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State Medical Boards Fail to Discipline Doctors With Hospital Actions Against Them

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STATE MEDICAL BOARDS FAIL TO DISCIPLINE DOCTORS WITH HOSPITAL ACTIONS AGAINST THEM

Executive Summary:

An analysis of the National Practitioner Data Bank Public Use File for 1990-2009 found that of a total of 10,672 physicians in the data bank with one or more clinical privilege actions — revocation or restriction of their clinical privileges — 45% also had one or more state licensing actions. However 5,887, or 55%, of these physicians — more than half — had no state licensing actions. This report is an analysis of violations by and the privileging actions taken against these physicians who, despite clinical privilege actions, escaped any state licensing action.

Types of violations causing Clinical Privileging Actions

The reason for the actions against these 5,887 physicians included:

- 220 physicians disciplined because they were an “Immediate Threat to Health or Safety”
- 1,119 physicians disciplined because of incompetence, negligence or malpractice
- 605 physicians disciplined because of substandard care

Other categories of serious deviations of physician behavior/performance that resulted in clinical privilege revocation or restrictions included Sexual Misconduct, Unable to Practice Safely, fraud, including insurance fraud, fraud obtaining a license, and fraud against health care programs, and narcotics violations.

Thus, a total of 2,071 physicians (35% of those physicians with clinical privilege actions but no medical board actions), had one or more of the above most serious categories of violations.

Types of Clinical Privileging Actions taken against the 5,887 physicians

3,218 physicians in our study lost their clinical privileges permanently, and an additional 389 physicians lost privileges for more than one year.

Thus, 3,607 physicians, representing 61% of those with one or more clinical privilege reports but no state disciplinary action, had either a permanent clinical privilege penalty or a penalty of one year or more.

In addition, many of the 5,887 physicians who had been disciplined by hospitals, but had no state medical board action, had a history of medical malpractice payments (as reported to the NPDB). A physician in New Mexico had 26 malpractice cases while a physician in Indiana had 20. Fourteen states had a physician with at least one clinical privilege report, no state licensure action, and at least 10 medical malpractice payments.

Hospital disciplinary reports are peer review actions that are one of the most important sources of information for medical board oversight. Subsequent state medical board action against a physician's license provides a greater assurance than a hospital disciplinary action alone that the practitioners medical practice would be monitored or limited and that other state medical boards and future employers will have a more complete account of a practitioner's practice history.

Our analysis of physicians with clinical privilege reports but no state licensure action raises serious questions about whether state medical boards are responding adequately to hospital disciplinary reports and whether, as required by federal law, state medical boards are receiving such reports.

Because the NPDB Public Use File de-identifies physicians through the use of code numbers, Public Citizen is asking state medical boards to work cooperatively with the Health Resources and Services Administration, which operates the NPDB, to identify the physicians in our study and take the appropriate action.

Public Citizen Analysis of Physicians with NPDB Clinical Privilege Reports But No State Licensure Action

The Problem

Public Citizen is concerned that many physicians with peer-reviewed clinical privilege sanction reports in the National Practitioner Data Bank (NPDB) have not had a subsequent state medical board licensure action.¹ While not all clinical privilege reports to the NPDB would necessarily result in state board action, the large number of physicians (5,887) determined by our analysis to have had one or more clinical privilege reports but no state licensure action suggests that boards are not properly acting on such reports after becoming aware of them, and, secondarily, that hospitals may not be sending such reports to all of the appropriate state licensure board(s) where the doctor is known to be licensed.²

State medical board action against a physician's license, if warranted, provides a greater assurance than a hospital privilege action alone that (a) the practitioner's medical practice would be monitored, limited or curtailed by a medical board order and (b) other state medical boards and future employers will have a more complete account of a practitioner's practice history.³

Understanding the Problem

Concern about medical boards' oversight of physicians' performance is not new. In a 1988 report, the now closed Congressional Office of Technology Assessment noted that "State Boards are reluctant to censure physicians and accord accused physicians extensive opportunity for appeal..."⁴

¹ Clinical privilege report refers to a peer review based disciplinary action that is taken by a hospital or managed care organization or other health care entity. If a physician's privileges to practice in the health care organization are limited or revoked for a period of more than 30 days, the action must be reported to the National Practitioner Data Bank, which is a national clearinghouse of doctor disciplinary and medical malpractice information operated by the Department of Health and Human Services and available to only health care organizations and State medical boards.

² Hospitals and other reporters are required to send a copy of each clinical privilege report directly to the relevant state licensing board. The "relevant board" is determined by the facility reporting the clinical privilege action and is probably, but not necessarily, the licensing board in the facility's state. For example, physicians working for the federal government in federal facilities are only required to have a license; they are not required to be licensed in the state where the federal facility is located, so long as they treat federal patients.

³ State medical board disciplinary actions are submitted to a national data base maintained by the Federation of State Medical Boards; this data base is used routinely by State boards. In addition, State boards can access disciplinary reports, including clinical privilege reports, in the National Practitioner Data Bank, but they are not required to do so.

⁴ Office of Technology Assessment, Quality of Medical Care: Information for Consumers, 1988, page 12: http://www.princeton.edu/~ota/ns20/year_f.html

In February 1997, June Gibbs Brown, the Inspector General at the Office of Inspector General (OIG), Department of Health and Human Services (HHS), testified before Congress, as follows:

“In February 1992, the OIG excluded a California oncologist for 10 years ... because the OIG determined that he had rendered over 3,900 excessive, substandard, unnecessary, and potentially risky services to seven Medicare beneficiaries over a six year period of time ... Once the exclusion was in place, the licensing board did revoke the doctor’s license. Then it stayed the revocation and put the license on probation. The stay has been lifted but if the OIG had not devoted its investigative power ... to excluding this physician, the Medicare/Medicaid patient population would have continued to be at grave risk during the four years that the licensing board took to get to an exclusionable point in its process.”⁵

Methodology

We analyzed the NPDB Public Use File and extracted information about 5,887 physicians (identified in this file only by a coded number) who had at least one clinical privilege report in the NPDB but no medical board licensure action report in the NPDB. For the purposes of our analysis, these physicians were assigned to a state based on the state in which the last clinical privilege action occurred. Thus, a physician may have had two clinical privilege actions reported in state A, but the third and most recent report was for state B. The physician in this example would have been assigned to state B for the purposes of our analysis. This means that, by definition, for the state-stratified data in this report, every state that is counted as having failed to take a license action after a previous hospital action is the same state in which the most recent hospital action occurred. In addition, if a physician with one or more clinical privilege actions had a licensing board action in **any** state, the practitioner was not included in our study.

We examined the following: (1) the number of clinical privilege reports per physician, nationally and by state; (2) the number of clinical privilege reports for reasons that would much more likely warrant a medical board action, such as “Immediate Threat to Health or Safety,” incompetence and sexual misconduct; and (3) the number of medical malpractice payment reports for the 5,887 physicians with one or more clinical privilege actions but no board licensure action in our study. Unless otherwise noted, the data in the report and in the exhibits cover the period from September 1, 1990, the date the NPDB started collecting data, through December 31, 2009.

Clinical privilege actions, which totaled 8,734 reports (involving 5,887 physicians) in our analysis of physicians without a medical board licensure action, could include extensions or decreases in length of sanction, reinstatements and other changes in sanctions, thereby accounting for more than one report for many physicians.⁶

⁵ See <http://www.hhs.gov/asl/testify/t960905a.html>.

⁶ Automatic reinstatements after a suspension would not be included, but neither would the action that was voided. Although these reports of changes to penalties increase the number of reports in a physician’s record, they are relatively infrequent, and therefore we do not believe they affect the core conclusions of

Findings

Clinical Privilege Reports Per Physician, Nationally

Table 1 shows the number of physicians with one or more clinical privilege reports but no state board action, stratified by the number of reports per physician. For example, it can be seen that 125 physicians have had four clinical privilege reports without any state licensing action while three physicians have had 12. Of a total of 10,672 physicians in the data bank with one or more clinical privilege actions, 45% had one or more state licensing actions, but 5,887, or 55%, — more than half — had no state licensing actions.

Table 1

Physicians with Adverse Clinical Privilege Reports to the NPDB But No Licensure Board Action	
Number of Adverse Clinical Privilege Reports Per Physician	Number of Physicians with Specified number of Adverse Clinical Privilege Reports But No Licensure Action
1	4056
2	1250
3	350
4	125
5	56
6	27
7	12
8	5
9	2
10	1
12	3
Total Physicians With One or More Clinical Privilege Reports But No Licensure Report:	5887

Hospitals, managed care organizations and other health care entities that do peer review have 40 codes available to categorize the nature of the action taken in a clinical privilege report, such as “revocation,” “termination” and “voluntary surrender while under investigation.”⁷ They also have 62 codes available to explain the basis for actions that

our analysis since such reports are included in a physician’s record only if the original action was reported. Furthermore, their actual impact on our analysis, if any, is debatable, since they may indicate either a more severe penalty based on a physician’s failure to meet conditions imposed with an original action or a reduction in the originally imposed penalty.

⁷ Eighty-five percent of the 8,734 reports in our study were submitted by hospitals; the remaining were submitted by managed care organizations and other health care entities such as ambulatory care surgical centers. For purposes of the report, we will use the term “hospital” to encompass all clinical privilege disciplinary reports.

were taken. These bases for action codes — the offenses of the doctors resulting in these credentialing actions — include the following: immediate threat to health or safety, incompetence, substandard or inadequate care, inability to practice safely by reason of alcohol or substance abuse, and sexual misconduct.

Clinical privilege sanctions for very serious reasons, some of which are listed above, should be particularly important triggers for state medical board investigation and probable licensure action. However, our analysis of clinical privilege reports with no licensure board action in this study found 2,401 clinical privilege reports involving 2,071 physicians for performance and conduct reasons that would seem to warrant medical board action. As can be noted in Table 2, there were 243 reports with a “Basis for Action” code indicating that the physician was an “Immediate Threat to Health or Safety.” The 243 reports involve a total of 220 physicians; 197 of these physicians with no licensure report have one such code while 23 of the practitioners had two such codes, i.e. there were two hospital actions taken against these 23 practitioners for being an “Immediate Threat to Health or Safety.”

The seriousness of the hospital action for these physicians is made even more evident by our analysis of NPDB Public Use File data showing that of the 220 physicians who were found to constitute an “Immediate Threat to Health or Safety”:

- For 167 (75%) of these 220 physicians, the hospital took an immediate action, i.e. “Summary/Emergency Suspension of privileges” or “Summary or Emergency Limitation, Restriction, or Reduction of Clinical Privileges.”
- For 42 (21%) of these 220 physicians, the hospital revoked or suspended their privileges.

Thus, for the 209 or 94% of these 220 physicians who constituted an “Immediate Threat to Health or Safety,” the hospital took one of the very serious actions cited above. The remaining reports involved non-summary actions. However, according to the NPDB Public Use file, state boards did not take any action against any of the 209 physicians that were considered such a threat.

As seen in Table 2, there were a total of 2,401 clinical privilege actions against 2,071 physicians based on this most serious group of reasons for the clinical privilege action. This means that 2,401 out of the total number of clinical privilege reports — 8,734 — or 27.5 percent that did not result in any state board actions were in these most serious categories. At the level of physicians, this means that 2,071 of the 5,887 physicians with one or more clinical privilege actions (35%) had one of the most serious group of reasons for these clinical privilege reports.

A more complete listing of “Basis for Action” codes for the reports in our study is attached as Exhibit A. As stated earlier, all data in our analysis is for physicians who have been disciplined by a hospital or other health care organization but who have not had a single state medical board licensure action. It should be acknowledged that some of the

5,887 physicians in our study may no longer be practicing, but if that is indeed the case, it was their own decision and not the result of a medical licensure board action. Furthermore, if a physician gives up his/her medical license during a medical board investigation, it is still a reportable action to the National Practitioner Data Bank as a “voluntary surrender.” Such medical board actions, if they were properly reported to the NPDB, would have been taken into account in our analysis; i.e., they were counted as a licensure action and excluded from our analysis.

Table 2

Basis for Action and Basis for Action Reporting Code	Number of Reports	Number of Physicians
Immediate Threat to Health or Safety (Code F1)	243	220
Incompetence/Malpractice/Negligence (Code 52: used only until November 12, 1999)*	1072	910
Incompetence (Code 11)	165	152
Malpractice (Code 12)	29	27
Negligence (Code 13)	31	30
Sexual Misconduct (Code D1)	31	30
Criminal Conviction (Code 19)	24	23
Unable to Practice Safely (Codes F3,F4,F5)	74	72
Fraud in Obtaining License/Credentials (Codes E4,09)	24	24
Fraud (unspecified) (Code 05)	28	25
Insurance Fraud (against Federal and Non-Federal Health Care Programs) (Code 06,08)	2	2
Narcotics Violation or Other Violation of Drug Statutes (Code H1)	13	10
Diversion of Controlled Substance (Code H6)	4	4
Practicing without a Valid License (Code A4)	4	4
Substandard Care (Code F6,F7)	657	605
Total actions with most serious basis for action	2401	2071**
*Code 52 was changed in November 1999 and separate codes were established for each category.		
** This is an unduplicated count of physicians. A total of 67 physicians have reports in more than one reporting category.		

Duration of Clinical Privilege Sanctions

In addition to the number of clinical privilege reports per physician and the nature of the violations leading to these reports, we examined the duration of the penalty imposed in

clinical privilege actions for physicians who had not had a state licensure action. When reporting the length of a penalty, reporters can specify that the penalty has an indefinite period, or that the period is a time frame that they state in the report (e.g., nine months or three years), or that the penalty is “permanent.” The length of the penalty is reported independently of the type of penalty (e.g., revocation, suspension, limitation).

We found the following:

- There were 3,679 sanction reports with permanent penalty, which represents 42 percent of all clinical privilege reports in our analysis that did not result in state medical board discipline. These reports involve a total of 3,218 doctors, each of whom has from one to five reports with permanent penalties. Since there were 5,887 physicians in our study, a total of 54.7% of the practitioners with one or more clinical privilege sanction but no medical board action have at least one permanent penalty. Specifically, 300 of these doctors have two permanent penalty reports, 55 have three permanent penalty reports, 13 have four permanent penalty reports and three have five permanent penalty reports.
- There were 1,143 sanction reports involving 986 physicians with specified penalty length, which represents 13.1% of clinical privilege reports in our study. We further analyzed these 1,143 reports to determine the length of the penalty. We found:
 - 394 reports involved a penalty of from one to four years
 - 30 reports involved a penalty from 5 through 11 years
 - These 434 reports involved 389 physicians
- There were 3,580 reports with “indefinite” penalty length, which represents 41 percent of all clinical privilege reports and involves 2,775 physicians.

Thus, a total of 3,607 (3,218 plus 389) physicians, representing 61% of those with one or more clinical privilege reports but no state disciplinary action, had either a permanent penalty or a penalty of one year or more.

This is yet another way of demonstrating that very serious actions by hospitals are not followed by any action by many medical boards.

State-by-State Analysis of Clinical Privilege Reporting

Exhibit B lists the number and percent of physicians, by state, with NPDB clinical privilege reports who also have no licensure actions. In 32 states plus the District of Columbia, at least half of the physicians with clinical privilege reports did not have any reported licensure actions.

- In eight states, 70% to 77% of the physicians with one or more clinical privilege sanction reports had no state licensure action. These states are:

Delaware Hawaii, Indiana, New Mexico, Nevada, Pennsylvania, South Dakota and Tennessee.

- In seven states, 60% to 69% of the physicians with clinical privilege sanction reports had no state licensure action. These states are: Florida, Georgia, Illinois, Montana, Nebraska, Texas and Wisconsin.
- In 17 states plus the District of Columbia, 50% to 59% of the physicians with clinical privilege sanction reports had no state licensure action. These states are: Alabama, Alaska, Arkansas, California, Idaho, Kansas, Michigan, Missouri, North Carolina, New Hampshire, New Jersey, New York, Ohio, Oklahoma, South Carolina, Utah and Washington.

Thus, in 32 states plus the District of Columbia, 50 percent or more of the physicians with clinical privilege actions had never had a state licensing action in that state or any other state.

For all states in the U.S., we examined the number of clinical privilege reports per physician with no licensure reports. We found the following:

- Three states (California, Minnesota and Missouri) each had a physician with 12 clinical privilege reports but not even one state licensure report.
- Indiana had a physician with 10 clinical privilege reports but no licensure reports.
- Nebraska and California each had a physician with nine clinical privilege reports but no licensure reports.
- Four states (Maryland, New Jersey, New York, and South Carolina) each had a physician with eight clinical privilege reports but no licensure reports.
- Nine states (Alabama, California, Massachusetts, Nebraska, Ohio, Oklahoma, South Carolina, Texas and Washington) each had a physician with seven clinical privilege reports but no licensure reports.

See Exhibit C for a table showing for each state the number of physicians with specified numbers of clinical privilege reports but no licensure board action.

Clinical Privilege Sanctions and the Likelihood of a Medical Malpractice Payout for Those Physicians without a State Licensing Board Action

According to research done by National Practitioner Data Bank staff, physicians with high numbers of medical malpractice reports in the NPDB tend to have at least some adverse actions reports (e.g. hospital disciplinary report, medical board report) and Medicare/Medicaid exclusion reports and vice versa. For example, the most recent NPDB annual report notes that a third of physicians with 10 or more medical malpractice payouts have one or more adverse action reports, and almost nine percent of physicians with 10 or more medical malpractice payments were excluded by OIG from Medicare and Medicaid.⁸ The NPDB report further notes that “Generally the data show that as a physician’s number of malpractice payment reports increases, the likelihood that the

⁸ NPDB Annual Report, 2006, pages 41 and 80: <http://www.npdb-hipdb.hrsa.gov/annualrpt.html>

physician has adverse action reports also increases.⁹ Finally, the NPDB annual report also notes, “Physicians with at least two malpractice payment reports were responsible for the majority of malpractice payment reports for physicians ... A few physicians were responsible for a large proportion of malpractice payment dollars paid ... Eleven percent of physicians [in the NPDB] with at least one malpractice payment were responsible for half of all malpractice dollars paid from September 1, 1990 through December 31, 2006.”¹⁰

As can be noted from Table 3 below, our own analysis found an overall trend that as the number of hospital clinical privilege reports for physicians with no licensure action increases (up to five reports), the greater the likelihood that a physician will also have a medical malpractice report. For example, 43 percent of the physicians with one clinical privilege report had a medical malpractice payment, whereas 61 percent of the physicians with four clinical privilege reports had medical malpractice payments. It is noted that 57 percent of all the physicians with six or more clinical privilege reports (up to 12) but no licensure action have a history of medical malpractice payments.

Table 3

Number of Clinical Privilege Reports	Percent of Physicians with Specified Number of Clinical Privilege Reports and No Licensure Action Who Have at Least One Medical Malpractice Report
1	43.4%
2	47%
3	56.6%
4	60.8%
5	64.3%
6 through 12	57%

Exhibit D shows the number of medical malpractice payment reports for doctors with one, two, three, etc. clinical privilege reports but no licensure actions. For example, for the 4,056 physicians with one clinical privilege report, 13 doctors had from 15 to 25 medical malpractice payments, and one physician had 26 medical malpractice payments. For the 350 physicians with three clinical privilege reports, five physicians had nine or more medical malpractice payments, including one provider with 15 payments. For the 56 physicians with five clinical privilege reports, six physicians had from six to 12 medical malpractice payments. The 50 physicians with six or more clinical privilege reports (up to 12) also have multiple medical practice payments, including one doctor with eight payments and one physician with five payments.

⁹ Ibid, pages 41 and 42

¹⁰ Ibid, page 42

Table 4 below shows the general increase in the percent of medical malpractice payments for physicians with four or more medical malpractice payouts as the number of clinical privilege reports per physician increases. Note that, for the most part, as the number of clinical privilege reports increases, the percentage of those physicians with four or more medical malpractice payouts increases.

Table 4

Number of Clinical Privilege Reports for Physicians with no Licensure Reports	Percent with Four or More Medical Malpractice Reports
1	7.1%
2	9.7%
3	13.8%
4	12%
5	16.2%
6	14.8%
7	0
8	20%
9	100%
10	100%

Exhibit E provides a state-level breakdown of the following:

- Number of physicians with one or more clinical privilege reports but no licensure action
- Mean number of clinical privilege reports per physician with no licensure action
- Maximum number of clinical privilege actions for a physician with no licensure action
- Mean number of malpractice payments per physician with clinical privilege actions but no licensure action
- Maximum number of malpractice payments for a physician with clinical privilege actions but no licensure action

Physicians with clinical privilege reports but no licensure reports in our study not only had on average almost 1.5 clinical privilege actions per physician but also had an average of more than one malpractice payment in their records. Again, this raises the issue of board inaction with respect to physicians with multiple hospital disciplinary reports as well as medical malpractice payment reports.

Table 5 below shows the states that had physicians with 10 or more malpractice payments and at least one clinical privilege report but no licensure action.

Table 5

State	Number of Physicians with at Least 10 Medical Malpractice Payments and at Least One Clinical Privilege Report but No Licensure Action
California	15
Georgia	13
Illinois	10
Indiana	20
Kansas	19
Michigan	14
Missouri	16
New Mexico	26
New York	17
Ohio	13
Pennsylvania	23
South Carolina	15
Texas	22
Washington	12
Total for all of these states	235

See Exhibit E for a state-by-state listing of the maximum number of medical malpractice payments for a physician with clinical privilege actions but no licensure action.

Individual Physicians

To find a sample of individual physicians who had a high total of clinical privilege and medical malpractice reports but no licensure action, we examined the NPDB Public Use File to determine the: (1) the dates of medical malpractice reports to the NPDB and total payout; (2) basis for medical malpractice claims; (3) dates of clinical privilege report(s) to the NPDB; (4) reasons for reports; and (5) length of sanction for physicians with at least one clinical privilege report and multiple malpractice reports (but no licensure reports). We identified a sample of 17 physicians in 10 states. The results of this review are outlined in the Appendix attached to this report. Case summaries for 10 of these physicians (one from each state) are provided below:

- California – Physician # 5039 had a clinical privilege report involving suspension of privileges in 1991 and 15 medical malpractice reports totaling \$1.9 million for the period 1993-2009. The reasons for the malpractice claims, as described in the Public Use File, included two cases of retained foreign body (surgery related) and two cases of improper performance; one patient suffered significant permanent injury.
- Florida – Physician # 9469 had a clinical privilege report involving permanent revocation of hospital privileges in 2002 for incompetence and 10 medical malpractice reports totaling \$1 million for the period 1992–2009. The reasons for

the malpractice claims included two cases of failing to monitor, one case of retained foreign body, one case of misdiagnosis (surgery related), one case of improper management (surgery related), one case of unnecessary procedure, and one case of delay in performance (surgery related); two patients died.

- Illinois – Physician # 12405 had a clinical privilege report in 1999 involving permanent denial of privileges, and 10 medical malpractice reports for the period 1992-2006 totaling \$7 million. The reasons for the malpractice claims included four cases of improper management (obstetrics related), one case of improper performance (surgery related), one case of failure to diagnose (obstetrics related), one case of failure to identify fetal distress (obstetrics related), one case of failure to order appropriate test (obstetrics related). One patient suffered a major permanent injury while another became a quadriplegic due to a brain injury.
- Massachusetts – Physician #16849 had seven clinical privilege reports for the period 2001-2004, five of which indicated permanent revocation of clinical privileges. The Public Use File also shows that the provider was cited for incompetence. There were three medical malpractice reports totaling \$1.7 million, two for failure to diagnose and one for delay in performance. One of the patients incurred a major permanent injury.
- Michigan – Physician # 18226 had five clinical privilege reports as follows: 1997, 1999, 1999, 2000, and 2000. The Public Use File showed that two of the three adverse actions were taken for unprofessional conduct and one for incompetence. This physician also had 12 medical malpractice reports totaling \$1.2 million for the period 1992-2003. The basis for the malpractice claims included 10 cases of improper performance (surgery related) and two cases of failure to diagnose.
- New Jersey – Physician # 55701 had two clinical privilege reports, one in 1994, (denial of privileges) and one in 1999 (suspension of privileges); both were for indefinite penalty length. The 1999 action was for incompetence. This practitioner also had seven medical malpractice reports totaling \$1.3 million for the period 1996-2007. The reasons for the malpractice payouts included: three cases of improper performance (surgery related), one case of improper technique (surgery related) and a case of wrong diagnosis. Two patients had significant permanent injuries.
- New York – Physician #93487 had a clinical privilege report in 2008. The practitioner voluntarily surrendered privileges while under investigation and received an indefinite suspension of privileges. The physician had 15 medical malpractice reports totaling \$6.2 million for the period 1996 -2008. The malpractice claims included three cases of improper performance (treatment related) and four cases of improper technique (treatment related); there was one patient death, one case of significant permanent injury and one case of major temporary injury.

- Ohio – Physician # 30548 had five clinical privilege reports for 1992, 1993, 1995, 2006 and 2008 (for substandard care). The practitioner received the following sanctions: restriction of privileges, restriction of privileges, revocation of privileges, denial of clinical privileges and restriction of clinical privileges. Four actions resulted in an indefinite penalty and one resulted in a permanent penalty. There were also six medical malpractice reports totaling \$1.4 million for the period 1993-2001. Reasons for the malpractice payments included four cases of improper performance (surgery related) and one case of improper management (treatment related).
- Pennsylvania – Physician # 56598 had a clinical privilege report in 2006 that resulted in suspension of clinical privileges. There were also 25 malpractice reports totaling \$9.5 million for the period 1994–2009. The reasons for the malpractice claims included: four cases of retained foreign bodies, five cases involving improper performance (surgery related), two cases of unnecessary surgical procedures, two cases of failure to obtain consent (surgery related), a case of failure to communicate with patient (surgery related), and wrong medication (surgery related). Six patients incurred significant permanent injuries, one patient had a major permanent injury and one patient became a quadriplegic due to brain damage.
- Texas – Physician # 91056 had a clinical privilege report in 2006. In addition, in 2009 the practitioner had his membership suspended by a professional medical association for unprofessional conduct; such a sanction is reportable to the NPDB. The physician had 22 medical malpractice payments totaling \$2.6 million for the period 1996 – 2008. The malpractice claims included failure to order appropriate medication, operating on the wrong body part, improper management, delay in diagnosis (two cases), failure to diagnose, two cases improper performance (surgery related), failure to perform procedure, two cases failure to treat (surgery related), failure to recognize a complication, contraindicated procedure (surgery related) and one case of wrong dosage administered. Three patients incurred significant permanent injuries, one patient had a major temporary injury and two patients had minor permanent injuries.

Conclusion

Our analysis of physicians with one or more clinical privilege reports but no licensure report raises serious questions about whether state medical boards are responding adequately to hospital peer review determinations of substandard care or conduct, and, secondarily, whether state boards are getting copies of hospital reports to the NPDB. Given the value of hospital disciplinary reports, such reports must be received and properly utilized by medical boards to assure patient safety. In this regard, the public is entitled to know answers to the following:

Why have 5,887 physicians who have had clinical privilege disciplinary actions (in one case 12 such actions) not had any state medical board licensure action?

Why have 220 physicians who have been found by peer review to be an “Immediate Threat to Health or Safety” not had a medical board action?

Why have 1,851 physicians who have had a clinical privilege action for incompetence, sexual misconduct, fraud, etc. not had a medical board action?

Why have so many physicians with a history of one or more clinical privilege actions and multiple medical malpractice payments (in one case, 26 malpractice payments) not had a state medical board disciplinary action?

Why have 3,218 physicians who received a “permanent penalty” on their clinical privileges not had a medical board action?

Medical boards should regard clinical privilege reports as an important source of information for investigating and possibly disciplining physicians for substandard care. It is therefore troubling that 5,887 physicians with one or more clinical privilege reports (and in many cases, multiple malpractice payouts) have never had licensing board actions. In terms of patient safety, the reason(s) for this medical board inaction needs to be determined. Because of documented differences in the rate of disciplinary actions among state medical boards, it is clear that one factor is uneven medical board performance. If state boards are failing to properly and regularly consider hospital disciplinary reports that they are aware of in reviewing physician performance and conduct, state legislatures and the state executive and legislative branches should take steps to strengthen board oversight

Another problem may be that some state medical boards may not be getting copies of hospital disciplinary reports. As noted earlier, hospitals and other health care organizations that report a clinical privilege action to the NPDB are required to send a copy of the report to the “relevant state board.” While this is typically the board of the state in which the facility is located, other boards that may also license the physician are not notified directly by the reporter. If this is so, National Practitioner Data Bank staff and the boards must work on fixing the reporting process.¹¹ Furthermore, boards can routinely query the NPDB or use its ProActive Disclosure Service to ensure that boards receive hospital disciplinary reports that have been filed with the NPDB.¹²

Public Citizen calls upon all state medical boards to work cooperatively with HRSA to regularly identify physicians in their respective states who have had clinical privilege reports submitted to the NPDB but have not had a state licensure action.

¹¹ If there is a problem with the reporting process, it may require a legislative fix to cover practitioners with licenses in more than one state. The actual language of the Health Care Quality Improvement Act of 1986, which established the NPDB, states, in Section 424 (c) (2) that clinical privilege reports “...shall also be reported to the appropriate State Licensing board in the State in which the health care entity is located...”

¹² Which automatically provides a newly received report without the state board having to query.

Public Citizen also calls for the Office of Inspector General (OIG), Department of Health and Human Services, to re-initiate investigations of state medical boards. During the 1980's and 1990's the OIG acknowledged the importance of effective medical board oversight; during this time period they conducted 16 evaluations of state health professional licensing boards including 9 specifically addressing inadequate medical boards performance. Because of highly questionable legal constraints imposed by OIG lawyers, the last OIG review of state medical boards was 18 years ago.

**Appendix — Sample of Physicians with Clinical Privilege Report(s) and Multiple Medical Malpractice Claims
By State***

State of Last Clinical Privilege Action	NPDB Physician # from Public Use File (as of December 2009)	# of Medical Malpractice Payouts, Time Period of Reports, and Total Payout	Examples of Reasons for Malpractice Payments	Example of Patient Harm from Medical Malpractice Claims	Date(s) of Clinical Privilege Adverse Action Report(s) Reasons for Clinical Privilege Action, If Available	Type of Action and Length of Penalty, If Available
California	5039	15 reports 1993-2009 \$1.9 million	Improper performance, surgery related (2); retained foreign body (2)	Significant permanent injury	1991	Suspension of Clinical Privileges
California	213927	15 reports 1991-2006 \$478,500	Improper performance, surgery related (8); improper technique, surgery related (2) ; breach of patient confidentiality	Minor permanent injury	1994	Reduction of Clinical Privileges
Florida	9469	10 reports 1992-2009 \$1,000,000	Failure to monitor (2); unnecessary procedure; retained foreign body (2); delay in performance, surgery related; wrong diagnosis, surgery related; improper management, surgery related	Death (2 patients)	2002 (malpractice)	Revocation of Clinical Privileges Permanent Penalty
Florida	55170	9 reports 1995-2009 \$795,000	Failure to diagnose (5); delay in diagnosis (3)	Death Major permanent injury	1994	Suspension of Clinical Privileges Permanent Penalty
Illinois	11990	10 reports 1991-1999 \$2.3 million	Failure to obtain informed consent, surgery related; delay in performance, obstetrics related (3)	Not available in public use file	1994	Voluntary Surrender While Under Investigation
Illinois	12405	10 reports 1992-2006 \$7.1 million	Improper management, obstetrics related (4); improper performance, surgery related (1); failure to diagnose (1); failure to identify fetal distress, obstetrics related; failure to order	Major permanent injury Quadriplegic, brain damage	1999	Denial of Clinical Privileges Permanent Penalty

State of Last Clinical Privilege Action	NPDB Physician # from Public Use File (as of December 2009)	# of Medical Malpractice Payouts, Time Period of Reports, and Total Payout	Examples of Reasons for Malpractice Payments	Example of Patient Harm from Medical Malpractice Claims	Date(s) of Clinical Privilege Adverse Action Report(s) Reasons for Clinical Privilege Action, If Available	Type of Action and Length of Penalty, If Available
			appropriate test, obstetrics related			
Massachusetts	16849	3 reports 1992-2004 \$1.7 million	Failure to diagnose, obstetrics related (2); delay in performance, obstetrics related	Major permanent injury	2001; 2001;2001(incompetence); 2001; 2001; 2003; 2004	Revocation of Clinical Privileges (5 reports); Reduction in Clinical Privileges; Restriction of Clinical Privileges Indefinite Penalty Length (2); Permanent Penalty (5)
Michigan	18226	12 reports 1992-2003 \$1.2 million	Improper performance surgery related (10); failure to diagnose (2)	Not available in public use file	1997 (unprofessional conduct) 1999 (incompetence) 1999 (unprofessional conduct) 2000;2000	Voluntary Surrender of Clinical Privileges While Under Investigation; Reduction of Privileges; Suspension of Privileges; Reinstatement Denied Indefinite Penalty Length (5 times)
Michigan	2932	14 reports 1991-2005 \$2.1 million	Improper performance, surgery related (5); failure to diagnose (3); improper technique (3); failure to monitor	Significant permanent injury	2000	Voluntary Surrender of Clinical Privileges While Under Investigation Permanent Penalty
New Jersey	55701	7 reports 1996-2007 \$1.3 million	Improper performance, surgery related (3); improper technique, surgery related; wrong diagnosis	Significant permanent injury (2 patients)	1994** 1999 Incompetence	Denial of Clinical Privileges Suspension of Clinical Privileges Indefinite Penalty Length (for both actions)
New York	93487	15 reports 1996-2008	Improper performance, treatment related (2); improper	Significant permanent injury Death	2008	Voluntary Surrender of Clinical Privileges While Under

State of Last Clinical Privilege Action	NPDB Physician # from Public Use File (as of December 2009)	# of Medical Malpractice Payouts, Time Period of Reports, and Total Payout	Examples of Reasons for Malpractice Payments	Example of Patient Harm from Medical Malpractice Claims	Date(s) of Clinical Privilege Adverse Action Report(s) Reasons for Clinical Privilege Action, If Available	Type of Action and Length of Penalty, If Available
		\$6.2 million	technique, treatment related (4); failure to recognize a complication, treatment related	Major temporary injury		Investigation Indefinite Suspension
New York	26295	17 reports 1991-2006 \$3.3 million	Improper performance, surgery related (8); failure to diagnose (3); wrong procedure, treatment related (1)		1994 (incompetence)	Revocation of Clinical Privileges Permanent Penalty
Ohio	30702	13 reports 1991-2006 \$1.6 million	Improper performance, surgery related (3); wrong diagnosis; failure to order appropriate test; delay in diagnosis	Significant permanent injury	2002	Denial of Clinical Privileges
Ohio	30548	6 reports 1993-2001 \$1.4 million	Improper performance, surgery related (4); improper management, treatment related		1992;1993;1995;2006;2008 (inadequate/substandard care)	Restriction of Clinical Privileges; Restriction of Clinical Privileges; Revocation of Clinical Privileges; Denial of Clinical Privileges; Restriction of Clinical Privileges Indefinite Penalty Length (4 cases); Permanent Penalty (1 case)
Pennsylvania	56598	25 reports 1994-2009 \$9.5 million	Retained foreign body (4); improper performance, surgery related (5); unnecessary procedure, surgery related (2); failure to obtain consent, surgery related (2); failure to communicate with patient, surgery related; wrong medication, surgery related	Significant permanent injury Quadriplegic, brain damage Significant permanent injury (5 patients) Major permanent injury	2006	Suspension of Clinical Privileges
Pennsylvania	83222	18 reports	Improper	Death	2002	Revocation of

State of Last Clinical Privilege Action	NPDB Physician # from Public Use File (as of December 2009)	# of Medical Malpractice Payouts, Time Period of Reports, and Total Payout	Examples of Reasons for Malpractice Payments	Example of Patient Harm from Medical Malpractice Claims	Date(s) of Clinical Privilege Adverse Action Report(s) Reasons for Clinical Privilege Action, If Available	Type of Action and Length of Penalty, If Available
		1995-2006 \$4.9 million	management, obstetrics related (5); improper performance, surgery related (5); improperly performed vaginal delivery (2); retained foreign body			Clinical Privileges Indefinite Penalty Length
Texas	91056	22 reports 1996-2008 \$2.6 million	Wrong body part, surgery related; improper management, medication related; delay in diagnosis (2); failure to diagnose; improper performance (2), failure to perform procedure, surgery related; failure to treat (2); failure to recognize a complication, medication related; contraindicated procedure, surgery related: wrong dosage administered.	Significant permanent injury (3 patients) Major temporary injury Minor temporary injuries (2 patients)	2006	Revocation of Clinical Privileges Indefinite Penalty Length Professional Society Action (2009) Unprofessional Conduct

* All information and data taken from NPDB Public Use File.

** 1994 clinical privilege action took place when physician was licensed in South Carolina. Most recent action, 1999, took place when physician was licensed in New Jersey

*** 2009 action involved physician who had his/her membership in a professional medical association suspended for unprofessional conduct, which is a reportable action to the NPDB

EXHIBIT A

Reason for Clinical Privilege Action (Basis For Action Codes)

basiscd1 Basis for Action [available for use 11/22/1999]

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid	15	.2	.2	.2
0 Basis Code Not Required	1269	14.5	14.5	14.7
01 Alcohol and Other Substance Abuse	115	1.3	1.3	16.0
03 Narcotics Violation	20	.2	.2	16.2
05 Fraud (Unspecified)	28	.3	.3	16.6
06 Insurance Fraud (Medicare and Other Federal Gov. Programs)	1	.0	.0	16.6
08 Insurance Fraud (Non- Government or Private Insurance)	1	.0	.0	16.6
09 Fraud in Obtaining License or Credentials	3	.0	.0	16.6
10 Unprofessional Conduct	849	9.7	9.7	26.3
11 Incompetence	165	1.9	1.9	28.2
12 Malpractice	29	.3	.3	28.6
13 Negligence	31	.4	.4	28.9
14 Patient Abuse	9	.1	.1	29.0
15 Patient Neglect	22	.3	.3	29.3
19 Criminal Conviction	24	.3	.3	29.6
20 Mental Disorder	40	.5	.5	30.0
29 Practicing Beyond Scope of Practice	13	.1	.1	30.2
30 Allowing Unlicensed Person to Practice	6	.1	.1	30.2
39 License Action by Fed., State, or Local Licensing Authority	52	.6	.6	30.8
45 Failure to Maintain/Provide Records or Information	78	.9	.9	31.7
50 Failure to Maintain Adequate or Accurate Records [av 6/15/09]	8	.1	.1	31.8
52 Incompetence, Malpractice, Negligence (Legacy Format Repts.)	1072	12.3	12.3	44.1

	Frequency	Percent	Valid Percent	Cumulative Percent
53 Failure to Provide Med Resnble or Nec. Items/Services	18	.2	.2	44.3
55 Improper or Abusive Billing Practices	3	.0	.0	44.3
70 Violation of By-Laws, Protocols or Guidelines [av 6/15/09]	14	.2	.2	44.5
71 Conflict of Interest	1	.0	.0	44.5
80 Physical Impairment	90	1.0	1.0	45.5
81 Misrepresentation of Credentials	15	.2	.2	45.7
99 Other (Not Classified)	3127	35.8	35.8	81.5
A4 Practicing Without a Valid License	4	.0	.0	81.5
A7 Surrendered License to Practice	7	.1	.1	81.6
A8 Clin Priv Restricted, Susp, Revoked by Another Hospital/HCF	83	1.0	1.0	82.6
AA Failure to Comply with Corrective Action Plan	46	.5	.5	83.1
AB Practicing Beyond the Scope of Privileges	29	.3	.3	83.4
AD Surrendered Clinical Privileges	255	2.9	2.9	86.4
AH Didnt Comply w Probatn or Other Requirement [av 6/15/09]	9	.1	.1	86.5
B1 Nolo Contendre Plea	2	.0	.0	86.5
C1 Failure to Obtain Informed Consent	12	.1	.1	86.6
C3 Breach of Confidentiality	5	.1	.1	86.7
D1 Sexual Misconduct	31	.4	.4	87.0
D2 Non-Sexual Dual Relationship or Boundary Violation	3	.0	.0	87.1
D4 Abusive Conduct toward Staff [available 6/15/09]	1	.0	.0	87.1
D5 Disruptive Conduct [available 6/15/09]	7	.1	.1	87.2

	Frequency	Percent	Valid Percent	Cumulative Percent
D7 Conduct Evidencing Ethical Unfitness [available 6/15/09]	1	.0	.0	87.2
D8 Other Unprofessional Conduct, Specify [avail 6/15/09]	5	.1	.1	87.2
E1 Insurance Fraud (Medicare, Medicaid or Other Insurance)	1	.0	.0	87.2
E3 Filing False Reports or Falsifying Records	23	.3	.3	87.5
E4 Fraud, Deceit, Material Omssn in Obtaining License, Crdntls	21	.2	.2	87.7
E6 Failure to Disclose [available 6/15/09]	9	.1	.1	87.8
F1 Immediate Threat to Health or Safety	243	2.8	2.8	90.6
F2 Unable to Practice Safely: Alcohol or Other Substance Abuse	34	.4	.4	91.0
F3 Unable to Practice Safely: Psych Impairment or Mental Dsrdr	5	.1	.1	91.1
F4 Unable to Practice Safely: Physical Illness or Impairment	21	.2	.2	91.3
F5 Unable to Practice Safely	48	.5	.5	91.9
F6 Substandard or Inadequate Care	491	5.6	5.6	97.5
F7 Substandard or Inadequate Skill Level	166	1.9	1.9	99.4
F8 Fail to Consult/Delay in Seeking Consult w Suprvsr/Proctor	8	.1	.1	99.5
F9 Patient Abandonment	7	.1	.1	99.6
FA Inappropriate Refusal to Treat	5	.1	.1	99.6
G1 Improper or Inadequate Supervision or Delegation	3	.0	.0	99.6
G2 Allowing or Aiding Unlicensed Practice	2	.0	.0	99.7

	Frequency	Percent	Valid Percent	Cumulative Percent
H1 Narcotics Violation or Other Violation of Drug Statutes	13	.1	.1	99.8
H2 Unauthorized Prescribing of Medication	4	.0	.0	99.9
H3 Unauthorized Dispensing of Medication	1	.0	.0	99.9
H4 Unauthorized Administration of Medication	2	.0	.0	99.9
H5 Error in Prescribing, Dispensing or Administering Medication	5	.1	.1	100.0
H6 Diversion of Controlled Substance	4	.0	.0	100.0
Total	8734	100.0	100.0	

EXHIBIT B

Percent of Physicians with Clinical Privilege Actions Who Have No Licensure Action-
By State of Last Clinical Privilege Action

Percent of Physicians with Clinical Privileges Actions Who Have No Licensure Actions, By State of Last Clinical Privileges Action (National Practitioner Data Bank Public Use Data File, September 1, 1990 - December 31, 2009)

State of Last Clinical Privileges Action	Number of Physicians with One or More Clinical Privileges Actions	Number of Physicians with One or More Clinical Privileges Actions but No Licensure Actions	Percent of Physicians Who Have One or More Clinical Privileges Actions but No Licensure Actions
AK	30	16	53.33%
AL	137	69	50.36%
AR	114	65	57.02%
AZ	276	117	42.39%
CA	1312	710	54.12%
CO	196	62	31.63%
CT	82	36	43.90%
DC	42	25	59.52%
DE	30	22	73.33%
FL	572	361	63.11%
GA	334	204	61.08%
GU	5	3	60.00%
HI	48	37	77.08%
IA	109	47	43.12%
ID	49	26	53.06%
IL	328	215	65.55%
IN	230	170	73.91%
KS	152	82	53.95%
KY	163	63	38.65%
LA	143	59	41.26%
MA	302	115	38.08%
MD	238	102	42.86%
ME	62	28	45.16%
MI	374	220	58.82%
MN	151	74	49.01%
MO	181	96	53.04%
MS	72	35	48.61%
MT	46	30	65.22%
NC	220	130	59.09%
ND	33	15	45.45%
NE	81	56	69.14%
NH	51	28	54.90%
NJ	320	183	57.19%
NM	72	52	72.22%
NV	121	85	70.25%
NY	802	400	49.88%

State of Last Clinical Privileges Action	Number of Physicians with One or More Clinical Privileges Actions	Number of Physicians with One or More Clinical Privileges Actions but No Licensure Actions	Percent of Physicians Who Have One or More Clinical Privileges Actions but No Licensure Actions
OH	439	249	56.72%
OK	183	99	54.10%
OR	135	56	41.48%
PA	393	276	70.23%
PR	17	17	100.00%
RI	51	23	45.10%
SC	137	75	54.74%
SD	27	19	70.37%
TN	214	150	70.09%
TX	725	438	60.41%
UT	82	44	53.66%
VA	253	113	44.66%
VI	6	6	100.00%
VT	26	11	42.31%
WA	238	124	52.10%
WI	163	98	60.12%
WV	78	36	46.15%
WY	21	10	47.62%
Total	10672	5887	55.16%

EXHIBIT C

Physicians with Specified Number of Clinical Privilege Reports by State for Physicians
with No Licensure Reports (state is state of last clinical privilege report)

Number of Physicians with Specified Number of Clinical Privileges Reports by State for Physicians with No Licensure Reports (state is state of last clinical privileges report) Data Source: NPDB Public Use File, 12/31/2009

State_of_last_Clin_Priv_Rpt		Statistics	
		Frequency	Percent
	1.00	3	60.0
	2.00	2	40.0
	Total	5	100.0
AK	1.00	11	68.8
	2.00	5	31.3
	Total	16	100.0
AL	1.00	51	73.9
	2.00	14	20.3
	4.00	3	4.3
	7.00	1	1.4
	Total	69	100.0
AR	1.00	49	75.4
	2.00	11	16.9
	3.00	4	6.2
	5.00	1	1.5
	Total	65	100.0
AZ	1.00	79	67.5
	2.00	27	23.1
	3.00	4	3.4
	4.00	4	3.4
	5.00	2	1.7
	6.00	1	.9

explanation: 11 physicians have one clinical privileges report from Alaska but no licensure reports

explanation: 5 physicians have two clinical privileges reports, the last of which was from Alaska, but no licensure reports

explanation: a total of 16 physicians have clinical privileges reports, the last of which was from Alaska, but no licensure reports

State_of_last_Clin_Priv_Rpt		Statistics		
		Frequency	Percent	
Total		117	100.0	
CA	1.00	461	64.9	
	2.00	159	22.4	
	3.00	46	6.5	
	4.00	24	3.4	
	5.00	11	1.5	
	6.00	2	.3	
	7.00	4	.6	
	8.00	1	.1	
	9.00	1	.1	
	12.00	1	.1	
	Total		710	100.0
	CO	1.00	45	72.6
2.00		13	21.0	
3.00		3	4.8	
6.00		1	1.6	
Total		62	100.0	
CT	1.00	26	72.2	
	2.00	10	27.8	
	Total		36	100.0
DC	1.00	18	72.0	
	2.00	6	24.0	
	3.00	1	4.0	
	Total		25	100.0
DE	1.00	14	63.6	
	2.00	6	27.3	
	3.00	1	4.5	
	5.00	1	4.5	
	Total		22	100.0
FL	1.00	249	69.0	
	2.00	73	20.2	
	3.00	24	6.6	
	4.00	7	1.9	
	5.00	5	1.4	

State_of_last_Clin_Priv_Rpt	Statistics		
	Frequency	Percent	
6.00	3	.8	
Total	361	100.0	
GA	1.00	142	69.6
	2.00	41	20.1
	3.00	15	7.4
	4.00	4	2.0
	5.00	1	.5
	6.00	1	.5
Total	204	100.0	
GU	1.00	2	66.7
	3.00	1	33.3
Total	3	100.0	
HI	1.00	27	73.0
	2.00	8	21.6
	3.00	1	2.7
	5.00	1	2.7
Total	37	100.0	
IA	1.00	33	70.2
	2.00	10	21.3
	3.00	3	6.4
	4.00	1	2.1
Total	47	100.0	
ID	1.00	20	76.9
	2.00	3	11.5
	4.00	3	11.5
Total	26	100.0	
IL	1.00	157	73.0
	2.00	44	20.5
	3.00	11	5.1
	4.00	2	.9
	5.00	1	.5
Total	215	100.0	
IN	1.00	120	70.6
	2.00	31	18.2

State_of_last_Clin_Priv_Rpt	Statistics		
	Frequency	Percent	
3.00	11	6.5	
4.00	4	2.4	
6.00	3	1.8	
10.00	1	.6	
Total	170	100.0	
KS	1.00	57	69.5
	2.00	16	19.5
	3.00	5	6.1
	4.00	2	2.4
	6.00	2	2.4
Total	82	100.0	
KY	1.00	49	77.8
	2.00	9	14.3
	3.00	4	6.3
	5.00	1	1.6
Total	63	100.0	
LA	1.00	39	66.1
	2.00	14	23.7
	3.00	5	8.5
	4.00	1	1.7
Total	59	100.0	
MA	1.00	76	66.1
	2.00	21	18.3
	3.00	9	7.8
	4.00	5	4.3
	5.00	2	1.7
	6.00	1	.9
	7.00	1	.9
Total	115	100.0	
MD	1.00	68	66.7
	2.00	26	25.5
	3.00	4	3.9
	4.00	1	1.0
	5.00	1	1.0

State_of_last_Clin_Priv_Rpt	Statistics		
	Frequency	Percent	
6.00	1	1.0	
8.00	1	1.0	
Total	102	100.0	
ME	1.00	21	75.0
	2.00	6	21.4
	4.00	1	3.6
Total	28	100.0	
MI	1.00	150	68.2
	2.00	53	24.1
	3.00	11	5.0
	4.00	4	1.8
	5.00	2	.9
Total	220	100.0	
MN	1.00	48	64.9
	2.00	17	23.0
	3.00	3	4.1
	4.00	3	4.1
	5.00	2	2.7
	12.00	1	1.4
Total	74	100.0	
MO	1.00	68	70.8
	2.00	22	22.9
	3.00	2	2.1
	4.00	3	3.1
	12.00	1	1.0
Total	96	100.0	
MS	1.00	27	77.1
	2.00	8	22.9
Total	35	100.0	
MT	1.00	22	73.3
	2.00	6	20.0
	3.00	2	6.7
Total	30	100.0	
NC	1.00	93	71.5

State_of_last_Clin_Priv_Rpt	Statistics		
	Frequency	Percent	
2.00	27	20.8	
3.00	7	5.4	
4.00	2	1.5	
5.00	1	.8	
Total	130	100.0	
ND	1.00	11	73.3
	2.00	2	13.3
	3.00	1	6.7
	4.00	1	6.7
Total	15	100.0	
NE	1.00	31	55.4
	2.00	15	26.8
	3.00	7	12.5
	4.00	1	1.8
	7.00	1	1.8
	9.00	1	1.8
Total	56	100.0	
NH	1.00	20	71.4
	2.00	5	17.9
	3.00	1	3.6
	4.00	1	3.6
	6.00	1	3.6
Total	28	100.0	
NJ	1.00	129	70.5
	2.00	39	21.3
	3.00	10	5.5
	4.00	2	1.1
	5.00	1	.5
	6.00	1	.5
	8.00	1	.5
Total	183	100.0	
NM	1.00	37	71.2
	2.00	12	23.1
	3.00	2	3.8

State_of_last_Clin_Priv_Rpt	Statistics		
	Frequency	Percent	
4.00	1	1.9	
Total	52	100.0	
NV	1.00	42	49.4
	2.00	24	28.2
	3.00	8	9.4
	4.00	3	3.5
	5.00	5	5.9
	6.00	3	3.5
Total	85	100.0	
NY	1.00	298	74.5
	2.00	75	18.8
	3.00	20	5.0
	4.00	5	1.3
	5.00	1	.3
	8.00	1	.3
Total	400	100.0	
OH	1.00	169	67.9
	2.00	61	24.5
	3.00	11	4.4
	4.00	4	1.6
	5.00	3	1.2
	7.00	1	.4
Total	249	100.0	
OK	1.00	70	70.7
	2.00	17	17.2
	3.00	8	8.1
	4.00	1	1.0
	5.00	1	1.0
	6.00	1	1.0
	7.00	1	1.0
Total	99	100.0	
OR	1.00	39	69.6
	2.00	10	17.9
	3.00	4	7.1

State_of_last_Clin_Priv_Rpt	Statistics		
	Frequency	Percent	
4.00	2	3.6	
5.00	1	1.8	
Total	56	100.0	
PA	1.00	186	67.4
	2.00	65	23.6
	3.00	17	6.2
	4.00	6	2.2
	6.00	2	.7
Total	276	100.0	
PR	1.00	15	88.2
	2.00	2	11.8
Total	17	100.0	
RI	1.00	15	65.2
	2.00	7	30.4
	4.00	1	4.3
Total	23	100.0	
SC	1.00	44	58.7
	2.00	20	26.7
	3.00	8	10.7
	4.00	1	1.3
	7.00	1	1.3
	8.00	1	1.3
Total	75	100.0	
SD	1.00	13	68.4
	2.00	6	31.6
Total	19	100.0	
TN	1.00	87	58.0
	2.00	37	24.7
	3.00	20	13.3
	4.00	5	3.3
	6.00	1	.7
Total	150	100.0	
TX	1.00	327	74.7
	2.00	70	16.0

State_of_last_Clin_Priv_Rpt	Statistics		
	Frequency	Percent	
3.00	28	6.4	
4.00	7	1.6	
5.00	5	1.1	
7.00	1	.2	
Total	438	100.0	
UT	1.00	30	68.2
	2.00	9	20.5
	3.00	2	4.5
	4.00	2	4.5
	5.00	1	2.3
Total	44	100.0	
VA	1.00	81	71.7
	2.00	22	19.5
	3.00	8	7.1
	4.00	1	.9
	5.00	1	.9
Total	113	100.0	
VI	1.00	2	33.3
	2.00	4	66.7
Total	6	100.0	
VT	1.00	8	72.7
	2.00	2	18.2
	5.00	1	9.1
Total	11	100.0	
WA	1.00	81	65.3
	2.00	27	21.8
	3.00	10	8.1
	4.00	2	1.6
	5.00	1	.8
	6.00	2	1.6
	7.00	1	.8
Total	124	100.0	
WI	1.00	67	68.4
	2.00	19	19.4

State_of_last_Clin_Priv_Rpt	Statistics		
	Frequency	Percent	
3.00	5	5.1	
4.00	5	5.1	
5.00	2	2.0	
Total	98	100.0	
WV	1.00	23	63.9
	2.00	9	25.0
	3.00	2	5.6
	5.00	1	2.8
	6.00	1	2.8
Total	36	100.0	
WY	1.00	6	60.0
	2.00	3	30.0
	3.00	1	10.0
Total	10	100.0	

EXHIBIT D

Number of Medical Malpractice Payments and Number of Physicians with Specified
Number of Clinical Privilege Reports (for physician with no licensure reports)

npclprpt_mean = 1.00 THIS MEANS THE PHYSICIAN HAS ONE CLINICAL PRIVILEGES REPORT

Statistics^a

npmalrpt_mean

N	Valid	4056
	Missing	0
Sum		4097.00

a. npclprpt_mean = 1.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Number of malpractice payment reports	.00	2295	56.6	56.6	56.6
	1.00	878	21.6	21.6	78.2
	2.00	388	9.6	9.6	87.8
	3.00	198	4.9	4.9	92.7
	4.00	117	2.9	2.9	95.6
	5.00	55	1.4	1.4	96.9
	6.00	46	1.1	1.1	98.1
	7.00	20	.5	.5	98.5
	8.00	16	.4	.4	98.9
	9.00	11	.3	.3	99.2
	10.00	7	.2	.2	99.4
	11.00	4	.1	.1	99.5
	12.00	2	.0	.0	99.5
	13.00	2	.0	.0	99.6
	14.00	3	.1	.1	99.7
	15.00	4	.1	.1	99.8
	16.00	2	.0	.0	99.8
	17.00	2	.0	.0	99.9
	18.00	1	.0	.0	99.9
	19.00	1	.0	.0	99.9
	21.00	1	.0	.0	99.9
	22.00	1	.0	.0	100.0
	25.00	1	.0	.0	100.0
	26.00	1	.0	.0	100.0
	Total	4056	100.0	100.0	

e.g.: 878 physicians with clinical privileges reports but no licensure reports have 1 malpractice payment

e.g.: 388 physicians with clinical privileges reports but no licensure reports have 2 malpractice payments

a. npclprpt_mean = 1.00

npclprpt_mean = 2.00 THIS MEANS THE PHYSICIAN HAS 2 CLINICAL PRIVILEGES REPORTS

Statistics^a

npmalrpt_mean

N	Valid	1250
	Missing	0
Sum		1467.00

a. npclprpt_mean = 2.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	663	53.0	53.0	53.0
	1.00	245	19.6	19.6	72.6
	2.00	143	11.4	11.4	84.1
	3.00	79	6.3	6.3	90.4
	4.00	38	3.0	3.0	93.4
	5.00	30	2.4	2.4	95.8
	6.00	22	1.8	1.8	97.6
	7.00	12	1.0	1.0	98.6
	8.00	7	.6	.6	99.1
	9.00	4	.3	.3	99.4
	11.00	3	.2	.2	99.7
	12.00	1	.1	.1	99.8
	13.00	1	.1	.1	99.8
	15.00	1	.1	.1	99.9
	16.00	1	.1	.1	100.0
	Total	1250	100.0	100.0	

a. npclprpt_mean = 2.00

npclprpt_mean = 3.00

Statistics^a

npmalrpt_mean

N	Valid	350
	Missing	0
Sum		521.00

a. npclprpt_mean = 3.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	152	43.4	43.4	43.4
	1.00	87	24.9	24.9	68.3
	2.00	38	10.9	10.9	79.1
	3.00	25	7.1	7.1	86.3
	4.00	17	4.9	4.9	91.1
	5.00	11	3.1	3.1	94.3
	6.00	8	2.3	2.3	96.6
	7.00	5	1.4	1.4	98.0
	8.00	2	.6	.6	98.6
	9.00	1	.3	.3	98.9
	10.00	1	.3	.3	99.1
	13.00	1	.3	.3	99.4
	14.00	1	.3	.3	99.7
	15.00	1	.3	.3	100.0
	Total	350	100.0	100.0	

a. npclprpt_mean = 3.00

npclprpt_mean = 4.00

Statistics^a

npmalrpt_mean

N	Valid	125
	Missing	0
Sum		207.00

a. npclprpt_mean = 4.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	49	39.2	39.2	39.2
	1.00	26	20.8	20.8	60.0
	2.00	16	12.8	12.8	72.8
	3.00	19	15.2	15.2	88.0
	4.00	6	4.8	4.8	92.8
	5.00	2	1.6	1.6	94.4
	6.00	3	2.4	2.4	96.8
	7.00	1	.8	.8	97.6
	9.00	1	.8	.8	98.4
	11.00	1	.8	.8	99.2
	13.00	1	.8	.8	100.0
	Total	125	100.0	100.0	

a. npclprpt_mean = 4.00

npclprpt_mean = 5.00

Statistics^a

npmalrpt_mean

N	Valid	56
	Missing	0
Sum		102.00

a. npclprpt_mean = 5.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	20	35.7	35.7	35.7
	1.00	16	28.6	28.6	64.3
	2.00	7	12.5	12.5	76.8
	3.00	4	7.1	7.1	83.9
	4.00	1	1.8	1.8	85.7
	5.00	2	3.6	3.6	89.3
	6.00	2	3.6	3.6	92.9
	7.00	2	3.6	3.6	96.4
	8.00	1	1.8	1.8	98.2
	12.00	1	1.8	1.8	100.0
	Total		56	100.0	100.0

a. npclprpt_mean = 5.00

npclprpt_mean = 6.00

Statistics^a

npmalrpt_mean

N	Valid	27
	Missing	0
Sum		34.00

a. npclprpt_mean = 6.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	13	48.1	48.1	48.1
	1.00	6	22.2	22.2	70.4
	2.00	4	14.8	14.8	85.2
	4.00	3	11.1	11.1	96.3
	8.00	1	3.7	3.7	100.0
	Total		27	100.0	100.0

a. npclprpt_mean = 6.00

npclprpt_mean = 7.00

Statistics^a

npmalrpt_mean

N	Valid	12
	Missing	0
Sum		18.00

a. npclprpt_mean = 7.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	4	33.3	33.3	33.3
	1.00	2	16.7	16.7	50.0
	2.00	2	16.7	16.7	66.7
	3.00	4	33.3	33.3	100.0
	Total	12	100.0	100.0	

a. npclprpt_mean = 7.00

npclprpt_mean = 8.00

Statistics^a

npmalrpt_mean

N	Valid	5
	Missing	0
Sum		7.00

a. npclprpt_mean = 8.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	2	40.0	40.0	40.0
	1.00	2	40.0	40.0	80.0
	5.00	1	20.0	20.0	100.0
	Total	5	100.0	100.0	

a. npclprpt_mean = 8.00

npclprpt_mean = 9.00

Statistics^a

npmalrpt_mean

N	Valid	2
	Missing	0
Sum		8.00

a. npclprpt_mean = 9.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	4.00	2	100.0	100.0	100.0

a. npclprpt_mean = 9.00

npclprpt_mean = 10.00

Statistics^a

npmalrpt_mean

N	Valid	1
	Missing	0
Sum		4.00

a. npclprpt_mean = 10.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	4.00	1	100.0	100.0	100.0

a. npclprpt_mean = 10.00

npclprpt_mean = 12.00

Statistics^a

npmalrpt_mean

N	Valid	3
	Missing	0
Sum		4.00

a. npclprpt_mean = 12.00

npmalrpt_mean^a

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	2	66.7	66.7	66.7
	4.00	1	33.3	33.3	100.0
	Total	3	100.0	100.0	

a. npclprpt_mean = 12.00

EXHIBIT E

Number of Physicians with Clinical Privilege Reports But No Licensure Reports, by
State of Last Clinical Privilege Action – Mean and Maximum Number of Malpractice
Reports

Number of Physicians with Clinical Privileges Reports But No Licensure Action, by State of Last Clinical Privileges Action; Mean and Maximum Number of Clinical Privileges Actions for Physicians with No Licensure Actions; Mean and Maximum Number of Malpractice Payments for Physicians with Clinical Privileges Actions but No Licensure Actions (NPDB, Sept. 1, 1990 - June 30, 2009)

State of Physician's Last Clinical Privileges Action	Number of Physicians with Clinical Privileges Actions but No Licensure Action	Mean Number of Clinical Privileges Actions per Physician with No Licensure Action	Maximum Number of Clinical Privileges Actions for a Physician with No Licensure Action	Mean Number of Malpractice Payments per Physician with Clinical Privileges Actions but No Licensure Action	Maximum Number of Malpractice Payments for a Physician with Clinical Privileges Actions but No Licensure Action
AK	16	1.25	2	.44	2
AL	67	1.42	7	.36	4
AR	62	1.37	5	.84	9
AZ	117	1.47	6	.83	7
CA	697	1.56	12	.84	15
CO	61	1.36	6	.34	3
CT	36	1.33	2	1.28	6
DC	22	1.32	3	.27	2
DE	22	1.55	5	.95	5
FL	352	1.49	6	1.03	9
GA	202	1.46	6	.85	13
GU	3	1.67	3	.00	0
HI	38	1.39	5	.53	4
IA	46	1.39	4	1.22	7
ID	27	1.56	4	.67	6
IL	213	1.34	5	1.20	10
IN	166	1.53	10	1.54	20
KS	82	1.54	6	1.76	19
KY	58	1.34	5	1.26	8
LA	58	1.43	4	1.05	9
MA	111	1.64	7	.79	7
MD	98	1.51	8	.71	7
ME	29	1.31	4	.83	4

State of Physician's Last Clinical Privileges Action	Number of Physicians with Clinical Privileges Actions but No Licensure Action	Mean Number of Clinical Privileges Actions per Physician with No Licensure Action	Maximum Number of Clinical Privileges Actions for a Physician with No Licensure Action	Mean Number of Malpractice Payments per Physician with Clinical Privileges Actions but No Licensure Action	Maximum Number of Malpractice Payments for a Physician with Clinical Privileges Actions but No Licensure Action
MI	205	1.46	5	1.37	14
MN	72	1.65	12	.54	7
MO	93	1.46	12	1.47	16
MS	33	1.27	2	.70	5
MT	31	1.35	3	.90	5
NC	130	1.41	5	.80	6
ND	15	1.47	4	.40	2
NE	55	1.84	9	1.00	6
NH	29	1.52	6	.62	3
NJ	172	1.42	8	1.08	8
NM	48	1.35	4	1.92	26
NV	81	1.98	6	1.04	9
NY	382	1.35	8	1.43	17
OH	245	1.47	7	1.24	13
OK	101	1.50	7	.85	5
OR	55	1.51	5	.78	9
PA	269	1.46	6	2.27	23
PR	16	1.13	2	1.50	6
RI	22	1.45	4	1.05	4
SC	72	1.67	8	1.11	15
SD	19	1.32	2	.79	3
TN	147	1.64	6	.97	7
TX	415	1.40	7	1.03	22
UT	40	1.48	5	1.38	6
VA	106	1.41	4	.68	6
VI	6	1.67	2	1.17	4
VT	10	1.60	5	.80	2

State of Physician's Last Clinical Privileges Action	Number of Physicians with Clinical Privileges Actions but No Licensure Action	Mean Number of Clinical Privileges Actions per Physician with No Licensure Action	Maximum Number of Clinical Privileges Actions for a Physician with No Licensure Action	Mean Number of Malpractice Payments per Physician with Clinical Privileges Actions but No Licensure Action	Maximum Number of Malpractice Payments for a Physician with Clinical Privileges Actions but No Licensure Action
WA	118	1.62	7	.94	12
WI	97	1.53	5	.61	5
WV	36	1.61	6	1.06	7
WY	10	1.50	3	1.30	3
Total	5713	1.48	12	1.08	26

Note: There is a difference between the total of 5713 physicians in Exhibit E and the total of 5887 in the report because the time period of Exhibit E covers September 1, 1990 through June 30, 2009, whereas the time period for the 5887 physicians covers September 1, 1990 through December 31, 2009.