

Policy Name	Summary Suspension or Restriction		Policy Number	76-10.24
Section Title	Case Decision and Discipline	Section Number	76-10	Former Policy No.
Approval Authority	Agency Director		Effective Date	3/6/2018
Responsible Executive	Chief Deputy Director		Revised Date	10/23/2017
Responsible Office	Administrative Proceedings		Last Reviewed	10/30/2018
Responsible Reviewer	Yeatts, Elaine			

Purpose:

The purpose of this Policy is to promote the prompt adjudication of allegations which may present evidence of substantial danger to the public health or safety and to provide for prompt service of a Board's notice and order in cases in which a summary suspension or restriction action is taken.

Policy:

This Policy covers all matters which may result in action by the Boards of the Department of Health Professions pursuant to Virginia Code §§ 54.1-2408.1, 54.1-3224 and 54.1-3434.3.

Authority:

§§ 54.1-2408.1, 54.1-3224 and 54.1-3434.3 of the Code of Virginia

Procedures:

1. The Enforcement Division shall investigate a possible summary suspension or restriction case in a manner that ensures the Board has all relevant evidence to make an informed decision regarding the summary suspension or restriction and provide this evidence to the Board as soon as practical. Such evidence shall be presented without undue delay to the appropriate member(s) of the Board or designated board staff to determine probable cause and whether the evidence meets the Board's criteria for a summary suspension or restriction.
2. Board staff shall coordinate legal services with the Administrative Proceedings Division (APD) necessary for a Board to take action in these circumstances.
3. APD shall immediately coordinate the assignment of the case as a possible summary suspension or restriction to an Adjudication Specialist and an Assistant Attorney General (AAG). APD shall advise board staff the identity of the assigned AAG.
4. APD shall analyze the investigative report as a possible summary suspension or restriction and draft all required legal documents as soon as practically possible, and provide these draft documents and related evidence to the assigned AAG for approval.

5. If the AAG agrees that there is evidence that the continued practice of the individual's or entity's regulated activity may constitute a substantial danger to the public health and safety, board staff shall schedule the meeting for the Board to consider the summary suspension or restriction of the continued practice of the individual's or entity's regulated activity. If the AAG prosecutor does not agree that there is evidence that the continued practice of the individual's or entity's regulated activity may constitute a substantial danger to the public health and safety, the AAG prosecutor shall discuss the case with the Executive Director or designee. In the event the AAG prosecutor and the Executive Director or designee are unable to reach a consensus, then the Executive Director or designee may discuss the case with Board counsel and/or with the Board president to determine how to proceed further.
6. If it is determined to proceed with the presentation of the information as a possible summary suspension or restriction, board staff shall post the meeting on the Virginia Regulatory Town Hall and the Board's calendar of events. Board staff shall coordinate the scheduling of the presentation of the possible summary action case to the Board and notify Board counsel, APD and the AAG as soon as the matter is scheduled. Communication with the Board members regarding their participation shall be limited solely to their availability to meet by telephone or in person. Discussion of the merits of the case is prohibited. All board members shall be provided with an electronic draft copy of the Statement of Allegations prior to the summary being heard.
7. Regardless of whether the presentation is conducted in person or by telephone conference call, after the presentation of the case by the AAG prosecutor, the Board members may ask questions and then shall enter into closed meeting to deliberate pursuant to Virginia Code § 2.2-3711(A)(27).
8. If the Board votes to summarily suspend or restrict the license, certificate, registration or permit, APD shall provide the approved and finalized summary suspension or restriction order, Notice and Statement of Allegations to board staff upon approval by the AAG or within one business day of the summary suspension meeting, whichever occurs first.
9. Board staff shall ensure that the service of the summary suspension or restriction order is initiated to the respondent or entity within two business days of the date that the finalized documents are provided to board staff by APD. Service may be accomplished by private process server, by the United States Postal Service (USPS), or by other means approved by Board counsel. If the Order is being delivered by USPS or any other courier/mail service, it should be sent with a required return receipt for delivery verification.
10. Board staff shall schedule the formal hearing within a reasonable time of the date of the summary suspension or restriction.
11. Upon entry of the summary suspension or restriction order, board staff shall post the order on the Department of Health Professions web site.