

MEMORANDUM

DATE	July 26, 2018
TO	Board Members
FROM	Sandra Monterrubio, Enforcement Program Manager Board of Psychology
SUBJECT	Agenda Item #17 - Enforcement Report.

Please find attached the Legend and Overview of Enforcement Activity conveying complaint, investigation, and discipline statistics to date for the current fiscal year.

The Board is actively looking to recruit a new Enforcement Technician for its vacant position and anticipates having this opening filled by early September. The Enforcement Technician is responsible for opening and assigning new complaints, sending cases to experts for review, and providing administrative support to staff. Existing enforcement staff has undertaken the additional workload, and their hard work and efforts are greatly appreciated.

Complaint Program

Since July 1, 2018, the Board has received 64 complaints. All complaints received are opened and assigned within eight (8) days of receipt.

Complaints are received at the Board of Psychology through many different forms of submission, the most common being via the BreEZe online system and through regular mail. Most, but not all, complaints submitted to the Board are assigned to an Enforcement Analyst.

The Analyst assigned to a case will review BreEZe to determine whether the licensee named in the complaint has a history of complaints and discipline.

When multiple complaints are received against a single licensee, the Analyst will ascertain whether there is any pattern to past complaints which may point to a tendency to fall short of the legal, ethical, administrative and clinical responsibilities of that licensee. However, the mere fact that a licensee has received multiple complaints in the past does not necessarily add any weight to the complaint currently under review, especially if previous complaints were closed for no violation or no jurisdiction.

All complaints are reviewed in the order received, except where cases of patient harm or other prioritization guidelines may require more immediate attention. If multiple complaints against a single licensee are received within a relatively short period of time, the Analyst will ascertain whether the evidence warrants a prompt review. As with multiple past complaints, a high number of current complaints against a single licensee is no guarantee that any one complaint or group of complaints will be reviewed any sooner, and any such determination is always made in the interest of public safety.

Citation Program

Since July 1, 2018, the Board has not issued any enforcement related citations.

Discipline Program

Since July 1, 2018, the Board has not referred any cases to the Office of the Attorney General for formal discipline.

Probation Program

Currently there are 79 probationers. Of the 79 probationers, 54 are actively being monitored and 25 are in a tolled status. Of the 54 probationers actively being monitored, 7 have been referred to the Office of the Attorney General for violating terms and conditions of their probation.

When an individual's probation is in a tolled status it basically means that their probation is paused and no practice is permitted. There is no limit as to how long an individual's probation may toll. There are many different reasons as to why an individual's probation may toll. An individual's probation is tolled in the event they are ordered to cease practice. In most cases when a probationer is ordered to cease practice they are given 30 days, and in accordance with professional standards, appropriately refer/terminate existing patients. Regardless of an individual's probation tolling certain conditions remain in effect, such as: quarterly reporting to non-practice in California, restitution, and cost recovery. Any period of time a probation is in a tolled status will extend the actual probation term.

If a probationer leaves California to reside or practice, or if they reside in California but do not practice for more than 30 days their probation will toll. Other examples of tolling include when there is an actual suspension from the practice of psychology, or when they are ordered to cease practice when they are found to be unable to practice psychology independently and safely which can be indicated in a psychological evaluation or physical examination. If a probationer does not take and successfully pass the California Law and Ethics Examination (CPLEE) they are ordered to cease practice until the examination has been successfully passed. If a probationer is a substance abusing licensee there are certain conditions of their probation where they are ordered to cease practice such as a positive drug or alcohol test, or if they are required to participate in an alcohol and/or drug abuse treatment program.

Action Requested

Informational Only

Cases Opened

Complaints Received:

Complaints are received at the Board of Psychology through many different forms of submission, the most common being via the BreEZe online system and through regular mail. There is no fee to file a complaint.

Arrest Reports (Previously “Criminal Conviction Reports Received”):

Department of Justice (DOJ) is required to notify the Board any time a Board licensee is arrested. When the Board receives a notice of arrest from DOJ, the Board opens a complaint and begins an investigation into the circumstances surrounding the arrest.

Investigations Opened:

Most, but not all, complaints submitted to the Board are assigned to an Enforcement Analyst and fall under this category. Cases that are closed immediately upon intake are not included in this number. Cases that may be closed immediately upon intake would typically be cases where the Board has no jurisdiction, such as a complaint involving the licensee of another board or bureau.

Cases referred to DA:

When the Board directly refers a complaint to the Office of the District Attorney (DA), that referral would be counted here. However, most referrals to the DA are made by the Office of the Attorney General (AG) or by the investigation unit conducting the field investigation. If the Board reports ‘zero’ referrals to the DA, this only refers to action on the Board’s part and not what another agency may have done independently as part of their law enforcement duties.

Cases referred to AG:

When a case is determined to contain one or more egregious violations of the laws relating to the practice of psychology in California, the case may be referred to the AG. This number reports how many cases were transmitted to the AG by the Board requesting that an Accusation be filed against the licensee.

Filings

Accusations:

If the AG accepts the case that the Board transmitted, the AG will draft an Accusation, which is the charging document to be used to determine the allegations arising from the complaint. An Accusation can only be filed against a licensee of the Board and is administrative in nature, not criminal or civil.

Statement of Issues:

A Statement of Issues is issued when an applicant for Board licensure appeals the Board's decision to deny that applicant licensure. The due process under a Statement of Issues closely mirrors the Accusation process with one key distinction – that the Statement of Issues is only used for unlicensed individuals who are applying for licensure.

Petition to Revoke Probation:

When a licensee whose license is currently on probation with the Board violates probation or is subjected to a new Accusation arising from a new complaint, the Board may, at its discretion, request that the AG draft an Accusation and Petition to Revoke Probation. Probation occurs when a licensee has their license revoked, but that revocation is stayed for as long as the licensee complies with the terms of their probation, including to obey all laws. A licensee on probation having their probation revoked via this Petition to Revoke Probation suffers the loss of their license entirely and can no longer practice.

Filing Withdrawals / Dismissals:

When an Accusation or Statement of Issues is withdrawn by the Board or dismissed, there is no discipline imposed.

Disciplinary Decisions:

Revocation

When the Board prevails against a licensee who has violated the laws relating to the practice of psychology in California to an egregious degree, the most extreme administrative penalty the Board may impose is revocation of that license. A licensee who has their license revoked is not permitted to practice psychology.

Revocation, Stayed, Probation:

When the Board revokes a license, the Board has the option of staying that revocation and imposing probation instead. For the entire duration of the probation period, the probationer must comply with all standard and optional terms of probation, including to obey all laws, administrative, civil or criminal. Failure to comply with all terms and conditions may result in probation being revoked and the revocation that was stayed being reimposed, with the result being that the licensee will lose their license and be unable to practice psychology.

Surrender:

By stipulated agreement between the Board and the licensee who is the subject of an Accusation, the Board may accept the surrender of the license as an alternative to pursuing revocation. The end result in either case is that the licensee loses their ability to practice psychology in California.

Reprovals:

In cases where an extreme departure from the standard of care has occurred, but where other mitigating factors reduce the severity of the allegations, especially when there was little or no patient harm, the Board may impose the administrative discipline of a Public Letter of Reprimand through the AG. This Reprimand becomes a permanent part of a licensee's enforcement file and has some of the same conditions imposed through it as though the licensee were on probation.

BOARD OF PSYCHOLOGY
Overview of Enforcement Activity

License & Registration	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	*18/19
Psychologist	20,307	21,019	21,527	22,020	22,688	****	20,575	20,024	20,596	20,977	20,976
Registered Psychologist	324	320	312	320	349	****	280	278	249	188	178
Psychological Assistant	1,397	1,429	1,507	1,635	1,727	****	1,701	1,466	1,442	1,350	1,355
Cases Opened	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	*17/18	*18/19
Complaints Received	786	712	785	747	707	643	900	798	1,042	1,097	64
Arrest Reports**	72	54	48	70	42	133	72	50	39	53	2
Investigations Opened	88	79	83	107	73	505	736	602	771	805	57
Cases referred to DA	2	3	3	5	6	0	0	0	0	0	0
Cases referred to AG	23	38	37	34	38	41	46	33	45	70	0
Filings	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	*18/19
Accusations	8	23	21	27	31	27	30	23	27	15	0
Statement of Issues	9	8	4	4	2	4	10	5	7	6	0
Petition to Revoke Probation	0	0	0	3	1	2	2	3	1	6	0
Petitions to Compel Psych. Exam	0	0	1	1	0	1	0	1	0	0	0
Petitions for Penalty Relief	3	1	0	1	1	2	0	0	3	6	0
Petition for Reinstatement	1	1	0	2	1	1	0	0	2	1	2
Petitions for Reconsideration	0	1	0	0	2	0	0	0	0	2	0
Filing Withdrawals/Dismissals	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	*18/19
Accusations Withdrawn	0	0	2	0	0	2	0	5	0	0	0
Accusations Dismissed	0	1	0	1	1	0	1	4	1	0	0
Statement of Issues Withdrawn	5	0	2	1	0	0	0	0	1	3	0
Citations	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	*18/19
Citations Ordered	5	10	9	18	10	6	11	27	32	46	0
Disciplinary Decisions	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	*18/19
Revocations	1	3	2	4	2	4	2	4	2	9	0
Revocation, Stayed, Probation	7	9	12	11	11	11	12	24	16	7	0
Revoked, Stayed, Probation, Susp.	3	0	0	0	0	0	0	0	0	0	0
Surrender	8	3	2	11	10	10	9	12	26	11	1
Reprovals	0	0	1	2	0	2	1	3	3	4	0
ISO/TRO/PC23 Ordered	3	4	1	4	3	2	2	2	1	2	0
Statement of Issues-License Denied	1	1	0	1	1	0	2	0	0	0	0
Total Disciplinary Decisions	23	20	18	33	27	29	28	45	48	33	1
Other Decisions	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	*18/19
Statement of Issues-License Granted	4	5	4	3	6	3	1	1	0	0	0
Petitions for Penalty Relief Denied	1	0	0	0	0	0	0	0	2	4	0
Petitions for Penalty Relief Granted	3	1	1	1	1	1	0	0	1	2	0
Petition for Reinstatement Granted	1	0	0	0	1	0	0	0	0	0	1
Petition for Reinstatement Denied	0	0	1	1	1	0	0	0	2	1	1
Reconsiderations Denied	0	0	1	0	1	0	0	1	0	2	0
Reconsiderations Granted	0	1	0	0	1	0	0	0	0	0	0
Orders Compelling Psych. Evaluation	0	0	0	1	0	1	0	0	0	3	0
Total Other Decisions	9	7	7	6	11	5	1	2	5	12	2
Violation Types	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	*18/19
Gross Negligence/Incompetence	5	4	4	3	5	9	7	23	29	20	0
Improper Supervision	0	0	1	0	0	1	0	1	0	1	0
Repeated Negligent Acts	0	0	0	1	0	6	6	22	31	21	0
Self Abuse of Drugs or Alcohol	2	3	3	12	1	8	3	7	15	7	1
Dishonest/Corrupt/Fraudulent Act	0	3	0	2	2	3	3	6	8	9	0
Mental Illness	1	0	0	0	2	1	0	4	5	2	0
Aiding Unlicensed Practice			0	0	0	1	0	1	0	0	0
General Unprofessional Conduct	1	1	1	0	2	14	2	5	2	13	0
Probation Violation	1	0	0	2	1	2	0	3	26	29	1
Sexual Misconduct	6	1	2	6	9	1	1	6	14	2	0
Conviction of a Crime	7	9	8	5	5	11	12	18	23	1	0
Discipline by Another State Board	1	0	1	1	0	0	0	5	5	2	0
Misrepresentation of License Status						1	1	1	1	1	0
Professional Standards - Findings						13/14	14/15	15/16	16/17	17/18	*18/19
Abandonment						1	0	0	0	0	0
Confidentiality						1	1	1	4	0	0
Failure to provide medical records						0	2	1	2	1	0
Outside of area of competence						1	0	3	5	5	0

*Statistics through July 26, 2018

****Statistics unavailable

**Previously "Criminal Conviction Reports Received"