

Violations of the Physician's Medical Practice Act:

§1285. Causes for nonissuance; suspension; revocation; or the imposition of restrictions; fines; reinstatement; publication of action; stays

A. The board may refuse to issue, or may suspend or revoke any license or permit, or impose probationary or other restrictions on any license or permit issued under this Part for the following causes:

(1) Conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana or of the United States.

(2) Conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of medicine;

(3) Fraud, deceit, or perjury in obtaining any diploma, license, or permit pertaining to this Part;

(4) Providing false testimony before the board or providing false sworn information to the board;

(5) Habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

(6) Prescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner;

(7) Solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

(8) (a) Performing, or assisting in the performance of, or procuring or abetting in procuring an abortion or termination of pregnancy during the third trimester of pregnancy or after viability of the fetus, unless the physician determines that such abortion or termination of pregnancy is necessary, in his best medical judgment, in order to save the life or health of the pregnant woman and/or of the fetus (unborn child):

(b) Performing or assisting in the performance of, or procuring, or abetting in the procuring of an abortion or termination of pregnancy after the first trimester:

(i) When the abortion or termination of pregnancy is contrary to or unnecessary in the best medical judgment of that physician; or,

(ii) When the operating physician lacks the training and experience to perform the procedure; or,

(iii) When the procedure is performed outside of a hospital licensed by the Department of Health and Hospitals, or its successor;

(9) Performing, or assisting in the performance of, or procuring, or abetting in the procuring of an abortion or termination of pregnancy:

(i) When the abortion or termination of pregnancy is contrary to or unnecessary in the best medical judgment of that physician; or,

(ii) When the operating physician lacks the training and experience to perform the procedure; or,

(iii) When the procedure is performed outside of a hospital licensed by the Louisiana Health and Hospitals Administration, or its successor;

(10) Efforts to deceive or defraud the public;

(11) Making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

(12) Professional or medical incompetency;

(13) Unprofessional conduct;

(14) Continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state;

(15) Immoral conduct in exercising the privileges provided for by license or permit issued under this Part;

(16) Gross, willful, and continued overcharging for professional services;

(17) Abandonment of a patient;

(18) Knowingly performing any act which, in any way, assists an unlicensed person to practice medicine, or having professional connection with or lending one's name to an illegal practitioner;

(19) Soliciting, accepting, or receiving anything of economic value in return for and based on the referral of patients to another person, firm, or corporation or in return for the prescription of medications or medical devices;

(20) Persistent violation of federal or state laws relative to control of social diseases;

(21) Interdiction or commitment by due process of law;

(22) Utilizing a physician's assistant without approval and recordation as required by law or permitting a physician's assistant, within his employment, to conduct activities outside of the designated scope of the assistant's approval and registration;

(23) Knowingly employing a physician's assistant whose conduct includes any of the causes enumerated in this Section;

(24) Knowingly misstating or misrepresenting the qualifications and certification of competency of any physician's assistant in order to obtain approval and registration of such person;

(25) Inability to practice medicine with reasonable skill or safety to patients because of mental illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; and/or, excessive use or abuse of drugs, including alcohol;

(26) Refusing to submit to the examinations and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the physician's physical and mental fitness and ability to practice medicine with reasonable skill and safety to patients;

(27) Failure, by any physician or person performing, inducing or assisting an abortion, to exercise that degree of professional care and diligence and failure to take such measures as may constitute good medical practice, necessary to encourage or sustain the life and health of an aborted viable infant, when the death of the infant results. "Viable" means that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supporting systems;

(28) Taking the life of a viable infant aborted alive;

(29) The refusal of a licensing authority of another state to issue or renew a license, permit, or certificate to practice medicine in that state or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate;

(30) Violation of any rules and regulations of the board, or any provisions of this Part.

(31) Failure by a physician to self-report in writing to the board any personal action which constitutes a violation of this Part within thirty days of the occurrence. A report shall not be required if the violation relates to a physician's ability to practice medicine with reasonable skill and safety by reason of substance abuse or psychiatric condition, provided such physician has, since the occurrence, executed a treatment contract with the Louisiana State Medical Society's Physicians Health Program, its successor program, or such other program as may be designated by the board, and is in full compliance with the terms and conditions of such contract.

(32) Holding oneself out to the public in any manner as being certified by a public or private board including but not limited to a multidisciplinary board or "board certified", unless all of the following criteria are satisfied:

(a) The full name of the board from which the physician is certified and the name of the specialty or subspecialty is included in the advertisement.

(b) The board meets any of the following qualifications:

(i) The board is an American Board of Medical Specialties member board or an American Osteopathic Association certifying board.

(ii) The board has been approved by the Louisiana State Board of Medical Examiners.

(iii) The board requires an Accreditation Council for Graduate Medical Education or American Osteopathic Association approved postgraduate training program that provides complete training in that specialty or subspecialty.

(c) If the physician advertises and does not meet any of the criteria articulated in this Paragraph, the physician shall list his qualifications for performing the advertised medical procedures in the advertisement.

B. The board may, in instances it deems proper, implement the above recited causes, by establishing appropriate regulations and standards pertaining thereto.

C. (1) The board may, as part of a decision, consent order, or other agreed order, require a license or permit holder or an applicant to pay all costs of the board proceedings, including but not limited to investigators', stenographers', and attorney fees, witness fees and expenses, and the per diem and expenses of the members of the board's hearing panel, and to pay a fine not to exceed the sum of five thousand dollars.

(2) If for any reason the costs or fines imposed by the board under this Section are not paid within the time specified by the board, the board may recover costs and attorney fees associated with their collection.

(3) The board may authorize any member of the board to sign an affidavit, petition, or other legal process authorized by this Part, including but not limited to a petition in any court of competent jurisdiction, for a money judgment for any and all costs and fines payable pursuant to a final decision, consent order, or other agreed order.

D. Any license or permit suspended, revoked, or otherwise restricted by the board may be reinstated by the board.

E. The board's final decision in an adjudication proceeding under this Section, other than by consent order, agreement, or other informal disposition, shall constitute a public record, and the board may disclose and provide such final decision to any person, firm, or corporation, or to the public generally. The board's disposition of an adjudication proceeding by consent order shall not constitute a public record, but the board shall have authority and discretion to disclose such disposition.

F. No judicial order staying or enjoining the effectiveness or enforcement of a final decision or order of the board in an adjudication proceeding, whether issued pursuant to R.S. 49:964(C) or otherwise, shall be effective, or be issued to be effective beyond the earlier of:

(1) One hundred twenty days from the date on which the board's decision or order was rendered.

(2) The date on which the court enters judgment in a proceeding for judicial review of the board's decision or order pursuant to R.S. 49:964.

G. Notwithstanding any other law to the contrary, no judicial order staying, enjoining, or continuing an adjudication proceeding before, or a preliminary, procedural, or intermediate decision, ruling, order, or action of, the board shall be effective or issued to be effective, whether pursuant to R.S. 49:964 or otherwise, prior to the exhaustion of all administrative remedies and issuance of a final decision or order by the board.

H. No order staying or enjoining a final decision or order of the board shall be issued unless the district court finds that the applicant or petitioner has established that the issuance of the stay does not:

(1) Threaten harm to other interested parties, including individuals for whom the applicant or petitioner may render medical services; or

(2) Constitute a threat to the health, safety, and welfare of the citizens of this state.

I. No stay of a final decision or order of the board shall be granted ex parte. The court shall schedule a hearing on a request for a stay order within ten days from filing of the request. The court's decision to either grant or deny the stay order shall be rendered within five days after the conclusion of the hearing.

Acts 1975, No. 350, §1; Amended by Acts 1977, No. 498, §1; Acts 1977, No. 500, §1; Acts 1977, No. 525, §1; Acts 1985, No. 302, §2; Acts 1987, No. 884, §1; Acts 1988, No. 741, §1; Acts 1995, No. 993, §1; Acts 1999, No. 660, §1; Acts 1999, No. 788, §2; Acts 2001, No. 17, §1, eff. May 17, 2001; Acts 2004, No. 155, §1.