

## Article - Health Occupations

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§14-401.1.

(a) (1) The Board shall perform any necessary preliminary investigation regarding an allegation of grounds for disciplinary or other action brought to the Board's attention before the allegation is assigned to a disciplinary panel.

(2) (i) After the completion of any necessary preliminary investigation under paragraph (1) of this subsection, a complaint shall be assigned to a disciplinary panel.

(ii) Subject to the provisions of this section, a disciplinary panel:

1. Shall determine the final disposition of a complaint against a physician or an allied health professional; and

2. Has the independent authority to make a determination regarding the final disposition of a complaint.

(iii) The Board may not vote to approve or disapprove any action taken by a disciplinary panel, including the final disposition of a complaint.

(3) A disciplinary panel that is assigned a complaint under paragraph (2)(i) of this subsection may:

(i) Conduct any additional investigation into a complaint that is deemed necessary to determine whether a violation of this title or Title 15 of this article has occurred; and

(ii) Enter into a consent order with a physician or an allied health professional after conducting a meeting between the disciplinary panel and the physician or allied health professional to discuss any proposed disposition of the complaint.

(4) A disciplinary panel that is assigned a complaint against an allied health professional under paragraph (2)(i) of this subsection shall consult with the chair of the appropriate allied health advisory committee, or the chair's designee, before taking disciplinary action against the allied health professional.

(5) (i) If a complaint proceeds to a hearing under § 14-405 of this subtitle, § 14-5A-17, § 14-5B-14, § 14-5C-17, § 14-5D-15, or § 14-5E-16 of this title, or § 15-315 of this article, the chair of the disciplinary panel that was assigned the complaint under paragraph (2)(i) of this subsection shall refer the complaint to the other disciplinary panel.

(ii) If the complaint proceeds to a hearing and is referred to the other

disciplinary panel under subparagraph (i) of this paragraph, the disciplinary panel that was assigned the complaint under paragraph (2)(i) of this subsection, or any of its members, may not:

1. Continue to handle the complaint;
2. Participate in any disciplinary proceedings regarding the complaint; or
3. Determine the final disposition of the complaint.

(b) If an allegation of grounds for disciplinary or other action is made by a patient or a family member of a patient based on § 14–404(a)(22) of this subtitle and a full investigation results from that allegation, the full investigation shall include an offer of an interview with the patient or a family member of the patient who was present on or about the time that the incident that gave rise to the allegation occurred.

(c) (1) Except as otherwise provided in this subsection, after being assigned a complaint under subsection (a) of this section, the disciplinary panel may:

(i) Refer an allegation for further investigation to the entity that has contracted with the Board under subsection (e) of this section;

(ii) Take any appropriate and immediate action as necessary; or

(iii) Come to an agreement for corrective action with a licensee pursuant to paragraph (4) of this subsection.

(2) (i) After being assigned a complaint, the disciplinary panel shall refer any allegation in the complaint based on § 14–404(a)(22) of this subtitle to the entity or entities that have contracted with the Board under subsection (e) of this section for further investigation and physician peer review within the involved medical specialty or specialties.

(ii) A disciplinary panel shall obtain two peer review reports from the entity or individual with whom the Board contracted under subsection (e) of this section for each allegation the disciplinary panel refers for peer review.

(3) If, after being assigned a complaint, the disciplinary panel determines that an allegation involving fees for professional or ancillary services does not constitute grounds for disciplinary or other action, the disciplinary panel shall offer the complainant and the licensee an opportunity to mediate the dispute.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, if an allegation is based on § 14–404(a)(40) of this subtitle, a disciplinary panel:

1. May determine that an agreement for corrective action is warranted; and

2. Shall notify the licensee of the identified deficiencies and enter into an agreement for corrective action with the licensee as provided in this paragraph.

(ii) A disciplinary panel may not enter into an agreement for corrective action with a licensee if patient safety is an issue.

(iii) The disciplinary panel shall subsequently evaluate the licensee and shall:

1. Terminate the corrective action if the disciplinary panel is satisfied that the licensee is in compliance with the agreement for corrective action and has corrected the deficiencies; or

2. Pursue disciplinary action under § 14–404 of this subtitle if the deficiencies persist or the licensee has failed to comply with the agreement for corrective action.

(iv) An agreement for corrective action under this paragraph may not be made public or considered a disciplinary action under this title.

(v) The Board shall provide a summary of each disciplinary panel's corrective action agreements in the executive director's report of Board activities.

(d) County medical societies shall refer to the Board all complaints that set forth allegations of grounds for disciplinary action under § 14–404 of this subtitle.

(e) (1) In accordance with subsection (f) of this section, the Board shall enter into a written contract with an entity or individual for confidential physician peer review of allegations based on § 14–404(a)(22) of this subtitle.

(2) A peer reviewer shall:

(i) Be board certified;

(ii) Have special qualifications to judge the matter at hand;

(iii) Have received a specified amount of medical experience and training;

(iv) Have no formal actions against the peer reviewer's own license;

(v) Receive training in peer review;

(vi) Have a standard format for peer review reports; and

(vii) To the extent practicable, be licensed and engaged in the practice of medicine in the State.

(3) The Board may consult with the appropriate specialty health care provider societies in the State to obtain a list of physicians qualified to provide peer review services.

(4) For purposes of peer review, the Board may use sole source procurement under § 13–107 of the State Finance and Procurement Article.

(5) The hearing of charges may not be stayed or challenged because of the selection of peer reviewers under this subsection before the filing of charges.

(f) (1) The entity or individual peer reviewer with which the Board contracts under subsection (e) of this section shall have 90 days for completion of peer review.

(2) The entity or individual peer reviewer may apply to the Board for an extension of up to 30 days to the time limit imposed under paragraph (1) of this subsection.

(3) If an extension is not granted, and 90 days have elapsed, the Board may contract with any other entity or individual who meets the requirements of subsection (e)(2) of this section for the services of peer review.

(4) If an extension has been granted, and 120 days have elapsed, the Board may contract with any other entity or individual who meets the requirements of subsection (e)(2) of this section for the services of peer review.

(g) The Board shall issue a request for proposals and enter into a written contract with a nonprofit entity to provide rehabilitation services for physicians or other allied health professionals directed by the Board to receive rehabilitation services.

(h) (1) To facilitate the investigation and prosecution of disciplinary matters and the mediation of fee disputes coming before it, the Board may contract with an entity or entities for the purchase of investigatory, mediation, and related services.

(2) Services that may be contracted for under this subsection include the services of:

- (i) Investigators;
- (ii) Attorneys;
- (iii) Accountants;
- (iv) Expert witnesses;
- (v) Consultants; and
- (vi) Mediators.

(i) The Board or a disciplinary panel may issue subpoenas and administer oaths in connection with any investigation under this section and any hearing or proceeding before it.

(j) Those individuals not licensed under this title but covered under § 14–413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of § 14–405 of this subtitle.

(k) (1) It is the intent of this section that the disposition of every complaint against a licensee that sets forth allegations of grounds for disciplinary action filed with the Board shall be completed as expeditiously as possible and, in any event, within 18 months after the complaint was received by the Board.

(2) If a disciplinary panel is unable to complete the disposition of a complaint within 1 year, the Board shall include in the record of that complaint a detailed explanation of the reason for the delay.

(l) A disciplinary panel, in conducting a meeting with a physician or allied health professional to discuss the proposed disposition of a complaint, shall provide an opportunity to appear before the disciplinary panel to both the licensee who has been charged and the individual who has filed the complaint against the licensee giving rise to the charge.

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