

Public Citizen's Health Research Group
Ranking of the Rate of State Medical Boards'
Serious Disciplinary Actions, 2004-2006

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Public Citizen's Health Research Group has calculated the rate of serious disciplinary actions per 1,000 doctors in each state. Using state-by-state data released in late April by the Federation of State Medical Boards (FSMB) on the number of disciplinary actions taken against doctors in 2006¹, combined with data from earlier FSMB reports covering 2004 and 2005, we have compiled a national report ranking state boards by the rate of serious disciplinary actions per 1,000 doctors for the years 2004-6 (See Table 1) and for earlier three-year intervals (See Table 2).

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 (and their ranks) than it would in larger states. To minimize such fluctuations, we therefore calculate the average rate of discipline over a three-year period: the year of interest and the preceding two years. Thus, the newest ranking is based on rates from 2004, 2005, and 2006, not the rate for 2006 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 (revocations, surrenders, suspensions and probation/restrictions, the first two categories in the FSMB data) and dividing that by the American Medical Association (AMA) data on total M.D.s as of December 2005² in that state. We add to this denominator the number of osteopathic physicians³ for the 37 boards that are combined medical/osteopathic boards. We then multiply the result by 1,000 to get board disciplinary rates per 1,000 physicians. This rate calculation is done for each year and the average rate for the last three years is used as the basis for this year's state board rankings (Table 1). We then repeated these calculations for each of the three previous three-year intervals (2001-3, 2002-4, and 2003-5; Table 2).

In previous years, we have used AMA data on non-federal M.D.s, but the AMA now only provides information on the total number of licensed physicians, without a breakdown by federal/non-federal status. We therefore amended our traditional protocol to use data on the *total* number of M.D.s in each state as the denominator in calculating the rates. To ensure that the ranks based on this new denominator are as comparable as possible to data from previous years, we entered the data for total physicians and re-calculated the rates of serious actions of every state for each year in the period from 2001-2006, as well as the related three-year rankings. All states' rates, as currently calculated, are therefore somewhat lower than rates in our previous reports because of the larger denominator. However, this had no effect on the rankings of most states because the larger denominators affect all states⁴: the ranks of 39 of the states for the 2002-2004 interval were identical to

¹ Federation of State Medical Boards. Summary of 2006 Board Actions, available at <http://www.fsmb.org/pdf/FSMB%202007%20Summary%20of%20Board%20Actions.pdf>.

² Physician Characteristics and Distribution in the U.S. American Medical Association, 2006 Edition.

³ Fact Sheet: American Osteopathic Association. Statistics as of August, 2004, available at http://www.do-online.osteotech.org/pdf/ost_factsheet.pdf.

⁴ This is not surprising as in the 2004 edition of the AMA publication, the last to include the federal/non-federal physician breakdown, only 2.46 percent of all physicians were federal employees. Moreover, these physicians were

what they had been in our report for that interval issued in 2005⁵, in which we used only non-federal physicians. Of the 12 states with different ranks, the rank of six increased by only one place and the other six decreased by one place.

There were 2,916 serious disciplinary actions taken by state medical boards in 2006, down 10.4 percent from the 3,255 serious actions taken in 2005. The national average disciplinary rate was 3.18, compared to 3.62 in 2005. The three-year state disciplinary rates ranged from 1.41 serious actions per 1,000 physicians (Mississippi) to 7.30 actions per 1,000 physicians (Alaska), a 5.2-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 10 states, those with the lowest serious disciplinary action rates for 2004-2006, were, starting with the lowest: Mississippi (1.41 actions per 1,000 physicians); South Carolina (1.45); Minnesota (1.45); South Dakota (1.52); Nevada (1.68); Wisconsin (1.78); Washington (2.06); Delaware (2.22); Maryland (2.25); and Connecticut (2.34)

Table 2 shows that five of these 10 states, (Delaware, Maryland, Minnesota, South Carolina, and Wisconsin) have been among the bottom 10 states for each of the last four three-year periods.

Nine states have experienced at least a 10-place drop in ranking between the 2001-3 ranking and the 2004-6 ranking: Alabama went from 13th to 26th; Georgia from 15th to 25th; Idaho from 14th to 24th; Mississippi from 20th to 51st; Nevada from 33rd to 47th; New Jersey from 24th to 40th; North Dakota from 3rd to 19th; South Dakota from 37th to 48th; and Virginia from 30th to 41st.

Best States (those with the highest three-year rates of serious disciplinary actions).

The top 10 states for 2004-6 are (in order from the top down): Alaska (7.30 serious actions per 1,000 physicians); Kentucky (7.10); Wyoming (6.37); Ohio (6.01); Oklahoma (5.54); Missouri (5.43); Iowa (5.32); Colorado (5.24); Arizona (5.12); and Nebraska (4.91).

Seven of these 10 states (all but Iowa, Missouri, and Nebraska) have been in the top ten for all four of the three-year average periods in this report. Seven states have improved by at least 10 places from the 2001-3 ranking to the 2004-6 ranking. Most notable are Nebraska and Missouri, now both among the top 10 states. Nebraska improved from 28th to 10th and Missouri from 31st to 6th. Illinois improved from 35th to 12th; North Carolina from 41st to 16th; Tennessee from 44th to 29th; Pennsylvania from 45th to 32nd; and Hawaii from 51st to 33rd.

Discussion

disproportionately represented in a small number of states (e.g., Alaska, District of Columbia, Maryland and Hawaii).

⁵ Wolfe, SM, Lurie P. *Ranking of the Rate of State Medical Boards' Serious Disciplinary Actions: 2002-2004*, available at <http://www.citizen.org/publications/release.cfm?ID=7380>

These data demonstrate a remarkable variability in the rates of serious disciplinary actions taken by the state boards. Only one of the nation's 15 most populous states, Ohio, is represented among those 10 states with the highest disciplinary rates. Absent any evidence that the prevalence of physicians deserving of discipline varies substantially from state to state, this variability must be considered the result of the boards' practices. Indeed, the ability of certain states to rapidly increase or decrease their rankings (even when these are calculated on the basis of three-year averages) can only be due to changes in practices at the board level; the prevalence of physicians eligible for discipline cannot change so rapidly.

Moreover, there is considerable evidence that most boards are under-disciplining physicians. For example, in a report on doctors disciplined for criminal activity that we published in the last year, 67 percent of insurance fraud convictions and 36 percent of convictions related to controlled substances were associated with only non-severe discipline by the board.⁶

In this report, we have concentrated on the most serious disciplinary actions. Although the FSMB does report less severe actions such as reprimands, it is not appropriate to provide such actions with equal weight as license revocations, for example. A state that embarks on a strategy of switching over time from revocations or probations to fines or reprimands for similar offenses should have a rate and a ranking that reflects this decision to discipline less severely.

A relatively recent trend has been for state boards to post the particulars of disciplinary actions they have taken on the Internet. In October 2006, Public Citizen's Health Research Group published a report that ranked the states according to the quality of those postings⁷. The report showed variability in the quality of those websites akin to that reported for disciplinary rates in this report. There was no correlation between state ranking in the website report and state ranking in this disciplinary rate report (Spearman's rho = 0.0855; $p=0.55$). A good website is no substitute for a poor disciplinary rate (or vice versa); states should both appropriately discipline their physicians and convey that information to the public. However, no state ranked in the top 10 in both reports.

This report ranks the performance of medical boards by their disciplinary rates; it does not purport to assess the overall quality of medical care in a state or to assess the function of the boards in other respects. It cannot determine whether a board with, for example, a low disciplinary rate has been starved for resources by the state or whether the board itself has a tendency to mete out lower (or no) forms of discipline. From the patient's perspective, of course, this distinction is irrelevant.

What Makes a Difference?

⁶ Jung P, Lurie P, Wolfe SM. U.S. Physicians Disciplined For Criminal Activity. *Health Matrix* 2006;16:335-50.

⁷ Larson, M, Marcus B, Lurie P, Wolfe SM. 2006 Report of Doctor Disciplinary Information on State Web Sites: A Survey and Ranking of State Medical and Osteopathic Board Web Sites. <http://www.citizen.org/publications/release.cfm?ID=7478>

Boards are likely to be able to do a better job in disciplining physicians if 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 reacting to complaints
- The use of all available/reliable data from other sources such as Medicare and Medicaid sanctions, hospital sanctions, malpractice payouts, and the criminal justice system
- Excellent leadership
- Independence from state medical societies
- Independence from other parts of the state government so that the board has the ability to develop its own budgets and regulations
- A reasonable legal standard for disciplining doctors (“preponderance of the evidence” rather than “beyond a reasonable doubt” or “clear and convincing evidence”).

Most states are not living up to their obligations to protect patients from doctors who are practicing medicine in a substandard manner. 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 themselves, to increase the amount of discipline and, thus, the amount of patient protection. Without adequate legislative oversight, many medical boards will continue to perform poorly.

RATES AND RANKING OF THE RATE OF STATE MEDICAL BOARDS' SERIOUS DISCIPLINARY ACTIONS, 2006

Table 1: Ranking of Serious Doctor Disciplinary Action Rates by State Medical Licensing Boards, 2004-2006

Rank 2004-2006*	State	Number of Serious Actions, 2006	Number of Physicians, 2005†‡	Serious Actions per 1,000 Physicians, 2004 – 2006§
1	Alaska**	6	1,777	7.30
2	Kentucky**	62	11,039	7.10
3	Wyoming**	7	1,170	6.37
4	Ohio**	195	37,247	6.01
5	Oklahoma	41	6,950	5.54
6	Missouri	62	17,126	5.43
7	Iowa**	42	7,374	5.32
8	Colorado**	57	14,666	5.24
9	Arizona	73	14,699	5.12
10	Nebraska**	24	4,866	4.91
11	Louisiana**	68	12,758	4.87
12	Illinois**	172	40,801	4.64
13	Vermont	14	2,624	4.62
14	West Virginia	18	4,681	4.47
15	Utah	19	5,857	4.30
16	North Carolina**	112	25,321	4.24
17	New York**	323	85,842	4.15
18	Montana**	9	2,607	4.05
19	North Dakota**	7	1,768	3.98
20	Oregon**	43	11,807	3.80
21	New Hampshire**	12	4,194	3.67
22	New Mexico	21	5,292	3.62
23	Arkansas**	35	6,545	3.61
24	Idaho**	8	3,017	3.35
25	Georgia**	57	22,941	3.34
26	Alabama**	34	11,167	3.32
27	California	301	108,053	3.27
28	Indiana**	46	15,735	3.25
29	Tennessee	47	17,349	3.17
30	Massachusetts**	100	32,512	3.15
31	Texas**	161	56,698	3.03
32	Pennsylvania	109	41,358	3.03
33	Hawaii**	21	4,705	3.02
34	Maine	20	4,095	2.95
35	Florida	113	52,324	2.93
36	Kansas**	16	7,588	2.87
37	District of Columbia**	16	4,873††	2.80
38	Rhode Island**	10	4,458††	2.75
38	Michigan	70	27,316††	2.64
40	New Jersey**	84	32,662††	2.59
41	Virginia	52	23,829††	2.47
42	Connecticut**	34	14,616††	2.34
43	Maryland	61	26,115	2.25
44	Delaware**	9	2,597	2.22
45	Washington	42	19,349	2.06
46	Wisconsin**	30	16,489	1.78
47	Nevada	8	5,196	1.68
48	South Dakota**	4	2,027	1.52
49	Minnesota**	18	16,766	1.45
50	South Carolina**	16	11,338	1.45
51	Mississippi**	7	6,166	1.41
	National	2,916	918,350	3.18

* Rank is calculated based upon an average of the disciplinary rates for 2004, 2005, and 2006.

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

‡ In previous reports we used non-federal physicians, but in this report we used data for total physicians because the American Medical Association no longer provides physician data broken down by federal/non-federal status.

§ Disciplinary rate for the period is calculated by averaging the disciplinary rates over the three-year period 2004-6.

** These states have a combined state medical and osteopathy board.

†† The number of physicians for this state has been changed from the original report. This change does not affect the rate or rank of any state for any year because the rates and ranks were calculated using the correct numbers of physicians.

RANKING OF THE RATE OF STATE MEDICAL BOARDS' SERIOUS DISCIPLINARY ACTIONS, 2001-6

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

	2003	2004	2005	2006
Alabama [‡]	13	17	22	26
Alaska [‡]	6	4	2	1
Arizona	2	7	6	9
Arkansas [‡]	29	45	39	23
California	22	22	23	27
Colorado [‡]	8	9	8	8
Connecticut [‡]	38	38	38	42
Delaware [‡]	50	50	50	44
District of Columbia [‡]	42	31	36	37
Florida	36	37	32	35
Georgia [‡]	15	18	20	25
Hawaii [‡]	51	51	42	33
Idaho [‡]	14	21	25	24
Illinois [‡]	35	25	18	12
Indiana [‡]	27	27	24	28
Iowa [‡]	12	12	15	7
Kansas [‡]	32	30	31	36
Kentucky [‡]	1	2	1	2
Louisiana [‡]	17	14	13	11
Maine	34	35	46	34
Maryland [‡]	48	47	44	43
Massachusetts [‡]	23	23	28	30
Michigan	40	39	40	39
Minnesota [‡]	47	48	49	49
Mississippi [‡]	20	41	51	51
Missouri [‡]	31	11	10	6
Montana [‡]	9	8	12	18
Nebraska [‡]	28	24	16	10
Nevada	33	46	47	47
New Hampshire [‡]	25	26	21	21
New Jersey [‡]	24	29	35	40
New Mexico	21	19	29	22
New York [‡]	18	16	17	17
North Carolina [‡]	41	34	26	16
North Dakota [‡]	3	3	7	19
Ohio [‡]	7	6	4	4
Oklahoma	5	5	5	5
Oregon [‡]	16	20	19	20
Pennsylvania	45	36	33	32
Rhode Island [‡]	46	44	37	38
South Carolina [‡]	43	43	45	50
South Dakota [‡]	37	33	43	48
Tennessee	44	40	30	29
Texas [‡]	26	28	27	31
Utah	10	13	14	15
Vermont	19	15	11	13
Virginia [‡]	30	32	34	41
Washington	39	42	41	45
West Virginia	11	10	9	14
Wisconsin [‡]	49	49	48	46
Wyoming [‡]	4	1	3	3

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

† Whereas in previous reports we used data on non-federal physicians, in this report we used data for total physicians because the American Medical Association no longer provides physician data broken down by federal/non-federal status. The data in this table are based on total physician data for all years, including those in previous reports. Differences in rank from previous reports are minor (see text).

‡ These states have a combined state medical and osteopathy board.