

LAW OFFICES
SHILING, BLOCH & HIRSCH, P.A.
THE ADAMS BUILDING, SUITE 301
600 BALTIMORE AVENUE
TOWSON, MARYLAND 21204-4022

RICHARD BLOCH
Richard@SBHPA.com

DAVID J. HIRSCH
David@SBHPA.com

TELEPHONE (410) 332-0100
FACSIMILE (410) 332-0885

REUBEN SHILING
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SB 77: Health Occupations Boards -Investigations – Right to Counsel
Position: Support as Amended

Dear Chair, Vice-Chair and Members of the Committee,

I am writing to ask that the committee vote in favor of SB 77 as amended to permit the attorney representing the licensee to participate in the interview process. I have been representing the health field since becoming a member of the Bar in 1972. Since 1979, I have been General Counsel to the Maryland Psychological Association and representing mental health providers before the licensing boards. Currently, the investigative procedure before the boards is considered a civil process. The Attorney General and the Boards have stated that the licensee has no “right to counsel” during the investigation stage. That position ignores the reality of the importance of the interview for the licensee. The interview is the only opportunity for the licensee to explain, dispute, and defend against the allegations in a complaint before charges are considered by the Board. Moreover, the interview of the licensee is conducted without even the right to see the complaint. The only exception is the law requiring the Board of Examiners of Psychologists to provide a copy of the complaint within 120 days of its filing. See HO §18-206(b)(1)(i).

The result is that a licensee is required to answer questions posed solely in the discretion of the investigator and without any knowledge of the nature of the complaint. The disciplinary process has the potential for limiting or ending the right to practice, and disparaging the reputation of the licensees, all of whom having spent years in education and training to obtain their license, registration or certification. Restricting the right to counsel in the investigative process allows the Board investigator to frame questions in a manner that can be bias or imply facts and/or allegations that make the licensee make errors in response without realizing it, especially in view of the anxiety created just by being interviewed and the subject of a complaint. The presence and participation of an attorney can alleviate some of this. I therefore urge you to support SB77 as amended.

Very truly yours,

Richard Bloch

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