

Effective 5/13/2014

61-2c-402.1 Adjudicative proceedings -- Review.

- (1)
 - (a) Before an action described in Section 61-2c-402 may be taken, the division shall:
 - (i) give notice to the person against whom the action is brought; and
 - (ii) commence an adjudicative proceeding.
 - (b) If after the adjudicative proceeding is commenced under Subsection (1)(a) the presiding officer determines that a person required to be licensed under this chapter has violated this chapter, the division may take an action described in Section 61-2c-402 by written order.
- (2) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, a person against whom action is taken under this section may seek review by the executive director of the action.
- (3) If a person prevails in a judicial appeal and the court finds that the state action was undertaken without substantial justification, the court may award reasonable litigation expenses to that individual or entity as provided under Title 78B, Chapter 8, Part 5, Small Business Equal Access to Justice Act.
- (4)
 - (a) An order issued under this section takes effect 30 days after the service of the order unless otherwise provided in the order.
 - (b) If an appeal of an order issued under this section is taken by a person, the division may stay enforcement of the order in accordance with Section 63G-4-405.
- (5) If ordered by the court of competent jurisdiction, the division shall promptly take an action described in Section 61-2c-402 against a license granted under this chapter.
- (6)
 - (a) Except as provided in Subsection (6)(b), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:
 - (i) four years after the day on which the violation is reported to the division; or
 - (ii) 10 years after the day on which the violation occurred.
 - (b) The division may commence a disciplinary action under this chapter after the time period described in Subsection (6)(a) expires if:
 - (i)
 - (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and
 - (B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or
 - (ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (6)(a).

Amended by Chapter 350, 2014 General Session