

§ 30-17 - SANITARIANS

§30-17-1. Unlawful acts.

It is unlawful for any person to practice or offer to practice environmental health science and public health sanitation in this state without being licensed, certified or permitted under the provisions of this article, or to advertise or use any title or description tending to convey the impression that the person is a registered sanitarian, sanitarian or sanitarian-in-training unless he or she has been duly authorized under the provisions of this article, and the license, certification or permit has not expired or been suspended or revoked.

§30-17-2. Applicable law.

The practice of environmental health science and public health sanitation, and the board are subject to the provisions of article one of this chapter, the provisions of this article and any rules promulgated hereunder.

§30-17-3. Definitions.

As used in this article, the following words and terms have the following meanings:

- (a) "Board" means the State Board of Sanitarians.
- (b) "Bureau" means the Bureau for Public Health.
- (c) "Certificate holder" means a person holding a certification issued by the board.
- (d) "Certificate" means a document issued to a sanitarian under the provisions of this article.
- (e) "Environmental health science" means public health science that includes, but is not limited to, the following bodies of knowledge: air quality, food quality and protection, hazardous and toxic substances, consumer product safety, housing, institutional health and safety, community noise control, radiation protection, recreational facilities, solid and liquid waste management, vector control, drinking water quality, milk sanitation and rabies control.
- (f) "License" means a document issued to a registered sanitarian under the provisions of this article.
- (g) "Licensee" means a person holding a license issued by the board.
- (h) "Permit" means a document issued to a sanitarian-in-training under the provisions of this article.
- (i) "Permittee" means a person holding a permit issued by the board.

(j) "Practice of public health sanitation" means the consultation, instruction, investigation, inspection or evaluation by an employee of the bureau, or a municipal or county health department with the primary purpose of improving or conducting administration of enforcement of state laws and rules.

(k) "Registered sanitarian" means a person who is licensed by the board and is uniquely qualified by education, specialized training, experience and examination to assist in the enforcement of public health sanitation laws and environmental sanitation regulations, and to effectively plan, organize, manage, evaluate and execute one or more of the many diverse disciplines comprising the field of public health sanitation.

(l) "Sanitarian" means a person who is certified by the board and is uniquely qualified by education in the arts and sciences, specialized training and credible field experience to assist in the enforcement of public health sanitation laws and environmental sanitation regulations, and to effectively plan, organize, manage, evaluate and execute one or more of the many diverse disciplines comprising the field of public health sanitation.

(m) "Sanitarian-in-training" means a person who is permitted by the board and possesses the necessary educational qualifications for certificate as a sanitarian, but who has not completed the experience requirements in the fields of public health sanitation and environmental health science as required for certificate.

§30-17-4. State Board of Sanitarians.

(a) The Board of Registration for Sanitarians is continued and commencing July 1, 2010, shall be known as the State Board of Sanitarians. Any member of the board, except one registered sanitarian, in office on July 1, 2010, may continue to serve until his or her successor has been appointed and qualified.

(b) Prior to July 1, 2010, the Governor, by and with the advice and consent of the Senate, shall appoint one certified sanitarian to replace one registered sanitarian.

(c) Commencing July 1, 2010, the board shall consist of the following seven voting members with staggered terms:

(1) Four members who are registered sanitarians;

(2) One member who has a certificate as a sanitarian at the time of the appointment: Provided, That if the member becomes a registered sanitarian during his or her appointment term, then the person may not be reappointed as the certified sanitarian member, but may be reappointed as a registered sanitarian member; and

(3) Two citizen members who are not licensed, certified, or permitted under the provisions of this article, and who do not perform any services related to the practice of the professions regulated under the provisions of this article.

(d) Each member must be appointed by the Governor, by and with the advice and consent of the Senate, and must be a resident of this state during the appointment term.

(e) The term of each board member is five years.

(f) No member may serve more than two consecutive full terms and any member having served two full terms may not be appointed for one year after completion of his or her second full term. A member shall continue to serve until his or her successor has been appointed and qualified.

(g) Each licensed or certified member shall have been engaged in the practice of environmental health science or public health sanitation for at least five years immediately preceding the appointment.

(h) Each licensed or certified member shall maintain an active license or certificate with the board during his or her term.

(i) The Governor may remove any member from the board for neglect of duty, incompetency, or official misconduct.

(j) A licensed or certified member of the board immediately and automatically forfeits membership to the board if his or her license or certificate to practice is suspended or revoked.

(k) A member of the board immediately and automatically forfeits membership to the board if he or she is convicted of a felony under the laws of any jurisdiction or becomes a nonresident of this state.

(l) The board shall designate one of its members as chairperson who serves at the will of the board.

(m) Each member of the board is entitled to receive compensation and expense reimbursement in accordance with §30-1-11 of this code.

(n) A majority of the members of the board shall constitute a quorum.

(o) The board shall hold at least two annual meetings. Other meetings may be held at the call of the chairperson, or upon the written request of two members, at such time and place as designated in the call or request.

(p) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article IV of the Constitution of this state.

§30-17-5. Powers and duties of the board.

The board has all the powers and duties set forth in article one of this chapter and also the following powers and duties:

- (1) Hold meetings, conduct hearings and administer examinations;
- (2) Set the requirements for a license, permit and certificate;
- (3) Establish procedures for submitting, approving and rejecting applications for a license, permit and certificate;
- (4) Determine the qualifications of any applicant for a license, permit and certificate;
- (5) Prepare, conduct, administer and grade written, oral or written and oral examinations for a license;
- (6) Determine the passing grade for the examinations;
- (7) Contract with third parties to administer the examinations required under the provisions of this article;
- (8) Maintain records of the examinations the board or a third party administers, including the number of persons taking the examination and the pass and fail rate;
- (9) Maintain an office, and hire, discharge, establish the job requirements and fix the compensation of employees and contracted employees necessary to enforce the provisions of this article;
- (10) Define the fees charged under the provisions of this article;
- (11) Issue, renew, deny, suspend, revoke or reinstate a license, permit and certificate;
- (12) Investigate alleged violations of the provisions of this article, legislative rules, orders and final decisions of the board;
- (13) Conduct disciplinary hearings of persons regulated by the board;
- (14) Determine disciplinary action and issue orders;
- (15) Institute appropriate legal action for the enforcement of the provisions of this article;
- (16) Maintain an accurate registry of names and addresses of all persons regulated by the board;
- (17) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;
- (18) Establish the continuing education requirements for licensees, permittees and certificate holders;

(19) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article;

(20) Sue and be sued in its official name as an agency of this state;

(21) Confer with the Attorney General or his or her assistant in connection with legal matters and questions; and

(22) Take all other actions necessary and proper to effectuate the purposes of this article.

§30-17-6. Rulemaking.

(a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including:

(1) Standards and requirements for a license, permit or certificate;

(2) Procedures for examinations and reexaminations;

(3) Requirements for third parties to prepare and/or administer examinations and reexaminations;

(4) Educational, experience and training requirements, and the passing grade on the examination;

(5) Standards for approval of courses;

(6) Procedures for the issuance and renewal of a license, permit or certificate;

(7) A fee schedule;

(8) The continuing education requirements;

(9) The procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee, permittee or certificate holder;

(10) Requirements for an inactive or revoked license, permit or certificate; and

(11) Any other rules necessary to effectuate the provisions of this article.

(b) All of the board's rules in effect on July 1, 2010, shall remain in effect until they are amended or repealed, and references to provisions of former enactments of this article are interpreted to mean provisions of this article.

(c) The board is authorized to promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code, to set fees for the issuance and renewal of

licenses, certificates and permits for an eighteen month period commencing July 1, 2010, and ending December 31, 2011.

§30-17-7. Fees; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the State Treasury designated the "Sanitarians Operating Fund", which fund is continued. The fund shall be used by the board for the administration of this article. Except as may be provided in article one of this chapter, the board shall retain the amounts in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.

(b) Any amounts received as fines imposed, pursuant to this article, shall be deposited into the General Revenue Fund of the State Treasury.

§30-17-8. Qualifications for licensure as a registered sanitarian.

(a) To be eligible to be licensed as a registered sanitarian, the applicant must:

(1) Be of good moral character;

(2) Have a bachelor's or higher degree from an accredited college or university;

(3) Successfully complete a sanitarian's training course of a minimum of three hundred hours, as approved by the board;

(4) Have at least two years of experience in the field of public health sanitation and environmental health science; and

(5) Pass an examination, as required by the board.

(b) An applicant may substitute a successfully completed master's or higher degree in public health, environmental science, sanitary science, community hygiene or other science field, as approved by the board, for one of the required years of experience.

(c) A registration issued by the board prior to July 1, 2010, shall for all purposes be considered a license issued under this article: Provided, That a person holding a registration issued prior to July 1, 2010, must renew pursuant to the provisions of this article.

§30-17-9. Qualifications for certificate as a sanitarian.

(a) To be eligible to be certified as a sanitarian, the applicant must:

(1) Be of good moral character;

- (2) Have a bachelor's or higher degree from an accredited college or university;
 - (3) Successfully complete a sanitarian's training course of a minimum of three hundred hours, as approved by the board; and
 - (4) Have at least two years of experience in the field of public health sanitation and environmental health science.
- (b) An applicant may substitute a successfully completed master's or higher degree in public health, environmental science, sanitary science, community hygiene or other science field as approved by the board for one of the required years of experience.
- (c) A person who is registered as a sanitarian-in-training by the board and on or before July 1, 2010, has two or more years of experience in the field of public health sanitation and environmental health science, as approved by the board, shall for all purposes be considered certified under this article: Provided, That such a person must renew pursuant to the provisions of this article.

§30-17-10. Qualifications for permit as a sanitarian-in-training.

- (a) To be eligible to be permitted as a sanitarian-in-training, the applicant must:
- (1) Be of good moral character;
 - (2) Have a bachelor's or higher degree from an accredited college or university; and
 - (3) Successfully complete a sanitarian's training course of a minimum of three hundred hours within twelve months of being hired as a sanitarian-in-training.
- (b) A person may practice as a sanitarian-in-training for a period not to exceed three years.
- (c) The board may waive the requirements of subdivision (3) of subsection (a) and subsection (b) of this section, for a person who experiences an undue hardship, as determined by the board.

§30-17-11. Persons exempted from licensure.

The activities and services of qualified members of other recognized professions practicing environmental health science consistent with the laws of this state, their training and any code of ethics of their professions so long as such person does not represent themselves as a registered sanitarian, sanitarian or sanitarian-in-training as defined by this article.

§30-17-12. License from another state.

The board may issue a license or a certificate to practice environmental health science or public health sanitation in this state, without requiring an examination, to an applicant from another

jurisdiction who:

- (1) Is of good moral character;
- (2) Holds a valid sanitarian license or other authorization to practice environmental health science or public health sanitation in another jurisdiction and meets requirements which are substantially equivalent to the requirements set forth in this article;
- (3) Is not currently being investigated by a disciplinary authority of this state or another jurisdiction, does not have charges pending against his or her license or other authorization to practice environmental health science or public health sanitation, and has never had a license or other authorization to practice environmental health science or public health sanitation revoked;
- (4) Has not previously failed an examination for licensure in this state;
- (5) Has paid all the applicable fees;
- (6) Completes any additional training as determined by the board; and
- (7) Completes such other action as required by the board.

§30-17-13. Renewal requirements.

- (a) The board may issue, renew and charge fees for licenses, certificates and permits for an eighteen month period commencing July 1, 2010, and ending December 31, 2011.
- (b) Commencing January 1, 2012, and annually or biennially thereafter, a person regulated by this article shall renew his or her license, permit or certificate by completing a form prescribed by the board, paying the applicable fees and submitting any other information required by the board.
- (c) The board shall charge a fee for each renewal of a license, permit or certificate and may charge a late fee for any renewal not paid by the due date.
- (d) The board shall require as a condition for the renewal of a license, permit or certificate that each person regulated by this article complete continuing education.
- (e) The board may deny an application for renewal for any reason which would justify the denial of an original application for a license, permit or certificate.

§30-17-14. Display of license, permit or certificate.

- (a) The board shall prescribe the form for a license, permit and certificate and may issue a duplicate upon payment of a fee.

(b) Any person, not employed by the bureau or a municipal or county health department, shall conspicuously display his or her license, permit or certificate at his or her principal place of practice.

(c) A person regulated by the board shall carry valid proof of licensure, permit or certificate on his or her person during the performance of his or her duties.

§30-17-15. Complaints; investigations; due process procedure; grounds for disciplinary action.

(a) The board may upon its own motion and shall upon the written complaint of any person cause an investigation to be made to determine whether grounds exist for disciplinary action under this article.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee, permittee or certificate holder.

(c) The board may cause an investigation to be made into the facts and circumstances giving rise to the complaint.

(d) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee, permittee or certificate holder has violated this article.

(e) Upon a finding that probable cause exists that the licensee, permittee or certificate holder has violated this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license, certificate or permit or the imposition of sanctions against the licensee, permittee or certificate holder. The hearing shall be held in accordance with the provisions of this article.

(f) Any member of the board or the executive director of the board may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person regulated by this article.

(g) Any member of the board or its executive director may sign a consent decree or other legal document on behalf of the board.

(h) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend or revoke the license, permit or certificate of, impose probationary conditions upon or take disciplinary action against, any licensee, permittee or certificate holder for any of the following reasons:

(1) Obtaining a license, permit or certificate by fraud, misrepresentation or concealment of material facts;

(2) Being convicted of a felony or other crime involving moral turpitude;

(3) Being guilty of unprofessional conduct which placed the public at risk;

- (4) Violating this article or lawful order of the board that placed the public at risk;
 - (5) Having had a license or other authorization revoked or suspended, other disciplinary action taken, or an application for licensure or other authorization denied by the proper authorities of another jurisdiction, irrespective of intervening appeals and stays; or
 - (6) Engaging in any act which has endangered or is likely to endanger the health, welfare or safety of the public.
- (i) For the purposes of subsection (h) of this section, disciplinary action may include:
- (1) Reprimand;
 - (2) Probation;
 - (3) Administrative fine, not to exceed \$1,000 per day per violation;
 - (4) Mandatory attendance at continuing education seminars or other training;
 - (5) Practicing under supervision or other restriction;
 - (6) Requiring the licensee, permittee or certificate holder to report to the board for periodic interviews for a specified period of time; or
 - (7) Other corrective action considered by the board to be necessary to protect the public, including advising other parties whose legitimate interests may be at risk.

§30-17-16. Procedures for hearing; right of appeal.

- (a) Hearings are governed by the provisions of section eight, article one of this chapter.
- (b) The board may conduct the hearing or elect to have an administrative law judge conduct the hearing.
- (c) If the hearing is conducted by an administrative law judge, at the conclusion of a hearing he or she shall prepare a proposed written order containing findings of fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the board so directs. The board may accept, reject or modify the decision of the administrative law judge.
- (d) Any member or the executive director of the board has the authority to administer oaths, examine any person under oath and issue subpoenas and subpoenas duces tecum.
- (e) If, after a hearing, the board determines the licensee, permittee or certificate holder has violated this article, a formal written decision shall be prepared which contains findings of fact, conclusions

of law and a specific description of the disciplinary actions imposed.

§30-17-17. Judicial review; appeal to Supreme Court of Appeals.

Any licensee, permittee or certificate holder adversely affected by a decision of the board entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in accordance with article six, chapter twenty-nine-a of this code.

§30-17-18. Criminal proceedings; penalties.

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a licensee, permittee or certificate holder has knowingly violated this article, the board may bring its information to the attention of an appropriate law-enforcement official who may cause criminal proceedings to be brought.

(b) If a court finds that a person violating this article, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 or confined in jail not more than six months, or both fined and confined.

§30-17-19. Single act evidence of practice.

In any action brought or in any proceeding initiated under this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order or conviction without evidence of a general course of conduct.