

Charge #10: Study the practices of the Texas Medical Board relating to disclosure of complaints

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Physicians Caring for Texans



Texas Medical Association supports a strong Texas Medical Board and fair processes as in the best interests of the public and the medical profession.

Liability Reform and SB104 from 2003

- SB 104 passed in 2003, complementary to liability reforms in HB4
- SB 104 – supported by TMA – was structured to improve the disciplinary processes of the Medical Board
- Statutory direction: Priority given to complaints “that involve sexual misconduct, quality of care, and impaired physician issues.”

Proposed changes supported by TMA

- Increase the time period for physicians to respond to notice of a complaint from 30 to 45 days
 - Benefit – more time for Board to analyze
 - Benefit – more time for physician to respond
 - TMA continues to support the concept that notice letters should be written in plain language
- Prohibit the acceptance of Anonymous complaints
 - Cannot follow up
 - High potential for harassment

Proposed changes supported by TMA



- Require disclosure to the physician of complaint filed by a corporate entity or its agent
 - Corporate entity needs no protection from such disclosure
 - Reduces potential for harassment
- Other administrative hearing process improvements

Anonymous vs Confidential

- Anonymous complaint is one where the complainant is unknown to the Medical Board
 - No accountability, no ability to follow up
 - High potential for harassment

Anonymous vs Confidential

- Confidentiality is the legal protection provided to the complaint and disciplinary process where only SOAH filings and the final disciplinary actions taken by the Board become a public record.
 - Protects patients, employees, other health professionals, spouses who come forward with legitimate complaint
 - Protects the physician and associated patient information from public disclosure if the complaint is proven to be without merit.

Conclusions

- Confidentiality is a necessary protection for the public – patients, colleagues, spouses
- Confidentiality protects physicians as well
- Removing confidentiality protections runs the risk of creating public records of all complaints – even the majority that are judged without merit.
- TMA will support process improvements that protect the public and are fair to physicians



For more information:

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