

Public Citizen's Health Research Group

***Ranking of State Medical Licensing Boards
Serious Doctor Disciplinary Actions
Per 1,000 MDs--1996***

March 1997

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For the sixth consecutive year, the Federation of State Medical Boards (FSMB) has released data on the number of disciplinary actions against doctors in a format that permits Public Citizen's Health Research Group to calculate the rate of serious disciplinary actions per 1,000 doctors in each state and to issue a national report ranking the state boards on the extent to which they are taking serious disciplinary actions against doctors. Once more, as will be seen, the best is none too good.

We have had, and continue to have, two disputes with the FSMB over these data. First, we choose to look only at the most serious actions taken by state medical boards as a way of evaluating them, whereas the FSMB looks at "prejudicial" actions, a broader category which includes relative slaps on the wrist such as fines and reprimands as well as those actions we deem "serious" disciplinary actions. This category, in our view, should include only license revocation, suspension or surrender, as well as probation, restriction or other limitations on license (Categories A & B in the FSMB data) .

Second, the Federation states that "it is virtually impossible to make sound comparisons of one medical board to another," and thereby refuses to do a ranking of state boards. We strongly disagree, and the Federation admits that the structure and funding of medical boards may have a direct impact on their effectiveness. Public Citizen's Health Research Group believes that a valid uniform measure of board effectiveness is the rate of serious disciplinary actions per 1,000 doctors per year--a belief shared by Richard Kusserow, formerly inspector general of the federal Department of Health and Human Services.

According to James R. Winn, M.D., the Federation's executive vice-president, "Boards that are independent or semi-autonomous, adopting their own budgets and allocating revenues to their operations, appear to perform their role of public protectors more effectively than those boards that are classified as subordinate or advisory." So, although FSMB disagrees with the idea of our rankings based on their data, they admit to differences between boards which are a likely explanation for some of these differences.

Our calculation of rates of serious disciplinary actions per 1,000 doctors (we do not include separate osteopathic boards in our calculations) by state is made by taking the number of such actions (as defined above) and dividing it by American Medical Association data on nonfederal MDs, and then multiplying the result by 1,000 to get state disciplinary rates. Nationwide, there were 2,731

serious disciplinary actions in 1996 out of 689,121 nonfederal MDs (according to AMA data on non-Federal doctors as of December, 1995), which works out to a rate of 3.96 serious disciplinary actions per 1,000 physicians. State rates ranged from 10.83 (Mississippi) to 1.76 (New Hampshire).

Best States: Highest Serious Disciplinary Rates

You will find your state's ranking in Table 1 which lists as the top 10 (in descending order) Mississippi, North Dakota, Iowa, Colorado, Arizona, Alaska, Oklahoma, Ohio, Nevada and Vermont. Seven of these 10 states (all but Nevada, North Dakota and Oklahoma) were also in the top 10 in 1995, and three, (Mississippi, Iowa, and Alaska) have been leaders for six straight years. Georgia, 19th this year and West Virginia, 11th this year, were both in the top 10 for the previous five years (1991-1995). Oklahoma, 7th this year, has been a top 10 state for five of the last six years. Colorado, 4th this year and North Dakota (2nd this year), have been top 10 states for four of the last six years. (See Table 2)

Worst States: Lowest Serious Disciplinary Rates

The bottom 10 states--those with the lowest rates of serious disciplinary actions in 1996--were, starting with the lowest--New Hampshire, Virginia, Tennessee, North Carolina, Minnesota, Illinois, South Carolina, Louisiana, Massachusetts and South Dakota. Four of the bottom 10--New Hampshire, Illinois, South Carolina and Virginia were also in the bottom 10 in 1995. In 1996, the bottom 21 of these states all had rates of serious disciplinary action which were less than one-third of Mississippi's 10.83, and the lowest (New Hampshire) had a rate only *one-sixth* that of the leader.

States With Significant Improvement (or Decline) from 1991 through 1996

By observing the actual rates of serious disciplinary actions for all years, 1991 through 1996, we did a statistical analysis to see in which states the rate had significantly increased (or decreased) during that duration of time. This was done using regression analyses.

In 15 states, there was a significant change during that period of time. For 11 of these states, the change was in a positive direction. Arizona (5th in 1996), California (27th in 1996), Colorado (4th in 1996), Massachusetts (43rd in 1996), Maine (17th in 1996), Michigan (28th in 1996), Nevada (9th in 1996), New York (18th in 1996), Ohio (8th in 1996), Pennsylvania (32nd in 1996) and Rhode Island (25th in 1996). In other words, in those states there was a significantly improved trend in the rate of serious disciplinary actions from 1991 to 1996 even though some of them are still not among the best boards in the country.

In four states, however, the change was in a negative direction, meaning that in those states there was a significant decrease in the rate of serious disciplinary actions over the 1991-1996 interval. These states were South Carolina (45th in 1996), Louisiana (44th in 1996), Minnesota (47th in 1996) and Oklahoma (7th in 1996). It should be pointed out that many other boards which steadily maintained high or low rates of serious disciplinary actions did not have significant changes during those years but still can be judged on the merits (or lack thereof) of their steady rates.

Conclusion

Our analysis of the data raises serious questions about the extent to which patients in many 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. In other words, it is likely that patients are being injured or killed more often in states with poor doctor disciplinary records than in states with consistent top-10 performances.

It is not unreasonable to estimate that at least 1 percent of doctors in this country deserve some serious disciplinary action each year, a number comparable to Mississippi's rate of (10.83 actions or 1.083%). This would amount to 6,891 (1% of 689,121 non-federal doctors) serious actions a year, which cover only a small fraction of the 80,000 patient deaths thought to occur each year in American hospitals as a result of negligence, almost all of it involving physicians. The current overall national rate of serious disciplinary actions, 3.96 per 1,000 or 0.39 percent, is far short of this rate of 1.083% in Mississippi. **If 1 percent of doctors had been disciplined, the national total would have been 6,891 actions or 4,160 more actions in 1996 than the 2,731 that actually occurred in 1996.**

Considering what is known about substandard doctoring, not even Mississippi's disciplinary rate seems adequate. Most states have a long way to go before they even begin to offer serious protection of citizens from doctors who are incompetent, who sexually abuse patients or who otherwise have serious problems that interfere with delivery of high-quality medical care in a compassionate way. National projections of a Harvard University study of deaths in New York hospitals showed 80,000 deaths a year caused by negligence, mainly by physicians. Thus, the 2,731 serious disciplinary actions in 1996 is a dangerously small drop in the bucket of adequate, consumer-protective doctor discipline. All states, especially those with worse records, need to strengthen the structure and functions of their licensing boards. The statement by the Federation that you cannot compare the disciplinary rates of boards with each other because they are set up, structured and funded differently is preposterous.

Unfortunately, the main federal legislative focus on medical malpractice--injury and death of patients caused by doctor negligence--has been to punish the victim instead of disciplining the perpetrator. Legislative efforts to limit victim compensation abound in most of the recent "Contract on America" legislation. No legislative attention is given to requiring states to significantly improve the discipline of physicians in order to prevent malpractice injuries and deaths from occurring.

Table 1
Ranking of Serious Doctor Disciplinary Actions
By State Medical Licensing Boards—1996

<i>Rank</i> 1996	State	Number of Serious Actions 1996	Total Number of Nonfederal Doctors 1995	Serious Actions Per 1,000 Doctors
1	Mississippi	45	4157	10.83
2	North Dakota	13	1419	9.16
3	Iowa	46	5368	8.57
4	Colorado	79	9526	8.29
5	Arizona	82	10019	8.18
6	Alaska	7	955	7.33
7	Oklahoma	41	5745	7.14
8	Ohio	161	26974	5.97
9	Nevada	16	2702	5.92
10	Vermont	10	1846	5.42
11	West Virginia	21	3948	5.32
12	Kansas	28	5665	4.94
13	Montana	9	1849	4.87
14	Kentucky	38	8091	4.70
15	Arkansas	22	4768	4.61
16	Utah	19	4209	4.51
17	Maine	13	2903	4.48
18	New York	313	70751	4.42
19	Georgia	67	15268	4.39
20	New Jersey	105	23970	4.38
21	Idaho	8	1878	4.26
22	Florida	160	37964	4.21
23	New Mexico	16	3819	4.19
24	Nebraska	15	3589	4.18
25	Rhode Island	13	3231	4.02
26	Delaware	7	1753	3.99
27	California	339	86317	3.93
28	Michigan	83	22149	3.75
29	Oregon	29	7834	3.70
30	Missouri	46	12525	3.67
31	Wyoming	3	836	3.59
32	Pennsylvania	130	36266	3.58
33	Indiana	41	11608	3.53
34	Wisconsin	43	12241	3.51
35	Texas	133	38352	3.47
36	District of Columbia	13	3911	3.32
37	Connecticut	40	12134	3.30
38	Alabama	28	8563	3.27
39	Hawaii	10	3215	3.11

Table 1
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By State Medical Licensing Boards--1996

<i>Rank</i>		Number of	Total Number	Serious
<i>1996</i>	State	Serious Actions	of Nonfederal	Actions Per
		1996	Doctors 1995	1,000 Doctors
40	Washington	43	13931	3.09
41	Maryland	59	19215	3.07
42	South Dakota	4	1358	2.95
43	Massachusetts	73	25467	2.87
44	Louisiana	28	10396	2.69
45	South Carolina	19	7708	2.46
46	Illinois	76	31304	2.43
47	Minnesota	29	12298	2.36
48/49	North Carolina	38	16966	2.24
48/49	Tennessee	29	12949	2.24
50	Virginia	36	16362	2.20
51	New Hampshire	5	2849	1.76
	<i>Total</i>	<i>2731</i>	<i>689121</i>	<i>3.96</i>

Table 2**Ranking of States 1991–1996: Serious Disciplinary Actions**

<i>Rank 1996</i>	Rank 1995	Rank 1994	Rank 1993	Rank 1992	Rank 1991	State
1	1	9	9	6	6	Mississippi
2	34	10	3	5	13	North Dakota
3	2	7	5	2	3	Iowa
4	5	12	6	8	17	Colorado
5	10	17	16	22	22	Arizona
6	8	2	8	7	1	Alaska
7	12	5	2	1	2	Oklahoma
8	9	24	22/23	19	23	Ohio
9	11	31	20	25	26	Nevada
10	6	39	17	15	10	Vermont
11	7	6	1	3	8	West Virginia
12	46	22	37/38	20	25	Kansas
13	18	3	14	10	19	Montana
14	14	4	4	16	5	Kentucky
15	23	28	26	18	29	Arkansas
16	38	46	39	43	18	Utah
17	32	33	41	44	46	Maine
18	17	29	34	39	49	New York
19	4	8	10	9	4	Georgia
20	25	19	18	28	20	New Jersey
21	36	30	37/38	23	34/35	Idaho
22	22	25	25	21	27	Florida
23	15	43/44	49	33	33	New Mexico
24	41/42	15	50	38	39	Nebraska
25	26	26	42	41	50/51	Rhode Island
26	48	48	43	51	16	Delaware
27	20	34/35	32	42	37	California
28	21	34/35	35	40	40	Michigan
29	16	20	22/23	24	14	Oregon
30	37	13	12	13	12	Missouri
31	3	1	21	4	9	Wyoming
32	43	47	48	48	47	Pennsylvania
33	28	16	7	14	15	Indiana
34	47	41	27	26	34/35	Wisconsin
35	19	23	28	29	21	Texas
36	50	51	51	45	45	Dist. of Columbia
37	27	42	36	35	30	Connecticut
38	30	43/44	29	30	31	Alabama
39	51	50	46	50	41	Hawaii
40	24	27	24	17	24	Washington
41	29	21	19	27	42/43	Maryland

Table 2**Ranking of States 1991–1996: Serious Disciplinary Actions**

<i>Rank</i> <i>1996</i>	Rank 1995	Rank 1994	Rank 1993	Rank 1992	Rank 1991	State
42	33	11	13	32	50/51	South Dakota
43	40	37	45	46	48	Massachusetts
44	13	18	11	12	7	Louisiana
45	44	14	15	11	11	South Carolina
46	45	40	31	36	36	Illinois
47	39	45	33	31	28	Minnesota
48/49	35	36	40	34	42/43	North Carolina
48/49	31	38	44	49	38	Tennessee
50	41/42	32	30	37	32	Virginia
51	49	49	47	47	44	New Hampshire