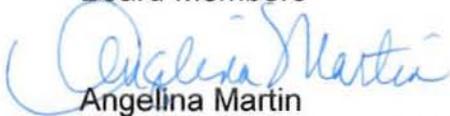




STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDWIN P. BRIDGES JR.  
**BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS**  
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DATE: August 22, 2011  
 TO: Board Members  
 FROM:   
 Angellina Martin  
 Enforcement Division Chief  
 SUBJECT: Enforcement 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>
	<b>13.0</b>	<b>2.5</b>

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 were suspended.

**Hiring Freeze Exemption Request** - The Board worked with the DCA Budget Office to prepare a hiring freeze exemption request. 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). On June 10, 2011, the Board's request was approved. However, before the Board could begin recruitment to fill these positions, the Board needed approval from the Department of Personnel Administration (DPA) for a special allocation to fill the positions.

**Special Allocation Request** – On May 5, 2011, the Board submitted a Special Allocation Request to the DCA's Human Resources' Office (HR) to obtain approval from the DPA to fill the Special Investigator positions. On May 16, 2011, the DCA submitted that request to DPA for approval. On June 13, 2011, the DPA approved the Special Allocation Request for the Special Investigator positions. Recruitment to hire 6 Special Investigators began immediately.

Based on information received from DPA and DCA, the Board requested reclassification of the SSMII and SSMI positions approved for CPEI to the Supervising Special Investigator classification. On June 15, 2011, the Board submitted a Special Allocation Request to the DCA HR to obtain approval from the DPA to fill two Supervising Special Investigator positions and, on that same day, the DCA submitted that request to DPA for approval. On June 27, 2011, the DPA approved the Special Allocation Request for the Supervising Special Investigator positions. Recruitment to hire 2 Supervising Special Investigators began immediately.

**Background Clearance Required Before Hiring** - The DCA is requiring all applicants for the Special Investigator and Supervising Special Investigator positions to undergo an extensive background check and to obtain a background clearance before they are approved to hire. The background check will be conducted by the DCA's Division of Investigation and will take approximately 4-6 weeks to complete. By mid-August, 6 Special Investigator applicants were selected by the Board to begin their backgrounds. By August 31, 2011, the Board should have 2 Supervising Special Investigator applicants selected to begin their background checks. The Board anticipates that these applicants will be cleared to hire by October 2011.

**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 much higher than the projected costs. The DCA reviewed available options to proceed with the project. On May 24, 2011, the DCA announced that negotiations with the compliant bidder, Accenture, were continuing for the specific purpose of reducing the cost of the initial contract. On July 29, 2011, the Department of Finance (DOF) sent a notice to the Legislature that the DCA intends to award the BreEZe Solution Vendor contract on August 31, 2011. It is anticipated that the contract will be effective September 1, 2011.

Once the contract is executed, the DCA plans to send a BreEZe project representative to meet with each Board to discuss specific costs and terms of the contract.

**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). However, on May 20, 2011, the DCA distributed postcard inserts they developed to be sent to consumers to help inform them of the customer satisfaction survey available for their completion. Additionally, the Board revised its closure letters to include information regarding the customer satisfaction survey. Effective July 1, 2011, the Board began including a postcard insert and/or information regarding the survey in its closure letters. Data collected for PM 6 is contingent on consumers completing the survey.

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. The Board met all targets during this quarter except PM 4.

The fourth quarter performance report was issued on July 26, 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 Board has not received its audit report from DCA.

**Enforcement Vacancies** – The following vacancies were filled:

- Office Technician (OT) (Complaint/Investigations Unit) – Vacant March 2, 2011. June 1, 2011
- Associate Governmental Program Analyst (AGPA) (Probation Unit) – Vacant May 1, 2011. Filled July 1, 2011.
- Staff Services Analyst (SSA) (Discipline Unit) – Vacant May 1, 2011. Filled July 1, 2011.
- AGPA (Discipline Unit) – Vacant May 16, 2011. Filled July 1, 2011.
- SSA (Complaint/Investigations Unit) – Vacant May 12, 2011. Filled July 1, 2011.
- 3 SSAs (Complaint/Investigations Unit) – Vacant July 1, 2011. Filled September 1, 2011.

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

- 1 OT (Complaint/Investigations Unit) – Vacant September 1, 2011.

Recruitment efforts to fill the OT position 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.

During the past five months, from March 2, 2011 through July 31, 2011, a total of 1,081 overtime hours were worked by the Enforcement staff. Employees who worked overtime focused on reducing existing backlogs.

### **C. Enforcement Division General Statistics**

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

<b>Table #1: Enforcement Division</b>	<b>2005/06</b>	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>
Complaints Received (Licensees)	1,334	1,249	1,506	2,013	3,110	2,574
Complaints Received (Applicants)	1,137	1,194	1,401	1,573	2,041	2,464
Total Complaints Received	2,471	2,443	2,907	3,586	5,151	5,038
Total Complaints Pending	2,622	2,279	2,633	3,006	4,365	3,910
Investigations Referred to DOI <sup>1</sup>	61	172	190	140	113	111
Investigations Closed						
Licensee Investigations by Staff	1,697	1,570	1,394	1,522	2,446	3,721
Licensee DOI Investigations	111	88	66	137	240	186
Applicants Approved/Cleared	1,258	1,051	1,023	1,474	1,150	1,738
Applicants Denied (In-House)	14	19	34	24	20	53
Total Investigations Closed:	3,080	2,728	2,517	3,157	3,856	5,698
Cases Referred to AG's Office	216	188	326	226	221	339
Accusations Filed	124	176	203	183	166	168
Disciplinary Actions Taken	159	179	185	199	213	286
Statement of Issues Filed	2	8	31	32	18	57
Licenses Denied (Adjudicated)	7	2	5	9	10	3
<sup>1</sup> 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.

<b>Table #2: Average Complaint Processing Times (In days)</b>	<b>2005/06</b>	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>
Investigations Conducted In-House	119	334	154	176	212	299
Investigations Conducted by DOI <sup>1</sup>	536	539	475	665	669	603
Total Investigations <sup>2</sup>	328	437	315	421	441	314
Pre-Accusations <sup>3</sup>	324	309	182	150	138	147
Post Accusations <sup>4</sup>	362	475	336	423	434	321
Total Average Days	1,014	1,221	833	994	1,013	1,090
Total Average Years	2.8	3.3	2.3	2.7	2.8	3.0
<sup>1</sup> DOI = DCA Division of Investigation <sup>2</sup> Includes informal investigations conducted by Board Staff and formal investigations conducted by DCA DOI. Data does not include applicants. <sup>3</sup> From completed investigation to formal charges filed by the Attorney General's (AG) Office. <sup>4</sup> 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

### Q4 Report (April - June 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.

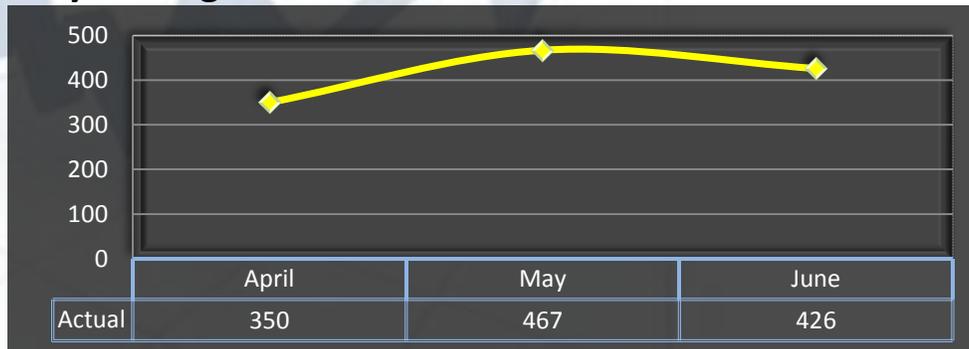
### Volume

Number of complaints and convictions received.

**Q4 Total: 1,243**

*Complaints: 61 Convictions: 1,182*

**Q4 Monthly Average: 414**

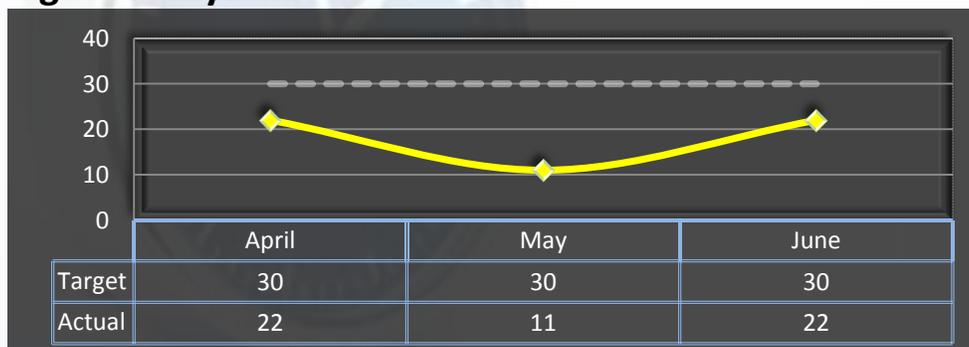


### Intake

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

**Target: 30 Days**

**Q4 Average: 19 Days**

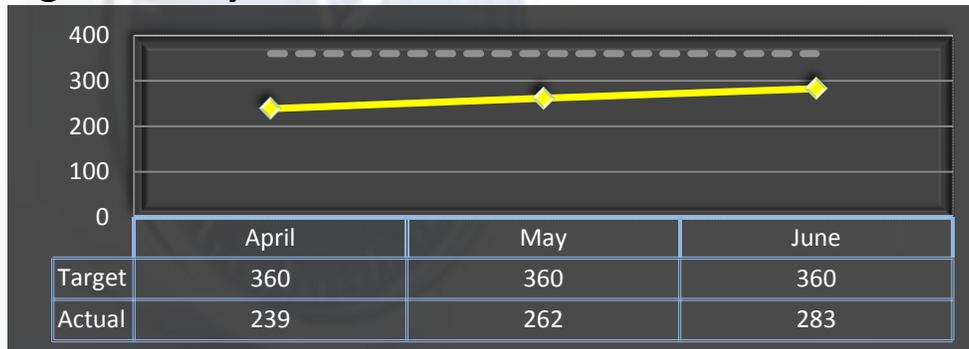


## Intake & Investigation

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**

**Q4 Average: 260 Days**

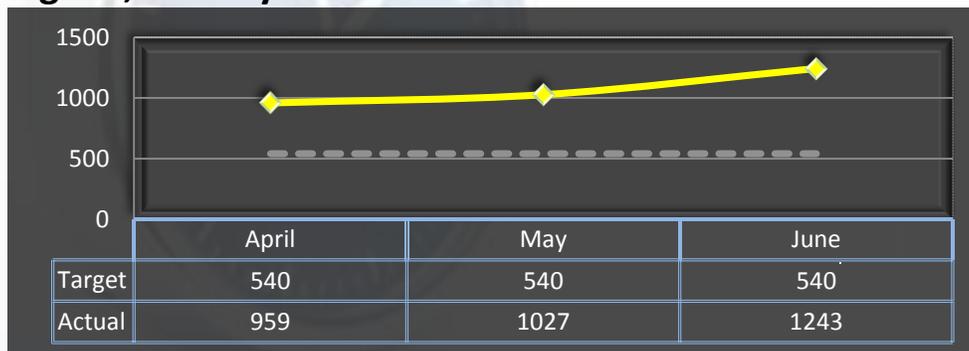


## Formal Discipline

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**

**Q4 Average: 1,035 Days**

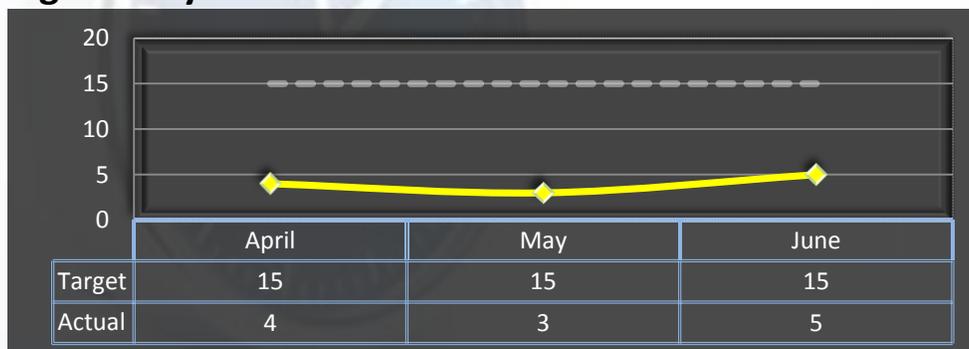


## Probation Intake

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

**Target: 15 Days**

**Q4 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**

**Q4 Average: 2 Days**

