

PROPOSED REVISION

Virginia Board of Dentistry

Policy on Sanctioning for Practicing with an Expired License

Excerpts of Applicable Law, Regulation and Guidance

- No person shall practice dentistry unless he possesses a current valid license, §54.1-2709.A
- No person shall practice dental hygiene unless he possesses a current valid license, §54.1-2722.A
- Licenses must be renewed annually, 18 VAC 60-20-20.A
- Practicing with an expired license may subject the licensee to disciplinary action and additional fines, 18 VAC 60-20-20.C.2
- Confidential Consent Agreements may be used to address ~~an unintentional practicing with a~~ lapsed license up to 90 days, Guidance Document: 60-1
- Licensees shall provide the board with current addresses and notice is validly given by the board when mailed to the latest address given, 18 VAC 60-20-16
- If a disciplinary proceeding will not be instituted, a board may send an advisory letter to the subject of a complaint or report, § 54.1-2400.2.F

Reporting

1. On a semi-annual basis during the months of October and April, the Board will generate a report to identify licensees who renew their license after the annual deadline for renewal but within the twelve month late period.
2. Board staff will sort the licensees in groups according to the length of time the license was lapsed to determine which action will be taken by the Board.
3. Cases where the license was lapsed for 30 days or less will be assigned a case number by Board staff and will not be referred to Enforcement.
4. Cases where the license was lapsed for more than 30 days but was renewed within the 365 day late period will be sent to Enforcement for an investigation to determine if the licensee was practicing in Virginia during the period the license was lapsed and to determine if the address of record is current.

Probable Cause Decision

1. Cases where the license was lapsed for 30 days or less will be closed without investigation by Board staff with an advisory letter unless there are other grounds for disciplinary action.
2. Cases where the license was lapsed for more than 30 days will be reviewed by either a Board member or staff (the reviewer) to determine if evidence exists that the licensee was practicing during the period the license was lapsed.

PROPOSED REVISION**A. Guidelines for Offering a Confidential Consent Agreement**

1. The reviewer shall only offer a CCA for a first offense.
2. The reviewer shall offer a CCA to a licensee in a case where there is only one finding of probable cause and that finding is that his license was expired for 31 to 90 days.
3. The reviewer shall offer a CCA to a licensee in a case where there are only two findings of probable cause and those findings are that (1) his license was expired for 31 to 90 days, and (2) he failed to provide a current address.
4. In cases where there are findings of probable cause for violations in addition to an expired license for 90 days or less and an address not being kept current, ~~a SCC~~ the reviewer may offer a CCA consistent with Guidance Document 60-1.
5. The offered CCA shall include a finding that a violation occurred and shall request the licensee's agreement to henceforth keep his license and address current.

B. Guidelines for Imposing Disciplinary Sanctions

1. The reviewer shall offer a Pre-Hearing Consent Order (PHCO) to a licensee for a second and for subsequent offenses where there is a finding of probable cause and that finding is that his license was expired for 90 days or less.
2. The reviewer shall offer a Pre-Hearing Consent Order (PHCO) to a licensee in a case where there is only one finding of probable cause and that finding is that his license was expired for a period longer than 90 days but less than 365 days.
3. The reviewer shall offer a PHCO to a licensee in a case where there are only two findings of probable cause and those findings are that (1) his license was expired for a period longer than 90 days but less than 365 days and (2) he failed to provide a current address.
4. In cases where there are findings of probable cause for violations in addition to an expired license and an address not being kept current, The reviewer may offer a PHCO or ~~hold~~ refer for an informal fact finding conference.
5. The reviewer shall consider the following sanctioning guidelines for a PHCO:
 - a. For a license expired for less than 180 days – First Offence – Reprimand
 - b. For a license expired for less than 180 days – Subsequent Offences – Reprimand and a \$500 monetary penalty
 - c. For a license expired for more than 180 days but less than 365 – First Offense - Reprimand and \$500 monetary penalty
 - d. For a license expired for more than 180 days but less than 365 – Subsequent Offences - Reprimand and \$1000 monetary penalty
 - e. For an address not being kept current – \$500 monetary penalty