



# ***TEXAS MEDICAL BOARD***

Mari Robinson, J.D.  
Executive Director

## ***TMB Update***



# Mission Statement

“Our mission is to protect and enhance the public’s health, safety and welfare by establishing and maintaining standards of excellence used in regulating the practice of medicine and ensuring quality health care for the citizens of Texas through licensure, discipline and education.”

# Texas Medical Board Composition

- 12 Physician members (9 M.D. and 3 D.O.)
- 7 Public members (non-physicians)
- Appointed by the Governor for 6 year term

## Board members

Irvin Zeitler, D.O.- President

Michael Arambula, M.D.-Vice President

Paulette Southard – Secretary

Julie Attebury

David Baucom

Devinder Bhatia, M.D.

Frank S. Denton

John D. Ellis, Jr., J.D.

Carlos L. Gallardo

Manuel G. Guajardo, M.D.

Scott Holliday, D.O.

Margaret McNeese, M.D.

Allan Shulkin, M.D.

Robert Simonson, D.O.

Wynne Snoots, M.D.

Karl W. Swann, M.D.

Stanley S. Wang, M.D., J.D.

Timothy Webb, J.D.

George Willeford III, M.D.

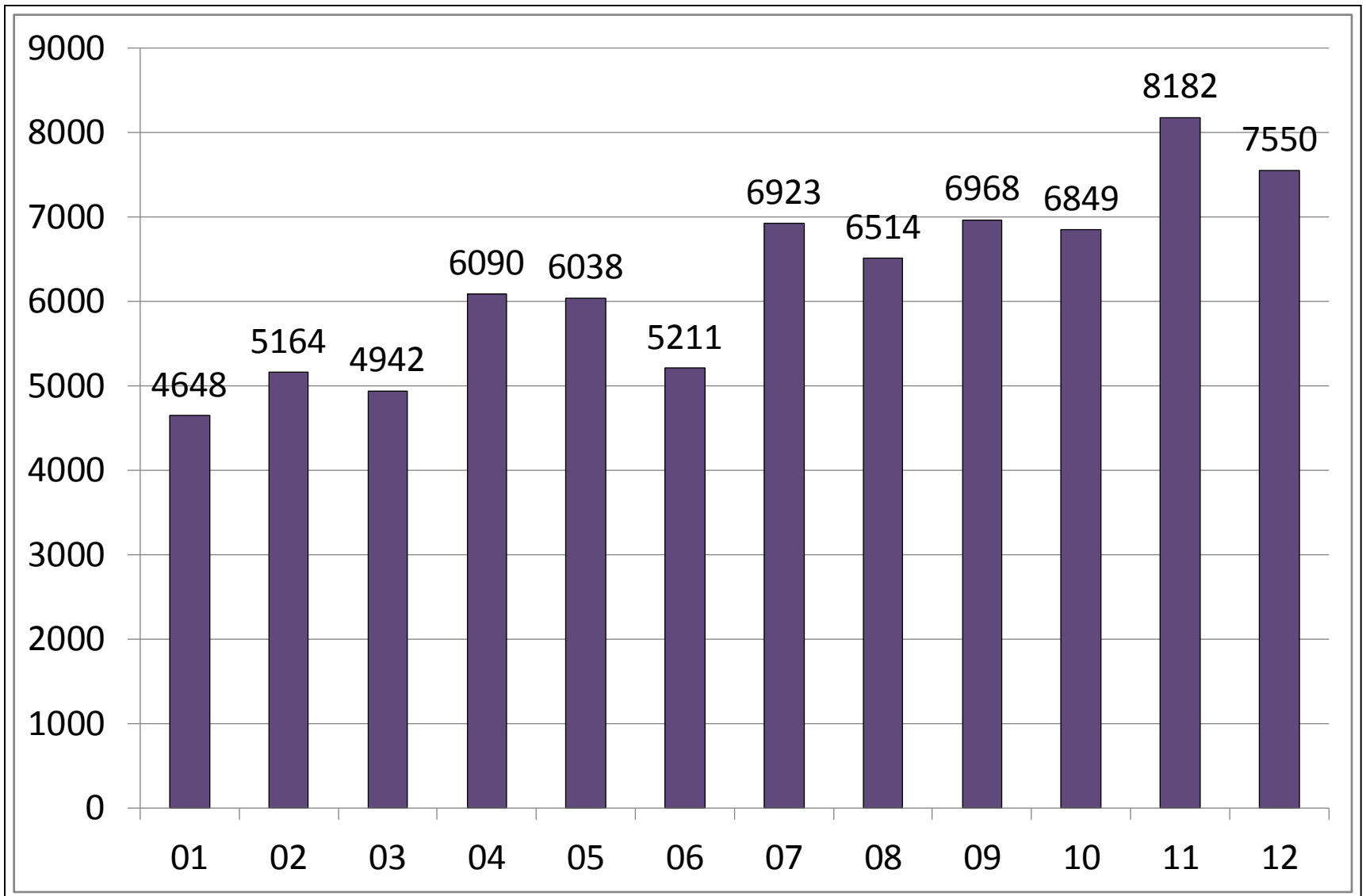


# Statistics- FY'12

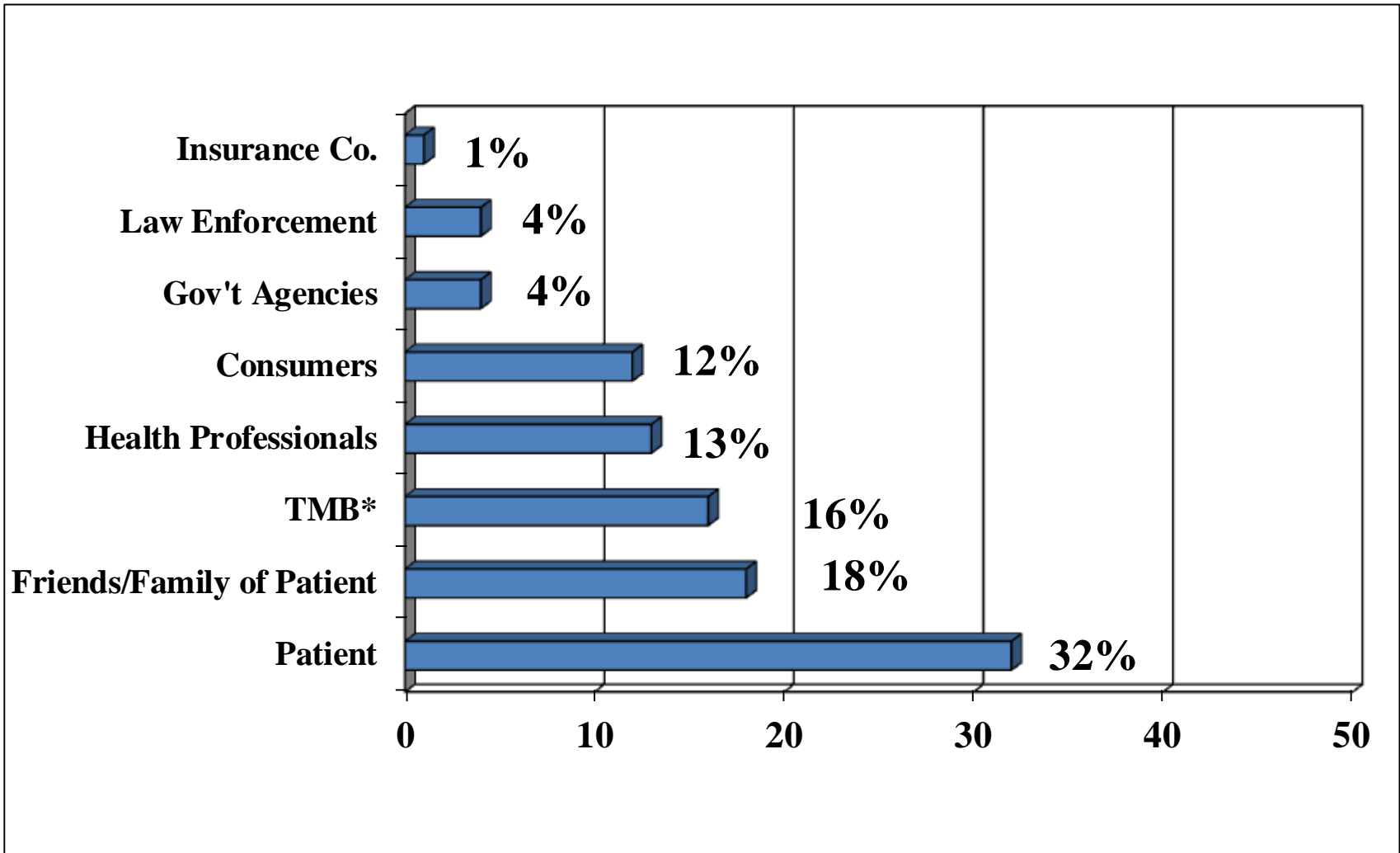
# Licensee Demographics

	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12
<b>Licensed Physicians</b>	62,199	62,537	63,758	64,175	66,614	69,030	70,381	72,790	74,855	77,421
<b>Physicians</b>	56,301	55,993	57,150	58,040	60,209	62,693	64,134	66,443	68,279	70,667
<b>Physicians in Training</b>	5,898	6,544	6,608	6,135	6,405	6,337	6,247	6,347	6,576	6,754
<b>Acupuncturists</b>	608	693	700	770	835	884	910	961	1,019	1,052
<b>Physician Assistants</b>	3,267	3,453	3,732	4,002	4,290	4,667	4,967	5,360	5,780	6,323
<b>Surgical Assistants</b>	158	259	272	242	259	259	269	314	314	345

# Complaints Received FY '01 – '12

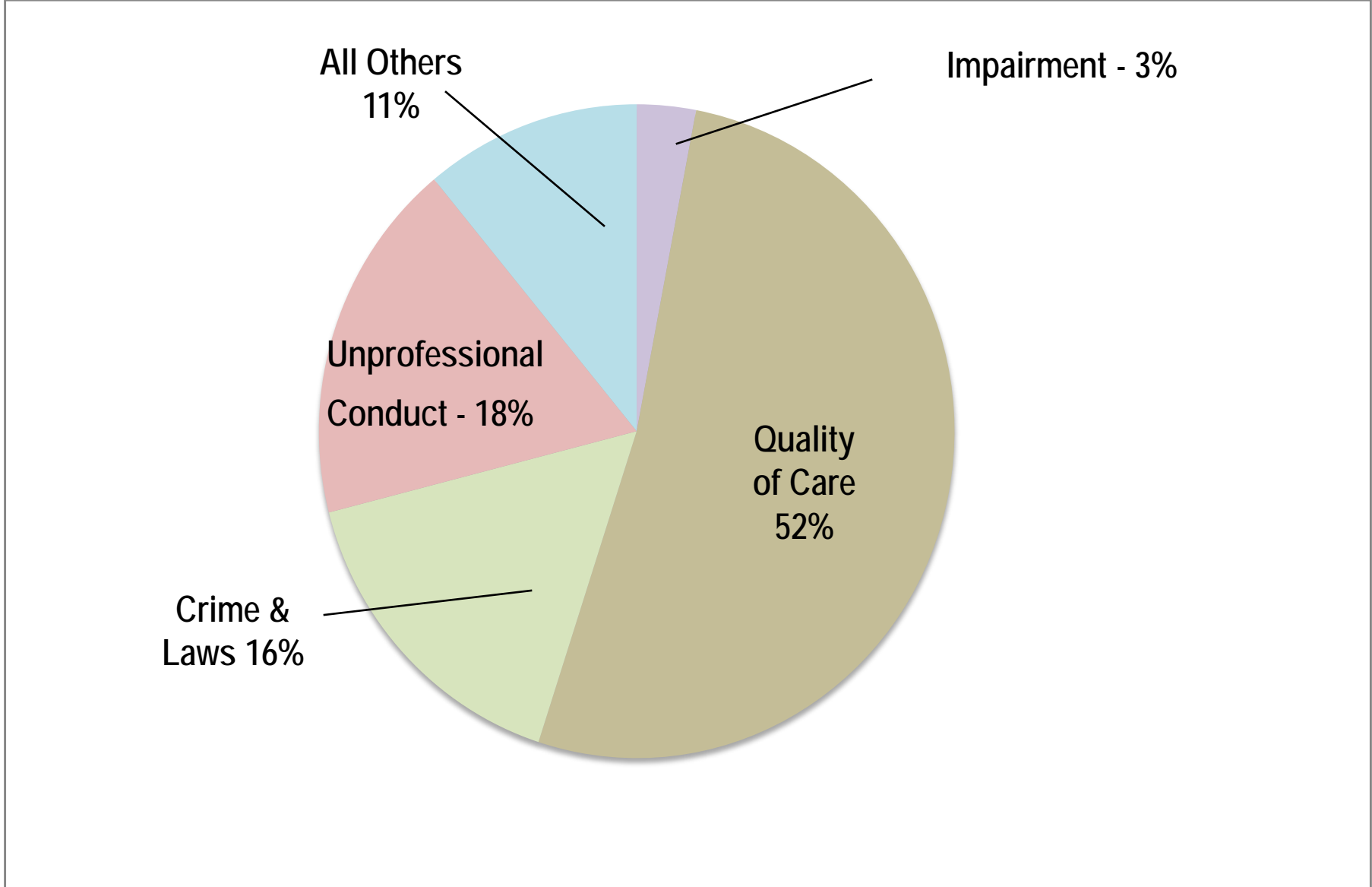


# Jurisdictional Complaints by Source - FY '12



\*TMB category includes registrations responses, CME audits, medical malpractice reviews, newspaper items, and board discovered violations.

# Basis of TMB Juirs. Complaints FY '12

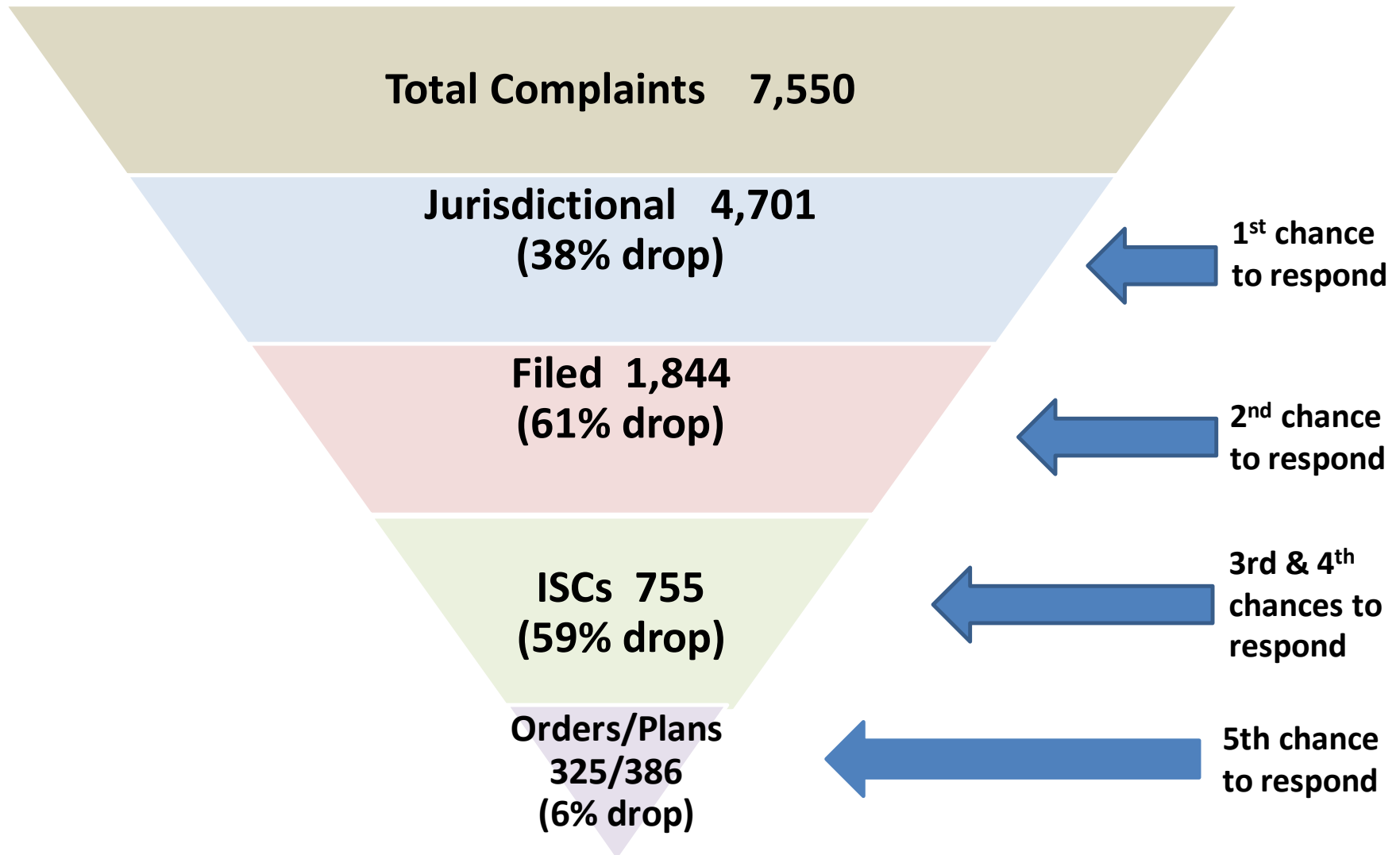






# Enforcement Process

# Complaints FY '12



# Expert Panelist Qualifications

- Currently licensed & actively practicing in Texas.
- Board-certified
- Never convicted of a crime, imprisoned or placed on probation.
- Acceptable medical malpractice history.
- May not serve as an expert witness or consultant for physicians who are being investigated by the Texas Medical Board
- Never excluded from any federal or state reimbursement program.
- Not the subject of a pending investigation, pending disciplinary action, or final disciplinary action by any licensing agency or health care entity.
- Never resigned medical staff privileges while under an investigation.
- Never asked to surrender state or federal controlled substance registration nor had it restricted in any way.
- Never cited by the TMF (Texas Medical Foundation) or hospital medical staff for a quality of care issue.



# Remedial Plans

- Non-disciplinary in nature
- Not reportable to NPDB
- Cannot be used in cases of
  - Patient death
  - Boundary violations
  - Felonies



# How is impairment handled?

- Referrals to TXPHP
- Remain confidential unless agreement is violated
- Violations presented to the board
- Can stay confidential or be subject to board action
- If egregious, then temporary suspension



# Delegation

This will be a huge sea  
change...



# Elements of SB 406

- **Repeals** current prescriptive delegation requirements and creates prescriptive authority agreements which may be entered into by a physician and midlevel (PA or APN) through which the physician delegates prescribing or ordering a drug or device.
- Agreements must be reviewed annually and include the following information:
  - nature of the practice, practice locations/settings;
  - types or categories of drugs/devices that may be prescribed or may not be prescribed;
  - a general plan for addressing consultation and referral;
  - the general process for communication and sharing of information;
  - prescriptive authority quality assurance and improvement plan that includes chart review and periodic face-to-face meetings between the APN or PA and physician. (quarterly min)



# Elements of SB 406 (con't)

- Caps the combined number of APNs and PAs with whom a physician may enter into a prescriptive authority agreement at seven - with certain exceptions.
- Allows physicians working in a hospital or long term care facility to delegate prescriptive authority for Schedule II Controlled Substances to APNs and PAs in certain circumstances.
- Requires TMB, Nursing Bd, and PA Bd to develop a process to exchange information about licensees who have entered into these agreements.
- Requires TMB to make available to the public an on-line searchable list of physicians and mid-level practitioners who have entered into prescriptive authority agreements and identify the physician with whom each mid-level practitioner has an agreement.
- Rules deadline is November 2013; statue deadline is Jan. 2014



# Prescribing for Pain



# Los Angeles Times, 9/17/11

“Propelled by an increase in prescription narcotic overdoses, drug deaths now outnumber traffic fatalities in the United States, a Times analysis of government data has found.

Drugs exceeded motor vehicle accidents as a cause of death in 2009, killing at least 37,485 people nationwide, according to preliminary data from the U.S. Centers for Disease Control and Prevention.”

# Prescribing for Pain

## Board Rule 170

- Evaluation of the patient
- Treatment plan
- Informed consent
- Agreement for treatment of chronic pain
- Periodic review of the treatment
- Consultation and referral
- Medical records

# Prescribing to Friends & Family

Rule 190.8(1)(M) inappropriate prescription of dangerous drugs or controlled substances to oneself, family members, or others in which there is a close personal relationship that would include the following:

(i) prescribing or administering dangerous drugs or controlled substances without taking an adequate history, performing a proper physical examination, and creating and maintaining adequate records; and

(ii) prescribing controlled substances in the absence of immediate need. "Immediate need" shall be considered no more than 72 hours.





# SB911

In 2009, the 81<sup>st</sup> Legislative Session, Sen. Williams filed SB 911 to address the overwhelming issue of illegitimate pain management clinics in the state of Texas by requiring registration of all pain management clinics in the state.

The law has its basis in a similar law passed by Louisiana several months before.



# Who is covered?

Pain management clinic--A publicly or privately owned facility for which a majority of patients are issued, on a monthly basis, a prescription for opioids, benzodiazepines, barbiturates, or carisoprodol, but not including suboxone.

# Who is exempted?

- (1) a medical or dental school or an outpatient clinic associated with a medical or dental school;
- (2) a hospital, including any outpatient facility or clinic of a hospital;
- (3) a hospice established under 40 TAC §97.403 (relating to Standards Specific to Agencies Licensed to Provide Hospice Services) or defined by 42 CFR §418.3;
- (4) a facility maintained or operated by this state;
- (5) a clinic maintained or operated by the United States;
- (6) a nonprofit health organization certified by the board under Chapter 177 of this title (relating to Certification of Non-Profit Health Organizations);
- (7) a clinic owned or operated by a physician who treats patients within the physician's area of specialty who personally uses other forms of treatment, including surgery, with the issuance of a prescription for a majority of the patients; or
- (8) a clinic owned or operated by an advanced practice nurse licensed in this state who treats patients in the nurse's area of specialty and personally uses other forms of treatment with the issuance of a prescription for a majority of the patients.



# Who can get certified?

- Must get certified & renew every 2 years
- Must be owned by a physician(s) with an unrestricted license
- No owner can be convicted of, pled nolo contendere to, or received deferred adjudication for
  - A felony
  - an offense that constitutes a misdemeanor, the facts of which relate to the distribution of illegal prescription drugs or a controlled substance as defined by Texas Occupations Code §551.003(11).
- No owner/contractor/employee may have:
  - Been denied DEA or had DEA restricted
  - have been subject to disciplinary action by any licensing entity for conduct that was a result of inappropriately prescribing, dispensing, administering, supplying, or selling a controlled substance



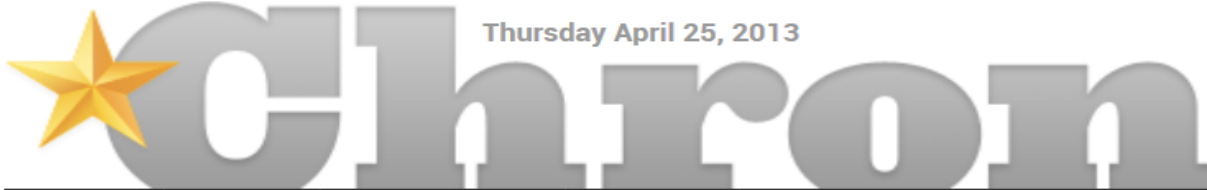
# Current Numbers

- We have received 816 applications:
  - 455 have been initially granted
  - 121 have been renewed
  - 26 have been denied
  - 74 withdrawals
  - 94 are pending
  - 46 expired after 1 year

# Renewals

- Notice will be sent at least 60 days in advance
- Ownership proof required:
  - SOS filing
  - Sales tax filing with TWC
  - IRS filing for clinic
  - State franchise documents
  - Medicare/Medicaid provider forms
  - Certificate of ownership for an unincorporated entity issued by the county

# The epidemic continues...



Thursday April 25, 2013



*Houston & Texas > News > Houston*

## Raid targets more than a dozen suspected pill mills

By Cindy Horswell | October 23, 2012 | Updated: October 23, 2012 10:47pm

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### **Become A Drug Counselor**

Get your drug counseling degree. Stop drug abuse. Learn more now! [ICDCCollege.edu/Drug\\_Counselor](http://ICDCCollege.edu/Drug_Counselor)

Investigators began going through medical records Tuesday after they were confiscated in the largest raid yet involving suspected Houston "pill mills."

More than 100 law enforcement officers swept through 12 clinics, five pharmacies and two residences suspected of illegally distributing prescription drugs. Eleven sites targeted in the Monday raid were tucked inside two adjacent mid-rise office buildings in the 9800 block on Bissonnet.

# The epidemic continues...

## \$90K seized from Texas 'pill mill' doc

Posted: November 28, 2012 - 3:36pm

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By **Jim McBride**

**[jim.mcbride@amarillo.com](mailto:jim.mcbride@amarillo.com)**

Potter County authorities have seized more than \$90,000 from a Houston doctor's Amarillo bank account in an ongoing federal investigation into illegal sales of hydrocodone, Xanax and muscle relaxers at four Houston pain management clinics.

Federal authorities estimated the four clinics supervised by Dr. John Andrew Tafel had more than 6,000 patients and that Tafel earned \$720,000 from managing, supervising and operating "illicit pill mills" in the Houston area, according to Potter County court records.



# The epidemic continues...

In December, the boards\* held 24 emergency hearings resulting in:

8 Suspensions

13 Restrictions

2 Denials

1 Surrender

\*Both Physician and PA boards





FLATRON W1943SB

25 / APR / 2011 18:22:35

(MON)

CH1

CH2

CH3

LG

26/04/2011









This Receptionist had a Glock

31/01/2011

Money counters.. Cameras



31/01/2011







# Social Media



**And Patient Relationships**



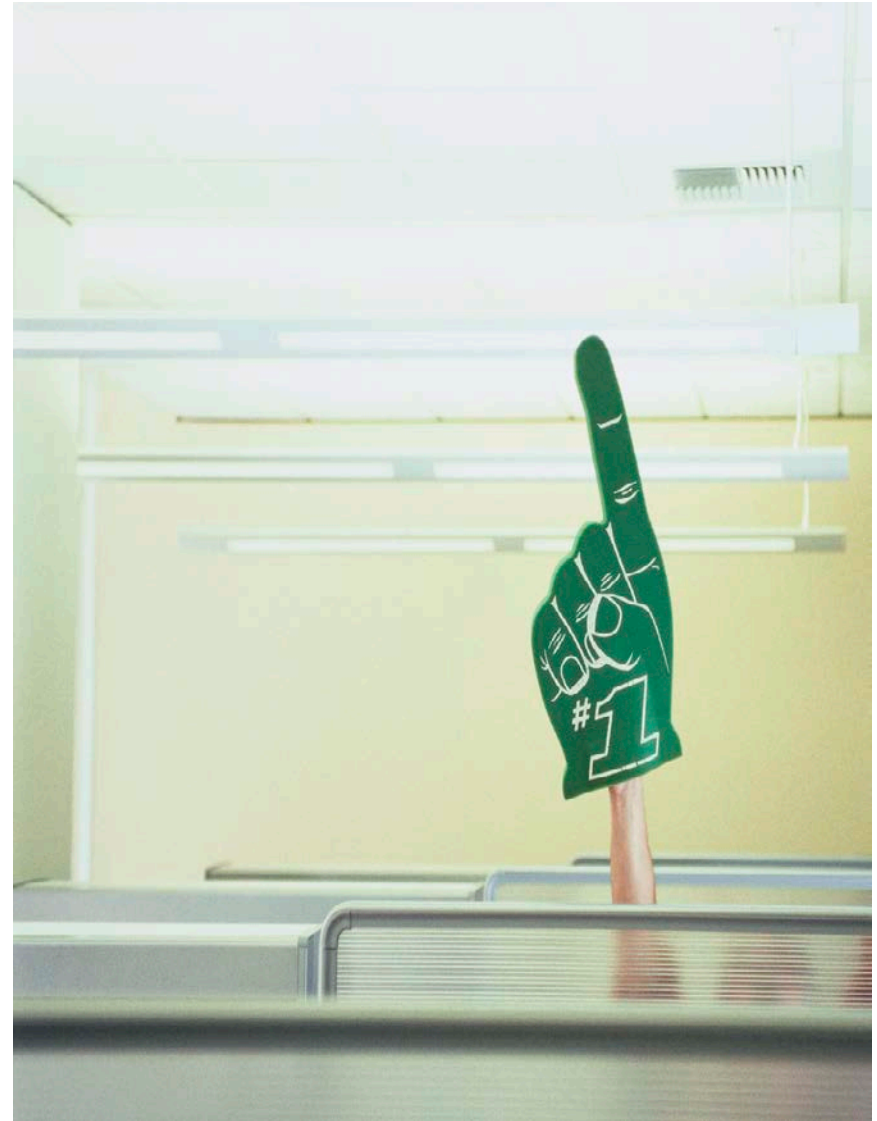


# Administrative & Registration

# Advertising

## Board Rule 164

- False/misleading
- Verifiable?
- Photos/Testimony
- Board Certification
- Insurance Benefits







# Office Based Anesthesia

## Board Rule 192

- You must register with the board
- You must provide proper equipment
- Exemptions: hospitals, government facility, some JCAHO certified centers



# Administrative Issues

## Medical Records Release (Rule 165):

- 15 business days for release/summary
- \$25 for the first twenty pages and \$.50 per page for every copy thereafter
- \$15 may be charged for executing the affidavit
- Separate fees for medical & billing are allowed.
- No charge for retrieval or searching
- May wait for payment for records unless emergency
- May not require fees for medical services to be paid before releasing the records

# Administrative Issues

- Death Certificates—You must use the electronic system
- Change of Address/Name—Must be reported to the board within 30 days
- CME—48 hours every two years (24 Cat I two of which must be ethics & 24 informal)
- Closing Practice—165.5 (letters & notice)

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# New Laws



# New Laws: What has Changed?

- SB978—Local Anesthesia (total dosage amounts that exceed 50% of the recommended maximum safe dosage per outpatient visit)
- SB1643- Prescription Monitoring Program
  - records are kept from one year to three years;
  - authorizing access to prescription information through a health information exchange;
  - access to RN/LVN & pharmacy techs.
  - can keep in medical records.



# New Laws: What has Changed?

- HB1803—DPS registration via TMB
- SB 945- Hospital ID license on badge
- SB 8- Medicaid fraud and abuse

# Contact Information

## Pre-Licensure, Registration, and Consumer Services

[Verificic@tmb.state.tx.us](mailto:Verificic@tmb.state.tx.us)

Phone: 512-305-7030

Fax: 512-463-9416

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