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CHAPTER 61.

 SANITARIANS

**SECTION 40‑61‑10.** Definitions.

As used in this chapter:

(1) “Board” means the South Carolina State Board of Examiners for Registered Environmental Sanitarians.

(2) “Environmental sanitarian” means a person trained and qualified to carry out educational, inspectional, and supervisory duties in environmental health and control programs and who is registered.

(3) “Environmental health and control programs” means programs for achieving and maintaining conditions to insure an environment that is conducive to health, comfort, safety, and well‑being and provides adequate protection to the public.

(4) “Certificate of registration” means a serially numbered document issued by the Board certifying that the person named therein has been duly registered by the Board as a registered sanitarian, containing the name of the person registered and the date of registration, and authenticated by the signatures as determined by the Board.

**SECTION 40‑61‑20.** State Board of Examiners for Registered Environmental Sanitarians; composition; responsibilities; removal of members; vacancies.

There is created the South Carolina State Board of Examiners for Registered Environmental Sanitarians composed of six members appointed by the Governor, one of whom is the executive officer of the Department of Health and Environmental Control or his designee, three environmental sanitarians who are qualified by education and experience to be registered environmental sanitarians, and two public members who are not environmental sanitarians or do not have any pecuniary interests in any entity engaged in the business of environmental sanitarians. All members of the Board must be residents of the State and serve for terms of four years and until their successors are appointed and qualify. Members of the Board are eligible for reappointment but cannot serve more than two consecutive terms.

The Board is responsible for examining applicants for registered environmental sanitarians, investigating complaints, and investigating and prosecuting violations of this chapter.

The Board may promulgate regulations to carry out the provisions of this chapter.

The Governor may remove any member of the Board who has been guilty of continued neglect of his duties or who is found to be incompetent, unprofessional, or dishonorable. No member must be removed without first giving him an opportunity to refute the charges filed against him. He must be given a copy of the charges at the time they are filed.

Vacancies on the Board are filled in the same manner as the original appointment for the unexpired portion of the term.

**SECTION 40‑61‑30.** Qualification of Board members; Board meetings; register of applications for certification; allowances to Board members.

The members of the Board shall qualify by taking an oath of office before a notary public or other officer authorized to administer oaths in this State.

The Board shall meet at least once each year and at such other times as its bylaws provide. A quorum for the meetings consists of four members. At its initial meeting the Board shall elect from its membership a chairman, a vice‑chairman, and a secretary to serve for one‑year terms. The Board may adopt bylaws and rules of procedure necessary to perform its duties.

If a board member is disqualified and his absence results in the lack of a quorum or an adequate number of members to perform official functions, the Governor may deputize an individual to replace him during the period of disqualification. The deputized individual shall take the same oath as required of other members of the Board.

The Board shall have a seal and the impression thereof must be attached to all official documents issued by it.

The Board shall keep a record of its proceedings and a register of all applications for certificates of registration which shows:

(a) The name, age, and residence of each applicant.

(b) His educational and other qualifications.

(c) Whether an examination was required.

(d) Whether the applicant was rejected.

(e) Whether a certificate of registration was granted.

(f) The date of the action of the Board.

(g) Other information as may be deemed necessary by the Board.

The records of the Board are prima facie evidence of the proceedings of the Board set forth therein and a transcript thereof, duly certified by the secretary under seal, is admissible in evidence with the same force and effect as if the original were produced.

Each member may be allowed the usual mileage, per diem, and subsistence as provided by law for members of state boards, committees, and commissions for each day actually engaged in the duties of his office, including a reasonable number of days for the preparation and reviewing of examinations in addition to the time actually spent in conducting examinations.

**SECTION 40‑61‑40.** Powers of Board in connection with investigations and proceedings; desist orders and injunctions.

For the purpose of any investigation or proceeding under this chapter, the board or any person designated by it may administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any documents or records which the board considers relevant to the inquiry. In the case of contumacy by, or refusal to obey a subpoena issued to any person, an administrative law judge as provided under Article 5 of Chapter 23 of Title 1, upon application of the board may issue an order requiring the person to appear before the board or the person designated by it and produce documentary evidence and to give other evidence concerning the matter under inquiry.

Whenever the board has reason to believe that any person is violating or intends to violate any provision of this chapter, it may, in addition to all other remedies, order the person to immediately desist and refrain from such conduct. The board may apply to an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 for an injunction restraining the person from such conduct. An administrative law judge may issue ex parte a temporary injunction not to exceed ten days and upon notice and full hearing may issue any other order in the matter it deems proper. No bond is required of the board by an administrative law judge as a condition to the issuance of any injunction or order contemplated by the provisions of this section.

**SECTION 40‑61‑50.** Remission of revenues; assessment of fees; annual report.

All revenues and income from certificates, examination fees, other fees, sale of commodities, and services and income derived from any Board source or activity must be remitted to the State Treasurer as collected, when practicable, and credited to the general fund of the State. All assessments fees, or certificates must be levied in an amount sufficient to at least equal the amount appropriated in the annual general appropriation act for the Board plus any additional funds allocated by the Budget and Control Board for implementation of the state’s personnel compensation plan.

The annual report required by Act 165 of 1979 must be made by the Board in accordance with the provisions of that act.

**SECTION 40‑61‑60.** Requirements for certificate of registration.

The Board must issue a certificate of registration to all applicants who certify to the Board under oath that the applicant is a graduate with a baccalaureate degree from an accredited college or university, who has satisfactorily completed at least twelve semester hours or its equivalent of academic work in the basic natural sciences, or pass a written or oral examination as prescribed by the Board. Any person desiring to be examined by the Board must make application and pay a fee to the Board in the manner prescribed by the Board.

**SECTION 40‑61‑70.** Annual renewal of certificates.

The Board shall renew annually certificates upon payment of a fee and completion of any required continuing education courses.

**SECTION 40‑61‑80.** Complaints and proceedings against registered environmental sanitarians.

The Board shall receive complaints by any person against a registered environmental sanitarian and shall require a complaint to be submitted in written form specifying the exact charge. Upon receipt of the complaint, the chairman or his designee shall investigate the allegations in the complaint and make a report to the Board concerning his investigation. If the Board desires to proceed further, it may file a formal accusation charging the registered environmental sanitarian with a violation of a provision of this chapter. The accusation must be signed by the chairman on behalf of the Board. When the accusation is filed the Board shall set a date and place for hearing thereon and the Board must notify the accused in writing not less than thirty days prior to the hearing and a copy of the accusation must be attached to the notice. The accused may appear and show cause why his license should not be suspended or revoked.

The accused has the right to be confronted with and to cross‑examine the witnesses against him and he has the right to counsel. For the purposes of such hearing, the Board may require by subpoena the attendance of witnesses, the production of documents, may administer oaths and hear testimony, either oral or documentary, for and against the accused. In instances where a Board member has made the initial investigation or complaint, he may not sit with the Board at the hearing of the complaint.

The notice must be sent to the accused by registered mail, return receipt requested, directed to his last mailing address furnished by the Board. The post office registration receipt signed by the accused, his agent, or a responsible member of his household or office staff, or, if not accepted by the person to whom addressed, the postal authority stamp showing the notice refused is prima facie evidence of service of the notice.

All investigations and proceedings undertaken under the provisions of this chapter are confidential.

Every communication, whether oral or written, made by or on behalf of any complainant to the Board or member thereof, pursuant to this chapter, whether by way of complaint or testimony, is privileged; and no action or proceeding, civil or criminal, shall lie against any person by whom or on whose behalf the communication is made, except upon proof that the communication was made with malice.

No part of this chapter is construed as prohibiting the respondent or his legal counsel from exercising the respondent’s constitutional right of due process under the law nor to prohibit the respondent from normal access to the charges and evidence filed against him as a part of due process under the law.

**SECTION 40‑61‑90.** Revocation, suspension, or restriction of certificate; definition of misconduct.

The Board may revoke, suspend, or otherwise restrict the certificate of any registered environmental sanitarian or reprimand or otherwise discipline him when it is established that the license holder is guilty of misconduct as defined in this chapter.

Misconduct, which constitutes grounds for revocation, suspension, or restriction of a certificate or a limitation on, reprimand, or other discipline of a registered environmental sanitarian, is a satisfactory showing to the Board:

(1) That any false, fraudulent, or forged statement or document has been used, and any fraudulent, deceitful, or dishonest act has been practiced by the holder of a license or certificate in connection with any of the registration requirements.

(2) That the holder of a certificate has been convicted of a felony or any other crime involving moral turpitude. Forfeiture of a bond or a plea of nolo contendere is considered the equivalent of a conviction.

(3) That the holder of a certificate practiced environmental sanitation while under either the influence of alcohol or drugs to such a degree as to adversely affect his ability to practice environmental sanitation.

(4) That the holder of a certificate uses alcohol or drugs to such a degree as to adversely affect his ability to practice environmental sanitation.

(5) That the holder of a certificate has knowingly performed any act which substantially assists a person to practice environmental sanitation illegally.

(6) That the holder of a certificate intentionally has caused to be published or circulated directly or indirectly any fraudulent, false, or misleading statements as to the skill or methods of practice of any environmental sanitarian.

(7) That the holder of a certificate has sustained any physical or mental impairment or disability which renders further practice by him dangerous to the public.

(8) That the holder of a certificate has violated the code of ethics as adopted by the Board and published in its regulations.

(9) That the holder of a certificate has engaged in conduct that is deceptive, fraudulent, or harmful to the public.

(10) That the holder of a certificate is guilty of obtaining fees or assisting in obtaining such fees under deceptive, false, or fraudulent circumstances.

(11) That the holder of a certificate is guilty of the use of any intentionally false or fraudulent statement in any document connected with the practice of environmental sanitation.

(12) That the holder of a certificate has been found by the Board to lack the professional competence to practice environmental sanitation.

(13) That the holder of a certificate has violated any provision of this chapter regulating the practice of environmental sanitation.

(14) That the holder of a certificate has been guilty of using a solicitor or peddlers, cappers, or steerers to obtain patronage.

In addition to all other remedies and actions incorporated in this chapter, the certificate of a registered environmental sanitarian adjudged mentally incompetent by any court of proper jurisdiction is automatically suspended by the Board until he is adjudged by a court of competent jurisdiction to be mentally competent.

**SECTION 40‑61‑100.** Reciprocity with other states.

Reciprocity with those states having an act for the registration of sanitarians whose provisions are equivalent as determined by the Board may be entered into by the Board under the appropriate bylaws and rules of procedure as may be prescribed by the Board.

**SECTION 40‑61‑110.** Disciplinary action; publication and review of Board decision.

If the board is satisfied that the registered environmental sanitarian is guilty of any offense charged in the formal accusation provided for in this chapter, it must revoke, suspend, reprimand, or otherwise take any other reasonable action short of revocation or suspension, such as requiring the sanitarian to undertake additional professional training subject to the direction and supervision of the board. The board may also impose such restraint upon the sanitarian as circumstances warrant until the sanitarian demonstrates to the board adequate professional competence. In all cases where disciplinary action is taken by the board, written notice of the action must then be mailed by the secretary of the board to the accused at his last known address as provided to the board.

Any final order of the board finding that a registered environmental sanitarian is guilty of any offense charged in a formal accusation shall become public knowledge except for a final order dismissing the accusation or determining that a private reprimand is in order. All final orders which are made public must be mailed to local and state associations, and all registered environmental sanitarians with which the respondent is associated, states where the registered environmental sanitarian has a certificate as known to the board, and to any other source that the board wishes to furnish this information.

Any decision by the board to revoke, suspend, or otherwise restrict the certificate must be by majority vote and is subject to review by an administrative law judge as provided under Article 5 of Chapter 23 of Title 1 upon petition filed by the sanitarian with an administrative law judge and a copy served upon the secretary of the board within thirty days from the date of delivery of the board’s decision to the sanitarian. The review is limited to the record established by the board’s hearing.

**SECTION 40‑61‑120.** Requirement of certificate.

It is unlawful for any person to practice as a registered environmental sanitarian or represent himself as a registered environmental sanitarian unless the person has fully complied with the provisions of this chapter and has been issued a current certificate of registration.

**SECTION 40‑61‑130.** Penalties.

Any person violating the provisions of this chapter is guilty of a misdemeanor and upon conviction must be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

**SECTION 40‑61‑140.** Persons entitled to certificate without examination.

The Board must issue a certificate of registration without examination of any person who on June 30, 1983, was a registered sanitarian duly registered with the South Carolina Board of Examiners for Registered Sanitarians.

The Board must also issue a certificate of registration to any individual who is working in environmental health and control programs in the State on the effective date of this chapter who is not a registered environmental sanitarian who makes application to the Board and takes the examination prior to July 1, 1985.