



February 6, 2017

Senator Jerry Hill
Chair, Senate Business, Professions and Economic Development Committee
State Capitol, Room 2053
Sacramento, CA 95814

Assemblymember Rudy Salas
Chair, Assembly Business and Professions Committee
Legislative Office Building, Room 383
Sacramento, CA 95814

Re: Medical Board of California sunset review

Dear Senator Hill and Assemblymember Salas:

There is a common refrain in Consumer Watchdog's conversations with individuals who have filed a complaint after they or a family member were harmed by a doctor's negligence. Their experience with the Medical Board of California is negative and frustrating.

Interviews we have conducted with dozens of patients and family members indicate that, in most closed cases, the person who filed the complaint is never contacted by Medical Board analysts to discuss the case. The Central Complaint Unit closes most complaints before ever referring them for further investigation.

It would be unthinkable to decide the merits of a rape case without collecting evidence and interviewing both the victim and the accused. It is equally inconceivable that the Medical Board would close a complaint involving potentially life-threatening negligence after a medical expert gets only the doctor's side of the story. Yet that appears to be the outcome of most complaints to the Board.

Front line medical experts are instructed that the Board has a "clear and convincing" burden of proof to meet and a case should not go forward without it. Yet they cannot make that determination without all of the facts in front of them, and should certainly not make it based on data provided solely by the medical professionals accused in the case.

Our interviews have also uncovered cases of negligence in which medical records were added to or altered by medical personnel after the fact. Factual disputes should not be resolved

unilaterally in favor of the doctor being investigated. A clear dispute about the facts of a case is also grounds for further investigation.

The Board's handling of consumer complaints is rated poor to very poor by 88% of survey respondents, according to the sunset review report. Though these numbers may have no statistical weight, they paint a dramatic and discouraging picture of a complaint process that does not work for anyone except the doctors it is charged with investigating. The Board insinuates that this rate of dissatisfaction is acceptable, because bereaved family members or harmed individuals will never be satisfied. Yet there is something deeply wrong if the process is not responsive to the consumers it is supposed to serve.

We urge you to require a detailed review of the Medical Board's complaint process as part of the sunset review. When a doctor's negligence may be costing lives, complaints deserve thorough investigation not routine dismissal. At minimum, the Board should be required to interview the person harmed or the person who submit the complaint, obtain records directly from both the complainant and the doctor, and should be prohibited from closing any investigation when the basic facts of the case are in dispute.

Sincerely,

A handwritten signature in black ink that reads "Carmen Balber". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Carmen Balber