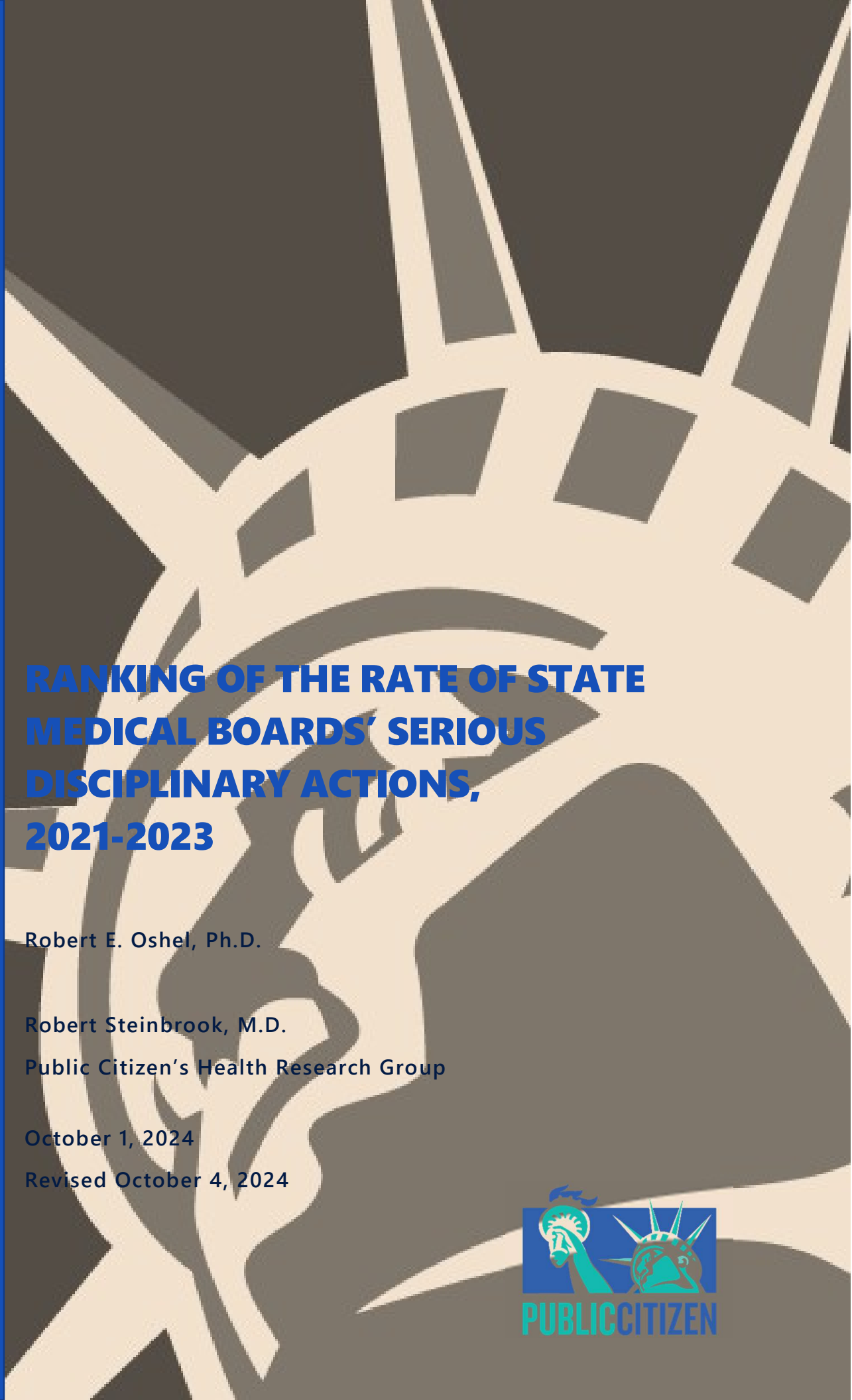

RANKING OF THE RATE OF STATE MEDICAL BOARDS' SERIOUS DISCIPLINARY ACTIONS, 2021-2023

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Contents

EXECUTIVE SUMMARY

This report examines the extent to which medical-licensing boards are taking actions to protect the public from licensed physicians who injure patients or behave inappropriately or illegally. Covering state medical boards' serious disciplinary actions from 2021 to 2023, the report builds on previous reports from Public Citizen's Health Research Group, the most recent of which covered serious disciplinary actions from 2019 to 2021.

As there is no reason to believe that physicians in any one state are more or less likely to be incompetent or miscreant than the physicians in any other state, we calculated the rate of serious disciplinary actions per 1,000 physicians licensed by boards in each state. Thirty-seven states plus the District of Columbia each have one board that licenses both M.D.s (Doctors of Allopathic Medicine) and D.O.s (Doctors of Osteopathic Medicine). Thirteen states have separate licensing boards for M.D.s and D.O.s. We used state-level data that includes physician type (M.D. or D.O) from the National Practitioner Data Bank's (NPDB's) Public Use Data File dated March 31, 2024. We defined "serious disciplinary actions" as those that had a clear impact on a physician's ability to practice. We added the number of serious disciplinary actions taken by each state licensing board for 2021, 2022, and 2023 and then divided this total by three to obtain the average number of serious disciplinary actions for each board per year during the three-year period. We obtained data on the number of physicians licensed by each state medical board from an interactive map on the Federation of State Medical Boards website. We ranked boards by their average annual rate of serious disciplinary actions for the 2021-2023 period. We excluded boards with fewer than 5,000 licensees from the rankings.

The 64 medical boards, including the ten that were not ranked, took 1,289 serious disciplinary actions in 2021, 1,250 in 2022, and 1,196 in 2023. With an average annual rate of 1.82 serious disciplinary actions per 1,000 physicians, Ohio had the strongest record of disciplining doctor misconduct for the 2021-2023 period. The Michigan Osteopathic board ranked second, Wisconsin third, and North Dakota fourth. Of the 54 ranked boards, 40 had rates that were less than half that of Ohio's. With a rate of only 0.17 serious disciplinary actions per 1,000 physicians per year, the Indiana board ranked lowest. The rate of serious disciplinary actions taken by the Ohio board was almost 11 times higher than the rate of serious actions taken by the board in the neighboring state of Indiana. Other boards with low rankings included Georgia, the Pennsylvania Allopathic Board, Delaware, and South Carolina.

To improve medical boards' performance, we recommend reforms such as appointing nonconflicted board members, expanded oversight by state legislatures, increasing the use of the NPDB by medical boards, and improved reporting of disciplinary actions. A limitation of the report is that it cannot account for the effects, if any, of the COVID-19 pandemic on serous disciplinary actions.

INTRODUCTION

The system of licensing medical practitioners was designed to protect the public from physicians who are inadequately trained or incompetent or whose conduct is illegal or abusive towards patients. Medical practice laws in all states mandate that medical boards, as a part of their important function of responsibly licensing physicians, have the legal obligation to take necessary, appropriate disciplinary actions against licensees known to have injured, endangered, or behaved inappropriately or illegally towards patients.

There is abundant evidence that many patients are injured, often through negligence or incompetence and rarely intentionally, while being treated. A 2010 study by the Department of Health and Human Services Office of Inspector General analyzing the records of a nationally representative sample of Medicare patients hospitalized in October 2008 found that 13.5% of patients experienced adverse events during their hospital stays.[1] Projected nationally, the researchers estimated that 134,000 Medicare beneficiaries experienced at least one adverse event in hospitals during that month. Further analysis found that 44% of these adverse events, 59,000 a month, were preventable. Nearly one-half of the preventable events involved substandard care, most frequently because of a delay in diagnosis or treatment.

The purpose of this report is to examine the extent to which medical-licensing boards are taking actions to protect the public from licensed physicians who injure patients or behave inappropriately or illegally. Because, to date, no objective standards have been developed to measure board performance in the abstract, we compare the performance of the state medical boards based on the annual average number of serious disciplinary actions taken by the boards per 1,000 licensees. There is no reason to believe that physicians in any one state are more or less likely to be incompetent or miscreant than the physicians in any other state. Therefore, we believe all observed differences between the boards reflect variations in board performance rather than physician behavior across different states.

This report, covering state medical boards' serious disciplinary actions from 2021 to 2023, builds on previous reports from Public Citizen's Health Research Group, the most recent of which covered serious disciplinary actions from 2019 to 2021.[2]

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[1] Department of Health and Human Services, Office of Inspector General. Adverse Events in Hospitals: National Incidence Among Medicare Beneficiaries. November 2010 OEI-06-09-00090. https://oig.hhs.gov/oei/reports/oei-06-09-00090.pdf . Accessed March 16, 2021.

[2] Oshel R, Wolfe SM. Ranking of the rate of state medical boards' serious disciplinary actions, 2019-2021. Public Citizen's Health Research Group. August 16. 2023. https://www.citizen.org/article/report-ranking-of-the-rate-of-state-medical-boards-serious-disciplinary-actions-2019-2021/. Accessed August 5, 2024.

BACKGROUND: THE NATIONAL PRACTITIONER DATA BANK

All data on licensing board disciplinary actions used in this report come from the National Practitioner Data Bank (NPDB). Since September 1990, state licensing boards, hospitals, and other health care entities, including professional societies, have been required to report to the NPDB certain adverse licensing and disciplinary actions taken against individual practitioners. Malpractice insurers and other payers are required to report all malpractice payments made on behalf of individual practitioners.

This physician-specific information is only made available from the NPDB in response to inquiries from licensing boards and credentialing authorities. Hospitals are required to query the NPDB concerning all new staff appointments of physicians, dentists, and other practitioners and to query concerning their entire medical staff at least once every two years. Other health care entities, such as health-maintenance organizations or medical or dental group practices, may query the NPDB if they have adopted a formal peer-review process.

State boards that license practitioners also may query the NPDB and thereby determine whether licensees have been disciplined in other states, have had adverse actions taken against them by hospitals or other entities, or have had malpractice payment reports. However, the public is denied access to any physician-specific information.[3] The NPDB makes report data that does not identify individual practitioners or health care entities available for research purposes in a Public Use Data File that is updated quarterly.

METHODOLOGY

Public Citizen's Health Research Group calculated the rate of serious disciplinary actions per 1,000 physicians licensed by boards in each state. Thirty-seven states and the District of Columbia each have one board that licenses both M.D.s (Doctors of Allopathic Medicine) and D.O.s (Doctors of Osteopathic Medicine). Thirteen states have separate licensing boards for M.D.s and D.O.s. We used state-level data that includes physician type (M.D. or D.O.) for licensure disciplinary actions from the NPDB's Public Use Data File dated March 31, 2024. The file includes all reports received through that date. We limited our analysis to serious disciplinary actions taken against physicians during 2021, 2022, and 2023, not the year the report was submitted to the NPDB. For states that have separate licensing boards for M.D.s and D.O.s, we totaled serious disciplinary actions for M.D.s and D.O.s separately and attributed them to the corresponding licensing board. For analytical purposes, we also calculated the number of all adverse[4] licensing reports (i.e., both serious and nonserious) made by each licensing board for actions taken during 2021, 2022, and 2023.

For comparative purposes, we performed a similar analysis for serious actions taken in

[3] Physicians can only obtain their own record from the NPDB.

[4] Adverse reports are defined to exclude reinstatements of license, reductions in penalties, etc.

2019, 2020, and 2021 that were included in the NPDB's Public Use Data File as of March 31, 2022. For M.D. and combined M.D./D.O. boards, this analysis is identical to that published in Public Citizen's "Ranking of the Rate of State Medical Boards' Serious Disciplinary Actions, 2019-2021" report published on August 16, 2023. That report excluded D.O. boards, so we have newly calculated the rate of serious disciplinary actions for D.O. boards for the 2019-2021 period so those rates can be compared with the rates for D.O. boards for the 2021-2023 period.

We also counted serious actions taken during 2017, 2018, and 2019 that were included in the NPDB's Public Use Data File as of March 31, 2019, so trends in the number of serious actions per year could be observed. Because of limitations in the licensing data available to us for 2018, we were only able to compare rates of serious actions per 1,000 licensees for the 2017-2019 period with rates calculated for later years for licensing boards that license both M.D.s and D.O.s.[5]

We defined "serious disciplinary actions" as those that had a clear impact on a physician's ability to practice. We used the NPDB's reporting categories of license revocations, suspensions, summary restrictions, summary suspensions, voluntary surrenders while under investigation, voluntary limitations while under investigation, limitations or restrictions, denials of renewal, and voluntary agreements to refrain or suspend pending completion of investigation.[6] Probation was not considered to be a "serious disciplinary action" because even if conditions are imposed with probations, most of the conditions of probation, such as a requirement for a chaperone to be present during a pelvic exam, are unenforceable and often do not affect a physician's practice.

The NPDB allows reporters to report up to five actions taken simultaneously on a single report. We therefore included a licensing report in our count only if one or more of the reported actions met our criteria for serious disciplinary actions. Regardless of the number of other serious actions specified in a single report, each report was counted only once.

To obtain the numerator for our calculation of serious disciplinary actions per 1,000 physicians, we added the number of serious disciplinary actions taken by each state licensing board for 2021, 2022, and 2023 (or, for comparative purposes, 2017, 2018,

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[5] Licensure counts for 2018 available from the Federation of State Medical Boards did not separate Allopaths and Osteopaths. Therefore we are unable to count licensees of Osteopathic or combined boards in the same way they were counted in later reports, and rankings for these boards would not be completely compatible with rankings for later periods.

[6] Additional serious actions involving multiple states include multi-state license-privilege revocations, multi-state license-privilege suspensions, multistate license-privilege summary restrictions, multistate license-privilege summary suspensions, multistate license-privilege voluntary surrenders, multistate license-privilege voluntary limitations, and multistate license-privilege limitations or restrictions. Further, to avoid an additional potential source of double counting, we included only "initial" and "correction" reports (which replace the "initial" report being corrected in the NPDB). We excluded "revision to action" and "correction to revision to action" reports, which are separate reports that modify an action reported in a previous report but do not replace the related "initial" or "correction" report or any previous "revision to action" or "correction to revision to action" report. This could result in a minor undercount of serious actions in those rare cases in which a board revised a previously nonserious action to become a serious action. Similarly, however, our exclusion of actions revised from serious to nonserious could result in an overcount of serious actions. We believe these two counteracting effects do not materially affect the rankings.

and 2019 for our rankings report published in March 2021 and 2019, 2020, and 2021 for our rankings report published in August 2023) and then divided this total by three to obtain the average number of serious disciplinary actions for each board per year during the entire three-year period.

The source of the number of physicians licensed by each state board for both 2022 and 2020 was an interactive map on the Federation of State Medical Boards (FSMB) website (fsmb.org/physician census). Only data for 2022 were posted by the FSMB at the time of the preparation of this report, but we retained the previously posted data for 2020 used for our report for the 2019-2021 period. 2022 was the median year of our study period. 2020 was the median year for our previous study. We also retained licensing data for 2018 from the FSMB, but this data does not separate M.D.s and D.O.s, so we can use it only for comparative purposes for boards that license both types of physicians.

Because the boards of the smallest states and some osteopathic boards do not license many physicians, an increase or decrease of one or two serious actions in a year will have a much greater effect on the rate of discipline in such states (and, therefore, their rankings) than it would for boards that license larger numbers of physicians. To minimize such fluctuations, we calculated the average annual rate of serious disciplinary actions for all states over a three-year period. Thus, the ranking is based on the average annual rate of serious actions taken in 2021, 2022, and 2023 (or for comparison, 2019, 2020, and 2021).

Even using a three-year average annual rate may not adequately minimize fluctuations for boards with the smallest number of licensees. For example, the Vermont Board of Osteopathic Physicians and Surgeons reported having only 492 licensees in 2022. An increase of only one serious action taken during a three-year period would increase the ratio of the board's serious actions per 1,000 licensees by 0.68. This is an extreme case. To prevent small fluctuations from greatly affecting the ratios and rankings, we excluded boards with fewer than 5,000 licensees from the rankings. We do, however, present data on the number of licensees, the number of serious disciplinary actions taken, and their average actions per 1,000 licensees for these small boards.

RESULTS

The 64 medical boards, including the ten that were not ranked, took 1,289 serious disciplinary actions in 2021, 1,250 in 2022, and 1,196 in 2023, as compared to 1,489 in 2017, 1,391 in 2018, 1,493 in 2019, and 1,235 in 2020 (Table 1). The ten unranked boards with fewer than 5,000 licensees took a total of 108 serious actions in the 2021-2023 period.

A limitation of the report is that we cannot account for the effects, if any, of the COVID-19 pandemic on serious disciplinary actions in 2020, 2021, 2022, or 2023. COVID-19 may have had different impacts in different states and affected not only complaints to the boards but also the ability or willingness of the boards to take serious disciplinary actions.

Our ranking of states based on their 2021-2023 annual average rate of serious disciplinary actions per 1,000 physicians is shown in Table 2. For comparison, similar rankings are presented for 2019-2021. The Ohio board had the highest rate, with an average of 1.82 serious disciplinary actions per 1,000 physician licensees per year during the 2021-2023 period. The Indiana board had the lowest rate, with only 0.17 serious disciplinary actions per 1,000 physicians per year. Thus, the rate of serious disciplinary actions per 1,000 physicians per year taken by the Ohio board was almost 11 times higher than the rate of serious actions taken by the board in the neighboring state of Indiana (1.82 divided by 0.17). There is, of course, no reason to believe that physician competency or behavior deserving of licensure disciplinary actions are 11 times worse in Ohio than in Indiana.[7]

Nationally, the total number of serious disciplinary actions taken by licensing boards decreased for the 2021-2023 period as compared with the 2019-2021 period. The average total number of serious disciplinary actions taken per year in the 2021-2023 period by all state boards, including the small boards that we do not rank, was 1,245, which is 94 serious actions per year fewer than the average of 1,339 for the 2019-2021 period. Because the number of licensees increased by almost 98,000 from 2020 to 2022, the national average of serious disciplinary actions per 1,000 licensees decreased from 0.92 to 0.81, a 12% decrease.

Table 3 shows how many more serious disciplinary actions each board would have needed to take to match the rate at which the best performing board, Ohio, took serious disciplinary actions during the 2021-2023 period. The board with the largest number of licensees, the California M.D. board, which has almost 156,000 licensees, ranked 24th in the 2021-2023 period, with a rate of 0.73 serious disciplinary actions per 1,000 licensees. The board ranked 29th in the 2019-2021 period. The board's 2021-2023 rate

[7] The West Virginia osteopathic board took 2.46 serious actions per 1,000 licensees during the 2021-2023 period and 3.00 serious actions per 1,000 licensees during the 2019-2021 period. These rates are the highest in the country. Because the board licensed fewer than 5,000 osteopaths in 2022 and, thus, has the potential for high volatility in the rate of serious actions taken per 1,000 licensees for boards that license relatively few physicians, we exclude these rates from our discussion, but we commend the West Virginia D.O. board for its level of actions during these years.

was only 40.1% of the rate of the Ohio board. If the California M.D. board had taken serious actions at the same rate as the Ohio board, it would have taken an average of 283 serious actions per year during 2021-2023 rather than its actual average of 113. This finding raises concerns about whether the California M.D. board is acting as diligently as it should in protecting the public, particularly in light of the fact that the number of serious actions taken by the board trended down year by year, from 136 in 2021 to 110 in 2022 and 94 in 2023.

The trend for the Pennsylvania M.D. board is particularly alarming. For 2019-2021 the Pennsylvania M.D. board ranked 27th ; for 2021-2023 it ranked 52nd, with a mean rate of 0.26 serious disciplinary actions per 1,000 physicians. This board has almost 56,000 licensees, the fifth largest number of licensees in the country. The Pennsylvania M.D. board reported 30 serious actions that met the criteria used in this report in 2021,13 in 2022, and none in 2023.[8] Over the 2021-2023 period the board took only one-seventh as many actions as the Ohio board. If the Pennsylvania M.D. board had taken actions at the same rate as the Ohio board for 2021-2023, it would have taken an average of 100 serious actions per year rather than its actual average of 14 serious actions each year.

Notably, the trend for the Pennsylvania D.O. board is similar. The Pennsylvania D.O. board fell from a rank of 11th in the 2019-2021 period to 35th in the 2021-2023 period, with 12 serious actions in 2021 that met the criteria used in this report, five in 2022, and none in 2023.

For the 2021-2023 period, some boards showed marked improvements over the 2019-2021 period. The Wyoming board, which licenses about 6,000 physicians and was ranked 37th in the earlier period, improved to a rank of 13th for 2021-2023. The California D.O. board went from 48th to 27th. The Nevada M.D. board improved from 50th to 30th. The California D.O. board, which has over 11,000 licensees and ranked 48th in our calculations for the 2019-2021 period, improved to 27th.

Nonetheless, there is room for improvement in how all the boards protect the public from dangerous physicians. If all boards, including the unranked small boards, had taken serious disciplinary actions at the same rate as the highest-ranked board (Ohio) during the 2021-2023 period, there would have been 2,803 serious actions taken during 2023, about 2.34 times more than the 1,196 actions that were taken.

Even in Ohio there is room for improvement. For example, although the Ohio board had the highest ranking for 2021-2023 (1.82 serious disciplinary actions per 1,000 physician licensees per year), Kentucky, the highest-ranked board for the 2017-2019 period studied in the Public Citizen rankings report published in March 2021[9], took actions at a

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[8] We confirmed with the National Practitioner Data Bank that the Pennsylvania M.D. board had reported no new serious actions in 2023. In addition, as of July 13, 2024, the Data Bank reports that all Pennsylvania licensing boards are in compliance with reporting requirement:, https://www.npdb.hrsa.gov/resources/npdbstats/npdbMap.jsp.

[9]We confirmed with the National Practitioner Data Bank that the Pennsylvania M.D. board had reported no new serious actions in 2023. In addition, as of July 13, 2024, the Data Bank reports that all Pennsylvania licensing boards are in compliance with reporting requirements, https://www.npdb.hrsa.gov/resources/npdbstats/npdbMap.jsp.

rate of 2.29 per 1,000 licensees, a 26% higher rate.

If all boards had taken serious disciplinary actions at Kentucky's 2017-2019 rate of 2.29 per 1,000 licensees in 2023, there would have been 3,527 serious actions taken, almost three times the 1,196 actions that were actually taken. There is no evidence, however, that even 2.29 serious actions per 1,000 licensees is the rate needed to adequately protect the public from dangerous physicians.

In addition to showing how many serious disciplinary actions each board would have taken if it had taken actions at the rate of the Ohio board in 2021-2023, Table 3 shows how many actions each board would have taken if they had taken actions at the same rate as the Kentucky board in 2017-2019. The information in Table 3 shows that many boards have considerable room for improvement.

TABLE 1: Medical Licensing Board Serious Disciplinary Actions, 2017-2023

State Board	2017	2018	2019*	2020	2021*	2022	2023
AK Alaska	8	5	7	1	5	2	8
AL Alabama	13	24	18	18	24	29	30
AR Arkansas	15	13	14	11	11	13	7
AZ Arizona Allopathic	38	30	55	35	31	30	29
AZ Arizona Osteopathic	12	3	11	1	1	4	1
CA California Allopathic	137	120	125	118	136	110	94
CA California Osteopathic	11	15	3	2	6	10	8
CO Colorado	27	28	43	42	45	20	33
CT Connecticut	10	14	11	8	8	8	14
DC Dist. of Columbia	2	3	3	2	4	5	7
DE Delaware	3	6	6	3	1	4	2
FL Florida Allopathic	80	80	69	74	87	60	70
FL Florida Osteopathic	9	7	8	10	7	8	6
GA Georgia	17	8	11	10	10	13	7
HI Hawaii	3	5	6	7	3	4	5
IA Iowa	6	14	7	14	10	12	4
ID Idaho	3	3	5	6	4	5	3
IL Illinois	76	74	65	28	78	83	69
IN Indiana	19	22	15	8	4	6	6
KS Kansas	14	16	13	10	12	4	8
KY Kentucky	39	53	42	26	23	40	24
LA Louisiana	9	1	20	14	4	15	5
MA Massachusetts	41	23	43	52	18	14	25
MD Maryland	29	26	37	24	24	31	20
ME Maine Allopathic	9	11	7	4	7	4	7
ME Maine Osteopathic	1	0	1	2	2	2	1

State Board	2017	2018	2019*	2020	2021*	2022	2023
MI Michigan Allopathic	57	54	61	60	66	37	40
MI Michigan Osteopathic	22	12	13	14	12	17	14
MN Minnesota	7	9	19	12	14	20	16
MO Missouri	43	33	19	7	24	21	20
MS Mississippi	11	10	10	12	13	10	8
MT Montana	6	1	4	2	2	3	8
NC North Carolina	31	27	22	29	26	32	24
ND North Dakota	4	6	6	8	10	5	9
NE Nebraska	4	5	5	2	5	6	4
NH New Hampshire	3	3	1	4	1	7	4
NJ New Jersey	24	44	27	16	16	18	17
NM New Mexico	8	18	16	4	5	6	8
NV Nevada Allopathic	0	5	4	1	4	7	10
NV Nevada Osteopathic	0	1	0	0	0	3	1
NY New York	139	94	150	132	103	105	122
OH Ohio	70	61	74	67	114	88	88
OK Oklahoma Allopathic	13	5	6	8	5	3	7
OK Oklahoma Osteopathic	3	3	1	5	7	8	5
OR Oregon	21	14	13	23	16	19	16
PA Pennsylvania Allopathic	84	78	68	47	30	13	0
PA Pennsylvania Osteopathic	20	25	12	8	12	5	0
RI Rhode Island	4	7	7	5	7	1	1
SC South Carolina	20	21	12	4	8	10	7
SD South Dakota	1	2	2	5	2	6	3
TN Tennessee Allopathic	17	20	15	11	12	21	26
TN Tennessee Osteopathic	1	1	1	0	0	2	0
TX Texas	112	116	134	89	82	76	89

State Board	2017	2018	2019*	2020	2021*	2022	2023
UT Utah Allopathic	4	5	7	4	2	6	6
UT Utah Osteopathic	1	0	0	0	1	2	0
VA Virginia	45	38	47	42	38	38	38
VT Vermont Allopathic	7	4	6	6	1	6	2
VT Vermont Osteopathic	0	0	0	0	0	2	0
WA Washington Allopathic	28	31	20	38	32	35	39
WA Washington Osteopathic	4	2	4	1	5	2	3
WI Wisconsin	21	14	44	20	43	51	50
WV West Virginia Allopathic	12	9	11	10	4	7	7
WV West Virginia Osteopathic	5	9	3	6	1	7	4
WY Wyoming	6	0	4	3	1	9	7
Total	1,489	1,391	1,493	1,235	1,289	1,250	1,196

TABLE 2: Ranking of State Medical Boards by Annual Average Number of Serious Disciplinary Actions per 1,000 Physicians, 2021-2023, and Comparison to 2019-2021

State Board	2021-2023 Ranking	Rate 2021-2023 per 1,000 Licensees	Average Annual 2021-2023	Physicians Licensed, 2022	2019-2021 Ranking	Rate 2019-2021 per 1,000 Licensees	Average Annual, 2019-2021	Physicians Licensed, 2020	Change in Rank 2021-2023 vs 2019-2021
State Boards with More Than 5,000 Licensees (Listed in Rank Order)									
OH Ohio	1	1.82	96.67	53,110	2	1.61	85.00	52,720	1
MI Michigan Osteopathic	2	1.62	14.33	8,868	6	1.52	13.00	8,552	4
WI Wisconsin	3	1.49	48.00	32,165	9	1.23	35.67	29,110	6
ND North Dakota	4	1.39	8.00	5,765	3	1.60	8.00	5,005	-1
IL Illinois	5	1.35	76.67	56,875	10	1.19	57.00	47,846	5
AL Alabama	6	1.34	27.67	20,591	15	1.07	20.00	18,629	9
MI Michigan Allopathic	7	1.31	47.67	36,307	1	1.76	62.33	35,506	-6
KY Kentucky	8	1.29	29.00	22,443	7	1.50	30.33	20,156	-1
WA Washington Allopathic	9	1.18	35.33	29,855	17	1.04	30.00	28,722	8
CO Colorado	10	1.07	32.67	30,568	4	1.57	43.33	27,681	-6
AZ Arizona Allopathic	11	1.06	30.00	28,384	5	1.53	40.33	26,397	-6
NY New York	12	1.02	110.00	107,789	8	1.25	128.33	102,361	-4
WY Wyoming	13	0.95	5.67	5,939	37	.56	2.67	4,747	24
OR Oregon	14	0.91	17.00	18,594	22	1.00	17.33	17,321	8

State Board	2021-2023 Ranking	Rate 2021-2023 per 1,000 Licensees	Average Annual 2021-2023	Physicians Licensed, 2022	2019-2021 Ranking	Rate 2019-2021 per 1,000 Licensees	Average Annual, 2019-2021	Physicians Licensed, 2020	Change in Rank 2021-2023 vs 2019-2021
AK Alaska	15	0.90	5.00	5,540	26	.90	4.33	4,791	11
FL Florida Allopathic	16	0.87	72.33	83,167	21	1.00	76.67	76,395	5
TX Texas	17	0.86	82.33	96,058	13	1.15	101.67	88,747	-4
VA Virginia	18	0.85	38.00	44,832	20	1.02	42.33	41,588	2
ME Maine Allopathic	19	0.84	6.00	7,173	25	.91	6.00	6,601	6
AR Arkansas	20	0.82	10.33	12,651	18	1.04	12.00	11,565	-2
MS Mississippi	21	0.80	10.33	12,881	23	.99	11.67	11,742	2
TN Tennessee Allopathic	22	0.77	19.67	25,562	40	.53	12.67	23,872	18
WV West Virginia Allopathic	23	0.74	6.00	8,054	12	1.15	8.33	7,219	-11
CA California Allopathic	24	0.73	113.33	155,684	29	.83	126.33	152,450	5
MD Maryland	25	0.73	25.00	34,348	28	.89	28.33	31,841	3
MO Missouri	26	0.69	21.67	31,271	35	.57	16.67	29,477	9
CA California Osteopathic	27	0.69	8.00	11,562	48	.36	3.67	10,271	21
FL Florida Osteopathic	28	0.67	7.00	10,519	24	.93	8.33	8,955	-4
NC North Carolina	29	0.64	27.33	42,882	34	.58	25.67	44,015	5
NV Nevada Allopathic	30	0.62	7.00	11,375	50	.30	3.00	9,898	20

State Board	2021-2023 Ranking	Rate 2021-2023 per 1,000 Licensees	Average Annual 2021-2023	Physicians Licensed, 2022	2019-2021 Ranking	Rate 2019-2021 per 1,000 Licensees	Average Annual, 2019-2021	Physicians Licensed, 2020	Change in Rank 2021-2023 vs 2019-2021
KS Kansas	31	0.60	8.00	13,309	16	1.06	11.67	10,967	-15
MN Minnesota	32	0.59	16.67	28,083	36	.56	15.00	26,574	4
IA Iowa	33	0.59	8.67	14,712	31	.76	10.33	13,530	-2
NM New Mexico	34	0.58	6.33	10,927	30	.81	8.33	10,277	-4
PA Pennsylvania Osteopathic	35	0.58	5.67	9,800	11	1.18	10.67	9,066	-24
SD South Dakota	36	0.57	3.67	6,422	39	.54	3.00	5,588	3
MT Montana	37	0.54	4.33	8,094	45	.38	2.67	6,973	8
MA Massachusetts	38	0.49	19.00	38,566	19	1.03	37.67	36,591	-19
RI Rhode Island	39	0.48	3.00	6,233	14	1.08	6.33	5,838	-25
NE Nebraska	40	0.44	5.00	11,337	49	.32	4.00	12,376	9
CT Connecticut	41	0.44	10.00	22,908	44	.43	9.00	20,817	3
LA Louisiana	42	0.43	8.00	18,406	32	.70	12.67	18,052	-10
NH New Hampshire	43	0.43	4.00	9,206	53	.25	2.00	8,019	10
ID Idaho	44	0.42	4.00	9,605	33	.65	5.00	7,667	-11
DC Dist. of Columbia	45	0.41	5.33	12,986	54	.22	3.00	13,714	9
OK Oklahoma Allopathic	46	0.38	5.00	13,125	42	.48	6.33	13,250	-4

State Board	2021-2023 Ranking	Rate 2021-2023 per 1,000 Licensees	Average Annual 2021-2023	Physicians Licensed, 2022	2019-2021 Ranking	Rate 2019-2021 per 1,000 Licensees	Average Annual, 2019-2021	Physicians Licensed, 2020	Change in Rank 2021-2023 vs 2019-2021
NJ New Jersey	47	0.37	17.00	45,637	43	.45	19.67	43,563	-4
UT Utah Allopathic	48	0.37	4.67	12,736	46	.38	4.33	11,477	-2
HI Hawaii	49	0.36	4.00	10,960	41	.51	5.33	10,515	-8
SC South Carolina	50	0.34	8.33	24,248	47	.36	8.00	22,307	-3
DE Delaware	51	0.31	2.33	7,475	38	.55	3.33	6,102	-13
PA Pennsylvania Allopathic	52	0.26	14.33	55,824	27	.89	48.33	54,136	-25
GA Georgia	53	0.24	10.00	41,659	52	.27	10.33	38,367	-1
IN Indiana	54	0.17	5.33	32,017	51	.29	9.00	30,649	-3
State Boards Licensing Fewer than 5,000 physicians - Not Ranked (Listed in Alphabetical Order)									
AZ Arizona Osteopathic	Unranked*	0.45	2.00	4,492	Unranked*	1.08	4.33	4,007	Unranked*
ME Maine Osteopathic	Unranked*	1.11	1.67	1,507	Unranked*	1.19	1.67	1,399	Unranked*
NV Nevada Osteopathic	Unranked*	0.69	1.33	1,933	Unranked*	.00	0.00	1,587	Unranked*
OK Oklahoma Osteopathic	Unranked*	1.80	6.67	3,694	Unranked*	1.20	4.33	3,618	Unranked*
TN Tennessee Osteopathic	Unranked*	0.26	0.67	2,600	Unranked*	.16	0.33	2,057	Unranked*
UT Utah Osteopathic	Unranked*	0.58	1.00	1,735	Unranked*	.25	0.33	1,332	Unranked*

State Board	2021-2023 Ranking	Rate 2021-2023 per 1,000 Licensees	Average Annual 2021-2023	Physicians Licensed, 2022	2019-2021 Ranking	Rate 2019-2021 per 1,000 Licensees	Average Annual, 2019-2021	Physicians Licensed, 2020	Change in Rank 2021-2023 vs 2019-2021
VT Vermont Allopathic	Unranked*	0.78	3.00	3,846	Unranked*	1.20	4.33	3,609	Unranked*
VT Vermont Osteopathic	Unranked*	1.36	0.67	492	Unranked*	.00	0.00	295	Unranked*
WA Washington Osteopathic	Unranked*	1.01	3.33	3,285	Unranked*	1.24	3.33	2,694	Unranked*
WV West Virginia Osteopathic	Unranked*	2.46	4.00	1,623	Unranked*	2.43	3.33	1,373	Unranked*

Notes: Calculations were performed with greater precision than shown in the table. Licensee Data Source: https://www.fsmb.org/physician-census, accessed 12-21-2023, as noted in the text.
*Boards that had fewer than 5,000 licensees in 2022 are not ranked.

TABLE 3: Calculated Increase in Annual Numbers of Serious Disciplinary Actions Each Board Would Have Needed To Take To Match the Rate for Ohio (2021-2023) and Kentucky (2017-2019)

State Board	2021-2023 Ranking	Average Annual 2021-2023	Calculated Average Needed To Match Ohio's Rate, 2021-2023	Calculated Percent Increase Needed To Match Ohio's Rate, 2021-2023	Average Annual 2019-2021	Calculated Average Needed To Match Kentucky's Rate, 2017-2019	Calculated Percent Increase Needed To Match Kentucky's Rate, 2017-2019
OH Ohio	1	96.67	N/A	0.00	81.00	121.48	25.67
MI Michigan Osteopathic	2	14.33	16.14	12.61	11.67	20.28	41.52
WI Wisconsin	3	48.00	58.54	21.97	22.33	73.57	53.27
ND North Dakota	4	8.00	10.49	31.16	8.00	13.19	64.83
IL Illinois	5	76.67	103.52	35.03	55.33	130.09	69.68
AL Alabama	6	27.67	37.48	35.46	19.67	47.10	70.23
MI Michigan Allopathic	7	47.67	66.08	38.64	57.67	83.05	74.22
KY Kentucky	8	29.00	40.85	40.86	30.33	51.33	77.01
WA Washington Allopathic	9	35.33	54.34	53.79	30.00	68.29	93.27
CO Colorado	10	32.67	55.64	70.32	39.67	69.92	114.04
AZ Arizona Allopathic	11	30.00	51.66	72.21	38.33	64.92	116.41
NY New York	12	110.00	196.19	78.35	100.33	246.55	124.13
WY Wyoming	13	5.67	10.81	90.76	2.33	13.58	139.72
OR Oregon	14	17.00	33.84	99.08	16.00	42.53	150.18

State Board	2021-2023 Ranking	Average Annual 2021-2023	Calculated Average Needed To Match Ohio's Rate, 2021-2023	Calculated Percent Increase Needed To Match Ohio's Rate, 2021-2023	Average Annual 2019-2021	Calculated Average Needed To Match Kentucky's Rate, 2017-2019	Calculated Percent Increase Needed To Match Kentucky's Rate, 2017-2019
AK Alaska	15	5.00	10.08	101.67	4.33	12.67	153.43
FL Florida Allopathic	16	72.33	151.37	109.27	69.67	190.23	162.99
TX Texas	17	82.33	174.84	112.35	97.00	219.71	166.86
VA Virginia	18	38.00	81.60	114.74	38.33	102.54	169.85
ME Maine Allopathic	19	6.00	13.06	117.60	5.00	16.41	173.45
AR Arkansas	20	10.33	23.03	122.84	12.00	28.94	180.03
MS Mississippi	21	10.33	23.44	126.89	10.67	29.46	185.12
TN Tennessee Allopathic	22	19.67	46.53	136.57	13.00	58.47	197.30
WV West Virginia Allopathic	23	6.00	14.66	144.32	8.33	18.42	207.03
CA California Allopathic	24	113.33	283.36	150.03	126.00	356.10	214.20
MD Maryland	25	25.00	62.52	150.07	24.67	78.56	214.26
MO Missouri	26	21.67	56.92	162.69	16.33	71.53	230.12
CA California Osteopathic	27	8.00	21.04	163.05	3.33	26.45	230.57
FL Florida Osteopathic	28	7.00	19.15	173.51	7.33	24.06	243.72
NC North Carolina	29	27.33	78.05	185.55	25.00	98.08	258.85

State Board	2021-2023 Ranking	Average Annual 2021-2023	Calculated Average Needed To Match Ohio's Rate, 2021-2023	Calculated Percent Increase Needed To Match Ohio's Rate, 2021-2023	Average Annual 2019-2021	Calculated Average Needed To Match Kentucky's Rate, 2017-2019	Calculated Percent Increase Needed To Match Kentucky's Rate, 2017-2019
NV Nevada Allopathic	30	7.00	20.70	195.77	1.33	26.02	271.69
KS Kansas	31	8.00	24.22	202.80	11.00	30.44	280.52
MN Minnesota	32	16.67	51.11	206.69	13.33	64.23	285.41
IA Iowa	33	8.67	26.78	208.97	5.00	33.65	288.28
NM New Mexico	34	6.33	19.89	214.03	8.33	24.99	294.63
PA Pennsylvania Osteopathic	35	5.67	17.84	214.77	10.33	22.42	295.57
SD South Dakota	36	3.67	11.69	218.79	3.00	14.69	300.61
MT Montana	37	4.33	14.73	239.97	2.67	18.51	327.24
MA Massachusetts	38	19.00	70.19	269.45	37.00	88.21	364.28
RI Rhode Island	39	3.00	11.34	278.16	6.33	14.26	375.23
NE Nebraska	40	5.00	20.63	312.69	3.00	25.93	418.63
CT Connecticut	41	10.00	41.70	316.95	8.33	52.40	423.98
LA Louisiana	42	8.00	33.50	318.76	12.67	42.10	426.25
NH New Hampshire	43	4.00	16.76	318.90	2.00	21.06	426.43
ID Idaho	44	4.00	17.48	337.06	5.00	21.97	449.24

State Board	2021-2023 Ranking	Average Annual 2021-2023	Calculated Average Needed To Match Ohio's Rate, 2021-2023	Calculated Percent Increase Needed To Match Ohio's Rate, 2021-2023	Average Annual 2019-2021	Calculated Average Needed To Match Kentucky's Rate, 2017-2019	Calculated Percent Increase Needed To Match Kentucky's Rate, 2017-2019
DC Dist. of Columbia	45	5.33	23.64	343.18	2.33	29.70	456.93
OK Oklahoma Allopathic	46	5.00	23.89	377.78	6.33	30.02	500.42
NJ New Jersey	47	17.00	83.06	388.62	18.00	104.39	514.04
UT Utah Allopathic	48	4.67	23.18	396.74	4.33	29.13	524.24
HI Hawaii	49	4.00	19.95	398.71	5.33	25.07	526.72
SC South Carolina	50	8.33	44.13	429.61	7.67	55.46	565.55
DE Delaware	51	2.33	13.61	483.09	3.00	17.10	632.76
PA Pennsylvania Allopathic	52	14.33	101.61	608.88	45.33	127.69	790.84
GA Georgia	53	10.00	75.82	658.24	10.33	95.29	852.87
IN Indiana	54	5.33	58.27	992.65	8.67	73.23	1273.12
AZ Arizona Osteopathic	Unranked*	2.00	8.18	308.80	0.33	10.27	413.73
ME Maine Osteopathic	Unranked*	1.67	2.74	64.58	1.67	3.45	106.82
NV Nevada Osteopathic	Unranked*	1.33	3.52	163.87	0.00	4.42	231.60
OK Oklahoma Osteopathic	Unranked*	6.67	6.72	0.85	4.33	8.45	26.74

State Board	2021-2023 Ranking	Average Annual 2021-2023	Calculated Average Needed To Match Ohio's Rate, 2021-2023	Calculated Percent Increase Needed To Match Ohio's Rate, 2021-2023	Average Annual 2019-2021	Calculated Average Needed To Match Kentucky's Rate, 2017-2019	Calculated Percent Increase Needed To Match Kentucky's Rate, 2017-2019
TN Tennessee Osteopathic	Unranked*	0.67	4.73	609.85	0.33	5.95	792.05
UT Utah Osteopathic	Unranked*	1.00	3.16	215.79	0.33	3.97	296.85
VT Vermont Allopathic	Unranked*	3.00	7.00	133.34	4.00	8.80	193.23
VT Vermont Osteopathic	Unranked*	0.67	0.90	34.32	0.00	1.13	68.80
WA Washington Osteopathic	Unranked*	3.33	5.98	79.37	3.33	7.51	125.41
WV West Virginia Osteopathic	Unranked*	4.00	2.95	-26.15	3.00	3.71	-7.19

*Boards which had fewer than 5,000 licensees in 2022 are not ranked.

DISCUSSION: IMPROVING MEDICAL BOARDS' PERFORMANCE

The observed wide variation in serious disciplinary actions taken per 1,000 physicians between the licensing boards in the states and the District of Columbia suggests that many (if not most) boards are doing a dangerously lax job in enforcing their states' medical practice acts. Low rates of serious disciplinary actions suggest that the boards are not adequately taking actions to discipline physicians responsible for negligent medical care or whose behavior is unacceptably dangerous to patients.

There is no evidence that the observed differences in state disciplinary action rates can be explained by differences in the competence or conduct of the physicians practicing in the various states; therefore, the observed differences are likely related to the performance of the licensing boards.

There is additional evidence from NPDB data demonstrating that licensing boards are often lax in taking disciplinary actions. A recent analysis of NPDB data showed that by the end of 2023, a total of 9,837 U.S. physicians had five or more malpractice payments reported to the NPDB since payments began to be reported in 1990. These physicians had a malpractice records worse than well over 99% of all physicians who have practiced since 1990. Yet 75% of these 9,837 physicians have never had a medical board licensure action of any kind, either serious or nonserious.[10]

Of the 17,054 physicians who have been reported to the NPDB for clinical-privileges actions affecting their ability to practice for more than 30 days by hospitals or other organizations that grant privileges to practice in their facilities or organizations, only 51.8% have ever had any action, even a reprimand, reported by a state licensing board. Thus, almost one-half of physicians deemed worthy of discipline by their peers had no action taken by a licensing board. Even for the 933 physicians who had been judged by their peers to be an immediate threat to health or safety, the percentage who had ever had state board action taken against their license was only marginally higher. Of these "immediate threat" physicians, only 54.1% had ever had any licensure action taken against them.[11]

The following reforms could materially improve the performance of medical boards:

- **Appoint Nonconflicted Board Members**

State governors, who typically appoint the members of state medical boards, should appoint members whose qualifications include being committed to changing the culture of the boards so that their priority is to protect the public from incompetent or miscreant physicians, not to protect the livelihood of questionable physicians. This must include a substantial number of nonconflicted public members who are likely to prioritize protecting the public.

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[10] Oshel R. Analysis of malpractice payments and licensure reports in the NPDB Public Use Data File of March 31, 2024.

[11] Oshel R. Analysis of clinical privileges and licensure reports in the NPDB Public Use Data File of March 31, 2024.

- **Expand Oversight**

State legislatures should expand oversight of and/or investigate the licensing boards to ensure that they are following the requirements of the state's medical practice act to protect the public from dangerous physicians when they investigate physician competence or conduct and take disciplinary actions. Although most if not all funding for state boards comes from physicians' licensing fees, the critical importance of a properly functioning medical board — one that vigorously enforces the state's medical practice act — means that these boards require more oversight than they currently receive. Oversight should not be unduly influenced by special-interest groups such as state and national medical societies. Disturbingly, there is generally considerably more oversight of state medical boards by the news media than by state legislatures.

- **Significantly Increase the Use of the NPDB by Medical Boards**

The Health Care Quality Improvement Act of 1986, which created the NPDB, requires all hospitals to make a background query every time a physician seeks admitting privileges and every two years thereafter upon renewal.[12] No such requirement exists for medical boards, even if a complaint about a physician is made to the board by a patient or another physician. If the boards consistently queried the NPDB for all their licensees or applicants, they would learn of all adverse actions taken by licensing boards in other states, all malpractice payments, all adverse actions taken by hospitals or other health care entities, all criminal convictions related to health care, all exclusions from participation in Medicare and Medicaid, and other kinds of actions that might affect their licensing decisions. Unless they routinely query the NPDB or enroll all their licensees in the NPDB's continuous query service, there is no guarantee that state medical boards will be adequately informed of a physician's record when deciding to allow a physician to practice in the state.

For $2.50 per physician per year, boards can purchase "continuous query" from the NPDB for each licensee. This means that within 24 hours of the NPDB receiving a new report about an action taken by a hospital or other health care entity, another state's licensing action, a malpractice payment, or other actions, the information will be transmitted from the NPDB to the board. Published data from the NPDB shows how infrequently boards seek data from the NPDB. In 2023 a total of 32 licensing boards had no physicians enrolled in the Data Bank's continuous query service.

Another six state boards had fewer than 10 physicians enrolled. Seven state boards had no continuous query enrollments and made no single-name queries to the Data Bank. Only the licensing boards of Florida (M.D. and D.O.), Massachusetts, Nevada (D.O. only), Vermont (M.D. and D.O.), and Wyoming enrolled nearly all their licensees in continuous query.[13] All of these boards except the Wyoming board — the board of a

[12] Department of Health and Human Services. Title IV of Public Law 99-660. The Health Care Quality Improvement Act of 1986, as amended 42 USC Sec. 11101 01/26/98. https://www.npdb.hrsa.gov/resources/titleIv.jsp. Accessed March 17, 2021.

[13] Data on 2022 query volume and continuous query enrollments by state licensing boards provided by HRSA on July 17, 2024, in response to Public Citizen's request for this information.

low- population state for which relatively few licensure actions could make a significant change in ranking position — were among the twenty highest-ranked boards. Of note, New Jersey and Texas have recently enacted legislation requiring their licensing boards to query the Data Bank or enroll all licensees in the Data Bank's continuous query service.[14]

Congress should amend the Health Care Quality Improvement Act of 1986 to require state licensing boards to routinely query the NPDB for all applicants for licensure and periodically when they renew their licensees. A requirement that all state licensing boards enroll all their licensees in the NPDB's continuous query service would be even better because boards would be immediately notified of any new reports about their licensees. Hospitals are already required to routinely query the NPDB. This legal requirement should be expanded to include state boards. The licensing boards are the last line of defense for the public from incompetent and miscreant physicians. Ideally, this amendment should include free continuous query access by medical boards for all their licensees.

In the absence of any action by Congress, individual state legislatures should require their licensing boards to query all their licensees or enroll in continuous query.

- **Improve Reporting by the Boards to the NPDB.**

While comparing counts for serious actions for the "overlap" years (2019 and 2021) in our previous reports, we discovered some states had been at least two months late (and likely much later) in reporting some actions, as discussed in a footnote to Table 1. It is imperative that licensing boards file reports to the NPDB within the required time period to ensure that other boards, hospitals, and other Data Bank queriers learn of serious disciplinary actions taken by the boards in a timely manner.

- **Open the NPDB to the Public**

Congress also should amend the Health Care Quality Improvement Act so that any person can get the information to do a background check on a physician.

Opening the NPDB to the public would benefit patients and provide licensing boards with further incentives to query the Data Bank. If licensing boards routinely queried the NPDB, they would be less likely to be faulted by the public and state legislators for not knowing about malpractice payments, disciplinary actions, and other adverse actions affecting their licensees.

Having successfully stopped public access to the NPDB during the legislative battles preceding passage of the Health Care Quality Improvement Act of 1986, the American Medical Association (AMA) has continued to oppose the public's right to conduct background checks on physicians as well as physicians' rights to conduct background

[14] NJ Stat §45.1-32.1a(1) and (2); Texas HB1998 signed by governor June 13, 2023

checks on other physicians as one potential basis for referrals.

In 1993 the AMA went even further by passing a resolution that stated the following: "Resolved, that the American Medical Association... call for the dissolution of the National Practitioner Data Bank." The late Dr. Sidney Wolfe, the founder of Public Citizen's Health Research Group and an author of previous editions of this rankings report, subsequently published an article entitled "Congress Should Open the National Practitioner Data Bank to All":

> "As more information about more physicians is entered into the Data Bank, its usefulness can only increase. The main problem with the NPDB, however, is neither the accuracy nor the usefulness of the data but the unconscionable secrecy whereby this Federal repository of important information about American physicians is kept from American patients and other physicians.[15]"

Senator Ron Wyden, the author of the Health Care Quality Improvement Act, has strongly supported public access to the NPDB despite the AMA's opposition. In a 2023 interview, Senator Wyden said it's past time to make the information public. "When we're talking about proven, flagrant abuses, the public has a right to know," Wyden said. "It's time for the law to be updated."[16]

Improve the NPDB To Provide More Comprehensive Information to State Boards and Others

- **Close Corporate Shield Loophole**

The Health Care Quality Improvement Act or its implementing regulations should be amended as necessary to close the "corporate shield" loophole, which allows some malpractice payments against physicians to go unreported. This reform is urgently needed because the majority of physicians are employees of corporate hospitals or health systems.

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[15] Wolfe SM. Congress should open the National Practitioner Data Bank to all. Public Health Reports. 1995. Jul-Aug; 110(4): 378–379.

[16] Gazaway W. Most extensive database for doctor misconduct is unviewable to public. KPIC. February 27, 2023. https://kpic.com/news/local/most-extensive-database-for-doctor-misconduct-is-unviewable-to-public-dhhs-national-practitioner-data-bank-healthcare-records-malpractice-lawsuit-history#. Accessed August 5, 2023

- **Eliminate Other Loopholes**

Amend the Health Care Quality Improvement Act to eliminate other loopholes for reporting malpractice payments, including the "written demand" loophole. The Health Care Quality Improvement Act requires that only malpractice payments made as the result of a "written claim or demand for payment" are reportable. As a result, some malpractice payers encourage claimants not to request payment in writing so that no payment report would be required. Although not requesting payment in writing may facilitate payment for individual malpractice victims, this procedure prevents licensing boards from identifying physicians with dangerous malpractice records.

- **Improve Reporting of Clinical-Privileges Actions**

Amend the Health Care Quality Improvement Act to improve reporting of clinical privileges actions. Hospitals and other health care entities that are obligated to report clinical privileges are known to evade reporting by making deals with physicians to resign just prior to the initiation of an investigation or immediately after closure of an investigation, before any action has been taken. As a result of the timing of the resignation, it would not be reported to the NPDB as would otherwise be required by law. In addition, the NPDB should be provided with the authority to audit clinical-privileges reporting and impose severe penalties on reporting entities and their management personnel if clinical-privileges actions are not fully reported.

Other steps to improve state medical boards' performance include:

- Provide adequate funding and staffing: All money from physicians' license fees should go to fund board activities, not other state programs. Restrictions on hiring or the number of positions should not preclude adequate levels of appropriately qualified staff.

- Provide for proactive investigations as well as investigations in response to complaints.

- Ensure independence from state medical societies, including greatly reducing the number of physicians on medical boards and increasing the number of public members with no ties to the medical profession, hospitals, or other individuals or businesses in health care. When a board needs additional, focused medical expertise to investigate or adjudicate individual cases, independent consultant physicians can be hired.

- Ensure independence from other parts of the state government so that the board can develop its own budgets and regulations, including assuring adequate funding to enforce its regulations.

- Require a reasonable legal standard for disciplining physicians ("preponderance of

evidence" rather than "beyond a reasonable doubt" or "clear and convincing evidence").[17]

- Create a more patient-oriented board culture so that protecting the public takes precedence over protecting physicians' livelihoods.

CONCLUSIONS

The state licensing boards could and should do a much better job of protecting the public from incompetent and miscreant physicians. If all the licensing boards, including the unranked small boards, had taken serious disciplinary actions at the same rate as the highest-ranked board (Ohio) during the 2021-2023 period, there would have been 2,803 serious actions taken during 2023, about 2.34 times more than the 1,196 actions that were actually taken.

Even in Ohio, there is room for improvement. Although the Ohio board had the highest ranking for 2021-2023 (1.82 serious disciplinary actions per 1,000 physician licensees per year), Kentucky, the highest-ranked board for the 2017-2019 period studied in the Public Citizen rankings report published in March 2021[18], took actions at a rate of 2.29 per 1,000 licensees, a 26% higher rate. If all boards had taken serious disciplinary actions at Kentucky's 2017-2019 rate in 2023, there would have been 3,527 serious actions taken, almost three times more than the 1,196 actions that were actually taken. There is no evidence, however, that even 2.29 serious actions per 1,000 licensees is the rate needed to adequately protect the public from dangerous physicians.

Implementing the reforms called for in this report could reduce the health risk to thousands of patients being injured by the minority of physicians who should not be practicing or should have their practices restricted but are still fully licensed because of inadequate discipline by state boards. If adopted, the reforms could help correct the deficiencies we have identified in the performance of state medical boards. Even the best-rated boards and the public they serve would benefit from their adoption. These reforms are urgently needed in states whose boards have the lowest rates of serious disciplinary actions against physicians. Most physicians are competent and provide appropriate medical services. These physicians would also benefit from improvements to the system for regulating physicians, thereby raising the quality of medical practice in their states.

[17] It is concerning that in 2024 the New Hampshire legislature passed House Bill 518 which increases the legal standard from "preponderance of the evidence" to "clear and convincing." The Bill also abolishes the state's Medical Review Subcommittee (MRSC), which investigates licensee complaints. At this writing the bill awaits the Governor's signature.

[18] Oshel R, Wolfe SM. Ranking of the rate of state medical boards' serious disciplinary actions, 2017-2019. March 31, 2021. https://www.citizen.org/wp-content/uploads/2574.pdf. Accessed September 26, 2024.