



## COMPLAINT PRIORITIZATION and REFERRAL GUIDELINES FOR HEALING ARTS BOARDS\*

Guidance To Refer Complaints to the Division of Investigation (DOI)

### CATEGORY 1 – **URGENT** – *Immediate referral to DOI*

#### Complaints alleging imminent and/or ongoing public safety risk

- Mental or physical impairment of a licensee with potential for public harm
- Practicing under the influence of drugs or alcohol
- Theft of controlled substances, diversion of controlled substances
- Physical or mental abuse of a patient resulting in great bodily injury, death, or both
- Acts of serious harm to a minor
- Acts of serious patient or consumer harm, gross negligence, incompetence resulting in great bodily injury or death (criminal)
- Overprescribing controlled substances (if requiring undercover operation, or assistance needed obtaining original prescription hard copies, or both)
- Prescribing/dispensing controlled substances without authority
- Unlicensed practice or practicing with a delinquent/revoked license resulting in great bodily injury/death
- Aiding and abetting unlicensed practice resulting in great bodily injury/death
- Complaints with significant media coverage, or sensitivities, or both
- Sexual misconduct with a patient (non-consensual/criminal)
- Exam subversion, board exam compromised (recommend consultation with DCA's Office of Professional Examination Services)
- Patient abandonment with great bodily injury/death
- Obtaining licensure by selling/using fraudulent documents/transcripts
- Felony criminal violations not being investigated by another Law Enforcement Agency, including but not limited to:
  - Prescription forgery
  - Major financial fraud/financial elder/insurance fraud abuse over \$10,000
  - Unlawful drug possession

### CATEGORY 2 – **HIGH** – *Discuss with DOI prior to assigning to the Board*

- Quality of care complaints of serious patient or consumer harm, gross negligence, incompetence resulting in great bodily injury or death (non-criminal)

\*Complaint prioritization is statutory for some clients and supersedes these guidelines. See Business and Professions Code sections 2220.05 (Medical Board/Board of Podiatric Medicine) and 4875.1 (Veterinary Medical Board).

### **CATEGORY 3 – *Complaints appropriate to be worked by the Board***

- General unprofessional conduct/negligence/incompetence resulting in no harm, minor harm, or both
- General quality of care complaints, offensive behavior/conduct/speech (non-criminal)
- Prescribing/dispensing without authority – drugs/medication other than controlled substances
- Failure of pre-employment drug screening or other substance abuse issues not while practicing (*Note: Only if Special Investigators are trained to perform drug testing.*)
- Unlicensed practice or practicing with a revoked license with no harm or injury, or minimal harm or injury
- Aiding and abetting unlicensed practice – non-criminal, no harm or injury, or minimal harm or injury
- Mandatory peer review reporting (Business and Professions Code section 805) unless determined to be Category 1 or 2
- Sexual misconduct with a patient – consensual/boundary violations, no touching
- Practicing with a delinquent license with no patient harm
- Working outside the scope of the license (non-criminal, no patient harm)
- Site inspections – solo and joint with board expert, no need for law enforcement standby/security, not a licensed private residence
- Exam Subversions – individual cheating, if determined the board’s exam was not compromised (recommend consultation with DCA’s Office of Professional Examination Services)
- Medical Malpractice reporting (Business and Professions Code section 801) unless determined to be Category 1 or 2
- Serving subpoenas for hearings and records (on non-DOI investigations)
- Patient abandonment with no harm
- False/misleading advertising – no unlicensed/not criminal
- Applicant misconduct not related to exam subversion or fraudulent documents
- Unsanitary conditions requiring site visit
- Moscone-Knox Professional Corporation Act violations (corporate practice of medicine), no patient harm

### **CATEGORY 4 - *Complaints appropriate to be worked by the Board***

- Subsequent arrest notifications that do not require a PC23/Interim Suspension Order (ISO) and DOI’s assistance
- Failure to release medical records, recordkeeping violations
- Continuing education violations
- Declaration and record collection
- Probation violations unless determined to be Category 1 or 2
- Non-jurisdictional issues

### **Other Services Provided by DOI Upon Request**

- Law enforcement standby/security for board staff/member safety
- Assist with PC23/ISO if unable to quickly take action at the board level Issuing and serving subpoenas when needed