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DATE: July 31, 2015
 TO: Board Members
 FROM: Gina Bayless 
 Enforcement Division Chief
 SUBJECT: Enforcement Division Report

A. Task Force Recommendation 1 - Meeting with Division of Investigation

The use of the Consumer Protection Enforcement Initiative (CPEI) case referral acceptance matrix was implemented in May 2015. Implementation of the matrix required an analysis of our case intake process and resulted in significant changes to the process. The intake process has been streamlined to include an initial review of the case to determine the appropriate case assignment. The initial case review determines whether the case should be assigned to a complaint analyst, referred to a Special Investigator or referred to DOI. Meetings between staff and the Division of Investigation (DOI) continue on a regular basis. To date, 129 cases have been referred to DOI.

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total
Referred to DOI	0	0	0	0	0	4	6	3	7	16	40	53	129

B. Task Force Recommendation 2 - Meeting with Office of the Attorney General and Office of Administrative Hearings

In response to the Task Force recommendation to increase communication with the Office of the Attorney General (OAG) and the Office of Administrative Hearings (OAH), teleconferences have been initiated to be held on a monthly basis.

On June 26, 2015, John Brooks, Acting Executive Officer; Gina Bayless, Enforcement Division Chief; Rocio Llamas, Enforcement Manager; Ann Hutchinson, Enforcement Manager; Stephanie Whitley, Supervising Investigator, DOI; Linda Schneider, Senior Assistant Attorney General, and Brett Kingsbury, Deputy Attorney General, (OAG), participated in a teleconference to discuss the status of the Fast Track Pilot Program, strategies to improve processing times for formal discipline, and expectations regarding cases pending at the OAG.

Training needs were identified and discussed to focus on improving the overall quality of cases delivered to the OAG. The proposed training included interpretation and application of statutes and regulations, gathering evidence and subpoenas. All agreed

to collaborate on ways to improve the overall quality of cases referred to the OAG and improve adjudication processing times.

On June 29, 2015, John Brooks, Acting Executive Officer; Rocio Llamas, Enforcement Manager; Stephanie Whitley, Supervising Investigator, DOI; Helen Tennyson, Investigator, DOI; Alan Alvord, General Jurisdiction Division Presiding Administrative Law Judge, OAH, and Melissa Crowell, Deputy Director, Department of General Services, held a teleconference to discuss options available to expedite the scheduling of cases requiring a hearing. Mr. Alvord provided an overview of the scheduling process, and shared options available to the OAG's for scheduling hearings and scheduling multiple short-cause cases in a single day.

The Board is participating in the Fast Track Pilot Program as of March 1, 2015, which includes scheduling multiple short-cause cases in a single day.

C. Task Force Recommendation 3 - OAG Fast Track Pilot Program

Since the implementation of the Fast Track Pilot Program on March 1, 2015, the Board's Discipline Unit has transmitted 25 cases with proposed settlement terms to the OAG in San Diego. Twelve (12) of the 25 cases have been designated as Fast Track cases by the OAG.

New Cases Transmitted to AG's Office (San Diego)		
Discipline	Proposed Settlement Terms Included	Fast Track
25	25	12
Petition to Revoke Probation		
0	0	0

Since May 2015, several new procedures have been implemented in an effort to expedite the settlement of cases. The transmittal process has been revised and Board staff is now taking proactive steps to address case aging.

As of May 2015, Board staff began including settlement terms with all transmittals. Staff is reviewing pending OAG cases that are scheduled for hearing within 3 months and if appropriate, settlement terms are provided. Cases over 540 days old are now identified and flagged for follow-up with the Deputy Attorney General (DAG) assigned to the case. Staff is communicating with the assigned DAG to determine what is needed to move cases forward.

The Discipline Unit has transmitted another 38 cases to the other OAG locations with proposed settlement terms.

New Cases Transmitted to AG's Office (all other offices)	
Discipline	Proposed Settlement Terms Included
38	38
Petition to Revoke Probation	
6	N/A

Currently, there are a total of 500 pending cases at the OAG. Of the 500 pending cases, 138 are awaiting pleadings (Accusations or Statement of Issues) and 57 either have settled, or are pending settlement.

Additionally, there are 43 pending Petition to Revoke Probation (PTR) cases at the OAG. Six (6) of the 43 pending PTR cases either have settled or are pending settlement.

All Pending Cases at AG's Office	
Total Cases	Cases Waiting for Pleadings
500	138
Petitions to Revoke Probation	
43	5

D. Task Force Recommendation 4 - Default Decisions

Board staff is researching the statutory changes needed to provide the authority to delegate default discipline decisions to the Executive Officer.

E. Task Force Recommendation 5 - Mail Ballots

The frequency of mail ballots has been increased to every two and a half weeks on a continuous basis. Holidays and Board meetings are taken into consideration, and the mailing is adjusted accordingly.

F. Task Force Recommendation 6 - Drug Diversion Program

Board staff will invite Maximus to make a presentation to the Board regarding its drug diversion program services at a future Board meeting.

G. Other Process Improvements

With the assistance of the DOI, all pending cases are being analyzed and directed to appropriate staff. A significant number of cases were identified for closure because the allegations did not rise to the level requiring action or were not within the Boards jurisdiction. This resulted in the closure of 1244 cases in May 2015. Staff will continue to evaluate pending cases in an effort to direct Board resources to those cases requiring further investigation.

COMPLAINT CASES CLOSED EACH MONTH													
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total
Desk	488	561	624	644	332	335	302	350	485	517	1244	503	6,385
Field	44	30	43	55	74	14	15	44	47	47	66	27	506
DOI	1	1	0	0	2	2	0	0	1	1	2	5	15

H. Enforcement Performance Measures (PM)

Performance Measures were developed by the Department of Consumer Affairs (DCA) to assess the effectiveness of efforts to streamline enforcement processes, reduce backlogs, and achieve the overall goal to process complaints within 12-18 months.

At this time, the PM report for the third and fourth (January – June 2015) quarter is not yet available.

I. General Statistics

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

Table #1: Enforcement Volume	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Complaints Received (Licensees)	3,110	2,599	2,610	2,210	1,981	2,077
Complaints Received (Applicants)	2,041	2,461	3,035	2,806	3,808	3,312
Total Complaints Received	5,151	5,060	5,645	5,016	5,789	5,389
Complaints Pending – Desk	4,123	3,742	3,189	2,658	2,393	2,140
Complaints Pending – Field	0	0	656	1,036	904	766
<i>Field Complaints Pending with DOI¹</i>	242	164	141	60	19	127
Total Complaints Pending	4,365	3,906	3,845	3,754	3,316	3,033
Complaints Referred to DOI	113	111	92	0	22	129
Total Complaints Referred to DOI	113	111	92	0	22	129
Complaints Closed - Desk	3,616	5,407	5,464	5,227	5,670	6,385
<i>Licensees – Unsubstantiated/NOW*</i>	-	2,495	2,065	1,616	1,462	1,487
<i>Substantiated*</i>	-	643	485	369	386	292
<i>Applicants - Approved</i>	1,150	1,757	1,739	2,035	2,461	3,134
<i>Denied</i>	20	55	78	36	35	42
<i>Other*²</i>	-	457	1,097	1,171	1,326	1,430
Complaints Closed - Field	0	0	5	259	527	506
<i>Licensees – Unsubstantiated/NOW*</i>	-	-	4	172	327	311
<i>Substantiated*</i>	-	-	1	87	200	195
Complaints Closed - DOI	240	204	114	86	56	15
<i>Licensees – Unsubstantiated/NOW*</i>	-	111	31	45	40	12
<i>Substantiated*</i>	-	93	83	41	16	3
Total Complaints Closed	3,856	5,611	5,583	5,572	6,253	6,906
Cases Referred to AG's Office	221	339	412	288	395	290
Accusations Filed	166	168	251	217	237	285
Total Disciplinary Actions Completed	213	175	170	271	250	326
Statement of Issues Filed	18	57	82	68	50	69
Licenses Denied (Adjudicated)	10	7	17	16	16	14
*Started reporting data FY 2010/11						
1. DOI = DCA Division of Investigation.						
2. Other = pending exam, abandoned, referred to Attorney General's (AG) Office.						

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

Table #2: Enforcement Average Processing Times (In days)	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15
Complaint Processing ¹						
Desk Investigations	212	295	283	238	211	240
Field Investigations	0	0	197	510	579	598
DOI Investigations ²	775	703	666	783	968	957
Average Days to Close Complaints³	247	310	291	249	249	267
Formal Discipline Processing						
Pre-Accusations ⁴	138	145	175	236	176	226
Post Accusations ⁵	434	275	191	220	252	414
Average Days to Complete Disciplinary Actions	572	420	366	456	428	640
Total Average Processing Time (Days)⁶	819	730	657	715	677	907
Total Average Processing Time (Years)	2.2	2.0	1.8	1.9	1.9	2.5
<ol style="list-style-type: none"> 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. 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.) 4. From date transmitted to the Attorney General's (AG) Office to date formal action filed. 5. From date formal action filed to conclusion of the disciplinary case. 6. Total = Average Days to Close Complaints + Average Days to Complete Disciplinary Actions. 						