

3465

2011-2012 Regular Sessions

I N   S E N A T E

February 23, 2011

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Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and  
when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to investigations of  
professional medical conduct

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY,  
DO ENACT AS FOLLOWS:

1     Section 1. Subparagraph (i) of paragraph (a) of subdivision 10 of  
2     section 230 of the public health law, as amended by chapter 542 of the  
3     laws of 2000, is amended to read as follows:  
4     (i) The board for professional medical conduct, by the director of the  
5     office of professional medical conduct, may investigate on its own any  
6     suspected professional misconduct, and shall investigate each complaint  
7     received regardless of the source. THE DIRECTOR OF THE OFFICE OF  
8     PROFESSIONAL MEDICAL CONDUCT, WHEN REQUESTED BY A COMPLAINANT, SHALL  
9     MEET WITH THE COMPLAINANT TO REVIEW MATERIALS TO BE CONSIDERED BY THE  
10    BOARD IN ITS REVIEW OF SUSPECTED PROFESSIONAL MEDICAL MISCONDUCT. The  
11    director of the office of professional medical conduct shall cause a  
12    preliminary review of every report made to the department pursuant to  
13    section twenty-eight hundred three-e as added by chapter eight hundred  
14    sixty-six of the laws of nineteen hundred eighty, sections twenty-eight  
15    hundred five-l and forty-four hundred five-b of this chapter, and  
16    section three hundred fifteen of the insurance law, to determine if such  
17    report reasonably appears to reflect physician conduct warranting  
18    further investigation pursuant to this subparagraph.  
19    S 2. Paragraph (e) of subdivision 10 of section 230 of the public  
20    health law, as amended by chapter 606 of the laws of 1991, is amended to  
21    read as follows:  
22    (e) Committee hearing. The hearing shall be conducted by a committee  
23    on professional conduct. AT LEAST TWENTY-FIVE PERCENT OF SUCH COMMITTEE  
24    SHALL BE NON-MEDICAL PERSONNEL. The members of the hearing committee  
25    shall be appointed by the chairperson of the board who shall designate

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 the committee chairperson. In addition to said committee members, the  
2 commissioner shall designate an administrative officer, admitted to  
3 practice as an attorney in the state of New York, who shall have the  
4 authority to rule on all motions, including motions to compel disclosure  
5 of information or material claimed to be protected because of privilege  
6 or confidentiality, procedures and other legal objections and shall  
7 draft the conclusions of the hearing committee pursuant to paragraph (g)  
8 OF THIS SUBDIVISION. The administrative officer shall have the authori-  
9 ty to rule on objections to questions posed by either party or the  
10 committee members. The administrative officer shall not be entitled to  
11 vote.

12 S 3. This act shall take effect on the sixtieth day after it shall  
13 have become a law. Provided, that effective immediately, the addition,  
14 amendment and/or repeal of any rule or regulation necessary for the  
15 implementation of this act on its effective date are authorized and  
16 directed to be made and completed by the commissioner of health on or  
17 before such effective date; and provided, further, that the amendments  
18 to subparagraph (i) of paragraph (a) of subdivision 10 of section 230 of  
19 the public health law made by section one of this act shall not affect  
20 the expiration of such paragraph and shall be deemed to expire there-  
21 with.