

June 2010  
**Background Information / Impact Statement for**  
**Proposed Revisions to Rule 575.28 Complaints—Investigations**  
by Greg Munson – Mesquite, Texas

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Greg Munson. Mesquite, Texas.

Thank you for giving me the opportunity to propose revisions to the board rules and allowing me to address the board regarding my proposed revisions.

I believe Loris sent each board member a copy of my proposed revisions and I hope that you have that with you here today.

I was also informed by Loris that each of you received a copy of the Open Records Decision No., 683 issued by the Attorney General last November, so I trust that you are all familiar with that ruling.

In Open Records Decision No. 683, dated November 24, 2009, Attorney General Greg Abbott states, "...section 801.207(b) does not prohibit the Board from sending a copy of either a complaint to the licensee about whom it concerns or a licensee's response to the complainant during the investigation of the complaint."

Currently, board rule 575.28 addresses the issue of sending a copy of the complaint to the licensee, but fails to address the equally important issue of providing a copy of the licensee's response to the complainant during the investigation. The proposed revision remedies the situation by having a copy of the licensee's response automatically sent to the complainant as part of the investigation process.

Since a copy of the licensee's response is NOT available to the complainant once an investigation is closed, it is IMPERATIVE that a copy of the licensee's response is provided to the complainant automatically and promptly during the investigation. The licensee does not have to ask for a copy of the complaint. The complainant should not have to ask for a copy of the licensee's response.

Currently, a complainant is allowed to submit to the board any additional relevant information or evidence that may become available after their initial submission at anytime during the investigation process. Any response the complainant may have regarding the licensee's response can be submitted to the board in this manner. As a result, there would be no impact on resolution time of a complaint.

A licensee who knows that a complainant may never see their response to the complaint could very well be tempted to falsify their response to the complaint – knowing that there will be nobody to dispute their version of events. A complainant may never think to ask for a copy of the licensee's response during the investigation because they do not yet realize that licensees can and sometimes do falsify their responses. By the time it dawns on them that the licensee must have been less than truthful in their dismissed complaint, it will then be too late to ask for and receive a copy of the licensee's response as the investigation will be closed.

A licensee may be much less tempted to falsify their response if they know that a copy of their response will be sent to the complainant automatically.

This board is charged with protecting the public. Passing this proposed revision is a step in that direction.

Thank you very much.