



Compliance Guidelines for Probationary Violations

I. Overview

The following Compliance violation guidelines address routine non-compliance with conditions outlined in board orders and agreements via the utilization of graduated sanctions. These guidelines outline consistent, appropriate, and effective sanctions for various levels of violations by specifically addressing the underlying behaviors commonly related to program non-compliance.

II. Non-Compliance Violation Levels

Listed below are the three levels of violations and the corresponding sanctions.

- **Level I: Low Level Violation -> Resolve or Move to Level II**
 - **Result:** Non-Formal Written Warning

- **Level II: Moderate Level Violation -> Resolve or Move to Level III**
 - **Examples:** Unresolved Level I Violation; Multiple Level I Violations
 - **Result:** Appearance with the Board's Secretary and Supervising Member and/or Caution Letter
 - Potential Additional Result: Complaint May be Filed with the Board's Secretary and Supervising Member and/or Enforcement

- **Level III: Major Violation**
 - **Examples:** Unresolved Level II Violation; Multiple Unresolved Level I and/or Level II Violations
 - **Result:** Complaint Filed with the Board's Secretary and Supervising Member and/or Enforcement

NOTE: Individual matters present unique sets of circumstances which merit individual consideration by the Secretary and Supervising Member. Timelines referenced in the guidelines do not preclude the Board from taking action at any time.

NOTE: Modifications to orders and/or agreements require the provisional approval of the Board's Secretary and Supervising Member and subsequent Board approval.

III. Potential Sanctions

- **Non-Formal Written Warning:** Email reprimand from Compliance staff to licensee.
- **Caution Letter:** Formal written warning letter from Compliance staff to licensee.
- **Appearance:** In-person or virtual meeting with Compliance staff and the Board's Secretary and Supervising Member.
- **Complaint:** Official filing of a report of non-compliance with the Board's Secretary and Supervising Member and/or Enforcement
- **Tolling:** Officially extending the probationary period.

NOTE: The tolling of a probationary period is a discretionary decision by the Board's Secretary and Supervising Member. The Board's Secretary and Supervising Member may add an additional 30-day or 60-day toll per violation. Tolling is not a disciplinary action and will not be reported to the National Practitioner Data Bank.

IV. Guidelines for Specific Types of Non-Compliance with Board Orders/Agreements

A. Personal Appearances

Violation: Failure to appear for a scheduled office conference without prior approval of the Compliance Supervisor or Compliance Officer.

1. Level II Violation:

One missed office conference is considered a Level II violation. This will result in a caution letter to the licensee from Compliance staff and/or appearance with Secretary and Supervising Member. A complaint may also be filed. The licensee will be given one

week to respond to staff and provide acceptable documentation for the missed office conference. The licensee must schedule an office conference with Compliance and/or with Secretary and Supervising Member the following month. If the Secretary and Supervising Member deem the explanation satisfactory, no further action will occur.

2. Level III Violation:

Failure to resolve a Level II violation for a missed office conference will result in a Level III violation. Additionally, should the licensee miss more than one scheduled office conference in one calendar year it will result in a Level III violation. A complaint will be filed and assigned to the Compliance Supervisor for review with the Secretary and Supervising Member. If the Secretary and Supervising Member deem the explanation is not satisfactory, the complaint may be forwarded to Enforcement for further action.

NOTE: The Board's Secretary and Supervising Member have discretionary approval to request additional appearances as deemed necessary.

B. Paperwork

Violation: Failure to provide the required quarterly documentation outlined in the participant's order or agreement including, but not limited to declarations of compliance, recovery meetings, recovery meeting logs, drug logs, and monitoring reports without prior approval of the Compliance Supervisor or Compliance Officer.

1. Level I Violation:

Failure to provide the required quarterly documentation is considered a Level I violation. This will result in a non-formal written warning from Compliance staff. The licensee will be given 30 days to respond to staff and/or provide the missing documentation.

2. Level II Violation:

Failure to resolve a Level I violation for missed paperwork will result in a Level II violation. This will result in a caution letter to the licensee from Compliance staff and/or an appearance with Secretary and Supervising Member. A complaint may be filed. The

licensee will be given one week to respond to staff and/or provide the missing documentation. If the Secretary and Supervising Member deem the explanation satisfactory, no further action will occur.

3. Level III Violation:

Failure to resolve a Level II violation for missed paperwork will result in a Level III violation. Should the licensee fail to provide the required quarterly documentation more than once in one calendar year it will result in a Level III violation. A complaint will be filed and assigned to the Compliance Supervisor for review with the Secretary and Supervising Member. If the Secretary and Supervising Member deem the explanation is not satisfactory, the complaint may be forwarded to Enforcement.

C. Drug Testing Procedures

Violation: Failure to comply with drug testing procedures, to include the following:

- Check-In: Daily call and/or web and/or mobile application check with Board approved drug testing facilities.
- Option 2 Testing: Submission of a toxicology screen immediately after a missed check-in.
- Testing: Submitting random toxicology screenings of biological materials for drugs and alcohol at Board approved drug testing facilities. Licensees are notified of selection via check-in. Testing must be completed within 6 hours of notification of selection.

NOTE: Frequency of testing is outlined in individual Board orders and agreements. Additional testing and/or specific biological material sample types can be requested/determined by Compliance staff.

1. Level I Violation:

A missed check-in and compliance with Option 2 testing within 24 hours is considered a Level I violation. This will result in a non-formal written warning from Compliance staff. Multiple missed check-ins, despite compliance with Option 2 testing, which are unresolved within one quarter will result in a Level II violation and

will result in a caution letter to the licensee from Compliance staff and/or appearance with Secretary and Supervising Member. A complaint may be filed. If the Secretary and Supervising Member deem the explanation satisfactory, no further action will occur.

2. Level II Violation:

Multiple missed check-ins, despite compliance with Option 2 testing, which are unresolved within one quarter will result in a Level II violation. A missed check-in and failure to comply with Option 2 testing within 24 hours will result in a Level II violation. These deficiencies will result in a caution letter to the licensee from Compliance staff and/or appearance with Secretary and Supervising Member. A complaint may be filed. If the Secretary and Supervising Member deem the explanation satisfactory, no further action will occur.

3. Level III Violation:

Failure to test when selected will result in a Level III violation. The licensee will be given one day to respond to staff and/or submit a test. If the Secretary and Supervising Member deem the explanation satisfactory, no further action will occur. If the licensee fails to contact Compliance staff and/or does not submit a test as directed, this will result in a Level III violation. Multiple missed tests, despite compliance with additional testing, within one quarter will result in a Level III violation. These violations will result in a complaint being filed and assigned to the Compliance Supervisor for review with the Secretary and Supervising Member. If the Secretary and Supervising Member deem the explanation is not satisfactory, the complaint may be forwarded to Enforcement.

NOTE: Any positive test result for a substance not approved (not on file as being prescribed by a treating physician) will result in a Level III deficiency and result in a complaint being filed with Enforcement.

NOTE: The absence of any substance required to be taken as part of any treatment outlined in the licensee's order or agreement will result in a Level III deficiency and result in a complaint being filed with Enforcement.

D. Attendance at Rehabilitation Meetings

Violation: Failure to satisfactorily document attendance at required drug and alcohol rehabilitation meetings or sex offender rehabilitation meetings.

1. Level I Violation:

A missed meeting is considered a Level I violation. This will result in a non-formal written warning from Compliance staff.

2. Level II Violation:

Multiple missed meetings are considered a Level II violation. This will result in a caution letter to the licensee from Compliance staff and/or appearance with Secretary and Supervising Member. A complaint may be filed. The licensee will be given one week to respond to staff and/or provide acceptable documentation for the missed meetings. If the Secretary and Supervising Member deem the explanation satisfactory, no further action will occur.

3. Level III Violation:

Failure to resolve a Level II violation for missed meetings will result in a Level III violation. Additionally, should multiple missed meetings within one calendar year of the resolution of a Level II compliance violation will result in a Level III violation. A complaint will be filed and assigned to the Compliance Supervisor for review with the Secretary and Supervising Member. If the Secretary and Supervising Member deem the explanation is not satisfactory, the complaint may be forwarded to enforcement.

E. Attendance/Compliance with Treatment Programming

Violation: Failure to satisfactorily document attendance at any required drug and alcohol rehabilitation treatment, mental health treatment, or sex offender treatment.

1. Level II Violation:

Notification of a licensee's failure to attend and/or comply with treatment programming is considered a Level II violation. This will result in a caution letter to the licensee from Compliance staff and/or appearance with Secretary and Supervising Member. A complaint may be filed. The licensee will be given one week to

respond to staff and provide acceptable documentation for missed/non-compliance with treatment programming. Additionally, the licensee must provide verification of compliance with treatment programming within 30 days. If the Secretary and Supervising Member deem the explanation satisfactory, no further action will occur.

2. Level III Violation:

Failure to resolve a Level II violation for treatment non-compliance will result in a Level III violation. Additional non-compliance with treatment programming within one calendar year of the resolution of a Level II violation will result in a Level III violation. These violations will result in a complaint being filed and assigned to the Compliance Supervisor for review with the Secretary and Supervising Member. If the Secretary and Supervising Member deem the explanation is not satisfactory, the complaint may be forwarded to Enforcement.