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- TONY R. BERTOLINO, MANAGING PARTNER



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Texas Medical Board Complaints Remain On the Rise

The annual number of complaints filed with the Texas Medical Board (TMB) remain on the rise. Moreover, the number disciplinary actions, license revocations or suspensions, and restrictions are also rising. This is a critical time for Texas doctors and other health care professionals licensed by the TMB to be vigilant and to know exactly what to do if a complaint is filed with the TMB.

From fiscal year 2015 to 2016 [TMB Enforcement Complaints/Investigations](#) raised by over 4 percent, with 7,510 filed in 2015 and 7,821 in 2016. The total numbers for fiscal year 2017 are not yet available, but are on track to exceed the 2016 totals. Looking back, between 2004 and 2013, TMB enforcement cases against physicians and other health care professionals in the state [increased 76 percent](#).

Further, on par with the increase in complaints, the TMB is taking more disciplinary actions against licensees. In 2016, 312 disciplinary actions were taken against TMB licensed physicians, a 4% increase from those imposed in 2015. License [revocations and surrenders](#), as well as the number of medical licenses put on restriction, are on the rise.

Complaints remain on the rise likely for a number of reasons, some of which include:

- Texas tort reform legislation of 2001 that effectively transferred what might have been a court case against a physician or other licensed health care provider to the TMB.
- The TMB consistently receives more applications for licensure each year. The general pattern is that the TMB issues more licenses each year, though this is not true every year. More licensees may naturally give rise to more complaints.
- Information on how to lodge a complaint with the TMB is easily found online. Coupled with the ability to submit an electronic complaint, people who want to file a complaint warranted or not are easily able to do so.

When You're the Subject of A TMB Investigation

If a complaint is filed against you and has moved to the investigation stage, it is critical that you know how you should respond and what the complaint process entails.

How You Should Respond

When you are notified by the TMB that an investigation has been opened due to a complaint lodged against you, you will be given a date by which to respond to the allegations. These initial responses you send to the board are critical. In fact, initial responses are so important that it is not uncommon that we shut down frivolous and unwarranted complaints with a well-crafted first response. [Our results](#) speak for themselves.

As soon as you are notified of a complaint pending against you with the TMB contact an experienced [medical license defense attorney](#). Hiring the right attorney may mean the difference between protecting your medical license or losing your license and good reputation.

The TMB's Enforcement Process

The TMB's must review every complaint it receives. Depending on how far the case goes, the enforcement process can include an investigation, informal resolution, and formal resolution before the State Office of Administrative Hearings (SOAH).

Throughout the [TMB's enforcement process](#) you will have several opportunities to defend yourself and your license to practice medicine. Also, at all stages of the

investigation and enforcement process you have the right to be represented by an attorney. Hiring an attorney to help you mount a strong defense serves to protect your license, reputation, financial interests, and your career; it does not make you look guilty.

Hire An Experienced Medical License Defense Attorney

If you have been notified of a complaint filed against you with the Texas Medical Board, [Bertolino LLP](#) can help. We are experienced medical 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 medical license, including:

- Temporary Suspension Hearings
- Informal Settlement Conferences (ISC)
- Show Compliance Proceedings
- State Office of Administrative Hearings (SOAH) Proceedings

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

[BERTOLINO LLP](#) proudly represents licensed professionals across the entire State of Texas. To best serve our clients we have offices in Austin, Houston, and San Antonio. Our honest, experienced attorneys will fight aggressively on behalf of your license and reputation. [Contact us](#) today or call (800) 210-0126 and schedule a case evaluation.

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](#).

Hallmark Achievements | December 2017

Texas State Board of Dental Examiners v. T.J., D.D.S.

In April of this year, our Client, a pediatric Dentist self-reported an incident, which resulted in a patient seizing after being sedated; the cause of the seizure remains unknown. In June, the Board responded by suspending our Client's Anesthesia Permits, without notice, and dragged him across the state, to appear at a Probable Cause Hearing, and answer for the incident. The suspension created tremendous havoc and stress for our Client's office, its many employees, and their families.

After an aggressive campaign, on behalf of our Client, which entailed pre- and post-Hearing briefing, and oral arguments before an Administrative Law Judge ("ALJ"), in the State Office of Administrative Hearings ("SOAH"), we convinced the Board to lift the suspension, before the ALJ even had an opportunity to issue a ruling. With the suspension lifted, our Client's ability to practice and meet the needs of his patients was fully restored. Days later, the Board dismissed the case from SOAH, and began to negotiate a settlement.

After extensive negotiations, we obtained a non-disciplinary remedial settlement order for our Client this month, which may have seemed near impossible, at the

outset of the case. Our zealous advocacy of our Client's interests, led by our Senior Associate, Chris Henderson, a former Dentist himself, brought the Board to the negotiating table, and secured an excellent result.

Bertolino Team Highlights



We at Bertolino LLP strive to be service-oriented and give back to our community. In November we attended the Victory Cup Boots and Pearls Polo Match which raises funds annually to benefit non-profits including the Austin Sunshine Camp for under-privileged children in the Austin area. Pictured are (L to R) Chris, Teresa and Janis.

"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