

Licenses and the Law Series, Part VII: The Hearing - Part I



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

In this article, we begin to discuss the substance of the administrative hearing before the board.

In Arkansas, administrative board hearings are open to the public. Prior to your hearing, you may want to listen in to another proceeding to make sure you understand the process and are comfortable with the procedure that is going to take place. Since the pandemic, a lot of licensing boards are providing virtual links to their hearings online. This makes the boards' meetings more easily accessible to attend. You can also attend these meetings in person, if practicable.

Most board hearings will begin by reading the Complaint (set of allegations) that is pending against you. Then, both sides will be given the opportunity to present an opening statement to the board. If you decide to give this statement, the statement should be brief and should outline what you believe the evidence that you will present to them will be.

There are Assistant Attorneys General that are assigned to the administrative boards. They will be the lawyers that will be presenting the case to the board against you.

Assistant Attorneys General purport themselves to be the "board's lawyers" (i.e., they are present to give the board legal advice, but not make decisions for them). This setup, the Assistant Attorney General practicing the case against you and also advising the board on the law, seems to be conflict of interest, but this is the way it is set up in Arkansas.

Generally, the Attorney General will call a representative of the administrative team for the board to present how the complaint came to be (i.e., on such and such date the board received the Complaint questions). Most of the time this will be presented through the Executive Director of the board. The representative will also testify as to the substance of the Complaint and what steps the board took to investigate the allegations.

Next, the Attorney General will normally call his or her additional witnesses to testify regarding the allegations in the Complaint. They may call the Complainant himself to the stand to testify as to the truth of the allegations in their Complaint. However, the Assistant Attorney General may also call an investigator that looked into, or investigated, the allegations against you. Normally, if the investigator has had a meeting with the licensee about the allegations, they are allowed to testify as to what you told them. Also, if the investigator spoke with the Complainant, then he or she is normally allowed to testify to the substance of that conversation. This investigator is given broad latitude to testify in these matters. The investigator can testify to a lot of information that is generally inadmissible in civil or criminal cases.

After the Attorney General presents his case, you (or your attorney) will have the opportunity to provide your defense. We will discuss this portion of the hearing in the next article.

The article was co-authored by Mitchell Williams Law Clerk Evan Nelson.

This is the seventh 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 eighth article will publish on June 14, 2022.

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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.