



## Ohio Revised Code

### Section 4778.18 Investigations by state medical board.

Effective: September 6, 2012

Legislation: House Bill 292 - 129th General Assembly

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(A) The state medical board shall investigate evidence that appears to show that any individual has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of this chapter or rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the board's secretary, pursuant to section 4778.20 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.



On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a genetic counselor, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(E) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency



or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of license, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each individual involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.