

**New York's
Medical Conduct Program**



**How to
Choose
the
Right
Physician**



**How to Tell Us
if You Don't**

Choosing the Right Doctor

Choosing the right doctor is a very important decision. Yet, many people take more time to compare the quality and price of their next car than they do to select a physician.

Today, many people have primary care physicians who serve most of their needs and can refer them to specialists when necessary. Primary care physicians generally include internists, family practitioners, pediatricians and, in some instances, obstetricians and gynecologists.

How do you select a primary care physician, and how do you know if the specialists he or she suggests are the right doctors for you?

Here are some things to consider when selecting a physician:

- Ask friends and relatives for recommendations. If you are moving and changing physicians, ask your current physician if he or she can refer you to someone in your new community.
- Check with area hospitals. Many of them offer referral services.
- Check with your county medical society. They will give you the names of several physicians.
- Ask your insurance company, health maintenance organization or managed care plan if they have a panel of physicians from which you should select.

Once you have the names of several physicians, you can do some additional checking to help you make a final decision.

- **Is the physician licensed?** To find out if the physician is currently licensed and registered in New York State, call the State Education Department at 518-474-3817 or access the department's web site at www.nysed.gov. Department staff can also tell you where the physician attended medical school.
- **Is the physician board-certified?** Many doctors become board certified in a specialty. This means that they complete specialty training and pass formal examinations. While no guarantee of excellence, board certification is one way the average consumer

can be certain of a physician's training. Many primary care physicians also are board-certified in specialty areas.

The Directory of Physicians in the United States, the Medical Directory of New York State and The Directory of Board-Certified Medical Specialists list qualifications of individual physicians. They include where the physician attended medical school and received residency training, board certification; hospital affiliations; type of practice; and other information. These books can be found in the reference sections of most libraries. You may also call the American Board of Medical Specialties to confirm if a physician is board-certified and to get the number of individual specialty boards. The Board can be reached at 1-800-776-2378.

- **How does the office operate?** Check a physician's office hours and locations, payment requirements, emergency and after-hours coverage, and the availability of telephone consultations and house calls. Find out at what hospitals the physician has admitting privileges.
- **What about the physician's malpractice record?** Information on a physician's malpractice record must be obtained by checking with the County Clerk's office. That information is not available from any state agency.
- **Has the physician been disciplined?** To learn if a physician has been disciplined, call OPMC at 1-800-663-6114. Or, access the medical conduct web site at www.health.state.ny.us and select "information for consumers."

Only final disciplinary actions are provided. Pending or dismissed complaints are not public information.

Reporting a Problem with Your Physician

The vast majority of New York's more than 60,000 licensed physicians are dedicated, caring and capable professionals working to protect and improve the health of their patients.

The Office of Professional Medical Conduct (OPMC) and the Board for Professional Medical Conduct (the board) are responsible for investigating and adjudicating complaints against physicians and physician assistants. Each year OPMC investigates thousands of complaints received from the public and from health care professionals and institutions. Each year, the board disciplines hundreds of physicians.

If you believe your physician or physician assistant has acted improperly, you **MUST** file a written report. You may send a letter or complete a complaint form. Your complaint should include the full name and address of the physician or physician assistant, when the problems occurred and all other relevant information. To protect your confidentiality, OPMC does not accept complaints either by facsimile (fax) or electronic mail. Please send complaints to:

New York State Department of Health
Office of Professional Medical Conduct
Riverview Center
150 Broadway, Suite 355
Albany, New York 12204-2719

If you want a complaint form, or have questions, call OPMC's toll-free number, 1-800- 663-6114. Your complaint will be kept confidential.

Complaints against other professionals, such as dentists, nurses, chiropractors, podiatrists, optometrists and psychologists, are the responsibility of the State Education Department and should be sent to:

New York State Education Department
1 Park Avenue — 6th Floor
New York, New York 10016
1-800-442-8106

What to Report

If you feel that your doctor has practiced negligently or incompetently, or has engaged in illegal or unethical practices, he/she may have committed professional misconduct, and should be reported.

Physicians may be charged with misconduct for:

- Being impaired by alcohol, drugs, physical or mental disability.
- Abandoning or neglecting a patient in need of immediate care.
- Promoting the sale of services, goods, appliances or drugs in a manner that exploits the patient.
- Refusing to provide medical care due to race, color, creed or ethnic origin.
- Guaranteeing a cure.
- Performing professional services not authorized by the patient.
- Willfully harassing, abusing or intimidating a patient.
- Ordering excessive tests or treatments.
- Failing to make patient records and X rays available to the patient or another physician on request.
- Permitting unlicensed persons to perform activities which require a license.
- Practicing the profession with a suspended or inactive license.
- Revealing personally identifiable facts, data or information without consent of the patient, except as authorized or required by law.

(For a complete list of the definitions of misconduct see Education Law Section 6530 and 6531)

What NOT to Report

Complaints regarding **fees** are not generally under the jurisdiction of the board unless they represent fraud. For example, it would be considered fraud if the physician charged for tests or services that were not provided. You may feel a physician charged too much for the services you received, but that does not form the basis of a misconduct action.

Complaints about a physician's communication skills, **attitude** or "**bedside manner**" are also not generally under the jurisdiction of the board. Nor does the board have any authority over such **office practice issues** as long waiting times or rude staff. While the board does not condone rude or uncaring behavior, such actions do not, by themselves, constitute misconduct.

How the Process Works

- Written complaints are reviewed by OPMC investigative and medical staff.
- A complaint that raises possible misconduct issues is assigned to an investigator. Typically, the complainant, the doctor and others involved in the case are interviewed. Interviews may be in person or over the phone. The identity of the complainant is confidential, although a physician may deduce the source of the complaint.
- Complaints that raise issues outside OPMC's jurisdiction are referred to the appropriate office. Complainants are notified by letter.
- If, after investigation, sufficient evidence is found, the case is presented to an investigation committee drawn from the board which can order a hearing, dismiss the matter or order non-disciplinary warnings or consultations. If the committee finds evidence of misconduct, charges are filed against the physician.
- If sufficient evidence is not found, the investigation is terminated and the case is closed. A record of the investigation remains in OPMC files for possible future reference. Complainants and physicians are notified by letter.
- Cases ordered to hearing go before another committee of the board which hears and reviews evidence from both sides. The complainant may be expected to testify at the hearing. The committee rules on the case and determines if a penalty is warranted.
- The hearing committee decision may be appealed to the Administrative Review Board which is also composed of members of the board.

Penalties

The board has the authority to take actions against a physician's license. A physician's license can be revoked or suspended. The board can also limit a physician's license; issue a censure and reprimand; order education or retraining; levy a fine; or require community service.

Some Things You Should Know

- Only final disciplinary actions are public information. Pursuant to state law, information on previously closed complaints, dismissed actions and on-going investigations is not available to the public. Investigative files are confidential and are not disclosed to complainants or physicians.
- Because medical conduct investigations are complex, it often takes months to resolve complaints; issues that go to hearing typically take longer.
- The board cannot direct a physician to reimburse a patient, change a diagnosis or alter an opinion.
- Action taken by the board is an administrative procedure and is different than a malpractice action. Malpractice cases are heard in civil court and seek financial awards for patients or families who claim wrong-doing by a physician. The board does not initiate malpractice actions.

How to Reach Us

New York State Department of Health
Office of Professional Medical Conduct
Riverview Center
150 Broadway, Suite 355
Albany, New York 12204-2719

Phone:

1-800-663-6114 (complaints/inquiries)

518-402-0836 (main number)

Web site address:

www.health.state.ny.us

Select: *Information for Consumers or Information for Providers*, then
click on *Professional Misconduct & Physician Discipline*

e-mail address:

opmc@health.state.ny.us

For complaints and information about other professionals:

New York State Education Department
1 Park Avenue—6th Floor
New York, New York 10016
1-800-442-8106

Web site address:

www.nysed.gov/prof/profhome.htm

For license information:

518-474-3817

or

518-473-1426 (TDD for the hearing impaired)

or

1-900-555-6978

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twitter.com/HealthNYGov
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