

Title 10 MARYLAND DEPARTMENT OF HEALTH

Subtitle 42 BOARD OF SOCIAL WORK EXAMINERS

Chapter 09 Disciplinary Sanctions and Monetary Penalties

Authority: Health Occupations Article, §§19-311 and 19-311.1, Annotated Code of Maryland

.01 Scope.

This chapter establishes standards for sanctions and monetary penalties not exceeding \$10,000 against any social worker in the State if, after a hearing, the Board finds that there are grounds under Health Occupations Article, §19-311.1, Annotated Code of Maryland, to impose a sanction or monetary penalty.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Board" means the State Board of Social Work Examiners.

(2) "License" means a license issued by the Board to practice social work.

(3) "Licensee" means a social worker who is licensed by the Board to practice social work.

(4) "Penalty" means monetary penalty.

(5) "Sanction" means a formal disciplinary action against a license such as a reprimand, probation, suspension or revocation.

.03 Imposition of a Penalty after a Hearing.

If, after a hearing under Health Occupations Article, §19-312, Annotated Code of Maryland, the Board finds that there are grounds under Health Occupations Article, §19-311, Annotated Code of Maryland, to suspend or revoke a license, the Board may impose a penalty as set forth in this chapter:

A. Instead of, or in addition to, suspending the license; or

B. In addition to revoking the license.

.04 Guidelines for Disciplinary Sanctions and Imposition of Penalties.

A. Subject to the provisions of this section, the Board may impose sanctions and penalties for violations of the Maryland Social Workers Act, Health Occupations Article, §19-311, Annotated Code of Maryland, and according to the guidelines set forth in the following chart:

VIOLATION	Minimum SANCTION/PENALTY	Maximum SANCTION/PENALTY
(1) Fraudulently or deceptively obtains, attempts to obtain a license	Active suspension for 90 days, or \$2,000 fine, or both	Denial of a license application or revocation, or \$10,000 fine, or both
(2) Fraudulently uses a license	Active suspension for 90 days, or \$2,000 fine, or both	Denial of a license application or revocation, or \$10,000 fine, or both
(3) Physical or mental incompetence	Probation of 1 year	Denial of license application or revocation
(4) Commits any act of gross negligence, incompetence, or misconduct in the practice of social work	Probation for 1 year, or \$1,000 fine, or both	Revocation, or \$10,000 fine, or both
(5) Knowingly violates any provision of Health Occupations Article, Title 19, Annotated Code of Maryland	Probation for 1 year, or \$1,000 fine, or both	Revocation, or \$10,000 fine, or both
(6) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work	Probation for 1 year, or \$1,000 fine, or both	Revocation, or \$10,000 fine, or both
(7) Violates any provision of this title or regulations governing the practice of social work adopted and published by the Board	Reprimand, or \$200 fine, or both	Revocation, or \$10,000 fine, or both
(8) Is convicted of or pleads guilty or nolo contendere to a felony or crime of moral turpitude	Probation for 1 year, or \$1,000 fine, or both	Denial of license application or revocation, or \$10,000 fine, or both
(9) Provides professional services while: under the influence of alcohol; or using any narcotic or controlled dangerous substance	Probation for 1 year, or \$2,000 fine, or both	Revocation, or \$10,000 fine, or both
(10) Reciprocal discipline	Reprimand, or \$200 fine, or both	Denial of license application or revocation, or \$10,000 fine, or both
(11) Practices social work with an unauthorized person or supervises or aids an unauthorized person in the practice of social work	Reprimand, or \$1,000 fine, or both	Revocation, or \$10,000 fine, or both
(12) Knowingly makes or files a false report in the practice of social work	Probation for 1 year, or \$2,000 fine, or both	Revocation, or \$10,000 fine, or both
(13) Knowingly fails to file or record any report as required under law	Reprimand, or \$200 fine, or both	Revocation, or \$10,000 fine, or both
(14) Knowingly fails to report suspected child abuse in violation of Family Law Article, §5-704, Annotated Code of Maryland	Reprimand, or \$200 fine, or both	Revocation, or \$10,000 fine, or both
(15) Submits a false statement to collect a fee	Probation for 1 year, or \$2,000 fine, or both	Revocation, or \$10,000 fine, or both
(16) Discrimination	Reprimand, or \$200 fine, or both	Probation for 2 years, or \$2,000 fine, or both
(17) Failure to cooperate with a lawful investigation conducted by the Board	Reprimand, or \$200 fine, or both	Denial of license application or revocation, or \$10,000 fine, or both

(18) Exploitation/undue influence	Active suspension for 1 year, or \$2,000 fine, or both	Revocation, or \$10,000 fine, or both
(19) Knowingly fails to report suspected abuse or neglect of a vulnerable adult in violation of Criminal Law Article, §3-604 or 3-605, Annotated Code of Maryland	Reprimand, or \$200 fine, or both	Revocation, or \$10,000 fine, or both
(20) Fails to comply with the requirements of any order entered by the Board	Reprimand, or \$2,000 fine, or both	Denial of license application or revocation, or \$10,000 fine, or both
(21) Record-keeping violations	Reprimand	Probation for 2 years
(22) Sexual misconduct or boundary violations within the professional relationship	Reprimand, or \$200 fine, or both	Revocation, or \$10,000 fine, or both
(23) Violations of COMAR 10.42.03 Code of Ethics	Reprimand, or \$200 fine, or both	Revocation, or \$10,000 fine, or both

B. If a licensee is found in violation of more than one category enumerated in this chapter, the category or categories containing the highest maximum sanction and penalty shall prevail.

C. Notwithstanding the guidelines set forth in this chapter, in order to resolve a pending disciplinary action, the Board and licensee may agree to a surrender of license or a consent order with terms, sanction, and penalty agreed to by the Board and the licensee.

D. A departure from the guidelines set forth in this chapter alone is not grounds for any hearing or appeal of a Board action.

.05 Mitigating and Aggravating Factors to be Considered in the Assessment of the Sanction.

Depending on the facts and circumstances of each case, and to the extent that they apply, the Board may consider the following aggravating and mitigating factors in determining whether the sanction in a particular case should fall outside the range of sanctions established by the guidelines. These factors may include, but are not limited to, the following:

A. Mitigating Factors:

- (1) The licensee's lack of a prior disciplinary record;
- (2) The licensee self-reported the violation to the Board;
- (3) The licensee's full and voluntary admissions of misconduct to the Board and cooperation during Board proceedings;
- (4) Implementation of remedial measures to correct or mitigate harm arising from the misconduct;
- (5) Timely good-faith effort to make restitution or to rectify consequences of misconduct;
- (6) Evidence of rehabilitation or rehabilitative potential;
- (7) Absence of premeditation to commit the misconduct;

- (8) Absence of potential harm to public or adverse impact; and
- (9) The licensee's conduct was an isolated incident and not likely to recur.

B. Aggravating Factors:

- (1) The licensee has a previous criminal or administrative disciplinary history;
- (2) The violation was committed deliberately or with gross negligence or recklessness;
- (3) The violation had the potential for, or caused, serious patient or public harm;
- (4) The violation was part of a pattern of detrimental conduct;
- (5) The licensee was motivated to perform the violation for financial gain;
- (6) The vulnerability of the clients;
- (7) The licensee lacked insight into the wrongfulness of the conduct;
- (8) The licensee committed the violation under the guise of treatment; and
- (9) Previous attempts at rehabilitation of the licensee were unsuccessful.

C. The existence of one or more of these factors does not impose on the Board or an Administrative Law Judge any requirement to articulate its reasoning for not exercising its discretion to impose a sanction outside of the range of sanctions set forth in this chapter.

D. Nothing in this regulation requires the Board or an Administrative Law Judge to make findings of fact with respect to any of these factors.

.06 Payment of Penalty.

A. A licensee shall pay to the Board a penalty imposed under this chapter as of the date the Board's order is issued, unless the Board's order specifies otherwise.

B. Filing an appeal under State Government Article, §10-222, Annotated Code of Maryland, or Health Occupations Article, §19-313, Annotated Code of Maryland, does not automatically stay payment of a penalty imposed by the Board under this chapter.

C. If a licensee fails to pay, in whole or in part, a penalty imposed by the Board under this chapter, the Board may not restore, reinstate, or renew a license until the penalty has been paid in full.

D. In its discretion, the Board may refer all cases of delinquent payment to the Central Collection Unit of the Department of Budget and Management to institute and maintain proceedings to ensure prompt payment.

E. The Board shall pay all monies collected under this chapter into the State's General Fund.

.07 Civil Fines.

A. The Board may impose a civil fine of no less than \$1,000 and no more than \$50,000 against an individual who:

(1) Practices social work without a license in violation of Health Occupations Article, §19-311, Annotated Code of Maryland: or

(2) Misrepresents or implies to the public use of protected titles in violation of Health Occupations Article, §19-402, Annotated Code of Maryland.

B. Factors to be used in determining the amount of the fine may include, but are not limited to, the following:

(1) The extent to which the individual derived any financial benefit from the unauthorized practice or misrepresentation of title;

(2) The willfulness of the unauthorized practice or misrepresentation of title;

(3) Actual or potential harm caused by the unauthorized practice or misrepresentation of title;

(4) The cost of the investigation; and

(5) The length of time in which the individual engaged in the unauthorized practice or misrepresentation of title.

Administrative History

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