

## Responding to a Texas Medical Board Complaint



**(July 7, 2014):** The Texas Medical Board (Board) investigates complaints against physicians, physician assistants, acupuncturists and surgical assistants. A Texas Medical Board complaint can be filed by a patient, a patient's family or a health care provider. On the average, the Board receives and evaluates over 7,000 complaints each year. The kinds of violations the Texas Medical Board finds from these complaints include inappropriate prescribing, incorrect diagnosis, and medical errors that may have resulted in patient injury.

### **I. Is There Jurisdiction Over a Specific Texas Medical Board Complaint?**

A Texas Medical Board investigation starts when the Board receives a complaint. After a complaint is received, staff analysts first determine whether the complaint is “jurisdictional,” (whether or not the Board has jurisdiction over the complaint). The Texas Medical Board has jurisdiction over anyone with a Board-issued physician's license and violations which fall under the Medical Practice Act. Complaints that are non-jurisdictional may be referred to another agency.

### **II. Informal Settlement Conference:**

If the Texas Medical Board has jurisdiction, an investigation of the complaint begins to see if there is evidence sufficient to support a violation of the Medical Practice Act or the Board's rules. At this point, the Board generally requests records and information from the physician and checks to see if there are any past complaints against him. A physician should consult with an attorney prior to responding to a notification of a complaint against him and should not respond to a request for records until obtaining legal advice.

If the Board finds there is sufficient evidence of a violation, the case goes to Board's litigation section for an Informal Settlement Conference (ISC). The ISC process gives the physician an opportunity to respond to the complaint and show that his actions were proper. Prior to the actual conference, the physician is given notice of the allegations and the supporting facts. He may be asked to respond to written questions and is given the opportunity to submit information and evidence to the Board panel for consideration. He will also have the choice to either have the ISC

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determined solely by way of written information or by making a personal appearance before the Board panel. It is critical that the physician only responds after seeking legal counsel. An attorney may make the request that the conference be determined by written information and can manage further correspondence.

At the conclusion of the ISC, the panel either recommends dismissal of the complaint or finds that a violation occurred. If a violation is found, the panel recommends punishment and/or remedial action. The physician can accept the Texas Medical Board's findings and proposed actions or request the Board to file a complaint with the State Office of Administrative Hearings.

## VII. Final Remarks:

A Texas Medical Board investigation is a very serious matter that should be dealt with immediately upon notice. If a violation is found, the subject of the complaint faces risks including loss of his license. The process generally takes a long time, and knowing which documents to produce may be challenging. It is highly recommended that an attorney be retained to help. In addition to the investigation and gathering of evidence, counsel can advise the subject of the risks and benefits of a personal appearance ISC as opposed to an ISC based on written submission. This is one of those matters where absence of counsel has an adverse impact on the sanctions imposed in the event of a violation.



**Robert W. Liles, Esq.,** serves as Managing Partner at Liles Parker, Attorneys & Counselors at Law. Our Firm's attorneys represent health care providers around the country in connection with both regulatory and transactional legal projects. For a free consultation, call Robert at: **1 (800) 475-1906.**