

258 CMR 30.00: COMPLAINT PROCEDURES AND GROUNDS FOR DISCIPLINARY ACTION

Section

30.01: Filing of Complaints

30.02: Investigation of Complaints

30.03: Disposition of Complaints

30.01: Filing of Complaints

Any individual, organization, governmental entity or member of the Board may file a complaint with the Board alleging that a licensee has engaged in conduct which violates any provision of M.G.L. c. 112, §§ 130 through 137 or any provision of 258 CMR 1.00 *et.seq.*, or has otherwise engaged in improper practice as a social worker. All such complaints shall be filed with the Board in writing. The Board may, in its discretion, investigate anonymous complaints.

30.02: Investigation of Complaints

(1) The Board shall investigate any and all complaints which allege that a social worker has violated any provision of M.G.L. c. 112, §§ 130 through 137, any rule or regulation of the Board, or any other state or federal law or regulation pertaining to the professional conduct or activities of social workers; or has otherwise engaged in improper or unethical professional conduct.

(2) If the Board makes a preliminary determination that a complaint may have merit, the Board shall request that the licensee who is the subject of the complaint provide a written response to that complaint. A licensee may respond to such a request either personally or through an attorney. The response shall address the substantive allegations set forth in the complaint itself, or in the Board's request for a response to that complaint, and shall be provided in a timely manner as directed by the Board. Failure to provide a complete and timely response to a complaint may be construed by the Board as an admission that the allegations contained in the complaint are true, unless the licensee shows good cause for his or her failure to respond.

(3) No person who files a complaint, reports or provides information to the Board in connection with the investigation of a complaint, or otherwise assists the Board in discharging its duties and functions, shall be held liable in any cause of action arising out of these activities, as long as the person making the complaint or providing such information or assistance does so in good faith and without malice.

(4) 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 258 CMR 30.02(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 258 CMR 30.02 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.

(5) Pursuant to M.G.L. c. 13, § 84, 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 Department of Public Welfare;

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- (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;
- (m) The Bureau of Health Professions, Division of Quality Assurance, Health Resources and Services Administration of the United States Department of Health and Human Services;
- (n) The Disciplinary Action Reporting System of the Association of State Social Work Boards; and
- (o) Any governmental agency in any other state, province, territory or other political subdivision of the United States or Canada which is responsible for the registration, certification or licensure of social workers.

All recipients of such confidential information designated pursuant to 258 CMR 30.02 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.

30.03: Disposition of Complaints

(1) Grounds for Disciplinary Action.

(a) The Board may, by majority vote after a hearing conducted in accordance with M.G.L. c. 30A and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*, take disciplinary action against any social worker who holds a license issued pursuant to M.G.L. c. 112, §§ 130 through 137 and 258 CMR 9.00: *Licensure Requirements and Procedures*. Grounds for such disciplinary action shall include, but shall not be limited to:

1. Engaging in unprofessional conduct, including but not limited to any conduct which constitutes a violation of 258 CMR 20.01 through 258 CMR 20.14;
2. Violating any provision of any state or federal law or regulation which governs or pertains to the practice of social work;
3. Engaging in gross misconduct in the practice of his or her profession as a social worker;
4. Engaging in practice which is fraudulent or beyond the authorized scope of practice for the level of social work licensure held;
5. Practicing with gross incompetence or gross negligence on a particular occasion;
6. Practicing with negligence on more than one occasion;
7. Practicing while his or her ability to practice is impaired by alcohol, drugs, physical disability or mental illness;
8. Knowingly permitting, or aiding or abetting, an unlicensed person to perform social work activities which require a license;
9. Having been convicted of any criminal offense which reasonably calls into question his or her fitness or ability to practice as a social worker; or
10. Having his or her license, certificate, or registration to practice social work revoked, cancelled, suspended, or otherwise disciplined by any governmental agency in any other state, province, territory or other political subdivision of the United States or Canada which is responsible for the registration, certification or licensure of social workers, if the basis for that disciplinary action would constitute a basis for disciplinary action in Massachusetts.

(b) Notwithstanding the grounds for discipline specified in 258 CMR 30.03, no licensee shall be subject to discipline for providing or assisting in providing reproductive health care services or gender-affirming health care services, as defined at M.G.L. c. 12, § 111½, or for any conviction, judgment, discipline, or other sanction arising from such health care services, so long as the services provided would have been lawful in Massachusetts and are consistent with standards for good professional practice in Massachusetts.

(c) For purposes of 258 CMR 30.03(1)(a)10., the term "disciplinary action" shall include, but shall not be limited to, any one or more of the following sanctions:

1. denial of a license, registration or certification to practice social work;
2. revocation, suspension, or refusal to renew a license, registration or certification to practice social work;
3. placement of a license, registration or certification to practice social work on probation;

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4. issuance of a letter of censure; or
5. issuance of a formal written reprimand.

(2) Procedure in Formal Disciplinary Proceedings. All formal adjudicatory proceedings shall be conducted in accordance with 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure* promulgated by the Secretary of Administration and Finance pursuant to St. 1978 c. 60, § 1.

(3) Sanctions. If the Board, by majority vote and after a hearing conducted in accordance with M.G.L. c. 30A and 801 CMR 1.00 *et seq.*, finds that a social worker who holds a license issued by the Board, or an applicant for such a license, has engaged in any conduct which warrants disciplinary action, as set forth in 258 CMR 30.03(1), the Board may impose any one or more of the following sanctions:

- (a) Deny the respondent a license to practice social work;
- (b) Revoke, suspend, cancel or refuse to renew that respondent's license to practice social work;
- (c) Place the respondent's license to practice social work on probation;
- (d) Issue a letter of censure to the respondent;
- (e) Issue a formal written reprimand to the respondent;
- (f) Require the respondent to complete such additional education or training as the Board deems necessary as a condition for issuance, retention, future consideration, or reinstatement of his or her license to practice social work;
- (g) Require the respondent to practice under such supervision as the Board deems necessary, for a period of time as determined by the Board, as a condition for issuance, retention, future consideration or reinstatement of his or her license to practice social work;
- (h) Require the respondent to participate in an alcohol or drug rehabilitation program, and/or undergo drug testing, as a condition for issuance, retention, future consideration or reinstatement of his or her license to practice social work; or
- (i) Require the respondent to comply with such other conditions as are deemed reasonable and necessary by the Board to protect the health, safety and welfare of the general public and/or ensure that the respondent will practice social work in accordance with generally accepted standards of professional practice.

(4) Disposition of Complaints without Formal Adjudicatory Proceedings. Pursuant to its authority under M.G.L. c. 30A, § 10, the Board may make a final disposition of any complaint filed with the Board against any social worker who holds a license issued by the Board, or any applicant for such a license, by means of stipulation, consent agreement or other settlement agreement. Such disposition may include, but shall not necessarily be limited to, any one or more of the sanctions provided for in 258 CMR 30.03(3).

(5) Issuance of Advisory Letters. If the Board, after investigation and consideration of a particular complaint, determines that the facts and circumstances of the matter do not warrant the imposition of one or more of the disciplinary sanctions set forth in 258 CMR 30.03(3), the Board, in its discretion, may nevertheless issue an advisory letter to the respondent containing recommendations for improvements in the respondent's professional practice or conduct.

#### REGULATORY AUTHORITY

258 CMR 30.00: M.G.L. c. 112, § 137; c. 30A.