

# Filing A PHC Complaint with BPL- FAQs

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Q: Do I have to report a colleague who may have violated the Public Health Code?

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- MCL 333.16222(1)
- A licensee or registrant who has knowledge that another licensee or registrant has committed a violation under section 16221, article 7, or article 8 or a rule promulgated under article 7 or article 8 **shall** report the conduct and the name of the subject of the report to the department.
- Failure of a licensee or registrant to make a report under this subsection **does not give rise to a civil cause of action** for damages against the licensee or registrant, but the licensee or registrant **is subject to administrative action** under sections 16221 and 16226.

Q: Will my identity remain confidential?

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- MCL 333.16222(2)
- Unless the licensee or registrant making a report under subsection (1) otherwise **agrees in writing**, the identity of the licensee or registrant making a report under subsection (1) **shall** remain confidential **unless disciplinary proceedings under this part are initiated** against the subject of the report and the licensee or registrant making the report is required to testify in the proceedings.

Q: Do I have to report a colleague who may be impaired?

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- MCL 333.16223
- . . . a licensee or registrant who has reasonable cause to believe that a licensee, registrant, or applicant is impaired **shall** report that fact to the department.
- A licensee or registrant who fails to report under this subsection is **not liable in a civil action** for damages resulting from the failure to report, but the licensee or registrant **is subject to administrative action** under sections 16221 and 16226.
- A licensee or registrant who in good faith complies with this section is **not liable for damages in a civil action or subject to prosecution in a criminal proceeding as a result of the compliance.**



# The PHC Complaint Process

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- Complaint is submitted to and reviewed by the Inspections and Investigations Division
    - *closed or authorized for investigation*
  - Complaint is investigated
    - *Closed, referred to expert, or transferred to Enforcement Division for drafting of Administrative Complaint and possible Order of Summary Suspension*
- ➔
- Enforcement Division drafts and serves Administrative Complaint and possible Order of Summary Suspension (OSS)
    - OSS can be mandatory or discretionary
- ➔
- Licensee receiving Administrative Complaint elects either
    - *A compliance conference, settlement, or formal administrative hearing*
    - *Failure to respond results in automatic sanctions imposed by a Board's Disciplinary Subcommittee (DSC) via a Final Order*
  - Licensee receiving Order of Summary Suspension and Administrative Complaint
    - *Cannot practice until matter is resolved through the administrative hearing process*



# The PHC Complaint Process- Continued

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- If the Department proposes settlement terms
  - *If Licensee agrees to terms, a Consent Order and Stipulation is drafted. After Licensee and the Department sign the document, it is forwarded to the Board's DSC for review*
  - *The DSC either approves the Consent Order and Stipulation, making it legal and binding, or rejects it and proposes a counter offer*
  - *If a settlement cannot be reached, the matter is forwarded for a formal administrative hearing*
- If the matter goes through the formal administrative hearing process
  - *Based on the issuance of an Administrative Complaint and OSS, Licensee's election, or a failure to reach a settlement*
  - *The DSC either approves the Proposal for Decision making it legal and binding, dismisses the Administrative Complaint based on the Administrative Law Judge's (ALJ) findings, or reverses the ALJ and makes its own findings of fact and conclusions of law*
- Licensee may appeal the DSC's decision to the Michigan Court of Appeals
- If no appeal, the Department monitors Licensee's compliance with further sanctions for noncompliance

