

**BOARD BRIEFING
DECEMBER 18, 2017**

Board of Vocational Nursing and Psychiatric Technicians

Administrative and Enforcement Program Monitor

Final Report

**Final Assessments, Status Updates and
Recommendations for Improvements**

October 24, 2017

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Attachment - Final Recommendations of the Administrative and Enforcement Program Monitor

A. Introduction

- ❖ Professional career began working for an accounting firm while completing my Master of Business Administration at Washington University in St. Louis. Management consulting career began with performing workload, staffing and business process reengineering analyses for Fortune 200 manufacturing firms in high technology and other industries.
- ❖ During the early-1980s, joined the Sacramento office of Arthur Young, a Big 8 accounting and consulting services firm, which subsequently merged with Ernst & Whiney, to become Ernst & Young. Specialized in providing organizational assessment, program evaluation, and staffing and financial analysis services to public sector agencies at the state and local level in California and other western region states.
- ❖ Successfully completed more than 100 engagements for California State Government, including projects performed for the State's Auditor General, the Department of Justice, and committees of the State Legislature. This experience includes more than 50 organizational, workload, staffing and business process reengineering assessments.

A. Introduction

- ❖ Previously involved with 4 other Monitor assignments:
 - ✓ Contractors State License Board Enforcement Monitor (2001 and 2002)
 - ✓ Dental Board of California Enforcement Monitor (2002/03)
 - ✓ Medical Board Enforcement Monitor (2004/05)
 - ✓ Bureau of Private Postsecondary and Vocational Education Operations and Enforcement Monitor (2005/06).

- ❖ Completed several other projects for both the Contractors Board and the Medical Board involving their licensing and enforcement programs and administrative support processes.

- ❖ Experience with California State Government licensing and enforcement programs also includes projects completed for the Air Resources Board, Board of Accountancy, Board of Optometry, Bureau of Automotive Repair, Department of Boating and Waterways, Department of Motor Vehicles, Department of Pesticide Regulation, and the State Treasurer's Office.

B. Project Background

- ❖ BVNPT's Enforcement Program was thrown into disarray by the organizational and workflow changes that were implemented during 2011/12 and 2012/13. These changes included establishing a new non-sworn Investigation Section and assigning all licensee complaint cases to the new section, including cases involving serious criminal misconduct and significant patient harm that were previously referred to DCA's Division of Investigation.
- ❖ The problems resulting from these changes became apparent to DCA which made efforts to encourage BVNPT to utilize the new Consumer Protection Enforcement Initiative (CPEI) case prioritization guidelines and the Division of Investigation's services.
- ❖ Members of BVNPT's governing Board also began developing an awareness of these problems from reviewing discipline packages that, in many cases, were quite old and recognizing that these licensees were continuing to practice for years without discipline.
- ❖ During September 2014, BVNPT's governing Board appointed an Enforcement Task Force to assess BVNPT's enforcement and discipline processes. In November 2014 the Task Force submitted its report to the Board.

B. Project Background

- ❖ The Task Force report included six (6) recommendations, including a recommendation that BVNPT begin utilizing CPEI case prioritization guidelines and resume utilizing the Division of Investigation's services.
 - BVNPT's governing Board approved this recommendation along with most of the Task Force's other recommendations.
 - However, BVNPT staff continued to assign nearly all licensee complaint cases to its own Investigation Section.
- ❖ Concurrently, reports surfaced during BVNPT's 2014/15 Sunset Review about BVNPT's organizational and operational problems and the scope and magnitude of these problems became apparent to the Legislature.
- ❖ Following the separation of the Executive Officer (EO), Assistant Executive Officer (AEO) and Chief of Enforcement, Division of Investigation staff provided assistance to the Board with management of the Enforcement Program and began reviewing all of BVNPT's pending investigations to identify cases for immediate reassignment to the Division.
- ❖ DCA also provided BVNPT with an Acting EO. Additionally, a new Chief of Enforcement and new supervisors for the Complaint and Investigation Sections were hired.

B. Project Background

- ❖ Subsequently, AB 179 (2015, Bonilla) was enacted requiring that DCA appoint a Monitor to assess BVNPT's Enforcement Program and specified administrative processes. On February 29, 2016, DCA awarded a contract to Benjamin Frank LLC to provide the Monitor services.
- ❖ We completed an Initial Assessment of BVNPT's Enforcement Program during March and April. The *Initial Report*, documenting results of the Initial Assessment, was presented to the Board on June 20, 2016, and submitted to the Legislature on July 1, 2016.
- ❖ Additional analyses were completed during June, July and August. The *Second Report* documenting results of these efforts was presented to the Board on October 20, 2016, and submitted to the Legislature on November 1, 2016.
- ❖ We also attended the Board's November 4th meeting to answer additional questions that the members had. Subsequently, we prepared and submitted an *Addendum* to the *Second Report* summarizing results of the *Board Member Survey* conducted during Phase I.
- ❖ An updated assessment of the status of BVNPT's Enforcement Program was completed during November and December. We also completed targeted assessments in several other areas. The *Third Report*, documenting results of these efforts was submitted to the Legislature on February 3, 2017, presented to the Board on February 8, 2017.

C. BVNPT's 2015/16 Enforcement Program Turnaround

- ❖ Corrective measures taken during 2015/16 contained the problems that accumulated in prior years and set into place a foundation for building a sustainable, effective and efficient Enforcement Program. Improvements made during 2015/16 included:
 - ✓ A restructuring of the License Applicant Arrest/Conviction Report Process
 - ✓ A restructuring of the Case Intake and Screening Process
 - ✓ Significant increases in the number of completed licensee arrest/conviction report and complaint investigations
 - ✓ Significant reductions in the number of pending investigations and in the average age of the pending investigations
 - ✓ Significant increases in the number of cases referred to the AG and the number of discipline cases completed
 - ✓ Significant reductions in the number of pending discipline cases and the average age of the pending discipline cases
 - ✓ Significant reductions in the average elapsed time to file pleadings and complete disciplinary actions.

- ❖ However, significant problems remained in several key areas and, during the second half of 2016, BVNPT's Enforcement Program turnaround stalled and, in some areas, began to reverse.

D. Disruption of the 2015/16 Enforcement Program Turnaround

- ❖ In March 2016, BVNPT replaced the Acting EO provided by DCA with a new EO selected by the Board. Within a few months of this appointment, the collaborative working relationship that BVNPT had with DCA's Leadership Team began to break down. Concurrently, the EO began redirecting the Chief of Enforcement to other areas and otherwise hampering our ability to continue working collaboratively with the Chief of Enforcement to fulfill the requirements of SB 179 and improve Enforcement Program performance.
- ❖ Subsequently, during October 2016:
 - A key member of BVNPT's Enforcement Task Force and Co-Chair of the recently re-established Enforcement Committee resigned from the Board
 - The Chief of Enforcement began a leave of absence and the EO began more directly managing the Enforcement Division
 - The EO selected BVNPT's Supervising NEC to serve as Acting AEO, a position that had been vacant for 18 months.
- ❖ These changes marked the start of an abrupt decline in BVNPT's overall work environment and workforce morale, a collapse of the Enforcement Program's management structure, accelerated attrition of Enforcement Division staff, and multiple failures of critical enforcement workload, workflow, and workforce control processes.

D. Disruption of the 2015/16 Enforcement Program Turnaround

- ❖ During late-2016, we gathered and analyzed Enforcement Program workload, workflow and performance data for the July to October 2016 period. During this period:
 - ✓ There was no further decrease in the numbers of pending investigations or pending discipline cases
 - ✓ The number of completed licensee arrest/conviction report investigations decreased
 - ✓ The number of completed non-sworn licensee complaint investigations decreased significantly
 - ✓ The average age of BVNPT's licensee complaint investigations decreased only marginally and this decrease was entirely accounted for by reductions in the average age of the pending cases assigned to the Division of Investigation.
 - ✓ The average elapsed time to complete non-sworn licensee complaint investigations decreased by three (3) months, but the resulting average elapsed time (22 months) was still very long.
- ❖ Based on these findings and other information, we determined that the 2015/16 Enforcement Program turnaround appeared to have stalled. Subsequently, we documented these findings in our *Third Report* and reported these findings to the Board at its meeting on February 8, 2017.

E. June/July 2017 Enforcement Process Assessment and DCA Intervention

- ❖ During March and April 2017, available data began showing additional anomalous shifts in the Enforcement Program's workloads, workflows and performance. However, it was unclear whether these shifts were due to variability in BVNPT's statistical data capture and reporting processes, business process changes, or changes in performance.
- ❖ On May 2nd, we discussed these data shifts with the Enforcement Committee. The Committee requested that we further review the Enforcement Program's data capture and reporting processes and reconcile differences between the characterizations of Enforcement Program workload, backlogs and performance provided by Board staff and by the Monitor.
- ❖ At the Board's May 12th meeting we shared the comments we had made to the Enforcement Committee along with the information we provided at BVNPT's Sunset Review Hearing during March. We also highlighted two additional potential problem areas that had surfaced more recently involving:
 - Tracking and reporting of about 75 non-sworn investigation "Pilot Project" cases
 - Closure during Intake of cases without any investigation.

We also informed the Board that we were working with DCA to modify the Monitor contract to conduct an additional review of the Board's enforcement-related data capture and reporting processes along with targeted reviews of selected enforcement case intake, investigation, and discipline processes.

E. June/July 2017 Enforcement Process Assessment and DCA Intervention

- ❖ During the last week of June and continuing into early-July 2017, we completed a targeted review of the Enforcement Program's data capture and reporting processes along with targeted reviews of an evolving set of selected case intake, investigation, and discipline processes.
 - The reviews were completed jointly with the Division of Investigation and in collaboration with Enforcement Division staff.
 - The results of these reviews, which were presented to the Board at its August 25th meeting, were both surprising and alarming.

Due to the nature and magnitude of the problems that were identified, and the absence of an Enforcement Division Chief and managers for the Complaint, Investigation and Discipline Sections, we were compelled to immediately brief DCA and other oversight authorities regarding our findings and our Immediate Action Recommendations to promptly address some of the most critical consumer protection problems.

- ❖ On July 12th representatives of DCA met with BVNPT's Interim EO to discuss the results of above described reviews. DCA also offered to (1) provide assistance with implementing the Immediate Action Recommendations, (2) help manage the Enforcement Division, and (3) help on-board and train BVNPT's prospective new Enforcement Division managers and supervisors. DCA also provided supporting documentation to the Interim EO and the Board's President and Vice President. Subsequently, on behalf of the Board, the Interim EO accepted DCA's offer of assistance.

E. June/July 2017 Enforcement Process Assessment and DCA Intervention

- ❖ Over the next 5 months, through early-December, the Division directed and oversaw the implementation of all of the Immediate Action Recommendations.
 - The Division also provided BVNPT with a broad range of other Enforcement Program management, technical support and training services to help restore properly functioning case intake, investigation and discipline processes.
 - This was the Division's second Enforcement Program intervention in 2 years. However, unlike the Division's earlier intervention, where the Division had greater overall control of the Enforcement Program, the Division's current role is primarily to help support BVNPT's Enforcement Program Management Team.
- ❖ On August 11th, DCA issued a Memorandum to the Board President summarizing the assistance that DCA was providing with administration of the Enforcement Program. On August 25th, DCA and the Monitor provided a joint briefing to the Board summarizing the Enforcement Process Assessment and DCA's intervention.

E. June/July 2017 Enforcement Process Assessment and DCA Intervention

- ❖ Concurrently, AB 1229 (2017, Low) was enacted. AB 1229 temporarily strips the Board of its authority to appoint its own EO and contains several other provisions to enhance oversight of the Enforcement Program and ensure that the Enforcement Program is properly administered and operated. Enforcement Program oversight enhancements provided by AB 1229 include requirements that:
 - ✓ The Board submit written reports to DCA and the Legislature at specified intervals demonstrating its progress in implementing the Monitor's recommendations.
 - ✓ Board staff meet with staff from DCA's Division of Investigation at specified intervals for the purpose of ensuring the appropriate function and operation of the Enforcement Program.
 - ✓ The Board submit a report to DCA in advance of each meeting that includes, as a minimum, specified information for each complaint.
 - ✓ The Board and Board staff cooperate with the DCA to provide access to staff, data, information and files, as requested.

Additionally, AB 1229 provides the Director of Consumer Affairs, through the Division of Investigation, with the authority to “determine the need for and to implement changes necessary for the appropriate administration of the Board's enforcement functions.”

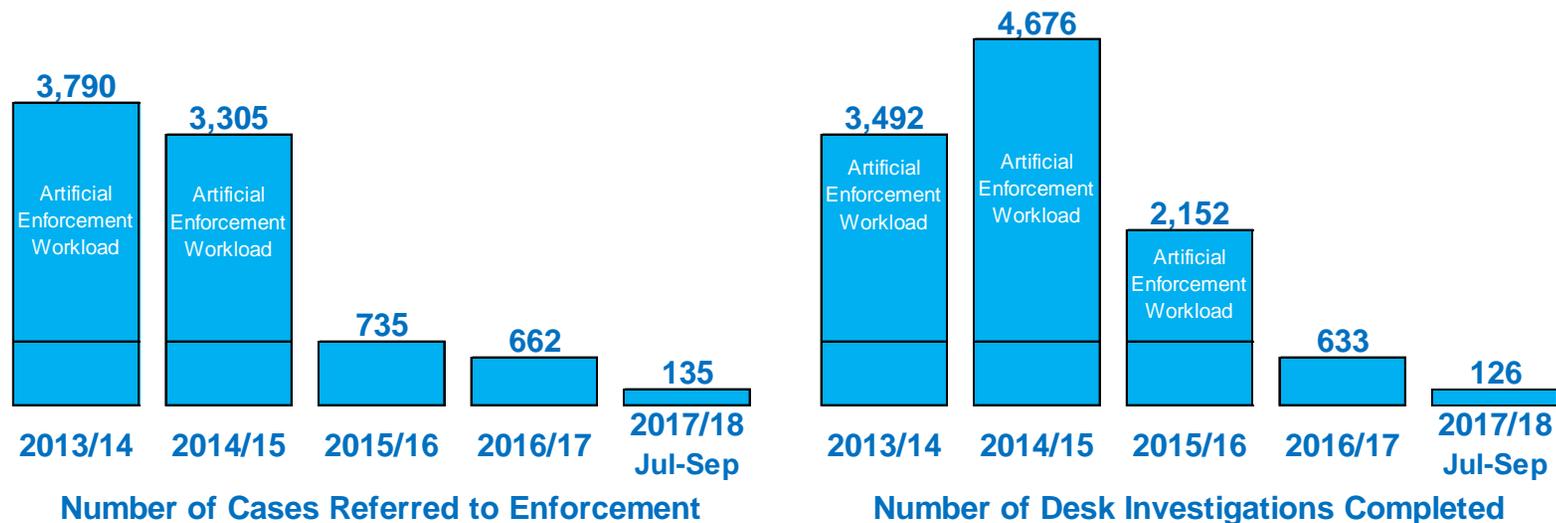
E. June/July 2017 Enforcement Process Assessment and DCA Intervention

- ❖ This is the first time that these types of unconventional changes to the oversight of a DCA-affiliated Board's Enforcement Program have been adopted. Collectively, these changes provide DCA with the authority to:
 - Closely monitor the operation of the Enforcement Program on a continuous basis for the next 2 years
 - Make any changes that it determines are necessary to assure the appropriate administration and operation of the Enforcement Program.

F. Current Status of BVNPT's Enforcement Program

- ❖ The restructuring of the License Applicant Arrest/Conviction Report Process during 2015/16 reduced the number of cases referred to Enforcement by about 3,000 cases per year along with comparable reductions in the number of completed investigations.

License Applicant Case Flow

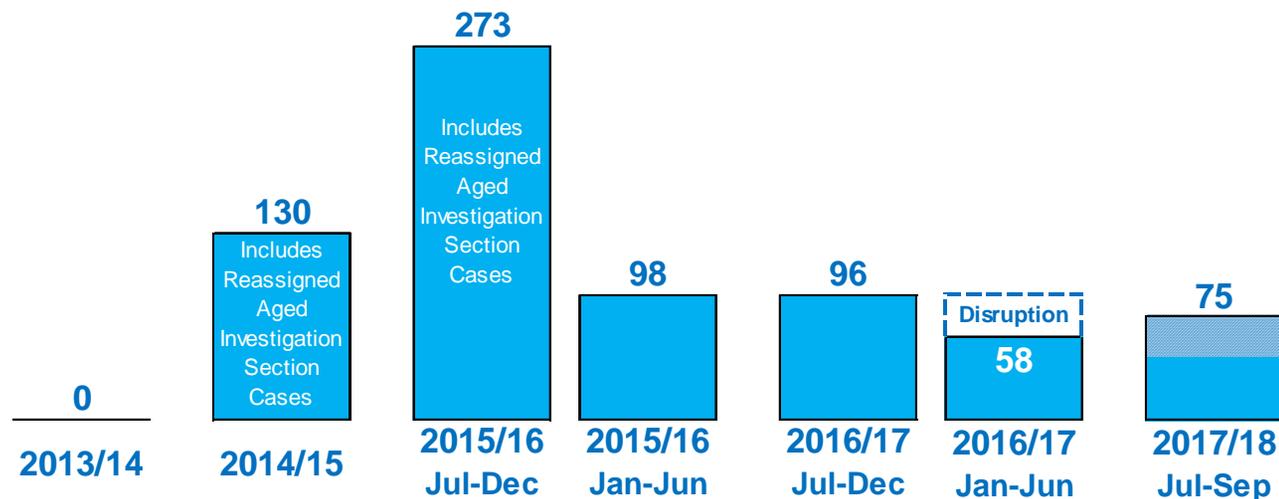


- ❖ Fewer than 700 License Applicant cases per year are now referred to Enforcement. Nearly all of these cases are now handled by Complaint Section analysts and about 90 percent of these cases are reviewed and promptly closed with issuance of a license to the applicant along with a Notice of Warning (NOW).
- ❖ During 2016/17, License Applicant cases were completed in an average of less than 2 months compared to an average of about 18 months during 2014/15.

F. Current Status of BVNPT's Enforcement Program

- ❖ During 2014/15, primarily during the last several months of the year following the Board's Sunset Review, about 130 enforcement cases were re-assigned to the Division of Investigation. Subsequently, during 2015/16, about 370 enforcement cases were referred to the Division, including both reassigned cases that had languished in the Investigation Section and newly received cases involving serious criminal misconduct or significant patient harm.

Number of Enforcement Cases Referred to the Division of Investigation

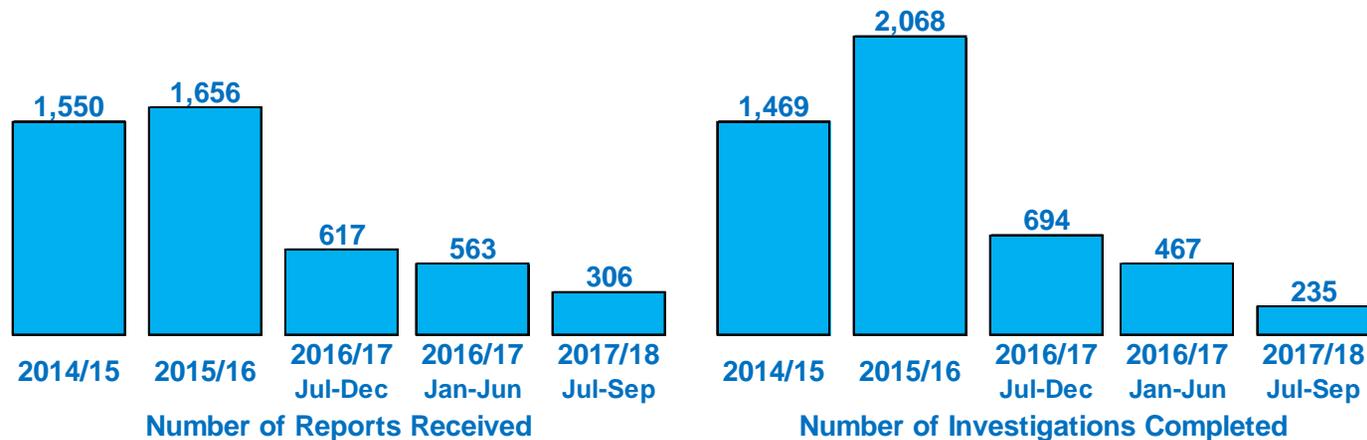


- ❖ BVNPT now assigns about 180 to 200 enforcement cases per year to the Division of Investigation. However, during the second half of 2016/17, case referrals to the Division were disrupted. As a result, several dozen cases were not referred to the Division until the first quarter of 2017/18. After the complaint screening backlog was cleared, referrals of new cases to the Division resumed consistent with CPEI case prioritization guidelines.

F. Current Status of BVNPT's Enforcement Program

- ❖ During 2015/16, significantly more licensee arrest/conviction report investigations were completed than were completed during 2014/15. Additionally, the number of investigations completed significantly exceeded the number of new cases received.

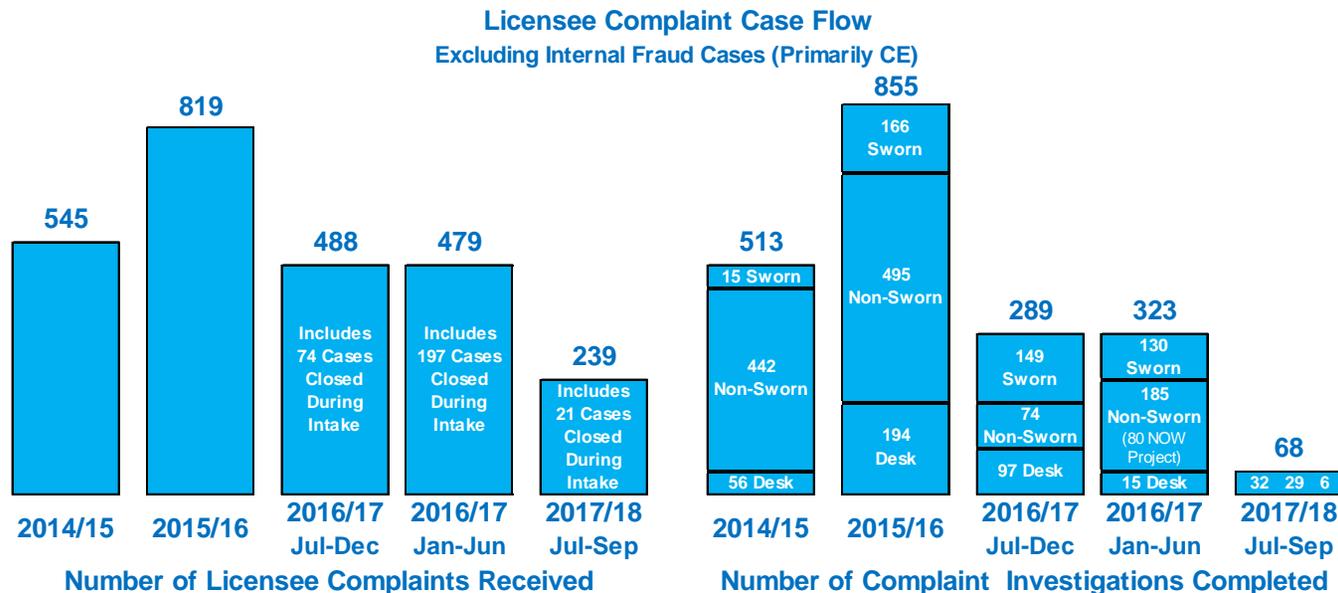
Licensee Criminal Arrest/Conviction Report Case Flow



- ❖ During 2016/17, these improvements stalled or reversed. Significantly fewer investigations were completed and, beginning during the second half of 2016/17, the number of investigations completed was less than the number of new cases received. These deteriorating performance trends continued through September 2017.
- ❖ A large proportion of these cases are closed redundant because multiple reports are oftentimes received for the same case. Historically, only about 10% of these cases are referred for discipline, but these cases have accounted for more than one-half of all discipline cases.
- ❖ Recently, the number of reports received decreased by about **25%** (about 400 cases per year). This downward shift in reports received will lead to some reductions in BVNPT's discipline and probation workloads which could help to free up resources to better address other current and emerging business needs.

F. Current Status of BVNPT's Enforcement Program

- During 2015/16, significantly more licensee complaint investigations were completed than were completed during 2014/15. Additionally, the number of investigations completed exceeded the number of new complaint cases received.

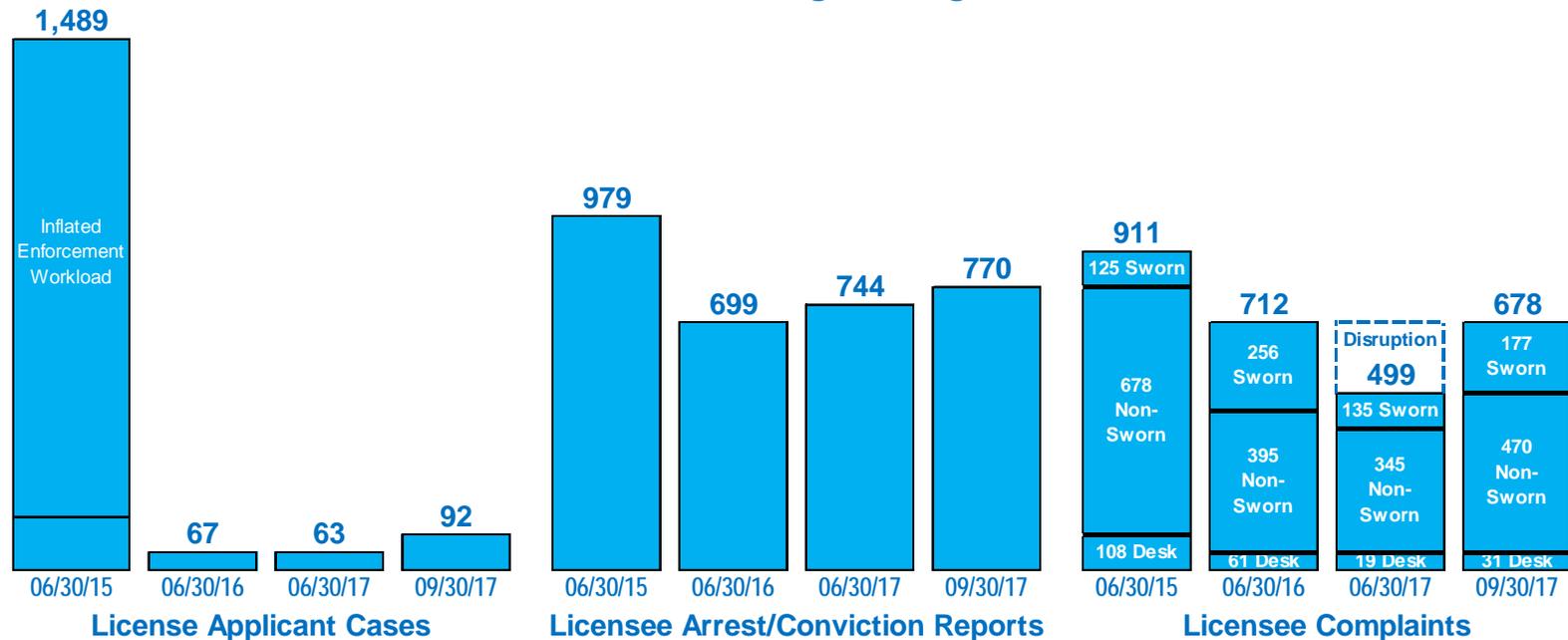


- During 2016/17, these improvements stalled or reversed. While the number of completed sworn investigations increased, significantly fewer non-sworn investigations were completed, *even with 80 NOW Project cases included*, of which 20 were improperly closed. Conversely, the closure of 60 NOW Project cases, in most cases with little or no investigation, demonstrates potential benefits of enhancing BVNPT's licensee complaint screening processes to accelerate the completion of these cases.
- During the first quarter of 2017/18, complaint investigation performance deteriorated further. Only 68 licensee complaint investigations were completed. Concurrently, more than 200 new licensee complaint cases were received.

F. Current Status of BVNPT's Enforcement Program

- During 2015/16, there were significant reductions in the number of pending license applicant, licensee arrest/conviction report, and licensee complaint investigations. Subsequently, the number of pending cases increased in all three categories.

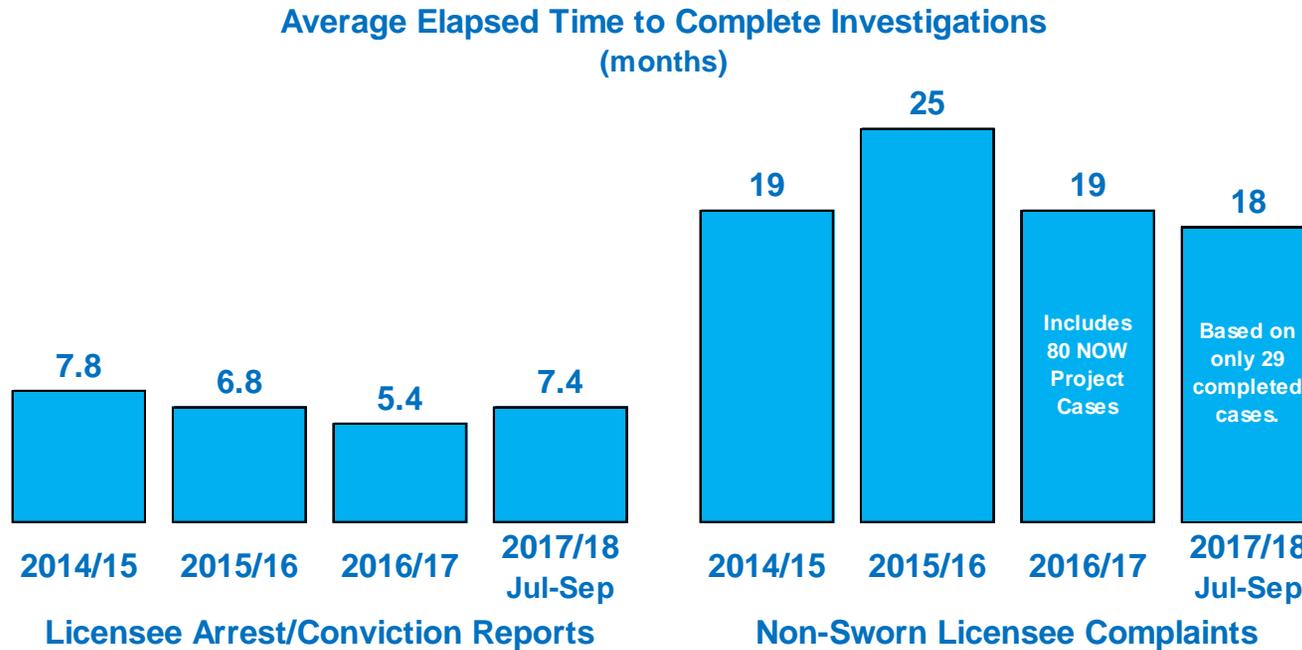
Number of Pending Investigations



- Recently, the number of pending licensee arrest/conviction report cases continued to increase even with concurrent decreases in the number of new reports received. There was also an especially large increase in the number of pending licensee complaints due, in part, to the clearing of backlogged cases at Intake and the re-opening of Intake and NOW Project cases that had previously been improperly closed. Finally, during 2016/17, there was no further improvement in the 13-month average age of BVNPT's pending licensee complaint cases.

F. Current Status of BVNPT's Enforcement Program

- ❖ The average elapsed time to complete licensee arrest/conviction report investigations decreased during 2015/16 and 2016/17. More recently, during the first quarter of 2017/18, the average elapsed time to complete these investigations began increasing.



- ❖ Due to the completion of especially large numbers of older cases during 2015/16, the average elapsed time to complete non-sworn licensee complaint investigations increased significantly during that year. Subsequently, the average elapsed time to complete non-sworn licensee complaint investigations returned to 2014/15 levels. However, *an average elapsed time of 18 to 19 months* to complete these investigations is still quite long.
- ❖ Recently, the Division of Investigation resumed conducting regular case reviews with Investigation Section staff to provide training and accelerate completion of these cases.

F. Current Status of BVNPT's Enforcement Program

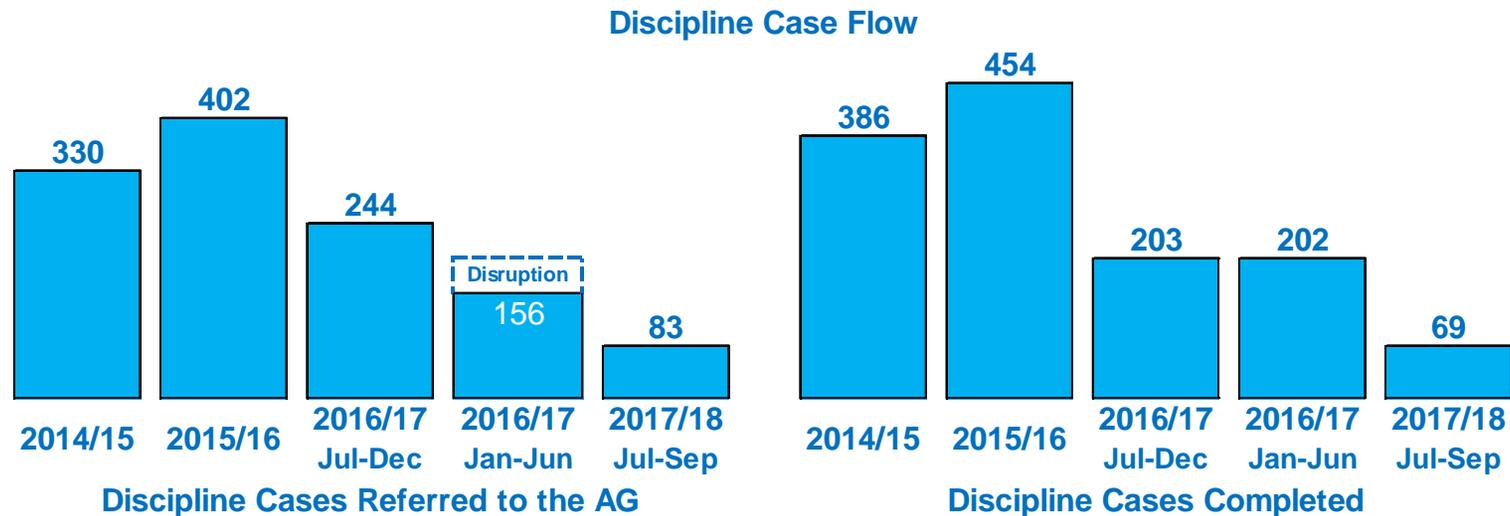
- ❖ During early-December 2016, we were surprised to learn from staff that a large-scale audit of licensee compliance with BVNPT's Continuing Education (CE) requirements had been launched under the direction of the former Executive Officer.
 - In late-November BVNPT began mass mailing CE compliance audit letters to about 57,000 licensees
 - The mailings were expected to be completed by mid-December.
- ❖ We later learned that BVNPT staff contacted DCA's Business Services Office (BSO) on December 9th about folding, stuffing and mailing 50,000 of the CE audit letters.
 - BSO assisted BVNPT during November and December with submitting and expediting a request to the DGS Office of State Printing to print window envelopes needed for the mailing.
 - In early-January, after receiving the envelopes from the Office of State Printing, BSO completed BVNPT's CE mailing project.
- ❖ There was never any clear rationale provided for abruptly launching CE audits of more than 40 percent of all BVNPT licensees.
- ❖ None of the managers or staff that we interviewed could articulate specific plans or schedules for staffing or completing all of the audits.

F. Current Status of BVNPT's Enforcement Program

- ❖ We first voiced our concerns about the CE Audit Project to the EO and the Acting AEO when we met with each of them on December 8th. We voiced our concerns again on January 20, 2017, during a meeting with the EO, Acting AEO, and 2 Board members to review the draft *Third Report*.
- ❖ We voiced our concerns about the CE Audit Project a third time at the Board's February 8, 2017, meeting during which we presented our *Third Report*. We voiced our concerns again at BVNPT's March 23, 2017 Sunset Review Hearing.
- ❖ In mid-May, BVNPT halted this ill-conceived and poorly managed project. However, it is important to understand that:
 - Significant staffing and other resources were wasted on this project.
 - Warnings about the problems with the project were repeatedly ignored.
 - Communications about the project were especially incomplete and misleading.
- ❖ Claims that results of the audits show that 95+ percent of licensees are compliant with BVNPT's CE requirements are not supported. Available historical data consistently show that at least 10 to 20 percent of licensees are not compliant with BVNPT's CE requirements and, based on this data, it is apparent that large numbers of licensees are continuing to practice while completing little or no CE.
- ❖ To date, BVNPT has not resumed any CE compliance auditing. BVNPT has not conducted any effective auditing or enforcement of licensee compliance with its CE requirements for more than 16 months.

F. Current Status of BVNPT's Enforcement Program

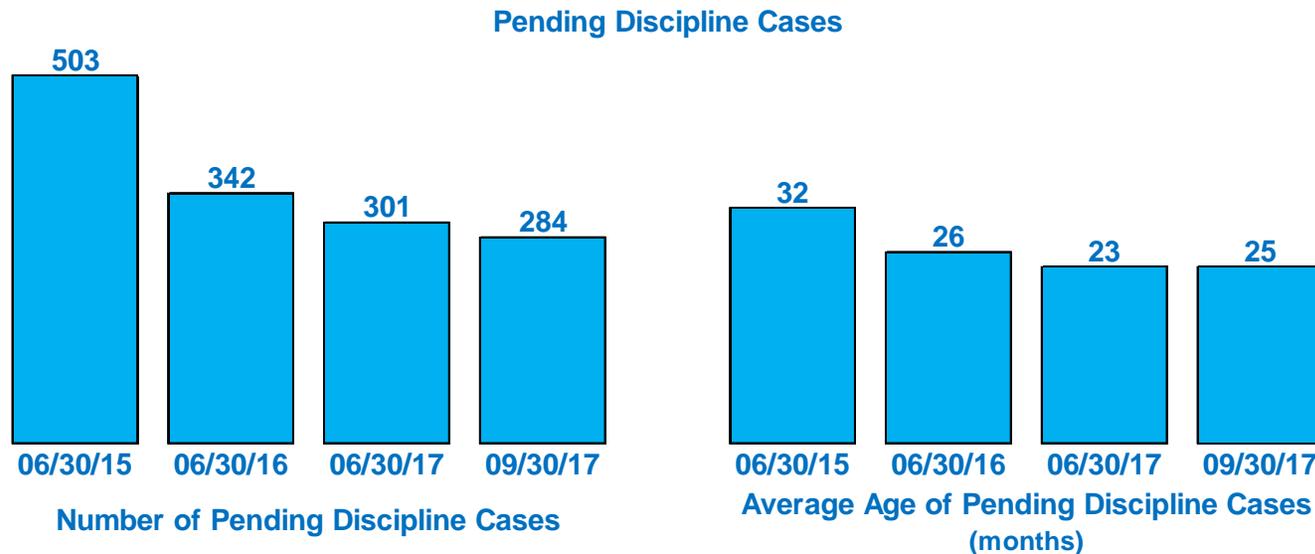
- ❖ During 2015/16, the number of cases referred to the AG and the number of discipline cases completed increased significantly. Additionally, in both years, the number of discipline cases completed exceeded the number of new cases referred for discipline.



- ❖ During 2016/17, these trends stalled or reversed. The number of cases referred for discipline was unchanged and fewer discipline cases were completed. These changes are largely attributable to:
 - Decreased licensee arrest/conviction report, sworn investigation, and discipline case backlogs during 2015/16
 - The disruption of completed investigation case referrals to the AG during the second half of 2016/17
 - Decreased numbers of new licensee arrest/conviction reports received during 2016/17 and delays in processing these cases.

F. Current Status of BVNPT's Enforcement Program

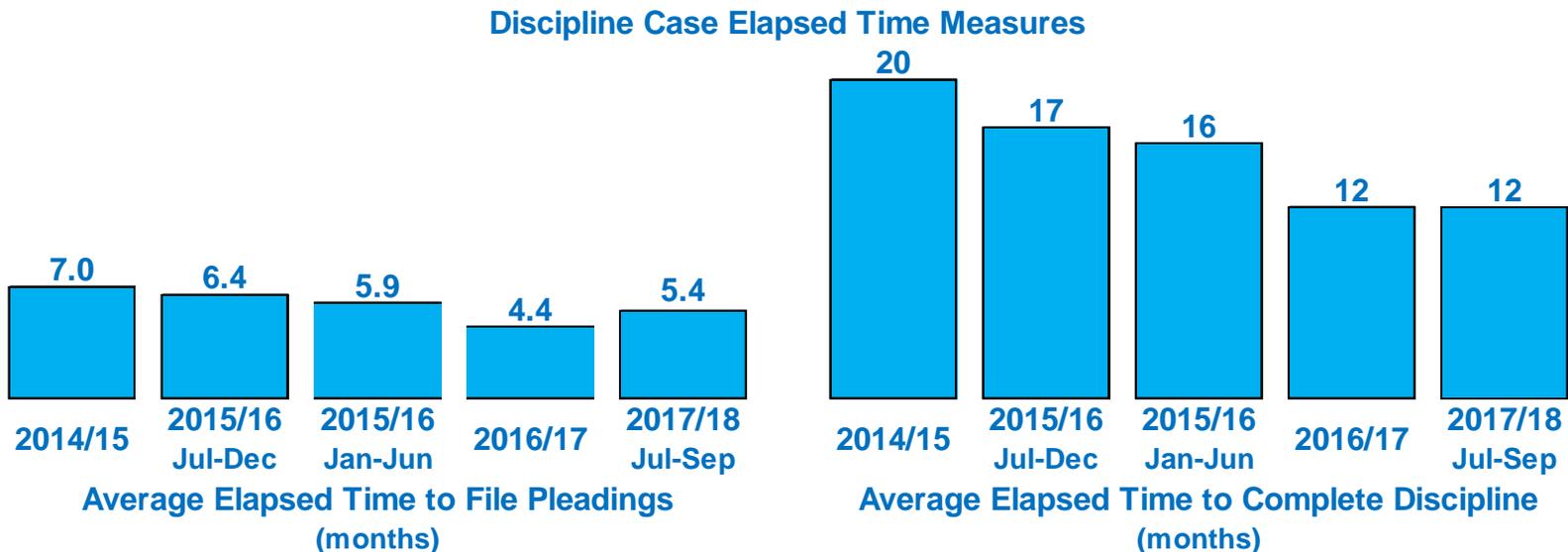
- ❖ Most discipline cases are generated from either licensee arrest/conviction reports or licensee complaints referred for sworn investigation. Thus, the number and age of BVNPT's pending discipline cases is partially determined by the number of investigations completed and the length of time needed to complete the investigations.
- ❖ During 2015/16, the number of pending discipline cases decreased significantly along with the average age of these cases. Subsequently, the number of pending discipline cases continued to decrease, but the average age of these cases has now begun to increase.



- ❖ Absent a significant change in the Board's handling of stipulated settlements, it is anticipated that the number of pending discipline cases will continue to decline during the remainder of 2017/18 due to continuing efforts to reduce discipline case backlogs and receipt of significantly fewer licensee arrest/conviction reports during 2016/17 and the first half of 2017/18.

F. Current Status of BVNPT's Enforcement Program

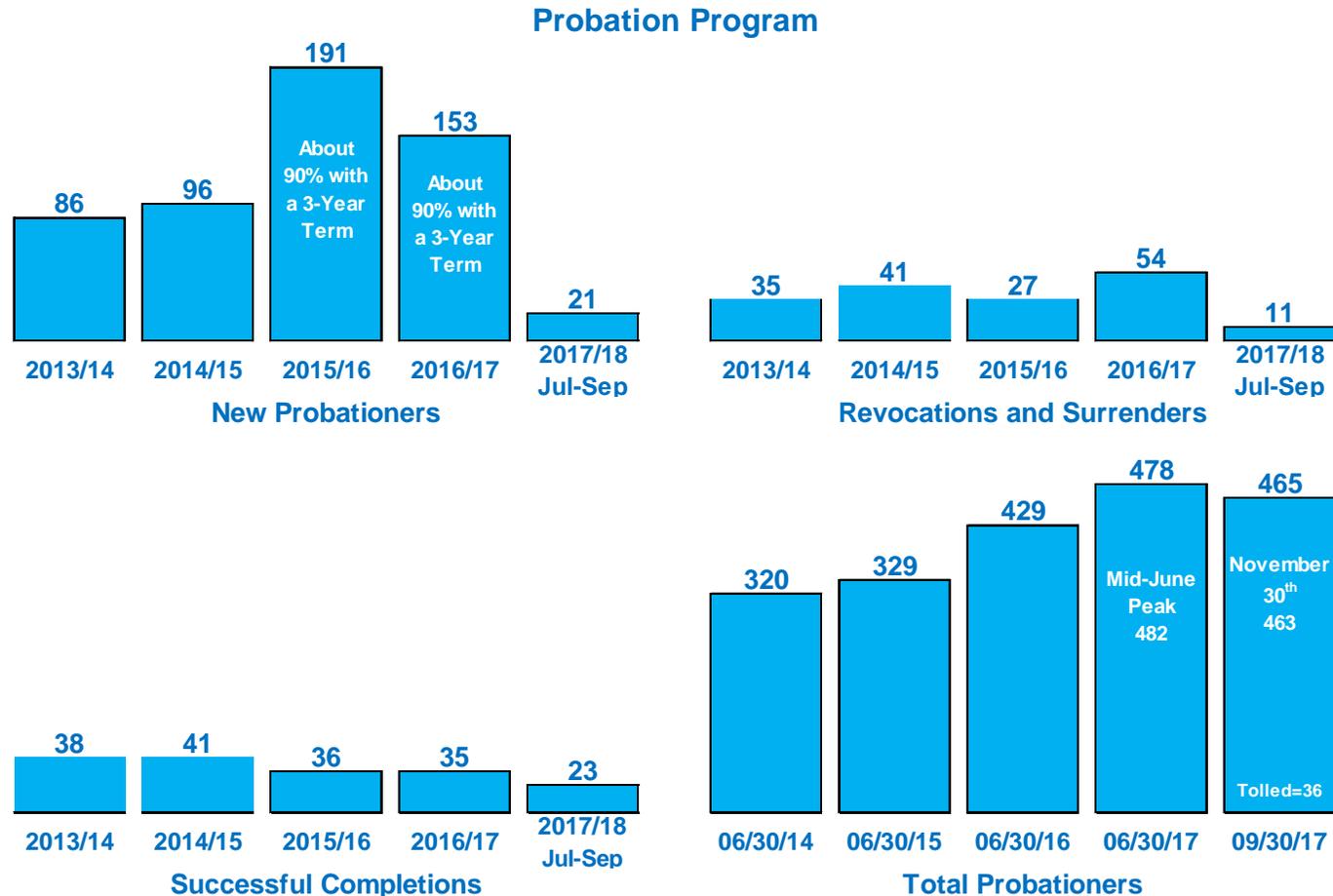
- ❖ During 2015/16, the average elapsed time to file pleadings and the total time to complete disciplinary actions decreased, and both of these measures decreased further during 2016/17. These latter decreases partially reflect the lagged impacts of the large number of discipline cases completed during 2015/16 and related reductions in the number and average age of BVNPT's pending discipline cases.



- ❖ During 2015/16, the average elapsed time from case receipt to completion of the discipline process (PM-4) decreased to about 2½ years from about 3 years for cases completed during 2014/15. Subsequently, during 2016/17, this key elapsed time performance measure decreased further to about 28 months. However, *BVNPT's average timeframe to complete its discipline cases remains quite long and, in many cases, licensees are continuing to practice for years without discipline.*

F. Current Status of BVNPT's Enforcement Program

- ❖ Following a surge of new probationers during 2015/16 and 2016/17, the population of probationers recently peaked.



- ❖ After plateauing through the remainder of 2017/18, BVNPT's probationer population will begin an accelerated decline back to historical levels of 300 to 350 probationers.

G. Vacant Positions and Hiring

- ❖ During periods immediately prior to its 2014/15 Sunset Review, BVNPT experienced especially high vacancy rates, particularly within its Education, Licensing and Administration units where vacancy rates regularly exceeded 25 percent. In contrast, vacancy rates within the Enforcement Division were relatively low (less than 10%).
- ❖ Subsequently, many of BVNPT's vacant positions were filled which reduced total vacancies to 8.5 positions by December 2015. As of December 2015, BVNPT's overall vacancy rate was about 13 percent.
- ❖ During 2016, staff turnover increased. As of December 2016, the overall vacancy rate rose to about 17 percent, including 6 vacant Enforcement Division positions and 6 vacant positions within other business units. Some of these positions had been vacant for extended periods of time, including:
 - Assistant Executive Officer (21 months)
 - Licensing and Administration PT II/SSA (19 months)
 - Licensing and Administration MST/AGPA (13 months)
 - Licensing and Administration OT (7 months)
 - Licensing and Administration SSA/SSM I (6 months)
 - Enforcement Supervising Special Investigator and Staff Services Analyst (6 months).

G. Vacant Positions and Hiring

- ❖ During early-2017, staff turnover increased further as BVNPT's overall work environment and workforce morale deteriorated. *By mid-July, BVNPT had 18 vacant positions (equivalent to an overall vacancy rate of 20%).*
 - Only 5 of BVNPT's 11 total management and supervisory positions were filled.
 - The Enforcement Division had an especially high vacancy rate (*greater than 30%*) and only 2 of the Division's 5 management and supervisory positions were filled.

Currently, 4 of BVNPT's 11 management and supervisory positions are vacant, including the AEO, SNEC, Supervising Special Investigator and Support Services Unit Supervisor.
- ❖ During the past 18 months we regularly monitored the vacancy status of BVNPT's positions and we sometimes met or talked with Enforcement and other staff before their separations. While some long-term staff separated from BVNPT due to retirement, some newer staff were rejected on probation, and others accepted positions at a higher classification level, this was not always the case.
 - Some staff transferred to equivalent positions at other agencies or, in one case, accepted a position at a lower classification level to avoid returning to BVNPT.
 - A common sentiment expressed by many staff that we talked with was that they considered BVNPT to be an especially difficult work environment. Separating staff cited specific behavior and management practices exhibited by members of BVNPT's Leadership Team that supported these sentiments.
 - It is evident from this input that BVNPT's unhealthy work environment accelerated staff attrition during 2017, including attrition of staff who sought out promotional opportunities at other agencies sooner than would otherwise have occurred.

G. Vacant Positions and Hiring

- ❖ Recently, at least within the Enforcement Division, there has been a notable improvement in the overall work environment, principally as a result of the Division of Investigation's intervention. Most Enforcement Division staff are hopeful that the newly-appointed Chief of Enforcement will continue to engage constructively with subordinate managers and staff, while getting up to speed regarding BVNPT's Enforcement Program.
- ❖ Partially offsetting this recent improvement, there is an undercurrent of skepticism and discontent among Enforcement Division staff, particularly within the Complaint Section. Additionally, within the Complaint Section:
 - The level of discontent has recently been increasing
 - Turnover of staff has continued
 - The Enforcement Division's Management Team seems not to have effectively addressed the root causes of these problems.

Recently, the Division of Investigation has been working with the Interim Executive Officer, the Chief of Enforcement and Enforcement Division staff to address these problems.

- ❖ The recent improvements in BVNPT's overall workplace environment and workforce morale should be understood in the context of the extremely poor environment and very low morale levels that existed throughout much of the organization during most of 2016/17. Overall, there is still a great deal of room for improvement in both of these areas, particularly within the Enforcement Division.

G. Vacant Positions and Hiring

- ❖ Until sustainable improvements are made in both these areas and a healthy work environment is well-established, elevated levels of staff turnover and high vacancy rates should continue to be expected. Additionally, BVNPT will continue to experience difficulty recruiting quality outside candidates to fill its vacant positions because BVNPT's reputation as an undesirable place to work will persist.
- ❖ The continued involvement of the Division of Investigation with BVNPT's Enforcement Program and potential additional assistance from DCA in other areas could help to further address these issues leading to lower levels of staff turnover, reduced vacancy rates, and improved overall program performance.
- ❖ Finally, since mid-September 2016, BVNPT has made repeated use of temporary, out-of-class assignments to fill various Executive Office, Licensing and Administration positions.
 - Most recently, in early-November, BVNPT redirected the newly-appointed Chief of Enforcement to serve as Acting AEO, after just 3½ months with the Board. This assignment worked at cross-purposes to the goals of rebuilding the Enforcement Division's management structure and training its newly appointed managers.
 - The utilization of short-term, out-of-class assignments to temporarily fill vacant supervisory and management positions is not a substitute for filling the positions on a permanent basis and does nothing to reduce BVNPT's elevated vacancy rates.

There is also a need to review needs for various analyst positions within the Education, Licensing and Administration units.

H. Enforcement Division Staffing and Organization

- ❖ The total number of positions allocated to the Enforcement Division has changed very little during the past few years, but significant changes in the Division's workloads and backlogs have occurred during this period.
 - Overall, the Enforcement Division has a sufficient number of authorized permanent and blanket positions to address current and prospective future workload demands.
 - Some position reclassifications and some redirections of currently authorized positions are needed to better align current resources with current and prospective future workload demands.

Complaint Section – Additional positions are not needed due to (1) reduced backlogs, (2) declining licensee arrest/conviction report workloads and (3) declining field investigation case review workloads.

Investigation Section – Fewer positions are needed because current backlogs and a significant portion of the Section's ongoing workload can be more effectively handled with implementation of enhanced complaint screening processes. Problems with the Section's backlogs and workloads were only partially addressed by referrals of licensee complaint cases to the Division of Investigation.

Discipline Section – Section staffing was previously augmented to address growth in discipline case management workload. However, due to internal promotions and delays in the hiring process, the number of filled positions never actually increased while the number of pending discipline cases continued to decline. Currently allocated positions are more than sufficient to address current and prospective future workload demands.

H. Enforcement Division Staffing and Organization

Probation Section – Probation monitoring caseloads peaked about 6 months ago and will plateau near current levels through the end of the current fiscal year before beginning an accelerated decline. Some additional staffing is needed for a limited period of time (12 to 18 months) to help reduce and better balance caseloads among Section staff until the probationer population returns to historic levels (about 300 to 350 total probationers).

- ❖ A new Intake, Screening, Discipline Review and Enforcement Support Section should be established within the Enforcement Division. This new Section is needed to:
 - ✓ Reduce the scope of responsibilities and the number of staff allocated to the Complaint Section
 - ✓ Enable development of enhanced screening processes that can be used to identify and complete licensee complaint cases that do not require field investigation
 - ✓ Promptly review completed field investigation cases without conflicting with other priorities, such as the processing of license applicant and licensee criminal arrest/conviction reports
 - ✓ Restore and enhance the Division's data quality control and statistical reporting functions.
- ❖ This recommendation is a modified version of a recommendation we made over a year ago that would address the flawed decisions made 6 to 7 years ago when the new Investigation Section was established and staffed exclusively with non-sworn field investigator positions.
- ❖ DCA's Leadership Team is committed to assisting BVNPT with implementing this recommendation. Last week, DCA's Office of Human Resources approved the reclassification of a vacant position to serve as a Manager for the new Section.

THE NEW SECTION CAN BE STAFFED BY REDIRECTING POSITIONS FROM OTHER ENFORCEMENT DIVISION UNITS. ESTABLISHING THE NEW SECTION SHOULD BE ASSIGNED A HIGH PRIORITY AND IMPLEMENTED AS SOON AS POSSIBLE.

I. Oversight of Board Staff and Evaluation of Staff Performance

❖ During 2016/17, the level of oversight of Enforcement Division staff was adversely impacted by the collapse of the Division's management structure, including:

- The October 2016 leave of absence and January 2017 separation of the Chief of Enforcement
- The December 2016 separation of the Probation Unit from the Discipline Section which left the Discipline Section without a Manager
- The March 2017 separation of the Complaint Section Manager
- The May 2017 separation of the Supervising Special Investigator.

All of these positions remained vacant through the end of the 2016/17 fiscal year.

❖ During July and August 2017, several of the Enforcement Division's vacant management positions were filled:

- The Discipline Section Manager position was filled through an internal promotion of one of the Section's Discipline Analysts.
- The Chief of Enforcement and the Complaint Section Manager positions were filled by external candidates with *limited prior Enforcement Program management experience* and who are just now beginning to learn their new jobs.
- As of early-December, the Supervising Special Investigator position was still vacant.

❖ Additional oversight and training of all current Enforcement Division managers is needed along with prospective new Division managers, when hired.

I. Oversight of Board Staff and Evaluation of Staff Performance

- ❖ Oversight of the Education, Licensing and Administration business units was adversely impacted during 2016/17 by staff turnover and constantly shifting management assignments, including:
 - The January 2017 leave of absence and subsequent separation of the EO
 - The temporary appointment of the Supervising NEC to serve as Acting AEO and the subsequent appointment of the SNEC to serve as Interim EO
 - The temporary appointment of the Board Support Analyst from October 2016 to January 2017 to serve as Acting Manager of the Administration and Support Services Section
 - The temporary appointment of the Support Services Unit Office Services Supervisor III (OSS III) from October 2016 to January 2017 to serve as Acting Leg/Reg Analyst and the concurrent temporary appointment of a Support Services Unit Office Technician to serve as Acting OSS III for the Support Services Unit
 - The 2-year Training and Development assignment of the OSS III as a Budget Analyst which left the OSS III position vacant.
- ❖ Currently, the Assistant Executive Officer (AEO), Supervising Nurse Education Consultant (SNEC), and Office Services Supervisor III (OSS III) positions are vacant.

I. Oversight of Board Staff and Evaluation of Staff Performance

- ❖ Various changes in BVNPT's Licensing and Administration organizational structure, position allocations and staff assignments were initiated during 2016 to improve workload and workforce oversight and management. However, there are still just 2 filled positions to manage and supervise more than 30 subordinate staff in these units.
 - Both of these first level managers are relatively new and inexperienced.
 - The redirection of the OSS III to a vacant Budget Analyst position for a 2-year period for Training and Development (T&D) purposes left the OSS III position vacant
 - The OSS III position, which has been vacant since May 2017, is nearly impossible to now fill.
- ❖ Overall, there is not currently an adequate level of oversight of BVNPT's Education, Licensing and Administration business units.
 - These conditions increase the risk of problems surfacing similar to those experienced when the Enforcement Division's management structure collapsed.
 - As of early-December 2017, no meaningful or effective action had been taken by the Board to bolster management and oversight of BVNPT's Education, Licensing and Administration units.
 - Needs exist for BVNPT to permanently fill key management positions, such as the AEO position that has not been filled on a permanent basis for more than 2½ years and the Supervising NEC position which has been vacant for more than a year.

I. Oversight of Board Staff and Evaluation of Staff Performance

- ❖ Probation reviews of newly hired staff and staff who have been promoted internally, and annual performance reviews and evaluations of other BVNPT staff, are not being consistently completed on a timely basis. Timely completion of quality probation and annuals reviews is needed to:
 - ✓ Promptly and effectively address potential personnel problems
 - ✓ Provide a structure for ongoing development and training of all BVNPT staff.

Most importantly, immediate action is needed to address the Leadership vacuum that currently exists at BVNPT.

J. Oversight of BVNPT's Executive Officer

- ❖ It is evident that the members of BVNPT's governing Board have been largely dependent on information provided by the EO for purposes of performing their oversight responsibilities.
- ❖ Although such dependency is not unique to BVNPT, several members noted during our interviews with them that this dependency can result in the Board being unaware of performance or other problems as occurred during periods immediately preceding BVNPT's 2014/15 Sunset Review.
- ❖ The Board again appeared to not be sufficiently aware of the emergence of significant performance and other problems at the Board during late-2016 and early-2017, and continuing after the Board's March 2017 Sunset Review Hearing. However, in this latter instance, this lack of awareness is somewhat inconsistent with various direct communications to the Board which should have heightened members' awareness of emerging problems at BVNPT.
- ❖ Oversight of BVNPT's EO and, by extension, BVNPT's programs and operations, could potentially benefit from utilization of a 360 degree, multi-rater assessment process in which feedback regarding the EO's performance is solicited from a variety of points of view. Such information could be utilized exclusively for developmental purposes or for a combination of developmental and performance assessment purposes.
- ❖ We again encourage the Board to further explore this option to improve its ability to effectively oversee its Executive Officer.

K. Board Member Training

- ❖ Some years ago, in addition to DCA's Board Member Orientation Training (BMOT), Board members were provided up to two (2) days of BVNPT-specific Board Member Orientation Training by BVNPT staff.
 - The BVNPT-specific training was subsequently condensed into a 1-day session and the 1-day training, for various reasons, was not particularly good.
 - The collateral and reference materials that were provided to new members were somewhat overwhelming and of limited utility.
- ❖ From July 2013 through January 2014, five (5) new members were appointed.
 - It appears that there were significant deficiencies in the quality and completeness of the BVNPT-specific orientation training that was provided to these members.
 - These deficiencies may have contributed to the Board's limited awareness of the nature and magnitude of the problems that were already being experienced related to BVNPT's Enforcement Program at that time.
- ❖ During 2016, BVNPT revised some of the BVNPT-specific Board Member Orientation Training curriculum along with the supporting training and reference materials.

K. Board Member Training

- ❖ During 2017, five (5) new Board members were appointed. Of these, three (3) members have attended BVNPT's Board Member Orientation Training.
 - One (1) member attended a 1-day training session and the other two (2) members attended a 2-day training session, with each session starting at about 10 am and concluding at 4 pm, with a 1-hour break for lunch.
 - The members that attended the 2-day session both commented very favorably about the quality of this training. The other Board member requested that the training be condensed into a 1-day session which provided the member with much less information about BVNPT's Education, Licensing and Enforcement Programs than would otherwise have been provided.
 - All 3 members commented that a 2-day timeframe is needed to complete the orientation with the member that attended the 1-day session suggesting that a follow-up session should be conducted after a period of time to further orient new members after they have gained experience at the Board.

K. Board Member Training

- ❖ Based on our discussions with these members, there continues to be some disconnect between the BMOT training provided by DCA and the orientation training provided by BVNPT with respect to Board member oversight of the Board.
 - DCA's BMOT training addresses the oversight topic at a general level while BVNPT's training seems not to address this topic at all.
 - The current structure leaves new Board members without any training regarding specific strategies and methods for overseeing the Board's Licensing, Education, and Enforcement Programs.

L. Licensing and Support Services

- ❖ During the past 18 months, various issues, problems and concerns surfaced or were brought to our attention by BVNPT staff involving matters that were not within the scope of the Monitor assignment which focused primarily on the Enforcement Program and, secondarily, on the targeted administrative processes delineated in AB 179.
- ❖ Examples of problems involving BVNPT's licensing and licensing support processes that surfaced or were brought to our attention by BVNPT staff included:
 - Delays in cashiering school applications
 - Delays in processing on-line initial license applications
 - Delays in processing license renewal batch mail received from DCA Central Cashiering
 - Delays in processing address changes (in-house)
 - Issuance of a Temporary License to an applicant that was previously denied licensure for a criminal offense.
- ❖ As these matters surfaced, and consistent with provisions of AB 179, we relayed the information to DCA's Project Manager and, as appropriate, other members of DCA's Leadership Team.

L. Licensing and Support Services

- ❖ During BVNPT's March 2017 Sunset Review Hearing, representatives of BVNPT expressed disagreement with our concerns about possible problems involving BVNPT's cashiering operations. However, following the Sunset Hearing, BVNPT requested that DCA provide assistance with cashiering its backlogged remittances.
 - From late-April through mid-July 2017, DCA provided staff to help BVNPT cashier its backlogged remittances.
 - This was the second consecutive fiscal year that BVNPT received extra end-of-year assistance from DCA with cashiering its backlogged remittances.
- ❖ After we forwarded the information about possible problems with BVNPT's issuances of Temporary Licenses to DCA's Division of Investigation, DCA assigned its Internal Audits Office to assess BVNPT's Temporary License issuance procedures and practices.
 - The Internal Audits Office identified several significant deficiencies and internal control weaknesses with BVNPT's Temporary License issuances
 - Several changes were implemented to prevent improper Temporary License issuances, such as issuances to applicants with criminal offense records, including (1) restricting access to the Temporary Certificates and (2) revising applicable procedures.

Also, both the responsible staff person and a manager or supervisor must verify the applicant's eligibility to receive a Temporary License.

M. Final Recommendations

- ❖ The *Final Report* is intended to be helpful to the Board, oversight authorities and other stakeholders for purposes of understanding the history, development and current status of the Board's Enforcement Program and selected core administrative support structures and processes.
- ❖ We developed 58 Final Recommendations to address the above-described problems and other identified needs for improvement.
 - A listing of all of these recommendations is provided as an attachment at the end of this presentation.
 - The listing provides cross-references to recommendations contained in our prior reports or developed during June/July 2017 as part of our targeted assessment of the Enforcement Program's intake, investigation, and discipline processes.
 - The listing also summarizes the current status of BVNPT's implementation of each recommendation.
- ❖ Collectively, the Final Recommendations are intended to serve as an *Integrated Improvement Portfolio* that can be used to guide implementation of changes needed to address a broad range of problems currently being experienced by the Board and improve the Board's administrative processes and the organizational structure, management, business process, staffing support and performance of the Enforcement Program.

N. Concluding Remarks and Next Steps

- ❖ Many of the Enforcement Program organizational and process improvements made during 2015/16 along with some further improvements that were made during the first half of 2016/17, are still evident today, including:
 - ✓ Reduced numbers of license applicant cases referred to Enforcement and related decreases in the number of pending applicant investigations and the average elapsed time to complete these cases
 - ✓ Reduced numbers of pending licensee arrest/conviction report investigations
 - ✓ Improved processes for identifying and referring licensee complaint cases involving serious criminal misconduct and significant patient harm to the Division of Investigation
 - ✓ Reduced numbers of pending licensee complaint investigations
 - ✓ Reduced numbers of pending discipline cases and decreases in the average age of these cases and in the average elapsed time to file pleadings and complete discipline.

Additionally, while all of the newer Critical Problems that were identified earlier this year have been largely addressed, additional follow-up is needed to assure that related Immediate Action Recommendations are fully implemented.

N. Concluding Remarks and Next Steps

- ❖ However, significant additional improvements are still needed to address BVNPT's (1) legacy enforcement case backlogs and the extended cycle times needed to complete investigations and impose discipline and (2) a broad range of current organizational structure, workload and workforce management, staffing, and business process deficiencies.

- ❖ *Immediate needs currently exist to:*
 1. Continue to utilize the services of DCA and the Division of Investigation for at least the next 3 to 6 months and until BVNPT's Leadership and Enforcement Program Management Teams are fully rebuilt and sufficiently trained to enable more autonomous management of the Enforcement Program.
 2. Bolster BVNPT's Leadership Team capabilities until a permanent EO and AEO are appointed.
 3. Permanently fill all other currently vacant management and supervisory positions.
 4. Provide additional oversight and training to all of BVNPT's managers and supervisors.
 5. Provide additional training to all of the members of BVNPT's governing Board.

N. Concluding Remarks and Next Steps

6. Stabilize BVNPT's workforce and reduce staff turnover and vacancy rates.
7. Establish a new Complaint Intake, Screening, Discipline Review and Enforcement Support Section within the Enforcement Division and develop and implement processes for screening and completing licensee complaint cases that do not require field investigation.
8. Realign authorized Enforcement Division positions and reallocate work among available staff to better address current and prospective future workload demands.
9. Resume auditing of licensee compliance with BVNPT's CE requirements.
10. Set goals for all of the key Enforcement Program workload, backlog and performance measures discussed previously as part of this presentation.

Questions?

Attachment

Final Recommendations of the Administrative and Enforcement Program Monitor

Final Recommendations of the Administrative and Enforcement Program Monitor

Final Recommendations		Prior Phase II or June/July 2017 Immediate Action Recommendation	October 2017 Implementation Status
Enforcement Processes	1. Critically review and overhaul Item No. 9 of the current Record of Convictions form to make it more readable and understandable and reduce the frequency that license applicants misreport or over-report prior convictions (see also Final Recommendation 5).	IV-1	Not Implemented
	2. Develop and implement procedures to enable case intake staff to exercise judgement in determining whether to request records from law enforcement agencies and the courts for license applicant cases based on minor criminal offenses that occurred in the distant past and screen the cases to identify and close cases that do not require desk investigation.	IV-2	Partially Implemented
	3. Restructure and expand the CE Compliance Audit Program. Issue an initial standard form 30-day audit letter to a sample of at least 5 percent of renewing licensees in conjunction with issuing their license renewal notifications. If the licensee is non-responsive to the initial request, promptly issue a second/final request. If the license is non-responsive to the final request or confirms that they did not complete any (or completed very little) of the required CE, refer the case to Enforcement for issuance of a citation. Streamline the Certificate of Completion review process by limiting reviews of the documents in cases that appear to show full compliance with BVNPT's CE requirements.	IV-3	Not Implemented
	4. Assess the feasibility of imaging CE-related document submissions or enabling submission of the documents electronically.	IV-4	Not Implemented
	5. Critically review and overhaul Item No. 9 of the current Record of Convictions form to make it more readable and understandable and reduce the frequency that licensees misreport or over-report prior convictions when renewing their license (see also Recommendation IV-1) . Develop additional programming for on-line renewals that requires confirmation when the "Yes" box is checked or to prevent further processing of the renewal application until other required fields providing additional information about the self-reported conviction are completed.	IV-5	Not Implemented
	6. Work collaboratively with the AG to identify ways to increase BVNPT's utilization of the current FT Pilot Program for licensee arrest/conviction report cases and other qualifying cases.	IV-6	Implemented
	7. Work collaboratively with the AG to identify ways to expand the Fast Track Pilot Program for licensee arrest/conviction report cases and other qualifying cases to other geographic regions of the state.	IV-7	
	8. Develop and implement a structured, sustainable business process for screening licensee complaints to identify cases that do not require field investigation and assign these cases to staff that specialize in completing desk investigations of these types of cases.	IV-9	Not Implemented
	9. Restore processes for opening and investigating cases involving discipline by another state/agency. Develop and implement procedures to enable case intake or screening staff (or both) to review and not open new discipline by another state/agency cases or, alternatively, screen and close discipline by another state/agency cases that do not require completion of a desk investigation. Additionally, notify agencies providing "courtesy notices" to stop doing so if the information is available to BVNPT through BreEZe, from standard BreEZe reports, or the agency routinely posts the information to another professional licensing database that is otherwise queried by BVNPT.	IV-10 <i>(Modified)</i>	Partially Implemented
	10. Continue to refine licensee complaint case coding procedures and practices and provide training to staff to further improve the consistency and completeness of complaint records and the tracking and reporting of Enforcement Program workload, backlog and performance information.	IV-11	Partially Implemented
	11. Develop and implemented processes for enhanced screening and completion of licensee complaint cases that do not require field investigation (see also Final Recommendation 36).	V-1 <i>(Modified)</i>	Partially Implemented
	12. With limited exceptions, stop closing licensee complaint cases during intake without investigation and ensure supervisory reviews are completed of all licensee complaint cases closed during intake without investigation.	No.1	Implemented
	13. Reopen licensee complaint cases previously closed during intake from February through May 2017 as determined appropriate by the Division of Investigation and assign the re-opened cases to BVNPT's Investigation Section or the Division of Investigation as determined appropriate by the Division of Investigation.	No. 2	Implemented

Final Recommendations of the Administrative and Enforcement Program Monitor

Final Recommendations		Prior Phase II or June/July 2017 Immediate Action Recommendation	October 2017 Implementation Status
Enforcement Processes <i>(continued)</i>	14. Complete Division of Investigation reviews of all licensee complaint cases closed during intake from September 2016 through January 2017, re-open any cases previously closed during intake as determined appropriate by the Division of Investigation, and transfer the re-opened cases to the Investigation Section or DOI as determined appropriate by the Division of Investigation.	No. 3	Implemented
	15. Assign currently pending licensee complaint intake cases to BVNPT's Investigation Section or DOI as determined appropriate by the Division of Investigation.	No. 4	Implemented
	16. Stop Pilot Project 2.0 involving the collection of releases and administrative/ personnel records for newly received licensee complaint cases by Intake Unit staff and redirect Intake Unit staff to focus exclusively on completing case reviews, research and triage of newly received license complaint cases.	No. 5	Implemented
	17. Revise BVNPT's licensee complaint intake policies and procedures consistent with the above recommendations, provide training to Complaint Section staff to support implementation of the recommendations, and monitor implementation to assure that all of the recommendations are fully and consistently implemented.	No. 6	Implemented
	18. Locate or account for all cases shown in Breeze as Closed Pending Conviction and assign them for ongoing monitoring.	No. 7	Partially Implemented
	19. Develop and implement positive internal controls to ensure that cases Closed Pending Conviction are monitored and tracked by staff on a continuing basis.	No. 8	Partially Implemented
	20. Reopen and further investigate Investigation Section cases closed with a NOW during early-2017 as determined appropriate by the Division of Investigation.	No. 9	Implemented
	21. Complete Division of Investigation reviews of all Investigation Section cases closed since mid-May 2017.	No. 10	Implemented
	22. Transfer all Citation Program responsibilities to the Discipline Section.	No. 11	Implemented
	23. Temporarily redirect one experienced (1) Special Investigator to complete reviews of pending AS05 cases, triage the cases for discipline, prepare case summaries, and refer the cases for issuance of a NOW, citation or to the AGO, as appropriate. Provide a 2nd level supervisory level reviewer for all closed cases. Utilize Discipline Section staff, as needed, to assist in preparing and submitting discipline packages to the AGO. Improve internal controls and reporting for monitoring the status of these cases and develop procedures for expediting reviews in cases where the responsible investigator believes there is an imminent risk of consumer harm.	No. 12 <i>(Modified)</i>	Partially Implemented with Modifications
24. Modify the Quarterly Enforcement Workload and Performance Report format to more consistently distinguish between license applicant cases, licensee subsequent arrest/conviction report cases, licensee complaint cases, and CE audit failure cases. Additionally, align the Quarterly Report Data with data provided in the Division's Monthly Statistical Reports. Provide both Quarterly and Monthly Reports to the Enforcement Committee within 10 days following each reporting period.	VI-1 <i>(Modified)</i>	Implemented with Modifications	
25. On an annual basis, develop goals for each of the workload and performance measures listed on the Quarterly Enforcement Workload and Performance Report and include the goals in all quarterly reports.	VI-2 <i>(Modified)</i>	Not Implemented	

Final Recommendations of the Administrative and Enforcement Program Monitor

Final Recommendations		Prior Phase II or June/July 2017 Immediate Action Recommendation	October 2017 Implementation Status
Enforcement Organization and Staffing	26. Continue to redirect and consolidate available resources as needed to enable additional screening and completion of on-line public complaints and licensee complaints that do not require field investigation.	V-4	Partially Implemented
	27. Continue to utilize available blanket expenditure authorization funding to maintain the availability of a full-time AGPA position to serve as a Lead Analyst for the Intake Unit and provide complaint screening and second level intake and complaint screening review services.	Supplemental	Implemented
	28. Modify the classification of the Intake Unit's authorized permanent SSA position to enable the incumbent to transition to the AGPA level as the incumbent gains experience screening licensee complaint cases and takes on responsibility for screening more complex cases and begins providing enhanced screening for those cases.	Supplemental	Not Implemented
	29. Reclassify a currently vacant Special Investigator position to SSM I and redirect the position to serve as a Manager for the new Intake, Screening, Discipline Review and Enforcement Support Section (see Final Recommendation 36).	V-3 <i>(Modified)</i>	Not Implemented
	30. As Investigation Section case backlogs and new case assignments decrease, redirect vacant positions to address other current and emerging Enforcement Program and BVNPT business needs	V-3	Not Implemented
	31. Transfer the Reinstatement Analyst position and related Petition for Reinstatement responsibilities to the Probation Section and assign the Reinstatement Analyst a limited probation monitoring caseload as a supplement to their Petition for Reinstatement cases (e.g., monitoring of some of the Probation Section's Year 3 probationers) or continue utilizing other Discipline Section staff to monitor some probationers until monitoring caseloads decrease to lower levels.	V-7 <i>(Modified)</i>	Implemented
	32. Upgrade the Enforcement Division's Data Quality Control and Statistical Reporting Analyst position to the AGPA level and redirect the position and associated data quality control and reporting responsibilities to the Intake, Screening, Discipline Review and Enforcement Support Section (see Final Recommendation 36).	Supplemental	Not Implemented
	33. Redirect and consolidate available resources as needed to support expansion of the CE Audit Program. Consider transferring responsibility for auditing compliance with BVNPT's CE requirements and the CE Compliance Audit Specialist position to the Discipline Section and utilizing Discipline Section staff to provide assistance with completing additional compliance reviews.	V-5 <i>(Modified)</i>	Partially Implemented
	34. Assign some probation monitoring cases to the Section Manager until monitoring caseloads decrease to lower levels.	V-7	Not Implemented
	35. To address elevated Probation Program workload demands for the next 12 to 18 months, continue to utilize Temporary Help to augment Probation Section staffing. Subsequently, as probation monitoring caseloads decrease as a result of either a decrease in the probationer population or redistribution of probation monitoring cases among other Probation Section staff, begin reducing the Section's utilization of Temporary Help services.	V-2 <i>(Modified)</i>	Partially Implemented
	36. Establish a new Intake, Screening, Discipline Review and Enforcement Support Section. Transfer all Complaint Section Intake Unit staff and associated responsibilities to the new Section. Transfer one (1) of the Complaint Section's other Lead Analysts and the Section's discipline review responsibilities to the new Section. Transfer the Division's Data Quality Control and Statistical Reporting Analyst position and associated responsibilities to the new Section.	V-6	Not Implemented
37. Repeal Section 2847.8(b) requiring that the Board submit a specified report to DCA in advance of each meeting specified in Section 2847.8(a).	Supplemental	Not Implemented	

Final Recommendations of the Administrative and Enforcement Program Monitor

Final Recommendations		Prior Phase II or June/July 2017 Immediate Action Recommendation	October 2017 Implementation Status
Enforcement Organization and Staffing (continued)	38. DCA and the Division of Investigation should continue to provide enforcement-related management, supervisory, technical support and training services for at least the next 3 to 6 months and until BVNPT's Leadership and Enforcement Program Management Teams are fully rebuilt and sufficiently trained to enable more autonomous management of the Enforcement Program. During this transition period, the Enforcement Division's Management Team should seek out and accept direction from the Division of Investigation's more knowledgeable and experienced staff with respect to identifying needs for and implementing changes needed to enable improved Enforcement Program performance.	Nos. 1 through 12	Partially Implemented
	39. BVNPT should request additional support from the Department of Consumer Affairs or through recruitment of a Retired Annuitant with prior executive management experience to bolster BVNPT's Leadership Team capabilities until a permanent Executive Officer and a permanent Assistant Executive Officer are appointed.	Supplemental	Not Implemented
	40. Appoint a seasoned Executive Officer to the Board that has prior executive-level management experience, preferably with other California State Government regulatory programs, and including demonstrated success turning around other troubled programs or organizations. Additionally, when making this appointment, consider the candidate's management style and willingness and ability to work collaboratively with DCA.	Supplemental	Not Implemented
Administrative Processes	41. When appointed, BVNPT's Executive Officer and Assistant Executive Officer should review the Board's needs for all of the different AGPA positions currently allocated to BVNPT's Education, Licensing and Administration Business Units.	Supplemental	Not Implemented
	42. BVNPT's Chief of Enforcement should become more actively and directly engaged in addressing issues contributing to poor workforce morale and discontent within the Complaint Section, including needs for additional training and support for the Section Manager targeted to developing (1) more effective working relationships with subordinate staff and (2) a better understanding of the nature of the Section's enforcement cases, how the cases are investigated, the Section's case handling and review processes, and how BreEZe works (e.g., by working some of the licensee arrest/conviction report cases assigned to the Section).	Supplemental	Not Implemented
	43. The Division of Investigation should continue to conduct individual case reviews on at least a semi-monthly basis with each of the Investigation Section's investigators. For training and development purposes, the Chief of Enforcement and the Investigation Section Manager, when appointed, should participate in most (or all) of these reviews for at least the next 6 to 12 months and, over time, Enforcement Division management should assume responsibility for completing these reviews. The frequency and duration of the reviews should be regularly adjusted as appropriate to each investigator's development needs.	V-9	Partially Implemented
	44. Continue to provide Enforcement Division staff with formal classroom type training as needed to bolster their knowledge, skills and abilities.	V-10	Implemented
	45. Utilize the Division of Investigation to support initial training of newer investigators.	V-11	Partially Implemented
	46. Utilize AG Liaison services at a higher level for a limited period of time to provide additional on-site applied technical assistance and training to BVNPT's investigators.	V-12	Not Implemented
	47. Establish an Interagency Work Group comprised of representatives of the Business, Consumer Services and Housing Agency, the Department of Consumer Affairs, the Senate Committee on Business, Professions and Economic Development, the Assembly Committee on Business and Professions, and BVNPT's governing Board to assess needs for development of a 360 degree Executive Officer feedback process and, if needed, the best approach and timeframe for developing and implementing the process.	III-1	Not Implemented
48. Complete required Probation Reviews for all new or internally promoted staff within the timeframes specified by CalHR and, on an annual basis, complete Annual Performance Reviews and Individual Development Plans for all other BVNPT managers and staff	V-13	Not Implemented	

Final Recommendations of the Administrative and Enforcement Program Monitor

Final Recommendations		Prior Phase II or June/July 2017 Immediate Action Recommendation	October 2017 Implementation Status	
Administrative Processes <i>(continued)</i>	49.	The Chief of Enforcement should maintain open lines of communication and meet periodically with counterparts at the Division of Investigation and the Office of Attorney General to jointly develop and implement strategies to further reduce BVNPT case backlogs and the amount of time needed to complete investigations and impose discipline when supported by results of the investigations.	V-8	Partially Implemented
	50.	BVNPT's Chief of Enforcement should work collaboratively with DCA and other DCA-affiliated healing arts boards to develop and implement strategies for further improving awareness among OSLTCO's staff and volunteers, and the patients that they serve, regarding their respective Licensing and Enforcement Programs, including participating every few years in an OSLTCO conference.	Supplemental	Partially Implemented
	51.	Consistently provide all new Board members with substantive New Board Member Orientations and related training and reference materials specific to BVNPT's Enforcement Program, and other BVNPT programs and services, that complements the Board Member Orientation Training (BMOT) provided by DCA and helps new members to better understand and fulfill their program oversight, strategic planning, policy development, Executive Officer performance evaluation and other responsibilities. Require that all new members attend two (2) days of orientation training and offer an optional follow-up day of training to new members within 3 to 6 months of completion of the initial training. Have a representative of DCA participate in the BVNPT-specific orientations to help integrate the training with DCA's BMOT training, particularly with respect to helping the member understand and fulfill their oversight responsibilities. Update the reference materials provided to Board members to include recently completed reviews, evaluations or audits of BVNPT's programs or operations that would be beneficial for purposes of better understanding the Board's historical development and problems currently facing the Board and provide the members with an overview of the information contained in each of these documents.	VII-1 <i>(Modified)</i>	Partially Implemented
	52.	In collaboration with DCA, develop and provide BVNPT Board members with a How to Oversee Board Licensing, Education and Enforcement Programs training session and videotape the session so that it can be provided to new Board members on a continuing basis.	Supplemental	Not Implemented
	53.	Better define the Enforcement Committee's roles and responsibilities, including roles and responsibilities related to (1) overseeing the Board's Enforcement Program and (2) communicating Enforcement Program-related information to the full Board to support fulfillment of the Board's strategic planning, policy development, Executive Officer performance evaluation and other responsibilities. Consider better defining the roles and responsibilities of other Board committees, where necessary.	VII-2	Partially Implemented
	54.	Provide briefings to Enforcement Committee members, initially on at least quarterly basis, to provide information regarding case intake, investigation and discipline workloads, backlogs, and performance, performance improvement initiatives underway and planned, policy matters and other matters as determined by the Committee. Assist members in understanding the information that is provided by highlighting trends, ongoing and emerging problems, and changes underway and planned to address these problems and improve Enforcement Program performance.	VII-3 <i>(Modified)</i>	Partially Implemented
	55.	Pursue enactment of legislation to provide BVNPT's governing Board with the authority to delegate approval of default decisions to the Executive Officer.	IV-8	Partially Implemented
	56.	Update the public documents available from BVNPT's website to include all of the Board's reports to the Legislature related to its March 2017 Sunset Review, all of the Monitor's reports, and other publications and information that should be readily available to all Board members and the public such as BVNPT Strategic Plans and Enforcement Program Quarterly Statistical Reports.	Supplemental	Not Implemented
Licensing and Support	57.	To enable prompt identification of emerging problems and potential needs for DCA to conduct more in-depth reviews and evaluations of BVNPT's licensing processes, DCA should request and review monthly statistical reports from BVNPT regarding BVNPT's cashing and licensing workloads, backlogs and processing times. DCA should request that the monthly statistical reports be provided to DCA within five (5) business days of the end of each month.	Supplemental	Not Implemented
	58.	DCA's Internal Audits Office or the Division of Investigation should conduct a follow-up review of BVNPT's Temporary License issuance processes to verify that the measures taken during March to prevent improper issuances of Temporary Licenses remain in place.	Supplemental	Not Implemented