



Patient Safety Action Network

Patient Driven, Patient Led

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

Medical Board Roundtable - A PSAN Initiative

Moving Towards More Publicly Transparent and Patient-Centered Medical Boards **A Medical Board Roundtable Policy Agenda**

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Introduction: Health care quality and safety vary significantly in the United States. Given the central role of doctors in delivering care, the choice of a physician is important to maintaining health—and avoiding harm. Physicians are regulated in every state by a State Medical Board that licenses doctors and other health practitioners and is mandated to protect the public from the unprofessional, improper and incompetent practice of medicine. The federal government also has a role in protecting the public by maintaining the National Practitioner Data Bank (NPDB). The NPDB contains over 1.9 million reports about medical malpractice payments and certain adverse actions by doctors and other health professionals, but its information on individual physicians and other practitioners is not available to the public. By financing and operating federal health programs such as Medicare, the Centers for Medicare and Medicaid Services (CMS) is also involved in providing oversight and information to the public about physicians.

This document lays out a vision and policy approaches to change the current state of physician oversight agencies from one based on secrecy, physician-dominance, and opaqueness to one that is more publicly transparent and patient and family-centered.

Vision: State and federal entities charged with protecting the public's health become more publicly transparent and patient/family-centered in every aspect of their work by:

- Providing complete public transparency about doctors and other health professionals.
- Ensuring that patients who report harm can participate fairly and equitably in the investigation of a doctor and have access to complete information as their complaint is addressed and resolved.
- Proactively working to ensure the safety of patients and families including moving quickly to take action in egregious cases of patient harm (such as sexual misconduct or ongoing incompetence) and warning the public.
- Being publicly accountable for their operations and outcomes.

To accomplish this vision, we call for the following policy changes:

Complete Public Transparency of Information about Physicians

Federal Actions:

- Open the NPDB – Formulate and pass Congressional legislation that makes complete information about doctors and other health professionals available to the public.
- Increase doctor information on federal websites - Include information from the NPDB and from State Medical Boards on CMS's Physician Compare: <https://www.medicare.gov/care-compare/>

State Actions:

- Make ALL information about physicians easily available online on State Medical Board physician profiles including the number of and type of complaints from the public, Board formal complaints/accusations, all disciplinary actions, malpractice, all hospital privilege actions, criminal convictions, federal actions and discipline in other states. Include easily viewed warning symbols on profiles that alert users to disciplinary or other adverse information about a physician.
 - Provide information about Non-Disciplinary Letters of Concern (LOC) on the profile-including a copy of the letter itself.
- Require that all patients be notified if their physician has been disciplined in cases that involve sexual misconduct, patient death or gross negligence.

More Patient-Centered Medical Boards

State Actions:

- Increase the number of public members on State Medical Boards to majority status - Ensure that public members truly represent the public interest, include people who are aware of the health concerns of diverse populations and exclude people who have a substantial personal or financial interest in a health care organization or profession.
 - Oversee and address conflict of interest issues with any State Medical Board member.
- Involve patients and their families throughout the entire disciplinary process. For example:
 - Allow victim impact statements/increase the “voice” and presence of harmed patients during the process.
 - Allow patients/families to counter and rebut information from physicians.
 - Accept and give equal weight to patient evidence.
 - Make information generated during the disciplinary process, such as meeting minutes, available to patients.
 - Provide detailed rationale statements for disciplinary decisions.
 - If the final decision includes issuance of a non-disciplinary LOC, include information about the LOC’s contents and how to access it.
 - Increase penalties and actions related to falsified medical records.
 - Allow appeals and third party reviews of board decisions by an independent entity.

Proactively Protect the Public

State Actions:

- Increase State Medical Board funding to ensure that they can achieve their mandate to protect the public—particularly funding for investigations, enforcement, in-house legal representation, and public education and outreach.
- Require State Medical Boards to enroll in the NPDB's "Continuous Query" program that proactively notifies them if any of their state's doctors have actions against them anywhere in the United States.
- Pass laws and regulations that mandate a doctor's "Duty to Report" to the State Medical Board any doctor that is harming patients. In the case of sexual misconduct, or other criminal activity, this includes a duty to report to law enforcement, as well as notification of patients.
- For Boards which do not already have a "preponderance of the evidence" standard, change the standard of proof for board disciplinary actions to "preponderance of the evidence" from "clear and convincing evidence" or "beyond a reasonable doubt".
- Explore options to use State Medical Board data and strategies to proactively identify and address issues that prevent medical harm and enhance the health and safety of state residents.

Accountability to the Public/Oversight

State Action:

- Conduct periodic reviews of State Medical Boards to ensure their accountability to the public including sunset reviews, operational audits, detailed annual reports and other state legislative oversight.
- Ensure that state medical and health regulatory boards and departments (such as Departments of Health) are aligned in their approach, process and outcomes so that patients filing complaints to multiple state oversight agencies about the same incident do not face undue filing burden and significantly different outcomes in terms of disciplinary actions taken and transparency.

Federal Action:

- Conduct periodic federal review of physician oversight such as that conducted by the Dept. of Health and Human Service's Office of the Inspector General (OIG).

Who we are: The Medical Board Roundtable (MBR) is a committee of patient advocates that works to increase public awareness of state medical boards; improve board responsiveness to patients, their families and the public, and improve physician oversight, accountability and performance. The MBR is part of the Patient Safety Action Network (PSAN) – a coalition of individuals and organizations united to eliminate preventable medical errors, save lives and support policies that promote patient safety. For more information about the MBR:

<https://www.patientsafetyaction.org/our-work/physician-oversight-and-accountability/>