

WISCONSIN MEDICAL EXAMINING BOARD

ANNUAL REPORT

January 1 – December 31, 2010



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BOARD MEMBERSHIP AND DEPARTMENT PERSONNEL

The Medical Examining Board (**MEB**) consists of 13 members who are all appointed by the Governor and approved by the Senate.

2010 MEB Membership

Sujatha Kailas, MD, MBA, Chair (Fond du Lac)

Sandra Osborn, MD, Vice-Chair (Madison)

Ian Munro, MD, Secretary (Green Bay)

Carolyn Bronston, Public Member (Wausau)

James P. Conterato, MD (Marshfield)

LaMarr Franklin, Public Member (Glendale)

Jude Genereaux, Public Member (Ellison Bay)

Jerold Harter, MD (Stevens Point)

Jack Lockhart, MD (La Crosse)

Raymond Mager, DO (Bayside)

Suresh Misra, MD (Milwaukee)

Gene Musser, MD (Madison)

Sheldon Wasserman, MD (Milwaukee)

2010 Executive Staff

Celia Jackson, Secretary

Barbara Wyatt Sibley, Deputy Secretary

Hector Colon, Executive Assistant

2011 Executive Staff

Dave Ross, Secretary

John Scocos, Deputy Secretary

John Murray, Executive Assistant

Administrative Staff

Tom Ryan, Bureau Director

Michael Berndt, Legal Counsel

Shawn Leatherwood, Advanced Paralegal

Karen Rude-Evans, Bureau Assistant

EXECUTIVE SUMMARY

We are pleased to present the first Annual Report for the Wisconsin Medical Examining Board.

The Board was successful in achieving its own Bureau within the Department of Regulation and Licensing (DRL). The 2009-2011 State Budget authorized new resources for DRL to create a separate Bureau within the department to handle direct services to the professions licensed under the Medical Examining Board (MEB). The new Bureau is funded by increases in the initial and renewal fees for credentials in the MEB related professions.

Prior to the signing of the budget bill, there were fewer people to complete the work and the time and expertise of others were divided among multiple professions with different laws and regulations.

The paralegals, investigators and attorneys in the Division of Enforcement served every health profession regulated by the Department. This included the Nursing, Pharmacy, Dentistry, Social Work, Chiropractic, Veterinary, Psychology, and Podiatry professions, in addition to several others. Staff dedicated to the Medical Examining Board will permit more expeditious handling and swifter resolution of cases. A total of 10.5 positions comprise the new Medical Board Team in the Division of Enforcement, consisting of 4 Attorneys, 4 Investigators, and 2 1/2 Paralegals.

2010 accomplishments include the following:

- 2009 Wisconsin Act 382 created a legal duty upon all licensed physicians to report the substandard practice of colleagues. The law requires that individual licensed physicians report to the MEB if they have knowledge of a colleague who engages in a pattern of unprofessional conduct, creates an immediate or continuing danger to one or more patients or to the public, may be medically incompetent or may be mentally or physically unable to safely engage in the practice of medicine or surgery. Act 382 will improve the MEB's ability to identify physicians who may be a danger to the public.
- Act 382 also revised the Board's summary suspension procedure, eliminated the narcotics prescribing restriction for temporary license holders and changed the continuing education law to allow the Board to write rules requiring licensees to complete continuing professional development, maintenance of certification, or performance improvement programs in addition to continuing medical education (CME).
- The Division of Enforcement fully implemented the Department's case handling initiative, which set a goal of resolving 90% of the Board's cases within 18 months of when a case is opened. It is expected that the case review project, combined with the duty to report legislation, will increase the number of cases that receive Board action, and may also result in an increase in the number of cases that result in serious discipline.

- In collaboration with the Marshfield Clinic, the Department was awarded a 2 year, \$500,000 American Recovery and Reinvestment Act of 2009 (ARRA) grant to reduce or eliminate barriers to physician licensing and telemedicine practice. A project coordinator, Information Technology (IT) architect and half-time financial specialist have been hired to carry out the objectives of the grant. A multi-state Task Force consisting of Wisconsin and eight other Midwestern states, [Illinois](#), [Indiana](#), [Iowa](#), [Kansas](#), [Michigan](#), [Minnesota](#), [Missouri](#), and [South Dakota](#), met twice in 2010 in an effort to develop and deploy an interstate expedited licensure program for cross-border credentialing. In November, the group met for two days in Madison, agreeing on a preliminary portability plan. An Advisory Group created to assist the Task Force met in October. The Wisconsin Board has already endorsed use of the Federation of State Medical Board's (FSMB) Uniform Application, which will be used as the basis for a common online license application. The Board is also exploring an online license verification tool that would automate the verification of licenses and improve sharing of information among participating states.
- An expedited application for physicians licensed in Minnesota was launched in 2009 and has created more efficiency in the Credentialing Division. See Credentialing Activity, p. 15, for more detail.
- The Board continues to improve its outreach to the public.
 - ✓ The Bureau has re-established the Regulatory Digest, the Board's principal means of communicating with its licensees about physicians who have been disciplined, rule changes, and the workings of the Board. Digests were sent to licensed physicians by e-mail twice per year.
 - ✓ Several Board members, the Department Secretary and Department staff have spoken to outside groups, including other state agencies and the Wisconsin Medical Society, about the work of the Board.
 - ✓ The Board held its monthly meeting at the Medical College of Wisconsin in Milwaukee on October 20, 2010. The Board's November 2009 meeting was held at the Marshfield Clinic.
 - ✓ The Board continues to prepare and distribute press releases on individual cases where a physician's license is suspended or revoked by the Board.
 - ✓ The Board's Outreach Committee meets regularly to discuss opportunities to improve communication.
 - ✓ The Board became a member of [Administrators in Medicine](#) (AIM), the national organization for state medical and osteopathic board executives whose mission is to promote administrative excellence and public safety by working with administrators for medical licensing and regulatory authorities. The Board's Administrative Policy Advisor attended its annual meeting in April.
- The Board has increased its involvement with the national regulatory community. Board Chair Sujatha Kailas completed a 2 year term on the FSMB Nominating Committee. Board Vice Chair Sandra Osborn was re-appointed to a second term on the Editorial Committee of the FSMB's "Journal of Medical Regulation." Board member Gene Musser was recently appointed to the FSMB's Committee on Re-Entry To Practice. Administrative Policy Advisor Tom Ryan was appointed to the FSMB Bylaws Committee. Five members from the Board and the Administrative Policy Advisor attended the 3 day annual meeting of the FSMB in Chicago. The theme of the annual meeting was "Connect and Lead." The Board's involvement included the following:

- ✓ Gene Musser – Member of the Education Committee and Moderator of the session “Elements of Effective State Medical Boards.”
 - ✓ Tom Ryan – Facilitator of Regional Board Forums.
-
- The Board participated in the Department’s Professional Assistance Procedure (PAP) rule revision, which became effective in early 2011. Board Vice Chair Sandra Osborn served on the Task Force that recommended revisions to the Department Secretary.
 - In response to Act 382 and national trends toward improved life-long learning models for physicians, the Board has established a work group to examine Maintenance of Licensure and Continuing Professional Development, and Continuing Medical Education. The Board reviewed the Federation’s Draft Maintenance of Licensure Implementation Report in November and continued the discussion with the President of the FSMB, Dr. Humayan Chaudhry, at its January 19, 2011 meeting.
 - As a result of 2009 Wisconsin Act 355, the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board has joined the Board as another affiliate.
 - The Board has begun to modernize its Unprofessional Conduct rule and its Physician Assistants rule.

The Board looks forward to continued progress as it strives to expand its outreach, process license applications more expeditiously, and improve protection of Wisconsin consumers from unsafe medical practice.

ENFORCEMENT ACTIVITY

The Division of Enforcement (DOE) is staffed with the investigative and legal expertise to screen, investigate, and prosecute consumer complaints promptly and appropriately. The division must balance the need to quickly and assertively pursue serious violators that endanger the health and welfare of the patients and public, with the rights of credential holders who may be the subject of complaints, without having violated any laws. Personnel in the division also monitor disciplinary orders to ensure compliance.

The quality of medical care delivered in Wisconsin is among the best in the nation. The disciplinary action taken and the results of the discipline imposed reflect this fact. The purposes of the various disciplines available to the Board are: 1) Protection of the Public; 2) Rehabilitation of the licensee; 3) Deterrence of the respondent and other licensees from similar conduct.

To accomplish these goals, the Board has the authority to reprimand the licensee, place limitations on the license either through requiring re-education or other re-training, monitoring, mentoring or supervision, testing, or limiting the license to prevent the licensee from practicing certain medical procedures and specialties. The Board may also suspend or revoke a license and has the authority to issue an Administrative Warning, which is not a disciplinary action, where appropriate.

Many of the Board's disciplinary actions involve a reprimand and re-education, often coupled with testing or supervision for a period of time following the re-education. The Board believes strongly in the effectiveness of rehabilitation in the form of re-education and supervision or mentoring and will continue to emphasize the importance of physicians re-training in their areas of deficit. The re-offense rate for physicians who have been disciplined by the Board remains very low.

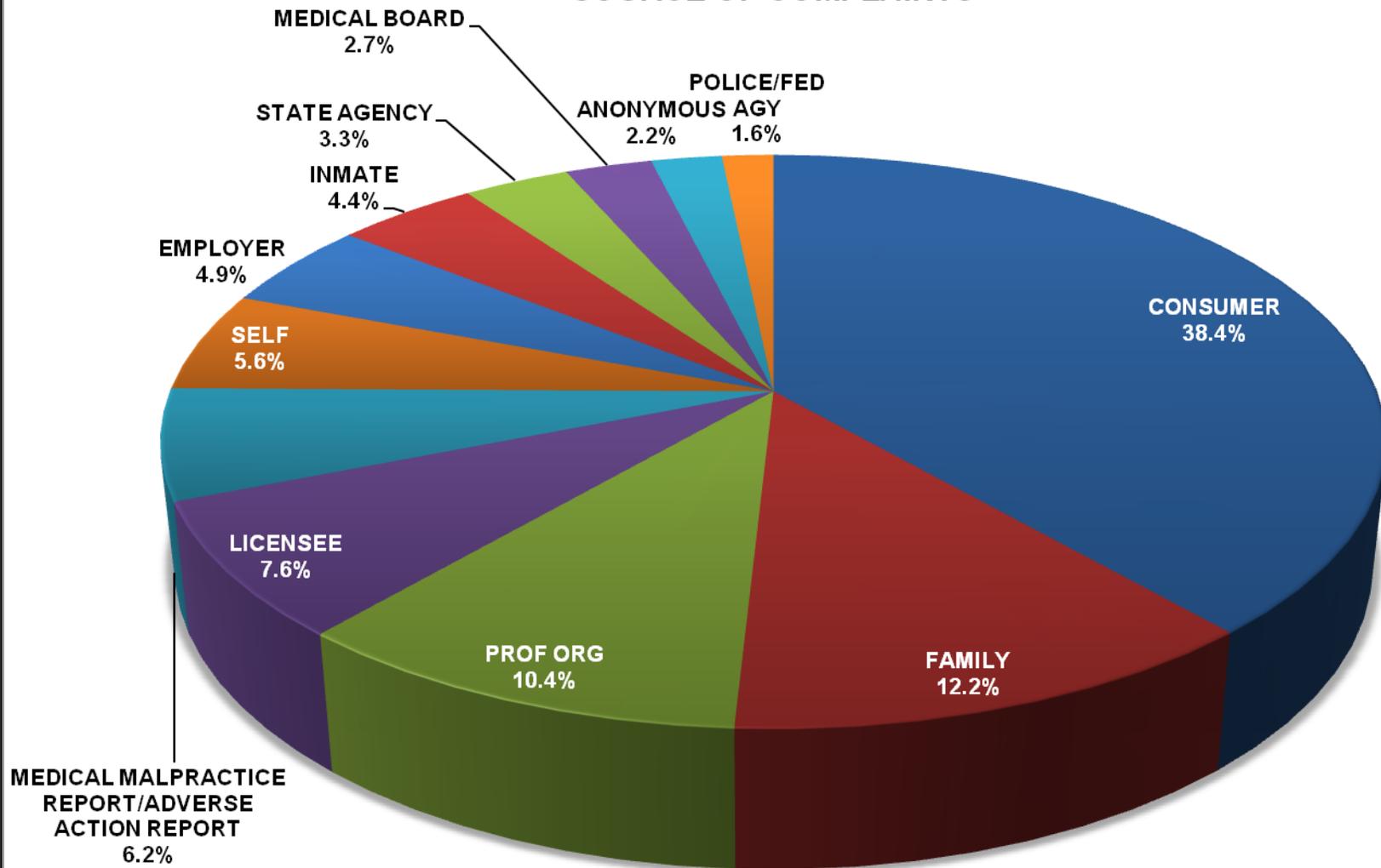
Where conduct is such that rehabilitation does not appear to be possible or the conduct is so egregious that patient safety requires immediate cessation of practice, the Division has recommended and vigorously pursued summary and permanent suspensions and revocations of a licensee's credential. The State of Wisconsin is very fortunate in having relatively few physicians whose conduct requires these resolutions.

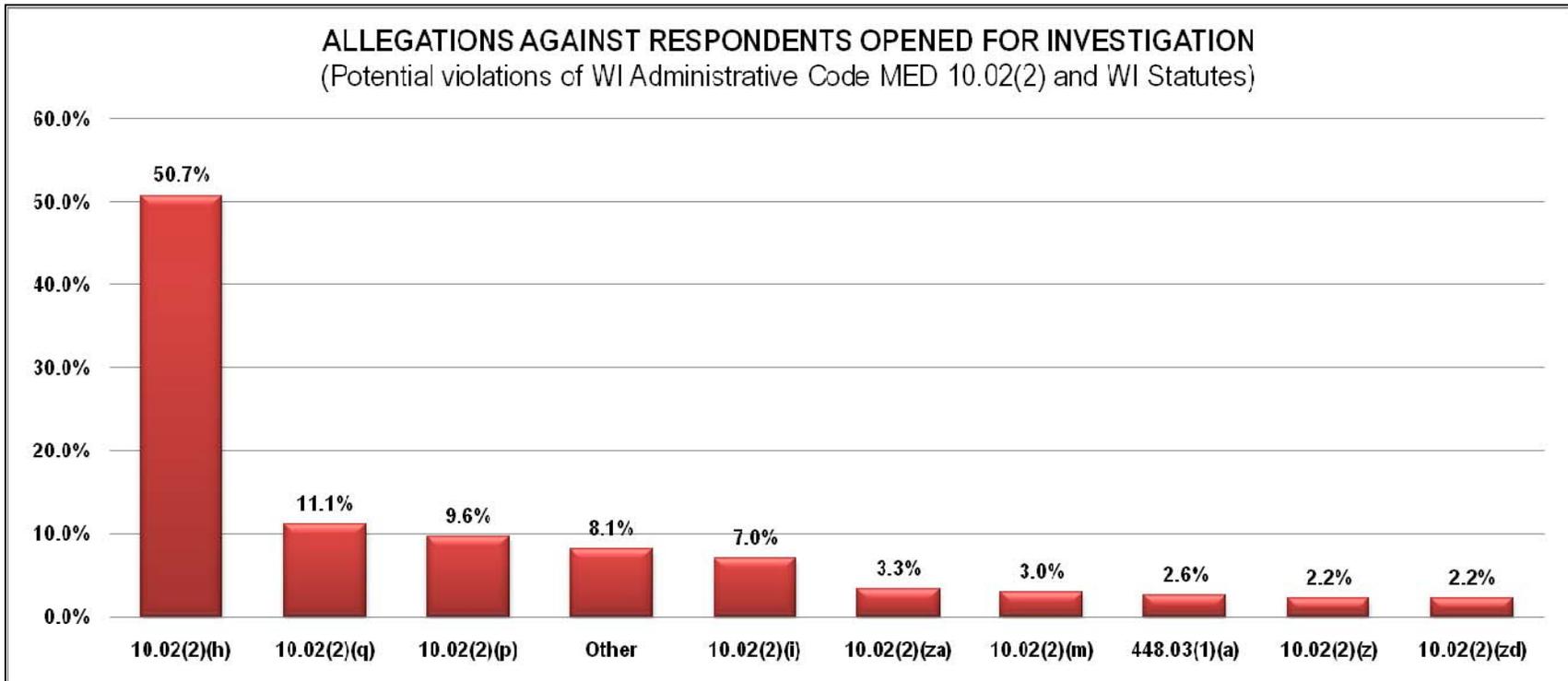
The Medical Examining Board (MEB) Enforcement Team was established by the legislature on September 28, 2009 after the Board recommended a re-structuring to allow for staff dedicated solely to medical cases. 3 attorneys, 1 paralegal and 3 investigators in existing positions were transferred to the new team. The additional positions established by the Budget Act were staffed as follows: a project paralegal position was filled on February 1, 2010, a ½ permanent paralegal position was filled on February 16, 2010, and a project investigator position was filled on March 1, 2010. In March 2010, the fourth attorney was hired and joined the team on August 23, 2010.

The team strongly believes that the purpose of the team is to identify and resolve cases which present the most serious danger and consequences to the patients and the public. To that end, the team has attempted to bring those cases to conclusion expeditiously. In addition, it has committed to resolving the older cases and to bring the caseload as current as possible. For the year 2010 the Board closed 457 cases, 54 with formal Board Orders. An additional significant number were closed informally with Administrative Warnings.

The Division of Enforcement has also been involved in several outreach projects to increase cooperation with other organizations and agencies to better identify, report and resolve issues of medical incompetence and other dangers to the public. For one, it has worked with the University of Wisconsin Physician Assessment Program to discuss methods to provide assessment, retraining and monitoring of licensees and respondents. A team member provided a presentation to the Wisconsin Association of Risk Managers in September to address the Division's case handling process and to work with hospitals and clinics in facilitating the sharing of information and resolution of matters involving potentially dangerous and/or incompetent physicians. The team is preparing a summary of hospital and clinic bylaws to determine factors which challenge the Division's ability to resolve cases by settlement when the hospital and clinic bylaws prohibit retaining physicians on staff who have had discipline imposed against them. The team also created new mechanisms to track cases and deadlines.

SOURCE OF COMPLAINTS





10.02(2)(h) Any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patient or public. **(Number: 137)**

10.02(2)(q) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice medicine and surgery or treat the sick, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government, including but not limited to the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct. **(Number: 30)**

10.02(2)(p) Administering, dispensing, prescribing, supplying, or obtaining controlled substances as defined in s. 961.01 (4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law. **(Number: 26)**

Other – Includes MED 10.02(2)(b), 10.02(2)(c), MED10.02(2)(d), MED10.02(2)(o), MED10.02(2)(r), MED10.02(2)(t), 448.02(3)(b), 448.02(4), 448.03, 448.02(1), 48.03(1m), 448.30, 448.76, 961.38(5). **(Number: 22 Respondents involved were three or less in each of the categories listed.)**

10.02(2)(i) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to patients. **(Number: 19)**

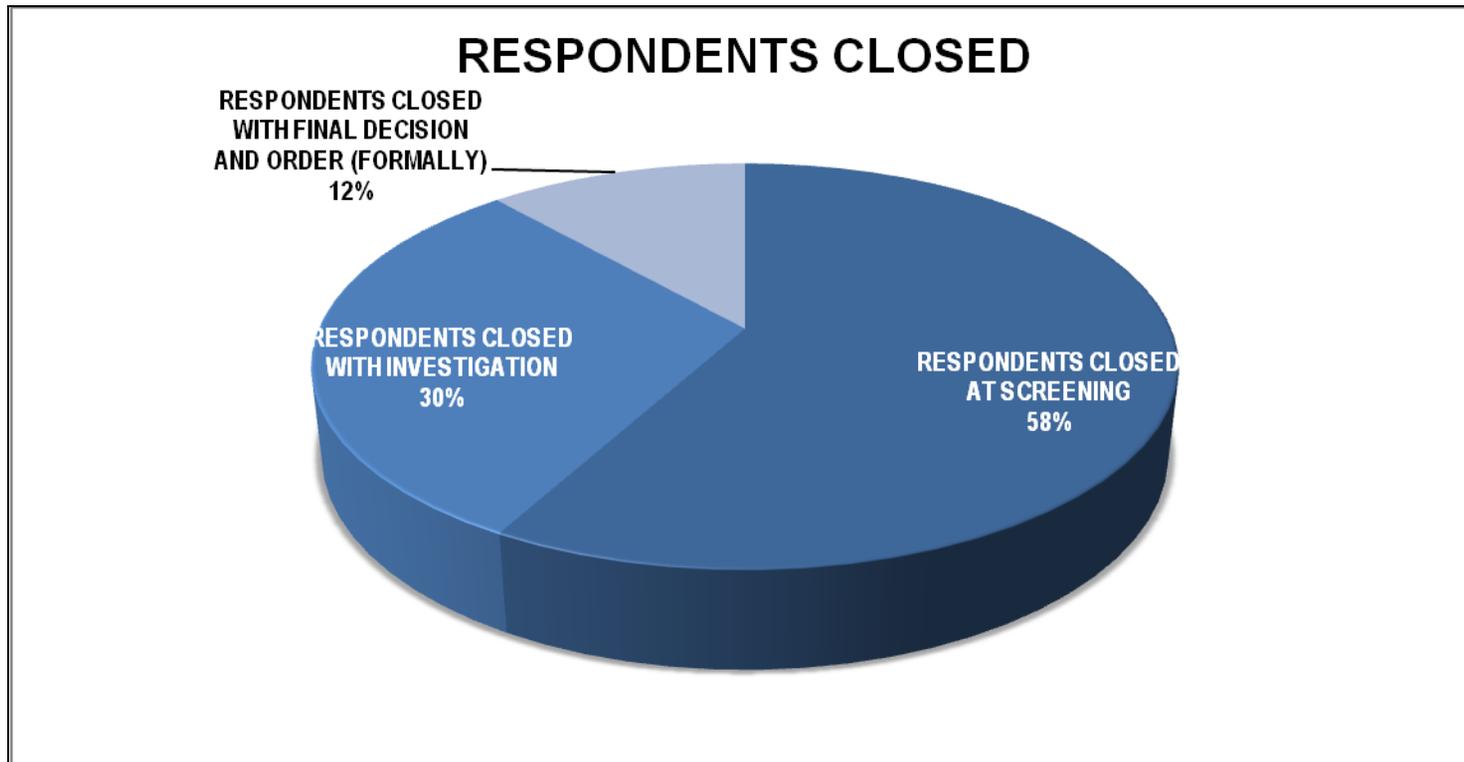
10.02(2)(za) Failure by a physician or physician assistant to maintain patient health care records consistent with the requirements of ch. Med 21. **(Number: 9)**

10.02(2)(m) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit. **(Number: 8)**

448.03(1)(a) No person may practice medicine and surgery, or attempt to do so or make a representation as authorized to do so, without a license to practice medicine and surgery granted by the board. **(Number: 7)**

10.02(2)(z) Violating or aiding and abetting the violation of any law or administrative rule or regulation the circumstances of which substantially relate to the circumstances of the practice of medicine. **(Number: 6)**

10.02(2)(zd) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient. For the purposes of this subsection, an adult receiving treatment shall continue to be a patient for 2 years after the termination of professional services. If the person receiving treatment is a minor, the person shall continue to be a patient for the purposes of this subsection for 2 years after termination of services, or for 2 years after the patient reaches the age of majority, whichever is longer. **(Number: 6)**



RESPONDENTS CLOSED AT SCREENING: 271 (58%)

Copies of the complaint and related information are screened by the Medical Examining Board Screening Panel and DOE staff to determine if an investigation is warranted. Complaints that do not warrant investigation are closed.

RESPONDENTS CLOSED WITH INVESTIGATION: 132 (30%) This count includes 16 respondents closed with *Administrative Warnings.

The investigator and attorney develop an investigative plan. Investigative staff gathers necessary evidence and make contacts with witnesses as needed. The case advisor is consulted on issues requiring professional expertise. The results of the investigation are provided to and discussed with the case advisor. The case advisor will make a final recommendation on the case. Cases that do not warrant professional discipline are closed.

RESPONDENTS CLOSED FORMALLY WITH **FINAL DECISION AND ORDER: 54 (12%)

Cases may resolve by means of stipulated agreements.. Cases may go to hearing where the DOE attorney litigates the case before an administrative law judge (ALJ). The ALJ issues a proposed decision which is reviewed by the credentialing board. If a violation is found, discipline may be imposed.

**Administrative Warning: Issued if a violation is of a minor nature and a first occurrence and the warning will adequately protect the public. Not reported to the National Practitioner's Data Bank (NPDB). The content of the warning is not public information.*

TYPE OF VIOLATION/CONDUCT

| TYPE OF VIOLATION/TYPE OF CONDUCT | PERCENT | NUMBER |
|--|---------------|-----------|
| *Violation of related law | 14.3% | 11 |
| Recordkeeping | 9.1% | 7 |
| Disciplinary actions in another state | 7.8% | 6 |
| Drug prescribing violations | 7.8% | 6 |
| Quality of care - Pain Management | 7.8% | 6 |
| Criminal conviction | 6.5% | 5 |
| Impairment | 6.5% | 5 |
| Multiple patients | 5.2% | 4 |
| Drug diversion for self use | 3.9% | 3 |
| Sexual contact | 3.9% | 3 |
| Quality - Internal Medicine | 2.6% | 2 |
| Quality of care - General | 2.6% | 2 |
| Quality of care - General Surgery | 2.6% | 2 |
| Quality of care - Neurosurgery | 2.6% | 2 |
| Quality of care - Ophthalmology | 2.6% | 2 |
| Board Order violation | 1.3% | 1 |
| Boundary violations | 1.3% | 1 |
| Conduct involved death of patient | 1.3% | 1 |
| Multiple incidents with same patient | 1.3% | 1 |
| Quality of care - Cardiology | 1.3% | 1 |
| Quality of care - Gastroenterology | 1.3% | 1 |
| Quality of care - Internal Medicine | 1.3% | 1 |
| Quality of care - Obstetrics | 1.3% | 1 |
| Quality of care - Vascular Surgery | 1.3% | 1 |
| Unlicensed practice | 1.3% | 1 |
| Unprofessional conduct - miscellaneous | 1.3% | 1 |
| TOTAL | 100.0% | 77 |

***Violation of Related Law:** When one breaks a law that is related to their practice, even though the law is not a part of the profession's guiding statutes or rules.

- A Final Decision and Order may have more than one conduct/violation therefore; the conduct /violation numbers will be higher than the Final Decisions & Orders.

TYPE OF DISCIPLINE/OUTCOME
(Sorted by Percent Highest – Lowest)

| TYPE OF DISCIPLINE/OUTCOME | PERCENT | NUMBER |
|--|---------------|-----------|
| Reprimand | 27.6% | 24 |
| Limitation requiring education/testing with findings | 16.1% | 14 |
| Limitation restricting practice with findings | 12.6% | 11 |
| Suspension | 11.5% | 10 |
| Surrender/agreement not to renew with findings | 10.3% | 9 |
| Limitation requiring assessment/treatment/screens with findings | 9.2% | 8 |
| Surrender/agreement not to renew without findings | 3.4% | 3 |
| Summary suspension | 2.3% | 2 |
| Limitation requiring assessment/treatment/screens without findings | 1.1% | 1 |
| Limitation requiring education without findings | 1.1% | 1 |
| Revocation | 1.1% | 1 |
| Surrender/agreement not to renew without finding while investigation pending | 1.1% | 1 |
| Suspension - stayed | 1.1% | 1 |
| Dismissed | 1.1% | 1 |
| TOTAL | 100.0% | 87 |

Dismissal: An Order or judgment finally disposing of an action without further consideration

Limitation of a License: defined in Wis. Stat. § 440.01(1)(d) to mean "to impose conditions and requirements upon the holder of the credential, and to restrict the scope of the holder's practice."

Reprimand: A public warning of the licensee for a violation. This is reported to the NPDB.

Summary Suspension: Expedited disciplinary procedure that is used when necessary for immediate protection of the public health, safety or welfare.

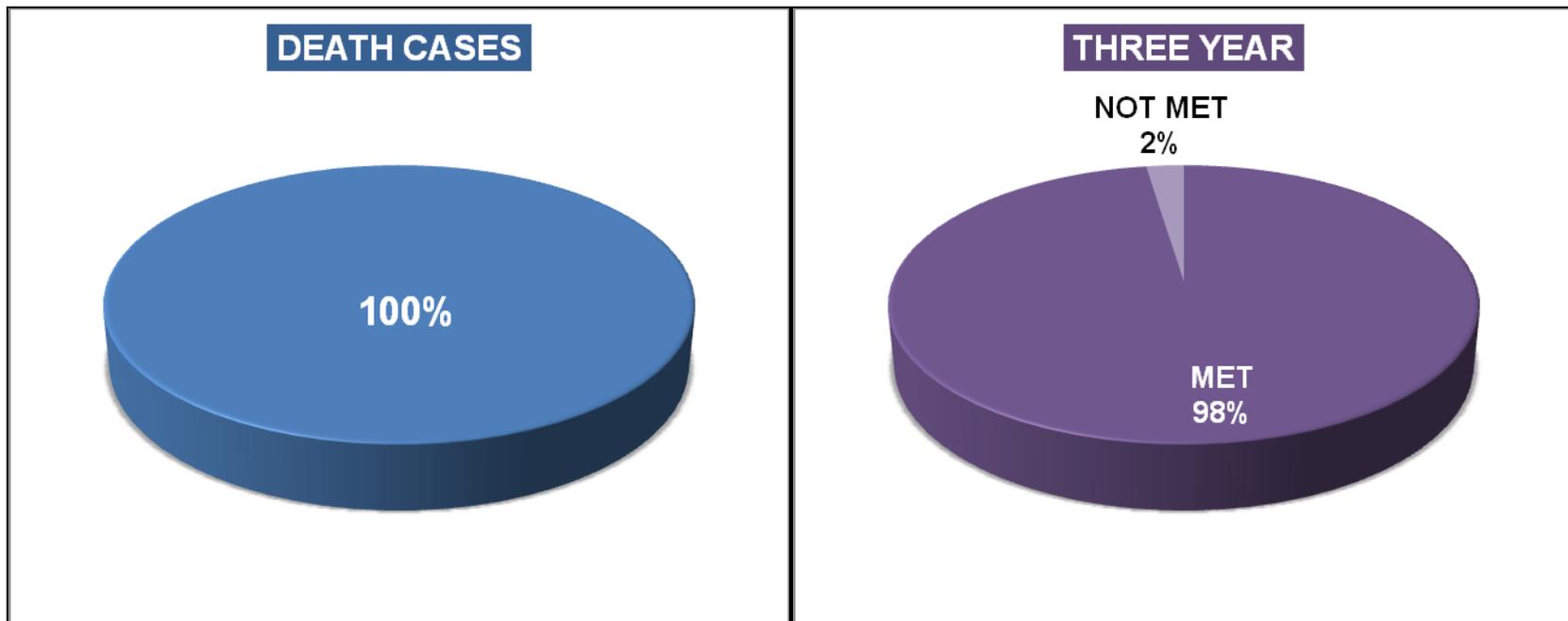
Suspension: "suspend" is defined in Wis. Stat. § 440.01(h) to mean "to completely and absolutely withdraw and withhold for a period of time all rights, privileges and authority previously conferred by the credential." Licensee may not engage in the practice of the profession during term of suspension.

Revocation: "revoke" is defined in Wis. Stat. § 440.01(f) to mean "to completely and absolutely terminate the credential and all rights, privileges and authority previously conferred by the credential".

*The total number of disciplines/outcomes will be higher than the number of Final Decisions and Orders. A Final Decision and Order may involve multiple disciplines/outcomes.

Note: This chart does not include Administrative Warnings because they are not considered disciplines.

PERCENTAGE OF CASES/RESPONDENTS THAT MET THE STATUTORY DEADLINE



Wis. Stat. § 448.02(3)(cm) – The Board may initiate disciplinary action against a physician no later than one year after initiating an investigation of an allegation involving the death of a patient and no later than three years after initiating an investigation of any other allegation, unless the Board shows to the satisfaction of the Secretary that a specified extension of time is necessary for the Board to determine whether a physician is guilty of unprofessional conduct or negligence in treatment.

Date initiating an investigation – Wis. Admin. Code § RL 2.20(2) Computing Time Limits. In computing time limits under s. 448.02(3)(cm), the date of initiating an investigation shall be the date of the decision to commence an investigation of an informal complaint following the screening of the informal complaint under s. RL 2.023, except that if the decision to commence an investigation of an informal complaint is made more than 45 days after the date of receipt of the informal complaint in the division, or if no screening of the informal complaint is conducted, the time for initiating an investigation shall commence 45 days after the date of receipt of the informal complaint in the division. The date that the Medical Examining Board initiates a disciplinary action shall be the date that a disciplinary proceeding is commenced under s. RL 2.04

MONITORING

LICENSEES IN MONITORING PROGRAM AS OF JANUARY 25, 2011: 344

TYPES OF DISCIPLINE THAT REQUIRE MONITORING

1. **Revocation**: The licensee must return his/her license to DRL and is prohibited from practice in the State of Wisconsin. If the credential holder petitions for reinstatement, the Board may grant the reinstatement with or without conditions.
2. **Voluntary Surrender**: The licensee surrenders the registration and/or license. The licensee is prohibited from practice in the State of Wisconsin. If the person petitions for reinstatement, the Board may grant the reinstatement with or without conditions. Some Orders prohibit the person from being reinstated after surrendering.
3. **Suspension**: A licensee is suspended from practice for a set period of time or indefinitely. Some suspensions may be stayed under specific conditions.
4. **Impairment**: The licensee is suspended for a period of usually five years with stays allowing the licensee to practice as long as the person remains in compliance with the Order. The licensee must undergo random drug screens, attend AA/NA meetings, enter into treatment, submit self reports, and arrange for therapy reports and mentor reports.
5. **Continuing Education**: The licensee is required to take continuing education in a specific topic.
6. **Mentor**: The licensee is required to have a professional mentor, who provides practice evaluations as specified by the Order.
7. **Reports**: The licensee is required to have reports by a therapist or supervisor submitted to the Department.
8. **Exam**: The licensee is required to take and pass successfully an examination (e.g. FSMB's Special Purpose Examination).
9. **Costs**: The licensee is required to pay the costs of the investigation and disciplinary proceeding.

CREDENTIALING ACTIVITY

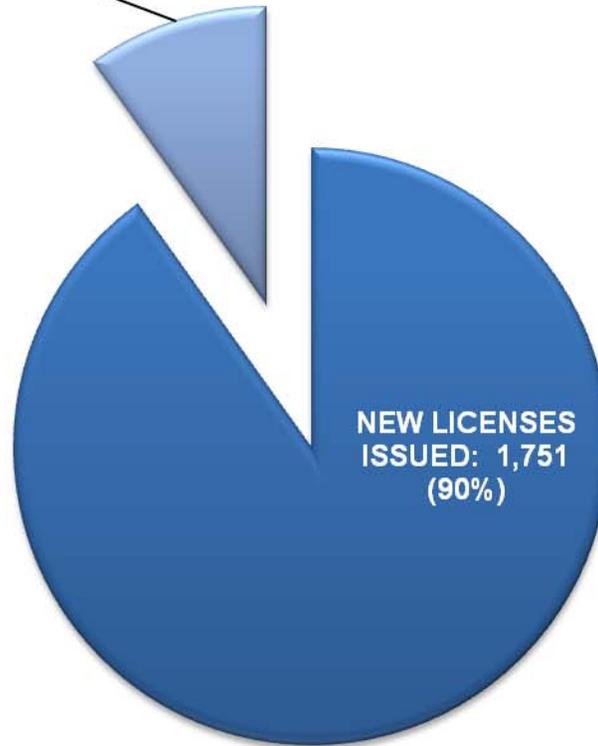
In 2010, there were three dedicated credentialing specialists working exclusively on licensing physicians and associated professionals to ensure that applications meet eligibility requirements established in Wisconsin statutes and administrative code. Licenses are not issued until applications are complete and all necessary verifications are received. Staff for the Medical Examining Board Bureau issues over 2,000 new physician credentials annually and renews more than 22,000 licenses biennially.

Recent accomplishments:

- The average time to review new documentation for license applications has been reduced from 10-15 business days to 7. In almost all cases, licenses are issued on the same day that all documents are received and all requirements are met.
- Processing time for license verifications has been reduced from 10-15 business days to 5.
- Over 90 percent of licenses are renewed online, which has streamlined the renewal process. Online renewal has also facilitated the Department's ability to collect e-mail addresses of credential holders, which in turn improves communication with licensed physicians.
- The process of obtaining a Wisconsin license for physicians already licensed in Minnesota has been improved. An applicant with a full and unrestricted MN license who is applying to WI may use an expedited endorsement application. It is more streamlined than the standard application process.

LICENSES ISSUED

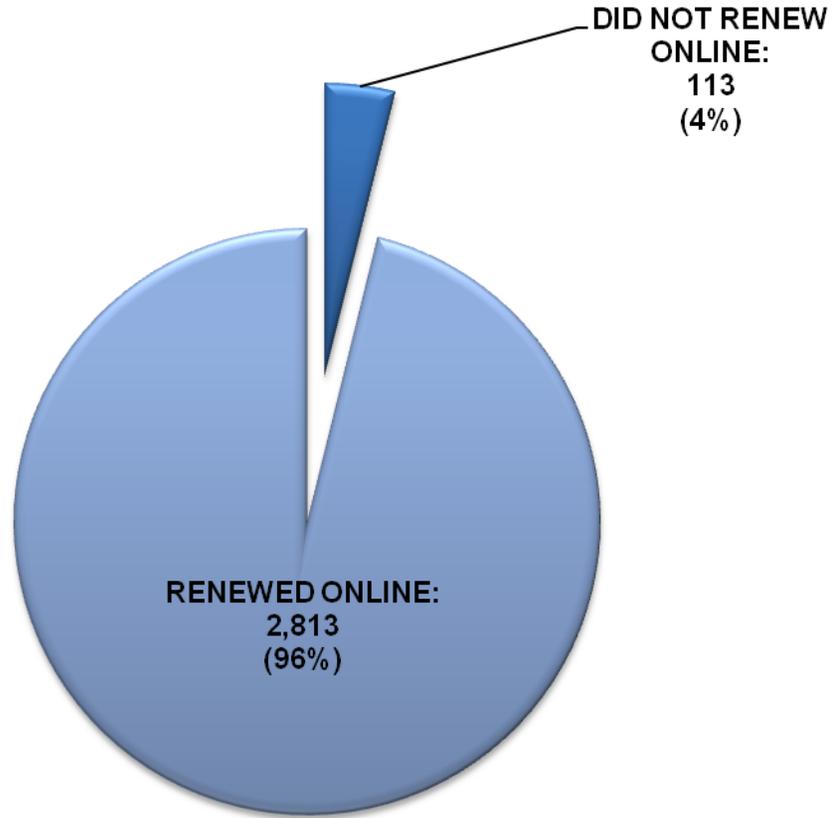
APPLICANTS NOT
ISSUED A LICENSE:
192
(10%)



NEW LICENSES
ISSUED: 1,751
(90%)

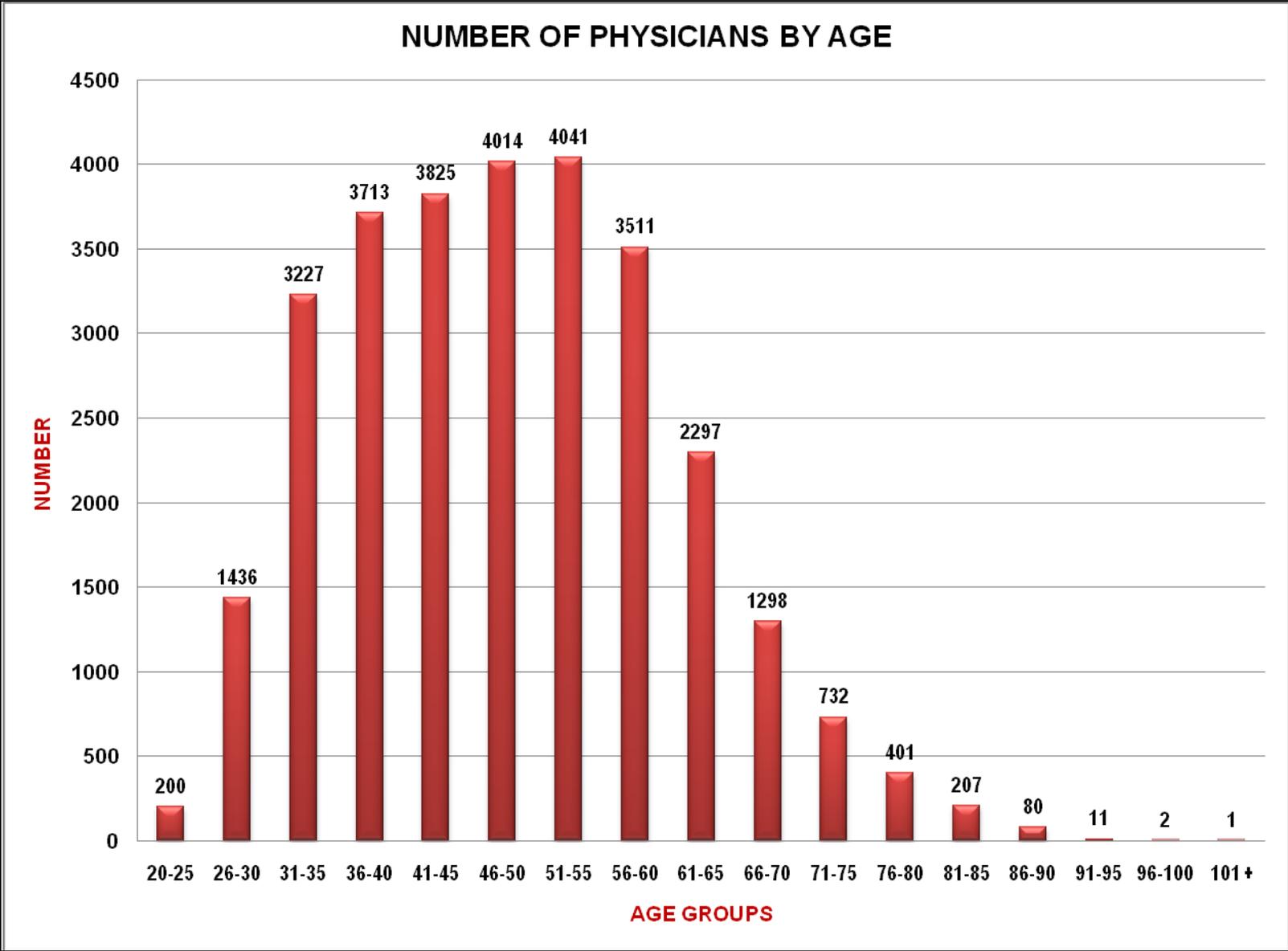
TOTAL NUMBER OF APPLICATIONS RECEIVED: 1,943

TOTAL LICENSES RENEWED



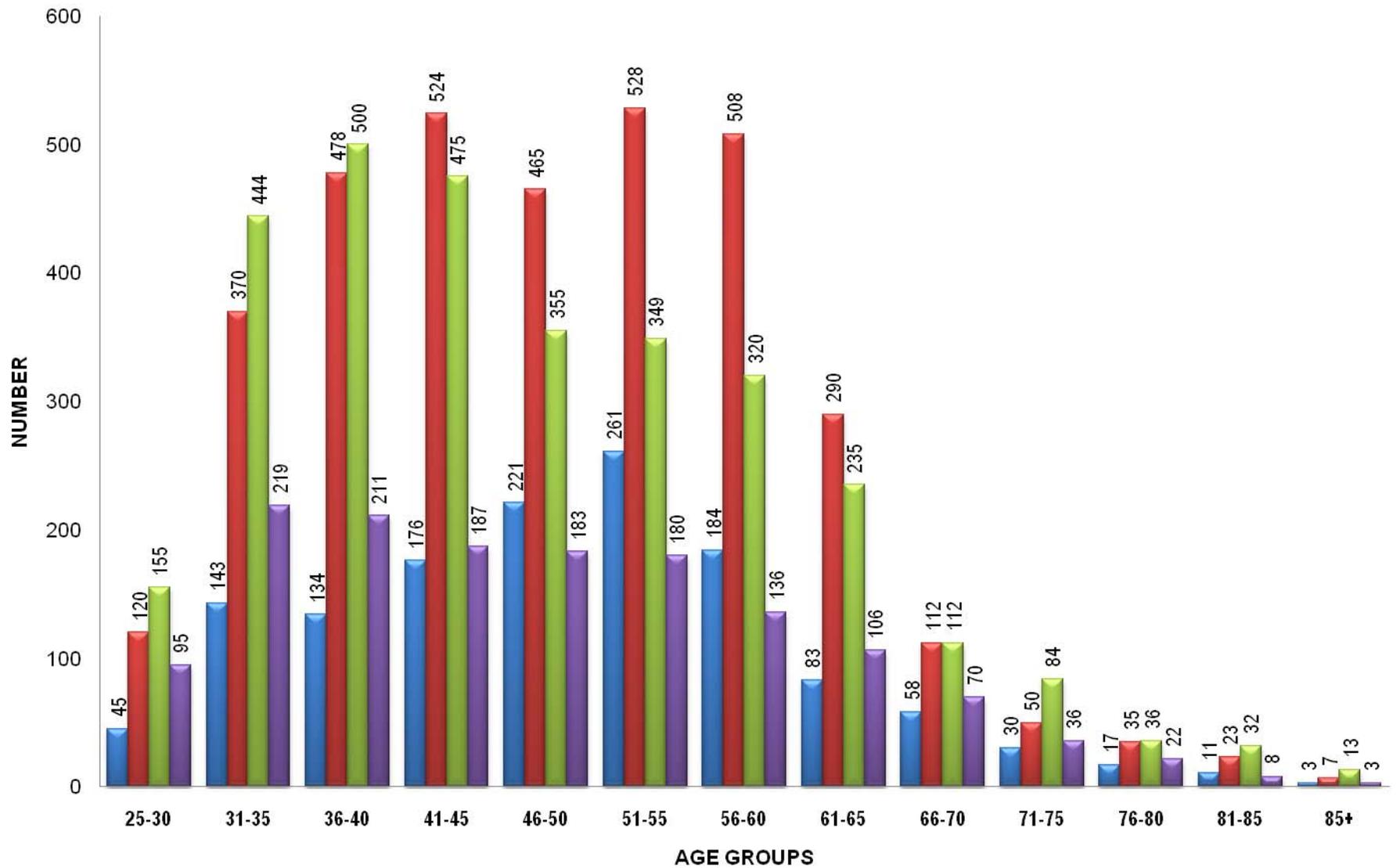
TOTAL LICENSES RENEWED: 2,926

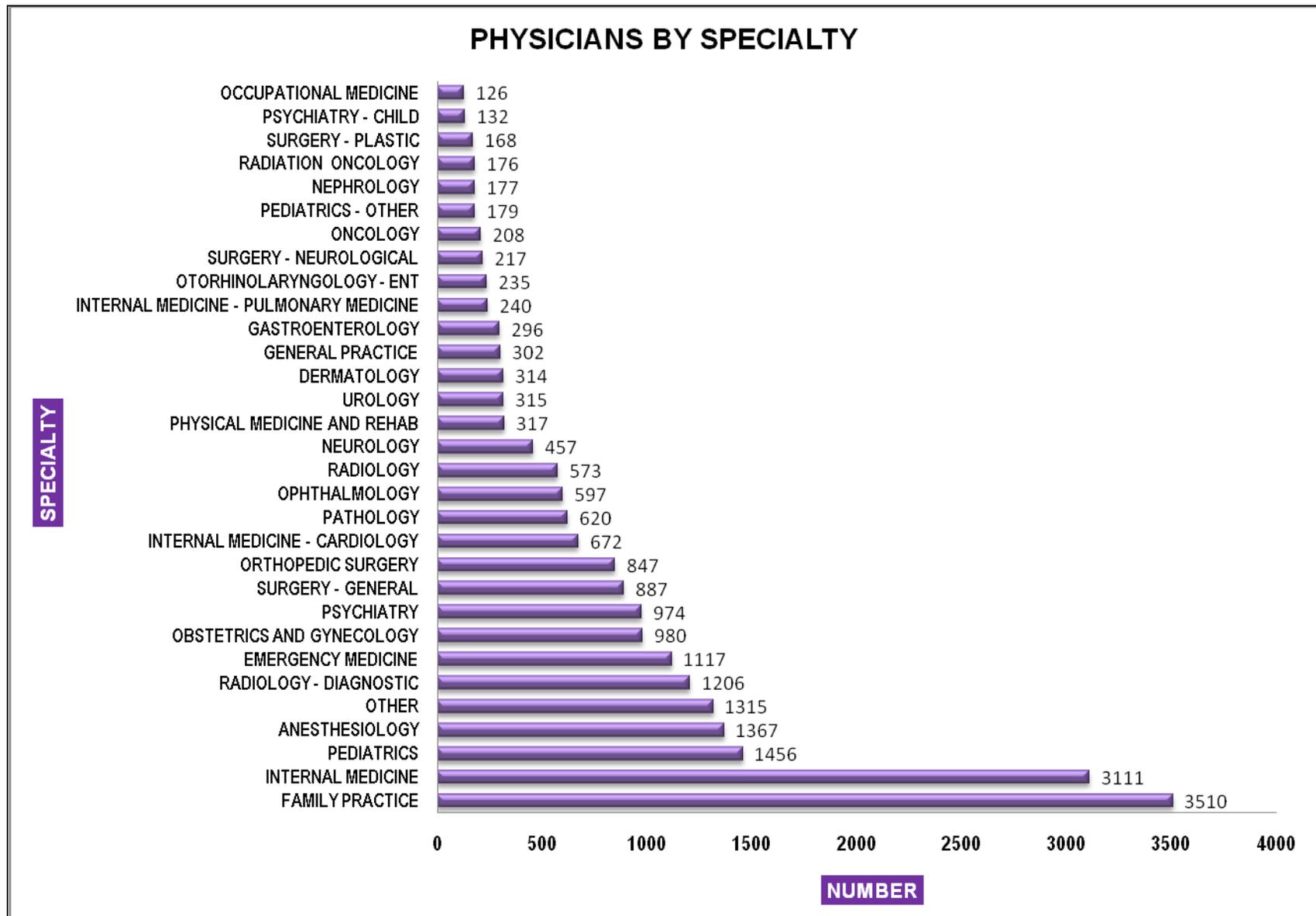
The annual renewal deadline for M.D. physicians is October 31 of odd-numbered years. The renewal deadline for D.O. physicians is February 28 of even numbered years.



AGE OF PHYSICIANS IN THE FOUR LARGEST SPECIALTIES

■ ANESTHESIOLOGY
 ■ FAMILY PRACTICE
 ■ INTERNAL MEDICINE
 ■ PEDIATRICS





TOTAL NUMBER OF CREDENTIALS BY SPECIALTY: 24,406

- OTHER Specialty – see Sub-Graph on following page. Includes 1,315 credentials by specialty other than listed on graph above.
- A limited number of physicians may have more than one specialty.
- 5891 physicians are not included as they have no specialty on file.

SUB-GRAPH OF PHYSICIANS BY SPECIALTY "OTHER"

