

HEALTH COMMISSION OF NEW
SOUTH WALES
McKell Building,
Rawson Place,
HAYMARKET. 2000

A. 7 217-6666 Extn....5742.....
B. 3 (Mr. J. Kilkeary)
C. 10 File No: 17195
D. - Circular No: 82/10
E. -
F. 4 Issued: 11 January 1982
G. -
H. 5
I. - (Distributed in accordance with Circular Lists
J. - A,B,C,F & H)
K. -

DISCIPLINARY PROCEDURE FOR SECTION 14A EMPLOYEES
OF THE HEALTH COMMISSION.

The Commission recently had under consideration the matter of disciplinary procedures to apply to employees employed under Section 14A of the Health Commission Act, 1972.

Having regard to the Act, Regulation made pursuant to the Act and the various Industrial Awards covering 14A employees, the Commission has approved the following guidelines.

1. GENERAL

It must be appreciated that there are certain difficulties in being very prescriptive in this area. For example, some types of minor misconduct may well be serious matters if they were to be of an habitual nature or in a singular incident such as the use of bad language in front of a patient. There obviously has to be some subjectivity and judgment associated with this due to the uniqueness of each breach of discipline, but the matters quoted under the categories mentioned hereunder are to provide some basis for delegated authority in this area.

Where any doubt exists concerning the application of these procedures, the assistance of the Director or Senior Industrial Officer, Industrial Relations Division, is to be sought.

2. MINOR DISCIPLINARY MATTERS

The Commission considers the following types of misconduct are examples of which would fall under this head, but stresses that they should relate to isolated instances.

Unpunctuality;
Minor number of absences without leave;
Poor sick leave record;
Negative attitude to work;
Use of unseemly language;
Poor standard of dress;
Failure to observe normal operating instructions.

- 2 -

It is important that the offending employee be interviewed by his/her immediate supervisor and warned regarding the matter and advised that his/her services will be kept under review. The employee should be advised that his/her employment record has been noted accordingly. Examples of the level of supervision intended here is, in the case of the Ambulance Service Station Officer/Deputy Superintendent and in the Interpreter Service, the Team Leader.

If there has been no improvement by the end of the review period, the employee is to be interviewed by the person responsible for the Service in that area e.g. Ambulance Superintendent or Co-ordinator, Interpreter Service, given a written reprimand including advice that consideration may be given to further action unless there is an immediate and sustained improvement. A copy of the written reprimand is to be placed on the employee's personal file and the employee advised. It should be noted that at such an interview the employee may have an observer present. See circular 79/177 issued on 20 July 1979 and also note under serious matters of discipline of this procedure.

On further review and if the employee is still unsatisfactory, the matter is to be referred to the Regional Director, or in the case of Central District Ambulance, the State Superintendent of Ambulance Services, with a positive recommendation.

If the Regional Director/State Superintendent of Ambulance Services agrees with the recommendation he/she may adopt that recommendation provided it is within his/her delegation, or refer the matter to the Commission for determination e.g. preferring of charges. A record of the action taken is to be placed on the employee's file. Employees are not to be transferred from one place of work to another for disciplinary reasons where the transfer necessitates the employee moving his/her place of residence e.g. from one town to another, should such action be considered necessary, the Region is to refer the matter to the Commission for its consideration.

It should be noted that a supervisor may, at any time, refer a matter to a senior officer where the circumstances warrant such action.

3. SERIOUS MATTERS OF DISCIPLINE

Serious matters of discipline are those which are inconsistent with, or repugnant to the duties and responsibilities of a particular position. Examples of this are:-

- Ill-treatment of a patient;
- Abuse of patient;
- Unauthorised absence from work area;
- Damage to Commission property;
- Drinking on duty;
- Insubordination, particularly in respect to patient care or operational instructions;
- Falsification of records;
- Use of illegal drugs.

.../3

- 3 -

Where a serious breach of discipline is alleged to have occurred, the Regional Director/State Superintendent of Ambulance Services is to be notified verbally as soon as possible by the most senior employee on duty in the Region. Depending on the nature of the offence the Regional Director, Regional Superintendent or State Superintendent of Ambulance Services may suspend the employee without pay until the matter has been investigated.

All staff and others involved in the incident are to be interviewed by a senior employee e.g. Ambulance Superintendent/Co-ordinator in the presence of another senior employee. Senior staff interviewing those concerned with the incident should note that the only form of inquiry authorised by the Regulation is one conducted by the Commission (Clause 30).

Senior staff should, therefore not conduct an inquiry but should investigate each matter discreetly, expeditiously and as thoroughly as time and circumstances permit, taking care during the investigation not in any way to do, say or communicate anything which might embarrass or prejudice the Commission or the Police in any action which may be taken, or required, in relation to the matter under investigation.

When an employee is being interviewed in connection with a breach of discipline the following precedures which are set out in circular 79/177 of 20 July, 1979 are to be followed.

- Except in cases of urgency, any employee who is called for interview in connection with a breach of discipline committed by or within the knowledge of that person may have present at the interview as an observer, a union representative or an independent person. The wishes of the person being interviewed are to be sought in this regard.
- No more than two employees are to conduct such an interview on behalf of the Commission.
- Interviews should be recorded but only with the knowledge of the person interviewed. Wherever possible, interviews are to be recorded verbatim by a stenographer. Only in special circumstances, where it is necessary to conduct an interview at short notice and a stenographer is not available, is a tape recorder to be used. Should the person being interviewed not consent to the use of a tape recorder, or in any other circumstance where a verbatim record is not possible, every effort should be made to record the interview to the best of the interviewing officer's ability.
- The person interviewed is to be requested to read and sign a copy of the record of the interview but should he/she decline to do so, no further action is to be taken in this regard other than to record the request and the refusal.

.../4

- 4 -

- All persons interviewed should be given a copy of the record of their interview at the completion of the initial investigation.
- Where any uncertainty exists as to the appropriate procedures to be followed in any particular case, the advice of the Director or Senior Industrial Officer, Industrial Relations Division, should be sought by telephone.

If after completing the investigation a recommendation is made to the Commission to charge the employee with a breach of discipline under Clause 29, all available information including records of interview and a full report of the matter is to be forwarded to the Commission forthwith, so that no undue delay will be experienced in reaching a decision and, if approved, charge the employee within 14 days of suspension.

4. DISMISSAL

Where in the opinion of the Regional Director a breach of discipline is of so serious a nature as to warrant instant dismissal, the Regional Director may dismiss an employee with less than three (3) years service in accordance with the relevant award. In respect of Central District Ambulance, this authority lies with the State Superintendent of Ambulance Services. Where the employee has completed three (3) years service the matter is to be referred to the Commission for determination.

If any doubt exists the advice of the Director or Senior Industrial Officer, Industrial Relations Division, is to be sought.

5. MATTERS UNDER CLAUSE 21 OF THE REGULATION

This Clause provides that if any employee is charged before any court with or is convicted of, any criminal or quasi-criminal offence, whether punishable by summary conviction or not, the fact shall be immediately reported by such employee or his/her supervisor where the supervisor has knowledge of the offence and has reason to believe that such offence has not been reported. It should be noted that the Clause does not apply to certain offences under the Motor Traffic Act, 1909, however, where an employee has his/her driver's licence suspended or cancelled, or is disqualified from obtaining a licence to drive motor vehicles, and the suspension, cancellation or disqualification will interfere with the performance by that employee of his/her normal duties that fact shall be immediately reported to the Commission.

The Regional Director/State Superintendent of Ambulance Services is to advise the Commission, immediately he/she becomes aware of such an offence. The following information is required:-

- (a) Full name of employee
- (b) Service details
- (c) Details of offence
- (d) Name of Court where offence heard
- (e) Court Decision
- (f) Report on conduct and services of employee.

.../ 5

- 5 -

6. CASES INVOLVING CRIMINAL OFFENCES

For example stealing of Commission property or misappropriation of funds.

Where there is good reason to believe that an offence under the criminal law has been committed by an employee, the matter should be brought to the notice of the Police without delay for investigation and subsequent action, if warranted, by the Police.

Cases involving Commission property or funds are to be brought to the notice of the Auditor General.

In such cases, a senior employee nominated by the Regional Director/State Superintendent of Ambulance Services should merely interview the persons making the complaint and examine the matter generally, sufficient to satisfy himself/herself that it is a proper case for thorough Police investigations, and then forthwith have the matter reported to the Police for necessary action. He/she should then forthwith forward a report to the Regional Director/State Superintendent of Ambulance Services setting out the result of his/her examination and all action taken by him/her in the matter.

In such cases and where charges have already been preferred by the Police against an employee, senior staff will not take detailed statement from any material witness. On receipt of the report from the Police Department, the Commission will determine whether the employee should be suspended from duty and dealt with in accordance with Clause 29 of the Regulation.

K.R. BROWN,
Secretary.

