

Message from the Chair



WASHINGTON
**Medical
Commission**
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Medical Board Complaints

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When providing consulting services to a large multi-disciplinary physician group, the most overwhelming event and emotional response I heard from any physician was their reaction to receiving a medical board complaint. The first question I heard was “am I going to lose my license”? Followed by “who complained, what is the complaint and what do I do”? Receiving a complaint usually caused a loss of sleep and questions about whether the physician should continue to practice. Complaints were viewed as their competence being questioned and without exception a physician’s confidence to practice medicine was significantly shaken.

Understanding the basis of a complaint, what it means to the physician and how to lessen the chance of future complaints are starting points to learning how to cope with the complaint and finding reassurance for their practice mindset.

Complaints can come from a number of sources. Patients and patient families are the most common sources of complaints. Complaints can also be made by attorneys representing patients, co-workers, fellow providers, ancillary medical sources, malpractice insurers and other regulatory agencies.

Complaints can range from a misdiagnosis, failure to diagnose, failure to timely diagnose, medication management, patient abandonment to related care issues involving billing issues, not providing copies of medical records and rude staff.



Receiving a complaint can have significant consequences. Complaints become a permanent record of regulatory boards. Complaints are public records that can be viewed by anyone.

Complaints resulting in discipline are reported to the National Practitioner’s Data Bank. If licensed in multiple states, physicians must report disciplinary cases to each jurisdiction. Each jurisdiction may take disciplinary action based on the complaint even though the complaint did not occur in that jurisdiction. There is the potential of losing medical board certification. There may be a reputational impact with credentialing by insurers, practice groups and institutions.

Many physicians view educational disciplinary sanctions as helpful to their practice while others view the process as punishment. Whether viewed negatively or positively, disciplinary action taken by boards and commissioners can take the form of remedial education requiring specific CME, formal education courses, writing papers and presentations to practice or institutional staff.

Egregious conduct or care violations will likely result in more severe actions that might include competency testing, practice restrictions, license suspensions or license revocation.

Physicians should know that there are many complaints filed that have no merit. They may not reach the threshold for an investigation or the complaint may be investigated but found to be without merit and closed. Unfortunately, these complaints remain part of the permanent record but are identified in a way that the complaint was closed without merit.

While there is no absolute way to avoid a medical board complaint, there are thought processes that can be employed during patient visits that may lessen the likelihood of a complaint being registered by a board. While sounding simplistic, keeping up to date on treatment modalities is basic to providing care. Referring patients to specialty care at the appropriate time is important to keep in mind. Referring patients to other providers when diagnoses and treatment may be beyond expertise is another consideration.

And lastly, the number one complaint preventative measure, communications. Know your patient, be

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a good listener, be attentive, be empathetic, be compassionate be certain the patient knows the diagnosis and treatment plan. Make sure to ask the patient if they have questions at the conclusion of the visit. Offer to answer questions that might come up after the patient has gone home and has had time to think about the office visit.

What should a physician do if a board or commission complaint is received? First and foremost never ignore a contact from a board investigation representative. Board notification of a complaint requires immediate attention.

Generally, the physician should contact their immediate supervisor or medical director to let them know about the complaint and to obtain advice on what to do next. If there is a risk management office, representatives in the office may provide an attorney that specializes in managing board complaints on behalf of physicians. It is customary for medical organizations to pay the cost of retaining an attorney to defend board complaints in full or up to some monetary limit.

If in private practice, contact your malpractice insurance carrier. Most malpractice insurance policies provide coverage for retaining an attorney to defend regulatory complaints.

If none of the above resources are available, it is recommended physicians seek the advice of counsel. Board disciplinary authority is embedded in statute and case law that may be beyond the expertise of physicians. Legal counsel will know the law and provide advice and a response to the complaint that is in the best interests of the physician.

If there is some merit to the complaint, it is usually best to attempt to resolve a board complaint than contest the complaint. Most complaint resolutions can be negotiated to conclusion. The alternative is going to hearing that can be a painful experience. There may be financial costs both legal and from being away from the practice. Emotional costs are not quantifiable but need to be considered when contesting a board complaint. A negotiated solution to the complaint is generally the best path to finalize the complaint.

The above is intended to be a general overview of board complaints and how the process works. Physicians and their counsel need to assess each individual complaint to develop an appropriate strategy to address the complaint.

Understanding the basis of a complaint, what it means to the physician and how to lessen the chance of future complaints are starting points to learning how to cope with the complaint and finding reassurance for their practice mindset.

