



Osteopathic Medical Board of California

2016 Sunset Review Report

Presented to the Senate Committee on Business,
Professions and Economic Development



December 2016



Osteopathic Medical Board of California

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Section 1

Background and Description of the Board and Regulated Profession

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM As of December 1, 2016

Section 1

Background and Description of the Board and Regulated Profession

Provide a short explanation of the history and function of the board.¹ Describe the occupations/profession that are licensed and/or regulated by the board (Practice Acts vs. Title Acts).

I. History and Function of the Osteopathic Medical Board of California (OMBC)

Developed more than 130 years ago by Andrew Taylor Stills, M.D., D.O., osteopathic medicine brings a unique philosophy to traditional medicine. Doctors of Osteopathy (D.O.s) are fully licensed to prescribe medication and practice in all medical and all surgical specialty areas, just as their M.D. counterparts. D.O.s are trained to consider the health of the whole person and use their hands in an integrated approach to help diagnose and treat their patient.

D.O.s are one of the fastest growing segments of health care professionals in the United States with California having the second largest practicing osteopathic population in the United States.

The Business and Professions (B&P) Code § 3600 (Osteopathic Initiative Act) and the California Code of Regulations (CCR) Title 16. Professional and Vocational Regulations, Division 16., §1600 Et. Seq., authorizes the Osteopathic Medical Board of California to license qualified D.O.s to practice osteopathic medicine, and to effectuate the enforcement of laws and regulations governing their practice (B & P Code, Chapter 5, Medical Practice Act). The act requires the Board to ensure that consumer protection is their highest priority in exercising its licensing, regulatory, and disciplinary functions.

The Osteopathic Medical Board of California (OMBC) is a fully functioning regulatory board within the Department of Consumer Affairs (DCA) with the responsibility and sole authority to issue licenses to D.O.s to practice osteopathic medicine as a physician and surgeon in California. OMBC is also responsible for ensuring enforcement of legal and professional standards to protect California consumers from incompetent, negligent or unprofessional D.O.s. OMBC regulates D.O.s only. Since the last oversight report, the number of licensees nearly doubled in number. There are 7,737 D.O.s holding California active status licenses at this time. Of this number, 6,681 are practicing within the State. Additionally, there are 603 D.O.s who maintain inactive licenses. In addition to the active and inactive status licenses, there are 866 licenses in a delinquent status. Licenses remain delinquent for five years from the expiration date until the license becomes canceled. Total number of D.O. licenses within the jurisdiction of OMBC is 9,206. D.O.s are similar to M.D.'s in that both are considered to be

¹ The term "board" in this document refers to a board, bureau, commission, committee, department, division, program, or agency, as applicable. Please change the term "board" throughout this document to appropriately refer to the entity being reviewed.

“complete physicians,” in other words, one who has taken the prescribed amount of premedical training, graduated from an undergraduate college (typical emphasis on science courses) and received four years of training in medical school. The D.O. has also received at least one more year of postgraduate training (residency or rotating internship) in a hospital with an approved postgraduate training program.

After medical school, D.O.s may choose to practice in any medical specialty, such as, but not limited to, family practice, internal medicine, surgery, obstetrics, pediatrics, and psychiatry, which involves completing a residency program (typically two to six years of additional training). Licensing examinations are comparable in rigor and comprehensiveness to those given to M.D.’s. Whether one becomes a D.O. or an M.D., the process of receiving complete medical training is essentially the same. The same laws govern the required training for D.O.s and M.D.s who are licensed in California.

D.O’s utilize all scientifically accepted methods of diagnosis and treatment, including the use of drugs and surgery. D.O.s are licensed in all fifty states to perform surgery and prescribe medication. D.O.s practice in fully accredited and licensed hospitals and medical centers. B &P Code § 2453 states that it “is the policy of this State that holders of M.D. degrees and D.O. degrees shall be accorded equal professional status and privileges as licensed physicians and surgeons.”

A D.O. may refer to himself/herself as a “Doctor” or “Dr.” but in doing so, must clearly state that he/she is a D.O. or osteopathic physician and surgeon. He or she may not state or imply that he or she is an M.D. while being licensed in California as a D.O.

A key difference between the two professions is that D.O.s have additional dimension in their training and practice, a component that is not taught in allopathic medical schools. Osteopathic medicine gives particular recognition to the musculoskeletal system (the muscles, bones and joints) which makes up over 60 percent of body mass. The D.O. is trained to recognize that all body systems, including the musculoskeletal system, are interdependent, and a disturbance in one can cause altered functions in other systems of the body. The D.O. is also trained in how this interrelationship of body systems is facilitated by the nervous and circulatory systems. The emphasis on the relationship between body structure and organic functioning is intended to provide a broader base for the treatment of the patient as a unit. These concepts require a thorough understanding of anatomy and the development of special skills in diagnosing and treating structural problems through manipulative therapy. D.O.s use structural diagnosis and manipulative therapy along with all of the other traditional forms of diagnosis and treatment to care effectively for patients and to relieve their distress.

To meet its responsibilities for regulation of the D.O. profession, OMBC is authorized by law to:

1. Monitor licensees for continued competency by requiring approved continuing education.
2. Take appropriate disciplinary action whenever licensees fail to meet the standard of practice.
3. Determine that osteopathic medical schools and hospitals are in compliance with medical education curriculum and post-graduate training requirements.
4. Provide rehabilitation opportunities for licensees whose competency may be impaired due to abuse of alcohol or other drugs.

Additionally, OMBC is charged with enforcement of laws proscribing unlicensed osteopathic medical practice.

II. History of D.O. Regulation and Legislation in California

OMBC's predecessor organization, the Board of Osteopathic Examiners of California (BOEC), was created by an Initiative Measure, "The Osteopathic Act" B & P Code § 3600, in November 1922. This Act authorized the BOEC to license osteopathic physicians and surgeons. This had previously been a responsibility of the Board of Medical Examiners. From 1907 to 1919, D.O.s were required to pass the same examination for licensure as practitioners of allopathic medicine. However, in 1919, the Board of Medical Examiners stopped allowing D.O.s to take the examination. As a result, the California Osteopathic Association sponsored the 1922 Initiative Measure in order to ensure the continued viability of the osteopathic medical profession in California.

The Osteopathic Act was amended by referendum in 1962 (Chapter 48, 1962 First Extraordinary Session). The purpose of this referendum measure was to facilitate an agreement in principle to effectively merge the D.O. and M.D. professions. The key provisions of this measure were:

1. D.O. could choose to be licensed as M.D.s, and if so, would then be under the jurisdiction of the Board of Medical Examiners instead of BOEC;
2. The Osteopathic Act was modified in 1962 to rescind the authority of the BOEC to issue new licenses to D.O.s, but the BOEC would continue to have authority over existing D.O.s who chose not to become M.D.s; and
3. The State Legislature was given authorization to amend or modify the Osteopathic Act.

The provisions of the 1962 referendum which permitted the M.D. election, and which authorized legislative amendments to the Osteopathic Act, were upheld by the State courts in 1974 and 1975 (*D'Amico v. Board of Medical Examiners* 11 C.3d 1, 24 and *Board of Osteopathic Examiners v. Board of Medical Examiners* 53 C.A.3d 78). However, the provisions that rescinded the licensing authority of the BOEC were successfully challenged by out-of-state D.O.s, who were effectively barred by these provisions from being licensed to practice in California, unless they had already been so licensed before 1962. In 1974, the Supreme Court reinstated the BOEC's licensing authority (*D'Amico v. Board of Medical Examiners* 11 C.3d 1, 24), and the BOEC immediately resumed its function as the sole agency with authority to license D.O.s in California.

The Osteopathic Act was further amended by legislation in 1969 and 1971, and new sections were added by legislation in 1982. The most significant impact of these amendments were:

1. To change the name of the licensing body from the Board of Osteopathic Examiners to the Osteopathic Medical Board of California;
2. To limit board members to two full terms; and
3. To add two public members to the five member board.

Today, the legal authority and mandate for the powers and duties of OMBC provided in the Osteopathic Act (B & P Code § 3600-1 to 3600-5), which includes by reference the Medical Practice Act. This authority is further defined by other provisions of the B & P Code, particularly the Medical Practice Act (beginning with § 2000) which includes Article 21 (§ 2450-2459.7): "Provisions Applicable to Osteopathic Physicians and Surgeons." board powers and duties include:

1. Accepting applications from D.O.s to be licensed to practice in California.
2. Adopting examinations that assess professional competency.
3. Determining the qualifications of, and issuing licenses to D.O. applicants; issuing fictitious name permits; and maintaining a database of all licensees and applicants for licensure.
4. Setting standards for and enforcing compliance with continuing medical education (CME requirements).
5. Providing information to the public regarding licensed D.O.s.
6. Responding to requests for verification of the license status of D.O.s (e.g., as required for hospital privileges, licensure in another state, contracting with insurers, and patient inquiries.)
7. Enforcing the disciplinary, administrative, criminal and civil provisions of the Medical Practice Act with respect to D.O.s.
8. Providing rehabilitation opportunities for D.O. licensees whose competency may be impaired due to the abuse of alcohol or other drugs.
9. Approving medical schools and their curriculum, for purpose of giving resident professional instruction in osteopathic medicine.
10. Approving hospitals for postgraduate training in osteopathic medicine.

OMBC's authority has not been materially expanded at any time since the original Osteopathic Act of 1922. Other than the action by the State Supreme Court, to nullify the attempt to rescind OMBC's licensing authority, the only other significant legal decision relating to the powers and authority of OMBC was rendered 1996, by the Court of Appeal, in *Shacket v. Osteopathic Medical Board* 51 Cal App 4th 223 (1996). This decision established that no formal hearing by a health care licensing board is necessary prior to distribution of a report filed with the board pursuant to B & P § 805.5, concerning action taken by a peer review body against a doctor's membership or staff privileges. As such, this decision set an important precedent for all California health care licensing boards, not just OMBC.

III. Current Composition of the Board

OMBC is comprised of nine members: five D.O.s and four public members, all five D.O.s and two of the public members are appointed by the Governor, one public member is appointed by the Speaker of the Assembly and one is appointed by the Senate Pro Tempore. Pursuant to the Osteopathic Initiative Act, members served for terms of three years. Beginning in 2014, pursuant to B & P Code § 130, the Governor has been appointing board members to a four year term. No member may serve more than two full consecutive terms, which does not include time a new member may spend filling an unexpired term of a previous member. Currently, OMBC has a full board, with no vacancies. In the past four years the board has met at least three times per year.

Each of the five D.O. members of OMBC must have, for at least five years preceding appointment, been a citizen of the state and in active practice. Each must be a graduate of an osteopathic medical school and hold an unrevoked license to practice osteopathic medicine in this state. No one residing or practicing outside of the state may be appointed to, or sit as a member of, OMBC.

The four public members of OMBC may not be licensees of any board which falls under Division 2 Healing Arts commencing with § 500 of the B & P Code, which includes the Medical Practice Act, nor of any initiative act referred to in that division.

The nine-member board is considered satisfactory to handle the volume of business that requires board attention and action.

OMBC had a major change in 2009 when the Legislature placed the Naturopathic Committee within the Osteopathic Medical Board of California. OMBC was increased at that time from seven (five professional and two public) to nine members. The added members were both Naturopathic Doctors and were considered public members. These appointments were in violation of § 3600 1.5 of the B & P Code which states, “public members shall not be a licensee of any board in Division 2 commencing with § 500 of the B & P Code nor of any initiative act referred to in that Section.” In response, the Osteopathic Physicians and Surgeons of California (OPSC) sponsored SB 1050, supported by OMBC and the Naturopathic Committee. Passage of SB 1050 made the Naturopathic Committee independent and resulted in the removal of the two naturopathic practitioners from OMBC and in their replacement by two public members, one appointed by the Speaker of the Assembly and one by the Senate Pro Tem.

Committees of the Board

Currently, OMBC has one functioning committee, the Diversion Evaluation Committee (*DEC*), which is not strictly speaking a board committee.

The DEC is composed of California licensed D.O.s who are appointed by the board and who serve at the pleasure of the board. The D.O.s so appointed must have experience in the diagnosis and treatment of drug or alcohol abuse.

The DEC not only has the responsibility to accept, deny or terminate a participant, they also prescribe in writing for each participant a treatment and rehabilitation plan including requirements for supervision and surveillance. The DEC is currently comprised of three D.O.s qualified to the position.

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

Table 1a. Attendance of OMBC Meetings**Joseph Provenzano, D.O.**

Date Appointed:	09/12/2006		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	Y
Board Meeting	05/02/2013	Pomona, CA	Y
Board Meeting	06/12/2013	Teleconference	N
Board Meeting	09/26/2013	Sacramento, CA	SEPERATED
Annual Board Meeting	01/23/2014	Sacramento, CA	SEPERATED
Board Meeting	05/01/2014	Pomona, CA	SEPERATED
Board Meeting	08/07/2014	Vallejo, CA	SEPERATED
Annual Board Meeting	01/22/2015	Sacramento, CA	SEPERATED
Board Meeting	05/07/2015	Teleconference	SEPERATED
Board Meeting	09/17/2015	Sacramento, CA	SEPERATED
Annual Board Meeting	01/21/2016	Sacramento, CA	SEPERATED
Board Meeting	05/05/2016	Pomona, CA	SEPERATED

Scott Harris, Esq.

Date Appointed:	12/12/2010		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	Y
Board Meeting	05/02/2013	Pomona, CA	Y
Board Meeting	06/12/2013	Teleconference	Y
Board Meeting	09/26/2013	Sacramento, CA	Y
Annual Board Meeting	01/23/2014	Sacramento, CA	Y
Board Meeting	05/01/2014	Pomona, CA	SEPERATED
Board Meeting	08/07/2014	Vallejo, CA	SEPERATED
Annual Board Meeting	01/22/2015	Sacramento, CA	SEPERATED
Board Meeting	05/07/2015	Teleconference	SEPERATED
Board Meeting	09/17/2015	Sacramento, CA	SEPERATED
Annual Board Meeting	01/21/2016	Sacramento, CA	SEPERATED
Board Meeting	05/05/2016	Pomona, CA	SEPERATED

Jane Xenos, D.O.

Date Appointed:	06/07/2012		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	Y
Board Meeting	05/02/2013	Pomona, CA	Y
Board Meeting	06/12/2013	Teleconference	Y
Board Meeting	09/26/2013	Sacramento, CA	N
Annual Board Meeting	01/23/2014	Sacramento, CA	N
Board Meeting	05/01/2014	Pomona, CA	Y
Board Meeting	08/07/2014	Vallejo, CA	N
Annual Board Meeting	01/22/2015	Sacramento, CA	Y
Board Meeting	05/07/2015	Teleconference	Y
Board Meeting	09/17/2015	Sacramento, CA	Y

Annual Board Meeting	01/21/2016	Sacramento, CA	SEPERATED
Board Meeting	05/05/2016	Pomona, CA	SEPERATED
David Connett, D.O.			
Date Appointed:	06/09/2012		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	Y
Board Meeting	05/02/2013	Pomona, CA	Y
Board Meeting	06/12/2013	Teleconference	Y
Board Meeting	09/26/2013	Sacramento, CA	Y
Annual Board Meeting	01/23/2014	Sacramento, CA	Y
Board Meeting	05/01/2014	Pomona, CA	Y
Board Meeting	08/07/2014	Vallejo, CA	Y
Annual Board Meeting	01/22/2015	Sacramento, CA	Y
Board Meeting	05/07/2015	Teleconference	Y
Board Meeting	09/17/2015	Sacramento, CA	Y
Annual Board Meeting	01/21/2016	Sacramento, CA	SEPERATED
Board Meeting	05/05/2016	Pomona, CA	SEPERATED
Keith Higginbotham, Esq.			
Date Appointed:	07/11/2011		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	Y
Board Meeting	05/02/2013	Pomona, CA	Y
Board Meeting	06/12/2013	Teleconference	Y
Board Meeting	09/26/2013	Sacramento, CA	Y
Annual Board Meeting	01/23/2014	Sacramento, CA	Y
Board Meeting	05/01/2014	Pomona, CA	Y
Board Meeting	08/07/2014	Vallejo, CA	Y
Annual Board Meeting	01/22/2015	Sacramento, CA	Y
Board Meeting	05/07/2015	Teleconference	Y
Board Meeting	09/17/2015	Sacramento, CA	Y
Annual Board Meeting	01/21/2016	Sacramento, CA	Y
Board Meeting	05/05/2016	Pomona, CA	SEPERATED
Joseph Zammuto, D.O.			
Date Appointed:	06/07/2012		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	Y
Board Meeting	05/02/2013	Pomona, CA	Y
Board Meeting	06/12/2013	Teleconference	Y
Board Meeting	09/26/2013	Sacramento, CA	Y
Annual Board Meeting	01/23/2014	Sacramento, CA	Y
Board Meeting	05/01/2014	Pomona, CA	Y
Board Meeting	08/07/2014	Vallejo, CA	Y
Annual Board Meeting	01/22/2015	Sacramento, CA	Y
Board Meeting	05/07/2015	Teleconference	Y
Board Meeting	09/17/2015	Sacramento, CA	Y

Annual Board Meeting	01/21/2016	Sacramento, CA	Y
Board Meeting	05/05/2016	Pomona, CA	Y
Cyrus Buhari, D.O.			
Date Appointed:	10/28/2015		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	NOT APPOINTED
Board Meeting	05/02/2013	Pomona, CA	NOT APPOINTED
Board Meeting	06/12/2013	Teleconference	NOT APPOINTED
Board Meeting	09/26/2013	Sacramento, CA	NOT APPOINTED
Annual Board Meeting	01/23/2014	Sacramento, CA	NOT APPOINTED
Board Meeting	05/01/2014	Pomona, CA	NOT APPOINTED
Board Meeting	08/07/2014	Vallejo, CA	NOT APPOINTED
Annual Board Meeting	01/22/2015	Sacramento, CA	NOT APPOINTED
Board Meeting	05/07/2015	Teleconference	NOT APPOINTED
Board Meeting	09/17/2015	Sacramento, CA	NOT APPOINTED
Annual Board Meeting	01/21/2016	Sacramento, CA	Y
Board Meeting	05/05/2016	Pomona, CA	Y
James Lally, D.O.			
Date Appointed:	05/08/2013		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	NOT APPOINTED
Board Meeting	05/02/2013	Pomona, CA	NOT APPOINTED
Board Meeting	06/12/2013	Teleconference	Y
Board Meeting	09/26/2013	Sacramento, CA	Y
Annual Board Meeting	01/23/2014	Sacramento, CA	Y
Board Meeting	05/01/2014	Pomona, CA	Y
Board Meeting	08/07/2014	Vallejo, CA	Y
Annual Board Meeting	01/22/2015	Sacramento, CA	Y
Board Meeting	05/07/2015	Teleconference	Y
Board Meeting	09/17/2015	Sacramento, CA	Y
Annual Board Meeting	01/21/2016	Sacramento, CA	N
Board Meeting	05/05/2016	Pomona, CA	Y
Michael Feinstein, D.O.			
Date Appointed:	05/24/2012		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	Y
Board Meeting	05/02/2013	Pomona, CA	N
Board Meeting	06/12/2013	Teleconference	N
Board Meeting	09/26/2013	Sacramento, CA	Y
Annual Board Meeting	01/23/2014	Sacramento, CA	Y
Board Meeting	05/01/2014	Pomona, CA	N
Board Meeting	08/07/2014	Vallejo, CA	Y
Annual Board Meeting	01/22/2015	Sacramento, CA	N
Board Meeting	05/07/2015	Teleconference	Y
Board Meeting	09/17/2015	Sacramento, CA	N

Annual Board Meeting	01/21/2016	Sacramento, CA	N
Board Meeting	05/05/2016	Pomona, CA	N
Alan Howard			
Date Appointed:	09/14/2007		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	Y
Board Meeting	05/02/2013	Pomona, CA	Y
Board Meeting	06/12/2013	Teleconference	Y
Board Meeting	09/26/2013	Sacramento, CA	Y
Annual Board Meeting	01/23/2014	Sacramento, CA	N
Board Meeting	05/01/2014	Pomona, CA	Y
Board Meeting	08/07/2014	Vallejo, CA	Y
Annual Board Meeting	01/22/2015	Sacramento, CA	N
Board Meeting	05/07/2015	Teleconference	Y
Board Meeting	09/17/2015	Sacramento, CA	Y
Annual Board Meeting	01/21/2016	Sacramento, CA	Y
Board Meeting	05/05/2016	Pomona, CA	N
Elizabeth Jensen-Blumberg, D.O.			
Date Appointed:	10/28/2015		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	NOT APPOINTED
Board Meeting	05/02/2013	Pomona, CA	NOT APPOINTED
Board Meeting	06/12/2013	Teleconference	NOT APPOINTED
Board Meeting	09/26/2013	Sacramento, CA	NOT APPOINTED
Annual Board Meeting	01/23/2014	Sacramento, CA	NOT APPOINTED
Board Meeting	05/01/2014	Pomona, CA	NOT APPOINTED
Board Meeting	08/07/2014	Vallejo, CA	NOT APPOINTED
Annual Board Meeting	01/22/2015	Sacramento, CA	NOT APPOINTED
Board Meeting	05/07/2015	Teleconference	NOT APPOINTED
Board Meeting	09/17/2015	Sacramento, CA	NOT APPOINTED
Annual Board Meeting	01/21/2016	Sacramento, CA	Y
Board Meeting	05/05/2016	Pomona, CA	Y
Megan Blair			
Date Appointed:	03/02/2016		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	NOT APPOINTED
Board Meeting	05/02/2013	Pomona, CA	NOT APPOINTED
Board Meeting	06/12/2013	Teleconference	NOT APPOINTED
Board Meeting	09/26/2013	Sacramento, CA	NOT APPOINTED
Annual Board Meeting	01/23/2014	Sacramento, CA	NOT APPOINTED
Board Meeting	05/01/2014	Pomona, CA	NOT APPOINTED
Board Meeting	08/07/2014	Vallejo, CA	NOT APPOINTED
Annual Board Meeting	01/22/2015	Sacramento, CA	NOT APPOINTED
Board Meeting	05/07/2015	Teleconference	NOT APPOINTED
Board Meeting	09/17/2015	Sacramento, CA	NOT APPOINTED

Annual Board Meeting	01/21/2016	Sacramento, CA	NOT APPOINTED
Board Meeting	05/05/2016	Pomona, CA	Y
Claudia Mercado			
Date Appointed:	07/02/2012		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	Y
Board Meeting	05/02/2013	Pomona, CA	Y
Board Meeting	06/12/2013	Teleconference	Y
Board Meeting	09/26/2013	Sacramento, CA	Y
Annual Board Meeting	01/23/2014	Sacramento, CA	Y
Board Meeting	05/01/2014	Pomona, CA	Y
Board Meeting	08/07/2014	Vallejo, CA	Y
Annual Board Meeting	01/22/2015	Sacramento, CA	Y
Board Meeting	05/07/2015	Teleconference	N
Board Meeting	09/17/2015	Sacramento, CA	Y
Annual Board Meeting	01/21/2016	Sacramento, CA	Y
Board Meeting	05/05/2016	Pomona, CA	Y
Cheryl Williams			
Date Appointed:	02/07/2014		
Meeting Type	Meeting Date	Meeting Location	Attended?
Annual Board Meeting	01/31/2013	Sacramento, CA	NOT APPOINTED
Board Meeting	05/02/2013	Pomona, CA	NOT APPOINTED
Board Meeting	06/12/2013	Teleconference	NOT APPOINTED
Board Meeting	09/26/2013	Sacramento, CA	NOT APPOINTED
Annual Board Meeting	01/23/2014	Sacramento, CA	NOT APPOINTED
Board Meeting	05/01/2014	Pomona, CA	Y
Board Meeting	08/07/2014	Vallejo, CA	Y
Annual Board Meeting	01/22/2015	Sacramento, CA	Y
Board Meeting	05/07/2015	Teleconference	Y
Board Meeting	09/17/2015	Sacramento, CA	Y
Annual Board Meeting	01/21/2016	Sacramento, CA	Y
Board Meeting	05/05/2016	Pomona, CA	N

Table 1b. Board/Committee Member Roster					
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Joseph Provenzano, D.O.	09/12/2006	N/A	06/01/12	Governor	Professional
Scott Harris, Esq.	12/12/2010	N/A	01/01/14	Governor	Public
Jane Xenos, D.O.	06/07/2012	N/A	06/01/15	Governor	Professional
David Connett, D.O.	06/09/2012	N/A	06/01/15	Governor	Professional
Keith Higginbotham, Esq.	07/11/2011	07/01/2012	06/01/15	Speaker	Public
Joseph Zammuto, D.O.	05/24/2012	06/04/2015	06/01/19	Governor	Professional
Cyrus Buhari, D.O.	10/28/2015	N/A	06/01/19	Governor	Professional
James Lally, D.O.	05/08/2013	06/02/2016	06/01/20	Governor	Professional
Michael Feinstein, D.O.	05/24/2012	06/04/2015	06/01/19	Governor	Professional
Alan Howard	09/14/2007	12/19/2013	01/01/17	Governor	Public
Elizabeth Jensen-Blumberg, D.O.	10/28/2015	N/A	06/01/19	Governor	Professional
Megan Lim Blair	03/02/2016	N/A	06/01/18	Speaker	Public
Claudia Mercado	07/02/2012	05/12/2016	06/01/19	Pres. Pro Tempore	Public
Cheryl Williams	02/07/2014	N/A	01/01/17	Governor	Public

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 had no vacancies in the last four years and there has not been a lack of quorum at any of our Board meetings.

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

- Leadership Changes:
New Executive Director appointed by the board in December, 2012, Angelina M. Burton,
Election of Officers held in January 2016 : President, Joseph Zammuto, D.O.
Vice-President, James Lally, D.O.
Secretary/Treasurer, Cyrus Buhari, D.O.
- OMBC's New Strategic Plan was developed in January 2016. (See Section 12, Attachment C)
- OMBC created a Staff Services Manager (Assistant Executive Director), an enforcement analyst positions and a half-time Medical Consultant in 2013, and added three support staff (created by BCP FY 2013/2014) in July, 2014.
- OMBC is currently looking to relocate its office as current lease is expiring next year (2017) and current space can no longer accommodate the number of staff.
- OMBC did not sponsor any legislation.
Three recent major legislations which affected OMBC:
SB 809 - CURES program (Health and Safety Code 11165.1).

AB 1057 – License application expedite for Military/Honorably Discharged Veterans
(B & P Code § 115.4).

AB 2139 (ABX2 15) - End of Life Act (Health and Safety Code § 442.5).

- **All regulation changes approved by the board the last sunset review. Include the status of each regulatory change approved by the board.**
 - Disciplinary Guidelines awaiting final approval by Office of Administrative Law (OAL)
 - Sponsored Free Healthcare Events awaiting OAL notice of hearing
 - Notice to Consumers awaiting OAL notice of hearing

Describe any major studies conducted by the board

OMBC conducted an age demographic study of its licensees in January 2016.
(See Section 12, Attachment E).

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

National Organizations

OMBC is a dues paying member of the Federation of State Medical Boards, Inc. (FSMB). OMBC has not been able to attend many of their annual meetings due to the mandated state limitation on out-of-state travel for board members and board staff. FSMB is comprised of membership (with representation) of medical boards of all U.S. States and Territories. During the annual meeting, current important topics including, but not limited to, overprescribing of opioids, Interstate Licensing Compact, telemedicine, medical marijuana, enforcement, credentialing, and underserved populations are discussed. The annual FSMB dues are \$ 2,000 for which OMBC receives all publications and activity reports.

• **Does the board's membership include voting privileges?**

OMBC's membership includes voting privileges. The voting delegate for OMBC is the board President.

• **List committees, workshops, working groups, task forces, etc., on which board participates.**

Joseph Zammuto, D.O., President of OMBC was appointed to the FSMB's Resolution Committee at the FSMB 2016 Annual Meeting.

• **How many meetings did board representative(s) attend? When and where?**

OMBC adheres to the Executive Order prohibiting out-of-state travel. Because the FSMB's 2016 Annual Meeting was held in-state in San Diego, the board President, one Public board member and the Executive Director attended the meeting in April 2016.

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

OMBC does rely on a national examination. That examination is generated and administered by the National Board of Osteopathic Medical Examiners (NBOME). The examination, the

NBOME COMLEX-USA is the recognized national evaluative instrument for osteopathic students and graduates, and successful completion is required for osteopathic licensure in California. Statistics are reported in Table 8. The examination is comprised of Level 1, Level 2 Cognitive Evaluation (CE), Level 2 Performance Evaluation (PE), and Level 3 and is given at all colleges of osteopathic medicine. Level 1 is taken by students on completion of the first two years of osteopathic education, and covers subjects generally considered to be the basic sciences including, but not limited to, anatomy, biochemistry, and microbiology. Level 2 CE and PE are taken during the third and fourth years of osteopathic medical school and measures the student's knowledge of the clinical sciences including, but not limited to surgery, pediatrics, osteopathic manipulative medicine, general medicine and therapeutics. Level 3 is taken during the first post graduate year. Statistics are reported in Table 8.

Section 2

Performance Measures and Customer Satisfaction Surveys

Section 2

Performance Measures and Customer Satisfaction Surveys

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

(See Section 12, Attachment F)

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.

It is a policy of OMBC to include a Consumer Satisfaction Survey and prepaid postage to consumers at the close of their respective enforcement cases. Overall, there has been a decline in the number of consumer satisfaction surveys received by the Board. In fiscal year (FY) 12/13, FY 13/14, FY 14/15, the number of surveys received were 13, 12, and 6 respectively. With so few responses, it is difficult to conclude the level of satisfaction with OMBC in response to consumer complaints because the vast number of consumers who OMBC has served did not submit a survey response. This could be interpreted as general satisfaction by the majority of consumers.

The questions receiving the most unfavorable reviews were with respect to the enforcement timeline and the outcome. OMBC is within its performance measures for intake and investigation, so it can be assumed that the unfavorable responses related to cases that went through the formal discipline process, which involves cases that go to hearing or result in settlement. The majority of cases investigated are found to have no merit. In many cases, the consumer is not satisfied with the disposition of the case. This dissatisfaction with the outcome of the case skews the survey results.

Summary of Comments

All of the specific comments expressed concerns about their respective doctor that was under investigation. All of the comments express dissatisfaction with the outcome of the disciplinary action or board's decision regarding a disciplinary case. None of the comments expressed concerns about board staff or customer services the board provided. Trends in comments also reflect that the vast majority of commenters did not have personal or direct contact with the board and were responding based on written correspondence from the board regarding the outcome of a disciplinary matter.

(See Section 12, Attachment G)

Section 3

Fiscal and Staff

Fiscal Issues

Is the board’s fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.

OMBC’s fund is not continuously appropriated.

Describe the board’s current reserve level, spending, and if a statutory reserve level exists.

At the end of FY 2015-16, OMBC had a fund reserve balance of \$3.057 million or 16.0 months. In FY 2015-16, OMBC’s expenditures slightly outpaced the revenue that it received. Pursuant to Business and Professions Code § 128.5, OMBC should maintain a fund balance of no more than 24 months in reserve.

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.

No deficit is projected in the foreseeable future. In FY 2015-16, OMBC’s expenditures were slightly higher than the revenue that it received. This will result in a decreasing fund reserve balance over time. At this time, OMBC does not feel there is a need to begin regulation change process to increase the initial licensing fee from \$200 to the statutory maximum of \$400. As the fund balance decreases, OMBC will take the necessary steps to ensure our fund reserve balance continues to stay at an appropriate level.

Table 2. Fund Condition						
(Dollars in Thousands)	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18*
Beginning Balance**	\$2,889	\$3,075	\$2,982	\$3,088	\$3,057	\$2,880
Revenues and Transfers	\$1,569	\$1,641	\$1,958	\$1,807	\$2,117	\$2,117
Total Revenue	\$4,458	\$4,716	\$4,940	\$4,895	\$5,174	\$4,997
Budget Authority	\$1,968	\$1,752	\$1,899	\$1,922	\$2,291	\$2,337
Expenditures***	\$1,382	\$1,737	\$1,787	\$1,838	\$2,291	\$2,337
Loans to General Fund	-	-	-	-	-	-
Accrued Interest, Loans to General Fund	-	-	-	-	-	-
Loans Repaid From General Fund	-	-	-	-	-	-
Fund Balance	\$3,076	\$2,979	\$3,153	\$3,057	\$2,880	\$2,660
Months in Reserve	21.3	20.0	20.6	16.0	14.8	13.4

* Assumes 2% growth in expenditures and 0.3% growth in income from surplus money

** Includes prior year adjustments

*** Includes direct draw from SCO and Fi\$cal

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 2001-02, the General Fund borrowed \$2.6 million from OMBC. The loan was repaid in full with interest in FY 2006-07. Subsequently, the General Fund borrowed \$1.5 million from OMBC in FY 2010-11. The repayment of this loan has not been scheduled by the Department of Finance.

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 2012/13		FY 2013/14		FY 2014/15		FY 2015/16		
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	
Enforcement	\$270	\$488	\$369	\$651	\$325	\$613	\$353	\$519	
Examination	-	\$2	-	-	-	-	-	-	
Licensing	\$241	\$124	\$240	\$128	\$456	\$154	\$494	\$144	
Administration *	\$51	\$27	\$83	\$45	\$73	\$25	\$80	\$23	
DCA Pro Rata	-	\$157	-	\$190	-	\$203	-	\$309	
Diversion (if applicable)	\$51	\$26	\$83	\$44	\$73	\$24	\$80	\$23	
TOTALS	\$613	\$824	\$775	\$1,058	\$927	\$1,019	\$1,007	\$1,018	

*Administration includes costs for executive staff, board, administrative support, and fiscal services.

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

BreZE Funding Needs								
	FY 09/10	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17
Total Costs	\$427,051	\$1,495,409	\$5,349,979	\$14,825,159	\$14,825,159	\$16,657,910	\$27,468,154	\$23,497,000
Redirected Resources	\$427,051	\$1,495,409	\$3,198,486	\$4,818,002	\$5,806,881	\$7,405,427	\$7,430,456	2,080,000
Total BreZE BCP	-	-	\$2,151,493	\$1,935,285	\$9,018,278	\$9,252,483	\$20,037,698	\$21,417,000
	ACTUAL	ACTUAL	ACTUAL	ACTUAL	ACTUAL	ACTUAL	ACTUAL	BUDGET
OMBC	\$905	\$3,045	\$10,544	\$16,746	\$35,578	\$38,795	\$82,995	\$80,578

FY 17/18 AND FY 18/19 costs are still pending approval therefore figures have not been released to the board

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.

Licenses are renewed on a biennial basis on the licensee's birth month. Those whose birth month is in an odd numbered month are renewed in odd numbered years and even numbered months is even numbered years. The fee for an active license is \$400 and for an inactive license is \$300. Delinquent Tax and Registration fee is \$100 for an active license and \$75 for an inactive license.

Authority cited: Osteopathic Act (Initiative Measure, Stats. 1923, p. xcii). § 1; and § 2456 and 3600-1, Business and Professions Code. Reference: § 2435, § 2455, § 2456.1 and § 3535, B & P Code. See California Code of Regulations Article 17. § 1690 Fees.

There have been no fee changes in the past 10 years; in fact the last change to the fee structure was in 1997 when the active license fee was reduced from \$600 to \$400 for a two year license.

OMBC has statutory authority to increase the initial license application fee from \$200 to \$400 (B & P Code § 2455(a)). At this time, OMBC's fund condition balance is at a level where no fee increase is necessary.

Table 4. Fee Schedule and Revenue							
(list revenue dollars in thousands)							
Fee	Current Fee Amount	Statutory Limit	FY 2012/13 Revenue	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	% of Total Revenue
Endorsement Fee	\$25	\$25	\$13	\$4	\$11	\$14	<1%
Duplicate Certificate Fee	\$25	\$25	\$2	\$10	\$3	\$3	<1%
*License Reinstatement Fee	Varies	*	\$8	\$3	*****	*****	0%
License Status Change	Varies	**	\$2	\$9	\$2	\$2	<1%
Application Filing Fee	\$200	\$400	\$102	\$128	\$138	\$156	8.7%
Initial Licensing Fee	Varies	***	\$121	\$145	\$170	\$168	9.4%
Fictitious Name Permit App Fee	\$100	\$100	\$6	\$12	\$10	\$11	<1%
Biennial Active License Renewal	\$400	\$400	\$1,168	\$1,185	\$1,457	\$1,293	72.2%
Biennial Inactive License Renewal	\$300	\$300	\$103	\$98	\$103	\$96	5.4%
Fictitious Name Permit Renewal	\$50	\$50	\$26	\$26	\$30	\$30	1.7%
Biennial Active License Delinquency Fee	\$100	\$100	\$6	\$6	\$11	\$11	<1%
Biennial Inactive License Delinquency Fee	\$75	\$75	\$3	\$3	\$3	\$5	<1%
Cite & Fine	Varies	****	\$1	\$8	\$0	\$2	<1%
Sale of Documents	Varies	*****	-	-	\$3	-	0%

***License Reinstatement Fee – Processed when a D.O. with an expired license requests reinstatement of a license. Fees vary by expiration date and renewal cycle.**

****License Status Change Fee – Processed when a D.O. requests to be changed from inactive to active status. Fees vary by expiration date and renewal cycle.**

*****Initial Licensing Fee – Processed upon completion of application filing process. Fee varies by birth month and renewal cycle.**

******Cite & Fine – Fines vary depending on violation and range from \$100 to \$2,500 per violation.**

*****Sales of Documents – Collected from public upon request for copy of disciplinary documents. \$5 plus \$.10 (10 cents) per page.

***** License Reinstatement Fee – Reinstatement fees are now collected as “multiple renewals” and no longer as “Reinstatement Fee”

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
*1110-26	14/15	Licensing/ Administrative Staff Augmentation	3.0 – OT	3.0 – OT	*	*	N/A	N/A
1111-022-BCP-BR-2016-GB	16/17	Expenditure Authority Augmentation	N/A	N/A	\$175,000	\$175,000	N/A	N/A
1111-032-BCP-BR-2016-GB	16/17	Rent Augmentation					\$50,000	\$50,000

*There was an internal redirection of \$175,000 in FY 2014-15 ongoing from OE&E to help fund personnel services.

Staffing Issues

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

OMBC does not have staffing issues or challenges at this time. OMBC has not had any vacancies of positions in the last four years. OMBC has excellent retention and has only had two staff turnovers, one due to staff retiring from State Services and another accepting a promotion at another Department.

Describe the board’s staff development efforts and how much is spent annually on staff development (See Section 12, Attachment D).

OMBC’s management staff has attended all mandatory management training courses which are provided by DCA SOLID team. These courses are provided at no additional costs to OMBC. All our enforcement staff has attended the Enforcement Academy. Administrative staff has taken the Office of Administrative Law’s Regulatory class. The annual budget for training has been set at \$5,000, however , OMBC mostly utilizes DCA SOLID training courses, which are included in the DCA pro rata.

Section 4

Licensing Program

**Section 4
Licensing Program**

What are the board’s performance targets/expectations for its licensing² program? Is the board meeting those expectations? If not, what is the board doing to improve performance? 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?

OMBC performance target for the D.O. license application process is 75 days from the receipt of the application until the issuance of the license. Primary reason application process is lengthy is that all applications received in this office are incomplete in that required documents, i.e., osteopathic college transcripts, national exam scores, postgraduate training certifications, are primary source documents that are sent to OMBC office from various institutions at various times. OMBC processes these applications in two steps. The first step includes waiting and gathering the required documents which entails the majority of the length of this step of the application process. The second step takes place after all documents are received, background checks, including the Department of Justice and Federal Bureau of Investigations fingerprint clearances are performed and approved. The applicant is then billed and must remit their initial licensing fee. Once the fee is received, the final approval takes place. The length of the second step is relatively short if the applicant returns the licensing fee in a timely manner.

The initial DCA BreEZe implementation period impacted OMBC’s ability to meet its performance target. The implementation period was very staff intensive which contributed to the delays in the application process. OMBC did not have adequate staffing to staff both the licensing function and BreEZe testing functions. In the last year, the number of applications significantly increased, which further impacted our performance target. We have since reassessed licensing workload and redirected staff to better streamline the licensing process.

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 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Osteopathic Physician & Surgeon	Active	*6,796	*7,173	*7,700	7,656
	Out-of-State	Unavailable	Unavailable	Unavailable	1,074
	Out-of-Country	Unavailable	Unavailable	Unavailable	
	Delinquent	Unavailable	838	1047	853
Fictitious Name Permit	Active	545	591	624	652
	Out-of-State	**	**	**	**
	Out-of-Country	**	**	**	**
	Delinquent			261	304

* No breakdown numbers available for prior FY’s. **There are no Fictitious Name Permits issued outside CA.

² The term “license” in this document includes a license certificate or registration.

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 2015/16	Osteopathic Physician and Surgeon - Initial Application (Step1)		781								106
	Osteopathic Physician and Surgeon - Initial Application (Step 2)		684								12
	Osteopathic Physician and Surgeon - Renewal		3,552						-	-	19
	Fictitious Name Permit - Initial Application		95						-	-	32
	Fictitious Name Permit - Renewal		593						-	-	8

* Optional. List if tracked by the board.

Note: OMBC staff is still in the process of modifying existing business processes to correctly identify incomplete applications in a measurable manner. In future fiscal years, data may be able to be reported separately for 'Complete Apps' and 'Incomplete Apps'.

Table 7b. Total Licensing Data

	FY 2013/14	FY 2014/15	FY 2015/16
Initial Licensing Data:			
Initial License/Initial Exam Applications Received	641	689	781
Initial License/Initial Exam Applications Approved			
Initial License/Initial Exam Applications Closed			
License Issued	608	681	684
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 Application Approval (All - Complete/Incomplete)			
Average Days to Application Approval (incomplete applications)*			
Average Days to Application Approval (complete applications)*			
License Renewal Data: (Biennial Renewal)			
License Renewed	3,290	3,987	3,552

* Optional. List if tracked by the board.

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?

OMBC requires that all applicants have fingerprints completed either manually or via Live Scan pursuant to B & P Code § 2082 (e) and CCR Title 16, Division 16, Article 4 §1613 (b). Fingerprint clearances are used to determine whether the applicant has a current or past criminal conviction. OMBC also requires a Federation of State Medical Boards (FSMB) background check which reveals licenses held by the applicant in any other state in order to obtain whether any prior or current disciplinary actions have been taken against the applicant by another board.

b. Does the board fingerprint all applicants?

Yes, OMBC requires that all applicants be fingerprinted prior to licensure. No licenses are issued until both FBI and DOJ clearances are obtained.

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

Yes, OMBC has always fingerprinted its applicants.

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?

OMBC uses information obtained by the FSMB to determine if any disciplinary actions have been taken by any other state licensing board prior to the issuance of an initial license. When information is received by OMBC that another state board may have taken disciplinary action against the applicant, OMBC then uses the National Practitioner Data Bank (NPDB) to obtain further disciplinary information. Staff will also obtain certified documents from the other states involved. The NPDB is also used to obtain information on malpractice cases filed against the applicant/licensee. OMBC reports all disciplinary actions to both FSMB and NPDB.

e. Does the board require primary source documentation?

Yes, OMBC requires that all osteopathic school transcripts, COMLEX-USA scores, post-graduate year-one (PGY1) forms and license verification from other states be submitted directly to OMBC by primary source.

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

OMBC requires that all applicants, both in-state and out-of-state, graduate from an accredited college of osteopathic medicine, complete one full year of postgraduate training, and successfully complete all levels of the COMLEX-USA exam before applying for licensure. OMBC does not accept foreign graduates from out of the country.

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?

Yes, OMBC is tracking applicants who are veterans.

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?

See answer in subsection "c" below.

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

The military does not offer educational credits, which can be applied towards obtaining a D.O. degree, therefore regulatory changes are not necessary.

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?

In fiscal year 2015/2016, OMBC received one waiver of fees and continuing medical education requirement pursuant to B & P Code § 114.3, therefore revenue loss was only \$437. However, OMBC has seen an increase of waiver requests in the last several months. As the number of waiver requests continues to grow, the impact on OMBC's revenue will increase.

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

OMBC has only received one request for license application expedite from a spouse of a military personnel, pursuant to B & P Code § 115.5.

Does the board send No Longer Interested 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.

Since the last report, OMBC has been sending No Longer Interested (NLI) notifications to DOJ on a regular and ongoing basis. The NLI is prepared manually and sent to DOJ when the license is canceled. There is no backlog at this time.

Examinations

Table 8. Examination Data				
California Examination (include multiple language) if any: N/A				
	License Type			
	Exam Title			
FY 2012/13	# of 1 st Time Candidates			
	Pass %			
FY 2013/14	# of 1 st Time Candidates			
	Pass %			
FY 2014/15	# of 1 st Time Candidates			
	Pass %			
FY 2015/16	# of 1 st time Candidates			
	Pass %			
	Date of Last OA			
	Name of OA Developer			
	Target OA Date			
National Examination (include multiple language) if any:				
	License Type	Written Exam		
	Exam Title	National Board of Osteopathic Medical Examiners		
		Level 1	Lv. 2 / Lv. 2 PE	Level 3
FY 2012/13	# of 1 st Time Candidates	5056	4866 / 5127	4118
	Pass %	90.6%	89.4% / 94.1%	95.1%
FY 2013/14	# of 1 st Time Candidates	5448	4973 / 5541	4807
	Pass %	92.0%	92.3% / 92.6%	96.0%
FY 2014/15	# of 1 st Time Candidates	5539	5423 / 3577	5084
	Pass %	93.9%	92.6% / 92.0%	96.4%
FY 2015/16	# of 1 st time Candidates	N/A	N/A	N/A
	Pass %	N/A	N/A	N/A
	Date of Last OA			
	Name of OA Developer			
	Target OA Date			

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? 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?

OMBC does not administer examinations, but does rely on a national examination that is generated and administered by the National Board of Osteopathic Medical Examiners (NBOME). The examination, the NBOME Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) is the recognized national evaluative instrument for osteopathic students and graduates, and successful completion is required for osteopathic licensure in California.

COMLEX Level 1 is a problem-based assessment, which integrates the foundational and basic biomedical sciences of anatomy, behavioral science, biochemistry microbiology, osteopathic principles, pathology, pharmacology, physiology and other areas of medical knowledge as they relate to solving clinical problems and in providing osteopathic medical care to patients. The exam consists of two four-hour computer based sessions taken in one day. Candidates must pass Level 1 before taking Level 2.

COMLEX Level 2 Cognitive Evaluation (CE) is a problem-based and symptoms-based assessment, which integrates the clinical disciplines of emergency medicine, family medicine, internal medicine, obstetrics/gynecology, osteopathic principles and neuromusculoskeletal medicine, pediatrics, psychiatry, surgery, and other areas relevant to solving clinical problems in providing osteopathic medical care to patients. The exam consists of two four-hour computer-based test sessions during one day, related to diverse clinical and patient presentations.

COMLEX-USA Level 2-Performance Evaluation (PE) is a one-day examination of clinical skills where each candidate encounters 12 standardized patients over the course of a seven-hour examination day. The COMLEX-USA Level 2-PE augments the written COMLEX-USA Level 2-CE of osteopathic medical knowledge by providing an assessment of fundamental clinical skills. The clinical skills tested include: physician-patient communication, interpersonal skills and professionalism, medical history-taking and physical examination skills, osteopathic principles and osteopathic manipulative treatment, and documentation skills. These patient-centered skills are evaluated in the context of clinical encounters with standardized patients whom the candidate evaluates over 14-minutes duration (maximum).

COMLEX Level 3 is also a problem-based and symptoms-based assessment, which integrates the clinical disciplines of emergency medicine, family medicine, internal medicine, obstetrics/gynecology, osteopathic principles and neuromusculoskeletal medicine, pediatrics, psychiatry, surgery, and other areas relevant to solving clinical problems in providing osteopathic medical care to patients. Passing Level 3, candidate has demonstrated competence in the clinical and biomedical sciences and osteopathic principles as required to solve clinical problems and manage patient presentation in unsupervised osteopathic medical clinical practice setting.

The COMLEX-USA is only offered in the English language.

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?

No data for pass rates for retakes were available. The pass rates for examinations are only offered in the English language.

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

No, there are no existing statutes that hinder the efficient and effective processing of applications. OMBC does not administer examinations.

School approvals

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?

All osteopathic colleges are approved by the Commission on Osteopathic College Accreditation (COCA) utilizing COM Accreditation Standards and Procedures; and are recognized by the U.S. Department of Education. Neither the BPPE nor OMBC, working independently or in conjunction, have a role in the accreditation of any osteopathic college. Schools of Osteopathic Medicine are reviewed by the COCA on a scheduled basis and must satisfactorily meet all markers on the stringent accreditation timetable to obtain provisional and/or permanent accreditation. Schools strive to obtain full accreditation status through the COCA and once approved are granted a seven year certification, which will need to be reassessed at the end of the seventh year or prior to if otherwise directed by the COCA. OMBC has no role in approval of international schools as there are no colleges outside of the United States which have curricula commensurate with the American model.

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

The board does not take a role in the approval process of schools.

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

OMBC has no role in approval of international schools as there are no colleges outside of the United States which have curricula commensurate with the American model.

Continuing Education/Competency Requirements

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

The requirement for licensees of OMBC is that they must complete 150 hours of continuing medical education (CME) over a three year cycle. Of the 150 hours, 60 hours must be in Category 1A or 1B as established by the American Osteopathic Association (AOA). No changes in requirements have been made since the last review.

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

OMBC verifies compliance as applications for license renewal must be accompanied by certificates of completion of courses attended.

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

The required presentation of certificates eliminates the need for scheduled audits.

c. What are consequences for failing a CE audit?

Licensees who cannot show documentation of the required continuing medical education hours will not have their license renewed until such time all required hours are completed.

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

See answer in subsection “b” above.

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

OMBC accepts all continuing medical education courses which are pre-approved by the American Osteopathic Association (AOA) and/or American Medical Association (AMA).

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

Please see answer in subsection “e” above. OMBC does not approve CME providers or CME courses.

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

OMBC does not approve CME providers or CME courses.

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

Please see answer in subsections “e” through “g” above.

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.

OMBC is very specific regarding CME requirements for all licensees. Licensees are required to provide documentation of having completed 50 hours of CME per year (20 osteopathic hours and 30 allopathic and/or osteopathic hours) or of 150 hours every 3 years. Of the required 150 hours, 60 hours must be Category 1A or 1B as established by the American Osteopathic Association (AOA). The board verifies compliance as all applications for renewal must be accompanied by certificates of completion of courses attended. The required presentation of certificates eliminates the need for scheduled audits. All CME approval including course providers and auditing is provided by the AOA Council of Continuing Medical Education. Individuals lacking the required CME are denied renewal of licensure until the deficits have been eliminated.

At the October 7, 2016 board meeting, the board agreed to promulgate regulations that make revisions to its current CME policy. The proposed revisions relate to changing the cycle time

for submitting proof of CME compliance; and modifying the documentation requirement. These proposed revisions do not, however, change the total required number of CMEs. The proposed revision with respect to cycle time would change from the current requirement that licensees submit 150 every three years to; instead, require submission of 100 CMEs every two years. This proposed change would align each two-year renewal cycle to require submission of CMEs. The second policy revision relates to the documentation of CME compliance. Under consideration, is for the Board to only require submission of AOA approved certificates and licensee would attest under penalty of perjury to the completion of the remaining CMEs. Additionally, the board would create a random audit system to ensure those remaining CMEs were in fact completed. The board will consider proposed language at its next meeting in 2017.

Section 5

Enforcement Program

Section 5 Enforcement Program

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?

The performance target for intake is 30 days (1 month) from the complaint received date to the date the complaint was assigned to an investigator (Performance Measure 2). In the last three years, the board has met this target in seven quarters and did not in five quarters. The majority of the performance targets were met during the first six quarters. This is due in part to the board's hiring an additional enforcement analyst in December 2012. However, the six quarters starting in 3Q FY14-15 were outside the target except for 1Q FY15-16. This was likely the result of an increase in the volume of cases starting in 3Q 14-15. The average quarterly intake volume for the first six quarters was 85, whereas after 3Q FY14-15 it increased to 129.

In 3Q FY14-15 the average number of days was 54, which was the highest average cycle time for case intake. This was in part the result of staff training and absence due to illness during this period. In response, the board implemented a system of cross training staff to assist when there is backlog identified. This has helped eliminate short term backlogs and bringing the cycle days back within the performance targets.

The performance target for investigations is 360 days (12 months) from the complaint received date to closure of the investigation (Performance Measure 3). This performance measure includes both internal and field (sworn) investigations. The board has consistently met this target for the last three years. The highest average cycle time was 300 days during 1Q FY 14-15. The lowest average cycle time was 137 days during 3Q 15-16.

The performance target for Formal Disciplines is 540 days (18 months) from the complaint received date to the disciplinary order filed date (Performance Measure 4). This performance target is largely outside the of the board's control once the case is transmitted to the Attorney General. In general, these cases are heavily investigated by sworn investigators and require a medical expert to provide an opinion. During 3Q FY13-14, 3Q FY14-15, and 2Q FY15-16, the Board was able to meet the performance target.

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?

The complaint volume intake has increased an average of 20% per fiscal year; 362, 448 and 520 respectively. As stated above, the average volume per quarter was 85 cases until 3Q FY14-15 at which time it increased to an average of 129 cases to the end of 4Q FY15-16. One trend identified is that the cycle time for Performance Measure 2 always spikes during the third or fourth Quarter of each fiscal year. The holiday season may be impacting this measure. In response, the board has cross trained staff assist to reduce short term backlogs.

Additional action the board has taken to improve efficiencies and reduce case aging is to implement a monthly report that identifies cases in which the complainant has not responded to an inquiry from the board. These cases are closed if it is determined that the board cannot proceed without the response from the complainant.

Other means that the board is taking to improve efficiencies in enforcement is the implementation of QBIRT (Quality Business Interactive Report Tool IBM Cognos Report Studio). With this data management tool we can create and manage reports to provide better insight into our cases.

The intake and field investigation numbers for the last three years are very good. The cycle times are within the performance target. However, during the 4Q FY15-16 it came to our attention that the field investigation cases were becoming stale because of the high turn-over of field investigators.

As of July 1, 2016, the board has transferred the majority of field investigations from the Heath Quality Investigation Unit (HQIU) to the Investigation and Enforcement Unit (IEU) within the Division of Investigations (DOI). The agreement is for one year in order for the HQIU to adequately re-staff and train new investigators. The hope is that IEU will reduce the cycle time for OMBC cases in the field. It is too early to determine if this move has produced positive results.

Table 9a. Enforcement Statistics			
	FY 2013/14	FY 2014/15	FY 2015/16
COMPLAINT			
Intake			
Received (w/o conviction/arrest)	362	448	520
Closed w/o Inv (Non-Juris/license cancelled)	18	32	39
Referred to INV	269	450	481
Average Time to Close	33	31	29
Pending (close of FY)	23	14	52
Source of Complaint (includes Intakes & Arrests)			
Public	272	306	407
Licensee/Professional Groups	13	18	12
Governmental Agencies	53	83	57
Other	38	61	72
Conviction / Arrest			
CONV Received	15	27	29
CONV Closed (or Referred for Investigation)	15	27	30
Average Time to Close (or Refer for Investigation)	21	14	4
CONV Pending (close of FY)	2	2	1
LICENSE DENIAL			
License Applications Denied	1	1	2
SOIs Filed	1	1	2
SOIs Withdrawn	0	0	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	28	72	39.5
ACCUSATION			
Accusations Filed	23	11	17
Accusations Withdrawn	0	1	0
Accusations Dismissed	0	0	0
Accusations Declined	0	0	1
Average Days Accusations	395	495	477
Pending (close of FY)	6	17	23

Table 9b. Enforcement Statistics (continued)			
	FY 2013/14	FY 2014/15	FY 2015/16
DISCIPLINE			
Disciplinary Actions			
Proposed/Default Decisions	9	6	9
Stipulations	12	13	9
Average Days to Complete	761	807	695
AG Cases Initiated	29	19	26
AG Cases Pending (close of FY)	6	17	23
Disciplinary Outcomes			
Revocation	5	5	5
Voluntary Surrender	6	1	4
Suspension (Out of State/ISO/PC23)	4	2	5
Probation with Suspension	1	0	0
Probation	11	9	7
Probationary License Issued	0	0	0
Other(License Denied/Public Reprimand)	3	3	6
PROBATION			
New Probationers	9	12	6
Probations Successfully Completed	1	6	6
Probationers (close of FY)	45	46	42
Petitions to Revoke Probation	0	2	3
Probations Revoked	0	1	3
Probations Modified	1	0	1
Probations Extended	0	0	0
Probationers Subject to Drug Testing	10	13	16
Drug Tests Ordered	506	643	480
Positive Drug Tests	2	2	1
Petition for Reinstatement Granted	0	1	0
DIVERSION			
New Participants	2	4	6
Successful Completions	0	2	0
Participants (close of FY)	14	13	12
Terminations (Includes withdraws, transfers)	0	1	5
Terminations for Public Threat	0	2	0
Drug Tests Ordered	506	643	480
Positive Drug Tests	4	2	4

Table 9c. Enforcement Statistics (continued)			
	FY 2013/14	FY 2014/15	FY 2015/16
INVESTIGATION			
All Investigations			
First Assigned	357	477	510
Closed	396	409	627
Average days to close	193	176	144
Pending (close of FY)	229	294	183
Desk Investigations			
Closed	419	410	636
Average days to close	178	133	115
Pending (close of FY)	184	266	145
Non-Sworn Investigation			
Closed	0	0	0
Average days to close	0	0	0
Pending (close of FY)	0	0	0
Sworn Investigation			
Closed	28	34	33
Average days to close	215	275	317
Pending (close of FY)	35	25	36
COMPLIANCE ACTION			
ISO & TRO Issued	2	0	2
PC 23 Orders Requested	0	0	2
Other Suspension Orders	2	2	1
Public Letter of Reprimand	1	3	3
Cease & Desist/Warning	0	0	0
Referred for Diversion	0	0	0
Compel Examination	0	1	0
CITATION AND FINE			
Citations Issued	4	1	4
Average Days to Complete	*560	18	65
Amount of Fines Assessed			
Reduced, Withdrawn, Dismissed	3	1	2
Amount Collected	750	0	1500
CRIMINAL ACTION			
Referred for Criminal Prosecution	3	2	1

*This case was appealed and an administrative hearing was scheduled, which resulted in delay of closure.

Table 10. Enforcement Aging						
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
1 Year	2	8	5	6	21	27%
1-2 Years	2	8	5	6	21	27%
2-3 Years	1	3	3	3	10	12.5%
3-4 Years	1	3	7	3	14	17.5%
Over 4 Years	4	4	3	2	13	16%
Total Cases Closed	10	26	23	20	79	100%
Investigations (Average %)						
Closed Within:						
Up to 90 Days	113	151	196	256	716	41%
91-180 Days	77	79	79	180	415	24%
181 days- 1 Year	52	94	56	135	337	19%
1-2 Years	33	60	60	34	187	11%
3 Years	30	9	13	12	64	4%
Over 3 Years	6	3	5	8	22	1%
Total Investigations Closed	311	396	409	625	1741	100%

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

The statistics show that the overall case workload has increased each year. Since the last oversight review, the case intake volume has increased by 32 percent. As a result of this increase, our disciplinary actions have increased by 51 percent since the last oversight review. However, we have decreased the cycle time of Performance Measure 4 (the average days to complete a case from the received date to the filed date of the disciplinary order). The average cycle time in the previous oversight review was 1023 days. For this oversight review, the average cycle time is 754 days, which represents a 35 percent decrease.

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.

OMBC prioritizes its cases pursuant to B & P Code § 2220.05.

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?

B & P Code § 801, § 801.1, § 802 requires insurers providing professional liability insurance to a licensee, must report malpractice settlements over \$30,000 to the Board.

B & P Code § 803 requires the clerk of the court to report a physician and surgeon who has committed a crime, or is liable for any death or personal injury resulting in a judgment of any amount caused by his/her negligence or incompetence.

B & P Code § 802.5 requires Coroners to report to the board, any death that may be the result of a physician's gross negligence or incompetence.

B & P Code § 803.5 requires the district attorney, city attorney or other prosecuting agency to notify the board and the clerk of the court in which the charges have been filed, of any filings against a licensee of the Board charging a felony. The clerk of the court in which a licensee of the board is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board.

B & P Code § 805 requires any peer review body of health care facilities, hospitals, clinics or other setting providing medical services, to report to the board, any action taken with regards to staff privileges. These include, but not limited to denial or termination of staff privileges or employment, and/or restrictions imposed on staff privileges.

OMBC has not experienced any problems in receiving these mandated reports.

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

B & P Code § 801, § 801.1, § 802 requires insurers providing professional liability insurance to a licensee, must report malpractice settlements over \$30,000 to the Board.

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

OMBC has not been tracking the average dollar amount of settlements reported to the board.

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

A Stipulated Settlement offer can be made to the licensee and/or his/her legal counsel. Once a settlement offer is reached, the Deputy Attorney General will prepare a Stipulated Settlement and Disciplinary Order, which is signed by both the respondent, his/her legal counsel, if applicable, and the Deputy Attorney General. The document is then submitted to the board members for their vote. If the board members vote to adopt the settlement, then the Stipulated Settlement and Disciplinary Order are filed.

OMBC follows their Disciplinary Guidelines to ensure that the terms and conditions of the probation fit the violations committed by the licensee. The probationary period, on an average, runs five years. If the violation includes negligence or incompetence, the probationary term may include a comprehensive Physician Assessment and Clinical Evaluation course, a supervised structured practice, or a practice monitor. OMBC will require the licensee take courses, such as recordkeeping, prescribing course, ethics course and other courses which would fit the violations committed by the licensee. If the violation includes drug and/or alcohol impairment, the licensee will be required to enter and participate in OMBC's diversion program until such time the program feels the licensee is rehabilitated and no longer in need of monitoring. OMBC also collects cost recovery of investigative and prosecuting costs.

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?

Decision Type Outcome	Case Count from 7/1/2012 to 6/30/2016
Stipulations Pre-Accusation/SOI	2
Hearing Decisions	12
Default Decisions*	10
*Default decisions are included as they represent another potential method through which a disciplinary action can be taken.	

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?

Number of Cases Ending in Stipulation Post-Accusation/Statement of Issues vs. Hearing

Decision Type Outcome	Case Count from 7/1/2012 to 6/30/2016
Stipulations Post-Accusation/SOI	46
Hearing Decisions	12
Default Decisions*	10
*Default decisions are included as they represent another potential method through which a disciplinary action can be taken.	

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

Percent Cases Closed by Decision Type

Decision Type Outcome	Percent from 7/1/2012 to 6/30/2016
Stipulations	69%
Hearing Decisions	17%
Default Decisions*	14%
*Default decisions are included as they represent another potential method through which a disciplinary action can be taken.	

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?

Yes, OMBC operates pursuant to B & P Code § 2230.5, Limitation of Action.

An accusation filed against a licensee shall be filed within three years after the board discovers the act or omission alleged as the grounds for discipline, or within seven years after the act or omission alleged as the ground for discipline occurs, whichever occurs first.

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

OMBC aggressively investigates any allegations of unlicensed activities; especially when a licensee of OMBC is involved in aiding and abetting of unlicensed practice. Majority of these cases involve the illegal Corporate Practice of Medicine, in which a licensee is hired by a non-physician and "lends" his/her license to unqualified individuals, who run medical spas and/or medical marijuana clinics.

Cite and Fine

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?

Cite and Fine is used by OMBC as a disciplinary measure for D.O.s who remain refractory to board policies and orders. OMBC envisions this as a tool to remind its licensees that failure to be compliant can result in penalty. The current limit is still set at \$2,500; however, OMBC may include a fine of \$2,501 to \$5,000, if the citation involves a violation that has an immediate relationship to the health and safety of another person; the cited individual has a history of two or more prior citations of the same or similar violations, the citation involves multiple violations that demonstrate a willful disregard of the law, or the citation involves a violation or violations perpetrated against a senior citizen or disabled person.

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

A cite and fine is issued for minor violations of the law. It is not considered a disciplinary action under the California law, but is an administrative action. Payment of the fine amount represents satisfactory resolution of the matter.

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?

OMBC held one informal office conference of a citation and fine in the FY 14/15.

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

The most common violations for which a cite and fine is utilized are:

- Failure to provide medical records to patients in a timely manner
- Failure to display their earned degree
- False advertising
- Use of fictitious business name without valid fictitious name permit
- Failure to notify board of change of address

What is average fine pre- and post- appeal?

The average fine, pre- and post- appeal, is \$750.00.

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

OMBC has not had the need to use the Franchise Tax Board interception to collect outstanding fines.

Cost Recovery and Restitution

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

Pursuant to B & P Code § 125.3, OMBC has the authority to collect cost recovery of investigative and enforcement costs from the licensee. The Administrative Law Judge (ALJ) may order the licensee to reimburse OMBC its investigative and enforcement cost as part of a disciplinary order. During a settlement conference, cost recovery can be used as a negotiating tool. Once a licensee is placed on probation and a cost repayment becomes a condition of the probationary order, OMBC's probation monitor tracks compliance of the repayment. Those whose order allows for a payment plan will set up a plan with the probation monitor. The probation monitor ensures that the payments are made in a timely manner. For those who may become delinquent or miss a payment, the probation monitor will either contact them by phone or in writing to get the probationer back on track with their payment. If the probationer does not comply with the probation monitor's request, a Petition to Revoke Probation will be filed for violation of probationary order. With the probation monitor's active involvement, OMBC has been successful in obtaining the ordered cost recovery.

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

The amount ordered is found in Table 11, Cost Recovery. When an ALJ orders cost recovery in a revocation case, it is usually difficult to collect as the revocation takes away the D.O.'s means of income and therefore may have little or no financial resource. OMBC feels that their mission is met when the ultimate result is revocation of a license in the most egregious cases; and that the cost incurred in these cases are well spent in protection of the consumers. However, one of the terms in the final order will state that the full cost recovery will need to be paid before respondent can petition the board for reinstatement of his or her license. This language is also often included in a Stipulated Surrender of a license.

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

When negotiating a stipulated surrender of a license, sometimes, it is best to waive cost recovery in exchange for a surrender of license. This saves hearing costs and other additional administrative costs, which, in the long run, could be a cost saving. In some cases, which are heard before the ALJ, the ALJ may reduce the amount of cost recovery sought by OMBC or may reject OMBC's request for cost recovery.

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

OMBC has not had the need to use the Franchise Tax Board interception as a collection tool. Should there be a need in the future to use the FTB interception to collect outstanding cost recovery; OMBC could utilize this method of collection.

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.

OMBC has not ordered restitution to any consumer.

Table 11. Cost Recovery				
(list dollars in thousands)				
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Total Enforcement Expenditures				
Potential Cases for Recovery *	5	12	12	11
Cases Recovery Ordered	5	12	12	11
Amount of Cost Recovery Ordered	\$74,716	\$84,225	\$157,030	\$58,010
Amount Collected	\$67,925	\$64,927.25	\$81,537.50	\$39,890
* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the medical practice act.				

Table 12. Restitution				
(list dollars in thousands)				
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Amount Ordered	0	0	0	0
Amount Collected	0	0	0	0



Section 6

Public Information Policies

Section 6

Public Information Policies

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?

OMBC uses its website to provide information regarding board activities as well as legislative and regulatory changes. All board and committee meetings are noticed a minimum of ten days prior to the meeting. At this time, the board agendas and materials on the website date back to 2009.

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?

OMBC has been webcasting all board meetings since September 2013. Links to webcasts of our prior meetings can be found on our website. The length of time to retain webcast of prior meetings has not been established.

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

OMBC sets the dates for their annual meetings at the January meeting and those dates are published on our website.

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)?

OMBC's complaint disclosure policy is consistent with DCA's Recommended Minimum Standards for Consumer Complaint Disclosure. All accusations, petition to revoke probation, statement of issues and all disciplinary actions are posted on the website. These disciplinary documents are linked to the licensee's individual records and consumers may view all documents by selecting the link provided.

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

In addition to the issuance of licensure and expiration dates, the status of license and address of record of the licensee, consumers can also find information such as number of years of postgraduate training, practice specialty and certification. D.O.s may opt to disclose additional information such as cultural background, foreign language proficiency and their gender.

Additionally, all discipline, past and current, are published. OMBC website home page provides a link to licensure verification through BreEZe. Using the BreEZe system, consumers may verify the license status, including the information detailed above.

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

OMBC's website has a "consumer" tab that when selected, provides links to information such as complaint process, frequently asked questions and answers regarding the complaint process, online license search and enforcement actions. OMBC provides a general email address to which consumers may write with questions regarding the osteopathic profession, licensee information and other OMBC functions.

Additionally, OMBC offers a subscriber list that allows consumers to sign up for alerts on enforcement actions and/or information such as board meeting agendas and materials, legislative changes, and opportunity to comment on pending regulations.

Section 7

Online Practice Issues

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?

Online practice is currently in its infancy and although the future prospects are bright for acceptance and application, the board currently does not consider the practice to be prevalent. The board anticipates the expansion of online practice, particularly in areas where providers are few and travel is difficult; and for senior citizens for whom travel to the provider's office is a burden. The issue of unlicensed activity, although currently not significant, requires continuous monitoring as the expected expansion takes effect and what is designed to be a benefit to patients is seen as an opportunity for some elicit individuals.

Online practice is regulated the same as the practice in the office setting. The B&P code contains the standards for the practice of Osteopathic Medicine and all practitioners are held to the same level. Electronic medical records will be a needed skill for providers of online services, particularly as applied to the generation and maintenance of medical records, a function regulated and monitored by the Board.

The main charge to the board is the protection of the public, and the only reason to consider regulation of internet business practices would be in an instance where action of a business is a threat to the public as interpreted under the Medical Practice Act. Currently, there are no apparent threats. However, the board will remain vigilant.

Section 8

Workforce Development and Job Creation

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

OMBC complies with B & P Code § 2099.6 by expediting license applications of D.O.s who can demonstrate that he or she will be practicing in an underserved area as defined by Health and Safety Code § 128565. Additionally OMBC expedites license applications of all osteopathic physicians and surgeons who are or have served in the armed forces, or D.O.s who are spouse or domestic partner of a current military personnel actively stationed in California.

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

OMBC has not conducted any assessment on the impact of licensing delay. However, during the 2013 BreEze implementation and the shortage of staff during that period, OMBC noticed some backlogs in the application process. The staff manager, along with the current staff, has implemented changes to the internal application processes. OMBC believes these changes will reduce the number of days to process applications. Additionally, online license renewals are now available through the BreEze system. With the DCA BreEze system, OMBC has added other online services for licensees, such as, the ability to provide address changes and requesting duplicate or replacement certificates.

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

In June, 2015, the OMBC staff arranged a telephonic conference for students at the A.T. Still University School of Osteopathic Medicine, Arizona, Community Campus in Visalia, CA. The students were encouraged to ask questions about the licensing processes. Feedback received from the students and instructors were very positive. Also, osteopathic students often attend board meetings. At the conclusion of the September 2015 board meeting, the board members invited students to stay for questions and answers. Students took advantage of the invitation and were provided with excellent information. Additionally, OMBC tries to hold at least one board meeting annually at an osteopathic medical school to encourage students to attend these meetings.

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

OMBC does not believe there are any barriers to licensure and/or employment for D.O.s.

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

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

OMBC does not collect workforce development data. OMBC may consider a research analyst position in the future to collect such data.



Section 9

Current Issues

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

The contracted diversion program (Maximus) has rewritten their contract to ensure that the program is in compliance with the Uniform Standards. OMBC has promulgated regulations, which is currently in the final regulatory process.

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

No regulations were necessary because the provisions in CPEI are already in statute. B & P Code § 2224 provides delegated authority to the Executive Director of OMBC to accept and sign Default Decisions and Stipulated Surrender of Licenses. Pursuant to the CPEI, in 2013, we added one additional enforcement analyst and a half time medical consultant.

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.

OMBC was part of Release 1 for the new BreEZe data system. Release 1 was implemented in October, 2013. Several OMBC staff worked nearly full time during the design and testing phases in the months leading up to the release. This was extremely challenging for a small board such as OMBC. To designate full time staff to the user acceptance testing created a shortage of staffing in the office, however, OMBC managed to get through this stage of the BreEZe implementation. Prior to the implementation of the BreEZe system, Board staff attended basic training through DCA SOLID. To manage the transition to BreEZe, OMBC staff manager established a process during the earlier days that allowed staff to identify possible issues to existing business procedures due to the data system's design and functionality. This allowed OMBC staff to evaluate issues, determine a possible solution to these issues, and to consider any impact the solution may have to procedures or the data system; and if appropriate, submit a request for modification to DCA's BreEZe team. OMBC opted to phase-in some of the online features of BreEZe. In October 2015 OMBC started with the release of the online renewal feature for our Fictitious Name Permits, the online service to order duplicate certificates and request address changes. OMBC released the BreEZe online D.O. license renewal feature in June 2016. These releases were successful, with minimal calls from licensees to the help desk. The use of online renewal continues to grow.

Since the initial launch of BreEZe, OMBC staff has continued to work with the DCA BreEZe team and the vendor to develop and enhance reports for licensing and enforcement purposes. Staff attend regular meetings with users of the license and enforcement system from other boards to continuously compare and learn about the use of the many functions offered in BreEZe. Additionally, OMBC staff continues its work to identify issues in the data system and to submit a request for change, when needed.

Section 10

Board Action and Response to Prior Sunset Issues

Section 10

Board Action and Response to Prior Sunset Issues

Include the following:

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.

Code of Ethics

The issue of the lack of a Code of Ethics was brought forth in the last Sunset Review. After the last Sunset Review, OMBC created a Code of Ethics which is found on our website. (See Section 12, Attachment H).

Webcasting meetings

As indicated in this Oversight report, OMBC has been webcasting all its board meetings since fall of 2013.

Posting meeting materials to the website

Since the last Oversight report, OMBC has been posting agendas and meeting materials for board meetings on the website. Additionally, OMBC has developed an email list of interested parties, who receive advance information regarding the board meeting, including agenda and meeting materials.

License Portability

This issue has been addressed in this current Oversight Report. OMBC has been in compliance with all military licensing statutes.

General Fund Loan

To date, the \$1.5 million general fund loan has not been repaid. The Department of Finance routinely works with DCA to determine if general fund loans need to be repaid at OMBC's scheduled time. Since OMBC's fund balance is at a reasonable level, the loan repayment has been delayed until FY 2019-20. If the loan repayment is deferred and OMBC needs the loan repayment earlier, Government Code 16320 allows the Department of Finance to order the repayment of all or a portion of any budgetary loan if it is determined that the fund requires the loan repayment in order to sustain their current operations.

Should OMBC Be Merged into the Medical Board of California?

OMBC should continue to regulate the osteopathic medical profession and not be merged into the Medical Board of California.

The Osteopathic Medical Board of California is a long standing and well established Board that has had the honor and privilege of protecting the citizens of this great state of California since 1922. The Osteopathic Act, which created the Osteopathic Board of Examiners, was first created in 1922 by voter initiative and modified again by initiative in 1962. Since 1922, the board has evolved into a small but strong board with a proud tradition of setting high standards for the profession and strong commitment to protecting public safety through its regulation of licensing and enforcement.

Although OMBC follows the Medical Act, OMBC has built its own distinctly different regulatory, licensing and disciplinary structure from the Medical Board of California (MBC) that has proven extremely effective in protecting public safety—the primary mission of the board. OMBC has historically taken a tough stance on regulating D.O.s in the interest of protecting public safety. OMBC has higher continuing education and license renewal standards than MBC that protect public safety and ensure high quality care. OMBC responded to the crisis of substance abuse within the profession by creating a Diversion Program and its own Diversion Evaluation Committee (DEC) of peers and experts that can ensure the public is protected and nurture D. O.s to recover and safely return to practice. OMBC's DEC is composed of D.O.s with expertise in substance abuse and pain management including certified psychiatrists who are effective in evaluating whether D.O.s are in fact fully recovered and do not pose a risk to public safety. Another difference is with respect to the interpretation of the Fictitious Names provisions—the MBC has a different requirement of percentage of D.O. ownership that is required by OMBC. Overall, the board has a track record of being tough on discipline with surrenders and revocations for D.O.s who pose harm to public safety.

Although the D.O.s receive the same medical training as M.D.s, Osteopathic Medicine has a distinct scope of practice that is reflected in its unique approach to patient care and treatment, which is further reflected in its distinct regulatory perspective. This separation is reflected in its whole person approach to patient care, its focus on primary care and commitment to medically underserved communities. This commitment to ensuring access to quality of care in low income and rural areas throughout the state is fostered in the Osteopathic Medical schools. As of this date, the State of California is the second largest State in the practice of Osteopathic Medicine in the United States. California currently has two Osteopathic Medical schools, Western University of Health Sciences College of Osteopathic Medicine of the Pacific located in Pomona, CA and Touro University located in Vallejo, CA. The majority of D.O.s graduating from the two California schools are going into primary care: Family Practice, Internal Medicine, and Pediatrics; D.O.s are meeting the growing shortage of primary care providers throughout the state and in particular in rural and medically underserved areas. Each year approximately 326 D.O.s graduate compared to approximately 1,080 M.D.

Currently, OMBC has a total of 8,340 (includes 603 inactive status licenses) licensed in the State of California. 6,681 are actively practicing in the state, 1,659 are out of state. As the Osteopathic Medical Profession has grown in California, so too have the number of D.O.s whom OMBC grants license to practice in the State. The D.O. has completed four years of Osteopathic Medical education and then completes one year post graduate training. They must pass the National Board of Osteopathic Medical Exam Licensing exam COMLEX-USA to become eligible for their OMBC license to practice in California. The D.O. then will complete additional post graduate training in an American

Osteopathic Association (AOA) or American College Graduate Medical Education (ACGME) approved programs to become certified in primary care or other desired specialties.

OMBC is composed of nine total members with five active D.O.s and four public members who meet quarterly to conduct the business of the board. In between meetings, Board members will review and vote on proposed disciplinary actions. The good news is that vast majority of licensed D.O.s in the State are taking excellent care of the citizens of the state.

The success of OMBC is due largely to the daily hard work of the staff performed under the Executive Director, Angelina Burton. The in-office enforcement and disciplinary oversight is effectively handled by Mr. Corey Sparks. Outside field investigation is completed by the Division of Investigation under the DCA. The board's office is highly effective with its 11 person staff. However, the board has outgrown its current space and will be moving to a larger location next year and may be envisioning adding additional staff to meet the needs of the fastest growing profession in the state.

There clearly exists a synergism of OMBC, The Federation of State Medical Boards, the Osteopathic Medical Schools, the NBOME, the American Osteopathic Association, the Osteopathic Physicians and Surgeons of California, the Attorney General's Office and the good people of California. OMBC is uniquely an integrated partner with all these entities for the good of the D.O. and for the good of the citizens of California. OMBC looks to the welfare of the D.O.s who have faltered and looks to remediate them back to effective practice. However, if a danger to the public exists, which is not correctable, then OMBC acts responsibility to protect the public first and remove the license to practice Osteopathic Medicine in California.

Housing OMBC under the MBC would not foster or nurture the board and profession's uniqueness—the very characteristic responsible for their success to date. The MBC is a huge board with its own distinct problems and approach to patient care, licensing and enforcement. In enforcement, MBC utilizes a vertical enforcement model which is something that is too costly for OMBC and it has opted out. OMBC would not thrive under the MBC and is in fact more effective as a stand-alone board to regulate D.O.s.

Due to its distinctiveness, composition, and integration with the above mentioned entities, OMBC is specifically suited to continue to license D.O.s; and, provide oversight to their performance and protect the public from the D.O.s who may pose a threat to their well-being and welfare. It continues to be an honor and privilege to serve the Great State of California and its People now and for many years.

Section 11

New Issues

OMBC submitted an Omnibus Bill Proposal the last two years. The initial response we received then was that “The proposal was deemed too substantive for the omnibus bill”. DCA’s Legislative Analyst tried to assist OMBC and reached out to Ms. LeOndra Clark, who was, at that time, was the Consultant to the Senate Committee on Business, Professions and Economic Development, and asked for further clarification of why the proposal was considered too substantive. No further clarification was offered than that the Committee thought it was too substantive.

OMBC once again requested DCA’s assistance in submitting an Omnibus Bill Proposal this year and received information back from DCA’s Legislative Unit that they heard back from Kayla Williams, Policy Consultant for the Senate Republican Caucus. She informed DCA that our omnibus proposal was not approved. She stated that since the board is up for Sunset Review next year they would like to discuss the issue then.

The request is to add Osteopathic Medical Board to B & P Code § 144. It appears OMBC is the only DCA board/bureau, which is not listed in this section. Because OMBC is not included in B & P Code § 144, when § 144.5 was created, it did not give OMBC the authority to obtain arrest reports, criminal conviction documents, etc. We ask that we be added to the list of DCA boards/bureaus under B & P Code 144, which would then, pursuant to B & P Code § 144.5 authorize OMBC to obtain these documents. OMBC already have regulations which require all our applicants for licensure be fingerprinted prior to issuance of a license, CCR Title 16, Division 16, Article 4, § 1613. B & P Code § 144 would not change the way OMBC processes applications. OMBC already has an CORI number through the Department of Justice/FBI, therefore, receives CORI’s for each applicant, and any subsequent arrest notification. The basis of the request to be added to the list in B & P Code § 144 is to allow B & P Code § 144.5 to authorize us to obtain these necessary enforcement records. (see B & P Code § 144 and B & P Code § 144.5 below). B & P Code § 475-499 authorizes OMBC to deny, suspend or revoke licenses based on criminal convictions.

- 144.**
- (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.
 - (b) Subdivision (a) applies to the following:
 - (1) California Board of Accountancy.
 - (2) State Athletic Commission.
 - (3) Board of Behavioral Sciences.
 - (4) Court Reporters Board of California.
 - (5) State Board of Guide Dogs for the Blind.
 - (6) California State Board of Pharmacy.
 - (7) Board of Registered Nursing.
 - (8) Veterinary Medical Board.
 - (9) Board of Vocational Nursing and Psychiatric Technicians.
 - (10) Respiratory Care Board of California.
 - (11) Physical Therapy Board of California.
 - (12) Physician Assistant Committee of the Medical Board of California.
 - (13) Speech-Language Pathology and Audiology and Hearing Aid Dispenser Board.

- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Bureau of Medical Cannabis Regulation.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

(Amended by Stats. 2016, Ch. 32, Sec. 3. Effective June 27, 2016.)

144.5.

Notwithstanding any other law, a board described in § 144 may request, and is authorized to receive, from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. A local or state agency may provide those records to the board upon request.

Attached is the copy of our Omnibus Bill Proposal which was denied:

COMMITTEE BILL: PROPOSED LEGISLATION

Note: Submit the completed form to the Committee electronically by email **and** as a hardcopy by mail. Attach additional information or documentation as necessary.

REQUESTOR & CONTACT INFORMATION:

Osteopathic Medical Board of California
Angie Burton, Executive Director
e-mail: Angie.Burton@dca.ca.gov;
P (916) 928-7639
F (916) 928-8392

DATE SUBMITTED: 01/15/2015

SUMMARY: Requesting that the Osteopathic Medical Board of California be added to B & P Code, § 144.

IDENTIFICATION OF PROBLEM:

B & P Code § 144.5 authorizes specified boards in B & P Code § 144 to receive, from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation. These records are necessary in determining whether the board should deny

or revoke licenses. OMBC is not included in B & P Code § 144, denying authority in B & P Code §144.5. OMBC does not have the legal authority to obtain arrest and conviction records, which may create difficulties in obtaining necessary documents needed to deny or revoke licenses and leaving the public unprotected.

PROPOSED SOLUTION:

Add Osteopathic Medical Board of California to the list of all other boards, Bureaus and Committees under DCA, listed in B & P Code § 144.

PROGRAM BACKGROUND & LEGISLATIVE HISTORY:

B & P Code § 144 was created to require specified boards to obtain fingerprints of prospective licensees for the purposes of allowing the board to ascertain if an applicant had been convicted of any crimes prior to licensure and allows Department of Justice and the United States Federal Bureau of Investigation to notify the board in the case of an arrest or conviction of a crime by an applicant or subsequently, a licensee. The Osteopathic Medical Board was not included in the list of boards in B & P Code § 144 (b) as OMBC already had regulations that required all applicants to be fingerprinted prior to issuance of a license.

Legislation adding B & P Code § 144.5 was introduced in 2013 because some boards were being challenged by the courts and/or law enforcement agencies regarding the authority in obtaining police reports and court documents related to criminal convictions of their applicants/licensees. Effective January 1, 2014, B & P Code § 144.5 gave boards specified in B & P Code § 144 authority to obtain said records.

B & P Code § 475-499 authorizes OMBC to deny, suspend or revoke licenses based on criminal convictions.

JUSTIFICATION:

The first priority of the Osteopathic Medical Board of California is protection of the public. If an applicant for a D.O.'s license has been convicted of a crime determined by DOJ or Federal Bureau of Investigation (FBI) to be related to the safe practice of medicine, the initial DOJ and/or (FBI) fingerprint results will display that conviction information. OMBC must obtain and analyze certified copies of related arrest and/or court documents to determine whether the board should deny licensure to the applicant. Without those records, OMBC cannot establish a case to deny a license, regardless of the severity of the crime, thereby placing the public welfare in jeopardy.

Similarly, when a D.O. is arrested, OMBC receives a Subsequent Arrest Notification from the California Department of Justice. Upon conviction of certain crimes, OMBC must determine if the D.O. is a threat to public safety. In order to determine what, if any, action must be taken against the D.O.'s license, OMBC must obtain certified copies of police reports and/or court documents. Without those records, OMBC cannot make a case to suspend or revoke a license, or place the licensee on probation, thereby placing the public in harms way.

Without the ability to obtain certified arrest and/or court documents, OMBC cannot substantiate a legal basis to suspend, revoke, or deny a license, therefore preventing OMBC from ensuring public safety.

ARGUMENTS PRO & CON:

PRO:

- Allows OMBC in creating a case to deny the licensure of a D.O. who has already been convicted of certain crimes in California and other states, thereby preventing potential harm to the public.
- Allows OMBC in creating a case to suspend, place on probation, or revoke the license of a D.O. found guilty of specified crimes, therefore protecting the public from future harm.

CON:

- None

PROBABLE SUPPORT & OPPOSITION:

Support:

- Osteopathic Physicians and Surgeons of California
- American Osteopathic Association
- Department of Consumer Affairs

Opposition:

- None

FISCAL IMPACT:

None

ECONOMIC IMPACT:

None

FINDINGS FROM OTHER STATES:

Every state that licenses D.O.s is required to investigate convictions of crimes related to public health and safety. When a conviction involves an applicant, those states have laws and regulations that require denial of licensure based on specified requirements. Likewise, when conviction involves a licensee, those states are authorized and compelled by laws and regulations to take specified actions against a license to practice medicine.

PROPOSED TEXT (use underline & strikeout):

Business and Professions Code § 144 (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.

- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians.
- (10) Respiratory Care Board of California.
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- (15) State Board of Optometry.
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- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists
- (27) Osteopathic Medical Board of California

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

Section 12

Attachments

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 (Referenced in Section 1, Subsection III).
- C. Strategic Plan (Referenced in Section 1, Page 11).
- 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.) (Referenced in Section 3).
- E. Major studies, if any (Referenced in Section 1, Page 12).
- F. Enforcement performance measures (Referenced in Section 2, Page 14).
- G. Customer Satisfaction survey (Referenced in Section 2, Page 14).
- H. Code of Ethics (Referenced in Section 10, Page 43).

Section 13

Board Specific Issues

THIS SECTION ONLY APPLIES TO SPECIFIC BOARDS, AS INDICATED BELOW.

Diversion

Discuss the board's diversion program, the extent to which it is used, the outcomes of those who participate and the overall costs of the program compared with its successes.

Diversion Evaluation Committees (DEC) (for BRN and Osteo only)

- ***DCA contracts with a vendor to perform probation monitoring services for licensees with substance abuse problems, why does the board use DEC? What is the value of a DEC?***
- **What is the membership/makeup composition?**
- **Did the board have any difficulties with scheduling DEC meetings? If so, describe why and how the difficulties were addressed.**
- **Does the DEC comply with the Open Meetings Act?**
- **How many meetings held in each of the last three fiscal years?**
- ***Who appoints the members?***
- ***How many cases (average) at each meeting?***
- ***How many pending? Are there backlogs?***
- ***What is the cost per meeting? Annual cost?***
- ***How is DEC used? What types of cases are seen by the DEC?***
- ***How many DEC recommendations have been rejected by the board in the past four fiscal years (broken down by year)?***

Pursuant to B & P Code § 2360 – 2369, OMBC maintains a diversion program to monitor and treat D.O.s who are impaired by the use of alcohol and or drugs. OMBC, along with six other boards contracts with Maximus, Inc. Maximus brings expertise to the table as a national corporation with experience in monitoring individuals hampered by substance abuse.

OMBC utilizes a Diversion Evaluation Committee. The DEC is comprised of three members, appointed by OMBC members. They are D.O.s with expertise in substance abuse and psychosocial disorders. All DEC members have training in substance abuse, two are board certified psychiatrists and one is a pain management specialist. The committee provides the diversion program with the needed understanding of impaired D.O.s that could not be obtained by non-physician staff. Face to face meetings with these experts, ensures OMBC staff that the participants are receiving excellent guidance and monitoring in their sobriety, which, in turn, provides consumer safety. When and if there is a need, the DEC may remove a participant from practicing medicine until such time the DEC feels the participant is ready to resume practice.

The DEC meets with participants in the diversion program on a quarterly basis, along with the Case Manager from the Maximus Diversion program and staff representative from OMBC. Each

participant will meet at least twice a year with the DEC, depending on the need. At each DEC meeting, approximately six to eight participants are interviewed and evaluated.

The DEC monitors the progress of the program participants, and adjusts the number of group meetings, AA meetings, number of hours allowed to practice, etc, for each participant. The Case Manager follows up and maintains contact with each participant. The participants are required to call in every morning, and selected randomly to be required to provide a sample to be tested at a pre-approved collection site. The Diversion program adheres to the Uniformed Standards in the number of drug tests required per participant.

The annual cost of the diversion program for fiscal year 2015-2016 was \$39,439.59. The cost per participant to OMBC is \$348.29/monthly. However, OMBC collects a portion of the monthly participation costs from the participant, based on his/her ability to pay. The ability to pay is determined by the number of hours a participant is allowed to work, based on the recommendation by the DEC. Each quarterly DEC meeting costs about \$2,000, including travel reimbursements.

There have been no difficulties in scheduling and conducting these DEC meetings. OMBC is appreciative and respects the recommendations and decisions made by the DEC and there have been no reversal of DEC decisions.

Attachment A

Administrative Manual

DCA

Osteopathic Medical Board of California

Administrative Manual



Osteopathic Medical Board of California Board Administrative Manual

Adopted October 7, 2016

Edmund G. Brown Jr., Governor

State of California

Members of the Board

Joseph Zammuto, D.O., President

James Lally, D.O., Vice-President

Cyrus Buhari, D.O., Secretary-Treasurer

Megan Blair, Public Member

Michael Feinstein, D.O.

Alan Howard, Public Member

Elizabeth Jensen, D.O.

Claudia Mercado, Public Member

Cheryl Williams, Public Member

Executive Director

Angelina Burton

This procedure manual is a general reference including a review of some important laws, regulations, and basic board policies in order to guide the actions of the 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 the public by requiring competency, accountability, and integrity in the safe practice of medicine by osteopathic physicians and surgeons.

Brief History

I. History and Function of the Osteopathic Medical Board of California (OMBC)

Developed more than 130 years ago by Andrew Taylor Stills, M.D., D.O., Osteopathic Medicine brings a unique philosophy to traditional medicine. Osteopathic physicians (D.O.s) are fully licensed to prescribe medication and practice in all medical and surgical specialty areas including surgery, just as their M.D. counterparts. D.O.s are trained to consider the health of the whole person and use their hands in an integrated approach to help diagnose and treat their patient.

D.O.s are one of the fastest growing segments of health care professionals in the United States with California having the second largest practicing osteopathic population in the United States.

The Osteopathic Act, pursuant to Business and Professions (B&P) Code § 3600, et seq., the Medical Practice Act, Chapter 5, B & P §2000, et seq., and the California Code of Regulations (CCR) Title 16, Professional and Vocational Regulations, Division 16, §1600 et. seq., authorize the Osteopathic Medical Board of California to license qualified osteopathic physicians and surgeons to practice osteopathic medicine, and to effectuate the enforcement of laws and regulations governing their practice . The Osteopathic Medical Act requires the board to ensure that consumer protection is their highest priority in exercising its licensing, regulatory, and disciplinary functions.

The Osteopathic Medical Board of California (OMBC) is a fully functioning regulatory board within the Department of Consumer Affairs with the responsibility and sole authority to issue licenses to physicians and surgeons (hereafter Doctors of Osteopathic Medicine or D.O.s) to practice osteopathic medicine in California. The OMBC is also responsible for ensuring enforcement of legal and professional standards to protect California consumers from incompetent, negligent or unprofessional D.O.s. The OMBC regulates D.O.s only. Since the last oversight report, the number of licensees nearly doubled in number. At this time, there are 7,656 D.O.s holding California active status licenses. Of this number, 6,582 are practicing within the State. Additionally, there are 595 D.O.s who maintain inactive licenses. In addition to the active and inactive status licenses, there are 853 licenses in a delinquent status. Licenses remain delinquent for five years from the expiration date until the license becomes canceled.

Altogether, the total number of osteopathic physicians and surgeons licenses within the jurisdiction of the OMBC holding a current California license is 9,104.

D.O.s are similar to M.D.s in that both are considered to be “complete physicians,” in other words, one who has taken the prescribed amount of premedical training, graduated from an undergraduate college (typical emphasis on science courses) and received four years of training in medical school. The physician has also received at least one additional year of postgraduate training (residency or rotating internship) in a hospital with an approved postgraduate training program.

After medical school, D.O.s may choose to practice in a specialty, such as family practice, internal medicine, surgery or obstetrics, which involves completing a residency program (typically two to six years of additional training). Licensing examinations are comparable in rigor and comprehensiveness to those given to M.D.s. Whether one becomes a D.O. or an M.D., the process of receiving complete medical training is essentially the same. The same laws govern the required training for D.O.s and M.D.s who are licensed in California.

D.O.’s utilize all scientifically accepted methods of diagnosis and treatment, including the use of drugs and surgery. D.O.s are licensed in all fifty states to perform surgery and prescribe medication. D.O.s practice in fully accredited and licensed hospitals and medical centers. B&P Code §2453 states that it “is the policy of this State that holders of M.D. degrees and D.O. degrees shall be accorded equal professional status and privileges as licensed physicians and surgeons.”

A D.O. may refer to himself/herself as a “Doctor” or “Dr.” but in doing so, must clearly state that he/she is a D.O. or osteopathic physician and surgeon. He or she may not state or imply that he or she is an M.D. while being licensed in California as a D.O.

A key difference between the two professions is that D.O.s have an additional dimension in their training and practice, a component that is not taught in medical schools awarding M.D. degrees. Osteopathic medicine gives particular recognition to the musculoskeletal system (the muscles, bones and joints) which makes up over 60 percent of body mass. The osteopathic physician is trained to recognize that all body systems, including the musculoskeletal system, are interdependent, and a disturbance in one can cause altered functions in other systems of the body. The osteopathic physician is also trained in how this interrelationship of body systems is facilitated by the nervous and circulatory systems. The emphasis on the relationship between body structure and organic functioning is intended to provide a broader base for the treatment of the patient as a unit. These concepts require a thorough understanding of anatomy and the development of special skills in diagnosing and treating structural problems through manipulative therapy. D.O.s use structural diagnosis and manipulative therapy along

with all of the other traditional forms of diagnosis and treatment to care effectively for patients and to relieve their distress.

To meet its responsibilities for regulation of the D.O. profession, the OMBC is authorized by law to:

1. Monitor licensees for continued competency by requiring approved continuing education.
2. Take appropriate disciplinary action whenever licensees fail to meet the standard of practice.
3. Determine that osteopathic medical schools and hospitals are in compliance with medical education curriculum and post-graduate training requirements.
4. Provide rehabilitation opportunities for licensees whose competency may be impaired due to abuse of alcohol or other drugs.

Additionally the OMBC is charged with enforcement of laws proscribing unlicensed osteopathic medical practice.

II. History of D.O. Regulation and Legislation in California

The OMBC's predecessor organization, the Board of Osteopathic Examiners of California (BOEC), was created by an Initiative Measure, "The Osteopathic Act", in November 1922. This Act authorized the BOEC to license osteopathic physicians and surgeons. This had previously been a responsibility of the Board of Medical Examiners. From 1907 to 1919, osteopathic physicians and surgeons were required to pass the same examination for licensure as practitioners of allopathic medicine. However, in 1919, the Board of Medical Examiners stopped allowing osteopathic trained physicians and surgeons to take the examination. As a result, the California Osteopathic Association sponsored the 1922 Initiative Measure in order to ensure the continued viability of the osteopathic medical profession in California.

The Osteopathic Act was amended by referendum in 1962 (Chapter 48, 1962 First Extraordinary Session). The purpose of this referendum measure was to facilitate an agreement in principle to effectively merge the D.O. and M.D. professions. The key provisions of this measure were:

1. Osteopathic physicians and surgeons could choose to be licensed as M.D.s, and if so, would then be under the jurisdiction of the Board of Medical Examiners instead of BOEC;
2. The Osteopathic Act was modified to rescind the authority of the BOEC to issue new licenses to osteopathic physicians and surgeons, but the BOEC would continue to have authority over existing D.O.s who chose not to become M.D.s; and
3. The State Legislature was given authorization to amend or modify the Osteopathic Act.

The provisions of the 1962 referendum which permitted the M.D. election, and which authorized legislative amendments to the Osteopathic Act, were upheld by the State courts in 1974 and 1975 (see, *Board of Osteopathic Examiners v. Board of Medical Examiners* (1975) 53 C.A.3d 78). However, the provisions that rescinded the licensing authority of the BOEC were successfully challenged by out-of-state osteopathic physicians, who were effectively barred by these provisions from being licensed to practice in California, unless they had already been so licensed prior to 1962. In 1974, the California Supreme Court reinstated the BOEC's licensing authority and the BOEC immediately resumed its function as the sole agency with authority to license D.O.s in California (see, *D'Amico v. Board of Medical Examiners* (1974) 11 C.3d 1, 24.).

The Osteopathic Act was further amended by legislation in 1969 and 1971, and new sections were added by legislation in 1982. The most significant changes caused by the legislative amendments were:

1. To change the name of the licensing body from the Board of Osteopathic Examiners to the Osteopathic Medical Board of California;
2. To limit board members to two full terms; and
3. To add two public members to the five member board.

Today, the statutory authority and mandate for the powers and duties of OMBC is provided in the Osteopathic Act (B&P Code § 3600-1 to 3600-5), which incorporates by reference the Medical Practice Act (B & P Code § 2000, et seq.). This statutory authority is further defined under the Medical Practice Act by Article 21, § 2450-2459.7 of the B&P Code: "Provisions Applicable to Osteopathic Physicians and Surgeons." OMBC's powers and duties include:

1. Accepting applications from D.O.s to be licensed to practice in California.
2. Adopting examinations that assess professional competency.
3. Determining the qualifications of, and issuing licenses to D.O. applicants; issuing fictitious name permits; and maintaining a database of all licensees and applicants for licensure.
4. Setting standards for and enforcing compliance with continuing medical education (CME) requirements.
5. Providing information to the public regarding licensed D.O.s.
6. Responding to requests for verification of the license status of D.O.s (e.g., as required for hospital privileges, licensure in another state, contracting with insurers, and patient inquiries.)
7. Enforcing the disciplinary, administrative, criminal and civil provisions of the Medical Practice Act with respect to D.O.s.
8. Providing rehabilitation opportunities for D.O. licensees whose competency may be impaired due to the abuse of alcohol or other drugs.
9. Approving medical schools and their curriculum, for purpose of giving resident professional instruction in osteopathic medicine.
10. Approving hospitals for postgraduate training in osteopathic medicine.

The OMBC's authority has not been materially expanded at any time since the original Osteopathic Act of 1922. Other than the action by the State Supreme Court, to nullify the attempt to rescind the OMBC's licensing authority, the only other significant legal decision relating to the powers and authority of the OMBC was rendered in 1997, by the Court of Appeal, in *Shacket v. Osteopathic Medical Board* 51 Cal. App. 4th 223,58 Cal. Rptr. 2nd 715 This decision established that no formal hearing by a health care licensing board is necessary prior to distribution of a report filed with the board pursuant to B&P § 805.5, concerning action taken by a peer review body against a doctor's membership or staff privileges. As such, this decision set an important precedent for all California health care licensing boards, not just the OMBC.

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
DCA Department of Consumer Affairs
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 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 (hereafter referred to as Open Meeting Act) and all other statutory code sections applicable to similar boards within the State of California.

- Board members shall comply with all provisions of the 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 agenzized 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 Osteopathic Act and the Medical Practice 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

The board is comprised of nine members: five D.O.s and four public members. The Governor appoints all D.O.s 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 and no member may serve more than two full consecutive terms, which does not include time a new member may spend filling an unexpired term of a previous member. Each of the five D.O. members of the board must have, for at least five years preceding appointment, been a citizen of the state and in active practice. Additionally, each D.O. must be a graduate of an osteopathic medical school and hold an unrevoked license to practice osteopathic medicine in the state of California. No D.O. residing or practicing outside of California may be appointed to, or sit as a member of, the board. The four public members of the board may not be licensees of any board which falls under B&P Code Division 2 (commencing with § 500—i.e. Healing Arts), which includes the Medical Practice Act, nor any initiative act referred to in that division.

Board Meetings

(B & P Code § 101.7)

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. If there is good cause, the director at his or her discretion may exempt any board from the meeting three times per year or meetings that require travel.

All meetings that are webcast must include reference to the fact that the meeting will be webcast. Additionally, pursuant to Government Code § 11125 the board is required to provide written notice of meetings; such notice may include mail and/or email.

The Board shall comply with the provisions of the Open Meeting Act. The board has three duties under the Open Meetings Act. First, give the required notice of meetings to be scheduled. Second, provide an opportunity for public comment. Third, conduct meeting in an open session except where a closed session is specifically authorized. All board and committee meetings, with the exception of closed sessions, are open to the public. Closed session meetings must follow the same meeting notice requirements as open meetings and are specifically for matters designated under law such as discussion of disciplinary cases, pending litigation, personnel matters or other legally authorized issues.

Quorum

(Osteopathic Act, B&P Code § 3600-1)

The quorum for the board is five members. A roll call at the beginning of each board meeting shall be called to determine whether quorum is established. A quorum must be present or in attendance to constitute an act and/or decision on behalf of the board. If a quorum of the board is not in attendance, members in attendance may discuss a topic and suggest an action, but it is considered advisory and must be considered by the board at a time when there is quorum established.

Committee meetings require a majority of committee membership for quorum. For example, if a committee has three members, two constitute a quorum.

Public Comment

(Board Policy)

Public comment is always encouraged and allowed, however, if time constraints mandate, the board President may impose a time 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.

Meeting Notice Requirements

(Government Code § 11120 et. seq.)

The board must give at least ten (10) calendar day's written notice of each board and committee meeting. This notice shall be sent to interested parties by mail and/or email and posted on the board's website. The meeting notice includes the location(s) where the meeting will be held and the meeting agenda. The agenda must include all items of business to be transacted or discussed at the meeting. A brief description may not be generalized (e.g. miscellaneous topics or old business) and must provide sufficient information so that the public is aware of the item to be discussed. The notice must include the name, address, and telephone number of any person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. Additionally, the notice must contain information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related accommodation.

Teleconference Meetings

(Government Code § 11123)

Meetings held via teleconference are also subject to the same notice requirements under the Open Meetings Act. The meeting notice must be published at least ten (10) days in advance and must include the physical location of each board member attending the meeting remotely. Each

board member must be present at the physical location he or she provided for the meeting notice. The public is permitted to attend the meeting at any of the locations listed on the meeting notice during an open session of the meeting. Members are no longer able to attend meetings via teleconference from their homes, offices or other convenient location unless those locations are identified in the meeting notice and agenda and the public is permitted to attend at those locations. The public is not permitted to attend any part of the meeting that is designated as “closed session.”

Agenda Topics (Board Policy)

Any board member may suggest items for a board meeting agenda to the board President and Executive Director. The Executive Director sets the agenda at the direction and approval of the board President.

Record of Meetings (Minutes)

The minutes are a summary, not a transcript, of each board meeting. The minutes shall be prepared by board staff and submitted for review by board members. Board minutes must be approved or disapproved at a future scheduled meeting of the board. When approved, the minutes shall serve as the official record of the meeting. All meeting minutes shall reflect board member attendance and when a member has been excused or is absent. All staff in attendance including legal counsel shall also be included. Each roll call vote shall list the position of each voting member in addition to the final vote count and whether the motion passed or failed.

What Constitutes a Meeting (Government Code § 11122.5)

The intention of the Open Meetings Act is to prevent otherwise public business being discussed by public board members in private and not in a meeting that the public has been properly provided notice and invited to attend. As result, there are restrictions on communication between multiple board members. These restrictions begin to be applied to communications between two or more board members.

The Open Meeting Act defines a meeting as two or more members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains. In this definition, the term state body refers to the board. Meetings of three or more board members constitute a meeting that requires ten day prior public notice. Meetings of two members do not require public meeting notice compliance.

The meeting restriction also applies to emails between board members, telephone conversations between board members, and dining conversations if there are two or more members involved in the communication.

If the board members engage in any communication regarding board business with more than one member, this communication would be a violation of the Open Meeting Act. The violating member may be guilty of a misdemeanor (Government Code § 11130.7).

There are exemptions to the meeting definition. When in doubt, contact the Executive Director or the board's legal counsel.

Chapter 3: Selection of Officers & Committees

Officers of the Board

The board shall elect at the first meeting of each year a President, Vice President and Secretary.

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.

Committees & Committee Appointments

The President shall establish and abolish committees as he or she deems necessary at any time. The composition of the committees and the appointment of the members shall be determined by the board President. The President can change the composition including the chair at any time. The number of members on each committee can range from two to five members.

Committee with three or more members will be subject to following the Open Meetings Act.

Committee Meetings

Each committee will be comprised of at least two board members. 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 Open Meeting Act.

Board Member Attendance at Board Meetings

(Board Policy)

Board members shall attend each meeting of the board and his or her assigned committee meetings. If a member is unable to attend, he or she must contact the board President or the Executive Director and ask to be excused from the meeting for a specific reason.

Public Attendance at Board Meetings

(Government Code § 11120 et. seq.)

Meetings are subject to all provisions of the 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.

CHAPTER 4: Other Policies and Procedures

Ex Parte Communications

(Government Code § 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 § 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 Director. 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 Director and the board’s legal counsel.

If the person insists on discussing the case, the board member may 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 Director and the board’s legal counsel.

Rules for Contact with the Public, a Licensee, an Applicant, or Media

Occasionally, in your role as a board member you may be contacted by a licensee, colleague, applicant, member of the public, or the media regarding an issue or concern that pertains to board business or proceedings. Any one of these contacts may compromise your position related to future decisions about policy, disciplinary actions, or other Board business.

In order to avoid compromising your role as a board member, please refrain from assisting the individual with his/her issue. Instead, offer to refer the matter to the Executive Director or give

the individual the contact information for the Executive Director. Refrain from engaging in discussion with the individual and make every effort to end the conversation quickly and politely. Report all such contacts to the Executive Director as soon as possible.

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 Director.

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 Director.

Honoraria Prohibition

(Government Code § 89503 and Fair Political Practices Commission (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 thirty 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 Director and legal counsel, may determine whether the potential for conflict of interest exists.

Conflict of Interest

(Government Code § 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 financial interest. Any board member, who has a financial interest that may be affected by a governmental decision, 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 potential for a conflict of interest should immediately consult the Executive Director or the board's legal counsel.

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.

Immunity from Liability

There are a number of provisions in state law relating to the liability of public agencies and employees. Government Code § 818.4 states "A public entity is not liable for an injury caused by the issuance, denial, suspension or revocation of, or by his failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order or similar authorization where the public entity or an employee of the public entity is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked."

Government Code § 821.2 states, "A public employee is not liable for an injury caused by his issuance, denial, suspension or revocation of, or by his failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization where he is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked."

Specific questions related to defense, payment of a judgment, settlement, and indemnification should be discussed with the board's legal counsel.

Resignation of Board Members

(Government Code § 1750)

In the event that it becomes necessary for a board member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or 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 director of Department of Consumer Affairs (DCA), the board President, and the Executive Director.

Board Member Addresses

(DCA Policy)

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.

CHAPTER 5. Board Administration & Staff

Executive Director

The board may appoint an Executive Director. The Executive Director is responsible for the financial operations and integrity of the board, and is the official custodian of records. The Executive Director 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 Director as an instrument of the board.

Executive Director Evaluation

On an annual basis, the Executive Director is evaluated by the board President. Board members provide information to the President on the Executive Director's performance in advance of the evaluation. Once compiled the board President meets privately with the Executive Director to provide the Board's evaluation.

Board Staff

Employees of the board, with the exception of the Executive Director, 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 Director as an instrument of the board. Board members may express any staff concerns to the Executive Director 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 Director or the Executive Director's designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Communications with External 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 Director.

Any board member who is contacted by any of the above should inform the board President or Executive Director of the contact immediately. All correspondence shall be issued on the board's standard letterhead and will be disseminated by the Executive Director'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.

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 Director immediately.

Board Member Orientation

The board member orientation session shall be given to new board members within one year of assuming office. (B&P Code § 453.)

Ethics Training

California law requires all appointees to take an ethics orientation within the first six months of their appointment and to repeat this ethics orientation every two years throughout their term.

Sexual Harassment Training

(Government Code § 12950.1)

Board members are required to undergo sexual harassment training and education once every two years.

CHAPTER 6. Board Member Role in Disciplinary Process

Overview

Discipline is one of the principal responsibilities of the board in regulating the Osteopathic Medical profession. In matters involving discipline, the board, Executive Director, and staff have very distinct roles that must be adhered to in order to preserve the disciplinary process. The board's role is that of "decisionmaker", ultimately authorized to deny licensure or order discipline of a license. The board reviews two types of disciplinary actions: 1) Proposed stipulated settlements; 2) Proposed decisions ordered by the Administrative Law Judge (ALJ) after a formal hearing of the facts in the case. In both situations, the final order and action must come from the board through a vote by the board. This vote can occur at a board meeting or via email.

In disciplinary actions it is the role of the board staff to manage the gathering of facts, to conduct investigations, consult with a medical expert who determines whether there has been a departure from the Standard of Care, and send out ballots to the board. If board members have questions, those questions should be directed to the board's legal counsel. The Executive Director serves the role of the Complainant in the disciplinary process. The Complainant is the individual who has the authority to file charges against the licensee or applicant. In this role, the Executive Director must not have contact with the board in order to ensure the board's neutrality that will then make the final decision in the case. The Office of the Attorney General is responsible for prosecuting actions on behalf of the Complainant. Additionally, for disciplinary matters only, the Office of the Attorney General serves as the legal advisor to the Executive Director (i.e., complainant) and the board's legal counsel serves as legal counsel for the board. In all other non-disciplinary matters, the board's legal counsel advises both the board and the Executive Director.

The board is subject to meeting pre-defined enforcement performance measures and is held accountable for the time it takes to manage its disciplinary cases. One way to expedite the disciplinary timeframe is that proposed decisions and settlements are sent by staff continuously to the board via email for their consideration and vote. This email ballot process streamlines the disciplinary process and reduces unnecessary delays that would otherwise occur if all decisions were made at scheduled Board meetings. However, if board members feel they need to discuss a particular proposed decision or settlement, there is an option to mark on the ballot hold for discussion at a future board meeting.

Email /Mail Vote Process

(Government Code § 11500 et. Seq.+6,)

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 emailed to each board member for his or her vote.

Proposed ALJ decisions (based on hearing) and proposed stipulated settlements) negotiated settlements) are sent to the board via email for their consideration and vote. Email ballot packet materials are confidential and include the following documents:

- 1) Proposed ALJ decisions: the ALJ order, accusation or statement of issues;
- 2) Proposed stipulated settlements (including Stipulated Surrender of License): settlement, accusation, accusation and petition to revoke probation or statement of issues, Deputy Attorney General's (DAG) memo.

Deliberation and decision-making should be done independently and confidentially by each board member. Board members shall only use the information provided to make their determination. For cases decided via email ballot, voting members may not communicate with each other and may not contact the DAG, the respondent, anyone representing the respondent, any witnesses, the complainant (Executive Director), the ALJ or anyone associated with the case. Additionally, board members should not discuss pending cases with board staff, except as to questions about procedure, which if the nature of the questions are legal, such questions will be referred to the board's legal counsel.

Completed email ballots shall be returned by the due date listed on the ballot. Delays by board members in returning votes, delays final discipline. Board members should retain their email ballot materials including the completed email ballot itself in case there is further action on the case. Final orders of the board do not become effective immediately, the final decision must be served and the board could receive a request for reconsideration which would delay the disciplinary action timeline and the order from becoming final. Once the decision is final, the email ballot packet materials that board members receive must be confidentially destroyed.

Email/Mail Ballot Voting Options

Each email ballot will have the following voting options:

- **Adopt/Grant:** a vote to adopt the proposed action means that you agree with the action as written and accept the action.
- **Reject (Non Adopt):** A vote to not adopt the proposed action means that you disagree with one or more portions of the proposed action and do not want it adopted as the board's decision. This category should be used (or deleted) or that the penalty should be modified in some other way.

In addition, board members are instructed on the ballot to choose this option if they have questions or concerns about the proposed decision. They are asked to record their question or concerns to facilitate the discussion. However, a majority vote to adopt will prevail over a minority vote to not adopt.

- **Recuse self from the case because: (conflict of interest or involvement in case)**

Legal Procedure by Type of Decision

Stipulations—Proposed Settlements

- **Adopt.** If the decision of the board is to adopt the terms proposed in the stipulation that decision becomes effective with 30 days if reconsideration is not requested. Respondent is notified of the decision.
- **Reject.** If the board decides to not adopt the stipulation, the respondent is notified and the matter resumes the process for formal administrative hearing before an ALJ. A new settlement may be submitted to the board at a later date. If the case goes to hearing, the board will consider the ALJ proposed decision.

Proposed ALJ Decisions Following a Formal Hearing

- **Adopt.** If the board members decide to adopt the proposed decision, the proposed decision become effective within 30 days and the respondent is notified of the decision.
- **Reject.** If the board members do not agree with any aspect of the ALJ's proposed decision, they have the option to "non-adopt" the proposed decision. In this case, the respondent is notified. The next step is that board staff will order the administrative hearing transcripts and request written arguments from the respondent. Board members will review the transcripts, evidence, and written arguments and meet in a closed session board meeting with the board's legal counsel who will facilitate the closed session and write the board's decision. The board uses its disciplinary guidelines and applicable law when making such decisions. The board's decision is then adopted by the board and issued as a final order of the board. The respondent is notified of the decision.

Explanation of Terminology

Proposed decision:

Following a hearing, the Administrative Law Judge (ALJ) drafts a proposed decision recommending an outcome based on the facts and the board's disciplinary decision. At its discretion, the board may impose a lesser penalty than that in the proposed decision. If the

board desires to increase a proposed penalty, however, it must vote to reject or non-adopt the proposed decision, read the transcript of the hearing and review all exhibits prior to acting on the case.

Default Decision:

If an accusation mailed to the last known address is returned by the post office as unclaimed, or if a respondent fails to file a Notice of Defense or fails to appear at the hearing, the respondent is considered in default. The penalty in a case resolved by default is generally revocation of the license. A default decision can be set aside and the case set for hearing if the respondent petitions for reconsideration before the effective date of the decision **and** the board grants the petition.

Stipulated Decision

At any time during the disciplinary process, the parties to the matter (Executive Director and the respondent) can agree to a disposition of the case. With the Executive Director's consent, the Deputy Attorney General will negotiate a stipulated decision (sometimes referred to as a stipulated agreement) based on the board's disciplinary guidelines.

Adopt

A vote to adopt the proposed action means that you accept the action as proposed.

Reject (Non-Adopt)

A vote to reject (non-adopt) the proposed action means that you disagree with one or more portions of the proposed action and do not want it adopted as the board's decision. This category should be used if you believe additional or different terms or conditions of probation should be added (or deleted) or that the penalty should be modified in some other way.

If a proposed decision is rejected, the transcript will be ordered and the case scheduled for argument according to board policy. After reviewing the record and discussion, the board can adopt the decision as originally written or modify it as it deems appropriate, except that any cost recovery order may not be increased. If a stipulated decision is rejected, the case will be set for hearing. If a default decision is rejected, the case will be set for hearing.

Recuse: Board Member Disqualification from Deciding Case

With some limited exception, a board member cannot decide a case if that board member investigated, prosecuted or advocated in the case or is subject to the authority of someone who investigated, prosecuted or advocated in the case. Examples of such a conflict is if a person is a family member, close personal friend, or business partner. A board member may be

disqualified for bias, prejudice or interest in the case. When in doubt, board members should contact the board's legal counsel for guidance.

***Ex Parte* Communications Involving Disciplinary Actions**

Ex Parte is Latin for "by or for one party; by one side." In practice, it is a limitation on the types of information and communication that board members may receive or make when considering a case. While a case is pending, there are only limited types of communication with board members that are allowed. The rationale for this limitation is to avoid any communication that would unfairly influence the outcome of the legal proceeding. Communication with staff on the merits of the case, communication with those who investigated the case or communication with the ALJ could all bias the outcome and be unfairly one sided with respect to the respondent. So, the easiest way to avoid *ex parte* communication is to refrain from communicating to anyone except the board's legal counsel about a case.

CHAPTER 7. Travel and Salary Policies & Procedures

Travel Reimbursement

Board members will be reimbursed for their travel related to all board and Committee meetings. Reimbursements will be in accordance with current travel reimbursement policies. Please refer to the board's policies and DCA Travel Guide for specific travel guidelines and reimbursement policies. . Board members must submit their travel receipts, mileage information (*if applicable*), and start and end time for each trip to the board liaison, who will then process each reimbursement through the State's reimbursement system CalATERS Global.

Travel Approval

(State Administrative Manual (SAM) § 700 et. seq.)

Travel related to board and committee meetings do not require travel approval. All other travel related to board business must be approved by DCA prior to the event. For any travel out of state representing the State of California, prior approval from the Governor's Office is required and must be submitted for endorsement at least 2 months prior to the intended date of departure. Please contact the Executive Director for further information.

Travel Arrangements

(Board Policy)

Generally, government travel is restricted to either a designated carrier or the lowest priced carrier. Similarly, lodging is restricted to hotels that offer a state rate that is under the reimbursement maximum that vary by city. Board members will only be reimbursed up to the maximum, unless they have received prior authorization for excess lodging, which must be secured prior to travel. To facilitate travel arrangements, board members should provide the board liaison with credit card information that can be used to secure lodging reservations that require a personal credit card. The board has no means to secure lodging reservations for board members without your credit card. The board liaison makes board travel arrangements for lodging and flights, so coordinate directly with the board liaison.

Exceptions to Travel Reimbursement Policies

Lodging

State guidelines generally prohibit reimbursement for hotel expenses within 50 miles of an individual's home address or an extra night stay following the conclusion of the board activity. However, an exception to this guideline may be obtained if the circumstances necessitate an overnight stay. Please contact the board liaison for further details.

Airport Parking

State guidelines strongly encourage the use of the least expensive parking available (i.e. economy lot). However, if the board determines that additional parking costs above the lowest-cost option are in the best interests of the State, a justification explaining the necessity for additional cost must be submitted with the travel claim.

Travel Claims

(SAM § 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 Director'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 and not later than the 15th of the month following the trip. Receipts are required and must be submitted with each travel reimbursement: hotel zero balance receipt, parking, transportation service (taxi, shuttle, etc.), bridge tolls, flight itineraries, gas receipts. Pre-paid gas receipts will not be accepted and must include detailed information (number of gallons, price per gallon, etc.). Meal reimbursement is limited to designated maximums per meal and depends on the time of day. While meal receipts are not required for reimbursement, it is advised to keep receipts in case your claims are audited in the future.

Salary Per Diem

(B & P Code § 103)

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 § 103. Each member of the board shall receive a per diem in the amount provided in § 103 of the B&P Code. Board members fill non-salaried positions, but are paid \$100 per day for each meeting day and are reimbursed travel expenses. In relevant part, B&P Code § 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 Director 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 Director. However, board members should recognize that even when representing themselves as "individuals," their positions might be misconstrued as that of the board.

Attachment B

Diversion Evaluation Committee

Diversion Evaluation Committee

George Bifano, D.O.

Paul Steier, D.O.

Kevin Metzger, D.O.

Steven Rudolph, D.O.

Attachment C

2016–2019 Strategic Plan



2016–2019 Strategic Plan

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA



Adopted: January 2016

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Board Members

Joseph A. Zammuto, D.O., President

Keith Higginbotham, Esq., Vice-President,
Public Member

Cyrus Buhari, D.O.

Michael Feinstein, D.O.

Elizabeth Jensen-Blumberg, D.O.

James Lally, D.O.

Alan Howard, Public Member

Claudia Mercado, Public Member

Cheryl Williams, Public Member

Former Board members who also participated in the development of this strategic plan:

David Connett, D.O.

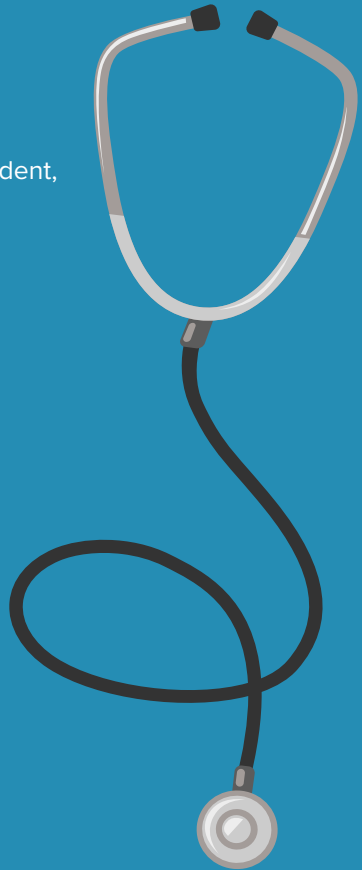
Jane Xenos, D.O.

Edmund G. Brown Jr., Governor

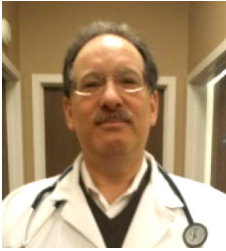
Alexis Podesta, Acting Secretary,
Business, Consumer Services, and Housing Agency

Awet Kidane, Director,
Department of Consumer Affairs

Angie Burton, Executive Director,
Osteopathic Medical Board of California



Message From the Board President



On behalf of the Osteopathic Medical Board of California, it is my sincere pleasure to present the 2016–2019 Strategic Plan. I want to thank the California Department of Consumer Affairs' (DCA's) SOLID Unit for its leadership in the process. I want to thank all the Board members, the Executive Director, Assistant Executive Director, Board staff, and the public for putting together this plan.

The mission of the Board is to protect the public by requiring competency, accountability, and integrity in the safe practice of medicine by osteopathic physicians and surgeons. The Board continually strives to attain meaningful improvement to service our physicians, protect the public, and maintain the highest standards in health care.

The vision of the Board is to uphold the highest standards of quality and care by our physicians, continuing to utilize technology and innovation to enhance and deliver an outstanding level of public protection.

The success of this strategic plan depends on an ever-evolving relationship with all the stakeholders in the State of California. We look forward to our relationship involving licensure, enforcement, outreach and communication, regulation and legislation, and Board administration.

Joseph A. Zammuto, D.O.

President, Osteopathic Medical Board of California



About the Osteopathic Medical Board

Developed more than 130 years ago by Andrew Taylor Stills, M.D., D.O., osteopathic medicine brings a unique philosophy to traditional medicine. Osteopathic physicians (D.O.s) are fully licensed to prescribe medication and practice in all medical specialty areas, including surgery, just as any M.D. D.O.s are trained to consider the health of the whole person and use their hands to help diagnose and treat their patients.

D.O.s are one of the fastest-growing segments of health care professionals in the United States. California has the fourth-largest osteopathic population in the country.

The Business and Professions (B&P) Code section 3600 (Osteopathic Initiative Act) and the California Code of Regulations (CCR) Title 16, Professional and Vocational Regulations, Division 16., section 1600 et. seq. authorizes the Osteopathic Medical Board of California (Board/OMBC) to license qualified osteopathic physicians and surgeons to practice osteopathic medicine and to effectuate the enforcement of laws and regulations governing their practice (Medical Practice Act). The Osteopathic Initiative Act provides that consumer protection is its highest priority in exercising its licensing, regulatory, and disciplinary functions.

The Board is a fully functioning board within DCA with the responsibility and sole authority to issue licenses to physicians and surgeons (D.O.s) to practice osteopathic medicine in California. The OMBC is also responsible for enforcing legal and professional standards to protect California consumers from incompetent, negligent, or unprofessional D.O.s. The OMBC regulates D.O.s only. There are 6,227 D.O.s in California with active licenses at this time and another 1,006 D.O.s who maintain active licenses in California while residing in other states. There are 588 D.O.s who maintain inactive licenses. Total number of osteopathic physicians and surgeons currently holding a California license is 7,821.

D.O.s are similar to M.D.s in that both are considered to be “complete physicians”; in other words, one who has taken the prescribed amount of premedical training, graduated from an undergraduate college (typical emphasis on science courses), and received four years of training in medical school. The physician has also received at least one more year of postgraduate training (residency or rotating internship) in a hospital with an approved postgraduate training program.

After medical school, D.O.s may choose to practice in any specialty or subspecialty as do M.D.s. Examples are, but not limited to, family practice, internal medicine, pediatrics, and any surgical specialty. These programs may range from on average two to six years of additional postgraduate training. Licensing examinations are comparable in rigor and comprehensiveness to those given to M.D.s. Whether one becomes a D.O. or an M.D., the process of receiving complete medical training is basically the same. The same laws govern the required training for D.O.s and M.D.s who are licensed in California. D.O.s utilize all scientifically accepted methods of diagnosis and treatment, including the use of drugs and surgery. D.O.s are licensed in all 50 states to perform surgery and prescribe medication. D.O.s practice in fully accredited and licensed hospitals and medical centers. Section 2453 of the Business and Professions Code states that it “is the policy of this State that holders of M.D. degrees and D.O. degrees shall be accorded equal professional status and privileges as licensed physicians and surgeons.”

A D.O. may refer to himself or herself as a “doctor” or “Dr.” but in doing so, must clearly state that he or she is a D.O. or osteopathic physician and surgeon. He or she may not state or imply that he or she is an M.D. while being licensed in California as a D.O.



A key difference between the two professions is that D.O.s have an additional dimension in their training and practice—one not taught in medical schools giving M.D. degrees. Osteopathic medicine gives particular recognition to the musculoskeletal system (the muscles, bones, and joints), which makes up more than 60 percent of body mass. The osteopathic physician is trained to recognize that all body systems, including the musculoskeletal system, are interdependent, and a disturbance in one can cause altered functions in other systems of the body. The osteopathic physician is also trained in how this interrelationship of body systems is facilitated by the nervous and circulatory systems. The emphasis on the relationship between body structure and organic functioning is intended to provide a broader base for the treatment of the patient as a unit. These concepts require a thorough understanding of anatomy and the development of special skills in diagnosing and treating structural problems through manipulative therapy. D.O.s use structural diagnosis and manipulative therapy along with all of the other traditional forms of diagnosis and treatment to care effectively for patients and to relieve their distress.

To meet its responsibilities for regulation of the D.O. profession, the OMBC is authorized by law to:

- Monitor licensees for continued competency by requiring approved continuing education.
- Take appropriate disciplinary action whenever licensees fail to meet the standard of practice, or otherwise commit unprofessional conduct.
- Determine that osteopathic medical schools and hospitals are in compliance with medical education curriculum and post-graduate training requirements.
- Provide rehabilitation opportunities for licensees whose competency may be impaired due to abuse of alcohol or other drugs.

Additionally, the OMBC is charged with enforcement of laws proscribing unlicensed osteopathic medical practice.

Our Mission

To protect the public by requiring competency, accountability, and integrity in the safe practice of medicine by osteopathic physicians and surgeons.

Our Vision

The Osteopathic Medical Board upholds the highest standards of quality and care by our physicians, continuing to utilize technology and innovation to enhance and deliver an outstanding level of public protection.

Our Values

Consumer Protection
Professionalism
Accountability
Honesty and Trust
Integrity and Transparency

Strategic Goals

1. **Licensure**

The OMBC requires that only qualified individuals are licensed as osteopathic doctors.

2. **Enforcement**

Protect the health and safety of consumers through the enforcement of the laws and regulations governing the practice of osteopathic medicine.

3. **Outreach and Communication**

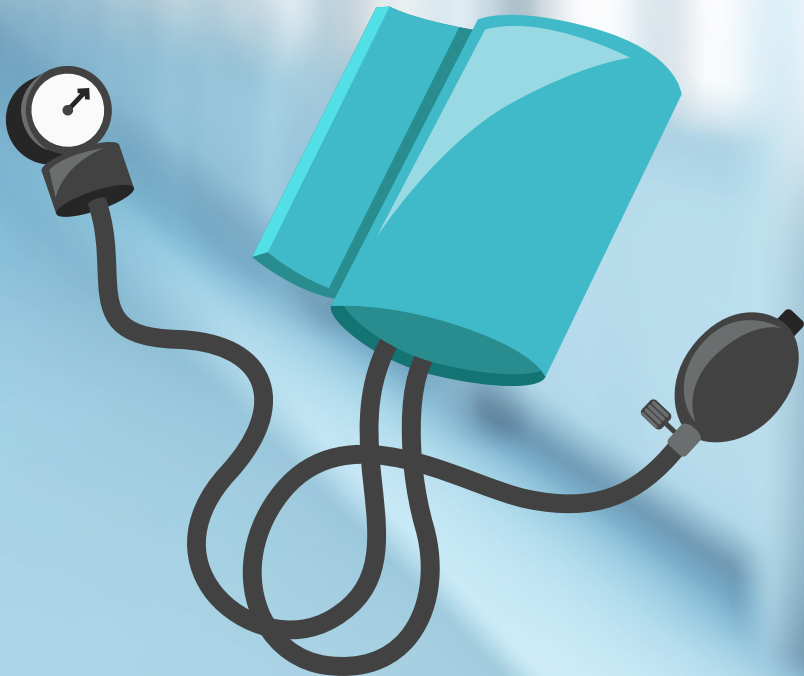
Consumers and licensees are able to make informed decisions regarding the safe practice of osteopathic medical services.

4. **Regulation and Legislation**

Monitor and uphold the law, and participate in the regulatory and legislative process.

5. **Board Administration**

The Board builds an excellent organization through proper Board governance, effective leadership, and responsible management.





Goal 1: Licensure

The OMBC requires that only qualified individuals are licensed as osteopathic doctors.

- 1.1 Implement online application processing to reduce cycle times and improve stakeholder service.
- 1.2 Create an online renewal process to reduce cycle times and improve stakeholder service.
- 1.3 Enhance customer service by implementing telephone procedures, seeking improvement of the phone-tree configuration, and requiring additional customer-focused staff training.

Goal 2: Enforcement

Protect the health and safety of consumers through the enforcement of the laws and regulations governing the practice of osteopathic medicine.

- 2.1 Review and assign a time limit for expert reviewer contract processing to reduce response times to cases.
- 2.2 Recruit additional expert reviewers to increase efficiency of case review and leverage the resources of subject matter experts with specific background in osteopathic medicine.
- 2.3 Hire one complaint intake staff member to eliminate backlog, improve customer service, and meet performance measures.
- 2.4 Hire one Enforcement Analyst to address excess workload, providing enhanced customer service and meeting performance measures targets.
- 2.5 Utilize aging reports in BreEZe to bring the Board into compliance with statutes.
- 2.6 Initiate a Budget Change Proposal (BCP) to fund travel for enforcement personnel to perform onsite check-ins of probationers.

Goal 3: Outreach and Communication

Consumers and licensees are able to make informed decisions regarding the safe practice of osteopathic medical services.

- 3.1 Develop printed materials to provide consumer information regarding the differences between the D.O. and M.D. designation, philosophies of osteopathy, and Board contact information to increase awareness of the Board's role as a consumer protection entity.
- 3.2 Produce and post instructional videos on initial application and renewal processes, common disciplinary actions, Board purpose, and a description of the osteopathic profession to help licensees and consumers understand the Board's functions.
- 3.3 Investigate options to enhance the website by including sections on licensing and discipline, frequently asked questions, and a quarterly newsletter to communicate Board activities to stakeholders.
- 3.4 Develop a stakeholder e-mail distribution list (or LISTSERV) to provide up-to-date information to stakeholders.
- 3.5 Modify renewal form to include explanation of the benefits of providing an e-mail address to the Board.
- 3.6 Engage colleges, students, and professional organizations providing in-person speaking, webinar, and teleconference events to promote student and professional organization s relations with the Board.
- 3.7 Reach out to professional organizations to request a hyperlink to the OMBC website be added to the organizations' websites in order to inform the public that they are separate entities from the Board.
- 3.8 Investigate the practicality of adding the website address to OMBC pocket license to increase awareness of the Board's resources.

Goal 4: Regulation and Legislation

Monitor and uphold the law, and participate in the regulatory and legislative process.

- 4.1 Review the need for, and, if necessary, hire a legislative analyst to keep the Board up-to-date on pending legislation and potential obstacles to patient safety.
- 4.2 Enhance legislative relationships to maintain contact with lawmakers regarding health care issues.
- 4.3 Implement a review of the OMBC's regulations (including telemedicine) to update or strengthen regulatory language, providing clarity and consistency with professional standards.
- 4.4 Review the Cite and Fine Schedule and revise if necessary to provide for the application of appropriate levels of enforcement citations.
- 4.5 Change the Continuing Medical Education (CME) cycle to coincide with the license renewal cycle.
- 4.6 Assess feasibility to change CME requirement verification to an audit system to streamline the renewal process.
- 4.7 Create a licensee placard requirement for D.O. places of practice to increase consumer protection through awareness.



Goal 5: Board Administration

The Board builds an excellent organization through proper Board governance, effective leadership, and responsible management.

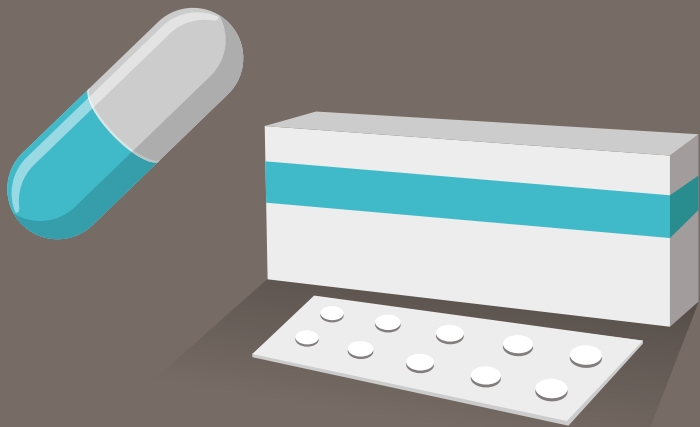
- 5.1 Coordinate with the DCA's Office of Information Services to research the capability of altering the phone tree in order to improve customer service.
- 5.2 Analyze call log data (if available) to justify a BCP for additional staff to answer and route calls.
- 5.3 Relocate the OMBC office to house all program staff in a single location and effectively store physical files.
- 5.4 Create an Architectural Revolving Fund account to fund office relocation.
- 5.5 Schedule, convene, and document monthly staff meetings to share challenges and accomplishments with the Board.
- 5.6 Establish a change management process for developing or modifying policies, procedures, program requests, and forms to implement changes in policies, laws, and regulations.
- 5.7 Develop and disseminate an anonymous training needs assessment to staff to identify and provide training to fulfill gaps and program needs.
- 5.8 Provide information technology and customer service training to staff in order to increase technical troubleshooting skills and enhanced customer service.

Strategic Planning Process

To understand the environment in which the Board operates and to identify factors that could impact the Board's success, DCA's SOLID unit conducted an environmental scan of the internal and external environments by collecting information through the following methods:

- Interviews conducted with eight members of the Board, the Executive Director, the Assistant Executive Director, and the staff medical advisor completed during the month of September 2015 to assess the challenges and opportunities the Board is currently facing or will face in the upcoming years.
- One focus group with Board staff on September 3, 2015, to identify the strengths and weaknesses of the Board from an internal perspective. Seven Board staff participated.
- An online survey sent to 3,899 randomly selected external Board stakeholders in September 2015 to identify the strengths and weaknesses of the Board from an external perspective; 236 stakeholders completed the survey.

The most significant themes and trends identified from the environmental scan were discussed by the Board executive team during a strategic planning session facilitated by SOLID on October 30, 2015. This information guided the Board in the development of its mission, vision, and values, while directing the strategic goals and objectives outlined in this 2016–2019 Strategic Plan.





Osteopathic Medical Board of California

Osteopathic Medical Board of California www.ombc.ca.gov

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Fax: (916) 928-8392
E-mail: osteopathic@dca.ca.gov



STATE OF CA

IRS



Prepared by
SOLID Planning Solutions

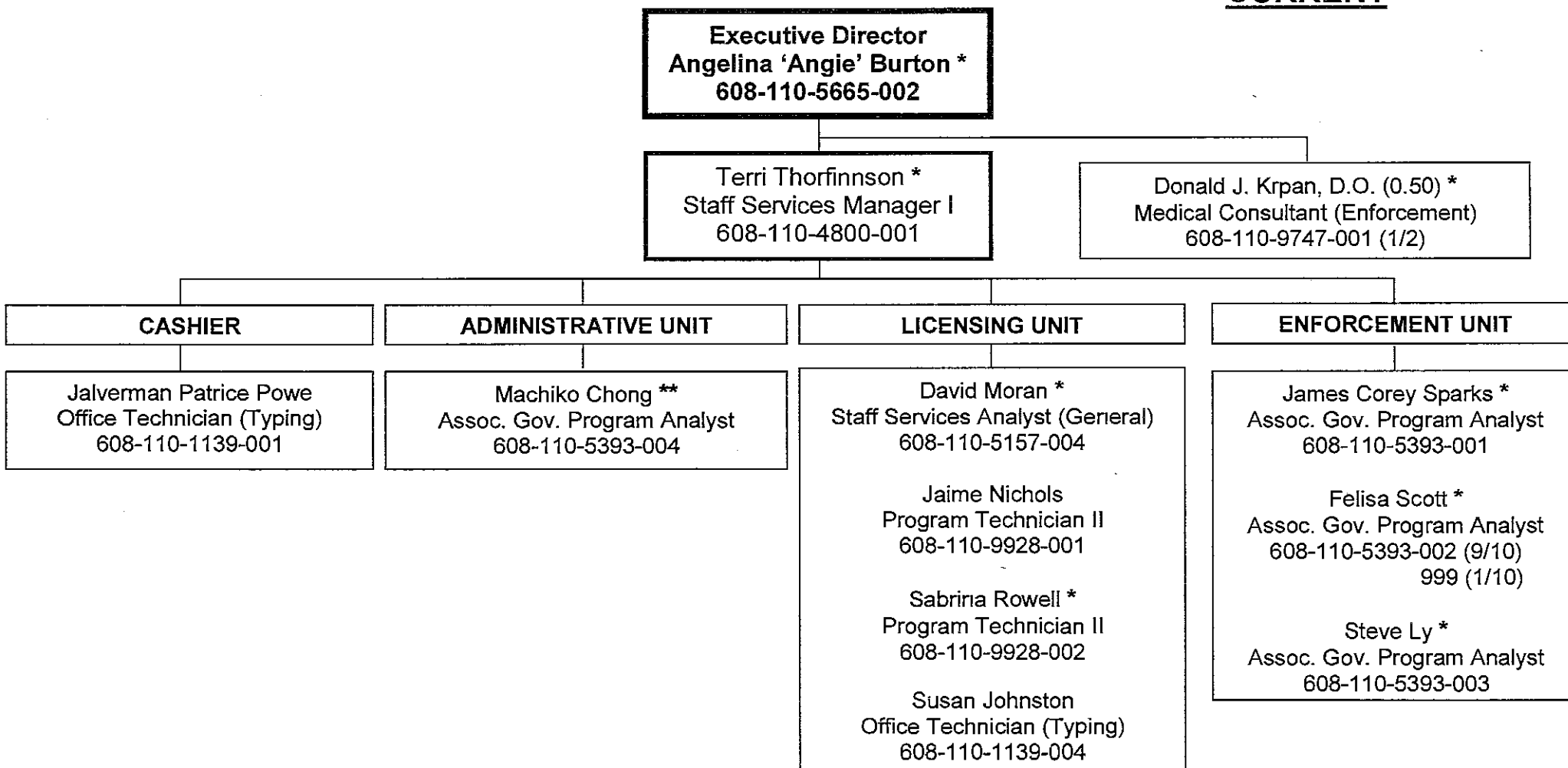
California Department of Consumer Affairs
1747 N. Market Blvd., Suite 270
Sacramento, CA 95834

This strategic plan is based on stakeholder information and discussions facilitated by SOLID for the Osteopathic Medical Board of California in September and October 2015. Subsequent amendments may have been made after Board adoption of this plan.

Attachment D

Organizational Charts

CURRENT

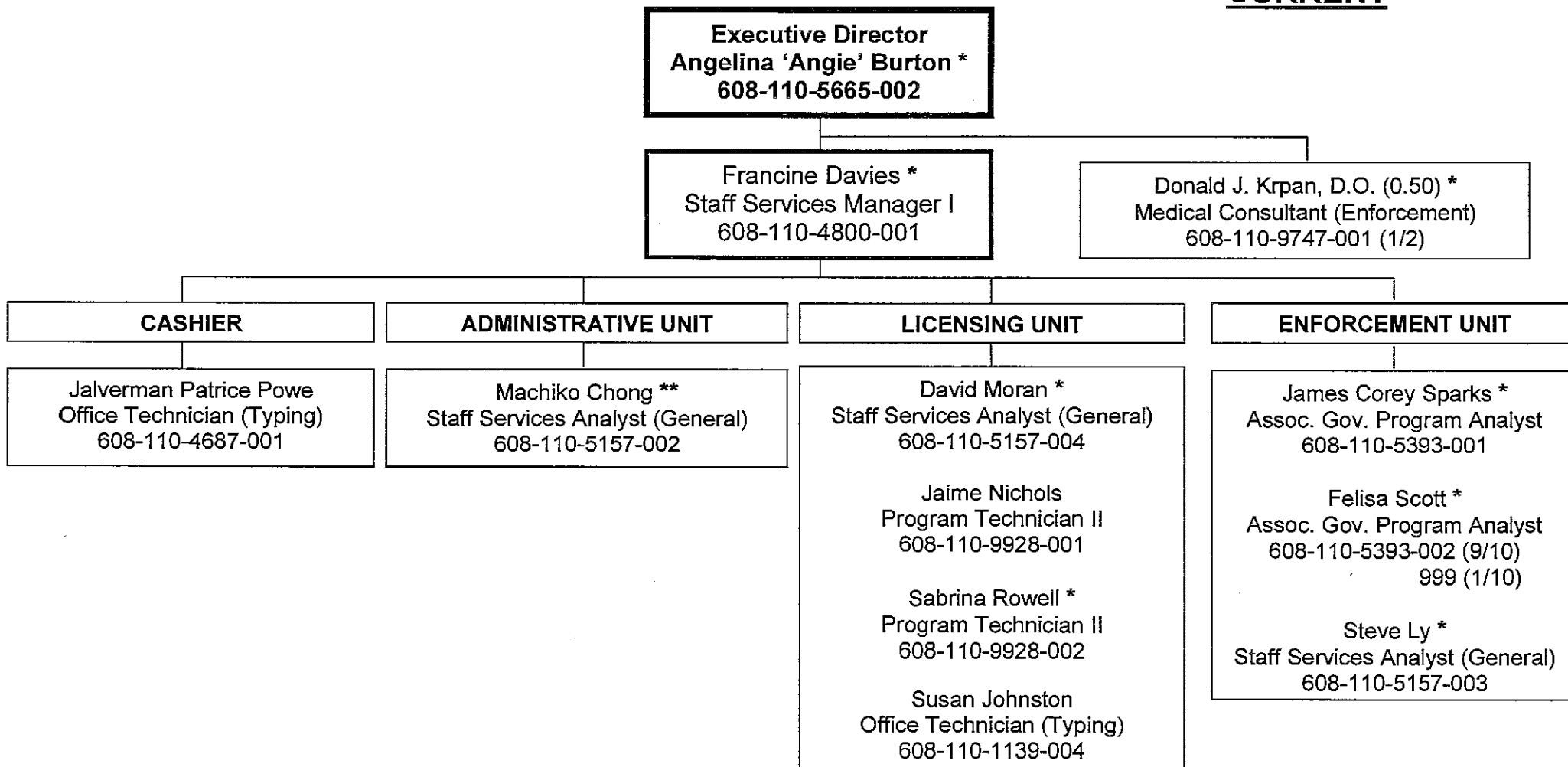


Angelina Burton, Executive Director Date

*CORI Cleared **CORI Cleared/ Custodian of Records

Personnel Analyst Date

CURRENT



Angelina Burton, Executive Director _____ Date

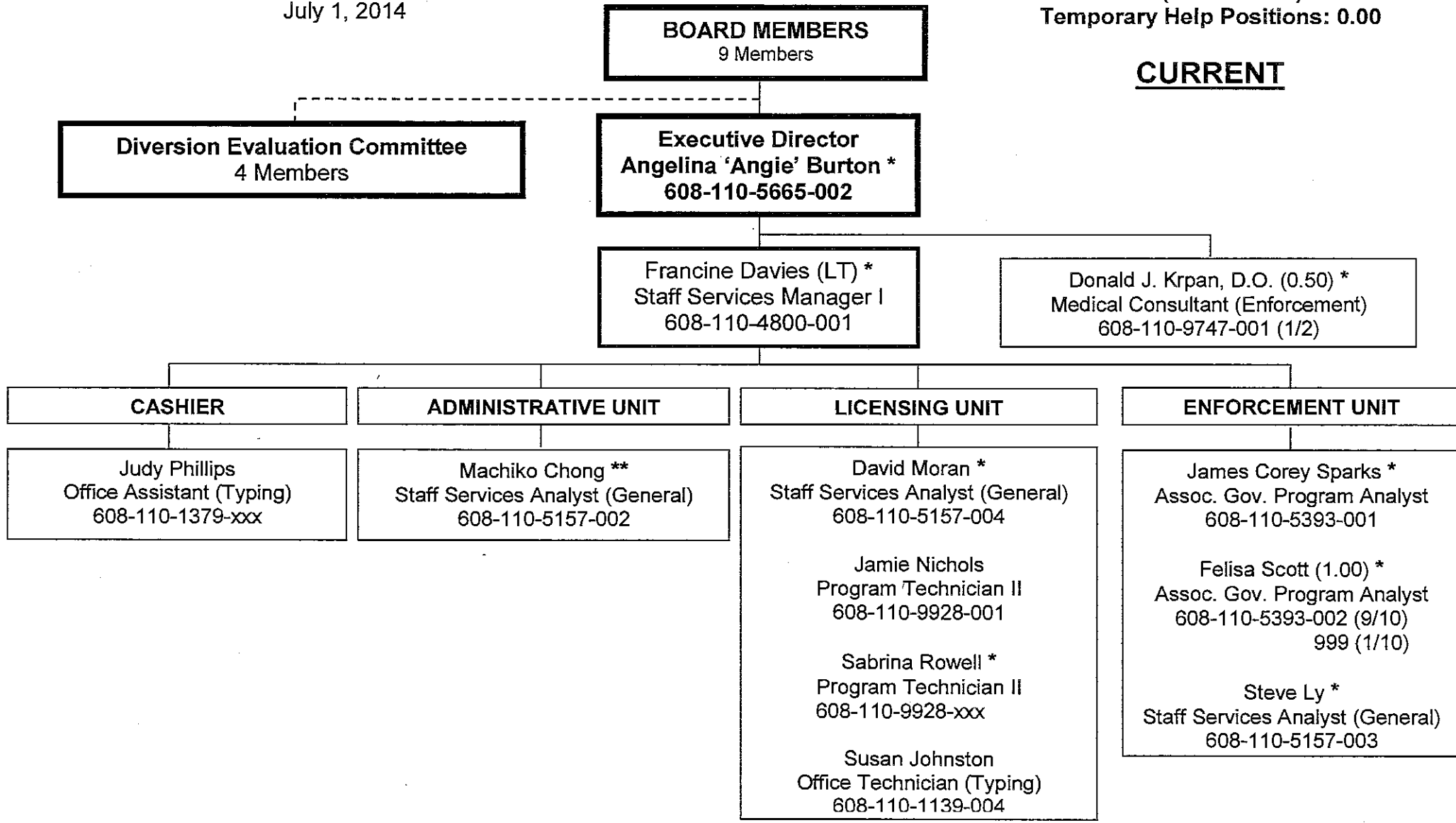
*CORI Cleared **CORI Cleared/ Custodian of Records

Personnel Analyst _____ Date

Department of Consumer Affairs
Osteopathic Medical Board of California
 July 1, 2014

FY 2014-15
 Authorized Positions: 11.40
 BL 12-03 (999 Blanket): 0.10
 Temporary Help Positions: 0.00

CURRENT



Angelina Burton, Executive Director

Date

Personnel Analyst

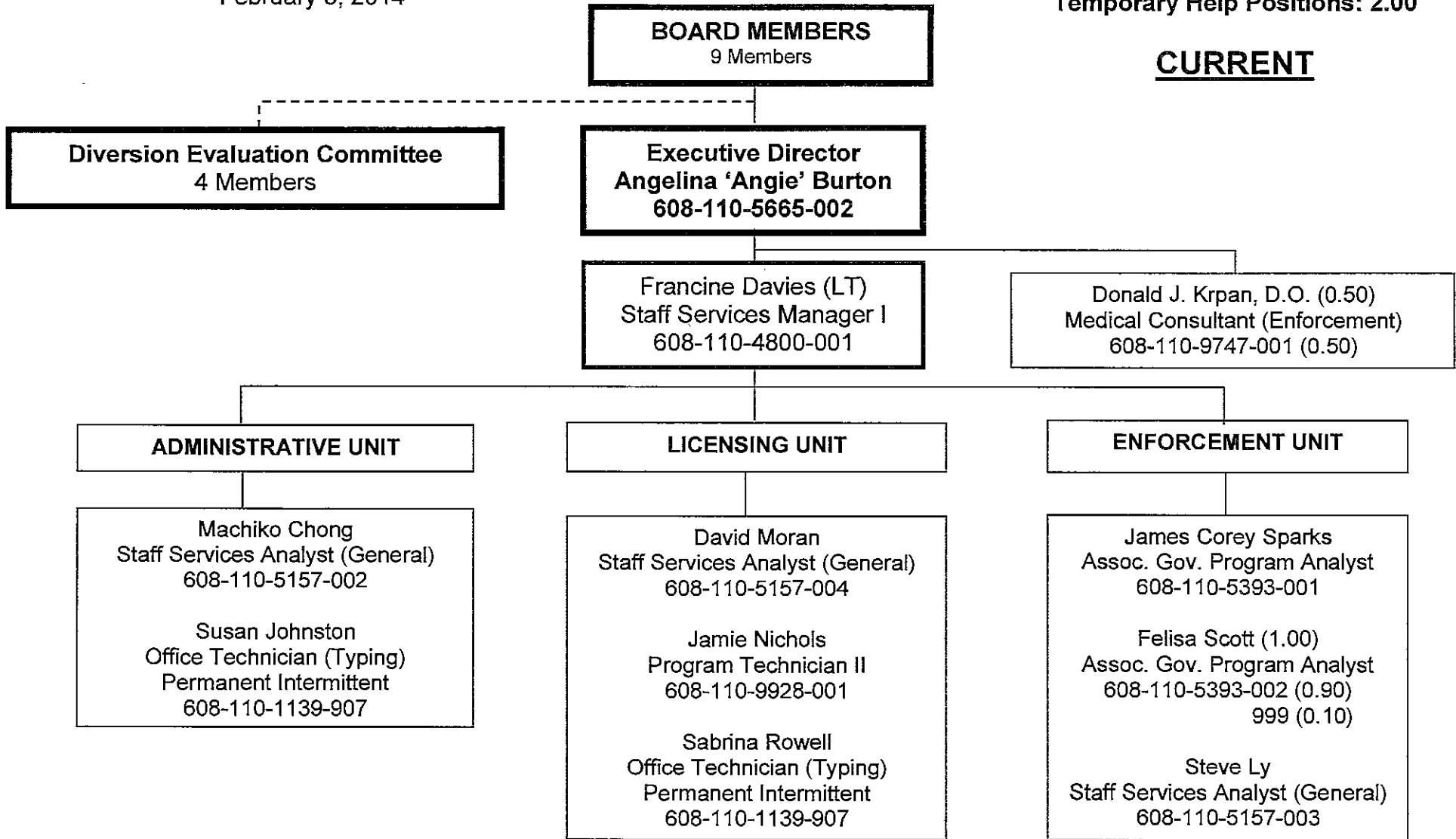
Date

*CORI Cleared **CORI Cleared/ Custodian of Records

Department of Consumer Affairs
Osteopathic Medical Board of California
 February 3, 2014

FY 2013-14
 Authorized Positions: 8.40
 BL 12-03 (999 Blanket): 0.10
 Temporary Help Positions: 2.00

CURRENT



Angelina Burton, Executive Director

Date

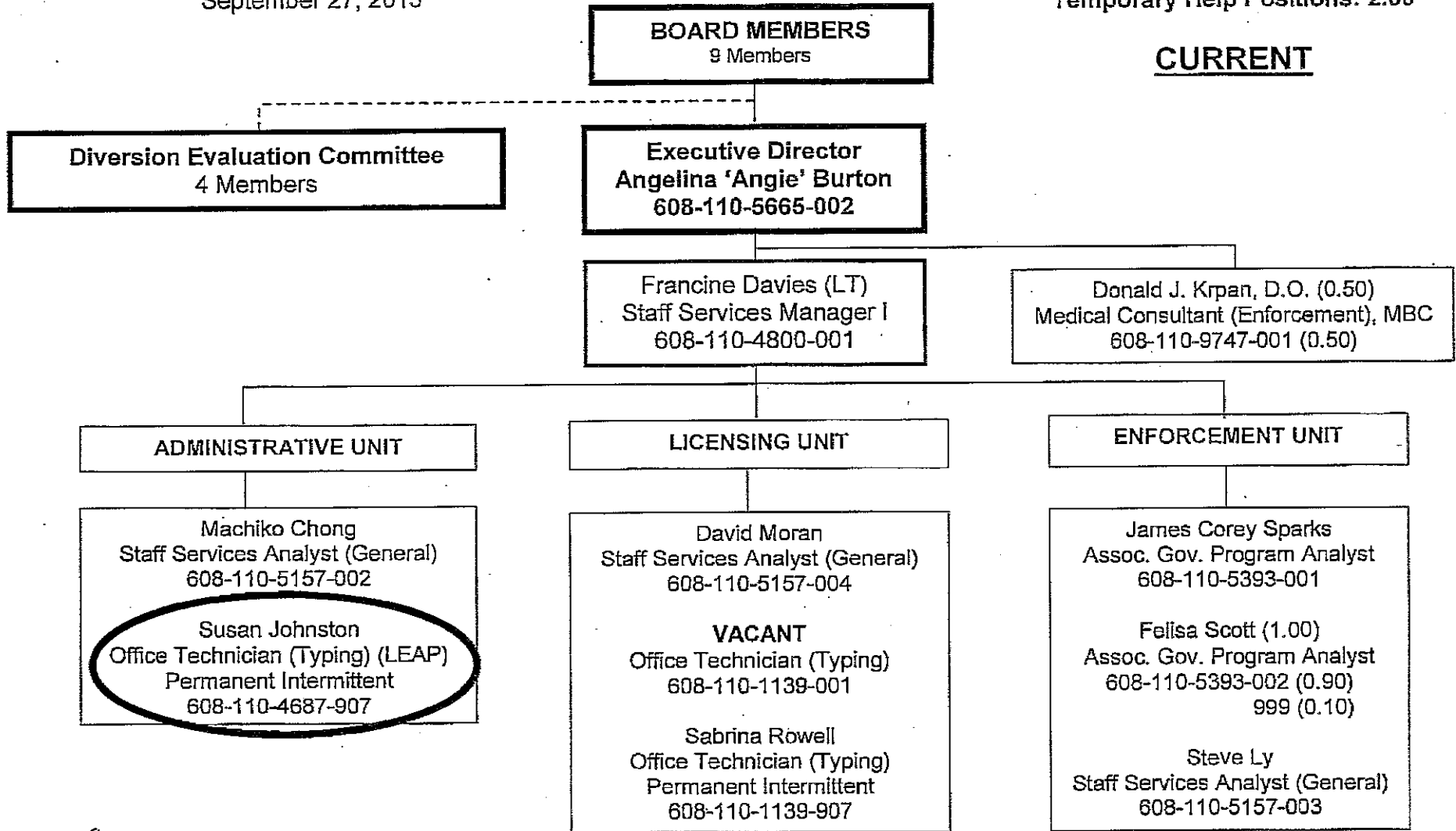
Personnel Analyst

Date

Department of Consumer Affairs
Osteopathic Medical Board of California
 September 27, 2013

FY 2013-14
 Authorized Positions: 8.40
 BL 12-03 (999 Blanket): 0.10
 Temporary Help Positions: 2.00

CURRENT



Angelina Burton

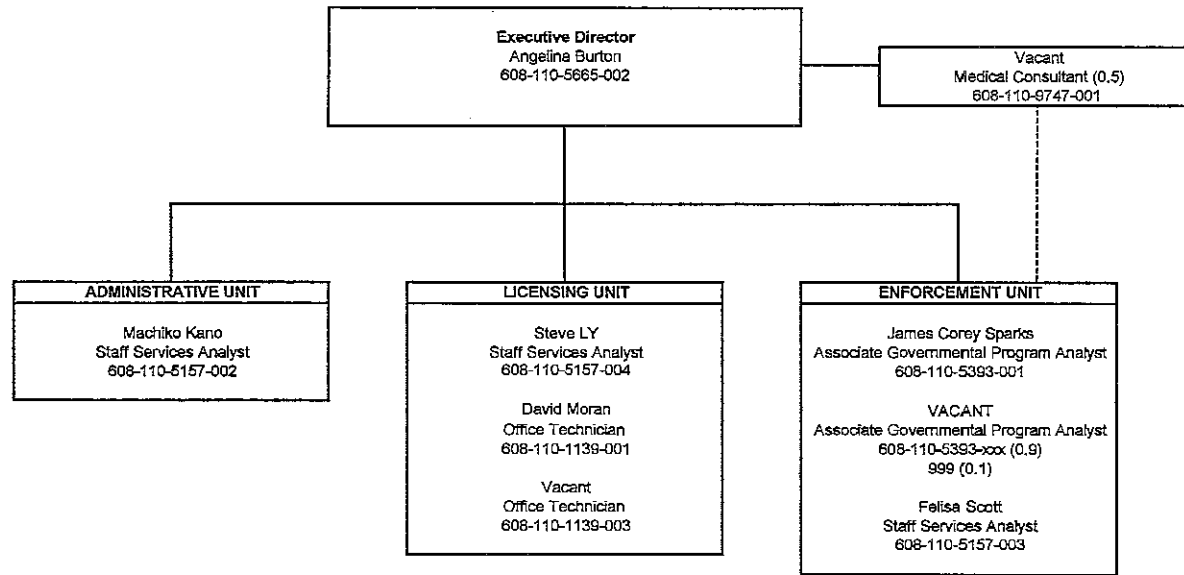
Angelina Burton, Executive Director

9-27-2013

Date

Personnel Analyst

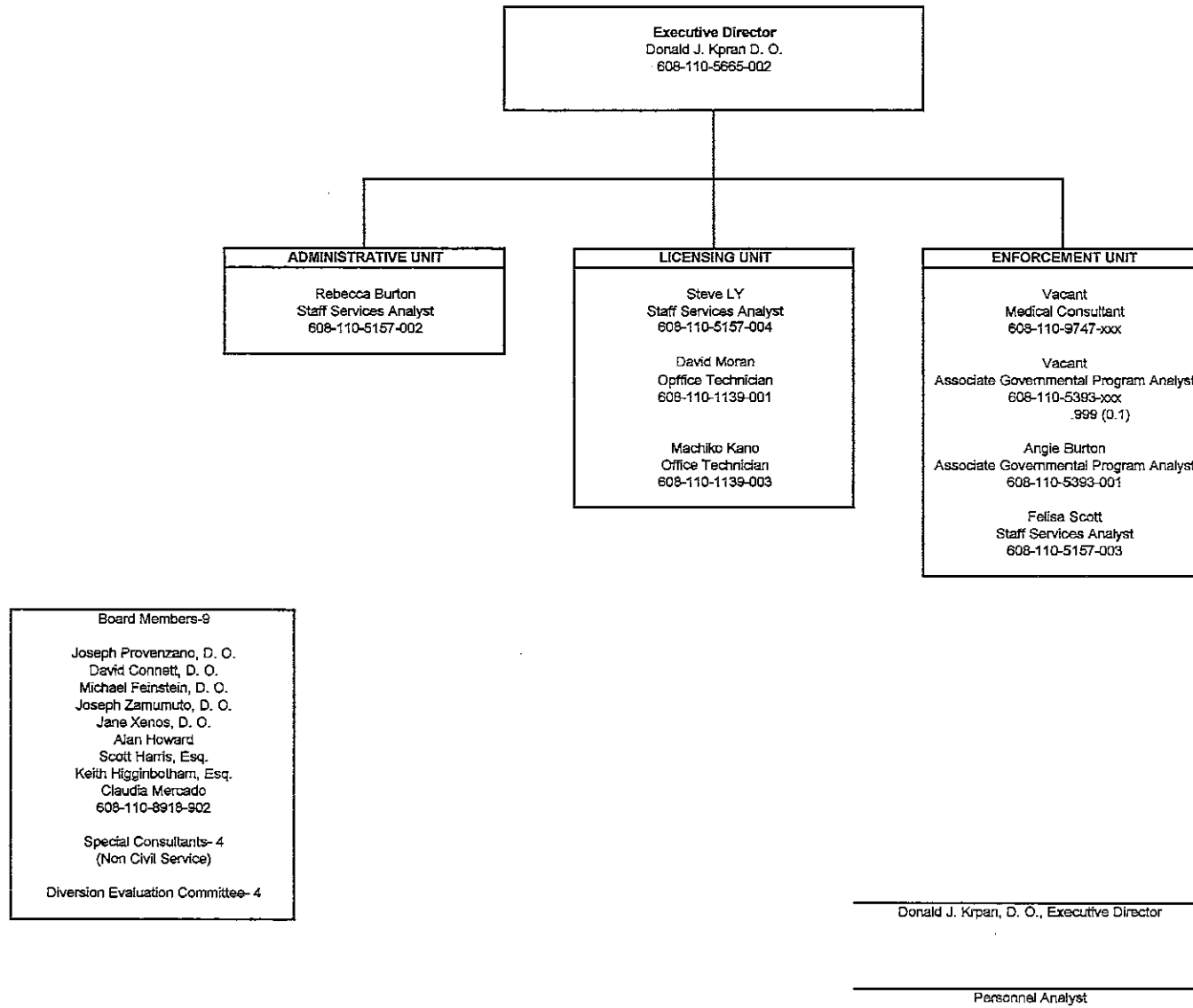
Date



Board Members-9
 Joseph Provenzano, D. O.
 David Connett, D. O.
 Michael Feinstein, D. O.
 Joseph Zamumuto, D. O.
 Jane Xenos, D. O.
 Alan Howard
 Scott Harris, Esq.
 Keith Higginbotham, Esq.
 Claudia Mercado
 608-110-3918-902
 Special Consultants- 4
 (Non Civil Service)
 Diversion Evaluation Committee- 4

Angie Burton, Executive Director

Personnel Analyst



Attachment E

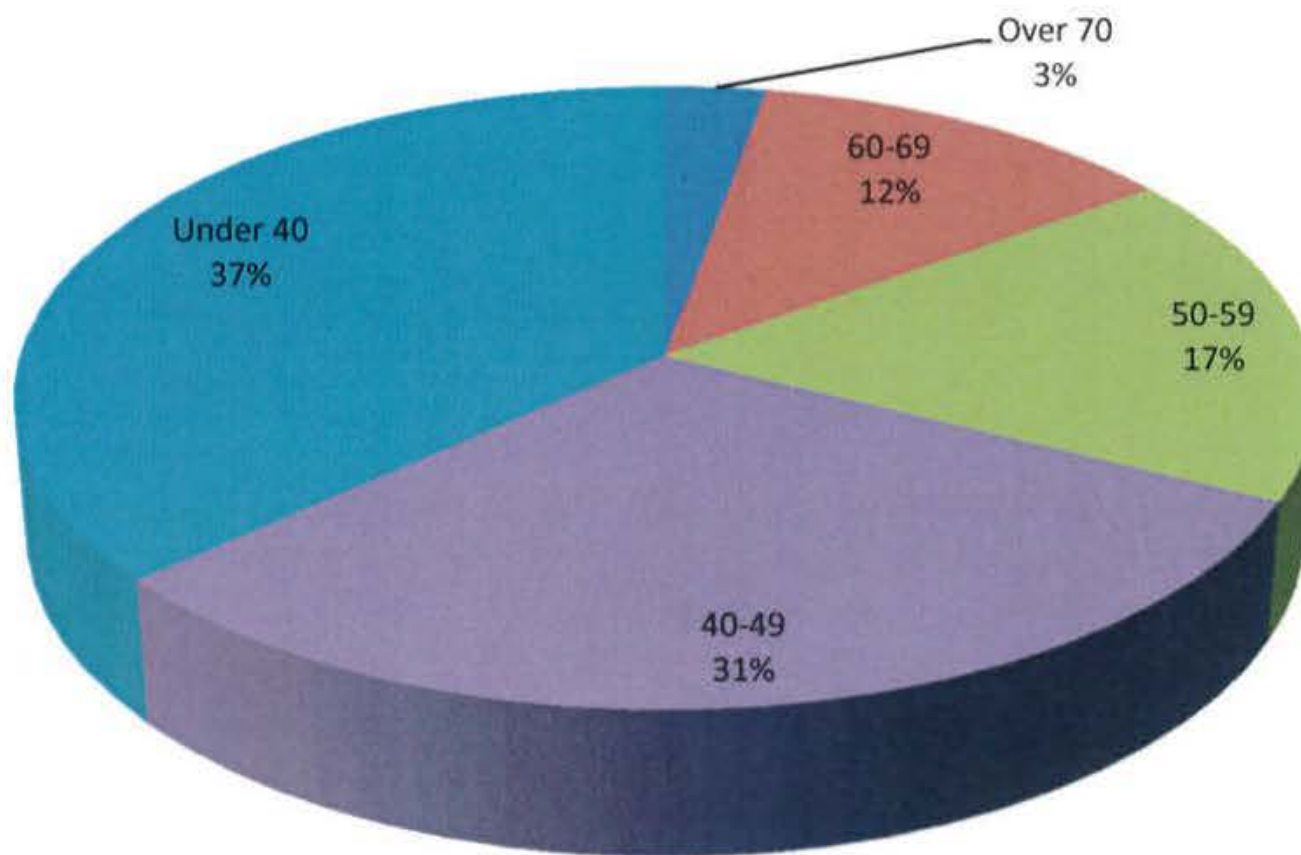
Major Studies

Report Date: 1/13/2016

Age of DOs		%
Over 70	222	3%
60-69	963	12%
50-59	1,357	17%
40-49	2,429	31%
Under 40	2,872	37%
Total Lic	7,843	100%

Maximum Age	93
Minimum Age	26
Average Age	46

Age Demographics of CA DOs



Attachment F

Performance Measures

Performance Measures

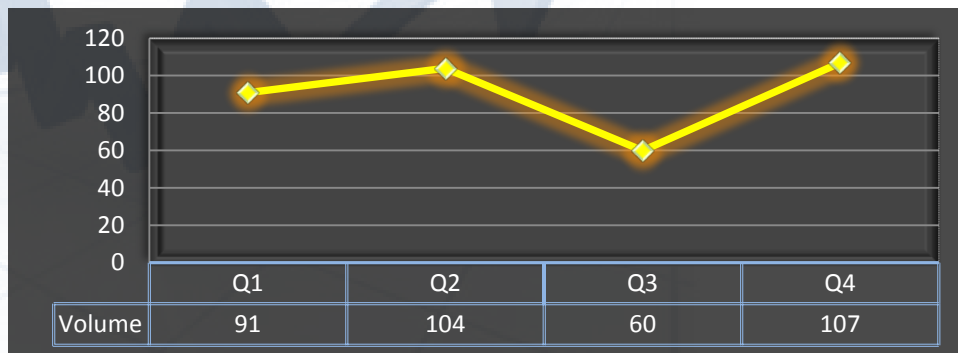
Annual Report (2012 – 2013 Fiscal Year)

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

Volume

Number of complaints and convictions received.

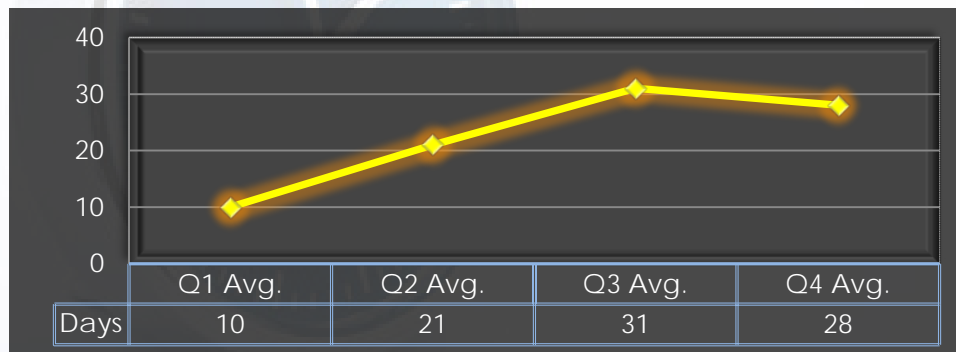
The Board had an annual total of 362 this fiscal year.



Intake

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

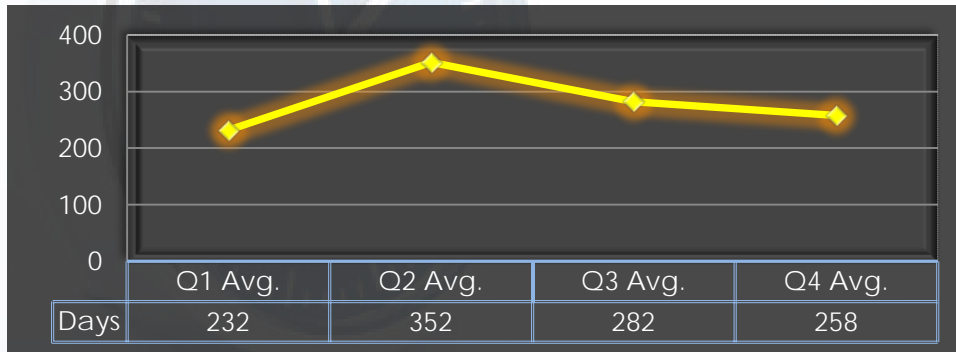
The Board has set a target of 30 days for this measure.



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.

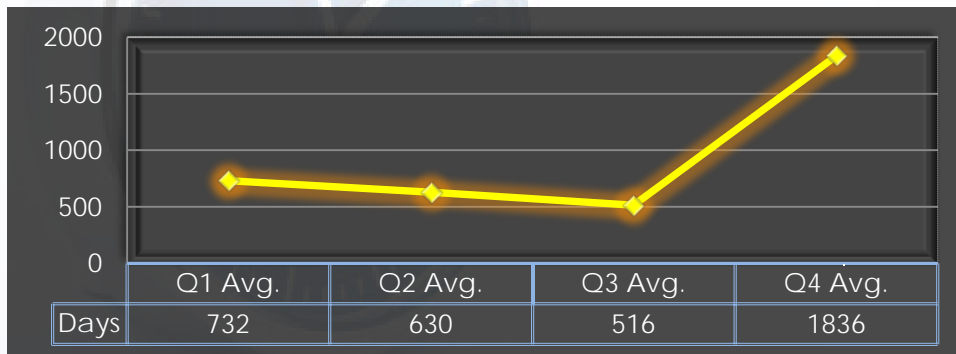
The Board has set a target of 360 days for this measure.



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)

The Board has set a target of 540 days for this measure.



Performance Measures

Q1 Report (July - September 2012)

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.

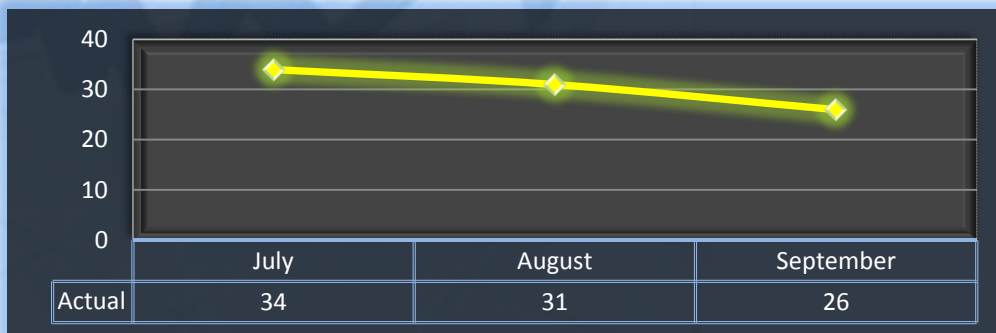
Volume

Number of complaints and convictions received.

Q1 Total: 91

Complaints: 88 Convictions: 3

Q1 Monthly Average: 30

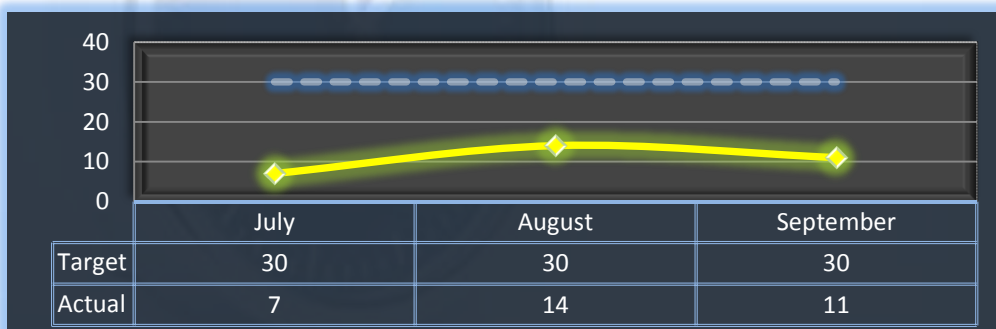


Intake

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

Target: 30 Days

Q1 Average: 10 Days

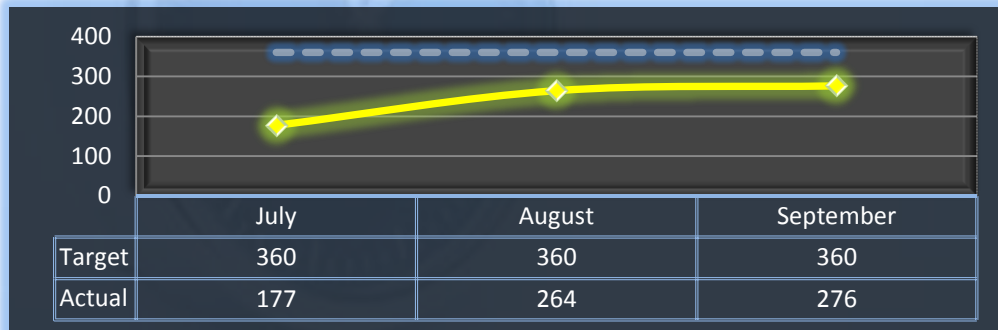


Intake & Investigation

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: 360 Days

Q1 Average: 232 Days

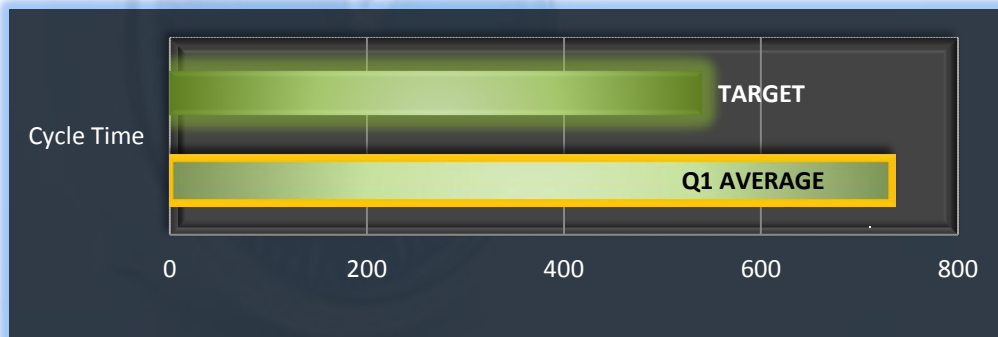


Formal Discipline

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: 540 Days

Q1 Average: 732 Days



Probation Intake

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

Target: 10 Days

Q1 Average: N/A

The Board did not contact any new probationers this quarter.

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: 10 Days

Q1 Average: N/A

The Board did not respond to any probation violations this quarter.

Performance Measures

Q2 Report (October - December 2012)

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.

Volume

Number of complaints and convictions received.

Q2 Total: 104

Complaints: 100 Convictions: 4

Q2 Monthly Average: 35

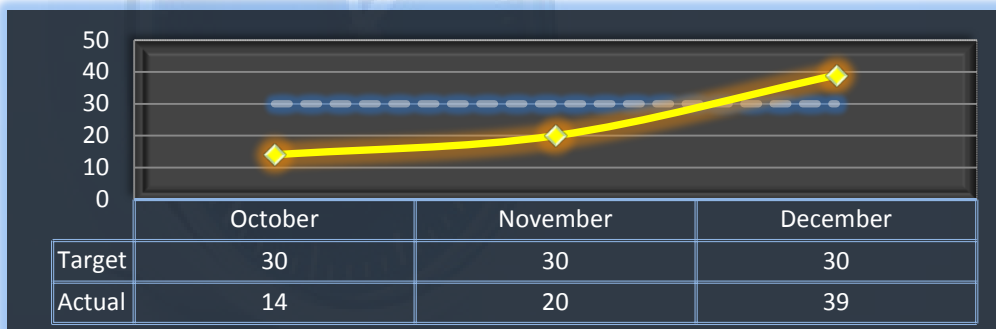


Intake

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

Target: 30 Days

Q2 Average: 21 Days

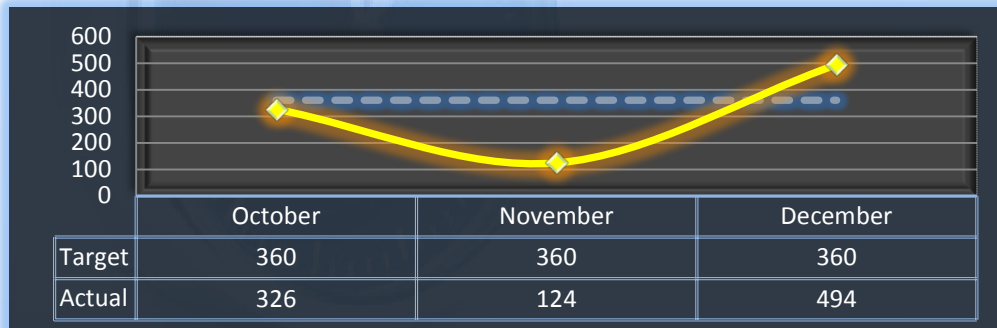


Intake & Investigation

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: 360 Days

Q2 Average: 352 Days

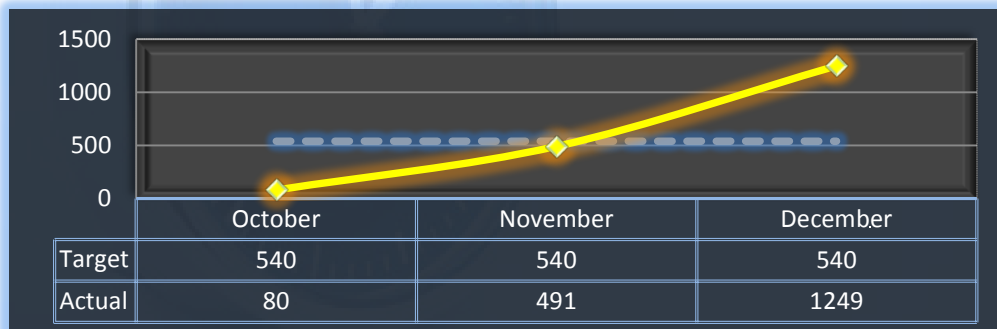


Formal Discipline

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: 540 Days

Q2 Average: 630 Days



Probation Intake

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

Target: 10 Days

Q2 Average: N/A

The Board did not contact any new probationers this quarter.

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: 10 Days

Q2 Average: N/A

The Board did not respond to any probation violations this quarter.

Performance Measures

Q3 Report (January-March 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.

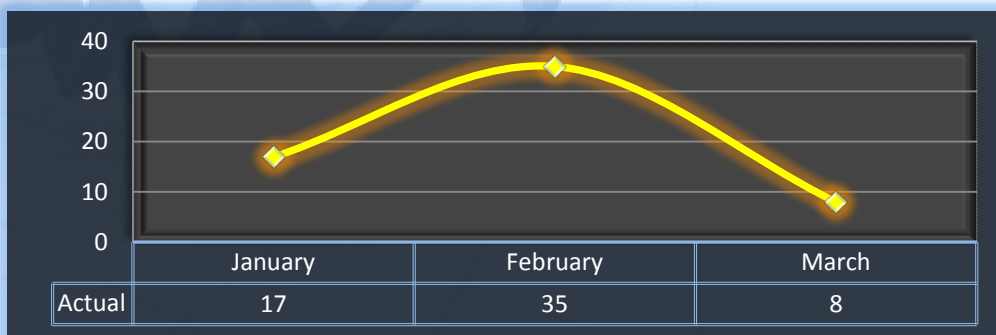
Volume

Number of complaints and convictions received.

Q3 Total: 60

Complaints: 55 Convictions: 5

Q3 Monthly Average: 20

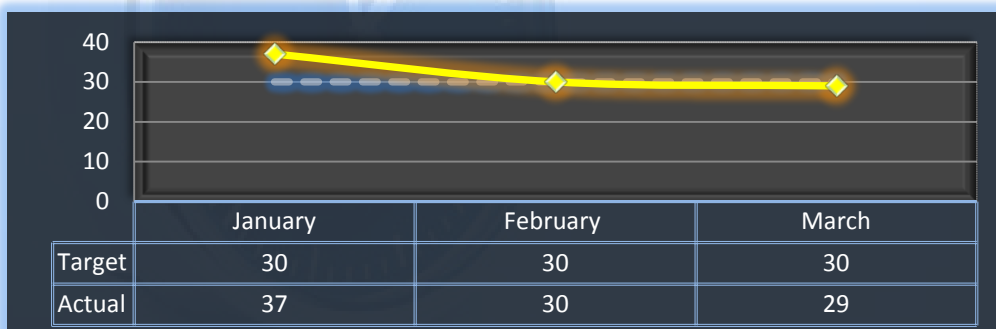


Intake

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

Target: 30 Days

Q3 Average: 31 Days

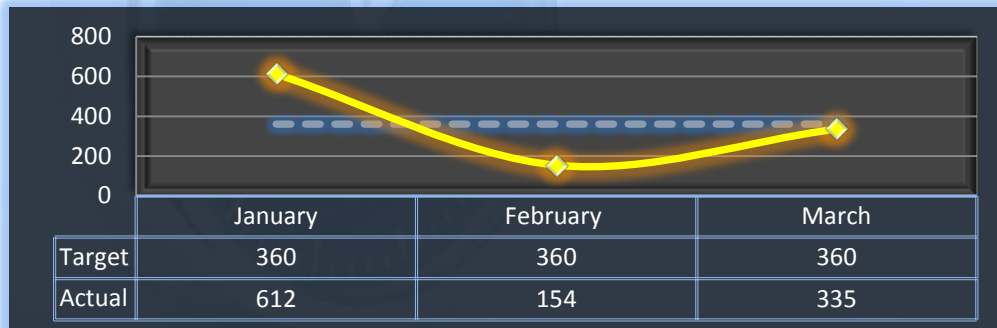


Intake & Investigation

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: 360 Days

Q3 Average: 282 Days



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: 540 Days

Q3 Average: 516 Days



Probation Intake

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

Target: 10 Days

Q3 Average: N/A

The Board did not contact any new probationers this quarter.

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: 10 Days

Q3 Average: N/A

The Board did not respond to any probation violations this quarter.

Performance Measures

Q4 Report (April - June 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.

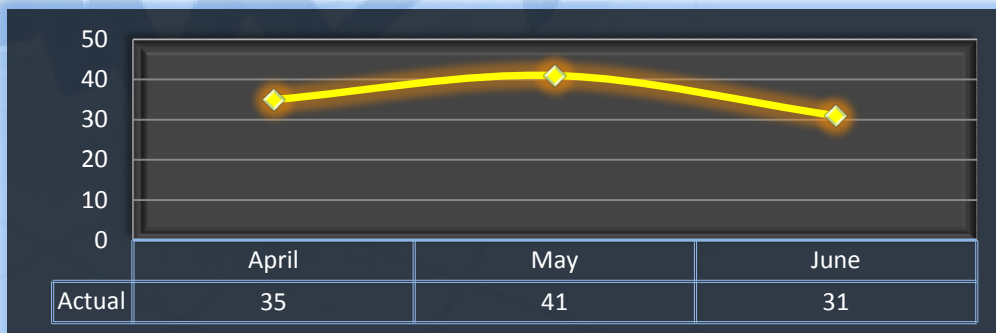
Volume

Number of complaints and convictions received.

Q4 Total: 107

Complaints: 103 Convictions: 4

Q4 Monthly Average: 36

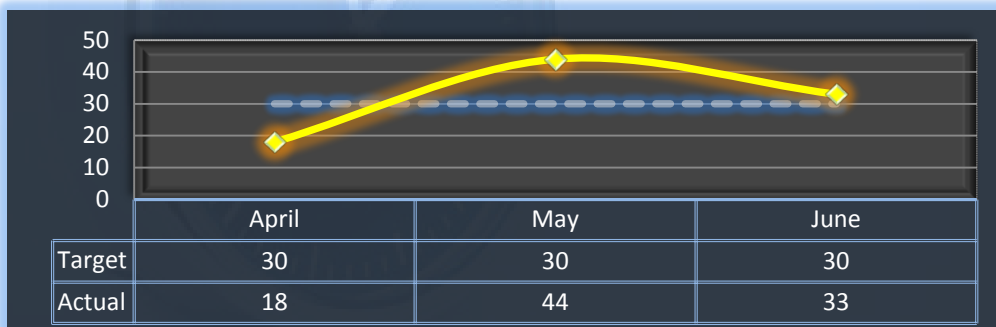


Intake

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

Target: 30 Days

Q4 Average: 28 Days

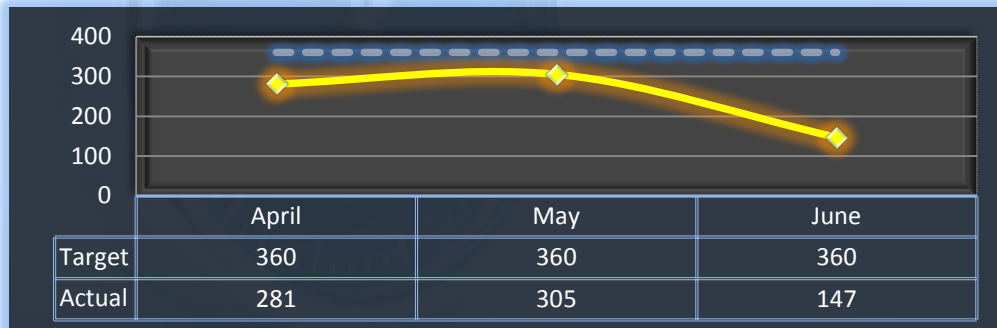


Intake & Investigation

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: 360 Days

Q4 Average: 258 Days

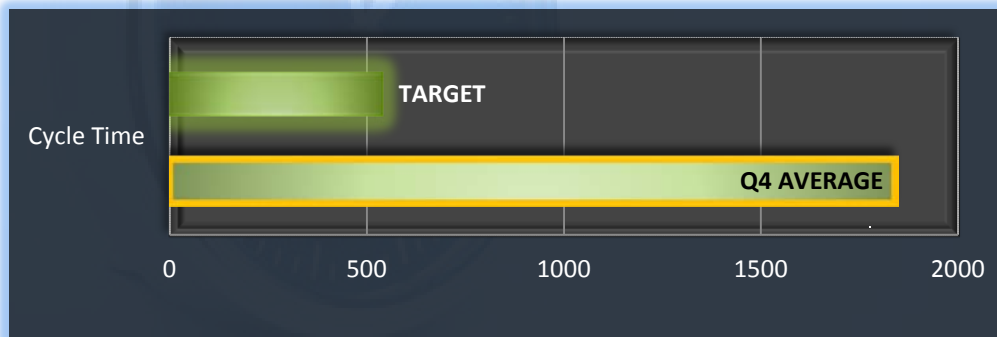


Formal Discipline

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: 540 Days

Q4 Average: 1,836 Days



Probation Intake

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

Target: 10 Days

Q4 Average: N/A

The Board did not contact any new probationers this quarter.

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: 10 Days

Q4 Average: N/A

The Board did not respond to any probation violations this quarter.

Performance Measures
FY 2013/2014

Osteopathic Medical Board of California

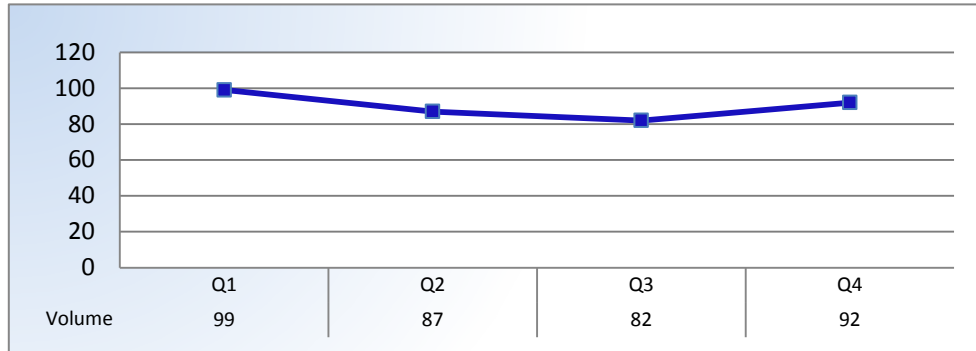
Performance Measures

Annual Report (2013 – 2014 Fiscal Year)

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 and annual basis.

PM1 | Volume

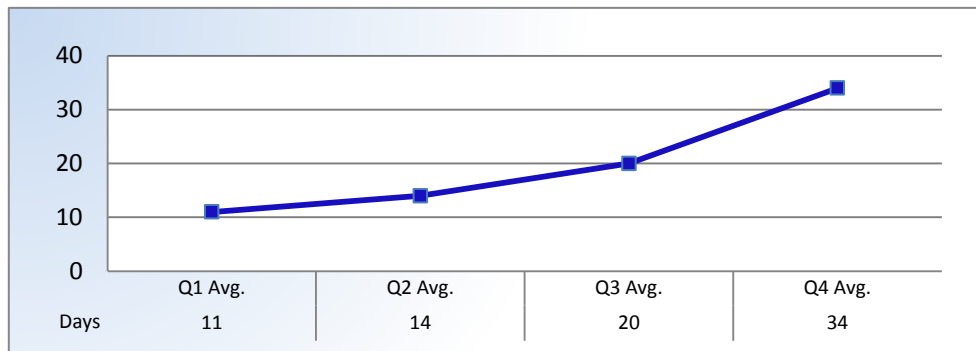
Number of complaints and convictions received.



Fiscal Year Total: 360

PM2 | Intake

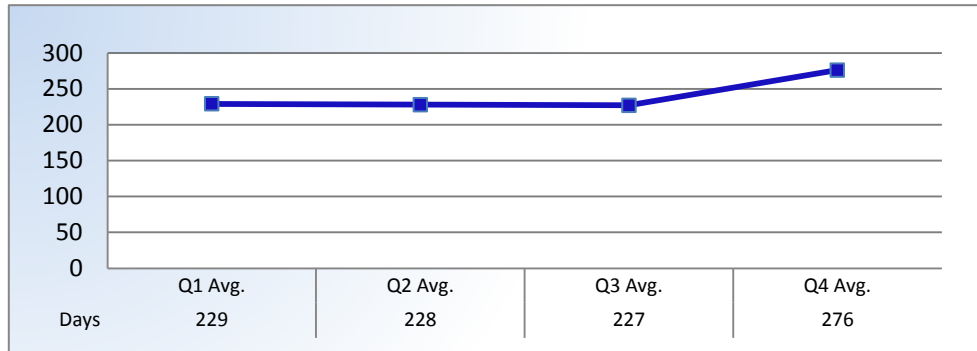
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days

PM3 | Intake & Investigation

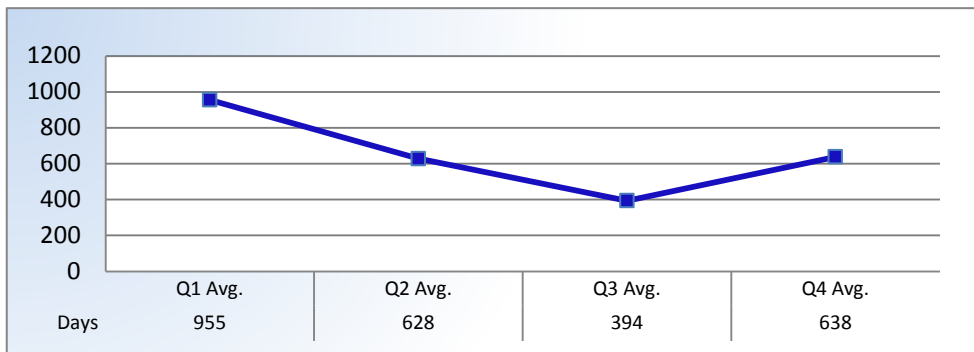
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 360 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

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 year.

Target Average: 10 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 reported this year.

Target Average: 10 Days

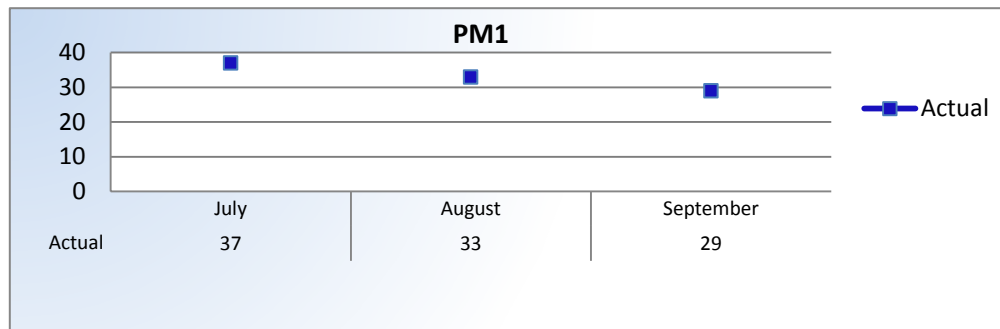
Performance Measures

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.

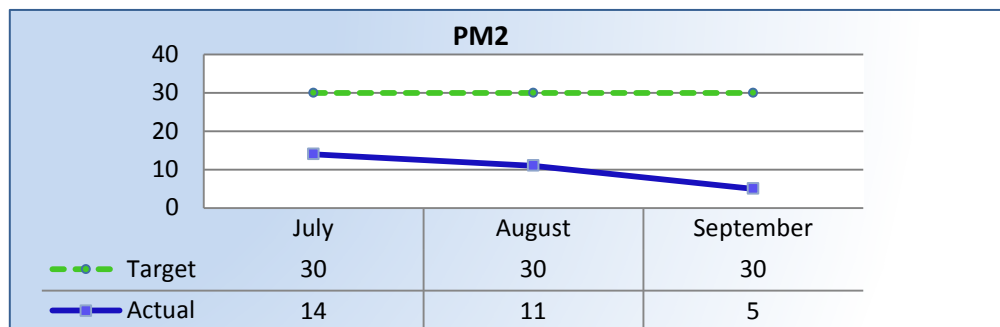


Total Received: 99 Monthly Average: 33

Complaints: 92 | Convictions: 7

PM2 | Intake

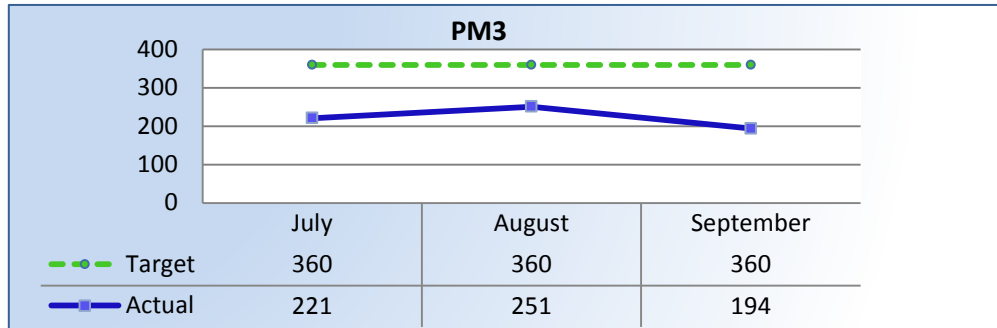
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 11 Days

PM3 | Intake & Investigation

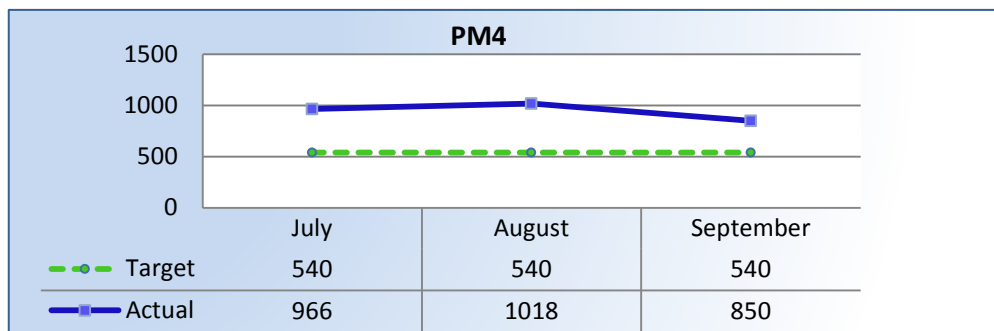
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 360 Days | Actual Average: 229 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: 955 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 report any new probation violations this quarter.

Target Average: 7 Days | Actual Average: N/A

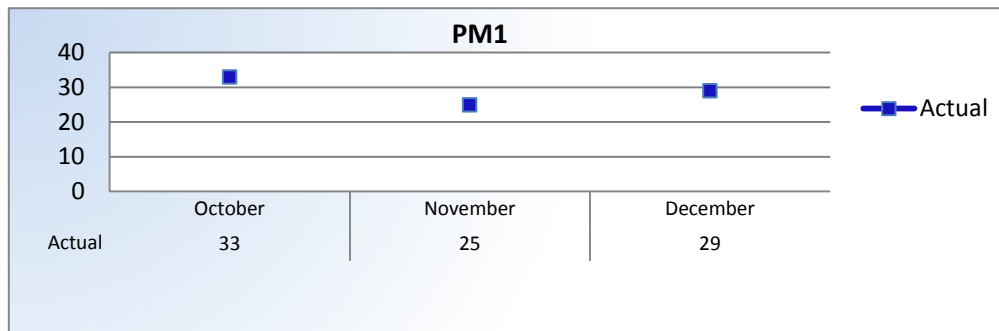
Performance Measures

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.

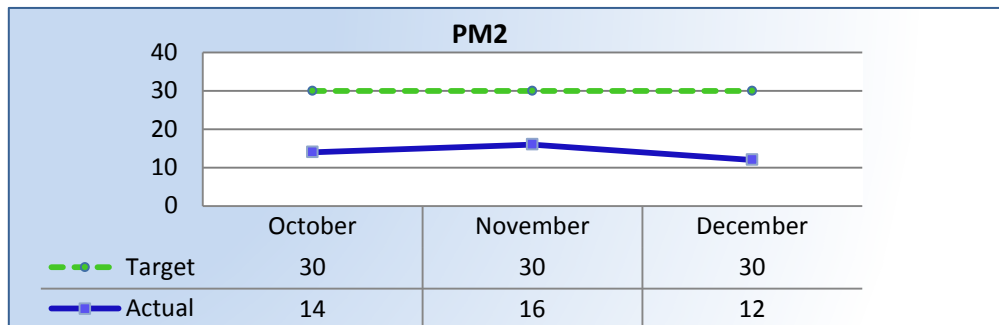


Total Received: 87 Monthly Average: 29

Complaints: 87 | Convictions: 0

PM2 | Intake

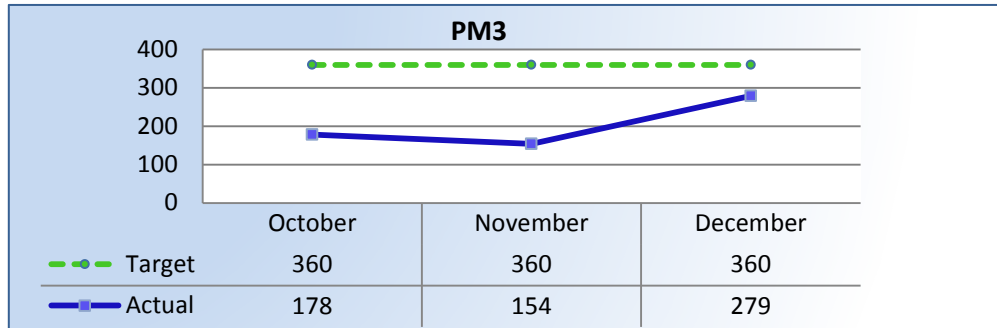
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 14 Days

PM3 | Intake & Investigation

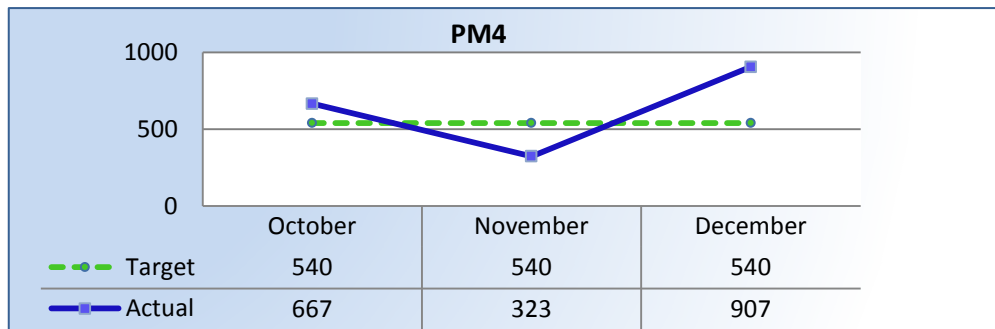
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 360 Days | Actual Average: 228 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: 628 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 report any new probation violations this quarter.

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

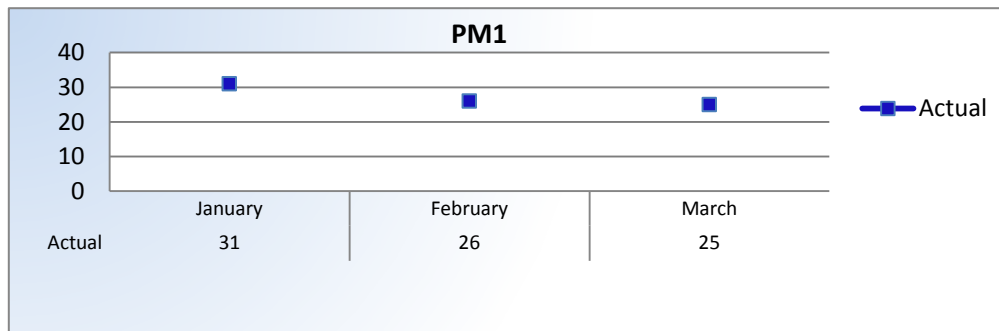
Performance Measures

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.

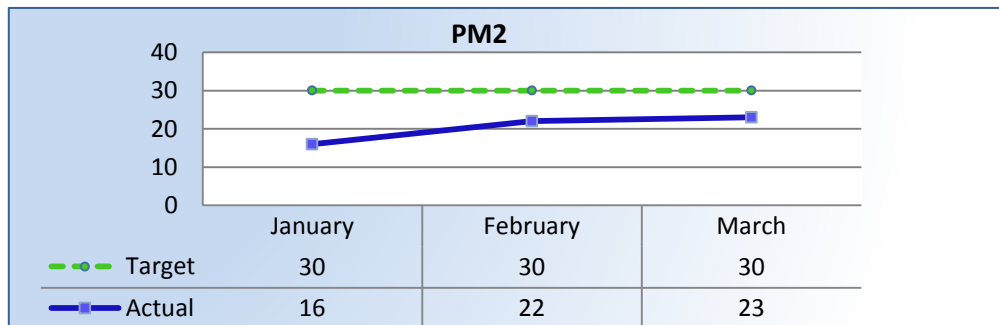


Total Received: 82 Monthly Average: 27

Complaints: 82 | Convictions: 0

PM2 | Intake

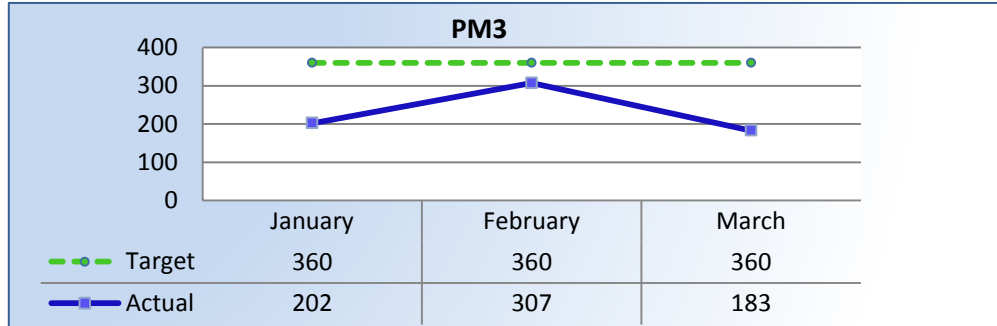
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 20 Days

PM3 | Intake & Investigation

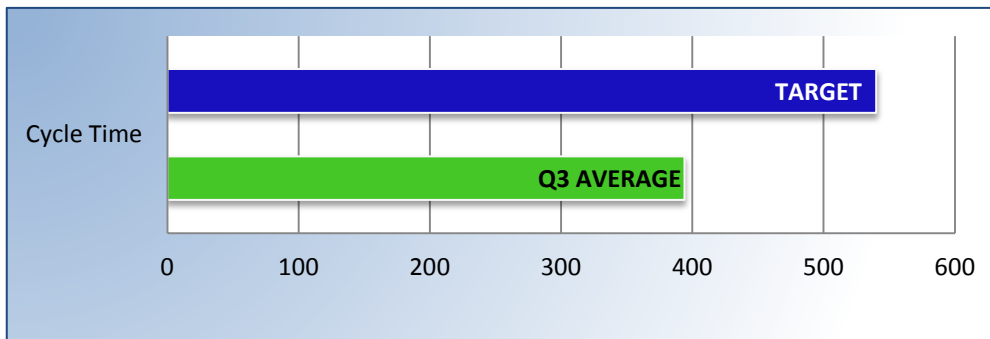
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 360 Days | Actual Average: 227 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: 394 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 report any new probation violations this quarter.

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

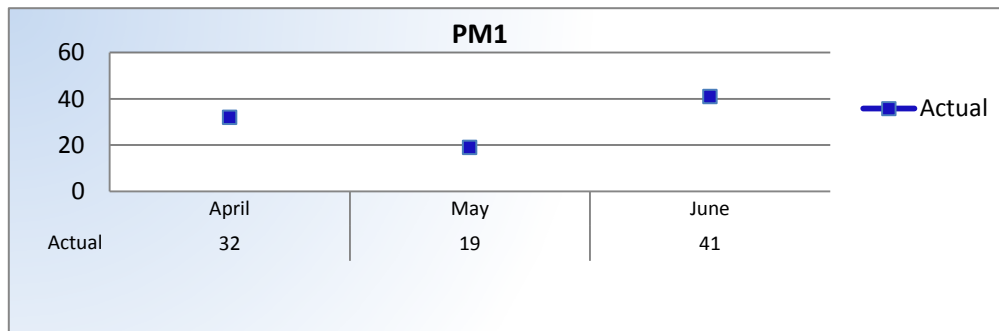
Performance Measures

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.

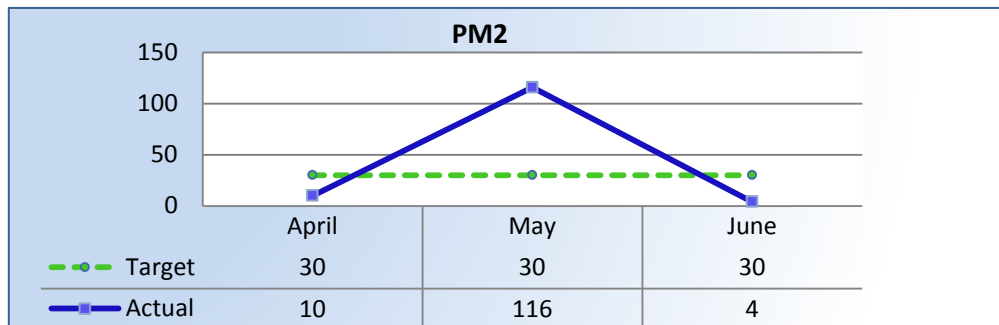


Total Received: 92 Monthly Average: 31

Complaints: 87 | Convictions: 5

PM2 | Intake

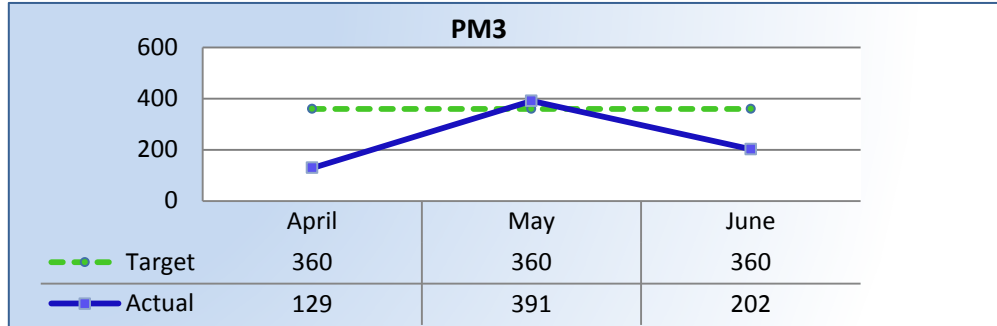
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 34 Days

PM3 | Intake & Investigation

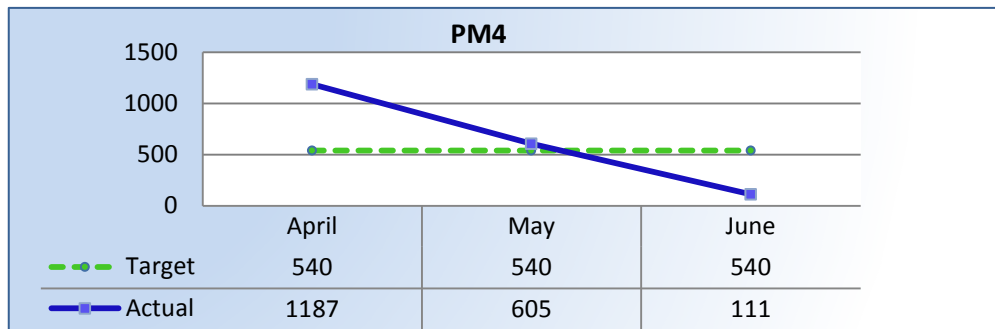
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 360 Days | Actual Average: 276 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: 638 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 report any new probation violations this quarter.

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

Performance Measures
FY 2014/2015

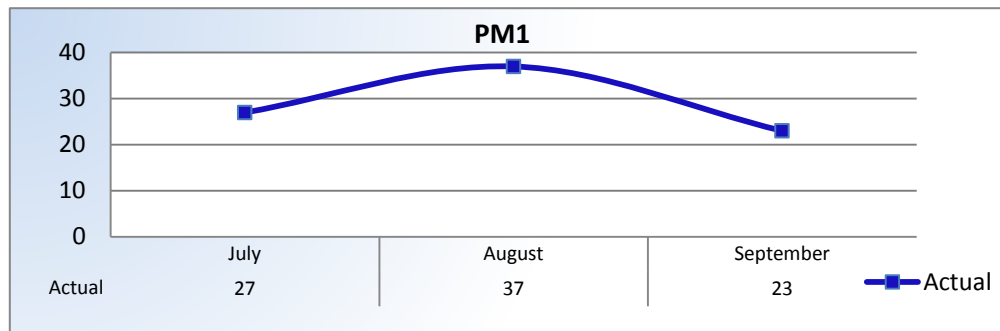
Performance Measures

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.

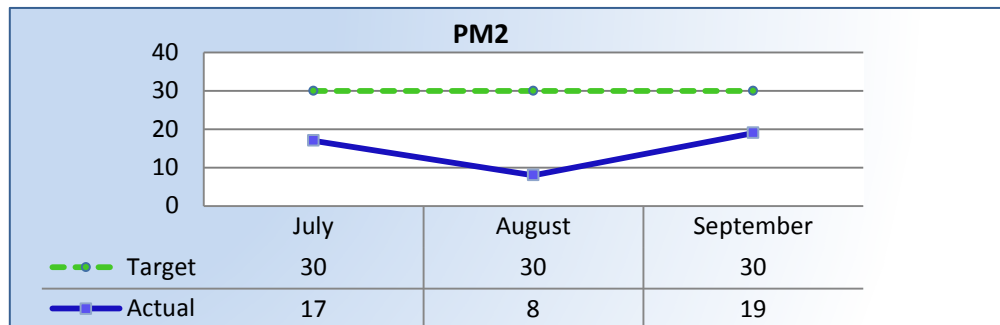


Total Received: 87 Monthly Average: 29

Complaints: 82 | Convictions: 5

PM2 | Intake

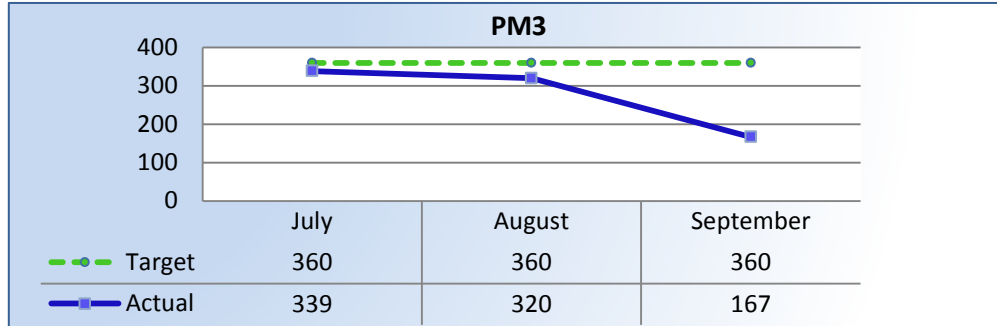
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 15 Days

PM3 | Intake & Investigation

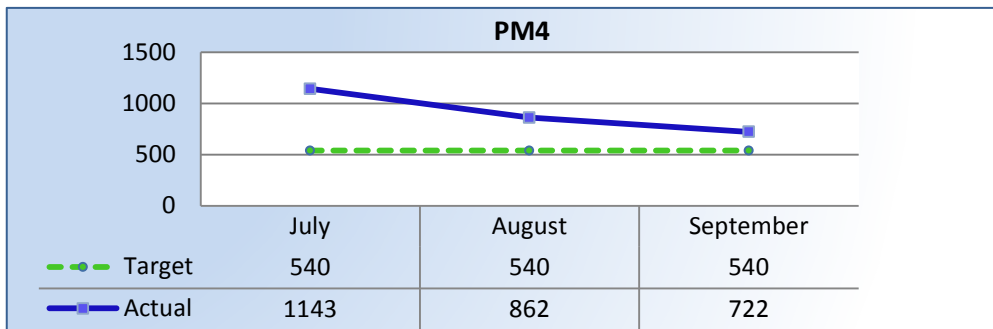
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 360 Days | Actual Average: 300 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: 839 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 report any new probation violations this quarter.

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

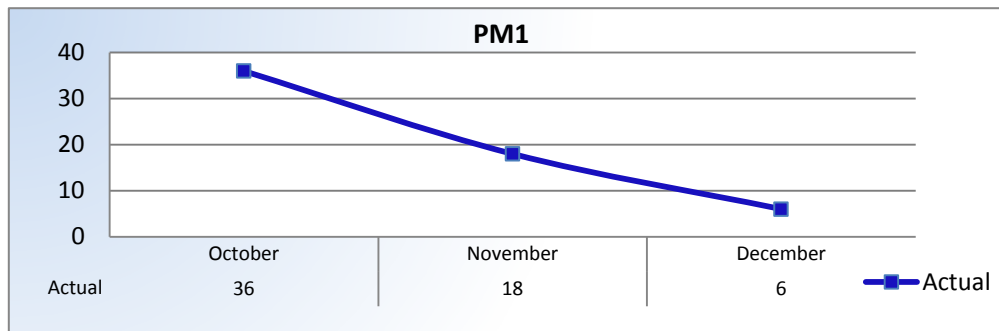
Performance Measures

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.

PM1 | Volume

Number of complaints and convictions received.

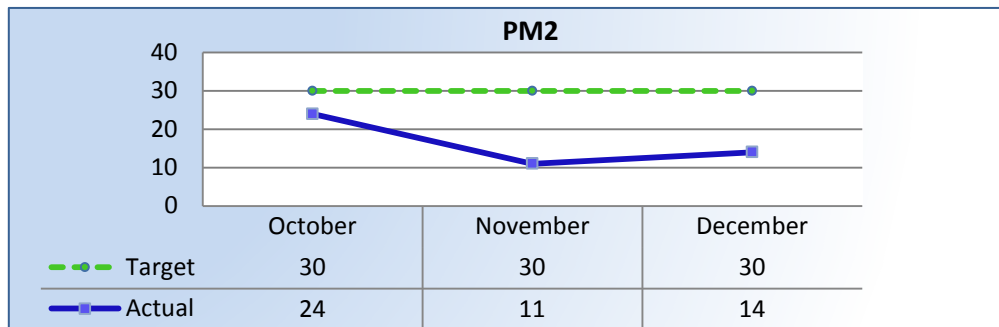


Total Received: 60 Monthly Average: 20

Complaints: 56 | Convictions: 4

PM2 | Intake

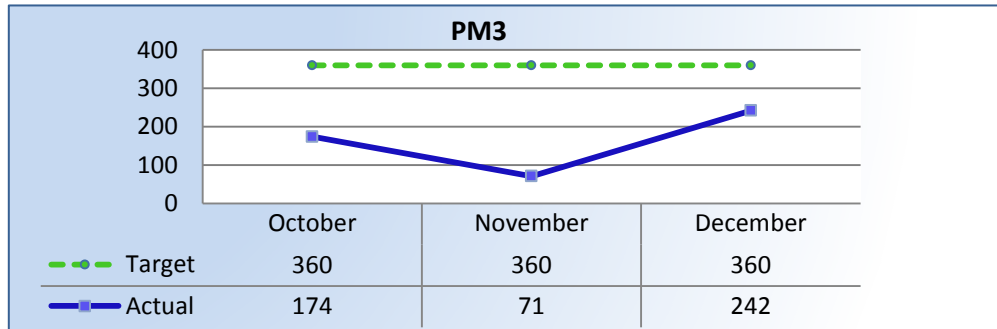
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 19 Days

PM3 | Intake & Investigation

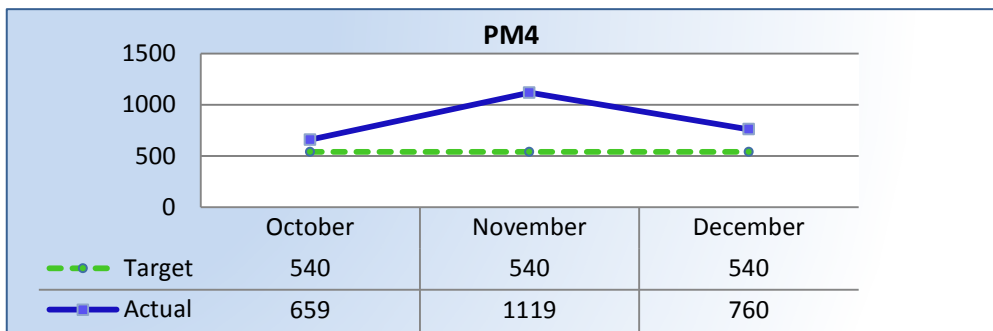
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 360 Days | Actual Average: 147 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: 783 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 report any new probation violations this quarter.

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

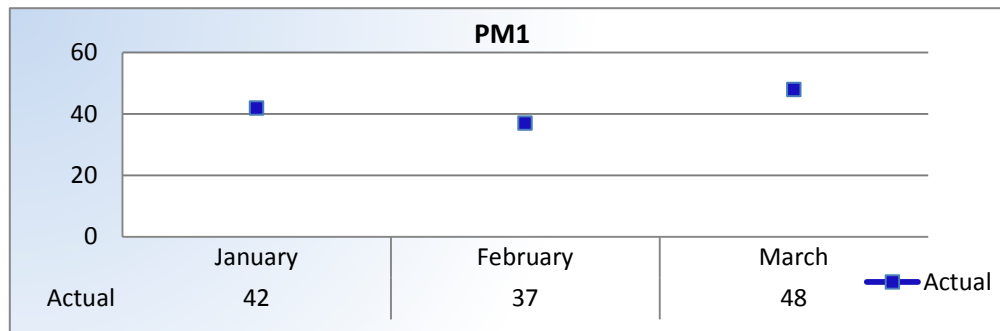
Performance Measures

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.

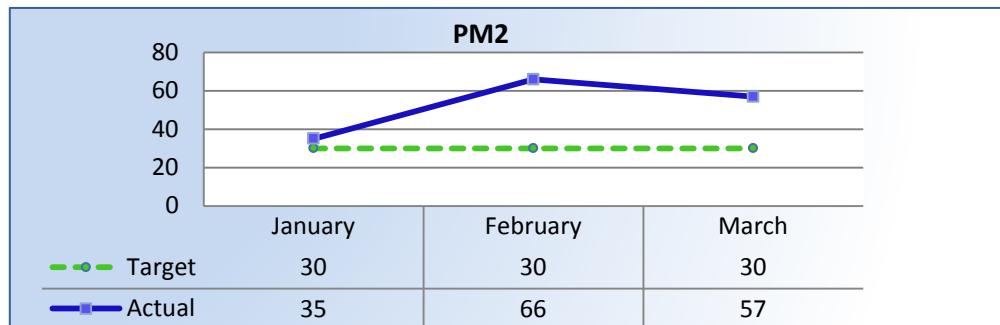


Total Received: 127 Monthly Average: 42

Complaints: 123 | Convictions: 4

PM2 | Intake

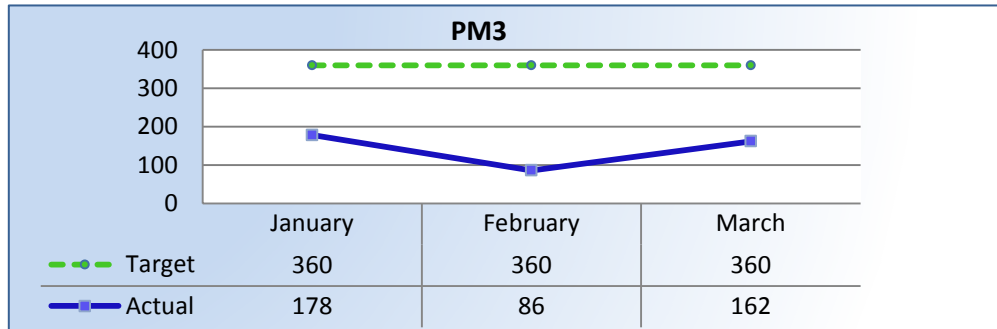
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 54 Days

PM3 | Intake & Investigation

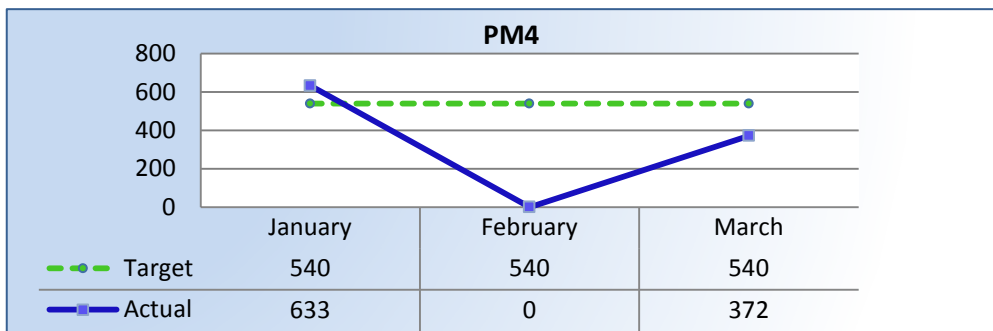
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 360 Days | Actual Average: 139 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: 503 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 new probation violations this quarter.

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

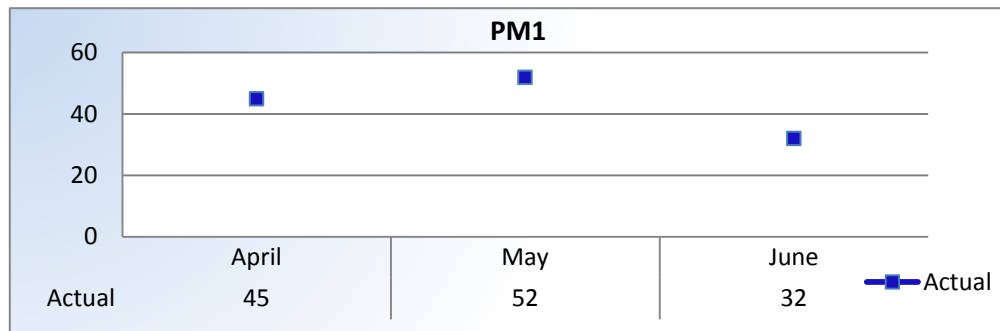
Performance Measures

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.

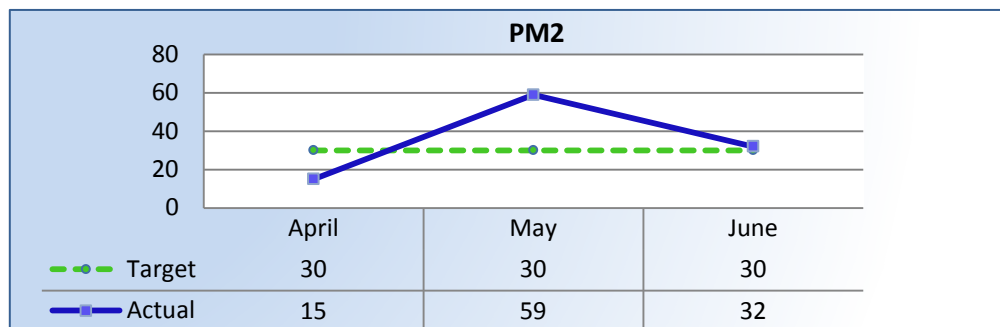


Total Received: 129 Monthly Average: 43

Complaints: 121 | Convictions: 8

PM2 | Intake

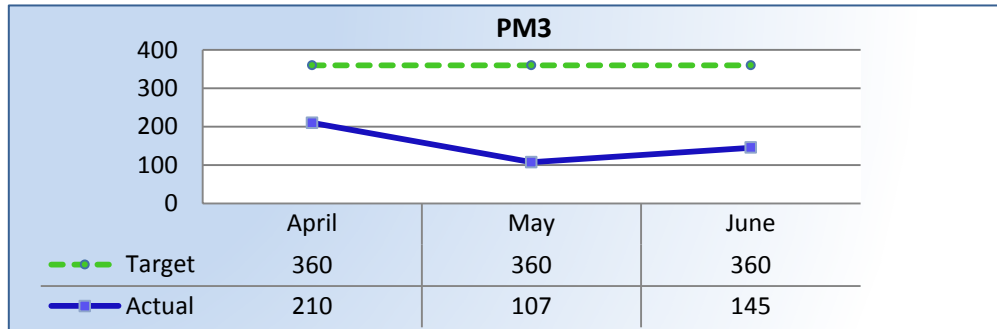
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 38 Days

PM3 | Intake & Investigation

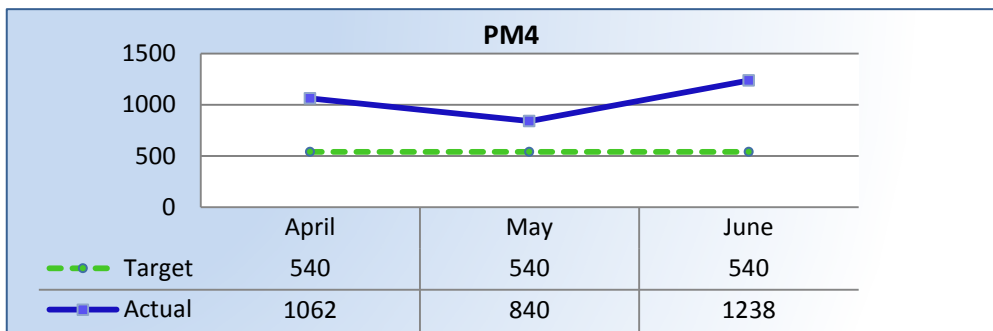
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 360 Days | Actual Average: 174 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: 1,008 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 new probation violations this quarter.

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

Performance Measures
FY 2015/2016

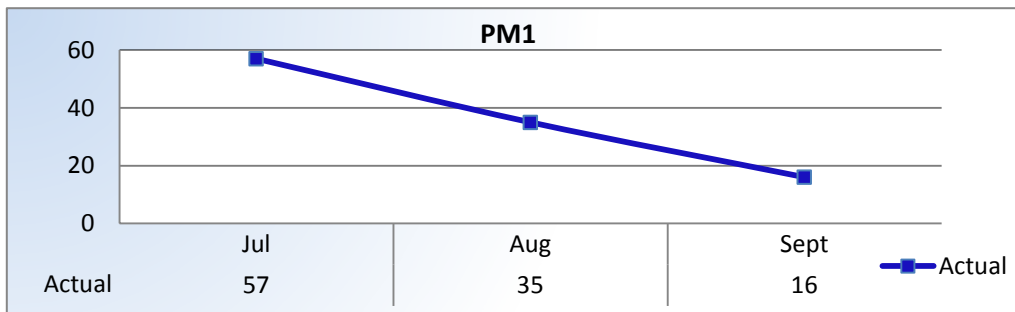
Performance Measures

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.

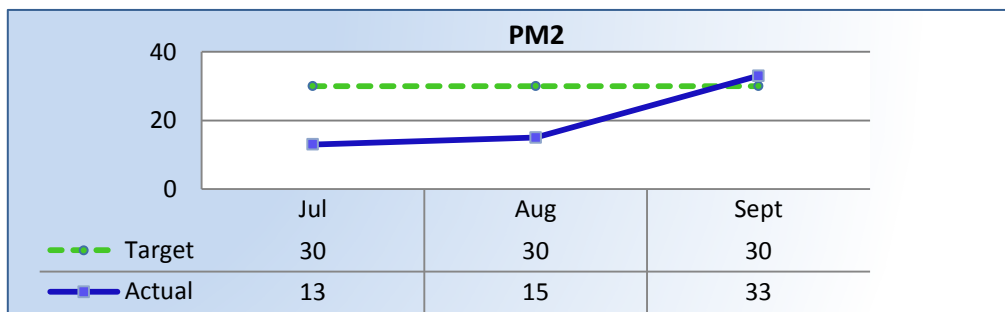


Total Received: 108 Monthly Average: 36

Complaints: 99 | Convictions: 9

PM2 | Intake

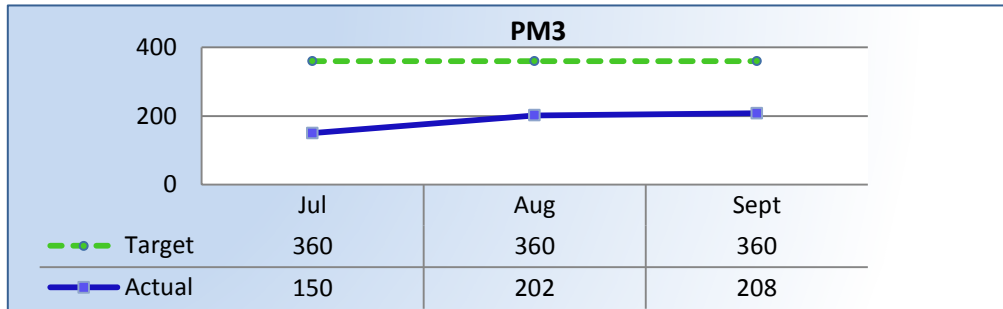
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 21 Days

PM3 | Intake & Investigation

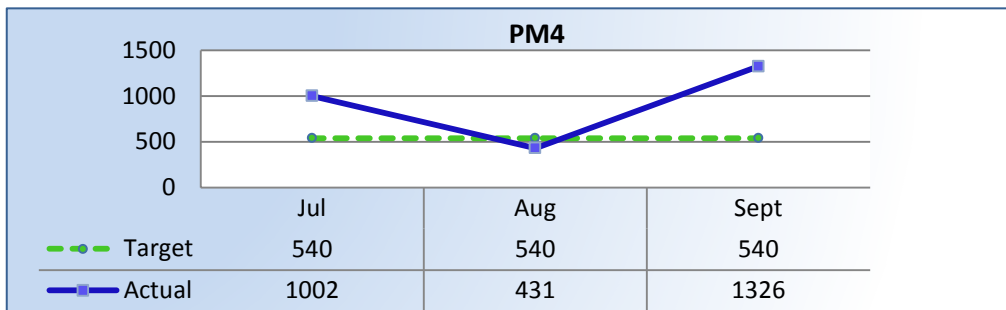
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 360 Days | Actual Average: 190 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: 940 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.

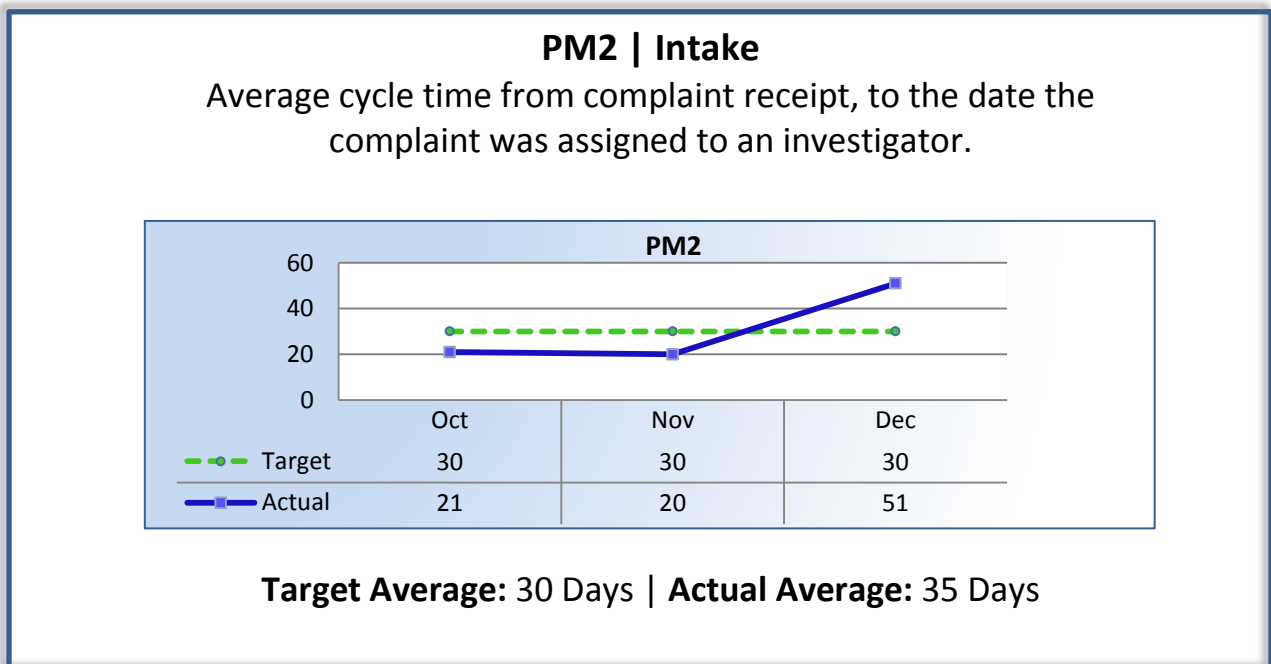
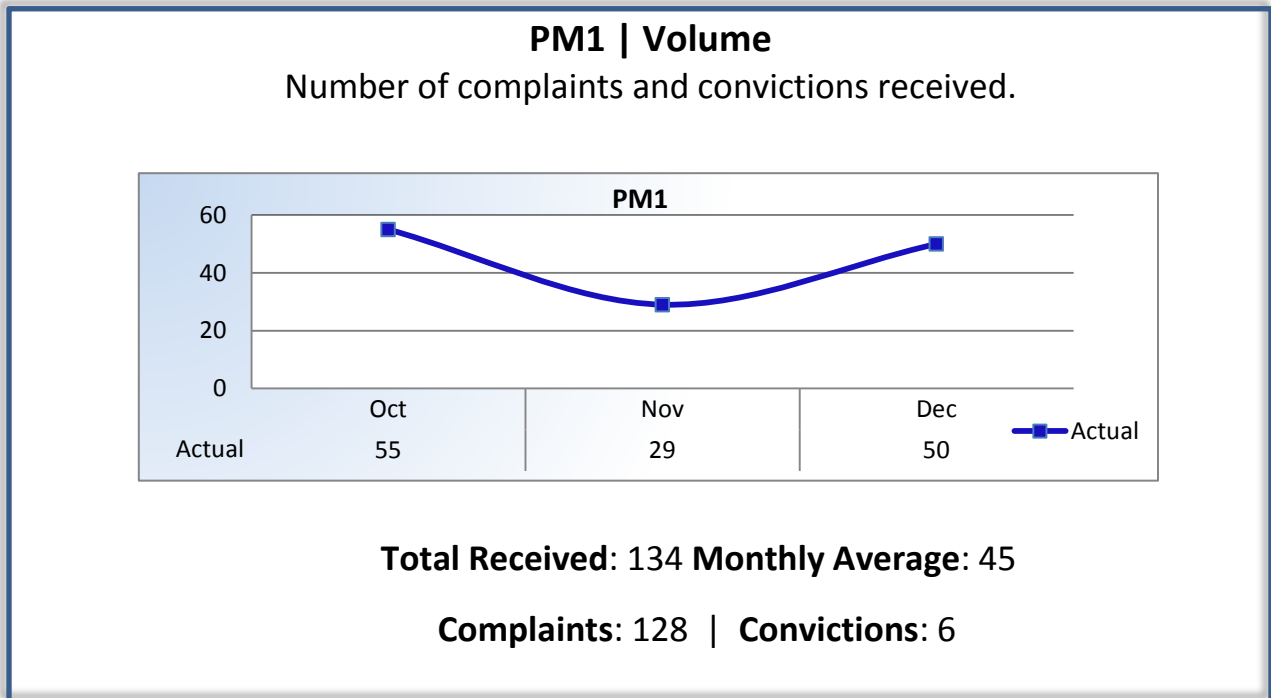
The Board did not have any new probation violations this quarter.

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

Performance Measures

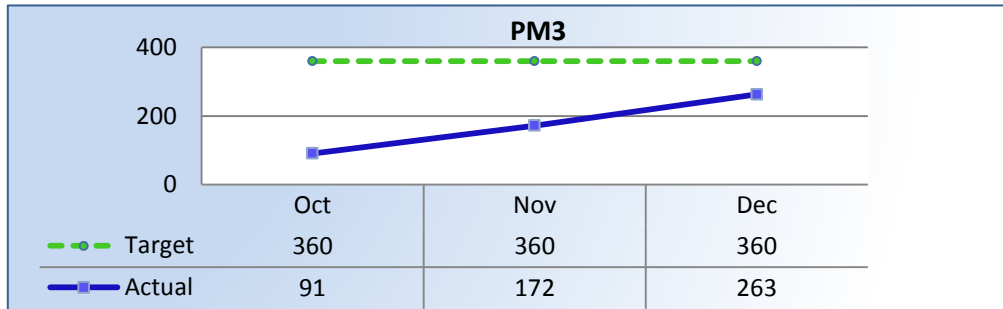
Q2 Report (October - December 2015)

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

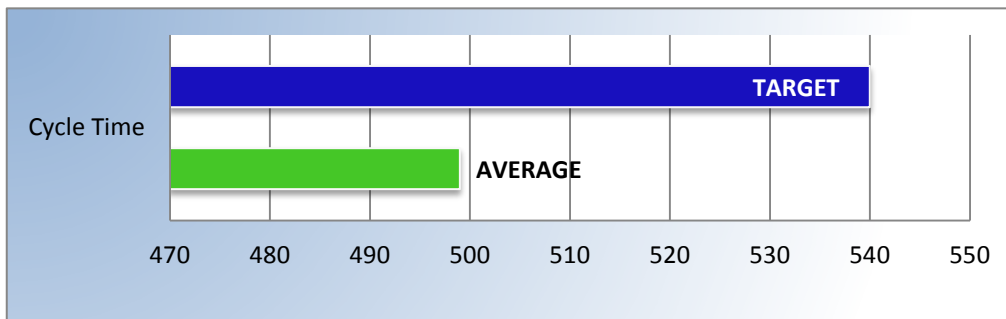
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 360 Days | Actual Average: 193 Days

PM4 | Formal Discipline

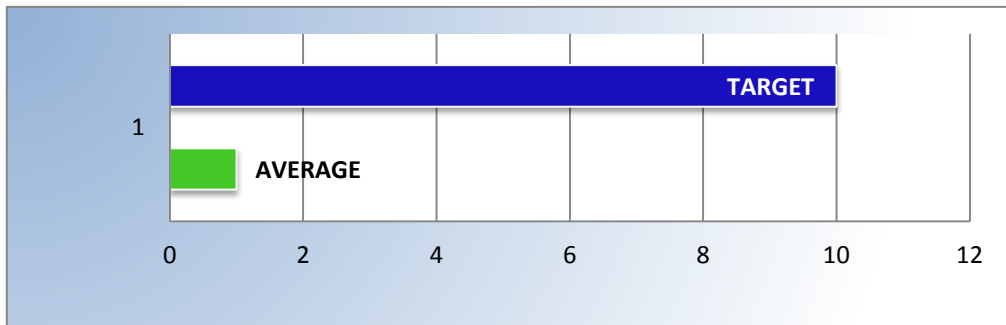
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 499 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: 1 Day

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 new probation violations this quarter.

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

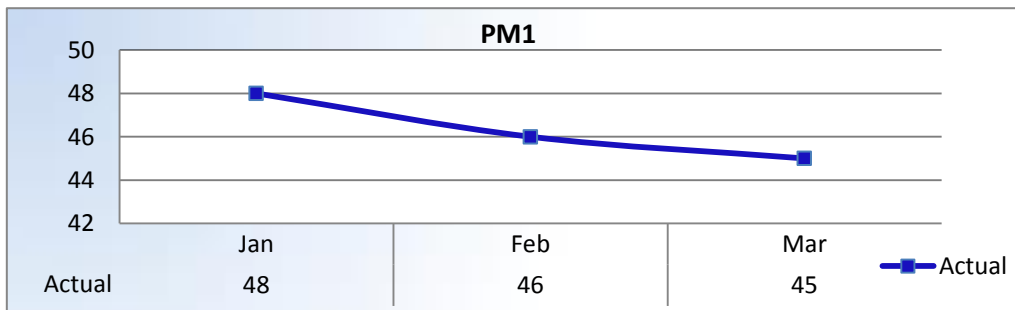
Performance Measures

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.

PM1 | Volume

Number of complaints and convictions received.

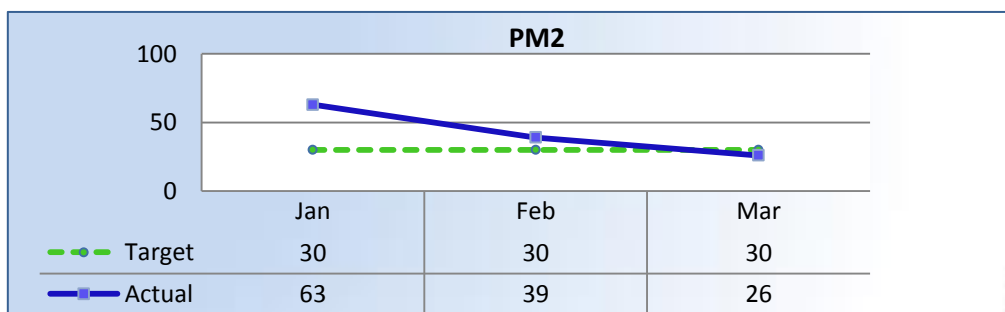


Total Received: 135 Monthly Average: 46

Complaints: 133 | Convictions: 6

PM2 | Intake

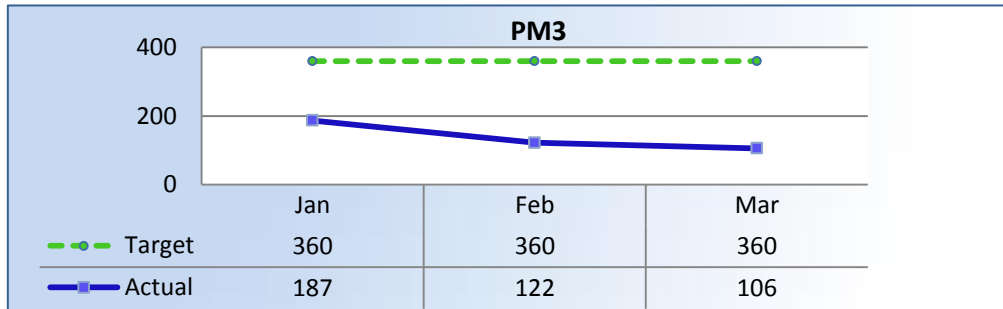
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 41 Days

PM3 | Intake & Investigation

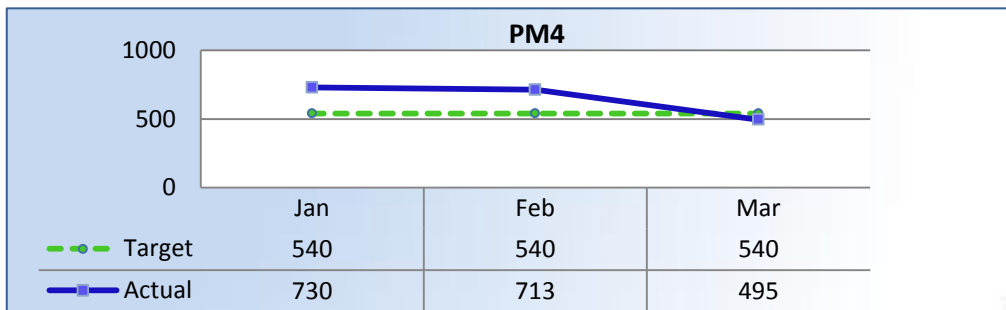
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 360 Days | Actual Average: 137 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: 643 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 new probation violations this quarter.

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

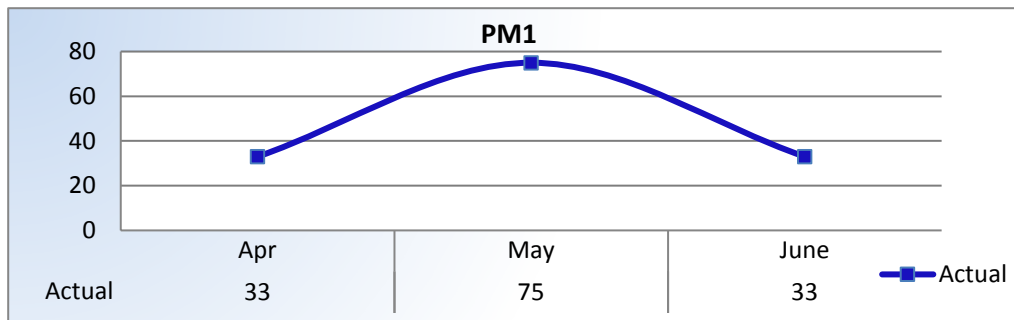
Performance Measures

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.

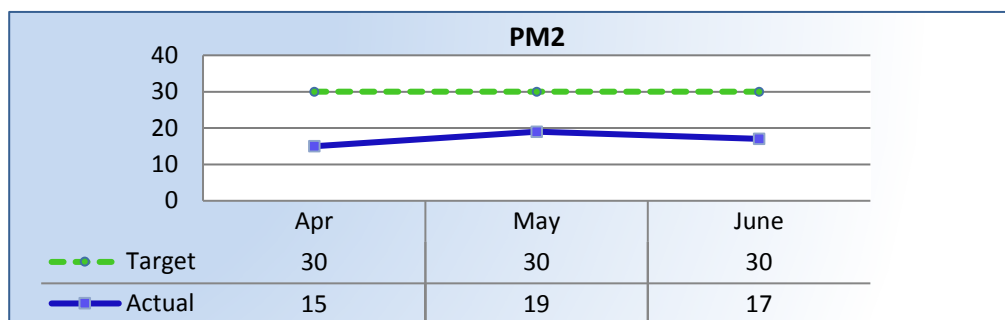


Total Received: 141 Monthly Average: 47

Complaints: 134 | Convictions: 7

PM2 | Intake

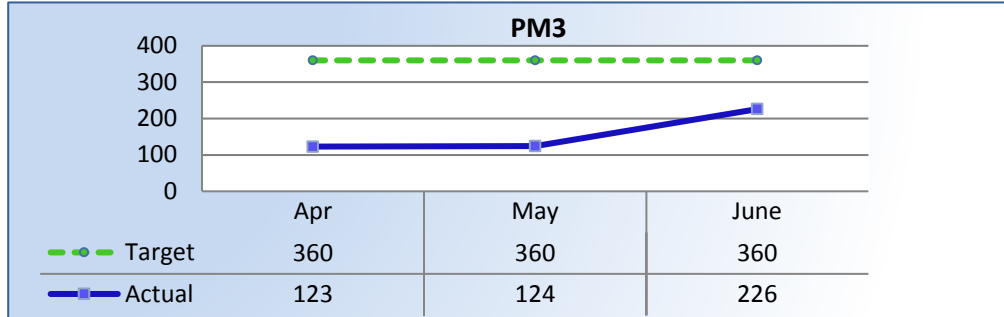
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 30 Days | Actual Average: 17 Days

PM3 | Intake & Investigation

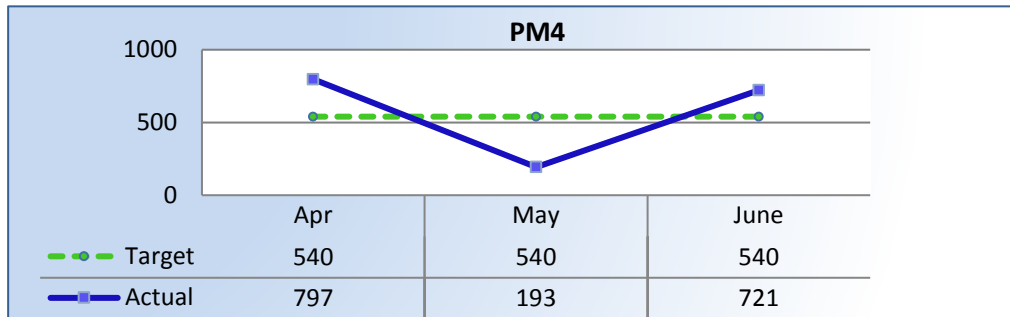
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 360 Days | Actual Average: 166 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: 570 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 new probation violations this quarter.

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

Attachment G

Customer Surveys

Customer Satisfaction Survey by Fiscal Year

	FY 12/13 (13 Received)	FY 13/14 (12 Received)	FY 14/15 (6 Received)	Average Satisfaction (Percent %)
Did our representative deal with your problem in a fair and reasonable manner?	13 - No Response	12 - No Response	6 - No Response	100% - No Response (31)
How did you contact our Board/Bureau?	6 - In Person; 1 - Phone; 5 - USPS; 1 - e-mail	2 - In Person; 1 - Phone; 6 - USPS; 1 - e-mail; 2 - No Response	1 - Phone; 5 - USPS	26% - In Person (8); 10% - Phone (3); 52% - USPS (16); 6% - e-mail (2); 6% - No Response (2)
How satisfied were you with the format and navigation of our website?	1 - Very Satisfied; 12 - No Response	12 - No Response	6 - No Response	3% - Very Satisfied (1); 97% - No Response (30)
How satisfied were you with the time it took to respond to your initial correspondence?	1 - Somewhat Satisfied; 1 - Very Satisfied; 11 - No Response	1 - Neutral; 11 - No Response	6 - No Response	3% - Very Satisfied (1); 3% - Somewhat Satisfied(1); 3% - Neutral (1); 91% - No Response (28)
How satisfied were you with our response to your initial correspondence?	2 - Very Dissatisfied; 11 - No Response	12 - No Response	6 - No Response	6% - Very Dissatisfied (2) 94% - No Response (29)
How satisfied were you with the time it took for us to resolve your complaint?	4 - Very Satisfied; 2 - Somewhat Satisfied; 2 - Neutral; 4 - Very Dissatisfied; 1 - No Response	1 - Somewhat Dissatisfied; 3 - Neutral; 7 - Very Dissatisfied; 1 - No Response	2 - Somewhat Satisfied; 1 - Somewhat Dissatisfied; 3 - Very Dissatisfied	13% - Very Satisfied (4); 13% - Somewhat Satisfied(4); 16% - Neutral (5); 7%-Somewhat Dissatisfied(2); 45% - Very Dissatisfied (14); 7% - No Response (2)
How satisfied were you with the explanation you were provided regarding the outcome of your complaint?	2 - Somewhat Dissatisfied; 10 - Very Dissatisfied; 1 - No Response	1 - Very Satisfied; 10 - Very Dissatisfied 1 - No Response	6 - Very Dissatisfied	3% - Very Satisfied (1); 7% - Somewhat Satisfied(2); 84% - Very Dissatisfied(26); 7% - No Response (2)
Overall, how satisfied were you with the way in which we handled your complaint?	1 - Neutral; 12 - Very Dissatisfied	1 - Very Satisfied; 10 - Very Dissatisfied 1 - No Response	6 - Very Dissatisfied	3% - Very Satisfied (1); 3% - Neutral (1); 90% - Very Dissatisfied(28); 3% - No Response (1)
Would you contact us again for a similar situation?	5 - Definitely; 3 - Maybe; 3 - Absolutley Not; 2 - No Response	2 - Maybe; 5 - Probably Not; 4 - Absolutley Not; 1 - No Response	2 - Probably Not; 4 - Absolutley Not	16% - Definitely (5); 16% - Maybe (5); 23% - Probably Not (7); 35% - Absolutely Not (11); 10% - No Response (3)
Would you recommend us to a friend or family member experiencing a similar situation?	5 - Definitely; 3 - Maybe; 3 - Absolutley Not; 2 - No Response	1 - Maybe; 2 - Probably Not; 8 - Absolutley Not; 1 - No Response	2 - Probably Not; 4 - Absolutley Not	16% - Definitely (5); 13% - Maybe (4); 13% - Probably Not (4); 48% - Absolutely Not (15); 10% - No Response(3)

Customer Satisfaction Survey by Fiscal Year

	FY 14/15 (1 Received)	FY 15/16 (23 Received)	Average Satisfaction (Percent %)
How well did we explain the complaint process to you?	1 - Poor	2 - Very Good; 5 - Good; 6 - Poor; 10 - Very Poor	8% - Very Good (2); 21% - Good (5); 29% - Poor (7); 42% - Very Poor (10)
How clearly was the outcome of your complaint explained to you?	1 - Poor	2 - Very Good; 11 - Poor; 10 - Very Poor	8% - Very Good (2); 50% - Poor (12); 42% - Very Poor (10)
How well did we meet the time frame provided to you?	1 - Good	2 - Very Good; 6 - Good; 4 - Poor; 11 - Very Poor	8% - Very Good (2); 29% - Good (7); 17% - Poor (4); 46% - Very Poor (11)
How courteous and helpful was staff?	1 - No Response	1 - Very Good; 8 - Good; 5 - Poor; 9 - Very Poor	4% - Very Good (1); 33% - Good (8); 21% - Poor (5); 38% - Very Poor (9); 4% - No Response (1)
Overall, How well did we handle your complaint?	1 - Very Poor	2 - Very Good; 1 - Good; 3 - Poor; 17 - Very Poor	8% - Very Good (2); 4% - Good (1); 13% - Poor (3); 75% - Very Poor (18)
If we were unable to assist you, were alternatives provided to you?	1 - N/A	2 - Yes; 19 - No; 2 - N/A	8% - Yes (2); 79% - No (19); 13% - N/A (3)
Did you verify the provider's license prior to service?	1 - Yes	15 - Yes; 4 - No; 4 - N/A	67% - Yes (16); 17% - No (4); 17% - N/A (4)

Attachment H

Code of Ethics

Osteopathic Medical Board of California-Code of Ethics

The Osteopathic Medical Board of California Code of Ethics is adapted from the American Osteopathic Association Code of Ethics annotated with references to the California Business and Professions Code (B&P Code) and the California Code of Regulations (CCR) specific to healthcare regulation. The code of ethics of the American Osteopathic Association was not adopted in its entirety due to conflicts with current state law or inability to enforce such provisions under California state law.

1. Section 1- A physician shall keep in confidence whatever he/she may learn about a patient in the discharge of professional duties. Information shall be divulged by the physician when required by law or when authorized by the patient. (See B&P Code, §2263.)

2. Section 2- A physician shall give a candid account of the patient's condition to the patient or to those responsible for the patient's care. (See B&P Code, §2262, §2266.)

3. Section 3- A physician-patient relationship must be founded on mutual trust, cooperation, and respect. The patient, therefore, must have complete freedom to choose his/her physician. The physician must have complete freedom to choose patients whom he/she will serve. However, the physician should not refuse to accept patients for reasons of discrimination, including, but not limited to, the patient's race, creed, color, sex, national origin, sexual orientation, gender identity, or handicap. In emergencies, a physician should make his/her services available. (See B&P Code, §125.6.)

4. Section 4- A physician is never justified in abandoning a patient. A physician should give a written notice to patients or to those responsible for the patient's care by certified-return receipt mail 30 days before he/she withdraws from the case to afford the patient a reasonable amount of time to procure another physician.

5. Section 5- A physician shall practice in accordance with the body of systemized and scientific knowledge related to the healing arts.

Section 5a- A physician shall maintain continuing competence in such systemized and scientific knowledge through study and clinical applications. (See B&P Code, §2190.5, §2454.5; CCR Title. 16, §1635.)

6. Section 6- Under the law a physician may advertise, but no physician shall advertise or solicit patients directly or indirectly through the use of matters or activities that are false or misleading. (See B&P Code §651.)
7. Section 7- A physician shall not hold forth or indicate possession of any degree recognized as the basis for licensure to practice the healing arts unless he is actually licensed on the basis of that degree. A physician shall designate his/her osteopathic physician's & surgeon's degree and all professional uses of his/her name. Indications of specialty practice, membership in professional societies, and related matters shall be governed by the rules promulgated by the American Osteopathic Association. (See B&P Code §2235.)
8. Section 8- A physician should not hesitate to seek consultation whenever he/she believes it is advisable for the care of the patient.
9. Section 9- In any dispute between or among physicians regarding the diagnosis and treatment of a patient, the attending physician would have the responsibility for the final decisions, consistent with any applicable hospital rules or regulations.
10. Section 10- Any fee charged by a physician shall compensate the physician for services actually rendered. There shall be no division of professional fees for referrals of patients. (See B&P Code §650, §2284.)
11. Section 11- A physician shall abide by the law. When necessary, a physician may assist in the promulgation of laws that would improve patient care and public health.
12. Section 12- It is considered sexual misconduct for a physician to have sexual contact with any current patient. (See B&P Code, §726 - §729.)
13. Section 13- Sexual-harassment by a physician is considered unethical. Sexual harassment is defined as physical or verbal intimidation of a sexual nature involving a colleague or subordinate in the workplace or academic setting, when such conduct creates an unreasonable, intimidating, hostile or offensive workplace or academic setting. (See B&P Code, §726 - §729.)



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