

Agenda Item #10



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS
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DATE: April 17, 2012
TO: Board Members
FROM: 
Karen Newquist
Enforcement Division Chief
SUBJECT: Enforcement Division Report

A. Enforcement Division Updates

Enforcement Performance Measures – The following eight performance measures (PM) 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 PMs. The DCA has delayed data collection for PM 5 (Cost) until BreEZe, the new integrated licensing and enforcement system, is implemented.

The second (October–December 2011) and third (January–March 2012) quarter PM reports (see Attachment A) show that the Board met all targets except PM 4 (Formal Discipline) which was set by the DCA at 540 days (18 months). The Board does not anticipate meeting target PM 4 without improvement to other portions 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. On October 25, 2011, the rulemaking file was submitted to DCA. On January 24, 2012, the rulemaking file was approved by the DCA and was sent to the Department of Finance (DOF) for approval. On March 22, 2012, DOF approved the rulemaking file. On March 23, 2012, the rulemaking file was submitted to OAL for final approval. OAL has 30 working days within which to approve or disapprove the rulemaking file. Upon approval, OAL will file the regulation changes with the Secretary of State. Thirty days later, the regulation changes will become effective.

Proposed Regulatory Action to Implement Uniform Standards for Substance Abusing Licensees and Revision of the Disciplinary Guidelines – At its February 25, 2011 Board Meeting, the Board approved draft proposed regulatory language to implement uniform standards for substance abusing licensees and directed staff to prepare a rulemaking file for notice and comment. The notice of proposed regulations was published on July 22, 2011 and a public hearing was held on September 6, 2011.

At the September 9, 2011, October 27, 2011, and February 24, 2012 Board Meetings, the Board tabled this item to allow DCA and staff to properly consider public comments and legal opinions. The Legislative Counsel Bureau's (LCB) October 27, 2011 opinion and the Office of the Attorney General's (OAG) February 29, 2012 informal legal opinion addressed the discretion of the healing arts boards in adopting the Uniform Standards. On April 5, 2012, DCA issued its opinion regarding the questions raised in the LCB and OAG opinions. Staff will bring this matter forward during Agenda Item 11.B of the Regulatory Report.

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 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. The regulations to implement the new requirements will be proposed for consideration during Agenda Item 11.D of the Regulatory Report.

Implementation and Development of New Investigations Unit – The 2 Supervising Special Investigator positions and 6 of the 10 Special Investigator positions are filled. Active recruitment continues to fill the 4 remaining Special Investigator vacancies.

The Investigations Unit is in its developmental phase, with emphasis on creating clear policies and procedures, utilizing best practices, and providing thorough training. Approximately 500 cases are assigned to the Unit. The Special Investigators are actively working the cases, and supervised field investigations will commence in May, 2012.

Meeting with DCA Division of Investigation – On March 29, 2012, Executive Officer Teresa Bello-Jones, Assistant Executive Officer Angelina Martin, and Enforcement Division Chief Karen Newquist met with Daryl Walker, Chief of Division of Investigation (DOI), and David Chriss, Deputy Chief of DOI. The topics of discussion included the Board's new Investigations Unit; the impact to DOI now that many boards and bureaus are developing their own internal investigative units; the Board's concerns with investigation cases assigned to DOI; investigation training; and DOI's rates.

DOI will continue to provide the Board investigative services as needed, although their volume of workload is shifting toward criminal investigations and sting operations. There was discussion on how to work effectively and efficiently together and how to facilitate communications between the Board and DOI investigators. There is a discrepancy between the Board's and DOI's data related to DOI case aging. This is being reviewed to determine the reason for the discrepancy. In early June, 2012, Chief Daryl Walker will provide training to the Investigations Unit. The training will cover safety and interviewing techniques while out in the field.

Enforcement Division Vacancies –

The following vacancies exist in the CPEI Investigations Unit:

- 4 Special Investigator positions.
- 3.5 Limited Term Associate Governmental Program Analyst positions.

Although 15.5 CPEI positions were approved for the new Investigations Unit, 3.5 of those positions were classified as Limited Term Associate Governmental Program Analyst (AGPA) positions. After the State's hiring freeze was lifted in November 2011, the Board did not pursue recruitment for these AGPA positions because they will expire on June 30, 2012.

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

- 1 Staff Services Analyst (Limited Term) – Vacant March 19, 2012.

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 12 months, from March 2, 2011 through March 31, 2012, a total of 3,248 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 3/31/2012
Complaints Received (Licensees)	1,249	1,506	2,013	3,110	2,599	1,976
Complaints Received (Applicants)	1,194	1,401	1,573	2,041	2,461	1,846
Total Complaints Received	2,443	2,907	3,586	5,151	5,060	3,822
Total Complaints Pending	2,279	2,633	3,006	4,365	3,906	3,607
Investigations Referred to DOI ¹	172	190	140	113	111	92
Investigations Closed						
Licensee Investigations by Staff	1,570	1,394	1,522	2,446	3,593	4,044
Licensee DOI Investigations	88	66	137	240	206	89
Applicants Approved/Cleared	1,051	1,023	1,474	1,150	1,757	1,185
Applicants Denied (In-House)	19	34	24	20	55	52
Total Investigations Closed:	2,728	2,517	3,157	3,856	5,611	5,370
Cases Referred to AG's Office	188	326	226	221	339	321
Accusations Filed	176	203	183	166	168	132
Disciplinary Actions Taken	179	185	199	213	175	129
Statement of Issues Filed	8	31	32	18	57	57
Licenses Denied (Adjudicated)	2	5	9	10	7	11
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 3/31/2012
Investigations Conducted In-House	334	154	176	212	295	258
Investigations Conducted by DOI ¹	539	475	665	669	601	542
Total Investigations²	437	315	421	441	448	400
Pre-Accusations ³	309	182	150	138	145	174
Post Accusations ⁴	475	336	423	434	275	275
Total Average Days	1,221	833	994	1,013	868	849
Total Average Years	3.3	2.3	2.7	2.8	2.4	2.3
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).						

Agenda Item #10 – Attachment A

Department of Consumer Affairs

Board of Vocational Nursing & Psychiatric Technicians

Performance Measures

Q2 Report (October - December 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.

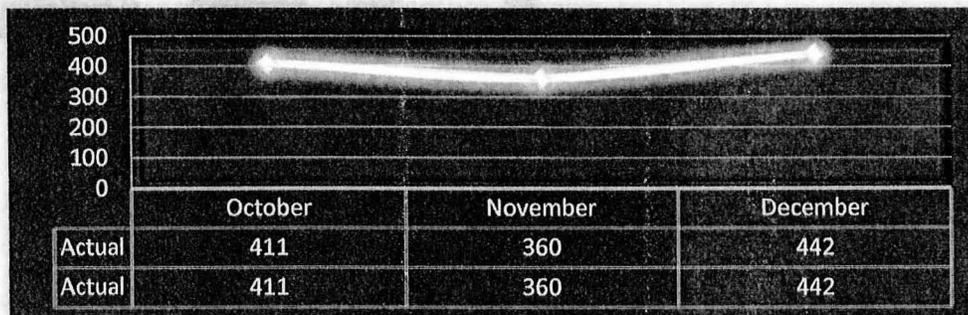
Volume

Number of complaints and convictions received.

Q2 Total: 1,213

Complaints: 124 Convictions: 1,089

Q2 Monthly Average: 404

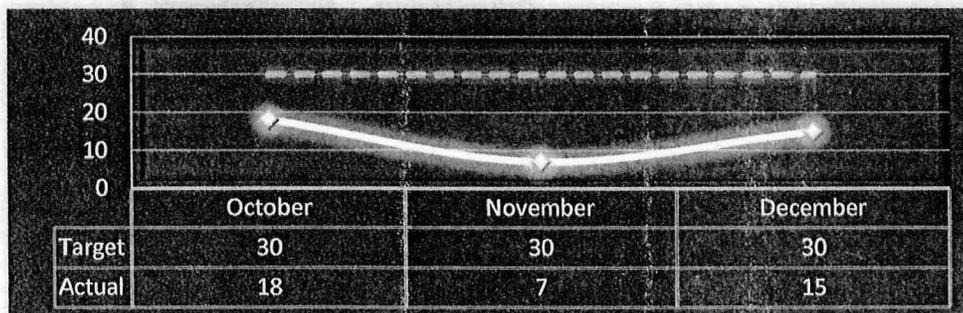


Intake

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

Target: 30 Days

Q2 Average: 14 Days

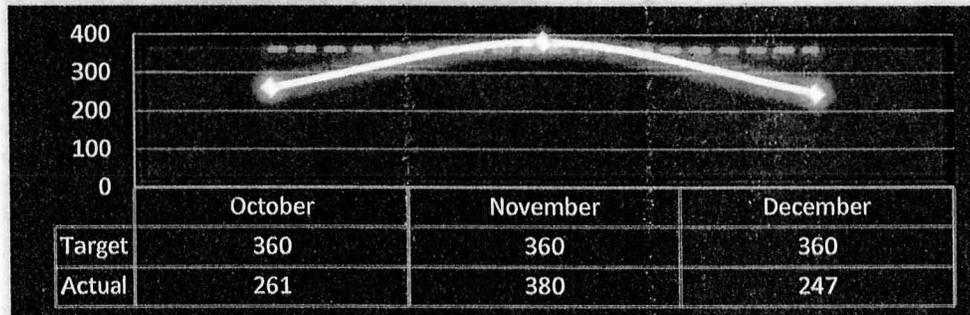


Intake & Investigation

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

Q2 Average: 296 Days

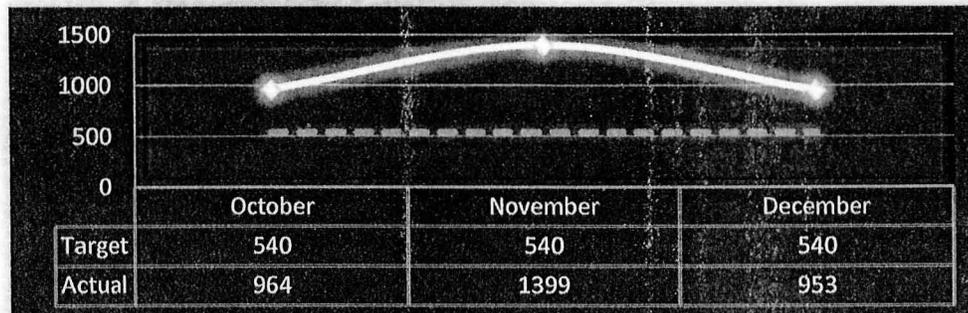


Formal Discipline

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

Q2 Average: 1095 Days

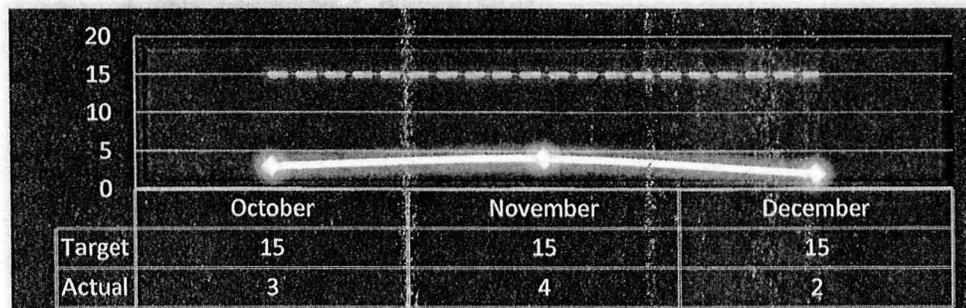


Probation Intake

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

Target: 15 Days

Q2 Average: 3 Days

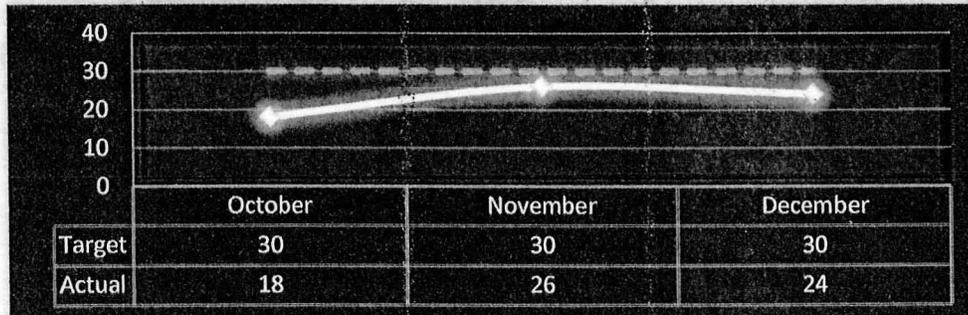


Probation Violation Response

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: 23 Days



Board of Vocational Nursing & Psychiatric Technicians

Performance Measures

Q3 Report (January - March 2012)

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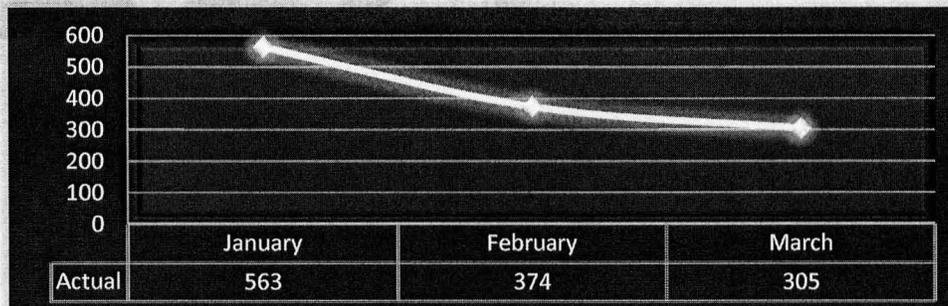
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Number of complaints and convictions received.

Q3 Total: 1,242

Complaints: 178 Convictions: 1,064

Q3 Monthly Average: 414

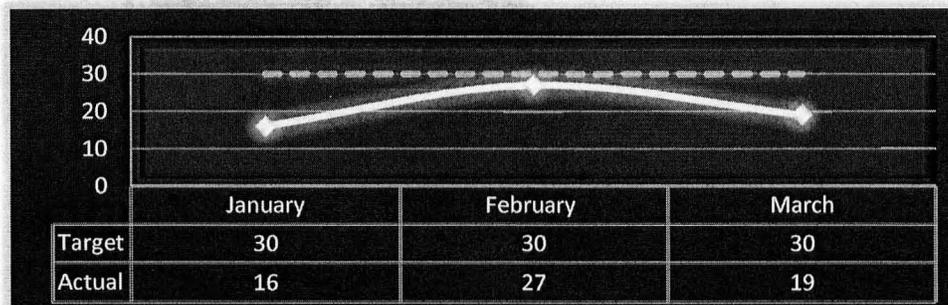


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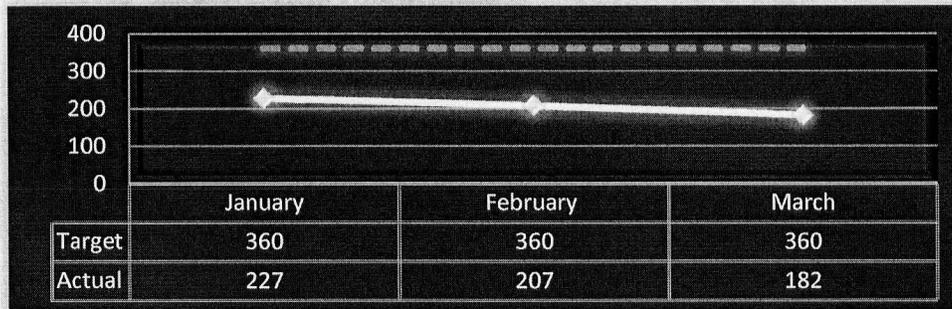


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Target: 360 Days

Q3 Average: 204 Days

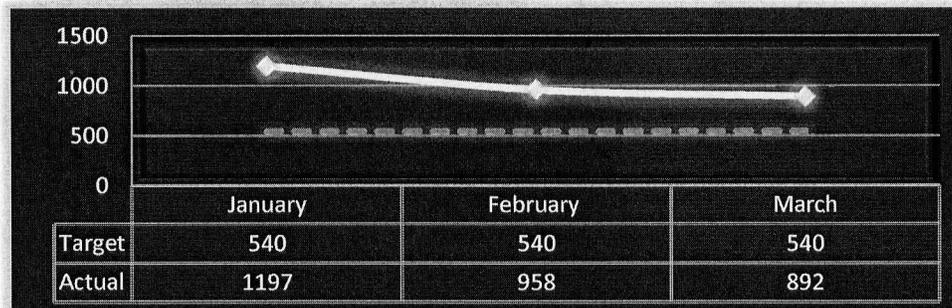


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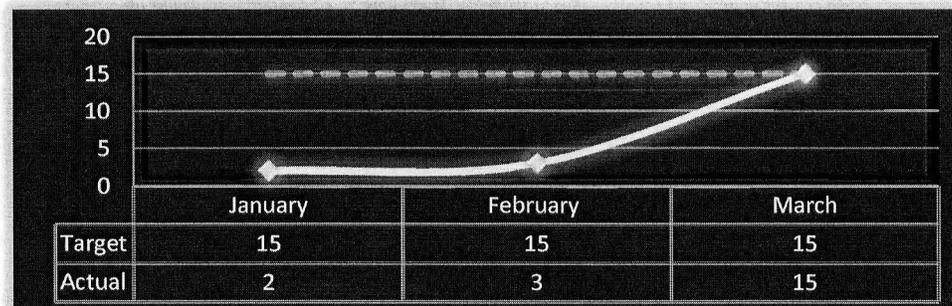


Probation Intake

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

Target: 15 Days

Q3 Average: 5 Days

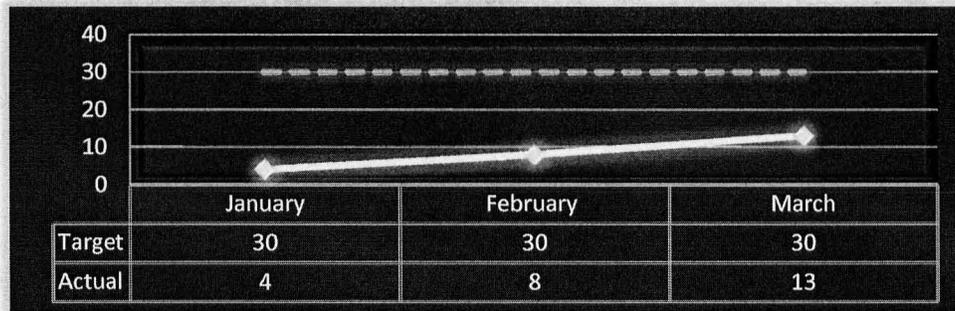


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Target: 30 Days

Q3 Average: 7 Days



Agenda Item #10 – Attachment A

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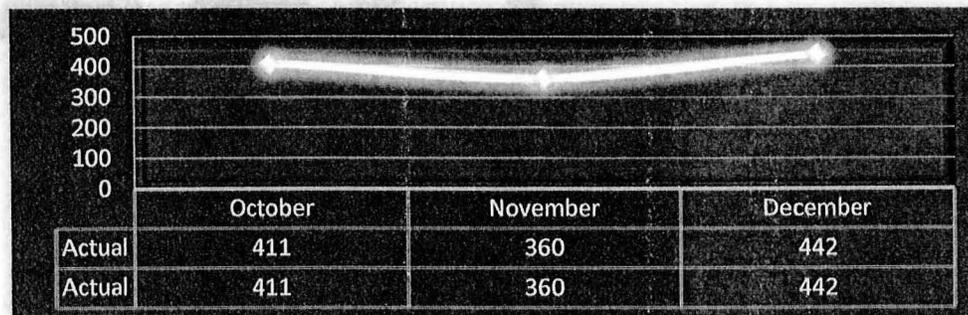
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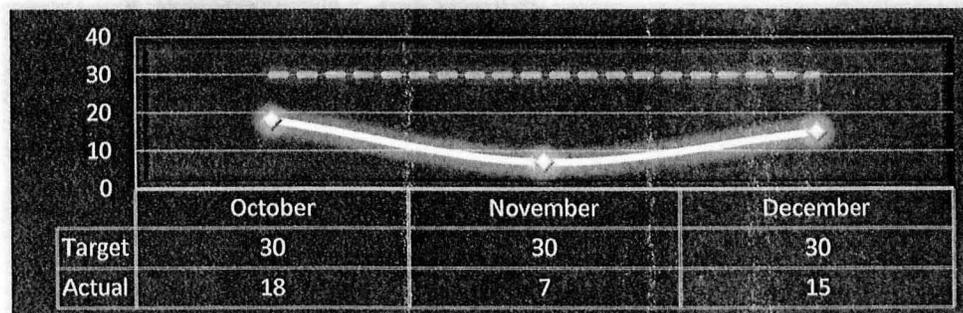


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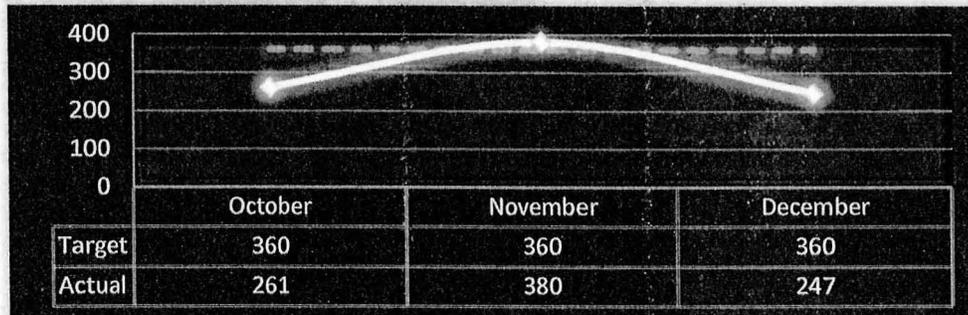


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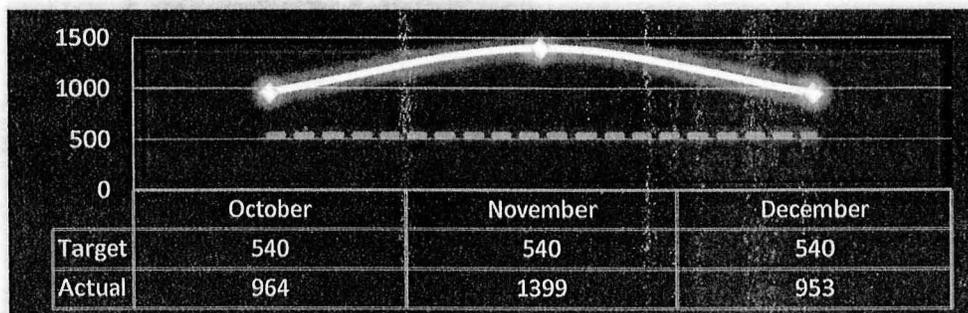


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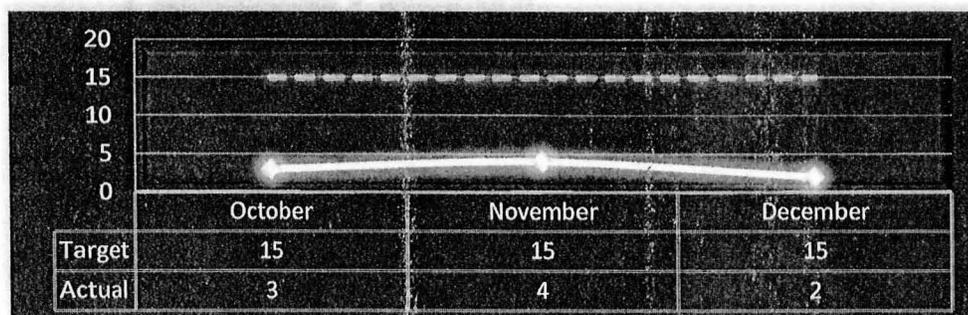


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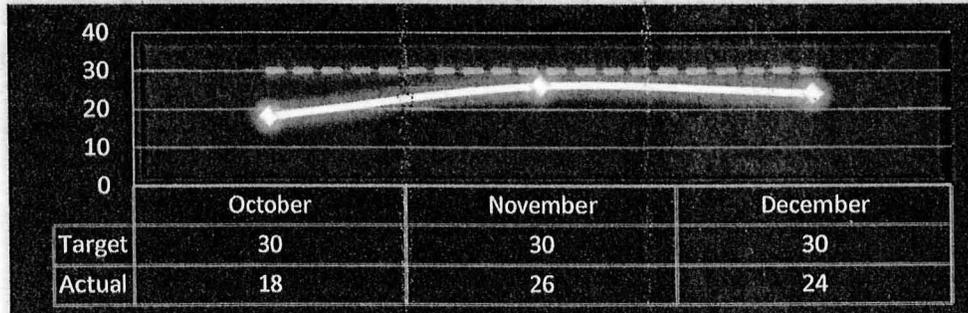


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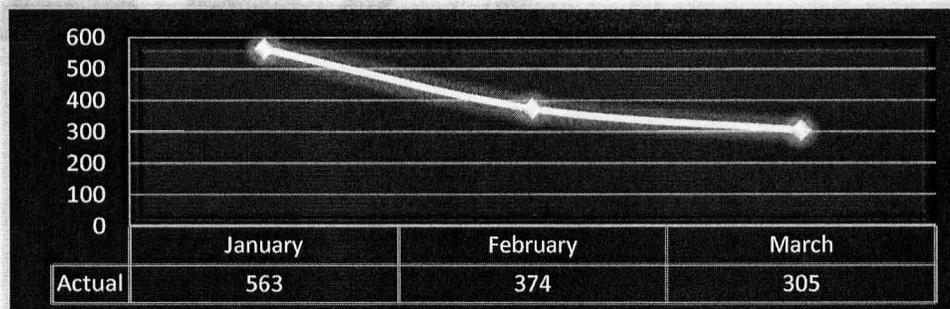
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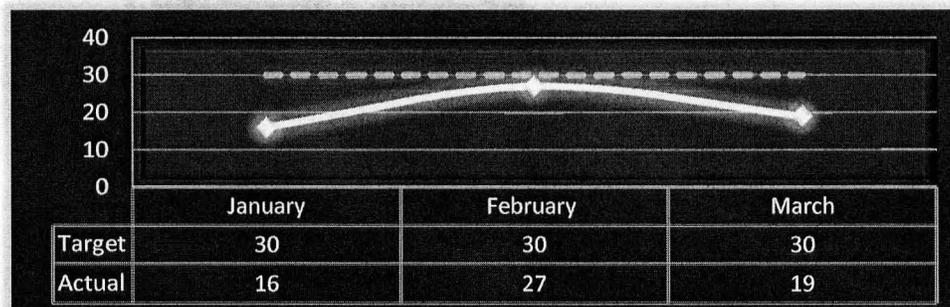


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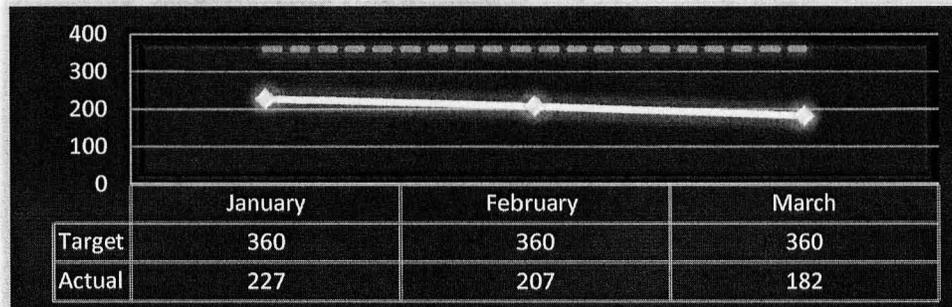


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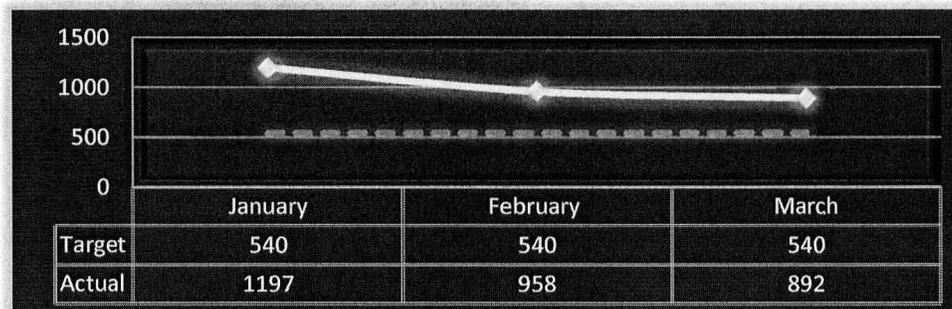


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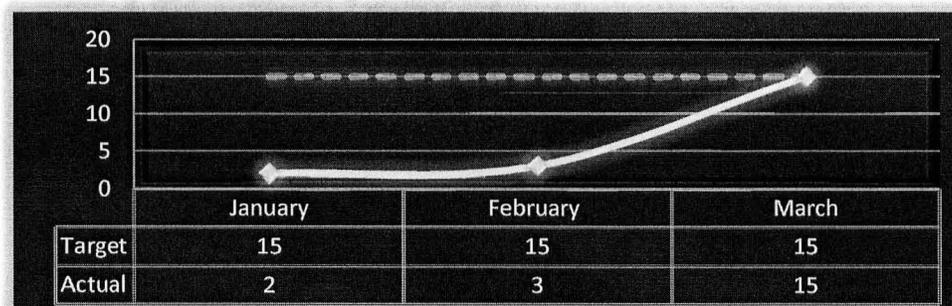


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