

ENFORCEMENT COMMITTEE



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, May 19, 2011

Upon Conclusion of Legislative and Regulatory Committee Meeting
Embassy Suites SFO - 150 Anza Blvd.
Burlingame, CA 94010
650-342-4600 or 916-263-2300

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 February 24, 2011 Enforcement Committee Meeting Minutes

ENF 2 – Investigator Activity Reporting (IAR) Update

ENF 3 – Enforcement Statistics/Improved Report Templates

ENF 4 – Discussion and Possible Action Regarding Time Limitations for Posting Cite and Fine Actions on the Board's Website.

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.

ENF 1

Feb. 24, 2011 Minutes



ENFORCEMENT COMMITTEE MEETING MINUTES

Thursday, February 24, 2011

San Diego

DRAFT

Members Present:

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

Members Absent:

Steven Afriat, Public Member

Staff Present:

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

ROLL CALL AND ESTABLISHMENT OF QUORUM

Ms. Rebecca Downing, Chair, called the committee meeting to order at 10:42 a.m. Roll was called and a quorum was established.

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

M/S/C (Bettinger/Olinger) to approve the Enforcement Committee meeting minutes of November 4, 2010. The motion passed unanimously.

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

Kim Trefry, Enforcement Chief reported that the IAR system has been implemented. Training was conducted in November 2010. The system went live on December 2, 2010. We have begun running end-of-the-month reports and gathering preliminary data on case activity. Rebecca Downing asked when the Board might be able to see some useful data. Ms. Trefry stated that it will be about 6 months before we will have enough data to indicate any trends.

ENF 3 – Enforcement Statistics

Kim Trefry stated that the reports from the Complaint and Compliance Unit, provided by Lori Reis, regarding cases received, cases closed and average number of days to close a complaint all showed significant improvement. Ms. Trefry reported that the case closures for the Investigative Unit for Fiscal Year 2010-2011 are 423 so far showing an 11% increase from the previous fiscal year.

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

Kim Trefry reported that the Dental Board entered into a new contract with Phamatech, a biological fluid testing provider. There are 55 licensees who are subject to drug testing as probationers. These

are exclusive of any requirements of those in the Diversion program. Dr. Bettinger asked what the plan is for probationers who plan to be unavailable due to vacations out of the country etc. Ms. Trefry reported that probationers must provide 72 hours notice and must seek out a testing facility where they will be staying. In addition, Phamatech can work with the probation monitors to alter the testing schedule if deemed necessary.

ENF 5 – Diversion Statistics

Kim Trefry reported that the Diversion Statistics were put together by Lori Reis. Dr. Bettinger noted that the number of participants in the Diversion Program has dropped from 100 to 42 since he became a Board member. Mr. DeCuir stated that speculation has it that there are fewer self referrals due to fear of consequences.

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

Kim Trefry reported that they have met with the 2 lead consultants on the complaints side and have developed and planned a training day for all Dental consultants on Thursday, April 14, 2011 in Sacramento. They will be working with the Attorney General's office on this training.

ENF 7 - Update on Enforcement Process Improvements

Ms. Downing reported that she and Dr. Casagrande met with staff to discuss what proactive steps could be taken to continue to improve the Enforcement program. Ms. Trefry stated that at the January meeting, they agreed to look at a sampling of many different cases and outcomes to see if they could define some common elements. Ms. Trefry reported that they are planning 6-7 training dates for the Subject Matter Experts. Due to the current shortage of Expert Reviewers, they are planning on reaching out to specialty dentists to get assistance with the Expert Reviews. Dr. Le asked how often training is given. Mr. Salute, from the Attorney General's office stated that the last time the training was done was 2007. Initially, all experts must go through training before they even see a case. This would be in addition to that initial training. Dr. Casagrande stated that this endeavor takes a lot of time, resources and effort but is well worth it for the viability and defensibility of the reports received. Ms. Trefry stated that one other area that was discussed was Cite and Fine. Currently citations remain posted on the website indefinitely. Other Boards have language that limits the amount of time a citation remains on the website. Ms. Trefry stated that this would require legislation so the committee discussed asking the Board to seek an author for this legislation. Ms. Trefry stated that the necessity for this change is that almost all citations result in requests for informal hearings because no one wants the citation posted indefinitely. Mr. DeCuir stated that most of these issues will come up in Sunset Review and his hope is that that will be the opportunity to enhance the enforcement arsenal by making some of these changes. Ms. Downing requested that we agendize the Cite and Fine issue at the next meeting if not addressed through Sunset Review. Ms. Downing commended Kim Trefry on a job well done especially considering the fact that she has only been on the job for 6 months and she's been treated like she's a 20 year veteran. Kudos to Kim.

PUBLIC COMMENT

There was no further Public Comment.

ADJOURNMENT

The committee adjourned at 11:18 a.m.

ENF 2

Update on IAR



MEMORANDUM

DATE	April 25, 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) Update

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

Investigator Activity Reporting (IAR) System

Current Status The IAR has now been in operation for 5 months. Enforcement staff have logged time worked in various investigative categories and stages. An early review of the information shows that our non-sworn Investigative Analysis Unit spends approximately 75% of its time on Negligence/Incompetence cases. Of those, a little less than half (38%) move forward for administrative action.

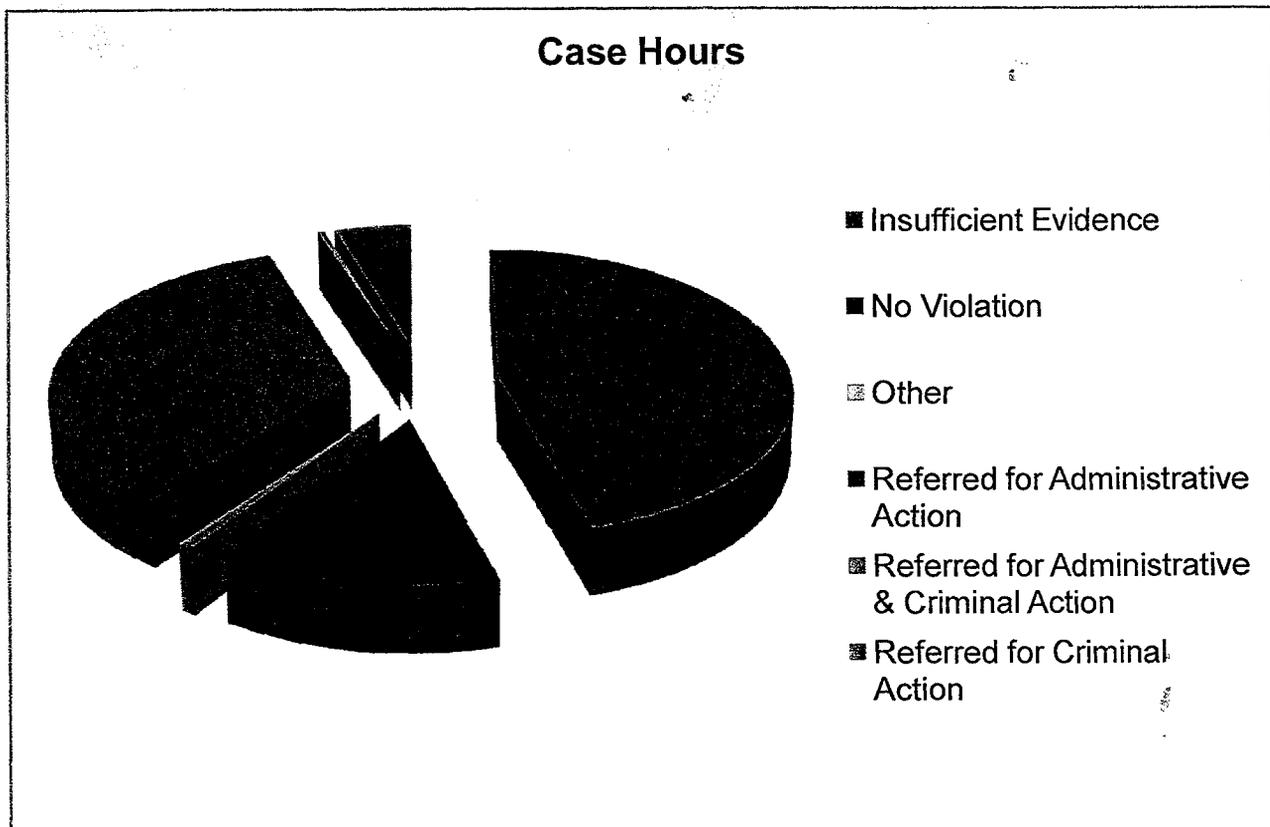
In contrast, the investigative work performed by our two sworn enforcement offices is divided primarily between Unlicensed Activity, Negligence/Incompetence, and Substance Abuse issues. Almost half (44%) are referred for administrative action, and 11% are referred for criminal prosecution. The information is also used to provide accurate cost recovery information to the Board.

The charts attached provide a visual overview of where our combined enforcement efforts have been focused since implementation.

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 start using this feature.

Investigator Activity Report
Hours Worked by Closure Category

Case Closure Categories	Case Hours	# of Cases	% of Total
Insufficient Evidence	498.05	107	45.8%
No Violation	147.85	26	13.6%
Other	8.45	1	0.8%
Referred for Administrative Action	377.75	73	34.7%
Referred for Administrative & Criminal Action	4.45	1	0.4%
Referred for Criminal Action	51.15	4	4.7%
Total	1087.7	212	100.0%



Investigator Activity Reporting System
Hours Worked by Case Type

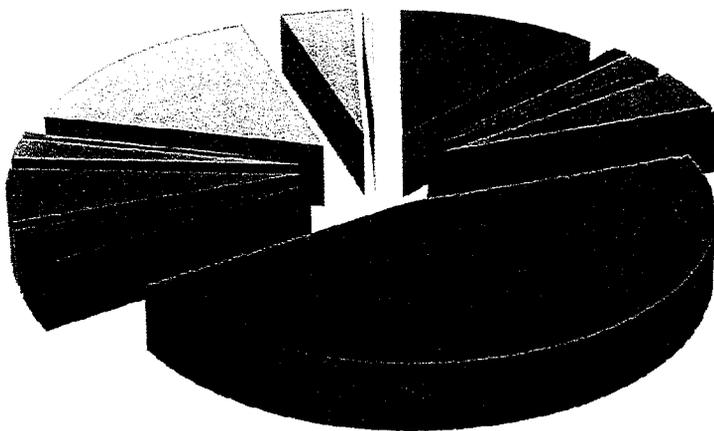
Case Categories

Criminal Charges of Convictions
 Death/Great Bodily Harm
 Discipline by Another State
 Drug Prescribing Violation
 Fraud
 Mental/Physical Illness
 Negligence/Incompetence
 Other
 Patient Abandonment
 Self-Use Drugs/Alcohol
 Sexual Misconduct
 Statement of Issues
 Unlicensed Practice
 Unprofessional Conduct
 Violation of Probation
Totals

Case Hours	# of Cases	% of Total
521.84	187	11.9%
40.6	6	0.9%
10.3	2	0.2%
83.7	10	1.9%
203.67	29	4.7%
1.45	1	0.0%
2030.22	311	46.4%
157.75	31	3.6%
2.15	1	0.0%
262.61	30	6.0%
106.87	18	2.4%
15	1	0.3%
718	73	16.4%
188.95	45	4.3%
32.16	3	0.7%
4375.27	748	100%

12/02/2010 - 4/22/2011

Case Hours



- Criminal Charges of Convictions
- Death/Great Bodily Harm
- Drug Prescribing Violation
- Fraud
- Negligence/Incompetence
- Other
- Self-Use Drugs/Alcohol
- Sexual Misconduct
- Unlicensed Practice
- Unprofessional Conduct
- Violation of Probation

ENF 3

Enforcement Statistics



MEMORANDUM

DATE	April 28, 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: Enforcement Statistics/Improved Report Template Complaint Unit

Attached please find the case closure and aging statistics for the previous 12 month period.

Cases Received: The total number of complaint files received during the previous 12 months was 3510, averaging 293 per month.

Cases Closed: The total number of complaint files closed during the same time period was 3025, averaging 252 per month.

The average number of days a complaint took to close within the last 12 months was 120 days.

Pending Cases (as of 03/31/11): 681
Average caseload per Consumer Services Analyst (CSA) = 86 cases
Cases pending assignment = 30

Case Aging (as of 03/31/11)

0-3 Months	604
4-6 Months	55
7-9 Months	22
10-12 Months	0
1-2 Years	0

Staffing: The Complaint Unit currently has three (3) vacancies: two (2) CSAs, and one (1) complaint intake staff. In addition, one (1) CSA is on a one (1) month medical leave of absence.

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.



MEMORANDUM

DATE	April 28, 2011
TO	Enforcement Committee Members Dental Board of California
FROM	Kim A. Trefry, Enforcement Chief Dental Board of California
SUBJECT	Agenda Item ENF 3: Enforcement Statistics/Improved Report Templates - Investigation Program

Attached please find Enforcement statistics for the previous 9 - 12 month period. Below is a summary of some of the program's trends:

Case Closures The total number of investigation cases closed, filed with the Attorney General or filed with the District/City Attorney for FY 2010/11 (July 2010 through March 2011) are 671. The Investigation Unit is completing an average of just over 67 investigations per month. This is a 34% increase from the previous fiscal year.

Current Open cases = 1078
 Average caseload per fulltime Investigator/Analyst = 40 investigations
 Average probation caseload per fulltime Investigator = 9
 Average probation caseload for Inspectors = 44
 Cases pending assignment = 281

Factors affecting these rates include current vacancies, a hiring freeze and one furlough day per month.

Average Days to Close a Case The average number of days an investigation took to complete within the last 9 months was 473 days. This is an 11% decrease from the previous fiscal year average (533 days).

Case Aging (As of 4/01/2011)

0 – 3 Months	24%
3 – 6 Months	13%
6 – 12 Months	23%
1 – 2 Years	26%
2 – 3 Years	13%
3+ Years	1%

The number of cases in the oldest category (3 years and older) has decreased 73%, from 38 in November to 10 at the end of March.

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

**STATISTICAL SUMMARY OF ENFORCEMENT ACTIVITY - DENTAL BOARD OF CALIFORNIA
APRIL 2010 - MARCH 2011**

COMPLAINT UNIT	Charts	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	YTD
Initial Pending	1, 3	1241	1094	1158	1074	1049	1019	922	861	790	744	804	694	
Total Received		271	257	286	284	282	277	245	231	305	335	388	349	3510
Closed in Complaint Unit	2,4	300	148	295	256	250	285	236	245	277	260	214	259	3025
With Merit		100	59	114	63	76	88	67	65	77	48	35	72	864
w/o merit		200	89	181	193	174	197	169	180	200	212	179	187	2161
Referred for Investigation		118	44	48	79	61	88	68	57	72	51	284	129	1099
Pending at end of period		1094	1158	1074	1049	1019	922	861	790	744	754	694	681	
Unassigned at end of period		7	7	5	6	10	10	6	4	4	6	9	30	

INVESTIGATIONS	Charts	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	YTD
Initial Pending	5,7	770	820	794	767	772	778	814	812	829	652	820	1040	
Assigned		N/A	N/A	N/A	N/A	413	385	386	385	460	381	546	759	
Unassigned		N/A	N/A	N/A	N/A	361	393	428	427	369	271	274	281	
Total Received from Complaint Unit		118	44	48	79	61	88	68	57	72	51	284	134	1104
Closed in Current Month	6,8	68	71	74	74	58	52	72	40	60	72	64	105	810
With Merit		66	59	45	57	46	43	56	40	44	63	54	62	635
w/o Merit		2	12	29	17	12	9	16	0	16	9	10	43	175
Referred to AG		13	15	11	9	13	6	15	9	11	18	15	19	154
Referred for Criminal		0	0	1	1	2	0	0	2	0	0	0	1	7
Pending at end of period		820	794	767	772	778	814	812	829	652	820	1040	1069	
Assigned		N/A	N/A	N/A	413	385	386	385	499	331	546	759	820	
Unassigned	9	N/A	N/A	N/A	361	393	428	427	330	321	274	281	249	

STATISTICAL SUMMARY OF ENFORCEMENT ACTIVITY - DENTAL BOARD OF CALIFORNIA
APRIL 2010 - MARCH 2011

ATTORNEY GENERAL	Charts	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	YTD
Initial Pending		194	191	196	191	186	191	174	182	189	176	177	181	
Referrals from Investigations		13	15	11	9	13	6	15	9	11	18	15	19	154
Referred to the AG		12	15	10	9	11	5	17	12	9	5	13	19	137
Accusations Filed		14	9	3	8	12	4	9	5	2	9	10	9	94
Statement of Issues Filed		6	1	1	1	6	4	0	2	2	2	4	0	29
Petition to Revoke		0	1	0	1	0	0	0	1	0	3	0	2	8
Surrender of License		0	0	2	3	0	1	0	1	0	2	0	1	10
Cases Closed		12	6	12	10	4	17	7	7	7	12	9	6	109
Pending at end of period		191	196	191	186	191	174	182	183	176	177	181	192	

revised as of 5-5-11

Statistical Summary of Complaint Age
April 2010 - March 2011

Chart 1 - Open Complaints by Age

Breakdown by Age	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11
0 - 3 Months	625	654	589	606	658	638	662	614	630	684	639	604
4-6 Months	249	295	257	222	177	120	83	105	86	95	46	55
7-9 Months	109	83	139	147	115	103	77	34	17	16	13	22
10-12 Months	53	80	64	35	22	22	31	35	29	13	6	0
1-2 Years	34	31	32	21	21	22	6	5	3	7	5	0
2-3 Years	2	2	3	2	1	1	2	0	0	0	0	0
3+ Years	0	0	0	0	0	0	0	0	0	0	0	0
Total*	1072	1145	1084	1033	994	906	861	793	765	815	709	681

*Totals will not match Pending at end of Period due to coding variations within Open Case Aging reports.

Chart 2 - Closed Complaints by Age

Breakdown by Age	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	YTD
0 - 3 Months	128	86	146	129	97	116	130	115	139	155	124	157	1522
3-6 Months	78	24	80	59	67	80	57	57	79	72	69	91	813
6-12 Months	65	32	59	52	67	79	43	55	57	29	16	7	561
1-2 Years	29	5	9	16	18	11	7	17	2	5	4	4	127
2-3 Years	0	1	0	0	1	0	0	1	0	0	0	0	3
3+ Years	0	0	0	0	0	0	0	0	0	0	0	0	0
Total*	300	148	294	256	250	286	237	245	277	261	213	259	3026

Statistical Summary of Complaint Categories
April 2010 - March 2011

Chart 3 - Open Complaints by Allegation Type

Allegation	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	YTD Totals
Fraud (F)	65	72	67	59	66	58	65	64	61	61	88	118	844
Non-Jurisdictional (J)	51	54	51	31	41	53	36	19	17	15	15	15	398
Incompetence/Negligence (N)	791	835	781	760	703	598	591	554	508	485	449	416	7471
Other (O)	39	41	44	42	42	34	24	21	13	15	23	24	362
Unprofessional Conduct (R)	99	110	113	105	109	93	86	84	70	62	51	37	1019
Sexual Misconduct (S)	0	0	0	0	1	1	0	1	1	0	0	0	4
Unlicensed/Unregistered (U)	10	7	7	6	11	8	8	6	5	9	3	3	83
Drug Related Offenses (D)	2	2	1	2	1	4	0	0	2	0	2	0	16
Criminal Charges (V)	36	36	40	42	42	73	73	66	100	154	58	30	750
Unsafe/Unsanitary Conditions (E)	6	8	4	8	10	12	6	4	2	1	3	7	71
Discipline by Another State (T)	4	4	5	5	4	4	3	2	0	1	0	0	32
Substance Abuse, Mental/Physical Impairment (A)	0	0	0	0	0	0	0	1	2	1	2	0	6
Total*	1103	1169	1113	1060	1030	938	892	822	781	804	694	650	

*Totals will not match Pending at end of Period due to coding variations within Open Case Allegation reports.

Statistical Summary of Complaint Categories
April 2010 - March 2011

Chart 4 - Closed Complaints by Allegation Type

Allegation	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	YTD Totals
Fraud (F)	19	6	13	14	10	15	12	22	13	14	9	15	162
Non-Jurisdictional (J)	43	18	37	49	25	13	47	34	23	46	28	31	394
Incompetence/Negligence (N)	163	85	187	132	162	197	126	136	178	139	141	169	1815
Other (O)	12	8	16	15	12	12	13	8	14	9	4	14	137
Unprofessional Conduct (R)	29	11	26	25	25	33	21	22	34	37	19	24	306
Sexual Misconduct (S)	0	0	0	0	0	0	0	0	0	0	0	0	0
Unlicensed/Unregistered (U)	4	2	2	8	2	3	1	1	1	1	7	1	33
Drug Related Offenses (D)	0	0	0	0	1	0	1	0	1	0	1	0	4
Criminal Charges (V)	22	15	4	12	8	6	11	17	5	8	0	0	108
Unsafe/Unsanitary Conditions (E)	6	3	9	0	5	7	7	5	7	7	4	4	64
Discipline by Another State (T)	2	0	0	2	1	0	0	0	1	0	1	0	7
Sub. Abuse, Mental/Physical Impairment (A)	0	0	0	0	0	0	0	0	0	0	0	0	1
Total	300	148	294	257	251	286	239	245	277	261	214	259	3031

**Statistical Summary of Investigation Age
April 2010 - March 2011**

Chart 5 - Open Investigations by Age

Breakdown by Age	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11
0 - 3 Months	N/A	N/A	N/A	N/A	N/A	N/A	63	49	47	68	237	264
3 - 6 Months	N/A	N/A	N/A	N/A	N/A	N/A	107	105	113	87	127	143
6 - 12 Months	N/A	N/A	N/A	N/A	N/A	N/A	219	223	261	264	272	244
1 - 2 Years	N/A	N/A	N/A	N/A	N/A	N/A	271	265	264	256	260	275
2 - 3 Years	N/A	N/A	N/A	N/A	N/A	N/A	117	118	137	147	140	142
3+ Years	N/A	N/A	N/A	N/A	N/A	N/A	38	29	23	21	16	10
Total	0	0	0	0	0	0	815	789	845	843	1052	1078

N/A - Information Not Available

Chart 6 - Closed Investigations by Age

Breakdown by Age	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	YTD
0 - 3 Months	7	15	8	8	7	6	21	27	9	11	8	18	145
3 - 6 Months	15	5	13	6	4	4	3	8	9	4	3	12	84
6 - 12 Months	8	13	13	20	10	10	13	9	10	20	8	14	146
1 - 2 Years	21	13	22	34	22	6	6	12	16	11	21	31	219
2 - 3 Years	13	10	13	4	14	8	8	9	9	16	18	22	143
3+ Years	4	14	5	3	2	1	7	5	7	10	5	8	71
Total	68	70	74	74	58	52	72	40	60	72	63	105	808

*Numbers in Chart 5 may not match the main statistical summary. Aging reports are captured at the end of each month. Summary reports are captured at the end of each quarter and may reflect changes to the data.

**Statistical Summary of Investigation Categories
April 2010 - March 2011**

Chart 7 - Open Investigations by Allegation Type

Allegation	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	YTD Totals
Substance Abuse, Mental/Physical Impairment (A)	14	10	10	10	10	10	10	8	9	9	8	8	116
Drug Related Offenses (D)	34	28	29	28	28	29	30	27	23	25	25	26	332
Unsafe/Unsanitary Conditions (E)	6	7	6	4	5	6	7	7	6	5	5	6	70
Fraud (F)	39	38	41	42	45	47	50	52	49	49	60	58	570
Non-Jurisdictional (J)	6	6	4	3	1	1	1	1	1	1	1	0	26
Incompetence/Negligence (N)	370	366	360	361	360	386	378	391	409	399	396	396	4572
Other (O)	49	51	50	54	54	51	49	47	47	44	43	41	580
Unprofessional Conduct (R)	69	71	68	70	69	77	76	84	82	75	89	88	918
Sexual Misconduct (S)	15	11	11	14	12	12	12	12	13	17	17	16	162
Discipline by Another State (T)	53	53	53	51	52	51	52	51	52	50	46	31	595
Unlicensed/Unregistered (U)	104	98	89	89	89	90	96	96	87	85	96	97	1116
Criminal Charges (V)	61	55	48	51	56	57	54	56	66	64	258	306	1132
Total	820	794	769	777	781	817	815	832	844	823	1044	1073	

**Statistical Summary of Investigation Categories
April 2010 - March 2011**

Chart 8 - Closed Investigations by Allegation Type

Allegation	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-11	Mar-11	YTD Totals
Substance Abuse, Mental/Physical Impairment (A)	1	5	0	0	0	0	0	2	0	2	2	1	13
Drug Related Offenses (D)	2	7	3	2	1	1	2	4	5	2	2	1	32
Unsafe/Unsanitary Conditions (E)	0	0	2	2	0	0	0	0	1	1	1	0	7
Fraud (F)	1	3	4	5	1	3	0	1	4	4	2	3	31
Non-Jurisdictional (J)	0	0	2	1	2	0	0	0	0	0	0	1	6
Incompetence/Negligence (N)	23	18	33	28	26	13	29	10	20	27	29	32	288
Other (O)	6	1	2	7	4	4	4	3	2	7	4	5	49
Unprofessional Conduct (R)	5	6	8	7	7	7	7	2	8	10	2	10	79
Sexual Misconduct (S)	1	6	1	0	2	1	2	3	0	0	0	1	17
Discipline by Another State (T)	1	1	0	2	1	2	0	3	1	2	4	15	32
Unlicensed/Unregistered (U)	6	16	12	9	5	8	2	6	15	11	6	9	105
Criminal Charges (V)	22	7	7	9	8	13	24	6	4	6	11	27	144
Total	68	70	74	72	57	52	70	40	60	72	63	105	803

Chart 9 - Unassigned Cases - Case Age

Breakdown by Age	Apr-10	May-10	Jun-10	Jul-10	Aug-10	Sep-10	Oct-10	Nov-10	Dec-10	Jan-11	Feb-10	Mar-10
0 - 3 Months								16	15	16	22	21
3 - 6 Months								42	34	21	26	27
6 - 12 Months								104	125	114	102	56
1 - 2 Years								122	122	102	105	122
2 - 3 Years								43	24	19	23	21
3 + Years								3	1	2	3	2
Total								330	321	274	281	249

ENF 4

Cite and Fine



MEMORANDUM

DATE	May 5, 2011
TO	Enforcement Committee Members Dental Board of California
FROM	Kim A. Trefry, Enforcement Chief Dental Board of California
SUBJECT	Agenda Item ENF 4: Discussion and Possible Action Regarding Time Limitations for Posting Cite and Fine Actions on the Board's Website

In preparation for the Joint Sunset Review Committee, enforcement staff developed draft regulatory language as a potential remedy to the indefinite length of time that a Citation and Fine is currently posted on the Board's website.

Background

A licensee may be issued an administrative citation for failure to comply with a request to produce medical records (pursuant to B&P Code section 1684.1(a)(1)) or in response to conditions which adversely affect the health, safety and welfare of the dental consumer. Administrative citations can be issued by non-sworn staff and Inspectors.

Upon issuance of a citation, the licensee is given a specific number of days to comply with the order (15 days for records, longer for inspection related corrections). The licensee also has the right to due process and may request an informal hearing to discuss the merits of the citation.

Although the goal of the administrative citation is compliance and/or abatement, unless a citation is withdrawn following an informal hearing, there is currently no provision to remove the posting from the Board's website once compliance is received or the matter has been satisfactorily abated. The absence of this procedural language has resulted in an increasing number of informal hearings, and an increased workload – the opposite effect intended for an intermediate enforcement tool.

Public Disclosure Time Limitations

Staff has researched disclosure language in use by the Medical Board of California, Board of Registered Nursing and several other Boards to develop the following proposed language which modifies website postings from indefinite to 3 or 5 years maximum:

Draft Language:

- (a) Every citation that is issued pursuant to this article shall be disclosed to an inquiring member of the public, unless purged in accordance with the provisions of this section.
- (b) Every citation, once it has been resolved by payment of the administrative fine and/or compliance with the order of abatement, shall be purged three (3) or five (5) years from the date of resolution, except for citations referenced in subsection (c).
- (c) No citation shall be purged if issued relating to public health and safety, and no citation shall be purged for any citation issued against an unlicensed individual.
- (d) A citation that has been withdrawn or dismissed shall be purged from the board's file as soon as administratively feasible, but no sooner than one year from the date of issuance.

Status

Currently, the Board's enforcement program is limited to two methods to address violations of the Dental Practice Act; issuance of a citation and administrative filings with the Office of the Attorney General. This additional language along with recommended changes to statutory language to implement a Letter of Admonishment and Notice of Correction has been provided to the Senate Business and Professions Committee as an additional provision to SB540.

These additions will provide the Board's enforcement program with supplemental tools to address less egregious violations more efficiently.

This report is informational only. No Board action is required at this time.

ENF 5

Diversion Statistics



MEMORANDUM

DATE	April 28, 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 03/31/2011. 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 month of January, 2011. However, during February there was one (1) Investigative referral and during March there was one (1) Investigative referral and one (1) Probation referral, totaling three (3) participant intakes for the quarter ending 03/31/2011.

The Investigative referral intake in March has not been interviewed and accepted by the Northern Diversion Evaluation Committee to date. The next DEC meeting is scheduled for June 2, 2011.

Dental Board of California
 Diversion Program
 Statistical Summary
 As of 03/31/2011

	Current Quarter	Fiscal Year To Date	Program To Date
I INTAKES INTO PROGRAM			
1. Self Referral	0	0	23
2. Investigative Referral	2	3	61
3. Probation Referral	1	3	50
Group Totals	3	6	134
II APPLICANTS INTERVIEWED BY EACH DEC			
1. DBC Northern CA	0	1	48
2. DBC Southern CA	2	4	66
Group Totals	2	5	114
III APPLICANTS ACCEPTED BY EACH DEC			
1. DBC Northern CA	0	1	43
2. DBC Southern CA	2	4	53
Group Totals	2	5	96
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	3	62
7. No Longer Eligible - Post DEC	1	1	1
8. Terminated - Expired	0	0	3
9. Terminated - Failure to Receive Benefit	0	1	6
10. Terminated - Non Compliant	1	2	17
11. Terminated - Public Risk	0	1	15
12. Withdrawn - Post DEC	0	0	10
Group Totals	3	8	160
VI PARTICIPANT POPULATION TOTALS			
1. Active Participants at Beginning of Quarter	40		
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	1	1	42
2. Male	2	5	90
3. Unknown	0	0	2
Group Totals	3	6	134

	Current Month	Fiscal Year To Date	Program To Date
IX AGE CATEGORY AT INTAKE			
1. 20 - 24	0	0	2
2. 25 - 29	0	0	5
3. 30 - 34	0	0	12
4. 35 - 39	1	1	18
5. 40 - 44	0	1	23
6. 45 - 49	0	1	25
7. 50 - 54	0	1	20
8. 55 - 59	0	0	16
9. 60 - 64	2	2	9
10. 65 +	0	0	4
Group Totals	3	6	134

X WORKSITE OF PRACTICE SETTING AT INTAKE			
1. Dental	0	3	56
2. Doctor's Office	3	3	8
3. Group Practice - profit	0	0	1
4. Lab	0	0	1
5. Other	0	0	4
6. Private Practice	0	0	9
7. Undetermined	0	0	23
8. Unemployed	0	0	32
Group Totals	3	6	134

XI SPECIALTIES AT INTAKE			
1. Doctor's Office	3	6	56
2. HMO	0	0	1
3. Medical Surgical	0	0	1
4. Other	0	0	43
5. Undetermined	0	0	33
Group Totals	3	6	134

XII PRESENTING PROBLEM AT INTAKE			
1. Alcohol	1	3	26
2. Alcohol and Mental Illness	0	0	7
3. Alcohol and Mono Drug	0	1	19
4. Alcohol and Poly Drug	0	0	16
5. Alcohol, Mono Drug and Mental Illness	0	0	1
6. Alcohol, Poly Drug and Mental Illness	0	0	5
7. Mental Illness	0	0	2
8. Mono Drug	0	0	29
9. Mono Drug and Mental Illness	0	0	7
10. Poly Drug	1	1	13
11. Poly Drug and Mental Illness	1	1	7
12. Undetermined	0	0	2
Group Totals	3	6	134

XIII SUBSTANCE USED DURING 12 MONTHS PRIOR TO INTAKE			
Collection of statistical information for Substance began September 2004			
1. Coumadin	0	0	1
2. Aciphex	0	0	1
3. Advair Diskus	0	0	1
4. Alcohol	2	3	56
5. Aleve	0	0	10

	Current Month	Fiscal Yr To Date	Program To Date
6. Alprazolam (Xanax)	0	0	3
7. ASA	0	1	2
8. Aspirin	0	0	1
9. Atenolol (Tenormin)	0	1	4
10. Ativan	0	0	3
11. Benadryl (Diphenhydramine HCL)	0	0	3
12. Benazepril (Lotensin)	0	0	2
13. Benzodiazepenes Unspecified	0	0	1
14. Butalbital (Fiorinal, Esgic)	0	0	1
15. Celexa	0	0	1
16. Chlordiazepoxide (Librium)	0	0	1
17. Claritin	0	0	1
18. Cocaine	0	0	8
19. Codeine (Various Names)	0	0	2
21. Diazepam (Valium)	0	0	4
22. Folic Acid	0	0	1
23. Hydrocodone (Vicodin / Lortabs / Hycodan)	0	0	11
24. Ibuprofen	0	0	4
25. Lexapro	0	0	1
26. Lorazepam (Ativan)	0	0	1
27. Marijuana	0	1	8
28. Maxalt	0	0	1
29. Methadone and/or Metabolite	0	0	1
30. Methamphetamine	0	0	10
31. Morphine	0	0	2
32. Motrin	0	0	1
33. Nazoril	0	0	1
34. None	1	1	5
35. Norco	0	0	2
36. Other Opiates	0	0	1
37. Oxycodone (Oxycontin)	1	1	2
38. Oxycodone (Percodan, Percocet)	0	0	2
39. Percocet	0	0	1
40. Prevacid	0	0	1
41. Undetermined	0	0	12
42. Wellbutrin	0	0	1
43. Zolpidem Tartrate (Ambien)	0	0	3

XIV MARITAL STATUS AT INTAKE

1. Divorced	1	1	27
2. Married	1	1	57
3. Remarried	0	0	3
4. Separated	0	1	5
5. Significant Other	0	0	3
6. Single	1	3	36
7. Undetermined	0	0	2
8. Widowed	0	0	1
Group Totals	3	6	134

ENF 6

Report on Dental Consultant Calibration Course



MEMORANDUM

DATE	April 28, 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

The Dental Consultant Calibration Course was held on Thursday, April 14, 2011, at the Dental Board of California (Board's) Sacramento location.

Present were: Board members Luis Dominicus, DDS and Thomas Olinger, DDS, 15 Dental Consultants, Gregory Salute, Deputy Attorney General, Denise Johnson, Assistant Executive Officer, Kim Trefry, Chief of Enforcement, Nancy Butler, Supervising Investigator I, Sacramento office, Teri Lane, Supervising Investigator I, Orange office, Investigative Analysis and Complaint Unit staff.

The meeting kicked off with full introductions from all present. After introductions, a power point presentation on the role of the Complaint and Compliance Unit was given. Immediately following the presentation, a continental breakfast was generously provided by the Complaint Unit staff. After the break, Gregory Salute gave a presentation on "What the AG's office is really looking for"? This presentation was very well received and provided a useful insight on what kind of cases actually end up at the Attorney General's office. Also included in the discussion was Richard Liebig DDS who serves as the Board's civil service consultant. Dr. Liebig presented five (5) case scenarios and invited feedback from the 14 other consultants as to how they would handle each case.

In addition to Dr. Liebig's scenarios, Michael Paull, DDS and Patrick Schenk, DDS each presented scenarios for open discussion and debate. Drs. Paull and Schenk are the senior consultants who have provided consulting services to the Board for many years.

A round table discussion ended a very successful and informative calibration. It is my opinion that it will ensure all of the consultants are working parallel and providing similar consultant reports for the Board.

Agenda Item ENF 6
Dental Consultant Calibration
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A survey was recently sent out requesting feedback on whether or not the calibration met their expectations, was the proper time allotted, were the handout materials useful, was the information presented in a clear and understandable manner, and if the meeting should be repeated annually, or biannually. To date, feedback has been extremely positive.

Through information received from the survey, it has been determined that future calibrations will again be a one day full session held biannually. In addition, representatives from the AG's Office and case scenarios will again be included in the agenda.

Dr. Paull and I will be working on revising the current consultant training manual and will present to each consultant at the next meeting currently scheduled for the fall, 2011.

Drs. Dominicis and Olinger may now wish to provide their perspectives on the calibration course.

ENF 7

**Update on Enforcement
Process Improvements**



MEMORANDUM

DATE	April 27, 2011
TO	Enforcement Committee Members Dental Board of California
FROM	Kim A. Trefry, Enforcement Chief Dental Board of California
SUBJECT	Agenda Item ENF 7: Update on Enforcement Process Improvements

In response to a February 2010 enforcement assessment, the Enforcement Program has been making a number of improvements; some of which are identified here:

Training Staff are now meeting Peace Officer Standards and Training (POST) standards in the following areas: Tactical Communications training and Arrest and Control Techniques. Firearms Instructors are in the process of applying to have a Tactical Firearms certified to meet POST standards as well.

CURES Access Sworn staff have been granted access to the Department of Justice's Controlled Substance Utilization Review and Evaluation System (C.U.R.E.S.). This database allows immediate access to prescribing records for investigative purposes. Online access provided to our sworn personnel also saves the Board approximately \$40,000 annually from our previous contract services.

Staffing Increased staffing has a direct impact on our ability to collect records, evidence and conduct investigations. The augmentation of positions from the Consumer Protection Enforcement Initiative has already helped the Board address a backlog of cases. However, hiring sworn staff has continued to be a challenge within the hiring freeze.

Both the Southern office (Orange) and Northern office (Sacramento) currently have two sworn investigator vacancies. We have submitted a freeze exemption for these four positions and are awaiting approval. We may still interview and hire applicants from within the Department, but cannot consider any eligible candidates from current hiring lists.

In the non-sworn Investigative Analysis Unit, two staff have moved into the newly created Special Investigator classification, and we have made job offers to two Associate Government Program Analysts to fill behind them. This new unit will now be fully staffed and is carrying almost 50% of the open caseload.

Management Reports The Executive Officer, Assistant Executive Officer and Enforcement managers are all receiving monthly status reports on our enforcement efforts. Caseload, Closure rates and Case Aging reports help identify our ongoing progress to reduce case age and meet the Department's case closure goals of 12 – 18 months.

Policy and Procedure Manuals A new Investigations policy manual has been completed and is pending legal review. Updates for the Probation, Inspections, and Discipline Coordination manuals are anticipated to be completed in the next 6 -12 months.