

authorization by the department as provided in this section. Nothing in this section shall be construed to mean that a certificate of registration to practice septic tank contracting shall be held by a corporation. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing septic tank contracting be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

(2) For the purposes of this section, a certificate of authorization shall be required for a corporation, partnership, association, or person practicing under a fictitious name, offering septic tank contracting services to the public, except that when an individual is practicing septic tank contracting in his or her own given name, he or she shall not be required to register under this section.

(3) Each certification of authorization shall be renewed every 2 years. Each partnership and corporation certified under this section shall notify the department within 1 month of any change in the information contained in the application upon which the certification is based.

(4) Disciplinary action against a corporation or partnership shall be administered in the same manner and on the same grounds as disciplinary action against a registered septic tank contractor or master septic tank contractor.

History.—ss. 5, 10, ch. 87-310; s. 4, ch. 91-429; s. 10, ch. 96-303.

Note.—The word "tank" was inserted by the editors.

489.556 Suspension or revocation of registration.

A certificate of registration may be suspended or revoked upon a showing that the registrant has:

- (1) Violated any provision of this part.
- (2) Violated any lawful order or rule rendered or adopted by the department.
- (3) Obtained his or her registration or any other order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.
- (4) Been found guilty of gross misconduct in the pursuit of his or her profession.

History.—ss. 5, 10, ch. 87-310; s. 4, ch. 91-429; s. 11, ch. 96-303.

489.557 Fees, establishment.—

(1) The department shall, by rule, establish fees as follows:

- (a) For septic tank contractor registration:
 1. Application and examination fee: not less than \$25 or more than \$75.
 2. Initial registration fee: not less than \$50 or more than \$100.
 3. Renewal of registration fee: not less than \$50 or more than \$100.
- (b) For master septic tank contractor registration:
 1. Application and examination fee: not less than \$25 or more than \$75.
 2. Initial registration fee: not less than \$50 or more than \$100.
 3. Renewal of registration fee: not less than \$50 or more than \$100.
- (c) Certification of partnerships and corporations: not less than \$100 or more than \$250.

(2) Fees established pursuant to subsection (1) shall be based on the actual costs incurred by the department in carrying out its registration and other related responsibilities under this part.

History.—ss. 7, 10, ch. 87-310; s. 4, ch. 91-429; s. 12, ch. 96-303.

489.558 Penalties and prohibitions.—

(1) Any person who violates any provision of this part commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) The department may deny a registration if it determines that an applicant does not meet all requirements of this part or has violated any provision of this part. Any applicant aggrieved by such denial shall be entitled to a hearing, after reasonable notice thereof, upon filing a written request for such hearing in accordance with chapter 120.

History.—ss. 8, 10, ch. 87-310; s. 119, ch. 91-224; s. 4, ch. 91-429; s. 13, ch. 96-303.

CHAPTER 490

PSYCHOLOGICAL SERVICES

490.009 Discipline.

490.009 Discipline.—

(1) When the department or, in the case of psychologists, the board finds that an applicant or licensee whom it regulates under this chapter has committed any of the acts set forth in subsection (2), it may issue an order imposing one or more of the following penalties:

- (a) Denial of an application for licensure, either temporarily or permanently.
- (b) Revocation of an application for licensure, either temporarily or permanently.
- (c) Suspension for a period of up to 5 years or revocation of a license, after hearing.
- (d) Immediate suspension of a license pursuant to s. 120.60(6).
- (e) Imposition of an administrative fine not to exceed \$5,000 for each count or separate offense.
- (f) Issuance of a public reprimand.
- (g) Placement of an applicant or licensee on probation for a period of time and subject to conditions specified by the department or, in the case of psychologists, by the board, including, but not limited to, requiring the applicant or licensee to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of a designated licensee.
- (h) Restriction of practice.

(2) The following acts of a licensee or applicant are grounds for which the disciplinary actions listed in subsection (1) may be taken:

- (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 profession or the ability to practice his 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 whom 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 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 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 secretary, his 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 can resume the competent practice for which he is licensed with reasonable skill and safety to patients.

(q) Violating provisions of this chapter, or of chapter 455, or any rules adopted pursuant thereto.

(r) 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.

(s) 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.

(t) 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.

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

(v) Failing to maintain in confidence a communication made by a patient or client in the context of such services, except by written permission or in the face of a clear and immediate probability of bodily harm to the patient or client or to others.

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

History.—ss. 1, 3, ch. 81-235; s. 35, ch. 83-215; ss. 1, 3, ch. 83-265; s. 9, ch. 84-203; ss. 8, 18, 19, ch. 87-252; s. 36, ch. 88-392; ss. 6, 12, 13, ch. 89-70; s. 10, ch. 90-192; s. 4, ch. 91-429; s. 112, ch. 92-149; s. 8, ch. 95-279; s. 228, ch. 96-410.

CHAPTER 491

CLINICAL, COUNSELING, AND PSYCHOTHERAPY SERVICES