

How Complaints Are Handled



Central Complaint Unit
1-800-633-2322
<http://www.mbc.ca.gov>

**Medical Board
of California**
*the state agency that
licenses medical doctors,
investigates complaints,
and disciplines those
who violate the law*

OVERVIEW OF THE COMPLAINT REVIEW PROCESS

The Medical Board of California (Board) has authority over licensed medical doctors (M.D.s) and certain allied health professionals. The Board also has the authority to enforce the provisions of the Medical Practice Act. The enforcement power is detailed in the California Business and Professions Code which governs the practice of medicine in the state.

All complaints filed with the Board are handled with equal consideration. When you file a complaint it is assigned to a Consumer Services Analyst for review. The analyst will gather all the information necessary for your complaint to be evaluated. The initial review of your complaint will be undertaken immediately and, if appropriate, mediated at this point. If it is determined an investigation is needed, the case will be referred to a district office in the area where the complaint originated. Depending on the complexity of the case, it may take several months to resolve the complaint and this does not include the time necessary for a formal investigation and an accusation to be filed. As with any legal proceeding the accused is guaranteed his or her right to due process.

■ **Quality of Care Complaints**

If your complaint involves the quality of medical care and treatment you received, the Board will obtain copies of all relevant information pertaining to that treatment. The Board will ask you to sign an "Authorization for Release of Medical Information" if one was not included with your complaint form. **It is important that you sign the medical release form and return it as soon as possible to avoid delay in processing your complaint.**

Once the analyst has your signed release form, a request will be made for all medical records needed, as well as a written summary of the care from each of the treating medical providers. When all records and summaries are received, all documents are analyzed by Board staff to determine whether there is sufficient evidence for referral to a medical consultant. If referral to a consultant is warranted, the entire file is forwarded to the consultant for a thorough review. If there is insufficient evidence to pursue the matter, the complaint will be closed in the Board's Central Complaint Unit.

The review conducted by the medical consultant will determine if the complaint requires further review by a Department of Consumer Affairs investigative office or whether the complaint should be closed in the Board's Central Complaint Unit.

If the medical consultant determines the treatment by the physician or allied health care professional in question does not fall below the acceptable standard of medical care, the Board has no authority to proceed and the complaint will be closed. If the Board finds that the treatment fell below the standard of care but does not represent gross negligence, the complaint will be closed but will be maintained on file for the Board's future reference. If a complaint is referred for further investigation and a violation is confirmed, the complaint may be submitted to the Office of the Attorney General for a formal charge that may lead to disciplinary action against the physician's license.

By law the Board cannot review matters that occurred more than seven years ago. Business and Professions Code Section 2230.5 states that any accusation (or formal charges against the physician's license) filed against a licensee shall be filed within seven years after the act or omission/incident. This means that the Board's investigation must be concluded, the case transmitted to the Attorney General's office and the accusation filed by the Attorney General's office before the seven year time limit expires.

There are exceptions to the Statute of Limitations, those are:

- Complaints involving sexual misconduct
- Care and treatment provided to a minor
- Proven intentional concealment of specified unprofessional conduct

■ **Failure to Provide Medical Records**

If a medical provider fails to release a copy of your medical records to you upon your written request, he/she may be in violation of Health and Safety Code Section 123100. You may file a complaint with the Board which would allow the Board to pursue the matter with the medical provider.

■ **High Priority Complaints**

Complaints alleging negligence that involve patient death or serious bodily injury are given the highest priority. Complaints alleging sexual misconduct, excessive prescribing, unlicensed practice of medicine or substance abuse will usually be forwarded to an investigative office for further investigation. However, if the complaint allegations are not clear you may be contacted for further information before determining whether an immediate field investigation is warranted.

■ **Injury, Disability, Fitness for Duty Evaluations**

You have a right to a copy of your medical exam no matter who pays for it. Medical providers often conduct evaluations to determine an individual's medical condition related to an injury, disability, or fitness for duty. The Board has limited jurisdiction in this area as no "care and treatment" is provided. If you are dissatisfied with the results of your evaluation, appeal processes may be available through the agency or individual who requested the evaluation. It is recommended that the appeal options be pursued.

The Medical Board has no authority over the following:

- **Chiropractors** (*contact Board of Chiropractic Examiners*)
- **Dentists** (*contact Dental Board of California*)
- **Health Maintenance Organizations (HMOs)** (*contact Department of Managed Health Care*)
- **Hospitals** (*contact Dept. of Public Health*)
- **Insurance Companies** (*contact Department of Insurance*)
- **Malpractice actions/civil lawsuits**
If you are seeking damages and restitution only, you need to seek legal advice. The Medical Board cannot share information or assist with lawsuits.
- **Medi-Cal** (*contact Department of Health Care Services or Department of Justice, Medi-Cal Fraud*)
- **Medicare** (*contact the federal centers for Medicare and Medicaid*)
- **Nurses** (*contact the Board of Registered Nursing or the Board of Vocational Nurse and Psychiatric Technicians*)
- **Optometrists** (*contact Board of Optometry*)
- **Osteopathic Physicians (DOs)** (*contact Osteopathic Medical Board of California*)

*The Medical Board also has no authority over ethical/office issues (attitude, "bedside manner", demeanor, office staff), prices charged or to obtain a refund from a medical provider **unless** there is a double payment by the insurance company.*

MEDICAL BOARD OF CALIFORNIA

Central Complaint Unit
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815

- **To obtain information about the complaint process, call our Consumer Information Unit:**

1-800-633-2322
or (916) 263-2424
Fax: (916) 263-2435

- **To check on a specific doctor visit:**

http://www.mbc.ca.gov/Breeze/License_Verification.aspx

Visit our Website:

<http://www.mbc.ca.gov>

The mission of the Medical Board of California is to protect health care consumers through the proper licensing and regulation of physicians and surgeons and certain allied health care professionals and through the vigorous, objective enforcement of the Medical Practice Act, and to promote access to quality medical care through the Board's licensing and regulatory functions.