The stated mission of the State Medical Board of Ohio is “To protect and enhance the health and safety of the public through effective medical regulation.” However, recent reports involving the board and Dr. Richard Strauss have shocked even those of us all too familiar with the shortcomings of state medical boards nationwide.

First, there was the incomprehensible way the Strauss case fell into an investigative “black hole,” with Ohio having credible evidence of abuse but doing nothing. Second was the number of patients Strauss sexually abused — almost 1,500. Third, the fact that not a single physician reported Strauss during his 20 years of abusing patients, a sickening manifestation of a culture of medical omerta.

Gov. Mike DeWine got it right when he said this represented “a failure of people to do what’s right.” DeWine also was right to mandate, in an unprecedented order, that the medical board look at thousands of older cases to identify other possible “black holes” and complicit physicians who had known of abuse but remained silent.

The facts of the Strauss case are horrifying; the systemic failure of the Ohio board egregious. But the problems of medical regulation are greater than Strauss. With a few exceptions, the system of state-based regulation of physicians in this country is broken. State medical boards, often toiling invisibly in
bureaucratic backwaters, are not equipped to effectively perform their primary mission of protecting the public from incompetent and unethical physicians.

One example of this broken system: According to an analysis of data from the federal National Practitioner Data Bank, state medical boards have failed to take any disciplinary action against 380 physicians who have been determined by their hospitals to be an “immediate threat to health and safety.”

Here are four key steps that will help improve accountability to the public:

1. Insure state medical boards are sufficiently funded to do their job. Many state boards run on a shoestring. They are underfunded and unknown. As a result, they can’t effectively investigate and take action against the licenses of bad doctors.

The lack of financial and human resources is not a new problem but until this changes, nothing else will change.

2. Expand and enforce mandatory reporting laws. Mandatory reporting laws require that licensees who are aware of the misconduct of another licensee must report this misconduct to the medical board. The way to break the “white coat of silence” is to discipline doctors who, by their silence, protect their incompetent or abusive colleagues. The decision to remain silent must have consequences.

3. Replace secrecy with transparency. The disciplinary work of medical boards has always been behind closed doors. In 2019, this is unacceptable. In most states, patients can’t even find out if their physicians are facing a formal complaint of sexual abuse or other misconduct.
All medical board actions should be easy to find on a public website. Medical boards should follow California’s lead in taking proactive steps to notify patients if their doctor has been disciplined and the reason for the action. There also must be full annual disclosure about all disciplinary activities, including number of complaints, cases investigated, number of physicians charged, percentage of complaints resulting in charges and average time duration for each investigative stage.

4. Substantially increase the number and type of public members on boards. Progress has been made in incorporating the public voice, but there are still state medical boards in 2019 with no public members. Just as important, some of the public members should have a track record of consumer/public interest advocacy (vs. working in other parts of health care, such as attorneys or hospital administrators). Public members must be empowered, through robust orientation programs and continued support, to see themselves as full, equal board members charged with protecting the public interest.

Otherwise, public members may be marginalized or cowed into silence by the professed “expertise” of physician members.

Stephen Seeling is the former executive director of a state medical board and is a member of the Medical Board Roundtable. He has been involved in medical regulation for more than 25 years.