



ENFORCEMENT COMMITTEE
Meeting Minutes
Thursday, August 16, 2012
Department of Consumer Affairs
2005 Evergreen Street, Hearing Room
Sacramento, CA 95815

Members Present

Vice Chair – Huong Le, DDS
Member
Steven Afriat, Public Member
Suzanne McCormick, DDS
Bruce Whitcher, DDS

Members Absent

Chair – Rebecca Downing, Public

Staff Present

Richard DeCuir, Executive Officer
Denise Johnson, Assistant Executive Officer
Kim Trefry, Enforcement Chief
Nancy Butler, Supervising Investigator
April Alameda, Investigative Analysis Unit Manager
Dawn Dill, Licensing and Examination Unit Manager
Lori Reis, Complaint and Compliance Unit Manager
Jocelyn Campos, Enforcement Coordinator
Sarah Wallace, Legislative and Regulatory Analyst
Karen Fischer, Associate Analyst
Linda Byers, Executive Assistant
Spencer Walker, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

ROLL CALL AND ESTABLISHMENT OF QUORUM

Dr. Huong Le, Vice-Chair called the Enforcement Committee meeting to order at 11:44 a.m. Roll was called and a quorum was established.

ENF 1 – Approval of the May 17, 2012 Enforcement Committee Meeting Minutes

M/S/C (McCormick/Whitcher) to approve the May 17, 2012 minutes of the Enforcement Committee meeting. The motion passed with one abstention.

ENF 2 – Staff Update Regarding Enforcement Unit Projects and Improvements

Kim Trefry, Enforcement Chief, reported that beginning in March, the Board began a 90-day test period to determine whether issuance of probationary licenses, at the Board level, could result in cost and time savings. She reported that the Board had stipulated

to probationary licenses for 14 RDAs and 1 DDS applicant during this 90-day trial. One additional applicant declined the board's stipulated offer of probation and requested a hearing. By comparison, the average length of time for a Statement of Issues case to be completed by the Attorney General's office was 439 days.

Given the limited RDA budget for disciplinary matters, the Enforcement Unit believes this will be a beneficial alternative in certain circumstances.

Ms. Trefry reported that Dental Board Investigator Vicki Williams was selected to fill a second Supervising Investigator position in the Southern California Enforcement office. A new Investigator, Kelly Silva, was hired to fill one of the two vacancies in the Northern California field office and a second candidate is in the background phase of the hiring process.

Ms. Trefry reported that at present, the Enforcement Program is in full compliance with all Peace Officer Standards Training (POST) requirements. She also reported that during the last quarter, the Enforcement Program focused on various stages of their internal processes –the goal being to identify areas for improvement and increased efficiency. This included an internal review of the Complaint Intake process and certain Probation cases.

The Enforcement Program's Supervising Investigators Teri Lane, Nancy Butler, and Staff Manager April Alameda met and finalized the Probation Policy and Procedure manual which will serve as a valuable tool to ensure staff are addressing their monitoring responsibilities consistently and correctly.

One of the Dental Board's Subject Matter Experts, Dr. Peter Krakowiak DMD FRCD(C) FADSA of Lake Elsinore, met with Sacramento staff (and Orange staff via the newly installed videoconferencing equipment) to provide an overview of the standard of care for Oral and Maxillofacial Surgery.

Ms. Trefry reported that during the last quarter, the Southern California office made a focused effort on unlicensed activity. On June 13, 2012, Dental Board Investigators, partnered with Los Angeles County Sheriff's Department and the Health Authority Law Enforcement Task Force (HALT) in serving a search warrant in South Gate, CA. In addition to serving the search warrant they arrested Nydia and German Martinez for the unlicensed practice of dentistry. A two month long undercover operation revealed both subjects had been treating patients without a license for several years. The result of this effort is that each suspect will be charged with the unlicensed practice of dentistry and could face up to one year in jail. Investigators also seized patient records, dental equipment, pharmaceuticals and syringes.

Ms. Trefry reported that Investigators conducted a 2 month long undercover operation where it was determined that suspect Juan Carlos Ortiz (age 45) was practicing dentistry without a license. Ortiz had given a diagnosis to an agent posing as a patient. On July 18, 2012, investigators served a search warrant at a residence located in North Hollywood, CA. Ortiz was transported to the Los Angeles Police Department where he was booked for practicing dentistry without a license. Ortiz had been previously convicted in February 2005 by the Dental Board of California for the same offense,

making this second offense a felony. The Dental Board investigation revealed that the subject had been treating patients without a license for several years. Investigators seized records and dental equipment from the home.

The Dental Board's investigations on unlicensed activity are ongoing and could result in charges against other individuals.

Ms. Trefry reported that Enforcement staff currently share 15 vehicles between 14 sworn Investigators, 3 sworn Supervising Investigators, 2 Inspectors and 4 non-sworn Special Investigators, a total of 23, to conduct their field work. Three vehicles have been converted to pool cars to address this imbalance between supply and demand. In 2010, staff drove in excess of 153,000 miles, an average of over 11,000 miles per employee, per year. In July, the Board learned that the Enforcement Program had been directed to reduce its vehicle fleet by one additional vehicle. The Board is waiting to learn the effective date of this decision, and is exploring options on how to redistribute this resource.

Dr. Le asked when the last time the Policy and Procedure Manual was reviewed. Ms. Trefry answered that the Enforcement Manual was last updated in 2006. She stated that there was no Probation Manual previously; it was created from a model used by another Board.

Mr. Afriat stated that he perceived a difference of opinion between staff and the Board as to how cases are prioritized to come before the Board. He asked if it was feasible to place an item on the agenda to discuss the possibility of establishing priorities in Enforcement. Richard DeCuir, Executive Officer, stated that there are internal priorities already set but it would be unwise to divulge the Board's internal processes, procedures, policies and priorities. Mr. DeCuir asked Legal Counsel Spencer Walker if this could be discussed in Closed Session. Mr. Walker replied, "no". Mr. DeCuir recommended that this not be agendized thus making the policies public information.

ENF 3 – Enforcement Program – Statistics and Status

Ms. Trefry reviewed the statistics provided pointing out that the Complaint and Compliance Unit received 3507 complaints during the past 12 month period, averaging 292 per month. She stated that there are currently 741 pending cases creating an average of 150 cases per Consumer Services analyst (CSA). The total number of complaint files closed during the past 12 month period was 2554. The average number of days it took to close a complaint was 72, a decrease of 35% from the previous year's average.

Ms. Trefry reported that currently there are approximately 853 open investigative cases, 325 probation cases, and 72 open inspection cases with an average of 43 cases per full time Investigator, 41 cases per Special Investigator/Analyst, and 40 cases per Inspector. The total number of investigation cases closed, filed with the Attorney General's Office or filed with the District/City Attorney during the last 12 months is 1103, an average of 92 per month.

ENF 4 – Review of Fourth Quarter Performance Measures from the Department of Consumer Affairs

Ms. Trefry reviewed the Performance Measures data as reported by the Department of Consumer Affairs. She reported that the assigned target cycle time for intake of a complaint is 10 days; the Dental Board averaged 9 days. The assigned target cycle time for Intake and Investigation is 270 days; the Dental Board averaged 152 days. The assigned target cycle time for Formal Discipline is 540 days; the Dental Board averaged 776 days. Probation Intakes assigned target is 10 days; the Dental Board's average was 13 days. Finally, the Probation Violation Response assigned target is 10 days; the Dental Board averaged 253 days in the fourth quarter. Ms. Trefry explained that the reason for the large discrepancy in this number is; once a violation is discovered, the decision to take action is made immediately. However, the monitor must collect any supporting evidence (arrest/conviction records, positive drug test results) and write a report documenting the event. Once the report is referred for discipline, "appropriate action" has been initiated and the clock stops. Factors which may affect the turnaround time on this measure include how the violation is reported; (incoming complaints or arrest/conviction reports from the Department of Justice may take several days to be processed) and how quickly the monitor can write up and file the violation.

ENF 5 – Diversion Statistics

Lori Reis, Diversion, Complaint and Compliance Unit Manager, reported that there were no intakes into the Diversion Program during the month of April. She reported that in May, there was one (1) investigative referral and two (2) self referrals. In June, there was one (1) probation referral totaling four (4) for the quarter ending 06/30/12.

The next Diversion Evaluation Committee meeting is scheduled for September 6, 2012 at the Dental Board's Sacramento Office.

Mr. Afriat asked if the self referral was a Registered Dental Assistant or a Dentist. Ms. Reis answered, a Dentist.

PUBLIC COMMENT

There was no public comment.

The Enforcement Committee adjourned at 12:10 p.m.