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## Tips for Establishing Standards of Conduct for Office Staff

The [Texas Medical Board](#) (TMB) receives over 7,000 complaints every year. Complaints are filed by patients, patients' family members, health care professionals, and other sources. Any allegation of misconduct filed against you could put your license, reputation, and career on the line.

It is not uncommon for TMB complaints against doctors to involve the actions of office staff. For this reason, it is critical to establish and enforce appropriate

standards of conduct for all office staff. Taking precautionary measures to help avoid facing a complaint from the TMB is the most desirable course of action.

## **Develop a Policy, Systems and Procedures (PSP) Manual for Your Medical Practice**

A Policy, Systems and Procedures (PSP) Manual will ensure that your staff know what conduct is expected of them. The Manual can also serve as a training tool for new staff members.

Continue to keep your staff aware of the policies and procedures through regular trainings. Make sure you document these trainings. When an employee's behavior falls below the standards of conduct, promptly address the issue and ensure the employee understands what is expected of them.

## **Cultivate an Office Culture that is Patient Friendly**

Patients who feel that they are not treated right or well are more likely to lodge complaints with the TMB. It is important to ensure that your staff is properly trained in how to help your patients and how to properly interact with patients.

To cultivate an office culture that is patient friendly make sure your staff is friendly and helpful. Greet patients with a smile from the time they walk in the door. Rude, insensitive, or inattentive behavior by staff, whether office staff or by health care providers, is more likely to lead to a complaint being filed with the TMB than friendly, helpful, and patient focused behavior.

## **Ensure Members of Your Staff are Aware of Regulatory Requirements**

It is critical that you take steps to ensure all members of your staff are aware of the office policies as well as all regulatory requirements to which they must adhere.

Your medical license could be put at risk by a TMB complaint filed because your office staff did not follow proper documentation protocols. Or, because a member of your staff failed to conduct proper follow up, or failed to properly deliver test results to a patient.

Develop strict protocols for documentation that apply not just to physicians and medical staff, but to office support staff as well. Keep in mind that phone calls and messages are a key component of health care. Make documenting phone calls to and from patients a necessary part of their medical record, even if the phone call is merely an appointment confirmation call from office staff. You cannot predict what evidence will be helpful in defending yourself against allegations of misconduct, so do all you can to maintain thorough records.

## **Let Your Staff Know How Valuable They Are to Your Practice**

Treating your staff well is an integral part of creating an office culture that is patient friendly. A happy staff will be friendlier and more accommodating to patients. Let your staff know that you value their work and that they are an integral part of the healing work that you all do on behalf of your patients.

Remember that it is not uncommon for complaints with the TMB to be due to actions taken (or not taken) by the medical practice's staff. Ensuring your staff understands

their obligations and expected standards of conduct helps to reduce the likelihood of a patient lodging a complaint against you with the TMB.

## **Hire An Experienced TMB License Defense Attorney**

Taking precautionary measures may mean you are less likely to face a complaint and ensuing investigation from the TMB. However, no matter how careful or meticulous you are, someone may still file a complaint against you.

If you have been notified of a complaint filed against you with the Texas Medical Board, [BERTOLINO LLP](#) can help. We are experienced TMB license defense attorneys and we know how to navigate the TMB's complaint process. We are prepared to represent you at any legal hearing or proceeding regarding your professional license.

With offices in Austin, Houston, and San Antonio, we serve clients all over the state. As experienced attorneys, well-versed in state and federal laws, we know how to win. [Our results](#) speak for themselves!

***Our law firm helps professionals, like you, keep their licenses when those licenses are under attack by a state agency or board.***

If you are facing disciplinary action from a professional licensing board, [contact us](#) today or call (800) 210-0126 and schedule a case evaluation.

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Get a copy of Tony R. Bertolino's #1 Bestselling book [When Your License is Under Attack: A Survival Guide for Texas Professionals](#) in hardcover or for Kindle [here](#).

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## **Hallmark Achievements | March 2018**

### ***A Record Month of Dismissals***

#### ***Texas State Board of Pharmacy v. O.A.A.***

Our Client, O.A.A., Pharm.D., R.Ph., faced a complaint ("Complaint"), based on a signature, purportedly authored by O.A.A., on fraudulent documents sent to the Virginia Board of Pharmacy. The Texas State Board of Pharmacy ("Board") prosecuted our Client and set an Informal Conference to discuss same. And tremendous value hung in the balance: our Client has R.Ph. licenses in eleven other states, each and all of which would have been implicated by an adverse result for the Texas Complaint.

We retained an eminent hand-writing analyst, and incorporated her expert analysis into a written rebuttal, more than fifteen days before the Informal Conference. Our written rebuttal convinced the Board to dismiss the Complaint and take no disciplinary action against our Client. Afterward, we prepared administrative Complaints for our Client, who then filed same with the Virginia and Texas Boards of Pharmacy. At the earliest available opportunity, we shut down the Complaint, and put our Client from the defensive, onto the offensive.

### ***Texas State Board of Occupational Therapy Examiners v. R.B.***

Our Client, R.B., a COTA/L and Director of Rehabilitation, faced a complaint ("Complaint"), filed by his former employer, which alleged fraudulent billing practices. We compelled R.B.'s former employer to enter a pre-litigation settlement, to the tune of \$10,000, for overtime backpay. We also ascertained that R.B. did not commit fraud at all, but rather, selected the wrong client on a fickle drop-down menu in the digital billing system used by R.B.'s employer. In February, after participating in an Informal Conference, we convinced the Texas Board of Occupational Therapy Examiners to dismiss the Complaint, and take no disciplinary action against R.B.

### ***Texas State Board of Examiners of Professional Counselors v. D.C.***

Our Client, D.C., faced two Complaints ("Complaints"), alleging ethical violations. We prepared and submitted written rebuttals to both Complaints, and attended a Disciplinary Committee meeting, held by the Texas State Board of Examiners of Professional Counselors ("Board"). Through our written rebuttal, and the outcome of the Committee meeting, we convinced the Board to take no disciplinary action against our Client's license.

### ***Texas Education Agency v. L.E.***

Our Client, L.E., faced a Complaint ("Complaint"), filed by the School District she formerly worked for, as a special educator. The Complaint alleged serious ethical violations, after a third-grade student ("Student") had a crisis, which nearly resulted in severe harm befalling several students. The School District terminated L.E., and she was left with no option other than working for a retail store to cover her bills and living expenses.

The Complaint conspicuously omitted crucial facts and circumstances, which we relayed to the Texas Education Agency ("Agency"), in a written rebuttal. Namely, L.E. had pleaded, from the end of the prior school year, until the day of the crisis, with School District Leadership to develop a crisis plan for the Student; these pleadings were rejected, and District Leadership had the audacity to play the crisis off as L.E.'s fault. We attended an informal hearing with L.E., before the Agency, and discussed the substance of the rebuttal. Days later, the Agency notified us that the Complaint had been dismissed, with no disciplinary action being taken against our Client's educator Certificate. Our Client has been fully exonerated and is now interviewing for special educator positions.

### ***Texas State Board of Physical Therapy Examiners v. J.R.***

Our Client, J.R., faced a Complaint ("Complaint"), filed by his former employer, after a patient ("Patient") with a history of cardiac complications expired. J.R. visited the Patient, in his home, to provide physical therapy. Prior to visiting, J.R. thoroughly reviewed the Patient's treatment records, prepared by other healthcare professionals. The records did not contain any indication of the Patient's history of cardiac complications, except a low-dose, common medication, which can be used to mitigate cardiac complications. Upon J.R.'s arrival, the Patient was already anxious and eager to exhibit his ability to walk. J.R. advised the Patient to slow down, as there was a serious risk of a fall. The Patient ignored J.R.'s instructions and proceeded to ambulate well beyond safe limits. To make matters worse, shortly thereafter, the Patient consumed a pill, without notifying J.R.

The Patient became belligerent when J.R. attempted to slow him down, to keep him safe, causing the Patient's heart rate and pulse to skyrocket. J.R. notified the Patient that he intended to call EMS, based on the Patient's cardiac condition. The Patient was recalcitrant, threatening to file a complaint against J.R. with the Board if EMS was called. In tandem with his rising anger, the Patient's heart rate and pulse rose. J.R. called the Patient's doctor but could not get through. Realizing that neither contacting EMS nor the Patient's doctor were viable options, and needing to soothe the Patient, to drop his heartrate and pulse into a safe range, J.R. shifted the conversation to small talk. This strategy worked, and the Patient's pulse dropped to a safe range. When the Patient fully stabilized, J.R. informed the Patient of signs to watch for, which would indicate risk of a cardiac event, and provided phone numbers to call in case of same. As J.R. left the Patient's house, the Patient thanked J.R. for the treatment, and indicated that he looked forward to the next session. Unfortunately, that session did not come to pass, as the Patient expired some time in the evening or morning after J.R.'s departure.

J.R. was terminated for the Patient's death and filed the Complaint. J.R. was forced into bankruptcy by the controversy and had very limited defense funds. The Board alleged gross negligence and threatened severe disciplinary action. By capturing the truth of matters in a written rebuttal, and subsequent addendum to same, we convinced the Board to dismiss the Complaint, and take no disciplinary action against J.R.'s license. And we did so within a tight budget.

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## Bertolino Team Highlights



Keeping licensed professionals informed with complimentary and valuable information via our website is another way that Bertolino LLP continues to give back to the state of Texas and beyond. Pictured here is Tony R. Bertolino recently giving his time to the State Bar of Texas for a live webcast titled [When Your Law License is Under Attack: Survival Guidance for Texas Attorneys.](#) The webcast was also recorded and is available in the State Bar's CLE library archives for any licensed Texas attorney to access at any time.

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*"Our law firm helps professionals, like you, keep their licenses when those licenses are under attack by a state agency or board."*

*-Tony R. Bertolino, Managing Partner*

