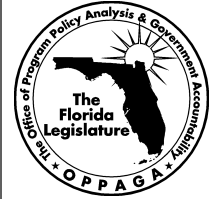




Office of Program Policy Analysis And Government Accountability



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Follow-Up Report on the Legal Issues Concerning Florida Board of Medicine Disciplinary Practices

Abstract

- In 1997 the Legislature passed a requirement that the Board of Medicine review complaints filed against physicians within six months of receipt.
- To further reduce the length of disciplinary process, the board has limited the time in which a physician decides how to respond to his or her case to 21 days. Physicians who elect to negotiate consent agreements must submit a signed settlement agreement within 60 days.
- The Board of Medicine made changes to provide greater consumer access to information by publishing the names of physicians who have been disciplined by the board or have paid multiple malpractice claims.

Purpose

In accordance with s. 11.45(7)(f), F.S., this follow-up report informs the Legislature of actions taken in response to OPPAGA Report No. 95-49, issued April 2, 1996. This report presents our assessment of the extent to which the Department

of Health has addressed the findings and recommendations included in our prior report.

Background

The Board of Medicine in the Department of Health establishes procedures for disciplining doctors in Florida. Complaints against physicians are investigated and screened to eliminate allegations that do not have medical or legal merit. Physicians charged by the board may elect an informal hearing, administrative hearing, or consent agreement. Physicians found guilty of unprofessional conduct are subject to sanction by the Board of Medicine.

Prior Findings

OPPAGA's 1996 review addressed four issues:

- why it takes more than two years to discipline physicians;
- whether the board amends hearing officers' orders to impose stricter sanctions on foreign-trained than domestic-trained physicians;
- why physicians who pay malpractice claims sometimes are not disciplined by the board; and
- whether the board should disclose to the public information concerning physician complaints, civil suits, malpractice settlements, and disciplinary actions in other states.

The time required to discipline physicians varies widely and appears to be primarily a function of whether each physician chooses to resolve charges through informal hearing, administrative hearing, or consent agreement. Most charged physicians choose consent agreement. OPPAGA recommended speeding up consent agreements by limiting the time in which the board would accept these agreements.

The board did not demonstrate a pattern of amending hearing officers' orders to impose stricter sanctions on foreign-trained than on domestic-trained physicians. No action was needed in this area.

The BOM does not discipline all physicians who are subject to court proceedings for malpractice because the court and the board are required by law to use different standards of evidence. OPPAGA concluded that it is appropriate for the actions of the board and the court to compliment but not always parallel each other.

Florida statutes limit the board to disclosing only those charges against physicians that it has investigated and taken action upon. Other information, such as closed malpractice claims, is public record and is available from the Department of Insurance.

Current Status

The Legislature, the Department of Health, and the Board of Medicine have implemented options OPPAGA identified for shortening the disciplinary process. The department also made changes to provide greater consumer access to the list of disciplined physicians.

The Legislature acted in 1997 to speed up the disciplinary process by requiring that all complaints filed against medical practitioners be processed to the probable cause panel within six months.

If the panel finds that the complaint is legally and medically sufficient and issues a complaint, the charged physician decides whether to proceed to informal hearing, administrative hearing, or sign a consent agreement. The department has implemented OPPAGA's recommendation to speed up this process by limiting the time to elect a mode of resolution to 21 days and by requiring physicians who elect to negotiate a settlement to submit a signed agreement within 60 days. These revisions should reduce the time required to discipline the majority of physicians.

Also, the department and the Board of Medicine made changes to provide greater consumer access to information on physicians who have been disciplined and who have had multiple malpractice claims. In April 1997, the Agency for Health Care Administration published the *Florida Report on Physician Discipline and Malpractice*. The report is available to the public for \$10 a copy, and through the Internet at <http://www.fdhc.state.fl.us/hpcc/hpolicy/malpractice/medrpt.html>. The report contains profiles of physicians who have been disciplined in the past five years or have paid three or more malpractice claims or have had an emergency license suspension.

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