

Summary Suspension or Restriction

This guidance document is intended to promote the prompt adjudication of allegations which may present evidence of substantial danger to the public health or safety and provide for prompt service of a regulatory board's notice and order in cases in which a summary suspension or restriction action is taken.

Application

This guidance document covers matters which may result in action by regulatory boards of the Department of Health Professions pursuant to Virginia Code §§ 54.1-2408.1, 54.1-3224, and 54.1-3434.3.

Procedures

1. The Enforcement Division will investigate a possible summary suspension or restriction case in a manner that ensures that the regulatory board possesses all relevant evidence to make an informed decision regarding the summary suspension or restriction and provide this evidence to the regulatory board as soon as practical. Such evidence will be presented without undue delay to the appropriate member(s) of the regulatory board or designated board staff to determine probable cause and whether the evidence meets the regulatory board's criteria for a summary suspension or restriction.
2. Regulatory board staff will coordinate legal services with the Administrative Proceedings Division (APD) necessary for the board to take action.
3. APD will 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 will advise board staff the identity of the assigned AAG.
4. APD will analyze the investigative report as a possible summary suspension or restriction, 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 will schedule a 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 will 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 will post the meeting on the Virginia Regulatory Town Hall and the Board's calendar of events. Board staff will 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 will 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 may enter into closed meeting to deliberate pursuant to Virginia Code § 54.1-3711(A)(27). It is not, however, required that a board enter into closed session prior to voting on the matter before it.
8. If the board votes to summarily suspend or restrict the license, certificate, registration or permit, APD will 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 will 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 delivered by USPS or any other courier/mail service, it should be sent with a required return receipt for delivery verification.
10. Board staff will 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 will post the order on the Department of Health Professions website.

References

[Va. Code § 54.1-2408.1](#)

[Va. Code § 54.1-3224](#)

[Va. Code § 54.1-3434.3](#)