

CHAPTER 61-31 MOLD

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61-31 MOLD RELATED SERVICES

61-31.1 LICENSURE

61-31.101 License Requirements

61-31.102 Examination

61-31.101 License Requirements

(1) The department shall certify as meeting the requirements for licensure as a mold assessor or remediator as defined in Section 468.8414, Florida Statutes, an applicant who applies to the department in writing using form number DBPR MRS-0701, initiated 00/00/2010, incorporated herein by reference. The form may be obtained by contacting the department at the following address: Mold Related Services Licensing Unit, 1940 N. Monroe Street, Tallahassee, Florida 32399-0783 or on line at the department's web site at <http://www.myfloridalicense.com/dbpr/servop/testing/providers.html>.

(2) In addition to submitting the form, the applicant must pay the appropriate fees and meet the following criteria:

(a) Have passed the state required examination as described in 61-31-102, F.A.C.

(b) Be of good moral character; "good moral character" means a personal history of honesty, fairness, and respect for the rights of others and for laws of this state and nation as defined by Section 468.8413(5)(a), F.S.

(c) For a mold remediator, the applicant received at least a 2-year degree in microbiology, engineering, architecture, industrial hygiene, occupational safety, or a related field of natural or physical science from an accredited institution and a minimum of 1 year of documented field experience in a field related to mold remediation; or

(d) A high school diploma or the equivalent with a minimum of 4 years of documented field experience in a field related to mold remediation.

(e) For a mold assessor, the applicant received at least a 2-year degree in microbiology, engineering, architecture, industrial hygiene, occupational safety, or a related field of natural or physical science from an accredited institution and a minimum of 1 year of documented field experience in conducting microbial sampling or investigations; or

(f) A high school diploma or the equivalent with a minimum of 4 years of documented field experience in conducting microbial sampling or investigations.

(g) A degree in related fields for purpose of this rule will include but not be limited to marine biology, biology, chemistry, environmental and earth sciences.

(h) For purposes of examination, to establish each year of experience, an applicant must submit at least 15 mold assessments or remediation invoices prepared by the applicant.

Rulemaking Authority 455.213(6), 468.8413(5), 468.8414(2)(b)FS. Law Implemented 455.213, 468.8413, 468.8414 FS. History—New (date).

61-31.102 Examination

A written examination shall be passed prior to any applicant receiving a license to practice as a mold remediator or assessor as provided in Chapter 468, Florida Statutes, unless exempt by this part.

(1) The department approves the Council-certified Indoor Environmentalist (CIE) examination, the Council-certified Indoor Environmental Consultant (CIEC) examination, or the Council-certified Microbial Consultant (CMC) examination offered by American Council for Accredited Certification (ACAC) for purposes of mold assessor licensure. Applicants must achieve a passing grade pursuant to the requirements of the ACAC and Section 455.217, Florida Statutes.

(2) The department approves the Council-certified Microbial Remediator (CMR) examination, the Council-certified Microbial Remediation Supervisor (CMRS) examination, or the Council-certified Indoor Environmental Supervisor (CIES) examination offered by the American Council for Accredited Certification (ACAC) for purposes of mold remediation licensure. Applicants must achieve a passing grade pursuant to the requirements of the ACAC and Section 455.217, Florida Statutes.

Rulemaking Authority 455.217(1)(b),(c), 468.8413(5),FS. Law Implemented 455.217, 468.8413,FS. History– New (date).

61-31.2 FEES

61-31.201 Fees

61-31.201 Fees

(1) The following fee schedule is adopted by the department:

(a) Initial application fee	\$125.00
(b) Initial mold assessor or remediator license fee	\$200.00
(c) Biennial license renewal fee for individual assessors and remediators	\$200.00
(d) Licensure by endorsement fee	\$200.00
(e) Change of status fee (active to inactive, inactive to active, reactivation)	\$200.00
(f) Initial education provider license fee	\$500.00
(g) Delinquent fee	\$100.00
(h) Unlicensed activity fee	\$5.00
(i) Provider renewal fee	\$500.00

(2) The fees shall be made payable to the Department of Business and Professional Regulation. Any fees due to the testing vendor for computer based testing shall be made payable directly to the vendor.

(3) All application fees are non-refundable.

(4) Licensure fees are refundable, upon request, if the application for licensure is denied.

Rulemaking Authority 455.219(1),(2), 468.8412(1). Law Implemented 455.219, 468.8412 FS. History—New (date).

61-31.3 CHANGE OF STATUS

61-31.301 Delinquent License

61-31.302 Inactive, Active status

61-31.301 Delinquent License

(1) Any license which is not renewed prior to the end of each biennial renewal period shall automatically revert to a delinquent status.

(2) A licensee may convert a delinquent status license to active status by remitting a delinquent fee and the applicable biennial license renewal fee(s) to the department, and comply with the continuing education requirements of Section 455.271(10), F.S.

(3) If a licensee applies during the renewal period to convert a delinquent status license to active or inactive status, the department shall impose a delinquent fee, a reactivation fee, a renewal fee that will be applied to the delinquent biennial period, and a biennial license renewal fee.

(4) If a licensee applies to the department to convert a delinquent status license to active or inactive status at a time other than the renewal period, the department shall impose a delinquent fee.

(5) The failure of a delinquent status licensee to change the status of the license to active or inactive before the expiration of the current licensure period shall render the license null and void without any further action by the department. Thereafter, any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on an applicant for new licensure.

Rulemaking Authority 455.271(6),(7), 468.812(1), 468.8417(3). Law Implemented 455.271, 468.8412, 468.8417 FS. History—New (date).

61-31.302 Inactive, Active status

(1) If a licensee applies to the department at a time other than during the renewal period to activate his or her license from an inactive status to an active status, the department shall impose a reactivation fee, and a biennial license renewal fee.

(2) A licensee may make written request during the renewal period to place his or her license in an inactive status and remit the biennial inactive license renewal fee. The department shall then change the status of the license to inactive status.

(3) An inactive license may be maintained during each subsequent biennium period upon the payment of a biennial inactive license renewal fee. However, the department shall require a licensee who has been on an inactive status to meet the continuing education requirements of Sections 468.8316, F.S. upon reactivation.

(4) If a licensee applies to the department during the renewal period to convert his or her license from an inactive status to an active status, the department shall impose a reactivation fee in addition to the biennial license renewal fee.

(5) An individual mold assessor or remediator shall not work with an inactive, delinquent, or null and void license.

Rulemaking Authority 455.271(2),(3),(8) 468.8412(1), 468.8417(2),FS. Law Implemented 455.271, 468.8412, 468.8417, FS. History – New (date).

61-31.4 BIENNIAL RENEWAL

61-31.401 License Renewal

61-31.401 License Renewal

(1) A license shall be renewed biennially on or before July 30 of even numbered years.

(2) Exemption of Spouses of Members of Armed Forces from Licensure Renewal Provisions – A licensee who is the spouse of a member of the Armed Forces of the United States and was caused to be absent from the State of Florida because of the spouse's duties with the armed forces shall be exempt from all licensure renewal provisions during such absence. The licensee must show proof to the department of the absence and the spouse's military status.

(3) Failure to renew a license, unless exempt as a military spouse, renders the license delinquent. Delinquent status may last one full renewal cycle. If, at the end of the delinquent biennium, the license is not brought current it becomes null and void. A delinquent license can be returned to active status by completing the continuing education and paying the appropriate change of status fees.

(4) A licensee will renew a license by paying a biennial five dollar unlicensed activity fee, a biennial renewal fee of \$200.00 as described in 61-31.201 F.A.C., and completing 14 hours of continuing education as described in s. 468.8416 F.S. The continuing education training will include a combination of water & mold and respiratory training totalling at least 14 hours as described in 61-31.504 F.A.C.,

(5) A revoked or null and void license may not be renewed. Anyone with a revoked or null and void license who wishes to provide professional mold related services shall apply as though never before licensed or apply for hardship reinstatement pursuant to s.455.271(6)(b), F.S..

Rulemaking Authority 455.02(2), 455.271(6)(b), 468.8412(1) 468.8415(2), 468.8416 FS. Law Implemented 455.02(2), 455.271, 468.8415, 468.8416 FS. History--New (date).

61-31.5 CONTINUING EDUCATION

61-31.501 Department Approval of Education Providers

61-31.502 Obligations of Education Providers

61-31.503 Continuing Education Requirements for Reactivation of an Inactive License

61-31.504 Continuing Education Requirements for biennial Renewal

61-31.505 Approval of Courses

61-31.501 Department Approval of Education Providers.

(1) Applicants for education provider status must meet the requirements of subsections (2) and (3) of this rule to demonstrate the education and/or the experience necessary to instruct professional mold assessors and remediators in the conduct of their practice, and they must renew and be approved under this rule by May 31 of every odd-numbered year. Applications for education provider approval must be submitted using the form Mold Related Services Licensure Application, form number DBPR MRS-0702, initiated 00/00/2010, incorporated herein by reference. The form may be obtained by contacting the department at the following address: Mold Related Services Licensing Unit, 1940 N. Monroe Street, Tallahassee, Florida 32399-0783 or at the department's web site at <http://www.myfloridalicense.com/dbpr/servop/testing/providers.html>. Any substantial change in the course content will require the provider to reapply to the department for approval.

(2) To demonstrate the education and/or the experience necessary to instruct professionals in mold related services for continuing education credit, an applicant for continuing education provider status must be a regionally accredited educational institution, a commercial educator, a governmental agency, a state or national professional association whose primary purpose is to promote the mold related services profession, with a Florida license to practice mold related services. No mold assessor, remediator or provider who is under disciplinary restrictions pursuant to any order of the department may conduct courses for continuing education credit. In addition, the applicant must demonstrate particular education, experience or skill which sets the applicant apart from those the whom the applicant proposes to instruct.

(3) To allow the department to evaluate an initial application for course provider status, the applicant must submit the following:

(a) The name, address and telephone number of the prospective provider;

(b) A description of the type of courses or seminars the provider expects to conduct for credit;

(c) The particular qualifications of the prospective provider to conduct the proposed courses or seminars, which qualifications set the applicant apart from the assessors or remediators whom the applicant proposes to instruct;

(d) A nonrefundable provider application fee;

(e) A renewal fee which, upon request, will be refunded if the applicant is denied provider status.

(4) No provider may conduct a course or seminar for credit until approved by

the department. The provider may request to appeal the decision through the Executive Director of the Mold Related Services Licensing Unit, to resolve the denial.

(5) No provider may allow a mold assessor or remediator to conduct any course or seminar offered by the provider if that assessor or remediator has been disciplined and has not been released from the terms of the final order in the disciplinary case. Upon receipt of notice that an instructor is under discipline, the provider shall, within seven (7) days, write to the mold related services licensing unit office and confirm that the assessor or remediator is no longer conducting any course or seminar offered by the provider.

(6) The department retains the right and authority to audit and/or monitor programs and review records and course materials given by any provider approved pursuant to this rule. The department shall rescind the provider status or reject individual programs given by a provider if the provider disseminates any false or misleading information in connection with the educational programs, or if the provider fails to conform to and abide by the rules of the department.

(7) Upon a change of instructors, the provider shall submit the credentials of the new instructor to the department for approval.

(8) The course provider shall not offer any training courses if the provider status is expired or under discipline.

(9) If the provider status is revoked by the department, the provider cannot reapply to be registered as a provider for two years from the date of the Final Order revoking the registration.

Rulemaking Authority 455.2178, 455.2179 468.8416 F.S. Law Implemented 455.2178, 468.8416 FS. History– New (date).

61-31.502 Obligations of Education Providers.

To maintain status as an Education provider, the provider must:

(1) Require each licensee to complete the entire course or seminar in order to receive credit for the course.

(2) Furnish each participant with an individual certificate of attendance that contains the licensee's name, the licensee's license number, provider name, provider number, course name, course number, and date of course completion.

(3) Provide their Florida Department of Business and Professional Regulation (DBPR) provider number on all course advertisements.

(4) Maintain an attendance record for four (4) years, available for inspection by the department or the department's designee.

(5) Electronically report course attendance records in compliance with s. 455.2178, F.S. The provider is required to resolve reporting conflicts with the licensee by the expiration date of the training course.

(6) Allow only one education credit for each hour of classroom, audio or video instruction, an "hour of classroom, audio or video instruction" being no less or no more than fifty (50) minutes of instruction.

(7) Allow only one (1) education credit for each "hour of correspondence study." The "hour of correspondence study" must be based on the average completion time of each course as established by the provider. For correspondence study, provide to each participating licensee a written exam. In order to complete the course, the licensee must receive a minimum grade of seventy percent (70%). If a licensee fails the exam, they will be permitted to take the exam again until a passing grade is achieved.

(8) Notify the department within thirty (30) days of any change in the address or telephone number of the provider.

(9) Allow the department's designee to have access to information concerning courses or seminars conducted by the provider for continuing education credit.

(10) Any changes in the course provider name, address, telephone number, must be submitted in writing to the department, within 30 days of such change

(11) The department shall be notified 30 days prior to implementation of any substantive changes made to approved courses during this period, which shall include instructor changes. Course approval shall be rescinded by the department if such notification is not made or the changes fail to otherwise conform to this rule.

Rulemaking Authority 455.2177(1), 455.2178, 468.8416(1) F.S. Law Implemented 455.2177, 455.2178, 468.8416 FS. History— New (date).

61-31.503 Continuing Education Requirements for Reactivation of an Inactive License

A license which has been inactive for more than one year may be reactivated upon department approval of a completed change of status application and demonstration by the licensee of having completed fourteen (14) continuing education credits in mold related services. Education courses must be completed within one year prior to the date of application for reactivation.

Rulemaking Authority 455.27(6)(b)1, 468.8416(2), 468.8417(2) F.S. Law Implemented 455.271, 468.8416, 468.8417 FS. History– New (date).

61-31.504 Continuing Education Requirements for Biennial Renewal

Every person licensed pursuant to Chapter 468 PartXVI, Florida Statutes, must obtain at least fourteen (14) continuing education credits per biennium.

(1) Continuing education credits may be obtained for:

(a) The completion of courses in mold related services, microbiology, engineering, architecture, industrial hygiene, occupational safety or other related subjects at universities and colleges which are regionally accredited by an accrediting agency that is recognized by the United States Department of Education. An official transcript from the registrar of the academic institution shall be submitted to the department office as documentation of course completion at least 45 days prior to the end of the biennium;

(b) The completion of courses or seminars offered by education providers approved by the department for the provision of education credit hours. A list of such providers is available from the department upon request.

2. A licensee may obtain continuing education credits in the amount of the credits allowed for that course or seminar for his/her first presentation of such course or seminar presentation of such course or seminar;

3. No licensee may claim credit until after the credit has been earned by that licensee.

(3) Licensees need not comply with continuing education requirements prior to the licensee's first licensure renewal.

Rulemaking Authority, 455.2124(2), 468.8415, 468.8416, FS. Law Implemented 455.2124, 468.8416, 468.8416. History— New (date).

61-31.505 Approval of Courses

(1) Education courses shall be valid for purposes of the licensure and education requirement only if such courses have received prior approval from the department. The department will approve education courses for two years from the date approved when the following requirements are met:

(a) Written application for course approval shall be received by the department prior to the date the course is offered, on DBPR application form DBPR MRS 0703, incorporated herein by reference. The form may be obtained by contacting the department at the following address: Mold Related Services Licensing Unit, 1940 N. Monroe Street, Tallahassee, Florida 32399-0783 or at the department's web site at <http://www.myfloridalicense.com/dbpr/servop/testing/providers.html>.

(b) The course provider shall submit to the department the following prior to the date the course is offered: an application, a course outline which describes the course's content and subject matter, and a written statement that explains in detail how the course relates to the practice of assessing or remediating mold.

(c) Education courses must address mold related subjects.

(2) The department shall be notified of any substantive changes made to approved courses during this period, which shall include instructor changes. Course approval shall be rescinded by the department if such notification is not made or the changes fail to otherwise conform to this rule.

(3) Course approvals shall be automatically rescinded if the provider status expires or is rescinded by disciplinary action or otherwise.

Rulemaking Authority 455.2179(1), 468.8416(1) F.S. Law Implemented 455.2178, 455.2179, 468.8416 FS. History– New (date).

61-30.6 Standards of Practice (Underdevelopment)
61-30.601 Purpose and Scope

61-30.601 Purpose and Scope:

61-31.7 Discipline

- 61-30.701 Disciplinary Guidelines
- 61-30.702 Notice of Noncompliance
- 61-30.703 Citations
- 61-30.704 Mediation

61-31.602 Disciplinary Guidelines

(1) Whenever the department finds a licensee guilty of violating a provision of Chapter 468, Part XVI, the following Penalty Guidelines shall be followed:

Statutory Violation	Description of Violation (This description is a general summary. It is not designed to be used in charging documents. Reference should be made to the statute identified for a complete statement of the substance of the violation).	Penalty Range for First Violation.	Penalty Range for Subsequent Violation.
468.842 (1)(f)	Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension .	Fine up to \$5000 + Costs; Plus Probation, Suspension, Revocation .
468.842 (1)(h)	Failing to perform any statutory legal obligation placed upon a licensed mold assessor or remediator; violating any provision of this chapter; violating an order of the department previously entered.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension.	Fine up to \$5000 + Costs; Plus Probation, Suspension, Revocation.
468.842 (1)(a)	Violation of any provision of Chapter 468, Part XVI or 455.227(1) (Use only if no statutory specific provision in this rule.)	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension.	Fine up to \$5000 + Costs; Plus Probation, Suspension, Revocation.
468.842 (1)(b)	Attempting to procure a license by bribery or fraudulent misrepresentations.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension, Revocation, Denial of License.	Fine up to \$5000 + Costs; Plus Probation, Suspension, Revocation, Denial of License.
468.842 (1)(c)	Having a license to practice mold assessment or mold remediation revoked, suspended, denied or acted against in another state, territory or country.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.
468.842 (1)(d)	Being convicted, found guilty, pleading nolo to a crime, in any jurisdiction, that directly relates to the practice or ability to	Fine up to \$1000 + Costs; Plus Reprimand, Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Revocation.

	practice.		
468.842 (1)(e)	Making or filing a known false report, willfully failing to file a required record or report, willfully impeding or obstructing such filing.	Fine up to \$1000 + Costs; Plus Reprimand, Probation Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Revocation.
468.842 (1)(f)	False, fraudulent, deceptive or misleading advertising.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension .	Fine up to \$5000 + Costs; Plus Reprimand, Probation, Suspension, Revocation,.
468.842 (1)(g)	Engaging in fraud, deceit, negligence, incompetence or misconduct in the practice of mold assessment or remediation services.	Fine up to \$5000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.
468.832 (1)(i)	Practicing on a revoked, suspended, inactive or delinquent license.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Probation, Suspension, Revocation.

(2) Whenever the board or department when there is no board finds a licensee guilty of violating a provision of Chapter 455, F.S., the following Penalty Guidelines shall be followed:

(a) Violation of: 455.227(1)(a)	False, fraudulent, deceptive or misleading representations in or related to the practice of the licensee's profession.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension.	Fine up to \$5000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.
(b) Violation of: 455.227(1)(b)	Intentional violation of any Board Rule.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension.	Fine up to \$5000 + Costs; Plus Suspension, Revocation.
(c) Violation of: 455.227(1)(c)	Being convicted, found guilty, pleading nolo to a crime, in any jurisdiction, that relates to the practice or ability to practice the licensee's profession.	Fine up to \$1000 + Costs; Plus Reprimand, Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Revocation.
(d) Violation of: 455.227(1)(f)	Having a mold related services license revoked, suspended, denied or acted against in another state, territory or country.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.
(e) Violation of: 455.227(1)(g)	Having been found civilly liable for knowingly filing a false report or complaint with DBPR against another licensee.	Fine up to \$1000 + Costs; Plus Reprimand, Probation.	Fine up to \$5000 + Costs; Plus Suspension, Revocation.
(f) Violation of: 455.227(1)(h)	Attempting or succeeding to procure or renew a license by bribery or fraudulent misrepresentation or through an error of the board or department.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Probation, Suspension, Revocation.
(g) Violation of:	Knowingly conceal information	Fine up to \$1000 + Costs;	Fine up to \$5000 + Costs; Plus

455.227(1)(i)	regarding violation of Chapter 468, Part XVI, or rules of the department or board.	Plus Reprimand.	Probation, Suspension, Revocation.
(h) Violation of: 455.227(1)(j)	Aid, assist, procure, employ or advise unlicensed person or entity to practice profession contrary to Chapter 468,XVI, or 455, or rules of the department.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension, Revocation .	Fine up to \$5000 + Costs; Plus Suspension, Revocation.
(i) Violation of: 455.227(1)(k)	Failing to perform any statutory or legal obligation of licensee.	Fine up to \$5000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Suspension, Revocation.
(j) Violation of: 455.227(1)(l)	Making or filing a known false report, willfully failing to file a required record or report, willfully impeding or obstructing such filing. Includes only those records or reports signed in capacity as a mold assessor or remediator.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension, Revocation, Denial of license.	Fine up to \$5000 + Costs; Plus Revocation, Denial of License.
(k) Violation of: 455.227(1)(m)	Making deceptive, untrue or fraudulent representations in or related to practice of the licensee's profession.	Fine up to \$1000 + Costs; Plus Reprimand, Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Revocation, Denial of License.
(l) Violation of: 455.227(1)(n)	Exercise influence on client for improper financial gain of licensee or third party.	Fine up to \$1000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.	Fine up to \$5000 + Costs; Plus Reprimand, Probation, Suspension, Revocation.
(m) Violation of: 455.227(1)(o)	Practicing beyond the scope of license.	Fine up to \$1000 + Costs; Plus Reprimand, Probation.	Fine up to \$5000 + Costs; Plus Suspension.
(n) Violation of: 455.227(1)(p)	Accepting and performing or delegating responsibilities licensee knows or should know he or the delegee is not competent to perform.	Fine up to \$1000 + Costs; Plus Reprimand, Probation.	Fine up to \$5000 + Costs; Plus Suspension, Revocation.
(o) Violation of: 455.227(1)(q)	Violating any provision of Chapter 468,Part XVI, or 455, rules of the department or department, or any lawful order of the department.	Fine up to \$1000 + Costs; Plus Reprimand, Probation.	Fine up to \$2500 + Costs; Plus Probation, Suspension .
(p) Violation of: 455.227(1)(r)	Interfering with an investigation, inspection or disciplinary proceeding.	Fine up to \$1000 + Costs; Plus Reprimand, Probation Suspension, Denial of licensure.	Fine up to \$1000 + Costs; Plus Suspension, Revocation, Denial of licensure.

(3) Disciplinary Orders

(a) Provisions which are included in all disciplinary orders:

1. The Order shall be effective upon filing by the Agency Clerk of the Department of Business and Professional Regulation.

2. Failure to comply with the provisions of the order shall result in further disciplinary action by the department.

(b) Conditions imposed whenever fine and costs are imposed: Fine and costs shall be paid online using a credit or debit card, by cashier's check or money order payable to the Department of Business and Professional Regulation, Instructor Licensing Unit, 1940 North Monroe Street, Tallahassee, Florida 32399, and received by the department within 30 days of the effective date of the Order, or within a set period of time after probation or suspension as reflected in the Order.

(4) Conditions, all or any of which may be imposed with probation are:

(a) Licensee is placed on probation for a period of time as determined by the department.

(b) Failure to comply with any provision of this order shall result in the filing of a new complaint and if the licensee is found to be in violation, the license will be suspended until the licensee is compliant.

(c) The licensee shall demonstrate compliance with all the conditions of the Probationary Order, prior to the lifting of probation.

(5) Purpose of guidelines – The range of penalties set forth above is the range from which disciplinary penalties will be imposed upon licensees guilty of violation of the laws and rules. The purpose of these guidelines is to give notice of the range of penalties which will normally be imposed for specific violations. The guidelines are based upon a single count violation of the provision listed. Multiple counts of violations of the same provision, or unrelated provisions of the law or rules will be grounds for enhancement of penalties or imposition of additional penalties.

(6) Aggravating/Mitigating Circumstances – The existence of aggravating or mitigating circumstances, as set forth below, will permit deviation from the guidelines upon clear and convincing evidence. When considering a Recommended Order, the fact that a Hearing Officer may or may not have been aware of aggravating or mitigating circumstances prior to recommending a penalty, shall not obviate the duty of the department to consider them when brought to its attention prior to the issuance of a Final Order.

(a) Aggravating circumstances - circumstances which may justify deviating from the disciplinary guidelines and penalty enhancement include, but are not limited to:

1. History of previous violation of the practice act and the rules promulgated thereunder.

2. In the case of negligence, the magnitude and scope of the project and the damage inflicted upon the public.

3. Evidence of violation of professional practice acts in other jurisdictions which resulted in discipline by the regulatory authority.

4. A pattern of behavior evidencing repeated disregard of the practice act or

rules.

(b) Mitigating circumstances; circumstances which may justify deviating from the disciplinary guidelines and result in a lessening of the penalty shall include, but not be limited to:

1. In cases of negligence, the minor nature of the project in question and the lack of danger to the public health, safety or welfare which resulted.

2. Lack of previous disciplinary history in this or any other jurisdiction wherein the licensee practices or has practiced.

3. Restitution of any damages suffered by the licensee's client.

4. Remedial steps taken by the licensee to avoid similar violations in the future.

Rulemaking Authority 455.227(3), 455.2273, 468.842 FS. Law Implemented 455.227, 455.2273, 468.8419, 468.842 FS. History— New (date).

61-31.603 Notice of Noncompliance.

(1) As an alternative to the provisions of Sections 455.255(1) and (2), Florida Statutes, the department may provide a licensee with a notice of noncompliance for an initial offense of a minor violation.

(2) Minor violations that do not endanger the public health, safety and welfare, and which do not demonstrate a serious inability to practice the profession are:

(a) Failure to maintain proof of current workers' compensation or general liability insurance, as required by Section 468.8421, F.S.

(b) Failure to inform the department of change of name or address.

(c) False, fraudulent, deceptive or misleading advertising.

(d) Acting under a name not on license.

(3) This designation of violations as minor for the purposes of Section 455.225(3), F.S., is limited to initial violations in which corrective action is commenced within 15 days of the department's issuance of a notice of noncompliance. The violation must be corrected within 15 days. If it cannot be corrected within 15 days, then corrective action must be commenced within 15 days and the licensee must move with due diligence to complete the corrective action. A violation which continues past that period shall no longer be deemed a minor violation and shall be treated as a citation offense, pursuant to Rule 61-31.604, F.A.C. Violations of this section, except as provided herein, shall be handled in accordance with the standard disciplinary guidelines. Nothing provided in this section shall restrict the department from seeking full prosecution in such instances where aggravating circumstances are present which would preclude a minor violation dismissal.

Rulemaking Authority 455.225(3)FS. Law Implemented 455.225 FS. History— New (date).

61-31.604 Citations

The following violations of Sections 468.8419, and 468.842, F.S., may be resolved by the issuance of a citation pursuant to Section 455.224, F.S., and Chapter 61-31, F.A.C.

Violation	Fine
(1) Practice by an individual with an inactive or delinquent license.	
(2) Failure to maintain proof of current workers' compensation or general liability insurance, as required by rule.	
(3) Aiding and abetting unlicensed activity.	

In addition to the penalties specified above, the department may recover the costs of investigation associated with the citation. Citations shall be issued pursuant to this rule where no harm to consumers results from the violation. A licensee who has been issued three citations for the same offense shall be prosecuted pursuant to Section 455.225, F.S., for any subsequent violations. The disposition of reported violations prosecuted pursuant to Section 455.225, F.S., shall be according to Rule Chapter 61-31.6, F.A.C. To the extent that any of these violations are appropriate for resolution by the issuance of a notice of noncompliance pursuant to Section 455.225(3), F.S., and Rule 61-31.603, F.A.C., the initial offense of a minor violation will be dealt with accordingly. Where a licensee fails to commence corrective action within 15 days of the department's issuance of a notice of noncompliance or where the offense is other than the initial one, the department may issue a citation pursuant to this rule.

Rulemaking Authority 455.224(2) Law Implemented 455.224,FS. History– New (date)

61-31.605 Mediation

Any complaint of a violation of this practice act where harm caused by the licensee is economic in nature or can be remedied by the licensee may be mediated by the department.

Rulemaking Authority 455.2235(1) Law Implemented 455.2235 FS. History– New (date).