

267 CMR: BOARD OF REGISTRATION OF PERFUSIONISTS

267 CMR 5.00: COMPLAINT PROCEDURES AND DISCIPLINARY ACTION

Section

5.01: Investigation of Complaints

5.02: Grounds for Disciplinary Action

5.03: Suspension Prior to Hearing

5.01: Investigation of Complaints

(1) The Board shall investigate any and all complaints which allege that a perfusionist who holds either a full license or provisional license issued by the Board has violated any provision of M.G.L. c. 112, §§ 211 through 220, or 267 CMR *et seq.*; or has otherwise engaged in improper or unethical professional conduct.

(2) All complaints, reports, records, documents or other information received or kept by the Board in connection with any investigation conducted by the Board pursuant to 267 CMR 5.01(1) shall remain confidential until such time as the Board has disposed of the matter by dismissing the complaint, issuing an Order to Show Cause, or taking other final action on said complaint. Notwithstanding the foregoing:

(a) Certain records or information received or kept by the Board in connection with any investigation conducted pursuant to 267 CMR 5.00 shall remain confidential even after final action on the complaint has been taken by the Board, to the extent that disclosure of such information is restricted by other applicable state or federal law; and

(b) The requirement that investigative records or information shall be kept confidential shall not apply to requests for such information received from the person under investigation or the complainant.

(3) The Board will review written requests for investigative records or other confidential information from, and may furnish such information in accordance with the Fair Information Practices Act (M.G.L. c. 66A) to, particular federal, state and local regulatory and law enforcement agencies, including but not limited to:

(a) The Massachusetts Executive Office of Consumer Affairs;

(b) The Massachusetts Department of the Attorney General;

(c) The Office of the District Attorney for any county in Massachusetts;

(d) The Massachusetts State Police;

(e) Any local or municipal police department in Massachusetts;

(f) The Massachusetts Department of Public Health;

(g) The Massachusetts Division of Medical Assistance;

(h) The Office of the United States Attorney;

(i) The United States Department of Justice;

(j) The Federal Bureau of Investigation;

(k) The United States Drug Enforcement Administration;

(l) The Office of the Inspector General of the United States Department of Health and Human Services; and

(m) An agency in any other state which is responsible for the registration, certification or licensure of perfusionists.

All recipients of such confidential information designated pursuant to 267 CMR 5.00 shall preserve the confidentiality of such data and make it available to the data subject to the extent required by M.G.L. c. 66A.

5.02: Grounds for Disciplinary Action

The Board may, by majority vote after a hearing conducted in accordance with M.G.L. c. 30A and 801 CMR 1.00 *et seq.*, take disciplinary action against any perfusionist who holds either a full license or a provisional license to practice perfusion issued pursuant to M.G.L. c. 112, §§ 211 through 220 and 267 CMR 3.00. Grounds for such disciplinary action shall include, but shall not be limited to:

(a) Engaging in, authorizing, or aiding or abetting fraud, deceit, misrepresentation of material facts, the provision of false or forged evidence, or bribery in connection with any application for a full or provisional license;

5.02: continued

- (b) Violating any provision of any state or federal law or regulation relating to the authorized practice of perfusionists or the performance of perfusion functions or services;
- (c) Engaging in willful and/or gross misconduct in the practice of his or her profession as a perfusionist;
- (d) Engaging in practice which is fraudulent or beyond the authorized scope of practice for the level of license held by the licensee;
- (e) Practicing with gross incompetence or gross negligence on a particular occasion, or with negligence on repeated occasions;
- (f) Practicing while his or her ability to practice is impaired by physical disability, or while he or she has been adjudged mentally ill or mentally incompetent by a court of competent jurisdiction;
- (g) Engaging in the current, unlawful use of, alcohol, narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects to an extent which impairs his or her ability to practice;
- (h) Knowingly permitting, or aiding or abetting, an unlicensed person to perform activities which require a license for purposes of fraud, deception or personal gain, excluding activities which are permissible under any provision of the laws of the Commonwealth relating to the training of perfusionists in authorized health care institutions and facilities;
- (i) Having been convicted of any criminal offense which involves moral turpitude or which reasonably calls into question his or her fitness or ability to practice as a perfusionist;
- (j) Having been denied or refused issuance of any license to practice perfusion by the applicable governmental licensing authority of another state, territory or political subdivision of the United States (including but not limited to the District of Columbia or the Commonwealth of Puerto Rico);
- (k) Having any license to practice perfusion issued by the applicable governmental licensing authority of another state, territory or political subdivision of the United States (including but not limited to the District of Columbia or the Commonwealth of Puerto Rico) suspended, revoked, placed on probation, or otherwise subjected to disciplinary action, as defined elsewhere in 267 CMR 5.00;
- (l) Violating any provision of M.G.L. c. 112, §§ 211 through 220 or any chapter of 267 CMR.

For purposes of 267 CMR 5.02, the term "disciplinary action" shall include, but shall not be limited to: denial, revocation or suspension of a full license or provisional license; refusal to renew a full license or provisional license; issuance of a letter of censure; issuance of a written reprimand; or placement of a licensee on probation.

5.03: Suspension Prior to Hearing

If, based upon affidavits or other documentary evidence, the Board determines that a licensee is an immediate or serious threat to the public health, safety, or welfare, the Board may suspend or refuse to renew a license pending a final hearing on the merits of the allegations regarding the licensee. A hearing limited to the determination of the necessity of the summary action shall be afforded the licensee within seven days of the Board's action.

REGULATORY AUTHORITY

267 CMR 5.00: M.G.L. c. 112, § 219.