



October 22, 2015

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

Assemblymember Susan Bonilla, Chair
Business & Professions Committee
1020 N St., Room 383
Sacramento, CA 95814

Dear Senator Hill and Assemblymember Bonilla:

Licensing boards controlled by the profession they regulate act in the interests of their members, not the interests of the public. Seven months ago the U.S. Supreme Court found, in *North Carolina Board of Dental Examiners v. Federal Trade Commission*, such boards now can and will be held accountable for violating anti-trust laws.

This is Civics 101: Don't let an industry regulate itself.

It is astonishing that neither the Legislature nor the administration has acted to correct this longstanding problem. Now, with *North Carolina*, the Court has given the California a legal reason to act. There is a simple solution. Reconstitute the Medical Board in the public interest by removing physicians to create an all-public member Board. A public-run board, with members who are truly independent of physicians, will eliminate the anti-competitive behavior to ensure the Board protects patients, not doctors.

Self-regulation has been the status quo for doctors in California for far too long.

In 1995 we backed legislation by then-Assemblymember Sheila Kuehl, AB 281, to create a public-majority board, but the bill was killed by the medical lobby. Since then, California's physician-controlled medical board has only become more of a safe harbor for the state's worst physicians. In one high-profile scandal, the Medical Board was exposed as having failed to identify dangerous over-prescribing patterns of practice that placed patients at risk. One such doctor made \$1 million per year writing prescriptions that caused or contributed to the overdose deaths of eight of his patients. He kept practicing for years as the Medical Board finally began investigating his case. The investigation dragged on as more patients died, despite clear evidence of his drug dealing.

Typically, the board acts only on complaints by consumers, and even these investigations are rare. Once an investigation is begun, it takes years to resolve, too long for patients who may be at imminent risk of harm. When prosecuted, an enforcement case can stagnate in five layers of review. A 2011 analysis of

the National Practitioner Data Bank by the nonprofit Public Citizen found that 710 California physicians had their privileges restricted in hospital or other settings. The Medical Board had not taken a single disciplinary action against them.

In conducting oversight and the Medical Board's sunset review, your committees have uncovered countless other examples of the Board's tendency to protect doctors at patients' expense. Under tough scrutiny from the Legislature and media, the Board has been forced to make some incremental changes. Yet forty years of incremental change has not made California patients safer.

You have the opportunity to end the protection racket and reshape the membership of the Medical Board in the public interest, with an all-public membership free of financial or personal connections to the medical industry. We look forward to working with you on this change and broad reforms to create a new California Medical Board where patient safety is paramount.

Sincerely,

A handwritten signature in black ink, reading "Carmen Balber" in a cursive script. The signature is followed by a long horizontal flourish line.

Carmen Balber
Executive Director