

## A Consumer's Guide to the Complaint Process

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### **Introduction**

Sometimes, health care services can fall below a patient's expectations. As a consumer, you should know what you can do to ensure that you receive quality health care. This means knowing what to do when the care you receive is not of the quality you deserve.

The Massachusetts Board of Medicine is a state agency that:

- Licenses physicians;
- regulates physicians; and
- reviews and investigates complaints about physicians, including quality of care and competency issues.

This Guide is designed to answer some of the questions you might have about the complaint process. It is not intended to describe every circumstance or potential outcome. It is hoped that you will contact the Consumer Protection Unit when you have a serious concern about your physician or other physicians.

Consumer complaints are an important source of information about the competency of physicians and the quality of care they provide. Complaints also show Board officials that consumers are watching the actions the Board takes on behalf of the public.

### **Questions and Answers about the Complaint Process**

#### ***How do I file a complaint?***

You can file a complaint against a Massachusetts physician by completing a complaint form via the Online Complaint portal at:

<https://medboard.mass.gov/public-complaints>.

You may also submit a paper complaint. The form can be downloaded from the Board's website at: <https://www.mass.gov/doc/commonwealth-of-massachusetts-board-of-registration-in-medicine-complaint-form/download>

You can also call the Board's Consumer Protection Unit at **781-876-8230** or email the Consumer Protection Unit at [Borim.consumercomplaints@mass.gov](mailto:Borim.consumercomplaints@mass.gov) and request a paper complaint form be mailed to your address.

***How long do I have to file a complaint?***

The Board recognizes there are events and circumstances which can prevent consumers from filing complaints shortly after an incident has occurred. However, if the basis of your complaint concerns acts or omissions that occurred more than **six years prior** to the date the complaint is filed, the Complaint Committee and/or the Board will determine if there is "good cause" to investigate. See 243 CMR 1.03(16).

***What kind of information should I provide with my complaint?***

When filing your complaint, please be as specific as possible about what **the physician named in your complaint** did or failed to do that caused you to file the complaint. Please include the pertinent date(s) and location(s) of treatment, if possible. You should also be sure to include the physician's full name along with your contact information. You may provide any additional materials that you think are relevant to the complaint. Please do not send original documents or medical records as they will not be returned to you.

***Will the physician know that I filed the complaint?***

Yes, the physician will be notified in writing that you filed the complaint. The physician will receive a copy of your complaint along with any supporting documentation you submitted and may be asked to submit a written response to the concerns that you have raised within thirty days of being notified.

***Can I file a complaint anonymously?***

Yes, you may file a complaint without providing your name or contact information. However, the Board's ability to investigate anonymous complaints is extremely limited. Specifically, without knowing the name of the patient, Board investigators may not be able to obtain documentary evidence, including medical records or a detailed response from the physician concerning the allegations. Additionally, the Board has no way to ask any necessary follow-up questions or provide any update to complainants who decline to provide their name and contact information.

***Will my complaint be investigated and/or assigned to an investigative team?***

All complaints are reviewed initially to determine whether the facts constitute a violation of a statute, regulation, or Board policy. For example, the Board typically does not investigate billing disputes. Similarly, rude behavior or an undesirable medical outcome does not always warrant an investigation or discipline.

Complaints that fall outside the Board's jurisdiction or involve allegations that do not amount to a violation of a statute, regulation, or Board policy are not investigated.

Complaints that allege conduct which could subject a physician to discipline are mailed to the physician with instructions to provide a written response to the allegations. Physicians are given thirty days in which to provide a response.

Complaints which require a more extensive review are assigned to a team consisting of an attorney and either a general investigator or a clinical care investigator.

***How long does the investigation take?***

The length of time it takes to investigate depends on the specific facts and circumstances of the case.

Complaints that do not include facts that constitute a violation of a statute, regulation, or Board policy are typically resolved within 90 days of submission.

In cases where the complaint includes facts that may constitute a violation of a statute, regulation, or Board policy, the investigation can take longer as the physician is required to submit a written response and Board staff may need to request additional documents.

Cases assigned to an investigative team take longer to resolve. The investigative team will contact you to discuss the matter.

***What happens if my complaint does not allege a violation of a statute, regulation, or Board policy?***

You will be notified in writing by the Complaint Committee of the outcome of your complaint within 90 days of submission. The physician will also be notified and provided with a copy of your complaint to ensure that they are aware of your concerns.

### ***How do I get a copy of a physician's response?***

Once the matter is resolved, you can request a copy of the physician's response by submitting a public records request at: <https://www.mass.gov/forms/submit-a-board-of-registration-in-medicine-public-records-request>

Public record requests are handled by the Board's Division of Law and Policy and typically take 10 business days to complete.

### ***Why can't I obtain the physician's response and/or materials submitted by the physician while the case is pending?***

The physician's response is directed to the Complaint Committee as opposed to the individual(s) who filed the complaint. Additionally, the Board has an obligation to maintain the confidentiality of open investigations and redact information from the physician's response that it is prohibited from disclosing.

### ***What can I expect to happen with my complaint?***

Once the Board has received a copy of the physician's response and obtained all the necessary information, the matter is presented to the Complaint Committee for review. The Complaint Committee is a subcommittee of the Board, consisting of at least two Board members, one of whom is a physician.

The Complaint Committee can decide to take any of the following actions:

- Close the complaint;
- Close the complaint with a letter of comment offering suggestions regarding issues raised in your complaint;
- Defer the matter until such time as the physician has completed additional continuing medical education (CME) credits focused on a topic or issue raised in your complaint; or
- Recommend to the full Board that the physician's license be disciplined.

### ***How often does the Complaint Committee meet?***

The Board typically meets every other Thursday starting at 10:30 am. The Complaint Committee meetings are also held every other Thursday prior to the Board meeting. A copy of the Board's calendar is available online at: <https://www.mass.gov/info-details/borim-meeting-calendars>

***How do I find out what happened at the Complaint Committee?***

If you filed a complaint that included your name and contact information, you will be notified of the Complaint Committee’s decision within ten business days of the Committee’s meeting. If you filed the complaint anonymously, the Complaint Committee will not be able to notify you of the outcome.

***Can I be present at the Complaint Committee to give an oral presentation or observe?***

No, Complaint Committee meetings are not open to the public. You will be notified of the Complaint Committee’s determination within ten business days of the meeting provided that your complaint included your name and contact information.

***How do I appeal the decision of the Complaint Committee to close my complaint?***

In cases where new information has come to light, a complainant may file a motion to reconsider that will be presented to the Complaint Committee for review.

***What happens if the Complaint Committee recommends discipline?***

The physician may choose to resolve the case and accept the discipline recommended by the Board. In these cases, the physician would negotiate a settlement agreement known as a “Consent Order” that would be presented to the full Board for its approval. In the Consent Order, the physician admits that he/she/they committed certain acts or failed to perform certain acts in violation of a statute, regulation, or Board policy. The physician also agrees as part of the Consent Order to accept discipline. The discipline that is imposed varies depending on the particular facts and circumstances.

However, physicians are not required to agree to recommendations for discipline. They can contest the allegations and demand an administrative hearing at the Division of Administrative Law Appeals (DALA). The Board has the burden of proving the allegations at an evidentiary hearing.

***Will I have to testify at an evidentiary hearing?***

If the matter is scheduled for an evidentiary hearing, you may be called to testify. Board staff will contact you and discuss in detail the status of the case, the scope

of the anticipated testimony and the reasons why it may or may not be necessary for you to be called as a witness.

***Is my complaint public?***

After the Board concludes its investigation, certain information may be available to the public. All your personal identifiers (name, DOB, contact information) will be withheld from any public information.

**Commonwealth of Massachusetts**

**Board of Registration in Medicine**

**178 Albion Street, Suite 330**

**Wakefield, MA 01880**

**Phone: 781-876-8230**

[www.mass.gov/orgs/board-of-registration-in-medicine](http://www.mass.gov/orgs/board-of-registration-in-medicine)