Medical Ethics, Boundaries and Professionalism

Jerica Stewart - Communication & Outreach Administrator
March 25, 2021
About the Medical Board

To protect and enhance the health and safety of the public through effective medical regulation.
Statutes
Laws enacted by Ohio legislature
Ohio Revised Code (ORC)

Rules
Regulations developed and enacted by Medical Board
Ohio Administrative Code (OAC)
Rules clarify & amplify provisions in the Ohio Revised Code
The Board

The Medical Board is the state agency charged with regulating the practice of medicine and selected other health professions.

12 members appointed by the governor to 5-year terms:
- 9 doctors: 7 MDs, 1 DO, and 1 DPM
- 3 consumer members

The board meets the second Wednesday of each month virtually and a livestream is available on the Medical Board’s YouTube channel.
## License Types

The Medical Board regulates more than 96,000 licensees.

<table>
<thead>
<tr>
<th>License Type</th>
<th>Number</th>
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<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allopathic Physicians</td>
<td>45,653</td>
<td>Anesthesiologist Assistants</td>
<td>311</td>
</tr>
<tr>
<td>Osteopathic Physicians</td>
<td>7,673</td>
<td>Physician Assistants</td>
<td>4,786</td>
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<tr>
<td>Podiatric Physicians</td>
<td>1,016</td>
<td>Radiologist Assistants</td>
<td>16</td>
</tr>
<tr>
<td>Training Certificates MD-DO-DPM</td>
<td>8,961</td>
<td>Genetic Counselors</td>
<td>493</td>
</tr>
<tr>
<td>Dietitians</td>
<td>4,950</td>
<td>Respiratory Therapists</td>
<td>9,154</td>
</tr>
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March 1, 2021
Medical Board Core Services

- Licensure
- Confidential investigations
- Disciplinary actions
- Probationary monitoring
- Education & Outreach
The mission of the medical board is to protect and enhance the health and safety of the public through effective medical regulation.

True or False
Question #2

The medical board is an organization established by the OSMA (Ohio State Medical Association.)

True or False
Complaint Process
Disciplinary Actions

Ohio statute identifies **51** grounds for board disciplinary action.

**Board action examples:**
- dismissal, reprimand,
- suspension, probation,
- permanent revocation, etc.
What is a complaint?

Any allegation of licensee misconduct received by the Medical Board

The board received 7,343 complaints in FY20

Complaints are confidential
Complaint, Investigation, Enforcement and Disciplinary Process

Complaint Received
- Not within board’s jurisdiction
  - Complaint closed
- Complaint does not support disciplinary action
  - Complaint closed
- Investigation supports disciplinary action by board; enforcement staff develops case for disciplinary action
  - Consent agreement ratified by board
    - Board approves issuance of a citation
    - No hearing requested by licensee
    - Hearing requested by licensee; hearing held
- Hearing requested by licensee; hearing held

Information is Confidential
- Disciplinary Action
  - Hearing Examiner prepares proposed findings and order (PFPO) for board review
  - Legal department prepares findings, order, journal entry (FOJE) for board review
  - Hearing Examiner prepares report & recommendation (R&R) for board review
  - Board votes to accept or amend PFPO
  - Board votes to accept or amend FOJE
  - Board votes to accept or amend R&R

Public Information
Medical Board Investigations

- Ohio law makes complaints received by the Medical Board and board investigations confidential.

- The board may only share investigative information with law enforcement agencies, other licensing boards, or other governmental agencies that are prosecuting, adjudicating or investigating alleged violations of statutes or rules.

- Board disciplinary actions are public record – posted on med.ohio.gov and licensee profile on elicence.ohio.gov.
Complaint Outcomes FY 2020

- **No action warranted**: 1,676 complaints closed as the issue involved professions not regulated by the board or no further review needed.

- **Investigated then closed**: 3,882 complaints were closed after investigation as information obtained about allegation did not support board action.

- **Board action**: 246 complaints resulted in disciplinary action by the board.
FY20 Basis for Disciplinary Actions

- Standard of care: 4%
- Unprofessional conduct: 6%
- Prescribing issues: 7%
- Other: 11%
- Impairment: 11%
- Criminal acts/other state action: 61%
Professional behavior is a core competency expected of all physicians.
Grounds for Disciplinary Action

... violation of any provision of a code of ethics of the American Medical Association, American Osteopathic Association, American Podiatric Medical Association...

Section 4731-22 (B)(18) ORC
Examples of Violations

- Sexual misconduct
- Inappropriate prescribing or impairment
- Criminal actions/malpractice events
- Fraudulent misrepresentation in course of practice
- Patient privacy
- Education & Training
Sexual Misconduct
Sexual Misconduct

OAC 4731-26-01 definition:

“conduct that exploits the licensee-patient relationship in a sexual way, whether verbal or physical, and may include the expression of thoughts, feelings, or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual misconduct includes sexual impropriety, sexual contact, or sexual interaction”
Code of Ethics

Sexual or romantic interactions between physicians and third parties may…

- detract from the goals of the patient-physician relationship
- exploit the trust and vulnerability of the third party
- compromise the physician’s ability to make objective judgments about the patient’s health care, and
- ultimately be detrimental to the patient’s well-being

AMA Code of Ethics
9.1.2 Romantic or Sexual Relationships with Key Third Parties
Good Practices for Patient Exams

- If the patient must disrobe, give them enough time to change and use proper draping practices
- Always knock before entering an exam room
- Ask the patient if they would like another person to be present in the room for a sensitive exam or procedure
- Always ensure consent is given before giving an exam
- Pay attention to verbal and non-verbal indications of discomfort from the patient
Case: Social Media

Doctor had an inappropriate relationship with a patient via sexually explicit Facebook messaging and text messaging.

Board action: License suspended for at least 60 days. 2-year probation and physician patient boundaries course.
Prescribing
Problem Prescribing

- Inappropriately prescribing drugs to patients
- Selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes
- Self & family prescribing of controlled substances
- OARRS (Ohio Automated Rx Reporting System) violations
Case: Family Prescribing

Doctor prescribed Vicodin and Ambien to two patients who were family members in non-emergency situations.

Didn’t document the prescriptions or any examination, evaluation or treatment in any patient record.

Board action: Reprimand, 12-month probation and controlled substance prescribing course and medical record keeping.
Impairment

Inability to practice according to acceptable standards of care because of habitual or excessive use or abuse of drugs, alcohol or other substances that impair ability to practice
One-bite Program

One-bite Program is a confidential program for the treatment of impaired licensees of the Medical Board - established in section 4731.251 of the Revised Code.

It makes recovery a non-disciplinary program for initial incidents and self-reported impairment by licensees.

To participate, licensees must meet all three requirements:
1. Diagnosed with substance use disorder and impaired in inability to practice
2. First time participant in the program
3. No prior disciplinary action for substance use disorder or impairment by any licensing board in Ohio
One-bite Program

Ohio Physicians Health Program (OPHP) is the contracted monitoring organization.

Contact OPHP: (614) 841-9690 or info@ophp.org

Website: ophp.org
Confidential Monitoring Program

*Mental or physical condition impacting ability to practice*

Board Secretary & Supervising Member oversee agency investigation and enforcement processes

Secretary & Supervising Member may determine that an individual being investigated concerning a mental or physical illness, is appropriate for ongoing investigative observation and monitoring by the board rather than formal public disciplinary action

Licensee signs a confidential participation agreement with the board
Question #3

The authority of the medical board is defined by state law and enumerates grounds for discipline. These grounds can include which of the following (circle an answer for each letter below):

A. Inappropriate over prescribing
B. Medical malpractice events
C. Inappropriate under prescribing of dangerous medications
D. Violation of medical ethics
E. Violation of medical board rules
F. Findings of fraud
G. Criminal activity
H. Physician impairment
Duty to Report
Duty to Report

Licensees have a personal duty to report to the State Medical Board of Ohio when they believe an individual licensed by the Board has violated the Board’s laws or rules including sexual misconduct, impairment, practice below the minimal standards of care, and improper prescribing of controlled substances.

Reports of misconduct to supervisors, law enforcement or health care system management do NOT fulfill the duty to report to the Board; failure to report could result in formal disciplinary action.
Case: Duty to Report

Doctor knew for almost 3 years that his partner and co-owner of their pain management practice was accused of engaging in sexual misconduct with female patients during medical exams.

He failed to report his partner’s inappropriate sexual conduct to the Medical Board.

Board action: Permanent revocation
Confidential Complaint Hotline
1-833-333-SMBO (7626)
A licensee’s duty to report is fulfilled by reporting misconduct to a supervisor or an HR department.

True or False
Resources
Resources
med.ohio.gov/resources
COVID-19 Response

- Weekly updates
- Wellness resources and telemedicine regulation

Available at med.ohio.gov
Ohio Physicians Health Program (OPHP)

OPHP offers confidential resources for mental health, emotional and behavioral illness, wellness coaching services and more.

To view available provider wellness resources, visit ophp.org.

Additional Resource

Crisis Text Line:
- Text 4HOPE to 741 741
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