

Health Licensing Boards

**Complaint Resolution
Process Guidelines**

April 15, 2002

Background Information

The Complaint Resolution Process Guidelines have been adopted by the Minnesota Health Licensing Boards. The boards are as follows: Chiropractic, Dentistry, Dietetics and Nutrition Practice, Emergency Medical Services, Marriage and Family Therapy, Medical Practice, Nursing, Nursing Home Administrators, Optometry, Pharmacy, Physical Therapy, Podiatric Medicine, Psychology, Social Work, and Veterinary Medicine.

The guidelines set forth goals and specific proposals for achieving the goals. Although all boards have endorsed the proposals, different boards will implement them in different ways, reflecting the professions regulated by each board, the resources available to each board, and the statutory powers and duties of each board. The guidelines will apply only marginally to boards such as Emergency Medical Services that receive few complaints. Some boards already have in place many of the recommended policies and procedures; others may take longer to implement the guidelines.

In developing the guidelines, the boards agreed to the following three principles:

1. The guidelines do not require legislative changes. Seeking legislation would require more time and resources, and would not necessarily result in outcomes that would further the boards' mission of public protection.
2. The guidelines will not result in increased costs to boards or respondents. The recommendations are intended to be cost-effective as well as user-friendly.
3. The guidelines avoid a "one-size-fits-all" approach. The guidelines allow flexibility in how each board implements the guidelines, and also allow boards to have different policies and procedures for different kinds of cases.

The guidelines were developed by the Legal Services Committee, which was established by the boards to address the complaint process and other issues and concerns relating to legal services. The committee consists of Executive Directors and complaint staff from several boards, including Dentistry, Medical Practice, Nursing, Social Work, and Veterinary Medicine. The guidelines were subsequently adopted by the executive directors of all 15 of the health licensing boards.

The Legal Services Committee relied upon input it received from an 18-member Focus Group consisting of attorneys, board members, board staff, complainants, and licensees. The Focus Group had two meetings that were facilitated by a professional

mediator to ensure that the Focus Group's information and suggestions were arrived at independently from influence by the boards. The boards, however, are responsible for the content of the guidelines.

Goals

- A. Protect the public.
- B. Resolve complaints faster and strive for rehabilitation whenever possible.
- C. Alleviate anxiety of participants by treating complainants and respondents with respect.
- D. Strive for consistency.

Specific Proposals for Achieving Goals

A. Protect the Public

1. Make sure the public is informed about licensees who may pose a threat by publishing all disciplinary orders (but not corrective actions), such as by:
 - Providing either the Stipulation & Order verbatim or a summary
 - Considering ways to publish disciplinary orders; e.g., press releases, website.
2. As resources permit, develop and implement a communications plan to educate the profession and the public about the health licensing boards and the complaint resolution process, such as by:
 - Developing brochures, possibly one for the public and another for licensees
 - Creating a video that explains the process
 - Hosting regular "open forums" hosted by board members and staff
 - Offering a "board orientation" for new licensees (consider offering continuing education credit as an incentive)
 - Developing independent study guides for licensees (consider offering continuing education credit as an incentive) on such topics as the following:
 - "How [name of profession] Are Regulated: What Is the Board of [name of board]?"
 - "Professional Conduct"
 - "The Complaint Resolution Process."

B. Resolve Complaints Faster

1. Involve complainants and respondents early in the process.
2. Identify early in the process which respondents are good candidates for rehabilitation (e.g., those who take responsibility for their misconduct; first-time violators).
3. Reserve time-consuming processes for egregious complaints or repeat violators (follow two different tracks: see C-7).

C. Treat Complainants and Respondents with Respect

1. Through appropriate training, sensitize board members and staff to the anxieties experienced by complainants and respondents.
2. Give complainants and respondents the option to meet with the complaint committee and/or staff.
3. If the board decides it is needed to resolve a case, give complainants and respondents the option to meet with a third-party "neutral" (somebody other than a board member or staff).
 - This option would not be given routinely, and complainants and respondents would be informed that this is an option only when the board wishes to give them this option.
4. Keep complainants and respondents informed at each new stage of the process (e.g., where we are at in the process; estimated timeline).
5. Contact a complainant as soon as their complaint is forwarded to the Attorney General's Office for investigation, in order to decrease anxiety and increase cooperation. Also contact the respondent unless doing so would compromise the investigation. Inform the complainant and respondent as to how they can contact the Attorney General's Office for information during the investigation.
6. Include in the Notice of Conference to respondents that they will be asked for ideas as to how to resolve the complaint; provide them with information on possible outcomes. At the conference, ask complainants for their ideas on how to resolve the complaint.
7. Follow different procedures for less serious cases than for more serious cases. Factors to consider in deciding whether a case is less serious or more serious

include:

- Whether the respondent has a record of previous violations
- How serious the alleged violation is
- Whether the respondent is a good candidate for rehabilitation.

8. Respect privacy rights when seeking clients' treatment records, such as by:

- Informing potential complainants at the outset (before a complaint is filed) that the board has authority (and most likely will exercise that authority) to obtain client records—even without the complainant's permission
- Requesting the client to sign a waiver before demanding the client's records from the respondent
- If the client refuses to sign a waiver, reconsidering the necessity of obtaining the records
- When a respondent's own treatment records are subpoenaed, unless it is too time consuming or costly to do so, having the records reviewed by a neutral expert, rather than the complaint committee or staff, and having the neutral expert prepare a summary report to the complaint committee.
 - To protect the respondent's privacy, redact the respondent's identification when providing the treatment records to a neutral expert.
 - In order to save time and money, consider establishing a centralized bank of neutral experts for all the boards to use.

9. Upon receiving a complaint, provide the respondent with the following:

- A copy of the complaint, if the complainant signs a waiver authorizing the board to do so; otherwise a summary of the complaint
- An explanation of the complaint process (possibly via a brochure), including expected timelines and possible outcomes
- An explanation of the "next step" in the process
- An invitation to telephone board staff with any questions.

D. Strive for Consistency

Provide complaint committees with information on how similar cases have been handled in the past.