

Arizona Board of Chiropractic Examiners (Report Highlights)

June 2001

Established in 1921, the Board of Chiropractic Examiners is responsible for regulating chiropractors in the State through licensing and disciplinary investigations and hearings. The Board also makes this information available to the public.

Our Conclusions:

The Board should take appropriate action when licensees violate statutes or rules. To improve the disciplinary process, the Legislature should authorize the Board to use Letters of Concern and informal or investigative hearings.

The Board Does Not Always Take Appropriate Action on Violations

The Board dismisses some complaints, even when violations have occurred. Usually it does this with complaints it considers less serious in nature. However, examples of these dismissed complaints include:

Case Examples

- A chiropractor who double-billed a patient and an insurance company and then failed to reimburse the patient. The Board dismissed the complaint after the chiropractor reimbursed the patient and agreed to take an ethics course.
- A chiropractor who treated a patient prior to knowing the symptoms and reviewing records and x-rays. The Board dismissed the complaint after the licensee took two professional exams and a record-keeping course.

Dismissing valid complaints, even possibly minor ones, has pitfalls.

- The Board cannot use the complaint for progressive discipline if the chiropractor has another violation.
- The public thinks the dismissal means the complaint was not valid.

Rather than dismissing valid complaints, the Board could use a milder form of discipline, such as:

- Orders of Censure,
- Orders to Cease and Desist, or
- Fines.

The Legislature could specify in the Board's statutes that it can dismiss a complaint only if it is without merit.

Board needs Letters of Concern—There are some cases where there is not enough evidence to determine if a complaint is valid. In those cases, the Board should, like most other health regulatory boards, be able to issue a Letter of Concern.

While these letters are not disciplinary actions, Letters of Concern:

- Let the Board notify licensees of things that need attention;
- Can be considered if similar violations occur in the future; and
- Provide the public more information than a dismissal.

The Board is both investigator and judge— Combining these functions appears unfair to the licensee and is inconsistent with the Attorney General’s advice.

“Decision-makers should not actively participate in the investigative process unless they will be recusing themselves from the decision-making process.”
Arizona Agency Handbook

The Board could correct this by:

- Hiring a consultant to assist with medically-related complaint investigations;
- Designating one board member to investigate complaints and recuse him/herself from decisions; or
- Selecting a panel of professionals to investigate complaints.

The Legislature should:

- ✓ Authorize use of Letters of Concern; and
- ✓ Specify when the Board may dismiss a complaint.

The Board should:

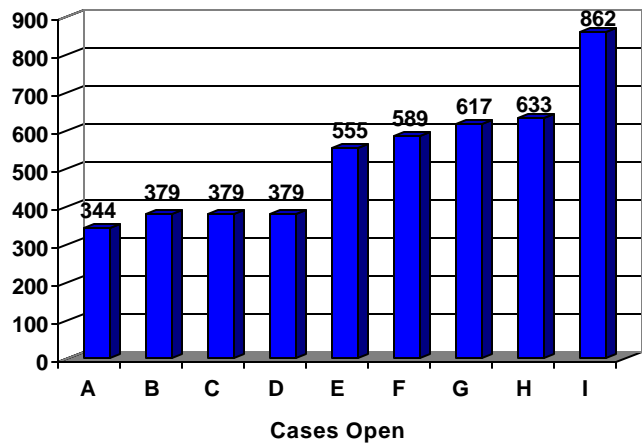
- ✓ Take some form of disciplinary action when a violation has occurred; and
- ✓ Separate the investigative and adjudicative functions.

Formal Hearings Delay Disciplinary Action

The Board is required to conduct formal hearings to impose disciplinary action. However, the Board reports that its Assistant Attorney General cannot review, prepare, and prosecute all cases referred within a timely manner.

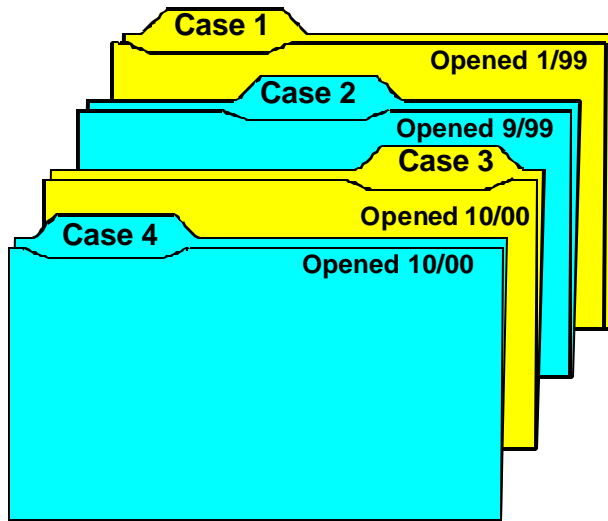
While most complaints should be resolved in 180 days, the Board has 9 cases that have been open for hundreds of days without a hearing.

**Open Cases—Days Open
As of June 1, 2001**



- The Board could have completed 1 case in 133 days but had to wait an additional 91 days for preparation and prosecution.

Long delays also mean that a licensee can continue to practice unchecked. One chiropractor has received three more complaints, while disciplinary action is still pending for the first.



Investigative hearings would probably eliminate the delay—Most of the complaints do not merit suspension or revocation of the chiropractor's license. A number of other health regulatory boards have authority to resolve these types of complaints in informal or investigative hearings. If the Board has this authority, it could hear evidence, decide on the merits of the complaint, and impose appropriate discipline without the Assistant Attorney General needing to prepare and prosecute the case.

The Legislature should:

- ✓ Consider authorizing the Board to hold investigative or informal hearings when the possible sanction is less than a suspension or revocation.

To Obtain More Information

- A copy of the full report can be obtained by calling (602) 553-0333 or by visiting our Web site at:

www.auditorgen.state.az.us

- The contact person for this report is **Dale Chapman**.