

Protection

What is a State Medical Board?

Regulation

Quality
health

Care
Physician

Integrity

Federation of State Medical Boards
P.O. Box 619850
Dallas, TX 75261-9850

PROTECT

responsibility

Your State Medical Board's primary responsibility and obligation is to protect consumers of health care through proper licensing and regulation of physicians and, in some jurisdictions, other health care professionals.

The practice of medicine is not an inherent right of an individual, but a privilege granted by the people of a state acting through their elected representatives. To protect the public from the unprofessional, improper and incompetent practice of medicine, it is necessary for the state to provide laws and regulations that outline the practice of medicine and the responsibility of the board to regulate that practice. This guidance is outlined in a state statute, usually called a "Medical Practice Act."

MEDICAL BOARD STRUCTURE

Board membership is composed of volunteers who are charged with upholding the Medical Practice Act of their jurisdiction.

A state medical board is usually composed of physician and public members who are, in most instances, appointed by the governor. Some boards are independent in structure, excising all licensing and disciplinary powers, while others are part of a larger umbrella agency, such as the Department of Health, excising varied levels of responsibilities or functioning in an advisory capacity. Funding for medical board activities comes from physician licensing and registration fees, as well as fines imposed as part of a disciplinary action.

Most boards employ an administrative staff that includes the executive officer, attorneys and investigators, with some legal services provided by the state's Office of the Attorney General.

Physician Licensure

Assembling a quality physician population to meet the needs of the public begins with licensure.

Through the licensure process, the state ensures that all practicing physicians have appropriate education and training, and that they abide by recognized standards of professional conduct while serving their patients. Applicants must submit proof of prior education and training and provide details about their work history. Also, candidates for licensure must complete a rigorous examination, designed to assess the ability to apply knowledge, concepts and principles that are important in health and disease management and that constitute the basis of safe and effective patient care. Applicants must reveal information regarding past medical history that may affect their ability to practice (including the use of habit-forming drugs and emotional or mental illness), arrests and convictions.

After physicians are licensed in a given state, they must register periodically to continue their active status. During this reregistration process, physicians are required to demonstrate that they have maintained acceptable standards of ethics and medical practice and have not engaged in improper conduct. In some states, physicians must also show that they have participated in a program of continuing medical education.

medical

volunteers

REGULATION OF PHYSICIANS

The duty of the board goes beyond the licensing and reregistration of physicians.

The board is charged with the responsibility of evaluating when a physician's professional conduct or ability to practice medicine warrants modification, suspension or revocation of a license to practice medicine. Board members devote much time and attention to overseeing the practice of physicians by reviewing complaints from consumers, malpractice data, information from hospitals and other health care institutions, and reports from government agencies.

When a board receives a complaint about a physician and there is reason to believe that the physician has violated the law, the board has the power to investigate, hold hearings, impose some form of discipline such as fines, mandated continuing medical education, medical treatment, or seek suspension or revocation of a license.

What is Unprofessional Conduct?

The Medical Practice Act defines unprofessional conduct in each state.

Although laws vary from jurisdiction to jurisdiction, some examples of professional misconduct include the following:

- Physician abuse of a patient
- Inadequate record keeping
- Not recognizing or acting on common symptoms
- Prescribing drugs in excessive or without legitimate reason
- Impairment of the ability to practice because of addiction or physician or mental illness or failing to meet continuing medical education requirements
- Performing duties beyond the scope of a license
- Dishonesty

investigate

- Conviction of a felony
- Delegating the practice to an unlicensed individual

Minor fee disagreements and poor customer service are not considered professional misconduct.

Due Process

Whatever the complaint, physicians are afforded the right of due process as the board investigates an allegation of misconduct.

The tenets of due process assert that an individual is innocent until proven guilty and apply to formal hearing and judicial procedures that the medical board conducts. They follow established rules and principles to ensure that a physician is not treated unfairly, arbitrarily or unreasonably. In instances if severely egregious behavior, boards may have the authority to summararily suspend a physician's license until an administrative law hearing can be scheduled.

Board Action Vs Malpractice

The differences between a board action and a malpractice suit are significant.

Board actions are those taken against physicians following a formal process of complaint, investigation and hearing. Whereas a sanction taken by a medical board against a physician indicates that a violation of the Medical Practice Act has occurred, malpractice claims are not always accurate measures of a physician's competence or a violation of the law. The reason is twofold: (1) anyone can file a malpractice suit without showing evidence of damage, and (2) often malpractice insurance carriers opt to settle out of court rather than incur the expense of a court appearance. The physician's guilt, innocence or preference may or may not be factors in the decision.

due process

Medical boards may review malpractice reports and detect patterns of inappropriate actions to identify practitioners who may pose a danger to the public.

Public Protection Vs Physician Discipline

Medical boards focus on protecting the public, not punishing physicians.

While medical boards have the authority to suspend or revoke licenses, regulators believe that probation and putting restrictions on a physician's license can solve many problems so the public is protected while maintaining valuable community resources. Probation and restriction of a medical license can be in place as a physician receives further training or rehabilitation.

Sharing of Information

Disciplinary sanctions imposed by a board are reported to the Federation of State Medical Boards, state and local medical and osteopathic societies, the American Medical Association, the American Osteopathic Association, the National Practitioner Data Bank and appropriate government agencies.

The Federation operates a national Board Action Data Bank that houses records of disciplinary actions dating back to the 1960s. This information is available to all state medical boards and appropriate credentialing agencies.

RESPONSIBILITY OF CONSUMERS

First and foremost, be an educated consumer.

Consumers of health care can access information that may be useful in selecting a physician. The state medical board can assist by disclosing if a physician is currently licensed, if disciplinary action has ever been imposed or, in some cases, if disciplinary charges are pending. Members of the public can inquire if the board has other public information in a physician's record. (This may include criminal convictions and malpractice judgments.)

Citizens who believe that the quality of medical care they receive is substandard or that a physician has engaged in unprofessional conduct should contact their state medical board. Unless such problems are brought to the attention of the medical board, physicians who are grossly negligent or incompetent may continue their practices unencumbered.

For More Information. . .

Contact the Federation at:

Federation of State Medical Boards

P.O. Box 619850

Dallas, Texas 75261-9850

Voice: (817) 868-4000 Fax: (817) 868-4099

Internet: www.fsmb.org

“Medical Practice Act”

citizen practitioners