

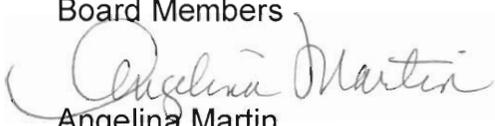


STATE AND CONSUMER SERVICES AGENCY • GOVERNOR ED M. BROWN JR.
BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS
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DATE: May 3, 2011

TO: Board Members

FROM: 
 Angelina Martin
 Enforcement Division Chief

SUBJECT: Enforcement Report

A. Consumer Protection Enforcement Initiative (CPEI)

Background - As a result of various media articles published in 2009 which reported that most Department of Consumer Affairs (DCA) health care boards were taking over three years to complete investigations and take appropriate disciplinary actions against licensees, Governor Arnold Schwarzenegger directed the State and Consumer Services Agency (SCSA) to conduct an internal review of all the health care board's enforcement programs and the DCA Division of Investigations (DOI). The SCSA found that most of the health care boards face significant complaint investigation backlogs and processing delays. The Governor charged the DCA Director with reforming the current enforcement process for the health care boards.

The DCA quickly implemented the CPEI. The overall goal of CPEI is to efficiently process complaints and take disciplinary action against licensees within 12-18 months.

Two departmental budget change proposals (BCP) were submitted. BCP 1A was submitted for specific DCA health care boards to receive additional staff including non-sworn investigators. BCP 1B was submitted for a state-of-the-art integrated database to support licensing and enforcement.

On January 8, 2010, the Governor's budget was released and the DCA received approval to hire 138.5 staff to address the enforcement backlogs and improve investigative processing times for various health care boards. The positions are approved in stages over the next two fiscal years. Of the 138.5 positions, the Board received approval for 15.5 positions (i.e. 13.0 Vocational Nursing (VN) positions and 2.5 Psychiatric Technician (PT) positions) as follows:

	<u>VN Program</u>	<u>PT Program</u>
Staff Services Manager II (SSM II)	1.0 (reclassified to SSM I)	-0-
SSM I	1.0	-0-
Special Investigator	8.0 (6 start 10/1/10; 2 start 7/1/11)	2.0 (start 10/1/10)
Associate Governmental Program Analyst (AGPA)	<u>3.0</u>	<u>0.5</u>
	13.0	2.5

Recruitment and hiring to fill the vacancies will be completed in stages. However, due to the Governor's directive on August 31, 2010 issuing a State hiring freeze, recruitment efforts are suspended.

Hiring Freeze Exemption Request - The Board worked with the DCA Budget Office to prepare an exemption request and, on April 7, 2011, the request was submitted to the DCA Executive Staff for approval to fill 8 positions (1.0 SSM II, 1.0 SSM I, and 6.0 Special Investigators). That request is still pending.

BreEze – In addition to increased staffing, DCA received approval to redirect existing iLicensing Project funds and received a budget augmentation beginning in FY 2011/12 through FY 2014/15 to support the procurement, solution and implementation of an integrated licensing and enforcement system. The new system is entitled "BreEze."

On April 5, 2011, the DCA indicated that the proposed solution costs for BreEze came in at double the projected costs. The DCA is reviewing available options to proceed with the project.

Enforcement Performance Measures – On July 1, 2010, the Board began collecting data on eight enforcement performance measures (PM) developed by the DCA to determine the effectiveness of efforts to streamline enforcement processes, reduce backlogs and achieve the overall goal to process complaints within 12-18 months. The following eight measures were identified:

- PM 1:** Volume – Number of complaints received.
- PM 2:** Cycle Time – Average number of days to complete complaint intake.
- PM 3:** Cycle Time – Average number of days to complete closed cases not resulting in formal discipline.
- PM 4:** Cycle Time – Average number of days to complete cases resulting in formal discipline.
- PM 5:** Efficiency (Cost) – Average cost of intake and investigation for complaints not resulting in formal discipline.
- PM 6:** Customer Satisfaction – Consumer satisfaction with the service received during the enforcement process.
- PM 7:** Cycle Time (Probation Monitoring) – Average number of days from the date a probation monitor is assigned to a probationer to the date the monitor makes first contact.
- PM 8:** Initial Contact Cycle (Probation Monitoring) – Average number of days from the time a violation is reported to a program to the time the assigned probation monitor responds.

The Board was asked to set targets for five of the measures: PM 2, PM 3, PM 6, PM 7, and PM 8.

The target for PM 4 (Formal Discipline) was set by the DCA at 540 days (18 months). However, without the additional staff approved through the CPEI BCP and improvements to the enforcement process handled by other agencies (i.e. DOI, Attorney General's Office, Office of Administrative Hearings), the Board does not anticipate meeting this target.

The DCA has delayed data collection for PM 5 (Cost) until BreEze is implemented. Additionally, data was not received for PM 6 (Customer Satisfaction). The DCA is developing inserts to be sent to consumers to help inform them of the customer satisfaction survey available for their completion.

The first quarter performance report was issued on December 8, 2010. The Board met all targets during this quarter except PM 4.

The second quarter performance report was issued on February 1, 2011. The Board met all targets during this quarter except PM 4 and PM 7 (Probation Intake). The increase in PM 7 was due to the additional work created by the Board's implementation of the new Departmental contract with Phamatech, Inc. for drug testing services.

The third quarter performance report was issued on May 2, 2011 (see Attachment A). The Board met all targets during this quarter except PM 4.

B. Enforcement Division Updates

Audit of Enforcement Division – On April 12, 2010, the Board received notice from the DCA Internal Audit Office (IAO) that a comprehensive audit of the Board's Enforcement Program would be conducted by the IAO. The audit would focus on all aspects of the Enforcement Program including the Probation Program and Investigations Unit. The IAO plans to evaluate the efficiency and effectiveness of the enforcement process and make recommendations regarding possible improvements. The audit objectives are to determine if the Board has:

- ❖ Established policies and procedures to guide staff in effectively handling enforcement activities.
- ❖ Complied with applicable laws and regulations.
- ❖ Performed the Enforcement functions efficiently and effectively.
- ❖ Established benchmarks in order to judge if cases are proceeding appropriately and are closed in an expeditious manner.
- ❖ Established a process for management review of critical cases.
- ❖ Appropriately referred cases to experts when needed, on a timely basis.
- ❖ Adequately protected the public through the enforcement process.

At the conclusion of the audit, the IAO will issue a draft report and request the Board's response to any audit findings and recommendations. The Board's response will be included in the final audit report. The final audit report will be submitted to the DCA Chief Deputy Director and Deputy Director of Enforcement. The IAO will perform 180-day and 360-day follow-up procedures after the final report is issued to determine if proposed corrective actions are implemented.

On April 27, 2010, Teresa Bello-Jones, Executive Officer (EO), Marina Okimoto, Assistant Executive Officer, and Angelina Martin, Enforcement Division Chief, participated in an entrance conference with Cathy Sahlman, DCA Chief Internal Auditor, and her staff members.

On July 12, 2010, the IAO informed the Board that the audit was placed on hold and would resume in early September 2010. Vern Hines, DCA Auditor, began the audit on September 22, 2010. On October 20, 2010, the EO and Ms. Martin met with Mr. Hines to discuss the audit. Mr. Hines initially anticipated that the audit would be completed by December 31, 2010. However, due to other priorities the DCA assigned to Mr. Hines, the Board's audit was delayed.

On April 5, 2011, Brian Stiger, DCA Director, announced that the DCA reassessed the project objectives by taking a hard look at the:

- audit scope of work;
- length of time it takes to complete a formal audit;
- boards' staff time to assist in the audit process;
- affect of the hiring freeze on CPEI timeframes; and
- critical components of the enforcement programs that ensure consumer protection.

Based on these factors, the DCA decided to take a more focused approach to ensure that they are concentrating limited resources on the most crucial components of the boards' enforcement programs. Consequently, the DCA is revising the scope of work and the type of review. The Director indicated that the formal audit process is not the right fit for the type of evaluation they want to conduct and believes that an assessment is more appropriate.

The revised scope of work for the assessment will be provided at the Executive Leadership Forum on May 19, 2011. The audit reports for all boards who have already participated in the audit process will be completed after the application of the revised scope of work and consideration of the effect of the hiring freeze on CPEI timeframes.

Enforcement Vacancies – The following vacancies were filled:

- SSM I (Discipline/Probation Units) – Vacant August 9, 2010. Filled May 1, 2011.
- AGPA (Discipline Unit) – Vacant July 31, 2010. Filled May 1, 2011.

In addition to the CPEI positions, the following vacancies exist:

- Office Technician (Complaint/Investigations Unit) – Vacant March 2, 2011.
- AGPA (Probation Unit) – Vacant May 1, 2011.
- Staff Services Analyst (SSA) (Discipline Unit) – Vacant May 1, 2011.
- AGPA (Discipline Unit) – Vacant May 16, 2011.
- SSA (Complaint/Investigations Unit) – Vacant May 12, 2011.

Recruitment efforts to fill these positions are underway. However, due to the Governor's directive on August 31, 2010 issuing a State hiring freeze, recruitment efforts are limited to promotions and lateral transfers within the DCA only.

Overtime -- Effective March 2, 2011, the DCA announced that overtime could be approved once again by the Board. Enforcement staff immediately began volunteering to work overtime to attempt to reduce backlogs.

C. Enforcement Division General Statistics

Table #1 summarizes the volume involved with the Enforcement Division over the past six fiscal years.

Table #1: Enforcement Division	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11 (through 3/31/11)
Complaints Received (Licensees)	1334	1,249	1,506	2,013	3,110	2,059
Complaints Received (Applicants)	1,137	1,194	1,401	1,573	2,041	1,733
Total Complaints Received	2471	2,443	2,907	3,586	5,151	3,792
Total Complaints Pending	2622	2279	2633	3006	4,365	4,036
Investigations Referred to DOI ¹	61	172	190	140	113	71
Investigations Closed						
Licensee Investigations by Staff	1,697	1,570	1,394	1,522	2,446	2,331
Licensee DOI Investigations	111	88	66	137	240	159
Applicants Approved/Cleared	1,258	1,051	1,023	1,474	1,150	1,236
Applicants Denied (In-House)	14	19	34	24	20	38
Total Investigations Closed:	3,080	2,728	2,517	3,157	3,856	3,764
Cases Referred to AG's Office	216	188	326	226	221	300
Accusations Filed	124	176	203	183	166	110
Disciplinary Actions Taken	159	179	185	199	213	126
Statement of Issues Filed	2	8	31	32	18	39
Licenses Denied (Adjudicated)	7	2	5	9	10	2

¹ DOI = DCA Division of Investigation

* Important Note: The Board's increased workload and pending backlogs continue to increase due to the implementation of two major consumer protection functions (i.e., Mandatory Reporting effective July 1, 2007 and Retroactive Fingerprinting effective July 1, 2009) and the reduction in enforcement staff due to Furlough Fridays (i.e., from February 1, 2009 through October 31, 2010).

Table #2 summarizes the processing times involved with the Enforcement Division over the past six fiscal years.

Table #2: Average Complaint Processing Times (In days)	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11 (through 3/31/11)
Investigations Conducted In-House	119	334	154	176	212	299
Investigations Conducted by DOI ¹	536	539	475	665	669	595
Total Investigations ²	328	437	315	421	441	447
Pre-Accusations ³	324	309	182	150	138	141
Post Accusations ⁴	362	475	336	423	434	501
Total Average Days	1,014	1,221	833	994	1,013	1,089
Total Average Years	2.8	3.3	2.3	2.7	2.8	3.0

¹ DOI = DCA Division of Investigation

² Includes informal investigations conducted by Board Staff and formal investigations conducted by DCA DOI. Data does not include applicants.

³ From completed investigation to formal charges filed by the Attorney General's (AG) Office.

⁴ From formal charges filed by the AG's Office to conclusion of the disciplinary case.

* Important Note: The Board's processing times continue to increase due to the implementation of two major consumer protection functions (i.e., Mandatory Reporting effective July 1, 2007 and Retroactive Fingerprinting effective July 1, 2009) and the reduction in enforcement staff due to Furlough Fridays (i.e., from February 1, 2009 through October 31, 2010).

Department of Consumer Affairs

Board of Vocational Nursing & Psychiatric Technicians

Performance Measures

Q3 Report (January - March 2011)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

In future reports, the Department will request additional measures, such as consumer satisfaction. These additional measures are being collected internally at this time and will be released once sufficient data is available.

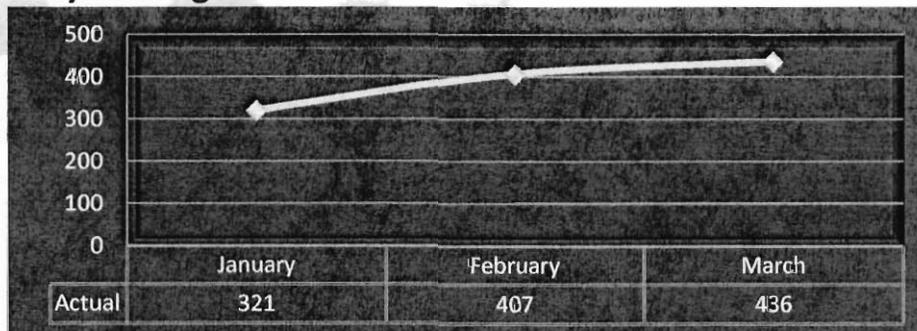
Volume

Number of complaints and convictions received.

Q3 Total: 1,164

Complaints: 742 Convictions: 422

Q3 Monthly Average: 338

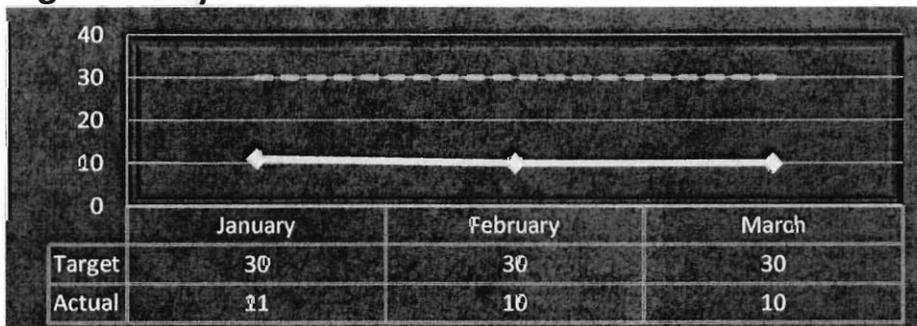


Intake

Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.

Target: 30 Days

Q3 Average: 10 Days

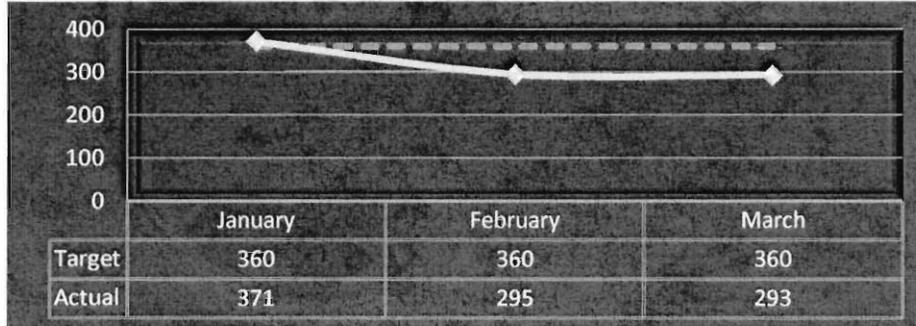


Intake & Investigation

Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

Target: 360 Days

Q3 Average: 318 Days

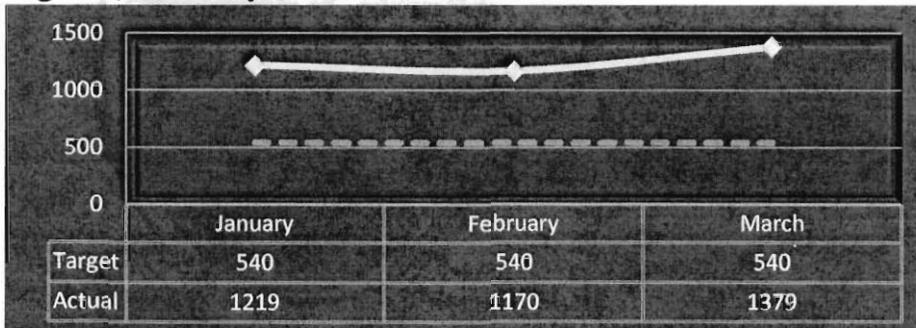


Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board, and prosecution by the AG)

Target: 540 Days

Q3 Average: 1,282 Days

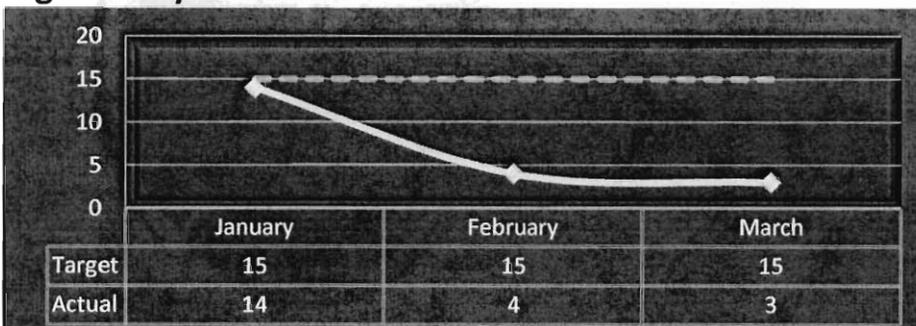


Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

Target: 15 Days

Q3 Average: 4 Days



Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

Target: 30 Days

Q3 Average: 2 Days

