COMMENTARY

State Medical Board Reform: A Patient Safety Imperative

Christopher G. Roy[1]

1: MAINE MEDICAL CENTER, , PORTLAND, ME, USA.

Keywords: Patient Safety, Regulation, Professional Licensing, Reform, History Of Medicine

Since the publication of *To Err is Human* by the Institute of Medicine in 1999, countless campaigns have been waged to realize its patient safety goals in nearly every corner of the vast American health care system. Medical licensing, the process by which physicians and other providers are granted authority by the government to practice, is a potential unturned stone, where opportunities for reform may be uniquely promising in their power to protect the public. McIntosh et al., in *What Can State Medical Boards Do To Effectively Address Serious Ethical Violations?* offer a blueprint for how effective reform of this important state government function might be achieved.[1]

The potential of state medical board reform has perhaps been historically underappreciated as a result of its consistent but low-profile presence in the background of American medicine for so many years. After all, for a supermajority of practitioners in the US, the only meaningful interaction with their state board is periodic, relatively uncomplicated license renewal. As McIntosh et al. point out, the most egregious offenses tend to come from a small set of repeat offender licensees.

The role that state medical boards play, and their potential, is similarly not well understood by the very public they are intended to protect. A closer look at the 2018 Harris poll commissioned by the Federation of State Medical Boards paints a stark picture: 18% of respondents reported an interaction with a physician they believed to be acting unethically, unprofessionally, or providing substandard care. Only about a third (34%) of this group went on to file a complaint, and of complainants, only a third (33%) took their report to a state medical board.[2]

Although not mentioned explicitly, the reforms advocated by McIntosh et al. reflect the key role that federalism plays in the state medical board system in the US, driving both its greatest strengths and flaws. Federalism, by delegating professional licensing authority to the states, creates a vibrant ecosystem of laboratories for reform, and permits a degree of local control that states can use to tailor oversight to their particular health care systems. However, it can also make national propagation of needed changes slower-going, and has been a wellspring of frustration for interstate cooperation.

Given this dynamic, some of the most interesting reforms in this area maximize federalism's advantages while mitigating its disadvantages. These include firming the local foundations of the state medical boards by increasing participation of community members and historically underrepresented groups. State medical boards may also be well-situated to leverage their local roots to spearhead the recommended community outreach and education of providers. In addition, stronger reporting practices to the Federation of State Medical Boards Physician Data Center and the National Practitioner Data Bank can overcome the downsides of decentralization inherent to the state-based board system.

Christopher G. Roy, M.D., M.P.H. *is with the Department of Medicine, Maine Medical Center.*

The Journal of Law, Medicine & Ethics, 51 (2023): 954-955. © 2024 The Author(s)
DOI: 10.1017/jme.2024.11

https://doi.org/10.1017/jme.2024.11 Published online by Cambridge University Press

Physicians and other providers may at first be hesitant to embrace a more robust state medical board system if it is perceived to result in more oversight of their activities (and more paperwork). However, there are second-order effects that might hold benefits for providers, which ought to be touted in the process of selling reforms to stakeholders.

One possible benefit of a more comprehensive state medical board system would be bolstering public trust in the legitimacy of providers and the greater health care system through which they work. This legitimacy is absolutely critical to the position physicians occupy in the health care system and in greater society, and was cited by Paul Starr as one of the pillars of professional sovereignty in *The Social Transformation of American Medicine*. Licensure should be understood as a key part of the process by which physicians, as Starr described it, "claim authority, not as individuals, but as members of a community that has objectively validated their competence."[3]

Another benefit could be the potential to foster improved trust between providers. With more specialization,[4] the practice of medicine has become increasingly fragmented, and thereby by necessity a team effort. High levels of mutual confidence are key to success with such high-stakes care coordination. Knowing that colleagues are appropriately vetted by state medical boards could provide important augmentation of trust levels and improve the process of care.

Since they first came into being in the middle of the 19th century, the process of state medical board reform has been an iterative process that has occurred with bursts of activities, false starts, and sometimes significant setbacks. Progress has been made since their inception; until nearly the beginning of the 20th century, what licensing regime did exist was largely a formality.[5] McIntosh et al. provide a comprehensive analysis of how the next era of meaningful reform might best be undertaken to protect the public. As such, it should help guide stakeholders including physicians, policymakers, patient advocacy groups, and the boards themselves.

Since they first came into being in the middle of the 19th century, the process of state medical board reform has been an iterative process that has occurred with bursts of activities, false starts, and sometimes significant setbacks. Progress has been made since their inception; until nearly the beginning of the 20th century, what licensing regime did exist was largely a formality. McIntosh et al. provide a comprehensive analysis of how the next era of meaningful reform might best be undertaken to protect the public. As such, it should help guide stakeholders including physicians, policymakers, patient advocacy groups, and the boards themselves.

Note

The author has no conflicts to disclose.

References

1. T. McIntosh et al., "What Can State Medical Boards Do to Effectively Address Serious Ethical Violations?" *Journal of Law, Medicine & Ethics* 51, no. 4 (2023).
2. Harris Insights & Analytics, Harris on Demand, *The Harris Poll: State Medical Boards Awareness Study 2018*, *available at* <https://www.fsmb.org/siteassets/advocacy/news-releases/2018/harris-poll-executive-summary.pdf> (last visited Dec. 13, 2023).
3. P. Starr, *The Social Transformation of American Medicine* (New York: Basic Books; 1982).
4. J.E. Dalen, K.J. Ryan, and J.S. Alpert, "Where Have the Generalists Gone? They Became Specialists, Then Subspecialists," *American Journal of Medicine* 130, no. 7 (2017): 766-768.
5. D. Johnson and H. Chaudhry, *Medical Licensing and Discipline in America* (Lanham (Maryland): Lexington Books; 2012); I.M.Proctor and D. Long, *One Hundred Year History of the North Carolina State Board of Medical Examiners* (Raleigh, NC: Edwards and Broughton Co; 1959).

The Journal of Law, Medicine & Ethics, 51 (2023): 954-955. © 2024 The Author(s)

https://doi.org/10.1017/jme.2024.11 Published online by Cambridge University Press