The characteristics of physicians disciplined by professional colleges in Canada

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ABSTRACT

Background: Identifying health care professionals who are incompetent, impaired, uncaring or who have criminal intent has received increasing attention. These individuals are often the subjects of disciplinary action by professional licensing authorities. To date, no national data exist for Canadian physicians. We sought to describe the characteristics of physicians disciplined by Canadian professional licensing authorities.

Methods: We constructed a database of physicians disciplined by provincial licensing authorities between 2000-2009. Comparisons were made to total numbers of physicians licensed in Canada. Demographic data, type of misconduct violation and penalty imposed were collected for each disciplined physician.

Results: A total of 606 physicians were disciplined from 2000-2009. The physicians disciplined as a proportion of licensed physicians ranged between 0.06-0.11% per year. There were 51 physicians who committed 64 repeat offenses corresponding to a total of 115 (19%) offenses. The majority of disciplined physicians were independent practitioners (99%), male (92%) and trained in North America (68%). The specialties involved in disciplinary action with the greatest proportions were family medicine (62%), psychiatry (14%) and surgery (9%). The average number of years from medical school graduation to disciplinary action was 28.9 (Sd=11.3). The three most frequent violations were sexual misconduct (20%), standard of care issues (19%) and unprofessional conduct (16%). The three most frequent penalties imposed were fines (27%), suspensions (19%) and formal reprimands (18%).

Interpretation: A small proportion of registered physicians in Canada were disciplined by their licensing bodies. Sexual misconduct was the most common disciplined offense. The standardization of provincial reporting alongside the creation of a national database of physician offenders would facilitate more comparable public reporting as well as further research and educational endeavors.

INTRODUCTION

The identification of health care professionals who are incompetent, delinquent or who have criminal intent has received increasing attention in scholarly publications and the lay press. [1-9] Although these individuals represent a small subset of practicing physicians, they are usually highly visible amongst the general public due to increasing media awareness in conjunction with information technology.[10]

In Canada, provincial authorities have the ability to police and regulate the quality of medicine through disciplinary action. This avenue provides patients with an alternative safeguard to civil litigation.[1] Still, the majority of research on physician negligence and incompetence relies on data from civil litigation and closed-claims[1]. Available literature on physician disciplinary action through licensing authorities mostly focuses on data from state medical boards in the United States. Many of these studies describe a variety of characteristics that predispose individuals to disciplinary action, although this data is somewhat divergent.[2-7] To our knowledge, there is no peer-reviewed data regarding physicians disciplined in Canada.

Therefore, we sought to better understand the characteristics of physicians disciplined in Canada through a retrospective cohort study of physicians disciplined by provincial licensing authorities between 2000-2009.

METHODS

Overview
We analyzed the publicly available data for all provincial medical licensing authorities in Canada. We studied all physicians disciplined from 2000-2009. We extracted data on the type of misconduct violation and penalty imposed for each physician disciplined as well as demographic variables. Comparisons were made to total numbers of licensed physicians in Canada.[12-15]

Background of Licensure in Canada
Provincial legislation provides the legal basis for medical licensing authorities known as the Colleges of Physicians and Surgeons (CPSs). (Appendix A) These regulatory authorities provide the structure for governance, discipline, and accountability for physicians in Canada. Information regarding physician-related complaints is usually confidential unless they lead to a formal discipline hearing. Information on disciplinary hearings and proceedings from the territorial licensing authorities (Northwest Territories, Nunavut, Yukon) are largely precluded from these rules and are not publicly available.

Identification of Disciplined Physicians
Canadian physicians who were disciplined between 2000-2009 were identified by reviewing all available online monthly publications from each CPS. Physicians who were not named in their published proceedings were excluded from the cohort. Online data was not available for New Brunswick, PEI, and Newfoundland prior to 2007. In addition, online data was not available for Alberta prior to 2002. Data for all other provinces were complete; with physicians disciplined between 2000-2009.

Descriptive Data and Sources
The information collected for each physician included: 1) sex; 2) having an independent practice license; 2) medical school graduated; and 3) medical specialty. We calculated total years of practice as the total number of years between obtainment of medical degree and disciplinary action. Specialties were grouped into categories: 1) anesthesiology; 2) family medicine (& general practice); 3) internal medicine, 4) obstetrics and gynecology; 6) pediatrics; 7) psychiatry; 8) radiology; and 9) surgery 5) other specialties.[7]

Physician information that was not available through the disciplinary summaries were either obtained through provincial licensing website databases or the Canadian Medical Directory for 1970-2008.[11] If we could not find data on physicians, we directed characteristic inquiries to the CPSs themselves.

Classification of Violations and Disciplinary Actions
Both violations and disciplinary actions were grouped based on modified categories from previous studies.[6,7] Each published disciplinary action was reviewed and information was categorized into the following groups: 1) conviction of a crime; 2) fraudulent behavior/prevarication; 3) inappropriate prescribing; 4) mental illness; 5) miscellaneous violations; 6) standard of care issues; 7) self-use of drugs or alcohol; 8) sexual misconduct; 9) unprofessional conduct; and; 10) unknown/unclear violations; 11) unlicensed activity/breech of registration terms. Miscellaneous violations mainly included violations involving breaches of confidentiality, improper disclosure to patients and improper handling, or maintenance of medical records. In addition, information regarding the penalties that were imposed on these physicians were grouped into the following categories: 1) license revocation; 2) license surrender; 3) suspension; 4) license restriction; 5) retraining/education/course/assessment mandated; 6) psychological/counseling/rehabilitation mandated; 7) formal reprimand; 8) fine/cost; 9) other actions. We also kept detailed information regarding fines and/or costs of medical proceedings that had to be paid by respective disciplined physicians as a term of their penalty.

Statistical Analysis:
We calculated the frequencies and proportions of each physician characteristic, violation and penalty category variable and means of total years of practice. We also calculated the median and interquartile range (IQR) for fines, suspension length and time between first and second offenses for repeat offenders. We also examined the proportion of disciplined physicians between 2007-2008, as we obtained a complete dataset for all provinces within this time period. Total physician statistics were compiled using annual census data from Canadian Institute of Health Information (CIHI). Statistics on the number of resident physicians were added using the Canadian M.D. Post-Education Register (CAPER)[12-15]. The St Michael's Hospital Research Ethics Board reviewed and approved the study protocol.

RESULTS

Between 2000-2009, a total of 606 identifiable physicians were disciplined in Canada. (Table 1) There were 23 disciplined physicians who were not named and were not included in the analysis. Approximately 51 physicians had more than one different disciplinary action at separate times: 42 physicians had two, 7 physicians had three and 2 physicians had four. This accounted for a total of 113 (19%) offenses. Therefore, 9% of disciplined physicians were responsible for 19% of all offenses. The median time between first and second offenses was 2 years (IQR 1-4 years).

The majority of disciplined physicians in Canada were independent practitioners (99%), male (92%) and graduated from a North American medical school (68%). The most common specialties involved in disciplinary action were family medicine (62%), psychiatry (14%) and surgery (9%). The mean (SD) number of years of practice before conviction was 28.9 (11.3) years.

Only 0.06-0.11% of physicians were disciplined in Canada per year. (Table 2) Between 2007-2008, the proportion of disciplined physicians was well distributed amongst different provinces (0.08-0.26%). (Figure 1) The highest proportions of physicians were disciplined in British Columbia (0.25%) and collectively in the Atlantic Provinces (0.26%).

A total of 852 different violations were committed by all disciplined physicians. (Table 3) The three most frequent violations comprised more than half of all offenses. They were sexual misconduct (20%), standard of care issues (19%) and unprofessional conduct (16%). Greater than fifty percent of all repeat offenses were also in the realm of sexual misconduct (20%), standard of care issues (20%) and unprofessional conduct (14%).

Disciplined physicians had 1517 total penalties imposed. The three most frequent penalties were being fined (27%), getting a suspension (19%) or a formal reprimand (18%) and when combined represent greater than two thirds of all penalties imposed. License revocation comprised only 6% of total penalties imposed. Of the repeat offenses, license revocation only comprised 10% of total penalties. Similar to that of overall offenders, being fined (26%), getting a formal reprimand (16%) or a suspension (13%) comprised the majority of repeat offense penalties.

Of the 293 physicians suspended, 287 (98%) had detailed suspension information. The median suspension length was 4 months (IQR= 2-9 months). Detailed fine information was available for 329 (79%) of the physicians who were fined. The median fine/cost amount was $4000 (IQR=$2500-$10,000).

INTERPRETATION

We found that a small proportion of physicians were disciplined in Canada between 2000-2009. Of those who were disciplined, the majority of physicians were male, went to medical school in North America, and were disciplined about three decades after medical school graduation. The majority of disciplined physicians were in the specialties of family medicine and psychiatry. A small proportion of physicians were repeat offenders but accounted for almost one-fifth of all offenses.

Our findings are similar to those of previous studies from the United States examining the relationship of gender and place of training to disciplinary action.[2-7] Having lower proportions of female or foreign trained physicians in Canada may compound this effect.[13] Previous work corroborates our findings that physicians who have long lasting therapeutic relationships with patients (i.e.. family physicians and psychiatrists) are more commonly disciplined. Fostering tight knit relationships with patients may contribute to relaxing the boundaries of the physician-patient relationship.[2,8]

There is a difference in the proportion of physicians disciplined in Canada and those in the United States. According to publicly available data from the Federation of State Medical Boards[16-18], the proportion of physicians disciplined in the United States is almost quadruple that of Canada (0.39-0.53%) between 2000-2009. There are a number of possible explanations for this phenomenon. Firstly, there are major differences in licensure policy in the US that make disciplinary action against physicians more commonplace. In fact, since the 1980s the number of physicians disciplined by state medical boards has increased significantly.[20] Secondly, the US is a more litigious society and encourages patients to pursue multiple forums for retribution for medical misconduct.[1] Indeed, malpractice lawsuits are far more common in the US, with 350% more filed each year per person than in Canada.[19] However, more research will be required to fully describe this phenomenon.

The proportion of physicians disciplined in Canada was fairly consistent between provinces. We did observe higher rates of physicians disciplined in British Columbia and Eastern regions. Still, this is only a short period of data between 2007-2008, and a longer longitudinal study would be required to confirm these findings and formally test for differences.

It is concerning that the largest proportion of violations by Canadian physicians involved sexual misconduct. This should be a focus for the Canadian medical community, as any sexual transgression against a patient is a breech of public trust. The proportion of sexual transgressions by physicians in the US is less and has a wide range of reporting, anywhere from 3.1-10%. [2,6-8,20] The reasons for this phenomenon are unclear and may

represent a higher proportion of other types of disciplinary action. Further study for more detailed comparison is warranted. However, this likely identifies a need for greater inclusion of this critical topic within our medical education curricula – including continuing medical education. Indeed, there has been a paucity of data on addressing sexual misconduct within medical educational to date.[21-22]

It is also notable that provincial licensing authorities devote significant resources towards disciplining repeat physician offenders. Previous work has demonstrated there are a large proportion of repeat physician offenders among physicians who received board sanctions, indicating a possible need for greater monitoring of disciplined physicians and/or less reliance upon rehabilitative sanctions.[20] Our data similarly corroborate these findings and underlines the need to reexamine the effectiveness of rehabilitative sanctions in preventing discipline.

Why do licensing authorities not keep a more complete national database of physicians who are disciplined in Canada? Although provincial authorities are mandated to record and publicly disseminate this information, there appears to be little uniformity in the data collection and dissemination process. Furthermore, there is no federal legislative requirement that deems this process necessary. However, we believe there should be no limitations in accessing information on physicians who are disciplined. Like the United States, Canada has a Federation of Medical Regulatory Authorities. We believe this organization could potentially act as a hub for information collection and standardization of disciplinary action across Canada.

Some limitations should be considered when examining our data. First, we could only report on data that was publicly available and thus are confined to the validity of those documents. However, these documents are based upon formal legal proceedings and follow strict regimented procedures. Thus, we assume this data has a suitable integrity for study. Second, data concerning physicians disciplined in the three territories were not publicly available according to the respective licensing authorities we contacted. However, on average, the territories account for approximately one-fifth of one percent of the total physician population in Canada[13]. Thus, we are confident that if this data was available, it would constitute a small proportion of disciplined physicians as a whole. In addition, we did not have complete data for all provinces between 2001 and 2009. Again, this would likely represent a small proportion of disciplined physicians and only lead to an underestimate of our findings. Third, we had to exclude physicians whose names were not published, as their characteristic data could not be obtained. These physicians represented only 23 (4%) of the total disciplined physicians, a relatively small proportion of the total data set. Fourth, some of the recorded fine/cost penalty data were not adequately detailed within discipline summaries. In these cases, physicians may have paid hidden expenses and

costs that would not be captured by our data collection process. For example, the costs incurred by Quebec physicians were never explicitly outlined in any disciplinary proceedings. It is for this reason we elected not to proceed with a more detailed analysis of fines/costs incurred by disciplined physicians. Finally, we can only report the rates of disciplined physicians and not on the discipline rate of physicians. Some provinces may have more or fewer complaints than others but we can only comment on those physicians whom the colleges chose to discipline. This is an important distinction. However, on balance, we feel these limitations do not compromise the integrity of our findings.

The health care community in Canada must look for ways we can improve our disciplinary system. Our data is an important first step in this process. We have outlined some areas that can be targeted for improvement and encourage further research into preventing disciplinary action. Our profession must realize that although disciplined physicians represent a small proportion of total medical care providers, a single practitioner has the potential to do tremendous harm directly and indirectly to the patients and public. Furthermore, these practitioners diminish the integrity of our profession. However, there is a paucity of large-scale programs created to address disciplinary professionalism issues in our medical specialty and prevent actions from occurring in the first place.[23] Perhaps this can also be an avenue that can be further explored both within our educational system and through our professional organizations. Improving this important area of patient safety must be a priority. Our patients expect no less.

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Table 1: The baseline characteristics of disciplined physicians in Canada between 2000-2009

Characteristic	Frequency n=606 (%)
Sex	
Female	49 (8)
Male	557 (92)
License Classification	
Independent Practitioner	599 (99)
Resident	7 (1)
Type of Medical School Graduated From	
International	196 (32)
North American	410 (68)
Specialty of Physician	
Anesthesiology	10 (2)
Family medicine/general practice	377 (62)
Internal medicine	31(5)
Obstetrics and Gynecology	19 (3)
Other	16 (3)
Pediatrics	9 (1.5)
Psychiatry	82 (14)
Radiology	3 (0.5)
Surgery	56 (9)
Unknown	3 (0.5)

Table 2: The number of disciplinary actions against physicians in Canada between 2000-2009

Year	No. of Physicians with Disciplinary Actions	Total No. of Licensed Physicians	Percent of Physicians Disciplined (%)
2000	36	64463	0.06%
2001	64	66235	0.10%
2002	57	66289	0.09%
2003	73	66583	0.11%
2004	62	68171	0.09%
2005	63	69619	0.09%
2006	71	70870	0.10%
2007	71	75643	0.09%
2008	52	77893	0.07%
2009	57	77893	0.07%

*Data for total number of registered physicians in Canada was compiled was compiled from CIHI data[12-15.] CIHI Data for total physicians ~~disciplined~~ registered in 2009 ~~is~~ were not available; we utilized 2008 data in lieu of this number to calculate an estimated proportion.

Table 3: The types of physician violations disciplined in Canada between 2000-2009

Types of violations	Frequency n=852 (%)
Conviction of a Crime	34 (4)
Fraudulent Behaviour/Prevarication	85 (10)
Inappropriate Prescribing	74 (9)
Miscellanous violations	104 (12)
Mental Illness	2 (0.2)
Self use of drugs and alcohol	11 (1)
Sexual misconduct	172 (20)
Standard of Care Issue	163 (19)
Unclear violations	18 (2)
Unlicensed activity	56 (7)
Unprofessional conduct	133 (16)

Table 4: Types of penalties imposed on physicians disciplined in Canada between 2000-2009

Types of penalties imposed	Frequency n=1517 (%)
Fine/Cost	416 (27)
Formal Reprimand	273 (18)
Other Action	33 (2)
Psychotherapy/Counseling/Substance Abuse Program	58 (4)
Restriction	182 (12)
Retraining/Course/Assessment Required	139 (9)
Revocation	89 (6)
Surrender (License)	34 (2)
Suspension	293 (19)

Figure 1: The proportions of disciplined physicians by geographical region between 2007-2008