EDITORIAL

PROTECTION OF THE PUBLIC

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When asked by legislators or the members of the public regarding the function of medical boards, our reply is always protection of the public. As medical regulatory boards we are mandated to protect the public through licensure, the prevention of unlicensed practice, through regulation of licensees and the discipline of those licensed by our agencies.

The licensure process is a purely proactive process. Before we allow practice in our respective states we verify all aspects of education and training. We assure entry level competency with the passage of standard national examinations, which now includes a clinical skills assessment. We verify safe practice with our sister states by verifying the licensure and discipline status of the applicant. The process is fairly standard across the United States for graduates from domestic medical schools.

In recent years, I have been fortunate to see great strides being taken to ensure that a level of competency is being maintained throughout the span of an individual's licensure. The American Board of Medical Specialties (ABMS), in conjunction with the Federation of State Medical Boards (FSMB), has taken a giant leap in providing a level of assurance to the public that a license to practice medicine provides the public with the assurance that professional competence is evaluated and maintained throughout the span of an individual's professional career — through continued competency programs that include not only knowledge assessment through testing, but also a component to assure that clinical skills are maintained.

At the state level, we are offered a tool to evaluate the licensee's level of competence and training on an ongoing basis through the specialty board certification process — a proactive measure to again provide the public a level of assurance and protection through periodic evaluation of the licensee.

The regulation aspect or discipline on the other hand is an entirely different process.

At the state level we are required to prove a pattern of substandard practice in order to then be able to protect the public by limiting or restricting a license until remediation through education or training is obtained, or in some extreme cases, revocation of a license that is beyond remediation or has failed remediation.

In this arena of regulation and discipline we at the state level are almost purely operating in a reactive mode. We are dependent on the public to bring us their concerns and complaints and help us identify any problems in the practice of one of our licensees. In short, some adverse event has usually had to occur before the board can act to protect the public from further harm.

The investigation process is typically driven by an event, usually a complaint from a patient, another regulatory agency or a hospital advising the board of an adverse event regarding a licensee. The board then begins an investigation into the event, determines its authority to act, the nature of the event, the best outcome for involved individuals, what remediation is most appropriate and then the board acts. The rights of the licensee to due process are maintained throughout the discipline process.

The process takes time, personnel and funds that historically underfunded and undermanned boards perform with remarkable efficiency in most cases.

What if there was another approach to public protection?

As a driver on a public highway system, I understand I may be stopped if driving erratically or checked randomly at a check point and subject to a number of tests to assure I was

not, in fact, driving under the influence of drugs or alcohol. While I am aware I do not drink and or use drugs, I have displayed a behavior indicating there may be a problem, a performance indicator of a potential problem. The only way to make a determination if there is an actual problem is to investigate.

In 2002, following a Performance Evaluation by the legislature, the Idaho State Board of Medicine adopted rules allowing investigation based not on a violation of the Idaho Medical Practice Act, but on performance indicators. A proactive investigation, if you will.

The performance indicators were adopted from the FSMB guidance at the time and include behaviors or characteristics that may indicate a potential problem.

The indicators include, but are not limited to:

a. Frequent changes in geographical location
b. Number of inactive licenses held
c. Number of malpractice complaints
d. Number of complaints
e. Failure to obtain specialty board certification
f. Changes in area/specialty without formal retraining
g. Health status
h. Age
i. Prescribing practices
j. Physicians without hospital privileges or medical practice affiliation who are not routinely subject to peer review
k. Physician performance and outcome data received from sources such as Professional Review Organizations
l. Disciplinary reports from managed care organizations
m. Disciplinary reports by other government agencies

It is not the intent of the rules to seek out and discipline individuals who may have a problem, but, instead, to use the performance indicators to identify potential problems and avert an adverse action for the public and the physician in as many instances as possible. The Idaho State Board of Pharmacy and the Idaho Board of Medicine have a cooperative relationship. The pharmacy board refers suspicious or concerning prescribing practices to the medical board. The medical board is then able to review the care, appropriateness of the prescribing and intervene with education and or training where possible.

The Idaho Board of Medicine also reviews malpractice complaints and is able to obtain information relating to many of the indicators on renewal information and agency reports the board receives. The board may now investigate on the basis of these performance indicators instead of a violation of the Medical Practice Act or rules. It no longer has to wait for the adverse event to occur, but may investigate a physician's practice proactively based on these performance indicators.

I would love to be able to say the board is able to review all the performance indicators for each licensee of the board and take some proactive measure before an adverse event occurs, but I cannot. Like most other boards, the Idaho State Board of Medicine lacks the investigative staff, and funds to be able to fully implement and monitor the performance indicators. But the Idaho State Board of Medicine does now have another powerful tool to use in its mission of public "protection."