

# Massachusetts Board of Registration in Medicine

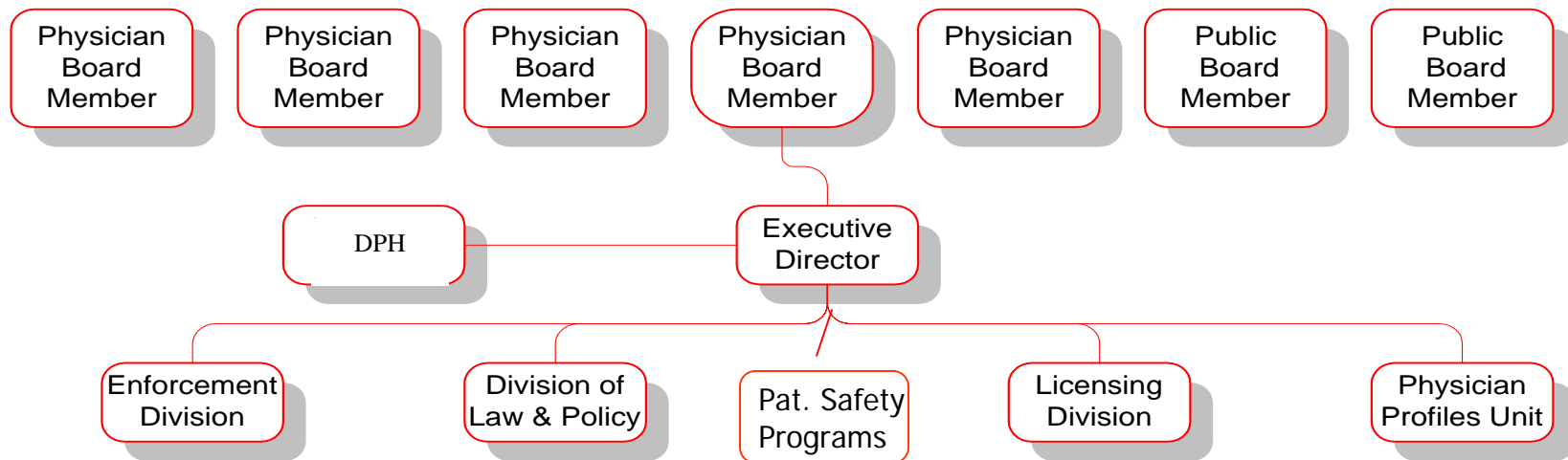


**Nancy Achin Audesse**  
**Executive Director**

# AGENCY OVERVIEW



# Organization of Agency



**Consumer Protection**  
**Investigation**  
**Litigation**  
**Clinical Care**

**General Counsel**  
**Physician Health**  
**Data Repository**

**Patient Care Assessment**  
**Clinical Skills Analysis**  
**Liability Reform**

**Initial Licenses**  
**Renewals**  
**Verifications**  
**Affiliation Agreements**

**Public Information**  
**Web Site**  
**Call Center**



# Issues That Bring Physicians Before The Board

Standard of Care

Prescribing Violations

Untreated Impairment

Behavioral Issues

*Disruptive Behavior*

*Boundary Issues*

*Criminal Convictions*

Non-Compliance

*Board Orders*

*Regulations*



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Issue:

**Substandard Care**

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Source: Consumer Complaints

Source: 5d/5f Reports

Source: Malpractice Review



Issue:

# **Prescribing Violations**



**Self-Prescribing**

**Prescribing to Family**

**Fraudulent Prescriptions**



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**Issue:**  
**Untreated Impairment**

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**Confidential, Non-Disciplinary Treatment Options Exist.**

**Get Help Before There Is an Allegation of Patient Harm.**

**Mandated Reporting & Impairment Exception.**



## **Behavioral Issues: Disruptive Behavior**

**Conflicts with other medical professionals.**

**Failure to comply with facility regulations.**

**Behavior can escalate to threats or violence.**

**Behavioral health contracts are available.**





# **Behavioral Issues: Boundary Violations**

**Sexual Misconduct**

**Financial Relationships with Patients**

**Breaches of Confidentiality**



# **Behavioral Issues: Criminal Convictions**

*May* be the basis for Board discipline.

*Not* necessarily related to the practice of medicine.



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Issue:

**Non-Compliance with Board Orders**

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**Violation of Practice Plan**

**Violation of PHS Contract**

**Failure To Respond**



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Issue:

## **Non-Compliance with Regulations**

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**Review Regulations Annually**

**CME Requirements**

**Licensing Information**



# **Mandatory Reporting for Health Care Providers**



Required by Statute & Regulation

Reports Remain Confidential Unless Used as  
Basis for Statement of Allegations

Failure to Report Is A Basis for Discipline



# Statutory Requirement

**Any Health Care Provider shall report to the Board of Registration in Medicine any person who there is a reasonable basis to believe is in violation of Chapter 112 Section 5 of the Massachusetts General Laws, or any of the regulations of the Board.**



# **Conditional Privilege of Communication**

## **Lawyer-Speak**

**All communications with the Board charging misconduct, or reporting or providing information to the Board pursuant to M.G.L. c. 112, § § 5-51, or assisting the Board in any manner in discharging its duties and functions, are privileged, and a person making a communication is privileged from liability based upon the communication unless the person makes the communication in bad faith or for a malicious reason.**



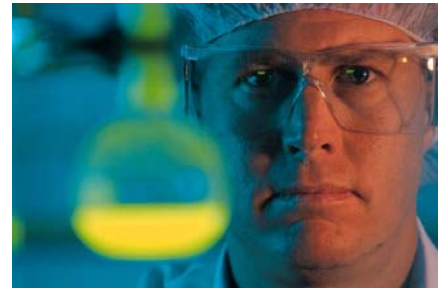
# **Conditional Privilege of Communication**

## **Real World Talk**

**When you do the right thing ...  
the Board will protect you from  
retribution.**



# Avoiding Disciplinary Action





# “Collateral Damage” Issues



Board Certifications

HMO Affiliations

Medicare/Medicaid Affiliations

Other states “piling on”

Public Documents, NPDB, Press Releases



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# **Board of Medicine Chemical Dependency Policy**

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## **Monitoring**

- Through Physician Health Services (PHS)
- Generally, 5 years of documented sobriety
- PHS reports to Board if positive urine screens or noncompliance



# **Board of Medicine Chemical Dependency Policy**

## **OUTCOMES:**

- No Action
- Letter of Agreement
- Assurance of Discontinuance
- Disciplinary Order



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# **Board of Medicine Chemical Dependency Policy**

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## **No Action:**

- Self-report
- Clean evaluation by Board-approved expert
- Documented sobriety and compliance with established recovery program
- Rare



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# **Board of Medicine Chemical Dependency Policy**

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## **Letter of Agreement:**

- Self report
- No patient harm
- Documented sobriety
- Written Recovery and Monitoring Program (PHS)



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# **Board of Medicine Chemical Dependency Policy**

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## **Letter of Agreement:**

- ❖ Not disciplinary action
- ❖ Confidential
  - No press release
  - No NPDB report
  - No entry on Physician Profile



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# **Board of Medicine Chemical Dependency Policy**

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## **Assurance of Discontinuance:**

### **❖ Not Self-Reported**

- No patient harm
- Documented sobriety
- Written Recovery and Monitoring Program (PHS)





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# **Board of Medicine Chemical Dependency Policy**

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## **Assurance of Discontinuance:**

- ❖ IS disciplinary action
- ❖ NOT Confidential
  - NPDB report
  - Entry on Physician Profile
  - BUT.. NO press release



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# **Board of Medicine Chemical Dependency Policy**

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## **Disciplinary Order:**

- Not self-reported
- Refusal to enter monitoring program/patient harm/inability to maintain sobriety



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# Board of Medicine Chemical Dependency Policy

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## Disciplinary Order:

- Sanctions: monetary fine to indefinite suspension of license
- BUT... *almost* always option to return to practice with monitoring by PHS



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# Board of Medicine Chemical Dependency Policy

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## Disciplinary Order:

- Is Formal Disciplinary Action
- Not Confidential
  - NPDB report
  - Entry on Physician Profile
  - Press Release



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# **Board of Medicine Chemical Dependency Policy**

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## **Section 5F Duty to Report**

If practice affected any licensee must do one of two things:

- Report to Board, OR
- Ensure that is compliant with PHS recovery/monitoring program



# Where To Get Help



**BORIM website – [www.massmedboard.org](http://www.massmedboard.org)**

**Physician Health Services -  
(781) 434-7404  
1-800-322-2303**

**BORIM “Lawyer of the Day” – 617-654-9800**



# WWW.MASSMEDBOARD.ORG

## **Current Physician Services**



[Online Address Change](#)

[Assorted Downloadable Forms](#)

[Newly Approved Licenses](#)

[Licensing Fees & General Information](#)

[Downloadable Application Kits for Licenses](#)

[Physician & Applicant Direct Connect System](#)

[Frequently Asked Questions](#)

[Summary of Prescription Filling Laws & Regulations](#)



**WWW.MASSMEDBOARD.ORG**  
**Planned Physician Services**



Online Demographic Changes

Online License Renewal

Credit Card Payments

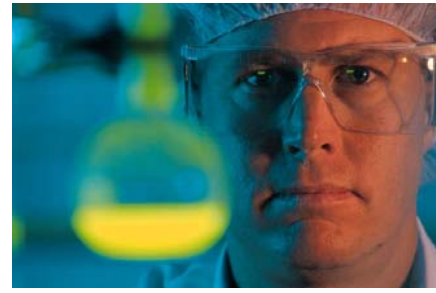
Enhanced “links” to other sites

Enhanced Credentialing Support

E-Mail notifications of Board Information



# PUBLIC INFORMATION





- [-Home](#)
- [-How to Read a Profile](#)
- [-Board of Medicine Home Page](#)
- [-Login Online Verification](#)

# Welcome to the Massachusetts Board of Registration in Medicine On-Line Physician Profile Site

Enter Search Criteria to Find a Physician's Profile  
(Enter as much or as little information as you know to find a physician,  
and then click the Find Physician button.)

Last Name:

[Show Active Physicians](#)

First Name:

[Show Medical Doctors \(MD\)](#)

[Show Osteopathic Doctors \(DO\)](#)

Town/City:

Specialty:

Hospital Affiliation:

Find Physician

Reset

## Physician Profiles

Massachusetts was the first state to offer a comprehensive program to give patients access to information about the education, training, and experience of all licensed physicians.

The "Physician Profiles" program is one tool patients can use to make the right health care decisions. Patients are encouraged to use the physician profile information to foster better communication with a physician.

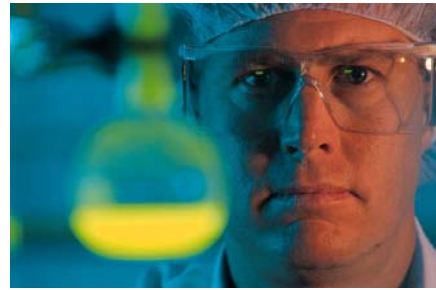


# PHYSICIAN PROFILES

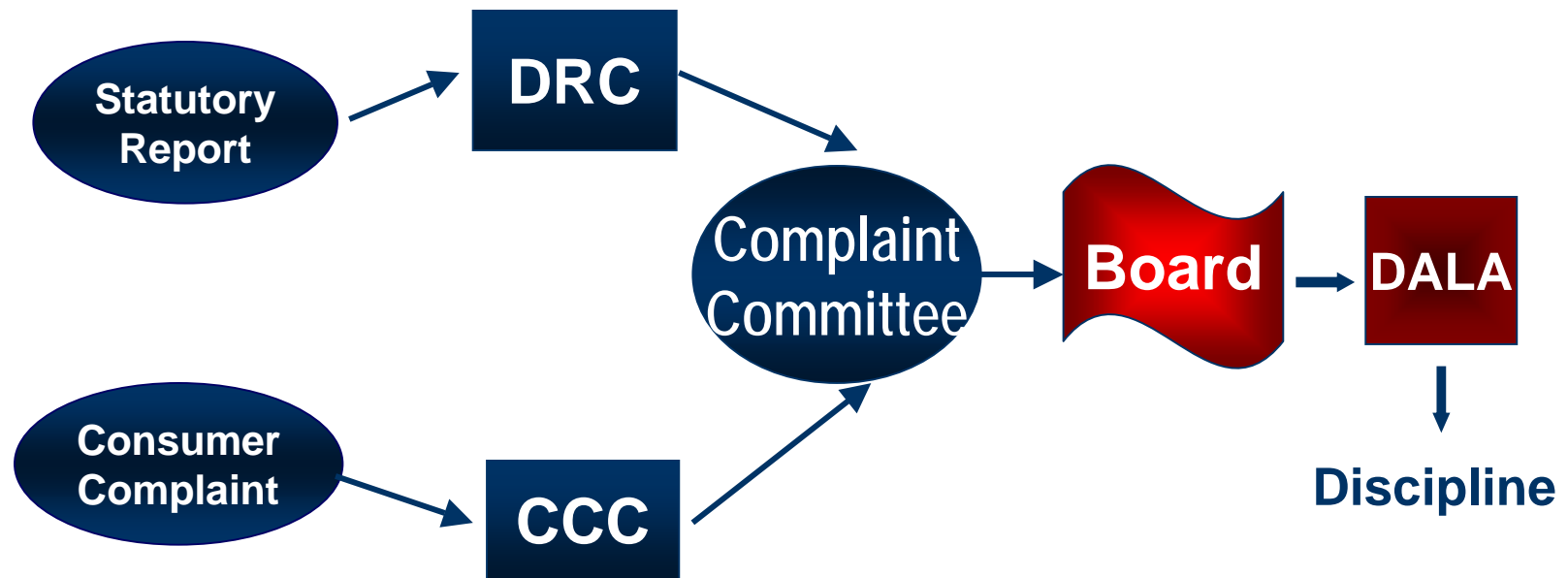
A public information service of the Massachusetts Board of Registration in Medicine, containing the following information on nearly 29,000 fully licensed Massachusetts physicians:

- Education
- Training
- Medical Specialties
- Professional demographics
- Professional or community awards received
- Malpractice claims paid
- Incidents of Institutional discipline
- Disciplinary actions of the Board of Registration in Medicine
- History of criminal convictions

# ENFORCEMENT OVERVIEW



# Enforcement Track



**CCC = Clinical Care Committee**

**DRC = Data Repository Committee**

**DALA = Division of Administrative Law Appeals**

# Consumer Complaints Resolved

COMPLAINTS	2004	2003	2002	2001	2000	1999
Docketed	760	650	677	670	626	584
Closed	682	673	680	865	773	365
Pending as of 12/31	406	328	358	361	537	698



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# DISCIPLINARY UNIT

## 2004 Statistics

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**78 Physicians Disciplined**

**83 Disciplinary Actions Taken**

**59 Statements of Allegations Issued**

**13 Cases Referred to DALA**

# DISCIPLINARY STATISTICS

YEAR	# PHYSICIANS DISCIPLINED
<b>2004</b>	<b>78</b>
2003	60
2002	68
2001	55
2000	44
1999	38





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# PHYSICIAN OVERSIGHT 2004

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- ◆ 92 Physicians Monitored (confidentially or under a public Probation Agreement)
- ◆ 23 for Mental Health Reasons
- ◆ 18 for Chemical Dependency
- ◆ 38 for Behavioral Health Issues (including boundary violations)
- ◆ 8 for Dual Mental Health/Chemical Dependency
- ◆ 5 for Dual Mental Health/Behavioral Issues

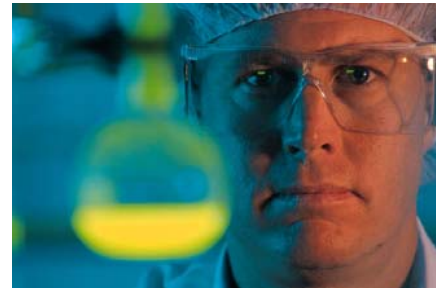
# NON-DISCIPLINARY ACTIONS

<b>NON-DISCIPLINARY ACTIONS</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>
<b>Letter of Acknowledgement</b>	<b>0</b>	<b>3</b>	4	0	1
<b>Letter of Information</b>	<b>5</b>	<b>4</b>	3	14	12
<b>Letter of Advice</b>	<b>38</b>	<b>63</b>	53	103	140
<b>Letter of Concern</b>	<b>49</b>	<b>21</b>	41	71	58
<b>Letter of Warning</b>	<b>30</b>	<b>1</b>	30	27	19
<b>Dismissed</b>	<b>462</b>	<b>440</b>	458	500	476
<b>TOTAL</b>	<b>584</b>	<b>572</b>	<b>589</b>	<b>715</b>	<b>707</b>

# OTHER SOURCES OF INFORMATION

<b>Statutory Reports Received</b>	<b>2003</b>	<b>2001</b>	<b>1999</b>
Renewal "yes" answers—malpractice	3401	3,612	2,842
Court reports-malpractice	912	654	846
Court reports--criminal convictions	1	0	1
Closed claim reports	988	1,096	988
5F (peer) reports	32	8	26
Initial disciplinary action reports	144	114	66
Subsequent disciplinary action reports	148	124	27
5D (government agency) reports	57	21	32
MISC	5	3	5
<b>Totals</b>	<b>5,688</b>	<b>5,632</b>	<b>4,833</b>

# CHALLENGES & OPPORTUNITES





# CHALLENGE:

## Remediation & Retraining



Continuous Skill Enhancement

Introduction of New Technology

Retaining Experienced Physicians



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# OPPORTUNITY

## Patient Safety & Malpractice Reform

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Continuing Competency Certification

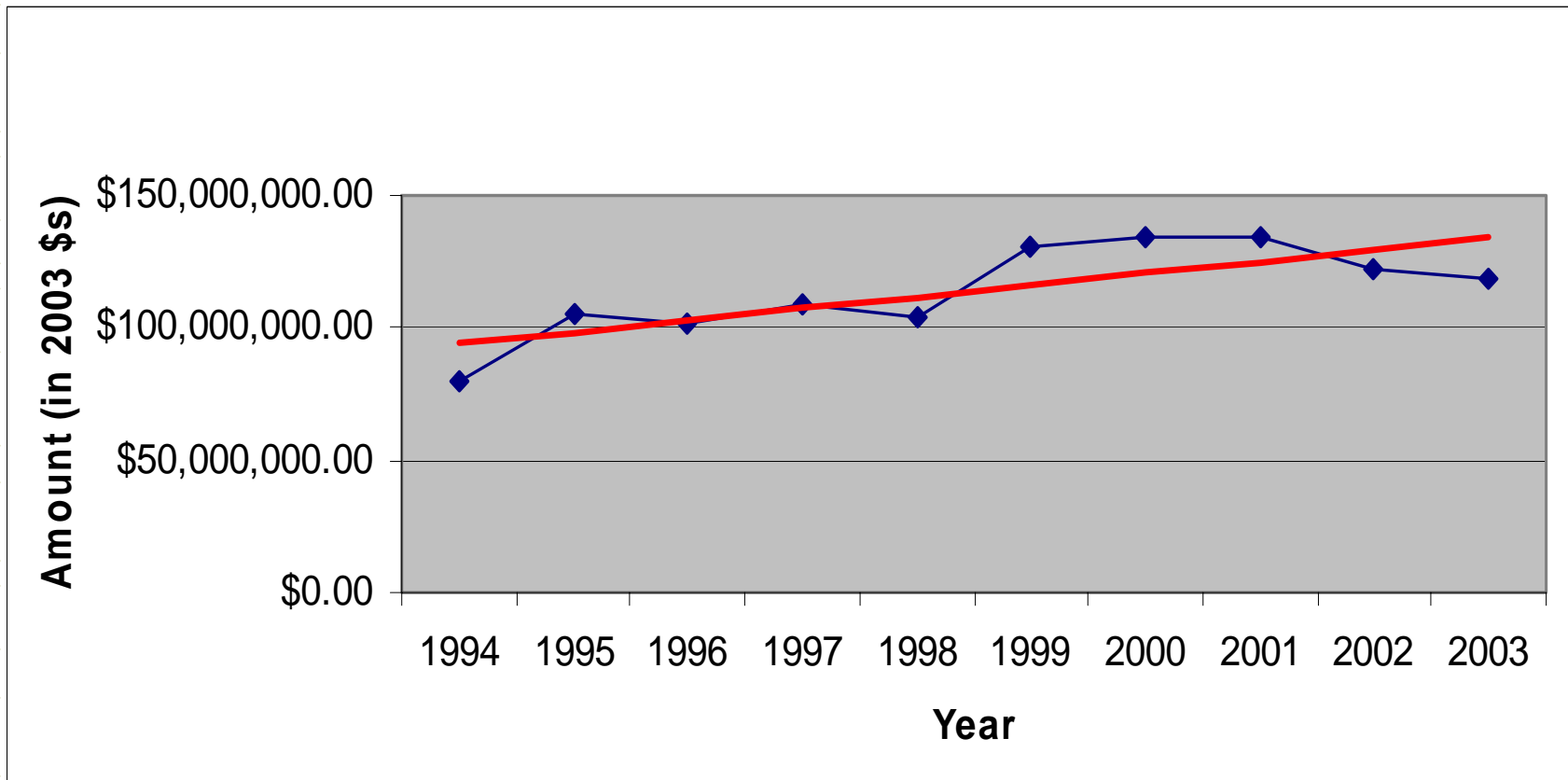
Maximizing Institutional Compliance with  
Patient Safety Initiatives

Proposals to Streamline Payments to Injured  
Patients, Regardless of Fault

# Malpractice Payments

Amount Paid by Year					
Year	Sum of Payments	Avg Payments	Count	CPI	Inflation-Adjusted Sum of Payments (2003)
1994	\$64,198,880.00	\$251,760.31	255	1.2416	\$79,707,111.47
1995	\$87,063,300.00	\$306,560.92	284	1.2073	\$105,115,795.28
1996	\$86,921,938.00	\$306,063.16	284	1.1727	\$101,935,223.66
1997	\$94,773,530.00	\$354,957.04	267	1.1464	\$108,650,028.16
1998	\$91,670,954.00	\$334,565.53	274	1.1288	\$103,481,322.31
1999	\$118,181,047.00	\$384,954.55	307	1.1044	\$130,524,085.52
2000	\$125,398,843.00	\$379,996.49	330	1.0685	\$133,991,795.08
2001	\$129,095,469.00	\$388,841.77	332	1.0390	\$134,125,162.60
2002	\$119,188,893.00	\$446,400.35	267	1.0228	\$121,905,260.21
2003	\$118,960,482.00	\$431,016.24	276	1.0000	\$118,960,482.00

# Inflation-Adjusted Total Amount Paid by Year: 1994-2003



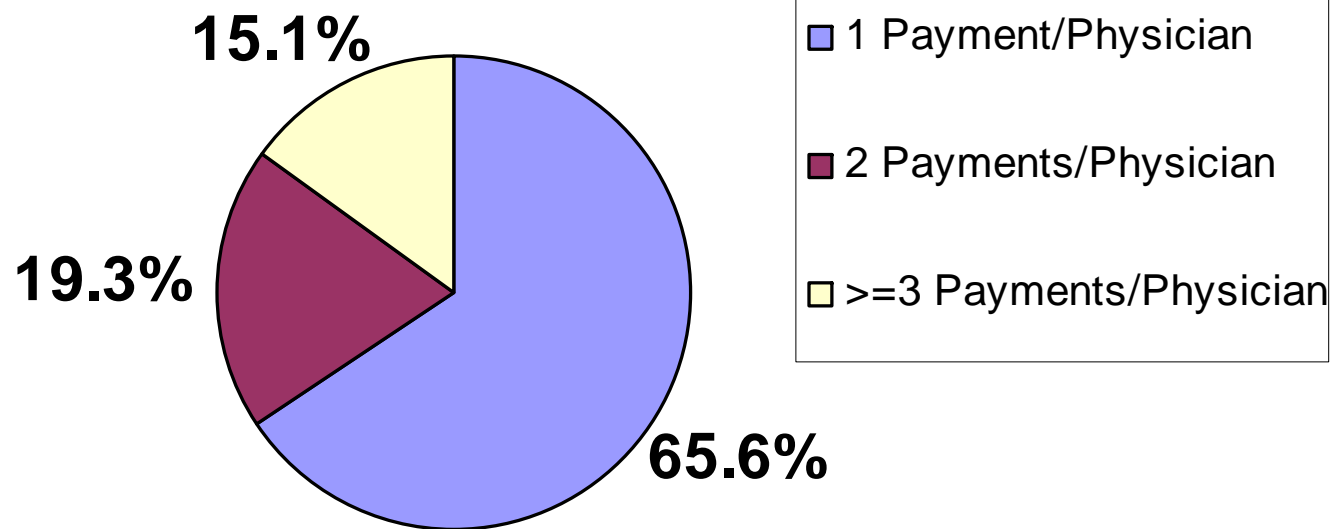


# High Malpractice Risk Specialties

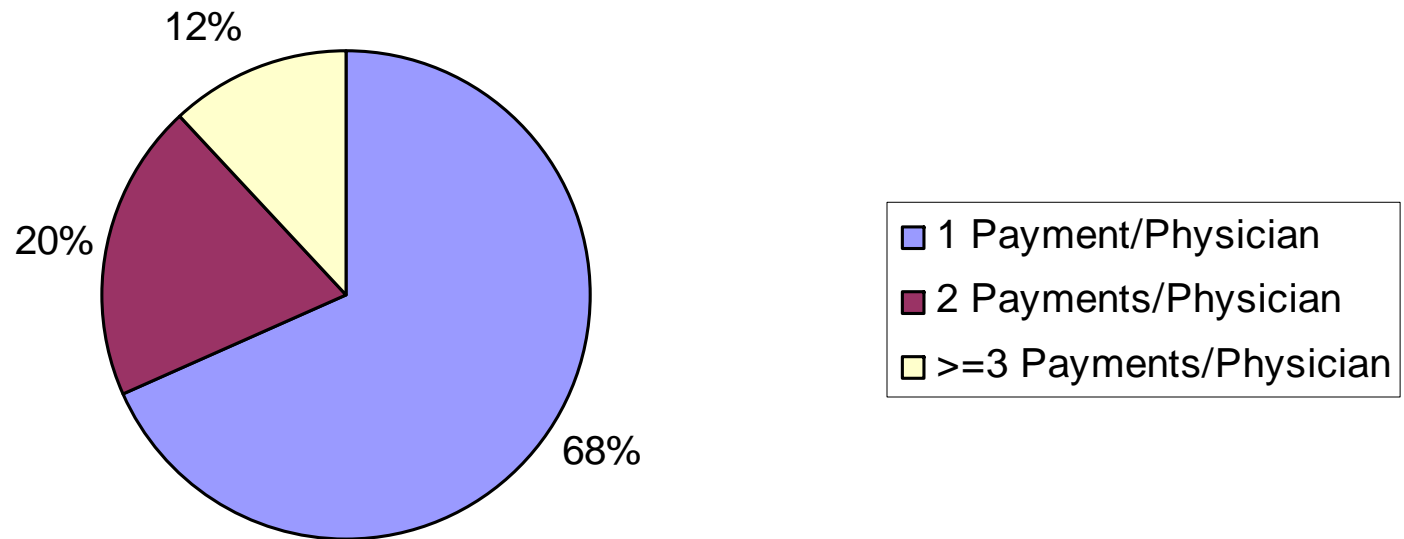
**Table 1. Five Specialties with the Highest Percentage\* of Physicians Making Payments in 1994-2003 compared to 1990-1999. (\* among specialties with more than 200 physicians)**

Specialty	Total # Physicians in Specialty	% Change in Number of Physicians	# of Claims	% Change in Number of Paid Claims
OB/GYN	1,404	3.0%	476	3.0%
Gynecology	203	- 9.0%	64	33.0%
Neurological Surgery	253	5.4%	85	29.0%
General Surgery	1,363	no change	250	8.2%
Orthopedic Surgery	1,208	4.0%	258	3.6%

# Number of Payments for Individual Physicians: 1994-1998



# Distribution of Payments by Physicians: 1999-2003





# OUTLIERS

## **98 physicians had more than two paid claims**

4.2% of the 2,307 physicians who made a payment.

1/4 of one percent of all physicians.

## **These 98 physicians were responsible for**

388 ( 13.5%) of all paid claims.

\$133,988,105 (12.9%) of all dollars paid.

# 98 OUTLIERS

**50 remain in active practice, of whom 9 have been disciplined by the Board.**

## **48 NO LONGER IN PRACTICE**

8 Revoked

2 SOA issued, overturned

9 Disciplinary Resignation

1 Letter of Concern

2 Suspended

4 Formal Discipline

4 Deceased

5 Formal Retirement  
(1 after Discipline)

13 Did Not Renew



# **Recommendations**

**Better Communication of Performance/Quality Data**

**Clinical Skills Assessment & Enhancement**

**Comprehensive Training In Best Practices & New Technologies**

**Targeted CME opportunities in Communication**

# QUESTIONS ?

