



Briefing Paper

Agenda Item 12

Date: January 18, 2024

Prepared for: OMBC Members

Prepared by: Erika Calderon, Executive Director

Subject: Enforcement and Probation Program Updates

Purpose: Update on Enforcement and Probation Program Updates
Q1 and Q2 - FY 2023-2024

Attachments: [12\(a\) Enforcement and Probation Performance Measures
Q1 and Q2-FY 2023-2024](#)

[12\(b\) Probation Violations and Top Three Most Common Violations](#)

Background:

This is a report on the Board's Enforcement and Probation Program updates for the first and second quarters of FY 2023-2024. Please refer to attachment 12(a), which encompasses the Enforcement and Probation Program statistics and attachment 12(b) which is a list of our probationers' violations and the top three most common violation types.

Analysis:

Enforcement Program Updates:

The Enforcement Unit continues to do well. Enforcement staff continues to receive training in all areas of the enforcement process and the unit is getting a lot stronger. They are conducting desk investigations, referring cases to the field, executing their own administrative citations, offering their own pre accusation public letter of reprimands, referring their own cases to the Office of Attorney General, and subsequently filing their own disciplinary orders.

Enforcement did recently lose Ms. Mia Quinn to a promotional opportunity in our licensing unit; however, they have gained Ms. Andrea Harmon who previously held the

position of receptionist at OMBC. Ms. Harmon will not only be assisting with complaint intake but as a Staff Services Analyst she will be carrying her own caseload which will help reduce caseloads and processing times.

Enforcement staff is also preparing for the implementation of the new requirements that SB 815 will be adding to their workload. The unit is working on creating new template letters and updating BreEZe with new activity codes. The goal is to be ready for full implementation of all requirements when the Board receives funding.

Enforcement staff continues to work with the Department of Consumer Affairs BreEZe team daily to improve database efficiencies.

We continue to work with the Division of Investigation's (DOI) non-sworn unit on most of our cases that are being referred for further investigations. You will see in our statistics that we are referring more cases to the field.

To help with case aging enforcement staff continues to meet with me monthly for case reviews. In addition, they continue to receive their individualized monthly pending reports which highlight high priority and short statute of limitation cases.

In terms of communication with our stakeholders, we continue to meet monthly with HQUI, the Attorney General's Office, and our legal counsel.

Board Program Statistics:

In terms of our program statistics please refer to attachment 12(a) which covers our Enforcement Program Q1 and Q2 statistics for fiscal year 2023-2024. Performance Measure 1 (PM1) covers the amount of consumer complaints and arrests and convictions received in comparison to last year. The Board is seeing a significant increase of about 41% in consumer complaints and a decrease of about 26% in arrest and conviction cases, bringing the total number of complaints received to an increase of 37% in comparison to last fiscal year. The Board believes that the changes that were made to the Medical Board of California's website because of our request to help redirect our consumers to our agency may be accounting for this increase. We are receiving these complaints directly at a more expeditious timeframe, which was the goal. In turn we are providing faster consumer protection.

Performance Measure 2 (PM2) is the average number of days it takes for our analysts to initiate our enforcement complaints and acknowledge receipt. The target for this performance measure is ten (10) days and we continue to be well under the target at a four (4) day average these two past quarters.

Performance Measure 3 (PM3) is the average number of days it takes to complete investigations and enforcement action for cases not referred to the Attorney General's Office. Case aging here fluctuates greatly because it takes an average of all cases, and one or two very complicated cases can skew these numbers drastically. These numbers

include the timeline for HQIU investigative staff. The target for PM3 is 360 days and as you can see, we are at about 210 days.

Performance Measure 4 (PM4) is the average number of days it takes to complete investigations and enforcement actions that are transmitted to the Attorney General's Office for formal action. Case aging in this category had a slight decrease of about 7% in comparison to last year.

So far, this fiscal year, the Board is well under its performance measure targets for three (3) of its categories which is amazing. PM4 is the measure that unfortunately the Board has less control over as this measure takes into consideration the timeline from the Attorney General's Office, respondent's legal representatives, and the Office of Administrative Hearings.

The Board currently has 436 pending enforcement cases, 63 of those are pending at HQIU and 24 at the Attorney General's Office. Analysts are averaging a caseload of about 145 cases each, which is not excessively high but not ideal. However, as previously stated with Ms. Harmon moving into the enforcement unit and carrying a caseload of her own the average will drop to 109 which is a more manageable caseload, and as we continue to address old cases, we will hopefully bring the average down to 80, which will be ideal.

Year to date the Board has filed nine (9) accusations or amended accusations, one (1) accusation and petition to revoke probation, four (4) citations, eight (8) public reprimands or public letter of reprimands, seven (7) decision orders with probation, one (1) surrender, and one (1) revocation. As you can see enforcement is taking more action in comparison to last year.

Probation Program Updates:

Seven (7) new probationers were added these past two quarters, ending with a total of thirty-six (36) probationers who have been placed on probation for various causes. Of these 36 probationers, eight (8) are tolling out of state and not receiving credit towards the completion of probation.

Of the 36 licensees on probation, four (4) are participating in the Board's Diversion Program. In addition to the four Board referrals the diversion program has six (6) other licensees participating in their program as self-referrals.

As previously stated, one (1) Accusation and Petition to Revoke Probation was filed in quarter 2.

Probation Violations and Top Three Most Common Violations

Please refer to Attachment 12(b). This is a list of all violations noted in each Accusation involving our probationers and is being presented to the Board as a prior request from

Ms. Pines. It was requested to not only present these violations but to review them and determine if there are common violation types. The top three most common violation types are Gross Negligence, Repeated Negligent Acts, and Unprofessional Conduct.

Action Requested: No Action Required