

Virginia Board of Dentistry

Policy on Sanctioning for Practicing with an Expired License

Excerpts of Applicable Law, Regulation and Guidance

- No person shall practice dentistry unless he possesses a current valid license. *See* Va. Code § 54.1-2709(A).
- No person shall practice dental hygiene unless he possesses a current, valid license. *See* Va. Code § 54.1-2722(A).
- Dental and dental hygiene licenses and dental assistant II registrations must be renewed annually. *See* 18VAC60-21-240(B), 18VAC60-25-180(A), and 18VAC60-30-150(A)
- Practicing with an expired license may subject the licensee to disciplinary action and additional fines. *See* 18VAC60-21-240(A), 18VAC60-25-180(C), and 18VAC60-30-150(B).
- Confidential Consent Agreements may be used to address practicing with a lapsed license up to 90 days past expiration. *See* Guidance Document 60-1.
- Licensee shall provide the board with current addresses and notice is validly given by the board when mailed to the latest address given. *See* 18VAC60-21-20, 18VAC60-25-20, and 18VAC60-30-20.
- If a disciplinary proceeding will not be instituted, a board may send an advisory letter to the subject of a complaint or report. *See* Va. Code § 54.1-2400.2(F).

Probable Cause Decision

- Cases where a license was lapsed for 30 days or less will be closed without investigation by the board staff with an advisory letter unless there are other grounds for disciplinary action.
- Cases where a license was lapsed for more than 30 days will be reviewed by either a Board member or staff (“reviewer”) to determine if evidence exists that the licensee was practicing during the period the license was lapse.

Guidelines for Offering a Confidential Consent Agreement

- The reviewer will only offer a CCA for a first offense.
- The reviewer may offer a CCA to a licensee in a case where there is only one finding of probable cause and that finding is the license was expired for 31 to 90 days.
- The reviewer may offer a CCA to a licensee in a case where there are only two findings of probable cause and those findings are that (1) the license was expired for 31 to 90 days, and (2) the licensee failed to provide a current address.
- In cases where there are findings of probable cause for violations in addition to an expired license for 90 days or less and an address not being kept current, the reviewer may offer a CCA that is consistent with Guidance Document 60-1.
- The offered CCA will include a finding that a violation(s) occurred and shall request the licensee's agreement to henceforth keep his license and address current.

Guidelines for Imposing Disciplinary Sanctions

- The reviewer may offer a Pre-Hearing Consent Order (“PHCO”) to a licensee for a second and

for subsequent offenses where there is a finding of probable cause and that finding is that the license was expired for 90 days or less.

- The reviewer may offer a PHCO to a licensee in a case where there is only one finding of probable cause and that finding is that the license was expired for a period longer than 90 days but less than 365 days.
- The reviewer may offer a PHCO to a licensee in a case where there are only two findings of probable cause and those findings are that (1) the license was expired for a period longer than 90 days but less than 365 days and (2) the licensee failed to provide a current address.
- In cases where there are finding of probable cause for violations in addition to an expired license and an address not being kept current, the reviewer may offer a PHCO or refer to an informal fact finding conference.
- In cases where there are findings of probable cause for violations of operating with an expired license of more than 365 days, no PHCO will be offered, and the case will be referred to an informal fact finding conference.
- The reviewer will consider the following sanctioning guidelines for a PHCO:

License expired less than 180 days	First offense: reprimand Subsequent offenses: reprimand and \$500 monetary penalty
License expired for more than 180 days but less than 365	First offense: reprimand and \$500 monetary penalty Subsequent offenses: reprimand and \$1000 monetary penalty
License expired more than 365 days	No PHCO. Referred to informal fact finding conference