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**BOARD OF NURSING**

CHAPTER 91

Statutory Authority: 1976 Code Sections 40-1-70 and 40-33-10(E)&(I)

91-19. Procedure for Disciplinary Hearings.

91-31. Fees.

**Synopsis:**

 To reflect current fees in regulation and regulate APRNs, Regulations 91-19 and 91-31 must be updated.

The Notice of Drafting was published in the *State Register* on November 25, 2011.

**Instructions:**

The following sections of Chapter 91 are modified as provided below. All other items and sections remain unchanged.

**Text:**

91-19. Procedure for Disciplinary Hearings.

(Statutory Authority: 1976 Code Sections 40-33-10 et seq.)

19.a. Responsibilities of the State Board of Nursing for South Carolina. The State Board of Nursing is empowered by Section 40-33-10, Code of Laws of South Carolina, 1976, as amended, to make rules and regulations for the practice of nursing in South Carolina. Section 40-33-110 further empowers the Board to suspend or revoke the license of any advanced practice registered nurse, registered nurse or any licensed practical nurse, qualified under the provisions of Chapter 33, after notice, a hearing and presentation of evidence satisfactory to the Board that the holder of the license has violated one of the provisions of Section 40-33-110. Accordingly, the Board has adopted these rules for the conduct of investigations into and hearings concerning allegations of violations of Section 40-33-110.

19.b. Regulation Exclusive. All proceedings for the investigation of complaints concerning alleged misconduct and all proceedings for the discipline of nurses licensed to practice in South Carolina shall be brought, conducted and disposed of in accordance with the provisions of Section 40-33-10 et. seq. and this Regulation.

19.c. Initial Complaint. Any person who has sufficient information that a licensee has committed an offense for which a license may be revoked or may be suspended may file a complaint with the Department of Labor, Licensing and Regulation (“Department”). All allegations of misconduct made by any person against a nurse licensed to practice in South Carolina shall be in writing and shall plainly and substantially set forth the offense charged, including the approximate time and place the offense occurred or was observed and the name or names of witnesses, if any.

19.d. Investigations. Upon the filing of an initial complaint with the Department, the Department shall cause an initial investigation to be made into the charges for the purpose of recommending a course of action to the Board. Upon presentation of the Department’s report, the Board shall make the determination as to whether or not to hold a formal hearing.

19.e. Notice and Formal Complaint. If the Board finds that the complaint does not state facts sufficient to charge misconduct or that the complaint is otherwise without merit, the said complaint shall be dismissed and the Department shall so notify the complainant. If the Board determines that the complaint merits a formal hearing, the Department shall forthwith refer the matter to the Office of General Counsel for preparation of a formal complaint pursuant to a complete investigation. The formal complaint shall state the facts in a manner sufficient to notify the accused (respondent) of the charge or charges against him. Following preparation of the formal complaint, the Department shall mail it to the respondent by registered or certified mail or cause it to be personally served upon the respondent. Attached to the complaint shall be a hearing notice, to include date, time, and place of hearing, requiring the respondent within thirty (30) days after the receipt of such complaint to file with the Board his answer to the complaint. The answer shall be signed by the respondent or by his counsel or by both, and may, but need not be verified.

19.f. Hearing by Panel. The hearing shall be conducted by a hearing panel appointed by the Board.

19.g. Rules of Evidence.

1. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence shall be accepted in accordance with the rules normally following in civil cases in the Court of Common Pleas. The Board shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

2. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;

3. A party may conduct cross-examinations required for a full and true disclosure of the facts;

4. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Board's specialized knowledge. The Board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

19.h. Duty of the Panel. The panel or examiner shall hear testimony and receive evidence and shall then make a report of the proceeding before it, including its findings of fact, conclusions and recommendations to the Board.

19.i. Review by the Board. When the panel has filed a report the Office of General Counsel shall before the Board acts upon such a report, notify the respondent or his counsel, if any, of the time and place which the Board will consider the report for the purpose of determining its action thereon, such notice to be sent by registered or certified mail or personal service, to be given not less than fifteen (15) days prior to such meeting. The respondent and his counsel shall have the right and shall be so informed in said notice to appear before the Board at said meeting and to submit briefs and be heard in oral argument in opposition to or in support of the recommendation of the panel. Upon consideration of the report of the panel and of the showing made to the Board, the Board may:

1. refer the matter back to the panel for further hearing; or

2. order a further hearing before the said Board or panel; or

3. proceed upon the record of the prior proceeding before the panel.

Upon its final review, the Board may either dismiss the complaint or find that the respondent is guilty of misconduct. A majority vote of those present and voting shall be required to find a violation of 40-33-110 (for the purpose of such action a quorum shall be four (4) Board members). If the complaint is dismissed, the Department shall notify the respondent and all counsel of record.

19.j. Duty of the Board after review. If the Board shall determine that the respondent is guilty of misconduct meriting suspension or revocation, it shall issue an order, including its findings of fact, conclusions of law, and decision of sanction, and shall forthwith notify the respondent or his counsel of such action by registered or certified mail or personal service, enclosing with such notice a copy of the Board's order. The notice shall inform the respondent of his/her right to appeal the decision of the Board.

19.k. Service of Notices, etc. Wherever in this Regulation provision is made for the service of any notice, order, report, or other paper or copy thereof upon any complainant, respondent, or petitioner in connection with any proceeding involving a complaint, service may be made upon counsel of record for such complainant, respondent or petitioner, either personally or by registered or certified mail.

19.l. President of the Board is Agent for Service of Notices on Non-resident Nurses. Service of any notice provided for in this Regulation upon any non-resident respondent who has been admitted to the practice of nursing, or upon any resident respondent who, having been so admitted, subsequently becomes a non-resident or cannot be found at his usual abode or place of business in the State, may be made by leaving with the President of the Board a true and attested copy of such notice and any accompanying documents and by sending to the respondent, by registered or certified mail, a like, true and attested copy, with an endorsement thereon of the service upon the said President, addressed to such respondent at his last known address. The postmaster's receipt of the payment of such registered or certified mail postage shall be attached to and made a part of the return of service of such notice. The panel or Board before which there is pending any proceeding in which notice has been given as provided in this section may order such continuance as may be necessary to afford the respondent reasonable opportunity to appear and defend. The President of the Board shall keep a record of the day and hour of the service upon him of such notice and any accompanying documents.

19.m. The Board shall have discretionary power to reinstate licenses previously disciplined in accordance with Section 40-33-110 and these Regulations, provided that the established reinstatement fee is paid in full to the Board and other conditions imposed by the Board are met.

91-31. Fees.

Fees to be paid by applicants for a license as an advanced practice registered nurse, registered nurse or as licensed practical nurse shall be amounts as shown on the following schedule:

a. R.N. Examination 90.00

R.N. Endorsement 100.00

R.N. Re-examination 65.00

L.P.N. Examination 70.00

L.P.N. Endorsement 100.00

L.P.N. Re-examination 45.00

R.N. and L.P.N. Renewals 50.00

R.N. and L.P.N. Reinstatements 60.00

R.N. and L.P.N. Reactivation 50.00

R.N. and L.P.N. Reinstatement of Disciplined License 150.00

Name change only on records 0.00

Verification to another state (A.P.R.N., R.N. and L.P.N.)5.00

Certification Exam Verification 5.00

VISA Screen Verification 5.00

Temporary permit 10.00

Official Inactive Status 15.00

APRN Initial Fee (current S.C. licensee only) 30.00

APRN Renewal 20.00

APRN Endorsement 140.00

APRN Reinstatement 90.00

APRN Reactivation 70.00

Application for Prescriptive Authority 20.00

Renewal of Prescriptive Authority 20.00

Returned check charge 30.00

b. Names, addresses and authorized statistical data of licensed nurses may be released upon written request of agencies, individuals, and organizations. This service will be provided electronically or via CD for a cost of $10.00.

c. Refund of fees will be made at the discretion of the Board.

**Fiscal Impact Statement:**

 There will be no cost incurred by the State or any of its political subdivisions.

**Statement of Rationale:**

 These regulations are updated in conformance with the current Nurse Practice Act.