



**COLORADO**

**Department of  
Regulatory Agencies**

Division of Professions and Occupations

January 27, 2021

Philip G Rice  
11268 E Linvale Dr  
Aurora, CO 80014-3071

Sent via email to: phil.rice@mkgappraisal.com

RE: Colin James Murtaugh  
Case No. 2021-555 -

Dear Philip G Rice,

Your complaint regarding Colin James Murtaugh has been received by our office. A case has been opened based upon the information you have provided. Please refer to the attached Consumer Guide for information regarding the complaint process. After you have reviewed the Consumer Guide, please contact our office if you have any questions regarding matters not addressed.

While we are happy to assist you with your complaint, please bear in mind that we cannot provide legal advice.

Please note you will be advised in writing of the final disposition of the complaint. Thank you for informing us of this matter.

Sincerely,

FOR THE COLORADO STATE BOARD OF PHARMACY

A handwritten signature in cursive script that reads "Lana Hyatte".

Lana Hyatte  
Enforcement/Program Manager

## Consumer Guide

The Division of Professions and Occupations (DPO) is one of several divisions within the Department of Regulatory Agencies (DORA). DORA's mission is Consumer Protection. DPO holds the responsibility of regulating more than 440,000 licensees, certificate holders, registrants and businesses. This responsibility includes ensuring individuals with appropriate training and education are issued licenses, registrations and certifications, reviewing complaints, determining appropriate discipline when warranted, promulgating rules for the various professions and businesses, and implementing legislation in regards to the professions and businesses as determined by the Colorado State Legislature. A complete list of these professions and businesses can be found at [dpo.colorado.gov](http://dpo.colorado.gov). This site also contains information regarding license, registration, certification, and disciplinary status.

Some of the professions regulated by DPO have boards that are charged with enforcing the regulation of the profession or business while others have advisory committees that provide advice to boards or the Division Director (Director), and others are programs that have oversight by the Director. The structure of each of these programs is determined by the legislature via the professions' or business' practice act.

### Complaints

The Division processes over 5,600 complaints annually for its regulated professions. Division staff reviews each complaint upon receipt for jurisdiction and completeness. If the program does not have jurisdiction to review the complaint, the complainant will be notified and provided with additional resources if they are available. If additional information is needed to process the complaint, Division staff will notify the complainant of the necessary information to process the complaint. There are times where jurisdiction cannot be determined without processing the complaint. Once a complaint is complete and determined to be within the jurisdiction of the program, a case is opened and the complainant is notified. The licensee is then notified of the complaint and provided a period of time, typically 30 days, to provide a response to the complaint. The licensee is required to provide any records they have pertaining to the complaint, including patient medical records. Upon receipt of this information, Division staff provides the complaint, the response, and all other available information, to the board or Director to make a determination regarding the allegations within the complaint. It is possible that through the complaint process other issues not originally outlined in the complaint may be found and determined to be violations of the corresponding practice act. In certain instances, Division staff may refer a complaint directly to the Division's Office of Investigations (OI) for further information. These instances can include, but are not limited to, sexual contact, impairment or abuse of drugs or alcohol, concerns regarding safety to practice or safety to the public, unlicensed practice, and fraud.

Once the board or Director makes a determination in a case, several options are available.

- The board or Director may need additional information and OI may be utilized to gather that information. This can include the subpoena of information, witness interviews and the assistance of law enforcement.
- If there is no violation of the practice act, the board or Director will dismiss the complaint. A dismissal does not mean that the board or Director in any way condones the behavior of the licensee. The law requires a violation of the practice act in order for the board or Director to take disciplinary action meaning that when there is no violation of the practice act the only option available to the board or Director is dismissal. Both the licensee and the complainant will be notified of this outcome.
- Many of the practice acts allow for a dismissal with a "confidential letter of concern" to the licensee. Generally, Colorado law prohibits disclosure of letters of concern to the complainant and the public. In this situation, the licensee would receive the confidential letter of concern and the complainant is notified that the complaint is dismissed.
- If it is determined that an individual is practicing without the appropriate credentials the program could issue an Order to Cease and Desist. This is a public document that will be shared with both the individual who the complaint is against as well as the complainant.
- There is also various discipline that can be imposed on a licensee to include:
  - Letter of Admonition - this letter is a public disciplinary document that reprimands the licensee for a violation of the practice act or rules. There is an appeal period of 20 days. The complainant is notified once the action is final.
  - Stipulation - a stipulation is an agreed upon disciplinary action that can incorporate various requirements of the licensee including probation, a period of suspension, practice monitoring, required mental health

- o or substance abuse treatment, payment of a fine, continuing education, or limitation to practice. The complainant is provided with a copy of the stipulation.
- o Revocation or relinquishment - in more extreme circumstances a licensee may no longer be safe to practice and the board or Director may ask the licensee to relinquish their license or require the license to be revoked. The complainant is provided with a copy of this action.
- In certain circumstances, the board or Director may ask a licensee to voluntarily cease practice for a period of time. This agreement is typically imposed to provide the board or Director time to determine whether or not the individual is safe to practice or if there is pending criminal action. If there is concern for the health, safety, or welfare of the public, the board or Director could impose a summary suspension which requires the licensee to cease practice for a period of time. The complainant is provided with a copy of this action.

All public disciplinary actions are available on the DPO website attached to the corresponding licensee's record. Additionally, for healthcare professions there is a requirement to report discipline to the National Practitioner Data Bank. There may also be a requirement to report other professions, including healthcare, to the profession's national association.

### **Due Process Rights of a Licensee**

All licensees have the right to a formal hearing regarding findings of the board or Director. Hearings are conducted by an Administrative Law Judge (ALJ) at the Office of Administrative Courts (OAC). At the hearing, witnesses and evidence may be presented by the Office of the Attorney General on behalf of the board or Director. The licensee may be represented by an attorney. In these cases, the ALJ issues an Initial Decision, making findings on the credibility of witnesses, conclusions of law, and may recommend disciplinary sanctions where appropriate. The findings and recommendations of the ALJ may then be affirmed, modified or rejected by the board or Director. A final order is issued which becomes a public record. The complainant is provided with a copy of the final order. The licensee has the right to appeal the final order to a higher court.

### **How long until I find out what happened to my complaint?**

The majority of the complaints reviewed in the Division are resolved within 6 months. Complaints that require additional investigation, or are subject to formal discipline may take longer. There are various times throughout the process when Division's staff may notify a complainant including the initial acknowledgement of the complaint, referrals to OI or the Office of the Attorney General, if the case remains open in the program area over 6 months and upon any public action taken against the licensee by the board or Director. If you have questions throughout the process, please contact our office for an update.

### **Complaint Confidentiality**

During the investigation of a complaint the information regarding the complaint is likely not available to the public depending on the corresponding practice act. That means the licensee's response to the complaint is not made available to the complainant.

### **Patient Medical Records**

While Boards and the Director may receive and review a patient's medical records as part of the complaint process, the law does not permit the Board to release or disclose the contents of a patient's medical records to anyone, including the patient. Patients do, however, have a right to obtain a copy of their medical records directly from their healthcare provider pursuant to sections 25-1-801 and 25-1-802 of the Colorado Revised Statutes.