

## **CHAPTER 43-57 INTEGRATIVE HEALTH CARE**

### **43-57-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Board" means the state board of integrative health care.
2. "Licensee" means an individual licensed by the board under this chapter and under chapter 43-58, 43-59, or 43-61.

### **43-57-02. Board - Qualifications - Appointment - Term of office - Compensation.**

1. The governor shall appoint the state board of integrative health care, which must consist of at least five members. Each profession regulated by the board must have one member on the board representing that profession. In addition, one member must be a doctor of medicine or osteopathy, one member must be a pharmacist, one member must be an advanced practice registered nurse, and at least one but no more than two members must be laypersons. If a doctor of medicine or osteopathy is not willing and able to serve, the governor may appoint an advanced practice registered nurse to fill this position. A board member must be a resident of this state. The professional members must be licensed to practice in this state, except the initial appointment for a newly regulated profession, who must be eligible for licensure. The layperson must be at least twenty-one years of age and may not be affiliated with any organization or profession that represents, provides, or regulates health care.
2. The term of office of each board member is three years with appointments distributed evenly from year to year. A member may not serve more than two consecutive full terms.
3. The governor may remove any board member for good cause after giving that member a written statement of the reasons for removal and after that member has had an opportunity for a hearing.
4. Each board member shall serve without compensation but is entitled to receive expenses as provided in section 54-06-09 and per diem as must be fixed by the board.
5. Annually, board members shall elect a chairman to preside at meetings of the board and a vice chairman to preside at meetings of the board in the chairman's absence.

### **43-57-03. Powers and duties of board.**

1. The board shall adopt rules:
  - a. To administer and enforce this chapter and chapters 43-58, 43-59, and 43-61;
  - b. That specify the scope of practice, which must be consistent with the required education for each profession regulated by the board;
  - c. That endorse equivalent licensure examinations of another state or foreign country and which may include licensure by reciprocity;
  - d. That establish educational standards for each profession regulated by the board as appropriate; and
  - e. That set fees for licensure, which may include:
    - (1) Application fee;
    - (2) License fee;
    - (3) Renewal fee;
    - (4) Late fee;
    - (5) Administrative fees; and
    - (6) Continuing education fees.
2. The board shall produce an annual list of the names and level of licensure of all individuals licensed by the board and make the list available upon request.
3. The board may employ staff and provide for staff compensation.
4. The board shall receive all moneys collected under this chapter, chapter 43-58, 43-59, and 43-61 and shall deposit and disburse all fees and moneys collected in accordance with section 54-44-12.

5. The board may establish continuing education requirements for license renewal.
6. The board may adopt a code of ethics for each profession regulated by the board.
7. The board may adopt rules allowing students to practice under licensed supervision.

**43-57-04. Board duties in regulating professions - Subgroups.**

1. The board shall establish a subgroup for each profession regulated by the board. The board shall appoint at least three and no more than five members of the profession to serve as volunteer members of the subgroup. A subgroup member must be a licensed member of the profession, except in the case of a newly regulated profession in which case each subgroup member must be eligible for licensure. The board may appoint a board member to serve on a subgroup representing that board member's profession. The subgroup members serve at the pleasure of the board.
2. A subgroup established under this section shall serve in an advisory capacity to advise the board when requested by the board. The subgroup on its own motion may advise the board as the subgroup determines necessary.
3. The board may not take any action that impacts a profession regulated by the board as a whole or which impacts one or more licensees of that profession unless the board first consults with and requests the recommendation of the appropriate subgroup. If the board takes an action that is contrary to a subgroup's recommendation, the board shall articulate in writing why the subgroup's recommendation was not followed.

**43-57-05. Petition to the board - Inclusion as a board-regulated profession - Consideration of additional health care professions.**

1. An existing occupational or professional board of this state or agency of this state which regulates the practice of a health profession or a representative of a health profession that is not regulated by this state may submit to the board a petition and proposed bill draft requesting inclusion of that health profession as a profession regulated by the board. Upon receipt of a petition and proposed bill draft submitted under this section, the board shall review the petition and may work with the person submitting the petition to provide assistance in accomplishing this requested inclusion.
2. If a committee of the legislative assembly considers a measure to regulate a health care profession with fewer than fifty likely members, the committee shall consider whether it is desirable and feasible to have the state board of integrative health, some other existing board, or an existing state agency regulate that profession rather than create a new board.
3. If the membership of a board-regulated profession increases to at least one hundred licensees, the board may introduce legislation creating an independent board to regulate that profession.

**43-57-06. Issuance of license.**

If the board determines that an applicant possesses the qualifications required under this chapter and under chapter 43-58, 43-59, or 43-61, the board shall issue a license to the applicant.

**43-57-07. License renewal - Continuing education.**

1. A license is effective when granted by the board.
2. A license issued under chapter 43-58 or 43-59 expires on December thirty-first of every odd-numbered year. A license issued under chapter 43-61 expires on December thirty-first of every even-numbered year.
3. A license may be renewed by payment of the renewal fee and completion of any continuing education requirements set by the board, provided the applicant's license is not currently revoked or grounds for denial do not exist.
4. If the application for renewal is not received on or before the expiration date, the license expires and the individual may not practice until a new application is made and a license is granted by the board.

5. At the time of renewal, the board shall require each applicant to present satisfactory evidence that the applicant has completed any continuing education requirements specified by the board.
6. If a license has not been renewed as a result of nonpayment of the renewal fee or the failure of the licensee to present satisfactory evidence of completion of any continuing education requirements, the licensee must reapply for licensure.
7. The board may extend the renewal deadline for an applicant having proof of medical or other hardship rendering the applicant unable to meet the renewal deadline.

**43-57-08. Discipline.**

1. The board may take disciplinary action against a licensee by any of the following means:
  - a. Revocation of license;
  - b. Suspension of license;
  - c. Probation;
  - d. Imposition of stipulations, limitations, or conditions relating to the licensee's practice;
  - e. Letter of censure;
  - f. Require the licensee to provide free public or charitable service for a defined period; and
  - g. Impose fines, not to exceed five thousand dollars for any single disciplinary action. Any fines collected by the board must be deposited in the state general fund.
2. Disciplinary action may be imposed against a licensee upon any of the following grounds:
  - a. The use of any false, fraudulent, or forged statement or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of the licensing requirements.
  - b. The making of false or misleading statements about the licensee's skill or the efficacy of any medicine, treatment, or remedy.
  - c. The conviction of any misdemeanor determined by the board to have a direct bearing upon the licensee's ability to serve the public or any felony. A license may not be withheld contrary to the provisions of chapter 12.1-33.
  - d. Habitual use of alcohol or drugs.
  - e. Physical or mental disability materially affecting the ability to perform the duties of the profession in a competent manner.
  - f. The performance of any dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public.
  - g. Obtaining any fee by fraud, deceit, or misrepresentation.
  - h. Aiding or abetting the practice of the profession by an unlicensed, incompetent, or impaired person.
  - i. The violation of any provision of the rules of the board, or any action, stipulation, condition, or agreement imposed by the board.
  - j. The practice of the profession under a false or assumed name.
  - k. The advertising for the practice of the profession in an untrue or deceptive manner.
  - l. The representation to a patient that a manifestly incurable condition, sickness, disease, or injury can be cured.
  - m. The willful or negligent violation of the confidentiality between licensee and patient, except as required by law.
  - n. Gross negligence in the practice of the profession.
  - o. Sexual abuse, misconduct, or exploitation related to the licensee's practice of the profession.
  - p. A continued pattern of inappropriate care.
  - q. The imposition by another state or jurisdiction of disciplinary action against a license or other authorization to practice based upon acts or conduct by the

licensee which would constitute grounds for disciplinary action as set forth in this section. A certified copy of the record of the action taken by the other state or jurisdiction is conclusive evidence of that action.

- r. The lack of appropriate documentation in medical records for diagnosis, testing, and treatment of patients.

#### **43-57-09. Disciplinary proceedings - Appeals.**

1. Upon the filing of a written and signed complaint that alleges that a licensee practicing in this state has engaged in conduct identified as grounds for disciplinary action under this chapter, and which sets forth information upon which a reasonable and prudent person might believe that further inquiry should be made, the board shall cause the matter to be investigated.
2. The board may investigate a complaint on the board's own motion, without requiring the identity of the complainant to be made a matter of public record, if the board concludes that good cause exists for preserving the anonymity of the complainant.
3. If the investigation reveals no grounds to support the complaint, the board, three years following the date on which the complaint was filed, shall expunge the complaint from the licensee's individual record in the board's office.
4. If the investigation reveals grounds to support the complaint, the board shall initiate a disciplinary action by serving upon the licensee a notice of disciplinary action setting forth the allegations upon which the action is based, as well as a specification of the issues to be considered and determined.
5. If a written response contesting the allegations is not received by the board within twenty days of the date that the notice of disciplinary action was received or refused, the allegations may be deemed admitted and disciplinary sanctions deemed appropriate by the board must be imposed.
6. The board may at any time enter an informal resolution to resolve the complaint or disciplinary action.
7. An appeal from the board's final decision may be taken in accordance with chapter 28-32.

#### **43-57-10. Disciplinary proceedings - Cost of prosecution.**

In any order or decision issued by the board in resolution of a disciplinary proceeding in which disciplinary action is imposed against a licensee, the board may direct the licensee to pay the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's fees, incurred by the board in the investigation and prosecution of the case. When applicable, the licensee's license may be suspended until the costs are paid to the board. A licensee may challenge the reasonableness of any cost item in a hearing under chapter 28-32 before an administrative law judge. The administrative law judge may approve, deny, or modify any cost item, and the determination of the administrative law judge is final. The administrative hearing must occur before the licensee's license may be suspended for nonpayment.

#### **43-57-11. Enforcement - Penalty.**

A person that violates this chapter or chapter 43-58, 43-59, or 43-61 is guilty of a class B misdemeanor. In addition to the criminal penalties provided under this section, the civil remedy of injunction is available to restrain and enjoin any violation of this chapter or chapter 43-58, 43-59, or 43-61 without proof of actual damages sustained by any person.