

Orthotics and Prosthetics Penalties and Sanctions

Texas Occupations Code Chapter 605
16 Texas Administrative Code, Chapter 114
16 Texas Administrative Code, Chapter 60

Class A

Penalty Range: Up to \$1,000

Failure to Notify Department Violations

Violation	Statute/Rule
Failed to report to the Department violations of the Act or this chapter committed by a licensed assistant	114.27(c)(8)
Failed to notify Department of change in the accredited facility designation of the on-site practitioner(s) in charge name and license number within 30 days after the change	114.29(d)(1)(C); 114.70(b)
Failed to notify Department of change in the accredited facility designation of the on-site safety manager(s) name and license number within 30 days after the change	114.29(d)(3)(B); 114.70(b)
Failed to notify the Department of any change(s) of name or mailing address within 30 days after a change	114.70(b)

Posting and Public Information Violation

Violation	Statute/Rule
Failed to publicly display the license certificate in the primary place of employment	114.21(d)
Displayed or carried a copy of a license instead of the original	114.21(d)
Allowed license to be copied for a purpose other than for license verification, credentialing, or reimbursement	114.21(e)
Failed to sign, date and mark license copies with the word "COPY" across the document's face	114.21(e)
Failed to prominently display facility accreditation certificate in facility available for public inspection	114.29(e)(3)

Violation	Statute/Rule
Failed to prominently display consumer complaint notice sign in facility	114.29(e)(5); 114.70(d)
Failed to prominently display the license certificates of practitioners in facility available for public inspection	114.29(e)(8)
Failed to display a visible sign with facility hours of operation and, when appropriate, information regarding temporary closures	114.29(e)(9)

Advertising Without a License or Accreditation Violations

Violation	Statute/Rule
Used terms or letters indicating directly or by implication that an orthotic or prosthetic service will be provided when not licensed or accredited	605.251; 605.301(2)(c); 605.351; 114.29(e)(6)
Advertised or otherwise held-out as able to practice orthotics or prosthetics without a license	605.251

Facility, Equipment and Sanitation Violations

Violation	Statute/Rule
Failed to clean examination/treatment room(s) after each patient	114.29(i)(2)
Failed to have hand sanitizer/hand soap, hand towels or hand dryers available at the sinks for use by employees/patients	114.29(i)(3)
Failed to have exam tables covered in material for disposable one-time use or can be disinfected, replaced or cleaned after providing service to each patient	114.29(i)(4)
Failed to have gloves and disinfectants available in examination/treatment areas	114.29(i)(5)
Failed to keep the floors, walls, ceilings, shelves, furniture, furnishings and fixtures clean and in good repair or failed to repair or fill-in cracks or similar disrepair not readily accessible	114.29(i)(6)
Failed to keep plumbing fixtures clean or failed to repair any disrepair with plumbing not readily accessible	114.29(i)(7)

Violation	Statute/Rule
Failed to have suitable facility plumbing providing hot and cold running water at all times	114.29(i)(8)
Failed to provide at least one accessible restroom located on or adjacent to the premises of the facility	114.29(l)(6)
Facility being utilized for living or sleeping purposes or utilized for any other purpose tending to make the premises unsanitary, unsafe or endanger the public health and safety	114.29(i)(9)
Failed to separate the facility patient waiting areas from other areas	114.29(j)(1)
Failed to provide chairs with armrests or failed to provide chairs without armrests or wheels upon request	114.29(j)(2); 114.29(k)(3)
Failed to provide private patient rooms	114.29(k)(1)
Failed to maintain facility machine use training records documenting staff training for each machine	114.29(l)(2)

Class B

Penalty Range: \$500 to \$3,000 and/or up to 6-month probated suspension

Health and Safety Violations

Violation	Statute/Rule
Failed to wash hands with hand sanitizer/soap and water before providing service to patient	114.29(i)(1)
Storing chemical supplies in restrooms or other areas accessible to the public/patients	114.29(l)(6)
Failed to provide at least one set of parallel bars, wall-mounted mirror or mirror with base for patient facility ambulation trials	114.29(k)(2)
Failed to have facility equipment, tools, and materials for casting, measuring, fitting, repairs and adjustments of orthoses/prosthesis	114.29(e)(10)
Failed to have safety equipment, including safety glasses or goggles and dust masks for persons working in facility	114.29(l)(1)
Failed to provide proper facility machine use training	114.29(l)(2)
Failed to have safety guards on facility machines as required by the manufacturer	114.29(l)(3)

Administrative Violations Related to Assistants

Violation	Statute/Rule
Failed to file with the Department a supervision agreement before the assistant clinical residency begins	114.27(b)(1)
Failed to provide the assistant clinical resident and Department with supervisor's written documentation on beginning, terminating or completing the assistant clinical residency	114.27(b)(3)
Failed to review and sign off on patient care notes made by assistant clinical resident by supervising practitioner within 15 working days from the date the service was provided	114.27(b)(5); 114.27(c)(1)
Allowed the assistant clinical residency to begin with supervisor before approval from the Department	114.27(b)(2)

Administrative Violations

Violation	Statute/Rule
Failure of an accredited facility to have a licensed practitioner in charge	114.29(d)(1)
Failed to have an accredited facility residency program director licensed in the same discipline in which the professional clinical residency is being conducted providing direct/indirect resident supervision	114.29(d)(2)
Failed to have a designated facility safety manager to develop, carry out and monitor the facility safety program	114.29(d)(3)

Unlicensed Activity

Violation	Statute/Rule
Practiced, attempted, offered to practice orthotics or prosthetics with an expired license	60.31(g); 114.40(f)(1)- (2);114.90(c)(10)
Practiced, attempted, offered to practice orthotics or prosthetics patient care as an accredited facility with an expired license	60.31(g); 114.40(e)(5); 114.90(c)(10)

Class C

Penalty Range: \$1,000 to \$5,000 and/or 1-year probated suspension up to revocation

Administrative Violations

Violation	Statute/Rule
Altered a license or a copy of a license	114.21(f)
Used or allowed a person to use a license or registration for any fraudulent, misleading or deceptive purpose	114.90(c)(4)
Filed a complaint with the Department that is frivolous or made in bad faith	114.90(h)

Records Violations

Violation	Statute/Rule
Failed to include accurate and current patient progress notes	114.29(m)(1)
Failed to keep patient records private	114.29(m)(2); 114.90(d)(13)
Made patient records available without the patient's signed consent or as permitted by law	114.29(m)(3)
Failed to maintain patient records for a minimum of five (5) years	114.29(m)(4)
Facility failed to provide itemized billing to patient prior to pursuing debt collection efforts against patient.	114.70(e)
Facility failed to include all required information on itemized bill	114.70(e)

Standard of Care Violations – Related to Supervision

Violation	Statute/Rule
Patient care provided by assistant clinical resident or licensed assistant without appropriate supervision	114.27(b)(4) and (9); 114.27(c)(6)
Provided patient care to orthotic/prosthetic patients including ancillary or assistant patient care services as a technician	114.28(c)
Licensed assistant provided ancillary patient care services in a discipline other than that of the supervisor's license	605.255(b); 114.27(c)(2)-(4);

Violation	Statute/Rule
Student registrant working without appropriate supervision	605.258(b)
Failed to supervise and be responsible for the acts or omissions of the licensed assistant by supervising practitioner	114.27(c)(5); 114.27(c)(7)
Failed to supervise a technician by a licensed prosthetist, orthotist, prosthetist/orthotist, prosthetist assistant, orthotist assistant, or prosthetist/orthotist assistant	114.28(a)
Practitioner in charge failed to supervise and maintain supervision of clinical or technical personnel	114.90(d)(8)
Practitioner in charge failed to provide facility on-site supervision	114.90(d)(8)

Standard of Care Violations – Related to Treatment

Violation	Statute/Rule
Persistently or flagrantly over-treated a client or patient	114.90(c)(12)
Failed to maintain acceptable standards of prosthetics or orthotics practices set forth by department rules	114.90(d)(5)
Failed or unable to practice prosthetics/orthotics with reasonable skill and safety due to use of alcohol, drugs, chemicals or from mental or physical conditions	114.90(d)(6)
Treated or agreed to treat human ailments by means other than appropriate prosthetic/orthotic treatments	114.90(d)(7)
Provided prosthetic/orthotic services or products in a way that the person knows or should know violates the Act or chapter	114.90(d)(9)
Failed to assess and evaluate a patient's status	114.90(d)(10)
Provided or attempted to provide services for which the licensee lacks education or experience	114.90(d)(11)
Delegated functions to an individual lacking the ability, knowledge or license/registration to perform the functions	114.90(d)(12)
Failed to follow universal precautions or infection control standards as required by the Health & Safety Code	114.90(d)(18)
Fitted a prosthesis or orthosis without an order	605.2515; 114.75(e) 114.90(d)(23)

Violation	Statute/Rule
Fitted a prosthesis or orthosis inaccurately or modifying the order without authorization	114.90(d)(24)
Performed an act or omission constituting gross neglect, such as conduct involving malice, willfulness or wanton and reckless disregard of others' rights	114.90(e)(1)
Performed an act or omission constituting malpractice by failing to perform services or provide products for which compensation has been received or failed to perform services or provide products with reasonable care, skill, expedience, and faithfulness	114.90(e)(2)(A)
Performed an act or omission constituting malpractice by failing to do that which a person or ordinary prudence would have done or would not have done under the same or similar circumstances	114.90(e)(2)(B)

Misrepresentation

Violation	Statute/Rule
Failed to submit truthful continuing education documentation or information to the Department; committed fraud, misrepresentation, or concealment of a material fact with continuing education requirements	114.90(b)(2); 114.90(d)(19); 114.50(p)
Impersonated or acted as a proxy for a licensee or registrant at a continuing education activity	114.90(b)(4)
Used a proxy to participate in a continuing education activity	114.90(b)(5)
Provided false or misleading information to the Department regarding a Department inquiry	114.90(b)(6)
Placed or caused to be placed false, misleading or deceptive advertising	114.90(c)(1)
Made or allowed false, misleading or deceptive representations concerning services or products provided or to be provided.	114.90(c)(2)
Made or allowed false, misleading or deceptive representations on an employment application	114.90(c)(3)
Forged, altered or falsified a physician's or healthcare professional's order	114.90(c)(6)

Violation	Statute/Rule
Delivered prosthetic/orthotic services or products through means of misrepresentation, deception or subterfuge	114.90(c)(7)
Made, filed, or caused another person to make or file a report or record the licensee knows to be inaccurate, incomplete, false or illegal	114.90(c)(9)
Other fraud or deceit concerning services provided	114.90(c)(15)

Unlicensed Activity

Violation	Statute/Rule
Knowingly employed or professionally associated with a person or entity providing orthotic or prosthetic services without the required license or accreditation	114.90(c)(5)
Provided orthotic care in a facility not accredited in orthotics	114.90(d)(25)
Provided prosthetic care in a facility not accredited in prosthetics	114.90(d)(26)
Practiced, attempted to practice, or offered to practice orthotics/prosthetics, or acted as an assistant without a license	605.251; 114.90(c)(10)
Fabricated or assembled an orthosis or prosthesis without a order or device manufacturer license	605.2515
Practicing in a place other than an accredited facility or exempt facility	114.29(a); 114.27(c)(9)
Operated an unaccredited facility	114.29(e)(1); 114.29(f); 114.90(c)(10); 114.90(d)(14); 114.90(d)(25)-(26)

Unprofessional or Unethical Conduct

Violation	Statute/Rule
Persistently or flagrantly overcharged a client, patient or third party	114.90(c)(11)
Took, without authorization, patient medication, supplies, equipment or personal items	114.90(c)(14)
Accepted or paid, or agreed to pay or accept illegal remuneration for the securing or soliciting of patients	114.90(c)(8)
Discriminated based on race, color, national origin, religion, gender, age or disability in the practice of prosthetics/orthotics	114.90(d)(1)

Violation	Statute/Rule
Surrendered a license to avoid disciplinary action or prosecution	114.90(d)(2)
Licensee had previous disciplinary action	114.90(d)(3)
Engaged in conduct prohibited by state, federal or local law	114.90(d)(4)
Engaged in other unprofessional or unethical conduct	114.90(d)(30)
Assaulted or caused, permitted or allowed physical or emotional injury or impairment of dignity or safety to patient/client	114.90(d)(15)
Made abusive, harassing or seductive remarks to a patient, client or co-worker in the workplace	114.90(d)(16)
Engaged in sexual contact as defined by the Penal Code § 21.01 with a patient or client as the result of patient or client relationship	114.90(d)(17)

Continuing Education Violations

Violation	Statute/Rule
Failed to maintain continuing education records applied toward a license renewal for two years after the date the license renewal is issued	60.701(b)(2)
Failed to submit to the department continuing education records within 30 calendar days after notification of an audit	60.701(c)(2), (d)(1)
Failed to complete all deficient continuing education within 90 calendar days after notification of deficiency	60.701(c)(4), (d)(4)
Provided false information during the audit or renewal process	60.701(d)(2)
Was deficient in the continuing education required for the most recent renewal of the license	60.701(d)(3)

Class D

Penalty Range: \$5,000 and/or up to revocation

Violation	Statute/Rule
Obtained or attempted to obtain a license by fraud, misrepresentation, or concealment of material fact	60.23(a)(1)-(2); 114.90(b)(1); 114.90(b)(7)
Falsified any document submitted to the Department or Commission	60.23(a)(2)
Permitted the use or display of a license by a person not authorized by law to use that license	60.23(a)(3)
Failed to comply with exam security requirements	60.54
Impersonate or act as a proxy for an examination candidate	114.90(b)(3)
Used a proxy to take an examination	114.90(b)(5)
Failed to comply with a previous order of the Commission or Executive Director	51.353(a); 60.23(a)(5) 114.90(c)(13); 114.90(d)(29)
Failed to pay the Department for a dishonored payment or processing fee	51.210(c); 60.82;
Failed to cooperate with the Department inspector in the performance of an inspection	60.222 114.29(h);
Failed to cooperate with the Department during an investigation of a complaint or by interfering with a Department investigation	60.203 114.90(d)(21)-(22), (27); 114.90(f)