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I N A S S E M B L Y

March 21, 2016

Introduced by M. of A. MAYER -- read once and referred 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 11 of the
3 laws of 2015, is amended to read as follows:
4 (i) (A) The board for professional medical conduct, by the director of
5 the office of professional medical conduct, may investigate on its own
6 any suspected professional misconduct, and shall investigate each
7 complaint received regardless of the source. THE DIRECTOR OF THE OFFICE
8 OF 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. By the
11 conclusion of a preliminary review, including an internal clinical
12 review, the director shall determine if a report is based solely upon
13 the recommendation or provision of a treatment modality by a licensee
14 that is not universally accepted by the medical profession, including
15 but not limited to varying modalities used in the treatment of Lyme
16 disease or other tick-borne diseases. Upon a determination by the direc-
17 tor that a report is based solely upon the provision of a treatment
18 modality that is not universally accepted, no further review shall be
19 conducted and no charges shall be brought. Nothing in this section shall
20 preclude the director from making such a determination earlier in, or
21 subsequent to, a preliminary review. (B) The director of the office of
22 professional medical conduct shall cause a preliminary review of every
23 report made to the department pursuant to section twenty-eight hundred
24 three-e as added by chapter eight hundred sixty-six of the laws of nine-
25 teen hundred eighty, sections twenty-eight hundred five-1 and forty-four
26 hundred five-b of this chapter, and section three hundred fifteen of the
27 insurance law, to determine if such report reasonably appears to reflect

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

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1 physician conduct warranting further investigation pursuant to this
2 subparagraph.

3 S 2. Paragraph (e) of subdivision 10 of section 230 of the public
4 health law, as amended by chapter 606 of the laws of 1991, is amended to
5 read as follows:

6 (e) Committee hearing. The hearing shall be conducted by a committee
7 on professional conduct. AT LEAST TWENTY-FIVE PERCENT OF SUCH COMMITTEE
8 SHALL BE NON-MEDICAL PERSONNEL. The members of the hearing committee
9 shall be appointed by the chairperson of the board who shall designate
10 the committee chairperson. In addition to said committee members, the
11 commissioner shall designate an administrative officer, admitted to
12 practice as an attorney in the state of New York, who shall have the
13 authority to rule on all motions, including motions to compel disclosure
14 of information or material claimed to be protected because of privilege
15 or confidentiality, procedures and other legal objections and shall
16 draft the conclusions of the hearing committee pursuant to paragraph (g)
17 OF THIS SUBDIVISION. The administrative officer shall have the authori-
18 ty to rule on objections to questions posed by either party or the
19 committee members. The administrative officer shall not be entitled to
20 vote.

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