

6400.7095 STANDARDS OF PRACTICE; ENFORCEMENT.

Subpart 1. **Criteria.** The board may impose disciplinary action as described in subpart 2 against an applicant, the holder of a permit to serve as a director in residence, or a licensee when the board determines, by a preponderance of the evidence and after notice and an opportunity to be heard at a contested case hearing, that the applicant, permit holder, or licensee:

A. has been convicted of a felony or gross misdemeanor, including a finding or verdict of guilt, whether or not the adjudication of guilt has been withheld or not entered, an admission of guilt, or a no contest plea, when the felony or gross misdemeanor is related to the practice of assisted living director, as evidenced by a certified copy of the conviction;

B. has been convicted of a crime against a minor, including a finding or verdict of guilt, whether or not adjudication of guilt has been withheld or not entered, an admission of guilt, or a no contest plea;

C. is not eligible to be employed as an assisted living director under Minnesota Statutes, section 144A.20, subdivision 4;

D. has failed to comply with Minnesota Statutes, section 626.557, the Vulnerable Adult Act;

E. has violated a statute, rule, or order that the board issued or is empowered to enforce or that pertains to directing an assisted living facility or to the responsibilities of an assisted living director;

F. has discriminated against any resident or employee based on age, race, sex, religion, color, creed, national origin, marital status, status with regard to public assistance, sexual orientation, or disability;

G. has committed acts of misconduct related to qualifications, functions, or duties of an assisted living director and evidenced unfitness to perform as an assisted living director in a manner consistent with protecting resident health, safety, and welfare;

H. has engaged in fraudulent, deceptive, or dishonest conduct, whether or not the conduct relates to the practice of assisted living facility direction, that adversely affects the individual's ability or fitness to practice as an assisted living director or health services executive;

I. has engaged in unprofessional conduct, including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice, as specified in state and federal statutes and rules concerning administration of assisted living facilities, without actual injury having to be established;

J. has failed to take good faith efforts to protect the safety, health, or life of a resident;

K. has willfully permitted the unauthorized or illegal disclosure of information relating to a resident;

L. has engaged in sexual harassment, made sexual advances toward, or engaged in sexual contact with any resident, student, or trainee under the individual's supervision, or engaged in sexual harassment of an employee, consultant, or visitor to the facility in which the individual practices;

M. has practiced fraud, deceit, cheating, or misrepresentation, or provided misleading omission or material misstatement of fact, in securing, procuring, renewing, or maintaining a license or permit;

N. has used the individual's professional status, title, position, or relationship as a licensee or permit holder to coerce, improperly influence, or obtain money, property, or services from a resident, a resident's family member or visitor, an employee, or any person served by or doing business with the assisted living facility that the individual administers or is employed by;

O. has paid, given, caused to be paid or given, or offered to pay or give to any person a commission or other consideration for solicitation or procurement either directly or indirectly for assisted living facility patronage. Nothing in this item shall be construed to limit or restrict commercial advertisement;

P. has knowingly aided, advised, or allowed an unlicensed person to engage in the unlicensed practice of assisted living facility direction;

Q. has practiced fraudulent, misleading, or deceptive advertising with respect to the facility of which the licensee is director;

R. has wrongfully transmitted or surrendered possession of the individual's license or permit to any other person, either temporarily or permanently;

S. has falsely impersonated another licensee or permit holder;

T. has practiced without a current license or permit;

U. has made a false statement or knowingly provided false or misleading information to the board; failed to submit reports as required by the board; failed to cooperate with an investigation of the board, the Office of the Attorney General, or the Minnesota Department of Health; or violated an order of the board;

V. has been the subject of a reprimand, restriction, limitation, condition, revocation, suspension, surrender, or other disciplinary action against the person's assisted living director license in another jurisdiction or any other health care professional license or permit in Minnesota or another jurisdiction;

W. has failed to report a reprimand, restriction, limitation, condition, revocation, suspension, surrender, or other disciplinary action against the person's license in another jurisdiction or failed to report the existence of a complaint or other charges against the person's license in this or another jurisdiction or has been refused a license as an assisted living director by any other jurisdiction for reasons other than a difference in academic or experience requirements among jurisdictions;

X. has abused or is dependent on alcohol, a legend drug as defined in Minnesota Statutes, chapter 151, a chemical as defined in Minnesota Statutes, chapter 151, or a controlled substance

as defined in Minnesota Statutes, chapter 152, and this abuse or dependency has negatively affected the performance of the individual's duties; or

Y. has failed to meet the requirements of part 6400.7030 when mentoring an assisted living director in residence during the field experience.

Subp. 2. **Actions.** If grounds for disciplinary action exist under subpart 1, the board shall take one or more of the following actions:

- A. refuse to grant a permit;
- B. refuse to grant or renew a license;
- C. revoke a license or permit;
- D. suspend a license or permit;
- E. impose limitations or conditions on a license or permit;
- F. censure or reprimand the licensee or permit holder; or

G. refuse to permit an applicant to take the licensure examination or refuse to release an applicant's examination score.

Subp. 3. **Considerations.** In determining what action to take under subpart 2, the board shall consider:

- A. the responsibility and response of the individual prior to, during, and after the occurrence warranting disciplinary action under subpart 1;
- B. extenuating circumstances;
- C. repeated complaints against the individual; and
- D. the severity of or the potential of harm to residents.

Statutory Authority: *MS s 144A.20; 144A.21; 144A.22; 144A.23; 144A.24; 214.06*

History: *45 SR 1073*

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