

## Chapter 8. Disciplinary and Administrative Actions

- 8.1. This Chapter applies to individual students, student instructors, instructors, licensees, salons, or schools licensed by the Board. The Board may refuse to issue or renew or may deny, suspend or revoke any license held or applied for under this act upon finding that the holder of a license or applicant:
1. Has not complied with or has violated any of the rules and regulations promulgated by the Board.
  2. Has not complied with or has violated any of the sections of Section 73-7-1, *et. seq.* of the Mississippi Code of 1972, as amended.
  3. Has committed fraud or dishonest conduct in the taking of the examination for licensure.
  4. Has been convicted of a felony.
  5. Has committed grossly unprofessional or dishonest conduct, including, but not limited to attempting to use as his/her own the license of another and allowing the use of his/her license by another.
  6. Is addicted to the excessive use of intoxicating liquors or to the use of drugs to such an extent as to render him or her unfit to practice in any of the practices or occupations set forth in this chapter.
  7. Has advertised by means of knowingly false or deceptive statements
  8. Has failed to display the license or certificate issued to him or her as provided for in Miss. Code Ann. Section 73-7-11.
  9. Has been convicted of violating any of the provisions of 73-7-1, *et. seq.* of the Mississippi Code of 1972, as amended.

Source: Miss Code Ann §§ 73-7-27 and. 73-7-7 (Rev. 2013).

## 8.2. Complaints

- A. Public Complaint. Public complaints shall mean any complaint that comes from someone outside of a standard Board inspection.
1. Any complaint may be filed with the Board by a member or agent of the Board or by any person charging any licensee of the Board with the commission of any of the offenses found in Rule 8.1.
  2. Such complaint shall be in writing, signed by the accuser or accusers, and verified under oath, and such complaints shall be investigated as set forth in Section 73-7-7 of the Mississippi Code of 1972, as amended.
  3. The Board shall administratively review to determine that there is substantial justification to believe that the accused licensee has committed any of the offenses enumerated.
    - a. The administrative review agents shall consist of an investigator or a Board Member, the Board's Executive Director, and the Board attorney.
    - b. If the administrative review agents determine that there is **not** substantial justification to believe that the accused licensee has committed any of the offenses enumerated, it may present the complaint for dismissal to the Board.

- c. If the administrative review agents believe that the licensee has committed any of the offenses, the Board agents will proceed with a formal complaint under Rule 8.2(C).
  - d. When used with reference to any complaint filed against a licensee herein, the term "not substantial justification" means a complaint that is frivolous, groundless in fact or law, or vexatious, as determined by unanimous vote of the Board.
  
- B. Board Complaint. Board complaints shall mean any complaint that is generated by a Board agent that typically derives from an inspection or other Board action.
  - 1. When a Board agent finds a violation at a salon/school, the Board agent shall issue notice of the violation(s) on a complaint form and issue a consent agreement, which is provided to the Licensee.
  - 2. The Licensee may invoke his or her right to an administrative hearing under Rule 8.2(C) or may waive his or her rights to an administrative hearing and accept the fine on the Board approved consent form.
  - 3. The Board or its agent may accept or reject the Consent Agreement.
  - 4. A licensee who violates the same law, rule, regulation within three (3) years shall be considered a repeat offender and shall not be entitled to sign a Consent Agreement.
  - 5. The Executive Director may execute a Consent Agreement on behalf of the Board.
  - 6. If the Licensee invokes his or her rights to an administrative hearing or refuses to enter the consent agreement, the Board shall follow the procedures under Rule 8.2(C).
  
- C. Formal Complaint. Formal Complaints are pleadings drafted for matters to be set for a hearing.
  - 1. The Board reserves the right to forego steps under Public and Board Complaints and institute a Formal Complaint against any licensee at the finding of reasonable cause.
  - 2. Formal complaints shall specify the reason or reasons for denying the applicant a license or certificate of registration, or in the case of any other disciplinary action, the offense or offenses of which the licensee or holder of a certificate of registration is charged.
  - 3. Public and Board Complaints, which have not been resolved, are presented to the Board to determine if there is reasonable cause to believe the accused has committed any of the alleged offenses.
  - 4. If the Board determines there is reasonable cause to believe the accused has committed any of those offenses, the Secretary of the board shall give written notice of such determination to the accused licensee and set a day for a hearing as provided in Rule 8.3.

Source: Miss Code Ann §§ 73-7-27 and. 73-7-7 (Rev. 2013).

### 8.3. Notice of Formal Complaint and Administrative Hearing

- A. The Board shall notify the accused that a complaint has been received and that a administrative hearing will be held. The accused shall be notified at least twenty (20) days prior to the date of the administrative hearing.
- B. Notice may be considered to have been given, if the Notice or a copy thereof was mailed by using United States first-class certified mail, postage prepaid, to the last-known residence or business address of such applicant, licensee or holder of a certificate.
- C. The notice of the Complaint shall also inform the accused of the following:
  - 1. The date, time, and location of the hearing;
  - 2. That the accused may appear personally at the administrative hearing and may be represented by Counsel; and
  - 3. That the accused shall have the right to produce witnesses and evidence on the individual(s) behalf and shall have the right to cross-examine adverse witnesses and evidence.
- D. Filing of documents. All pleadings and motions relating to any contested case pending before the Board shall be filed at the Board office and shall be deemed filed only when actually received. Responses to the Complaint should be filed at least seven (7) days prior to the hearing. Copies of all pleadings and motions shall be served on Board counsel.
- E. Pre-Hearing Discovery. There will be no pre-hearing discovery.

Source: Miss Code Ann §§ 73-7-27 and. 73-7-7 (Rev. 2013).

#### 8.4 Administrative Hearing Proceedings

- A. Administrative hearings shall be before the Board and shall be presided over by the President or designee of the Board. Following the administrative hearing, the Board shall, in writing, notify the accused as to what sanction(s), if any, shall be imposed and the basis for the Board's action.
- B. All final orders issued by the Board shall be reflected in the Board minutes.
- C. All proceedings pursuant to this section are matters of public record and shall be preserved pursuant to state law.
- D. The hearing on such charges shall be at such time and place as the Board may prescribe.
- E. Stenographic notes of the proceedings shall be taken. Any party to the proceedings desiring the stenographic notes shall be furnished with a copy of such stenographic notes upon payment to the Board of such fees as it shall prescribe, not exceeding, however, the actual costs of transcription.
- F. The Board shall issue subpoenas in accordance with Miss. Code Ann. Section 73-7-27.
- G. Continuances may be granted only when the ends of justice may be served.

Source: Miss Code Ann §§ 73-7-27 and. 73-7-7 (Rev. 2013).

#### Rule 8.5 Sanctions

##### A. Civil Liabilities:

The Board may impose any of the following sanctions, singularly or in combination, when it finds that a licensee is guilty of any of the offenses including but not limited to those referred to in Chapter 8:

- 1. Issuance of a letter of official reprimand to the licensee;
- 2. Refusal to renew license;

3. Refusal to issue license;
4. Place on Probation;
5. Restriction or limitation of the individual's scope of practice;
6. Suspension of the licensee for any period of time; and
7. Revocation of the license.
8. Reasonable and customary fines and penalties.

**B. Criminal Liabilities:**

1. The violation of any of the provisions of this chapter, including the use of fraudulent statements to obtain any benefits or privileges under this chapter or practicing one (1) of these professions without a license, shall constitute a misdemeanor, punishable in any court of competent jurisdiction at the seat of government, and any person or firm convicted of the violation of any of the provisions of this chapter shall be fined not less than One Hundred Dollars (\$ 100.00) nor more than Five Hundred Dollars (\$ 500.00). The court shall not be authorized to suspend or suspend the execution of the fine required under this section.
2. The proceedings in this section shall be in addition to and not in lieu of the other remedies and penalties provided in this chapter.

Source: Miss Code Ann §§ 73-7-37 and. 73-7-7 (Rev. 2013).

**Rule 8.6 Appeals**

- A. A respondent may appeal the decision of the Board to the Chancery Court of the First Judicial District of Hinds County.
- B. A respondent may appeal the decision of the Chancery Court to the Mississippi Supreme Court.
- C. Further appeal shall be pursuant to any remedies available by law.

Source: Miss Code Ann. § 73-7-27(5) (Rev. 2013)

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