

**THE STATE MEDICAL BOARD OF OHIO
DISCIPLINARY GUIDELINES**

(Revised April 2002)

Disciplinary Guidelines are primarily for the Board's reference and guidance. They are subject to revision at the Board's discretion without notice to the public. Disciplinary Guidelines are intended to promote consistency in Board-imposed sanctions, but are not binding on the Board. The Board recognizes that individual matters present unique sets of circumstances which merit individual consideration by the Board.

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CATEGORY I: IMPROPER PRESCRIBING, DISPENSING, OR ADMINISTERING OF DRUGS

A. PRESCRIBING, DISPENSING, OR ADMINISTERING OF CONTROLLED SUBSTANCES FOR EXCESSIVE PERIODS OF TIME AND/OR IN EXCESSIVE AMOUNTS

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 1 year, with conditions for reinstatement subsequent probation, min. 5 years

B. EXCESSIVE PRESCRIBING, DISPENSING, OR ADMINISTERING OF ANY DRUGS TO DETRIMENT OF PATIENT

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 1 year, with conditions for reinstatement; subsequent probation, min. 5 years

C. EXCESSIVE PRESCRIBING, DISPENSING, OR ADMINISTERING OF ANY DRUG

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Reprimand

D. PRESCRIBING, DISPENSING, OR ADMINISTERING OF CONTROLLED SUBSTANCES WITHOUT APPROPRIATE PRIOR EXAMINATION

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation, indefinite suspension, min. 1 year, with conditions for reinstatement; subsequent probation, min. 5 years

E. FAILING TO KEEP PATIENT RECORDS OF SUBSTANCES PRESCRIBED, DISPENSED OR ADMINISTERED

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Indefinite suspension, min. 60 days with conditions for reinstatement; subsequent probation, min. 3 years.

F. PURCHASING AND MISADMINISTRATION OF CONTROLLED SUBSTANCES

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 60 days, with conditions for reinstatement; subsequent probation, min. 5 years.

G. FAILURE TO USE ACCEPTABLE METHODS IN SELECTION OF DRUGS OR OTHER MODALITIES

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 18 months, with conditions for reinstatement; subsequent probation, min. 5 years.

H. KNOWINGLY MAINTAINING ADDICT ON DRUGS IN VIOLATION OF STATE OR FEDERAL LAWS AND REGULATIONS

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Permanent revocation of certificate or permanent denial of application

I. SELLING, PRESCRIBING, GIVING AWAY, OR ADMINISTERING OF ANY DRUGS FOR OTHER THAN LEGAL AND LEGITIMATE THERAPEUTIC PURPOSES

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation, indefinite suspension, min. 2 years, with conditions for reinstatement; subsequent probation, min. 8 years.

J. PRESCRIBING, DISPENSING, OR ADMINISTERING OF ANY DRUGS WITHOUT MEDICAL INDICATION TO DETRIMENT OF PATIENT

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Permanent revocation of certificate or permanent denial of application

K. PRESCRIBING, DISPENSING OR ADMINISTERING OF DRUGS FOR SEXUAL FAVORS

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Permanent revocation of certificate or permanent denial of application

L. PLEA OF GUILTY TO, JUDICIAL FINDING OF GUILT OF, OR JUDICIAL FINDING OF ELIGIBILITY FOR INTERVENTION IN LIEU OF CONVICTION FOR, A DRUG RELATED FELONY

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Permanent revocation of certificate or permanent denial of application

M. PLEA OF GUILTY TO, JUDICIAL FINDING OF GUILT OF, OR JUDICIAL FINDING OF ELIGIBILITY FOR INTERVENTION IN LIEU OF CONVICTION FOR, A DRUG RELATED MISDEMEANOR

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 60 days, with conditions for reinstatement, subsequent probation, min. 5 years

CATEGORY II: MINIMAL STANDARDS OF CARE

A. DEPARTURE FROM OR FAILURE TO CONFORM TO MINIMAL STANDARDS OF CARE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Probation, min. 3 years

B. SEXUAL MISCONDUCT WITHIN PRACTICE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 1 year, with conditions for reinstatement; subsequent probation as appropriate

NOTE: WHERE APPROPRIATE, PERMANENT LIMITATIONS AND RESTRICTIONS MAY ALSO BE IMPOSED.

CATEGORY III: FRAUD, MISREPRESENTATION, OR DECEPTION

A. FRAUD IN PASSING EXAMINATION

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension; min. 1 year, with conditions for reinstatement; subsequent probation, min. 5 years

B. FRAUD IN APPLYING FOR OR SECURING LICENSE OR CERTIFICATE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 1 year, with conditions for reinstatement; subsequent probation, min. 5 years

C. MISREPRESENTATION OR DECEPTION IN APPLYING FOR OR SECURING LICENSE OR CERTIFICATE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Reprimand

D. PUBLISHING A FRAUDULENT STATEMENT

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 1 year, with conditions for reinstatement; subsequent probation, min. 5 years

E. PUBLISHING A FALSE, DECEPTIVE, OR MISLEADING STATEMENT

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Reprimand

F. OBTAINING, OR ATTEMPTING TO OBTAIN, ANYTHING OF VALUE BY FRAUDULENT MISREPRESENTATIONS IN THE COURSE OF PRACTICE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 1 year, with conditions for reinstatement; subsequent probation, min. 5 years

G. DECEPTIVE ADVERTISING

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Reprimand

H. REPRESENTING, WITH PURPOSE OF OBTAINING COMPENSATION OR ADVANTAGE, THAT INCURABLE DISEASE CAN BE CURED

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 1 year, with conditions for reinstatement; subsequent probation, min. 5 years

NOTE: SEE APPENDIX A IF VIOLATION BY LICENSURE APPLICANT.

CATEGORY IV: ETHICS VIOLATIONS

A. DIVISION OF FEES FOR REFERRAL OF PATIENTS, OR RECEIVING A THING OF VALUE FOR SPECIFIC REFERRAL OF PATIENT TO UTILIZE PARTICULAR SERVICE OR BUSINESS

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 1 year, with conditions for reinstatement; subsequent probation as appropriate

B. CODE OF ETHICS VIOLATION

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Reprimand

C. WILLFULLY BETRAYING A PROFESSIONAL CONFIDENCE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Reprimand

NOTE: SEE CATEGORY II PENALTIES FOR SEXUAL MISCONDUCT WITHIN PRACTICE, AND CATEGORY III PENALTIES FOR FRAUDULENT ACTS.

CATEGORY V: ACTIONS BY OTHER STATES OR ENTITIES

LIMITATION, REVOCATION, SUSPENSION, ACCEPTANCE OF LICENSE SURRENDER, DENIAL OF LICENSE, REFUSAL TO RENEW OR REINSTATE A LICENSE, IMPOSITION OF PROBATION, OR CENSURE OR OTHER REPRIMAND, BY ANOTHER JURISDICTION; ACTION AGAINST CLINICAL PRIVILEGES BY DEPARTMENT OF DEFENSE OR VETERANS ADMINISTRATION; OR TERMINATION OR SUSPENSION FROM MEDICARE OR MEDICAID

Maximum Penalty: Correspond to maximum penalty in Ohio for type of violation committed

Minimum Penalty: Correspond to minimum penalty in Ohio for type of violation committed

CATEGORY VI: UNAUTHORIZED PRACTICE

A. PRACTICE DURING SUSPENSION IMPOSED BY BOARD ORDER

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Permanent revocation of certificate or permanent denial of application

B. APPLICANT'S PRIOR PRACTICE WITHOUT LICENSE OR P.A. REGISTRATION

Maximum Penalty: Denial of licensure or P.A. registration; conditions for reconsideration

Minimum Penalty: Denial of licensure or P.A. registration

C. AIDING AND ABETTING UNLICENSED PRACTICE OR PRACTICE OF UNREGISTERED P.A.

Maximum Penalty: Stayed revocation; 1 year suspension; subsequent 2 year probation including requirement of annual report of employee or P.A. utilization

Minimum Penalty: Suspension for 30 days; subsequent 2 year probation including requirement of annual report of employee or P.A. utilization

D. PRACTICE OUTSIDE SCOPE OF LICENSE OR REGISTRATION

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Permanent revocation of certificate or permanent denial of application

E. SUPERVISING A PHYSICIAN ASSISTANT IN THE ABSENCE OF AN APPROVED PHYSICIAN ASSISTANT UTILIZATION PLAN AND AN APPROVED SUPERVISION AGREEMENT

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Suspension for 3 months

F. PRACTICE OF A PHYSICIAN ASSISTANT IN THE ABSENCE OF AN APPROVED PHYSICIAN ASSISTANT UTILIZATION PLAN AND AN APPROVED SUPERVISION AGREEMENT

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Suspension for 3 months

G. PERMITTING A PHYSICIAN ASSISTANT TO PERFORM SERVICES AS A PHYSICIAN ASSISTANT IN A MANNER THAT IS INCONSISTENT WITH THE STANDARD OR SUPPLEMENTAL PHYSICIAN ASSISTANT UTILIZATION PLAN UNDER WHICH THAT PHYSICIAN ASSISTANT PRACTICES

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Probation (non-appearing), min. 1 year

- H. PRACTICE OF A PHYSICIAN ASSISTANT IN A MANNER THAT IS INCONSISTENT WITH THE STANDARD OR SUPPLEMENTAL PHYSICIAN ASSISTANT UTILIZATION PLAN UNDER WHICH THAT PHYSICIAN ASSISTANT PRACTICES

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Probation (non-appearing), min. 1 year

- I. PERMITTING A PHYSICIAN ASSISTANT TO PERFORM SERVICES AS A PHYSICIAN ASSISTANT IN A MANNER THAT IS NOT IN ACCORDANCE WITH CHAPTER 4730. OF THE REVISED CODE AND/OR THE RULES ADOPTED THEREUNDER

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 6 months, with conditions for reinstatement; subsequent probation, min. 3 years

- J. PRACTICE OF A PHYSICIAN ASSISTANT IN A MANNER THAT IS NOT IN ACCORDANCE WITH CHAPTER 4730. OF THE REVISED CODE AND/OR THE RULES ADOPTED THEREUNDER

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 6 months, with conditions for reinstatement; subsequent probation, min. 3 years

- K. FAILURE TO TIMELY REPORT TERMINATION OF A PHYSICIAN ASSISTANT SUPERVISION AGREEMENT TO THE BOARD

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Reprimand

NOTE: SEE CATEGORY VII PENALTIES FOR PRACTICE IN VIOLATION OF CONDITIONS OF LIMITATION PLACED BY THE BOARD

CATEGORY VII: VIOLATION OF CONDITIONS OF LIMITATION

A. VIOLATION OF PRACTICE OR PRESCRIBING LIMITATIONS PLACED BY THE BOARD

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Permanent revocation of certificate or permanent denial of application

B. VIOLATION OF CONDITIONS OF LIMITATION, OTHER THAN PRACTICE PROHIBITIONS, PLACE BY THE BOARD

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. as appropriate, with conditions for reinstatement; subsequent probation, min. 5 years

CATEGORY VIII: CRIMINAL ACTS OR CONVICTIONS

A. PLEA OF GUILTY TO, JUDICIAL FINDING OF GUILT OF, OR JUDICIAL FINDING OF ELIGIBILITY FOR INTERVENTION IN LIEU OF CONVICTION FOR, A FELONY COMMITTED IN COURSE OF PRACTICE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Permanent revocation of certificate or permanent denial of application

B. PLEA OF GUILTY TO, JUDICIAL FINDING OF GUILT OF, OR JUDICIAL FINDING OF ELIGIBILITY FOR INTERVENTION IN LIEU OF CONVICTION FOR, A FELONY NOT COMMITTED IN COURSE OF PRACTICE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 30 days, with conditions for reinstatement; subsequent 5 year probation

C. COMMISSION OF ACT CONSTITUTING A FELONY IN THIS STATE, REGARDLESS OF WHERE COMMITTED, IF RELATED TO PRACTICE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Permanent revocation of certificate or permanent denial of application

D. COMMISSION OF ACT CONSTITUTING A FELONY IN THIS STATE, REGARDLESS OF WHERE COMMITTED, IF UNRELATED TO PRACTICE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 30 days, with conditions for reinstatement; subsequent 5 year probation

E. PLEA OF GUILTY TO, JUDICIAL FINDING OF GUILT OF, OR JUDICIAL FINDING OF ELIGIBILITY FOR INTERVENTION IN LIEU OF CONVICTION FOR, A MISDEMEANOR COMMITTED IN COURSE OF PRACTICE OR INVOLVING MORAL TURPITUDE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 1 year, with conditions for reinstatement; subsequent probation, min. 5 years

F. COMMISSION OF ACT CONSTITUTING A MISDEMEANOR COMMITTED IN COURSE OF PRACTICE OR INVOLVING MORAL TURPITUDE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Stayed revocation; indefinite suspension, min. 30 days, with conditions for reinstatement; subsequent 5 year probation

NOTE: SEE CATEGORY I PENALTIES FOR DRUG RELATED CONVICTIONS

CATEGORY IX: IMPAIRMENT OF ABILITY TO PRACTICE

- A. IMPAIRMENT OF ABILITY TO PRACTICE ACCORDING TO ACCEPTABLE AND PREVAILING STANDARDS OF CARE BECAUSE OF HABITUAL OR EXCESSIVE USE OR ABUSE OF DRUGS, ALCOHOL, OR OTHER SUBSTANCES. THIS SECTION APPLIES TO: 1) ALL CURRENT AND ACTIVE LICENSEES, AND 2) ALL APPLICANTS FOR LICENSURE OR REINSTATEMENT UNLESS THE APPLICANT FOR LICENSURE OR REINSTATEMENT HAS BEEN THROUGH TREATMENT AND HAS DEMONSTRATED CONTINUOUS CURRENT SOBRIETY FOR MORE THAN ONE YEAR

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Indefinite suspension, min. as appropriate with conditions for reinstatement; subsequent probation, min. 5 years

- B. IMPAIRMENT OF ABILITY TO PRACTICE ACCORDING TO ACCEPTABLE AND PREVAILING STANDARDS OF CARE BECAUSE OF HABITUAL OR EXCESSIVE USE OR ABUSE OF DRUGS, ALCOHOL, OR OTHER SUBSTANCES: FIRST RELAPSE EVER SUFFERED BY THE RESPONDENT AND ALL CONDITIONS OF RULE 4731-16-02(D)(1) THROUGH (D)(10), OHIO ADMINISTRATIVE CODE, HAVE BEEN MET

The Respondent will not be subjected to suspension or other Board discipline based on the relapse

- C. IMPAIRMENT OF ABILITY TO PRACTICE ACCORDING TO ACCEPTABLE AND PREVAILING STANDARDS OF CARE BECAUSE OF HABITUAL OR EXCESSIVE USE OR ABUSE OF DRUGS, ALCOHOL, OR OTHER SUBSTANCES: FIRST RELAPSE DURING OR FOLLOWING TREATMENT

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Indefinite suspension, min. 90 days following date of license suspension, with conditions for reinstatement; subsequent probation, min. 5 years

- D. IMPAIRMENT OF ABILITY TO PRACTICE ACCORDING TO ACCEPTABLE AND PREVAILING STANDARDS OF CARE BECAUSE OF HABITUAL OR EXCESSIVE USE OR ABUSE OF DRUGS, ALCOHOL, OR OTHER SUBSTANCES: SECOND RELAPSE DURING OR FOLLOWING TREATMENT

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Indefinite suspension, min. 1 year following date of license suspension, with conditions for reinstatement; subsequent probation, min. 5 years

E. IMPAIRMENT OF ABILITY TO PRACTICE ACCORDING TO ACCEPTABLE AND PREVAILING STANDARDS OF CARE BECAUSE OF HABITUAL OR EXCESSIVE USE OR ABUSE OF DRUGS, ALCOHOL, OR OTHER SUBSTANCES: THIRD RELAPSE DURING OR FOLLOWING TREATMENT

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Indefinite suspension, min. 3 years following date of license suspension, with conditions for reinstatement; subsequent probation, min. 5 years

F. IMPAIRMENT OF ABILITY TO PRACTICE ACCORDING TO ACCEPTABLE AND PREVAILING STANDARDS OF CARE BECAUSE OF HABITUAL OR EXCESSIVE USE OR ABUSE OF DRUGS, ALCOHOL, OR OTHER SUBSTANCES: ALL APPLICANTS WHO FIRST APPLY FOR LICENSURE OR REINSTATEMENT WHO HAVE BEEN THROUGH TREATMENT AND DEMONSTRATED CONTINUOUS CURRENT SOBRIETY FOR MORE THAN ONE YEAR OR LESS THAN FIVE YEARS

Maximum Penalty: Permanent denial of application

Minimum Penalty: Application for certificate granted; subject to probation for a minimum term that, when added to the Respondent's demonstrated period of continuous current sobriety, shall not be less than 5 years

G. IMPAIRMENT OF ABILITY TO PRACTICE ACCORDING TO ACCEPTABLE AND PREVAILING STANDARDS OF CARE BECAUSE OF HABITUAL OR EXCESSIVE USE OR ABUSE OF DRUGS, ALCOHOL, OR OTHER SUBSTANCES: ALL APPLICANTS WHO FIRST APPLY FOR LICENSURE OR REINSTATEMENT WHO HAVE BEEN THROUGH TREATMENT AND DEMONSTRATED CONTINUOUS CURRENT SOBRIETY FOR MORE THAN FIVE YEARS

Maximum Penalty: Permanent denial of application

Minimum Penalty: These applicants may be licensed without probation or other disciplinary action

H. INABILITY TO PRACTICE ACCORDING TO ACCEPTABLE AND PREVAILING STANDARDS OF CARE BY REASON OF MENTAL OR PHYSICAL ILLNESS

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Indefinite suspension, min. as appropriate; with conditions for reinstatement; subsequent probation, min. 2 years

CATEGORY X: C.M.E. REQUIREMENTS

A. FAILURE TO RESPOND TIMELY TO C.M.E. AUDIT, BUT REQUISITE C.M.E. COMPLETED

Maximum Penalty: Reprimand; subject to mandatory audits of compliance with CME requirements for the current CME acquisition period and for two full CME acquisition periods thereafter.

Minimum Penalty: Reprimand.

B. FAILURE TO COMPLETE C.M.E. AS CERTIFIED ON RENEWAL CARD

Maximum Penalty: Reprimand; \$5,000.00 fine; indefinite suspension until any outstanding shortage of CME credits has been rectified; subject to mandatory audits of compliance with CME requirements during suspension (if any), for the current CME acquisition period at the time of reinstatement (or for current CME acquisition period if no suspension), and for two full CME acquisition periods thereafter.

Minimum Penalty: Reprimand; \$1,000.00 fine; indefinite suspension until any outstanding shortage of CME credits has been rectified; subject to mandatory audits of compliance with CME requirements during suspension (if any), for the current CME acquisition period at the time of reinstatement (or for current CME acquisition period if no suspension), and for two full CME acquisition periods thereafter.

C. FAILURE TO COMPLETE C.M.E. AS CERTIFIED ON RENEWAL CARD; REPEAT OFFENSE

Maximum Penalty: \$5,000.00 fine; indefinite suspension, min. 90 days, with conditions for reinstatement; subject to mandatory audits of compliance with CME requirements during suspension, for the current CME acquisition period at the time of reinstatement, and for two full CME acquisition periods thereafter.

Minimum Penalty: \$3,000.00 fine; indefinite suspension, min. 60 days, with conditions for reinstatement; subject to mandatory audits of compliance with CME requirements during suspension, for the current CME acquisition period at the time of reinstatement, and for two full CME acquisition periods thereafter.

NOTE: IF FRAUDULENT MISREPRESENTATIONS (OTHER THAN FALSE CERTIFICATION OF COMPLETION) ARE MADE WITH RESPECT TO C.M.E., CATEGORY III PENALTY MAY BE APPROPRIATE IN ADDITION TO THE STANDARD C.M.E. PENALTY. A BIFURCATED ORDER MAY BE USED.

CATEGORY XI: MISCELLANEOUS VIOLATIONS

- A. VIOLATING OR ATTEMPTING TO VIOLATE, DIRECTLY OR INDIRECTLY, OR ASSISTING IN OR ABETTING VIOLATION OF, OR CONSPIRING TO VIOLATE, THE MEDICAL PRACTICES ACT OR ANY RULE PROMULGATED BY THE BOARD

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Correspond to minimum penalty for actual offense

- B. VIOLATION OF ANY ABORTION LAW OR RULE

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Reprimand

- C. PERMITTING NAME OR CERTIFICATE TO BE USED WHEN NOT ACTUALLY DIRECTING TREATMENT

Maximum Penalty: Permanent revocation of certificate or permanent denial of application

Minimum Penalty: Suspension, 1 year; subsequent probation, min. 1 year

APPENDIX A: APPLICABILITY OF GUIDELINES TO LICENSURE AND TRAINING CERTIFICATE APPLICANTS

The penalties specified in Categories I through XI are generally tailored to apply to violations of the Medical Practices Act by licensees. When applicants for licensure or training certificates are found to have committed like violations, the appropriate penalties will be formulated in terms of either grant, denial, or permanent denial of the application. A grant of a license or training certificate may be accompanied by limitation, suspension, requirements for reinstatement, probation, and/or reprimand, as appropriate, and should be proportionate to penalties imposed for licensees.

APPENDIX B: AGGRAVATING AND MITIGATING FACTORS

After violation has been established, the Board may consider aggravating and mitigating circumstances in deciding what penalty to impose. If the Board deems such circumstances sufficient to justify a departure from disciplinary guidelines, they should be specified during the Board's deliberations.

AGGRAVATION

Aggravation or aggravating circumstances are any considerations or factors which might justify an increase in the degree of discipline to be imposed. Aggravating factors may include, but are not limited to:

- (a) Prior disciplinary actions
- (b) Dishonest or selfish motive
- (c) A pattern of misconduct
- (d) Multiple violations
- (e) Submission of false evidence, false statements, or other deceptive practices during the disciplinary process
- (f) Refusal to acknowledge wrongful nature of conduct
- (g) Adverse impact of misconduct on others
- (h) Vulnerability of victim
- (i) Willful or reckless misconduct

MITIGATION

Mitigation or mitigating circumstances are any considerations or factors which might justify a reduction in the degree of discipline to be imposed. Mitigating factors may include, but are not limited to:

- (a) Absence of a prior disciplinary record
- (b) Absence of a dishonest or selfish motive
- (c) Isolated incident, unlikely to recur
- (d) Full and free disclosure to Board
- (e) Physical or mental disability or impairment
(NOTE: IT IS THE BOARD'S STATED POLICY THAT IMPAIRMENT SHALL NOT EXCUSE ACTS WHICH RESULT IN CONVICTION OR WHICH POTENTIALLY HAVE AN ADVERSE IMPACT ON OTHER INDIVIDUALS.)
- (f) Interim rehabilitation or remedial measures
- (g) Remorse
- (h) Absence of adverse impact of misconduct on others
- (i) Remoteness of misconduct
- (j) Absence of willful or reckless misconduct