

COMPLAINT PROCEDURES

The Board's procedures for handling complaints are governed by its statute, regulations on hearing procedures and other applicable Maryland laws such as the Administrative Procedures Act and the Public Information Act. As we often receive inquiries concerning these procedures, the following summary explains the Board's procedures for handling complaints.

Section 5-311 of the Board's statute lists the violations with which a practitioner may be charged, and indicates that such a violation may result in the denial of a license the issuance of a formal reprimand, or the suspension or revocation of a license.

Unlicensed Individuals

Once the Board receives a complaint, the Board first determines whether it has jurisdiction to investigate the complaint. If the individual is not a licensed dietitian or nutritionist, the Board may ask the Office of the Attorney General to refer the complaint for prosecution by the State's Attorney in the locality where the accused individual lives, provided that the individual appears to have been either practicing illegally or has misrepresented himself or herself as a licensed practitioner. In some circumstances, the Board may choose to write a letter to the accused individual, asking that he or she cease or desist from the illegal activity.

Licensed Practitioners

If the accused individual is a licensed practitioner, the Board will determine whether the complaint alleges that the individual committed any of the acts enumerated in Section 5-311. The Board reviews the complaint and determines if further information is needed. If so, the complaint is referred to the Board's investigator.

The investigator then interviews all relevant parties, including both the complainant and the practitioner, and subpoenas all necessary records and documents.

Decision

When the investigation is complete, the investigator submits a factual report to the Board. The Board reviews the investigative report to determine if there is probable cause to charge the licensee, that is, whether the facts reported give reason to believe that the individual has committed one of the acts described in Section 5-311. The Board may decide not to charge the individual, to informally sanction him or her, or to charge the individual with violating the Act.

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Hearing

If the Board requests an informal meeting with the practitioner or decides to charge the practitioner, the details of the complaint are made available to the practitioner or his or her attorney. If the Board does charge the individual, he or she is notified of the charges and a hearing is scheduled, as provided in Section 5-312 of the Act. If a hearing is held, the Board will hear all relevant testimony. It is only after such a hearing that the Board may take formal action against the individual. If action is taken against the practitioner, the practitioner has the right to appeal the Board's decision, as provided in Section 5-313 of the Act. The complainant has no right to appeal the Board's action in any case.

It is important to emphasize that the fact that the Board brings formal charges against a practitioner reflects only its belief that there is probable cause to believe that the individual has committed a violation under the Act. The Board's final decision is based only on the evidence presented by both sides during the hearing procedure.

Prehearing Conference

Prior to holding an evidentiary hearing, the Board usually holds a pre-hearing conference. At this time, there is an opportunity for the practitioner and the Board to settle the case by means of a consent order. That is, the Board and the practitioner may mutually agree on certain penalties. For example, depending upon the circumstances, a practitioner may agree to provide financial restitution, fulfill certain educational requirements, engage in supervised or limited practice, or fulfill one or more additional requirements relevant to the situation. In such cases, a formal hearing would not be held, but the practitioner would be bound by the consent order and would surrender his or her right to appeal the case.

Whether a case is settled through a formal hearing or by consent order, it is advisable for the accused individual to retain legal counsel. It should also be emphasized that careful adherence to all the procedures outlined above normally takes some months time. When a final determination is made, the Board notifies the complainant and the licensee.

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