



NOTICE OF PUBLIC MEETING – Notice is hereby given that a public meeting of the Enforcement Committee of the Dental Board of California will be held as follows:

NOTICE OF ENFORCEMENT COMMITTEE MEETING

Thursday, February 24, 2011

Upon Conclusion of Legislative and Regulatory Committee Meeting
Doubletree San Diego Downtown
1646 Front Street
San Diego, CA 92101
619-239-6800/916-263-2300

AGENDA

ENFORCEMENT COMMITTEE

Chair – Rebecca Downing, Public Member
Vice Chair – John Bettinger, DDS
Steven Afriat, Public Member
Stephen Casagrande, DDS
Huong Le, DDS
Thomas Olinger, DDS

CALL TO ORDER

ROLL CALL AND ESTABLISHMENT OF QUORUM

ENF 1 – Approval of the November 4, 2010 Enforcement Committee Meeting Minutes

ENF 2 – Investigator Activity Reporting (IAR) Computer System Implementation Update

ENF 3 – Enforcement Statistics

ENF 4 – Report on New Contract for Probation Monitoring Drug Testing (Information Only)

ENF 5 – Diversion Statistics

ENF 6 – Report on Dental Consultant Calibration Course for Complaint and Compliance Unit

ENF 7 - Update on Enforcement Process Improvements

PUBLIC COMMENT

ADJOURNMENT

Public comments will be taken on agenda items at the time the specific item is raised. The Committee may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. Time limitations for discussion and comment will be determined by the Committee Chair. For verification of the meeting, call (916) 263-2300 or access the Board's Web Site at www.dbc.ca.gov. The meeting facilities are accessible to individuals with physical disabilities. Please make request for accommodations to Richard DeCuir at 2005 Evergreen Street, Suite 1550, Sacramento, CA 95815, no later than one week prior to the day of the meeting.



Enforcement Committee Meeting Minutes
Thursday November 4, 2010
El Segundo, CA
DRAFT Meeting Minutes

Members Present:

Rebecca Downing, Public Member, Chair
John Bettinger, DDS, Vice Chair
Steven Afriat, Public Member
Huong Le, DDS
Thomas Olinger, DDS

Members Absent:

Stephen Casagrande, DDS

Staff Present:

Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
Donna Kantner, Licensing & Examination Unit Manager
Lori Reis, Complaint & Compliance Manager
Kim A. Trefry, Enforcement Chief
Jocelyn Campos, Enforcement Coordinator
Karen Fischer, Administrative Analyst
Sarah Wallace, Legislative/Regulatory Analyst
Linda Byers, Executive Assistant
Kristy Schieldge, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Ms. Rebecca Downing, Chair, called the committee meeting to order at 10:10 a.m. Roll was called and a quorum was established.

ENF 1 – Approval of the May 5, 2010 Enforcement Committee Meeting Minutes

M/S/C (Bettinger/Le) to approve the Enforcement Committee meeting minutes of May 5, 2010. The motion passed with Mr. Afriat abstaining.

ENF 2 – Enforcement Program Improvement Status: Investigator Activity Reporting (IAR) Computer System Implementation

Kim Trefry, Enforcement Chief reported that of the 3 sworn enforcement positions in the Orange Field Office, 2 are on the verge of being filled and the third needs to be re-advertized. The single vacancy in the Sacramento Field Office found no eligible candidates, because of the current hiring freeze that only allows lateral transfers. The Department is researching the possibility of using a postage-paid postcard as the web-based survey has not been well received. Half of the staff has been trained for the new IAR computer System

Public Comment

Kim Kirchmeyer, DCA, reiterated that the Department is complying with the hiring freeze which at this time only allows lateral transfers. DCA is working with the HR Department so that we will be ready to move forward when the freeze is lifted.

ENF3A – Complaint and Compliance Unit Case Statistics

Lori Reis, Complaint and Compliance Manager, reported that the total number of cases received for the six (6) month period was **1655**. The total number of cases closed was **1546** and the average case closure time was **134** days. This represents a 93% satisfied closure of actual cases opened and actual cases closed.

ENF 3B – Investigation Unit Enforcement Statistics Case Closure and Aging Data

Kim Trefry, Enforcement Chief, reported the total number of investigation files closed, filed with the Attorney General or filed with the District/City Attorney for FY 2009/10 were 655. The Investigative Unit is completing an average of 38 investigations per month. This is a 21% decrease from the previous fiscal year. The average number of days an investigation took to complete within the last fiscal year was 539 days. This is a 10% decrease from the average reported in May of this year. It has taken an average of 18 months from the receipt of the complaint to the closure of the investigation file. Quarterly case audits continue to take place. This process ensures staff is focusing on our priority cases, monitoring statute of limitations, and meeting the Department's mission.

ENF 4 – Probation Monitoring Drug Testing – New Contract

Kim Trefry, Enforcement Chief, reported that effective June 2010, the Department of Consumer Affairs (DCA) had entered in to a contract with Phamatech, Inc. to provide for the scheduling, observing, collecting, processing and analysis for all drug testing services for licensees designated by the DCA. The vendor provides Substance Abuse and Mental Health Services Administration (SAMHSA), California Clinical Laboratory and Clinical Laboratory Improvement Act (CLIA) certified laboratory services nationwide. Dr. Bettinger asked if the new drug called "Spice" can be tested for? Ms. Trefry replied that she will ask Phamatech. Greg Salute, DAG, stated that even if a drug can't be tested for, if a licensee appears "impaired", we have the right to do an examination to determine if they are deemed "safe to practice". Mr. Afriat asked if there should be a list of "banned substances." Mr. Salute responded that "impaired" is the key and covers any substance. Kristy Schieldge, legal counsel, cautioned that the Board cannot place conditions on ALL licensees, only probationer's who have agreed to it as a condition of their probation.

ENF 5 – Diversion Statistics

Lori Reis, Complaint and Compliance Manager, stated there were no intakes into the Diversion Program during the months of July and August, 2010. However, during September, 2010 there were two (2) intakes, one (1) Investigative referral and one (1) Probation referral.

ENF 6 – Analysis of SB 1172 Impact on the Board's Diversion and Probation Programs

Lori Reis advised that on September 29, 2010, Senate Bill 1172 (Negrete McLeod) became law. This bill incorporated into law three (3) of the 16 uniform standards regarding substance-abusing healing arts licensees established in SB 1441 (Ridley-Thomas). There is no direct impact on the Dental Board's (Board) current Diversion and Probation Programs as this practice was previously implemented by the Board. The Board will need to review the DCA's recommendations of the Substance Abuse Coordination Committee for the Dental Diversion Program (SB 1441) to decide which of the criteria it wishes to adopt into regulation.

Public comment

There was no public comment

Adjournment

The committee meeting adjourned at 10:50a.m.



MEMORANDUM

DATE	February 9, 2011
TO	Enforcement Committee Members Dental Board of California
FROM	Kim A. Trefry, Enforcement Chief Dental Board of California
SUBJECT	Agenda Item ENF 2: Investigator Activity Reporting (IAR) Computer System Implementation Update

Following is an update on the implementation of the Investigator Activity Reporting (IAR) system for Enforcement Program staff:

Investigator Activity Reporting (IAR) System

Background The IAR is designed to capture investigative time spent doing casework. The database was designed by the Medical Board of California (MBC) and is housed and maintained behind the MBC's firewall.

Enforcement staff log time worked in various investigative categories. The information is used to provide accurate cost recovery information to the Board, manage casework, and will eventually provide data which can be used to provide a more accurate picture of the investigative time spent at different tasks.

Training Dental Board staff completed training in late November. Medical Board returned and provided separate training to staff hired in December.

Implementation The IAR went live at the Dental Board on December 2, 2010. Most of the staff were able to access and use the system right away. Managers were able to run end-of-month reports for both December and January to assess their staff's case activity.

Access After implementation, we encountered some technical conflicts between the Department's IT settings and the Medical Board's firewall which prevented some staff from using the system for parts of December and January. However, additional changes appear to have addressed the matter and currently all staff are online.

System Upgrades After evaluating the initial reports, we identified the need to capture time spent performing probation monitoring tasks. We are currently working with the Medical Board to develop a list of appropriate tasks for probation monitoring and will add this feature to the database in the next few weeks.

Data Cleanup A number of older records were previously identified which needed cleanup before reports could be run. This has been completed by enforcement support staff.

Technical Support Medical Board IT staff have been responsive to the Board's needs and provided ongoing support throughout the transition phase.



MEMORANDUM

DATE	February 7, 2011
TO	Enforcement Committee Members Dental Board of California
FROM	Kim A. Trefry, Enforcement Chief Dental Board of California
SUBJECT	Agenda Item ENF 3: Investigation Unit Enforcement Statistics

Attached please find the case closure and aging statistics for the current year and a comparison to the previous 12 month period.

Case Closures The total number of investigation files closed, filed with the Attorney General or filed with the District/City Attorney for the first 7 months of FY 2010/11 are 423. The Investigation Unit is completing an average of 60 investigations per month. This is an 11% increase from the previous fiscal year.

Current Open cases = 843, Average open case age = 320 days
 Average caseload per fulltime Investigator/Analyst = 32 investigations
 Average probation caseload per fulltime Investigator = 16.7
 Cases pending assignment = 274

Due to the redistribution of cases to the new staff in the CPEI Unit, the number of unassigned cases has decreased 36%.

The average number of days an investigation took to complete within the last calendar year was 463 days (143 days in Complaint Unit, 320 days in investigation). This is a 14% decrease from the average reported in November 2010.

Case Aging (As of 1/31/2011)

0 – 3 Months	8%
3 – 6 Months	10%
6 – 12 Months	31%
1 – 2 Years	30%
2 – 3 Years	17%
3+ Years	2%

Factors affecting these rates include current vacancies, a hiring freeze and mandated 3 furlough days per month.

Staffing Both the Southern and Northern offices currently have one vacancy for Investigator/Senior Investigator. Two Senior Investigators began working in the Orange office in December. In our Sacramento office, Investigator Adam Iremonger graduated from the P.O.S.T. Specialized Basic Investigator Course in December and is now in the field with a caseload. Three Associate Government Program Analysts were hired in December to work quality of care cases in the new Investigative Analysis Unit (CPEI/SB1111 positions).

Case Reviews Quarterly case audits continue to take place. This process ensures staff are focusing on our priority cases, monitoring statute of limitations, and meeting the Department's mission.

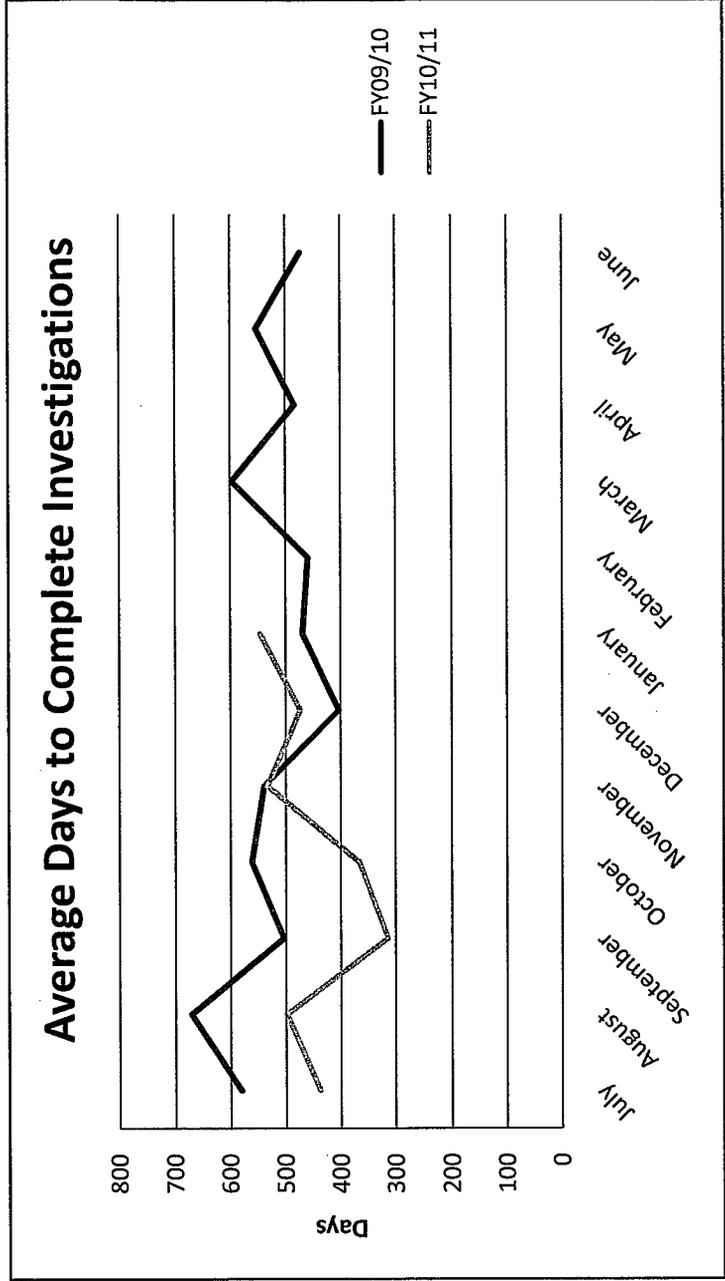
I will be available during the Board meeting to answer any questions or concerns you may have.

Investigation Unit
July 1, 2009 - June 30, 2010

and

July 1, 2010 - January 31, 2011

	Average Days to Complete Investigation	
	FY09/10	FY10/11
July	580	438
August	671	498
September	503	315
October	561	367
November	539	533
December	403	473
January	469	546
February	459	
March	597	
April	483	
May	553	
June	473	

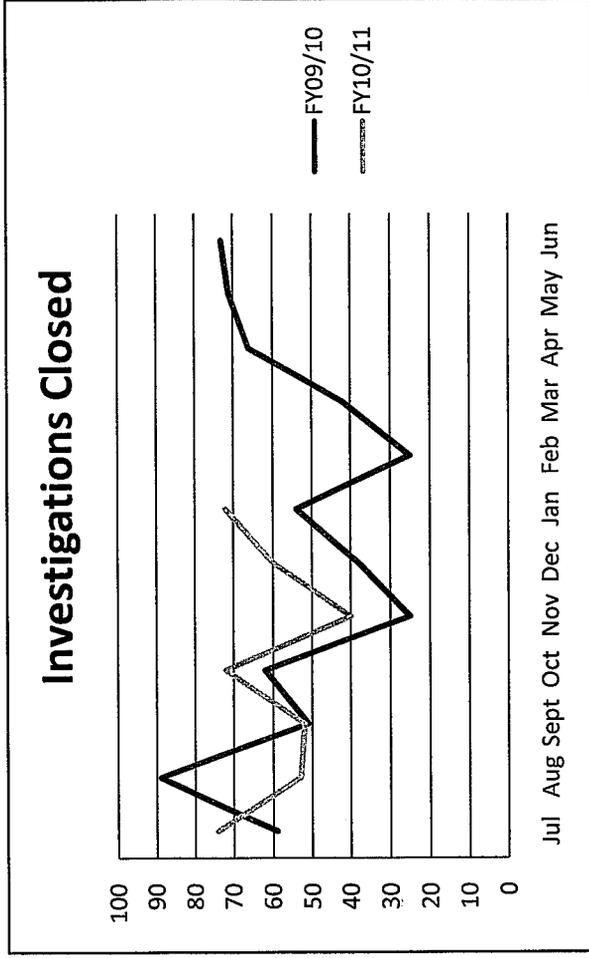


Investigation Unit

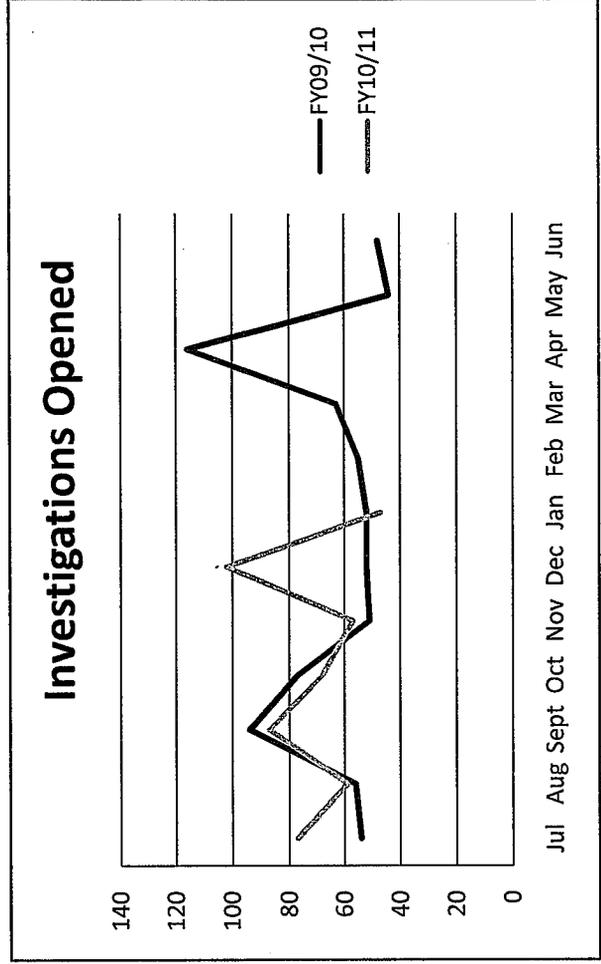
July 1, 2009 - June 30, 2010 and

July 1, 2010 - January 31, 2011

Case Closures		
	FY09/10	FY10/11
Jul	59	74
Aug	89	53
Sept	51	52
Oct	62	72
Nov	25	40
Dec	38	60
Jan	54	72
Feb	25	
Mar	42	
Apr	66	
May	71	
Jun	73	
Total	655	423



New Case Referrals		
	FY09/10	FY10/11
Jul	54	77
Aug	56	59
Sept	94	87
Oct	77	68
Nov	51	57
Dec	52	102
Jan	52	47
Feb	55	
Mar	63	
Apr	116	
May	44	
Jun	48	
Total	762	497



Investigation Unit

Average Time from Complaint Receipt to Completed Investigation
October, 2010 - January 2011

Oct-10

Allegation	0-90 Days	91 - 180 Days	181 - 365 Days	366 - 730 Days (1 - 2 Yrs)	731 - 1095 Days (2 - 3 Yrs)	Over 1095 Days (Over 3 Yrs)	Total Records	Average Days
Fraud	0	0	0	0	0	0	0	
Health & Safety	0	0	0	0	0	0	0	
Non-Jurisdictional	0	0	0	0	0	0	0	
Incompetence/Negligence	1	5	5	5	9	4	29	583
Other	21	3	2	6	0	1	33	186
Personal Conduct	0	0	0	0	0	0	0	
Unprofessional Conduct	3	0	2	1	0	2	8	498
Sexual Misconduct	2	0	0	0	0	0	2	20
Total Closed	27	8	9	12	9	7	72	376

Nov-10

Allegation	0-90 Days	91 - 180 Days	181 - 365 Days	366 - 730 Days (1 - 2 Yrs)	731 - 1095 Days (2 - 3 Yrs)	Over 1095 Days (Over 3 Yrs)	Total Records	Average Days
Fraud	0	0	1	0	0	0	1	355
Health & Safety	0	0	0	0	0	0	0	
Non-Jurisdictional	0	0	0	0	0	0	0	
Incompetence/Negligence	0	0	2	5	1	2	10	718
Other	3	1	3	3	6	3	19	637
Personal Conduct	0	0	0	0	0	0	0	
Unprofessional Conduct	0	0	2	0	0	0	2	237
Sexual Misconduct	3	1	0	2	0	0	6	218
Total Closed	6	2	8	10	7	5	38	564

Investigation Unit

Average Time from Complaint Receipt to Completed Investigation
October, 2010 - January 2011

Dec-10

Allegation	0-90 Days	91 - 180 Days	181 - 365 Days	366 - 730 Days (1 - 2 Yrs)	731 - 1095 Days (2 - 3 Yrs)	Over 1095 Days (Over 3 Yrs)	Total Records	Average Days
Fraud	0	1	1	1	0	1	4	556
Health & Safety	0	0	0	0	0	0	0	
Non-Jurisdictional	0	0	0	0	0	0	0	
Incompetence/Negligence	3	2	1	5	5	4	20	611
Other	1	3	4	3	2	0	13	407
Personal Conduct	0	0	0	0	0	0	0	
Unprofessional Conduct	2	1	3	2	0	0	8	228
Sexual Misconduct	3	2	1	5	2	2	15	505
Total Closed	9	9	10	16	9	7	60	486

Jan-11

Allegation	0-90 Days	91 - 180 Days	181 - 365 Days	366 - 730 Days (1 - 2 Yrs)	731 - 1095 Days (2 - 3 Yrs)	Over 1095 Days (Over 3 Yrs)	Total Records	Average Days
Fraud	0	0	1	0	0	3	4	965
Health & Safety	0	0	0	0	0	0	0	
Non-Jurisdictional	0	0	0	0	0	0	0	
Incompetence/Negligence	1	2	4	4	11	5	27	755
Other	3	2	8	5	2	0	20	330
Personal Conduct	0	0	0	0	0	0	0	
Unprofessional Conduct	1	0	6	0	2	1	10	533
Sexual Misconduct	6		1	2	1	1	11	382
Total Closed	11	4	20	11	16	10	72	561



MEMORANDUM

DATE	February 16, 2011
TO	Enforcement Committee Members Dental Board of California
FROM	Lori Reis, Manager Complaint and Compliance Unit Dental Board of California
SUBJECT	Agenda Item ENF 3: Complaint Unit Enforcement Statistics

Attached please find the case closure and aging statistics for the previous 13 month period.

Cases Received: The total number of complaint files received during the previous 13 months was 3590, averaging 276 per month.

Cases Closed: The total number of complaint files closed during the same time period was 3411, averaging 262 per month.

The average number of days a complaint took to close within the last 13 months was 137 days.

Pending Cases (as of 2/16/11): 610
Average caseload per Consumer Services Analyst (CSA) = 87 cases
Cases pending assignment = 0

Case Aging (as of 2/16/2011)

0-3 Months	526
4-6 Months	62
7-9 Months	11
10-12 Months	3
1-2 Years	8
2-3 Years	0
3+ Years	0

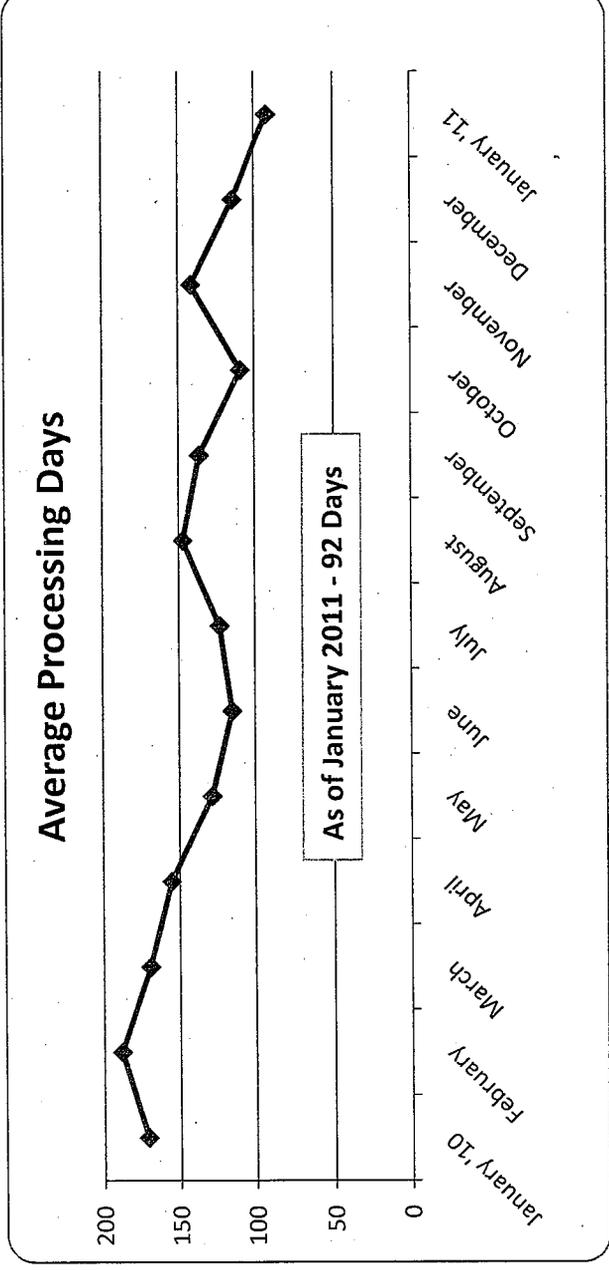
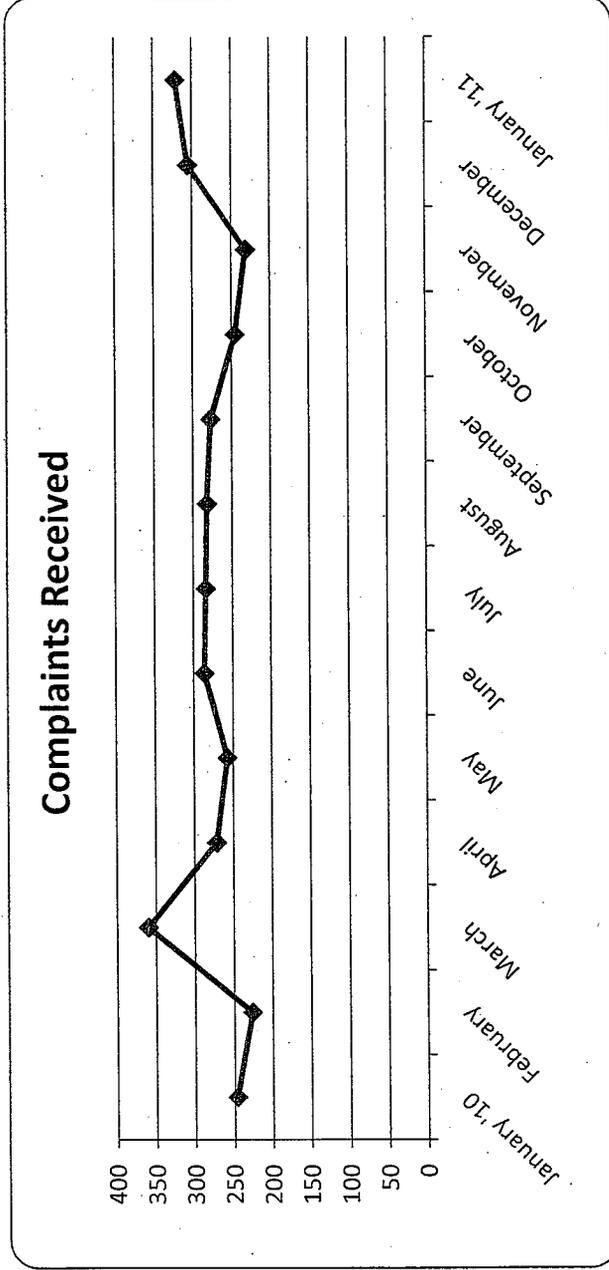
Staffing: The Complaint Unit is fully staffed with six (6) full-time, one (1) half-time, three (3) retired annuitant CSAs, and two (2) complaint intake staff.

Case Reviews: Monthly case audits continue to take place. This process ensures staff is focusing on their priority cases, to ensure they are processed timely and meeting the Department's mission.

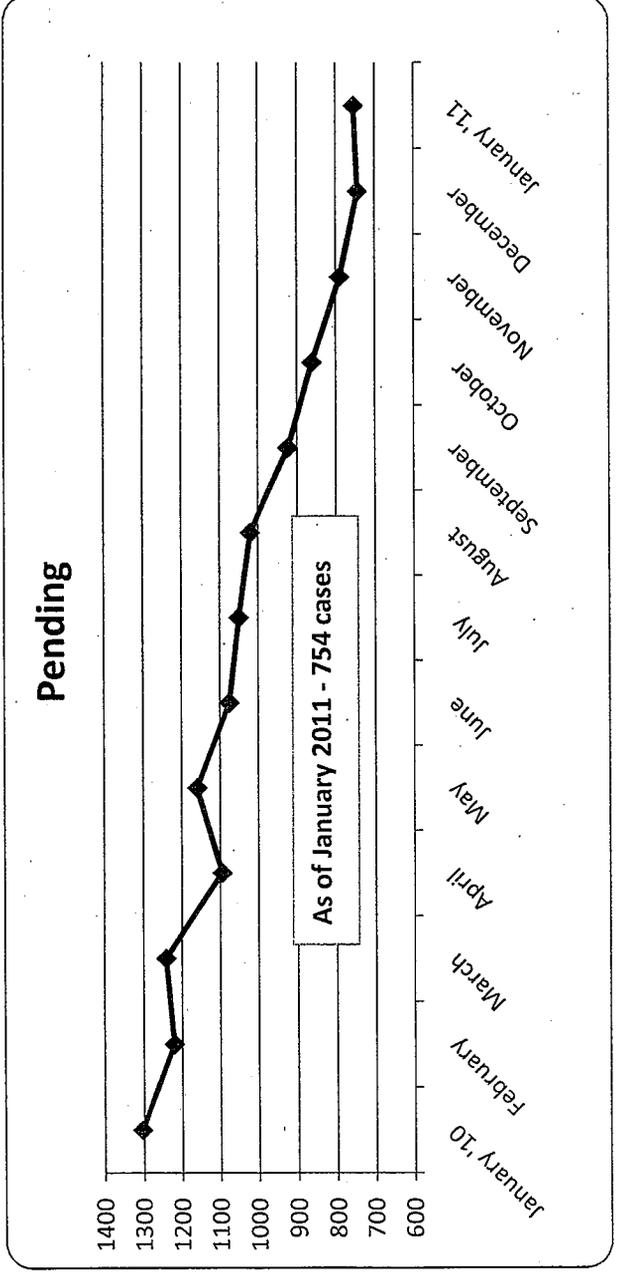
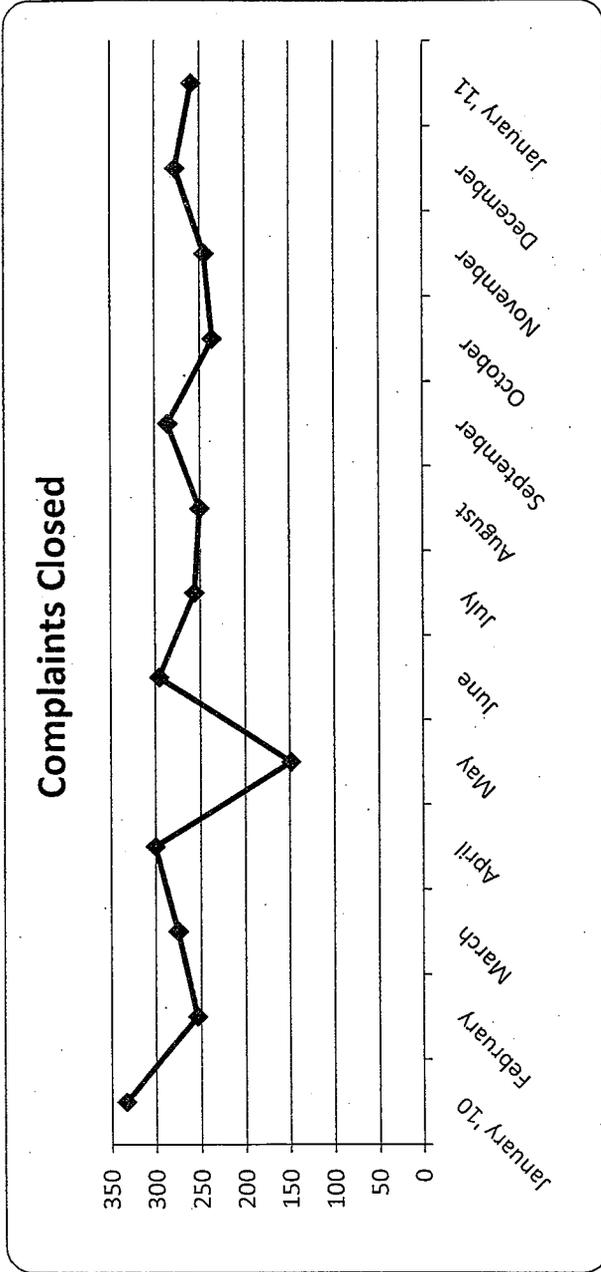
**13 Month Review
Complaint and Compliance Unit
January 1, 2010 - January 31, 2011**

	average processing days	complaints received	complaints closed	pending
January '10	171	246	333	1303
February	188	226	252	1220
March	169	359	275	1241
April	155	271	300	1094
May	128	257	148	1158
June	115	286	295	1074
July	123	284	256	1049
August	147	282	250	1019
September	136	277	285	922
October	109	245	236	861
November	141	231	245	790
December	114	305	277	744
January '11	92	321	259	754

**13 Month Review
Complaint and Compliance Unit
January 1, 2010 - January 31, 2011**



**13 Month Review
Complaint and Compliance Unit
January 1, 2010 - January 31, 2011**





MEMORANDUM

DATE	February 7, 2011
TO	Enforcement Committee Members Dental Board of California
FROM	Kim A. Trefry, Enforcement Chief Dental Board of California
SUBJECT	Agenda Item ENF 4: Update on New Contract for Probation Monitoring Drug Testing

In late January, the Board's Enforcement Program began setting up our Biological Fluid Testing (BFT) with the Department's contract vendor, Phamatech.

Currently the Board has 55 licensees subject to testing as a condition of probation. Phamatech has sent out contact letters to these individuals introducing the program and explaining the process for the login protocols and how to locate a test facility.

Phamatech provides the participants 2 weeks to purchase one or more Chain of Custody forms (at \$29 each) before their initial testing. They are required to bring the form to the test site to be in compliance with the testing. They cannot purchase the form or pay for the test on site. They may be subject to additional fees depending on the individual lab.

Beginning this month, participants will be required to call in or login daily to determine if they have been randomly selected to provide a test sample for that day.

The Board has established a baseline of 12 tests per year. Probation monitors may, depending on the individual circumstances, increase the testing requirements or modify the schedule and request testing on a specific time or date.

Test results and probationers failing to login are emailed to the identified probation monitor.

The board is working with Phamatech representatives to provide on-site training to monitors to familiarize them with the online features, and to obtain test materials for investigative purposes.



MEMORANDUM

DATE	February 10, 2011
TO	Enforcement Committee Members Dental Board of California
FROM	Lori Reis, Manager Dental Board of California
SUBJECT	Agenda Item ENF 5: Diversion Statistics

Attached are the Diversion Program statistics for quarter ending 12/31/2010. These statistics reflect the participant activity in the Diversion (Recovery) Program and are presented for information purposes only.

These statistics are derived from the MAXIMUS reports and are approximated numbers.

NOTE: There were no intakes into the Diversion Program during the months of October and December, 2010. However, during November, 2010 there was one (1) Investigative referral.

**Dental Board of California
Diversion Program
Statistical Summary
As of 12/31/2010**

	Current Quarter	Fiscal Year To Date	Program To Date
I INTAKES INTO PROGRAM			
1. Self Referral	0	0	24
2. Investigative Referral	1	1	57
3. Probation Referral	0	2	50
Group Totals	1	3	131
II APPLICANTS INTERVIEWED BY EACH DEC			
1. DBC Northern CA	0	1	48
2. DBC Southern CA	1	2	64
Group Totals	1	3	112
III APPLICANTS ACCEPTED BY EACH DEC			
1. DBC Northern CA	0	0	43
2. DBC Southern CA	1	3	51
Group Totals	1	3	94
IV STATUS CHANGES IN PROGRAM			
1. Closed	3	NA	NA
V CLOSED CASES			
1. Applicant Not Accepted by DEC	0	0	18
2. Applicant Public Risk	0	0	1
3. Applicant Withdrawn - Pre DEC	0	0	14
4. Clinically Inappropriate - Post DEC	0	0	6
5. Clinically Inappropriate - Pre DEC	0	0	7
6. Completed	1	2	61
7. Terminated - Expired	0	0	3
8. Terminated - Failure to Receive Benefit	1	1	6
9. Terminated - Non Compliant	0	1	16
10. Terminated - Public Risk	1	1	15
11. Withdrawn - Post DEC	0	0	10
Group Totals	3	5	157
VI PARTICIPANT POPULATION TOTALS			
1. Active Participants at Beginning of Quarter	42		
2. Active Participants served this Quarter	43		
3. Active Participants at the End of the Quarter	40		
VII RECIDIVISM, INTAKE OF KNOWN PRIOR PARTICIPANTS			
Intake of Known Prior Participants	0	0	15
VIII GENDER AT INTAKE			
1. Female	0	0	41
2. Male	1	3	88
3. Unknown	0	0	2
Group Totals	1	3	131



MEMORANDUM

DATE	February 11, 2011
TO	Enforcement Committee Members Dental Board of California
FROM	Lori Reis, Manager Complaint and Compliance Unit Dental Board of California
SUBJECT	Agenda Item ENF 6: Report on Dental Consultant Calibration Course for the Complaint and Compliance Unit

As directed by the Board, a calibration course for the Dental Consultants who currently screen cases in the Complaint and Compliance Unit will be held in Sacramento on Thursday, April 14, 2011.

In addition to Board Enforcement Staff, participants will include a representative from the Attorney General's (AG's) office and Dental Consultants.

There are a total of 15 consultants who review cases to determine whether or not a complaint will be closed with or without merit, or forwarded to investigation for further review by an Expert Consultant.

A meeting was held on January 18, 2011, to discuss agenda items and brainstorm training ideas. It was also decided that a representative from the AG's Office will make a presentation on the impact of a consultant's report and how the report is presented. This will assist the consultants when analyzing complaints to determine whether or not a violation of the Dental Practice Act has occurred. The second half of the day is set aside for a workshop where the consultants will be presented with 15 hypothetical complaints and asked to discuss their recommendations.

This calibration course should help to educate the consultants and enable them to obtain similar working skills and provide uniform reports.



MEMORANDUM

DATE	February 11, 2011
TO	Dental Board of California
FROM	Linda Byers, Administrative Assistant Dental Board of California.
SUBJECT	ENF 7: Update on Enforcement Process Improvements

Rebecca Downing will give a verbal report.