



# Arizona Medical Board



Medical Consultant Orientation

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# Complaint Process

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- ▶ The Arizona Medical Board (“Board”) receives thousands of complaints each year against physicians and physician assistants who hold Arizona licenses.
- ▶ The Board is obligated to investigate allegations that are within the Board’s jurisdiction and that fall within the Medical Practice Act.
- ▶ Allegations concerning quality of care issues are sent to qualified medical consultants who practice in the same specialty as the physician against whom the complaint has been filed. Board staff retain discretion in assigning a consultant outside of the physician’s specialty if the licensee is working outside of their designated specialty.
  - ▶ Example: A family practice provider working in pain management may require review by a pain management consultant to opine whether the standard of care was met.



# Complaint Process

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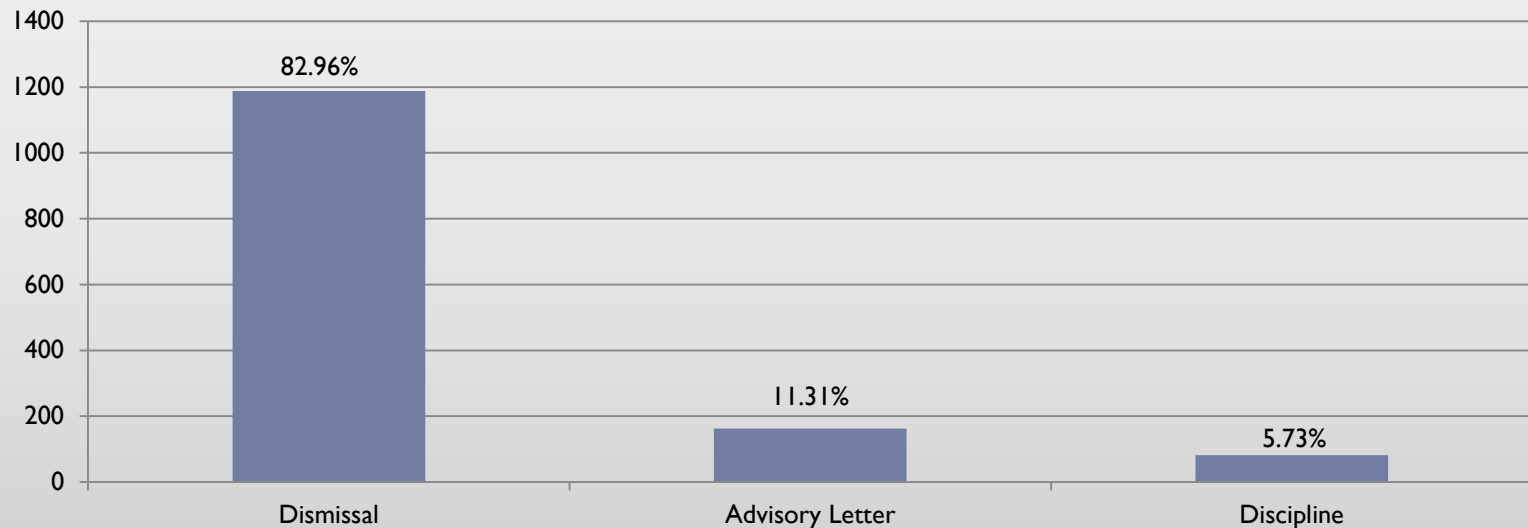
- ▶ Following a medical consultant review, cases may follow two different paths:
  - ▶ If no deviation from the standard of care or violations of the Medical Practice Act are found, the case may be forwarded for dismissal.
  - ▶ If deviations or violations of the Medical Practice Act are found, the licensee is given an opportunity to provide a supplemental response to the consultant's findings. This may require the consultant to provide a supplemental report to opine whether the licensee's response changed their opinion in any way.
- ▶ All medical consultant reports are reviewed by the Board's Chief Medical Consultant. Cases involving a statutory violation are forwarded initially to a staff committee and then to the full Board for review.
- ▶ Board members consist of 8 physicians with varying specialties, one nurse, and 3 public members. Board members are the final decision makers for all cases sent for action.



# Complaint Process

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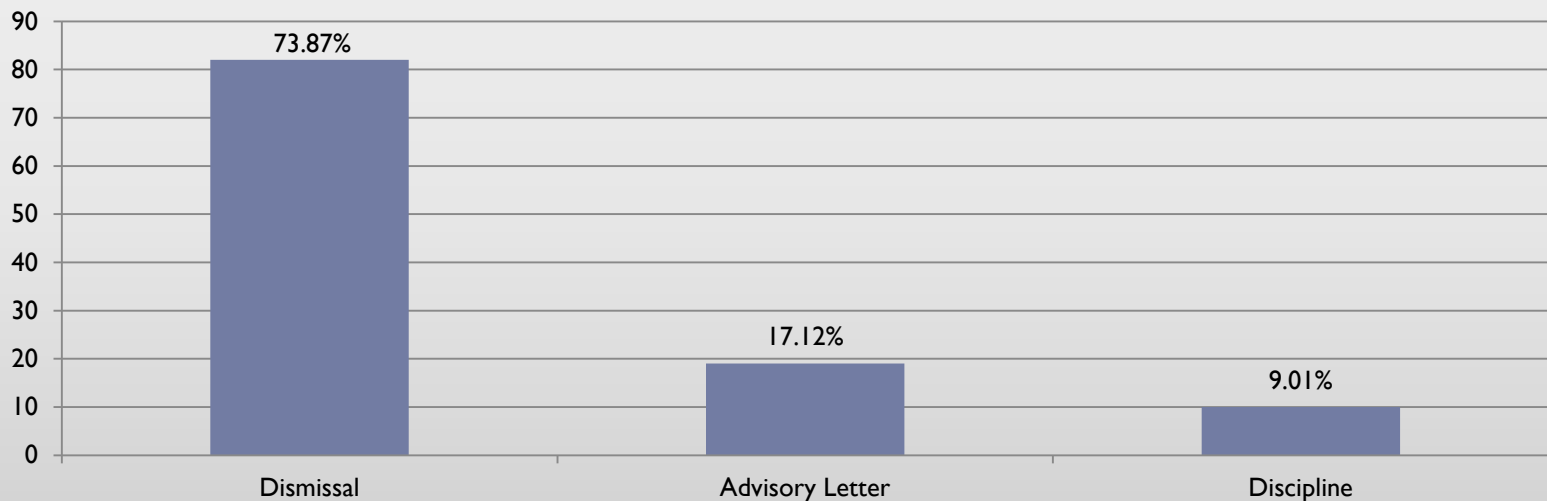
- ▶ MD statistics for Fiscal Year 2016:
- ▶ 22,432 licensed MD's, 1,432 complaints opened
  - ▶ 82 cases resulted in discipline,
  - ▶ 162 cases resulted in non-disciplinary Advisory Letters, and
  - ▶ 1,188 cases were either dismissed by the Executive Director (no violation) or the Board.



# Complaint Process

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- ▶ PA statistics for Fiscal Year 2016:
- ▶ 2789 licensed PA's, 111 complaints opened
  - ▶ 10 cases resulted in discipline,
  - ▶ 19 cases resulted in non-disciplinary Advisory Letters, and
  - ▶ 82 cases were dismissed by the Executive Director (no violation).



# Medical Consultant Qualifications

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- ▶ You may serve as a medical consultant for the Board if you:
  - ▶ Possess an active license to practice medicine in Arizona,
  - ▶ Have no prior Board disciplinary history,
  - ▶ Practice in the same or similar area or specialty as the physician being investigated,
  - ▶ Are not the subject of a pending investigation, pending disciplinary action, or final disciplinary action by any licensing agency or health care entity, and
  - ▶ Do not serve as an expert witness or consultant for physicians who are being investigated by the Arizona Medical Board.
  - ▶ Have been engaged in the practice of medicine for at least five years



# Medical Consultant Role

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- ▶ Medical consultants have a valuable role in the investigative process. The Board depends on its consultants for their expertise and unbiased opinions.
- ▶ The Board wants your opinion as to the standard of care within your specialty and whether or not you believe the standard of care was met.
- ▶ Although the Board is not bound by a medical consultant's review, all reports are carefully considered as part of the total investigative file.





# Medical Consultant Role

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- ▶ All investigative files will be made available to medical consultants on a secure website. (Films will be sent separately via mail in the format in which they are provided to the Board).
- ▶ It is your responsibility to ensure that any information you review remains confidential.
- ▶ Although you may ask colleagues for their hypothetical opinions, you may not share any of the information you review with others.



# Confidentiality

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- ▶ Your report is considered part of the Board's confidential investigative file and will not be released to the public.
- ▶ If your review determines there is no deviation from the standard of care and the case is dismissed, your report will not be shared with the physician in question.
- ▶ If deviations or violations of the Medical Practice Act are found, the licensee is given an opportunity to provide a supplemental response to the consultant's findings. This may require the consultant to provide a supplemental report to opine whether the licensee's response changed their opinion in any way.



# Confidentiality Cont.

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- ▶ The physician is obligated by law to keep the complete investigative record confidential and not share any part of it, including your report, with coworkers, employers, malpractice insurance carriers, colleagues, or any other party. The documents are provided only to give the physician an opportunity to prepare for Board meetings.
- ▶ You are not permitted to contact the licensee under investigation, this includes reaching out to their employer, attorney, witnesses, and the patient under review. If additional information is required for your review you may request the information from the investigator.



# Testimony

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- ▶ Medical consultants will not be asked to appear before the Board to give testimony. The Board will rely on your report when considering a case.
- ▶ However, if a case proceeds to a full evidentiary hearing before an Administrative Law Judge, the consultant may be asked to appear telephonically or in person.



# Liability/Immunity

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- ▶ Medical consultants are not required to purchase separate medical malpractice insurance in order to conduct reviews.
- ▶ Physicians acting as medical consultants to the Arizona Medical Board do not need to purchase separate liability insurance coverage for acts performed within the course and scope of their consultant duties. The Arizona Department of Administration provides coverage for the Arizona Medical Board, its officers, agents, employees and others necessary to accomplish its functions “against liability for acts or omissions of any nature while acting in authorized governmental or proprietary capacities and in the course and scope of employment or authorization.” (A.R.S. §41-621)



# Payment

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- ▶ Medical consultants are paid \$200 per case review.
- ▶ After receiving a physician's response to a medical consultant report involving deviations from the standard of care, medical consultants may be asked to provide a short supplemental report addressing the physician's response. The Board will pay another \$200 for the supplemental report.
- ▶ Medical consultants may also claim one hour CME credit for every hour spent performing a case review.

\*\$200 payment effective for cases assigned after 1/1/19

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# Contact with Board Staff

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- ▶ Board staff will usually contact you by email regarding a case to review. The initial information provided includes a brief synopsis of the case, the name of the physician being investigated, and the size of the case.
- ▶ Please review the initial information as soon as possible and determine if you have a potential conflict of interest with the physician and if you are qualified to perform the review.
- ▶ If you have a potential conflict, do not possess sufficient expertise or experience to review the case, or do not have time to review the medical records, please let us know as soon as possible.



# Contact with Board Staff

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- ▶ Once a case is assigned, Board staff will give you instructions for accessing the case materials.
- ▶ You will also be provided with the name and contact information for the Board's assigned investigator. If you need additional information during your review, please ask the investigator to obtain that information for you.
- ▶ Additionally, if you rely on documentation, such as professional articles or published medical opinions, please provide it to Board staff along with your report. That information must be shared with the physician and the Board.





# Conflict of Interest

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- ▶ If you believe you may have a conflict of interest, whether real or potential, with the physician or the case you are reviewing, please notify Board staff as soon as possible.
- ▶ Remember that even the appearance of impropriety constitutes a conflict.
- ▶ Board staff cannot advise you whether there is a conflict or not. This must be a decision you make based on the information in your possession.



# Conflict of Interest

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- ▶ **Some common conflicts of interest are:**
  - ▶ You are friends with the physician under investigation
  - ▶ You are an enemy of the physician
  - ▶ You and the physician are economic competitors
  - ▶ The physician is a family member
  - ▶ The issues in the case evoke a highly emotional reaction resulting in your inability to review the case objectively.
  
- ▶ Remember that just knowing of a physician, having trained with the physician, or having treated one of the physician's patients does not automatically constitute a conflict of interest.



# Medical Consultant Report

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- ▶ After reviewing the materials provided, you will prepare a report that follows an accepted Board template. The general format for your report includes:
  - ▶ Detailed Chronological Analysis
  - ▶ Proposed Standard(s) of Care
  - ▶ Deviation(s) from the Standard of Care
  - ▶ Actual Harm Identified
  - ▶ Potential Harm Identified
  - ▶ Aggravating Factors
  - ▶ Mitigating Factors
  - ▶ Summary
  - ▶ List of Records Reviewed



# Medical Consultant Report

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- ▶ When drafting a report, identifying the standard of care and any potential deviations are especially important.
- ▶ The standard of care is typically defined as, “What a reasonably prudent physician would do under the same or similar circumstances.”
- ▶ An example of a well defined standard of care and deviation is as follows:
  - ▶ The standard of care prior to prescribing medication is to perform a complete physical examination and obtain a list of other medications being prescribed to the patient.
  - ▶ The physician deviated from the standard of care because he failed to perform a complete physical examination and obtain a list of the patient’s other medications before writing a prescription.



# Medical Consultant Report

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- ▶ You are not responsible for determining whether the Medical Practice Act has been violated. That is the exclusive purview of the Board. Instead, please limit your opinion to whether you feel that the standard of care has been met.
- ▶ Although you are providing an opinion, please attempt to make it as factual and objective as possible.
- ▶ Opinions that appear to be too subjective, inflammatory, or biased are far less credible than objective opinions and in some cases prevent the Board from utilizing the consultant's report and may exclude you from participating as a Board consultant.



# Medical Consultant Report

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- ▶ The length of your report will depend on the complexity of the case, number of patients involved, whether the case involved treatment in a physician's office vs. a hospital stay, etc.
- ▶ On average, medical consultant reports run between two and four pages long.
- ▶ You do not need to document every aspect of the treatment rendered. Instead, focus on making the report concise, easy to understand by physicians of different specialties and lay Board members, and centered around the issues alleged in the complaint.



# Sample Medical Consultant Reports

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- ▶ Click on the links below to see reports filed by other medical consultants:
  - ▶ [Cardiology Report](#)
  - ▶ [Cardiology Report \(2\)](#)
  - ▶ [Emergency Medicine Report](#)
  - ▶ [Neurosurgery Report](#)
  - ▶ [Orthopedic Report](#)
  - ▶ [Orthopedic Surgery Report](#)
  - ▶ [Pediatric Report](#)
  - ▶ [Plastic Surgery Report](#)
  - ▶ [Urgent Care/PA Supervision Report](#)
  - ▶ [Pain Management Report](#)
  - ▶ [Addiction Medicine Report](#)
  - ▶ [Addiction Psychiatry Report](#)



# Consultant Compensation

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- ▶ \$200 per case review
- ▶ You may claim a continuing medical education credit (“CME”) hour for each hour you spend reviewing this case. A.A.C. R4-16-102(B) (8).
- ▶ These CME credit hours may be applied to CME hours required by the Board and are not approved by any other body.





# Report Writing Do's and Don'ts

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- ▶ If you feel you do not have sufficient expertise or experience to review the case, let us know ASAP.
- ▶ Address the specific allegation(s) on which the complaint is based.
- ▶ Determine whether any other aspects of the case not included in the allegation deviate from the standard of care.
  - ▶ If you feel the licensee met the standard of care but had inadequate medical records, please describe what about the records are inadequate and how it impacted your review of the case.
- ▶ If imaging studies are an integral part of the case, review the studies and comment on them in your report.



# Report Writing Do's and Don'ts

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- ▶ If there are imaging studies or medical records not available for your review that you believe to be necessary, contact the Board investigator to obtain those documents.
- ▶ Be consistent throughout your report and avoid contradictory statements.
- ▶ Write the report in as factual and objective manner as possible.
- ▶ Use published literature to define the standard of care and to support your opinion, whenever possible.



# Report Writing Do's and Don'ts

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- ▶ Type your report on the form provided by Board staff
- ▶ Do not use complicated language or abbreviations
- ▶ Do not state whether you feel the Medical Practice Act has been violated
- ▶ Do not write the report in a subjective, derogatory, or biased manner.



# How to Sign Up

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- ▶ Asking to serve as a medical consultant is easy.
  - ▶ Send us an email at [OMC@azmd.gov](mailto:OMC@azmd.gov)
  - ▶ Ask us to add your name to our consultant list
  - ▶ We will follow up with a confirmation email within one week.
- ▶ Thank you!
  - ▶ - Arizona Medical Board

