

CHAPTER 490, FLORIDA STATUTES
PSYCHOLOGICAL SERVICES
(Sections 490.001-490.009)
2017

490.009 Discipline.—

- (1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):
- (a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery or fraudulent misrepresentation or through an error of the board or department.
 - (b) Having a license to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.
 - (c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the underlying criminal charges. However, the board shall allow the person who is the subject of the disciplinary proceeding to present any evidence relevant to the underlying charges and circumstances surrounding the plea.
 - (d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.
 - (e) Advertising, practicing, or attempting to practice under a name other than one's own.
 - (f) Maintaining a professional association with any person who the applicant or licensee knows, or has reason to believe, is in violation of this chapter or of a rule of the department or, in the case of psychologists, of the department or the board.
 - (g) Knowingly aiding, assisting, procuring, or advising any nonlicensed person to hold himself or herself out as licensed under this chapter.
 - (h) Failing to perform any statutory or legal obligation placed upon a person licensed under this chapter.
 - (i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed under this chapter.
 - (j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.
 - (k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined in s. 490.0111.
 - (l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed under this chapter.
 - (m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.
 - (n) Failing to make available to a patient or client, upon written request, copies of test results, reports, or documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client.
 - (o) Failing to respond within 30 days to a written communication from the department concerning any investigation by the department or to make available any relevant records with respect to any investigation about the licensee's conduct or background.
 - (p) Being unable to practice the profession for which he or she is licensed under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the State Surgeon General, the State Surgeon General's designee, or the board that probable cause exists to believe that the licensee is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by psychologists or physicians designated by the department or board. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The licensee shall not be named or identified by initials in the petition or in any other public court records or

documents, and the enforcement proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

(q) Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r) Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

(s) Delegating professional responsibilities to a person whom the licensee knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t) Violating a rule relating to the regulation of the profession or a lawful order of the department previously entered in a disciplinary hearing.

(u) Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

(v) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).