

74-1711. Investigations; subpoena power; petition to revoke, limit or modify subpoena; district court jurisdiction. (a) In connection with any investigation, based upon a complaint or other reasonably reliable information received by the state board of mortuary arts, the board or its duly authorized agent or employee may issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses, to compel the production of any physical evidence for examination or copying or to compel the taking of the deposition of witnesses, residing within or outside of the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts, if such evidence relates to practices which may be grounds for disciplinary action.

(b) Within five days after the service of the subpoena or subpoena duces tecum on any person requiring the production of any evidence in the person's possession or under such person's control, such person may petition the state board of mortuary arts to revoke, limit or modify such subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced.

(c) Upon application by the state board of mortuary arts or by the person subpoenaed, the district court shall have jurisdiction to issue an order:

(1) Requiring such person to appear before the board or a duly authorized agent of the board to produce evidence relating to the matter under investigation; or

(2) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

History: L. 2004, ch. 57, § 2; July 1.