

Figure: 22 TAC §575.25

Pursuant to Occupations Code §801.407, the State Office of Administrative Hearings (SOAH) shall use this Schedule of Sanctions in determining any sanction to be imposed as the result of a contested case hearing.

Upon the finding of a violation, the finder of fact shall classify the severity of the violation using the classification criteria provided. The finder of fact shall then consider the aggravating and mitigating factors to determine the appropriate sanction within the range provided. The sanction shall not exceed the maximum sanction nor fall below the minimum sanction for the violation class. It is not mandatory that the finder of fact utilize all the sanctions in the appropriate range. The finder of fact may choose one or more sanctions from within the appropriate range.

In cases where the violation found is not specifically enumerated in the Schedule of Sanctions, the Default Schedule shall be used to classify the severity of the violation and to establish maximum and minimum sanctions.

The finder of fact shall consider the following aggravating and mitigating factors in assessing the appropriate sanction for any violation. The finder of fact shall also consider any specific aggravating or mitigating factors identified for each enumerated violation.

Aggravating factors:

- A history of previous violations
- Any hazard or potential hazard created to the health, safety, or economic welfare of the public
- Any economic harm or risk of harm to the client or the public, including economic harm to property or the environment
- Any misrepresentations or untruthfulness regarding the violation

Mitigating factors:

- Any efforts to correct the violation, harm, or risk of harm
- Any restitution made to the client
- Whether the licensee is new to the practice of veterinary medicine or equine dentistry
- The extent to which facility policies and conditions beyond licensee's control contributed to the violation

In cases where more than one provision of the Veterinary Licensing Act Chapter 801, Occupations Code, or "VLA") or the Board's Rules has been violated, the most severe minimum sanction recommended by the Schedule of Sanctions for any one of the individual violations shall be the minimum sanction considered.

In cases where an administrative penalty is indicated for a licensed veterinary technician or an equine dental provider, the finder of fact may reduce the administrative penalty by half.

Notwithstanding the recommended maximum and minimum sanctions, the Board may order a Respondent at an informal proceeding to issue a refund pursuant to Section 801.408(e), Occupations Code.

Fraud or Dishonesty on Application or Exam – VLA §801.402(1), §801.402(2)

Classification Criteria	Minimum Sanction	Maximum Sanction
<p>Class A:</p> <ul style="list-style-type: none"> • Application falsification or omission which would have resulted in denial of licensure • Fraud in exam process 	<ul style="list-style-type: none"> • Revocation or denial of licensure 	<ul style="list-style-type: none"> • Revocation or denial of licensure
<p>Class B:</p> <ul style="list-style-type: none"> • Application falsification or omission which could have resulted in licensure with stipulations 	<ul style="list-style-type: none"> • Informal reprimand • \$500 administrative penalty • Jurisprudence examination 	<ul style="list-style-type: none"> • Five year suspension, probated or enforced • Statutory maximum administrative penalty • Jurisprudence Examination
<p>Class C:</p> <ul style="list-style-type: none"> • Application falsification or omission which would not have prevented licensure without stipulations 	<ul style="list-style-type: none"> • Jurisprudence examination 	<ul style="list-style-type: none"> • Formal reprimand • \$1,000 administrative penalty • Jurisprudence examination

Continuing Education – RULES §573.64, §573.65, and §573.66

Classification Criteria	Minimum Sanction	Maximum Sanction
<p>Class A:</p> <ul style="list-style-type: none"> • Three or more continuing education violations within ten years 	<ul style="list-style-type: none"> • Probated suspension until deficient hours are completed and documentation provided to the Board • Formal reprimand • \$100 administrative penalty for each hour deficient plus \$250 for each previous continuing education disciplinary action 	<ul style="list-style-type: none"> • Enforced suspension until deficient hours are completed and documentation provided to the Board • Formal Reprimand • \$100 administrative penalty for each hour deficient plus \$250 for each previous continuing education disciplinary action
<p>Class B :</p> <ul style="list-style-type: none"> • Second continuing education violation within ten years • Licensee falsely attested on license renewal that required continuing education hours were completed 	<ul style="list-style-type: none"> • Informal reprimand • Complete deficient hours • \$50 administrative penalty for each hour deficient 	<ul style="list-style-type: none"> • Formal reprimand • Complete deficient hours • \$100 administrative penalty for each hour deficient
<p>Class C :</p> <ul style="list-style-type: none"> • Licensee self-reported the violation and has no previous continuing education violations within ten years 	<ul style="list-style-type: none"> • Complete deficient hours 	<ul style="list-style-type: none"> • Complete deficient hours • \$50 administrative penalty for each hour deficient

Aggravating and Mitigating Factors

Aggravating Factors :

- Licensee is deficient 50% or more of the required continuing education hours

Mitigating Factors

- Licensee obtained the required number of continuing education hours, but did not meet other criteria, i.e. number of hours that must be earned in-person
- Licensee is deficient less than 50% of the required continuing education hours
- Licensee voluntarily completed the deficient hours after becoming aware of the deficiency

Confidentiality – VLA §801.402(21), RULES §573.28

Classification Criteria	Minimum Sanction	Maximum Sanction
<p>Class A:</p> <ul style="list-style-type: none"> Confidential information released with intent to do reputational, financial, or other harm Criteria for Class B are met and Respondent has two or more previous confidentiality violations within ten years 	<ul style="list-style-type: none"> One year probated suspension Formal reprimand \$1,000 administrative penalty 	<ul style="list-style-type: none"> Revocation Statutory maximum penalty
<p>Class B:</p> <ul style="list-style-type: none"> Confidential information released Criteria for Class C are met and Respondent has previous confidentiality violation within ten years 	<ul style="list-style-type: none"> Formal reprimand \$500 administrative penalty Jurisprudence examination 	<ul style="list-style-type: none"> Formal reprimand \$2,000 administrative penalty Jurisprudence examination
<p>Class C:</p> <ul style="list-style-type: none"> Confidential information released for purpose of rebutting the client’s public criticism of veterinary services 	<ul style="list-style-type: none"> Informal reprimand 	<ul style="list-style-type: none"> Informal reprimand \$500 administrative penalty Jurisprudence examination
<p><i>Aggravating Factors</i></p>		
<p>Aggravating Factors:</p> <ul style="list-style-type: none"> Information released for the purpose of rebutting public criticism exceeded the scope of the original criticism 		

Controlled Substance Records Keeping – RULES §573.50

Classification Criteria	Minimum Sanction	Maximum Sanction
<p>Class A:</p> <ul style="list-style-type: none"> • Criteria for Class B violation are met and diversion occurs • Criteria for Class B violation are met and Respondent has previous controlled substance violation within ten years • No controlled substance records are kept • Discrepancies in the records are severe • Fraudulent entries made by Respondent 	<ul style="list-style-type: none"> • Formal reprimand • \$2,000 administrative penalty • Follow-up report to the Board on controlled substance records 	<ul style="list-style-type: none"> • Five-year suspension, probated or enforced • Formal reprimand • Statutory maximum administrative penalty • Periodic reporting to the Board on controlled substance records • Continuing education
<p>Class B:</p> <ul style="list-style-type: none"> • Criteria for Class C violation are met and diversion occurs • Criteria for Class C violation are met and Respondent has previous controlled substance violation within ten years • Discrepancies in the controlled substance records are moderate 	<ul style="list-style-type: none"> • Formal reprimand • \$1,000 administrative penalty • Follow-up report to the Board on controlled substance records 	<ul style="list-style-type: none"> • Formal reprimand • \$3,000 administrative penalty • Follow-up report to the Board on controlled substance records • Continuing education
<p>Class C:</p> <ul style="list-style-type: none"> • Discrepancies in the controlled substance records are minor 	<ul style="list-style-type: none"> • Informal reprimand 	<ul style="list-style-type: none"> • Formal reprimand • \$500 administrative penalty • Continuing education

Aggravating and Mitigating Factors

Aggravating Factors:

- Licensee was directly responsible for omissions in the records
- Licensee owns or orders controlled substances for the facility
- Facility uses high volume of controlled substances
- Balance on hand has not been updated for four weeks or more

Mitigating Factors:

- Licensee rectified recordkeeping errors and accounted for previous discrepancies
- Licensee does not own or order controlled substances for the facility
- Licensee has not practiced at the facility for an extended amount of time or has not worked regularly at the facility
- Facility uses low volume of controlled substances

Default Schedule – Non-Enumerated Violation of Occupations Code or Board Rule

Classification Criteria	Minimum Sanction	Maximum Sanction
<p>Class A:</p> <ul style="list-style-type: none"> • Failure to comply with substantive provision that causes death or severe harm to an animal or to the public • Commission or conviction of a felony in or connected with the practice of veterinary medicine or equine dentistry • Commission or conviction of an offense under Section 42.09, 42.091, or 42.092, Penal Code • Fraud in testing, reporting, or certifying the presence or absence of animal disease • Criteria for Class B are met and Respondent has previous violation within ten years 	<ul style="list-style-type: none"> • One year probated suspension • Formal reprimand • \$1,000 administrative penalty 	<ul style="list-style-type: none"> • Revocation • Statutory maximum administrative penalty
<p>Class B:</p> <ul style="list-style-type: none"> • Failure to comply with substantive provision that harms or creates risk of harm to an animal or to the public • Commission or conviction of a Class A or B misdemeanor connected with the practice of veterinary medicine or equine dentistry • Failure to cooperate with Board inspection or investigation • Criteria for Class C are met and Respondent has previous violation within ten years 	<ul style="list-style-type: none"> • Formal reprimand • \$1,000 administrative penalty 	<ul style="list-style-type: none"> • One year probated suspension • Formal reprimand • Statutory maximum administrative penalty • Continuing education
<p>Class C:</p> <ul style="list-style-type: none"> • Failure to comply with procedural provision • Failure to refer a case 	<ul style="list-style-type: none"> • Informal reprimand 	<ul style="list-style-type: none"> • Formal reprimand • \$1,000 administrative penalty • Continuing education

Patient Record Keeping – RULES §573.52, §573.53

Classification Criteria	Minimum Sanction	Maximum Sanction
<p>Class A:</p> <ul style="list-style-type: none"> • Omission or illegible record causes death or serious harm to an animal • Any falsified record entry • Any omission made with the intent to avoid discipline or liability • Criteria for Class B are met and Respondent has previous record keeping violation within ten years 	<ul style="list-style-type: none"> • One year probated suspension • Formal reprimand • \$1,000 administrative penalty • Continuing education 	<ul style="list-style-type: none"> • Revocation • Statutory maximum administrative penalty
<p>Class B:</p> <ul style="list-style-type: none"> • Pervasive record keeping errors • Omission or illegible record creates risk of death or serious harm to an animal • Failure to properly maintain or transfer records • Non-contemporaneous entry without notation of time of entry • Criteria for Class C are met and Respondent has previous record keeping violation within ten years 	<ul style="list-style-type: none"> • Formal reprimand • \$500 administrative penalty • Continuing education 	<ul style="list-style-type: none"> • Formal reprimand • \$2,000 administrative penalty • Continuing education
<p>Class C:</p> <ul style="list-style-type: none"> • Minor omission or illegible record that does not create risk of harm to an animal • Record keeping errors are not pervasive 	<ul style="list-style-type: none"> • Informal reprimand 	<ul style="list-style-type: none"> • Informal reprimand • \$500 administrative penalty • Continuing education

Standard of Care – VLA §801.402(16), RULES §573.22

Classification Criteria	Minimum Sanction	Maximum Sanction
<p>Class A:</p> <ul style="list-style-type: none"> • Act or omission committed by Respondent causes death or serious harm to an animal • Any act or omission done with the intent to cause harm to an animal • Criteria for Class B are met and Respondent has previous standard of care violation within ten years 	<ul style="list-style-type: none"> • One year probated suspension • Formal reprimand • \$1,000 administrative penalty • Continuing education 	<ul style="list-style-type: none"> • Revocation • Statutory maximum administrative penalty
<p>Class B:</p> <ul style="list-style-type: none"> • Act or omission causes harm or creates risk of death or harm to an animal • Act or omission committed by a person under Respondent’s supervision causes death or serious harm, or the risk of death or serious harm, to an animal • Criteria for Class C are met and Respondent has previous standard of care violation within ten years 	<ul style="list-style-type: none"> • Formal reprimand • \$500 administrative penalty • Continuing education 	<ul style="list-style-type: none"> • One year probated suspension • Formal reprimand • Statutory maximum administrative penalty • Continuing education
<p>Class C:</p> <ul style="list-style-type: none"> • Act or omission creates risk of minor harm to an animal 	<ul style="list-style-type: none"> • Informal reprimand 	<ul style="list-style-type: none"> • Formal reprimand • \$1,000 administrative penalty • Continuing education

Substance Abuse – VLA §801.402(3)		
Classification Criteria	Minimum Sanction	Maximum Sanction
<p>Class A:</p> <ul style="list-style-type: none"> • Diversion of controlled substances for personal use • Two or more previous Board Orders finding violations of this provision • Treatment of animal while intoxicated, resulting in harm to an animal or client 	<ul style="list-style-type: none"> • Five-year suspension, probated or enforced • Five-year peer assistance program participation • Limited practice • Periodic reporting • Formal reprimand • Supervising veterinarian 	<ul style="list-style-type: none"> • Revocation • Statutory maximum administrative penalty
<p>Class B:</p> <ul style="list-style-type: none"> • Violation of an existing peer assistance program agreement • Previous Board Order finding violation of this provision • Treatment of animal while intoxicated 	<ul style="list-style-type: none"> • Five-year probated suspension • Five-year peer assistance program participation • Formal reprimand 	<ul style="list-style-type: none"> • Five-year suspension, probated or enforced • Five-year peer assistance program participation • Supervising veterinarian • Periodic reporting • Formal reprimand
<p>Class C:</p> <ul style="list-style-type: none"> • No previous Board Orders finding violation of this provision 	<ul style="list-style-type: none"> • Informal reprimand • Two year peer assistance program participation • <i>Board Order may be confidential if licensee agrees to the order and has no previous or pending action, complaint, or investigation involving malpractice, injury, or harm to any member of the public. Chapter 467, Health & Safety Code.</i> 	<ul style="list-style-type: none"> • Formal reprimand • Five year peer assistance program participation • <i>Board Order may be confidential if licensee agrees to the order and has no previous or pending action, complaint, or investigation involving malpractice, injury, or harm to any member of the public. Chapter 467, Health & Safety Code.</i>
<i>Aggravating and Mitigating Factors</i>		
Aggravating Factors:		
<ul style="list-style-type: none"> • Use of illegal substance 		
Mitigating Factors:		
<ul style="list-style-type: none"> • Licensee self-reported to the Board or peer assistance program • Voluntary participation in peer assistance program or treatment program • Licensee voluntarily surrendered DEA registration 		

Unnecessary or Unauthorized Treatment – VLA §801.402(12)		
Classification Criteria	Minimum Sanction	Maximum Sanction
<p>Class A:</p> <ul style="list-style-type: none"> • Knowingly performs or prescribes unnecessary treatment • Unauthorized but justifiable treatment causes death or serious harm to an animal 	<ul style="list-style-type: none"> • One year suspension, probated or enforced • Formal reprimand • \$1,000 administrative penalty • Jurisprudence examination 	<ul style="list-style-type: none"> • Revocation • Statutory maximum administrative penalty
<p>Class B:</p> <ul style="list-style-type: none"> • Unauthorized but justifiable treatment with moderate to severe risk of harm to an animal • Unauthorized but justifiable treatment causes minor harm to an animal 	<ul style="list-style-type: none"> • Formal reprimand • \$500 administrative penalty • Jurisprudence examination 	<ul style="list-style-type: none"> • Formal reprimand • \$5,000 administrative penalty • Jurisprudence examination
<p>Class C:</p> <ul style="list-style-type: none"> • Unauthorized but justifiable treatment with minimal risk of harm to an animal 	<ul style="list-style-type: none"> • Informal reprimand 	<ul style="list-style-type: none"> • Formal reprimand • \$1,000 administrative penalty • Jurisprudence examination
<i>Aggravating and Mitigating Factors</i>		
Aggravating Factors:		
<ul style="list-style-type: none"> • Client specifically declined the treatment performed 		
Mitigating Factors:		
<ul style="list-style-type: none"> • Unauthorized treatment performed concurrently with other justifiable, authorized treatment 		

Veterinarian Client Patient Relationship – VLA §801.402(13), §801.351, RULES §573.22

Classification Criteria	Minimum Sanction	Maximum Sanction
<p>Class A:</p> <ul style="list-style-type: none"> • Practice of veterinary medicine without first establishing VCPR causes death or serious harm to an animal • Prescribes, dispenses, or administers a controlled substance without first establishing VCPR • Criteria for Class B are met and Respondent has previous VCPR violation within ten years 	<ul style="list-style-type: none"> • One year probated suspension • Formal reprimand • \$1,000 administrative penalty 	<ul style="list-style-type: none"> • Revocation • Statutory maximum administrative penalty
<p>Class B:</p> <ul style="list-style-type: none"> • Prescribes, dispenses, or administers a prescription drug without first establishing VCPR • Practice of veterinary medicine without first establishing VCPR causes harm to an animal • Criteria for Class C are met and Respondent has previous VCPR violation within ten years 	<ul style="list-style-type: none"> • Formal reprimand • \$500 administrative penalty 	<ul style="list-style-type: none"> • One year probated suspension • Formal reprimand • Statutory maximum administrative penalty
<p>Class C:</p> <ul style="list-style-type: none"> • Practice of veterinary medicine without first establishing VCPR 	<ul style="list-style-type: none"> • Informal reprimand 	<ul style="list-style-type: none"> • Formal reprimand • \$1,000 administrative penalty