

PROFESSION



Yanling Yu and her husband, Rex Johnson, spent years pushing for a new Washington law to make the state's medical board more responsive to consumers. They believe her father's death was caused by an allergic reaction to medicine he never should have been given. They were upset at what they saw as a slow and insufficient response from the board. [Photo by Erika Schultz / The Seattle Times]

States eye public access to more doctor disciplinary records

Several have passed or are considering legislation to publish disciplinary, criminal and liability histories, or otherwise increase transparency of the process.

By CAROLYNE KRUPA, amednews staff. *Posted May 9, 2011.*

A long-running push for increased transparency in the medical profession has led medical boards nationwide to release more information about physicians' professional and disciplinary history online during the last 15 years.

Even so, exactly what is publicly available -- both to consumers seeking information online and families inquiring about a specific physician or complaint -- varies greatly. States are hearing from consumers that not enough information is available or easily accessible.

So at least five states have recently passed or are considering legislation that would create more transparency, particularly regarding physician disciplinary records and procedures. The measures would release more physician information, make that information easier for consumers to get, and provide quicker responses on requests to investigate physicians.

Most medical licensing boards require physicians to report information such as liability settlements and criminal convictions, but individual boards decide what is reported on their public websites, said Humayun J. Chaudhry, DO, president of the Federation of State Medical Boards.

"The amount of information that's available varies from state to state," he said. "Every board makes information available in some form."

A 2007 FSMB report found that 65 medical boards provide physician profiles on their websites, and 56 include board-related disciplinary histories. States such as Colorado, Massachusetts, North Carolina and Virginia take it a step further by providing information about felony convictions, actions of other state medical boards and certain liability claims.

Now lawmakers in Missouri and Texas are considering legislation that would expand physician information on their medical boards' websites.

Other states are looking at transparency of the disciplinary process. On April 22, Washington Gov. Christine Gregoire signed a law requiring the medical licensing commission to be more responsive to people who file complaints about physicians. Oregon lawmakers are considering establishing deadlines for public bodies to respond to public records requests, including physician information.

Proponents of such laws emphasize that the vast majority of physicians are good and ethical in their practice but say that measures forcing transparency will help patients be more informed about the small percentage of problem doctors.

But some express concern that such laws duplicate existing policies and could interfere with a physician's right to due process.

"You worry about putting them in statute -- that they won't provide greater transparency necessarily but will drive up the cost of these proceedings, which we think could be potentially problematic," said Tim Layton, director of legal affairs for the Washington State Medical Assn.

Patients push for more access

Moves toward more transparency come in response to a steadily rising public outcry spurred by media reports of medical board activities, consumer frustration and a widening expectation of easy access to information on the Internet.

Another factor is a general shift during the last several decades from patients seeing one physician for most of their lives to seeing many, Dr. Chaudhry said. "There are more moving parts than ever before in health care delivery, so patients are exposed to a variety of providers, and there is a desire on their part to know who is treating them," he said.

Yanling Yu and her husband, Rex Johnson, spent years pushing for the new Washington law after becoming frustrated with what they saw as a lack of response from the Medical Quality Assurance Commission, which oversees the state's physicians. The couple filed a complaint following the 2008 death of Yu's father, who they believe died of an allergic reaction to medication he should never have been given.

After about two years, the couple received a one-sentence letter from the commission stating it found no evidence justifying disciplinary action against the treating physician. "We were basically stonewalled. They wouldn't tell us anything," Yu said.

The law requires the commission to respond promptly to inquiries about the status of a complaint and allow patients and families to give a statement before a final decision is made.

"Hopefully, this is going to be something that other states will try to do to guarantee input for aggrieved families who have filed a complaint and don't seem to know what has happened to it," said Sidney Wolfe, MD, director of the Health Research Group at Public Citizen, a consumer advocacy organization.

Michael L. Farrell, legal unit manager with the state health department, said the commission didn't oppose the legislation because many provisions in the law already were part of its standard process. "The bill will have minimal impact on the physicians in the state of Washington," he said.

A trend toward transparency

The FSMB advises medical boards to report final disciplinary actions against physicians. That information is then distributed to boards nationwide through FSMB's Disciplinary Alert Service. "The ability to share that information across state lines is very important," Dr. Chaudhry said.

The federation also maintains a website that combines public information from all U.S. medical boards. Physician reports are available to the public for \$9.95, he said.

North Carolina made physicians' disciplinary histories available online in 2009. Many doctors raised objections early on, saying it would hurt their practices, but only about 3% of the state's physicians have anything negative to report, said Jean Fisher Brinkley, spokeswoman for the North Carolina Medical Board.

"There has been a general drumbeat over the last 10 years or more that medical boards need to provide more information about their licensees," she said. "The message is certainly clear from patients that they want -- and they frankly expect -- this information to be there."

The North Carolina Medical Society supports making more physician information publicly available, but believes certain negative information should be posted for only a set amount of time, and objects to the posting of liability claims, said Steve Keene, the society's deputy executive vice president and general counsel. If claims are to be posted, they first should be evaluated by the board to determine if they are the result of substandard care, he said.

Under North Carolina law, the medical board posts settlements larger than \$75,000. Such information has little value to consumers, Keene said. "The information that is most valuable is information that is vetted for quality, and the board opted not to do that," he said. "It's phony transparency when you put information out there that has never been vetted for quality."

In Missouri, state Sen. Kevin Engler sponsored the Senate version of legislation, also introduced in the state House, both to give patients access to more information about their physicians and the Missouri Board of Registration for the Healing Arts more power to discipline physicians. "Patient safety should be the objective," he said.

The Missouri State Medical Assn. testified neither for nor against the Senate and House bills. "The overall transparency parts we don't have any problem with," said Jeff Howell, the association's director of government relations. "Our concern is making sure that physicians ... are afforded their due process right."

The Colorado Medical Society supported 2007 legislation to make more information publicly accessible. Increasing transparency is an important step in improving patient safety, said Michael Pramenko, MD, the society's president and a family physician in Grand Junction, Colo.

"Transparency is important to our entire health care system," he said.

ADDITIONAL INFORMATION:

WEBLINK

Colorado Code 24-34-110 on disclosure of information about health care licensees
(www.dora.state.co.us/hppp/statute.pdf)

Washington House Bill 1493, effective July 22, to increase transparency of the health professions disciplinary process
([apps.leg.wa.gov/documents/billdocs/2011-12/pdf/bills/session law 2011/1493-s.sl.pdf](http://apps.leg.wa.gov/documents/billdocs/2011-12/pdf/bills/session%20law%202011/1493-s.sl.pdf))

Missouri House Bill No. 732 to increase transparency and strengthen the physician disciplinary process
(www.house.mo.gov/billtracking/bills111/billpdf/perf/hb0732p.pdf)

Texas Senate Bill No. 8 to improve quality and efficiency in health care
(www.legis.state.tx.us/tlodocs/82R/billtext/pdf/sb00008e.pdf)

Oregon House Bill No. 3319 to establish deadlines by which public bodies must respond to public records requests
(www.leg.state.or.us/11reg/measpdf/hb3300.dir/hb3319.intro.pdf)

The Federation of State Medical Boards, DocInfo physician profile and disciplinary history report service
(www.docinfo.org)

"State of the States: Physician Regulation 2007," Federation of State Medical Boards, April 2007
(www.fsmb.org/pdf/fsmb_2007_states_of_states_report.pdf)

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