

At the Hearing (cont)

- There are no public telephones available at the Board Office.
- Arrive at least 15 minutes prior to the scheduled time and sign in at the front desk. If the licensee and counsel do not appear when scheduled the Board may make a summary judgment based on the exhibits provided.
- Witnesses must be present or available at the start of the hearing unless other arrival times are pre-approved by the Hearing Officer.
- The licensee may speak with counsel at any time during the hearing.
- When speaking at the hearing, speak loudly, clearly, and address the Board Members.
- Participants and audience at a hearing should **not** approach Board Members.
- Bottled water will be provided. You are responsible for arranging your own food or other refreshments, if necessary.
- Meal recesses, if necessary, will be for half an hour.
- Exhibits and testimony must be related directly to the charges.
- Avoid overlapping testimony from character witnesses.

At the Hearing (cont)

- Once the testimony phase of the hearing is closed the Board will deliberate publicly. The Board will vote on each charge. Only Board Members and the Hearing Officer may speak during this time.
- If the Board finds the licensee committed any of the alleged violations it will determine what sanctions to impose. Only Board Members and the Hearing Officer may speak during this time.
- A written decision will be approved by the Board at its next meeting and sent to all interested parties.

Questions:

- Licensees and counsel should contact Assistant Attorney General Michael Miller at (207) 626-8891.
- Complainants should contact the Consumer Assistant, Julie Best, at (207) 287-3608 or toll free in Maine (888) 365-9964

Board of Licensure in Medicine

137 State House Station, Augusta ME 04333

Phone (207) 287-3601 Fax (207) 287-6590

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<http://www.maine.gov/md>

Guide to the Adjudicatory Hearing Process



Maine Board of Licensure in Medicine

*“For the protection of the health,
safety and welfare of the public”*

<http://www.maine.gov/md>

Adjudicatory Hearing:

A complaint results in an Adjudicatory Hearing when the Board, following review of all available information, determines that there may be cause for discipline. An Adjudicatory Hearing is a public hearing (some portions may be closed to protect health care information) held and conducted according to the Administrative Procedures Act (MRSA §9051 et seq.). At the hearing:

- The Board will be presented with exhibits, as well as opening and closing statements from an Assistant Attorney General (AAG) and the licensee's attorney.
- Witnesses will be sworn in and asked questions by the AAG, the licensee's attorney, and the Board.
- After exhibits have been entered and testimony is finished, the Board will deliberate and determine if the licensee has committed the violations alleged.
- The Board is charged to make its determination based on a preponderance of the evidence; the state must prove its case by 51% of the evidence.
- If the Board finds the licensee did not commit any violations, the case will be dismissed or dismissed with a Letter of Guidance.
- If the Board finds the licensee committed one or more of the violations, it will determine what sanctions to impose.

Notification & Scheduling:

- Notification will be sent to the licensee and complainant when an Adjudicatory Hearing is ordered.
- The Board meets the second or third Tuesday of the month. Board staff will schedule the hearing at the earliest available date.
- Notification of the date will be sent once the hearing has been scheduled.

Information for Licensees:

- You are **strongly** encouraged to be represented by an attorney. As stated above, this is a legal proceeding.
- If you hire an attorney, all Board contact will be through your legal counsel.
- Do not contact Board Members directly. They cannot and will not talk about the case.

Information for Complainants:

- You are invited to attend the hearing.
- The complaint is by the State against the licensee. The AAG is the State's attorney for the case and will determine your role at the hearing.
- You will be informed by the Consumer Assistant and/or the AAG if your services are needed as a witness.

Prior to Hearing

- The AAG and licensee's attorney may negotiate a settlement called a Consent Agreement (CA). Every CA must be approved by the AAG and the Board. If approved, the CA settles the case without a hearing. A CA is disciplinary.
- Once the hearing is scheduled, a Hearing Officer will be assigned. Communication from the licensee/attorney will be with the Hearing Officer and/or the AAG.
- Exhibits will be received and ruled upon by the Hearing Officer. Each side will furnish 18 copies of their exhibits two weeks prior to the hearing.
- If a transcript is required, the attorney requesting the transcript is responsible for obtaining and paying for a court reporter. This should be coordinated through the Hearing Officer prior to the hearing.
- Teleconference witnesses should be avoided, but, if necessary, must be approved by the Hearing Officer, or by agreement of the parties, in advance of the hearing.

At the Hearing

- The Hearing Officer will run the hearing.
 - Board staff will be available to answer questions.
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