

SOUTH CAROLINA BOARD OF DENTISTRY

POLICY / PROCEDURE

DISCIPLINARY PROCESS

Pursuant to S.C. Code Ann. Sections 40-15-180, 40-15-200, 40-1-90 and 40-1-120.

POLICY:

S.C. Code Ann. Sections 40-15-180 and 40-1-90 authorizes the Board to receive complaints, investigate the allegations of the complaint, conduct disciplinary hearings and take disciplinary action when warranted. Sections 40-15-200 and 40-1-120 authorize the Board to take disciplinary action upon findings of misconduct. Section 40-1-90 authorizes the Board to appoint hearing officers or hearing panels to conduct hearings or take action as may be necessary under this section.

At its July 15, 2005, meeting, the Board voted to revise its current disciplinary process to include a panel hearing as part of its disciplinary process.

PROCEDURE:

Initial Complaint

An initial complaint is a brief statement of alleged misconduct on the part of a dentist or dental hygienist licensed to practice in this State or a dental technician registered to perform dental technological services in this State. The initial complaint may be made by 1) any individual, firm or corporation; 2) any dental professional licensed to practice in this State, or 3) the Administrator of the Board. The initial complaint shall be signed and dated by the person making the complaint, notarized, and shall identify the subject of the complaint and contain a brief summary of the nature of the complaint. Initial complaints shall be referred to the Office of Investigation and Enforcement (OIE) which shall review the allegations and, if appropriate, conduct a preliminary investigation and prepare the results for presentation to the Investigative Review Committee (IRC) and the Board.

Administrative Initial Complaint Dismissed

If the Board finds that, upon recommendation of the IRC, the initial complaint along with the investigative findings (report) does not state facts sufficient to charge misconduct, the initial complaint shall be dismissed. The OIE shall notify the person who filed the complaint as well as the Licensee that the matter has been dismissed.

Formal Complaint

If the Board finds, upon recommendation of the IRC, that an initial complaint warrants a hearing before a hearing panel, a Formal Complaint shall be authorized. A Formal Complaint is a formal written complaint alleging misconduct on the part of a dental professional licensed to practice in this State who shall be designated as the respondent.

Formal Complaint Issued

The Office of General Counsel (OGC) shall prepare a Formal Complaint of alleged violation(s) of the Dental Practice Act. The Formal Complaint, together with a Notice, signed by the prosecuting attorney and the State Board's president or vice president, requiring that the Respondent, within 30 days, file with the Board his/her Answer to the

Formal Complaint, is to be sent to the Respondent by certified mail and a copy served upon the attorney appointed by the OGC.

Panel Hearing

After the Respondent has filed an Answer, or the time in which the Respondent was required to file such answer has expired, a panel hearing shall be held upon 30 days notice to the Respondent and/or counsel, by a panel of not less than three (3) members. In cases where the Respondent is a dentist, the panel shall consist of a minimum of two (2) dentists. In cases where the Respondent is a dental hygienist, the panel shall consist of a minimum of two (2) dental hygienists. Appointment of panel members to an individual hearing panel shall be made by the President of the Board. The President shall designate one member as the Chairman and presiding officer. A court reporter is to be present at the hearing to make a verbatim transcript of the proceedings.

Duty of the Panel

If the panel finds that the charges in the Formal Complaint are not supported by the evidence or do not merit the taking of disciplinary action, the panel shall make a certified report of the proceedings before it, including its findings of fact and recommendation, and file the report with the Administrator of the Board.

If the panel finds and determines that the Respondent is guilty of misconduct meriting a sanction, it shall make a certified report of the proceedings before it, including its findings of fact, conclusions and recommendations, and shall file the report, together with a transcript of the testimony taken and exhibits, with the Administrator of the Board.

Review by the Board

After the panel has filed its report, the Board, through its Administrator, shall give 30 days notice to the Respondent and/or counsel of the time and place at which the Board will convene to consider the report for the purpose of determining its final action. The Respondent and/or counsel shall have the right to appear before the Board at said hearing and to submit briefs and be heard in oral argument in opposition to, or in support of, the recommendations of the hearing panel.

Upon consideration of the report of the panel and of the showing made to the Board, the Board may 1) refer the matter back to the panel for further hearing; 2) order a further hearing before the said Board; or 3) proceed upon the certified report of the prior proceedings before the panel.

Duty of the Board after Review

Upon its final review, the Board may either dismiss the Formal Complaint or find that Respondent has violated the Dental Practice Act or other provision of law. If the Formal Complaint is dismissed, the Administrator of the Board shall so notify the Respondent, personally or through his counsel, and the initial complainant.

If the Board determines that the Respondent has committed misconduct meriting a sanction, it shall make a final certified report of the proceedings before it, including its findings of fact, conclusions of law, and decision of sanction. The final certified report, together with a transcript of the testimony taken and exhibits, shall be filed with the

Administrator of the Board and the Administrator shall notify the Respondent, personally or through his counsel, of such action, enclosing a copy of the Board's findings of fact, conclusions of law, and decision of sanction.

Appeal of the Board's Decision

Any action by the Board shall be subject to review by an administrative law judge upon petition for review filed by the Respondent within 30 days from the date of delivery of the Board's decision to the Respondent or counsel. The petition is filed with an administrative law judge and a copy served upon the Administrator of the Board.

Proceedings Private Until Filed.

Unless and until otherwise ordered by the Board, all proceedings and documents relating to Formal Complaints and hearings thereon and to related proceedings shall be private, unless the Respondent requests, in writing, that they be public.

Policy Amended by the Board: January 11, 2008

By: _____
H. Rion Alvey, Administrator