



**Enforcement Committee Meeting Minutes
Monday, November 9, 2009
Los Angeles, CA**

Members Present:

John Bettinger, DDS, Chair
William Baker, Public Member
Luis Dominicis, DDS
Rebecca Downing, Public Member
Judith Forsythe, RDA
Thomas Olinger, DDS

Members Absent:

Stephen Casagrande, DDS

Staff Present:

Richard DeCuir, Interim Executive Officer
Nancy Butler, Acting Enforcement Chief
Lori Reis, Complaint & Compliance Unit Manager
Dawn Dill, Licensing & Exam Unit Manager
Sarah Wallace, Administrative Analyst
Donna Kantner, Legislative & Regulatory Analyst
Jocelyn Campos, Enforcement Coordinator
Jessica Olney, Examination & Licensing Analyst
Karen Fischer, Licensing Analyst
LaVonne Powell, DCA Senior Staff Counsel
Kristy Schieldge, DCA Senior Staff Counsel

Dr. Bettinger, Chair, called the committee meeting to order at 5:00 p.m. Roll was taken and a quorum was established.

ENF 1: Approval of the July 22, 2009 Enforcement Committee Meeting Minutes

M/S/C (Bettinger/Forsythe) to approve the Enforcement Committee meeting minutes. The motion passed unanimously.

ENF 2: Enforcement Statistics

At the July 22, 2009 Dental Board meeting, the members requested that staff provide aging data on complaints and investigations. A six month profile was prepared for complaints and investigations. Lori Reis, Complaint and Compliance Manager reported that the total number of cases received during that six month period was 1,824. The total number of cases closed was 1,738; and the average case closure time was 213 days. It was determined that in this six month period, 52 percent of all cases received were incompetence and/or negligence. Eighty-five percent of the cases that took one year or longer to close were also incompetence and or negligence.

The average closure days has steadily decreased from 323 days to 160 days. This reduction in case closure can be attributed to the continuation of individual monthly desk audits, increased knowledge base in apprentice level staff, a recent increase of hours spent by consultants reviewing cases, staff overtime, and augmentation of the workforce by of retired annuitants and a student

assistant. There was discussion about the credibility of the statistics. Mr. DeCuir reported that there are multiple access points (input and modification) that reflect a standard deviation relative to error. Staff is striving to decrease the number of access points. There was discussion about the complaint in-take processes. There are two staff people assigned to do in-take of complaints. From the date of receipt, complaints need to be assigned to an analyst within ten days.

Rebecca Downing asked how many cases are sitting and need to be worked? Lori Reis responded that all complaints are assigned to an analyst within ten days of being received. There are no complaints waiting to be assigned. The total inventory of pending cases (waiting for records, etc.) is 1,527 - of those, 57 are DOJ cases. Rebecca asked why the numbers remain high. Lori responded that there are staffing issues and dental consultant issues.

Nancy Butler, Interim Enforcement Chief reported on the investigation case aging statistics for a six month period beginning April 2009 through September 30, 2009. The total amount of cases closed within a six month period was 380. The average time it took to complete an investigation was 598 days.

Each month the amount of cases received and closed are different. All investigation types do not take the same amount of time to investigate. For instance, a conviction case takes much less time than a death case. Nancy asked the Board to take this into consideration while evaluating the case statistics.

Nancy reported that the Enforcement Unit is down four investigator positions, one Supervisor I and one Supervisor II. Each investigator is now carrying a caseload that ranges from 30 to 50 cases. A manageable caseload is approximately 20. With the hiring of additional staff this case load should decrease. Richard DeCuir reported that there are seventeen sworn investigator positions. There are six vacancies, which reflect a 30% vacancy rate. This impacts production.

Nancy has met with the DCA Director several times to discuss the new enforcement model in order to decrease the case processing time.

ENF 3: Update Regarding the Recruitment of Dental Consultants and Dental Experts

Lori Reis reported that in an effort to improve the current processing time, Board staff is interviewing seventeen candidates on November 16, 2009. It is her intent to recruit at least two (2) consultants who reside in Northern California to work onsite at the Board's Sacramento office, and at least one (1) additional consultant will be selected to work offsite in Southern California. In the past, cases have been shipped to consultants for review. Upon a completed review, the consultants ship the file back to Sacramento. This process has bogged down the system. Our hope is that having consultants come into the office to work will speed up the process.

Nancy Butler reported on the recruitment of Dental Experts. Recruitment has been difficult because experts are paid only \$100 per hour, except if they attend court. To date, staff has advertised on the Board's web page to recruit additional experts.

Dr. Dominicus asked if a Board member could participate in the interview process for dental consultants and/or dental experts. Legal opinion was that this would be a conflict of interest.

ENF 4: Report Regarding Cite and Fine Procedures

Lori Reis reported that she contacted four Healing Arts Boards: Medical Board, Registered Nursing Board, Psychology Board, and Board of Pharmacy regarding their utilization of cite and fine

processes. The intent was to allow the Dental Board to determine if other Boards have a more expeditious and efficient process for obtaining patient records relative to complaints. Of the four Boards, two responded – Medical Board and the Board of Pharmacy. The Medical Board of California utilizes basically the same procedures as the Dental Board with a slight variation in the fine amount. The Medical Board and Dental Board send out two letters requesting that the patient records be returned to the Board within a certain time frame. The first letter is mailed via standard USPS; the second via Cal Overnight, signature required. The Board of Pharmacy by comparison may utilize a more efficient process by utilizing only a single letter.

Dr. Olinger commented that he would prefer that if only one letter is sent, that it be sent by registered mail, return receipt requested. Dental Board staff recommends the elimination of the second letter in the complaint process and will actively utilize the Cite and Fine authority.

PUBLIC COMMENT

Earl Johnson suggested that a box be mailed to the dentists when requesting records.

ADJOURNMENT

The committee meeting adjourned at 5:31 p.m.