

7897.0155 APPEAL TO COMMISSION.**Subpart 1. Appeals.**

A. A license denial, a sanction under part 7897.0120, or a stewards' decision regarding a Class C licensee may be appealed to the commission.

B. The licensee may ask the commission to reverse the decision in whole or in part or to lessen the sanction ordered.

C. Appeals to the commission are not subject to the contested case procedures.

Subp. 2. Review or appeal by commission, director, or deputy director. Nothing in this chapter precludes the commission, director, or deputy director from instituting proceedings to appeal a steward's decision; or the commission from instituting proceedings to review a steward's decision on its own motion.

Subp. 3. Stays of decisions. An appeal of a sanction or stewards' decision shall not automatically stay the decision. A party may request the director to stay the decision. The director shall order a stay for good cause shown.

Subp. 4. Procedure for appeal to commission. A licensee may appeal a license denial, sanction, or decision of the stewards by filing with the director a written request for an appeal within five days after being orally advised of the decision or receiving a written order, whichever is earlier. The appeal request shall contain the following information:

- A. the name, address, and telephone number, if any, of the appellant;
- B. a description of the objections to the license denial, sanction, or decision of the stewards;
- C. a statement of the relief sought; and
- D. whether the appellant desires to be present in person at the hearing of the appeal.

Subp. 5. Deposit shall be required. The appellant shall deposit with the commission at the time of filing his or her written request for an appeal an amount equal to ten times the appellant's occupational license fee in part 7877.0120, subpart 1, but not to exceed \$250. The deposit will be refunded by the commission upon the conclusion of the appeal unless the commission finds that the appeal was frivolous, in which case the deposit will be forfeited. In addition, if the commission determines that the appeal was commenced in bad faith for purposes of delay or was unreasonable and without substance or merit, the commission may impose a fine of not more than \$450.

Subp. 6. Commission shall set date for hearing. Within five days of receipt of a written request for an appeal and the deposit, the commission chair, director, or deputy director shall set a date, time, and place for the hearing. The hearing must be held within 15 days of the receipt of the request for the appeal and the deposit. Notice shall be given to the appellant in writing and shall set out the date, time, and place of the hearing, and shall be served personally or sent by mail to the last known address of the appellant. If the appellant objects to the date of the hearing, the

appellant may obtain a continuance, but the continuance shall not automatically stay imposition of the sanction or prolong a stay issued by the director.

Subp. 7. **Appeal by commission.** When the commission institutes an appeal on its own motion or at the request of the stewards or director, a notice of appeal shall be served personally or sent by mail to the licensee, addressed to his or her last known place of residence, at least ten days prior to the hearing of the appeal. This notice of appeal shall contain the following:

- A. the decision being appealed from;
- B. the date on which the decision was made;
- C. the grounds of the appeal; and
- D. the date, time, and place on which the commission proposes to hear the appeal.

Subp. 8. **Designation of panel.** All appeals shall be heard by a panel of three or more commission members. The commission chair shall appoint the panel members and shall also designate one of them as the chair of the panel.

Subp. 9. **Hearing panel's decision.** All decisions of the hearing panel must be made by majority vote. In the event the hearing panel is unable to arrive at a decision by a majority vote, the commission shall consider the appeal based on the record before the hearing panel. The hearing panel shall issue its written decision within ten days, excluding Saturdays, Sundays, and holidays, based on the record and must include the hearing panel's findings of fact and conclusions on all material issues. A copy of the panel's decision shall be served upon all parties by first class mail or personal service. The decision of the hearing panel shall be the final agency decision.

Statutory Authority: *MS s 240.03; 240.23*

History: *42 SR 1258*

Published Electronically: *May 1, 2018*