

## **Investigative Process**

The investigative process has probably been the area most misunderstood about the Board. The *Investigative Procedure Outlined* (below article) explains the steps in the investigation from opening to closing a case, as advised by the Office of the Attorney General and the Examiners of Public Accounts. The Alabama Administrative Procedure Act governs all boards in many areas, but especially in investigative and disciplinary procedure.

The first step, we must receive a written complaint in order to investigate. Assumptions are sometimes made that the Board knows about all individuals operating without a license or otherwise illegally when, in fact, chances are very good that the allegation has never been reported to the Board. The Board has to prove that it hasn't acted in renegade fashion and just decided to investigate someone for any reason whatsoever. This is why the law requires written complaints and cannot take anonymous complaints. Additionally, the complainant must be willing to testify.

Second, the Board does not have police power or the authority to arrest. Very few licensing boards are given these powers by the State Legislature. Upon receipt of a written complaint by an individual willing to testify, the Board can send an investigator to collect information. The Investigative Committee uses the evidence collected by the investigator to determine probable cause to proceed to a hearing. If probable cause is met, the Board will hold a disciplinary hearing. The Administrative Law Judge and the Board agree on the final order and the respondent is notified.

After the hearing process has been completed, the Board can take the matter to circuit court if the respondent has not complied with the Board's order. There is certainly a mechanism for stopping individuals who operate illegally. Although, not as quick or dramatic as a police arrest, it is legal and effective in the long run.