

Health Professional Disciplinary Reform FY 2013 Report to the Legislature

(Pursuant to Public Acts 79, 80, and 87 of 1993)

April 1, 2014

Prepared by

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Reporting Period: October 1, 2012 to September 30, 2013



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Section 1: Summary of Legislative Reporting Requirements

The reports in Section 2 and Section 3 fulfill the legislative reporting requirement pursuant to MCL 333.16241 (8) (a), (b), (c), (d) and (e). These regulations require the Bureau of Health Care Services to report the following regarding disciplinary actions taken against health professional licensees:

- Allegations Received
- Investigations Authorized
- Complaints Issued
- Cases Closed Without Disciplinary Action
- Disciplinary Actions Taken (By Type of Complaint and Health Profession)
- Actions Rendered by Disciplinary Subcommittee or Board
- Number of Cases Granted Extensions
- Recommendations made by Boards and Task Forces

These reports must provide this information as both a summary of all boards combined as well as by each individual board. With respect to cases that were granted extensions, the following is a description of the statutory time frames for processing complaints:

1. **Investigation Authorized to Complaint Filed:** This is a 90-day time period set forth in MCL 333.16123(5). At the time a file is transferred for complaint drafting, the 90-day period begins. The Department has 90 days to issue a formal complaint, conduct a compliance conference, issue a summary suspension, issue a cease and desist order, or dismiss the complaint. One 30-day extension, making a total of 120 days, is allowed during this period.
2. **Compliance Conference Held to Hearing Held:** This 60-day time period is set forth in MCL 333.16231a(1) and requires a hearing to be conducted within 60 days after a compliance conference, at which an agreement is not reached or after the agreement is rejected by the disciplinary subcommittee.
3. **Hearing Record Received by Disciplinary Subcommittee (DSC) to Decision Rendered:** MCL 333.16232(3) requires a disciplinary subcommittee to meet and impose a penalty within 60 days after the receipt of the recommended findings of fact and conclusions of law from a hearings examiner.
4. **Investigation Authorized to Disciplinary Subcommittee Rendered Decision:** The entire disciplinary process, from the initiation of an investigation to the final decision by the disciplinary subcommittee, must be completed within one year pursuant to MCL 333.16237(5).

Section 2: FY 2013 Legislative Report Overview

This report has been prepared pursuant to Public Act 79 of 1993. This act requires that the Michigan Department of Licensing and Regulatory Affairs (LARA) annually report to the legislature all investigations pursued and disciplinary actions taken with health professionals by their respective occupational boards under the provisions of Article 7 and Article 15 of the Public Health Code, per MCL 333.16241 (8) (a), (b), (c), and (e). This information is summarized in Section 3 of this report in the *FY 2013 Licensing 2000 Data Summary*, which is compiled from the License 2000 database used by the Bureau of Health Care Services (BHCS). The FY 2013 Legislative Report reflects actions taken during the 17th year of operation under the Health Professional Disciplinary Reform Legislation.

FY 2013 Data:

Below is the FY 2013 data reflecting actions taken by BHCS covering the period of October 1, 2012 to September 30, 2013:

1. Processed a total of 3,872 allegations (Section 3).
2. Out of the 3,872 allegations received in FY 2013, the most frequent were as follows:
 - Negligence-Incompetence (38%)
 - Criminal Conviction (14%)
 - Continuing Education (10%)
 - Sister State Disciplinary Actions (9%)

The 3,872 allegations received in FY 2013 represent an increase (268 files) from the previous year. In addition to this increase in the 12 month allegation totals between this year's report and the 2012 report, a comparison of changes seen in the allegation category totals can also be made.

This report also reflects the trends in increased or decreased allegation totals or categories:

1. Between April 1, 1994 and September 30, 2013, there have been a total of 52,109 allegations received encompassing all licensing boards since the effective date of the Health Professional Disciplinary Reform Legislation.
2. The allegation data (Section 3) reveals both the FY 2013 BHCS totals by category, as well as the individual board totals by category. The large increases or decreases from one year to the next in any allegation category usually represent normal fluctuations in the types of allegations received by the bureau.

3. The data (Section 3) shows there were 1,039 investigations authorized from the 3,872 allegations received in FY 2013, representing 27% of all allegations authorized for investigation.
 - In 2012, 28% of 3,604 allegations received were authorized for investigation.
4. There were 1,098 administrative complaints filed in FY 2013, compared to 726 in 2012.
 - Of these 1,098 administrative complaints, 108 were closed or dismissed in FY 2013.
5. There was also an increase of 226 files from 2012 to 2013 in the total number of disciplinary actions taken (Section 3).
6. The total number of disciplinary actions in FY 2013 was 987 (Section 3). The most frequent were:
 - Probation (41%)
 - Suspended License (28%)
 - Fine Imposed (1%)
7. A breakdown of the top 3 categories among the 834 files exceeding time frames in FY 2013 (Section 3) were in the following categories:
 - Drug Diversion (9%)
 - Negligence-Incompetence (66%)
 - Sexual Misconduct (5%)

These file categories represent the type of files that often require extensive documented research, subpoena requests, expert evaluations, and investigation. Due to the extensive amount of time needed for these types of investigations, the file often exceeds the Bureau's designated time frames where an extension is requested.

Non-Behavioral Health Boards:

**LICENSING AND REGULATORY AFFAIRS
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	AT	AUD	CHIRO	CNA	COUN	DENT	MED	MFT	NHA	NURS	OPT	OST	OT	PA	PHAR	POD	PSY	PT	RT	SAN	SW	VET	BUREAU	
Investigations Authorized	2	0	19	0	16	89	151	1	35	395	5	61	2	11	99	8	26	8	7	0	67	34	1039	
Investigations Conducted	3	2	24	0	21	104	204	3	37	501	5	74	3	13	119	9	30	14	9	0	67	40	1287	
Extensions Granted																								
Advertising	0	0	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3
Betrayal of Professional Confidence	0	0	0	0	0	0	0	0	0	2	0	0	0	1	0	0	0	0	0	0	0	3	0	6
Criminal Conviction Other	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Diversion	0	0	0	0	1	0	16	0	0	41	0	9	0	0	10	0	0	0	0	0	0	0	0	77
Failure to Meet Licensing Requirements	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Insurance Fraud	0	0	2	0	0	5	6	0	0	1	0	0	0	0	7	1	2	5	0	0	0	1	0	30
Lack of Good Moral Character	0	0	0	0	0	0	1	0	0	4	0	0	0	1	0	0	0	0	1	0	1	0	0	8
Mental or Physical Impairment	0	0	0	0	0	1	0	0	0	2	0	1	0	1	1	0	0	0	0	0	0	1	0	7
Misappropriation of Resident Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligence-Incompetence	2	1	2	0	7	57	68	0	31	236	2	34	0	2	40	2	11	4	4	0	25	24	554	
Negligence-Incompetence/MALP	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Patient Abuse	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Practice Outside Scope	0	0	4	0	1	0	0	0	0	13	0	0	0	2	0	1	1	1	1	0	2	1	0	27
Promoting Unnecessary Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sexual Misconduct	0	0	2	0	4	1	12	0	0	2	0	1	1	0	1	0	5	0	0	0	8	0	0	39
Substance Abuse	0	0	0	0	1	1	1	0	0	26	0	0	1	1	0	0	0	0	0	0	0	1	0	32
Technical Violation	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Technical Violation of Article 7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0	3
Unethical Business Practices	0	0	2	0	0	3	3	0	0	1	0	0	0	0	0	0	0	0	0	0	2	1	0	12
Unlicensed Person	0	1	0	0	0	2	7	0	0	5	1	0	0	0	1	0	0	0	0	0	0	1	2	20
Unsanitary Conditions	0	0	0	0	0	3	3	0	0	0	0	1	0	0	1	2	0	0	0	0	0	0	3	13
Total	2	2	12	0	15	76	118	0	31	334	3	46	2	8	64	6	19	10	6	0	45	31	834	
Complaints Issued																								
Total Complaints Filed	1	0	26	12	15	88	110	1	9	483	4	50	4	9	101	5	14	9	13	0	134	9	0	1098
Settlements Reached By Department																								
Total Final Orders	2	0	21	11	19	81	108	0	9	487	5	55	9	7	116	8	21	15	6	0	118	9	0	999
Investigations and Complaints Closed or Dismissed																								
Complaints Dismissed	0	0	3	0	2	4	15	0	0	44	0	18	0	1	7	1	2	3	0	0	7	1	0	108
Actions Taken by Disciplinary Subcommittee or Board																								
Board Rendered Decision	0	0	1	0	1	1	1	0	0	27	0	2	0	0	8	1	1	0	1	0	4	2	0	50
DSC Rendered Decision	2	0	22	0	20	46	91	0	8	475	5	37	10	8	85	5	22	18	4	0	63	9	0	930

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Behavioral Health Boards:

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	COUN	MFT	OT	PSY	SAN	SPL	SW	BUREAU
Investigations Authorized	16	1	2	26	0	0	67	112
Investigations Conducted	21	3	3	30	0	0	67	124
Extensions Granted								
Advertising	0	0	0	0	0	0	0	0
Betrayal of Professional Confidence	0	0	0	0	0	0	3	3
Criminal Conviction Other	0	0	0	0	0	0	0	0
Drug Diversion	1	0	0	0	0	0	0	1
Failure to Meet Licensing Requirements	0	0	0	0	0	0	0	0
Insurance Fraud	0	0	0	2	0	0	1	3
Lack of Good Moral Character	0	0	0	0	0	0	1	1
Mental or Physical Impairment	0	0	0	0	0	0	1	1
Misappropriation of Resident Property	0	0	0	0	0	0	0	0
Negligence-Incompetence	7	0	0	11	0	0	25	43
Negligence-Incompetence/MALP	0	0	0	0	0	0	0	0
Patient Abuse	0	0	0	0	0	0	0	0
Practice Outside Scope	1	0	0	1	0	0	2	4
Promoting Unnecessary Services	0	0	0	0	0	0	0	0
Sexual Misconduct	4	0	1	5	0	0	8	18
Substance Abuse	1	0	1	0	0	0	1	3
Technical Violation	1	0	0	0	0	0	0	1
Technical Violation of Article 7	0	0	0	0	0	0	0	0
Unethical Business Practices	0	0	0	0	0	0	2	2
Unlicensed Person	0	0	0	0	0	0	1	1
Unsanitary Conditions	0	0	0	0	0	0	0	0
Total	15	0	2	19	0	0	45	81
Complaints Issued								
Total Complaints Filed	15	1	4	14	0	0	134	168
Settlements Reached By Department								
Total Final Orders	19	0	9	21	0	0	118	156
Investigations and Complaints Closed or Dismissed								
Complaints Dismissed	2	0	0	2	0	0	7	11
Actions Taken by Disciplinary Subcommittee or Board								
Board Rendered Decision	1	0	0	1	0	0	4	6
DSC Rendered Decision	20	0	10	22	0	0	63	115

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	COUN	OT	PSY	SW	BUREAU
Disciplinary Actions:					
Fine Imposed	2	1	0	1	4
License Denied	0	0	0	1	1
Limited / Restricted	0	0	6	12	18
Probation	7	4	2	59	72
Reprimanded	0	1	1	0	2
Revoked	0	2	1	1	4
Suspended	6	1	6	29	42
Voluntarily Surrendered	1	0	2	8	11
Total Disciplinary Actions	16	9	18	111	154

Section 4: Definitions for Abbreviations in Licensing 2000 Data

<u>Abbreviation</u>	<u>Board</u>
ACU	Acupuncture
AT	Athletic Trainer
AUD	Audiology
CHIRO/CHR	Chiropractic
CNA	Certified Nurse Aide
COUN	Counseling
DENT	Dentistry
MED	Medicine
MFT	Marriage and Family Therapy
NHA	Nursing Home Administrator
NURS	Nursing
OPT	Optometry
OST	Osteopathic Medicine and Surgery
OT	Occupational Therapy
PA	Physician's Assistant
PHAR	Pharmacy
POD	Podiatry
PSY	Psychology
PT	Physical Therapy
RT	Respiratory Therapy
SAN	Sanitarian
SPL	Speech-Language Pathology
SW	Social Work
VET	Veterinary Medicine