WEST VIRGINIA CODE: §30-42-15

§30-42-15. Disciplinary powers of the board.

(a) The board may impose the following disciplinary actions:

(1) Permanently revoke a license;

(2) Suspend a license for a specified period;

(3) Censure or reprimand a licensee;

(4) Impose limitations or conditions on the professional practice of a licensee;

(5) Impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of a licensee;

(6) Impose a probationary period requiring a licensee to report regularly to the board on matters related to the grounds for probation; the board may withdraw probationary status if the deficiencies that require the sanction are remedied;

(7) Order a contractor who has been found, after hearing, to have violated any provision of this article or the rules of the board to provide, as a condition of licensure, assurance of financial responsibility. The form of financial assurance may include, but is not limited to, a surety bond, a cash bond, a certificate of deposit, an irrevocable letter of credit, or performance insurance: *Provided*, That the amount of financial assurance required under this subdivision may not exceed the total of the aggregate amount of the judgments or liens levied against the contractor or the aggregate value of any corrective work ordered by the board or both: *Provided, however*, That the board may remove this requirement for licensees against whom no complaints have been filed for a period of five continuous years; and

(8) A fine not to exceed $1,000.

(b) No license issued under the provisions of this article may be suspended or revoked without a prior hearing before the board: *Provided*, That the board may summarily suspend a licensee pending a hearing or pending an appeal after hearing upon a determination that the licensee poses a clear, significant, and immediate danger to the public health and safety.

(c) The board may reinstate the suspended or revoked license of a person if, upon a hearing, the board finds and determines that the person is able to practice with skill and safety.

(d) The board may accept the voluntary surrender of a license: *Provided*, That the license may not be reissued unless the board determines that the licensee is competent to resume practice and the licensee pays the appropriate renewal fee.

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(e) A person or contractor adversely affected by disciplinary action may appeal to the board within 60 days of the date the disciplinary action is taken. The board shall hear the appeal within 30 days from receipt of notice of appeal in accordance with the provisions of Chapter 29A of this code. Hearings shall be held in Charleston. The board may retain a hearing examiner to conduct the hearings and present proposed findings of fact and conclusions of law to the board for its action.

(f) Any party adversely affected by any action of the board may appeal that action in either the circuit court of Kanawha County, West Virginia, or in the circuit court of the county in which the petitioner resides or does business, within 30 days after the date upon which the petitioner received notice of the final order or decision of the board.

(g) The following are causes for disciplinary action:

(1) Abandonment, without legal excuse, of any construction project or operation engaged in or undertaken by the licensee;

(2) Willful failure or refusal to complete a construction project or operation with reasonable diligence, thereby causing material injury to another;

(3) Willful departure from or disregard of plans or specifications in any material respect without the consent of the parties to the contract;

(4) Willful or deliberate violation of the building laws or regulations of the state or of any political subdivision thereof;

(5) Willful or deliberate failure to pay any moneys when due for any materials free from defect, or services rendered in connection with the person’s operations as a contractor when the person has the capacity to pay or when the person has received sufficient funds under the contract as payment for the particular construction work for which the services or materials were rendered or purchased, or the fraudulent denial of any amount with intent to injure, delay, or defraud the person to whom the debt is owed;

(6) Willful or deliberate misrepresentation of a material fact by an applicant or licensee in obtaining a license or in connection with official licensing matters;

(7) Willful or deliberate failure to comply in any material respect with the provisions of this article or the rules of the board;

(8) Willfully or deliberately acting in the capacity of a contractor when not licensed or as a contractor by a person other than the person to whom the license is issued except as an employee of the licensee;

(9) Willfully or deliberately acting with the intent to evade the provisions of this article by: (i) Aiding or abetting an unlicensed person to evade the provisions of this article; (ii) combining or conspiring with an unlicensed person to perform an unauthorized act; (iii) allowing a

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license to be used by an unlicensed person; or (iv) attempting to assign, transfer, or otherwise dispose of a license or permitting the unauthorized use thereof;

(10) Engaging in any willful, fraudulent, or deceitful act in the capacity as a contractor whereby substantial injury is sustained by another;

(11) Performing work which is not commensurate with a general standard of the specific classification of contractor or which is below a building or construction code adopted by the municipality or county in which the work is performed;

(12) Knowingly employing a person or persons who do not have the legal right to be employed in the United States;

(13) Failing to execute written contracts prior to performing contracting work in accordance with §30-42-10 of this code;

(14) Failing to abide by an order of the board; or

(15) Failing to satisfy a judgment or execution ordered by a magistrate court, circuit court, or arbitration board.

(h) In all disciplinary hearings the board has the burden of proof as to all matters in contention. No disciplinary action may be taken by the board except on the affirmative vote of at least six members thereof. Other than as specifically set out herein, the board has no power or authority to impose or assess damages.

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