

# Exhibit H



KAREN L. WRUBEL, D.P.M., *President*  
ALEIDA GERENA-RIOS, M.B.A.

RAYMOND K. CHENG, A.I.A.  
JAMES J. LONGOBARDI, D.P.M.

KRISTINA M. DIXON, M.B.A.  
NEIL B. MANSDORF, D. P. M.

## LICENSING AND MEDICAL EDUCATION COMMITTEE

- **Overview**

- ❖ The results of the National Board's Part III exam held June 2, revealed an 83% pass rate for California applicants. The next Part III exam is scheduled for December 1, 2010.

- **Data Reports**

- ❖ Licensing numbers remain consistent as shown in Exhibit I.

- **Development of new Continuing Competence pathway**

- ❖ Dr. Wrubel will be addressing the development of a new continuing competence pathway. Additional information can be found in Exhibit P.

Submitted by:

Bethany DeAngelis  
Licensing Coordinator  
October 2010

# Exhibit I

# BOARD OF PODIATRIC MEDICINE

## LICENSE STATUS SUMMARY – OCTOBER 2010

License Status	E – Permanent	EFE – Fee-exempt*	EL – Resident's	Inactive	FNP – Fict.Name	Total
Valid	1831	208	114	43	391	2587
Delinquent	121	53	n/a		294	468
CME Not Adeq.	1	2	n/a		n/a	3
Failed CME Audit	0	n/a	n/a		n/a	0
Revoked	59	3	0		0	62
Vol. Surrender	37	4	0		0	41
Canceled	1739	186	n/a		572	2497
Deceased	176	52	0		n/a	228

\* Fee-exempt licenses are retired, military, or disabled status.

Submitted by:

Bethany DeAngelis  
Licensing Coordinator  
October 2010



### LICENSING STATISTICS BY FISCAL YEAR

New licenses issued		Active/inactive licenses*	
1991/92	76	1991/92	2108
1992/93	53	1992/93	2134
1993/94	56	1993/94	1962
1994/95	41	1994/95	1924
1995/96	31	1995/96	1849
1996/97	69	1996/97	1845
1997/98	75	1997/98	1858
1998/99	63	1998/99	1853
1999/00	61	1999/00	1751
2000/01	76	2000/01	1755
2001/02	76	2001/02	1808
2002/03	71	2002/03	1834
2003/04	76	2003/04	1868
2004/05	54	2004/05	1851
2005/06	43	2005/06	1837
2006/07	60	2006/07	1836
2007/08	55	2007/08	1848
2008/09	47	2008/09	1895
2009/10	59	2009/10	1905
2010/11	18 to date	2010/11	1919 to date

\* fee-exempt categories and residents excluded

Submitted by:

Bethany DeAngelis  
 Licensing Coordinator  
 October 2010



### RESIDENT'S LICENSES (EL) – OCTOBER 2010

Category	Number of Residents by Year of Training				
	Year 1	Year 2	Year 3	Year 4	Total
PM&S-24	1	1	0	0	2
PM&S-36	34	35	40	0	109
FELLOWSHIP	0	0	0	0	0
ROTATIONS	n/a	n/a	3	n/a	3
<b>TOTAL</b>	<b>35</b>	<b>36</b>	<b>43</b>	<b>0</b>	<b>114</b>

PM&S-24 Podiatric Medicine & Surgery - 24 Months  
 PM&S-36 Podiatric Medicine & Surgery - 36 Months  
 ROTATIONS Residency licenses issued to trainees in out-of-state programs participating in California clinical rotations.

Prepared by:

Bethany DeAngelis  
 Licensing Coordinator  
 October 2010

# Exhibit J



MEDICAL BOARD OF CALIFORNIA  
**BOARD OF PODIATRIC MEDICINE**  
 2005 Evergreen Street, Suite 1300, Sacramento, CA 95815  
 P (916) 263-2647 F (916) 263-2651 WWW.BPM.CA.GOV

KAREN L. WRUBEL, D.P.M., *President*  
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## ENFORCEMENT COMMITTEE

### a. Overview.....J

**Consultant and Expert Reviewer Program:** For several years now, Medical Board of California (MBC) Investigators and the Attorney General's office have been rating the performance of each BPM Expert Reviewer. In almost every case, the ratings have been ranging from Acceptable to Excellent. In some circumstances, staff has provided additional training materials to experts and in a few cases, the expert was removed from the list of approved experts. This valuable tool will now be used to rate the work of BPM Consultants. Please refer to Exhibit J for a draft "Evaluation of Consultant Performance" form.

**Status of Probation Program:** On September 13, 2010, DCA became aware of systematic errors in the drug testing of licensees participating in diversion/recovery programs operated for seven DCA boards by Maximus, Inc. The errors found gave cause for a review beyond the seven boards with such programs. Even though the Board of Podiatric Medicine contracts with First Lab, not Maximus, for biological fluid testing, staff had First Lab verify that they are in compliance with the uniform standards. Currently we test four probationers and they are all in compliance with their probationary order.

**Revisions to Enforcement Manuals:** Staff has been working on revisions to BPM's Enforcement Manual, Cite and Fine Manual and the Probation Manual. These manuals contain all standard operating procedures and forms for consultants, staff, and investigators working with cases in MBC's complaint unit, field offices, and the board office. Once the revisions are in place, they will be posted to DCA's intranet Knowledge Management Center.

**Expert Reviewer Training:** In 2011, staff plans to hold another Expert Reviewer Training session. Since we have 27 experts in Northern California that have not had formal training in some years, it seems appropriate to hold the next one in the Bay area. Unless travel restrictions are still in place, staff will be working with the same panel of subject matter experts that assisted with the June 2010 training. Staff will also follow-up with the BPM consultants who were going to re-work the case review portion of the program.

### b. Data Reports.....K

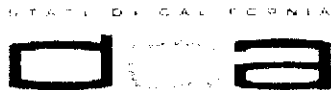
Complaint and Disciplinary Data Report, Continuing Competence Report, BPM and MBC Matrix Reports, the Monthly Enforcement Report to DCA, and the Probation Report are exhibited in Tab J.



- c. **Proposed Revisions: Manual of Disciplinary Guidelines.....L**  
MBC will be discussing and taking action at its November 5, 2010 meeting on its proposed changes to its Manual of Disciplinary Guidelines (11<sup>th</sup> Edition.) Once approved, BPM staff will make recommended changes to BPM's Manual of Disciplinary Guidelines and present to the Board at its next meeting.

Submitted by:

Michelle Mason  
Enforcement Coordinator  
October 7, 2010



# **Board of Podiatric Medicine ENFORCEMENT PROGRAM**

## **EVALUATION OF CONSULTANT PERFORMANCE**

<b>CONSULTANT:</b>		
<b>Expert Reviewer:</b>	<b>Deputy Attorney General:</b>	
<b>Subject Name:</b>	<b>BPM Case Number:</b>	
<b>Type of Case (violation):</b>		
Provide a brief evaluation of the Consultant in each of the following areas that apply to this case. Hearing Preparation and Testimony, may or may not apply to this case. Any rating of 1 or 2 must be explained in the "Comments" Column. Use the following ratings:		
(4) Excellent	(3) Acceptable	(2) Poor
(1) Unacceptable		
<b>TASK</b>	<b>RATING</b>	<b>COMMENTS</b>
<b>Written Report:</b> (Factors to consider: clarity; completeness; technical terms defined; factual accuracy; objectivity; professional "tone" and style; Possible departures from standard of care were clearly identified, and report specifies how/why they were departures.)		
<b>Knowledge of Case:</b> (Factors to consider: demonstrated reasonable familiarity with case during pre-hearing interviews with DAG or investigator; did not make errors regarding facts or circumstances.)		
<b>Preparation For Hearing:</b> (Factors to consider: was reasonably available to meet or confer with DAG and/or investigator; kept appointments or gave reasonable notice if unavailable; returned phone calls within reasonable time; cooperative; amendable to suggestions on procedure.)		
<b>Testimony at Hearing:</b> (Factors to consider: responsive to questions; replies were clear, concise, on point; professional demeanor; demonstrated expertise consistent with credentials; cooperative.)		
<b>Other:</b> (If other factors not addressed above contributed to your overall evaluation, please summarize. Use reverse side if necessary.)		
<b>Overall Rating</b>		

**NOTICE - CONFIDENTIAL:** This evaluation is intended only for the use of the Office of the Attorney General, the Medical Board of California or the Board of Podiatric Medicine. It contains information from the State of California, Office of the Attorney General, the Medical Board of California or the Board of Podiatric Medicine, which is privileged, confidential and exempt from disclosure under applicable law. If the reader of this evaluation is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this evaluation is strictly prohibited.

### Instructions for Completing this Form

The intention of this form is for BPM Expert Reviewers to rate the Consultant's knowledge of this case and overall performance of his/her review. If you believe the Consultant's overall performance was poor or unacceptable, and should be removed from the approved list, fax the completed Evaluation of Consultant Performance to the Board of Podiatric Medicine's Enforcement Coordinator at (916) 263-2651.

[illegible]

**Mail the completed original form to:**

**Board of Podiatric Medicine  
Enforcement Program  
2005 Evergreen Street, Suite 1300  
Sacramento, CA 95815**



**MEDICAL BOARD OF CALIFORNIA**  
Central Complaint Unit



[REDACTED]

RE: [REDACTED]

Control Number: [REDACTED]

Dear Ms. [REDACTED]

This is in response to your letter expressing dissatisfaction with the decision of the Board of Podiatric Medicine/Medical Board of California regarding your complaint. You indicated that you felt the Board had not adequately evaluated your complaint of substandard podiatric medical treatment rendered by [REDACTED] DPM.

When evaluating complaints that allege that the quality of care provided by a doctor of podiatric medicine (DPM) was inadequate (as yours did), the Medical Board must be able to substantiate that the podiatrist's conduct deviated (or departed) from the "standard of practice of medicine" in order to establish a violation of the Medical Practice Act (within the California Business and Professions Code).

The Medical Board is authorized to take administrative action (also called disciplinary action) against the license of any individual DPM the Board finds to be in violation of the Medical Practice Act. However, California law imposes a very high burden of proof upon the Medical Board by requiring that we establish "clear and convincing evidence" that a violation of the law occurred before pursuing administrative action. This is a higher standard of proof than that of most civil proceedings, including malpractice lawsuits, which only require a "preponderance of the evidence". "Clear and convincing evidence" is only slightly less rigorous than the "beyond a reasonable doubt" standard required in criminal proceedings. Consequently, the Medical Board must have more compelling evidence to initiate disciplinary proceedings against a podiatrist than a patient must have to bring a successful malpractice suit against a podiatrist.


In any case involving the quality of medical care rendered, the Board must establish its case with the testimony of medical experts. The Board's Podiatric Medical Consultant reviewed the information you provided and medical records and diagnostic films from [REDACTED]  
[REDACTED]  
[REDACTED]

The podiatric reviewer in your case felt that the care and treatment provided by Dr. [REDACTED] appeared inappropriate because our consultant questioned why Dr. [REDACTED] did not attempt to utilize some type of orthotic device or shoe modification to reduce the pressure in your left foot before deciding that a surgical correction was the only other treatment alternative. I apologize if the last letter we sent you implied that Dr. [REDACTED] did not deviate from the standard of care expected from a licensed DPM. However, while our consultant found the above mentioned issue with the care provided by Dr. [REDACTED] the consultant also found that proper consent was given prior to the surgery and that the surgery was performed properly.

As we mentioned previously, the sole purpose of our review is to determine whether sufficient cause exists to warrant pursuing an administrative action against the DPM's license. If we are unable to meet the burden of proof required to pursue this action, we have no other alternative but to close the complaint. Based on our review, we did find evidence that the care was not entirely appropriate. However, we were unable to establish that a **significant** departure from the standard of practice of medicine occurred which would indicate that Dr. [REDACTED] license to practice medicine should be subject to discipline (discipline could include a letter of reprimand, citation/fine, suspension, or revocation).

Therefore, we are unable to pursue further action in your complaint at this time. Your file will be maintained in our records for reference in the event we receive additional complaints in the future which, along with your complaint, would constitute sufficient evidence for disciplinary action. Although you may disagree with our conclusion, we hope that you recognize it is in accordance with the laws regulating medical practice in California. Thank you for bringing this matter to our attention.

Sincerely,

  
Jim Rathlesberger  
Executive Officer  
Board of Podiatric Medicine

916/263-2650

# Exhibit K

# COMPLAIN . . . DISCIPLINARY DATA

FY 10/11 July 1, 2010 - September 21, 2010

Fiscal Year	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11
Numbers of Licensees*:	1834	1868	2016	2004	2000	2014	2022	2039	2043
Complaints Received**:	200	178	147	109	116	104	108	127	11
Open Cases: 63									
Discipline Cases Pending at Attorney General:12									
Licensees on Probation: 33									
Citations and Fines	5	1	1	4	1	0	4	4	0
Cease/desist Letters***	2	7	10	5	6	4	5	2	3
Referred to Attorney General	14	14	12	12	13	9	7	9	3
Referred to District Attorney	0	2	0	0	1	0	0	0	0
Accusations/Petitions to									
Revoke Probation/SOI	9	11	9	7	12	8	4	8	3
Penalty Relief Petitions Filed	1	2	1	0	1	1	1	2	1
Hearings****	6	6	4	2	2	5	2	2	2
Prop. Dec. Non-adopted	0	1	0	1	0	0	0	0	0
Prop. Dec. Adopted	6	6	2	1	2	1	2	2	0
Stipulations Adopted	9	5	6	6	9	5	8	5	1
Probations	12	6	4	4	9	5	6	5	0
Suspensions	1	2	1	0	1	2	1	1	0
Revocations	1	3	1	2	0	1	2	1	0
Surrenders During Prosecution	2	2	1	2	0	0	0	1	1
Public Letter of Reprimand	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	2	0	0
Criminal arrests/ convictions	0/0	2/1	0/0	0/0	1/0	0/0	0/1	0/0	0/0
Temporary Restraining Orders/ Interim Suspensions/ Automatic Suspensions/PC-23 Orders	1	2	1	0	2	1	1	1	0

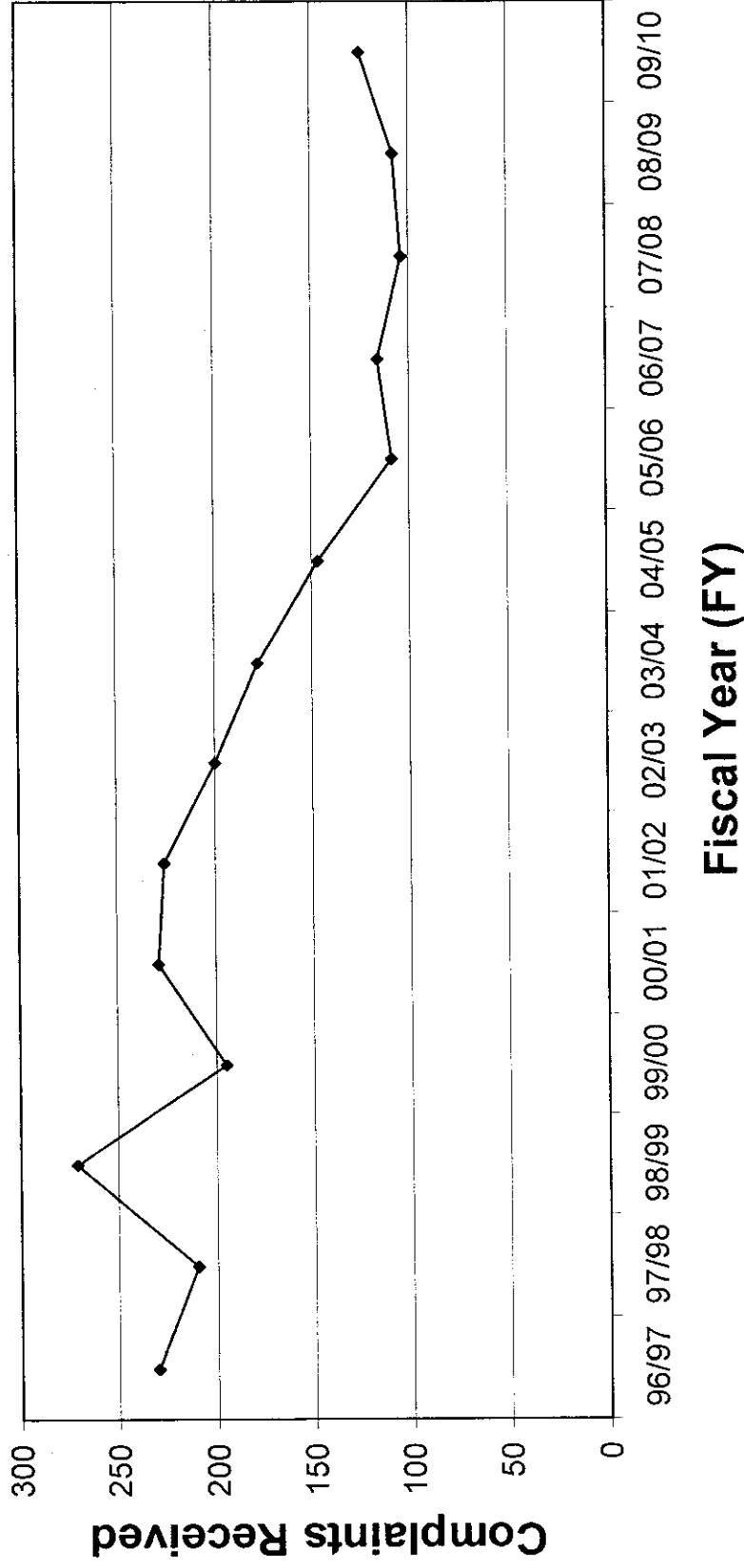
\* includes all licensees with a status code 10 (E)

\*\* includes multiple complaints against individual licensees

\*\*\* includes letters following educational interviews

\*\*\*\* includes reinstatements, penalty relief petitions, and any other cases heard by an Administrative Law Judge (ALJ)

# Complaints Received Since Implementation of BPM's Continuing Competence Program (January 1, 1999)



Fiscal Year	96/97	97/98	98/99	99/00	00/01	01/02	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10
Complaints Received	230	210	271	195	229	226	200	178	147	109	116	104	108	125



REPORT: FD726  
AGENCY: 6301

MEDICAL BOARD OF CALIFORNIA  
NUMBER & STATUS OF OPEN CASES AS OF 08/31/2010  
FOR: 1B BOARD OF PODIATRIC MEDICINE

PAGE: 1  
DATE: 09/01/10  
TIME: 09:34:26

DAYS:	M O N T H S		Y E A R S		TOTAL
	0-3 (0-90)	4-6 (91-180)	7-9 (181-270)	10-12 (271-364)	
CAT/ CSR/ CSA	10	4	1	1	16
CONSULTANT	9				9
EXEC OFFICER					
INVESTIGATION	4	6	8	4	26
AG - PRE	3	3			6
AG - POST		1	2	1	6
** REPORT TOTALS:	26	14	11	6	63

INITIAL COMPLAINT REVIEWED BY CONSUMER ASSISTANT TECHNICIAN / CONSUMER SERVICES REPRESENTATIVE / ANALYST.

CONSULTANT REVIEW DURING EVALUATION OF COMPLAINT.

CASES AWAITING FILING OF ACCUSATION BY ATTORNEY GENERAL'S OFFICE.

CASES AFTER FILING OF AN ACCUSATION BY ATTORNEY GENERAL'S OFFICE.

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^y30,10,3250,7,2  
^y40,10,3250,7,2  
^y50,10,3250,7,2  
^y60,10,3250,7,2  
^y70,10,3250,7,2  
^y80,10,3250,7,2  
^y90,10,3250,7,2  
^y100,10,3250,7,2

AVERAGE NUMBER OF DAYS FOR OPEN CASES AS OF 08/31/2010

FOR: 1B BOARD OF PODIATRIC MEDICINE

CAT/CSR CSA (1)	CONSULT (2)	EXEC OFFICER	INVEST- IGATION	---ATTORNEY GENERAL---	
				PRE (3)	POST (4)
108	27	0	227	80	424

BOARD OF PODIATRIC MEDICINE

\*\*\* AVERAGE AGING CASES CALCULATED USING OPEN CASES ONLY \*\*\*

- (1) INITIAL COMPLAINT REVIEWED BY CONSUMER ASSISTANT TECHNICIAN / CONSUMER SERVICES REPRESENTATIVE / ANALYST.
- (2) CONSULTANT REVIEW DURING EVALUATION OF COMPLAINT.
- (3) CASES AWAITING FILING OF ACCUSATION BY ATTORNEY GENERAL'S OFFICE.
- (4) CASES AFTER FILING OF AN ACCUSATION BY ATTORNEY GENERAL'S OFFICE.

REPORT: FD720U10  
AGENCY: 6301

MEDICAL BOARD OF CALIFORNIA  
NUMBER & STATUS OF OPEN CASES AS OF 08/31/2010  
FOR: IDENTIFIERS OF PHYSICIANS AND SURGEONS

PAGE: 1  
DATE: 09/01/10  
TIME: 09:31:50

DAYS:	M O N T H S		Y E A R S		TOTAL
	0-3 (0-90)	4-6 (91-180)	7-9 (181-270)	10-12 (271-364)	
CAT/ CSRY CSA	698	143	16	2	860
CONSULTANT	306	9	1		316
EXEC OFFICER					
INVESTIGATION	284	267	160	136	1113
AG - PRE	83	31	29	11	167
AG - POST	74	73	69	37	319
** REPORT TOTALS:	1445	523	275	186	2775

INITIAL COMPLAINT REVIEWED BY CONSUMER ASSISTANT TECHNICIAN / CONSUMER SERVICES REPRESENTATIVE / ANALYST.

CONSULTANT REVIEW DURING EVALUATION OF COMPLAINT.

CASES AWAITING FILING OF ACCUSATION BY ATTORNEY GENERAL'S OFFICE.

CASES AFTER FILING OF AN ACCUSATION BY ATTORNEY GENERAL'S OFFICE.

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^y80,10,3250,7,2

^y90,10,3250,7,2

^y100,10,3250,7,2

MEDICAL BOARD OF CALIFORNIA  
AVERAGE NUMBER OF DAYS FOR OPEN CASES AS OF 08/31/2010

FOR: IDENTIFIERS OF PHYSICIANS AND SURGEONS

CAT/CSR CSA (1)	CONSULT (2)	EXEC OFFICER	INVEST- IGATION	---ATTORNEY GENERAL---	
				PRE (3)	POST (4)
55	36	0	234	156	293

PHYSICIANS & SURGEONS

\*\*\* AVERAGE AGING CASES CALCULATED USING OPEN CASES ONLY \*\*\*

- (1) INITIAL COMPLAINT REVIEWED BY CONSUMER ASSISTANT TECHNICIAN / CONSUMER SERVICES REPRESENTATIVE / ANALYST.
- (2) CONSULTANT REVIEW DURING EVALUATION OF COMPLAINT.
- (3) CASES AWAITING FILING OF ACCUSATION BY ATTORNEY GENERAL'S OFFICE.
- (4) CASES AFTER FILING OF AN ACCUSATION BY ATTORNEY GENERAL'S OFFICE.

**Board of Podiatric Medicine's  
Probation Surveillance Program  
September 21, 2010**

<b>Complaint No.</b>	<b>Subject's Name</b>	<b>Probation Officer</b>	<b>Medical Consultant</b>	<b>Practice Monitor</b>	<b>Status</b>	<b>Completion Date</b>
<b>Active Status:</b>						
1B-2000-111711	Schultz, Alan	Emilio	Giacopelli		Active	11/05/09+
1B-2002-138520	Austin, Gerald	Seamons	Greenwald	Neagu	Active	09/18/10+
1B-2002-136887	Liddy, Timothy	Rodriguez	Walburg		Active	12/08/10
1B-2004-159009	Marangoni, Anne	Seamons	Gerbert		Active	01/12/11
1B-2007-186067	Lee, Jake	Seamons	As needed		Active	01/29/11
1B-2004-158243	Lai, Chun-Sun	Seamons	Greenwald		Active	02/05/11
1B-2009-199504	Gilman, Rose Diane	Emilio	Walburg		Active	02/11/11
1B-1999-102247	Spletstoeser, James	Seamons	Buckenberger		Active	03/03/11
1B-2003-144948	Perales, Theresa	Seamons	Shuken		Active	05/08/11
1B-2004-160535	Ky, Nguyen	Seamons	Greenwald		Active	11/01/11
1B-2002-139109	Tabassian, Mitra	Rodriguez	Labovitz	Wagreich	Active	07/06/11
1B-2009-199504	Nazarian, Serjik	Emilio	Wagreich		Active	08/04/11
1B-2001-125040	Rash, Wayne	Seamons			Active	03/21/12
1B-2006-172684	Chen, Eric	Emilio	Wagreich		Active	05/26/12
1B-2004-162454	Hernandez, Virgil	Emilio	Giacopelli	Wagreich	Active	07/09/12
1B-2003-142446	Hague, Douglas	Sherer	Sarte		Active	10/08/12
1B-2008-189509	Kobayashi, Wesley	Rodriguez	Wagreich		Active	03/05/13
1B-2005-163869	Lawrence, Eric	Emilio	Walburg	Labovitz	Active	11/19/13
1B-2006-178311	Allen, Kirk	Seamons	Greenwald		Active	11/19/13

Complain. No.	Subject's Name	Probation Officer	Medical Consultant	Practice Monitor	Status	Completion Date
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1B-2004-162844	Graves, Richard	Rodriguez	Labovitz	Alavy	Active	03/09/14
1B-2007-181509	Servatjoo, Parviz	Rodriguez	Walburg	Walburg	Active	05/08/14
1b-2005-169051	Nguyen, Tan	Seamons	Bois	Bois	Active	08/17/14
1B-2004-162196	Carrasco, Pete	Emilio	Wagreich	PEP	Active	07/02/15
1B-2004-1588802	Moy, Richard	Rodriguez	Labovitz	Taubman	Active	10/01/15
1B-2005-167595	Truong, Vinncente	Seamons	Greenwald	Greenwald	Active	07/28/18
<b>Subtotal</b>						<b>25</b>

**Tolled Status: (Out of State)**

1B-1990-3602	Marek, Neal	Seamons			Tolled	
1B-2000-105396	Salz, Joseph	Seamons			Tolled	
1B-2006-179270	O'Meara, Sean	Seamons			Tolled	
<b>Subtotal</b>						<b>3</b>

**Tolled Status: (In State)**

1B-1990-5979	Metz, Douglas	Seamons			Pended	
1B-1996-64516	Levy, Sherwin	Seamons			Pended	
1B-1995-52592	Weber, Bennie	Seamons			Pended	
1B-1998-090267	Jarvis, Brian	Seamons			Pended	
1B-2002-133194	Fowler, Morris	Seamons			Pended	
<b>Subtotal</b>						<b>5</b>

**TOTAL PROBATION MONITORING CASES: 33**

## COMPLIANCE CASES NON-PROBATIONARY

1B-2005-165008      Brim, Mark Avery

Pending

### Conditions:

- 1) 65 hours of CME for three calendar years
- 2) Enroll in a Medical Recordkeeping Course
- 3) Pay \$15,000 for cost recovery

### Due Dates:

July 13, 2009 – deadline to submit for approval    OK

July 13, 2009 – deadline to enroll                      OK

May 14, 2012 – deadline to pay cost recovery in full

Issue Public Reprimand

May 14, 2012 – if successfully completed all terms and conditions