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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - PENALTIES

Introduced By: Senator Joshua Miller

Date Introduced: March 21, 2019

Referred To: Senate Health & Human Services

(Dept. of Health)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-25-14 of the General Laws in Chapter 5-25 entitled "Veterinary
2 Practice" is hereby amended to read as follows:

3 **5-25-14. Grounds for refusal to issue, refusal to renew, revoke, or suspend a license.**

4 The division has the power to deny, revoke, ~~or~~ suspend, or assess administrative
5 monetary penalties against any license issued under this chapter or otherwise discipline a licensee
6 upon proof of the following (administrative monetary penalties may not exceed one thousand five
7 hundred dollars (\$1,500) per charge or count):

- 8 (1) Conviction of a crime involving moral turpitude; conviction of a felony; and
9 conviction of a crime arising out of the practice of veterinary medicine;
- 10 (2) Addiction to narcotics, habitual drunkenness, or rendering professional services to a
11 patient while the veterinarian is intoxicated or incapacitated by the use of drugs;
- 12 (3) Knowingly placing the health of a client at serious risk without maintaining proper
13 precautions;
- 14 (4) Fraud or misrepresentation in any phase of procuring or renewing a license;
- 15 (5) Unprofessional conduct, which includes the matters set forth in the section or other
16 matters as further defined in regulations of the division;
- 17 (6) Advertising designed to mislead the public;
- 18 (7) Representing certain procedures are performed with greater authority or expertise;
- 19 (8) Fraud or misrepresentation of treatment procedures or statements regarding the ability

1 to treat;

2 (9) Fee splitting or kickbacks of any kind, except where services are provided jointly;

3 (10) Failure to maintain acceptable sanitation standards;

4 (11) Malpractice, gross negligence, or wanton disregard of accepted professional
5 standards;

6 (12) Adjudication of mental incompetence;

7 (13) Lack of fitness to practice by reason of mental or physical impairment or otherwise;

8 or

9 (14) Any other grounds to deny, revoke or suspend a license as provided for in the rules
10 and regulations.

11 SECTION 2. Section 5-29-33 of the General Laws in Chapter 5-29 entitled "Podiatrists"
12 is hereby amended to read as follows:

13 **5-29-33. Sanctions.**

14 If the accused is found guilty of unprofessional conduct as specified in § 5-29-32, the
15 director, at the direction of the board, shall impose one or more of the following conditions:

16 (1) Administer a reprimand;

17 (2) Suspend, limit or restrict his or her license or limited registration to practice podiatry;

18 (3) Require him or her to serve a period of probation subject to certain conditions and
19 requirements including, where appropriate, sanctions or restitution;

20 (4) Revoke indefinitely his or her license or limited registration to practice podiatry;

21 (5) Require him or her to submit to the care, counseling, or treatment of a physician or
22 program acceptable to the board;

23 (6) Require him or her to participate in a program of continuing podiatric education in the
24 area or areas in which he or she has been judged deficient;

25 (7) Require him or her to practice under the direction of a podiatrist in a public
26 institution, public or private health care program, or private practice for a period of time specified
27 by the board;

28 (8) Assess against the podiatrist the administrative costs of the proceedings instituted
29 against the podiatrist; provided, that assessment does not exceed ten thousand dollars (\$10,000);

30 ~~or~~

31 (9) Assess administrative monetary penalties against any podiatrist who fails to comply
32 with any provision of this chapter or rule, regulation, order, license, or approval issued by the
33 director; provided, that the administrative monetary penalties do not exceed one thousand five
34 hundred dollars (\$1,500) per charge or count; and

1 ~~(9)~~(10) Any other conditions or restrictions deemed appropriate under the circumstances.

2 SECTION 3. Section 5-31.1-17 of the General Laws in Chapter 5-31.1 entitled "Dentists
3 and Dental Hygienists" is hereby amended to read as follows:

4 **5-31.1-17. Sanctions.**

5 If the accused is found guilty of unprofessional conduct as defined in § 5-31.1-10, the
6 director, at the direction of the board, shall impose one or more of the following conditions:

7 (1) Administer a reprimand;

8 (2) Suspend, limit, or restrict his or her license or limited registration to practice dentistry
9 or license to practice dental hygiene or license to practice DAANCE-certified maxillofacial
10 surgery assisting;

11 (3) Require him or her to serve a period of probation subject to certain conditions and
12 requirements including, where appropriate, sanctions or restitution;

13 (4) Revoke, indefinitely, his or her license or limited registration to practice dentistry or
14 license to practice dental hygiene or license to practice DAANCE-certified maxillofacial surgery
15 assisting;

16 (5) Require him or her to submit to the care, counseling, or treatment of a physician or
17 program acceptable to the board;

18 (6) Require him or her to participate in a program of continuing dental, dental hygiene, or
19 DAANCE-certified maxillofacial surgery assisting education the area or areas in which he or she
20 has been judged deficient;

21 (7) Require him or her to practice under the direction of a dentist in a public institution,
22 public or private health care program, or private practice for a period of time specified by the
23 board;

24 (8) Assess against the dentist, dental hygienist or DAANCE-certified maxillofacial
25 surgery assistant the administrative costs of the proceedings instituted against the dentist, dental
26 hygienist or DAANCE-certified maxillofacial surgery assisting under this chapter; provided, that
27 the assessment does not exceed ten thousand dollars (\$10,000); ~~or~~

28 (9) Assess administrative monetary penalties against any dentist who fails to comply with
29 any provision of this chapter or rule, regulation, order, license, or approval issued by the director;
30 provided, that the administrative monetary penalties do not exceed one thousand five hundred
31 dollars (\$1,500) per charge or count; and

32 ~~(9)~~(10) Any other condition, conditions, or restrictions deemed appropriate under the
33 circumstances.

34 SECTION 4. Section 5-35.1-18 of the General Laws in Chapter 5-35.1 entitled

1 "Optometrists" is hereby amended to read as follows:

2 **5-35.1-18. Refusal, suspension or revocation of license for unprofessional conduct.**

3 In addition to any and all other remedies provided in this chapter, the director may, after
4 notice and hearing in the director's discretion, refuse to grant, refuse to renew, suspend, [assess](#)
5 [administrative monetary penalties against](#), or revoke any license provided for in this chapter to
6 any person who is guilty of unprofessional conduct or conduct of a character likely to deceive or
7 defraud the public, or for any fraud or deception committed in obtaining a license. [Administrative](#)
8 [monetary penalties may not exceed one thousand five hundred dollars \(\\$1,500\) per charge or](#)
9 [count](#). "Unprofessional conduct" is defined as including, but is not limited to:

10 (1) Conviction of one or more of the offenses set forth in § 23-17-37;

11 (2) Knowingly placing the health of a patient at serious risk without maintaining proper
12 precautions;

13 (3) Advertising by means of false or deceptive statements;

14 (4) The use of drugs or alcohol to an extent that impairs the person's ability to properly
15 engage in the profession;

16 (5) Use of any false or fraudulent statement in any document connected with his or her
17 practice;

18 (6) Obtaining of any fee by fraud or willful misrepresentation of any kind whether from a
19 patient or insurance plan;

20 (7) Knowingly performing any act which in any way aids or assists an unlicensed person
21 to practice in violation of this chapter;

22 (8) Violating or attempting to violate, directly or indirectly, or assisting in, or abetting,
23 the violation of, or conspiring to violate, any of the provisions of this chapter or regulations
24 previously or hereafter issued pursuant to this chapter;

25 (9) Incompetence;

26 (10) Repeated acts of gross misconduct;

27 (11) An optometrist providing services to a person who is making a claim as a result of a
28 personal injury, who charges or collects from the person any amount in excess of the
29 reimbursement to the optometrist by the insurer as a condition of providing or continuing to
30 provide services or treatment;

31 (12) Failure to conform to acceptable and prevailing community standard of optometric
32 practice;

33 (13) Advertising by written or spoken words of a character tending to deceive or mislead
34 the public;

1 (14) Practicing his or her profession under any oral or written contract, arrangement or
2 understanding where anyone, not licensed to practice optometry in this state shares, directly or
3 indirectly, in any fees received by that licensed optometrist;

4 (15) Grave and repeated misuse of any ocular pharmaceutical agent; or

5 (16) The use of any agent or procedure in the course of optometric practice by an
6 optometrist not properly authorized under this chapter.

7 SECTION 5. Section 5-37-6.3 of the General Laws in Chapter 5-37 entitled "Board of
8 Medical Licensure and Discipline" is hereby amended to read as follows:

9 **5-37-6.3. Sanctions.**

10 If the accused is found guilty of unprofessional conduct as described in § 5-37-6.2, the
11 director, at the direction of the board, shall impose one or more of the following conditions:

12 (1) Administer a reprimand;

13 (2) Suspend or limit or restrict his or her license or limited registration to practice
14 medicine;

15 (3) Require him or her to serve a period of probation subject to certain conditions and
16 requirements including, where appropriate, sanctions or restitution;

17 (4) Revoke indefinitely his or her license or limited registration to practice medicine;

18 (5) Require him or her to submit to the care, counseling, or treatment of a physician or
19 program acceptable to the board;

20 (6) Require him or her to participate in a program of continuing medical education in the
21 area or areas in which he or she has been judged deficient;

22 (7) Require him or her to practice under the direction of a physician in a public
23 institution, public or private health care program, or private practice for a period of time specified
24 by the board;

25 (8) Assess against the physician the administrative costs of the proceedings instituted
26 against the physician under this chapter; provided, that this assessment does not exceed ~~ten~~
27 ~~thousand dollars (\$10,000)~~ fifty thousand dollars (\$50,000);

28 (9) Assess administrative monetary penalties against any physician who fails to comply
29 with any provision of this chapter or rule, regulation, order, license, or approval issued by the
30 director; provided, that the administrative monetary penalties do not exceed five thousand dollars
31 (\$5,000) per charge or count; and

32 ~~(9)~~(10) Any other conditions or restrictions deemed appropriate under the circumstances.

33 SECTION 6. Section 5-54-12 of the General Laws in Chapter 5-54 entitled "Physician
34 Assistants" is hereby amended to read as follows:

1 **5-54-12. Grounds for refusal to renew, suspension or revocation of certificates.**

2 The director may, after notice and a hearing refuse to grant, [refuse to renew](#), [assess](#)
3 [monetary penalties against](#), suspend, or revoke any certificate of licensure or discipline any
4 registrant upon proof that the person is guilty of unprofessional conduct as defined in § 5-54-2.
5 [Administrative monetary penalties may not exceed two thousand five hundred dollars \(\\$2,500\)](#)
6 [per charge or count.](#)

7 SECTION 7. Section 23-13-9 of the General Laws in Chapter 23-13 entitled "Maternal
8 and Child Health Services for Children with Special Health Care Needs" is hereby amended to
9 read as follows:

10 **23-13-9. Licensing and regulation of midwives -- Penalty for violations.**

11 The state director of health is authorized and directed to make rules for the regulation of
12 the practice of midwifery and for the licensing of midwives, including regulations that require the
13 payment of an initial application fee equal to that fee that is imposed upon applicants for licensure
14 as nurse practitioners and a renewal fee also equivalent to that for nurse practitioners. The rules
15 regarding the regulation of the practice of midwifery shall authorize a licensed, certified nurse-
16 midwife (CNM) or a licensed, certified midwife (CM) to prescribe medications that might be
17 reasonably required by his or her patients; provided however, that a licensed, certified nurse-
18 midwife (CNM) or a licensed, certified midwife (CM) shall prescribe any of those medications as
19 authorized by the director of health. The provisions of this section relating to prescription
20 authority by certified nurse-midwives and certified midwives shall be overseen by the department
21 of health as defined in the department's rules and regulations for licensing of midwives (R23-
22 13MID). No person not a licensed midwife or a physician, registered under the provisions of
23 chapter 37 of title 5, shall practice midwifery, or shall make a practice of attending women in
24 childbirth for hire, or use the name or title of midwife. Any person who violates the provisions of
25 this section, or who violates any of the rules of the department of health made in pursuance of this
26 section, shall be fined not more than one hundred dollars (\$100), or imprisoned not more than six
27 (6) months, or both, and the director of health may [refuse to grant](#), [refuse to renew](#), revoke
28 [suspend, assess administrative monetary provisions against, or](#) the license issued to any person
29 when, in the opinion of the director of health, that person is guilty of unprofessional conduct.
30 [Administrative monetary penalties may not exceed one thousand five hundred dollars \(\\$1,500\)](#)
31 [per charge or count.](#)

32 SECTION 8. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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1 This act would enhance the ability of the director of the board of medical licensure and
2 discipline, the director of the board of dentists and dental hygienists, the director of the board of
3 podiatrists, the director of the board of physician assistants, the director of the board of
4 optometrists, the division of the board of veterinary practice, and the state director of health
5 overseeing the practice of midwifery, to assess administrative monetary penalties, in addition to
6 their ability to suspend, revoke or refuse to renew the license of any licensed professional within
7 their department who is found guilty of unprofessional conduct.

8 This act would take effect upon passage.

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