TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 7. ADMINISTRATIVE REMEDIES

435: 7-1-1. Administrative Remedy, Notice of Intention to Impose Administrative Remedy, and Service of Notice.
(a) Pursuant to 59 O.S.Supp.2019, §503.2, the State Board of Medical Licensure and Supervision ("Board"), or the Board Secretary ("Board Secretary") acting for the Board, may issue a Notice against a licensee for statutory or regulatory prescribed unprofessional conduct.
(b) For the purposes of this section, “unprofessional conduct” includes but is not limited to:
   (1) Practicing without timely renewing a license;
   (2) Failure to provide required or accurate information on an initial licensure application;
   (3) Failure to provide required or accurate information on a renewal application;
   (4) Failure to timely obtain required continuing education hours;
   (5) Failure to notify Board of current practice location and mailing address;
   (6) Failure to cooperate with a lawful investigation conducted by the Board; or
   (7) Failure to register with the prescription monitoring program (PMP) in compliance with state law.
(c) Before an administrative remedy is imposed, the licensee shall be provided with a Notice of Intention to Impose Administrative Remedy (“Notice”). The Notice shall include:
   (1) Sufficient information regarding the allegations to allow the licensee to prepare a response;
   (2) The proposed administrative remedy;
   (3) Statement of the time, place, and nature of hearing consistent with Article II of the Administrative Procedures Act;
   (4) Deadlines for a written response and the consequences of failing to meet such deadlines;
   (5) The licensee's right to submit a written response right to appear at the hearing;
   (6) The consequences of the imposition of an administrative remedy, including the fact that the remedy will constitute a public record but that it will not be considered a limitation and restriction on the license and not reportable to the National Practitioner Databank;
   (7) A description of the procedural process for consideration of a written response and request for a personal appearance; and
   (8) The name and contact information for a Board staff member who can provide further information.
(d) A copy of the Notice shall be mailed to the licensee by certified mail, return receipt requested and delivery restricted to the addressee, to the address on file with the Board, or by personal service. A licensee may consent in writing to service via electronic mail message.

435: 7-1-2. Response and Contest in Writing to Notice of Intent to Impose Administrative Remedy
(a) The licensee must respond in writing to the Notice within twenty (20) days of service as follows:
   (1) The licensee may consent and comply with the terms of the proposed administrative remedy set forth in the Notice; or
   (2) The licensee may provide a written contest to the Notice, which must include specific grounds or objections as to why the licensee is contesting the imposition of an administrative remedy, the amount of the remedy, or both.
(b) If no written response is received as required herein, the Board Secretary shall report the same to the Board at the next regularly Board meeting, and request the Notice be ratified as a Final Administrative Order.

435: 7-1-3. Compliance with Notice of Imposition of Administrative Remedy.

If the licensee consents and complies with the Notice within twenty (20) days after service of the Notice, it shall be so acknowledged by the Board Secretary on a copy of the Notice, which shall constitute an agreed imposition of the administrative remedy. A report of the same shall be made by the Board Secretary to the Board at the next regularly scheduled Board meeting for ratification and Final Administrative Order.

435: 7-1-4. Notice and Hearing before the Board.

(a) A hearing on a contest of the Notice will be governed by the requirements of Article II of the Administrative Procedures Act. The Board’s Rules for Individual Proceedings shall also govern.
(b) Following a hearing on the contest of the Notice, the Board may affirm, lessen, or reject the administrative remedy set forth in the Notice.
(c) Within ten (10) days of the Final Administrative Order, a licensee may request a rehearing, reconsideration, or reopening pursuant to 75 O.S. §317 and OKLA. ADMIN. CODE §435:3-3-21. Otherwise, the Board’s decision shall constitute a Final Administrative Order.
(d) The Board’s Final Administrative Order shall include the following separately stated information:
   (1) Findings of Fact; and
   (2) Conclusions of Law.
(e) A copy of the Final Administrative Order shall be mailed to the licensee by certified mail, return receipt requested to the addressee, to the address on file with the Board or personally delivered. A copy of the Order shall be delivered or mailed forthwith and to his or her attorney of record.

435: 7-1-5. Allowed Administrative Remedies.

(a) The Notice and/or the Board’s Final Administrative Order may assess a monetary fine of up to $1,500.00 per violation of unprofessional conduct but in no event shall a fine exceed any amount otherwise set forth in statute or rules; and/or
(b) The Board may impose continuing education requirements that must be pre-approved by the Board Secretary or the Board. The Notice will specify the amount of continuing education credit hours required and the time in which the licensee has to complete the credit hours.

435: 7-1-6. Confidentiality of Patient Information in Notice and/or Final Administrative Remedy Order.

(a) To the extent required by law, any patient information must be redacted from any Notice and/or Final Administrative Order or any document filed in a contest of such a Notice of Final Administrative Order.
(b) To the extent that a patient must be identified, the initials of the patient’s first and last names shall be used.
(c) Under no circumstance may the Board, the Board Secretary, Board staff, the licensee, or any person representing the licensee disclose any information confidential by law in any Notice.
and/or Final Administrative Order or any document filed in a contest of such Notice and/or Final Administrative Order.

(d) “Document,” includes but is not limited to, originals or copies, whether tangible or electronically stored, of any letters, notes, pleadings, exhibits, photographs, videos, sound recordings, or demonstrative exhibits.

435: 7-1-7. Reports of Imposition of Notice and/or Final Administrative Remedy Orders
(a) Any Notice or Final Administrative Order issued under this Chapter shall be a public record.
(b) The issuance of a Notice or Final Administrative Order under this Chapter may not be considered a restriction or limitation on the license, nor shall the issuance either one be considered an action connected with the delivery of health care services. Further, the imposition of any order under this Chapter shall not be reported to the National Practitioner Data Bank.

435: 7-1-8. Failure to Comply with Final Administrative Remedy Order
(a) A licensee shall not be issued a renewal license until licensee has complied with all the provisions of the Final Administrative Order.
(b) In the event that the licensee has not timely complied with a Final Administrative Order, the Board Secretary may file a motion to enforce or initiate disciplinary action against a licensee.