

Monitoring FAQ

Ordered Discipline vs. Alternative-to-Discipline

The Oregon State Board of Nursing (OSBN) ensures public safety by regulating nursing practice. Substance use disorders can affect anyone, irrespective of age, ethnicity, gender, economic status, or occupation. Nurses with substance use disorders pose a significant challenge since their behavior impacts not only themselves but also the patients who rely on their care. When a nurse's substance use disorder is reported and investigated by the OSBN, the Board may choose:

Board Ordered Discipline (Probation)

The nurse's license is placed on probation, requiring them to meet specific conditions to retain their license. This disciplinary action is public and posted on the OSBN website for the duration of the license.

Alternative-to-Discipline (ATD) - Health Professionals' Services Program (HPSP)

Alternatively, the Board may refer the nurse to the HPSP. Successful completion of this confidential program means it won't be a public record or considered disciplinary. HPSP participation is confidential except for essential personnel who must know to implement workplace monitoring. Co-workers may need to know about HPSP participation to act as monitors.

OSBN compliance specialists play a critical role in managing both disciplinary probation and HPSP cases. Requirements include compliance with treatment recommendations, toxicology testing, abstinence from mind-altering or intoxicating drugs, and monitored practice for at least 24 months.

HPSP and probation can also be used for nurses and nursing assistants whose practice is affected by mental health issues.

Requirement	Discipline (Probation)	HPSP
Length of Time	Substance Use Disorder – 3 yrs (CRNA 5 yrs) Mental Health – 2 yrs	Same as Probation
Discipline appears on License	Yes, for the life of the license	No
Diagnosis for Program Entry	Not Required	Required
Evaluations	May be required. *Return to work recommendations are not required.	Yes (within 9 months of referral) *Return to Work recommendations are required.
Annual Drug Testing Frequency	Unemployed: 12-18 Practicing: LPN, RN, APRN: 24-36 CNA, CMA: 12-18	Unemployed: 18 Practicing: LPN, RN, APRN: 24 CNA, CMA: 18 – 24
Monitored Practice	Length of time determined by Board order.	Must have 24 months of monitored practice for participants with a substance use disorder. Must have 12 months of monitored

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		practice for participants with a mental health disorder
Testing Costs	<p>The average cost is \$51 + collection site charges. Costs increase depending on the type of test (urine, blood, hair) and the substances being tested for.</p> <p>Participants are required to submit to at least 1 alternative type of testing such as hair, blood or nail per year. The testing costs for these are typically around \$150 + collection site fees.</p> <p>Testing costs vary based on the panel (substances being tested for), the type of testing such as urine or blood, and the method of collection, either in person or virtual.</p>	Same as probation.
Who administers the program	OSBN - Compliance Specialists	Uprise (Third Party Vendor)
Number of times per week the licensee must call into the program to determine drug-testing dates.	5 times a week to an automated line that will indicate when the next drug test will be (M-F, except holidays).	6 times a week to an automated line that will indicate when the next drug test will be (M-S, except holidays).
Workplace Monitor Reports	Monthly by phone, email or via Affinity.	Month 1-3: Weekly phone contact. Month 3 – end: Weekly contact via email or phone. At least one contact each month must be by phone.

Questions and Answers

Q: What is monitored practice?

A: Monitored practice is a period during which a nurse's practice is supervised at their worksite. This applies whether the nurse is on probation or a participant in the Health Professionals' Services Program (HPSP). When the nurse is deemed safe to return to practice, an agreement between the nurse's employer and either the Oregon State Board of Nursing (OSBN) or HPSP ensures that the necessary requirements are met. This includes oversight of the nurse's access to controlled substances, the type of environment in which they may practice, and assurance that their practice is supervised by a licensed healthcare professional. The worksite monitor must complete reports to be sent to the OSBN or HPSP, documenting adherence to program requirements. Once monitored practice begins, the nurse must obtain permission from the OSBN/HPSP to apply for a different position with either the same employer or a new employer. If the nurse is not employed when they are deemed safe to return to practice, the requirement for monitored practice remains the same. The OSBN may grant an extension of probation or allow the HPSP to extend monitoring until the nurse secures employment to fulfill the monitored practice requirement.

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Q: I suspect a fellow nurse has an impairment issue but has not shown signs at work. Do I need to report this to the OSBN?

A: Yes. The OSBN is responsible for ensuring public safety. If you observe behavior that could pose a risk to public safety, whether at work or not, you should report your concerns to the OSBN. It is the Board's duty to evaluate the situation and take necessary action.

Q: I work in an Emergency Department, and a patient came in via EMS due to an overdose. I know this patient is a nurse who works at our hospital. Do I need to report this to the OSBN?

A: When a nurse-patient relationship is established, HIPAA regulations govern the disclosure of protected health and mental health information. Generally, HIPAA does not allow disclosures of such information. However, if the situation poses an imminent and significant harm to the individual or the public, an exception can be made. For instance, if the nurse who overdosed is discharged but still affected and intends to go to work, you may report this to the OSBN without the patient's permission. For more information on HIPAA and reporting exceptions, refer to the Sentinel article by Shannon O'Fallon, Senior Assistant Attorney General, Oregon Department of Justice, December 2010, available on the OSBN website under "Publications."

Q: Do I have a duty to report impairment occurring in the workplace?

A: Yes. According to the Nurse Practice Act (OAR 851-045-0090) impairment shall always be reported to the Board. Regardless of, or in addition to, policies your employer may have in place, you have a duty to report any suspected incidents of impairment at work to the Board. You do not have to substantiate your suspicion first—that is the Board's responsibility. However, all licensees are required to report potential risks to client safety, and being impaired at work clearly falls in that category.

Q: If I terminate someone for impairment related to substance use or a mental health issue, do I have to report the termination to the OSBN?

A: Yes. According to the Nurse Practice Act (OAR 851-045-0090), dismissal from employment due to unsafe practice or conduct derogatory to the standards of nursing shall always be reported to the Board. Conduct derogatory includes impaired function due to psychological, mental, or substance use disorders. (OAR 851-045-0060 (6)).

Q: What is the difference between self-referred, and Board referred to the HPSP program?

A: Self-referral is when the nurse voluntarily contacts the HPSP program to report their impairment. Board referred is when, after a complaint investigation, the Board determines that the nurse could be successful in an alternative to discipline program.

Q: Under what conditions can a nurse self-refer to HPSP?

A: If a nurse recognizes they have a substance use problem, they may refer themselves to the HPSP if they choose. The nurse should not refer himself or herself to HPSP if they know or can reasonably expect that their impairment will be reported to the Board by someone else, such as their employer. Once a licensee has been reported to the Board for impairment at work or any other substance use or mental health issues, they are ineligible to self-refer to the HPSP. Self-referred licensees are known only to the HPSP staff; the Board is not informed of the enrollment. As with all participants, if a licensee who is a self-referral does not comply with any of the terms of the program, they will be reported to the Board by HPSP staff. The Board may allow the licensee to remain in HPSP, or it may decide to discipline the license.

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Q: Does self-referral grant immunity from Board Discipline?

A: No. If a licensee is in HPSP and is reported to the Board for either impairment or another issue, the Board will open an investigation and determine if any disciplinary sanctions need to occur. This could include the licensee being removed from HPSP and entered into probation.

Q: What will it cost me to self-refer to HPSP?

A: Costs for HPSP self-referral and Board-referral are similar. Differences for self-referral include:

- Annual criminal background check: \$20 for fingerprints, \$38 for review by Oregon State Police.
- Safe practice evaluation: \$1,500.

For both referral types:

- Toxicology tests cost approximately \$60 to \$125 each, totaling about \$2,000 to \$2,400 in the first year (24 to 36 tests required).
- Board referrals include a completed evaluation within their investigation which will cost on average

Q: What will it cost if I am on Probation?

A: The cost of being on probation can vary depending on the treatment program selected by the participant, the testing panels selected, and the frequency of testing required.

Q: What if I cannot afford any of these programs?

A: If you cannot afford the testing and you fail to comply with a Board order, further disciplinary actions such as revocation or voluntary surrender of your license may occur. You might be eligible to apply for reinstatement after three years, but it is not guaranteed and depends on the Board's decision. Your probation monitor will discuss these options with you.

Q: Will I know if a nurse has self-reported to HPSP?

A: A licensee who self-refers must enter monitored practice, which requires notifying their employer. The employer must provide a workplace monitor and submit regular reports to HPSP. The licensee must sign releases for information exchange between HPSP and the employer, and for HPSP to notify the Board in case of substantial non-compliance. If the licensee completes the HPSP program successfully, the Board will not be informed of their enrollment in HPSP. The only difference from Board referrals is this confidentiality upon successful completion.

Q: How do I know if a nurse can return to work?

A: Once a nurse enrolls in the HPSP or is placed on probation, they can return to work. Probation staff does not need a release to speak with the employer. For HPSP, the nurse signs a release for HPSP to contact the employer and establish worksite supervision criteria. The employer must sign a worksite agreement with HPSP or Probation. If you have not been contacted by HPSP or Probation, the nurse cannot return to work.

Q: I am on Probation (or in HPSP). I have been offered a new position in another hospital; may I accept the position?

A: The licensee may not accept another position with a new employer or transfer to another unit/department within the same organization without Board or HPSP approval. This is applicable to both probation and HPSP. In either program, there must be an agreement that monitored practice will continue with the new department or new employer, which must be in place prior to any approval for transfer or new employment.

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Q: Does the nurse's insurance carrier pay for an evaluation?

A: Possibly. A nurse's insurance carrier may not cover an evaluation, and the licensee must pay out of pocket. Failing to obtain a required evaluation may result in disciplinary action.

Q: As an employer, what if I do not agree with returning the nurse to work?

A: The Board does not regulate employment, only licensure. The employer may or may not continue to employ the nurse regardless of the Board's decision or a diagnosis by an evaluator.

Q: The nurse was sent for an evaluation as a requirement for Monitoring returning to work, but now the Board wants another evaluation? Why? What happens if the nurse's insurance carrier will not pay for a second evaluation?

A: Per OAR 851-070-0060, in order to be approved by the Board as an independent third-party evaluator, an evaluator must be:

- Licensed as required by the jurisdiction in which the evaluator works;
- Able to provide a comprehensive assessment of and written report describing a certificate holder or licensee's diagnosis, degree of impairment, and treatment recommendations; and
- Able to facilitate toxicology testing of the certificate holder or licensee at intake.

In addition, the evaluation should contain a diagnosis, treatment recommendations to include ASAM level of care, and any work restrictions the evaluator feels would be in the best interest of public safety and still provide the licensee the ability to recover (such as no access to opioids, etc.). The Board will not accept an evaluator as independent in a particular case if, in the Board's judgment, the evaluator's judgment is likely to be influenced by a personal or professional relationship with the licensee. If these criteria are not met, then the Board staff may request another evaluation.