

POLICY REGARDING HANDLING OF INVESTIGATIONS
INVOLVING SITTING BOARD MEMBERS

Preamble: The purpose of this policy is to set forth guidelines for the handling of investigations against sitting Ohio State Dental Board (Board) members.

The Dental Practice Act, Ohio Revised Code (ORC) Section 4715.03(D), states in pertinent part:

"The board shall investigate evidence which appears to show that any person has violated any provision of this chapter. ***

If after investigation the board determines that there are reasonable grounds to believe that a violation of this chapter has occurred, the board shall conduct disciplinary proceedings pursuant to Chapter 119 of the Revised Code, or provide for a license holder to participate in the quality intervention program established under section 4715.031 of the Revised Code. The Board shall not dismiss any complaint or terminate any investigation except by a majority vote of its members.

* * *

***proceedings of the board relative to the investigation of a complaint or the determination whether there are reasonable grounds to believe that a violation of this chapter has occurred are confidential and are not subject to discovery in any civil action.

Board investigations must be conducted in a fair, impartial and consistent manner. Conflicts of interest and appearances of impropriety must be avoided.

Concerns may arise when a complaint is received that involve a sitting Board member, or involves a dentist that a Board member may know personally, socially, or professionally.

When a complaint is received that involves a licensee that a Board member knows personally, socially, or professionally, to the extent that impartiality is compromised, that Board member must recuse him or her self from participating in and/or voting on the case.

Further, prior to closing investigative cases, Board members attest that to their knowledge, none of the cases they are about to vote to close involve them or a personal friend. If that is the case, they will recuse and abstain from voting.

To date, no formal procedures are in place for handling a complaint that is filed against a sitting Board member. The concern is the appearance of impropriety that arises the complaint in question is investigated by staff members who report to the Executive Director, who reports ultimately to the Board.

Therefore, the policy of the Board is as follows:

When a complaint is received against a sitting Board member that potentially is grounds for licensure discipline under the Dental Practice Act, the Executive Director will enter into an agreement with a comparable regulatory board for assistance in conducting the investigation of that specific complaint. The agreement will authorize the selected board to perform the investigation, set forth the confidentiality requirements, and outline the chain of command regarding maintaining investigatory records and communication involving status of the investigation. The assisting regulatory board will conduct the investigation based upon investigative experience and protocol, adhering to all confidentiality provisions set forth in the Dental Practice Act. The assisting regulatory board may confer with the Assistant Director or Executive Director for guidance in determining how to proceed with the investigation, if necessary. The completed investigation file will then be forwarded to the Executive Director for review and determination by the Board Secretary, consistent with the handling of all investigative matters of the Board.

If the Board Secretary recommends closure of the case, typical protocols for closure will be followed. The Board member in questions will be instructed to abstain from voting.

If the Board Secretary determines that the case must proceed to the Quality Intervention Program, that protocol will be followed.

If the decision is to proceed with formal disciplinary action, current procedures will be adhered to, and the sitting Board member will be apprised of the situation by the Board Secretary.

The sitting Board member will then consider any appropriate action regarding future membership on the Board. Any Board members that cannot be impartial will then have to recuse themselves from any deliberations and final decisions regarding the case.

Any complaints and/or information that may be received by the Board concerning a sitting Board member that involve matters unrelated to his/her license, but rather involve issues surrounding his/her status as a Board member, should be directed by the Executive Director to the Inspector General's office for review and follow up.

(July 20, 2005)