

Nevada State Board of Podiatry

Policy

PROCEDURE: COMPLAINT, INVESTIGATION, AGREED SETTLEMENT/DISCIPLINARY ACTION PROCESS

I. **Complaint**

A. Complaint Form is completed, notarized and filed with Board.

1. Executive Director (ED) reviews complaint, creates a file and assigns a case number

(a) If the complaint is of a nature that portends imminent danger to a patient or the public (i.e., sexual or physical harm), the ED will immediately inform the President. If the President agrees, the matter will be referred to the Board's Deputy Attorney General or outside counsel for appropriate action.

(b) If patient records are required, ED will send official request to respondent DPM to send patient records within 30 days (**Exception: If fraudulent record keeping or billing is alleged, records should not be requested until investigating Board member has been assigned**)

(c) When patient records are received, Executive Director will assign complaint to Investigating Board Member (IBM).

2. If the complaint is not deemed to be of sufficient import or sufficiently well founded to merit bringing proceedings against the person charged, the complaint must be held in abeyance and discussed at the next meeting of the Board.

B. When the investigating Board member receives complaint file

1. IBM will determine the severity of the case: Mild, moderate or severe.

2. If mild, IBM will contact complainant within 15 days to

(a) Inform complainant that he/she has been assigned to look into complaint and

(b) Review the facts of the complaint with complainant

3. Investigating Board member will contact the respondent and review the facts of the complaint, and/or

- (a) Inspect the respondent's office and gather additional information and/or records.
- 4. If the facts gathered by the investigating Board member are deemed to **not** be of sufficient import or sufficiently well founded to merit bringing proceedings against the person charged
 - (a) The complaint must be held in abeyance and discussed at the next meeting of the Board.
 - (b) At the meeting, the Board may dismiss the complaint, recommend further investigation or determine that there is sufficient evidence to proceed with disciplinary action.
- C. Dismissed complaints:
 - 1. If the Board dismisses the complaint the respondent and the complainant will be so informed by letter within 30 days.
 - 2. Dismissed complaints remain confidential.
- D. If the complaint is determined to be moderate to severe, the IBM will meet with counsel for a decision on how to pursue. If the facts gathered by the investigating board member are deemed **to be** of sufficient import or sufficiently well founded to merit bringing proceedings against the person charged without need of further investigation.
 - 1. The limitation of one \$5,000.00 fine per complaint may necessitate issuance of more than one complaint
 - 2. The investigating Board member will attempt to negotiate an agreed settlement utilizing the form "NSBP Parameter for Expedited Settlements" (attached)
 - 3. If an agreed settlement is successfully negotiated, it will be referred to the Board's Deputy Attorney General or outside counsel to be formally prepared and the respondent's signature will be obtained.
 - 4. The agreed settlement will be presented at the Board's next meeting for approval.
 - 5. If, at any time, respondent engages an attorney, the matter will be referred to the Board's Deputy Attorney General or outside counsel for negotiation of an

agreed settlement under the terms and conditions recommended by the investigating Board member.

6. If an agreed settlement cannot be reached, the matter will be notice for hearing as soon as possible.

II. Agreed Settlement/Disciplinary Action

At the conclusion of an investigation, if the investigating Board member is unsuccessful in negotiating an agreed settlement or the respondent has engaged an attorney, the matter must be turned over to the Board's Deputy Attorney General or outside counsel.

- A. The limitation of one \$5,000 fine per complaint may necessitate issuance of more than one complaint.
- B. The Deputy Attorney General or outside counsel will attempt to negotiate an agreed settlement under the terms and conditions recommended by the investigating Board member within the NSBP Parameters for Expedited Settlements.
- C. If unsuccessful in negotiating an agreed settlement, the DAG or outside counsel will proceed with the hearing process.