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16 CA ADC § 1399.159

16 CCR § 1399.159

Cal. Admin. Code tit. 16, § 1399.159

Barclays Official California Code of Regulations Currentness
Title 16. Professional and Vocational Regulations
Division 13.4. Speech-Language Pathology and Audiology Board
Article 10. Citations and Fines
➡§ 1399.159. Citations -Content and Service.

(a) The executive officer of the board is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and/or fines for violations by any licensee or registrant of the board of the statutes and regulations referred to in this article.

(b) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the statute or regulation alleged to have been violated.

(c) The citation may contain an assessment of an administrative fine, an order of abatement fixing a reasonable time for abatement of the violation, or both.

(d) The citation shall inform the cited person of the right to a citation review conference concerning the matter and of the right to an administrative hearing.

(e) The citation shall be served upon the licensee personally or by certified mail, return receipt requested.

Note: Authority cited: Sections 125.9, 148 and 2531.95, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

HISTORY

1. New section filed 5-20-77; effective thirtieth day thereafter (Register 77, No. 21). For prior history, see Register 76, No. 34.

2. Amendment of section title filed 4-20-79; effective thirtieth day thereafter (Register 79, No. 16).

3. Amendment filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

4. New subsection (b) filed 6-25-90; operative 6-25-90 (Register 90, No. 34).

5. Change without regulatory effect amending subsections (a) and (b)(3) filed 11-1-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 8).

6. Amendment of subsection (b) filed 10-4-93; operative 11-3-93 (Register 93, No. 41).

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16 CCR § 1399.159.1

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Title 16. Professional and Vocational Regulations
Division 13.4. Speech-Language Pathology and Audiology Board
Article 10. Citations and Fines
§ 1399.159.1. Violations and Fines.

(a) The executive officer shall consider the factors listed in subdivision (b)(3) of section 125.9 of the code in determining the amount of the fine to be assessed or the terms of the order of abatement in any citation.

(b) The executive officer may, in his or her discretion, assess a fine not to exceed $5,000 for each investigation, and issue an order of abatement for any violation of the code or regulations governing the practices of speech-language pathology and audiology;

(c) Notwithstanding the administrative fine amount specified in subsection (b), a citation may include a fine between $2501 and $5,000 if one or more of the following circumstances apply:

(1) The citation involves a violation that has an immediate relationship to the health and safety of another person.

(2) The cited person has a history of two or more prior citations of the same or similar violations.

(3) The citation involves multiple violations that demonstrate willful disregard of the law.

(4) The citation involves a violation or violations perpetrated against a minor, a senior citizen, or disabled person.

Note: Authority cited: Sections 125.5, 148 and 2531.95, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering former section 1399.196 to section 1399.159.1 filed 12-6-99 pursuant to section 100, title 1,California Code of Regulations (Register 99, No. 50).

2. Amendment of subsection (b) and new subsections (c)-(c)(4) filed 3-29-2006; operative 4-28-2006 (Register 2006, No. 13).

16 CCR § 1399.159.1, 16 CA ADC § 1399.159.1
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16 CA ADC § 1399.159.2

16 CCR § 1399.159.2

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Barclays Official California Code of Regulations Currentness
Title 16. Professional and Vocational Regulations
Division 13.4. Speech-Language Pathology and Audiology Board
Article 10. Citations and Fines
§ 1399.159.2. Citations for Unlicensed Practice.

(a) The executive officer of the board may issue citations, in accordance with section 148 of the code, against any person, partnership, corporation, association or other group however organized who is performing or who has performed services for which licensure is required under the act or regulations governing the practices of speech-language pathology or audiology.

(b) Each citation issued under this section shall contain an order of abatement.

(c) The executive officer, in his or her discretion, may assess a fine for the unlicensed activity in accordance with subdivision (b)(3) of section 125.9 of the code.

(d) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the statute or regulation alleged to have been violated.

(e) The citation shall be served upon the person personally or by certified mail, return receipt requested.

(f) The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedy.

Note: Authority cited: Sections 125.9, 148, and 2531.95, Business and Professions Code. Reference: Section 125.9, 148, and 149, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering former section 1399.197 to section 1399.159.2 filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

16 CCR § 1399.159.2, 16 CA ADC § 1399.159.2
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16 CCR § 1399.159.3

Cal. Admin. Code tit. 16, § 1399.159.3

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Title 16. Professional and Vocational Regulations
Division 13.4. Speech-Language Pathology and Audiology Board
Article 10. Citations and Fines
§ 1399.159.3. Compliance with Citation/Order of Abatement.

(a) Orders of abatement may be extended for good cause. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his/her control after the exercise of reasonable diligence, then he/she may request from the executive officer an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) If a citation is not contested, or if the citation is appealed and the person cited does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement or pay an assessed fine may result in disciplinary action being taken by the board or other appropriate judicial relief being taken against the person cited.

(d) If a fine is not paid after a citation has become final, the fine shall be added to the cited person's license renewal fee. A license shall not be renewed without payment of the renewal fee and fine.

Note: Authority cited: Section 125.9, 148 and 2531.95, Business and Professions Code. Reference: Section 125.9, 148, and 149, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering former section 1399.198 to section 1399.159.3 filed 12-6-99 pursuant to section 100, title 1,California Code of Regulations (Register 99, No. 50).

16 CCR § 1399.159.3, 16 CA ADC § 1399.159.3
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16 CCR § 1399.159.4

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Title 16. Professional and Vocational Regulations
Division 13.4. Speech-Language Pathology and Audiology Board
Article 10. Citations and Fines
➡§ 1399.159.4. Contest of Citations. [Repealed]

Note: Authority cited: Sections 125.9, 148 and 2531.95, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 1399.199 to section 1399.159.4 filed 12-6-99 pursuant to section 100, title1, California Code of Regulations (Register 99, No. 50).

2. Repealer filed 3-29-2006; operative 4-28-2006 (Register 2006, No. 13).

16 CCR § 1399.159.4, 16 CA ADC § 1399.159.4
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Division 13.4. Speech-Language Pathology and Audiology Board
Article 10. Citations and Fines
➡§ 1399.159. Citations -Content and Service.

(a) The executive officer of the board is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and/or fines for violations by any licensee or registrant of the board of the statutes and regulations referred to in this article.

(b) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the statute or regulation alleged to have been violated.

(c) The citation may contain an assessment of an administrative fine, an order of abatement fixing a reasonable time for abatement of the violation, or both.

(d) The citation shall inform the cited person of the right to a citation review conference concerning the matter and of the right to an administrative hearing.

(e) The citation shall be served upon the licensee personally or by certified mail, return receipt requested.

Note: Authority cited: Sections 125.9, 148 and 2531.95, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

HISTORY

1. New section filed 5-20-77; effective thirtieth day thereafter (Register 77, No. 21). For prior history, see Register 76, No. 34.

2. Amendment of section title filed 4-20-79; effective thirtieth day thereafter (Register 79, No. 16).

3. Amendment filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

4. New subsection (b) filed 6-25-90; operative 6-25-90 (Register 90, No. 34).

5. Change without regulatory effect amending subsections (a) and (b)(3) filed 11-1-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 8).

6. Amendment of subsection (b) filed 10-4-93; operative 11-3-93 (Register 93, No. 41).

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16 CCR § 1399.159.01

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Division 13.4. Speech-Language Pathology and Audiology Board
Article 10. Citations and Fines
§ 1399.159.01. Office Mediation.

(a) Prior to issuing any citation, the executive officer shall provide notice of a probable violation and offer the individual who is the subject of the notice an opportunity to resolve the matter through office mediation.

(b) A request for office mediation must be made within fourteen (14) calendar days after the notice of probable violation was mailed.

(c) Within thirty (30) calendar days from the receipt of any such request, the executive officer shall conduct office mediation with the individual or his or her legal counsel or authorized representative.

(d) At or before the office mediation, the executive officer shall provide the individual or his or her representative with a notice informing him or her of the right to request copies of all relevant non-privileged documents pertaining to the matter. The notice will further inform the individual or his or her representative that these copies will be provided by the Board upon receipt of a written request. Disclosure of these documents shall not constitute a waiver of any exemption under the Public Records Act that permits the Board to withhold disclosure of these documents from inquiring members of the general public.

(e) Within fourteen (14) calendar days from the date of the office mediation, the executive officer will determine whether to proceed with the service of a citation pursuant to Section 1399.159.2. Alternately, the Executive Officer shall have the authority to enter into a settlement agreement with the individual.

(f) If no settlement agreement is reached and the executive officer decides to go forward with a formal citation, the person cited shall not waive the right to request a formal hearing under the Administrative Procedures Act pursuant to subdivision (b)(4) of Section 125.9 of the Business and Professions Code by virtue of the fact that he or she previously requested office mediation.

(g) In any settlement agreement entered into between the Board and the individual, the individual shall not be asked to waive or give up any future appeal rights he or she may have under the Administrative Procedures Act or any other law.

Note: Authority cited: Sections 125.9, 148 and 2531.95, Business and Professions Code. Reference: Sections 125.9, 148 and 149 Business and Professions Code.

HISTORY

1. New section filed 3-29-2006; operative 4-28-2006 (Register 2006, No. 13).

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16 CA ADC § 1399.159.1

16 CCR § 1399.159.1

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Title 16. Professional and Vocational Regulations
Division 13.4. Speech-Language Pathology and Audiology Board
Article 10. Citations and Fines
§ 1399.159.1. Violations and Fines.

(a) The executive officer shall consider the factors listed in subdivision (b)(3) of section 125.9 of the code in determining the amount of the fine to be assessed or the terms of the order of abatement in any citation.

(b) The executive officer may, in his or her discretion, assess a fine not to exceed $5,000 for each investigation, and issue an order of abatement for any violation of the code or regulations governing the practices of speech-language pathology and audiology;

(c) Notwithstanding the administrative fine amount specified in subsection (b), a citation may include a fine between $2501 and $5,000 if one or more of the following circumstances apply:

(1) The citation involves a violation that has an immediate relationship to the health and safety of another person.

(2) The cited person has a history of two or more prior citations of the same or similar violations.

(3) The citation involves multiple violations that demonstrate willful disregard of the law.

(4) The citation involves a violation or violations perpetrated against a minor, a senior citizen, or disabled person.

Note: Authority cited: Sections 125.5, 148 and 2531.95, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering former section 1399.196 to section 1399.159.1 filed 12-6-99 pursuant to section 100, title 1,California Code of Regulations (Register 99, No. 50).

2. Amendment of subsection (b) and new subsections (c)-(c)(4) filed 3-29-2006; operative 4-28-2006 (Register 2006, No. 13).

16 CCR § 1399.159.1, 16 CA ADC § 1399.159.1
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16 CCR § 1399.159.2

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Title 16. Professional and Vocational Regulations
Division 13.4. Speech-Language Pathology and Audiology Board
Article 10. Citations and Fines
➡§ 1399.159.2. Citations for Unlicensed Practice.

(a) The executive officer of the board may issue citations, in accordance with section 148 of the code, against any person, partnership, corporation, association or other group however organized who is performing or who has performed services for which licensure is required under the act or regulations governing the practices of speech-language pathology or audiology.

(b) Each citation issued under this section shall contain an order of abatement.

(c) The executive officer, in his or her discretion, may assess a fine for the unlicensed activity in accordance with subdivision (b)(3) of section 125.9 of the code.

(d) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the statute or regulation alleged to have been violated.

(e) The citation shall be served upon the person personally or by certified mail, return receipt requested.

(f) The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedy.

Note: Authority cited: Sections 125.9, 148, and 2531.95, Business and Professions Code. Reference: Section 125.9, 148, and 149, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering former section 1399.197 to section 1399.159.2 filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

16 CCR § 1399.159.2, 16 CA ADC § 1399.159.2
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16 CCR § 1399.159.3

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Title 16. Professional and Vocational Regulations
Division 13.4. Speech-Language Pathology and Audiology Board
Article 10. Citations and Fines
➡§ 1399.159.3. Compliance with Citation/Order of Abatement.

(a) Orders of abatement may be extended for good cause. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his/her control after the exercise of reasonable diligence, then he/she may request from the executive officer an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) If a citation is not contested, or if the citation is appealed and the person cited does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement or pay an assessed fine may result in disciplinary action being taken by the board or other appropriate judicial relief being taken against the person cited.

(d) If a fine is not paid after a citation has become final, the fine shall be added to the cited person's license renewal fee. A license shall not be renewed without payment of the renewal fee and fine.

Note: Authority cited: Section 125.9, 148 and 2531.95, Business and Professions Code. Reference: Section 125.9, 148, and 149, Business and Professions Code.

HISTORY

1. Change without regulatory effect renumbering former section 1399.198 to section 1399.159.3 filed 12-6-99 pursuant to section 100, title 1,California Code of Regulations (Register 99, No. 50).

16 CCR § 1399.159.3, 16 CA ADC § 1399.159.3
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16 CCR § 1399.185

Cal. Admin. Code tit. 16, § 1399.185

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Title 16. Professional and Vocational Regulations
Division 13.4. Speech-Language Pathology and Audiology Board
Article 13. Information Disclosure
➡§ 1399.185. Disclosure of Citations.

Every citation that is issued by the Board shall be disclosed to an inquiring member of the public. Citations that have been resolved, by payment of the administrative fine or compliance with the order of abatement, shall be purged from the Board's records five (5) years from the date of resolution. A citation that has been withdrawn or dismissed shall be purged from the Board's records immediately upon being withdrawn or dismissed.

Note: Authority cited: Sections 129 and 2531.95, Business and Professions Code; and Section 6253 Government Code. Reference: Sections 6250, 6252 and 6253, Government Code.Authority cited: Sections 129 and 2531.95, Business and Professions Code; and Section 6253 Government Code. Reference: Sections 6250, 6252 and 6253, Government Code.

HISTORY

1. New section filed 8-1-2006; operative 8-31-2006 (Register 2006, No. 31). For prior history, see Register 99, No. 50.

16 CCR § 1399.185, 16 CA ADC § 1399.185
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Title 16. Professional and Vocational Regulations
Division 10. Dental Board of California
Chapter 1. General Provisions Applicable to All Licensees
Article 7. Citations and Fines
§ 1023. Citations.

The executive officer of the board may issue a citation to any person who holds a permit or certificate from the board for a violation of any provision or other law enforced by the board.

Note: Authority cited: Sections 125.9 and 1614, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

HISTORY

1. New article 7 and section filed 4-23-93; operative 5-24-93 (Register 93, No. 17).

16 CCR § 1023, 16 CA ADC § 1023
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Division 10. Dental Board of California
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Article 7. Citations and Fines
➡§ 1023.1. Citation Format.

Each citation:
(a) shall be in writing;

(b) shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated;

(c) may contain in an assessment of an administrative fine, an order of abatement fixing a reasonable period of time for abatement of the violation, or both an administrative fine and an order of abatement;

(d) shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 days of the issuance of the citation or assessment;

(e) shall be served upon the licensee personally or by certified mail.

Note: Authority cited: Sections 125.9 and 1614, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

HISTORY

1. New section filed 4-23-93; operative 5-24-93 (Register 93, No. 17).

16 CCR § 1023.1, 16 CA ADC § 1023.1
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Title 16. Professional and Vocational Regulations
Division 10. Dental Board of California
Chapter 1. General Provisions Applicable to All Licensees
Article 7. Citations and Fines
➡§ 1023.2. Administrative Fines for Citation.

Where citations issued pursuant to Section 125.9 of the code include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:
(a) A class "A" violation is a violation which the executive officer has determined involves a person who has violated a statute/regulation, and either:

(1) the violation presents a substantial probability that death or serious physical harm to a patient could result therefrom; or

(2) the person has been issued three class B violations within a 24 month time period immediately preceding the act, serving as the basis for the citation, without regard to whether the actions to enforce the previous citations have become final.

A class "A" violation is subject to an administrative fine in an amount not less than $1,000 and not exceeding $2,500 for each violation.

(b) A class "B" violation is a violation which the executive officer has determined involves a person who has violated a statute/regulation relating to the practice of dentistry which does not present a substantial probability that either death or serious physical harm to a patient will result therefrom.

A class "B" violation is subject to an administrative fine in an amount not less than $50 and not exceeding $2,500 for each violation.

Note: Authority cited: Sections 125.9 and 1614, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

HISTORY

1. New section filed 4-23-93; operative 5-24-93 (Register 93, No. 17).

16 CCR § 1023.2, 16 CA ADC § 1023.2
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Division 10. Dental Board of California
Chapter 1. General Provisions Applicable to All Licensees
Article 7. Citations and Fines
➡§ 1023.4. Citation Factors.

In assessing the amount of an administrative fine, the executive officer shall consider the following factors:
(a) The good or bad faith exhibited by the cited person.

(b) The nature and severity of the violation.

(c) Evidence that the violation was willful.

(d) History of violations of the same or similar nature.

(e) The extent to which the cited person has cooperated with the board.

(f) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.

(g) Such other matters as justice may require.

Note: Authority cited: Sections 125.9 and 1614, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

HISTORY

1. New section filed 4-23-93; operative 5-24-93 (Register 93, No. 17).

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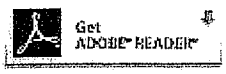

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16 CCR § 1023.5

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Division 10. Dental Board of California
Chapter 1. General Provisions Applicable to All Licensees
Article 7. Citations and Fines
➡§ 1023.5. Contest of Citations.

(a) In addition to requesting a hearing, as provided for in subsection (b)(4) of Section 125.9 of the code, the person cited may, within ten (10) days after service or receipt of the citation, notify the executive officer in writing of his or her request for an informal conference with the executive officer regarding the acts charged in the citation. The time allowed for the request shall begin the first day after the citation has been served or received.

(b) The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the person cited and/or his or her legal counsel or authorized representative. At the conclusion of the informal conference the executive officer may affirm, modify or dismiss the citation, including any administrative fine levied or order of abatement issued. The executive officer shall state in writing the reasons for his or her action and serve or mail, as provided in subsection (b) of section 1023.1, a copy of his or her findings and decision to the person cited within ten days from the date of the informal conference. The decision shall be deemed to be a final order without regard to the citation issued, including the administrative fine levied and the order of abatement.

(c) The person cited does not waive his or her request for a hearing to contest a citation by requesting an informal conference after which the citation is affirmed by the executive officer. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any administrative fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If a hearing is requested for the subsequent citation, it shall be requested within 30 days in accordance with subsection (b)(4) of Section 125.9 of the code.

Note: Authority cited: Sections 125.9 and 1614, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

HISTORY

1. New section filed 4-23-93; operative 5-24-93 (Register 93, No. 17).

16 CCR § 1023.5, 16 CA ADC § 1023.5
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Chapter 1. General Provisions Applicable to All Licensees
Article 7. Citations and Fines
§ 1023.6. Failure to Comply with Order.

(a) The time allowed for abatement of a violation shall begin the first day after the order of abatement has been served or received. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time from the executive officer in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) An order of abatement shall either be personally served or mailed by certified mail, return receipt requested.

(c) When an order of abatement is not contested or if the order is appealed and the person or entity cited does not prevail, failure to abate the violation charged within the time specified in the citation shall constitute a violation and failure to comply with the order of abatement. Failure to timely comply with an order of abatement may result in disciplinary action being taken by the board or other appropriate judicial relief being taken against the person cited.

Note: Authority cited: Sections 125.9 and 1614, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

HISTORY

1. New section filed 4-23-93; operative 5-24-93 (Register 93, No. 17).

16 CCR § 1023.6, 16 CA ADC § 1023.6
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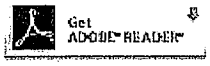

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Chapter 1. General Provisions Applicable to All Licensees
Article 7. Citations and Fines
➡§ 1023.7. Unlicensed Practice.

The executive officer may issue a citation, in accordance with Section 148 of the code, against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the board and who is not otherwise exempt from licensure. Each citation may contain an assessment of an administrative fine, or an order of abatement fixing a reasonable period of time for an abatement. Administrative fines shall range from $50 to $2,500 for each violation. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 148 and 1614, Business and Professions Code. Reference: Section 148, Business and Professions Code.

HISTORY

1. New section filed 4-23-93; operative 5-24-93 (Register 93, No. 17).

16 CCR § 1023.7, 16 CA ADC § 1023.7
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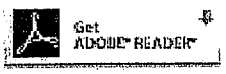

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➡§ 1397.50. Citations and Fines.

(a) For purposes of this article, "board official" shall mean the executive officer of the board or his or her representative.

(b) A board official is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines for violations by a licensed psychologist of the statutes referred to in section 1397.51.

(c) A citation shall be issued whenever any fine is levied or any order of abatement is issued. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statute or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail, return receipt requested.

Note: Authority cited: Sections 125.9, 148 and 2930, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New article 9 (sections 1397.50-1397.55) and section filed 4-26-96; operative 5-26-96 (Register 96, No. 17).

16 CCR § 1397.50, 16 CA ADC § 1397.50
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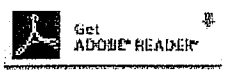

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§ 1397.51. Amount of Fines.

The amount of any fine to be levied by a board official shall take into consideration the factors listed in subdivision (b)(3) of section 125.9 of the code and shall be within the range set forth below.
(a) A board official may issue a citation under section 1397.50 for a violation of the provisions listed in this section. The fine for a violation of the following code sections shall be from $100 to $2500:

(1) Business and Professions Code section 125

(2) Business and Professions Code section 125.6

(3) Business and Professions Code section 475(a)(1)

(4) Business and Professions Code section 490

(5) Business and Professions Code section 496

(6) Business and Professions Code section 580

(7) Business and Professions Code section 581

(8) Business and Professions Code section 582

(9) Business and Professions Code section 583

(10) Business and Professions Code section 584

(11) Business and Professions Code section 650

(12) Business and Professions Code section 651

(13) Business and Professions Code section 654.2

(14) Business and Professions Code section 702

(15) Business and Professions Code section 810

(16) Business and Professions Code section 2903

(17) Business and Professions Code section 2960(a)

(18) Business and Professions Code section 2960(c)

(19) Business and Professions Code section 2960(d)

(20) Business and Professions Code section 2960(f)

(21) Business and Professions Code section 2960(g)

(22) Business and Professions Code section 2960(h)

(23) Business and Professions Code section 2960(i)

(24) Business and Professions Code section 2960(k)

(25) Business and Professions Code section 2960(l)

(26) Business and Professions Code section 2960(m)

(27) Business and Professions Code section 2960(n)

(28) Business and Professions Code section 2960(p)

(29) Business and Professions Code section 2960(q)

(30) Business and Professions Code section 2960(r)

(31) Business and Professions Code section 2960.6

(32) Business and Professions Code section 17500

(33) Penal Code section 11166.5

(34) Business and Professions Code section 2913(c)

(35) Business and Professions Code section 2914(c)

(36) Business and Professions Code section 2915

(b) At his or her discretion, a board official may issue a citation with an order of abatement without levying a fine for the first violation of any provision set forth above.

(c) Notwithstanding the administrative fine amounts specified in this section, a citation may include a fine between $2,501 and $5,000 if one or more of the following circumstances apply:

(1) The citation involves a violation that has an immediate relationship to the health and safety of another person;

(2) The cited person has a history of two or more prior citations of the same or similar violations;

(3) The citation involves multiple violations that demonstrate a willful disregard of the law;

(4) The citation involves a violation or violations perpetrated against a child, elderly person or person with a disability.

Note: Authority cited: Sections 125.9, 148 and 2930, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 4-26-96; operative 5-26-96 (Register 96, No. 17).

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§ 1397.52. Compliance with Orders of Abatement.

(a) If a cited person who has been issued an order of abatement is unable to complete the correction with the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the person cited may request an extension of time in which to complete the correction from the board official who issued the citation. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When an order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation charged within the time allowed shall constitute a violation and failure to comply with the order of abatement. An order of abatement shall either be personally served or mailed by certified mail, return receipt requested. The time allowed for the abatement of a violation shall begin when the order of abatement is final and has been served or received. Such failure may result in disciplinary action being taken by the Board of Psychology or other appropriate judicial relief being taken against the person cited.

Note: Authority cited: Sections 125.9, 148 and 2930, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 4-26-96; operative 5-26-96 (Register 96, No. 17).

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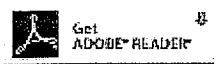

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➡§ 1397.53. Citations for Unlicensed Practice.

A board official is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, partnerships, corporations or associations who are performing or who have performed services for which licensure as a psychologist is required under the laws and regulations relating to the practice of psychology. Each citation issued shall contain an order of abatement. Where appropriate, a board official shall levy a fine for such unlicensed activity in accordance with subdivision (b)(3) of section 125.9 of the code. The provisions of section 1397.50 and 1397.52 shall apply to the issuance of citations for unlicensed activity under this subsection. The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

Note: Authority cited: Sections 125.9, 148 and 2930, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 4-26-96; operative 5-26-96 (Register 96, No. 17).

16 CCR § 1397.53, 16 CA ADC § 1397.53
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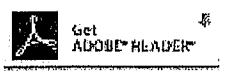

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§ 1397.54. Contest of Citations.

(a) In addition to requesting a hearing as provided for in subdivision (b)(4) of section 125.9 of the code, the person cited may, within ten (10) days after service or receipt of the citation, notify the board official who issued the citation in writing of his or her request for an informal conference with the board official regarding the acts charged in the citation. The time allowed for the request shall begin the first day after the citation has been served or received.

(b) The board official who issued the citation shall, within 30 days from the receipt of the request, hold an informal conference with the person cited and/or his or her legal counsel or authorized representative. At the conclusion of the informal conference the board official may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued. The board official shall state in writing the reasons for his or her action and serve or mail a copy of his or her findings and decision to the person cited within ten (10) days from the date of the informal conference, as provided in subsection (b) of section 1397.52. This decision shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement.

(c) The person cited does not waive his or her request for a hearing to contest a citation by requesting an informal conference after which the citation is affirmed by a board official. If the citation is dismissed after the informal conference, the request for a hearing on the matter of the citation shall be deemed to be withdrawn. If the citation, including any fine levied or order of abatement, is modified, the citation originally issued shall be considered withdrawn and new citation issued. If a hearing is requested for the subsequent citation it shall be requested within 30 days in accordance with subdivision (b)(4) of section 125.9 of the code.

Note: Authority cited: Sections 125.9, 148 and 2930, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

HISTORY

1. New section filed 4-26-96; operative 5-26-96 (Register 96, No. 17).

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§ 1397.55. Disconnection of Telephone Service.

(a) If, upon investigation, the board official has probable cause to believe that an unlicensed person, who is not otherwise exempt from licensure, has advertised to provide psychological services in an alphabetical or classified directory in violation of section 2903 of the code, the board official may issue a citation containing an order of abatement pursuant to section 1397.50 of these regulations. The order of abatement shall require the unlicensed person to cease the unlawful advertising and to notify the telephone company furnishing services to the cited person to (1) disconnect the telephone services furnished to any telephone number contained in the unlawful advertising, and (2) that subsequent calls to that number shall not be referred by the telephone company to any new number obtained by that person. The cited person shall provide written evidence of compliance to the board official.

(b) If the person to whom a citation is issued under subdivision (a) submits a written request to the board official to appeal the citation, the board official shall afford an opportunity for a hearing, as provided in section 1397.54 of these regulations.

(c) If the person to whom the citation and order of abatement is issued fails to comply with the order of abatement after the order is final as provided in section 1398.54(b) of these regulations, the board official shall inform the Public Utilities Commission of the violation in accordance with Business and Professions Code section 149.

Note: Authority cited: Sections 125.9, 148 and 2930, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.

HISTORY

1. New section filed 4-26-96; operative 5-26-96 (Register 96, No. 17).

16 CCR § 1397.55, 16 CA ADC § 1397.55
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