



ARIZONA STATE BOARD OF DENTAL EXAMINERS

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BODEX UPDATE

In reviewing my last column, my closing comment was that perhaps the Cardinals will have won the Super Bowl at this publication date. I'm sure you all know the result of that hope!

There is quite a lot of legislative activity at this time given pending proposed legislation which Mr. Earle has shared in his communications to members. In past Inscriptions I have shared that there is a national trend to increase regulation as it relates to the prescribing of controlled substances. In Arizona, SB 1283 which would mandate use of the Controlled Substance Monitoring Program (CSMP) is currently being discussed with stakeholders.

Additionally, if you do prescribe controlled substances, you have received a "report card" from the Pharmacy Board. Representatives from the Pharmacy Board met with regulatory boards in which its licensees do prescribe for controlled substances to discuss this. Specifically, they will be identifying "extreme outliers" and determining whether to send to the respective regulatory board. When asked what the parameters were for determining this, I was informed that it would be those licensees who are 3 or more standard deviations above the mean (1% or top 50 for example).

The Board receives numerous questions from licensees and as previously stated, Board staff cannot provide legal advice or guidance; however, we do respond as follows to these frequently asked questions:

May I call a patient even though they have a complaint pending against me at the Board?

There is nothing in the Dental Practice Act that prohibits this. Many times a patient complaint is in response to the licensee's failure to timely communicate and/or resolve their issues. If the patient resolves their issues they may communicate with the Board to request to terminate the complaint. Upon receipt of this, it is placed on the Board agenda for the Board to consider approving the termination per the patient's request; however, the Board has the discretion to continue the investigation.

Must I see every patient who presents at my office?

The Dental Practice Act is silent on this. At times, a licensee may know upon meeting the patient that they cannot accommodate the patient's request and/or there may be a personality conflict. There are professional ways in which to communicate this which in the long run will

benefit both the licensee and patient. You should also consider consulting with your insurance carrier and/or attorney regarding these matters.

How do I terminate a patient from my practice?

Although Board staff cannot provide legal advice or guidance, frequently we will refer the licensee back to their insurance carrier. The insurance carrier is there to help minimize the risk to the licensee. I have seen many form letters from various insurance companies terminating patients from a dental practice.

Can I file a complaint against my employer (a business entity) for their mandated policies/practices that interferes with my clinical judgment?

Please refer to ARS 32-1263.02 (O). If a licensee believes this has occurred, they must first notify the registered business entity in writing that they believe the entity has engaged in a policy or practice that interferes with the clinical judgment and compromises their ability to comply with the requirements of the law. They must specify in the notice the reasons for this belief. Additionally, the business entity has 10 days in which to respond. If the licensee wishes to pursue after this has been completed, this documentation must be provided to the Dental Board.

A patient has requested a copy of the Board's report and summary in regard to their pending complaint against me. Must I provide this to the patient?

No as this is a confidential document and protected by ARS 32-1263.02 (K). This specifically states that any patient records, statements and reports and/or any information kept by the Board as a result of the investigation procedures are not available to the public. It is unprofessional conduct under ARS 32-3206 (B) for a licensee to disclose or use confidential investigative information except in connection with the investigation. The Board frequently communicates this to the patient/complainant and/or their legal representative.

Additionally, licensees do not have access to a complaint file once the matter is concluded before the Board.

I am always cautious when writing these given the interesting comments I receive and I do appreciate any and all comments! Most recently I received a call asking for elaboration in writing on BODEX Top 10! I'm not sure I want to elaborate on "don't party with your staff."

Have a great summer and thank you for the opportunity to provide these to the Association.