



OVERVIEW OF LICENSURE COMPLAINT/DISCIPLINARY PROCESS

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- 1) Anyone may file an allegation against a licensee with LARA using MiPLUS (https://www.michigan.gov/lara/0,4601,7-154-89334_72600_73836_93200-498824--,00.html).
 - a) Patient.
 - b) Employee.
 - c) State of Michigan (LARA, AG, etc.).
 - d) Insurer, Health Plan or other payer.

- 2) The allegation must allege that one or more of the grounds for discipline listed in MCL 333.16221 exist.

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3) Grounds for discipline (MCL 333.16221) include:

a) Violation of general duty.

i) Negligence.

ii) Improper delegation or supervision.

iii) Impairment of the ability to safely and competently practice.

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- b) Personal disqualifications.
 - i) Incompetence.
 - ii) Substance Abuse.
 - iii) Mental or physical inabilities preventing competent practice.
 - iv) Misdemeanor conviction.
 - v) Felony conviction.
 - vi) Lack of good moral character.
 - viii) Adverse licensure action by another state/authority.

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c) Prohibited acts.

- i) Fraud or deceit in obtaining or renewing a license.
- ii) Permitting a license/registration to be used by an unauthorized person.
- iii) Practicing outside the scope of your license.
- iv) Possessing, selling, prescribing, distributing, etc. drugs not for lawful diagnostic or therapeutic purposes.

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- d) Unprofessional Conduct.
 - i) Misrepresentations to obtain payment.
 - ii) Betrayal of professional confidence.
 - iii) Promotion of unnecessary drugs, devices, services, etc. for personal gain.
 - iv) Requirements/referrals that would violate the Stark Law.
 - v) Violations of Medical Records Access Act.
 - vi) Violations of several other Michigan laws.

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4) What is at stake?

a) Your license.

- i) Probation.
- ii) Limitation.
- iii) Suspension.
- iv) Revocation.
- v) Denial.
- vi) Restitution.
- v) Fine.
- vi) Additional continuing education.

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5) General Process.

- a) Allegation is forwarded to the board.
- b) Board determines to investigate or close the file.
- c) Investigation is conducted by LARA.
 - i. Most (approx. 75%) are closed at this stage.
- d) Administrative complaint.
- e) Resolution following:
 - i. Compliance conference (Consent Order and Stipulation).
 - ii. Administrative hearing (Recommended Findings of Fact and Conclusions of Law).

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6) The Compliance Conference.

- a) Valuable opportunity for discovery and resolution.
- b) Only opportunity for control of the outcome.
- c) Can occur prior to an administrative complaint being filed.

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7) The disciplinary subcommittee has the ultimate authority to accept or reject either a Consent Order and Stipulation or Proposed Findings of Fact and Conclusions of Law.

8) LARA may set aside a decision of the disciplinary subcommittee if it determines that it “does not protect the health, safety, and welfare of the public,” and issue a different decision. MCL 333.16216(5) – enacted 2014.

9) Following the Compliance Conference anything can and does happen.

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10) Frequently asked questions.

a) Do I have an obligation to report to LARA grounds for discipline that exist with respect to another physician or other licensee or that they are impaired?

Yes, unless you learn the facts via a physician-patient relationship, serving on a peer review committee of a professional association, hospital or other health facility.

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b) Do I have to self report criminal convictions to LARA?

Yes, within 30 days of the conviction.

c) Do I have to self report disciplinary licensing or registration taken by another state against me?

Yes, within 30 days after the action is taken.

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d) Is there a statute of limitations on grounds for discipline?

No, however if the events alleged are more than 4 years old LARA is not required to investigate.

e) Will a malpractice settlement result in a LARA investigation or a licensing sanction?

Not necessarily, only 3 settlements in a 5-year consecutive period or 1 or more totaling more than \$200,000 in a 5-year consecutive period automatically result in a LARA investigation.

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f) How long does LARA have to investigate and issue an administrative complaint, dismiss the allegation, etc.?

The statute provides for 90 days; however, this is rarely followed.

g) Is the identity of the person who filed the allegation confidential?

During the investigatory phase yes. Although it usually becomes obvious when you are asked questions, records are sought, etc.

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h) When can my license be suspended without a hearing or other process?

Upon (a) the board's determination that summary suspension is necessary to protect the public health, safety or welfare; (b) a felony conviction; (c) certain misdemeanor convictions (e.g. the illegal delivery, possession or use of drugs); or (d) use of alcohol that impairs the ability to practice safely, etc.

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i) Is disciplinary action taken against a licensee confidential?

No. MCL 333.16216 (effective January 1, 2015) requires LARA to include on its public licensing and registration website (www.michigan.gov/lara) all final decisions imposing disciplinary action including the reason for and a description of the disciplinary action.

YOUR QUESTIONS