Public Citizen's Health Research Group Ranking of the Rate of State Medical Boards' Serious Disciplinary Actions, 2005-2007

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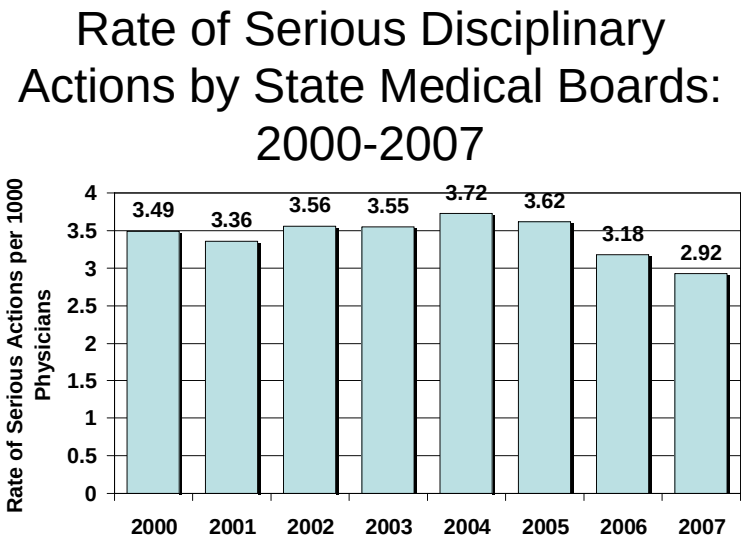
Using data just released by the Federation of State Medical Boards (FSMB) on the disciplinary actions taken against doctors in 2007, we have calculated that there were 2,743 serious disciplinary actions (revocations, surrenders, suspensions and probation/restrictions) taken by state medical boards in 2007, a sharp decrease in such actions from 2004, when the number peaked at 3,296. This 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. Calculating the rate of serious actions by dividing by the increasing numbers of physicians each year allows a calculation of the rate of serious actions per 1000 physicians over time.

As seen in the figure below, the 2007 national disciplinary rate of 2.92 serious actions per 1000 physicians was also down for the third consecutive year compared with 3.18 in 2006 (3.62 in 2005 and 3.72 in 2004). This decrease in rate represents a 22 percent fall since 2004 and is the lowest rate since 2000.



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.

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 29th to 16th; Delaware from 50th to 29th; District of Columbia from 42nd to 22nd; Hawaii from 51st to 21st; Illinois from 35th to 12th; Maine from 34th to 24th; Nebraska from 28th to 5th; Rhode Island from 46th to 23rd; Tennessee from 44th to 28th and Vermont from 19th to 8th.

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.[1]

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.

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.[2] 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.

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

[2] 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.

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,[3] 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).

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[4] in that state. We add to this denominator the number of osteopathic physicians[5] 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[6]: the ranks of 39 of the states for the 2002-2004 interval were identical to what they had been in

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

[4] Physician Characteristics and Distribution in the U.S. American Medical Association, 2008 Edition.

[5] Fact Sheet: American Osteopathic Association. Statistics as of August, 2004, available at http://www.osteopathic.org/index.cfm?PageID=aoa_ompreport_us#50.

[6] 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).

our report for that interval issued in 2005,[7] 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.

[7] 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.

RATES AND RANKING OF THE RATE OF STATE MEDICAL BOARDS' SERIOUS DISCIPLINARY ACTIONS, 2007 (HRG PUBLICATION #1837 - TABLES)

Table 1: Ranking of Serious Doctor Disciplinary Action Rates by State Medical Licensing Boards, 2005-2007

Rank 2005-2007[8]	State	Number of Serious Actions, 2007	Number of Physicians, 2006[9,10]	Serious Actions per 1,000 Physicians, 2005 – 2007[11]
1	Alaska[14]	19	1,832	8.33
2	Kentucky[14]	83	11,251	6.55
3	Ohio[14]	207	37,812	5.71
4	Arizona	81	15,127	5.37
5	Nebraska[14]	21	5,007	5.19
6	Colorado[14]	75	15,073	4.92
7	Wyoming[14]	3	1,206	4.86
8	Vermont	10	2,659	4.83
9	Oklahoma	22	7,111	4.75
10	Utah	32	6,093	4.72
11	Iowa[14]	29	7,528	4.55
12	Illinois[14]	170	41,581	4.52
13	North Dakota[14]	10	1,802	4.49
14	Louisiana[14]	46	12,755	4.35
15	North Carolina[14]	106	26,064	4.25
16	Arkansas[14]	17	6,696	3.98
17	Oregon[14]	40	12,267	3.91
18	West Virginia	11	4,710	3.87
19	New York[14]	279	87,497	3.73
20	Montana[14]	11	2,671	3.58
21	Hawai[14]	14	4,779	3.55
22	District of Columbia[14]	23	5,087	3.37
23	Rhode Island[14]	18	4,569	3.29
24	Maine	13	4,197	3.24
25	Idaho[14]	8	3,149	3.13
26	New Hampshire[14]	10	4,289	3.12
27	Indiana[14]	46	16,014	3.12
28	Tennessee	43	17,791	2.99
29	Delaware[14]	10	2,638	2.94
30	Missour[14]	40	17,447	2.92
31	Florida	158	53,566	2.89
32	Texas[14]	136	58,188	2.86
33	Georgia[14]	58	23,533	2.86
34	Alabama[14]	23	11,367	2.85
35	Massachusetts[14]	77	33,193	2.79
36	California	220	110,406	2.74
37	New Mexico	8	5,424	2.72
38	Pennsylvania	118	42,204	2.70
38	Virginia[14]	70	24,376	2.60
40	Michigan	69	27,877	2.48
41	Kansas[14]	15	7,725	2.33
42	New Jersey[14]	79	33,103	2.32
43	Maryland[14]	56	26,623	2.26
44	Washington	49	20,602	2.24
45	Connecticut[14]	27	14,895	2.21
46	Nevada	15	5,384	2.19
47	South Dakota[14]	7	2,072	1.95
48	Wisconsin[14]	28	16,837	1.63
49	Mississipp[14]	9	6,185	1.46
50	Minnesota[14]	15	17,186	1.24
51	South Carolina[14]	9	11,590	1.18
	National	2,743	939,038	3.46

[8] Rank is calculated based upon an average of the disciplinary rates for 2005, 2006, and 2007.
[9] Includes osteopathic physicians for boards with jurisdiction over both physicians and osteopaths.
[10] 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.
[11] Disciplinary rate for the period is calculated by averaging the disciplinary rates over the three-year period 2005-7.

RANKING OF THE RATE OF STATE MEDICAL BOARDS' SERIOUS DISCIPLINARY ACTIONS, 2001-7 (HRG PUBLICATION #1837 - TABLES)

Table 2: Ranks Based Upon Average Doctor Disciplinary Rates Over The Preceding Three Years[12,13]

	2003	2004	2005	2006	2007
Alabama[14]	13	17	22	26	34
Alaska[14]	6	4	2	1	1
Arizona	2	7	6	9	4
Arkansas[14]	29	45	39	23	16
California	22	22	23	27	36
Colorado[14]	8	9	8	8	6
Connecticut[14]	38	38	38	42	45
Delaware[14]	50	50	50	44	29
District of Columbia[14]	42	31	36	37	22
Florida	36	37	32	35	31
Georgia[14]	15	18	20	25	33
Hawai[14]	51	51	42	33	21
Idaho[14]	14	21	25	24	25
Illinois[14]	35	25	18	12	12
Indiana[14]	27	27	24	28	27
Iowa[14]	12	12	15	7	11
Kansas[14]	32	30	31	36	41
Kentucky[14]	1	2	1	2	2
Louisiana[14]	17	14	13	11	14
Maine	34	35	46	34	24
Maryland[14]	48	47	44	43	43
Massachusetts[14]	23	23	28	30	35
Michigan	40	39	40	39	40
Minnesota[14]	47	48	49	49	50
Mississippi[14]	20	41	51	51	49
Missouri[14]	31	11	10	6	30
Montana[14]	9	8	12	18	20
Nebraska[14]	28	24	16	10	5
Nevada	33	46	47	47	46
New Hampshire[14]	25	26	21	21	26
New Jersey[14]	24	29	35	40	42
New Mexico	21	19	29	22	37
New York[14]	18	16	17	17	19
North Carolina[14]	41	34	26	16	15
North Dakota[14]	3	3	7	19	13
Ohio[14]	7	6	4	4	3
Oklahoma	5	5	5	5	9
Oregon[14]	16	20	19	20	17
Pennsylvania	45	36	33	32	38
Rhode Island[14]	46	44	37	38	23
South Carolina[14]	43	43	45	50	51
South Dakota[14]	37	33	43	48	47
Tennessee	44	40	30	29	28
Texas[14]	26	28	27	31	32
Utah	10	13	14	15	10
Vermont	19	15	11	13	8
Virginia[14]	30	32	34	41	39
Washington	39	42	41	45	44
West Virginia	11	10	9	14	18
Wisconsin[14]	49	49	48	46	48
Wyoming[14]	4	1	3	3	7

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

[13] 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).

[14] These states have a combined state medical and osteopathy board.