

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

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Based on data from the Federation of State Medical Boards (FSMB) on the number of disciplinary actions taken in 2003 against doctors, 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 in the year 2003 (See Table 1).

Our calculation of rates of serious disciplinary actions (revocations, surrenders, suspensions and probations/restrictions) per 1,000 doctors by state is created by taking the number of such actions (columns A and B from the FSMB data) and dividing it by the American Medical Association data on nonfederal M.D.s as of December 2002¹ (adding to this the number of osteopathic physicians² if the board is a combined M.D./D.O. board). We then multiplied the result by 1,000 to get state disciplinary rates per 1,000 physicians.

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, starting with this year, 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 so that trends over the past decade can more accurately be examined (see Table 2). As of next year (for the disciplinary data for 2004), we will only be reporting 3-year averages which, for next year, will be the average of the disciplinary rates for 2002, 2003 and 2004.

There were 2,992 serious disciplinary actions taken by state medical boards in 2003, up 4.5% from the 2,864 serious actions taken in 2002. State rates ranged from 1.46 serious actions per 1,000 physicians (Rhode Island) to 11.58 actions per 1,000 physicians (Kentucky), a 7.9-fold difference between the best and worst states. **If all the boards did as good a job as the lowest of the top five boards---the rate for #5, Oklahoma, being 7.88 serious disciplinary actions per 1,000 physicians or 0.788 percent---this would have amounted to a total of 6,638 (0.788 percent of 842,379 non-federal doctors) serious actions a year. This would be 3,646 more serious actions than the 2,992 that actually occurred in 2003, an increase of 121%..**

Worst States (those with the lowest rate of serious disciplines).

As can be seen in Table 1, the bottom 15 states, those with the lowest serious disciplinary action rates in 2003, were, starting with the lowest: Rhode Island (1.46 actions per 1,000 physicians), Wisconsin (1.66 per 1,000 physicians), Minnesota (1.67 per 1,000 physicians), Delaware (1.71 per 1,000 physicians), Michigan (1.77 per 1,000 physicians), Mississippi (1.77 per 1,000 physicians), Pennsylvania (1.96 per 1,000 physicians), Hawaii (1.97 per 1,000 physicians), Arkansas (2.00 per 1,000 physicians), Maryland (2.00 per

1 Physician Characteristics and Distribution in the U.S. American Medical Association, 2004 Edition.

2 Fact Sheet: American Osteopathic Association. Statistics as of June, 2002.

1,000 physicians), North Carolina (2.04 per 1,000 physicians), Maine (2.13 per 1,000 physicians), Florida (2.30 per 1,000 physicians), Illinois (2.54 per 1,000 physicians), and Kansas (2.57 per 1,000 physicians).

Table 2 shows that five of these 15 states, (Wisconsin, Minnesota, Tennessee, Delaware, and Hawaii) have consistently been in the bottom 15 states for nine consecutive 3-year average periods. Pennsylvania and Illinois have been in the bottom 15 states for eight of the last 3-year average periods. Large decreases in rates and rankings occurred for states such as Mississippi, in the top 10 states for seven consecutive 3-year averages until 2001 (the average of 1999, 2000 and 2001) but falling substantially since then to 20th for the latest 3-year average. Similarly Arkansas, in the top 10 states in the late 1990's, has fallen sharply to 29th since the 2000 3-year average in the last several years. Michigan, which was rated 14th or 15th in the late 1990's has sunk to 40th. Looked at another way, 10 of the bottom 15 states, as measured by the rate of discipline in 2003 alone, were also in the bottom 15 for 2003 using the new 3-year moving average (the average rates for 2001, 2002 and 2003).

These data again raise 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. It is extremely likely 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): Kentucky (11.58 actions per 1,000 physicians), Wyoming (11.42 per 1,000 physicians), North Dakota (10.25 per 1,000 physicians), Arizona (8.21 per 1,000 physicians), Oklahoma (7.88 per 1,000 physicians), Vermont (7.34 per 1,000 physicians), Montana (7.18 per 1,000 physicians), Alaska (6.96 per 1,000 physicians), West Virginia (6.80 per 1,000 physicians), and Ohio (6.18 per 1,000 physicians).

As can be seen in Table 2, three of these 10 states (Wyoming, Oklahoma and Alaska) have been in the top ten for all nine of the three-year average periods listed. Ohio has been in the top 10 of these three-year average periods for seven of the last nine, Kentucky, North Dakota and West Virginia for six of the last nine, and Arizona for five of the last nine.

With the exception of Vermont, which has improved considerably over the past several years, all of the other nine top-10 states, as measured by the rate of serious disciplinary actions in 2003 alone, were also in the top ten as measured by the 2003 3-year average (2001, 2002 and 2003).

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 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 statutory framework for disciplining doctors (preponderance of the evidence rather than beyond reasonable doubt or clear and convincing evidence as the legal standard for discipline).

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 consistently been near the bottom and 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.

Given the importance of medical boards in protecting patients from doctors who are not practicing medicine in the best manner and are thus endangering the lives and health of residents, most states are not living up to this obligation. 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.

Table 1: Ranking of Serious Doctor Disciplinary Actions by State Medical Licensing Boards – 2003

Rank 2003*	State	Number of Serious Actions 2003	Number of Physicians 2002**	Serious Actions per 1,000 Physicians
1	Kentucky	116	10,021	11.58
2	Wyoming	12	1,051	11.42
3	North Dakota	17	1,658	10.25
4	Arizona	103	12,543	8.21
5	Oklahoma	51	6,474	7.88
6	Vermont	18	2,451	7.34
7	Montana	17	2,367	7.18
8	Alaska	10	1,437	6.96
9	West Virginia	30	4,415	6.80
10	Ohio	212	34,303	6.18
11	Colorado	69	12,676	5.44
12	Louisiana	68	12,604	5.40
13	Utah	25	5,156	4.85
14	New York	370	82,536	4.48
15	Alabama	45	10,192	4.42
16	Georgia	89	20,162	4.41
17	Oregon	45	10,271	4.38
18	Iowa	28	6,914	4.05
19	South Dakota	7	1,779	3.93
20	Nebraska	17	4,494	3.78
21	Indiana	55	14,713	3.74
22	California	365	99,720	3.66
23	Texas	184	50,701	3.63
24	Missouri	53	15,867	3.34
25	Massachusetts	98	29,852	3.28
26	South Carolina	33	10,140	3.25
27	New Hampshire	12	3,781	3.17
28	Idaho	8	2,587	3.09
29	Connecticut	39	13,948	2.80
30	Virginia	57	20,981	2.72
31	Washington	46	17,371	2.65
32	New Mexico	12	4,562	2.63
33	New Jersey	81	30,846	2.63
34	District of Columbia	11	4,190	2.63
35	Tennessee	41	15,795	2.60
36	Nevada	11	4,285	2.57
37	Kansas	18	7,014	2.57
38	Illinois	97	38,261	2.54
39	Florida	109	47,403	2.30
40	Maine	8	3,748	2.13
41	North Carolina	46	22,554	2.04
42	Maryland	46	22,956	2.00
43	Arkansas	12	6,008	2.00
44	Hawaii	8	4,056	1.97
45	Pennsylvania	78	39,886	1.96
46	Mississippi	10	5,659	1.77
47	Michigan	45	25,475	1.77
48	Delaware	4	2,337	1.71
49	Minnesota	25	14,964	1.67
50	Wisconsin	25	15,097	1.66
51	Rhode Island	6	4,118	1.46
	National	2,992	842,379	3.55

*This rank is based on the rate of doctor discipline for 2003 alone

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

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

State	1995	1996	1997	1998	1999	2000	2001	2002	2003
Alabama	40	39	36	27	18	14	12	11	13
Alaska	5	3	3	1	1	1	1	1	6
Arizona	11	9	7	13	28	18	5	3	1
Arkansas	28	24	16	9	5	8	15	20	29
California	31	32	20	22	22	23	25	24	22
Colorado	9	5	5	6	12	19	16	12	9
Connecticut	35	37	33	37	39	37	39	38	38
Delaware	48	47	44	49	50	50	50	49	50
District of Columbia**	51	51	49	40	42	N/A	N/A	N/A	41
Florida	26	19	22	44	46	44	33	36	37
Georgia	6	8	11	16	16	10	10	10	15
Hawaii	50	49	50	46	48	47	49	50	51
Idaho	36	36	34	25	13	22	14	18	14
Illinois	42	48	41	42	38	45	47	41	36
Indiana	14	20	25	26	19	20	27	32	33
Iowa	3	2	2	4	8	13	8	9	12
Kansas	33	29	38	36	45	43	32	30	30
Kentucky	8	11	12	12	10	5	4	5	2
Louisiana	12	18	26	28	23	21	24	19	17
Maine	39	35	23	14	17	17	29	28	34
Maryland	23	28	37	41	41	38	41	45	47
Massachusetts	46	41	46	48	46	46	37	34	23
Michigan	32	34	19	15	14	15	20	27	40
Minnesota	41	46	48	50	49	48	48	47	48
Mississippi	4	1	1	2	2	6	9	14	20
Missouri	16	26	31	35	34	34	28	29	31
Montana	10	12	15	20	25	36	30	16	8
Nebraska	37	27	40	28	43	40	45	35	28
Nevada	21	15	13	19	29	26	22	25	32
New Hampshire	49	50	51	47	30	25	18	23	24
New Jersey	19	17	24	34	37	30	26	21	25
New Mexico	38	30	27	23	27	24	34	26	21
New York	29	21	17	18	15	12	13	13	18
North Carolina	22	43	32	32	24	35	31	37	42
North Dakota	24	10	14	7	6	2	2	2	3
Ohio	15	13	8	10	7	7	7	7	7
Oklahoma	7	6	6	3	4	4	3	4	5
Oregon	18	16	21	30	31	28	23	17	16
Pennsylvania	47	45	39	39	40	39	36	39	45
Rhode Island	30	24	18	17	21	29	38	40	46
South Carolina	20	33	43	33	35	31	43	44	44
South Dakota	13	22	35	24	20	32	46	48	35
Tennessee	44	42	47	51	51	49	44	42	43
Texas	25	23	28	31	33	33	35	33	26
Utah	45	38	30	21	26	16	11	8	11
Vermont	16	14	10	11	11	9	19	31	19
Virginia	34	40	45	45	32	27	21	22	27
Washington	27	31	29	38	36	41	40	43	39
West Virginia	1	7	9	8	9	11	17	15	10
Wisconsin	43	44	42	43	44	42	42	46	49
Wyoming	2	4	4	5	3	3	6	6	4

*Each year, a disciplinary rate was calculated. For each year, a moving average rate was calculated by adding the rate in that year to the rate in the two preceding years and dividing by three. This rate was then ranked. The ranking in the column marked "2003" thus represents the ranking of that states average rate over the period 2001-2003.

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