Complaint Protocol for the Board of Dental Examiners of Alabama

Abbreviations:
DEA- Drug Enforcement Agency
PDMP- Prescription Drug Monitoring Program
NPDB- National Practitioners Data Bank
ED- Executive Director
CAVU- Board’s licensing database
BDEA- Board of Dental Examiners of Alabama
DPA- Dental Practice Act

Definitions:

Governmental agencies include but are not limited to DEA, law enforcement departments, state boards and federal agencies.

Health care providers include but are not limited to hospitals, nursing homes, hospice facilities, pharmacists, chiropractors, physicians, psychologists and substance abuse treatment facilities. (For the purpose of filing a complaint, health care providers do not include dentists, hygienists, dental office staff, and/or any other Board of Dental Examiners licensed/permitted entity).

Other regulatory bodies include but are not limited to PDMP and NPDB.

Board Issued Complaints

The Board reserves the right to issue a complaint in any relevant matter against any Alabama Dental Board licensed/permitted individual or regulated entity or regarding any violation of the Alabama Dental Practice Act.

Written Complaints

Any person may file a complaint on an official complaint form which can be printed from the Board’s website. In order for the complaint to be valid, it must be notarized. Further, a complaint must be filed within four (4) years from the date of the alleged incident/occurrence.

Governmental agencies, health care providers, colleges, insurance agencies and other regulatory bodies may file complaints with the Board in the form of letters of notification, reports, copies of reports, and any other written communications.
Licensees may self-report to the Board any violation of the Alabama Dental Practice Act. This notice may be in the form of a letter or any other correspondence to the Board from the licensee or their legal representative.

**Verbal Complaints**

Unless the complaint involves drug/alcohol impairment, verbal complaints will only be received from:

- Governmental agencies
- Health care providers
- Educational Institutions
- Insurance agencies
- Other regulatory bodies
- Law enforcement agencies

Verbal complaints which meet the preceding criteria can only be received by the Board’s ED or his/her designee.

Verbal complaints which involve drug/alcohol impairment will only be received by the Chair of the Wellness Committee. Should the Chair be unavailable, he/she may designate a fellow member from the Wellness Committee to field these calls. Before a call can rise to the level of a verbal impairment complaint, the caller must clearly identify his/her name and supply adequate contact information. At that time, the Committee Chair will contact the Board office to have a case number assigned and the normal case number protocol will be followed. A licensee who calls to self-report a drug/alcohol impairment is eligible to enter the Wellness Committee’s Deferral Program. Information regarding the deferral program is included in this complaint protocol on page seven (7).

**Calls regarding Drug/Alcohol impairment:**

Any complaint called into the Board office regarding drug/alcohol impairment/dependence is to be referred directly to the Chair of the Wellness Committee or his/her Wellness designee.

The Chair will speak with the caller and gather information in order to contact the dentist/hygienist in question. He/she will offer his/her help as head of the Wellness Committee and discuss the nature of the complaint being made. This verbal complaint will be given a case
number, assigned to a Board Member who may authorize an investigation of the complaint, and the case will proceed as appropriate.

Calls regarding Drug/Alcohol impairment made anonymously:

Any complaint called into the Board office regarding drug/alcohol impairment/dependence wherein the caller will not give his/her name and wants to inform the Board of a Drug/Alcohol impairment issue is to be referred directly to the Chair of the Wellness Committee or his/her Wellness designee.

The Chair will attempt to get the complainant’s name and telephone number. If the anonymous complaining individual will provide their name, the verbal complaint filed by the individual will be forwarded to the Board office where the case will proceed as appropriate. If the complainant refuses to identify themselves, the matter will be closed and a note from the Chair detailing the situation will be placed in the dentist’s/hygienist’s wellness file and kept with Wellness Committee as the Board does not accept anonymous complaints.

**Complaint Case Number Protocol**

When the Board receives a properly filed complaint, the Board’s ED or his/her designee shall enter the complaint into the Board’s database and assign a complaint case number. The ED will assign the case to the next Board member in line who will serve as the Team Leader. The ED will make every effort possible to assign only non-complex cases to Board members who are within their first year of service. Any Board member may request that a case assigned to them be transferred to a more senior Board member, should they find the case exceeds their comfort level. Any and all cases remaining open that are assigned to a Board member who is exiting the Board shall be reassigned to Board Members pursuant to their individual caseloads. The ED or his/her designee will keep a log in the Board office of case assignments. Occasionally, it will be necessary to group several similar complaints together and assign them as a consolidated case to one Board member. Also, legal counsel may request that a certain Board Member be assigned to certain cases due to special circumstances. (Example-Board Member is an orthodontist and complaint regards orthodontic treatment.) This assignment must be approved by the ED. Further, complaints which involve violations of the DPA by non-licensees (ie., unlicensed practice) will also be given case numbers and investigated per the protocol.

All materials pertaining to a complaint, if possible, shall be redacted before sending the said materials to the Board member assigned to the case as Team Leader. The team shall include the prosecutor (unless conflict), investigator (as needed), and any other needed services or individuals. Should the complaint involve alleged substance abuse, sexual misconduct, or any
other abuse/addiction/behavioral issues, the Chair of the Wellness Committee may also be placed
on the team. Should the Team Leader require the assistance of another attorney or investigator,
he/she shall request the Board’s approval. Once this process is completed, all team members
should be recorded in CAVU with the appropriate email addresses so that all team members can
be kept abreast of developments. The ED or their designee shall be notified on any major
issues/developments related to an active case or investigation.

Investigation

Before an investigation can be initiated:

1. The case must be assigned a Board Member/Team Leader; and the
2. Investigation must be approved by the Board Member/Team Leader.

Case Review Team

Once the case review team is established, the main responsibility of the Team Leader is oversight
of the Case Review Team. He/She has the right to make any changes as he/she deems but
usually will serve to make sure that the team functions within the appropriate parameters.

All correspondence to any licensee/permittee being investigated must be approved by the Team
Leader and sent out under his/her signature or Board approved phrase “Your Board
Member/Case Review Team Leader”.

All parameters for Consent Orders must be pre-approved by the Team Leader and the final
contents of said Consent Orders must be approved (within the previously approved parameters)
by the Team Leader before being offered to any licensee/permittee or legal representative.

Hearings

It will be the ED or their designee’s responsibility to assign and provide hearing officers from the
Board approved pool.

It will be the ED or their designee’s responsibility to assign and provide court reporters from the
Board approved pool.

Occasionally, legal counsel may request that a certain hearing officer and/or court reporter be
assigned to a case due to the level of complexity for the case. This must be approved by the ED
and the Team Leader.
The Team Leader shall not vote as to the outcome of any of the cases to which he/she is assigned once the matter goes to a hearing. He/she shall recuse him/herself. Further, at the time the Board votes to notice a respondent for a hearing, Counsel shall conduct a conflict check and any Board Member with a conflict shall recuse himself/herself from any future voting regarding the complaint.

**Complaint Timeline**

Verified Complaint comes into the Board office;
- Complaint is uploaded to the Board’s database by the ED and given a case number;
- Complaint is assigned to a Board member using the preceding criteria;
- Complaint is forwarded to Prosecuting Counsel with the assignment of the Board member/Team leader and the official case number. (Complaint is to be sent to Prosecuting Counsel as soon as possible, preferably within 5 business days);
- Prosecuting Counsel will redact complaint, if possible, and notify the Board member/Team leader of their assignment to the case;
- Board member/Team leader will be responsible for activating the investigation;
- Activation of the investigation should be done within two weeks of the Board member’s receipt of the Complaint;
- Should the Team Leader be unable to act within the two week period, Prosecuting Counsel may confer with the Team Leader; and, if the Team Leader agrees, the Counsel may request that the ED reassign the case to the next available Board member/Team leader;

Any Board member who feels their case load is too heavy for them to handle may request that Prosecuting Counsel obtain reassignment of the case;

Occasionally complaints may be reported that are extremely time sensitive (i.e. impairment cases). Such complaints must be fast tracked by immediate assignment of a case number, Board member/Team leader and contacting Prosecuting Counsel. Should the Board office be closed and a case number not be immediately available, the matter may be expedited by contacting Prosecuting Counsel and a Board Officer to initiate the investigation as the Team Leader. The case number will be assigned the following business day.

**Complaint Records**

All documents relating to complaints are to be digitally housed within the Board’s office. Copies of all incoming documents are to be scanned. Any radiographs are to be scanned and available
on CAVU or the Board's data server. The Prosecuting Attorney may keep original radiographs, models, or other materials related to ongoing cases until case is complete and any and all appeal timelines have expired. A full and complete copy of each active case file must be maintained in the Board office. It is the responsibility of the Prosecuting Attorney to see that any papers generated are added to the case file, both digitally on CAVU and in the Board Office paper files. Any documents to be discarded/destroyed, at any time after the closing of a case, must be handled within the regulations of the State of Alabama.

Reporting of Board Action

The BDEA will report to the DEA any suspension or revocation of a dental license and/or a controlled substance permit. Any board action taken against a licensee wherein the licensee is found to have diverted controlled substances will be reported to the DEA.

Complaint Termination

In the event a complainant wishes to withdraw his/her complaint, the Team Leader shall be notified by Prosecuting Counsel and/or his/her designee. The Team Leader shall examine the evidence placed before him/her as well as the complainant’s request for withdrawal and make a recommendation to the Board as to the disposition of the case. If the Board votes to close the case, Prosecuting Counsel and/or his/her designee shall notify the complainant and the licensee of the Board’s determination.

The Board may, upon a Board vote, refer a case to the Alabama Attorney General’s office to investigate the complaint and render an opinion or recommendation to the Board as to the dispensation of the case.
As part of the mandate of the Dental Professionals Wellness Committee, the BDEA adopted a non-disciplinary procedure for those licensees who self-report their abuse or addiction and voluntarily participate in rehabilitation.

If the licensee or his/her family or friends contacts the Committee and the licensee agrees to a recommended course of treatment, he/she will be offered a deferral agreement. In order to satisfy the terms of the deferral agreement, the licensee must complete the prescribed treatment and be acknowledged by the approved treatment facility as able to resume practice with reasonable skill and safety. Further, to enter the deferral program, the Director of the Wellness Committee must be willing to advocate for the licensee's safe return to practice.

The impaired licensee must begin/maintain/complete wellness treatment within one (1) year of the date of diagnosis of impairment and treatment recommendation. The Wellness Committee Director may petition the Board to notice non-compliant licensees for a hearing regarding their failure to begin/maintain/complete treatment within the specified time and/or may petition the Board to note an inactive dentist/hygienist as non-compliant in case of future requests for relicensure.

The essential terms of this Agreement require paying contractual monitoring fees and strict compliance with any recommendations imposed by the approved treatment facility, the Wellness Committee and/or the Board. This agreement also provides that if its terms are violated, the licensee will face penalties and the infraction will be reported as a disciplinary action with public documents being generated and available for release upon written request. Further disciplinary actions will be subject to required reporting to the National Practitioner's Data Bank, the American Association of Dental Boards, and any other required reporting entity.

If a licensee qualifies for the above described Agreement, he/she is not required to appear before the Board. Rather, the licensee will execute an agreement with the Wellness Committee which will govern the licensee's practice of dentistry during the term of the agreement. The Agreement will not be reported as discipline in the Federal Data Banks as long as there is compliance throughout the term of the Agreement. All attempts are made to prevent dissemination of documents and other information related to a deferral agreement to the public.