State of California Department of Consumer Affairs

BOARD OF BEHAVIORAL SCIENCES
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SUBJECT: Third Party Complaints	POLICY # E-98-01	DATE ADOPTED: 02/06/98
	SUPERSEDES: N/A	PAGE: 1 OF 2
DISTRIBUTE TO: All Board/Staff Members	APPROVED BY:	**BOARD OF BEHAVIORAL SCIENCES**

Policy:

In general, third party complaints will be pursued only when they involve an allegation that would warrant disciplinary action if substantiated **and** there is a reasonable likelihood that the necessary evidentiary standard can be met **without** the patient providing first hand testimony or authorizing the release of information from the therapist.

BBS Evaluation Procedures

Staff shall evaluate third party complaints in accordance with the above policy. Specifically, the following conditions and/or elements must exist for the case to be referred to investigation:

- The allegation(s) must be jurisdictional and "actionable," i.e., per the BBS Disciplinary Guidelines would warrant formal action against the licentiate if the allegation was sustained.

- There must be a reasonable likelihood that a case could be "made" and the necessary evidentiary standard met without the patient providing firsthand testimony or authorization to release information. If there is a technical question as to what would be needed to adequately meet the requisite evidentiary standard, staff may wish to consult with various parties involved in the enforcement process: i.e., the expert clinician, the appropriate DOI area administrator or the DAG liaison.

Background:

The majority of complaints received regarding therapists are firsthand complaints, i.e., they are from the patient or client. A smaller number of complaints are received from third party complainants, e.g., a relative of the client/patient, another therapist, a former employee, etc. Many of these third party complaints involve extremely serious allegations of misconduct.

Pursuing these third party complaints presents a unique challenge because of the confidentiality of the patient/therapist relationship. As stated in the Board of Behavioral Sciences (BBS) Consumer Complaint Information form:

"…Anyone may file a complaint and the Board will review each complaint regardless of the source."

The most effective complaints are those that contain firsthand, verifiable information…Third party complaints involving another adult, other than the complainant, may be impossible for the Board to pursue, because each individual has the legal right to invoke confidentiality as to their personal records."

In the past, many third party complaints were automatically sent to the Division of Investigation (DOI) without regard to whether they could be successfully investigated and/or prosecuted without the patient providing first hand testimony or authorizing release of confidential information.

Implementation: Effective Immediately.

Attachment: None.