

**64B9-8.006 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.**

(1) The legislature created the Board to assure protection of the public from nurses who do not meet minimum requirements for safe practice or who pose a danger to the public. The suspensions, restrictions of practice, and conditions of probation used by the Board in discharging its duties under Sections 464.018 and 456.072, F.S., shall include, but are not limited to, the following:

- (a) Suspension until appearance before the Board or for a definite time period and demonstration of ability to practice safely.
- (b) Suspension until appearance before the Board, or for a definite time period, and submission of mental or physical examinations from professionals specializing in the diagnosis or treatment of the suspected condition, completion of counseling, completion of continuing education, and ability to practice safely.
- (c) Suspension until fees and fines paid or until proof of continuing education completion submitted.
- (d) Suspension until evaluation by and treatment in the Intervention Project for Nurses.
- (e) Suspension stayed so long as the licensee complies with probationary conditions.
- (f) Probation with the minimum conditions of not violating laws, rules, or orders related to the ability to practice nursing safely, keeping the Board advised of the nurse’s address and employment, and supplying both timely and satisfactory probation and employer/supervisor reports, or the requirement that work must be under direct supervision on a regularly assigned basis.
- (g) Probation with specified continuing education courses in addition to the minimum conditions. In those cases involving unprofessional conduct or substandard practice, including recordkeeping, the Board finds continuing education directed to the practice deficiency to be the preferred punishment.
- (h) Personal appearances before the Board to monitor compliance with the Board’s order.
- (i) Administrative fine and payment of costs associated with probation or professional treatment.

(2) The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners and applicants for licensure guilty of violating chapters 464 and 456, F.S. The purpose of the disciplinary guidelines is to give notice to licensees and applicants of the range of penalties which will normally be imposed upon violations of particular provisions of Chapters 464 and 456, F.S.

(3) The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the noted statutes and rules:

(a) Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the department or board. (Section 456.072(1)(h) or 464.018(1)(a), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$500 fine and probation	\$10,000 fine and revocation

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of this or any other state, territory or country. (Section 456.072(1)(f) or 464.018(1)(b), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Letter of concern	Imposition of same penalty that would be imposed if the violation had occurred in Florida
SECOND OFFENSE	Imposition of same penalty that would be imposed if the violation had occurred in Florida	Revocation

(c) Criminal Violations:

1. Being convicted of or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication of a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing. (section 456.072(1)(c), 464.018(1)(c), or 456.072(1)(ii), (II), F.S.) or

2. Being convicted of or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication of a crime under specifically identified state or federal status. (section 464.018(1)(d), 464.018(1)(e), or 456.072(1)(ii) or (II), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand	Revocation

(d) Making or filing a false report or record, which the licensee knows to be false, intentionally or negligently failing to file a report or records required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so;

Intentionally submitting a claim, statement or bill that has been upcoded as defined in section 627.736, F.S., for a PIP claim or for services that were not rendered. (section 456.072(1)(l), (ee) or (ff) or 464.018(1)(f), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine, continuing education or probation	\$10,000 fine and suspension
SECOND OFFENSE	\$500 fine and suspension	\$10,000 and revocation

(e) False, misleading or deceptive advertising. (Section 464.018(1)(g), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$100 fine	\$250 fine and probation
SECOND OFFENSE	\$250 fine and probation	\$500 fine and suspension

(f) Unprofessional conduct as defined by rule 64B9-8.005, F.A.C. (section 464.018(1)(h), F.S.).

1. Subsections 64B9-8.005(1) and (2), F.A.C.

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand, \$250 fine, and continuing education	\$500 fine and suspension with IPN evaluation or probation
SECOND OFFENSE	\$500 fine, suspension and IPN evaluation	Revocation

2. Subsections 64B9-8.005(5), (6), (7), (9), (10), (11), (12) and (13), F.A.C.

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand, \$500 fine and continuing education	Revocation

3. Subsections 64B9-8.005(3), (8) and (14), F.A.C.

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand, \$250 fine, and continuing education	\$500 fine and probation
SECOND OFFENSE	\$750 fine and probation	Revocation

4. Subsection 64B9-8.005(4), F.A.C.

	MINIMUM	MAXIMUM
FIRST OFFENSE	Revocation	

5. Subsection 64B9-8.005(15), F.A.C.

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$5,000 fine	Revocation

(g) Engaging or attempting to engage in the possession, sale or distribution of controlled substances as set forth in chapter 893, F.S. for illegitimate purposes; being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition; testing positive for any drug, as defined in section 112.0455, F.S., on any confirmed pre-employment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason for using such drug; or being terminated from a treatment program for impaired practitioners for failure to comply without good cause with the terms of the monitoring or treatment contract, or not successfully completing a drug or alcohol treatment program. (section 456.072(1)(z), (aa), or (hh), or 464.018(1)(i) or (j), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine, suspension and IPN evaluation	\$500 fine, suspension, or revocation
SECOND OFFENSE	\$500 fine, suspension and IPN evaluation	Revocation

(h) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the

department or the board; however, if the licensee verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the licensee is required to report such person only to an impaired professionals consultant. (section 456.072(1)(i) or 464.018(1)(k), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$100 fine and continuing education	\$250 fine and probation
SECOND OFFENSE	\$250 fine and probation	\$500 fine, continuing education and suspension

(i) Knowingly violating any provision of Chapter 456 or 464, F.S., a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department; or failing to perform any statutory or legal obligation placed on a licensee. (Section 456.072(1)(b), (k) or (q), (dd) or 464.018(1)(l) or (o), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine and compliance with rule or terms of prior order	\$500 fine and suspension until compliant with rule or terms of prior order
SECOND OFFENSE	\$500 fine and suspension until compliant with rule or terms of prior order	Revocation

(j) Failing to report to the department any licensee under chapter 458, or 459, F.S., who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, F.S., or a health maintenance organization certificated under part I of chapter 641, F.S., in which the nurse also provides services. (Section 464.018(1)(m), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand	Revocation

(k) Failing to meet minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the licensee is not qualified by training or experience, or practicing; or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform. (Section 456.072(1)(o), (gg) or 464.018(1)(n), (p), (q) or 456.44(3), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand, \$250 fine, and continuing education	Revocation

(l) Making misleading, deceptive or fraudulent representations in or related to the practice of the licensee's profession or making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession. (Section 456.072(1)(a) or (m), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand and \$250 fine	\$10,000 fine and suspension, or revocation
SECOND OFFENSE	\$500 fine and suspension	\$10,000 fine and revocation

(m) Using a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules adopted under section 501.122(2), F.S., governing the registration of the devices. (Section 456.072(1)(d), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand and \$100 fine	\$250 fine and probation
SECOND OFFENSE	\$250 fine and probation	\$500 fine and suspension

(n) Failing to comply with the educational course requirements. (Section 456.072(1)(e) or (s), 464.013(3)(b), F.S., or rule 64B9-5.002, F.A.C.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand and \$250 fine	\$500 fine and suspension until licensee complies
SECOND OFFENSE	\$500 fine and suspension until licensee complies	\$750 fine, suspension until licensee complies followed by probation

(o) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee. (Section 456.072(1)(g), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand and \$250 fine	\$500 fine and suspension
SECOND OFFENSE	\$500 fine and suspension	Revocation

(p) Aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board, or delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of the responsibilities knows, or has reason to know, the person is not qualified by training, experience, and authorization when required to perform them. (Section 456.072(1)(j), (p), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine and continuing education	\$500 fine and probation or suspension, or revocation
SECOND OFFENSE	\$500 fine and probation or suspension	Revocation

(q) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party. (Section 456.072(1)(n), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine and probation	Revocation

(r) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding. (Section 456.072(1)(r), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand and \$250 fine	\$500 fine and suspension
SECOND OFFENSE	\$500 fine and probation	Revocation

(s) Failing to identify through written notice, which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing. (Section 456.072(1)(t), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Letter of concern	Reprimand and \$200 fine
SECOND OFFENSE	Reprimand and \$500 fine	\$500 fine and probation

(t) Failing to comply with the requirements of sections 381.026 and 381.0261, F.S., to provide patients with information about their patient rights and how to file a patient complaint. (Section 456.072(1)(u), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$100 fine and continuing education	\$250 fine and probation
SECOND OFFENSE	\$500 fine and probation	\$500 fine and suspension

(u) Engaging or attempting to engage in sexual misconduct as defined and prohibited in section 456.063(1), F.S. (Section 456.072(1)(v), F.S.)

	MINIMUM	MAXIMUM
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FIRST OFFENSE	\$250 fine, suspension and IPN evaluation	\$500 fine and suspension, or revocation
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(v) Failing to comply with the requirements for profiling and credentialing, including, but not limited to, failing to provide initial information, failing to timely provide updated information, or making misleading, untrue, deceptive, or fraudulent representations on a profile, credentialing, or initial or renewal licensure application. (Section 456.072(1)(w), 456.041(8) or 456.44(2), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand and \$250 fine	\$500 fine and suspension until compliant
SECOND OFFENSE	\$500 fine and probation	\$750 fine and suspension until compliant

For failure to verify the profile contents and to correct any factual errors in the licensee’s profile within the 30-day period in section 456.041(8), F.S.: A fine of \$50 per day.

(w) Failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. (Section 456.072(1)(x), F. S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand, \$250 fine and continuing education	\$500 fine and probation
SECOND OFFENSE	\$500 fine and probation	Revocation

(x) Using information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers or persons involved in accidents under section 316.066, F.S., or using information published in a newspaper or other news publication or through a radio or television broadcast that has used information gained from such reports, for the purposes of commercial or any other solicitation whatsoever of the people involved in the accidents. (Section 456.072(1)(y), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand and \$100 fine	\$250 fine and probation
SECOND OFFENSE	\$250 fine and probation	\$500 fine and suspension followed by probation

(y) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient’s diagnosis or medical condition or leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. (Section 456.072(1)(bb) or (cc), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	Reprimand, \$250 and continuing education	Reprimand, \$500 fine and continuing education
SECOND OFFENSE	\$500 fine and probation	\$750 and suspension

(z) Failing to remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or settlement (Section 456.072(1)(jj), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$500 and reprimand	Suspension until payment is made
SECOND OFFENSE	Suspend until payment is made	Revocation

(aa) Being terminated from the state Medicaid program pursuant to section 409.913, F.S., any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored. (Section 456.072(1)(kk), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$500 Reprimand	Revocation

(bb) Violating any provision of section 390.0111, F.S. (Section 390.0111(13), F.S.)

	MINIMUM	MAXIMUM
	Letter of Concern	Letter of Concern

(cc) Failing to consult the prescription drug monitoring system, as required by section 893.055(8), F.S. (Section 456.072(1)(k), F.S.)

	MINIMUM	MAXIMUM
SECOND OFFENSE	\$250 and Reprimand	Suspension and \$500 fine

(dd) Failing to report adverse incidents occurring in planned out-of-hospital births as required by section 456.0495, F.S. (Section 456.072(1)(k), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine and reprimand	\$500 fine and suspension
SECOND OFFENSE	\$500 fine and suspension	Revocation

(ee) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients. (Section 456.072(1)(gg), F.S.)

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$1,000 fine and one year probation	\$5,000 fine and suspension followed by probation
SECOND OFFENSE	\$5,000 fine and suspension followed by probation	Revocation

(4) In licensure and disciplinary matters involving impairment, the applicant or licensee may be referred to IPN in addition to the imposition of the above-outlined disciplinary action.

(5)(a) The Board shall be entitled to deviate from the foregoing guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence, presented to the Board prior to the imposition of a final penalty at informal hearing. If a formal hearing is held, any aggravating or mitigating factors must be submitted to the hearing officer at formal hearing. At the final hearing following a formal hearing, the Board will not hear additional aggravating or mitigating evidence.

(b) Circumstances which may be considered for purposes of mitigation or aggravation of penalty shall include, but are not limited to, the following:

1. The danger to the public.
2. Previous disciplinary action against the licensee in this or any other jurisdiction.
3. The length of time the licensee has practiced.
4. The actual damage, physical or otherwise, caused by the violation.
5. The deterrent effect of the penalty imposed.
6. Any efforts at rehabilitation.
7. Attempts by the licensee to correct or stop violations, or refusal by the licensee to correct or stop violations.
8. Cost of treatment.
9. Financial hardship.
10. Cost of disciplinary proceedings.

(6) In instances when a licensee or applicant is found guilty of any of the above offenses involving fraud or making a false or fraudulent representation, the Board shall impose a fine of \$10,000.00 per count or offense.

*Rulemaking Authority 456.072, 456.079 FS. Law Implemented 456.072, 456.079, 464.018 FS. History—New 2-5-87, Amended 8-12-87, 12-8-87, 11-23-89, 7-28-92, Formerly 21O-10.011, Amended 12-5-93, Formerly 61F7-8.006, Amended 5-1-95, Formerly 59S-8.006, Amended 8-18-98, 7-1-99, 3-23-00, 5-8-00, 5-2-02, 1-12-03, 2-22-04, 8-3-05, 7-5-06, 2-6-12, 11-19-12, 2-2-17, 2-11-19, 6-11-20.*