

FY12

**State Medical Board of Ohio
Annual Report**



July 1, 2011 – June 30, 2012

State Medical Board of Ohio FY12 Annual Report

Table of Contents

Agency Mission and Goals	1
Medical Board Members	2
Board Appointments.....	3
Board Committees.....	4
Board Operations.....	6
Fiscal Report	6
Licensure Activities.....	8
Addressing Prescription Drug Abuse.....	12
Disciplinary Activities.....	14
Board Action Definitions	15
Quality Intervention Program	17
Legislative Update	19
Rules Update	20
Policies Adopted	21
Educational Outreach Activities.....	23
State and National Activities.....	24

Agency Mission & Goals

Under the authority of the Medical Practices Act and related law, the Medical Board licenses and oversees the practice of medicine and its branches within the state. The Board has jurisdiction over allopathic physicians (M.D.), osteopathic physicians (D.O.), podiatric physicians (D.P.M.), physician assistants (P.A.), anesthesiologist assistants (A.A.), radiologist assistants (R.A.) and acupuncturists (R.A.C.), as well as for practitioners of the limited branches of medicine such as massage therapists (L.M.T.) and cosmetic therapists (C.T.). The Medical Board continues to regulate mechanotherapists and naprapaths licensed by the Board before March 1992.

The Medical Board's regulatory responsibilities include investigating complaints against applicants and licensees, and taking disciplinary action against those who violate the public health and safety standards set by the General Assembly and the Medical Board.

AGENCY MISSION

To protect and enhance the health and safety of the public through effective medical regulation.

AGENCY GOALS

- ❖ Ensure that persons practicing medicine meet sufficient standards of education, training, competence and ethics.
- ❖ Define and advocate for standards of safe medical practice.
- ❖ Rehabilitate, when possible, persons who are impaired or who practice medicine unethically or below minimal standards of care, and prohibit persons who have not been rehabilitated from practicing medicine.
- ❖ Prohibit persons from practicing medicine whose violations are so egregious as to forfeit the privilege or who otherwise lack the legal authority.
- ❖ Provide information about the licensees of the Medical Board, the Board's functions and operations, and the laws governing the practice of medicine.
- ❖ Achieve and maintain the highest possible levels of organizational efficacy.

Medical Board Members

The Medical Board is comprised of twelve members: nine physicians (seven MD, one DO, and one DPM) and three non-physician public members. All of the Board members are appointed by the Governor and serve five-year terms. Appointment terms are staggered to provide continuity and Board members may be reappointed. Two members are selected by their peers on the Board to serve as the Board's Secretary and Supervising Member who oversee the Board's investigatory process.

During FY12, the Medical Board met each month in the Administrative Hearing Room on the 3rd floor of the Rhodes Office Tower, 30 East Broad Street, Columbus, Ohio. Meeting agendas and minutes are available on the Board's website: www.med.ohio.gov. In addition to the regularly scheduled monthly meetings in FY12, the Board met three times by telephone conference to issue a summary suspension to a licensee, or to accept the voluntary surrender of a doctor's license to practice. HB93, effective June 2011, authorized the Board to accept voluntary surrenders via teleconference. The Board also held a special meeting on August 18, 2011 to adopt Rule 4731-29-01, Standards and Procedures for Operation of a Pain Management Clinic.

2011 BOARD MEMBERS - July 1, 2011 through December 31, 2011

Marchelle Suppan, DPM, MBA , President
Podiatry – Orrville, OH

Dalsukh Madia, MD
Anesthesiology – Marion, OH

Darshan Mahajan, MD, Vice President
Neurology – Elyria, OH

Kris Ramprasad, MD
Gastroenterology – Cincinnati, OH

Jack Amato, MD, Supervising Member as of
6/11
OB/GYN – Irondale, OH

Anita M. Steinbergh, DO
Family Practice – Westerville, OH

Lance Talmage, MD, Secretary until 12/11
OB/GYN – Toledo, OH

Susan Stephens, MD (resigned 11/11)
Orthopedic Surgery – Cleveland, OH

Raymond J. Albert, Supervising Member
until 6/11; (resigned 9/11)
Consumer Member – Amanda, OH

J. Craig Strafford, MD, MPH, FACOG
OB/GYN – Gallipolis, OH

Laurie Elsass
Consumer Member – Dublin, OH

W. Frank Hairston, Jr.
Consumer Member – Ravenna, OH

Robert Gerbig (11/11)
Consumer Member – Powell, OH
Deceased 11/11

Medical Board Members

2012 BOARD MEMBERS - January 1, 2012 through June 30, 2012

Darshan Mahajan, MD, President
Neurology – Elyria, OH

W. Frank Hairston, Jr.
Consumer Member – Ravenna, OH

Anita M. Steinbergh, DO, Vice President
Family Practice – Westerville, OH

Donald R. Kenney, Sr. (appointed 2/12)
Consumer Member – Westerville, OH

Jack Amato, MD, Supervising Member until
term ended 3/12 –OB/GYN – Irondale, OH

Dalsukh Madia, MD
Anesthesiology – Marion, OH

J. Craig Strafford, MD, MPH, FACOG
Secretary
OB/GYN – Gallipolis, OH

Kris Ramprasad, MD
Gastroenterology – Cincinnati, OH

Mark Bechtel, MD (appointed 1/12; elected
Supervising Member 6/12) – Dermatology –
Westerville, OH

Marchelle Suppan, DPM, MBA
Podiatry – Orrville, OH

Laurie Elsass
Consumer Member – Dublin, OH

Lance Talmage, MD
OB/GYN – Toledo, OH,
(acting Supervising Member 3/12 - 6/12)

Physician (MD) position pending

Board Appointments in FY12

Governor John Kasich appointed the following persons to the Medical Board during FY12:

Robert Gerbig, of Powell, was appointed to the Board as a consumer representative on November 2, 2011, to serve the remainder of the term of Raymond J. Albert, who resigned in September 2011. Sadly, Mr. Gerbig died on November 28, 2011 before he was able to begin his service on the Board.

Mark Bechtel, MD, of Westerville, was appointed in January 2012. He replaced Dr. Susan Stephens who resigned. A dermatologist, Dr. Bechtel is a member of the Section of Dermatology at Nationwide Children’s Hospital in Columbus and an Associate Professor of Clinical Dermatology and Director of the Division of Dermatology at The Ohio State University College of Medicine. He is active in teaching medical students, dermatology residents, pediatric residents and internal medicine residents.

Donald R. Kenney, Sr., of Westerville, was appointed in February 2012 to the vacant consumer position on the Medical Board. Mr. Kenney is an established real estate developer and business professional.

Remembering Raymond J. Albert

Raymond J. Albert

May 27, 1927—Oct. 19, 2011

Medical Board Member

1987—2011

There really aren't words to express the impact Ray Albert made during his 24 years of service on the State Medical Board. In his unassuming way, Mr. Albert made several firsts during his tenure on the Board. He was the first public member to serve as Board President, the first public member to serve as Supervising Member of the Board, and he set the record for years of service as a public member. He helped all of us remember to keep the patient first when setting policy and making disciplinary decisions.

As Supervising Member of the Board, he worked closely with the Board Secretary to oversee the Board's complaint investigation and enforcement activities. During his 14 years as Supervising Member, Mr. Albert reviewed over 54,000 complaints which resulted in nearly 2,600 Board actions. He instituted several processes that helped the agency prioritize its caseload and address issues consistently and fairly.

Mr. Albert conducted innumerable office conferences with licensees on probation due to a Board action. Many of those actions involved physicians with chemical dependency issues. A strong advocate for physicians in recovery, he set the framework and molded the Medical Board's probationary monitoring program. His no nonsense yet compassionate demeanor was a lifeline to many physicians – helping them heal and return to productive medical practice. These efforts are his enduring legacy.

Medical Board Committees

The Medical Board addresses a variety of policy issues through its standing committees. Committees formulate recommendations that are forwarded to the full Board for action.

The committee structure includes two groups. The Executive Director and Executive staff members conduct research and provide support to the committees. Committee meetings are held prior to the monthly Board meetings and committee agendas are posted on the Medical Board's website. Board actions on committee recommendations are included in the Board meeting minutes.

PHYSICIAN ASSISTANT POLICY COMMITTEE (PAPC)

The Physician Assistant Policy Committee (PAPC) is the only statutorily required committee of the Medical Board. In compliance with Section 4730.05, Ohio Revised Code, the PAPC meets at least four times per calendar year to review and make recommendations concerning the education and licensure requirements for physician assistants; existing and proposed rules pertaining to the practice of physician assistants and the supervisory relationship between physician assistants and

Medical Board Committees

supervising physicians; application forms and procedures; and physician-delegated prescriptive authority for physician assistants in accordance with Section 4370.38, Ohio Revised Code. Recommendations made by the PAPC are forwarded to the Board's Committee Group 2 for further review and recommendation to the full Board.

During FY12, the PAPC focused on review of special services plan requests and post-graduate education equivalency issues. Additionally, the PAPC clarified issues related to the Physician Assistant Formulary and considered revisions to the formulary. Information about physician assistant licensure and the activities of the Physician Assistant Policy Committee are posted on the Medical Board's website.

Those listed below served on the Physician Assistant Policy Committee in FY12:

Robert Zaayer, Jr., PA-C, Chair – Dayton, OH	Deborah A. Lange, RPh
David Ballinger, PA-C	Eric Luckage – Columbus, OH
James Fry, MS, PA-C – Middletown, OH	Lance A. Talmage, MD – Toledo, OH
John M. Jonesco, DO – Oberlin, OH	James Natalie, MD – Chillicothe, OH

MASSAGE THERAPY ADVISORY COMMITTEE

The Medical Board formed the Massage Therapy Advisory Committee (MTAC) in 2003 to identify and address issues specific to the profession. MTAC met four times during FY12. The Committee discussed education, testing, and registration requirements for LMT's, as well as issues related to the scope of practice of massage therapy. MTAC recommendations were forwarded to the Board's Committee Group 2 for further review and recommendation to the full Board.

The Massage Therapy Advisory Committee supported the Board's efforts to obtain statutory changes to permit the Medical Board to accept the Massage and Bodywork Licensing Examination (MBLEx) offered by the Federation of State Boards of Massage Therapy for Ohio licensure in lieu of the examination created and administered by the Medical Board. The Medical Board began accepting the MBLEx on January 24, 2012.

The following professionals served on the Massage Therapy Advisory Committee in FY12:

Richard A. Greely, M. Ed., LMT, Chair – Columbus, OH	Jeanne deMontagnac-Hall, BS, LMT – West Chester, OH
Dennis J. Gibbons, M.Ed., LMT – Beachwood, OH	Susan Edgar, LMT – Columbus, OH
Karen Fink, RN, BSN, LMT – Cleveland, OH	Ramona Chance, LMT – Grove City, OH
Lisa Keys, LMT – Hillsboro, OH	Michael Moore, LMT – Columbus, OH

Board Operations

The Executive Director oversees day-to-day operations. During FY12, staffing levels included approximately 76 full time and one intermittent position. Medical Board operations are funded exclusively through licensing-related fees that are non-general revenue fund sources.

FY 12 Fiscal Report

Medical Board operations are funded exclusively through licensing fees that are separate from the state's general revenue sources. Agency revenues totaled \$8,795,400 in FY12. During FY12, House Bill 153 of the 129th General Assembly set the licensure application fee for massage therapists at \$150, and the biennial license renewal fee for massage therapists and cosmetic therapists increased from \$50 to \$100.

Medical Board Revenue by License Type	FY12
<i> Holding Account</i>	\$ -
<i> Miscellaneous/Other</i>	\$ (10)
AA -- Anesthesiologist Asst.	\$ 18,425
AC -- Acupuncturist	\$ 19,750
CT -- Cosmetic Therapist	\$ 9,015
DO -- Osteopathic Medicine	\$ 914,705
DPM -- Podiatric Medicine	\$ 162,810
MD -- Medicine	\$ 6,363,335
MT -- Massage Therapist	\$ 562,450
PA -- Physician Assistant	\$ 430,190
RA -- Radiology Assistant	\$ 1,400
LICS -- Misc./Mechano./Limited Br.	\$ 310,210
PUBL -- Public Records (copies)	\$ 339
STAFF/OTHER Reimbursements	\$ 2,781
TOTAL	\$ 8,795,400

HISTORICAL COMPARISON - REVENUE	
FY09 - (7/08 - 6/09)	\$ 7,349,532
FY10 - (7/09 - 6/10)	\$ 8,610,148
FY11 - (7/10 - 6/11)	\$ 7,512,171
FY12 - (7/11 - 6/12)	\$ 8,795,400

Revenue increases in even-numbered fiscal years as the biennial licensure renewal deadline is January 31st for anesthesiologist assistants, physician assistants, radiologist assistants, and acupuncturists.

Board Operations

FY12 EXPENSES

The FY12 expenses for the agency totaled \$8,492,474. Payroll costs account for 83% of agency expenses. Operational expenses for office rent, computer services, medical expert contracts, equipment, maintenance and other support services account for the remaining 17% of the agency expenses.

During FY12, \$240,000 was transferred from the Medical Board’s operating fund to the Department of Administrative Services Office in order to fund a pro-rated portion of the purchase of a new E-licensing system that will be shared by most regulatory boards. The E-licensing system is the backbone of agency operations. The data system supports the agency’s on-line licensure renewal process and enforcement case tracking.

HISTORICAL COMPARISON - EXPENSES	
FY09	\$ 8,525,616
FY10	\$ 8,542,580
FY11*	\$ 8,777,478
FY12	\$ 8,492,474

The amounts listed for each fiscal year do not include funds that were encumbered at the end of the fiscal year but spent during the following fiscal year.

*FY11 had 27 pay periods instead of 26

Physician licensure biennial renewal fees have remained at \$305 since 1999. However, only \$285 of the fee supports Medical Board operations. As required in Section 4731.281(B)(1)(h), Ohio Revised Code, the remaining \$20 is deposited in the state treasury to the credit of the Physician Loan Repayment Fund to support the physician loan repayment program (PLRP) managed by the Ohio Department of Health. The Physician Loan Repayment Program is designed to recruit or retain primary care physicians for underserved areas in Ohio. In exchange for loan repayment assistance, the physicians commit to a minimum of two years of practice at an eligible site in a Health Professional Shortage Area (HPSA) or Health Resource Shortage Area, accept Medicare and Medicaid, and otherwise see patients regardless of ability to pay.

Amounts paid to the Physician Loan Repayment Fund from physician renewal fees include:

FY10	\$ 362,230
FY11	\$ 489,235 *
FY12	\$ 438,700

*Includes some funds that were carried over from monies received in FY10 that were paid out in FY11

Licensure Activities

The licensure responsibilities of the Medical Board ensure that those practicing medicine and its limited branches meet sufficient standards of education, training, competency and ethics. The training, education and other requirements for licensure established through Ohio law are available for reference from the Medical Board's website.

Licensees Regulated by the Medical Board

License Type	Total Active Licensees FY11	Total Active Licensees FY12
Cosmetic Therapist - CT	201	184
Massage Therapist - LMT	11,842	11,808
Doctor Of Osteopathic Medicine - DO	5,121	5,265
Medical Doctor - MD	37,353	37,612
Doctor Of Podiatric Medicine - DPM	972	967
Mechanotherapist - DM	31	26
Naprapath - NAP	1	1
Physician Assistant - PA	2,204	2,285
Radiologist Assistant - RA	8	8
MD Training Certificate	4,229	3,562
DO Training Certificate	968	846
DPM Training Certificate	94	79
Acupuncturist - AC	183	187
Anesthesiologist Assistant - AA	166	180
Telemedicine Licenses	117	134
GRAND TOTAL	63,490	63,144

Licensure Activities

Physician Assistant Certificates to Prescribe

Since October 2007, the Medical Board has issued two types of certificates to qualified Physician Assistants permitting physician-delegated prescriptive authority.

Types of PA Certificates to Prescribe	Issued in FY11	Issued in FY12
Provisional certificate to prescribe	209	224
Certificate to prescribe	271	211
Total number of PAs with active certificates to prescribe	987	1,153

Initial Licenses Issued

The following table illustrates the number and types of initial medical and limited branch licenses to practice issued by the Medical Board during FY11 and FY12

Type of License	Issued in FY11	Issued in FY12
Medical Doctor	1,804	2,152
Doctor of Osteopathic Medicine	314	382
Doctor of Podiatric Medicine	37	40
Physician Assistant	200	251
Anesthesiologist Assistant	12	22
Massage Therapy	764	850
Cosmetic Therapy	3	2
Acupuncturist	25	22
Radiologist Assistant	2	0
TOTAL	3,161	3,727

Training Certificates & Other Special Licenses

Training Certificates: Section 4731.291, Ohio Revised Code, requires those participating in a medical residency or fellowship training program in Ohio to obtain a training certificate or a full license.

Licensure Activities

Telemedicine Certificates: The “practice of telemedicine” means the practice of medicine in this state through the use of any communication, including oral, written, or electronic communication, by a physician located outside of this state. In accordance with Section 4731.296, Ohio Revised Code, the Board issues Telemedicine Certificates to out-of-state practitioners who wish to practice telemedicine in Ohio.

Special Activity Certificates: Per Section 4731.294, Ohio Revised Code, special activity certificates are available to those practitioners licensed in another state who will be practicing in this state in conjunction with a special activity, program or event taking place in Ohio. Special activity certificates are valid for no more than 30 days.

Visiting Medical Faculty Certificates: As permitted by Section 4731.293, Ohio Revised Code, visiting medical faculty certificates may be issued to those with a license in another state or jurisdiction who have accepted an academic medical appointment in Ohio. Senate Bill 279, effective January 6, 2009, extended the duration of the visiting faculty certificate from one year to three years. The law also permitted those holding a visiting medical faculty certificate before the act’s effective date to apply for a second certificate. The Board discontinued issuing Visiting Medical Faculty certificates on June 5, 2012, as this certificate is now called a Clinical Research Faculty Certificate.

Clinical Research Faculty Certificates: Per HB292, portions effective June 6, 2012, the Medical Board began issuing Clinical Research Faculty Certificates. Per Section 4731.293, Ohio Revised Code, a clinical research faculty certificate, authorizes the certificate holder to practice medicine and surgery, or osteopathic medicine and surgery, as incidental to the holder’s teaching or research duties at an Ohio medical school or osteopathic medical school, or a teaching hospital affiliated with the school. A clinical research faculty certificate may be renewed every three years.

Other Types of Licenses	Issued in FY11	Issued in FY12
Training certificates	2460	2568
Telemedicine Certificates	19	37
Special Activity Certificates	48	36
Visiting Faculty Certificates	6	7

Emeritus Registration: Physicians, massage therapists and cosmetic therapists who have been licensed in Ohio for at least 10 years and who have retired from active practice may apply for emeritus registration. Qualified practitioners may opt for this status during the biennial license renewal process. Those choosing this option understand that they are no longer entitled to engage in the practice of medicine, massage therapy or cosmetic therapy.

Licensure Activities

Volunteer's Certificates: Section 4731.295, Ohio Revised Code, permits the Board to issue a Volunteer's Certificate to a medical or osteopathic physician who has retired from active practice so that the doctor may provide medical services to indigent or uninsured persons. A volunteer's certificate holder may not accept any form of remuneration for providing medical services. The certificate is valid for three years and may be renewed.

Other Types of Licenses	Issued in FY11	Issued in FY12
Emeritus Registration	141	161
Volunteer's Certificates	0	3

Licensure Examinations

Licensure examinations for allopathic physicians (M.D.), osteopathic physicians (D.O.), and podiatric physicians (D.P.M.) are administered by national examining boards and are offered throughout the year in a computerized format.

In December 2011, the Medical Board administered an examination to 303 candidates for Massage Therapy licensure. This was the last time the Medical Board administered massage therapy exam was provided.

New Massage Therapy Licensing Exam Implemented

The Board adopted new and revised rules related to the practice of massage therapy and cosmetic therapy, effective January 24, 2012. The rules recognize the National Massage and Bodywork Licensing Examination (MBLEx) administered through the Federation of State Massage Therapy Boards as the Ohio licensing examination for massage therapists. The massage therapy licensing exam formerly administered by the Medical Board has been discontinued. As of January 24, 2012, eligible massage therapy applicants are able take the computer-based MBLEx examination throughout the year instead of waiting for the Ohio examination formerly administered twice per year by the Medical Board.

Applicants must pass the (MBLEx) and meet all the requirements for licensure under Ohio law to qualify for a massage therapy license in Ohio. Information about the MBLEx examination is available on the website of the Federation of State Massage Therapy Boards.

Limited Branch Schools

The Medical Board grants Certificates of Good Standing to offer courses in massage therapy to schools satisfying the statutory requirement for curriculum content and instruction hour. Graduation from an approved school satisfies one of the massage therapy licensure eligibility requirements.

During FY12, 68 schools held Certificates of Good Standing. The complete list of approved limited branch schools is available on the Medical Board's website.

Addressing Prescription Drug Abuse

During 2011 and FY12, the Medical Board joined with the Governor John Kasich's aggressive efforts to reduce prescription drug abuse in Ohio. The agency worked diligently with legislators, law enforcement and other state agencies to craft legislation that would empower regulatory agencies to more forcefully address this complex issue. The passage of HB93, Prescription Drug Abuse, in 2011 bolstered the Medical Board's ability to more efficiently address outlier prescribing cases, and to more effectively address the growing problem of prescription drug diversion by "pill mills." The legislation significantly changed medical practice in Ohio by defining "pain management clinics" and requiring physician ownership and licensure of "pain management clinics."

Rules for Pain Clinics and Use of OARRS:

Extensive effort was made by the agency to implement the provisions of HB93. The legislation required the Medical Board to adopt rules regarding standards and operation of a pain management clinic. An emergency rule was adopted in June 2011 and the final rule, 4731-29-01, O.A.C., went into effect on August 30, 2011. Additionally, the law also required the Medical Board to establish by rule, standards and procedures for accessing the Ohio Automated Rx Reporting System (OARRS). Rule 4731-11-11, O.A.C., went into effect on November 30, 2011, and marked the first time such standards have been adopted for prescribers in Ohio. The rule identifies clinical situations when a prescriber should access a patient's OARRS report; requires a prescriber to obtain a patient's OARRS report prior to prescribing or personally furnishing specific drugs if specific signs of drug abuse or diversion are identified; and lists red flag patient behaviors that may alert the prescriber to the patient's potential drug abuse or diversion.

Pain Clinic Inspections Required:

The impact of HB93 on Board operations was far broader than promulgating rules. The emergency rule contained a grandfather clause for physicians who had practiced pain management or other related specialties for the three years immediately prior to the application for pain management clinic licensure. The rule required the Medical Board to complete an investigation to determine if the care provided by the physician owners applying under the grandfather clause complied with the standard of care. In addition, the permanent rule required the Board to conduct a standard of care review for any pain clinic applicant who does not hold subspecialty board certification in pain management or hospice and palliative care.

Investigative Process Changes:

The agency created an investigative pain clinic inspection process and teamed a Medical Board investigator and Medical Board nurse reviewer to conduct the on-site inspection. In addition to interviewing the licensee and inspecting the facility, a random selection of several patient records required careful review of patient care documentation. Following the on-site inspection, the investigative report and patient record review analysis was reviewed by the Medical Board Secretary and Supervising Member to determine if the pain clinic was in compliance with Board rules. Significant Board resources were deployed to inspect 203 pain clinic facilities, involving 271 physician owners. Pain clinic inspections were in addition to the field investigation of approximately 1,247 other types of complaints assigned in FY12.

Addressing Prescription Drug Abuse

New Investigative and Disciplinary Tools:

HB93 provided the Medical Board with some additional tools for investigating and disciplining licensees. First, the Medical Board investigators were authorized to inspect and copy any books, accounts, papers, records or documents in the course of an investigation. The “inspect and copy” tool has been incorporated into the investigative protocols used by the Medical Board’s investigators. Next, the legislation allowed for the Medical Board to take disciplinary action based upon administrative actions taken by other licensing boards. Finally, HB93 allowed the Medical Board to conduct a special meeting by telephone to ratify a consent agreement that revokes or suspends a license, rather than having to wait for the regularly scheduled monthly meeting.

Collaborating with Other Agencies:

In FY12, the Medical Board increased its efforts to coordinate with law enforcement and other health care regulatory boards. Board members and senior staff members worked with cabinet agencies and other licensing boards on workgroups created by Governor Kasich’s Opiate Task Force. Medical Board representatives participated in state task forces and worked with state, federal and local law enforcement on cases dealing with prescription drug abuse. Board investigators were involved in all active drug task forces in the state. Medical Board staff members coordinated investigative efforts on over-prescribing/pill mill cases with other agencies, such as the Board of Pharmacy, Board of Nursing and Dental Board to address prioritization of cases and to reduce barriers on cross-jurisdictional issues. For example, the investigative staff of the Pharmacy Board, Nursing Board and Medical Board met on a regular basis to identify matters where there are issues involving all three boards and determining the most efficient ways to deal with the issues

Medical Board Disciplinary Actions Based on Inappropriate Prescribing:

The Medical Board reassessed its enforcement priorities and designated inappropriate prescribing cases as a high priority. In FY12, the Medical Board issued 190 disciplinary sanctions; 40 sanctions were based on inappropriate prescribing issues. Nineteen of the prescribing-based actions resulted in the revocation or permanent revocation of the doctor’s medical license. Additionally, seven license suspensions were issued; three summary suspensions were imposed; two licensure applications were denied; and nine licensees were placed on probationary monitoring by the Medical Board.

Prescriber Education:

The Medical Board’s educational and outreach efforts focused on making licensees aware of the new regulations through the Board’s newsletter, FAQs and resource documents about the new rules, policy statements and educational presentations. In FY12, 34 of the 113 presentations provided by the Board addressed HB93 and subsequent regulations. The Medical Board continued to collaborate with professional organizations, such as the Ohio State Medical Association and the Ohio Hospital Association, to provide educational programs for prescribers.

Disciplinary Activities

National Recognition for Disciplinary Activity

In May 2012, Ohio ranked first among the states responsible for regulating 20,000 or more physicians according to a report published by Public Citizen Health Research Group, a national consumer advocacy organization.

Public Citizen rated medical licensing boards in terms of “serious” disciplinary actions imposed—defined as license revocations, suspensions, surrenders, and probations or restrictions based upon the disciplinary actions taken in 2009 – 2011. The Ohio Medical Board has ranked in Public Citizen’s top 10 each year since 1995.

Disciplinary Sanctions Imposed

The following table illustrates the number and types of disciplinary sanctions imposed by the Medical Board during FY11 and FY12:

	FY11	FY12
Total Sanctions	245	190
Types of sanctions imposed:		
Revocations	34	50
Indefinite Suspensions	65	41
Definite Suspensions	11	4
Probations	67	53
Reprimands	13	5
Practice Limitations	3	2
Surrenders/Retirements	13	9
Disciplinary Licensure Denials or Withdrawals	15	9
Summary Suspensions	11	8
Automatic Suspensions	1	3
Immediate Suspensions	6	0
No Penalty Imposed	4	4
Interim Agreement to cease practice	1	0

Board Action Definitions

PERMANENT REVOCATION	The permanent loss of a certificate to practice in Ohio and the inability, at any time, to reapply for or hold any certificate to practice in Ohio. An individual whose certificate has been permanently revoked shall forever thereafter be ineligible to hold any certificate to practice, and the board shall not accept from that individual an application for reinstatement or restoration of the certificate or for issuance of a new certificate. (Rule 4731-13-36 (A), Ohio Administrative Code)
REVOCATION	The loss of a certificate to practice in Ohio. An individual whose certificate has been revoked shall be eligible to submit an application for a new certificate. All disciplinary action taken by the board against the revoked certificate shall be made a part of the board's records for any new certificate granted under this rule. (Rule 4731-13-36 (B), Ohio Administrative Code)
SUSPENSION	The temporary loss of a certificate to practice in Ohio. A suspension shall be imposed for either a definite or an indefinite period of time. (Rule 4731-13-36 (C), Ohio Administrative Code)
LIMITATION	Precludes the certificate holder from engaging in a particular conduct or activity, to impose conditions on the manner in which that conduct or activity may be performed, or to require the certificate holder to abide by specific conditions in order to continue practicing medicine. A limitation shall be either temporary or permanent. (Rule 4731-13-36 (D), Ohio Administrative Code)
PROBATION	A situation whereby the certificate holder shall continue to practice only under conditions specified by the board. Failure of the certificate holder to comply with the conditions of probation may result in further disciplinary action being imposed by the board. The probation period shall be for either a definite or indefinite term. If probation is for an indefinite term, the board shall establish a minimum probation period and the board shall release the certificate holder from the conditions of probation upon completion of the minimum probation period and upon the board's determination that the purpose of probation has been fulfilled. (Rule 4731-13-36 (E), Ohio Administrative Code)
PERMANENT DENIAL	The permanent denial of an application for a certificate to practice in Ohio. An individual whose application for a certificate has been permanently denied shall forever thereafter be ineligible to apply to the board for any certificate to practice, and the board shall not accept from that individual an application for issuance of a certificate. (Rule 4731-13-36 (J), Ohio Administrative Code)
REPRIMAND	The certificate holder is formally and publicly reprimanded in writing. (Rule 4731-13-36 (F), Ohio Administrative Code)
NO FURTHER ACTION	The Board finds that a violation occurred but declines to impose any disciplinary sanction. (Rule 4731-13-36 (G) Ohio Administrative Code)

Board Action Definitions

DENIAL	The denial of an application for a certificate to practice in Ohio. An individual whose application for a certificate has been denied shall be eligible to submit a new application for a certificate. In determining whether to grant a new application, the board may consider any statutory violations that were committed by the individual before or after the denial of the individual's previous application, including those that formed the basis for the denial. (Rule 4731-13-36 (K), Ohio Administrative Code)
CONSENT AGREEMENT	Conditions and limitations placed on licensee's practice by mutual agreement with the Medical Board.
VOLUNTARY SURRENDER	Practitioner surrenders license to practice in lieu of further disciplinary proceedings; may authorize the Board to revoke the practitioner's license without further legal proceedings.
DISMISSAL	The board finds that no violation has occurred. (Rule 4731-13-36 (H), Ohio Administrative Code)
SUMMARY SUSPENSION	License to practice is suspended prior to a hearing based on clear and convincing evidence of a violation and that continued practice by the licensee poses a danger of immediate and serious harm to the public. (Section 4731.22 (G), Ohio Revised Code)
AUTOMATIC SUSPENSION	<p>License to practice is suspended prior to a hearing when a licensee pleads guilty to, is found by a judge or jury to be guilty of, or is found eligible for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for specified crimes of violence. (Section 4731.22 (I), Ohio Revised Code)</p> <p>License to practice is automatically suspended if the licensee is adjudged by a probate court to be mentally ill or mentally incompetent. (Section 4731.221, Ohio Revised Code)</p>
IMMEDIATE SUSPENSION	License to practice is suspended prior to a hearing pursuant to Section 3719.121, Ohio Revised Code, when a licensee pleads guilty to, is found by a judge or jury to be guilty of, or is found eligible for treatment in lieu of conviction of a felony drug abuse offense.
INTERIM AGREEMENT	Licensee agrees to cease practice or to practice with limitations until the administrative hearing process is completed and the Board issues a Final Order imposing a disciplinary sanction.
NOTICE OF OPPORTUNITY for HEARING	In compliance with Ohio's Administrative Procedures Act (Chapter 119, Ohio Revised Code), a formal notice letter is sent to an individual informing them that the Medical Board intends to take action based upon the reasons listed in the letter. The letter also advises the individual that they may request a hearing on the matter but the hearing request must be received within 30 days of the date the notice was mailed by the Board.

Medical Board disciplinary actions are published each month in the *Formal Action Report* available on the Medical Board's website.

Quality Intervention Program (QIP)

Adopted into law in 1996, the Quality Intervention Program (QIP) is part of the Medical Board's confidential investigatory processes and is designed to address quality of care complaints that do not appear to warrant intervention via formal disciplinary action. QIP focuses on cases in which poor practice patterns are beginning to emerge or the licensee has failed to keep up with changes in practice standards. With a successful intervention, the licensee benefits by improving practice methods; patients benefit from having a better practitioner available to address their healthcare needs; and the Medical Board protects the public without an adverse impact on the availability of care in the community.

A key component of the program is the use of two Quality Intervention panels, each comprised of six physicians and one consumer member who are responsible for assessing the practice of the licensee referred to the program and making recommendations to the Board's Secretary and Supervising Member based upon their assessment. Between January 2000 and June 2012, the Board's Quality Intervention panels reviewed 1,305 such cases and 237 licensees were directed into focused re-education to address deficiencies identified through expert panel review. Courses related to improving medical record keeping practices and prescribing controlled substances were the most frequent referrals suggested by the QIP panels. Section 4731.22(O), Ohio Revised Code, requires licensees participating in an individual education program recommended by the QIP to pay any costs related to that educational program.

QIP panel activities	FY10	FY11	FY12
Case closed – no quality of care concerns identified by QIP panel; no further action needed by the Board	46	55	48
Licensee referred for remedial education – panel identified remediable practice deficiencies; doctor notified of outcome of panel review and directed to appropriate educational program	24	18	19
Caution letter sent to licensee – licensee advised of practice concerns but remedial education not necessary and no other action needed by the Board	30	20	22
Referred to the Medical Board's Secretary and Supervising Member for further action – panels found practice deficiencies that did not appear to be remediable. Cases may involve a number of patients or practice deficiencies viewed by the panelists as particularly egregious.	13	2	4
Total cases reviewed by QIP	113	95	93

FY12 Legislative Update

Legislation passed in FY12 that impacted Medical Board operations is listed below:

House Bill 66, Fraud Reporting System (Effective 5/4/2012)

The legislation requires agencies to inform current and new employees of the fraud reporting system, established in the bill and the means of reporting fraud and misuse of public funds by public offices or officials to the system.

House Bill 78, Post Viability Abortions (Effective 10/20/2011)

In general, the legislation prohibits purposely performing or inducing or attempting to perform or induce an abortion on a pregnant woman carrying a viable unborn child and requires the State Medical Board to revoke a physician's license to practice medicine if the physician violates the provisions governing post-viability abortions. The legislation outlines requirements for viability testing of an unborn child and requires the State Medical Board to suspend for a period of not less than six months a physician's license to practice medicine if the physician violates the provisions governing viability testing.

The legislation requires a physician who has performed or induced an abortion or attempted to perform or induce an abortion to file a report with the Ohio Department of Health and provides that if a physician fails to comply with the reporting requirements, the physician is subject to disciplinary action by the State Medical Board.

House Bill 86, Criminal Sentencing Revisions (Effective 9/30/2011)

The legislation indirectly impact the grounds for discipline in the Medical Practice Act that permit the Board to take actions on licensees with findings of guilt, convictions, and findings of treatment in lieu of conviction.

House Bill 153, Biennial Budget (Certain Sections Effective 1/1/2012)

The legislation permits, rather than requires, the State Medical Board to administer a licensure examination for a certificate to practice the limited branches of medicine designated as massage therapy and cosmetic therapy.

In addition, the legislation requires that the Board adopt by rule a fee for administering an examination; or, if the Board does not administer an examination, specifying an acceptable examination and an acceptable score.

Finally, the legislation eliminates both the \$250 licensure examination fee and the \$35 examination of preliminary education fee. It instead establishes a \$150 certificate application fee and increases the biennial certificate registration fee to \$100 (from \$50).

FY12 Legislative Update

House Bill 262, Human Trafficking (Effective June 27, 2012)

The legislation includes language strongly recommending licensing boards adopt rules that require training in the recognition and handling of cases involving human trafficking for licensees who may encounter victims in the normal course of their practice. The bill also has requirements for education of Board employees regarding human trafficking.

House Bill 292, Genetic Counselors – Clinical Professional Development Certificate (Certain Sections Effective 6/6/2012)

Clinical Research Faculty Certificates: The portion of the legislation effective 6/6/2012 revised Section 4731.293, Ohio Revised Code, and authorized the State Medical Board to issue without examination a clinical research faculty certificate to eligible applicants. Applicants are required to hold a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by another state or country; be appointed to serve in this state on the academic staff of a medical school accredited by the liaison committee on medical education or an osteopathic medical school accredited by the American Osteopathic Association; and be an international medical graduate who holds a medical degree from an educational institution listed in the international medical education directory.

Clinical Research Faculty Certificate holders may practice medicine and surgery or osteopathic medicine and surgery only as is incidental to the certificate holder's teaching or research duties at the medical school or the teaching hospital affiliated with the school. The certificate is eligible for renewal every three years.

Senate Bill 2, Regulatory Reform (Certain Sections Effective January 1, 2012)

The legislation requires the agency to go through the Common Sense Initiative (CSI) rule review process when proposing new rules or amending existing rules. As part of the review process the agency is required to meet certain requirements for stakeholder feedback and to submit a business impact analysis report to CSI.

FY12 Rules Update

During FY12, the Medical Board promulgated the following rules in the Ohio Administrative Code:

Rule 4731-29-01 Standards and Procedures for Operation of a Pain Management Clinic

The Board adopted an emergency rule regarding standards and operation of a pain management clinic in June 2011. The final rule, 4731-29-01, O.A.C., went into effect on August 30, 2011. The final rule:

- Sets standards for physician ownership of a pain management clinic
- Establishes operational standards for physician owners to use in the supervision of employees at a pain management clinic

FY12 Rules Update

Rule 4731-29-01 continued:

- Requires all physician owners and physicians working at a pain management clinic to have 20 hours Category I continuing medical education (CME) in pain medicine every two years; one or more of the CME courses must address the potential for addiction

Rule 4731-11-11, Standards and Procedures for Accessing OARRS

The rule went into effect on November 30, 2011, to encourage prescribers to access OARRS, Ohio's prescription monitoring program managed by the Ohio Board of Pharmacy. The rule:

- Identifies clinical situations when a prescriber should access a patient's OARRS report
- Requires a prescriber to obtain a patient's OARRS report prior to prescribing or personally furnishing a controlled substance, or tramadol if specific signs of drug abuse or diversion are identified
- Lists red flag patient behaviors that may alert the prescriber to the patient's potential drug abuse or diversion

The Medical Board published **Frequently Asked Questions (FAQs)** about Rules 4731-29-01 and 4731-11-11, O.A.C. The publications are posted on the Medical Board's website.

Rule 4731-25-01, Office Based Surgery definition amendment

The definition of "office setting" included in Rule 4731-25-01(I), O.A.C., was amended to specify that compliance with the rule requires one to hold a license as an ambulatory surgical center issued by the Ohio Department of Health. The prior language required that one need only have applied for the license to be compliant.

Physician Assistant Formulary Updated – Rule 4731-2-06 & Appendix A

The Medical Board amended the physician assistant formulary which is composed of two documents: Rule 4730-2-06, O.A.C., and Appendix A to the rule, which contains the actual formulary. Only Appendix A, the formulary, was amended, and went into effect on January 24, 2012. The formulary identifies medications a PA with prescriptive authority may prescribe, may not prescribe, and prescribe only after physician initiation or consultation with required documentation in the patient record.

Chapter 4731-1, Ohio Administrative Code, Massage Therapy and Cosmetic Therapy Rules changes:

Portions of Chapter 4731-1 O.A.C. were updated. The new or amended rules went into effect on January 24, 2012. Rule 4731-1-12(C), O.A.C., recognizes the National Massage and Bodywork Licensing Examination (Blix) administered through the Federation of State Massage Therapy Boards as the Ohio licensing examination for massage therapists. The massage therapy licensing exam formerly administered by the Medical Board has been discontinued.

FY12 Rules Update

Chapter 4731-1 continued:

As of January 24, 2012, eligible massage therapy applicants are able to take the computer-based Blix examination throughout the year instead of waiting for the Ohio examination formerly administered twice per year by the Medical Board.

Other updates to the rules include:

Cosmetic therapy rules were separated from the massage therapy rules to improve readability. (See Rules 4731-1-07, 4731-1-09, 4731-1-10, and 4731-1-13, O.A.C.). Cosmetic therapist applicants will continue with a Medical Board administered licensure exam. (See Rule 4731-1-11, O.A.C.).

Rule 4731-1-15(B), O.A.C., now requires approved schools offering courses in Massage Therapy or Cosmetic Therapy to provide the student with a written notice regarding the impact of arrests, charges, or convictions of criminal offenses on licensure eligibility at, or before, a student is accepted for admission to a Massage Therapy or Cosmetic Therapy training program. The notice informs the student that arrests, charges or criminal convictions may be cause to deny or limit licensure or employment opportunities in specific careers and may limit the student's ability to obtain financial aid.

Additionally, Rule 4731-1-15 (C), O.A.C., requires that a student must have a high school diploma, or equivalent, for admission to a massage therapy training program.

Policies Adopted in FY12

The Medical Board approved the following policy statements:

Practice Guidance Statement - Prescribing for Self and Family Members - February 2012

The practice guidance statement reminds physicians of the requirements in Rule 4731-11-08, O.A.C., *Utilizing Controlled Substances for Self and Family Members*. The rule prohibits prescribing of controlled substances to oneself or their close family members; permits physicians to use controlled substances to treat a family member in an emergency situation and requires the treatment to be documented in a patient record; and prohibits self-prescribing or self-administering of controlled substances.

Statement on the Corporate Practice of Medicine - March 2012

The statement clarifies that Ohio law does not prohibit an Ohio licensed physician from rendering medical services as an employee of a corporation or any other form of business entity.

Policies Adopted in FY12

Anesthesiologist Assistants: Performing Epidural and Spinal Anesthetic Procedures - March 2012

The statement clarifies that Ohio licensed anesthesiologist assistants may perform epidural and spinal anesthetic procedures as requested by and performed under the direction of a supervising anesthesiologist who is physically present in the room.

Improving Patient Care Through Enhanced Use of OARRS - April 2012

The document focuses provider attention on the role OARRS (Ohio Automated Rx Reporting System) can play in improving patient care. The document references the requirements included in Rule 4731-11-11, Ohio Administrative Code, Standards and Procedures for Review of Ohio Automated Rx Reporting Systems (OARRS).

Position Statement on Telemedicine - May 2012

The statement gives an overview of Ohio's current telemedicine regulations and cautions that licensees practicing via telemedicine will be held to the same standards of care as licensees employing more traditional in-person medical care. A failure to conform to appropriate standards of care, whether that care is rendered in-person or via telemedicine, may subject the licensee to discipline by the Medical Board.

Improving the Integrity of OARRS and Reducing Risks of Doctor Shopping - May 2012

The document focuses provider attention on ways to reduce the risks of prescription drug diversion and so-called doctor shopping, by encouraging use of the Ohio Automated Rx Reporting System (OARRS). Prescribers are also encouraged to include the patient's name, address and date of birth on prescriptions as these three elements are used by OARRS to accurately assign prescription data to a given patient.

Physician Participation in Deal-Of-The-Day Offers - May 2012

The policy statement indicates that a physician is not engaged in fee-splitting if the physician participates in deal-of-the-day mechanisms such as Groupon, Angie's List, Big Deal, Living Social, or similar mechanisms. The policy statement also includes possible perils the physician should consider before offering services through a deal-of-the-day program.

Podiatric Participation in Medication Reconciliation - Scope of Practice Inquiry Response - May 2012

In May, 2012, the Medical Board reviewed and discussed an inquiry regarding whether or not the actions required for post-surgical medication reconciliation exceed the scope of practice of a podiatrist.

The Board determined that a podiatric physician, who as part of medication reconciliation, continues a medication prescribed by an M.D. or D.O. for a condition not within the podiatric scope of practice is not considered to have prescribed the medication. Medication reconciliation ensures that the patient continues to receive all previously prescribed medications unless there is a documented explanation for any change. When performing medication reconciliation, a podiatric physician does not exceed the podiatric scope of practice merely by continuing previously prescribed medications for conditions that are not within the podiatric scope of practice.

Educational Outreach Activities

“Partners in Professionalism”

“Partners in Professionalism” is a joint educational project between the State Medical Board of Ohio and the Ohio University Heritage College of Osteopathic Medicine (OU-HCOM) to promote professionalism and the responsibilities of medical licensure to doctors-in-training. Nationally recognized as a model program by Administrators in Medicine, the innovative program introduces first year medical students to problematic behavior or practices that can jeopardize a medical career and place patients at risk. Program components include didactic presentations by Board executive staff, review and discussion of resource materials provided by the Board, and medical student attendance at a monthly Medical Board meeting. The Medical Board is working with leadership at other Ohio medical schools to include their medical students in the program.

International Recognition of “Partners” Program:

The State Medical Board of Ohio was invited to participate in the International Association of Medical Regulatory Boards (IAMRA) Institute conference held September 26, 2010 in Philadelphia. Over 160 attendees from 33 countries participated in the Institute which preceded the IAMRA meeting. The Ohio presentation about the “Partners in Professionalism” program was the only one provided at the Institute about a program conducted by a medical regulatory board from the United States.

Presentations and Publications:

Activities also include presentations and continuing medical education programs for state and national audiences. During FY12, 113 presentations were provided by the agency. Popular topics include the role of the Medical Board; defining professionalism in medical practice; understanding the medical licensure process; the impaired professional; and legal aspects of controlled substance prescribing.

Other educational outreach efforts include publication of the agency newsletter; publishing a report of licensure actions taken at the monthly Board meetings; presenting poster session displays at the annual meeting of the Federation of State Medical Boards; providing and responding to inquiries from local, state, national and international media; and managing social media, such as Facebook, to expand access to information about the Medical Board.

Working With Stakeholders:

Working with key stakeholders is another aspect of the Medical Board’s educational outreach program. The Medical Board participates in the annual meetings of state professional associations, including the Ohio State Medical Association, the Ohio Osteopathic Association, the Ohio Podiatric Medical Association, the Ohio Hospital Association, the Ohio Association of Physician Assistants, the Ohio Massage Therapy Association, the Ohio Academy of Family Physicians, and the Ohio Association of Health Plans.

Educational Outreach Activities

Website:

The Medical Board’s website – www.med.ohio.gov – is a strong educational tool for the agency. Website content is frequently updated to provide the most current information to users about the Medical Board and its services. Web based E-business services, such as on-line licensure applications for physicians, and on-line licensure renewal for all licensees regulated by the Medical Board, improve operational efficiency and service to our licensees.

Social Media:

Since June 2010, the Medical Board has had a presence on Facebook. This social networking page enhances the Board’s website (www.med.ohio.gov). Periodic notices about rules hearings, potential law changes, meeting notices for the Board and its advisory groups, highlights of Board meeting agendas, website content updates, and other time sensitive announcements can be found on the Medical Board’s Facebook page.

Public Records

The Medical Board receives numerous requests for copies of public records each year. While many documents are available through the Medical Board’s website, requests for more complex records are provided by the agency. Requests for disciplinary action files, licensure files and board meeting materials are the most frequently requested documents. A response to a public records request may require providing hundreds, and in a few cases, thousands of pages of material.

	FY11	FY12
Public Records items requested	325	451
Number of pages of documents provided in response to requests	69,212	71,090

State and National Activities

The Medical Board plays a vital role in the retention and development of the healthcare workforce in Ohio and serves as a resource to policymakers. Members of the Board and executive staff serve in leadership roles and actively participate in a number of national organizations and committees addressing a broad range of critical issues including the Federation of State Medical Boards, Administrators in Medicine, American Association of Osteopathic Examiners, and the Federation of State Boards of Massage Therapy. In April 2012, Board Member Lance A. Talmage, MD, was elected Chair of the Board of Directors of the Federation of State Medical Boards. The Board is actively involved with the Governor’s Opiate Cabinet Action Team and related subcommittees on Reforming Prescribing Practices, Professional Education, and Law Enforcement. Additionally, the Board participates in the Governor’s Interstate Prescription Drug Alliance; the Ohio e-Prescribe Task Force; the Patient Centered Medical Home Education Advisory Committee, the Ohio Ex-offender Re-entry Coalition; the Health Information Technology Interagency Work Group, and the Boards and Commissions Management Group.