

Health Professional Disciplinary Reform FY 2011 Report to the Legislature

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

April 1, 2013

Prepared by

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Bureau of Health Care Services

Reporting Period: October 1, 2010 to September 30, 2011



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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 Care Services)
- 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 2011 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 2011 Licensing 2000 Data Summary*, which is compiled from the License 2000 database used by the Bureau of Health Care Services (BHCS). The FY 2011 Legislative Report reflects actions taken during the fifteenth year of operation under the Health Professional Disciplinary Reform Legislation.

FY 2011 Data:

Below is the FY 2011 data reflecting actions taken by BHCS covering the period of October 1, 2010 to September 30, 2011:

1. Processed a total of 3,584 allegations (Section 3).
2. Out of the 3,584 allegations received in FY 2011, the most frequent were as follows:
 - Negligence-Incompetence (37%)
 - Criminal Conviction (11%)
 - No Jurisdiction (11%)
 - Sister State Disciplinary Action (11%)
 - Substance Abuse (8%)
 - Continuing Education (6%)
 - Drug Diversion (4%)

The 3,584 allegations received in FY 2011 represent a slight increase (123 files) from the previous year, or an increase of 3.6%. In addition to this slight increase in the 12 month allegation totals between this year's report and the 2010 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, 2011, there have been a total of 44,633 allegations received encompassing all licensing boards since the effective date of the Health Professional Disciplinary Reform Legislation.
2. The allegation data reveals both the FY 2011 BHCS totals by category, as well as the individual Board totals by category. The 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 table in Section 3 shows there were 928 investigations authorized from the 3,584 allegations received in FY 2011, representing 26% of all allegations authorized for investigation.
 - In 2010, 32% of 3,461 allegations received were authorized for investigation.
4. There were 756 administrative complaints filed in FY 2011, compared to 787 in 2010.
 - Of these 756 administrative complaints, 135 were closed or dismissed in FY 2011.
5. There was also an increase of 34 files dismissed (33.7%) from 2010 to 2011.
6. The total number of disciplinary actions in FY 2011 was 800 (Section 3). The most frequent were:
 - Probation (39%)
 - Suspended License (27%)
 - Fine Imposed (12%)
 - Voluntarily Surrendered (6%)
7. A breakdown of the 853 files exceeding time frames in FY 2011 (Section 3) were in the following categories:
 - Drug Diversion (11%)
 - Negligence-Incompetence (64%)
 - Substance Abuse (7%)
 - Sexual Misconduct (4%).

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.

Section 3: FY 2011 Licensing 2000 Data

FY 2011 Data:

The table below is an overview and notes page 1 of 3 but this page also goes with the Non-Behavioral Health Boards table (referenced as page 2 of 3) and the Behavioral Health Boards table (referenced as page 2 of 3).

**LICENSING AND REGULATORY AFFAIRS
BUREAU OF HEALTH CARE SERVICES
Annual Legislative Report
10/01/2010- 09/30/2011**

Allegations Received	AUD	CHIRO	CNA	COUN	DENT	MED	MFT	NHA	NURS	OPT	OST	OT	PA	PHAR	POD	PSY	PT	RT	SW	VET	BUREAU
Advertising	1	4	0	0	18	1	0	0	0	0	0	0	0	0	0	18	0	0	0	0	42
Betrayal of Professional Confidence	0	0	0	0	0	1	0	0	2	0	2	0	0	0	0	3	0	0	0	0	8
Continuing Education	0	7	0	0	33	25	0	2	64	5	12	0	0	28	4	0	0	0	41	0	221
Criminal Conviction - Other	0	8	8	4	23	47	0	2	198	8	19	5	6	31	3	5	10	1	24	5	407
Drug Diversion	0	0	0	0	0	8	0	0	53	0	6	0	6	54	0	0	0	0	0	1	128
Failure to Meet Licensing Requirements	0	0	0	0	2	0	0	0	5	0	1	0	0	0	0	0	0	0	0	0	8
Failure to Report/Comply	0	0	0	0	1	1	0	0	2	0	0	0	0	0	0	0	0	0	0	0	4
Historical - Allegation Unknown	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Insurance Fraud	0	0	0	2	7	11	0	0	1	0	0	1	1	7	0	0	0	0	3	0	33
Lack of Good Moral Character	0	0	0	2	0	1	0	0	2	0	0	1	0	0	0	2	0	0	1	0	9
Mental or Physical Impairment	0	0	0	0	4	1	1	0	25	0	5	0	1	2	0	3	0	0	2	0	44
Misappropriation of Resident Property	0	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5
Negligence	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Negligence - Incompetence	1	6	0	18	164	348	0	113	350	3	108	2	21	59	8	23	6	5	39	40	1314
Negligence - Incompetence/MALP	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
No Jurisdiction	0	1	29	1	26	96	0	1	161	1	21	0	5	13	4	13	2	3	26	3	406
Patient Abuse	0	0	58	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	58
Practice Outside Scope	0	2	0	1	2	1	0	0	16	1	1	0	2	0	0	1	3	0	2	0	32
Probation Violation	0	0	0	0	6	2	0	0	13	0	0	0	0	4	0	0	0	0	5	2	32
Refusal to Release Patient Records	0	3	0	0	3	21	1	0	0	0	4	0	0	0	0	1	0	0	2	1	36
Sexual Misconduct	0	0	0	7	0	12	3	0	6	0	4	0	2	0	1	6	2	0	5	0	48
Sister State Disciplinary Action	0	0	2	0	17	168	0	0	76	1	48	1	19	38	0	1	9	0	4	2	386
Substance Abuse	0	4	0	1	5	15	0	1	226	0	4	1	2	11	0	3	0	2	5	1	281
Technical Violation	0	0	0	0	1	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	1	0	0	0	0	0	0	0	6	0	0	0	0	0	0	7
Unethical Business Practices	0	3	0	1	5	9	0	0	0	0	0	0	0	3	0	0	0	0	0	1	22
Unlicensed Person	0	0	0	0	3	4	0	0	8	1	0	2	0	4	0	3	1	0	2	1	29
Unsanitary Condition	0	0	0	0	1	7	0	0	2	0	3	0	0	0	0	0	0	0	0	2	15
Total	2	38	102	37	323	781	5	119	1211	20	238	13	65	260	20	82	33	11	161	59	3580

Non-Behavioral Health Boards:

LICENSING AND REGULATORY AFFAIRS BUREAU OF HEALTH CARE SERVICES

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	ACU	AT	AUD	CHRD	CNA	DENT	MED	NHA	NURS	OPT	OST	PA	PHAR	POD	PT	RT	VET	BUREAU
Investigations Authorized	0	0	0	4	1	106	161	29	306	2	56	15	123	4	8	3	26	844
Investigations Conducted	0	0	1	10	4	101	210	29	330	4	51	15	103	8	17	4	19	906
Extensions Granted																		
Advertising	0	0	0	0	0	5	1	0	0	0	0	0	0	0	0	0	0	6
Betrayal of Professional Confidence	0	0	0	0	0	0	1	0	1	0	1	0	0	0	0	0	0	3
Criminal Conviction Other	0	0	0	0	0	1	0	0	1	0	0	0	1	0	0	0	0	3
Drug Diversion	0	0	0	0	0	0	6	0	38	0	5	4	39	0	0	0	1	93
Failure to Meet Licensing Requirements	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Insurance Fraud	0	0	0	1	0	3	6	0	0	0	1	1	9	0	0	0	0	21
Lack of Good Moral Character	0	0	0	0	0	0	0	0	4	0	0	0	0	0	0	0	0	4
Mental or Physical Impairment	0	0	0	0	0	2	2	0	3	0	1	0	0	0	0	0	0	8
Misappropriation of Resident Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligence-Incompetence	0	0	0	0	0	74	126	19	169	2	39	6	39	3	5	4	17	503
Negligence-Incompetence/MALP	0	0	0	0	0	2	1	0	0	0	1	0	0	0	0	0	0	4
Patient Abuse	0	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	3
Practice Outside Scope	0	0	0	1	0	1	0	0	13	1	0	0	0	0	1	0	0	17
Promoting Unnecessary Services	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sexual Misconduct	0	0	0	1	0	0	10	0	5	0	4	2	0	1	1	0	0	24
Substance Abuse	0	0	0	0	0	2	3	0	45	0	1	0	4	0	0	0	0	55
Technical Violation	0	0	0	0	0	1	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	2	0	0	0	0	2
Unethical Business Practices	0	0	0	2	0	1	3	0	0	0	0	0	2	0	0	0	0	8
Unlicensed Person	0	0	0	1	0	1	2	0	5	0	0	0	3	0	1	0	1	14
Unsanitary Conditions	0	0	0	0	0	1	5	0	1	0	1	0	0	0	0	0	2	10
Total	0	0	0	6	3	95	166	19	285	3	54	13	99	4	8	4	21	780
Complaints Issued																		
Total Complaints Filed	0	0	1	10	14	61	83	2	328	8	31	5	90	8	5	2	15	663
Settlements Reached By Department																		
Total Final Orders	0	0	1	22	7	74	103	9	416	9	38	6	116	7	7	4	7	712
Investigations and Complaints Closed or Dismissed																		
Complaints Dismissed	0	0	0	3	0	11	17	0	48	2	11	2	16	1	2	1	0	114
Actions Taken by Disciplinary Subcommittee or Board																		
Board Rendered Decision	0	0	0	2	0	3	2	0	29	0	4	2	9	1	0	0	2	54
DSC Rendered Decision	0	0	1	20	0	45	87	10	361	4	25	5	97	7	10	5	5	682

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	AUD	CHR O	CNA	DENT	MED	NHA	NURS	OPT	OST	PA	PHAR	POD	PT	RT	VET	BUREAU
Disciplinary Actions:																
CNA Flagged	0	0	7	0	0	0	0	0	0	0	0	0	0	0	0	7
Cease and Desist Issued	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	2
Fine Imposed	0	2	0	9	26	1	8	0	7	0	31	2	1	0	3	90
License Denied	0	0	0	2	0	0	6	0	0	0	0	0	0	0	1	9
Limited / Restricted	0	1	0	1	15	0	8	0	2	2	5	1	0	0	0	35
Probation	0	7	0	33	21	6	169	3	8	1	20	2	1	1	1	273
Reinstated with Sanction	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Reinstatement Denied	0	0	0	1	0	0	10	0	1	0	2	0	0	0	1	15
Reprimanded	1	0	0	0	1	0	13	1	0	0	9	0	0	0	0	25
Revoked	0	1	0	2	1	0	4	0	1	1	1	0	1	0	0	12
Suspended	0	4	0	8	14	0	131	0	6	0	21	1	2	2	1	190
Voluntarily Surrendered	0	4	0	4	6	2	16	1	2	0	6	0	0	0	0	41
Total Disciplinary Actions	1	19	7	62	84	9	366	5	27	4	95	6	5	3	7	700

Behavior Health Boards:

LICENSING AND REGULATORY AFFAIRS
BUREAU OF HEALTH CARE SERVICES

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	COUN	MFT	OT	PSY	SAN	SPL	SW	BUREAU
Investigations Authorized	20	5	5	18	0	0	36	84
Investigations Conducted	14	7	2	30	0	0	51	104
Extensions Granted								
Advertising	0	0	0	0	0	0	0	0
Betrayal of Professional Confidence	0	0	0	0	0	0	2	2
Criminal Conviction Other	0	0	0	0	0	0	0	0
Drug Diversion	0	0	0	0	0	0	0	0
Failure to Meet Licensing Requirements	0	0	0	0	0	0	0	0
Insurance Fraud	3	0	1	0	0	0	1	5
Lack of Good Moral Character	0	0	0	0	0	0	0	0
Mental or Physical Impairment	0	1	0	0	0	0	0	1
Misappropriation of Resident Property	0	0	0	0	0	0	0	0
Negligence-Incompetence	9	2	0	8	0	0	28	47
Negligence-Incompetence/MALP	0	0	0	0	0	0	0	0
Patient Abuse	0	0	0	0	0	0	0	0
Practice Outside Scope	0	0	0	1	0	0	0	1
Promoting Unnecessary Services	0	0	0	0	0	0	0	0
Sexual Misconduct	5	1	0	4	0	0	4	14
Substance Abuse	0	0	0	0	0	0	1	1
Technical Violation	0	0	0	0	0	0	0	0
Technical Violation of Article 7	0	0	0	0	0	0	0	0
Unethical Business Practices	0	0	0	0	0	0	0	0
Unlicensed Person	0	0	1	1	0	0	0	2
Unsanitary Conditions	0	0	0	0	0	0	0	0
Total	17	4	2	14	0	0	36	73
Complaints Issued								
Total Complaints Filed	4	1	2	20	0	0	66	93
Settlements Reached By Department								
Total Final Orders	13	2	9	23	0	0	81	107
Investigations and Complaints Closed or Dismissed								
Complaints Dismissed	2	2	0	5	0	0	12	21
Actions Taken by Disciplinary Subcommittee or Board								
Board Rendered Decision	2	0	1	8	0	0	9	20
DSC Rendered Decision	14	2	9	18	0	0	65	108

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