



PROFESSIONAL MISCONDUCT

AUTHORITY TO INVESTIGATE AND IMPOSE DISCIPLINE

The New York State Education Department Office of Professional Discipline (“OPD”) has the authority to investigate, charge and prosecute licensees, generally in that order. This means that before prosecuting any licensee, an investigation commences in which you will have the opportunity to respond to all allegations. Even if the investigation is not favorable to you, there are levels of discipline and/or action taken by the OPD to reflect the seriousness of the misconduct. Put another way, the OPD’s authority to sanction is wide ranging, meaning it can:

- Take no Action;
- Issue a warning;
- Censure a professional;
- Put the professional on probation and issue additional fines;
- Suspend the professional and issue additional fines;
- Revoke licensee’s license (only in extreme cases); or
- A combination of the above.

During any investigation, you as the licensee, and your attorney if you retain one, will have the opportunity to review the evidence against you, respond to the same, and request a hearing before any disciplinary action is taken. Furthermore, even final decisions can be appealed. It is strongly recommended that upon receipt of a letter from the OPD you contact an attorney with experience before the New York State Education Department and discuss the allegation, the investigation and a plan moving forward. This needs to be done promptly, as you want to respond timely to any requests made by the OPD. Regardless, of whether you will be retaining an attorney, **DO NOT IGNORE THE OPD LETTER AND DEADLINES PROVIDED.** Ignoring such communication and failing to respond to the OPD may result in a separate charge of professional misconduct.

CONCLUSION

While most OPD investigations are unlikely to lead to revocation, it is important to approach each investigation with caution, and highly recommended that you obtain legal counsel to represent you during the process. Sanctions by the OPD have wide-ranging consequences for participation in health plans and re-credentialing, mandating regular disclosures that must be accurate and consistent irrespective of venue and audience. Any licensee with questions regarding credentialing disclosures and OPD disciplinary histories should consult with counsel in advance of answering questions related to sanctions and investigations.

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