



## Ohio Revised Code Section 4752.09 Sanctions.

Effective: April 4, 2023

Legislation: Senate Bill 288

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(A) The state board of pharmacy may, in accordance with Chapter 119. of the Revised Code, impose any one or more of the following sanctions on an applicant for a license or certificate of registration issued under this chapter or a license or certificate holder for any of the causes set forth in division

(B) of this section:

- (1) Suspend, revoke, restrict, limit, or refuse to grant or renew a license or certificate of registration;
- (2) Reprimand or place the license or certificate holder on probation;
- (3) Impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or not more than five thousand dollars if the acts committed are not classified as an offense by the Revised Code.

(B) The board may impose the sanctions listed in division (A) of this section for any of the following:

- (1) Violation of any provision of this chapter or an order or rule of the board, as those provisions, orders, or rules are applicable to persons licensed under this chapter;
- (2) A plea of guilty to or a judicial finding of guilt of a felony or a misdemeanor that involves dishonesty or is directly related to the provision of home medical equipment services;
- (3) Making a material misstatement in furnishing information to the board;
- (4) Professional incompetence;
- (5) Being guilty of negligence or gross misconduct in providing home medical equipment services;



(6) Aiding, assisting, or willfully permitting another person to violate any provision of this chapter or an order or rule of the board, as those provisions, orders, or rules are applicable to persons licensed under this chapter;

(7) Failing to provide information in response to a written request by the board;

(8) Engaging in conduct likely to deceive, defraud, or harm the public;

(9) Denial, revocation, suspension, or restriction of a license to provide home medical equipment services, for any reason other than failure to renew, in another state or jurisdiction;

(10) Directly or indirectly giving to or receiving from any person a fee, commission, rebate, or other form of compensation for services not rendered;

(11) Knowingly making or filing false records, reports, or billings in the course of providing home medical equipment services, including false records, reports, or billings prepared for or submitted to state and federal agencies or departments;

(12) Failing to comply with federal rules issued pursuant to the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620(1935), 42 U.S.C. 1395, as amended, relating to operations, financial transactions, and general business practices of home medical services providers;

(13) Any other cause for which the board may impose sanctions as set forth in rules adopted under section 4752.17 of the Revised Code.

(C) Notwithstanding any provision of divisions (A) and (B) of this section to the contrary, the board shall not refuse to issue a license or certificate of registration to an applicant because of a plea of guilty to or a judicial finding of guilt of an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(D) The state board of pharmacy immediately may suspend a license without a hearing if it determines that there is evidence that the license holder is subject to actions under this section and that there is clear and convincing evidence that continued operation by the license holder presents an



immediate and serious harm to the public. The board shall follow the procedure for suspension without a prior hearing in section 119.07 of the Revised Code. The board may vote on the suspension by way of a telephone conference call.

A suspension under this division shall remain in effect, unless reversed by the board, until a final adjudication order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudication order not later than ninety days after completion of the hearing. The board's failure to issue the order by that day shall cause the summary suspension to end, but shall not affect the validity of any subsequent final adjudication order.

(E) If the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant or license or certificate holder does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt a final order that contains the board's findings. In the final order, the board may impose any of the sanctions listed in division (A) of this section.

(F) Notwithstanding the provision of division (D)(2) of section 2953.32 or division (F)(1) of section 2953.39 of the Revised Code specifying that if records pertaining to a criminal case are sealed or expunged under that section the proceedings in the case must be deemed not to have occurred, sealing or expungement of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.