



## MEMORANDUM

**Date** August 5, 2014  
**To** Board of Psychology Members  
**From** Sandra Monterrubio  
Enforcement Program Manager  
DCA/California Board of Psychology  
**Subject** **Enforcement Program Update**

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The Board is actively looking to recruit two new Enforcement Analysts for its vacant positions and anticipates having these openings filled by the end of August. The new enforcement staff will conduct investigations, issue citations, and perform other enforcement related duties as needed. Existing enforcement staff has undertaken the additional workload, and their hard work and efforts are greatly appreciated. Once the vacancies are filled, the enforcement unit will consist of an Enforcement Program Manager, four (4) Enforcement Analysts, one (1) Special Investigator, one (1) Probation Coordinator, and one (1) Enforcement Technician.

In October 2014, enforcement staff will attend Basic and Specialized Programs for National Certified Investigator and Inspector Training. The three-day, hand-on Programs will educate and enable staff to apply investigative techniques and procedures when performing desk investigations. The training will further develop staff's skills to produce detailed and concise enforcement reports to management and the Health Quality Investigative Unit, formerly known as Medical Board Investigation Unit.

Effective July 26, 2014, Deputy Attorney General Josh Templet was appointed as the Board's DAG liaison. Prior to his employment with the Office of the Attorney General, DAG Templet worked as a prosecutor for the Marin County District Attorney's Office and as a private litigator at the Palo Alto office of Skadden, Arps, Slate, Meagher & Flom. DAG Templet graduated law school from UC Berkeley and resides in San Francisco.

### COMPLAINT PROGRAM

As of July 1, 2014, the Board of Psychology has received 78 complaints. All complaints received are opened and assigned to an enforcement analyst within eight (8) days of receipt. The Enforcement Analysts and the Special Investigator review each complaint and determine if expert review and/or formal investigation is required.

Expert reviewers are licensed psychologists who perform case reviews for the Board and Board-ordered psychological evaluations. Expert reviewers must meet the selection criteria by holding a valid license for five (5) years prior to submitting an application to become an expert or provide a list of significant qualifications of experience if licensed less than five years; have no past or present criminal history; no disciplinary action, forensic experience, is a graduate of a regionally accredited institution; and testify at administrative hearings.

The Board is continuing to accept Expert applications and determines if each applicant meets the expert selection criteria. Experts will be hired on an as needed basis. Expert training will be held annually, and a DVD will be made available for those that are unable to attend. The Board will be requesting the Office of the Attorney General, Office of Administrative Hearings, and field investigators to assist with the training. The Enforcement Program Manager will keep the Board apprised of future expert training workshops.

Formal investigations are continually performed by investigators in the Health Quality Investigative Unit (HQIU). Effective July 1, 2014, the HQIU is under the direction of the Department of Consumer Affairs, Division of Investigation Unit (DOI). The HQIU will continue to investigate the more complex cases and refer cases that are an extreme departure from the standard of care or egregious enough in nature to the Office of the Attorney General for formal discipline or the District Attorney's Office for criminal prosecution.

#### CITATION PROGRAM

As of July 1, 2014, two (2) citations have been served. Citation and fines are issued for minor violations that do not rise to the level of formal discipline. For example, false or misleading advertising or minor record keeping violations are considered minor violations.

#### DISCIPLINE PROGRAM

As of July 1, 2014, there are 61 cases pending at the Office of the Attorney General. Of the 61 cases, six (6) have been sent over since July 1, 2014.

As Stipulated Settlements and Proposed Decisions are received, they are sent to the Board by mail ballot. The Board is provided with the Accusation and Stipulated Settlement/Proposed Decision. If two votes to "hold" are received, the Board will discuss the matter further at the next scheduled Board meeting. By September 1, 2014, the Board will be e-mailed a Mail Ballot Results Memo (please see attached document) notifying them of the outcome of each case.

#### PROBATION PROGRAM

Enforcement staff is currently monitoring 34 probationers. Of the 34 probationers, eight (8) are out of compliance. Staff will be forwarding these matters over to the Office of the Attorney General for filing of an Accusation and Petition to Revoke Probation.

Currently the Board has 36 tolled probationers. Tolled refers to probationers who chose to leave California to reside or to practice outside the State for any reason. During periods of non-practice, the probationary period is tolled and respondent's license or registration shall be placed on an inactive status. The probationary period will not commence again until respondent activates his or her license and resumes practicing psychology in the state of California.

#### ATTACHMENTS

Please find attached the Overview of Enforcement Activity, Performance Measures (data for PM3-Intake and Investigations and PM4-Formal Discipline could not be verified at this time), and a sample copy of the Mail Ballots Result Memo.

#### ACTION REQUESTED

Information Only

**BOARD OF PSYCHOLOGY**  
**Overview of Enforcement Activity**

<b>License &amp; Registration*</b>	<b>08/09</b>	<b>09/10</b>	<b>10/11</b>	<b>11/12</b>	<b>12/13</b>	<b>13/14</b>	<b>14/15**</b>
Psychologist	20,307	21,019	21,527	22,020	22,688	****	****
Registered Psychologist	324	320	312	320	349	****	****
Psychological Assistant	1397	1429	1507	1635	1727	****	****
<b>Cases Opened</b>	<b>08/09</b>	<b>09/10</b>	<b>10/11</b>	<b>11/12</b>	<b>12/13</b>	<b>13/14</b>	<b>14/15**</b>
Complaints Received	786	712	785	747	707	643	65
Criminal Conviction Reports Received	72	54	48	70	42	133	6
Investigations Opened	88	79	83	107	73	505	43
Cases sent to DA	2	3	3	5	6	****	****
Cases sent to AG	23	38	37	34	38	41	7
<b>Filings</b>							
Accusations	8	23	21	27	31	27	3
Statement of Issues	9	8	4	4	2	4	0
Petition to Revoke Probation	0	0	0	3	1	2	1
Petitions to Compel Psych. Exam	0	0	1	1	0	1	0
Petitions for Penalty Relief	3	1	0	1	1	2	0
Petition for Reinstatement	1	1	0	2	1	1	0
Petitions for Reconsideration	0	1	0	0	2	0	0
<b>Filing Withdrawals/Dismissals</b>							
Accusations Withdrawn	0	0	2	0	0	2	0
Accusations Dismissed	0	1	0	1	1	0	0
Statement of Issues Withdrawn	5	0	2	1	0	0	0
<b>Citations</b>							
Citations Ordered	5	10	9	18	10	6	2
<b>Disciplinary Decisions</b>							
Revocations	1	3	2	4	2	4	0
Revocation, Stayed, Probation	7	9	12	11	11	11	4
Revocation, Stayed, Probation, Susp.	3	0	0	0	0	0	0
Voluntary Surrender	8	3	2	11	10	10	2
Reprimands	0	0	1	2	0	2	0
ISO/TRO/ASO/PC23 Ordered	3	4	1	4	3	2	0
Statement of Issues-License Denied	1	1	0	1	1	0	0
Other	2	1	2	0	1	0	0
<b>Total Disciplinary Decisions</b>	<b>25</b>	<b>21</b>	<b>20</b>	<b>33</b>	<b>28</b>	<b>29</b>	<b>6</b>
<b>Other Decisions</b>							
Statement of Issues-License Granted	4	5	4	3	6	3	0
Petitions for Penalty Relief Denied	1	0	0	0	0	0	0
Petitions for Penalty Relief Granted	3	1	1	1	1	1	0
Petition for Reinstatement Granted	1	0	0	0	1	0	0
Petition for Reinstatement Denied	0	0	1	1	1	0	0
Reconsiderations Denied	0	0	1	0	1	0	0
Reconsiderations Granted	0	1	0	0	1	0	0
Orders Compelling Psych. Exam	0	0	0	1	0	1	0
<b>Total Other Decisions</b>	<b>9</b>	<b>7</b>	<b>7</b>	<b>6</b>	<b>11</b>	<b>5</b>	<b>0</b>
<b>Violation Types</b>							
Gross Negligence/Incompetence	5	4	4	3	5	9	4
Improper Supervision	0	0	1	0	0	1	0
Repeat Negligent Acts	0	0	0	1	0	6	3
Self Abuse of Drugs or Alcohol	2	3	3	12	1	8	0
Dishonesty/Fraud	0	3	0	2	2	3	1
Mental Illness	1	0	0	0	2	1	0
Aiding Unlicensed Practice	0	0	0	0	0	1	0
General Unprofessional Conduct	1	1	1	0	2	14	1
Probation Violation	1	0	0	2	1	2	0
Sexual Misconduct	6	1	2	6	9	1	0
Conviction of a Crime	7	9	8	5	5	11	1
Discipline by Another State Board	1	0	1	1	0	0	0
Violation of Rules of Professional Conduct						0	1
Misrepresentation of License Status						1	0

Professional Standards - additional						13/14	14/15**
Abandonment						1	0
Confidentiality						1	1
Failure to provide medical records						0	1
Improper Supervision						1	0
Outside of area of competence						1	0
Unfit to practice						1	0
Violation of Code (child custody)						1	1

\*Doesn't include cancelled, revoked, or surrendered license/registration

\*\*7/1/2014 to 8/8/2014

\*\*\*\*Statistics unavailable

## EXPLANATION OF LANGUAGE

Below are broad, brief descriptions of statistical categories contained in the Board of Psychology's Overview of Enforcement Activity

**Cases Opened:** This category includes 1) all **complaints** that were received in the fiscal year indicated, regardless of source; 2) all **investigations** that were opened during that fiscal year as a result of a complaint filed with the board, regardless of when the complaint was received; and 3) all cases that were referred, during that fiscal year, to the **Office of the Attorney General or the District Attorney's Office**, regardless of when the complaint was originally received.

**Investigation** – After “informal” staff review, the complaint is “formally” investigated by in-house staff or by investigators (peace officers) of the Medical Board of California.

### **Filings:**

**Accusation** – Formal statement of charges against licensee.

**Statement of Issues** – Formal statement of reasons why an application for license/registration should be denied.

**Petition to Compel Psychological** - Request to compel licensee to submit a psychological examination.

**Petition for Penalty Relief** – A process whereby one can petition for reinstatement of their revoked or surrender license or request early termination of probation or modification of a condition of probation.

**Petition for Reconsideration** – A process whereby one can petition the Board to reconsider a final decision of the Board.

**Accusation/Statement of Issues Withdrawn** – The formal statement of charges/reasons is withdrawn by the board.

**Accusation Dismissed** – The case is dismissed after a hearing has been held and the dismissal decision is adopted by the Board.

**Statement of Issues – License Granted** – After a hearing, or as a result of a settlement, an applicant is granted a license or registration with or without terms and conditions (i.e. probation, coursework).

**Petitions for Penalty Relief Granted** – A Petition for Reinstatement of a license or registration is granted by the Board, or a Petition for Termination or Modification of Probation is granted by the Board.

**Reconsiderations Granted** – A Petition for Reconsideration is granted by the Board.

**Citations Ordered:** This tool is used for various minor violations such as false advertising or misrepresentation. Citations and fines are public information but are not considered to be disciplinary actions.

**Decision (Penalty):** - This category indicated the actual disciplinary action (penalty) rendered against the licensee or registrant that was ordered by the board in the fiscal year indicated.

**Revoked** - The license is canceled, voided, rescinded. The right to practice is ended.

**Revoked, Stayed, Probation** - "Stayed" means the revocation is postponed. Professional practice may continue so long as the licensee complies with specific probationary terms and conditions.

Violation of probation may result in the revocation that was postponed.

**Suspension** - The licensee is prohibited from practicing for a specific period of time.

**License Surrender** - While charges are still pending, the licensee turns in the license - subject to acceptance by the board. The right to practice is ended.

**Reprimands/Reprovals** - An option that is most commonly negotiated between the Board, the licensee, and his/her counsel. Such a letter is an option in settlement of an Accusation. Typically, the letter of reprimand or reproof is a viable option if the violations alleged are relatively minor and no patient harm occurred. It includes a summary of the allegations, acknowledges the impropriety of the acts summarized and can include mandated coursework that the licensee must take, cost recovery to the Board for investigation and essentially may include any other term or condition listed in the Board's Disciplinary Guidelines.

**ISO – Interim Suspension Order** – When a licensee or registrant is required to immediately suspend the practice of psychology. This occurs through the hearing process in cases where the evidence indicates that the licensee is likely to engage in behaviors that present an immediate threat to the public health, safety and welfare.

**Other** - Includes atypical decisions that do not fall into the above categories.

**Decisions (Violation Type):** This category indicates each violation that a licensee or registrant committed that resulted in the disciplinary action that was rendered during the fiscal year indicated. These violations are grounds for disciplinary action as found in the *Laws and Regulations Relating to the Practice of Psychology*.

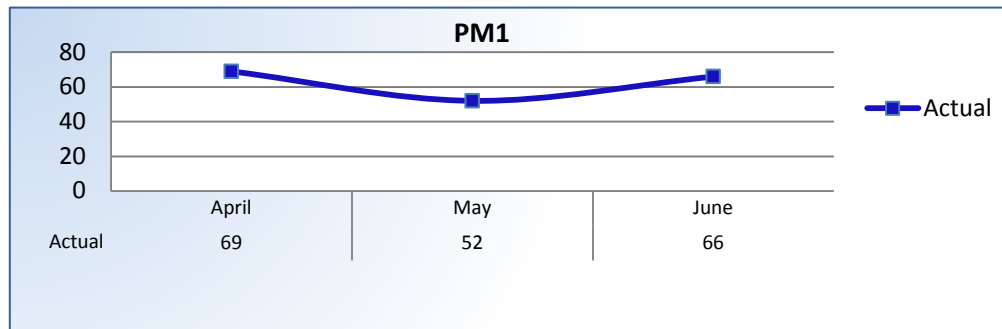
## Performance Measures

### Q4 Report (April - June 2014)

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.

#### PM1 | Volume

Number of complaints and convictions received.

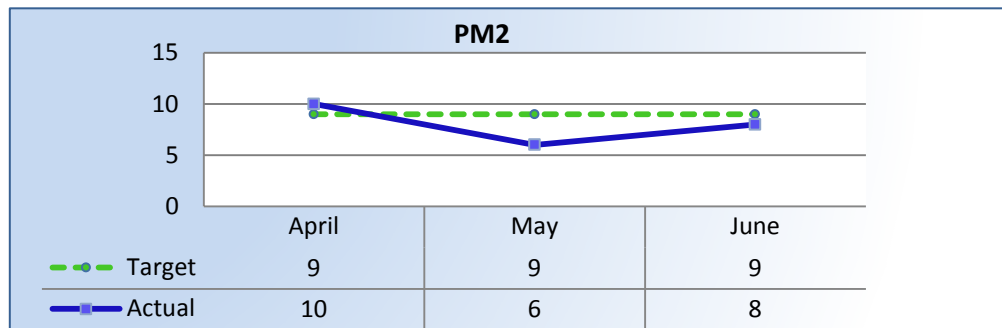


Total Received: 187 Monthly Average: 62

**Complaints: 162 | Convictions: 25**

#### PM2 | Intake

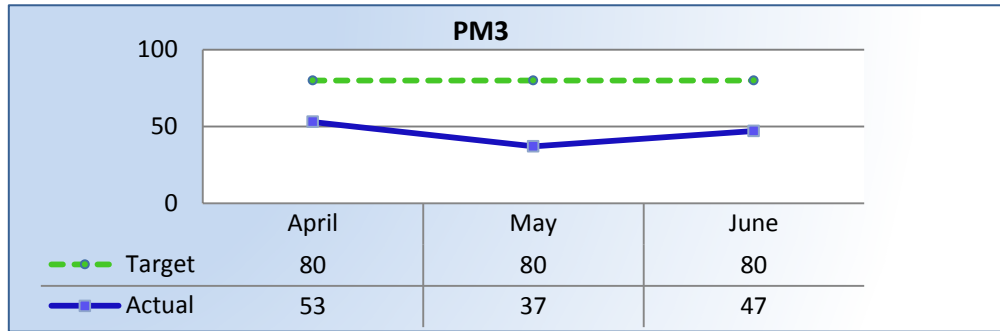
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



**Target Average: 9 Days | Actual Average: 8 Days**

### PM3 | Intake & Investigation

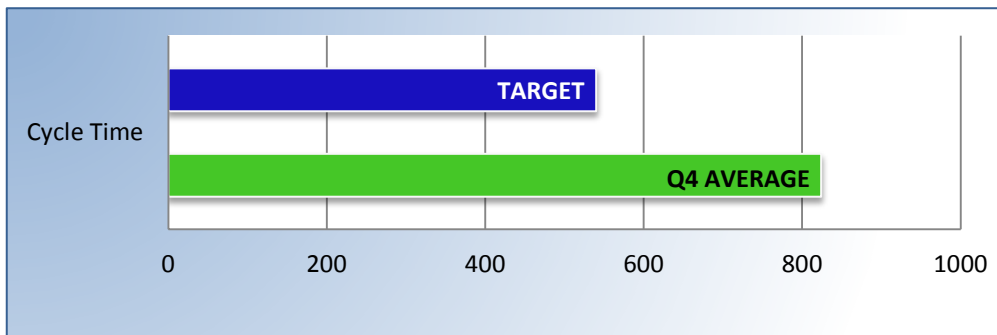
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



**Target Average: 80 Days | Actual Average: 47 Days**

### PM4 | 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 Average: 540 Days | Actual Average: 824 Days**

### **PM7 | Probation Intake**

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

*The Board did not report contact any new probationer this quarter.*

**Target Average: 7 Days | Actual Average: N/A**

### **PM8 | 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.

*The Board did not report any new probation violations this quarter.*

**Target Average: 10 Days | Actual Average: N/A**





## MEMORANDUM

<b>DATE</b>	September 1, 2014
<b>TO</b>	All Board Members, Board of Psychology
<b>FROM</b>	Enforcement Unit
<b>SUBJECT</b>	Results of Mail Ballot

The Board of Psychology is in receipt of your mail ballots for the following cases: Jan Doe and John Doe. Below are the results of your votes.

**STIPULATED SETTLEMENT**

Jane Doe

**VOTE**

9-Adopt

**RESULT**

Adopted

**PROPOSED DECISION**

John Doe

**VOTE**

4-Adopt  
 5-Hold for Discussion

**RESULT**

Hold for Discussion

As you can see one of the cases was adopted. Because there were at least 2 votes to “Hold for Discussion” for the John Doe case, this matter will be discussed further during closed session at our November Board meeting. Please be sure to bring all of the documents for this case to closed session. ***Additional copies will not be provided at closed session.***

If you have any questions or concerns, please call Sandra Monterrubio, Enforcement Program Manager, at (916) 574-7118.