§18325. Disciplinary action; judicial review

1. Disciplinary action. In addition to the powers under Title 10, section 8003, subsection 5-A, the board may suspend, revoke or refuse to issue or renew 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, deceit or misrepresentation in obtaining a license or authority from the board or in connection with services within the scope of the license or authority; [PL 2015, c. 429, §21 (NEW).]

B. Misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients; [PL 2015, c. 429, §21 (NEW).]

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; [PL 2015, c. 429, §21 (NEW).]

D. Incompetence in the practice for which the licensee is licensed or authorized by the board. 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; [PL 2015, c. 429, §21 (NEW).]

E. 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 or authorized by the board; [PL 2015, c. 429, §21 (NEW).]

F. 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 authorized by the board, or conviction of a crime for which incarceration for one year or more may be imposed; [PL 2015, c. 429, §21 (NEW).]

G. Engaging in false, misleading or deceptive advertising; [PL 2015, c. 429, §21 (NEW).]

H. Aiding or abetting unlicensed practice by a person who is not licensed or authorized as required under this chapter; [PL 2015, c. 429, §21 (NEW).]

I. Failure to provide supervision as required under this chapter or a rule adopted by the board; [PL 2015, c. 429, §21 (NEW).]

J. Engaging in any activity requiring a license or authority under this chapter or rule adopted by the board that is beyond the scope of acts authorized by the license or authority held; [PL 2015, c. 429, §21 (NEW).]

K. Continuing to act in a capacity requiring a license or authority under this chapter or a rule adopted by the board after expiration, suspension or revocation of that license or authority; [PL 2015, c. 429, §21 (NEW).]

L. Noncompliance with an order of or consent agreement executed by the board; [PL 2015, c. 429, §21 (NEW).]

M. Failure to produce any requested documents in the licensee's possession or under the licensee's control relevant to a pending complaint, proceeding or matter under investigation by the board; [PL 2015, c. 429, §21 (NEW).]

N. [PL 2023, c. 17, Pt. P, §19 (RP).]

O. A violation of this chapter or a rule adopted by the board; [PL 2021, c. 134, §1 (AMD).]

P. Failure to comply with the requirements of Title 22, section 7253; and [PL 2021, c. 134, §2 (AMD).]

Q. Administering botulinum toxins or dermal fillers to a patient when that administration is not supported by a diagnosed dental condition or is not part of a patient's dental treatment plan. This paragraph does not apply to a dentist who has successfully completed postgraduate training and certification in oral and maxillofacial surgery from a program accredited by the American Dental Association Commission on Dental Accreditation or its successor organization. [PL 2021, c. 134, §3 (NEW).]

[PL 2023, c. 17, Pt. P, §19 (AMD).]

1-A. Authority to file in court.
[PL 2023, c. 17, Pt. P, §20 (RP).]

2. Judicial review. Notwithstanding any provision of Title 10, section 8003, subsection 5-A to the contrary, any nonconsensual revocation pursuant to Title 10, section 8003, subsection 5-A of a license or authority issued by the board may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 and is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.
[PL 2023, c. 17, Pt. P, §21 (AMD).]

3. Letters of guidance. In addition to the authority conferred under Title 10, section 8003, subsection 5-A, the board may issue a letter of guidance or concern to a licensee or registrant. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or registrant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any provision of law to the contrary, a letter of guidance or concern is not confidential. The board may place a letter of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's or registrant's file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the board in any subsequent action commenced against the licensee or registrant within the specified time frame. Complaints, reports and investigation materials placed on file are only confidential to the extent that confidentiality is required pursuant to Title 24, chapter 21.
[PL 2023, c. 515, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2015, c. 488, §§33, 34 (AMD). PL 2017, c. 210, Pt. J, §1 (AMD). PL 2021, c. 134, §§1-3 (AMD). PL 2023, c. 17, Pt. P, §§19-21 (AMD). PL 2023, c. 515, §2 (AMD).

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