



(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Health, Health Insurance,
Privacy, Property Tax Relief, and Revenue
(SC-HHIPTRR)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

Senate Bill 635

Relating to: duties of physicians and of the Medical Examining Board and requiring the exercise of rule-making authority.

By Senator Risser; cosponsored by Representative Richards, by request of The Medical Examining Board.

March 23, 2010 Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

April 14, 2010 **PUBLIC HEARING HELD**

Present: (6) Senators Erpenbach, Carpenter, Robson, Lassa, Lazich and Darling.

Absent: (1) Senator Kanavas.

Appearances For

- Fred Risser — Sen.
- Gene Musser — Dr., Medical Examining Board

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Tom Ryan — WI Dept. of Regulation and Licensing

Registrations Against

- None.

Registrations for Information Only

- None.

April 19, 2010 **EXECUTIVE SESSION HELD**


Present: (7) Senators Erpenbach, Carpenter, Robson, Lassa, Lazich, Kanavas and Darling.

Absent: (0) None.

Moved by Senator Lassa, seconded by Senator Robson that **Senate Bill 635** be recommended for passage.

Ayes: (7) Senators Erpenbach, Carpenter, Robson,
Lassa, Lazich, Kanavas and Darling.
Noes: (0) None.

PASSAGE RECOMMENDED, Ayes 7, Noes 0



Kelly Becker
Committee Clerk

Vote Record

Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

Date: 4/2

Lassa Robson

Moved by: _____ Seconded by: _____

AB _____ SB 635 _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- | | | | | |
|---------------------------------------|------------------------------------|---------------------------------------|---|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Adoption | <input type="checkbox"/> Confirmation | <input type="checkbox"/> Concurrence | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Rejection | <input type="checkbox"/> Tabling | <input type="checkbox"/> Nonconcurrence | |

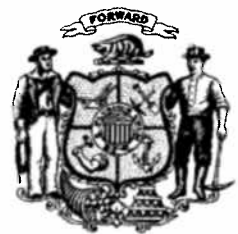
<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Jon Erpenbach, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Judith Robson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mary Lazich	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ted Kanavas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Alberta Darling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

Motion Carried Motion Failed



WISCONSIN STATE LEGISLATURE



FRED A. RISSER

President

Wisconsin State Senate



Testimony on Senate Bill 635

Senate Committee on Health, Health Insurance, Privacy,
Property Tax Relief, and Revenue

April 14, 2010

Senator Erpenbach and members of the committee,

Thank you for holding a hearing on Senate Bill 635, relating to the duties of physicians and of the Medical Examining Board. I appreciate your efforts to move this bill prior to the end of the session.

Current law allows the Medical Examining Board to issue licenses to practice medicine and surgery. Additionally, the Medical Examining Board oversees perfusionists, physician assistants, and respiratory care practitioners.

Senate Bill 635 makes a number of changes to current law regarding the board's ability to suspend licenses to practice, liability for those who report unprofessional conduct, and requirements for continuing education.

Current law allows the board to suspend a credential if there is probable cause to believe that the credential holder has violated the law or public safety. Senate Bill 635 provides that the board chair and two board members designated by the chair may suspend a credential if there is probable cause.

Senate Bill 635 will require a person licensed by the board as a physician to promptly report if they are witness to any of the following behaviors:

1. Another physician engaged in acts that constitute a pattern of unprofessional conduct.
2. Another physician engaged in an act that creates an immediate or continuing danger to one or more patients or to the public.
3. Another physician is or may be medically incompetent.
4. Another physician is or may be mentally or physically unable to engage in the practice of medicine or surgery.

It is important to note that a physician who complies in good faith with the duty to report provisions of this bill may not be held civilly or criminally liable or be found guilty of unprofessional.

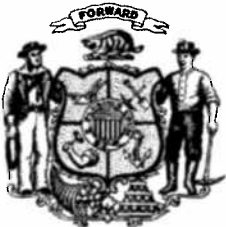
Finally, Senate Bill 635 will require a physician to complete professional development and maintenance of certification and include proof of attendance at and completion of these additional programs when completing the biennial application for registration with the board. The board may waive this new requirement if it finds that exceptional circumstances have prevented the physician from meeting the requirement.

Dr. Gene Musser, Chair of the Medical Examining Board, will also be testifying today. He will be able to speak to the issue of why these changes are necessary and how they will improve the ability of the board to take action in cases of unprofessional conduct.

Thank you for your consideration of Senate Bill 635. I would be happy to answer any questions that you might have.



WISCONSIN STATE LEGISLATURE



Dr. Gene Musser

GM 4 5 5 5

Chair Erpenbach and members of the committee I thank you for the opportunity to speak before you this morning. I'm here at the request of and representing the Wisconsin Medical Examining Board in its support of SB 635. In considering this bill it's important to note that the MEB, which initiated it and unanimously supports it, includes ten physicians eight of whom are currently in active practice of medicine (including gastroenterology, cardiology, ob/gyn, psychiatry, family practice, emergency medicine, rheumatology, and anesthesia/pain medicine), two of whom are past presidents of the Wisconsin Medical Society, as well as two public members, one recently recognized as a "Woman of Vision" in Wausau and one the former administrator of Door County, as well as two retired physicians, a pediatrician and a surgeon. MEB members, all of whom appeared here and were confirmed by this committee, are from LaCrosse, Stevens Point, Wausau, Ellison Bay, Green Bay, Fond du Lac, four from the Milwaukee area and two from Madison. Though several members are involved in teaching we are all primarily clinical doctors, and many of us have served on peer review panels at our respective institutions. I served three years as Chair, relinquishing the position in December.

The MEB has in the past been criticized for being too lax and ineffective. As a first step in improving its operations the Board and the Governor in 2009 proposed and the Legislature enacted a reorganization, creating within the Department of Regulation and Licensing (DRL) a budgetarily separate Medical Examining Board Bureau. As the MEB is funded by program revenue the rationale for this was to create budgetary transparency so that those paying for it (our licensees) could clearly see how their money was being spent and to facilitate such future licensing fee increases which the MEBB might be able to justify. We have in addition reinstated a regular communication of our actions to licensees via what's called "The Regulatory Digest."

This bill is a further effort to improve our effectiveness and modernize some aspects of MEB legislation. It represents the first of several planned initiatives and when in January we started the work which led to it we expected these items to be relatively non-controversial, understanding that nothing worthwhile will ever be absolutely free of controversy. Taking the provisions from the simplest to the most difficult:

The last portion summarized by the Legislative Reference Bureau (titled "Temporary Educational Permit") amends the statute regarding these permits to allow holders to prescribe all medications and removes the prohibition against prescribing narcotics. We've recommended this at the request of Dr Mahendr Kochar the Sr Associate Dean for Graduate Medical Education at the Medical College of Wisconsin. These permits cover residents from the completion of their first year (in our terminology PG-1) until they become fully licensed, usually during their PG-3 year. Dr Kochar's view and ours is that the current statute interferes with the continuity of care and the revision takes notice that learning to effectively and safely prescribe narcotics for the relief of pain is an important part of resident training. This change involves hospitalized patients, does not apply to outpatient

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creation of
MEBB

prescriptions, and is applicable to closely supervised residents and in our view has no potential for increasing the risk of diversion of drugs.

The third, headed "Biennial training requirement" allows the MEB by rule to specify the content of educational activities used to maintain licensure. The question of how physicians best maintain competence and professionally develop over careers which may exceed forty years is being addressed in multiple settings. These include the Federation of State Medical Boards which has commissioned two reports in the last year, the Institute of Medicine, specialty societies and many others. Though there is as yet no clear unifying concept of how best to deal with this, there is general agreement that the current situation, which in Wisconsin is 30 hours of any educational activity each two years, probably isn't adequate. To allow the MEB to most efficiently carry out its legislative mandate to set "standards of professional competence" (Wisc Stat 15.01(7)) in a world of rapidly changing concepts of Maintenance of Competence and Licensure we think the flexibility of rule making is preferable to the more cumbersome process of legislation, noting that rule-making allows full opportunity for public comment and legislative oversight. This bill would grant us that flexibility.

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The first, headed "Order of Summary Suspension" makes two changes. It alters the mechanism for summarily suspending a physician's license between MEB meetings and extends the time the suspension remains in force. In the rare circumstance of egregious behavior, immediate suspension of a license is necessary to protect the public. While this can currently be done by a single member designated by the MEB, the suspension remains in effect for only 72 hours. Licenses can also be suspended for a longer period if the Board meets between meetings, such as by phone conference. This is difficult to arrange in the setting of most members being in active medical practice and the requirement that 2/3 of the voting membership approve the suspension. The change allows a more manageable-sized group to make the decision. The selection of three members was at the suggestion of Senator Erpenbach. The bill extends the duration of the suspension in a way that immediately removes a dangerous physician from practice and which I contend quite adequately protects physicians from frivolous actions. Physicians have full rights to due process, including the right to be heard during the determination of probable cause and full rights to appeal MEB actions.

The second, labeled "Duty to Report", creates a legal responsibility requiring licensees to report physician's acts creating a pattern of unprofessional conduct or an immediate or continuing danger to the public or who may be incompetent or medically or physically unable to practice safely, protects those who report and defines as unprofessional conduct the failure to report. This is fairly tough stuff and not expected to be embraced by all. The most important reason the MEB wishes to create this requirement is that in order to do our job it's essential that we hear about what I'll call problem physicians, or who in the parlance of "Just Culture" engage in at risk or reckless behavior. Other physicians are among the very best positioned to know of such problem physicians. The medical profession is often

We could not

A duty to report

~~not relevant~~

This bill
legislative
what is

criticized for what's called a "conspiracy of silence" about such problems and many are convinced that the current peer review system doesn't adequately deal with them. By creating this requirement our society acting through the Legislature is reminding physicians in a forceful way of their ethical obligations. ~~Creating this legal requirement is consistent with Wisconsin Medical Society Policy~~ (quoting in part: "The WMS believes it is imperative that physicians continue their long history of assisting authorities by reporting impaired, incompetent and unethical colleagues."); AMA policy (quoting in part: "The duty to report . . . may entail reporting to the licensing authority....Incompetence that poses an immediate threat to the health and safety of patients should be reported directly to the state licensing board.'). The Federation of State Medical Boards in it's "Guide to the Modern Medical Practice Act" says that among the actions which should be grounds for a finding of unprofessional conduct should be "failure to report or cause a report to be made to the Board any physician upon whom a physician has evidence or information that appears to show that the physician is incompetent, guilty of negligence, guilty of a violation of this act, engaging in inappropriate relationships with patients, is mentally or physically unable to practice safely . . ." A duty to report such as this resembles what's required of attorneys. Creating a duty to report isn't unique to Wisconsin. The FSMB has compiled a list of approximately 18 states with some form of such a duty. We think that if physicians actually did this the MEB would significantly increase its ability to identify and address seriously problem physicians in Wisconsin. What results do we expect? We've polled several executives of MEBs in states with such requirements and have gotten widely varying responses. Delaware reported 8 such complaints in 2009, Idaho 30, Massachusetts 50 in 2009, several states many fewer. By their report it is extremely rare for a physician to be prosecuted for failure to report. We recognize that creating this legal duty will not be popular with all physicians but would note that we physician MEB members will be held to this as well. We also recognize that just as is the case now, any reporting system can be abused by competitors or the jealous or the angry. A report is not identical with action, the latter involving full due process. We also recognize that a requirement such as this has the potential to create a conflict for a physician treating another physician, such as for addiction or psychiatric illness. A decision about whether or not to report would require a judgement, weighing patient confidentiality versus the need to protect patients from a pattern of unprofessional conduct or immediate/continuing danger.

I thank you for your attention, urge you to act favorably on this bill and would be happy to respond to questions or comments.

Physician's Duty to Report Other Physicians

Overview by State

GM 35501

Board	Requirement
Alabama	<p>34-24-361. Investigations; reporting offenses; proceedings and actions; privileged information.</p> <p>(b) Any physician or osteopath holding a certificate of qualification to practice medicine or osteopathy in the State of Alabama shall and is hereby required to, and any other person may, report to the board or the commission any information such physician, osteopath, or other person may have which appears to show that any physician or osteopath holding a certificate of qualification to practice medicine or osteopathy in the State of Alabama may be guilty of any of the acts, offenses, or conditions set out in Section 34-24- 360 (Restrictions, etc., on license; grounds.), and any physician, osteopath, or other person who in good faith makes such a report to the board or to the commission shall not be liable to any person for any statement or opinion made in such report.</p>
Alaska	<p>08.64.336. Duty of physicians and hospitals to report</p> <p>(a) A physician who professionally treats a person licensed to practice medicine or osteopathy in this state for alcoholism or drug addiction, or for mental, emotional, or personality disorders, shall report it to the board if there is probable cause that the person may constitute a danger to the health and welfare of that person's patients or the public if that person continues in practice. The report must state the name and address of the person and the condition found.</p>
Arizona-Medical	<p>32-1451. Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice requirements</p> <p>A. ... Any person may, and a doctor of medicine, the Arizona medical association, a component county society of that association and any health care institution shall, report to the board any information that appears to show that a doctor of medicine is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine.... It is an act of unprofessional conduct for any doctor of medicine to fail to report as required by this section. The board shall report any health care institution that fails to report as required by this section to that institution's licensing agency.</p>
Arizona-Osteo	<p>32-1855. Disciplinary action; duty to report; hearing; notice; independent medical examinations; surrender of license</p> <p>A. ... Any osteopathic physician or surgeon or the Arizona osteopathic medical association or any health care institution as defined in § 36-401 shall, and any other person may, report to the board any information the physician or surgeon, association, health care institution or other person may have that appears to show that an osteopathic physician and surgeon is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine.</p>
Arkansas	None
California-Medical	None
California-Osteo	None
Colorado	None
Connecticut	None
Delaware	<p>1730. Duty to report unprofessional conduct and inability to practice medicine</p> <p>(a) Every person to whom a certificate to practice medicine is issued has a duty to report to the Board if that person is treating professionally another person who possesses a certificate to practice medicine for a condition defined in § 1731(c) of this title, if, in the reporting person's opinion, the person being treated may be unable to practice medicine with reasonable skill or safety.</p>
District of Columbia	None
Florida-Medical	None
Florida-Osteo	None
Georgia	None
Guam	None
Hawaii	None
Idaho	<p>§ 54-1818. Reporting of violations by physicians</p> <p>A licensed physician and surgeon possessing knowledge of a violation of section 54-1814, Idaho Code, by any other physician and surgeon licensed to practice medicine in Idaho shall with reasonable promptness report such knowledge to the board of medicine or its duly authorized committee, agency or representative, and failure to do so shall subject such person to disciplinary action by the state board of medicine as in its discretion the board shall deem proper, pursuant to procedures provided in chapter 18, title 54, Idaho Code[.]</p>
Illinois	60/24. Report of violations; medical associations

	<p>§ 24. Report of violations; medical associations. Any physician licensed under this Act, the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Chiropractic Society, the Illinois Prairie State Chiropractic Association, or any component societies of any of these 4 groups, and any other person, may report to the Disciplinary Board any information the physician, association, society, or person may have that appears to show that a physician is or may be in violation of any of the provisions of Section 22 of this Act (Disciplinary Action).</p>
Indiana	None
Iowa	None
Kansas	<p>65-28,122. Person licensed to practice healing arts required to report knowledge of violation of 65-2836 to state board of healing arts.</p> <p>(a) Subject to the provisions of subsection (c) of K.S.A. 65-4923, any person licensed to practice the healing arts who possesses knowledge not subject to the physician-patient privilege that another person so licensed has committed any act enumerated under K.S.A. 65-2836 and amendments thereto which may be a ground for disciplinary action pursuant to K.S.A. 65-2836 and amendments thereto shall immediately report such knowledge, under oath, to the state board of healing arts. A person licensed to practice the healing arts who possesses such knowledge shall reveal fully such knowledge upon official request of the state board of healing arts.</p>
Kentucky	<p>311.606 Medical association, hospital, or its medical staff to report actions taken against licensed physicians; violations to be reported by physicians; reports by court clerks</p> <p>(1) In order to assist the board in the enforcement of KRS 311.595(20) and (21), any professional medical association or society operating in the Commonwealth of Kentucky, or any hospital or medical staff of said hospital located in the Commonwealth of Kentucky, shall report all actions taken against a licensed physician as described in KRS 311.595(20) and (21) to the board within thirty (30) days of the final adjudication of said action together with all pertinent documents to include but not limited to transcripts, pleadings and certified copy of the final order.</p> <p>(2) In order to assist the board in the enforcement of the provisions of KRS Chapter 311, any licensed physician who observes another licensed physician violating a provision of KRS Chapter 311 shall submit a written report to the board, or to the board and the concerned medical association or society, or to the board and the concerned hospital or medical staff of the hospital within ten (10) days of observing such a violation or obtaining other direct knowledge of such a violation; the report shall contain the name of the licensed physician believed to be in violation of a provision of KRS Chapter 311, a detailed account of the concerned actions, a list of all other witnesses to said actions, and the name of the physician submitting the report.</p>
Louisiana	None
Maine-Medical	<p>§ 3282-A. Disciplinary sanctions</p> <p>....</p> <p>2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following are grounds for an action to refuse to issue, modify, restrict, suspend, revoke or refuse to renew the license of an individual licensed under this chapter:</p> <p>....</p> <p>K. Failure to report to the secretary of the board a physician licensed under this chapter for addiction to alcohol or drugs or for mental illness in accordance with Title 24, section 2505, except when the impaired physician is or has been a patient of the licensee;</p>
Maine-Osteo	None
Maryland	None
Massachusetts	None
Michigan-Medical	None
Michigan-Osteo	None
Minnesota	None
Mississippi	None
Missouri	None
Montana	<p>37-3-401. Report of incompetence or unprofessional conduct</p> <p>(1) Notwithstanding any provision of state law dealing with confidentiality, each licensed physician, professional standards review organization, and the Montana medical association or any component society of the association shall and any other person may report to the board any information that the physician, organization, association, society, or person has that appears to show that a physician is:</p> <p>(a) medically incompetent;</p> <p>(b) mentally or physically unable to safely engage in the practice of medicine; or</p> <p>(c) guilty of unprofessional conduct.</p>
Nebraska	<p>71-168. Enforcement; investigations; violations; credentialed person; duty to report; cease and desist order; violation; penalty; loss or theft of controlled substance; duty to report; confidentiality; immunity.</p>

	<p>(4) Every credentialed person regulated under the Advanced Practice Registered Nurse Licensure Act, the Certified Registered Nurse Anesthetist Act, the Clinical Nurse Specialist Practice Act, the Emergency Medical Services Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law except pharmacist interns and pharmacy technicians, the Wholesale Drug Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068 shall, within thirty days of an occurrence described in this subsection, report to the department in such manner and form as the department may require by rule and regulation whenever he or she:</p> <p>(a) Has first-hand knowledge of facts giving him or her reason to believe that any person in his or her profession has committed acts indicative of gross incompetence, a pattern of negligent conduct as defined in subdivision (5)(e) of section 71-147, or unprofessional conduct, may be practicing while his or her ability to practice is impaired by alcohol, controlled substances, narcotic drugs, or physical, mental, or emotional disability, or has otherwise violated such regulatory provisions governing the practice of the profession;</p>
Nevada-Medical	None
Nevada-Osteo	None
New Hampshire	None
New Jersey	<p>45:1-37. Notification to division of impairment of health care professional.</p> <p>a. A health care professional shall promptly notify the division if that health care professional is in possession of information which reasonably indicates that another health care professional has demonstrated an impairment, gross incompetence or unprofessional conduct which would present an imminent danger to an individual patient or to the public health, safety or welfare. A health care professional who fails to so notify the division is subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21, 45:1-22 and 45:1-25).</p>
New Mexico-Medical	None
New Mexico-Osteo	None
New York	SKIP
North Carolina	None
North Dakota	<p>43-17.1-05.1 Reporting Requirements</p> <p>A physician, physician assistant, or a fluoroscopy technologist, a health care institution in the state, a state agency, or a law enforcement agency in the state having actual knowledge that a licensed physician, a physician assistant, or a fluoroscopy technologist may have committed any of the grounds for disciplinary action provided by the law or by rules adopted by the board shall promptly report that information in writing to the investigative panel of the board.</p>
Northern Mariana Islands	None
Ohio	<p>4731-15-01 Licensee reporting requirement; exceptions.</p> <p>(A) Licensees of the board shall be required to report as listed below:</p> <p>(1) Subject to paragraph (B) of this rule, any individual licensed under Chapter 4731. of the Revised Code or any association or society of individuals licensed under Chapter 4731. of the Revised Code shall report to the board a belief that a violation of Chapter 4730., Chapter 4731., Chapter 4760. or Chapter 4762. of the Revised Code, or any rule of the board has occurred.</p>
Oklahoma-Medical	None
Oklahoma-Osteo	None
Oregon	<p>677.415 Investigation of incompetence; reports to board; informal interview</p> <p>(3) A licensee licensed by the board, the Oregon Medical Association, Inc., or any component society thereof, the Osteopathic Physicians and Surgeons of Oregon, Inc. or the Oregon Podiatric Medical Association shall report within 10 working days, and any other person may report, to the board any information such licensee, association, society or person may have that appears to show that a licensee is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be an impaired licensee unable safely to engage in the practice of medicine or podiatry. However, a licensee who is treating another licensee for a mental disability has a duty to report within 10 working days the licensee patient unless, in the opinion of the treating licensee, the patient is not impaired.</p>
Pennsylvania-Medical	<p>Section 4 – Impaired Physicians</p> <p>(f) Reports to the board.-Any hospital or health care facility, peer or colleague who has substantial evidence that a professional has an active addictive</p>

	disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of his or her license shall make or cause to be made a report to the board: Provided, That any person or facility who acts in a treatment capacity to an impaired physician in an approved treatment program is exempt from the mandatory reporting requirements of this subsection. Any person or facility who reports pursuant to this section in good faith and without malice shall be immune from any civil or criminal liability arising from such report. Failure to provide such report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed \$1,000. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).
Pennsylvania-Osteo	Section 16.3. Impaired professional (f) Any hospital or health care facility, peer or colleague who has substantial evidence that a professional has an active addictive disease for which the professional is not receiving treatment, is diverting a controlled substance or is mentally or physically incompetent to carry out the duties of his or her license shall make or cause to be made a report to the board: Provided, That any person or facility who acts in a treatment capacity to an impaired osteopathic physician in an approved treatment program is exempt from the mandatory reporting requirements of this subsection. Any person or facility who reports pursuant to this section in good faith and without malice shall be immune from any civil or criminal liability arising from such report. Failure to provide such report within a reasonable time from receipt of knowledge of impairment shall subject the person or facility to a fine not to exceed \$1,000. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).
Puerto Rico	None
Rhode Island	§ 5-37-9 Reports relating to professional conduct and capacity – Regulations – Confidentiality – Immunity. – In addition to the requirements of § 42-14-2.1: (1) The board, with the approval of the director, may adopt regulations requiring any person, including, but not limited to, corporations, health care facilities, health maintenance organizations, organizations, federal, state, or local governmental agencies, and peer review boards to report to the board any conviction, determination, or finding that a licensed physician has committed unprofessional conduct as defined by § 5-37-5.1, or to report information which indicates that a licensed physician may not be able to practice medicine with reasonable skill and safety to patients as the result of any mental or physical condition. The regulations shall include the reporting requirements of paragraphs (2)(i), (ii) and (iii) of this section.
South Carolina	None
South Dakota	None
Tennessee-Medical	None
Tennessee-Osteo	None
Texas	Sec. 160.003. REPORT BY CERTAIN PRACTITIONERS. (a) This section applies to: (1) a medical peer review committee in this state; (2) a physician licensed in this state or otherwise lawfully practicing medicine in this state; (3) a physician engaged in graduate medical education or training; (4) a medical student; (5) a physician assistant or acupuncturist licensed in this state or otherwise lawfully practicing in this state; and (6) a physician assistant student or acupuncturist student. (b) A person or committee subject to this section shall report relevant information to the board relating to the acts of a physician in this state if, in the opinion of the person or committee, that physician poses a continuing threat to the public welfare through the practice of medicine. (c) The duty to report under this section may not be nullified through contract.
Utah-Medical	None
Utah-Osteo	None
Vermont-Medical	None
Vermont-Osteo	None
Virgin Islands	None
Virginia	None
Washington-	None

Medical	
Washington-Osteo	None
West Virginia-Medical	<p>§ 30-3-14. Professional discipline of physicians and podiatrists; reporting of information to Board pertaining to medical professional liability and professional incompetence required; penalties; grounds for license denial and discipline of physicians and podiatrists; investigations; physical and mental examinations; hearings; sanctions; summary sanctions; reporting by the Board; reapplication; civil and criminal immunity; voluntary limitation of license; probable cause determinations</p> <p>Any person may report to the Board relevant facts about the conduct of any physician or podiatrist in this state which in the opinion of that person amounts to medical professional liability or professional incompetence.</p>
West Virginia-Osteo	<p>§ 30-14-12a. Initiation of suspension or revocation proceedings allowed and required; reporting of information to board pertaining to professional malpractice and professional incompetence required; penalties; probable cause determinations</p> <p>Any person may report to the board relevant facts about the conduct of any osteopathic physician in this state which in the opinion of such person amounts to professional malpractice or professional incompetence.</p>
Wisconsin	None
Wyoming	None

For informational purposes only: This document is not intended as a comprehensive statement of the law on this topic, nor to be relied upon as authoritative. Non-cited laws, regulation, or policy could impact analysis on a case-by-case or state-by-state basis, and all information should be verified independently.