Chapter NHA 5

COMPLAINTS AND HEARINGS

NHA 5.01 Complaints and hearing procedures
NHA 5.02 Conduct of hearings

NHA 5.01 Complaints and hearing procedures. (1) Complaints shall be submitted to the board in writing and shall be signed by the complainant.

(2) (a) The board, or any person or persons appointed by the board for the said purpose, may hold a preliminary hearing to determine whether a formal hearing is necessary.

(b) The board or the person or persons may dismiss the complaint and take no action thereon by formal hearing or otherwise, in which event the complaint and the order dismissing the complaint shall be filed with the board.

(3) (a) If the board or the person or persons thus appointed by it decide that the charges shall be heard, the board shall designate a hearing officer to determine the charge(s) and set a time and place for a hearing.

(b) A copy of the charge, together with notice of the time and place of the hearing, shall be served on the individual charged at least 10 days before the date fixed for the hearing.

(c) Where personal service cannot be effected and such fact is certified on oath by any person duly authorized to make legal service, the board shall cause to be published twice in each of 2 successive weeks a notice of the hearing in a newspaper published in the county of which the individual charged was last known to practice, and on or before the date of the first publication a copy of the charge and of such notice shall be mailed by certified mail, with a return receipt requested; to the last known address of the individual charged.

(d) When publication of the notice is necessary, the date of the hearing shall be not less than 10 days after the last day of publication of the notice.

(4) (a) Upon the conclusion of the hearing, the board may revoke the license of the individual charged or suspend such license for a fixed period or reprimand, or take other disciplinary action, or dismiss the charge(s).

(b) An order of suspension made by the board may contain such provisions as to reinstatement of the license as the board shall direct.

(c) The board, in its discretion, may direct a rehearing or take additional evidence, and may rescind or affirm the prior determination after such rehearing, but nothing in the subdivision shall preclude appropriate relief under and pursuant to the laws of the state providing for the review of administrative determination by the courts of the state.

History: Cr. Register, December, 1972, No. 204, eff. 1–1–73.

NHA 5.02 Conduct of hearings. (1) At any hearing conducted pursuant to these rules, any party to the proceedings may appear personally and with counsel, and shall be given the opportunity to produce evidence and witnesses and to cross-examine witnesses.

(2) At any formal hearing conducted pursuant to these rules, if a party shall appear without counsel, the board or person(s) designated as hearing officers or hearing officer shall advise such party of his right to be represented by counsel; and that if he desires to proceed without counsel, that he may call witnesses, cross-examine witnesses, and produce evidence in his behalf.

(3) Appearances shall be noted on the official record of hearings.

(4) The board or designated hearing officer may grant adjournments upon request of any party to the proceedings, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a day certain.

(5) If an adjournment is requested in advance of the hearing date, such request shall be submitted to the board or hearing officer in writing, and shall specify the reason for such request.

(6) In considering an application for adjournment of a hearing the board or hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.

(7) The board or designated hearing officer shall issue subpoenas and subpoena duces tecum upon request of any party to the proceeding of any hearing set down by the board.

(8) The board or hearing officer shall not be bound by the common law rules of evidence in the conduct of a hearing, but the determination and recommendations of the hearing officer shall be founded upon sufficient legal evidence to sustain it.

(9) Upon the conclusion of a hearing, the board shall take such action upon such written findings and determination as it deems proper, and shall execute an order in writing carrying such findings and determination into effect.

(10) The record, minutes, and evidence of a formal hearing shall be made available to all parties for examination at the office of the board, or at such place as the board may direct. Copies of the minutes may be purchased at the rate per page covering the cost thereof.

History: Cr. Register, December, 1972, No. 204, eff. 1–1–73.