

Understanding the Pitfalls of a Defense Health Agency (DHA) Investigation

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Licensing issues can arise for any employee practicing in a profession overseen by a licensing board.

While many licensed professionals generally understand the responsibility of the board that regulates their practice, the Defense Health Agency's ("DHA") role in professional licensing issues is not as widely known. However, for many licensed medical professionals, the Defense Health

Agency may be just as important as the applicable licensing board (if not more important) in regards to one's ability to continue regular employment.

The DHA is a joint, integrated Combat Support Agency that enables the Army, Navy, and Air Force to provide medical services to eligible patients. The Department of Defense authorized the DHA to direct the management and administration of military treatment facilities. In many situations, the DHA and its delegates act as the first hurdle to handle complaints and investigations regarding the military's medical providers. Under the authority vested in the DHA, medical providers who work in military hospitals and clinics can face adverse practice actions for various allegations. While not the same as potentially having a professional license revoked or suspended by a licensing board, the DHA has the authority to summarily suspend and/or revoke a provider's clinical privileges based on concerns regarding suspected misconduct, impairment, incompetence, or conduct that could be detrimental to patient safety. Taking such action renders the provider ineligible to practice within the military health systems.

What's the Process

If a provider is suspected of wrongdoing by the DHA, the provider will typically receive a notice from the hospital or clinic stating that the provider's practice is summarily suspended in response to allegations against the provider. During a period of summary suspension, the provider is temporarily relieved of all or a portion of their duties, privileges, and practice while due process procedures are completed. Although the provider's license is not suspended or revoked, a summary suspension can have similar effects as the provider may not be allowed to work until an investigation is completed.

Oftentimes, the hospital or clinic will notify the provider that a Quality Assurance Investigation is being conducted in the same document, notifying the provider of the summary suspension. The Quality Assurance Investigation is the hospital or clinic's opportunity to review the accusations against the provider, collect

relevant facts on the situation, and make findings as to whether the accusations are substantiated. Ultimately, a Quality Assurance Investigation Report containing each allegation, the facts and documents relevant to the allegation, and conclusions for each allegation. The provider will receive a redacted copy of the Quality Assurance Investigation Report and an opportunity to provide a written statement, which must be submitted within 15 days after receipt of the report. Both the Quality

Assurance Investigation Report and the provider's statement will be sent to a Credentials Committee, which is tasked with reviewing the materials and making a recommendation on the provider's clinical privileges.

Based on the Credentials Committee's recommendation, the applicable Privileging Authority makes a proposed decision on the provider's continued privileges with the military health system. The Privileging Authority is not bound by the recommendations of the Credentials Committee; however, if the proposed action differs from the Credentials Committee's recommendation, the Privileging Authority is required to provide written justification regarding the proposed action. Following receipt of the proposed action, the provider has the option to request a peer review hearing before a panel or accept the proposed action. Subsequent to a peer review hearing, the provider also has the right to appeal the decision as well.

How to Deal with The Process

Providers should always respond if contacted by the DHA in regard to an investigation. Failure to respond can lead to forfeiture of due process rights, and the investigation proceeding will continue without the provider raising a defense to the allegations. Likewise, failure to respond may lead to adverse decisions by the DHA and subsequent reporting to the National Practitioner Data Bank, state licensing boards, and other applicable regulatory agencies. Additionally, providers should ensure that responses are within the allotted timeframes provided, as late responses may be considered a failure to respond altogether.

The DHA does not provide an attorney to providers facing allegations. However, providers may have representation should they choose to retain an attorney to guide them through the process. While a provider may choose to respond on their own behalf, an experienced, knowledgeable attorney can be very helpful in navigating the numerous steps involved in a DHA investigation. At every step in the process, an attorney's advice may be essential in maintaining clinical privileges and employment. With the potential loss of clinical privileges (and, therefore, the ability to work) at risk, a provider should not feel the need to go through the process alone. For further advice and guidance on DHA investigations, providers should seek the assistance of experienced professional licensing attorneys.

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