

## **Due Process Complaint Procedure**

(\*This is very general guideline. Please see your statute and rule for your respective profession and discuss with your legal counsel.)

- I. Procedure
  - A. Receipt of Complaint by Board or Internal Report
    - 1. Log in
    - 2. Acknowledgment of receipt to complainant
      - a. Matter will be reviewed by the Board
      - b. Complaint outside jurisdiction of the Board
  - B. Copy of the complaint, including any supporting documents to dentist
    - 1. Thirty (30) days to respond
    - 2. Service to last known address
    - 3. Licensee response
    - 4. Licensee's response sent to Complainant
- II. Investigation
  - A. Conduct reasonable inquiry or investigation
  - B. Determine the truth and validity of the allegation
  - C. Investigator
    - 1. Board refrain from contact with investigator or the parties involved
    - 2. Communicate in writing
    - 3. Sixty (60) days
      - a. review
      - b. investigate
      - c. report
        - i. A statement of the allegations
        - ii. A statement of fact
        - iii. Analysis of the complaint, i.e., the witnesses interviewed, description of the service provided, the records reviewed
        - iv. Findings as to the validity of the allegations, probable cause
        - v. No recommendation as to level of discipline, if any

4. Disciplinary committee
  - a. Review of the investigator's report or conduct investigation if no investigator
  - b. Make recommendations to Board
  - c. Informal Conference
    - I. Notice and statement of issues
    - ii. Admissible
    - ii. Failure to attend

### III. Probable Cause

- A. Board vote whether probable cause
- B. If no probable cause
  1. Dismissal, or
  2. Educative letter
- C. If probable cause exists
  1. Consent Decree
    - a. Agreement between Board and licensee - facts and level of discipline
    - b. Licensee waives right to a hearing and accepts the discipline
    - c. Entirely voluntary by both the Board and the licensee
    - d. Efficient and cost-effective way to resolve complaints
    - e. Public record (FOIA), or
  2. Statement of Charges and Notice of Hearing
    - a. Factual allegations, alleged violations
    - b. Thirty (30) day notice of hearing
    - c. Notice to last known address

### IV. Hearing

- A. Time and place set by Board
- B. One or more Board members or Hearing examiner
- C. Court Reporter

- D. Representation
  - 1. Board by Attorney General's Office
  - 2. Licensee may be represented by an attorney
- E. Burden of proof
- F. Witnesses and evidence
- G. Motions
- H. Record of Hearing
  - 1. Complaint
  - 2. Notice of Hearing
  - 3. All pleadings, motions, rulings, stipulations, exhibits, transcript, etc.
- I. Proposed findings and conclusions
- V. Hearing Examiner
  - A. Recommended decision to Board
  - B. Findings of fact and conclusions of law
  - C. No recommendation as to level of discipline, if any
- VI. Board
  - A. Review transcript and recommended decision
  - B. Vote to adopt or modify the recommended decision
  - C. Vote on the appropriate level of discipline
  - D. Final Order to licensee (or his/her attorney, if applicable) by certified mail
  - E. Advise licensee of thirty (30) days appeal rights to circuit court