

Agenda Item #12



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS

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DATE: February 6, 2013
TO: Board Members
FROM: Marilyn Kimble
Enforcement Program Manager
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.

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

The second quarter (October – December 2012) PM report (see 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 8 days and 4 days respectively. PM 3 Intake and Investigation averaged 221 days. PM 8 Probation Violation Response Cycle Time averaged 5 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).

B. Regulatory Activity

Regulatory Action to Implement Uniform Standards for Substance-Abusing Licensees and Revision of Disciplinary Guidelines – On November 29, 2012, the Office of Administrative Law approved the rulemaking file to amend Division 25 of Title 16, California Code of Regulations, sections 2524 (VN Regulations) and 2579.10 (PT Regulations) regarding the Uniform Standards for Substance-Abusing Licensees and revisions to the Disciplinary Guidelines. The regulations went into effect on December 29, 2012.

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.

Staff is completing the Final Statement of Reasons and anticipates that the rulemaking file will be submitted to DCA by March 1, 2013. Upon approval from DCA, the file will be forwarded to OAL for approval.

C. Enforcement Division Updates

Investigations Unit – With the continued development of the Board's new Investigations Unit, the Board has significantly reduced the number of cases referred to the Division of Investigation (DOI). Only rare cases, such as those with safety concerns that require investigators who are sworn peace officers, will be referred to DOI for assistance.

There are seven investigators currently assigned to work cases in the Unit. Each investigator has an average caseload of 130 cases. All investigators are now traveling to conduct field work. The more experienced investigators travel approximately 40-50% of the time while the investigators still in training travel approximately 10-20% of the time.

Since its inception on July 1, 2011, the new investigators have completed approximately 100 cases with recommendations to transmit to the Attorney General's (AG's) Office for the filing of an accusation and 55 cases with recommendations to issue a citation and fine. Although many of the cases transmitted to the AG's Office are waiting review by the AG, one case has gone through a formal hearing and is pending a proposed decision by the administrative law judge (ALJ). That case is the first accusation filed and heard by an ALJ as a result of the Board's own field investigation.

Enforcement Division Vacancies – The following vacancies exist:

- 1 Staff Services Manager II
- 1 Supervising Special Investigator
- 1 Special Investigator
- 1 Associate Governmental Program Analyst
- 1 Staff Services Analyst

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. For Fiscal Year 10/11 (March 2 – June 30, 2011), staff worked 942 hours of overtime. They worked a total of 2,720.25 hours of overtime in FY 11/12 (July 1, 2011 – June 30, 2012). From July 1 through December 31, 2012, staff worked 1,812.25 overtime hours. These hours equate to approximately 2.9 full-time positions.

Enforcement Division General Statistics

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

Table #1: Enforcement Volume	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13 Thru 12/31/12
Complaints Received (Licensees)	1,506	2,013	3,110	2,599	2,610	1,078
Complaints Received (Applicants)	1,401	1,573	2,041	2,461	3,035	1,261
Total Complaints Received	2,907	3,586	5,151	5,060	5,645	2,338
Complaints Pending – Desk	2,334	1,641	4,123	3,742	3,189	2,583
Complaints Pending – Field	0	0	0	0	656	1,026
<i>Field Complaints Pending with DOI¹</i>	<i>299</i>	<i>365</i>	<i>242</i>	<i>164</i>	<i>141</i>	<i>8</i>
Total Complaints Pending	2,633	3,006	4,365	3,906	3,845	3,617
Field Complaints Referred to DOI	190	140	113	111	92	0
Total Complaints Referred to DOI	190	140	113	111	92	0
Complaints Closed - Desk	2,451	3,020	3,616	5,407	5,464	2,672
<i>Licensees – Unsubstantiated/NOW*</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>2,495</i>	<i>2,065</i>	<i>835</i>
<i>Substantiated*</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>643</i>	<i>485</i>	<i>160</i>
<i>Applicants - Approved</i>	<i>1,023</i>	<i>1,474</i>	<i>1,150</i>	<i>1,757</i>	<i>1,739</i>	<i>1,019</i>
<i>Denied</i>	<i>34</i>	<i>24</i>	<i>20</i>	<i>55</i>	<i>78</i>	<i>28</i>
<i>Other**²</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>457</i>	<i>1,097</i>	<i>630</i>
Complaints Closed - Field	0	0	0	0	5	41
<i>Licensees – Unsubstantiated/NOW*</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>4</i>	<i>27</i>
<i>Substantiated*</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>1</i>	<i>14</i>
Complaints Closed - DOI	66	137	240	204	114	11
<i>Licensees – Unsubstantiated/NOW*</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>111</i>	<i>31</i>	<i>4</i>
<i>Substantiated*</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>93</i>	<i>83</i>	<i>7</i>
Total Complaints Closed	2,517	3,157	3,856	5,611	5,583	2,724
Total Cases Referred to AG’s Office	326	226	221	339	412	152
Total Accusations Filed	203	183	166	168	251	86
Total Disciplinary Actions Completed	185	199	213	175	170	143
Total Statement of Issues Filed	31	32	18	57	82	37
Total Licenses Denied (Adjudicated)	5	9	10	7	17	6
*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)	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13 Thru 12/31/12
Complaint Processing ¹						
Desk Investigations	154	176	212	295	283	241
Field Investigations	0	0	0	0	197	433
DOI Investigations ²	716	705	775	703	666	879
Average Days to Close Complaints³	191	199	247	310	291	246
Formal Discipline Processing						
Pre-Accusations ⁴	182	150	138	145	175	214
Post Accusations ⁵	336	423	434	275	191	227
Average Days to Complete Disciplinary Actions	518	573	572	420	366	441
Total Average Processing Time (Days)⁶	709	772	819	730	657	687
Total Average Processing Time (Years)	1.9	2.1	2.2	2.0	1.8	1.9
<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. 						

Attachment A Fiscal Year 2012/13 Second Quarter Performance Report

Agenda Item #12 – Attachment A

Department of Consumer Affairs

Board of Vocational Nursing & Psychiatric Technicians

Performance Measures

Q2 Report (October - December 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.

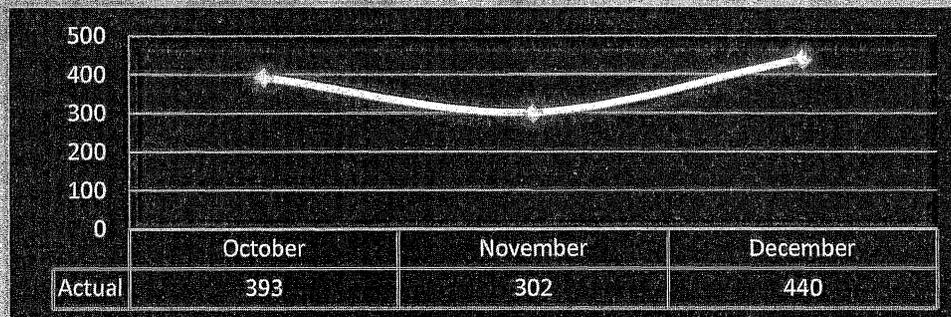
Volume

Number of complaints and convictions received.

Q2 Total: 1,135

Complaints: 138 Convictions: 997

Q2 Monthly Average: 378

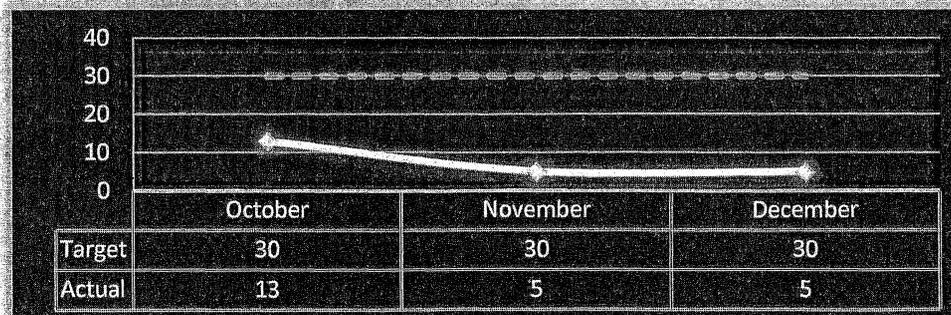


Intake

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

Target: 30 Days

Q2 Average: 8 Days

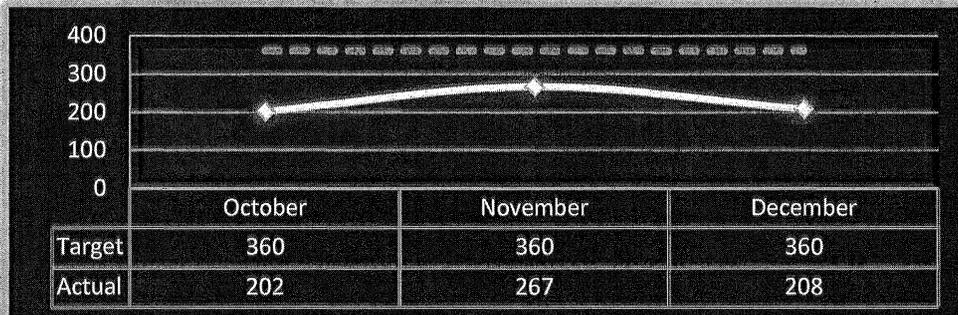


Intake & Investigation

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: 221 Days

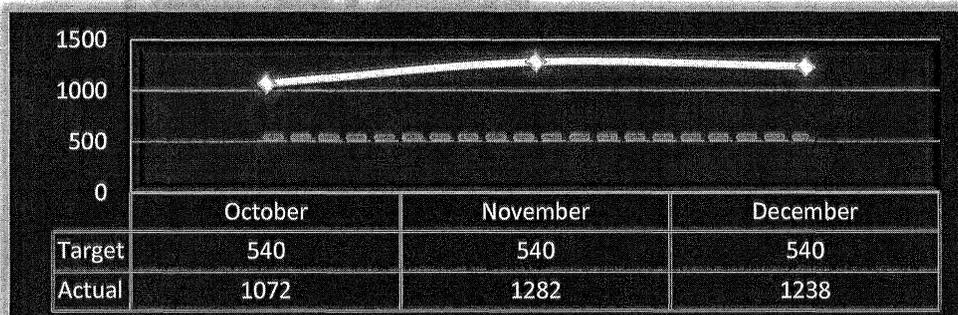


Formal Discipline

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: 1,219 Days

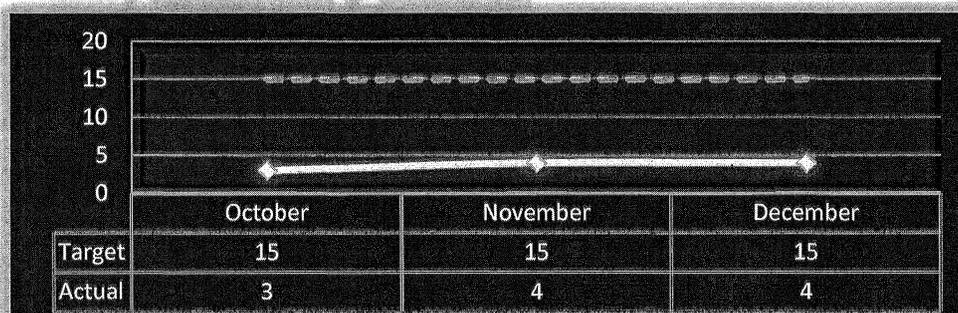


Probation Intake

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

Target: 15 Days

Q2 Average: 4 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: 5 Days

