

How to Get in Trouble

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Given the geometric increase of acupuncture in California, there has also been a corresponding growth of consumer complaints and discipline cases for the California Acupuncture Board. The board licenses more acupuncturists than anywhere in the Western hemisphere; the 7,021 current licensed acupuncturists make up about one-third of the acupuncturists in the United States. Nearly two-thirds of the board's \$1 million budget is spent on disciplining acupuncturists. Some \$600,000 is spent on state investigators who carefully investigate complaints; \$400,000 of that sum is spent on the California Attorney General.

Since the acupuncture board was established in 1972, hundreds of licenses have been revoked. Once an acupuncturist receives notice from the state board that their license is in jeopardy, that person's life will change dramatically. Usually, the legal costs alone are staggering. Prosecution by the board is the ultimate disgrace in a professional career.

In order to generate a state board investigation, a complaint must be presented to the board. The complaint may be made by telephone; an anonymous letter; a formal letter; or a referral from another government agency.

If the complaint is made by telephone or is anonymous, there is little the board can do functionally to verify the elements of the complaint. If the call suggests a serious criminal problem, those referrals are forward to the local police agency where the acupuncturist practices. However, when the board receives a formal written complaint from a patient or credible person, the board takes those complaints seriously.

The board members do not review complaints until they are presented at a formal hearing. The staff for the board takes complete responsibility in determining the level of investigation required. The staff includes the executive officer, along with full-time specialists who review complaints. The staff determines and makes recommendations as to how each complaint should be investigated. The staff can recommend one of the following:

- A. disregarding the complaint if not credible; or
- B. informing the complainant that the board has no jurisdiction for the particular complaint; or
- C. if the complaint is a low-level matter, sending a warning letter; or
- D. if the complaint is of moderate concern, having the board issue a cease and desist letter to the acupuncturist; or
- E. having the board request opening a formal investigation with highly trained state investigators to gather facts to see if prosecution is warranted. If it is a minor problem, the investigator has the authority to issue a citation, and the doctor must pay a fine. If the investigation reveals serious violations, there will be formal prosecution by the

attorney general.

The state attorney general serves as the prosecutor for the acupuncture board. After charges are presented to the acupuncturist, the acupuncturist would have a specific amount of time to hire an attorney.

The state attorney general's office is composed of expert attorneys who handle dozens of professional licensing cases simultaneously. Their job is to get convictions. The acupuncturist does not necessarily have to hire an attorney, but not doing so could be suicidal.

In our next column, we will discuss the common areas of complaints.

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