

Tab A

490:10-5-3. Disciplinary action

(a) This subchapter applies to all long term care administrators, certified assistant administrators (CAAs), any person applying for licensure or certification, unlicensed persons acting as administrators without a license or certification, and any person acting as administrator with a revoked, suspended, surrendered, lapsed or vacated license.

(b) The Board may take action against a licensed administrator or an unlicensed person acting as administrator, and may deny an initial application; deny an application for reinstatement; deny a licensure by endorsement application; deny a renewal application; suspend or revoke a long term care administrator license or certification, a provisional license, a preceptor certification, an assistant administrator's certification, or an AIT internship training permit; warn; censure; reprimand; impose administrative fines and/or costs including attorney fees, impose probation or use other remedies that may be considered to be less than suspension or revocation upon satisfactory evidence of any of the following:

- (1) Obtaining or attempting to obtain a license or certificate by fraud, deceit, or misrepresentation; or misrepresenting one's self as holding a license or certification when they do not.
- (2) Conviction of or a plea of guilty or *nolo contendere* to any felony or to any misdemeanor involving moral turpitude.
- (3) Use of legally-prescribed or illegal drugs (narcotics or other dangerous drugs) or alcohol or the dependence on legally-prescribed drugs or illegal drugs or alcohol, or gambling, if such use or dependence, or such gambling, or the behaviors related to or resulting from such use or dependence compromise the individual's ability or capacity to fulfill his duties or responsibilities in the long term care facility, or if the same constitute(s) a criminal offense.
- (4) Commitment to a mental institution or judicial determination of incompetence.
- (5) Gross negligence, or negligence that constitutes a danger to the health, welfare or safety of the residents or the public.
- (6) Physical or verbal abuse of a resident or misappropriation of a resident's funds or property; failure to report an allegation of physical or verbal abuse of a resident or misappropriation of a resident's funds or property to appropriate state authorities as required by law.
- (7) Fraudulent, deceptive or dishonest conduct in the management of a long term care facility, or other conduct unbecoming to a person licensed or subject to licensure under this law when, in the judgment of the Board, such conduct is detrimental to the best interest of the long term care field, the long term care administrator profession and/or the public.
- (8) Except as otherwise permitted in this Chapter, concurrently serving or acting as the administrator of more than one nursing facility or assisted living facility; or exceeding the conditions placed on administrators of ICFs/MR with 16 beds or less as stated in this Chapter; or otherwise serving as an administrator beyond the scope of their licensed authority.
- (9) Failure to comply with State or federal requirements applicable to the facility.
- (10) Failure to comply with rules and requirements for administrators established by the Board, including the Administrator Code of Ethics and Administrator Responsibilities adopted by the Board.
- (11) Evidence that the administrator has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of long term care facility patronage.
- (12) Intentional retaliation or discrimination against any resident or employee for contacting or providing information to any State official, licensing agency or regulatory agency.
- (13) Failure to provide verification of continuing education hours.
- (14) Sexual abuse, sexual harassment, or sexual exploitation of any resident, employee, trainee, volunteer, consultant, or visitor to the facility in which the licensee practices.
- (15) Falsification of any records or documents relating to the operation of a long term care facility; falsification of records or documents submitted to the Board or any other state or federal agency; falsification of a resident's records, or causing a resident's records to be falsified.
- (16) Use of the licensee's professional status, title, position, or relationship as a long term care facility administrator to coerce, improperly influence, or obtain money, property, or services from a resident, resident's family member, employee, visitor, or any person served by or doing business with the facility that employs the administrator.
- (17) Interfering with, refusing to participate in, or impeding any investigation, inspection, or disciplinary proceeding authorized by Statute.
- (18) Violation of any disciplinary order, consent agreement, term of suspension, condition, stipulation, or any other limitation imposed on the licensee by the Board.

- (19) Unlicensed practice, practice on a revoked, suspended, or lapsed license; or practice on a provisional license without the use of an on-site consultant or practice as a Certified Assistant Administrator without the oversight of an Administrator-of-Record.
 - (20) Failure to pay fees or fines established or imposed by the Board.
 - (21) Knowingly aiding, assisting, or advising a person to unlawfully practice as an administrator without a required license.
 - (22) Failure to adequately supervise an assistant administrator and/or failure to assure that the assistant administrator complies with state and federal requirements applicable to the facility.
 - (23) Conduct that violates the security of any licensure examination materials.
 - (24) Coercion or harassment, or the attempt to coerce or harass, or the use of any other form of uninvited solicitation directed toward a resident of a long term care facility or toward a member of the resident's family or the resident's guardian for the purpose of attempting to persuade the resident to change long term care facilities.
 - (25) Failure to notify the Board of a change of name, business or personal mailing address(es), or change of employment within fifteen (15) calendar days of the occurrence.
 - (26) Coercion or harassment of, or the attempt to coerce or harass, a member of the Board, a Board employee or an authorized agent or representative of the Board as related to any matter or issue over which the Board has jurisdiction.
 - (27) Exclusion by the Department of Health and Human Services Office of Inspector General from participation in any capacity in the Medicare, Medicaid, and all Federal health care programs as defined in section 1128B(f) of the Social Security Act.
- (c) When the Board places a license in probationary status, it may require the licensee to have a "consultant" administrator during the probationary period. The consultant shall agree to the terms of the consultant role as defined in 490:10-1-5(c)(2), meet the qualifications in 490:10-1-5(e), and agree to the requirements of a consultant as listed at 490:10-1-5(f)(1) and (2).
- (d) The Board may stipulate requirements for reinstatement in disciplinary orders that are consistent with OAC 490:10-1-1 requirements for reinstatement from suspended status.

[Source: Amended at 16 Ok Reg 2007, eff 7-1-99; Amended at 18 Ok Reg 1747, eff 7-1-01; Amended at 21 Ok Reg 1110, eff 7-1-04; Amended at 23 Ok Reg 1470, eff 7-1-06; Amended at 24 Ok Reg 1608, eff 7-1-07; Amended at 25 Ok Reg 2569, eff 7-11-08; Amended at 26 Ok Reg 2707, eff 7-25-09; Amended at 29 Ok Reg 1334, eff 7-1-12; Amended at 31 Ok Reg 2131, eff 9-12-14; Amended at 34 Ok Reg 1856, eff 9-11-17; Amended at 35 Ok Reg 1895, eff 10-1-18]

Reference: http://www.oar.state.ok.us/viewhtml/490_10-5-3.htm