

CHAPTER 64B5-13 DISCIPLINARY ACTION

64B5-13.001	Determination of Probable Cause.
64B5-13.002	Time for Payment of Administrative Fines.
64B5-13.0045	Minor Violations.
64B5-13.0046	Citation Authority.
64B5-13.005	Disciplinary Guidelines.
64B5-13.006	Post Board Order Activity.

64B5-13.001 Determination of Probable Cause.

(1) The probable cause panel by majority vote shall determine whether probable cause exists to believe that a licensee has violated the provisions of Chapter 456 or 466, F.S., or the rules of the Department or Board.

(2) The probable cause panel shall be appointed by the Chairman and shall be composed of three members, two of which must be dentists who hold valid and active dental licenses in this State. At least two members of the probable cause panel must be present to constitute a quorum. If only two members are present, the determination of probable cause shall require the affirmative vote of both members present.

(a) One or two members may be former dentist or consumer Board members.

(b) At least one member must be a current Board member who holds a valid and active license in this State.

(c) At least one member must be a current or former consumer member of the Board if one is available and willing to serve.

(d) Any former dentist member of the Board appointed to the panel must currently hold a valid and active dental license in this State.

(e) Probable cause panel members shall serve for one year terms but may serve successive terms.

(3) The probable cause panel shall meet as necessary to conduct business as determined by the Chairman of the Board or the Chairman of the panel.

Specific Authority 456.073(4), 466.004(4) FS. Law Implemented 456.073(4) FS. History--New 11-11-79, Amended 12-7-81, 7-13-82, Formerly 21G-13.01, Amended 1-18-89, Formerly 21G-13.001, Amended 11-22-93, Formerly 61F5-13.001, 59Q-13.001, Amended 9-27-01.

64B5-13.002 Time for Payment of Administrative Fines.

When the Board imposes an administrative fine in a disciplinary or initial licensure proceeding, the fine shall be paid within 30 days from the effective date of the Board's final order, unless specifically provided otherwise.

Specific Authority 456.072(2), 466.004(4) FS. Law Implemented 456.072(2) FS. History--New 10-26-80, Formerly 21G-13.02, Amended 1-18-89, Formerly 21G-13.002, 61F5-13.002, 59Q-13.002.

64B5-13.0045 Minor Violations.

(1) Subject to the limitations imposed by this rule, the following violations are designated as minor for the purposes of Section 456.073 (3), F.S.

(a) Violation of Section 466.026(1)(a), F.S., by practicing for a period of less than two months without an active license.

(b) Violation of Section 466.028(1)(d), F.S., by the following errors or omissions:

1. Violation of subsection 64B5-4.002(2), F.A.C.

2. Violation of subsection 64B5-4.003(2), (3), (4) or (5), F.A.C., so long as there is no allegation of consumer injury as a result of the violation and the advertisement which is in violation is capable of being withdrawn from circulation to the public within 15 days of issuance of the notice of noncompliance.

3. Violation of Rule 64B5-4.004, F.A.C., so long as there is no allegation of consumer injury as a result of the violation and the advertisement which is in violation is capable of being withdrawn from circulation to the public within 15 days of issuance of the notice of noncompliance.

(c) Violation of Section 466.028(1)(n), F.S., so long as the records have been released.

(d) Violation of Section 466.028(1)(aa), F.S., by violating Rule 64B5-17.0011, F.A.C., which requires the licensee to notify the Board of changes of address.

(e) Violation of Section 466.028(1)(dd), F.S., by presigning laboratory work order forms.

(2) This designation of violations as minor for the purposes of Section 456.073(3), F.S., is limited to initial violations.

(3) A monthly report of notices of noncompliance issued by the Department shall be reviewed by the Board to monitor the use and success of this procedure.

(4) Notices of noncompliance issued shall be reviewed by the Probable Cause Panel in any consideration of subsequent allegations of similar violations by the licensee.

Specific Authority 456.073(3) FS. Law Implemented 456.073(3) FS. History—New 7-9-90, Formerly 21G-13.0045, 61F5-13.0045, 59Q-13.0045.

64B5-13.0046 Citation Authority.

(1) Pursuant to Section 456.077, F.S. (2000), the Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation and the appropriate penalties for specific violations. In addition to the penalty, the costs of investigation and prosecution shall be assessed pursuant to Section 456.072(2), F.S. The following subsections indicate those violations which may be disposed of by citation, with the accompanying penalty.

(2) Violation of Section 466.026(1)(a) and/or 466.028(1)(aa), F.S., by practicing for a period of 2-6 months without an active license. The penalty for a dentist shall be a \$1,000.00 fine to be in addition to any reactivation fee, and completion within 6 months of 4 hours of continuing education in risk management. Said continuing education to be in compliance with Rule Chapter 64B5-12, F.A.C., and in addition to any continuing education required for biennial renewal of licensure. The penalty for a dental hygienist shall be a \$250.00 administrative fine.

(3) A first time violation of Sections 466.028(1)(i) and/or 466.028(1)(a), F.S., and/or subsection 64B5-12.013(1) or (2), F.A.C., by renewing a license without completing the required continuing education credits. The penalty for a dentist shall be an administrative fine of \$100.00 per hour not completed as required and completion of all continuing education hours that were not completed. Said continuing education shall be in compliance with Rule Chapter 64B5-12, F.A.C., and shall not count toward any continuing education required for the biennium in which it is completed. Furthermore, the licensee shall submit proof of completion of all required continuing education under this rule to the Board office no later than 12 months from the date of the citation. The penalty for a dental hygienist shall be an administrative fine of \$25.00 per hour not completed as required and completion of all continuing education hours that were not completed. Said continuing education shall be in compliance with Rule Chapter 64B5-12, F.A.C., and shall not count toward any continuing education required for the biennium in which it is completed. Furthermore, the licensee shall submit proof of completion of all required continuing education under this rule to the Board office no later than 12 months from the date of citation.

(4) Violation of Rule 64B5-4.002, F.A.C., as follows:

(a) Violation of Rule 64B5-4.002, F.A.C., by failing to properly identify through license number or use of the licensee's commonly used name the Florida licensed dentist, who assumes total responsibility for the advertisement.

(b) Violation of subsection 64B5-4.002(3), F.A.C., by disseminating or causing the dissemination of any advertisement or advertising which is in any way fraudulent, false, deceptive, or misleading in form or content.

(c) Violation of paragraph 64B5-4.002(3)(a), F.A.C., by disseminating or causing the dissemination of any advertisement that contains misrepresentations of facts.

(d) Violation of paragraph 64B5-4.002(3)(b), F.A.C., by disseminating or causing the dissemination of any advertisement that is likely to mislead or deceive because in its context or in the context in which it is presented it makes only a partial disclosure of relevant facts.

(e) Violation of paragraph 64B5-4.002(3)(c), F.A.C., by disseminating or causing the dissemination of any advertisement that contains laudatory statements about the dentist or group of dentists.

(f) Violation of paragraph 64B5-4.002(3)(d), F.A.C., by disseminating or causing the dissemination of any advertisement that is intended or is likely to create false, unjustified expectations of favorable results.

(g) Violation of paragraph 64B5-4.002(3)(e), F.A.C., by disseminating or causing the dissemination of any advertisement that relates to the quality of dental services provided as compared to other available dental services.

(h) Violation of paragraph 64B5-4.002(3)(f), F.A.C., by disseminating or causing the dissemination of any advertisement that contains other representations or implications that in reasonable probability will cause an ordinary prudent person to misunderstand or to be deceived.

- (i) Violation of subsection 64B5-4.002(4), F.A.C., by disseminating or causing the dissemination of any advertisement through in person and telephone solicitation of dental services by a dentist or his agent.
- (j) Violation of subsection 64B5-4.002(5), F.A.C., by disseminating or causing the dissemination of any advertisement that includes the name of a person who is not either actually involved in the practice of dentistry at the advertised location or an owner of the practice being advertised.
- (5) Violation of Rule 64B5-4.003, F.A.C., as follows:
 - (a) Violation of subsection 64B5-4.003(2), F.A.C., by providing an advertisement that failed to contain fee information with a disclaimer that the fee is a minimum fee only.
 - (b) Violation of subsection 64B5-4.003(3), F.A.C., by providing an advertised fee for a dental service which does not state a specified period during which the fee is in effect.
 - (c) Violation of subsection 64B5-4.003(4), F.A.C., by providing an advertisement which states a particular dental service is for a fee yet it is not accompanied by a description of that service using the exact wording for that service contained in the American Dental Association's "Code on Dental Procedures and Nomenclature".
 - (d) Violation of subsection 64B5-4.003(5), F.A.C., by providing an advertisement for free or discounted services which does not comply with the requirements of Section 456.062, F.S., and/or clearly identify the dates that free, discounted or reduced fee services will be available.
- (6) Violation of Rule 64B5-4.004, F.A.C., as follows:
 - (a) Violation of subsection 64B5-4.004(2), F.A.C., by providing an advertisement of specialty services which does not state whether the service will be performed by a general dentist or a specialist.
 - (b) Violation of subsection 64B5-4.004(4), F.A.C., by providing an advertisement that states that a dentist is a specialist when the dentist does not meet the applicable criteria.
 - (c) Violation of subsection 64B5-4.004(5), F.A.C., by advertising a service in a manner which in its form or content would lead a reasonable person to believe that the service is a specialty unless that service is a specialty recognized by the Board.
- (7) The penalty for a violation of Rule Chapter 64B5-4, F.A.C., as enumerated above is as follows: first offense will result in a \$250.00 fine; second offense will result in a \$1,000.00 fine, reprimand and four (4) hour continuing education in ethics. Violations occurring subsequent to the second offense of the same rule or statute shall require the procedures of Section 456.073, F.S., to be followed.
- (8) Violation of subsection 466.028(1)(n), F.S., failure to make available to a patient or client, or to his legal representative or to the Department, if authorized in writing by the patient, copies of documents in the possession or under control of the licensee, which relate to the patient or client. Failure to comply will result in a \$1,000.00 fine.
- (9) Violation of subsection 466.028(1)(ll), F.S., by violation of Section 456.035(1), F.S., which requires licensees to notify the Board of change of address. Failure to comply will result in a \$250.00 fine.
- (10) Violation of subsection 466.028(1)(dd), F.S., by presigning laboratory work order forms. Failure to comply will result in a \$500.00 fine.
- (11) Violations of Rule 64B5-15.030 through a violation of 466.028(1)(ii), Florida Statutes, for failing to pay the one-time fee by no later than February 28, 2008, will result in a \$1,000 fine.
- (12) Citations shall be issued to licensees by the Bureau of Investigative Services only after review by the legal staff of the Department of Health. Such review may be by telephone, in writing or facsimile machine.
- (13) Except for violations of Rule Chapter 64B5-4, F.A.C., as stated above, the procedures described herein apply only for an initial offense of the alleged violation. Subsequent violation(s) of the same rule or statute shall require the procedures of Section 456.073, F.S., to be followed. In addition, should an initial offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 456.073, F.S., shall apply.
- (14) Citations are to be served upon the subject either by personal service or by certified mail, restricted delivery, to the last known business or residence address of the subject.
- (15) The subject has 30 days from the date the citation becomes a final order to pay the fine and costs. All fines and costs are to be made payable to the "Board of Dentistry – Citations" and sent to the Department of Health in Tallahassee. A copy of the citation shall accompany the payment of the fine or costs.
- (16) If the subject rejects the Department of Health's offer of the citation then the procedures of Section 456.073, F.S., shall apply to the original charge. In cases where the subject fails to comply with the penalty, a complaint for violation of Section 456.072((1)(q), F.S. shall be filed and investigated.

Specific Authority 456.077, 466.004(4) FS. Law Implemented 456.072(3)(a), 456.077 FS. History--New 12-24-91, Formerly 21G-13.0046, Amended 11-22-93, Formerly 61F5-13.0046, 59Q-13.0046, Amended 7-19-01, 10-9-06, 2-7-08.

64B5-13.005 Disciplinary Guidelines.

(1)When the Board finds an applicant, licensee, or certificate holder whom it regulates under Chapter 466, F.S., has committed any of the acts set forth in Section 456.072(1), F.S., or Section 466.028, F.S., it shall issue a final order imposing appropriate penalties as recommended in these disciplinary guidelines. For any violation found that is for fraud or making a false or fraudulent representation, the Board will impose a fine of \$10,000.00 per count or offense. The use of terms to describe the offenses herein within the individual guidelines is intended to be only a generally descriptive use of the terms. For an accurate description of the actual offenses, the reader should refer to the statutory disciplinary provisions. The maximum penalties set forth in any individual offense guideline include all of the less severe penalties that would fall in between the maximum and the minimum penalties stated:

VIOLATION	PENALTY RANGE	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
<p>(a) Attempting to obtain, obtaining or renewing a license by bribery, fraudulent misrepresentations or error of the Board (466.028(1)(a), 456.072(1)(h))</p>		
<p>First Offense</p>	<p>Denial \$500 Fine And referral to State Attorney's office if not Licensed</p>	<p>Denial/Revocation \$10,000 Fine And referral to State Attorney's office if not Licensed</p>
<p>Second Offense</p>	<p>Probation with Conditions \$500 Fine</p>	<p>Revocation \$10,000 Fine Permanent denial and revocation</p>
<p>(b) Having a license to practice dentistry or dental hygiene revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country. (466.028(1)(b), 456.072(1)(f))</p>		
<p>First Offense.</p>	<p>\$1000 Fine</p>	<p>Suspension/denial until the license is unencumbered and active in the jurisdiction in which the disciplinary action was originally taken, or up to five years followed by probation and \$10,000 fine or revocation</p>

Second Offense.	Imposition of discipline which would have been imposed if the substantive violation occurred in Florida. Probation and \$1000 Fine	Revocation until the license is unencumbered in the jurisdiction in which disciplinary action was taken and \$ 10,000 fine
Third Offense.	One year suspension followed by probation and \$5000 fine	Revocation and Permanent denial and \$ 10,000 fine
(c) Guilt of a crime directly relating to practice or ability to practice. (466.028(1)(c), 456.072(1)(c))		
First Offense.	\$1000 fine	Denial or 2 years suspension, 2 years probation with conditions and \$10,000 fine, or revocation
Second Offense.	One year suspension followed by probation and \$1000 fine	Denial or revocation and \$10,000 fine, conditions
Third Offense.	Revocation and \$2500 fine	Revocation and \$ 10,000 fine
(d) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form (466.028(1)(d))		
First Offense.	\$500 fine	1 year probation with conditions and \$10,000 fine
Second Offense.	1 year probation with conditions and \$3000 fine	1 year suspension, 2 years probation with conditions and \$10,000 fine
Third Offense.	2 year probation with conditions and \$5000 fine	Revocation and \$10,000 fine
(e) Advertising, practicing, or attempting to practice under a name other than one's own. (466.028(1)(e))		
First Offense.	\$1000 fine	1 year suspension and \$10,000 fine

Second Offense.	Probation with conditions and \$3000 fine	Denial or revocation and \$10,000 fine
Third Offense	Probation with conditions and \$5000 fine	Revocation and \$10,000 fine
(f) Failing to report any person in violation of this chapter or of the rules of the department or the board. (466.028(1)(f), 456.072(1)(i))		
First Offense.	\$500 fine	1 year probation with conditions and \$1000 fine
Second Offense.	1 year probation with conditions, and \$1000 fine	6 months suspension, 1 year probation with conditions and \$3000 fine
Third Offense.	1 year probation with conditions and \$3000 fine	1 year suspension, 1 year probation with conditions and \$5000 fine
(g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry or dental hygiene. (466.028(1)(g), 456.072(1)(j))		
First Offense.	\$1000 fine	6 month suspension, 1 year probation with conditions and \$10,000 fine
Second Offense.	1 year suspension, 2 years probation with conditions and \$5000 fine	2 years suspension, 2 years probation with conditions and \$10,000 fine
Third Offense.	2 years suspension followed by 2 years probation with conditions and \$10,000 fine	Denial/Revocation and \$10,000 fine
(h) Being employed by any corporation, organization, group, or person other than a dentist or a professional corporation or limited liability company composed of dentists to practice dentistry. (466.028(1)(h))		
First Offense.	\$1000 fine	2 year probation with conditions and up to

		suspension, and \$10,000 fine
Second Offense.	1 year probation with conditions, Reprimand and \$3000 fine	Suspension, 1 year probation with conditions, and \$10,000 fine
Third Offense.	1 year suspension, Reprimand and \$5000 fine	Revocation and \$10,000 fine
(i) Failing to perform any statutory or legal obligation placed upon a licensee. (466.028(1)(i), 456.072(1)(k))		
First Offense.	\$500 fine	2 year probation with conditions and \$10,000 fine
Second Offense.	1 year probation with conditions and \$1000 fine	2 year probation with conditions and \$10,000 fine
Third Offense.	2 year probation with conditions and \$2000 fine	1 year suspension and \$10,000 fine
(j) Making or filing a false report, failing to file a report or record required by state or federal law, knowingly impeding or obstructing such filing. (466.028(1)(j), 456.072(1)(l))		
First Offense.	\$1000 fine	1 year probation with conditions and up to suspension, and \$10,000 fine
Second Offense.	1 year probation with conditions and \$2500 fine	Suspension, probation with conditions and \$10,000 fine
Third Offense.	2 year probation with conditions and \$5000 fine	Denial/Revocation and \$10,000 fine
(k) Sexual battery, as defined in chapter 794, upon a patient (466.028(1)(k), 456.072(1)(u))		
First Offense.	6 month suspension followed by probation and \$2500 fine	Denial/or Revocation and \$10,000 fine
Second or Subsequent Offense	5 year suspension followed by probation with conditions and \$5000 fine	Denial/Revocation \$10,000 fine

(l) Making deceptive, untrue, or fraudulent representations in or related to the practice of dentistry.
(466.028(1)(l), 456.072(1)(a))

First Offense.	\$1000 fine	6 month probation with conditions and \$10,000 fine
Second Offense.	1 year probation with conditions and \$1000 fine	6 month suspension and \$10,000 fine
Third Offense.	2 years probation with conditions and \$2500 fine	Revocation and \$10,000 fine

(m) Failing to keep written records and history justifying the course of treatment of the patient.
(466.028(1)(m))

First Offense.	\$500 fine	Probation with conditions and \$7,500.00 fine
Second Offense.	Probation with conditions and \$1000 fine	Suspension and \$10,000 fine
Third Offense.	Probation with conditions and \$2500 fine	Revocation and \$10,000 fine

(n) Failing to make available to a patient or client, copies of documents which relate to the patient or client.
(466.028(1)(n))

First Offense.	\$500 fine	Probation with conditions and \$7500 fine
Second Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Third Offense.	\$2500 fine	Revocation and \$10,000 fine

(o) Performing professional services which have not been authorized by the patient or client
(466.028(1)(o))

First Offense.	\$1000 fine	Probation with conditions and \$8000 fine
Second Offense.	Probation with conditions	Suspension and \$10,000

	and \$2500 fine	fine
Third Offense.	Probation with conditions and \$5000 fine	Revocation and \$10,000 fine
(p) Prescribing a legend drug, other than in the course of the professional practice of the dentist. (466.028(1)(p))		
First Offense.	\$500 fine	Probation with conditions, \$10,000 fine and up to suspension
Second Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine
Third Offense.	Suspension followed by probation and \$5000 fine	Revocation and \$10,000 fine
(q) Prescribing any medicinal drug scheduled in chapter 893, to herself or himself (466.028(1)(q))		
First Offense.	\$500 fine	Suspension followed by probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine
Third Offense.	Suspension followed by probation and \$5000 fine	Revocation and \$10,000 fine
(r) Prescribing any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug, pursuant to chapter 893. (466.028(1)(r))		
First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension followed by probation and \$10,000 fine
Third Offense.	Probation with conditions and \$5000 fine	Revocation and \$10,000 fine

(s) Being unable to practice her or his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.
(466.028(1)(s), 456.072(1)(y))

First Offense.	Denial, or suspension until licensee petitions the Board and demonstrates ability to practice with reasonable skill and safety, followed by probation with conditions and up to \$5,000 fine	
Second Offense.	Denial, or suspension until licensee petitions the Board and demonstrates ability to practice with reasonable skill and safety, followed by probation with conditions and up to \$5000 fine	Suspension followed by probation and \$10,000 fine
Third Offense.	Denial, or suspension until licensee petitions the Board and demonstrates ability to practice with reasonable skill and safety, followed by probation with conditions and up to \$10,000 fine	Revocation and \$10,000 fine

(t) Fraud, deceit, or misconduct in the practice of dentistry or dental hygiene.
(466.028(1)(t))

First Offense.	\$2500 fine	Probation with conditions and \$8000 fine
Second Offense.	Probation with conditions and \$8000 fine	Suspension followed by probation and \$10,000 fine
Third Offense.	Probation with conditions and \$10,000 fine	Revocation and \$10,000 fine

(u) Failure to provide and maintain reasonable sanitary facilities and conditions.
(466.028)(1)(u),

First Offense.	\$500 fine	Probation with conditions and \$8000 fine
Second Offense.	Probation with conditions and \$3000 fine	Suspension, probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions	Revocation and \$10,000

and \$8000 fine

fine

(v) Failure to provide adequate radiation safeguards.
(466.028(1)(v))

First Offense.	\$500 fine	Probation with conditions and \$8000 fine
Second Offense.	Probation with conditions and \$3000 fine	Suspension followed by probation and \$10,000 fine
Third Offense.	Probation with conditions and \$8000 fine	Revocation and \$10,000 fine

(w) Performing any procedure which would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.
(466.028(1)(w),

First Offense.	\$1000 fine	Probation with conditions and \$3000 fine
Second Offense.	Probation with conditions and \$3500 fine	Suspension followed by probation and \$10,000 fine
Third Offense.	Suspension followed by probation and \$5000 fine	Revocation and \$10,000 fine

(x) Being guilty of incompetence or negligence, including, but not limited to, being guilty of dental malpractice.
(466.028(1)(x),

First Offense.	\$500 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$1000 fine	Suspension and \$10,000 fine
Third Offense.	\$2500 fine	Revocation and \$10,000 fine

(y) Practicing beyond the scope that she or he is competent to perform.
(466.028(1)(y), 456.072(1)(o))

First Offense.	\$500 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions	Suspension and \$10,000

	and \$1000 fine	fine
Third Offense.	\$2500 fine	Revocation and \$10,000 fine
 (z) Delegating or contracting for professional responsibilities to a person who is not qualified to perform them. (466.028(1)(z), 456.072(1)(p))		
First Offense.	\$2500 fine	Probation with conditions, \$10,000 fine and suspension
Second Offense.	Probation with conditions and \$5000 fine	Suspension followed by probation and \$10,000 fine
Third Offense.	Probation with conditions and \$7500 fine	Revocation and \$10,000 fine

Any violation of Section 466.028 (1)(z), Florida Statutes, will result in a minimum licensure suspension of six months, in addition to any other penalty authorized for this violation, except where revocation is imposed.

(aa) The violation of a lawful order of the board, or failure to comply with subpoena of the board or department.
(466.028)(1)(aa), 456.072(1)(q))

First Offense.	\$5000 fine	Suspension until compliant with order or subpoena, probation with conditions and \$10,000 fine.
Second Offense.	\$10,000 fine	Suspension until compliant with order or subpoena followed by probation with conditions and \$10,000 fine
Third Offense.	Revocation and \$10,000 fine	Revocation and \$10,000 fine

(bb) Conspiring with another licensee or with any person to commit an act, which would tend to coerce, intimidate, or preclude another licensee from advertising services.
(466.028(1)(bb),

First Offense.	\$ 1,000 fine	\$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$5000 fine	Suspension and \$10,000 fine

(cc) Being adjudged mentally incompetent in this or any other state, the discipline for which shall last only so long as the adjudication.
(466.028(1)(cc))

First and any subsequent offense.	Suspension until adjudged competent by same court.	Suspension until adjudged competent by same court.
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(dd) Presigning blank prescription forms.

First Offense.	\$ 500 fine	Probation with conditions and \$500 fine
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Second Offense.	\$1000 fine	Probation with conditions and \$7500 fine
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Third Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine
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(ee) Prescribing growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance.
(466.028(1)(ee))

First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
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Second Offense.	Probation with conditions and \$2500 fine	Probation with conditions and \$10,000 fine
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Third Offense.	\$5000 fine	Suspension and \$10,000 fine
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(ff) Operating a dental office such as to result in dental treatment that is below minimum acceptable standards of performance for the community.
(466.028(1)(ff))

First Offense.	\$500 fine	Probation with conditions and \$10,000 fine
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Second Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine
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Third Offense.	Probation with conditions and \$4000 fine	Revocation and \$10,000 fine
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(gg) Administering anesthesia in a manner which violates rules of the board
(466.028(1)(gg))

First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine
Third Offense.	Probation with conditions and \$4000 fine	Revocation and \$10,000 fine

(hh) Failing to report any licensee under chapter 458 or chapter 459 who the dentist knows has violated the grounds for disciplinary action
(466.028(1)(hh))

First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Second Offense.	\$2500 fine	\$10,000 fine
Third Offense.	\$3500 fine	\$10,000 fine

(ii) Failing to report to the board, within 30 days action has been taken against one's license to practice dentistry in another state, territory, or country.
(466.028(1)(ii))

First Offense.	\$ 1,000 fine	Denial, revocation and \$8000 fine
Second Offense.	Probation and \$1500 fine	Denial, revocation and \$10,000 fine
Third Offense.	Suspension followed by probation and \$3000 fine	Denial, revocation and \$10,000 fine

(jj) Advertising specialty services in violation of this chapter.
(466.028(1)(jj))

First Offense.	\$1000 fine	\$7500 fine
Second Offense.	\$2500 fine	Probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$5000 fine	Suspension followed by probation and \$10,000 fine

(kk) Allowing any person to interfere with a dentist's clinical judgment (466.028(1)(kk))

First Offense.	\$1000 fine	\$5000 fine
Second Offense.	Probation with conditions and \$2500 fine	Probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$5000 fine	Suspension and \$10,000 fine

(ll) Violating any provision of Chapter 456 and 466, or any rules adopted pursuant thereto (466.028(1)(ll), 456.072(1)(b), 456.072(1)(cc))

First Offense.	\$750 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$1000 fine	Probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$2500 fine	Suspension followed by probation and \$10,000 fine

(mm) Failing to comply with the educational course requirements for HIV (456.072(1)(e))

First Offense.	\$500 fine	Probation with conditions and \$1500 fine
Second Offense.	\$1000 fine	Probation with conditions and \$5000 fine
Third Offense.	\$1500 fine	Probation with conditions and \$7500 fine

(nn) Having been found liable in a civil proceeding for knowingly filing a false report or complaint with the department against another licensee. (456.072(1)(g))

First Offense.	\$1000 fine	Probation with conditions and \$8000 fine
Second Offense.	\$3500 fine	Probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$5,000 fine	Suspension and \$10,000 fine

(oo) Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.
(456.072(1)(m))

First Offense.	\$1000 fine	Probation with conditions and \$8000 fine
Second Offense.	\$3500 fine	Probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$5000 fine	Suspension and \$10,000 fine

(pp) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.
(456.072(1)(n))

First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension and \$10,000 fine
Third Offense.	Probation with conditions and \$3500 fine	Revocation and \$10,000 fine

(qq) Wrong patient, wrong-site procedure, a wrong procedure, medically unnecessary
(456.072(1)(aa))

First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$2000 fine	Suspension followed by probation with conditions and \$10,000 fine
Third Offense.	Suspension followed by probation with conditions and \$3000 fine	Revocation and \$10,000 fine

(rr) Improperly interfering with an investigation or inspection authorized by statute, or with any disciplinary proceeding.
(456.072(1)(r))

First Offense.	\$1000 fine	Probation with conditions
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		and \$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension followed by probation and \$10,000 fine
Third Offense.	Probation with conditions and \$5000 fine	Revocation and \$10,000 fine
(ss) Failing to comply with the educational course requirements for domestic violence 456.072(1)(s)		
First Offense.	\$500 fine	Probation with conditions and \$2500 fine
Second Offense.	Probation with conditions and \$1000 fine	Probation with conditions and \$4000 fine
Third Offense.	\$2500 fine	Probation with conditions and \$8000 fine
(tt) Failing to comply with ss. 381.026 and 381.0261, patient rights and how to file a patient complaint. (456.072(1)(t))		
First Offense.	\$500 fine	Probation with conditions and \$2500 fine
Second Offense.	Probation with conditions and \$1000 fine	Probation with conditions and \$4000 fine
Third Offense.	\$2500 fine	Probation with conditions and \$8000 fine
(uu) Engaging or attempting to engage in sexual misconduct as defined and prohibited in s. 456.063(1). (456.072(1)(u))		
First Offense. with	\$2500 fine	Revocation or probation conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$5000 fine	Suspension followed by probation with conditions, or revocation, and \$10,000 fine
Third Offense.	Suspension followed by probation with conditions	Revocation and \$10,000 fine

and \$8000 fine

(vv) Failing to report to the board,
in writing within 30 days after the licensee
has been convicted or found guilty of,
or entered a plea of nolo contendere to,
regardless of adjudication,
a crime in any jurisdiction.
(456.072(1)(w))

First Offense.	\$500 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$1000 fine	Probation with conditions and \$10,000 fine
Third Offense.	Suspension followed by probation with conditions and \$2500 fine	Revocation and \$10,000 fine

(ww) Using information about people
involved in motor vehicle accidents which
has been derived from accident reports
(456.072(1)(x))

First Offense.	\$500 fine	Probation with conditions and \$5000 fine
Second Offense.	\$1000 fine	Probation with conditions and \$8000 fine
Third Offense.	\$2500 fine	Suspension followed by probation and \$10,000 fine

(xx) Leaving a foreign body in a patient
(456.072(1)(bb))

First Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
Second Offense.	Probation with conditions and \$2500 fine	Suspension followed by probation with conditions and \$10,000 fine
Third Offense.	Probation with conditions and \$5000 fine	Suspension and/or revocation and \$10,000 fine

(yy) Testing positive for any drug, on any
preemployment or employer-ordered drug
screening.
(456.072(1)(z))

First Offense.	\$500 fine	Probation with conditions and \$8000 fine
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Second Offense.	\$1000 fine	Suspension followed by probation with conditions and \$10,000 fine
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Third Offense. fine	\$2500 fine	Revocation and \$10,000
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(zz) Intentionally submitting a personal injury protection claim required by s. 627.736, statement that has been "upcoded" as defined in s. 627.732. (456.072(1)(dd))

First Offense.	\$500 fine	Probation with conditions and \$8000 fine
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Second Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
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Third Offense.	\$2500 fine	Suspension followed by probation with conditions and \$10,000 fine
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(aaa) Intentionally submitting a personal injury protection claim required by s. 627.736, for services that were not rendered. (456.072(1)(ee))

First Offense.	\$500 fine	Probation with conditions and \$8000 fine
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Second Offense.	\$1000 fine	Probation with conditions and \$10,000 fine
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Third Offense.	\$2500 fine	Suspension followed by probation with conditions and \$10,000 fine
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(bbb) Engaging in a pattern of practice of prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients. (456.072(1)(ff))

First Offense.	\$1500 fine	Probation with conditions and \$8000 fine
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Second Offense.	Probation with conditions and \$3000 fine	Suspension and \$10,000 fine
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Third Offense.	\$5000 fine	Revocation and \$10,000 fine
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(ccc) Failing to comply with, failing to successfully complete, or being terminated from an impaired practitioner treatment program.
(456.072 (1) (gg))

First Offense.	Suspension, until compliant, followed by 2 years probation with conditions and \$2000 fine	Suspension until compliant, followed by five years probation with conditions and \$5000.00 fine
Second or subsequent Offense.	Three year suspension followed by 5 years probation with conditions and \$10,000 fine	Revocation and \$10,000 fine

(2) Based upon consideration of aggravating or mitigating factors, present in an individual case, except for explicit statutory maximum and minimum penalty requirements, the Board may deviate from the penalties recommended in subsection (1) above and (3) below. The Board shall consider as aggravating or mitigating factors the following:

- (a) The danger to the public;
- (b) The number of specific offenses, other than the offense for which the licensee is being punished;
- (c) Prior discipline that has been imposed on the licensee;
- (d) The length of time the licensee has practiced;
- (e) The actual damage, physical or otherwise, caused by the violation and the reversibility of the damage;
- (f) The deterrent effect of the penalty imposed;
- (g) The effect of the penalty upon the licensee;
- (h) Efforts by the licensee towards rehabilitation;
- (i) The actual knowledge of the licensee pertaining to the violation;
- (j) Attempts by the licensee to correct or stop the violation or refusal by the licensee to correct or stop violation; and
- (k) Any other relevant mitigating or aggravating factor under the circumstances.

(3) Penalties imposed by the Board pursuant to subsections (1) and (2) above may be imposed in combination or individually, and are as follows:

- (a) Issuance of a reprimand or letter of concern, which may be imposed in any disciplinary case, regardless of whether the penalty is referenced in any individual offense guideline;
- (b) Imposition of an administrative fine not to exceed \$ 10,000.00 for each count or separate offense; for any violation found that is for fraud or making a false or fraudulent representation, the Board will impose a fine of \$10,000.00 per each count or offense, pursuant to section 456.072 (2) (d) Florida Statutes;
- (c) Restriction of the authorized scope of practice or license. In taking disciplinary action against any person, whether or not the action also involves placing a licensee on probation, or imposing any penalty, the Board may impose restrictions on the practice or the license that include, but are not limited to the following:

- 1. requiring remedial education as a requirement of continued practice;
- 2. restricting the licensee from practicing in certain settings;
- 3. restricting the licensee to work in only certain settings or under designated conditions;
- 4. restricting the licensee from performing or providing designated clinical and administrative services;

5. restricting the licensee from practicing a designated number of hours;
6. any other restriction found to be necessary for the protection of the public health, safety, and welfare.

(d) Placement of the licensee on probation for a period of time and subject to such conditions as the Board may specify:

1. Probation Term. Unless otherwise specified above within each individual offense guideline, or unless a lesser period of time is stated in the order imposing probation, the period of probation will be for a period of five (5) years;
2. Probation Conditions. Probation conditions may include but not be limited to the following and may be imposed regardless of whether the term “conditions” is referenced in an individual offense guideline:
 - a. requiring the licensee to attend additional continuing education courses or remedial education,
 - b. requiring the licensee to pass an examination on the content and requirements of Chapters 456, 466 Florida Statutes and Chapter 64B5 Florida Administrative Code,
 - c. requiring the licensee to work under the supervision of another licensee, including the submission of documents and reports from the supervisor and licensee,
 - d. tolling of the running of the probationary period when the licensee ceases to practice in Florida, or fails to maintain compliance with the probation requirements,
 - e. compliance with all terms of the order that imposes probation,
 - f. evaluation by an impaired practitioners network or program and entering or maintaining compliance with a recommended impaired practitioners program contract,
 - g. Submitting to a continuing education audit for the next two consecutive biennial licensure renewal periods beginning with the date of the order imposing probation
 - h. Corrective action related to the violation, including but not limited to the repayment of any fees billed and collected from a patient or third party on behalf of the patient.
 - i. The licensee is responsible for all costs associated with compliance with the terms of probation.

(e) Suspension of a license. Unless otherwise specified above within each individual offense guideline, or unless a lesser period of time is stated in the order imposing suspension, the period of suspension will be for a period of three years;

(f) Revocation of a license; which shall be permanent unless specified otherwise in the final order;

(g) Denial of an application for licensure, any violation of a provision of Section 456.072 (1) or Section 466.028 (1) Florida Statutes may be the basis for denial or issuance of licensure with restrictions or conditions; and

(h) Costs. The licensee is responsible for payment of all costs of investigation and prosecution related to a disciplinary case. Additionally, all costs related to compliance with an order taking disciplinary action are the obligation of the licensee.

(4) The provisions of subsection (1) through (3) above are not intended and shall not be construed to limit the ability of the Board to informally dispose of disciplinary actions by stipulation, agreed settlement or consent order pursuant to Section 120.57(4), F.S.

(5) The provisions of subsections (1) through (4) above are not intended and shall not be construed to limit the ability of the Board to pursue or recommend the Agency pursue collateral civil or criminal actions when appropriate.

Specific Authority 456.079(1) FS., Law Implemented 456.072(2), 456.079(1), 466.028 FS., HISTORY-New 12-31-86, Amended 2-21-88, 1-18-89, 12-24-91, Formerly 21G-13.005, 61F5-13.005, 59Q-13.005, Amended 4-2-02, 8-25-03, 2-27-06, 12-25-06, 6-11-07.

64B5-13.006 Post Board Order Activity.

(1) Any licensee whose license to practice dentistry or dental hygiene has been revoked or suspended by the Board shall:

- (a) Immediately surrender the revoked or suspended license to the Department of Health or its authorized representatives. When a suspension is ordered, the license shall be held by the Department for the duration of the suspension period;
 - (b) Refrain from misrepresenting the status of his license to practice dentistry or dental hygiene to any patient or to the general public;
 - (c) Be prohibited from receiving any compensation from any person, group practice, partnership, or corporate practice for dental or dental hygiene services provided to any person subsequent to revocation or during the period of suspension. This subsection is not intended to preclude a revoked or suspended licensee from receiving fees to which he is entitled as a result of services performed prior to the effective date of his suspension or revocation but which are received subsequent to revocation or during the period of suspension;
 - (d) During a period of suspension, a licensee shall not accept fees from any capitation or third party payment program to which he might otherwise be entitled. This subsection is not intended to preclude a suspended licensee from receiving such fees for services performed during a period of time prior to the effective date of his suspension.
- (2) Any licensee whose license to practice dentistry or dental hygiene in Florida has been revoked or suspended for a period of one (1) year or more in length shall:
- (a) Notify his patients of record of the suspension or revocation by mail no later than one (1) month after the effective date of the suspension or revocation;
 - (b) Remove any telephone listings identifying him as licensed to practice dentistry or dental hygiene in the State of Florida;
 - (c) Remove his name from any sign, door or advertising material identifying him as one licensed to practice dentistry or dental hygiene in the State of Florida;
 - (d) Refrain from addressing the public in any manner which may suggest that he is licensed to practice dentistry or dental hygiene in the State of Florida.

Specific Authority 466.004(4) FS. Law Implemented 466.028(2) FS. History—New 9-1-87, Formerly 21G-13.006, 61F5-13.006, 59Q-13.006.