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State Legislatures Wade into MOC Debate

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Since her residency in 2003, Grand Rapids, Mich., pediatrician Megan Edison, MD, has done everything required to maintain her board certification.

She passed her tests, paid her fees, and completed required "continuous learning" projects even as their frequency and difficulty increased demands on her time.

In one particularly awkward exercise, she even distributed surveys to her patients' parents, asking them to score how well she washed her hands.

None of it improved her patient care, she said. Test questions were "pretty worthless," often showing old, discarded practices as the correct answer. Begrudgingly, she put up with it until December 2015.

That's when the American Board of Pediatrics threatened to yank her certification if she didn't pay another \$1,300. "It was just down to money. If I didn't give them \$1,300, I'd lose my certification," she said.

She angrily protested, refused to pay, and posted a scathing letter on Rebel.MD explaining why the board had gone too far. Certification had become "a monster" that put her in a "hamster wheel."

But resistance carried consequences. A major insurance plan told her that without certification, she was no longer considered a provider in that plan.

She appealed. But the plan sent letters to her patients "saying I was no longer a provider, and they were being reassigned to another doctor." Distraught parents called, disrupting office workflow and upsetting the staff, she said.

She had no choice. It was either pay the \$1,300, plus a \$200 late fee, or lose a lot of patients.

A few weeks ago, she relented and paid up. "Within seconds I was board certified again."

Action in 17 States

Stories like Edison's have prompted a legislative backlash with bills or laws in at least 17 states, most of them introduced this year by physician lawmakers. They would prohibit health plans, hospitals, and/or state licensing agencies from requiring physicians to be board certified and/or participate in periodic maintenance of certification (MOC) programs operated by specialty boards.

The Michigan State Medical Society has prioritized several bills with its Right2Care campaign website where a video features Edison.

One bill would prevent a health plan from removing a non-board certified physician from a network, like what Edison said happened to her. A second would prohibit the state licensing agency from denying a doctor's license on the basis of board certification or MOC. A third, introduced in late 2015, would prevent a hospital from denying admitting privileges to a physician who is not board certified.

"We're not opposed to board certification," emphasized Martin Dubravec, MD, an allergy and immunology specialist in Cadillac, Mich. "We're opposed to mandatory board certification."

But doing what the specialty boards want comes with higher fees and more time studying and taking tests, "with no good science to say they're relevant," said Dubravec.

"These are not regulated by any state or federal agency, and therefore should not have undue influence on whether

a physician should be able to practice medicine," he said.

Many states' proposed or enacted legislation on the topic seeks to prophylactically prevent state licensing agencies from using a doctor's lack of specialty certification or MOC to deny or revoke a physician's license, which no state licensing agencies now do. But many fear that's coming.

Under the Interstate Medical Licensure Compact, the 19 currently participating states may allow a physician who is board certified, and meets certain other requirements, to bypass some state vetting processes to become licensed to practice in that state. The compact began accepting applications in April.

There is fear that states may become more aggressive in requiring board certification as a condition of state licensure.

"There have been documented efforts to make board certification and MOC an aspect of licensure requirements," said Jeremy Snavelly, business manager of the libertarian Association of American Physicians and Surgeons, based in Tucson, Ariz.

Oklahoma was First

Oklahoma was the first state to pass a law prohibiting discrimination based on certification last year. The language sought to prevent a hospital from requiring a physician to participate in specialty board MOC programs as a condition for staff privileges, employment, reimbursement or licensure. But Rep. Mike Ritze, MD, a family medicine practitioner from Tulsa who co-authored the bill, said one Tulsa hospital found a loophole; the law inappropriately coded the statute.

Ritze introduced clarifying legislation but it failed. The American Board of Medical Specialties (ABMS), the umbrella organization for 24 specialty boards, "brought in four powerful lobbyists to kill the bill," he said. A third legislative try is in the works.

Kentucky and Arizona also passed laws last year. They limit the ability of state agencies to deny licensing based on MOC or board certification status.

In California, a bill introduced in February by Sen. Richard Pan, MD, says, "The award or maintenance of hospital or clinical privileges, or both, shall not be contingent on participation in a program for maintenance of certification."

If passed, such language would invalidate policies in many hospitals that require board certification and MOC.

Four other state legislatures have passed laws that now await their governor's signatures. Missouri, Maryland and North Carolina bills would limit MOC and board certification from being used to deny licensure; Georgia's, sent to the governor in April, precludes MOC from being used "as a condition of licensure to practice medicine, employment in certain facilities, reimbursement, or malpractice insurance coverage; to provide for definitions; to provide for related matters; to repeal conflicting laws; and for other purposes."

ABMS Pushes Back

The ABMS acknowledged it is working hard to defeat this flurry of legislation, which it believes "puts patients at risk," according to a statement from spokeswoman Susan Morris.

Board certification with its periodic testing and learning exercises through formalized MOC programs make sure physicians know the latest evidence to assure patients and insurers they give good patient care, the ABMS believes.

Otherwise, physicians can say they're board certified simply because they passed their exam decades ago, with no other proof of learning other than varying, self-selected continuing medical education (CME) course credits required in each state. Those don't usually come with quizzes that doctors pass or fail.

"Patients deserve to know that their physicians are up to date," Morris said. "Faced with a physician who was initially certified after residency but who has not kept the certificate current, patients will be in the dark. They will not know whether that physician chose not to participate, or failed to earn recertification, or was denied the certificate for unprofessional behavior."

With so much objection from physicians, many of the boards have modified their requirements. For example, the American Board of Internal Medicine, which certifies some 200,000 physicians, has softened its requirements, allowing physicians to complete learning programs in open book or "Knowledge Check-In" models, a bit more like how they typically practice.

"We are no longer this top down organization," ABIM board member Marianne Green, MD, said March 31 during the annual meeting of the American College of Physicians in San Diego.

Green emphasized that "a good body of literature" shows that certification and MOC make a difference in patient care. They encourage physicians' adherence to guidelines resulting in better outcomes. "Things like disciplinary actions and mortality have been linked with various measures of certification and MOC."

In response to what happened to Edison, current ABP president and CEO David Nichols, MD, said in a statement he understands "the time, effort and expense involved in maintaining certification." He added that the ABP is trying to improve the criteria.

"However, I stand with the vast majority of board-certified pediatricians who find value in continuous learning and improvement." He stressed that the ABP board opposes the legislation under discussion in various states, especially versions that would allow doctors to pass muster by only completing their CME.

R. Adams Dudley, MD, director of the University of California San Francisco Center for Healthcare Value who has studied whether MOC makes better doctors, disagrees. "If MOC were a drug, it would definitely not get FDA approval," he said. "There's no evidence at all."

Rather, he said, "let's not see whether doctors can pass a test which asks esoteric questions," which is not how doctors really practice anyway. Instead, he said, "doctors should be measured on their outcomes."

Continuous learning modules emerging in specialty boards are somewhat better, "but there's no evidence that improves patient outcomes either," he said.

In hearings on a Texas bill introduced in February to ban discrimination against doctors not participating in MOC, Houston neurologist Kim Monday, MD, testified that MOC can cost doctors \$10,000 or more. She further charged that MOC "has become more of a money-making scheme versus a relevant tool to help physicians stay current on best practices."

Monday mentioned two issues that especially irk many of her colleagues. First, she said, older doctors have generally been granted "grandfather" status by their boards, and don't have to go through these re-certification hoops. "That dichotomy makes absolutely no sense," she said.

The second issue is the types of questions and activities that various boards require. Her neurology board wants her to know specifics in the genetics of pediatric neurology. "I practice adult neurology, so I don't need to know that. I'm not going to evaluate a newborn."

"It may sound scary to a lay person that doctors seem to want to know less information," she continued. But times have changed. Doctors faced with a puzzle "can look up anything you need on your phone anytime."

Florida Bill Killed

A Florida bill introduced earlier this year by Rep. Julio Gonzalez, MD, an orthopedic surgeon, would have prohibited

use of MOC or recertification status to deny licensure, reimbursement or admitting privileges for physicians who were initially board certified.

The bill is dead for this year because, according to St. Petersburg neurosurgeon David McKalip, MD, "insurance companies and hospitals strongly opposed it."

Hospitals and insurance companies want to control doctors and how they practice medicine in the hospital, he said. "But MOC does not improve any quality of care whatsoever. The main motivation of MOC is to make money for the boards, tens of millions of dollars."

Many of the questions contain "esoterica, not applicable to the real practice of medicine," he said.

The American Hospital Association declined to comment, referring questions to state hospital associations.

Other bills this year were introduced in Alaska, Maine, Massachusetts, New York, Rhode Island, and Tennessee.

Though Edison gave in, she has not given up, becoming a poster child for physician resistance. She said she has a lot of company, especially when reports come out about million-dollar salaries paid to officers of non-profit specialty boards that hold her future in their hands.

"These boards are making millions and millions," she said, pointing to former ABP president James Stockman, MD, who she said was making \$1.3 million in salary. "That's the kind of stuff that burns you when we're working so hard every day, only to see one more requirement from an unaccountable board, which if we don't comply, we can't practice medicine."