

## BOARD OF REGISTRATION IN PHARMACY

### 247 CMR 22.00: MONETARY PENALTIES

#### Section

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#### 22.01: Authority and Purpose

247 CMR 22.00 is promulgated under the authority granted to the Board by M.G.L. c. 112, §§ 24A & 42D. The purpose of 247 CMR 22.00 is to establish rules for the assessment of monetary penalties.

#### 22.02: Bases for Monetary Penalties

- (1) The Board shall assess a monetary penalty of not more than \$1,000 against pharmacists who the Board finds are not in compliance with continuing education requirements, or who fail to provide documentation regarding continuing education within seven calendar days of a Board request.
- (2) The Board may assess a monetary penalty of not more than \$25,000 against a pharmacy for each violation of statutes, regulations, or administrative rules that govern the practice of pharmacy.
- (3) If a pharmacy fails to correct a violation pursuant to 247 CMR 22.02(2), the Board may assess a daily monetary penalty of not more than \$1,000 for each violation that continues to exist beyond the date prescribed for correction.

#### 22.03: Assessment of Monetary Penalties

##### (1) Notice

- (a) An Assessment of Monetary Penalty Notice shall include the following:
  - i. the statutes, regulations, or administrative rules cited for the alleged violation(s);
  - ii. a description of the condition or practice on which the alleged violations are based;
  - iii. the dollar amount of the monetary penalty and the acceptable forms of payment;
  - iv. the date by which the licensee must pay the monetary penalty;
  - v. the date by which the licensee must submit a written request for a hearing;

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- vi. that there is a right to a hearing conducted in accordance with M.G.L. c. 30A, 801 CMR 1.01: *Formal Rules*, and 247 CMR 10.00; and
- vii. that failure to submit a written request for a hearing by the date set forth in the notice shall constitute waiver of the right to a hearing.

- (b) An Assessment of Monetary Penalty Notice shall be mailed to the licensee's address of record by the United States Postal Service or comparable private mail service, or by email to their email of record..

### (2) Hearing

- (a) Upon written request of a licensee, the Board shall afford an opportunity for a hearing. The licensee shall submit a written request for a hearing within 15 business days of the issuance of the Assessment of Monetary Penalty Notice.
- (b) The hearing shall be conducted in accordance with M.G.L. c. 30A, 801 CMR 1.01: *Formal Rules*, and 247 CMR 10.00 *Investigations, Complaints and Board Actions*.

### (3) Final Decision and Order

Upon review of a tentative decision and any objections and responses to objections that may be filed, the Board shall issue a Final Decision and Order in accordance with M.G.L. c. 30A, 801 CMR 1.01: *Formal Rules*, and 247 CMR 10.00 *Disciplinary Proceedings*.

### 22.04: Dollar Amounts

- (1) Monetary penalties shall be based on the severity of the violation(s).
- (2) The Board may publish a list of common violations and specific dollar amounts of corresponding penalties.
- (3) Monetary penalties for violations that are not published on the list of common violations shall be determined by the Board on a case-by-case basis.
- (4) The Board may assess penalties in an amount higher or lower than the amount on the list of common violations if there are aggravating or mitigating circumstances.

### 22.05: Payment

- (1) If the licensee fails to request a hearing, the monetary penalty shall be due 30 calendar days after issuance of the Assessment of Monetary Penalty Notice.
- (2) If a hearing was conducted, any monetary penalty shall be due 15 calendar days following the issuance of a Final Decision and Order.

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- (3) The Board and licensee may enter into a written agreement to establish an alternate timeline for payment. A licensee must submit a written request for such an agreement prior to the date that the monetary penalty is due.

### 22.06: Disciplinary Actions

- (1) Nothing in this section shall preclude the Board from pursuing additional disciplinary sanctions in accordance with 247 CMR 10.00 *Investigations, Complaints and Board Actions*.
- (2) Failure to pay a monetary penalty is grounds for discipline.

### REGULATORY AUTHORITY

247 CMR 22.00: M.G.L. c. 112, §§ 24A and 42D