

(D) EX PARTE HEARINGS.

IF AFTER DUE NOTICE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, NEVERTHELESS THE BOARD MAY HEAR AND DETERMINE THE MATTER.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 43, § 354(d) and (e).

The express inclusion of the power to deny a license to an applicant or to reprimand a licensee in § 6-315 of this subtitle -- when read with this section -- results in new express requirements that a hearing be held before the Board may deny a license to an applicant or reprimand a licensee and, consequently, that the review procedures of § 6-317 of this subtitle be available to the applicant or licensee after a final Board decision to deny or reprimand. This change is made to conform with other present health occupation board provisions of Art. 43 and to meet fundamental requirements of fairness.

In subsection (a) of this section, the introductory language "§ e§ xcept as otherwise provided in the Administrative Procedure Act" is new language added to clarify that the Board may summarily take action against an individual under certain circumstances. See Art. 41, § 250A(c) of the Code.

The reference in subsection (b) of this section to the Administrative Procedure Act is standard language added to this and, where necessary, corresponding sections of other titles of this article. It demonstrates clearly the intended application of the Administrative Procedure Act, Art. 41, § 244 et seq. of the Code to administrative hearings under this section.

This section includes only those provisions that appear to add to the provisions of the Administrative Procedure Act. Thus, in this section, the present references to furnishing a copy of the complaint, to permissible testimony at a hearing, to the contents of a decision, and to delivery of a copy of the decision to the person charged are deleted as essentially repetitious of provisions already provided in the Administrative Procedure Act.

As to subsection (c) of this section, the statement that the person may appear with counsel is implicit in the scheme of the Administrative Procedure Act; however, since this provision is