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Title 22@ Social Security

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Division 5@ Licensing and Certification of Health Facilities, Home Health Agencies, Clinics, and Referral Agencies

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Chapter 9@ Psychiatric Health Facilities

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Article 2@ Licensing and Inspection

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Section 77052.5@ Appeal of Sanctions

77052.5 Appeal of Sanctions

(a)

All appeals of denial of licensure or imposition of a sanction, imposed in accordance with Section 77028, shall be made pursuant to this section and shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b)

The Director shall notify in writing an applicant of a denial of licensure and a licensee of an imposed sanction.

(c)

All notifications and all accompanying information may be served personally or by registered mail to the applicant's/licensee's latest address on file with the agency.

(d)

The notice shall contain the following: (1) The effective date of the denial or sanction, written delineation of the bases for the denial/sanction, and a copy of this section, governing the procedure for an appeal of a denial/sanction. (2) A written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the applicant/licensee is charged, in a manner that the applicant/licensee will be able to prepare his defense. (3) Specificity regarding the statutes and regulations which the applicant/licensee is alleged to have violated, but shall not consist merely of charges phrased in the

language of such statutes and regulations.

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The effective date of the denial or sanction, written delineation of the bases for the denial/sanction, and a copy of this section, governing the procedure for an appeal of a denial/sanction.

(2)

A written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the applicant/licensee is charged, in a manner that the applicant/licensee will be able to prepare his defense.

(3)

Specificity regarding the statutes and regulations which the applicant/licensee is alleged to have violated, but shall not consist merely of charges phrased in the language of such statutes and regulations.

(e)

The Department may include with the notice any information which it deems appropriate, but it shall include a notice of defense which, when signed by or on behalf of the applicant/licensee and returned to the Department, will acknowledge service of the notice and constitute a notice of defense under Section 11506 of the Government Code.

(f)

The copy of the notice of defense shall include or be accompanied by (1) a statement that the applicant/licensee may request a hearing by mailing a notice of defense as provided in Section 11506 of the Government Code within 15 days after service upon the applicant/licensee of the notice, and that failure to do so will constitute a waiver of the applicant/licensee's right to a hearing, and (2) copies of Sections 11507.5, 11507.6, and 11507.7 of the Government Code.

(g)

Unless a written request for a hearing signed by or on behalf of the applicant/licensee in the accompanying notice is delivered or mailed to the Department within 15 days after the notice was personally served on the applicant/licensee or mailed to the applicant/licensee, the Department of Health Care Services may proceed upon the notice without a hearing.

(h)

The request for a hearing may be made by delivering or mailing the notice of defense, or by delivering or mailing a notice of defense as provided by Section 11506 of the Government Code to: the Department of Health Care Services, Licensing and Certification Division, P.O. Box 997413, MS 2800, Sacramento, California 95899-7413. The applicant/licensee may, but is not required to, be represented by counsel at any or all stages of these proceedings. If the applicant/licensee desires the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in Section 11507.6 of the Government Code in the possession, custody or control of the Department, the applicant/licensee may contact: the Department of Health Care Services, Licensing and Certification Division, P.O. Box 997413, MS 2800, Sacramento, California 95899-7413.

(i)

The suspension, expiration, or forfeiture of a license issued by the Department shall not deprive the Department of its authority to institute or continue a proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking a license or otherwise taking disciplinary action against the licensee on any such ground.