



Ohio Revised Code

Section 4762.16 Health care facilities to notify board of disciplinary actions.

Effective: March 22, 2013

Legislation: House Bill 251 - 129th General Assembly

(A) Within sixty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility, against any individual holding a valid certificate to practice as an oriental medicine practitioner or valid certificate to practice as an acupuncturist, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. Upon request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against an oriental medicine practitioner or acupuncturist.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

(B) An oriental medicine practitioner or acupuncturist, professional association or society of oriental medicine practitioners or acupuncturists, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information upon which the belief is based. This division does not require any treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to an oriental medicine practitioner or acupuncturist participating in treatment or aftercare for substance abuse as long as the practitioner or acupuncturist maintains participation in accordance with the requirements of section 4731.25 of the Revised Code and the treatment provider or employee, agent, or representative of the provider has no reason to believe that



the practitioner or acupuncturist has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances. This division does not require reporting by any member of an impaired practitioner committee established by a health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of oriental medicine practitioners or acupuncturists to provide peer assistance to oriental medicine practitioners or acupuncturists with substance abuse problems with respect to an oriental medicine practitioner or acupuncturist who has been referred for examination to a treatment program approved by the board under section 4731.25 of the Revised Code if the individual cooperates with the referral for examination and with any determination that the individual should enter treatment and as long as the committee member, representative, or agent has no reason to believe that the individual has ceased to participate in the treatment program in accordance with section 4731.25 of the Revised Code or has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances.

(C) Any professional association or society composed primarily of oriental medicine practitioners or acupuncturists that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against an individual.

(D) Any insurer providing professional liability insurance to any person holding a valid certificate to practice as an oriental medicine practitioner or valid certificate to practice as an acupuncturist or any other entity that seeks to indemnify the professional liability of an oriental medicine practitioner or acupuncturist shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

(1) The name and address of the person submitting the notification;



- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the oriental medicine practitioner or acupuncturist.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving an oriental medicine practitioner, acupuncturist, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an oriental medicine practitioner, acupuncturist, or supervising physician, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing an oriental medicine practitioner, acupuncturist, or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.



(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the acupuncturist. The oriental medicine practitioner or acupuncturist shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

(H) An individual or entity that reports to the board or refers an impaired oriental medicine practitioner or impaired acupuncturist to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

(I) In the absence of fraud or bad faith, a professional association or society of oriental medicine practitioners or acupuncturists that sponsors a committee or program to provide peer assistance to an oriental medicine practitioner or acupuncturist with substance abuse problems, a representative or agent of such a committee or program, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer an oriental medicine practitioner or acupuncturist to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.