

**21 NCAC 32V .0109 CIVIL PENALTIES**

(a) In carrying out its duties and obligations under G.S. 90-691 and G.S. 90-693, the following shall constitute aggravating factors:

- (1) Prior disciplinary actions
- (2) Patient harm
- (3) Dishonest or selfish motive
- (4) Submission of false evidence, false statements, or other deceptive practices during the disciplinary process
- (5) Vulnerability of victim
- (6) Refusal to admit wrongful nature of conduct
- (7) Willful or reckless misconduct
- (8) Pattern of misconduct (repeated instances of the same misconduct)
- (9) Multiple offenses (more than one instance of different misconduct)

(b) The following shall constitute mitigating factors:

- (1) Absence of a prior disciplinary record
- (2) No patient harm
- (3) Absence of a dishonest or selfish motive
- (4) Full cooperation with the Committee
- (5) Physical or mental disability or impairment
- (6) Rehabilitation or remedial measures
- (7) Remorse
- (8) Remoteness of prior discipline

(c) Before imposing and assessing a civil penalty, the Committee shall make a determination of whether the aggravating factors outweigh the mitigating factors, or whether the mitigating factors outweigh the aggravating factors. After making such a determination, and if the Committee decides to impose a civil penalty, the Committee shall impose the civil penalty consistent with the following schedule:

- (1) First Offense:  
Presumptive Fine - \$250.  
Finding of Mitigation \$0 to \$249.  
Finding of Aggravation \$251 to \$1,000.
- (2) Second Offense:  
Presumptive Fine - \$500.  
Finding of Mitigation \$0 to \$499.  
Finding of Aggravation \$501 to \$1,000.
- (3) Third or More Offense:  
Presumptive Fine - \$1000.  
Finding of Mitigation \$0 to \$999.  
Finding of Aggravation \$1,000.

*History Note: Authority G.S. 90-685(1) and (3); 90-693(b)(4); Eff. September 1, 2007; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.*