WEST VIRGINIA CODE: §30-8-18

§30-8-18. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may upon its own motion based on credible information or based upon the quarterly report from the Board of Pharmacy as required by §60A-9-1 et seq. of this code shall upon the written complaint of any person cause an investigation to be made to determine whether grounds exist for disciplinary action under this article or the legislative rules of the board.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee, certificate holder, or permittee.

(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee or permittee has violated §30-8-18(g) of this code or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the licensee or permittee has violated §30-8-18(g) of this code or rules promulgated pursuant to this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license, certificate, or permit or the imposition of sanctions against the licensee, certificate holder, or permittee. Any hearing shall be held in accordance with the provisions of this article, and the provisions of §29A-5-1 and §29A-6-1 et seq. of this code.

(e) Any member of the board or the executive secretary of the board may issue subpoenas and subpoenas duces tecum on behalf of the board to obtain testimony and documents to aid in the investigation of allegations against any person regulated by the article.

(f) Any member of the board or its executive secretary may sign a consent decree or other legal document on behalf of the board.

(g) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend, or revoke the license, certificate, or permit of, impose probationary conditions upon or take disciplinary action against, any licensee, certificate holder, or permittee for any of the following reasons once a violation has been proven by a preponderance of the evidence:

(1) Obtaining a license, certificate, or permit by fraud, misrepresentation or concealment of material facts;

(2) Being convicted of a felony or other crime involving moral turpitude;

(3) Being guilty of unprofessional conduct which placed the public at risk;

WV Legislature

(4) Intentional violation of a lawful order;

(5) Having had an authorization to practice optometry revoked, suspended, other disciplinary action taken, by the proper authorities of another jurisdiction;

(6) Having had an application to practice optometry denied by the proper authorities of another jurisdiction;

(7) Exceeded the scope of practice of optometry;

(8) Aiding or abetting unlicensed practice;

(9) Engaging in an act while acting in a professional capacity which has endangered or is likely to endanger the health, welfare, or safety of the public; or

(10) False and deceptive advertising; this includes, but is not limited to, the following:

(A) Advertising “free examination of eyes”, or words of similar import and meaning; or

(B) Advertising frames or mountings for glasses, contact lenses, or other optical devices which does not accurately describe the same in all its component parts.

(h) For the purposes of §30-8-18(g) of this code disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Administrative fine, not to exceed $1,000 per day per violation;

(4) Mandatory attendance at continuing education seminars or other training;

(5) Practicing under supervision or other restriction;

(6) Requiring the licensee or certificate holders to report to the board for periodic interviews for a specified period of time; or

(7) Other corrective action considered by the board to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk.

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