

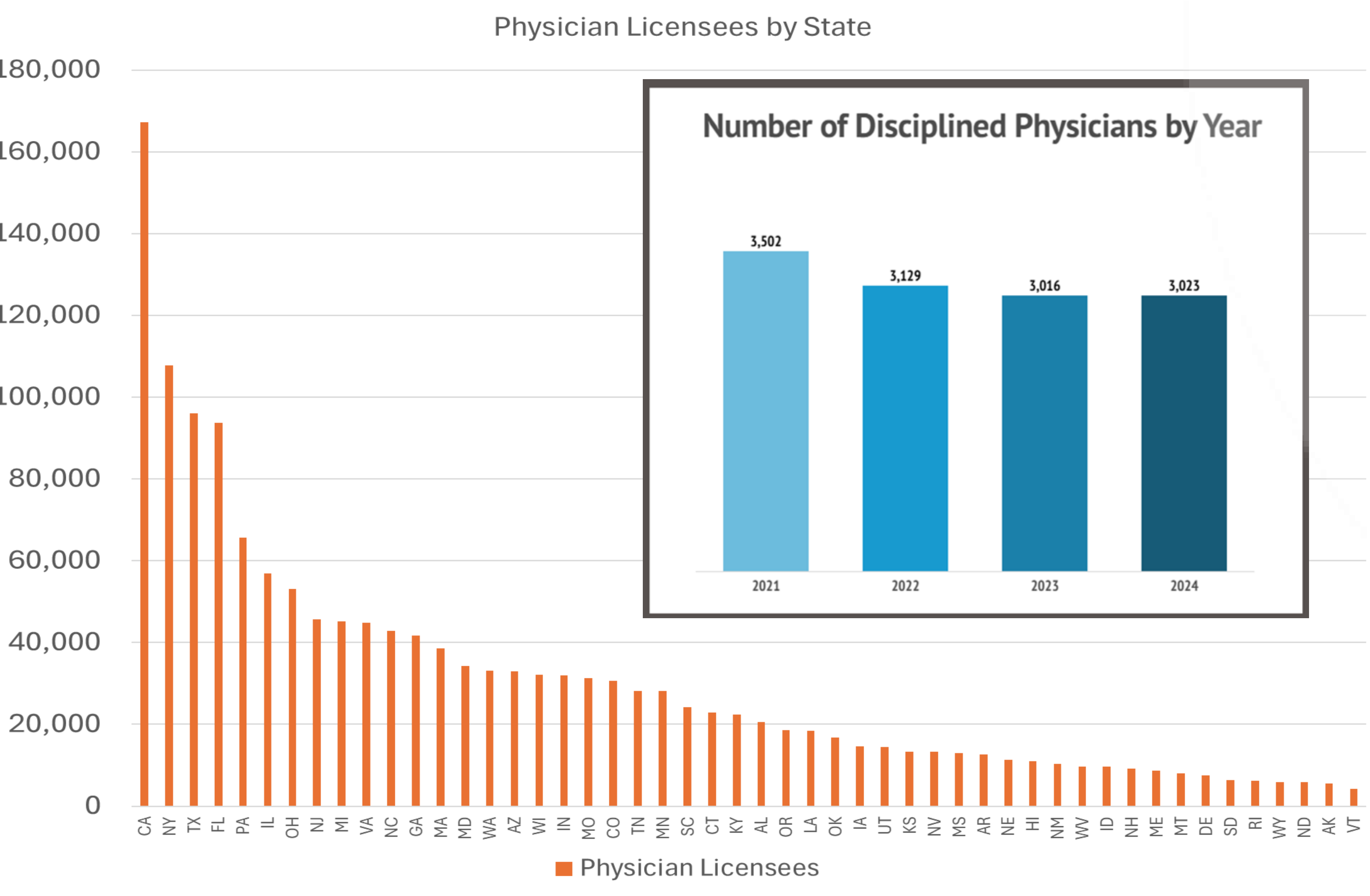
THAT LETTER FROM THE STATE MEDICAL BOARD: HOW TO AVOID THE HEARTBURN

Jimmy Y. Chung, MD, MBA, FACS, FABQAURP, CPE, CMRP | Commission Member and Past Chair, Washington Medical Commission (contact jimmy.chung@wmc.wa.gov)

Disclosures: None relevant

ABSTRACT: One of the most aggravating and anxiety provoking part of a surgical practice is receiving a letter from the state medical board informing you that it is investigating a complaint against you. This process can vary significantly depending on the state, but there are critical information that all surgeons need to know in order to provide the best care to patients while avoiding the unnecessary headaches of dealing with a medical board investigation, which is usually lengthy and very different from malpractice lawsuits or peer review processes. This is an informative poster that will describe the medical board licensing and disciplinary process and examine pertinent data to help surgeons navigate their state medical boards.

- Quick Facts:**
- 1.08 million licensed physicians nationwide (2024)
 - 6,601 Total State Medical Board Actions against 3,023 Physicians (2024)
 - 1,507 Physicians Disciplined for the First Time (2024)
 - Likelihood of being disciplined is low
 - High variability among state boards creates confusion
 - Specialty Board reaction to state board action can vary



- Significant Variations Between State Boards**
- Composition (MDs, PAs, public members, attorneys, age, gender, political party, academic affiliation, specialty/expertise, IMG, law enforcement, etc.)
 - Appointment process (elected vs. appointed)
 - Autonomy: who makes decisions?
 - Authority: what decisions can the board make?
 - Scope: overlap and/or collaboration with other boards
 - Transparency: how much information is public?
 - Level of evidence: what level is required to take action? (see below)
 - Professions: what professions are included?

- Examples of Professions Covered by State Boards**
Some boards only license MDs (AZ, UT). Others license more than 10 professions (DE, KS)
- MDs
 - DOs
 - PAs
 - Certified Anesthesiologist Assistants
 - Podiatrists
 - Acupuncturists
 - Midwives
 - Polysomnographers
 - Psychoanalysts
 - Dietitians
 - Electrologists
 - Musical Therapists
- Naturopaths
 - Athletic Trainers
 - Respiratory Therapists
 - Detoxification Specialists
 - Eastern Medicine Practitioners
 - Administrative Medicine
 - Chiropractors
 - Radiology Technologists,
 - Occupational Therapists,
 - Physical Therapists
 - Contact Lens Distributors.

- Levels of Legal Proof (lowest to highest)**
- **Reasonable Suspicion:** Allows briefly detain a person for questioning
 - **Probable Cause:** Required for search warrants and arrests
 - **Preponderance of the Evidence:** The standard for most civil cases, Claim is "more likely than not" true (>50% probability)
 - **Clear and Convincing Evidence:** Truth of a fact is highly probable (These are typical standards for board disciplinary cases)
 - **Beyond a Reasonable Doubt:** The highest standard, required for criminal convictions

Types of State Medical Board Actions		
Very Severe	Revocations	License is terminated; physician can no longer practice medicine within the state/territory
	Denials	Application/renewal for a medical license is denied
	Surrenders	Physician voluntarily surrenders medical license, sometimes during a disciplinary investigation
Somewhat Severe	Suspensions	Physician may not practice medicine for a specified time, which could be due to disciplinary investigation or until board requirements are fulfilled
	Restrictions	Physician’s ability to practice medicine is limited
	Probations	Physician is monitored by board for a specified time
Less Severe	Conditions Imposed	Physician must fulfill certain conditions to avoid further discipline by board
	Reprimands	Physician is issued a warning or letter of concern
	CME Required	Physician is required to complete continuing medical education (CME)
	Fines	Physician required to pay a monetary penalty
	Administrative	Non-punitive action that does not result in the modification or termination of license
	Other	Reason not specified or not falling within other categories; typically non-punitive

Specialty Board Considerations
Specialty board reactions to state medical board disciplinary actions vary significantly, often creating a disconnect between the state’s effort to rehabilitate a physician and the specialty board’s mandate to maintain high certification standards. While a state board may impose probation, a specialty board (under the American Board of Medical Specialties - ABMS) may choose to revoke certification, impacting a physician's hospital privileges and insurance contracts.

- What You Can Do**
- **Prevention:** Majority of complaints are generated by patient’s perception of poor communication. Always be on alert for communication gaps with patients. Document every encounter accurately and immediately.
 - Use CRP (Communication and Resolution Program) techniques to promptly apologize to patients/family for errors or unintended outcomes.
 - Seek help proactively if you have an impairment (e.g., mental or physical health). Most physician health programs are not required to report program enrollment unless there is a clear risk to patient safety.
 - **If Investigated/Disciplined:** Goal is to 1) be able to continue to practice safely during investigation or disciplinary period and 2) minimize burden to your practice/career during disciplinary period.
 - Retain an attorney who has experience working with state medical boards (your malpractice carrier may provide one for you). Do not discuss details of the case with others without your attorney.
 - Express humility and self-effacement and demonstrate proactive improvement efforts. Do not be defensive or blame complainant.
 - Be aware of the disconnect between your specialty board and state board language (may be able to align level of restriction to allow maintaining board certification).
 - Seek counseling and support from colleagues. The process is stressful, and you are human.
 - Be open to sharing lessons learned with others, even patients!