

## TITLE 3. DISTRICT OF COLUMBIA BOARDS AND COMMISSIONS

### SUBTITLE I. GENERAL

### CHAPTER 12. HEALTH OCCUPATIONS BOARDS

### UNIT A. GENERAL

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#### SUBCHAPTER V. LICENSING OF HEALTH PROFESSIONALS

##### § 3-1205.01. License required

A license issued pursuant to this chapter is required to practice medicine, acupuncture, chiropractic, registered nursing, practical nursing, dentistry, dental hygiene, dietetics, marriage and family therapy, massage therapy, naturopathic medicine, nutrition, nursing home administration, occupational therapy, optometry, pharmacy, physical therapy, podiatry, psychology, social work, professional counseling, and respiratory care or to practice as an

anesthesiologist assistant, physician assistant, or occupational therapy assistant in the District, except as provided in this chapter. A certification issued pursuant to this chapter is required to practice advanced practice registered nursing.

#### **§ 3-1205.02. Exemptions**

The provisions of this chapter prohibiting the practice of a health occupation without a license shall not apply:

- (1) To an individual who administers treatment or provides advice in any case of emergency;
- (2) To an individual employed in the District by the federal government, while he or she is acting in the official discharge of the duties of employment;
- (3) To an individual, licensed to practice a health occupation in a state, who is called from the state in professional consultation by or on behalf of a specific patient to visit, examine, treat, or advise the specific patient in the District, or to give a demonstration or clinic in the District, provided that the individual engages in the consultation, demonstration, or clinic in affiliation with a comparable health professional licensed pursuant to this chapter;
- (4) To a health professional who is authorized to practice a health occupation in any state adjoining the District who treats patients in the District if:
  - (A) The health professional does not have an office or other regularly appointed place in the District to meet patients;
  - (B) The health professional registers with the appropriate board and pays the registration fee prescribed by the board prior to practicing in the District; and
  - (C) The state in which the individual is licensed allows individuals licensed by the District in that particular health profession to practice in that state under the conditions set forth in this subsection.
  - (D) Notwithstanding the provisions of subparagraphs (A), (B), and (C) of this paragraph, a health professional practicing in the District pursuant to this paragraph shall not see patients or clients in the office or other place of practice of a District licensee, or otherwise circumvent the provisions of this chapter.

#### **§ 3-1205.03. General qualifications of applicants**

(a) An individual applying for a license under this chapter shall establish to the satisfaction of the board regulating the health occupation that the individual:

(1) Has not been convicted of an offense which bears directly on the fitness of the individual to be licensed;

(2) Is at least 18 years of age;

(3) Has successfully completed the additional requirements set forth in § 3-1205.04 and subchapters VI, VII, VIII and VIII-A of this chapter, as applicable;

(4) Has passed an examination, administered by the board or recognized by the Mayor pursuant to § 3-1205.06, to practice the health occupation; and

(5) Meets any other requirements established by the Mayor by rule to assure that the applicant has had the proper training, experience, and qualifications to practice the health occupation.

(b) The board may grant a license to an applicant whose education and training in the health occupation has been successfully completed in a foreign school, college, university, or training program if the applicant otherwise qualifies for licensure and if the board determines, in accordance with rules issued by the Mayor, that the education and training are substantially equivalent to the requirements of this chapter in assuring that the applicant has the proper training, experience, and qualifications to practice the health occupation.

(c) The board may deny a license to an applicant whose license to practice a health occupation was revoked or suspended in another state if the basis of the license revocation or suspension would have caused a similar result in the District, or if the applicant is the subject of pending disciplinary action regarding his or her right to practice in another state.

(d) The references in § 3-1205.04 and subchapters VI, VII, VIII and VIII-A of this chapter to named professional organizations and governmental entities for purposes of accreditation or the administration of national examinations shall be considered to refer to successor organizations or entities upon a determination by the Mayor that the successor is substantially equivalent in standards and purposes as the organization or entity named in this chapter.

**§ 3-1205.04. Additional qualifications of applicants**

(i) An individual applying for a license to practice pharmacy under this chapter shall establish to the satisfaction of the Board of Pharmacy that the individual:

(1) Has earned a degree in pharmacy from a college or school of pharmacy accredited by the American Council of Pharmaceutical Education; and

(2) Has worked as a pharmacy intern in a pharmacy for the period of time required by the Mayor or has gained other equivalent experience the Mayor may permit by rule.

**§ 3-1205.05. Application for license**

(a) An applicant for a license shall:

(1) Submit an application to the board regulating the health occupation on the form required by the board; and

(2) Pay the applicable fees established by the Mayor.

(b) The social security number of each applicant for a license issued pursuant to this chapter shall be recorded on the application. If a number other than the social security number is used on the face of the license, the issuing agency or entity shall keep the applicant's social security number on file and the applicant shall be so advised.

**§ 3-1205.06. Examinations**

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided by this chapter.

(b) (1) Each board that administers examinations shall give examinations to applicants at least twice a year at times and places to be determined by the Board.

(2) When the Mayor, pursuant to subsection (e)(2) of this section, determines that a national examination is acceptable, then the frequency, time, and place that the national examination is given shall be considered acceptable and in accordance with this chapter.

(c) Each board shall notify each qualified applicant of the time and place of examination.

(d) Except as otherwise provided by this chapter, each board shall determine the subjects, scope, form, and passing score for examinations to assess the ability of the applicant to practice effectively the health occupation regulated by the board.

(e) Each board, in its discretion, may waive the examination requirements:

(1) For any applicant who meets the requirements of § 3-1205.07 for licensure by reciprocity or endorsement; or

(2) For any person who has been certified by a national examining board if the Mayor determines by rule that the examination was as effective for the testing of professional competence as that required in the District.

**§ 3-1205.07. Reciprocity and endorsement**

Each board shall issue a license by reciprocity or endorsement to an applicant:

(1) Who is licensed or certified and in good standing under the laws of another state with requirements which, in the opinion of the Board, were substantially equivalent at the time of licensure to the requirements of this chapter, and which state admits health professionals licensed by the District in a like manner; or

(2) Who is certified or accredited by a recognized national accrediting association, acceptable to the Board, as a qualified professional according to standards that were the substantial equivalent at the time of the certification or accreditation to the standards for that profession as set forth in this chapter and who has continually remained in good standing with the certifying or accrediting association from the date of certification or accrediting until the date of licensing; and

(3) Who pays the applicable fees established by the Mayor.

**§ 3-1205.08. Issuance of license**

Each board shall issue a license to an applicant who meets the requirements of this chapter and rules and regulations issued pursuant to this chapter to practice the health occupation regulated by the board.

**§ 3-1205.09. Scope of license**

(a) (1) A person licensed under this chapter to practice a health occupation is authorized to practice that occupation in the District while the license is effective.

(2) A person certified to practice advanced registered nursing is authorized to practice the specialty for which he or she has been certified by the Board of Nursing.

(b) An individual who fails to renew a license to practice a health occupation shall be considered to be unlicensed and subject to the penalties set forth in this chapter and other applicable laws of the District, if he or she continues to practice the health occupation.

**§ 3-1205.10. Term and renewal of licenses**

(a) A license expires 1 year from the date of its first issuance or renewal unless renewed by the board that issued it as provided in this section, except that the Mayor, by rule, may provide for a period of licensure of not more than 3 years.

(b) The Mayor may establish by rule continuing education requirements as a condition for renewal of licenses under this section.

(c) At least 30 days before the license expires, or a greater period as established by the Mayor by rule, each board shall send to the licensee, by first class mail to the last known address of the licensee, a renewal notice that states:

(1) The date on which the current license expires;

(2) The date by which the renewal application must be received by the board for renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(d) Before the license expires, the licensee may renew it for an additional term, if the licensee:

(1) Submits a timely application to the board;

(2) Is otherwise entitled to be licensed;

(3) Pays the renewal fee established by the Mayor; and

(4) Submits to the board satisfactory evidence of compliance with any continuing education requirements established by the board for license renewal.

(e) Each board shall renew the license of each licensee who meets the requirements of this section.

**§ 3-1205.11. Inactive status**

(a) Upon application by a licensee and payment of the inactive status fee established by the Mayor, each board shall place a licensee on inactive status.

(b) While on inactive status, the individual shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice the health occupation in the District.

(c) Each board shall issue a license to an individual who is on inactive status and who desires to resume the practice of a health occupation if the individual:

- (1) Pays the fee established by the Mayor;
- (2) Complies with the continuing education requirements in effect when the licensee seeks to reactivate the license; and
- (3) Complies with the current requirements for renewal of licenses.

**§ 3-1205.12. Reinstatement of expired licenses**

(a) If a health professional fails for any reason to renew the license issued under this subchapter, the board regulating the health occupation shall reinstate the license if the health professional:

- (1) Applies to the board for reinstatement of the license within 5 years after the license expires;
- (2) Complies with current requirements for renewal of a license as set forth in this subchapter;
- (3) Pays a reinstatement fee established by the Mayor; and
- (4) Submits to the board satisfactory evidence of compliance with the qualifications and requirements established under this subchapter for license reinstatements.

(b) The board shall not reinstate the license of a health professional who fails to apply for reinstatement of a license within 5 years after the license expires. The health professional may become licensed by meeting the requirements then in existence for obtaining an initial license under this subchapter.

**§ 3-1205.13. Display of licenses; change of address**

(a) Each licensee shall display the license conspicuously in any and all places of business or employment of the licensee.

(b) Each licensee shall notify the board of any change of address of the place of residence or place of business or employment within 30 days after the change of address.

(c) Each licensee shall be subject to the penalties provided by this chapter for failure to comply with the requirements of this section.

**§ 3-1205.14. Revocation, suspension, or denial of license or privilege; civil penalty; reprimand**

(a) Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a majority of its members then serving, may take 1 or more of the disciplinary actions provided in subsection (c) of this section against any applicant, licensee, or person permitted by this subchapter to practice the health occupation regulated by the board in the District who:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for an applicant or licensee or for another person;
- (2) Fraudulently or deceptively uses a license;
- (3) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any jurisdiction for conduct that would be grounds for disciplinary action under this section;
- (4) Has been convicted in any jurisdiction of any crime involving moral turpitude, if the offense bears directly on the fitness of the individual to be licensed;
- (5) Is professionally or mentally incompetent or physically incapable;
- (6) Is addicted to, or habitually abuses, any narcotic or controlled substance as defined by Unit A of Chapter 9 of Title 48;
- (7) Provides, or attempts to provide, professional services while under the influence of alcohol or while using any narcotic or controlled substance as defined by Unit A of Chapter 9 of Title 48, or other drug in excess of therapeutic amounts or without valid medical indication;
- (8) Willfully makes or files a false report or record in the practice of a health occupation;
- (9) Willfully fails to file or record any medical report as required by law, impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;
- (10) On proper request in accordance with law, fails to provide details of a patient's medical record to a hospital or another health professional licensed under this chapter or under the laws of another jurisdiction;

- (11) Willfully makes a misrepresentation in treatment;
- (12) Willfully practices a health occupation with an unauthorized person or aids an unauthorized person in the practice of a health occupation;
- (13) Submits false statements to collect fees for which services are not provided or submits statements to collect fees for services which are not medically necessary;
- (14) Pays or agrees to pay anything of value to, or to split or divide fees for professional services with, any person for bringing or referring a patient;
- (15) Fails to pay a civil fine imposed by a board, other administrative officer, or court;
- (16) Willfully breaches a statutory, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient or client of the health professional, unless ordered by a court;
- (17) Refuses to provide service to a person in contravention of Chapter 14 of Title 2;
- (18) Violates any of the conditions of an agreement between the licensee and the board to voluntarily limit the practice of the licensee made pursuant to § 3-1205.18;
- (19) Prescribes, dispenses, or administers drugs when not authorized to do so;
- (20) Practices without a protocol when required by subchapter VI of this chapter;
- (21) Performs, offers, or attempts to perform services beyond the scope of those authorized by the license held by the health professional;
- (22) Maintains an unsanitary office or performs professional services under unsanitary conditions;
- (23) Engages in sexual harassment of a patient or client;
- (24) Violates any provision of this chapter or rules and regulations issued pursuant to this chapter;
- (25) Violates any District of Columbia or federal law, regulation, or rule related to the practice of a health profession or drugs;

(26) Fails to conform to standards of acceptable conduct and prevailing practice within a health profession;

(27) Violates an order of the board or the Mayor, or violates a consent decree or negotiated settlement entered into with a board or the Mayor;

(28) Demonstrates a willful or careless disregard for the health, welfare, or safety of a patient, regardless of whether the patient sustains actual injury as a result; or

(29) Fails to pay the applicable fees established by the Mayor.

(b) (1) A board may require a health professional to submit to a mental or physical examination whenever it has probable cause to believe the health professional is impaired due to the reasons specified in subsection (a)(5), (6), and (7) of this section. The examination shall be conducted by 1 or more health professionals designated by the board, and he, she, or they shall report their findings concerning the nature and extent of the impairment, if any, to the board and to the health professional who was examined.

(2) Notwithstanding the findings of the examination commissioned by the board, the health professional may submit, in any proceedings before a board or other adjudicatory body, the findings of an examination conducted by 1 or more health professionals of his or her choice to rebut the findings of the examination commissioned by the board.

(3) Willful failure or refusal to submit to an examination requested by a board shall be considered as affirmative evidence that the health professional is in violation of subsection (a)(5), (6), or (7) of this section, and the health professional shall not then be entitled to submit the findings of another examination in disciplinary or adjudicatory proceedings related to the violation.

(c) Upon determination by the board that an applicant, licensee, or person permitted by this subchapter to practice in the District has committed any of the acts described in subsection (a) of this section, the board may:

(1) Deny a license to any applicant;

(2) Revoke or suspend the license of any licensee;

(3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;

- (4) Reprimand any licensee or person permitted by this subchapter to practice in the District;
- (5) Impose a civil fine not to exceed \$ 5,000 for each violation by any applicant, licensee, or person permitted by this subchapter to practice in the District;
- (6) Require a course of remediation, approved by the board, which may include:
  - (A) Therapy or treatment;
  - (B) Retraining; and
  - (C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation;
- (7) Require a period of probation; or
- (8) Issue a cease and desist order pursuant to § 3-1205.16.

(d) Nothing in this subchapter shall preclude prosecution for a criminal violation of this chapter regardless of whether the same violation has been or is the subject of 1 or more of the disciplinary actions provided by this subchapter. Criminal prosecution may proceed prior to, simultaneously with, or subsequent to administrative enforcement action.

(e) A person licensed to practice a health occupation in the District of Columbia is subject to the disciplinary authority of the board although engaged in practice elsewhere. Subsection (a) of this section shall not be construed to limit the disciplinary authority of the board only to conduct or activities engaged in outside of the District that result in the imposition of discipline by a licensing or disciplinary authority where the conduct occurred.

**§ 3-1205.15. Summary action**

- (a) If the Mayor determines, after investigation, that the conduct of a licensee presents an imminent danger to the health and safety of the residents of the District, the Mayor may summarily suspend or restrict, without a hearing, the license to practice a health occupation.
- (b) The Mayor, at the time of the summary suspension or restriction of a license, shall provide the licensee with written notice stating the action that is being taken, the basis for the action, and the right of the licensee to request a hearing.
- (c) A licensee shall have the right to request a hearing within 72 hours after service of notice of

the summary suspension or restriction of license. The Mayor shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.

(d) Every decision and order adverse to a licensee shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings shall be supported by, and in accordance with, reliable, probative, and substantial evidence. The Mayor shall provide a copy of the decision and order and accompanying findings of fact and conclusions of law to each party to a case or to his or her attorney of record.

(e) Any person aggrieved by a final summary action may file an appeal in accordance with subchapter I of Chapter 5 of Title 2.

**§ 3-1205.16. Cease and desist orders**

(a) When a board or the Mayor, after investigation but prior to a hearing, has cause to believe that any person is violating any provision of this chapter and the violation has caused or may cause immediate and irreparable harm to the public, the board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

(b) (1) The alleged violator may, within 15 days of the service of the order, submit a written request to the board or the Mayor to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the board or the Mayor shall conduct a hearing and render a decision pursuant to § 3-1205.19.

(c) (1) The alleged violator may, within 10 days of the service of an order, submit a written request to the board or the Mayor for an expedited hearing on the alleged violation, in which case he or she shall waive his or her right to the 15-day notice required by § 3-1205.19(d).

(2) Upon receipt of a timely request for an expedited hearing, the board or the Mayor shall conduct a hearing within 10 days of the date of receiving the request and shall deliver to the alleged violator at his or her last known address a written notice of the hearing by any means guaranteed to be received at least 5 days before the hearing date.

(3) The board or the Mayor shall issue a decision within 30 days after an expedited hearing.

(d) If a request for a hearing is not made, the order of the board or the Mayor to cease and desist is final.

(e) If, after a hearing, the board determines that the alleged violator is not in violation of this chapter, the board or the Mayor shall revoke the order to cease and desist.

(f) If any person fails to comply with a lawful order of a board or the Mayor issued pursuant to this section, the board or the Mayor may petition the court to issue an order compelling compliance or take any other action authorized by this chapter.

**§ 3-1205.17. Voluntary surrender of license**

(a) Any health professional who is the subject of an investigation into, or a pending proceeding involving, allegations involving misconduct may voluntarily surrender his or her license or privilege to practice in the District, but only by delivering to the board regulating the health occupation an affidavit stating that the health professional desires to surrender the license or privilege and that the action is freely and voluntarily taken, and not the result of duress or coercion.

(b) Upon receipt of the required affidavit, the board shall enter an order revoking or suspending the license of the health professional or the privilege to practice.

(c) The voluntary surrender of a license shall not preclude the imposition of civil or criminal penalties against the licensee.

**§ 3-1205.18. Voluntary limitation or surrender of license by impaired health professional**

(a) (1) Any license issued under this chapter may be voluntarily limited by the licensee either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or

(C) For a definite period of time under an agreement between the licensee and the board.

(2) During the period of time that the license has been limited, the licensee shall not engage in the practices or activities to which the voluntary limitation of practice relates.

(3) As a condition for accepting the voluntary limitation of practice, the board may require the licensee to do 1 or more of the following:

(A) Accept care, counseling, or treatment by physicians or other health professionals acceptable to the board;

(B) Participate in a program of education prescribed by the board; and

(C) Practice under the direction of a health professional acceptable to the board for a specified period of time.

(b) (1) Any license issued under this chapter may be voluntarily surrendered to the board by the licensee either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the health occupation; or

(C) For a definite period of time under an agreement between the licensee and the board.

(2) During the period of time that the license has been surrendered, the individual surrendering the license shall not practice, attempt to practice, or offer to practice the health occupation for which the license is required, shall be considered as unlicensed, and shall not be required to pay the fees for the license.

(c) All records, communications, and proceedings of the board related to the voluntary limitation or surrender of a license under this section shall be confidential.

#### **§ 3-1205.19. Hearings**

(a) Before a board denies an applicant a license, revokes or suspends a license or privilege to practice, reprimands a licensee, imposes a civil fine, requires a course of remediation or a period of probation, or denies an application for reinstatement, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the board except where the denial of the license is based solely on an applicant's failure to meet minimum age requirements, hold a required degree, pass a required examination, pay the applicable fees established by the Mayor, or where there are no material facts at issue.

(b) A board, at its discretion, may request the applicant or licensee to attend a settlement conference prior to holding a hearing under this section, and may enter into negotiated settlement agreements and consent decrees to carry out its functions.

(c) Except to the extent that this chapter specifically provides otherwise, a board shall give notice and hold the hearing in accordance with subchapter I of Chapter 5 of Title 2.

(d) The hearing notice to be given to the individual shall be sent by certified mail to the last known address of the individual at least 15 days before the hearing.

(e) The individual may be represented at the hearing by counsel.

(f) (1) A board may administer oaths and require the attendance and testimony of witnesses and the production of books, papers, and other evidence in connection with any proceeding under this section.

(2) A board shall require the attendance of witnesses and the production of books, papers, and other evidence reasonably requested by the person against whom an action is contemplated.

(3) In case of contumacy by or refusal to obey a subpoena issued by the board to any person, a board may refer the matter to the Superior Court of the District of Columbia, which may by order require the person to appear and give testimony or produce books, papers, or other evidence bearing on the hearing. Refusal to obey such an order shall constitute contempt of court.

(g) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, a board may nevertheless hear and determine the matter.

(h) A board shall issue its final decision in writing within 90 days after conducting a hearing.

(i) A board may delegate its authority under this chapter to hold hearings and issue final decisions to a panel of 3 or more members of the board in accordance with rules promulgated by the Mayor. Final decisions of a hearing panel shall be considered final decisions of the board for purposes of appeal to the District of Columbia Court of Appeals.

#### **§ 3-1205.20. Judicial and administrative review of actions of board**

Any person aggrieved by a final decision of a board or the Mayor may appeal the decision to the District of Columbia Court of Appeals pursuant to § 2-510.

#### **§ 3-1205.21. Reinstatement of suspended or revoked license**

(a) Except as provided in subsection (b) of this section, a board may reinstate the license or privilege of an individual whose license or privilege has been suspended or revoked by the board only in accordance with:

(1) The terms and conditions of the order of suspension or revocation; or

(2) A final judgment or order in any proceeding for review.

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(b) (1) If an order of suspension or revocation was based on the conviction of a crime which bears directly on the fitness of the individual to be licensed, and the conviction subsequently is overturned at any stage of an appeal or other post conviction proceeding, the suspension or revocation shall end when the conviction is overturned.

(2) After the process of review is completed, the clerk of the court issuing the final disposition of the case shall notify the board or the Mayor of that disposition.