

## 32 §3282-A. DISCIPLINARY SANCTIONS

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**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, restrict, suspend, revoke or refuse to renew the license of an individual 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, §53 (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, §218 (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, §218 (AMD).]

D. Aiding or abetting the practice of medicine by an individual who is not licensed under this chapter and who claims to be legally licensed; [1993, c. 600, Pt. A, §218 (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 discharge the duty 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, §218 (AMD).]

F. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior, including engaging in disruptive behavior, that has been established in the practice for which the licensee is licensed. For purposes of this paragraph, "disruptive behavior" means aberrant behavior that interferes with or is likely to interfere with the delivery of care; [2007, c. 380, §3 (AMD).]

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement or 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, §218 (AMD).]

H. A violation of this chapter or a rule adopted by the board; [1993, c. 600, Pt. A, §218 (AMD).]

I. Engaging in false, misleading or deceptive advertising; [1983, c. 378, §53 (NEW).]

J. Prescribing narcotic or hypnotic or other drugs listed as controlled substances by the Drug Enforcement Administration for other than accepted therapeutic purposes; [1989, c. 291, §4 (AMD).]

K. Failure to report to the secretary of the board a physician licensed under this chapter for addiction to alcohol or drugs or for mental illness in accordance with Title 24, section 2505, except when the impaired physician is or has been a patient of the licensee; [1997, c. 680, Pt. C, §6 (AMD).]

L. Failure to comply with the requirements of Title 24, section 2905-A; or [1997, c. 680, Pt. C, §7 (AMD).]

M. Revocation, suspension or restriction of a license to practice medicine or other disciplinary action; denial of an application for a license; or surrender of a license to practice medicine following the institution of disciplinary action by another state or a territory of the United States or a foreign country if

the conduct resulting in the disciplinary or other action involving the license would, if committed in this State, constitute grounds for discipline under the laws or rules of this State. [1997, c. 680, Pt. C, §8 (NEW).]

[ 2007, c. 380, §3 (AMD) .]

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

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but not later than 60 days after receipt of this information. The licensee shall respond within 30 days. The board shall share the licensee's response with the complainant, unless the board determines that it would be detrimental to the health of the complainant to obtain the response. 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 or a subcommittee of the board may request and conduct an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and the issues to be discussed. The complainant may attend and may be accompanied by up to 2 individuals, including legal counsel. The conference must be conducted in executive session of the board or a subcommittee of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Before the board decides what action to take at the conference or as a result of the conference, the board or a subcommittee of the board shall give the complainant a reasonable opportunity to speak. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent. The complainant, the licensee or either of their representatives shall maintain the confidentiality of the conference.

When a complaint has been filed against a licensee and the licensee moves or has moved to another state, the board may report to the appropriate licensing board in that state the complaint that has been filed, other complaints in the physician's record on which action was taken and disciplinary actions of the board with respect to that physician.

When an individual applies for a license under this chapter, the board may investigate the professional record of that individual, including professional records that the individual may have as a licensee in other states. The board may deny a license or authorize a restricted license based on the record of the applicant in other states.

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 determines appropriate.

A. With the consent of the licensee, the board may enter into a consent agreement that fixes the period and terms of probation best adapted to protect the public health and safety and 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. [1991, c. 824, Pt. A, §68 (RPR).]

B. In consideration for acceptance of a voluntary surrender of the license, the board may negotiate stipulations, including terms and conditions for reinstatement, that ensure protection of the public health and safety and serve to rehabilitate or educate the licensee. These stipulations may be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office. [1991, c. 824, Pt. A, §68 (RPR).]

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 Title 5, chapter 375, subchapter 4. [2009, c. 28, §1 (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, §67 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

The board shall require a licensee to notify all patients of the licensee of a probation or stipulation under which the licensee is practicing as a result of board disciplinary action. This requirement does not apply to a physician participating in an alcohol or drug treatment program pursuant to Title 24, section 2505, a physician who retires following charges made or complaints investigated by the board or a physician under the care of a professional and whose medical practices and services are not reduced, restricted or prohibited by the disciplinary action.

[ 2009, c. 28, §1 (AMD) .]

SECTION HISTORY

1983, c. 378, §53 (NEW). 1989, c. 291, §§4,5 (AMD). 1991, c. 186, (AMD). 1991, c. 534, §7 (AMD). 1991, c. 824, §A68 (AMD). 1993, c. 600, §A218 (AMD). 1997, c. 680, §§C4-8 (AMD). 1999, c. 547, §B67 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 380, §3 (AMD). 2009, c. 28, §1 (AMD).

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