

# NYSBA Health Law Section

January 16, 2019

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**BARBARA A. RYAN, MODERATOR**

**DISCIPLINARY ACTIONS AGAINST HEALTHCARE PROVIDERS  
COLLATERAL CONSEQUENCES**

## Panel

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Moderator:

**Barbara A. Ryan** - Partner, Aaronson Rappaport Feinstein & Deutsch, LLP

**Hon. Richard Brodsky** - former Member NYS Assembly (1983-2010)

**Douglas Nadjari** - Partner, Ruskin Moscou Faltischek, P.C.

**Henry Weintraub** - Chief Counsel, Bureau of Professional Medical Conduct

**Andrew Zwerling** - Partner, Garfunkel Wild, P.C. (of Counsel to MSSNY)

## NY State Professions

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Title VIII NY State Education Law (Article 130)

General Provisions - Sect. 6500 *et seq.*

Professional licensing and regulation of practice is supervised by the Board of Regents, administered by Ed. Dept. assisted by a State Board for each profession

Ed. Dept. NY State Office of Professional Discipline (OPD) – professional discipline of Title VIII professionals except physicians, physicians assistants (P.A.), specialist assistants

NY State Dept. of Health Office of Professional Medical Conduct (OPMC)- prof. discipline of physicians, P.A., specialist assistants (see PHL sect.230)

## Professional Misconduct Defined by Statute

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Ed. Law Article 131-A misconduct defined as to physicians, P.A., S.A. (Ed. Law sect. 6530-6531)

PHL sect. 230 (OPMC statute)

Other Professions- misconduct definition: Ed. L. Article 130 General Provisions (Ed. L. sect. 6509) and Rules of the Regents 8 NYCRR 29.1, 29.2

Excerpt: BPMC Annual Report 2017, Executive Summary

“The State Board for Professional Medical Conduct (Board) was created by the New York State Legislature in 1976 and, with the Department of Health’s (DOH/Department) Office of Professional Medical Conduct (Office/OPMC), administers the State’s physician discipline program. Its mission is patient safety -- to protect the public from medical negligence, incompetence and other kinds of professional misconduct. The Board, through the OPMC, investigates complaints made against the over 112,500 physicians, physician assistants and specialist assistants, and prosecutes those charged with misconduct. It also monitors licensees who have been impaired or who have been placed on probation by the Board....”

## BPMC 2017 (*excerpt*, BPMC Annual Report 2017)

“The Program achieved the following during 2017:

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- The Board imposed 379 final actions. Of those, 78 percent (295) were serious sanctions, including the loss, suspension, or restriction of a physician’s medical license.
- The Office received 9,699 complaints, and closed 10,148 complaints. These closures include various administrative reviews, as well as full field investigations assigned to the Regional Offices and Investigative Units.
- 2,138 full field investigations were closed in 2017
- The average time to complete a full field investigation is 321 days
- The OPMC monitored 1,396 physicians, nearly the same as in 2016....”

# Board for Professional Medical Conduct (BPMC)

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Recent Statistics

2017 Annual report:

[https://www.health.ny.gov/professionals/doctors/conduct/annual\\_reports/2017/docs/report.pdf](https://www.health.ny.gov/professionals/doctors/conduct/annual_reports/2017/docs/report.pdf)

**Collateral Consequences**

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**Douglas Nadjari, Esq.**

Ruskin Moscou Faltschek, P.C.

## Andrew Zwerling, Esq.

Garfunkel Wild, P.C.

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Impact of disciplinary action on physicians

Medical Society of the State of New York (MSSNY) role in physician discipline

## Richard Brodsky, Esq.

former Member NYS Assembly (1983-2010)

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Public Policy and Professional Discipline

striking a balance in protecting the public and the integrity of the profession

Is a replacement for the current system workable? What would it look like?

Is one being advanced?