

HOUSE BILL 1334

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8lr1795

By: **Delegates Morhaim, Elliott, and Nathan-Pulliam**

Introduced and read first time: February 8, 2008

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Regulatory Boards – Additional Powers and Duties**

3 FOR the purpose of establishing additional powers and duties of health regulatory
4 boards; defining certain terms; requiring the Governor to appoint the members
5 of health regulatory boards in a certain manner; requiring health regulatory
6 boards and certain professional organizations to notify licensees or certificate
7 holders of certain vacancies and conduct certain balloting; establishing certain
8 procedures for the filing of complaints and the initiation and conduct of
9 investigations by health regulatory boards; requiring health regulatory boards
10 to adopt certain regulations regarding matters referred to the Office of
11 Administrative Hearings; establishing certain procedures regarding matters
12 referred to the Office of Administrative Hearings; establishing certain
13 timeframes for health regulatory boards to take disciplinary action against
14 licensees and certificate holders; authorizing health regulatory boards to stay
15 final orders under certain circumstances; establishing certain requirements for
16 individuals who conduct certain investigations; establishing certain
17 requirements for peer reviewers; altering certain voting requirements regarding
18 disciplinary actions; and generally relating to the establishment of additional
19 powers and duties of health regulatory boards.

20 BY adding to

21 Article – Health Occupations

22 Section 1–601 through 1–607 to be under the new subtitle “Subtitle 6. Health

23 Regulatory Boards; Additional Powers and Duties”; and 8–316(a–1),

24 12–313(b–1), 14–404(a–1), and 16–311(a–1)

25 Annotated Code of Maryland

26 (2005 Replacement Volume and 2007 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article – Health Occupations

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 1A-309, 2-314, 3-313, 4-315, 8-316(a), 10-315, 11-313, 12-313(b),
2 13-316, 14-404(a), 15-314, 16-311(a), 17-313, 18-313, and 19-311
3 Annotated Code of Maryland
4 (2005 Replacement Volume and 2007 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Health Occupations**

8 **SUBTITLE 6. HEALTH REGULATORY BOARDS; ADDITIONAL POWERS AND**
9 **DUTIES.**

10 **1-601.**

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (B) "ADMINISTRATIVE PROSECUTOR" MEANS AN ASSISTANT ATTORNEY
14 GENERAL ASSIGNED TO PREPARE AND PROSECUTE CHARGES AGAINST A
15 LICENSEE OR CERTIFICATE HOLDER BEFORE A HEALTH REGULATORY BOARD
16 OR THE OFFICE OF ADMINISTRATIVE HEARINGS.

17 (C) "HEALTH REGULATORY BOARD" MEANS:

18 (1) THE STATE ACUPUNCTURE BOARD;

19 (2) THE STATE BOARD OF EXAMINERS FOR AUDIOLOGISTS,
20 HEARING AID DISPENSERS, AND SPEECH-LANGUAGE PATHOLOGISTS;

21 (3) THE STATE BOARD OF CHIROPRACTIC EXAMINERS;

22 (4) THE STATE BOARD OF DENTAL EXAMINERS;

23 (5) THE STATE BOARD OF NURSING;

24 (6) THE STATE BOARD OF OCCUPATIONAL THERAPY PRACTICE;

25 (7) THE STATE BOARD OF EXAMINERS IN OPTOMETRY;

26 (8) THE STATE BOARD OF PHARMACY;

27 (9) THE STATE BOARD OF PHYSICAL THERAPY EXAMINERS;

28 (10) THE STATE BOARD OF PHYSICIANS;

- 1 (11) THE PHYSICIAN ASSISTANT ADVISORY COMMITTEE;
- 2 (12) THE STATE BOARD OF PODIATRIC MEDICAL EXAMINERS;
- 3 (13) THE STATE BOARD OF PROFESSIONAL COUNSELORS AND
4 THERAPISTS;
- 5 (14) THE STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS; AND
- 6 (15) THE STATE BOARD OF SOCIAL WORK EXAMINERS.

7 **1-602.**

8 NOTWITHSTANDING THE POWERS AND DUTIES OTHERWISE PROVIDED IN
9 THIS ARTICLE AND IN REGULATIONS ADOPTED BY THE SECRETARY, A HEALTH
10 REGULATORY BOARD SHALL HAVE THE POWERS AND DUTIES SET FORTH IN THIS
11 SUBTITLE.

12 **1-603.**

13 (A) TO THE EXTENT PRACTICABLE, MEMBERS APPOINTED TO EACH
14 HEALTH REGULATORY BOARD BY THE GOVERNOR, WITH THE ADVICE OF THE
15 SECRETARY, SHALL REASONABLY REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC,
16 CULTURAL, AND GENDER DIVERSITY OF THE STATE.

17 (B) TO THE EXTENT PRACTICABLE, FOR EACH VACANCY ON A HEALTH
18 REGULATORY BOARD, THE HEALTH REGULATORY BOARD OR ANY
19 PROFESSIONAL ORGANIZATION THAT SUBMITS A LIST OF NAMES TO THE
20 GOVERNOR AND THE SECRETARY SHALL:

21 (1) NOTIFY BY MAIL ALL LICENSEES OR CERTIFICATE HOLDERS
22 IN THE STATE OF THE VACANCY TO SOLICIT NOMINATIONS TO FILL THE
23 VACANCY; AND

24 (2) CONDUCT A BALLOTING PROCESS BY MAIL BY WHICH EVERY
25 LICENSEE IN THE STATE IS ELIGIBLE TO VOTE ON THE NAMES OF THE
26 LICENSEES TO BE SUBMITTED TO THE GOVERNOR.

27 **1-604.**

28 (A) (1) A MEMBER OF THE PUBLIC OR A MEMBER OF A HEALTH
29 REGULATORY BOARD MAY FILE A COMPLAINT WITH THE STAFF MEMBER OF A
30 HEALTH REGULATORY BOARD WHO HAS BEEN DESIGNATED TO REVIEW

1 COMPLAINTS TO ENSURE THAT ALL REQUIRED INFORMATION HAS BEEN
2 SUBMITTED.

3 (2) A COMPLAINT SHALL BE BASED ON PERSONAL KNOWLEDGE
4 AND VERIFIED BY AN AFFIDAVIT OF PERSONAL KNOWLEDGE.

5 (B) (1) A HEALTH REGULATORY BOARD MAY INITIATE AN INQUIRY, IF
6 ON REASONABLE BELIEF, THE BOARD BELIEVES THAT PATIENT OR PUBLIC
7 SAFETY IS AN ISSUE.

8 (2) PRIOR TO THE INITIATION OF AN INQUIRY, THE BOARD
9 SHALL:

10 (I) DOCUMENT THE EVIDENCE THAT SUPPORTS ITS
11 BELIEF; AND

12 (II) OBTAIN THE APPROVAL OF THE SECRETARY.

13 (C) AN INITIATION OF AN INVESTIGATION OR A FILING OF A COMPLAINT
14 SHALL OCCUR WITHIN THE EARLIER OF:

15 (1) FIVE YEARS FROM THE DATE AN ACTION WAS COMMITTED; OR

16 (2) THREE YEARS FROM THE DATE AN INJURY WAS DISCOVERED.

17 (D) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS
18 SUBSECTION, ON RECEIPT OF A COMPLAINT OR ON INITIATION OF AN INQUIRY, A
19 HEALTH REGULATORY BOARD SHALL NOTIFY THE LICENSEE OR CERTIFICATE
20 HOLDER.

21 (2) (I) IF THE HEALTH REGULATORY BOARD REASONABLY
22 BELIEVES THAT THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS
23 SUBSECTION WOULD JEOPARDIZE THE INQUIRY, THE BOARD MAY NOT NOTIFY
24 THE LICENSEE OR CERTIFICATE HOLDER.

25 (II) THE HEALTH REGULATORY BOARD SHALL DOCUMENT
26 THE BASIS FOR ITS BELIEF.

27 (III) THE DOCUMENTATION MAY BE SUBJECT TO
28 ADMINISTRATIVE OR JUDICIAL REVIEW.

29 (E) (1) ON RECEIPT OF A COMPLAINT OR INITIATION OF AN INQUIRY,
30 A DESIGNATED STAFF MEMBER SHALL REVIEW THE MATTER FOR THE

1 APPROPRIATE HEALTH REGULATORY BOARD TO DETERMINE IF THE MATTER
2 WARRANTS FURTHER INVESTIGATION.

3 (2) ON COMPLETION OF REVIEW BY THE STAFF MEMBER, THE
4 STAFF MEMBER SHALL REFER THE MATTER TO THE HEALTH REGULATORY
5 BOARD FOR REVIEW.

6 (3) (I) IF THE HEALTH REGULATORY BOARD DETERMINES
7 THAT THE MATTER DOES NOT WARRANT FURTHER REVIEW, IT SHALL NOTIFY
8 THE COMPLAINANT AND THE LICENSEE OR CERTIFICATE HOLDER.

9 (II) THE HEALTH REGULATORY BOARD SHALL NOTIFY THE
10 LICENSEE OR CERTIFICATE HOLDER IF THE BOARD DETERMINES THAT
11 FURTHER INVESTIGATION IS WARRANTED.

12 (F) (1) AN ASSISTANT ATTORNEY GENERAL WHO SERVES AS
13 COUNSEL TO A HEALTH REGULATORY BOARD MAY PARTICIPATE IN THE
14 INVESTIGATION OF ANY MATTER BEFORE THE BOARD.

15 (2) OTHER ASSISTANT ATTORNEYS GENERAL MAY NOT
16 PARTICIPATE IN THE INVESTIGATION OF A MATTER BEFORE THE BOARD.

17 (3) AN ASSISTANT ATTORNEY GENERAL WHO IS ASSIGNED TO
18 SERVE AS AN ADMINISTRATIVE PROSECUTOR MAY NOT:

19 (I) SERVE AS COUNSEL TO ANY HEALTH REGULATORY
20 BOARD;

21 (II) PARTICIPATE IN THE INVESTIGATION OF ANY MATTER
22 BEFORE A HEALTH REGULATORY BOARD; OR

23 (III) BE PROVIDED WITH ANY INFORMATION FROM ANY
24 INVESTIGATION BY A HEALTH REGULATORY BOARD UNTIL THE HEALTH
25 REGULATORY BOARD ISSUES CHARGES AGAINST A LICENSEE OR CERTIFICATE
26 HOLDER.

27 (4) AFTER A HEALTH REGULATORY BOARD ISSUES CHARGES,
28 THERE MAY NOT BE EX PARTE COMMUNICATION BETWEEN AN ADMINISTRATIVE
29 PROSECUTOR AND ANY BOARD STAFF OR COUNSEL TO THE BOARD.

30 (G) (1) AN INVESTIGATION BY A HEALTH REGULATORY BOARD INTO
31 THE ACTIONS OF A LICENSEE OR CERTIFICATE HOLDER REGARDING A
32 DISCIPLINARY MATTER SHALL INCLUDE AN OPPORTUNITY FOR THE LICENSEE

1 OR CERTIFICATE HOLDER TO REVIEW AND RESPOND TO ANY ALLEGATIONS
2 MADE IN THE COURSE OF THE INVESTIGATION.

3 (2) THE RESPONSE OF A LICENSEE OR CERTIFICATE HOLDER
4 SHALL BE:

5 (I) MADE A PART OF THE INVESTIGATIVE RECORD; AND

6 (II) REVIEWED BY THE BOARD PRIOR TO THE ISSUANCE OF
7 ANY CHARGES.

8 (H) (1) IF A HEALTH REGULATORY BOARD MAKES A DECISION TO
9 CHARGE A LICENSEE OR CERTIFICATE HOLDER, IT SHALL REFER THE CASE TO
10 AN ADMINISTRATIVE PROSECUTOR TO DRAFT THE CHARGES AGAINST THE
11 LICENSEE OR CERTIFICATE HOLDER.

12 (2) ON THE REFERRAL OF A CASE TO AN ADMINISTRATIVE
13 PROSECUTOR, THERE SHALL BE NO EX PARTE COMMUNICATION BETWEEN THE
14 BOARD AND THE ADMINISTRATIVE PROSECUTOR REGARDING THE CASE.

15 (3) (I) THE HEALTH REGULATORY BOARD SHALL ISSUE ANY
16 CHARGES WITHIN 12 MONTHS OF THE DATE OF RECEIPT OF A COMPLAINT OR
17 THE INITIATION OF AN INQUIRY BY THE BOARD.

18 (II) IF EXTENUATING CIRCUMSTANCES PREVENT THE
19 HEALTH REGULATORY BOARD FROM ISSUING CHARGES WITHIN 12 MONTHS,
20 THE BOARD SHALL DOCUMENT THE CIRCUMSTANCES.

21 (III) THE CIRCUMSTANCES MAY BE SUBJECT TO
22 SUBSEQUENT ADMINISTRATIVE OR JUDICIAL REVIEW.

23 (4) THE BOARD SHALL DISMISS THE CHARGES IF:

24 (I) SUBSEQUENT ADMINISTRATIVE OR JUDICIAL REVIEW
25 DEEMS THE CIRCUMSTANCES TO BE INSUFFICIENT; OR

26 (II) THERE IS NO DOCUMENTATION OF EXTENUATING
27 CIRCUMSTANCES AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION.

28 (J) A HEALTH REGULATORY BOARD SHALL DISCLOSE THE ENTIRE
29 CONTENTS OF AN INVESTIGATORY FILE TO A LICENSEE OR CERTIFICATE
30 HOLDER WITHIN 10 DAYS OF THE DATE OF ISSUANCE OF CHARGES AGAINST THE
31 LICENSEE OR CERTIFICATE HOLDER.

1 **(K) (1) EACH HEALTH REGULATORY BOARD SHALL ADOPT**
2 **REGULATIONS FOR THE CONDUCT OF DISCOVERY AND THE HEARING OF**
3 **CHARGES AGAINST A LICENSEE OR CERTIFICATE HOLDER.**

4 **(2) THE REGULATIONS SHALL ENSURE:**

5 **(I) FULL AND FAIR DISCLOSURE OF RELEVANT FACTS; AND**

6 **(II) UNBIASED ADJUDICATION.**

7 **(L) WHEN PROSECUTING A CHARGE AGAINST A LICENSEE OR**
8 **CERTIFICATE HOLDER, A HEALTH REGULATORY BOARD OR AN ADMINISTRATIVE**
9 **PROSECUTOR MAY NOT USE AS EVIDENCE CONFIDENTIAL INFORMATION IN THE**
10 **FILES OF THE HEALTH REGULATORY BOARD REGARDING THE LICENSEE OR**
11 **CERTIFICATE HOLDER.**

12 **1-605.**

13 **(A) EACH HEALTH REGULATORY BOARD THAT REFERS A MATTER TO**
14 **THE OFFICE OF ADMINISTRATIVE HEARINGS FOR PROPOSED OR FINAL**
15 **FINDINGS OF FACT OR CONCLUSIONS OF LAW SHALL ADOPT REGULATIONS**
16 **ESTABLISHING PROCEDURES FOR:**

17 **(1) FILING EXCEPTIONS TO THE PROPOSED OR FINAL FINDINGS**
18 **OF FACT OR CONCLUSIONS OF LAW; AND**

19 **(2) HEARINGS ON EXCEPTIONS TO THE PROPOSED OR FINAL**
20 **FINDINGS OF FACT OR CONCLUSIONS OF LAW.**

21 **(B) (1) IF A HEALTH REGULATORY BOARD DELEGATES TO THE**
22 **OFFICE OF ADMINISTRATIVE HEARINGS THE AUTHORITY TO ISSUE FINAL**
23 **FINDINGS OF FACT, THE BOARD MAY NOT DISREGARD THE FINDINGS OF THE**
24 **OFFICE ABSENT A STRONG SHOWING OF THE BOARD THAT THERE IS**
25 **SUBSTANTIAL EVIDENCE IN THE RECORD TO SUPPORT THE DECISION OF THE**
26 **HEALTH REGULATORY BOARD.**

27 **(2) THE DECISION OF THE HEALTH REGULATORY BOARD NOT TO**
28 **ACCEPT THE FINDINGS OF THE OFFICE OF ADMINISTRATIVE HEARINGS IS**
29 **SUBJECT TO JUDICIAL REVIEW TO DETERMINE IF THE ACTION OF THE BOARD**
30 **WAS ARBITRARY OR CAPRICIOUS.**

31 **(C) (1) IN A HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE, A**
32 **LICENSEE OR CERTIFICATE HOLDER MAY RAISE ANY PROCEDURAL**

1 IRREGULARITY OR DEFECT CONCERNING THE INVESTIGATION OR ISSUANCE OF
2 CHARGES BY A HEALTH REGULATORY BOARD.

3 (2) THE ADMINISTRATIVE LAW JUDGE MAY ISSUE PROPOSED
4 FINDINGS OF FACT OR CONCLUSIONS OF LAW REGARDING AN ALLEGED
5 IRREGULARITY OR DEFECT.

6 (3) (I) THE BOARD MAY CHOOSE NOT TO ACCEPT THE
7 FINDINGS OF FACT OR CONCLUSIONS OF LAW BASED ON A COMPELLING
8 REASON.

9 (II) IN ITS FINAL ORDER, THE BOARD SHALL DOCUMENT
10 THE NATURE OF THE COMPELLING REASON.

11 (III) THE DECISION OF THE BOARD NOT TO ACCEPT THE
12 FINDINGS OF FACT OR CONCLUSIONS OF LAW OF THE OFFICE OF
13 ADMINISTRATIVE HEARINGS IS SUBJECT TO JUDICIAL REVIEW TO DETERMINE
14 IF THE ACTION OF THE BOARD WAS ARBITRARY OR CAPRICIOUS.

15 **1-606.**

16 (A) (1) A HEALTH REGULATORY BOARD SHALL DISMISS A
17 COMPLAINT, PLACE A LICENSEE ON PROBATION, OR SUSPEND OR REVOKE THE
18 LICENSE OF A LICENSEE OR CERTIFICATE OF A CERTIFICATE HOLDER, WITHIN 2
19 YEARS OF THE DATE OF FILING OF THE COMPLAINT OR THE INITIATION OF AN
20 INQUIRY BY THE BOARD.

21 (2) IF THERE ARE EXTENUATING CIRCUMSTANCES THAT
22 PREVENT A BOARD FROM RESOLVING A MATTER WITHIN 2 YEARS, THE BOARD
23 SHALL DOCUMENT THOSE CIRCUMSTANCES IN THE FINAL ORDER OF THE
24 BOARD.

25 (3) THE FINAL ORDER OF THE BOARD IS SUBJECT TO JUDICIAL
26 REVIEW TO DETERMINE IF THE ACTION OF THE BOARD NOT TO RESOLVE THE
27 MATTER WITHIN 2 YEARS WAS ARBITRARY OR CAPRICIOUS.

28 (B) IF THERE IS NO IMMINENT HARM TO THE PUBLIC, A BOARD MAY
29 STAY A FINAL ORDER PENDING ADMINISTRATIVE OR JUDICIAL REVIEW.

30 **1-607.**

31 (A) AN INDIVIDUAL WHO CONDUCTS AN INVESTIGATION FOR A HEALTH
32 REGULATORY BOARD SHALL HAVE PROFESSIONAL BACKGROUND, TRAINING, OR
33 EXPERIENCE SIMILAR TO THAT OF THE LICENSEE OR CERTIFICATE HOLDER.

1 **(B) IN A CASE ALLEGING A FAILURE TO MEET APPROPRIATE**
2 **STANDARDS OF CARE AS DETERMINED BY APPROPRIATE PEER REVIEW FOR THE**
3 **DELIVERY OF QUALITY CARE, THE INVESTIGATOR SHALL HAVE EXPERTISE IN**
4 **THE PRACTICE OF THE LICENSEE OR CERTIFICATE HOLDER.**

5 **(C) ANY INVESTIGATION OF CHARGES RELATING TO A VIOLATION OF**
6 **THE APPLICABLE STANDARD OF CARE SHALL INCLUDE REVIEW BY AT LEAST**
7 **TWO NEUTRAL PEER REVIEWERS WITH PROFESSIONAL BACKGROUND,**
8 **TRAINING, OR EXPERIENCE SIMILAR TO THE PRACTICE OF THE LICENSEE OR**
9 **CERTIFICATE HOLDER.**

10 **(D) IF TWO INDEPENDENT REVIEWERS DISAGREE IN THEIR FINDINGS, A**
11 **THIRD INDEPENDENT REVIEWER SHALL REVIEW THE CASE.**

12 **(E) (1) EACH HEALTH REGULATORY BOARD SHALL MAINTAIN A LIST**
13 **OF QUALIFIED REVIEWERS.**

14 **(2) ON THE REQUEST OF A BOARD, A LICENSEE OR CERTIFICATE**
15 **HOLDER SHALL SERVE AS AN INDEPENDENT REVIEWER NO MORE THAN ONCE**
16 **EVERY 2 YEARS.**

17 **(F) (1) A BOARD MAY ENTER INTO A WRITTEN CONTRACT WITH A**
18 **NONPROFIT ENTITY OR ENTITIES FOR INDEPENDENT PEER REVIEW OF**
19 **ALLEGATIONS BASED ON A FAILURE TO MEET APPROPRIATE STANDARDS OF**
20 **CARE AS DETERMINED BY APPROPRIATE PEER REVIEW FOR THE DELIVERY OF**
21 **QUALITY CARE.**

22 **(2) THE BOARD SHALL ENSURE THAT THE ENTITY PROVIDES**
23 **REVIEWERS WITH PROFESSIONAL BACKGROUND, TRAINING, OR EXPERIENCE**
24 **SIMILAR TO THAT OF THE LICENSEE OR CERTIFICATE HOLDER UNDER REVIEW.**

25 **(G) AN INDEPENDENT PEER REVIEW SHALL PROVIDE AN OPPORTUNITY**
26 **FOR A LICENSEE OR CERTIFICATE HOLDER TO RESPOND TO ANY QUESTIONS OF**
27 **A REVIEWER.**

28 1A-309.

29 **(A) Subject TO SUBSECTION (B) OF THIS SECTION, AND SUBJECT to the**
30 **hearing provisions of § 1A-310 of this subtitle, the Board, on the affirmative vote of [a**
31 **majority] TWO-THIRDS of its full authorized membership, may deny a license to**
32 **practice acupuncture to any applicant, reprimand any licensee, place any licensee on**
33 **probation, or suspend or revoke a license if the licensee:**

- 1 (1) Fraudulently or deceptively obtains or attempts to obtain a license
2 for the applicant or licensee or for another;
- 3 (2) Fraudulently or deceptively:
 - 4 (i) Uses a license; or
 - 5 (ii) Solicits or advertises;
- 6 (3) Is guilty of immoral or unprofessional conduct in the practice of
7 acupuncture;
- 8 (4) Is professionally, physically, or mentally incompetent;
- 9 (5) Provides professional services while:
 - 10 (i) Under the influence of alcohol; or
 - 11 (ii) Using any narcotic or controlled dangerous substance, as
12 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
13 therapeutic amounts or without a valid medical indication;
- 14 (6) Knowingly violates any provision of this title or any rule or
15 regulation of the Board adopted under this title;
- 16 (7) Is convicted of or pleads guilty or nolo contendere to a felony or to a
17 crime involving moral turpitude, whether or not any appeal or other proceeding is
18 pending to have the conviction or plea set aside;
- 19 (8) Practices acupuncture with an unauthorized person or assists an
20 unauthorized person in the practice of acupuncture;
- 21 (9) Is disciplined by the licensing or disciplinary authority of any state
22 or country or convicted or disciplined by a court of any state or country for an act that
23 would be grounds for disciplinary action under this section;
- 24 (10) Willfully makes or files a false report or record in the practice of
25 acupuncture;
- 26 (11) Willfully fails to file or record any report as required by law,
27 willfully impedes or obstructs the filing or recording of the report, or induces another
28 to fail to file or record the report;
- 29 (12) Submits a false statement to collect a fee;
- 30 (13) Refuses, withholds from, denies, or discriminates against an
31 individual with regard to the provision of professional services for which the person is
32 licensed and qualified to render because the individual is HIV positive;

- 1 (14) Fails to display the notice required under § 1A–313 of this subtitle;
- 2 (15) Fails to cooperate with a lawful investigation conducted by the
3 Board;
- 4 (16) Commits any act of gross negligence, incompetence, or misconduct
5 in the practice of acupuncture;
- 6 (17) Engages in a course of conduct that is inconsistent with generally
7 accepted professional standards in the practice of acupuncture; or
- 8 (18) Fails to comply with any Board order.

9 **(B) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
10 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
11 **STATED UNDER SUBSECTION (A) OF THIS SECTION.**

12 2–314.

13 **(A) Subject TO SUBSECTION (B) OF THIS SECTION, AND SUBJECT to the**
14 **hearing provisions of § 2–315 of this subtitle, the Board, ON THE AFFIRMATIVE VOTE**
15 **OF TWO–THIRDS OF THE MEMBERS SERVING ON THE BOARD,** may deny a license
16 or limited license to any applicant, reprimand any licensee or holder of a limited
17 license, place any licensee or holder of a limited license on probation, or suspend or
18 revoke a license or limited license if the applicant, licensee, or holder:

- 19 (1) Fraudulently or deceptively obtains or attempts to obtain a license
20 or limited license for the applicant, licensee, or holder or for another;
- 21 (2) Fraudulently or deceptively uses a license or limited license;
- 22 (3) Commits fraud or deceit in the practice of audiology, hearing aid
23 dispensing, or speech–language pathology, or assistance of the practice of
24 speech–language pathology;
- 25 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
26 crime involving moral turpitude, whether or not any appeal or other proceeding is
27 pending to have the conviction or plea set aside;
- 28 (5) Obtains a fee through fraud or misrepresentation;
- 29 (6) Directly or indirectly employs any unlicensed person or any person
30 whose license or limited license has been suspended;

1 (7) Uses or promotes or causes the use of any misleading, deceiving,
2 improbable, or untruthful advertising matter, promotional literature, testimonial,
3 guarantee, warranty, label, brand, insignia, or other representation;

4 (8) In the practice of audiology, hearing aid dispensing, or
5 speech–language pathology, or assistance of the practice of speech–language
6 pathology:

7 (i) Falsely represents the use or availability of services or
8 advice of a physician; or

9 (ii) Misrepresents the applicant, licensee, or holder by using the
10 word “doctor” or any similar word, abbreviation, or symbol if the use is not accurate;

11 (9) Permits another person to use the license of the licensee or limited
12 license of the holder;

13 (10) Commits any act of unprofessional conduct in the practice of
14 audiology, hearing aid dispensing, or speech–language pathology, or the assistance of
15 the practice of speech–language pathology;

16 (11) Violates any lawful order given or regulation adopted by the Board;

17 (12) Violates any provision of this title;

18 (13) Provides professional services while:

19 (i) Under the influence of alcohol; or

20 (ii) Using any narcotic or controlled dangerous substance, as
21 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
22 therapeutic amounts or without valid medical indication;

23 (14) Is disciplined by a licensing or disciplinary authority of any other
24 state or country or convicted or disciplined by a court of any state or country for an act
25 that would be grounds for disciplinary action under this section;

26 (15) Practices audiology, hearing aid dispensing, or speech–language
27 pathology, or assists in the practice of speech–language pathology with an
28 unauthorized person or supervises or aids an unauthorized person in the practice of
29 audiology, hearing aid dispensing, or speech–language pathology, or assistance of the
30 practice of speech–language pathology;

31 (16) Knowingly makes or files a false report or record in the practice of
32 audiology, hearing aid dispensing, or speech–language pathology, or assistance in the
33 practice of speech–language pathology;

1 (17) Knowingly fails to file or record any report as required by law,
2 willfully impedes or obstructs the filing or recording of the report, or induces another
3 to fail to file or record the report;

4 (18) Submits a false statement to collect a fee;

5 (19) Is professionally, physically, or mentally incompetent;

6 (20) Promotes the sale of devices, appliances, or goods to a patient so as
7 to exploit the patient for financial gain;

8 (21) Behaves immorally in the practice of audiology, hearing aid
9 dispensing, or speech–language pathology, or assistance of the practice of
10 speech–language pathology;

11 (22) Refuses, withholds from, denies, or discriminates against an
12 individual with regard to the provision of professional services for which the licensee is
13 licensed and qualified to render because the individual is HIV positive; or

14 (23) Pays or agrees to pay any sum to any person for bringing or
15 referring a patient.

16 (B) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE
17 BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS
18 STATED UNDER SUBSECTION (A) OF THIS SECTION.

19 3–313.

20 (A) Subject TO SUBSECTION (B) OF THIS SECTION, AND SUBJECT to the
21 hearing provisions of § 3–315 of this subtitle, the Board, ON THE AFFIRMATIVE VOTE
22 OF TWO–THIRDS OF THE MEMBERS SERVING ON THE BOARD, may deny a license
23 to any applicant, reprimand any licensee, place any licensee on probation, with or
24 without conditions, or suspend or revoke a license, or any combination thereof, if the
25 applicant or licensee:

26 (1) Fraudulently or deceptively obtains or attempts to obtain a license
27 for the applicant or licensee or for another;

28 (2) Fraudulently or deceptively uses a license;

29 (3) Practices chiropractic under a false name;

30 (4) Impersonates another practitioner;

31 (5) Is convicted of or pleads guilty or nolo contendere to a felony or to a
32 crime involving moral turpitude, whether or not any appeal or other proceeding is
33 pending to have the conviction or plea set aside;

- 1 (6) Provides professional services while:
- 2 (i) Under the influence of alcohol; or
- 3 (ii) Using any narcotic or controlled dangerous substance, as
4 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
5 therapeutic amounts or without valid medical indication;
- 6 (7) Solicits or advertises in a false or misleading manner or in any
7 other manner not approved by the Board;
- 8 (8) Is unethical in the conduct of the practice of chiropractic;
- 9 (9) Is professionally incompetent;
- 10 (10) Abandons a patient;
- 11 (11) Misrepresents the effectiveness of any treatment, drugs, devices,
12 appliances, or goods to a patient so as to exploit the patient for financial gain;
- 13 (12) Makes or files a false report or record in the practice of
14 chiropractic;
- 15 (13) Fails to file or record any report as required by law;
- 16 (14) Impedes or obstructs the filing or recording of the report, or
17 induces another to fail to file or record the report;
- 18 (15) Pays or agrees to pay any sum to any person for bringing or
19 referring a patient;
- 20 (16) Overutilizes health care services;
- 21 (17) Is disciplined by a licensing or disciplinary authority of any other
22 state or country or convicted by a court of any state or country for an act that would be
23 grounds for disciplinary action under this section;
- 24 (18) Practices chiropractic with an unauthorized person or supervises
25 or aids an unauthorized person in the practice of chiropractic;
- 26 (19) Violates any rule or regulation adopted by the Board;
- 27 (20) Behaves immorally in the practice of chiropractic;
- 28 (21) Commits an act of unprofessional conduct in the practice of
29 chiropractic;

- 1 (22) Grossly overutilizes health care services;
- 2 (23) Is convicted of insurance fraud under § 27–801 of the Insurance
3 Article;
- 4 (24) Refuses, withholds from, denies, or discriminates against an
5 individual with regard to the provision of professional services for which the licensee is
6 licensed and qualified to render because the individual is HIV positive;
- 7 (25) Submits false statements to collect fees for which services were not
8 provided;
- 9 (26) Misrepresents qualifications, education, training, or clinical
10 experience;
- 11 (27) Is physically or mentally impaired to the extent that it impairs the
12 applicant's or licensee's ability to practice chiropractic safely; or
- 13 (28) Violates any provision of this title.

14 **(B) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
15 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
16 **STATED UNDER SUBSECTION (A) OF THIS SECTION.**

17 4–315.

18 (a) **SUBJECT TO SUBSECTION (C) OF THIS SECTION, AND SUBJECT** to the
19 hearing provisions of § 4–318 of this subtitle, the Board, **ON THE AFFIRMATIVE VOTE**
20 **OF TWO–THIRDS OF THE MEMBERS SERVING ON THE BOARD,** may deny a general
21 license to practice dentistry, a limited license to practice dentistry, or a teacher's
22 license to practice dentistry to any applicant, reprimand any licensed dentist, place
23 any licensed dentist on probation, or suspend or revoke the license of any licensed
24 dentist, if the applicant or licensee:

- 25 (1) Fraudulently or deceptively obtains or attempts to obtain a license
26 for the applicant or licensee or for another;
- 27 (2) Fraudulently or deceptively uses a license;
- 28 (3) Obtains a fee by fraud or attempts to obtain a fee by fraud;
- 29 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
30 crime involving moral turpitude, whether or not any appeal or other proceeding is
31 pending to have the conviction or plea set aside;
- 32 (5) Provides professional services while:

- 1 (i) Under the influence of alcohol; or
- 2 (ii) Using any narcotic or controlled dangerous substance, as
3 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
4 therapeutic amounts or without valid medical indication;
- 5 (6) Practices dentistry in a professionally incompetent manner or in a
6 grossly incompetent manner;
- 7 (7) Has had a license to practice dentistry revoked or suspended in
8 any other state;
- 9 (8) Uses another person as an in–person solicitor of business;
- 10 (9) Practices or offers to practice dentistry under a name other than
11 that on the license;
- 12 (10) Uses in connection with the practice of dentistry a business entity
13 name or a trade name that is not authorized by law;
- 14 (11) Permits an unauthorized individual to practice dentistry under the
15 supervision of the applicant or licensee;
- 16 (12) Permits a dental hygienist to practice dental hygiene:
 - 17 (i) In an unauthorized place; or
 - 18 (ii) Without being supervised by a licensed dentist as required
19 by § 4–308 of this subtitle;
- 20 (13) Violates any restriction on advertising in § 4–503 of this title;
- 21 (14) Suggests, requests, or in any way directs that a patient appear at a
22 dental laboratory;
- 23 (15) Violates any provision in Subtitle 4 of this title, which relates to
24 work authorizations for dental laboratory work;
- 25 (16) Behaves dishonorably or unprofessionally, or violates a
26 professional code of ethics pertaining to the dentistry profession;
- 27 (17) Is mentally or physically incompetent to practice dentistry;
- 28 (18) Violates any rule or regulation adopted by the Board;
- 29 (19) Is disciplined by a licensing or disciplinary authority of any other
30 state or country or convicted or disciplined by a court of any state or country for an act
31 that would be grounds for disciplinary action under the Board’s disciplinary statutes;

1 (20) Willfully makes or files a false report or record in the practice of
2 dentistry;

3 (21) Willfully fails to file or record any report as required by law,
4 willfully impedes or obstructs the filing or recording of the report, or induces another
5 to fail to file or record the report;

6 (22) Knowingly submits to a third party any claim form, bill, or
7 statement which contains any misleading, deceptive, false, incomplete, or fraudulent
8 representation asserting a fee which is greater than the fee that the dentist usually
9 accepts as payment in full for any given dental appliance, procedure, or service;

10 (23) Abrogates or forgives the copayment provisions of any insurance
11 policy, insurance contract, health prepayment contract, health care plan, or nonprofit
12 health service plan contract by accepting the payment received from a third party as
13 full payment, unless the dentist discloses to the third party that the patient's payment
14 portion will not be collected;

15 (24) Uses or promotes or causes the use of any misleading, deceiving, or
16 untruthful advertising matter, promotional literature or testimonial;

17 (25) (i) Except as provided in subparagraph (ii) of this paragraph,
18 divides a fee with another dentist if the division is not in proportion to the services
19 performed and the responsibility assumed by each dentist;

20 (ii) A dentist may divide a fee with another dentist who is a
21 partner or an associate in the same dental practice if dividing the fee does not increase
22 the fee for the service charged to the patient;

23 (26) Fails to comply with the provisions of § 12-102 of this article;

24 (27) Refuses, withholds from, denies, or discriminates against an
25 individual with regard to the provision of professional services for which the licensee is
26 licensed and qualified to render because the individual is HIV positive;

27 (28) Except in an emergency life-threatening situation where it is not
28 feasible or practicable, fails to comply with the Centers for Disease Control's
29 guidelines on universal precautions;

30 (29) Fails to display the notice required under § 4-313(d) of this
31 subtitle;

32 (30) Fails to begin to fulfill a public service requirement within 1 year
33 of when the assignment is to begin that was a condition of the applicant or licensee
34 receiving State or federal loans or scholarships for the applicant's or licensee's dental
35 education; or

1 (31) Fails to comply with any Board order.

2 (b) Subject **TO SUBSECTION (C) OF THIS SECTION, AND SUBJECT** to the
3 hearing provisions of § 4–318 of this subtitle, the Board, **ON THE AFFIRMATIVE VOTE**
4 **OF TWO–THIRDS OF THE MEMBERS SERVING ON THE BOARD**, may deny a general
5 license to practice dental hygiene, a teacher’s license to practice dental hygiene, or a
6 temporary license to practice dental hygiene to any applicant, reprimand any licensed
7 dental hygienist, place any licensed dental hygienist on probation, or suspend or
8 revoke the license of any licensed dental hygienist, if the applicant or licensee:

9 (1) Fraudulently or deceptively obtains or attempts to obtain a license
10 for the applicant or licensee or for another;

11 (2) Fraudulently or deceptively uses a license;

12 (3) Behaves unprofessionally or in a grossly immoral way, or violates a
13 professional code of ethics pertaining to the dental hygiene profession;

14 (4) Practices dental hygiene in an unauthorized place;

15 (5) Practices dental hygiene in a professionally incompetent manner or
16 in a grossly incompetent manner;

17 (6) Is disciplined by a licensing or disciplinary authority of any other
18 state or country or convicted or disciplined by a court of any state or country for an act
19 that would be grounds for disciplinary action under the Board’s disciplinary statutes;

20 (7) Performs intraoral functions not authorized by statute or the rules
21 and regulations of the Board;

22 (8) Violates the requirements of § 4–313 of this subtitle that relate to
23 display of licenses and renewal certificates;

24 (9) Violates any rule or regulation adopted by the Board;

25 (10) Is mentally or physically incompetent to practice dental hygiene;

26 (11) Is convicted of or pleads guilty or nolo contendere to a felony or to a
27 crime involving moral turpitude, whether or not any appeal or other proceeding is
28 pending to have the conviction or plea set aside;

29 (12) Provides professional services while:

30 (i) Under the influence of alcohol; or

1 (ii) Using any narcotic or controlled dangerous substance, as
2 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
3 therapeutic amounts or without valid medical indication;

4 (13) Willfully makes or files a false report or record in the practice of
5 dental hygiene;

6 (14) Willfully fails to file or record any report as required by law,
7 willfully impedes or obstructs the filing or recording of the report, or induces another
8 to fail to file or record the report;

9 (15) Refuses, withholds from, denies, or discriminates against an
10 individual with regard to the provision of professional services for which the licensee is
11 licensed and qualified to render because the individual is HIV positive;

12 (16) Except in an emergency life-threatening situation where it is not
13 feasible or practicable, fails to comply with the Centers for Disease Control's
14 guidelines on universal precautions; or

15 (17) Fails to comply with any Board order.

16 (C) **AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
17 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE OF A LICENSED**
18 **DENTIST OR LICENSED DENTAL HYGIENIST FOR THE REASONS STATED UNDER**
19 **SUBSECTIONS (A) AND (B) OF THIS SECTION.**

20 8–316.

21 (a) **SUBJECT TO SUBSECTION (A–1) OF THIS SECTION, AND SUBJECT** to the
22 hearing provisions of § 8–317 of this subtitle, the Board, **ON THE AFFIRMATIVE VOTE**
23 **OF TWO–THIRDS OF THE MEMBERS SERVING ON THE BOARD,** may deny a license
24 or grant a probationary license to any applicant, reprimand any licensee, place any
25 licensee on probation, or suspend or revoke the license of a licensee if the applicant or
26 licensee:

27 (1) Fraudulently or deceptively obtains or attempts to obtain a license
28 for the applicant or for another;

29 (2) Fraudulently or deceptively uses a license;

30 (3) Is disciplined by a licensing, military, or disciplinary authority in
31 this State or in any other state or country or convicted or disciplined by a court in this
32 State or in any other state or country for an act that would be grounds for disciplinary
33 action under the Board's disciplinary statutes;

- 1 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
2 crime involving moral turpitude, whether or not any appeal or other proceeding is
3 pending to have the conviction or plea set aside;
- 4 (5) Willfully and knowingly:
- 5 (i) Files a false report or record of an individual under the
6 licensee's care;
- 7 (ii) Gives any false or misleading information about a material
8 matter in an employment application;
- 9 (iii) Fails to file or record any health record that is required by
10 law;
- 11 (iv) Obstructs the filing or recording of any health record as
12 required by law; or
- 13 (v) Induces another person to fail to file or record any health
14 record as required by law;
- 15 (6) Knowingly does any act that has been determined by the Board, in
16 its rules and regulations, to exceed the scope of practice authorized to the individual
17 under this title;
- 18 (7) Provides professional services while:
- 19 (i) Under the influence of alcohol; or
- 20 (ii) Using any narcotic or controlled dangerous substance, as
21 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
22 therapeutic amounts or without valid medical indication;
- 23 (8) Does an act that is inconsistent with generally accepted
24 professional standards in the practice of registered nursing or licensed practical
25 nursing;
- 26 (9) Is grossly negligent in the practice of registered nursing or licensed
27 practical nursing;
- 28 (10) Has violated any provision of this title;
- 29 (11) Submits a false statement to collect a fee;
- 30 (12) Is physically or mentally incompetent;
- 31 (13) Knowingly fails to report suspected child abuse in violation of §
32 5-704 of the Family Law Article;

- 1 (14) Refuses, withholds from, denies, or discriminates against an
2 individual with regard to the provision of professional services for which the licensee is
3 licensed and qualified to render because the individual is HIV positive;
- 4 (15) Except in an emergency life-threatening situation where it is not
5 feasible or practicable, fails to comply with the Centers for Disease Control's
6 guidelines on universal precautions;
- 7 (16) Is in independent practice and fails to display the notice required
8 under § 8-506 of this title;
- 9 (17) Is in breach of a service obligation resulting from the applicant's or
10 licensee's receipt of State or federal funding for the applicant's or licensee's nursing
11 education;
- 12 (18) Is habitually intoxicated;
- 13 (19) Is addicted to, or habitually abuses, any narcotic or controlled
14 dangerous substance as defined in § 5-101 of the Criminal Law Article;
- 15 (20) Fails to cooperate with a lawful investigation conducted by the
16 Board;
- 17 (21) Is expelled from the rehabilitation program established pursuant
18 to § 8-208 of this title for failure to comply with the conditions of the program;
- 19 (22) Delegates nursing acts or responsibilities to an individual that the
20 applicant or licensee knows or has reason to know lacks the ability or knowledge to
21 perform;
- 22 (23) Delegates to an unlicensed individual nursing acts or
23 responsibilities the applicant or licensee knows or has reason to know are to be
24 performed only by a registered nurse or licensed practical nurse;
- 25 (24) Fails to properly supervise individuals to whom nursing acts or
26 responsibilities have been delegated;
- 27 (25) Engages in conduct that violates the professional code of ethics;
- 28 (26) Is professionally incompetent;
- 29 (27) Practices registered nursing or licensed practical nursing without a
30 license before obtaining or renewing a license, including any period when the license
31 or a temporary license of the applicant or licensee has lapsed;

1 (28) After failing to renew a license or after a temporary license has
2 lapsed, commits any act that would be grounds for disciplinary action under this
3 section;

4 (29) Practices registered nursing or licensed practical nursing on a
5 nonrenewed license for a period of 16 months or longer;

6 (30) Violates regulations adopted by the Board or an order from the
7 Board;

8 (31) Performs an act that is beyond the licensee's knowledge and skills;

9 (32) Fails to submit to a criminal history records check in accordance
10 with § 8-303 of this subtitle;

11 (33) When acting in a supervisory position, directs another nurse to
12 perform an act that is beyond the nurse's knowledge and skills; or

13 (34) When acting in a supervisory position, directs another nurse to
14 delegate a nursing task to an individual when that nurse reasonably believes:

15 (i) The individual lacks the knowledge and skills to perform the
16 task; or

17 (ii) The patient's condition does not allow delegation of the
18 nursing task.

19 **(A-1) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
20 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
21 **STATED UNDER SUBSECTION (A) OF THIS SECTION.**

22 10-315.

23 **(A) Subject TO SUBSECTION (B) OF THIS SECTION, AND SUBJECT to the**
24 **hearing provisions of § 10-316 of this subtitle, the Board, ON THE AFFIRMATIVE**
25 **VOTE OF TWO-THIRDS OF THE MEMBERS SERVING ON THE BOARD,** may deny a
26 license or temporary license to any applicant, reprimand any licensee or holder of a
27 temporary license, place any licensee or holder of a temporary license on probation, or
28 suspend or revoke a license or temporary license if the applicant, licensee, or holder:

29 (1) Fraudulently or deceptively obtains or attempts to obtain a license
30 or temporary license for the applicant, licensee, or holder or for another;

31 (2) Fraudulently or deceptively uses a license or temporary license;

32 (3) Commits any act of gross negligence, incompetence, or misconduct
33 in the practice of occupational therapy or limited occupational therapy;

- 1 (4) Knowingly violates any provision of this title;
- 2 (5) Violates any rule or regulation of the Board, including any code of
3 ethics adopted by the Board;
- 4 (6) Is convicted of or pleads guilty or nolo contendere to a felony or to a
5 crime involving moral turpitude, whether or not any appeal or other proceeding is
6 pending to have the conviction or plea set aside;
- 7 (7) Aids or abets an unauthorized individual in the practice of
8 occupational therapy or limited occupational therapy;
- 9 (8) Provides professional services while:
- 10 (i) Under the influence of alcohol; or
- 11 (ii) Using any narcotic or controlled dangerous substance, as
12 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
13 therapeutic amounts or without valid medical indication;
- 14 (9) Is disciplined by a licensing or disciplinary authority of any other
15 state or country or convicted or disciplined by a court of any state or country for an act
16 that would be grounds for disciplinary action under this section;
- 17 (10) Willfully makes or files a false report or record in the practice of
18 occupational therapy or limited occupational therapy;
- 19 (11) Willfully fails to file or record any report as required by law,
20 willfully impedes or obstructs the filing or recording of the report, or induces another
21 to fail to file or record the report;
- 22 (12) Submits a false statement to collect a fee; or
- 23 (13) Refuses, withholds from, denies, or discriminates against an
24 individual with regard to the provision of professional services for which the licensee is
25 licensed and qualified to render because the individual is HIV positive.

26 **(B) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
27 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
28 **STATED UNDER SUBSECTION (A) OF THIS SECTION.**

29 11–313.

30 **(A) Subject TO SUBSECTION (B) OF THIS SECTION, AND SUBJECT** to the
31 hearing provisions of § 11–315 of this subtitle, the Board, on the affirmative vote of [a
32 majority] **TWO–THIRDS** of its members then serving, may deny a license to any

1 applicant, reprimand any licensee, place any licensee on probation, or suspend or
2 revoke a license if the applicant or licensee:

3 (1) Fraudulently or deceptively obtains or attempts to obtain a license
4 for the applicant or licensee or for another;

5 (2) Fraudulently or deceptively uses a license;

6 (3) Is convicted of or pleads guilty or nolo contendere to a felony or to a
7 crime involving moral turpitude, whether or not any appeal or other proceeding is
8 pending to have the conviction or plea set aside;

9 (4) Abandons a patient;

10 (5) Provides professional services while:

11 (i) Under the influence of alcohol; or

12 (ii) Using any narcotic or controlled dangerous substance, as
13 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
14 therapeutic amounts or without valid medical indication;

15 (6) Promotes the sale of devices, appliances, or goods to a patient so as
16 to exploit the patient for financial gain;

17 (7) Willfully makes or files a false report or record in the practice of
18 optometry;

19 (8) Willfully fails to file or record any optometric report as required by
20 law;

21 (9) Willfully impedes or obstructs the filing or recording of any
22 optometric report as required by law;

23 (10) Willfully induces another to fail to file or record any optometric
24 report as required by law;

25 (11) Fails to provide details of the optometric record of a patient to a
26 physician or another optometrist on proper request by the patient;

27 (12) Employs another person as a solicitor of business;

28 (13) Splits or agrees to split a fee for optometric services with any
29 person for bringing or referring a patient;

30 (14) Makes a willful misrepresentation in treatment;

31 (15) Aids an unauthorized person in the practice of optometry;

- 1 (16) Grossly and willfully:
- 2 (i) Overcharges for optometric services; or
- 3 (ii) Submits false statements to collect fees for which services
4 are not provided;
- 5 (17) Behaves immorally in the practice of optometry;
- 6 (18) Is professionally, physically or mentally incompetent;
- 7 (19) Advertises in a false or misleading manner;
- 8 (20) Has had a license to practice optometry denied, suspended or
9 revoked in another state for an act which would be grounds for disciplinary action
10 under this section;
- 11 (21) Has violated any provision of this title;
- 12 (22) Violates any rule or regulation adopted by the Board;
- 13 (23) Commits an act of unprofessional conduct in the practice of
14 optometry;
- 15 (24) Refuses, withholds from, denies, or discriminates against an
16 individual with regard to the provision of professional services for which the licensee is
17 licensed and qualified to render because the individual is HIV positive;
- 18 (25) Willfully engages in conduct that is likely to deceive, defraud, or
19 harm the public;
- 20 (26) Knowingly fails to report suspected child abuse in violation of §
21 5–704 of the Family Law Article; or
- 22 (27) Engages in conduct which exhibits an inappropriate standard of
23 care.

24 **(B) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
25 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
26 **STATED UNDER SUBSECTION (A) OF THIS SECTION.**

27 12–313.

28 (b) Subject **TO SUBSECTION (B–1) OF THIS SECTION, AND SUBJECT** to the
29 hearing provisions of § 12–315 of this subtitle, the Board, on the affirmative vote of [a
30 majority] **TWO–THIRDS** of its members then serving, may deny a license to any

1 applicant for a pharmacist's license, reprimand any licensee, place any licensee on
2 probation, or suspend or revoke a license of a pharmacist if the applicant or licensee:

3 (1) Fraudulently or deceptively obtains or attempts to obtain a license
4 for the applicant or licensee or for another;

5 (2) Fraudulently or deceptively uses a license;

6 (3) Aids an unauthorized individual to practice pharmacy or to
7 represent that the individual is a pharmacist or a registered pharmacy technician;

8 (4) Delegates pharmacy acts to an unauthorized individual;

9 (5) Provides professional services while:

10 (i) Under the influence of alcohol; or

11 (ii) Using any narcotic or controlled dangerous substance, as
12 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
13 therapeutic amounts or without valid medical indication;

14 (6) Submits a false statement to collect a fee;

15 (7) Willfully makes or files a false report or record as part of practicing
16 pharmacy;

17 (8) Willfully fails to file or record any report that is required by law;

18 (9) Willfully impedes or obstructs the filing or recording of any report
19 that is required by law;

20 (10) Willfully induces another to fail to file or record any report that is
21 required by law;

22 (11) Provides or causes to be provided to any authorized prescriber
23 prescription forms that bear the name, address, or other means of identification of a
24 pharmacist or pharmacy;

25 (12) Provides remuneration to an authorized prescriber for referring an
26 individual to a pharmacist or pharmacy for a product or service to be provided by that
27 pharmacist or pharmacy;

28 (13) Agrees with an authorized prescriber or registered pharmacy
29 technician to prepare or dispense a secret formula prescription;

30 (14) Except as to an association that has remained in continuous
31 existence since July 1, 1963, associates as a partner, coowner, or employee of a

1 pharmacy that is owned wholly or substantially by an authorized prescriber or group
2 of authorized prescribers;

3 (15) Dispenses any drug, device, or diagnostic for which a prescription
4 is required without a written, oral, or electronically transmitted prescription from an
5 authorized prescriber;

6 (16) Except as provided in § 12–506 of this title, unless an authorized
7 prescriber authorizes the refill, refills a prescription for any drug, device, or diagnostic
8 for which a prescription is required;

9 (17) Violates any provision of § 12–505 of this title, which concerns the
10 labeling requirements for prescriptions for drugs, devices, or diagnostics;

11 (18) Violates any provision of § 12–603 of this title, which concerns the
12 home dialysis distribution program;

13 (19) Advertises or otherwise publicly claims to dispense prescriptions or
14 practice pharmacy in a superior manner;

15 (20) Advertises in a manner that tends to deceive or defraud the public;

16 (21) Is professionally, physically, or mentally incompetent;

17 (22) Is convicted of or pleads guilty or nolo contendere to a felony or to a
18 crime involving moral turpitude, whether or not any appeal or other proceeding is
19 pending to have the conviction or plea set aside;

20 (23) Is convicted of a violation of this title;

21 (24) Is disciplined by a licensing or disciplinary authority of any state
22 or country or convicted or disciplined by a court of any state or country for an act that
23 would be grounds for disciplinary action under the Board’s disciplinary statutes;

24 (25) Violates any rule or regulation adopted by the Board;

25 (26) Refuses, withholds from, denies, or discriminates against an
26 individual with regard to the provision of professional services for which the licensee is
27 licensed and qualified to render because the individual is HIV positive;

28 (27) Violates any provision of § 12–507 of this title;

29 (28) Provides or causes to be provided confidential patient information
30 to any person without first having obtained the patient’s consent, as required by §
31 12–403(b)(13) of this title and by Title 4, Subtitle 3 of the Health – General Article;

32 (29) Fails to cooperate with a lawful investigation conducted by the
33 Board or the Division of Drug Control;

1 (30) Delegates pharmacy acts to a registered pharmacy technician,
2 pharmacy student, or a pharmacy technician trainee outside the scope of education,
3 training, experience, and area of practice of a licensed pharmacist; or

4 (31) Delegates pharmacy acts that are inappropriate for a registered
5 pharmacy technician, pharmacy student, or pharmacy technician trainee who does not
6 have the education, training, or experience to perform the delegated pharmacy acts.

7 **(B-1) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
8 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
9 **STATED UNDER SUBSECTION (B) OF THIS SECTION.**

10 13-316.

11 **(A)** Subject to the hearing provisions of § 13-317 of this subtitle, **ON THE**
12 **AFFIRMATIVE VOTE OF TWO-THIRDS OF THE MEMBERS SERVING ON THE**
13 **BOARD**, the Board may deny a license, temporary license, or restricted license to any
14 applicant, reprimand any licensee or holder of a temporary license or restricted
15 license, place any licensee or holder of a temporary license or restricted license on
16 probation, or suspend or revoke a license, temporary license, or restricted license if the
17 applicant, licensee, or holder:

18 (1) Fraudulently or deceptively obtains or attempts to obtain a license,
19 temporary license, or restricted license for the applicant, licensee, or holder or for
20 another;

21 (2) Fraudulently or deceptively uses a license, temporary license, or
22 restricted license;

23 (3) Unless specifically licensed with respect to the treatment, treats or
24 attempts to treat a health condition of a patient or client by means other than physical
25 therapy;

26 (4) In the case of an individual who is authorized to practice physical
27 therapy is grossly negligent:

28 (i) In the practice of physical therapy;

29 (ii) In the direction of an individual who is authorized to
30 practice limited physical therapy; or

31 (iii) In the supervision of a physical therapy aide;

32 (5) In the case of an individual who is authorized to practice limited
33 physical therapy:

- 1 (i) Practices limited physical therapy other than as authorized
2 by this title; or
- 3 (ii) Is grossly negligent while practicing limited physical
4 therapy;
- 5 (6) Is convicted of or pleads guilty or nolo contendere to a felony or to a
6 crime involving moral turpitude, whether or not any appeal or other proceeding is
7 pending to have the conviction or plea set aside;
- 8 (7) Is convicted of a violation of a narcotic law;
- 9 (8) To an extent that impairs professional competence, habitually uses
10 any:
- 11 (i) Drug; or
- 12 (ii) Alcoholic beverage;
- 13 (9) Pays or agrees to pay any sum to any person for bringing or
14 referring a patient;
- 15 (10) Is disciplined by a licensing or disciplinary authority of any state
16 or country or convicted or disciplined by a court of any state or country or disciplined
17 by any branch of the United States uniformed services or Veterans Administration for
18 an act that would be grounds for disciplinary action under the Board's disciplinary
19 statutes;
- 20 (11) Practices physical therapy or limited physical therapy with an
21 unauthorized person or supervises or aids an unauthorized person in the practice of
22 physical therapy or limited physical therapy;
- 23 (12) Willfully makes or files a false report or record in the practice of
24 physical therapy or limited physical therapy;
- 25 (13) Willfully fails to file or record any report as required by law,
26 willfully impedes or obstructs the filing or recording of the report, or induces another
27 to fail to file or record the report;
- 28 (14) Submits a false statement to collect a fee;
- 29 (15) Violates any provision of this title or rule or regulation adopted by
30 the Board;
- 31 (16) Uses or promotes or causes the use of any misleading, deceiving, or
32 untruthful advertising matter, promotional literature, or testimonial;
- 33 (17) Is professionally, physically, or mentally incompetent;

1 (18) Promotes the sale of devices, appliances, or goods to a patient or
2 client so as to exploit the patient or client for financial gain;

3 (19) Commits an act of unprofessional conduct in the practice of
4 physical therapy or limited physical therapy;

5 (20) Grossly overutilizes health care services;

6 (21) Is convicted under insurance fraud as defined in § 27–801 of the
7 Insurance Article;

8 (22) Refuses, withholds from, denies, or discriminates against a patient
9 or client with regard to the provision of professional services for which the licensee is
10 licensed and qualified to render because the patient or client is HIV positive;

11 (23) Provides professional services while:

12 (i) Under the influence of alcohol; or

13 (ii) Using any narcotic or controlled dangerous substance, as
14 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
15 therapeutic amounts or without valid medical indication;

16 (24) Willfully and without legal justification, fails to cooperate with a
17 lawful investigation conducted by the Board; or

18 (25) Fails to meet accepted standards in delivering physical therapy or
19 limited physical therapy care.

20 **(B) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
21 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
22 **STATED UNDER SUBSECTION (A) OF THIS SECTION.**

23 14–404.

24 (a) Subject **TO SUBSECTION (A–1) OF THIS SECTION, AND SUBJECT** to the
25 hearing provisions of § 14–405 of this subtitle, the Board, on the affirmative vote of [a
26 majority of the quorum,] **TWO–THIRDS OF THE MEMBERS SERVING ON THE**
27 **BOARD,** may reprimand any licensee, place any licensee on probation, or suspend or
28 revoke a license if the licensee:

29 (1) Fraudulently or deceptively obtains or attempts to obtain a license
30 for the applicant or licensee or for another;

31 (2) Fraudulently or deceptively uses a license;

- 1 (3) Is guilty of:
- 2 (i) Immoral conduct in the practice of medicine; or
- 3 (ii) Unprofessional conduct in the practice of medicine;
- 4 (4) Is professionally, physically, or mentally incompetent;
- 5 (5) Solicits or advertises in violation of § 14–503 of this title;
- 6 (6) Abandons a patient;
- 7 (7) Habitually is intoxicated;
- 8 (8) Is addicted to, or habitually abuses, any narcotic or controlled
9 dangerous substance as defined in § 5–101 of the Criminal Law Article;
- 10 (9) Provides professional services:
- 11 (i) While under the influence of alcohol; or
- 12 (ii) While using any narcotic or controlled dangerous substance,
13 as defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
14 therapeutic amounts or without valid medical indication;
- 15 (10) Promotes the sale of drugs, devices, appliances, or goods to a
16 patient so as to exploit the patient for financial gain;
- 17 (11) Willfully makes or files a false report or record in the practice of
18 medicine;
- 19 (12) Willfully fails to file or record any medical report as required under
20 law, willfully impedes or obstructs the filing or recording of the report, or induces
21 another to fail to file or record the report;
- 22 (13) On proper request, and in accordance with the provisions of Title 4,
23 Subtitle 3 of the Health – General Article, fails to provide details of a patient’s medical
24 record to the patient, another physician, or hospital;
- 25 (14) Solicits professional patronage through an agent or other person or
26 profits from the acts of a person who is represented as an agent of the physician;
- 27 (15) Pays or agrees to pay any sum to any person for bringing or
28 referring a patient or accepts or agrees to accept any sum from any person for bringing
29 or referring a patient;

- 1 (16) Agrees with a clinical or bioanalytical laboratory to make
2 payments to the laboratory for a test or test series for a patient, unless the licensed
3 physician discloses on the bill to the patient or third-party payor:
- 4 (i) The name of the laboratory;
- 5 (ii) The amount paid to the laboratory for the test or test series;
6 and
- 7 (iii) The amount of procurement or processing charge of the
8 licensed physician, if any, for each specimen taken;
- 9 (17) Makes a willful misrepresentation in treatment;
- 10 (18) Practices medicine with an unauthorized person or aids an
11 unauthorized person in the practice of medicine;
- 12 (19) Grossly overutilizes health care services;
- 13 (20) Offers, undertakes, or agrees to cure or treat disease by a secret
14 method, treatment, or medicine;
- 15 (21) Is disciplined by a licensing or disciplinary authority or convicted
16 or disciplined by a court of any state or country or disciplined by any branch of the
17 United States uniformed services or the Veterans' Administration for an act that
18 would be grounds for disciplinary action under this section;
- 19 (22) Fails to meet appropriate standards as determined by appropriate
20 peer review for the delivery of quality medical and surgical care performed in an
21 outpatient surgical facility, office, hospital, or any other location in this State;
- 22 (23) Willfully submits false statements to collect fees for which services
23 are not provided;
- 24 (24) Was subject to investigation or disciplinary action by a licensing or
25 disciplinary authority or by a court of any state or country for an act that would be
26 grounds for disciplinary action under this section and the licensee:
- 27 (i) Surrendered the license issued by the state or country to the
28 state or country; or
- 29 (ii) Allowed the license issued by the state or country to expire
30 or lapse;
- 31 (25) Knowingly fails to report suspected child abuse in violation of §
32 5-704 of the Family Law Article;

1 (26) Fails to educate a patient being treated for breast cancer of
2 alternative methods of treatment as required by § 20–113 of the Health – General
3 Article;

4 (27) Sells, prescribes, gives away, or administers drugs for illegal or
5 illegitimate medical purposes;

6 (28) Fails to comply with the provisions of § 12–102 of this article;

7 (29) Refuses, withholds from, denies, or discriminates against an
8 individual with regard to the provision of professional services for which the licensee is
9 licensed and qualified to render because the individual is HIV positive;

10 (30) Except as to an association that has remained in continuous
11 existence since July 1, 1963:

12 (i) Associates with a pharmacist as a partner or co-owner of a
13 pharmacy for the purpose of operating a pharmacy;

14 (ii) Employs a pharmacist for the purpose of operating a
15 pharmacy; or

16 (iii) Contracts with a pharmacist for the purpose of operating a
17 pharmacy;

18 (31) Except in an emergency life-threatening situation where it is not
19 feasible or practicable, fails to comply with the Centers for Disease Control's
20 guidelines on universal precautions;

21 (32) Fails to display the notice required under § 14–415 of this subtitle;

22 (33) Fails to cooperate with a lawful investigation conducted by the
23 Board;

24 (34) Is convicted of insurance fraud as defined in § 27–801 of the
25 Insurance Article;

26 (35) Is in breach of a service obligation resulting from the applicant's or
27 licensee's receipt of State or federal funding for the licensee's medical education;

28 (36) Willfully makes a false representation when seeking or making
29 application for licensure or any other application related to the practice of medicine;

30 (37) By corrupt means, threats, or force, intimidates or influences, or
31 attempts to intimidate or influence, for the purpose of causing any person to withhold
32 or change testimony in hearings or proceedings before the Board or those otherwise
33 delegated to the Office of Administrative Hearings;

1 (38) By corrupt means, threats, or force, hinders, prevents, or otherwise
2 delays any person from making information available to the Board in furtherance of
3 any investigation of the Board;

4 (39) Intentionally misrepresents credentials for the purpose of
5 testifying or rendering an expert opinion in hearings or proceedings before the Board
6 or those otherwise delegated to the Office of Administrative Hearings; or

7 (40) Fails to keep adequate medical records as determined by
8 appropriate peer review.

9 **(A-1) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
10 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
11 **STATED UNDER SUBSECTION (A) OF THIS SECTION.**

12 15-314.

13 **(A) Subject TO SUBSECTION (B) OF THIS SECTION, AND SUBJECT to the**
14 **hearing provisions of § 15-315 of this subtitle, the Board, [on the affirmative vote of a**
15 **majority of its members then serving,] ON THE AFFIRMATIVE VOTE OF**
16 **TWO-THIRDS OF THE MEMBERS SERVING ON THE BOARD,** may reprimand any
17 certificate holder or suspend or revoke a certificate if the certificate holder:

18 (1) Fraudulently or deceptively obtains or attempts to obtain a
19 certificate for the applicant or certificate holder or for another individual;

20 (2) Fraudulently or deceptively uses a certificate;

21 (3) Violates any provision of this title or any regulations adopted
22 under this title or commits any act which could serve as the basis for disciplinary
23 action against a physician under § 14-404 of this article;

24 (4) Performs delegated medical acts beyond the scope of the certificate
25 not within a delegation agreement approved by the Board;

26 (5) Performs delegated medical acts without the supervision of a
27 physician;

28 (6) Refuses, withholds from, denies, or discriminates against an
29 individual with regard to the provision of professional services for which the certificate
30 holder is certified and qualified to render because the individual is HIV positive;

31 (7) Except in an emergency life-threatening situation where it is not
32 feasible or practicable, fails to comply with the Centers for Disease Control's
33 guidelines on universal precautions; or

1 (8) Is in breach of a service obligation resulting from the applicant's or
2 certificate holder's receipt of State or federal funding for the applicant's or certificate
3 holder's physician assistant education.

4 **(B) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
5 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A CERTIFICATE FOR THE**
6 **REASONS STATED UNDER SUBSECTION (A) OF THIS SECTION.**

7 16-311.

8 (a) Subject **TO SUBSECTION (A-1) OF THIS SECTION, AND SUBJECT** to the
9 hearing provisions of § 16-313 of this subtitle, the Board, on the affirmative vote of a
10 majority of **TWO-THIRDS OF** its members then serving, may deny a license or a
11 limited license to any applicant, reprimand any licensee or holder of a limited license,
12 impose an administrative monetary penalty not exceeding \$50,000 on any licensee or
13 holder of a limited license, place any licensee or holder of a limited license on
14 probation, or suspend or revoke a license or a limited license if the applicant, licensee,
15 or holder:

16 (1) Fraudulently or deceptively obtains or attempts to obtain a license
17 for the applicant or licensee or for another;

18 (2) Fraudulently or deceptively uses a license;

19 (3) Is convicted of or pleads guilty or nolo contendere to a felony or to a
20 crime involving moral turpitude, whether or not any appeal or other proceeding is
21 pending to have the conviction or plea set aside;

22 (4) Abandons a patient;

23 (5) Provides professional services while:

24 (i) Under the influence of alcohol; or

25 (ii) Using any narcotic or controlled dangerous substance, as
26 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
27 therapeutic amounts or without valid medical indication;

28 (6) Has a condition, illness, or disease that may impair the ability of
29 the individual to perform podiatric services;

30 (7) Personally uses a controlled dangerous substance in violation of
31 the law;

32 (8) Prescribes or distributes a controlled dangerous substance to any
33 other person in violation of the law;

- 1 (9) Promotes the sale to a patient of drugs, devices, appliances, or
2 goods in a manner that exploits the patient for financial gain;
- 3 (10) Willfully makes or files a false report or record of podiatric services
4 rendered;
- 5 (11) Willfully fails to file or record any report as required by law,
6 willfully impedes or obstructs the filing or recording of the report, or induces another
7 to fail to file or record the report;
- 8 (12) Submits a false statement to collect a fee;
- 9 (13) Fails to provide the details of the medical records of a patient to a
10 licensed health care practitioner or institution or an authorized insurance carrier on
11 proper request;
- 12 (14) Pays or agrees to pay any sum to any person for bringing or
13 referring a patient;
- 14 (15) Practices podiatry with an unauthorized person or aids an
15 unauthorized person in the practice of podiatry;
- 16 (16) Grossly overutilizes health care services;
- 17 (17) Behaves fraudulently, immorally, or unprofessionally in the
18 practice of podiatry;
- 19 (18) Is professionally or mentally incompetent;
- 20 (19) Violates any provision of this title;
- 21 (20) Advertises in a false or misleading manner;
- 22 (21) Has been disciplined by a licensing or disciplinary authority of any
23 state or country or convicted or disciplined by a court of any state or country or
24 disciplined by any branch of the United States uniformed services or the United States
25 Veterans Administration for an act that would be grounds for disciplinary action
26 under this section;
- 27 (22) Violates any rules or regulations adopted by the Board;
- 28 (23) Fails to comply with the provisions of § 12–102 of this article;
- 29 (24) Refuses, withholds from, denies, or discriminates against an
30 individual with regard to the provision of professional services for which the licensee is
31 licensed and qualified to render because the individual is HIV positive;

1 (25) Except in an emergency life-threatening situation where it is not
2 feasible or practicable, fails to comply with the Centers for Disease Control's
3 guidelines on universal precautions;

4 (26) Fails to display the notice required under § 16-404 of this title; or

5 (27) Fails to cooperate with a lawful investigation conducted by the
6 Board.

7 **(A-1) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
8 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
9 **STATED UNDER SUBSECTION (A) OF THIS SECTION.**

10 17-313.

11 **(A) Subject TO SUBSECTION (B) OF THIS SECTION, AND SUBJECT** to the
12 hearing provisions of § 17-314 of this subtitle, the Board, on the affirmative vote of a
13 majority of **TWO-THIRDS OF** its members then serving, may deny a certificate to any
14 applicant, place any certificate holder on probation, reprimand any certificate holder,
15 or suspend or revoke a certificate of any certificate holder if the applicant or certificate
16 holder:

17 (1) Fraudulently or deceptively obtains or attempts to obtain a
18 certificate for the applicant or certificate holder or for another;

19 (2) Is addicted to any narcotic or is habitually intoxicated;

20 (3) Aids or abets an unauthorized person in practicing professional
21 counseling or representing to be a certified professional counselor;

22 (4) Violates the code of ethics adopted by the Board;

23 (5) Knowingly violates any provision of this title;

24 (6) Is convicted of or pleads guilty or nolo contendere to a felony or a
25 crime involving moral turpitude, whether or not any appeal or other proceeding is
26 pending to have the conviction or plea set aside;

27 (7) Is professionally, physically, or mentally incompetent;

28 (8) Submits a false statement to collect a fee;

29 (9) Violates any rule or regulation adopted by the Board;

30 (10) Is disciplined by a licensing or disciplinary authority of any other
31 state or country or convicted or disciplined by a court of any state or country for an act
32 that would be grounds for disciplinary action under the Board's disciplinary statutes;

1 (11) Refuses, withholds from, denies, or discriminates against an
2 individual with regard to the provision of professional services for which the certificate
3 holder is certified and qualified to render because the individual is HIV positive;

4 (12) Commits an act of immoral or unprofessional conduct in the
5 practice of professional counseling, alcohol and drug counseling, or marriage and
6 family therapy; or

7 (13) Fails to cooperate with a lawful investigation conducted by the
8 Board.

9 **(B) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
10 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A CERTIFICATE FOR THE**
11 **REASONS STATED UNDER SUBSECTION (A) OF THIS SECTION.**

12 18–313.

13 **(A) Subject TO SUBSECTION (B) OF THIS SECTION, AND SUBJECT** to the
14 hearing provisions of § 18–315 of this subtitle, the Board, on the affirmative vote of [a
15 majority] **TWO–THIRDS** of its members then serving, may deny a license to any
16 applicant, reprimand any licensee, place any licensee on probation, or suspend or
17 revoke a license of any licensee if the applicant or licensee:

18 (1) Fraudulently or deceptively obtains or attempts to obtain a license
19 for the applicant or licensee or for another;

20 (2) Fraudulently or deceptively uses a license;

21 (3) Is convicted of or pleads guilty or nolo contendere to a felony or a
22 crime involving moral turpitude, whether or not any appeal or other proceeding is
23 pending to have the conviction or plea set aside;

24 (4) Is or has been addicted to any narcotic or habitually intoxicated;

25 (5) Aids or abets an unauthorized person in practicing psychology or
26 representing oneself to be a psychologist;

27 (6) Practices psychology fraudulently or deceitfully;

28 (7) Violates the code of ethics adopted by the Board under § 18–311 of
29 this subtitle;

30 (8) Willfully fails to file or record any report as required under law,
31 willfully impedes or obstructs the filing or recording of the report, or induces another
32 to fail to file or record the report;

- 1 (9) Submits a false statement to collect a fee;
- 2 (10) Willfully makes or files a false report or record in the practice of
3 psychology;
- 4 (11) Is disciplined by a licensing or disciplinary authority of any state
5 or country or convicted or disciplined by a court of any state or country or disciplined
6 by any branch of the United States uniformed services or the United States Veterans
7 Administration for an act that would be grounds for disciplinary action under the
8 Board's disciplinary statutes;
- 9 (12) Violates any provision of this title or any regulation adopted by the
10 Board;
- 11 (13) Uses or promotes or causes the use of any misleading, deceiving, or
12 untruthful advertising matter, promotional literature, or testimonial;
- 13 (14) Is professionally, physically, or mentally incompetent;
- 14 (15) Promotes the sale of devices, appliances, or goods to a patient so as
15 to exploit the patient for financial gain;
- 16 (16) Behaves immorally in the practice of psychology;
- 17 (17) Commits an act of unprofessional conduct in the practice of
18 psychology;
- 19 (18) Refuses, withholds from, denies, or discriminates against an
20 individual with regard to the provision of professional services for which the licensee is
21 licensed and qualified to render because the individual is HIV positive;
- 22 (19) Fails to cooperate with a lawful investigation conducted by the
23 Board; or
- 24 (20) Does an act that is inconsistent with generally accepted
25 professional standards in the practice of psychology.

26 **(B) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
27 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
28 **STATED UNDER SUBSECTION (A) OF THIS SECTION.**

29 19–311.

30 **(A) Subject TO SUBSECTION (B) OF THIS SECTION, AND SUBJECT to the**
31 **hearing provisions of § 19–312 of this subtitle, the Board, ON THE AFFIRMATIVE**
32 **VOTE OF TWO–THIRDS OF THE MEMBERS SERVING ON THE BOARD,** may deny a

1 license to any applicant, fine a licensee, reprimand any licensee, place any licensee on
2 probation, or suspend or revoke a license if the applicant or licensee:

3 (1) Obtained or attempted to obtain a license for the applicant or
4 licensee or for another through fraud, deceit, or misrepresentation;

5 (2) Fraudulently or deceptively uses a license;

6 (3) Is mentally or physically incompetent;

7 (4) Commits any act of gross negligence, incompetence, or misconduct
8 in the practice of social work;

9 (5) Knowingly violates any provision of this title;

10 (6) Engages in a course of conduct that is inconsistent with generally
11 accepted professional standards in the practice of social work;

12 (7) Violates any provision of this title or regulations governing the
13 practice of social work adopted and published by the Board;

14 (8) Is convicted of or pleads guilty or nolo contendere to a felony or to a
15 crime involving moral turpitude, whether or not any appeal or other proceeding is
16 pending to have the conviction or plea set aside;

17 (9) Provides professional services while:

18 (i) Under the influence of alcohol; or

19 (ii) Using any narcotic or controlled dangerous substance, as
20 defined in § 5–101 of the Criminal Law Article, or other drug that is in excess of
21 prescribed amounts or without valid medical indication;

22 (10) Is disciplined by a licensing or disciplinary authority of any state,
23 country, or branch of the armed services, or the Veterans' Administration for an act
24 that would be grounds for disciplinary action under this section;

25 (11) Practices social work with an unauthorized person or supervises or
26 aids an unauthorized person in the practice of social work;

27 (12) Knowingly makes or files a false report or record in the practice of
28 social work;

29 (13) Knowingly fails to file or record any report as required by law,
30 willfully impedes or obstructs the filing or recording of the report, or induces another
31 to fail to file the report;

32 (14) Submits a false statement to collect a fee;

1 (15) Knowingly fails to report suspected child abuse in violation of §
2 5–704 of the Family Law Article;

3 (16) Refuses, withholds from, denies, or discriminates against an
4 individual with regard to the provision of professional services on the basis of race,
5 age, gender, sexual orientation, disability, religion, or ethnic origin or because the
6 individual is HIV positive;

7 (17) Fails to cooperate with a lawful investigation conducted by the
8 Board;

9 (18) By threats, force, or improper means, intimidates or influences, or
10 attempts to intimidate or influence, for the purpose of:

11 (i) Causing any person to withhold or change testimony in
12 hearings or proceedings before the Board or otherwise delegated to the Office of
13 Administrative Hearings; or

14 (ii) Hindering, preventing, or otherwise delaying a person from
15 making information available to the Board in furtherance of an investigation by the
16 Board;

17 (19) Knowingly fails to report suspected abuse or neglect of a
18 vulnerable adult in violation of § 3–604 or § 3–605 of the Criminal Law Article;

19 (20) Fails to comply with the requirements of any order entered by the
20 Board as a result of any disciplinary matter with the Board, including payment of
21 costs as required by § 19–312 of this subtitle; or

22 (21) Fails to maintain adequate patient records.

23 **(B) AN AFFIRMATIVE VOTE OF A MAJORITY OF A QUORUM OF THE**
24 **BOARD IS SUFFICIENT TO SUMMARILY SUSPEND A LICENSE FOR THE REASONS**
25 **STATED UNDER SUBSECTION (A) OF THIS SECTION.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2008.