



CALIFORNIA BOARD OF PODIATRIC MEDICINE

March 4, 2016

SUBJECT: ENFORCEMENT PROGRAM REPORT

ACTION: RECEIVE AND FILE STATUS REPORT

6B

RECOMMENDATION

Receive and file the status update report on Enforcement Unit activity.

Committee Members:

Neil Mansdorf, Chair
Kristina Dixon

ISSUE

This status report highlights key areas and statistics for BPM's Enforcement Unit and other enforcement activity of note since last reported at the last full meeting of the Board November 13, 2015, and covers the period from October 2015 through December 2015 for end of quarter purposes.

DISCUSSION

A. Current Enforcement Statistics

Enforcement reports provide a "current capture" of quarterly data along with a comparison over the prior fiscal year's quarterly data (for the same quarter) in order to notate any statistically significant changes and better track improvements and/or deficiencies.

Since the hire of Julie Brown at MBC we were made aware of a back log of complaints in the desk investigation stage. Ms. Brown has been making excellent progress in getting caught up on the pending complaints since her start date of October 15, 2015.

1) Complaint Data

Second Quarter complaint data over the prior year's Second Quarter data is provided for review. The average days to close or assign have not been meeting the DCA targets set although second quarter shows an improvement of 5 days over the second quarter of last Fiscal Year and an improvement of an average of 7 days over the first quarter of the current Fiscal Year (also see **Attachment D - Enforcement Statistics – Fiscal Year to Date Totals**). Since we have been meeting with MBC and receiving intake and assignments reports the past few months, we expect continued improvement in these numbers in the near future. (**Attachment A – Enforcement Statistics – Complaint Data**).

2) Investigation Data

Julie Brown has been making significant headway in processing the backlog of desk investigations. However, due to the backlog, this quarter shows a significant increase in the average number of days to complete desk investigations over the second quarter of last year. It is expected that this higher number may continue into the next quarter or two. There are cases pending for consultant review which delays closure time as we have a limited number of consultants and they must finish a review before being assigned another case. There are currently 9 cases awaiting consultant review but I expect the number of pending cases to decline over the next quarter as the desk investigations continue to get caught up. **(Attachment B – Enforcement Statistics – Investigation Data).**

3) Disciplinary Data

No new cases were initiated with the Attorney General during the second quarter which is a 400% decrease over the same period last year when 4 cases were initiated.

Case times vary due to differences in case complexity, amount of legal delays, lack of cooperation from the subject DPM, etc. Two Final Orders were processed during the Second Quarter of Fiscal year (FY) 15-16 which took 233 and 1206 days. This is a 503% increase over the second quarter of last year when one case was completed taking only 94 days which is well below the average time to complete a disciplinary case. This quarter shows an average of 567 days to complete a Final Order which is very close to the DCA target of 540 days.

No citations were issued this quarter.

One probation case was closed due to a revocation and one probationer was added this quarter. **(Attachment C – Enforcement Data – Disciplinary Data).**

4) Enforcement Statistics – Fiscal Year to Date Totals

This report shows the current Fiscal Year (FY) to date covering the first and second quarters of FY 2015-2016. This period is compared over the last FY (FY 2014-2015) for the same period.

Statistics for Attorney General Cases and other disciplinary data seem to show significant differences but this is due to the small number of disciplinary cases processed by the Board. This year shows fewer cases being initiated and more case completions over the same period last year. **(Attachment D – Enforcement Statistics – Fiscal Year to Date Totals).**

5) Attorney General Case Aging Data

BreEZe reporting issues have been resolved but Attorney General case aging data based on reports received directly from the Attorney General's Office will

continue to be provided. The BreEZe system provides data for cases that have closed and the report from the AG shows the aging for cases currently in process. The most aged case has had numerous extensions to the hearing date but has recently been transferred to a new Deputy Attorney General and we expect resolution in the upcoming quarter. **(Attachment E – Enforcement Statistics – Attorney General Case Aging Data)**. Staff is aware that some additional data is not received through the Attorney General report and this is notated below the table with references to the applicable cases.

6) DCA Performance Measures

Quarter three and Quarter four data for Fiscal Year 14/15 are provided for your review. Performance Measures for Fiscal Year 15/16 are not yet released or available for review at this time.

B. Probation/Cost Recovery Recoupment Status Update

\$12,272.62 has been collected in cost recovery and probation monitoring costs during the 2015-2016 Fiscal Year second quarter beginning October 1, 2015 and ending December 31, 2015. This is somewhat lower than prior years second quarter collections as cost recovery collections were insignificant for this quarter.

C. 2015 Legislation Impacting all DCA Licensing & Healing Arts Programs

The following enforcement related legislation took effect January 1, 2016:

AB 1352: *Removal of a Guilty Plea*. This bill allows an individual to have a guilty plea for drug possession charges changes to a plea of not guilty if he or she successfully completed a deferred entry of judgment treatment program and had their charges dismissed on or after January 1, 1997. If any program finds an applicant has an arrest record, but there was never a guilty plea, it must be independently substantiated that there was misconduct that would be grounds for discipline or denial of a license. The change may make it more difficult to pursue disciplinary action, especially if there is lack of evidence other than the record of the guilty plea.

SB 467: *Consumer Protection Enforcement Initiative*. This bill requires the Director, through the Division of Investigation, to implement the complaint prioritization guidelines described in the Department's 2010 Consumer Protection Enforcement Initiative for the boards to use in determining which complaints to refer to DOI. However, The Medical Board (including the Board of Podiatric Medicine) is exempt from any guidelines implemented. This is because The Medical Board already has complaint prioritization in place under the vertical enforcement model which BPM also uses.

AB 179: *Licensees Treating Spouses*. This bill excludes healing arts licensees from sexual misconduct violations should they wish to treat their spouse or domestic partner.

D. Supplementary EEO Survey information

We received supplementary EEO information from Dr. Mansdorf which provides age, gender and ethnic data on DPM's in California through CPMA. The information will be reviewed and may be used to assist BPM in obtaining a more diverse pool of consultants and experts that reflects the demographics within California. This will be handled through the Enforcement Committee.

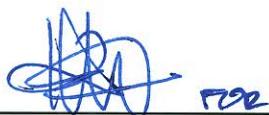
NEXT STEPS

Staff will continue to maintain enforcement program processing timeframes through vigilant review of enforcement matrix reports and other data in order to effectively and efficiently expedite investigation of consumer complaints and prosecution of open cases.

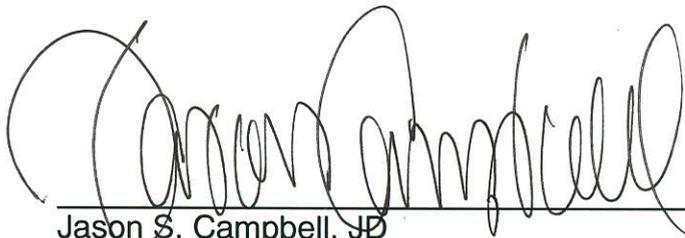
ATTACHMENTS

- A. Enforcement Statistics - Complaint Data
- B. Enforcement Statistics - Investigation Data
- C. Enforcement Statistics - Disciplinary Data
- D. Enforcement Statistics – Fiscal Year to Date Totals
- E. Enforcement Statistics - Attorney General Case Aging Data
- F. DCA Performance Measures Q3 (January – March 2015) and Q4 (April – June 2015)
- G. BPM Quarterly Timeline

Prepared by: Bethany DeAngelis, Enforcement Unit Coordinator



Bethany DeAngelis
Enforcement Unit Coordinator



Jason S. Campbell, JD
Executive Officer

Board of Podiatric Medicine
Enforcement Statistics – Complaint Data
Quarter 2 Report (October – December 2015)

Complaint Intake

	15-Oct	15-Nov	15-Dec	QTR 2 Total	QTR over last	+/- %
Received	9	9	5	23	22	+5%
Closed W/O Investigation	0	0	1	1	n/a	n/a
Assigned for investigation	6	10	8	24	25	-4%
Average days to close or assign (Target = 9 Days)	11	10	19	14	19	-27%
Pending	5	4	0			

Complaint Intake - Convictions/Arrests Reports

	15-Oct	15-Nov	15-Dec	QTR 2 Total	QTR over last	+/- %
Received	0	1	1	2	2	0%
Assigned for investigation	0	1	0	1	2	-50%
Average days to close or assign (Target = 9 Days)	0	2	0	2	16	-88%
Pending	0	0	1			

Total Complaint Intake

	15-Oct	15-Nov	15-Dec	QTR 2 Total	QTR over last	+/- %
Received	9	10	6	25	24	+4%
Assigned for investigation	6	11	8	25	27	-7%
Average days to close or assign (Target = 9 days)	11	10	19	14	19	-26%
Pending	5	4	1			

Board of Podiatric Medicine
Enforcement Statistics – Investigation Data
Quarter 2 Report (October – December 2015)

Desk Investigations

	15-Oct	15-Nov	15-Dec	QTR 2 Total	QTR over last	+/- %
Investigations Assigned	6	12	8	26	28	-7%
Investigations Completed	23	32	26	81	56	+45%
Avg Days to Complete Investigations	115	111	198	141	68	+107%
Investigations Pending	87	80	69			

Field Investigations

	15-Oct	15-Nov	15-Dec	QTR 2 Total	QTR over last	+/- %
Investigations Assigned	4	9	3	16	9	+78%
Investigations Completed	4	1	2	7	13	-46%
Avg Days to Complete Investigations	200	87	164	150	236	-36%
Investigations Pending	27	37	38			

Case Investigations

	15-Oct	15-Nov	15-Dec	QTR 2 Total	QTR over last	+/- %
Investigations Assigned	6	11	8	25	27	-7%
Investigations Completed	11	11	21	43	39	+10%
Avg Days to Complete Investigations (Target = 125 Days)	115	166	250	177	168	+5%
Investigations Pending	147	147	135			

Board of Podiatric Medicine
Enforcement Statistics – Investigation Data
Quarter 2 Report (October – December 2015)

Case Investigations Aging

	15-Oct	15-Nov	15-Dec	QTR 2 Total	QTR over last	+/- %
Up to 90 Days	5	3	2	10	20	-50%
91 to 180 Days	5	4	4	13	7	+86%
181 Days to 1 Year	0	4	13	17	6	+183%
1 to 2 Years	1	0	2	3	5	-40%
2 to 3 Years	0	0	0	0	1	-100%

Investigations Completed Without Referral for Disciplinary Action

	15-Oct	15-Nov	15-Dec	QTR 2 Total	QTR over last	+/- %
Investigations Completed	11	11	20	42	33	+27%
Average Days to Complete Investigations	115	166	254	178	167	+7%

Board of Podiatric Medicine
Enforcement Statistics – Disciplinary Data
Quarter 2 Report (October - December 2015)

Citations

	15-Oct	15-Nov	15-Dec	QTR 2 Total	QTR over last	+/- %
Final Citations	0	0	0	0	1	-100%
Average Days to Complete	0	0	0	n/a	317	n/a

Probation

	15-Oct	15-Nov	15-Dec	End of QTR 2
Number of Active Probationers	14	13	14	14
Number of Tolled Probationers	7	7	7	7
Probation Cases Initiated (New Probationers)	0	0	1	1
Probation Cases Closed (Probation Completions)	0	0	0	0
Probation Cases Closed (Revocation or Surrender)	1	0	0	1
Probation Violations Submitted to the AG	0	0	0	0

Board of Podiatric Medicine
Enforcement Statistics – Fiscal Year to Date Totals
Quarters 1-2 Report (July 2015 - December 2015)

Total Complaint Intake (includes complaint intake and conviction/arrest notification complaints)

	FY 15/16 QTR 1	FY 15/16 QTR 2	FY 15/16 QTR 3	FY 15/16 QTR 4	FY 15/16 QTR 1-2 Total	FY 14/15 QTR 1-2 over last	+/- %
Received	38	25	n/a	n/a	63	62	+2%
Assigned for investigation	44	25	n/a	n/a	69	62	+11%
Average days to close or assign (Target = 9 days)	21	14	n/a	n/a	18	15	+20%

Total Case Investigations

	FY 15/16 QTR 1	FY 15/16 QTR 2	FY 15/16 QTR 3	FY 15/16 QTR 4	FY 15/16 QTR 1-2 Total	FY 14/15 QTR 1-2 over last	+/- %
Investigations Assigned	44	25	n/a	n/a	69	64	+8%
Investigations Completed	24	43	n/a	n/a	67	63	+6%
Avg Days to Complete Investigations (Target = 125 Days)	155	177	n/a	n/a	166	207	-20%

Board of Podiatric Medicine
Enforcement Statistics – Fiscal Year to Date Totals
Quarters 1-2 Report (July 2015 - December 2015)

Attorney General Cases

	FY 15/16 QTR 1	FY 15/16 QTR 2	FY 15/16 QTR 3	FY 15/16 QTR 4	FY 15/16 QTR 1-2 over last	+/- %
Cases Initiated	1	0	n/a	n/a	4	-75%
Accusations Withdrawn/Dismissed/Declined	0	0	n/a	n/a	0	0%
Closed Without Disciplinary Action	1	1	n/a	n/a	3	-33%
Statement of Issues/Accusations Filed	1	1	n/a	n/a	4	-100%
Final Orders - Decisions/Stipulations	1	2	n/a	n/a	1	+200%
Avg Days to Complete Final Orders (target = 540 Days)	205	567	n/a	n/a	94	+311%
					386	
					15/16 QTR 1-2 Total	

Other Legal Actions

	FY 15/16 QTR 1	FY 15/16 QTR 2	FY 15/16 QTR 3	FY 15/16 QTR 4	FY 15/16 QTR 1-2 over last	+/- %
PC23 Order	0	0	n/a	n/a	0	0%
Interim Suspension Order	0	0	n/a	n/a	1	-100%
					15/16 QTR 1-2 Total	

Board of Podiatric Medicine
Enforcement Statistics – Fiscal Year to Date Totals
Quarters 1-2 Report (July 2015 - December 2015)

Citations

	FY 15/16 QTR 1	FY 15/16 QTR 2	FY 15/16 QTR 3	FY 15/16 QTR 4	FY 14/15 QTR 1-2 over last	+/- %
Final Citations	1	0	n/a	n/a	3	-67%
Average Days to Complete	1	n/a	n/a	n/a	415	-41500%

Board of Podiatric Medicine
Enforcement Statistics – Attorney General Case Aging Data
As of January 1, 2016

Attorney General Case Aging

Case No.	Matter Type	Accepted for Prosecution	Pleading Sent	Pleading Signed	Notice of Defense Received	Request to Set	OAH Dates Received	Case Rev Ret/Rej	Stipulation Signed by Respondent	Hearing – Date Commenced	Adjudicate	Decision Signed	Age of Case
1	ACC	11/16/12	1/16/14	1/22/14	10/20/14	9/16/14	4/09/15			4/11/16			1,141
2	ACC	9/18/13	4/18/14	4/25/14	5/12/14	5/20/14	6/10/14			7/07/15	D: 7/07/15	12/14/15	657
3	ACC	10/08/14	11/21/14	12/04/14	12/19/14	8/04/15	8/05/15						450
4	ACC	7/28/14	8/22/14	9/02/14	9/17/14	10/20/14	10/21/14		9/29/15		C:10/01/15	11/17/15	430
5	ACC	12/17/14	3/20/15	3/24/15	4/06/15	10/02/15							380
6	ACC	1/27/15	6/26/15	8/18/15	8/28/15	12/28/15	12/29/15						339
7	ACC	2/20/15	5/22/15	6/23/15	7/06/15	8/18/15	10/15/15			9/26/16			315
8	REVO	4/16/15	4/22/15	4/30/15	5/13/15	5/22/15	6/03/15			2/11/16			260
9	REVO	7/02/15	7/08/15	7/13/15	11/18/15				11/25/15		C:12/15/15		166
10	ACC	8/04/15	11/06/15	11/10/15	11/20/15								150

ACC = Accusation

REVO = Petition to Revoke Probation

Note:

- Case 1: Originally set for trial 5/13/15, trial rescheduled to 10/05/15 due to schedule conflict with respondent's attorney. Another reschedule to 4/11/16.
- Case 2: Stipulated Agreement signed, case closed.
- Case 4: Stipulated Agreement signed, case closed.
- Case 5: Stipulated Agreement signed in January and will soon be processed for Board vote. Documentation has not yet been received at the time of this report.
- Case 9: Decision signed 1/20/16 according to documents received. Probation to be extended.

Department of Consumer Affairs

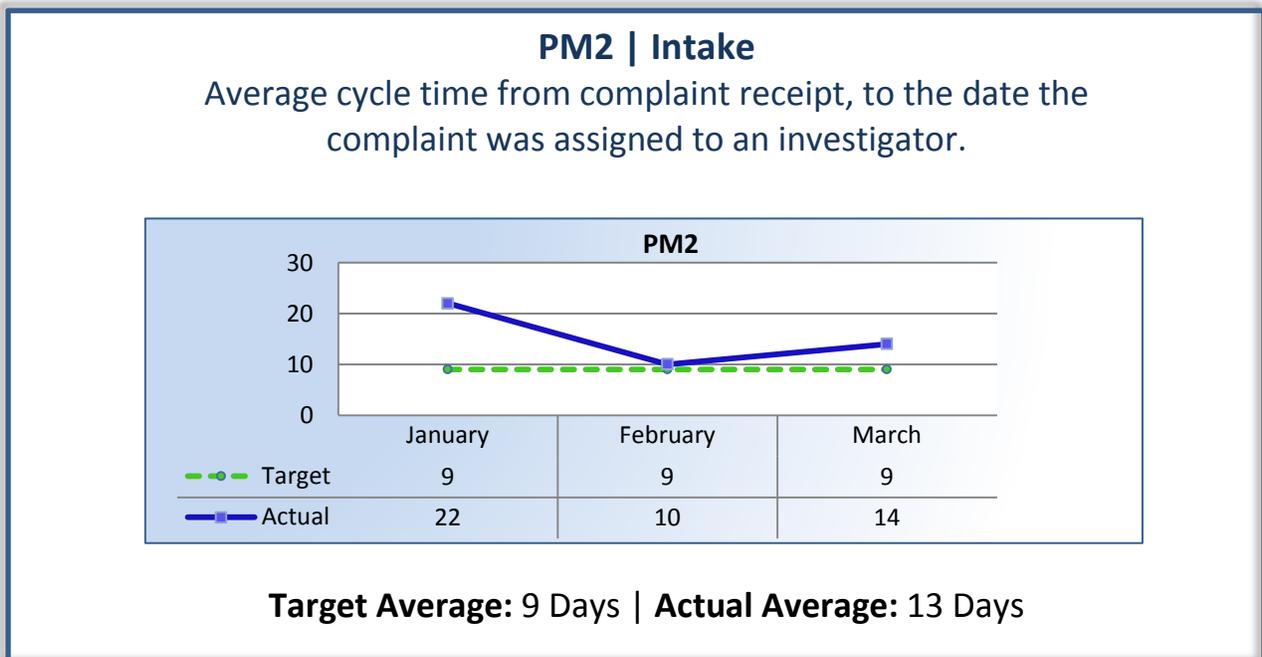
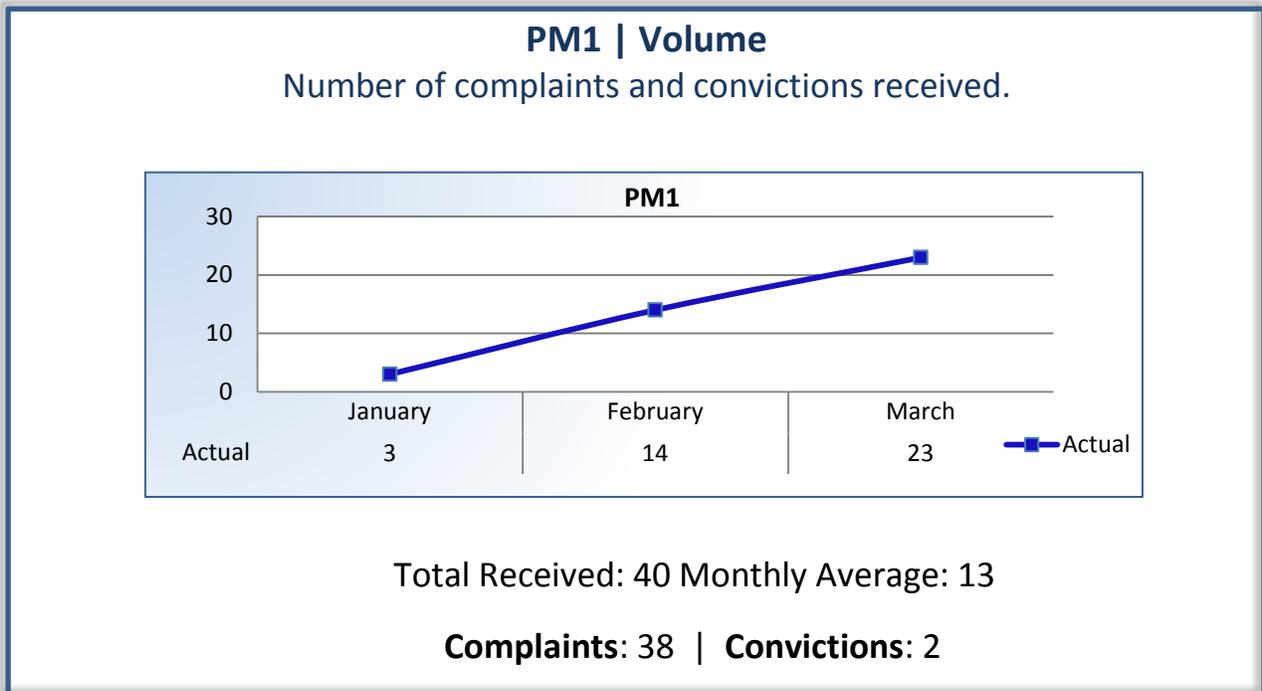
Board of Podiatric

Medicine

Performance Measures

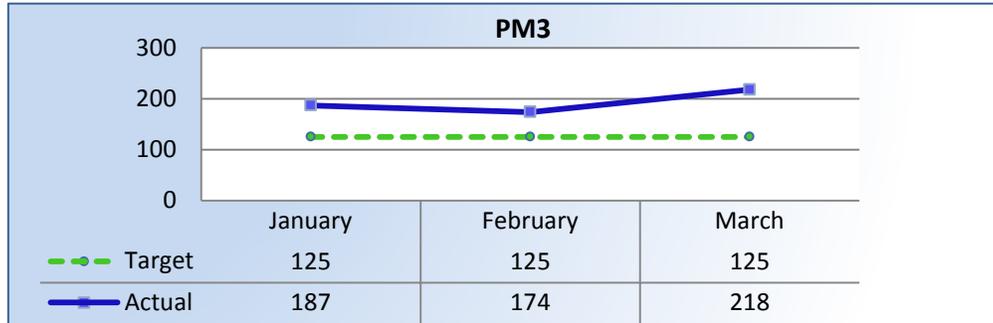
Q3 Report (January - March 2015)

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.



PM3 | Intake & Investigation

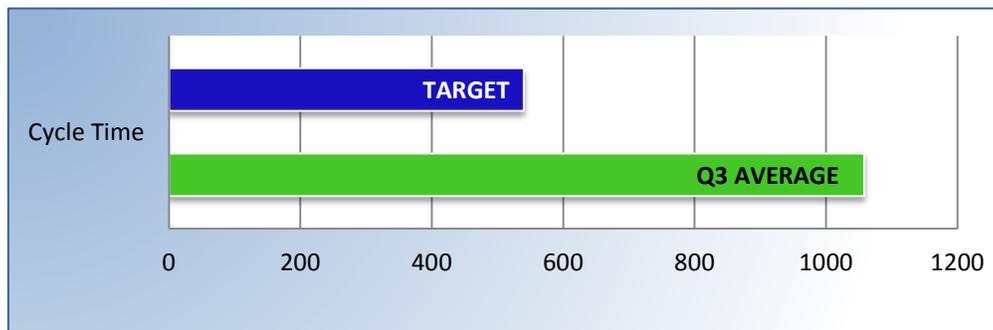
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 125 Days | Actual Average: 182 Days

PM4 | Formal Discipline

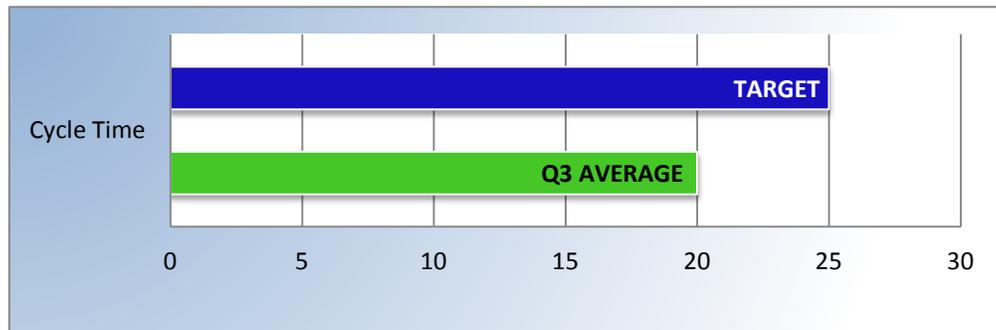
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 1,058 Days

PM7 | Probation Intake

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



Target Average: 25 Days | Actual Average: 20 Days

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 have any new probation violations this quarter.

Target Average: 14 Days | Actual Average: N/A

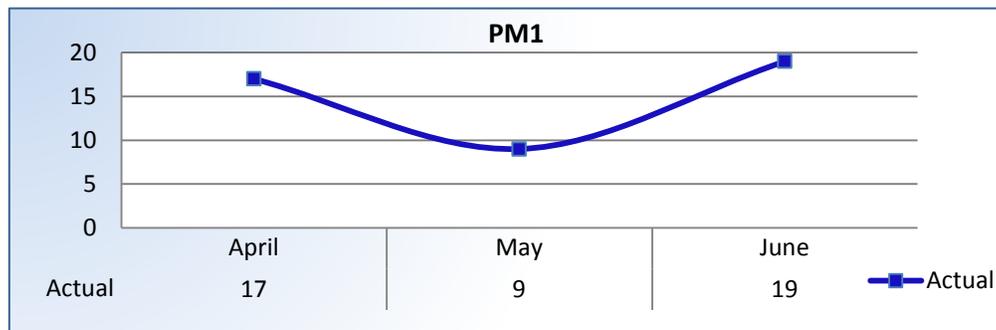
Performance Measures

Q4 Report (April - June 2015)

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.

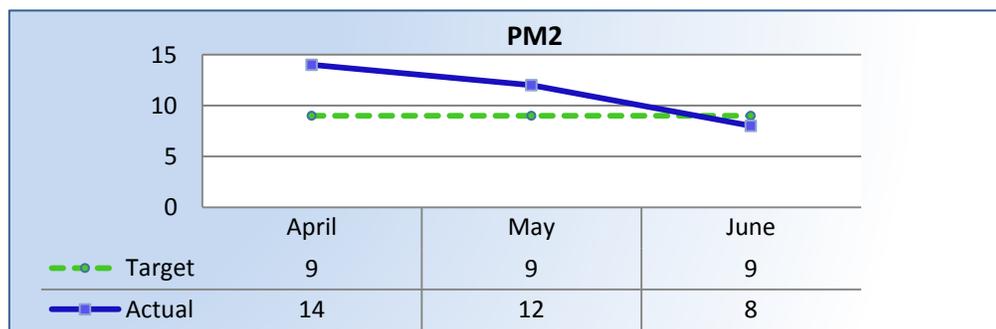


Total Received: 45 Monthly Average: 15

Complaints: 40 | Convictions: 5

PM2 | Intake

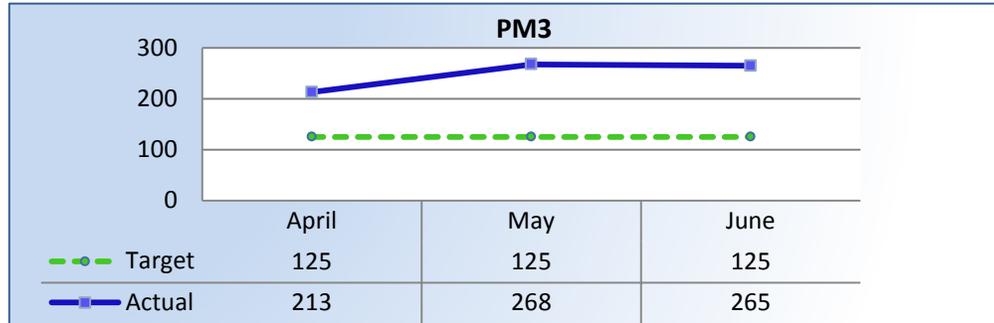
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 9 Days | Actual Average: 12 Days

PM3 | Intake & Investigation

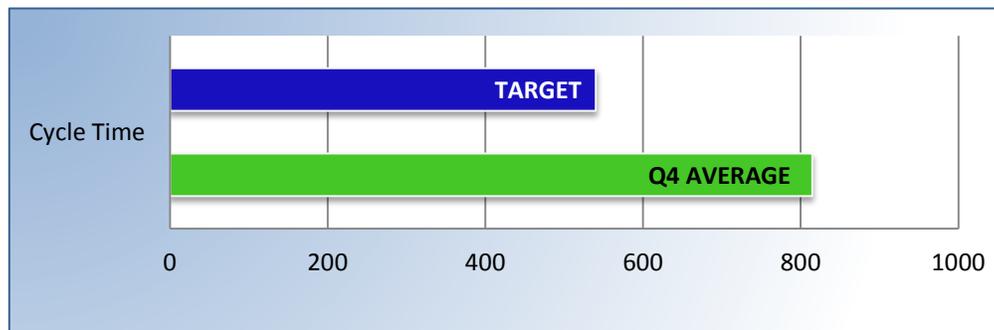
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 125 Days | Actual Average: 234 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 815 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 contact any new probationers this quarter.

Target Average: 25 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 have any new probation violations this quarter.

Target Average: 14 Days | **Actual Average:** N/A



2016 Quarterly Calendar

2016		
February	March	April
<p>Feb 15 President's Day</p> <p>Feb 19 Last day for bills to be introduced</p> <p>Feb 10 BPM Committee Meetings</p> <p>Feb 10 May License Renewals mailed out</p>	<p>Mar 4 BPM Board Meeting</p> <p>Mar 9 BPM Sunset Hearing</p> <p>Mar 28 Legislature reconvenes from Spring Recess</p> <p>Mar 17 Spring Recess begins upon adjournment</p> <p>Mar 10 June License Renewals mailed out</p>	<p>Apr 1 Cesar Chavez Day</p> <p>Apr 6 Legislature reconvenes from Spring Recess</p> <p>Apr 1 Residency Program Applications mailed</p> <p>Apr 15 Last day to submit motions to Committee for May meetings</p> <p>Apr 10 July License Renewals mailed out</p>
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</p>
<p>Legislative Committee</p>	<p>Licensing Committee</p> <p>BPM Staff</p>	<p>CA Legislature</p> <p>Committee Chairs</p> <p>State Holidays DCA Information</p>
<p>Public Education Committee</p> <p>Enforcement Committee</p>	<p>Public Education Committee</p>	