

1972 S.C. Op. Atty. Gen. 72 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3270, 1972 WL 20415

Office of the Attorney General

State of South Carolina

Opinion No. 3270

March 3, 1972

***1 Re: S. C. Boards and Commissions—State Board of Nursing**

Miss Ira Dean Lane, R.N.
Executive Director
State Board of Nursing
1203 Gervais Street
Columbia, South Carolina 29201

Dear Miss Lane:

You have requested an opinion from this Office in the definition and legal effect to be given the terms ‘suspension’ and revocation as they are used in Section 56–1004 of the Code of Laws of South Carolina (1971 Cum.Supp.), providing for suspension and revocation of nursing licenses.

These terms are not defined but considered with reference to professional licenses in the case law of this State. However, they are generally defined in Black's Law Dictionary (4th Ed. 1951), and these definitions should be suitable for your purposes. Suspension is defined at p. 1616 of the Dictionary as:

A temporary step, a temporary delay, interruption, or cessation. [Hood ex rel. North Carolina Bank & Trust Co. v. Clark](#), 211 N.C. 693, 191 S.E. 732, 733.

A temporary cutting off or departing one, as from the privileges of an institution or society. [John B. Stetson University v. Hunt](#), 88 Fla. 510, 102 So. 637, 639.

‘Revocation’ is defined at p. 1484 of the Dictionary as:

The recall of some power, authority, or thing granted, or a destroyed or making void of some deed that had existence until the act of revocation made it void. [Ford v. Greenawalt](#), 292 Ill. 121, 126 N.E. 555, 556; [O'Hagan v. Kracke](#), 300 N.Y.S. 351, 361, 165 Misc. 4.

Following these definitions, the suspension of a license under Section 56–1004 is a temporary measure whereby a nurse's license is temporarily stopped from being effective for the period of time specified, regardless of whether it is a suspension for an indefinite or specific period of time. The license can of course be reinstated under the conditions specified in the suspension.

The revocation of a license under Section 56–1004 on the other hand is a permanent measure whereby a nurse's license is voided and in effect ceases to exist. As for reinstatement of a revoked license, it is generally the rule that where a statute merely confers the power to revoke a license, a board has no power to reinstate the license. 53 C.J.S. [Licenses](#) § 44e.

The Alabama Supreme Court has followed this general rule in an opinion relating to statutory authority similar to Section 56–1004 in which it was held that:

The statute clearly confers no authority on the board, either expressly or by necessary implication, to reinstate one whose certificate has been cancelled for unprofessional conduct, or to revive and restore to life a certificate so revoked and cancelled;

and, if such certificate was restored to the petitioner, it would confer no authority on him to practice as a certified public accountant. [Wright v. Aldridge](#), 219 ALa. 632, 123 So. 33 (1929).

The Alabama Court did, however, recognize the right of the revoked licensee to apply anew for a license in accordance with the provisions pertaining to all applicants for licenses.

*2 In my opinion, the ruling in the Alabama case is correct and proper and should be followed in this State. The Board should not be able to reinstate a revoked license but should be able to entertain an application for a license from any qualified person, regardless of whether or not that person has previously had a license revoked by the Board.

As a practical matter, it may not be possible for the revoked licensee to obtain a new license for the very reasons that he lost the old one. For example, the activity for which the license was revoked may establish that the person is not of good moral character and therefore not a qualified applicant for a license.

Moreover, that person has a very heavy affirmative burden of proof to carry in establishing true reformation and present good moral character.

I am of the opinion that the practice as contemplated in this State is desirable and fair to all persons practicing or hoping to practice nursing in this State, and, therefore, do not presently suggest any change in the law relative to the revocation or suspension of nursing licenses in this State.

Very truly yours,

Edwin B. Brading
Assistant Attorney General

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