

Understanding State Medical Boards

YOUR QUESTIONS ANSWERED

A FOLLOW-UP TO OUR WEBINAR:

“Understanding State Medical Boards”
presented by Donald Lefkowitz, MD, FACEP,
Executive Director and
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Hardenbergh Group

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Q: CAN MEDICAL STAFF PROFESSIONALS BE MEMBERS OF A STATE MEDICAL BOARD?

A: Yes. The vast majority of Boards in the United States have “public members,” i.e., non-physician or non-APP members. These members go through the same application and appointment process as their clinician counterparts. Most Boards look for a diversity of backgrounds in their public members and do not require experience in the world of medicine.

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Q: WHY DOES IT TAKE SO LONG FOR A BOARD COMPLAINT TO BE INVESTIGATED AND COME TO A CONCLUSION?

A: Depending upon the nature of the complaint, the investigation may be wider in scope than one might anticipate. This could include direct interviews with patients and family members, subpoena of records for review, and involvement of an outside medical reviewer to evaluate the complaint and patient’s care. Additionally, the practitioner under review may be working with an attorney to interact with the Board in order to settle the complaint in a manner that is mutually agreeable.

Board decisions are not finalized until all of those processes have run their course, the Board has agreed upon a course of action, and the provider under review agrees with the final determination. Although this can be frustratingly time consuming, a thorough investigation is designed to ensure that the public is protected, and the practitioner’s rights are similarly appropriately observed.

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Q: MANY STATES HAVE CME REQUIREMENTS FOR MEDICAL LICENSE RENEWAL; IS THERE A REPOSITORY OF ALL OF THE STATES’ REQUIREMENTS AVAILABLE?

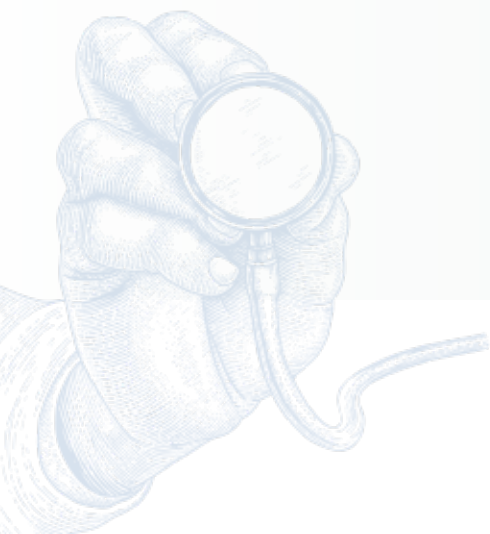
A: Yes. The FSMB (Federation of State Medical Boards) maintains a current list of state-by-state CME requirements on its website. The direct link is [here](#), and a list of current state legislative CME related activities is [here](#).

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Q: CAN A HEALTHCARE ENTITY LIKE A HOSPITAL REQUEST INFORMATION FROM THE STATE MEDICAL BOARD REGARDING AN OPEN COMPLAINT DURING THE INVESTIGATION PHASE? CAN A REQUEST BE MADE OF A PHYSICIAN ABOUT ANY ACTIVE, UNRESOLVED COMPLAINTS?

A: There are state-by-state differences regarding what can be made public and when with Medical Board complaints, but no additional information will be given to an entity making such a request until a final decision regarding the complaint has been made.

While an entity may be aware of a complaint against a practitioner, and may request more information from that individual, the applicant should be afforded the opportunity to allow the process to run its course before being mandated to provide additional information. The Board would be expected to take immediate action if it was felt that the health, safety, and welfare of the population was at risk if that physician remained in active practice.



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Q: DO STATE MEDICAL BOARDS PARTICIPATE IN THE NATIONAL PRACTITIONER DATA BANK (NPDB) “CONTINUOUS QUERY” PROGRAM?

A: Yes, and no.. There is a charge of \$2.50 per physician per year for Boards to purchase the continuous query process for each licensee, which provides a 24-hour notification of significant events (action taken by a hospital or other State Board, malpractice award, etc.).

Not all states participate with continuous query, however, and information for each state is not readily available. Asking the Board directly would be the easiest mechanism to discover whether your individual State Board participates.

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Q: WHY DO MEDICAL BOARDS ISSUE “PRIVATE” ACTIONS / DECISIONS? ISN'T THIS INFORMATION IMPORTANT TO THE PUBLIC AND CREDENTIALING ENTITIES?

A: Complaints to the Medical Board may be dismissed, result in public discipline, or be resolved with a non-public communication of concern. The issues that lead to the latter are those which the Board has determined to not rise to the level of violations of the Medical Practice Act and do not pose a risk to the public, and, therefore, notification of the public or credentialing entities is not required. It should be appreciated that these non-public actions are tracked and can be revisited by the Board should other similar complaints arise.

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Q: IF A PRACTITIONER RESIGNS HOSPITAL PRIVILEGES WHILE UNDER INVESTIGATION, DOES THAT INITIATE A REQUIRED REPORT TO THE NPDB AND STATE MEDICAL BOARD?

A: Many practitioners are unaware of the consequences of relinquishing privileges while under investigation. This scenario mandates that the facility makes a report to the NPDB. While it may not be mandatory in every state, it is reasonable to pursue a similar notification to the Medical Board given that not all states continuously query the NPDB.

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Q: WHERE CAN I FIND INFORMATION ABOUT PHYSICIAN HEALTH PROGRAMS FOR INDIVIDUAL STATES?

A: The Federations of State Physician Health Programs has an actively updated list of PHP programs with contact information on their [website](#).

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Q: HOW DOES A MEDICAL BOARD MONITOR COMPLIANCE WITH BOARD ORDERS ASSOCIATED WITH PUBLIC DISCIPLINE (E.G., MANDATED CME REQUIREMENTS, ETHICS COURSE, ETC.)?

A: The time frame required to complete these types of mandates is typically spelled out very clearly in the disciplinary Board order. Boards often use PHPs, practice monitors, educational entities, and their investigation team to monitor compliance with disciplinary actions. Proof of completion is monitored by the Board staff, and once all requirements have been met, a subsequent publicly available follow-up Board notification is published.

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Q: IS THERE A TIME LIMIT FOR MAKING A COMPLAINT TO THE STATE BOARD?

A: Unlike malpractice claims, there are typically no time limits for individuals to file a State Medical Board complaint. However, protracted time frames inevitably lead to significant challenges in obtaining records, interviewing involved parties, etc., making a valid and fair investigation impossible. As a result, the majority of “late” complaints are most likely to be dismissed unless very serious issues are alleged.

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Q: IF A FACILITY HAS SIGNIFICANT CONCERNS REGARDING SUBSTANDARD CARE AND COMPETENCE, WHAT TYPE OF INFORMATION SHOULD BE INCLUDED IN A REPORT TO THE BOARD?

A: It is helpful to approach this in the same manner as would be utilized for an internal peer review process. For an adequate investigation that is fair to both the practitioner and the public, the Board would need information about the practitioner, the specific concerns of the facility, patient records and other relevant information, and whether any action has been taken against the practitioner’s practice.

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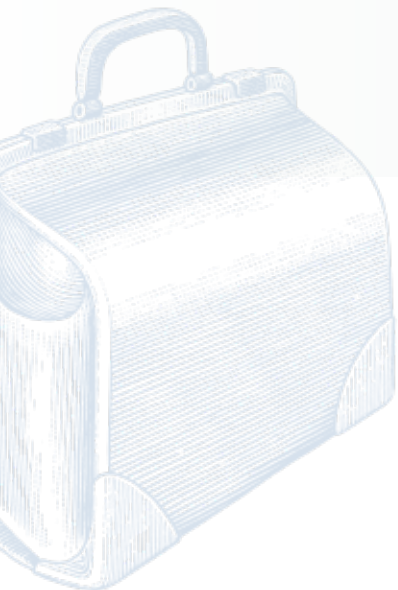
Q: DO STATE MEDICAL BOARD INVESTIGATIONS HAVE PEER REVIEW PROTECTIONS? CAN THE DETAILS OF THOSE INVESTIGATIONS BE DISCOVERED IN MALPRACTICE LITIGATION?

A: State Medical Board investigations are protected from discovery should a malpractice suit be brought against the practitioner under review. However, details of public discipline (license suspension, mandated courses, etc.) are readily available for use in any malpractice litigation proceedings.

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Q: WHEN IS A PRACTITIONER NOTIFIED OF THE OUTCOME OF A STATE MEDICAL BOARD INVESTIGATION?

A: This should occur relatively quickly, within a few weeks of the final decision. Practitioners can always contact the Board staff to inquire as to the status of a complaint, but the response may simply be that it remains open, and they will need to await a final resolution.





Donald Lefkowits, MD, FACEP is the Executive Medical Director at Hardenbergh Group. In his current role, he brings extensive experience in Peer Review, Fair Hearings, and the development of physician leadership programs to assist our clients. Dr. Lefkowits is Board Certified in Emergency Medicine and Internal Medicine. He currently serves as Immediate Past President of the Colorado Medical Board.



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Interested in viewing a recording of the webinar presented by Dr. Lefkowits and Dr. Bordelon? [Click here to watch.](#)

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