

# **Medical Malpractice Payments and Medical Discipline in New Mexico**

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**New Mexico has a malpractice problem. The problem is malpractice itself, not malpractice payments.**

**Malpractice payments are the symptom, not the underlying problem.**

**New Mexico Malpractice Payments, 2022, 2023, 2024**

Year	Total \$ Paid for Physician Malpractice	Number of Malpractice Payments for Physicians (Incl. Fund Pymts)	Number of Patient Compensation Fund Payments	Number of Malpractice Incidents Leading to Payments	Mean \$ Paid per Malpractice Incident (Primary + Fund)	Number of Physicians	Payment \$ per Physician	Number of Payments per 1000 Physicians	Population	\$ Paid per Person	Number of Malpractice Incidents Leading to Payment per 100,000 Population
2022	\$34,376,250	126	33	93	\$369,637	10,927	\$3,146	11.53	2,113,868	\$16	4.40
2023	\$40,756,500	102	24	78	\$522,519	11,513	\$3,540	8.86	2,121,164	\$19	3.68
2024	\$68,479,500	149	54	95	\$720,837	12,267	\$5,582	12.15	2,130,256	\$32	4.46

# National Malpractice Payment Comparison

## 2024 Malpractice Payments by State

State	Total \$ Paid for Physician Malpractice	Number of Physician Malpractice Incidents Reported*	Mean \$ Paid per Malpractice Incident**	Number of Physicians	Payment \$ per Physician**	Number of Malpractice Incidents per 1000 Physicians	2024 Population	\$ Paid per Person**	Number of Malpractice Incidents per 100,000 Population
AK Alaska	\$4,038,750	13	\$310,673	6,445	\$627	2.02	740,133	\$5.46	1.76
AL Alabama	\$35,395,000	55	\$643,545	23,601	\$1,500	2.33	5,157,699	\$6.86	1.07
AR Arkansas	\$22,895,000	45	\$508,778	14,046	\$1,630	3.20	7,582,384	\$3.02	0.59
AZ Arizona	\$70,489,000	114	\$618,325	36,680	\$1,922	3.11	3,088,354	\$22.82	3.69
CA California	\$301,894,450	712	\$424,009	176,195	\$1,713	4.04	39,431,263	\$7.66	1.81
CO Colorado	\$44,745,750	72	\$621,469	34,038	\$1,315	2.12	5,957,493	\$7.51	1.21
CT Connecticut	\$77,950,000	100	\$779,500	25,045	\$3,112	3.99	3,675,069	\$21.21	2.72
DC District of Columbia	\$27,225,750	18	\$1,512,542	14,861	\$1,832	1.21	702,250	\$38.77	2.56
DE Delaware	\$11,977,500	26	\$460,673	8,942	\$1,339	2.91	1,051,917	\$11.39	2.47
FL Florida	\$304,592,600	895	\$340,327	98,942	\$3,078	9.05	23,372,215	\$13.03	3.83
GA Georgia	\$201,430,300	253	\$796,167	46,098	\$4,370	5.49	11,180,878	\$18.02	2.26
HI Hawaii	\$14,485,000	35	\$413,857	11,689	\$1,239	2.99	1,466,146	\$9.88	2.39
IA Iowa	\$27,781,250	37	\$750,845	16,213	\$1,714	2.28	3,241,488	\$8.57	1.14
ID Idaho	\$11,660,250	28	\$416,438	11,220	\$1,039	2.50	2,001,619	\$5.83	1.40
IL Illinois	\$269,069,250	337	\$798,425	59,331	\$4,535	5.68	12,710,158	\$21.17	2.65
IN Indiana	\$67,613,500	169	\$400,080	36,228	\$1,866	4.66	6,924,275	\$9.76	2.44
KS Kansas	\$36,950,250	91	\$406,047	14,359	\$2,573	6.34	2,970,606	\$12.44	3.06
KY Kentucky	\$61,778,750	115	\$537,207	25,259	\$2,446	4.55	4,588,372	\$13.46	2.51
LA Louisiana	\$51,462,500	83	\$620,030	21,072	\$2,442	3.94	4,597,740	\$11.19	1.81
MA Massachusetts	\$150,717,500	199	\$757,374	40,906	\$3,684	4.86	7,136,171	\$21.12	2.79
MD Maryland	\$79,909,500	144	\$554,927	36,921	\$2,164	3.90	6,263,220	\$12.76	2.30
ME Maine	\$13,204,850	27	\$489,069	9,711	\$1,360	2.78	1,405,012	\$9.40	1.92
MI Michigan	\$78,542,500	262	\$299,781	47,038	\$1,670	5.57	10,140,459	\$7.75	2.58
MN Minnesota	\$17,972,500	21	\$855,833	29,770	\$604	0.71	5,973,151	\$3.01	0.35
MO Missouri	\$77,602,000	126	\$615,889	33,888	\$2,290	3.72	6,245,466	\$12.43	2.02
MS Mississippi	\$13,247,500	50	\$264,950	14,421	\$919	3.47	2,943,045	\$4.50	1.70
MT Montana	\$24,730,000	31	\$797,742	9,890	\$2,501	3.13	1,137,233	\$21.75	2.73
NC North Carolina	\$33,770,750	83	\$406,877	46,489	\$726	1.79	11,046,024	\$3.06	0.75
ND North Dakota	\$740,000	4	\$185,000	7,253	\$102	0.55	796,568	\$0.93	0.50
NE Nebraska	\$10,528,750	25	\$421,150	11,059	\$952	2.26	2,005,465	\$5.25	1.25
NH New Hampshire	\$14,810,000	24	\$617,083	11,450	\$1,293	2.10	1,409,032	\$10.51	1.70
NJ New Jersey	\$292,616,250	409	\$715,443	51,334	\$5,700	7.97	9,500,851	\$30.80	4.30
NM New Mexico	\$68,479,500	95	\$720,837	12,267	\$5,582	7.74	2,130,256	\$32.15	4.46
NV Nevada	\$37,904,050	94	\$403,235	15,717	\$2,412	5.98	3,267,467	\$11.60	2.88
NY New York	\$541,738,000	985	\$549,988	112,466	\$4,817	8.76	19,867,248	\$27.27	4.96
OH Ohio	\$78,262,750	168	\$465,850	55,579	\$1,408	3.02	11,883,304	\$6.59	1.41
OK Oklahoma	\$36,177,500	101	\$358,193	18,986	\$1,905	5.32	4,095,393	\$8.83	2.47
OR Oregon	\$41,329,500	72	\$574,021	19,781	\$2,089	3.64	4,272,371	\$9.67	1.69
PA Pennsylvania	\$474,787,500	563	\$843,317	69,947	\$6,788	8.05	13,078,751	\$36.30	4.30
RI Rhode Island	\$21,697,500	46	\$471,685	6,758	\$3,211	6.81	1,112,308	\$19.51	4.14
SC South Carolina	\$37,472,500	122	\$307,152	26,837	\$1,396	4.55	5,478,831	\$6.84	2.23
SD South Dakota	\$18,575,000	11	\$1,688,636	7,519	\$2,470	1.46	924,669	\$20.09	1.19
TN Tennessee	\$31,254,500	94	\$332,495	31,874	\$981	2.95	7,277,750	\$4.29	1.29
TX Texas	\$122,885,800	487	\$252,332	102,223	\$1,202	4.76	31,290,831	\$3.93	1.56
UT Utah	\$25,060,250	52	\$481,928	14,522	\$1,726	3.58	3,503,613	\$7.15	1.48
VA Virginia	\$61,246,250	97	\$631,405	48,723	\$1,257	1.99	8,811,195	\$6.95	1.10
VT Vermont	\$3,090,000	26	\$118,846	5,823	\$531	4.47	648,493	\$4.76	4.01
WA Washington	\$94,315,000	119	\$792,563	37,607	\$2,508	3.16	7,958,180	\$11.85	1.50
WI Wisconsin	\$38,243,750	50	\$764,875	36,078	\$1,060	1.39	5,960,975	\$6.42	0.84
WV West Virginia	\$17,397,500	45	\$386,611	11,148	\$1,561	4.04	1,769,979	\$9.83	2.54
WY Wyoming	\$1,140,000	7	\$162,857	7,228	\$158	0.97	587,618	\$1.94	1.19

\* Malpractice incidents = total number of payment reports less payments reports by state compensation funds, excess judgment funds, etc.

\*\* Dollar amounts include payments by state compensation funds, excess judgment funds, etc.

Sources: NPDB Public Use File 2025-06; FSMB 2024 Physician Census; US Census Quick Facts Population Estimates July 2024)

# 2024 National Comparison

In 2024 twelve states had larger mean payment amounts per malpractice incident than New Mexico (CT, DC, GA, IA, IL, MA, MN, MT, PA, SD, WA, and WI).

In 2024 two states had larger mean payment amounts per physician than New Mexico (NJ and PA).

In 2024 **two states** had more malpractice incidents resulting in payment per 1,000 physicians than New Mexico (NJ and PA).

In 2024 **one state** had more malpractice incidents resulting in payment per 100,000 population than New Mexico (NY).

***But New Mexico's record in 2024 was not typical of previous years. The number of incidents resulting in payments in 2024 was 49% higher than the 25 year average (75 per year). One year does not make a trend. In four of the last 10 years there were fewer than 60 incidents resulting in malpractice payments.***

# What to Do?

## More Tort Reform?

New Mexico's statute of limitations – three years from date of malpractice, not date of discovery of malpractice

Pre-litigation review and opinion by New Mexico Medical Review Commission

\$750,000 cap on non-economic damages

*Additional limitations, e.g. a cap on actual money damages, seem unfair to patients.*

# What to Do?

## Reduce Malpractice?

**Reducing malpractice to the greatest possible extent reduces patient harm and reduces malpractice payments. Minimal malpractice means minimal malpractice payments.**

**Malpractice is not random.** Physicians are human. A few physicians are exceptionally well skilled; a few are exceptionally poorly skilled or prone to unacceptable behavior. Most physicians are acceptably in the middle and do not have a malpractice payment during their entire career.

# What to Do?

## Reduce Malpractice?

Identify outlier physicians with records of poor skills or unacceptable behavior.

Take appropriate action to reduce or eliminate the likelihood of their committing malpractice.

***Cure the disease, don't just treat the symptom.***

# **Are Physician Peer Reviewers and the New Mexico Medical Board Effectively Reducing Malpractice?**

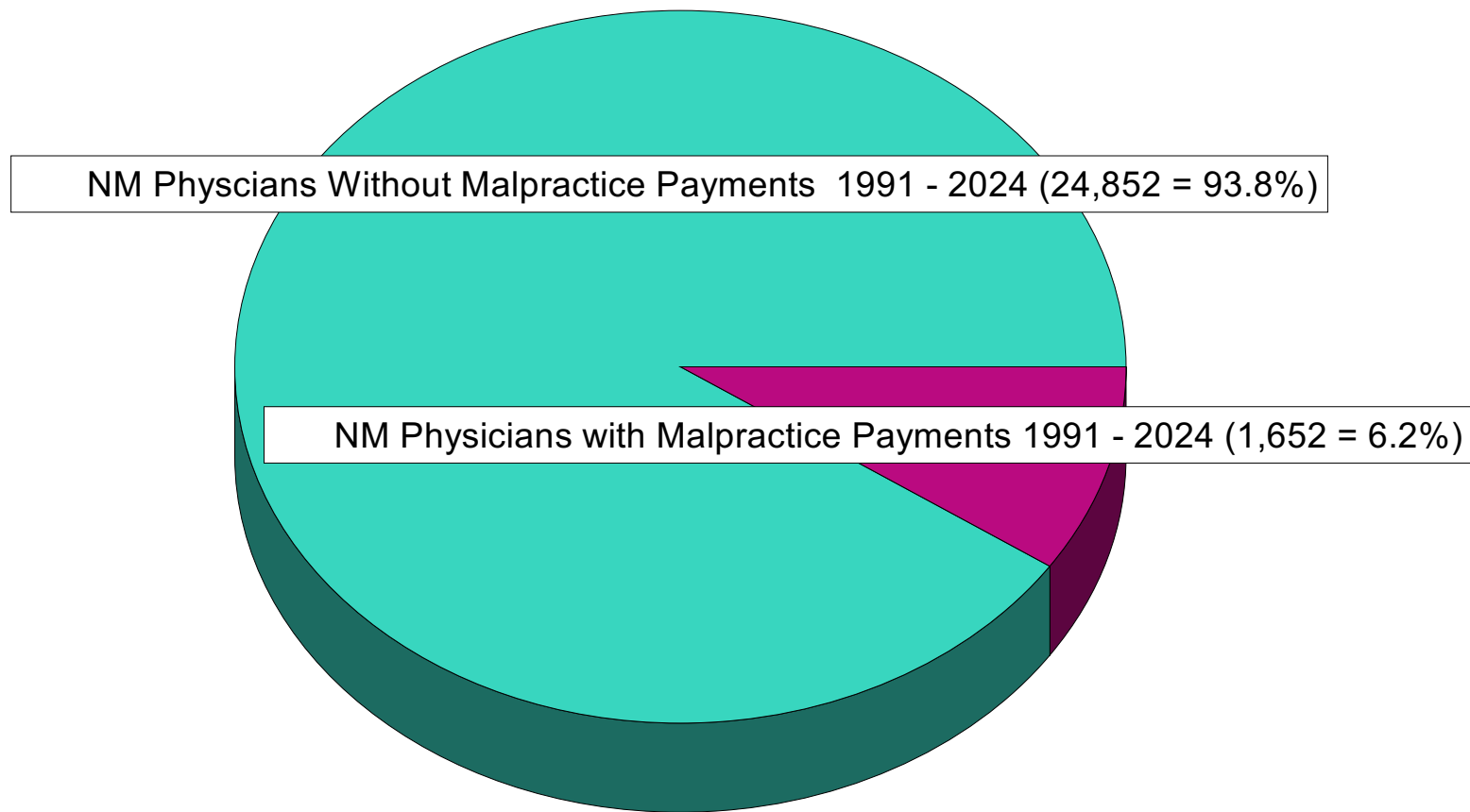
The New Mexico Medical Board ranked 34th in Public Citizen's 2021-2023 ranking of state medical boards based on serious actions taken per 1,000 licensees, falling from 30th in the 2019-2021 rankings and 12th in the 2017-2019 rankings.

In the 2021-2023 rankings period, the New Mexico Board would have had to have taken over three times more serious disciplinary actions as it actually took to match the rate of Ohio, the board taking the most actions per licensee.

(New Mexico: 0.58 serious actions per 1,000 licensees.  
Ohio: 1.82 serious actions per 1,000 licensees).

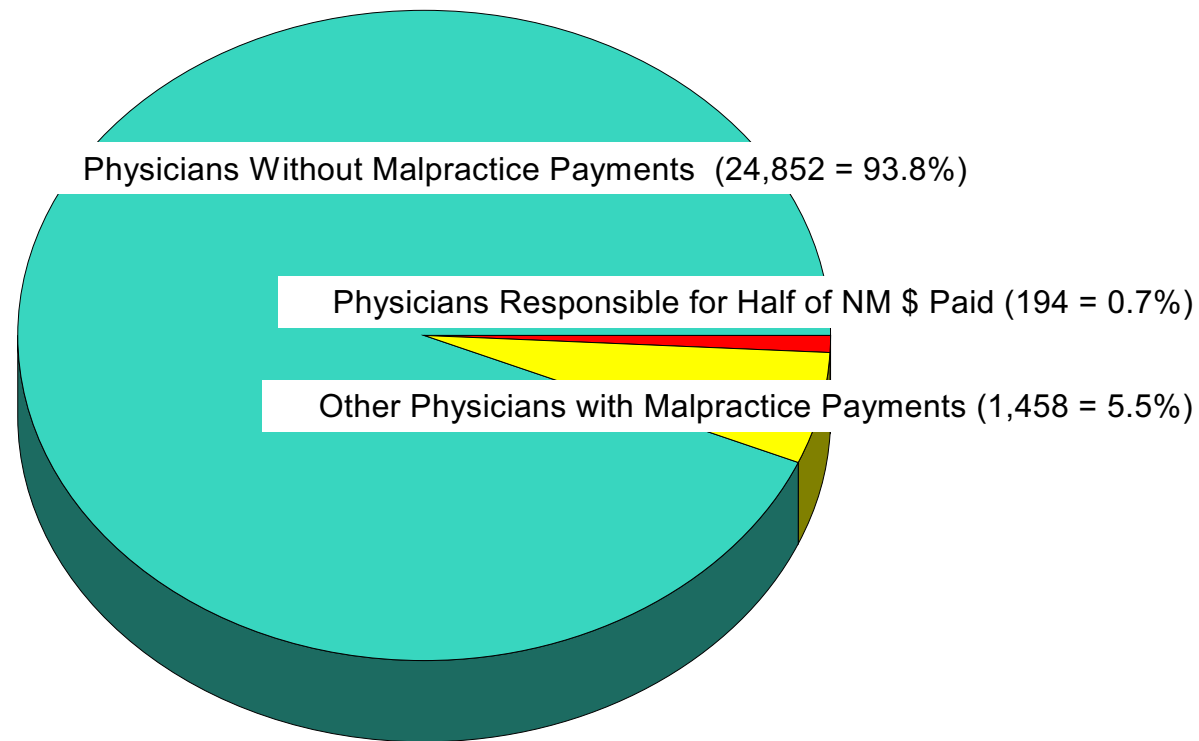


# A few physicians cause the bulk of the malpractice problem



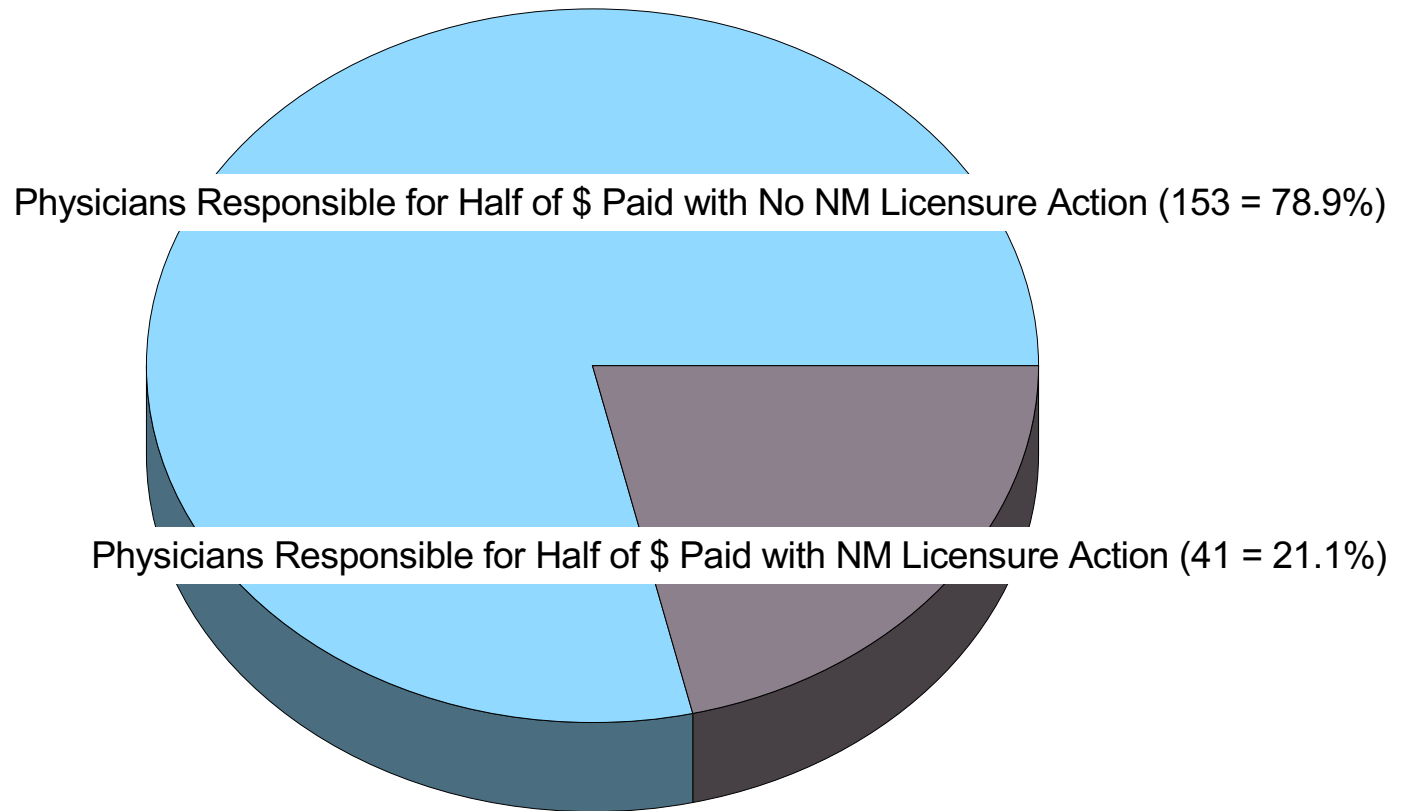
26,504 physicians were licensed in New Mexico during some or all of the 1991 -2004 period.

# Only 0.7% of physicians were responsible for half of all money paid for malpractice in New Mexico from 1991 through 2024.



Of the 0.7% of physicians responsible for half of the money paid, 82% had multiple malpractice payments.

**Only 21.1% of the 0.7% of physicians responsible for half of the malpractice dollars paid from 1991 through 2024 had any action taken against their license by the New Mexico Medical Board, not even a reprimand.**



7% of the physicians responsible for half of the malpractice dollars paid in New Mexico had a licensure action in another state but no licensure action by the New Mexico Board.

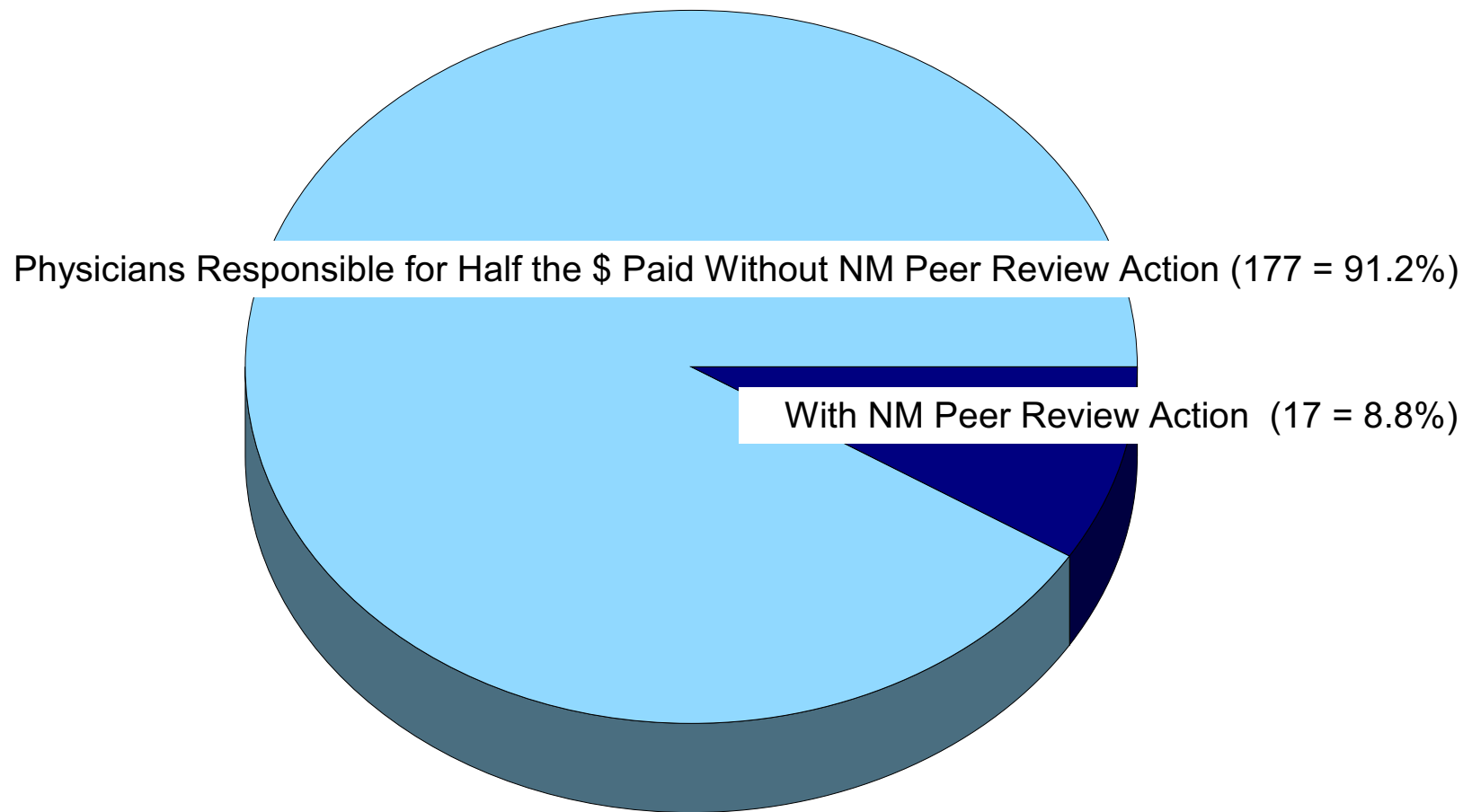
# Kinds of Licensure Actions Taken

194 physicians were responsible for half of all malpractice dollars paid.

Only 41 of them had New Mexico licensure actions. The following actions were taken (some had more than one action):

Revocation	0
Denial of Renewal	0
Voluntary Surrender	4
Suspension	2
Limitation or Restriction	4
Summary or Emergency Restriction	0
Voluntary Limitation or Restriction	0
Vol. Limitation Pending Investigation	1
Probation	9
Reprimand	2
Other Negative Action or Finding	1
Other Licensure Action	13
License Restored or Reinstated	7

**The 194 physicians responsible for half of the malpractice dollars paid were even less likely to have a reportable clinical privileges action than a New Mexico licensure action.**



7% of the physicians responsible for half of the malpractice dollars paid in New Mexico had a clinical privileges action in another state but no clinical privileges action in New Mexico.

# Kinds of Clinical Privileges Actions Taken

(194 physicians responsible for half of all malpractice dollars paid)

The 17 physicians with clinical privileges actions taken in New Mexico had the following actions taken (some physicians had more than one action):

Terminations and Similar Actions	9
Restrictions and Similar Actions	10
Suspensions and Similar Actions	7
Reinstatement and Similar Actions	2

# Conclusions

Limiting malpractice payments doesn't limit malpractice.

Reducing malpractice reduces malpractice payments – and harm.

To reduce malpractice, the Medical Board and peer reviewers need to prioritize patient safety

The Medical Board needs:

- Adequate funding
- Adequate staffing
- Adequate legal authority, including standard of proof
- The will to take necessary actions to protect the public from the few physicians causing the bulk of the problem.