

Wisconsin Medical Examining Board Annual Report



January 1 – December 31, 2012

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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. The listing below includes all individuals who served a whole or partial year on the Board in 2012.

2012 MEB Members

Sheldon Wasserman, MD, Chair (Milwaukee)
Gene Musser, MD, Vice-Chair (Madison)
Jude Genereaux, Public Member, Secretary (Ellison Bay)
James Barr, Public Member (Chetek)
Carolyn Bronston, Public Member (Wausau)
Mary Jo Capodice, DO (Sheboygan)
Greg Collins, Public Members (De Pere)
James Conterato, MD (Marshfield)
Rodney Erickson, MD (Tomah)
LaMarr Franklin, Public Member (Glendale)
Sujatha Kailas, MD MBA (Fond du Lac)
Christopher Magiera, MD (Wausau)
Raymond Mager, DO (Bayside)
Suresh Misra, MD (Milwaukee)
Sandra Osborn, MD (Madison)
Kenneth Simons, MD (Milwaukee)
Timothy Swan, MD (Marshfield)
Sridhar Vasudevan, MD (Belgium)
Timothy Westlake, MD (Hartland)

2012 Executive Staff

Dave Ross, Secretary
Bill Wendle, Deputy Secretary
Greg Gasper, Executive Assistant

Administrative Staff

Tom Ryan, Executive Director
Sandra Nowack, Legal Counsel
Yolanda McGowan, Legal Counsel
Pam Stach, Legal Counsel
Shawn Leatherwood, Advanced Paralegal
Karen Rude-Evans, Bureau Assistant
Matt Niehaus, Bureau Assistant

Executive Summary

The primary responsibility and obligation of the Wisconsin Medical Examining Board is to protect health care consumers by ensuring that all credential holders are appropriately credentialed and comply with laws and regulations pertaining to the practice of the profession. The Wisconsin Medical Examining Board protects the public from incompetent and unprofessional practice through laws and regulations that define the practice of medicine and the responsibility of the Board to regulate it. This guidance is outlined in state statute, which is referred to as the Practice Act. Within this legislative charge, the Board performs three principal duties in fulfilling its mission: 1) Writing Administrative Code (rules); 2) Credentialing professionals; 3) Disciplining professionals for unsafe and incompetent practice and unprofessional conduct. Activities of the Board are funded by licensing and registration fees.

The purpose of this report is to provide information about the Board's activity and progress made in 2012.

MEDICAL EXAMINING BOARD



DIVISION OF LEGAL SERVICES AND COMPLIANCE STATISTICS

(January 1, 2012 – December 31, 2012)

DIVISION OF LEGAL SERVICES AND COMPLIANCE

The Division of Legal Services and Compliance (DLSC) is a public law office which provides legal services to professional boards and regulated industries. As part of these services, DLSC provides a specially funded Medical and Affiliates Prosecution Team which consists of intake staff, investigators, paralegals, prosecutors and a designated board counsel. DLSC also monitors compliance with disciplinary orders and administers the Professional Assistance Procedure -- a confidential monitoring program for impaired professionals.

Over the past two years, DLSC Enforcement Teams have had unprecedented success in resolving the backlog of pending cases. This has resulted in more manageable caseloads, and in turn, higher levels of consumer protection and a renewed focus on quality legal work. DLSC has the capacity to allocate resources as necessary to ensure responsible consumer protection.

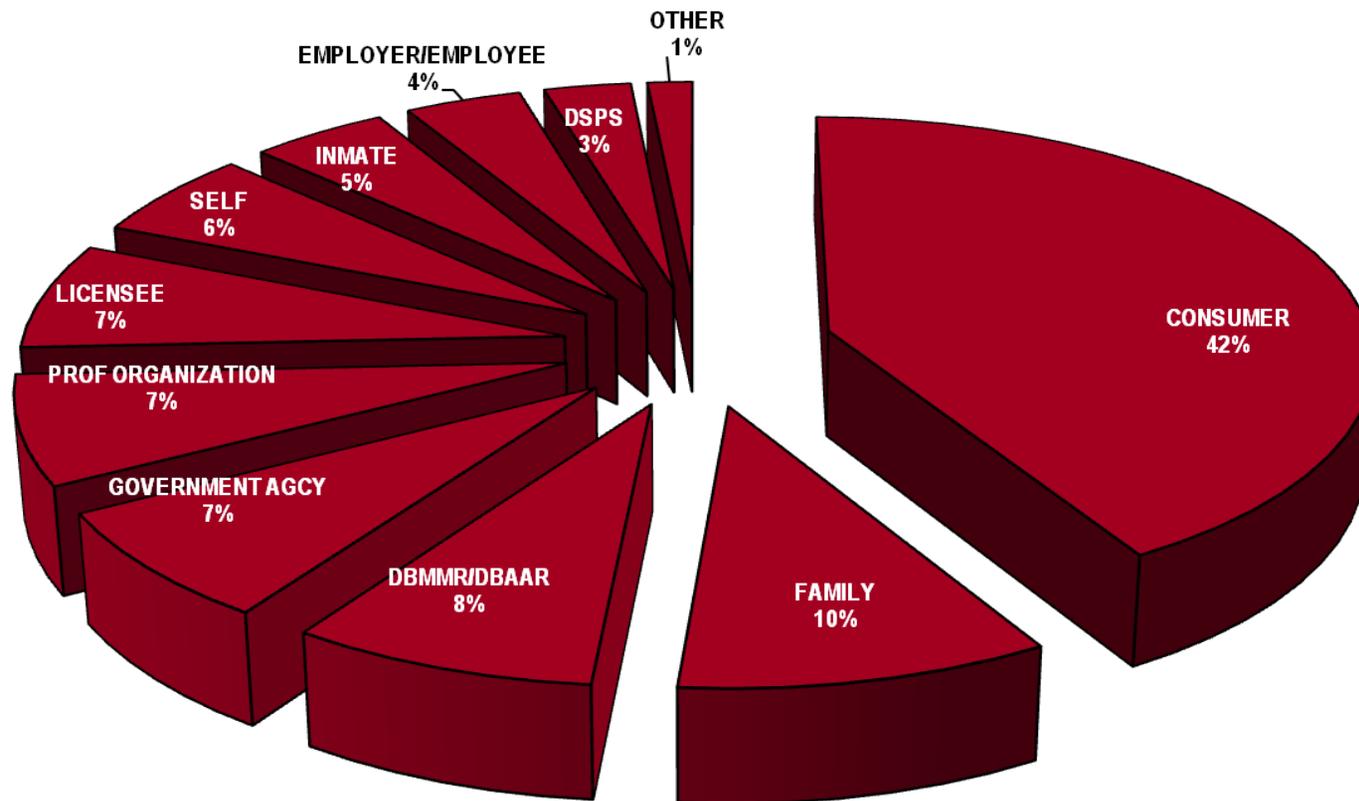
Key DLSC statistics for 2012 for the Medical Examining Board (MEB) include:

- Complaints Received: **460**
- Complaints Resolved:
 - Suspensions/Surrenders/Revocation issued by the MEB: **47**
 - Cases resolved formally by the MEB (through prosecution and negotiated stipulations): **107**
 - Complaints closed by the MEB after Investigation (without a Formal Order): **137**
 - Complaints closed by the Board's Screening Panels: **303**
- MEB Case Backlog Eliminated: Cases from 2009 pending (**5**) and 2010 (**2**) -- all in hearing
- DLSC Compliance with Statutory Deadlines (death and three year cases): **100%**
- Average Resolution Time for Formal Orders - **18.3** months and for cases closed after investigation - **8.3** months

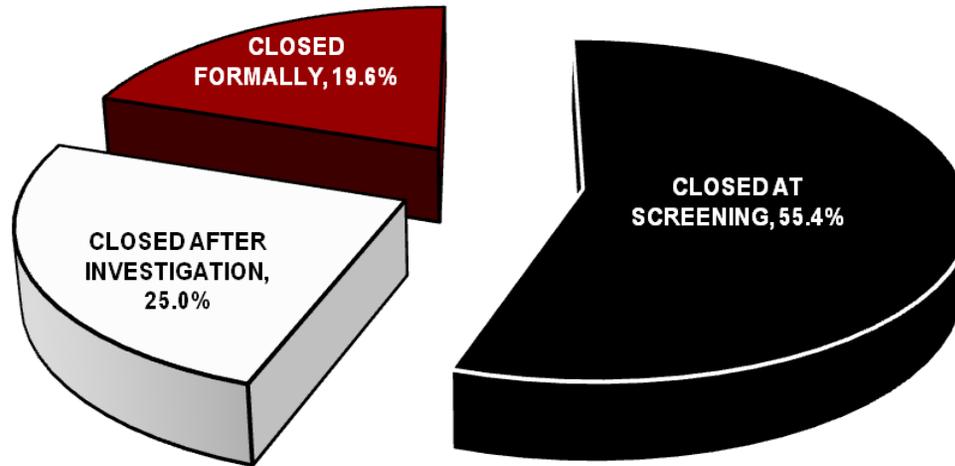
In 2012, DLSC consolidated legal services, implemented staff production metrics and quality control procedures, standardized templates and conducted legal training, which has resulted in enhanced efficiencies, higher standards of service to our Boards and responsible consumer protection. These improved services are reflected in our statistics. DLSC respects and values the MEB's service to the State of Wisconsin and members of its profession. We look forward to continuing our partnership in 2013 and working hard to continue to improve our services to the MEB and to the public, including our revamped case advisor training methods and materials which will be unveiled in the weeks to come.

Note: In January 2011 DLSC had a total of **221** cases in backlog status for all professional boards (defined as cases aged 2008 or older). Currently, the backlog has been all but eliminated with **only 2** cases from 2008 - both in hearing. Only **17** cases remain for all boards from 2009 and 2010. This accomplishment is unprecedented in the Department's history.

SOURCE OF COMPLAINTS IN 2012



COMPLAINTS CLOSED - 2012



CLOSED AT SCREENING: 303 (55.4%)

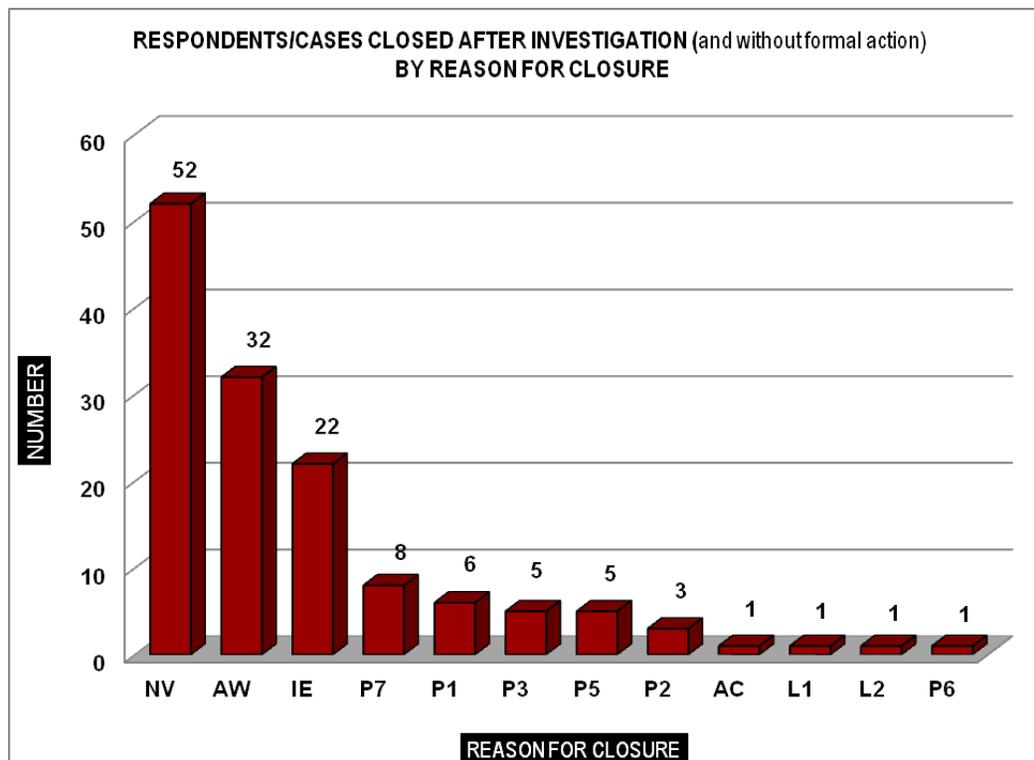
Copies of the complaint and related information are screened by the Medical Examining Board Screening Panel and DLSC legal staff to determine if an investigation is warranted. Complaints that do not warrant investigation are closed.

CLOSED AFTER INVESTIGATION WITHOUT A FORMAL ORDER: 137 (25.0%)

The investigator and attorney develop an investigative plan. Investigative staff gathers necessary evidence and makes contacts with witnesses. 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 makes a final recommendation on the professional aspects of the case. The attorney makes a final recommendation on the legal aspects of the case. Cases that do not warrant professional discipline are closed. *This category includes Administrative Warnings: 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.*

CLOSED WITH FORMAL ORDER: 107 (19.6%)

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



- **NO VIOLATION OF STATUTES OR RULES (NV)** - There is sufficient evidence to show that no violation of statutes or rules occurred.
- **ADMINISTRATIVE WARNING (AW)** - There was an Administrative Warning issued to the credential holder pursuant to Sec. 440.205, Stats. Administrative warnings do not constitute an adjudication of guilt or the imposition of discipline and may not be used as evidence that the credential holder is guilty of the alleged misconduct.
- **INSUFFICIENT EVIDENCE FOR PROSECUTION (IE)** - There is insufficient evidence to meet the standard of proof required to prove that a violation occurred.
- **PROSECUTORIAL DISCRETION (P7)** - There may have been a violation, but the regulatory authority has taken action in regard to this credential holder that addressed the conduct and further action is unnecessary.
- **PROSECUTORIAL DISCRETION (P1)** - There may have been a minor or technical violation but a decision was made not to commence formal disciplinary action because the incident in question was not seriously harmful to the public.
- **PROSECUTORIAL DISCRETION (P3)** - There may have been a violation that is more than a minor or technical violation. However, it is not a violation, which caused serious harm, and a determination has been made that the expenditure of resources required to pursue the violation would greatly exceed the value to the public of having the matter pursued.
- **PROSECUTORIAL DISCRETION (P5)** - There may have been a violation, but because the person or entity in question cannot be located, is no longer actively practicing or does not have a current credential to practice, a decision was made to close the case and place a "FLAG OR HOLD" on the credential in accordance with the Department's "Hold Status and Flagged Credentials" Policy. In the event that the person or entity is located an application for renewal of the credential is received or the credential is renewed, the case may be re-opened and reconsidered.
- **PROSECUTORIAL DISCRETION (P2)** - There may have been a minor or technical violation but a decision was made not to commence formal disciplinary action on the grounds that compliance with statutes or rules has been gained.
- **ADMINISTRATIVE CLOSURE (AC)** - There is a duplicate complaint; a file was opened in error; or the Respondent named in the complaint is inaccurately identified.
- **LACK OF JURISDICTION (L1)** - There is no authority to act regarding the subject matter of the complaint.
- **LACK OF JURISDICTION (L2)** - There is authority to act on the subject matter or the complaint, but no authority to act regarding the person or entity in question.
- **PROSECUTORIAL DISCRETION (P6)** - There may have been a violation, but litigation is pending which involves the credential holder and affects the licensing authority's ability to investigate the case. At the conclusion of the litigation, the case will be reviewed and the licensing authority may consider the case once again.

TYPE OF DISCIPLINE/OUTCOME ISSUED FROM FINAL DECISIONS and ORDERS

TYPE OF DISCIPLINE/OUTCOME	NUMBER
REPRIMAND	49
LIMITATION REQUIRING EDUCATION/TESTING WITH FINDINGS	32
LIMITATION RESTRICTING PRACTICE WITH FINDINGS	16
LIMITATION REQUIRING REPORTS WITH FINDINGS	11
SURRENDER/AGREEMENT - IF REAPPLY BOARD MAY IMPOSE LIMITATIONS	9
SUSPENSION (STAYED)	9
SURRENDER/AGREEMENT - RENEW UPON PAYMENT OF FEE	8
LIMITATION - MAINTAIN COMPLIANCE WITH EACH TERM OF ANOTHER STATE ORDER	7
LIMITATION REQUIRING TREATMENT WITH FINDINGS	7
LIMITATION REQUIRING MENTOR/SUPERVISION WITH FINDINGS	6
SURRENDER/AGREEMENT - REQUIREMENTS TO BE MET BEFORE REAPPLYING	6
LIMITATION REQUIRING SCREENS WITH FINDINGS	4
LIMITATION REQUIRING ASSESSMENT WITH FINDINGS	3
SURRENDER/AGREEMENT NOT TO RENEW WITH FINDINGS	3
SURRENDER/AGREEMENT NOT TO RENEW WITHOUT FINDINGS	3
SUSPENSION	3
SUSPENSION WITHOUT FINDINGS	2
REMEDIAL EDUCATION WITHOUT FINDINGS - NON DISCIPLINARY	2
SUSPENSION (SUMMARY)	2
DISMISSAL AFTER HEARING DUE TO ADDITIONAL INFORMATION	1
LIMITATION REQUIRING MENTOR/SUPERVISION WITHOUT FINDINGS	1
LIMITATION REQUIRING TREATMENT WITHOUT FINDINGS	1
LIMITATION RESTRICTING PRACTICE WITHOUT FINDINGS	1
REVOCAION	1
SUSPENSION (STAYED) WITHOUT FINDINGS	1
TOTAL	188

DISMISSAL: An Order of judgment finally disposing of an action.

LIMITATION: Defined in Wis. Stat. § 440.01(1)(d) to mean "to impose conditions and requirements upon the holder of the credential, to restrict the scope of the holder's practice, or both."

REPRIMAND: A public warning of the licensee for a violation.

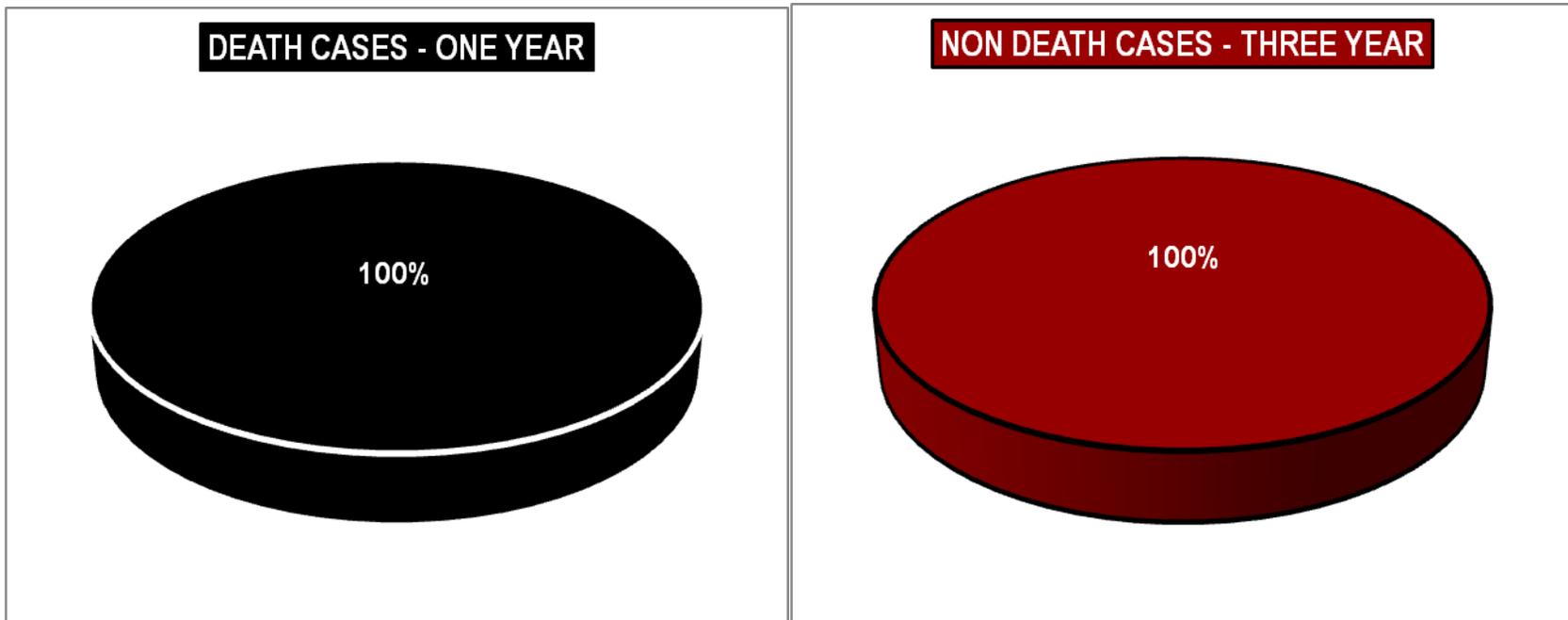
SUSPENSION (SUMMARY): Expedited disciplinary procedure used when necessary for immediate protection of the public health, safety or welfare.

SUSPENSION: Wis. Stat. § 440.01(h) "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.

REVOCAION: Wis. Stat. § 440.01(f) "to completely and absolutely terminate the credential and all rights, privileges and authority previously conferred by the credential.

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

PERCENTAGE OF CASES/RESPONDENTS THAT MET THE STATUTORY DEADLINE IN 2012



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 § SPS 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. SPS 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 is the date that a disciplinary proceeding is commenced under s. SPS 2.04.

LICENSEES IN MONITORING PROGRAM AS OF MARCH 6, 2013

Active: 154

Inactive: 108

Active monitoring is the monitoring of cases with pending requirements with specific due dates or timeframes. Such cases require affirmative work by monitoring staff to ensure compliance. Examples of these requirements are costs, work reports, drug screens, therapy/work supervisor reports, etc.

Inactive or passive monitoring is the monitoring of cases with requirements that have no specific due date or timeframe. No work is generally required to determine compliance. Examples are indefinite suspensions, permanent limitations, revocations, voluntary surrenders.

TYPES OF DISCIPLINES THAT REQUIRE MONITORING

1. **Remedial Education:** The licensee is required to take continuing education in a specific topic.
2. **Exam:** The licensee is required to take and pass successfully an examination (ex. FSMB's Special Purpose Examination).
3. **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.
4. **Limitations:** Impose conditions and requirements upon the holder of the credential, or restrict the scope of the holder's practice, or both.
5. **Mentor:** The licensee is required to have a professional mentor, which provides practice evaluations as specified by the Order.
6. **Reports:** The licensee is required to have reports by a therapist or supervisor submitted to the Department.
7. **Revocation:** The licensee must return their license to DSPS 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.
8. **Suspension:** A licensee is suspended from practice for a set period of time or indefinitely. Some suspensions may be stayed under specific conditions.
9. **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.

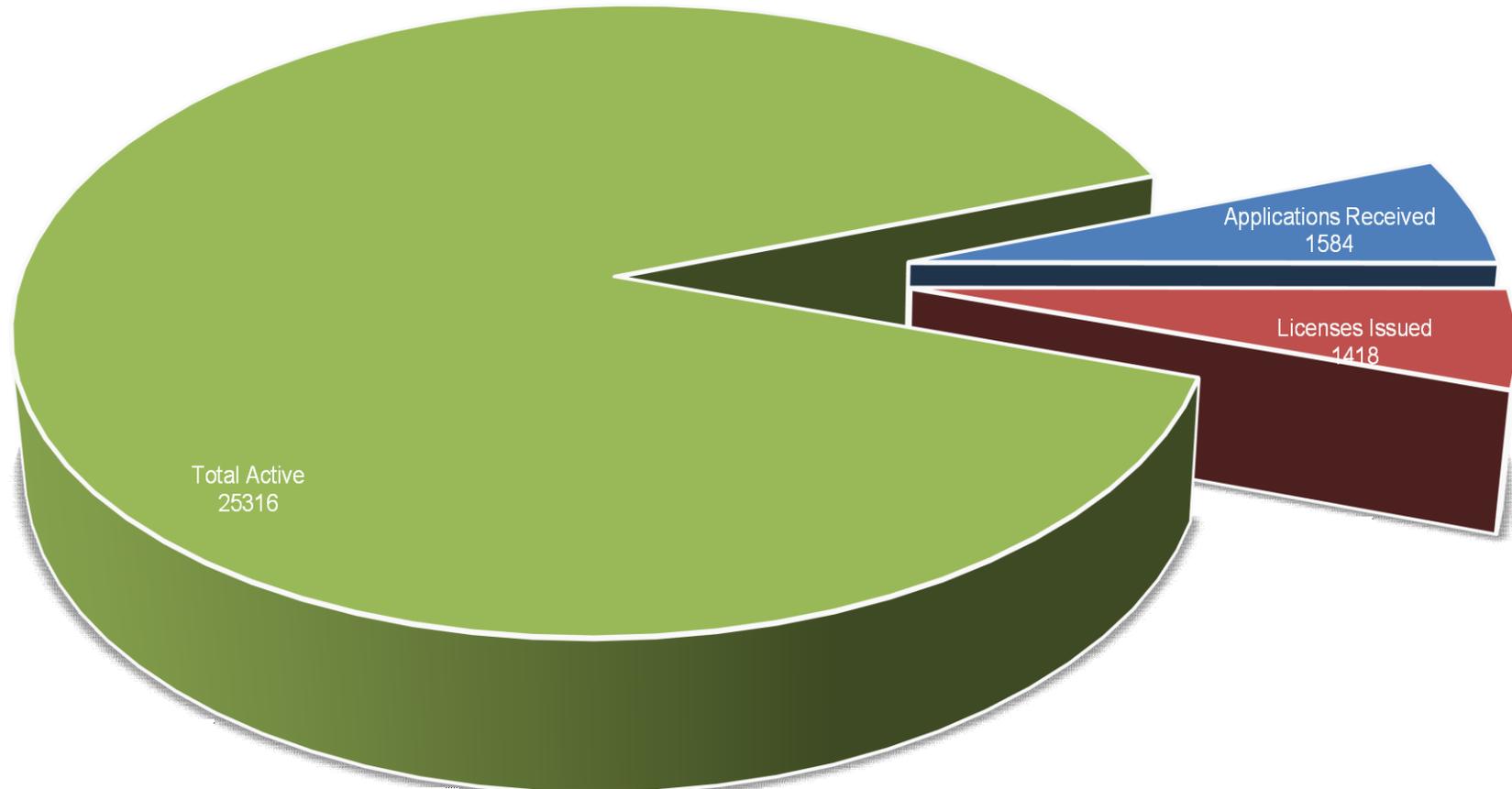
CREDENTIALING ACTIVITY

The goal of the WI Department of Safety and Professional Services and the WI Medical Examining Board is to ensure, through the issuance of credentials, that the public's health, safety and welfare are adequately protected. In 2012, three credentialing specialists worked exclusively on licensing physicians and associated professionals ensuring that applications meet eligibility requirements established in Wisconsin statutes and administrative code. Staff for the Medical Examining Board issue over 1,400 new physician credentials annually and renews more than 23,000 licenses biennially.

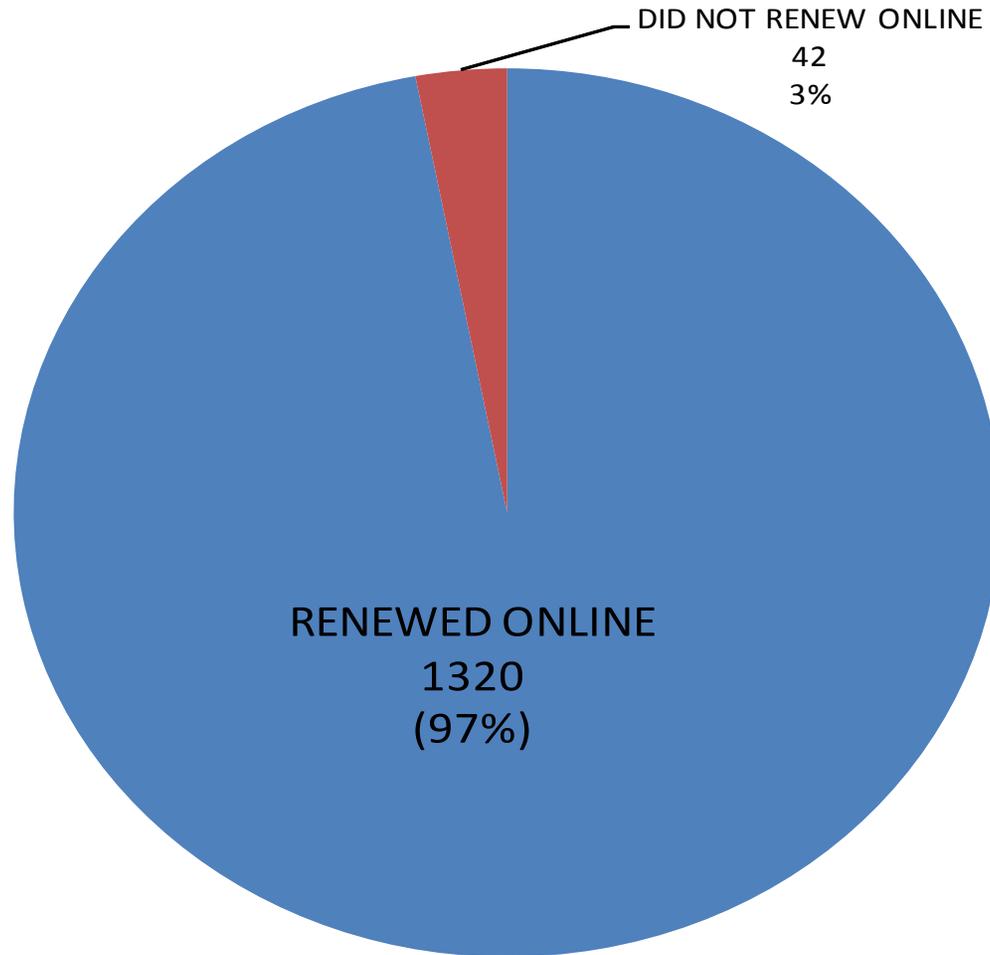
2012 Experience:

- The average time to review new applications was 7 days. In most cases, licenses were issued on the same day that all documents were received and all requirements were met.
- Processing time for license verifications was 3-5 business days. Through the new Online Verification System, verifications can be processed within the same day.
- Approximately 97 percent of licenses were renewed online.
- 69 license candidates sat for the oral exam.

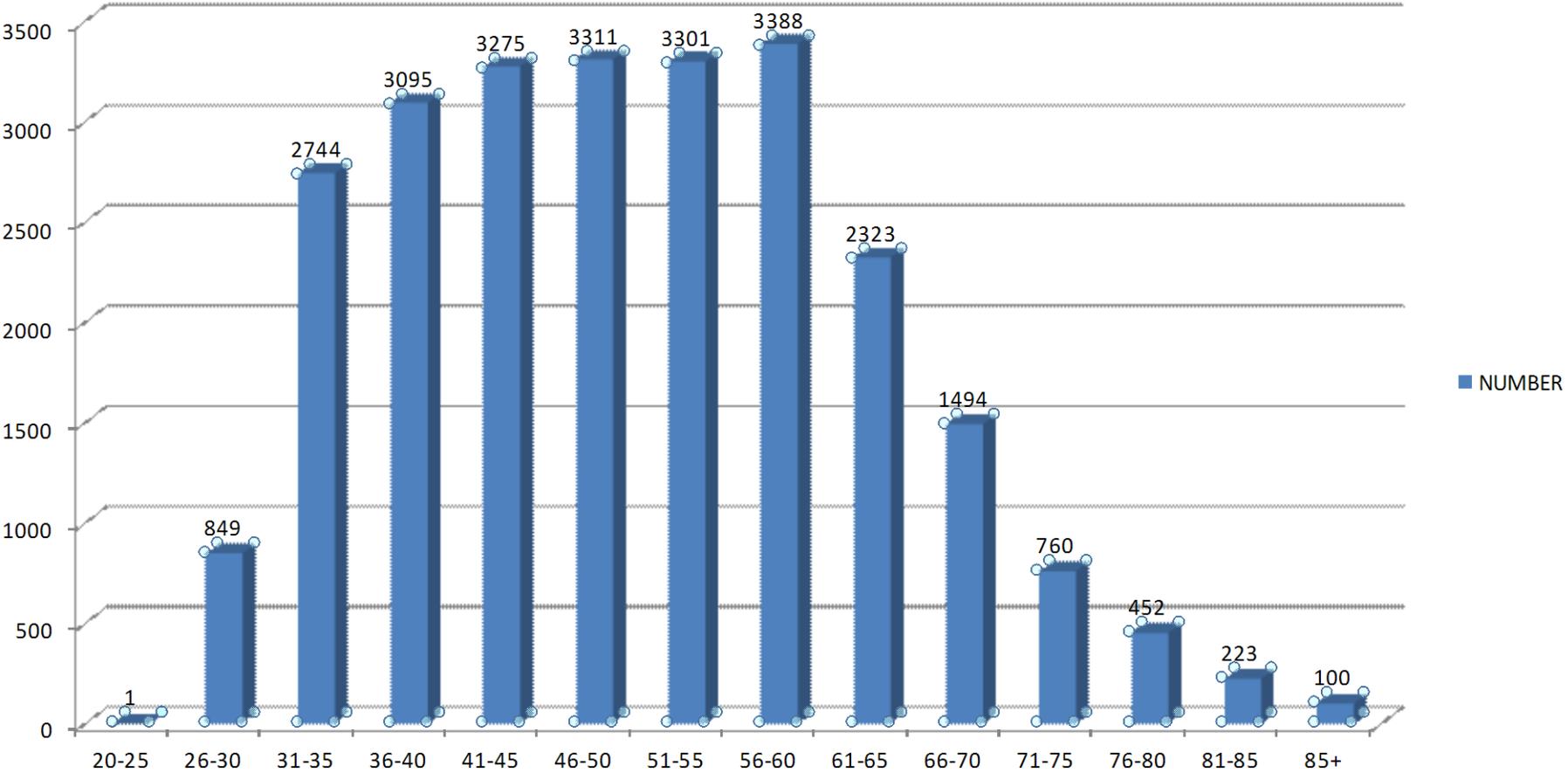
2012 MD/DO CREDENTIALING ACTIVITY



Total DO Licenses Renewed

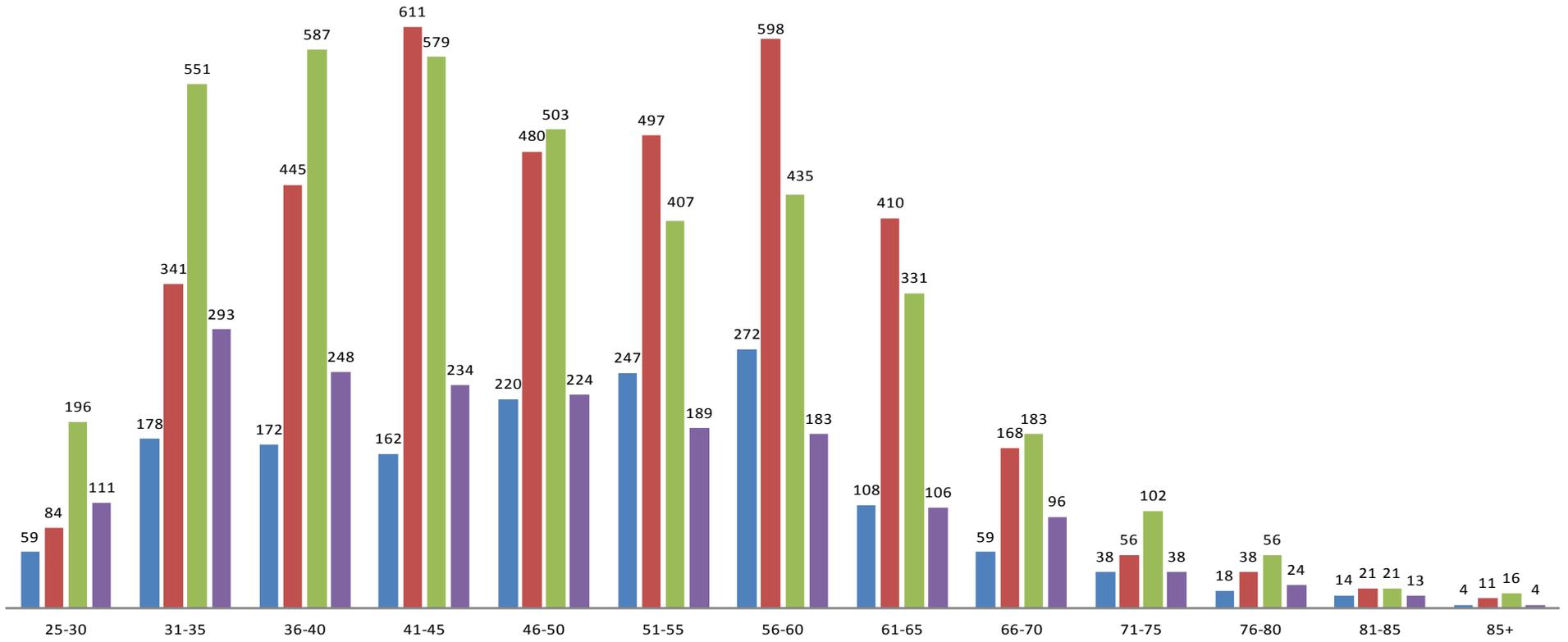


Physicians By Age



Age of Physicians in the Four Largest Specialty Groups

■ ANESTHESIOLOGY
 ■ FAMILY PRACTICE
 ■ INTERNAL MEDICINE
 ■ PEDIATRICS



Physicians by Specialty

