



ARIZONA STATE BOARD OF HOMEOPATHIC and INTEGRATED MEDICINE EXAMINERS

1400 West Washington, Suite 230
Phoenix, Arizona 85007

Janice K. Brewer
Governor

(602) 542-8154 phone • (602) 542-3093 fax
Web: <http://www.azhomeopathbd.az.gov>
Email: chris.springer@azhomeopathbd.az.gov

Bruce Shelton, MD, MD(H),
Alan Kennedy
Les Adler, MD, MD(H)
Lajuana Gillette
Charles Schwengel, DO, MD(H)
Mary Grace Warner, MD, MD(H)

July 23, 2014

Arizona State Board of Homeopathic and Integrated Medicine Examiners

This inspection/audit is conducted under the authority of Arizona Revised Statutes §§ 32-2934 and 2935. As part of this inspection/audit you are being provided with a copy of the Small Business Bill of Rights as enumerated below:

Small Business Bill of Rights

You are entitled to all of the rights established in A.R.S. §41-1001.01 and A.R.S. §41-1009 (A)(1)-(7), as well as A.R.S. § 32-2934 and 2935. *Copies of these statutes and rules are attached hereto.* If you have any questions or concerns regarding this inspection/audit, please contact the Arizona State Board of Homeopathic and Integrated Medicine Examiners either in writing or by phone, directed to the following agency-designated employee:

Ms. Christine Springer, Executive Director
Arizona State Board of Homeopathic and Integrated Medicine Examiners
1400 W. Washington St., Suite 230
Phoenix, AZ 85007

Phone: (602) 542-8154 Fax: (602) 542-3093
E-mail: chris.springer@azhomeopathbd.az.gov

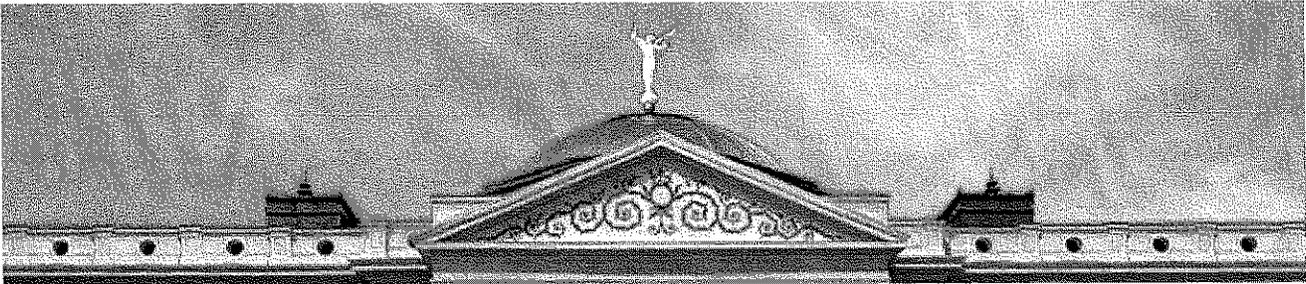
In the event that you have made a reasonable effort to resolve any problems with the agency and have not been successful, you may contact the Office of Ombudsman-Citizens Aide:

Arizona Ombudsman-Citizens' Aide
3737 N. 7th Street, Suite 209
Phoenix AZ 85014

(602) 277-7292
1-800-872-2879 (Arizona outside Phoenix metro area)
Fax: (602) 277-7312

e-mail: ombuds@azoca.gov

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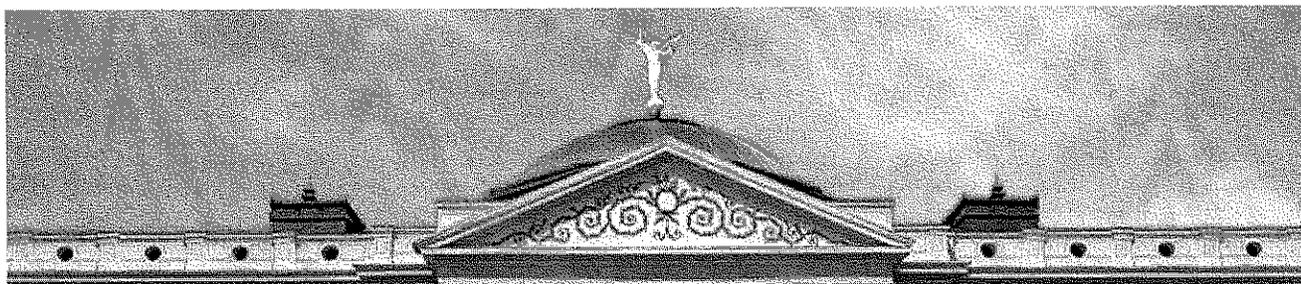
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41-1001.01. Regulatory bill of rights

A. To ensure fair and open regulation by state agencies, a person:

1. Is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against an agency in a court proceeding regarding an agency decision as provided in section 12-348.
2. Is eligible for reimbursement of the person's costs and fees if the person prevails against any agency in an administrative hearing as provided in section 41-1007.
3. Is entitled to have an agency not charge the person a fee unless the fee for the specific activity is expressly authorized as provided in section 41-1008.
4. Is entitled to receive the information and notice regarding inspections prescribed in section 41-1009.
5. May review the full text or summary of all rule making activity, the summary of substantive policy statements and the full text of executive orders in the register as provided in article 2 of this chapter.
6. May participate in the rule making process as provided in articles 3, 4, 4.1 and 5 of this chapter, including:
 - (a) Providing written comments or testimony on proposed rules to an agency as provided in section 41-1023 and having the agency adequately address those comments as provided in section 41-1052, subsection D, including comments or testimony concerning the information contained in the economic, small business and consumer impact statement.
 - (b) Filing an early review petition with the governor's regulatory review council as provided in article 5 of this chapter.
 - (c) Providing written comments or testimony on rules to the governor's regulatory review council during the mandatory sixty-day comment period as provided in article 5 of this chapter.
7. Is entitled to have an agency not base a licensing decision in whole or in part on licensing conditions or requirements that are not specifically authorized by statute, rule or state tribal gaming compact as provided in section 41-1030, subsection B.
8. Is entitled to have an agency not make a rule under a specific grant of rule making authority that exceeds the subject matter areas listed in the specific statute or not make a rule under a general grant of rule making authority to supplement a more specific grant of rule making authority as provided in section 41-1030, subsection C.
9. May allege that an existing agency practice or substantive policy statement constitutes a rule and have that agency practice or substantive policy statement declared void because the practice or substantive policy statement constitutes a rule as provided in section 41-1033.
10. May file a complaint with the administrative rules oversight committee concerning:
 - (a) A rule's, practice's or substantive policy statement's lack of conformity with statute or legislative intent as provided in section 41-1047.
 - (b) An existing statute, rule, practice alleged to constitute a rule or substantive policy statement that is alleged to be duplicative or onerous as provided in section 41-1048.
11. May have the person's administrative hearing on contested cases and appealable agency actions heard by an independent administrative law judge as provided in articles 6 and 10 of this chapter.
12. May have administrative hearings governed by uniform administrative appeal procedures as provided in articles 6 and 10 of this chapter and may appeal a final administrative decision by filing a notice of appeal pursuant to title 12, chapter 7, article 6.

13. May have an agency approve or deny the person's license application within a predetermined period of time as provided in article 7.1 of this chapter.
14. Is entitled to receive written notice from an agency on denial of a license application:
 - (a) That justifies the denial with references to the statutes or rules on which the denial is based as provided in section 41-1076.
 - (b) That explains the applicant's right to appeal the denial as provided in section 41-1076.
15. Is entitled to receive information regarding the license application process before or at the time the person obtains an application for a license as provided in sections 41-1001.02 and 41-1079.
16. May receive public notice and participate in the adoption or amendment of agreements to delegate agency functions, powers or duties to political subdivisions as provided in section 41-1026.01 and article 8 of this chapter.
17. May inspect all rules and substantive policy statements of an agency, including a directory of documents, in the office of the agency director as provided in section 41-1091.
18. May file a complaint with the office of the ombudsman-citizens aide to investigate administrative acts of agencies as provided in chapter 8, article 5 of this title.
19. Unless specifically authorized by statute, may expect state agencies to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the extent practicable as prescribed in section 41-1002.
 - B. The enumeration of the rights listed in subsection A of this section does not grant any additional rights that are not prescribed in the sections referenced in subsection A of this section.

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41-1009. Inspections; applicability

A. An agency inspector or regulator who enters any premises of a regulated person for the purpose of conducting an inspection shall:

1. Present photo identification on entry of the premises.
2. On initiation of the inspection, state the purpose of the inspection and the legal authority for conducting the inspection.
3. Disclose any applicable inspection fees.
4. Afford an opportunity to have an authorized on-site representative of the regulated person accompany the agency inspector or regulator on the premises, except during confidential interviews.
5. Provide notice of the right to have on request:
 - (a) Copies of any original documents taken by the agency during the inspection if the agency is permitted by law to take original documents.
 - (b) A split of any samples taken during the inspection if the split of any samples would not prohibit an analysis from being conducted or render an analysis inconclusive.
 - (c) Copies of any analysis performed on samples taken during the inspection.
 - (d) Copies of any documents to be relied on to determine compliance with licensure or regulatory requirements if the agency is otherwise permitted by law to do so.
6. Inform each person whose conversation with the agency inspector or regulator during the inspection is tape recorded that the conversation is being tape recorded.
7. Inform each person interviewed during the inspection that statements made by the person may be included in the inspection report.

B. On initiation of an inspection of any premises of a regulated person, an agency inspector or regulator shall provide the following in writing:

1. The rights described in subsection A of this section.
2. The name and telephone number of a contact person available to answer questions regarding the inspection.
3. The due process rights relating to an appeal of a final decision of an agency based on the results of the inspection, including the name and telephone number of a person to contact within the agency and any appropriate state government ombudsman.

C. An agency inspector or regulator shall obtain the signature of the regulated person or on-site representative of the regulated person on the writing prescribed in subsection B of this section indicating that the regulated person or on-site representative of the regulated person has read the writing prescribed in subsection B of this section and is notified of the regulated person's or on-site representative of the regulated person's inspection and due process rights. The agency shall maintain a copy of this signature with the inspection report and shall leave a copy with the regulated person or on-site representative of the regulated person. If a regulated person or on-site representative of the regulated person is not at the site or refuses to sign the writing prescribed in subsection B of this section, the agency inspector or regulator shall note that fact on the writing prescribed in subsection B of this section.

D. An agency that conducts an inspection shall give a copy of the inspection report to the regulated person or on-site representative of the regulated person either:

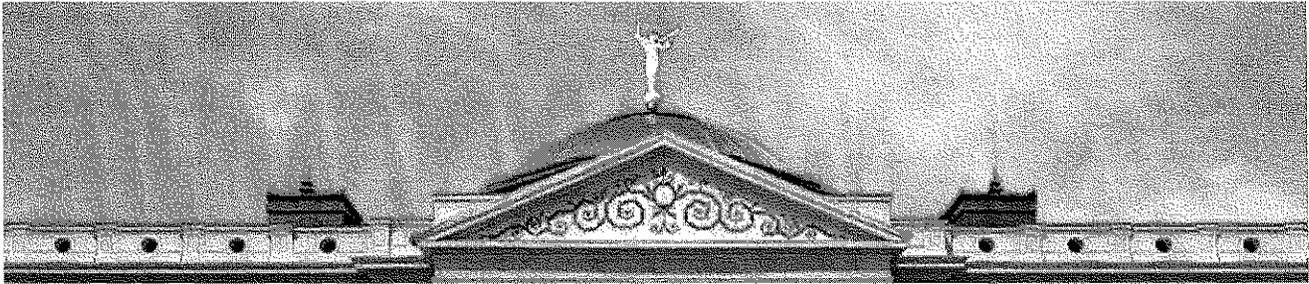
1. At the time of the inspection.
2. Notwithstanding any other state law, within thirty working days after the inspection.
3. As otherwise required by federal law.

E. The inspection report shall contain deficiencies identified during an inspection. Unless otherwise provided by law, the agency may provide the regulated person an opportunity to correct the deficiencies unless the agency determines that the

deficiencies are:

1. Committed intentionally.
 2. Not correctable within a reasonable period of time as determined by the agency.
 3. Evidence of a pattern of noncompliance.
 4. A risk to any person, the public health, safety or welfare or the environment.
- F. If the agency allows the regulated person an opportunity to correct the deficiencies pursuant to subsection E of this section, the regulated person shall notify the agency when the deficiencies have been corrected. Within thirty days of receipt of notification from the regulated person that the deficiencies have been corrected, the agency shall determine if the regulated person is in substantial compliance and notify the regulated person whether or not the regulated person is in substantial compliance. If the regulated person fails to correct the deficiencies or the agency determines the deficiencies have not been corrected within a reasonable period of time, the agency may take any enforcement action authorized by law for the deficiencies.
- G. For agencies with authority under title 49, if the agency does not allow the regulated person an opportunity to correct deficiencies pursuant to subsection E of this section, on the request of the regulated person, the agency shall provide a written explanation of the reason that an opportunity to correct was not allowed.
- H. An agency decision pursuant to subsection E or F of this section is not an appealable agency action.
- I. At least once every month after the commencement of the inspection an agency shall provide a regulated person with an update on the status of any agency action resulting from an inspection of the regulated person. An agency is not required to provide an update after the regulated person is notified that no agency action will result from the agency inspection or after the completion of agency action resulting from the agency inspection.
- J. For agencies with authority under title 49, if, as a result of an inspection or any other investigation, an agency alleges that a regulated person is not in compliance with licensure or other applicable regulatory requirements, the agency shall provide written notice of that allegation to the regulated person. The notice shall contain the following information:
1. A citation to the statute, regulation, license or permit condition on which the allegation of noncompliance is based, including the specific provisions in the statute, regulation, license or permit condition that are alleged to be violated.
 2. Identification of any documents relied on as a basis for the allegation of noncompliance.
 3. An explanation stated with reasonable specificity of the regulatory and factual basis for the allegation of noncompliance.
 4. Instructions for obtaining a timely opportunity to discuss the alleged violation with the agency.
- K. Subsection J of this section applies only to inspections necessary for the issuance of a license or to determine compliance with licensure or other regulatory requirements. Subsection J of this section does not apply to an action taken pursuant to section 11-871, 11-876, 11-877, 49-457.01, 49-457.03 or 49-474.01. Issuance of a notice under subsection J of this section is not a prerequisite to otherwise lawful agency actions seeking an injunction or issuing an order if the agency determines that the action is necessary on an expedited basis to abate an imminent and substantial endangerment to public health or the environment and documents the basis for that determination in the documents initiating the action.
- L. This section does not authorize an inspection or any other act that is not otherwise authorized by law.
- M. Except as otherwise provided in subsection K of this section, this section applies only to inspections necessary for the issuance of a license or to determine compliance with licensure or other regulatory requirements applicable to a licensee. This section does not apply:
1. To criminal investigations, investigations under tribal state gaming compacts and undercover investigations that are generally or specifically authorized by law.
 2. If the inspector or regulator has reasonable suspicion to believe that the regulated person may be engaged in criminal activity.
 3. To the Arizona peace officer standards and training board established by section 41-1821.
- N. If an inspector or regulator gathers evidence in violation of this section, the violation may be a basis to exclude the evidence in a civil or administrative proceeding.
- O. Failure of an agency, board or commission employee to comply with this section:
1. May subject the employee to disciplinary action or dismissal.
 2. Shall be considered by the judge and administrative law judge as grounds for reduction of any fine or civil penalty.
- P. An agency may make rules to implement subsection A, paragraph 5 of this section.
- Q. Nothing in this section shall be used to exclude evidence in a criminal proceeding.

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32-2934. Grounds for suspension or revocation of license; duty to report; unprofessional conduct hearing; decision of board

A. The board on its own motion may investigate any evidence that appears to show that a licensee is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to engage safely in the practice of homeopathic medicine. Any licensee, the Arizona homeopathic and integrative medical association or any health care institution as defined in section 36-401 shall, and any other person may, report to the board any information the person may have that appears to show that a licensee is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to engage safely in the practice of homeopathic medicine. The board shall notify the licensee about whom information is received as to the content of the information within one hundred twenty days after receipt of the information. Any person who reports or provides information to the board in good faith is not subject to an action for civil damages as a result of reporting or providing the information, and the person's name shall not be disclosed unless the person's testimony is essential to the disciplinary proceedings conducted pursuant to this section. It is an act of unprofessional conduct for any licensee to fail to report as required by this section. Any health care institution that fails to report as required by this section shall be reported by the board to the institution's licensing agency.

B. A health care institution shall inform the board if the privileges of a licensee to practice in the health care institution are denied, revoked, suspended or limited because of actions by the licensee that jeopardized patient health and welfare or if the licensee resigns during pending proceedings for revocation, suspension or limitation of privileges. A report to the board pursuant to this subsection shall contain a general statement of the reasons the health care institution denied or took action to revoke, suspend or limit a licensee's privileges.

C. The board may conduct investigations necessary to fully inform itself with respect to any evidence filed with the board under subsection A of this section. As part of this investigation, the board may require the licensee under investigation to be interviewed by board representatives or to undergo any combination of mental, physical, oral or written medical competency examinations.

D. If the information gathered under subsections A and B of this section indicates that the protection of public health requires that the board take emergency action, it may order the summary suspension of a license pending the outcome of a formal disciplinary hearing pursuant to title 41, chapter 6, article 10. The board shall serve the suspended licensee with a written notice of the specific charges and the time and place of the formal hearing. The board shall hold this hearing within sixty days after the suspension unless the board for good reason shown by the licensee grants an extension on the hearing date.

E. If, after completing its investigation, the board finds that the information provided pursuant to subsection A of this section is not of sufficient seriousness to merit direct action against the license, it may take any of the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.
2. File a letter of concern.
3. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

F. If after completing its initial investigation under subsection A of this section the board determines that rehabilitative or disciplinary action can be taken without the presence of the licensee at an informal interview, the board and the licensee may

enter into a stipulated agreement to limit or restrict the licensee's practice or to rehabilitate the licensee, protect the public and ensure the licensee's ability to safely engage in the practice of homeopathic medicine.

G. If after completing its investigation the board believes that this information is or may be true, the board may request an informal interview with the licensee. If the licensee refuses the invitation or accepts the invitation and the results of the interview indicate that suspension or revocation of the license may be in order, the board shall issue a formal complaint and conduct a formal hearing pursuant to title 41, chapter 6, article 10. If after completing the informal interview the board finds that the information provided under subsection A of this section is not of sufficient seriousness to merit suspension or revocation of the license, it may take the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.

2. File a letter of concern.

3. Issue a decree of censure. A decree of censure constitutes an official action against the license and may include a requirement for restitution of fees to a patient resulting from violations of this chapter or board rules.

4. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the licensee. The probation, if deemed necessary, may include temporary suspension of the license for not to exceed twelve months, restriction of the license to practice homeopathic medicine or a requirement for restitution of fees to a patient resulting from violations of this chapter or board rules.

If a licensee fails to comply with the terms of probation, the board may file a summons, complaint and notice of hearing pursuant to title 41, chapter 6, article 10 based on the information considered by the board at the informal interview and any other acts or conduct alleged to be in violation of this chapter or board rules.

5. Enter into an agreement with the licensee to restrict or limit the licensee's practice or medical activities in order to rehabilitate the licensee, protect the public and ensure the licensee's ability to safely engage in the practice of homeopathic medicine.

6. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

H. In an informal interview or a formal hearing the board, in addition to any other action that it may take, may impose an administrative penalty in an amount of not less than five hundred dollars but not to exceed two thousand dollars on a licensee who violates this chapter or a board rule. Actions to enforce the collection of these penalties shall be brought in the name of this state by the attorney general or the county attorney in the justice court or the superior court in the county in which the violation occurred. Penalties imposed under this section are in addition to and not in limitation of other penalties imposed pursuant to this chapter.

I. If in the opinion of the board it appears that the allegations concerning a licensee are of a magnitude as to warrant suspension or revocation of the license, the board shall serve on the licensee a summons and a complaint fully setting forth the conduct or inability concerned and setting a date, time and place for a hearing pursuant to title 41, chapter 6, article 10 to be held before the board in not less than sixty days from the date of the notice.

J. A licensee who wishes to be present at the hearing in person or by representation, or both, shall file a verified answer with the board within twenty days after receiving service of the summons and complaint. The licensee may present witnesses at this hearing.

K. The board shall issue subpoenas for witnesses as it may need and for witnesses as the licensee may request. Any person refusing to obey a subpoena shall be certified by the board to the superior court in the county in which service was made, and the court may institute proceedings for contempt of court.

L. Service of the summons and complaint shall be as required in civil cases.

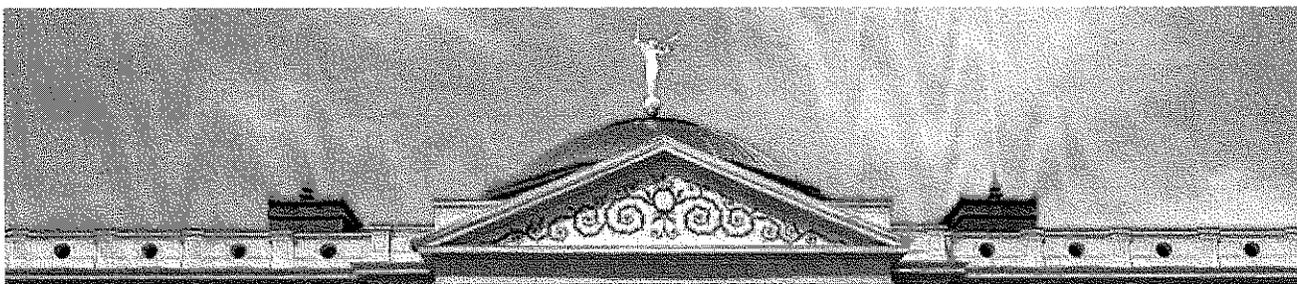
M. Service of subpoenas for witnesses shall be as provided by law for the service of subpoenas generally.

N. A licensee who after a hearing is found to be guilty of unprofessional conduct or is found to be mentally or physically unable to engage safely in the practice of homeopathic medicine is subject to any combination of censure, probation or suspension of license or revocation of the license for a prescribed period of time or permanently and under conditions that the board deems appropriate for the protection of the public health and safety and just in the circumstances.

O. If the board acts to modify any licensee's prescription writing privileges, it shall immediately notify the Arizona state board of pharmacy of the modification.

P. Notwithstanding section 32-2906, subsection A, the board shall deposit, pursuant to sections 35-146 and 35-147, all monies collected from administrative penalties paid pursuant to this section in the state general fund.

Q. A letter of concern is a nondisciplinary public document that the board may use in future disciplinary actions.



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32-2935. Right to examine and copy evidence; summoning witnesses and documents; taking testimony; right to counsel; court aid; process

A. In connection with the investigation by the board on its own motion or as the result of information received pursuant to section 32-2934, subsection A, the board or its authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documents, reports, records or any other physical evidence of any person being investigated, or the reports, records and any other documents maintained by and in possession of any hospital, clinic, office, laboratory, pharmacy or any other public or private agency, and any health care institution as defined in section 36-401, if these documents, reports, records or evidence relate to medical competence, unprofessional conduct or the mental or physical ability of a licensee to practice homeopathic medicine safely.

B. For the purpose of all investigations and proceedings conducted by the board:
1. The board on its own initiative, or on application of any person involved in the investigation, may issue subpoenas compelling the attendance and testimony of witnesses, or demanding the production for examination or copying of documents or any other physical evidence if the evidence relates to medical competence, unprofessional conduct or the mental or physical ability of a licensee to practice homeopathic medicine safely. Within five days after the service of a subpoena on any person requiring the production of any evidence in that person's possession or under that person's control, the person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify the subpoena if in its opinion the evidence required does not relate to unlawful practices covered by this chapter, is not relevant to the charge that is the subject matter of the hearing or investigation or does not describe with sufficient particularity the physical evidence whose production is required. Any member of the board or any agent designated by the board may administer oaths or affirmations, examine witnesses and receive evidence.

2. Any person appearing before the board has the right to be represented by counsel.

C. The superior court, on application by the board or by the person subpoenaed, may issue an order:

1. Requiring the person to appear before the board or the duly authorized agent to produce evidence relating to the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt.

2. Revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to unlawful practices covered by this chapter, is not relevant to the charge that is the subject matter of the hearing or investigation, or does not describe with sufficient particularity the evidence whose production is required.

D. Patient records, including clinical records, medical reports, laboratory statements and reports, any file, film, any other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or the patient's family might be identified or information received and records kept by the board as a result of investigation procedures are not available to the public.

E. This section or any other provision of law making communications between a licensee and a patient a privileged communication does not apply to investigations or proceedings conducted pursuant to this chapter. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.

F. Hospital records, medical staff records, medical staff review committee records and

testimony concerning these records, and proceedings related to the creation of these records, are not available to the public, shall be kept confidential by the board and are subject to the same provisions concerning discovery and use in legal actions as are the original records in the possession and control of hospitals, their medical staffs and their medical staff review committees. The board shall use records and testimony during the course of investigations and proceedings pursuant to this chapter.

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