

COMPLAINT PROCESSING SUMMARY

INTAKE & INVESTIGATION

Persons filing a complaint (“Complainant”) and persons responding to a complaint (“Respondent”) should be as thorough as possible and provide relevant information and documents as early in the process as possible.

After a complaint is received, Compliance staff review the allegations to determine whether the Board or Program has authority to decide the issue presented and whether the complaint presents allegations, which if proven true, would constitute a violation of board or program law or rule that warrants disciplinary action. If the complaint meets these thresholds, the Department will conduct an impartial, appropriate level of investigation. The Department’s investigation is impartial--it does not represent either the Complainant or Respondent.

The Compliance staff will forward a copy of the complaint to the Respondent and request a written response. The Complainant is not entitled to a copy of the response. Depending on the nature of the complaint and the information presented, a Department investigator may obtain additional written or verbal statements from witnesses. The complaint, response, and Department’s investigation are confidential.

Upon completion of the investigation, the complaint, the written response, and the Department’s investigation is submitted for review by the Screening Panel members who decide whether disciplinary action is warranted.

The Compliance staff will notify the Respondent and Complainant of the date, time, and location the Screening Panel meeting.

SCREENING PANEL MEETING

The Screening Panel meeting is closed to the public, unless all persons involved waive their right of privacy. Parties to the complaint may attend the meeting in person or by telephone by making advance arrangements with the Compliance staff. The stated beginning time of the

meeting is not necessarily the time a particular case will be heard, as there may be numerous cases on the agenda.

The Screening Panel meeting is not a hearing. No additional information will be allowed to be submitted during the meeting. Unless the Panel is considering issuance of a summary suspension order, persons attending should not expect to make statements to the Panel, present arguments, call witnesses, or provide other evidence at that time. Persons may listen to the Screening Panel’s deliberations and may be asked to provide clarification regarding any documentation they have provided.

DISMISS OR REASONABLE CAUSE

The Screening Panel will dismiss the complaint if the members have no reasonable cause to believe the Respondent violated the laws or rules in a way that warrants disciplinary action. If the Panel finds such reasonable cause, it will direct Department Legal Counsel to file a Notice of Proposed Board Action and Opportunity for Hearing to the Respondent describing the Board’s proposed action and the procedure for contesting that action. The Notice signals the beginning of a contested case and the point at which the proceeding becomes public. The “parties” in a contested case are the Department, represented by Department Legal Counsel, and the Respondent.

SUMMARY SUSPENSION ORDERS

Along with a Notice, the Screening Panel may issue an Order to summarily suspend a license pending a hearing if the public health, safety, and welfare imperatively require emergency action.

RESOLUTION OF THE CONTESTED CASE

The Respondent may either sign a Stipulation or request a contested case hearing before a Hearings Examiner from the Department of Labor and Industry Office of Administrative Hearings. Failure to do either will result in a Final Order of Default against the licensee imposing discipline as determined by the Adjudication Panel.

ADJUDICATION PANEL

The Adjudication Panel meets in an open meeting to decide whether to adopt a Stipulation, Default Order, or to accept, modify, or reject the Hearings Examiner’s Proposed Findings of Facts, Conclusions of Law and Recommended Order. The Panel’s review is limited to the administrative record and the Panel cannot receive comment on any issue related to the case. The Adjudication Panel will issue a Final Order to complete the complaint process.

JUDICIAL REVIEW

If the Adjudication Panel issues a Final Order after a hearing, the adversely affected party may seek Judicial Review of the Final Order in District Court.

UNLICENSED PRACTICE

Boards and programs have authority over unlicensed practice of the occupations and professions they regulate. Unlicensed practice complaints are subject to the same intake and investigation as complaints against licensees. Some boards have authority to pursue administrative proceedings consistent with the process described above. In addition, all boards and programs have the authority to seek an injunctive or declaratory action in response to substantiated cases of unlicensed practice or to refer such cases for criminal prosecution.

CONTACT INFORMATION

All correspondence from the Compliance-staff will contain contact information for the Compliance Specialist assigned to your case. For additional FAQs about the process, please visit <http://complaints.mt.gov> or email at dlibsdc Complaints@mt.gov.

License status and disciplinary actions against licensees are available online at:
<http://app.mt.gov/lookup/>

DEFINITIONS

Adjudication Panel – A committee of board members who did not serve on the Screening Panel regarding the same case, who issue a Final Order to resolve the administrative contested case.

Closed Meeting - During a closed meeting, only the Respondent, Complainant, and attorneys for either may attend. Minutes of closed meetings are not public documents.

Contested Case - The administrative legal process that begins after a Notice is filed entitling a person to an opportunity for a hearing.

Default - The failure by the licensee to request a hearing or participate in settlement negotiations and instead, accepts the imposition of disciplinary action.

Final Order – The final written disposition of the case by the Adjudication Panel.

Notice - A legal document which describes the factual assertions of the board or program law and rule alleged to have been violated, and information about contesting the proposed action, including right to hearing.

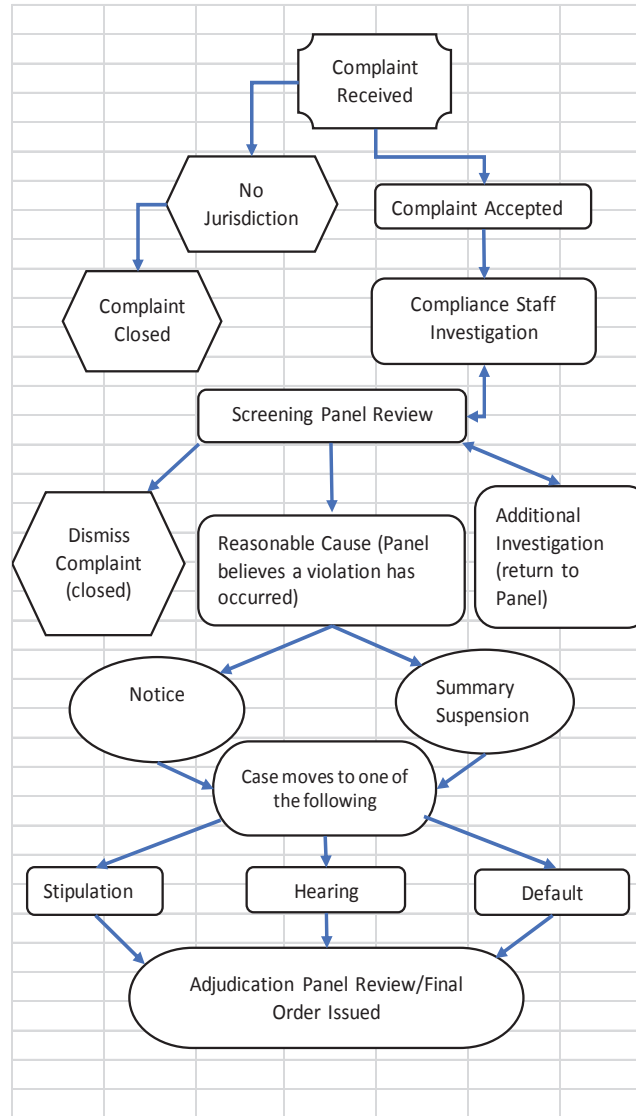
Open Meeting - A public meeting which anyone can attend. The minutes of Open meetings are public documents and made available on the Board or Program's webpage.

Reasonable Cause - A finding by the Screening Panel that evidence exists of a violation of statutes and rules which warrants proceeding with disciplinary action and begins with the filing of a Notice of Proposed Board Action.

Screening Panel: A committee of board members who review the complaint, written response, and department investigation to decide whether to dismiss a complaint or proceed with disciplinary action.

Stipulation - A tentative agreement for settlement of the case between the licensee and the department for review and final approval by the Adjudication Panel.

VISUAL OVERVIEW DISCIPLINARY PROCESS



BUSINESS STANDARDS DIVISION

COMPLIANCE OFFICE

A summary of the

COMPLAINT PROCESS

for complaints filed with
Professional and Occupational Licensing
Boards and Programs

301 S. PARK
PO BOX 200514
HELENA, MT 59620-0514

Webpage: <http://complaints.mt.gov>
e-mail: dlibscomplaints@mt.gov

Phone: (406) 841-2312
Fax: (406) 841-2363

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Note: The information provided in this brochure is of a general nature and provided for informational purposes only. This information is not to be taken as legal advice pertaining to any individual, nor as a limitation or restriction on the handling of any complaint filed with our agency. If you need legal advice, you should obtain professional legal assistance.