



## **GILMAN LAW P.C., BOARD OF APPEALS GUIDE**

This simple to review guide has been designed for Gilman Law, P.C. clients who are scheduled to appear before the Division of Insurance Board of Appeals. This guide has been designed to answer many of the questions you may have about the board and the process moving forward.

It is important to note that the Board of Appeals is not part of the Registry of Motor Vehicles. The best way to think of the Board is to view it as an Appeals Court. The Board by law has vast authority and can modify any decision made by the Registry of Motor Vehicles.

Getting before the Board is a formal process and unlike the Registry of Motor Vehicles, there are no walk-in hearings. The hearings are on the record and conducted in a formal manner as described below.

### **1. About the Board**

The Board consists of up to four Board Members. More often than not there are only three members at any given hearing. The chairperson of the Board is the Designee of the Division of Insurance, the Attorney General's Office has up to two designees on the Board and the Registry of Motor Vehicles has a single designee. Most often the panel will consist of the Registry of Motor Vehicles Designee, a single Attorney General Designee and the Chairperson from the Division of Insurance.

Also present at Board is an individual who presents the case on behalf of the Registry of Motor Vehicle. Oftentimes this person is a trained lawyer based out of the Registry's Boston Office of the Driver Control Unit. The Driver Control Unit is the division that oversees license suspensions in Massachusetts. It is the division where Hearing Officers are located. At the Board it is the role of the Registry Official to present your driving record, criminal record, any relevant police reports and the Registry's position about your appeal.

## **2. Getting Before the Board**

As mentioned above, the Board conducts hearings on a scheduled basis. No walk-in hearings are permitted. To get before the Board a formal application will be prepared and submitted on your behalf. In addition to filing the formal application, there is a \$50.00 filing fee that must be included. Once the application package is submitted, it can take several weeks or months for a hearing to be scheduled. The length of the waiting period is often tied to the basis of your suspension. The longer your license is suspended the longer the wait time is to get before the Board.

## **3. The Hearing**

Every hearing is now being held virtually and no in person hearings are being conducted. The hearings are being held via the Microsoft Team

The Board will ask you to introduce yourself and spell your last name. After which, all the Board Members and the Registrars Attorney/Representative will introduce themselves. After everyone has introduced themselves the Board will ask the Registrars Attorney/Representative to present your record and the Registry's position on your suspension. The Registrars Attorney will provide to the Board your drivers history, criminal history and any out of state driving history. If there are any criminal charges associated with the license suspension the Attorney will often provide the Board with copies of all relevant police reports.

After the Registrars Attorney/Representative has presented their case, you will have an opportunity to present your case. Every client that goes to the Board with Attorney Gilman will have an individualized memorandum supporting their appeal with supporting documentation. The Board likes “stuff” and every memorandum is full of that stuff.

Prior to every hearing, Attorney Gilman will have conducted either a telephone conference or an in-person conference to prepare you as to what to expect. During this conference Attorney Gilman will review possible questions Board Members may have based on the facts of your specific case.

This process is designed to ensure there are no surprises come your hearing day.

#### 4. The Decision

The Board does not issue decisions from the bench. At the conclusion of all of the hearings, the Board retreats and votes in private on each case. The three common decisions the Board issues are the following:

- a. **Affirm** – Board has voted to maintain the suspension or the Registry's Positions. \*The Board may affirm but invite you to return after completing some specific action.
- b. **Affirm but Reapply** – This most often occurs when the Board feels you have either applied to early or wants you to serve more of the suspension time.
- c. **Modify** – This means the Board is ordering the Registry of Motor Vehicles to do something. This is the language that we all at Gilman Law, P.C., strive to achieve for all our clients.

The decision can take anywhere from 7 to 15 or even long to be received and processed.

#### 5. What to Do with the Decision

The decision from the Board if they are granting you relief in any fashion is not a license. Attorney Gilman immediately upon receipt of the decision will e-mail a copy of the decision to you and contact you to discuss the decision. If the Board has voted to help you, you must schedule a virtual RMV Hearing and upload a copy of the decision and any additional required documents.

The day of the RMV Hearing you will receive a phone call from a Hearings Officer. The Hearings Officer will enter the decision into the system and in most cases will allow you to go and pay your reinstatement fee. In some

instances, there may be additional steps that must be completed prior paying your reinstatement fee. The most common middle step is getting an Ignition Interlock Device installed.

Until you pay your reinstatement fee and have a license in your hand, Gilman Law, P.C., advises you not to drive. If you operate a motor vehicle without presenting the decision to a Hearing Officer and get pulled over, you will be charged with operating after suspension. This type of action can make the Board reconsider their decision.