176 Hutt Street Adelaide SA 5000

Office hours 9.00am – 5.00pm

Payment hours 9.00am – 4.30pm

Telephone (08) 8223 9700

Facsimile (08) 8223 9707

Email [ceo-registrar@nursesboard.sa.gov.au](mailto:ceo-registrar@nursesboard.sa.gov.au)

Website [www.nursesboard.sa.gov.au](http://www.nursesboard.sa.gov.au)

The Nurses Board of South Australia is a statutory authority established to regulate nursing in the public interest. Anyone who uses the services of a registered nurse, nurse practitioner, midwife, mental health nurse or enrolled nurse in South Australia can forward a complaint to the Nurses Board of South Australia. A parent, guardian or advocate may act on a person's behalf. A health professional providing care to a client may submit a report on a client's behalf. Anyone who is involved in the provision of nursing care by a registered nurse, nurse practitioner, midwife, mental health nurse or enrolled nurse (hereafter nurse/midwife) in South Australia may forward a report to the Nurses Board. Complaints may also be made by, employers, other regulatory bodies, other agencies such as the Coroner, or identified through the media.

### **Receiving and Assessing Complaints**

The Nurses Board can only investigate complaints about individual nurses. If the complaint is regarding the organisation the nurse may work for, the complainant would be referred to another agency. The Nurses Board does not investigate matters of a purely industrial nature. Investigations by the Nurses Board must involve the professional conduct, competence or capacity of a nurse/midwife and be in relation to nursing.

All complaints that fall under the jurisdiction of the Nurses Board are investigated. The person who has made the complaint will be notified and the nurse/midwife will be informed that an investigation has commenced.

### **Investigating Complaints**

When a report has been assessed to establish its jurisdiction under the Nurses Act 1999, it is allocated to an investigator. If the nurse/midwife holds a current certificate of registration or enrolment they may continue to practice during the investigation.

The investigation includes identifying and interviewing witnesses and accessing documentation (eg hospital/medical records, staff rosters). The Nurses Board investigations are extremely thorough and can be a lengthy process.

Once details have been obtained, the nurse/midwife will be provided with the allegations and given the opportunity to respond, in accordance with natural justice. The nurse/midwife is afforded the opportunity to respond to allegations and record their version of events.

If no evidence is found, the Registrar will close the matter. If the investigation reveals evidence of a breach of the Nurses Act 1999, the Registrar may refer the matter to the Board for a formal hearing as a complaint of unprofessional conduct, incompetence or incapacity.

### **Formal proceedings**

Once a complaint has been laid before the Board the inquiry process begins. The Board holds a preliminary conference with the nurse/midwife prior to the inquiry. This conference is a relatively informal meeting to ensure that the person is aware of the nature of the complaint and the possible outcome of the inquiry. It is an opportunity for the nurse/midwife to produce any additional information about health or nursing practice that they may wish the Board to consider. The Registrar is present during the preliminary conference and is represented by a solicitor from the Crown Solicitor's Office. The nurse/midwife is entitled to be accompanied by an advocate, companion or legal representative for support.

At the inquiry the Registrar's solicitor presents the complaint, and the nurse/midwife's representative (usually a solicitor) presents the nurse's case. Having heard all the evidence, the Board decides if the Act has been breached and determines the appropriate penalty. The Board may determine to:

- take no further action;
- give a formal reprimand;
- impose a fine;
- impose conditions;
- suspend or cancel a nurse from the register or the roll.