

Arrests Must Be Reported to the Georgia Board of Nursing Upon License Renewal

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Over the past few years, I have been retained by nurses who have gotten into trouble with the Georgia Board of Nursing because they failed to report a recent arrest when they applied to renew their nursing license. Invariably, when I ask why they did not report the arrest, they answer something akin to “I haven’t been to court yet” or “the Judge reduced the charge to a misdemeanor and all I had to do was pay a fine.” Unfortunately, however, whether you have made a court appearance or not, or whether the charge was ultimately reduced or even dismissed, you are still obligated to report the arrest to the Board of Nursing when you apply to renew your license.

The question asked by the Georgia Board upon application for renewal is:

Since the date of initial licensure or your last renewal, **have you been arrested?** If “Yes,” a certified copy of the court records and disposition and a letter of explanation must be submitted.” Georgia Board of Nursing Renewal Application (emphasis added).¹

Accordingly, if you have been arrested for a felony, misdemeanor, or any offense other than a minor traffic violation, regardless of what has or has not happened since the arrest, you must report the arrest to the Georgia Board when you apply for renewal of your nursing license. **DWI and DUI are not minor traffic**

violations, and arrests for these offenses must be reported. You must then provide an explanation of the circumstances of the arrest, certified court records, as well as any supporting documentation. In your explanation, you should describe what happened, any mitigating factors, and the status of the charges.

The consequences of not reporting an arrest to the Board are inevitably harsher than if you had been honest from the get-go. If you report the arrest when you apply for renewal, you only have to explain the arrest. If, however, you do not report the arrest and instead, the Board of Nursing learns about the arrest from law enforcement, an employer, or even an estranged friend/spouse, you will then be asked to explain not only the arrest but also why you failed to report the arrest. Under Georgia law, a false or misleading statement to the Board in and of itself leaves you vulnerable to discipline by the Board, which can include, but is not limited to, refusal to renew your license, public reprimand, suspension, or, in very serious cases, revocation. O.C.G.A. §§ 43-1-19(a) and (d).

Upon renewal, the smart and right thing to do is to report any arrest other than for a minor traffic violation. The Board’s reaction will then depend on the specific facts and circumstances of your arrest, the severity of the charges, whether violence was involved, whether you were accused of being impaired by alcohol or controlled substances while driving, whether there was an allegation of diversion, etc. Again, depending on the circumstances, and particularly if alcohol, illegal drugs or prescription medications played a role in the underlying arrest, the Board will likely request a sworn statement from you and order you to undergo a Mental and Physical Evaluation by a Board-approved psychiatrist who is certified in addiction to help the Board determine whether to permit you to continue practicing as a nurse.

The life cycle of a Board investigation and possible outcomes are fodder for another article. While

being arrested and reporting the arrest to the Board of Nursing is stressful, and navigating through the resulting Board investigation is scary, failing to report the arrest upon application for renewal of your license will make a bad situation even worse. It may sound trite, but when it comes to renewing your license, honesty is the best policy.

Susan J. Levy is the founding and managing partner of Levy Pruett Cullen. She has been recognized by her peers as a Georgia Super Lawyer in 2019 and 2020. A native of Pittsburgh, PA, Susan received her BA from Cornell University and graduated with distinction from Emory Law School.

An AV-rated lawyer, Susan primarily assists nurses, physicians, and other healthcare professionals in obtaining their licenses, defending against disciplinary actions, and avoiding future or collateral consequences of criminal or administrative licensing actions.

Susan currently serves on the 2020 Atlanta Jewish Film Festival selection committee. She and her family reside in Decatur.

¹ Not all states require that nurses report arrests when they seek renewal of their licenses, but Georgia does.

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