

Frequently Asked Questions Regarding Filing a Grievance

- ***“The doctor was rude to me or my family member.”*** No one should be rude or abrupt with anyone, and the Board oftentimes asks doctors to be more sensitive in their dealings with patient. However, there is no specific provision in the Kentucky Medical Practice Act which permits the Board to formally discipline a doctor based solely on rudeness or poor bedside manner.
- ***“My doctor’s office will not provide my medical records.”*** Since 1994, the Kentucky General Assembly has required physicians to provide patients with one free copy of their medical records, upon receipt of a written request. The Board has determined that a doctor must provide that copy within a reasonable time, given the doctor’s staffing and scheduling. If additional copies are requested for the patient, their attorney or an authorized representative, the doctor may charge a copying fee, up to \$1 per page, for each additional copy of the medical record.
- ***“My doctor failed to have a chaperone in the room during my examination.”*** The Board and the American Medical Association recommend the use of chaperons during sensitive examinations, for the protection of the patient and the physician. Most physicians routinely place a nurse or assistant in the examination room with them during those sensitive examinations; however, a chaperon is not typically warranted during the taking of a patient history or during a non-sensitive examination. While it is not a violation of the Medical Practice Act for a physician to conduct a sensitive examination without a chaperon present, it is a violation for a physician to sexually touch a patient in an inappropriate manner or to speak inappropriately sexually to a patient during any encounter.
- ***“I would like to make an anonymous complaint about my physician.”*** The Board typically distrusts anonymous grievances and, as a general rule, requires each grievance to be signed and notarized. The Board will only conduct an investigation into an anonymous grievance if, after review of the grievance, an Inquiry Panel concludes there is sufficient reason to conduct an investigation. You take a real chance that your grievance will not be investigated if you choose not to sign and notarize it.
- ***“I want to file a grievance but I do not want the doctor to know who made the complaint because my relative will be upset with me, the doctor will no longer want to see me as a patient, etc.”*** As a general rule, each grievance must be signed and notarized for the Board to investigate. Under Board policy, each physician has a right to respond to the allegations in the grievance. If formal proceedings are filed against the doctor, you will likely be required to testify about your grievance and legal rules require the Board to tell the doctor the name of his/her accuser. There is no Kentucky law to provide confidentiality to grievants or other witnesses.

- ***“How long does this process take once I file a grievance?”*** The Board’s investigators make every effort to complete investigations as promptly as possible. Many factors affect their ability to do this – complexity of the case, number of witnesses involved, ability to arrange interviews, etc. As soon as the investigation is complete, it is presented to the next regularly scheduled Inquiry Panel for consideration.

- ***“My doctor has informed me that he/she will no longer see me as a patient.”***
 The physician-patient relationship is essentially contractual in nature. Generally, both the physician and the patient are free to enter into that relationship and are free to terminate it. However, a physician may not decline to accept a patient because of race, color, religion, national origin, sexual orientation, or any other basis which would constitute invidious discrimination. Furthermore, doctors who are obligated under pre-existing contractual arrangements may not decline to accept patients as provided by those arrangements.
 When a doctor chooses to terminate the physician-patient relationship with an existing patient, the doctor has an ethical obligation to give sufficient notice to the patient, relatives, or responsible friends to permit another medical attendant to be secured.

- ***“My doctor will no longer prescribe a drug or write a prescription for a drug that I need.”*** Generally, the Board does not have the authority to require doctors to treat individual patients in a particular manner. If you believe you need this medication, you may seek a second opinion and possible treatment from another doctor. If you believe your doctor has acted unprofessionally in refusing to provide you with medication, you may file a grievance with the Board.

- ***“I have knowledge of a person who is practicing medicine but is not a licensed physician.”*** Practicing medicine without the necessary license or certificate is illegal. You may report such activity to the Board or to your local prosecutor. While the Board does not have the legal authority to prosecute criminal offenses, it has a memorandum of understanding with the Attorney General’s Office, which will appropriately pursue reports of unlicensed practice.

- ***“I believe the amount billed to me or my insurance company is excessive.”***
 Under the AMA Code of Ethics, a doctor may not charge or collect an illegal or excessive fee. For example, an illegal fee occurs when a physician accepts an assignment as full payment for services rendered to a Medicare patient and then bills the patients for an additional amount.
 A fee is excessive when a person knowledgeable of current charges is left with a definite and firm conviction that the fee is in excess of a reasonable fee, after considering the following factors:
 1. the difficulty and/or uniqueness of the services performed and the time, skill, and difficulty required;
 2. the fee usually charged in that vicinity for similar physician services;
 3. the amount of the charges involved;

4. the quality of performance;
5. the experience, reputation, and ability of the physician in performing the kind of services involved.

Many fee complaints are the result of a lack of understanding by the patient of the basis for the charges for physician services. The physician may be at fault due to his/her failure to make the patient aware of exactly what professional services are being provided and the costs of the services. Patients should not be reluctant to discuss fees with their physician, preferably before services are rendered.

If you believe that the amounts being billed to your insurance carrier or to your government payor are excessive, you should contact them and provide them with whatever information you believe is relevant.

The Board does not decide whether or not a doctor's charges should be paid by the patient, or the timing of such payment. Those issues are governed by the agreement between the doctor and the patient. If the doctor and patient cannot resolve this dispute themselves, they must resort to other legal means, such as mediation or civil litigation.