



# Patient Safety Action Network

*Patient Driven, Patient Led*

<https://www.patientsafetyaction.org/>

**Medical Board Roundtable - A PSAN Initiative**

## **SECRET MEDICAL BOARD ACTIONS:** **PRIVATE LETTERS OF CONCERN** **Policy Review and Recommendations**

January 2026

### **Introduction/Background: Why is this Important?**

The mission of State Medical boards (SMBs) is to protect the public from incompetent or harmful physicians. Under state licensing laws, Boards have the authority to take a variety of disciplinary actions ranging from reprimands to immediate suspensions and license revocations. Information about disciplinary action is usually made available to the public through online Board “physician profiles”, newsletters and other mechanisms.

Many Boards, however, use another way to secretly deal with physicians who may be a potential danger to the public: Private or Confidential Non-disciplinary Letters of Concern (also called Advisory Letters, Caution or Warning Letters etc.). While the letters raise a variety of concerns about the physician’s practice, because they are “non-disciplinary”, they are generally not available to the public, to a patient who has filed a complaint about a doctor or to any other health groups or government agencies that collect information about physicians (like the National Practitioner Data Bank or NPDB). It is difficult to quantify the extent of the use of these letters - indeed in some states, it’s difficult to know they even exist. According to the [Federation of State Medical Boards \(FSMB\)](#), 44 out of 67 state and territorial medical and osteopathic boards have Letters of Concern. Information from Annual Reports in a few states indicates that several hundred of these letters are issued annually - often one of the largest categories of SMB actions in a state.

There are potential benefits to letters warning physicians of SMB concerns about their practice or suggesting “educational opportunities” to improve. Warnings that are heeded by a physician can avoid or delay costly SMB investigations and actions when Boards are strapped for funds and personnel. However, what if the concerns addressed in these secret letters directly impact patient care and safety? Or if the “warning” is not effective? How does the SMB even know if it's effective or not? And no one, including the public and even other health professionals and health organizations, knows about these secret letters.

The Medical Board Roundtable (MBR) has been studying these secret letters in more than 10 states and has developed the following policy recommendations for consideration by SMBs, legislators, consumer groups and other interested parties.

## **I. Transparency for the Public**

**Background:** Patients and families have a right to know if their physician, one they are considering seeing, or one they have filed a complaint against has a written warning from the SMB about the way they practice medicine. But many states deprive residents of this right to know. In making these Letters of Concern transparent, the public can differentiate between those that address administrative concerns (such as documenting Continuing Medical Education Credits or paying fees) and more serious issues that address clinical practice. SMBs must also be public about their policies and deployment of these Letters of Concern should be part of periodic or annual legislative medical board oversight. Transparency is necessary for both individual patients and families regarding their doctor choices and holds the SMB accountable to the public they serve.

### **Policy Recommendations:**

#### **For Individual Patients and Families - State Medical Boards Should:**

- Provide information about any Letters of Concern on the SMB Online Physician Profile - including a copy of the letter itself.
- Report information about a Physician Letter of Concern in SMB newsletters and other public communication vehicles.
- Ensure that Letters of Concern are not deleted after a period of time, but remain available to the public.
- Include in the SMB written communication response to a complainant, that a letter of concern was sent to the physician in question, what was recommended in the letter and where they can view the letter (i.e. on the Physician Profile).

#### **For the Broader Public - State Medical Boards Should:**

- Ensure that information about the use of Letters of Concern as a SMB action in response to complaints is clearly explained on the SMB's website.
- Report overall numbers of these letters in SMB Annual Reports
- Include requirements to collect information about Letters of Concern in any periodic legislative reviews (such as an audit or sunset review) including details on actual case outcomes.

## **II. Implications for Other Physician DataBases/National Physician Programs**

**Background:** An additional consequence of these secret letters is that they are generally NOT reported to the NPDB and therefore hospitals, medical groups and other health entities are not aware of them while making hiring and other decisions. The fact that some Letters involve Corrective Action Plans directly related to the delivery of health care services raises the question whether some of the letters SHOULD be reported to the NPDB currently. Language from the NPDB guidebook regarding what needs to be reported to the agency indicates (bolding added):

*Any negative action or finding by the state licensing or certification authority that, under the state's law, is **publicly available information**, including, but not limited to, limitations on the scope of practice, liquidations, injunctions, and forfeitures...**This definition excludes administrative fines or citations and corrective action plans and other personnel actions, unless they are:***

*“(I) **Connected to the delivery of health care services; or***

*“(ii) **Taken in conjunction with other adverse licensure or certification actions such as revocation, suspension, censure, reprimand, probation, or surrender.**”*

<https://www.npdb.hrsa.gov/guidebook/EStateLicensureActions.jsp>

In addition, states that participate in the Interstate Medical License Compact (IMLC) allow physicians meeting certain standards, including having a full unrestricted medical license, to expedite licensure in numerous states. Given the requirement for a “clean” license with no disciplinary actions, SMBs in over 40 states and territories that are part of the Compact are making credentialing decisions without full information. Medical specialty boards (such as the American Board of Internal Medicine) that require an unrestricted license, would also be making decisions without full knowledge of medical board concerns that have been communicated to a physician.

**Policy Recommendations:**

- The NPDB should remind SMBs of the requirement that all publicly available Letters of Concern must be reported to the NPDB.
- Ensure that if a SMB IS making the letters of concern public in any way, it is reporting them to the NPDB as required.
- Ensure that if Letters of Concern include corrective action plans that deal with health care delivery, the Letters should be made public and therefore would be required to be reported to the NPDB.
- Institute a federal policy change so at all Letters of Concern, public or not, are reported to the NPDB so they would be available to other licensing boards, hospitals, etc.
- Institute policy that all Letters of Concern should be reported as part of the Interstate Medical Licensure Compact application process.
- Institute policy that Letters of Concern should be part of medical specialty certification and re-certification processes.

Note that the MBR believes that the NPDB should be open to the public thereby creating one national source where all information about physicians would be available.

**III. Process of Issuing Letters of Concern**

**Background:** States vary in how Letters of Concern are issued and monitored. Our research indicates that there is usually some level of investigation followed by a deliberative process resulting in a written communication to a licensee outlining a “concern”. Which SMB staff and Board Committees and Members are involved and how varies by state. In some cases, there is follow-up monitoring of the licensee, in others there is no follow-up.

**Policy Recommendations:**

- Ensure clear criteria/standards/guidelines for when Letters of Concern can and cannot be utilized (vs. other forms of SMB disciplinary action). Ensure consistent application.
- Ensure that the procedure to issue a letter of concern results in a document that is a formal public official action.
- Require that all licensees that receive these letters have a clear process for follow-up and must respond to the SMB regarding completion of the recommendations
- Track subsequent licensee behavior, including additional complaints/concerns
- Maintain indefinitely all information about Letters of Concern and follow-up in the physicians SMB file.

#### **IV. Research:**

**Background:** Research should be conducted to better understand the breadth, use and impact of Letters of Concern. States need to delve into the secrecy around these letters to better understand both their positive and negative aspects. Again, as part of legislative oversight, audits or sunset reviews, policy makers should ask the following questions:

- How is the use of Letters of Concerns defined in state law, regulation and policy?
- How often are Letters of Concern issued by a SMB?
- How does a Letter of Concern differ from other disciplinary actions? Are they/How often are they issued as result of a negotiation between the SMB and the licensee and their attorneys as an alternative to formal discipline?
- Are Letters of Concern consistently applied?
- What issues/topics do they address?
- Is follow-up required as part of a Letter of Concern? What type of follow-up? What are the outcomes of that follow-up?
- How many physicians get more than one Letter of Concern? More than five etc.?
- How many physicians who receive one or more letters of concern go on to be disciplined by the Board? What types of discipline are taken?
- Is/How is the letter of concern taken into account in subsequent disciplinary action?

#### **About the Medical Board Roundtable**

The Medical Board Roundtable (MBR) works to increase public awareness of state medical boards; advocates for increased board responsiveness to patients/their families and the public, and improved physician oversight, accountability and performance. It is a project of the Patient Safety Action Network (PSAN). PSAN is a coalition of individuals and organizations consisting of patients who have been medically harmed, their loved ones and concerned advocates. They focus solely on and with patients to raise awareness and to create a more accountable, transparent and safe healthcare.

For more information about the MBR: <https://www.patientsafetyaction.org/our-work/physician-oversight-and-accountability/>