Wisconsin Medical Examining Board

Annual Report

January 1 – December 31, 2011

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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.

2011 MEB Members

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

Sandra Osborn, MD Vice-Chair (Madison)

Sheldon Wasserman, MD Secretary (Milwaukee)

Ian Munro, MD (Green Bay)

Carolyn Bronston, Public Member (Wausau)

James P. Conterato, MD (Marshfield)

LaMarr Franklin, Public Member (Glendale)

Jude Genereaux, Public Member (Ellison Bay)

Azita Hamedani, MD (Verona)

Christopher Magiera, MD (Wausau)

Raymond Mager, DO (Bayside)

Suresh Misra, MD (Milwaukee)

Gene Musser, MD (Madison)

Ken Simons, MD (Milwaukee)

2011 Executive Staff

Dave Ross, Secretary

John Scocos, Deputy Secretary

Bill Wendle, Deputy Secretary

John Murray, Executive Assistant

Greg Gasper, Executive Assistant

Administrative Staff

Tom Ryan, Executive Director

Sandra Nowack, Legal Counsel

Michael Berndt, Legal Counsel

Shawn Leatherwood, Advanced Paralegal

Karen Rude-Evans, Bureau Assistant

Executive Summary

2011 marked another year of innovation, progress and outreach for the Wisconsin Medical Examining Board.

Dave Ross was appointed Secretary of the newly constituted Department of Safety and Professional Services. Born and raised in Superior, Wisconsin, Secretary Ross graduated from Superior Senior High School in 1970 and received a Bachelor of Science degree in Communication Arts from the University of Wisconsin-Superior. Secretary Ross grew up in a small business family and was self-employed for more than 20 years in an upholstery business.

The Board welcomed two new members in 2011. Dr. Christopher Magiera, a gastroenterologist with the Ministry Medical Group in Marshfield, and Dr. Kenneth Simons, the Associate Dean for Graduate Medical Education and a Professor of Ophthalmology at the Medical College of Wisconsin in Milwaukee. Dr. Sheldon Wasserman, an obstetrician/gynecologist with the Medical College of Wisconsin and former state legislator, was elected Chair for 2012.

The Board continued work to amend its rule governing physician assistants (MED 8) to expand the physician to physician assistant supervision ratio. A workgroup has met several times to discuss the Board's rule relating to professional conduct (MED 10), which has not been updated in years. In February, the Board passed a motion in favor of serving as a pilot state for Maintenance of Licensure, a program of continuous professional development that encourages physicians to demonstrate continuing competence. Work continued on the Board's American Reinvestment and Recovery Act (ARRA) portability grant, which included a criminal background check requirement for all new licensees.

The Division of Enforcement resolved 78 percent more complaints than it did in 2010, significantly reduced the number of open cases, and met its goal of resolving cases within the timelines and statutory deadlines. The Division of Professional Credential Processing completed the MD license renewal in November, which included a voluntary survey measuring the current MD workforce in Wisconsin.

Two MEB Newsletters were sent to the Board's licensees and subscribers. The Newsletters provide a message from the Board Chair, guidance on areas of clinical practice, and summarize disciplinary actions taken by the Board. In addition, Board members and Department staff visited with several stakeholder groups to address Board related matters, and participated actively in Federation of State Medical Boards (FSMB) committees.

Division of Board Services

The Board passed a motion in February to serve as a pilot state for the Federation of State Medical Board's Maintenance of Licensure initiative and is carefully considering options. The Board also began the rule writing process to modify Wisconsin Administrative Code Chapters 8 and 10. Chapter 8 addresses the supervision of physician assistants. The Board seeks to increase the current physician to physician assistant supervision ratio of 1:2 to 1:4. Chapter 10 is the unprofessional conduct rule, and the Board will make needed updates. The Board also entered a partnership with the Wisconsin Health Workforce Data Collaborative to pilot a voluntary workforce survey that was sent out with license renewals in the fall. The survey data will be used to identify health professional shortage areas and to project workforce needs into the future.

The Board continued with an active educational outreach program. Two Newsletters were sent by e-mail to all license holders, one in the spring and one in the fall. In addition to the discipline summaries and updates from the Board Chair, the Newsletters provided guidance for prescribing opioids, the duty to report a physician colleague's unsafe practice, sexual boundaries and chaperones, tips on avoiding boundary issues, recent changes to the Professional Assistance Procedure (formerly the Impaired Professionals Procedure), and an update regarding the Board's decision to be a pilot state for Maintenance of Licensure.

In addition, Board members and Department staff delivered presentations to stakeholder groups and members of the public. Tom Ryan met with the Wisconsin Medical Society to discuss its quality data initiatives in January and presented information about physician credentialing and Maintenance of Licensure to the Wisconsin Hospital Association in November. Board member Sandra Osborn and Division of Enforcement staff spoke to the University of Wisconsin School of Medicine and Public Health's (UWSMPH) "Patient, Doctors and Society" class about physician impairment and recovery in March. Sheldon Wasserman spoke to the Medical College of Wisconsin's graduating class in May, the leadership of the Wisconsin Hospital Association in Elkhart Lake in June, and to surgical residents at the Medical College of Wisconsin in November. Gene Musser spoke to the Dane County Chapter of the Wisconsin Medical Society in January about the physician duty to report and to the Wisconsin Psychiatric Association regarding Maintenance of Licensure in October. Carolyn Bronston provided an overview of the Medical Board's structure and function to the Wausau Golden K Kiwanis Club in April and to the Metro Club of Wausau in November.

Ray Mager attended the American Association of Osteopathic Examiners Summit meeting in January in Las Vegas, which focused on telemedicine, maintenance of licensure, physician re-entry, professional assistance programs and prescription drug monitoring programs. Tom Ryan and Board member Sandra Osborn attended the UWSMPH Physician Assessment Center's Comprehensive and Individualized Physician Assessment Conference in Madison in June, following a presentation to the Board in April by Dr. Robert Steele, the Medical Director for Physician Assessment Services at UWSMPH. The conference focused on the most common reasons why licensed physicians leave the practice of medicine and options for re-entering the profession. Sandra Osborn attended a meeting

of the United States Medical Licensing Examination (USMLE) Step 3 Committee in Euless, TX in August. Drs. Kailas and Musser, Tom Ryan and two Department staff members attended the Federation of State Medical Board's annual meeting in Seattle in April. Board legal counsel Sandra Nowack and Division of Enforcement Attorney Aaron Konkel attended a conference in August sponsored by the Colorado Center for Personalized Education of Physicians (CPEP) in Denver.

Gene Musser continued to serve on the Federation of State Medical Board's (FSMB) Special Committee on Re-Entry to Practice and its Education Committee, Sandra Osborn was on the Editorial Committee of the FSMB Journal of Medical Regulation and was a member of the United States Medical Licensing Examination (USMLE) Item Writing and Standard Setting Committee. Sujatha Kailas is serving a 3 year term on the USMLE Step 3 Committee, and Tom Ryan served as a member of the FSMB Bylaws Committee.

The Board continued to make progress on its license portability project, which is funded by an American Reinvestment and Recovery Act (ARRA) grant that will conclude at the end of February, 2012. Information Technology staff have neared completion on the electronic license verification portion of the project, which will eliminate paper-based license verifications and provide a national platform for electronic verification. In addition, eight Midwestern states comprise a task force that is currently considering a finalized Declaration of Cooperation, which moves the states closer to standardization of licensing procedures for certain physicians who apply for a license in one of the task force states.

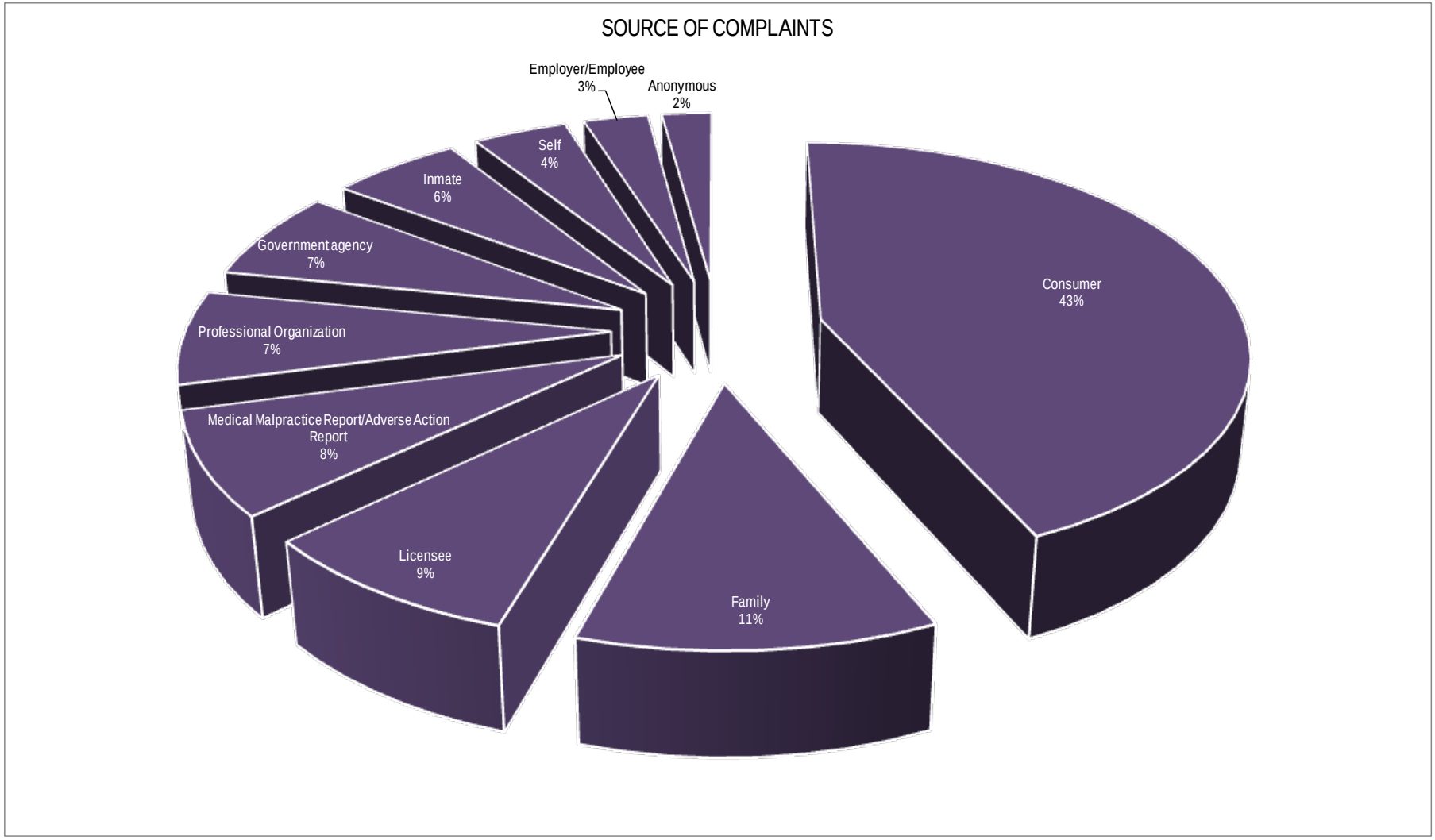
ENFORCEMENT ACTIVITY

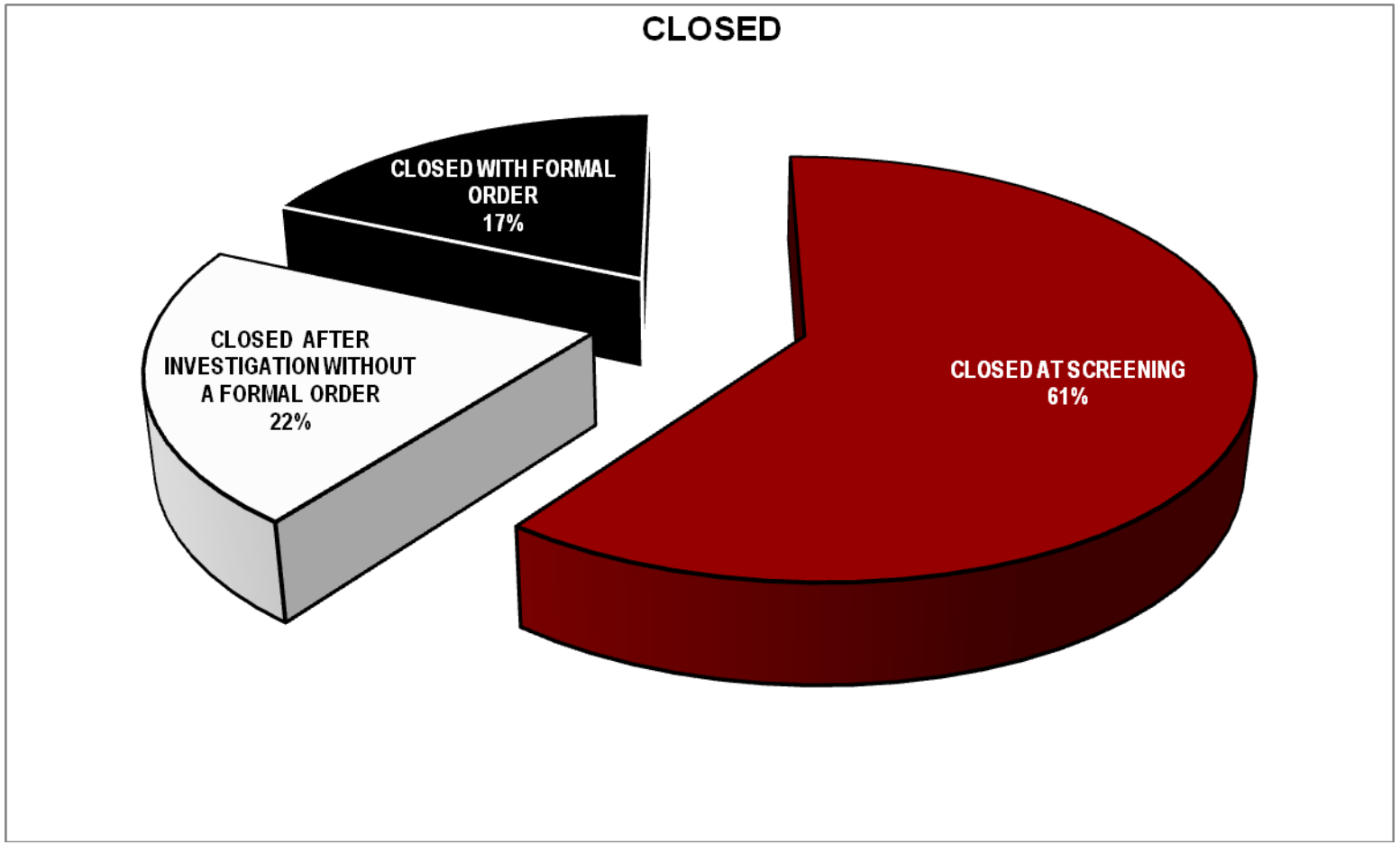
The Division of Enforcement (DOE) provides intake staff, investigators, paralegals and prosecutors to screen, investigate and prosecute consumer complaints against Wisconsin licensed medical professionals. DOE also monitors disciplinary orders to ensure compliance and provides the Professional Assistance Procedure (PAP) management for impaired professionals. The Medical and Affiliated Boards Enforcement Team was established on September 28, 2009. It currently includes 3.0 FTE attorney positions, 1.5 FTE paralegal positions, and 3.0 FTE investigator positions. The MED Team is currently adequately staffed, caseloads have never been in better shape at an average of 56 and DOE has the capacity to designate additional investigators, paralegal and attorney staff should the influx of new MED complaints increase.

Key Team and DOE statistics for the Medical Examining Board in 2011:

- The number of formal resolutions of complaints rose from 54 in 2010 to 96 in 2011, an increase of 78%.
- Unresolved cases from 2008 and earlier totaled 27 in February 2011. There were just four such cases as of February 14, 2012.
- Statutory deadlines for death and three year cases were met 100% of the time.
- The most common disciplines issued by the Board in 2011 were reprimands and license limitations.
- Consumers were the primary source of complaints.
- 17 Administrative Warnings were issued. Administrative warnings are non-disciplinary and their content is confidential. In the past three years, the conduct most often underlying administrative warnings has included record-keeping violations and minor issues in prescriptive practices.
- The average length of time to process cases under the jurisdiction of the Medical Examining Board was 17.52 months for respondents closed with Formal Orders and 10.48 months for respondents closed without Formal Orders after investigation.
- As of January 1, 2012, there were 11 physicians enrolled in the PAP.

DOE implemented production metrics and prosecutorial policies and procedures in January 2012 to create better efficiencies, higher accountability by the prosecutorial staff and to ensure the highest standards of production and service to the Board.


SOURCE OF COMPLAINTS
Employer/Employee 3%
Anonymous 2%
Self 4%
Inmate 6%
Government agency 7%
Professional Organization 7%
Medical Malpractice Report/Adverse Action Report 8%
Licensee 9%
Family 11%
Consumer 43%



CLOSED AT SCREENING: 315 (61%)

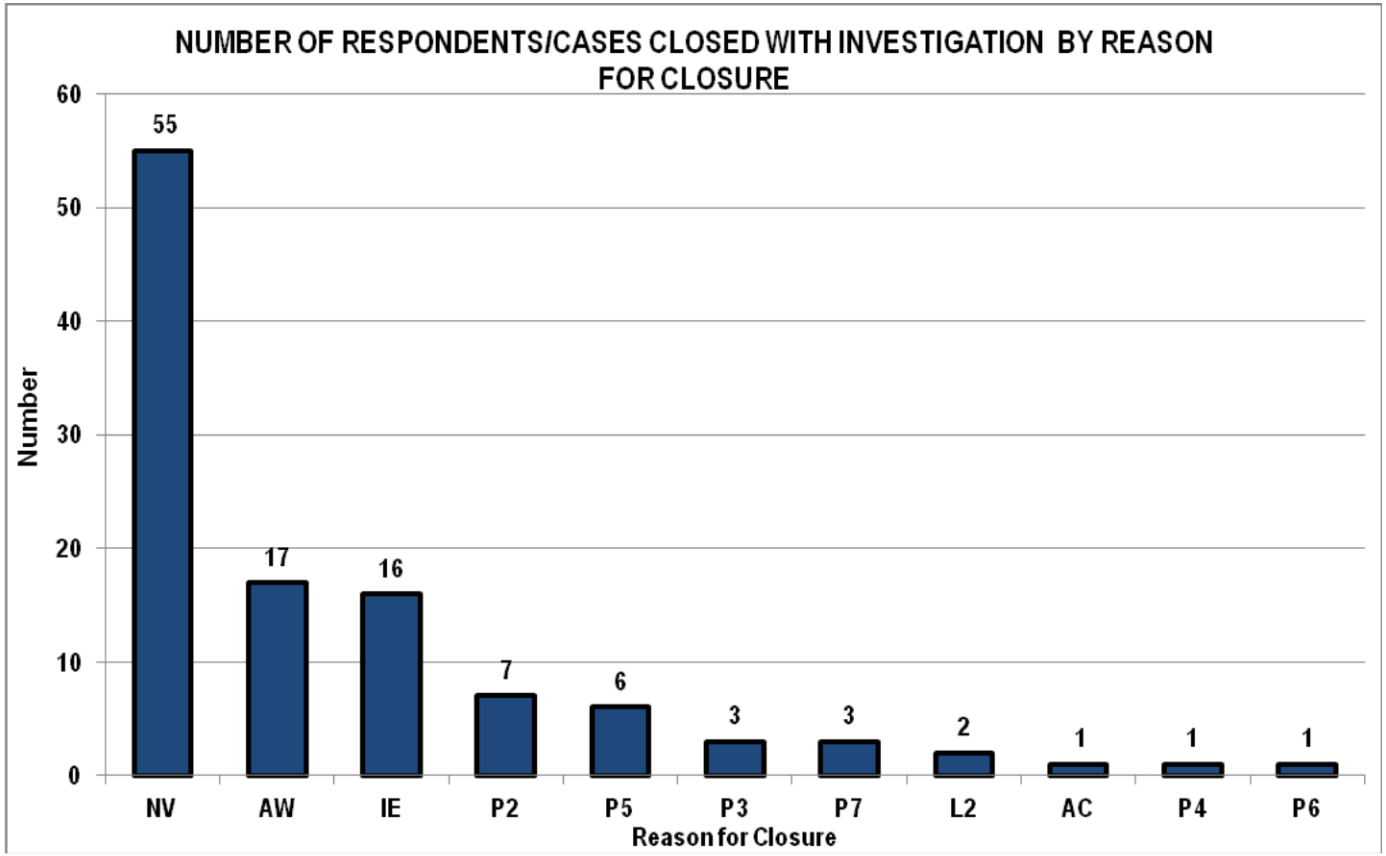
Copies of the complaint and related information are screened by the Medical Examining Board Screening Panel and DOE legal staff to determine if an investigation is warranted. Complaints that do not warrant investigation are closed.

CLOSED AFTER INVESTIGATION WITHOUT A FORMAL ORDER: 112 (22%) This count includes 17 respondents closed with an Administrative Warning *.

The investigator and attorney develop an investigative plan. Investigative staff gathers necessary evidence and make 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 will make a final recommendation on the case. Cases that do not warrant professional discipline are closed. ** 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.*

CLOSED WITH FORMAL ORDER: 96 (17%)

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 board. If a violation is found, discipline may be imposed.



NO VIOLATION OF STATUTES OR RULES - There is sufficient evidence to show that no violation of statutes or rules occurred.

ADMINISTRATIVE WARNING - There was an administrative warning issued to the credential holder pursuant to Wis. Stat. § 440.205. 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 - There is insufficient evidence to meet the standard of proof required to prove that a violation occurred.

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.

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 (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 (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.

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.

ADMINISTRATIVE CLOSURE - There is a duplicate complaint; a file was opened in error; or the Respondent named in the complaint is inaccurately identified.

PROSECUTORIAL DISCRETION (P4) - The conduct of the credential holder may constitute negligence but does not constitute practice below the minimal standards of the profession.

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 VIOLATION/CONDUCT FROM FINAL DECISIONS and ORDERS
(sorted by Percent from highest - lowest)

TYPE OF VIOLATION/TYPE OF CONDUCT	NUMBER	PERCENT
RECORDKEEPING VIOLATIONS	14	12.8%
DRUG PRESCRIBING VIOLATIONS	11	10.1%
MENTAL/PHYSICAL ILLNESS	10	9.2%
QUALTY OF CARE - GENERAL SURGERY	10	9.2%
SEXUAL CONTACT	10	9.2%
QUALITY OF CARE - PAIN MANAGEMENT	9	8.3%
CONDUCT INVOLVED DEATH	8	7.3%
CRIMINAL CONVICTION	8	7.3%
QUALITY OF CARE - OBSTETRICS	6	5.5%
BOUNDARY VIOLATIONS	4	3.7%
QUALITY OF CARE - ONCOLOGY	4	3.7%
QUALITY OF CARE - CARDIOLOGY	3	2.8%
DRUG DIVERSION FOR SELF USE	2	1.8%
FRAUDULENT BILLING	2	1.8%
IMPAIRMENT	2	1.8%
QUALITY OF CARE - EMERGENCY MED	2	1.8%
QUALITY OF CARE - PSYCHIATRY	2	1.8%
QUALITY OF CARE - OPTHAMOLOGY	1	0.9%
QUALITY OF CARE - ORTHOPEDICS	1	0.9%
TOTAL	109	100.0%

NOTES

1. A Final Decision and Order may have more than one conduct/violation therefore; the conduct/violation numbers will be higher than the number of Final Decisions and Orders issued.
2. Of the violations/conduct listed above, 21 are from disciplinary action in another state based on conduct occurring in the other state.

TYPE OF DISCIPLINE/OUTCOME ISSUED FROM FINAL DECISIONS and ORDERS
(sorted by percent from highest - lowest)

TYPE OF DISCIPLINE/OUTCOME	NUMBER	PERCENT
REPRIMAND	47	28.3%
LIMITATION REQUIRING EDUCATION/TESTING WITH FINDINGS	36	21.7%
LIMITATION RESTRICTING PRACTICE WITH FINDINGS	13	7.8%
SURRENDER/AGREEMENT - IF REAPPLY BOARD MAY IMPOSE LIMITATIONS	10	6.0%
LIMITATION REQUIRING TREATMENT WITH FINDINGS	8	4.8%
SURRENDER/AGREEMENT - REQUIREMENTS TO BE MET BEFORE REAPPLYING	7	4.2%
LIMITATION REQUIRING MENTOR/SUPERVISION WITH FINDINGS	6	3.6%
SURRENDER/AGREEMENT NOT TO RENEW WITH FINDINGS	6	3.6%
LIMITATION REQUIRING REPORTS WITH FINDINGS	5	3.0%
SUSPENSION (STAYED)	5	3.0%
SURRENDER/AGREEMENT - RENEW UPON PAYMENT OF FEE	4	2.4%
LIMITATION REQUIRING SCREENS WITH FINDINGS	3	1.8%
REVOCATION	3	1.8%
SUSPENSION	3	1.8%
SUSPENSION (SUMMARY)	3	1.8%
SUSPENSION (STAY REMOVED)	3	1.8%
DISMISSAL	2	1.2%
LICENSE DENIAL, AFFIRMING	1	0.6%
LIMITATION REQUIRING ASSESSMENT WITH FINDINGS	1	0.6%
TOTAL	166	100.0%

DISMISSAL: An Order of judgement finally disposing of an action without further consideration

LIMITATION: 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 National Practitioner Data Bank.

SUSPENSION (SUMMARY): expedited disciplinary procedure that is 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.

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

NOTES

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

LICENSEES IN MONITORING PROGRAM AS OF FEBRUARY 23, 2012
Active: 141
Inactive: 97

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, and restrict the scope of the holder's practice.
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 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.
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

In 2011, there were three 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 1,300 new physician credentials annually and renews more than 22,000 licenses biennially.

2011 Experience:

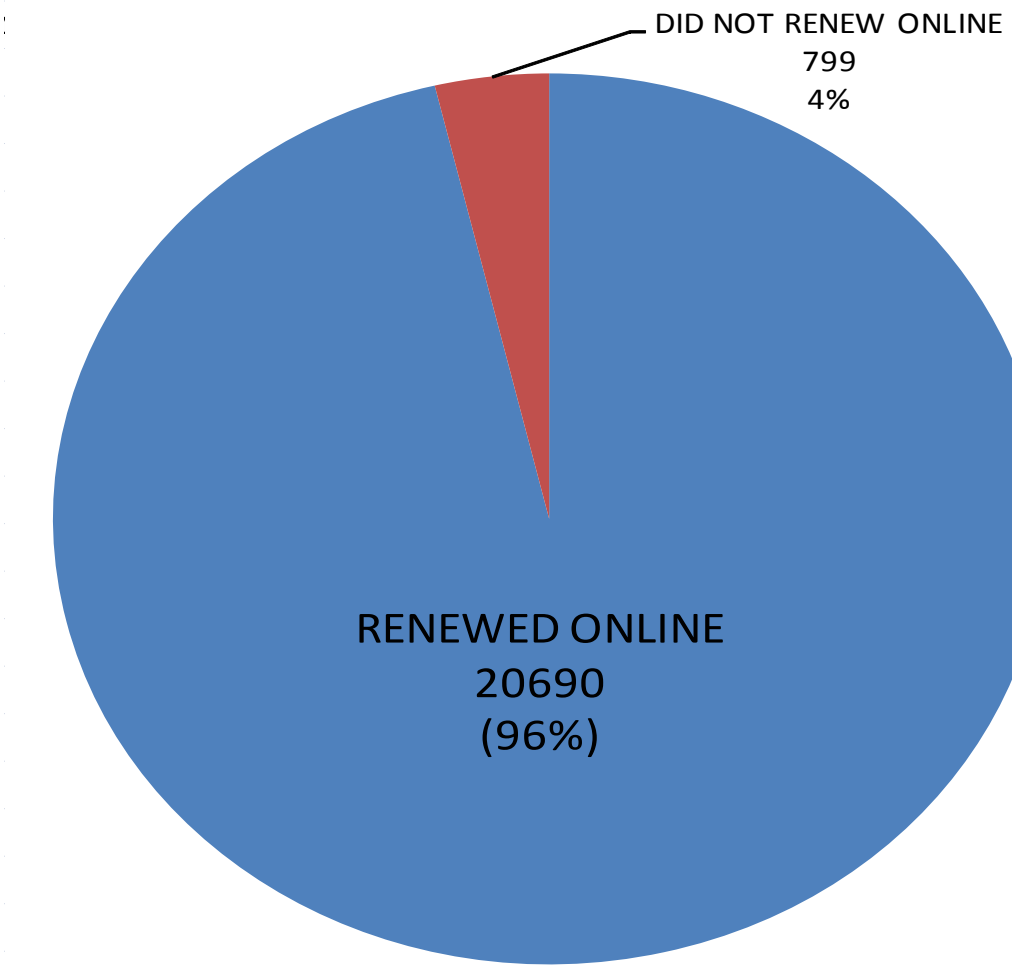
- The average time to review new documentation for license applications is 7 days. In most cases, licenses are issued on the same day that all documents are received and all requirements are met.

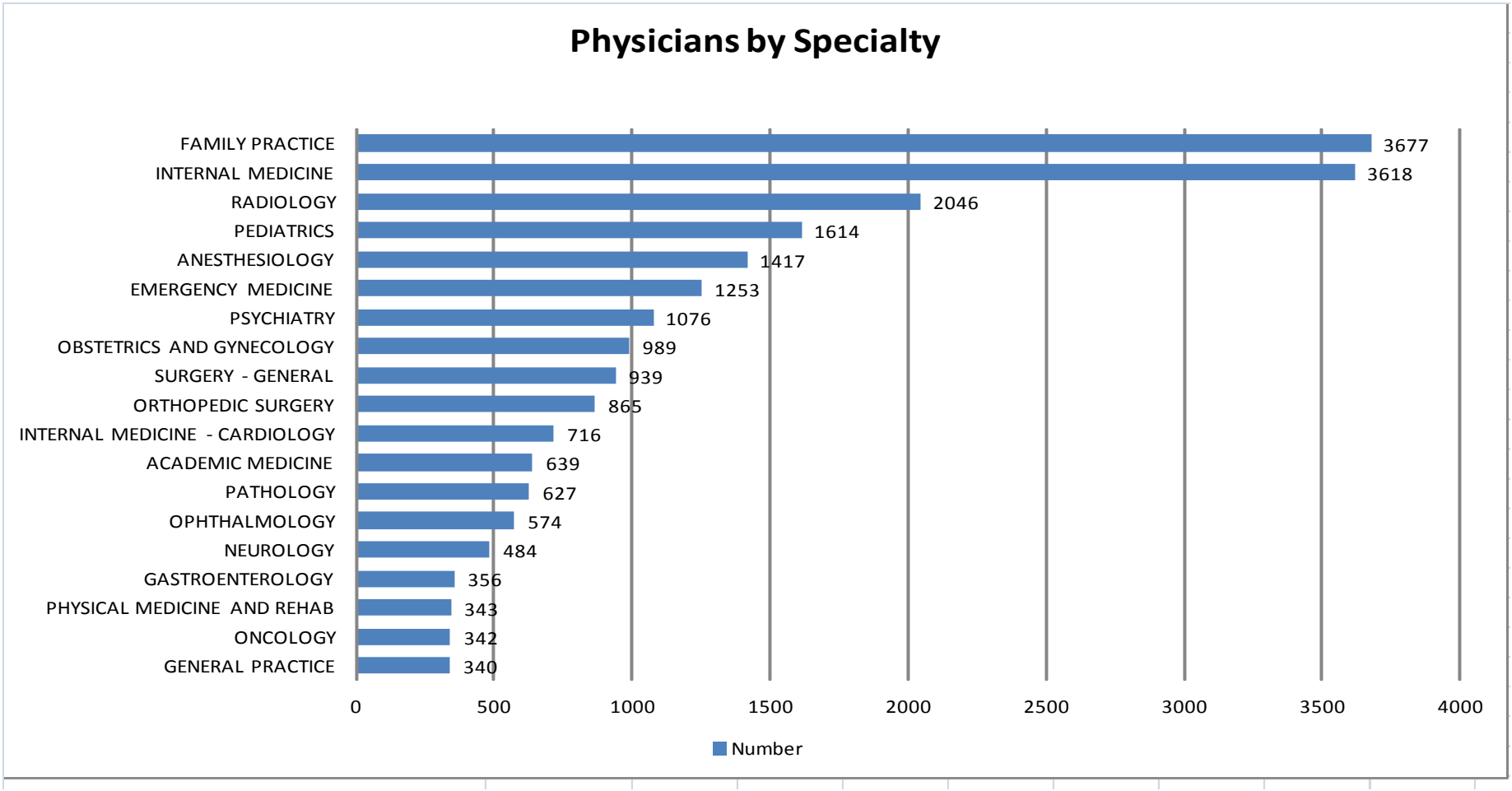
- Processing time for license verifications is 7-10 business days.

- Over 90 percent of licenses are renewed online. Online renewal has facilitated the Department's ability to collect e-mail addresses of credential holders, which in turn has improved communication with licensed physicians.

- 66 license candidates sat for the oral exam in 2011.

Total MD Licenses Renewed




Physicians by Specialty
FAMILY PRACTICE
INTERNAL MEDICINE
RADIOLOGY
PEDIATRICS
ANESTHESIOLOGY
EMERGENCY MEDICINE
PSYCHIATRY
OBSTETRICS AND GYNECOLOGY
SURGERY - GENERAL
ORTHOPEDIC SURGERY
INTERNAL MEDICINE - CARDIOLOGY
ACADEMIC MEDICINE
PATHOLOGY
OPHTHALMOLOGY
NEUROLOGY
GASTROENTEROLOGY
PHYSICAL MEDICINE AND REHAB
ONCOLOGY
GENERAL PRACTICE
3677
3618
2046
1614
1417
1253
1076
989
939
865
716
639
627
574
484
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