243 CMR 1.00: DISCIPLINARY PROCEEDINGS FOR PHYSICIANS

Section

1.01: Scope and Construction

(1) Procedure Governed. 243 CMR 1.00 governs the disposition of matters relating to the practice of medicine by any person holding or having held a certificate of registration issued by the Board of Registration in Medicine under M.G.L. c. 112, §§ 2 through 9B, and the conduct of adjudicatory hearings by the Board. 243 CMR 1.00 is based on the principle of fundamental fairness to physicians and patients and shall be construed to secure a speedy and just disposition. The Board may issue standing orders consistent with 243 CMR 1.00 and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*.

(2) Definitions.

Adjudicatory Hearing: a formal administrative hearing conducted pursuant to M.G.L. c. 30A.

Board: the Board of Registration in Medicine, including, but not limited to, its Data Repository/Data Management Unit, Disciplinary Unit, Patient Care Assessment Unit, Legal Unit, Licensing and Examining Unit, and its agents and employees.

Complaint: a communication filed with the Board which charges a licensee with misconduct. A Statutory Report is not a Complaint; *See* 243 CMR 1.03(14).

Disciplinary Action means an action adversely affecting a licensee which simultaneously meets the descriptions in 243 CMR 1.01(2)(a) through (c), and which is limited as described in 243 CMR 1.01(2)(d) and (e).

(a) disciplinary action means an action of an entity including, but not limited to, a governmental authority, a health care facility, an employer, or a professional medical association (international, national, or local).

(b) A disciplinary action is:

1. formal or informal, or
2. oral or written.
3. An oral reprimand is not a Disciplinary Action. However, the fact that conduct resulted in an oral reprimand does not relieve any obligation to report under M.G.L. c. 112, § 5F.

(c) A disciplinary action includes any of the following actions or their substantial equivalents, whether voluntary or involuntary:

1. Revocation of a right or privilege.
2. Suspension of a right or privilege.
3. Censure.
4. Written reprimand or admonition.
5. Restriction of a right or privilege.
6. Non renewal of a right or privilege.
7. Fine.
8. Required performance of public service.
9. A course of education, training, counseling, or monitoring, only if such course arose out of the filing of a complaint or the filing of any other formal charges reflecting upon the licensee's competence to practice medicine.
10. Denial of a right or privilege.
11. Resignation.
12. Leave of absence.
13. Withdrawal of an application.
14. Termination or non renewal of a contract with a licensee.

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(d) The actions described in 243 CMR 1.01(2)(c)5., 6. and 10. through 14. are Disciplinary Actions only if they relate, directly or indirectly to:

1. the licensee's competence to practice medicine, or
2. a complaint or allegation regarding any violation of law or regulation (including, but not limited to, the regulations of the Board (243 CMR)) or bylaws of a health care facility, medical staff, group practice, or professional medical association, whether or not the complaint or allegation specifically cites violation of a specific law or regulation.

(e) If based upon a failure to complete medical records in a timely fashion or failure to perform minor administrative functions, the action adversely affecting the licensee is not a Disciplinary Action for the purposes of mandatory reporting to the Board, provided that the adverse action does not relate directly or indirectly to:

1. the licensee's competence to practice medicine, or
2. a complaint or allegation regarding any violation of law or a Board regulation, whether or not the complaint or allegation specifically cites violation of a specific law or regulation.

Informal: not subject to strict procedural or evidentiary rules.

Licensee: a person holding or having held any type of license issued pursuant to M.G.L. c. 112, §§ 2 through 9B.

Party: a respondent, associate prosecutor representing the disciplinary unit, or intervenor in an adjudicatory proceeding pursuant to 801 CMR 1.01(9).

Respondent: the licensee named in a Statement of Allegations.

Statement of Allegations: a paper served by the Board upon a licensee ordering the licensee to appear before the Board for an adjudicatory proceeding and show cause why the licensee should not be disciplined; a "Statement of Allegations" is an "Order to Show Cause" within the meaning of 801 CMR 1.01(6)(d).

1.02: General Provisions

(1) Communications. All written correspondence should be addressed to and filed with the Board of Registration in Medicine, 200 Harvard Mills Square, Suite 330, Wakefield, MA 01880.

(2) (a) Service. The Board shall provide notice of its actions in accordance with the Standard Adjudicatory Rules, 801 CMR 1.01(4)(b) and (5)(f), or otherwise with reasonable attempts at in-hand service, unless the Respondent otherwise has actual notice of the Board's action. Where 243 CMR 1.00 provides that the Board must notify parties, service may be made by first class mail. A notice of appearance on behalf of a Respondent shall be deemed an agreement to accept service of any document on behalf of the Respondent, including a Final Decision and Order of the Board. When a Hearing Officer has jurisdiction over an adjudicatory proceeding, proper service by the Respondent includes filing copies of all papers and exhibits with:

1. the Board, care of its General Counsel;
2. the Hearing Officer assigned to the adjudicatory proceeding; and
3. the Associate Prosecutor assigned to the adjudicatory proceeding. All papers served must be accompanied by a certificate of service.

(b) Notice to Board Members. A Respondent (or his or her representative) and other persons shall not engage in *ex parte* communications with individual Board members regarding a disciplinary proceeding. Communications to Board members regarding disciplinary proceedings shall be in writing and directed to Board members as follows: Eight copies to the Executive Director, one copy to the General Counsel, and one copy to the Chief of the Disciplinary Unit.

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(3) Date of Receipt. Communications are deemed received on the date of actual receipt by the Board.

(4) Computation of Time. The Board shall compute time in accordance with 801 CMR 1.01(4)(c): *Notice of Agency Actions*.

(5) Extension of Time. The Board in its discretion may extend any time limit prescribed or allowed by 243 CMR 1.00.

(6) Identification and Signature; Paper Size. All papers filed with the Board in the course of a disciplinary proceeding must contain the name, address, and telephone number of the party making the filing and must be signed by either the party or an authorized representative. Paper size shall be 8½" by 11".

(7) Decisions by the Board; Quorum. Unless 243 CMR 1.00 provides otherwise, a majority of members present and voting at a Board meeting shall make all decisions and the Board shall record its decisions in the minutes of its meetings. A quorum is a majority of the Board, excluding vacancies.

(8) Availability of Board Records to the Public.

(a) The availability of the Board's records to the public is governed by the provisions of the Public Records Law, M.G.L. c. 66, § 10, and M.G.L. c. 4, § 7, clause 26, as limited by the confidentiality provisions of M.G.L. c. 112, §§ 5 through 5I and 243 CMR. A file or some portion of it is not a public record if the Board determines that disclosure may constitute an unwarranted invasion of personal privacy, prejudice the effectiveness of law enforcement efforts (if the records were necessarily compiled out of public view), violate any provision of state or federal law, or if the records are otherwise legally exempt from disclosure.

(b) Before the Board issues a Statement of Allegations, dismisses a complaint, or takes other final action, the Board's records concerning a disciplinary matter are confidential.

(c) The Board's records of disciplinary matters, as limited by 243 CMR 1.02(8)(a) and (b), include the following:

1. Closed complaint files, which contain the complaint and other information in matters which have been dismissed or otherwise resolved without adjudication, are public records. The name or a complainant or patient and relevant medical records shall be disclosed to the Respondent, but this information is otherwise confidential. The names of reviewers and the contents of complaint reviews shall be confidential.

2. Disciplinary Unit files, which contain portions of complaint files (and related confidential files) as well as papers related to adjudicatory proceedings and attorney work product, are not public records and are confidential.

3. The Board's files, which contain each paper filed with the Board in connection with an adjudicatory proceeding, are public records, unless otherwise impounded or placed under seal by the Hearing Officer or the Board.

4. Peer review information and records shall remain confidential, to the extent allowable under M.G.L. c. 111, § 204 and 243 CMR 3.04: *Confidentiality of Records and Information*, unless introduced into evidence in an adjudicatory proceeding.

5. Records of any Board unit's review and investigation of statutory reports, consistent with 243 CMR 1.03(14); are not public records and are confidential.

6. Closed anonymous complaints, which are determined to be frivolous or lacking in either legal merit or factual basis, consistent with 243 CMR 1.03(3)(a); are not public records and are confidential.

(d) Communications or complaints reviewed by the Complaint Committee prior to August 21, 1987 and not docketed for reasons other than the criteria set forth in 243 CMR 1.03(3)(a), shall be made available to the public as if they were closed complaint files under 243 CMR 1.02(8)(c)1., whether or not such documents were previously considered to be confidential Board records, unless release is otherwise limited by law or regulations.

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(9) Public Nature of Board Meetings Under 243 CMR 1.00.

(a) All meetings of the Board are open to the public to the extent required by M.G.L. c. 30A, § 20.

(b) As provided by M.G.L. c. 30A, § 20, a Board meeting held for the purpose of making a decision required in an adjudicatory proceeding is not open to the public. Evidentiary hearings before individual hearing officers are generally open to the public, but the Board may carry out its functions under 243 CMR 1.00 in closed session if these functions effect an individual licensee or patient, the licensee or patient requests that the Board function in closed session, and the Board or hearing officer determines that functioning in closed session would be consistent with law and in the public interest.

(10) Conditional Privilege of Communications with the Board. All communications with the Board charging misconduct, or reporting or providing information to the Board pursuant to M.G.L. c. 112, §§ 5 through 5I, or assisting the Board in any manner in discharging its duties and functions, are privileged, and a person making a communication is privileged from liability based upon the communication unless the person makes the communication in bad faith or for a malicious reason. This limitation on liability is established by M.G.L. c. 112, §§ 5 and 5G(b).

(11) State or Federal Agencies, Boards or Institutions Designated to Receive Investigative Records or Confidential Information. Pursuant to M.G.L. c. 112, § 5, the Board will review written requests for investigative records or other confidential information from the following agencies which are hereby designated to receive, upon Board approval, such information consistent with the Fair Information Practices Act (FIPA), M.G.L. c. 66A:

(a) Massachusetts Department of the Attorney General;
(b) Offices of the Massachusetts District Attorneys;
(c) Massachusetts Municipal Police Departments;
(d) Massachusetts State Police;
(e) Federal Trade Commission;
(f) Office of the United States Attorney;
(g) U.S. Postal Inspector;
(h) U.S. Department of Justice, Drug Enforcement Administration, and Federal Bureau of Investigation;
(i) Division of Professional Licensure;
(j) All other state Medical Boards;
(k) The Federation of State Medical Boards of the United States, Inc.;
(l) Division of Insurance and the Insurance Rating Bureau;
(m) Massachusetts Health Data Consortium, Inc.;
(n) Department of Public Health;
(o) Massachusetts Department of Revenue;
(p) U.S. Internal Revenue Service;
(q) Office of Chief Medical Examiner;
(r) Capitol Police;
(s) U.S. Department of Health and Human Services, Office of the Inspector General;
(t) Insurance Fraud Bureau of Massachusetts.
(u) Department of Industrial Accidents.
(v) Division of Medical Assistance, Executive Office of Health and Human Services.

All recipients of confidential information designated by 243 CMR 1.00 shall preserve the confidentiality of such data and make it available to the data subject, to the extent such access is required by FIPA.

(12) Membership of Committees. The Board may establish committees of its members to assist in accomplishing its responsibilities. The Board may designate former members for assignment to these committees; however, at least one member of each committee shall be a current member of the Board.

1.03: Disposition of Complaints and Statutory Reports

(1) Initiation. Any person, organization, or member of the Board may make a complaint to the Board which charges a licensee with misconduct. A complaint may be filed in any form. The Board, in its discretion, may investigate anonymous complaints.

(2) Complaint Committee. The Board may establish a committee known as the Complaint Committee to review complaints charging a licensee with misconduct. If the Committee or a Board Investigator determines that a communication does not relate to any of the matters set forth in 243 CMR 1.03(5), the committee or the investigator may refer the communication to the proper authority or regulatory agency.

(3) (a) Preliminary Investigation. A Board Investigator shall conduct such preliminary investigation, including a request for an answer from the licensee, as is necessary to allow the Complaint Committee to determine whether a complaint is frivolous or lacking in either merit or factual basis. If, after a preliminary investigation of an anonymous complaint, the investigator determines that the anonymous complaint is frivolous or lacking in either merit or factual basis, the anonymous complaint shall not be docketed, shall be filed in a general correspondence file, and shall remain confidential.

(b) Subsequent Inquiry, Investigation. After receipt and review of a complaint, if the Complaint Committee determines that the complaint is frivolous or lacking in either legal merit or factual basis, it may close the complaint. The Committee shall notify the person who made the communication of its determination and the reasons for it. As to other complaints, the Committee shall conduct, or cause to be conducted, any reasonable inquiry or investigation it deems necessary to determine the truth and validity of the allegations set forth in the complaint.

(4) Conference. To facilitate disposition, the Board or the Complaint Committee may request any person to attend a conference at any time prior to the commencement of an adjudicatory proceeding. The Board or Committee shall give timely notice of the conference, and this notice must include either a reference to the complaint or a statement of the nature of the issues to be discussed.

(5) Grounds for Complaint.

(a) Specific Grounds for Complaints Against Physicians. A complaint against a physician must allege that a licensee is practicing medicine in violation of law, regulations, or good and accepted medical practice and may be founded on any of the following:

1. Fraudulent procurement of his or her certificate of registration or its renewal;
2. Commitment of an offense against any provision of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder;
3. Conduct which places into question the physician's competence to practice medicine, including but not limited to gross misconduct in the practice of medicine, or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions;
4. Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
5. Being habitually drunk or being or having been addicted to, dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
6. Knowingly permitting, aiding or abetting an unlicensed person to perform activities requiring a license.
7. Conviction of any crime;
8. Continuing to practice while his or her registration is lapsed, suspended, or revoked;
9. Being insane;
10. Practicing medicine deceitfully, or engaging in conduct which has the capacity to deceive or defraud.
11. Violation of any rule or regulation of the Board;

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12. Having been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, § 5 or 243 CMR 1.03(5);

13. Violation of 243 CMR 2.07(15): *Medicare Payments*;

14. Cheating on or attempting to compromise the integrity of any medical licensing examination;

15. Failure to report to the Board, within the time period provided by law or regulation, any disciplinary action taken against the licensee by another licensing jurisdiction (United States or foreign), by any health care institution, by any professional or medical society or association, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct substantially the same as acts or conduct which would constitute grounds for complaint as defined in 243 CMR 1.03(5);

16. Failure to respond to a subpoena or to furnish the Board, its investigators or representatives, documents, information or testimony to which the Board is legally entitled;

17. Malpractice within the meaning of M.G.L. c. 112, § 61;

18. Misconduct in the practice of medicine.

(b) Other Grounds for Complaints Against Physicians. Nothing in 243 CMR 1.00 shall limit the Board's adoption of policies and grounds for discipline through adjudication as well as through rule-making.

(6) Docket. The Board shall assign a docket number to all complaints and shall mark the complaint with this number and the date filed. All subsequent papers relating to the particular complaint shall be marked with the same docket number and shall be placed in a file (the docket) with all other papers bearing the same number.

(7) Order for Answering and Answer. The Committee may order that the licensee complained of answer the complaint within ten days. The Committee shall attach a copy of the complaint to the order for answering or shall describe the acts alleged in the complaint. A licensee shall respond to an order for answering either personally or through his or her attorney, in compliance with 243 CMR 1.02(6). An answer must address the substantive allegations set forth in the complaint or order.

(8) Dismissal by Complaint Committee. Upon receipt of a licensee's answer or at any point during the course of investigation or inquiry into a complaint, the Committee may determine that there is not and will not be sufficient evidence to warrant further proceedings or that the complaint fails to allege misconduct for which a licensee may be sanctioned by the Board. In such event, the Committee shall close the complaint. The Committee shall retain a file of all complaints.

(9) Board Action Required. If a licensee fails to answer within the ten-day period or if the Committee determines that there is reason to believe that the acts alleged occurred and constitute a violation for which a licensee may be sanctioned by the Board, the Committee may recommend to the Board that it issue a Statement of Allegations.

(10) Disposition by the Board. The Board shall review each recommendation which the Committee forwards to it within a reasonable time and shall require an adjudicatory hearing if it determines that there is reason to believe that the acts alleged occurred and constitute a violation of any provision of 243 CMR 1.03(5) or M.G.L. c. 112, § 5. The Board may take such informal action as it deems a complaint warrants. If the Board requires an adjudicatory hearing, it may refer the matter to a hearing officer.

(11) Suspension Prior to Hearing. The Board may suspend or refuse to renew a license pending a hearing on the question of revocation if the health, safety or welfare of the public necessitates such summary action. The procedure for summary suspension is as follows:

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(a) Immediate and Serious Threat. If, based upon affidavits or other documentary evidence, the Board determines that a licensee is an immediate and serious threat to the public health, safety, or welfare, the Board may suspend or refuse to renew a license, pending a final hearing on the merits of the Statement of Allegations. The Board must provide a hearing on the necessity for the summary action within seven days after the suspension.

(b) Serious Threat. If, based upon affidavits or other documentary evidence, the Board determines that a licensee may be a serious threat to the public health, safety or welfare, the Board may order the licensee to file opposing affidavits or other evidence within three business days. Based upon the evidence before it, the Board may then suspend or refuse to renew the license, pending a final hearing on the merits of the Statement of Allegations. The Board must provide a hearing on the necessity for the summary action within seven days after the suspension.

(12) Classification of Complaints. (Reserved).

(13) Assurance of Discontinuance.

(a) 243 CMR 1.03(13) shall apply to minor violations of 243 CMR 1.03(5), and, unless there is an allegation of patient harm, allegations of drug or alcohol impairment, as determined within the discretion of the Complaint Committee and the Board.

(b) At the time that the Complaint Committee determines that a recommendation for a Statement of Allegations is warranted, it may either forward such recommendation to the Board or refer the matter to a conference including a Hearing Officer, a representative of the Disciplinary Unit, and the Respondent. At the conference, the representative of the Disciplinary Unit and the Respondent may submit to the Hearing Officer a proposed Assurance of Discontinuance, which shall include:

1. Recitation of Circumstances giving rise to the Assurance of Discontinuance,
2. The Respondent's assurance of discontinuance,
3. A sanction and/or the Respondent's agreement to pay the Commonwealth's costs of the investigation, and
4. The Respondent's agreement that violation of the Assurance of Discontinuance shall be *prima facie* evidence of violation of the applicable law, regulations or standards of good and accepted medical practice referenced in the Assurance of Discontinuance.

(c) If the Hearing Officer approves the Assurance of Discontinuance, it shall be forwarded to the Board for final approval.

(d) If the Hearing Officer and the Board do not approve an Assurance of Discontinuance within 60 days of referral of the matter to the Hearing Officer for conference, or if the Hearing Officer refers the matter back to the Complaint Committee, the Complaint Committee shall forward its recommendation regarding issuance of the Statement of Allegations to the Board.

(e) Pursuant to M.G.L. c. 112, § 2, the Board must report an Assurance of Discontinuance to any national data reporting system which provides information on individual physicians.

(f) The Respondent may request that the Board not process his or her case pursuant to 243 CMR 1.03, in which event the Complaint Committee shall forward its recommendation regarding issuance of a Statement of Allegations to the Board.

(14) Statutory Reports. The Complaint Committee, an investigator, and any of the Board's units may also review and investigate any report filed pursuant to M.G.L. c. 111, § 53B, M.G.L. c. 112, §§ 5A through 5I, or 243 CMR 2.00: *Licensing and the Practice of Medicine* and 3.00: *The Establishment of and Participation in Qualified Patient Care Assessment Programs, Pursuant to M.G.L. c. 112, § 5, and M.G.L. c. 111, § 203*. If the Board does not issue a Statement of Allegations based upon the statutory report, the statutory report and the records directly related to its review and investigation shall remain confidential. However, if such report and records are relevant to a resignation pursuant to 243 CMR 1.05(5), then they shall be treated like closed complaint files, under 243 CMR 1.02(8)(c)1.; provided, however, that confidentiality of peer review documents is maintained in accordance with 243 CMR 1.02(8)(c)4. and that confidentiality of documents filed under M.G.L. c. 111, § 53B is maintained to the extent required by law.

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(15) Discipline When License Has Been Revoked by Operation of Law. For purposes of administrative economy and convenience, the Board may, in its discretion, defer commencement of formal disciplinary proceedings against a physician whose license has been revoked by operation of law under the provisions of M.G.L. c. 112, § 2 or through application of 243 CMR 2.06(2): *Requirements for Renewing a Full, Administrative or Volunteer License*. Such deferral may be until such time as the physician takes action to complete the renewal process. The Board shall notify the physician of its intent to defer action under 243 CMR 1.03(15); if the physician files a written objection within 60 days by certified, return-receipt mail, the Board shall not defer commencement of said proceeding. Nothing in 243 CMR 1.03(15) shall be construed to bar the Board from commencing disciplinary proceedings at any time, including any proceedings which may or may not have previously been deferred.

(16) Stale Matters. Except where the Complaint Committee or the Board determines otherwise for good cause, the Board shall not entertain any complaint arising out of acts or omissions occurring more than six years prior to the date the complaint is filed with the Board.

1.04: Adjudicatory Hearing.

After the Board issues a Statement of Allegations, the Board shall conduct all hearings in accordance with 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*.

1.05: Final Decision and Order and Miscellaneous Provisions.

(1) In General. Every Final Decision and Order of the Board requires the concurrence of at least four members, or of a majority of the Board if it has more than one vacancy. If the Hearing Officer is a member of the Board, his or her vote counts in the event the Board is not otherwise able to reach a final decision.

(2) Sanctions. In disposition of disciplinary charges brought by the Board, the Board may revoke, suspend, or cancel the certificate of registration, or reprimand, censure, impose a fine not to exceed $10,000 for each classification of violation, require the performance of up to 100 hours of public service, in a manner and at a time and place to be determined by the Board, require a course of education or training or otherwise discipline or limit the practice of the physician. A reprimand is a severe censure.

(3) Nature and Effect, Generally. Any order of the Board which imposes a sanction as a result of a disciplinary action is effective immediately, unless the Board orders otherwise.

(a) Suspension. A licensee whose certificate is suspended for a period of time is automatically reinstated upon expiration of the suspension period.

(b) Revocation. The cancellation or revocation of a certificate of registration is effective for at least five years, unless the Board orders otherwise. Reinstatement thereafter may be granted or denied in the Board's discretion. A cancellation or revocation is lifted only through a petition for reinstatement.

(4) Reinstatement. A person previously registered by the Board may apply for reinstatement of his or her application no sooner than five years after revocation, unless the Board orders otherwise. An application for reinstatement is addressed to the Board's discretion, must be made in the form the Board prescribes, must be filed in original with ten copies, and will be granted only if the Board determines that doing so would advance the public interest. If the Board denies a petition for reinstatement, the Respondent shall not re-petition for reinstatement until at least two years after the date of denial, unless the Board orders otherwise.

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(5) Resignation.

(a) A licensee who is named in a complaint or who is subject to an investigation by the Board or who is the respondent in a disciplinary action may submit his or her resignation by delivering to the Board a writing stating that: he or she desires to resign; his or her resignation is tendered voluntarily; he or she realizes that resignation is a final act which deprives a person of all privileges of registration and is not subject to reconsideration or judicial review; and that the licensee is not currently licensed to practice in any other state or jurisdiction, will make no attempt to gain licensure elsewhere, or will resign any other licenses contemporaneously with his or her resignation in the Commonwealth.

(b) If a complaint, investigation, or Statement of Allegations arises solely out of a disciplinary action in another jurisdiction, within the meaning of 243 CMR 1.03(5)(a)12., then the registrant may submit a resignation pursuant to 243 CMR 1.05(5)(a), but need not make any representation regarding licensure status in other jurisdictions, is permitted to gain licensure elsewhere, and need not resign any other licenses contemporaneously with the resignation.

(c) The Board is not obligated to accept a resignation tendered pursuant to 243 CMR 1.05. The acceptance of such a resignation is within the discretion of the Board, and is a Final Decision and Order subject to a vote of the Board.

(6) Unauthorized Medical Practice. The Board shall refer to the appropriate District Attorney or other appropriate law enforcement agency any incidents of unauthorized medical practice which comes to its attention, as required by M.G.L. c. 112, § 5.

(7) Imposition of Restrictions. Consistent with 243 CMR 1.00 and M.G.L. c. 30A or otherwise by agreement with the licensee, the Board may impose restrictions to prohibit a licensee from performing certain medical procedures, or from performing certain medical procedures except under certain conditions, if the Board determines that:

(a) the licensee has engaged in a pattern or practice which calls into question her competence to perform such medical procedures, or

(b) the restrictions are otherwise warranted by the public health, safety and welfare.

REGULATORY AUTHORITY

243 CMR 1.00: M.G.L. c. 13, § 10; c. 112, §§ 2 through 9B.

NON-TEXT PAGE