



What to Do if You Have a Concern About the Quality of Care from a Maine Doctor

Advice and resources for dealing with quality concerns

For many of us, our doctor is one of the most important people in our lives. We trust him or her to help keep us well or care for us when we're sick. There are about 3,600 actively practicing doctors in Maine, and most provide high-quality care to their patients. There are times, however, when people have concerns about the quality of care received from a doctor. If this happens to you or a loved one, this tip sheet can help. It gives you:

- Practical advice about what to do and who to talk with, including phone numbers and addresses
- Links to resources that can help

This tip sheet explains steps you can take in your doctor's office to deal with your concerns about quality. It tells you how to contact places that regulate or oversee doctors. You can also consider filing a lawsuit, but that is not the focus of this tip sheet.

Is it worth it to pursue a concern about quality?

For many of us, it's not easy to act on a concern about the quality of physician care that we or our loved ones receive. It's even harder if we try to talk with a doctor or their staff about our concerns, but don't feel we're getting anywhere. The process can be stressful, frustrating and take a long time. In the end, it's possible that others may not agree with the way we see the situation.

Is it worth the time and energy to take action about the quality of a doctor? Only you or your loved one can decide. In making the decision, think about the continued harm that might take place if you do nothing—and think about how the actions you take might lead to better care for future patients and their families.

What is quality of care?

Quality health care is doing the right thing, at the right time, in the right way, for the right person and with the best possible results. Generally, care delivered by doctors and other health professionals must meet a “standard of care.” That standard is the expected level and type of care provided by the average competent health professional in a given situation. A standard of care is based on good scientific studies or agreement among experts.

What can you expect as a patient regarding the quality of physician care?

To become a doctor, students have to go through a long training process. This includes hands-on learning in hospitals and other health settings. When they finish training, doctors promise to “do no harm” to their patients.

As professionals, doctors voluntarily follow codes of ethics that lay out the way they are to behave. For example, the American Medical Association Code of Ethics notes some patient rights in the patient-physician relationship:

- The patient has the right to receive information from physicians and to discuss the benefits, risks and costs of treatment options.
- The patient has the right to make decisions regarding health care recommended by his or her physician and may refuse any recommended treatment.
- The patient has the right to courtesy, respect, dignity, and timely attention to his or her needs.

The American Board of Internal Medicine Foundation and other partners have published a new physician code or charter. The Foundation works with an organization that certifies physicians caring for adults. This document specifically addresses quality and competence in what is expected of doctors:

- Physicians must be committed to lifelong learning and be responsible for maintaining the medical knowledge and clinical and team skills necessary for the provision of quality care.
- Physicians must be dedicated to continuous improvement in the quality of health care. This commitment means not only keeping their skills up-to-date, but also working with other professionals to reduce medical error, increase patient safety, keep an eye on costs and make sure patients are getting the best possible care.
- Physicians are required to provide care that is based on the wise and cost-effective management of limited resources. This includes avoiding unneeded tests and procedures that expose patients to avoidable harm and expense.

What are examples of quality concerns you might experience?

Health care quality concerns could arise for a variety of reasons while you are under a doctor's care. Some concerns are the result of a specific action a doctor or staff member takes (or doesn't take) as they treat you or a family member. This includes misdiagnosing a condition or prescribing a drug that you shouldn't take.

Other quality concerns result from how well the doctor's staff work together to safely care for you—for example, making sure that the right medical chart goes with the right patient or that patient messages are delivered on time. Some things are always cause for concern, such as when a physician or

physician office member has a drinking problem or uses drugs. Some of these actions may not affect your health at all; some may cause inconvenience or pain; others may cause serious harm.

The most common complaints received by organizations that oversee or regulate doctors nationwide are:

- Over-prescribing drugs or prescribing the wrong drug
- Failing to diagnose a medical problem that is found later
- Misreading x-rays to identify a medical problem
- Failing to get back to a patient with medical results in a timely manner, which leads to harm to that patient
- Failing to provide appropriate care after a surgical procedure

What should concern patients the most—and what concerns organizations that oversee doctors—is when there is a pattern of problems with a doctor. If something happens once, it is usually a mistake. If it happens again and again, it may indicate a larger problem of competence or quality that could hurt any patient.

What steps should you take if you have a concern about quality?

Step 1 – Talk to your doctor or another staff member who can address your concern.

Depending on what kind of problem you have and your relationship with your doctor, you might talk directly to him or her or to another office staff member about your concern. For example, if your concern relates to the way the doctor's office is organized, the doctor and staff may not know how it feels to be a patient in their office. They might be particularly interested if you thought mistakes could result from what you see. Speaking honestly about your concerns gives your doctor or another staff member the opportunity to explain why things happen the way they do. It may also lead to changes in the office. But be aware if problems continue.

If your concern is more medical in nature—for example, getting the wrong prescription, the wrong dose, or the wrong referral—you should speak with the doctor directly to correct the problem. This is particularly true if the wrong action by a doctor led to additional costs for you. If this happens, explain the situation to the doctor and see if he or she will adjust what they charge you.

If your concern is with a doctor that you've been referred to for specialty care, share your concerns about that physician with your personal doctor. It will help your doctor decide whether to refer other patients to that physician. Or, if your concern is with a doctor you're seeing while in the hospital or another health organization, again, let your personal doctor know. He or she may be able to tell you who in the facility can help you.

Step 2 – Leave the practice.

If you continue to have concerns about the quality of a doctor and their staff, you have the option to leave the practice and go to another doctor. Remember to check with your health insurance plan to see which doctors work with your plan and which are taking new patients.

You do not need to tell your doctor why you are leaving, but you might consider writing a note with your concerns. The more specific you are, the more he or she might be able to understand your views and possibly take action on them.

If you leave the practice, you should request copies of your medical records to take with you. Under Maine law, you have the right to request a copy of your records. The doctor can charge up to \$5 for the first page of your records and forty-five cents for each additional page up to a maximum of \$250 for the entire record. If it's hard to pay the cost, talk to the doctor's office to see if they will charge you less.

Step 3 – File a complaint with the Maine Board of Licensure in Medicine.

If you feel you should take action to protect yourself and other patients from a doctor who you think poses a safety threat, you can file a complaint with the Maine Board of Licensure in Medicine. The Board's mission is to protect the public from medical doctors and physician assistants who are causing harm. It has the power to discipline a doctor—to decide whether and how a doctor can practice medicine in Maine. Bear in mind that the Board can't get involved in the actual care you receive. It can only determine if the doctor needs to be disciplined.

The Board has a Consumer Assistant to answer questions and guide you through the process of filing a complaint. The Consumer Assistant can be reached at the following numbers:

888-365-9964 (in Maine)

207-287-3601 (outside of Maine)

Be aware that if your case is taken up by the Board, the process can take a long time and involve many steps before action, if needed, is taken against a doctor. And if it goes forward, your concerns will become the Board's concerns. That means that you will not be able to decide what happens with the case. The Board and lawyers from the state will represent the concerns that you have.

There were about 180 complaints against doctors in 2013. Approximately 9% (16) of those complaints resulted in some type of action taken against a doctor's license.

Filing the Complaint: You must file your complaint in writing. The Board has a consumer complaint form that you should use. It is available online to print out, fill out and mail in.

Maine Board of Licensure in Medicine Complaint Form

http://www.docboard.org/me/online_services/dw_complaintform.pdf

Send to:

Maine Board of Licensure in Medicine

137 State House Station

Augusta, ME 04333-0137

888-365-9964

You can also submit your complaint by e-mail:

http://www.docboard.org/me/online_services/dw_complaint_email.htm

The investigation: When the Medical Board of Licensure receives your complaint, staff will look at it to see whether it involves:

- 1) Incompetence—that is, that the doctor lacks the knowledge or ability to practice medicine, or
- 2) Unprofessional conduct such as rude comments, yelling at a patient or not keeping medical information private.

The staff will send you a letter telling you that they have your complaint. Staff will also send a letter informing the doctor that a complaint has been received about him or her. They will ask the doctor to answer your complaint in writing. Usually, you are able to see what the doctor says, unless the Board thinks that it could hurt your health. And, if you want to, you will be able to respond to what the doctor said in writing. Staff will also collect other information such as medical records.

Next Steps: All of the information from you, the doctor and the staff then goes to the members of the Board of Licensure in Medicine. The nine-member Board is made up of six physicians and three non-physicians. You will be able to attend this meeting, but only to watch. You cannot speak. The doctor may also attend the meeting to watch.

The Board reviews all of the information and decides what should happen next. They may dismiss the case, they may ask for additional information, or they may require a further meeting called either an “Informal Conference” or an “Adjudicatory Hearing.” You will be told about the outcome of the Board's review.

If the Board decides to dismiss the case now or at any point along the way, you can request that they look at the case again only if you have new information that wasn't given before. The Board does keep a record that a complaint was filed against the doctor, though much of the information about the case is destroyed.

Meetings: An Informal Conference is a meeting between you, the doctor, and the Board. You can bring two other people with you, including a lawyer. You will have the opportunity to speak directly to the Board about your concerns.

An Adjudicatory Hearing is a more formal meeting in front of the Board. It is like a trial and involves sworn testimony. You may be called as a witness, but otherwise you can watch if you want to. Lawyers from the state represent your concerns.

If the complaint about the doctor is found to be true after any of these meetings, the Board will decide on a penalty. Penalties range from a warning to taking away a doctor's license to practice in the state. If the Board decides to punish a doctor (called an adverse licensing action), that information is available to the public on the Board's website (see Maine Adverse Licensing Actions website below). You will receive written information about what happened.

It's important to note that at any point along the way, the Board may agree to settle the matter with the doctor through something called a “Consent Agreement.” This would end the case. You will receive a copy of the Consent Agreement.

How long does this process take? There are no required timelines for how long the entire complaint process takes. Generally, it takes 3-4 months to gather information before the complaint goes to the Board for the first time. A complicated case that goes through the entire process can take up to 2 years.

Additional information about the Maine Board of Medical Licensure complaint process:
<http://www.docboard.org/me/ConsumersGuide.pdf>

Note: There is also a Maine Board of Osteopathic Licensure for doctors who have received osteopathic training (which involves training on moving muscles and joints). They generally have a D.O. after their

name, rather than an M.D. For more information about complaints against Osteopathic Doctors, see the following information:

<http://www.maine.gov/osteo/consumer/index.htm>

Where else can you go with a concern about the quality of a Maine doctor?

Medicare: If Medicare (the federal health insurance program for people over age 65 or people under 65 who are disabled) pays for the care you're receiving from a doctor, you have an additional place to go with a quality concern. Medicare pays a Quality Improvement Organization (QIO) to take complaints from Medicare patients. Be advised up front, however, that these organizations primarily help doctors improve the care they provide. They do not punish doctors.

In Maine, the QIO is called Livanta. You can call Livanta at the following number: 866-815-5440

Explain to the person who answers the phone what your concerns are. Depending on the type of problem you are having, they may be able to help you right away. For example, with your permission, they may be able to call the doctor's office to see if they can help solve your problem. In other cases, they may ask you to send your complaint in writing using a complaint form.

After you file a complaint with Livanta and allow release of your medical records, a doctor will review your records. After the review, you will get a letter indicating whether the standard of care was met in your case or not—that is, whether the expected level and type of care was provided.

For more information about the Livanta complaint system and to access an online complaint form: <http://bfccqioareal.com/>

Physician Organizations

The physician's specialty society: A few physician specialty societies (the professional association affiliated with the physician's type of practice—for example, pediatrics or orthopedics) accept and have a process to review complaints against their members. For example, the American College of Physicians (ACP), an association of internal medicine doctors who generally treat adult patients, has a process for addressing "ethical complaints" from patients against their physician members. For more information about the ACP process: http://www.acponline.org/running_practice/ethics/complaints

Consumer Organizations

The Safe Patient Project (SPP) is a project of Consumers Union (publishers of *Consumer Reports* magazine) that seeks to end medical harm in the health system. The Project is collecting stories about patients' experiences and concerns with their care in hospitals and from doctors across the nation, including Maine. While they can't help with your specific complaint, the collective power of stories from patients and families can help pass laws and seek other changes to make the health care system safer.

<http://safepatientproject.org>

In a joint effort with the **Empowered Patient Coalition**, the Safe Patient Project is conducting a survey about medical events from the perspective of the patient. For more information about the survey:

<http://empoweredpatientcoalition.org/report-a-medical-event>

ProPublica is a nonprofit investigative journalism organization. They have an online patient harm questionnaire that asks for details about your concern. They write articles about people's experience of patient harm to bring public attention to these issues. The organization won't publish any information that would identify you without your permission. ProPublica also sponsors a Facebook group that can connect you with other patients who have been harmed.

Here is a link to their patient harm questionnaire:

<http://www.propublica.org/getinvolved/item/have-you-been-harmed-in-a-medical-facility-share-your-story>

On Facebook, search for: ProPublica Patient Harm Community

Where can you find out information about doctors in Maine?

Maine Adverse Licensing Actions: A state website that includes all doctors who have had some type of adverse action taken against their license to practice medicine.

http://www.docboard.org/me/discipline/dw_actions.html

Maine Board of Licensure in Medicine “Search for a Physician”: A database of information about all doctors licensed in Maine that includes what medical school they attended, graduation date and other information.

<http://www.docboard.org/me/df/mesearch.htm>

Maine Health Management Coalition: A non-profit group of employers, doctors and health plans working together to improve quality in Maine. The Coalition provides information doctors that treat common conditions such as diabetes, heart disease and pediatric asthma.

<http://www.getbettermaine.org/>

Other useful information:

If you're concerned about the quality of care in a Maine hospital, managed care plan (HMO), or nursing home, or the care provided by registered nurses, here's where to go for more information:

Hospitals

What To Do if You Have a Concern About Quality in a Maine Hospital

<http://www.informedpatientinstitute.org/HOSQuality-ME.php>

Managed Care/HMOs:

Maine Bureau of Insurance

<http://www.maine.gov/pfr/insurance/complaint.htm#a>

Nursing Homes

What To Do if You Have a Concern About Quality in a Maine Nursing Home

<http://www.informedpatientinstitute.org/NUHQuality-ME.php>

Registered Nurses, Licensed Practical Nurses

Maine State Board of Nursing

<http://www.maine.gov/boardofnursing/Discipline/complaint.htm>

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