



**Working Hours and Conditions
Post-Graduate Trainees
Annual Compliance Assessment
Contract Year 9
10/1/09-9/30/10**

Executive Summary

New York State continues to be a leader in work hour requirements and monitoring of the requirements for approximately 15,000 of the nation's 100,000 Post-Graduate Trainees (PGT). In conjunction with the New York State Department of Health (DOH), IPRO has successfully conducted compliance assessments for the past 9 years. A total of 88 compliance visits were conducted in the ninth year of the contract from October 1, 2009 to September 30, 2010, which included annual compliance visits at 74 teaching facilities in New York State, 8 complaint investigations, and 6 revisits. These totals reflect the program changes made based on the new 3-year contract awarded in April 2010, which include 30 triennial on-site visits each year focused on post-graduate years 1-3, overall PGT supervision, and 88 annual off-site written compliance assessments. Of the 74 annuals completed, 15 were conducted under the new contract. In total, the working hours of 3,980 residents in the State were reviewed to assess compliance with working hour requirements.

Upon completion of each facility survey, a letter of findings was issued to each facility with a compliance determination. Non-compliance with current requirements was reported to facilities in a statement of deficiencies (SOD). All facilities with documented deficiencies were required to submit a plan for implementing corrective action. All facilities that submit a plan of correction (POC) are assessed for implementation and compliance with their submitted POC at their next visit.

Compliance findings for year nine of the Post-Graduate Trainees Working Hours and Conditions Compliance Assessment Program include the following:

- Annual compliance reviews were conducted at 74 teaching facilities, with 62 hospitals found in substantial compliance with requirements and 12 hospitals cited for non-compliance in at least one program area
 - In eight (8) of the facilities cited, only one (1) program area within the facility evidenced non-compliance
 - In four (4) of the facilities cited, two (2) program areas within the facility evidenced non-compliance
- 8 on-site complaint visits investigating 9 program complaints were conducted with a 0% substantiation rate
 - The 8 visits involved four (4) internal medicine, two (2) surgical, and one (1) each of anesthesia, emergency department, and family practice programs
- In follow-up to identified non-compliance, six (6) facility revisits involving 7 programs were conducted to monitor the facility's plan of correction (POC) implementation
 - 100% of revisits evidenced substantial compliance
 - The revisits involved three (3) surgical, three (3) internal medicine, and one (1) OB/GYN programs.

- Of the total 88 compliance reviews conducted:
 - 5% (4/88) evidenced residents working more than 24 consecutive hours
 - Programs in surgery (75%), and internal medicine (25%) were cited in this area
 - 5% (4/88) evidenced residents not receiving one full 24-hour off period each week
 - Programs in internal medicine (60%), pediatrics (40%) were cited in this area
 - 3% (3/88) evidenced improper separation between working assignments
 - Programs cited were internal medicine (33%) and surgery (67%)
 - 6% (5/88) evidenced improper medical record documentation of post-graduate trainee supervision
 - Programs cited were internal medicine (43%), OB/GYN (29%), and surgery (29%).

Annual Compliance Assessment

Exhibits 1 – 2 / Implementation

Exhibits 1 and 2 illustrate the 74 annual reviews for the ninth year of the contract conducted between October 2009 and September 2010, with implementation of the new triennial contract in April.

Exhibit 1

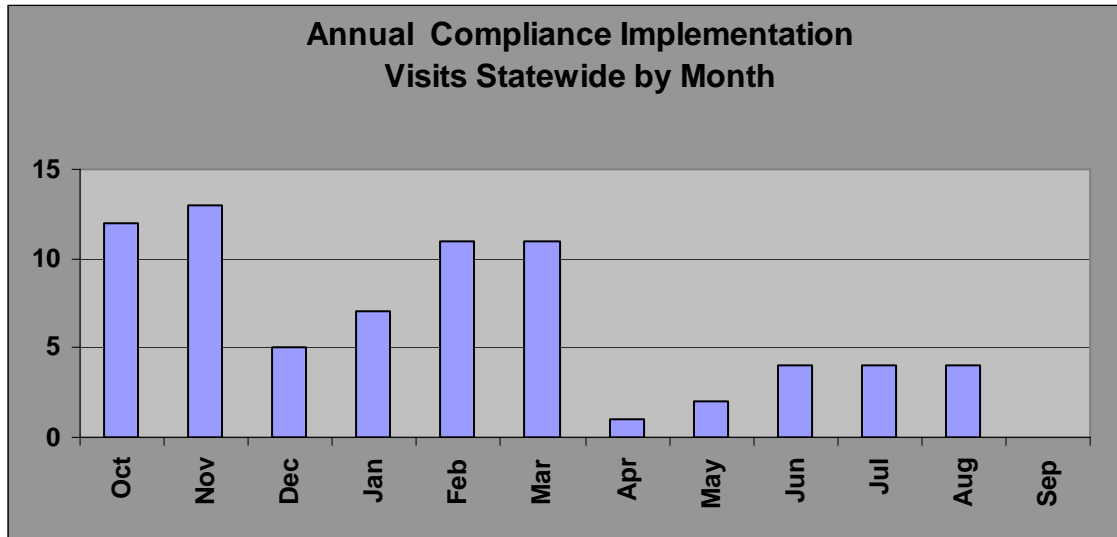
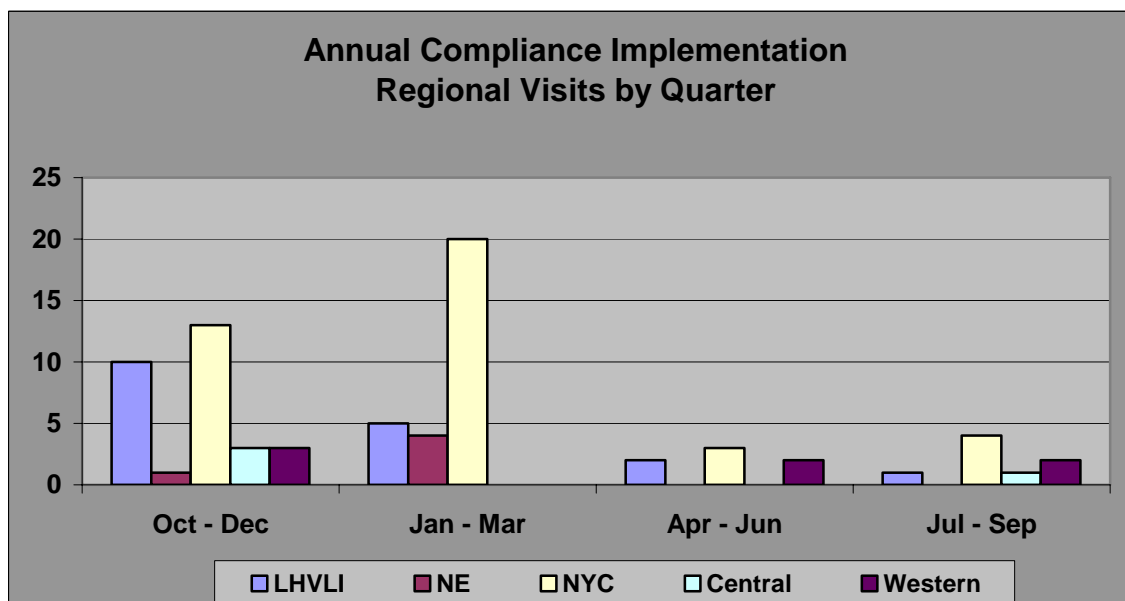


Exhibit 2 illustrates by quarter the distribution of the 74 annual visits by region across the state.

Exhibit 2



Exhibits 3 – 4 / Compliance Assessment – Statewide and Regional

Based on 74 annual compliance visits, 12 (16%) of the facilities evidenced some level of non-compliance at the time of the annual on-site review:

- 59 annual compliance visits were conducted under the terms of the old contract, where each teaching facility received an annual on-site compliance visit. Of these, 7 were cited.
- 15 triennial compliance visits were conducted under the terms of the new contract, where each teaching facility receives an annual on-site compliance visit once in three years. Of these, 5 were cited.

Exhibits 3 and 4 illustrate compliance on a statewide and regional basis respectively. For reporting purposes, non-compliance means that one or more deficiency/finding was identified during the on-site review. Each deficiency/finding cited could result from an issue associated within one or more programs within the facility. Exhibit 4 contains 6 months of data each from the previous contract of annual on-site visits and the new contract of triennial on-site visits. Therefore, not every facility in each region may have had an on-site annual/triennial survey during this timeframe.

Of the 12 facilities cited for non-compliance, eight (8) evidenced non-compliance in only one program area and four (4) of the facilities cited evidenced non-compliance in two program areas.

Exhibit 3

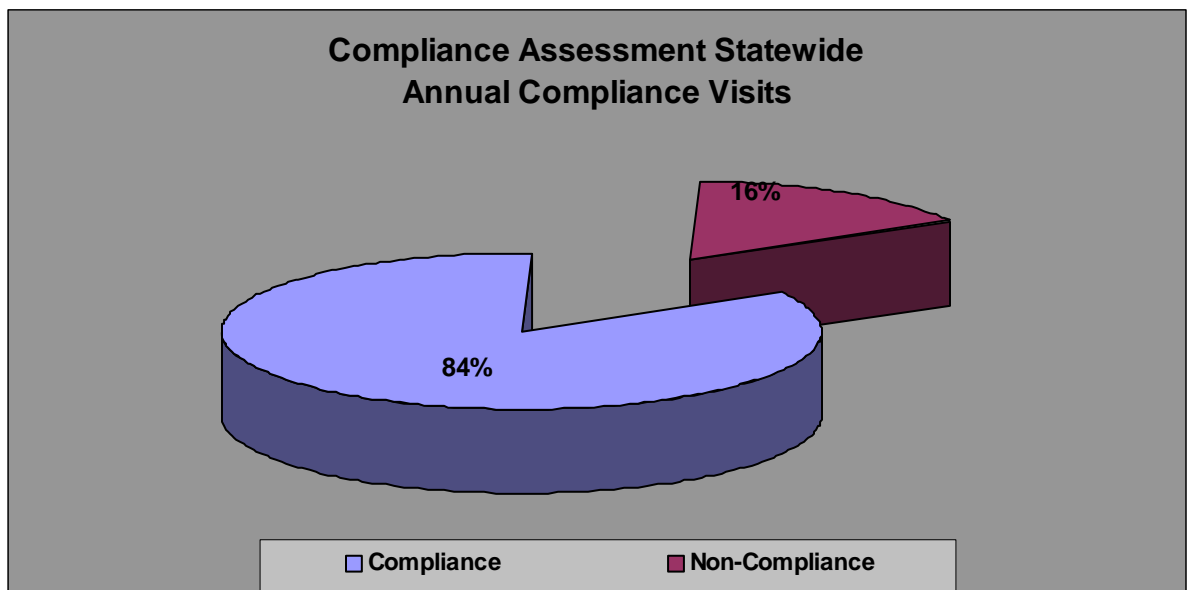
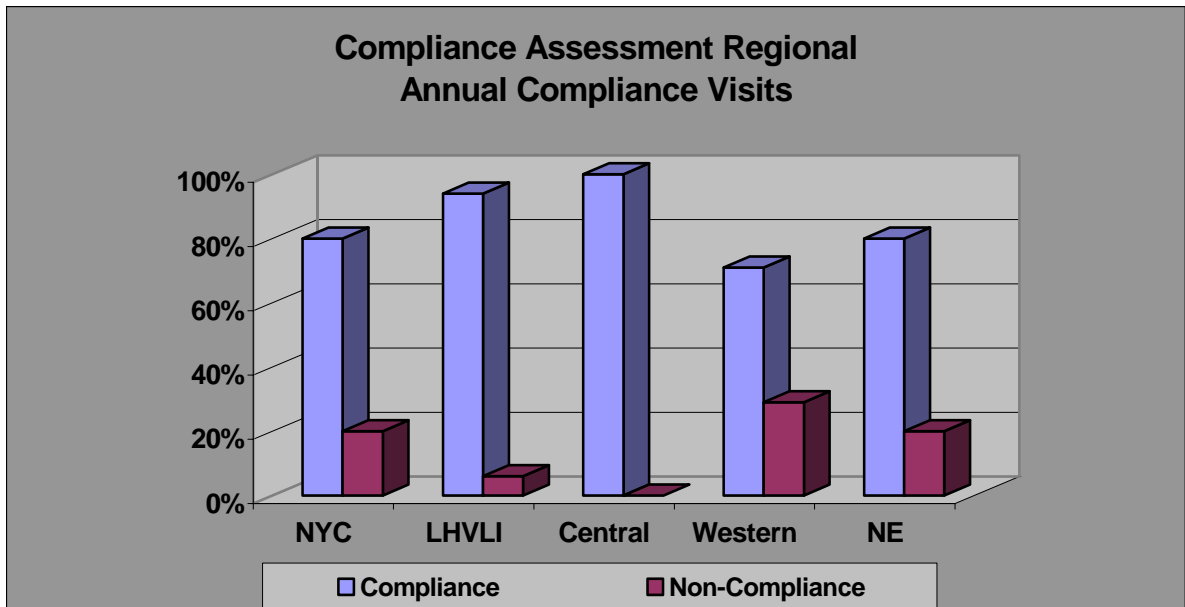


Exhibit 4



Exhibits 5 – 6 / Statewide Compliance – Distribution of Non-Compliance

Concerns continue to be raised regarding the scheduling of on-site visits in July and during the holiday seasons. Exhibit 5 illustrates the distribution of the 74 annual visits to the distribution of non-compliance documented for visits completed each month. The data reflects a fairly consistent correlation throughout the year between visits conducted and facilities found to be out of compliance with current requirements. It does not appear that survey outcome was significantly influenced by survey scheduling, which is consistent with the previous eight years findings. While it is recognized that throughout the year there are dates and periods of time where routine scheduling for hospitals may be more difficult, compliance surveys continue to be scheduled throughout the full contract year. For the ninth contract year, 59 annual compliance surveys were completed between October 2009 and March 2010, and 15 triennial compliance surveys were completed between April 2010 and September 2010.

Exhibit 5

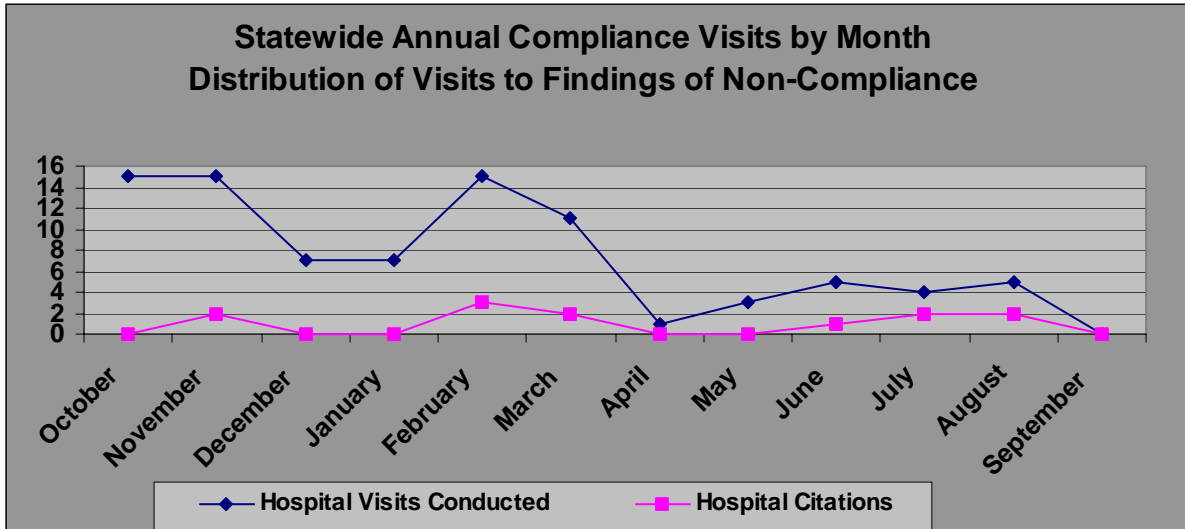
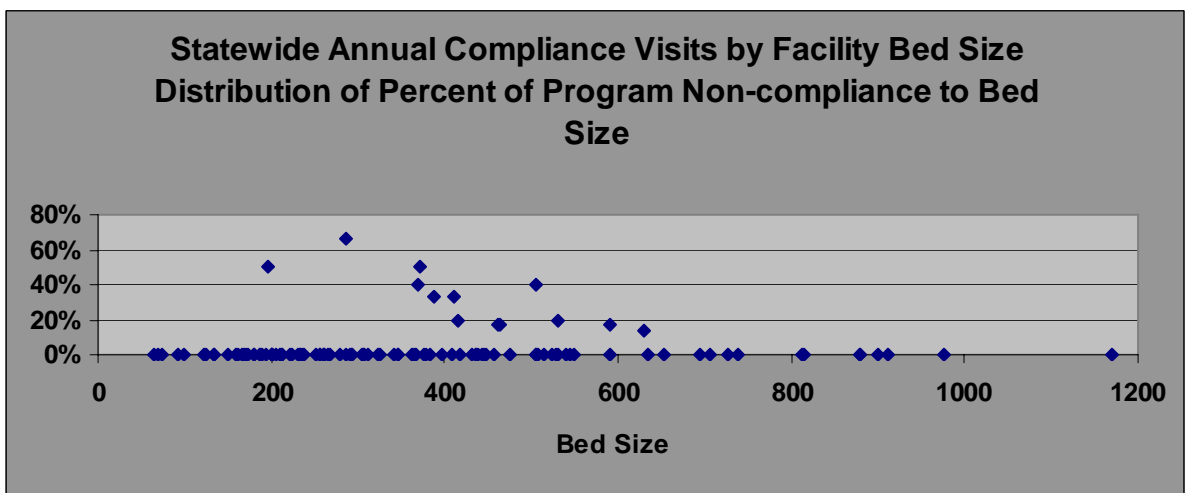


Exhibit 6 presents a detailed assessment of compliance by bed size for the 74 annual visits. Each facility is identified by its bed size, and is evaluated by the percent of non-compliance, as evidenced by the percentage of facility programs that were cited for non-compliance. For example, a facility review that included four teaching programs, surgery, internal medicine, OB/GYN, and pediatrics, and was found out of compliance in only one program, would be out of compliance for 25% of the programs reviewed. For analysis purposes, all sub-specialties were included under the primary program category.

Exhibit 6



None of the annual visits conducted evidenced non-compliance in every teaching program reviewed at that site. The distribution of survey results for the survey period continues to support that non-compliance is not solely related to certified bed size.

Exhibit 7 – 9 / Compliance Assessment – Statewide Distribution of Findings

New York State requirements limit working hours to an average over four weeks of 80 hours each week. In addition, working assignments are limited to no more than 24 consecutive hours, required non-working periods must follow scheduled assignments and each resident must have one 24-hour off period each week. For the 88 total visits conducted during year nine of the contract, 14% of facilities evidenced some level of non-compliance with requirements.

Exhibits 7-9 demonstrate statewide distribution of findings for the 88 total visits based upon current program requirements. Findings include:

- > 80 Hours Per Week: On average over a four-week period, the workweek is limited to 80 hours per week. In year nine of the contract, none of the visits completed evidenced working hours in excess of 80 hours each week.
- > 24 Consecutive Hours: Regulations limit scheduled assignments to no more than 24 consecutive hours. In five percent (5%) of visits conducted, residents were found to be working more than 24 consecutive hours.
- < 24-Hour Off Period: Scheduling must include one full 24-hour off period each week. 5% of visits conducted evidenced residents not receiving a full 24-hour off period during each week.
- Proper Separation: Assigned work periods must be separated by non-working time. 3% of visits evidenced working assignments not separated by required non-working time.
- Working Limitations: This category reflects documented inconsistencies in working hour information collected during interview and through observation when compared to a review of documentation. To validate interview data, review staff screen facility documentation not limited to medical records, operating room logs or operative reports, delivery logs, and/or consult logs, to document the date and/or time certain services are provided and recorded. None of the visits conducted evidenced violations in this area.
- QA: Each hospital is required to conduct and document ongoing quality assurance/quality improvement (QA/QI) activities for the identification of actual or potential problems in accordance with requirements set forth in statute. No facilities reviewed during year nine were cited for deficiencies in their QA/QI performance. It should be noted that QA/QI would automatically be cited in year nine for any facility that had a repeat deficiency from year eight or in the case of a year nine revisit, a repeat of findings in year nine.
- Governing Body: The responsibility for the conduct and obligations of the hospital including compliance with all Federal, State and local laws, rests with the hospital Governing Body. During year nine of the contract, Governing Body was not cited as an area of non-compliance.
- Working Conditions: Working conditions include consideration for sleep/rest accommodations, the availability of ancillary and support services, and the access to and availability of supervising physicians to promote quality supervision. In year nine, no facilities were cited for failing to meet expected working conditions for residents.

- Moonlighting: Regulations place responsibility with each hospital to limit and monitor the working hours associated with moonlighting or dual employment situations. Trainees who have worked the maximum number of hours permitted in regulation are prohibited from moonlighting as physicians providing professional patient care services. No violations pertaining to moonlighting or dual employment requirements were identified in year nine.
- Emergency Department (ED): For hospitals with more than 15,000 unscheduled emergency department visits, the ED assignments of trainees shall be limited to no more than 12 consecutive hours. For the period of review, no violations were identified for this program area.
- Medical Records: Medical record documentation and authentication regulations require that all medical record entries be signed, dated, and timed. No facility visits were found to be substantially non-compliant with medical record entry requirements.
- Supervision: Under the terms of the new contract, there is enhanced monitoring of supervision. The intent is to review for access and availability 24/7 by the attending physician to provide proactive supervision of all trainees with ongoing evidence in the medical record. Trainees in their final year or who have completed at least three years of training, and if it can be demonstrated that the attending is immediately available by phone and readily available in person, may perform supervision. For surgical programs, the requirements are personal supervision of all surgical procedures requiring general anesthesia or an operating room, preoperative examination and assessment by the attending physician, and postoperative examination and assessment no less frequently than daily by the attending physician. Six percent (6%) of the total 88 visits, or 33% of the 15 annual visits conducted under the new contract, evidenced improper medical record documentation of post-graduate trainee supervision.

The new contract requirements were implemented in April 2010. These include a change from annual on-site visits to triennial on-site visits for teaching hospitals with more than ten post-graduate trainees, focusing on the working hours of PGT levels 1-3, as well as an overall assessment of PGT access to and the quality of supervision provided by supervising physicians. Facilities with ten or less post-graduate trainees and those facilities not scheduled for an on-site annual visit are surveyed through a written compliance assessment.

Based on these new requirements, except where noted, the following graphs contain data from six months each of the old and new contract. No trends/differences were noted between the contracts for working hours, as these measures remained the same. The implementation of the supervision monitoring has provided a new measure, and is discussed separately for the 15 annual visits conducted under the new contract. For comparison purposes, trends/outcomes may not be fully realized until the end of the 3-year contract, when all facilities have received a triennial on-site visit.

The most notable areas of non-compliance statewide and on a regional basis were medical record documentation of supervision (during the new contract period), residents working greater than 24 consecutive hours, and residents not receiving a full 24-hour off period during each week (<24).

Exhibit 7

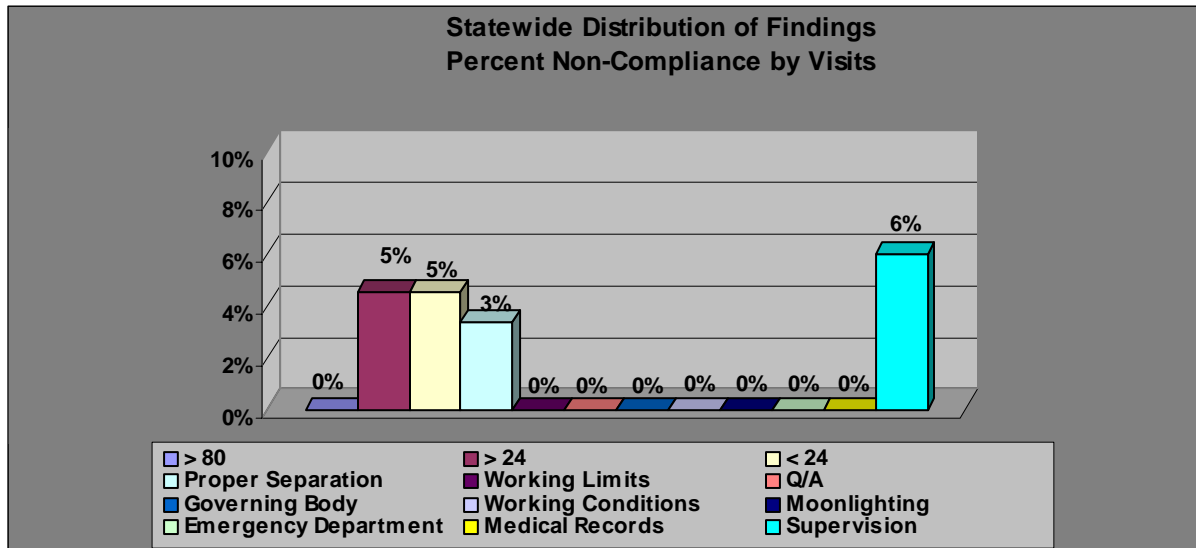


Exhibit 8 / Compliance Assessment – Working Hours > 24 Consecutive Hours

New York State regulations limit scheduled assignments to no more than 24 consecutive hours. In applying this standard and for determining compliance, an additional unscheduled transition period of up to three hours may be utilized by facilities to provide for the appropriate transfer of patient information.

Hospitals have some flexibility in utilizing the three-hour transition period to carry out rounds, grand rounds, and/or the transfer of patient information. New patient care responsibilities may not be assigned during the transition period, and the three-hour period, if used, is counted toward the weekly work-hour limit of 80 hours.

For all surveys conducted in year nine of the contract, this was one of the areas most frequently cited. Statewide, non-compliance was evidenced in 5% of the 88 total surveys conducted and in 5% of the 74 annual surveys conducted.

As illustrated in Exhibit 8, based on the 88 total visits conducted (22 LHVLI, 5 Northeast, 50 New York City, 4 Central, and 7 Western) and the total residents identified as outliers, 46% of surgery and 32% of internal medicine residents were the most frequently identified, but not necessarily cited, for > 24 consecutive hours. This can, in part, be attributed to the fact that each category includes findings associated with numerous subspecialties and account for 43% of the programs in teaching hospitals throughout the state.

Exhibit 8

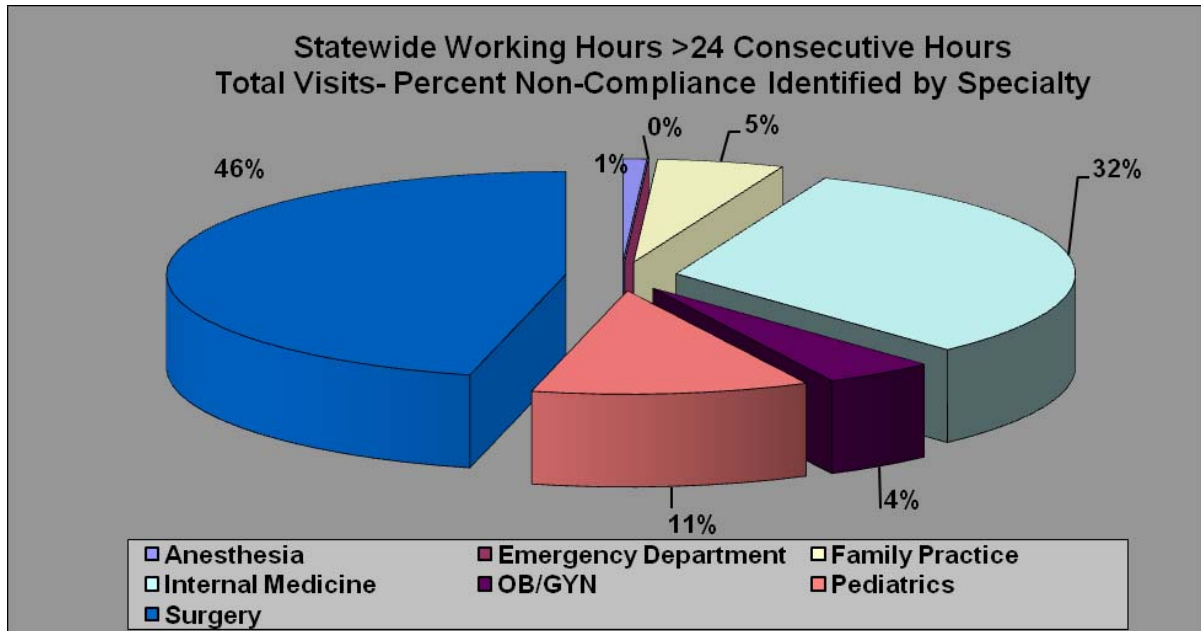


Exhibit 9 / Compliance Assessment – < 24-Hour Off Period

New York State regulations require that scheduling must include one full 24-hour off period each week free from patient care assignments or responsibilities. While programs may develop schedules that allow for a full weekend off or “Golden Weekend”, programs should be mindful that NYS regulations require a 24-hour off period each week, no averaging. One difficulty that can present itself with providing a 24-hour off period each week is ensuring that there are 24 hours off post-call if this is the only day off for the week.

Sick, back-up, and/or jeopardy call, as well as home call systems can also result in non-compliance with the required 24-hour off period per week. Trainees under these call systems need to be available for coverage, and therefore, are not free from all patient care responsibilities even if they are not called back into the facility. If a trainee is scheduled for multiple consecutive days of call (i.e., back-up call every day for one month), the trainee would not have the required 24-hour off period per week.

For all surveys conducted in year nine of the contract, this area was one of the most frequently cited. Statewide, non-compliance was evidenced in 5% of the total 88 surveys conducted and in 5% of the 74 annual surveys conducted.

As illustrated in Exhibit 9, based on the 88 total visits conducted (22 LHVLI, 5 Northeast, 50 New York City, 4 Central, and 7 Western) and the total residents identified as outliers, 45% of surgery and 26% of internal medicine residents were the most frequently identified, but not necessarily cited, for <24 hours off. This also can, in part, be attributed to the fact that each category includes findings associated with numerous subspecialties and account for 43% of the programs in teaching hospitals throughout the state.

Exhibit 9

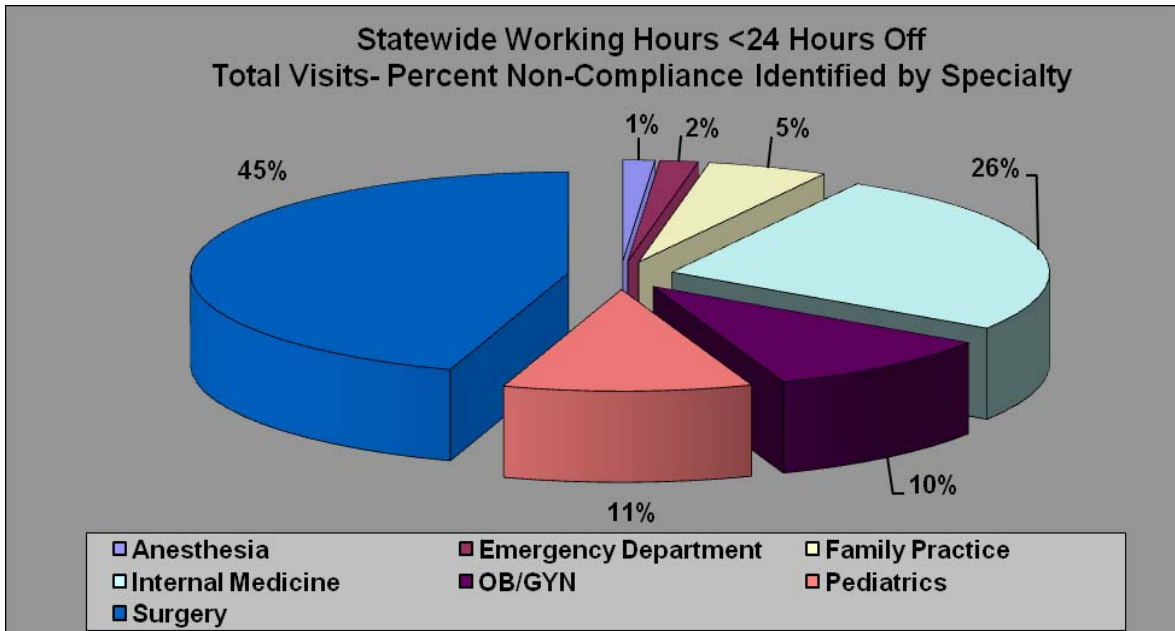


Exhibit 10 –Compliance Assessment – Supervision

Under the terms of the new contract, IPRO assessed compliance with the supervision requirements. For all surveys conducted in Year 9 this was one of the most frequently cited areas. Statewide non-compliance was evidenced in 6% of the 88 total visits, 7% of the 74 annual surveys conducted, and 33% of the 15 annual surveys conducted under the new contract.

Exhibit 10

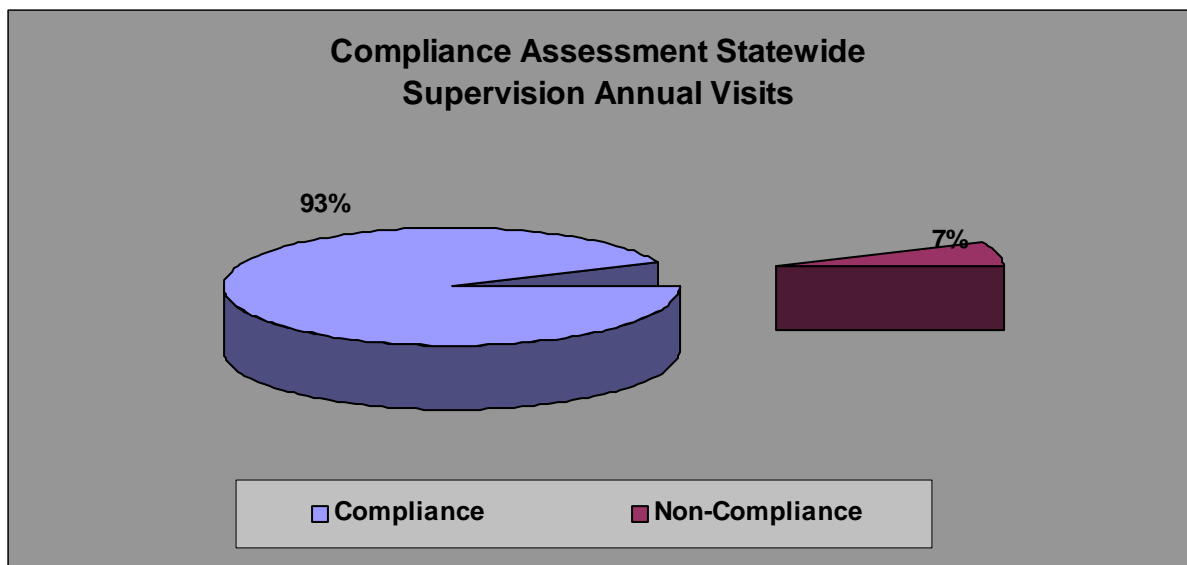


Exhibit 11 / Compliance Assessment – Annual Visit and Program Area Compliance Trend

Throughout the nine years of the contract, IPRO has tracked specialty areas by specific citations. Two specialty areas, internal medicine and surgery, were identified as the specialty areas most frequently cited for non-compliance with the regulations.

Exhibit 11 demonstrates that as total annual visit compliance among facilities has improved statewide throughout the nine years, compliance in these two specialty areas has improved at nearly the same rate. Compliance statewide and among these two specialty areas improved dramatically in year one through four and has stayed fairly consistent in year five through nine. For comparison purposes with years 1 – 8, Exhibits 11 and 11a contain data only for the annual visits conducted under the old contract terms during year 9.

Exhibit 11

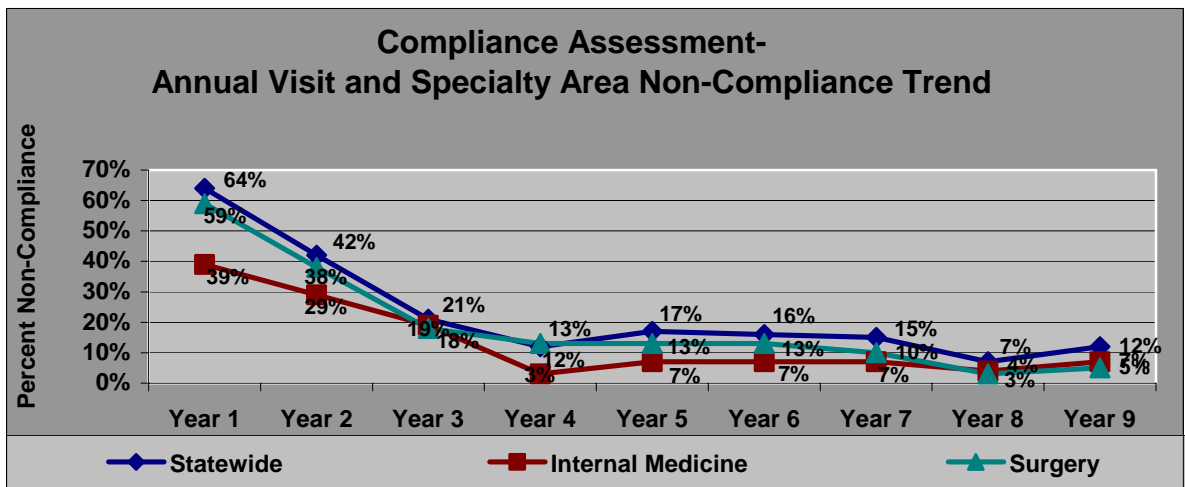
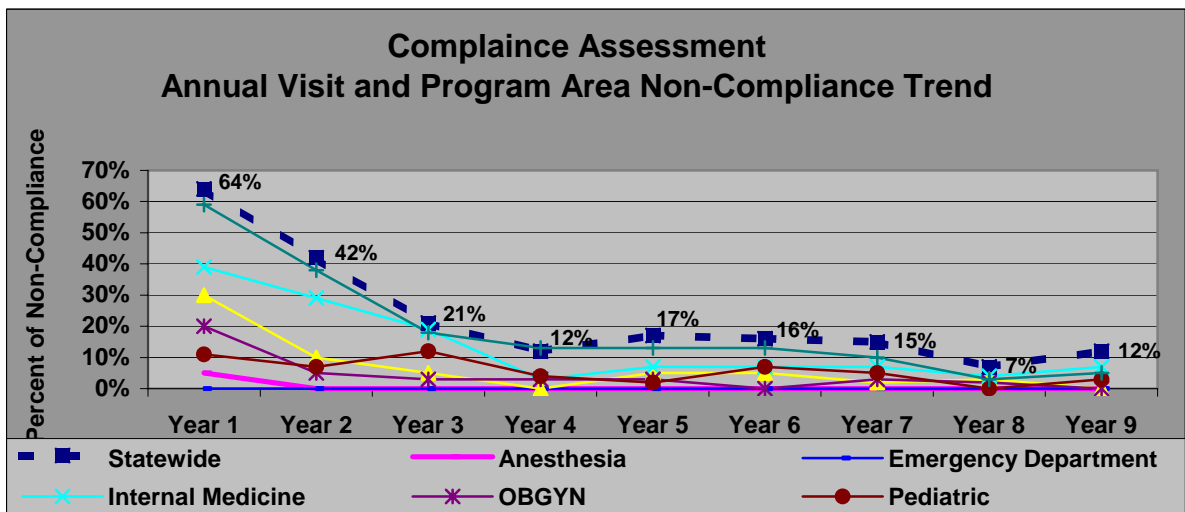


Exhibit 11a demonstrates annual visit compliance trends for all program areas statewide.

Exhibit 11a



Complaint Visits and Revisits

In accordance with program requirements, IPRO also evaluated and investigated complaints received by the DOH specific to resident working hours. In total for year nine of the contract, the DOH received and IPRO investigated 8 facility working hour complaints involving 9 programs. None of the complaints were substantiated based on investigation.

Revisits, focused reviews of previously identified issues, were conducted for all facilities issued a statement of deficiency to monitor the plan of correction implementation. No facilities evidenced continued non-compliance at the time of the revisit.

Off-Site Compliance Assessments

Under the terms of the new contract, written Off-site Compliance Assessments are conducted annually for facilities with ten or less post-graduate trainees and those facilities not scheduled for a triennial on-site visit during that year. Since implementation of the new contract, 23 Off-Site Compliance Assessments have been conducted and closed with no issues indicated. IPRO will continue to conduct and monitor these surveys for trends.

Facility Program Strengths

During the nine years of IPRO's contract with the DOH, we have looked at changes facilities have made in response to the duty hours. This year we collected 243 such changes based upon discussion with program directors, program coordinators and/or chief residents.

These changes can be grouped into five categories: schedule changes, staffing changes, new software, education/procedural changes and other. The following highlights summarize each category:

1. Schedule Changes

- Use of night float to meet program needs, including changed hours of night float earlier or later, increased or decreased number of consecutive nights, or eliminated use of night float
- Changed hours of morning report and/or post-call rounds, which allows post-call residents to complete assignments and/or attend morning conference without violation of work-hour regulations
- Post-call residents present cases first to complete work assignments without violation of work-hour regulations
- Changed number of calls per week or month
- Increased or decreased upper levels using home call to meet program coverage needs
- Reviewed case volume on teams and evened out volume
- Eliminated non-productive clinical rotations

2. Staffing Changes

- Hospitalists to cover patients at night or free up residents during the day

- Nurse Practitioners and Physicians Assistants for coverage
- Fellows on research to cover call
- More use of attendings for weekend days
- Increased number of residents used in call schedule
- Use of a day admitting team
- Chief call changed to a back up system to allow more in-house patient care during busy hours and/or OR time
- Use of in-house moonlighting to lessen call
- Eliminated overnight call for certain levels and increased daily hours
- Team approach for coverage
- Buddy call, mainly in Radiology: Buddy call consists of a junior resident working on-call with a senior resident to ensure competence with reading films, scans, and performing radiology on-call duties

3. Education/ Procedural Changes

- Protected education time
- Changed clinic times and/or conference times
- Increased and/or decreased rotations to facilitate education
- Added new research opportunities and/or new national conference attendance
- Added new clinical programs/electives
- Added new attendings who changed education focus
- More consistent journal club and rounds
- Conferences and presentations available on-line
- Attending available on-line
- More focused monthly lectures, i.e.: 1 topic for whole month
- Program Director changes to facilitate educational focus
- More theme based patient care with web based modules
- More Board prep
- More on-line simulation skills labs
- Cultural competency conferences
- Expanded visiting professor program
- Attendings cover for residents

4. Software Changes

- Software for duty hour monitoring
- Software for handoffs
- Software for simulation
- Software for didactic education
- More Web-based education
- Case monitoring

5. Other

- Use of binders to maintain all required survey information

Supervision

Under the new terms of the contract, IPRO enhanced monitoring of supervision. During interview, residents are asked a series of questions to determine their perception of access, availability and adequacy of the supervision, as well as how they access their supervisor during both daytime and overnight hours. 99% of respondents felt that supervision is adequate, accessible and available 24/7.

IPRO Continual Improvements

- IPRO will continue to work with the DOH during the transition by the ACGME to their new requirements. To provide programs with information on how to be in compliance with the 405 code and the new ACGME regulations, IPRO has updated our 405/ACGME comparison chart and distributed it to all facilities
- IPRO staff will continue to collect facility contact and CEO information during both on-site visits and off-site written compliance assessments, and maintain an updated listing
- IPRO will continue to review schedules, as requested by facilities, to assist in achieving compliance
- IPRO will continue to monitor survey processes, such as unannounced visits, staggered survey schedule, and site review protocols, as well as tracking and trending of program strengths, survey findings, feedback, and other QA/QI measures.
- IPRO will continue to provide on-site educational sessions.

Summary of Exhibits

- Exhibit 1 Implementation – Annual Compliance Visits Statewide by Month
- Exhibit 2 Implementation – Annual Compliance Visits Regional by Quarter
- Exhibit 3 Compliance Assessment – Statewide / Annual Compliance Visits
- Exhibit 4 Compliance Assessment – Regional / Annual Compliance Visits
- Exhibit 5 Statewide Annual Visit Compliance – Distribution of Visits to Findings of Non-Compliance
- Exhibit 6 Statewide Annual Visit Compliance – Distribution of Non-Compliance to Bed Size
- Exhibit 7 Statewide – Distribution of Findings / Total Visits
- Exhibit 8 Statewide - > 24 Hours by Specialty / Total Visits
- Exhibit 9 Statewide - < 24 Hours Off by Specialty / Total Visits
- Exhibit 10 Compliance Assessment – Supervision
- Exhibit 11 Compliance Assessment – Annual Visit and Specialty Area Non-Compliance Trend
- Exhibit 11a Compliance Assessment – Annual Visit and Program Area Non-Compliance Trend

Appendices

Appendix A

Appendix A contains the following comparison exhibits based on total visits conducted at facilities in years one through nine:

- Exhibit 12 Years 1- 9 Comparisons Compliance Assessment- Statewide Annual Compliance Visits
- Exhibit 13 Years 1- 9 Comparisons Compliance Assessment- Statewide Distribution of Findings
- Exhibit 14 Years 1- 9 Comparisons Compliance Assessment- Statewide >24 by Region
- Exhibit 15 Years 1- 9 Comparisons Compliance Assessment- Statewide >24 by Specialty
- Exhibit 16 Years 1- 9 Comparisons Compliance Assessment- Statewide <24 by Region
- Exhibit 17 Years 1- 9 Comparisons Compliance Assessment- Statewide <24 by Specialty
- Exhibit 18 Years 1- 9 Comparisons Compliance Assessment- Statewide Complaint Visits
- Exhibit 19 Years 1- 9 Comparisons Compliance Assessment- Statewide Revisits

* Data reported reflects a compilation of information and data collected through routine surveillance activities. The information is based upon a sample of post-graduate trainees in New York State.

Exhibit 12

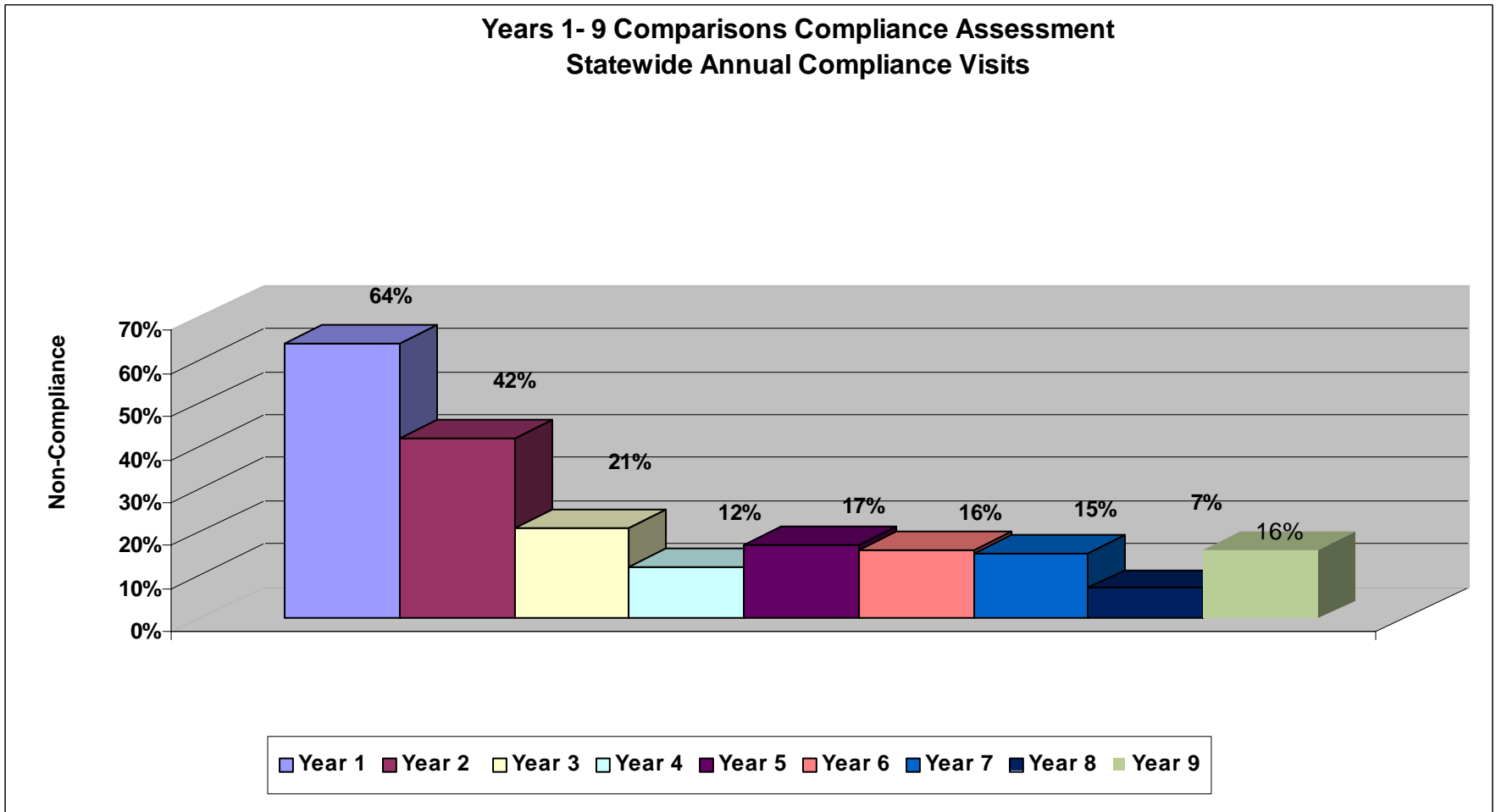


Exhibit 14

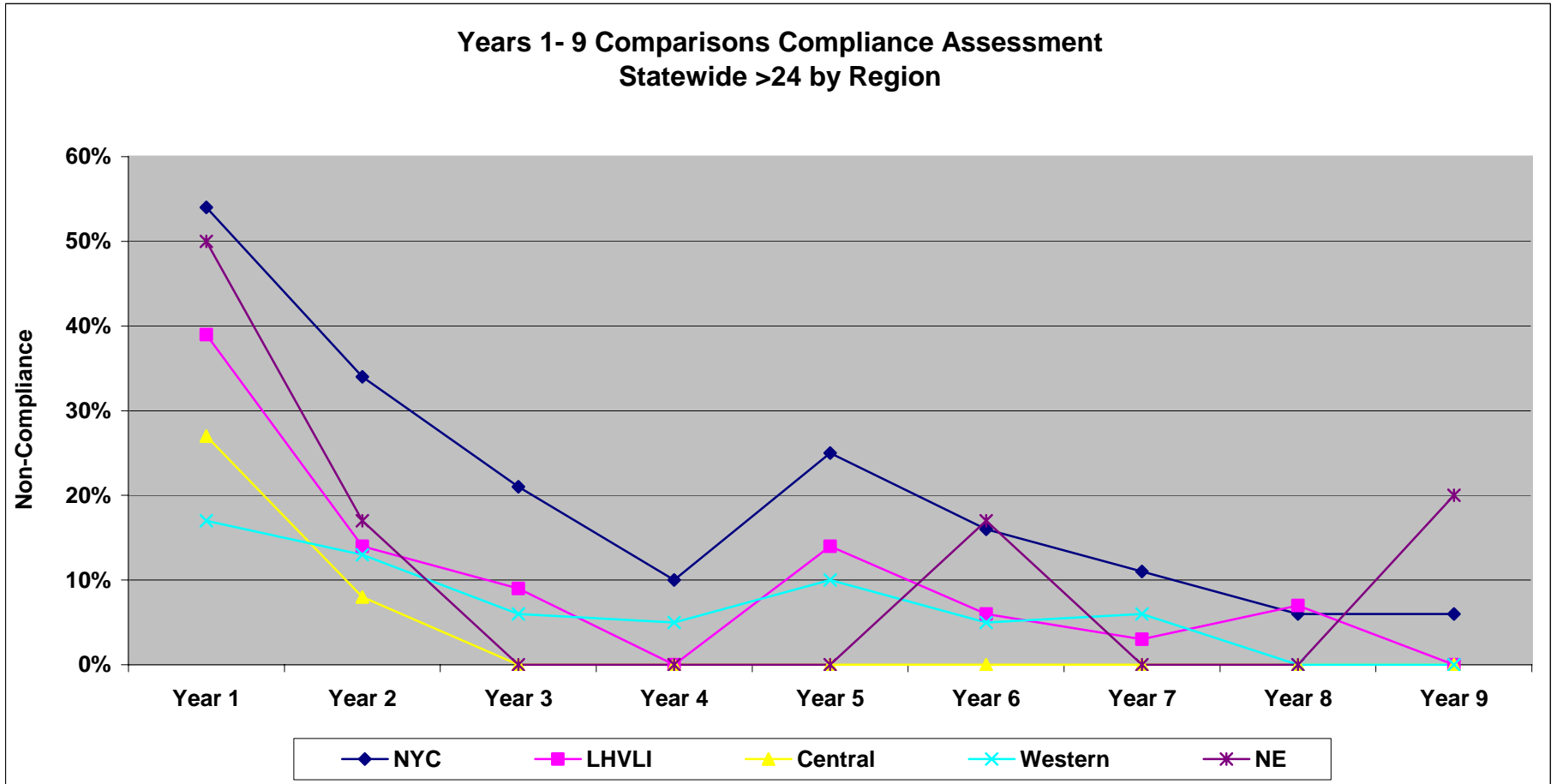


Exhibit 15

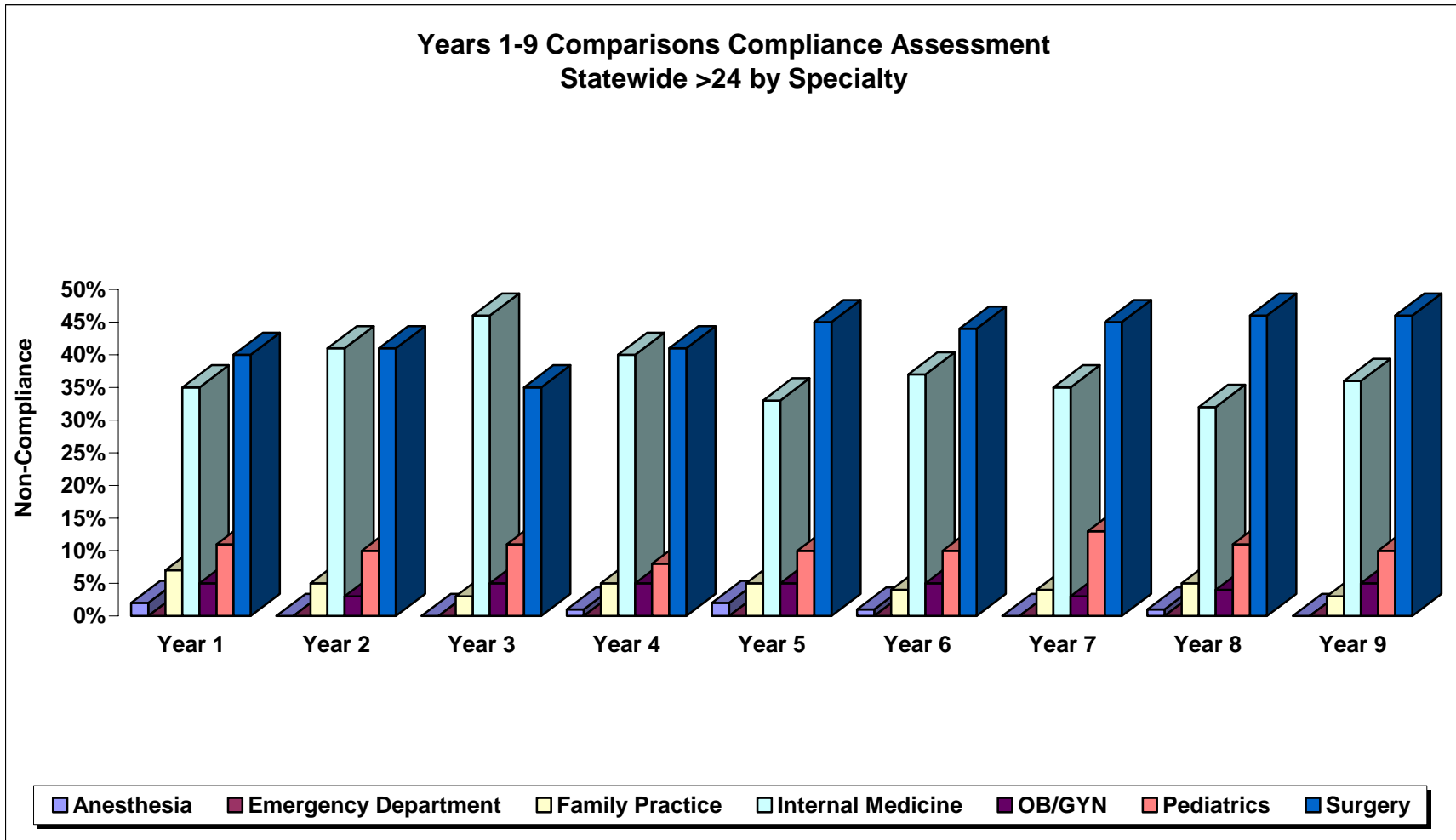


Exhibit 16

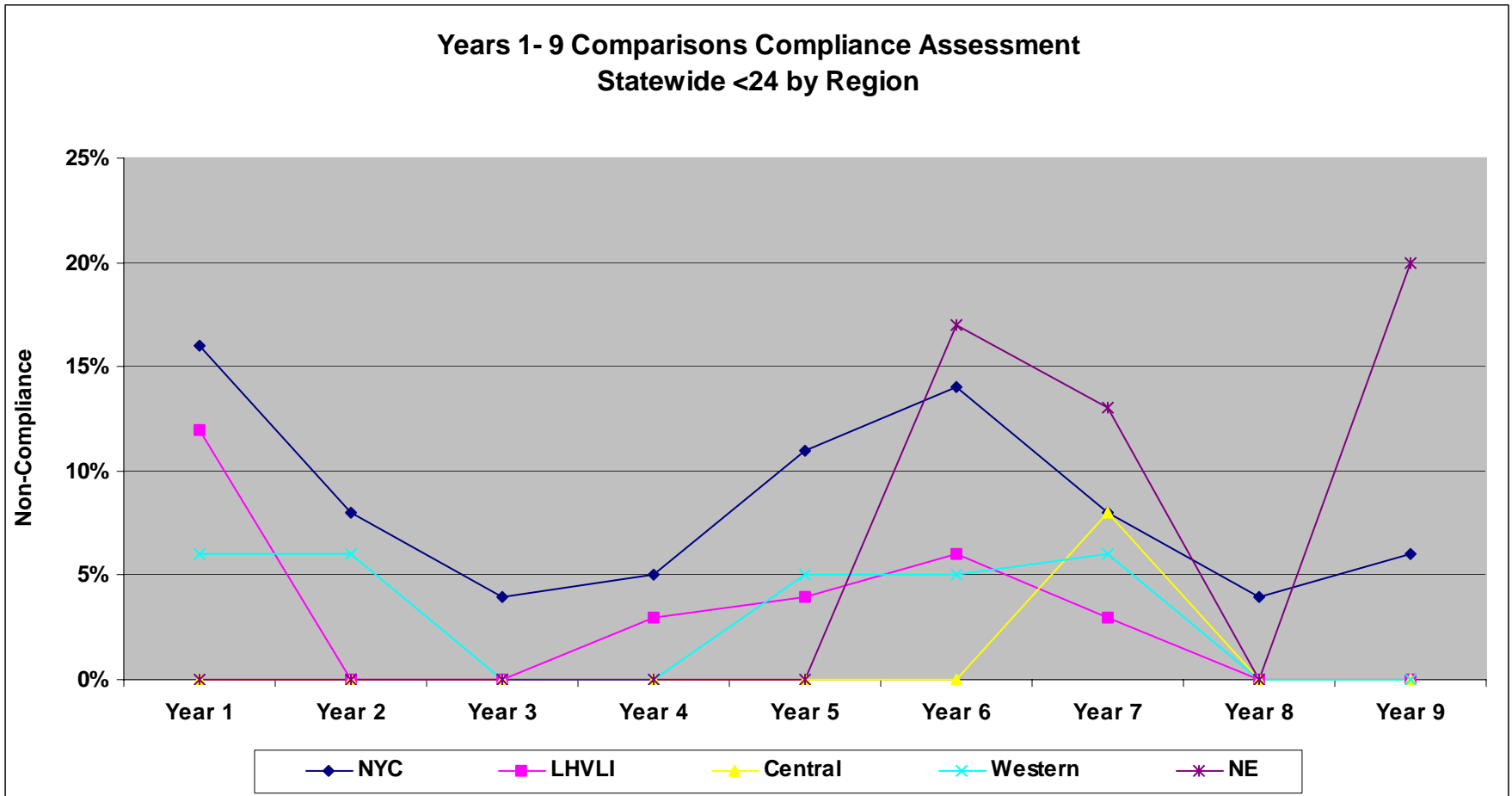


Exhibit 17

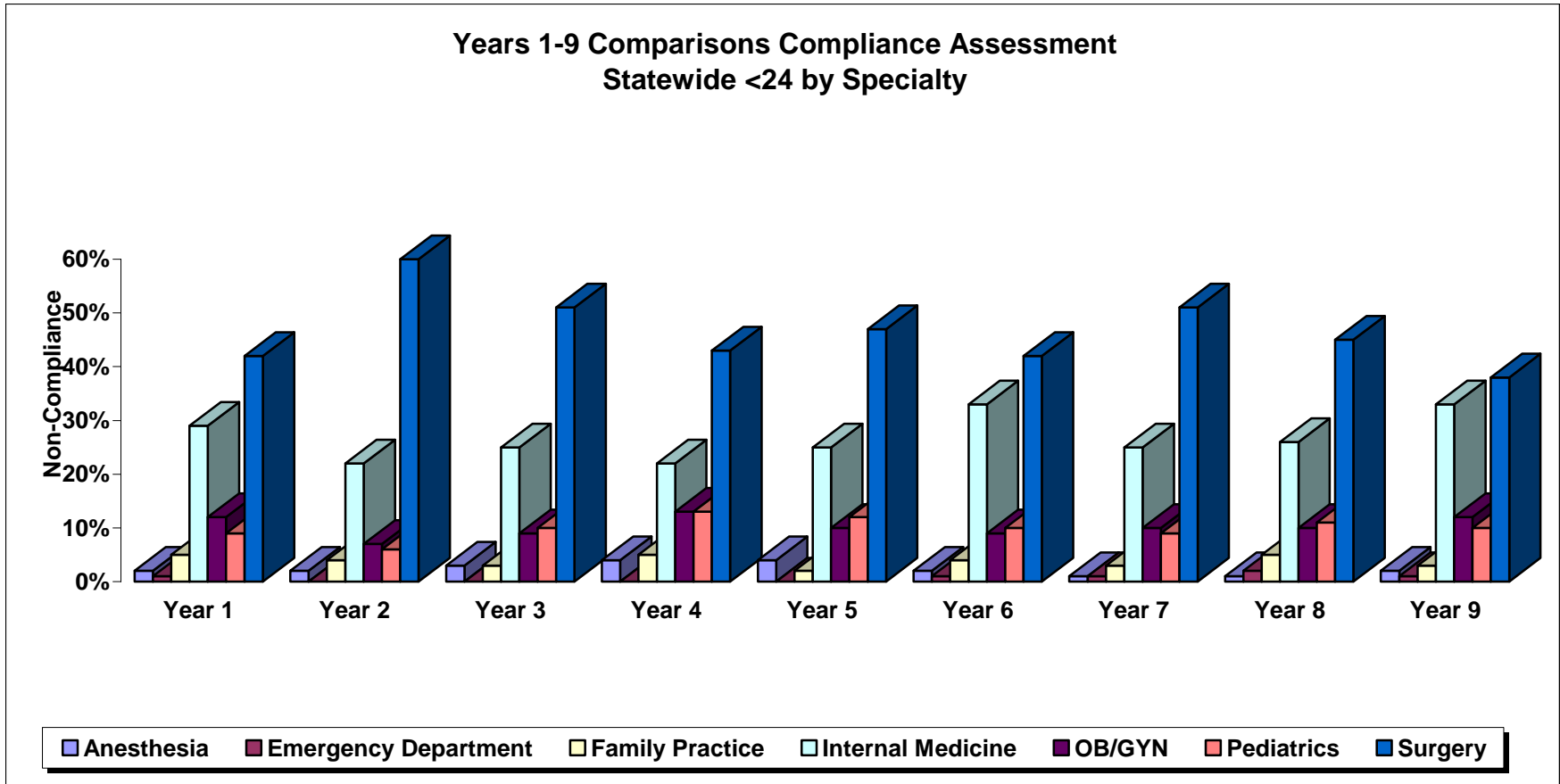


Exhibit 18

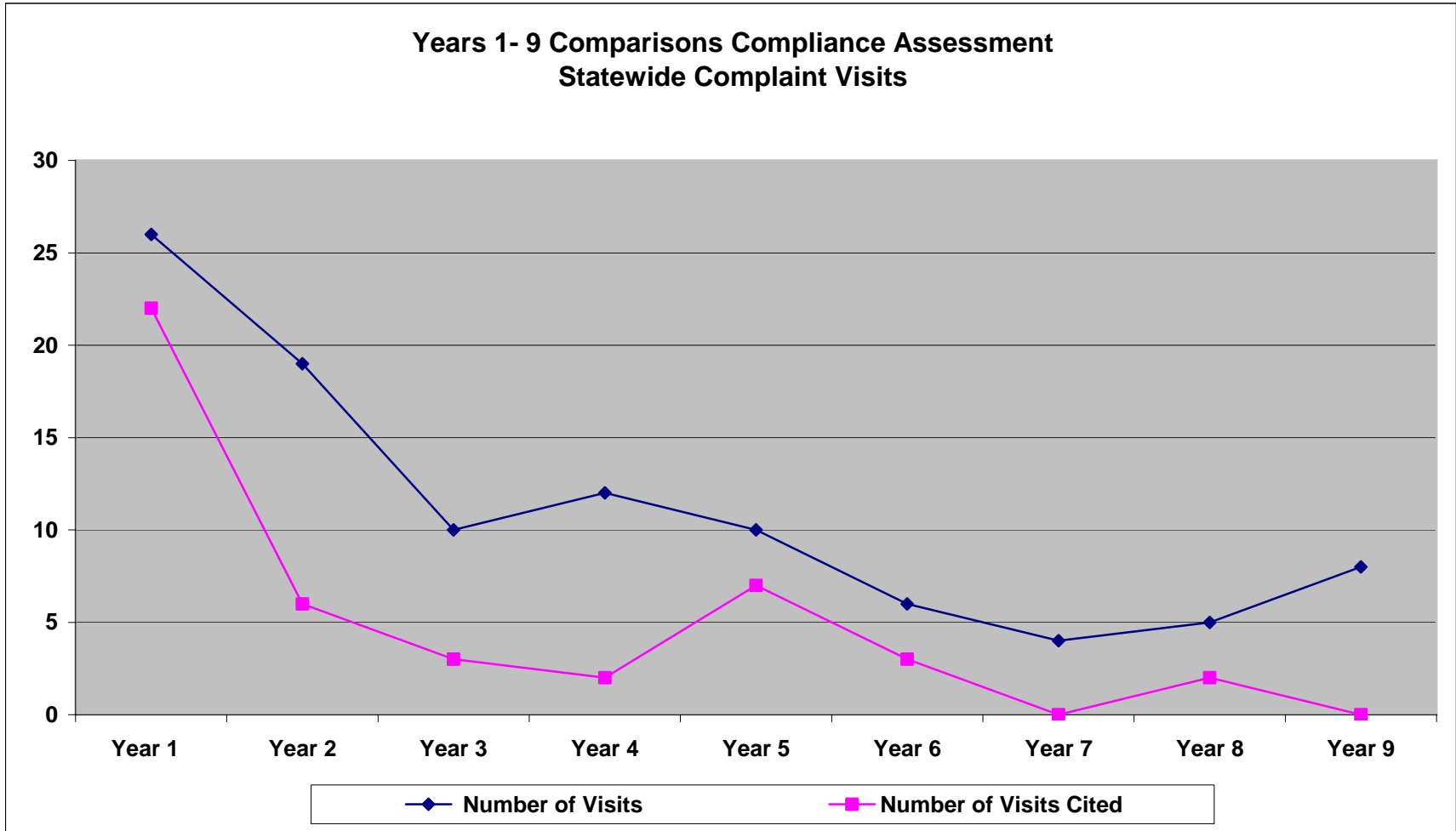


Exhibit 19

