

71851 Disciplinary Actions and Appeals

(a)

The Department shall take disciplinary action against certified nurse assistants in accordance with the specifications in section 1337.8 of the Health and Safety Code.

(b)

When determining whether to revoke, deny, suspend, or place on probation the certificate of a certified nurse assistant, the Department shall consider at least the following criteria: (1) The individual's total criminal record. (2) The nature and severity of the act(s) or crime(s) under consideration. (3) Evidence of any act(s) or crimes committed subsequent to the act(s) or crime(s) under consideration. (4) The time that has elapsed since commission of the act(s) or crime referred to in subsections (1) and (2) of this regulation. (5) The extent to which the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant. (6) Evidences, if any, of rehabilitation submitted by the applicant.

(1)

The individual's total criminal record.

(2)

The nature and severity of the act(s) or crime(s) under consideration.

(3)

Evidence of any act(s) or crimes committed subsequent to the act(s) or crime(s) under consideration.

(4)

The time that has elapsed since commission of the act(s) or crime referred to in subsections (1) and (2) of this regulation.

(5)

The extent to which the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(6)

Evidences, if any, of rehabilitation submitted by the applicant.

(c)

At least twenty (20) business days prior to the effective date of the action, the Department shall mail the certified nurse assistant a written notice of the proposed action. The Department shall send this notice by certified mail to the most recent address on record and shall indicate the reasons for such action, and shall include a copy of the charges and material upon which the action is based and an explanation of the right to respond either verbally or in writing to a Departmental representative at an informal hearing. Persons convicted in a court of law are not eligible for the informal hearing process. The informal hearing shall be held at a location designated by the Department. The nurse assistant must submit a request for an informal hearing within fifteen (15) business days of receipt of the notice of the effective date of an action to suspend or revoke his or her certificate. The Department shall conduct the informal hearing within five (5) business days of receipt of a timely request for a hearing.

(d)

Any certified nurse assistant may forego the informal hearing process and

proceed directly to a formal administrative hearing by writing to the Department's Nurse Assistant Certification section within 20 calendar days of receipt of the Department's notice of adverse action.

(e)

The Department must issue a written decision to the individual by certified mail within five (5) business days after close of the informal hearing. The decision must notify the individual of his or her right to an appeal pursuant to chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code if the individual is dissatisfied with the decision. The nurse assistant must submit his/her appeal to the Department's Licensing and Certification Program, Nurse Assistant Certification section, at the address provided in section 71837(c) within twenty (20) business days of the decision.