

# OREGON MEDICAL BOARD



*The mission of the Oregon Medical Board is to protect the health, safety and wellbeing of Oregon citizens by regulating the practice of medicine in a manner that promotes access to quality care.*

# ANNUAL REPORT 2015



## ABOUT THE BOARD

The Oregon Medical Board (“OMB” or “Board”)<sup>1</sup>, began its work in 1889, soon after the Oregon Legislature created the agency. Originally named the Oregon Board of Medical Examiners, the agency was renamed the Oregon Medical Board effective January 1, 2008. For the past 127 years, the OMB has adhered to a simple, yet profound Statement of Purpose:

**The mission of the Oregon Medical Board is to protect the health, safety and wellbeing of Oregon citizens by regulating the practice of medicine in a manner that promotes access to quality care.**

The OMB is the regulatory agency and governing board for a large portion of the professional healthcare community in the state of Oregon. The OMB licenses all (medical, osteopathic and podiatric) physicians, physician assistants and acupuncturists practicing in the state.

The OMB regulates the practice of medicine, podiatry and acupuncture and investigates and disciplines its licensees as needed. In doing so, the OMB is governed by and enforces Oregon Revised Statutes (ORS) Chapter 677, also known as the Medical Practice Act. The OMB also follows and enforces Oregon Administrative Rules Chapter 847.

The Board sets educational, examination and practice requirements for licensure for all healthcare professionals under its purview. It reviews new and modified practice agreements and approves supervising physicians for physician assistants.

To accomplish these tasks, the Board has committees whose members examine license applications, interview candidates when appropriate, and make recommendations on investigations to the Board.

The Board is also responsible for establishing the scope of practice for Emergency Medical Responders, Emergency Medical Technicians (EMTs) and Paramedics and setting the qualifications for supervising physicians of emergency medical services providers.



### OREGON MEDICAL BOARD

1500 SW 1<sup>st</sup> Avenue, Suite 620  
Portland, Oregon 97201

**HOURS:** Monday through Friday, 8 a.m. to 5 p.m.  
Closed from noon until 1 p.m.

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**TOLL-FREE IN OREGON:** (877) 254-6263

**FAX:** (971) 673-2670

**E-MAIL:** [omb.info@state.or.us](mailto:omb.info@state.or.us)

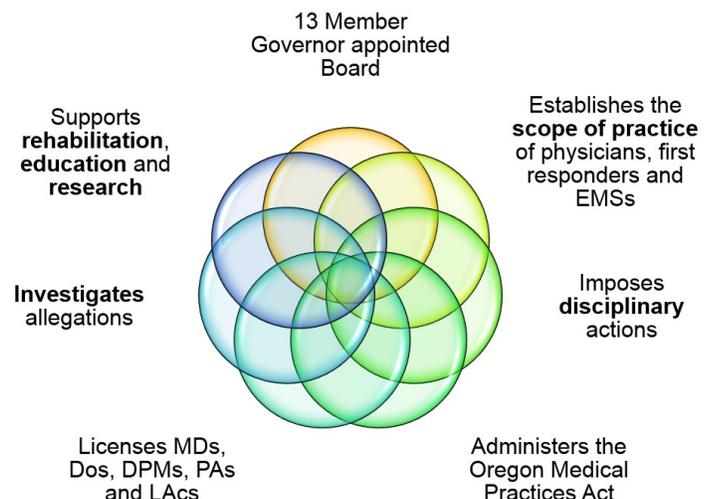
**WEB:** [www.oregon.gov/omb](http://www.oregon.gov/omb)

<sup>1</sup>Throughout this report, “Board” is used when referring only to the Oregon Medical Board’s 13-member government body. “OMB” is used in reference to the agency as a whole, including the Board.

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## WHAT DOES A MEDICAL BOARD DO?



## 2015 BOARD MEMBERS

The Oregon Medical Board is composed of 13 members, appointed by the Governor and confirmed by the state Senate. Seven of the members have the degree of Doctor of Medicine (MD), two have the degree of Doctor of Osteopathic Medicine (DO), one has the degree of Doctor of Podiatric Medicine (DPM), and one must be a physician assistant. Of the seven MDs, there is at least one member appointed from each federal congressional district.

Physician appointees may be nominated by their professional association or may be individuals who apply directly to the Governor's Office as candidates for Board service. In addition to the 10 physician members, there are two public members representing health consumers. Board members must be Oregon residents.

Each member is selected for a three year term, with the opportunity to participate in a second term, for a total of six years. Terms usually begin on March 1 and end on the last day of February. 2015 Board members and current term expiration dates are:

Michael J. Mastrangelo Jr., MD, <i>Chair</i>	Bend	2/28/2017 <sup>2</sup>
Shirin R. Sukumar, MD, <i>Vice Chair</i>	West Linn	2/28/2017 <sup>2</sup>
George Koval, MD, <i>Secretary</i>	Lake Oswego	2/29/2016 <sup>2</sup>
Katherine L. Fisher, DO	Happy Valley	2/29/2016
Donald E. Girard, MD	Portland	2/29/2016 <sup>2</sup>
K. Dean Gubler, DO	Portland	2/28/2017
James K. Lace, MD	Salem	2/28/2018
Lisa M. Lipe, DPM	Lake Oswego	2/28/2018
Roger M. McKimmy, MD	Eugene	2/29/2016 <sup>2</sup>
Terry L. Smith*	Portland	2/29/2016
Angelo Turner*	Portland	2/28/2018 <sup>2</sup>
W. Kent Williamson, MD	Portland	2/29/2016 <sup>2</sup>

\*Public members

<sup>2</sup> Ineligible for reappointment due to term limits

On January 9, 2015, Michael J. Mastrangelo Jr., MD, was sworn in as Board Chair. He previously served as the Board's Vice Chair and Investigative Committee Chair. Also in 2015, Mr. Turner was reappointed for a second, three-year term. Dr. Lace and Dr. Lipe were appointed to their first term.



*Michael J. Mastrangelo Jr., MD  
Chair*



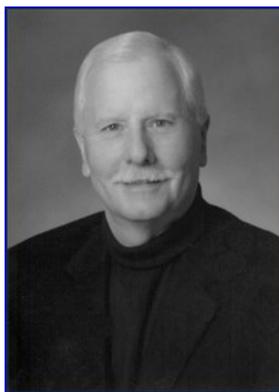
*Shirin R. Sukumar, MD  
Vice Chair*



*George Koval, MD  
Secretary*



*Katherine L. Fisher, DO*



*Donald E. Girard, MD*



*K. Dean Gubler, DO*



*James K. Lacey, MD*



*Lisa M. Lipe, DPM*



*Roger M. McKimmy, MD*



*Terry L. Smith*



*Angelo Turner*



*W. Kent Williamson, MD*

## BOARD STAFF

**K**athleen Haley, JD, has served as Executive Director of the Board since 1994. She has also served on the board of directors of Administrators in Medicine (AIM) and the Federation of State Medical Boards (FSMB), two premier national organizations of state healthcare regulatory agencies. The FSMB has appointed her as a member of many of its committees. In 2015, Ms. Haley was selected to participate in a national team to assess the operations and functions of the Health Authority of Abu Dhabi, in the United Arab Emirates.



*Kathleen Haley, JD  
Executive Director*

Ms. Haley serves as an Affiliate Associate Professor at the Oregon Health and Science University (OHSU). She is an experienced litigator, frequent lecturer, and active member of many professional societies.

Dr. Thaler is an Internal Medicine physician who practiced in Salem for nearly 30 years and was known as “the doctor’s doctor.” He served as a Board member from 2001 to 2007, and as Board Chair from 2006 to 2007. Dr. Thaler acted as a Board consultant and Interim Medical Director prior to his appointment as Medical Director in September 2012.



*Joseph Thaler, MD  
Medical Director*

Dr. Thaler welcomes phone calls, e-mails or written letters asking for direction on difficult issues pertaining to the practice of medicine. He frequently provides guidance to licensees on scope of practice, prescribing practices and boundary issues.

Other key staff members include Jessica Bates, Human Resources; Carol Brandt, Business Manager; Eric Brown, Chief Investigator; Nicole Krishnaswami, JD, Operations and Policy Analyst; Jennifer Lannigan, PhD, Business Systems Analyst; Theresa Lee, Executive Assistant; Netia N. Miles, Licensing Manager; and Vickie Wilson, Assistant Chief Investigator.

Warren Foote, JD, is the Senior Assistant Attorney General assigned to the OMB. He is based at the Oregon Department of Justice (DOJ) main office in Salem.

Alexander Burt, MD, and Jeffery T. Young, MD, serve as the Board’s psychiatric consultants.

The Oregon Medical Board now oversees more than **21,000** professionals. The Board is privileged to work with Oregon’s physicians, physician assistants, acupuncturists, and EMS providers who constitute one of the finest groups of healthcare professionals in the country.

# OREGON MEDICAL BOARD'S 125TH ANNIVERSARY

125 Years

The Oregon Medical Board celebrated its 125<sup>th</sup> anniversary in 2014. Established in 1889, the legislature created the Board to regulate the practice of medicine in order to protect Oregon citizens from unauthorized or unqualified persons. Lawmakers created the Board after 10 years of lobbying by the Oregon State Medical Society (now known as the Oregon Medical Association or OMA). The Legislature charged the new Board with enforcing the Oregon Medical Practice Act.



The Board originally consisted of three Board members and monitored only medical physicians. The Medical Practice Act required the Governor to compose the first board of “three persons from among the most competent physicians of the state.” Gov. Sylvester Pennoyer appointed James Browne, MD, James Dickson, MD, and O.P.S. Plummer, MD, as the first Board members (pictured left).

To become licensed in Oregon in 1889, a physician was required to show his or her diploma from a medical school or pass a Board examination. A “grandfather” clause in the Board creation bill allowed practitioners already in the state to become licensed by signing their county registry of physicians and surgeons within 60 days of the bill’s passage into law.

The medical profession continues to evolve with new opportunities and challenges. The Board has addressed these developments in medicine with administrative rules and Statements of Philosophy.

With more than 127 years of history, the Board continues to regulate the practice of medicine in Oregon through licensing, investigation and discipline.

## STANDING COMMITTEES

The **ADMINISTRATIVE AFFAIRS COMMITTEE** (AAC) consists of five Board members. The AAC meets quarterly, in the months prior to Board meeting months, to review administrative and operational matters, applicants for licensure, administrative rules and procedures.

The **INVESTIGATIVE COMMITTEE** (IC) consists of five Board members. The IC meets monthly, except for those months when the full Board convenes, to consider all investigative and disciplinary matters. The IC makes recommendations to the full Board regarding the disposition of disciplinary cases.

The **LEGISLATIVE ADVISORY COMMITTEE** consists of three Board members. It develops and responds to legislative proposals. It meets before and during the sessions of the Oregon Legislature.

The **PHYSICIAN ASSISTANT COMMITTEE** consists of three physician assistants (PAs), one physician who supervises a PA, and a Board member. It meets quarterly to review physician assistant

licensure applications, supervising physician applications, and administrative rules and procedures related to PAs.

The **ACUPUNCTURE ADVISORY COMMITTEE** consists of three acupuncturists, two physicians and a Board member. It meets at least twice a year and reviews all applications for licensure and administrative rules related to acupuncture.

The **EMERGENCY MEDICAL SERVICES (EMS) ADVISORY COMMITTEE** consists of six members: three emergency medical service providers, two physicians and one public member. This panel develops emergency medical responder, emergency medical technician and paramedic scopes of practice, as well as qualifications and responsibilities of the supervising physician.

The **EDITORIAL COMMITTEE** consists of two Board members, one of whom is a public member. It assists the Board's Communication Team with the creation of the Board's quarterly newsletter, the *OMB Report*.

The full Board meets quarterly in January, April, July and October. At each of these two-day sessions, the Board grants licenses, decides investigative, disciplinary and policy matters, and reviews administrative rules and committee reports. Periodically the Board holds retreats to discuss particular issues and topics of concern.

### 2016 FULL BOARD MEETING SCHEDULE

January 7 - 8, 2016

July 7 - 8, 2016

April 7 - 8, 2016

October 6 - 7, 2016

## REGISTRATION AND LICENSURE STATISTICS

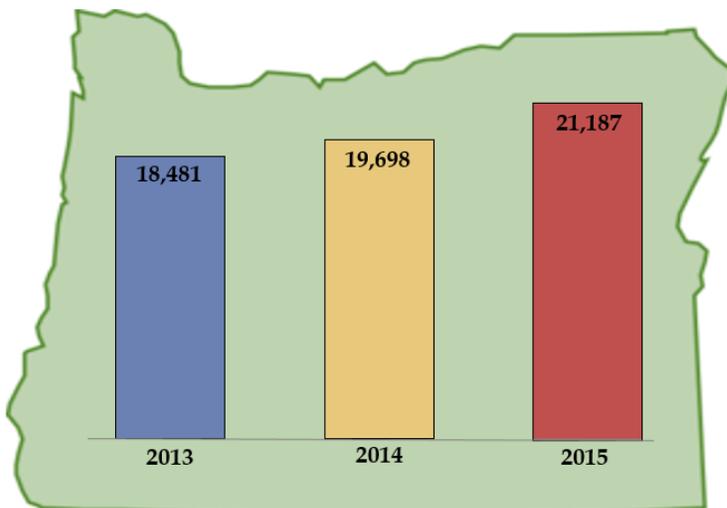
The OMB had 21,187 licensees as of December 31, 2015. Of that number, 18,494 held unlimited licenses with various active\* statuses. Another 864 professionals held limited licenses for practicing medicine in Oregon.

**Total Licensed MDs and DOs**  
(excluding limited)

Status	MD	DO
Active	14,076	1,177
Inactive	1,498	118
<b>Total</b>	<b>15,574</b>	<b>1,295</b>

**Limited Licenses (MD/DO)**

Status	MD	DO
Postgraduate	671	161
Fellow	15	0
Visiting Professor	1	0
Medical Faculty	5	0



**Total Licensees**  
(unlimited and limited)

Medical (MD)	16,266
Osteopathic (DO)	1,456
Podiatry (DPM)	208
Physician Assistant (PA)	1,786
Acupuncture (LAc)	1,471
<b>Total</b>	<b>21,187</b>

\*Active licenses include Active, Emeritus, Locum Tenens, Military/Public Health, Telemonitoring, Teleradiology, Administrative Medicine, and Volunteer Emeritus.

## LICENSING CUSTOMER SERVICE

The OMB's licensing team answers questions about the application and renewal processes, change of address and numerous other topics.

January 1, 2016, marked the successful completion of the 2015 Licensing Grand Renewal. During this period, physicians, podiatric physicians and physician assistants were required to renew their licenses to practice medicine. The renewal process included verifying requested documents, reviewing qualifications for appropriate licensing statuses and providing guidance on rules, statutes and personal history questions. All renewal applications were 100% paperless!

Between January and December 2015, the Licensing Call Center received 17,368 phone calls and 17,152 e-mails.

# ANNUAL LICENSING STATISTICS

## NUMBER OF LICENSEES AS OF DECEMBER 31, 2015

Active licenses include: Active, Emeritus, Locum Tenens, Military/Public Health, Telemedicine, Telemonitoring, Teleradiology, Administrative Medicine, and Volunteer Emeritus

Doctors of Medicine (MD)	2013	2014	2015
Active	12,309	13,141	14,076
Inactive	1,253	1,441	1,498
Limited ( <i>all types</i> )	687	706	692
<b>Total</b>	<b>14,249</b>	<b>15,288</b>	<b>16,266</b>

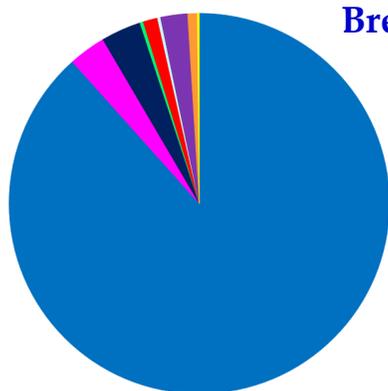
Doctors of Osteopathic Medicine (DO)	2013	2014	2015
Active	947	1,047	1,177
Inactive	88	109	118
Limited ( <i>all types</i> )	133	139	161
<b>Total</b>	<b>1,168</b>	<b>1,295</b>	<b>1,456</b>

Podiatric Physicians (DPM)	2013	2014	2015
Active	171	180	187
Inactive	10	10	10
Limited ( <i>all types</i> )	9	10	11
<b>Total</b>	<b>190</b>	<b>200</b>	<b>208</b>

Physician Assistants (PA)	2013	2014	2015
Active	1,294	1,469	1,655
Inactive	51	81	131
Limited ( <i>all types</i> )	0	1	0
<b>Total</b>	<b>1,345</b>	<b>1,551</b>	<b>1,786</b>

Acupuncturists (LAc)	2013	2014	2015
Active	1,299	1,302	1,399
Inactive	74	61	72
Limited ( <i>all types</i> )	1	1	0
<b>Total</b>	<b>1,374</b>	<b>1,364</b>	<b>1,471</b>

### Breakdown of Active Licenses (MD, DO, DPM, PA, and LAc)



- Active
- Emeritus
- Locum Tenens
- Military/Public Health
- Telemedicine
- Telemonitoring
- Teleradiology
- Administrative Medicine
- Volunteer Emeritus

## LICENSEES BY COUNTY

The data reflects current practice addresses reported by licensees who have full licenses at practicing statuses. If a licensee provides practice addresses in more than one county, the licensee will be counted in each county. Therefore, the data does not represent full-time clinical practitioners in each county. *Data as of December 31, 2015.*

County (Seat)	MDs	DOs	DPMs	PAs	LAc	Total	Population
Baker (Baker City)	70	8	1	10	1	90	16,059
Benton (Corvallis)	297	72	4	51	24	448	86,316
Clackamas (Oregon City)	1,016	108	18	116	107	1,365	394,972
Clatsop (Astoria)	108	8	2	13	8	139	37,474
Columbia (St. Helens)	24	6	0	17	5	52	49,459
Coos (Coquille)	140	13	4	15	5	177	62,475
Crook (Prineville)	21	6	0	10	3	40	20,998
Curry (Gold Beach)	41	15	1	7	3	67	22,335
Deschutes (Bend)	585	64	13	129	63	854	170,388
Douglas (Roseburg)	218	42	6	40	6	312	106,972
Gilliam (Condon)	1	0	0	2	0	3	1,932
Grant (Canyon City)	8	1	0	0	2	11	7,180
Harney (Burns)	17	1	0	3	0	21	7,126
Hood River (Hood River)	99	6	1	16	17	139	22,885
Jackson (Medford)	663	76	12	83	52	886	210,287
Jefferson (Madras)	27	2	0	5	2	36	22,192
Josephine (Grants Pass)	160	21	4	31	17	233	83,599
Klamath (Klamath Falls)	161	14	2	19	4	200	65,455
Lake (Lakeview)	8	2	0	3	0	13	7,838
Lane (Eugene)	942	65	12	150	72	1,241	358,337
Lincoln (Newport)	78	18	2	23	10	131	46,406
Linn (Albany)	172	25	3	34	6	240	119,356
Malheur (Vale)	108	11	2	31	0	152	30,359
Marion (Salem)	812	65	11	113	45	1,046	326,110
Morrow (Heppner)	6	0	0	5	0	11	11,187
Multnomah (Portland)	4,431	266	45	466	742	5,950	776,712
Polk (Dallas)	62	23	1	16	2	104	77,916
Sherman (Moro)	0	0	0	1	0	1	1,710
Tillamook (Tillamook)	61	3	1	9	4	78	25,342
Umatilla (Pendleton)	172	20	4	22	1	219	76,705
Union (La Grande)	76	12	1	2	6	97	25,691
Wallowa (Enterprise)	13	1	0	1	3	18	6,820
Wasco (The Dalles)	96	5	1	11	6	119	25,515
Washington (Hillsboro)	1,713	87	25	278	135	2,238	562,998
Wheeler (Fossil)	2	0	0	2	0	4	1,375
Yamhill (McMinnville)	200	21	6	24	12	263	101,758

## PHYSICIAN ASSISTANTS

As of December 31, 2015, 1,786 physician assistants were licensed in Oregon. Of that number, 1,655 were active status and 131 were inactive status.

Physician Assistants (PAs) are licensed to work with physician supervision. A “practice agreement” is a written agreement between a PA and a supervising physician or supervising physician organization (SPO) that describes what and how the PA will practice. The practice agreement must be filed with the Board within 10 days of the PA beginning practice.

The Physician Assistant Committee meets quarterly the month before the Board meeting.

During the 2015 legislative session, Senate Bill 905 was signed into law. SB 905 adds a PA member to the Board, increasing the total number of Board members to 13. The bill also dissolves the Physician Assistant Committee. The last Physician Assistant Committee meeting was held on December 10, 2015. The new PA Board member’s term will begin March 1, 2016.

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## PODIATRISTS

As of December 31, 2015, there were 208 podiatric physicians licensed in Oregon. Of that total, 187 were active status and 10 were inactive status. Eleven podiatric physicians held Limited Licenses, Postgraduate.

A podiatric physician is licensed to diagnose and perform medical, physical or surgical treatments related strictly to ailments of the human foot, ankle, and tendons directly attached to and governing the function of the foot and ankle. Podiatrists may apply for an endorsement on their license to perform ankle surgery in a certified hospital or ambulatory surgical center in Oregon.

## 2015 COMMITTEE ROSTERS

### *Acupuncture Advisory Committee*

Brynn D. Graham, LAc, Chair – *Portland*

Lena Kuo, MD – *Portland*

Charlotte Lin, MD – *Bend*

Laura E. Ocker, LAc – *Portland*

Siamak Shirazi, LAc – *Lake Oswego*

### *EMS Advisory Committee*

Kara Kohfield, Paramedic, Chair – *John Day*

Mohamud R. Daya, MD – *Portland*

Wayne Endersby, EMT-Intermediate – *Richland*

Christoffer E. Poulsen, DO – *Eugene*

Mike Verkest, Paramedic – *Sherwood*

### *Physician Assistant Committee*

Jennifer K. Van Atta, PA-C, Chair – *Portland*

Bruce D. Carlson, MD – *Hermiston*

Ian M. Hartman, PA-C – *Portland*

Melissa D. Peng, PA-C – *Portland*

George Koval, MD, Board Member

## ACUPUNCTURISTS

In Oregon, 1,471 acupuncturists held licenses as of December 31, 2015. Of that number 1,372 were active, 72 inactive, 20 held Locum Tenens licenses, and seven held an Emeritus license.

Oregon uses standards set by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) as the primary accreditation standards for acupuncturists seeking Oregon licensure. Previously, the Board set its own clinical and didactic educational standards for acupuncture licensure. Oregon's adoption of ACAOM standards reflects the growth of the acupuncture profession in this country.

Both the Oregon College of Oriental Medicine (OCOM) and the National College of Natural Medicine (NCCM) report that the number of graduates will increase dramatically over the next few years. With the public's increasing interest in acupuncture and complementary medicine, the Board expects to continue to see a steady increase in the number of acupuncturists applying for Oregon licensure each year.

The Board's Acupuncture Advisory Committee met four times in 2014 – 2015.

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## EMERGENCY MEDICAL SERVICES (EMS)

The Board is responsible for setting the scope of practice for Emergency Medical Responders, Emergency Medical Technicians (EMTs) and paramedics. The Board also sets the qualifications for EMS supervising physicians. The Department of Human Services is responsible for certification and discipline of EMS providers.

EMS providers came under Board supervision in 1975. The 1989 Legislature transferred much of that program to the Oregon Health Division (now Oregon Health Authority); however, the Board still has the responsibility for EMS provider scope of practice.

In 2012, legislation changed the titles of EMT providers to conform to the national standards. As a result, the EMT Advisory Committee was changed to the EMS Advisory Committee and EMS provider titles changed from "First Responder" to "Emergency Medical Responder," "EMT-Basic" to "EMT," and "EMT-Paramedic" to "Paramedic." The EMT-Intermediate and Advanced EMT titles were unaffected by this legislation.

The statute governing EMS providers limits their scope of practice to "pre-hospital" care, which is defined as "care rendered by EMS providers as an incident of the operation of an ambulance and...other public or private safety duties, and includes, but is not limited to, emergency care." (ORS 682.025(11))

Supervising physicians may not assign functions exceeding the scope of practice; however, the supervising physician may limit the functions within the scope at their discretion.

The EMS Advisory Committee met eight times in 2014 – 2015.

## RE-ENTRY TO PRACTICE

In fulfillment of the Board's mission to promote access to quality care, the Board supports provider re-entry after ceasing practice. The Board has adopted a policy regarding provider re-entry to clinical practice following a period of clinical inactivity.

In general, the Board requires any licensee with more than a 24-month hiatus to design a re-entry plan that may include an assessment, supplemental training, and mentorship. Re-entry plans may also include board certification/recertification.

A Consent Agreement is used to formalize a re-entry plan. The chart below shows the number of licensees returned to practice through Corrective Action Agreements and Consent Agreements from January 2003 through December 2015.

Profession	Number of Licensees	Average Time Out of Practice (Years)
Physician (MD/DO)	33	4.9
Acupuncturist (LAc)	20	5.0
Physician Assistant (PA)*	10	4.9
Podiatrist (DPM)	1	2.4

\*Prior to January 1, 2012, PA re-entry was established through practice descriptions.

## INVESTIGATIONS

The Board's Investigations Department reviews all complaints to determine whether state law (the Medical Practice Act) may have been violated. There are 26 separate grounds for discipline or denial of a license in the Medical Practice Act. Most are very specific. They include chemical substance abuse, gross or repeated acts of negligence, and conviction of a criminal offense. "Unprofessional conduct" is also a violation and includes sexual misconduct with a patient. These specific violations are set forth in Oregon Revised Statute (ORS) 677.190.

EACH YEAR THE OREGON  
MEDICAL BOARD  
RECEIVES 750 TO 850  
WRITTEN COMPLAINTS.

Complaints come from a variety of sources, including other health professionals, hospitals, and patients and their families.

Approximately 300 to 400 of the complaints received by the OMB result in a complete and detailed investigation. Other complainants are referred to other appropriate state or professional organizations for review. Some complaints are resolved quickly by the Board's investigative staff because the initial investigation found that the licensee did not violate any state law or regulation.

## COMPLAINT RESOURCE OFFICER

The Complaint Resource Officer, Randy Day, answers questions about filing a complaint, the complaint process and additional resources if the issue is outside the purview of the Medical Board. The Complaint Resource Officer is available via telephone and e-mail.

The Complaint Resource Officer received **2,371** telephone calls and nearly **300** e-mails in 2015.

## INVESTIGATIVE PROCESS

The OMB investigates alleged violations of the Medical Practice Act. Investigatory information provided to the OMB is, in most circumstances, confidential, as required by Oregon statute.

The Investigative Committee (IC) is composed of five Board members, including one public Board member. The Executive Director, Medical Director, Chief Investigator, investigative staff, psychiatric consultant and the OMB's Senior Assistant Attorney General also attend IC meetings. The IC meets once a month, except during those months in which Board meetings are scheduled, to review the status of cases under investigation, interview licensees and provide guidance to the investigators. These proceedings are primarily held in Executive Session.

At these meetings, interviews are conducted with physicians or other licensees under OMB jurisdiction who are under investigation for possible violations of the Medical Practice Act. Licensees are advised that they may have attorneys present, and a court reporter transcribes the proceedings. Depending on the nature of the allegations, complainants or alleged victims may also be interviewed by Board members. The IC makes recommendations to the Board, which must make the final decision regarding any disciplinary action.

When the Board determines that discipline is warranted, a negotiated settlement is the most common outcome. If an agreement cannot be reached, the licensee may request an administrative hearing before an Administrative Law Judge (ALJ). The licensee may have an attorney and present witnesses and evidence. A court reporter attends the hearing and records all testimony presented by the State and the licensee. The ALJ issues a proposed order for the Board's consideration.

Board members then review the completed transcript and proposed order from the ALJ and hear any exceptions the licensee may have to the proposed order before the Board renders a decision. Board members (public members excepted) who participated in the investigative phase do not participate in deliberations.

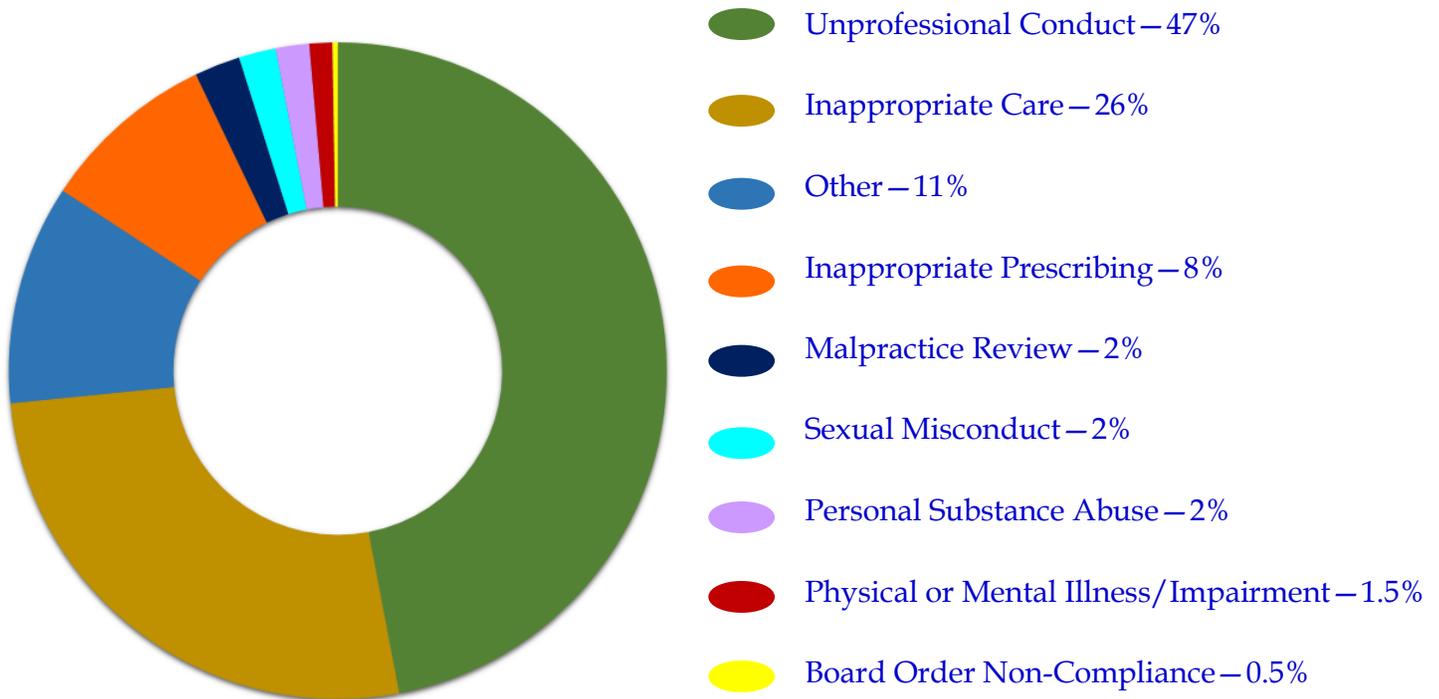
Following deliberations, the Board may (a) suspend judgment, (b) place the licensee on probation, (c) revoke the license, (d) suspend the license, (e) place limitations on the license, (f) take other disciplinary action, or (g) dismiss the actions. Licensees may also be fined and assessed hearing costs or referred to the Health Professionals' Services Program (HPSP).

### **The Board may take a variety of non-disciplinary actions, which include:**

- ◆ A Letter of Concern regarding the licensee's practice and/or behavior. This is a confidential document.
- ◆ A Corrective Action Agreement (CAA) between the licensee and the Board, requiring certain educational measures to be taken.
- ◆ Under a CAA, the Board may refer the licensee to additional training in a number of possible problem areas: specialty competencies, patient or peer relations, prescribing of narcotics, sexual or other personal boundary issues, etc.

# CATEGORIES OF INVESTIGATIONS CONDUCTED IN 2015

JANUARY 1 – DECEMBER 31, 2015



## SYSTEM LETTERS

From time to time, the OMB notes situations or conditions in hospitals, clinics and other health care facilities that could lead to practitioner errors. These situations, known as “system errors,” are often found during investigations of OMB licensees.

The OMB Medical Director sends “System Letters” to chiefs of staff, department heads and chief executive officers (CEOs) in the facilities involved. These letters are intended to be helpful, pointing out errors that may be remediated. Often, suggestions are offered toward correcting the problems uncovered.

In many cases, system letters are sent when practitioners have been cleared of any wrongdoing.

The Board often receives responses to system letters, detailing steps taken to correct errors or recurring problems. The Medical Director and other staff follow up on all system letters sent as part of the Board philosophy of partnering with institutions and practitioners for the good of patients. These system letters are one method the Board uses to support education and remediation.

### SYSTEM LETTERS SENT 2012 TO 2015

YEAR	# OF LETTERS
2012	6
2013	6
2014	7
2015	7

## ANNUAL INVESTIGATIVE STATISTICS

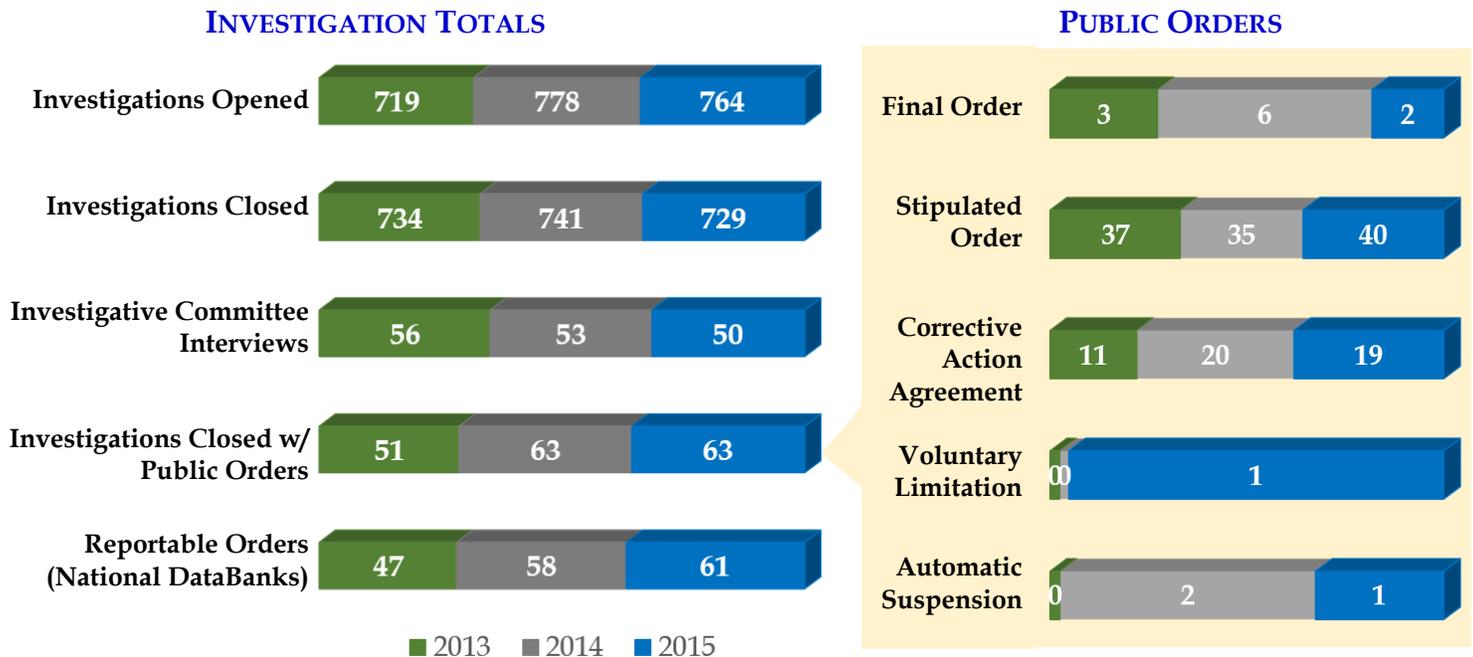
INQUIRIES RECEIVED	2013	2014	2015
Preliminary Phone Calls	2,298	2,369	2,371
Preliminary E-mails	162	266	290
Written Complaints*	719	778	764

\*Only written complaints may result in an investigation.

SOURCE OF INVESTIGATIONS	2013	2014	2015
Oregon Medical Board	86	49	63
Board or HPSP Non-Compliance	21	18	17
Hospital or Other Health Care Institution	25	31	24
Insurance Company	4	7	5
Malpractice Review	37	44	37
Other	55	67	69
Other Boards	5	9	6
Other Health Care Providers	66	62	57
Patient or Patient Associate	410	479	473
Pharmacy	10	5	4
Self-reported	23	30	21

FINAL DISPOSITIONS OF INVESTIGATIONS		2013	2014	2015
No Violations	No Apparent Violation	313	316	302
	No Violation/Preliminary Investigation	110	103	131
	No Violation/Prior to Committee Appearance	109	110	130
	No Violation/Post Committee Appearance	10	10	2
	Letter of Concern/Prior to Committee Appearance	95	95	85
	Letter of Concern/Post Committee Appearance	10	19	13
	No Violation/App Withdrawl w/Report to Federation	4	1	0
	Temporarily Closed without Board Order	0	1	0
Public Orders	Corrective Action Agreement	11	20	19
	Stipulated Order	37	35	40
	Voluntary Limitation	0	0	1
	Final Order (includes Default Final Orders)	3	6	2
Total	Investigations Opened	719	778	764
	Investigations Closed	734	741	729
	Contested Case Hearings	4	1	0
	Investigative Committee Interviews	56	53	50
	Investigations Closed with Public Orders	51	63	63
	Reportable Orders (National Databanks)	47	58	61

## INVESTIGATION OUTCOMES



## PARTICIPATION IN THE HEALTH PROFESSIONALS' SERVICES PROGRAM (HPSP)

The Health Professionals' Services Program (HPSP) is a confidential monitoring program for health professional licensees who are unable to practice with professional skill and safety due to a substance use disorder, a mental health disorder, or both types of disorders.

The program supports public safety while helping Oregon licensed health professionals continue their careers. The program operates under ORS 676.190 and OAR 415-065.

In 2009, the Oregon legislature voted to close each health licensing board's health professionals program and create one program for all health licensing boards who wish to participate. This transition occurred on July 1, 2010.

Reliant Behavioral Health was the vendor chosen to establish the new consolidated, statewide confidential program.

Four health professional regulatory boards currently participate in HPSP: Board of Dentistry, Board of Nursing, Board of Pharmacy, and Medical Board. Other health professional regulatory boards are also welcome to participate in HPSP and may opt in at a later date.

A board may refer a licensee to HPSP or a licensee may self-refer. When a board refers a licensee, HPSP works with the referring board to ensure that the licensee is monitored in accordance with his or her board agreement.

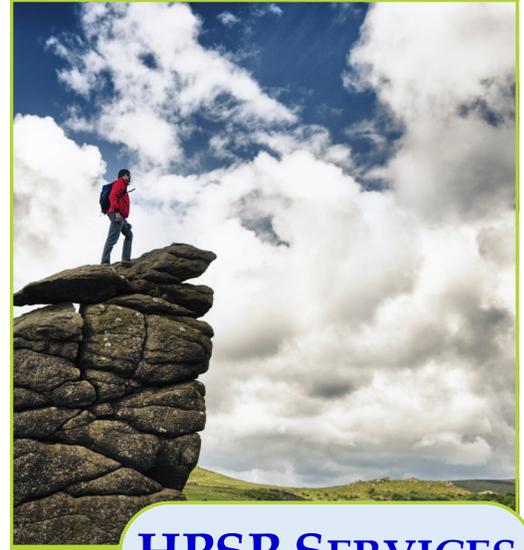


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 (888) 802-2843  
[www.rbhhealthpro.com](http://www.rbhhealthpro.com)  
[HPSP@reliantbh.com](mailto:HPSP@reliantbh.com)

## HPSP *Continued...*

When a licensee self-refers, HPSP works with the licensee to develop an individualized monitoring agreement and keeps the licensee's enrollment confidential as long as the licensee is in compliance with his or her HPSP monitoring agreement. The program maintains communication with the appropriate regulatory board regarding compliance of participants who are known to the board. Self-referrals must not be under investigation by their licensing board.

HPSP provides information and education to employers, licensee associations and support networks, treatment programs and other stakeholders.



### HPSP SERVICES

- ◆ Licensee enrollment
- ◆ Independent third-party evaluations
- ◆ Agreement monitors
- ◆ Weekly reporting by licensees
- ◆ Fitness for practice evaluations
- ◆ Recovery monitoring consultations
- ◆ Group consultations
- ◆ Medical Review Officer oversight
- ◆ Toxicology testing
- ◆ Interactive Voice Response (IVR) access to daily testing requirements
- ◆ Care coordination
- ◆ On-line wellness resources
- ◆ Safe practice evaluations

	2013	2014	2015
<b>Number of Board Licensees Enrolled in HPSP (Jan. 1)</b>	<b>101</b>	<b>99</b>	<b>83</b>
<b>Self-Referred Licensees entering HPSP</b>	<b>14</b>	<b>7</b>	<b>7</b>
<b>Board-Referred Licensees entering HPSP</b>	<b>10</b>	<b>8</b>	<b>8</b>
<b>Self-Referred Licensees Successfully Completed HPSP</b>	<b>11</b>	<b>9</b>	<b>3</b>
<b>Board-Referred Licensees Successfully Completed HPSP</b>	<b>8</b>	<b>17</b>	<b>17</b>

# ADMINISTRATIVE RULES ADOPTED BY THE BOARD IN 2014 AND 2015

## ALL LICENSEES

### **OAR 847-001-0045; 847-008-0003; 847-020-0183; 847-050-0043; 847-070-0045; and 847-080-0021: Approval of Consent Agreements for Re-entry to Practice**

The new rule and amendments delegate authority to the Executive Director to review and approve the terms and conditions in a Consent Agreement for re-entry to practice.

### **OAR 847-005-0005: Fees**

The rule amendments decrease the Data Order Charges to accurately reflect the current costs in fulfilling the request. The rule amendments also contain housekeeping changes regarding license statuses.

### **OAR 847-008-0010; 847-008-0040; and 847-008-0058: Fraud or Misrepresentation**

The new rule states that violations of ORS 677.190(8), providing false, misleading or deceptive information on any application, affidavit or registration for any license type or status, is grounds for a fine and possible further disciplinary action. The rule amendments delete other references to fraud or misrepresentation within Division 8 in favor of one comprehensive rule, and delete the requirement for the applicant to submit an affidavit and affidavit fee because the attestation is now part of the electronic application process and there is no affidavit fee.

### **OAR 847-001-0020 – REPEAL: Discovery**

The repeal removes the discovery rule for contested case hearings because the Oregon Medical Board has adopted the Attorney General's model rules on discovery in contested case hearings, specifically OAR 317-003-0566 through 137-003-0569.

### **OAR 847-010-0073: Reporting Requirements**

The rule amendment add clarity to the mandatory reporting requirements under Oregon Revised Statutes 676 and 677. The revised section (1) breaks the reporting requirements into categories for licensee self-reports, licensee obligations to report other professionals, and health care facility reports. The amendment adds a civil penalty for licensees who fail to report as required. The rule also updates the name of the state's monitoring program to the Health Professionals' Services Program and makes other housekeeping and general grammar updates.

The Board and other state agencies operate under a system of administrative rules to ensure fairness and consistency in procedures and decisions. Periodically, these Oregon Administrative Rules (OARs) must be amended in response to evolving standards and circumstances. OARs are written and amended within the agency's statutory authority granted by the Legislature.

Rules go through a *First* and *Final Review* before being permanently adopted. Temporary rules are effective after First Review, but they expire in 180 days unless permanently adopted after a Final Review. Official notice of rulemaking is provided in the Secretary of State *Bulletin*.

**OAR 847-008-0058: Fraud or Misrepresentation**

The rule amendment clarifies that the Board will not grant or renew a license until an applicant or licensee had paid the civil penalty fine or is proceeding to a contested case hearing under ORS 183.745 when a civil penalty has been issued for omissions or false, misleading or deceptive statements or information on a Board application or registration.

**MEDICAL AND OSTEOPATHIC PHYSICIANS (MD/DO)****OAR 847-023-0005; 847-023-0010; and 847-023-0015: Volunteer Emeritus Licensure**

The rule amendments reference the complete list of acceptable licensing examinations or combination of examinations; allow applicants with ongoing maintenance of certification to request a SPEX/COMVEX waiver; require documents in a foreign language to be submitted with an official translation; remove references to a paper application form; revise the requirements for a photograph so that it may be submitted digitally; include fingerprints within the rule on documents to be submitted for licensure; clarify that the Board may ask for additional documents regarding information received during the processing of the application; and include the ECFMG certificate among the documents that must be sent to the Board.

**OAR 847-026-0000: Qualifications for License by Endorsement**

The rule amendments clarify that applicants who qualify for expedited endorsement must have one year of current, active, unrestricted practice in the United States or Canada immediately preceding the application for licensure. Practice in other countries for that period will not qualify due to the differences in medical regulation and potential difficulty in obtaining documents with primary source verification from international regulatory bodies.

**PHYSICIANS (MD/DO/DPM)****OAR 847-020-0182; 847-020-0183; and 847-080-0021: Competency Examinations**

The rule amendments clarify when an applicant may be required to demonstrate clinical competency by passing the SPEX, COMVEX or podiatry competency exam. The rule amendments also allow applicants with ongoing maintenance of certification the ability to request a SPEX, COMVEX or podiatry competency exam waiver.

**PHYSICIAN ASSISTANTS (PA)****OAR 847-050-0023: Limited License, Pending Examination**

The rule amendment revises and clarifies the requirements for a physician assistant applicant to obtain a Limited License, Pending Examination. Specifically, the rule amendment clarifies that the application is subject to the Board's satisfaction; revises the time period from one year to six months; and clarifies that a practice agreement is required when the physician assistant begins practicing.

**ACUPUNCTURISTS (LAC)****OAR 847-070-0037: Limited License, Pending Examination**

The rule amendment revises and clarifies the requirements for an acupuncturist applicant to obtain a Limited License, Pending Examination. Specifically, the rule amendment clarifies that the application is subject to the Board's satisfaction and revises the time period from one year to six months.

**OAR 847-070-0005; 847-070-0007; 847-070-0015; 847-070-0016; 847-070-0019; 847-070-0022; and 847-070-0045: Acupuncture**

The rule amendments alphabetize the definitions, eliminate references to forms or printed photographs to reflect electronic submission of

*(Continued on page 22)*

## ADMINISTRATIVE RULES

*(Continued from page 21)*

applications and required materials, renumber the subsections under the rule on qualifications for clarity, distinguish mentorships from clinical training by changing the terminology from “clinical supervisor” to “mentor” under the rules for demonstrating competency, and make general language and grammar housekeeping updates.

### EMERGENCY MEDICAL SERVICES PROVIDERS (EMS)

#### **OAR 847-035-0030: Scope of Practice**

The rule amendment expands the Emergency Medical Responder scope of practice to allow the preparation and administration of naloxone via intranasal device or auto-injector for suspected opioid overdose, clarifies that Advanced EMTs may obtain only peripheral venous blood specimens, and expands the Paramedical scope of practice to allow them to obtain peripheral arterial blood specimens.

#### **OAR 847-035-0030: Scope of Practice**

The rule amendment makes four changes. First, the amendment clarifies that the scope of practice is the maximum functions that may be

assigned to EMS providers; it is not standing orders, protocols, or curriculum. Second, the amendment moves the provision allowing an EMT to perform other tasks under visual supervision as directed by the physician to the scope of practice for an Emergency Medical Responder. Third, the amendment corrects “Albuterol sulfate” to “albuterol.” Fourth, the amendment expands the Paramedic’s ability to initiate and maintain urinary catheters.

#### **OAR 847-035-0030: Scope of Practice**

The rule amendment clarifies that EMTs may prepare and administer albuterol treatments and are not limited to only nebulized albuterol, clarifies that Advanced EMTs may continue to administer naloxone by any method of delivery, which is distinct from the ability of Emergency Medical Responders to administer naloxone only via intranasal device or auto-injector for suspected opioid overdose, and alphabetizes the medications or categories of medications that an Advanced EMT may prepare and administer under specific written protocols or direct orders.

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## KEY PERFORMANCE MEASURES (KPMS)

The OMB uses performance measures to ensure the agency is fulfilling its mission to protect the health, safety, and wellbeing of the public.

The key performance measures cover licensing, investigations, and administrative functions. The measures are representative of overall agency functioning and performance.

The “Discipline Appropriately” measure demonstrates that the Board is appropriately disciplining. In addition to this measure, the Board partnered with Lewis and Clark Law School’s externship program in 2013 to engage an extern to examine the consistency of Board disciplinary actions. The research indicates that the Board is highly consistent in its disciplinary actions- 97% of the outcomes were consistent and the remaining 3% had explainable inconsistencies. The Board tailors the outcome to the facts of the case.

Discipline is defined as any case closed with a public order that is reportable to the National

*(Continued at the bottom of next page)*

## STATEMENTS OF PHILOSOPHY

Statements of Philosophy are adopted by the Board to express its philosophy and intentions regarding the practice of medicine in the state of Oregon. The Board adopted two Statements of Philosophy in 2015: Electronic Health Records and Responsibilities of Medical Directors of Medical Spas. The new Statements in their entirety can be found on pages 24 and 25 of the Annual Report.

Currently the Board has adopted 22 Statements of Philosophy:

Advertising	Care of the Surgical Patient	Chelation Therapy	Confidential Program for Substance Abuse and Mental Health Disorders	Cultural Competency
Deep Brain Stimulation	Ending the Patient-Physician Relationship	Electronic Health Records	Expedited Partner Therapy for Sexually Transmitted Disease	Licensees with Mental Illness
Medical Use of Lasers	Mesotherapy and Injection Lipolysis	Pain Management	Physician-Patient Relationship	Professionalism
Re-Entry to Clinical Practice	Responsibilities of Medical Directors of Medical Spas	Scope of Practice	Sexual Misconduct	Social Media*
	Telemedicine		Use of Unlicensed Healthcare Personnel	

\*Adopted January 8, 2016

### KPMs *(continued)*

Practitioner Databank. These orders include any Stipulated Orders, Voluntary Limitations, and Corrective Action Orders reportable to the National Practitioner Databank or Final Orders.

In fiscal year 2015, 52 orders were issued for 68 cases. Of these, two orders were appealed. There was one order pending at the close of fiscal year 2013 that is still pending. There were two other appeals pending at the close of fiscal year 2013 that were closed during fiscal year 2015, in one of which the Board's decision was reversed.

Measure	2013	2014	2015
Licensing Appropriately	√	√	√
Discipline Appropriately	√	√	
Monitor Licensees who are Disciplined	√	√	√
License Efficiently	√	√	√
Renew Licenses Efficiently	√	√	√
Customer Satisfaction	√	√	√
Board Best Practices	√	√	√

Note: All statistics are based on fiscal years.

√ Target Met or Exceeded

## STATEMENT OF PHILOSOPHY: *ELECTRONIC HEALTH RECORDS*

The passage of the federal Health Insurance Portability and Accountability Act (HIPAA) in 1996 spurred further federal regulation<sup>1</sup> mandating electronic medical record keeping in an effort to standardize insurance claims, make medical records more portable, and eliminate medical errors. Electronic health records (EHR) were expected to facilitate the availability of test and diagnostic information, reduce space requirements and transcription costs, and ideally increase the number of patients served each day. Charged with protecting the health, safety, and wellbeing of Oregon citizens, the Oregon Medical Board shares in these goals.

To the extent that EHR and “meaningful use”<sup>2</sup> has become the standard of care, it is the responsibility of the Medical Board to ensure that the standard of care is met and to assist licensees wherever possible. The Board recognizes that licensees will need to hone computer skills, become proficient in billing and coding, and in some cases utilize voice recognition software in order to generate EHR. As with other areas in the evolving field of health care, it will be incumbent on providers to build these skill sets and adapt to the new standard.

EHR has the potential to improve health care quality and patient satisfaction. However, the Board also understands that the documentation can seem limitless, and the patient care provider, the most expensive and time stressed link in health care, may become subject to the role of data entry.

In order to not interfere with the establishment of therapeutic and compassionate communication between provider and patient, it is imperative that software developers, health care organizations, and providers work to optimize EHR as a tool for providing efficient, patient-centered care while minimizing interference in traditional provider-patient interaction.

As electronic health records progress, the Oregon Medical Board is mindful of the need to balance the goals of health care efficiency, safety, and portability with those of an informative and readable record that can be created without undue complexity or burden on the increasingly stressed healthcare professionals.

*~Adopted August 6, 2015*

<sup>1</sup> The Health Information Technology for Economic and Clinical Health Act (HITECH) of 2009.

<sup>2</sup> [www.healthit.gov/providers-professional/meaningful-use-definition-objectives](http://www.healthit.gov/providers-professional/meaningful-use-definition-objectives).



## STATEMENT OF PHILOSOPHY: *RESPONSIBILITIES OF MEDICAL DIRECTORS OF MEDICAL SPAS*

The Oregon Medical Board is charged with protecting the health, safety and wellbeing of Oregonians through the regulation of the practice of medicine. As the practice of medicine in medical spas expands, it is incumbent upon licensees providing services in these settings to be aware of their responsibilities. In particular, a licensee who serves as a medical director of a medical spa or similar facility must clearly understand the duties and responsibilities of the role.

Medical directors must view medical spa patients as their patients, not just clients of the facility. Medical spa patients must be treated the same as a patient in any other medical facility. This includes performing an evaluation to establish the appropriate diagnosis and treatment, obtaining informed consent prior to treatment, and maintaining proper documentation and patient confidentiality.

Before personally performing or delegating any procedure to medical spa personnel, the medical director must consider the type of procedure and its

risks. In addition, the medical director must ensure that the staff member has the appropriate education and training to perform the procedure. Proper delegation also includes effective supervision through oversight, direction, evaluation and guidance. The medical director may not delegate the diagnosis of a medical condition or development of a treatment plan to a staff member who is not licensed to provide independent medical judgment.

Medical directors authorized to prescribe scheduled medications must be aware that only they can order, own, possess or have access to those medications within their medical spa.

The medical director is responsible for the medical procedures performed at the spa and will be held to the same standard of care as though the procedure were performed in a medical facility. Above all, patient safety is the top

priority, and medical directors should act in the best interest and welfare of their patients at all times.

*~Adopted October 9, 2015*



All of the Board's Statements of Philosophy are available at [www.oregon.gov/OMB/board/philosophy/Pages/Statements-of-Philosophy.aspx](http://www.oregon.gov/OMB/board/philosophy/Pages/Statements-of-Philosophy.aspx).

## THE OMB WEBSITE: WWW.OREGON.GOV/OMB

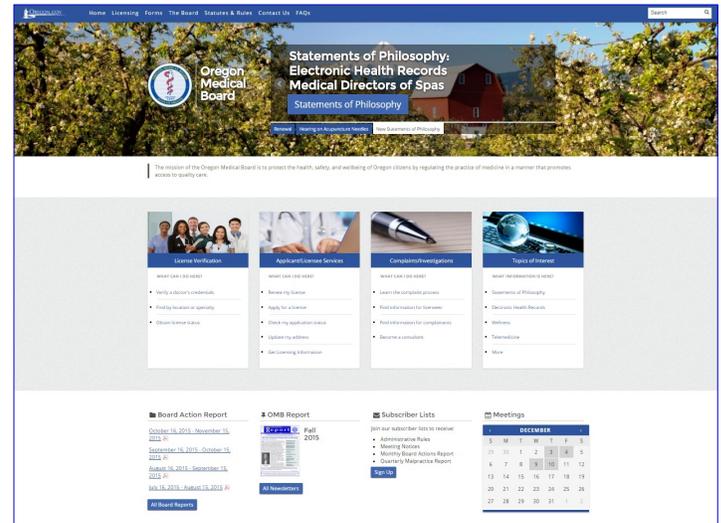
The OMB started offering information to the public through its website in 1999. Since inception, the OMB website has undergone a number of updates geared toward greater efficiency and transparency.

In the fall of 2013, the OMB launched its new website. The completely renovated site provides enhanced access to public information. Users can view the site from any device, including tablets and mobile devices.

The OMB's Communication Team led the website redesign project in collaboration with the services of the E-Governance Program and website contractor NIC-USA. The task-driven site layout, design and content is based on user metrics, caller feedback and public testing throughout the development process.

The OMB offers complete licensing application and renewal process through the website. A licensee or applicant can also change his/her address or pay fees. Applicants for licensure may go online to view submitted documents that have been received, items needed for completion, or application processing status. This "Online Status Report" gained recognition by Administrators in Medicine (AIM), which awarded Oregon the "Best of Boards" award for the innovative service.

The general public and licensees can access useful information regarding healthcare providers. The "Licensee Look-Up" provides a licensees' license status, specialty, education, year of birth, business telephone numbers and



Board Orders if relevant. With Express Licensing, new licensees are approved weekly by the Executive or Medical Director.

Several necessary forms are available to practitioners online—the Board's Material Risk Form for use of controlled substances in management of chronic, intractable pain, Liability Cap for Donated Services, application for authorization to become a dispensing physician, and others. All forms are in Portable Document Format (PDF), readable and usable with version 6.0 or higher of the Adobe Acrobat Reader program. These forms, along with a wealth of other information, is available on the Board's website.

The agency's Board Action Report is a compendium of Board actions currently in effect. Summaries of Board actions are posted and updated monthly. The Board's Statements of Philosophy serve as guiding principles to the Board in carrying out its mission. Other information such as malpractice claims, Board member biographies, Board and Committee meeting membership, meeting dates and minutes, public meeting notices, and current events are all easily accessible from the home page.

The Oregon Medical Board was one of the first agencies in Oregon to fully redesign its website and has acted as a prototype for other state agencies. The significant effort was recognized in the Wall Street Journal.

# OREGON MEDICAL BOARD REPORT

The *Oregon Medical Board Report* is the Board's quarterly newsletter. The *OMB Report* is published to help promote medical excellence by providing current information about law and issues affecting medical licensure and practice in Oregon. Copies are sent to all current Board licensees and a great number of former licensees. Interested parties are able to sign up to receive the newsletter via the Board's website.

In 2014 and 2015, the OMB published seven editions of the *OMB Report*, having combined the 2014 summer and fall editions into one newsletter. There were 12,836 subscribers to the paper edition and another 13,775 electronic edition subscribers in 2015.

Consumers and licensees can view current and back issues of the *OMB Report* on the Board's website. The website displays issues dating back to 2003.

Oregon Medical Board

## Report

Volume 127, No. 4 Fall 2015 www.oregon.gov/OMB



The mission of the Oregon Medical Board is to protect the health, safety and wellbeing of Oregon citizens by regulating the practice of medicine in a manner that promotes access to quality care.

### The New Standard in Medical Record Keeping

By Roger McKinny, MD, Board Member

As my six years serving on the Oregon Medical Board draw to a close with 2016, the complexity of the questions facing the Board only grows. One of the questions that I have grappled with as a Board member has been where and when it is appropriate to take a stand in defining the standard of medical care. Some standards of practice are cut and dried, defined in statute and inviolable. Many, many more are less well defined, dependent on context, timing, and to a large extent common sense. The laws governing Oregon's Medical Board are constructed in a way that the Board, in some cases, enforces the standard of medical practice more than preemptively defining that standard. Where the standard is vague, it is up to the Board to call the balls and strikes. Sometimes, this arrangement is frustrating to me, as if the Board must wait for an untoward event or a bad outcome to clarify the standard of care.



Board members, who are practicing physicians and members of the public, have opinions about the standard of medical practice and how it impacts the Board's mission of assuring the safety of Oregon citizens in the medical environment. From time to time, we see it as appropriate to get out in front of an issue and help define the standard of care. The medium for this is the Board's Statement of Philosophy.

(Continued on page 2)

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**Statement of Purpose:** The *OMB Report* is published to help promote medical excellence by providing current information about laws and issues affecting medical licensure and practice in Oregon.

## SPEAKERS BUREAU

The OMB's commitment to public education extends beyond informational materials, physician profiles and providing public records. The Board offers in-person presentations to groups around the state, which allows direct and open communication in an intimate setting about specific topics.

In 2015, Ms. Haley, Dr. Thaler, and OMB staff completed 24 hospital presentations, and statewide and national outreach efforts. The Board provides a number of presentations covering a variety of topics shown on the right.

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OMB Overview
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Investigative Process and Complaints
- 

Legislative Updates
- 

Licensure Process
- 

Physician Assistants
- 

Prescribing

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