

Responding to the NC Board of Dental Examiners

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So, you are a licensed dental professional and you have just received formal notice from the Board of Dental Examiners informing you that a patient has complained and that you and your practice are under investigation. After the butterflies clear from your stomach and taking a deep breath, what do you do?

The Board: It is important to understand the Board. The Board is responsible for maintaining standards of patient care and practice. This responsibility is aligned with the commitment shared by most licensed dental professionals, who seek to meet or exceed these standards. The Board also consists of dental professionals, who understand both the investment that is made to obtain a license and the complexities associated with providing dental care. The Board balances the tension that sometimes arises out of these interests.

Dental Practice: It also is important to understand and accept that providing patient care, even at the highest levels, does not always produce the outcome sought and expected. Dentistry is not like accounting, where math leads to a precise result. Each patient presents a different opportunity for a dental professional, and there are times when a patient may be disappointed with the outcome.

Managing a Complaint: Interactions with the Board concerning the adequacy of dental care are rare, which reflects well on the level of commitment of dental professionals. They often arise out of a complaint that is submitted by a disappointed patient to the Board. Upon receipt of such a complaint, the Board has an obligation to investigate and, if warranted, to take appropriate disciplinary action. The Board rightfully approaches this obligation with serious focus and mindfulness of both the complexity of dentistry and the tension between interests. The first step in the process is to provide that formal notice that tends to stir the butterflies.

The Disciplinary Process: There is no need to panic upon receipt of such notice. This is a fact-gathering process. So long as the care provided to the patient has been proper, this process often helps to sort out the issues and to resolve the complaint without additional action by the Board. If the investigation reveals an issue where the care has fallen short of what is expected and required, the Board generally will offer a consent resolution that includes some form of disciplinary action. In doing this, the Board is guided in determining what is "expected and required" by a set of "disciplinary factors" that are set forth explicitly in the regulations that have been adopted by the Board. These

factors inform the Board on both the need for and the severity of the disciplinary action. Disciplinary action can range from reprimand to revocation of a license. If a dental professional disagrees with a consent resolution proposed by the Board, the dental professional can refuse to accept it and demand a formal hearing. Demanding a hearing is an action that should be taken only after careful reflection and with the advice of counsel.

Recurrent Themes: Board sees a wide range of issues that result in disciplinary action. However, like other boards tasked with licensing responsibility, there are some themes that seem to be recurrent in complaints to the Board, including:

- Sedation dentistry
- Prescription of controlled substances
- Failure to properly document treatment and care
- Sexual impropriety.

Generally, these issues, and others, can be avoided by simply providing proper care.

Sound Practice: There are a number of practices that can be adopted that will make dealing with the Board easier:

- Treat patients respectfully and on a "patients first" basis; if an unexpected outcome occurs address it directly with the patient
- Stay between the lines of proper dental care; document treatment and care provided
- If formal notice of an investigation is received from the Board, contact an attorney and cooperate with the investigator and investigative process; keep the Board's responsibilities and perspective in mind
- If there has been a deviation from the standard required, accept responsibility and commit to improving patient care prospectively
- If there is a real dispute over care or the application by the Board of a statutory or regulatory requirement, take the issue on with courtesy and deference

Dental professionals and the Board share an interest in providing proper care to patients. Dealing with the Board on a patient care issue can be both disruptive and emotionally burdensome. We are available to assist if assistance is ever needed.

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