

CHAPTER 93

Department of Labor, Licensing and Regulation— South Carolina Board of Long Term Health Care Administrators

(Statutory Authority: 1976 Code §§ 40–35–5 through 40–35–136, 40–35–230, 40–1–70)

93–50. General Definitions.

Whenever used in these regulations, unless expressly stated otherwise, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

A. “Applicant” means a person who submits all materials necessary for evaluation of credentials including an application form, references, college or university transcripts, fees, and if applicable, a request for a provisional license.

B. “Continuing education credit” is defined as one contact hour of a planned program of teaching-learning that has been approved by an organization empowered by the Board to award credit for continuing education.

C. “Dual licensee” means a person who holds a license as a nursing home administrator and a community residential care facility administrator.

D. “Inactive license” means a license issued to an administrator who is not working as an administrator in a nursing home or as an administrator in a community residential care facility.

E. “Licensee” means an approved applicant who has passed the examination, as prescribed by the Board, has paid all the fees, and has been issued a current license by the Board.

F. “Person” means an individual and does not include the following: a firm, a corporation, an association, a partnership, or any other group of individuals.

G. “Practice of nursing home administration” means the managing, supervising or general administration of a nursing home.

H. “Practice of community residential care facility administration” means the managing, supervising or general administration of a community residential care facility.

I. “Provisional license” means a temporary license that is issued when substantiated by need when an applicant who meets examination qualifications has been appointed the administrator of a nursing home or a community residential care facility which is without a licensed administrator in charge.

J. “Administrator-in-Training (AIT)” is a person participating in a Board approved training program within a nursing home or a community residential care facility under the supervision of a Board approved preceptor.

K. “Preceptor” is a person who is a licensed nursing home administrator or a licensed community residential care facility administrator and meets the requirements of the Board to supervise an administrator-in-training during the training period as delineated in 93–80.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–60. Board of Examiners; Officers and Duties.

A. The Board shall elect annually from among its members a chairman and vice-chairman who together shall constitute the executive committee.

B. The chairman shall preside at all meetings of the Board and shall sign all official documents of the Board, unless otherwise assigned to the Executive Director. In the absence of the chairman, the vice chairman shall preside at meetings and perform all duties usually performed by the chairman.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–65. Operating a Facility Without a License.

A. No nursing home or community residential care facility within the State may operate except under the supervision of a licensed administrator.

B. Violation of the following standards will be considered an unprofessional act that is likely to harm the public.

(1) For combinations of Community Residential Care Facilities and/or other licensed facilities, having the same licensee, on one property, regardless of the number of beds, one full-time licensed administrator must be on site or available during normal business hours.

(2) For one Community Residential Care Facility with more than ten beds on one property, there must be a full-time licensed administrator on site or available during normal business hours.

(3) For one Community Residential Care Facility with ten beds or fewer on one property, there must be an administrator who is on site a minimum of twenty hours per week with time spent in the facility during normal business hours, equitably distributed daily.

(4) When a combination situation exists that does not comply with item (1) above, a second facility must be ten or fewer beds and no further than a forty mile radius of the combination site, and the work hours of the administrator must be equitably distributed daily during normal business hours.

HISTORY: Added by State Register Volume 17, Issue No. 6, eff June 25, 1993. Amended by State Register Volume 22, Issue No. 6, Part 3, eff June 26, 1998; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–70. Additional combination of education and experience acceptable by the Board; Criminal Background Check; Completion of probation or parole.

A. In addition to the requirements in South Carolina Code Ann. Section 40–35–40(B), the following combination of education and experience shall be acceptable for consideration of a community residential care facility administrator:

(1) A South Carolina licensed nursing home administrator that has been a practicing nursing home administrator for two or more years shall not be required to have on-site work experience at a community residential care facility under the supervision of a licensed community residential care facility administrator.

B. A person applying to become an administrator of a facility licensed under this article including, but not limited to, nursing homes and community residential care facilities shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine state criminal history and a federal fingerprint review to be conducted by the Federal Bureau of Investigation to determine other criminal history. If a fee is charged by the Federal Bureau of Investigation for the fingerprint review, it must be paid by the person applying for administrator. Where facility licensees are governmental agencies, the criminal background check must be obtained on the individual who is the administrator of the governmental facility. The Board may deny an application for licensure where the results of the check meet the misconduct provisions of these regulations.

C. Any applicant who has been declared ineligible to take the examination shall be given written notification by the Board of disqualification, the reasons, and his right to a hearing.

D. If an applicant has been convicted of a felony or misdemeanor involving moral turpitude by any state or federal court of competent jurisdiction thereof shall not be permitted to take the examination

for licensure, unless the applicant shall first submit to the Board a copy of the certificate of pardon granted by the board of parole which shall indicate among other things that the applicant has completed all sentences including all periods of probation or parole. In the case of a conviction in any jurisdiction wherein the laws do not provide for a certificate of pardon, an equivalent written statement or document shall be submitted.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 24, Issue No. 7, eff July 28, 2000; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–80. Administrator-in-Training Program Requirements.

A. A person shall be permitted to participate in the AIT program who submits sound evidence satisfactory to the board that the candidate meets the following criteria:

1. Nursing home administrator AIT candidates must have earned a Baccalaureate degree from an accredited college or university or must be enrolled in a course of study that will award such a degree on completion.

(a) For nursing home administrator AIT candidates with a Baccalaureate degree in health care administration or a health care related degree, the duration of an AIT internship shall be six months.

(b) For nursing home administrator AIT candidates with a Baccalaureate degree other than a health care related degree, the duration of an AIT internship shall be nine months.

2. Community residential care facility administrator AIT candidates must have earned at least an Associate degree from an accredited college or university or must be enrolled in a course of study that will award such a degree upon completion.

(a) For community residential care facility administrator AIT candidates with a health related Associate or higher degree, the duration of the AIT internship shall be 3 months.

(b) For community residential care facility administrator AIT candidates with a non health related Associate or higher degree, the duration of the AIT internship shall be 6 months.

B. An AIT candidate must register with the Board by completing a Board-approved form and submitting the registration fee of \$25.00. After approval the Board shall issue an AIT training permit to the applicant valid for up to one year. If the preceptor or AIT terminates the program, the Board will invalidate the permit immediately.

C. The candidate may indicate a preceptor of his choice from a list of Board-approved preceptors. It shall be the responsibility of the candidate to contact the preceptor to determine if the preceptor will accept the AIT. Once a preceptor accepts an AIT, this must be reported to the Board. The preceptor shall not train an employer or supervisor.

D. The preceptor shall meet the following criteria:

1. Currently licensed in this state;

2. Have no disciplinary sanctions against the license;

3.(a) The Nursing Home Administrator preceptor must be licensed for three years preceding the date of application as a preceptor, be employed as the administrator of record in a facility licensed under the regulations promulgated by the Department of Health and Environmental Control and demonstrate knowledge of third party funding programs as determined by the Board.

(b) The Community Residential Care Facility Administrator preceptor must be licensed for two years preceding the date of application as a preceptor, be employed as the administrator of record in a facility licensed for at least 25 beds under the regulations promulgated by the Department of Health and Environmental Control and demonstrate knowledge of third party funding programs as determined by the Board.

E. The preceptor must register on an approved form with the Board. The Board may, for good cause, refuse to approve or renew a preceptor.

F. A preceptor shall supervise no more than one AIT concurrently, and an AIT shall train at one site, not multiple facilities.

G. The preceptor will evaluate the background and experience of the AIT to determine specific areas of concentration. The preceptor and AIT will then design a course of study and present it to the Board for approval. The curriculum shall follow the guidelines set forth in a standards manual approved by the Board. A recoupment fee for the manual not to exceed \$50.00 will be imposed on the preceptor.

H. The preceptor shall maintain a current checklist in the facility tracking progress of the AIT. This checklist may be requested and reviewed at any time by the Board. On completion of the program, the checklist shall be submitted with the final report and evaluation.

I. At the end of the AIT program, the preceptor will submit a final report and evaluation of the AIT on Board approved forms stating whether the AIT has satisfactorily completed all requirements. The final report and evaluation will become part of the AIT's permanent record with the Board.

J. Any change in preceptor requires notice to and approval by the Board. An internship which has been discontinued by a period of military service shall be allowed to be completed within a year after the service. The Board must receive notice in the event of discontinuance of training for any other reason and the AIT must comply with section (B) upon recommencement of the program.

K. The preceptor shall notify the AIT of his performance as the program progresses. If the performance is not acceptable, the preceptor will inform the AIT, and the AIT will be given the opportunity to correct the deficiencies.

L. Following the completion of the AIT program:

1. the nursing home administrator AIT may apply for licensure as a nursing home administrator as delineated in Regulation 93-70 but is not required to complete any of the qualifying work experience set forth in Regulation 93-70(A)(1).

2. the community residential care facility administrator AIT may apply for licensure as a community residential care facility administrator as delineated in Regulation 93-70 but is not required to complete any of the qualifying work experience set forth in Regulation 93-70(A)(2).

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 28, Issue No. 4, eff April 23, 2004; Amended by State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93-100. Fees [and Fee Schedule].

A. The Board shall set fees in amounts to be sufficient to provide for administering the Act.

B. The Board may charge fees as shown in South Carolina Code of Regulations Chapter 10-21 and on the South Carolina Board of Long Term Health Care Administrators website at <http://lhr.sc.gov/POL/LongTermHealthCare/>.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 7, Issue No. 6, eff June 24, 1983; State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 39, Issue No. 4, Doc. No. 4507, eff April 24, 2015; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93-110. Examination; Scheduling and Grading.

A. Examinations are available year round through computer-based testing.

B. The Board shall administer the examinations.

(1) Nursing home administrator applicants will sit for a two-part examination. The national portion is prepared by the National Association of the Boards of Examiners for Long Term Care Administrators (NAB). The South Carolina portion is prepared by the South Carolina Board and examines applicants on regulations promulgated by the Department of Health and Environmental Control as they relate to Nursing Homes.

(2) Community Residential Care Facility Administrator applicants will sit for a two-part examination. The national portion is prepared by the National Association of the Boards of Examiners for Long Term Care Administrators (NAB). The South Carolina portion is prepared by the South Carolina Board relating to regulations promulgated by the Department of Health and Environmental Control as they relate to Community Residential Care Facilities.

C. The content, form, and character of the examination shall be the same for all applicants on any one examination.

D. The grade standards shall be provided to each applicant prior to the examination.

E. Every nursing home applicant for licensure shall be required to pass the NAB examination. In addition, each applicant must pass a State examination approved by the board at a raw score of seventy-five (75%) percent.

F. Every community residential care facility applicant shall be required to pass the NAB examination. In addition, the applicant must pass a State examination approved by the board with a raw score of seventy-five (75%) percent.

G. The Board shall provide to each applicant who completes an examination a report of their examination scores. Applicants shall be provided with a documented report of the results of each examination.

H. The Board shall not disclose the grade levels achieved by an applicant to anyone outside the Board except upon written authorization of the applicant.

I. A nursing home applicant who is sitting for the first time for both the national and South Carolina portions of the examination and who receives a passing score in either portion shall be entitled to receive credit for the portion passed and to be re-examined during the next scheduled examination only on the portion not passed. Credit for passing either portion of the examination may be extended upon the approval of the Board.

J. A community residential care facility applicant who is sitting for the first time for both the national and South Carolina portions of the examination and who receives a passing score in either portion shall be entitled to receive credit for the portion passed and to be re-examined during the next scheduled examination only on the portion not passed. Credit for passing either portion of the examination may be extended upon the approval of the Board.

K. An applicant who fails to pass the examination may apply to re-take the examination once. An applicant who has failed the examination twice must petition the Board if he desires to pursue licensure.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 23, Issue No. 5, eff May 28, 1999; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–120. Initial Licenses.

A. An applicant who has successfully complied with the requirements of the licensing law and the standards provided for herein, passed the examination provided for herein, and paid the fees for the initial licensure period shall be issued a license as a Nursing Home Administrator or as a Community Residential Care Administrator.

B. The certificate of licensure shall be issued on a form provided for that purpose by the Board, certifying that the applicant has met the requirements of the law and regulations entitling him to serve, act, practice, and otherwise present himself as a duly licensed Nursing Home Administrator or Community Residential Care Administrator.

C. A license cannot be transferred to another individual.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–130. Provisional Licenses.

A. In the event of an unexpected vacancy caused by the death of an administrator, departure of an administrator, or similar event, the Board may issue a provisional license to an applicant who has met the requirements in South Carolina Code Ann. Section 40–35–40 and as provided in regulation and has paid the initial application fee, but who has not passed the examination.

B. An applicant for a provisional license shall submit a complete application. The application shall also include a letter from the owner of the facility of which the applicant will be appointed the administrator or from an officer of the facility's board of directors, which states all of the following:

- (1) The need for a provisional license;
- (2) The name of the appointed administrator;
- (3) The date of the appointment;
- (4) A specific request that the Board issue a provisional license to the named administrator.

C. An applicant shall remit the provisional license fee after receiving notice that the application has been approved. A letter of provisional licensure shall be issued after receipt of the fee.

D. The Department of Health and Environmental Control shall be notified of the issuance of each provisional license.

E. A provisional license will expire 90 days from issue or upon the issue of an initial license, whichever occurs first. A request for extension must be made in writing prior to the expiration date and must state extenuating circumstances if the provisional licensee has not taken the appropriate examination. No provisional license can be renewed so as to extend more than 180 days from the date first issued.

F. If the provisional nursing home licensee does not pass either the national or South Carolina portions of the examination, the provisional license will be extended until the applicant takes the next scheduled examination, provided the facility engages the services of a consultant administrator for a minimum of sixteen (16) hours per month. The consultant administrator must have a minimum of two years of experience operating a facility. If the applicant fails the examination the second time, the provisional license will be terminated at the end of the provisional license period.

G. If the provisional community residential care facility licensee does not pass either the national or South Carolina portions of the examination, the provisional license will be extended until the next scheduled examination, provided the community residential care facility engages the services of a consultant administrator for a minimum of sixteen (16) hours per month. The consultant administrator must have at least two years experience of operating a facility. If the provisional licensee fails the examination the second time, the provisional license will be terminated at the end of the provisional license period.

H. If any applicant fails to present himself for the examination, the provisional license will terminate at the close of business on the day of the examination.

I. All applicable fees apply for the second application and second examination.

J. A provisional license cannot be transferred to another individual.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–150. Inactive or Retired Status Licenses.

A. The board may consider a request from a licensee to have his or her license placed in inactive or retired status.

B. To qualify for inactive or retired license status, the licensee must affirm that he or she is not employed as the administrator in a nursing home or a community residential care facility in the State.

C. An application for inactive or retired status shall be submitted to the board with the fee for inactive or retired status renewal on or before the expiration date of the license.

D. In order to qualify for retired status the applicant must have attained the age of sixty five (65) years or at least twenty (20) years of licensure and must affirm that he or she is not employed as the administrator in a nursing home or a community residential care facility in the State.

E. In order to reactivate an inactive license, an applicant must submit an application on a form approved by the board, along with the required fee, and proof of the annual continuing educational requirements for each year that the license was inactive. In order to reactivate a retired license, an applicant for reactivation must submit an application on a form approved by the board, along with the required fee, and proof of six (6) hours of continuing education during the previous twelve (12)

months. The applicant must provide proof of an additional fourteen (14) hours of continuing education within 90 days of the license being reactivated or the license will automatically be replaced in the retired status and the licensee must immediately cease and desist any work in a nursing home or community residential care facility in the State.

F. If the applicant has been retired for five (5) years or more, the board may require the applicant to pass an examination approved by the board in lieu of or in addition to completing the required continuing education.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 23, Issue No. 5, eff May 28, 1999; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 29, Issue No. 5, eff May 27, 2005; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–160. Registration of Licenses.

A. Every person who is licensed as a nursing home administrator or a community residential care facility administrator by the Board shall immediately be deemed registered with the Board and issued a certificate of licensure.

B. Only a person who is licensed as a nursing home administrator or a community residential care facility administrator pursuant to the provisions of these regulations for the current licensure period shall have the right and privilege of using the title of “Nursing Home Administrator” or “Community Residential Care Facility Administrator.” No other person shall use or shall be designated by title or by abbreviation or any other words, letters, sign, card, or device tending to or intended to indicate that the person is a licensed Nursing Home Administrator or a Community Residential Care Facility Administrator.

C. The Board shall maintain a register of all licensed administrators and applicants.

D. All licensees must notify the Board in writing within fifteen (15) days of any change of address and employment in a nursing home or community residential care facility.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–170. Display of Certificate and Normal Work Hours.

A. Every person currently licensed as a Nursing Home Administrator or Community Residential Care Facility Administrator shall display the certificate in a conspicuous place in his office or place of business or employment.

B. Licensed Administrators must post their normal work hours in a conspicuous place at the nursing home or community residential care facility where he is practicing as the Administrator. Work hours may vary from week to week if the posting is updated appropriately. Administrators will maintain records of their posted hours for at least one year.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–200. Continuing Education for Relicensure.

A. Each applicant for renewal of a license shall present evidence of having earned the required number of hours of continuing education as defined in 93–50(G).

B. Evidence of continued learning appropriate to facility administration shall consist of one (1) or more of the following:

(1) records of continuing education hours awarded by an accredited college or university or approved association or professional society; or

(2) official transcripts and course descriptions of courses taken at an accredited educational institution; or

(3) certificate of attendance received for attending other continuing education programs that have been registered with the board and approved by the board for credit.

C. The board shall establish methods, procedures, and criteria for approving programs of continuing education.

D. A nursing home administrator must have twenty (20) hours of continuing education for relicensure with five (5) hours in patient care. A Community Residential Care Facility Administrator must have eighteen (18) hours of continuing education. When an administrator serves both types of facilities, twenty-nine (29) hours of continuing education is required; five (5) hours of the twenty-nine (29) must be devoted to community residential care.

E. Carry-over: Continuing Education Hours for any board-approved program may be carried forward, in their entirety, if they are in excess of that required for any licensure period. Such carry-over hours must represent the total earned during the continuing education program and must be used during the following licensure period.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 23, Issue No. 5, eff May 28, 1999; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–210. Reinstatement of Lapsed License.

A. An administrator previously duly licensed in this State whose license shall not have been revoked or suspended but whose license has lapsed for failure to renew on or before the expiration date of his license may seek to reinstate the license within a one-year period after the expiration date by submitting an application with the annual renewal fee and a penalty fee as listed on Attachment A for reinstating the lapsed license, provided that the continuing education requirements in 93–200 are met.

B. If the lapsed license period is more than one year, the individual shall meet the requirements provided in South Carolina Code Ann. Section 40–35–40 and regulation.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 22, Issue No. 6, Part 3, eff June 26, 1998; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–220. Complaints.

A. The Department shall be responsible for investigating complaints, either directly or indirectly, relating to administrators.

B. The Department has the responsibility to evaluate complaints and investigative information received from the South Carolina Department of Health and Environmental Control or any other source.

C. A complaint received by the Board may be referred to the appropriate agency or agencies for investigation.

D. The administrator must respond in writing to the Board when requested. The Department may request in writing that the administrator file a written response to the initial complaint. Failure to do so in a timely manner may be grounds for discipline.

E. The findings and the corrective measures taken by the investigating agency or agencies, with any other information deemed appropriate, shall be reviewed by the Board for the purpose of improving the standards imposed for licensing, for decisions on revocation or suspension of license or other disciplinary actions, and for assessing the qualifications for relicensure of an administrator.

F. Information pertaining to a complaint shall be kept in a confidential file. A cross-reference shall be kept in the administrator's file so that all complaint information may be re-evaluated if a subsequent complaint is received.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–230. Suspension and Revocation of License.

Misconduct, which constitutes grounds for revocation, suspension, or other restriction of a license or limitation or other discipline of a licensee, is a satisfactory showing to the board of:

(1) Use of a false, fraudulent, or forged statement or document or committing a fraudulent, deceitful, or dishonest act or omitting a material fact in obtaining licensure under this article;

(2) Acting in a manner inconsistent with the health or safety of the patients of the nursing home or community residential facility;

(3) Cancellation, revocation, suspensions or other discipline of a license to practice any regulated profession or occupation in any state or jurisdiction;

(4) Failing to ensure that the nursing home or community residential care facility in which he is an administrator complies with the provisions of law and regulations of the licensing or supervising authority or agency whether federal, state, or local, having jurisdiction over the operation and licensing of the nursing home or community residential care facility;

(5) Intentional or knowing, direct or indirect, violation of or the aiding and abetting in the violation of this article or a regulation promulgated under this article;

(6) Failing to operate a nursing home or community residential care facility in manner which ensures the safety, health, and welfare of the patients;

(7) Use of a false, fraudulent, or forged statement in the practice of nursing home administration or community residential care facility administration;

(8) Supervising or aiding an unlicensed person in the practice of nursing home administration or community residential care facility administration;

(9) Permitting unauthorized disclosure of information relating to a patient in a nursing home or community residential care facility under his administration;

(10) Obtaining compensation or assisting in obtaining compensation under fraudulent circumstances;

(11) A dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;

(12) Use of alcohol, drugs, or controlled substances to such a degree as to adversely affect the ability to act as a nursing home administrator or community residential care facility administrator;

(13) A mental or physical disability or addiction which renders further practice dangerous to the public or to the residents of the nursing home or community residential care facility;

(14) Conviction of, or pleading guilty or nolo contendere to, a felony, as defined under the law of this State, or any crime involving the safety, health, or welfare of a resident, or any other crime involving moral turpitude. The license of a person who is convicted of, or who pleads guilty or nolo contendere to those crimes mentioned in this item immediately may be suspended temporarily pending final disposition of a disciplinary proceeding to be commenced upon the conviction or the entry of the plea of guilty or nolo contendere. A person so suspended must be reinstated immediately upon the filing of a certificate that the conviction has been reversed. The reinstatement does not terminate a disciplinary action pending against the person. The license of a person may be suspended immediately pending final disposition of a disciplinary proceeding where the Board has probable cause to believe that continued practice as a nursing home administrator or community residential care facility administrator by the licensee constitutes harm to the safety, health, or welfare of patients in a nursing home or community residential care facility.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–240. Hearing Procedure.

A. The Department may initiate an investigation as provided in South Carolina Code Ann. Section 40–1–80. A copy of the charges, together with notice of the time and place of the hearing, shall be served on the accused by certified mail directed to his address as recorded in the Board's files at least thirty days before the date fixed for the hearing.

B. Upon conclusion of the hearing, the Board may revoke the license of the accused, may suspend the license for a fixed period of time, may reprimand or take other disciplinary action, issue an order

of suspension containing provisions concerning reinstatement of the license, or may dismiss the charges.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–250. Conduct of Hearing.

A. A disciplinary hearing shall be conducted pursuant to South Carolina Code Ann. Section 40–1–90. At any disciplinary hearing, any party to the proceedings may appear in person and with counsel, and shall be given the opportunity to produce evidence and witnesses and to cross examine witnesses.

B. At any hearing conducted before the Board, if a party shall appear without counsel, the Board shall advise such party of his right to be represented by counsel, to call witnesses, to cross examine witnesses, and to produce evidence in his behalf.

C. Appearances shall be noted on the official record of hearings.

D. The Board shall have authority to issue subpoenas and subpoenas duces tecum.

E. Upon a determination by the Board that there are grounds for discipline, the Board may take any one or more of the following actions:

(1) Issue a public reprimand;

(2) Impose costs pursuant to South Carolina Code Ann. Section 40–1–170;

(3) Impose a fine not to exceed one thousand dollars for each violation not to exceed a total fine of ten thousand dollars;

(4) Place the licensee on probation for a definite or indefinite time and prescribe conditions to be met during probation;

(5) Suspend the license for a definite or indefinite time, and prescribe conditions to be met before readmission to practice;

(6) Permanently revoke the license.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.

93–260. Applicability, Legal Effect and Severability of Regulations.

A. The regulations of the Board are intended to be consistent with the applicable Federal and State law and shall be so construed, whenever necessary, to achieve such consistency.

B. In the event that any provision of these regulations is declared unconstitutional or invalid or that the application of them to any person or circumstance is held invalid, the applicability of the provision to other persons and circumstances and the constitutionality or validity of every other provision of these regulations shall not be effected.

C. These regulations shall not affect pending actions or proceedings, civil or criminal, which may be prosecuted or defended in the same manner and with the same effect as though these regulations had not been promulgated.

HISTORY: Added by State Register Volume 7, Issue No. 4, eff April 22, 1983. Amended by State Register Volume 17, Issue No. 6, eff June 25, 1993; State Register Volume 28, Issue No. 4, eff April 23, 2004; State Register Volume 40, Issue No. 4, Doc. No. 4562, eff April 22, 2016.