

6400.6900 DISCIPLINARY ACTION.

Subpart 1. **Criteria.** The board may impose disciplinary action as described in subpart 2 against an applicant, the holder of a permit to serve as an acting administrator, or a licensee, when the board determines, by a preponderance of the evidence and after due notice and an opportunity to be heard at a contested case hearing, that the applicant, permit holder, or licensee:

A. has been convicted of a felony or gross misdemeanor, including a finding or verdict of guilt, whether or not the adjudication of guilt has been withheld or not entered, an admission of guilt, or a no contest plea, when the felony or gross misdemeanor is reasonably related to the practice of nursing home administration, as evidenced by a certified copy of the conviction;

B. has been convicted of a crime against a minor, including a finding or verdict of guilt, whether or not adjudication of guilt has been withheld or not entered, an admission of guilt, or a no contest plea;

C. is not eligible to be employed as a nursing home administrator under Minnesota Statutes, section 144A.04, subdivision 6;

D. has failed to comply with Minnesota Statutes, section 626.557, the Vulnerable Adult Act;

E. has violated a statute, rule, or order that the board issued or is empowered to enforce or that pertains to administration of a nursing facility or to the responsibilities of a nursing home administrator;

F. has discriminated against any resident or employee, based on age, race, sex, religion, color, creed, national origin, marital status, status with regard to public assistance, sexual orientation, or disability;

G. has committed acts of misconduct substantially related to the qualifications, function, or duties of a nursing home administrator and evidenced unfitness to perform as a nursing home administrator in a manner consistent with protecting resident health, safety, and welfare;

H. has engaged in fraudulent, deceptive, or dishonest conduct, whether or not the conduct relates to the practice of nursing home administration, that adversely affects the individual's ability or fitness to practice as a nursing home administrator;

I. has engaged in unprofessional conduct or any other conduct with potential for causing harm to the public or facility residents including any departure from or failure to conform to the minimum standards of acceptable and prevailing practice, as specified in state and federal statutes and rules concerning administration of nursing home facilities, without actual injury having to be established;

- J. has failed to exercise true regard for the safety, health, or life of a resident;
- K. has willfully permitted the unauthorized or illegal disclosure of information relating to a resident;
- L. has engaged in sexual harassment, made sexual advances toward, or engaged in sexual contact with any resident, student, or trainee under the licensee's supervision, or engaged in sexual harassment of an employee, consultant, or visitor to the facility in which the licensee practices;
- M. has practiced fraud, deceit, cheating, or misrepresentation, or provided misleading omission or material misstatement of fact, in securing, procuring, renewing, or maintaining a nursing home administrator license;
- N. has used the licensee's professional status, title, position, or relationship as a nursing home administrator or licensee to coerce, improperly influence, or obtain money, property, or services from a resident, resident's family member or visitor, employee, or any person served by or doing business with the nursing facility that the licensee administers or is employed by;
- O. has paid, given, has caused to be paid or given, or offered to pay or give to any person, a commission or other consideration for solicitation or procurement either directly or indirectly for nursing home patronage. Nothing in this item shall be construed to limit or restrict commercial advertisement;
- P. has knowingly aided, advised, or allowed an unlicensed person to engage in the unlicensed practice of nursing home administration;
- Q. has practiced fraudulent, misleading, or deceptive advertising with respect to the facility of which the licensee is administrator;
- R. has wrongfully transmitted or surrendered possession of the licensee's license to any other person, either temporarily or permanently;
- S. has falsely impersonated another licensee;
- T. has practiced without current licensure;
- U. has made a false statement or knowingly provided false or misleading information to the board, failed to submit reports as required by the board, failed to cooperate with an investigation of the board, the Office of the Attorney General, or the Minnesota Department of Health, or violated an order of the board;
- V. has been the subject of a reprimand, restriction, limitation, condition, revocation, suspension, surrender, or other disciplinary action against the person's nursing home administrator license in another jurisdiction;

W. has failed to report a reprimand, restriction, limitation, condition, revocation, suspension, surrender, or other disciplinary action against the person's license as a nursing home administrator in another jurisdiction or failed to report the existence of a complaint or other charges against the person's nursing home administrator license in this or another jurisdiction or has been refused a license as a nursing home administrator by any other jurisdiction for reasons not related strictly to a difference in academic or experience requirements among jurisdictions; or

X. has abused or is dependent on alcohol, a legend drug as defined in Minnesota Statutes, chapter 151, a chemical as defined in Minnesota Statutes, chapter 151, or a controlled substance as defined in Minnesota Statutes, chapter 152, and this abuse or dependency has affected the performance of the licensee's duties.

Subp. 2. **Actions.** If grounds for disciplinary action exist under subpart 1, the board shall take one or more of the following actions:

- A. refuse to grant a permit;
- B. refuse to grant or renew a license;
- C. revoke a license or permit;
- D. suspend a license or permit;
- E. impose limitations or conditions on a license or permit;
- F. censure or reprimand the licensee or permit holder;
- G. refuse to permit an applicant to take the licensure examination or refuse to release an applicant's examination score; or
- H. any other action authorized by statute.

Subp. 3. **Considerations.** In determining what action to take under subpart 2, the board shall consider:

- A. responsibility and response of the individual prior to, during, and after the occurrence;
- B. extenuating circumstances;
- C. repeat complaints against the individual; and
- D. severity of or potential harm to residents.

Statutory Authority: *MS s 16A.1285; 144A.21; 144A.24; 214.06*

History: *21 SR 1564*

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