

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

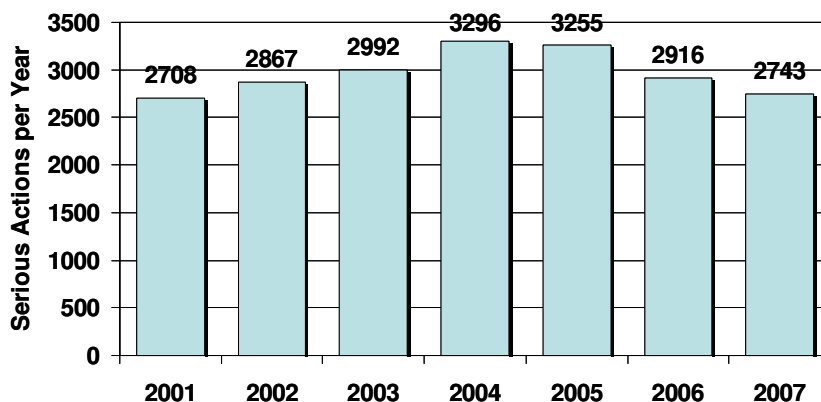
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## Public Citizen’s Health Research Group Ranking of the Rate of State Medical Boards’ Serious Disciplinary Actions: 2004-2006

Using data just released by the Federation of State Medical Boards (FSMB) on the disciplinary actions taken against doctors in 2007, we have calculated that there were 2,743 serious disciplinary actions (revocations, surrenders, suspensions and probation/restrictions) taken by state medical boards in 2007, a sharp decrease in such actions from 2004, when the number had peaked at 3,296 (see Figure below) . **This represents a 17 percent decrease since 2004 and marks the third consecutive year the number of these actions has decreased from the previous year.** This means that there were 553 fewer serious disciplinary actions in 2007 than in 2004, even though there was a 6 percent increase in the number of physicians during that time.

### Serious Disciplinary Actions by State Medical Boards: 2001-2007



The 2007 national average disciplinary rate of 2.92 serious actions per 1000 physicians was also down compared with 3.18 in 2006 (3.62 in 2005).

The three-year average state disciplinary rates (2005-2007) ranged from 1.18 serious actions per 1,000 physicians (South Carolina) to 8.33 actions per 1,000 physicians (Alaska), a 7.1-fold difference between the best and worst state doctor disciplinary boards. (see **Methods** at the end of this report for the details of our calculations).

**10 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 2005-2007, were, starting with the lowest: South Carolina (1.18 actions per 1,000 physicians); Minnesota (1.24); Mississippi (1.46); Wisconsin (1.63); South Dakota (1.95); Nevada (2.19); Connecticut (2.21). Washington (2.24); Maryland (2.26); and New Jersey (2.32). This list includes not only small states such as South Dakota but large states such as

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

periods. In addition, Nevada, South Dakota and Washington have been in the bottom 10 states for each of the last three three-year cycles.

### **States with Largest Decreases from 2001 to 2007**

Eleven states have experienced at least a 10-place worsening in ranking between the 2001-3 ranking and the 2005-7 ranking: Alabama went from 13th to 34th; California from 22nd to 36th; Georgia from 15th to 33rd; Idaho from 14th to 25th; Massachusetts from 23rd to 35th; Mississippi from 20th to 49th; Nevada from 33rd to 46th; New Jersey from 24th to 42nd; North Dakota from 3rd to 13th; and South Dakota from 37th to 47th.

**Take action: Contact the worst boards**

**10 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 (8.33 serious actions per 1,000 physicians); Kentucky (6.55); Ohio (5.71); Arizona (5.37); Nebraska (5.19); Colorado (4.92); Wyoming (4.86); Vermont (4.83); Oklahoma (4.75); and Utah (4.72).

Table 2 shows that seven of these 10 states, Alaska, Arizona, Colorado, Kentucky, Ohio, Oklahoma, and Wyoming have been in the top ten for all five of the three-year average periods in this report.

### **States with Largest Improvement from 2001 to 2007**

Ten states have experienced at least a 10-place improvement in ranking between the 2001-3 ranking and the 2005-7 ranking: Arkansas from 29<sup>th</sup> to 16<sup>th</sup>; Delaware from 50<sup>th</sup> to 29<sup>th</sup>; District of Columbia from 42<sup>nd</sup> to 22<sup>nd</sup>; Hawaii from 51<sup>st</sup> to 21<sup>st</sup>; Illinois from 35<sup>th</sup> to 12<sup>th</sup>; Maine from 34<sup>th</sup> to 24<sup>th</sup>; Nebraska from 28<sup>th</sup> to 5<sup>th</sup>; Rhode Island from 46<sup>th</sup> to 23<sup>rd</sup>; Tennessee from 44<sup>th</sup> to 28<sup>th</sup> and Vermont from 19<sup>th</sup> to 8<sup>th</sup>.

### **Discussion**

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 recently, 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.<sup>1</sup>

In this report, we have concentrated on the most serious disciplinary actions. Although the FSMB does report less severe actions such as fines and 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.

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<sup>1</sup> Jung P, Lurie P, Wolfe SM. U.S. Physicians Disciplined For Criminal Activity. *Health Matrix* 2006;16:335-50.

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 postings.<sup>2</sup> The report showed variability in the quality of those Web sites akin to that reported for disciplinary rates in this report. There was no correlation between state ranking in the Web site report and state ranking in that year's disciplinary rate report (Spearman's rho = 0.0855; p=0.55). A good Web site 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?**

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.

### **Methods:**

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 just released in late April by the Federation of State Medical Boards (FSMB) on the number of disciplinary actions taken against doctors in 2007,<sup>3</sup> combined with data from earlier FSMB reports covering 2005 and 2006, we have compiled a national report ranking state boards by the rate of serious disciplinary actions per 1,000 doctors for the years 2005-7 (See Table 1, PDF) and for earlier three-year intervals (See Table 2, PDF).

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<sup>2</sup> 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, available at <http://www.citizen.org/publications/release.cfm?ID=7478>.

<sup>3</sup> Federation of State Medical Boards. Summary of 2007 Board Actions, available at [http://www.fsmb.org/pdf/2007\\_SummarBoardActions.pdf](http://www.fsmb.org/pdf/2007_SummarBoardActions.pdf).

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 2005, 2006, and 2007, not the rate for 2007 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 2006<sup>4</sup> in that state. We add to this denominator the number of osteopathic physicians<sup>5</sup> 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 four previous three-year intervals (2001-3, 2002-4, 2003-5 and 2004-6; 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 states<sup>6</sup>: the ranks of 39 of the states for the 2002-2004 interval were identical to what they had been in our report for that interval issued in 2005,<sup>7</sup> 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.

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<sup>4</sup> Physician Characteristics and Distribution in the U.S. American Medical Association, 2008 Edition.

<sup>5</sup> Fact Sheet: American Osteopathic Association. Statistics as of August, 2004, available at [http://www.osteopathic.org/index.cfm?PageID=aoa\\_ompreport\\_us#50](http://www.osteopathic.org/index.cfm?PageID=aoa_ompreport_us#50).

<sup>6</sup> 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 disproportionately represented in a small number of states (e.g., Alaska, District of Columbia, Maryland and Hawaii).

<sup>7</sup> 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>.