

Life Cycle of a Board Action

A discussion with Loyd Shaffer, PPP Claims....

Any claim action feels overwhelming and the process daunting at best. It also brings up various emotions that can often impede progress. Instead of worrying about how you will manage your practice and the time involved in defense, let the PPP policy you purchased take the reins and guide the process.

A lawsuit can take years to resolve depending on the severity, but board actions in particular move more quickly. Being hesitant to report and involve your insurance carrier early on could affect your professional livelihood. Some boards are more aggressive than others in their actions and punishments, and the standard of care varies from state to state or even within the same state. As such, having a board action expert and legal counsel driving the process can produce more efficient and successful results.

A complaint is typically received in one of two ways:

1. Patient (injured party) contacts the board to make a complaint. The complaint is assigned to an investigator who contacts the injured party to gather facts. The investigator arrives (usually unannounced) to the dental practice office to interview the practitioner. Often the practitioner is completely unaware there was issue, and frequently another practitioner may also be involved who ultimately provided the dental services. (Most common method)
2. The board action is opened after a civil suit, where concerns were brought up based on the facts of the malpractice suit. The expert opinion and investigation are presented to the court and a civil verdict is given. The verdict is reported to the National Practitioner Database. From here, the board opens the matter and begins their investigation.

The most common red flags for a potential board investigation are when a patient directly requests all records, versus going through another physician office, or an unhappy patient who has voice complaints due to fees or procedures performed.

In many cases, the goal of the Board Action is to get the dentist back on track and improve risk management within the practice. So, what happens when the board investigation starts?

- Complaint is received in board's office
- An Investigator is assigned who interviews the patient, dentist, staff at the dental practice, a dental expert, and any other pertinent individuals
- Once interviews are complete, the evidence is reviewed by the probable cause panel (made up of dentists and citizens, like jury)

- Hearing takes place
 - Dentist will give an account of the events and make their personal statement
 - The defense attorney will make his case for the dentist
- State Board, will decide on the case as to dismissal or actions which could include fines, education, monitoring, or suspension/revocation of license
 - severe cases may unfold more like a trial
 - major penalties by the Board may be negotiated by the defense attorney

WHAT ARE THE BENEFITS TO THE PPP HANDLING YOUR BOARD ACTION VERSUS GOING IT ALONE?

- Supportive professionals guiding you during what may feel like an overwhelming time
- Have a calm, unbiased third party review the situation may present alternatives that could be overlooked in the heat of the moment
- Speed of resolution
- Legal and claims support who are familiar with the board in your area, their methods, personalities, and end goals
- Responding the wrong way could result in loss of a license, versus just a fine and education
- Expertise in managing the board review process and results

IMPORTANT TIPS WHEN A BOARD ACTION ARISES:

- Report to your insurance carrier at the first hint of an issue. It is important to lock in the date by reporting the potential for a claim early, to assure coverage and defense is available if things progress.
- If a patient file is requested in full, sequester that record elsewhere so there is no potential for loss, damage or alteration to the record going forward.
- Do not alter any records. Any additional comments or clarifications to records can be done in a separate summary addendum by the dentist or practitioner, versus changing anything in the file or chart notes.
- Cooperate fully in handing over records.
- Be proactive in efforts to improve risk management ahead of the hearing and bring this to the hearing with you.

Not every complaint or claim is a crisis, and reporting does not always result in a loss in your insurance coverage. Remember, you chose the PPP as your insurance provider because of our expertise in the dental marketplace. Let your team of experts do their job and defend you when a problem arises. That is what they are here to do.

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