The Role of the State Medical Board

Authority
Under the 10th Amendment of the U.S. Constitution, states have the authority to regulate activities that affect health, safety and welfare of their citizens. To protect the public from the unprofessional, improper, unlawful, fraudulent and/or incompetent practice of medicine, states provide laws and regulations that outline the practice of medicine and the responsibility of the medical board to regulate that practice in the state's "Medical Practice Act.”

Responsibility
The primary function of a state medical board is to protect consumers of health care through proper licensing and regulation of physicians.

Public protection begins with the licensure process which is designed to ensure that practicing physicians have appropriate education and training, and that they abide by recognized standards of professional conduct in treating patients. Licensed physicians must periodically re-register with the board. During re-registration, a physician is required to demonstrate that they have maintained acceptable standards of ethics and medical practice by a variety of means, such as, compliance with continuing education requirements and/or recertification by a specialty board, etc. In addition, the board will review complaints regarding a physician's medical practice to verify their compliance with state law and board rules and regulations and to identify patterns of substandard care.

On its own initiative or upon receipt of information reported by others, the state medical board investigates any evidence that appears to indicate that a physician is or may be incompetent, guilty of unprofessional conduct, or mentally or physically unable to engage safely in the practice of medicine or that the Medical Practice Act or the rules and regulations of the Board have been violated. The Board has full discretion and authority with respect to disciplinary actions when it determines that a violation has occurred.

Structure
State medical boards are typically comprised of physician and public members who are, in most cases, appointed by the governor. Some boards are independent in structure,
exercising all licensing and disciplinary powers, while others are part of a larger state agency, such as the Department of Health, which exercises varied levels of responsibility or functions in an advisory capacity. State medical boards employ an administrative staff that may include an executive officer, attorneys and investigators. Legal services are often provided by the state's Attorney General's Office. The structure and responsibilities of each state medical board are set out by the state legislature in the Medical Practice Act. While these statutes have many similarities, each is unique in its specific language which means there is variety in how boards are structured and how their responsibilities are described.

**Funding**

Funding for medical board staff and activities comes from physician licensing and registration fees, as well as fines imposed as part of a disciplinary action. Some specific activities may receive a special appropriation of state funds.

**Medical Practice Act**

A state Medical Practice Act is created by legislative authorization. Each state Act is unique, therefore, there are some significant variations among states in how they address the privilege of practicing medicine. Medical Practice Acts generally include:

- A definition of the practice of medicine
- What constitutes the unlawful practice of medicine
- Structure of the state medical board
- Provisions for medical licensing examinations
- Requirements for licensure and re-registration
- The range of disciplinary actions that may be taken against physicians
- Procedures for enforcement of disciplinary actions
- Handling impaired physicians
- Authority for investigations
- Legal protection and immunity for board members
- Authority for the board to promulgate rules and regulations to facilitate enforcement of the Act
- Source of funding for the board


**Enforcement Procedures and Disciplinary Actions**

The Medical Practice Act sets out procedures that permit the board to take appropriate enforcement and disciplinary action, while assuring fairness and due process to the physician subject of a report. Common board actions include:
- **Revocation**: A permanent loss of license to practice medicine. Under certain conditions, a physician may petition for reinstatement after a specific time period.
- **Probation**: Physician's practice is monitored for a specific period of time.
- **Suspension**: Physician may not practice for a specific period of time.
- **Summary Suspension**: Immediate suspension of a physician's license when there is evidence that his/her continued practice presents an immediate danger to the public health and safety.
- **Reprimand or Censure**: A public admonishment.
- **Voluntary Surrender of License**: Physician surrenders his/her license to practice in lieu of further disciplinary action.
- **Limitation or Restriction**: Physician's license to practice is restricted in some way; e.g. prohibited from performing specific procedures.
- **Denial**: Physician's license is not initially awarded or subsequently renewed.
- **Administrative Fine/Monetary Penalty**: A civil penalty imposed by the board for certain types of professional misconduct.
- **Restitution**: Statutory authority to require a physician to reimburse an individual/entity for monies improperly obtained.
- **Stay**: The board withholds enforcement of a board action, usually under some enumerated conditions.