



Ohio Revised Code

Section 4715.30 Disciplinary actions.

Effective: September 17, 2014

Legislation: House Bill 314 - 130th General Assembly

(A) An applicant for or holder of a certificate or license issued under this chapter is subject to disciplinary action by the state dental board for any of the following reasons:

(1) Employing or cooperating in fraud or material deception in applying for or obtaining a license or certificate;

(2) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;

(3) Advertising services in a false or misleading manner or violating the board's rules governing time, place, and manner of advertising;

(4) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(5) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(6) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, any felony or of a misdemeanor committed in the course of practice;

(7) Engaging in lewd or immoral conduct in connection with the provision of dental services;

(8) Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes, or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for intervention in lieu of conviction for, a violation of any federal or state law regulating the



possession, distribution, or use of any drug;

(9) Providing or allowing dental hygienists, expanded function dental auxiliaries, or other practitioners of auxiliary dental occupations working under the certificate or license holder's supervision, or a dentist holding a temporary limited continuing education license under division (C) of section 4715.16 of the Revised Code working under the certificate or license holder's direct supervision, to provide dental care that departs from or fails to conform to accepted standards for the profession, whether or not injury to a patient results;

(10) Inability to practice under accepted standards of the profession because of physical or mental disability, dependence on alcohol or other drugs, or excessive use of alcohol or other drugs;

(11) Violation of any provision of this chapter or any rule adopted thereunder;

(12) Failure to use universal blood and body fluid precautions established by rules adopted under section 4715.03 of the Revised Code;

(13) Except as provided in division (H) of this section, either of the following:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers dental services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that certificate or license holder;

(b) Advertising that the certificate or license holder will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers dental services, would otherwise be required to pay.

(14) Failure to comply with section 4729.79 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this



state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(16) Failure to cooperate in an investigation conducted by the board under division (D) of section 4715.03 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(17) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing to a minor a prescription for a controlled substance containing an opioid.

(B) A manager, proprietor, operator, or conductor of a dental facility shall be subject to disciplinary action if any dentist, dental hygienist, expanded function dental auxiliary, or qualified personnel providing services in the facility is found to have committed a violation listed in division (A) of this section and the manager, proprietor, operator, or conductor knew of the violation and permitted it to occur on a recurring basis.

(C) Subject to Chapter 119. of the Revised Code, the board may take one or more of the following disciplinary actions if one or more of the grounds for discipline listed in divisions (A) and (B) of this section exist:

(1) Censure the license or certificate holder;

(2) Place the license or certificate on probationary status for such period of time the board determines necessary and require the holder to:

(a) Report regularly to the board upon the matters which are the basis of probation;

(b) Limit practice to those areas specified by the board;



(c) Continue or renew professional education until a satisfactory degree of knowledge or clinical competency has been attained in specified areas.

(3) Suspend the certificate or license;

(4) Revoke the certificate or license.

Where the board places a holder of a license or certificate on probationary status pursuant to division (C)(2) of this section, the board may subsequently suspend or revoke the license or certificate if it determines that the holder has not met the requirements of the probation or continues to engage in activities that constitute grounds for discipline pursuant to division (A) or (B) of this section.

Any order suspending a license or certificate shall state the conditions under which the license or certificate will be restored, which may include a conditional restoration during which time the holder is in a probationary status pursuant to division (C)(2) of this section. The board shall restore the license or certificate unconditionally when such conditions are met.

(D) If the physical or mental condition of an applicant or a license or certificate holder is at issue in a disciplinary proceeding, the board may order the license or certificate holder to submit to reasonable examinations by an individual designated or approved by the board and at the board's expense. The physical examination may be conducted by any individual authorized by the Revised Code to do so, including a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife. Any written documentation of the physical examination shall be completed by the individual who conducted the examination.

Failure to comply with an order for an examination shall be grounds for refusal of a license or certificate or summary suspension of a license or certificate under division (E) of this section.

(E) If a license or certificate holder has failed to comply with an order under division (D) of this section, the board may apply to the court of common pleas of the county in which the holder resides for an order temporarily suspending the holder's license or certificate, without a prior hearing being



afforded by the board, until the board conducts an adjudication hearing pursuant to Chapter 119. of the Revised Code. If the court temporarily suspends a holder's license or certificate, the board shall give written notice of the suspension personally or by certified mail to the license or certificate holder. Such notice shall inform the license or certificate holder of the right to a hearing pursuant to Chapter 119. of the Revised Code.

(F) Any holder of a certificate or license issued under this chapter who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for intervention in lieu of conviction entered against the holder in this state for aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who has pleaded guilty to, has been convicted of, or has had a judicial finding of eligibility for treatment or intervention in lieu of conviction entered against the holder in another jurisdiction for any substantially equivalent criminal offense, is automatically suspended from practice under this chapter in this state and any certificate or license issued to the holder under this chapter is automatically suspended, as of the date of the guilty plea, conviction, or judicial finding, whether the proceedings are brought in this state or another jurisdiction. Continued practice by an individual after the suspension of the individual's certificate or license under this division shall be considered practicing without a certificate or license. The board shall notify the suspended individual of the suspension of the individual's certificate or license under this division by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate or license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the individual's certificate or license.

(G) If the supervisory investigative panel determines both of the following, the panel may recommend that the board suspend an individual's certificate or license without a prior hearing:

(1) That there is clear and convincing evidence that an individual has violated division (A) of this section;

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.



Written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than four dentist members of the board and seven of its members in total, excluding any member on the supervisory investigative panel, may suspend a certificate or license without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency or any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(H) Sanctions shall not be imposed under division (A)(13) of this section against any certificate or license holder who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person who holds a certificate or license issued pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

(I) In no event shall the board consider or raise during a hearing required by Chapter 119. of the Revised Code the circumstances of, or the fact that the board has received, one or more complaints



about a person unless the one or more complaints are the subject of the hearing or resulted in the board taking an action authorized by this section against the person on a prior occasion.

(J) The board may share any information it receives pursuant to an investigation under division (D) of section 4715.03 of the Revised Code, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state dental board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state dental board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.