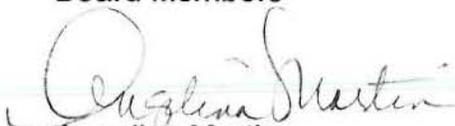




STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
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DATE: February 8, 2012
TO: Board Members
FROM: 
Angelina Martin
Assistant Executive Officer
SUBJECT: Enforcement Division Report

A. Enforcement Division Updates

Enforcement Performance Measures – The following eight measures were developed by the Department of Consumer Affairs (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.

- 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 is currently collecting data for 7 of the 8 measures. The DCA has delayed data collection for PM 5 (Cost) until BreEZe, the new integrated licensing and enforcement system, is implemented.

In mid-November 2011, the first quarter performance report was released (see Attachment A). The Board met all targets except PM 4 (Formal Discipline) which was set by DCA at 540 days (18 months). The Board does not anticipate meeting this target without the additional staff approved through the Consumer Protection Enforcement Initiative (CPEI) Budget Change Proposal (BCP) and improvement to phases of the enforcement process handled by other agencies (i.e. Division of Investigation, Attorney General's Office, and Office of Administrative Hearings).

Proposed Regulatory Action to Implement Elements of CPEI - At its September 16, 2010 Board Meeting, the Board approved draft proposed regulatory language to implement elements of CPEI and directed staff to prepare a rulemaking file for notice and comment. The notice of proposed regulations was published on March 25, 2011 and a public hearing was held on May 11, 2011. At its September 9, 2011 Board Meeting, the Board approved modified proposed regulatory language and directed staff to forward the rulemaking file to the DCA and Office of Administrative Law (OAL) for approval. The rulemaking file was submitted to DCA on October 25, 2011. On January 24, 2012, the rulemaking file was approved by the DCA and was sent to the Department of Finance (DOF) for approval. Upon approval from DOF, the Board will forward the file to the OAL.

Proposed Regulatory Action to Implement New Mandatory Reporting Requirements – On September 26, 2011, Senate Bill 539 (Price, Chapter 338, Statutes of 2011) was passed and became effective January 1, 2012. The legislation extended of the Board's sunset review date and included a provision that revised the mandatory reporting requirements. The provision specifies that employers of licensed vocational nurses (LVNs) and psychiatric technicians (PTs) must also report resignation for cause, as defined, and would require employment agencies or nursing registries to report to the Board the rejection from assignment of an LVN or PT. It is anticipated that regulations to implement the new requirements will be proposed for consideration by the Board at its May 2012 Board Meeting.

Implementation and Development of New Investigations Unit – Five of the 15.5 CPEI positions that were approved to establish a new Investigations Unit within the Enforcement Division are filled (i.e., 2 Supervising Special Investigators and 3 Special Investigators). All Investigators are being trained to begin conducting field investigations. The Board is in the process of ordering new equipment and, although no field work has been conducted to date, approximately 500 cases have been transferred to the Investigations Unit for handling.

Enforcement Vacancies – The following CPEI vacancies have been filled:

- 2 Supervising Special Investigator positions.
- 3 Special Investigator positions.

The Board is continuing its recruitment efforts to fill the remaining 10.5 positions (i.e., 7 Special Investigator positions and 3.5 Associate Governmental Program Analyst (AGPA) positions).

In addition to the CPEI positions, the following vacancy exists:

- 1 Staff Services Manager II – Vacant December 1, 2011.
- 1 AGPA (Complaint Unit) – Vacant October 1, 2011 (to be filled effective February 27, 2012).

Recruitment efforts to fill the SSMII vacancy are underway.

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 10 months, from March 2, 2011 through January 31, 2012, a total of 2,691 overtime hours were worked by the Enforcement staff.

B. Enforcement Division General Statistics

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

Table #1: Enforcement Division	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12 Through 12/31/11
Complaints Received (Licensees)	1,249	1,506	2,013	3,110	2,599	1,225
Complaints Received (Applicants)	1,194	1,401	1,573	2,041	2,461	1,295
Total Complaints Received	2,443	2,907	3,586	5,151	5,060	2,520
Total Complaints Pending	2,279	2,633	3,006	4,365	3,906	3,825
Investigations Referred to DOI ¹	172	190	140	113	111	44
Investigations Closed						
Licensee Investigations by Staff	1,570	1,394	1,522	2,446	3,593	2,549
Licensee DOI Investigations	88	66	137	240	206	67
Applicants Approved/Cleared	1,051	1,023	1,474	1,150	1,757	730
Applicants Denied (In-House)	19	34	24	20	55	31
Total Investigations Closed:	2,728	2,517	3,157	3,856	5,611	3,377
Cases Referred to AG's Office	188	326	226	221	339	199
Accusations Filed	176	203	183	166	168	58
Disciplinary Actions Taken	179	185	199	213	175	95
Statement of Issues Filed	8	31	32	18	57	34
Licenses Denied (Adjudicated)	2	5	9	10	7	8
¹ DOI = DCA Division of Investigation.						

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)	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12 Through 12/31/11
Investigations Conducted In-House	334	154	176	212	295	280
Investigations Conducted by DOI ¹	539	475	665	669	601	729
Total Investigations ²	437	315	421	441	448	504
Pre-Accusations ³	309	182	150	138	145	167
Post Accusations ⁴	475	336	423	434	275	288
Total Average Days	1,221	833	994	1,013	868	959
Total Average Years	3.3	2.3	2.7	2.8	2.4	2.6

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 increased during 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).

Attachment A Fiscal Year 2011/12 First Quarter Performance Report

Agenda Item #13 – Attachment A

Department of Consumer Affairs

Board of Vocational Nursing & Psychiatric Technicians

Performance Measures

Q1 Report (July – September 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.

Volume

Number of complaints received.*

Q1 Total: 1,366

Q1 Average: 455

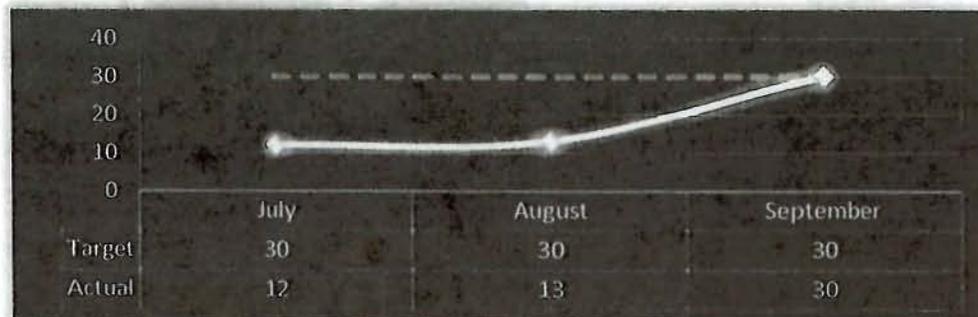


Intake

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

Target: 30 Days

Q1 Average: 17 Days



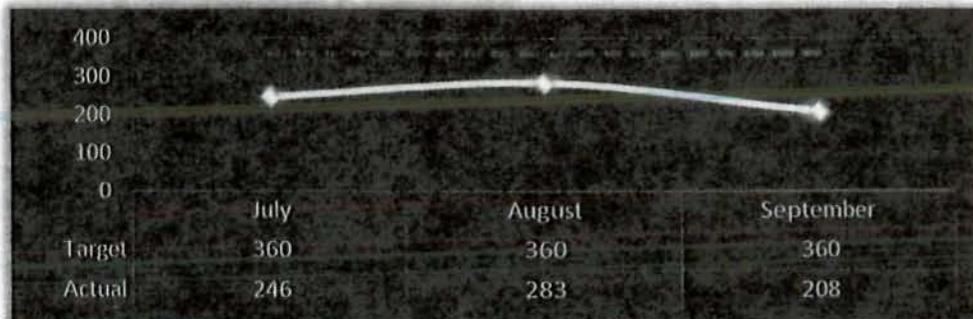
*"Complaints" in these measures include complaints, convictions, and arrest reports.

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

Q1 Average: 243 Days

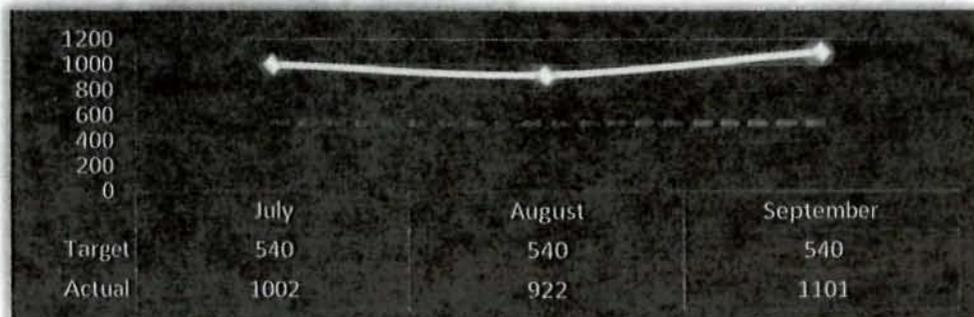


Formal Discipline

Average cycle time from complaint receipt to closure, for cases sent to the Attorney General or other forms of formal discipline.

Target: 540 Days

Q1 Average: 971 Days

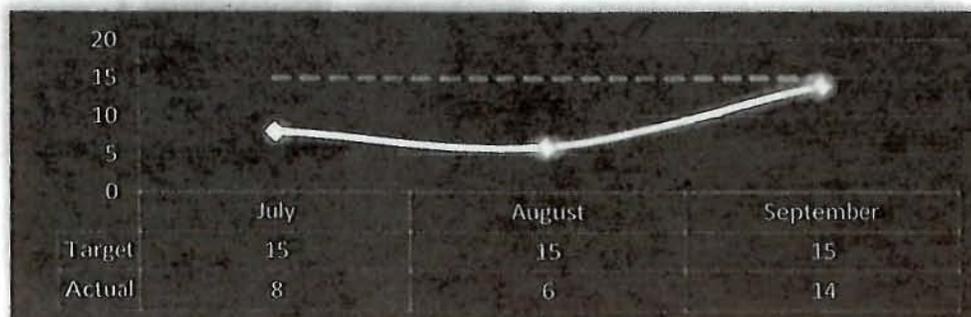


Probation Intake

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

Target: 15 Days

Q1 Average: 9 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

Q2 Average: N/A

The Board did not handle any probation violations this quarter.

