

## **BOARD POLICY**

## **Withholding a Licensee's Response to Complaint**

### **General**

**POLICY:** It is the policy of the Maine State Board of Nursing that it withhold a licensee's response to a complaint, or portions thereof, from the complainant when the original response or portions thereof would be detrimental to the health of the complainant, utilizing the following process.

**PROCESS:** Licensees and/or board staff may identify situations in which providing the licensee's response or portions thereof might be detrimental to the health of the complainant. In such situations, either the licensee or the board staff may request that the response or portions thereof be withheld from the complainant. Any request made pursuant to this policy shall specifically identify those portions of the response that may be detrimental to the health of the complainant and the reasoning, and be processed as follows:

1. The board Executive Director and the board attorney(s) will review the complaint, the licensee's response, and the request (including reasoning or justification) for withholding the response from the complainant;
2. The board will make the decision regarding whether the release of the licensee's response to the complainant would be detrimental to the health of the complainant;
3. If the request to withhold the licensee's response is approved by the board, the licensee will be granted an additional ten (10) days to submit a general response to be shared with the complainant; and
4. If the licensee does not submit a general response to the board within ten (10) days, the board staff, may take any one of the following actions:
  - a) Create a summary of the licensee's original response that does not include information that might be detrimental to the health of the complainant and provide it to the complainant;
  - b) Provide the complainant with a copy of the licensee's response that does not include information that might be detrimental to the health of the complainant; or
  - c) Notify the complainant that they have not been provided with the licensee's response because it may be detrimental to their health.

**HISTORY:** Licensee responses to complaints are shared with complainants as required by 32 M.R.S. § 2105-A(1-A). However, § 2105-A(1-A) also provides the board with discretion to withhold a licensee's response from a complainant if the "board determines that it would be detrimental to the health of the complainant to obtain the response."

By approving this policy, the Board establishes a procedure for handling requests to withhold a licensee's response or portions thereof from a complainant.

EFFECTIVE DATE: December 5, 2019