
History and Background

The Board of Medical Examiners (BME) was created by the Legislature over 100 years ago to ensure New Jersey's doctors were rigorously trained and ready, willing and able to safely treat New Jersey's citizens. A part of the Department of Law and Public Safety's Division of Consumer Affairs, the BME sets education, training and examination requirements for New Jersey's 30,000 doctors and disciplines those physicians who do not comply with the standards set by law.

The BME is composed of 21 Gubernatorial appointees. Twelve physicians, one podiatrist, three public members, a certified nurse midwife, a licensed physician's assistant, a bioanalytical laboratory director, a designee of the Commissioner of Health and a government liaison member serve on the BME. The BME has a full-time professional staff and legal services are provided by the Division of Law under the Attorney General.

The BME licenses:

- Doctors of Medicine (M.D.)
- Doctors of Osteopathic Medicine (D.O.)
- Podiatrists (D.P.M.)
- Certified Acupuncturists (C.A.)
- Bio-Analytical Lab Directors (B.L.D.)
- Hearing Aid Dispensers (H.A.D.)
- Certified Nurse Midwives (CNM)
- Physician Assistants (P.A.)
- Athletic Trainers (A.T.)
- Electrologists

What information is available from the Board?

If you call the BME at 609-826-7100, the BME can give you the following information:

- Verification that an individual is currently licensed and in good standing.

- Date of licensure, license number and address of a licensee.
- Degree held and name of institution where it was obtained.
- Information concerning any public board actions involving the practitioner, such as a filed Attorney General's Complaint, Consent Order or Final Order imposing a revocation of license, suspension, reprimand, probation, fines or other public discipline or remedial requirements.

New Jersey law does not permit the BME to release information regarding consumer complaints still under investigation or information regarding prior complaints where the BME has found no public disciplinary action to be warranted (N.J.S.A. 45:9-19.3).

Complaints

Consumers are encouraged to use the BME Complaint Form when filing a complaint. This provides a convenient format to assist the BME in obtaining accurate and complete information.

You should provide the following information:

- Name and address of the practitioner against whom the complaint is being filed.
- Names and addresses of any other treating physicians or any other health care facility where the patient has been treated.
- Name, address and telephone number of the person filing the complaint. If the complaint is being filed on behalf of the patient, provide the name, address and telephone number of that individual and indicate your relationship to the patient (son, daughter, father, mother, etc.).
- Approximate dates of treatment.
- Details of your complaint. You may use additional pages to describe the nature of your complaint.

- Signed authorization forms providing the BME with permission to obtain your patient records from the practitioner and from any other treating health care professionals or health care facilities. Your authorization should also include a statement granting the BME permission to submit a copy of your complaint to the practitioner for his/her response. If there are reasons why the practitioner should not be shown your complaint, explain in detail. If you do not wish the complaint to be forwarded to the practitioner, a summary of the complaint will be provided or further investigation will be conducted by Board investigators.
- Copies of documents supporting your complaint should be included. DO NOT SEND ORIGINALS. This material should include billing statements, treatment records (if you have them), correspondence, promotional or instructional materials and anything else you believe is relevant to your complaint.

Fee Complaints

Generally speaking, the BME does not have jurisdiction to take action regarding fee disputes unless fraud is suspected or the fees are excessive. A fee is considered to be excessive when it is determined to be "...manifestly unconscionable or overreaching under the circumstances" (NJAC 13:35-6.11).

Be aware that the submission of an excessive fee complaint to the BME does not relieve a consumer from the legal responsibility to pay a professional fee. *Consumers are strongly cautioned not to jeopardize their credit rating by delaying payment of medical bills during the course of a Board investigation, in the hope that the BME may later find in their favor.* If the BME does find the complaint merited, the BME can later order reimbursement to the consumer.

Fee complaints that do not meet the regulatory standards to be considered 11 "excessive" or which do not involve questions of medical care may, after review by the BME's Medical Director, be referred

to the Division of Consumer Affairs' Alternative Dispute Resolution (ADR) Unit. This free mediation service has an extraordinary record of resolving a great number of consumer disputes. You will be notified if your complaint has been referred to ADR. Both parties in the dispute (the physician and patient) must agree to mediation.

What happens to my complaint?

Except in unusual circumstances, the BME will provide the practitioner with a copy of the complaint. A written response is requested along with a copy of patient records. When special circumstances indicate additional information is needed from the consumer, the practitioner's initial response may be sent to the consumer for written comment. In cases involving more serious safety allegations or matters that demand confidentiality, the case may be immediately referred to the investigative department of the Division of Consumer Affairs, known as the Enforcement Bureau.

Upon receipt of the practitioner response, or on receipt of an investigative report, the matter may then be preliminarily reviewed by the BME's Medical Director; by a Board member having expertise in the practice in question; or by an outside consultant or specialist. These individuals submit written reports which are then considered by a Preliminary Evaluation Committee of the BME. The review by the committee may require the personal appearance of the practitioner to answer questions. The practitioner may be represented by legal counsel during this proceeding.

Following appearances and deliberations, the committee may deem it necessary to interview the consumer before completing its review. This proceeding, conducted with the assistance of a Deputy Attorney General, is confidential and not open to the public. The committee then makes a recommendation to the full Board for the disposition of the matter.

What action might be taken by the Board?

The BME has jurisdiction to take disciplinary action only if it ultimately finds that the licensee has violated the Medical Practice Act or has engaged in fraud, misconduct, gross or repeated malpractice or negligence.

The following actions may be taken by the BME in response to a finding by the Preliminary Evaluation Committee:

Private Disposition

No Public Disciplinary Action

- The BME may find that the consumer complaint presents no cause for disciplinary action or;
- The BME may find that the consumer complaint is insufficient to meet the minimum proof requirements for a public disciplinary action, but nevertheless warrants a corrective action, which might be transmitted to the practitioner in a private letter.

The legislature has directed that, when the BME finds no basis for disciplinary action, information regarding that action is deemed confidential (N.J.S.A. 45:9-19.3).

Public Disciplinary Actions

Where the BME indicates that the disposition of the matter should be negotiated and embodied in a Consent Order, the BME may empower a Deputy Attorney General (DAG) to negotiate such an agreement, within parameters set by the BMD, Deputy Attorney General (DAG) to negotiate such an agreement, within parameters set by the BME, with the attorney representing the practitioner who is being disciplined.

A Consent Order is an agreement between the State and the practitioner stating that the practitioner will cease a particular practice or form of behavior. A Consent Order may include:

- Reprimand;
- Terms of probation or other remedial action;
- Assessment of investigative costs, and penalties;
- Require restitution for monies paid, but not damages; and/or
- Suspension or revocation of the license.

The Consent Orders are disciplinary actions that may be reported to the public. If the practitioner does not accept the Consent Order, the matter may be referred to the Attorney General for the filing of a formal complaint. This might include an application for emergency temporary suspension or other limitations on practice, imposed prior to completion of a full trial. The filing of a formal complaint is also an action that may be reported to the public.

Due Process Rights of Licensee

Whether temporary restrictions are imposed on the practitioner or not, a full trial will be conducted and witnesses may be presented by the Attorney General and the licensee.

Trial, on a short case, may be scheduled before the BME. Lengthy matters will generally be transmitted to the State Office of Administrative Law (OAL) for trial, and substantial time will be required before the formal proceedings are concluded.

In OAL cases, the Administrative Law Judge (ALJ) makes a recommendation on credibility of witnesses, findings of fact and conclusions of law, and recommends disciplinary and financial sanctions. The ALJ's recommendations may then be affirmed, modified or rejected by the full Board of Medical Examiners.

If the ALJ's recommendations are modified or rejected, the BME must specify its reasons, which must be based upon evidence in the trial record. The BME's action is then memorialized in a Formal Order and becomes a permanent public record. The practitioner has the right to appeal an adverse decision to the Appellate Division of Superior Court.

How long will the investigation take?

Depending on the complexity of the investigation and considering the volume of consumer complaints received by the BME, final disposition of the investigative stage may take from six to nine months or longer. If a formal Administrative Complaint must be filed by the Attorney General, the matter will not be concluded until expert witnesses have been consulted, an Administrative Complaint is filed and a full trial is completed.

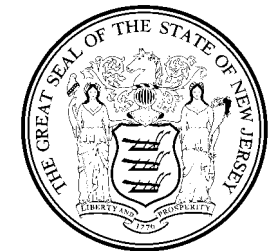
Even after a final Board disposition, the practitioner may pursue an appeal in the Appellate Division of Superior Court .

Complainants will be notified by mail as to the final outcome of their complaint.

6/03



STATE BOARD OF MEDICAL EXAMINERS



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Division of Consumer Affairs
State Board of Medical Examiners
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