



Ohio State Dental Board
77 S. High Street, 17th Floor
Columbus, Ohio 43215-6135

(614) 466-2580 Tel
(614) 752-8995 Fax
Dental.Ohio.Gov

Disciplinary Process

If the evidence is sufficient, the case will be prepared for hearing and formal charges will be drafted, with the assistance of the Board's assigned Assistant Attorney General from the Ohio Attorney General's Office. The notice of formal charges is often referred to as a citation letter. Once the charges are drafted, the notice/citation letter is reviewed in final form by the Board Secretary and Assistant Attorney General. The citation letter is then submitted to the full Board at the next meeting, and the Board votes as to whether to letter should be sent. When the Board votes on these matters, the letter does not contain the name on the individual charged; rather, the case number is used. If the Board votes to send the letter, the name and address will then be inserted when the mailing occurs.

After the members of the Board vote to issue formal charges against a licensee, the citation letter will be sent to the licensee. The letter gives written notice of the charges and provides the licensee with the opportunity to request an administrative hearing. The following information is also included in the mailing of the citation letter:

UNDERSTANDING THE OHIO STATE DENTAL BOARD'S HEARING PROCESS

You have received a letter from the Ohio State Dental Board (Board) telling you that you are entitled to a hearing regarding the matters outlined in the letter. The information contained herein addresses some questions that are commonly asked by others faced with the prospect of a Dental Board hearing. It is designed to assist you in understanding your rights and what you can expect in relation to the Dental Board's hearing process.

SHOULD I REQUEST A HEARING?

Whether or not you decide to request a hearing is up to you, but there are things you may want to consider before you decide. In fact, you may want to consult with an attorney before deciding. Whatever you do, though, don't accidentally miss the time limit set by law for requesting a hearing. If you do not timely request a hearing, the Board will not have a chance to hear your side of the story before making a decision. Instead, the Board will enter an Order based on its view of the allegations as stated in the Board's notice of opportunity for hearing (notice letter).

DO I NEED AN ATTORNEY?

You are not required to have an attorney, but you probably should have one or at least consult with one if you have questions about how to present your position at hearing. Dental Board hearings are fairly formal. Depending on the nature and complexity of the allegations stated in the Board's notice letter, you may want to have a representative who is used to cross-examining witnesses, interpreting provisions of law, and organizing presentations. A lawyer from the Ohio Attorney General's Office will represent the State in this adversarial hearing. If you decide to represent yourself at hearing, you should become familiar with the provisions of law that are applicable to your situation, as identified in the Board's notice letter. If you decide to have a lawyer represent you, that lawyer must be licensed to practice law in Ohio.

SHOULD MY ATTORNEY OR I CONTACT A BOARD MEMBER?

Once the Board has sent you a notice letter, the Board Members are not free to discuss your case with you. In order to assure due process of law, your only avenue for telling the Board your side of the situation is through the hearing process. At the hearing, you will be able to present testimony and evidence for the Board Members' review. The Board Members who will be making the final decision about your situation can consider only information that is presented through the hearing process. So, even if you know a Board Member personally, don't discuss your case with

him or her. The result could be that the Board Member you talk to will be disqualified from participating in the final decision-making on your case.

CAN MY CASE BE SETTLED WITHOUT A HEARING?

The Board Secretary, who is not a voting member in your case, may negotiate a settlement agreement on behalf of the Dental Board. Neither you nor your attorney should contact the Board Secretary directly. If you are willing to admit to the allegations and to negotiate an agreed sanction, you or your attorney should contact the Board's legal representative from the Attorney General's Office to discuss the possibility of settlement. You should still submit a timely request for hearing, though. That way, if settlement is not achieved, you will still have an opportunity to present your side of the situation for review by the full Board. Once a hearing is scheduled, it will not be continued or postponed for purposes of settlement negotiation, so it is important to contact the Board's legal representative promptly if you are interested in settling.

DO I HAVE TO BE AT THE HEARING?

Unless you are subpoenaed by the State, you are not required to attend the hearing. You can submit your contentions in writing or have your attorney appear for you. You may want to appear personally, though. Sometimes you could be the best person to present your position to the Board, especially if your dental care is at issue. The Board will always be interested in what you have to say about the allegations. It is up to you and/or your attorney to decide what is the best way to present your case.

WHAT ARE HEARINGS LIKE?

Hearings are relatively formal proceedings. They are also public proceedings, which means that interested members of the public may attend. Your hearing will either be before the full Board or before an Attorney Hearing Examiner presiding at the hearing. A court reporter is present to record and transcribe the entire proceeding. If the case is before a hearing examiner, the Board Members will later receive and review the complete transcript of the proceeding, as well as copies of all documents that are admitted as exhibits at the hearing. The State is represented at the hearing by an Assistant Attorney General (AAG) from the Attorney General's Office. The AAG is entitled to present witnesses and documents to support the Board's allegations. The State is required to present reliable, probative and substantial evidence to prove the allegations. You or your attorney are given the opportunity to cross-examine any witnesses presented by the State and to state for the record any objections you may have to the documents the State presents. The State may call you as a witness and cross-examine you as part of its case. After the State presents its case, you are entitled to present your case. The AAG may cross-examine any witness you call, and object to documents you present as evidence. Either the Board President or the Attorney Hearing Examiner will rule on any motions that are made throughout the proceeding, and Board Members are permitted to ask questions during the hearing.

WHAT HAPPENS AFTER THE HEARING?

If your case is presented to the full Board, once the hearing is over, the Board will go into executive session to deliberate and discuss the evidence presented. The Board will then go back on the record with its decision. You will also receive the Board's Order in writing shortly thereafter. If your case is presented to a Hearing Examiner, once the hearing is over, the Hearing Examiner will prepare a Report and Recommendation to the Board, outlining his/her findings, conclusions and proposed recommendation in the case. You and your attorney will receive a copy of this Report and Recommendation in the mail. You will be given an opportunity to submit objections to the Report and Recommendation, and your case will then be considered by the full Board at their next meeting. The letter sent with the report will outline how to respond should you choose to do so, and when the matter will be considered by the Board. The Board can accept, reject or modify the recommendations of the Hearing Examiner in its final decision. You and your attorney will receive a copy of the Board's Order in the mail.

WHO ARE THE BOARD MEMBERS?

The Ohio State Dental Board is composed of thirteen (13) members who are appointed for four (4) year terms by the Governor with the advice and consent of the Ohio Senate. Of the thirteen members, nine are licensed dentists, three are registered dental hygienists, and one is a consumer member. One member serves as the Board Secretary, and because of this member's involvement in the investigation, he/she does not vote in the case. You may contact the Dental Board office for a listing of the current Board Members. Remember, though, neither you nor your attorney, nor anyone on your behalf is permitted to contact any Board Member about your case.

WHAT IF I DON'T AGREE WITH THE BOARD'S DECISION?

Once the Board has issued its final Adjudication Order, you can appeal the decision to the court of common pleas in the county where you reside or practice. If you do not live or work in Ohio, you can appeal to the Franklin County Court of Common Pleas. You will be mailed a copy of the Board's final Order. It will arrive with a letter telling you about your fifteen (15) day time limit for filing an appeal with the Board and the court. Once you timely file notices of appeal, the Board is required to send a certified copy of the Board's hearing record to the court within thirty (30) days.

If a request for a hearing is made, the licensee receives the following information with the letter acknowledging the request and scheduling the hearing:

THE OHIO STATE DENTAL BOARD'S ADMINISTRATIVE HEARING PROCEDURES

You have requested an administrative hearing pursuant to the notice of opportunity sent to you by the Ohio State Dental Board. Please adhere to the following procedures during the remainder of this process.

SETTLEMENT NEGOTIATIONS

The Board Secretary is permitted to negotiate settlement on behalf of the Board. If you are interested in settlement, you, or your attorney if you are represented, is to contact the Board's legal representative at the Attorney General's Office:

Katherine Bockbrader, Esq.
Assistant Attorney General
Health and Human Services Section
30 East Broad Street, 26th Floor
Columbus, Ohio 43215
Phone: (614) 466-8600
Fax: (614) 466-6090

Please be advised that all consent agreements must be finalized no later than three business days prior to the date scheduled for hearing. If this cannot be accomplished, the hearing will go forward.

MOTIONS

All motions and/or responses are to be filed with the Ohio State Dental Board, with a copy sent to the Assistant Attorney General. If the case will be heard by the full Board, or if a Hearing Examiner has not yet been assigned to the case, the Board Secretary will rule on the motion. If a Hearing Examiner has been assigned to the case, the motion will be forwarded to the Hearing Examiner for ruling. All rulings are filed with the Dental Board, and copies will be sent to all parties or their counsel.

SUBPOENAS

All requests for issuance of hearing subpoenas shall be filed with the Dental Board two weeks prior to the hearing to allow service of the subpoena to be completed timely.

BOARD MEMBERS

Contact with Board Members about a case pending before it is not permitted, either by the Respondent, his/her attorney, or any person on Respondent's behalf.

The hearings are typically held before an Attorney Hearing Examiner, and the hearings are usually open to the public. The Assistant Attorney General from the Attorney General's Office represents the Board at the hearing. The licensee may be represented by an attorney, or may present his or her own case. Both sides may present evidence in the form of documents or testimony from witnesses. In some cases, the licensee will submit his or her arguments in writing instead of coming to the hearing, which is permissible. The hearing is conducted similar to civil trial, where evidence and witnesses are presented, questions and answers are given by both sides, and opening and closing statements are given by both sides.

After the hearing, the Attorney Hearing Examiner files a written report with the Board called the "Report and Recommendation," which details the evidence presented at the hearing, and recommends the discipline that should be imposed. The report is sent to the licensee and his or her attorney, and the licensee is given ten (10) days to file any objections to the report.

The Report and Recommendation, the transcript of the hearing, and the objections are then considered by the full Board at the next Board meeting. The Board can either accept, reject or modify the Report and Recommendation of the Hearing Examiner. If the licensee so requests, he or she may address the Board at the Board meeting wherein the report is being considered, and the Assistant Attorney General may respond. The Board then goes into executive session to deliberate, and once in open session, the decision is rendered. The Board then issues a final Adjudication Order which is mailed to the licensee and his or her attorney. The Report and Recommendation, the transcript of the hearing, the objections and the final Adjudication Order are all public records.

Types of Disciplinary Action that may be imposed

If the Board decides that there has been a violation of the Dental Practice Act, it may choose one of the following formal disciplinary actions:

- Reprimand of the licensee
- Put the licensee on probation under a variety of terms
- Limit/Restrict the practitioner's license (limit the types of procedures that the licensee can perform)
- Suspend the license
- Permanently revoke the license

The Dental Board may dismiss the case if it finds that no violations have occurred, or if the evidence is insufficient.

Licenses are automatically suspended if the practitioner fails to renew his or her license. Also, if a licensee is found guilty in court of certain violent crimes, the Board can automatically suspend the license.

If the Board determines that a licensee represents a clear and immediate danger to the public health and safety if allowed to continue to practice, the Board may apply to the court for an order temporarily suspending the license pending a hearing.

At any time after a complaint is filed, the Board Secretary may negotiate a resolution through a consent agreement, however, the full Board must ratify the consent agreement at a Board meeting. Further, the Board may consider a surrender, which must also be approved by the full Board.

All formal disciplinary action taken against a licensee by the Board, whether through a consent agreement or Board Order, must, by law, be reported to the National Practitioner Data Bank.

Information as to whether a licensee has been formally disciplined may be obtained by calling the Board office. Only information about formal disciplinary action is available to the public. Information about complaints filed that are pending or have been closed is not public information and may not be released.

The Board publishes a newsletter which includes a list of disciplinary actions that have been taken since the last newsletter was published. You may obtain copies of the newsletter by calling the Board office. The most recent newsletter is available on our website. Soon, you will also be able to ascertain any disciplinary action taken against a given licensee through the licensure verification process on-line. The information will be current back to 1985.

Appeal of a Board Decision

The licensee has the right to file an appeal of the Board's decision to the court of common pleas where they reside, or where their practice is located, or to the Franklin County Common Pleas Court. The licensee may also try to keep the Board's discipline from being imposed immediately and this is done by applying for a stay of the Board's order pending the outcome of the appeal.