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**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 2. HEALING ARTS [500 - 4999.129]** ( *Division 2 enacted by Stats. 1937, Ch. 399. )*

**CHAPTER 6.6. Psychologists [2900 - 2999.105]** ( *Chapter 6.6 repealed and added by Stats. 1967, Ch. 1677. )*

**ARTICLE 4. Denial, Suspension and Revocation [2960 - 2969]** ( *Article 4 added by Stats. 1967, Ch. 1677. )*

**2960.** The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

- (a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or registered psychological associate.
- (b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to themselves, any other person, or the public, or to an extent that this use impairs their ability to perform the work of a psychologist with safety to the public.
- (c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.
- (d) Impersonating another person holding a psychology license or allowing another person to use their license or registration.
- (e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.
- (f) Paying, or offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.
- (g) Violating Section 17500.
- (h) Willful, unauthorized communication of information received in professional confidence.
- (i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.
- (j) Being grossly negligent in the practice of their profession.
- (k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.
- (l) The aiding or abetting of any person to engage in the unlawful practice of psychology.
- (m) The suspension, revocation or imposition of probationary conditions by another state or country of a license or certificate to practice psychology or as a psychological assistant issued by that state or country to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.
- (n) The commission of any dishonest, corrupt, or fraudulent act.
- (o) (1) Any act of sexual abuse or sexual misconduct.
  - (2) Any act of sexual behavior or sexual contact with a client or former client within two years following termination of therapy.
- (3) For purposes of this section, the following definitions apply:
  - (A) "Sexual abuse" means the touching of an intimate part of a person by force or coercion.
  - (B) "Sexual behavior" means inappropriate physical contact or communication of a sexual nature with a client or a former client for the purpose of sexual arousal, gratification, exploitation, or abuse. "Sexual behavior" does not include the provision of appropriate therapeutic interventions relating to sexual issues.
  - (C) "Sexual contact" means the touching of an intimate part of a client or a former client.

(D) "Sexual misconduct" means inappropriate conduct or communication of a sexual nature that is substantially related to the qualifications, functions, or duties of a psychologist or registered psychological associate.

(p) Functioning outside of their particular field or fields of competence as established by their education, training, and experience.

(q) Willful failure to submit, on behalf of an applicant for licensure, verification of supervised experience to the board.

(r) Repeated acts of negligence.

*(Amended by Stats. 2022, Ch. 298, Sec. 1. (SB 401) Effective January 1, 2023.)*

**2960.05.** (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.

(d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (e) shall be tolled until the minor reaches the age of majority.

(e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

*(Amended by Stats. 2001, Ch. 617, Sec. 2. Effective January 1, 2002.)*

**2960.1.** Notwithstanding Section 2960, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 2960, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge. A proposed or issued decision that contains a finding that the licensee or registrant engaged in an act of sexual abuse, sexual behavior, or sexual misconduct, as those terms are defined in Section 2960, may contain an order of revocation.

*(Amended by Stats. 2022, Ch. 298, Sec. 2. (SB 401) Effective January 1, 2023.)*

**2960.2.** (a) A licensee shall meet the requirements set forth in subdivision (f) of Section 1031 of the Government Code prior to performing either of the following:

(1) An evaluation of a peace officer applicant's emotional and mental condition.

(2) An evaluation of a peace officer's fitness for duty.

(b) This section shall become operative on January 1, 2005.

*(Added by Stats. 2003, Ch. 777, Sec. 2. Effective January 1, 2004. Section operative January 1, 2005, by its own provisions.)*

**2960.5.** The board may refuse to issue any registration or license whenever it appears that an applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to any denial of a license or registration pursuant to this section.

*(Added by Stats. 1992, Ch. 384, Sec. 1. Effective January 1, 1993.)*

**2960.6.** The board may deny any application for, or may suspend or revoke a license or registration issued under this chapter for, any of the following:

(a) The revocation, suspension, or other disciplinary action imposed by another state or country on a license, certificate, or registration issued by that state or country to practice psychology shall constitute grounds for disciplinary action for unprofessional

conduct against that licensee or registrant in this state. A certified copy of the decision or judgment of the other state or country shall be conclusive evidence of that action.

(b) The revocation, suspension, or other disciplinary action by any board established in this division, or the equivalent action of another state's or country's licensing agency, of the license of a healing arts practitioner shall constitute grounds for disciplinary action against that licensee or registrant under this chapter. The grounds for the action shall be substantially related to the qualifications, functions, or duties of a psychologist or psychological assistant. A certified copy of the decision or judgment shall be conclusive evidence of that action.

*(Amended by Stats. 1994, Ch. 1275, Sec. 22. Effective January 1, 1995.)*

**2961.** The board may deny an application for, or issue subject to terms and conditions, or suspend or revoke, or impose probationary conditions upon, a license or registration after a hearing as provided in Section 2965.

*(Amended by Stats. 1989, Ch. 888, Sec. 31.)*

**2962.** (a) A person whose license or registration has been revoked, suspended, or surrendered, or who has been placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation, after a period of not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action:

- (1) At least three years for reinstatement of a license revoked or surrendered.
- (2) At least two years for early termination of probation of three years or more.
- (3) At least two years for modification of a condition of probation.
- (4) At least one year for early termination of probation of less than three years.

(b) The board may require an examination for that reinstatement.

(c) Notwithstanding Section 489, a person whose application for a license or registration has been denied by the board, for violations of Division 1.5 (commencing with Section 475) of this chapter, may reapply to the board for a license or registration only after a period of three years has elapsed from the date of the denial.

*(Amended by Stats. 2000, Ch. 836, Sec. 21. Effective January 1, 2001.)*

**2963.** A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge which is substantially related to the qualifications, functions and duties of a psychologist or psychological assistant is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

*(Amended by Stats. 1989, Ch. 888, Sec. 33.)*

**2964.** Whenever the board orders a license revoked for cause, with the exception of nonpayment of fees, or restores a license, these facts shall be reported to all other state psychology licensing boards.

*(Amended by Stats. 1989, Ch. 888, Sec. 34.)*

**2964.3.** Any person required to register as a sex offender pursuant to Section 290 of the Penal Code, is not eligible for licensure or registration by the board.

*(Added by Stats. 1998, Ch. 589, Sec. 8. Effective January 1, 1999.)*

**2964.5.** The board at its discretion may require any licensee placed on probation or whose license is suspended, to obtain additional professional training, to pass an examination upon the completion of that training, and to pay the necessary examination fee. The examination may be written or oral or both, and may include a practical or clinical examination.

*(Amended by Stats. 1991, Ch. 1091, Sec. 5.)*

**2964.6.** An administrative disciplinary decision that imposes terms of probation may include, among other things, a requirement that the licensee who is being placed on probation pay the monetary costs associated with monitoring the probation.

*(Added by Stats. 1995, Ch. 708, first Sec. 12. Effective January 1, 1996.)*

**2965.** The proceedings under this article shall be conducted by the board in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

*(Amended by Stats. 1989, Ch. 888, Sec. 35.)*

**2966.** (a) A psychologist's license shall be suspended automatically during any time that the holder of the license is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The board shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the license of the psychologist has been automatically suspended by virtue of the psychologist's incarceration, and if so, the duration of that suspension. The board shall notify the psychologist of the license suspension and of the right to elect to have the issue of penalty heard as provided in this section.

(b) Upon receipt of the certified copy of the record of conviction, if after a hearing it is determined therefrom that the felony of which the licensee was convicted was substantially related to the qualifications, functions, or duties of a psychologist, the board shall suspend the license until the time for appeal has elapsed, if an appeal has not been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the board. The issue of substantial relationship shall be heard by an administrative law judge sitting alone or with a panel of the board, in the discretion of the board.

(c) Notwithstanding subdivision (b), a conviction of any crime referred to in Section 187, 261, 288, or former Section 262, of the Penal Code shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a psychologist and a hearing shall not be held on this issue. Upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of and confidence in the psychology profession.

(d) (1) Discipline or the denial of the license may be ordered in accordance with Section 2961, or the board may order the denial of the license when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge sitting alone or with a panel of the board, in the discretion of the board. The hearing shall not be commenced until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence; except that a licensee may, at the licensee's option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in this section at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a psychologist. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. This subdivision does not prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in the conviction, including a transcript of the testimony therein, may be received in evidence.

*(Amended by Stats. 2021, Ch. 626, Sec. 2. (AB 1171) Effective January 1, 2022.)*

**2969.** (a) (1) A licensee who fails or refuses to comply with a request for the medical records of a patient, that is accompanied by that patient's written authorization for release of records to the board, within 15 days of receiving the request and authorization, shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 15th day, unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the medical records of a patient that is accompanied by that patient's written authorization for release of records to the board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's medical records to the board within 30 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 30th day, up to ten thousand dollars (\$10,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable costs of copying the medical records.

(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board shall pay to the board a civil penalty of one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the date by which the court order requires the documents to be produced, unless it is

determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(2) Any licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board, shall be subject to a civil penalty, payable to the board, of not to exceed five thousand dollars (\$5,000). The amount of the penalty shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced, up to ten thousand dollars (\$10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board, shall be subject to a civil penalty, payable to the board, of not to exceed five thousand dollars (\$5,000). Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be a misdemeanor punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be a misdemeanor punishable by a fine not to exceed five thousand dollars (\$5,000) and shall be reported to the State Department of Health Services and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.

(d) A failure or refusal of a licensee to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.

(e) The imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

(f) For purposes of this section, "health care facility" means a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

*(Added by Stats. 2000, Ch. 836, Sec. 22. Effective January 1, 2001.)*