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OCTOBER 29, 2020 | PUBLICATION

Client Alert: Don't Compound the Problem: Reporting Disciplinary Matters to the Ohio Medical Board

INDUSTRY SECTOR

Health Care

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As if navigating disciplinary matters is not tricky enough, Ohio law imposes often overlooked reporting requirements upon health care facilities and certain individuals with knowledge of such matters. When a disciplinary matter involves a licensee of the Ohio Medical Board, facility administrators/executives and other licensees have various reporting requirements.

Health care facility chief administrators or executive officers have a duty to report to the board within 60 days any disciplinary procedure resulting in the revocation, restriction, reduction, or termination of clinical privileges resulting from professional ethics violations, or for medical incompetence, medical malpractice, or drug/alcohol abuse. Ohio law recognizes limited exceptions to this requirement when a practitioner's impairment results from habitual or excessive use of drugs, alcohol, or other substances and he/she has entered treatment with an approved provider.

When a facility is required to report, it must include: the facility's name and address; the practitioner's name and license number; the action taken by the facility; the date of the facility's action and its effective date; and a summary of underlying facts. This reporting requirement may be satisfied if the facility timely provides the board with a copy of the national practitioner data bank ("NPDB") adverse action report, provided that the report has been approved by the facility's peer-review committee or governing board, whichever may be applicable.

Licensees of the board (e.g., physicians, physician assistants, and others) have a duty to report to the board within 48 hours if they have "reason to believe" or a "belief" that a violation of applicable Ohio statutes or regulations designed to regulate the professional conduct of a licensee has occurred. Again, Ohio law recognizes limited exceptions when a believed violation pertains to substance abuse and it is reasonably believed that treatment is being sought.

A licensee's reporting requirement does not require absolute certainty of a violation, but rather "only an opinion that a violation has occurred based upon firsthand knowledge or reliable information." Reports may

be made anonymously, but must include: (1) the name of the practitioner who is believed to have committed a violation; (2) the violation that is believed to have occurred; and (3) the date and place of occurrences, if known. Reports to a peer-review committee do not discharge this duty.

Importantly, when administrators, executives, and/or other licensees make reports to fulfill the above requirements, they are immune from civil liability for making such reports.

If you need assistance with reporting requirements or have questions, please contact Adam Galat at 419.321.1385 or agalat@shumaker.com.

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