



## State Medical Boards Are Letting Patients Down

August 15, 2011 by **Patrick A. Malone**

If you follow patient safety news, you've seen this headline before. Why should you care? Apart from retaining an attorney to represent you in the event of medical malpractice, what stands most prominently between medical consumers and the bad behavior of health-care providers is their states' medical boards.

These government agencies are charged with licensing medical practitioners, monitoring their practices and punishing those who make serious mistakes or who commit crimes. Sometimes, this oversight is lacking. We've written here before about states that **fail to discipline doctors** whose own hospitals find their behavior wanting, and about how one state—Washington—took the lead in **addressing its board's deficiencies**.

A recent study by consumer watchdog Public Citizen has **ranked states' effectiveness** in protecting their citizens from substandard physicians. Thanks primarily to shrinking budgets and also to flagging political will and leadership, residents of many states have a lot to be concerned about.

Most states, the study concludes, do not live up to their obligations to protect patients from doctors who practice substandard medicine.

The report analyzed data from the Federation of State Medical Boards on all disciplinary actions taken against doctors in 2010. It calculated the rate of serious disciplinary actions (revocations and surrenders of licenses, suspensions and

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probation/restrictions) taken by state medical boards. The rate was slightly lower than that in 2009 and “significantly” lower than the peak for the last 10 years.

Some of the worst states have been consistently poor performers. Nationally, in 2010 state medical boards took 2.97 serious actions per 1,000 physicians – down 3% from the last period and 20% from the peak rate of discipline in 2004 of 3.72 per 1,000 physicians.

Had the national rate of doctor discipline repeated the 2004 peak rate, there would have been 745 additional serious disciplinary actions in 2010 against U.S. physicians. “With a typical doctor having between 500 and 1,000 or more patients in their practice,” the report reads, “the positive impact of this on the large number of patients going to these doctors would be enormous.”

Minnesota was the worst state when it came to disciplining doctors. South Carolina and Wisconsin also have been consistently among the bottom 10 states for each of the last eight rankings. Connecticut has been in the bottom 10 for the last five rankings, and for the third consecutive ranking, Florida, at no. 7, is among the 10 states with the lowest rates of serious disciplinary actions. It’s a highly populated state with a lot of older people who use more health-care services than other demographic segments.

Filling out the bottom 10 are: Massachusetts, Rhode Island, New Hampshire, Utah and Vermont.

States whose rank has declined the most since their peak are: Vermont (8 to 42), Utah (10 to 43), Massachusetts (23 to 47), Montana (8 to 32) and Georgia (15 to 40).

Louisiana ranked highest in disciplining doctors, taking 5.98 serious actions per 1,000 physicians. Five states – Alaska, Arizona, Colorado, Ohio and Oklahoma – have been in the top 10 for all eight rankings. Other states in the top 10 are: Wyoming, North Dakota, New Mexico and Nebraska.

States whose rank has improved the most since their nadir: Hawaii (51 to 11), Delaware (50 to 13), Maine (46 to 19), North Carolina (41 to 16), Washington (42 to 18) and Arkansas (45 to 23). There are 51 rankings because the District of Columbia was also included (no. 37).

“One reason for medical boards’ declining rate of discipline is likely tighter state budgets,” said Dr. Sidney Wolfe, director of Public Citizen’s Health Research Group. “The ability of certain states to rapidly increase or decrease their rankings ... can only be due to changes in practices at the board level. The prevalence of physicians eligible for discipline cannot possibly change so rapidly.”

Most boards do not perform satisfactorily in disciplining physicians. Public Citizen called for legislative action and public pressure to kick them into action and, by extension, improve patient protection.

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The organization said medical boards are more likely to address physician misbehavior if:

- they receive adequate funding (all money from license fees going to fund board activities instead of into the state's general fund);
- they have adequate staffing;
- they engage in proactive investigations, rather than only reacting to complaints;
- they use all available/reliable data from other sources such as Medicare and Medicaid sanctions, hospital sanctions and malpractice payouts;
- they have excellent leadership;
- they have independence from state medical societies;
- they are independent from other state agencies; and
- a reasonable legal framework exists for disciplining doctors (the "preponderance of the evidence" rather than "beyond reasonable doubt" or "clear and convincing evidence" as the legal standard for discipline).

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