

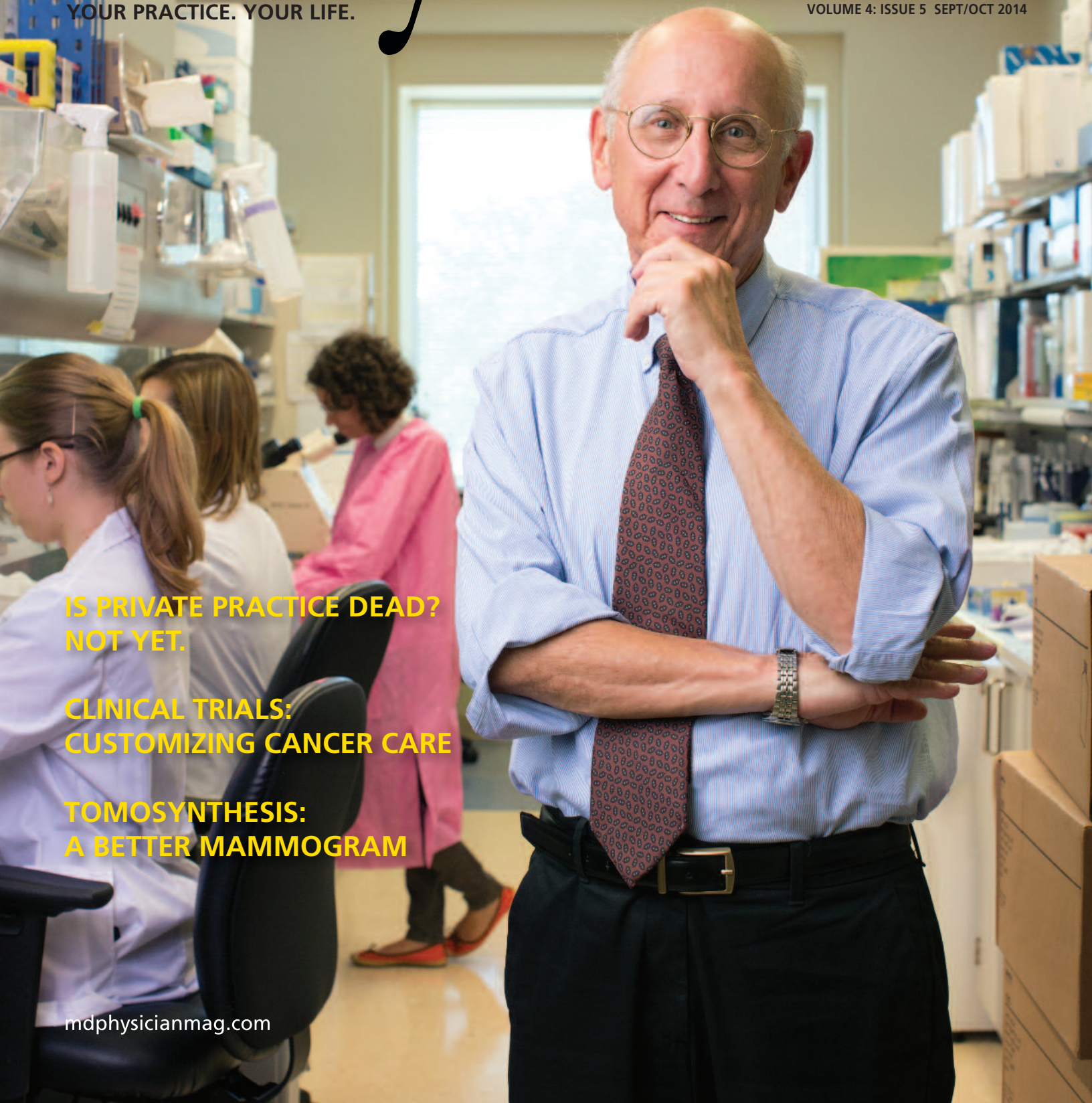


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How to Stay on the “Right” Side of the Maryland Board of Physicians

By Natalie McSherry



PRACTICING PHYSICIANS SHOULD make sure to avoid licensing issues and potential disciplinary actions from the Maryland Board of Physicians by taking a few simple measures. Failure to follow these steps could result in drastic consequences for your practice.

The Board is composed of 22 members, 14 of whom are practicing licensed physicians (including at least one osteopath) appointed by the governor; one physician assistant appointed by the governor; one representative of the Department of Health and Mental Hygiene nominated by the secretary; five consumer members and one public member knowledgeable in risk management or quality assurance.

The Board's duties range from initial licensure through regulation, declaratory rulings and education, to discipline of physicians and a vast array of allied health providers.

These basic steps will help ensure that you are on the “right” side of the Board, and not the one stricken with panic when the Board calls.

- On all applications for licensure or renewal of licensure, be scrupulously honest about everything. Double check your CME credits to be sure they are accurate. If in doubt about whether you have to disclose something, either disclose it or get legal counsel.
- Remember to keep the Board informed if you move or change your professional address or affiliation.
- Don't miss a renewal date and end up practicing without a license. This is your non-delegable professional responsibility, so don't rely on staff to do this task.
- Check the Board's website and read its newsletter diligently. It may not be

riveting reading, but it frequently contains information about major changes in laws or regulations relating to the practice of medicine. The website has a wealth of information, but is not terribly user-friendly, so keep exploring!

- Keep up-to-date on the Board's and your professional association's guidance on matters such as pain management and controlled substances. This is an area of great concern for the Board, and one where the guidance is constantly evolving.
- Sometimes, despite your best efforts, a complaint gets filed with the Board by a patient, a patient's family member, another physician or a hospital where you have privileges. Additionally, the Board receives copies of all malpractice claims filed with the Maryland Health Care Alternative Dispute Resolution Office. If you are notified by the Board of a complaint:
- Notify your carrier if you have coverage for Board proceedings. These proceedings can be expensive, and if you have coverage, that coverage will pay some or all of your legal expenses.
- Whether you get counsel through your insurance carrier or on your own, you should get legal advice before responding to the Board. Ideally, you will get advice from someone familiar with the Board's procedures and processes.
- Although extensions may be granted on occasion, for good cause, do not ignore or fail to meet deadlines once they are set.
- The Board investigation can take months. During that time you likely will be required to provide copies or originals of charts and records, and

be interviewed by a Board investigator. When providing charts or records, be sure to copy *everything*.

- After conducting its investigation, the Board will either notify you that it is satisfied and is closing the investigation, or will issue charges alleging that you have committed one or more of the offenses listed in the Board's disciplinary statute. Md. Code Ann., Health Occ. §14-404(a).
- If you are charged, you will have an opportunity to negotiate a resolution and, failing that, have a hearing before an administrative law judge, who will make recommendations to the Board. However, the Board is the final decision-making body.
- The Board can impose sanctions ranging from a reprimand to revocation of a license, and can include a vast array of conditions such as education. It also can impose substantial fines.

You should also consider the potential collateral effects of a Board sanction when negotiating a resolution of charges. Probation, and certainly suspension of a license, can affect credentialing at hospitals and with third party payers. If you are facing Board charges and considering a consent order with anything other than a reprimand, you should ensure you are fully informed of the effects of a Board sanction on other aspects of your professional life.

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