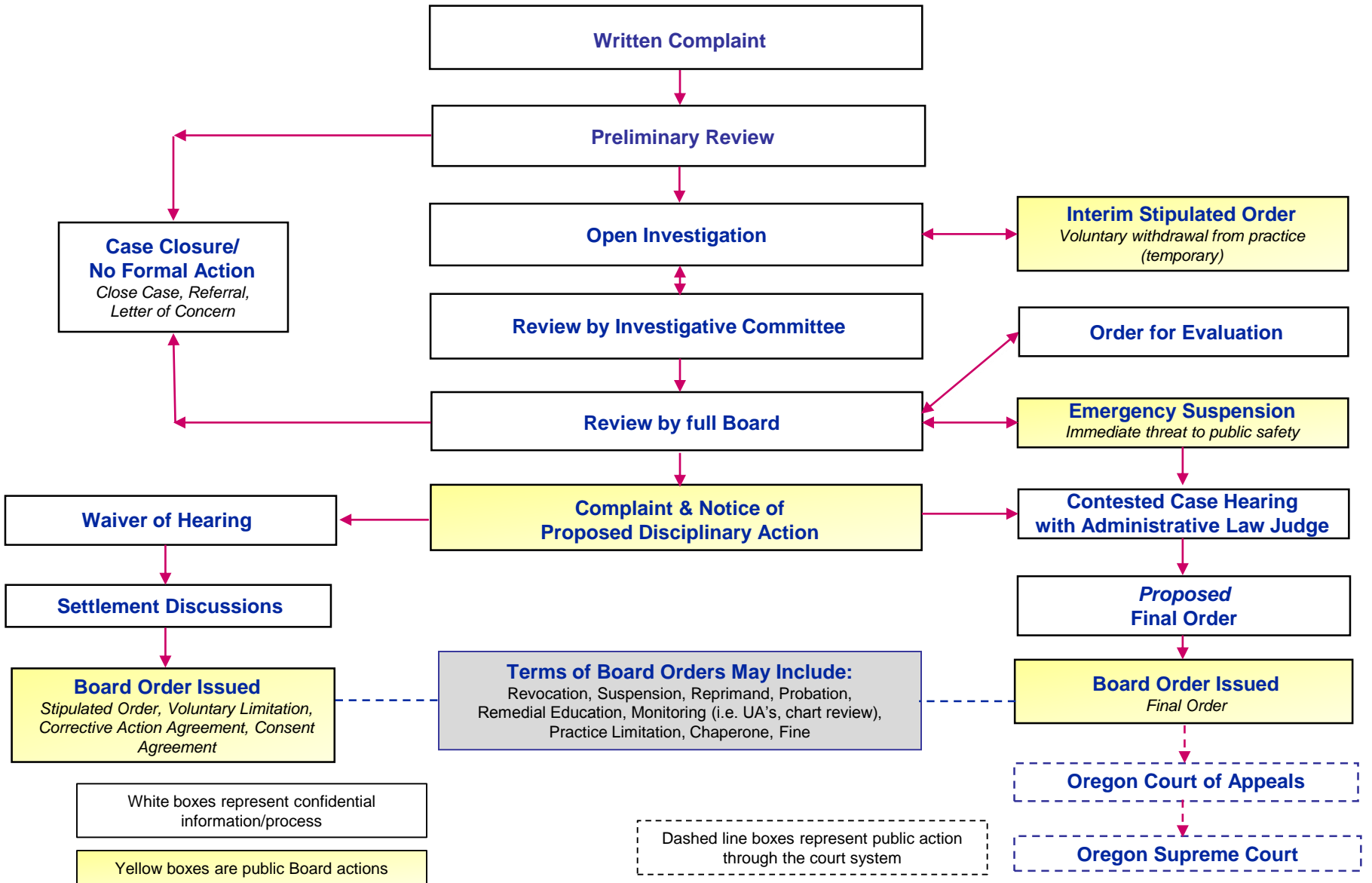


# ANATOMY OF A COMPLAINT



## **Written Complaint**

The Oregon Medical Board (OMB) requests that complaints about licensees be made in writing. Specific information about the person making the complaint (name, address and phone number) is needed so that they can be contacted for additional information and regarding the outcome of the complaint (The complaint form can be found [here](#)).

Complainant information and the complaint are confidential. OMB staff will only reveal information required to further the review of the complaint. Identifying information on the complainant is not given out.

For more information regarding the types of complaints the Board can and cannot act upon, please click [here](#).

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## **Preliminary Review**

All complaints received by the Oregon Medical Board (OMB) are entered into an electronic database and reviewed by OMB staff to determine if there is an alleged violation of the Medical Practice Act. All complaints are reviewed by the Chief Investigator and the Assistant Chief Investigator. The OMB's Executive Director, Medical Director and the Assistant Attorney General who is assigned to the OMB may also be involved in this review.

If there appears to be a potential violation of law in which the OMB could take a formal action, then the matter is assigned for additional work.

If there does not appear to be a violation in which the OMB may take a formal action, the case will be closed with no formal action. The complainant will be notified of the outcome.

These matters remain confidential when the case is closed.

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## **Case Closure / No Formal Action**

### **After Preliminary Review:**

Cases may be closed after a preliminary review when it is determined the Oregon Medical Board (OMB) lacks jurisdiction in the matter or there is insufficient evidence to prove that a violation of Oregon law (Medical Practice Act) has occurred. The OMB will notify the complainant of such a case closure and will attempt to provide resources or make referrals to entities such as other regulatory/licensing boards or law enforcement when appropriate. Closed cases remain confidential.

### **After Board Review:**

Cases may be closed after review by the full 13 member Board with no formal disciplinary action. In some instances, closure was due to insufficient evidence to prove that a violation of law occurred. In other cases, there may be no violation of law that warrants formal public action, but the Board is nonetheless concerned about some aspect of the licensee's conduct or performance. As a result, the Board will send a confidential Letter of Concern to the licensee that provides guidance on practice improvement. These cases remain confidential.

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## **Open Investigation**

If after preliminary review, it is determined that a violation of Oregon law (Medical Practice Act) may have occurred in which the Board could take a formal action, the matter is assigned to an Oregon Medical Board (OMB) Investigator for further investigation. The Investigator will work with the OMB Medical Director and Chief Investigator as needed to determine what information is necessary to evaluate the matter. Information that is gathered may include medical records, pharmacy records or information from other healthcare providers or witnesses that may have relevant information. Confidentiality is maintained as much as possible during the course of an investigation. Only information required to further the investigation is released. All gathered information is reviewed by OMB's Chief Investigator, Medical Director and Executive Director prior to presentation to the [Investigative Committee \(IC\)](#) for review and direction.

The IC may request that additional information be gathered or for additional steps to be taken. Those steps may include obtaining information on additional patients that may have been treated by a licensee, inviting the licensee to be interviewed by the IC or having an outside expert review the matter and render an opinion.

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## **Interim Stipulated Order (ISO)**

If information is gathered during the course of the investigation that raises concern about public safety, the licensee may be requested to voluntarily sign an Interim Stipulated Order (ISO). An ISO is an agreement between the Board and the licensee which places conditions on the licensee's practice. Those conditions may range from limitations on practice to ceasing practice until the investigation is complete. This Order is not considered a disciplinary action; however, it is a public document.

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## **Review by the Investigative Committee (IC)**

The [Investigative Committee \(IC\)](#) is composed of five of the Board's 13 members. At least one of the IC members is a public, non-physician member of the Board.

The IC reviews investigations that have been conducted by OMB staff investigators, directs further investigative steps that may need to be undertaken and interviews licensees who are under investigation when appropriate. The IC may direct that information be obtained from other specific healthcare providers or witnesses or that a more detailed review of a licensee's practice be conducted through the review of additional patient records. The IC may direct that an outside consultant be obtained to review the care provided by the licensee. Ultimately, the IC makes recommendations to the full Board regarding case resolutions. ""

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## **Order for Evaluation**

If concerns are raised regarding a licensee's physical or mental health or their medical knowledge or competence, the Board may issue an order for the licensee to get an appropriate evaluation to assess those concerns. These orders are confidential.

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## **Review by the Full Board**

[The Board](#) is composed of 13 members; nine physicians, one podiatric physician, one physician assistant, and two are non-physician public members. The Board reviews cases and recommendations from the Investigative Committee (IC) and makes final decisions on the cases. Prior to rendering a decision, the Board will review all materials that have been gathered in relation to the case. The Board members may refer the matter back to the IC if they desire additional information or investigative steps be taken.

If, after the case has been reviewed, the Board believes there is enough evidence to support a finding that there has been a violation of the law (Medical Practice Act), the Board may vote to issue a [Complaint and Notice of Proposed Disciplinary Action](#), which is a public document.

If the Board finds that there is insufficient evidence to support a finding that the law was violated, the Board will direct that the case be [closed with no formal action](#). In those cases where the Board has concerns regarding some aspect of the licensee's conduct or performance, the Board may send a confidential Letter of Concern that provides guidance on practice improvement.

To learn more about the Board and Committee assignments, please visit [Board and Committee Assignments](#).

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## **Emergency Suspension**

The Order of Emergency Suspension is issued when the licensee poses an *immediate* threat to the safety and welfare of his or her patients. This is a public document to immediately suspend the licensee's practice pending the completion of the investigation. The licensee has a right to a Contested Case Hearing on this interim order.

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## **Complaint and Notice of Proposed Disciplinary Action**

If the Board finds evidence to support a violation(s) of the Medical Practice Act, it will propose disciplinary action by issuing a Complaint and Notice of Proposed Disciplinary Action (C&N). The C&N outlines the specific allegations against the licensee and summarizes the basis for disciplinary action. Upon receipt, the licensee may request a Contested Case Hearing or waive the right to a hearing. The C&N is a public document available upon a public records request.

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## **Waiver of Hearing**

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If a licensee waives the right to a Contested Case Hearing or fails to request one, the licensee may enter into settlement discussions with the Board or do nothing and accept a **Default Final Order**.

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If the licensee requests a hearing, he or she can either enter into settlement discussions with the Board to find a mutually acceptable resolution, or proceed with a contested case hearing presided over by an administrative law judge, who will draft a Proposed Final Order. The Board will then review the **Proposed Final Order** and determine the appropriate final action.

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## **Board Order Issued**

The Board may issue a Stipulated Order, a Voluntary Limitation, a Corrective Action Agreement or a Consent Agreement. Terms and language in these orders are agreed upon by the licensee and the Board. These orders are all public documents. The terms of these Board orders may include revocation, suspension, reprimand, probation, remedial education, monitoring, practice limitation and fines.

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## **Default Final Order**

The Board may issue a Default Final Order if the licensee did not submit a request for a Contested Case Hearing after receiving a **Complaint and Notice of Proposed Disciplinary Action**, or if the licensee fails to appear at a hearing without good cause. The Default Final Order imposes action upon the licensee and is usually serious in nature, such as revocation of a license. This is a public document.

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## **Proposed Final Order**

After a **Contested Case Hearing**, an Administrative Law Judge (ALJ) will issue a Proposed Final Order. This proposed order is not a public document. The Board has the discretion to revise the findings, sanctions and terms of this proposed order when it issues a Final Order.

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## **Final Order**

The Final Order (FO) is a public document that is issued by the Board after the completion of a Contested Case Hearing and subsequent to a Proposed Final Order. The FO generally imposes action upon the licensee and is often serious in nature.

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## **Stipulated Order**

The Stipulated Order (SO) is a public document stipulating that the licensee has violated the Medical Practice Act. The licensee agrees to the specific terms or sanctions in the SO; however, sometimes the licensee “neither admits nor denies” the violation.

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## **Voluntary Limitation**

The Voluntary Limitation (VL) is a public document. The terms are agreed upon by the licensee and the Board. A VL may restrict or limit an area or areas of the licensee’s practice, but is not usually disciplinary.

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## **Corrective Action Agreement**

The Corrective Action Agreement (CAA) is a public, non-disciplinary order designed to modify, monitor or otherwise correct an identified problem. The terms are agreed upon by the licensee and the Board. There are no findings of serious wrong doing, and identified problems can be addressed through remediation.

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## **Consent Agreement (CA)**

The Consent Agreement (CA) is a non-disciplinary, public agreement between the Board and the licensee to resolve an issue or address deficiencies identified by the Board. A CA is often used to formalize a re-entry plan for a licensee who proposes to return to clinical practice after ceasing practice for a significant period of time.

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## **Oregon Court of Appeals**

A licensee may choose to appeal a Final Order issued by the Board. The licensee may ask for judicial review by the Oregon Court of Appeals within 60 days from the date of the Final Order.

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