

32 §1077. DISCIPLINARY ACTIONS

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1. Disciplinary proceedings and sanctions. Regarding noncompliance with or violation of this chapter or of rules adopted by the board, the board shall investigate a complaint on its own motion or upon receipt of a written complaint filed with the board.

The board shall notify the licensee of the content of a complaint filed against the licensee soon as possible, but no later than 60 days from receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it considers appropriate:

- A. With the consent of the licensee, enter into a consent agreement that fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office; [1993, c. 600, Pt. A, §62 (AMD).]
- B. In consideration for acceptance of a voluntary surrender of the license, if a consent agreement is signed by the board, the licensee and the Attorney General's office, negotiate stipulations, including terms and conditions for reinstatement, that ensure protection of the public health and safety and that serve to rehabilitate or educate the licensee; [1993, c. 600, Pt. A, §62 (AMD).]
- C. If the board concludes that modification or nonrenewal of the license is in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or [1993, c. 600, Pt. A, §62 (AMD).]
- D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the District Court in accordance with Title 4, chapter 5. [1999, c. 547, Pt. B, §60 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

[1999, c. 547, Pt. B, §60 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following are grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

- A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued; [1983, c. 378, §7 (NEW).]
- B. Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients; [1993, c. 600, Pt. A, §62 (AMD).]
- C. A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients; [1993, c. 600, Pt. A, §62 (AMD).]
- D. Aiding or abetting the practice of a dental profession by an individual who is not licensed under this chapter and who claims to be legally licensed; [1993, c. 600, Pt. A, §62 (AMD).]

E. Incompetence in the practice for which the licensee is licensed. A licensee is considered incompetent in the practice if the licensee has:

- (1) Engaged in conduct that evidences a lack of ability or fitness to perform the duties owed by the licensee to a client or patient or the general public; or
- (2) Engaged in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed; [1993, c. 600, Pt. A, §62 (AMD).]

F. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established in the practice for which the licensee is licensed; [1993, c. 600, Pt. A, §62 (AMD).]

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement or that relates directly to the practice for which the licensee is licensed, or conviction of a crime for which incarceration for one year or more may be imposed; [1993, c. 600, Pt. A, §62 (AMD).]

H. A violation of this chapter or a rule adopted by the board; or [1993, c. 600, Pt. A, §62 (AMD).]

I. Engaging in false, misleading or deceptive advertising. [1983, c. 378, §7 (NEW).]

[1993, c. 600, Pt. A, §62 (AMD) .]

SECTION HISTORY

1983, c. 378, §7 (NEW). 1993, c. 600, §A62 (AMD). 1999, c. 547, §B60 (AMD). 1999, c. 547, §B80 (AFF).

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