

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2224. Discipline, Reasons for.

(a) *Scope.* The Board's complete power, authority, and jurisdiction shall extend to any person engaging in, or purporting to engage in, the practice of a health care profession regulated pursuant to this chapter, including persons offering their own services or the services of their employees or agents.

(b) *Reasons for discipline.* The Board may discipline a person for reasons which include the following:

(1) Crimes:

(i) Conviction in any jurisdiction of:

(A) A crime involving moral turpitude;

(B) A crime related to a health care profession;

(C) A felony; and/or

(ii) A plea of nolo contendere or its equivalent accepted by an agency or court shall be considered a conviction for the purposes of this section.

(2) Committing a fraud, misrepresentation, or deception in applying for, renewing or otherwise securing a health care professional license, or in taking an examination required for such a license;

(3) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to mislead, deceive, defraud or harm the public with respect to a health care profession;

(4) Negligence, incompetence or misconduct in the practice of a health care profession;

(5) Intentionally violating a Commonwealth or federal statute or regulation governing a controlled substance;

(6) Habitually or excessively using or abusing drugs or alcohol to such extent as to render the person incapable of exercising the required degree of skill and judgment for the treatment of patients in the Commonwealth;

(7) Being physically or mentally incompetent to practice the person's health care profession to such an extent as to endanger the person or the public;

(8) Representing to a patient that a manifestly incurable condition or sickness, disease, or injury can be permanently cured, or representing that any disease, ailment or infirmity can be cured by a secret method, procedure, treatment, medicine or device, if such is not the fact.

(9) Making a false, fraudulent, deceptive or misleading statement in:

(i) A document connected with the practice of a health care profession; and/or

(ii) Advertising;

(10) Advertising procedures and practices which are unlawful in the Commonwealth;

(11) Advertising, or otherwise offering to engage, or in fact engaging, in the practice of a health care profession without first complying with the requirements of this chapter.

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- (12) Giving fraudulent, deceptive, misleading or intentionally false testimony while serving as an expert witness;
- (13) Practicing a health care profession as an individual under a false or assumed name, except for the use of an additional, duly registered business name;
- (14) Commission of an act of sexual misconduct, which exploits the professional-patient relationship;
- (15) Persistent, deliberate over-charging or over-treating of patients;
- (16) Obtaining a fee by fraud, deceit or misrepresentation;
- (17) Violating the confidentiality between the health care professional and patient, except as allowed, or required by law;
- (18) Violating an order of a court of a U.S. jurisdiction;
- (19) Misusing a license, including:
 - (i) Using or attempting to use: an expired, suspended or revoked license;
 - (ii) Misrepresenting to the public a conditional, limited or temporary license;
 - (iii) Practicing, or offering to practice, a health care profession without a valid license issued by the Board;
 - (iv) Allowing another person or firm to use the licensee's license to practice a health care profession, except for:
 - (A) The employment of a person;
 - (B) Under the licensee's direct supervision and control;
 - (C) In the ordinary course of the conduct of the profession; and
 - (D) Consistent with the Board's regulations.
- (20) Aiding or abetting an unregulated person to practice a health care profession in violation of this Chapter;
- (21) Without having a valid license from the Board, using any of the health care profession titles listed in this chapter, or modifications, derivatives, or acronyms thereof, in the individual or firm name, or in any title, sign, card, ad, electronic communication, or other device to indicate that the person is practicing such profession;
- (22) With respect to other jurisdictions:
 - (i) Being subject to a health profession disciplinary action from another jurisdiction based upon acts or conduct by the licensee similar to acts or conduct that would support disciplinary action under this chapter;
 - (ii) Failing to report to the Board an adverse action taken against the person by another jurisdiction's health care profession regulatory agency or court, by a professional peer body, by a health care institution, by a health care professional society or association, by a governmental agency, including a law enforcement agency or by a court for acts or conduct similar to acts or conduct that would support disciplinary action under this chapter;

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(iii) Failing to report to the Board the surrender of a license to practice a health care profession in another jurisdiction, or the surrender of membership in any health care profession association or society while under the disciplinary investigation by an authority, organization, agency, court or other body;

(23) Failing to report to the Board an adverse judgment, settlement or award arising from a claim concerning the person's practice of a health care profession;

(24) Violating a provision of this chapter, or a regulation promulgated pursuant to it;

(25) Violating a provision of an order entered pursuant to this chapter, or a regulation promulgated pursuant thereto, by the Board or a court, including an adverse order, a consent order, a stipulation or an agreement;

(26) Aiding or assisting another person in violating a provision of this chapter, a rule or regulation promulgated pursuant thereto, or an order, stipulation or agreement of the Board or a court;

(27) Failing to timely furnish the Board, or its investigators, representatives, or other agents, with lawfully requested information;

(28) Failing to cooperate with a lawful investigation conducted by the Board, including lying to a Board investigator or withholding information; or

(29) Destroying, or attempting to destroy information apparently related to an investigation conducted by the Board.

(c) *Evidence*. In a proceeding brought in whole or in part under this chapter the following shall be treated as admissible evidence to establish the truth of the matters stated therein:

(1) A certified copy of the record of an action taken by the professional licensing Board or court of another jurisdiction; and

(2) An order, a plea, plea agreement or acceptance thereof, or judgment entered by the professional licensing Board or court of another jurisdiction.

(d) *Separate offenses*. Each act violating a provision of this chapter and/or regulations promulgated thereunder shall constitute a separate offense, subject to discipline, including a civil or criminal fine or penalty.

Source: PL 3-30, § 9; repealed and reenacted by PL 15-105, § 3(2224).