

# Herbert Wimberger

91-12-0017MD

## UNPROFESSIONAL CONDUCT

Acts Prior to 1975

When the legislature repeals a statute and simultaneously enacts the same statutory provisions, the repeal is only nominal since rights and liabilities are not affected. The provisions related to moral conduct are substantially similar in the 1975 and 1963 acts. The 1975 legislation not only carried forward the 1963 Act's essential prohibition against the "repeated acts of immorality," it also expanded the prohibition to include a single act of moral turpitude, corruption or dishonesty. . . .**Herbert Wimberger**, 91-12-0017MD (Medical; July 7, 1993).

## LACHES

Application to Disciplinary Actions

The doctrine of laches (which indicates an action may be barred by undue delay) does not apply. Washington courts have not specifically addressed whether laches can be used to bar a medical disciplinary action brought by the state, but equitable defenses are generally not available against the government if their application would encroach upon governmental sovereignty, or interfere with proper discharge of governmental duties, curtail an exercise of police power or violate public policy. *Citing Finch v. Mathews*, 74 Wn.2d. 161 (1968). . . . **Herbert Wimberger**, 91-12-0017MD (Medical; July 7, 1993).

## DUE PROCESS

Application to administrative hearings

Due process involves principles of fundamental fairness and justice. The application of due process in a particular case considers the competing interests at stake under the circumstances of each case. Among the competing interests at stake in a medical disciplinary action are the government's interest in protecting the public health and well-being, the physician's interest in retaining a license to practice medicine and their mutual interest in avoiding an erroneous determination of the charges. The respondent's assertions of substantial prejudice because he must defend against the Board's actions are for the most part speculative and due process is not denied in that setting. . . .**Herbert Wimberger**