

Agenda Item #10



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDWIN M. GAVIN
BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS
2535 Capitol Oaks Drive, Suite 205, Sacramento, CA 95833-2945
Phone (916) 263-7800 Fax (916) 263-7855 Web www.bvnpt.ca.gov



DATE: August 14, 2012
TO: Board Members
FROM: 
Karen Newquist
Enforcement Division Chief
SUBJECT: Enforcement Division Report

A. Consumer Protection Enforcement Initiative (CPEI)

Enforcement Performance Measures (PM) – The following eight performance 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: Intake Cycle Time – Average number of days to complete complaint intake.

PM 3: Intake & Investigation Cycle Time – Average number of days to complete closed cases not resulting in formal discipline.

PM 4: Formal Discipline 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: Probation Intake Cycle Time – 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: Probation Violation Response Cycle Time – Average number of days from the time a violation is reported to a program to the time the assigned probation monitor responds.

The DCA has delayed data collection for PM 5 Efficiency (Cost) until BreEZe, the new integrated licensing and enforcement system, is implemented.

The fourth quarter (April – June 2012) PM report (see Attachment A) shows that the number of complaints received during the month of June almost doubled compared to each of the previous two months. The bulk of the increase was due to a focus on reducing evaluation backlogs in the Licensing Division, which resulted in a sudden influx of conviction complaints related to applicants to the Enforcement Division.

The Board continues to meet the 30-day target for PM 2 Intake and the 15-day target for PM 7 Probation Intake. For PM 3 Intake & Investigation, the Board exceeded the 360-day target in May. By June, the target was again met, and the average for the quarter was within target.

The Board does not anticipate meeting the PM 4 Formal Discipline target without improvement to other portions of the enforcement process handled by other agencies (i.e. Attorney General's Office and Office of Administrative Hearings).

PM 8 Probation Violation Response shows that the Board did not meet the 30-day target in May. By June, the Board was again meeting target.

Development of New CPEI Investigations Unit – The Investigations Unit consists of 2 Supervising Special Investigators and 8 Special Investigators. Standard training for all new investigators includes professional conduct, principles of administrative law, the investigative process, principles of evidence, evidence collection, interviewing techniques, report writing, administrative and criminal proceedings, the enforcement process, and safety while in the field.

As of July 30, 2012, the outstanding workload was 665 investigation cases. An additional 139 investigation cases were outstanding with the DCA Division of Investigation (DOI). The Investigations Unit is responsible for reviewing DOI completed investigations and, if warranted, forwarding the matter for appropriate disciplinary action.

Supervising Special Investigators are working closely with the new investigators and are accompanying them to the field to provide on-the-job training. Several of the investigators are now independently conducting field investigations.

Budget Letter (BL) 12-03 Impact – Due to the Department of Finance's BL 12-03 requirements, a .20 permanent Special Investigator position was lost.

B. Proposed Regulatory Actions

The Enforcement Division is working on 2 regulatory actions: (1) Proposed Regulatory Action to Implement SB 1441, Uniform Standards for Substance-Abusing Licensees and Revision of Disciplinary Guidelines; and (2) Proposed Regulatory Action to Implement SB 539, Mandatory Reporting Requirements. These items will be reported during the Regulatory Report, agenda items 11.A. and 11.B.

C. Enforcement Division Updates

Contract with Phamatech, Inc. for Drug Testing Services – Effective July 1, 2010, the DCA executed a 2-year departmental contract for drug testing services with Phamatech, Inc. All probationers required to be tested as part of their terms of probation are required to go through Phamatech for drug testing. Currently, the Board has approximately 110 probationers who are required to be tested. The Phamatech contract has been extended for 6 months through December 31, 2012.

Expert Witness Training – The Board will be conducting an expert witness training in Sacramento in Fall 2012. At this training, qualified individuals will be trained on how to review enforcement cases, provide quality expert opinions, and testify at administrative

hearings. The Board's Enforcement and Education Divisions along with the Attorney General's Office will provide the training.

Interested licensed registered nurses, vocational nurses, and psychiatric technicians are encouraged to quickly submit their applications so that they may be screened in time for the upcoming training. More information about expert witness recruitment and qualifications is located on the Board's website at www.bvnpt.ca.gov/enforcement/expert_witnesses.shtml.

Overtime – Since March 2, 2011 when the DCA announced that the Board could again approve overtime, Enforcement staff have been volunteering to work overtime to reduce backlogs. From March 2, 2011 through July 31, 2012, a total of 4,295 overtime hours were worked by Enforcement staff. This amount of overtime equates to approximately 2.4 positions. Although the voluntary overtime isn't enough to eliminate backlogs, it is helping with Enforcement's increasing workload.

DOI Case Aging – The Board and DOI worked together to address the discrepancies between the Board's and DOI's reports on DOI case aging. It was discovered that the Board's report was capturing case aging data that included the DOI investigation and the Board's investigative wrap-up procedures (e.g., review DOI investigation reports; obtain expert witness opinions, etc.), instead of just the DOI investigation time. After the Board corrected this, the two reports are very similar.

Some minor discrepancies between the two reports will continue. The Board identifies the end date for DOI's investigation as the date the DOI investigation report is received at the Board; while, DOI identifies the end date as the date DOI mails the investigation report to the Board. Additionally, discrepancies may occur at the change of fiscal years. DOI and the Board's reports may include cases in different fiscal year reports due to the mailing and receiving dates.

D. Enforcement Division General Statistics

Table #1 summarizes the Enforcement Division's volume over the past six fiscal years.

Table #1: Enforcement Volume	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12
Complaints Received (Licensees)	1,249	1,506	2,013	3,110	2,599	2,610
Complaints Received (Applicants)	1,194	1,401	1,573	2,041	2,461	3,035
Total Complaints Received	2,443	2,907	3,586	5,151	5,060	5,645
Complaints Pending – Desk	2,070	2,334	1,641	4,123	3,742	3,189
Complaints Pending – Field	0	0	0	0	0	656
<i>Field Complaints Pending with DOI¹</i>	209	299	365	242	164	141
Total Complaints Pending	2,279	2,633	3,006	4,365	3,906	3,845
Field Complaints Referred to DOI	172	190	140	113	111	92
Total Complaints Referred to DOI	172	190	140	113	111	92
Complaints Closed - Desk	2,640	2,451	3,020	3,616	5,407	5,464
<i>Licensees – Unsubstantiated/NOW*</i>	-	-	-	-	2,495	2,065
<i>Substantiated*</i>	-	-	-	-	643	485
<i>Applicants - Approved</i>	1,051	1,023	1,474	1,150	1,757	1,739
<i>Denied</i>	19	34	24	20	55	78
<i>Other²</i>	-	-	-	-	457	1,097
Complaints Closed - Field	0	0	0	0	0	5
<i>Licensees – Unsubstantiated/NOW*</i>	-	-	-	-	-	4
<i>Substantiated*</i>	-	-	-	-	-	1
Complaints Closed - DOI	88	66	137	240	204	114
<i>Licensees – Unsubstantiated/NOW*</i>	-	-	-	-	111	31
<i>Substantiated*</i>	-	-	-	-	93	83
Total Complaints Closed	2,728	2,517	3,157	3,856	5,611	5,583
Total Cases Referred to AG's Office	188	326	226	221	339	412
Total Accusations Filed	176	203	183	166	168	251
Total Disciplinary Actions Completed	179	185	199	213	175	170
Total Statement of Issues Filed	8	31	32	18	57	82
Total Licenses Denied (Adjudicated)	2	5	9	10	7	17
*Started reporting data FY 2010/11						
1. DOI = DCA Division of Investigation.						
2. Other = pending exam, abandoned, referred to Attorney General's (AG) Office.						

(See next page for Table #2)

Table #2 summarizes the Enforcement Division's processing times over the past six fiscal years.

Table #2: Enforcement Average Processing Times (In days)	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12
Complaint Processing ¹						
Desk Investigations	334	154	176	212	295	283
Field Investigations	0	0	0	0	0	197
DOI Investigations ²	881	716	705	775	703	666
Average Days to Close Complaints	366	191	199	247	310	291
Formal Discipline Processing						
Pre-Accusations ³	309	182	150	138	145	175
Post Accusations ⁴	475	336	423	434	275	191
Average Days to Complete Disciplinary Actions	784	518	573	572	420	366
Total Average Processing Time (Days)⁵	1,150	709	772	819	730	657
Total Average Processing Time (Years)	3.2	1.9	2.1	2.2	2.0	1.8
1. Desk, Field, and DOI: includes intake, investigation, determination of Board action, and preparation of informal action if applicable. 2. DOI = DCA Division of Investigation. 3. From date transmitted to the Attorney General's (AG) Office to date formal action filed. 4. From date formal action filed to conclusion of the disciplinary case. 5. Total = Average Days to Close Complaints + Average Days to Complete Disciplinary Actions.						

Attachment A Fiscal Year 2011/12 Fourth Quarter Performance Report

Agenda Item #10 – Attachment A

Department of Consumer Affairs

Board of Vocational Nursing & Psychiatric Technicians

Performance Measures

Q4 Report (April - June 2012)

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 and convictions received.

Q4 Total: 1,701

Complaints: 208 Convictions: 1,493

Q4 Monthly Average: 567

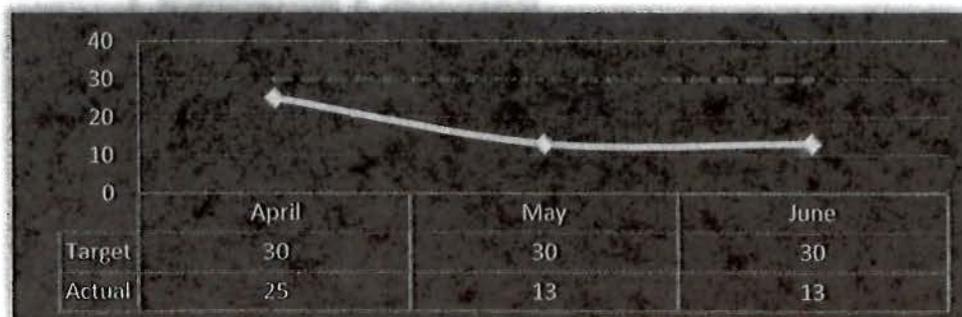


Intake

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

Target: 30 Days

Q4 Average: 17 Days

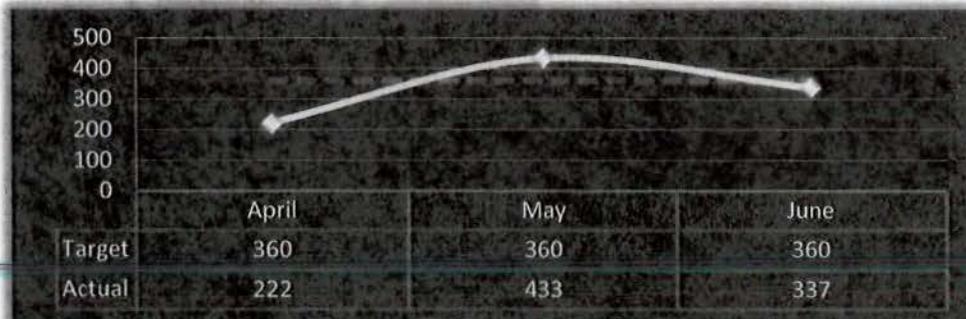


Intake & Investigation

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: 331 Days

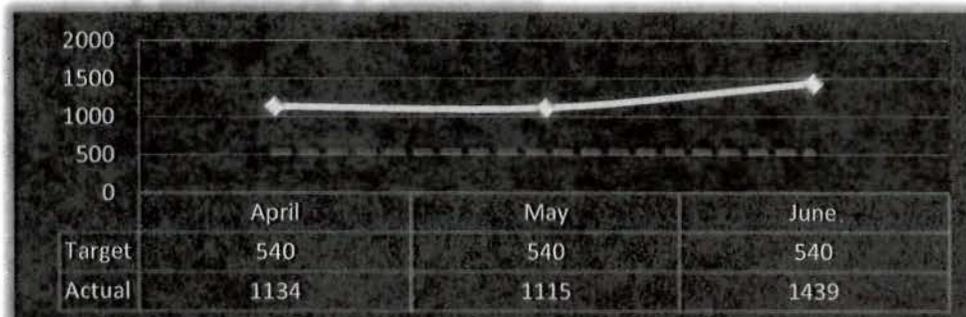


Formal Discipline

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: 1,229 Days

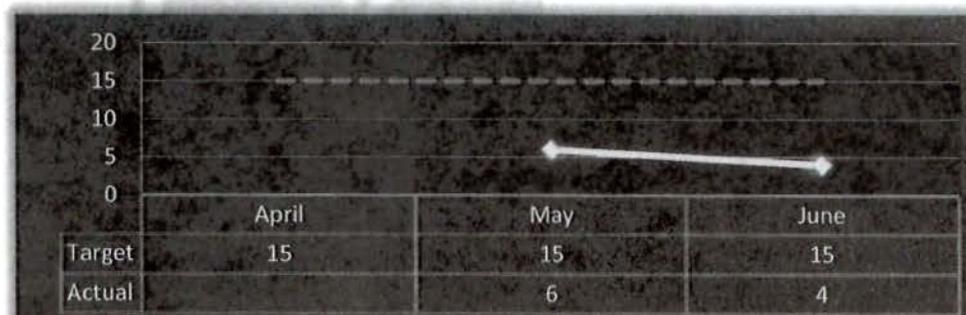


Probation Intake

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

Target: 15 Days

Q4 Average: 5 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: 35 Days

