

# STATE OF NEW YORK

2057

2017-2018 Regular Sessions

## IN ASSEMBLY

January 17, 2017

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

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

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1 hundred five-b of this chapter, and section three hundred fifteen of the  
2 insurance law, to determine if such report reasonably appears to reflect  
3 physician conduct warranting further investigation pursuant to this  
4 subparagraph.

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

8 (e) Committee hearing. The hearing shall be conducted by a committee  
9 on professional conduct. At least twenty-five percent of such committee  
10 shall be non-medical personnel. The members of the hearing committee  
11 shall be appointed by the chairperson of the board who shall designate  
12 the committee chairperson. In addition to said committee members, the  
13 commissioner shall designate an administrative officer, admitted to  
14 practice as an attorney in the state of New York, who shall have the  
15 authority to rule on all motions, including motions to compel disclosure  
16 of information or material claimed to be protected because of privilege  
17 or confidentiality, procedures and other legal objections and shall  
18 draft the conclusions of the hearing committee pursuant to paragraph (g)  
19 of this subdivision. The administrative officer shall have the authori-  
20 ty to rule on objections to questions posed by either party or the  
21 committee members. The administrative officer shall not be entitled to  
22 vote.

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