

2024 -- H 7641

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- BOARD OF MEDICAL LICENSURE
AND DISCIPLINE

Introduced By: Representative Alex S. Finkelman

Date Introduced: February 15, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-37-5.2 of the General Laws in Chapter 5-37 entitled "Board of
2 Medical Licensure and Discipline" is hereby amended to read as follows:

3 **5-37-5.2. Complaints.**

4 (a) Any person, firm, corporation, or public officer may submit a written complaint to the
5 board charging the holder of a license to practice medicine or limited registrant with unprofessional
6 conduct, specifying the grounds for the complaint. The board shall review all complaints.

7 (b) If the board determines that the complaint merits consideration, or if the board, on its
8 own initiative without a formal complaint, has reason to believe that any holder of a license or
9 limited registration to practice medicine may be guilty of unprofessional conduct, the chairperson
10 shall designate three (3) members of the board, at least one of whom shall be a public member, to
11 serve as a committee to investigate the complaint. If the complaint relates to a procedure involving
12 osteopathic manipulative treatment (OMT), at least one member of the investigating committee
13 shall be an osteopathic physician member of the board.

14 (c) The investigating committee shall conduct its deliberations and make recommendations
15 regarding the complaint to the board. In conducting an investigation of such complaints that require
16 an inspection of a licensee's office:

17 (1) Either the investigating committee or the full board shall make a finding that an
18 inspection is required and this finding must be evidenced by recorded minutes showing the vote to

1 conduct an inspection;

2 (2) The scope and manner of conducting any such inspection shall be reasonably related to
3 the written complaint received. Any licensee whose office is the subject of such inspection shall be
4 provided by either the investigating committee or the full board with a copy of the complaint or a
5 written summary of all pertinent allegations prior to or at the commencement of the inspection;

6 (3) At the conclusion of the inspection and prior to leaving the licensee's office premises,
7 the board's inspectors shall provide the licensee whose office has been inspected with a copy of the
8 completed inspection form, noting areas of deficiency or follow-up;

9 (4) Unless there is a real potential of imminent, unreasonable harm to patients or staff, the
10 licensee shall have ten (10) days to remedy any deficiencies found during the inspection; and

11 (5) All inspections shall be carried out so as not to interfere with direct patient care.

12 (d) No member of the board who participated in the investigation may participate in any
13 subsequent hearing or action taken by the remainder of the board. Investigations shall remain
14 ~~confidential~~ privileged and all initial hearings, investigatory hearings, and full hearings before the
15 board shall remain ~~confidential~~ privileged.

16 (e)(1) If the recommendation is no unprofessional conduct, the remaining members of the
17 board shall review the relevant data and vote a final recommendation.

18 (2) If the investigating committee has probable cause to believe the alleged unprofessional
19 conduct of the licensee is caused by an impairment that has directly affected the ability of the
20 licensee to conduct his or her practice professionally, the committee may use its authority under §
21 5-37-1.3(10) to assist in further deliberations regarding the alleged misconduct of the licensee.

22 (3) In the event of a determination by the investigating committee of probable cause for a
23 finding of unprofessional conduct, the accused may request a hearing (see §§ 5-37-5.3 and 5-37-
24 5.4). A hearing committee shall be designated by the chairperson consisting of three (3) other
25 members of the board, at least one of whom shall be a physician member and at least one of whom
26 is a public member. If the complaint relates to a procedure involving osteopathic manipulative
27 treatment (OMT), at least one member of the investigating committee shall be an osteopathic
28 physician member of the board. The hearing shall be conducted by a hearing officer appointed by
29 the director of the department of health. The hearing officer shall be responsible for conducting the
30 hearing and writing a proposed findings of fact and conclusions of law along with a
31 recommendation of a sanction, if warranted. The hearing committee shall read the transcript and
32 review the evidence and, after deliberation, the hearing committee shall issue a final decision
33 including conclusions of fact and of law. The board shall make public all decisions, including all
34 conclusions against a license holder as listed in § 5-37-6.3.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would ensure investigation and initial hearings relating to complaints against
2 physicians by the Board of Medical Licensure and Discipline would be "privileged" and not merely
3 "confidential".

4 This act would take effect upon passage.

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