

## Public Release of Information:

With limited exceptions:

The complaint process is confidential and should not be made part of the patient's medical record.

If a complaint is dismissed, information that there was a complaint and its dismissal is only publicly available from the Board upon request.

If a Letter of Guidance is issued, it remains in the licensee's file for up to 10 years and is available to the public upon request.

If a disciplinary action is taken a press release is issued, the disciplinary document is posted on the Board's website and it is reported to the data-banks.

## Do's and Do Not's:

- DO respond within 30 days
- DO provide a complete, factual, straightforward response.
- DO provide any records or other information requested with your response.
- DO attempt to answer all the concerns alleged in the complaint.
- DO consult with an attorney if you have legal questions.
- DO check the Board website if you have questions about Rules or Statutes.
- DO NOT speak with Board members.
- DO NOT ignore a complaint.
- DO NOT wait until the last minute and request an extension.
- DO NOT withhold facts or records.

**If you have questions regarding the complaint process, please contact compliant staff at (207) 287-3625.**

## Complaint Review:

In order to maintain confidentiality, the Board conducts its review of complaints in public session using de-identification. If a complaint is reviewed in executive session, the law (with some exceptions) allows most complainants and licensees who are the subject of a complaint, and/or their attorneys to be present and observe the Board's review of a complaint.

The Board meets on the second Tuesday of every month. The complaints for review appear on each agenda under their respective complaint (CR) numbers. To find out what complaints will be reviewed, you may check the Board's agenda for your complaint number. The Board's meeting agenda, dates and instructions to attend will be posted on the Board's website at least 6 days prior to each meeting: <http://www.maine.gov/md/about/board-meetings-minutes>

Please remember that the law allows you to be present for the Board's review and discussion of the complaint. However, the law does not permit members of the public to participate - your attendance is for observation only. Any attempt to intervene or otherwise disrupt the Board's review of the complaint and/or address the Board may result in your removal from the meeting.

## Board of Licensure in Medicine

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# *Licensee's Guide to the Complaint Process*



## Maine Board of Licensure in Medicine

*"For the protection of the health,  
safety and welfare of the public"*

## Board Duties:

Maine law states that physicians and physician assistants must be licensed to practice medicine in our State. Through licensure, the State ensures that all providers have an appropriate level of education and training and that they abide by recognized standards of professional conduct.

As part of the Board's duties it evaluates licensee performance and must, by law, investigate all complaints and reports. Complaints and reports are received from:

- Patients / Family Members / Concerned
- Citizens, Licensees and Other Professional Healthcare Entities
- Federation of State Medical Boards, National Practitioner Data Bank Federal or State Agencies
- Malpractice Carriers

Certain reports from licensees and healthcare entities are mandated under 24 M.R.S.A. 2505 - 2506. When the Board receives such a report it starts an investigation and determines if a complaint should be issued. Normally the licensee is not formally notified unless the Board issues a complaint. If no complaint is issued then the investigation is closed/filed.

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## Complaint Process:

Upon receipt of a complaint, the Board sends a copy of the complaint to the licensee. The licensee has 30 days to respond in writing. A copy of this response is provided to the complainant if they are authorized to receive it. (The Board may not provide a response - if doing so would be detrimental to the patients health or wellbeing).

## Complaint Process (cont):

The Board reviews all complaints within approximately three to six months after receiving all the preliminary investigation materials.

Based on its review, the Board determines if possible grounds for disciplinary action exist.

- If no, the complaint may be dismissed or dismissed with a Letter of Guidance (LOG). LOG's allow the Board to express concern or guidance intended to improve professional performance and possibly prevent further complaints before the Board. LOG's are **not** disciplinary.
- If yes, the complaint remains open pending further Board action, such as:

### Further investigation:

The Board decided it did not have enough information upon which to base a decision, and therefore, has directed that additional investigation be conducted. The process normally takes from one to nine months, depending on the facts of the investigation.

### Informal Conference:

When the Board has questions after reviewing the complaint it may request an Informal Conference with the licensee. This is a chance for the Board to have a discussion with both the complainant and the licensee. Licensee's are welcome to have an attorney present, but the Conference is informal and the Board expects to engage with the licensee, not their legal counsel.

## Complaint Process (cont):

### Adjudicatory Hearing/Consent Agreement:

If the Board determines there may be grounds for discipline it may offer the licensee a Consent Agreement and/or order an Adjudicatory Hearing. If an Adjudicatory Hearing is ordered, the Board strongly recommends that the licensee consult with an attorney.

The licensee and complainant are notified of the Board's decision in writing.

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## Some Grounds for Discipline:

- Fraud or Deceit in Obtaining a License
  - Habitual Substance Abuse
  - Sexual Misconduct
  - Incompetence or Unprofessional Conduct
  - Conviction of a Crime
  - Violation of Law, Board Rule or Order
  - Inappropriate Prescribing
  - Disciplinary Action by Another State
  - Failure to Report an Impaired Physician
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## Disciplinary Actions May Include:

A warning; reprimand; censure; fine(s); cost of hearing; education; probation with conditions; suspension; revocation or modification of license.

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## Confidentiality:

With limited exceptions, Maine law makes complaints and investigative records confidential (not accessible to the general public) during the pendency of an investigation. In addition, the law makes patient/client treatment records confidential.

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