

STATE OF NEW YORK

1855

2025-2026 Regular Sessions

IN SENATE

January 14, 2025

Introduced by Sens. RIVERA, BROUK, HOYLMAN-SIGAL, KRUEGER, MYRIE, SALAZAR, SEPULVEDA, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the education law, in relation to strengthening protections for patients regarding sexual misconduct by medical providers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (ii) of paragraph (a) of subdivision 10 of
2 section 230 of the public health law, as amended by chapter 558 of the
3 laws of 1994, is amended to read as follows:

4 (ii) If the investigation of cases referred to an investigation
5 committee involves issues of clinical practice, medical experts, shall
6 be consulted. Experts may be made available by the state medical society
7 of the state of New York, by county medical societies and specialty
8 societies, and by New York state medical associations dedicated to the
9 advancement of non-conventional medical treatments. Medical experts
10 shall disclose any conflicts of interest including but not limited to
11 shared alma mater, hometown, residence, or relationships, that connects
12 or establishes a bond between such medical expert and the licensee in
13 order to preclude any favorable bias prior to assisting in an investi-
14 gation. A medical expert shall not be consulted if such medical expert
15 is under investigation, has an administrative warning, or is on
16 probation, and such medical expert shall be dismissed from consulting
17 duties if such medical expert becomes the subject of an investigation,
18 receives an administrative warning, or is put on probation during such
19 experts term of consultation. Any information obtained by medical
20 experts in consultations, including the names of licensees or patients,
21 shall be confidential and shall not be disclosed except as otherwise
22 authorized or required by law.

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

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1 § 2. Paragraph (a) of subdivision 10 of section 230 of the public
2 health law, as amended by chapter 866 of the laws of 1980, is amended to
3 read as follows:

4 (a) Investigation. The board for professional medical conduct, by a
5 committee on professional conduct, may investigate on its own any
6 suspected professional misconduct, and shall investigate each complaint
7 received regardless of the source. The results of the investigation and
8 an objective summary statement produced by the investigator along with a
9 recommendation shall be referred to the director of the office of
10 professional medical conduct. If the director of the office of profes-
11 sional medical conduct, after consultation with a professional member of
12 the board for professional medical conduct, determines that a hearing is
13 warranted [~~he~~] such director shall direct counsel to prepare the charges
14 within fifteen days thereafter. If it is determined by the director that
15 the complaint involves a question of professional expertise then such
16 director may seek, and if so shall obtain, the concurrence of at least
17 two members of a panel of three members of the state board for profes-
18 sional medical conduct.

19 § 3. Section 230 of the public health law is amended by adding a new
20 subdivision 6-a to read as follows:

21 6-a. (a) The board shall adopt a zero-tolerance policy for sexual
22 misconduct and the office of professional medical conduct shall publish
23 such policy and make it publicly available on its website. Such policy
24 shall include a statement that a patient cannot consent to any sexual
25 conduct or activity with such patient's treating physician.

26 (b) The board shall institute annual training or in-service workshops
27 on sexual misconduct and sexual harassment for the office of profes-
28 sional medical conduct staff, including investigators, the division of
29 legal affairs, and the board. The board shall provide comprehensive
30 orientation and training on sexual misconduct and sexual harassment
31 issues utilizing expert speakers, physicians, representatives from the
32 office of the attorney general, crisis intervention centers, and related
33 community programs.

34 § 4. The public health law is amended by adding a new section 2803-bb
35 to read as follows:

36 § 2803-bb. Protection of patients from sexual misconduct. 1. The prin-
37 ciples enunciated in subdivision three of this section are declared to
38 be the public policy of the state and a copy of such statement of rights
39 and responsibilities shall be posted conspicuously in a public place in
40 each hospital covered hereunder.

41 2. The commissioner shall require that every hospital, as defined in
42 subdivision one of section twenty-eight hundred one of this article,
43 shall adopt and make public a statement of the rights and responsibil-
44 ities regarding protection of the patients from sexual misconduct who
45 are receiving care in such hospitals, and shall treat such patients in
46 accordance with the provisions of such statement.

47 3. Said statement of rights and responsibilities regarding protection
48 from sexual misconduct shall include, but not be limited to the follow-
49 ing:

50 a. Every patient shall have the right to request the presence of a
51 family member or third-party chaperone during a physical examination.

52 b. Every patient shall have the right to receive a written statement
53 of the right to request the presence of a family member or third-party
54 chaperone during: (1) breast and pelvic examinations of females; and (2)
55 genitalia and rectal examinations of both males and females.

1 4. Each hospital shall give a copy of the statement to each patient at
2 or prior to the time of admission to the hospital, or to the appointed
3 personal representative at the time of appointment. Such statement shall
4 be provided in a document in addition to, and separate from, any other
5 statement of rights and responsibilities required pursuant to the
6 provisions of this chapter. Upon acknowledgment of the statement by the
7 patient, an acceptance or declination of the presence of a chaperone
8 shall be noted in such patient's chart.

9 5. As used in this section, the term "chaperone" means a person who
10 acts as a witness for a patient and a health professional during a
11 medical examination or procedure. A chaperone shall stand in a location
12 where they are able to assist as needed and observe the examination,
13 therapy or procedure. A chaperone may be a health care professional or a
14 trained unlicensed staff member. This may include medical assistants,
15 nurses, technicians, therapists, residents, and fellows. Whenever possi-
16 ble, but not required, the chaperone shall be the gender that the
17 patient feels most comfortable with.

18 § 5. Section 6530 of the education law is amended by adding two new
19 subdivisions 51 and 52 to read as follows:

20 51. Sexual impropriety, including but not limited to verbal or phys-
21 ical behavior, gestures, or expressions that could be reasonably inter-
22 preted as sexual, disrespectful of patient privacy, or sexually demean-
23 ing to a patient.

24 52. Physical sexual contact between a licensee and patient, or any
25 examination of the breasts or genitals without appropriate consent from
26 a patient or surrogate.

27 § 6. The education law is amended by adding a new section 6523-a to
28 read as follows:

29 § 6523-a. Additional duties of the state board for medicine. In addi-
30 tion to any other duties of the state board for medicine provided for in
31 law, such board shall query information from the United States depart-
32 ment of health and human services national practitioner data bank upon
33 an initial request for licensure by an applicant pursuant to section
34 sixty-five hundred twenty-four of this article. If such query returns
35 any instance of professional misconduct by the applicant, the board
36 shall consider both the severity of the misconduct alone and in relation
37 to the probability of such misconduct recurring upon licensure when
38 determining whether an application for licensure shall be denied or
39 whether to grant the applicant a hearing regarding such instance of
40 professional misconduct.

41 § 7. Section 6524 of the education law is amended by adding a new
42 subdivision 6-a to read as follows:

43 (6-a) Fingerprints and criminal history record check: consent to
44 submission of fingerprints for purposes of conducting a criminal history
45 record check. The commissioner shall submit to the division of criminal
46 justice services two sets of fingerprints of applicants for licensure
47 pursuant to this article, and the division of criminal justice services
48 processing fee imposed pursuant to subdivision eight-a of section eight
49 hundred thirty-seven of the executive law and any fee imposed by the
50 federal bureau of investigation. The division of criminal justice
51 services and the federal bureau of investigation shall forward such
52 criminal history record to the commissioner in a timely manner. For the
53 purposes of this section, the term "criminal history record" shall mean
54 a record of all convictions of crimes and any pending criminal charges
55 maintained on an individual by the division of criminal justice services
56 and the federal bureau of investigation. All such criminal history

1 records sent to the commissioner pursuant to this subdivision shall be
2 confidential pursuant to the applicable federal and state laws, rules
3 and regulations, and shall not be published or in any way disclosed to
4 persons other than the commissioner, unless otherwise authorized by law;

5 § 8. Subdivisions 20 and 31 of section 6530 of the education law, as
6 added by chapter 606 of the laws of 1991, are amended to read as
7 follows:

8 20. Conduct [~~in the practice of medicine~~] which evidences moral unfit-
9 ness to practice medicine;

10 31. Willfully harassing, abusing, or intimidating a patient [~~either~~]
11 or a patient's caregiver or surrogate physically or verbally;

12 § 9. This act shall take effect on the ninetieth day after it shall
13 have become a law; provided, however, that the amendments to paragraph
14 (a) of subdivision 10 of section 230 of the public health law made by
15 section one of this act shall be subject to the expiration and reversion
16 of such paragraph pursuant to section 5 of chapter 426 of the laws of
17 1983, as amended, when upon such date the provisions of section two of
18 this act shall take effect. Effective immediately, the addition, amend-
19 ment and/or repeal of any rule or regulation necessary for the imple-
20 mentation of this act on its effective date are authorized and directed
21 to be made and completed on or before such effective date.