



## ARIZONA STATE BOARD OF DENTAL EXAMINERS

4205 North 7th Avenue, Suite 300 • Phoenix, Arizona 85013

Telephone (602) 242-1492 • Fax (602) 242-1445

[www.dentalboard.az.gov](http://www.dentalboard.az.gov)

### BODEX UPDATE

I have previously communicated about the litigious environment in which we live. The Board continues to experience this through reviewing malpractice cases and observing how many complainants retain attorneys to file their complaint with the Board. The Board is required by law to review all malpractice cases which we receive notice of from the National Practitioner Databank (NPDB). Six percent of the complaints investigated in the past two fiscal years have been malpractice cases. Many of these result in no further action; however, in some cases the Board has sanctioned the licensee. If the Board receives a complaint from the patient and the Board has already reviewed the case as a result of the NPDB, the complaint will not be opened.

The NPDB routinely audits an agency by reviewing its minutes online to determine whether an Agency is in compliance with the mandatory reporting requirements. The Board of Dental Examiners recently underwent such an audit by the NPDB. The NPDB challenged 63 board actions or resolutions that were not reported. These were items that historically Board staff would not have reported which included 48 letters of concern, 2 non-disciplinary consent agreements, 3 cases which are in litigation and 1 reinstatement.

After discussion with the NPDB representatives, they concurred letters of concern were not reportable actions. There was no definitive resolution on the non-disciplinary consent agreements other than they cautioned that if it is a “negative action” or “finding” (defined in 45 CFR sec. 60.3) it should be reported if it is connected to the delivery of health care.

This matter is still under review; however, please be advised that non-disciplinary consent agreements may need to be reported to the NPDB in the future. The good news though is that the non-disciplinary consent agreements are not available on the website and are only available for 5 years if the public should contact the Board office. You may be wondering what prompted this apparent change in philosophy by the NPDB (i.e. actions that previously were not reportable, now may be). It is Board staffs’ understanding that there may have been changes in the way the NPDB interprets its reporting requirements due to a merger of the NPDB and the Healthcare Integrity and Protection Databank (HIPD) in May, 2013.

Given the litigious environment, it is important to document. Many of the malpractice cases the Board reviews are settled out of court, in part, due to the lack of documentation in the dental records. I am a broken record in this regard: if it is not documented it didn’t occur. Many times, the licensees’ attorney will respond that the licensee always documents an updated history; however, in this one case they failed to do so. This does not mitigate the lack of documentation!

Speaking of documentation.....Of interest, the following is a comparison rank of allegations assigned to complaints from fiscal years 2012-2013 and 2013-2014:

2012-2013

2013-2014

Inadequate Crown and Bridge	22%	Inadequate Crown and Bridge	22%
Complications During/After Treatment	16%	Complications During/After Treatment	15%
Inadequate Dental Implants	7%	Inadequate Dental Implants	7%
Inadequate Oral Surgery	7%	Failure to Diagnose	6%
Inadequate Endodontics	6%	Inadequate Endodontics	5%
Fraud or Misrepresentation	5%	Inadequate Complete Dentures	4%
Unnecessary Treatment	4%	Inadequate Oral Surgery	4%
		Unnecessary Treatment	4%

Please note that cases may be assigned more than one allegation and that the above does not reflect whether the allegation was upheld. Of note, crown and bridge, complications during or after treatment and inadequate dental implants continue to be the most common allegation.

We encourage you to ensure your information is accurate with the Board by checking your profile on the Dental Board website, <https://dentalboard.az.gov>.