HOW DID MY NAME GET ON THE OPMC RADAR SCREEN?  
The OPMC (Office of Professional Medical Conduct) is a division of the New York State Health Department charged with investigating and disciplining physicians and physician assistants. OPMC invites patients to make complaints if they feel they have been mistreated and, indeed, almost 10,000 complaints are received each year. We have learned that attorneys representing patients in malpractice cases are also urging their clients to complain to OPMC with the belief that the OPMC investigation (and subsequent charges of misconduct) may help their litigation. Are you aware that hospitals and other medical institutions may also wish to report certain conduct to OPMC? The OPMC Radar Screen?

WHAT IS THE OPMC BOUND BY THE EXPERT'S OPINION? 

If the complaint is precipitated by a singular event, the report itself is not shared and does not become available unless/until a formal hearing takes place.

DO I HAVE TO PARTICIPATE IN AN INTERVIEW? 

You are statutorily entitled to an interview. You are usually given the names of the health care providers or patients involved in the complaint, the dates of the complaint, and the details of the complaint. This is a clear indication that OPMC has zeroed in on you.

WHAT SHOULD I DO IF I THINK I AM BEING INVESTIGATED BY OPMC? 

You know what I’m going to say...call a lawyer. I am amazed at the number of physicians who ask a secretary to “take care of it” when they receive a letter from OPMC requesting copies of patient records. Eight months later, they receive a second letter indicating OPMC has reason to believe the physician is guilty of misconduct and inviting the physician in for an interview. During the interim, OPMC has taken statements from witnesses, obtained copies of relevant records, even peer review records. The expert review process is not as confidential as you may think and any reviews done by or on behalf of the hospital can and are obtained by the OPMC. The State Agency may also request a copy of your credentialing file, any records of complaints or problems, and any documents regarding treatment rendered to that patient. Although rare, the file is sent to an “expert,” a licensed New York State physician or any doctor in a different geographic area to ensure there is no bias or connection between the two physicians.

WHAT HAPPENS DURING THE INVESTIGATION? 

Once OPMC receives a complaint, it is statutorily required to investigate. If the complaint is precipitated by a patient event, certainly the medical records regarding that patient are obtained. If the report itself is not shared and does not become available unless/until a formal hearing takes place.

WHAT HAPPENS NEXT? 

To be continued in next month’s column. Part II and Part III will discuss insurance coverage for OPMC investigations, the OPMC Investigation Committee, the kind of conduct that typically results in formal charges, the negotiation process, Consent Orders, penalties, the hearing, and the aftermath.