

## D.C. Board Rarely Punishes Physicians

By Cheryl W. Thompson  
Washington Post Staff Writer  
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*Second of three articles*

For more than seven years, the D.C. Board of Medicine knew that something was amiss with Jewel A. Quinn's medical practice.

In 1997, a board investigator, acting on a patient complaint, visited Quinn's office in Northeast Washington and found an "examination table so cluttered and hidden by items that it was not visible" and a "filthy" restroom with no hot water, according to D.C. records.

When Quinn moved his practice to the Holiday Cab Co. offices in Southeast, the same investigator reported that he found a stethoscope and blood pressure cuff atop a desk littered with empty juice and milk containers. Boxes overflowing with garbage sat nearby. Soiled and wrinkled tissue paper covered an exam table. There was no phone, and Quinn could not produce patient records upon request.

But until last year, the District's medical board did not stop him from practicing.

For troubled doctors, the District is a forgiving place. A physician in Maryland or Virginia is roughly twice as likely to be disciplined as a doctor in the District, according to medical board records and statistics from the Federation of State Medical Boards for 1999 through 2004.

Records obtained by The Washington Post for that period reveal a pattern of lax discipline by the D.C. medical board:

- Twenty-six physicians with substance-abuse problems known to the board have not been disciplined, despite the fact that six lost their licenses in other states. In one instance, the board gave a license to a doctor knowing that he had "several alcohol-related arrests."
- Fourteen physicians with D.C. licenses went unpunished by the board although they were disciplined in Maryland and Virginia for criminal convictions, sexual misconduct or questionable medical care. Five have medical practices in the District, and seven have staff privileges at city hospitals.
- The board received roughly 318 complaints against physicians between 1999 and 2004 for allegations ranging from negligent medical care to sexual assault, but only four of the physicians were disciplined.
- The medical board voted to discipline more than a dozen doctors for various infractions but did not follow through on its decision.

William E. Matory, a physician and chairman of the D.C. Board of Medicine, described the board as a "well-working group" that is doing the best it can to protect patients.

"The citizens can be secure that their interests are maintained," said Matory, who is in his second term on the board and is emeritus professor of surgery at Howard University.

He said that the District disciplines so few doctors because their transgressions are often caught by hospitals or medical schools in the area long before they get to the board.

The District's record of taking serious disciplinary actions against doctors has repeatedly ranked at or near the bottom of a national comparison of medical boards by the Washington-based Public Citizen's Health Research Group. The D.C. board has "consistently been one of the worst in the country," said Sidney M. Wolfe, the group's director.

When the District does discipline a physician, it is usually in response to action by another medical board rather than on its own initiative, records show. Between 1999 and 2004, the D.C. medical board disciplined 49 physicians, according to board records. Thirty-four of the physicians -- nearly 70 percent -- were punished based on action taken elsewhere. By comparison, that figure was 16 percent in Maryland and 12 percent in Virginia, records show.

"There's nothing wrong with reciprocal action, but that should not make up the majority of disciplinary action they take," said Wolfe, a physician.

The medical board takes months, sometimes years, to investigate complaints and decide a case. In June 1999, the board took up a complaint from a woman who alleged that her doctor performed a gynecological procedure without her consent. It took two years before the board determined that the investigative report "did not substantiate any violations" and closed the case.

When it comes to fines, physicians in the District often fare better than they would elsewhere. When doctors are caught practicing without a license in the city, for example, the D.C. board levies a fine generally between \$10 and \$100 for each month they practiced illegally. Virginia, by comparison, can fine as much as \$5,000 per infraction; the figure in Maryland can go as high as \$50,000.

The D.C. board also has reduced or forgiven many of its fines at the doctors' request. A doctor who worked for the Washington Metropolitan Area Transit Authority practiced without a D.C. medical license for four years while she worked at the agency on a contract. She was fined \$4,800 by the medical board. After paying \$2,900, she said she couldn't afford any more, and the board forgave the rest in 2001, records show.

### **Positive Drug Tests Overlooked**

Joel A. Guiterman, an internist in the District, tested positive for the painkiller hydrocodone or other drugs several times between 1998 and 2003, D.C. medical board minutes show. The board is aware of his substance abuse and has considered his case behind closed doors at several board meetings, but it has failed to discipline him or take him out of practice.

"He's been monitored," said James R. Granger Jr., executive director of the D.C. medical board.

When Guiterman tested positive in 1999, the board didn't discipline him. It voted to punish him when he failed another drug screen in 2000 but ultimately did not act because "there were no apparent violations" of city law, according to board records. When he didn't pass a drug test in 2001, the board voted to suspend him but never did. That same year, the board granted Guiterman's request and reduced the number of drug tests he was required to take from three per week to one per week "because of the time and financial hardship involved," according to board minutes.

Guiterman declined to discuss the matter or his treatment by the board. "I don't see any advantage to me to have my name in the paper," he said.

In the case of Gary L. Malakoff, Vice President Cheney's internist at George Washington University Medical Center, D.C. medical board officials said they were not told that for five years, Malakoff misused prescription drugs. Granger said neither the hospital nor the D.C. Medical Society, which was supposed to monitor him, informed the board about his drug use.

"Dr. Malakoff has not been on the board's radar screen, although the substance abuse . . . is apparently of long standing," Granger wrote in an internal memo to a health department investigator in July after Malakoff's drug use became public.

Even after learning of his drug use, the board waited six months before suspending his license. By that time, the hospital had suspended him and he was in a rehab program in Williamsburg, according to hospital and board records obtained by The Post.

For some doctors, the city has become a haven, because its medical board has tolerated infractions that Maryland or Virginia considered serious enough to warrant discipline.

In 2000, Maryland's medical board ordered Frank A. Broner's medical and surgical practice to be monitored for a year after a female patient died from a lack of oxygen during surgery, board records show. Broner is an orthopedic surgeon licensed in Maryland and the District.

"It was a terrible experience," said Broner, blaming the incident on an anesthesiologist he claimed was under the influence of drugs. "It was almost impossible to come back from that."

The D.C. board let the matter go without taking action, he said. "I work exclusively in D.C. now," Broner said.

Michael J. Horan, an internist licensed to practice in the District and Maryland, saw his Maryland license revoked in 2001 after pleading guilty in Montgomery County to one count of obtaining a controlled dangerous substance by fraud or deceit, Maryland board records show. He was sentenced to one year of probation and 40 hours of community service. The state restored his license in 2002.

Although the D.C. board threatened to take action against him, it never did, he said.

"D.C. got in touch with me and told me what they were going to do," he said. "But by the time they caught up with me, Maryland had restored my license."

District obstetrician-gynecologist Harold D. Johnson was reprimanded and fined \$10,000 by the Maryland board in 2000 for allowing his nurse to examine and evaluate obstetrical patients while he was away. But the D.C. board took no action concerning his license, he said.

Augustus H. Hill, a general surgeon, was reprimanded in 2003 in Maryland for making medical mistakes and prescribing an "excessive dosage" of medication to a patient, according to board records. The Virginia medical board learned of the Maryland action and reprimanded him in 2004. The D.C. board notified Hill in November that he could be punished and had a right to a hearing, but nothing more has been done, Granger said.

"They've written me and told me they were going to take action, but they haven't," Hill said.

#### **D.C. Action Not Publicized**

Seven of the 11 members of the D.C. medical board are required to be physicians licensed to practice in the city. They are appointed by the mayor; in some cases, they have been reappointed for several terms.

Critics say that the physician-dominated board -- like others across the country -- is reluctant to discipline colleagues. The doctors close ranks and "tend to err on the side of the physician rather than the patient," said Sharon Baskerville, executive director of the D.C. Primary Care Association, a nonprofit health care reform and advocacy group.

Patients have no easy way of checking out the history of doctors in the District. Maryland, Virginia and nearly every other state have detailed Web sites where patients can learn about a doctor's disciplinary history. When someone searches for a doctor on the District's Web site, there is little information except whether a license is active or not. There are no case details or information on whether a doctor has been sued for malpractice.

Feseha Woldu, who oversees the District's licensing for doctors and other health care professionals, said the city has been working since 2002 to put doctor disciplinary action online. It may be another year before it is accessible, he said, adding that "we're moving forward on that."

Woldu and other board officials blamed the District's administrative problems on a lack of staff and funds. When the board became part of the health department in 1997, its staff was cut from six to three and board member stipends were eliminated because "the District said they needed the money," said Warren J. Strudwick, a surgeon and former board chairman who was appointed by Mayor Marion Barry and who served until 1996.

The board "is not adequately funded so that you can have the personnel that you need to function effectively," he said.

The board has two people to investigate about 45,800 health care licensees, and it shares those investigators with more than 20 other D.C. boards and commissions. The workload is much lighter in Maryland, which has eight investigators, and Virginia, which has 50 full-time and nine part-time investigators.

The lack of resources has had an impact on some of the board's basic operations. Since 1998, for example, it has not submitted annual reports of its activity to the mayor as required by law, Granger said.

#### **Four Years to Pay Fine**

Jewel A. Quinn Jr. has been conducting physical exams for cabdrivers in the District since 1989. For \$36, the drivers get a physical, photo and paperwork certifying their health and fitness. Quinn, 52, a general practitioner who graduated from Howard University College of Medicine, estimated that he has examined 4,000 taxi drivers, bus drivers, nurses, barbers and cosmetologists and said he has private patients who come to him for treatment of high blood pressure, diabetes and other ailments.

In 1997, the D.C. board received a complaint that Quinn's Northeast office was unsanitary. It was not until two years later that the board ordered him to pay a \$1,000 fine within 30 days or have his license suspended, according to records. In the end, the board gave Quinn seven extensions and four years to pay the fine and never punished him. In a written statement, the board said it gave Quinn more time to pay because of "economic hardship" and a reported burglary at his office. It noted that he paid the full amount in 2003.

In December 2002, Quinn's license expired. The board investigated -- but came to no determination -- whether he had continued practicing without a license. But in an April 2003 memo to Granger, Gregory N. Scurlock, the investigator, said he "advised Dr. Quinn to stop practicing medicine in the District of Columbia until his license had been reinstated." Quinn said that his license was renewed in May 2003.

Last year, the same investigator visited Quinn's office and found it in disarray. Quinn was dressed in layers of ragged clothes and dirty sneakers, and the investigator told Quinn to clean things up, according to the investigator's report.

"He and I agreed that I need to do a better job, but he was happy with what I showed him" two days later, when the investigator returned, Quinn said in an interview.

Quinn practiced for several more months until May 2004, when the board temporarily pulled his license for "demonstrating a willful or careless disregard for the health, welfare or safety of patients and professional or mental incompetence."

"They told me I was mentally or physically impaired because I practice in these conditions," Quinn said. But sharing space with the cab company, he said, was "a way to start up without much overhead. And it's convenient for people to find me."

Quinn said the board told him that it would reinstate his license if he had a psychiatrist certify that he was fit to practice, submit to random drug tests and agree to quarterly office inspections.

In its statement, the board defended its treatment of Quinn over the past seven years, saying that the doctor brought his practice "into compliance."

#### **Many Complaints Untracked**

In Maryland, about 3 percent of the more than 10,800 complaints the state board received between 1999 and 2004 led to discipline against doctors, according to its records. In Virginia, the amount was about 9 percent of its more than 8,725 complaints during that period. In the District, about 1 percent -- four of roughly 318 -- led to discipline.

The D.C. figures were compiled by The Post from board minutes; the board does not routinely track the complaints it receives.

"It's not a pressing need" to track complaints, Granger said. "I'm not sure what we would do other than marvel at the size of the folders."

But he added that the "vast majority of the complaints do not result in a disciplinary action against the licensee."

In the four cases that led to punishment between 1999 and 2004, the board knew the fate of the complaints. But for those against the remaining doctors, it did not compile how many led to investigations or were summarily dismissed.

For those who have gone to the board to air a grievance against a doctor, the process can be frustrating.

Montgomery County resident Elizabeth Ayala filed a complaint with the board in 2000 alleging that a doctor was rough with her during a procedure and left her feeling "violated."

"I was told they would put [the complaint] in their file and if they had any other complaints, they would take action against him," she recalled. "What I really wanted them to do at the time was make sure he wasn't doing these kind of objectionable practices."

Kim Wilczewski, who lives in Northern Virginia, filed a complaint with the board in 1999 accusing a doctor of violating patient confidentiality by "discussing her diagnosis, prognosis and other matters" with her employer, board records show. The board sent her a letter saying it would ask the doctor for his side of the story but that he wasn't required to provide any information. She said she never heard from the board again.

"I gave them a phone call, and they never responded," Wilczewski said. "They don't require the physician to respond, so why should they? I felt like I was wasting my time."

Penny Willett said she had a similar experience with the board when she complained that a doctor burned her during a procedure in 1999.

"I have permanent damage," said Willett, who lived in Charles County at the time. The board "did nothing. He was not reprimanded in any way, shape or form."

*Staff researcher Bobbye Pratt and database editor Sarah Cohen contributed to this report.*