



Don't Wait File a Complaint!

Did you know that the Osteopathic Medical Board of California has a statute of limitations pursuant to California Law?

So what does that mean?

A statute of limitations is a legal term referring to a restriction on the time that is allowed to elapse between two specific events. For the Osteopathic Medical Board of California (Board), the statute of limitations means there is a limited time during which an individual may file a complaint. Specifically, it is the time allowed between either the date the Board is notified of a violation, or the date of an incident cited in a complaint, and the date an Accusation (or formal charges against the physician's license) is filed. The law (Business and Professions Code section 2230.5) specifically provides the following timeframes, whichever of these occurs first determines the length of the statute of limitations:

- **Three (3) years** between when the Board discovers the act or omission alleged as the ground for disciplinary action and when an Accusation to take disciplinary action is filed, **OR**
- **Seven (7) years** between when the act or omission alleged as the ground for disciplinary action occurred and when an Accusation to take disciplinary action is filed.

Please note: the deadline for the statute of limitations is when the Board files an Accusation. In order to file an Accusation, the Board must **thoroughly** investigate a complaint to obtain the evidence necessary for the Attorney General's Office to draft the Accusation. On average, it takes approximately **one (1) year to one and a half (1½) years** for the Board to perform such an investigation and get the Accusation filed. Therefore, it is important for the Board to receive a complaint in enough time to complete the investigation and file the Accusation before the three- or seven-year statute of limitations runs out (please see below for exceptions). While the Board makes every effort to expedite investigations of complaints received close to the statute of limitations deadline, due to the Board's clear and convincing burden of proof, there may not be sufficient time to gather all the evidence necessary to prove a violation of the law. If this occurs the Board is unable to pursue the complaint.



IMPORTANT NOTICE REGARDING MANDATED REPORTING

In certain circumstances, the Board may be notified by an entity other than the patient regarding an allegation of unprofessional conduct. In those instances, the three-year statute of limitations begins when the Board is initially notified of the allegation and does not start over if the Board later receives a complaint from the patient.

For example, pursuant to existing law, the Board is notified of certain malpractice settlements. Once the Board is notified, it will then investigate the allegations based upon the information received about the malpractice action. The Board will make an effort to notify the patient in order to obtain any additional information regarding the incident; however, if the Board is unable to locate the patient, the patient may not be aware of the investigation and the need for additional information, and the matter may be closed for insufficient evidence. Once the statute of limitations has lapsed, the Board cannot take action on the matter, even if the patient later contacts the Board about the incident with additional information. This is another reason why it is so important for an individual to submit a complaint to the Board as soon as it is believed a physician has violated the law.

Visit the Board's Website at www.ombc.ca.gov

In this same law there are certain exceptions to these timeframes. These exceptions are:

- Accusation filed against a licensee alleging the procurement of a license by fraud or misrepresentation is not subject to the statute of limitations;
- An Accusation filed alleging unprofessional conduct based on incompetence, gross negligence, or repeated negligent acts of the licensee is not subject to the statute of limitations upon proof that the licensee intentionally concealed from discovery his or her incompetence, gross negligence, or repeated negligent acts;
- An Accusation filed against a licensee alleging sexual misconduct must be filed within three years after the Board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first;
- If an alleged act or omission involves a minor, the seven-year statute of limitations period or the 10-year statute of limitations does not begin until the minor reaches the age of majority; or
- A statute of limitations period will be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the Board due to an ongoing criminal investigation.



Why is it important to know about the Board's statute of limitations?

There are a number of reasons why an individual must be aware of the Board's statute of limitations. Those reasons include:

- 1) Individuals should report any act of unprofessional conduct by a physician as soon as possible. If an individual waits until a civil case is completed, the seven- or ten-year statute of limitations may pass or the Board may not have enough time to investigate the complaint before the statute of limitations passes.
- 2) Individuals need to provide all of the information necessary and available with their initial submission of a complaint in order for the Board to have all the information in a timely manner to assist in the investigation. This includes all medical records, any films or X-rays, any notes or documents from the physician, etc.
- 3) Individuals who are contacted by the Board should respond as quickly as possible.

For more information regarding the Board's complaint process and statute of limitations, please review the Board's website at:

www.ombc.ca.gov



Osteopathic Medical Board of California
1300 National Drive, Suite #150
Sacramento, CA 95834-1991

Consumer Protection Unit: (916) 928-8390 ext. 7

**Don't Wait
File a Complaint!**