

# Adjudication Process

## *A brief summary to help you understand how the Board processes complaints*

The Arizona Medical Board has an investigation/adjudication process that is used in handling all complaints (except those in which it is alleged a licensee poses an immediate threat to the public). This process has five separate stages: Initial Review, Investigation, Recommendation, Processing, and Adjudication. This formalized process guarantees there are appropriate checks to ensure accuracy and completeness.

### **- Stage One – Initial Review –**

The Intake Officer reviews all complaints received and determine if the allegations fall within the Board's jurisdiction. If the complaint does not fall within the jurisdiction of the Board, the complainant will be notified of the reason by a letter. The following matters do not fall within the jurisdiction of the Board:

- i. Anonymous complaints
- ii. Inmate complaints that have not exhausted the Administrative Remedies within the correctional facility
- iii. Incidents against physicians not licensed with the Board
- iv. Court ordered Independent Medical Examinations ("IME's")
- v. Incidents that occurred more than four years ago; excluding malpractice settlements or judgments
- vi. Malpractice cases with no monetary settlement or judgment
- vii. Poor bedside manner
- viii. Rudeness of office personnel

Complaints regarding failure to release medical records are first attempted to be resolved prior to an investigation being opened.

If the complaint falls within the jurisdiction of the Board, the Intake Officer will open an investigation and notify the licensee, as well as the supervising physician in cases regarding physician assistants, by sending a letter and a copy of the complaint. A letter will also be sent to the complainant notifying them of receipt of the complaint and if necessary, call the complainant for any clarification of the concerns raised in the complaint.

### **- Stage Two - Investigation –**

The investigation is assigned to a Lead Investigator who will request a response from the licensee, as well as the supervising physician in cases regarding physician assistants. The investigator will gather additional documentation necessary, and may include conducting interviews of the licensee, complainant, patient and/or any witnesses.

The Investigators will review all information gathered in complaints not involving quality of care and determine if there is a sustained violation of unprofessional conduct.

Quality of care cases involving questionable treatment of patients, always need a medical review to determine if there is a sustained deviation from the standard of care. If the medical consultant assigned to a quality of care case cannot substantiate the allegation(s), the Chief Medical Consultant forwards the case for dismissal. The Executive Director (ED) has the authority to dismiss cases. If the ED signs the dismissal letter, staff sends a copy to the licensee and the complainant, who has an opportunity to appeal the ED dismissal.

When a sustained violation of unprofessional conduct or a deviation from the standard of care is found, the licensee receives a copy of the Investigator's report and/or the medical consultant's report and underlying documents. The licensee is given an opportunity to respond to the specific allegation(s) and findings.

### **- Stage Three - Recommendation -**

A recommendation for discipline or non-discipline is developed by the Staff Investigational Review Committee (SIRC). SIRC is comprised of the Investigations Manager, the Chief Medical Consultant and the Board Operations Manager. An Assistant Attorney General (AAG) is also present for legal advice. SIRC considers all cases in which there has been a sustained violation.

SIRC must agree that the investigation is ready to move forward in the adjudication process, otherwise the case is returned for additional investigation. The AAG opines on whether due process has been met. At the end of the discussion, SIRC then develops a recommendation for disciplinary or non-disciplinary action.

### **- Stage Four - Processing -**

If the SIRC recommendation is for license suspension or revocation, the ED may forward the case to the Office of Administrative Hearings (OAH). The ED may also refer cases to OAH that are too complex to be handled at a formal interview before the Board. An Administrative Law Judge conducts a formal hearing, and then submits his recommended order to the Board. SIRC may refer all other cases to the Board for final disposition.

### **- Stage Five - Adjudication -**

The Board adjudicates the matter to determine whether the case warrants discipline. The Arizona Medical Board holds meetings every other month. The Boards may conduct a formal interview of the licensee. After a presentation by Board staff summarizing the case, the licensee can make a brief statement or choose to take questions from Board members and make remarks at the end of the questioning period. If the licensee has legal representation, the attorney can also make brief summarizing comments to the Board. Any member of the public may address the Board during Call To Public.

A Board member may move for a finding of unprofessional conduct, citing the statutory provision that was violated, or make a motion for a non-disciplinary action or dismissal. If the motion for dismissal passes, the case is complete and the complainant may not appeal the Board decision. If the motion for unprofessional conduct passes, the Board then discusses the appropriate disciplinary or non-disciplinary action. The Board may issue a non-disciplinary advisory letter or take disciplinary action of a letter of reprimand, decree of censure, probation, restriction or any combination. The Board may also vote to summarily suspend or restrict the licensee's license. If the Board votes to revoke a license, the Board will refer the case to OAH for a formal hearing. Except for a summary suspension or referral to formal hearing, the licensee has 35 days to appeal the Board's final disciplinary order.