

**53-11-119 Grounds for disciplinary action.**

- (1) The board may take disciplinary action under Subsection (2), (4), or (5) regarding a license granted under this chapter if the board finds the licensee commits any of the following while engaged in activities regulated under this chapter:
  - (a) fraud or willful misrepresentation in applying for an original license or renewal of an existing license;
  - (b) using any letterhead, advertising, or other printed matter in any manner representing that the licensee is an instrumentality of the federal government, a state, or any political subdivision of a state;
  - (c) using a name different from that under which the licensee is currently licensed for any advertising, solicitation, or contract to secure business unless the name is an authorized fictitious name;
  - (d) impersonating, permitting, or aiding and abetting an employee to impersonate a law enforcement officer or employee of the United States, any state, or a political subdivision of a state;
  - (e) knowingly violating, advising, encouraging, or assisting in the violation of any statute, court order, or injunction in the course of conducting an agency regulated under this chapter;
  - (f) falsifying fingerprints or photographs while operating under this chapter;
  - (g) has a conviction for:
    - (i) a felony;
    - (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;
    - (iii) any act involving moral turpitude;
    - (iv) any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person;
    - (v) any act constituting dishonesty or fraud;
    - (vi) impersonating a peace officer; or
    - (vii) any act of illegally obtaining or disseminating private, controlled, or protected records under Section 63G-2-801;
  - (h) soliciting business for an attorney in return for compensation;
  - (i) being placed on probation, parole, compensatory service, or named in an outstanding arrest warrant;
  - (j) committing, or permitting any employee or contract employee to commit any act during the period between the expiration of a license for failure to renew within the time fixed by this chapter, and the reinstatement of the license, that would be cause for the suspension or revocation of the license or grounds for denial of the application for the license;
  - (k) willfully neglecting to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties, but if the investigator chooses to withdraw from the case and returns the funds for work not yet done, no violation of this section exists;
  - (l) failing or refusing to cooperate with, failing to provide truthful information to, or refusing access to an authorized representative of the department engaged in an official investigation;
  - (m) employing or contracting with any unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter if the licensure status was known or could have been ascertained by reasonable inquiry;
  - (n) permitting, authorizing, aiding, or in any way assisting a licensed employee to conduct services as described in this chapter on an independent contractor basis and not under the authority of the licensed agency;
  - (o) failure to maintain in full force and effect workers' compensation insurance, if applicable;

- (p) advertising in a false, deceptive, or misleading manner;
  - (q) refusing to display the identification card issued by the department to any person having reasonable cause to verify the validity of the license;
  - (r) committing any act of unprofessional conduct; or
  - (s) engaging in any other conduct prohibited by this chapter.
- (2) On completion of an investigation, the board may:
- (a) dismiss the case;
  - (b) take emergency action;
  - (c) issue a letter of concern, if applicable;
  - (d) impose a civil penalty not to exceed \$500;
  - (e) place all records, evidence, findings, and conclusions and any other information pertinent to the investigation in the confidential and protected records section of the file maintained at the department; or
  - (f) if the board finds, based on the investigation, that a violation of Subsection (1) has occurred, notice shall be sent to the licensee of the results of the hearing by mailing a true copy to the licensee's last-known address in the department's files by certified mail, return receipt requested.
- (3) A letter of concern shall be retained by the commissioner and may be used in future disciplinary actions against a licensee.
- (4)
- (a) If the board finds, based on its investigation under Subsection (1), that the public health, safety, or welfare requires emergency action, the board may order a summary suspension of a license pending proceedings for revocation or other action.
  - (b) If the board issues an order of summary suspension, the board shall issue to the licensee a written notice of complaint and formal hearing, setting forth the charges made against the licensee and the licensee's right to a formal hearing before the board within 60 days.
- (5) Based on information the board receives during a hearing it may:
- (a)
    - (i) dismiss the complaint if the board believes it is without merit;
    - (ii) fix a period and terms of probation best adapted to educate the licensee;
    - (iii) place the license on suspension for a period of not more than 12 months; or
    - (iv) revoke the license; and
  - (b) impose a civil penalty not to exceed \$500.
- (6)
- (a) On a finding by the board that a bail recovery agency licensee committed a violation of Subsection (1), the probation, suspension, or revocation terminates the employment of all licensees employed or employed by contract by the bail bond agency.
  - (b) If a licensee who is an employee or contract employee of a bail bond agency committed a violation of Subsection (1), the probation, suspension, or revocation applies only to the license held by that individual under this chapter.
- (7)
- (a) Appeal of the board's decision shall be made in writing to the commissioner within 30 days after the date of issuance of the board's decision.
  - (b) The hearing shall be scheduled not later than 60 days after receipt of the request.
  - (c) The commissioner shall review the finding by the board and may affirm, return to the board for reconsideration, reverse, adopt, modify, supplement, amend, or reject the recommendation of the board.

- (8) A person may appeal the commissioner's decision to the district court pursuant to Section 63G-4-402.
- (9) All penalties collected under this section shall be deposited in the General Fund.

Amended by Chapter 382, 2008 General Session