

the Secretary to reprimand a licensee is added to state specifically a power that is inherent in the express power to suspend or revoke a license.

Items (1) and (2) of this section are new language added to conform to similar provisions governing health occupations in the Health Occupations Article. They state fundamental grounds for disciplining a licensee -- the use of fraud or deception to obtain a license and the fraudulent or deceptive use of a license. For examples of such provisions in the law, see HO § 12-311(b)(1) and (2), as to pharmacists and HO § 14-504(1) and (2), as to physicians.

11-428. HEARINGS.

(A) RIGHT TO A HEARING.

BEFORE ANY ACTION IS TAKEN UNDER § 11-427 OF THIS SUBTITLE, THE SECRETARY SHALL GIVE THE LICENSEE AN OPPORTUNITY FOR A HEARING BEFORE THE SECRETARY.

(B) APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

THE SECRETARY SHALL GIVE NOTICE AND HOLD THE HEARING IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

REVISOR'S NOTE: This section is new language derived without substantive change from the second clause of former Article 43, § 67G(b).

The express inclusion of the power to reprimand a licensee in § 11-427 of this subtitle -- when read in conjunction with this section -- results in new express requirements that a hearing be held before the Secretary may reprimand a licensee, and consequently, that the review procedures of § 11-429 of this subtitle be available to the licensee following a final decision by the Secretary to reprimand the licensee. This change is made to conform to other corresponding licensing provisions of former Article 43 and to meet fundamental requirements of fairness.

Subsection (b) of this section is standard language added to this and, where necessary, corresponding hearing provisions of this article. It demonstrates clearly the intended application of the Administrative Procedure Act, Article 41, § 244 et seq. of the Code, to administrative hearings under this section.

11-429. ADMINISTRATIVE AND JUDICIAL REVIEW.