PLUMBERS AND GAS FITTERS EXAMINING BOARD ADMINISTRATIVE CODE

CHAPTER 720-X-20 COMPLAINTS AGAINST LICENSEES

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(1) In the event a consumer complaint is filed against a licensee, plumber, gas fitter, or any other person within the Board's jurisdiction, or the Board determines from other information that an investigation is necessary, the procedure for investigating a complaint shall be as follows:

(a) Upon undertaking an investigation of a licensee, the Board shall notify the licensee of the investigation and the specific charges being investigated. The notice shall include the applicable gas/plumbing code, Board rule or Statute for investigation purposes.

1. An investigation initiated against a licensee, plumber, gas fitter, or any other person within the Board's jurisdiction, where the construction activity has occurred in a local jurisdiction (county, municipality, or otherwise) with an adopted building, plumbing, or gas law or code, the Board shall apply the adopted building, plumbing, or gas law or code for determining probable cause if the licensee, plumber, gas fitter, or any other person within the Board's jurisdiction has violated the Act.

2. An investigation initiated against a licensee, plumber, gas fitter, or any other person within the Board's jurisdiction, where the construction activity has occurred in a local jurisdiction (county, municipality, or otherwise) that has not adopted a local building, plumbing, or gas law or code, the Board shall apply the 2021 International Plumbing Code (IPC), the 2021 International Fuel Gas Code (IFGC), or the 2021 International Residential Code (IRC) (whichever the Board deems appropriate), or any other Code the Board deems fit, for determining probable cause if the licensee, plumber, gas fitter, or any other person within the Board's jurisdiction has violated the Act.

(b) Bi-annually, the Board shall designate a member and one alternate member to serve on the investigative committee. The Board members designated to serve on the investigative committee must not be plumber or gas fitter members of the Board. This investigative committee shall consist of the designated Board member, or a designated alternate member, the Executive Director, and the Board's attorney and shall investigate the information or complaint to determine whether there is probable cause for disciplinary or enforcement proceedings, and shall, on behalf of the Board, direct the Board's counsel to initiate proceedings consistent with its finding(s). The Board member or the alternate member who participates on the investigative committee shall not participate in any disciplinary proceedings arising from the investigation.

(c) The investigative committee may enter into informal settlements with the licensee or residential plumber or gas fitter it is investigating, provided each informal settlement is ratified by the Board.

(d) At the end of the investigation, the investigative committee shall make a recommendation to the Board as to whether probable cause exists that a violation of the Act has occurred, and for the Board to initiate disciplinary proceedings and/or to forward any necessary information to the appropriate governmental authorities. If the investigative committee determines following its investigation that no probable cause exists, the proceedings will terminate.

1. In the case of complaints against licensees or entities holding a registration or certification:

(e) In the event the investigative committee recommends that probable cause exists that a violation of the Act has occurred, the investigative committee shall instruct Board counsel to prepare a summons and complaint or notice and opportunity for hearing, or to forward information to the appropriate governmental authorities. The Board shall schedule a hearing to be held by an administrative law judge.

(f) The summons and complaint or notice and opportunity for hearing shall be mailed certified mail, return receipt requested, or hand delivered to the most recent address of the licensee on file with the Board at least fifteen (15) days prior to the scheduled date of the hearing. In the event the summons and complaint or notice and opportunity for hearing is refused or the return receipt has not been received by the Board or its attorney at least ten (10) days before the scheduled hearing, the licensee may be served by mailing a copy of same first-class mail or by hand delivery at least seven (7) days before the hearing date.

(g) The summons and complaint or notice and opportunity for hearing shall give notice in substantial compliance with the Alabama Administrative Procedure Act, Code of Ala. 1975, §41-22-12(b).

(h) In the event the investigative committee instructs Board counsel to forward information to the appropriate governmental authorities, information concerning the essential facts constituting a violation and an allegation that a violation of the Act has been committed should be provided to a magistrate or official authorized by law to issue warrants of arrest.

(i) If the person complained of is a member of the Board, that member shall be notified and thereafter shall not participate in any matter related to the complaint.

(3) During the course of a consumer complaint investigation on a license holder, the consumer will be provided with notifications and information regarding their complaint in compliance with confidentiality requirements.

(a) The following notifications/documents/information will be provided to the consumer:

1. Initial notification of complaint

2. Notification of potential observed violations during initial compliance officer inspection when applicable

3. Notification of potential observed violations during subsequent compliance officer inspections when applicable

4. Notice of determination by the Board's Investigative Committee when a final action is taken

5. Any relative documents/information of like nature

(b) The following documents/notifications/information are not subject to open records requests and cannot be provided to a consumer during the course of the complaint investigation:

1. Confidential work reports prepared by compliance officers

2. Any attachments to confidential work reports including, but not limited to, on-site photographs, statements, etc.

3. Statements given to the Board by the license holder

4. Settlement offers that have not yet been ratified by the Board

5. Documents relating to pending disciplinary hearings

6. Any document of like nature

(c) Should a consumer retain legal counsel at any time during the complaint process, the consumer's attorney may officially request documents. Any requests for information will be reviewed by the Board's legal counsel to determine if the requested information is able to be provided.

(4) Upon completion of the disciplinary process, the consumer may request a copy of the formal settlement agreement or Board order through a public records request.

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