

HB 1512 initially included four changes that worked together toward having the Board or a Court issue monetary awards against dental assistants, hygienists, and dentists. By leaving the change shown at Line 14 in place—which requires the Board to release the response for dismissed complaints—this remains a concern.

The legislature should not put the Board/government in the position of forcing the creation of a response and requiring that the response always be released to the opposing side of a lawsuit. That would circumvent the litigation process and all of the due process rights and safeguards within it. Instead of forcing the licensing Board to play a part in a litigation tactic, the complainant should instead be required to use the litigation process (and not the licensing board) to generate evidence to support their potential lawsuits.

Leaving this language in place means that any time an assistant, hygienist, and dentist is presented with a Board complaint, they will probably need to hire lawyers to assist them in drafting their response, costing them a considerable amount.

Some arguments are made that because the laws of some of the other licensed professions require that an entire complaint file and its documents always be public that the dental complaints should be, too. But that idea loses sight of the fact that medical/dental disputes are so different in many ways from complaints filed in other professions. First, the vast majority of a dental complaint involves confidential medical information—so the subject matter (sensitive patient information and records) of these complaints should not be fully public. Additionally, lawsuits sometimes arise from board complaints. Keep in mind that the dollar value of dental care and dental lawsuits are usually monetarily far higher than complaints that might be filed in some of these other professions. So circumventing the litigation process for dental complaint evidence gathering would have far reaching and impactful concerns for dentists, hygienists, assistants, on their malpractice insurers and coverage, and eventually on the cost of patient care.