



Ohio Administrative Code

Rule 4723-16-07 Evidence or factors to be considered by the board.

Effective: February 1, 2020

(A) The board, board hearing committee or hearing examiner shall admit evidence of any prior action taken by the board against respondent. The evidence shall include a copy of the board adjudication order, including all records incorporated within the order, and the notice of opportunity for hearing, or a copy of any consent agreement entered between the board and respondent, including all records incorporated within the consent agreement. The board, board hearing committee or hearing examiner may admit other records related to prior board action against respondent if the evidence offered is:

- (1) To prove notice to respondent that particular conduct was unacceptable;
- (2) To prove a continuing problem justifying harsher discipline than might otherwise be warranted in the case;
- (3) To demonstrate respondent's disregard for compliance with the laws regulating the practice of nursing or for the actions of the board; or
- (4) For purposes of impeachment.

(B) When making a decision regarding disciplinary action, the board shall consider:

- (1) Prior action taken by the board against respondent;
- (2) Respondent's prior completion of the alternative program for substance use disorder, as set forth in paragraph (C) of rule 4723-6-04 of the Administrative Code, or prior completion of the practice intervention and improvement program, as set forth in paragraph (E) of rule 4723-18-09 of the Administrative Code.

(C) When making a decision regarding disciplinary action, the board may consider factors



including, but not limited to, the following:

- (1) Whether the act is willful, intentional, irresponsible, or unintentional;
- (2) Whether the respondent failed to cooperate with the board investigation;
- (3) Whether the respondent provided false, misleading or deceptive information to the board or board staff;
- (4) The frequency of occurrence of the act at issue;
- (5) Whether the act represents a pattern of commissions or omissions;
- (6) The outcome of the actions of a licensee or certificate holder; or
- (7) The level of harm or potential harm to a patient.