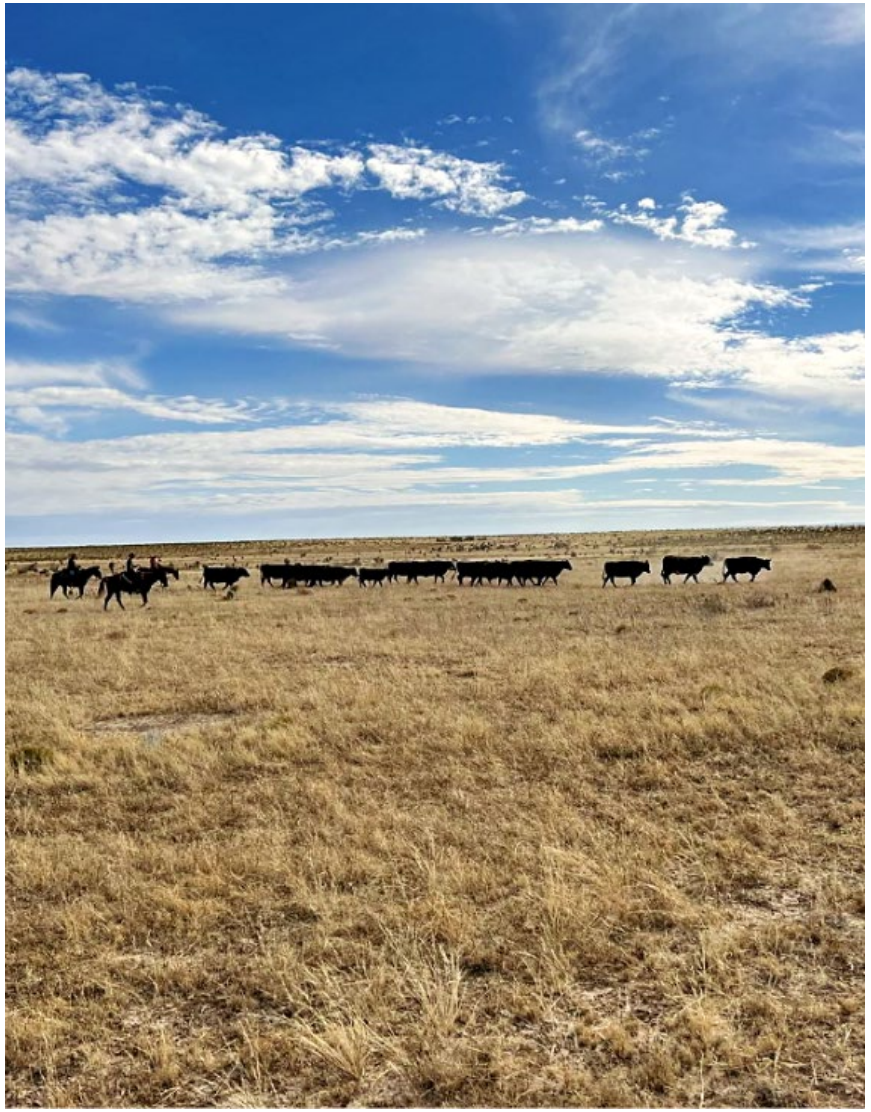
Balancing Patient Protection and Practitioner Regulation: Understanding the Role of the New Mexico Medical Board





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I have no financial, commercial, or other relationships that could be perceived as a conflict of interest related to this presentation.

Learning Objectives

1. Explain how state medical boards protect the public and regulate medical practice.
2. Identify grounds for discipline and distinguish public from administrative actions.
3. Describe the complaint process and how to respond to a board inquiry.
4. Explain how physician impairment is reported, evaluated, treated, and monitored.
5. Apply ethical and professional responsibilities when using clinical AI tools.



What do you know already? True or False?

- There are approximately 50 medical boards in the United States.
- The actual license to practice medicine is issued by a federal agency, the United States Department of Health and Human Services (DHHS).
- A license to practice medicine is a constitutional right earned by a graduate holding a medical degree.
- The primary legislative charge of a state medical board is protection of the public.



- There are about **70** state medical boards in the US.
- Regardless of your medical degree or the location where you intend to practice in the United States, you will interact with a **state or territorial** medical board who will **issue and regulate** your medical license.
- State medical boards exist primarily to protect the public. They accomplish this by **licensing** qualified physicians and other regulated practitioners, establishing **standards** for safe medical practice, investigating **complaints**, and taking **disciplinary action** when appropriate.
- The **Federation of State Medical Boards** serves as a national voice for state medical boards, supporting them with services and initiatives that promote patient safety, the integrity of the practice of medicine, access to high-quality health care and regulatory best practices. www.fsmb.org

fsmb FEDERATION OF STATE MEDICAL BOARDS

Which statement best reflects the statutory role of a state medical board within the physician regulatory system?

A. It serves as the primary advocate for physicians in matters affecting professional practice.

B. It exercises the state's regulatory authority to protect the public through physician licensure, oversight of professional conduct, and enforcement of the Medical Practice Act.

C. It adjudicates malpractice claims and awards compensation to injured patients.

D. It establishes standards for physician compensation and insurance reimbursement.

B. It exercises the state's regulatory authority to protect the public through physician licensure, oversight of professional conduct, and enforcement of the Medical Practice Act.

State medical boards are governmental regulatory agencies created under state Medical Practice Acts to protect the public. Their authority includes licensing physicians, investigating complaints, determining whether violations of the Medical Practice Act have occurred, and imposing corrective or disciplinary measures when necessary. **Their mission is public protection**—not physician advocacy, malpractice adjudication, or reimbursement regulation.

Federation of State Medical Boards. *Guide to Medical Regulation in the United States*. Federation of State Medical Boards. FSMB Guide to Medical Regulation in the United States

The **10th Amendment** declares:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”.

- The US uses a state-based system for medical regulation.
- Over time, and through a series of seminal court decisions, medical regulation, including the licensing and discipline of physicians, developed as a function of **state governments**.

Wouldn’t a national license be better?

Beyond 10th Amendment considerations, there are compelling reasons why a state-based system for medical licensure makes sense:

- Physicians and other Practitioners are licensed and held accountable by **peers and fellow citizens** familiar with the context and environment surrounding the practice of medicine in their state.
- Patients and the public have greater **proximity and access** to an oversight body situated within their state.
- Local control offers greater **accountability and responsiveness** to both the public and physicians.



New Mexico Medical Board

The New Mexico Medical Board was established by the State Legislature "in the interest of the public health, safety and welfare and to protect the public from the improper, unprofessional, incompetent and unlawful practice of medicine.”

The “mission” of the Board is to promote excellence in the practice of medicine through licensing, discipline, and rehabilitation.

The Medical Practice Act

Every state and territory in the US has existing law addressing the main elements behind the practice of medicine. Each state's Medical Practice Act defines the practice of medicine.

What do you think constitutes the practice of medicine?



NM Medical Practice Act (61-6-6): (abbreviated)

"advertising, holding out to the public or representing in any manner that one is authorized to practice medicine or to practice health care that is under the authority of the board in this state; offering or undertaking to administer, dispense or prescribe a drug or medicine for the use of another person....offering or undertaking to perform an operation or procedure upon a person....offering or undertaking to diagnose, correct or treat in any manner.....any disease, illness, pain, wound....or abnormal physical or mental condition of a person, offering medical peer review, utilization review or diagnostic service of any kind that directly influences patient care..."

NM Stat § 61-6-6 (2025)

National Practitioner Data Bank (NPDB)

The NPDB is designed to improve health care quality and protect the public by **restricting the ability of healthcare practitioners with histories of malpractice payments or disciplinary actions to move from state to state without disclosure**.

- State medical boards, including the New Mexico Medical Board, are required to query and review NPDB reports for physicians and physician assistants under their jurisdictions.
- Malpractice claims judgments and settlements reported to the NPDB are not definitive findings of negligence.
- The Board's reporting rule and the MPA statute *(16.10.10 NMAC and NMSA 61-6-16)* requires reporting of malpractice. payments/settlements/judgements to the Board by entities including the licensee, hospitals, health care entities, and professional review bodies.

Grounds for Discipline

PATIENT SAFETY

- Use of substances (pharmaceuticals, cannabis, alcohol) such that use can **impair the physician's duty to provide care**. (Safety-sensitive position).
- Incompetence, gross negligence, repeated negligence.
- Conduct that **may be harmful** to the physical or mental health of the public.
- **Non-communication with the Board or failure to comply with the Board.**

PROFESSIONAL CONDUCT

- **Social media and online professionalism**
  – Posting patient information
  – Unprofessional online behavior
  – Misinformation
- **Boundary violations:**
  – Use of the "physician-patient" relationship to engage in sexual activity with a patient.
  – Prescribing for friends/family.
  – Poor consent during sensitive exams.
- Terminating medical care without **adequate notice** or making appropriate arrangements for continued care.

INTEGRITY & COMPLIANCE

- **Dishonesty and fraud**
  – Falsifying records, billing fraud, lying on licensure applications.
  – Academic dishonesty, misrepresentations, integrity violations.
- Disciplinary **action by the board of another state** or other licensing authority including state and federal agencies.
- **Not complying with state regulations** for maintenance of the license, such as not paying state taxes, not paying child support, not fulfilling CME.

Complaints and Investigation Process

1	**Sources**	Patients, colleagues, employers, DEA, insurers, and NPDB reports.	
2	**Initial review**	The Board checks relevance and applicability under the Medical Practice Act. Appropriate complaints are investigated.	
3	**Board review**	A subcommittee recommends action. The full Board receives anonymized complaints.	
4	**Outcomes**	**Not reported to NPDB** No action or advisory letter	**Reported to NPDB** Reprimand, fine, stipulated license, suspension, or revocation

Complaint Guidance

- The complaint procedure and institution of disciplinary action is under administrative rule **16.10.6 NMAC : "Complaint Procedure and Institution of Disciplinary Action."** This is the principal administrative rule governing how complaints are handled, investigations are conducted, and actions instituted.

- Under **NMSA 61-6-34**, all records and information in the investigation file are confidential and not available to the public — unless and until the case goes to a formal hearing and/or the Board takes action.

Ethical Principles Used In Medical Board Oversight:

- **Avoiding Conflicts of Interest**
  - Physicians must avoid treating themselves or close family when clinical judgment may be compromised.
  - The Board enforces AMA Code of Ethics standards that limit self/family treatment and prohibit prescribing controlled substances to oneself or family members except in very limited circumstances.

  (code-medical-ethics.ama-assn.org)
- **Confidentiality and Privacy**
  - Licensees must protect the confidentiality of medical records and patient information.
  - Board rules govern acceptable record release, required exceptions, and timely access — balancing ethical privacy obligations with legal requirements.

Physician/ Licensee Discipline in the United States:

- State medical boards discipline licensees by issuing mandates known as “board orders”, which stipulate the specific action taken against the license.
- Based on severity and nature of the incident, boards may take one or multiple actions when licensees are found to have engaged in incompetent or inappropriate behavior.

Reported to Public:

Very Severe: Revocation, Application Denial, Surrender, Suspension

Somewhat Severe: Restricted, Probation, Conditions Imposed

Less Severe: Reprimand, CME requirement, Letter of Concern, Fine

Non-reported to Public (Administrative):

Fee, Advisory Letter

Licensee Do's and Don'ts if a Medical Board complaint notification is received:

RESPOND

- **DO NOT PANIC.** A complaint to a medical board is serious, but it does not necessarily mean the worst.
- **DO** respond within 30 days.
- **DO** provide a complete, factual, straightforward response.
- **DO** attempt to answer all the concerns alleged in the complaint.

BE COMPLETE

- **DO** provide any records or other information requested with your response.
- **DO** consult with an attorney if you have legal questions.
- **DO** check the Board website if you have questions about Rules or Statutes.
- **DO** contact Board staff if you have questions.

AVOID MISSTEPS

- **DO NOT** speak with Board members about a specific complaint.
- **DO NOT** ignore a complaint.
- **DO NOT** wait until the last minute and request an extension.
- **DO NOT** withhold facts or records.
- **DO NOT** change records.

A physician has developed a substance use disorder that may be affecting patient care. What is the primary role of a state medical board in this situation?

A. To determine whether the physician should be disciplined, with rehabilitation being a secondary consideration.

B. To protect the public while promoting safe practice, which may include monitoring, treatment, and disciplinary action when appropriate.

C. To terminate the physician's medical license immediately.

D. To provide confidential counseling services without regulatory oversight (Alternative Discipline Pathway/ Safe Harbor Pathway).

B. To protect the public while promoting safe practice, which may include monitoring, treatment, and disciplinary action when appropriate.

- The primary statutory mission of a medical board is public protection, and discipline is only one tool among many (including evaluation, monitoring, treatment agreements, practice restrictions, and, when necessary, license action.) When a physician has a potentially impairing condition such as substance use disorder, boards seek to ensure patient safety while recognizing that many physicians can safely return to practice following appropriate evaluation, treatment, and monitoring. The approach varies by state but generally balances rehabilitation with public protection.

- Federation of State Medical Boards. *Report of the Special Committee on Physician Wellness and Burnout*. Adopted 2018. https://www.fsmb.org/siteassets/advocacy/policies/policy-on-wellness-and-burnout.pdf

New Mexico Health Professionals Wellness Program (HPWP)

Provides CONFIDENTIAL services statewide for health professionals with substance use, mental health, physical health impairment and workplace issues.

- The Impaired Health Provider Act created this system where both the licensing agency and the individual health professional can obtain **assistance for potentially impairing conditions while simultaneously protecting the public**.
- Services can be accessed by either **voluntarily** (self-referred) or via **mandatory** referral (licensing board or employer) routes.
- Services include assessments, treatment referrals, treatment planning, monitoring, and reporting.
- The NM HPWP program is funded by licensure fees from MD and DO licensure.

www.nmhpwp.com

Which of the following best reflects the contemporary regulatory approach of most state medical boards regarding physician mental health?

A. A history of a mental health diagnosis is, by itself, generally sufficient grounds for denial of licensure or disciplinary action.

B. Board oversight is generally directed toward conditions that currently impair, or are likely to impair, a physician's ability to practice medicine safely rather than toward a history of diagnosis or treatment alone.

C. Physicians should avoid seeking mental health treatment because disclosure of treatment routinely results in disciplinary action.

D. State medical boards have no regulatory authority regarding physician mental health conditions.

B. Board oversight is generally directed toward conditions that currently impair, or are likely to impair, a physician's ability to practice medicine safely rather than toward a history of diagnosis or treatment alone.

Consistent with recommendations from the Federation of State Medical Boards (FSMB), the American Medical Association (AMA), and other national organizations, most state medical boards emphasize current functional impairment rather than the mere existence of a mental health diagnosis or a history of treatment. Physicians are encouraged to seek appropriate mental health care, and board intervention is generally warranted only when a condition compromises—or poses a significant risk to—the physician's ability to practice medicine safely.

Federation of State Medical Boards. *Policy on Physician Illness and Impairment: Towards a Model that Optimizes Patient Safety and Physician Health*. Adopted 2021.

Professionalism, Knowledge, and Duty to Report

- Physicians are expected to maintain honesty and professional conduct. (NMSA §61-6-15)
- One hour of required CME must be earned by reviewing the New Mexico Medical Practice Act and board rules. (N.M. Admin. Code tit. 16, ch. 10, pt. 4 - CME)
- Under NM Medical Board rule 16.10.10.14, licensees **must report** impaired, incompetent, or unethical colleagues when they have a good-faith belief that **patient safety or public health is at risk**.



A physician has a reasonable, good-faith belief that a colleague's **physical, cognitive, psychiatric, or substance-related condition** may be impairing the colleague's ability to practice medicine safely. Which response is most consistent with the physician's professional and ethical responsibilities?

A. Defer any action unless a patient experiences harm or a formal complaint is filed.

B. Address the concern privately with the colleague but take no additional action regardless of the colleague's response.

C. Take timely action consistent with applicable law, institutional policy, and available physician health program resources to protect patients while facilitating appropriate evaluation and intervention.

D. Inform affected patients directly before notifying appropriate institutional or regulatory authorities.

C. Take timely action consistent with applicable law, institutional policy, and available physician health program resources to protect patients while facilitating appropriate evaluation and intervention.

Physicians have an ethical and professional obligation to protect patients when they have a reasonable, good-faith belief that a colleague's physical, cognitive, psychiatric, or substance-related condition may compromise the safe practice of medicine. The appropriate response depends on the circumstances and applicable state law but generally includes:

- Following institutional reporting procedures.
- Consulting a physician health program when appropriate.
- Complying with mandatory reporting obligations.
- Modern regulatory approaches emphasize early identification, timely intervention, patient safety, and physician rehabilitation whenever possible.

American Medical Association. *Code of Medical Ethics Opinion 9.3.2, Physician Health and Wellness.*, American Medical Association. *Code of Medical Ethics Opinion 9.4.2, Reporting Incompetent or Unethical Behaviors by Colleagues.*, Federation of State Medical Boards. *Policy on Physician Illness and Impairment: Towards a Model that Optimizes Patient Safety and Physician Health*. Adopted 2021.

What About Artificial (Augmented) Intelligence?

"Medical boards should focus on governing the use of AI through established ethical principles, including respect for patient autonomy, nonmaleficence, beneficence, and justice, that have served as the foundation of professional expectations and demonstrated applicability in a variety of situations, regardless of treatment modalities or technology involved."

FSMB Policy Paper April 2024:
www.fsmb.org/siteassets/advocacy/policies/incorporation-of-ai-into-practice.pdf

- Education is critical.
- Physicians remain accountable.
- Informed consent and data privacy are paramount.
- Proactively address bias and access.
- Anchor AI governance in ethics.
- Collaboration is key.

Roughly four out of five doctors (81%) say they're using AI in their work. (www.ama-assn.org/system/files/physician-ai-sentiment-report.pdf)

- **Autonomous AI is expected to outperform clinicians in information gathering, diagnosis, and treatment recommendations, with "human-in-the-loop" oversight potentially degrading performance as model accuracy increases.**
- Regulatory clearance, malpractice responsibility, and payment pathways remain **underdeveloped**, delaying large-scale clinical deployment despite rapid capability gains.

Emanuel EJ, Baker-Butler A, Khosla N, Khosla V.
Will Autonomous AI Exceed AI-Aided Physicians as the Best Medical Care?
JAMA. 2026;336(11):915–918. doi:10.1001/jama.2026.15380

- “The physician's role will continue to evolve. The **profession's enduring responsibilities, including its ethical principles, will not**.”

www.ama-assn.org/system/files/framework-physician-role-digital-ai.pdf

- “Three guideposts described in this American College of Physicians position paper and rooted in the **patient–physician relationship**—principles of medical ethics, clinical integrity, and physician-independent practical reasoning—can **inform the ethical use of AI: relationality, self-governance, and competence.”**

Annals of Internal Medicine: https://doi.org/10.7326/ANNALS-26-01792

Further Resources:

- Artificial Intelligence (AI) Resource Hub | ACP Online: www.acponline.org/clinical-information/clinical-resources-products/artificial-intelligence-ai-resource-hub
- AMA Center for Digital Health and AI: www.ama-assn.org/about/ama-center-digital-health-and-ai
- www.ama-assn.org/practice-management/digital-health/ethical-questions-about-health-ai-ama-has-guidance

A physician uses an artificial intelligence (AI)-enabled ambient documentation system during patient encounters. **According to current professional and regulatory expectations, which statement best describes the physician's responsibility?**

A. Once AI-generated documentation has been incorporated into the electronic health record, responsibility for its accuracy is shared equally between the physician and the AI vendor.

B. A physician may rely on AI-generated documentation without independent review if the system has been approved by the physician's practice or health system.

C. The physician remains professionally and legally responsible for reviewing, correcting as necessary, and authenticating AI-generated documentation before it becomes part of the patient's permanent medical record and for ensuring that clinical decisions remain the product of independent professional judgment.

D. AI-generated documentation should not be incorporated into the permanent medical record because it cannot satisfy professional or regulatory documentation requirements.

C. The physician remains professionally and legally responsible for reviewing, correcting as necessary, and authenticating AI-generated documentation before it becomes part of the patient's permanent medical record and for ensuring that clinical decisions remain the product of independent professional judgment.

Artificial intelligence is a clinical support tool that may improve efficiency but does not replace a physician's independent professional judgment or accountability. Consistent with the **New Mexico Medical Board's AI Policy** and guidance from national medical organizations including the Federation of State Medical Boards, physicians remain responsible for the accuracy, completeness, and clinical appropriateness of all documentation, regardless of how it is generated. Before authenticating the medical record, physicians should review AI-generated documentation, make any necessary corrections, and ensure it accurately reflects the patient encounter. The use of AI does not alter the physician's ethical, legal, or regulatory responsibilities for patient care or the contents of the medical record.

Federation of State Medical Boards. *Artificial Intelligence and Machine Learning in Health Care and Medical Regulation*. FSMB House of Delegates. April 2023. www.nmmb.state.nm.us/policy/ai-policy



Thank You!

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