

WAC 246-16-890 Sanctions—Aggravating and mitigating factors.

The following nonexclusive list identifies factors that may mitigate or aggravate the sanctions that should be imposed in an order or stipulation to informal disposition.

- (1) Factors related to the unprofessional conduct:
 - (a) Gravity of the unprofessional conduct;
 - (b) Age, capacity and/or vulnerability of the patient, client or victim;
 - (c) Number or frequency of the acts of unprofessional conduct;
 - (d) Injury caused by the unprofessional conduct;
 - (e) Potential for injury to be caused by the unprofessional conduct;
 - (f) Degree of responsibility for the outcome;
 - (g) Abuse of trust;
 - (h) Intentional or inadvertent act(s);
 - (i) Motivation is criminal, immoral, dishonest or for personal gain;
 - (j) Length of time since the unprofessional conduct occurred.
- (2) Factors related to the license holder:
 - (a) Experience in practice;
 - (b) Past disciplinary record;
 - (c) Previous character;
 - (d) Mental and/or physical health;
 - (e) Personal circumstances;
 - (f) Personal problems having a nexus with the unprofessional conduct.
- (3) Factors related to the disciplinary process:
 - (a) Admission of key facts;
 - (b) Full and free disclosure to the disciplining authority;
 - (c) Voluntary restitution or other remedial action;
 - (d) Bad faith obstruction of the investigation or discipline process or proceedings;
 - (e) False evidence, statements or deceptive practices during the investigation or discipline process or proceedings;
 - (f) Remorse or awareness that the conduct was wrong;
 - (g) Impact on the patient, client, or victim.
- (4) General factors:
 - (a) License holder's knowledge, intent, and degree of responsibility;
 - (b) Presence or pattern of other violations;
 - (c) Present moral fitness of the license holder;
 - (d) Potential for successful rehabilitation;
 - (e) Present competence to practice;
 - (f) Dishonest or selfish motives;
 - (g) Illegal conduct;
 - (h) Heinousness of the unprofessional conduct;
 - (i) Ill repute upon the profession;
 - (j) Isolated incident unlikely to reoccur.

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-890, filed 7/22/09, effective 8/22/09.]