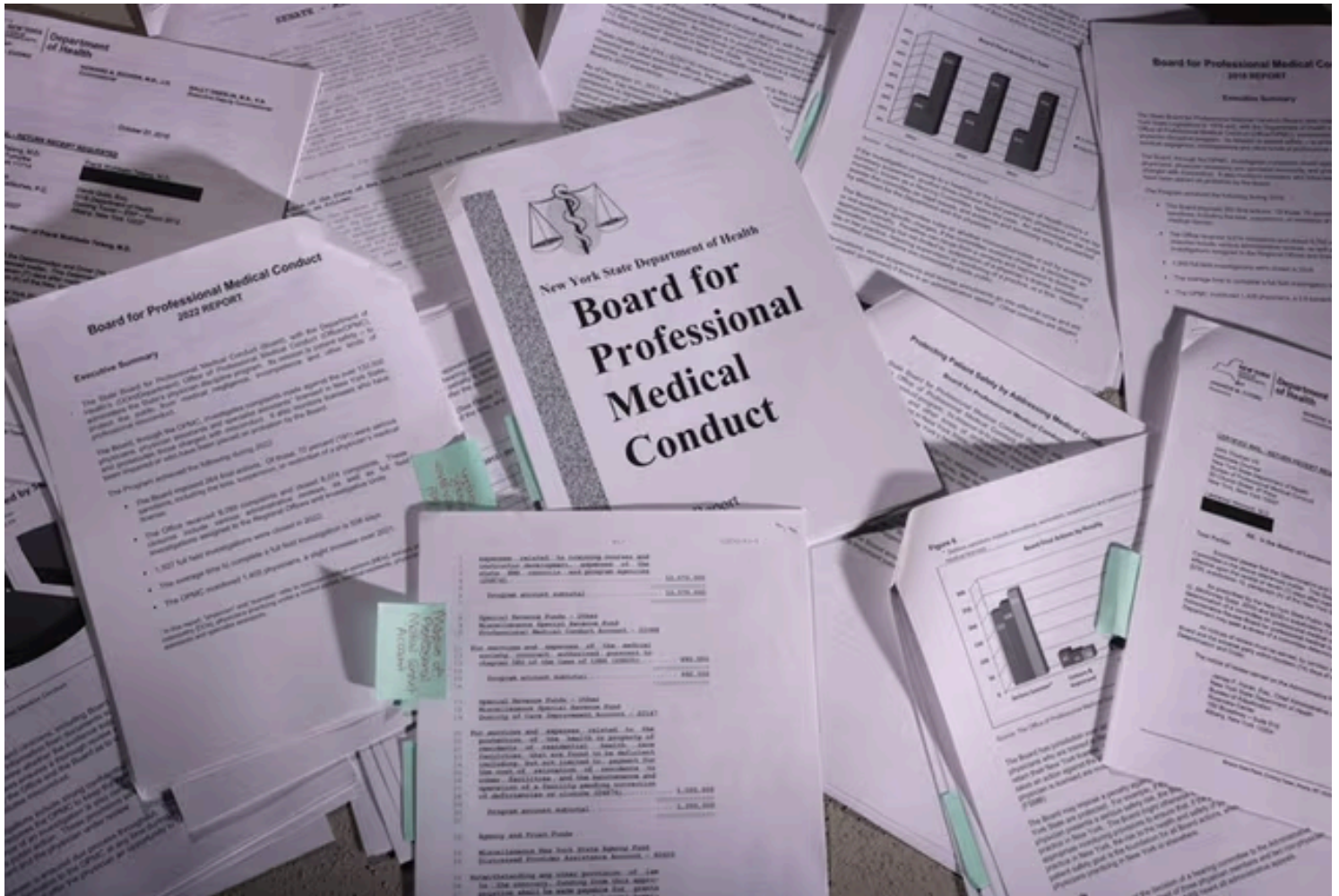


## LONG ISLAND INVESTIGATIONS

ONLY IN NEWSDAY

# NYS' doctor discipline system: Slower investigations, fewer penalties



The state Board for Professional Medical Conduct imposes major sanctions on doctors only half as often as a decade ago, according to the most recently available data. Credit: Newsday / John Paraskevas

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In 2014, the state office that looks into doctor misconduct averaged [less than nine months](#) to conduct an investigation. By the end of 2023, the lengths of those probes [approached two years](#).

For a disciplinary system that critics say already favored physicians over patients, this has further tipped the scales, a Newsday investigation found.

"Delay is our best strategy," said Douglas Nadjari, a defense attorney in Uniondale who has represented doctors facing potential punishment from the state.

"People lose interest. Patients will lose interest. Witnesses will move away. People die natural deaths. Files get lost. Medical records get lost."

The longer time it is taking to investigate complaints is happening as serious disciplinary actions taken against New York doctors have declined 35% over a decade, even as the number of licensed physicians rose

significantly. The state Board for Professional Medical Conduct now imposes major sanctions only half as often as a decade ago.

## WHAT NEWSDAY FOUND

- **The New York State office that scrutinizes physician misconduct** takes far longer to investigate cases than it did in the past, while the number of serious disciplinary actions against doctors fell 35%.
- **Critics say the discipline system is biased** toward doctors and its investigations of them are inadequate. They point to how the budget for the investigatory office has remained flat for 20 years, despite a 48% increase in physicians.
- **The state says it has the resources** to fully investigate all complaints, and it relies on warnings rather than severe penalties to improve physician compliance.

As [Newsday reported](#), 46 doctors on Long Island were allowed to practice without restrictions or sanctions for months or years — or have never been disciplined — after they were found guilty or liable, or settled claims

for a range of offenses. Among them: accepting bribes, committing insurance fraud, illegally distributing opioids, discriminating against patients, fabricating patient records, ordering unnecessary tests, and committing sexual abuse and other acts that either were illegal or violated medical ethics.

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The system, at almost every step, is giving physicians the benefit of the doubt — and putting patients in danger, according to a Newsday investigation based on a review of thousands of pages of records and interviews with more than 90 medical professionals, attorneys, patients and experts.

When doctors are first licensed by the Board for

Medicine, they don't face the same scrutiny as in other states. New York is one of only three states and territories that do not conduct criminal background checks as a condition of initial licensure for physicians, according to the Federation of State Medical Boards, a

trade group representing state medical boards. It's also one of only four states and territories that don't require fingerprints as a condition of licensure.

While complaints spike and the Office of Professional Medical Conduct's investigations are getting slower, the office's budget has failed to grow, an analysis of 20 years of budgets shows.

And once the office presents its findings, the disciplinary board often declines to hold hearings or administers discipline that doesn't always match the severity of the misconduct, critics said.

"The system is set up to benefit physicians," said Rebecca Haw Allensworth, a law professor at Vanderbilt University who researched physician discipline nationwide for her book, "The Licensing Racket."

Allensworth said she believes that physicians on disciplinary boards "are actually trying and I think feel like they are doing their very best to protect the public," but added: "I think that's a bit sad because they end up making decisions that are unsafe and inappropriate."

# 'Deference and preference'

The Office of Professional Medical Conduct (OPMC) fields thousands of complaints each year against physicians, physician assistants and specialist assistants. The office is required by law to review every one, and if it decides there's enough evidence to proceed, it sends its findings to the Board for Professional Medical Conduct.

Most of that board's 89 members are physicians appointed by the state health commissioner, after recommendations from groups that represent doctors, according to the board's [most recent annual report](#). The board's members serve on three-person committees that decide whether to discipline a doctor. Each must by law have two physicians and one person who is not a doctor.

But very few complaints lead to disciplinary charges, health department data shows: In 2023, the most recent year available, there were [30 times](#) as many complaints received as there were final actions.

Despite arrests, complaints, convictions and judgments, 46 physicians were allowed to practice freely. NewsdayTV's Macy Egeland and reporters from Newsday's health and investigative teams have the story.

"They don't take them seriously. They give the deference and preference to the doctor," said Marissa Hoechstetter, who allegedly was abused by former Manhattan physician Robert Hadden, a Garden City native serving [a 20-year prison sentence](#) for sexually abusing patients.

"They're like, 'Oh, this patient must have misunderstood,' or 'We wouldn't want to destroy the entire career of this doctor because of this one accusation,' rather than saying, 'You need to pause while we investigate this,' " she said.

[The board took four years](#) to take any action against Hadden after he was arrested for sexual abuse, and only then it was part of a plea deal with the Manhattan District Attorney's Office that required Hadden to surrender his medical license but allowed him to stay out of prison. Federal prosecutors later filed federal charges that led to his prison sentence.



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— Dr. Thomas T. Lee,  
chairman of the state's



## Board for Professional Medical Conduct

*Credit: Medical Society  
of the State of New York  
/ Marlene Pinck*

Dr. Thomas T. Lee, chairman of the Board for Professional Medical Conduct, provided Newsday with a detailed defense of the system. He noted that the panel is increasingly relying on warnings, rather than formal discipline, to respond to misconduct allegations.

"The priority of the system is to protect the public," said Lee, who's also a top official with the Westbury-based Medical Society of the State of New York, the leading lobbying group for the state's doctors.

But, especially in a time when there is a shortage of physicians, he said, "If someone is completely rehabilitatable, generally practices good medicine, your point is not to throw the book at that physician."

Dr. Edmond Hakimi said he used the board's second chance to help others.

Nearly two months after Medicaid suspended him following his arrest for forging prescriptions, the board in 2014 suspended Hakimi's license indefinitely, board documents state. In 2019, the board lifted the suspension and put him on probation for 5 years, requiring drug tests and other conditions. His license is now unrestricted.

Hakimi, 43, said even while his license was suspended, he was using his own experiences to assist medical professionals struggling with substance use disorder. He is now medical director of Wellbridge, a Calverton-based drug and alcohol treatment center.

"Without a medical [license], I wouldn't be able to work in a health care facility at all," said Hakimi, who also is an online instructor at Harvard Medical School and president of the Long Island Recovery Association.

Lee said the board does not act based on allegations alone, even if they result in arrests.

"Arrest by itself is not actionable from the medical regulation standpoint, as the licensee has not been adjudicated by the legal system," he wrote in an email.

Yet the state health commissioner, on the board's recommendation, has repeatedly suspended licenses

after arrests but before convictions, state records show.

## Critics decry understaffing



Attorney Joseph Dell, shown in his Garden City office, has represented alleged victims of medical malpractice and sexual abuse. Credit: Newsday / J. Conrad Williams Jr.

Joseph Dell, a Garden City attorney who has represented alleged victims of medical malpractice and sexual abuse, said OPMC underfunding and understaffing is a big reason so few complaints lead to charges and penalties. Investigations thorough enough to make strong cases require significant resources, he said.

"After 32 years of doing medical malpractice, I don't think doctors get the scrutiny by the OPMC that they should," Dell said.

Over the past 10 years, the OPMC budget declined 1.5%, according to the state Division of the Budget. Over 20 years, it has remained essentially flat — effectively a decrease given inflation, critics say — even though the number of physicians increased 48%, state data shows. The office is funded with physician licensing fees, but officials have authority to transfer the money to support other health department functions.

The stagnant budget amid a spike in doctors' licenses indicates OPMC doesn't "have the staff you need to investigate cases," said Robert E. Oshel, a former associate director for research and disputes for the National Practitioner Data Bank, a federal repository that compiles physician misconduct reports.

"Even if they were adequately funded 20 years ago, they can't possibly be adequately funded today," said Oshel, co-author of a [report](#) on physician discipline released in October by the watchdog group Public Citizen.

State health department spokeswoman Erin Clary said in an email that "while additional resources would always be welcome, the Department takes instances of

medical misconduct seriously and acts appropriately to protect the health and safety of patients."

In New York, the average time to complete a full field investigation was 664 days in 2023, according to a Board for Professional Medical Conduct [annual report for 2023](#), the most recent available. That was 148% higher than the average 268 days listed in a 2014 annual report.

Clary said that "availability of medical experts and available resources" are among the reasons investigation lengths have increased. She said although the state has sufficient staff to conduct thorough investigations, "coming out of COVID, the entire Department of Health has been in the process of rebuilding its staff."

But, she added, "While there are still some resource deficits, we are confident in our ability to fully, and without bias, investigate all complaints."

## **‘More education’**

New York had the nation's [12th highest rate](#) of serious disciplinary actions from 2021 to 2023 — down from eighth between 2019 and 2021, according to the Public

Citizen report. The disciplinary rate in New York was  
1.02 per 1,000 physicians per year, compared with 1.82