

On The Record . . .

Official Newsletter of BERTOLINO LLP

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Firm Announcements

OUT OF THE DARKNESS COMMUNITY EXPERIENCE 2020

Bertolino, LLP is a proud sponsor of the 2020 Out of The Darkness Austin Experience hosted by the American Foundation for Suicide Prevention. "We are a strong and resilient community, united in our effort to fight suicide, raise awareness, educate out communities, support those who have lost loved ones, and support those with lived experience."

To register for the experience or make a donation [CLICK HERE.](#)

A MESSAGE FROM THE MANAGING PARTNER

What To Do When You Receive Notice of a Licensing Board Investigation

No professional enjoys learning about a notice of complaint against their license. Much of professional life is engaged in avoiding just such an occurrence. Receiving that notice means that not only has someone seen fit to file that complaint, but usually also that the agency, board, or commission in charge of the professional's particular licensure regime has reviewed the complaint and determined that the action or inaction alleged does, in fact, fall within their jurisdiction to investigate—and that the investigation has officially begun in earnest. Texas licensing agencies, boards, and commissions are endowed with the power to take various disciplinary actions, up to and including such measures as imposing fines, putting licenses under probation, suspending licenses, and even revoking licenses altogether. So receiving that notice of a complaint filed against them means the professional's occupational license is in danger,

and their career and livelihood are at stake. It's a lot to face all at once. This is why the way the professional responds to this notice is so profoundly important.

There are a few common reactions that have an unfortunate effect on a professional's case. Among these are such ill-considered actions as discussing the complaint with colleagues, other clients or employers; attempting to alter or destroy evidence (spoliation), such as records, notes, or any other relevant information; lying to the board; assuming the complaint will go away because it is based on what the professional considers to be falsehoods; and communicating with the board or attending informal conferences without an experienced professional license defense attorney.

Instead, a professional under fire should recall that the purpose of licensing boards is to protect the public, which means they are likely to behave in an adversarial manner toward the licensee that is under investigation. Since the professional is so close to the case, it can be hard for them to get a sense of the proper actions to take to improve their chances of a positive outcome.

It is therefore vital that as soon as possible after receiving notice of a complaint, a licensee contacts an experienced professional license defense attorney so that there is plenty of time to craft a response. And the earlier in the process that an attorney is involved, the more likely you could achieve a positive outcome—including possible dismissal of the complaint.



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