

# Health Letter

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## Ranking of the Rate of State Medical Boards' Serious Disciplinary Actions: 2002-2004

Based on data from the Federation of State Medical Boards (FSMB) on the number of disciplinary actions taken against doctors in 2002-2004, Public Citizen's Health Research Group has calculated the rate of serious disciplinary actions (revocations, surrenders, suspensions and probation/restrictions) per 1,000 doctors in each state and compiled a national report ranking state boards by the rate of serious disciplinary actions per 1,000 doctors for the years 2002-2004 (See Table 1).

In previous years, our ranking was based solely on the data from the most recent year. Because some small states do not have many physicians, an increase or decrease of one or two serious actions in a year can have a much greater effect on the rate of discipline in such states than it would in larger states. Therefore we are calculating the three-year average rate of discipline (for each year and the preceding two years) for all states and listing them by rank for each three-year interval so that trends in rank over the past decade can more accurately be examined (see Table 2). Again, the newest ranking is based on the three-year average rate, not the rate for 2004 alone.

Our calculation of rates of serious disciplinary actions (revocations, surrenders, suspensions and probation/restrictions) per 1,000 doctors by state is created by taking the number of

such actions (the first two categories of the FSMB data) and dividing it by the American Medical Association data on nonfederal M.D.s as of December 2003<sup>1</sup> (adding to this the number of osteopathic physicians<sup>2</sup> if the board is a combined medical/osteopathic board). We then multiplied the result by 1,000 to get state disciplinary rates per 1,000 physicians. This rate calculation is done for each of the last three years (2002-2004), and the average rate is used as the basis for this year's state board rankings.

There were 3,296 serious disciplinary actions taken by state medical boards in 2004, up 10.1% from the 2,992 serious actions taken in 2003. The three-year state disciplinary rates ranged from 1.44 serious actions per 1,000 physicians (Hawaii) to 10.04 actions per 1,000 physicians (Wyoming), a 7-fold difference

between the best and worst states.

### **Worst States (those with the lowest three-year rate of serious disciplinary actions).**

As can be seen in **Table 1**, the bottom 15 states, those with the lowest serious disciplinary action rates for 2002-2004 were, starting with the lowest: Hawaii (1.44 actions per 1,000 physicians), Delaware (1.54 per 1,000 physicians), Wisconsin (1.70 per 1,000 physicians), Minnesota (1.74 per 1,000 physicians), Maryland (1.94 per 1,000 physicians), Nevada (2.00 per 1,000 physicians), Rhode Island (2.09 per 1,000 physicians), Arkansas (2.11 per 1,000 physicians), South Carolina (2.18 per 1,000 physicians), Washington (2.21 per 1,000 physicians), Tennessee (2.33 per 1,000 physicians), Mississippi (2.35 per 1,000 physicians), Michigan

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#### *Recalls*

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**RANKING OF THE RATE OF STATE MEDICAL BOARDS'  
SERIOUS DISCIPLINARY ACTIONS IN 2004**

**Table 1: Ranking of Serious Doctor Disciplinary Action Rates by State Medical Licensing Boards, 2002-2004**

Rank 2002-2004*	State	Number of Serious Actions 2004	Number of Physicians 2003**	Serious Actions per 1,000 Physicians from 2002-2004***
1	Wyoming	8	1140	10.04
2	Kentucky	95	10540	9.32
3	North Dakota	7	1742	7.65
4	Alaska	12	1650	7.44
5	Oklahoma	37	6792	6.95
6	Arizona	63	13641	6.68
7	Ohio	227	35568	6.64
8	Montana	14	2525	6.40
9	Colorado	82	13827	6.18
10	West Virginia	19	4587	5.33
11	Missouri	162	16518	5.23
12	Iowa	45	7311	5.00
13	Utah	22	5514	4.99
14	Louisiana	67	12980	4.87
15	Vermont	8	2578	4.47
16	Alabama	37	10767	4.33
17	New York	373	84386	4.29
18	Georgia	85	21720	4.21
19	New Mexico	21	5031	4.00
20	Oregon	33	11203	3.93
21	Idaho	9	2802	3.71
22	California	375	104261	3.55
23	Massachusetts	106	31076	3.45
24	Nebraska	16	4765	3.44
25	Illinois	177	39740	3.39
26	New Hampshire	16	4018	3.38
27	Indiana	50	15389	3.35
28	Texas	152	53727	3.25
29	New Jersey	102	31758	3.14
30	District of Columbia	13	4648	2.93
31	Kansas	26	7318	2.86
32	South Dakota	4	1909	2.78
33	Virginia	57	23021	2.78
34	North Carolina	97	24014	2.69
35	Maine	9	3995	2.65
36	Pennsylvania	153	40542	2.60
37	Florida	153	50000	2.46
38	Connecticut	31	14167	2.44
39	Michigan	80	26459	2.38
40	Mississippi	8	6099	2.35
41	Tennessee	49	16547	2.33
42	Washington	34	18580	2.21
43	South Carolina	17	10791	2.18

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**RANKING OF THE RATE OF STATE MEDICAL BOARDS'  
SERIOUS DISCIPLINARY ACTIONS IN 2004**

*continued from page 2*

**Table 1: Ranking of Serious Doctor Disciplinary Action Rates by State Medical Licensing Boards, 2002-2004**

Rank 2002-2004*	State	Number of Serious Actions 2004	Number of Physicians 2003**	Serious Actions per 1,000 Physicians from 2002-2004***
44	Arkansas	9	6321	2.11
45	Rhode Island	10	4287	2.09
46	Nevada	6	4691	2.00
47	Maryland	53	25359	1.94
48	Minnesota	24	15929	1.74
49	Wisconsin	33	15807	1.70
50	Delaware	4	2488	1.54
51	Hawaii	6	4518	1.44

\* Rank is calculated based upon an average of the disciplinary rates for 2002, 2003 and 2004.

\*\*Includes osteopathic physicians for boards with jurisdiction over both physicians and osteopaths.

\*\*\*Action rate is calculated by averaging the action rates over the three-year period of 2002, 2003 and 2004.

**MEDICAL BOARDS, from page 1**

(2.38 per 1,000 physicians), Connecticut (2.44 per 1,000 physicians), and Florida (2.46 per 1,000 physicians).

Table 2 shows that five of these 15 states, (Wisconsin, Minnesota, Tennessee, Delaware, and Hawaii) have always been in the bottom 15 states for the last ten 3-year periods. In addition, six of these 15 states have been in the bottom 15 for at least five of the past ten three-year periods: South Carolina and Florida (5), Washington (6), and Maryland and Connecticut (8). Large decreases of at least a 20-state drop in ranking have occurred from the 1993-1995 ranking to the current rank in four states: Maryland went from 23rd to 47th; Mississippi, from 4th to 40th; Nevada, from 21st to 46th and South Carolina, from 20th to 43rd.

These data again raise serious questions about the extent to which patients in many of these states with poorer records of serious doctor discipline are being protected from physicians who might well be barred from practice in states with boards that are doing a better job of disciplining physicians. It is quite possible that patients are being injured or killed more often in states with poor doctor disciplinary records than in states with consistently high performance.

**Best States (those with the highest rates of serious disciplines).**

The top 10 states are (in order): Wyoming (10.04 serious actions per 1,000 physicians), Kentucky (9.32 actions per 1,000 physicians), North Dakota (7.65 per 1,000 physicians), Alaska (7.44 per 1,000 physicians),

Colorado (6.18 per 1,000 physicians) and West Virginia (5.33 per 1,000 physicians). All of these top 10 states were also in the top 10 in last year's three-year ranking.

As can be seen in Table 2, three of these 10 states (Wyoming, Oklahoma and Alaska) have been in the top ten for all ten of the three-year average periods listed. Five other of these top 10 states have been in the top 10 for at least six of the last ten three-year periods: Colorado and Arizona (6), Kentucky (7) and Ohio and North Dakota (8).

It is clear that state-by-state performance is spotty. Only one of the nation's 15 largest states, Ohio, is represented among those 10 states with the highest disciplinary rates. Illinois and Pennsylvania, other large states, have usually been near the bottom although Illinois has improve more recently, ranking 25th. California and New Jersey have hovered around the middle. Massachusetts, consistently in the bottom 15 states for the three-year averages until the 2001 three-year average, has improved substantially since then, now ranking 23rd.

*Most states are not living up to their obligations to protect patients from doctors who are not practicing medicine in the best manner and are thus endangering the lives and health of residents.*

Oklahoma (6.95 per 1,000 physicians), Arizona (6.68 per 1,000 physicians), Ohio (6.64 per 1,000 physicians), Montana (6.40 per 1,000 physicians),

**What Makes a Difference?**

Boards are likely to be able to do a better job in disciplining physicians if most, if not all, of the following condi-

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**MEDICAL BOARDS**, from page 3

tions are true:

- Adequate funding (all money from license fees going to fund board activities instead of going into the state treasury for general purposes)
- Adequate staffing
- Proactive investigations rather than only following complaints
- The use of all available/reliable data from other sources such as Medicare and Medicaid sanctions, hospital sanctions and malpractice payouts
- Excellent leadership

- Independence from state medical societies and other parts of the state government
- A reasonable legal framework for disciplining doctors (preponderance of the evidence rather than beyond reasonable doubt or clear and convincing evidence as the legal standard for discipline).

Most states are not living up to their obligations to protect patients from doctors who are not practicing medicine in the best manner and are thus endangering the lives and health of

residents. Serious attention must be given to finding out which of the above variables are deficient in each state. Then action must be taken, legislatively and through pressure on the medical boards, to increase the amount of discipline and, thus, the amount of patient protection. ■

<sup>1</sup> Physician Characteristics and Distribution in the U.S. American Medical Association, 2005 Edition.

<sup>2</sup> Fact Sheet: American Osteopathic Association. Statistics as of August, 2004, available at [http://www.do-online.osteotech.org/pdf/ost\\_factsheet.pdf](http://www.do-online.osteotech.org/pdf/ost_factsheet.pdf).

**RANKING OF THE RATE OF STATE MEDICAL BOARDS' SERIOUS DISCIPLINARY ACTIONS IN 2004**

**Table 2: Ranks Based Upon Average Doctor Disciplinary Rates Over Three Years\***

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Alabama	40	39	36	27	18	14	12	11	13	16
Alaska	5	3	3	1	1	1	1	1	6	4
Arizona	11	9	7	13	28	18	5	3	1	6
Arkansas	28	24	16	9	5	8	15	20	29	44
California	31	32	20	22	22	23	25	24	22	22
Colorado	9	5	5	6	12	19	16	12	9	9
Connecticut	35	37	33	37	39	37	39	38	38	38
Delaware	48	47	44	49	50	50	50	49	50	50
District of Columbia**	51	51	49	40	42	N/A	N/A	N/A	41	30
Florida	26	19	22	44	46	44	33	36	37	37
Georgia	6	8	11	16	16	10	10	10	15	18
Hawaii	50	49	50	46	48	47	49	50	51	51
Idaho	36	36	34	25	13	22	14	18	14	21
Illinois	42	48	41	42	38	45	47	41	36	25
Indiana	14	20	25	26	19	20	27	32	33	27
Iowa	3	2	2	4	8	13	8	9	12	12
Kansas	33	29	38	36	45	43	32	30	30	31
Kentucky	8	11	12	12	10	5	4	5	2	2
Louisiana	12	18	26	28	23	21	24	19	17	14
Maine	39	35	23	14	17	17	29	28	34	35
Maryland	23	28	37	41	41	8	41	45	47	47
Massachusetts	46	41	46	48	46	46	37	34	23	23
Michigan	32	34	19	15	14	15	20	27	40	39
Minnesota	41	46	48	50	49	48	48	47	48	48
Mississippi	4	1	1	2	2	6	9	14	20	40
Missouri	16	26	31	35	34	34	28	29	31	11
Montana	10	12	15	20	25	36	30	16	8	8
Nebraska	37	27	40	28	43	40	45	35	28	24

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**RANKING OF THE RATE OF STATE MEDICAL BOARDS'  
SERIOUS DISCIPLINARY ACTIONS IN 2004**

*continued from page 4*

**Table 2: Ranks Based Upon Average Doctor Disciplinary Rates Over Three Years\***

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Nevada	21	5	13	19	29	26	22	25	32	46
New Hampshire	49	0	51	47	30	25	18	23	24	26
New Jersey	19	17	24	34	37	30	26	21	25	29
New Mexico	38	30	27	23	27	24	34	26	21	19
New York	29	21	17	18	15	12	13	13	18	17
North Carolina	22	43	32	32	24	35	31	37	42	34
North Dakota	24	10	14	7	6	2	2	2	3	3
Ohio	15	13	8	10	7	7	7	7	7	7
Oklahoma	7	6	6	3	4	4	3	4	5	5
Oregon	18	16	21	30	31	28	23	17	16	20
Pennsylvania	47	45	39	39	40	39	36	39	45	36
Rhode Island	30	24	18	17	21	29	38	40	46	45
South Carolina	20	33	43	33	35	31	43	44	44	43
South Dakota	13	22	35	24	20	32	46	48	35	32
Tennessee	44	42	47	51	51	49	44	42	43	41
Texas	25	23	28	31	33	33	35	33	26	28
Utah	45	38	30	21	26	16	11	8	11	13
Vermont	16	14	10	11	11	9	19	31	19	15
Virginia	34	40	45	45	32	27	21	22	27	33
Washington	27	31	29	38	36	41	40	43	39	42
West Virginia	1	7	9	8	9	11	17	15	10	10
Wisconsin	43	44	42	43	44	42	42	46	49	49
Wyoming	2	4	4	5	3	3	6	6	4	1

\* Rank for each year is calculated based upon an average of the disciplinary rates from that year and the preceding two years.

\*\*The District of Columbia did not provide data for 2000.

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# Product Recalls

April 24 — May 18, 2005

This chart includes recalls from the Food and Drug Administration (FDA) Enforcement Report for drugs and dietary supplements, and Consumer Product Safety Commission (CPSC) recalls of consumer products.

## DRUGS AND DIETARY SUPPLEMENTS

The recalls noted here reflect actions taken by a firm to remove a product from the market. Recalls may be conducted on a firm's own initiative, by FDA request or by FDA order under statutory authority. A Class I recall is a situation in which there is a probability that the use of or exposure to the product will cause serious adverse health consequences or death. Class II recalls may cause temporary or medically reversible adverse health consequences. A Class III situation is not likely to cause adverse health effects. If you have any of the drugs noted here, label them "Do Not Use" and put them in a secure place until you can return them to the place of purchase for a full refund. You can also contact the manufacturer. If you want to report an adverse drug reaction to the FDA, call (800) FDA-1088. The FDA Web site is [www.fda.gov](http://www.fda.gov).

### Name of Drug or Supplement; Class of Recall; Problem

**Amoxil** (trade name), Amoxicillin as Trihydrate, powder for oral suspension, 250 mg/5 mL, 150mL, Rx only, Class III, Mislabeling; 250mg/5mL bottles may be mislabeled as 250mg/5mL, 100mL bottles.

a) **Armour Thyroid (thyroid tablets, USP)**, 1/2 Grain (30 mg), levothyroxine (T4) 19 mcg and liothyronine (T3) 4.5 mcg, Rx only; b) **Armour Thyroid (thyroid tablets, USP)**, 1 Grain (60 mg), levothyroxine (T4) 38 mcg and liothyronine (T3) 9 mcg, Class III, Stability failure.

a) **Armour Thyroid (thyroid tablets, USP)**, 30 mg., Rx only; b) **Armour Thyroid (thyroid tablets, USP)**, 60 mg., Rx only; c) **Armour Thyroid (thyroid tablets, USP)**, 120 mg., Rx only; Class III, Subpotent.

**Armour Thyroid**, multiple strengths and combinations of levothyroxine (T4) and liothyronine (T3), Rx Only; Class III, Stability failures.

**Atenolol Tablets**, USP 25 mg, Rx Only; Class II, Subpotent.

**Fluconazole tablets**, 100 mg, Rx only; Class III, Misbranding; partially illegible print on blister strips.

**Fougera Betamethasone Dipropionate Ointment** USP, 0.05%, Rx only; Class III, Superpotent.

**Gas-X with Maalox Extra Strength Antigas plus Antacid** (Calcium Carbonate 500mg and Simethicone 125mg); Class II; Microbial test specification failure; (Staphylococcus aureus).

**Glyburide Tablets**, USP (micronized) 1.5mg, Rx only, Class III, Misbranding.

### Lot #; Quantity and Distribution; Manufacturer

Lot T40007, exp. date 04/07; Lot T40008, exp. date 04/07; 201,744 bottles distributed nationwide; GlaxoSmithKline, Inc., Durham, NC.

a) Lot Nos.: 09164, 09330, 09792, 10427, 10918, 11215; b) Lot Nos.: 09530, 09531, 09787, 10011, 10794, 11540, 11541; 135,500 units distributed nationwide; Rx PAK, Memphis, TN.

a) Lots 034052, 035064, 035066, 036171, and 036456; b) Lots 034053, 034488, 035065, 035997, 036500, 040423; c) Lots 034051, 035067, 035995, 035996, 036499, 042018; 58,544 bottles distributed nationwide; Amerisource Health Services, Columbus, OH.

All doses have multiple lots and expiration dates; 617,218 units in various packaging distributed nationwide; Forest Pharmaceuticals, Inc, Cincinnati, OH.

Lots 408107D, exp. date 07/06; 3,034 packages distributed in FL and OH; Able Laboratories, Inc., S. Plainfield, NJ.

Lot FD971A, exp. date 10/06; 3,600 cartons distributed nationwide; Genpharm, Inc., Ontario, Canada.

Lot N085, exp. date 12/06; 42,090 units distributed nationwide and in Puerto Rico; Altana, Inc., Melville, NY.

Lots 98207-09, 98236-7, and 98246, exp. date 09/06; 90,000 blister packs distributed nationwide; Novartis Consumer Health Care, Carolina, PR.

Lot 60831A, exp. date 11/06; 1,308 bottles distributed nationwide; West-Ward Pharmaceutical Corp, Eatontown, NJ.

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## DRUGS AND DIETARY SUPPLEMENTS *cont.*

### *Name of Drug or Supplement; Class of Recall; Problem*

**Prascion (sodium sulfacetamide 10% and sulfur 5%) Cleanser**, Rx only; Class III, Subpotent.

a) **Pramosone Cream 1%** (hydrocortisone acetate 1% and pramoxine HCl 1%); b) **Pramosone Cream 2.5%** (hydrocortisone acetate 2.5% and pramoxine HCl 1%), Rx only; c) **Analpram HC Cream 1%** (hydrocortisone acetate 1% and pramoxine HCl 1%), Rx only; d) **Analpram HC Cream 2.5%** (hydrocortisone acetate 2.5% and pramoxine HCl 1%), Rx only. Class III, superpotent.

a) **Prochlorperazine Suppositories**, USP, 2.5mg, Rx Only; b) Prochlorperazine Suppositories, 5mg, Rx Only; Class II, 18-month impurity failures.

**Trecator SC Tablets** (ethionamide), 250 mg, Rx only; Class III, Dissolution failure.

### *Lot #: Quantity and Distribution; Manufacturer*

Lot #GB472, GB500 & GB803; 11,647 units distributed nationwide; Kiel Laboratories, Inc., Gainesville, GA.

a) Lots 03068A, exp. date 03/05 and 04026A, exp. date 02/06; b) multiple lots and expiration dates; c) Lot 03202, exp. 10/05; d) multiple lots and expiration dates; 180,461 tubes distributed nationwide; Ferndale Laboratories, Inc., Ferndale, MI.

a) Lot 308029A, 07/05; b) Lot 308030A, 07/05. 5,681 2.5mg and 23,159 5mg units distributed nationwide; Able Laboratories, Inc., South Plainfield, NJ.

Lot A86012, exp. date 07/05; 166 bottles distributed nationwide; Wyeth Pharmaceuticals, Rouses Point, NY.

## CONSUMER PRODUCTS

Contact the Consumer Product Safety Commission (CPSC) for specific instructions or return the item to the place of purchase for a refund. For additional information from the Consumer Product Safety Commission, call their hotline at (800) 638-2772. The CPSC Web site is [www.cpsc.gov](http://www.cpsc.gov).

### *Name of Product; Problem*

**ATVs.** Some 2004.5 and 2005 Model Year Sportsman and 2005 Model Year Scrambler 500 ATVs were assembled with possibly defective Electronic Control Modules (ECM) which may fail and overheat. If this were to occur, excessive heat could cause a fire, possibly resulting in serious injury or death.

**ATVs.** The fuel petcock inserts were made with incorrect material that does not correctly bond the fuel tank and petcock insert, which could allow fuel leakage. If this occurs, a fire hazard with the possibility of injury and property damage could result.

**Bicycle handlebar stem.** These handlebar stems can crack or break, causing the bicycle rider to fall and suffer injuries.

**Children's bodysuits.** The appliqué can detach from the garment, posing a choking hazard to young children.

### *Lot #: Quantity and Distribution; Manufacturer*

Polaris 2004.5 Sportsman 500, 2005 Sportsman 400, 500, 600, and 700, and 2005 Scrambler 500; about 14,882 units sold by Polaris dealers nationwide, Aug 2004–Feb 2005; Polaris Industries Inc., of Medina, Minn.; (800) 765-2747 or [www.polarisindustries.com](http://www.polarisindustries.com).

Suzuki 2005 Model Year Eiger and Vinson ATVs; about 1,540 units sold nationwide at Suzuki dealerships, Dec 2004–April 2005; American Suzuki Motor Corp., of Brea, Calif.; (800) 444-5077 or [www.suzukicycles.com](http://www.suzukicycles.com).

Dimension Bicycle Road and Mountain Threadless Handlebar Stems; about 18,000 units sold by bicycle specialty stores, web sites, and mail order retailers nationwide, Jan 2003–March 2005; Quality Bicycle Products Inc., of Bloomington, Minn.; (877) 725-7211 or [www.dimensionbikeproducts.com](http://www.dimensionbikeproducts.com).

Okie Dokie(r) Striped Bodysuits with Puffy Appliqué; 228,818 units sold nationwide at J.C. Penney stores and Web site, Oct 2004–February 2005; J.C. Penney Corp., of Plano, Texas; (888) 333-6063 or [www.jcpenney.com](http://www.jcpenney.com).

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*Type of Product; Problem*

**Children's chairs.** The chair's safety lock can fail, allowing the chair to collapse or fold unexpectedly. Children's fingers can become caught or entrapped in the hinge and slot areas of the chair, posing a pinch or cut hazard. This can cause severe lacerations and finger tip amputations.

**Children's jewelry.** The recalled heart-shaped pendant contains high levels of lead, posing a serious risk of lead poisoning to young children.

**Choral risers.** Choral risers equipped with an optional guard rail can tip over under certain loading conditions, which poses a risk of injury from falling from the risers.

**Cribs.** The white paint on the cribs can chip, posing a choking hazard to young children.

**Electric heaters.** Some heaters have improperly crimped wires which can result in overheating and a potential thermal burn or fire hazard.

**Fireworks.** The aerial shells are fused, shaped, and labeled in a way that could cause consumers to unintentionally place them into the launch tube upside down, resulting in a ground-level explosion. Such an explosion can cause serious injuries to consumers in close proximity of the device.

**Gas fireplaces.** Gas in the fireplace can accumulate prior to burner ignition. When ignition takes place, it can cause the glass window to shatter and create a risk of burns or lacerations from broken glass.

**Glass drawer knobs.** The glass knobs can break when over-tightened or when pressure is applied, exposing a sharp edge.

**Handgun holsters.** The holster's retention strap can move out of position and could cause a handgun to unexpectedly discharge while being reholstered, posing a serious injury risk to consumers.

**Pacifiers.** The pacifiers are banned under federal law. They failed federal safety tests when the nipples separated from the base. This poses a choking hazard to young children.

**Pogo sticks.** An internal metal pin can wear down, causing the pogo sticks to remain stuck in the down position and release unexpectedly, posing a risk of fall or facial impact injuries to children.

*Lot #: Quantity and Distribution; Manufacturer*

Children's Folding Chair; about 1.5 million sold at hardware, discount department, toy, grocery and drug stores nationwide, Sept 2002-April 2005; Atico International USA Inc., of Fort Lauderdale, Fla.; (877) 546-4835 or [www.aticousa.com](http://www.aticousa.com).

Heart-Shaped Pendant; about 80,000 sold at Dollar General stores nationwide, May 2003-April 2005; Dollar General Corp., of Goodlettsville, Tenn.; (800) 678-9258 or [www.dollargeneral.com](http://www.dollargeneral.com).

Optional Guard Rails sold on Standing Choral Risers; about 7,000 units sold by distributors and by direct sale nationwide, 1986-Nov 2004; Midwest Folding Products Inc., of Chicago, Ill.; (800) 621-4716 or [www.Midwestfolding.com](http://www.Midwestfolding.com).

White Lancaster Cribs; about 575 sold at department stores, children's product stores, and on Target.com, June 2004-April 2005; model numbers 8554W-PT and 8554WW; Simplicity Inc., of Reading, Pa.; (800) 858-8323 or [www.simplcityforchildren.com](http://www.simplcityforchildren.com).

Portable electric heater; about 13,500 units sold by the QVC cable television channel, Oct 2004- Jan 2005; QVC, Inc. of West Chester, Penn.; (800) 367-9444.

24-shot Excalibur Reloadable Artillery Shell Kits; about 75,000 reloadable kits sold by fireworks retailers, including stands and tents, in states permitting the sale of consumer fireworks, winter 2003-winter 2004; Jake's Fireworks Inc., of Pittsburg, Kan.; (800) 766-1277 or [www.jakesfireworks.com](http://www.jakesfireworks.com).

HEAT-N-GLO(r) Gem 36 and Gem 42 gas fireplaces; about 7,800 units sold by distributors of Hearth products nationwide, July 2002-April 2005; Heat & Glo, of Lakeville, Minn.; (800) 215-5152 or [www.gem3642.com](http://www.gem3642.com).

Glass Knobs on Chez Moi Furniture Collection; 28,000 units sold through PBteen catalog and Web site nationwide; PBteen, San Francisco, Calif.; 1-866-472-3010 or [www.pbteen.com](http://www.pbteen.com).

Kydex Belt Holsters for Glock model handguns; about 8,000 sold through Uncle Mike's and Uncle Mike's Law Enforcement catalogs and at sporting goods stores and gun supply stores nationwide, Jan-Oct 2002; (800) 471-4999 or [www.michaeloforegon.com](http://www.michaeloforegon.com).

Lov's Decorated Orthodontic Pacifier; about 180,000 sold at small retail stores, Nov 2001-Dec 2004; Delta Enterprise Corp.; (800) 377-3777 or [www.deltaenterprise.com/recall](http://www.deltaenterprise.com/recall).

Fisher-Price(r) Grow-To-Pro(r) Pogo Sticks; about 154,000 units sold at discount department and toy stores nationwide, Jan 2002-Aug 2004; Fisher-Price, of East Aurora, N.Y.; (800) 991-2444 or [www.service.fisher-price.com](http://www.service.fisher-price.com).

*continued on page 9*

## OUTRAGE, from page 12

Rather than complain about malpractice liability, doctors should improve their own performance, and thus better protect their patients. One-third of malpractice cases that produced a malpractice payout in 2004<sup>1</sup> — 4,158 — involved patient deaths. Yet, as a landmark study by the Institute of Medicine in 1999 showed, an estimated 44,000 to 98,000 patient deaths occur each year following preventable medical errors in hospitals. Thus, stemming preventable errors there alone would conservatively prevent 10 times as many deaths as are now accounted for by malpractice cases.

### Most kinds of common, preventable malpractice errors have increased over time

The proportion of several of the most common kinds of errors that produce malpractice payouts has increased significantly over time, while progress on cutting the number of errors that are easiest to avoid or prevent has stalled. “Failure to Diagnose” cases, for example, have grown from 16 percent of payouts in 1991 to 20 percent in 2004. “Improper Performance” cases have grown from 10 percent to 15 percent of payouts.

The number of payments for such things as leaving a surgical instrument

behind or operating on the wrong body part fell from 783 in 1991 to 520 in 1997, but has generally been flat since then, except for a disturbing increase in 2004 of 34 percent.

### 5.5 percent of doctors are responsible for 57.3 percent of medical malpractice payouts

The insurance and medical communities argue that medical malpractice litigation constitutes a giant “lottery,” in which lawsuits are random events unrelated to the care provided by a physician. If the tort system is a lottery, it is indeed rigged, because some doctors’ numbers come up much more often than others. According to NPDB data, a small percentage of doctors has paid multiple claims, and it is these doctors who are responsible for much of the malpractice in America. By focusing attention on repeat offenders, overall patient safety can be dramatically improved.

- Just 5.5 percent of doctors have been responsible for 57.3 percent of all malpractice payouts to patients, according to NPDB data from September 1990 through 2004. Each of these doctors has made at least two payouts.
- Just 2.1 percent of doctors, each of whom has had three or more malprac-

tice payouts, were responsible for 32.1 percent of all payouts.

- Only 1 percent of doctors, each of whom has had four or more malpractice payouts, were responsible for 19.6 percent of all payouts.

- Nearly 83 percent of doctors have never had a medical malpractice payout since the NPDB was created in 1990.

### Doctors with repeated malpractice payouts suffer few consequences

State medical boards and health care providers have not done enough to rein in those doctors who repeatedly make medical errors and commit medical negligence. According to NPDB data, the National Practitioner Data Bank and Public Citizen’s analysis of NPDB data, disciplinary actions such as license suspension or revocation have been infrequent for physicians with multiple malpractice payments.

- Only 8.3 percent of doctors who made two or more malpractice payouts were disciplined by their state board.
- Only 11.4 percent of doctors who made three or more malpractice payouts were disciplined by their state board.

*continued on page 10*

## CONSUMER PRODUCTS cont.

### Type of Product; Problem

**Push toy.** A young child’s chin, jaw, and teeth can get lodged in the opening at the top of the push toy’s round-shaped handle and incur injuries.

**Utility vehicles.** The front suspension A-frame can break or separate from the front wheel and cause a loss of steering ability resulting in serious injury or death.

**Video head cleaner.** The cleaning solution bottle, which is labeled as containing isopropanol, actually contains methanol. Methanol can be fatal or cause blindness if swallowed. The cleaning solution bottle does not have special cautionary labeling and child-resistant packaging, as required by Federal regulation for methanol.

**Wooden push toys.** Small parts can break off, posing a choking hazard to young children.

### Lot #: Quantity and Distribution; Manufacturer

Fisher-Price Lil’ Wagster Dragster push toys; about 54,000 sold at discount department stores and toy stores nationwide, Dec 2002-Feb 2005; Fisher-Price, of East Aurora, N.Y.; (800) 991-2444 or [www.service.fisher-price.com](http://www.service.fisher-price.com).

Bush Hog Model TH 440 (Trail Hunter) Off-Road Utility Vehicle; about 300 sold at Bush Hog dealerships nationwide, Jan-April 2005; Bush Hog LLC, of Selma, Ala.; (877) 873-0143 or [www.bushhog.com](http://www.bushhog.com).

Wet System Video Head Cleaner; about 1 million sold at RadioShack stores nationwide and [www.radioshack.com](http://www.radioshack.com), Dec 1995-Jan 2005; RadioShack Corp., of Fort Worth, Texas; (800) 843-7422 or [www.radioshackcorporation.com](http://www.radioshackcorporation.com).

Lemon Meringue Wooden Push Toys; about 7,000 units sold at toy and hobby stores nationwide, Feb-Mar 2005; Pamela Drake Inc., of Emeryville, Calif.; (800) 966-3762 or [www.woodkins.com](http://www.woodkins.com).

### OUTRAGE, from page 9

- Only 14.6 percent of doctors who made four or more malpractice payouts were disciplined by their state board.

- Only 32.5 percent of doctors who made 10 or more malpractice payouts were disciplined by their state board.

### Examples of repeat offender doctors who have gone undisciplined

The extent to which doctors have multiple payouts to patients for medical malpractice claims and are not disciplined is illustrated by the following NPDB descriptions of 15 physicians licensed to practice medicine who have made between 4 and 30 malpractice payouts totaling more than \$8 million per doctor yet have not been disciplined by their state medical boards. The NPDB does not disclose to the public the identity of these physicians.

- **Physician Number 26701** had at least 6 malpractice payouts between 1994 and 2002, twice for improper management of pregnancies, an improperly performed C-section, an improperly performed procedure, a retained foreign body during surgery and an unspecified obstetrics error. The damages add up to \$15,050,000.

- **Physician Number 122202** had at least 4 malpractice payouts between 1998 and 2002, twice for failure to diagnose, a wrong diagnosis and an improperly managed surgery. The damages add up to \$12,890,000.

- **Physician Number 24867** had at least 8 malpractice payouts between 1993 and 2002, four times for improperly performed surgeries, twice for unspecified monitoring errors and twice for unspecified surgical errors. The damages add up to \$12,712,000.

- **Physician Number 183018** had at least 4 malpractice payouts between 2002 and 2003, twice for improperly performed surgeries, a wrong diagnosis and an unspecified surgical error. The damages add up to \$12,625,000.

- **Physician Number 14052** had at least 14 malpractice payouts between 1991 and 2002, 12 times for delayed performance or improper management of obstetrics cases, once for wrong treatment or procedure and once for an unspecified obstetrics error. The damages add up to \$10,175,000.

- **Physician Number 33059** had at least 30 malpractice payouts between 1993 and 2004, nine for failure to diagnose, five for unspecified errors, three for improper management of obstetrics cases, three for improper performance of surgery, two for retained foreign body during surgery, two for failure to treat, one for surgery on the wrong body part, one for failure to obtain consent for surgery, one for delay in treatment of fetal distress, one for failure to treat fetal distress, one for an improperly performed delivery and one for improper treatment. The damages add up to \$10,117,500.

- **Physician Number 33184** had at least 12 malpractice payouts between 1991 and 2004, eight for improper management, improper choice of delivery method, delay in performance or failure to treat fetal distress in obstetrics cases, one for improper performance of surgery, one for failure to diagnose and two unspecified errors. The damages add up to \$10,035,000.

- **Physician Number 493** had at least 6 malpractice payouts between 1992 and 2003, twice for improperly performed surgeries, twice for unspecified surgical errors, a failure to perform surgery and an unspecified treatment error. The damages add up to \$9,790,000.

- **Physician Number 23965** had at least 6 malpractice payouts between 1992 and 2003, twice for wrong diagnoses, twice for unspecified treatment errors, an improper management of surgery and an improper performance of surgery. The damages add up to \$9,390,000.

- **Physician Number 43947** had at least 21 malpractice payouts between

1992 and 2003, eight times for improperly performed surgeries, three times for unnecessary surgeries, twice for unspecified equipment errors, twice for surgeries on wrong body parts, a failure to obtain consent before surgery, a failure to obtain consent before blood work, a wrong treatment, an unspecified surgical error, a retained foreign body during surgery and an improper management of medication. The damages add up to \$8,722,500.

- **Physician Number 21426** had at least 4 malpractice payouts between 1991 and 2003, twice for delays in diagnosis, a failure to diagnose and an unspecified obstetrics error. The damages add up to \$8,577,500.

- **Physician Number 71555** had at least 4 malpractice payouts between 1995 and 2001, twice for failures to diagnose and twice for delays in surgical performance. The damages add up to \$8,435,000.

- **Physician Number 1995** had at least 6 malpractice payouts between 1993 and 2002, once for a retained foreign body during surgery, improper performance of surgery, a delay in treatment, a delay in performance in an obstetrics case and twice for unspecified errors. The damages add up to \$8,363,750.

- **Physician Number 127631** had at least 4 malpractice payouts between 1998 and 2003 for an improper delivery, a failure to treat fetal distress, improper management of an obstetrics case and a delay in diagnosis. The damages add up to \$8,285,000.

- **Physician Number 35472** had at least 17 malpractice payouts between 1991 and 2004, 12 times for improper performance of surgery, twice for improper management of surgery, once for equipment problems during surgery, once for failure to obtain consent for surgery and once for an unspecified surgical error. The damages add up to \$8,237,500. ■

<sup>1</sup> This data for the period January 31 forward.

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# Repeat Malpractice Offenders Compromise Patient Safety

Even as the Health Research Group's annual analysis of the rates of disciplinary actions by state medical boards shows that many states are not taking appropriate steps to ensure that patients are protected from doctors who may injure or harm them, a concurrent analysis of information from the National Practitioners' Data Bank (NPDB) from Public Citizen's Congress Watch reveals that the doctor and insurance company hysteria over the malpractice "crisis" is largely unjustified.

The NPDB is a database of all malpractice payouts made in the United States, usually by insurance companies. As the report shows, many doctors who repeatedly injure their patients and are punished by the legal system as a result of their negligence continue to practice without being disciplined by state medical boards.

Together, the reports make clear that the real crisis is that as insurance

companies set the decoy of the malpractice crisis for Congress to chase, patients' safety is harmed by the erosion of their rights in the legal system and the failure of state medical boards to protect them from the dangerous minority of doctors.

Unfortunately, the National Practitioners' Data Bank does not reveal the names of these dangerous repeat offenders to the public. Because the names of the physicians who are repeat malpractice offenders are concealed from the public's knowledge, every patient is at risk. State medical boards can access this data, however, and should use that ability to protect patients in their state from questionable doctors.

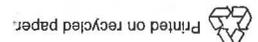
*The following excerpt is taken from the section of the Congress Watch report that deals most directly with issues of doctor discipline and patient safety. For more information about trends in*

*malpractice payouts over time, you can read the full text of the report at [http://www.citizen.org/documents/Malpracticeanalysis\\_final.pdf](http://www.citizen.org/documents/Malpracticeanalysis_final.pdf). For more information on Congress Watch, visit their website at <http://www.citizen.org/congress/>.*

**A**s doctors descended on Washington on April 20 to urge limits on damages their patients can recover for medical negligence, the latest national data on physician malpractice payments shows there is no evidence that the spike in some doctors' insurance rates is due to lawsuits and patients seeking compensation in the legal system.

The latest NPDB information analyzed by Public Citizen also underscores that the real medical malpractice crisis today is inadequate patient safety, not lawsuits or the legal system. *continued on page 9*

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