



HEALTH LAW ALERT

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By: Ellen F. Kessler, Esq.

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NEW REQUIREMENT IN NY FOR PHYSICIANS TO POST OFFICE SIGNAGE ON PATIENTS' OPMC REPORTING RIGHTS

A new law was enacted in New York State on October 7, 2020, that requires all physician practices to post signage in their offices directing patients to the website of the Office of Professional Medical Conduct (OPMC) for information about the patients' right to report physicians for professional misconduct. The signage must be conspicuously posted and visible to the patients. This new requirement became effective immediately when it was signed into law on October 7th, without providing prior notice to physicians or time to prepare appropriate signage. The law also required OPMC to post on its website information about patients' rights and options to report professional misconduct, specifically including misconduct involving sexual harassment and assault. The new law amends Subdivision 11 of Section 230 of the New York State Public Health Law to add this new provision. Although the commentary that prefaces the new law describes it as a law relating to "posting information on patients' reporting rights regarding professional misconduct involving sexual harassment and assault," the actual text of the signage requirement in the law refers only to "professional misconduct" in general. It does not indicate that the signage posted by physicians should refer only to misconduct consisting of sexual harassment and assault. Therefore, physicians should follow the text of the law and refer generally to professional misconduct in their signage.

The Medical Society of the State of New York (MSSNY) had filed a Memorandum in Opposition to the new law in March 2020, citing that it was unnecessary since the information is readily available to patients on the internet. MSSNY also expressed concern that such a posting requirement might undermine the trust essential to the patient-physician treatment relationship and could place the physician at risk for disciplinary action by OPMC if the signage is not properly placed or is deemed not sufficiently conspicuous. It appears that the legislature and the Governor did not heed the MSSNY objections.

Physicians would be well advised to take immediate action to implement the new signage requirement to comply with the new law.

If you have any questions, please contact
Ellen F. Kessler, Esq.
(516) 663-6522
ekessler@rmfpc.com

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Ruskin Moscou Faltischek, P.C. - East Tower, 15th Floor - 1425 RXR Plaza, Uniondale, NY 11556 - 516.663.6600