

# Agenda Item #5.D.



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

**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](http://www.bvnpt.ca.gov)



DATE: October 15, 2013  
TO: Board Members  
FROM:   
Marilyn Kimble  
Chief, Enforcement Division  
SUBJECT: Enforcement Division Report

The Enforcement Division Report includes an update on the Consumer Protection Enforcement Initiative; Proposed Regulatory Action to Implement Senate Bill 539, Mandatory Reporting Requirements; and Update on Enforcement Division Vacancies, Overtime, General Statistics, and Performance Measures. The report with relevant items are attached to this memorandum.

On September 13, 2013, the Enforcement Division Report was considered by less than a quorum of the full Board (see **draft** September 13, 2013, Board Meeting Minutes, attached to Agenda Item #5). The recommendation from that meeting was to accept the report without changes.

Attachment A: Agenda Item #10. Enforcement Division Report, Dated August 13, 2013.



DATE: August 13, 2013

TO: Board Members

FROM:   
Marilyn Kimble  
Enforcement Program Manager

SUBJECT: Enforcement Division Report

## A. Consumer Protection Enforcement Initiative (CPEI)

**Department of Finance (DOF)** – At the direction of the Governor, the DOF is conducting a review of the impact of the CPEI as it relates to the enforcement process. Meetings with the various healing arts boards are being conducted so that DOF can gain an understanding of operations and practices. Based on these meetings it is anticipated that DOF may develop a response survey for use by all of the healing arts boards. The purpose is to determine potential policy changes, identify where needed resources may be, examine workloads and the management of expenditures, and assess possible needs to further the goal of enhancing consumer protection.

On July 17, 2013, Teresa Bello-Jones, Executive Officer; Angelina Martin, Assistant Executive Officer; along with Tricia Yu, Supervising Special Investigator; Alice Delvey-Williams and Marilyn Kimble, Enforcement managers, met with Nathan Johnson, Budget Analyst, DOF; Mike Gomez, Deputy Director of Investigation and Enforcement Programs, DCA; Sandra Mayorga, Deputy Director, Office of Administrative Services, DCA; Janice Shintaku-Enkoju, Fiscal Officer, DCA; and Stephanie Whitley, Supervising Investigator, Division of Investigation, DCA. The discussion centered on a general review of the Board's workload, backlogs, procedures and operations.

In addition, the California Department of Human Resources (CalHR) will also be looking at CPEI from a classification and duties perspective; specifically, the use of the Special Investigator classification by the healing arts boards. CalHR will be conducting desk audits to compare the Special Investigator duty statements with the actual duties being performed by staff members.

**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.

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

The third quarter (January – March 2013) PM report (Attachment A) shows that the number of complaints received averaged 378 a month.

With the exception of PM 4 Formal Discipline Cycle time, the Board met its PM targets. PM 2 Complaint Intake and PM 7 Probation Intake averaged 14 days and 6 days respectively. PM 3 Intake and Investigation averaged 221 days. PM 8 Probation Violation Response Cycle Time averaged 2 days.

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).

The PM report for the fourth quarter (January – March 2013) and the Annual Report for the fiscal year (July 2012 – June 2013) will be provided once they are available.

## **B. Regulatory Activity**

**Proposed Regulatory Action to Implement SB 539, Mandatory Reporting Requirements** – At its November 9, 2012 Board Meeting, the Board approved proposed regulatory language amending sections 2520.5 and 2523.2 (VN); and sections 2577.6 and 2579.4 (PT) of the California Code of Regulations (CCR); directed staff to submit the rulemaking file to DCA and to the Office of Administrative Law (OAL) for final approval; and authorized the Executive Officer to make non-substantive changes as are required by the Director of DCA and OAL.

The rulemaking file was approved by DCA on August 7, 2013, and submitted to OAL for final approval on August 8, 2013. OAL has 30 working days within which to approve or disapprove the rulemaking file.

### C. Enforcement Division Updates

**Enforcement Division Vacancies** – The following vacancies exist:

- 1 Staff Services Manager II
- 1 Supervising Special Investigator
- 2 Special Investigators
- 1 Staff Services Analyst

Recruitment to fill the Special Investigator vacancies is on hold until the CalHR desk audits are completed. Recruitment to fill all other vacancies is underway.

**Overtime** – On March 2, 2011, DCA announced that the Board could again approve overtime. Since that time Enforcement staff have been volunteering to work overtime in an effort to reduce backlogs. Total hours worked are as follows:

- 942 – Fiscal Year 10/11 (March 2 – June 30, 2011)
- 2,720 – FY 11/12 (July 1, 2011 – June 30, 2012)
- 3,595 – FY 12/13 (July 1, 2013 – June 30, 2013)
- 308 – July 2013

## D. Enforcement Division General Statistics

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

<b>Table #1: Enforcement Volume</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>
Complaints Received (Licensees)	1,506	2,013	3,110	2,599	2,610	2,187
Complaints Received (Applicants)	1,401	1,573	2,041	2,461	3,035	2,826
<b>Total Complaints Received</b>	<b>2,907</b>	<b>3,586</b>	<b>5,151</b>	<b>5,060</b>	<b>5,645</b>	<b>5,013</b>
Complaints Pending – Desk	2,334	1,641	4,123	3,742	3,189	2,548
Complaints Pending – Field	0	0	0	0	656	977
<i>Field Complaints Pending with DOI<sup>1</sup></i>	299	365	242	164	141	48
<b>Total Complaints Pending</b>	<b>2,633</b>	<b>3,006</b>	<b>4,365</b>	<b>3,906</b>	<b>3,845</b>	<b>3,585</b>
Complaints Referred to DOI	190	140	113	111	92	0
<b>Total Complaints Referred to DOI</b>	<b>190</b>	<b>140</b>	<b>113</b>	<b>111</b>	<b>92</b>	<b>0</b>
Complaints Closed - Desk	2,451	3,020	3,616	5,407	5,464	5,227
<i>Licensees – Unsubstantiated/NOW*</i>	-	-	-	2,495	2,065	1,616
<i>Substantiated*</i>	-	-	-	643	485	369
<i>Applicants - Approved</i>	1,023	1,474	1,150	1,757	1,739	2,035
<i>Denied</i>	34	24	20	55	78	36
<i>Other<sup>*2</sup></i>	-	-	-	457	1,097	1,171
Complaints Closed - Field	0	0	0	0	5	259
<i>Licensees – Unsubstantiated/NOW**</i>	-	-	-	-	4	172
<i>Substantiated**</i>	-	-	-	-	1	87
Complaints Closed - DOI	66	137	240	204	114	86
<i>Licensees – Unsubstantiated/NOW*</i>	-	-	-	111	31	45
<i>Substantiated*</i>	-	-	-	93	83	41
<b>Total Complaints Closed</b>	<b>2,517</b>	<b>3,157</b>	<b>3,856</b>	<b>5,611</b>	<b>5,583</b>	<b>5,572</b>
Cases Referred to AG's Office	326	226	221	339	412	288
Accusations Filed	203	183	166	168	251	217
Disciplinary Actions Completed	185	199	213	175	170	271
Statement of Issues Filed	31	32	18	57	82	68
Licenses Denied (Adjudicated)	5	9	10	7	17	16
<p>*Started reporting data FY 2010/11  **Started reporting data FY 2011/12  1. DOI = DCA Division of Investigation.  2. Other = pending exam, abandoned, referred to Attorney General's (AG) Office.</p>						

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

<b>Table #2: Enforcement Average Processing Times (In days)</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>
Complaint Processing <sup>1</sup>						
Desk Investigations	154	176	212	295	283	238
Field Investigations	0	0	0	0	197	510
DOI Investigations <sup>2</sup>	716	705	775	703	666	783
<b>Average Days to Close Complaints<sup>3</sup></b>	<b>191</b>	<b>199</b>	<b>247</b>	<b>310</b>	<b>291</b>	<b>259</b>
Formal Discipline Processing						
Pre-Accusations <sup>4</sup>	182	150	138	145	175	236
Post Accusations <sup>5</sup>	336	423	434	275	191	220
<b>Average Days to Complete Disciplinary Actions</b>	<b>518</b>	<b>573</b>	<b>572</b>	<b>420</b>	<b>366</b>	<b>456</b>
<b>Total Average Processing Time (Days)<sup>6</sup></b>	<b>709</b>	<b>772</b>	<b>819</b>	<b>730</b>	<b>657</b>	<b>715</b>
<b>Total Average Processing Time (Years)</b>	<b>1.9</b>	<b>2.1</b>	<b>2.2</b>	<b>2.0</b>	<b>1.8</b>	<b>2.0</b>
<ol style="list-style-type: none"> <li>1. Desk, Field, and DOI: includes intake, investigation, determination of Board action, and preparation of informal action if applicable.</li> <li>2. DOI = DCA Division of Investigation.</li> <li>3. Prior to the 9/6/12 Board Meeting, Average Days to Close Complaints was calculated using an average of the three Complaint Processing categories. Beginning with the 9/6/12 Board Meeting, Average Days to Close Complaints was presented as weighted averages. (Weighted average is an average that takes into account the proportional relevance of each component, instead of treating each component equally.)</li> <li>4. From date transmitted to the Attorney General's (AG) Office to date formal action filed.</li> <li>5. From date formal action filed to conclusion of the disciplinary case.</li> <li>6. Total = Average Days to Close Complaints + Average Days to Complete Disciplinary Actions.</li> </ol>						

Attachment A      Fiscal Year 2012/13 Third Quarter Performance Report

# Agenda Item #10 – Attachment A

Department of Consumer Affairs

## Board of Vocational Nursing & Psychiatric Technicians

### Performance Measures

#### Q3 Report (January - March 2013)

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.

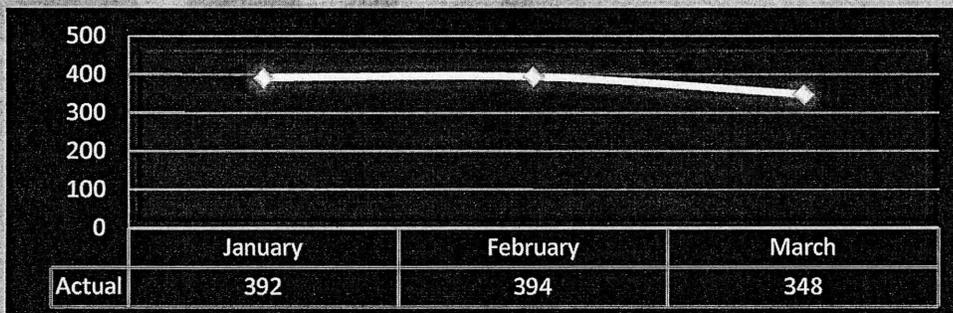
#### Volume

Number of complaints and convictions received.

**Q3 Total: 1,134**

*Complaints: 169 Convictions: 965*

**Q3 Monthly Average: 378**

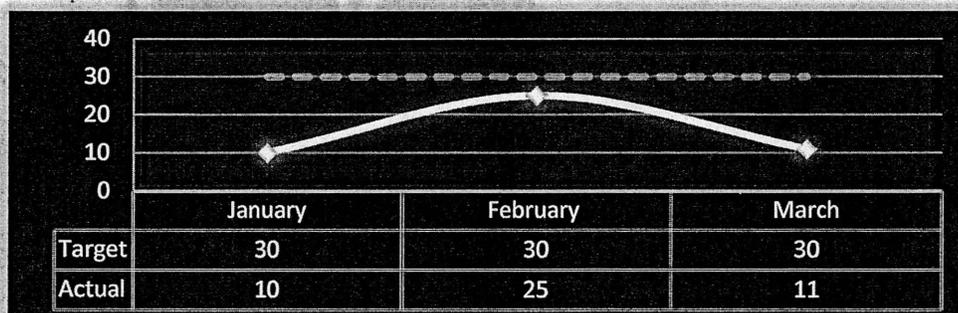


#### Intake

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

**Target: 30 Days**

**Q3 Average: 14 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: 5 Days**

