R156-31b-402. Administrative Penalties.

In accordance with Sections 58-1-501, 58-31b-501, 58-31b-502, 58-31b-502.5, 58-31b-801, Subsection 58-31b-102(1), and Section R156-31b-502, and unless otherwise ordered by the presiding officer, the following fine schedule shall apply to a nurse or MAC.

(1) Initial and second offenses.

(a) Using a protected title, name, or initials, if the user is not properly licensed under this chapter, in violation of Subsection 58-31b-501(1):
   initial offense: $500 - $4,000
   second offense: $4,000 - $8,000

(b) Using any name, title, or initials that would cause a reasonable person to believe the user is licensed or certified under this chapter if the user is not properly licensed or certified under this chapter, in violation of Subsection 58-31b-501(2):
   initial offense: $500 - $4,000
   second offense: $4,000 - $8,000

(c) Conducting a nursing education program in the state for the purpose of qualifying individuals to meet requirements for licensure under this chapter without the program having been approved under Section 58-31b-601 or Subsection R156-31b-602, in violation of Subsection 58-31b-501(3):
   initial offense: $2,000 - $7,500
   second offense: $7,500 - $9,500

(d) Practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in the practice of nursing, if the person is not licensed to do so or exempted from licensure under Utah Code 58-31b et seq. or restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license, or in violation of restrictions that have been placed on a license, in violation of Subsection 58-1-501(1)(a):
   initial offense: $500 - $5,000
   second offense: $5,000 - $10,000

(e) Impersonating another licensee, or practicing an occupation or profession under a false or assumed name, in violation of Subsection 58-1-501(1)(b):
   initial offense: $500 - $5,000
   second offense: $5,000 - $10,000

(f) Knowingly employing a person to practice or engage in or attempt to practice or engage in the practice of nursing if the employee is not licensed to do so, in violation of Subsection 58-1-501(1)(c):
   initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(g) Knowingly permitting the person's authority to engage in the practice of nursing to be used by another person, in violation of Subsection 58-1-501(1)(d):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(h) Obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the Division or Board through the use of fraud, forgery, intentional deception, misrepresentation, misstatement, or omission, in violation of Subsection 58-1-501(1)(e):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(i) Issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state without prescriptive authority conferred by a license, or by an exception to licensure; or with prescriptive authority conferred by an exception or a multistate practice privilege, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions and to identify contraindications to the proposed treatment, in violation of Subsection 58-1-501(1)(f)(i):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(j) Violating or aiding or abetting any other person to violate any statute, rule, or order regulating the practice of nursing, in violation of Subsection 58-1-501(2)(a):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(k) Violating, or aiding or abetting any other person to violate any generally accepted professional or ethical standard applicable to the practice of nursing, in violation of Subsection 58-1-501(2)(b):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(l) Engaging in conduct that results in conviction or a plea of nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the practice of nursing, bears a reasonable relationship to the licensee's or applicant's ability to safely or competently practice the profession, in violation of Subsection 58-1-501(2)(c):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(m) Engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the profession of nursing if the conduct would, in the state of Utah, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401, in violation of Subsection 58-1-501(2)(d):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(n) Engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in practice of the nursing profession, in violation of Subsection 58-1-501(2)(e):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(o) Practicing or attempting to practice the profession of nursing despite being physically or mentally unfit to do so, in violation of Subsection 58-1-501(2)(f):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(p) Practicing or attempting to practice the profession of nursing through gross incompetence, gross negligence, or a pattern of incompetency or negligence, in violation of Subsection 58-1-501(2)(g):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(q) Practicing or attempting to practice the profession of nursing by any form of action or communication which is false, misleading, deceptive, or fraudulent, in violation of Subsection 58-1-501(2)(h):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(r) Practicing or attempting to practice the profession of nursing beyond the individual's scope of competency, abilities, or education, in violation of Subsection 58-1-501(2)(i):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(s) Practicing or attempting to practice the profession of nursing beyond the scope of licensure, in violation of Subsection 58-1-501(2)(j):
  initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(t) Verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice in the profession of nursing or otherwise facilitated by the licensee's license, in violation of Subsection 58-1-501(2)(k):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(u) Acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or under these rules, in violation of Subsection 58-1-502(2)(l):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(v) Issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or with prescriptive authority conferred by an exception issued under this title, or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment, in violation of Subsection 58-1-501(2)(m):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(w) Failing to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position, in violation of Subsection 58-31b-502(1):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(x) Failing to provide nursing service in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, gender, or nature of the patient's health problem, in violation of Subsection 58-31b-502(2):
  initial offense: $500 - $5,000
  second offense: $5,000 - $10,000

(y) Engaging in sexual relations with a patient, in violation of Subsection 58-31b-502(3):
  initial offense: $4,000 - $8,000
second offense: $8,000 - $10,000

(z) Exploiting or using information about a patient or exploiting the professional relationship by use of knowledge of the patient obtained while practicing the occupation or profession, in violation of Subsection 58-31b-502(4):
initial offense: $2,000 - $5,000
second offense: $5,000 - $10,000

(aa) Unlawfully obtaining, possessing, or using any prescription drug or illicit drug, in violation of Subsection 58-31b-502(5):
initial offense: $1,000 - $5,000
second offense: $5,000 - $10,000

(bb) Unauthorized taking or personal use of nursing supplies from an employer, in violation of Subsection 58-31b-502(6):
initial offense: $1,000 - $5,000
second offense: $5,000 - $10,000

(cc) Unauthorized taking or personal use of a patient's personal property, in violation of Subsection 58-31b-502(7):
initial offense: $1,000 - $5,000
second offense: $5,000 - $10,000

(dd) Knowingly entering into any medical record any false or misleading information or altering a medical record in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any circumstance related to the patient and the medical or nursing care provided, in violation of Subsection 58-31b-502(8):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(ee) Unlawful or inappropriate delegation of nursing care, in violation of Subsection 58-31b-502(9):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(ff) Failing to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse, in violation of Subsection 58-31b-502(10):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(gg) Employing or aiding and abetting the employment of unqualified or unlicensed person to practice as a nurse or MAC, in violation of Subsection 58-31b-502(11):
initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(hh) Failing to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a
report, or inducing another to fail to file or record such a report, in violation of Subsection 58-31b-502(12):

- initial offense: $500 - $5,000
- second offense: $5,000 - $10,000

(ii) Breaching a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, in violation of Subsection 58-31b-502(13):

- initial offense: $1,000 - $5,000
- second offense: $5,000 - $10,000

(jj) Failing to pay a penalty imposed by the Division, in violation of Subsection 58-31b-502(14): double the original penalty amount up to $20,000

(kk) Prescribing a schedule II-III controlled substance without a consulting physician or outside of a consultation and referral plan, in violation of Subsection 58-31b-502(15):

- initial offense: $1,000 - $5,000
- second offense: $5,000 - $10,000

(ll) Failing to confine practice within the limits of competency, in violation of Section 58-31b-801:

- initial offense: $1,000 - $5,000
- second offense: $5,000 - $10,000

(mm) Engaging in any other conduct which constitutes unprofessional or unlawful conduct, in violation of Subsection 58-1-501(1) or (2):

- initial offense: $500 - $5,000
- second offense: $5,000 - $10,000

(nn) Engaging in a sexual relationship with a patient surrogate concurrent with the professional relationship, in violation of Subsection R156-31b-502(1)(e):

- initial offense: $1,000 - $5,000
- second offense: $5,000 - $10,000

(oo) Failing to destroy a license that has expired due to the issuance and receipt of an increased scope of practice license, in violation of Subsection R156-31b-502(1)(a):

- initial offense: $500 - $4,000
- second offense: $4,000 - $8,000

(pp) Knowingly accepting or retaining a license that has been issued pursuant to a mistake or on the basis of erroneous information, in violation of Subsection R156-31b-502(1)(b):

- initial offense: $500 - $5,000
- second offense: $5,000 - $10,000

(qq) Engaging in practice in a disruptive manner, in violation of Subsection R156-31b-502(1)(f):

- initial offense: $500 - $5,000
second offense: $5,000 - $10,000

(rr) Violating the term of an order governing a license, in violation of Subsection 58-1-501(2)(o):
initial offense: $250 - $4,000
second offense: $4,000 - $8,000

(ss) Administering sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, without first obtaining the required consent from the patient in writing, in violation of Subsection 58-31b-502.5(1):
first offense: $500 - $5,000
second offense: $1,500 - $10,000
ongoing offense(s): $2,000 per day but not less than the second offense

(tt) failing to report any adverse event under Section 26-1-40, with respect to the administering of sedation or anesthesia intravenously to a patient in an outpatient setting that is not an emergency department, in violation of Subsection 58-31b-502.5(2):
first offense: $500 - $5,000
second offense: $1,500 - $10,000
ongoing offense(s): $2,000 per day but not less than the second offense

(uu) during a procedure for which sedation or anesthesia will be administered intravenously to a patient in an outpatient setting that is not an emergency department, failing to have access to an advanced cardiac life support crash cart with equipment that is regularly maintained according to guidelines established by the American Heart Association, in violation of Subsection 58-31b-502.5(3):
first offense: $5,000
second offense: $10,000
ongoing offense(s): $2,000 per day but not less than the second offense

(2) Subsequent offenses. Sanctions for an offense subsequent to the second offense, shall be $10,000 or $2,000 per day.

(vv) violation of an opiate prescription consultation as defined in Section 58-37-19.
initial offense: $250
second offense: $500
ongoing offense(s): $1,000