# Licenses and the Law Series, Part V: Potential Board Sanctions Against Licensees

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In this article, we explain the different actions that boards can take against licensees.

The board may take the following actions once its investigation concludes:

(1) ***Dismissal*** — The board may decide that the complaint allegations are unsubstantiated or do not amount to a violation of the board's rules and regulations, and it will, therefore, dismiss the complaint.

(2) ***Letter of Caution*** — The board could instead find that, even though the allegations are not substantiated or do not amount to a violation, they are concerning, and it will issue a letter of caution, also known as a letter of warning.

A letter of caution is a non-disciplinary letter from the board to the licensee explaining that the board has determined that there has been no violation and the matter is dismissed. However, the letter also serves to alert the licensee of the potential for a violation or to caution the licensee against certain conduct.

(3) ***Consent Agreement*** — Before holding a hearing, if the board believes the allegations are true and constitute a violation, it may offer the licensee a consent agreement to sign. "This is a contract between the licensee and the [b]oard in which the licensee admits to a violation and disciplinary terms are agreed upon."[1] Ultimately, this is simply a settlement agreement between the board and licensee; accordingly, it is negotiable, at least conceptually, if not always practically.

By signing this agreement, the licensee waives his right to a hearing and admits his guilt. Licensing boards generally have wide discretion in the terms it chooses to impose in a consent order. And if the licensee signs, these terms are binding and are made publicly available.

(4) ***Hearing Decisions*** — If none of the preceding events occur, the board will hold a hearing and determine what action to take against the licensee.

The potential decisions resulting from a hearing include:

**Unsubstantiated** — The board concludes that the allegations against the licensee are unsubstantiated or unfounded and, accordingly, takes no further action. Depending on the board, the phrase used will differ. For example, the Arkansas State Board of Nursing uses "not guilty."

**Reprimand** — The board concludes that the licensee has violated the board's rules or regulations and issues a verbal or written rebuke. Under this action, the board allows the licensee to keep his license but may order the licensee to pay fines or take continuing education or ethics courses.

**Probation** — The board concludes that the licensee has violated the board's rules or regulations. Though it allows the licensee to keep his license, it imposes certain conditions on the licensee for a set period of time. Most often, the conditions include heightened oversight, such as a reporting requirement.[2] As with reprimands, the board may order the licensee to pay fines or take continuing education or ethics courses. Failure to comply with the conditions may result in suspension or revocation.

**Suspension** — The board concludes that the licensee has violated the board's rules or regulations. It suspends the licensee's license until certain conditions are met and/or for a set period of time.

**Revocation** — Revocation of one's license is the most restrictive disciplinary action that a board can take. The revocation of one's license permanently bars that licensee from practicing in that state. Some boards provide a timeline for considering re-licensure. Others permanently bar reissuance. Some boards determine whether it will consider re-licensure, and at what time, on a case-by-case basis.

**Reporting to Authorities** — Although not a formal disciplinary process, boards can report their findings to the relevant authorities. Similarly, any adverse action is generally made publicly available so that if the licensee's violation is also criminal, the relevant authorities can access the board's findings and conclusions.

Overall, each licensing board generally has wide discretion in crafting the terms of any adverse order.

The licensee may generally appeal any adverse board decisions resulting from a hearing; we will explain more about the appeals process in a later article.

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[1]Arkansas Department of Health, Arkansas State Board of Nursing, The Disciplinary Process, https://www.healthy.arkansas.gov/images/uploads/pdf/DisciplinaryProcess.pdf. For the Arkansas State Board of Nursing, consent agreements provide that "[t]he licensee is allowed to practice under certain terms and conditions agreed upon by the Board. This action of discipline is permanently reflected on the license of the nurse. The Board also has the ability to require the nurse to pay fines, attend classes, submit reports and participate in a drug screening process." Id.

[2] For example, the Arkansas State Board of Physical Therapy has, at times, required bimonthly conferences between the violator and a board staff member. At other times, it has required the violator to meet quarterly with a supervising physical therapist to discuss ethical standards and submit a report summarizing each meeting.

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*This is the fifth article of the Mitchell Williams "Licenses and the Law" Series, which explains the process of when a licensed professional receives a complaint against his/her license. The series will be published bi-monthly for a total of 10 articles. The sixth article will publish on May 17, 2022.*

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