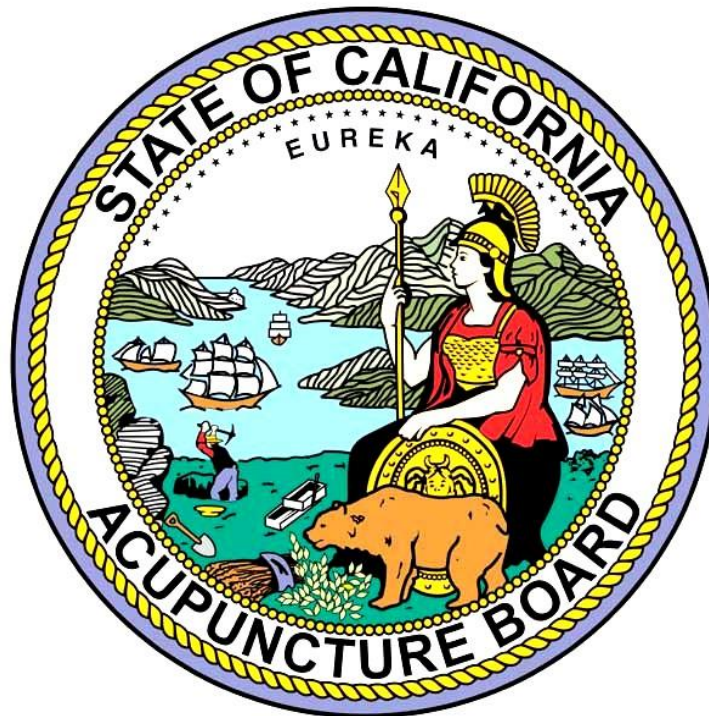


California Acupuncture Board Meeting

November 17, 2017

Department of Consumer Affairs
HQ2 Hearing Room
1747 North Market Blvd
Sacramento, CA 95834



Board Members

Dr. Amy Matecki, MD, L.Ac. – President
Kitman Chan – Vice President, Public Member
Francisco Hsieh – Public Member
Jeannie Kang, L.Ac.
Ruben Osorio – Public Member
Vacant – Licensed Member
Vacant – Public Member

Legal Counsel

Salwa Bojack, Esq.

Staff

Ben Bodea – Executive Officer
Erica Bautista – Administration Coordinator
Cricket Borges – Enforcement Analyst
Kristine Brothers – Enforcement Coordinator
Tammy Graver – Board Liaison
Van Martini – Continuing Education Coordinator
Jay Herdt – Education Coordinator
Marc Johnson – Policy Coordinator
Debbie Manas – Office Technician
Terry Sinkovich – Exam Coordinator
Tammy Stadley – Exam Analyst
Beck Untalasco – Seasonal Clerk
Sandra Wilson – Licensing Technician
Vacant – Licensing Technician



ACUPUNCTURE BOARD

1747 North Market Boulevard, Suite 180, Sacramento, CA 95834
(916) 515-5200 FAX (916) 928-2204 www.acupuncture.ca.gov

Members of the Board

Dr. Amy Matecki, M.D., L.Ac,
President, Licensed Member
Kitman Chan, Vice President,
Public Member
Francisco Hsieh,
Public Member
Jeannie Kang, L.Ac,
Licensed Member
Ruben Osorio,
Public Member
Vacant, Licensed Member
Vacant, Public Member

NOTICE OF ACUPUNCTURE BOARD MEETING

Friday, November 17, 2017

Time: 10:00 a.m.

LOCATION:

**Department of Consumer Affairs
HQ 2 Hearing Room
1747 North Market Blvd
Sacramento, CA 95834**

AGENDA

- 1. Call to Order, Roll Call and Establishment of a Quorum (Dr. Matecki)**
- 2. Welcome and Opening Remarks (Dr. Matecki)**
- 3. President's Report (Dr. Matecki)**
- 4. Public Comment on Items Not on the Agenda (Dr. Matecki)**
Public Comments will be limited to two minutes per speaker or established by the President during the meeting. The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a)).
- 5. Discussion and Possible Board Action - Sunset Report (Ben Bodea)**
- 6. Future Agenda Items**
- 7. Closed Session**
The Board will convene in closed session pursuant to Government Code section 11126(a)(1) to consider the annual performance evaluation of the Executive Officer
- 8. Reconvene Open Session**
- 9. Adjournment**

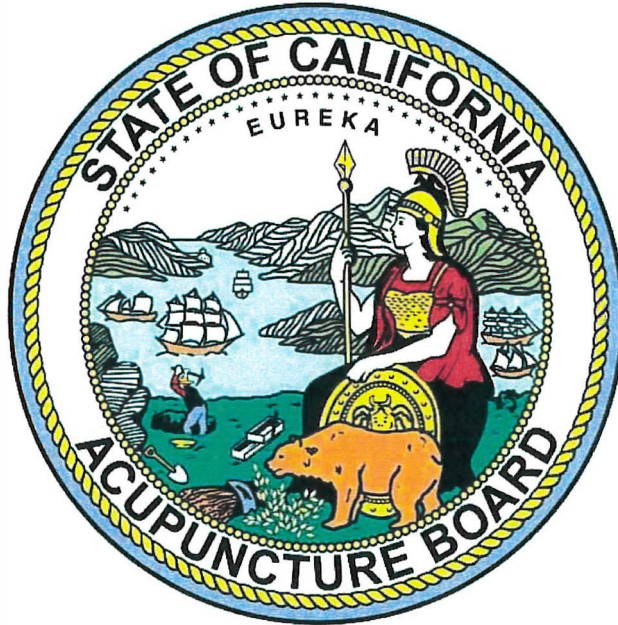
Informational Notes:

The agenda, as well as board meeting minutes and materials, can be found on the Acupuncture Board's website: www.acupuncture.ca.gov. Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the President. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda. Agenda items may be taken out of order.

The Board plans to webcast this meeting at <https://thedcapage.wordpress.com/webcasts/>. Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

Board meetings are open to the public and are held in barrier free facilities that are accessible to those with physical disabilities in accordance with the Americans with Disabilities Act (ADA). If you are a person with a disability requiring disability-related modifications or accommodations to participate in the meeting, including auxiliary aids or services please contact Erica Bautista, Administrative Coordinator at (916) 515-5202; Fax: (916) 928-2204. You may dial a voice TTY Communications Assistant at 711. Requests should be made as soon as possible but at least five (5) working days prior to the scheduled meeting.

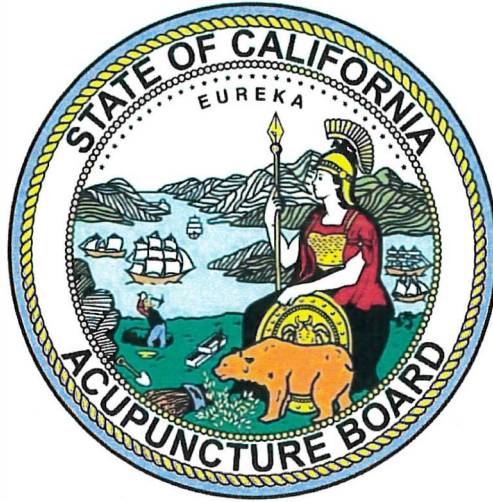
CALIFORNIA ACUPUNCTURE BOARD



SUNSET REVIEW REPORT 2017

**Submitted to the Senate Business, Professions and
Economic Development Committee and
Assembly Business and Professions Committee
December 1, 2017**

CALIFORNIA ACUPUNCTURE BOARD



Board Members

Dr. Amy Matecki, MD, L.Ac, President
Kitman Chan, Vice President – Public Member
Francisco Hsieh – Public Member
Jeannie Kang, L.Ac
Ruben Osorio – Public Member
Vacant – Licensed Member
Vacant – Public Member

Executive Officer

Ben Bodea

California Acupuncture Board
1747 N. Market Blvd., Suite 180, Sacramento, CA 95834
Telephone: (916) 515-5200 Fax: (916) 928-2204

CALIFORNIA ACUPUNCTURE BOARD

BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM

As of June 30, 2017

Section 1

Background and Description of the Board and Regulated Profession

Mission Statement

To protect, benefit, and inform the people of California by exercising the licensing, regulatory, and enforcement mandates of the Acupuncture Licensure Act and Acupuncture Regulations.

Brief History

The Board of Medical Examiners (now called the Medical Board of California) began regulating acupuncture in 1972 under provisions that authorized the practice of acupuncture under the supervision of a licensed physician as part of acupuncture research in medical schools.

In 1975, Senate Bill 86 (Chapter 267, Statutes of 1975) created the Acupuncture Advisory Committee under the Board of Medical Examiners and allowed the practice of acupuncture but only upon a prior diagnosis or referral by a licensed physician, chiropractor or dentist. In 1976, California became the eighth state to license acupuncturists. Subsequent legislation in 1978 established acupuncture as a “primary health care profession” by eliminating the requirement for prior diagnosis or referral by a licensed physician, chiropractor or dentist.

In 1980, the law was amended to abolish the Acupuncture Advisory Committee and replace it with the Acupuncture Examining Committee within the Division of Allied Health Professions with limited autonomous authority; to expand the acupuncturists’ scope of practice to include electroacupuncture, cupping, and moxibustion; to clarify that Asian massage, exercise and herbs for nutrition were within the acupuncturist’s scope of practice; and to provide that fees be deposited in the Acupuncture Examining Committee Fund instead of the Medical Board’s fund. Most of these statutory changes became effective on January 1, 1982.

In 1982, the Legislature designated the Acupuncture Examining Committee as an autonomous body. Effective January 1, 1990, through AB 2367 (Chapter, 1249, Statutes of 1989) the name was changed to Acupuncture Committee to better identify it as a state licensing entity for acupuncturists. The legislation further provided that, until January 1, 1995, the California Acupuncture Licensing Examination (CALE) would be developed and administrated by an independent consultant, which was later extended to June 2000.

In 1988, legislation was signed into law (Chapter 1496, Statutes of 1988), which included acupuncturists as “physicians” only in the Workers Compensation system for purposes of treating injured workers. The bill permitted acupuncturists to treat workplace injuries without first obtaining a referral, but did not permit acupuncturists to evaluate disability. The bill went into effect in 1989 with a four-year sunset clause. AB 400 (Chapter 824, Statutes of 1992) extended the inclusion of acupuncturists as “physicians” in the Workers’ Compensation system until December 1996 and AB 1002 (Chapter 26, Statutes of 1996) further extended the inclusion of acupuncturists as “physicians”

in the Workers' Compensation system until January 1, 1999. Legislation passed in 1997 (Chapter 98, Statutes of 1997) deleting the 1999 sunset date on the Workers' Compensation system.

On January 1, 1999, the committee's name was changed to Acupuncture Board (SB 1980, Chapter 991, Statutes of 1998) and the Committee was removed from within the jurisdiction of the Medical Board of California (SB 1981, Chapter 736, Statutes of 1998). It became and remains an autonomous body under the California Department of Consumer Affairs (DCA).

In 2002, AB 1943 (Chapter 781, Statutes of 2002) was signed into law that raised the acupuncture training program curriculum standards requirement to 3,000 hours, which included 2,050 hours of didactic training and 950 hours of clinical training. The Board promulgated regulations to implement this bill, which became effective January 1, 2005. In 2006, SB 248 (Chapter 659, Statutes of 2005) repealed the nine-member Board and reconstituted it as a seven-member board with four public members and three licensed acupuncturist members. The quorum requirements were changed to require four members including at least one licensed member to constitute a quorum.

In 2014, SB 1246 (Chapter 397, Statutes of 2014), was signed into law. This bill extended the Board's sunset date to January 1, 2017, and made significant changes. Notably, the bill changed the acupuncture training program approval process. An approved acupuncture training program must now obtain approvals from three different agencies:

- Have accreditation, or in pre-accreditation, with the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM)
- Be approved by the Bureau of Private and Post-Secondary Education (BPPE), and,
- Received the Acupuncture Board's approval of Curriculum.

The bill eliminated acupuncture training program approval application fees, did not establish a curriculum review fee, and affected acupuncture training program enforcement and monitoring regulations. The bill also provided the Board authority to set foreign equivalency standards for training and licensure.

On September 26, 2016, AB 2190 (Chapter 667, Statutes of 2016) was signed into law. This bill extended the Board's sunset date to January 1, 2019, while providing additional Board authority to assess foreign equivalency standards for training and licensure.

Acupuncture Scope of Practice

Acupuncture is defined in Business and Professions Code (BPC) Section 4927(d) as, "the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion." (Chapter 655, Sec. 56, Statutes of 1999).

Function of the Board

The Acupuncture Licensure Act commences with BPC § 4925 et seq. The Board's regulations appear in Title 16, Division 13.7, of the California Code of Regulations (CCR). BPC § 4928.1 establishes that the protection of the public is the Acupuncture Board's highest priority. The Board established and maintains entry standards of qualification and conduct within the acupuncture profession, primarily through its authority to license.

The primary responsibility of the Board is to protect California consumers from incompetent, and/or fraudulent practice through the enforcement of the Acupuncture Licensure Act and the Board's regulations. The Board promotes safe practice through improvement of education training standards, continuing education, enforcement of the acupuncture practice act and public outreach.

1. Describe the make-up and functions of each of the board's committees (cf., Section 12, Attachment B).

Committees serve as an essential component of the full Board to address specific issues referred by the public or recommended by staff. Committees are composed of three or more Board Members who are charged with gathering public input, exploring alternatives to the issues and making recommendations to the full Board.

The Board has five committees as follows:

Education Committee –

Addresses issues related to acupuncture educational standards, tutorial programs, and continuing education.

Examination Committee –

Addresses issues related to development and administration of the examination, exam policy, and miscellaneous exam related issues.

Enforcement Committee –

Addresses issues related to scope of practice, standard of care, competency, complaints, disciplinary decisions, probation monitoring, reinstatement of licensure, and miscellaneous issues.

Executive Committee –

Addresses issues related to expenditures/ revenue/fund condition, Executive Officer selection and evaluation, legislation/regulations, outreach, committee policy/ procedures, and special administrative projects.

Research Committee –

Addresses issues related to special issues the Board would like to look into. Since the last Sunset report this committee has reviewed the multiple types of doctorate degrees in acupuncture, as well as issues of scope crossover with other healing arts professions.

Table 1a – Please see Appendix A.

Table 1b – Please see Appendix A.

2. In the past four years, was the board unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?

The Board has not had any issues with holding full public meetings or committee meetings due to lack of quorum since our last Sunset Review Report submitted in 2015, with Board Members earning a near perfect attendance rate for Board and Committee Meetings.

3. Describe any major changes to the board since the last Sunset Review, including, but not limited to:

- ***Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning)***

The Board has undergone numerous internal changes since our last Sunset Review. Within the Board itself, a new Board President, Hildegarde Aguinaldo, and Vice President, Jamie Zamora, were elected in early 2016. Ms. Aguinaldo was re-elected as President in 2017, and Dr. Amy Matecki was elected as Vice President. Ms. Aguinaldo was not re-appointed to the Board as of June 30, 2017, and Dr. Matecki succeeded her as Board President. As of June 30, 2017, the Board has five (5) filled member positions and two (2) vacancies (one public and one licensed member), due to Mr. Zamora and Dr. Michael Corradino not being reappointed as of July 1, 2017. On July 1, 2017, the Senate Rules Committee appointed Ruben Osorio as a new public Board member.

Additionally, the Board voted to terminate the previous Executive Officer at the March 10, 2016 public meeting. After conducting a search and interviewing numerous candidates, the Board appointed Acting, then Interim, and now Executive Officer Benjamin Bodea, who has served in several capacities on the Board since his initial hiring in January 2008. Additionally, the Board filled two (2) Staff Services Analyst (SSA) vacancies for an Exam Analyst and an Education Analyst, bringing the total staff size to 10.5 personnel years.

The Board and staff continued its work to implement the Board's 2013-2017 Strategic Plan. The Board has engaged the DCA to initiate a Business Modernization Process that will map out all its business processes, assess its business needs, and allow for the Board to make informed decisions to address any shortfalls. As reported at the May 26, 2017 Board Meeting, most Strategic Plan items have been completed with the few remaining items in progress. The Board will begin developing its 2018 – 2022 Strategic Plan in fall 2017, and business modernization process with the DCA is already underway with an anticipated completion date in fall 2021.

- ***All legislation sponsored by the board and affecting the board since the last sunset review.***

The Board has not sponsored any legislation. While the Board tracks and monitors legislative activity (please see Appendix B for a list), it opted not to take a position on any legislation, except for AB 2190 (Asm. Business and Professions Cmte, Chapter 667, Statutes of 2016). AB 2190 was the Board's sunset bill for 2016-2018, and the Board voted at the June 10, 2016 public meeting to take a support position on the bill, which was signed into law by the Governor on September 26, 2016. Board staff worked closely with the Business and Professions (B&P) Committee staff in crafting the legislation and is in the process of promulgating regulations to implement the provisions of the bill.

- ***All regulation changes approved by the board the last sunset review. Include the status of each regulatory change approved by the board.***

The Board has continued with a busy period of promulgating and approving regulations. Please see Appendix C for a complete list of pending and approved regulations.

Notably, the Board has completed work on several regulatory packages since the last sunset review which are now in regulation:

BPC 138: The Board's regulations for implementing BPC § 138 (Notice to Consumers of Licensure by the Acupuncture Board) became effective as of October 1, 2016.

SB 1246: The Board worked extensively with all stakeholders over several hearings and public Board meetings to revise and finalize regulations to implement the Board's 2015 Sunset Bill – SB 1246 (Lieu, Chapter 497, Statutes of 2014). The regulations include updates to acupuncture and oriental medicine curriculum and new requirements for approved training programs. This regulatory package was approved by the Office of Administrative Law (OAL); its provisions became effective on May 24, 2017.

AB 2699: The Board approved a regulatory package for AB 2699 Free and Sponsored Healthcare Events – (Bass, Chapter 270, Statutes of 2010). The Board has made further changes to the proposed regulation at OAL's request, and resubmitted the revised proposed regulation to OAL. OAL approved these changes and the rulemaking package and its provisions become effective on October 1, 2017.

The Board has approved several other notable regulatory packages which are now in development, including:

Revision of Disciplinary Guidelines: The Board approved a regulatory package at the February 24, 2017 public meeting to update the Board's Disciplinary Guidelines, which have not been updated since 1996. This package is currently being developed by Board staff for submittal to Office of Administrative Law by spring 2018.

Uniform Standards Related to Substance Abusing Licensees: This regulatory package, originally approved by the Board in 2011 to also include changes to the Board's Disciplinary Guidelines, was revised to remove those proposed guidelines in 2016. The Board approved the revised package at the October 26, 2016 public meeting and staff then completed work on the package to be submitted to OAL in Spring 2017. The Board withdrew the regulatory package in April 2017 to allow staff to include certain conditions mandated by DCA's Substance Abusing Coordination Committee. A new Uniform Standards rulemaking package is being prepared by staff for presentation to the Board in early 2018.

Implementation of AB 2190: Board staff has been meeting on a regular basis to develop regulations based on AB 2190. This bill requires an applicant whose education was completed outside the United States to submit documentation of his or her education to a Board approved credential evaluation service, and requires the Board to examine the results of the application. Additionally, the bill requires the Board to create a framework for approval of those foreign credential evaluation services. The Board has reached out to other DCA Boards, including Board of Registered Nursing, who have a similar mandate to develop potential regulatory language. Staff anticipates bringing a regulatory package for Board approval by spring 2018.

4. Describe any major studies conducted by the board (cf. Section 12, Attachment C).

The Board did not conduct any major studies since the last Sunset Review. As noted in the Board's 2016 Sunset Report, the Board completed the audit of the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) in fall 2015. However, the Board reviewed the Audit of the NCCAOM exams at the February 26, 2016 and June 10, 2016 public meetings. After extensive Board discussion and public comment, the Board recommended utilization of the NCCAOM exams as part of the Licensing requirements, along with a California supplemental exam. The Board has contracted with the Office of Professional Examination Services (OPES) to review NCCAOM's forthcoming 2016-17 Job-Task Analysis to review the content areas that will be covered by the national examination. OPES will then develop the content of the California Supplemental Examination to include California-specific laws, scope, and areas of practice not covered on the national examination. The Board notified the Legislature of its recommendation in a letter to the Committees on July 8, 2016.

5. List the status of all national associations to which the board belongs.

- ***Does the board's membership include voting privileges?***
- ***List committees, workshops, working groups, task forces, etc., on which board participates.***
- ***How many meetings did board representative(s) attend? When and where?***

There are no known national associations pertaining to the regulation of acupuncture in which the Board may participate.

However, in May 2017, the Executive Officer and Education Coordinator attended the Council of Colleges of Acupuncture and Oriental Medicine's bi-annual conference in Milwaukee, Wisconsin. The purpose of attending the conference was to update the member Acupuncture Training programs on changes to the Board's Acupuncture Training Approval Process and possible changes to licensure qualifications. The Board continues to seek interactions with state and national organizations within the acupuncture profession, as well as associations of acupuncture regulatory bodies.

- ***If the board is using a national exam, how is the board involved in its development, scoring, analysis, and administration?***

At present, the Board is not using a national exam for licensure. As noted in Question Four (4), the Board recommended utilization of the NCCAOM exams at the June 10, 2016 public meeting as part of the Licensing requirements, along with a California supplemental exam, pending the Office of Professional Examination Service's (OPES) review of NCCAOM's 2016-17 Job-Task Analysis. The Board notified the Legislature of its recommendation in a letter to the Committees on July 8, 2016. The Board has been regularly consulting with NCCAOM since then regarding this recommendation but is not privy to the development, scoring analysis and administration of the NCCAOM exam. The Legislature will make the final determination regarding the use of the NCCAOM exam.

Section 2

Performance Measures and Customer Satisfaction Surveys

- 6. Provide each quarterly and annual performance measure report for the board as published on the DCA website.**

Please see Appendix D for the Board's quarterly and annual performance measure reports.

- 7. Provide results for each question in the board's customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.**

Please see Appendix E for the Board's Customer and Consumer Satisfaction Surveys. Please note, the Board did not receive any completed Customer or Consumer Satisfaction Surveys in FY 2016/17. The Customer Satisfaction Survey is offered by the Department of Consumer Affairs (DCA) and can be found on the Board's website. It is a survey that asks about the Board's general customer service when the Board is contacted. The Consumer Satisfaction Survey, also provided by DCA, was developed and is used as a performance measure to gauge the consumer's satisfaction regarding how his or her complaint was processed. This survey is sent to the consumer (complainant) with the Board's letter when a case is closed. The consumer can complete the survey in a variety of ways: online, through a QR Code Reader, or through an enclosed survey card.

Section 3

Fiscal and Staff

Fiscal Issues

- 8. Is the board's fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.**

No, the Board's fund is not continuously appropriated.

- 9. Describe the board's current reserve level, spending, and if a statutory reserve level exists.**

For fiscal year (FY) 2017-18, the Board is estimated to have a fund balance reserve of 14.0 months. BPC § 128.5 limits the Board to a fund balance reserve of no more than 24 months.

- 10. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the board.**

The Board is currently operating with a structural imbalance with expenditures exceeding revenues, but the Board is not anticipated to become insolvent in the near future. The Board has been discussing this structural imbalance but will be considering a fee increase in the next several years as the reserve level drops.

Please note that in Table 2 below, a Fund Condition Statement (FCS) is a working document. FCS have a year end fund balance amount, but at the start of the next fiscal year, the fund balance receives a "prior-year adjustment" from the State Controller's Office (SCO). This is why the end balances do not match the following year's beginning balance. The SCO does this to reconcile the actual cash in the account.

Table 2. Fund Condition

(Dollars in Thousands)	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18*	FY 2018/19*
Beginning Balance	\$2,097	\$2,213	\$1,936	\$1,386	\$4,858	\$ 4,109
Revenues and Transfers	\$2,555	\$2,634	\$2,613	\$2,742	\$2,760	\$2,761
Total Revenue	\$2,555	\$2,634	\$2,613	\$2,742	\$2,760	\$2,761
Budget Authority	\$2,777	\$3,326	\$3,532	\$3,746	\$3,265	\$3,330
Expenditures**	\$2,513	\$2,923	\$3,283	\$3,208	\$3,265	\$3,330
Loans to General Fund	N/A	N/A	N/A	N/A	N/A	N/A
Accrued Interest, Loans to General Fund	N/A	N/A	N/A	\$87	N/A	N/A
Loans Repaid from General Fund	N/A	N/A	N/A	\$4,000	N/A	N/A
Fund Balance	\$2,127	\$1,921	\$1,340	\$4,858	\$4,109	\$3,297
Months in Reserve	8.7	7.2	4.9	16.6	13.8	10.9

*Projected

**Board expenditures only. Does not include disbursements to other state agencies.

11. Describe the history of general fund loans. When were the loans made? When have payments been made to the board? Has interest been paid? What is the remaining balance?

In FY 2003-04, the Board provided a \$1.5 million General Fund loan, which was repaid in FY 2006-07 with approximately \$57,000 in interest income. In FY 2011-12, the Board provided a \$5 million General Fund loan, of which \$4 million was repaid in FY 2016-17 with approximately \$87,000 in interest income. The remaining \$1 million is currently scheduled to be repaid in FY 2019-20.

12. Describe the amounts and percentages of expenditures by program component. Use *Table 3. Expenditures by Program Component* to provide a breakdown of the expenditures by the board in each program area. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

Table 3. Expenditures by Program Component								(list dollars in thousands)	
	FY 2013/14		FY 2014/15		FY 2015/16		FY 2016/17		
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	
Enforcement	\$70	\$587	\$132	\$717	\$159	\$898	\$153	\$925	
Examination	\$141	\$518	\$132	\$485	\$159	\$479	\$153	\$516	
Licensing	\$70	\$52	\$132	\$84	\$159	\$71	\$153	\$48	
Administration	\$293	\$155	\$277	\$121	\$310	\$106	\$296	\$72	
Education	\$70	\$52	\$132	\$80	\$159	\$71	\$153	\$48	
DCA Pro Rata	N/A	\$505	N/A	\$631	N/A	\$712	N/A	\$691	
Diversion (if applicable)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
TOTALS	\$644	1,869	\$805	\$2,118	\$946	\$2,337	\$908	\$2,300	

13. Describe the amount the board has contributed to the BreEZe program. What are the anticipated BreEZe costs the board has received from DCA?

BreEZe Expenditures (list dollars in thousands)								
FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18*
\$1	\$5	\$18	\$21	\$29	\$17	\$43	\$38	\$33

*projected

14. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of Regulations citation) for each fee charged by the board.

Licensees renew their licenses every two (2) years on their birth month, with the exception of first time renewals which are pro-rated based on the date the license is issued and the birth month. There have been no fee increases or changes in the last ten years. The Board's fees are set either through statutory and/or regulatory authority. The statutory authority for fees is set forth in BPC § 4970, 4971, and 4972. The regulatory authority for fees is set forth in CCR § 1399.460, 1399.461, and 1399.462.

Table 4. Fee Schedule and Revenue								*list revenue dollars in thousands
Fee	Current Fee Amount	Statutory Limit	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	FY 2016/17 Revenue	% of Total Revenue	
Other Regulatory Fees							1.9%	
Duplicate Renewal Fee	\$10	\$10	\$1	\$1	\$1	\$1		
Endorsement	\$10	\$10	\$1	\$1	\$1	\$1		
Duplicate - Additional Office	\$15	\$15	\$6	\$5	\$6	\$7		
Duplicate pocket license	\$10	\$10	\$1	\$1	\$1	\$1		
CE Approval Fee	\$150	\$150	\$37	\$40	\$41	\$45		
Licenses & Permits							30.0%	
App Fee - Schools*	\$1500	\$3000	\$0	\$3	\$5	\$4		
App Fee - CALE	\$75	\$75	\$62	\$70	\$52	\$49		
Re-Exam Fee - CALE	\$550	\$550	\$235	\$221	\$227	\$808		
App Fee - Tutorial Supervisor	\$200	\$200	\$3	\$2	\$1	\$4		
App Fee - Trainee	\$50	\$50	\$0	\$0	\$0	\$0		
Exam Fee - CALE	\$550	\$550	\$373	\$2424	\$362	\$296		
Initial Licensure Fee**	\$325	\$325	\$145	\$156	\$127	\$132		
Renewal Fees							67.6%	
Biennial Licensure Renewal Fee	\$325	\$325	\$1,696	\$1,720	\$1,787	\$1,924		
Annual Renewal- Tutorial Supervisor	\$50	\$50	\$1	\$1	\$1	\$1		
Annual Renewal Fee- Tutorial Trainee	\$10	\$10	\$0	\$0	\$0	\$0		
Delinquent Fees							0.5%	
Delinquent Renewal Fee - Licensure	\$25	\$25	\$14	\$13	\$13	\$13		

Delinquent Renewal Fee - Tutorial Supervisor	\$25	\$25	\$0	\$0	\$0	\$0	
Delinquent Renewal Fee - Tutorial Trainee	\$5	\$5	\$0	\$0	\$0	\$0	

*As of January 1, 2017, the Board no longer approves Acupuncture schools and thus does not collect an application fee.

** Fee pro-rated based on the date the license is issued and the birth month of the applicant. Fee varies from \$176 for 13 months to \$325 for 24 months.

15. Describe Budget Change Proposals (BCPs) submitted by the board in the past four fiscal years.

Table 5. Budget Change Proposals (BCPs)								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Requested	\$ Approved	\$ Requested	\$ Approved
1	2014/15	Enforcement, Licensing, and Education units staff	3.0	2.0 AGPAs 1.0 OT	\$238,000	\$238,000	\$42,000	\$18,000
1	2016/17	Curriculum Review and Licensing (Chapter 397, Statutes on 2014)	4.0	1.0 SSM I 2.0 AGPAs 1.0 OT	\$339,000	\$0	\$173,000	\$0

Staffing Issues

16. Describe any board staffing issues/challenges, i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.

The Board requested position authority in a Budget Change Proposal (BCP) for 4.0 permanent full-time positions for FY 2016/17 to address the Board’s curriculum review and licensing related to chapter 397, Senate Bill 1246. Specifically, the Board requested 2.0 Staff Service Analyst/Associate Governmental Program Analyst, 1.0 Office Technician, and 1.0 Staff Services Manager I; however, the BCP was withdrawn by the Department of Finance.

In FY 2015/16, the Board experienced a vacancy in the Education Unit of one analyst position. Although this position was filled in January 2016, the Continuing Education (CE) Analyst position became vacant in March 2016, after the individual occupying that position was selected by the Board to function as the Acting Executive Officer. The CE position remained vacant until March 2017. The Examination Unit incurred a vacancy in September 2016 of one analyst; this position was filled in March 2017.

The Licensing Unit experienced a vacancy of one Office Technician beginning April 2017. The Board went through the recruitment process but did not find a suitable candidate. The Board is re-initiating the recruitment process to look at more candidates.

With the increasing licensing population and an increased demand for data collection, reporting, and analysis, the Board has identified that its workload has been increasing faster than its approved staffing can address. To address this growing backlog, the Board continues to seek additional staff through the BCP process to provide a long-term solution to its staffing needs and ensure the Board meets its performance measures.

A full-time staff manager, who would report to the EO and oversee certain sections of the Board, is a high priority. To date, the EO has been the only position at the manager classification, leaving the Board without a secondary manager or assistance for the EO to run daily operations and properly oversee staff. This continues to be a heavy workload for the EO to perform and manage on his own. These are complex functions that require a skill set above the analyst classification to properly coordinate the Board's responses. This remains an issue for the Board.

The Board is a release three-member of the BreEZe implementation. This means that there is no projected date to move to the BreEZe system. In light of this indefinite delay, the Board has engaged in the Department of Consumer Affairs' Business Modernization Project to identify and map out all its business processes to properly assess its business needs. This project will place a critical demand on staff time in FY 2017/18 as staff redirects its attention from their regular duties to begin capturing its processes.

17. Describe the board's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment F).

The Board has relied heavily on the DCA's SOLID Office which offers training for members of the department. All training from the SOLID office are part of the Board's Pro Rata to the department.

Please see Appendix F for a list of staff development courses.

Section 4 Licensing Program

18. What are the board's performance targets/expectations for its licensing program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

The Board strives to meet a target of ten (10) days or less in its licensing performance targets, and has been successful in doing so. This performance measure represents the time starting with receipt of the initial license application to the issuance of the initial license. In FY 2015/16, the average processing time was 2.00 days, and in FY 2016/17 was 2.00 days.

19. Describe any increase or decrease in the board's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done by the board to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?

The Board has not experienced an increase in its average time to process applications, administer exams, or issue licenses since the 2016 Sunset Report. Processing time for initial application into licensure remains very low at 2.00 days for FY 2015/16 and FY 2016/17. The Board continues to improve upon its applications processing by streamlining the process and modernizing existing business processes. Continued challenges exist due to the absence of online cashiering and license renewal mechanisms, which is expected to resolve through a BreEZe-like implementation upon the Board completing the Business Modernization Project with the Department.

20. How many licenses or registrations does the board issue each year? How many renewals does the board issue each year?

Table 6. Licensee Population					
		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17*
Acupuncture *As of June 30, 2017	Active	11,111	11,477	11,674	11,981*
	Out-of-State	856	903	942	995
	Out-of-Country	211	222	223	226
	Delinquent	992	931	962	973

Table 7a. Licensing Data by Type											
Application Type		Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2014/15	(Exam)	1262	1120			-	-	-	-	-	-
	(License)	563	563		563	-	-	-	-	-	-
	(Renewal)	5570	5570	n/a		-	-	-	-	-	-
FY 2015/16	(Exam)	1119	1023								
	(License)	512	512		512						
	(Renewal)	5645	5645	n/a							
**FY 2016/17	(Exam)	1060	994								
	(License)	534	534		534						
	(Renewal)	5383	5383	n/a							

* Optional. List if tracked by the board. **As of June 30, 2017

Table 7b. Total Licensing Data			
	FY 2014/15	FY 2015/16	FY 2016/17
Initial Licensing Data:			
Initial License Applications Approved, Closed and Issued*	563	512	534
Initial Exam Applications Received	830	693	657
Initial Exam Applications Approved & Closed	601	570	531
Repeat Test Takers	406	364	364
TOTAL Exam Takers	1007	934	895
Initial License/Initial Exam Pending Application Data:			
Pending Applications (total at close of FY)	-	-	-
Pending Applications (outside of board control) ***	-	-	-
Pending Applications (within the board control) ***	-	-	-
Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):			
Average Days to License Application Approval (All -	9.26	2.00	2.00
Average Days to Application Approval (incomplete applications) ***			
Average Days to Application Approval (complete applications) ***			
License Renewal Data:			
Licenses Renewed	5570	5645	5383**

*Licenses are only issued if background check has cleared. **As of June 30, 2017. ***Optional. List if tracked by the board.

21. How does the board verify information provided by the applicant?

a. What process does the board use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant?

Applicants are required to report or disclose disciplinary actions or criminal history on their applications for exam and licensure. If the applicant has a criminal record, the Board requests further information from the applicant for Board review.

Further, each applicant for licensure is required to be fingerprinted prior to obtaining a license. The results from the fingerprinting are sent to the Board. Since the results would reveal a criminal record, it is a way of double-checking the applicant's disclosures. Additionally, certified court records, law enforcement arrest/incident reports and National Practitioner Data Bank (NPDB) records are also obtained.

If the applicant failed to disclose a conviction that shows up through fingerprinting, the Board follows-up with the applicant requesting an explanation. The omission is taken into consideration in determining whether to grant or deny a license

b. Does the board fingerprint all applicants?

Yes. Title 16, CCR § 1399.419.2 requires that all acupuncturists licensed prior to January 1, 2001 or for whom a record of the submission of fingerprint no longer exists, submit a complete set of fingerprints to the California Department of Justice (DOJ) as a condition of licensure or license renewal. All applicants for licensure after January 1, 2001 have been fingerprinted.

c. Have all current licensees been fingerprinted? If not, explain.

Yes, all current licensees have been fingerprinted, except for a few licensees whose license is currently in delinquent status due to not completing the fingerprinting requirement. As such, they are not permitted to practice until they have brought themselves into compliance with this requirement. Additionally, a small number of licensees have been on inactive status for more than six (6) years since the regulation went into effect in 2011, and thus have not completed the fingerprinting requirement as set out in CCR § 1399.419.2. These acupuncturists would be required to complete the requirement if they returned to active status.

d. Is there a national databank relating to disciplinary actions? Does the board check the national databank prior to issuing a license? Renewing a license?

Yes, the Board contracts with the National Practitioner Data Bank (NPDB), which is a database of reports containing information on medical malpractice payments and certain adverse actions related to health care practitioners, providers, and suppliers in the United States. All out-of-state and out-of-country applicants for licensure are checked in this database for disciplinary actions or malpractice reports prior to issuing a license. Additionally, the Board receives ongoing electronic malpractice reports from mandated reporters via the NPDB. The Board does not check the NPDB for license renewals.

e. Does the board require primary source documentation?

Yes, the Board requires that all certified diplomas and transcripts submitted to the Board as part of a prospective licensee's application are official documents sent directly from the issuing institution. All foreign language documents must be accompanied by an English translation certified by the translator as to the accuracy of such translation under the penalty of perjury. All applicants must use a foreign transcript evaluator from a member organization of the National Association of Credential

Evaluation Services (NACES). This includes translations of their foreign transcripts, verification that the school is accredited, and a course-by-course evaluation.

22. Describe the board's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.

Out-of-state applicants must have graduated from a Board-approved training program in order to be eligible to take the CALE. If they are graduates of Board-approved training programs, the Board reviews their transcripts to determine if they have met the Board's training program requirements. If they have, they are approved to take the licensure exam, and if they pass, they are eligible for licensure.

Foreign applicants are not required to graduate from a Board-approved training program, but they are required to meet the same training program standards as those who have graduated from Board-approved training programs. Foreign applicants are required to arrange to have their schools send two (2) official transcripts: one to the Board; and one to the foreign evaluator that reviews, translates and notarizes the translation, evaluates the official transcripts, and indicates whether the school has regional accreditation. Upon receipt of all documents, the Board reviews the translated transcript and determines whether the applicant has met the Board's curriculum and clinical requirements.

With an effective date of January 1, 2017, AB 2190 enacted additional changes to the Board's approval of foreign applicants. This bill requires an applicant whose education was completed outside the United States to submit documentation of his or her education to a Board-approved credential evaluation service, and requires the Board to examine the results of the application. Additionally, the bill requires the Board to create a framework for approval of those foreign credential evaluation services. The Board has reached out to other DCA Boards, including the Board of Registered Nursing, who have a similar mandate to come up with regulatory language. Staff anticipates bringing a regulatory package for Board approval by spring 2018.

23. Describe the board's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.

a. Does the board identify or track applicants who are veterans? If not, when does the board expect to be compliant with BPC § 114.5?

The Board is fully compliant with BPC § 114.5. The Board identifies and tracks applicants for license renewal who are veterans using the Department of Consumer Affairs Consumer Tracking System (CAS) database system. A question regarding military service is included with all renewal applications and is entered into the CAS database when the renewal is processed.

b. How many applicants offered military education, training or experience towards meeting licensing or credentialing requirements, and how many applicants had such education, training or experience accepted by the board?

Since the 2016 Sunset Review Report, the Board has accepted one applicant's education for qualification for the CALE who completed undergraduate work at a military college.

c. What regulatory changes has the board made to bring it into conformance with BPC § 35?

Legal Counsel has determined such a regulatory change is not needed. As a result, the Board has not made any regulatory changes to be in compliance with BPC § 35, as there are no known U.S. military college programs specifically in Acupuncture and Asian Medicine. Applicants for the exam

who have attended a military college and who have completed a Board approved training program are reviewed and processed like normal applicants.

d. How many licensees has the board waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on board revenues?

Since the 2016 Sunset Review Report, the Board has waived fees for two (2) licensees pursuant to BPC § 114.3. The impact on Board Revenue is very minimal (\$325 biannual renewal fee x 2 licensees = \$700.00 in revenue).

e. How many applications has the board expedited pursuant to BPC § 115.5?

Since the 2016 Sunset Review Report, the Board has not had any applications for licensure pursuant to BPC § 115.5.

24. Does the board send No Longer Interested (NLI) notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

The Board does not have any backlog with NLI letters; these letters are sent via U.S. Mail to DOJ. However, the Board was informed at a December 2016 DCA meeting that NLI letters were going to be automated and thus Boards did not need to continue sending the letters to DOJ. As a result, the Board discontinued sending the letters to DOJ in early 2017. DCA has communicated that they plan to complete this action by early 2018.

Examinations

Table Eight (8) below shows examination data for the past four years, including pass rates by first time test takers and re-test takers by language (English, Chinese, Korean) and fiscal year. The table indicates that first time test takers have higher pass rates than re-test takers. The table also indicates that pass rates across the three languages are consistent.

Table 8: Examination Data

California Examination: Exam is given in English, Chinese and Korean

License Type: Acupuncture

Exam Title: California Acupuncture Licensing Examination

First Time and Re-Test taker	First Time Test Takers Pass Rate				Re-Test Takers Pass Rate			
Language	English	Chinese	Korean	Total	English	Chinese	Korean	Total
Fiscal Year 2013-2014	FY 13-14				FY 13-14			
8-2013 Passed/language	129	61	57	247	27	6	4	37
Total per language group	172	81	70	323	90	31	28	149
Pass Percentage	75%	75%	81%	76%	30%	19%	14%	25%
2-2014 Passed/language	152	54	40	246	19	13	6	38
Total per language group	240	89	65	394	104	41	41	186
Pass Percentage	63%	61%	62%	62%	18%	32%	15%	20%
8-2013 & 2-2014 Passed	281	115	97	493	46	19	10	75
Total in language group	412	170	135	717	194	72	69	335
FY 13-14 Pass Rate	68%	68%	72%	69%	24%	26%	14%	22%
Fiscal Year 2014-2015	FY 14-15				FY 14-15			
8-2014 Passed/language	115	33	33	181	48	12	14	74
Total per language group	161	45	45	251	123	47	39	209
Pass Percentage	71%	73%	73%	72%	39%	26%	36%	35%
3 -2015 Passed/language	167	34	52	253	32	11	9	52
Total per language group	243	48	59	350	121	37	39	197
Pass Percentage	69%	71%	88%	72%	26%	30%	23%	26%
8-2014 & 3-2015 Passed	282	67	85	434	80	23	23	126
Total in language group	404	93	104	601	244	84	78	406
FY 14-15 Pass Rate	70%	72%	82%	72%	33%	27%	29%	31%
Fiscal Year 2015-2016	FY 15-16				FY 15-16			
8-2015 Passed/language	116	29	25	170	44	9	7	60
Total per language group	170	41	37	248	130	29	21	180
Pass Percentage	68%	71%	68%	69%	34%	31%	33%	33%
3-2016 Passed/language	154	36	39	229	41	5	9	55
Total per language group	216	53	53	322	118	37	29	184
Pass Percentage	71%	68%	74%	71%	35%	14%	31%	30%
8-2015 & 3-2016 Passed	270	65	64	399	85	14	16	115
Total in language group	386	94	90	570	248	66	50	364
FY 15-16 Pass Rate	70%	69%	71%	70%	34%	21%	32%	32%
Fiscal Year 2016-2017	FY 16-17				FY 16-17			
8-2016 Passed/language	126	19	32	177	38	11	10	59
Total per language group	155	31	49	235	112	37	27	176
Pass Percentage	81%	61%	65%	75%	34%	30%	37%	34%
3-2017 Passed/language	168	34	30	232	33	9	17	59
Total per language group	201	44	51	296	109	40	39	188
Pass Percentage	84%	77%	59%	78%	30%	23%	44%	31%
8-2016 & 3-2017 Passed	294	53	62	409	71	20	27	118
Total in language group	356	75	100	531	221	77	66	364
FY 15-16 Pass Rate	83%	71%	62%	77%	32%	26%	41%	32%

Date of Last Occupational Analysis (OA): 2015

Name of OA Developer Office of Professional Examination Services (OPES)

Target OA Date 2020-21

National Examination (Include multiple languages, if any) Non- applicable

25. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required? Are examinations offered in a language other than English?

Currently, passing the California Acupuncture Licensing Examination (CALE) is required for licensure in California. Presently, a national examination is not a requirement for licensure. However, the California Acupuncture Board voted at the June 10, 2016 Board Meeting to recommend the introduction of legislation requiring applicants to pass the NCCAOM examination, in addition to a California supplemental examination (to be offered by the California Acupuncture Board), beginning as early as 2019.

The exam is currently offered in English, Chinese, and Korean.

26. What are pass rates for first time vs. retakes in the past 4 fiscal years? (Refer to Table 8: Examination Data) Are pass rates collected for examinations offered in a language other than English?

Pass rates are collected for the three languages that the exam is offered in (English, Chinese and Korean), as well as an overall for first time test takers and re-test takers (reflected in the table above). Table 8 indicates the pass rates for first time vs. retest takers by language in blue.

The table below provides the statistics for the first-time test takers and the re-takers for the last four (4) fiscal years.

Fiscal Year	First Time	Retest Takers
2013/2014	69%	22%
2014/2015	72%	31%
2015/2016	70%	32%
2016/2017	77%	32%

27. Is the board using computer based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?

Currently, the Acupuncture Board is not using computer-based testing; the examination is provided in a paper-and-pencil format. The Board is working with the Office of Professional Examination Services (OPES) and the Office of Information Services (OIS) to implement computer based testing. Computer based testing would provide cost savings, increased security, and improve accessibility for candidates. Candidates would be able to take the examination at multiple test sites and with more convenient scheduling.

Presently, the CALE is offered twice per year; once in the spring in Southern California and once in the fall in Northern California.

28. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

The following changes are recommended for the following reasons, clarity of information and updating of a clinical course hour requirement:

1. BPC § 4938 License Requirements. (a)(2)(A)(i): This section should clarify that for Board-approved training programs, “completion” refers to graduation.

2. BPC § 4938 (a)(5): With the passage of SB 1246 in 2015, and regulations implementing SB 1246 becoming effective May 24, 2017, the requirement as set out in BPC § 4938(a)(5) is no longer current:

“On and after January 1, 1987, Individuals with 800 950 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to ensure a minimum level of clinical competence.”

This BPC section was originally implemented via regulation in CCR §1399.436, which as written required a lower number of curriculum hours than the current 3,000 hours. The Board, as part of implementing SB 1246, removed CCR § 1399.436 in its entirety as its provisions were made obsolete by the passage of SB 1246. Therefore, removal of the reference to 800 hours would help to align the statute to current required standards.

School approvals

29. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the board work with BPPE in the school approval process?

Senate Bill (SB) 1246 (Lieu, Chapter 397, Statutes of 2014) became law January 1, 2017, and transitioned the responsibility of school (specifically, “educational and training program”) approval from the Board to BPPE and ACAOM as set forth in BPC § 4927.5, below. As such, the Board is solely responsible for ensuring an educational and training program’s compliance with the Board’s curriculum standards.

- 4927.5 (a) For purposes of this chapter, “approved educational and training program” means a school or college offering education and training in the practice of an acupuncturist that meets all of the following requirements:
 1. 4927.5 (a)(1) – Requires CCR § 1399.434 curriculum approval from the California Acupuncture Board.
 2. 4927.5 (a)(2) – Requires the approval to operate granted by the Bureau of Private Post-Secondary Education (BPPE) per Education Code § 94885.
 3. 4927.5 (a)(3) – Requires official documentation of the intent to pursue accreditation from the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM).

As a result of SB 1246, the Board has implemented several changes to regulation, effective May 24, 2017, to ensure that the Board’s regulations regarding curriculum approval are in compliance with BPC § 4927.5:

- CCR §1399.434 and §1399.436 were amended to remove two different curriculum standards. In 2005, the Board increased the curriculum hours required (as part of CCR §1399.434) but left the old curriculum hours as a pathway for applicants for the transition to the new curriculum (as part of §1399.436). The Board now only has one curriculum standard, reflected in CCR §1399.434 which is consistent for all applicants of the CALE.
- CCR §1399.437 was amended to set requirements for Board approval of curriculum, which includes the “Application for Board Approval of Curriculum (rev.4/15),” based on the Board’s curriculum requirements described in the CCR §1399.434.

BPPE is responsible for approval of the acupuncture school itself. In preparation for the implementation of SB 1246 and the new BPC § 4927.5, acupuncture training program approval standards, the Board has cultivated a working relationship with BPPE by signing an operational memo of understanding between the two agencies. This memo allows the Board and BPPE to share confidential information. The Board's collaboration with BPPE has culminated in a clear identification of each agencies' jurisdiction. This relationship has provided support to both the Board and BPPE in addressing complaints and enforcement actions.

BPC § 4927.5(a)(3) requires that all acupuncture training programs be in the process of accreditation with ACAOM, a national accrediting agency for specialized and professional education of Acupuncture and Oriental Medicine that is recognized by U.S. Department of Education. The primary purpose of ACAOM is to establish comprehensive educational and institutional requirements for acupuncture training programs in the United States. ACAOM and its recognition by U.S. Department of Education has made it possible for acupuncture and Asian Medicine students to obtain federal student loans for their education. The Board continues to work collaboratively with ACAOM to understand each other's processes.

**30. How many schools are approved by the board? How often are approved schools reviewed?
Can the board remove its approval of a school?**

As of June 30, 2017, the Board recognizes 33 training programs; 19 are located in California and 14 are located in other states. In the past two (2) FYs the Board approved two (2) new out-of-state programs (note: this was completed utilizing the Board's pre- SB 1246 acupuncture training program approval process).

The Board has not approved any training program curriculum between the dates of the January 1, 2017 statutory implementation of BPC § 4927.5 and June 30, 2017. The Board completed compliance site visits to the remaining nine (9) out-of-state training programs. Board staff has continued to complete curriculum compliance reporting for all approved training programs. Acupuncture training programs that completed curriculum compliance and were approved by the Board prior to January 1, 2017, are not required to reapply for Board approval.

Acupuncture Training Program Approvals		
	FY 15-16	FY 16-17
New Applications	1	5
Withdrew Application	1	0
In-State Site Visit Completed	0	0
Out-of-State Site Visit Completed	0	0
New Training Program Approvals	1	1
Total Pending School Application	0	0

Training Program Clinical and Curriculum Compliance Visit		
Total Completed Compliance Visits of Approved Training Programs	FY 15-16	FY 16-17
In-State Compliance Visit	0	0
Out-of-State Compliance Visit	9	0

The full review of an acupuncture training program curriculum only occurs when programs are reviewed as part of the Boards' "Application for Board Approval of Curriculum," available online at: http://www.acupuncture.ca.gov/pubs_forms/app_board_cirriculum.pdf.

Any changes to the approved curriculum are required to be submitted to the Board for review. Both ACAOM and BPPE conduct periodic on-site re-approvals or re-accreditations of all their programs. This includes onsite visits conducted independently by each agency, which involve full program review. Board staff routinely checks that status based on their respective standards.

Since May 24, 2017, with the implementation of the regulations attached to SB 1246, the Board has completed seven (7) Applications for Board Approval of Curriculum within the mandated 30-day statutory reporting requirement.

As of June 30, 2017, 23 programs have completed the compliance reviews with nine (9) programs still in progress. Programs that were approved prior to 2017 and underwent the compliance reviews and are found to be in compliance are not required to re-apply for the Board's approval of their curriculum, per BPC § 4927.5 (a)(1).

With the Board no longer the sole approver of acupuncture training programs, such programs may lose their ability to have their students qualify for the CALE if they lose any of the three approvals described by BPC § 4927.5.

In the last two (2) fiscal years, there have been five (5) acupuncture training programs that have lost the definition as an approved educational and training program. Two (2) training programs lost approval due to their decision not to pursue the necessary accreditation from ACAOM as required by BPC § 4927.5. Three (3) programs voluntarily requested to terminate Board approval in lieu of participating in the curriculum and clinical compliance review required of all California approved acupuncture training programs.

31. What are the board's legal requirements regarding approval of international schools?

Currently, the Board does not have the authority to approve foreign acupuncture training programs.

Continuing Education/Competency Requirements

32. Describe the board's continuing education/competency requirements, if any. Describe any changes made by the board since the last review.

a. How does the board verify CE or other competency requirements?

As per BPC § 4945(b), at the end of a licensee's two-year renewal period, the licensee must submit a declaration under the penalty of perjury that they have completed the minimum requirement of 50 CE hours. License renewals are only approved upon completion of the minimum of required CE hours.

Those who fail to submit this declaration of 50 CE hours have a hold put on their license. The hold is not removed until they have submitted their renewal form with appropriate CE course work listed under penalty of perjury. Licensees are notified by letter that they are no longer eligible to practice, and must cease from practicing until the Board receives documentation demonstrating compliance.

b. Does the board conduct CE audits of licensees? Describe the board's policy on CE audits.

Yes, the Board conducts random CE Audits to the 5% of the licensing population that has renewed. The Board randomly selects licensees for the audit and verifies that the required CE has been completed by reviewing the Certificates of Completion for the submitted coursework.

c. What are consequences for failing a CE audit?

Licensees who have failed a CE audit are subject to administrative enforcement actions consisting of a citation, fine, and order of abatement. Licensees who have been issued multiple citations for failure of a CE Audit may be subject to formal disciplinary action taken against their license.

d. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?

Table 9. Continuing Education Audits				
	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Audited Licensees	621	489	0	0
Failed Licensees	119	90	0	0
Percentage of CE Failures	19%	18%	0	0

In FY 2015/16 and FY 2016/17 the Board experienced vacancies in the Education and Licensing units creating a backlog in CE audits to be conducted. The Board had filled the Education vacancy and had initiated training staff in this process. Planning for the next CE Audit has already begun and is expected to commence in December 2017.

e. What is the board's course approval policy?

The Board's course approval policy is set forth in CCR § 1399.483 and 1399.484, and states that board-approved CE providers may obtain course approval for courses relevant to the practice of acupuncture and Asian medicine. The course approval policy requires course applications to meet submission deadlines, include course descriptions, outlines, as well as specified objectives depending on whether the course is a direct benefit to patient care or not a direct benefit, such as practice management. Courses that require in-person techniques are excluded from distance learning. All courses require Board approval to qualify for CE hours.

f. Who approves CE providers? Who approves CE courses? If the board approves them, what is the board application review process?

The Board approves all CE providers and all CE courses. The Board's process for approving CE providers is set forth in CCR § 1399.481 – Criteria for Provider Approval.

The prospective CE provider must submit a "Continuing Education Provider Application" form available online at:

http://www.acupuncture.ca.gov/pubs_forms/provider_app.pdf

Applicants must submit the application with a \$150.00 fee to the Board. The Board then approves the application if the CE provider meets the requirements above and the provider is offering CE courses compliant with regulations. A CE provider is approved for a two (2) year period. At the expiration of

two (2) years, the provider may renew for another two (2) years as an active provider for \$150.00. Upon approval, the CE provider may submit as many course applications for approval as desired within the two-year period. All course applications must be approved by the Board and accompanied by a form as described below.

The Board's process for approving CE courses is set forth in CCR § 1399.483 and 1399.484. *Application for Course Approval.*

Board-approved CE providers are required to submit the "Request for Continuing Education (CE) Course Approval Form" available online at:

http://www.acupuncture.ca.gov/pubs_forms/cecourse_app.pdf

This application must be submitted at least 45 days prior to the course being offered, or 30 days for previously approved courses. If there are questions regarding the content of a CE course, the Board consults a subject matter expert to weigh in on the final determination.

g. How many applications for CE providers and CE courses were received? How many were approved?

Table 10. Continuing Education Providers and Courses		
	FY 2015/16	FY 2016/17
CE Provider Applications Received	70	112
CE Providers Approved	70	112
CE Course Applications Received	3534	3325
CE Course Applications Approved	3415	3113

h. Does the board audit CE providers? If so, describe the board's policy and process.

CCR § 1399.482(g)(h) provides the Board the authority to audit CE providers.

The Board initiates a CE provider audit when it receives evidence that CE Provider is not in compliance with the required regulations. Such evidence may include consumer complaints, Certificates of Completion that are incomplete or are for, unapproved courses, or falsified documentation.

i. Describe the board's effort, if any, to review its CE policy for purpose of moving toward performance based assessments of the licensee's continuing competence.

The Board has not reviewed its CE policy to evaluate performance based assessments of a licensee's continuing competence. Presently, all licensees taking distance education CE courses are required to complete and pass an examination at the end of the course. The examination must test participants mastery of the course material to receive CE credit. Live courses are not required to provide examinations at the end of the course, but may be included as part of the live course.

33. What are the board's performance targets/expectations for its enforcement program? Is the board meeting those expectations? If not, what is the board doing to improve performance?

In 2010, the Board set the following performance measure (PM) targets to quantify the effectiveness of its Enforcement program. Department of Consumer Affairs (DCA) set the overall process time from complaint receipt to the effective date of a decision to 540 days or approximately 18 months.

- 10 days average for complaint intake cycle time (PM 2, Intake – Cycle Time)
- 200 days average for days to complete cases not resulting in formal discipline (PM 3, Investigations – Cycle Time)
- 540 days average for days to complete cases resulting in formal discipline (PM 4, Formal Discipline – Cycle Time)
- 10 days average for a probation monitor to make first contact (PM 7, Probation Intake – Cycle Time)
- 10 days average for the Board to take appropriate action on a probation violation (PM 8, Probation Violation Response – Cycle Time)

FY 2016/17 performance measures show that the Board is meeting its performance targets for all quarters on intake cycle time with an annual average of four (4) days. The Board is also now meeting its performance target of 200 days consistently for each quarter of FY 2016/17 for the average days to complete cases not resulting in formal discipline. At current Enforcement workloads, the average cycle time for investigations for the majority of the Board's cases (i.e., for cases not resulting in discipline) should continue to be under 200 days. However, there will continue to be the more complex cases that may skew the Board's overall average. To address the complexities of these cases, the Board is tracking workload trends to ensure that the current staffing levels meet the workload requirements.

The formal discipline cycle time is over the target for all FY 2016/17 quarters, with the exception of quarter four coming close to the Board's target of 540 days. The elevated cycle times for the cases resulting in formal discipline are due to a few of the Board's backlogged cases that closed this fiscal year. The population size for this performance measure category is also small enough such that outliers easily drive up the overall average from quarter to quarter. The cases that result in discipline are the Board's more complex cases that require any one of the following: one or more expert reviews, idle time for a hearing date, and lengthy negotiations to come to a stipulated settlement agreement. The Board has already seen a significant improvement with this performance measure in comparison to the last two fiscal years.

The Executive Officer and Enforcement staff prioritize the review and filing of accusations, and provide settlement terms quickly for cases when appropriate. Enforcement staff has also streamlined its mail vote process, allowing Board members to return their votes with even more convenience improving the turnaround time. These steps have helped to decrease the overall process time.

In FY 2015/16, the Board's Consumer Protection Enforcement Initiative (CPEI) regulations became effective providing the Board with additional tools to aid in its investigations. It also delegates more

authority to the Executive Officer in the quick adoptions of stipulated surrenders and stipulated revocations.

The Board is meeting the performance measure targets for probation intake time and probation violation response time. However, the Board's growing probation population represents a significant increase in workload in the Board's probation program.

34. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the board done and what is the board going to do to address these issues, i.e., process efficiencies, regulations, BCP, legislation?

In looking at the past three (3) fiscal years, there is a trend of increasing complaints. The numbers show that the increase in volume is mainly attributed to public complaints and complaints received by Licensee/Professional Groups. In contrast, the statistics also show a decrease in complaints referred by governmental agencies, which would include arrests and convictions referred from Department of Justice. There has been a steady drop in arrests and convictions received by the Board over the last three (3) fiscal years.

If the overall volume of complaints continues to rise as projected, the process times for intake, investigations, citations, and probations will create backlogs if the Board cannot secure additional funding for Enforcement staff. The Board is working closely with the DCA Budget Office to track and anticipate the Board's increasing workloads for future BCP's. Regular meetings between the Executive Officer and Enforcement staff helps to prioritize cases. Enforcement staff is also working on a revision of its Desk Handbook, as well as further fine tuning and streamlining existing processes.

Disciplinary data shows a decrease in all areas: cases initiated, pending, and closed. The decline is attributed to the increase of backlogged cases that were processed and closed in the FY 2015/16. Performance analysis indicates that, with exception, the Board has not met its performance measure target for discipline cases, which is set at 540 days. Historically, the Board receives a larger number of completed investigation reports from the Division of Investigation (DOI) mid-fiscal year. This creates an increase in initiated and pending disciplinary cases with the Office of the Attorney General. Presently, the Board's biggest challenge is the high variability of the average overall process time for cases that result in discipline. In FY 2016/17 there was an improvement with the overall average days for discipline cases from 1,090 days in FY 2015/16 to 762 days in FY 2016/17.

The biggest step to bringing process times down consistently for discipline cases is to ensure the Enforcement Unit is adequately staffed. Inadequate staffing creates a domino effect causing a backlog thereby increasing process times in all areas of the complaint process. The Board is increasing collaboration and communication with DOI, who conduct the Board's investigations, and the Attorney General's Office. Board staff has met with the Attorney General's Office in an effort to streamline where both agencies' processes meet. The Board maintains consistent communication with DOI. As a result, Staff can monitor pending investigations more closely.

Having moved through the majority of the backlog of complaints and disciplinary cases, the Board is now experiencing a higher number of probationers to manage. In the last two (2) fiscal years, the Board has adopted more Stipulated Settlements further adding to the number of probations to monitor. In FY 2014/15, the Board's probation program grew by nine (9) probationers. In FY 2015/16, 15 new probationers started, and in FY 2016/17 the number of probationers grew by another 13 licensees. The increase in effective Stipulated Settlements and Decision and Orders has created a large probation program representing an increased workload for the Board.

Table 9a. Enforcement Statistics			
	FY 2014/15	FY 2015/16	FY 2016/17
COMPLAINT			
Intake			
Received	175	208	211
Closed	8	8	8
Referred to INV	168	199	189
Average Time to Close	7	4	4
Pending (close of FY)	2	1	15
Source of Complaint			
Public	62	66	79
Licensee/Professional Groups	23	14	24
Governmental Agencies	47	18	14
Other	152	230	174
Conviction / Arrest			
CONV Received	109	120	80
CONV Closed	111	123	78
Average Time to Close	11	6	3
CONV Pending (close of FY)	5	1	3
LICENSE DENIAL			
License Applications Denied	3	5	1
SOIs Filed	1	2	1
SOIs Withdrawn	0	1	1
SOIs Dismissed	0	0	0
SOIs Declined	1	0	0
Average Days SOI	836	273	623
ACCUSATION			
Accusations Filed	12	23	12
Accusations Withdrawn	0	0	1
Accusations Dismissed	0	0	0
Accusations Declined	3	3	1
Average Days Accusations	1216	1120	818
Pending (close of FY)	19	24	15
DISCIPLINE			
Disciplinary Actions			
Proposed/Default Decisions	3	8	1
Stipulations	6	19	18
Average Days to Complete	1132	1090	762
AG Cases Initiated	22	24	17
AG Cases Pending (close of FY)	33	24	15
Disciplinary Outcomes			
Revocation	2	5	0
Voluntary Surrender	1	6	5
Suspension	0	0	0
Probation with Suspension	0	2	0
Probation	6	12	13
Probationary License Issued	1	0	0
Other	0	2	1

PROBATION			
New Probationers	9	15	13
Probations Successfully Completed	4	4	2
Probationers (close of FY)	21	30	37
Petitions to Revoke Probation	0	0	1
Probations Revoked	1	0	0
Probations Modified	0	0	0
Probations Extended	0	0	0
Probationers Subject to Drug Testing	5	7	12
Drug Tests Ordered ¹	138	83	147
Positive Drug Tests	1	2	1
Petition for Reinstatement Granted	1	0	1
DIVERSION²			
New Participants	n/a	n/a	n/a
Successful Completions	n/a	n/a	n/a
Participants (close of FY)	n/a	n/a	n/a
Terminations	n/a	n/a	n/a
Terminations for Public Threat	n/a	n/a	n/a
Drug Tests Ordered	n/a	n/a	n/a
Positive Drug Tests	n/a	n/a	n/a

¹ The number of tests ordered in FY 2015/16 is lower compared to the other fiscal years due to a number of probationers that are subject to biological fluid testing starting their probation term close to the end of the fiscal year. In addition, a number of probationers who were subject to biological fluid testing in previous fiscal years ended their probation term halfway through the fiscal year.

² The Board Does not utilize a Diversion Program

Table 9b. Enforcement Statistics (continued)			
	FY 2014/15	FY 2015/16	FY 2016/17
INVESTIGATION			
All Investigations			
First Assigned	268	320	266
Closed	270	326	340
Average days to close	313	235	158
Pending (close of FY)	176	202	129
Desk Investigations			
Closed	173	236	287
Average days to close	218	152	104
Pending (close of FY)	97	158	86
Non-Sworn Investigation			
Closed	n/a	n/a	n/a
Average days to close	n/a	n/a	n/a
Pending (close of FY)	n/a	n/a	n/a
Sworn Investigation			
Closed	97	90	53
Average days to close	482	453	451
Pending (close of FY)	79	44	43
COMPLIANCE ACTION			
ISO & TRO Issued	0	0	0

PC 23 Orders Requested	0	2	3
Other Suspension Orders	0	0	0
Public Letter of Reprimand	0	2	1
Cease & Desist/Warning	0	0	9
Referred for Diversion	n/a	n/a	n/a
Compel Examination	2	0	0
CITATION AND FINE			
Citations Issued	65	107	98
Average Days to Complete	276	224	150
Amount of Fines Assessed	57900	84800	61790
Reduced, Withdrawn, Dismissed	4700	15050	8300
Amount Collected	35950	48650	45520
CRIMINAL ACTION			
Referred for Criminal Prosecution	6	5	5

Table 10. Enforcement Aging						
	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
0 - 1 Year	0	1	3	0	4	6%
1 - 2 Years	1	1	3	8	13	20%
2 - 3 Years	3	0	6	8	17	27%
3 - 4 Years	3	2	7	2	14	22%
Over 4 Years	2	5	8	1	16	25%
Total Attorney General Cases Closed	9	9	27	19	64	
Investigations (Average %)						
Closed Within:						
90 Days	28	65	127	175	395	35%
91 - 180 Days	34	45	49	72	200	17%
181 - 1 Year	33	67	58	50	208	18%
1 - 2 Years	83	71	78	32	264	23%
2 - 3 Years	27	20	12	6	65	6%
Over 3 Years	7	2	2	3	14	1%
Total Investigation Cases Closed	212	270	326	338	1146	

35. What do overall statistics show as to increases or decreases in disciplinary action since last review?

The overall statistics show a decline in disciplinary actions in FY 2016/17. This is predominately due to the majority of backlogged cases being closed. In addition, the Board has reevaluated its complaint process to refer more violations that can be remediated through the cite and fine program.

36. How are cases prioritized? What is the board’s compliant prioritization policy? Is it different from DCA’s Complaint Prioritization Guidelines for Health Care Agencies (August 31, 2009)? If so, explain why.

The Board uses DCA’s *Complaint Prioritization Guidelines for Health Care Agencies* (March 2010 edition), which can be found under Appendix G. Cases are identified by the nature and severity of the complaint. The priorities are assigned during complaint intake and are assigned the following labels: routine, high priority, and urgent. Cases are then prioritized by case age.

37. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the board actions taken against a licensee. Are there problems with the board receiving the required reports? If so, what could be done to correct the problems?

Under BPC § 801, insurers and uninsured licensees are required to report malpractice settlements and judgments of \$3,000.00 or more. The Joint Committee’s 2011 Sunset Review recommended the Board implement a standardized report form to mandate insurers and licensees to use when reporting settlements and judgments to the Board. In response to this recommendation, the Board developed a form in 2016 as a tool for insurers and licensees to use when reporting settlements and judgments of \$3,000.00 or more and the form is on the Board’s website for use. With the Board’s active and continued use of the National Practitioner Databank (NPDB), the Board does not have any problems receiving the ongoing electronic malpractice reports from mandated reporters.

a. What is the dollar threshold for settlement reports received by the board?

The dollar threshold for settlement reporting is \$3,000.00.

b. What is the average dollar amount of settlements reported to the board?

The average dollar amount of settlements reported to the Board in FY 16/17 was \$41,434.00.

38. Describe settlements the board, and Office of the Attorney General on behalf of the board, enter into with licensees.

a. What is the number of cases, pre-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?

The Board does not settle cases prior to filing a formal Accusation or Statement of Issues; therefore, there have been no pre-accusation cases that resulted in hearings.

b. What is the number of cases, post-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?

Decision Type	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Settlements	4	6	19	18
Hearings	3	3	4	1

c. What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?

Over the past four years, when compared to cases that resulted in hearings, 81% were resolved through a Stipulated Settlement, and 19% of the cases were resolved through an Administrative Hearing.

39. Does the board operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the board's policy on statute of limitations?

The Board does not have statute of limitations nor does it have any policy regarding statute of limitations for any of its administrative Enforcement statutes. However, BPC § 4935 is the Board's only criminal statute in its Act that is considered a misdemeanor which has a statute of limitations of one year from the time the last violation act occurred. There are no recorded cases that have been lost due to an expired statute of limitations. For all administrative cases, the Board uses DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009) to address more urgent cases, or cases involving criminal offenses outside of the Board's Act. These cases are expedited with higher priority.

40. Describe the board's efforts to address unlicensed activity and the underground economy.

Unlicensed activity complaints are submitted to the Division of Investigation (DOI) for formal investigations. If an investigation provides substantial evidence to support a criminal violation, DOI submits the case to the District Attorney for criminal prosecution. If a criminal prosecution is not pursued or a conviction does not occur, the Board issues citations and fines for unlicensed practice. Since DCA has ended its Unlicensed Activity Program, the Board does not have the resources to proactively seek out unlicensed activity. However, the Board does investigate every complaint received.

The Board has provided outreach at Board meetings to educate stakeholders, including licensees and the public, who have expressed concerns regarding other healthcare practitioners providing acupuncture or needling without an acupuncture license. The Board has communicated with other healing arts boards about this issue to promote collaboration of enforcement efforts against this type of unlicensed activity resulting in more referrals to the Board of cases which may be within the Board's jurisdiction.

Cite and Fine

41. Discuss the extent to which the board has used its cite and fine authority. Discuss any changes from last review and describe the last time regulations were updated and any changes that were made. Has the board increased its maximum fines to the \$5,000 statutory limit?

The Board uses its cite and fine in cases in which violations can be remedied through an order of abatement and fine. The Board addresses the more technical violations through citations. The Board also only issues citations in cases that do not necessitate restrictions on the license to ensure consumer protection. The Board has authority to issue a citation with a maximum of \$5,000.00.

42. How is cite and fine used? What types of violations are the basis for citation and fine?

The Board uses citations to educate its recipient (in the case of unlicensed practice) or the licensee and bring them into compliance with the laws and regulations. A fine is most often used as a deterrent for future violations. Citations cannot be used for any cases involving patient harm; therefore, citations are generally issued for more technical violations, i.e. failure to register a business address, failure to keep adequate records, etc. The Board predominately uses cite and fine for failed CE audits, licensees' failure to change one's mailing address, and for licensees who failed to disclose a conviction on an application to the Board. The Board also uses citations to address minor probation violations or various unprofessional conduct that can be remedied through simple orders of

abatement. In addition, citations are used for unlicensed practice of an individual holding oneself out as engaging in the practice of acupuncture through advertisements. Although unlicensed cases generally pose a risk to public safety, the Board lacks jurisdiction over unlicensed individuals performing acupuncture, so citations are the only recourse available to the Board to prevent unlicensed activity involving acupuncture.

The Board has significantly increased the number of cite and fines issued over the past two (2) years. The majority of cite and fines are issued for various unprofessional conduct violations and CE audit violations for licensees. The other types of violations that result in cite and fines include unlicensed practice, inadequate record keeping, failure to register address changes, failure to have and display a license for each practice location, and CE provider violations.

43. How many informal office conferences, Disciplinary Review Committees reviews and/or Administrative Procedure Act appeals of a citation or fine in the last 4 fiscal years?

Set out below is a chart containing the information.

FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
0	12	42	24

44. What are the 5 most common violations for which citations are issued?

1. Continuing Education Audits
2. Failure to Register Addresses
3. Failure to Disclose a Conviction on an Application to the Board
4. Unprofessional Conduct
5. Continuing Education Provider violations.

45. What is average fine pre- and post- appeal?

The average pre-appeal fine is \$634.00 and the average post-appeal fine is \$542.00.

46. Describe the board's use of Franchise Tax Board intercepts to collect outstanding fines.

If the board has a social security number for a cited person, licensed or unlicensed, the individual is sent three (3) Demand for Payment letters, with the last being certified. If no payment is received, then the Board sends the person's information to the accounting office to forward to the Franchise Tax Board's (FTB) Interagency Interception Program (IIP). If the Board does not have an individual's social security number due to him or her being unlicensed, then the fines are determined to be uncollectible.

Cost Recovery and Restitution

47. Describe the board's efforts to obtain cost recovery. Discuss any changes from the last review.

Since the 2016 Sunset Review Report, the Board has gone through all its outstanding cost recoveries and has sent all respondents demands for payment in compliance with FTB and DCA's protocol. For demands in which the Board has received a response from the respondent, the Board has either received total payment on its balances or the respondent is making regular payments through an installment plan. The respondents who have failed to respond have been sent to the FTB IIP for cost recovery

In current probationary cases, the Board's probation monitor ensures that the probationer is making payments towards his or her cost recovery on a regular basis or has received approval from the probation monitor for some other payment plan. When a licensee's probation is coming to an end, a review is conducted and if there is any unpaid balance, the Board can file a petition to revoke the probationer's license for a violation of the terms and conditions of their probation.

Looking forward, one priority for the Board is to allow for the Board to have continuing jurisdiction over a licensee past his or her probation term if costs are not paid in full. This requirement was included as part of the 2016 update of Disciplinary Guidelines, which the Board approved at the February 24, 2017 public meeting. This allows the Board to continue collecting payments or allows the Board to petition for violation of probation if the licensee is not cooperative.

48. How many and how much is ordered by the board for revocations, surrenders and probationers? How much do you believe is uncollectable? Explain.

Thirty-seven (37) cases ordering cost recovery were established since the 2016 Sunset Review Report, totaling \$309,076. Sixteen (16) of those cases are determined to be uncollectable because they are revocations and voluntary surrenders, totaling \$99,851. Analysis of these cases presents three primary causes of costs being determined uncollectible:

- First, most of the Board's surrender cases reached by Stipulated Settlement state that the respondent is only required to pay the ordered cost recovery as a condition of reinstatement.
- Second, most of the respondents whose license were revoked do not pay cost recovery because they may not have income or they may not feel obligated since they no longer have a license with the Board.
- Third, cost recovery may be determined uncollectible against deceased respondents should there be no funds left in their estate. For cases in which the respondent is ordered to pay costs as part of a revocation or the respondent is deceased, the Board works with the FTB IIP to recoup these costs.

49. Are there cases for which the board does not seek cost recovery? Why?

BPC § 4959 (a) authorizes cost recovery only in cases where a licensee has been found guilty of unprofessional conduct. It does not allow cost recovery for Statements of Issues. Therefore, the Board does not seek cost recovery for decisions involving applicants for licensure. BPC § 125.3 also only allows cost recovery for violations of the Acupuncture Licensure Act. In addition, the Board may waive costs to achieve a stipulated surrender of a license to resolve the case.

50. Describe the board’s use of Franchise Tax Board intercepts to collect cost recovery.

The Board submits all outstanding cost recovery cases to the FTB IIP for collection purposes, relying on FTB IIP for all its outstanding recovery costs as ordered. Future outstanding cases will be submitted to FTB IIP on a continual basis.

51. Describe the board’s efforts to obtain restitution for individual consumers, any formal or informal board restitution policy, and the types of restitution that the board attempts to collect, i.e., monetary, services, etc. Describe the situation in which the board may seek restitution from the licensee to a harmed consumer.

The Board's Disciplinary Guidelines provide that the Board may order restitution for offenses involving breach of contract. It states the amount of restitution shall be the amount of actual damages sustained as a result of breach of contract. Evidence relating to the amount of restitution would have to be introduced at the Administrative Hearing. The Board has not had a decision ordering restitution since the 2016 Sunset Review Report; therefore, there have been no attempts to collect any restitution. If a future decision orders restitution and respondent fails to pay, the Board has the authority to petition for revocation of his or her probation for violating the term of restitution.

Table 11. Cost Recovery (list dollars in thousands)				
	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Total Enforcement Expenditures	\$657	\$849	\$1,057	\$1,078
Cases Recovery Ordered	9	7	20	17
Amount of Cost Recovery Ordered	\$47	\$62	\$215	\$95
Amount Collected	\$19	\$17	\$71	\$102

Please note that the data in columns FY’s 2013/14 and 2014/15 are different than what was reported in the 2016 Sunset Report. Since the 2016 Sunset Report, a number of cost recovery cases have been entered into the Board’s database that were not entered previously, thus, not accurately captured. Given the data cleanup, the Board can now report accurately.

Table 12. Restitution (list dollars in thousands)				
	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Amount Ordered	0	0	0	0
Amount Collected	0	0	0	0

52. How does the board use the internet to keep the public informed of board activities? Does the board post board meeting materials online? When are they posted? How long do they remain on the board's website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?

The Board routinely uses its website and email mailing list to inform interested parties and stakeholders of meetings, laws and regulations, alerts and any other information. Agendas for all meetings are typically posted two (2) weeks prior to a scheduled meeting and all email list subscribers are notified of the meeting. All Board and committee meeting materials are typically posted a week in advance of a scheduled meeting and remain on the Board's website indefinitely. Additionally, draft meeting minutes are included as part of Board meeting materials and the Board posts all meeting and committee approved minutes once they receive Board approval.

53. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings? How long to webcast meetings remain available online?

All Board and committee meetings are webcast per the availability of DCA resources. The link to the webcast is available on the Board's Meeting Calendar webpage, here:

http://www.acupuncture.ca.gov/about_us/board_meetings.shtml

Archived webcasts are available on the Department of Consumer Affairs (DCA) YouTube Channel, here:

<https://www.youtube.com/user/CaliforniaDCA>

54. Does the board establish an annual meeting calendar, and post it on the board's web site?

Yes, the Board sets meetings a year in advance for quarterly meetings in Sacramento, San Francisco, Los Angeles, and San Diego. Additional meetings are scheduled if required. Board meetings with specific dates and locations are posted on the website. Committee meetings are scheduled on an as needed basis and are posted one or two months in advance of the meetings.

55. Is the board's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the board post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions (May 21, 2010)*?

Yes, the Board follows DCA's recommended Minimum Standards for Consumer Complaint Disclosure. The Board posts all Penal Code Section 23 suspension and bail condition Orders, Accusations, and final Decision and Orders on its website.

56. What information does the board provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

Information regarding a licensee's license status, current address of record, and any disciplinary actions are available on the Board's website. The Board does not post education, awards, certifications, or specialty areas.

57. What methods are used by the board to provide consumer outreach and education?

Consumer outreach and education is a priority that the Board continues to develop. The Board has further refined its website to make it easier to find information, and the homepage of the website is updated with alerts and announcements relevant to its stakeholders, including licensees and consumers. A downloadable book of all Acupuncture Board laws and regulations has been posted on the Board's website. Additionally, the Board has implemented the BPC 138 'Notice to Consumers of Licensure by the Acupuncture Board' regulatory package into CCR § 1399.469.3 to inform customers of licensure by the Board. To provide more convenience and increase compliance, the Board posted a downloadable notice for use by licensees consistent with the requirements of the regulation.

The Board currently contracts with DCA's Consumer Information Call Center (CIC) to answer all incoming calls before sending them directly to Board staff. CIC and Board phone staff are trained to answer phone calls in a timely fashion and are provided refresher training and updates to better serve the public.

The Board has engaged the services of the DCA's Design team to re-release an updated version of its Consumer Brochure.

Section 7 Online Practice Issues

58. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the board regulate online practice? Does the board have any plans to regulate internet business practices or believe there is a need to do so?

The Board has recognized a trend towards online practice in Acupuncture; however, no action has been taken to regulate internet business practices as current Acupuncture standards of practice as set out CCR § 1399.452 (b): *"All standards of practice applicable to treatment outside the office shall be adhered to by the acupuncturist providing such treatment."*

These standards include the adherence to adequate record keeping and patient examinations as necessary to perform acupuncture treatment safely. The Board will take action when a complaint is received and the allegations involve online practice or a review of the acupuncturist's business website is necessary in the investigation of a complaint.

59. What actions has the board taken in terms of workforce development?

The Board conducts an Occupational Analysis every five (5) years. The Board last completed an Occupational Analysis (OA) in 2015 and is scheduled to conduct the next OA in 2020. The Board continues to monitor trends in Acupuncture practice and workforce development.

60. Describe any assessment the board has conducted on the impact of licensing delays.

Licensing delays have largely been eliminated as the Board has been successful in implementing changes which have reduced the licensing cycle times to two (2) days as of FY 15/16 and two (2) days as of FY 16/17. Staff is continuing to refine and streamline the licensing process to prevent delays, and now has desk manuals defining all licensing functions which are regularly updated. The Board also has one vacant position in the Licensing department since March 2017, but this has not delayed any licensing or cashiering functions. The position has been advertised and the hiring process is underway.

While the cashiering delays related to DCA cashiering as detailed in the 2016 Sunset Review Report have been minimized, the Board is exploring the option of completing all cashiering in-house by a dedicated Board staff member. This would further reduce delays and help eliminate incorrect holds placed on licensees, however the Board's appropriations for personnel would require an increase to be able to hire the required staff. The Board is working with DCA's Office of Information Services (OIS) to seek the option to process credit card payments.

61. Describe the board's efforts to work with schools to inform potential licensees of the licensing requirements and licensing process.

The Board regularly communicates with schools to respond to questions regarding licensing requirements. Generally, schools refer students to the Board to answer licensing qualification questions. Board staff is currently designing a series of FAQs and checklists which will be available on the Board's website and be sent to schools covering the requirements for qualifying for licensure.

In FY 2016/17, the Board began holding public meetings at Acupuncture Schools and has encouraged the schools to ask their students to attend. This helps to inform potential licensees about the Board's work, laws and regulations and licensing.

62. Describe any barriers to licensure and/or employment the board believes exist.

Out-of-state acupuncture schools who do not have all the approvals from the Board, BPPE and ACAOM to offer acupuncture training that meets California standards often have students who wish to apply for licensure in California. Since their programs are not approved, they will typically have to transfer some of their completed acupuncture training to an approved school or transfer their hours to a tutorial program to become eligible to sit for the CALE. This transfer can add several months to several years to a student's time before the student is qualified to take the CALE.

63. Provide any workforce development data collected by the board, such as:

- a. **Workforce shortages**
- b. **Successful training programs.**

The Board does not collect data on workforce development beyond its CALE pass/fail statistics that are analyzed by school, language, first-time test takers vs. re-takers, and pass/fail; and the

Occupational Analysis (OA) of the profession. In the 2015 OA, additional workforce related questions were added to the demographic questions to provide some workforce data. However, there is no annual workforce survey done for acupuncture by the Board, as workforce development is not within the Board's scope of duties. Additionally, the Board is unaware of any such survey conducted by Acupuncture Associations or professional groups.

64. What is the status of the board's implementation of the Uniform Standards for Substance Abusing Licensees?

The Board previously approved a proposed rulemaking package for the Uniform Standards and concurrent updates to the Disciplinary Guidelines at the September 18, 2015 public board meeting. Staff then commenced the rulemaking process by filing the regulatory package with OAL and releasing the rulemaking package for public comment. Upon further review, Legal Counsel recommended a new, stand-alone document incorporating the Uniform Standards, with the Disciplinary Guidelines being separated into a different rulemaking package. The Board approved the revised Uniform Standards rulemaking package at the October 26, 2016 public meeting. However, recent disapprovals by the Office of Administrative Law to other Boards' Uniform Standards rulemaking packages highlighted several deficiencies with the Board's own rulemaking package. As a result, the Board elected to abandon the rulemaking package. The Board filed a notice of intention not to proceed with OAL on April 21, 2017 and published the notice on its website. A new, standalone Uniform Standards rulemaking package is under staff development and is planned to be presented to the Board by early 2018.

65. What is the status of the board's implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

The CPEI regulations went into effect October 1, 2015.

66. Describe how the board is participating in development of BreEZe and any other secondary IT issues affecting the board.

a. Is the board utilizing BreEZe? What Release was the board included in? What is the status of the board's change requests?

The Board is not utilizing BreEZe as of June 30, 2017 and is scheduled to be part of Release 3 although there is no expected implementation date. There have been no change requests as a result.

b. If the board is not utilizing BreEZe, what is the board's plan for future IT needs? What discussions has the board had with DCA about IT needs and options? What is the board's understanding of Release 3 boards? Is the board currently using a bridge or workaround system?

At present, there are no active plans for IT upgrades due to the uncertainty of BreEZe implementation; however, the Board anticipates these upgrades in the near future. The Board upgraded half of the office computers and printing equipment in 2014 and has not upgraded since. The Board remains in regular contact with the Office of Information Services (OIS) about upgrades. As part of the Board's Business Modernization Process, staff is mapping out existing and future technology needs.

All existing systems are functional and adequate to complete the Board's work at and OIS does periodically upgrade existing software such as Microsoft Office. Currently, the Board is using legacy databases such as DCA's Consumer Affairs System (CAS) and Applicant Tracking System (ATS) for its licensing, enforcement, and examination functions.

Section 10

Board Action and Response to Prior Sunset Issues

1. **Background information concerning the issue as it pertains to the board.**
2. **Short discussion of recommendations made by the Committees during prior sunset review.**
3. **What action the board took in response to the recommendation or findings made under prior sunset review.**
4. **Any recommendations the board has for dealing with the issue, if appropriate.**

ISSUE #1: Why are there discrepancies in data reported in the Board's 2015 Sunset Review Report?

Background: There are some data discrepancies within the report that the Board submitted to the Committees as noted below:

- There is a discrepancy in the Board's reporting of processing times for its licensing program. For example, in its 2013/14 report to the Committees, the Board indicated it took an average of 40 days of processing time from when it first received an application for licensure and when it issued the license. In its 2015/16 report, the Board indicates that the processing times dropped from 14.6 days to 11.46 days in 2013/14. These two reports cite different numbers for average processing time in 2013/14 e.g. 40 versus 11.46 days.
- There are inconsistent reports of the number of acupuncturists the Board licenses. In one place in the Board's 2015 Sunset Review Report, it is noted that there are 17,801 acupuncturists regulated by the Board, 11,644 of these are actively practicing in California. In another place in the report, the Board notes that there are 13,533 acupuncturists regulated by the Board with 11,477 actively practicing.
- In the Board's 2013 Sunset Review Report, it reported that the Board had not been performing CE audits. However, in the 2015 Sunset Review Report, the Board noted that there have been 1707 audits of licensees in the past four FYs.

In order for the Committees to exercise effective oversight, it is imperative that the Board presents data in a consistent and clear fashion.

Staff Recommendation: *The Board should review the all of the data it has reported in its 2015 Sunset Review Report, and clarify what the accurate data is in the areas of: licensing, processing time for issuing licenses, and CE audits.*

Board's April 12, 2016 Response to Staff Recommendation:

The Board has noted these discrepancies in the report and agrees with the Staff recommendation for the Board to present data in a constant and clear fashion in order for the Committees to exercise effective oversight.

- The Board has confirmed the processing times for its licensing program with the Department of Consumer Affairs staff to be the following:
 - FY 13/14: 11.46 days
 - FY 14/15: 9.26 days

The Board, due to its small size, does not have an analyst-level staff member dedicated to licensing statistics or analysis. These statistics are compiled by DCA's Office of Information Services (OIS) utilizing DCA's Licensing for Jobs Creation (LJC) report at the request of the Board. The Board's 2013 Sunset review listed a licensing program processing time of 40 days. This number was apparently originally derived by combining the licensing processing times and exam processing times, hence the higher number listed. However, the reports used and the methodology to obtain the processing times for the 2013 report is not historically available to the Board at this time as the person who compiled the report is no longer employed at the Board.

- Based upon current data in DCA's licensing database, the Consumer Affairs System (CAS), as of March 1, 2016, the Board has issued a total of 16,950 licenses. This reflects the total number of licenses tracked within the CAS database. As of March 1, 2016, the Board shows 11,583 actively practicing licensees. This reflects the total number of licensees whose license shows as clear and valid status, with no restrictions for practice, and does not include delinquent, inactive, suspended, revoked or cancelled licenses. This number is constantly changing since licensees may change their status between Active and Inactive, or are may go delinquent or be disciplined, at any time.
- Staff is correct in its statement that the Board had not conducted CE Audits in the several years preceding 2013. From the 2012/13 FY to the 2014/15 FY, a total of 1710 audits of licensees were completed as follows:
 - In the California Acupuncture Board Sunset Review Report 2013 submitted to the Senate Committee on Business, Professions and Economic Development on November 1, 2013 (Question 28b, page 27), the Board reported it had conducted 600 CE audits of its licensees in the 2012/13 FY.
 - In the 2013/14 FY, the Board conducted 621 CE audits of its licensee population.
 - At the time of the drafting of the 2015 Sunset (2014/15 FY) report the Board had initiated 489 CE audits.

The total licensees audited from the 2014/15 FY as opposed to the 2013/14 FY dropped as staff began to receive training on querying the licensee database for only those licensees that had renewed with an active and clear license. The 2012/13 FY and the 2013/14 FY audit numbers were derived from five percent of the total number of licenses issued, excluding new licensees who had not yet completed their first renewal cycle. The total number for CE audits in 2015 were derived from five percent of the total practicing licensee population, now excluding not only new licensees not yet having completed their first renewal cycle, but inactive and delinquent licensees as well.

Staff continues to seek training on database querying and utilization to further refine the CE audit process, however, the move to the BreEZe system has limited the Board's access to this information as support staff for CAS and the Applicant Tracking System (ATS - DCA's database that tracks applicants for licensure as well as payments of applicants and licensees) have been addressing the migration to the BreEZe database. Reference manuals have been created to preserve the new process while the Board awaits notification of when it will be migrated to the BreEZe system. At present, there is no expected date.

Board's 2017 Sunset Review Update to Issue #1:

The Board continues to report accurate licensing numbers, renewal times and CE audits. Since the last Sunset Review Report in 2015, staff has continued to work with DCA and OIS to confirm the data

and avoid any discrepancies. Board staff now has reference manuals which confirm the process and have received additional training from DCA on how to utilize existing databases.

- Processing times for initial application to licensure have remained consistently low:
 - FY 15/16: 2.00 days
 - FY 16/17: 2.00 days

As noted above, this data is compiled from DCA's LJC reports and then verified by checking CAS data.

- Based upon current data in CAS, as of June 30, 2017, the Board has issued a total of **17,743 licenses**. This reflects the total number of licenses tracked within the CAS database. As of June 30, 2017, the Board shows **11,981 actively practicing licensees**.

This reflects the total number of licensees whose license shows as clear and valid status, with no restrictions for practice, and does not include delinquent, inactive, suspended, revoked or cancelled licenses. This number is constantly changing since licensees may change their status between Active and Inactive, or are may go delinquent or be disciplined, at any time.

- The Board has not completed a CE audit since 2015, due to a staff position within the Education Unit being vacant since November of 2015 followed by the additional vacancy due to the promotion of Benjamin Bodea from that unit to Acting Executive Officer in March 2016. The vacancy was filled in March 2017 with the Board now training that position to resume CE audits. This is a high priority for the Board.

Planning for the next audit has already begun and is expected to commence in November 2017.

ISSUE #2: Why has the Board failed to meet its enforcement goals?

Background: There seems to be a number of issues with the Board's ability to meet its consumer protection mandate of effectively enacting enforcement of the profession. The following is a list of enforcement issues that the Board needs to rectify:

- The Board reported that it "...has begun to issue citations and fines for non-disclosure" of information applicants are required to submit including: criminal histories, prior disciplinary actions, and other unlawful acts.
- The Board's average days to process accusations against licensees increased from 565 in 2013/14 to 902 in 2014/15.
- The Board's average days to complete disciplinary investigations increased from 1083 in 2013/14 to 1132 in 2014/15.
- The Board reported historical challenges with monitoring licensees who are on probation. In 2012/13, the Board did not meet its performance targets in the areas of probation and intake.
- In 2013/14, the Board did not meet its target for intake and investigation or for formal discipline.
- The volume of consumer complaints has risen.
- The Board is not in compliance with BPC § 801 which requires insurers and uninsured licensees to report malpractice settlements and judgments of \$3000 or more. In 2011, the

Committees recommended that the Board seek statutory authority to create a form for insurers and uninsured licensees to make these reports. The Board reported in its 2015 Sunset Review Report that it "...hopes to [seek] this authority" in legislation next year.

Effective enforcement is the hallmark of a well-run licensing entity, and a necessity for ensuring consumer protection. The Board's 2013-2017 Strategic Plan notes that its enforcement responsibilities include: addressing enforcement issues, and proposing regulations, policies, and standards to ensure compliance with the Board's statutes and regulations. The Board reported that it is unable to meet its current enforcement mandates and goals because it has not been afforded enough resources.

Staff Recommendation: *The Board should advise the Committees as to its plan to eradicate the backlogs and delays in processing applications and completing investigations, begin monitoring probationers, and report on its efforts to comply with BPC § 801.*

Board's April 12, 2016 Response to Staff Recommendation:

The Board shares the Committee's great emphasis to reduce or eradicate the backlogs and delays in Enforcement. The Board continues to prioritize cases according to DCA's Complaint Prioritization Guidelines policy and endeavors to utilize staff more efficiently to improve in the Board's enforcement performance measures. Going forward, Board staff will be managed more effectively and given clear instruction in order to remove any impediment from expeditious resolution of these cases. In addition, the Board has received clarification on the reporting requirements of Business and Professions Code section 801 and will prioritize promulgating regulations to come into compliance.

At present, the Board's Acting Executive Officer (Acting EO) is working closely with Enforcement staff to identify older cases and prioritize working these cases more efficiently. Staff continues to use DCA's Complaint Prioritization Guidelines to identify which cases must be worked more quickly. The addition of an Enforcement Analyst, bringing enforcement staff numbers from 1 person to 2 people, has enabled staff to better remedy the bottlenecks in the enforcement process that once existed due to workload issues, such as timely review of investigation reports, assignment to expert consultants, and preparation of the files that must be transmitted to the Office of the Attorney General (OAG). Enforcement staff have instituted more structure in its processes with the development of forms for internal use and logs to handle the caseload and varied tasks.

There is an equal caseload and sufficient cross-training among the enforcement staff to allow either enforcement employee to process all enforcement duties in the absence of the other. The Enforcement Handbook is regularly updated to reflect new processes, as well as any changes in law or policy. The Board strives to settle cases when appropriate, where violations or other deficiencies can be adequately addressed with probation monitoring and remedial coursework. Settling cases when appropriate decreases case aging while not compromising public protection.

Probationers are being assigned within the target timeframe for the probation intake performance measure with the additional Enforcement staff person. Additionally, probation forms have been revised and more forms and templates are being utilized to streamline the probation intake and proper monitoring of probationers.

Complaint volume and more cases resulting in probation for the Enforcement Unit (of two (2) staff) to monitor continue to rise. Despite this hindrance, current performance measure trends show complaints being processed and closed out more quickly, an increase in issued citations, and more cases being transmitted to the Office of the Attorney General (OAG) for prosecution, which is a good indicator that the Board's enforcement program is on the right path.

Specifically, here are updates to the cited enforcement issues:

1. *“The Board reported that it “...has begun to issue citations and fines for non-disclosure” of information applicants are required to submit including: criminal histories, prior disciplinary actions, and other unlawful acts.”*

Based on the Board’s prior interpretation of Business and Professions Code sections 475(a)(1) and 480(d), it was understood that the Board could only deny the license of an applicant if he or she did not properly disclose a conviction or disciplinary action when applying to take the exam or applying for a license with the Board. Prior to FY 2014/15, if the evidence presented by the applicant was sufficient in mitigating his or her failure to disclose and the nature of the conviction or discipline was not substantially related to the qualifications, functions or duties of an acupuncturist, the Board would close its investigation with a warning and issue a license. During FY’s 2014/15 and part of 2015/16 the Board issued citations to applicants after he or she was issued a license to address any false statements made to the Board on applications for exam or licensure.

2. *“The Board’s average days to process accusations against licensees increased from 565 in 2013/14 to 902 in 2014/15.”*

The number of days reported to process accusations against licensees is derived from a system-generated standard report that provides the number of days from complaint receipt to the day an accusation or case for prosecution was declined by the OAG. Further, the system generated standard report does not provide information regarding the number of days from complaint receipt until the day an accusation is filed. Based on the data requested and format for the output, it is not clear that the average days to process an accusation is what the Sunset Report requested.

The average number of days to process accusations against licensees represents the average number of days from receipt of a complaint to the closure of a disciplinary case that the OAG declined for prosecution after review. There have been a total of three such cases in the 2013/14 FY and three cases in the 2014/15 FY. The increase in the average number of days from 565 in the 2013/14 FY to 902 in the 2014/15 FY is a reflection of the time it took to completely work up two complex older cases for the OAG’s determination.

3. *“The Board’s average days to complete disciplinary investigations increased from 1083 in 2013/14 to 1132 in 2014/15.”*

A total of nine decisions became effective in the 2013/14 FY and another nine decisions became effective in the 2014/15 FY. Even though the same number of cases closed in each fiscal year, Board staff believes it is difficult to compare the average number of days due to the idiosyncrasies and complexity levels of each case that are closed in a given period. Each case has its own number of violations alleged, witnesses involved, and evidence required to meet a clear and convincing burden to impose discipline. The cases that go on for discipline are typically the Board’s more-involved and time-consuming cases. As such, the Board believes this measure does not accurately quantify how well the Board’s enforcement program is run overall.

For example, in the 2013/14 FY, seven citations were issued that fiscal year, 193 cases were closed without discipline, and nine decisions became effective. These nine cases that took an average of 1083 days to close represent less than 1% of all the cases closed by the Board in the 2013/14 FY. The remaining majority of the cases were closed in an average of 389 days.

In the 2014/15 FY, 65 citations were issued, 234 cases were closed without discipline, and nine decisions became effective. As with the prior fiscal year, less than 1% of all of the cases closed by

the Board in the 2014/15 FY were closed with discipline and took an average of 1132 days to close. The remaining majority of the cases were closed in an average of 290 days.

A comparison of the total cases closed and processed by the Enforcement Unit shows that productivity increased in the 2014/15 FY and total process time decreased. The increased productivity is a reflection of the Board's increase in enforcement staff by one Personnel Year (PY), essentially doubling our Enforcement staff.

4. *"The Board reported historical challenges with monitoring licensees who are on probation."*

In the 2012/13 FY, the Board did not meet its performance targets in the areas of probation and intake because of a shortage of staff. During the 2012/13 FY, the board did not have any Enforcement staff for two thirds of the year thereby causing a delay in timely assigning a probation monitor. However, in the 2014/15 FY, Enforcement gained an additional staff person, for a total of two (2) persons, to reduce enforcement delays due to lack of staff coverage. An increase in enforcement staff would mitigate the concern of a deviation from the probation intake target.

5. *"In 2013/14, the Board did not meet its target for intake and investigation or for formal discipline."*

The cases reported in the Intake and Investigation performance measure are a reflection of the cases that were not processed in a timely manner due to the Board's lack of any enforcement staff's during that time period. The backlogged cases from this period of time were processed and subsequently completed in the 2013/14 FY. Additionally, the cases resulting in discipline during the 2013/14 FY are the backlogged cases started in the 2011/12 FY through the 2013/14 FY being completed and closed out. There are also other varied reasons for disciplinary cases taking longer to close out such as case complexity, unavoidable delays in setting hearings, time for Board review and adoption process, and time for administrative litigation.

6. *"The volume of consumer complaints has risen."*

Most of the increase in complaint volume is attributed to the intake of the Education Unit's referral to the Enforcement Unit of licensees who failed the Continuing Education (CE) audit. Prior to 2010, a smaller percentage of CE audits were conducted, whereas, since the 2012/13 FY the Board now conducts CE audits on 5% of the licensee population renewing each month. With this rise in audits, the enforcement unit is opening more complaints on failed audits and issuing more citations as a result.

7. *"The Board is not in compliance with BPC § 801 which requires insurers and uninsured licensees to report malpractice settlements and judgments of \$3000 or more. In 2011, the Committees recommended that the Board seek statutory authority to create a form for insurers and uninsured licensees to make these reports. The Board reported in its 2015 Sunset Review Report that it "...hopes to [seek] this authority" in legislation next year."*

The Board has approved language for statutory authority to require insurers and uninsured licensees to report settlements and judgments to come in compliance with Business and Professions Code (BPC) § 801. In April 2016, it was clarified that the Board has the authority under BPC § 800 to collect the information required in BPC § 801 and 802 and has moved from seeking statutory authority to preparing to promulgate regulations to come into compliance with BPC § 801.

Board's 2017 Sunset Review Update to Issue #2:

The Board continues to make great strides in addressing the Enforcement issues:

1. The Board continues to address applicants' failure to disclose material facts, such as convictions, previous disciplinary actions, and other required information, through the issuance of citations and fines. This process has provided a more appropriate remedy to a violation that does not necessitate the application of probation terms and conditions for the Board to monitor. However, when an applicant is received with an omission of a material fact that is deemed egregious, and there is evidence to support that the information was withheld with fraudulent intent, the Board would take appropriate disciplinary action.
2. In previous reports it was unclear which statistic was required to be reported for "Average Days Accusations." As indicated in the update above, the Board erroneously provided data related to the number of days from complaint receipt to the day an accusation or case for prosecution was declined by the OAG.

To address the misreported information, the correct statistic has been provided for FY 2014/15 in the Board's 2017 Sunset Review Report. The following are the Board's average days to process accusation decision and orders by fiscal year:

- 2013/14: 1,083 days
- 2014/15: 1,216 days
- 2015/16: 1,120 days
- 2016/17: 818 days

Review of the last four (4) fiscal years indicates the Board has not met its performance measure target for discipline. However, the higher number of days reported during these fiscal years is representative of a time when the Board had a backlog of Enforcement cases. In addition, the true overall process time for discipline is incomplete when only Accusation decisions are reviewed; Statement of Issues decisions are factored into the average overall process time for all decisions. Looking at both case types provides a better perspective of the Board's enforcement performance. The Board anticipates that the average days to process Accusation Decisions should continue to decrease.

3. In the Board's 2016 response to Issue #2, the percentage of cases that were reported closed in relation to all closure types for FY's 2013/14 and 2014/15 were misreported. It was reported in FY 2013/14 that of the 209 case closures, nine (9) of those cases resulted in discipline, which took an average of 1,083 days to close. It was reported that those cases represent less than 1% of all the cases closed by the Board in the 2013/14 FY. However, the cases closed by discipline in FY 2013/14 represent 4% of all closures. In addition, the Board's 2016 response to Issue #2 reported that of the 308 case closures, nine (9) of those cases resulted in discipline taking an average of 1,132 days to close. It was reported that these nine (9) cases represent less than 1% of all the cases closed by the Board in 2014/15 FY. However, the cases closed by discipline in FY 2014/15 represent 3% of all closures.

Looking further at the two (2) most recent completed fiscal years for FY 2015/16 and FY 2016/17, the overall average days to complete disciplinary actions went from 1,090 days in FY 2015/16 to 762 days in FY 2016/17, which is a 30% decrease. In addition, assessing enforcement closures over the last two (2) fiscal years similar to FY 2013/14 and FY 2014/15, the result shows that the volume of cases that resulted in discipline and closed with a longer process time is just 6% of all closures. The other case closures that resulted in no discipline or citations represents 94% and were all closed under 224 days. As evidenced, all of the Board's process times are improving and the Board's overall average days for discipline has much improved. The Board has a decreased

and manageable volume of pending disciplinary actions at the close of FY 2016/17. The Board is no longer seeing a large volume of cases closing with elevated case aging.

4. The Board continuously meets its performance targets for the measures related to probation intake and probation violation response time. Thorough initial probation orientations are conducted with each new probationer so they are afforded the information and tools to comply successfully. Probation monitors regularly conduct quarterly reviews which help to uncover any probation violations so they can be addressed appropriately. Lastly, new forms and correspondence including resources for probationers were developed to improve compliance and enhance the Board's monitoring.
5. To add to the response above, the Board also has a substantial volume of complaints that are investigated outside of the Board's control. Intake and reviews after Division of Investigation's (DOI) formal investigation, as well as any desk investigations conducted by staff, are the timelines that are within the Board's control. The time it takes for DOI to complete investigations is out of the Board's control and represents 35% of all investigations closed during FY 2013/14. The Board closed desk investigations in an average of 311 days compared to 417 days for formal investigations. Although the desk investigations are still over the target, the cases within the Board's control are processed more expediently. Even with the Board having more control over desk investigations, this alone cannot effectively decrease the process time when the primary cause for increased case aging is insufficient enforcement staff. In FY 2014/15, the Board obtained authority for an additional position in the enforcement unit which has helped reduce case aging. This has helped the Board meet its intake and investigation targets more consistently since Quarter 2 of FY 2015/16.
6. The Board continues to see a steady rise in complaints. The increase in complaints can indicate that the Board is more functional, more effective, or that the public is more aware of the Board's role. With more staff and more attention to functions of the Board that were unable to be addressed in previous years, the enforcement program is growing. The number of CE audits conducted have grown over the years and in turn exposes CE provider violations as well. There is also an increase in volume for unprofessional conduct complaints in FY 2016/17 because the Board began tackling licensees' failure to update addresses with the Board. Not keeping a current and proper mailing address with the Board is not only a violation but also turns into more non-compliances, snowballing into a larger problem.

Complaint volume will likely continue to rise as the Board increases its effectiveness. Outreach also increases the public's awareness of the Board and its role in the regulation of the profession. In October 2016, CCR § 1399.469.3, Notice to Consumers of Licensure by the Acupuncture Board, became effective. The regulation requires that all acupuncturists post at each practice location a statement telling consumers that they are licensed by the California Acupuncture Board, providing the Board's phone number and website. Notice about this new regulation was sent to all licensees to promote compliance, and a printable sign for licensees is available on the Board's website. Having this information accessible to the acupuncture consumer expands the awareness of the Board. It also informs consumers of the Board's website so complaints may increase with this information readily available.

7. A standardized reporting form for insurers has been posted by the Board on its website and is in use. This action was completed in June 2017. Initially, there was confusion among staff if a legislative change or regulatory rulemaking package were required to mandate insurers to report on a standardized form developed by the Board. The Board's Legal Counsel determined that simply providing a form for insurers' use in compliance with BPC § 801(a) does not require

legislation or a regulatory package. The Board developed a standardized form under the authority of BPC § 801(a) for insurers and uninsured licensees to use when reporting malpractice settlements, judgments, and arbitration awards. Providing a standardized form for reporting malpractice cases promotes compliance with BPC § 801 which will improve and enhance the Board's enforcement and protection of public safety.

ISSUE #3: What has prevented the Board from meeting the timelines outlined in its 2013-2017 Strategic Plan?

Background: The Board updated its Strategic Plan in 2013. Within its plan, the Board identified a number of goals to be met within the 2013 to 2017 timeframe. As listed below, it appears that the Board has not met a number of its goals within its established timelines.

- The Board has not completed its review of existing disciplinary guidelines to identify revisions and update regulatory standards (projected completion date was 2015).
- The Board's Examination Committee has not yet completed its recommendation to establish a limit on the number of times an individual can take the licensing examination (projected completion date was 2014).
- The Board has not met its goals of identifying acupuncture/Asian medicine state and national professional associations (projected completion date was 2015).
- The Board has not yet conducted a meeting with professional association representatives to identify the types of information to receive to increase awareness of Board business (projected completion date was 2015).

Effective licensing entities outline their goals for effectively regulating the profession, with the ultimate interest of ensuring consumer protection.

Staff Recommendation: *The Board should review the areas of its 2013-2017 Strategic Plan that are past due, advise the Committees on its efforts to complete the goals, and include an updated timeline for completion of the goals.*

Board's April 12, 2016 Response to Staff Recommendation:

The Board agrees with the Committees recommendation and takes full accountability for the delayed progress with the Strategic Plan. The Board is now focusing its attention to correct these issues in a timely manner and reaching out to stakeholders to ensure their involvement in all processes (see Appendix A). Moreover, Board members will work with Board staff to get a status update on our progress at each of our future Board meetings to ensure we are meeting our goals.

Board staff has reviewed and updated the 2013-2017 Strategic Plan with updated timelines and is including it as an appendix to this document (see Appendix A). Specifically, the following are updates to the strategic items listed in the Background paper:

1. Item 2.1.1. -- Review of existing disciplinary guidelines to identify revisions and update the regulatory standards language (original completion date of Q4 2015).

New estimated completion date of Q4 2016

In fall of 2015, Board staff began work on a rulemaking package implementing DCA's Uniform Standards for Substance Abusing Licensees into the existing Board Disciplinary Guidelines. This rulemaking package has been filed with OAL with a goal of adoption in regulation by January 1, 2017. Separate from the Uniform Standards, Board staff has completed a review of the existing disciplinary

guidelines and has drafted a revised version. These revisions will be presented for Board consideration at the next full Board meeting scheduled for June 10, 2016.

2. Item 4.4.4 -- Proposing a recommendation to establish a limit on the number of times a person can take the CALE for the Examination Committee to review and present for Board approval (original completion date of Q2 2014).

New estimated completion date of Q4 2016

On the April 14, 2014, the Board's Examination Committee had a meeting addressing the cap on the number of times a person can take the CALE. The Committee Chair moved to table the discussion into the next Examination Committee meeting, in order for the Committee to have the better picture on number of times an applicant can retest relative to statistics.

This discussion has now been further postponed as a result of the Board taking direction from the Little Hoover Commission and the Committee to look at the possibility of utilizing the national examination, known as the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination. The Board contracted with the Office of Professional Examination Services (OPES) to conduct an audit of the NCCAOM examination which was completed in November of 2015. The Board was presented the result of the NCCAOM Audit at the February 26, 2016 Board Meeting and has directed OPES and Board Staff to obtain clarifications to items OPES addressed in the Audit. The NCCAOM presently limits the total number of times a candidate can take the examination to five times.

3. Item 5.3.1 -- Identify acupuncture/Asian medicine state and national professional associations (original completion date was Q2 2015).

New estimated completion date of Q3 2016

Board staff has begun revisiting this item at the direction of the Acting EO. A list of statewide professional acupuncture associations is maintained and updated on the Board's website. The updated list of professional associations is available on the Board's website:

http://www.acupuncture.ca.gov/licensees/prof_assoc.shtml

4. Item 5.3.2 -- Conduct a meeting with professional association representatives to identify the types of information to receive to increase their awareness (original completion date of Q4 2015).

New estimated completion date of Q1 2017

Board staff has begun the process of outreach and identification of professional acupuncture associations, as outlined above in Item 5.3.1. Once this objective is complete, the Board will then work with all interested professional associations to convene regular meetings to increase awareness about the practice of acupuncture in California.

5. Effective Licensing entities outline their goals for effectively regulating the profession, with the ultimate interest of ensuring consumer protection.

The Board is in agreement with the Staff's statement and will periodically review and refine its goals and timelines to ensure consumer protection is its paramount interest and purpose.

Board's 2017 Sunset Review Update to Issue #3:

The Board has made significant progress on meeting the 2013-2017 Strategic Plan items, including the items listed above:

1. Item 2.1.1 -- Review of existing disciplinary guidelines to identify revisions and update the regulatory standards language.

This item has been completed. Board staff and Legal Counsel have completed a review of the existing disciplinary guidelines and presented a revised version for Board approval at the February 24, 2017 public meeting. The revised guidelines were approved by the Board at the meeting and the regulatory rulemaking package is currently under staff development for submittal to OAL.

2. Item 4.4.4 -- Proposing a recommendation to establish a limit on the number of times a person can take the CALE for the Examination Committee to review and present for Board approval.

This item has not been completed. The Board has been discussing a limit on the number of times an individual can take the licensing exam but no action has been taken. Completion of the audit of the NCCAOM and a decision on recommending adoption was a priority for the Board and was completed in 2016. As the NCCAOM exam only allows for five (5) total attempts at passing its exam, and with the Board recommending adoption of the NCCAOM exam, along with a California Supplemental, the Board anticipates revisiting this issue in the next Strategic Plan.

3. Item 5.3.1 -- Identify acupuncture/Asian medicine state and national professional associations.

This item has been completed. The Board announced at the June 6, 2016 public meeting its intention of identifying and contacting acupuncture associations within California. A survey was then conducted by Board staff of all associations by contacting the association directly and following up with a questionnaire. The survey and questionnaire is available on the Board's website. Associations were then asked to send the information back to the Board. The Board has updated the list of associations on the Board's website with the most current contact information, which can be found here:

http://www.acupuncture.ca.gov/licensees/prof_assoc.shtml

4. Item 5.3.2 -- Conduct a meeting with professional association representatives to identify the types of information to receive to increase their awareness.

This item has been completed. The Board began planning for a stakeholder meeting in early 2017, finally conducting a stakeholder meeting in Sacramento on Friday, July 28, 2017. The meeting was well attended with over twenty (20) industry stakeholders including schools, licensees and members of the public. The topics discussed included clinical training hours and online courses. Additionally, the Board received letters from stakeholders on the issue. The notes from the stakeholder meeting and public feedback received are available on the Board's website. The Board will continue the use of stakeholder meetings to address other items where it can be better informed through stakeholder input.

5. Effective Licensing entities outline their goals for effectively regulating the profession, with the ultimate interest of ensuring consumer protection.

The Board continues in its mission of protecting the public and continuously refines its goals and timelines to achieve this task.

ISSUE #4: Why has the Board's reserve level decreased by over six million dollars?

Background: The Board's expenditures have increased significantly since the last sunset review. The Board reported its current reserve level is \$1.456 million. However, in its *2013/14 Sunset Review Report*, it reported that the reserve level was \$7.9 million. The Board also reported that it is

considering a fee increase in light of the projected increase in expenditures.

Staff Recommendation: *The Board should advise the Committees as to why the reserve level has decreased significantly over the past two years. What has the Board expended these funds on? The Board should also justify the need for a fee increase – especially considering that its workload will be decreased once its school approval authority is removed commencing January 1, 2017.*

Board's April 12, 2016 Response to Staff Recommendation:

Acupuncture Board staff, in cooperation with DCA's Budget Office, performed a review of the Board's Fund Condition. Table 2 of the 2016 Sunset Review Report (as of November 17, 2015) displays the Board's Fund Condition (see Appendix B). In the 2011/12 FY, the General Fund took a loan of \$5.0 million from the Acupuncture Board's Acupuncture Fund with the agreement of repayment with interest. There is a \$4.0 million repayment scheduled in the 2016/17 FY as proposed in the Governor's 2016/17 FY budget. The General Fund has not yet communicated with the Board regarding the prospective repayment of the remaining \$1 million or the total interest earned on the entire \$5 million loan.

The Acupuncture Board's 2013/14 FY total reserve amount stood at \$1.881 million, with the Fund Condition report showing 7.9 months in reserve. The 2014/15 FY shows a reserve amount of \$1.456 million or 5.0 months. With the anticipated General Fund loan repayment of \$4 million in the 2016/17 FY the reserve will increase to a projected \$5.9 million or 20.4 months in reserve.

The Board understands that existing revenue and expenditures must be used in the most effective way possible. The Board will continue to work closely with DCA's Budget Office and the Legislature to address any concerns regarding its Fund Condition and is prepared to make the necessary adjustments should the need arise.

Board's 2017 Sunset Review Update to Issue #4:

Board staff has continued working with DCA's Budget Office to confirm the Board's budget. At the February 24, 2017 public meeting a presentation was made by DCA's Budget Office, who reported the Board was doing very well fiscally, with a significant reserve balance. Further, for FY 2017-18, the Board is estimated to have a fund balance reserve of 14.0 months. BPC § 128.5 limits the Board to a fund balance reserve of no more than 24 months. Additionally, the loan repayment of \$1 million is presently scheduled to be repaid in FY 2019-20. As a result, the Board is not considering a fee increase or decrease for the next several years.

ISSUE #5: Should the Board take steps towards adopting a national examination?

Background: The Board develops and administers its own licensing examination, the CALE. The CALE is offered twice a year – once in northern California and once in southern California. The Board spent approximately \$571,000 on administering the CALE in 2013/14.

Most states accept applicants who have passed a national examination administered by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM). The NCCAOM examinations are offered in English, Chinese and Korean, they are computerized, and are offered at multiple locations in states in which it is provided. California is the only state that licenses acupuncturists that does not utilize the NCCAOM's examination. Additionally, though California only accepts the CALE, approximately 300 students who receive education in California take both the CALE and the NCCAOM in order to ensure they will be able to practice in other states.

In 2007, the Board contracted with the DCA's OPES to conduct an in-depth study in order to define the practice of acupuncturists – referred to as an OA. The OA process includes surveying licensees to determine actual job tasks that new licensees must be able to perform safely and competently, and the knowledge required to perform those tasks. The *Validation Report of the Occupational Analysis* of the acupuncture profession and the *Test Plan* was adopted by the Board on February 19, 2009. The report served as the blueprint for the ongoing development of the CALE. A new examination was administered for the first time in February 2011.

There were notable problems with the February 2011 examination. One problem occurred with the translation of the examination to Chinese and Korean. When the new examination was provided, applicants for licensure, who registered to take the examination in Korean, were given a test that contained many questions in Chinese. In response to an outcry from Korean language applicants, the Board permitted the applicants to retake the test after it had been properly translated at no additional cost to the applicants.

In the Board's 2012 *Sunset Review Report*, it noted that adapting the English examination into Chinese and Korean created an, "...unstandardized examination and are not equivalent measures of minimum competency." The Board reported that the tests vary in terms of difficulty and equivalency when translated. To address this and other issues with the examination, the Board considered a regulatory change to only administer the examination in English. However, after considerable public outcry against this change and a cease and desist memorandum from then Senator Curren D. Price and Senate pro Tempore Darryl Steinberg, the Board stopped efforts to move to an English only examination. In contrast, the NCCAOM examination continues to be administered in English, Chinese and Korean.

In May of 2011, OPES found that the integrity of the CALE had been compromised. The Board found that students could purchase "study guides" containing many of the answers from previously administered licensing examinations. In response, OPES removed several items from the testing bank.

In August of 2012, the pass rates for the CALE test takers was abnormally low (39%). In response to another outcry of stakeholders, the Board hired an outside reviewer to audit the examination. The results of the investigation showed that the examination was valid.

During the 2013/14 sunset review of the Board, hundreds of students and schools lobbied the Legislature to require the Board to cease offering the CALE and instead move towards offering the NCCAOM examinations. These stakeholders organized a movement, *CALE Takers United Front*. Since then, there have been complaints of problems with the conditions at the Board's examination testing sites.

As outlined above, there have been various issues with the CALE resulting in the Committees and stakeholders requesting the Board to seriously consider utilizing the NCCAOM examinations. During the 1999 Sunset Review Hearings, the Committee asked the Board to evaluate the NCCAOM examinations and compare it to the CALE. This request was echoed again during the 2002, 2005, 2012, and 2014 Sunset Review Hearings of the Board.

Since its 2013/14 sunset review, the Board contracted with the OPES to conduct another OA of the CALE. The OA was completed in February 2015. The Board contracted with the OPES and completed an audit of the NCCAOM examinations which was presented at the February Board meeting. The OPES found that the NCCAOM examinations were comparable to the CALE in most did not include California specific information on its examinations. However, as pointed out during the Board meeting, this is typical of national licensing examinations. Most regulatory entities require a

national examination and a supplemental ethics or jurisprudence examination that tests for state specific laws. During the meeting, Board members requested additional information on the NCCAOM examinations as compared to the CALE and asked OPES to consult with the NCCAOM and provide this additional information to the Board at a future meeting.

The historical request to compare the examinations stems from the aforementioned illustrated problems with examination administration, translation, workload impact, and the fact that the examination is quite costly to the Board. In addition, because California is the only state that does not accept the NCCAOM examinations, reciprocity is hampered for acupuncturists who desire to practice across state lines, e.g. approximately 300 California based students end up taking both examinations annually which is quite costly to students.

Staff Recommendation: *Because of the problems the Board has encountered with providing the CALE, the associated costs of this examination, and the existence of a national examination, which appears to be adequate to test entry-level practitioners, the Board should seriously consider moving towards utilizing a national examination(s). The Board should provide the Committee staff a copy of the audit of the NCCAOM which was completed in the fall of 2015. If, after the NCCAOM and the OPES have consulted and provided additional information to the Board, and if the NCCAOM examinations are found to be valid and reliable, the Board should consider pursuing legislative changes to require the use of the NCCAOM examinations for licensure instead of the CALE, and, consistent with the practice of various licensing entities that accept the passage of a national examination towards licensure, the Board should require a supplemental examination which would cover California specific laws and information.*

Board's April 12, 2016 Response to Staff Recommendation:

The Acupuncture Board contracted with the Office of Professional Examination Services (OPES) to conduct an audit of the NCCAOM Acupuncture Exams. OPES presented the findings of the audit at the February 26, 2016, Acupuncture Board Meeting. OPES and representatives from NCCAOM responded to Board member questions. Due to the NCCAOM Non-Disclosure Agreement, additional information was presented by OPES and discussed during closed session. After a lengthy discussion and public comment, the Board directed staff to work with the OPES and NCCAOM to address outstanding questions about NCCAOM's examination. It is common practice for follow up to occur once the report has been presented in a public forum. OPES and representatives from NCCAOM agreed to continue working together with the expectation to provide additional information for Board consideration at the June 10, 2016 Board meeting.

The Board is committed to working expeditiously to ensure that it has all the information necessary to make a timely and thoughtful decision in selecting one of the following four options included in the audit report:

- (1) Require the California Acupuncture Licensing Examination (CALE) only,
- (2) Require NCCAOM exam(s) only,
- (3) Require either the CALE or the NCCAOM exam(s), or,
- (4) Require NCCAOM exam(s) and a California supplement.

The Board is committed to determining a fair, valid and legally defensible licensing examination or alternate licensing examination options which meet the mandates established in BPC § 139, which prohibits artificial barriers to licensure. The Board understands this is a very important issue and is committed to working with the Legislature to pursue all necessary legislative changes to implement Board action, as needed.

Board’s 2017 Sunset Review Update to Issue #5:

The Little Hoover Commission Report, “Regulation of Acupuncture: A Complementary Framework” (September 2004) concluded that “the State needs a rigorous, accurate, fair, and secure means of examining candidates for licensure” (p. iii). Although the NCCAOM was found to have potential to help the state to test new applicants, the CALE was found to be the “stronger tool” and was recommended for continued use. The investigation into examination issues in 2011 revealed subversion issues which led the Board to reevaluate its examination requirements. These concerns were investigated and addressed by August 2011. As shown in Table 8, examination pass rates stabilized for all language groups, and have remained consistently stable. Given the challenges associated with adaptation (translation) and security, as well as reciprocity, the Board and OPES have continued to work with the providers of the NCCAOM to increase the feasibility of utilizing the national examination for California.

Board Members discussed the adoption of the NCCAOM for use in California at the June 10, 2016 public meeting. After extensive Board discussion and consideration of public comment, the Board voted unanimously to recommend to the Legislature that legislation be introduced mandating that for acupuncture licensure in California an applicant be required to take the NCCAOM exam with a California supplement, to be implemented no earlier than January 1, 2019. The Board informed the Legislature of this recommendation in a letter dated July 8, 2016, and final action will be determined by the Legislature.

The OPES audit of the NCCAOM examination indicated several areas within the scope and practice of acupuncture in California, as well as laws and regulations, that are not covered in NCCAOM’s examination modules. The NCCAOM is currently conducting an updated occupational analysis that will result in a revised examination plan. OPES will review the new examination plan to determine the extent of overlap with California practice. This analysis will determine the test content necessary for the California supplemental examination.

The Board’s historical cost for exam personnel, exam development and exam administration are listed in the table below.

Expenditures for Exam Personnel, Development, and Administration									(list dollars in thousands)
	FY 2013/14		FY 2014/15		FY 2015/16		FY 2016/17		
	Personnel Services	OE&E*	Personnel Services	OE&E*	Personnel Services	OE&E*	Personnel Services	OE&E*	
Examination	\$141	\$518	\$132	\$485	\$159	\$479	\$153	\$516	
Total costs (combining Personnel and OE&E)	\$659		\$617		\$638		\$669		
* OE&E – Operational Expenses and Equipment									

ISSUE #6: Should the Board receive an increase in staff, budget, and office space in order to implement the provisions of SB 1246?

Background: In August 2015, the Board submitted a Budget Change Proposal (BCP) to the Department of Finance, requesting an additional four staff positions, (an \$885,000 increase to its budget by 2018 and ongoing expenses), and an expansion of its current office space. Throughout the Board's *2015 Sunset Review Report*, and within the Board's BCP, the Board cited its failure to meet enforcement and other workload goals, and attributed these deficiencies to its preparation for the implementation of SB 1246 (Lieu, Chapter 397, Statutes of 2014) which was the Board's last sunset bill.

Senate Bill 1246, contained provisions that, as of January 1, 2017, removes the Board's authority to approve schools including conducting site visits of schools for compliance. The bill also required that all schools in California be accredited by the *only* acupuncture specific accrediting agency approved by the U.S. Department of Education, and utilized in all 45 states that license acupuncturists, the ACAOM. These changes were instituted because, at the time of the last sunset review, the Board had not demonstrated the ability to meet its *basic* consumer protection mandates including: conducting CE audits, conducting appropriate oversight of schools, and promulgating consumer protection regulations.

In addition, the law will make the Board's practices consistent with the standard practice of 37 of the DCA's 40 boards and bureaus which utilize an accrediting organization for school oversight. As stated in the Little Hoover Commission's 2004 report entitled: *Acupuncture in California: Study of Scope of Practice*:

Although states vary in their specificity regarding curriculum content, the near universal reliance on ACAOM to accredit acupuncture and Oriental medicine programs results in some standardization of the core curricula required...ACAOM requires program compliance with state laws and regulations that may exceed ACAOM's standards.

In other words, the Board should rely upon an accreditor that would not only abide by the statutory education standards for California acupuncture schools, which the Board had been deficient in for 20 years, but would also add additional layers of accountability. Senate bill 1246 also reauthorized the Board to create education and training standards for foreign applicants. The Board argued in its BCP that the reauthorization of this authority will result in increased workload to the Board. It appears that the Board has requested additional resources to fund *foreign school approval* process. However, the Board *has not* been granted this authority in statute.

In its *2015 Sunset Review Report*, the Board indicated that it is at, "...the 2001 staffing level with three times the work load." It is partially for these reasons that the Board's school approval functions were removed. However, the Board continues to insist that this reduction in its authority will lead to an increase in workload and thus, the need for four additional staff, an increase in its operating budget of \$885,000, and additional office space. The Board provided rationale in its BCP to justify these requests. In February 2016, the Department of Finance indicated that it intended to only approve a portion of the Board's BCP; In March 2016, the Department of Finance withdrew the Board's BCP. The Department indicated that after careful reconsideration and taking another look at the requirements/intent of SB 1246, they intended to rescind the BCP from legislative consideration.

Staff Recommendation: *The Board should focus its energy on complying with the requirements of SB 1246 in a way that will not exhaust the Board's resources. If the Board has a workload problem, they should make the case for additional staff, increased budget, and office space without using the implementation of SB 1246 as the reason.*

Board's April 12, 2016 Response to Staff Recommendation:

Department of Finance withdrew the Board's BCP, and the Board will not be pursuing any additional resources based upon SB 1246. The Board fully understands that one of the purposes for SB 1246 was to reduce staff workload for the Board, specifically as it relates to the school approval process.

Currently, the Board is in the process of completing the regulatory rulemaking package in order to implement SB 1246 fully by the statutorily mandated date of January 1, 2017. In conjunction with DCA's Budget Office, the Board has re-assessed the workload to fully implement SB 1246 and determined that it will be absorbable with existing staff, budget and office space.

Moving forward, the new Board leadership and Acting EO will assess the needs of the program to ensure its mission of consumer protection is met efficiently and punctually. Should it be determined the Board needs additional resources, the Board will pursue the BCP process, with the assistance of the DCA to assess the workload, budget and space issues as required. The Board is committed to implementing the recommendations of the Committee on this issue.

Board's 2017 Sunset Review Update to Issue #6:

As noted above, the Board withdrew the BCP in March 2016 and will not pursue additional resources based on this issue. With the implementation of SB 1246 now complete, the Board believes current staffing is sufficient to handle the workload as a result of SB 1246.

ISSUE #7: Should the licensing and regulation of acupuncturists be continued and be regulated by the current Board membership?

Background: The health, safety, and welfare of consumers is protected by a well-regulated acupuncture profession. The newly formed Board has stated a strong commitment to protecting the public, ameliorating past deficiencies, and improving efficiency in its operations. Staff of the Committees has observed improvements in the Board's operations since its last sunset review in 2014 and commends that Board on directing its staff to make improvements. Specifically, the Board has responded to the request to promulgate consumer protection regulations, has improved in processing time for applications, and has made strides to improve CE oversight.

Despite some of the noted positive changes, the Board has expended resources on school site visits and continues to spend approximately \$571,000.00 per year on examination administration costs. Both of these tasks could be completed by national organizations more equipped to provide oversight and administration as has been recommended in *multiple* prior sunset review reports of the Board.

The Board's EO has not seemed to show much improvement in several areas outlined in the August 7, 2014 letter from former Senator Ted W. Lieu. Specifically, the EO has had limited contact with the ACAOM, and has been contentious in her interactions with the ACAOM staff as evidenced in the letter above. She has not followed the advice of the Board, e.g. she promoted an argument that the Board should be given increased budget and staff in hopes it will be able to approve foreign schools though the Board's attorney made it clear during a 2015 Education Committee meeting that the Board *does not* have this statutory authority.

The Board has not posted minutes for its Board and committee meetings since July 2015, and has failed to include items on agendas that Board members and members of the public requested. The Board continues to show deficiencies in the areas of enforcement, and meeting its goals outlined in its *2013-2017 Strategic Plan*. Therefore, the Committees should continue to closely monitor the operations of the Board.

Staff Recommendation: *The practice of acupuncture should continue to be regulated by the current Board to protect the interests of the public. It is clear that immediate intervention is needed to ensure better management of the Board; thus, the Committees may wish to use the remainder of the 2015/2016 Legislative Session to determine the appropriate sunset date of the Board.*

Board's April 12, 2016 Response to Staff Recommendation:

The Board appreciates the Committee's continued oversight of its operations and shares its desire to protect the health, safety and welfare of the public by maintaining a well-regulated acupuncture profession. As the Committee knows, the new Board leadership and new Acting EO are committed to working with all parties to improve management of Board functions and operations and to implement SB 1246. Further, the Board:

- Is shifting staff work toward implementation of SB 1246;
- Is reviewing previous Board meeting minutes and working with the public and interested parties to determine future Board agenda items;
- Has resumed and conducted productive meetings with ACAOM and the Bureau for Private Postsecondary Education in order to implement the School approval provisions of SB 1246;
- Has updated its 2013-2017 Strategic Plan timelines and is committed to achieving the goals as set out in the Plan;
- Is continuing to review and improve the Enforcement functions in order to continue to protect the public; and
- Is moving forward with discussions, in depth reviews and consideration of the utilization of the NCCAOM licensing exam for California licensure.

The Board firmly believes that it is in the best interest of public safety to continue regulating the Acupuncture profession in California. The new Board leadership and Acting EO have prioritized the concerns of the Committee and are taking responsive and reasoned actions.

The Acupuncture Board is grateful for the opportunity it has been afforded to address the concerns and issues identified in its review and is amenable to working cooperatively with the Committee to bring about the highest level of consumer protection.

Board's 2017 Sunset Review Update to Issue #6:

The Board strongly believes the practice of acupuncture should continue to be regulated by the current Board and is firmly committed to its mandate to protect the public. Since the last Sunset Review, the Board has noted considerable improvement from its position. With a new Executive Officer and Board President, the Board has enjoyed increased collaboration with the Legislature, stakeholders, and colleagues within the Department of Consumer Affairs (DCA), and has received commendation from the public for its thorough evaluation and responsiveness to the public's concerns. Its accomplishments also include measurable progress in the key areas identified by the Committees:

Regulations/Policy: The Board has implemented three key regulatory packages since the last Sunset Review – Notice to Consumers of Licensure by the Acupuncture Board (BPC 138), Implementation of SB 1246 and Free and Sponsored Health Care Events (AB 2699). Additionally, the Board approved revisions to the Disciplinary Guidelines and continued work on implementing SACC's Uniform Standards.

Board: The Board has continued making significant progress in implementing the 2013-2017 Strategic Plan; most items have been completed or are in progress. The Board also continued public outreach and continued work with stakeholders, associations and licensees by updating its list of professional acupuncture associations; held Board meetings at acupuncture schools; attended community events and updated and refined the Board's website. Board staff has streamlined and updated procedure manuals for better efficiency. Additionally, all Board meeting minutes and materials are posted on the Board's website.

Exams: The Board completed the audit for NCCAOM which was reviewed at three separate Board meetings; the Board then voted to recommend to the Legislature a move to the NCCAOM with a California supplement beginning as early as 2019. Additionally, the Board conducted several successful CALE exams and has improved the application processes for exam qualification.

Enforcement: The Board is meeting or exceeding its performance measure targets in the areas of complaint intake, investigations, probation intake, and probation violation response time. Board staff has worked with the Attorney General's office to stream the process for negotiating stipulations and communications, and has streamlined processing for Continuing Education (CE) citations and CE audits from initial review to Enforcement referral. The process and considerations for assessing fines and order of abatements were also updated.

Education: Although the Board no longer has school approval authority, Board staff completed ten compliance site visits to approved acupuncture training programs (nine outside of California) in compliance with previous statutory authority. In addition, the Board completed 16 full clinical curriculum reviews as part of the comprehensive approved acupuncture training program compliance review process, and has implemented the SB 1246 regulations by working closely with BPPE and ACAOM to solidify the process.

Licensing: The Board continued with improvement to its licensing cycle times and has minimized the cashiering delays as highlighted in the previous Sunset Review. In addition, the Board now has a dedicated analyst-level staff member who will be conducting CE audits.

This is the opportunity for the board to inform the Committees of solutions to issues identified by the board and by the Committees. Provide a short discussion of each of the outstanding issues, and the board's recommendation for action that could be taken by the board, by DCA or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:

1. Issues that were raised under prior Sunset Review that have not been addressed.

- Completion of the Uniform Standards rulemaking package. As discussed above, the Board previously approved a proposed rulemaking package for the Uniform Standards and concurrent updates to the Disciplinary Guidelines at the September 18, 2015 public board meeting. Staff then commenced the rulemaking process by filing the regulatory package with OAL and then publicly releasing the rulemaking package for public comment. Upon further review, Legal Counsel recommended a new, stand-alone document incorporating the Uniform Standards, with the Disciplinary Guidelines being separated into a different rulemaking package. The Board approved the revised Uniform Standards rulemaking package at the October 26, 2016 public meeting. However, recent disapprovals by OAL to other Uniform Standards rulemaking packages highlighted several deficiencies with the Board's rulemaking package, resulting in the abandonment of the rulemaking package. The Board filed a notice of intention not to proceed with OAL on April 21, 2017 and published the notice on its website. A new, standalone Uniform Standards rulemaking package is under staff development and is planned to be presented to the Board by early 2018.

2. New issues that are identified by the board in this report.

- The Board has noted increased workload due to an increase in the licensee population, enforcement actions, and licensee probationers.

3. New issues not previously discussed in this report.

The Board has not identified new issues not previously discussed in this report.

4. New issues raised by the Committees.

The Board welcomes discussion of any new issues raised by the Committees.

Section 12 Attachments

Please provide the following attachments:

- A. Board's administrative manual.
- B. Current organizational chart showing relationship of committees to the board and membership of each committee (cf., Section 1, Question 1).
- C. Major studies, if any (cf., Section 1, Question 4).
- D. Year-end organization charts for last four fiscal years. Each chart should include number of staff by classifications assigned to each major program area (licensing, enforcement, administration, etc.) (cf., Section 3, Question 15).

Appendix A –
Table 1a. Board Member Attendance
FY 2015/2016 and FY 2016/2017

Appendix A

Table 1a. Attendance – FY 2015/2016 and FY 2016/2017

Hildegarde Aguinaldo

Date Appointed: 08/30/2013

Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	09/18/2015	Los Angeles	N
Board Meeting	11/17/2015	Los Angeles/San Diego/Oakland Teleconference	Y
Board Meeting	12/11/2015	Sacramento	Y
Board Meeting	02/26/2016	Sacramento	Y
Board Meeting	03/10/2016	Sacramento	Y
Board Meeting	06/10/2016	Los Angeles	Y

Appendix A

Table 1a. Attendance – FY 2015/2016 and FY 2016/2017

Kitman Chan

Date Appointed: 09/3/2013

Meeting Type	Meeting Date	Meeting Location	Attended?
Education Committee	07/21/2015	Sacramento/Los Angeles/San Diego Teleconference	Y
Board Meeting	09/18/2015	Los Angeles	Y
Education Committee	09/25/2015	Sacramento/Los Angeles/San Diego Teleconference	Y
Board Meeting	11/17/2015	Los Angeles/San Diego/Oakland Teleconference	Y
Board Meeting	03/10/2016	Sacramento	Y
Board Meeting	12/11/2015	Sacramento	Y
Board Meeting	02/26/2016	Sacramento	Y
Board Meeting	06/10/2016	Los Angeles	Y
Board Meeting	08/31/2016	Sacramento/Los Angeles/ San Diego	Y
Research Committee	09/21/2016	San Diego	Y
Board Meeting	09/21/2016	San Diego	Y
Board Meeting	10/26/2016	Sacramento/Los Angeles	Y
Board Meeting	12/14/2016	Oakland	Y
Committee Meetings	12/14/2016	Oakland	Y
Board Meeting	02/24/2017	Sacramento	Y
Board Meeting	05/26/2017	Los Angeles	Y
Committee Meetings	05/26/2017	Los Angeles	Y

Appendix A

Table 1a. Attendance – FY 2015/2016 and FY 2016/2017

Dr. Michael Corradino, DAOM, L.Ac.

Date Appointed: 05/26/2015

Meeting Type	Meeting Date	Meeting Location	Attended?
Education Committee	07/21/2015	Sacramento/Los Angeles/San Diego Teleconference	Y
Board Meeting	09/18/2015	Los Angeles	Y
Education Committee	09/25/2015	Sacramento/Los Angeles/San Diego Teleconference	Y
Board Meeting	11/17/2015	Los Angeles/San Diego/Oakland Teleconference	Y
Board Meeting	12/11/2015	Sacramento	Y
Board Meeting	02/26/2016	Sacramento	Y
Board Meeting	03/10/2016	Sacramento	Y
Board Meeting	06/10/2016	Los Angeles	Y
Board Meeting	08/31/2016	Sacramento/Los Angeles/ San Diego	Y
Research Committee	09/21/2016	San Diego	Y
Board Meeting	09/21/2016	San Diego	Y
Board Meeting	10/26/2016	Sacramento/Los Angeles	N
Board Meeting	12/14/2016	Oakland	N
Committee Meetings	12/14/2016	Oakland	N
Board Meeting	02/24/2017	Sacramento	Y
Board Meeting	05/26/2017	Los Angeles	Y
Committee Meetings	05/26/2017	Los Angeles	Y

Appendix A

Table 1a. Attendance – FY 2015/2016 and FY 2016/2017

Francisco Hsieh

Date Appointed: 05/29/2013

Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	09/18/2015	Los Angeles	Y
Board Meeting	11/17/2015	Los Angeles/San Diego/Oakland Teleconference	Y
Board Meeting	12/11/2015	Sacramento	N
Board Meeting	02/26/2016	Sacramento	Y
Board Meeting	03/10/2016	Sacramento	Y
Board Meeting	06/10/2016	Los Angeles	Y
Board Meeting	08/31/2016	Sacramento/Los Angeles/ San Diego	Y
Research Committee	09/21/2016	San Diego	N
Board Meeting	09/21/2016	San Diego	N
Board Meeting	10/26/2016	Sacramento/Los Angeles	Y
Board Meeting	12/14/2016	Oakland	Y
Committee Meetings	12/14/2016	Oakland	Y
Board Meeting	02/24/2017	Sacramento	Y
Board Meeting	05/26/2017	Los Angeles	Y
Committee Meetings	05/26/2017	Los Angeles	Y

Appendix A

Table 1a. Attendance – FY 2015/2016 and FY 2016/2017

Jeannie Kang, L.Ac

Date Appointed: 09/12/2013; Reappointed: 08/4/17

Meeting Type	Meeting Date	Meeting Location	Attended?
Education Committee	07/21/2015	Sacramento/Los Angeles/San Diego Teleconference	Y
Board Meeting	09/18/2015	Los Angeles	Y
Education Committee	09/25/2015	Sacramento/Los Angeles/San Diego Teleconference	Y
Board Meeting	11/17/2015	Los Angeles/San Diego/Oakland Teleconference	Y
Board Meeting	12/11/2015	Sacramento	Y
Board Meeting	02/26/2016	Sacramento	Y
Board Meeting	03/10/2016	Sacramento	Y
Board Meeting	06/10/2016	Los Angeles	Y
Research Committee	09/21/2016	San Diego	Y
Board Meeting	08/31/2016	Sacramento/Los Angeles/ San Diego	Y
Board Meeting	09/21/2016	San Diego	Y
Board Meeting	10/26/2016	Sacramento/Los Angeles	Y
Board Meeting	12/14/2016	Oakland	Y
Committee Meetings	12/14/2016	Oakland	Y
Board Meeting	02/24/2017	Sacramento	Y
Board Meeting	05/26/2017	Los Angeles	Y
Committee Meetings	05/26/2017	Los Angeles	Y

Appendix A

Table 1a. Attendance – FY 2015/2016 and FY 2016/2017

Dr. Amy Matecki, M.D., L.Ac

Date Appointed: 11/05/2016

Meeting Type	Meeting Date	Meeting Location	Attended?
Board Meeting	12/14/2016	Oakland	Y
Committee Meetings	12/14/2016	Oakland	Y
Board Meeting	02/24/2017	Sacramento	Y
Board Meeting	05/26/2017	Los Angeles	Y
Committee Meetings	05/26/2017	Los Angeles	Y

Appendix A

Table 1a. Attendance – FY 2015/2016 and FY 2016/2017

Nian Peng (Michael) Shi, L.Ac

Date Appointed: 10/26/2012; Reappointed: 07/12/2013; Resigned 02/26/2016

Meeting Type	Meeting Date	Meeting Location	Attended?
Education Committee	07/21/2015	Sacramento/Los Angeles/San Diego Teleconference	Y
Board Meeting	09/18/2015	Los Angeles	Y
Education Committee	09/25/2015	Sacramento/Los Angeles/San Diego Teleconference	Y
Board Meeting	11/17/2015	Los Angeles/San Diego/Oakland Teleconference	Y
Board Meeting	12/11/2015	Sacramento	Y
Board Meeting	02/26/2016	Sacramento	Y

Appendix A

Table 1a. Attendance – FY 2015/2016 and FY 2016/2017

Jamie Zamora

Date Appointed: 09/12/2013 Resigned: 5/26/17

Meeting Type	Meeting Date	Meeting Location	Attended?
Education Committee	07/21/2015	Sacramento/Los Angeles/San Diego Teleconference	Y
Board Meeting	09/18/2015	Los Angeles	Y
Education Committee	09/25/2015	Sacramento/Los Angeles/San Diego Teleconference	Y
Board Meeting	11/17/2015	Los Angeles/San Diego/Oakland Teleconference	Y
Board Meeting	12/11/2015	Sacramento	Y
Board Meeting	02/26/2016	Sacramento	Y
Board Meeting	03/10/2016	Sacramento	Y
Board Meeting	06/10/2016	Los Angeles	Y
Board Meeting	08/31/2016	Sacramento/Los Angeles/ San Diego	Y
Research Committee	09/21/2016	San Diego	Y
Board Meeting	09/21/2016	San Diego	Y
Board Meeting	10/26/2016	Sacramento/Los Angeles	Y
Board Meeting	12/14/2016	Oakland	Y
Committee Meetings	12/14/2016	Oakland	Y
Board Meeting	02/24/2017	Sacramento	Y
Board Meeting	05/26/2017	Los Angeles	Y
Committee Meetings	05/26/2017	Los Angeles	Y

Appendix A –
Table 1b. Board/Committee
Member Roster

Appendix A

Table 1b. Board/Committee Member Roster

Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or licensed)
Aguinaldo, Hildegarde	08/30/13		06/01/17	Governor	Public
Chan, Kitman	09/03/13	07/21/17	06/01/2021	Governor	Public
Dr. Corradino, Michael DAOM, L.Ac.	05/26/15	Did not seek reappointment	06/01/17;	Governor	Licensed
Hsieh, Francisco	05/29/13		06/01/17	Assembly Speaker	Public
Kang, Jeannie	09/13/13	08/04/17	06/01/2021	Governor	Licensed
Dr. Matecki, Amy MD, L.Ac.	11/05/16		06/01/2021	Governor	Licensed
Osorio, Ruben	05/09/17		06/01/2021	Senate Rules Committee	Public
Shi, Michael	12/03/12	07/02/13	Resigned 2/26/16	Governor	Licensed
Zamora, Jamie	08/21/13	Did not seek reappointment	06/01/17;	Senate Rules Committee	Public

Appendix B –
2017-2018 Tracked Legislation

California Acupuncture Board – 2018 Sunset Review

Appendix B -- 2017-2018 tracked legislation

Bill Number (Author)	Subject	Board Position
AB 12 (Cooley)	State Government: administrative regulations	<i>None</i>
AB 77 (Fong)	Regulations: effective dates and legislative review	<i>None</i>
AB 1005 (Calderon)	Professions and vocations: fines relief	<i>None</i>
AB 1190 (Oberholte)	Department of Consumer Affairs: BreEZe system: annual report	<i>None</i>
AB 1340 (Maienschein)	Continuing medical education: mental and physical health care integration	<i>None</i>
AB 1992 (Jones)	Pupil Health: physical exams	<i>None</i>
AB 2190 (Asm B&P)	Acupuncture Board: Executive Officer	<i>Support</i>
AB 2701 (Jones)	DCA: board: training requirements	<i>None</i>
AB 2744 (Gordon)	Healing Arts: referrals	<i>None</i>
AB 2859 (Low)	Professions and Vocations: retired category: licenses	<i>None</i>
SB 27 (Morrell)	Professions and Vocations: licenses: military service	<i>None</i>
SB 572 (Stone)	Healing arts licensees: violations: grace period	<i>None</i>
SB 762 (Hernandez)	Healing arts licensee: license activation fee: waiver	<i>None</i>
SB 1033 (Hill)	Professionals: Probation	<i>None</i>
SB 1155 (Morrell)	Professions and Vocations: licenses: military service	<i>None</i>
SB 1195 (Hill)	Professions and Vocations: Board Actions: competitive impact	<i>None</i>
SB 1348 (Cannella)	License Applications: military experience	<i>None</i>

Appendix C –
Regulatory Update
as of 10/17/2017

Appendix C -- CAB list of past and future regulations

Updated: October 10, 2017

Set out below are a list of past and future pending regulations. Please note this list may be incomplete and subject to change depending upon Legislative or Executive action. Due date reflects the final due date when regulatory filing is required to be submitted for rulemaking to Office of Administrative Law (OAL).

Note: Authority for regulatory changes is provided under California Business and Professions (B&P) Code Chapter 12, Article 1, Code section 4933.

Pending regulations					
	Subject	Title 16, California Code of Regulations (CCR) Section referred	Date original authorizing vote taken (vote)	Current Status	Due Dates / Anticipated Filing Date
1	Advertising Guidelines – Display of License Number in Advertising	Adopt Section 1399.455	2/19/2013 (5-0)	Staff revising text for Board review and possible approval at future Board meeting. If approved, a 15-day modified text notice will be issued.	Anticipated initial filing with OAL upon Board approval.
2	Prostitution Enforcement and Condition of Office	Amend Section 1399.469.4	2/14/2014 (6-0)	Board approved amended text at 12/14/16 public meeting. Rulemaking package under staff development.	Anticipated initial filing with OAL by Spring 2018.
3	Continuing Education Ethics Requirement	Adopt Section 1399.482.2	11/15/2012 (5-0)	Education committee approved proposed text at 12/14/16 public meeting on a 3-1 vote and made several changes. Staff revising text to bring back to Board at future public meeting.	Anticipated initial filing with OAL upon Board approval.
4	Hand Hygiene Requirements	Amend Section 1399.451(a)	2/14/2014 (5-0)	Rulemaking package under staff development.	Anticipated initial filing with OAL by Spring 2018.
5	2017 Update of Disciplinary Guidelines	Amend Section 1399.469	02/24/2017 (7-0)	Board approved text and Guidelines at 2/24/17 public meeting. Rulemaking package under staff development.	Anticipated initial filing with OAL by Spring 2018.

Adopted Regulations			
	Subject	Title 16, CCR Sections referred	Date approved by Office of Administrative Law; date in effect with link to text of regulation
1	Educational Curriculum Requirements	Amend Section 1399.415	Approved by OAL 10/5/04 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art2.shtml#1399415
2	Cite and Fine Enforcement	Amend Section 1399.465	Approved by OAL 4/17/06 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art6.shtml#1399465
3	Continuing Education	Amends Sections 1399.480 – 1399.489.1	Approved by OAL on 8/25/08 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art8.shtml#1399480
4	Retroactive Fingerprinting Requirements	Adopts Sections 1399.419.1 and 1399.419.2	Approved by OAL 9/23/10 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art25.shtml#13994191
5	Consumer Protection Enforcement Initiative (CPEI)	Amends Sections 1399.405, 1399.419, 1399.469.1, 1399.468.2	Approved by OAL 9/1/15; in effect 10/1/2015 https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I45A8F9C0D48E11DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)
6	Display of Licensure by Acupuncture Board (BPC 138)	Adopt section 1399.463.3	Approved by OAL 7/12/16; in effect 10/1/2016 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/bpc138_orderofadoption.pdf
7	Curriculum Standards for Board Approval of Curriculum; Requirements for Board Approval of Curriculum. (SB 1246)	Amend Section 1399.434, Repeal Section 1399.436, Amend Section 1399.437	Approved by OAL 5/24/17, in effect 5/24/17 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art35.shtml#1399434
8	Sponsored Free Health-Care Events (AB 2699)	Adopt Article 8 and Sections 1399.407, 1399.407.1, 1399.407.2, 1399.407.3	Approved by OAL 6/17/17, in effect 10/1/2017 http://www.acupuncture.ca.gov/pubs_forms/laws_regs/art15.shtml#1399407

Appendix D –
Performance Measures
2013 - 2017

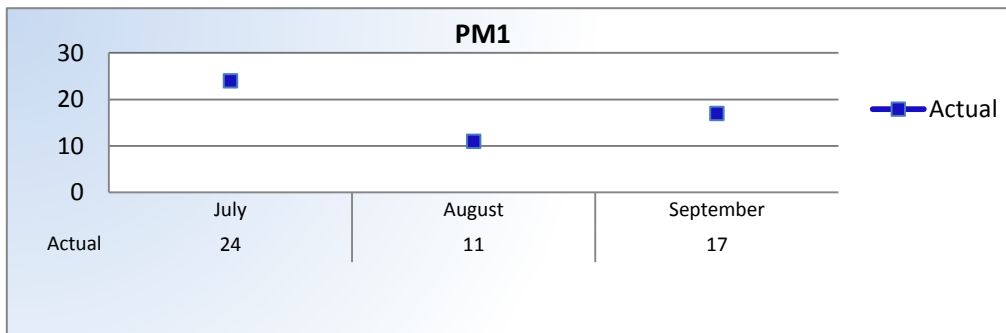
Performance Measures

Q1 Report (July - September 2013)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

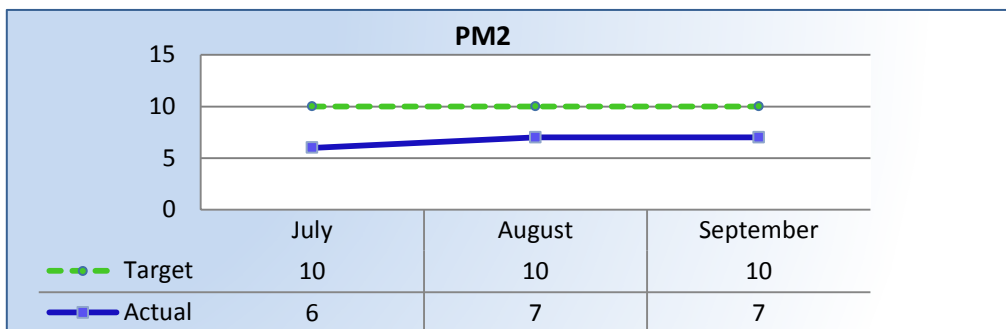


Total Received: 52 Monthly Average: 17

Complaints: 37 | Convictions: 15

PM2 | Intake

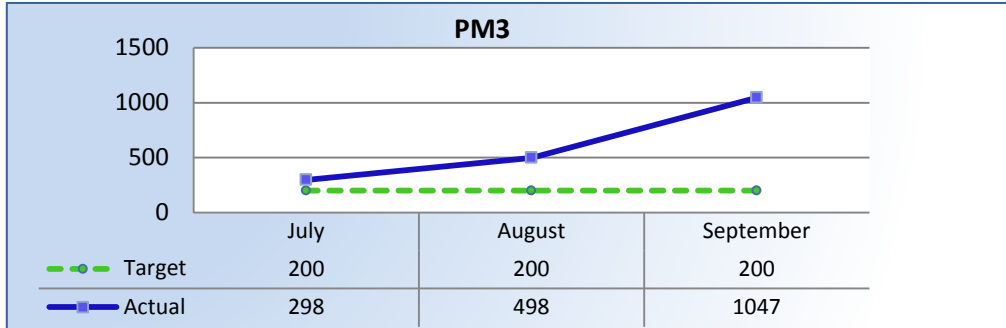
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 7 Days

PM3 | Intake & Investigation

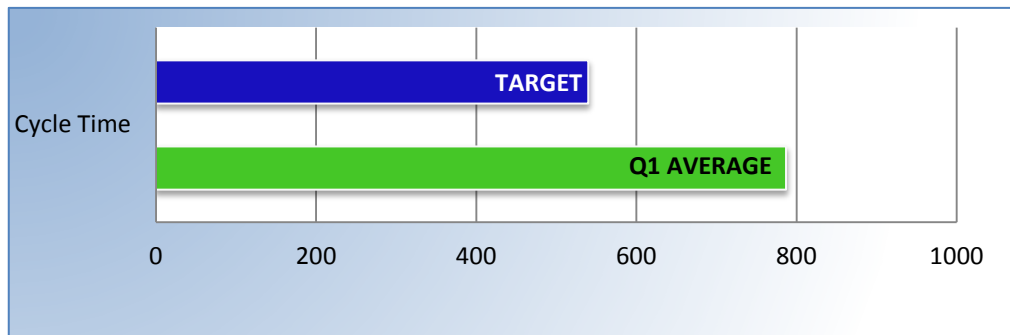
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 200 Days | Actual Average: 413 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 787 Days

PM7 | Probation Intake

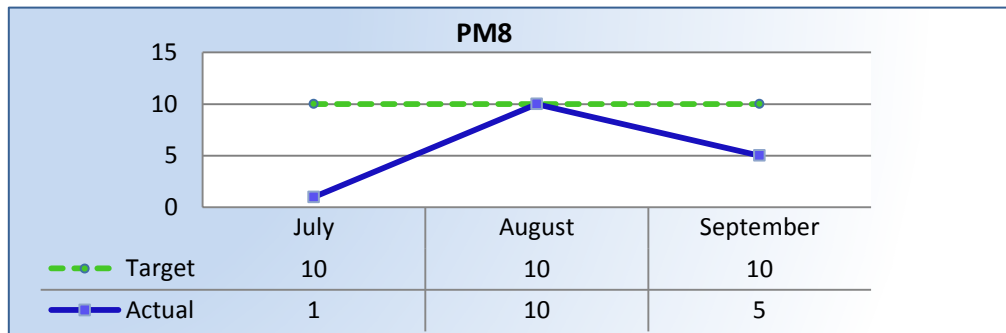
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 10 Days | Actual Average: N/A

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 10 Days | Actual Average: 5 Days

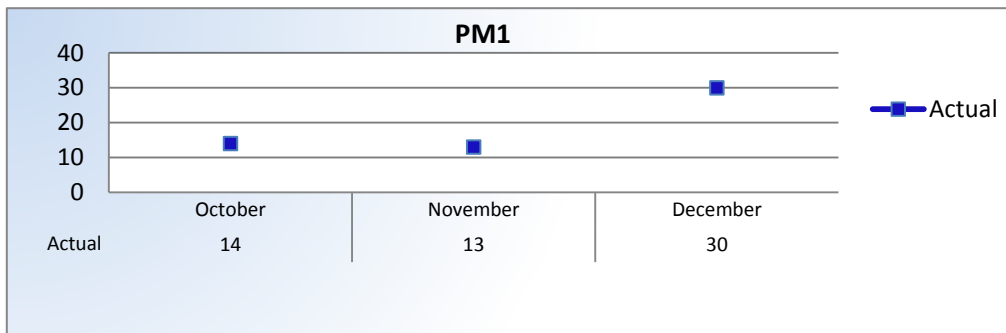
Performance Measures

Q2 Report (October - December 2013)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

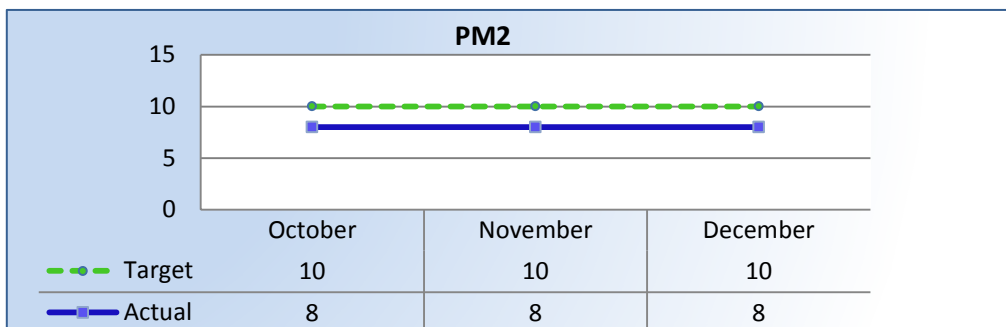


Total Received: 57 Monthly Average: 19

Complaints: 33 | Convictions: 24

PM2 | Intake

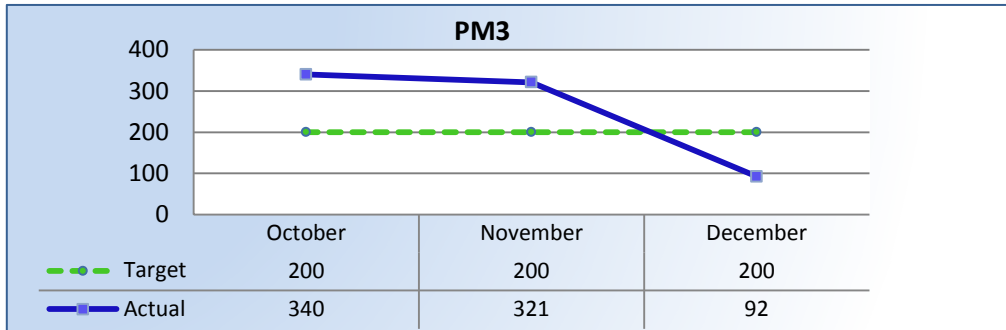
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 8 Days

PM3 | Intake & Investigation

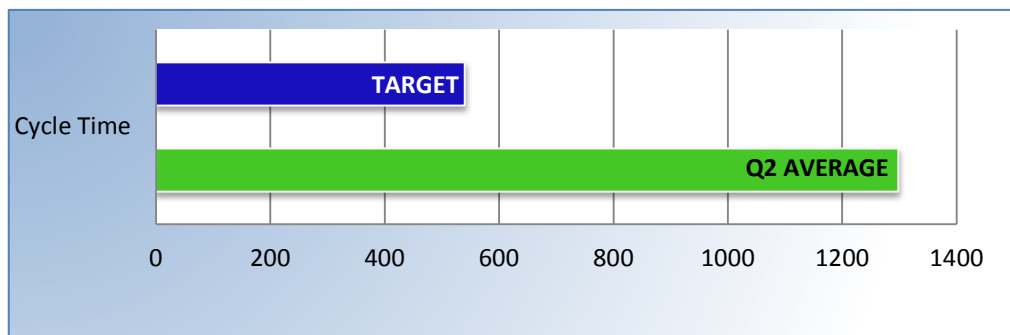
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 200 Days | Actual Average: 309 Days

PM4 | Formal Discipline

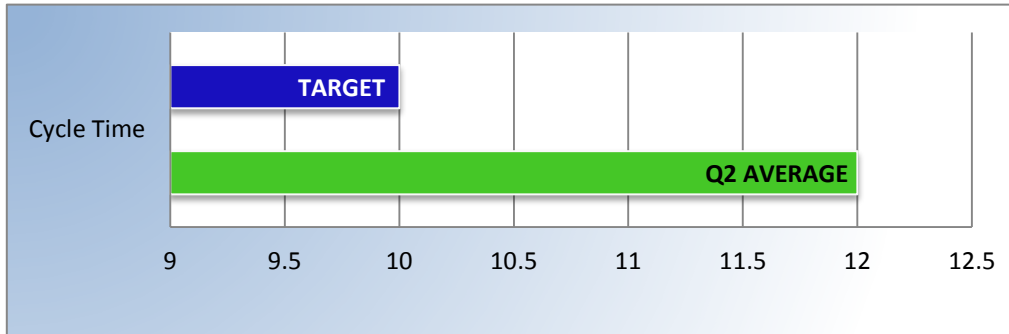
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 1298 Days

PM7 | Probation Intake

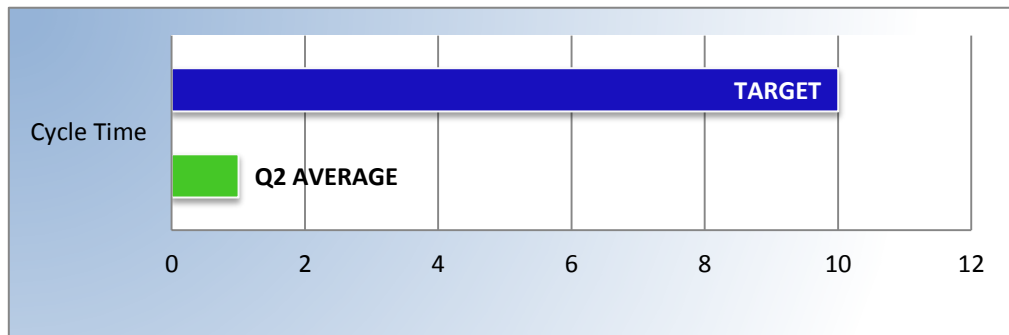
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 12 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 10 Days | Actual Average: 1 Day

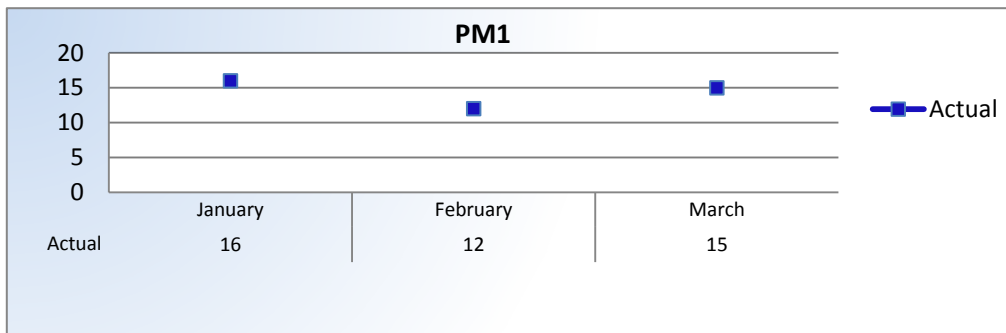
Performance Measures

Q3 Report (January - March 2014)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

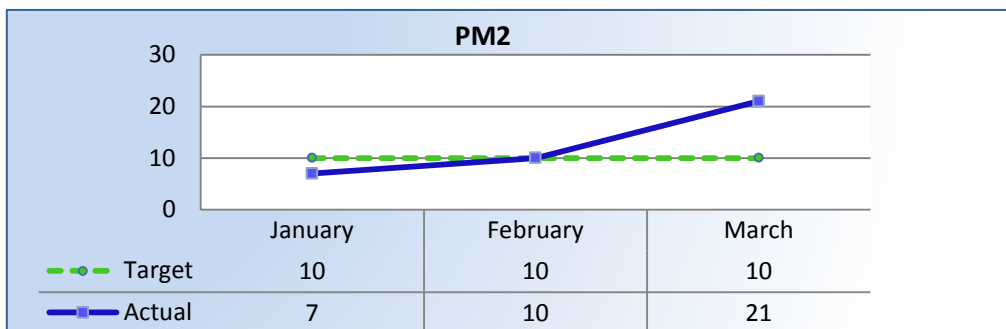


Total Received: 43 Monthly Average: 14

Complaints: 28 | Convictions: 15

PM2 | Intake

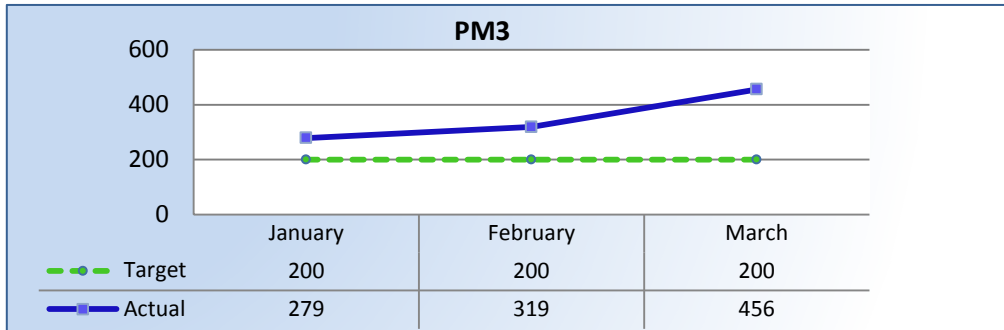
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 12 Days

PM3 | Intake & Investigation

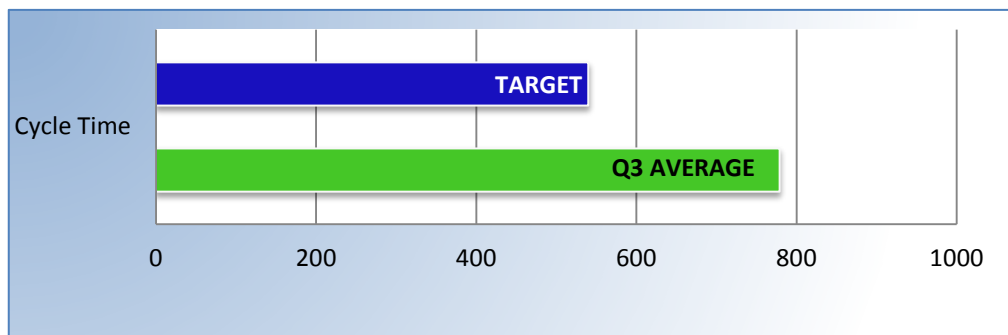
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 200 Days | Actual Average: 390 Days

PM4 | Formal Discipline

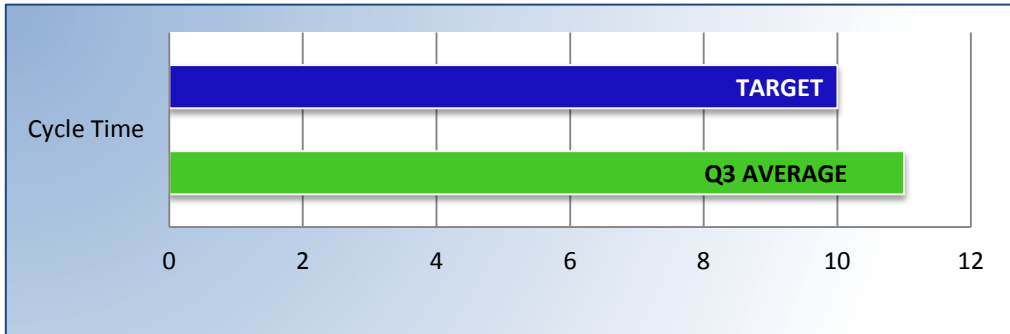
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 779 Days

PM7 | Probation Intake

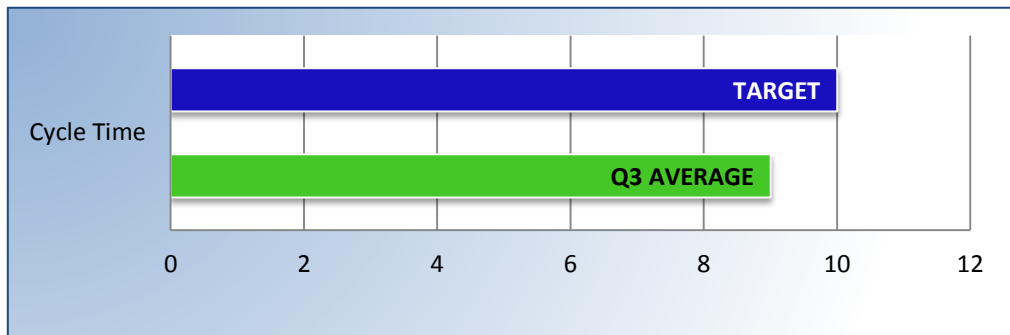
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 11 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 10 Days | Actual Average: 9 Days

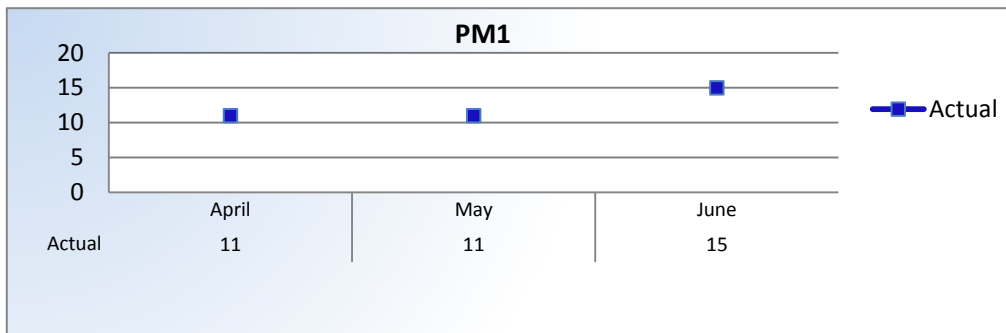
Performance Measures

Q4 Report (April - June 2014)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

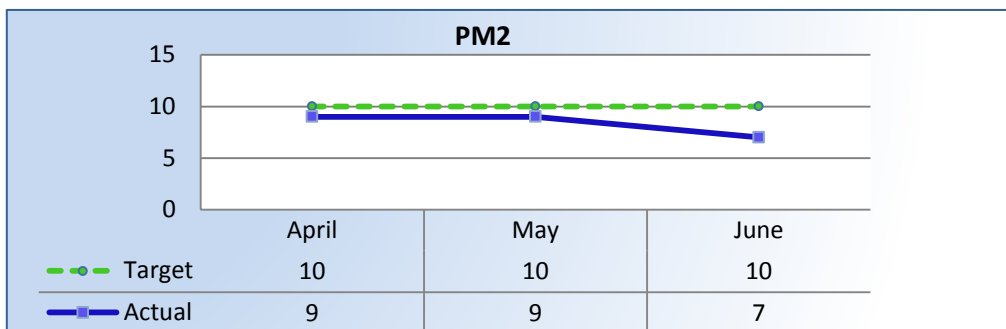


Total Received: 37 Monthly Average: 12

Complaints: 20 | Convictions: 17

PM2 | Intake

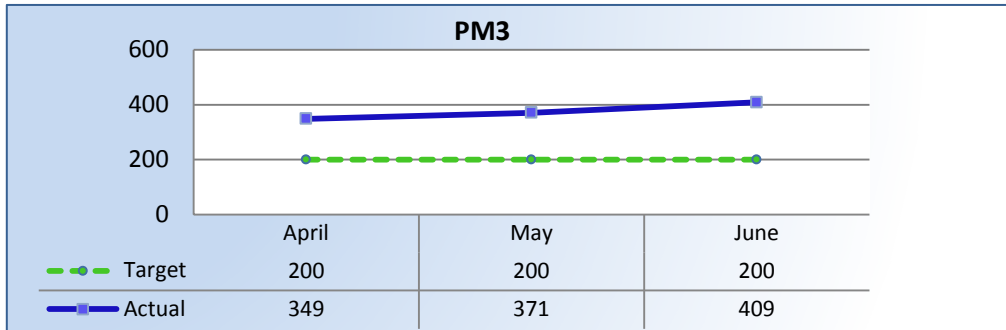
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 8 Days

PM3 | Intake & Investigation

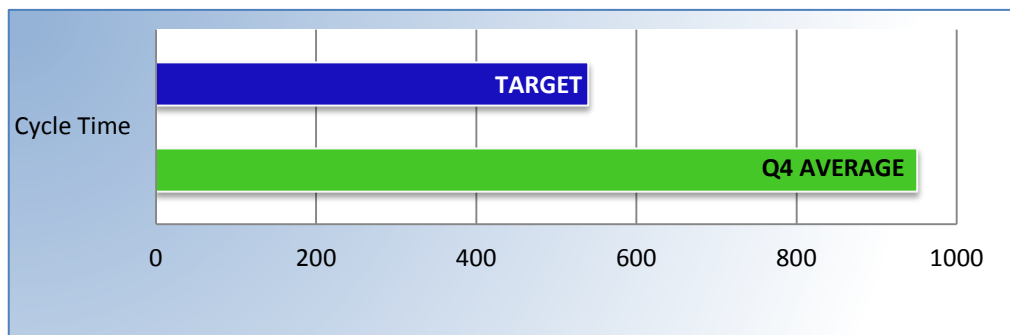
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 200 Days | Actual Average: 385 Days

PM4 | Formal Discipline

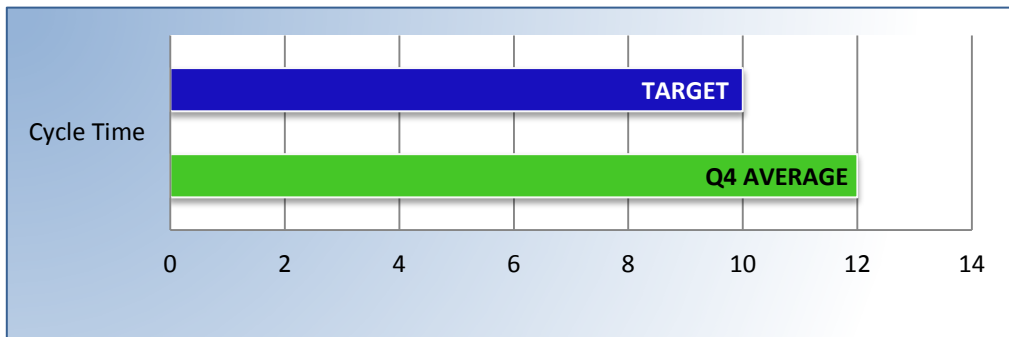
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 951 Days

PM7 | Probation Intake

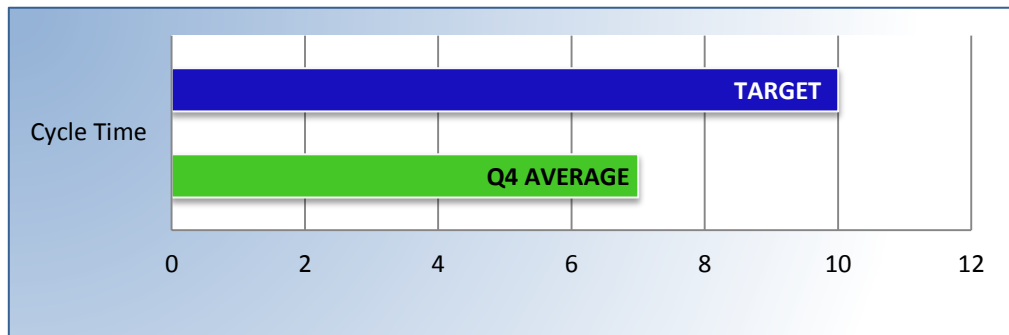
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 12 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 10 Days | Actual Average: 7 Days

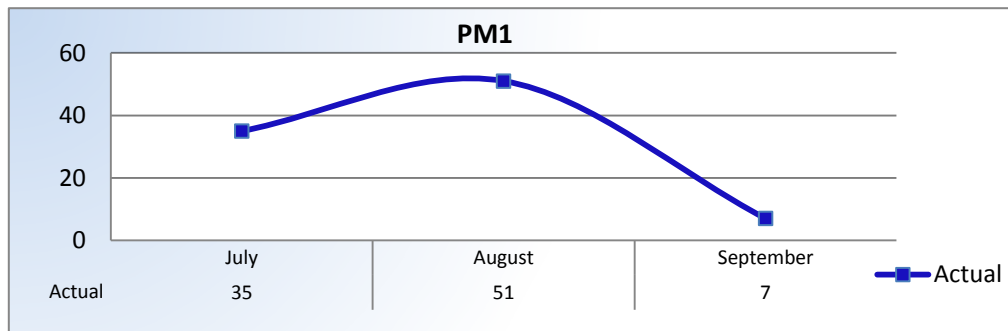
Performance Measures

Q1 Report (July - September 2014)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

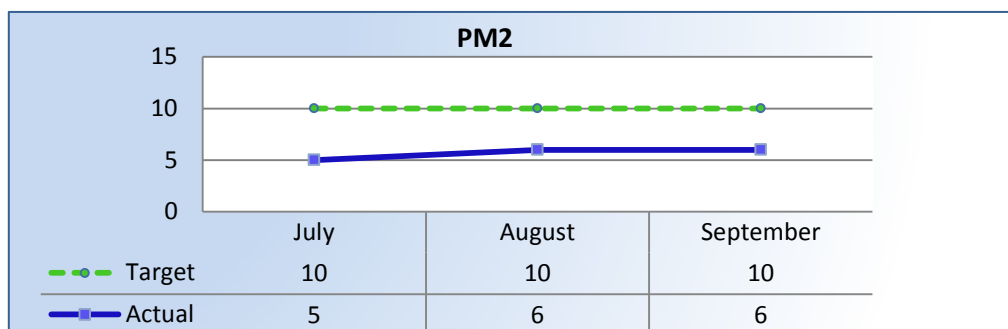


Total Received: 93 Monthly Average: 31

Complaints: 82 | Convictions: 11

PM2 | Intake

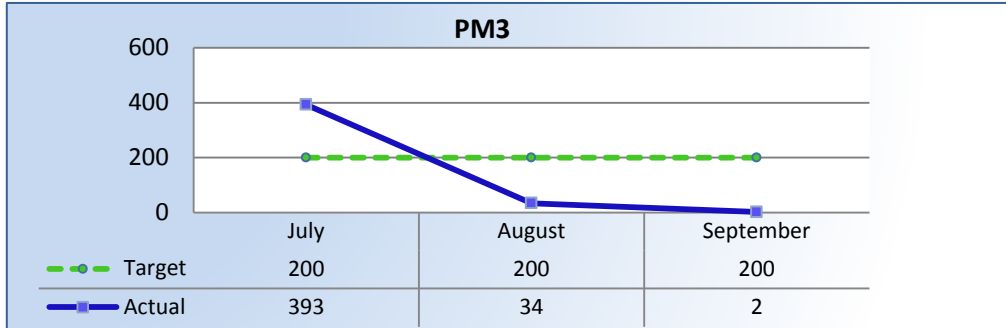
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 5 Days

PM3 | Intake & Investigation

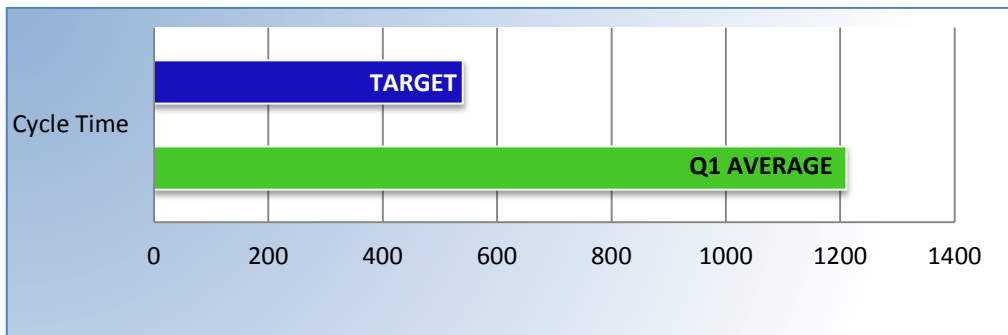
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 200 Days | Actual Average: 333 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 1,211 Days

PM7 | Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 10 Days | **Actual Average:** N/A

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

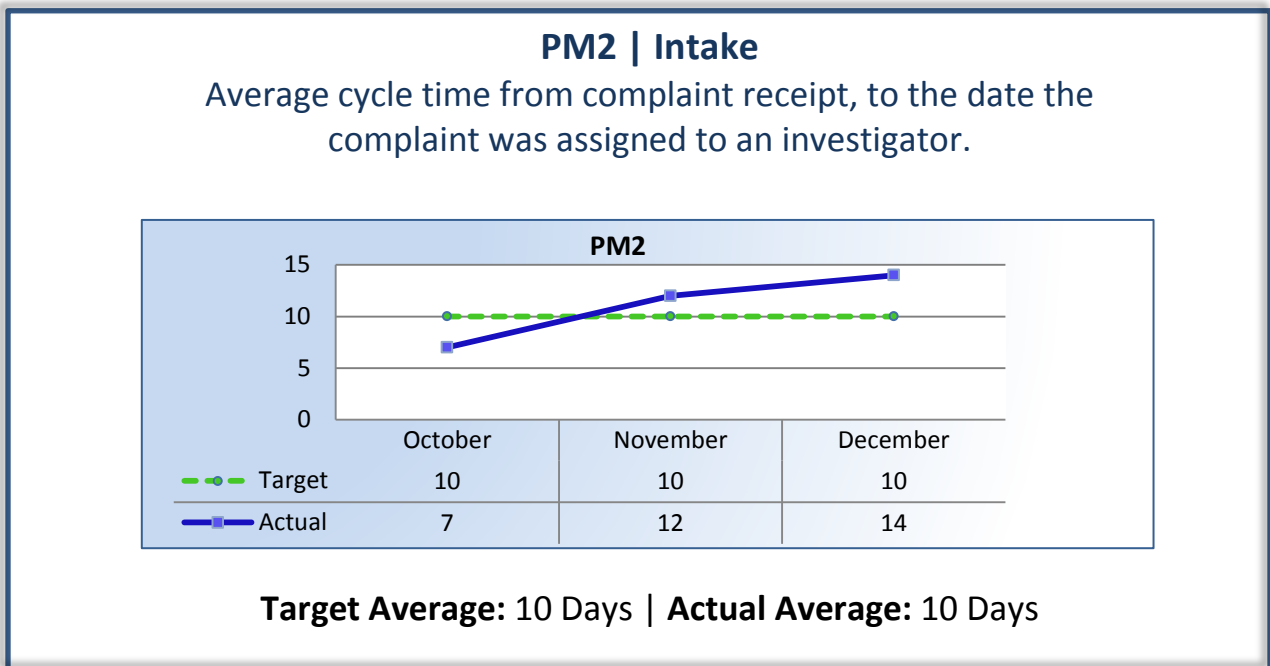
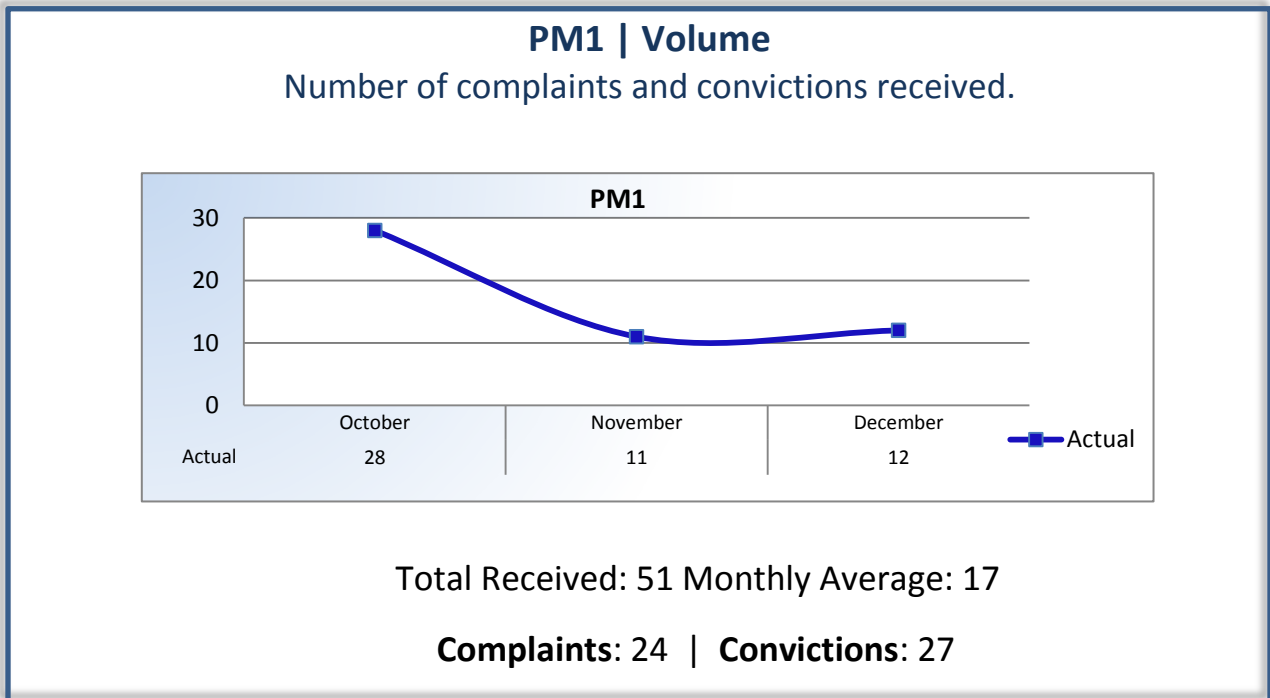
The Board did not have any probation violations this quarter.

Target Average: 10 Days | **Actual Average:** N/A

Performance Measures

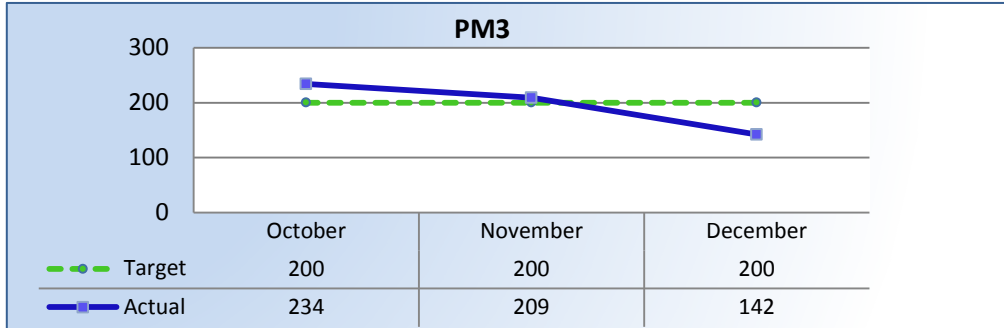
Q2 Report (October - December 2014)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



PM3 | Intake & Investigation

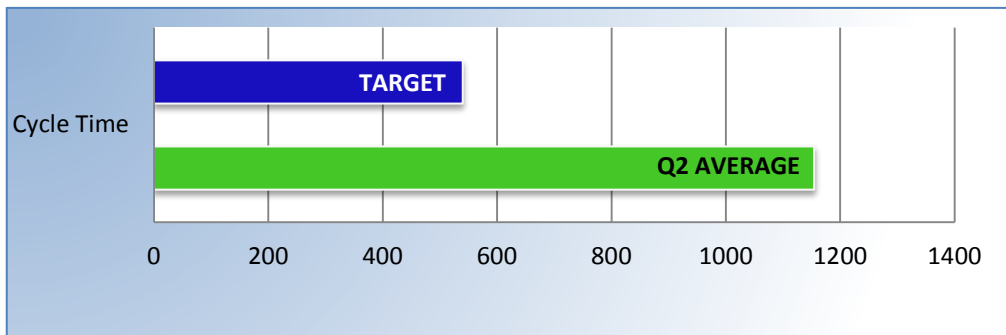
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 200 Days | Actual Average: 195 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 1,154 Days

PM7 | Probation Intake

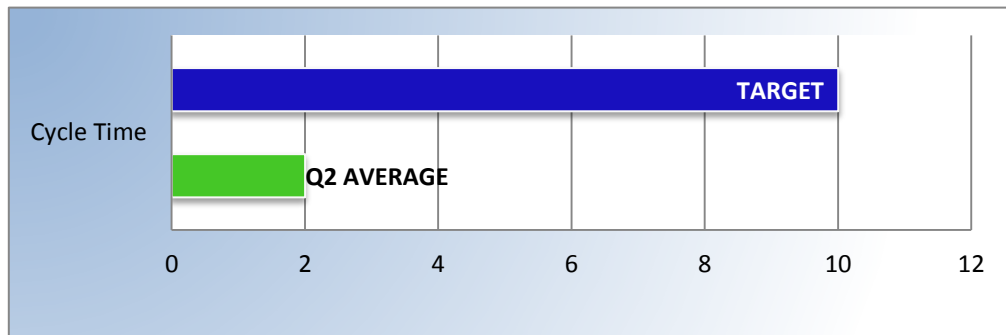
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Board did not contact any new probationers this quarter.

Target Average: 10 Days | Actual Average: N/A

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 10 Days | Actual Average: 2

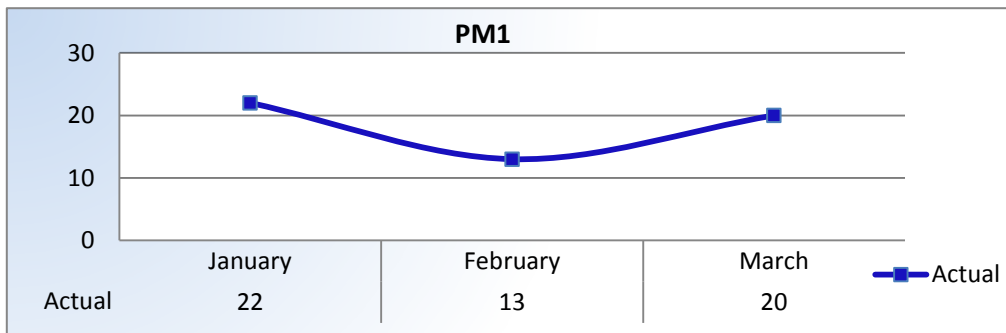
Performance Measures

Q3 Report (January - March 2015)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

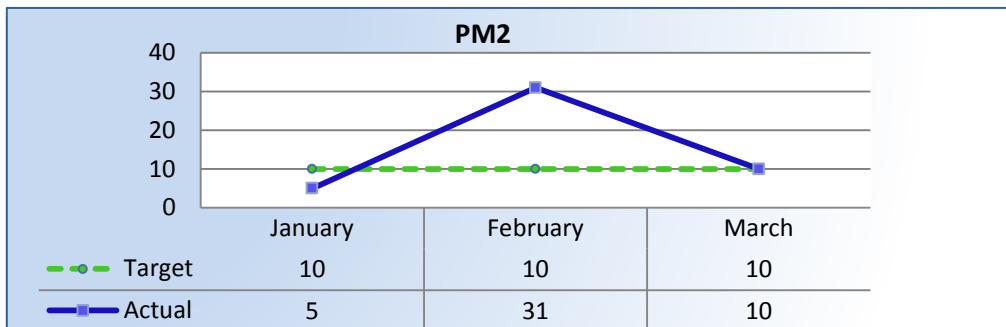


Total Received: 55 Monthly Average: 18

Complaints: 30 | Convictions: 25

PM2 | Intake

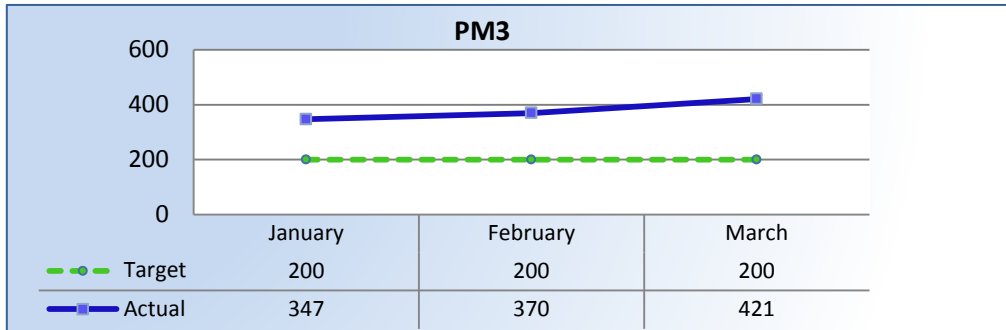
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 16 Days

PM3 | Intake & Investigation

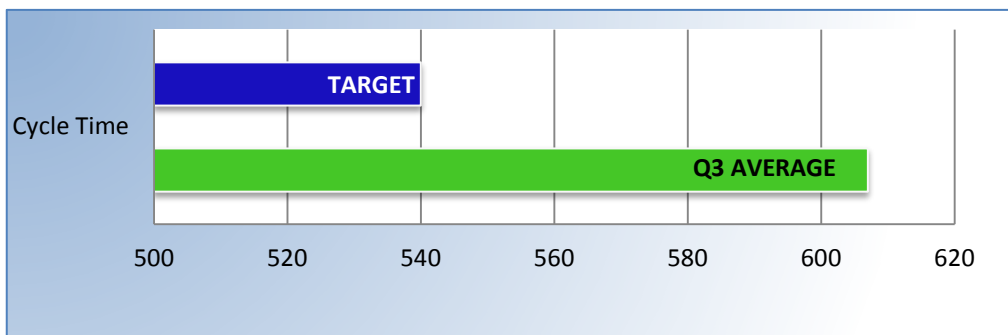
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 200 Days | Actual Average: 377 Days

PM4 | Formal Discipline

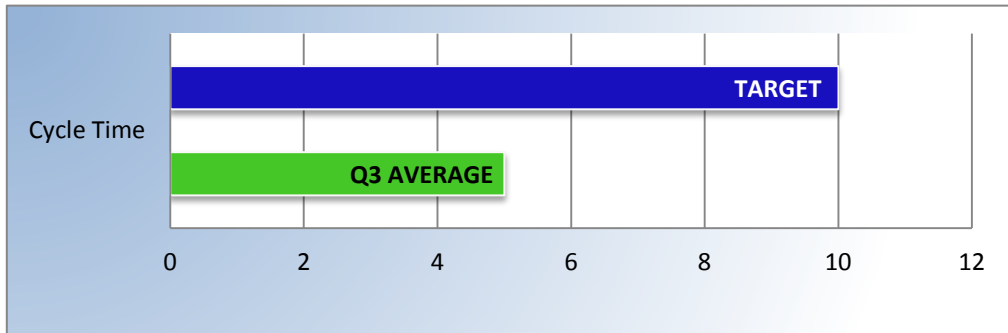
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG).



Target Average: 540 Days | Actual Average: 607 Days

PM7 | Probation Intake

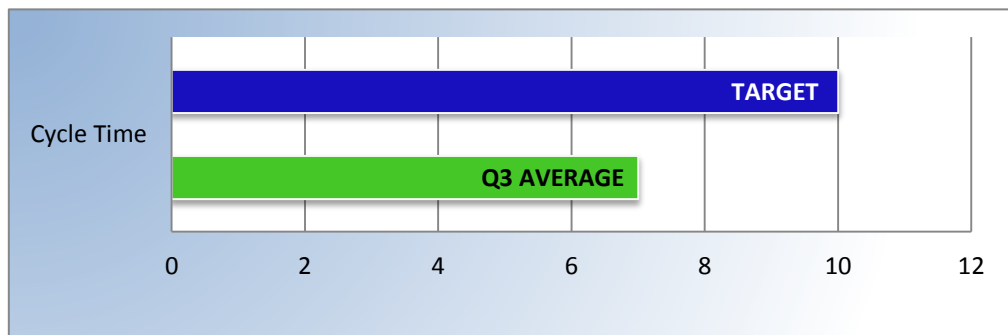
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 5

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 10 Days | Actual Average: 7

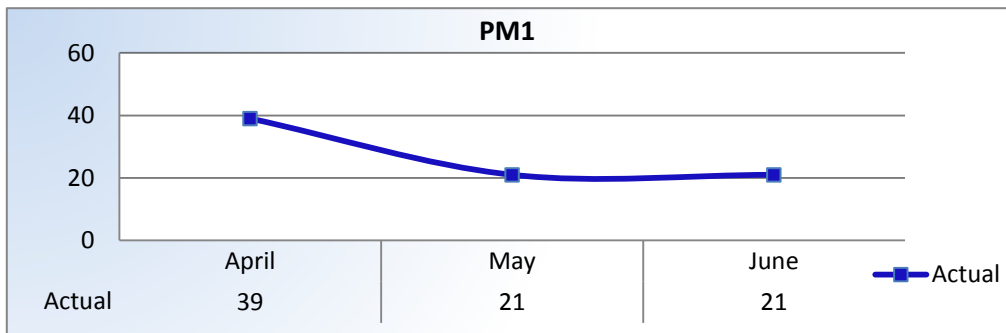
Performance Measures

Q4 Report (April - June 2015)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

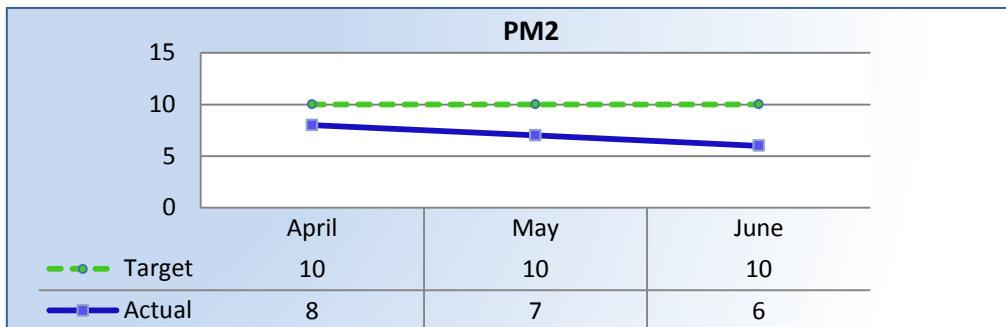


Total Received: 81 Monthly Average: 27

Complaints: 37 | Convictions: 44

PM2 | Intake

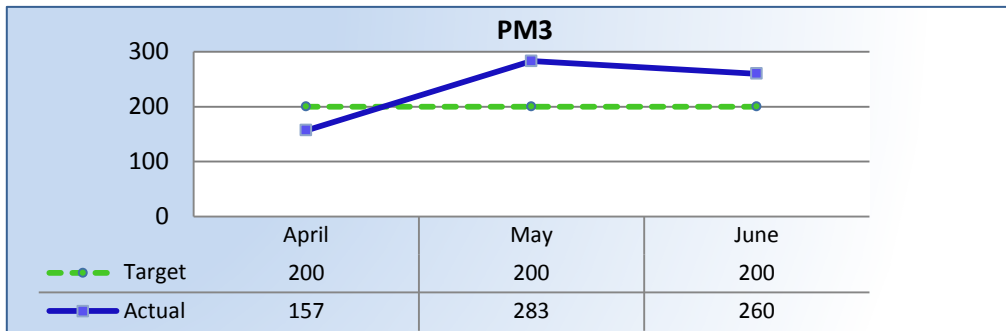
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 7 Days

PM3 | Intake & Investigation

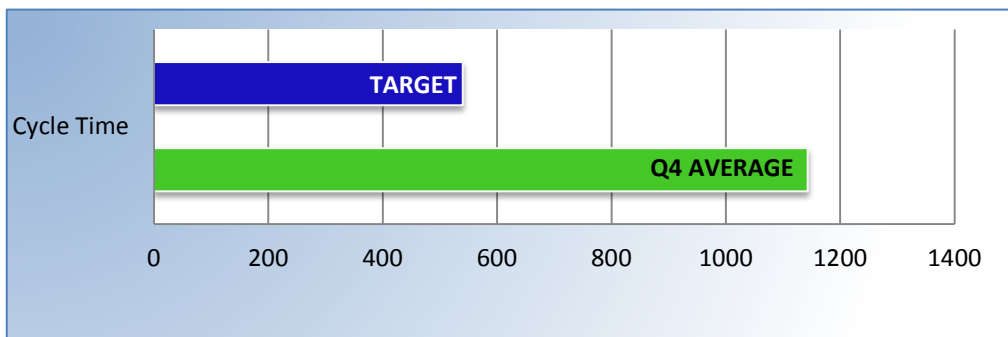
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 200 Days | Actual Average: 252 Days

PM4 | Formal Discipline

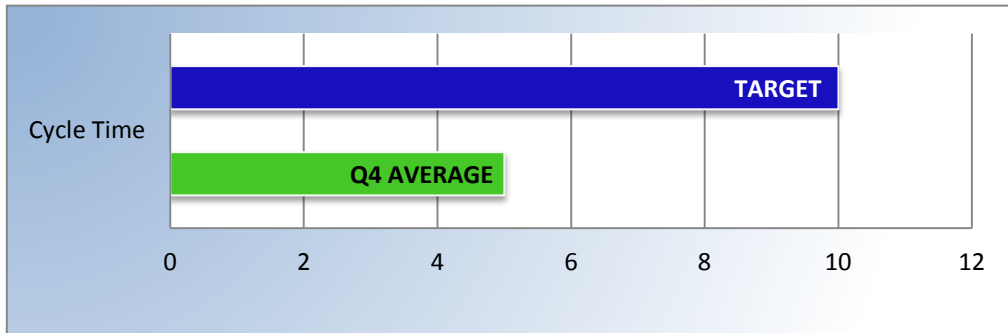
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 1,143 Days

PM7 | Probation Intake

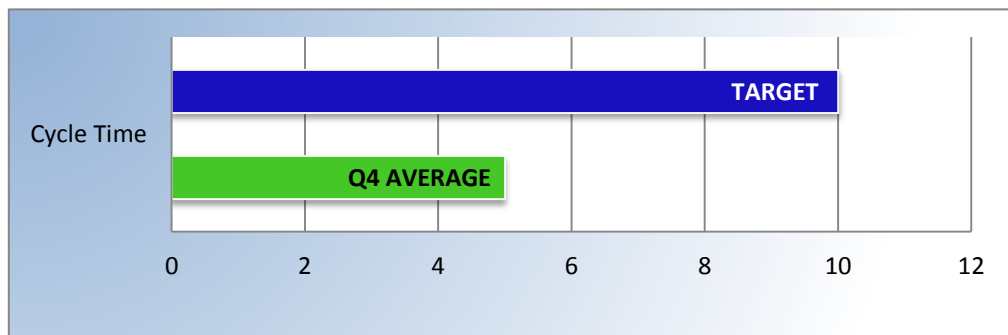
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 5 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 10 Days | Actual Average: 5 Days

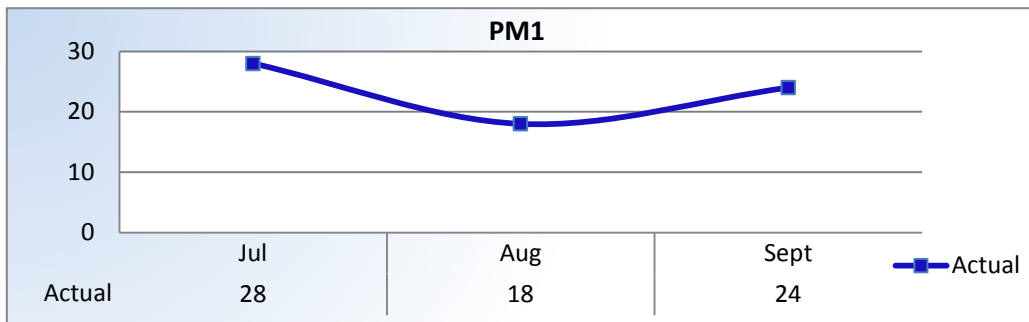
Performance Measures

Q1 Report (July - September 2015)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

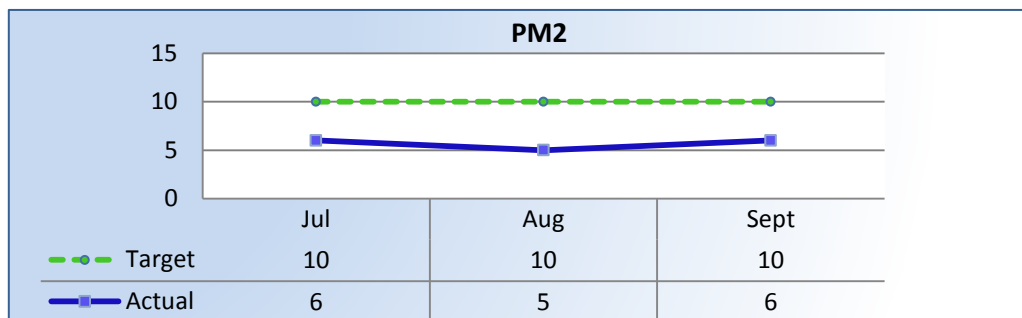


Total Received: 70 Monthly Average: 23

Complaints: 44 | Convictions: 26

PM2 | Intake

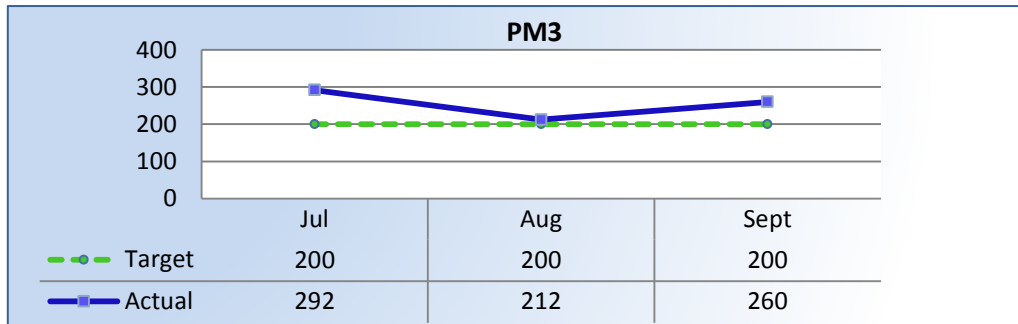
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 6 Days

PM3 | Intake & Investigation

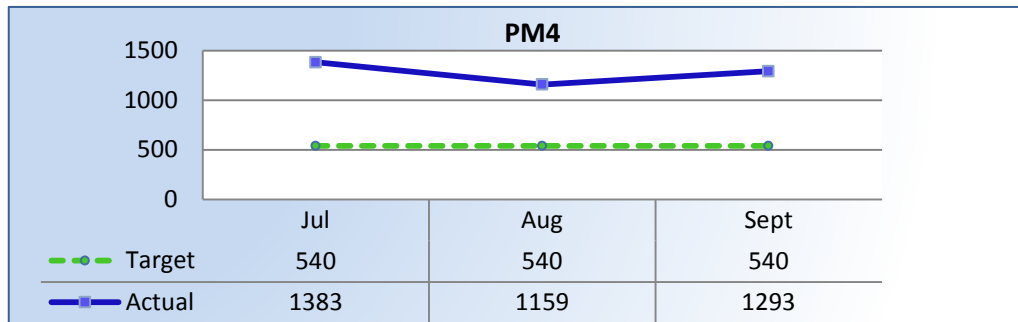
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 200 Days | Actual Average: 255 Days

PM4 | Formal Discipline

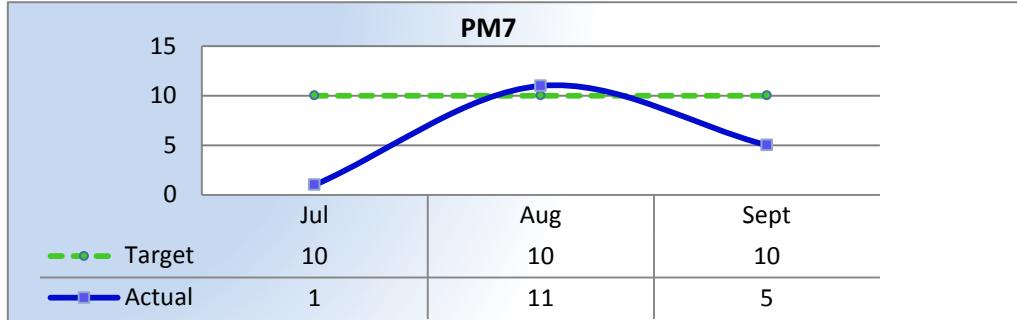
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 1,323 Days

PM7 | Probation Intake

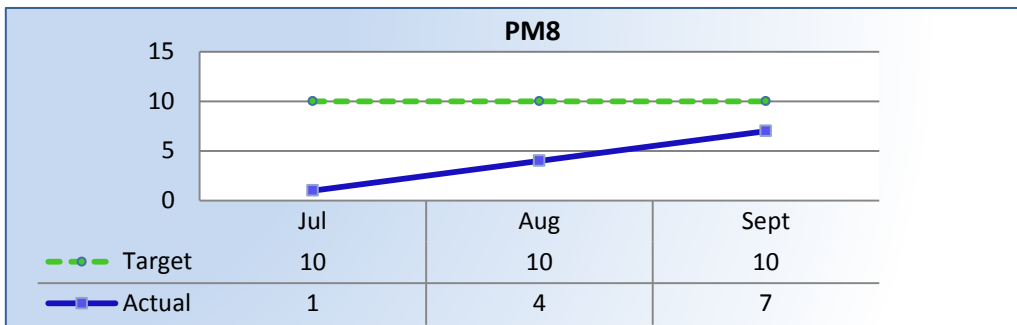
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 5 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

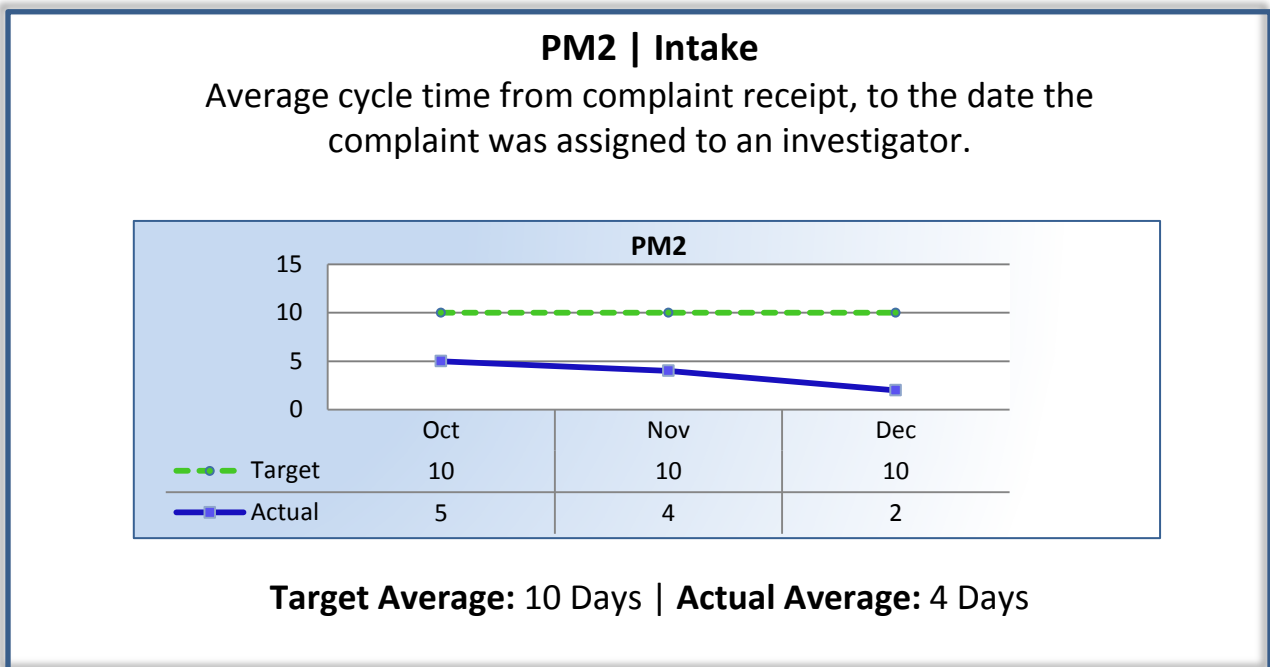
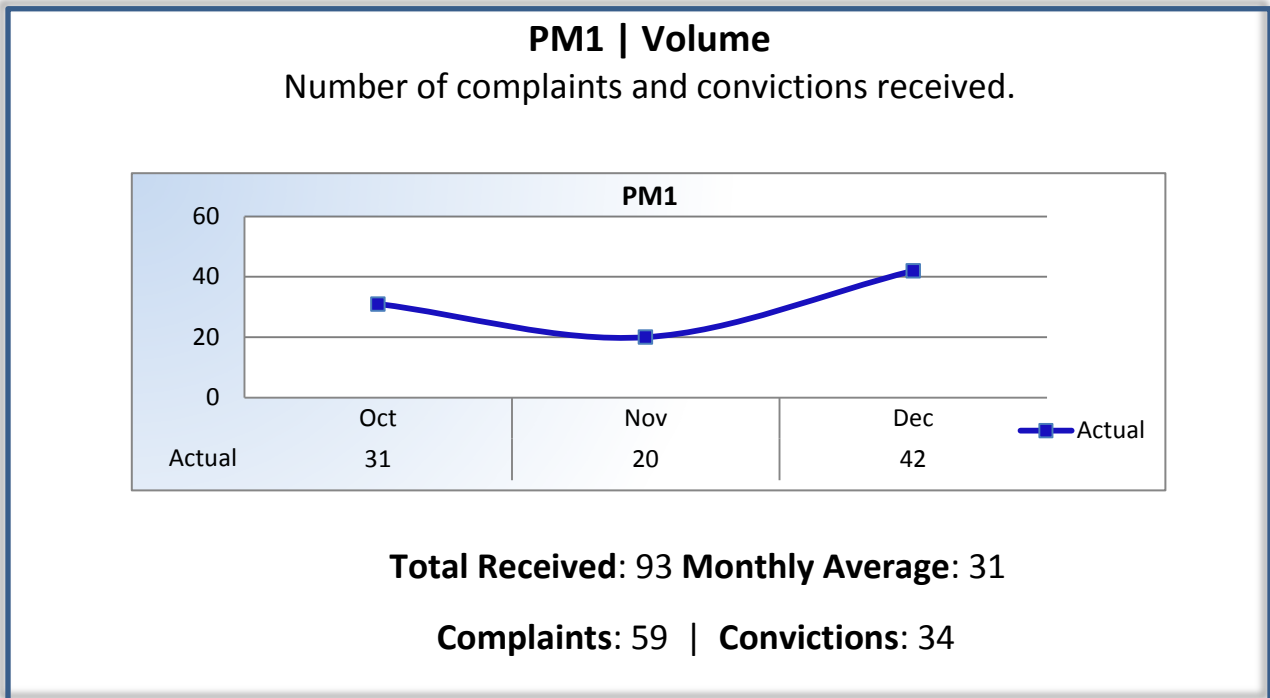


Target Average: 10 Days | Actual Average: 5 Days

Performance Measures

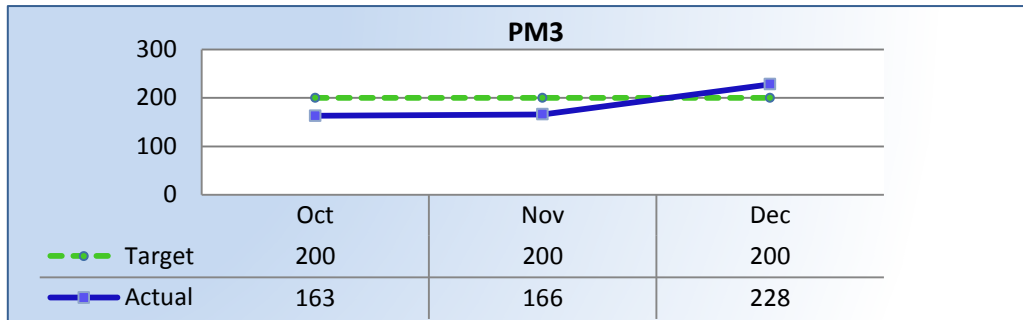
Q2 Report (October - December 2015)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



PM3 | Intake & Investigation

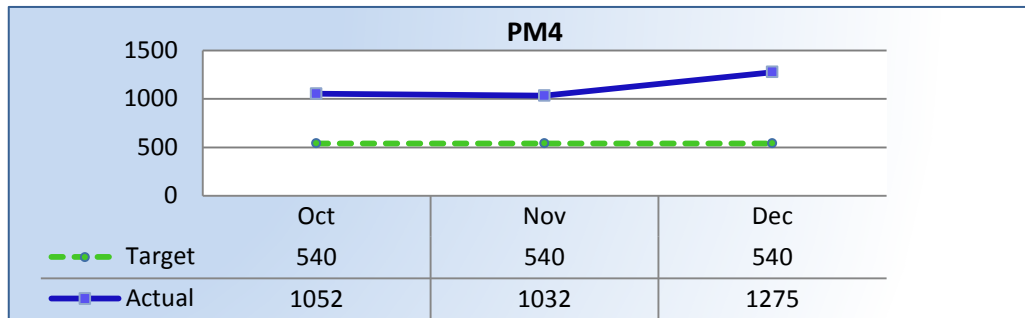
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 200 Days | Actual Average: 188 Days

PM4 | Formal Discipline

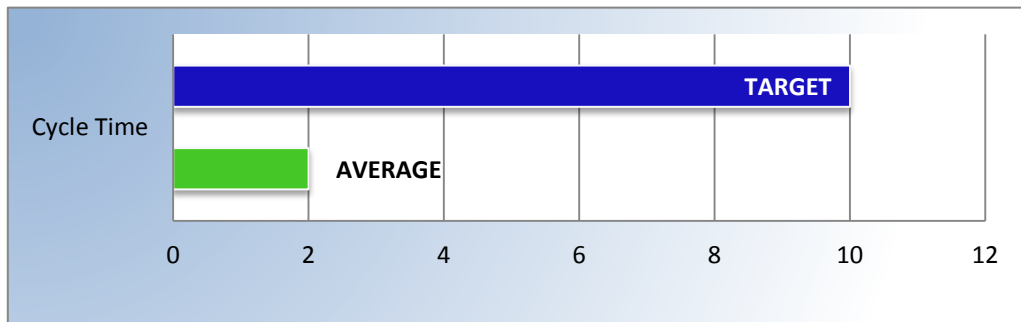
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 1,142 Days

PM7 | Probation Intake

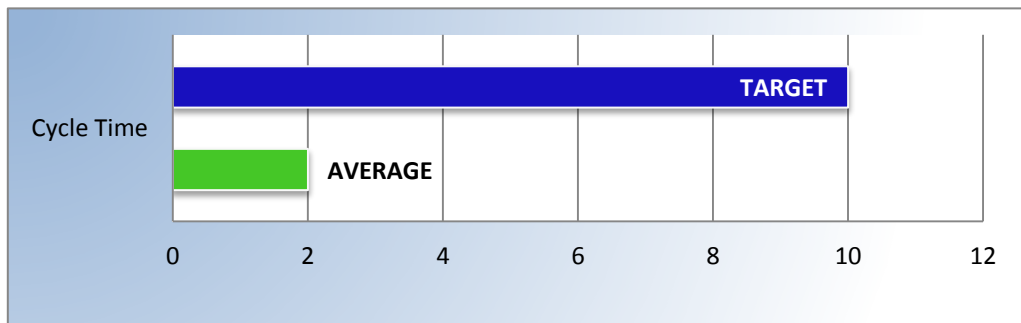
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 2 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

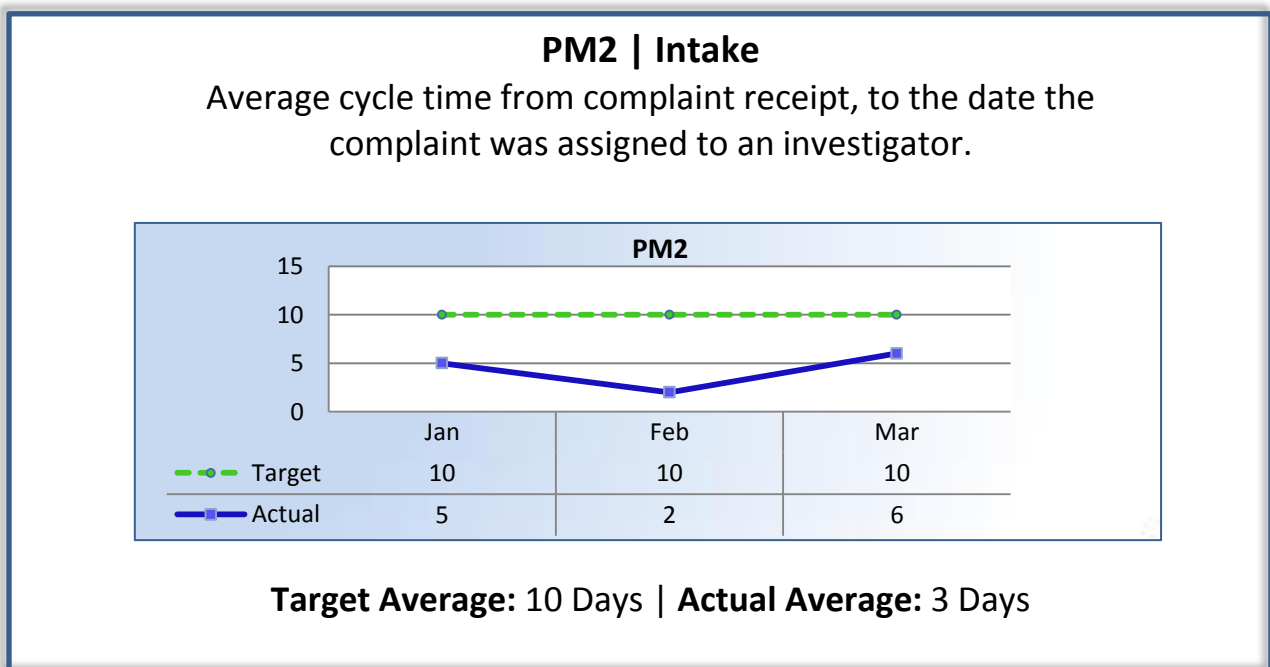
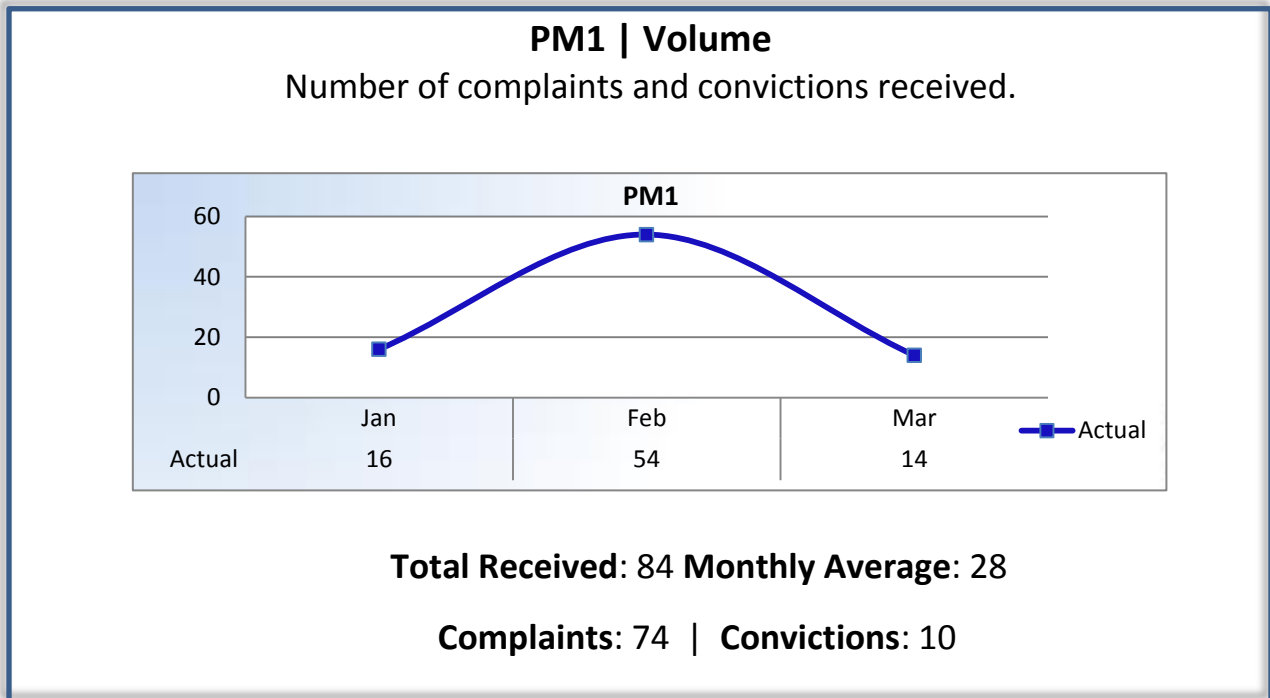


Target Average: 10 Days | Actual Average: 2 Days

Performance Measures

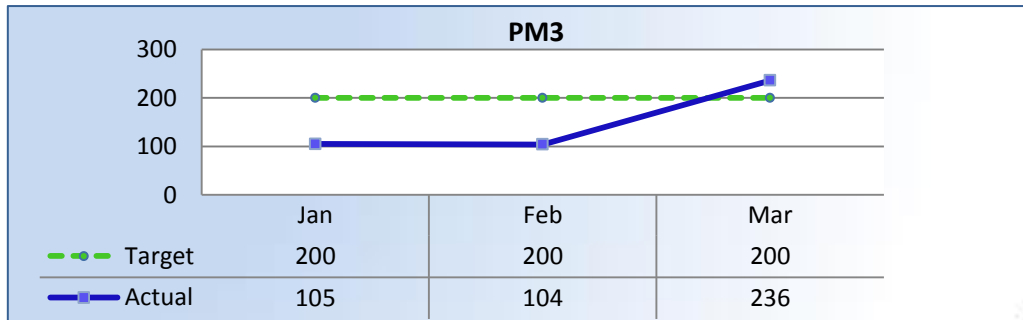
Q3 Report (January – March 2016)

To ensure stakeholders can review the Board’s progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



PM3 | Intake & Investigation

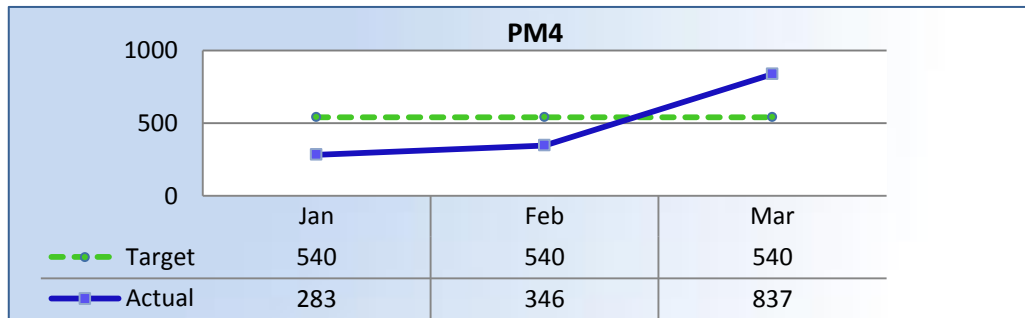
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 200 Days | Actual Average: 136 Days

PM4 | Formal Discipline

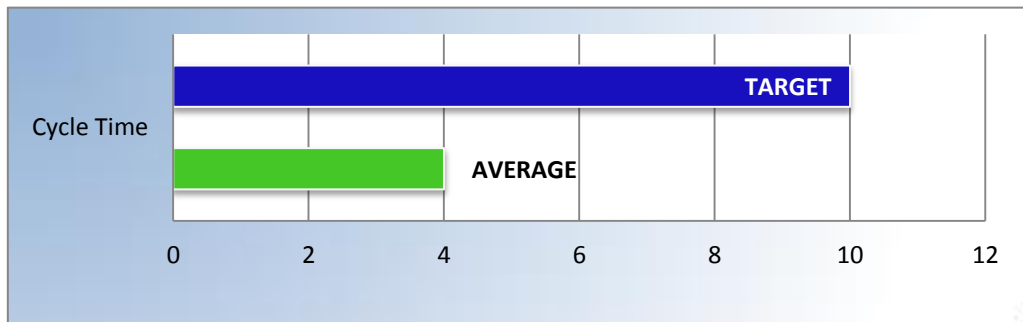
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 488 Days

PM7 | Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 4 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Board did not have any probation violations this quarter.

Target Average: 10 Days | Actual Average: n/a

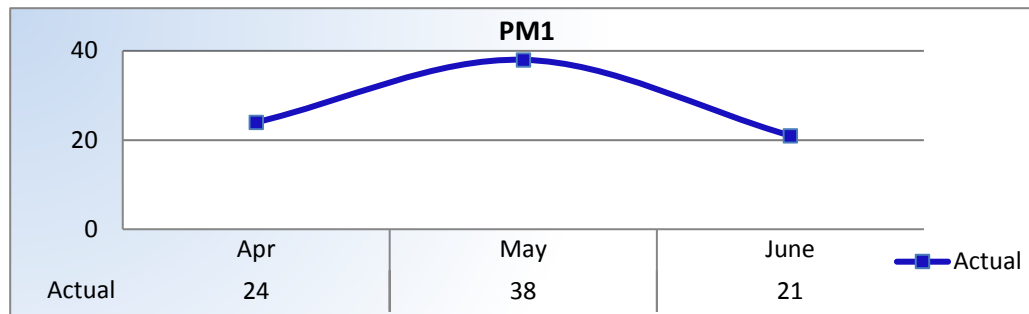
Performance Measures

Q4 Report (April - June 2016)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

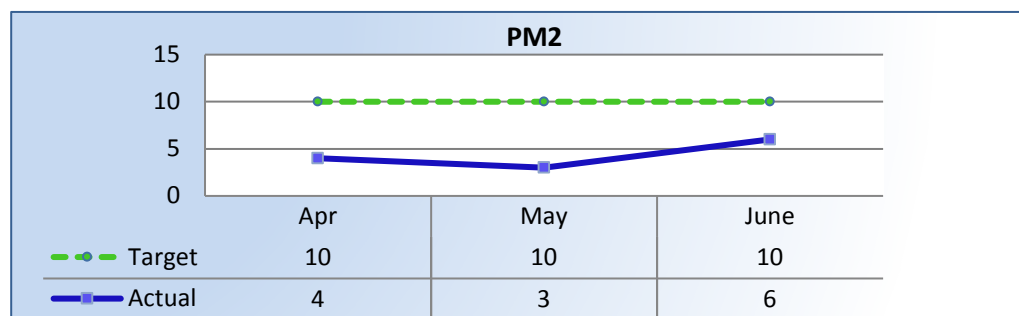


Total Received: 83 Monthly Average: 28

Complaints: 32 | Convictions: 51

PM2 | Intake

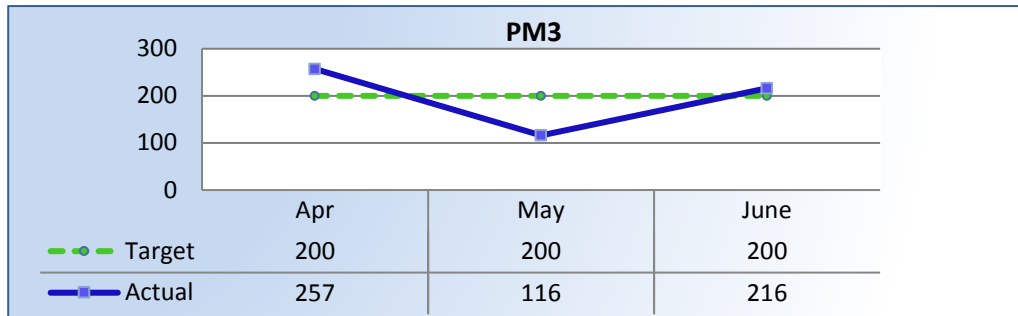
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 10 Days | Actual Average: 4 Days

PM3 | Intake & Investigation

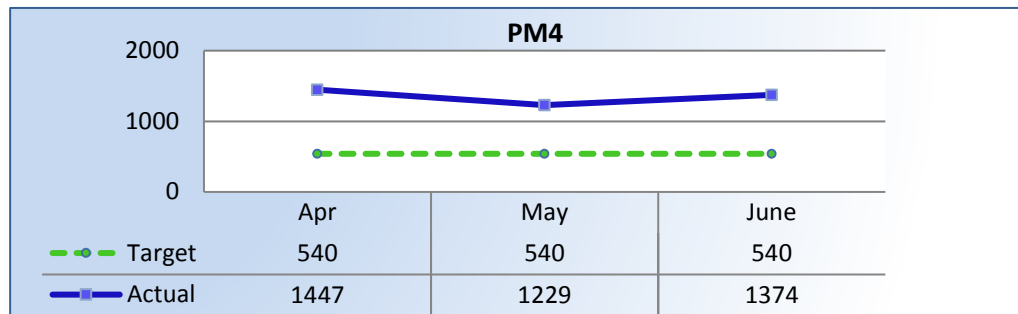
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 200 Days | Actual Average: 196 Days

PM4 | Formal Discipline

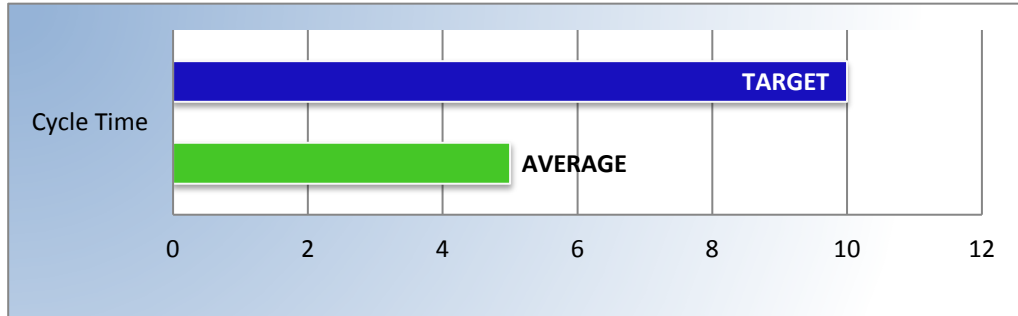
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 1,301 Days

PM7 | Probation Intake

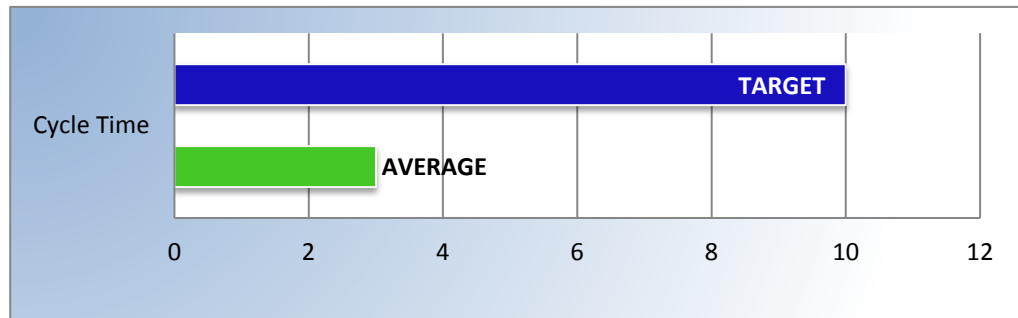
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 5 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

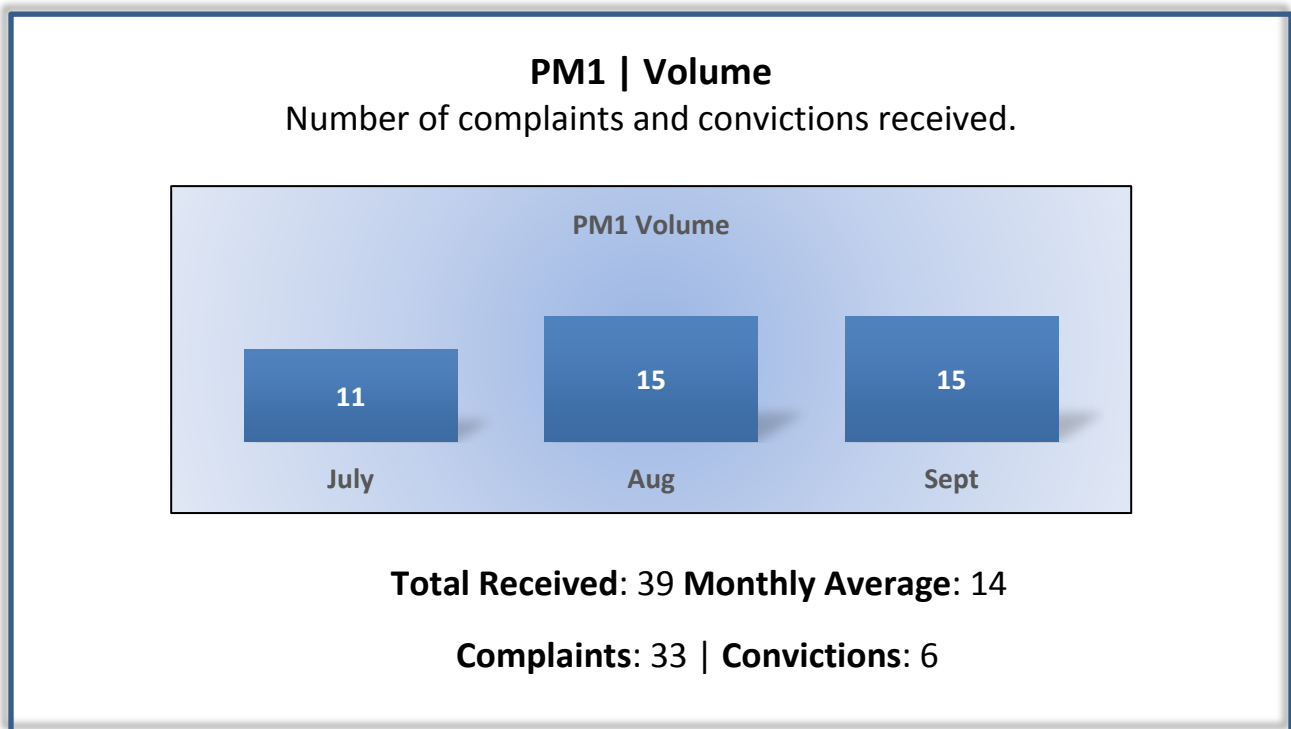


Target Average: 10 Days | Actual Average: 3 Days

Enforcement Performance Measures

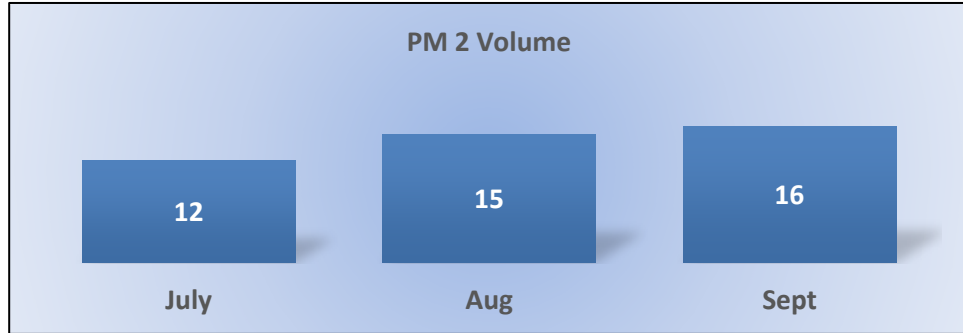
Q1 Report (July - September 2016)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



PM2 | Intake – Volume

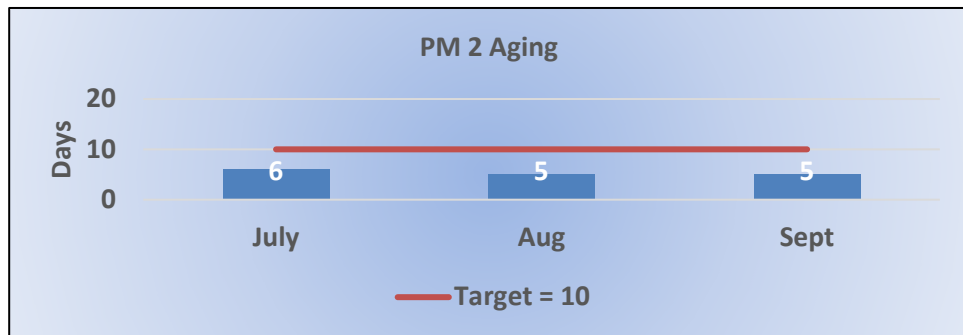
Number of complaints closed or assigned to an investigator.



Total: 43 | Monthly Average: 14

PM2 | Intake – Cycle Time

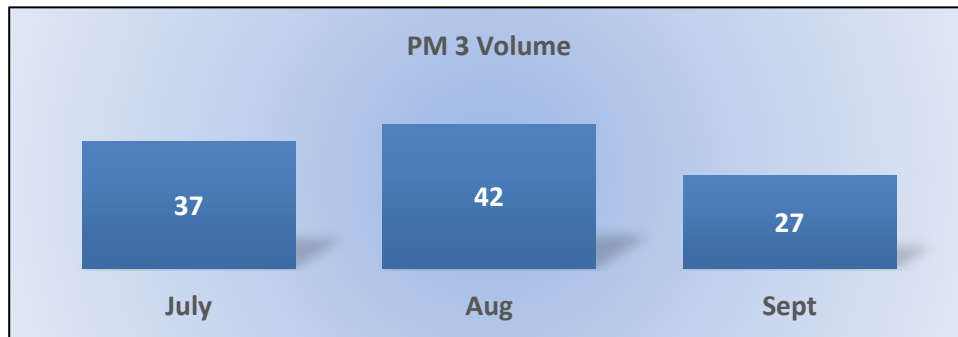
Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



Target Average: 10 Days | Actual Average: 5 Days

PM3 | Investigations – Volume

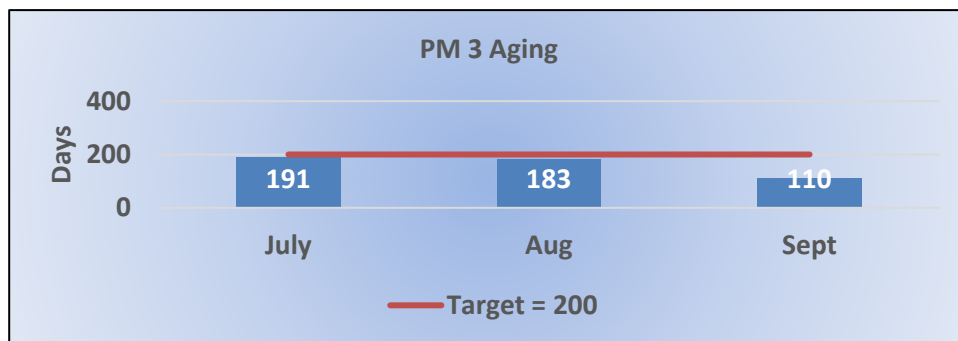
Number of investigations closed (not including cases transmitted to the Attorney General).



Total: 106 | Monthly Average: 35

PM3 | Investigations – Cycle Time

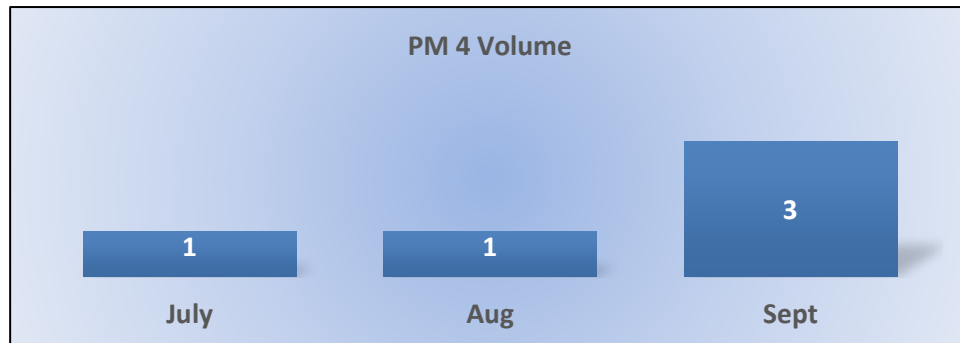
Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General.
(Includes intake and investigation)



Target Average: 200 Days | Actual Average: 167 Days

PM4 | Formal Discipline -- Volume

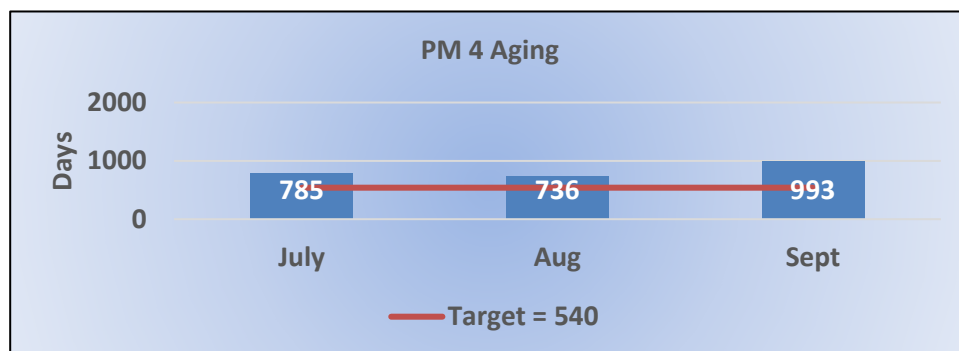
Cases closed, of those transmitted to the Attorney General.



Total: 5 | Monthly Average: 2

PM4 | Formal Discipline – Cycle Time

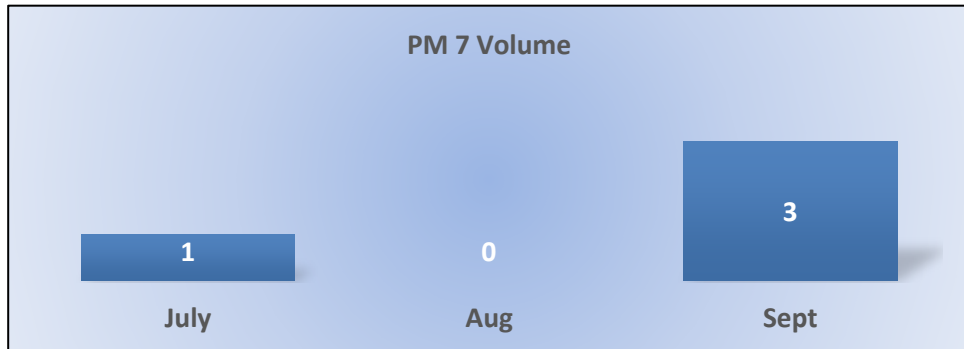
Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General.
(Includes intake, investigation, and case outcome.)



Target Average: 540 Days | Actual Average: 900 Days

PM7 | Probation Intake – Volume

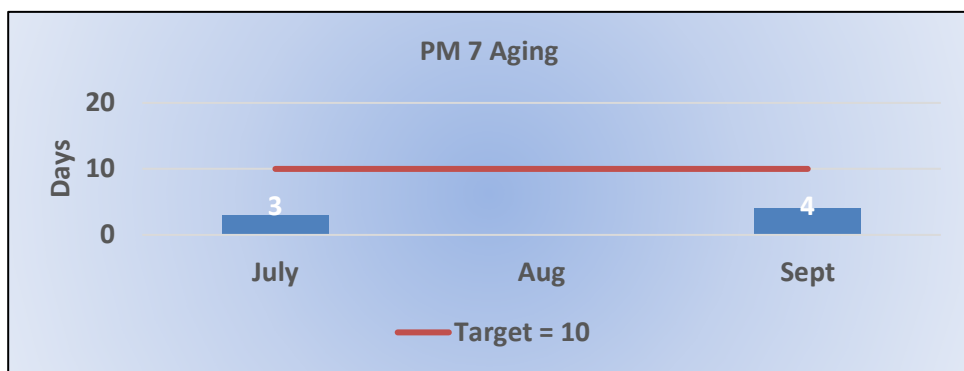
Number of new probation cases.



Total: 4

PM7 | Probation Intake – Cycle Time

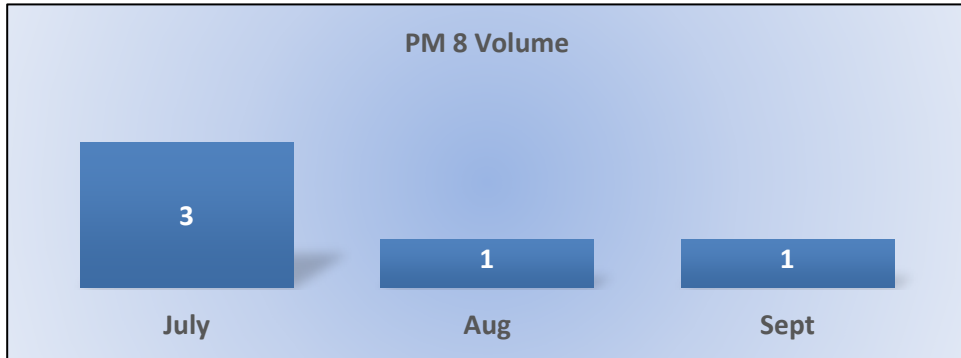
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 4 Days

PM8 | Probation Violation Response – Volume

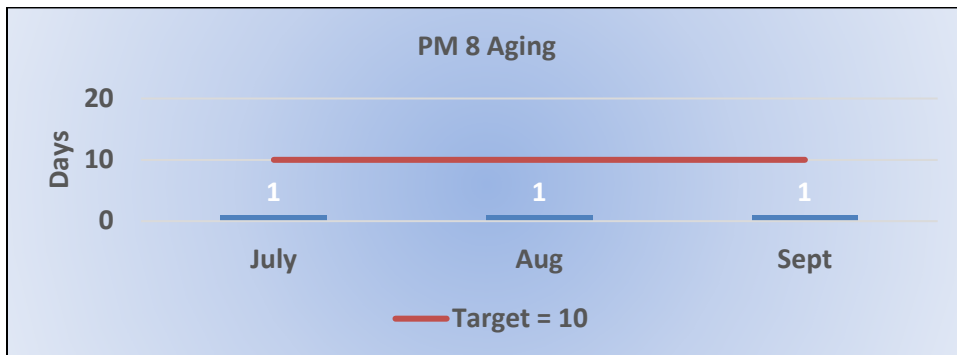
Number of probation violation cases.



Total: 5

PM8 | Probation Violation Response – Cycle Time

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

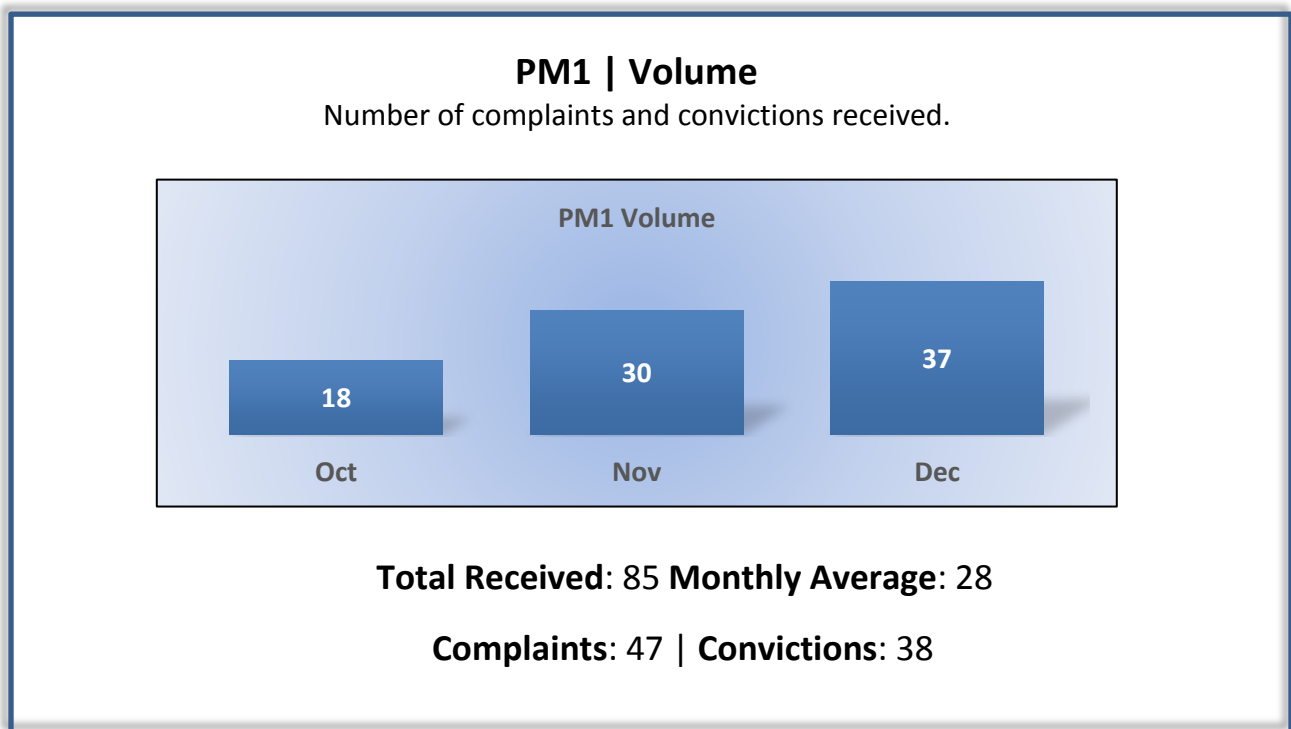


Target Average: 10 Days | Actual Average: 1 Day

Enforcement Performance Measures

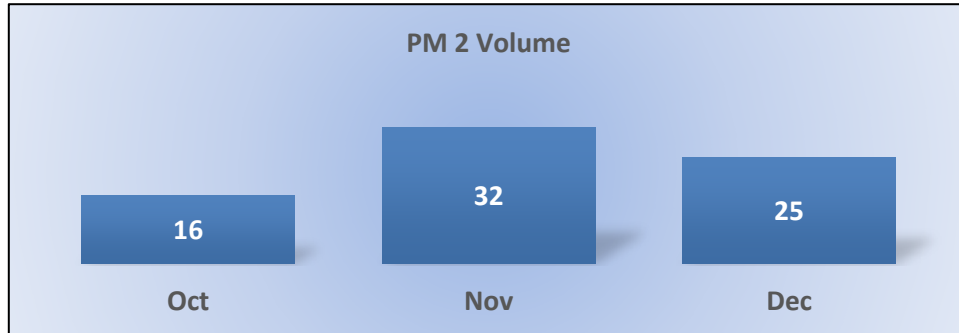
Q2 Report (October - December 2016)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



PM2 | Intake – Volume

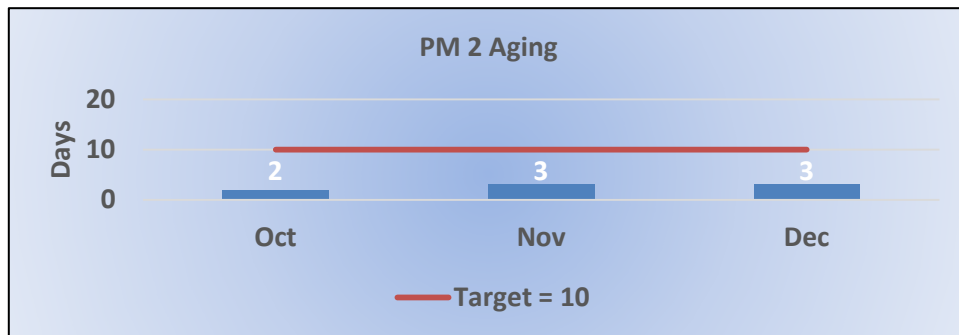
Number of complaints closed or assigned to an investigator.



Total: 73 | Monthly Average: 24

PM2 | Intake – Cycle Time

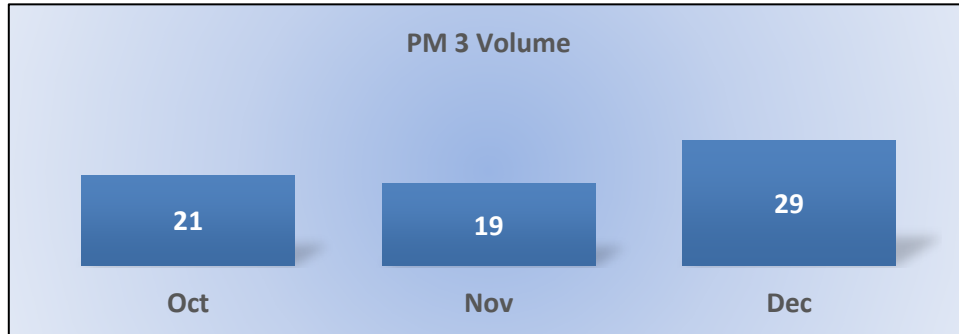
Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



Target Average: 10 Days | Actual Average: 3 Days

PM3 | Investigations – Volume

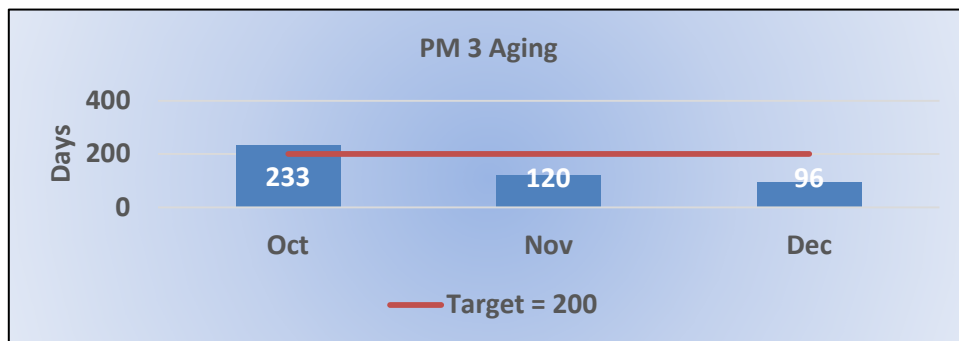
Number of investigations closed (not including cases transmitted to the Attorney General).



Total: 69 | Monthly Average: 23

PM3 | Investigations – Cycle Time

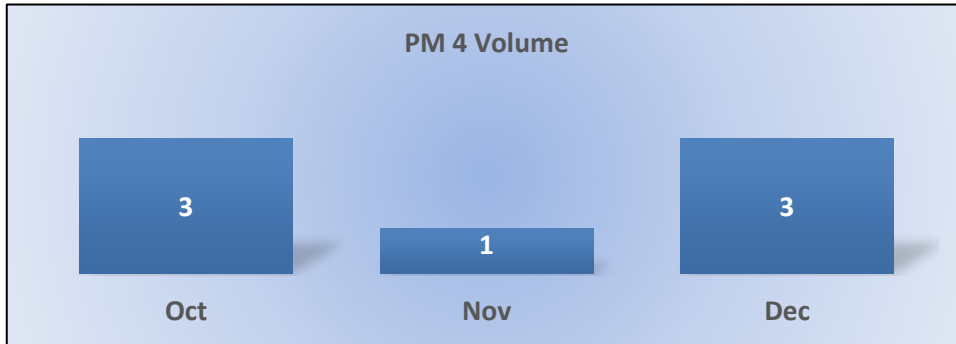
Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General.
(Includes intake and investigation.)



Target Average: 200 Days | Actual Average: 144 Days

PM4 | Formal Discipline -- Volume

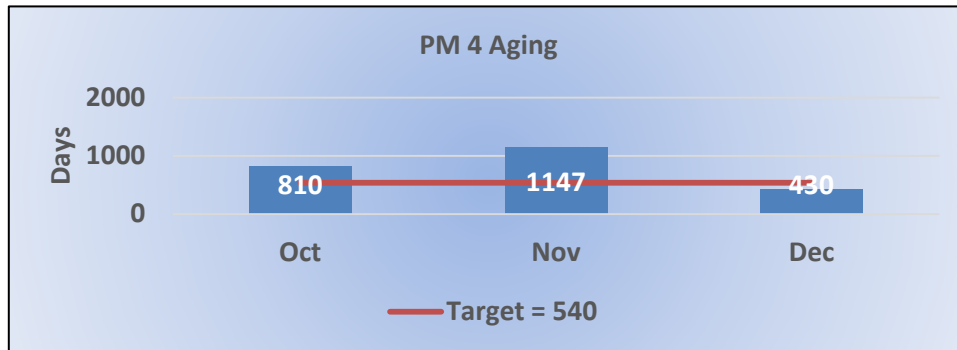
Cases closed after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).



Total: 7 | Monthly Average: 2

PM4 | Formal Discipline – Cycle Time

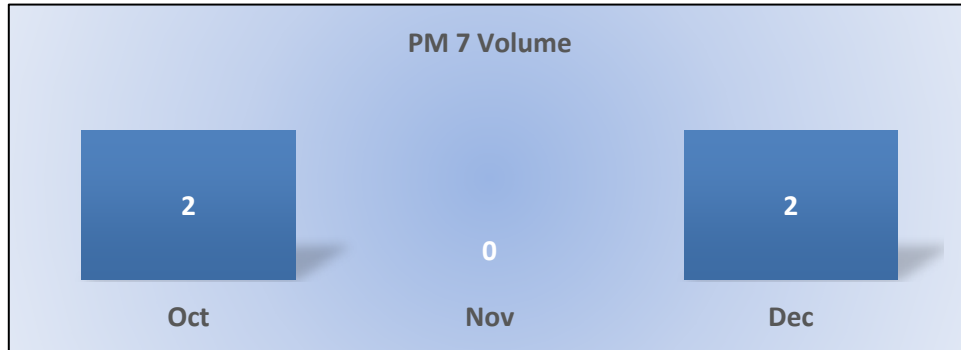
Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General. (Includes intake, investigation, and case outcome.)



Target Average: 540 Days | Actual Average: 695 Days

PM7 | Probation Intake – Volume

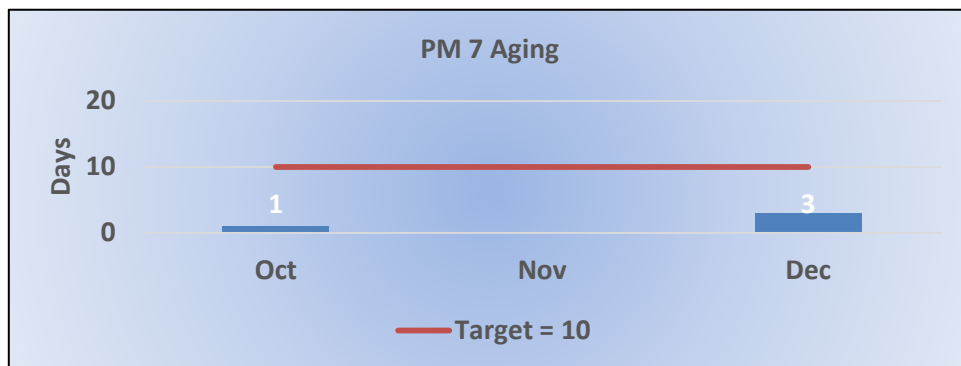
Number of new probation cases.



Total: 4

PM7 | Probation Intake – Cycle Time

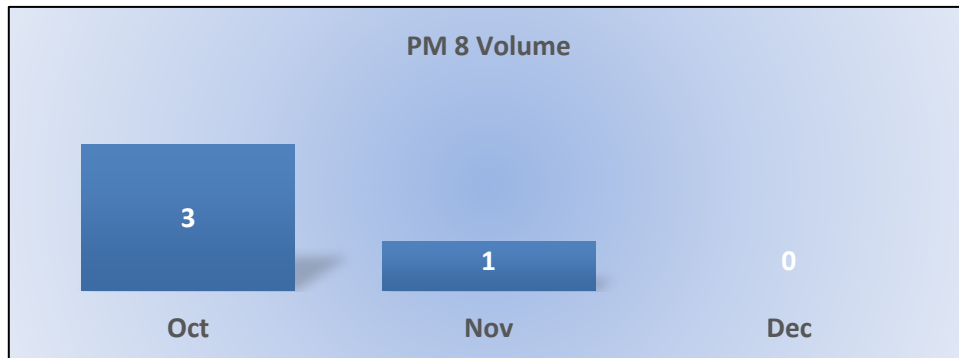
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 2 Days

PM8 | Probation Violation Response – Volume

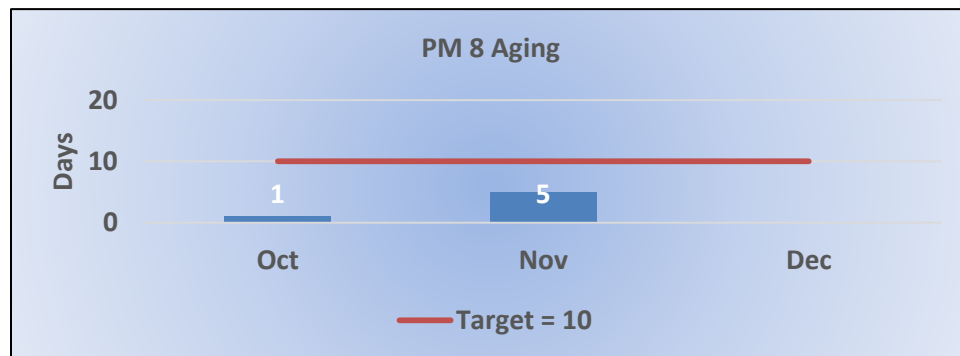
Number of probation violation cases.



Total: 4

PM8 | Probation Violation Response – Cycle Time

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

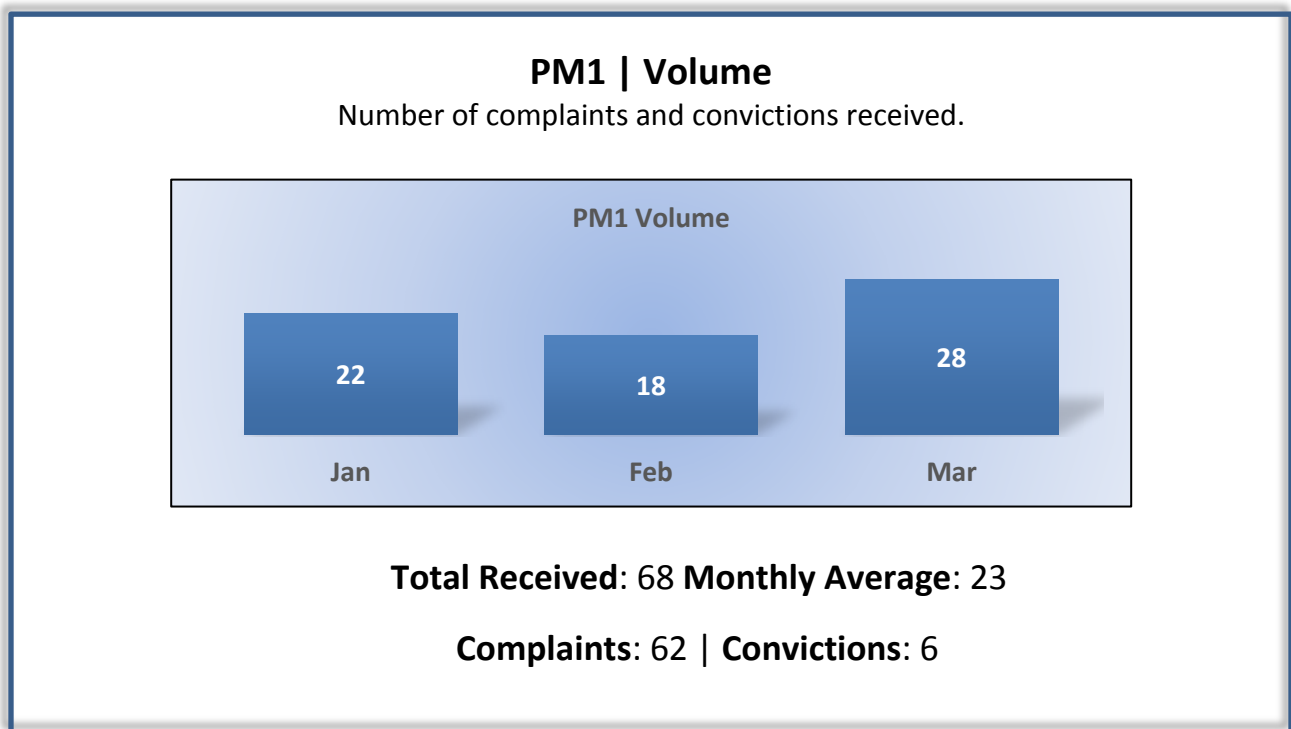


Target Average: 10 Days | Actual Average: 2 Days

Enforcement Performance Measures

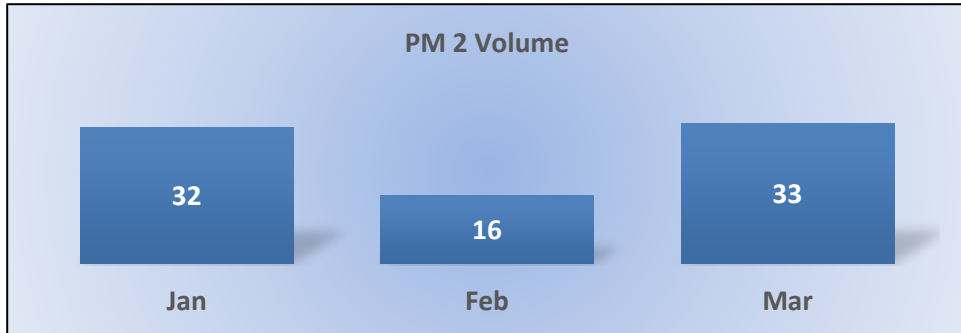
Q3 Report (January – March 2017)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



PM2 | Intake – Volume

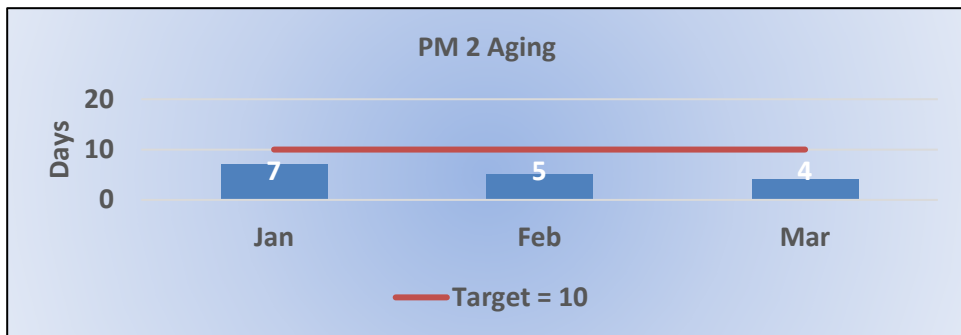
Number of complaints closed or assigned to an investigator.



Total: 81 | Monthly Average: 27

PM2 | Intake – Cycle Time

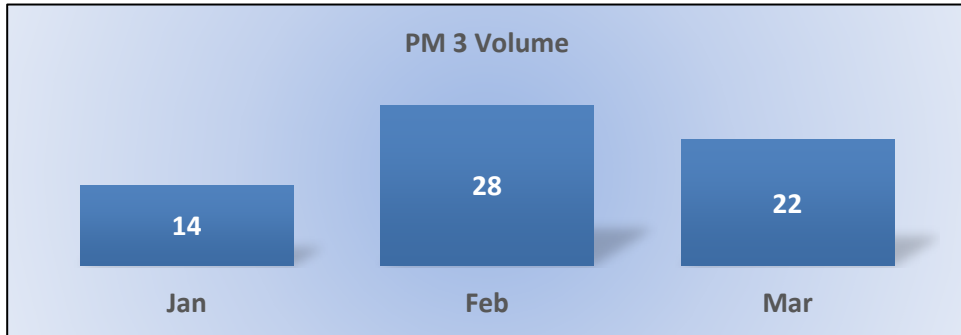
Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



Target Average: 10 Days | Actual Average: 5 Days

PM3 | Investigations – Volume

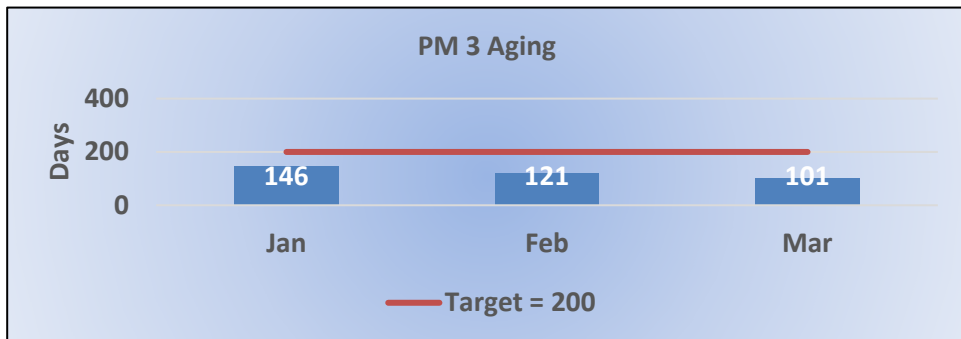
Number of investigations closed (not including cases transmitted to the Attorney General).



Total: 64 | Monthly Average: 21

PM3 | Investigations – Cycle Time

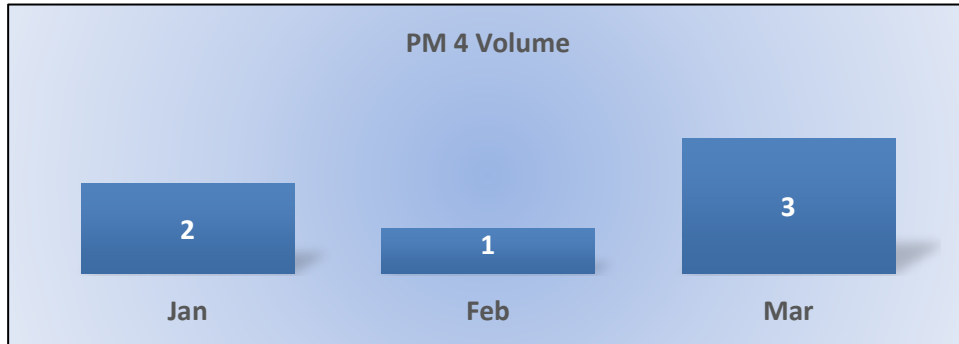
Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General.
(Includes intake and investigation.)



Target Average: 200 Days | Actual Average: 120 Days

PM4 | Formal Discipline -- Volume

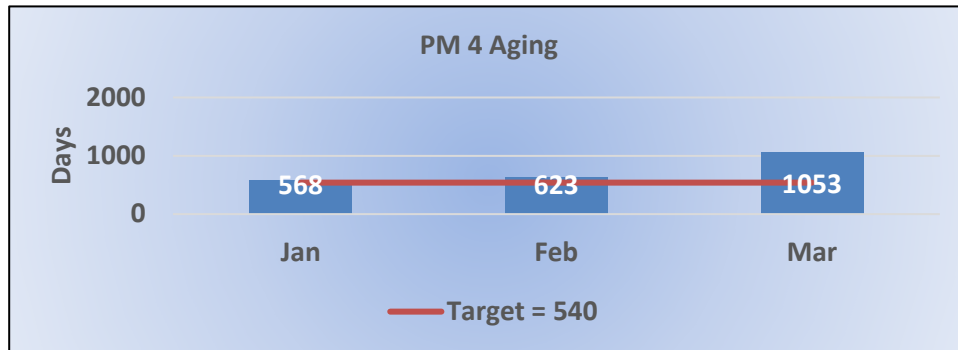
Cases closed after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).



Total: 6 | Monthly Average: 2

PM4 | Formal Discipline – Cycle Time

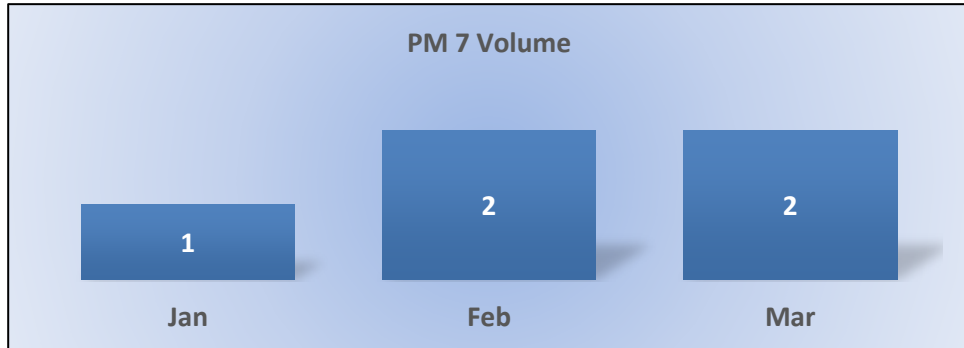
Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General. (Includes intake, investigation, and case outcome.)



Target Average: 540 Days | Actual Average: 820 Days

PM7 | Probation Intake – Volume

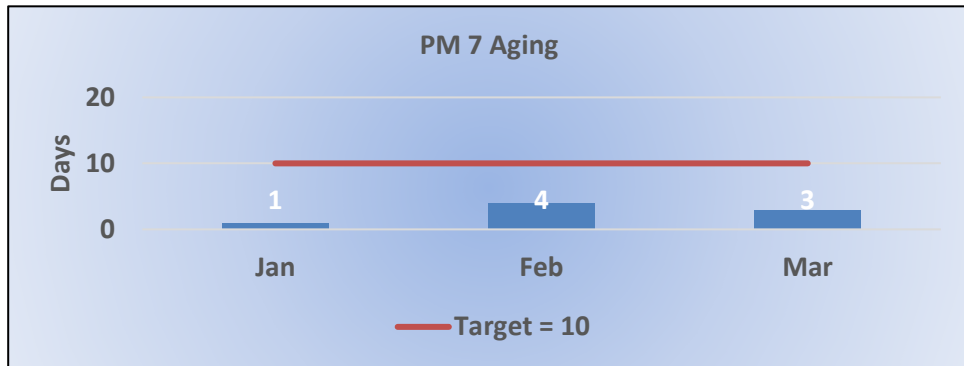
Number of new probation cases.



Total: 5

PM7 | Probation Intake – Cycle Time

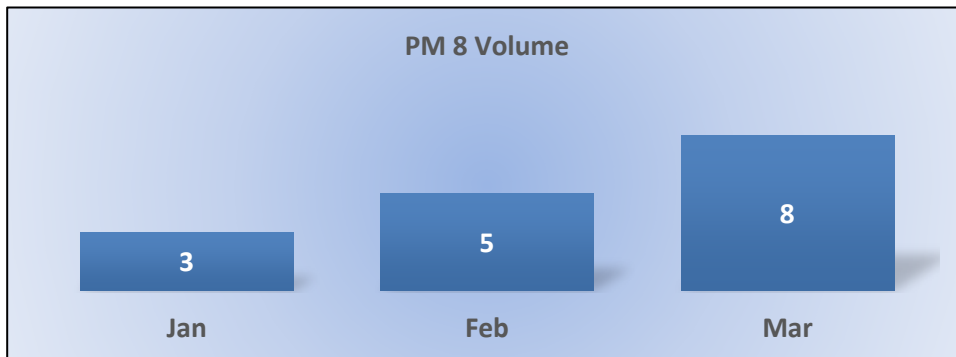
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 3 Days

PM8 | Probation Violation Response – Volume

Number of probation violation cases.



Total: 16

PM8 | Probation Violation Response – Cycle Time

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

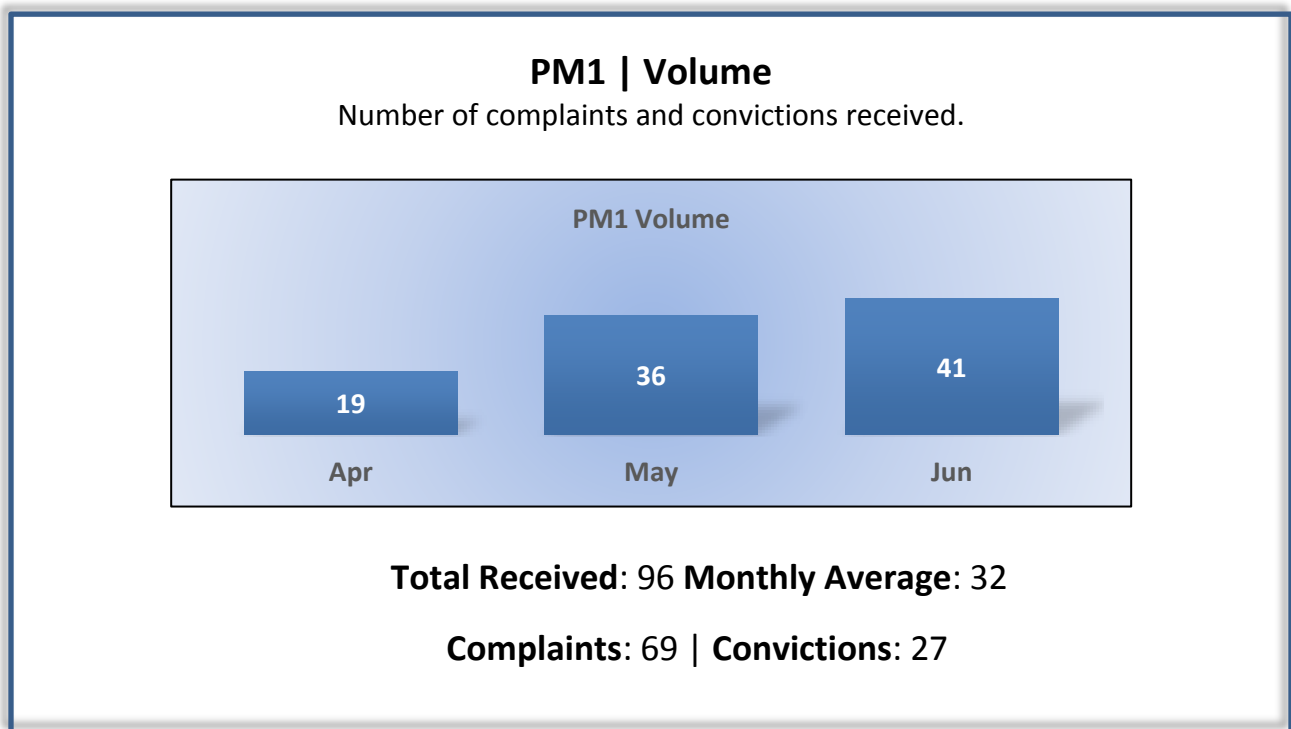


Target Average: 10 Days | Actual Average: 2 Days

Enforcement Performance Measures

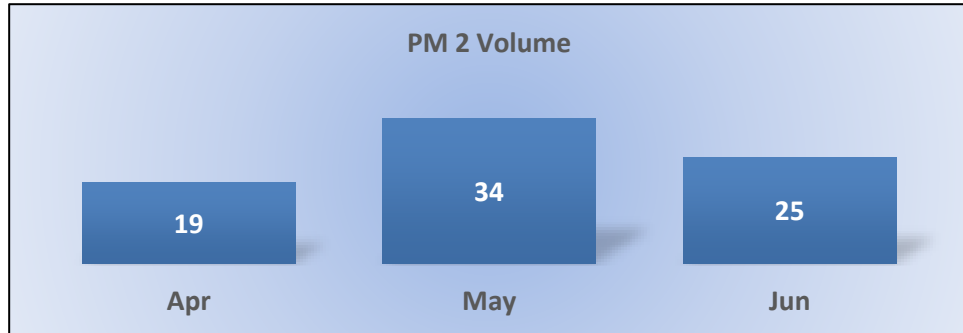
Q4 Report (April - June 2017)

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.



PM2 | Intake – Volume

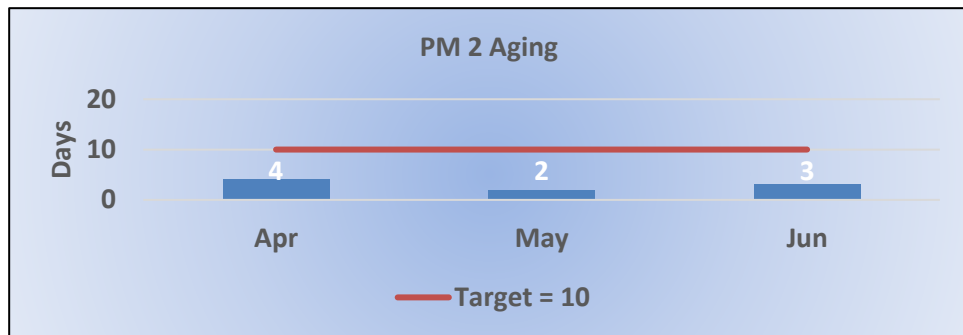
Number of complaints closed or assigned to an investigator.



Total: 78 | Monthly Average: 26

PM2 | Intake – Cycle Time

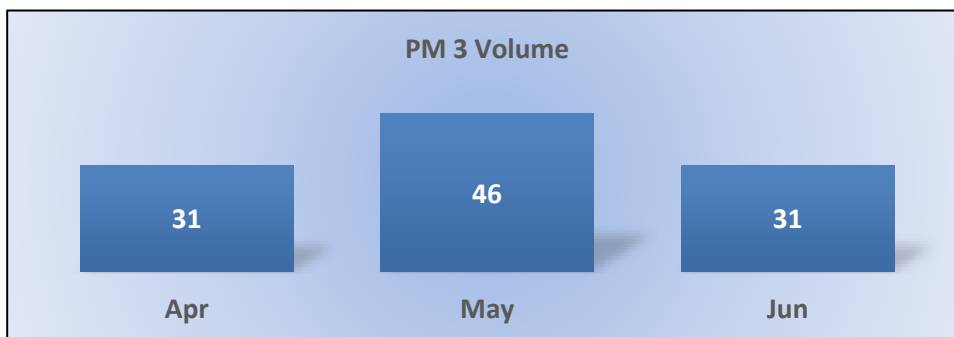
Average number of days from complaint receipt, to the date the complaint was closed or assigned to an investigator.



Target Average: 10 Days | Actual Average: 3 Days

PM3 | Investigations – Volume

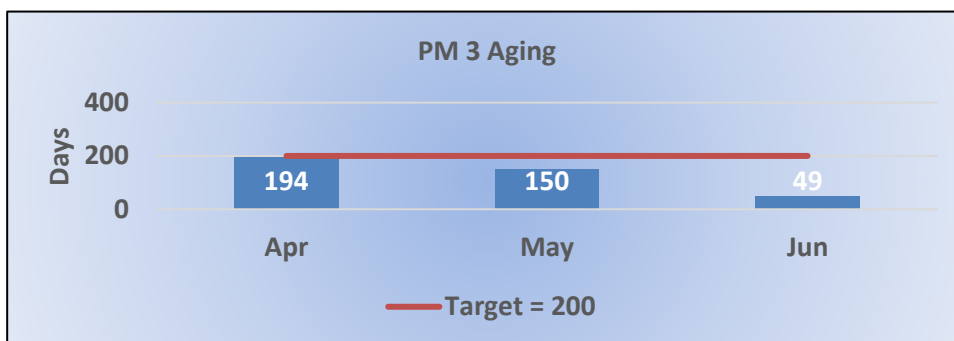
Number of investigations closed (not including cases transmitted to the Attorney General).



Total: 108 | Monthly Average: 36

PM3 | Investigations – Cycle Time

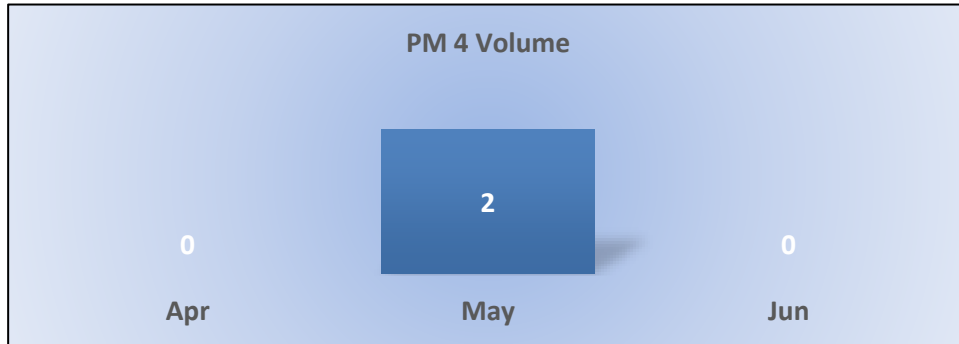
Average number of days to complete the entire enforcement process for cases not transmitted to the Attorney General.
(Includes intake and investigation.)



Target Average: 200 Days | Actual Average: 133 Days

PM4 | Formal Discipline -- Volume

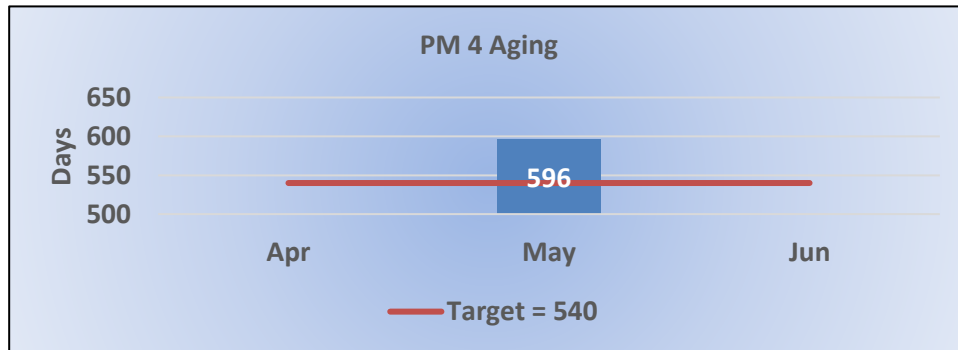
Cases closed after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).



Total: 2 | Monthly Average: n/a

PM4 | Formal Discipline – Cycle Time

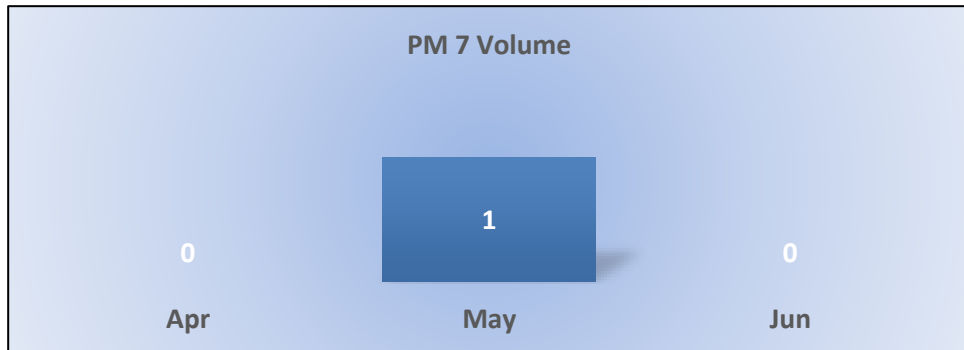
Average number of days to complete the entire enforcement process for cases transmitted to the Attorney General. (Includes intake, investigation, and case outcome.)



Target Average: 540 Days | Actual Average: 596 Days

PM7 | Probation Intake – Volume

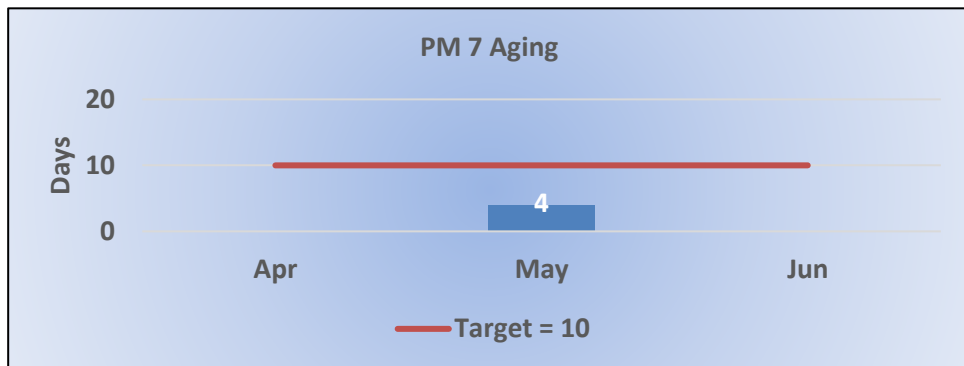
Number of new probation cases.



Total: 1

PM7 | Probation Intake – Cycle Time

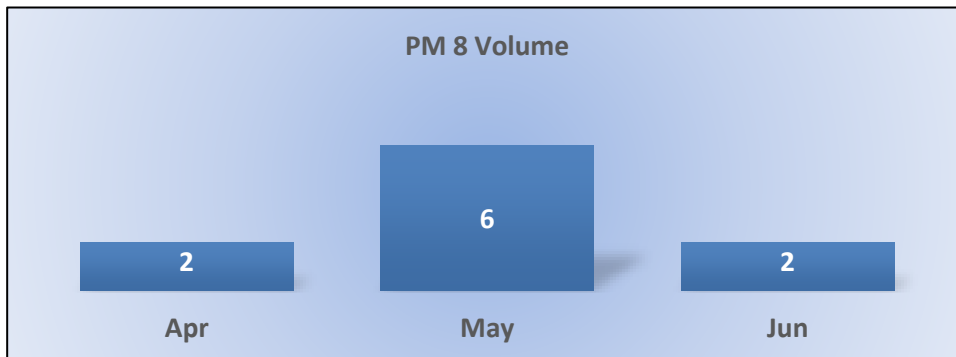
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 10 Days | Actual Average: 4 Days

PM8 | Probation Violation Response – Volume

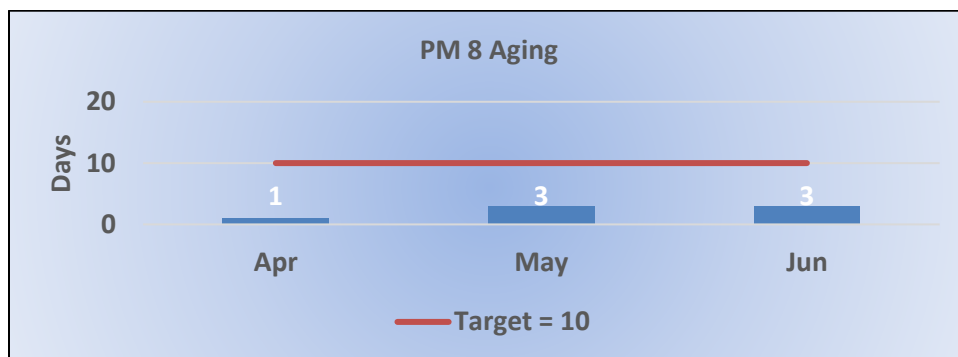
Number of probation violation cases.



Total: 10

PM8 | Probation Violation Response – Cycle Time

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 10 Days | Actual Average: 2 Days

Appendix D –
Performance Measures Tables

Section 2, No. 6. Enforcement Performance Measures APPENDIX D						
	Volume	Intake	Intake and Investigation	Formal Discipline	Probation Intake	Probation Violation Response
TARGETS	-	10	200	540	10	10
FY 13/14						
Quarter 1: July – Sept. '13	52	7	413	787	n/a	5
Quarter 2: Oct. – Dec. '13	57	8	309	1,298	12	1
Quarter 3: Jan. – Mar. '14	43	12	390	779	11	9
Quarter 4: Apr. – June '14	37	8	385	951	12	7
FY 14/15						
Quarter 1: July – Sept. '14	93	5	333	1,211	n/a	n/a
Quarter 2: Oct. – Dec. '14	51	10	195	1,154	n/a	2
Quarter 3: Jan. – Mar. '15	55	16	377	607	5	7
Quarter 4: Apr. – June '15	81	7	252	1,143	5	5
FY 15/16						
Quarter 1: July – Sept. '15	70	6	255	1,323	5	5
Quarter 2: Oct. – Dec. '15	93	4	188	1,142	2	2
Quarter 3: Jan. – Mar. '16	84	3	136	488	4	n/a
Quarter 4: Apr. – June '16	83	4	196	1,301	5	3
FY 16/17						
Quarter 1: July – Sept. '16	39	5	167	900	4	1
Quarter 2: Oct. – Dec. '16	85	3	144	695	2	2
Quarter 3: Jan. – Mar. '17	68	5	120	820	3	2
Quarter 4: Apr. – June '17	96	3	133	596	4	2

NOTE: With the exception of volume, all numbers represent the number of days.

COLUMN EXPLANATIONS

VOLUME: Number of Complaints and convictions received.

INTAKE: Average cycle time (in days) from complaint receipt to the date the complaint was assigned to an investigator.

INTAKE AND INVESTIGATION: Average cycle time (in days) from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.

FORMAL DISCIPLINE: Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Board and prosecution by the AG)

PROBATION INTAKE: Average number of days from monitor assignment to the date the monitor makes first contact with the probationer.

PROBATION VIOLATION RESPONSE: Average number of days from the date a violation of probation is reported to the date the assigned monitor initiates appropriate action.

Appendix E –
Consumer Satisfaction Survey
Report 2015 - 2016

Acupuncture Board Consumer Satisfaction Survey Results

The following results were generated through an online and mail survey developed by the Department of Consumer Affairs on behalf of the Acupuncture Board.

July 1, 2015 - June 30, 2016	
Total responses:	6
Performance measure score	100%

How well did we explain the compliant process to you?	Number	% of Total
Very Good	2	40%
Good	1	20%
Poor	0	0%
Very Poor	2	40%
Total	5	
How clearly was the outcome of your complaint explained to you?	Number	% of Total
Very Good	2	40%
Good	0	0%
Poor	0	0%
Very Poor	3	60%
Total	5	
How well did we meet the time frame provided to you?	Number	% of Total
Very Good	2	40%
Good	0	0%
Poor	1	20%
Very Poor	2	40%
Total	5	
How courteous and helpful was staff?	Number	% of Total
Very Good	3	60%
Good	0	0%
Poor	1	20%
Very Poor	1	20%
Total	5	
Overall, how well did we handle your complaint?	Number	% of Total
Very Good	2	40%
Good	0	0%
Poor	0	0%
Very Poor	3	60%
Total	5	
If we were unable to assist you, were alternatives provided to you?	Number	% of Total
Yes	0	0%
No	2	40%
N/A	3	60%
Total	5	
Did you verify the provider's license prior to service?	Number	% of Total
Yes	3	50%
No	1	17%
N/A	2	33%
Total	6	

Complaint Number	Comment
1A-2015-88	The Acu Board staff provided a concluding letter describing actions taken to prevent the massage parlor form [sic] continuing to advertise acupuncture services. The current Acu

Appendix E

	Board and staff led by the Executive Officer has significantly improved its efforts to protect the public according to its statutory obligations. Very well done!
Not specified	The reason I could not verify his license was: His office refused to give me the number so I could verify it; the address with the board with[sic] incorrect so that did not work.
1A-2015-57	The board investigated my complaint, but it didn't allow enough time for me to submit my evidence. I also did not receive any way to appeal the board's decision. The board didn't explain to me how much the acupuncturist to whom I filed a complaint against was fined.
NOTE: In order preserve the confidentiality of the Board's investigations, the other comments which contain privileged information are withheld.	

Appendix E –
Consumer Satisfaction Survey
Report 2016 - 2017

Appendix E

Acupuncture Board Consumer Satisfaction Survey Results

The following results were generated through an online and mail survey developed by the Department of Consumer Affairs on behalf of the Acupuncture Board.

July 1, 2016 - June 30, 2017	
Total responses:	0
No data to report	

There were no Consumer Satisfaction Survey Results received in FY 2016-2017.

Appendix E –
Customer Satisfaction Survey
Report 2015 - 2016

CUSTOMER SERVICE SATISFACTION SURVEY RESULTS 2015-2016

TOTAL SURVEYS	RECEIVED					
Received	2					
CONTACT FREQUENCY	< 6x/year	> 6x/year				
Received	1	1				
REASONS OF CONTACTS	RECEIVED					
Complaint	0					
Examination Information	1					
License Information	0					
License Renewal	0					
Continuing Education	0					
Other	1					
CUSTOMER SATISFACTION	Excellent	Good	Fair	Poor	Unacceptable	N/A
CAB Staff Courteous/Helpful	1	0	0	0	1	0
CAB Staff Knowledge	1	0	0	0	1	0
CAB Staff Accessibility	1	0	0	0	1	0
Overall Satisfaction	1	0	0	0	1	0
	YES	NO				
SERVICE RESULT SATISFACTION	1	1				
	YES	NO				
CAB WEBSITE USEFULNESS	1	0				
	COMMENTS	SUGGESTIONS				
COMMENTS/SUGGESTIONS	2	1				

The above results were generated through an online survey posted by the Department of Consumer Affairs. Please see below for other concerns and suggestions.

CONCERNS/SUGGESTIONS/OTHERS

- A particular Acupuncture Board representative has been completely delightful and invaluable.
- I have been provided impeccable service, always going above and beyond.
- The testing process is unacceptable.
- Adopt the national standards of testing.

Appendix E –
Customer Satisfaction Survey
Report 2016 - 2017

CUSTOMER SERVICE SATISFACTION SURVEY RESULTS 2016-2017

There were no Customer Service Satisfaction Results received in FY 2016-2017.

Appendix F –
Staff Training
FY 2015/16 and FY 2016/17

Appendix F

Describe the board's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment F).	
Training received in FY 2015/16 and FY 2016/17	Number of Staff Taken Course
Personal Development	
Managing Time and Workload	1
True Colors	11
Career Development	
Are You Ready to Lead?	2
Growing Your State Career	1
Communication/Customer Service Skills	
Customer Service Excellence	10
Effective Public Speaking	2
Give'em a Pickle	10
Technology	
Concur/DCA Travel Store Training	3
Excel 2010 – Level 1	3
Excel 2010 – Level 2	2
Excel 2016 Basics	2
Excel 2016 Charts	2
Excel 2016 Formulas	2
Outlook 2010	3
Outlook 2016 Calendar	2
Outlook 2016 Contacts, Tasks and Notes	4
Outlook 2016 Mail	3
Pivot Table Training	1
Power Point 2010 – Level 1	1
Word 2010 – Level 2	1
Word 2016 Basics	3
Word 2016 Track Changes and Collaborative Editing Tools	4
Analyst Certification Training	
Basic Project Management	4
Complete Staff Work	3
Effective Business Writing	4
Interpersonal Skills for Analysts	4
Presentation Skills for Analysts	6
Research, Analysis and Problem Solving	4
Enforcement	
Basics of Enforcement	1
Board Member Orientation Training	1
Enforcement Actions, Disciplinary Process and	2

Attachment F – continued

Training received in FY 2015/16 and FY 2016/17	Number of Staff Taken Course
Field Safety and Professionalism	2
Interviewing Techniques for Investigators & Inspectors	2
Investigative Report Writing	1
Investigative Subpoena Preparation Training	1
DCA Organization	
Abbreviated Expert Consultant Delegated Contract	1
Active Shooter Preparedness Training	9
CalATERS Training	2
DCA Purchasing Process	1
Delegated Contracts	1
HR Liaison training	1
Lunch and Learn – DCA Connect	2
Record Retention training	4
Non-IT Contracts	1
Regulations Training: The Rulemaking Process	1
DCA Leadership Academy	
Creating Effective Teams	1
Hiring and Onboarding New Employees	1
Labor Relations for Managers and Supervisors	1
Leader as Communicator	1
Leadership Fundamentals	1
Performance Management	1
Safety, Wellness and Accommodation	1
Strategic Management	1
Executive Training	
Executive Brown Bag Gathering	3

Appendix G –
Complaint Prioritization Guidelines

**Complaint Prioritization Guidelines
for DCA Agencies Regulating
Business Services, Design and Construction**

As complaints are received, a staff person should immediately review each complaint to determine the appropriate course of action based on the complaint prioritization guidelines. The table below represents true guidelines - depending on the facts, a different level of priority may be warranted. For example, a complaint based on a report of out of state discipline (normally routine) may be re-prioritized to a higher level based on the nature of the underlying acts. In addition, each agency may have complaint categories unique to its subject area.

Agencies should continue to review complaints warranting urgent or high attention to determine whether to seek an Interim Suspension Order, a Penal Code section 23 request or other interim action as described in Deputy Director for Legal Affairs Doreathea Johnson's memorandum dated December 15, 2008.

Priority Level	Complaint Category
Urgent (Highest Priority)	Allegations which indicate the licensee poses an immediate danger to the public health, safety or welfare Imminent or on-going criminal activity Unlicensed activity posing an immediate danger to the public health, safety or welfare Aiding and abetting unlicensed activity posing an immediate danger to the public health, safety or welfare Multiple or singular complaints of fraud that potentially involve a substantial number of people or a substantial amount of money Arrests or convictions substantially related to the area of practice (Note: May be re-categorized based on the nature of the underlying acts)
High	Significant financial harm to a person which might be avoided or mitigated When evidence will likely be destroyed or unavailable When victim may not be available later as a witness Unlicensed activities <u>not</u> posing an immediate danger to the public health, safety or welfare Aiding and abetting unlicensed activity <u>not</u> posing an immediate danger to the public health, safety or welfare

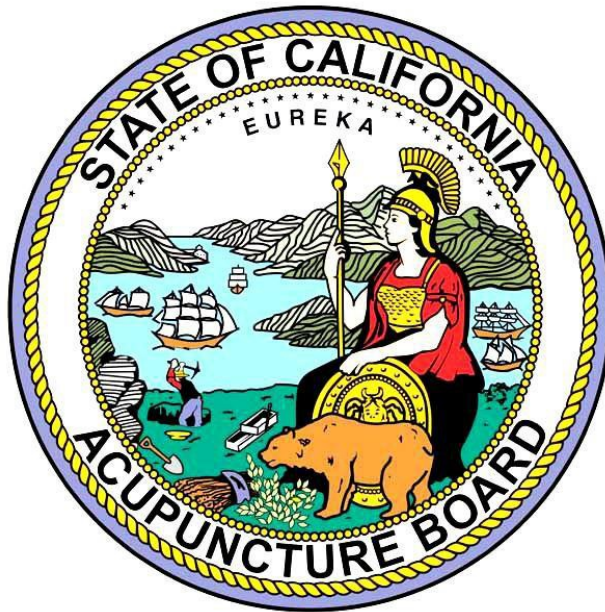
	<p>Exam subversion (where exam may be compromised)</p> <p>Complaints with multiple prior complaints</p> <p>Complaints about licensees on probation</p> <p>Project abandonment</p> <p>Fraud</p>
Routine	<p>Quality of services</p> <p>Advertising (unlicensed and otherwise)</p> <p>Record keeping violations</p> <p>Non-compliance with a citation</p> <p>Continuing education</p> <p>Exam subversion (exam not compromised)</p> <p>Applicant misconduct</p> <p>Reports of out-of-state discipline (Note: May be re-categorized based on the nature of the underlying acts)</p>

Attachment A –
2017 Board Member
Administrative Manual

State of California

**California Acupuncture Board
Board Member Administrative
Manual**

Adopted October 20, 2017



Department of Consumer Affairs, State of California
Edmund G. Brown Jr., Governor

Members of the Board

Dr. Amy Matecki, MD, L.Ac, President, Licensed Member
Kitman Chan, Vice President, Public Member
Francisco Hsieh, Public Member
Jeannie Kang, L.Ac, Licensed Member
Ruben Osorio, Public Member
Vacant, Licensed Member
Vacant, Public Member

Executive Officer

Benjamin Bodea, Executive Officer

This procedure manual is a general reference including a review of important laws, regulations, and basic Board policies to guide the actions of Board members and ensure Board effectiveness and efficiency.

This Administrative Procedure Manual, regarding Board Policy, can be amended by a majority of affirmative votes of any current or future Board.

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CHAPTER 1. Introduction

Mission Statement

To protect, benefit, and inform the people of California by exercising the licensing, regulatory, and enforcement mandates of the Acupuncture Licensure Act and Acupuncture Regulations.

Brief History

The Board of Medical Examiners (now called the Medical Board of California) began regulating acupuncture in 1972 under provisions that authorized the practice of acupuncture under the supervision of a licensed physician as part of acupuncture research in medical schools.

In 1975, Senate Bill 86 (Chapter 267, Statutes of 1975) created the Acupuncture Advisory Committee (committee) under the Board of Medical Examiners and allowed the practice of acupuncture but only upon prior diagnosis or referral by a licensed physician, chiropractor or dentist. In 1976 California became the eighth state to license acupuncturists. Subsequent legislation in 1978 established acupuncture as a "primary health care profession" by eliminating the requirement for prior diagnosis or referral by a licensed physician, chiropractor or dentist; and AB 2424 (Chapter 1398, Statutes of 1978) authorized MediCal payments for acupuncture treatment.

In 1980 the law was amended to abolish the Acupuncture Advisory Committee and replace it with the Acupuncture Examining Committee within the Division of Allied Health Professions with limited autonomous authority and expanded the acupuncturists' scope of practice and provided that fees be deposited in the Acupuncture Examining Committee Fund instead of the Medical Board's fund. Most of these statutory changes became effective on January 1, 1982.

In 1982, the Legislature designated the Acupuncture Examining Committee as an autonomous body, and effective January 1, 1990, through AB 2367 (Chapter 1249, Statutes of 1989) the name was changed to the Acupuncture Committee to better identify it as a state licensing entity for acupuncturists. On January 1, 1999, the committee's name was changed to the Acupuncture Board (SB 1980, Chapter 991, Statutes of 1998) and removed the Committee from within the jurisdiction of the Medical Board of California (SB 1981, Chapter 736, Statutes of 1998).

In 2002, AB 1943 (Chapter 781, Statutes of 2002) was signed into law that raised the acupuncture training program curriculum standards requirement to 3,000 hours, which included 2,050 hours of didactic training and 950 hours of clinical training. In 2006, SB 248 (Chapter 659, Statutes of 2005) repealed the nine-member Board and reconstituted it as a seven-member board with four public members and three licensed acupuncture members. The quorum requirements were changed to four members

including at least one licensed member constituted a quorum.

In 2014, SB 1246 (Chapter 397, Statutes of 2014), was signed into law. This bill extended the Board's sunset date to January 1, 2017. On September 26, 2016, AB 2190 (Chapter 667, Statutes of 2016) was signed into law. This bill extended the Board's sunset date to January 1, 2019.

Function of the Board

The Acupuncture Board's (Board) legal mandate is to regulate the practice of acupuncture and Asian medicine in the State of California. The Board established and maintains entry standards of qualification and conduct within the acupuncture profession, primarily through its authority to license. The Acupuncture Licensure Act commences with Business and Professions (B&P) Code, Section 4925 et seq. The Board's regulations appear in Title 16, Division 13.7, of the California Code of Regulations (CCR).

The primary responsibility of the Acupuncture Board is to protect California consumers from incompetent, and/or fraudulent practice through the enforcement of the Acupuncture Licensure Act and the Board's regulations. The Board promotes safe practice through the improvement of educational training standards, continuing education, enforcement of the B&P Code, and public outreach.

State of California Acronyms

ALJ	Administrative Law Judge
AG	Office of the Attorney General
APA	Administrative Procedure Act
B & P	Business and Professions Code
CCCP	California Code of Civil Procedure
CCR	California Code of Regulations
DAG	Deputy Attorney General
DOF	Department of Finance
DOI	Division of Investigation
DPA	Department of Personnel Administration
OAH	Office of Administrative Hearings
OAL	Office of Administrative Law
SAM	State Administrative Manual
SCIF	State Compensation Insurance Fund
SCO	State Controller's Office
SCSA	State and Consumer Services Agency
SPB	State Personnel Board

General Rules of Conduct

All Board Members shall act in accordance with their oath of office, and shall conduct themselves in a courteous, professional and ethical manner at all times. The Board serves at the pleasure of the Governor and the Legislature, and shall conduct their

business in an open manner, so that the public that they serve shall be both informed and involved, consistent with the provisions of the Bagley-Keene Open Meeting Act and all other governmental and civil codes applicable to similar boards within the State of California.

- ❖ Board Members shall comply with all provisions of the Bagley-Keene Open Meeting Act.
- ❖ Board Members shall not speak or act for the Board without proper authorization.
- ❖ Board Members shall not privately or publicly lobby for or publicly endorse, or otherwise engage in any personal efforts that would tend to promote their own personal or political views or goals, when those are in direct opposition to an official position adopted by the Board.
- ❖ Board Members shall not discuss personnel or enforcement matters outside of their official capacity in properly noticed and agendized meetings or with members of the public or the profession.
- ❖ Board Members shall never accept gifts from applicants, licensees, or members of the profession while serving on the Board.
- ❖ Board Members shall maintain the confidentiality of confidential documents and information related to Board business.
- ❖ Board Members shall commit the time and prepare for Board responsibilities including the reviewing of board meeting notes, administrative cases to be reviewed and discussed, and the review of any other materials provided to the Board Members by staff, which is related to official Board business.
- ❖ Board Members shall recognize the equal role and responsibilities of all Board Members.
- ❖ Board Members shall act fairly, be nonpartisan, impartial, and unbiased in their roles of protecting the public and enforcing the Acupuncture Licensure Act.
- ❖ Board Members shall treat all consumers, applicants and licensees in a fair, professional, courteous and impartial manner.
- ❖ Board Members' actions shall serve to uphold the principle that the Board's primary mission is to protect the public.
- ❖ Board Members shall not use their positions on the Board for personal, familial, or financial gain. Any employment subsequent to employment as a board member shall be consistent with Executive Order 66-2.

CHAPTER 2. Board Members & Meeting Procedures

Membership

(B & P Code Section 4929)

The Board consists of seven members. Three members are licensed acupuncturists and four are public members. The Governor appoints the three licensed members and two public members. The Senate Rules Committee and the Speaker of the Assembly each appoint one public member. All members appointed by the Governor are subject to Senate confirmation. The members serve a four-year term for a maximum of two terms.

Board Meetings

(B & P Code Section 101.7)

(Government Code Section 11120 et seq. – Bagley-Keene Open Meeting Act)

The full Board shall meet at least three times each calendar year. The Board shall meet at least once each calendar year in northern California and at least once each calendar year in southern California in order to facilitate participation by the public and its licensees.

The Board, as a statement of policy, shall comply with the provisions of the Bagley-Keene Open Meeting Act, and conduct their business in accordance with Robert's Rules of Order, as long as that does not conflict with any superseding laws or regulations.

Due notice of each meeting and the time and place thereof must be given to each member in the manner provided by the Bagley-Keene Open Meeting Act.

The Board may call a special meeting at any time in the manner provided by the Bagley-Keene Open Meeting Act, Government Code Section 11125.4.

Quorum

(B & P Code Section 4933)

Four members of the Board, including at least one acupuncturist, shall constitute a quorum to conduct business. An affirmative vote of a majority of those present at a meeting of the Board is required to carry any motion.

Board Member Attendance at Board Meetings

(Board Policy)

Being a member of the Board is a serious commitment to the governor and the people of the State of California. Board members shall attend a minimum of 75% of all scheduled board meetings. If a member is unable to attend, he or she must contact the Board President or the Executive Officer, and provide a written explanation of their absence.

Public Attendance at Board Meetings

(Government Code Section 11120 et seq.)

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act. This Act governs meetings of the state regulatory Boards and meetings of committees of those Boards where committee consists of more than two members. It specifies meeting notice, agenda requirements, and prohibits discussing or taking action on matters not included on the agenda. If the agenda contains matters which are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

Agenda Items

(Board Policy)

Board Members may submit agenda items for a future Board meeting during the "Future Agenda Items" section of a Board meeting or directly to the Board President up to two weeks after a Board meeting. To the extent possible, the Board President will calendar each Board Member's request on a future Board meeting.

In the event of a conflict, the Board President shall make the final decision. The Board President will work with the Executive Officer to finalize the agenda.

If a Board Member requests an item be placed on the agenda, and that request cannot be complied with at the immediate upcoming meeting, then the requested agenda item shall be placed on the next regularly scheduled meeting and shall never be postponed more than two meetings.

Notice of Meetings

(Government Code Section 11120 et seq.)

Meeting notices, including agendas, for Board meetings will be sent to persons on the Board's mailing list at least 10 calendar days in advance, as specified in the Bagley-Keene Open Meeting Act. The notice shall include a staff person's name, work address, and work telephone number who can provide further information prior to the meeting.

Notice of Meetings Posted on the Internet

(Government Code Section 11125 et seq.)

Meeting notices shall be posted on the Board's web site at least 10 days in advance of the meeting, and include the name, address, and telephone number of staff who can provide further information prior to the meeting.

Mail Ballots

(Government Code Section 11500 et seq.)

The Board must approve any proposed decision or stipulation before the formal discipline becomes final and the penalty can take effect.

Proposed stipulations and decisions are mailed to each Board Member for his or her vote. For stipulations, a background memorandum from the assigned deputy attorney general accompanies the mail ballot. A five-calendar day deadline generally is given for the mail ballots for stipulations and proposed decisions to be completed and returned to the Board's office.

Holding Disciplinary Cases for Board Meetings

(Board Policy)

When voting on mail ballots for proposed disciplinary decisions or stipulations, a Board Member may wish to discuss a particular aspect of the decision or stipulation before voting. If this is the case, the ballot must be marked "hold for discussion," and the reason for the hold must be provided on the mail ballot. This allows staff the opportunity to prepare information being requested.

If two votes are cast to hold a case for discussion, the case is set aside and not processed (even if four votes have been cast on a decision). Instead the case is scheduled for a discussion during a closed session at the next Board meeting.

If the matter is held for discussion, staff counsel will preside over the closed session to assure compliance with the Administrative Procedure Act and Open Meeting Act.

Record of Meetings

(Board Policy)

The minutes are a summary, not a transcript, of each Board meeting. They shall be prepared by Board staff and submitted for review by Board Members before the next Board meeting.

Board minutes must be approved or disapproved at the next scheduled meeting of the Board. When approved, the minutes shall serve as the official record of the meeting. The recordings of each Board meeting shall be maintained and not destroyed.

Tape Recording

(Government Code Section 11124.1(b))

The meeting may be audio and video tape recorded by the public or any other entity in accordance with the Bagley-Keene Open Meeting Act, the members of the public may tape record, videotape or otherwise record a meeting unless they are disruptive to the meeting and the President has specifically warned them of their being disruptive, then the President may order that their activities be ceased.

The Board may place the recorded public board meetings on its web site at:

www.acupuncture.ca.gov

Meeting Rules

(Board Policy)

The Board will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Open Meeting Act or other state laws or regulations), as a guide when conducting the meetings. Questions of order are clarified by the Board's legal counsel.

Public Comment

(Board Policy)

Public comment is always encouraged and allowed, however, if time constraints mandate, the comments may be limited to five minutes per person. Due to the need for the Board to maintain fairness and neutrality when performing its adjudicative function, the Board shall not receive any information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending or criminal administrative action.

1. If, during a Board meeting, a person attempts to provide the Board with any information regarding matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the person shall be advised that the Board cannot properly consider or hear such substantive information and the person must be instructed to refrain from making such comments.
2. If, during a Board meeting, a person wishes to address the Board concerning alleged errors of procedure or protocol or staff misconduct involving matters that are currently under or subject to investigation or involve a pending administrative or criminal action, the Board will address the matter as follows:
 - a. Where the allegation involves errors of procedure or protocol, the Board may designate its Executive Officer to review whether the proper procedure or protocol was followed and to report back to the Board.
 - b. Where the allegation involves significant staff misconduct, the Board may designate one of its members to review the allegation and to report back to the Board.
3. The Board may deny a person the right to address the Board and have the person removed if such person becomes disruptive at the Board meeting. The Board accepts the conditions established in the Bagley-Keene Open Meeting Act and appreciates that at times the public may disapprove, reprimand, or otherwise present an emotional presentation to the Board, and it is the Board's duty and obligation to allow that public comment, as provided by law.

CHAPTER 3. Travel & Salary Policies & Procedures

Travel Approval

(Board Policy)

Board members shall receive Executive Officer approval for all travel and salary or per diem reimbursement, except for regularly scheduled Board, committee, and conference meetings to which a Board member is assigned.

Travel Arrangements

(Board Policy)

Board members should attempt to make their own travel arrangements and are encouraged to coordinate with the Board Liaison on lodging accommodations.

Out-of-State Travel

(SAM Section 700 et seq.)

Out-of-state travel for all persons representing the State of California is controlled and must be approved by the Governor's Office.

Travel Claims

(SAM Section 700 et seq.)

Rules governing reimbursement of travel expenses for Board Members are the same as for management-level state staff. All expenses shall be claimed on the appropriate travel expense claim forms. The Board Liaison maintains these forms and completes them as needed.

The Executive Officer's travel and per diem reimbursement claims shall be submitted to the Board President for approval.

It is advisable for Board Members to submit their travel expense forms immediately after returning from a trip and not later than thirty days following the trip.

Salary Per Diem

(B & P Code Section 103 and 4931)

Each member of the Board shall receive a per diem in the amount provided in Section 103 of the Business and Professions (B&P) Code. Board Members fill non-salaried positions, but are paid \$100 per day for each meeting day and are reimbursed travel expenses.

Compensation in the form of salary per diem and reimbursement of travel and other related expenses for Board Members is regulated by the B&P Code Section 103. In relevant part, B&P Code Section 103 provides for the payment of salary per diem for Board Members "for each day actually spent in the discharge of official duties," and provides that the Board Member "shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties."

Salary Per Diem

(Board Policy)

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

1. No salary per diem or reimbursement for travel-related expenses shall be paid to Board Members except for attendance at official Board or committee meetings, unless a substantial official service is performed by the Board Member.

Attendance at gatherings, events, hearings, conferences or meetings other than official Board or committee meetings in which a substantial official service is performed the Executive Officer shall be notified and approval shall be obtained from the Board President prior to Board Member's attendance.

2. The term "day actually spent in the discharge of official duties" shall mean such time as is expended from the commencement of a Board or committee meeting until that meeting is adjourned.

If a member is absent for a portion of a meeting, hours are then reimbursed for time actually spent. Travel time is not included in this component.

3. For Board-specified work, Board Members will be compensated for time actually spent in performing work authorized by the Board President. This may also include, but is not limited to, authorized attendance at other events, meetings, hearings, or conferences. Work also includes preparation time for Board or committee meetings and reading and deliberating mail ballots for disciplinary actions.
4. Reimbursable work does not include miscellaneous reading and information gathering unrelated to board business and not related to any meeting, preparation time for a presentation and participation at meetings not related to official participation of the members duties with the Board.
5. Board Members may participate on their own (i.e., as a citizen or professional) at an event or meeting but not as an official Board representative unless approved in writing by the President. Requests must be submitted in writing to the President for approval and a copy provided to the Executive Officer. However, Board Members should recognize that even when representing themselves as "individuals," their positions might be misconstrued as that of the Board.

CHAPTER 4. Selection of Officers & Committees

Officers of the Board

The Board shall elect at the first meeting of each year a President and Vice President.

Election of Officers

Elections of the officers shall occur annually at the first meeting of each year.

Officer Vacancies

If an office becomes vacant during the year, the President may appoint a member to fill the vacancy for the remainder of the term until the next annual election.

If the office of the President becomes vacant, the Vice President shall assume the office of the President. Elected officers shall then serve the remainder of the term.

Board Member Addresses

Board Member addresses and telephone numbers are confidential and shall not be released to the public without expressed authority of the individual Board Member. A roster of Board Members is maintained for public distribution on the Board's web site using the Board's address and telephone number.

Board Member Written Correspondence and Mailings

All correspondence, press releases, articles, memoranda or any other communication written by any Board Member in his or her official capacity must be provided to the Executive Officer. The Executive Officer will retain a copy in a chronological file.

Communications: Other Organizations/Individuals/Media

All communications relating to any Board action or policy to any individual or organization, or a representative of the media shall be made only by the Board President, his or her designee, or the Executive Officer. Any Board Member who is contacted by any of the above should inform the Board President or Executive Officer of the contact.

Committee Appointments

The President shall establish committees as he or she deems necessary.

The composition of the committees and the appointment of the members shall be determined by the Board President in consultation with the Vice President and the Executive Officer.

Committee Meetings

Each committee will be comprised of at least two Board Members. The committees are an important venue for ensuring that staff and Board Members share information and perspectives in crafting and implementing strategic objectives.

The Board's committees allow Board Members, stakeholders and staff to discuss and conduct problem solving on issues related to the Board's strategic goals. They also allow the Board to consider options for implementing components for the strategic plan.

The committees are charged with coordinating Board efforts to reach Board goals and achieving positive results on its performance measures.

The Board President designates one member of each committee as the committee's chairperson.

The chairperson coordinates the committee's work, ensures progress toward the Board's priorities, and presents reports as necessary at each meeting.

During any public committee meeting, comments from the public are encouraged, and the meetings themselves are frequently public forums on specific issues before a committee. These meetings shall also be run in accordance with the Bagley-Keene Open Meeting Act.

Attendance at Committee Meetings

If a Board Member wishes to attend a meeting of a committee of which he or she is not a member, the Board Member must obtain permission from the Board President to attend and must notify the committee chair and staff.

Board Members who are not members of the committee that is meeting cannot vote during the committee meeting.

If there is a quorum of the Board at a committee meeting, Board Members who are not members of the committee must sit in the audience and cannot participate in committee deliberations.

The Board's legal counsel works with the Executive Officer to assure any meeting that fits the requirements for a public meeting is appropriately noticed.

CHAPTER 5. Board Administration & Staff

Executive Officer

(B & P Code Section 4934)

The Board may appoint an Executive Officer. The Executive Officer is responsible for the financial operations and integrity of the Board, and is the official custodian of records. The Executive Officer is an at will employee, who serves at the pleasure of the Board, and may be terminated, with or without cause, in accordance with the provisions of the Bagley-Keene Open Meeting Act.

Board Administration

Strategies for the day-to-day management of programs and staff shall be the responsibility of the Executive Officer as an instrument of the Board.

Executive Officer Evaluation

On an annual basis, the Executive Officer is evaluated by the Board President during a closed session. Board members provide information to the President on the Executive Officer's performance in advance of this meeting.

Board Staff

(B & P Code Section 4934)

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by a myriad of civil service laws and regulations and often by collective bargaining labor agreements.

Because of this complexity, the Board delegates this authority and responsibility for management of the civil service staff to the Executive Officer as an instrument of the Board.

Board Members may express any staff concerns to the Executive Officer but shall refrain from involvement in any civil service matters. Board Members shall not become involved in the personnel issues of any state employee.

Board Budget

The Executive Officer or the Executive Officer's designee will attend and testify at the legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Communications with Other Organizations & Individuals

All communications relating to any Board action or policy to any individual or organization shall be made only by the President of the Board, his or her designee, or the Executive Officer.

Any Board Member who is contacted by any of the above should inform the Board President or Executive Officer of the contact immediately.

All correspondence shall be issued on the Board's standard letterhead and will be disseminated by the Executive Officer's office.

Business Cards

Business cards will be provided to each Board Member with the Board's name, address, telephone and fax number, and website address.

CHAPTER 6. Other Policies & Procedures

Board Member Disciplinary Actions

If a Board Member violates any provision of the Administrative Procedure Manual, the President will provide in writing, notice to the member of the violation. If the member disagrees with the notice, the Board Member must provide a reply in writing. After giving the board member an opportunity to respond to the notice, the President, at his/her discretion may meet in person or discuss by telephone with the Board Member to discuss the violation. The President may ask a third person to be present during the meeting. If the matter is not resolved at the end of the meeting or it is resolved but the Board Member continues to violate the procedures in the manual, the President may agendaize at the next board meeting an item asking for censure of the Board Member.

If the violation concerns the President's conduct, the Vice-President will handle the matter.

Terms and Removal of Board Members

(B & P Code Sections 4929 and 4930)

The Governor appoints three acupuncturist members and two public members of the Board. The Senate Rules Committee and the Speaker of the Assembly each appoint a public member. Each appointment shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. No person shall serve more than two consecutive terms on the Board.

Each Governor appointee shall serve until his successor has been appointed and qualified or until 60 days has elapsed since the expiration of his term whichever first occurs. Each Senate Rules Committee and the Speaker of the Assembly appointee shall serve until his successor has been appointed and qualified or until one year has elapsed since the expiration of his term whichever first occurs.

The Governor has the power to remove any member from the Board appointed by him for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct.

Resignation of Board Members

(Government Code Section 1750(b))

In the event that it becomes necessary for a Board Member to resign, a letter shall be sent to the appropriate appointing authority (Governor's Office, Senate Rules Committee, or the Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the Board President and the Executive Officer.

Conflict of Interest

(Government Code Section 87100)

No Board Member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a financial interest.

Any Board Member who has a financial interest shall disqualify him or herself from making or attempting to use his or her official position to influence the decision.

Any Board Member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the Executive Officer or the Board's legal counsel.

Contact with Licensees and Applicants

Board Members shall not intervene on behalf of a licensee or applicant for licensure for any reason. They should forward all contacts or inquiries to the Executive Officer.

Contact with Respondents

Board Members should not directly participate in complaint handling and resolution or investigations. To do so would subject the Board Member to disqualification in any future disciplinary action against the licensee. If a Board Member is contacted by a respondent or his/her attorney, the Board Member should refer the individual to the Executive Officer.

Service of Legal Documents

If a Board Member is personally served as a party in any legal proceeding related to his or her capacity as Board Member, he or she must contact the Executive Officer immediately.

Serving as an Expert Witness

(Executive Order 66.2)

Pursuant to Executive Order 66-2, no employment, activity, or enterprise shall be engaged in by any gubernatorial appointee which might result in, or create the appearance of resulting in any of the following:

1. Using the prestige or influence of a State office for the appointee's private gain or advantage.
2. Using state time, facilities, equipment, or supplies for the appointee's private gain or advantage, or the private gain or advantage of another.

3. Using confidential information acquired by virtue of State involvement for the appointees private gain or advantage, or the private gain or advantage of another.
4. Receiving or accepting money or any other consideration from anyone other than the State for the performance of an act which the appointee would be required or expected to render in the regular course of hours of his or her State employment or as a part of the appointee's duties as a State officer.

Gifts from Licensees and Applicants

A gift of any kind to Board Members from licensees, applicants for licensure, continuing education providers or approved schools is not permitted. Gifts must be returned immediately.

Ex Parte Communications

(Government Code Section 11430.10 et seq.)

The Government Code contains provisions prohibiting ex parte communications. An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

"While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."

Board Members are prohibited from an ex parte communication with Board enforcement staff while a proceeding is pending.

Occasionally, an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to directly contact Board Members. If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the Executive Officer.

If a Board Member receives a telephone call from an applicant under any circumstances or licensee against whom an action is pending, he or she should immediately tell the person they cannot speak to them about the matter and inform the Executive Officer and the Board's legal counsel.

If the person insists on discussing the case, he or she should be told that the Board Member will be required to recuse him or herself from any participation in the matter. Therefore, continued discussion is of no benefit to the applicant or licensee.

If a Board Member believes that he or she has received an unlawful ex parte communication, he or she should contact the Executive Officer and the Board's legal counsel.

Honoraria Prohibition

(Government Code Section 89503 and FPPC Regulations, Title 2, Division 6)

As a general rule, members of the Board should decline honoraria for speaking at, or otherwise participating in, professional association conferences and meetings. A member of a state Board is precluded from accepting an honorarium from any source, if the member would be required to report the receipt of income or gifts from that source on his or her statement of economic interest.

Board Members are required to report income from, among other entities, professional associations and continuing education providers. Therefore, a Board Member should decline all offers for honoraria for speaking or appearing before such entities.

There are limited exceptions to the honoraria prohibition. The acceptance of an honorarium is not prohibited under the following circumstances:

- (1) when an honorarium is returned to the donor (unused) within 30 days;
- (2) when an honorarium is delivered to the State Controller within thirty days for donation to the General Fund (for which a tax deduction is not claimed); and
- (3) when an honorarium is not delivered to the Board Member, but is donated directly to a bona fide charitable, educational, civic, religious, or similar tax exempt, non-profit organization.

In light of this prohibition, members should report all offers of honoraria to the Board President so that he or she, in consultation with the Executive Officer and staff counsel, may determine whether the potential for conflict of interest exists.

Required Training

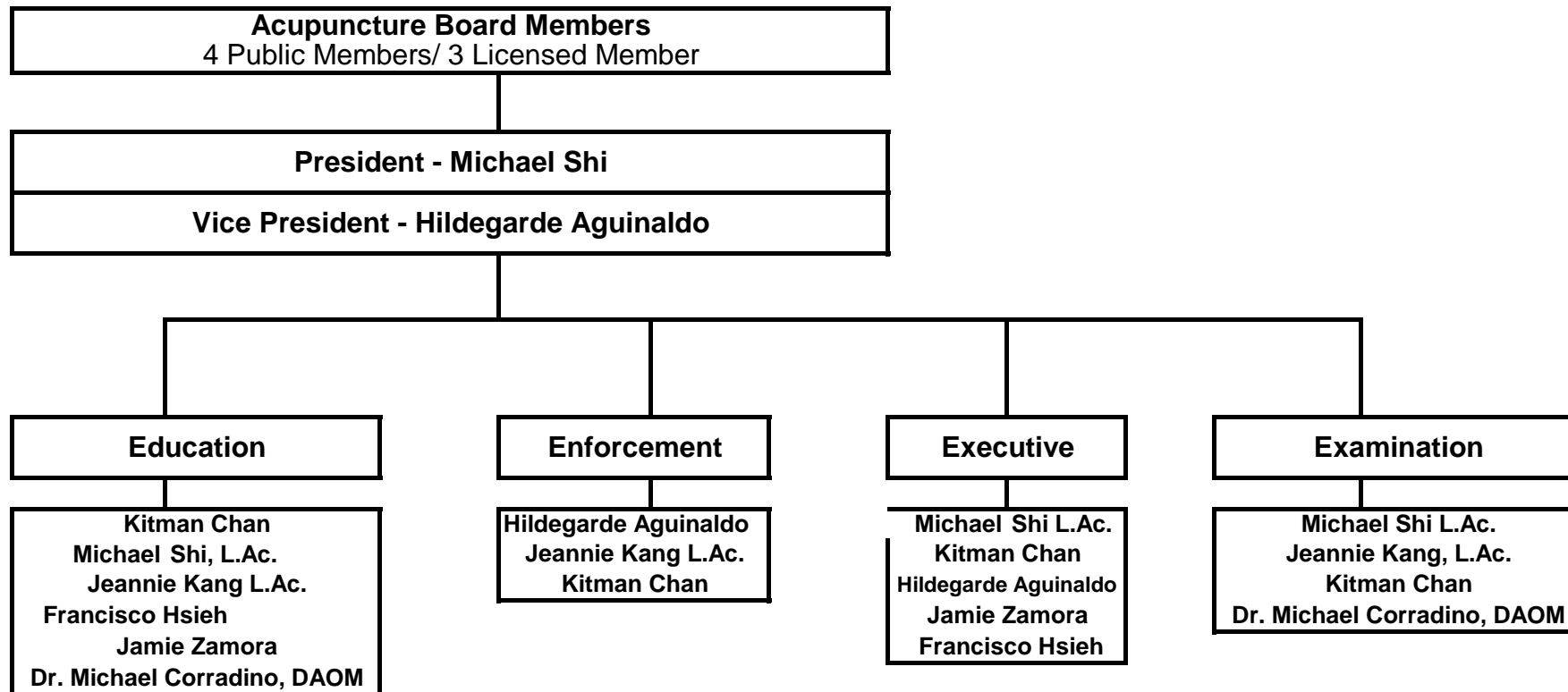
California law requires all appointees to take the following training:

- **Board Member Orientation:**
The Board Member orientation is a full day session that shall be given to new and reappointed Board Members within one year of assuming office.
- **Ethics:**
An ethics orientation within the first six months of appointment and to repeat this ethics orientation every two years throughout their term.
- **Sexual Harassment Training (Government Code Section 12950.1):**
Board Members are required to undergo sexual harassment training and education once every two years.
- **Defensive Driver Training:**
Upon appointment and completed once every four years.

Attachment B1 –
Board Committees
Organizational Chart
FY 2015 - 2016

Department of Consumer Affairs
Acupuncture Board Committees

FY 2015-16

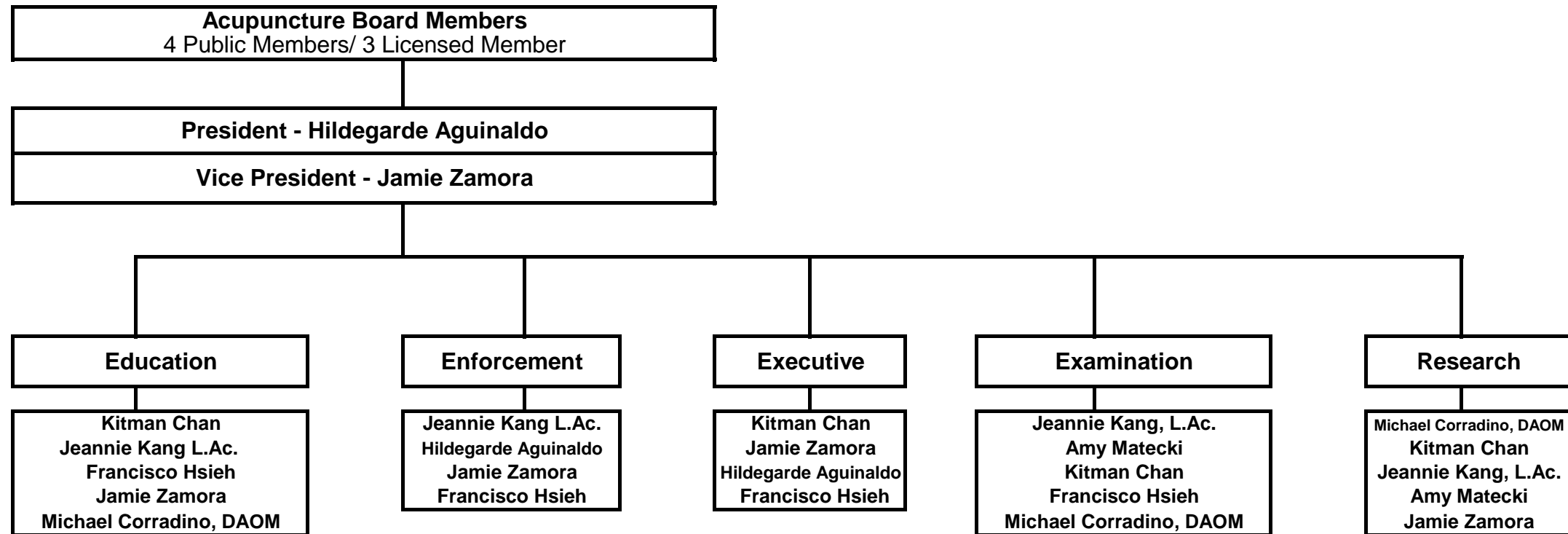


Attachment B2 –
Board Committees
Organizational Chart
FY 2016 - 2017

Department of Consumer Affairs
Acupuncture Board Committees

Attachment B2

FY 2016-17



Attachment C –
Review of the National Certification
Commission for Acupuncture and
Oriental Medicine Examinations

CALIFORNIA ACUPUNCTURE BOARD

REVIEW OF THE NATIONAL CERTIFICATION COMMISSION FOR ACUPUNCTURE AND ORIENTAL MEDICINE EXAMINATIONS



OFFICE OF PROFESSIONAL EXAMINATION SERVICES



CALIFORNIA ACUPUNCTURE BOARD

REVIEW OF THE NATIONAL CERTIFICATION COMMISSION FOR ACUPUNCTURE AND ORIENTAL MEDICINE EXAMINATIONS

This report was prepared and written by the
Office of Professional Examination Services
California Department of Consumer Affairs

January 2016

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Raul Villanueva, M.A., Personnel Selection Consultant



EXECUTIVE SUMMARY

Licensing boards and bureaus within the California Department of Consumer Affairs (DCA) are required to ensure that examination programs being used in the California licensure process comply with psychometric and legal standards. The California Acupuncture Board (Board) requested that DCA's Office of Professional Examination Services (OPES) complete a comprehensive review of the National Certification Commission for Acupuncture and Oriental Medicine's (NCCAOM) examination program. The NCCAOM examinations consist of four tests: Foundations of Oriental Medicine (FOM), Biomedicine (BIO), Acupuncture with Point Location (ACPL), and Chinese Herbology (CH). The purpose of the OPES review was to evaluate the suitability of the NCCAOM examinations as part of the requirements for licensure as an acupuncturist in California. This review was conducted jointly by OPES staff and two psychometric experts working as independent consultants (OPES Team).

OPES and its consultants reviewed documents provided by NCCAOM. Follow-up communications were held to clarify the procedures and practices used to validate and develop the NCCAOM examinations. A comprehensive evaluation of the documents was made to determine whether (a) occupational analysis, (b) examination development, (c) passing scores, (d) test administration, (e) examination performance, and (f) test security procedures met professional guidelines and technical standards. The OPES Team found that the procedures used to establish and support the validity and defensibility of the NCCAOM examination program components listed above meet professional guidelines and technical standards outlined in the *Standards for Educational and Psychological Testing (Standards)* and the California Business and Professions Code section 139.

OPES convened a panel of licensed California acupuncturists to serve as subject matter experts (SMEs) to review the content of each of the four NCCAOM examinations and to compare this content with the test plan for the California Acupuncture Licensure Examination (CALE), as based on the 2015 California Acupuncture Occupational Analysis (OA) performed by OPES. The SMEs were selected by OPES based on their experience, practice specialty, and geographic location of their practice

The SMEs reviewed the test plans and 60-70 sample items from each of the NCCAOM examinations to become familiar with the content of each exam. Once familiar with the content, the SMEs performed a comparison between the content of each of the four NCCAOM examinations and the job task and knowledge statements that make up the test plan for the CALE.

The results of the review by the SMEs indicate that:

1. The NCCAOM examinations are congruent with assessing many of the general areas of entry-level California acupuncture practice, e.g., acupuncture treatment, herbal therapy, diagnostic impressions, etc.
2. The NCCAOM examinations do not assess 100% of the general areas of entry-level California acupuncture practice identified in the 2015 California Acupuncture OA.

3. The NCCAOM examinations do not assess California-specific areas of entry-level acupuncture practice, including content related to the laws, regulations, and practice requirements specific to California.

Table 5 summarizes the results of the linkage study. The listed percentages describe the percent of content overlap between the NCCAOM exam content and the content of the CALE.

The content areas for each of the four NCCAOM examinations are provided in Appendices A through F, respectively. The CALE test plan (Table 6) specifies the job tasks and related knowledge tested by the CALE which a California acupuncturist is expected to have mastered at the time of licensure.

CHAPTER 10. CONCLUSIONS

COMPREHENSIVE REVIEW OF NCCAOM'S EXAMINATION PROGRAM

OPES completed a comprehensive analysis and evaluation of the documents provided by NCCAOM, SMT, and Pearson VUE. The procedures used to establish and support the validity and defensibility of the NCCAOM examinations (i.e., practice analysis, examination development, passing scores, test administration, examination performance, and test security) were found to meet professional guidelines and technical standards outlined in the *Standards for Educational and Psychological Testing* and Business & Professions Code section 139.

Given the findings regarding the NCCAOM examinations, the California Acupuncture Board may consider the following options for applying the results of the linkage study to the requirements for acupuncture licensure in California.

OPTIONS FOR APPLYING THE LINKAGE STUDY RESULTS

Option 1: Require the CALE Only

Use of the CALE is supported by the 2015 California Acupuncture Occupational Analysis. The test plan covers the general areas of acupuncture practice relevant to entry-level licensure in California as well as the areas of entry-level California acupuncture practice related to California-specific laws, rules, and regulations.

Consideration of requiring only the CALE should be moderated by the findings that the NCCAOM exams measure many of the general areas of entry-level California acupuncture practice.

Option 2: Require NCCAOM Exams Only

Given the findings, the content of the NCCAOM examinations are congruent with testing many of the general areas of entry-level California acupuncture practice.

Consideration of replacing the CALE with the NCCAOM exams should be moderated by the findings that:

1. The general areas of entry-level California acupuncture practice not covered by the NCCAOM exams will not be tested, and
2. Areas of entry-level California acupuncture practice related to California-specific laws, rules, regulations, and practice will no longer be tested.

Option 3: Require Either the CALE or the NCCAOM Exams

Allowing candidates to pass either the CALE or the NCCAOM exams to meet CA licensure requirements will result in disparate requirements for California acupuncture licensure. This is because there are content differences between the CALE and the NCCAOM exams. The linkage study results point to the differences in the general

areas of entry-level practice tested by the CALE and NCCAOM exam content. Also, candidates taking the CALE would have to demonstrate a minimum level of competency in regard to their knowledge of California-specific laws, rules, regulations, and practice. The candidates opting to take the NCCAOM exams instead of the CALE would not have to demonstrate a minimum level of competency in regard to their knowledge of California-specific laws, rules, regulations, and practice.

Option 4: Require NCCAOM Exams and a CA Supplement

If the NCCAOM examinations are used as partial fulfillment of the requirements for California acupuncture licensure, consideration should be given to include a California supplemental exam covering the laws, regulations, and practice requirements specific to California.

In determining whether to allow all NCCAOM exams to meet partial fulfillment of California licensure requirements or only specific NCCAOM exams, consideration should be given to the extent to which each NCCAOM exam provides coverage of the general areas of entry-level acupuncture practice relevant to California licensure. For example, the content of the ACPL exam was found to adequately cover Content Area III (Acupuncture Treatment) of the CALE test plan, which is 35% of the CALE test plan content. Conversely, the CH exam provides adequate coverage of Content Area IV (Herbal Therapy) of the CALE test plan, but this represents only 10% of the CALE test plan content.

The CALE test plan will require refining to minimize testing candidates twice on the same material. Developing the test plan for a California supplemental exam will also require inclusion of the tasks and knowledge related to the laws, regulations, and practice requirements specific to California. Next, consideration should be given to the tasks and knowledge related to general acupuncture practice but not measured by the NCCAOM exams. Finally, consideration could be given to including the tasks and knowledge that may be measured in part by the NCCAOM exams, but still require further testing on the CALE because of their importance to newly-licensed acupuncture practice in California.

Final Note

Whichever option is chosen, care should be taken to ensure that the CA acupuncture licensing examination program consists of an examination, or examinations, whose content reflects the CALE test plan as fully as possible.

Options 1 and 4 above are the only two options that provide complete coverage of the 2015 OA Acupuncture test plan.

The full Office of Professional Examination Services (OPES) review of the National Commission for Acupuncture and Oriental Medicine (NCCAOM) examination can be found here:

http://www.acupuncture.ca.gov/pubs_forms/nccaom_audit.pdf

**California Acupuncture Licensing Exam
and
National Certification Commission for Acupuncture and Oriental Medicine
Fee Comparison**

California Acupuncture Licensing Exam Fees

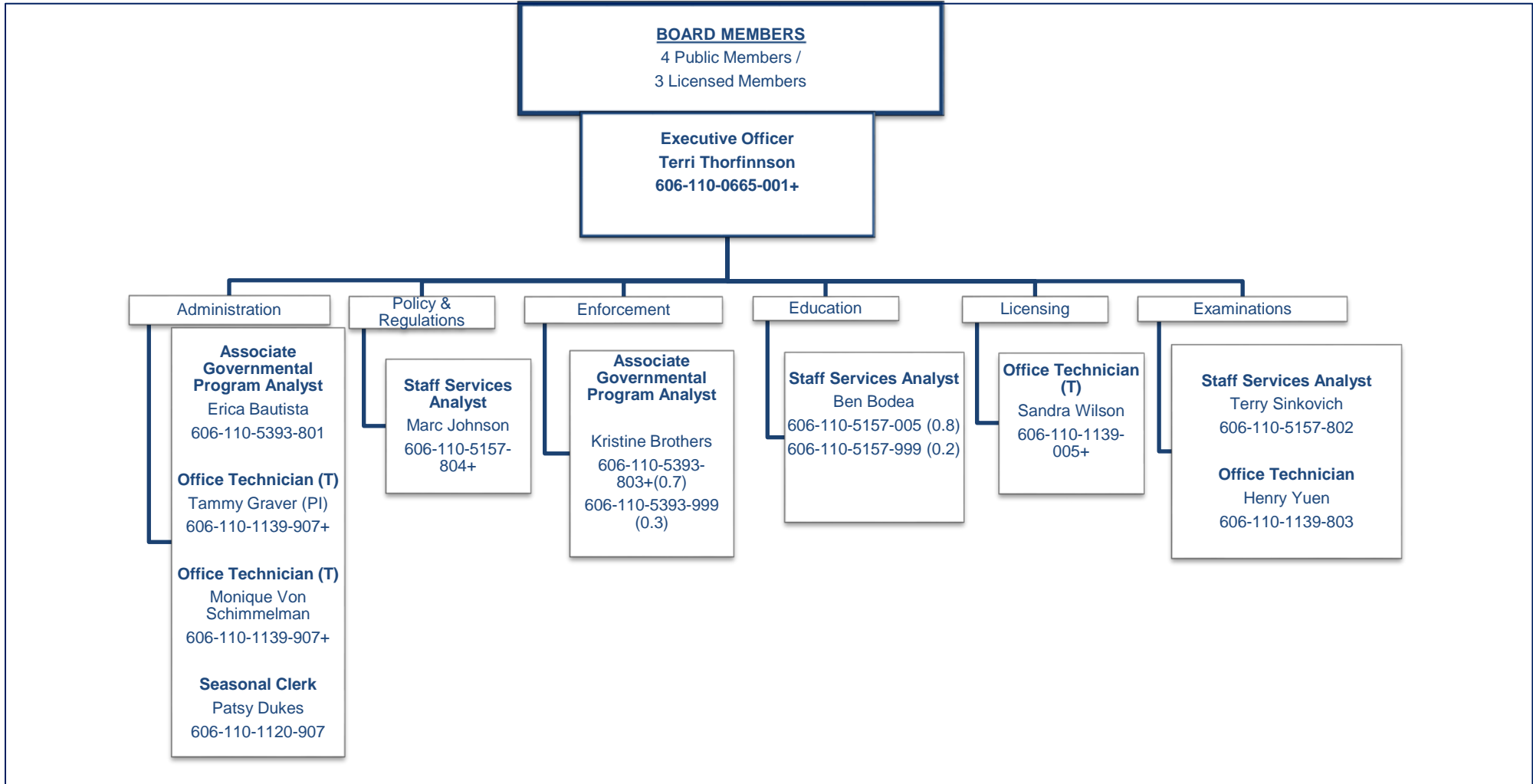
Exam Language	English	Chinese	Korean
Application Fee	\$ 75.00	\$ 75.00	\$ 75.00
CALE Examination Fee	\$ 550.00	\$ 550.00	\$ 550.00
Total CALE Examination Fees for all Languages	\$ 625.00	\$ 625.00	\$ 625.00

**National Certification Commission for Acupuncture and Oriental Medicine
Examinations Fees***

Application Type	NCCAOM Test Fee	Test Center Exam Fee	
		English Language	Foreign Language
Oriental Medicine (OM) Certification Application	\$ 595.00	\$ 300.00	\$ 500.00
Acupuncture (AC) Certification Application	\$ 475.00	\$ 300.00	\$ 500.00
Chinese Herbology (CH) Certification Application	\$ 425.00	\$ 300.00	\$ 500.00
Biomedicine Module	\$ -	\$ 300.00	\$ 500.00
Subtotals	\$ 1,495.00	\$ 1,200.00	\$ 2,000.00
NCCAOM four modules plus test fees - English Language			\$ 2,695.00
NCCAOM four modules plus test fees - Foreign Language			\$ 3,495.00

* The OPES Audit of the NCCAOM examination determined that all four of the NCCAOM modules, along with a California Supplemental, would meet the requirements the CALE currently meets.

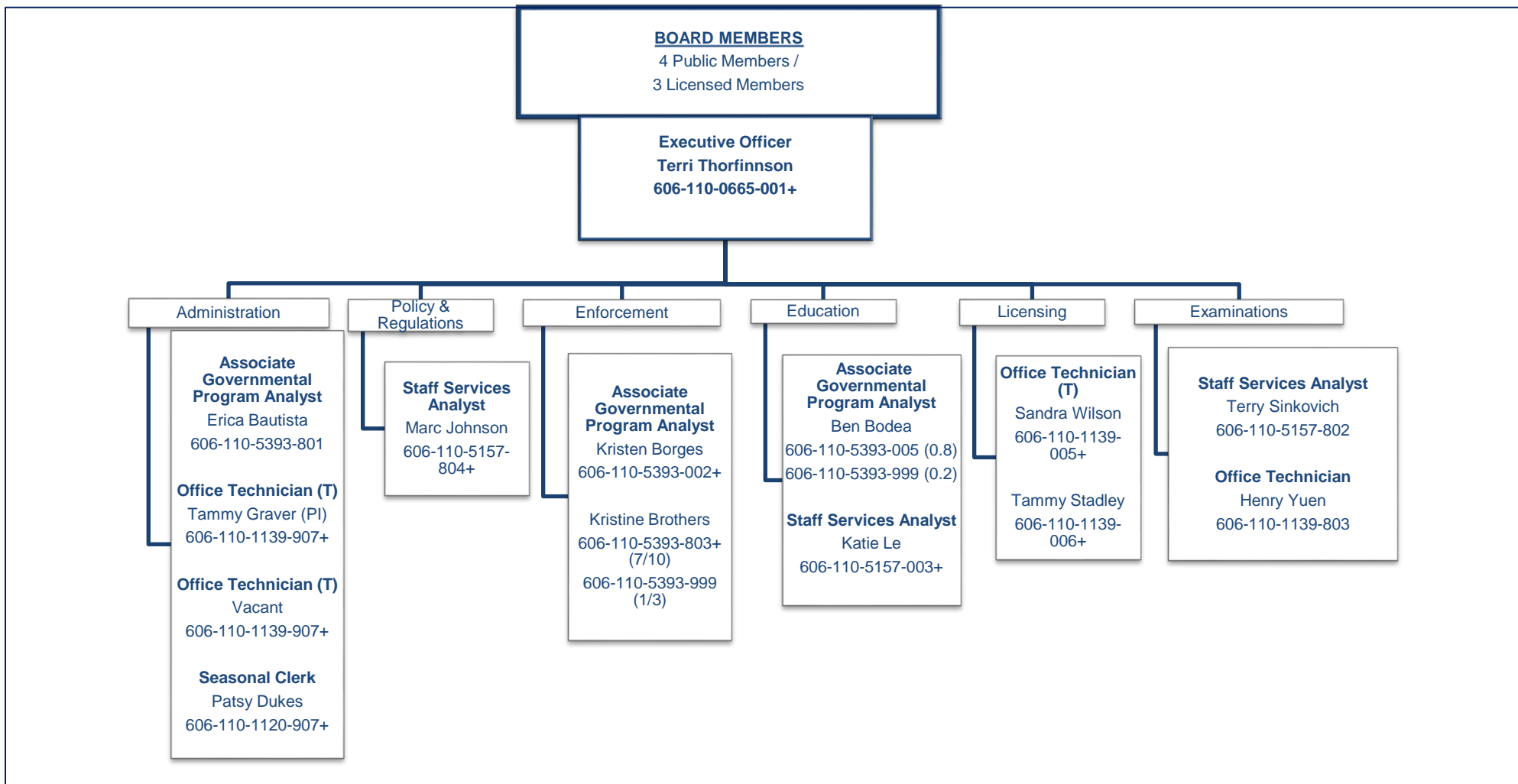
Attachment D1 –
Organizational Chart
FY 2013/2014



Terri Thorfinnson, Executive Officer

Classification and Pay Analyst

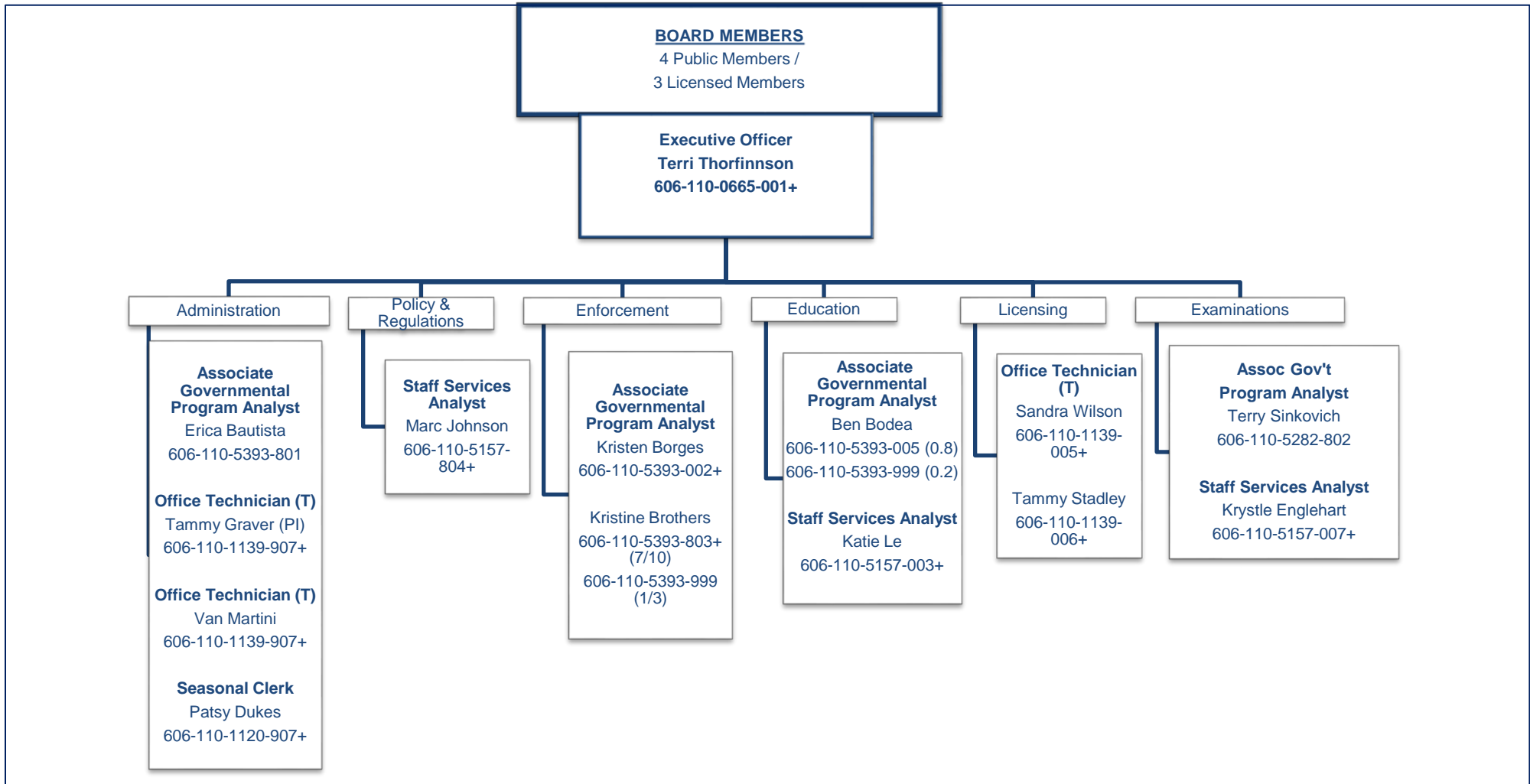
Attachment D2 –
Organizational Chart
FY 2014/2015



Terri Thorfinnson, Executive Officer

Classification and Pay Analyst

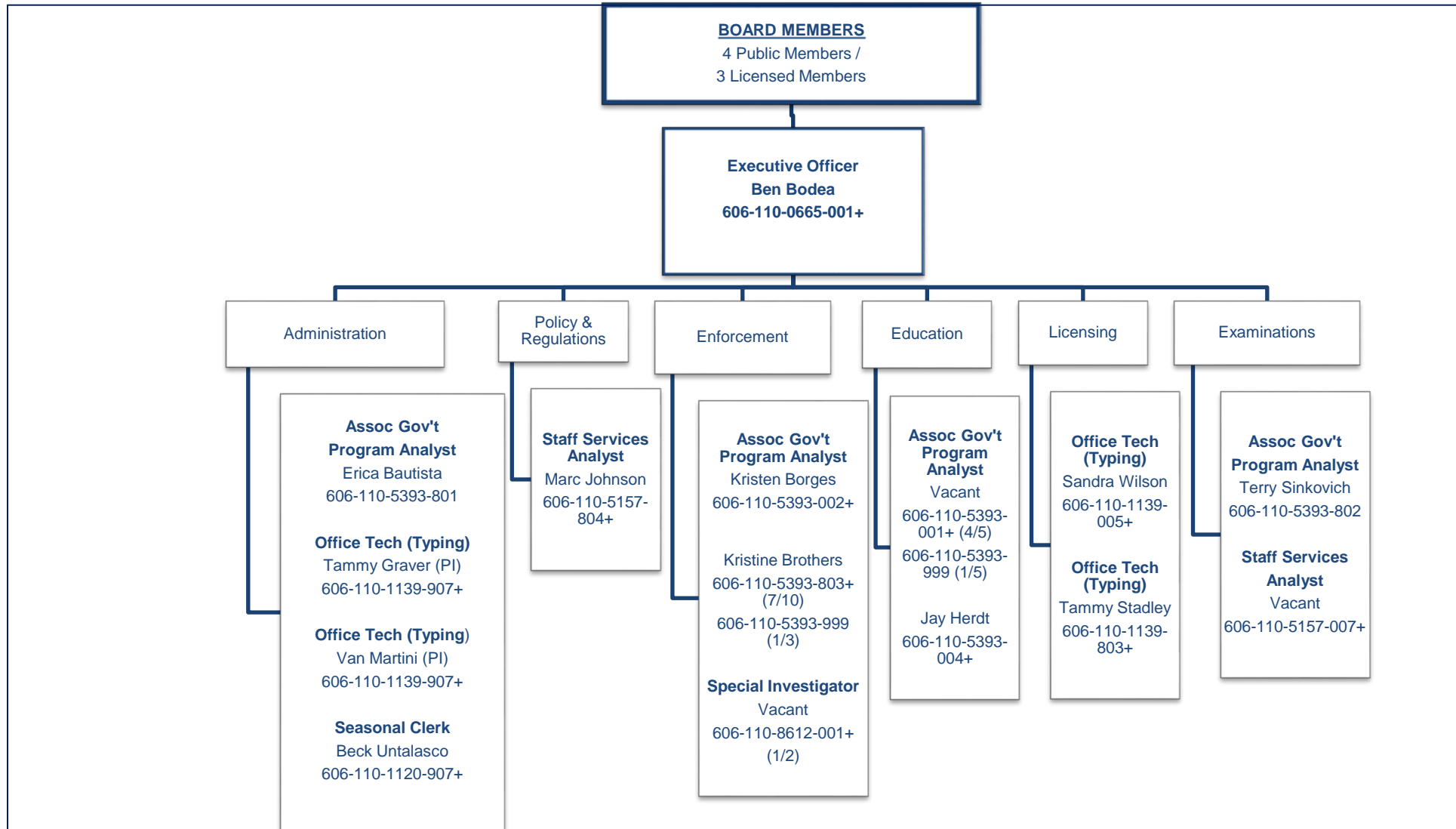
Attachment D3 –
Organizational Chart
FY 2015/2016



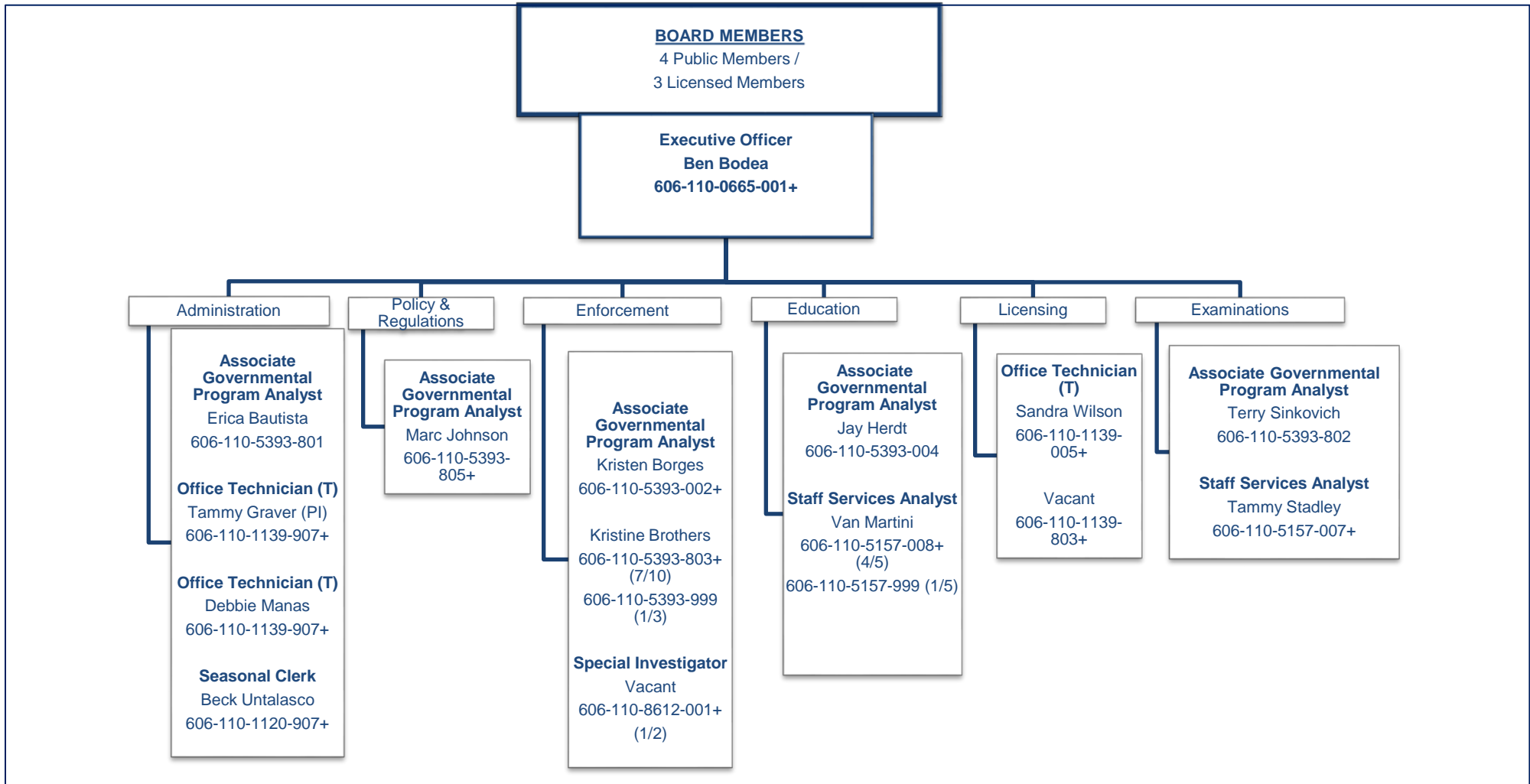
Terri Thorfinnson, Executive Officer

Classification and Pay Analyst

Attachment D4 –
Organizational Chart
FY 2016/2017



Attachment D5 –
Organizational Chart
FY 2017/2018



Ben Bodea, Executive Officer

Classification and Pay Analyst