

Licenses and the Law Series, Part IV: Responding to a Complaint Against Your License



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In addition, this article was co-authored by former Attorneys Lindsey Vechik and Peyton Hildebrand.

Most licensing boards in the State of Arkansas give their licensees a chance to respond, normally in writing, to the complaint against them. Those that do, generally give a 30-day response deadline. Many boards will give licensees additional time if requested.^[1] If you are given additional time, make sure it is confirmed in writing.

Prepare to respond:

Get your file.

State licensing boards are subject to the Freedom of Information Act and have to provide licensees with all of the information that they have on file (including emails, license renewal applications, and information about any complaints filed against them) that pertain to the licensee. As a practice, our Firm generally requests that the licensing board produce the complete licensing board file, as well as any information regarding the present complaint and/or past complaints. Sometimes this information reveals the board's initial thoughts about the merit of the complaint, or it may reveal what additional information that the board believes would help it understand the allegations. Get this information before you file your response.^[2]

Collect evidence.

As we mentioned in Part II of this Series, you need to immediately start collecting evidence that supports your defense. Although most evidence will likely be used at the hearing stage, you can attach witness affidavits and documents to your response.^[3]

Be aware that the Board can investigate complaints by contacting any "witnesses" that you refer to in your response. Accordingly, be cognizant of who you are involving. Make sure anyone that you reference in your response is someone that you would genuinely want to testify on your behalf to the board.

Respond:

Remember the board is not your friend.

Again, unless you have a procedural question (such as a request for an extension to respond), do not contact the board. Anything you say to the board can be used against you. The board is not your friend; the board serves the public and operates to protect it, not you.

Respond professionally.

As the Arkansas State Medical Board has advised, “It is best to avoid inflammatory or accusatory language and becoming overly defensive. Simply relate your version of the events in question, briefly and succinctly, with as little editorial comment or unnecessary derogatory information as possible, including appropriate medical records.”^[4] This advice applies to all board responses. Maintain a neutral tone, while firmly arguing your defense.

State your credentials.

We suggest that you give the board a brief background of your credentials, including how long you have had your professional licenses, what education you obtained before getting your professional license, and a brief description of your employment/professional history. You can also attach a current resume or curriculum vitae to your response. Doing so at the outset allows you to frame yourself to the board as a valuable member of that field.

Respond thoroughly.

You may know that the complaint lacks merit, but do not assume that the board knows this. Address the complaint allegations one by one. It may be helpful to use headings throughout your response. Though your response should be as thorough as possible, keep in mind that anything in it can be used against you in later proceedings.

Some boards will provide a copy of your response to the complainant. Boards such as the Arkansas State Medical Board will even review the complainant’s rebuttal to your response and may reevaluate its initial thoughts or conclusions.

Reserve all of your arguments.

A licensee, by his response, may inadvertently waive future arguments. For instance, a licensee that fails to allege inadequacies in the procedures the board took in handling the complaint, may waive the ability to later make this argument.

Demonstrate remedial actions taken.

If you know that your conduct is such that violated one or more of your board’s rules or regulations, consider including the actions that you have taken to rehabilitate yourself and/or rectify a questionable situation. In our experience, boards have more respect for licensees who have already taken remedial steps. For example, if you are accused of having a substance abuse issue, you may want to get a substance abuse evaluation and start any recommended treatment. Or, if you are accused of having questionable billing practices, you may want to hire a firm to handle your billing so that this can no longer be called into question. Some boards have a list of factors that they will consider when imposing sanctions, including whether you have taken any steps to remedy any violations.

You must be very careful in choosing to respond this way in particular. You need to know your rules; you need to understand what constitutes a violation of the rules; and you need to be certain that your actions constituted a violation. If you incorrectly state that you have violated the rules, you will unlikely be able to prove your innocence later.

Conclude.

Finally, we suggest ending your Complaint with a strongly worded conclusion that illustrates, concisely, your defenses to the allegations in the complaint, as well as your commitment to the profession and your commitment to upholding the standards set out by the board.

Respond timely.

It is important not only to take the complaint seriously but to show that you take it seriously. Of course, you may seek an extension and should use that time if given, but do not take an extra day that you have not been given. In addition, pay careful attention to the instructions that the board provides regarding

your response. Depending on the board, your response may be deemed as received only when the board physically receives your response or when it is mailed or emailed.

Keep a copy of your response.

For your records, keep a copy of the response you send to the board.

Because all boards have various requirements and rules, it is important to hire an experienced attorney who will preserve your defenses throughout the process.

[1] If you are represented by an attorney, never contact the board yourself. Allow your attorney to make any necessary communications with the board.

[2] Again, if you have a lawyer, this is something that he/she should do for you.

[3] Although not necessary at this stage, it is preferable to have these statements notarized.

[4] Joseph M. Beck, M.D., The Board Has Received a Complaint, Arkansas State Medical Board Newsletter, Summer 2009, at 1, <http://www.armedicalboard.org/public/NewsLetter/Issue42.pdf>.

This is the fourth 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 fifth article will publish on April 26, 2022.

View the first article of the series: [Licenses and the Law Series, Part I: Overview of the Process](#)

View the second article of the series: [Licenses and the Law Series, Part II: Receiving a Complaint](#)

View the third article of the series: [Licenses and the Law Series, Part III: Who Can File a Complaint](#)

View the fourth article of the series: [Licenses and the Law Series, Part IV: Responding to a Complaint Against Your License](#)

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For more information about complaints against professional licenses, contact [Attorney Stuart Miller](#) at smiller@mwlaw.com or [Attorney Peyton Hildebrand](#) at phildebrand@mwlaw.com.