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10 Ways to Avoid Losing your Medical License: Part I

While many of the statutes referenced below are specific to Tennessee, the general principles are applicable across state lines.

1. Renew your License and timely respond to all correspondence from the Board of Medical Examiners.

If the Board of Medical Examiners sends a letter to a physician stating she needs to renew her license or pay licensure fees, and the physician does not respond to the correspondence, the Board of Medical Examiners (also known as the BME) may formally reprimand the physician for failure to respond. A reprimand by the BME becomes part of the public record in most states, and is searchable by hospitals and other state medical boards, particularly if it has been reported to the [National Practitioner Data Bank](#). Once a reprimand or other disciplinary action is on a physician's record, this can make applying for a medical license in another state more difficult, and lead to harsher punishment of future infractions due to a perceived history of noncompliance. In addition, reporting to the NPDB not only affects licensure, but also can negatively affect a practitioner's ability to get hospital privileges and malpractice insurance, among other things.

2. Avoid engaging in unprofessional, dishonorable, or unethical conduct.

Most states permit the Board of Medical Examiners to discipline a physician if he or she engages in "[unprofessional, dishonorable or unethical conduct](#)." What may constitute "unprofessional, dishonorable, or unethical conduct" includes a broad range of actions, and is left to the discretion of the Board of Medical Examiners, though most medical boards connect discipline of a physician under this statute to a national ethical opinion, or a clearly articulated state policy.

Interestingly, a physician challenged this statute in Tennessee as "unconstitutionally vague" for failure to give appropriate notice to the physician disciplined under the statute. The Tennessee Court of

Appeals, in a 2013 opinion, disagreed, and upheld the Board of Medical Examiner's discipline of the physician under the broad umbrella of "unprofessional, dishonorable, or unethical conduct." *Ernest B. Kleier v. Tennessee Board of Medical Examiners*.

It is important to realize that a disciplinary action taken by the Board of Medical Examiners under this statute does not have to be related to the direct treatment of a physician's patients; rather discipline can be based on the any actions considered "unprofessional, dishonorable, or unethical" by the Board. Most states have a similar catchall provision that permits the Board to discipline its licensees based on unprofessional conduct.

3. Avoid violating criminal law.

A guilty plea or conviction of criminal law may result in licensure discipline by the Board of Medical Examiners. Boards look at different violations of criminal law differently—for example, a conviction of a DUI and a conviction of murder will be disciplined quite differently. Additionally, some states, such as Tennessee, require the proactive reporting of a criminal conviction to the Board of Medical Examiners, so beware of any proactive reporting requirement in your state of licensure.

In a ten-year study of physician discipline, researchers looked at the age and specialty of physicians who were disciplined for criminal activity across the country. Interestingly, 70 percent of physicians disciplined for criminal activity were 45 years of age or older, with general practice being the most represented specialty.

Although many hypotheses exist to explain these results, "physician burnout" is a well-known phenomenon. Physicians often work long hours in high-stress environments for the majority of their careers—beginning in residency—so it unfortunately may not be a surprise that physicians may be tempted to use alcohol or other substances as a means of reducing stress. Most states have a confidential professional assistance program that provides tools and advocacy for physicians struggling with substance abuse, as well as other behavioral and mental health issues. I advise my physician clients to proactively seek assistance when needed, rather than waiting until your career, or even worse, a patient, is harmed.

If you have any questions related to physician discipline or state Boards of Medical Examiners, feel free to reach out to any member of the Health Care Industry Team, or you can reach me directly at afisher@fbtlaw.com or (615) 251-5594.

To view part two of this series, click here: [10 Ways to Avoid Losing your Medical License: Part 2](#)

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