In an era where the popular culture in the United States and around the world is coming to terms with historical inequities related to sexual abuse, the misuse of power and discrimination, the medical establishment and medical regulatory community are also beginning to acknowledge the need to look inward at misconduct and breaches of professionalism that have been occurring for far too long. The scrutiny brought on state medical boards as a result of the egregious conduct of Larry Nassar, Richard Strauss, and many others has given state medical boards both pause and the impetus to take stronger action.

Support and demand for such action has also been driven by the popular and scientific media; examples include an extensive exposé on physician sexual abuse in the Atlanta Journal Constitution, as well as a report from the National Academies of Sciences, Engineering, and Medicine identifying sexual misconduct as being widespread in scientific communities and especially in medicine.

This has been the backdrop for an extensive review recently undertaken by the FSMB of its own guidance to member state medical boards about physician sexual misconduct, its early identification and eventual eradication through targeted regulatory and educational efforts.

In the spring of 2018, the FSMB launched a workgroup made up of state medical board members and executive directors, as well as representatives from key organizations in American medicine and medical regulation in Canada to consider physician sexual misconduct from a variety of angles. These included examining reviews of disciplinary data; identifying trends and outcomes of regulatory processes; evaluating barriers that inhibit the reporting of sexual misconduct to state medical boards; analyzing regulatory interventions used to prevent sexual abuse of patients and colleagues and to provide remedial opportunities where warranted in less egregious cases; and identifying educational opportunities for medical boards, their staff members, physicians and medical students to help engender a cultural shift that better aligns with the tenets of medical professionalism.

Over the course of two years, the workgroup carried out its charge through extensive research, several meetings, symposia and focus groups. In addition, it conducted interviews with experts in the field, dialogue with key organizations with the ability to effect change in medical education and practice, and perhaps most importantly, with survivors of sexual abuse at the hands of physicians. From the beginning, the workgroup attempted to use a grassroots process that was inclusive and aimed at achieving consensus among a very diverse group of stakeholders.

This approach helped expose workgroup members to a variety of perspectives and enabled them to delve deeply into the issue of physician sexual misconduct, identifying key issues that became significant areas of focus in the FSMB’s updated policy on sexual misconduct that was adopted by its House of Delegates on May 2, 2020. These included explorations of the use of appropriately trained independent practice monitors, the effects of trauma on survivors of sexual abuse at the hands of physicians, and circumstances under which law enforcement should be contacted in sexual
misconduct cases, methods for optimizing data collection and increasing transparency, and the barriers to reporting that currently exist within health care institutions, academia and medical professional culture.

Central to the newly adopted policy is also a reexamined definition of what constitutes sexual misconduct. The workgroup wished to highlight the fact that sexual misconduct exists along a spectrum of severity, beginning with less egregious “grooming behaviors” and ending with outright sexual assault. A significant element of this definition is the fact that behaviors falling at any point along this spectrum are worthy of the attention of the medical profession and state medical boards. If a series of seemingly innocuous comments made by a physician are ignored or allowed to continue, this can undermine the quality of the educational and professional environment and place future patients in danger of more egregious forms of sexual misconduct. However, if patterns of behavior are identified and addressed early, future misconduct can be avoided.

After a lengthy open consultation on a set of draft recommendations that saw participation not only from state medical boards, but also from multiple organizations in the United States and regulatory authorities from around the world, the workgroup finalized a set of 38 recommendations. These focus on transparency of regulatory data and decisions, timely and sensitive approaches to complaints and complainants, clear reporting guidelines that emphasize professional responsibility and normalizing the process of speaking up, trauma-informed investigations, strong and decisive disciplinary action that is proportionate to the behaviors and circumstances it is meant to address and education throughout the educational and practice continuum.

Finally, the policy also places a major focus on making sustained efforts to eliminate sexual misconduct and to build a culture that is supportive of professional behavior and does not tolerate harassment of any kind.

Members of the workgroup and the FSMB are keenly aware of the complexity involved in implementing many of the policy’s recommendations. The policy therefore concludes with a call to the FSMB to make continued efforts to support state medical boards as they work to combat physician sexual misconduct by facilitating the adoption and operationalization of our recommendations through education and training for boards, ongoing research and improvements in our capacity and methods for data collection, and sustained dialogue around these important topics.

It is our hope that this new policy contributes to better-informed medical regulation, enhanced patient safety, and the ongoing conversation in our society about the need to address all forms of harassment, discrimination and inequity.

About the Author

Dr. King is a primary care internal medicine physician at the University of Vermont Medical Center and a professor at the Larner College of Medicine at the University of Vermont. She served as the Chair of the FSMB Workgroup on Physician Sexual Misconduct and is a former Chair of the FSMB.

References
