

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: July 9, 2012
ATTENTION: Members, Enforcement Committee
SUBJECT: Review Enforcement Program Annual Report Format
STAFF CONTACT: Kimberly Kirchmeyer, Deputy Director

RECOMMENDED ACTION:

On May 2, 2012 Ms. Barbara Yaroslavsky, Board President, requested that staff provide information relative to the Enforcement Program statistical reporting format for the Annual Report.

BACKGROUND AND ANALYSIS:

Under Section 312 of the Business and Professions (B&P) Code, the Board is required to compile statistical data related to the performance of the Board's mandated functions and responsibilities. This information is reported to the Department of Consumer Affairs, the Governor's Office, the Legislature, and the general public through issuance of the Annual Report. This report is issued annually in October, following completion of the Board's fiscal year of July 1 through June 30. Additionally, Section 2313 of the B&P Code require information specific to the reporting required for the Medical Board of California. This section has been amended through the years to require additional enforcement information.

The attached excerpts from selected Annual Reports represent a sampling of twenty years of statistical data reporting regarding Enforcement. The Annual reports have improved throughout this period of time with the inclusion of new enforcement categories, new required reporting data, and a more easily readable format with clearly defined tables with brief descriptive information.

At the May meeting of the Board, staff presented the data from the 2010-2011 Enforcement Processing Time Frames (attached page vi of the 2010-2011 Annual Report) and discussed adding rows under each of the four processes to convert days to years as a secondary method of examining the time frames. This concept will be incorporated into the 2011-2012 Annual Report.

Attachments:

1. 1992-1993 Enforcement Program Annual Report
2. 1996-1997 Enforcement Program Annual Report
3. 2006-2007 Enforcement Program Annual Report
4. 2010-2011 Enforcement Program Annual Report

RECOMMENDATION:

Staff asks that the Members make suggestions to enhance or improve this report.

Attachment 1

ENFORCEMENT PROGRAM

The Medical Board's enforcement program made tremendous strides in the '92/93 FY to increase its performance, productivity and ensure public protection.

Most notable is the exponential increase in Interim Suspension and Temporary Restraining Orders actually issued or granted by the court over the prior year. ISOs and TROs are used for the most egregious cases. The increase is due in large measure to aggressive Medical Board investigations and to the fine efforts of the Attorney General's Health Quality Enforcement Unit.

The volume of complaints received by the Board continues to increase and reached an all-time high. Despite the increase, the Board's Central Complaint Unit has processed an increasing volume of complaints, while ensuring that only those cases which truly merit more costly and intensive field investigation are assigned to field investigators.

It is important to note the '92/93 FY increase in criminal cases filed for criminal prosecution, which is significantly greater than the '91/92 FY.

There is also a difference between the '91/92 FY cases opened and closed and the '92/93 FY cases opened and closed. The current year appears less than the prior year. The accuracy of the '91/92 FY figure is questionable partially due to limitations in the Board's tracking system at the time; however, the '92/93 FY figure was accurately computer generated and is well within a reasonable range.

COMPLAINTS RECEIVED

		Contractual	Fraud	Health & Safety	Non-Jurisdictional	Competence/Negligence	Other Category	Personal Conduct	Unprofessional Conduct	Unlicensed/Unregistered	Total
Public	MD	2	270	128	504	1,499	11	43	1,915	146	4,518
	AH	0	137	3	57	177	2	13	543	114	1,046
B&P Code Section 800	MD	1	5	4	1	807	2	15	56	0	891
	AH	0	0	0	0	19	1	1	0	0	21
Other Licensee	MD	0	22	43	25	76	5	18	103	31	323
	AH	0	18	1	11	19	1	4	250	78	382
Internal (Based on Internal Information)	MD	0	24	23	0	45	0	13	33	39	177
	AH	0	3	1	0	8	0	6	67	63	148
Anonymous	MD	0	21	19	7	30	2	16	57	41	193
	AH	0	13	1	0	1	0	3	73	31	122
Law Enforcement Agency	MD	0	8	17	4	12	0	47	40	16	144
	AH	0	2	2	0	0	1	47	35	2	89
Other California State Agency	MD	0	10	9	3	16	3	15	30	21	107
	AH	0	1	2	0	5	0	19	8	13	48
Other State	MD	0	1	0	0	2	0	0	170	2	175
	AH	0	0	0	0	1	0	1	9	0	11
Society or Trade Organization	MD	0	5	4	3	6	1	1	35	11	66
	AH	0	1	0	0	3	0	0	6	4	14
Other Government Agency	MD	0	6	8	8	16	1	2	24	10	75
	AH	0	1	0	0	1	0	0	7	1	10
Other Unit of Consumer Affairs	MD	0	1	8	1	2	0	3	9	8	32
	AH	0	6	3	0	10	1	7	8	18	53
Federal Government	MD	0	3	2	1	6	0	1	2	2	17
	AH	0	0	0	0	2	0	0	0	1	3
Miscellaneous Sources	MD	0	1	0	0	7	1	1	0	2	12
	AH	0	1	0	0	2	0	2	2	2	7
Totals	MD	3	377	265	557	2,524	26	175	2,474	329	6,730
	AH	0	183	13	68	247	6	103	1,008	327	1,955
*8,685											

* These totals do not include 72 cases which resulted from background checks on applications for licenses; 19 MD, 53 AH. Those cases are included in line one of the Action Summary table on Page v.

Key: MD = Medical Doctor; AH = Allied Health Professionals

MEDICAL BOARD OF CALIFORNIA
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*Term expired July 31, 1993

EXECUTIVE DIRECTOR, Dixon Arnett

REPORTS REQUIRED BY LAW			ACTION SUMMARY					
	FY	FY	FY 91/92			FY 92/93		
	91/92	92/93	MD	AH	ALL	MD	AH	ALL
MEDICAL MALPRACTICE			COMPLAINTS/INVESTIGATIONS					
Insurers - Section 801			Complaints Received					
Physician & Surgeon	630	634	6,050	1,842	7,892	6,749	2,008	8,757
Health Maintenance Organizations	13	6	Complaints Closed					
Podiatrists	18	7	by CCICU					
Psychologists		1	Investigations					
Physician Assistants		1	Cases Opened					
Subtotal	661	649	3,569	1,227	4,796	2,208	810	3,018
Attorneys or Self-Reported Section 802			1,879	651	2,530	1,665	607	2,272
Physician & Surgeon	87	87	Cases to AG					
Health Maintenance Organizations	74	90	Cases to DAs/CAs					
Podiatrists		1	347	176	523	433	221	654
Subtotal	161	178	60	34	94	99	25	124
Courts - Section 803			¹ Investigation cases closed in '92/93 are fewer than in '91/92 due to budget induced vacancies and improved Central Complaints Unit case screening.					
Physician & Surgeon	9	11	ADMINISTRATIVE FILINGS					
Health Maintenance Organizations	2	2	Interim Suspensions					
Psychologists		2	Temporary Restraining Orders ²					
Subtotal	11	15	25	2	27	10	1	11
Total Malpractice Reports	833	842	Statement of issues to deny application					
HEALTH FACILITY DISCIPLINE			2	25	27	6	38	44
Incomplete Medical Records - Section 805			Petition to Compel					
Physician & Surgeon	1,007	839	Psychiatric Exam					
Podiatrists	1	1	Petition to Compel					
Psychologists	4	4	Competency Exam					
Subtotal	1,012	844	4	0	4	17	0	17
Medical Cause or Reason - Section 805.5			Accusation/Petition to Revoke Probation					
Physician & Surgeon	178	175	159	78	237	310	166	476
Podiatrists	1	1	Total Filings					
Psychologists	4	3	202	106	308	367	216	583
Subtotal	183	179	² '91/92 TRO figures include TROs sought; '92/93 figures show only TROs actually issued or granted by courts.					
Total Health Facility	1,195	1,023	ADMINISTRATIVE ACTIONS					
			Revocation					
			49	41	90	41	52	93
			Voluntary Surrender					
			28	4	32	30	7	37
			(in lieu of discipline)					
			Probation/Suspension					
			24	13	37	25	6	31
			Probation					
			41	23	64	36	34	70
			Probationary License					
			Issued					
			6	11	17	4	9	13
			Other Actions					
			14	2	16	13	4	17
			(e.g., public reprimand)					
			Total Decisions					
			162	94	256	149	112	261
			REVIEW AND REFERRALS					
			Physicians Called in for					
			Medical Review					
			269	0	269	169	10	179
			Physicians Referred to					
			Diversion Program					
			13	0	13	29	0	29
			Total Reviews & Referrals					
			282			198	10	208
			Total Actions					
			432	72	504	347	122	469
			OTHER ADMINISTRATIVE OUTCOMES					
			Accusation Withdrawn					
			9	2	11	9	4	13
			Accusation Dismissed					
			5	3	8	18	4	22
			Petitions for Penalty Relief					
			18	5	23	21	10	31
			SOI* Granted (Lic. Denied)					
			SOI Denied (Lic. Granted)					
			Totals					
			50					
			34					
			84					
			*Statement of Issues					

For additional copies of this report, please fax your company name, address, telephone number and contact person to: Jennifer Bawden, Medical Board Support Services Unit, at (916) 263-2479, or mail your request to her at 1426 Howe Avenue, Suite 54, Sacramento, CA 95825.

Senate Bill 2375 Special Data Elements

Senate Bill 2375 (Presley) requires the Medical Board to report the following data in annual reports subsequent to the 1991/92 fiscal year. The following information is for fiscal year beginning 1992/93.

1.ee Temporary Restraining Orders Board Sought of the Attomeyee General: 53ee

Cases for which TROs were granted:ee

Gross Negligence	3
Self Abuse of Drugs or Alcohol	2
Sexual Misconduct	4
Inappropriate Prescribing/Treatment	2
Total	11

Cause for which TROs were sought, but not granted:

Mental Illness	4ee
Sexual Misconduct	17
Excessive Prescribing	3
Self Abuse of Drugs or Alcohol	6
Fraud/Dishonesty	7
Gross Negligence/Incompetence	3
General Unprofessional Conduct	1
Aiding Unlicensed Practice	1
Totals	42

2.ee Number and type of action taken relating to prescribing narcotics ore other controlled substances:ee

	Inappropriate Prescribing or Treatment		Self abuse of drugs or alcohol	
Penalty imposed	P/S	AHC	P/S	AHC
License revocation	6	0	3	4e
Voluntary surrender	1	0	2	0e
Probation w/ suspension	5	0	2	0
Probation only	5	2	4	1
Probationary new license	0	0	0	0ee
Other discipline	0	0	0	0
Totals	17	2	11	5ee

3. The number and type of action taken which resulted from cases referred* by the state Department of Health Services pursuant to Section 14124 of the Welfare and Institutions Code, relating to suspension of provider status for state medical assistance:

Physicians	48
Allied Health Professions	7ee
Total	55

*In all instances, the original referral came from the Board to the Department, following action by the Board. There were no referrals pursuant to Section 14124 which preceded board action against the practitioner.ee

4. ee Consumer inquiries and complaints:ee

Consumer inquiries	70,353
Jurisdictional inquiries	39,830
Complaint forms sent	11,426
Complaint forms returned by consumers	4,360

5.ee Number of reports submitted pursuant to Sections 800-805 of the Business and Professions Code: 1,023ee

6. Number of reports from coroners against physicians and allied health professionals:

Physicians and Surgeons	22
Allied Health licensees	0
Total	22

7. Total number of complaints referred from other agencies, by agency: 745 Total (See page iv for breakdown.)

8. Number of complaints or referrals closed, refunded or resolved without discipline prior to accusations:

	MD	AH	Total
Complaints received	6,749	2,008	8,757
Referred to other agency	782	90	872
Referred/Resolved w/out discipline	5,543	1,667	7,210
Referred to AG	433	221	654
Referred to DA	99	25	124

9. Number of accusations filed: 476

10. Number of final dispositions: 149

Physician Discipline by Category—Final Administrative Adjudication

Negligence	57
Excessive/Inappropriate drug prescribing	16
Sexual Misconduct	18
Mental Illness	2
Self-use drugs/alcohol	10
Fraud	3
Conviction of crime	4
Unprofessional conduct	7
*Other	32
Totalee	149

*Most of these are out-of-state discipline.ee

11. Number of completed investigations at the Attorney General's Office awaiting the filing of formal charges: 388ee This statistic was obtained by the Office of the Attorney General, Health Quality Enforcement Division.

12. Average and median time in processing complaints, for all cases, from date of original receipt of the complaint, for each stage of discipline, through completion of judicial review:

Processing/Legal stages	Mean Average (in days)	Mean Average (in days)
Complaint receipt, preliminary assessment by Central Complaint Unit and referral for investigation.	104	76
Investigation to case closure or referral for legal action	90	72
Attorney General processing to preparation of an accusation	282	198
Other stages of the legal process	*	*

*Not available. Outside of the control of the Medical Board and the Attorney General.

13.ee Data on Diversion Program:ee

Number of participants beginning of fiscal year	259
Number of participants accepted into program	58
Successful termination	66
Unsuccessful termination	27
Active participants at end of year	212

184ee

14. Number of interim suspensions: 23
15. Number of probation violation reports sent to Attorney General: 23
16. Number of probation revocation filings:
Physicians and Surgeons 15
Allied Health 8
Total 23
17. Investigator caseloads as of June 30, 1992:
Active Cases 2,175
Cases per investigator 35
Probation Cases (active*) 344
Cases per investigator 57

*117 additional probation cases were inactive because licensee is out of state; Probation Unit supervisor tracks these cases.

18. Number of final dispositions of probation violation cases:
- | | Filed | Additional Probation | Probation Revoked | Revocation Denied |
|---------------|-------|----------------------|-------------------|-------------------|
| Physician | 8 | 2 | 3 | 1 |
| Allied Health | 6 | 0 | 7 | 0 |
| Total | 14 | 2 | 10 | 1 |
- Note: Some cases filed are not finalized within the same fiscal year.

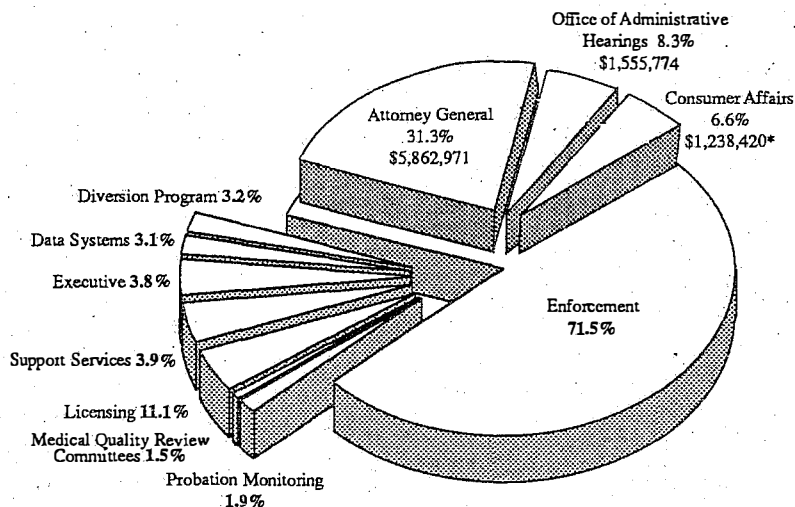
19. Number of petitions for reinstatement of license:
- | | Granted | Denied |
|---------------|---------|--------|
| Physician | 12 | 9 |
| Allied Health | 2 | 8 |
| Total | 14 | 17 |

MEDICAL BOARD OF CALIFORNIA 1992-1993 FISCAL YEAR BUDGET

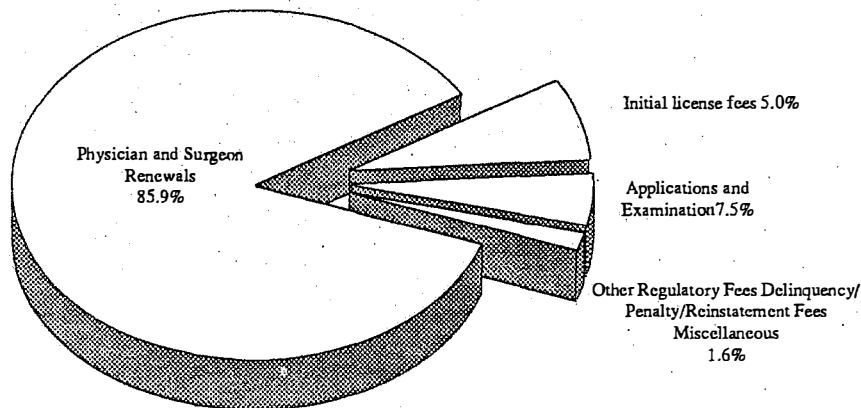
Enforcement	71.5%	\$18,736,000
Licensing	11.1%	2,913,000
Support Services	3.9%	1,024,000
Executive	3.8%	981,000
Diversion Program	3.2%	842,000
Data Systems	3.1%	817,000
Probation Monitoring	1.9%	489,000
Medical Quality		
Review Committees	1.5%	391,000
Total Budget	100%	\$26,193,000

Total amount (allocated to all programs) paid to Department of Consumer Affairs = \$2,076,493

* Amount to Department of Consumer Affairs allocated to the enforcement program only.



MEDICAL BOARD OF CALIFORNIA SOURCES OF REVENUE 1992-1993



Physician and Surgeon Renewals	85.9%	\$21,532,000
Applications and Examinations	7.5%	\$1,888,000
Initial License Fees	5.0%	\$1,251,000
Other Regulatory Fees, Delinquency/Penalty/Reinstatement Fees, Miscellaneous	1.6%	\$410,000
Total	100%	\$25,081,000

Attachment 2

COMPLAINTS RECEIVED BASED UPON REPORTS REQUIRED BY LAW[†]

Physicians & Surgeons

	FY 95-96	FY 96-97
MEDICAL MALPRACTICE		
Insurers		
B&P Code §§801 & 801.1	870	1,003
Attorneys or Self-Reported or Employers		
B&P Code §§802 & 803.2	110	181
Courts		
B&P Code §803	19	23
Total Malpractice Reports	999	1,207
CORONERS' REPORTS		
B&P Code §802.5	14	7
CRIMINAL CHARGES & CONVICTIONS		
B&P Code §803.5 (effective 1-1-96)	16	38
HEALTH FACILITY DISCIPLINE		
Medical Cause or Reason		
B&P Code §805	112	130

Affiliated Healing Arts Professionals

	FY 95-96	FY 96-97
MEDICAL MALPRACTICE		
Insurers		
B&P Code §§801 & 801.1	20	8
Attorneys or Self-Reported or Employers		
B&P Code §§802 & 803.2	2	3
Courts		
B&P Code §803	1	1
Total Malpractice Reports	23	12
CORONERS' REPORTS		
B&P Code §802.5	0	0
CRIMINAL CHARGES & CONVICTIONS		
B&P Code §803.5 (effective 1-1-96)	2	0
HEALTH FACILITY DISCIPLINE		
Medical Cause or Reason		
B&P Code §805	1	7e

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DIVISION OF MEDICAL QUALITY ACTION SUMMARY

	93-94	94-95	95-96	96-97
COMPLAINTS/INVESTIGATIONS¹				
Complaints Received	7,902	11,465	11,497	10,123
Complaints Closed by CCICU [†]	5,614	11,058	9,751	8,161
Investigations				
Cases Opened	2,046	2,041	1,998	2,039
Cases Closed [†]	2,231	1,988	2,043	2,255
Cases referred to the AG	601	415	510	567
Cases referred to DAs/CAs	82	75	68	47

¹ Some cases closed were opened in a prior fiscal year.

ADMINISTRATIVE FILINGS[†]

Interim Suspensions	16	14	28	33
Temporary Restraining Orders	4	5	1	4
Automatic Suspension Orders ²	n/a	5	8	13
Statement of Issues to deny application	3	4	2	4
Petition to Compel Psychological Exam	9	11	16	4
Petition to Compel Competency Exam	9	4	4	11
Petition to Compel Physical Exam	0	0	8	2
Accusation/Petition to Revoke Probation	e407ee	353e	262	296
Total Administrative Filings	448	396	329	367

² Includes Automatic Suspension Orders per section 2236.1 B&P Code and license restrictions per section 23 Penal Code.

ADMINISTRATIVE ACTIONS[†]

Revocation	62	65	62	49
Surrender (in lieu of Accusation or with Accusation pending)	28	62	52	87
Suspension Only	0	2	1	0
Probation with Suspension	39	34	29	27
Probation	75	141	129	112
Probationary License Issued	2	3	1	3
Public Reprimand	9	25	67	39
Other decisions (e.g. exam required, training course)	9	21	4	23
Total Administrative Actions	224	353	345	340

REFERRAL AND COMPLIANCE ACTIONS

Citation and Administrative Fines Issued ³	3	57	152	214
Physicians Called in for Medical Reviewee	138	37	44	25
Physicians Referred to Diversion Program ^{† 4}	31	18	19	44
Total Review & Referral Action	172	112	215	283

³ Citation and Fine authority effective May 1994.

⁴ Diversion Program referrals are made pursuant to Senate Bill 779 (effective 1-1-96).

OTHER ADMINISTRATIVE OUTCOMES

Accusation/Statement of Issues Withdrawn ⁵	44	69	67	57
Accusation/Statement of Issues Dismissed	13	9	12	11
Statement of Issues Granted (Lic. Denied)	5	3	5	2
Statement of Issues Denied (Lic. Granted)	1	3	1	2
Petitions for Penalty Relief ⁶ granted	14	20	17	19
Petitions for Penalty Relief ⁶ denied	14	15	16	11
Petition to Compel Exams granted	20	37	16	15
Petition to Compel Exams denied	2	0	2	0

⁵ Accusations Withdrawn for the following reasons: physician passed a competency exam; physician met stipulated terms and conditions; physician was issued a citation/fine instead; physician died; or physician surrendered the license, etc.

⁶ Penalty Relief includes Petitions for Reinstatement, Petitions for Modification of Penalty, and Petitions for Termination of Probation.

[†] Information required by Business and Professions Code section 2313.

DIVISION OF MEDICAL QUALITY

Fiscal year 1996/97 was remarkable and quantifiably the best public protection performance year the Medical Board has ever had. Provided below are a few of the most important public protection indicators which are compared to the FY 1993/94 as the baseline. All the figures are for physician cases only.

In FY 1993/94, the number of physician complaints closed by the Central Complaint Unit was 5,614. In FY 1996/97, the number of complaints closed was 8,161 (a 46% increase).

In FY 1993/94, there were 20 interim suspension orders (ISO) or temporary restraining orders (TRO) issued. In FY

1996/97, there were 37 issued (an 85% increase). The Board has never obtained more ISOs/TROs in a single year. This effort demonstrates the Division of Medical Quality's commitment to swift and direct action that ensures expeditious public protection if a physician represents a clear and immediate danger to public safety. Additionally, in FY 1996/97, pursuant to Business & Professions Code section 2236.1, which became effective January 1, 1995, the Division automatically suspended the licenses of eight physicians incarcerated for felony convictions.

In FY 1993/94, the number of license surrenders in lieu of accusation or with

COMPLAINTS RECEIVED[†]

	Fraud	Health & Safety	Non-Jurisdictional	Competence/Negligence	Other Category	Personal Conduct	Unprofessional Conduct	Unlicensed/Unregistered	Total
Public	MD 177 AH 35	170 478 10 17	170 4,068 17 223	15 49 2 12	1,301 114e 269e 67	6,372 635			
B&P Code Section 800 ⁶	MD 5 AH 0	7 9 0 0	1,267 0 13 0	47 3 3e 0	1,382e 19				
Licensee or Professional Group ⁷	MD 24 AH 6	28 26 0 2	49 5 6 8	12 12 2e 37	81e 28 44 105e	253			
Governmental Agency ⁸	MD 45 AH 17	65 17 4 1	905 80 19 5	170 56 61 50	81 1,923 213				
Anonymous/Miscellaneous	MD 17 AH 3	24 9 0 0	28 0 1 0	15 63 0e 19e	37 193 13 36				
Subtotals	MD 268 AH 61	294 539 14 20	6,317 100 262 15	293 2,052 73 389	260 10,123 174 1,008				
Grand Totals	329	308	559	6,579	115	366	2,441	434	11,131

MD = Medical Doctors

AH = A affiliated Healing Arts Professionals (includes: podiatrists, physician assistants, psychologists, and dispensing opticians).

1. *Health and Safety complaints, e.g., excessive prescribing, sale of dangerous drugs, etc.*
 2. *Non-Jurisdictional complaints are not under the authority of the Board, and are referred to other agencies such as the Department of Health Services, Department of Insurance, etc.*
 3. *Competence/Negligence complaints are related to the quality of care provided by licensees.*
 4. *Personal Conduct complaints, e.g., licensee self-use of drugs/alcohol, conviction of a crime, etc.*
 5. *Unprofessional Conduct complaints include sexual misconduct with patients, discipline by another state, failure to release medical records, etc.*
 6. *"B&P Code §800" includes complaints initiated based upon reports submitted to the Medical Board by hospitals, insurance companies and others, as required by law, regarding instances of health facility discipline, malpractice judgments/settlements, or other reportable activities.*
 7. *"Licensee or Professional Group" includes the following complaint sources: Other Licensees, Society/Trade Organizations, and Industry.*
 8. *"Governmental Agency" includes the following complaint sources: Internal, Law Enforcement Agency, Other California State Agency, Other State, Other Unit of Consumer Affairs, and Federal or Other Governmental Agency.*
- [†] Information required by Business and Professions Code section 2313.

disciplinary action pending was 28. In FY 1996/97, the number of surrenders was 87 (a 211% increase). This reflects well on the quality of our investigations and on the expertise of the deputy attorneys general who have facilitated license surrender rather than the time consuming and expensive alternative of administrative hearing.

Prior to FY 1993/94, there was no such thing as citation & fine. However, after establishing regulations and implementing the process, the cite & fine program went on-line in May 1994. In FY 1994/95, the number of citations issued was 57. In FY 1996/97 the number was 214 (a 275% increase). The importance of the cite & fine program is that it contributed directly to fewer cases being referred to the Attorney General for administrative action regarding relatively minor violations. This has also saved the Board time and money. Likewise, in FY 1996/97 an additional 44 cases were referred directly by investigators and/or deputies to the Board's Diversion Program due to new law (SB 779). This volume exceeds original expectations (especially when one considers that the law only became effective January 1, 1996).

These improvements are the result of more efficient processes and higher quality staff work. Although the foregoing is an encouraging picture and speaks well of the Medical Board's public protection accomplishments, there are still many improvements to be made—particularly in the time it takes to complete field investigations.

Despite continuing attempts to reduce the time through improved policies, legislation, new technology, expanded training, focused managerial review and strategic planning, these efforts struggle against the increasing volume, breadth, complexities and legal issues which are often beyond the Medical Board's control, and are inherent to physician complaints/cases.

Thus, the time required to complete the investigation of certain case types remains unacceptably long even though investigators closed a record high 2,255 physician cases in FY 1996/97. Therefore, over the coming year, the Enforcement Program will search further for additional techniques and strategies which accelerate complaint processing and reduce case investigation time.

BUSINESS & PROFESSIONS CODE §2313—ADDITIONAL DATA ELEMENTS

1.eeAdditional data for Temporary Restraining Orders (TRO)ee and Interim Suspension Orders (ISO):

	Orders Sought:	Orders Granted:
	TRO/ISO	TRO/ISO
Mental Illness	5	5
Drug Prescribing Violations	2	4
Sexual Misconduct	7	5
Self Abuse of Drugs or Alcohol	14	12
Fraud/Dishonesty	0	1
Gross Negligence/Incompetence	11	8
Conviction of a Crime	4	2
Total:	43	37

NOTE: Some orders granted were sought in prior fiscal year.

2.eeThe number and type of action which resulted from casesee referred by the state Department of Health Services pursuant to §14124 of the Welfare and Institutions Code, relating toee suspension of provider status for state medical assistance:ee

All Department of Health Services (DHS) notifications ofee Medi-Cal provider suspensions were added to existing MBCee files because the basis for the DHS action (e.g. MBC licensee revocation, US Dept. of Health and Human Services suspension of Medicare provider privileges, etc.) was already reported or known to MBC. Because DHS suspension of a provider'see Medi-Cal privileges results from action already taken by another agency, no additional MBC actions result from these DHS notifications.ee

3.eeConsumer inquiries and complaints:ee

Consumer inquiriesee	77,056
Jurisdictional inquiriesee	42,380
Complaint forms sentee	18,684
Complaint forms returned by consumersee	6,539

4.eeNumber of completed investigations referred to the Attorney General's Office awaiting the filing of an accusation:ee

Physician and Surgeon	163
Affiliated Healing Arts Professionals	32

5. Number of probation violation reports sent to the Attorney General¹:

MD	AH	Total
20	6	26

6.e Petitions to Revoke Probation Filed:ee

MD	AH	Total
14	7	21e

7.eeDispositions of Probation Filings:ee	MD	AH	Total
Additional Suspension or Probationee	4	2	6
Probation Revoked ore			
License Surrenderede	14	6	20
Petition Withdrawn/Dismissede	1	0	1

8.eePetitions for Reinstatement of License:ee			
Filedee	9	1	10
Grantedee	4	1	5
Deniēdee	6	0	6

9.eeAverage and median time (calendar days) in processing complaints during the fiscal year, for all cases, from date of original receipt of the complaint, for each stage of discipline,ee through completion of judicial review:ee

	FY 95-96		FY 96-97	
	Avg.	Median	Avg.	Median
(a)eComplaint Unit Processingee	65	7	64	15
(b)eInvestigationee	335	250	336	230
(c)eAttorney General Processingee				
to preparation of an accusationee	139	97	134	97
(d)eOther stages of the legalee				
process (e.g. after charges filed)e	494	396	508	421

10.eInvestigator caseloads as of June 30, 1997:ee

eEnforcement Fieldee	Per	
Operations Caseload:	Statewide	Investigator
Active Investigations	1,824	26
AG Assigned Cases ²	572	8
Probation Unit Caseload:		
Monitoring Cases ³	569	63
Active Investigations	94	10
AG Assigned Cases ²	18	2

¹ These are in addition to the 567 MD and 87 AH cases referred to the Attorney General reported in the Enforcement Action Summary.

² These cases are at various stages of AG processing, and may require supplemental investigative work such as subpoena service, interviewing new victims or witnesses, testifying at hearings, etc.

³ 189 additional monitoring cases were inactive because the probationer is out of state.

11. Number and type of MD & AH action taken by case type in FY 96/97	Revocation	Surrender	Probation With Suspension	Probation	Probationary License Issued	Public Reprimand	Other Action	Total Actions by Case Type
Negligence	19 (17)	40 (36)	6 (5)	50 (48)	1 (0)	11 (10)	8 (7)	135 (123)
Inappropriate Prescribing	12 (10)	10 (10)	4 (4)	17 (15)	0	7 (7)	8 (8)	58 (54)
Unlicensed Activity	0	0	2 (1)	2 (2)	0	1 (1)	0	5 (4)
Sexual Misconduct	9 (1)	19 (11)	4 (4)	11 (8)	0	1 (1)	4 (2)	48 (27)
Mental Illness	5 (4)	5 (5)	1 (1)	5 (5)	0	0	2 (1)	18 (16)
Self-use of drugs/alcohol	5 (4)	7 (7)	4 (4)	14 (9)	0	3 (3)	0	33 (27)
Fraud	0	5 (4)	2 (1)	5 (2)	2 (1)	0	1 (0)	15 (8)
Conviction of a crime	7 (4)	3 (2)	8 (5)	14 (9)	6 (1)	3 (3)	0	41 (24)
Unprofessional Conduct ¹	11 (9)	14 (12)	3 (2)	14 (10)	1 (1)	14 (14)	7 (5)	64 (53)
Miscellaneous violations	0	0	0	4 (4)	1 (0)	0	3 (0)	8 (4)
Total Actions by Discipline Type (Physician only)²	68 (49)	103 (87)	34 (27)	136 (112)	11 (3)	40 (39)	33 (23)	425 (340)

¹ Many of the case types classified as "Unprofessional Conduct" are reciprocal action based upon discipline by another state.

² Figures in parentheses represent physician discipline only for each category. Figures outside parentheses represent combined MD & AH.

ENFORCEMENT ACTION SUMMARY FOR AFFILIATED HEALING ARTS

	FY 95-96	FY 96-97
COMPLAINTS/INVESTIGATIONS		
Complaints Received	948	1,008
Complaints Closed by CCICU [†]	703	772
Investigations		
Cases Opened	231	275
Cases Closed [†]	263	305
Cases referred to the AG	79	87
Cases referred to DAs/CAs	11	13
ADMINISTRATIVE FILINGS[†]		
Interim Suspensions	2	3
Statement of Issues to deny application	4	10
Petition to Compel Psychological Exam	1	0
Accusation/Petition to Revoke Probation	47	55
Total Administrative Filings	54	68
ADMINISTRATIVE ACTIONS[†]		
Revocation	14	19
Surrender (in lieu of Accusation or with Accusation pending)	10	16
Probation with Suspension	5	7
Probation	14	24
Probationary License Issued	2	8
Public Reprimand	4	1
Other decisions (e.g., training course)	1	10
Total Administrative Actions	50	85
REFERRAL AND COMPLIANCE ACTIONS		
Citation and Administrative Fines Issued	2	13
Office Conferences Conducted	17	9
Professionals Referred to Diversion Program [†]	0	0
Total Review & Referral Action	19	22
OTHER ADMINISTRATIVE OUTCOMES		
Accusation/Statement of Issues Withdrawn	4	7
Accusation/Statement of Issues Dismissed	0	0
Statement of Issues Granted (Lic. Denied)	2	3
Statement of Issues Denied (Lic. Granted)	2	9
Petitions for Penalty Relief granted ¹	0	2
Petitions for Penalty Relief denied ¹	4	0
Petition to Compel Psychological Exam granted	1	0
Petitions to compel exams denied	0	0

¹ Penalty Relief includes Petitions for Reinstatement, Petitions for Modification of Penalty, and Petitions for Termination of Probation.

[†] Information required by Business and Professions Code section 2313.

DIVERSION PROGRAM

The Board's Diversion Program for impaired physicians serves a dual role in the Division of Medical Quality's mission by helping to protect the public while rehabilitating physicians. The Physician Diversion Program protects the public by closely monitoring physicians who are impaired as the result of alcohol and other drug addictions or a mental disorder. Concurrently, it provides physicians who suffer from substance abuse an opportunity for rehabilitation and ongoing recovery.

The Diversion Program, created by statute in 1980 as an alternative to discipline by the Board, allows participants, when appropriate, to continue the practice of medicine. Both Board-referred and self-referred candidates can participate if deemed eligible by Diversion Evaluation Committees. These committees are composed of three physicians and two public members with expertise in alcohol and other drug addiction or mental illness. Participation by self-referred physicians, who have no Board action, is completely confidential from the disciplinary arm of the Medical Board. Currently, 68% of Diversion participants are self-referred. Being in the Diversion Program does not affect a physician's medical license, although limitations on current practice may be imposed as part of the physician's participation.

SB 779, which became effective January 1, 1996, provides for a physician's placement in the program in lieu of discipline if that physician is suffering from alcoholism or drug addiction. Since January 1, 1996, Diversion Evaluation Committees have deemed 43 physicians eligible for participation in the program.

Effective January 1, 1997, Business & Professions Code section 821.5 was implemented requiring the Diversion Program to monitor the progress of peer review body formal investigations of physicians who might be disabled by mental or physical illness and pose a threat to patient care. As of June 30, 1997, 10 such investigations had been reported for monitoring by the Diversion Program.

Activity ¹	Type of Impairment	No.	%
Beginning of fiscal year		211	
Accepted into program		68	
Completions:			
Successful	Alcohol	48	23
Unsuccessful	Other drugs	82	39
Active at end of year	Alcohol & other drugs	71	33
Applicants ²	Mental illness	5	2
Out-of-State-monitored	Mental illness & substance abuse	7	3
California MDs	Total	213	100

¹ These statistics include doctors of podiatric medicine.

² Applicants are participants who either 1) have not been seen by a Diversion Evaluation Committee or 2) have not yet signed a Diversion Agreement.

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Attachment 3

Diversion Program

The Physician Diversion Program is a statewide, highly structured, multifaceted, five year monitoring and rehabilitation program. It is administered by the Medical Board of California to support and monitor the recovery of physicians who have substance abuse or mental health disorders.

Physicians enter the Diversion Program by one of three avenues. First, physicians may self-refer. This is often the result of encouragement by concerned colleagues or family members for the physician to seek help. Second, physicians may be referred by the Enforcement Unit of the Medical Board rather than pursuing disciplinary action. Finally, physicians may be directed to participate by the Medical Board as part of a disciplinary order.

During FY 06-07, 45 physicians were accepted into the Diversion Program. Of those, 14 physicians had no open cases with the board, 23 physicians were diverted from discipline, and an additional eight physicians entered as a result of disciplinary orders. During

Activity ¹	FY05-06	FY06-07	Type of Impairment ¹	FY 06-07	%
Beginning of fiscal year	248	215	Alcohol	43	22
Accepted into program	42	45	Alcohol & mental illness	16	8
Completions:			Other drug	56	28
Successful	54	43	Other drugs & mental illness	27	14
Unsuccessful	18	17	Alcohol & other drug	34	17
Deceased ²	3	3	Alcohol & other drug & mental illness	18	9
Active at end of year	215	197	Mental illness	3	2
Other Activity			Total	197	100%
Applicants ³	17	30			
Other Applicants ⁴	26	33			
Out-of-state-monitored					
California licentiates	16	13			
Completions:					
Successful	4	4			
Unsuccessful	1	0			
Total monitored at end of FY 06-07		273			
Total monitored during FY 06-07		340			

¹ Does not include applicant or out-of-state participant data.

² Deaths occurred prior to successfully completing the program.

³ Applicants are participants who either have not been seen by a Diversion Evaluation Committee or have not yet signed a Diversion Agreement.

⁴ Other Applicants are those individuals who contacted the program during the fiscal year but either declined (21) to enter the program or were ineligible (12).

FY 06-07, a total of 340 physicians were monitored by the Diversion Program. Of the 63 who left the program, 17 were unsuccessful, while 43 successfully

completed the five years, with a minimum of three years of continuous sobriety and a change in lifestyle that would support ongoing recovery.

Division of Medical Quality

Vertical enforcement (SB 231, Figueroa, 2005) requires the investigators of the Medical Board and the prosecutors in the Health Quality Enforcement Section (HQES) of the Attorney General's Office to work together from the beginning of an investigation of possible physician misconduct, replacing the prior, "hand-off" method where board investigators compiled the evidence and then handed it off to prosecutors for legal evaluation. This pilot project was fully implemented on all post January 1, 2006 cases, and the board's enforcement program saw decreases in the time taken to complete an investigation. The average number of days to close cases without prosecution prior to vertical enforcement was 145; as of this report, it has been reduced to 139 days. The average number of days between the completion of an investigation and filing of an accusation has decreased from 241 to 212. Interim Suspension Orders (ISOs) saw the most dramatic impact from the implementation of vertical enforcement, with a reduction in average time of investigation to issuance of the suspension order from 91 to 30 days. This is especially impressive in that ISOs are issued when there is an imminent threat to public safety; therefore, this improvement in time has a significant impact on the board's mission of public protection.

In addition to the vertical enforcement pilot, the enforcement division implemented numerous policy changes described in the 2004-2005 Annual Report (e.g., a zero-tolerance policy regarding production of medical records; time frames by when a physician interview must occur), which also have contributed to outstanding reductions in overall investigation time. Currently, the time it takes to obtain medical records is reduced from 74 to 36 days. The average time between the initial request for a physician interview and the actual interview is reduced from 60 to 40 days. The average number of days to obtain a medical expert opinion is reduced from 69 to 36. The board only had to issue four citations and fines for failure to produce records, and two cases were referred to the Office of the Attorney General for the issuance of civil penalties. Recruitment and retention remain a serious problem, as the board's enforcement program is remarkably complex and investigators are able to find employment with higher compensation at agencies where the work is less difficult. During this fiscal year, investigative staff operated with an average vacancy rate of 11.6 percent. Despite this, investigators remained remarkably productive.

Executive Summary *(Continued from page i)*

the development of voluntary educational programs and courses to teach foreign language competency and cultural beliefs and practices for incorporation into the diagnosis and treatment of patients.

The Midwifery Advisory Council was established to make recommendations to the Medical Board on matters that are presented to it by the Division of Licensing on issues pertaining to licensed midwives. Recently, the council developed a coding system to capture practice data related to the practice of midwifery in California, pursuant to Business and Professions Code section 2516.

The Special Faculty Permit Review Committee evaluates the credentials of all applicants under Business and Professions Code section 2168.1 (special faculty permit) and makes recommendations to the Division of Licensing relative to these applicants. After all 10 members were appointed to the committee by the Division of Licensing, the committee held its first meeting, at which officers were elected. The committee clarified the meaning of "academically eminent" as used in the statute, and provided guidance to staff as to what documentation would need to be submitted with an application for the committee to make a recommendation to the Division of Licensing. An application form and instructions were approved for individuals to use to apply for a Special Faculty Permit. This law allows more individuals to share their expertise with California physicians and their patients.

The board continues to make improvements to its Web site. The most recent includes a Subscribers' List for anyone interested in receiving e-mail alerts of board meeting agenda notices and minutes; newsletters; regulations; and timely notifications of physicians' license suspensions, restrictions, revocations, and surrenders. In addition to board agendas, the related attachments and reference materials also are now available online.

Reports Per B&P Code Section 805: FY 06—07

Total Reports Received	127
Peer Review Body Type	
Health Care Facility/Clinic	73
Hospital/Clinic	70
Surgical Center	3
Health Care Service Plan	10
Professional Society	0
Medical Group/Employer	44
Outcomes of Reports Received	
Accusation and Interim Suspension Order Filed	2
Accusation Filed	1
Pending Disposition	97
Cases Closed	27

Malpractice Settlement Reports Received Per B&P Code Section 801

	No. of Reports	No. of Physicians*		No. of Reports	No. of Physicians*
Anesthesiology	30	4,322	Obstetrics	65	4,478
Cardiology	20	2,519	Oncology	4	1,046
Colon and Rectal Surgery	2	143	Ophthalmology	7	2,460
Dermatology	16	1,534	Orthopedic Surgery	64	2,862
Emergency Medicine	42	3,038	Otolaryngology	15	1,340
Endocrinology	1	571	Pain Medicine	2	291
Gastroenterology	5	1,211	Pathology	10	2,347
General/Family Practice	73	7,161	Pediatrics	14	8,530
General Surgery	59	3,868	Physical Medicine & Rehabilitation	3	757
Gynecology	23	4,478	Plastic Surgery	24	913
Hematology	4	132	Psychiatry	4	4,736
Infectious Disease	2	572	Pulmonology	5	1,178
Internal Medicine	55	19,856	Radiology	35	4,534
Neonatal/Perinatal Medicine	4	526	Rheumatology	3	519
Nephrology	1	840	Thoracic Surgery	13	670
Neurological Surgery	25	514	Urology	7	1,163
Neurology	13	1,235	Vascular Surgery	7	2,193
Nuclear Medicine	1	566			

*Certified in specialty

Division of Medical Quality Action Summary

Physicians & Surgeons

FY 05-06 FY 06-07

Complaints Received by Type & Source

Complaints/Investigations ¹			
Complaints received	7,663	7,259	
Complaints closed by Complaint Unit	6,349	6,105	
Investigations			
Cases opened	1,331	1,182	
Cases closed	1,307	1,128	
Cases referred to the Attorney General (AG)	458	415	
Cases referred for criminal action	31	27	
Number of probation violation reports referred to the AG	22	19	

Consumer inquiries and complaints

Consumer inquiries	30,678	
Jurisdictional inquiries	16,873	
Complaint forms sent	6,750	
Complaint forms returned by consumers	2,363	

Average and median time (calendar days) in processing complaints during the fiscal year: for all cases, from date of original receipt of the complaint, for each stage of discipline, through completion of judicial review:

	FY 05-06		FY 06-07	
	Avg.	Med.	Avg.	Med.
Complaint Unit processing	54	28	54	49
Investigation	277	261	307	289
AG processing to preparation of an accusation	132	78	127	76
Other stages of the legal process (e.g., after charges filed)	515	417	446	350

Enforcement Field Operations Caseload

	Statewide		Per Investigator
Active investigations	1,146		19
AG assigned cases ²	391		6
Probation Unit Caseload			
Monitoring Cases ³	523		37
Active Investigations	72		5
AG assigned cases ²	46		n/a ⁴

¹ Some cases closed were opened in a prior fiscal year.
² These cases are at various stages of AG processing and may require supplemental investigative work, such as subpoena service, interviewing new victims or witnesses, testifying at hearings, etc.
³ 124 additional monitoring cases were inactive because the probationer was out of state as of June 30, 2007.
⁴ For Probation Unit caseload, the AG Assigned Cases are included as Monitoring Cases

	Fraud	Health & Safety ¹	Non-Jurisdictional ²	Competence/Negligence ³	Other Category	Personal Conduct ⁴	Unprofessional Conduct ⁵	Unlicensed/Unregistered	Total
Public	205	92	1,265	1,909	1	48	833	92	4,445
B&P Code ⁶	1	4	0	963	1	40	52	0	1,061
Licensee/Prof. Group ⁷	48	16	51	84	9	19	68	32	327
Govt. Agency ⁸	90	37	20	108	63	276	533	58	1,185
Misc./Anonymous	52	9	32	42	0	23	50	33	241
Totals	396	158	1,368	3,106	74	406	1,536	215	7,259

¹ Health and Safety complaints, e.g., excessive prescribing, sale of dangerous drugs, etc.
² Non-jurisdictional complaints are not under the authority of the board and are referred to other agencies such as the Department of Health Care Services, Department of Managed Health Care, etc.
³ Competence/Negligence complaints are related to the quality of care provided by licensees.
⁴ Personal Conduct complaints, e.g., licensee self-use of drugs/alcohol, conviction of a crime, etc.
⁵ Unprofessional Conduct complaints include sexual misconduct with patients, discipline by another state, failure to release medical records, etc.
⁶ Reference is to B&P Code sections 800 and 2240(a) and includes complaints initiated based upon reports submitted to the Medical Board by hospitals, insurance companies and others, as required by law, regarding instances of health facility discipline, malpractice judgments/settlements, or other reportable activities.
⁷ Licensee/Professional Group includes the following complaintsources: Other Licensee, Society/Trade Organization, and Industry.
⁸ Governmental Agency includes the following complaint sources: Internal, Law Enforcement Agency, Other California State Agency, Other State, Other Unit of Consumer Affairs, and Federal or Other Governmental Agency.

Reports Received Based Upon Legal Requirements

	FY 05-06	FY 06-07
Medical Malpractice		
Insurers: B&P Code §§801 & 801.1	726	676
Attorneys or Self-Reported or Employers:		
B&P Code §§801(f), 802 & 803.2	185	187
Courts: B&P Code §803	6	10
Total Malpractice Reports	917	873

Coroners' Reports		
B&P Code §802.5	11	22

Criminal Charges & Convictions		
B&P Code §§802.1 & 803.5	16	29

Health Facility Discipline		
Medical Cause or Reason:		
B&P Code §805	138	127

Outpatient Surgery Settings Reports		
Patient Death:		
B&P Code §2240(a)	2	10

Division of Medical Quality Action Summary

	FY 05-06	FY 06-07		FY 05-06	FY 06-07
Administrative Actions			Petition Activity		
Accusation	226	218	Petition for Reinstatement of license filed	13	21
Petition to Revoke Probation	26	24	Petition for Reinstatement of license granted	7	5
Number of completed investigations referred to the Attorney General's Office awaiting the filing of an Accusation as of June 30	152	132	Petition for Reinstatement of license denied	8	3
Number of cases over 6 months old that resulted in the filing of an Accusation	172	174	Petition for Penalty Relief ³ granted	20	19
Administrative Outcomes			Petition for Penalty Relief ³ denied	11	12
Revocation	39	34	Petition to Compel Exam filed	9	15
Surrender (in lieu of Accusation or with Accusation pending)	66	67	Petition to Compel Exam granted	9	12
Suspension Only	0	1	Petition to Compel Exam denied	0	0
Probation with Suspension	20	21	License Restrictions/Suspensions Imposed		
Probation	88	92	Administrative Action is Pending		
Probationary License Issued	4		Interim Suspension Orders	24	18 ^d
Public Reprimand	89	59 ^e	Temporary Restraining Orders	0	0
Other actions (e.g. exam required, education course, etc.)	3	30	Other Suspension Orders	23	25 ^d
Accusation Withdrawn ¹	19	14	License Restrictions/Suspensions/Temporary Restraining Orders Sought and Granted by Case Type in FY 06-07		
Accusation Dismissed	6	4		Orders Sought	Orders Granted
Dispositions of Probation Filings			Criminal Charges/Conviction of a Crime	2	7 ^e
Probation Revoked or License Surrendered	15	30	Drug Prescribing Violations	0	0
Additional Suspension and Probation	0	2	Fraud	4	3
Additional Suspension or Probation	5	7	Gross Negligence/Incompetence	5	4
Other	0	1	Mental/Physical Illness	4	6
Public Reprimand	0	0	Self-Abuse of Drugs or Alcohol	8 ^e	11
Petition Withdrawn/Dismissed	2	0	Sexual Misconduct	6	10
Referral and Compliance Actions			Unlicensed Activity	0	0
Citation and Administrative Fines Issued	342	426	Unprofessional Conduct	0	4
Physicians Referred to Diversion Program ²	30	24	Total	29	45

NOTE: Some orders granted were sought in prior fiscal year.

Administrative Outcomes by Case Type in FY 06-07⁶

	Revocation	Surrender	Suspension Only	Probation with Suspension	Probation	Probationary License Issued	Public Reprimand	Other Action	Total Actions by Case Type
Negligence	7	17	1	1	49	0	39	21	135
Inappropriate Prescribing	1	5	0	1	7	0	9	3	26
Unlicensed Activity	0	1	0	2	2	0	3	1	9
Sexual Misconduct	3	8	0	4	7	0	1	0	23
Mental Illness	5	11	0	0	3	0	0	1	20
Self-Use of Drugs/Alcohol	8	12	0	4	9	3	0	1	37
Fraud	0	2	0	3	3	0	0	1	9
Conviction of a Crime	5	3	0	4	4	1	3	0	20
Unprofessional Conduct	5	7	0	2	4	2	4	2	26
Miscellaneous Violations	0	1	0	0	4	0	0	0	5
Totals by Discipline Type	34	67	1	21	92	6	59	30	310

¹ Accusations withdrawn for the following reasons: physician passed a competency exam; physician met stipulated terms and conditions; physician was issued a citation/fine instead; physician died; etc.

² Diversion Program referrals are made pursuant to B&P Code section 2350(b).

³ Penalty Relief includes Petitions for Modification of Penalty and Petitions for Termination of Probation.

⁴ Pursuant to B&P Code section 2220.05(c), ISO's were granted in the following priority categories: 0-gross negligence/incompetence resulting in death or serious bodily injury, 1-drug or alcohol abuse involving death or serious bodily injury, 2-excessive prescribing, 3-sexual misconduct with a patient, and 4-practicing under the influence of drugs/alcohol.

⁵ Includes 4 Automatic Suspension Orders per B&P Code section 2236, 7 license restrictions per Penal Code section 23, 8 out of state suspension orders per B&P Code section 2236, 3 stipulated agreements to suspend or restrict the practice of medicine, and 3 suspension orders issued by the Chief of Enforcement for violation of probation condition.

⁶ Pursuant to B&P Code section 2220.05(c), disciplinary actions were taken in the following priority categories: 53-gross negligence/incompetence resulting in serious bodily injury or death, 0-practicing under the influence resulting in serious bodily injury or death, 9-excessive prescribing, 18-sexual misconduct with a patient, and 4-practicing under the influence of drugs/alcohol.

Enforcement Action Summary for Allied Health Care Professionals

FY 05-06 FY 06-07

Complaints/Investigations¹

Complaints Received	302	313
Complaints Closed by Complaint Unit	241	259
Investigations:		
Cases Opened	167	146
Cases Closed	164	134
Cases referred to the AG	79	70
Cases referred for criminal action	5	4
Number of Probation Violation Reports referred to AG	4	3

License Restrictions/Suspensions Imposed While Administrative Action is Pending

Interim Suspension Orders	3	3
Other Suspension Orders	1	3 ²

Administrative Actions Accusation

Petition to Revoke Probation	16	20
Statement of Issues to deny application	4	3
	8	4
Number of completed investigations referred to AG's Office awaiting the filing of an Accusation as of June 30	12	11

Administrative Outcomes

Revocation	8	4
Surrender (in lieu of Accusation or with Accusation pending)	6	6
Probation with Suspension	1	3e
Probation	12	14
Probationary License Issued	2	3e
Public Reprimand	0	0
Other Actions (e.g. exam required, education course, etc.)	0	0
Statement of Issues Granted (Lic Denied)	1	3
Statement of Issues Denied (Lic Granted)	2	2
Accusation/Statement of Issues Withdrawn	1	8
Accusation Dismissed	0	0

Dispositions of Probation Filings

Additional Probation or Suspension	0	0
Probation Revoked or License Surrendered	3	2
Petition Withdrawn or Dismissed	0	0

Referral and Compliance Actions

Citation and Administrative Fines Issued	10	2
Office Conferences Conducted	5	2

Petition Activity

Petition for Reinstatement of license filed	1	5
Petition for Reinstatement of license granted	1	0
Petition for Reinstatement of license denied	0	0
Petition for Penalty Relief ³ granted	0	2
Petition for Penalty Relief ³ denied	3	0
Petition to Compel Exam granted	0	0
Compel Exam denied	0	0

Reports Received Based Upon Legal Requirements

FY 05-06 FY 06-07

Medical Malpractice

Insurers: B&P Code §§801 & 801.1	9	16
Attorneys or Self-Reported or Employers: B&P Code §§801(f), 802 & 803.2	1	2e
Courts: B&P Code §803	0	0e
Total Malpractice Reports	10	18

Coroners' Reports

B&P Code §802.5	0	0
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Criminal Charges & Convictions

B&P Code §§802.1 & 803.5	0	0
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Health Facility Discipline

Medical Cause or Reason: B&P Code §805	2	1
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Outpatient Surgery Settings Reports

Patient Death: B&P Code §2240(a)	0	0e
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¹ Allied Health Care professionals include podiatrists, physician assistants, research psychoanalysts, dispensing opticians and licensed midwives, except in the categories of investigations, cases referred to the Attorney General and referred for criminal action.

² Includes 1 automatic suspension order, 1 license restriction per Penal Code section 23, 1 stipulated agreement to suspend or restrict practice, etc.

³ Penalty Relief includes Petitions for Modification of Penalty and Petitions for Termination of Probation.

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Attachment 4

2010 Licensed Midwife Annual Report Summary¹

	2009	2010
Clients served as primary caregiver at the onset of care	3,023	3,115
Clients served with collaborative care available through or given by a licensed physician and surgeon	1,461	1,802
Clients served under the supervision of a licensed physician and surgeon	285	203
Planned out-of-hospital births at the onset of labor	1,974	2,245
Planned out-of-hospital births completed in an out-of-hospital setting:	1,621	1,840
Twin Births	8	5
Multiple Births (other than Twin Births)	2	0
Breech Births	11	13
VBAC (vaginal births after the performance of a Cesarean section)	90	109
Complications - Resulting in the mortality of the mother prior to transfer	0	0
Complications - Resulting in the mortality of the mother after transfer	1	0
Complications - Resulting in the mortality of the infant prior to transfer	2	0
Complications - Resulting in the mortality of the infant after transfer	2	2
Antepartum - Primary care transferred to another health care practitioner (elective)	209	240
Antepartum - Urgent or emergency transport of expectant mother	56	49
Intrapartum - Elective hospital transfer	282	333
Intrapartum - Urgent or emergency transfer of an infant or mother	42	53
Postpartum - Elective hospital transfer of mother	32	28
Postpartum - Elective hospital transfer of Infant	27	22
Postpartum - Urgent or emergency transfer of a mother	27	21
Postpartum - Urgent or emergency transfer of an infant	24	37

¹ Conclusions should not be drawn from this summary as data does not specify whether the death is fetal, intrapartum or neonatal; whether the affected perinate had congenital anomalies incompatible with life; or whether the perinate was born in or out of a hospital. Births are attended by the licensed midwife as the primary caregiver.

Enforcement Program

During the fiscal year, the Enforcement Program focused on identifying areas of concern and best practices to improve case timelines and was successful in the implementation of several process improvements, including: updating manuals; reviewing policies and recommending changes to the Board; and, reconciling data and statistics on a monthly basis to track timelines and trends.

Although the Enforcement Program was again faced with operational challenges including staffing shortages, the average Complaint Unit time frame was reduced despite receiving 583 more complaints than last year. The Notice to Consumer Regulation, requiring physicians in California to inform their patients that they are licensed by the Medical Board of California and provide the Board's contact information, was a large factor in the nearly 10 percent increase in complaints and is anticipated to continue to increase the amount of

complaints received in the future. Faced with a substantial increase in consumer complaints, the reduction of the investigative time frame remained a high priority throughout the year. The Enforcement Program was successfully able to reduce the overall time frame to complete an investigation by 5 percent. This decrease is, in part, due to the extensive training provided to Enforcement Program investigators including training for time management, multi-tasking skills, and utilizing technological tools to improve individual tracking methods.

SB700 (Negrete McLeod, Chapter 505, Statutes of 2010), became effective this year, requiring the Board to create a new reporting form pursuant to 805.01 of the California Business and Professions Code and to post an 805 (Peer Review Process) Fact sheet on the Board's website. The law requires hospitals to inform the Board of a formal investigation within 15 days and

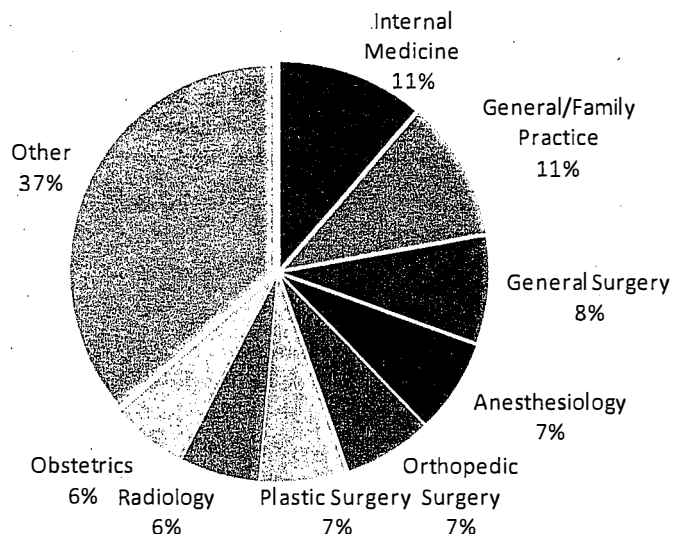
allows the Board access to relevant documents upon the notification versus having to wait until the hospital disciplinary hearing has been held. SB700 will enable the Enforcement Program to process 805 cases in a more expedited manner resulting in better consumer protection.

The Board's Operation Safe Medicine (OSM) was responsible for seizing more than \$100,000 of contraband contact lenses and arresting several unlicensed individuals who were illegally selling them. OSM was largely responsible for the 41 cases referred to the District Attorney or City Attorney resulting in an impressive 23 criminal complaints being filed. The volume and seriousness of the cases investigated and submitted for prosecution continues to underscore the importance of having a unit dedicated solely to the issue of unlicensed practice and demonstrates the Enforcement Program's goal of 198 protecting the consumers of California.

Malpractice Settlement Reports

Received per Business and Professions Code section 801.01 by Specialty Practice

Specialty/Subspecialty	No. of Reports ¹	No. of Physicians ²
Allergy and Immunology	2	665
Anesthesiology	34	5,093
Cardiology	19	3,064
Colon and Rectal Surgery	4	161
Critical Care	1	1,123
Dermatology	4	1,908
Emergency Medicine	13	3,753
Gastroenterology	11	1,541
General/Family Practice	51	8,376
General Surgery	39	4,311
Geriatric Medicine	1	741
Gynecology	16	5,337
Infectious Disease	1	777
Internal Medicine	53	24,684
Neonatal/Perinatal Medicine	7	599
Neurological Surgery	11	550
Neurology	7	1,882
Obstetrics	28	5,337
Oncology	3	1,589
Ophthalmology	9	2,699
Orthopedic Surgery	32	3,200
Otolaryngology	8	1,472
Pain Medicine	2	530
Pathology	7	3,501
Pediatrics	9	9,818
Physical Medicine & Rehabilitation	2	923
Plastic Surgery	31	927
Psychiatry	6	6,450
Pulmonology	4	1,402
Radiation Oncology	1	537
Radiology	29	5,322
Rheumatology	1	626
Sleep Medicine	1	196
Thoracic Surgery	1	670
Urology	13	1,260
Vascular Surgery	6	253



Reports per Business and Professions Code section 805

Total Reports Received	93
Peer Review Body Type	
Health Care Facility/Clinic	58
Hospital/Clinic	0
Surgical Center	0
Health Care Service Plan	19
Professional Society	0
Medical Group/Employer	16
Outcomes of Reports Received	
Accusation Filed	1
Pending Disposition	61
Cases Closed	31

¹ The procedure was performed in the practice specialty/subspecialty; however, the physician may or may not have been certified in the specialty/subspecialty area

² California physicians certified in specialty according to the American Board of Medical Specialties 2010 Certificate Statistics report

Enforcement Program Action Summary Physicians & Surgeons

Complaints Received by Type & Source

	FY 09-10	FY 10-11
Complaints/Investigations¹		
Complaints received	6,539	7,122
Complaints closed by Complaint Unit	5,251	5,670
Investigations		
Cases opened	1,312	1,338
Cases closed	1,290	1,411
Cases referred to the Attorney General (AG)	569	594
Cases referred for criminal action	35	41
Number of probation violation reports referred to the AG	32	35
Consumer Inquiries		
Consumer inquiries	20,447	19,355
Jurisdictional inquiries	11,246	10,645

Enforcement Processing Time Frames

Average and median time (calendar days) in processing complaints during the fiscal year, for all cases, from date of original receipt of the complaint, for each stage of discipline, through completion of judicial review:

	FY 09-10	FY 10-11
Complaint Unit processing	76	63
Investigation	328	292
AG Processing to preparation of an accusation	106	66
Other stages of the legal process (e.g., after charges filed)	368	312
	417	324

Enforcement Field Operations Caseload²

FY 10-11 ⁶	Statewide	Per Investigator
Active Investigations	1,205	16
AG assigned cases ³	660	9
Probation Unit Caseload ⁴	Statewide	Per Inspector
Monitoring Cases ⁵	402	25

- Some cases closed were opened in a prior fiscal year
- Includes physicians and surgeons, licensed midwives, research psychoanalysts, dispensing opticians, podiatrists, physician assistants, psychologists, and osteopathic physicians and surgeons
- These cases are at various stages of AG processing and may require supplemental investigative work, such as subpoena services, interviewing new victims or witnesses, testifying at hearings, etc.
- Includes physicians and surgeons, licensed midwives, research psychoanalysts, and dispensing opticians
- 103 additional monitoring cases were inactive because the probationer was out of state as of June 30, 2011
- Average is determined by using the total number of authorized positions, including vacant positions.

	Fraud	Health & Safety ¹	Non-Jurisdictional ²	Gross Negligence/ Incompetence ³	Other Category	Personal Conduct ⁴	Unprofessional Conduct ⁵	Unlicensed/ Unregistered	Total
Public	42	68	1,047	2,427	0	55	1,041	138	4,818
B&P Code ⁶	0	1	0	787	0	86	25	0	899
Licensee/ Prof. Group ⁷	11	13	20	50	0	42	137	32	305
Government Agency ⁸	8	20	7	84	64	247	401	96	927
Misc./ Anonymous	20	15	11	29	0	13	45	40	173
Totals	81	117	1,085	3,377	64	443	1,649	306	7,122

- Health and Safety complaints, e.g., excessive prescribing, sale of dangerous drugs, etc.
- Non-jurisdictional complaints are not under the authority of the Board and are referred to other agencies such as the Department of Health Care Services, Department of Managed Health Care, etc.
- Gross Negligence/Incompetence complaints are related to the quality of care provided by licensees
- Personal Conduct complaints, e.g., licensee self-abuse of drugs/alcohol, conviction of a crime, etc.
- Unprofessional Conduct complaints include sexual misconduct with patients, discipline by another state, failure to release medical records, etc.
- Reference is to B&P Code §§800 and 2240(a) and includes complaints initiated based upon reports submitted to the Medical Board by hospitals, insurance companies and others, as required by law, regarding instances of health facility discipline, malpractice judgments/settlements, or other reportable activities
- Licensee/Professional Group includes the following complaint sources: other licensee, Society/Trade Organization, and Industry
- Governmental Agency includes the following complaint sources: Internal, Law Enforcement Agency, other California State Agency, other State, other Unit of Consumer Affairs, and Federal or other Governmental Agency

Reports Received Based Upon Legal Requirements

	FY 09-10	FY 10-11
Medical Malpractice		
Insurers: B&P Code §801.01	556	482
Attorneys or Self-Reported or Employers: B&P Code §801.01	253	224
Courts: B&P Code §803	8	4
Total Malpractice Reports	817	710
Coroners' Reports: B&P Code §802.5	18	15
Criminal Charges & Convictions: B&P Code §§802.1 & 803.5	122	74
Health Facility Discipline Reports Medical Cause or Reason: B&P Code §805	99	93
Outpatient Surgery Settings Reports Patient Death: B&P Code §2240(a)	6	5

Enforcement Program Action Summary

	FY 09-10	FY 10-11
Administrative Actions		
Accusation	276	265
Petition to Revoke Probation	24	35
Amended Accusation/Petition to Revoke Probation	62	78
Number of completed investigations referred to the AG awaiting the filing of an Accusation as of June 30, 2011	156	173
Number of cases over 6 months old that resulted in the filing of an Accusation	224	213
Administrative Outcomes		
Revocation	34	38
Surrender (in lieu of Accusation or with Accusation pending)	71	46
Suspension Only	0	0
Probation with Suspension	13	15
Probation	93	82
Probationary License Issued	19	23
Public Reprimand	116	108
Other Actions (e.g., exam required, educational course, etc.)	3	5
Accusation Withdrawn ¹	11	14
Accusation Dismissed	8	7
Dispositions of Probation Filings		
Probation Revoked or License Surrendered	14	11
Additional Suspension and Probation	2	1
Additional Suspension or Probation	9	3
Public Reprimand	0	1
Other	1	1
Petition Withdrawn/Dismissed	1	1
Referral and Compliance Actions		
Citation and Administrative Fines Issued	111	65

	FY 09-10	FY 10-11
Petition Activity		
Petition for Reinstatement of License Filed	16	20
Petition for Reinstatement of License Granted	5	5
Petition for Reinstatement of License Denied	6	7
Petition for Penalty Relief ² Granted	26	26
Petition for Penalty Relief ² Denied	9	8
Petition to Compel Exam Filed	20	19
Petition to Compel Exam Granted	20	11
Petition to Compel Exam Denied	0	0
License Restrictions/Suspensions Imposed While Administrative Action Pending		
Interim Suspension Orders	19	21 ³
Temporary Restraining Orders	0	1
Other Suspension Orders	31	38 ⁴
License Restrictions/Suspensions/Temporary Restraining Orders Sought and Granted by Case Type		
<i>Note: Some orders granted were sought in prior fiscal year.</i>	Sought	Granted
Gross Negligence/Incompetence	12	13
Inappropriate Prescribing	6	6
Unlicensed Activity	1	2
Sexual Misconduct	6	7
Mental/Physical Illness	3	11
Self-Abuse of Drugs or Alcohol	6	6
Fraud	4	4
Criminal Charges/Conviction of a Crime	2	7
Unprofessional Conduct	5	4
Total	45	60

Administrative Outcomes by Case Type⁵

	Revocation	Surrender	Suspension Only	Probation with Suspension	Probation	Probationary License Issued	Public Reprimand	Other Action	Total Actions
Gross Negligence/Incompetence	4	13	0	1	35	0	70	2	125
Inappropriate Prescribing	6	5	0	4	8	0	7	0	30
Unlicensed Activity	0	0	0	0	1	0	1	0	2
Sexual Misconduct	7	6	0	2	3	0	2	0	20
Mental/Physical Illness	6	2	0	0	1	0	1	0	10
Self-Abuse of Drugs/Alcohol	0	4	0	2	12	0	1	0	19
Fraud	0	1	0	0	0	0	11	0	12
Conviction of a Crime	10	8	0	6	9	0	2	0	35
Unprofessional Conduct	5	7	0	0	9	23	13	1	58
Miscellaneous Violations	0	0	0	0	4	0	0	2	6
Totals by Discipline Type	38	46	0	15	82	23	108	5	317

¹ Accusations withdrawn for the following reasons: physician passed a competency exam; physician met stipulated terms and conditions; physician was issued a citation/fine instead; physician died, etc.

² Penalty Relief includes Petitions for Modification of Penalty and Petitions for Termination of Probation

³ Pursuant to B&P Code §2220.05(c), ISOs and TROs were granted in the following priority categories: 2-gross negligence/incompetence resulting in death or serious bodily injury, 0-drug or alcohol abuse involving death or serious bodily injury, 2-excessive prescribing, 2-sexual misconduct with a patient, and 0-practicing under the influence of drugs/alcohol

⁴ Includes 4-Automatic Suspension Orders per B&P Code §2236, 10-licensee restrictions per Penal Code §23, 20-out-of-state suspension orders per B&P Code §2310, 1-stipulated agreement to suspend or restrict the practice of medicine, and 3-suspension orders issued by the Chief of Enforcement for violation of probation conditions

⁵ Pursuant to B&P Code §2220.05(c), disciplinary actions were taken in the following priority categories: 38-gross negligence/incompetence resulting in death or serious bodily injury, 0-practicing under the influence resulting in death or serious bodily injury, 13-excessive prescribing, 16-sexual misconduct with patient, and 1-practicing under the influence of drugs/alcohol

Enforcement Action Summary

Allied Health Care Professionals¹

	FY 09-10	FY 10-11
Complaints/Investigations		
Complaints received	378	488
Complaints closed by Complaint Unit	309	379
Investigations		
Cases opened	210	196
Cases closed	201	229
Cases referred to the AG	102	108
Cases referred for criminal action	6	18
Number of Probation Violation Reports referred to AG	2	3
License Restrictions/Suspensions Imposed While Administrative Action is Pending		
Interim Suspension Orders	2	7
Other Suspension Orders	2	3 ²
Administrative Actions		
Accusation	22	31
Petition to Revoke Probation	2	2
Amended Accusation/Petition to Revoke Probation	6	3
Statement of Issues to deny application	5	2
Number of completed investigations referred to AG's Office awaiting the filing of an Accusation as of June 30, 2011	29	15
Administrative Outcomes		
Revocation	1	13
Surrender (in lieu of Accusation or with Accusation pending)	6	6
Probation with Suspension	2	0
Probation	17	11
Probationary License Issued	1	5
Public Reprimand	0	1
Other Actions (e.g., exam required, educational course, etc.)	0	0
Statement of Issues Granted (License Denied)	1	2
Statement of Issues Denied (License Granted)	5	0
Accusation/Statement of Issues Withdrawn	4	4
Accusation Dismissed	0	1
Dispositions of Probation Filings		
Additional Probation or Suspension	0	1
Probation Revoked or License Surrendered	1	3
Petition Withdrawn or Dismissed	0	1
Referral and Compliance Actions		
Citation and Administrative Fines Issued	11	6
Office Conferences Conducted	1	0
Petition Activity		
Petition for Reinstatement of license filed	0	0
Petition for Reinstatement of license granted	3	0
Petition for Reinstatement of license denied	0	0
Petition for Penalty Relief ³ granted	3	1
Petition for Penalty Relief ³ denied	2	0
Petition to Compel Exam granted	0	0
Petition to Compel Exam denied	0	0

Reports Received Based Upon Legal Requirements

	FY 09-10	FY 10-11
Medical Malpractice		
Insurers: B&P Code §§801 and 801.01	10	14
Attorneys or Self-Reported or Employers: B&P Code §§801 and 801.01	2	3
Courts: B&P Code §803	0	1
Total Malpractice Reports	12	18
Coroners' Reports: B&P Code §802.5	0	1
Criminal Charges & Convictions: B&P Code §§802.1 & 803.5	7	2
Health Facility Discipline Reports		
Medical Cause or Reason: B&P Code §805	0	1
Outpatient Surgery Settings Reports		
Patient Death: B&P Code §2240(a)	0	1

¹ Allied Health Care Professionals includes licensed midwives, research psychoanalysts, dispensing opticians, podiatrists, physician assistants, except in the categories of Investigations and License Restrictions/Suspensions Imposed While Administrative Action is Pending, which also includes psychologists and osteopathic physicians and surgeons

² Includes 2-license restrictions per Penal Code §23, and 1-stipulated agreement to suspend or restrict the licensee's practice

³ Penalty Relief includes Petitions for Modification of Penalty and Petitions for Termination of Probation

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