

The introductory language of subsection (a) and the introductory phrase of subsection (b)(1) of this section conform to the Administrative Procedure Act, which provides a right of judicial review of any "final decision" of an agency in a "contested case". A situation is a contested case if a party has a right to a hearing (see the Administrative Procedure Act definition of "contested case" in Art. 41, § 244 of the Code).

As to the application of subsections (a) and (b) of this section, the Board of Review has general jurisdiction over the final decisions of the Board under this subtitle. Therefore, for some actions, a decision of the Board of Review is a prerequisite to judicial review. Subsection (a) of this section reflects that general procedure. The Board of Review, however, does not have jurisdiction over any disciplinary action taken by the Board. Consequently, subsection (b) of this section expressly provides for direct judicial review for a person aggrieved under § 4-314 of this subtitle.

The new language in this section better coordinates the combined requirements of the Administrative Procedure Act and the laws regarding the Board of Review. These provisions apply in any event. No substantive change is intended.

In subsection (b) of this section, the references in present Art. 32, § 13 to the review being de novo and to either party having the right to elect a jury trial are deleted. Under Department of Natural Resources v. Linchester Sand & Gravel Corp., 274 Md. 211 (1975), these provisions are unconstitutional because they violate Art. 8 of the Maryland Declaration of Rights.

4-319. INJUNCTIVE ACTIONS.

(A) IN GENERAL.

AN ACTION MAY BE MAINTAINED IN THE NAME OF THIS STATE OR THE BOARD TO ENJOIN:

- (1) UNAUTHORIZED PRACTICE OF DENTISTRY;
- (2) CONDUCT THAT IS A GROUND FOR DISCIPLINARY ACTION UNDER § 4-314(A) OF THIS SUBTITLE;
- (3) CONDUCT THAT VIOLATES ANY PROHIBITION IN SUBTITLE 4 OF THIS TITLE, WHICH RELATES TO DENTAL LABORATORY WORK; OR