

New York State Department of Health
Office of Professional Medical Conduct (OPMC)

[FAQs and Complaint Form – Professional Misconduct by Physician/PA](#)

New York State

Department of Health

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<http://www.health.state.ny.us/nysdoh/opmc/faq.htm>

Office of Professional Medical Conduct - Frequently Asked Questions

The following are questions frequently asked of the staff of the Office of Professional Medical Conduct. This office, which is part of the New York State Department of Health, investigates all reports of possible professional misconduct by physicians and physician assistants.

What does the Office of Professional Medical Conduct do?

The mission of the Office of Professional Medical Conduct (OPMC) is to protect the public through the investigation of professional discipline issues involving physicians and physician assistants. OPMC is responsible for investigating all complaints of misconduct, coordinating disciplinary hearings which may result from an investigation, monitoring physicians whose licenses have been restored after a temporary license surrender and monitoring physicians and physician assistants placed on probation as a result of disciplinary action.

If you feel that your doctor has committed misconduct, you should [file a report with the Office of Professional Medical Conduct](#). Reports of misconduct are kept confidential.

What is misconduct?

Examples of medical misconduct include (but are not limited to): practicing fraudulently, practicing with gross incompetence or gross negligence; practicing while impaired by alcohol, drugs, physical disability or mental disability; being convicted of a crime; filing a false report; guaranteeing that treatment will result in a cure; refusing to provide services because of race, creed, color or ethnicity; performing services not authorized by the patient; harassing, abusing or intimidating a patient; ordering excessive tests; and abandoning or neglecting a patient in need of immediate care.

Certain types of complaints are not considered misconduct and therefore are not under the jurisdiction of OPMC. These include complaints regarding fees (unless they represent fraud), and complaints about a physician's attitude, communication skills or rude behavior. OPMC does not condone uncaring behavior but such actions do not, by themselves, constitute misconduct.

Who do I contact about filing a misconduct complaint?

To discuss filing a misconduct complaint against a physician or physician assistant, contact the Office of Professional Medical Conduct, NYS Department of Health, 433 River Street, Troy NY 12180-2299. Phone: 518-402-0836 or 1-800-663-6114. All complaints are kept confidential.

Complaints against other licensed professionals should be directed to the Office of Professional Discipline, NYS Education Department, 475 Park Ave. South, 2nd Floor, New York, NY 10016-6901.

What happens once I make a complaint?

Once a written complaint has been received, it is reviewed by investigative and medical staff at the Office of Professional Medical Conduct. All complaints are kept confidential. A charge of misconduct is serious and there must be sufficient evidence of a possible violation before a hearing is held. If the investigation reveals sufficient evidence, an investigative committee determines if disciplinary action is warranted. A Health Department attorney prepares a notice of hearing and a Statement of Charges.

At that point, a disciplinary hearing is held before a committee of the Board for Professional Medical Conduct. The Board is composed of physicians, physician assistants and lay members who fulfill major roles in the disciplinary process by serving on investigative, hearing and license restoration committees. The Hearing Committee, which is composed of two physicians and one layperson, makes a finding of guilt or innocence and imposes a penalty if appropriate. The licensee and the Director of the OPMC may appeal the decision to an Administrative Review Board.

The Board for Professional Medical Conduct has the authority to revoke or suspend a physician's license. The Board can also limit a physician's license, issue a censure and reprimand, order education and/or retraining, levy a fine or require community service. The Board cannot direct a physician to reimburse a patient, change a diagnosis or alter an opinion.

Will I be interviewed or have to testify about my complaint?

The person who makes a complaint (the complainant) usually is interviewed. The interview may be conducted over the telephone or in person. If a disciplinary hearing is held, the complainant may be requested to testify.

Have there been complaints about my physician in the past?

Complaints against physicians are public information only if they result in a final disciplinary action. To learn if a physician has been disciplined, access the Medical Conduct web site at www.health.state.ny.us or call OPMC at 1-800-663-6114. There is no fee for this information.

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How can I get a copy of my medical records and is there a fee?

You can request a copy of your medical records from your physician. The cost can be no more than 75 cents per copied paper page.

A physician cannot refuse to let a patient see medical records because of an unpaid bill. For more information, contact the Access to Patient Information Program at 1-800-663-6114.

How long must a physician keep medical records?

Physicians must keep patient records for six years after the last visit. Records for children are kept for one year after the child's 18th birthday.

Additional Information:

- All final disciplinary actions are public information. Information on closed complaints, dismissed actions and on-going investigations is not available to the public.
- Because medical conduct investigations are complex, it often takes months to resolve complaints. Cases that go to hearing typically take longer.
- Actions taken by the Board for Professional Medical Conduct against physicians are different than malpractice actions. Malpractice cases are heard in civil court and seek financial awards for patients or families who claim harm by a physician. Contact your County Clerk's office for information related to malpractice.

Questions or comments: opmc@health.state.ny.us

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Office of Professional Medical Conduct, New York State Department of Health

Instructions for Completing Complaint Form

To file a complaint about the treatment you received from a physician (M.D., or D.O.) or physician assistant licensed to practice medicine by the State of New York, please complete this form and return it to the Office of Professional Medical Conduct, NYS Department of Health, 433 River Street, Suite 303, Troy, New York 12180-2299. Phone: (518) 402-0836 or 1-800-663-6114.

Trained staff will review the information you give. We will investigate all matters of possible professional misconduct. If your complaint requires the attention of another office, it will be sent to the agency authorized to address your concerns.

To help us review your complaint, please:

- Type or print clearly in ink.
- Describe your complaint as completely as you can.

- Include the names of any witnesses.
- Include the names of others with whom you filed a complaint.
- Attach additional pages, if needed.
- Attach copies of papers which may support your complaint, such as bills or correspondence. Do not send originals. Please sign and date the form.

Complaint Form

Please print and complete and return to the Office of Professional Medical Conduct, 433 River St., Suite 303, Troy, NY, 12180-2299

(This form will not be sent electronically.)

All reports of misconduct are kept confidential and are protected from disclosure according to New York State Public Health Law, Sections 230(10)(a)(v) and 230(11)(a). Any person who reports or provides information to the Board for Professional Medical Conduct in good faith, and without malice, shall not be subject to an action for civil damages or other relief as the result of making the report according to Section 230(11)(b).

INFORMATION ABOUT YOU

Name _____
 Address _____
 City _____ State _____ Zip _____
 Telephone Day (____) _____ Evening (____) _____

(If you do not have a daytime telephone number, please provide a number where a message can be left for you during the day).

PHYSICIAN OR PHYSICIAN ASSISTANT

Name _____
 Address _____
 City _____ State _____ Zip _____
 Telephone (____) _____

COMPLAINT

Describe your complaint as completely as you can. Please sign and date the form.

Patient's Name _____
 Date of Birth ____/____/____
 Social Security Number ____ - ____ - ____

When did this happen? _____

Where did this happen? _____

Have you filed a complaint with anyone else? Yes _____ No _____

If yes, with whom? _____

Names of Witnesses _____

Description _____

Signature _____ Date _____

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