

256 CMR 6.00: RESERVED

256 CMR 6.00: DISCIPLINARY PROCEEDINGS

Section

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6.01: Definitions

Adjudicatory Hearing means a formal administrative hearing held by the Board conducted to determine the truth and validity of complaints filed against a licensee and conducted pursuant to M.G.L. c. 30A and 801 CMR 1.00.

Complaint means a communication regarding a licensee filed with the Board, the Office of Investigations or the Division of Professional Licensure.

Consent Agreement is a negotiated resolution of a complaint agreed upon by the Board and the licensee which may contain conditions placed by the Board on the licensee's professional conduct and practice.

Impairment means the inability or failure of a veterinarian to practice veterinary medicine with reasonable skill and safety due to abuse or excessive use of alcohol or drugs or due to mental illness or physical disability.

Investigation means a formal method of gathering facts.

Investigatory Conference is a meeting conducted as part of an investigation at which the complainant, licensee or both meet with one or more members of the Board to discuss a complaint.

Order to Show Cause means an order issued by the Board ordering the licensee to appear before the Board to respond to a specific complaint or complaints.

6.02: Grounds for Complaints

Grounds for complaints are any violations of the relevant provisions of the Massachusetts General Laws or 256 CMR *et seq.* The Board may take disciplinary action for any violation of 256 CMR 7.00: *Code of Professional Conduct*, regardless of whether the act complained of occurred in the Commonwealth.

6.03: Non-disciplinary and Disciplinary Actions

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~~(1) Non disciplinary actions which may be taken by the Board after investigation of a complaint, a formal adjudicatory hearing or a consent agreement are:~~

~~(a) Dismissal of the Complaint. The Board may determine to dismiss a complaint with or without prejudice due to lack of jurisdiction, lack of sufficient evidence, finding of no violation, withdrawal of a complaint, subsequent compliance with statutes and/or regulations or other basis.~~

~~(b) Advisory Letter. An Advisory Letter is an official written document retained in the licensee's Board file cautioning the licensee regarding specific standards of practice that must be followed. An Advisory Letter does not constitute formal disciplinary action. An Advisory Letter may carry with it certain conditions that a licensee may agree to fulfill.~~

~~(2) Disciplinary actions which may be taken by the Board after investigation of a complaint and either a formal adjudicatory hearing or a consent agreement are:~~

~~(a) Formal Reprimand. A formal reprimand is an official written rebuke expressing strong disapproval of actions of the licensee which is retained in the licensee's Board file and constitutes formal disciplinary action, but does not necessarily impose any limitation on practice.~~

~~(b) Probation. Probation is a status used whenever conditions are placed on a license and constitutes disciplinary action. Failure to comply with conditions of probation may result in imposition of further disciplinary action that may affect the status of a license.~~

~~(c) Suspension. Suspension of a license deprives a licensee of all rights and privileges of licensure for a specified period of time or until certain conditions are met which have been imposed by consent agreement or by formal decision following an adjudicatory hearing.~~

~~(d) Revocation. Revocation of a license permanently deprives a licensee of all rights and privileges of licensure and eliminates his or her license status.~~

~~(e) Stayed Suspension or Revocation. The Board may stay a suspension or revocation of a license if it find that such a disposition is warranted by the totality of circumstances of a case.~~

~~(f) Voluntary Surrender. The voluntary surrender of a license by a licensee by execution of a written agreement with the board may be permanent or for a time certain. The Voluntary Surrender Agreement shall:~~

- ~~1. be in writing and be signed by the licensee and the Board;~~
- ~~2. recite the facts upon which the Agreement is based and shall include, but not be limited to, provisions addressing reinstatement and any conditions the Board may elect to impose;~~
- ~~3. state that the licensee realizes that the voluntary surrender of his/her license is an act which deprives him/her of all privileges of licensure and is not subject to judicial review; and~~
- ~~4. be placed in the licensee's Board file as part of the licensee's permanent Board records.~~

~~(g) Disciplinary Action Against a Massachusetts Licensee Taken in Another State. Disciplinary action taken against a Massachusetts licensee by another state in which that person is also licensed may be the basis for initiation by the Board of disciplinary action against the Massachusetts licensee provided that the conduct disciplined in another jurisdiction constitutes a violation of Massachusetts law.~~

~~(3) The Board shall report all disciplinary actions to the national disciplinary database.~~

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~~6.04: Impaired Practice~~

~~(1) A veterinarian found to be in violation of the statutes governing the practice of veterinary medicine and/or the regulations of the Board due to impairment as defined in 256 CMR 6.01 may have any disciplinary action deferred. The Board may defer disciplinary action if, and only if, the licensee who is found to be impaired acknowledges his/her condition, is in treatment, is enrolled in a rehabilitation program and provides sufficient waivers to allow the Board or its agent to monitor his or her recovery.~~

~~(2) An impaired licensee may self refer to a Board approved supervised drug or alcohol counseling and testing program unless there is a complaint pending with the Board regarding that licensee. If the licensee is admitted into the program, the Board must be notified and no action will be taken regarding the licensee unless the Board is notified that the licensee has violated his or her treatment or recovery contract at which time the Board may consider disciplinary action.~~

~~(3) Following the filing of a complaint, as an alternative to discipline, the board may, by means of a consent agreement, refer an impaired licensee to a supervised drug or alcohol counseling and testing program. If the licensee is admitted into the program, the Board will be so notified and no further action will be taken regarding the complaint against the licensee unless the Board is notified that the licensee has violated his or her treatment or recovery contract. Such violation shall be treated as a violation of the consent agreement and the Board may initiate disciplinary proceedings.~~

~~REGULATORY AUTHORITY~~

~~256 CMR 6.00: M.G.L. c. 112, §§ 54, 57, 58, 58A, 59 and 60.~~