

Solve Your Licensing Law Problem: Choose the Right Administrative Law Attorney

When it comes to litigation and trials work, there are many sources of good information for the person who needs to hire an attorney. After all, trials are public, and many people have seen good trial attorneys in action. Word spreads and a reputation begins to build. With not too much effort, that reputation can be accessed through the Internet, your circle of friends and their friends and contacts, newspaper stories and, sometimes, official court reports of the final case result.

What is “administrative law”?

The person or business who needs to hire an attorney to handle a matter of administrative law has a more difficult task. Administrative hearings are the “trials” of individual cases about licensing, permits, taxes, fees, and other matters involving government regulation and administration. Administrative hearings ordinarily attract no public attention or courtroom observers. Because there are no juries, there is little of the “grand-standing” that high-profile trial lawyers can become known for. Few members of the public, including the potential client's widest network of connections, will know a sufficiently skilled and experienced administrative lawyer to recommend.

And yet, the stakes of administrative law can be shockingly high – far higher than what is generally at stake in a misdemeanor criminal trial or a routine business dispute that ripens into civil litigation. For example, one important speciality in administrative law that is often ultra high-stakes is Licensing law.

Licensing law is a specialty legal practice within administrative law.

Licensing law is the specialized legal practice that secures and protects professional and occupational state licenses, credentials and certificates. License lawyers appeal denials of license applications, teaching credentials and other occupational “permissions” by state regulatory agencies. License lawyers defend against state actions to revoke, suspend or restrict existing licenses. The critical degree of risk in a licensing case is obvious: the licensee has devoted years to an expensive and highly specialized educational program. He or she has studied for months and taken a difficult and expensive examination. Then, a number of years of apprenticing or climbing the steep learning curve has been invested. For the licensee suddenly faced with revocation – teacher, general contractor, real estate salesperson, Registered Nurse, for example – the loss of the license is the loss of their job and the loss of their means of making a living, possibly the only such means for which the individual licensee is qualified or hire-able. So, too, for the individual business owner – auto repair shop, pest control service, insurance brokerage, for example – the loss of the license means shutting down the business, forfeiting all income from it, while still obligated for many on-going expenses incurred for the purpose of doing business.

There are few civil lawsuits where one's entire income and ability to make a living hangs in the balance. By this standard, then, Licensing law is the ultimate high-stakes territory. Yet, still, it is practiced out of the public eye and few who need “the best” licensing lawyer have any idea how to find even a competent one.

This article is offered to meet that need.

How to Recognize An Experienced and Skilled Licensing Lawyer.

Set forth here is a Blueprint for success in licensing matters. It is applicable as well to almost every matter of general administrative law. The criteria set forth here are task-oriented – meaning that this is a Blueprint for what a skilled licensing attorney should **do**. It is not an inventory of necessary personal characteristics or qualities. A fine mind, extensive specific similar experience, diligent work habits, impeccable honesty, and strong communication skills are all critical, to be sure. But there is no need to write a Blueprint for those attributes-- everyone can be held to know that those qualities are essential. Instead, this Blueprint is a check-list for what you need your Licensing lawyer to do in your case.

Of course, every case is different by its facts and circumstances, and every case presents issues that require particular decisions and actions by the lawyer for the licensee or license applicant. But based on more than 30 years extensive experience, there is in fact an identifiable “Blueprint” for legal services that will always position the client’s case for the best possible result. So, in addition to the special requirements of your unique licensing law problem, this is what your potential Licensing attorney needs to be proposing to do in your case:

The Blueprint for Effective License Law Representation:

- Early, comprehensive and thorough fact-gathering:
 - Issue formal legal demands compelling the licensing agency to share ALL of the investigation package and ALL of the evidence the agency intends to use against you.
 - Subpoena all witness statements, photographs, agency records and other material the agency relies on for its allegations or decision against you.
- Early and regular intervention to reduce the case:
 - Immediately intervene with the agency investigator and other agency

officials to persuade the licensing agency not to go forward, or to go forward on a less serious set of allegations and proposed penalty.

- Regular and on-going skilled negotiations with agency representatives, including the Attorney General or Department Counsel, and including an Administrative Law Judge sitting as Settlement Officer, to reduce the allegations and the proposed penalty.
- Presentation of alternative proposals for license discipline, or case-specific conditions for license issuance.
- Professional preparation of your case:
 - Identify, find and prepare for direct and cross-examination all witnesses supporting your position.
 - Prepare cross-examination of all witnesses opposing you.
 - Create diagrams, video, maps, photo-journals, bench-book and other exhibits which support your case.
 - Prepare, file, and argue legal motions that may limit the agency's ability under the law to discipline you, or may keep out of evidence material that is unfavorable to you.
- Presentation of your case at hearing:
 - Object to the admissibility of unreliable evidence against you.
 - Offer into evidence all exhibits that support you.
 - Examine and cross-examine all witnesses.
 - Argue the case and submit a thorough post-hearing brief applying the law to the evidence admitted at the hearing.
- Completion of any applicable post-hearing processes:
 - Submit formal written objections to an unfavorable proposed Decision and argue a request for re-consideration of any unfavorable

decision.

- Appear before the licensing agency board or commission to argue in support of or in opposition to the Proposed Decision.
- Preserve your rights to file an expedited writ proceeding challenging in civil court an unfavorable agency decision.

Preserve the integrity, accuracy and completeness of the administrative record in the event that a challenge in court is necessary.

That's it! That's the blueprint for skilled representation in a licensing matter. When you go for your free consultation, these are the tasks you need to be listening for when the attorney describes his or her plan for your case. If all of the lawyer's talk is about hearings – or all about negotiations, or all about any other *limited* slice of the licensing law case – beware and move on. If the proposed Agreement for Services or Retainer Agreement doesn't spell out all of the Blueprint, you need to talk further or talk to other lawyers before you sign and surrender a check.

When your livelihood or business is at stake, you need a lawyer who can do right by you in all aspects of your fight. A licensing dispute in which your professional identity and ability to earn a living are at stake can be the single most significant, expensive and emotionally challenging legal battle you will ever in life go through. Don't go through it alone; don't go through it with anyone who is less skilled, less able, or less willing than you need and deserve to protect your right to your occupation.