

A PRACTITIONER'S GUIDE TO THE DEPARTMENT OF PUBLIC HEALTH'S LICENSURE INVESTIGATION AND DISCIPLINARY PROCESS

The prosecution of a case by the Department of Public Health can be a lengthy and complex process. The following information is intended to provide an individual subject to an investigation with a general overview of the process. Please note that each case is unique and a practitioner should consider consultation with an attorney throughout the investigative and disciplinary process.

THE COMPLAINT

The process starts with a complaint. Complaints may allege that a licensee has engaged in illegal, incompetent or negligent professional practice or suffers from a condition that may interfere with safe practice. In such cases, the licensee is referred to as a respondent. The Department may receive complaints from a variety of sources, including:

- a person affected by the respondent such as a patient;
- an institution such as a hospital;
- a peer or work supervisor;
- referrals from other units within the Department of Public Health;
- notice in the media, television, newspaper, etc.;
- settlement of a civil suit;
- notification from other state agencies, such as the Department of Consumer Protection or Department of Social Services;
- notification from licensing agencies for other states.

In accordance with Connecticut General Statutes §19a-14, the Department of Public Health, Practitioner Licensing and Investigations Section, investigates such complaints. However, the filing of a complaint and initiation of an investigation does not necessarily mean that a respondent has committed any wrongdoing.

THE INVESTIGATION AND YOUR ROLE AS A RESPONDENT

During an investigation, a Department investigator may request copies of medical records pertinent to the care and services provided by the respondent and may contact other individuals in order to gather factual information relating to the complaint. *See* Conn. Gen. Stat. §19a-14(a)(10).

The investigator will also request a statement from the respondent detailing his or her response to the allegations raised in the complaint.

The Department may ask professionals practicing in the same medical field and/or specialty as the respondent to review the case. These professionals are referred to as consultants. At times, the use of consultants may cause a delay in the investigation due to the consultant's busy schedule at his/her own practice, as well as his/her careful review of the documentation related to the case. Consultants are utilized to determine whether the respondent's alleged conduct failed to conform to the standard of care to be expected of a reasonably prudent practitioner practicing under similar circumstances. If a consultant reviews the case and provides an opinion, the respondent has an opportunity to provide a rebuttal response to the opinion. The rebuttal is reviewed by the consultant to determine whether or not it changes his/her original opinion.

The investigation may take only few weeks or longer than a year to complete. The length of time of the investigation depends on a variety of factors, including the details and complexity of the case. The average length of time to conclude an investigation is approximately six months.

After the investigation is complete, the Department evaluates the investigative findings to assess whether there is sufficient evidence to further pursue the matter for deviations from professional standards of practice and licensure discipline. If not, the Department notifies the respondent that the case has been dismissed. If there is sufficient evidence to further pursue the matter, the case is referred to the Department's Office of Legal Compliance for formal disciplinary proceedings.

THE DISCIPLINARY PROCESS

Once the Office of Legal Compliance assumes review of the case, a Department attorney is assigned to the matter. The Department's attorney further evaluates the evidence and is responsible for preparing the case for a formal disciplinary hearing. The attorney prosecutes the case on behalf of the Department.

As discussed below, not all cases result in a formal administrative hearing before a professional Board or Commission (such as the Connecticut Medical Examining Board, State Dental Commission, Board of Examiners for Nursing, etc.) or Hearing Officer. A majority of cases that proceed to final disciplinary action are resolved through settlements (called consent orders). Other resolutions, such as a suspension or surrender of a license, may be considered under certain circumstances.

- ***THE COMPLIANCE CONFERENCE***

Absent circumstances where the practitioner may represent a clear and immediate danger to the public health and safety if allowed to continue to practice (requiring emergency action to protect the public health, safety or welfare), the Department will give written notice to the respondent of the facts or conduct which may warrant disciplinary action and provide the respondent with an opportunity to show compliance with all lawful requirements for the retention of the license

(commonly referred to as a “compliance conference”). *See* Conn. Gen. Stat. §4-182. Respondents are encouraged to attend the compliance conference and may be accompanied by an attorney.

- ***THE STATEMENT OF CHARGES AND ADMINISTRATIVE HEARING***

Subsequent to a compliance conference, and absent the dismissal of the complaint, a formal Statement of Charges may be issued. A Statement of Charges is the document that contains the Department’s formal allegations against a respondent and is filed with the professional licensing board overseeing the profession or Public Health Hearing Office (a separate legal division within the agency).

A professional licensing Board, appointed Hearing Panelists or Hearing Officer will adjudicate the case at hearing. Hearings are conducted pursuant to the Uniform Administrative Procedures Act, Conn. Gen. Stat. §4-166 *et seq.*

After a formal administrative hearing, the Board or Hearing Officer issues a formal Memorandum of Decision with findings of fact, conclusions of law and, if applicable, any disciplinary remedies. Licensure discipline may include a variety of disciplinary measures, such as: a reprimand; civil penalties of up to twenty-five thousand dollars per occurrence; practice restrictions; licensure probation with various requirements including practice supervision or continuing professional education and, in certain cases, suspension or revocation of the license. *See* Conn. Gen. Stat. §19a-17(a).

- ***CASE SETTLEMENT PRIOR TO HEARING***

Prior to a hearing, a settlement may be reached in the form of a consent order. The length of time to negotiate a consent order varies depending on the complexities of a case and nature of evidence presented.

If a professional Board oversees a given healthcare profession (*e.g.*, Medical Board, Dental Commission, Nursing Board, etc.) that Board must approve and order any final settlement agreement. The Board may reject the settlement agreement and propose an alternate resolution, which would need to be re-negotiated by the Department and respondent. The case may proceed to an administrative hearing if the Board does not ultimately approve a settlement agreement.

All final disciplinary actions are deemed public documents.



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