

West's Annotated Mississippi Code
Title 73. Professions and Vocations
Chapter 15. Nurses
Article 1. Regulation of Practice of Nursing

Miss. Code Ann. § 73-15-31

§ 73-15-31. Disciplinary proceedings

Currentness

(1) Charges may be brought upon sworn affidavit filed by the Board of Nursing against any licensee who has allegedly committed any act in violation of this article that is grounds for disciplinary action. Upon receiving the sworn affidavit charging a licensee with an act which is a ground for disciplinary action under this article, the executive director or designee of the board shall fix a time and place for a hearing and shall cause a copy of the specific allegations and charges to be sent by certified mail or served by personal service of process together with notice of the time and place fixed for the hearing, to be served upon the accused at least fifteen (15) days prior thereto. The accused may waive notice of the hearing in writing and the board may grant the accused at least one (1) extension of time, upon the request of the accused. When personal service of process or service of process by certified mail cannot be effected, the executive director of the board shall cause to be published once in each of three (3) successive weeks a notice of the hearing in the newspapers published in the county in which the accused last practiced according to the records of the board, or in the county in which the accused last resided. When publication of the notice is necessary, the date of the hearing shall not be less than ten (10) days after the last date of the notice.

(2) The board, acting by and through its executive director, shall have the power to subpoena persons and compel the production of any records, including, but not limited to, hospital and physician's records, papers and other documents, which shall be served in accordance with law for the Board of Nursing and on behalf of the accused. The person providing copies shall prepare them from the original records and shall delete from the copy provided pursuant to the subpoena the name of the individual by numbered code, to be retained by the custodian of the records from which the copies were made. Upon certification of the custodian that the copies are true and complete except for the individual's name, they shall be deemed authentic, subject to the right to inspect the originals for the limited purpose of ascertaining the accuracy of the copies. No privilege of confidentiality shall exist with respect to such copies, and no liabilities shall lie against the board or the custodian for furnishing or using such copies in accordance with this article.

(3) All records of the investigation and all patient charts, records, emergency room records or any other document that may have been copied shall be kept confidential and shall not be subject to discovery or subpoena. If no disciplinary proceedings are initiated within a period of five (5) years after the determination of insufficient cause, then the board shall destroy all records obtained pursuant to this section.

(4) At the hearings the board shall administer oaths as may be necessary for the proper conduct of the hearings. The accused shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his or her behalf, to cross-examine witnesses, and to have subpoenas issued by the board. All disciplinary hearings shall be conducted by a hearing panel consisting of three (3) members of the board, designated on a rotating basis by the board. All disciplinary hearings or appeals before the board and the Attorney General, and/or a designee thereof, shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination

shall be based upon sufficient legal evidence to sustain it. A final decision by the hearing panel and by the board on appeal shall include findings of fact and conclusions of law, separately stated, of which the accused shall receive a copy.

(5) If the hearing panel determines that probable cause and sufficient legal evidence exist to believe that an applicant does not possess the qualifications required by this article or that an accused has violated any of the provisions of this article, the hearing panel may refuse to issue a license to the applicant, or revoke, suspend, refuse to renew a license, or revoke or suspend the privilege to practice, or otherwise discipline the accused as prescribed in this article.

(6) No previously issued license to practice nursing as a registered nurse or as a licensed practical nurse shall be revoked or suspended until after a hearing conducted pursuant to this article, except where the board finds there is imminent danger to the public health or safety that warrants injunctive relief provided in this article.

(7) A revoked or suspended license may be reissued after one (1) year, in the discretion of the hearing panel. A revoked or suspended privilege to practice may be reinstated after one (1) year, in the discretion of the hearing panel. The denial of an application to renew an existing license shall be treated in all respects as a revocation. The procedure for the reissuance of a license or reinstatement of the privilege to practice that is suspended for being out of compliance with an order for support, as defined in Section 93-11-153, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(8) The hearing panel need not find that the actions that are grounds for discipline were willful, but it may consider the same in determining the nature of the disciplinary actions imposed.

(9) The right to appeal from the action of the hearing panel to the full membership of the board in denying, revoking, suspending or refusing to renew any license issued by the board, or revoking or suspending any privilege to practice, or fining or otherwise disciplining any person practicing as a registered nurse or licensed practical nurse, is granted. The appeal must be taken within thirty (30) days after notice of the action of the hearing panel in denying, revoking, suspending or refusing to renew the license, or revoking or suspending the privilege to practice, or fining or otherwise disciplining the person, and is perfected upon filing notice of appeal and Fifty Dollars (\$50.00) with the executive director of the board.

(10) The right to appeal from the action of the board in affirming the denial, revocation, suspension or refusal to renew any license issued by the board, or revoking or suspending any privilege to practice, or fining or otherwise disciplining of any person practicing as a registered nurse or a licensed practical nurse, is granted. Such appeal shall be to the chancery court of the county of the residence of the licensee on the record made, including a verbatim transcript of the testimony at the hearing. The appeal must be taken within thirty (30) days after notice of the action of the board in denying, revoking, suspending or refusing to renew the license, or revoking or suspending the privilege to practice, or fining or otherwise disciplining the person. The appeal is perfected upon filing notice of the appeal, together with a bond in the sum of One Hundred Dollars (\$100.00), with two (2) sureties, conditioned that if the action of the board in denying, revoking, suspending or refusing to renew the license, or revoking or suspending the privilege to practice, or fining or otherwise disciplining the person, be affirmed by the chancery court the nurse will pay the costs of the appeal and the action in the chancery court. Such bond shall be approved by the president of the board. In lieu of the bond, the nurse may deposit One Hundred Dollars (\$100.00) with the clerk of the chancery court. Appeals may be had to the Supreme Court of the State of Mississippi as provided by law from any final action of the chancery court. No such person shall be allowed to practice nursing or deliver health care services in violation of any action of the chancery court denying, revoking, suspending, restricting or refusing to renew a license or revoking or suspending the privilege to practice while any such appeal to the Supreme Court is pending. Actions taken by the board in suspending a license or suspending

the privilege to practice when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension or suspension of the privilege to practice that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section.

(11) Nothing contained in this article shall be construed to bar any criminal prosecutions for violation of this article or any regulations promulgated hereunder.

(12) Any member of the board and any witness appearing before the board shall be immune from suit in any civil action brought by a licensee who is the subject of a review hearing if such member or witness acts in good faith within the scope of the board and has made a reasonable effort to obtain the facts of the matter as to which the individual acts, and acts in the reasonable belief that the action taken is warranted by the facts.

(13) Proceedings in progress on July 1, 1998, to deny, revoke, suspend or refuse to renew any license, or fine or otherwise discipline a licensee, shall not abate by reason of this article.

Credits

Laws 1970, Ch. 420, § 16; Laws 1981, Ch. 449, § 13; Laws 1983, Ch. 485, § 15; Laws 1991, Ch. 465, § 15; Laws 1995, Ch. 455, § 1; Laws 1996, Ch. 507, § 43; Laws 1998, Ch. 326, § 1, eff. July 1, 1998; Laws 2000, Ch. 482, § 9, eff. July 1, 2000.

Miss. Code Ann. § 73-15-31, MS ST § 73-15-31

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