

Public Citizen's Health Research Group
Ranking of the Rate of State Medical Boards'
Serious Disciplinary Actions: 2003-2005

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Based on state-by-state data released late yesterday by the Federation of State Medical Boards (FSMB) on the number of disciplinary actions taken against doctors in 2005, combined with data from 2003-2004, 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 2003-5 (See Table 1).

Until two years ago, 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 now calculate the three-year average rate of discipline (for each year and the preceding two years) for all states and list 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 2005 alone.

Our calculation of rates of serious disciplinary actions per 1,000 doctors by state is created by taking the number of such actions for each state (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 2004¹ in that state (adding to this the number of osteopathic physicians² if the board is a combined medical/osteopathic board). We then multiply 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 (2003-2005), and the average rate for the three years is used as the basis for this year's state board rankings.

There were 3,255 serious disciplinary actions taken by state medical boards in 2005, slightly down (1.2%) from the 3,296 serious actions taken in 2004. The three-year state disciplinary rates ranged from 1.62 serious actions per 1,000 physicians (Mississippi) to 9.08 actions per 1,000 physicians (Kentucky), a 5.6-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 2003-2005 were, starting with the lowest: Mississippi (1.62 actions per 1,000 physicians), Delaware (1.63 per 1,000 physicians), Minnesota (1.65 per 1,000 physicians), Wisconsin (1.72 per 1000 physicians), Nevada (2.03 per 1,000 physicians), Maine (2.04 per 1000 physicians), South Carolina (2.06 per 1,000 physicians), Maryland (2.14 per 1000 physicians), South Dakota (2.18 per 1000 physicians), Hawaii (2.19 per 1000 physicians), Washington (2.22 per 1,000 physicians), Michigan (2.40 per 1,000 physicians), Rhode Island (2.49 per 1,000 physicians),

1 Physician Characteristics and Distribution in the U.S. American Medical Association, 2006 Edition.

2 Fact Sheet: American Osteopathic Association. Statistics as of August, 2004, available at http://www.do-online.osteotech.org/pdf/ost_factsheet.pdf .

Arkansas (2.49 per 1,000 physicians), and Connecticut (2.50 per 1,000 physicians).

Table 2 shows that four of these 15 states, (Wisconsin, Minnesota, Delaware, and Hawaii) have been among the bottom 15 states for the last 10 three-year periods. In addition, Maryland and Connecticut have been among the bottom 15 states for nine of the last 10 three-year periods; Washington, for seven of the last 10 three-year periods; South Carolina, for six of the last 10 three-year periods, and Rhode Island, for five of the last 10 three-year periods. Four states have experienced at least a 20 place drop in ranking between the 1999-2001 ranking to the current ranking: Arkansas went from 15th to 38th ; Michigan went from 20th to 40th; Mississippi, from 9th to 51st ; Nevada, from 22nd to 47th.

These data 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 would likely be barred from practice in states with boards that are doing a better job of disciplining physicians. It is quite possible that in states with poor doctor disciplinary records, patients are being injured or killed more often by doctors who should have been disciplined than patients in states with consistently high disciplinary performance.

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

The top 10 states are (in order): Kentucky (9.08 actions per 1,000 physicians), Alaska (8.49 per 1,000 physicians), Wyoming (8.19 serious actions per 1,000 physicians), Ohio (6.33 per 1,000 physicians), Arizona (6.20 per 1,000 physicians), Oklahoma (6.19 per 1,000 physicians), North Dakota (6.07 per 1,000 physicians), Colorado (5.75 per 1,000 physicians), West Virginia (5.45 per 1,000 physicians), and Missouri (5.34 per 1000 physicians). Nine of these 10 states were in the top 10 states in last year's ranking. Last year Missouri was ranked 11th.

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. Six more of these top 10 states have been in the top 10 for at least six of the last 10 three-year periods: Colorado (6), Arizona, Kentucky and West Virginia (7), North Dakota and Ohio (9).

It is clear that state-by-state performance is spotty. Only one of the nation's 15 most populous states, Ohio, is represented among those 10 states with the highest disciplinary rates. Illinois and Pennsylvania, other states with large populations, have usually been near the bottom, although Illinois has improve more recently, ranking 18th. California and New Jersey have hovered around the middle.

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 conditions are met:

- 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 bulleted variables are deficient in each state. Action must then be taken, legislatively and through pressure on the medical boards, to increase the amount of discipline and, thus, the amount of patient protection. Without adequate legislative oversight, inadequate constructive criticism of medical boards will continue to allow inadequate boards to perform poorly.

**RANKING OF THE RATE OF STATE MEDICAL BOARDS' SERIOUS DISCIPLINARY ACTIONS IN 2005
(HRG PUBLICATION #1766)**

Table 1: Ranking of Serious Doctor Disciplinary Action Rates by State Medical Licensing Boards, 2003-2005

Rank 2003-2005*	State	Number of Serious Actions 2005	Number of Physicians 2004**	Serious Actions per 1,000 Physicians from 2003 – 2005***
1	Kentucky	72	10814	9.08
2	Alaska	19	1691	8.49
3	Wyoming	7	1143	8.19
4	Ohio	235	36622	6.33
5	Arizona	81	14012	6.20
6	Oklahoma	36	6846	6.19
7	North Dakota	7	1771	6.07
8	Colorado	84	14266	5.75
9	West Virginia	25	4613	5.45
10	Missouri	48	16792	5.34
11	Montana	8	2529	5.30
12	Vermont	14	2589	5.28
13	Louisiana	54	13113	4.89
14	Utah	32	5643	4.84
15	Iowa	30	7320	4.77
16	Nebraska	31	4805	4.53
17	New York	362	85120	4.39
18	Illinois	211	40142	4.08
19	Oregon	55	11428	4.05
20	Georgia	81	22303	3.99
21	New Hampshire	17	4069	3.78
22	Alabama	38	10917	3.78
23	California	363	105766	3.56
24	Indiana	55	15399	3.52
25	Idaho	12	2863	3.50
26	North Carolina	105	24645	3.45
27	Texas	188	55073	3.29
28	Massachusetts	94	31738	3.22
29	New Mexico	14	5169	3.17
30	Tennessee	65	16863	3.14
31	Kansas	22	7480	3.02
32	Florida	182	51025	2.98
33	Pennsylvania	109	40832	2.80
34	Virginia	64	23296	2.65
35	New Jersey	64	32038	2.61
36	District of Columbia	11	4767	2.58
37	Connecticut	36	14395	2.50
38	Arkansas	26	6410	2.49
38	Rhode Island	16	4343	2.49
40	Michigan	65	26999	2.40
41	Washington	41	18894	2.22
42	Hawaii	15	4600	2.19
43	South Dakota	1	1983	2.18
44	Maryland	60	25689	2.14
45	South Carolina	15	11063	2.06
46	Maine	7	4052	2.04
47	Nevada	11	4934	2.03
48	Wisconsin	23	16205	1.72
49	Minnesota	29	16322	1.65
50	Delaware	4	2536	1.63
51	Mississippi	11	6159	1.62

* Rank is calculated based upon an average of the disciplinary rates for 2003, 2004 and 2005.

**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 2003, 2004 and 2005.

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

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Alabama	39	36	27	18	14	12	11	13	16	22
Alaska	3	3	1	1	1	1	1	6	4	2
Arizona	9	7	13	28	18	5	3	1	6	5
Arkansas	24	16	9	5	8	15	20	29	44	38
California	32	20	22	22	23	25	24	22	22	23
Colorado	5	5	6	12	19	16	12	9	9	8
Connecticut	37	33	37	39	37	39	38	38	38	37
Delaware	47	44	49	50	50	50	49	50	50	50
District of Columbia**	51	49	40	42	N/A	N/A	N/A	41	30	36
Florida	19	22	44	46	44	33	36	37	37	32
Georgia	8	11	16	16	10	10	10	15	18	20
Hawaii	49	50	46	48	47	49	50	51	51	42
Idaho	36	34	25	13	22	14	18	14	21	25
Illinois	48	41	42	38	45	47	41	36	25	18
Indiana	20	25	26	19	20	27	32	33	27	24
Iowa	2	2	4	8	13	8	9	12	12	15
Kansas	29	38	36	45	43	32	30	30	31	31
Kentucky	11	12	12	10	5	4	5	2	2	1
Louisiana	18	26	28	23	21	24	19	17	14	13
Maine	35	23	14	17	17	29	28	34	35	46
Maryland	28	37	41	41	38	41	45	47	47	44
Massachusetts	41	46	48	46	46	37	34	23	23	28
Michigan	34	19	15	14	15	20	27	40	39	40
Minnesota	46	48	50	49	48	48	47	48	48	49
Mississippi	1	1	2	2	6	9	14	20	40	51
Missouri	26	31	35	34	34	28	29	31	11	10
Montana	12	15	20	25	36	30	16	8	8	11
Nebraska	27	40	28	43	40	45	35	28	24	16
Nevada	15	13	19	29	26	22	25	32	46	47
New Hampshire	50	51	47	30	25	18	23	24	26	21
New Jersey	17	24	34	37	30	26	21	25	29	35
New Mexico	30	27	23	27	24	34	26	21	19	29
New York	21	17	18	15	12	13	13	18	17	17
North Carolina	43	32	32	24	35	31	37	42	34	26
North Dakota	10	14	7	6	2	2	2	3	3	7
Ohio	13	8	10	7	7	7	7	7	7	4
Oklahoma	6	6	3	4	4	3	4	5	5	6
Oregon	16	21	30	31	28	23	17	16	20	19
Pennsylvania	45	39	39	40	39	36	39	45	36	33
Rhode Island	24	18	17	21	29	38	40	46	45	39
South Carolina	33	43	33	35	31	43	44	44	43	45
South Dakota	22	35	24	20	32	46	48	35	32	43
Tennessee	42	47	51	51	49	44	42	43	41	30
Texas	23	28	31	33	33	35	33	26	28	27
Utah	38	30	21	26	16	11	8	11	13	14
Vermont	14	10	11	11	9	19	31	19	15	12
Virginia	40	45	45	32	27	21	22	27	33	34
Washington	31	29	38	36	41	40	43	39	42	41
West Virginia	7	9	8	9	11	17	15	10	10	9
Wisconsin	44	42	43	44	42	42	46	49	49	48
Wyoming	4	4	5	3	3	6	6	4	1	3

* 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.