

KNOW YOUR RIGHTS IF FACED WITH DISCIPLINARY ACTION

Ohio Revised Code, Section 4731.22(b), gives the State Medical Board of Ohio the authority to take disciplinary action against a licensed physician when there exists “a limitation, revocation, or suspension by another state of a license or certificate to practice. . . for an action that would also have been a violation under Ohio law.”

The obvious import of this statute is that if you are faced with a disciplinary charge in a foreign state, it is important that you not only make every effort to protect yourself in that state, but also do the same to protect yourself in Ohio.

If a dispute over the revocation or suspension of a license in Ohio ends up before the courts, the courts have tended to take a case-by-case approach, placing particular emphasis on the individual facts of each situation. For example, the Ohio Court of Appeals ruled in a recent case that a physician’s application to surrender his medical license in New York, rather than defend against various disciplinary charges against him in that state, did not constitute an admission of the truthfulness of the charges; therefore, the State Medical Board could not discipline the physician based on unsubstantiated allegations from the New York proceeding.

The physician was charged in New York with gross negligence in prescribing controlled substances and failing to maintain accurate records. At the time of the charges, the physician was no longer practicing in New York and thought it would be an unnecessary expense to defend against the allegations. Therefore, he made the decision to voluntarily surrender his New York license in order to avoid the protracted and expensive process of defending himself against the charges. Subsequently, the State Medical Board proposed disciplinary action be taken.

The court focused its discussion around the particular facts surrounding the case, including 1) that the physician specifically stated on the surrender documentation that he did not admit any fact or culpability in connection with the New York charges, and 2) that under established New York law, the New York Board would not have regarded the doctor’s agreement not to contest the charges of professional misconduct as an admission of truth of the charges.

Additionally, the court emphasized that when the physician came to Ohio to defend the charges brought against him here, the State Medical Board failed to offer any evidence substantiating the charges levied in New York other than the allegations from the New York action, while the physician presented a substantial defense.

This is important because, while the statute seems clear on its face, it is not dispositive of how a disciplinary action in a foreign state will affect a physician also practicing in Ohio. For that reason, it is imperative that if a physician is faced with a disciplinary action in another state, he or she should consult with legal counsel as soon as possible to evaluate the law, not only of the foreign state, but also that of Ohio, in an effort to determine the best strategy and manner in which to protect his or her interests.