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A CRITICAL PATIENT SAFETY SOLUTION: REMOVE OR SANCTION THE SMALL NUMBER OF BAD DOCTORS COMMITTING MOST MALPRACTICE

The nation's system for protecting the public from medical negligence is sorely inadequate. While the medical profession focuses on reducing malpractice claims and limiting patients' legal rights, far too little is being done by regulatory boards to weed out the small number of doctors responsible for most malpractice, especially repeat offenders who should not be practicing at all.

- In a 2007 report analyzing National Practitioners Data Bank data (The Great Medical Malpractice Hoax: NPDB Data Continue to Show, Medical Liability System Produces Rational Outcomes, January 2007), Public Citizen found:
 - The vast majority of doctors – 82 percent – have never had a medical malpractice payment since the NPDB was created in 1990.
 - Just 5.9 percent of doctors have been responsible for 57.8 percent of all malpractice payments since 1991, according to data from September 1990 through 2005. Each of these doctors made at least two payments.
 - Just 2.3 percent of doctors, having three or more malpractice payments, were responsible for 32.8 percent of all payments.
 - Only 1.1 percent of doctors, having four or more malpractice payments, were responsible for 20.2 percent of all payments.
 - Only 8.61 percent of doctors who made two or more malpractice payments were disciplined by their state board.
 - Only 11.71 percent of doctors who made three or more malpractice payments were disciplined by their state board.
 - Only 14.75 percent of doctors who made four or more malpractice payments were disciplined by their state board.
 - Only 33.26 percent of doctors who made 10 or more malpractice payments were disciplined by their state board – meaning two-thirds of doctors in this group of egregious repeat offenders were not disciplined at all.

- According to Public Citizen’s April 20, 2009 annual ranking of state medical boards, based on the rate of serious disciplinary actions (revocations, surrenders, suspensions and probation/restrictions) taken by boards in 2008, “most states, including two of the largest, are not living up to their obligations to protect patients from doctors who are practicing substandard medicine.” Public Citizen’s Health Research Group Ranking of the Rate of State Medical Boards’ Serious Disciplinary Actions, 2006-2008 (HRG Publication #1868).
- Sidney Wolfe, M.D., Public Citizen’s acting president and director of its Health Research Group, said, “The overall national downward trend of serious disciplinary actions against physicians is troubling because it indicates many states are not living up to their obligations to protect patients from bad doctors.” Public Citizen’s Health Research Group Ranking of the Rate of State Medical Boards’ Serious Disciplinary Actions, 2006-2008 (HRG Publication #1868).
- Even the Bush Administration agreed that too little was being done to sanction bad doctors. In 2005, the *New York Times* reported (Robert Pear, “Panel Seeks Better Disciplining of Doctors,” *New York Times*, January 5, 2005):

Experts retained by the Bush administration said on Tuesday that more effective disciplining of incompetent doctors could significantly alleviate the problem of medical malpractice litigation. ...

“There’s a need to protect the public from substandard performance by physicians,” said Josephine Gittler, a law professor at Iowa who supervised part of the study. “If you had more aggressive policing of incompetent physicians and more effective disciplining of doctors who engage in substandard practice, that could decrease the type of negligence that leads to malpractice suits.’

“Randall R. Bovbjerg, a researcher at the Urban Institute, said, “If you take the worst performers out of practice, that will have an impact” on malpractice litigation.