

*Your complaint has been referred to a Board medical consultant.*

## ■ WHAT IS A MEDICAL CONSULTANT?

Medical consultants are physicians in good standing who are in practice or employed in the field of medicine in the community. They provide their services to the Board on a part-time contract basis to review quality of care complaints.

## ■ WHAT IS THE MEDICAL CONSULTANT'S ROLE?

The medical consultant's role is to determine whether the care and treatment provided was within the "standard of practice." The medical consultant may not address every question/concern that you have; however, the overall care and treatment will be thoroughly reviewed.

## ■ HOW LONG IS THE REVIEW PROCESS?

Normally, the required time for reviewing your complaint may range between four and six months. However, if additional information is requested by the medical consultant, the process may take longer.

## ■ WILL I HAVE THE OPPORTUNITY TO DISCUSS MY COMPLAINT WITH THE MEDICAL CONSULTANT?

No. Due to the high volume of complaints reviewed by the medical consultants, it is not feasible for a medical consultant to discuss your complaint on an individual basis.

## ■ IS IT A CONFLICT OF INTEREST TO HAVE A MEDICAL CONSULTANT REVIEW OTHER PHYSICIANS' DIAGNOSES AND TREATMENT?

No. In order to evaluate whether the treatment provided by a physician was appropriate, another physician must be consulted. The medical consultant provides an informed, objective opinion about whether the treatment provided met the "standard of practice" or whether further investigation is warranted.

## ■ WHAT TYPE OF COMPLAINTS DO MEDICAL CONSULTANTS REVIEW?

They may be asked to review issues such as:

- Diagnosis and treatment
- Excessive or illegal prescribing
- Dishonesty (fraudulent claims or excessive treatment)
- Inappropriate examinations

## ■ WHAT ARE MEDICAL CONSULTANTS LOOKING FOR WHEN REVIEWING COMPLAINTS?

By reviewing and evaluating complaints and copies of patients' medical records, the medical consultants, drawing upon their expertise in the field of medicine, can determine whether there is any evidence that might substantiate a complaint of:

•**Gross negligence** (*an extreme departure from the standard of practice*): physicians failing to do basic diagnostic tests, not recognizing or acting on common symptoms, not using accepted effective treatments or diagnostic procedures, using outdated procedures, not referring a patient to a specialist when appropriate.

•**Negligence** (*a simple departure from the standard of practice*): negligent acts that are not an extreme departure.

There must be two or more negligent acts or omissions before there is a violation of the Medical Practice Act. A single negligent act (simple departure from the standard of practice) does not constitute a violation of the Medical Practice Act.. However, patterns of repeated negligent acts may be sufficient grounds in some cases.

•**Incompetence** (a lack of knowledge or ability in discharging professional medical obligations): a physician who is unable to recognize and act appropriately on symptoms would be considered incompetent.

## ■ AM I ENTITLED TO COPIES OF MY MEDICAL RECORDS FROM THE MEDICAL BOARD?

You are entitled to a copy of the records exchanged between you and the Board. Otherwise, you may request copies of your medical records by submitting a written request to the custodian of your medical records, such as your doctor or the facility where the care was provided.

Pursuant to Government Code section 7923.600, Medical Board of California records pertaining to complaints and investigations are exempt from public disclosure. Therefore, a copy of the medical consultant's report will not be available to you.

By law, all records that are part of the Board's investigation are exempt from public disclosure unless they are admitted into evidence at a public hearing, and are not subject to a protective order.

## ■ WHAT HAPPENS AS A RESULT OF THE MEDICAL CONSULTANT'S REVIEW?

- If no violation of the Medical Practice Act has been confirmed, the case will be closed and maintained on file for one year.
- If a violation is found but does not constitute grounds for disciplinary or administrative action against the physician's license, the case is closed and maintained on file for five years.
- If the medical consultant determines the information/medical records provide evidence of possible gross negligence and/or evidence of significant violation of the Medical Practice Act, the complaint will be forwarded to one of the Division of Investigation, Health Quality Investigation Unit (HQIU) offices within the Department of Consumer Affairs for further investigation. A second review by a physician expert will be conducted at that time.
- In all of the above situations, you will be notified, usually by letter, of the medical consultant's finding and the outcome.

**California law imposes a very high burden of proof upon the Medical Board by requiring that we establish "clear and convincing evidence to a reasonable certainty" that a violation of the law occurred before administrative action can be taken. This is a much higher standard than for civil litigation cases.**

## MEDICAL BOARD OF CALIFORNIA

Central Complaint Unit  
2005 Evergreen Street, Suite 1200  
Sacramento, CA 95815

**To check on a specific doctor or obtain information about the complaint process, call the Consumer Information Unit:**

1-800-633-2322  
or (916) 263-2424  
Fax: (916) 263-2435  
complaint@mbc.ca.gov

**Or visit the Board's Website**

[www.mbc.ca.gov](http://www.mbc.ca.gov)

**Find the Board on Facebook and Twitter**

[www.facebook.com/medicalboardca](http://www.facebook.com/medicalboardca)  
[www.twitter.com/medboardofca](http://www.twitter.com/medboardofca)

*The mission of the Medical Board of California is to protect health care consumers through the proper licensing and regulation of physicians and surgeons and certain allied health care professionals and through the vigorous, objective enforcement of the Medical Practice Act, and to promote access to quality medical care through the Board's licensing and regulatory functions.*

## MOST ASKED QUESTIONS ABOUT MEDICAL CONSULTANTS



**Central Complaint Unit**

**Medical Board of California**

*the state agency that licenses medical doctors, investigates complaints, and disciplines those who violate the law*