

# Texas Medical Board Issues and Actions

August 6, 2007

*The Texas Medical Board has made a lot of news lately. While there has been good news about the agency and its efforts to protect the public, there have also been some allegations and misrepresentations. To assure that you, as an elected official, have the information you need when you are contacted by constituents, so we will be providing you with regular bulletins about **Board Issues and Actions**. If you want more details about issues in this bulletin, or anything else, please call us.*

Roberta M. Kalafut, D.O.  
Board President

## **COMPLAINTS BY INSURANCE COMPANIES**

Much concern is being voiced about insurance companies filing complaints against physicians. A review of TMB complaint data over the last two years show that such complaints are rare and, to date, none have resulted in disciplinary action.

Following is a summary of TMB complaint data between 9/1/05 and 7/31/07:

- Less than 1 % of complaints (.008) are filed by insurance companies – 85 complaints out of 10,980 total complaints
  - 42 of the 85 did not meet criteria and no investigation was opened
  - 43 were investigated
    - To date, 0 have resulted in disciplinary action
    - 15 were dismissed following investigation or hearing
    - 6 are currently pending in hearings process and 22 are in active investigation
- Only 3.9% of all complaints are anonymous
  - only 10 anonymous complaints have resulted in disciplinary action and none of these were related to billing issues

To receive a full report of this data, contact Megan Goode at TMB, 305-7113, [megan.goode@tmb.state.tx.us](mailto:megan.goode@tmb.state.tx.us).

## **ANONYMOUS COMPLAINTS**

Concerns have also been raised recently about “anonymous” complaints. Under statutes, the name of a complainant is confidential. Therefore, all complaints are anonymous to some extent. TMB does accept complaints from unidentified sources and is obligated to review all complaints

regardless of the source. Anonymous complaints are far more difficult to substantiate and 72% are dismissed without investigation, compared to 21% of all complaints.

### **USE OF "ANONYMOUS" EXPERTS**

All standard of care cases must, under statute, be reviewed by at least two members of the Expert Physician Panel. Panel members are appointed by the board and the list of the approximately 400 panel members is a public document. The legislation creating the panel also established a dedicated enforcement account to pay costs of these panel reviews, along with other enforcement costs.

While the membership of the panel is public information, the assignment of a panel member to a specific case is not public as all information regarding investigation of complaints is confidential under statutes. If a complaint case can not be settled through an Informal Settlement Conference and is taken forward to the State Office of Administrative Hearings (SOAH), the identity of Board's testifying expert is made public.

### **CONFIDENTIALITY EXCEPTIONS FOR LEGISLATORS**

The Texas Public Information Act allows TMB to provide to legislators for legislative purposes information that is otherwise confidential. With a signed confidentiality agreement, agency staff can provide information regarding specific cases so that a legislator can be confident that statutes are enforced and can assess whether statutory changes are needed. Contact Jane McFarland, Chief of Staff, at 305-7044 or [jane.mcfarland@tmb.state.tx.us](mailto:jane.mcfarland@tmb.state.tx.us) . Or call the Board executive offices at 305-7011.