

319C.110 Sanctions against licensee or applicant after opportunity for administrative hearing -- Causes for disciplinary action -- Private admonishment not subject to disclosure.

- (1) The board, after due notice and an opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B, may take any one (1) or a combination of the following actions against any applied behavior analyst or applied assistant behavior analyst licensee or applicant:
 - (a) Refuse to license or certify any applicant;
 - (b) Refuse to renew the license or certificate of any person;
 - (c) Suspend or revoke or place on probation the license or certificate of any person;
 - (d) Impose restrictions on the scope of practice of any person;
 - (e) Issue an administrative reprimand to any person;
 - (f) Issue a private admonishment to any person; and
 - (g) Impose fines for violations of this chapter, not to exceed two thousand five hundred dollars (\$2,500).
- (2) The following acts by a licensee may be considered cause for disciplinary action:
 - (a) Indulgence in excessive use of alcoholic beverages or abusive use of controlled substances that impairs the licensee's ability to practice applied behavior analysis;
 - (b) Engaging in, permitting, or attempting to engage in or permit the performance of substandard patient care by himself or herself or by persons working under his or her supervision due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established;
 - (c) Having engaged in or attempted to engage in a course of lewd or immoral conduct with any person while that person is a patient or client of the behavior analyst or assistant behavior analyst;
 - (d) Having sexual contact, as defined by KRS 510.010(7), without the consent of both parties, with an employee or coworker of the licensee;
 - (e) Sexually harassing an employee or coworker of the licensee;
 - (f) Conviction of a felony or misdemeanor in the courts of this state or any other state, territory, or country which affects his or her ability to continue to practice competently and safely on the public. "Conviction," as used in this paragraph, shall include a finding or verdict of guilt, an admission of guilt, or a plea of nolo contendere;
 - (g) Obtaining or attempting to obtain a license by fraud or material misrepresentation or making any other false statement to the board;
 - (h) Engaging in fraud or material deception in the delivery of professional services, including reimbursement, or in advertising services in a false or misleading manner;
 - (i) Evidence of gross negligence or gross incompetence in his or her practice of behavior analysis;

- (j) Documentation of being declared mentally disabled by a court of competent jurisdiction and not thereafter having had his or her rights restored;
 - (k) Failing or refusing to obey any lawful order or administrative regulation of the board;
 - (l) Promoting for personal gain an unnecessary device, treatment, procedure, or service, or directing or requiring a patient to purchase a device, treatment, procedure, or service from a facility or business in which he or she has a financial interest; and
 - (m) Being impaired by reason of a mental, physical, or other condition that impedes his or her ability to practice competently.
- (3) A private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l). A private admonishment shall not constitute disciplinary action but may be used by the board for statistical purposes or in subsequent disciplinary action against the same licensee or applicant.

Effective: July 15, 2010

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