

On The Record . . .

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How Can Student Loan Debts, Child Support Obligations, and Tax Liabilities Impact Your License?

by Tony Bertolino, Esq.

The landscape of professional licensing is riddled with potential pitfalls that can lead to disciplinary actions by licensing boards or agencies. The repercussions of such actions can be daunting and averting these consequences is crucial for any licensed professional.



Student Loans

Fortunately for professionals in Texas, the specter of disciplinary action due to student loan defaults has been laid to rest. This transformation comes in stark contrast to the stance held by numerous other states. In the past, failing to repay student loans could provoke licensing boards to instigate disciplinary measures. This approach, albeit part of a nationwide endeavor championed by the U.S. Department of Education to address escalating student loan default rates, faced resistance due to a host of factors.

Economic constraints and stagnant salaries fueled public opposition to these measures. Simultaneously, the relentless surge in the cost of higher education propelled student debt to unprecedented levels. The consequence? A surge in loan defaults and a climate where adhering to loan repayment agreements became an even more formidable challenge for license holders. In fact, a staggering number of over 4,200 holders of

occupational and professional licenses in Texas were confronted with the possibility of losing their licenses due to student loan defaults. This group spanned diverse fields, encompassing educators, healthcare professionals, cosmetologists, and pharmacists.

The tide turned in June 2019, when the Texas legislature effectively dismantled the connection between student loan defaults and licensing actions. Senate Bill 37 was instrumental in this transformation, effectively rescinding the provisions that empowered licensing boards to take action against license holders grappling with student loan defaults. Moreover, Tex. Occ. Code § 56.003 now stands as a sentinel, proclaiming that no disciplinary action can be taken against individuals based on student loan defaults or breaches of loan repayment agreements. This comprehensive prohibition encompasses actions such as denial of licensure or renewal, suspension, and other punitive measures.

In the legal parlance, "licensing authority" as outlined in § 56.001(3) pertains to entities including departments, commissions, boards, offices, or agencies either at the state level or within political subdivisions that hold the jurisdiction to issue licenses. The term "license" in this context encapsulates licenses, certificates, registrations, permits, and other forms of authorization essential for engaging in specific occupations, professions, or businesses.

Unpaid Child Support

Under Tex. Family Code § 232.003, licenses can be suspended for individuals who owe significant overdue child support, have missed repayment schedules, and failed to comply with court-ordered or agreed-upon payment plans. The parameters of "license" defined in § 232.001(1) encompass licenses, certificates, registrations, authorizations, or permits issued by licensing authorities, which are subject to renewal, suspension,

revocation, forfeiture, or termination and are necessary to practice specific professions, occupations, or businesses.

Delinquent State and Federal Taxes

License holders across various professions must exercise vigilance regarding their tax obligations. Instances of failing to file income tax returns as mandated, accumulating unpaid tax debts, or engaging in tax fraud can provoke disciplinary actions by their respective licensing boards. While certain professions like certified public accountants (CPAs) and property tax consultants explicitly reference tax-related offenses, many regulations encompass broader conduct like fraud, deceit, dishonesty, and misrepresentation, which could potentially encompass tax-related transgressions. This wide-reaching ambit includes fields such as law, real estate, and numerous others overseen by the Texas Department of Licensing & Regulation (TDLR).

In conclusion, the realm of professional licensing defense in Texas is marked by intricacies and nuances. The evolution away from disciplining professionals based on student loan defaults is a significant stride, yet other financial obligations still hold sway. To safeguard your professional standing and license, it's imperative to remain informed, seek expert guidance, and navigate the terrain with prudence. When facing disciplinary proceedings, enlisting the aid of a seasoned licensing board defense lawyer can provide invaluable insight and strategic counsel, optimizing your chances of mounting a robust defense against adverse actions.

Employee Spotlight: Kerry Bloodsaw, Esq.

Celebrating Four Years of Excellence: Honoring Associate Attorney Kerry Bloodsaw's Journey at Bertolino LLP

Join me in extending a warm congratulations to Kerry

Bloodsaw on her 4-Year anniversary with the Bertolino Law Firm. Kerry's journey, from a law clerk to a thriving and accomplished Associate Attorney, is a story of hard work, and resolute determination that has left an indelible mark on our law firm.



Her journey with us began four years ago when she moved from Georgia to Texas. From the outset, it was clear that Kerry was not just an ordinary addition to our legal team—her Briggs-Meyer INFP personality type and, direct, no-nonsense, client-centered attitude set her apart as a unique force.

As a law clerk, Kerry's growing knowledge and hardworking ethos was evident. She tackled challenges head-on, approaching each task with a determination that showcased her commitment to excellence. It was no surprise when she later obtained her Texas law license and transitioned seamlessly into the role of an Associate Attorney, driven by a passion for defending license-holders and their livelihoods. Her consistent ability to provide our clients with practical and effective solutions is nothing short of remarkable. This attribute, coupled with her hardworking nature, has earned her the admiration and respect of both colleagues and clients alike.

As we celebrate Kerry's fourth year at Bertolino LLP, let us take a moment to reflect on the milestones she has achieved and the path she has paved. From her early beginnings as a law clerk to her current role as a successful Associate Attorney, her story serves as an inspiration to us all. Please join me in congratulating Kerry Bloodsaw and thanking her for her invaluable contributions to our law firm. Indeed, her journey reflects the core values of Bertolino LLP—100% client-centeredness, integrity, dedication, and a results-oriented mindset. Here's to the past four years of hard work, growth, and achievement, and to the exciting future that awaits Kerry and Bertolino LLP.

-Tony R. Bertolino



Kerry Shares Her Most Memorable Case

A client received a complaint from a disgruntled former employee with her practice. The client had filed a complaint with the Board against the employee based on inappropriate conduct with a patient. After the employee found out about the complaint, she then filed a complaint against the client. The allegations were frivolous and alleged that client did not submit certain supervisory records to the Board per board rules. We compiled the records and proof of submission through character statements. After submission of a supplemental response with additional documentation of proper record keeping, the Board dismissed the complaint without requiring the client to have an informal hearing. This saved the client time and money. It is rare that a client has such pristine records as this client and her organization allowed me to efficiently draft the best rebuttal possible with voluminous corroborating evidence. All of which was the rationale for the Board dismissing their complaint. I was so happy we could provide a great result for such a kind person and professional licensee.

Hallmark Achievement

State Bar of Texas v. JD



Facts: Our client, JD, hired us to defend him against a state bar grievance filed by a former client. The attorney's client was making unfounded allegations of misconduct and the client's reputation and career were at stake. JD needed aggressive legal representation to help him protect his state bar license and demonstrate these claims had no merit.

Outcome: The Firm collected and evaluated the documentation necessary to show how this former client was biased and wrongfully filed the grievance against JD. We submitted a robust response packet which meticulously and adroitly addressed each claim, showing the state bar why it lacked merit both factually and legally. After the office of the chief disciplinary counsel completed their investigation, they took the matter before a summary disposition panel and recommended it be dismissed because the grievance lacked just cause. The summary disposition panel agreed, and JD's grievance was completely dismissed without any action taken against his bar license.

Executive Council of Physical Therapy and Occupational Therapy Examiners v. RM



Facts: Our client, RM, hired us to defend her against a complaint filed by a former employer alleging she committed fraudulent billing practices while working as an occupational therapist. She faced damage to her professional reputation, disciplinary action from the Council and a negative impact on her livelihood all due to the employer's false complaint allegations she was now forced to respond to.

Outcome: The Firm collected and evaluated the documentation needed to fight back against the former employer's spurious claims, and worked with the client to prepare an aggressive, written response addressing both the facts and the law. The response packet we submitted demonstrated why the former employer was biased, why the complaint lacked merit, why the client had not violated the law, why disciplinary action was not appropriate and why the rules the Council was relying upon were improperly applied in the RM's case. After the Council completed their investigation, they agreed the matter lacked any merit, and did not warrant disciplinary action. The client's complaint was dismissed, and the Council took no action against her license, leaving her professional reputation and livelihood intact so she could continue doing the job she loved.

Texas State Board of Dental Examiners v. AQ



Facts: Our client, AQ, hired us to help him self-report a criminal history matter threatening his license as a dentist. AQ had been charged with a criminal offense that had

the potential to destroy his professional reputation and lead to the loss of his license. He needed an aggressive law firm to advocate for him and defend his reputation, livelihood, and license before the Board.

Outcome: The Firm collected and evaluated the documentation needed to explain the circumstances of the criminal matter and worked with his criminal defense attorney to obtain a positive outcome that did not impact AQ's license with the Board. The self-report packet we submitted demonstrated why this license should not be impacted. After the Board completed their investigation, they agreed the criminal matter should not impact AQ's license and we were able to resolve the matter without any harm to AQ's license, reputation, or livelihood.

How Good Records Practices Will Keep You Out of Trouble

by Troy Beaulieu, Esq.



How Your Records Impact Your Practice and Your License

People licensed to work in a particular industry often forget the important role good record keeping plays in staying out of trouble with your regulator and insulating you from client accusations. As attorneys defending people against regulatory complaints, we see all too often how work file and record keeping obligations impact: (1) the existence and filing of a complaint, (2) the ability to defend against a complaint and (3) the outcome of a complaint filed with your regulator. This article will discuss these issues and provide some recommendations to minimize your risk when it comes to record keeping matters that can impact your client relationships and interactions with your regulator.

Good Records Can Impact Whether Complaints Get Filed

A well-documented work file and compliant record-keeping practices go a long way towards minimizing the risk of a complaint being filed. Having a cloud-based, digitally maintained, universally and easily accessible work file combined with compliant records practices puts you ahead the curve when an issue arises. Whether you are on vacation, at a work conference or tied up with an unexpected family commitment, you will have easy access to files and can leverage the accessible and well-documented files swiftly to solve client problems or needs while they are small. Taking swift action up front with the aid of a well-kept and accessible file keeps these problems from getting out of hand. Providing quick client records solutions to issues helps ameliorate client questions, gripes, issues, or concerns. This means happier clients, whose problems are solved quickly and do not fester. As a result, these clients do not remain upset, meaning they are not contacting regulators to help them find satisfaction because you have already addressed their needs and got the relationship back on track in a positive manner.

Proper Records Policies and Maintenance Keeps you Poised to Defend Against Groundless Accusations

Submitting a well-documented file which reflects not just compliance, but

proactive best practices puts you ahead when state investigators and lawyers start examining that complaint filed by the unreasonable client you could not keep happy. As a former regulator I saw the corollary between work file practices and positive complaint outcomes. Regulators often notice up front when there is a thorough, documented file, organized with exactly what state investigators need to get to the bottom of your former client's complaint allegations. By providing this robust and organized file you make their job easier (which makes them happy) and immediately tip them off that you are the sort of license holder who is on top of compliance obligations and not likely to have committed the claims raised in the complaint. In addition, well-maintained files are much easier for your lawyer to work with and typically require less time spent on the matter. Your lawyer will appreciate receiving a well-organized and well-documented file because it makes their job easier. Reducing your overall legal costs and leaving a positive impression on regulators will go a long way towards helping you defend against false accusations.

File Documentation Can be Critical to Avoiding Discipline

Remember that state investigators cannot ignore problems they discover while investigating an otherwise meritless complaint. Much like when the police pull you over for a busted taillight or a speeding infraction, if they find other problems while they have you pulled over, you will probably be in trouble for those additional issues. Many times, it's that complaint which lacks merit which opens your practices up to inspection and reveals a noncompliant records practice or a deficient work file. Staying ahead of these deficiencies means you can protect yourself against charges for records violations on a complaint that would otherwise be dismissed for lack of merit. I have seen this many times both as a regulator and defense attorney. For example, one strategy I know attorneys do consider is how to insulate more challenging claims with more modest violations to ensure the judge finds at least some violations. Defense attorneys know that even if they overcome the other, serious claims, the more simple and straightforward records violations still expose their client to disciplinary action if the case goes to court. This leads many license holders to settle for a disciplinary action by agreement rather than fight in court because the often easy-to-prove record keeping violations have reduced their overall likelihood of winning in court.

What to Remember About Record Keeping

Remember that leveraging record keeping requirements can keep clients happy and aid you in solving client concerns before they get out of hand. This can prevent complaints from ever being filed because you have kept your clients happy and solved their problem through easy records access and utilization. In addition, well-kept records allow you to more easily defend against complaints filed against you. Being able to provide your lawyer and ultimately your regulator with well-organized files reduces the time your lawyer spends on the case, the cost of legal services and leaves a good impression with the regulatory investigators and lawyers looking at the complaint. Finally, having a solid work file that meets requirements helps you avoid discipline. Facing disciplinary action because of a records violation in a complaint that would otherwise be dismissed is a self-inflicted wound you do not want to experience.

Save Money on Legal Fees

A series by London de la Teja, AR Manager

How to Save Costs When Sending Files and Documents

One of the first steps to saving costs when sending files is to keep your work file documentation organized. Many times, regulators require you to maintain accurate and complete work file with only certain documentation in it. Sometimes when clients provide us these materials they arrive jumbled up and intermixed, which takes legal team staff additional time to separate the different documents so we can provide the appropriate work file to the client's regulator. This can really rack up your bill and can be prevented. The best way to prepare your documents is to review them and make sure they are in the correct order; you have all requested documents included and they are in the correct format. You can reduce the amount of time the legal team spends doing this work by providing us with an organized work file up front. If you have questions on what is needed, feel free to ask these questions prior to preparing the file so the process is efficient.



Side Bar ...

Step-tastic: Team Bertolino Smashed our Three Million Steps Challenge and Embraced the Rage Room Reward!

Our amazing team absolutely shattered our spring *Three Million Steps Wellness Challenge*. The early morning walkers, lunchtime runners, and weekend warriors all brought the spirit and determination, and together we logged an impressive 3,520,687 steps.

As a reward, we took our hard-earned stress to Uncharted Adventures and unleashed our inner beasts while demolishing things in the Rage Room, throwing paint on walls and each other in the Splatter Room, and sharpening our ax throwing skills. It was a well deserved accolade for the effort, teamwork, and camaraderie that makes our team so incredible.



Preparing to destroy the
Rage Room



London's Ax Throwing

Pre-paint Flinging in the
Splatter Room

Bull's-eye

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