California
BOARD OF OCCUPATIONAL THERAPY

2012 SUNSET REVIEW REPORT

SECTIONS 1 - 3
Background
Performance Measures
Fiscal and Staff

SECTIONS 4 - 5
Licensing Program
Enforcment Program

SECTIONS 6 - 8
Public Information Policies
Online Practice Issues
Workforce Development

SECTIONS 9 - 11
Current Issues
Board Action / Prior Sunset
New Issues

SECTION 12
Attachments A - H

Table of Contents

Section 1: Background and Description of the Board and Regulated Profession 1

History and Functions of the Board 1

Board Committees and Their Functions 3

Board Member Meeting Attendance 5

Board Member Roster 14

Legislation Sponsored by or Affecting the Board of Occupational Therapy 18

Regulatory Amendments Approved by the Board Since the Last Sunset Review 19

Section 2: Performance Measures and Customer Satisfaction Surveys 23

Performance Measure Reports Published by the Department of Consumer Affairs 23

Customer Satisfaction Survey 23

Section 3: Fiscal and Staffing Issues 27

Fiscal Issues 27

Staffing Issues 35

Section 4: Licensing Program 37

Performance Targets/Expectations 37

Application and Licensure Processing Times 37

Applicant Information Verification 39

Legal Requirements and Process for Out-of-State and Out-of-Country Applicants 42

No Longer Interested Notification to DOJ 44

Examination Information 44

Continuing Education/Competency Requirements 47

Section 5: Enforcement Program 51

Performance Targets/Expectations 51

Trends in Enforcement Data – Performance Barriers 51

Disciplinary Action Statistics 54

Case Prioritization 56

Mandatory Reporting Requirements 56

Statute of Limitations 57

Unlicensed Activity and the Underground Economy 57
Citation and Fine 59
Franchise Tax Board Intercept Program 62
Cost Recovery and Restitution 63
Section 6: Public Information Policies 67
Section 7: Online Practice Issues 69
Section 8: Workforce Development and Job Creation 71
Workforce Development 71
Assessment of the Impact of Licensing Delays 71
Board's Efforts to Inform Potential Licensees of Licensing Requirements/Process 71
Workforce Development Data 71
Section 9: Current Issues 73
Status of Uniform Standards for Substance Abusing Licensees 73
Status of the Consumer Protection Enforcement Initiative (CPEI) Regulations 73
BreEZe 73
Section 10: Board Action and Response to Prior Sunset Issues 75
Prior Issues 75
Section 11: New Issues 77
Section 12: Attachments 81
Attachment A: Quarterly and Annual Performance Measurement Reports
Attachment B: Board's Administrative Manual
Attachment C: Board Member Disciplinary Resource Manual
Attachment D: Board/Committee Organizational Chart; and Committees' Roles and Responsibilities
Attachment E: Complaint Prioritization Guidelines
Attachment F: Sample Cease Practice Order; and Sample Employer Notification
Attachment G: Letter sent to Occupational Therapists
Attachment H: Organizational Charts
Attachment I: *Addendum to Sunset Report – Added February 2013*

SECTION 1:

Background and Description of the Board and Regulated Profession

California Board of Occupational Therapy

BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM

November 1, 2012

Section 1 – Background and Description of the Board and Regulated Profession

Provide a short explanation of the history and function of the board and describe the profession that is licensed and regulated by the board.

The occupational therapy profession was established in 1917, and is one of the oldest allied health professions in the United States. Chapter 697/00 (SB 1046) created the California Board of Occupational Therapy, effective January 1, 2001. The Board is responsible for the licensure and regulation of Occupational Therapists (OTs) and Occupational Therapy Assistants (OTAs) in California.

California passed a title control /trademark law for occupational therapy in 1977 Business and Professions Code (BPC), Section 2570, Ch. 836), prohibiting individuals from using the professional titles recognized for Occupational Therapist (OT, OTR) and Occupational Therapy Assistants (OTA, COTA) without appropriate professional training. The law was updated in 1993 (BPC, Ch. 361) to further clarify the minimum education and examination requirements for practicing occupational therapists and occupational therapy assistants. The law had no registration process with the state or enforcement structure, nor did it prevent an unqualified individual from practicing occupational therapy as long as the individual did not refer to himself as an Occupational Therapist or Occupational Therapy Assistant.

The profession of Occupational Therapy is represented by the Occupational Therapy Association of California, Inc. (OTAC). OTAC represents the professional interest of the licensees in California, provides information about the practice of occupational therapy to new licensees entering the state, and provides other resources to support the profession. The American Occupational Therapy Association, Inc. (AOTA), established in 1917, is the organization that represents the profession on a national level and provides resources to support consumers, the profession, and the educational community.

Occupational therapy licensees provide important health and rehabilitation services to people of all ages, who, because of illness, injury, or developmental or psychological impairment, need specialized interventions to regain, develop, or build the skills necessary for independent functioning.

The focus of occupational therapy is on an individual's ability to effectively engage in performance areas that are purposeful and meaningful, such as activities of daily living (ADLs), and instrumental ADLs, including, among other things, work, play, leisure, social participation, and other productive activities.

Occupational Therapists and Occupational Therapy Assistants treat a variety of:

1. Body functions (such as neuromusculoskeletal, sensory-perceptual, visual, mental, cognitive, and pain factors) and body structures (such as cardiovascular, digestive, nervous, integumentary, genitourinary systems, and structures related to movement), values, beliefs, and spirituality.
2. Habits, routines, roles, rituals, and behavior patterns.
3. Physical and social environments, cultural, personal, temporal, and virtual contexts and activity demands that affect performance; and
4. Performance skills, including motor and praxis, sensory-perceptual, emotional regulation, cognitive, communication and social skills.

Over the past four years, there have been amendments to the licensing laws and regulations promulgated that have enhanced the Board's ability to protect the consumer, such as development of the Disciplinary Guidelines and Cite and Fine Authority. To further bolster the regulation of the profession, the Board established supervision requirements, advance practice requirements, minimum standards for infection control, and continuing education/competency requirements.

Previous bills
SB 1046 (Murray, Chapter 697, Statutes of 2000) created the Board of Occupational Therapy and established an inoperative date of July 1, 2006 and a sunset date of January 1, 2007.

SB 136 (Figueroa, Chapter 909, Statutes of 2004) changed the inoperative date of the Board of Occupational Therapy from July 1, 2006, to July 1, 2007, and the sunset date from January 1, 2007 to January 1, 2008.

SB 1476 (Figueroa, Chapter 658, Statutes of 2006) changed the inoperative date of the Board of Occupational Therapy from July 1, 2007 to July 1, 2013 and the sunset date from January 1, 2008 to January 1, 2014.

The California Board of Occupational Therapy licenses and regulates Occupational Therapists (OTs) and Occupational Therapy Assistants (OTAs). The Board's mission is to regulate occupational therapy by serving and protecting California's consumers and licensees.

Business and Professions Code (BPC) Section 2570.25 mandates that "protection of the public shall be the highest priority for the California Board of Occupational Therapy in exercising its licensing, regulatory, and disciplinary functions."

In order to accomplish its mission, the Board: Ensures only eligible and qualified individuals are issued a license; investigates complaints and criminal convictions; and responds to emerging changes and trends in the profession legislatively or through regulations. The Board's statutes require a license before an individual may engage in the practice of occupational therapy. These statutes set forth the requirements for licensure and provide the Board the necessary authority to discipline a license.

1. Describe the make-up and functions of each of the board's committees.

The Board has no committee(s) required by statute. However, the Board established several committees which serve as an essential component to help the Board deal with specific policy and/or administrative issues. The issues could be referred by the Board to a committee to delve into a policy issue/concern or to address issues referred by the public or licensees or on recommendation by Board staff.

The Board's *Administrative Manual* identifies the number of members on the committee, requires the committee chairperson be a board member, and provides the committees' purposes; the committees' roles and responsibilities are attached under Section 12, Attachment D.

Administrative Committee – Comprised of Board President, Vice President, and the Executive Officer; meetings are held two or three times per year or as necessary.

The purpose of the Administrative Committee is to provide guidance to staff for the budgeting and organizational components of the Board (i.e., budget change proposals, out-of-state trip requests, contracts, meeting agendas and preparation, sunset review and related projects); to provide suggestions regarding the Board's Strategic Plan; and to respond to items identified in an internal audit, and other duties as required.

Education and Outreach Committee – Currently comprised of one Board member (occupational therapy assistant and another occupational therapy assistant and two occupational therapists. This committee was created and assigned to develop consumer and licensee outreach projects, including the Board's newsletter, website, e-government initiatives and outside organization presentations.

Pursuant to the Board's Administrative Manual, committee members may also be asked to represent the Board at meetings, conferences, health, career or job fairs, or at the invitation of outside organizations and programs.

Enforcement Committee – Currently comprised of two public Board members and three occupational therapists. This committee was created to continually seek ways to improve the Board's enforcement activities, develop and review enforcement policies, review enforcement and discipline-related regulatory proposals, review enforcement and discipline-related forms, review and make recommendations regarding the Board's

disciplinary guidelines and to assist in identifying situations where enforcement procedures might be improved.

Please note: Enforcement committee members are advised they will not review individual enforcement cases.

Disaster Preparedness/Response Committee – Currently comprised of one public Board member, one occupational therapist Board member, and two occupational therapists. This committee was created to identify and provide input into reducing barriers to occupational therapy roles in disaster preparedness and disaster response, review the current laws and regulations to ensure consistency, be responsible for the development and maintenance of the Board's Disaster Response plan, and provide input into annual updates of the Board's Continuity of Operations and Continuation of Government (COOP/COG) report.

Legislative and Regulatory Affairs Committee – Currently comprised of one occupational therapist Board member and three occupational therapists. This committee was created to provide information and/or make recommendations to the Board and/or the committees of the Board on matters relating to legislation and regulations affecting the regulation of occupational therapists, occupational therapy assistants and other items in the public interest or affecting Board operations.

The Committee's goals and objectives are to:

- Monitor current legislation on behalf of the Board and make position recommendations to the Board at each Board meeting.
- Serve as a resource to other Board committees on legislative and regulatory matters.
- Serve as a resource for the Board to implement proposed revisions to the Act and Board regulations.

Practice Committee – Comprised of one occupational therapist Board member, four additional occupational therapists, and one occupational therapy assistant. This committee was created to review and provide recommendations to staff on Applications to Provide Advanced Practice Post-Professional Education (course applications); review and provide recommended responses to the Board on various practice issues/questions submitted by licensees and consumers; provide guidance to staff on continuing competency audits; review and provide recommendations to the Board on practice-related proposed regulatory amendments; and review and provide recommendations to Board staff on revisions to various applications and forms used by the Board.

At its meeting held October 11, 2012, the Board adopted the committee's recommendation that the committee no longer review advanced practice applications or Applications to Provide Advanced Practice Post-Professional Education submitted by

providers; the committee membership (as a whole) doesn't possess the skill set to do so and the Board now has the ability to contract with consultants to provide these reviews.

Due to ongoing travel restrictions and the need to minimize all expenditures, including costs related to travel reimbursement, all committee meetings are conducted via teleconference and the committee's recommendations are brought to the Board at the next scheduled meeting.

Table 1a. Board Member Attendance			
Alegria, Eric – Appointed June 13, 2011			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2011			
Board meeting	June 16	Teleconference	N
Board meeting	September 7-8	Irvine	Y
Enforcement Committee meeting	October 4	Teleconference	N
Board meeting	December 1	San Francisco	Y
2012			
Board meeting	March 12	Carson	Y
Board meeting	March 22	Teleconference	Y
Board meeting	June 27	Sacramento	Y
Board meeting	July 31	Teleconference	Y
Enforcement Committee meeting	September 11	Teleconference	N
Board meeting	October 11	Teleconference	N
Board meeting	October 12	Teleconference	Y
Board meeting	October 26	Teleconference	Y

Table 1a. Board Member Attendance			
Cunningham, Margaret - Appointed June 14, 2001; Resigned March 30, 2007			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2006			
Board meeting	January 26	Ontario	Y
Board meeting	February 16	Teleconference	Y
Board meeting	March 30	Ontario	Y
Advanced Practice Regulatory Committee meeting	May 18	Sacramento	Y
Board meeting	May 18	Sacramento	Y
Board meeting	November 30	Ontario	Y
2007			
Board meeting	March 1	San Diego	N

Table 1a. Board Member Attendance			
Evert, Mary - Appointed March 9, 2005			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2006			
Board meeting	January 26	Ontario	Y
Board meeting	February 16	Teleconference	Y
Board meeting	March 30	Ontario	Y
Board meeting	May 18	Sacramento	Y
Board meeting	November 30	Ontario	Y
2007			
Board meeting	March 1	San Diego	Y
Board meeting	May 24	Oakland	Y
Board meeting	July 25-26	Sacramento	Y
Board meeting	August 14	Teleconference	Y
Board meeting	October 11	Ontario	Y
Board meeting	December 6	Irvine	Y
2008			
Board meeting	February 21	Santa Ana	Y
Board meeting	March 25	Teleconference	Y
Board meeting	May 6	Teleconference	Y
Board meeting	July 17	Teleconference	Y
Board meeting	August 22	Teleconference	Y
Board meeting	September 26	Teleconference	Y
Board meeting	November 20	Los Angeles	Y
2009			
Board meeting	March 19	Santa Ana	Y
Board meeting	April 16	Teleconference	Y
Board meeting	June 18	San Marcos	Y
Board meeting	September 10	Loma Linda	Y
Board meeting	October 26	Sacramento	Y
Board meeting	December 9	Teleconference	Y
2010			
Board meeting	March 11	Carson	Y
Board meeting	July 28-29	Sacramento	Y
Board meeting	November 4	San Marcos	Y
2011			
Board meeting	March 3	Sacramento	Y
Board meeting	June 16	Teleconference	Y
Board meeting	September 7-8	Irvine	Y
Disaster Preparedness/Response Committee	October 25	Teleconference	Y

Board meeting	December 1	San Francisco	Y
2012			
Disaster Preparedness/Response Committee	January 24	Teleconference	Y
Board meeting	March 12	Carson	Y
Board meeting	March 22	Teleconference	Y
Disaster Preparedness/Response Committee	May 17	Teleconference	Y
Disaster Preparedness/Response Committee	June 26	Teleconference	Y
Board meeting	June 27	Sacramento	Y
Board meeting	July 31	Teleconference	Y
Disaster Preparedness/Response Committee	September 20	Teleconference	Y
Board meeting	October 11	Teleconference	Y
Board meeting	October 12	Teleconference	Y
Disaster Preparedness/Response Committee	October 24	Teleconference	Y
Board meeting	October 26	Teleconference	Y

Table 1a. Board Member Attendance			
Florey, Linda - Appointed July 14, 2010			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2010			
Board meeting	July 28-29	Sacramento	Y
Practice Committee meeting	October 19	Downey	Y
Board meeting	November 4	San Marcos	Y
2011			
Practice Committee meeting	January 27	Downey	Y
Practice Committee meeting	February 17	San Marcos	Y
Board meeting	March 3	Sacramento	Y
Practice Committee meeting	April 7	Downey	Y
Board meeting	June 16	Teleconference	Y
Practice Committee meeting	August 25	Teleconference	Y
Board meeting	September 7-8	Irvine	Y
Practice Committee meeting	November 4	Teleconference	Y
Board meeting	December 1	San Francisco	Y
2012			
Board meeting	March 12	Carson	N
Board meeting	March 22	Teleconference	Y
Board meeting	June 27	Sacramento	Y

Practice Committee meeting	July 17	Teleconference	Y
Board meeting	July 31	Teleconference	Y
Board meeting	October 11	Teleconference	Y
Board meeting	October 12	Teleconference	Y
Board meeting	October 26	Teleconference	Y

Table 1a. Board Member Attendance			
Grangaard, Luella – Appointed and served June 14, 2001 – December 31, 2007; Reappointed December 13, 2010.			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2006			
Board meeting	January 26	Ontario	Y
Board meeting	February 16	Teleconference	Y
Practice Committee meeting	February 23	Oakland	Y
Board meeting	March 30	Ontario	Y
Practice Committee meeting	May 18	Sacramento	Y
Board meeting	May 18	Sacramento	Y
Practice Committee meeting	August 16	Ontario	Y
Practice Committee meeting	November 30	Ontario	Y
Board meeting	November 30	Ontario	Y
2007			
Practice Committee meeting	January 18	Sacramento	N
Practice Committee meeting	March 1	Sacramento	Y
Board meeting	March 1	San Diego	Y
Practice Committee meeting	May 24	Oakland	Y
Board meeting	May 24	Oakland	Y
Practice Committee meeting	July 25	Sacramento	Y
Board meeting	July 25-26	Sacramento	Y
Board meeting	August 14	Teleconference	Y
Board meeting	October 11	Ontario	Y
Practice Committee meeting	December 5	Ontario	Y
Board meeting	December 6	Ontario	Y
2008 – 2010 (not on Board)			
2011			
Board meeting	March 3	Sacramento	Y
Board meeting	June 16	Teleconference	Y
Legislative and Regulatory Affairs Committee meeting	August 16	Teleconference	Y
Board meeting	September 7-8	Irvine	Y
Board meeting	December 1	San Francisco	Y

2012			
Legislative and Regulatory Affairs Committee meeting	January 24	Teleconference	Y
Legislative and Regulatory Affairs Committee meeting	March 8	Teleconference	Y
Board meeting	March 12	Carson	Y
Board meeting	March 22	Teleconference	Y
Board meeting	June 27	Sacramento	Y
Board meeting	July 31	Teleconference	Y
Board meeting	October 11	Teleconference	Y
Board meeting	October 12	Teleconference	Y
Board meeting	October 26	Teleconference	Y

Table 1a. Board Member Attendance			
Horsley, Patricia - Appointed June 14, 2007; Resigned December 4, 2009			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2007			
Board meeting	March 1	San Diego	Y
Board meeting	May 24	Oakland	Y
Board meeting	July 25-26	Sacramento	Y
Board meeting	August 14	Teleconference	Y
Board meeting	October 11	Ontario	Y
Board meeting	December 6	Irvine	Y
2008			
Board meeting	February 21	Santa Ana	Y
Board meeting	March 25	Teleconference	Y
Board meeting	May 6	Teleconference	Y
Board meeting	July 17	Teleconference	Y
Board meeting	August 22	Teleconference	Y
Board meeting	September 26	Teleconference	Y
Board meeting	November 20	Los Angeles	Y
2009			
Board meeting	March 19	Santa Ana	Y
Board meeting	April 16	Teleconference	Y
Board meeting	June 18	San Marcos	Y
Board meeting	September 10	Loma Linda	Y
Board meeting	October 26	Sacramento	Y
Board meeting	December 9	Teleconference	Y

Table 1a. Board Member Attendance			
Lovell, Kathleen – Appointed December 13, 2010			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2011			
Board meeting	March 3	Sacramento	Y
Board meeting	June 16	Teleconference	Y
Board meeting	September 7-8	Irvine	N
Disaster Preparedness/Response Committee	October 25	Teleconference	Y
Board meeting	December 1	San Francisco	Y
2012			
Disaster Preparedness/Response Committee	January 24	Teleconference	Y
Board meeting	March 12	Carson	Y
Board meeting	March 22	Teleconference	N
Disaster Preparedness/Response Committee	May 17	Teleconference	Y
Disaster Preparedness/Response Committee	June 26	Teleconference	Y
Board meeting	June 27	Sacramento	Y
Board meeting	July 31	Teleconference	N
Disaster Preparedness/Response Committee	September 20	Teleconference	Y
Board meeting	October 11	San Jose	Y
Board meeting	October 12	San Jose	Y
Disaster Preparedness/Response Committee	October 24	Teleconference	N
Board meeting	October 26	San Jose	N

Table 1a. Board Member Attendance			
Michel, Nancy - Appointed April 5, 2006			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2006			
Board meeting	May 18	Sacramento	Y
Board meeting	November 30	Ontario	Y
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2007			
Board meeting	March 1	San Diego	Y
Board meeting	May 24	Oakland	Y
Board meeting	July 25-26	Sacramento	Y
Board meeting	August 14	Teleconference	Y

Board meeting	October 11	Ontario	Y
Board meeting	December 6	Irvine	Y
2008			
Board meeting	February 21	Santa Ana	Y
Board meeting	March 25	Teleconference	Y
Board meeting	May 6	Teleconference	Y
Board meeting	July 17	Teleconference	Y
Board meeting	August 22	Teleconference	Y
Board meeting	September 26	Teleconference	N
Board meeting	November 20	Los Angeles	Y
2009			
Board meeting	March 19	Santa Ana	N
Board meeting	April 16	Teleconference	Y
Board meeting	June 18	San Marcos	Y
Board meeting	September 10	Loma Linda	Y
Board meeting	October 26	Sacramento	Y
Board meeting	December 9	Teleconference	Y
2010			
Board meeting	March 11	Carson	Y
Board meeting	July 28-29	Sacramento	Y
Board meeting	November 4	San Marcos	Y
2011			
Enforcement Committee meeting	February 9	Escondido	Y
Board meeting	March 3	Sacramento	Y
Enforcement Committee meeting	April 27	Escondido	N
Board meeting	June 16	Teleconference	Y
Board meeting	September 7-8	Irvine	Y
Enforcement Committee meeting	October 4	Teleconference	Y
Board meeting	December 1	San Francisco	N
2012			
Board meeting	March 12	Carson	Y
Board meeting	March 22	Teleconference	N
Board meeting	June 27	Sacramento	Y
Board meeting	July 31	Teleconference	Y
Enforcement Committee meeting	September 11	Teleconference	Y
Board meeting	October 11	San Jose	Y
Board meeting	October 12	San Jose	Y
Board meeting	October 26	Teleconference	Y

Table 1a. Board Member Attendance			
Tanberg, Bobbi Jean - Appointed January 15, 2007			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2006			
Board meeting	January 26	Ontario	Y
Board meeting	February 16	Teleconference	Y
Board meeting	March 30	Ontario	Y
Board meeting	May 18	Sacramento	Y
Board meeting	November 30	Ontario	Y
2007			
Board meeting	March 1	San Diego	Y
Board meeting	May 24	Oakland	Y
Board meeting	July 25-26	Sacramento	Y
Board meeting	August 14	Teleconference	Y
Board meeting	October 11	Ontario	Y
Board meeting	December 6	Irvine	Y
2008			
Board meeting	February 21	Santa Ana	Y
Board meeting	March 25	Teleconference	Y
Board meeting	May 6	Teleconference	Y
Board meeting	July 17	Teleconference	Y
Board meeting	August 22	Teleconference	Y
Board meeting	September 26	Teleconference	Y
Board meeting	November 20	Los Angeles	Y
2009			
Board meeting	March 19	Santa Ana	Y
Board meeting	April 16	Teleconference	Y
Board meeting	June 18	San Marcos	Y
Board meeting	September 10	Loma Linda	Y
Board meeting	October 26	Sacramento	Y
Board meeting	December 9	Teleconference	Y
2010			
OTA Ad-Hoc Committee meeting	January 7	Teleconference	Y
OTA Ad-Hoc Committee meeting	February 26	Teleconference	Y
Board meeting	March 11	Carson	Y
Board meeting	July 28-29	Sacramento	Y
Board meeting	November 4	San Marcos	Y

2011			
Education and Outreach Committee meeting	February 24	Teleconference	Y
Board meeting	March 3	Sacramento	Y
Board meeting	June 16	Teleconference	Y
Education and Outreach Committee meeting	August 25	Teleconference	Y
Board meeting	September 7-8	Irvine	Y
Board meeting	December 1	San Francisco	Y
2012			
Education and Outreach Committee meeting	January 19	Teleconference	Y
Board meeting	March 12	Carson	Y
Board meeting	March 22	Teleconference	Y
Board meeting	June 27	Sacramento	Y
Board meeting	July 31	Teleconference	Y
Education and Outreach Committee meeting	August 24	Teleconference	Y
Board meeting	October 11	San Jose	N
Board meeting	October 12	San Jose	Y
Board meeting	October 26	Teleconference	Y

Table 1a. Board Member Attendance			
Tsai, Julia – Appointed December 30, 2009			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2010			
Board meeting	March 11	Carson	Y
Board meeting	July 28-29	Sacramento	Y
Board meeting	November 4	San Marcos	Y

Table 1a. Board Member Attendance			
Wietlisbach, Christine – June 14, 2001			
Meeting Type	**Meeting Date**	**Meeting Location**	**Attended?**
2006			
Board meeting	January 26	Ontario	Y
Board meeting	February 16	Teleconference	Y
Board meeting	March 30	Ontario	Y
Board meeting	May 18	Sacramento	Y

Board meeting	November 30	Ontario	Y
2007			
Board meeting	March 1	San Diego	Y
Board meeting	May 24	Oakland	Y
Practice Committee meeting	July 25	Sacramento	Y
Board meeting	July 25-26	Sacramento	Y
Board meeting	August 14	Teleconference	Y
Board meeting	October 11	Ontario	Y
Board meeting	December 6	Irvine	Y
2008			
Board meeting	February 21	Santa Ana	Y
Board meeting	March 25	Teleconference	Y
Board meeting	May 6	Teleconference	Y
Board meeting	July 17	Teleconference	Y
Board meeting	August 22	Teleconference	Y
Board meeting	September 26	Teleconference	Y
Board meeting	November 20	Los Angeles	Y

Table 1b. Board Member Roster

Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Eric Alegria	06/13/2011		12/31/2012	Speaker	Public
Mary Evert	03/09/2005	12/22/2008	12/31/2011	Governor	Prof.
Linda Florey	07/14/2010	12/14/2010	12/31/2014	Governor	Prof.
Luella Grangaard	12/13/2010		12/31/2012	Governor	Prof.
Patti Horsley	06/142007		12/31/2008	Speaker	Public
Kathay Lovell	12/13/2010		12/31/2014	Governor	Public
Nancy Michel	04/05/2006	02/04/2009	12/31/2012	Senate Rules	Public
Bobbi Jean Tanberg	01/15/2007	12/22/2008	12/31/2011	Governor	Prof.
Julia Tsai	12/30/2009		12/31/2010	Governor	Public
Christine Wietlisbach	06/28/2001	03/09/2005	12/31/2008	Governor	Prof.

COMMITTEE MEMBER APPOINTMENTS

Note: In order to expedite the Committee Appointments' process, at its February 21, 2008, meeting, the Board passed a motion to delegate authority to the Board President to make Committee appointments.

Table 1b. Disaster Preparedness/Response Committee Member Roster					
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type *(public or professional)*
Mary Evert	10/26/2009		12/31/2012	Board	Professional
Glenda Fuge	10/26/2009		*Resigned*	Board Pres.	Professional
Mohammed Khalifa	10/26/2009		10/25/2013	Board Pres.	Professional
Carol Loeffler	01/24/2012		01/24/2014	Board Pres.	Professional
Kathay Lovell	03/03/2011		10/25/2013	Board Pres.	Public
Vacant					
First committee meeting date: 10/25/2011					

Table 1b. Education and Outreach Committee Member Roster					
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Bobbi Jean Tanberg	02/2008		02/24/2013	Board	Professional
Deanne (DeeDee) Clarke	10/26/2009		02/24/2013	Board Pres.	Professional
Diane Mayfield	10/26/2009		02/24/2013	Board Pres.	Professional
Danielle Meglio	10/26/2009		02/24/2013	Board Pres.	Professional
Vacant					
First committee meeting date: 02/24/2011					

Table 1b. Enforcement Committee Member Roster					
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Nancy Michel	02/2008		02/09/2013	Board	Public
Margaret Fuller	10/26/2009		02/09/2013	Board Pres.	Professional

William Levanduski	10/26/2009		02/09/2013	Board Pres.	Professional
Claudia Peyton	10/26/2009		02/09/2013	Board Pres.	Professional
Eric Alegria	09/07/2011		09/07/2013	Board	Public
First committee meeting date: 02/24/2011					

Table 1b. Legislative and Regulatory Affairs Committee Member Roster					
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Patti Horsley	02/2008	*Resigned 12/04/2009*		Board	Public
Luella Grangaard	Early 2011		08/16/2013	Board	Professional
Diane Josephs	Early 2011		08/16/2013	Board Pres.	Professional
Linda (Lin) Reed	Early 2011		08/16/2013	Board Pres.	Professional
Jerilyn (Gigi) Smith	Early 2011		08/16/2013	Board Pres.	Professional
First committee meeting date: 08/16/2011					

Table 1b. Practice Committee Member Roster					
Member Name (Include Vacancies)	Date First Appointed	Date Re-appointed	Date Term Expires	Appointing Authority	Type (public or professional)
Linda Florey	07/28/2010		02/09/2013	Board	Professional
Luella Grangaard	03/15/2003		12/31/2009	Board	Professional
Deborah Bolding	07/14/2003		2008	Board Pres.	Professional
Janet Jabri	07/14/2003		2008	Board Pres.	Professional
Roberta Murphy	03/15/2007		2008	Board Pres.	Professional
Judi Paladino	11/14/2003		2008	Board Pres.	Professional
Barbara Rodrigues	05/18/2006		2008	Board Pres.	Professional
Pamela Roberts	07/14/2003		2008	Board Pres.	Professional
Richard Bookwalter	10/26/2009		02/09/2013	Board Pres.	Professional
Mary Kay Gallagher	07/01/2008		12/31/2012	Board Pres.	Professional
Didi Olson	10/26/2009		02/09/2013	Board Pres.	Professional

Christine Wietlisbach	01/27/2011		01/27/2013	Board Pres.	Professional
Vacant					
The Practice Committee – the Board's longest standing committee – didn't meet from February 20, 2008 - October 19, 2010					

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

   No. There was a period of time when the Board had only four (4) members and there were concerns regarding having to cancel a meeting due to someone unexpectedly becoming ill, however, that never occurred.

3. **Describe any major changes to the board since the last Sunset Review, including internal changes (i.e., reorganization, relocation, change in leadership, strategic planning, etc.)**

   The Board updated its Strategic Plans in 2005, 2007, and 2011. While the changes to the strategic plan from 2005 to 2007 were minimal, the changes in the strategic planning process and the resulting improvements in the 2011 strategic plan were more substantive.

   The Board's *vision* has remained virtually the same:

   > The California Board of Occupational Therapy is a model organization for occupational therapy state regulatory boards, ensuring consumer protection and quality occupational therapy.

   The Board's *mission* was tightened up a bit, by omitting unnecessary verbiage:

   > The mission of the California Board of Occupational Therapy is to regulate occupational therapy by serving and protecting California's consumers and licensees.

   The Board's *core values* were bolstered and some values were enhanced and re-worded:

   > The California Board of Occupational Therapy will strive for the highest possible quality throughout all of its programs making it a progressive and responsive organization by:
   >
   > - Providing excellent customer service to consumers, licensees, employers and other stakeholders;
   > - Promoting, applying, and enforcing ethical standards of occupational therapy;

- Implement fair and consistent application of the laws and regulations governing occupational therapy;
- Recognizing and supporting the diverse practice settings and roles in occupational therapy;
- Encouraging active participation by stakeholders through access to the Board; and
- Ensuring a high level of professionalism, efficiency, and effectiveness by the Board members and staff.

Previously, the Board's *goals and objectives* were too numerous and vaguely worded. Thus, the Board's *goals* were reduced from seven goals to only four; the *objectives* were reduced from four to eight per goal to only two to six objectives per goal. The lesser number of *goals and objectives* was not only an improvement in narrowing the focus of the Board's priorities, but the wording was refined and bolstered to ensure better direction to Board staff, thereby ensuring more efficiency and effectiveness in accomplishing the Board's goals and priorities. While Board staff completes their day-to-day duties and maintain Board operations, the focused direction of the strategic plan helps the accomplishment of the Board's goals and priorities.

- **Legislation Sponsored by or Affecting the Board of Occupational Therapy**

Since the Board's last sunset review in 2005, a number of bills relevant to the Board's duties have been considered and enacted. The relevant legislation is listed below in chronological order.

SB 1476 (Figueroa, Chapter 658, Statutes of 2006) Extended the sunset date of the Board to January 1, 2014. In addition, this bill changed the process for out-of-state licensees practice privileges in California. This bill allows out-of-state licensees' to practice in California for up to 60 days if an application for licensure or certification is filed, their current license is up to the same standards of the Board, and if the services are performed with a California licensed occupational therapist.

SB 1852 (Committee on Judiciary, Chapter 538, Statutes of 2006) was a code maintenance bill. The changes were non-substantive in nature.

SB 1048 (Committee on Business, Professions, and Economic Development, Chapter 588, Statutes of 2007) clarified that the required examination for licensure or certification is the exam administered by the National Board for Certification in Occupational Therapy or by another nationally recognized credentialing body. The bill also added language specifying that the Board must keep information relevant to licensure, including issuance and expiration dates, up-to-date on its Internet website.

SB 819 (Yee, Chapter 308, Statutes of 2009) made numerous technical changes and added a new section specifying that if a licensee is aware that

another licensee or applicant is in violation of the practice act, that knowledge must be reported to the Board in writing and that licensee must cooperate with and assist the Board as required.

SB 821 (Committee on Business, Professions, and Economic Development, Chapter 307, Statutes of 2009) made a number of technical changes throughout the Board's Practice Act. In addition, the bill updated a number of provisions including clarifying that an occupational therapy assistant can supervise an aide in client-related tasks. The bill added new language creating a retired licensure category for occupational therapists and occupational therapy assistants.

SB 294 (Negrete Mcleod, Chapter 695, Statutes of 2010) made technical changes to the Board's Practice Act to extend the sunset date from 2013 to 2014.

SB 999 (Walters, Chapter 173, Statutes of 2010) made technical changes to Board's Practice Act to clarify that public members cannot be a licensee of any other healing arts board and repealed obsolete language regarding a General Fund start-up loan.

SB 1111 (Negrete Mcleod, Died, 2010) and SB 544 (Price, Died, 2011). These bills both proposed to increase enforcement capabilities of the various boards under the Department of Consumer Affairs, including CBOT. Both bills subsequently failed passage, but the boards were directed to implement, in regulation, those provisions which were deemed critical under their current statutory authority. The Board's regulations to implement these provisions took effect on September 28, 2012.

AB 415 (Logue, Chapter 547, Statutes of 2011) provided that health care providers under Division 2 of the Business and Professions Code have the authority to administer health care services via telehealth. The Board is in the process of promulgating regulations specific to occupational therapy to implement this bill.

- **All regulatory amendments approved by the Board since the last Sunset Review are shown below.**

Section	Title	Status
4120	Renewal of License or Certificate	Operative 11/15/2006
4121	Renewal of Expired License or Certificate; Application; Fees; Effective Date of Renewal	Operative 11/15/2006
4130	Fees	Operative 11/08/2006
4161	Continuing Competency	Operative 11/15/2006
4162	Completion and Reporting Requirements	Operative 11/15/2006
4114	Abandonment of Application	Operative 08/09/2007

4152.1	Use of Topical Medications	Operative 08/02/2007
4123	Limited Permit	Operative 05/10/2008
4141	Assessment of Administrative Fines	Operative 06/20/2008
4110	Application	Operative 08/27/2008
4161	Continuing Competency	Operative 09/06/2008
4154	Post Professional Education and Training	Operative 10/22/2008
4155	Application for Approval in Advanced Practice Areas	Operative 10/22/2008
4170	Ethical Standards of Practice	Operative 01/16/2009
4181	Supervision Parameters	Operative 04/03/2009
4161	Continuing Competency	Operative 09/23/2009
4130	Fees	Operative 08/26/2009
4120	Renewal of License or Certificate	Operative 03/26/2010
4100	Definitions	Operative 04/07/2010
4123	Limited Permit	Operative 04/13/2011
4125	Representation	Operative 04/13/2011
4175	Minimum Standards for Infection Control	Operative 06/30/2010
4180	Definitions (relating to supervision)	Operative 07/03/2010
4150	Definitions (relating to advanced practice)	Operative 05/28/2011
4151	Hand Therapy	Operative 05/28/2011
4152.1	Use of Topical Medications	Operative 05/28/2011
4153	Swallowing Assessment, Evaluation, or Intervention	Operative 05/28/2011
4154	Post Professional Education and Training	Operative 05/28/2011
4155	Application for Approval in Advanced Practice Areas	Operative 05/28/2011
4147	Disciplinary Guidelines (former Section 4144)	Operative 07/06/2011
4141	Assessment of Administrative Fines	Operative 08/19/2011
4145	Record Retention	Operative 08/19/2011
4155	Application for Approval in Advanced Practice Areas	Operative 04/18/2012
4100	Definitions	Operative 09/28/2012
4101	Delegation of Certain Functions.	Operative 09/28/2012
4146	Definitions (relating to discipline)	Operative 09/28/2012
4148	Mental or Physical Examination of Fitness for Licensure	Operative 09/28/2012
4149	Other Actions Constituting Unprofessional Conduct	Operative 09/28/2012
4149.1	Revocation for Sexual Contact	Operative 09/28/2012
4180	Definitions (relating to supervision)	*Pending*
4184	Delegation of Tasks to Aides	*Pending*
4187	Occupational Therapy Assistants Serving in Administrative Positions	*Pending*
4116	Definitions (relating to sponsored free health care events	Operative 09/10/2012

4117	Sponsoring Entity Registration and Recordkeeping Requirements	Operative 09/10/2012
4118	Out-of-State Practitioner Authorization to Participate in Sponsored Event	Operative 09/10/2012
4119	Termination of Authorization and Appeal	Operative 09/10/2012
4127	Inactive Status (former Section 4122)	*Pending*
4128	Retired Status	*Pending*
4130	Fees	*Pending*
4154	Post Professional Education and Training	*Pending*
4170	Ethical Standards of Practice	*Pending*
4172	Standards of Practice for Telehealth	*Pending*
4101	Delegation of Certain Functions	*Pending*
4171	Notice to Consumer	*Pending*
4147	Disciplinary Guidelines	*Pending*

4. **Describe any major studies conducted by the board.**

   None to report.

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

In the past, the Board has maintained memberships in the Council on Licensure, Enforcement, and Regulation, the American Occupational Therapy Association, and the Occupational Therapy Association of California. Due to fiscal constraints, the Board maintains no association memberships.

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

  Not applicable.

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

  Not applicable.

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

  Not applicable.

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

  The Board uses the same national examination (and vendor) used by all other State occupational therapy licensing boards/agencies (outside of California). The Board is not involved in the development, scoring, analysis, and administration of

the examination, however, a pool of more than 50 licensed professionals and faculty members from across the nation serve as subject matter experts (SMEs). The SMEs are responsible for exam question development, analysis, and validation. The vendor that administers and scores the examinations is the National Board for Certification in Occupational Therapy (NBCOT); NBCOT also reports the scores to the candidates, state regulatory agencies, and prospective employers, if a candidate chooses.

(More information in response to Question 19.)

SECTION 2:

Performance Measures
and
Customer Satisfaction Surveys

Section 2 – Performance Measures and Customer Satisfaction Surveys

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

   The quarterly and annual performance measure reports as published on the DCA website are included Section 12, Attachment A.

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

   Responses to customer satisfaction survey not broken down by fiscal year; data is cumulative covering the period July 1, 2010 – June 30, 2012.

Question: During the past 12 months, how often have you contacted the CBOT?		
	Response Count	**Response %**
0 times	2	5.6
1-3 times	16	44.4
3-6 times	10	27.8
6-12 times	4	11.1
13 or more times	4	11.1
Skipped question	0	

Question: Which of the following best describes you:		
	Response Count	**Response %**
Current licensee	20	58.8
Applicant for licensure	9	26.5
Consumer of occupational therapy services	4	11.8
Other	5	14.7
Skipped question	2	

Question: Did you receive service/assistance you needed as result of your contact?		
	Response Count	**Response %**
Yes	14	43.8
No	18	56.3
Skipped question	4	

Question: Please rate the CBOT staff in the following:						
	EXCELLENT	GOOD	FAIR	POOR	UNACCEPTABLE	N/A
	Response/ %	Response/ %	Response/ %	Response/ %	Response/ %	Response/ %
Accessibility	10 - 30.3%	3 - 9.1%	7 - 21.2%	8 - 24.2%	3 - 9.1%	2 - 6.1%
Courtesy/ Helpfulness	10 - 31.3%	6 - 18.8%	5 - 15.6%	5 - 15.6%	3 - 9.4%	3 - 9.4%
Knowledge/ Expertise	8 - 25.0%	2 - 6.3%	7 - 21.9%	5 - 15.6%	7 - 21.9%	3 - 9.4%
Successful resolution of your issue	8 - 25.8%	2 - 6.5%	2 - 6.5%	8 - 25.8%	10 - 32.3%	1 - 3.2%
Overall satisfaction	8 - 24.2%	3 - 9.1%	3 - 9.1%	8 - 24.2%	9 - 27.3%	2 - 6.1%
Skipped question	3					

Question: Did you find the CBOT's website useful?		
	Response Count	Response %
Yes	23	65.7
No	12	34.3
Skipped question	1	

Question: How do you rate the CBOT's website:					
	STRONGLY AGREE	AGREE	NEUTRAL	DISAGREE	STRONGLY DISAGREE
	Response/ %	Response/ %	Response/ %	Response/ %	Response/ %
Website is easy to navigate	6 - 18.2%	10 - 30.3%	11 – 33.3%	2 – 6.1%	4 – 12.1%
Information is easy to find	5 – 15.2%	9 – 27.3%	9 – 27.3%	6 – 18.2%	4 – 12.1%
I regularly visit the Board's website	6 – 18.8%	15 – 46.9%	6 - 18.8%	2 – 6.3%	3 – 9.4%
Skipped question	3				

Question: Have you interacted with any other state licensing/regulatory board or agency?		
	Response Count	Response %
Yes	11	32.4%
No	23	67.6%
Skipped question	2	
Question: If yes, which state?		
	Response Count	Response %
Arizona	1	7.7%
California	5	38.5%
Georgia	1	7.7%
New York	1	7.7%
North Carolina	1	7.7%
Oregon	1	7.7%

Texas	2	15.4%
Washington	1	7.7%
Skipped question	23	

Question: If you answered YES to "Have you interacted with any other state licensing/regulatory board/agency" please rate our Board:		
	Response Count	**Response %**
Excellent	3	23.1%
Good	2	15.4%
Neutral	1	7.7%
Needs Improvement	4	30.8%
Poor/ Unsatisfactory	3	23.1%
Skipped question	23	

Question: Would you be willing to provide an email address to receive a newsletter?		
	Response Count	**Response %**
Yes	11	39.3%
No	17	60.7%
Skipped question	8	

SECTION 3:

Fiscal Issues

Section 3 – Fiscal and Staffing Issues

Fiscal Issues

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

In the previous Sunset report, the Board's fund exceeded a 39 months reserve level. The high fund balance was inconsistent with BPC Section 128.5, which requires the Board to reduce its fees if the fund level exceeds 24 months reserves. The Sunset Committee recommended the Board "reduce the excessive reserve level without putting the Board's fund in jeopardy and thereby necessitating a fee increase in the near future."

Thus, the Board adopted regulations to move from an annual license renewal with a $150 fee to a biennial (every other year) license renewal, charging the same fee ($150). While changing the renewal frequency reduced the Board's annual revenue collection, it didn't have an immediate impact to the reserve level; the Board's fund reserve level was so high that the reduction in revenue was slow to reduce the fund condition. Thus, in fiscal year 2009/10, a $2 million loan was provided to the General Fund, which facilitated a reduction of the Board's fund reserve level.

(Table 2 below shows budget authority, actual annual spending, and reserve levels.)

9. Describe if/when a deficit is projected to occur and if/when fee increase or reduction is anticipate and describe the fee changes anticipated by the board.

The Board's expenditures have exceeded its revenue each year since Fiscal Year 2009/10. (See Table 2, Fund Condition, below.) The Fund Condition projects that the Board will have an insufficient fund level before the end of the current fiscal year. This situation requires immediate attention, including repayment of the first loan to the General Fund (GF) this fiscal year; DCA budget staff project the $640k plus interest will be paid in June 2013. (More information regarding GF loan repayment and impact to the Board's Fund in Question 10 below.)

As a result of the ongoing trend of the annual expenditures exceeding the revenue collected, the Board voted to establish two new fees via the regulatory process at its June 2012 meeting: a $25 Retired Status application fee and a $50 licensure application fee; both fees are consistent with statute. Other regulatory fees will also need to be raised in order to increase revenue. Current pending fee increases are anticipated as follows:

- Increase the pro-rated initial license fee from $150 to $170.
- Increase the biennial license renewal fee from $150 to $170
- Increase the biennial inactive license renewal fee from $25 to $50.

Although the proposed text language was noticed to go into effect January 1, 2014, due to outstanding GF loans, the Board sent out modified text changing the effective date from January 1, 2014, to July 1, 2014. (See more information in response in Question 10.)

Table 2. Fund Condition

(Dollars in Thousands)	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Beginning Balance	$3,135	$3,135	$1,028	$899	$608	$883
Revenues and Transfers	$962	-$1,116	$973	$978	$1,643	$1,002
Total Revenue	$962	$884	$973	$978	$1,003	$1,002
Budget Authority	$1,061	$1,350	$1,398	$1,438	$1,367	$1,394
Expenditures	$946	$990	$1,110	$1,267	$1,367	$1,394
Loans to General Fund		-$2,000				
Accrued Interest, Loans to General Fund					*TBD*	*TBD*
Loans Repaid From General Fund					640	
Fund Balance	$3,150	$1,029	$891	$608	$883	$491
Months in Reserve	38.2	11.1	8.4	5.3	7.6	4.1

10. Describe history of general fund loans. When were the loans made? When were payments made? What is the remaining balance?

The Board has provided two General Fund (GF) loans. In FY 2003/04, a $640k loan was made; in FY 2009/10, a $2M loan was made. While the Board has never received a GF loan repayment, due to current funding issues, the Board will require repayment of the $640k GF loan plus interest this fiscal year; the repayment is anticipated to be received in June 2013.

The repayment of the GF loans will affect the Board's fund condition (or 'balance'). While the GF loan repayment will increase the Board's Fund Condition, the repayment will not affect the fact that the revenue received by the Board each year is still less than its annual expenditures. As a Special Fund agency, the Board must be self-supporting and not rely on GF monies for its operations. Therefore, the revenue collected must be sufficient to support the Board's expenditures.

Thus, the Board must increase the fees charged to increase the revenue collected annually. Due to GF loan repayment requirements, a fee increase may not be imposed if a GF loan repayment is outstanding. Thus, the Board will request the Department of Finance repay the $2M GF loan in FY 2013/14 and the fee increases will go into effect July 1, 2014.

This strategy, timed fee increases relative to repayment of the GF loans, will address several issues: the GF loan repayment requirements, the Board's ongoing revenue and expenditure issues, and the Board's Fund Condition. The plan is as follows:

- FY 2012/13 – GF loan repayment of $640K in June 2013.
- FY 2013/14 – GF loan repayment of $2M *may* be required in June 2014.
- FY 2014/15 – regulatory fee increases *may* be effective July1, 2014 (if GF loan repayment occurs in 2013/14).

11. Describe the amounts and percentages of expenditures by program component. See *Table 3a. 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 3a. Expenditures by Program Component

	FY 2008/09		FY 2009/10		FY 2010/11		FY 2011/12	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	$180,263	$290,171	$293,957	$344,387	$360,115	$305,524	$366,391	$413,423
Examination	$0	$0	$0	$0	$0	$0	$0	$0
Licensing	$71,013	$32,745	$41,994	$18,153	$56,403	$19,108	$64,366	$23,839
Administration *	$206,573	$62,252	$148,432	$36,306	$182,200	$38,216	$188,063	$42,175
DCA Pro Rata	$0	$127,375	$0	$124,369	$0	$170,028	$0	$195,372
TOTALS	$457,849	$512,543	$484,383	$523,215	$598,718	$532,876	$618,820	$674,809

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

Table 3b. Expenditures by Program Component

	FY 2008/09		FY 2009/10		FY 2010/11		FY 2011/12	
	Total Expend*	%	Total Expend	%	Total Expend	%	Total Expend	%
Enforcement	$470,434	48.4	$638,344	45.7	$665,639	58.8	$779,814	60.3
Licensing	$103,758	10.6	$60,147	6.0	$75,511	6.7	$88,205	6.8
Administration	$268,825	27.7	$184,738	18.3	$220,416	19.5	$230,238	17.8
DCA Pro Rata	$127,375	13.1	$124,639	12.3	$170,028	15.1	$195,732	15.1
FY Total Expenditures	$970,392		$1,007,598		$1,131,594		$1,293,629	

* Total Expenditures is total of Personnel Services and OE&E shown in Table 3a

12. 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.

During the period January 1, 2003, through December 31, 2006, all licenses expired annually on the last day of the licensee's birth month. That changed January 1, 2007, when licenses expired at midnight on the last day of the licensee's birth month during an odd year if the licensee was born in an odd year or during an even year, if the licensee was born in an even year. This change takes the entire licensing population and spreads their renewals over a 24-month period.

The only other amendment to fees charged has to do with the limited permit fee. The $75 limited permit fee used to pay for a limited permit *and*, if the applicant passed the exam, the limited permit fee would also be used to apply toward the initial licensing fee. This provision was removed in 2006.

The fees charged by the Board are set forth in California Code of Regulations (CCR), Title 16, Division 39, Section 4130, and include the following:

- CCR 4130(a) - The initial license or certificate fee shall be prorated pursuant to Section 4120(a)(1) and based on a biennial fee of $150. (Initial licenses are issued based on an applicant's birth month and the month the license is issued, for a minimum period of six months and a maximum of 30 months; thus, fees charged range from $38 - $188.) *Statutory authority: BPC Section 2570.16.*

- CCR 4130(b) - The fee for a limited permit is $75. *Statutory authority: BPC Section 2570.16.*

- CCR 4130(d) - For a license that expires on or after January 1, 2007, the renewal fee shall be in accordance with the following schedule:
  (1) For a license that expires between January 1, 2007, and December 31, 2007, a licensee with an even birth year shall renew for one year and the renewal fee shall be seventy-five dollars ($75).
  (2) For a license that expires on or after January 1, 2007, and biennially thereafter, a licensee with an odd birth year shall renew for two years and the renewal fee shall be one hundred fifty dollars ($150).
  (3) For a license that expires on or after January 1, 2008, and biennially thereafter, a licensee with an even birth year shall renew for two years and the renewal fee shall be one hundred fifty dollars ($150). *Statutory authority: BPC Section 2570.16.*

- CCR 4130(e) - The delinquency fee is one-half of the renewal fee. *Statutory authority: BPC Section 163.5.*

The regulatory fees charged by the Board – continued:

- CCR 4130(f) - The renewal fee for an inactive license or certificate is $25. *Statutory authority: BPC Section 462.*

- CCR 4130(g) - The fee for a duplicate license is $15. *Statutory authority: BPC Section 122.*

- CCR 4130(h) - The fees for fingerprint services are those charged by the California Department of Justice and the Federal Bureau of Investigation. *Statutory authority: BPC Sections 2570.16 and 144.*

Table 4. Fee Schedule and Revenue							
Fee	**Current Fee Amount**	**Statutory Limit**	**FY 2008/09 Revenue**	**FY 2009/10 Revenue**	**FY 2010/11 Revenue**	**FY 2011/12 Revenue**	**% of FY 2011/12 Revenue**
Fingerprint processing	$49	Actual fee	$11,883	$8,670	$12,495	$15,375	1.53
OT Initial License	Variable	Based on biennial fee of $150	$68,338	$68,335	$75,157	$90,200	8.97
OTA Initial License	Variable	Based on biennial fee of $150	$12,488	$12,485	$15,870	$21,896	2.18
OT Limited Permit	$75	Not specified	$5,400	$5,550	$7,050	$6,000	.60
OTA Limited Permit	$75	Not specified	$1,800	$1,500	$1,275	$1,500	.15
OT Active Biennial Renewal	$150	$150 per year	$617,950	$619,600	$667,200	$668,840	66.54
OTA Active Biennial Renewal	$150	$150 per year	$103,275	$99,725	$111,750	$111,450	11.09
OT Delinquent	$75	BPC 163.5: 50 percent of renewal fee	$11,550	$10,425	$12,300	$11,685	1.16
OTA Delinquent	$75	BPC 163.5: 50 percent of renewal fee	$2,475	$2,100	$2,925	$1,725	.17
OT Inactive Renewal	$25	BPC 462	$9,000	$6,975	$9,025	$7,200	.72
OT Inactive Renewal	$25	BPC 462	$1,825	$1,375	$1,500	$1,475	.15
OT Duplicate License	$15	BPC 122: $25	$1,725	$1,560	$1,890	$2,010	.20
OTA Duplicate License	$15	BPC 122: $25	$330	$345	$420	$435	.04
Dishonored check (All types)	$25	BPC 206 Civil Code 1719: $25	$905	$195	$35	$475	.04
License verification/ Endorsement	$15	BPC 122: $25	$7,530	$7,465	$6,798	$7,725	.77
TOTAL ANNUAL REVENUE			**$986,562**	**$901,408**	**$996,410**	**$1,005,181**	

13. 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
1110-30	9/10	Fingerprint	4*	4*	$164K	$164K	$221K	$221K
1110-22	10/11	Workload	1 SSM I	1 SSM I	$92K	$92K	$17K	$7K
1110-21	10/11	IT – App Track	0	DENIED				
1110-23	10/11	Workload – Admin		DENIED BY AGENCY				
1110-24	10/11	Workload – Enforce	1 SSA, 1 Invest	DENIED				
1110-1A	10/11	Enforcement – CPEI	2.5 AGPAs (limited term)	2.5 AGPAs (limited term)	$204K	$204K	$26K	$26K

**1 SSA, 3 Office Technicians*

SECTION 3:

Staffing Issues

Staffing Issues

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

In May 2010, the Board established a limited-term (LT) Staff Services Manager I (SSMI) position in anticipation of BCP 1110-22 being approved; BCP 1110-22 established a permanent SSMI position. However, due to staffing levels at that time, although the BCP approved and authorized the SSM I position, the Board was unable to justify a permanent SSM I position. The LT SSMI position expired in May 2012.
The Board is taking steps to rectify this situation.

As part of approved BCPs (1110-30 and 1110-1A), several limited-term staff have been hired to address enforcement workload backlogs:

Staff A – Hired on two-year limited term basis effective March 29, 2010; left the Board October 21, 2010, to join the Sacramento Police Department.

Staff B – Hired on two-year limited term basis effective June 1, 2010; left the Board March 18, 2011, to join another Board on a full-time permanent basis.

Staff C – Hired on two-year limited term basis effective March 29, 2010; moved to another position (within the Board) on a full-time permanent basis effective March 18, 2011.

Staff D – Hired on two-year limited term basis effective April 1, 2012; remains in the LT position (position authority expires March 31, 2013).

Please note: The remainder of the CPEI positions authorized by BCP 1110-1A were not filled due to the necessity of redirecting the funds to offset other enforcement-related over-expenditures.

15. Describe the board's staff development efforts and how much is spent annually on staff development.

All staff is encouraged to take courses that relate to their job, broaden their knowledge base, enhance their skill set, or better prepare/position them for advancement or upward mobility opportunities. Staff is also provided opportunities to cross-train and/or complete a special project that isn't within their normal assigned duties; this provides a low-cost way to further assist with staff development.

Staff is primarily encouraged to take the no-cost training classes offered by DCA, however, requests to attend outside training vendors are also considered.

The table below depicts the annual expenditure on staff development.

FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
$2,688	$800	$1,378	$1,855

SECTION 4:

Licensing Program

Section 4 – Licensing Program

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

CCR Section 4112 requires that the Board provide written notice to an applicant whether their application is complete or deficient within 30 days of the Board's receipt of the application. Internal statistics for the last three FYs reflect that the Board is meeting the established expectation. It takes an average of 22 days for the Board to provide an applicant written notice whether the application is complete or incomplete.

17. Describe any increase or decrease in 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 to address them? What are the performance barriers and what improvement plans are in place? What has the board done and what is the board going to do to address any performance issues, i.e., process efficiencies, regulations, BCP, legislation?

The Board is meeting its regulatory goal in processing applications and notifying applicants within 30 days of the status of their application, so pending applications have not grown at a rate that is not manageable. On occasion, when the Board has been in jeopardy of exceeding the 30-day notification period, it has been able to redirect staff resources. These occasions usually occur for very short durations and happen around graduation periods. The Board will continue to monitor the processing times and take appropriate steps to seek additional staff through the BCP process and/or consider legislative or regulatory change if it is not able to meet the standards established in CCR 4112.

18. 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 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Occupational Therapist	Active	Data Not available	3,425	4,123	4,239
	Inactive		271	358	326
	Out-of-State		338	386	384
	Out-of-Country		20	15	24
	Delinquent *		230	304	321

Occupational Therapy Assistant	Active	Data Not available	546	717	711
	Inactive		46	59	63
	Out-of-State		48	63	66
	Out-of-Country		0	0	0
	Delinquent *		33	54	45

* Delinquent license renewals processed are not accounted for in the active and inactive totals.

Table 7. Total Licensing Data			
	FY 2009/10	**FY 2010/11**	**FY 2011/12**
Initial Licensing Data:			
Initial OT License Applications Received	621	730	826
Initial OT License Applications Approved	606	672	831
Initial OT License Applications Closed	6	11	41
OT Licenses Issued	598	649	80???
Initial OTA License Applications Received	118	145	180
Initial OTA License Applications Approved	105	139	163
Initial OTA License Applications Closed	0	3	6
OTA Licenses Issued	109	134	162
Initial License/Initial Exam Pending Application Data:			
Pending OT Applications (total at close of FY)	156	205	180
Pending OT Applications (outside of board control)	Data not available		
Pending OT Applications (within the board control)			
Pending OTA Applications (total at close of FY)	30	32	470
Pending OTA Applications (outside of board control)	Data not available		
Pending OTA Applications (within the board control)			
Initial License/Initial Exam Cycle Time Data (Weighted average):			
OTs - Average Days to Application Approval (*complete* apps)	23	24	21
OTs - Average Days to Application Approval (*incomplete* apps)	90	79	59
OTAs - Average Days to Application Approval (*complete* apps)	24	24	21
OTAs - Average Days to Application Approval (*incomplete* apps)	81	70	64
License Renewal Data:			
Licenses Renewed	***See Table 6 above***		

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

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

When an applicant submits their application for licensure, he or she is required to disclose whether any health-related professional licensing or disciplinary body in any state, territory, or foreign jurisdiction has ever denied, limited, placed on probation, restricted, suspended, cancelled, or revoked any professional license, certificate, or registration, or imposed a fine, reprimand, or taken any other disciplinary action against any license or certificate they hold or have ever held. If the applicant discloses another license on their application, he or she is required to submit a license certification/verification from the issuing authority. The license certification/verification is used as a primary source means to determine if the applicant had a license or certificate that had been disciplined by another state or province. (This process also assists the Board in determining if the applicant has been truthful in the application process.)

Each applicant is also required to disclose any past misdemeanor or felony convictions, regardless of the age of the conviction or whether the matter has been expunged. As part of the licensure process, each applicant is required to submit their fingerprints for processing through the California Department of Justice and the Federal Bureau of Investigation for processing at both the State and Federal levels. (This process also assists the Board in determining if the applicant has been truthful in the application process.)

Any applicant who holds or has held any other health-related license or certificate in any state (including California), province, or country, or if the applicant discloses any misdemeanor or felony convictions, is enrolled in the *Continuous Query* feature of the National Practitioner Databank and Healthcare Integrity & Protection Databank (federally maintained databanks). The enrollment in *Continuous Query* feature of the federal databanks allows the Board to obtain notification of any disciplinary action taken by a health-related professional licensing or disciplinary body in any state or United States territory, or other mandated reporters. This "flag" provides notice to the Board to seek additional information from the reporting entity. (*More information in response to question 19d.*)

b. Does the board fingerprint all applicants?

As part of the licensure process, each applicant is required to submit their fingerprints for processing through the California Department of Justice and the Federal Bureau of Investigation. Applicants can submit their fingerprints electronically if they access one of several hundred LiveScan locations in California; applicants located out of state must submit fingerprint cards directly to the Board. Whether fingerprints are submitted via LiveScan or fingerprint cards, no applicant is approved for licensure

until the background checks from both the Department of Justice and Federal Bureau of Investigation are received by the Board.

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

The fingerprint process not only verifies whether an applicant has been convicted of crimes in the past, but also provides the Board subsequent arrest information. Thus, the fingerprint image is "maintained" by the Department of Justice.

However, in the event that a record of the submission of fingerprints no longer exists, as a condition of renewal, regulations were amended to require licensees to furnish a set of fingerprints for the purpose of conducting a criminal history record check and to undergo a State- and Federal-level criminal offender record information search conducted through the Department of Justice. Failure to submit fingerprints on or before the date required for renewal of a license is grounds for discipline by the Board.

All current licensees have either been fingerprinted or have been identified as needing to submit their fingerprints prior to renewing their license in an active status.

In February 2010, the Board identified 108 licensees whose fingerprints were not on file with the California Department of Justice. Board staff developed an in-house renewal form that was mailed to each of the 108 licensees. Each licensee was required to provide proof to the Board that they had submitted their fingerprints prior to renewing their license in an active status. This proof was provided in the form of either a LiveScan form or a fingerprint hard card.

Since that time, the following has occurred:

- Seven of the 108 licensees needing to be fingerprinted have been cancelled (due to being delinquent for 5 years),
- 19 licensees are considered 'pending' due to their license being in inactive status or delinquent, and
- 82 licensees submitted proof of being fingerprinted to the Board and their licenses were renewed.

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?

There are two databanks maintained by the federal government that the Board reports certain designated actions to: the National Practitioner Data Bank (NPDB) and the Healthcare Integrity & Protection Data Bank (HIPDB). (Hereafter referred to as "databanks") The intent of the databanks is to improve the quality of healthcare by encouraging state licensing boards, hospitals, other healthcare entities, and

professional societies to identify and discipline those who engage in unprofessional behavior; and to restrict the ability of incompetent physicians, dentists, and other healthcare practitioners from moving from state-to-state without disclosure or discovery of previous medical malpractice payment or other adverse action. Adverse actions can involve action taken against licensure, clinical privileges, and professional society membership.

Reporters to the NPDB include, but are not limited to:

- Medical malpractice payers
- State healthcare practitioner licensing boards
- Hospitals
- Other health care entities with formal peer review (e.g., HMOs, managed care organizations, etc.)
- Professional societies with formal peer review
- State entity licensing and certification authorities
- Peer review organizations
- Drug Enforcement Agency
- Health and Human Services' Office of the Inspector General

The purpose of the HIPDB is to combat fraud and abuse in health insurance and healthcare delivery and to promote quality of care. The HIPDB is primarily a flagging system that may alert users that a more comprehensive review of a practitioner's past actions may be prudent. The information provided by HIPDB is intended to be used in combination with information from other sources (e.g., evidence of current competence through continuous quality improvement studies, peer recommendations, verification of training and experience, and relationships with organizations) in making determinations on employment, affiliation, certification, or licensure decisions.

Reporters to the HIPDB include, but are not limited to:

- Federal and State Government Agencies
- Health Plans

The Board *reports* disciplinary actions taken against applicants and licensees to both databanks; the Board enrolls into both databanks (or *queries)* those applicants who possess an out-of-state healthcare-related license and those who disclose prior criminal history.

"Continuous Query" is a service that monitors enrolled licensees for adverse actions and medical malpractice payment history 24 hours a day/365 days per year for a one-time enrollment fee, which is then subject to annual renewal. This important tool assists the Board by facilitating the review of an applicant's past disciplinary actions, as well as ensuring the Board is notified of any future disciplinary actions taken against the licensee by another reporting entity.

The Board utilizes the Continuous Query function for applicants as well as licensees placed on probation. When initially enrolled, the Board receives a comprehensive history of disciplinary actions taken against the applicant or licensee and then continues to receive e-mail notifications within 24 hours of either databank receiving a report from a reporting entity, subject to continued enrollment (or annual renewal).

While the Board currently bears the cost of querying the databanks (the fee is $6.50), the Board had been optimistic that Senate Bill 544 would have passed and addressed the financial impact to this important consumer protection tool.

(Note: SB 544 would have required all healthcare licensing board(s) to query the NPDB before granting a license to an applicant and before granting a petition for reinstatement of a revoked or surrendered license. This bill would also have allowed the Board to charge the applicant a fee to cover the Board's actual cost of the query, allowing the Board to check all applicants. While this bill died in committee, the Board hopes that this issue will be addressed in a future bill by the Joint Legislative Sunset Review Committee.)

e. Does the board require primary source documentation?

The Board requires primary source documentation (e.g., educational transcripts issued by the university or college, verification of passage of the examination issued by the vendor, license verifications issued by another state agency, court documents relating to convictions issued by the appropriate court system, etc.) to ensure the accuracy of the document submitted. Primary source documentation also assists the Board in determining if the applicant has been truthful in the application process, when the documentation submitted is compared to the information the applicant has provided on the application form.

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

The Board does not have reciprocity with any other state licensing board. Any person from another state seeking licensure in California as an Occupational Therapist or Occupational Therapy Assistant will need to demonstrate compliance with all licensing requirements, including demonstrating minimum entry-level competence. This is demonstrated by completion of specific educational and supervised fieldwork requirements set forth in BPC Section 2570.6 and successful completion of the entry-level examinations administered by NBCOT.

Occupational Therapists trained outside of the United States are required to complete the educational and supervised fieldwork requirements set forth in BPC Section 2570.6 and successfully complete the entry-level certification examination administered by NBCOT. (There are no Occupational Therapy Assistant programs recognized by the World Federation of Occupational Therapists; only United States graduates of Occupational Therapy Assistant programs can take the NBCOT

certification examination.) Additionally, pursuant to BPC 30, an applicant shall provide his or her Social Security number before a license can be issued.

An individual applying for a license as an Occupational Therapist or as an Occupational Therapy Assistant shall submit a completed application and demonstrate to the Board that he or she meets all of the requirements set forth in BPC Section 2570.6:

(a) That the applicant is in good standing and has not committed acts or crimes constituting grounds for denial of a license under Section 480.

(b)(1) That the applicant has successfully completed the academic requirements of an educational program for occupational therapists or occupational therapy assistants that is approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or accredited or approved by the American Occupational Therapy Association's (AOTA) predecessor organization, or approved by AOTA's Career Mobility Program.

(c) (1) For an applicant who is a graduate of an occupational therapy or occupational therapy assistant educational program who is unable to provide evidence of having met the requirements of paragraph (2) or (3) of subdivision (b), he or she may demonstrate passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraph (2) or (3) of subdivision (b).

(2) For an applicant who completed AOTA's Career Mobility Program, he or she shall demonstrate participation in the program and passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraphs (1) and (2) of subdivision (b).

(d) That the applicant has successfully completed a period of supervised fieldwork experience approved by the board and arranged by a recognized educational institution where he or she met the academic requirements of subdivision (b) or (c) or arranged by a nationally recognized professional association. The fieldwork requirements for applicants applying for licensure as an occupational therapist or as an occupational therapy assistant shall be consistent with the requirements of the ACOTE accreditation standards, or AOTA's predecessor organization, or AOTA's Career Mobility Program, that were in effect when the applicant completed his or her educational program.

(e) That the applicant has passed an examination as provided in Section 2570.7.

(f) That the applicant, at the time of application, is a person over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

The law allows that an OT or OTA who holds a current, active, and non-restricted license issued by another state with requirements at least as stringent as California may work in California for 60 days from the date an application for licensure is received by the Board; the OT or OTA must work in association with a California-licensed OT.

Any applicant who holds or has ever held a license, registration, or certificate in any health-related profession, including occupational therapy, in any state, province, or country, must request a letter of good standing from each of those jurisdictions.

Other than those items listed above, the application process is the same for new graduates, or applicants from out of state or country.

21. 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.

The Board submits No Longer Interested (NLI) notifications to DOJ when a license is cancelled, surrendered, or revoked, and when an application is abandoned. The NLI notifications are either faxed or mailed to DOJ depending on the amount of NLIs being submitted.

Due to the fact that some applicants submit their fingerprints but never submit an application, there is also an internal policy that requires Board staff to submit the NLI if an application is not received from the applicant within 60 days of receipt of the DOJ or FBI information, whichever occurs latest.

Examinations

22. Describe the examinations required for licensure. Is a national examination used? Is a California specific examination required?

One requirement for licensure is that applicants must successfully apply for and complete the entry-level certification examination for Occupational Therapists or Occupational Therapy Assistants administered by the NBCOT. A California-specific examination is not currently required.

23. What are pass rates for first time vs. retakes in the past 4 fiscal years? ***(Refer to Table 8: Examination Data)***

Table 8. Examination Data			
California Examination (include multiple language) if any.			
NOT APPLICABLE – NO STATE-SPECIFIC EXAMINATION REQUIRED			
National Examination (include multiple language) if any:			
	License Type	**Occupational Therapist**	
	Exam Title	***OCCUPATIONAL THERAPIST REGISTERED - OTR***	
		1st Time Candidates	**Retakes**
2008	Pass %	85%	40%
2009	Pass %	48%	53%
2010	Pass %	82%	53%
2011	Pass %	84%	51%
Date of Last OA; Name of OA Developer		2009 - NBCOT	
National Examination (include multiple language) if any:			
License Type		**Occupational Therapy Assistant**	
	Exam Title	***CERTIFIED OCCUPATIONAL THERAPY ASSISTANT – COTA***	
		1st Time Candidates	**Retakes**
2008	Pass %	83%	49%
2009	Pass %	86%	51%
2010	Pass %	84%	44%
2011	Pass %	81%	57%
Date of Last OA; Name of OA Developer		2009 - NBCOT	

24. 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?

The NBCOT uses computer-based testing for both the occupational therapist (OTR) and occupational therapy assistant (COTA) examinations. The examinations are administered at Prometric Test Centers (PTC) worldwide. PTC delivers and administers tests through a network of more than 10,000 testing centers in more than 160 countries. Most PTC test centers are open six days a week and many centers have evening hours as well.

There are two ways a candidate can apply for the examinations – online or by mail using a hardcopy application. Both options are available via the NBCOT's website (www.nbcot.org) including the hardcopy option which can be downloaded. Candidates

are strongly encouraged to review the Certification Examination Handbook, which is available on the NBCOT's website, prior to applying for the exam. The handbook has been developed to provide exam candidates with the information they need to complete and successfully submit a certification examination application.

All candidates are required to answer the character questions on the exam application and for those who respond affirmatively, comply with related documentation requirements. Candidates requesting special testing accommodations must indicate this request on the application and comply with associated documentation requirements. Reporting services are available to all candidates as part of the exam application process including: 1) Confirmation of Examination Registration and Eligibility to Examine Notice; and 2) Official Score Transfer.

After the candidate has submitted an exam application and fee, they MUST arrange to submit an Official Final Transcript or an Academic Credential Verification Form (ACVF). The ACVF may be submitted in the event that the official transcript is not final with the understanding that the final transcript must be submitted upon graduation. (Please see the NBCOT Certification Examination Handbook on the website for the ACVF policy.)

Once an exam application has been approved, the candidate is provided with an Authorization to Test (ATT) letter. The ATT letter authorizes the candidate to take the certification examination and is active for 90 days. Upon receipt of an ATT letter, a candidate can then proceed with contacting PTC to schedule a date, time and location to test.

The exam is scored according to the dates indicated on the scoring calendar. The scoring calendar is posted to the NBCOT's website. Following each scoring date, candidates are able to access their pass/fail status through their online account. The official score report is then mailed in hard copy to the candidate. The Board is provided examination scores if the candidate requests the score report be provided to the Board; candidate score reports are provided to the Board twice monthly via electronic notification.

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

There are no statutory barriers or inefficiencies that hinder the processing of applications. The application process required in California is fairly consistent across the United States, including completing educational programs accredited by the Accreditation Council on Occupational Therapy Education and passage of the examinations administered by NBCOT.

School approvals

26. 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?

The Accreditation Council on Occupational Therapy Education approves all occupational therapy educational programs; the Board does not work directly with BPPE.

27. How many schools are approved by the board? How often are schools reviewed?

Not applicable.

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

Not applicable; the Board doesn't approve schools or educational programs.

Continuing Education/Competency Requirements

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

Occupational therapy practitioners are required to complete 24 Professional Development Units (PDUs) to demonstrate competency to renew their license with an active status. The PDUs must be taken in the two-year period preceding the biennial renewal of the license.

Originally, CCR Section 4161(a)(1) defined professional development activities as fifty (50) minutes of participation equaled one (1) PDU. In September 2009, CCR Section 4161(a)(1) was amended so that one (1) hour of participation in a professional development activity equaled one (1) PDU.

Previously, when licensees renewed annually, completion of 12 PDUs were required in order to renew the license.

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

On the renewal application, occupational therapy licensees are required to self-certify, under penalty of perjury, that they have completed 24 PDUs as a condition of renewing their license with active status.

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

The Board randomly audits licensees to determine compliance with the PDU requirement. The Board has established a goal of conducting audits on 5% of its active renewals.

c. What are consequences for failing a CE audit?

A citation and fine is issued to licensees who fail PDU audits. Incorporated within the citation is an Order of Abatement that requires the licensee to immediately complete the deficiency that exists. Licensees that fail to comply with the Order of Abatement will be referred to the Office of the Attorney General for formal disciplinary action.

d. How many CE audits were conducted in the past four fiscal years? How many fails?

To date, 875 audits have been conducted. Of those 875 audits, 68 were referred to the Board's Enforcement Unit for non-compliance; 44 cases ultimately resulted in issuance of a citation.

Fiscal Year	Audits Completed	Audits Failed	% Audits Failed
2008/09	0	0	0
2009/10	234	16	6.8%
2010/11	307	20	6.5%
2011/12	336	25	7.4%
TOTALS / AVERAGE %	**877**	**61**	**6.97**

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

The Board does not approve professional development courses or the companies/ providers that offer the courses. However, CCR Section 4161 states that activities acceptable to the Board include, but are not limited to, programs or activities sponsored by the American Occupational Therapy Association (AOTA) or the Occupational Therapy Association of California—post-professional coursework completed through any approved or accredited educational institution that is not part of a course of study leading to an academic degree.

In addition to the above, the Board also accepts coursework, programs, and activities that meet the following criteria:

- The program or activity contributes directly to the professional knowledge, skill, and ability.
- The program or activity relates directly to the practice of occupational therapy.
- The program or activity must be objectively measurable in terms of the hours involved.
- The licensee must receive a transcript, certificate of completion, or other documentary evidence establishing completion of the program, course or activity.

In order to broaden the ability of licensees to meet the PDU requirement, the Board established a variety of alternative no cost or low cost ways, other than completing courses, for licensees to meet the requirement.

For example, licensees can participate in structured special interest or study groups; mentor a practitioner or structured mentoring with an individual skilled in a particular area; supervising a student completing their Level II fieldwork; publication of an article in a peer-reviewed or non-peer reviewed publication; publication of chapter(s) in occupational therapy or related professional textbook; attending a Board meeting, etc.

Thus, licensees are able to complete the PDU requirement by enrolling in continuing education coursework through a variety of online providers, in-service training provided by employers and facilities, or other alternative methods.

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

The Board does not approve CE courses or providers, nor does it use a private vendor or other entity other than the American Occupational Therapy Association or Occupational Therapy Association of California as indicated above.

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

Not applicable, no data to report.

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

The Board does not audit PDU providers.

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

There is no evidence-based research that supports the concept that completion of continuing education leads to continued or improved competence. Due to the lack of evidence-based research and ongoing funding issues at this time, the Board is not planning to move forward with performance-based assessments of licensees.

SECTION 5:

Enforcement Program

Section 5 – Enforcement Program

30. 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?

There are several categories in which the Board has identified target goals for certain areas. (Quarterly performance measurements for the period July 1, 2010, through June 30, 2012, are included as attachments in Section 12, Attachment A.)

The Board is meeting most of its performance measurements. However, when comparing timeframes for certain categories, improvement can be noted. For example, the Intake and Investigation target is 270 days. During the third quarter July through September 2010, the average time was 297 days. However, the average number of days dropped to 74 by the second quarter April through June 2012 – a significant improvement in processing times.

Board staff continues to not only strive to meet the performance measurement targets, but also to address complaints, from complaint receipt to resolution (citation or formal discipline), as timely as possible in deference to both the complainants and the licensees.

31. Explain trends in enforcement data and the board's efforts to address any increase in volume, timeframes, ratio of closure to pending, 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?

From the historical complaint data below, it's evident there was a sharp increase in the number of complaints received each year as more people (consumers, governmental agencies, and the profession) became aware of the Board's existence and its role and function in regulating the profession.

However, if you compare the historical complaint data, which shows a sharp increase each year, to the complaint data in Table 9a, which has data for the last three fiscal years, it's apparent the number of complaints has leveled off a bit. Board staff attributes the sharp increase in the early years to the "growth" expected for a new Board.

Historical complaint data						
	2003/04	2004/05	2005/06	006/07	2007/08	2008/09
Complaints Received	115	138	220	442	427	485
Complaints Closed	89	109	164	303	398	417
Complaints Pending	44	73	129	268	297	365
Referred to DOI	6	8	12	11	6	13
SOIs filed	5	4	1	2	4	4
Accusations filed	2	4	1	8	4	12
Disciplinary Action	6	13	3	7	11	16

Table 9a. Enforcement Statistics			
	FY 2009/10	FY 2010/11	FY 2011/12
COMPLAINT			
Intake			
Received	306	683	543
Closed without Investigation	6	0	0
Referred to INV	306	683	541
Average Days to Close or Assign	25	1	3
Pending (close of FY)	0	0	2
Source of Complaint			
Public	21	45	23
Licensee/Professional Groups	3	1	0
Governmental Agencies	71	65	81
Other	211	572	439
Conviction / Arrest			
CONV Received	128	95	100
CONV Closed	128	95	99
Average Time to Close	4	1	1
CONV Pending (close of FY)	0	0	1

LICENSE DENIAL			
	FY 2009/10	FY 2010/11	FY 2011/12
License Applications Denied	5	6	2
SOIs Filed	7	2	3
SOIs Withdrawn	0	0	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	282	638	351
Pending (close of FY)	2	3	2
ACCUSATION			
Accusations Filed	13	12	3
Accusation(s) and Petition(s) to Revoke Filed	1	1	1
Petition(s) to Revoke Filed	3	6	3
Accusations Withdrawn	0	1	0
Accusations Dismissed	0	0	1
Accusations Declined	0	1	0
Average Days Accusations	960	762	724
Pending (close of FY)	12	15	6

Table 9b. Enforcement Statistics (continued)			
	FY 2009/10	FY 2010/11	FY 2011/12
DISCIPLINE			
Disciplinary Actions			
Proposed/Default Decisions	7	5	8
Stipulations	12	6	6
Average Days to Complete	746	740	637
AG Cases Initiated	16	18	11
AG Cases Pending (close of FY)	14	18	8
Disciplinary Outcomes			
Revocation	4	4	3
Voluntary Surrender	0	0	0
Suspension	0	0	0
Probation with Suspension	02	0	1
Probation	8	6	11
Probationary License Issued	6	1	3
Other	4	2	3

PROBATION			
	FY 2009/10	FY 2010/11	FY 2011/12
New Probationers	17	7	15
Probations Successfully Completed	2	5	4
Probationers (close of FY)	27	24	27
Petitions to Revoke Probation	4	7	4
Probations Revoked	0	2	1
Probations – voluntary license surrender	1	4	5
Probations Modified	0	0	0
Probation Periods Extended	0	0	1
Probationers Subject to Drug Testing	11	16	15
Drug Tests Ordered	114	613	757
Positive Drug Tests	21	240	63
Cease Practice Orders Issued (BPC 315.2)	0	0	6
Petition for Reinstatement Granted	1	0	0
DIVERSION Program – *Not Applicable*			

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

An increase in complaints has led to an increase in disciplinary action, as illustrated below.

Table 9c. Enforcement Statistics (continued)			
	FY 2009/10	FY 2010/11	FY 2011/12
INVESTIGATION			
All Investigations			
First Assigned	306	683	566
Closed	428	736	84
Average days to close	250	140	125
Pending (close of FY)	202	149	125
Desk Investigations			
Closed	403	726	517
Average days to close	212	131	65
Pending (close of FY)	191	129	109

	FY 2009/10	FY 2010/11	FY 2011/12
Non-Sworn Investigations	N/A		
Sworn Investigation			
Closed	25	10	49
Average days to close	861	779	284
Pending (close of FY)	11	20	16
COMPLIANCE ACTION			
ISO & TRO Issued	0	0	2
PC 23 Orders Requested	1	0	0
Cease Practice Orders	0	0	6
Public Letter of Reprimand	1	0	0
Cease & Desist/Warning	1	0	0
Compel Examination	1	1	0
CITATION AND FINE			
Citations Issued	65	263	173
Average Days to Complete	291	88	98
Amount of Fines Assessed	$17,301	$50,492	$31,025
Citations Reduced	4	10	1
Citations Withdrawn	1	8	9
Citations Dismissed	0	10	10
Amount Collected	$17,025	$39,549	$20,655
CRIMINAL ACTION			
Referred for Criminal Prosecution	0	0	0

Table 10. Enforcement Aging

	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
1 Year	2	9	12	13	36	58.0
2 Years	3	7	5	9	24	38.7
3 Years	0	0	0	2	2	3.2
4 Years	0	0	0	0	0	0
Over 4 Years	0	0	0	0	0	0
Total Cases Closed	**5**	**16**	**17**	**24**	**62**	

	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	Cases Closed	Average %
Investigations (Average %)						
Closed Within:						
90 Days	215	180	536	387	1,318	63.7
180 Days	42	62	44	133	281	13.6
1 Year	43	88	58	33	222	10.7
2 Years	36	61	62	8	167	8.1
3 Years	1	18	19	2	40	1.9
Over 3 Years	2	19	17	3	41	1.9
Total Cases Closed	**339**	**412**	**717**	**566**	**2,069**	

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

The Department's *Complaint Prioritization Guidelines* was provided to the Board for consideration at their December 3, 2009, meeting. While the Board agreed with the majority of the guidelines, some changes were made prior to its adoption. The Board's *Complaint Prioritization Guidelines* are included as Attachment E in Section 12.

34. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report actions ta1ken against a licensee. Are there problems with receiving the required reports? If so, what could be done to correct the problems?

BPC Section 801.1(a) requires every state or local governmental agency that self-insures a person who holds a license, certificate, or similar authority, shall report any settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services.

BPC Section 802 requires that every settlement, judgment, or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, be reported to the Board.

BPC Section 803.5 requires the clerk of the court in notify the Board of any filings against a licensee charging a felony. BPC Section 803.5 also requires the clerk of the court to notify the Board, within 48 hours after the conviction, when one of its licensees is convicted of a crime.

While the Board has never received any reports as required by the BPC, the Board relies on subsequent arrest and subsequent conviction notification from the Department of Justice.

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

The Board has no statute of limitations set in statute. However, Board staff typically works with DCA's Division of Investigation (DOI) and/or the Office of the Attorney General (AGO) to determine the viability of successfully prosecuting the case. Also, if the case is transmitted to the AGO, the Deputy Attorney General assigned to the case will advise staff if they have concerns with successfully prosecuting the case; this includes a review of a variety issues, including but not limited to, the age of the violations, mitigation, etc.

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

Unlicensed practice continues in California. This includes practice on an expired license and practice without a license. The Board has provided information to employers, occupational therapy educational programs, and consumers regarding the importance of verifying licenses online prior to allowing someone to provide services, however, many employers are not diligent in routinely verifying licenses.

Due to how common it is for practice to occur without a license or on an expired license, the Board has amended the cite and fine regulations to specifically reference the various periods of "unlicensed" practice and the class of violation the practice fails into. (The class is relevant to the fine assessed.) Those periods of practicing without a license or practicing on an expired license for a period of *greater than a year* will not be issued a citation; instead the violation(s) will be included in a statement of issues (in a case involving an unlicensed individual) or in an accusation (in a case involving a licensee).

In response to the ongoing issue with unlicensed practice or practice on an expired license, regulations went into effect in April 2009 requiring the supervising occupational therapist to determine that the occupational therapy practitioner possesses a current license, certificate or permit to practice occupational therapy *prior* to allowing the person to provide occupational therapy services.

A reminder of this requirement was distributed to all Occupational Therapists in October 2012. The Board is hopeful that this reminder will make the supervising OT more aware of their responsibility to verify the license of those in their employ/under their supervision, and ultimately, reduce and/or eliminate unlicensed practice or practice on an expired license. A copy of the letter is included as Attachment E in Section 12.

Citation and Fine

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

Intent of Cite and Fine Authority

Business and Professions Code (BPC) Section 125.9 authorizes the Board to establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine. The Board established CCR Section 4140(a), which authorizes the Board to issue citations and fines to licensees.

Further, BPC Section 148 authorizes the Board to establish, by regulation, a system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the Board. The Board established CCR Section 4140(b), which authorizes the Board to issue citations and fines and/or orders of abatement to unlicensed persons. This authority is exercised on a case-by-case basis when violations are not necessarily egregious enough to warrant discipline and a lesser form of action is appropriate.

Pursuant to CCR Section 4141(a) fines range from $50 to $5,000. The following factors are considered:

1. Gravity of the violation;
2. History of previous violations involving the same or similar conduct;
3. Length of time that has passed since the date of the violation;
4. Consequences of the violation, including potential for patient harm, the good or bad faith exhibited by the cited individual;
5. Evidence that the violation was willful;
6. The extent to which the individual cooperated with the board's investigation;
7. The extent to which the individual has remediated any knowledge and/or skills deficiencies; or
8. Any other mitigating or aggravating factors.

Changes Since Last Sunset Review

Since the last Sunset Review, the Board has revised the citation regulations to:

- Add a new classification specifically to address change reporting violations. Citations are issued to licensees who fail to comply with address change reporting requirements.
- Add a section to establish a record retention time frame. Citations are now retained for five years from the date of resolution except when issued for unlicensed practice, which will not be purged, but maintained as public record.

Increase of Citation Fine to $5,000

In 2007, the Board increased its maximum fines to the $5,000 statutory limit, and may be issued under specific circumstances that are more serious in nature and/or resulted in or had significant potential for patient harm, as required by CCR Section 4141(a). These specific circumstances include, but are not limited to:

1. The citation involves a violation of failing to provide direct in-sight supervision of an aide when the aide performed a client related task that resulted in harm to the patient.
2. The citation involves a violation of failing to provide adequate supervision to an occupational therapy assistant that resulted in harm to the patient.
3. The citation involves fraudulent medical billing.
4. The citation involves practicing without a current and active license for more than one year.
5. The citation involves functioning autonomously as an occupational therapy assistant.
6. The cited person has a history of two or more prior citations of the same or similar violations.

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

A citation and fine is an alternative means by which the Board can address violations that do not warrant formal discipline.

CCR Section 4140 gives the Executive Officer the authority to issue citations with or without fines and abatement orders for violations of the Occupational Therapy Practice Act, violations of the California Code of Regulations adopted by the Board, or other statutes or regulations for which the Board has authority to issue a citation. Section 4141 sets fine amounts of $50 up to $2,500 for the least egregious violations.

However, Section 4141(a) sets forth larger fine limits for the more substantial violations. For instance, violations that present a threat to health and safety or another person, or involves multiple violations of the Practice Act, or involve a violation or violations of fraudulent billing, a citation may include a fine up to $5,000.

A large number of citations and fines are issued for minor address change reporting violations or continuing education audit violations. Fines assessed for such violations typically range from $50 to $250, depending upon factors as specified in CCR Section 4141. Factors considered when determining a fine amount are the nature and severity of the violation, evidence that the violation was willful, and extent to which the licensee has cooperated with the Board.

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

The Board does not have a Disciplinary Review Committee.

In the last four fiscal years (as of June 19, 2012), the Board held 63 informal conferences, and two appeals were scheduled for hearings under the administrative procedures act. The following table breaks this down by fiscal year.

Fiscal Year	2008/09	2009/10	2010/11	2011/12	Totals
Informal Conferences Held	1	5	31	26	63
Administrative Hearings Held	2	0	0	0	2

The table above indicates 63 informal conferences were held in the last four fiscal years; however, the Board received a total of 66 requests for informal conferences. Of the 66 requests, 36 of those cases were affirmed and ordered to pay the associated fine, 27 were withdrawn or dismissed by the Board; there were three pending appeal requests at the close of FY 2011/12.

Additionally, the table above indicates two administrative hearings were held in the last four fiscal years. However, the Board received a total of ten requests for administrative hearings. The two administrative hearings held in FY 2008/09 were requested in the prior fiscal year. Of the ten hearing requests received, three of those licensees withdrew their administrative hearing request and instead paid the associated fine, six were withdrawn or dismissed by the Board, and one is currently pending (as of June 19, 2012).

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

The five most common violations for which the Board issues citations are as follows:

1. Address Change Reporting Requirement – Failure to report a change of mailing address within 30 days after the change.
2. Unlicensed Practice – Practicing with an expired license or with an inactive license.
3. Professional Development Units (PDU) Violations - Failure to complete the required PDUs within the renewal cycle, failure to take the courses, failure to submit appropriate proof of completion, or a false statement on renewal form signed under penalty of perjury that the PDU requirements were met.
4. Practice Issues - Related violations such as a single violation of documentation, supervision violations, and aiding and abetting of unlicensed activity or less egregious violations of the Practice Act.
5. Failed to Disclose – Failure to disclose any conviction on an application for licensure or an application for renewal of a license.

41. What is average fine pre and post appeal?

The average citation fine pre-appeal is $190. Citations issued in the last four fiscal years have been issued with fines ranging between $50 (address change violation) and $5,725.00 (fraudulent billing,$5,000 and unprofessional conduct, - $725). The final citation fine amount post-appeal averaged $175 over the last four fiscal years.

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

The Board utilizes the Franchise Tax Board's (FTB) Intercept Program to attempt collection of any outstanding fines. Under this program, tax returns or lottery winnings can be seized and sent to the Board as payment of monies owed. Respondents who fail to pay an uncontested fine are sent a series of demand letters when an account is delinquent. If a fine is not contested and full payment is not made within 30 days of the issuance of a fine, or if the respondent fails to contact the Board to make payment arrangements, the Board will send the first demand letter. The Board will send a second notice at 60 days delinquent. If no response is received from the first or second letters, a third and final notice will be sent, via regular and certified mail, notifying the individual that his/her file will be sent to the FTB and that any tax refunds or lottery winnings will be intercepted and sent to the Board. The FTB will continue to intercept tax refunds and lottery winnings until payment in full has been made.

Cost Recovery and Restitution

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

The Board vigorously requests cost recovery in all cases in which it is authorized to seek cost recovery. The Board's Enforcement Unit requests and ensures that each Accusation prepared by the Office of the Attorney General incorporates a request for cost recovery with reference to the applicable statute, Business and Professions Code Section 125.3. Upon receipt of a Proposed Decision, the Board reviews it to ensure it contains a finding by the administrative law judge regarding the reasonableness of the costs of investigation and prosecution of the case. If the Board ever received a Proposed Decision that failed to provide such a finding, it likely would be remanded it back to the administrative law judge to incorporate a finding regarding the Board's costs.

Cases that have been resolved by a Stipulated Settlement have included an order for full or partial costs, depending on the nature and severity of the violation, the respondent's prior disciplinary record, mitigating evidence, the extent to which the respondent has cooperated with the Board and recognized and demonstrated a willingness to correct and/or take steps to prevent reoccurrence of their wrongdoing.

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

The Board requests recovery of its costs for all cases against licensees relating to revocations, surrenders, and probation; the Board cannot request its costs in investigating or enforcing cases against applicants.

However, not all licensees are ordered to reimburse the Board *all* of its costs. An administrative law judge may only order a *portion* of the Board's costs or to facilitate a stipulated agreement, cost recovery in an amount less than the total costs may be agreed to. Amounts for potential cases, cases ordered, and the ranges of cost recovery that has been ordered and received are reflected by fiscal year in Table 11, Cost Recovery.

In FY 2008/09, the discrepancy between cases that had potential for cost recovery being awarded versus the two cases that resulted in cost recovery being ordered can be attributed to three revocations by default (no hearing) and four cases being finalized in FY 2009/10. Conversely, in FY 2011/12, the Board filed three Accusations serving as the basis for potential cases for recovery, while eleven cases were finalized that contained orders for cost recovery.

Cases that resulted in revocation or surrender of licensure are virtually uncollectable since the respondent has lost his/her professional income source. However, in the event a respondent applies for, and is successful, in reinstating his/her license, the Board may impose a cost recovery order as part of the terms and conditions of reinstatement. The Board has collected 100% of cost recovery ordered from licensees that were placed on probation who successfully completed probation.

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

The Board does not seek cost recovery in cases denying an applicant licensure. BPC Section 125.3(a) authorizes the Board to seek recovery of its costs in the investigation and prosecution in cases against licensees; cost recovery does not apply to applicants for licensure.

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

The Board utilizes the Franchise Tax Board's Intercept Program to attempt collection of any outstanding cost recovery orders. Under this program, tax returns or lottery winnings can be seized and sent to the Board as payment of monies owed. Respondents who failed to pay the ordered cost recovery are sent Demand Letters when an account is 30 days delinquent. If payment in full is not made within 30 days or if the respondent fails to contact the Board to make payment arrangements, the Board will send a second notice at 60 days delinquent. If no response is received from the first or second letters, a third and final notice will be sent, regular and certified mail, notifying the individual that his/her file will be sent to FTB and that any tax refunds or lottery winnings will be intercepted and sent to the Board. The FTB will continue to intercept tax refunds and lottery winnings until payment in full has been made.

Table 11. Cost Recovery

	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Total Enforcement Expenditures *	$207,048	$217,314	$183,528	$277,727
Potential Cases for Recovery **	9	13	12	3
Cases Recovery Ordered	2	11	7	11
Amount of Cost Recovery Ordered	$58,084.50	$25,203.25	$16,805.19	$32,510.00
Minimum cost recovery ordered	$847.50	$656.50	$1,000.00	$935.00
Maximum cost recovery ordered	$57,210.00	$5,000.00	$4,263.19	$12,000.00
Amount Collected	**$16,242.54**	**$13,345.02**	**$12,340.22**	**$21,295.28**

* Enforcement Expenditures includes expenses incurred by the Office of the Attorney General, Office of Administrative Hearings, Evidence/Witness Fees, Evidence fees, Court Reporter Services, and charges by the Division of Investigation.

** Potential Cases for Recovery are those cases in which disciplinary action has been taken based on violation of the Practice Act. These totals include accusations filed.

Please note: Table 12 was deleted as no restitution was ordered or collected in FYs 2008/09 – 2011/12.

47. 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.

There has been only one case in the Board's history where the Board has requested the administrative law judge to order the licensee to reimburse his employer nearly $14,000 for a salary he fraudulently billed and did not earn. However, the licensee surrendered his license and the order issued by the administrative law judge contained an order to reimburse the Board its costs but did not include the order of restitution to the licensee's former employer.

While the Board has had limited opportunities to request restitution, there are currently several pending cases involving funds owed a former employer or a public agency; in each case the Board will be seeking an order that each of the licensees make restitution as appropriate.

SECTION 6:

Public Information Policies

Section 6 – Public Information Policies

48. 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 website? When are draft meeting minutes posted online? When does the board post final meeting minutes? How long do meeting minutes remain available online?

The Board provides information a variety of ways:

- Board and Committee meeting information, including agendas and meeting materials, and pending regulatory actions are all posted on the website;
- Board and Committee meeting agendas/notices and information regarding pending regulatory actions are sent to those on the interested parties lists via e-mail, list serve, and regular mail; and
- Information regarding upcoming meetings is posted on the wall of the Board's Facebook page.

As of now, Board meeting information (agenda, meeting materials, minutes, etc.) remains on the website indefinitely. Draft minutes are not made available to the public until they are sent to the Board members and posted online with the meeting materials. Once the meeting is held and the Board adopts the minutes, the final minutes are posted on the website within two weeks.

Information regarding pending regulatory actions is retained on the website until the language goes into effect; this is about 15 days longer than required by Government Code Section 11347.

49. Does the board webcast its meetings? What is the board's plan to webcast future board and committee meetings?

The Board has only webcast a few of its meetings; however, it plans to take advantage of this service more often beginning in calendar year 2013.

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

At its last meeting of the year, the Board selects its meeting dates for the entire next calendar year. The annual meeting calendar, including the cities where the meeting will be held (if not exact locations), is posted in December.

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

Yes - more information available below.

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

The information provided on the Board's website regarding licensees includes the following:

- The individual's name;
- Their license number;
- The license issuance and expiration dates;
- The license status;
- The county of their address of record (no address is provided); and
- Whether the licensee is approved by the Board to provide services in advanced practice areas.

If relevant, any disciplinary actions and all related legal documents are also posted. Citations are public information; however, they are not currently posted on the Board's website.

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

The Board developed a consumer brochure (available October 2012) and is in the process of adding consumer-related web content and links. All outreach activities have been curtailed due to travel restrictions imposed last year.

SECTION 7:

Online Practice Issues

Section 7 – Online Practice Issues

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

The Board does not specifically regulate on-line practice. However, the Board does view information posted by Occupational Therapists and Occupational Therapy Assistants on the internet when investigating complaints.

BPC section 2570.18 states that unauthorized representation by an occupational therapist or an occupational therapy assistant constitutes an unfair business practice and false and misleading advertising under Business and Professions Code section 17200 and 17500, respectively, and a violation of section 4170, the Ethical Standards of Practice.

As a result of information advertised 'on-line,' the board has identified and investigated unlicensed activity; the website postings have been used as evidence when pursuing unlicensed practice cases. As a result, the Board has:

- Issued cease and desist letters to students who are advertising as 'occupational therapists' when in fact they have only graduated from school but have neither passed the required examination or become licensed,
- Used the posted information to identify practitioners who are practicing in California but do not possess a license,
- Used the posted information to identify practitioners who are providing services in an advanced practice area, without Board approval , and
- Forwarded the posted information to local district attorneys for their consideration in prosecuting the unlicensed activity.

Also, as more practitioners move toward providing services via telehealth (a method of delivering services, not a separate form of practice), which may involve the use of 'on-line' technology, the Board is amending its regulations to establish Standards of Practice for Telehealth to eliminate any confusion by practitioners and minimize the risk of patient harm or unethical behavior.

SECTION 8:

Workforce Development
and
Job Creation

Section 8 – Workforce Development and Job Creation

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

Due to budgetary constraints, the Board has not been able to focus efforts in this area.

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

The Board has not conducted a formal assessment regarding any delays in licensing applicants. However, the Board is aware of and sensitive to this issue and strives to license all qualified individuals as soon as possible. Board statistics reflect that in the last three years, average processing time for complete applications is 22 days.

Unfortunately, the Board has a small number of cases that fall outside the normal processing time parameters. Most often, the timing of these cases can be attributed to issues surrounding the fingerprint background check, an applicant's inability to secure an official transcript, failing to pass the examination for licensure, and/or investigation of a criminal history.

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

The Board has coordinated and conducted overview sessions to graduating students at various California occupational therapy educational programs. The purpose and design of the overview session is to orient students with the processes and requirements for licensure, and describe and inform students of the Board's role and responsibility of protecting the public. The Board has annually provided a workshop on the licensing process designed for students and practitioners re-entering the profession at the annual conference of the Occupational Therapy Association of California (OTAC). However, these activities have been curtailed due to travel restrictions imposed last year.

a. Provide any workforce development data collected by the board, such as workforce shortages or successful training programs.

Due to fiscal constraints and lack of available resources, the Board has been unable to collect data regarding the occupational therapy practitioner workforce supply and demand in California. However, the Board, OTAC, and the American Occupational Therapy Association, all have anecdotal knowledge of a workforce shortage due to often-expressed difficulties in recruitment and the resulting length of time positions remain vacant. Moreover, in order to meet service mandates, many employers have turned to or increased their use of (more expensive) temporary staff when unable to meet their recruitment needs (e.g., hire permanent employees).

SECTION 9:

Current Issues

Section 9 – Current Issues

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

The Board was the first healthcare Board to implement the Uniform Standards. The Board's Disciplinary Guidelines were amended to add the Uniform Standards and took effect July 26, 2011. Also, consistent with BPC 315.2, the Board issued six Cease Practice Orders (CPOs) to five licensees on probation for substance abuse issues; this occurred during the period September 2011 – May 8, 2012. The CPO is issued to the probationer; however, their employer(s) is also notified the same day.

(Samples provided as attachments in Section 12, Attachment F.)

In order to provide transparency and increased public protection, the CPO information is available to the public. To assist prospective employers or consumers, the CPO information is available on the Board's website should someone go online to verify the license of an individual. (This information is not available on the disciplinary actions page; information regarding CPOs is only available on an individual's licensing record.)

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

The Board's CPEI regulations were amended and went into effect September 28, 2012.

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

The Board is participating in the development of BreEZe and has dedicated one+ staff (depending on development issue being worked at the time) to liaison with the programmers during the various development phases. The Board is currently included in Release 2, which is scheduled for mid-summer of 2013.

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 and short discussion of recommendations made by the Committee/Joint Committee during prior sunset review, what action the Board took in response to the recommendations under the prior Sunset review.**

Issue 1 – *Continued regulation of the profession and extension of the Board's operations.*

The Board's sunset date was extended to 2014.

Issue 2 – *Allowing out-of-state licensees to practice while applications are pending.*

An applicant who possesses a current, active, and non-restricted license to practice occupational therapy under the laws of another state that the board determines has licensure requirements at least as stringent as the requirements of this chapter, may practice for up to 60 days during the period the application is being processed.

Issues 3 and 4 – *Is the Board addressing its budget surplus and should the license renewal period change from annual to biennial.*

The Board changed the license renewal period from annual to biennial. This helped address the Board's ongoing revenue level and provided the licensing population greater flexibility in with its continuing education requirements.

2. **Any recommendations the board has for dealing with the issue, if appropriate.**

All issues identified in the prior Sunset Report have been addressed; there are no outstanding issues requiring attention.

SECTION 11:

New Issues

Section 11 – New Issues

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

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

There are no outstanding issues identified in the last Sunset Report that haven't been addressed.

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

New Issue 1 – *Occupational therapy corporations are not included in the Moscone Knox Act (the Corporations Code.)*

The Board wants to add occupational therapy corporations to the Moscone Knox Act (Corporations Code Section 13401.5) and specify which healing arts licensees may be shareholders, officers, directors, or professional employees of occupational therapy corporations, subject to certain limitations.

Occupational Therapists and Occupational Therapy Assistants in California currently own occupational therapy corporations and employ occupational therapy practitioners as well physical therapists, speech therapists, and other licensed healthcare staff. These corporations provide comprehensive services to various populations that they serve.

Currently, these companies are located throughout the state and are large employers of many different licensed healthcare practitioners. If occupational therapy corporations are not listed in the Corporations Code, those professional corporations cannot legally be employers of healthcare practitioners. Those corporations would be violating the Corporations Code, and those consumers utilizing those companies for services could potentially lose access to the care they receive.

New Issue 2 – *Occupational Therapists and Occupational Therapy Assistants are not specified in the Moscone Knox Act as being able to be* employees, shareholders, directors, etc., of professional corporations.

The Board wants Occupational Therapists and Occupational Therapy Assistants added to the Moscone Knox Act, as the listed employees, shareholders, directors, etc., of specified professional corporations. Not including Occupational therapists and Occupational Therapy

Assistants to those list(s) of specified employees, directors, or shareholders of professional corporations limits employment opportunities for Occupational Therapists or Occupational Therapy Assistants and restricts corporations from hiring Occupational Therapists or Occupational Therapy Assistants to provide their unique services. Failing to include Occupational Therapists or Occupational Therapy Assistants in the Moscone Knox Act thereby restricts access to occupational therapy services in California.

New Issue 3 – *When the Board was first established, there were no national minimum education standards required by all occupational therapy education programs relating to the areas of swallowing assessment, evaluation, or intervention, the use of physical agent modalities, or hand therapy. Thus, these practice areas were identified as "advanced practice," since the practice areas were considered beyond the skills of a new graduate, and additional requirements were established. The board wants to eliminate the requirement that occupational therapists must complete additional specified post-professional education and training to demonstrate competence to the Board, in order to provide services in an advanced practice area.*

Now that all entry-level occupational therapy programs across the nation are required to meet standards in the occupational therapy curriculum to include minimum education in the areas of swallowing assessment, evaluation, or intervention, the use of physical agent modalities, and students complete sufficient courses in anatomy, physiology, kinesiology, tissue healing and how systems are altered by pathology and injury to provide hand therapy, all new graduates will be sufficiently educated in these areas so as to be able to provide services competently *without* needing to demonstrate competence to the Board. Therefore, after a certain date (date to be determined), new graduates should not have to meet the advanced practice requirements or complete post-professional education and training to demonstrate competence to the Board before providing services in these areas.

Previously, stakeholders testified that they felt these areas of practice would be high- risk with potential for harm. Since the Board was enacted, enforcement cases do not support these concerns nor confirm that risk of harm is high. California is the *only* state that requires post-professional education or training in the areas of hand therapy or swallowing; with respect to the use of physical agent modalities, very few other states have additional training requirements, beyond the qualifying educational degree program.

Continuing to require Occupational Therapists to demonstrate competence makes it more restrictive for licensing of Occupational Therapists in California; these requirements are more burdensome and restrictive to Occupational Therapists for a potential "harm" that has not been proven.

Thus, the Board wants to eliminate the statutory requirement that Occupational Therapists must meet specified post-professional education and supervised training requirements before providing services in the areas of hand therapy, swallowing assessment, evaluation, or intervention, or the use of physical agent modalities.

By eliminating the requirement that occupational therapists' demonstrate competence by completing an application and meeting certain post-professional requirements, this

removes unnecessary workload for staff and an unnecessary burden for licensed occupational therapists.

New Issue 4 –*The current definition of "Practice of Occupational Therapy means..." is not a completely accurate reflection of what Occupational Therapists actually do.*

Thus, the Board recommends the current definition, which is limited to hands-on treating clinicians, be amended to a more broad reference, such as "Occupational Therapy means..." and addresses the variety of roles a licensee may undertake in the ever-evolving field of occupational therapy.

Moreover, the current ACOTE standards require that all educational program faculty maintain a current license in their state of employment. Defining the population of practitioners to include faculty, researchers, clinical instructors, fieldwork instructors, consultants, etc., better defines the practitioner and the consumers when therapy services are being provided. In addition, since the ACOTE standards are requirements of a voluntary, non-governmental entity, when deficiencies are identified (such as faculty not possessing a license), there is no action taken by ACOTE, nor is the educational institution issued a reprimand; ACOTE only issues a "deficiency" to educational program and the program has several years to correct the deficiency. Thus, with regards to understanding the clear lines of what is considered "practice" by Occupational Therapists and ensuring consumer protection, the definition of practice must be amended.

New Issue 5 –*The majority of the Board's complaints involve issues surrounding unethical conduct, including practicing without a license, practicing on an expired license, fraudulent billing, and misrepresentation.*

The majority of the complaints received by the Board involve ethical issues, documentation, supervision (or lack thereof), aiding and abetting unlicensed practice, and failing to follow the requirements of a licensee, such as failing to complete the continuing education required for license renewal or providing a timely address change.

Some boards require completion of a jurisprudence examination and others require completion of continuing education in ethics. The Board would like to examine a combination of requiring a jurisprudence examination and completion of an ethics continuing education requirement(s); requiring completion of ethics course(s) and requiring applicants and/or licensees to demonstrate an understanding of California statutory and regulatory requirements, may minimize enforcement activity involving ethical violations.

3. New issues not previously discussed in this report.

N/A

4. New issues raised by the Committee.

None reported as of yet.

SECTION 12:

Attachments

Section 12 – Attachments

Please provide the following attachments:

A. Quarterly and annual performance measure report as published on the DCA website.

B. Board's Administrative Manual.

C. Board Member Disciplinary Resource Manual.

D. Current organizational chart showing relationship of Committees to the Board, and Roles and Responsibilities for each Committee.

E. Complaint Prioritization Guidelines.

F. Sample Cease Practice Order (CPO) sent to licensees; sample employer notification of CPO issued to licensee.

G. Letter sent to occupational therapists re: supervision/unlicensed practice.

H. Year-end organization charts for last four fiscal years.

Attachment A:

Quarterly and Annual Performance Measurement Reports

Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Q4 Report *(April - June 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.

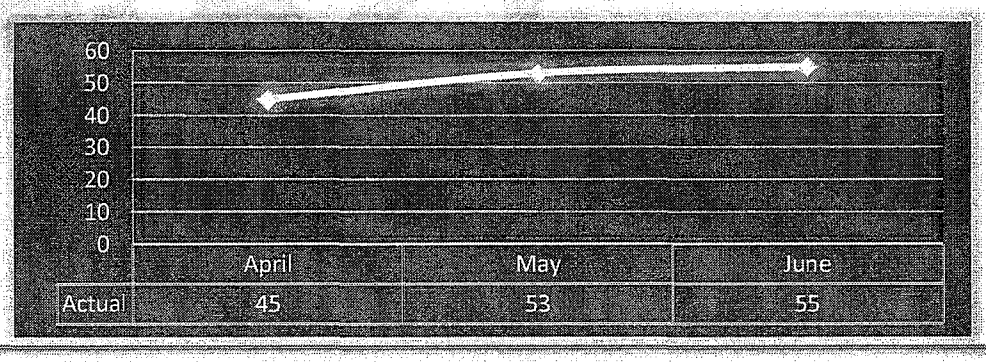
Volume

Number of complaints and convictions received.

Q4 Total: 153

Complaints: 123 Convictions: 30

Q4 Monthly Average: 51

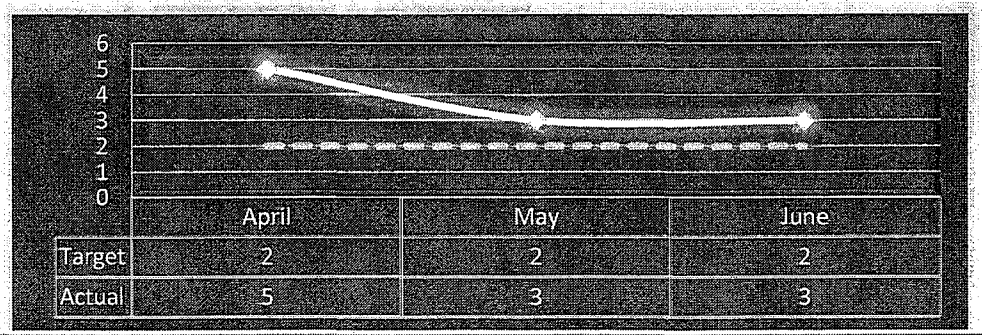


Intake

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

Target: 2 Days

Q4 Average: 4 Days

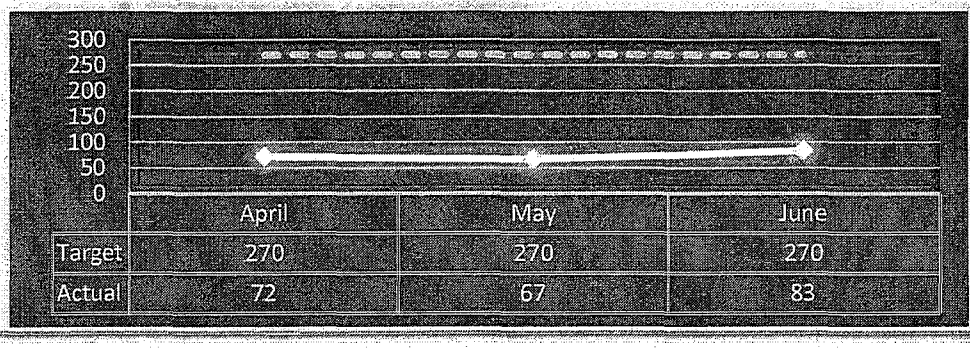


Intake & Investigation

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: 270 Days

Q4 Average: 74 Days



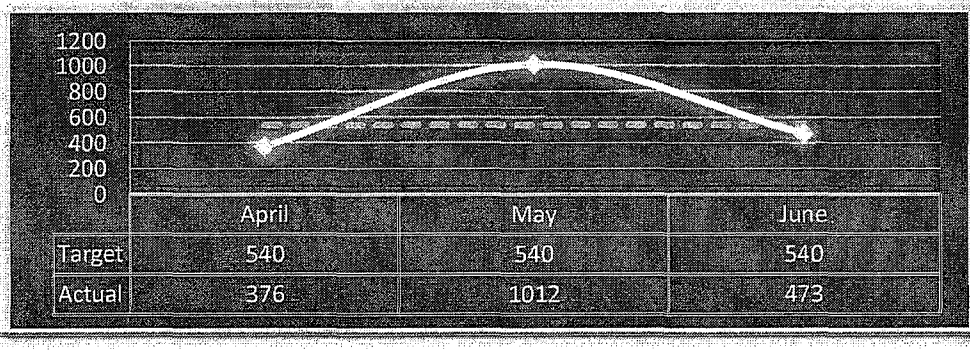
	April	May	June
Target	270	270	270
Actual	72	67	83

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: 559 Days



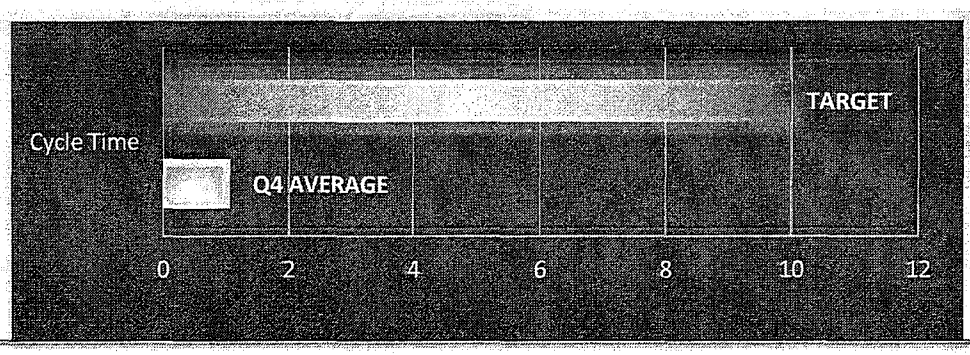
	April	May	June
Target	540	540	540
Actual	376	1012	473

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: 1 Days

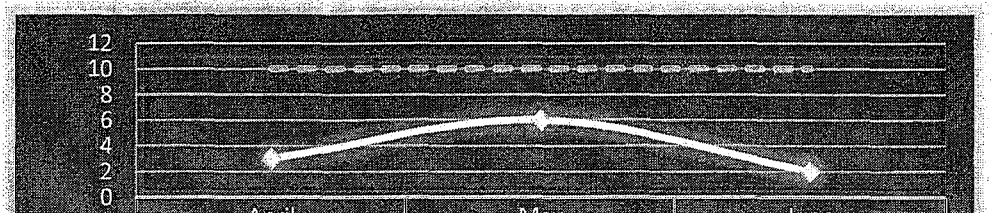


Probation Violation Response

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: 4 Days



	April	May	June
Target	10	10	10
Actual	3	6	2

Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Q3 Report *(January - March 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.

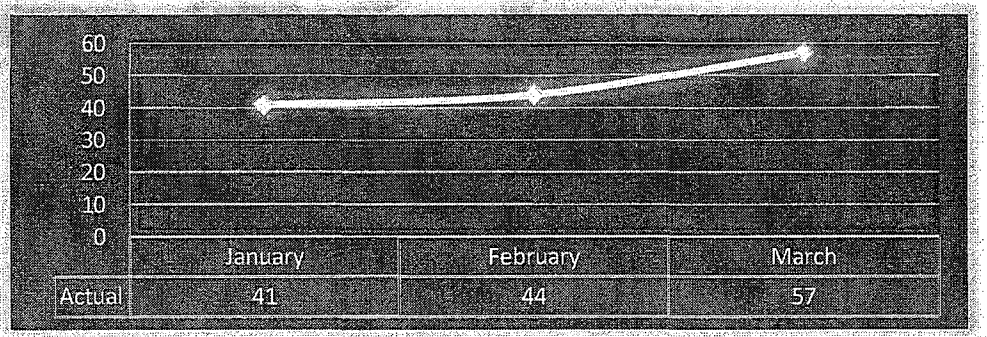
Volume

Number of complaints and convictions received.

Q3 Total: 142

Complaints: 114 Convictions: 28

Q3 Monthly Average: 47

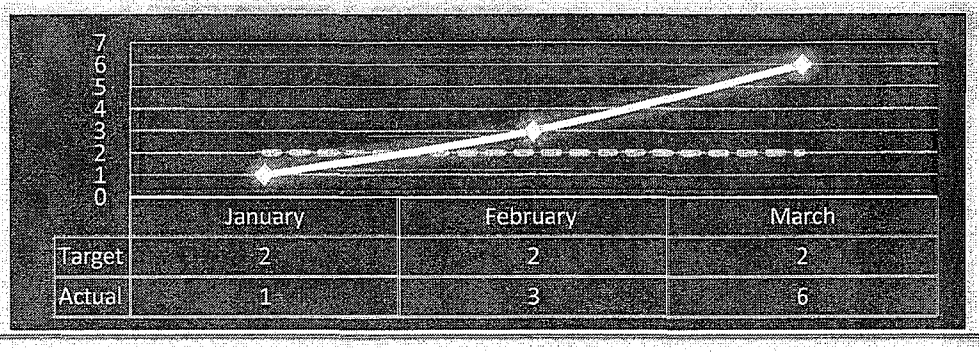


Intake

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

Target: 2 Days

Q3 Average: 3 Days

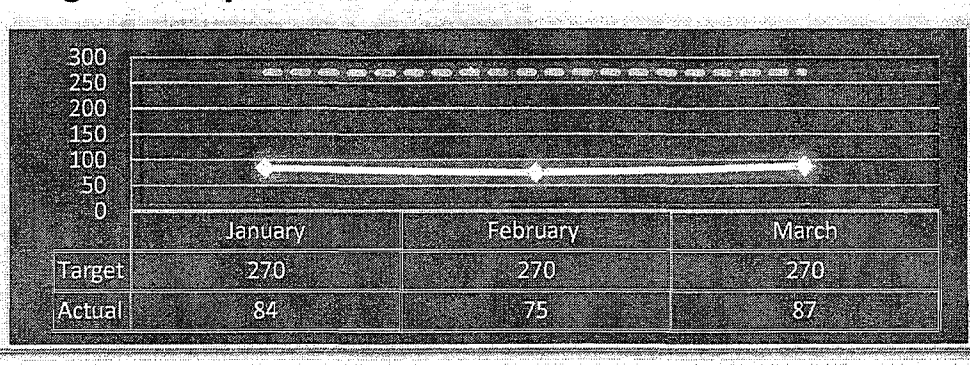


Intake & Investigation

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: 270 Days

Q3 Average: 80 Days



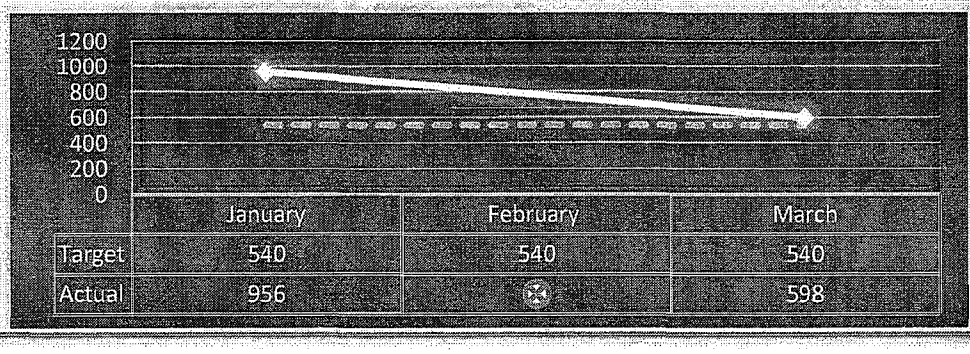
	January	February	March
Target	270	270	270
Actual	84	75	87

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: 777 Days



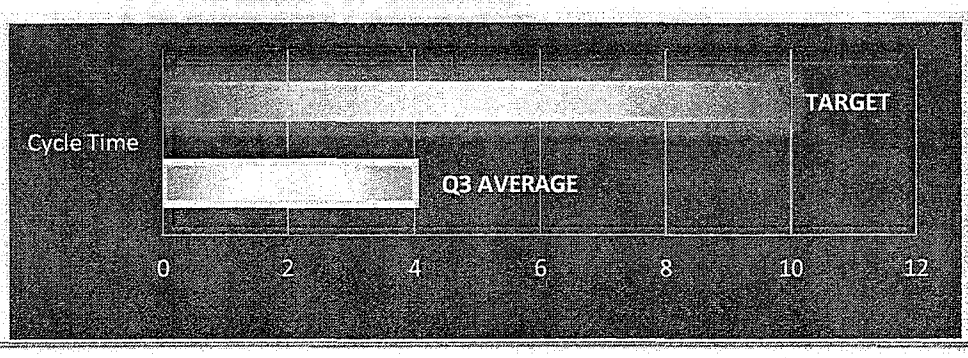
	January	February	March
Target	540	540	540
Actual	956		598

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: 4 Days

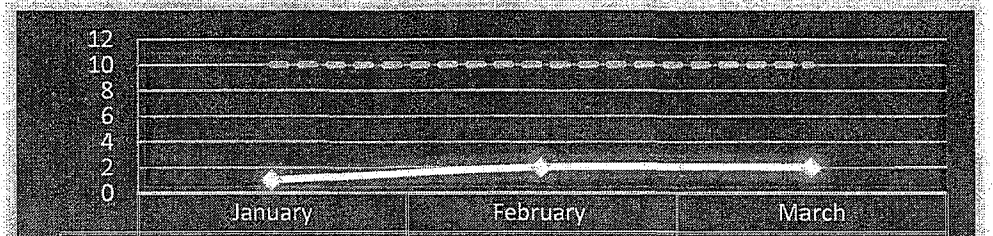


Probation Violation Response

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: 2 Days



	January	February	March
Target	10	10	10
Actual	1	2	2

Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Q2 Report *(October - December 2011)*

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.

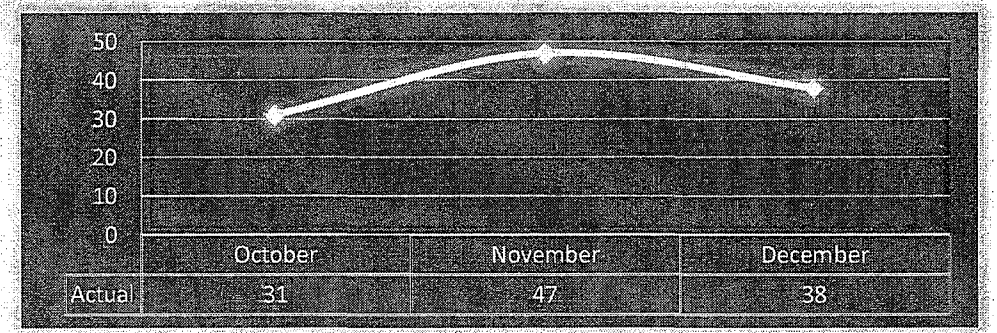
Volume

Number of complaints and convictions received.

Q2 Total: 116

Complaints: 100 Convictions: 16

Q2 Monthly Average: 39

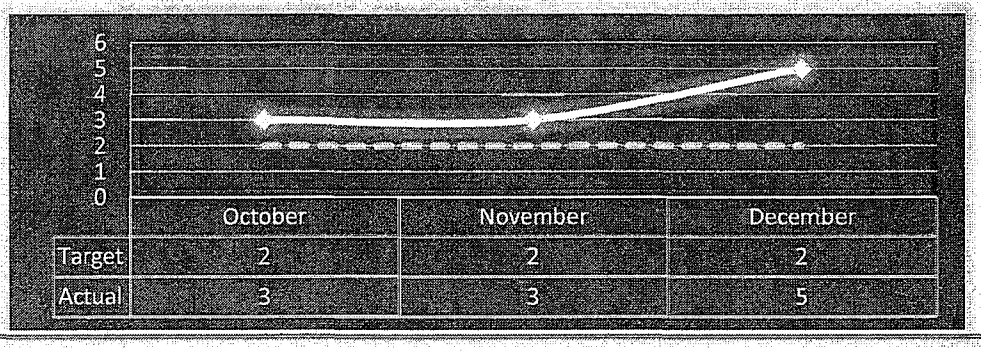


Intake

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

Target: 2 Days

Q2 Average: 4 Day

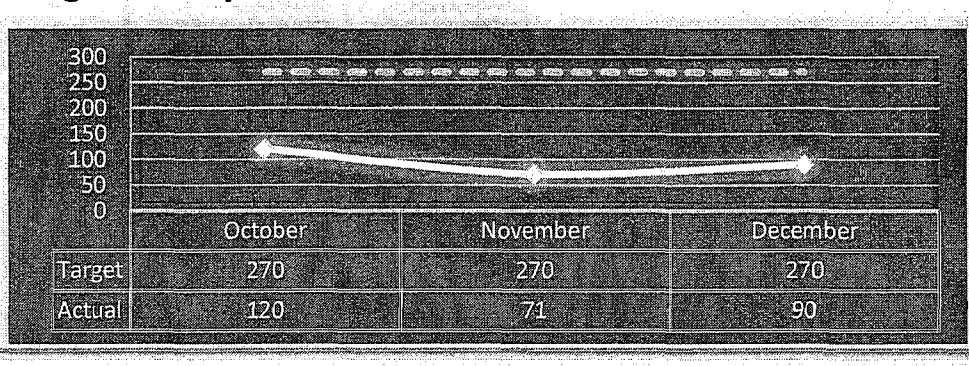


Intake & Investigation

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: 270 Days

Q2 Average: 98 Days



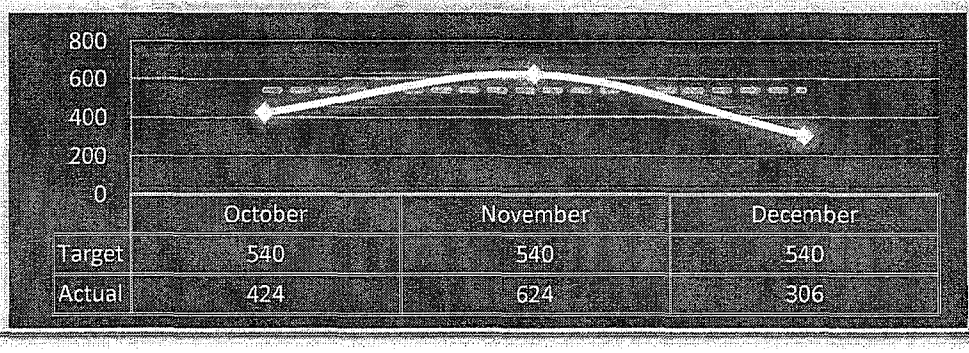
	October	November	December
Target	270	270	270
Actual	120	71	90

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: 521 Days



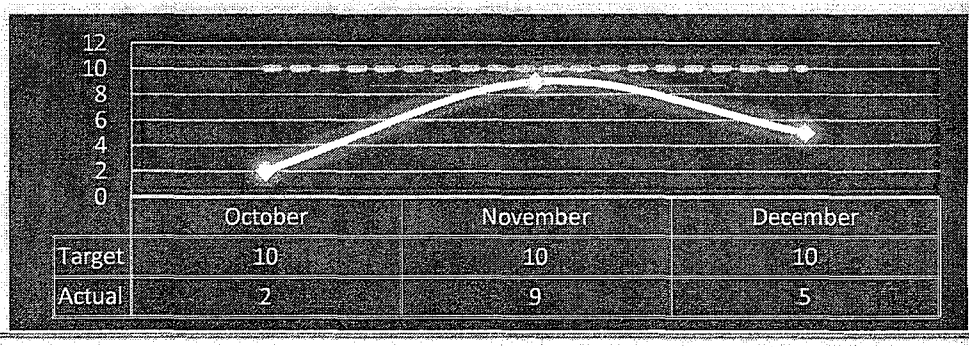
	October	November	December
Target	540	540	540
Actual	424	624	306

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: 8 Days



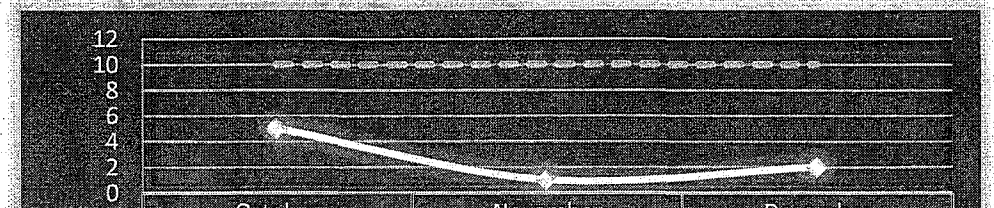
	October	November	December
Target	10	10	10
Actual	2	9	5

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: 4 Days



	October	November	December
Target	10	10	10
Actual	5	1	2

Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Q1 Report *(July - September 2011)*

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.

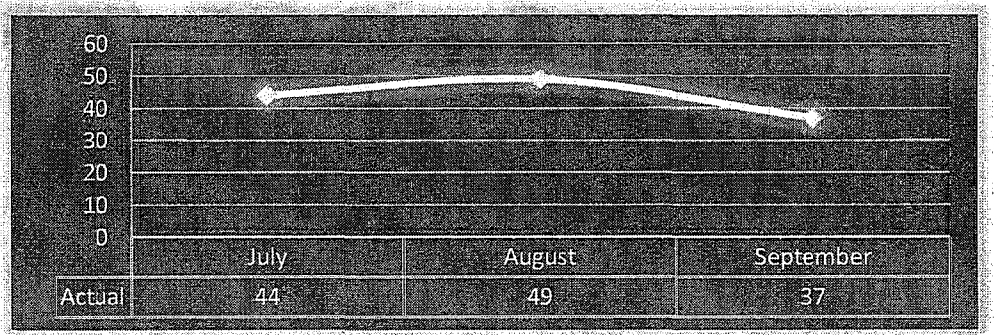
Volume

Number of complaints and convictions received.

Q1 Total: 130

Complaints: 106 Convictions: 26

Q1 Monthly Average: 43

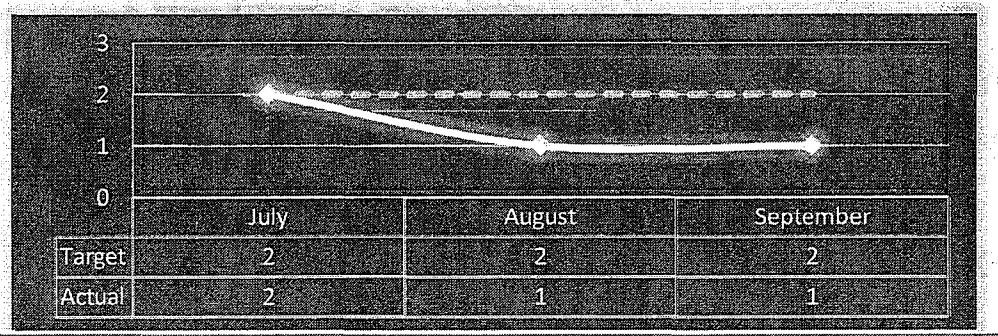


Intake

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

Target: 2 Days

Q1 Average: 2 Day

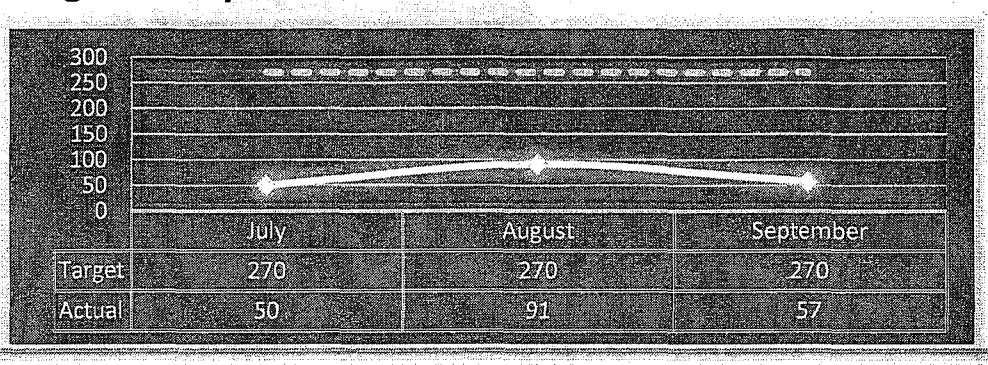


Intake & Investigation

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: 270 Days

Q1 Average: 62 Days



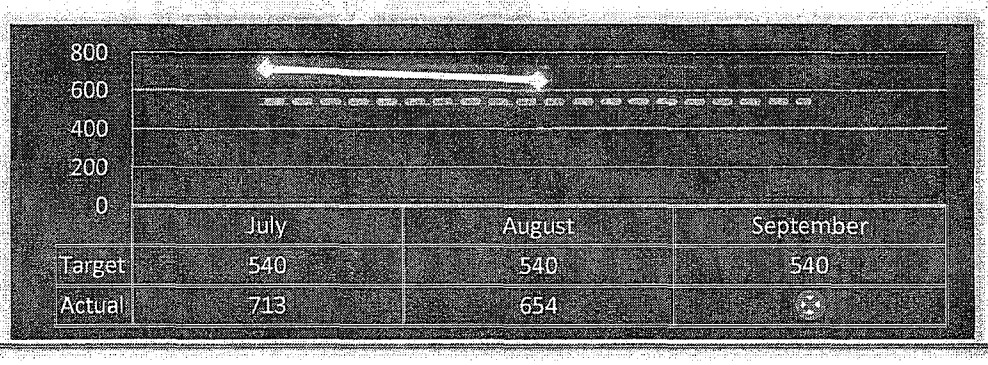
	July	August	September
Target	270	270	270
Actual	50	91	57

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: 699 Days



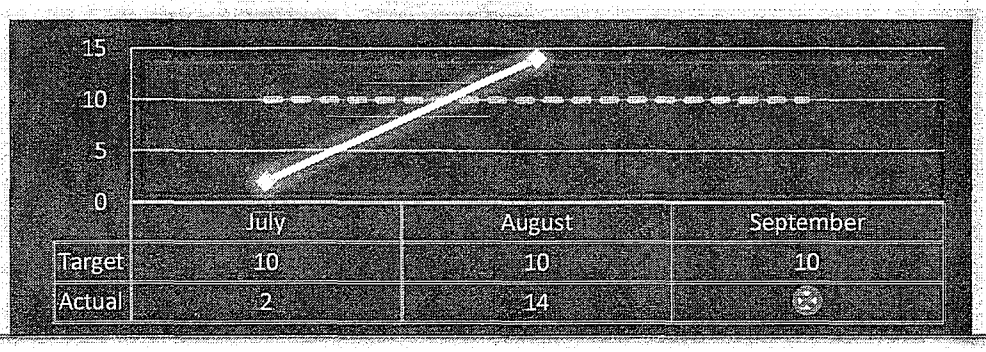
	July	August	September
Target	540	540	540
Actual	713	654	

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: 8 Days



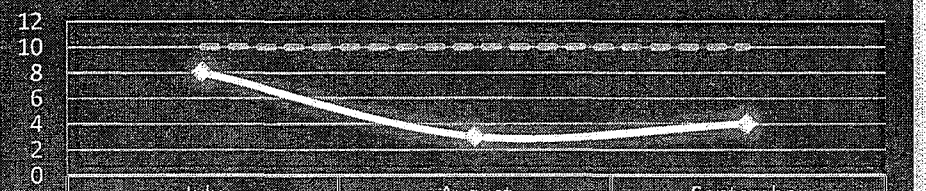
	July	August	September
Target	10	10	10
Actual	2	14	

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: 4 Days



	July	August	September
Target	10	10	10
Actual	8	3	4

Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Annual Report *(2010 – 2011 Fiscal Year)*

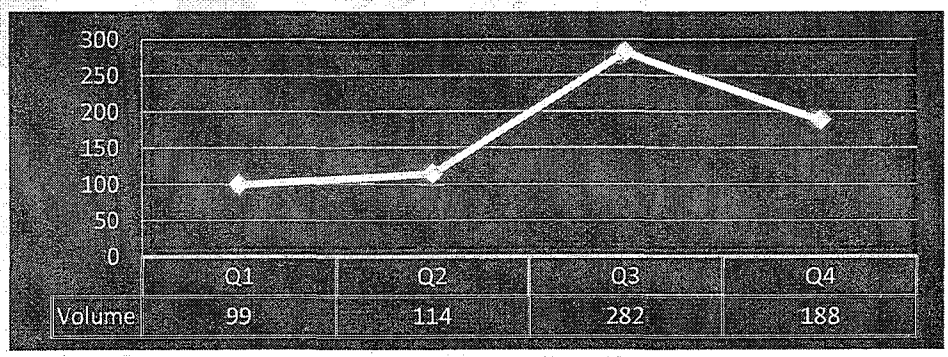
To ensure stakeholders can review the Board's progress in meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures are posted publicly on a quarterly basis.

This annual report represents the culmination of the first four quarters worth of data.

Volume

Number of complaints and convictions received.

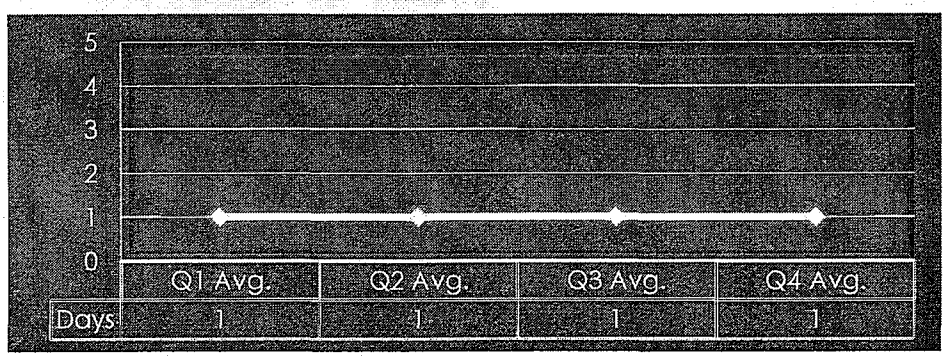
The Board had an annual total of 683 this fiscal year.



Intake

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

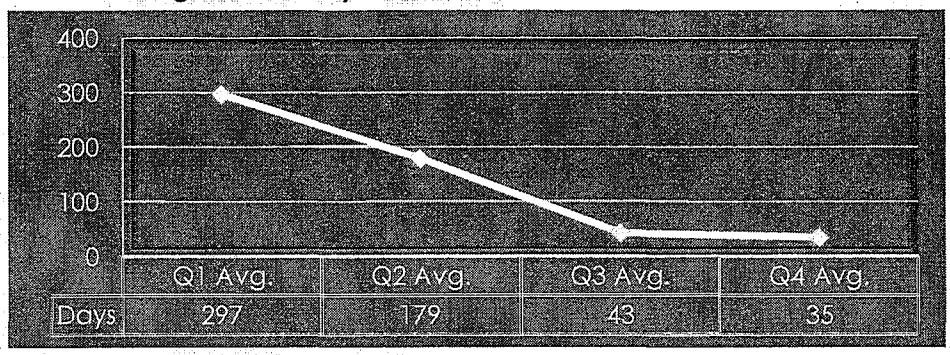
The Board has set a target of 2 days for this measure.



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.

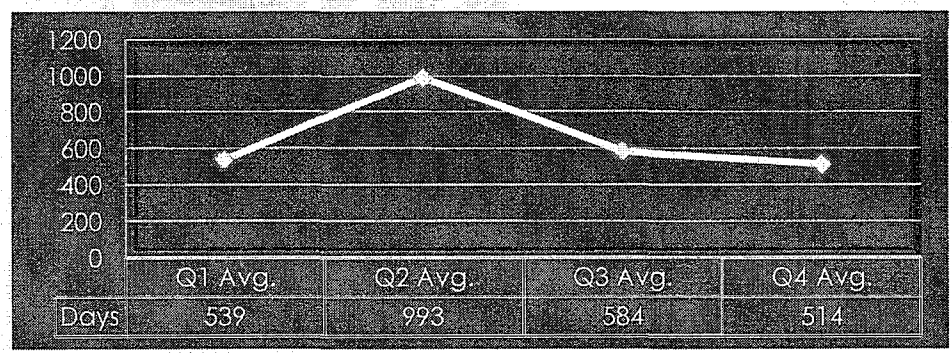
The Board has set a target of 270 days for this measure.



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)

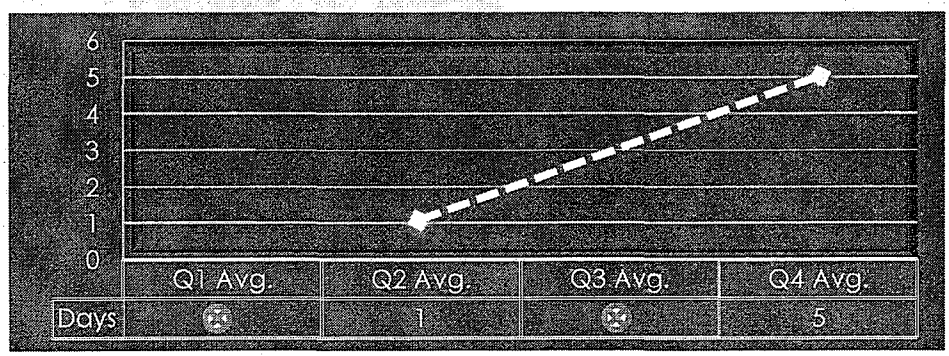
The Board has set a target of 540 days for this measure.



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 has set a target of 10 days for this measure.



Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Q4 Report *(April - June 2011)*

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.

In future reports, the Department will request additional measures, such as consumer satisfaction. These additional measures are being collected internally at this time and will be released once sufficient data is available.

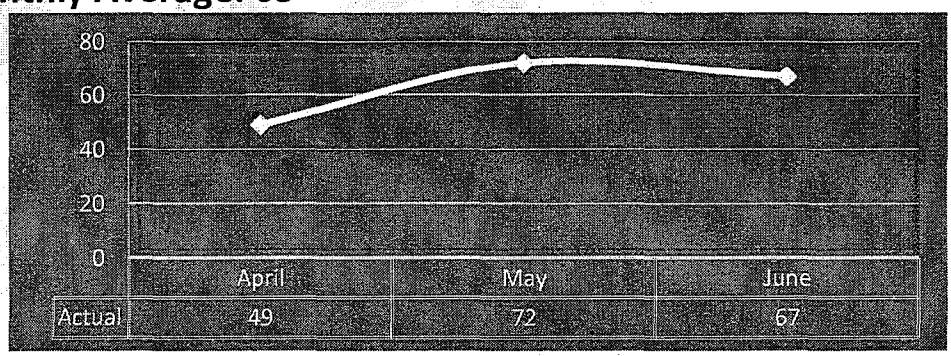
Volume

Number of complaints and convictions received.

Q4 Total: 188

Complaints: 162 Convictions: 26

Q4 Monthly Average: 63

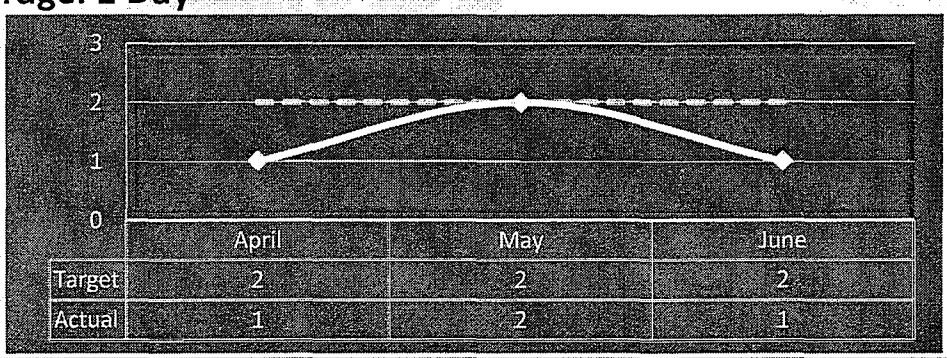


Intake

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

Target: 2 Days

Q4 Average: 1 Day

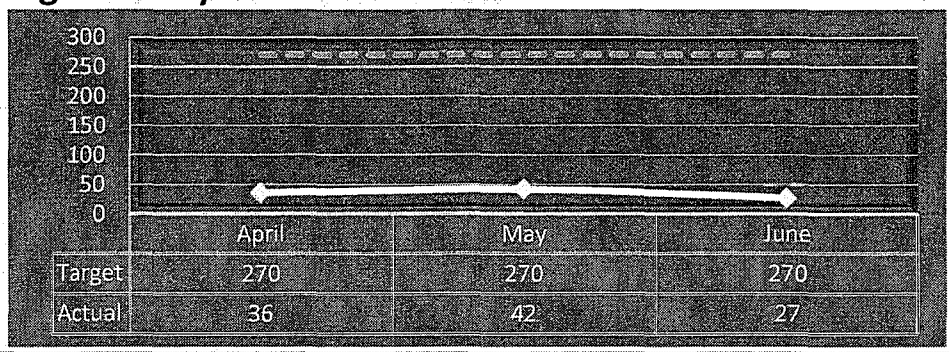


Intake & Investigation

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: 270 Days

Q4 Average: 35 Days



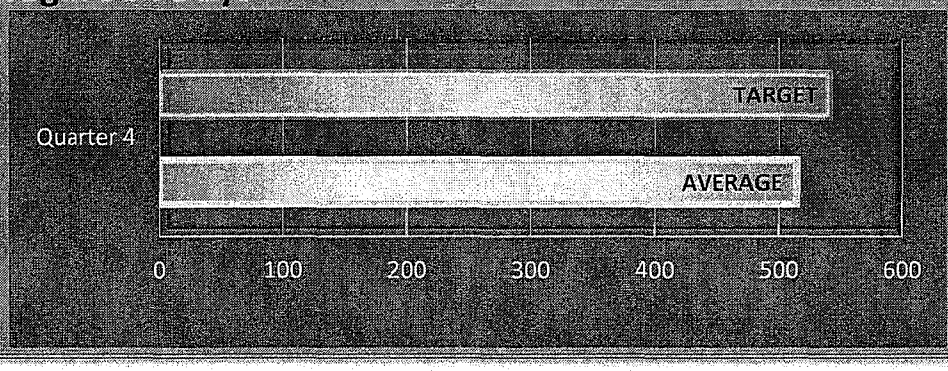
	April	May	June
Target	270	270	270
Actual	36	42	27

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: 514 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

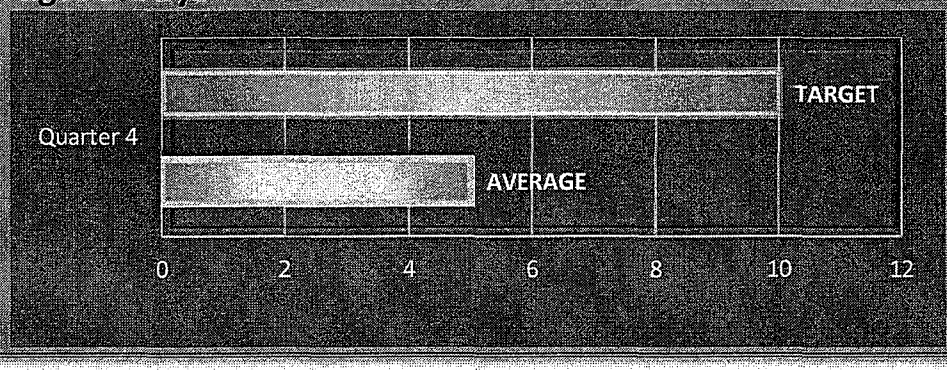
The Board did not contact any new probationers this quarter.

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: 5 Days



Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Q3 Report *(January- March 2011)*

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.

In future reports, the Department will request additional measures, such as consumer satisfaction. These additional measures are being collected internally at this time and will be released once sufficient data is available.

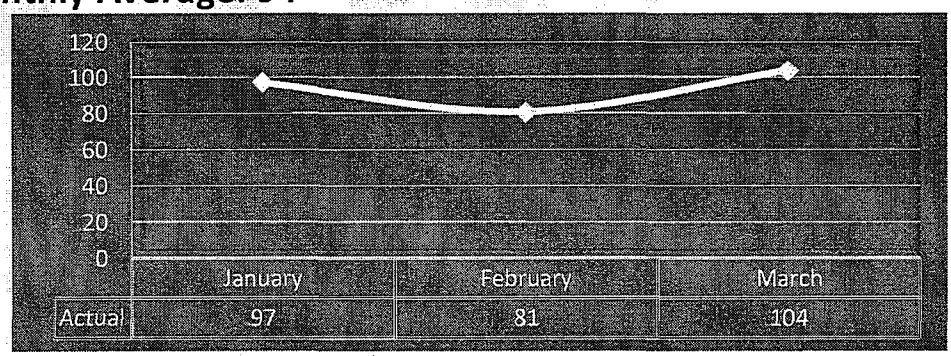
Volume

Number of complaints and convictions received.

Q3 Total: 282

Complaints: 250 Convictions: 32

Q3 Monthly Average: 94

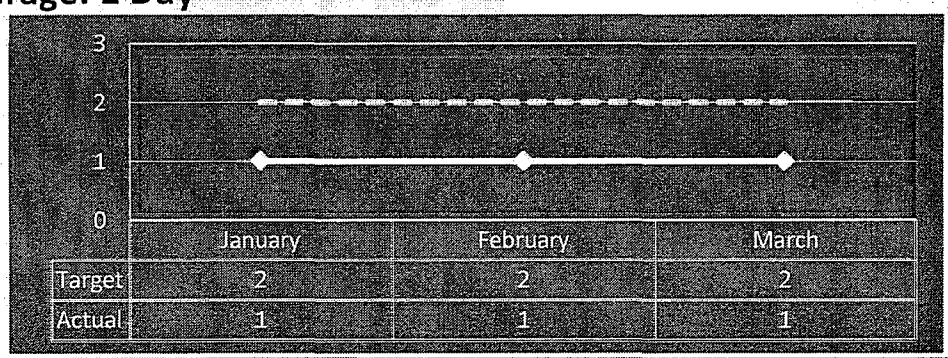


Intake

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

Target: 2 Days

Q3 Average: 1 Day

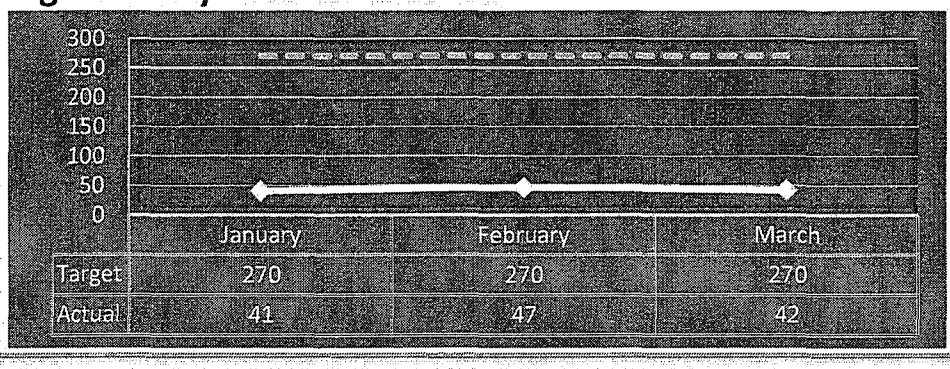


Intake & Investigation

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: 270 Days

Q3 Average: 43 Days

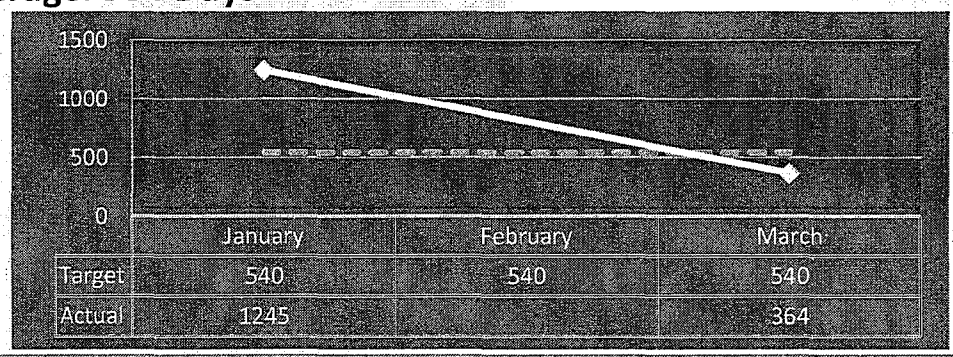


Formal Discipline

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: 584 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

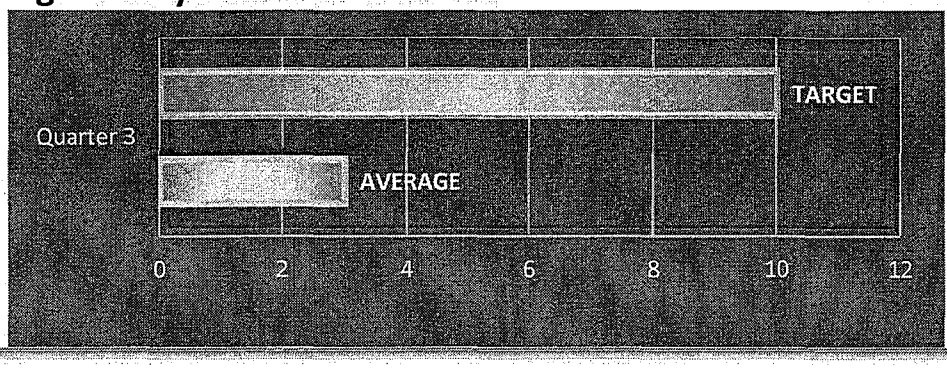
The Board did not contact any new probationers this quarter.

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: 3 Days



Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Q2 Report *(October - December 2010)*

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.

In future reports, the Department will request additional measures, such as consumer satisfaction. These additional measures are being collected internally at this time and will be released once sufficient data is available.

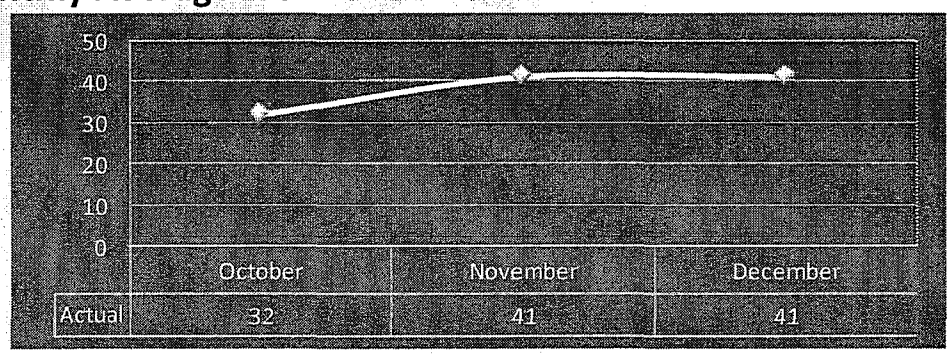
Volume

Number of complaints and convictions received.

Q2 Total: 114

Complaints: 94 Convictions: 20

Q2 Monthly Average: 38

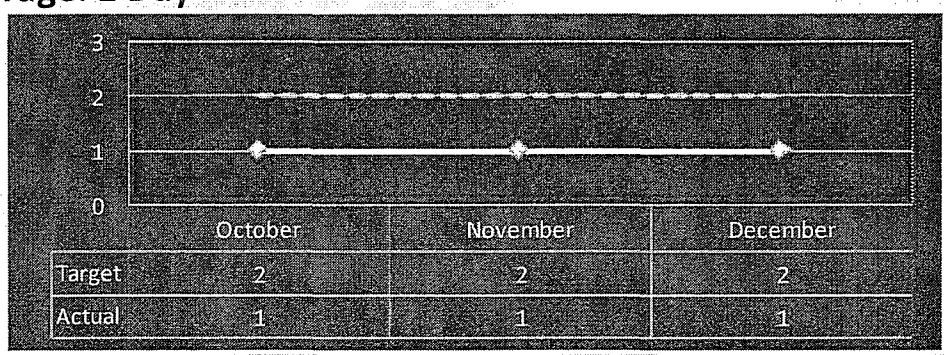


Intake

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

Target: 2 Days

Q2 Average: 1 Day

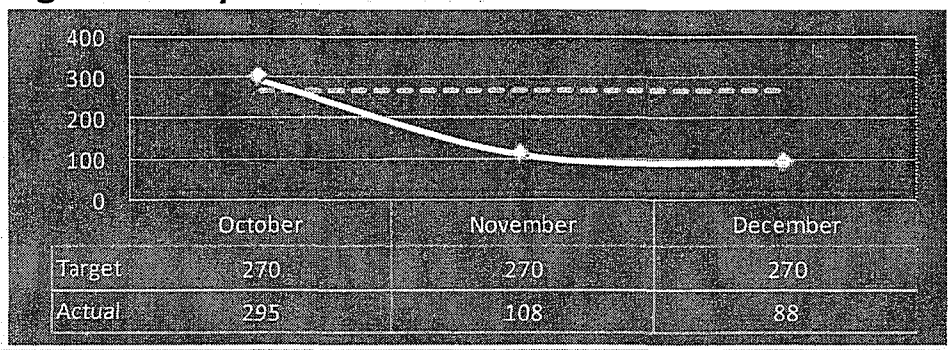


Intake & Investigation

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: 270 Days

Q2 Average: 179 Days



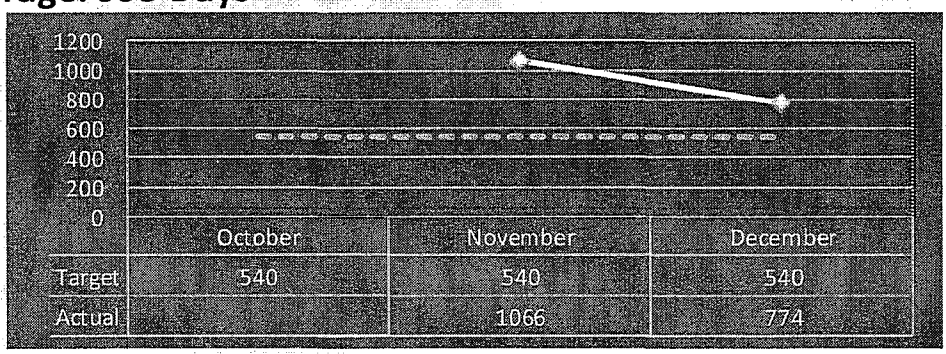
	October	November	December
Target	270	270	270
Actual	295	108	88

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: 993 Days



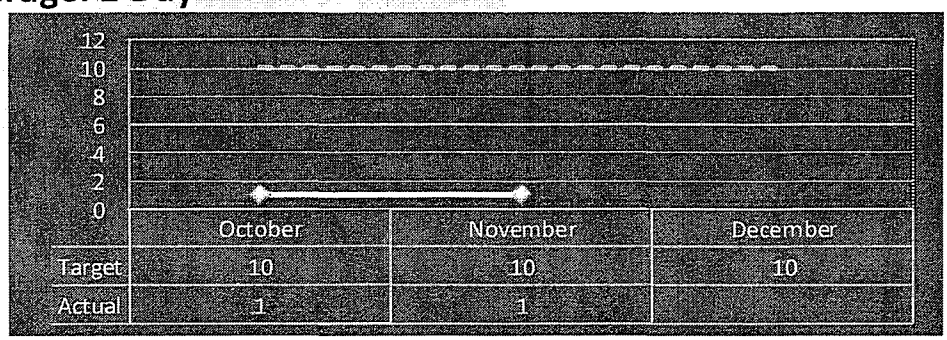
	October	November	December
Target	540	540	540
Actual		1066	774

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: 1 Day



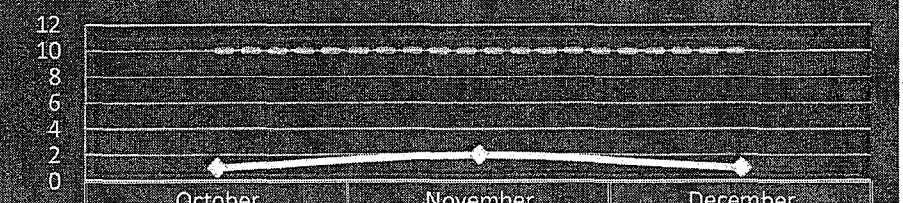
	October	November	December
Target	10	10	10
Actual	1	1	

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: 1 Day



	October	November	December
Target	10	10	10
Actual	1	2	1

Department of Consumer Affairs

Board of Occupational Therapy

Performance Measures

Q1 Report *(July - Sept 2010)*

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.

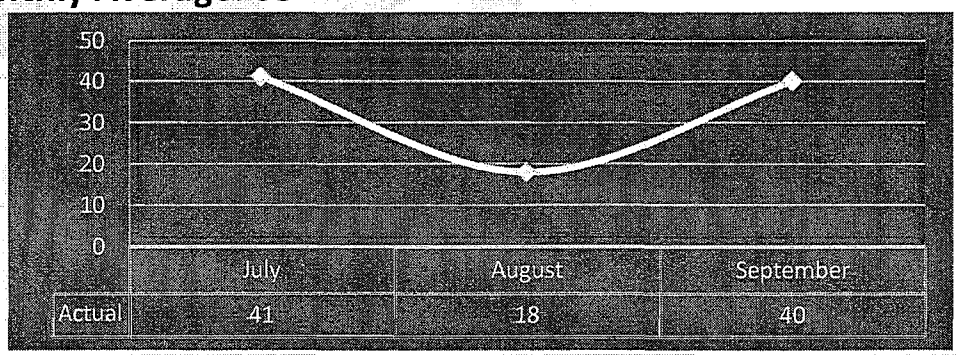
These measures will be posted publicly on a quarterly basis. In future reports, additional measures, such as consumer satisfaction and complaint efficiency, will also be added. These additional measures are being collected internally at this time and will be released once sufficient data is available.

Volume

Number of complaints received.*

Q1 Total: 99 ***(Complaints: 82 Convictions: 17)***

Q1 Monthly Average: 33

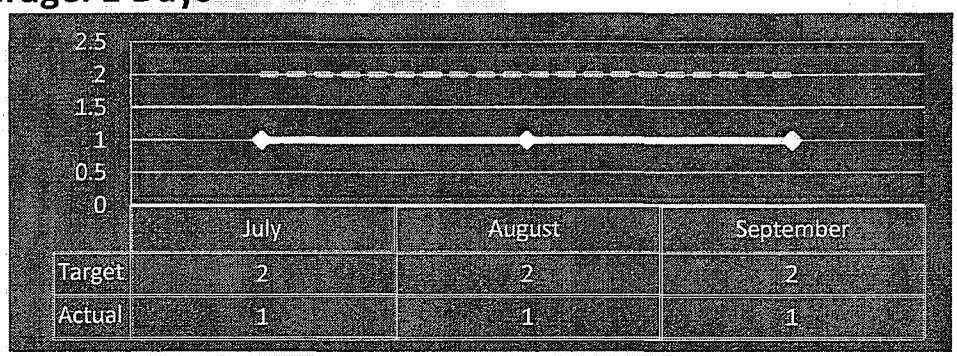


Intake

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

Target: 2 Days

Q1 Average: 1 Days



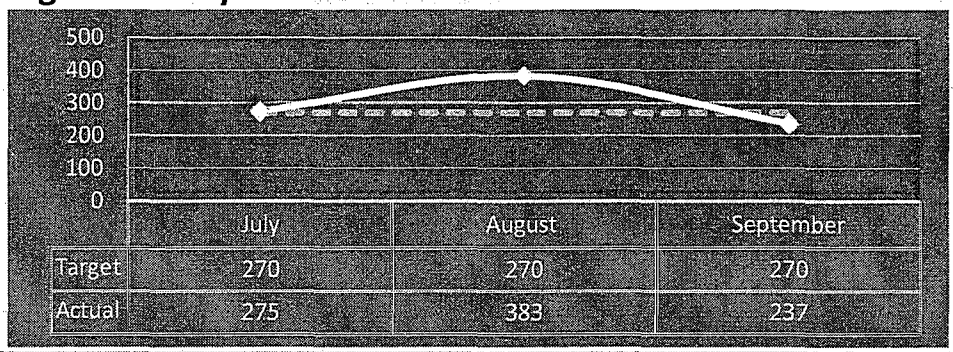
***"Complaints" in these measures include complaints, convictions, and arrest reports.**

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: 270 Days

Q1 Average: 297 Days



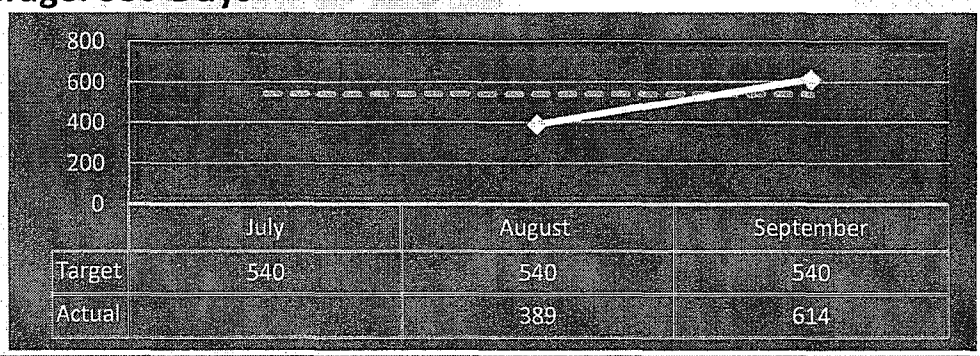
	July	August	September
Target	270	270	270
Actual	275	383	237

Formal Discipline

Average cycle time from complaint receipt to closure, for cases sent to the Attorney General or other forms of formal discipline.

Target: 540 Days

Q1 Average: 539 Days



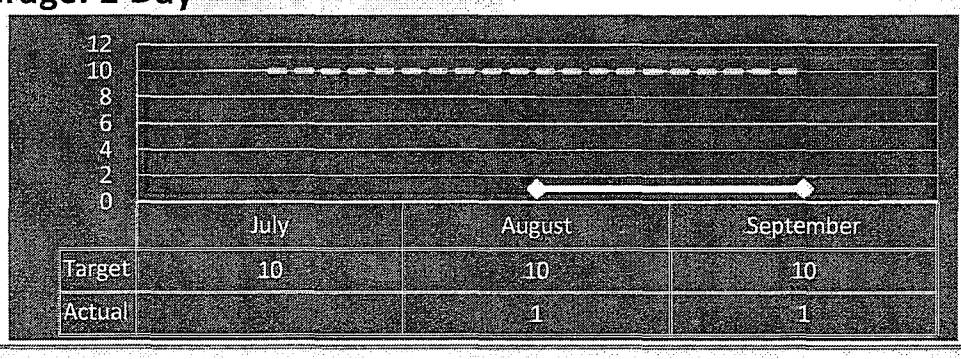
	July	August	September
Target	540	540	540
Actual		389	614

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: 1 Day



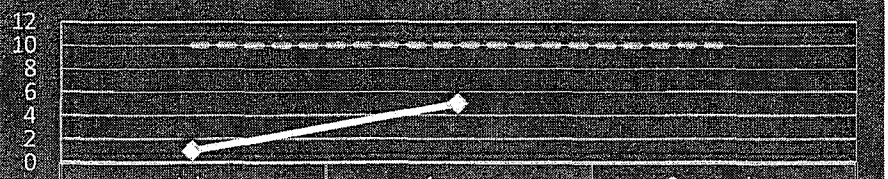
	July	August	September
Target	10	10	10
Actual		1	1

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: 5 Days



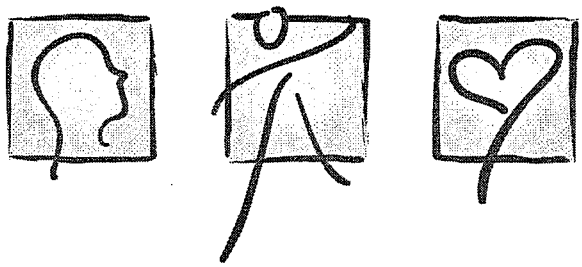
	July	August	September
Target	10	10	10
Actual	1	5	

Attachment B:

Board's Administrative Manual

State of California
Department of Consumer Affairs

California
BOARD OF OCCUPATIONAL THERAPY



BOARD MEMBER GUIDELINES AND PROCEDURES MANUAL

Heather Martin, Executive Officer
2005 Evergreen Street, Suite 2050
Sacramento, California 95815

Tel Number (916) 263-2294
Fax Number (916) 263-2701
Email address: *cbot@dca.ca.gov*

WWW.BOT.CA.GOV

Preface

This document is a summary of existing laws as well as internal Board policies and procedures. Effective February 21, 2008, the date of adoption of this document, all previous internal Board policies and procedures are rescinded.

Table of Contents

Introduction
Overview 1
Strategic Plan 1
Abbreviations 1

Chapter 1 – Board
Composition 3
Officers 3
Officer Duties 3
Meetings 3
Board Member Attendance at Board Meetings 3
Quorum 4
Agenda Items 4
Record of Meetings 4
Tape Recording 4
Meeting Rules 4
Communication 4
Correspondence 5
Executive Officer Evaluation 5
Board Member Training 5

Chapter 2 – Board President
Supervision of Executive Officer 6
Performance Appraisal of Executive Officer 6

Chapter 3 – Board Members
Per Diem Salary 7

Chapter 4 – Executive Officer
Appointment 9
Role 9
Recruitment 9
Selection 9
Board Staff 9
Annual Performance Appraisal 9

Chapter 5 – Committees
Standing Committees 10
Administrative Committee 10
Disaster Preparedness/Disaster Response Committee 11
Education and Outreach Committee 11
Enforcement Committee 12
Legislative and Regulatory Affairs Committee 13
Practice Committee 14
Ad Hoc Committees 15
Advisory Capacity 15
Agendas 15

Chapter 5 – Committees (cont.)

Appointments 16
Attendance at Committee Meetings 16
Dual Membership 16
Meeting Rules 16
Minimum Qualifications 16
Record of Meetings 16
Recruitment 17
Reimbursement of Travel-Related Expenses 17
Residence Requirement 17
Staff Participation 17
Tape Recording 17

Chapter 6 – Travel Procedures

Travel Approval 18
Claims for Reimbursement of Travel-Related Expenses 18

Chapter 7 – Security Procedures

Request for Records Access 19
Contact with Applicants, Licensees, Complainants, and Respondents 19
Gifts from Applicants 19

Chapter 8 – Affiliation with DCA

Overview of DCA 20

Chapter 9 – Affiliation with Other Organizations

American Occupational Therapy Association (AOTA) 21
Council on Licensure, Enforcement and Regulation (CLEAR) 21
National Board for Certification in Occupational Therapy (NBCOT) 21
Occupational Therapy Association of California (OTAC) 21

Chapter 10 – Information

Disciplinary Actions 22

Conclusion

References 23

Board Organization Chart 24

Roles and Responsibilities of the Administrative Committee 25

Roles and Responsibilities of the Disaster Preparedness/ Disaster Response Committee 26

Roles and Responsibilities of the Education & Outreach Committee 27

Roles and Responsibilities of the Enforcement Committee 28

Roles and Responsibilities of the Legislative & Regulatory Affairs Committee 29

Roles and Responsibilities of the Practice Committee 30

Introduction

Overview

The California Board of Occupational Therapy (Board) was established on January 1, 2001 (Senate Bill 1046, Chapter 697, Statutes of 2000) to protect the health, safety, and welfare of California consumers by regulating the practice of occupational therapists and occupational therapy assistants. It is one of several boards, bureaus, commissions and committees under the umbrella of the Department of Consumer Affairs (DCA), which provides administrative oversight and support services. The Board is autonomous and sets its own policies, procedures and regulations.

Strategic Plan

The Board's mission, vision, goals, objectives and action plans are in its Strategic Plan which was originally adopted in July 2004. The Strategic Plan will be reviewed annually and revised as needed.

Abbreviations

Agencies

CBOT	California Board Occupational Therapy
CDA	California Department of Aging
CDCR	California Department of Corrections & Rehab
CDE	California Department of Education
CDPH	California Department of Public Health
DCA	Department of Consumer Affairs
DDS	Department of Developmental Services
DHCS	Department of Health Care Services
DMH	Department of Mental Health
DSS	Department of Social Services
DVA	Department of Veterans Affairs
OAH	Office of Administrative Hearings
OAL	Office of Administrative Law
PTBC	Physical Therapy Board of California
SCSA	State and Consumer Services Agency
SLA & HAD	Speech Language and Audiology & Hearing Aide Dispensers Board

Codes

BPC	Business and Professions Code
CCR	California Code of Regulations
CFR	Code of Federal Regulations
CEC	California Education Code
CGC	California Government Code
HSC	Health and Safety Code
WIC	Welfare and Institutions Code

Abbreviations (Cont.)

Organizations

ACOTE	Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association
APTA	American Physical Therapy Association
AOTA	American Occupational Therapy Association
ASHA	American Speech-Language-Hearing Association
ASHT	American Society of Hand Therapists
CAMFT	California Association of Marriage & Family Therapists
CLEAR	Council on Licensure, Enforcement and Regulation
CPIL	Center for Public Interest Law
CPTA	California Physical Therapy Association
FARB	Federation of Associations of Regulatory Boards
HTCC	Hand Therapy Certification Commission
NBCOT	National Board for Certification in Occupational Therapy
OTAC	Occupational Therapy Association of California
RESNA	Rehabilitation Engineering Society of North America
WFOT	World Federation of Occupational Therapy

Titles

AG	Attorney General
ALJ	Administrative Law Judge
CHT	Certified Hand Therapist
COTA	Occupational Therapy Assistant Certified by NBCOT
DA	District Attorney
DAG	Deputy Attorney General
EO	Executive Officer
OT	Occupational Therapist
OTA	Occupational Therapy Assistant
OTR	Occupational Therapist Registered with NBCOT

Chapter 1. Board

Composition

(B&P section 2570.19)

The Board is composed of seven members of which, by law, includes:

- Four practitioners, including three occupational therapists and one occupational therapy assistant
- Three public members

The Governor appoints the four practitioners and one of the public members. One public member is appointed by the Assembly Speaker, and one public member is appointed by the Senate Rules Committee. Board members may serve up to two consecutive four-year terms.

Officers

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Board shall elect from its members a President, Vice President, and a Secretary to hold office for one calendar year or until their successors are duly elected.

Elections shall take place at the last meeting of the Board held annually. New officers shall assume office at the first meeting held in the next calendar year following the Officer elections. All officers may be elected on one motion or ballot as a slate of officers unless objected to by a Board member.

If any office of the Board becomes vacant, an election shall be held at the next scheduled Board meeting. Elected officers shall then serve the remainder of the term.

Officer Duties

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The President shall preside over the meetings, and supervise the Executive Officer.

The Vice President acts in the President's absence.

The Secretary shall be responsible for taking roll and taking roll call vote when necessary.

Meetings

(B&P section 2570.19)

The Board will meet a minimum of three times a year and may meet more often as it determines necessary.

The Board will hold meetings in the cities of Sacramento, Los Angeles, and San Francisco and different geographic areas throughout the state as a convenience to the public and licensees.

Board Member Attendance at Board Meetings

(Board Policy – February 21, 2008)

(Revised December 1,2011)

Board members shall attend or participate each meeting of the Board. If a member is unable to attend, he/she is requested to promptly contact the Executive Officer, to address quorum issues.

Quorum

(Common Law)

Four members of the Board constitute a quorum of the Board for the transaction of business. (A majority of the statutory number of members, BPC 2570.19, not a majority of the appointees.)

Agenda Items

(Board Policy – February 21, 2008)

Any Board member may submit items for a Board meeting agenda to the Board President or Executive Officer. Items shall be requested during a Board meeting or at least 21 days prior to the meeting.

The Board meeting agenda package will be sent to Board members 10 or more days prior to the meeting.

Record of Meetings

(Board Policy – Adopted date*)*

(Revised December 1,2011)

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 the Board President within 20 working days after the Board meeting and then distributed to members of the Board.

Board minutes shall be approved at the next scheduled Board meeting and serve as the official record of the meeting.

Once draft Board minutes are distributed to Board members, they will be included in any Board and Committee agenda package.

Approved minutes of the open session are available for distribution to the public and shall be posted on the Board's website.

Tape Recording

(Board Policy – February 21, 2008)

Public Board meetings are tape-recorded. Tape recordings shall be retained until the minutes are adopted; the tape(s) shall then be destroyed. Closed session proceedings shall be taped at the discretion of the Board.

Meeting Rules

(Board Policy – February 21, 2008)

Board meetings will be conducted under Robert's Rules of Order to the extent that it does not conflict with the Bagley-Keene Open Meeting Act or any other section of law.

Communication

(Board Policy – February 21, 2008)

The Board President, his/her designee or the Executive Officer shall serve as spokesperson to the media on Board actions or policies.

Any written or oral communications concerning Board matters of a sensitive nature shall be made only by the Board President, his/her designee or the Executive Officer.

Staff shall provide Board members with Committee and Board member contact information on a quarterly basis.

Correspondence

(Board Policy – February 21, 2008)

Originals of all correspondence received shall be maintained in the Board's office files consistent with the record retention schedule. Only copies of such correspondence shall be given to the Executive Officer and/or Board members as required.

Executive Officer Evaluation

(CGC section 11126(a)(4))

(Board Policy – February 21, 2008)

(Revised December 1,2011)

Each Board Member shall provide input to the Board President regarding the performance appraisal and salary administration of the Executive Officer.

The performance appraisal of the Executive Officer shall be presented in draft form to the Board by the Board President at the annual election meeting.

The Board President may consult with the Office of Human Resources (OHR).

Matters relating to the performance of the Executive Officer shall be discussed in closed session unless he or she requests that it be discussed in open session.

Board Member Training

(CGC section 11146 et seq.)

(Board Policy – February 21, 2008)

New and continuing Board members shall complete training in accordance with the law and DCA procedures. The Executive Officer shall ensure compliance by annually reviewing the training completed by Board members.

Required training topics include, at a minimum:

- Diversity
- Ethics
- Sexual Harassment Prevention
- Privacy Protection/Identity Theft, and
- Board Member Orientation

Chapter 2. Board President

The duties of the Board President include, but are not limited to:

Supervision of Executive Officer

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Board President means President or President's designee. The President is the immediate supervisor of the Executive Officer. Specific instructions for work on Board policy matters by the Executive Officer from board members shall be coordinated through the Board President.

The incoming Board President shall assume all duties at the next meeting, including supervision of the Executive Officer.

Performance Appraisal of Executive Officer

(CGC section 11126(a)(4))

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Board President shall request from each Board Member input to the performance appraisal and consult with OHR regarding salary administration of the Executive Officer prior to his/her draft preparations.

The performance appraisal of the Executive Officer shall be presented in draft form to the Board by the Board President at the annual election meeting.

Matters relating to the performance of the Executive Officer shall be discussed in closed session unless he or she requests that it be discussed in open session.

Chapter 3. Board Members

Per Diem Salary

(B&P Section 103)

Business and Professions Code Section 103 regulates compensation in the form of per diem salary and reimbursement of travel and other related expenses for Board members. In relevant part, this section provides for the payment of per diem salary 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."

Business and Professions Code Section 103 also states, "Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment."

(Board Policy – February 21, 2008)

(Revised December 1,2011)

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

1. Board members shall be paid per diem salary for attendance at official Board and Committee meetings of which they are members. Board members cannot claim per idem salary for time spent traveling to and form a Board or Committee meeting. Per diem salary shall not be paid for preparation time for Board of Committee meetings, which would include such things as reading the meeting materials.

   Where it is necessary fore a Board member to leave early from a meeting, the Board President shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

2. Board members shall be paid per diem salary for attendance at education and outreach events, or other events including but not limited to hearings, conferences or meetings other than official Board or Committee meetings that are approved in advance by the Board President and consistent with a "substantial service" as defined.

Per Diem Salary (Cont.)

The Executive Officer shall be notified of the event prior to the Board member's attendance. Board members will be compensated for actual time spent attending events other than official Board of Committee meetings, and preparation time for said events, based on submission of an approved attendance form. Per diem salary shall be paid upon evidencing six (6) hours of actual time spent. Hours may be accumulated over several events to meet this requirement.

3. Board-specified work and performance of state roles or additional assigned duties, Board members will be compensated for actual time spent performing work authorized in advance by the Board President based on submission of an approved attendance form. Per diem salary shall be paid upon evidencing six (6) hours of actual time spent. Hours may be accumulated for Board-specified assignments to meet this requirement.

Chapter 4. Executive Officer

Appointment

(B&P section 2570.21)

The Board appoints an Executive Officer who serves at the pleasure of the Board. He/She may be terminated at any time for any reason whatsoever, with or without good cause, and notwithstanding any representation to the contrary by any individual board member.

Role

(CCR Section 4101)

(Board Policy – February 21, 2008)

The Executive Officer is the Board's chief administrative officer. He/~~s~~She implements the policies developed by the Board.

Recruitment

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Board shall institute an open recruitment plan to obtain a pool of qualified Executive Officer candidates. It shall also utilize proven equal employment opportunity and personnel recruitment procedures. The Board shall also work with the Department of Consumer Affairs' OHR and Deputy Director for Board relations in its recruitment process.

Selection

(Board Policy – February 21, 2008)

A qualified candidate for Executive Officer must demonstrate abilities that include the supervision of employees, conflict resolution and complaint mediation, public speaking and effective written and verbal communication skills. The candidate must have knowledge and expertise in the areas of administration, licensing, enforcement, legislation and budget.

(CGC section 11125)

The selection of a new Executive Officer shall be included as an item of business, which must be included in a written agenda and transacted at a public meeting.

Board Staff

(Board Policy – February 21, 2008)

The Board delegates all authority and responsibility for management of the civil service staff to the Executive Officer, including the annual evaluation and appraisal.

Performance Appraisal of Executive Officer

(CGC section 11126(a)(4))

(Board Policy – February 21, 2008)

The Board shall evaluate the performance of the Executive Officer on no less than an annual basis.

Matters relating to the performance of the Executive Officer shall be discussed in closed session unless he or she requests that it be discussed in open session.

Chapter 5. Committees

Standing Committees

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Board has six standing committees subject to the Open Meetings Act:

- Administrative Committee
- Disaster Preparedness/Disaster Response Committee
- Education and Outreach Committee
- Enforcement Committee
- Legislative and Regulatory Affairs Committee
- Practice Committee

Internal organization of each committee is at its discretion, except as specified in this manual, and shall be approved by the Board.

Member terms shall be two years, and members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

Administrative Committee

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Administrative Committee consists of the President and Vice President.

Members shall serve a maximum of two full, consecutive terms.

Meetings shall be held two or three times per year or as work requires.

The purpose of the Administrative Committee is to annually update the Strategic Plan, respond to items identified in an internal audit and provide guidance to staff in fulfillment of the audit staff's recommendations, provide guidance to staff for the budgeting and organizational components of the Board (i.e., sunset review, sunrise projects, budget change proposals, out-of-state trip requests, contracts, meeting agendas and preparations) and other duties as required.

Disaster Preparedness/ Disaster Response Committee

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Disaster Preparedness/Disaster Response Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The Disaster Preparedness/Disaster Response Committee is assigned to identify and provide input into reducing barriers to occupational therapy roles in disaster preparedness and response, review the current laws and regulations to ensure consistency, be responsible for the development and maintenance of the Board's Disaster Response plan, and provide input into updates of the Board's Continuity of Operations and Continuation of Government (COOP/COG) report.

Members may be asked to represent the Board at meetings held regarding emergency/disaster response (i.e., meetings held by the California Department of Public Health, the Governor's Office of Emergency Services, local govern

Education and Outreach Committee

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Education and Outreach Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The Education and Outreach Committee is assigned to develop consumer and licensee outreach projects, including the Board's newsletter, website, e-government initiatives and outside organization presentations.

Members may be asked to represent the Board at meetings, conferences, health, career or job fairs, or at the invitation of outside organizations and programs.

Enforcement Committee

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Enforcement Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The purpose of the Enforcement Oversight Committee is to continually seek ways to improve the Board's enforcement activities, develop and review enforcement policies, review enforcement and discipline-related regulatory proposals, review enforcement and discipline-related forms, review and make recommendations regarding the Board's disciplinary guidelines and to assist in identifying situations where enforcement procedures might be improved.

Please note: Members will not review individual enforcement cases.

Legislative/Regulatory Affairs Committee

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Legislative/Regulatory Affairs Committee shall consist of five members, at least one of whom shall be a Board member.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The Legislative/Regulatory Affairs Committee is assigned to provide information and/or make recommendations to the Board and committees of the Board on matters relating to legislation and regulations affecting the regulation of Occupational Therapists, Occupational Therapy Assistants and other items in the public interest or affecting Board operations.

The Committee's goals and objectives are to:

- Monitor current legislation on behalf of the Board and make position recommendations to the Board at each Board meeting.

Legislative/Regulatory Affairs Committee (Cont.)

- Serve as a resource to other Board committees on legislative and regulatory matters.
- Serve as a resource for the Board to implement proposed revisions to the Act and Board regulations.

The classification system to be used by the Legislative/ Regulatory Affairs Committee in recommending Board positions is:

- Support:
  The Board supports the current version of the bill. This designation commits the Board to full involvement in the legislative process including sending letters to key people, conferring with key people prior to committee hearings and testifying at hearings by Board members, Legislative Committee members or senior staff.

- Support if Amended:
  The Board generally supports the concept or intent of the bill. Technical flaws need to be corrected before the Board will fully support the bill. The Board identifies the amendments or requirements that must be met in order for support to be obtained. Should the requested amendments or requirements be accepted, the Board's position will change to support. This designation commits the Board to full involvement in the legislative process as discussed above.

- Oppose:
  The Board is opposed to the current version of the bill. This designation commits the Board to involvement in the legislative process as discussed above.

- Oppose Unless Amended:
  The Board is opposed to the bill but is willing to work with the author and sponsor of the bill to resolve the Board's concerns about the bill. The Board identifies the amendments or requirements that must be met to remove the Board's opposition. Should the requested amendments or requirements be accepted, the Board will adopt a support position.

Legislative/Regulatory Affairs Committee (Cont.)

- Watch
  The Board has some interest in the bill because it potentially may affect the work of the Board. This designation requires careful tracking through the legislative process.
- Neutral
  The Board takes no official position.

Practice Committee

(Board Policy – February 21, 2008)

The Practice Committee shall consist of no less than five members, one of whom shall be a Board member. The members shall include a diverse representation for a variety of work settings.

The Committee chairperson, the assigned Board member, shall be responsible for overseeing the meeting(s) and work with the Executive Officer in development of agenda packet materials. The Board member will be responsible for providing the Committee report at the Board meeting.

The purpose of the Practice Committee is to review and provide recommendations to staff on Applications for Advanced Practice Post-Professional Education courses; review and provide recommended responses to the Board on various practice issues/questions submitted by licensees and consumers; provide guidance to staff on continuing competency audits; review and provide recommendations to the Board on practice-related proposed regulatory amendments; and review and provide recommendations to Board staff on revisions to various applications and forms used by the Board.

Ad Hoc Committees

(Board Policy – February 21, 2008)

(Revised December 1,2011)

The Board may establish ad hoc committees as needed for the Board and its standing Committees.

Advisory Capacity

(Board Policy – February 21, 2008)

(Revised December 1,2011)

Committee recommendations and reports shall be submitted to the Board in a timely manner for consideration and possible action.

Agendas

(Board Policy – February 21, 2008)

Agendas shall focus on the specific tasks assigned by the Board and include:

- Public comment
- Time for committee members to recommend new areas of study to be brought to the Board's attention for possible assignment.
- Only those information items dealing with subjects assigned or delegated to the respective committee.

Committee chairs shall confer with the Board President prior to including any agenda item that is not clearly within that committee's assigned purview.

If more than two Board members will attend a Committee meeting, the agenda shall contain the statement: "A quorum of the Board may be present at the committee meeting. Board members who are not members of the committee may observe but no participate or vote."

Appointments

(Board Policy – Adopted date*)*

(Revised December 1,2011)

At the last meeting before the end of the fiscal year, standing committees shall make recommendations for possible members.

The Board President shall appoint the members to fill positions with expired terms of each standing committee and appoint members to ad hoc committees.

Attendance at Committee Meetings

(Board Policy – February 21, 2008)

(Revised December 1,2011)

Board members who are not members of the committee may attend a committee meeting and observe but not participate or vote.

It is required that non-Committee Board members sit in the audience and not participate in the meeting discussion.

Dual Membership

(Board Policy – February 21, 2008)

A non-Board member cannot serve concurrently on more than two standing advisory committees.

Meeting Rules

(Board Policy – February 21, 2008)

Meetings will be conducted under Robert's Rules of Order to the extent that it does not conflict with the Bagley-Keene Open Meeting Act or any other section of law.

Minimum Qualifications

(Board Policy – February 21, 2008)

The minimum qualifications for a licensee member of a standing advisory committee are:

- Five years of professional experience,

Minimum Qualifications (Cont.)

- Current California licensure as an occupational therapist or occupational therapy assistant, without restriction,
- No pending or prior disciplinary action.

Record of Meetings

(Board Policy – February 21, 2008)

The minutes are a summary, not a transcript of each committee meeting. The minutes shall be prepared by Board staff and submitted for review by Committee members within 20 working days of the meeting.

Committee's minutes shall be approved at the next scheduled Committee meeting and serve as the official record of the meeting.

Approved minutes of the open session are available to the public, upon request, and shall be posted on the Board's website.

Recruitment

(Board Policy – February 21, 2008)

The Board shall recruit interested persons to serve on appropriate committees.

Reimbursement of Travel-related Expenses

(Board Policy – February 21, 2008)

Committee members are entitled to be reimbursed for all travel-related expenses to attend Committee meetings.

Residence Requirement

(Board Policy – February 21, 2008)

A member of a standing advisory committee must be a California resident.

Staff Participation

(Board Policy – February 21, 2008)

Board staff provides advice, consultation and support to committees.

Tape Recording

(Board Policy – February 21, 2008)

Committee meetings are tape-recorded. Tape recordings shall be retained until the minutes are adopted; the tape(s) shall then be destroyed.

Chapter 6. Travel Procedures

Travel Approval

(Board Policy – February 21, 2008)

(Revised December 1,2011)

Board members shall have the Board President's approval for all travel except for regularly scheduled Board and Committee meetings to which the Board member is assigned.

Arrangements for Board member travel are made by Board members or the Board's staff.

Arrangements for Committee member travel are made by the Board's staff.

If a conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses and the individual may not represent the Board.

Claims for Reimbursement of Travel-related expenses

(Board Policy – February 21, 2008)

Board members shall have the Board President's approval for all travel except for regularly scheduled Board and Committee meetings to which the Board member is assigned.

Chapter 7. Security Procedures

Request for Records Access

(Board Policy – February 21, 2008)

No Board member may access a licensee's or applicant's file without the Executive Officer's knowledge and approval of the conditions of access except as consistent with the Public Records Act, Information Practices Act, and other relevant sections of law. A notation of the Board member's access to the record shall be entered in the file. Records or copies of records shall not be removed from the Board's office.

Contact with Applicants, Licensees, Complainants, and Respondents

(Board Policy – February 21, 2008)

Board members shall not intervene on behalf of a applicant, ~~or~~ licensee, or complainant for any reason. They ~~should~~ shall forward all contacts or inquiries to the Executive Officer or Board staff.

Board members shall not directly participate in complaint handling and resolution or investigations. If a Board member is contacted by a respondent or his/her attorney, he/she shall refer the individual to the Executive Officer or Board staff.

Gifts from Applicants

(Board Policy – February 21, 2008)

Gifts of any kind to Board members or staff from applicants for licensure, applicants or other interested organizations with the Board shall not be permitted.

[Legal Counsel to provide more language regarding Fair Political Practice Committee requirements]

Chapter 8. Affiliation With The Department of Consumer Affairs (DCA)

Overview of DCA

(Board Policy – February 21, 2008)

The Department of Consumer Affairs (DCA) is mandated to protect and serve California consumers while ensuring a competent and fair marketplace. DCA helps consumers learn how to protect themselves from unscrupulous and unqualified individuals. The Department also protects professionals from unfair competition by unlicensed practitioners.

The Department of Consumer Affairs includes 40 regulatory entities (nine bureaus, one program, twenty-five boards, three committees, one commission, and one office). These entities establish minimum qualifications and levels of competency for licensure. They also license, register, or certify practitioners, investigate complaints and discipline violators. The committees, commission and boards are semiautonomous bodies whose members are appointed by the Governor and the Legislature. DCA provides them administrative support. DCA's operations are funded exclusively by license fees.

Pursuant to B&P Code Section 127 the director may require reports from any board, commission, examining committee, or other similarly constituted agency within the department as he deems reasonably necessary on any phase of their operations.

Chapter 9. Affiliation With Other Organizations

AOTA

(Board Policy – February 21, 2008)

The Board shall maintain membership in the American Occupational Therapy Association (AOTA). The President, President's designee, and/or Executive Officer shall represent the Board at AOTA's Annual Conference. If AOTA's Annual Conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses.

CLEAR

(Board Policy – February 21, 2008)

The Board may maintain membership in the Council on Licensure, Enforcement and Regulation (CLEAR). If CLEAR's Annual Conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses.

NBCOT

(Board Policy – February 21, 2008)

The Board may maintain membership in the National Board for Certification in Occupational Therapy (NBCOT). If NBCOT's Annual Conference is held out of state, the President and/or Executive Officer may only attend if an Out of State Travel Request has been approved by the Department of Finance. If the conference is not an approved OST, there will be no reimbursement for travel-related expenses.

OTAC

(Board Policy – February 21, 2008)

The Board shall maintain membership in the Occupational Therapy Association of California (OTAC). The Board shall ensure representation by attending OTAC Annual Conference and other events as operationally practicable.

Chapter 10. Information

Disciplinary Actions

(Board Policy – February 21, 2008)

All final decisions by the Board following formal disciplinary proceedings of alleged violations of the Act shall be published on the Board's website after the effective date of the decision.

Conclusion

This Board Member Administrative Procedure Manual serves as reference for important laws, regulations, Department of Consumer Affairs' policies and Board policies in order to guide the actions of the Board members and ensure Board effectiveness and efficiency.

References

The procedures in this manual are specific to the Board. Suggested references for additional important information are:

Board Member Orientation and Reference Manual, DCA

Business and Professions Code, sections 103, 106, 106.5, 2570-2571, 17500

California Code of Regulations, sections 4100-4184

California Government Code, sections 1750, 11120 et seq., 11146 et seq.

State Administrative Manual, section 700 et seq.

Attachment C:

Board Member Disciplinary Resource Manual

California
BOARD OF OCCUPATIONAL THERAPY

Board Member Disciplinary Resource Manual

Section 1

Enforcement Process Overview

Section 2

Legal Documents

Section 3

Legal Processes

Section 4

Definitions

Section 5

Disciplinary Guidelines

TABLE OF CONTENTS

Section 1. Enforcement Process Overview	**Page #**
Complaint Process	3
Complaint Process Flowchart	5
Citation Process	7
Citation Process Flowchart	9
Discipline Process	11
Discipline Process Flowchart (*placeholder)*	13
Section 2. Legal Documents	
Accusations	17
Statement of Issues	19
Section 3. Legal Processes	
Proposed Decisions – Accusation or Petition to Revoke	23
Proposed Decisions – Statement of Issues	25
Non-Adopt Proposed Decision – Increase Penalty	27
Non-Adopt Proposed Decision – Decrease Penalty	29
Default Decision	31
Request to Vacate Default Decision	33
Reconsideration	35
Stipulated Settlement Agreements	37
Proposed Decisions – Citations	39
Petition to Compel Physical Examination or Psychiatric Evaluation	41
Section 4. Definitions	43
Chapter 5. Disciplinary Guidelines	51

Enforcement Process Overview

Complaint Process

Overview

When Board staff receives a complaint regarding an occupational therapist or occupational therapy assistant, an initial review is conducted to determine if there is a violation of the Practice Act and if we have legal authority (jurisdiction) to take action. If these conditions are not met, the complaint is closed as "No Jurisdiction". If it is determined the allegation might be a violation, and there is legal authority to take action, Board staff conducts an investigation.

Examples of complaints that fall within the Board's jurisdiction include, but are not limited to:

1. Practicing occupational therapy without a license;
2. Alcohol or substance abuse;
3. Impaired practice due to alcohol or substance use;
4. Gross negligence/incompetence;
5. Patient abuse and neglect;
6. Sexual, violent, assaultive or abusive offenses;
7. Fraud, Fiscal dishonesty, theft or larceny offenses;
8. Mentally impaired and unsafe to practice;
9. Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code;
10. Conviction of a crime involving harassment or stalking (as defined by the Penal Code);
11. Conviction of a crime involving lewd conduct, prostitution or solicitation thereof, or pandering and/or indecent exposure (as defined by the Penal Code);
12. Failure to comply with any mandatory reporting requirements;
13. Unprofessional conduct;
14. Failing to provide appropriate supervision;
15. Failing to appropriately or adequately document patient records;
16. OTs or OTAs on probation who have violated their probation conditions;
17. Aiding or abetting unlicensed practice;
18. A violation of the Ethical Standards of Practice;
19. Other acts or convictions substantially related to the practice of occupational therapy.

Complaints that are outside the Board's jurisdiction include, but are not limited to:

1. Interpersonal conflicts
2. Employee-employer relations
3. Labor issues
4. Rudeness or impolite behavior
5. Complaints against health care practitioners that are not OTs, OTAs, health care facilities, clinics, or agency operations

When the public or another agency files a complaint with the Board, staff will acknowledge receipt of the complaint, in writing, within ten (10) days.

The fundamental purpose of an investigation is to determine if the allegation(s) has merit and is the basis for discipline. The investigative process may involve requesting more information from the complainant, including but not limited to written declarations, documentation, employment records, and billing statements. If treatment notes or records are needed, the complainant is asked to sign an authorization allowing the release of their medical records. Employers, witnesses, supervisors, and administrators may be interviewed or asked to provide written statements and/or records to help ascertain if the allegations have merit. In all cases, Board staff or the Division of Investigation (DOI) Investigator will attempt to obtain the subject's insight and perspective into the allegations. If the subject declines to participate in the investigation, it does not preclude the Board from taking action based on evidence it develops. However, a failure to cooperate/ participate may compromise the investigation process. Complaints of a more serious nature or which contain allegations of harm to the public or which will require extensive record retrieval are forwarded to DOI for investigation by a sworn peace officer.

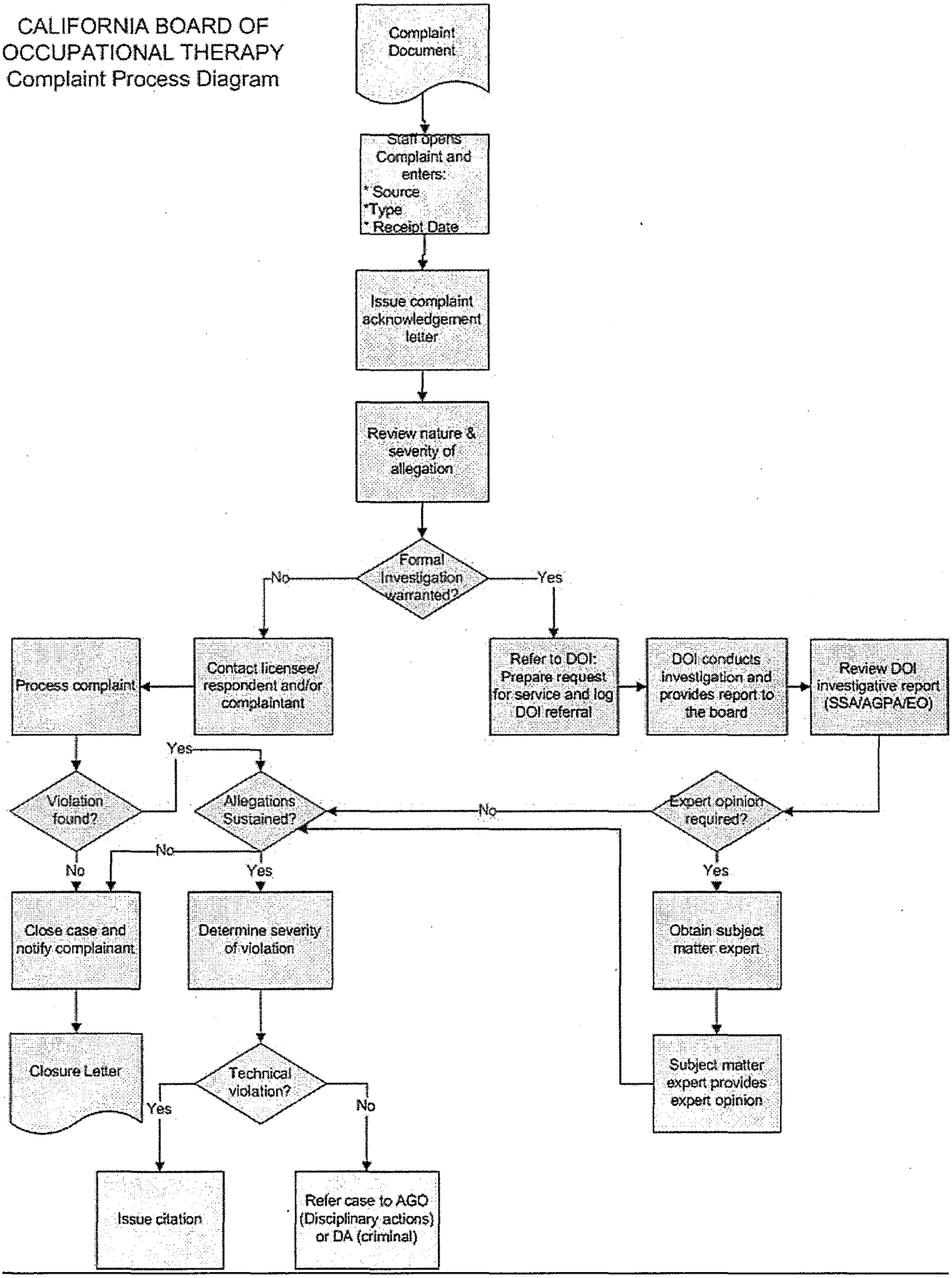
When the investigation concludes, if the evidence does not support the allegations, the complaint is closed and both the subject and complainant are notified. If a violation is substantiated, the case analyst will recommend action to be taken. Violations of a lesser a nature typically are resolved by issuing an education letter or a citation and fine. More serious cases warrant the initiation of formal disciplinary action with the Office of the Attorney General (AGO) to seek revocation, suspension, or probation of the license.

Board Member Involvement

Board Members are not involved in this process; this is purely a Board staff process. Should the matter progress to the point formal action is being initiated, Board Members will need to be unbiased in rendering a decision on the matter.

Board Members are reminded that if anyone contacts them to discuss a complaint, investigation, or who indicates disciplinary action has been initiated against them, you are to advise the individual that you are unable to discuss the matter and refrain from further discussion. You are encouraged to advise the individual that continued discussion could result in your being disqualified from voting on the matter. [Please also contact the Executive Officer to advise of any direct contact by a licensee.]

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
Complaint Process Diagram



Citation Process

Overview

Citations are issued when a violation can be proven. Citations bridge the gap between an education letter and the initiation of formal disciplinary action. Board staff drafts the Citation and Fine for the Executive Officer's (EO) signature. Citations identify the codes that allegedly were violated and contain a summary of the events and circumstances surrounding the alleged violation. On occasion, citations may include an abatement order to correct a matter (e.g. submitting an address change, documenting patient/client records, correcting advertisement, etc.).

Board staff serves the citation to the subject's address of record and tracks the citation for compliance or appeal. The cited individual has 30 days to pay any fine imposed, comply with any abatement order, or appeal the citation. If the fine is paid the matter is closed. If an order of abatement was also incorporated into the citation, the licensee must demonstrate compliance unless a later date for compliance is specified.

If a fine is not paid or appealed within 30-days, Board staff will place a hold on the subject's license renewal and will initiate a series of demand for payment letters. If the subject fails to respondent to the third and final demand letter, the case is referred to the Franchise Tax Board for collection. If an abatement order is not complied with, the Board has the option to file an Accusation with the Attorney General's Office (AGO), for failure to comply with the Citation Abatement Order (see disciplinary process).

There are three options to appeal a citation: (1) Request an informal conference with the EO (or his/her designee); (2) Request an administrative hearing; or (3) Request both an informal conference and an administrative hearing.

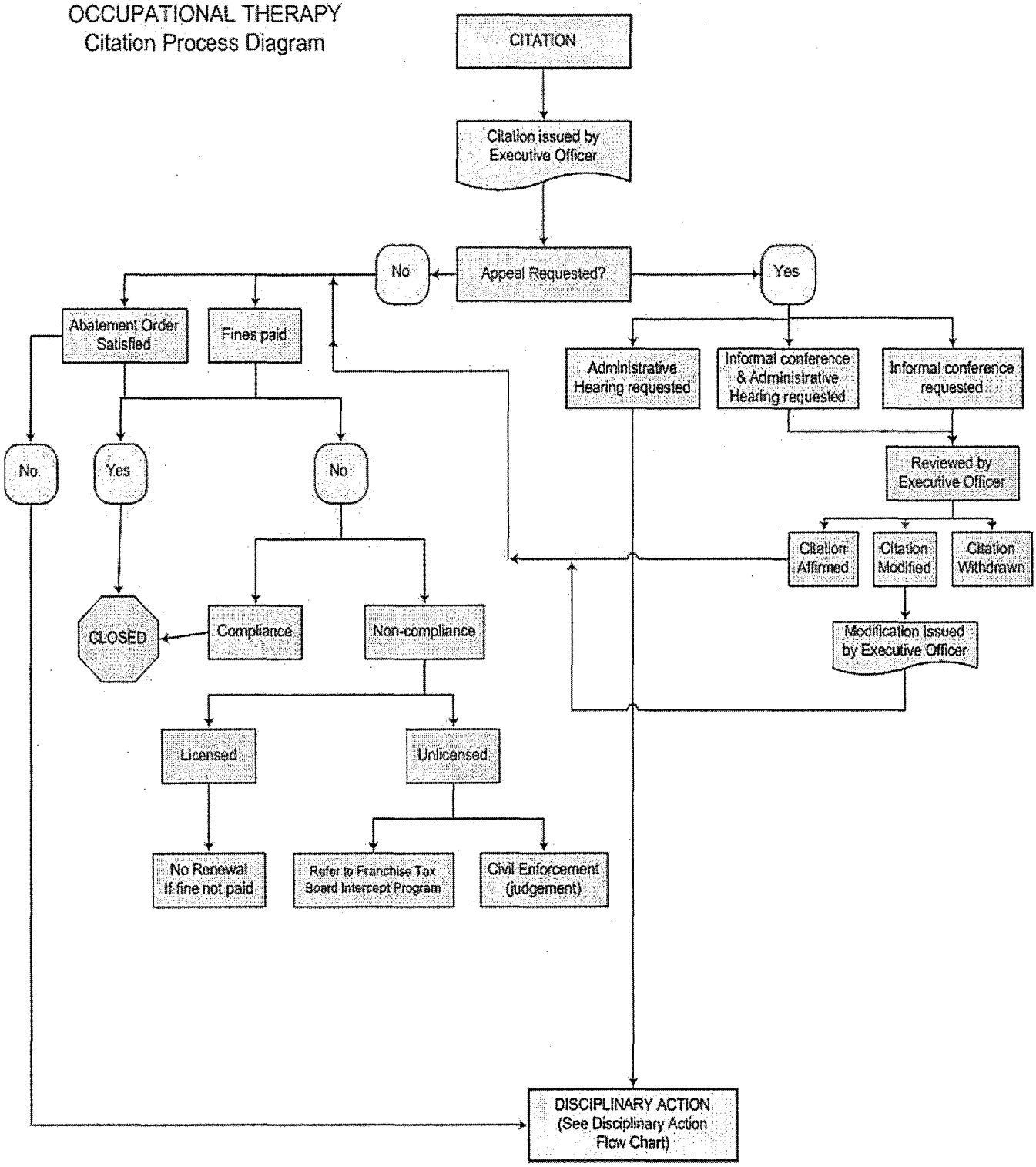
Informal conferences are held by teleconference or in person. If the EO decides to withdraw the Citation and Fine, the citation is closed. If the EO affirms the Citation and Fine, the subject is required to pay the fine unless a request for an administrative hearing was filed. If the EO modifies the Citation and Fine, a modified citation will be served. The subject will then be required to pay the modified citation unless a request for an administrative hearing was filed.

Requests for an administrative hearing are forwarded to the AGO. A Deputy Attorney General (DAG) will be assigned and schedule a hearing date with the Office of Administrative Hearings (OAH). After hearing the case, an Administrative Law Judge (ALJ) will issue a Proposed Decision for the Board to consider.

Board Member involvement

Board Members are not involved in the citation process unless an administrative hearing is requested to appeal a citation. Citations are NOT considered formal disciplinary action since the license is not being revoked or restricted. Instead, Board members are provided statistical data regarding the issuance of citations at scheduled meetings.

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
Citation Process Diagram



Discipline Process

Overview

Once a complaint has been investigated and a violation has been substantiated, the Discipline Process begins. The process involves three phases: Investigation; Prosecution, and Adjudication. "Due Process" requires that the licensee be given notice of the proposed action and the basis for the action, as well as the opportunity to be heard (have their day in court, or more specific to us - an administrative hearing).

This section will provide information on processes and steps in the prosecution phase. Once an investigation has concluded and it has been determined that the case warrants formal disciplinary action, the case is transmitted to the Attorney General's Office (AGO). The Board's transmittal will ask that the Deputy Attorney General (DAG) review the case and prepare an appropriate charging document, including an Accusation, Statement of Issues, Petition to Revoke Probation, etc., based on records contained in the transmittal. ("Accusation" will be used for all future references to any legal pleading.)

Once a DAG is assigned, the Accusation is drafted and submitted to Board staff to review. Once approved, the Accusation is signed by the EO and served on the respondent at their address of record. This process can take anywhere from three months to a one year to complete. On occasion the DAG may recommend that the Board withdraw the case or suggest alternative action.

When an Accusation is served, the licensee is advised they must respond within 15 days by filing a Notice of Defense (a form contained in the Accusation service packet) to request a hearing to contest the charges. When an applicant is denied they have sixty (60) days to file an appeal to request a hearing. The licensee/applicant is also provided information on how to obtain copies of materials that will be used in the prosecution at the hearing and is advised to contact the DAG to inquire about the possibility of entering into a settlement if they wish to avoid a hearing.

If a Notice of Defense is not received within 15 days the Board is authorized to proceed with a Default Decision. Staff and the DAG normally allow 20+ days to elapse before initiating action to draft a Default Decision. When the Default Decision is received, staff will make copies and distribute it to Board Members for a vote. (Please reference Default Decisions.)

If a Notice of Defense is received, the DAG will coordinate with the respondent and his/her legal counsel a hearing date. Hearings are usually scheduled between four to nine months from the point the Notice of Defense is submitted (barring continuance requests). During this period the possibility remains that the parties may agree to a Stipulated Settlement prior to the hearing date.

If a Stipulated Settlement is reached, the Stipulation is forwarded to the Board staff to distribute for a vote. (Please reference Stipulated Settlements.)

If the case goes to hearing, an Administrative Law Judge (ALJ) will preside over the hearing and will issue a Proposed Decision approximately 30 days after the hearing. Once the Proposed Decision is received from the Office of Administrative Hearings, the proposed decision will be copied and distributed to the Board Members for a vote. (Please reference Proposed Decisions.)

A reminder to Board Members, *you are the ultimate decision maker in these matters.* You have the authority to decrease or increase penalties. When decreasing or increasing a penalty additional steps are required; the information about these processes and the steps to take are outlined in the sections entitled *Adopt – Decrease Penalty* and *Non-Adopt – Increase Penalty.*

HOLD FOR
DISCIPLINE PROCESS
FLOW CHART

Legal Documents

Accusations

Background

An Accusation results from a complaint case having been determined by Board staff to warrant formal disciplinary action. The process is initiated by Board staff transmitting the case to the Attorney General's Office that is in closest geographical location to the subject's address of record. The transmittal memo identifies the code sections that allegedly have been violated and contains supporting documentation (e.g. investigation report, court documents). The assigned Deputy Attorney General (DAG) reviews the evidence and, if the evidence supports the charging violations, prepares the Accusation outlining the complete legal basis for disciplinary action and forwards it to Board staff for review.

When the draft Accusation is received, it is reviewed for accuracy and completeness (all acts and offenses listed) and shall include a request for cost recovery (the Board's cost for investigating and prosecuting the case). Once approved and signed by the EO, the Accusation is served on the licensee at his or her address of record.

The Accusation is then posted on the license verification system on the Board's website. The deadline for the Respondent to file a Notice of Defense is 15-days from the date of service; the Notice of Defense is the licensee's opportunity to contest the charges and request a hearing and/or open a dialog to seek a potential settlement.

If no Notice of Defense is received, the DAG will be instructed by the case analyst to prepare a Default Decision.

If a Notice of Defense is received, the DAG will be instructed to schedule a hearing as soon as possible. (Depending upon the geographical location, the time may be as little as four months; as many as eight months from the date requested.)

Often the respondent, or his/her legal representative, will contact the DAG to inquire about the possibility of entering into a Stipulated Settlement Agreement (Stipulation) to reduce costs for the respondent and avoid the uncertainties of a hearing. Board staff will work with the DAG, to establish appropriate terms and conditions if the case warrants a settlement. If a settlement is not warranted, or if settlement terms cannot be reached, the Board members will receive a Proposed Decision from the Administrative Law Judge that presided over the subject's hearing.

Review Process

Board members are not notified when an Accusation is filed. The Accusation is only provided when a Stipulation or a Proposed Decision is being considered by the Board members.

No Documents Are Provided At This Point

Statement of Issues

Background

A Statement of Issues (SOI) is a charging document similar to an Accusation but specifically applies to an applicant for licensure.

When Board staff denies an applicant for licensure, the applicant has the opportunity to appeal the denial for 60-days after service. Upon receipt of the applicant's *timely* appeal, the case is transmitted to the Office of the Attorney General (AGO) that is in the closest geographical location to the applicant's address.

The transmittal memo asks the AGO to review the matter for disciplinary action, identifies the code sections that serve as basis for the denial, and contains documentation (e.g. the application for licensure, a certification of non-licensure, the Board's denial letter, the applicant's appeal, and certified arrest and court documents, etc.) that support the request. The assigned Deputy Attorney General (DAG) will conduct a review and prepare the SOI that will outline the complete legal basis for denial.

When the draft SOI is received it is reviewed for accuracy and completeness (all acts and offenses listed). Once it is approved, the SOI is signed by the EO, and returned to the DAG for service. Once the DAG serves the SOI on the applicant he/she will then contact the applicant to coordinate a hearing date. (This varies from the process associated with Accusations where a licensee must file a Notice of Defense. The appeal that the applicant submitted in response to staff's denial letter serves as the Notice of Defense and request for a hearing.)

An administrative hearing is scheduled approximately 4-6 months after the SOI is served. Similar to an Accusation, a SOI can be resolved by a Stipulated Settlement and Disciplinary Order in lieu of a hearing, if the parties can come to terms in advance of a hearing.

If the matter is not resolved through a settlement and the case is heard before an Administrative Law Judge, the Board will receive a Proposed Decision approximately 30-days after the hearing. The Proposed Decision will then be copied and distributed to the Board for a vote.

Review Process

Board members are not notified of a SOI; it is provided to the Board when a stipulated settlement agreement or a Proposed Decision is being considered.

No Documents Are Provided At This Point

Legal Processes

Proposed Decision –
Accusation or Petition to Revoke Probation

Background

When an Accusation and/or Petition to Revoke Probation is served, the respondent may file a Notice of Defense to contest the merit(s) of the charges or provide mitigating evidence for consideration at the administrative hearing. A Proposed Decision is the legal document issued by an Administrative Law Judge (ALJ) after the hearing.

When a Proposed Decision is received in the Board's Office it must be acted on within 100 days. Board staff is also required to provide the respondent and his/her legal counsel a copy of the Proposed Decision within 30 days of its receipt in the office regardless of whether the Board has acted on the Proposed Decision.

While the ALJ issues the Proposed Decision, the Board is the final decision maker. At its discretion, the Board may:

1. Adopt the Proposed Decision as the Decision (of the Board),
2. Adopt the Proposed Decision and decrease the penalty,
3. Non-adopt the Proposed Decision and increase the penalty,
4. Make technical changes,
5. Remand to the ALJ for the taking of more evidence.

Please refer to the section entitled *Factors to Consider When Deciding Whether to Hold or Non-Adopt a Proposed Decision.*

If the Board votes to non-adopt a Proposed Decision to *increase* the penalty, the Board must act on the matter within the 100-days from the date it receives the transcripts and exhibits from the hearing; a new 100-day deadline is established to act. Please refer to the section entitled *Non-Adopt (Proposed Decision) – Increase Penalty.*

If the Board votes to adopt the Proposed Decision and *lessen* the penalty, the Board must act on the matter within the 100-days from the date it receives the Proposed Decision. Please refer to the section entitled *Adopt (Proposed Decision) – Decrease Penalty.*

IN ANY CASE should the Board fail to act within the statutory 100-day deadline, the Proposed Decision becomes effective by operation of law and the Board loses jurisdiction to act on the matter.

Objective

Render a decision that is legally defensible and consistent with the Board's Disciplinary Guidelines and Uniforms Standards for Substance Abusing Licensees, giving the highest priority to protecting the public's health, safety, and welfare.

Review Process

Board Members should review the charging document (Accusation and/or Petition to Revoke Probation), noting the allegations and the circumstances and events surrounding the charges.

Board Members review the ALJ's Proposed Decision noting the evidence, factual findings, legal findings, and legal conclusion. The Proposed Decision should be consistent with the recommended minimum/maximum penalties and conditions of probation set forth in the Disciplinary Guidelines.

Factors to Consider Whether to Hold or Nonadopt and ALJ's Proposed Decision

Consider **nonadopting** an ALJ's Proposed Decision in these circumstances:

- The Proposed Decision does not provide sufficient public protection given the nature of violation(s). For example, important terms of probation are missing, the probationary period is too short, probation is not appropriate, or other significant unexplained deviations from the Board Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees exist.
- The ALJ made an error in applying the relevant standard of practice for the issues in controversy at the hearing.
- The ALJ made an error in interpreting the licensing law and/or regulations.

Consider **holding** a case over for closed session discussion when:

- You are unsure if the Proposed Decision protects the public and you would like to discuss the merits with other Board Members.
- You are unsure about the ALJ's reasoning and description.
- You believe a discussion of the practice issues with licensee members may make it easier for you to make a decision.
- If you are unsure if the ALJ's Proposed Decision is consistent with the Board's laws or regulations.
- After discussion with the Board's assigned attorney, you still have questions about the case.

Documents Provided

- Charging document
- Proposed Decision
- Ballot (if provided by mail or email)
- Postage Paid Envelope (if provided by mail or email)

Proposed Decision – Statement of Issues

Background

Statement of Issues are served to applicants who have filed an appeal requesting an administrative hearing in response to staff's denial. A Proposed Decision is the legal document issued by an Administrative Law Judge (ALJ) after the hearing.

When a Proposed Decision is received in the Board's Office it must be acted on within 100 days. Board staff is also required to provide the applicant and his/her legal counsel a copy of the Proposed Decision within 30 days of its receipt in the office regardless of whether the Board has acted on the Proposed Decision.

While the ALJ issues the Proposed Decision, the Board is the final decision maker. At its discretion, the Board may:

1. Adopt the ALJ's Proposed Decision as the Decision (of the Board),
2. Non-adopt the Proposed Decision and Increase the penalty, or
3. Reduce the penalty,
4. Make technical changes,
5. Remand to the ALJ for the taking of more evidence.

Please refer to the section entitled *Factors to Consider When Deciding Whether to Hold or Non-Adopt a Proposed Decision.*

If the Board votes to non-adopt a Proposed Decision to *increase* the penalty, the Board must act on the matter within the 100-days from the date it receives the transcripts and exhibits from the hearing; a new 100-day deadline is established to act. Please refer to the section entitled *Non-Adopt (Proposed Decision) – Increase Penalty.*

If the Board votes to adopt the Proposed Decision and *lessen* the penalty, the Board must act on the matter within the 100-days from the date it receives the Proposed Decision. Please refer to the section entitled *Adopt (Proposed Decision) – Decrease Penalty.*

IN ANY CASE should the Board fail to act within the statutory 100-day deadline, the Proposed Decision becomes effective by operation of law and the Board loses jurisdiction to act on the matter.

Objective

Render a decision that is legally defensible and consistent with the Board's Disciplinary Guidelines and Uniforms Standards for Substance Abusing Licensees, giving the highest priority to protecting the public's health, safety, and welfare.

Review Process

Board Members should review the charging document (Statement of Issues), noting the allegations and the circumstances and events surrounding the charges.

Board Members review the ALJ's Proposed Decision noting the evidence, factual findings, legal findings, and legal conclusion. The Proposed Decision should be consistent with the recommended minimum/maximum penalties and conditions of probation set forth in the Disciplinary Guidelines.

Factors to Consider Whether to Hold or Nonadopt and ALJ's Proposed Decision

Consider **nonadopting** an ALJ's Proposed Decision in these circumstances:

- The Proposed Decision does not provide sufficient public protection given the nature of violation(s). For example, important terms of probation are missing, the probationary period is too short, probation is not appropriate, or other significant unexplained deviations from the Board Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees exist.
- The ALJ made an error in applying the relevant standard of practice for the issues in controversy at the hearing.
- The ALJ made an error in interpreting the licensing law and/or regulations.

Consider **holding** a case over for closed session discussion when:

- You are unsure if the Proposed Decision protects the public and you would like to discuss the merits with other Board Members.
- You are unsure about the ALJ's reasoning and description.
- You believe a discussion of the practice issues with licensee members may make it easier for you to make a decision.
- If you are unsure if the ALJ's Proposed Decision is consistent with the Board's laws or regulations.
- After discussion with the Board's assigned attorney, you still have questions about the case.

Documents Provided

- Charging document
- Proposed Decision
- Ballot (if provided by mail or email)
- Postage Paid Envelope (if provided by mail or email)

Non- Adopt (Proposed Decision) – Increase Penalty

Background

A Proposed Decision is issued by an Administrative Law Judge (ALJ) subsequent to an administrative hearing. Please refer to the section entitled *Factors to Consider When Deciding Whether to Hold or Non-Adopt a Proposed Decision.*

If the Board votes to non-adopt a Proposed Decision and wishes to *increase* the penalty, the Board usually orders and reads the transcript of the hearing, reviews all exhibits submitted by both parties during the hearing, and reviews written argument from the parties before acting on the case. Based on a review of this information, the Board then directs legal counsel to prepare a Decision after Non-Adoption, specifying the terms and conditions that have been increased.

When the Board votes to non-adopt a Proposed Decision to increase the penalty, the Board must act on the matter within the 100-days from the date it receives the transcripts (if ordered) and a new 100-day deadline to act is established. If transcripts are not ordered, the original 100-day deadline applies.

Should the Board fail to act within the statutory 100-day deadline, the Proposed Decision is deemed adopted by operation of law and the Board loses jurisdiction to act on the matter.

Objective

Render a decision that is legally defensible and consistent with the Board's Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees, giving the highest priority to protecting the public's health, safety, and welfare.

Review Process

Board Members review the charging document (Accusation, Statement of Issues, Petition to Revoke Probation), noting the allegations and the circumstances and events surrounding the charges.

Board Members review the ALJ's Proposed Decision noting the evidence, factual findings, legal findings, and legal conclusion. The Board must develop their own Decision which should be consistent with the recommended minimum/maximum penalties and conditions of probation set forth in the Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees.

Documents Provided

- Charging document
- Proposed Decision
- Order Non-adopting the Proposed Decision and Briefing Order
- Transcript of hearing, if ordered
- Exhibits from hearing
- Written arguments from Deputy Attorney General and opposing counsel

Adopt (Proposed Decision) – Decrease Penalty

Background

Proposed Decisions are issued by an Administrative Law Judge (ALJ) subsequent to an administrative hearing. Please refer to the section entitled *Factors to Consider When Deciding to Hold or Non-Adopt a Proposed Decision.*

If the Board votes to adopt a Proposed Decision and *lessen* the penalty, the Board directs legal counsel to prepare a Decision after Adoption. The Decision shall specify the terms and conditions that have been reduced. (A review of the transcripts or exhibits is not required when reducing a penalty.)

When the Board votes to adopt a Proposed Decision and *lessen* the penalty, The Board must act on the matter within the 100-days from the date it receives the Proposed Decision.

Should the Board fail to act within the statutory 100-day deadline, the Proposed Decision becomes effective by operation of law and the Board loses jurisdiction to act on the matter.

Objective

Render a decision that is legally defensible and consistent with the Board's Disciplinary Guidelines and Uniforms Standards for Substance Abusing Licensees, giving the highest priority to protecting the public's health, safety, and welfare.

Review Process

Board Members review the charging document (Accusation, Statement of Issues, Petition to Revoke Probation), noting the alleged violations and the circumstances and events surrounding the charges.

Board Members review the ALJ's Proposed Decision noting the evidence, factual findings, legal findings, and legal conclusion. The Board must develop their own Decision which should be consistent with the recommended minimum/maximum penalties and conditions of probation set forth in the Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees.

Documents Provided

- Charging document
- Proposed Decision
- Transcript of hearing (optional)
- Exhibits from hearing (optional)
- Written arguments from Deputy Attorney General and opposing counsel (optional)

Default Decision

Background

A Default Decision brings finality to cases when the following occurs:

1. The respondent fails to file a Notice of Defense (request for a hearing) to contest the merits of the charging document, or
2. The respondent fails to appear for his or her scheduled administrative hearing after filing a Notice of Defense (request for a hearing).

If either of the above occurs, the Deputy Attorney General (DAG) prepares a Default Decision and Evidentiary Package, which sets forth the evidence, underlying events and/or and background in the case. The Evidentiary Package sums up the information that the DAG would have presented had an administrative hearing occurred.

Once the Default Decision and Evidentiary Package are received, a Board member vote package is prepared. If a regularly scheduled Board Meeting is being held in less than three weeks, the package is held until the Board meeting. Otherwise, the package is sent out for vote by mail.

Objective

Board Members render a decision to determine if cause exists to proceed with a Default Decision for the respondent's failure to file a Notice of Defense or appear at their scheduled hearing.

Review Process

Board Members review the Default Decision, Evidentiary Package, and charging document to determine if the evidence supports the action.

Documents Provided

- Charging document
- Default Decision
- Evidentiary Package
- Ballot, if by mail or email
- Postage paid return envelope, if by mail

Request to Vacate Default Decision

Background

When the Board has adopted a Default Decision (revoking the license), Respondent has the right, within 7-days of service, to file a motion requesting that the Default Decision be vacated and stating the grounds relied thereon. The Board may, in its discretion, vacate the Default Decision and grant a hearing on a showing of good cause.

Pursuant to Government Code Section 11520(c), good cause includes, but is not limited to, any of the following:

(1) Failure of the person to receive notice served pursuant to Section 11505;
(2) Mistake, inadvertence, surprise, or excusable neglect.

If the Request to Vacate Default Decision is not received in the Board's office by the deadline, the request shall be deemed denied.

If respondent submits a timely Request to Vacate the Default Decision, if necessary, a Stay of Execution (Stay) is issued by Executive Officer to allow the Board the opportunity to vote on respondent's request. The Stay must be signed prior to the effective date; if not requested timely, the request is deemed denied.

If the motion is granted by the Board, the Decision is sent to the DAG with instructions to schedule a hearing as soon as possible.

If the motion is denied, the (revocation) Decision will become effective immediately after the Stay of Execution expires, unless the Board orders a sooner effective date.

Objective

The Board Members render a decision after determining whether Respondent demonstrated good cause, pursuant to the Administrative Procedures Act section 11520(c), to have the Default Decision vacated.

Review Process

Board Members review the motion requesting the Default Decision be vacated, noting the reasons the request has been made and determining if good cause has been established. Good cause includes, but is not limited to any of the following: (1) Failure of the person to receive the Accusation/Statement of Issues, or (2) Mistake, inadvertence, surprise, or excusable neglect.

Documents Provided

- Respondent's Motion to Vacate the Default Decision ('Request')
- Rebuttal Brief (if applicable)
- Ballot and instructions
- Postage paid return envelope

NOTE: The charging document is not included with these requests.

(Petition for) Reconsideration

Background

After the Board issues a Decision, either the Respondent or the Petitioner may request reconsideration of all or part of a case.* The power of the Board to order reconsideration shall expire 30 days after service of the Decision to the Respondent, or prior to the effective date of the Decision if before 30 days.

If the Petition for Reconsideration (Petition) is not timely received in the Board's office, the Petition shall be deemed denied.

If respondent submits a timely Petition for Reconsideration, a mail vote package is prepared for Board Members to either grant or deny the motion. (This is the request for the Board to reconsider the case only; the merits of the case are not considered at this time.)

If additional time is needed for the Board to act, including receive, review and vote on the Petition, the Executive Officer may grant a Stay of the effective date of the Decision. The Stay delays the expiration date for no more than 10 {additional} days. This additional time is solely for the purpose of the Board to consider and act on the Petition.

If the motion is granted, the matter is placed on the agenda for discussion at the next Board meeting.

If the motion is denied, the Decision will become effective as originally ordered by the Board, or after the Stay expires.

If the Board fails to act (receive and review package and a quorum of votes render a decision on the Petition) within the time allowed, the Petition shall be deemed denied.

Review Process

Reconsideration, if granted, does not mean the Board is issuing a new decision; it only means the Board will take a second look at the Decision at a future meeting.

Documents Provided

- Respondent's Petition to Reconsider
- Order and Decision
- Charging document
- Evidentiary package (if applicable)
- Ballot and instructions
- Postage paid return envelope

(*Board staff may also petition the Board to reconsider all or part of a case.)

Stipulated Settlement Agreements

Background

Stipulated Settlement Agreements ('Stipulations') occur after a Statement of Issues, Accusation, or Petition to Revoke Probation has been filed. The respondent has filed an appeal or a Notice of Defense to request an administrative hearing to contest the charges and/or provide mitigating evidence. Often the respondent or his/her legal counsel will contact the Attorney General's Office (AGO) to inquire if a settlement is possible to avoid the uncertainties of a hearing and reduce respondent's legal costs. If the case warrants settlement, Board staff will provide settlement terms to the Deputy Attorney General (DAG). Board staff does not take this task lightly and any settlement that is being brought before the Board should be consistent with the Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees.

The benefit of a settlement: the costs of holding a hearing are eliminated, the imposition of discipline is more expedient, and settlement terms coordinated in settlements are consistent with the Board's Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees; in some cases the terms may be more specific and stronger than what likely would have resulted from a hearing and Proposed Decision.

Objective

Render a decision that is consistent with the Board's Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees, giving the highest priority to protecting the public's health, safety, and welfare.

Board Member Review Process

Board Members review the Statement of Issues, Accusation, or Petition to Revoke Probation, noting the allegations and circumstances and events surrounding the charges. The proposed settlement terms should be consistent with the admitted violations and the recommended minimum/maximum penalties and conditions of probation set forth in the Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees.

In addition, the Deputy Attorney General (DAG) will prepare a recommendation that will provide background, current information, and explain any deviations (from the Disciplinary Guidelines and Uniform Standards for Substance Abusing Licensees) or considerations that were made in the proposed settlement.

If the Stipulation *is* acceptable, a vote to adopt the Stipulation should be cast.

If the Stipulation *is not* acceptable, the Board can propose a counter-offer with new or modified terms, or send the case to hearing.

The case will be returned to the DAG who will (1) take the necessary steps to obtain a hearing date in the matter or (2) attempt to renegotiate the terms of the Stipulation with respondent or respondent's counsel according to the Board's counter-offer. If those terms are accepted by the Respondent that becomes the Decision of the Board and the Stipulated Decision does not need to return to the Board for adoption.

In mail votes, if a majority of the Board members request to discuss the case in a closed session meeting of the Board, the matter will then be scheduled for discussion.

(When voting by mail ballot, it would be helpful to Board staff if Board members provide their rationale for the non-adoption decision for future reference in similar cases.)

Documents Provided for Board Vote

- Accusation or Statement of Issues
- Stipulated Decision
- Deputy Attorney General Recommendation Memo
- Ballot, if by mail or email
- Postage Paid Envelope, if by mail

Proposed Decisions – Citations

Background

When a Citation is served, the Respondent may file an appeal to contest the merit(s) of the charges, the order of abatement, the fine imposed by the citation and/or provide mitigating evidence for consideration, at an administrative hearing. A Proposed Decision is issued by an Administrative Law Judge (ALJ) after the hearing.

While the ALJ issues a Proposed Decision, the Board is the final decision maker. At its discretion, the Board may:

1. Adopt the ALJ's Proposed Decision as the Decision (of the Board), or
2. Reduce the penalty. (The Board may not increase the penalty in Citation cases.)

If adopted, the Proposed Decision becomes the Board's decision in the matter.

If a lesser penalty is decided upon by the Board, the Board's Order can reflect the adoption of the Decision but with the reduced terms. The Decision shall specify the item(s) removed, modified, and/or reduced (e.g., fine reduced; order of abatement modified, etc.)

When a Proposed Decision is received in the Board's Office it must be acted on it within 100 days. Failure to act within 100 days results in the adoption of the Proposed Decision by operation of law, and the Board loses jurisdiction to act.

Objective

Board members determine whether the penalty is appropriate given the nature of the violation(s).

Review Process

Board Members review the Citation noting the allegations and the circumstances/events surrounding the charges and the ALJ's Proposed Decision noting the evidence, fact findings, legal findings, and legal conclusion.

Documents Provided

- Citation
- Proposed Decision
- Ballot, if by mail or email
- Postage Paid Envelope, if by mail

Petition to Compel Physical Examination or Psychiatric Evaluation and Order to Compel Physical Examination or Psychiatric Evaluation

Background

Once information is received that a licensee may have mental health issues or physical illness affecting the ability to safely practice, the Executive Officer may choose to pursue an 820 evaluation. Business and Professions Code (BPC) 820 states:

> **§ 820. Examination of licentiate for mental illness or physical illness affecting competency**
>
> Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

A pre-820 evaluation may be necessary and performed by an expert witness. This pre-820 evaluation consists of reviewing the information that has been obtained, which could include court and arrest information, a DOI report, information submitted from the licensee, or information from another governmental agency; and rendering an opinion whether the licensee requires an in-person evaluation by a physician and surgeon or psychologist .

If the expert opinion reflects there is concern for the licensee to practice with safety to the public, staff prepares the case to be transmitted to the Attorney General's Office (AGO).

If the assigned DAG determines that there is sufficient information to pursue an 820 evaluation then he/she will prepare a Petition to Compel a Mental Health Evaluation or Petition to Compel a Physical Evaluation (Petition) and an Order (requiring an evaluation or examination). The Petition is be signed by the Enforcement Manager and the Order is signed by the Executive Officer; both documents are served by the AGO.

The Order directs the licensee to contact Board staff to coordinate an evaluation by a specified health care professional. If the licensee does not contact Board staff and undergo an evaluation or examination within 30 days after receiving the Order, then the case will move on to the Accusation process for the licensee's failure to comply with the Order (undergo an evaluation or examination).

If the licensee contacts Board staff regarding the evaluation/examination, Board staff contacts a physician and surgeon or psychologist to conduct an in-person evaluation/ examination. Once the designated health care provider accepts the case, Board staff contacts the licensee and instructs him/her to call and schedule an appointment for evaluation with the designated health care provider. The timeline to submit a written report is generally 2-4 weeks after the evaluation has been completed. (The cost of the evaluation/examination is the paid for by the Board)

If the evaluation or examination finds the licensee cannot safely practice occupational therapy or should be monitored, there is cause for disciplinary action, and an Accusation is prepared by the AGO.

If the licensee complies with the Order, and the evaluation or examination demonstrates there is no cause for disciplinary action, the case is closed without further action; the Board would have no knowledge of this action.

Review Process

(Board members do not see nor are they made aware of the Petition or the Order at this point.)

If an Accusation is filed, Board members will be made aware of the Petition and Order when they are requested to vote on a: Stipulated Settlement, Proposed Decision or a Default Decision.

The Petition and Order are only referenced in a Proposed Decision or a Default Decision; these documents are not provided as part of the documentation supporting the Decision.

No Documents Are Provided At This Point

Definitions of Common Terms

Definitions

TERM	DEFINITION
Accusation	Charges filed against a licensee alleging violation(s) of the Occupational federal, state, or local laws or regulations.
Adopt (decrease penalty)	The Board may "adopt" a Stipulated Settlement or a Proposed Decision issued by an Administrative Law Judge (ALJ) and its Order, decrease the penalty and/or terms.
Citation and Fine Order	A means of addressing relatively minor violations. A monetary fine (commensurate with the violation committed) and/or an order of abatement may be included. A Citation is *not* formal disciplinary action.
Citation Paid in Full	Fine levied paid in full, representing satisfactory resolution of the matter for purposes of public disclosure; not an admission of the allegations.
Closed Session	Deliberation on disciplinary matters that is not open to the public. Once the disciplinary decision is served on the licensee, it immediately becomes public information.
Default Decision	The Decision that results after the respondent fails to respond to an Accusation/Statement of Issues/Petition to Revoke Probation by filing a Notice of Defense or fails to appear at an administrative hearing.
Initial Probationary License	A probationary license imposing terms and conditions of practice, issued to an applicant in lieu of the denial of the application.
Interim Suspension Order (ISO)	An order issued by an ALJ upon petition by the Board, immediately suspending a licensee from all or a specified part of the practice of occupational therapy, pending further action by the Board. An Accusation must be filed; if a Notice of Defense is filed by the licensee, a hearing must be held within 30-days. ISOs are only pursued in cases where permitting the licensee to continue unrestricted practice would endanger the health, safety, and welfare of the public.
Mail Vote	A disciplinary matter that is conducted by mail or email, not in-person, at a Board Meeting.

Modification, Petition for	Modification of the Terms/Conditions of Probation may be granted by the Board only after the licensee has petitioned (submitted a request to) the Board, and at a hearing before the Board with an ALJ presiding, provides clear and convincing proof of rehabilitation.
Non-adopt (increase penalty)	The Board may "non-adopt" a Proposed Decision issued by an ALJ, to increase the penalty. The Board would then issue a non-adopt order and identify the issues that it wishes the respondent and Deputy Attorney General (DAG) to address. Transcripts of the hearing, documents entered into evidence in the case, and arguments from the parties would be provided to the Board. After consideration of this material, the Board then issues its own Order with revised penalty and/or terms, or it may still adopt the Proposed Decision. When considering a Stipulation, the Board may offer additional terms or conditions, or the Board could send the case to hearing.
Notice of Defense	A form completed by the licensee indicating they want to contest the allegations in an Accusation and request a hearing be scheduled.
Order Staying Decision	An Order Staying the Effective Date of the Decision can be issued by the Executive Officer to allow time for the Board to evaluate a Petition for Reconsideration. Typically an Order Staying the Decision is needed when a Petition is received on or just before the filing deadline. In the event that the Board is unable to render a timely Decision, the Petition is deemed denied.
PC 23 Appearance	Under Penal Code section 23, in a criminal proceeding involving a licensee, the State agency that issued the license may voluntarily appear to furnish pertinent information, make specific recommendations regarding conditions of probation, or provide any other assistance to promote the interests of justice and protect the public. The DAG appears at the licensee's criminal proceeding to request, as part of conditions of probation, bail, or sentencing, that the (criminal court) judge impose practice restrictions or order the licensee to completely refrain from engaging in any activities requiring a license, pending further action (typically, disciplinary action by the Board.)

PC 23 Order	If the (criminal) Court imposes restrictions, the Order is issued to the person, and does not legally affect the status of the license.
PC 1203.4 (Expungement)	An order issued pursuant to Penal Code Section 1203.4, removes a criminal conviction from an individual's record for the purpose of employment background check. However, this removal does not apply in cases where an individual is applying for a license. Thus, applicants and licensees are required to disclose any conviction, even those that have been expunged.
Petition to Revoke Probation	Legal document charging violation(s) of a probationary order and seeking revocation of probation and the license.
Probation Term Completed	Licensee completed the probationary period successfully.
Probation Tolled	The licensee is not currently working as required in his/her probationary terms. The probationary period does not resume or begin until the probationer commences or resumes practice in California as required by the order.
Public Reproval	A formal reprimand issued by the Board as a result of a disciplinary proceeding.
Proposed Decision	A document which contains the determination of issues, findings of fact and the proposed order of an ALJ after the conclusion of an administrative hearing.
Reconsideration, Petition for	After receiving notice of a disciplinary decision, the respondent or complainant (Board staff) may request that the Board reconsider all or a part of the Board's Decision. The Petition for Reconsideration must be received and considered by the Board before the effective date of the decision.
Reinstatement, Petition for	Reinstatement of the license is granted only after the former licensee has petitioned the Board, and at a formal hearing before the Board with an ALJ presiding, provides clear and convincing proof of rehabilitation.
Remand	Send a case back to an ALJ for consideration or action; or a case from a Superior Court sent to the Board after a Writ of Mandate is issued.
Revoked/Revocation	The license and right to practice is terminated.

Request to Vacate a Decision	Such requests pertain to Default Decisions and must be received by Board staff within 7 days of service of the Default Decision on the respondent, if not yet effective. The Board may vacate the decision and grant a hearing upon a showing of 'good cause.' Government Code Section 11520(c) defines Good Cause as (1) Failure of the person to receive notice served pursuant to Section 11505; (2) Mistake, inadvertence, surprise, or excusable neglect.
Revoked, Stayed, Probation	"Stayed" means the revocation has been put off or suspended so that the licensees may practice so long as they comply with specific probationary terms and conditions. Violation of probation may result in termination of the probation and the revocation that was stayed may be ordered re-imposed.
Service/Served	Requires that notices or legal documents be mailed by certified mail to the respondent's address of record and his/her legal counsel.
Statement of Issues	Charges filed against an applicant to deny licensure due to criminal conviction(s) or committing an act(s) in violation of federal or state laws or regulations.
Stay of Execution	The Executive Officer suspends the effective date of the action to provide additional time for the Board to consider a licensee's request.
Stipulated Settlement and Disciplinary Order	A Settlement agreed to by the parties (Board staff/DAG and licensee/counsel) in lieu of a formal hearing to resolve the Accusation or Statement of Issues and impose discipline.
Surrender of License	The licensee voluntarily turns in the license, subject to acceptance by the board, and the right to practice is terminated. A surrendered license is considered disciplinary action.
Suspension	The licensee is prohibited from practicing for a specific period.

Transcript	Transcript of an administrative hearing. When the Board non-adopts a Proposed Decision to consider increasing a penalty, the Board will review the transcript of the hearing and all evidence entered at the hearing.
Writ of Mandate	A petition filed in Superior Court by a respondent that alleges the Board abused its discretion in rendering a decision to deny a license or take disciplinary action, and requests relief from the Superior Court Judge.

Disciplinary Guidelines

California Board of Occupational Therapy

UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

July 2011

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California or from its web site at www.bot.ca.gov.

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

TABLE OF CONTENTS

- Uniform Standards for Those Licensees Whose License is on Probation Due to a Substance Abuse Problem — Page 3
- Disciplinary Guidelines — Page 7
- Definition of Penalties — Page 8
- Standard Terms and Conditions of Probation (1-13) — Page 15
- Optional Terms and Conditions of Probation (14-31) — Page 18
- Rehabilitation Criteria — Page 24
- Recommended Language for Issuance and Placement of a License on Probation, and Reinstatement of License (Reserved) — Page 25

UNIFORM STANDARDS FOR THOSE LICENSEES WHOSE LICENSES ARE ON PROBATION DUE TO A SUBSTANCE ABUSE PROBLEM

The following standards shall be adhered to in all cases in which a licensee's license is placed on probation due, in part, to a substance abuse problem. These standards are not guidelines and shall be followed in all instances, except that the Board may impose more restrictive conditions if necessary to protect the public.

Clinical Diagnostic Evaluations:

Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license which scope of practice authorizes him or her to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

Clinical Diagnostic Evaluation Report:

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem, whether the licensee is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

The Board shall review the clinical diagnostic evaluation to help determine whether or not the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee based on the application of the following criteria:

License type, licensee's history, documented length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse problem, and whether the licensee is a threat to himself or herself or others.

When determining if the licensee should be required to participate in inpatient, outpatient or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

FACILITATED GROUP SUPPORT MEETINGS

If a board requires a licensee to participate in facilitated group support meetings, the following shall apply:

When determining the frequency of required facilitated group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

Group Meeting Facilitator Qualifications and Requirements:

1. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or other nationally certified organization.
2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.
3. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The facilitator shall report any unexcused absence within 24 hours.

WORK SITE MONITOR REQUIREMENTS:

If a Board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor must meet the following requirements to be considered for approval by the Board:

The worksite monitor shall not have a current or former financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the Board; however, under no circumstances shall a licensee's worksite monitor be an employee or supervisee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee who is being monitored or be another health care professional if no monitor with like scope of practice is available.

The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

a) Have face-to-face contact with the licensee in the work environment on as frequent a basis as determined by the Board, but at least once per week.
b) Interview other staff in the office regarding the licensee's behavior, if applicable.
c) Review the licensee's work attendance.

Reporting by the worksite monitor to the Board shall be as follows:

Any suspected substance abuse must be orally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours, the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; worksite staff interviewed, if applicable; attendance report; any change in behavior and/or personal habits; any indicators of substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

Major and Minor Violations

If a licensee commits a major violation, the Board shall order the licensee immediately to cease any practice of occupational therapy, immediately contact the licensee to inform him or her that he or she has been ordered to cease practice and that he or she may not practice unless notified by the Board, and refer the matter for disciplinary action or other action as determined by the Board.

Major Violations include, but are not limited to, the following:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiple minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6. Failure to obtain biological testing for substance abuse when ordered;
7. Testing positive for a banned substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee commits a minor violation, the Board shall determine what action is appropriate.

Minor Violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused attendance at required meetings;

3. Failure to contact a monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or to the public.

DRUG TESTING STANDARDS

If a licensee tests positive for a banned substance, the Board shall order that the licensee immediately cease any practice of occupational therapy, and immediately contact the licensee to inform him or her that he or she has been ordered to cease practice and that he or she may not practice until the Board determines that he or she is able to safely practice. The Board shall also immediately notify the licensee's employer that the licensee has been ordered to cease practice, and that he or she may not practice until the Board determines that he or she is able to safely practice.

The following drug testing standards shall apply to each licensee subject to drug testing:

1. Licensees shall be randomly drug tested at least 104 times per year for the first year or probation, and at any time as directed by the board. After the first year, licensees who are practicing, shall be randomly drug tested at least 50 times per year, and at any time as directed by the board.

2. Drug testing may be required on any day, including weekends and holidays.

3. Except as directed, the scheduling of drug tests shall be done on a random basis, preferably by a computer program.

4. Licensees shall be required to make daily contact as directed to determine if drug testing is required.

5. Licensees shall be drug tested on the date of notification as directed by the board.

6. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.

7. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.

8. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.

9. Collection of specimens shall be observed.

10. Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.

11. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

DISCIPLINARY GUIDELINES

I. INTRODUCTION

To establish consistency in disciplinary penalties for similar offenses on a statewide basis, the California Board of Occupational Therapy (Board) has adopted these uniform disciplinary guidelines for particular violations. This document, designed for use by attorney²s, administrative law judges, occupational therapists, occupational therapy assistants, others involved in the disciplinary process, and ultimately the Board, may be revised from time to time and shall be distributed to interested parties upon request.

These guidelines include general factors to be considered, probationary terms, and guidelines for specific offenses. The guidelines for specific offenses reference the applicable statutory and regulatory provision(s).

For purposes of this document, the term "license" includes the occupational therapy license and the occupational therapy assistant certificate. The terms and conditions of probation are divided into two general categories:

(1) Standard Conditions are those conditions of probation which will generally appear in all cases involving probation as a standard term and condition; and
(2) Optional Conditions are those conditions which address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case.

Except as provided in the Uniform Standards Related to Substance Abuse, the Board recognizes that these recommended penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations, as discussed herein. If there are deviations from the guidelines, the Board requests that the Administrative Law Judge hearing the matter include an explanation in the Proposed Decision so that the circumstances can be better understood and evaluated by the Board upon review of the Proposed Decision and before final action is taken.

II. GENERAL CONSIDERATIONS

The Board requests that Proposed Decisions following administrative hearings include the following:
a. Specific code sections violated with their definitions.
b. Clear description of the violation.
c. Respondent's explanation of the violation if he/she is present at the hearing.
d. Findings regarding aggravation, mitigation, and rehabilitation where appropriate.
e. When suspension or probation is ordered, the Board requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure from the recommended terms is clearly set forth in the findings and supported by the evidence.

Factors to be Considered - In determining whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
2. Actual or potential harm to any consumer, client or the general public.
3. Prior disciplinary record.
4. Number and/or variety of current violations.
5. Mitigation evidence.
6. Rehabilitation evidence.
7. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
8. Overall criminal record.
9. Time passed since the act(s) or offense(s) occurred.
10. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
11. Recognition by respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

III. DEFINITION OF PENALTIES

Revocation: Loss of a license as the result of any one (1) or more violations of the Occupational Therapy Practice Act. Revocation of a license is permanent, unless the respondent takes affirmative action to petition the Board for reinstatement of his/her license and demonstrates to the Board's satisfaction that he/she is rehabilitated.

Suspension: Invalidation of a license for a fixed period of time, not to exceed one (1) year.

Stayed Revocation: Revocation of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

Stayed Suspension: Suspension of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

Probation: A period during which a respondent's discipline is stayed in exchange for respondent's compliance with specified conditions relating to improving his/her conduct or preventing the likelihood of a recurrence of the violation.

IV. DISCIPLINARY GUIDELINES

The offenses are listed by statute number in the Business and Professions Code. The standard terms of probation as stated herein shall be included for all probations. The optional conditions of probation as stated herein are to be considered and imposed along with any other optional conditions if facts and circumstances warrant. The number(s) in brackets listed after each condition of probation refers to the conditions listed on pages 15-24.

BUSINESS AND PROFESSIONS CODE SECTIONS – Occupational Therapy Practice Act

Section 2570.23:	**Violation of 2570.3 - Unlicensed Person Engaging in Practice - Sanctions**

Applicant Maximum: Denial of application for a license
Applicant Minimum: Thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26 and #30]

Section 2570.28(a)(1),(2),or(3): **Unprofessional Conduct – Incompetence, Gross Negligence, Repeated Negligent Acts, Conviction of Practicing Medicine**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1- #13]
b. Optional conditions [#23, #25, #26, #28, #30]

Section 2570.28(a)(4): **Unprofessional Conduct – False Advertising**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26 and #30]

Section 2570.28(a)(5): **Unprofessional Conduct – Discipline by Other Government Agency**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(b): **Procuring a License by Fraud, Misrepresentation, Mistake**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#23, #26, #28]

Section 2570.28(c): **Violating Any Provision of the Occupational Therapy Practice Act or Regulations**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:

a. Standard conditions [#1-#13]

Section 2570.28(d): **False Statement on Application for License or Renewal**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26 and #30]

Section 2570.28(e): **Conviction of Crime Substantially Related to License**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26, #27, #28, #30]

Section 2570.28(f) or (g): **Impersonating an Applicant or Acting as Proxy for Another in an Examination for Licensure, Impersonating a Licensee or Allowing Another Person to Use License**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26 and #30]

Section 2570.28(h): **Committing Fraud, Dishonest or Corrupt Act**

Maximum: Revocation
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26 and #30]

Section 2570.28(i): Committing Any Act Punishable as Sexually Related Crime

Maximum: Revocation
Minimum: Stayed revocation, ninety (90) days actual suspension and five (5) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional Conditions [#15, #16, #24, #26, #30]

Section 2570.28(j): Using Excessive Force, Mistreating or Abusing Patient

Maximum: Revocation
Minimum: Stayed revocation, ninety (90) days actual suspension and five (5) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#15, #16, #25, #26, 30]

Section 2570.28(k): Falsifying, Making Grossly Incorrect, Inconsistent, or Unintelligible Entries in Patient/Hospital Record

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(l): Changing the Prescription of Physician or Falsifying Verbal or Written Orders

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(m): Failing to Maintain Patient Confidentiality

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(n): Delegating Services that Require License to Unlicensed Person

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(o): **Committing Act that would be Grounds for Denial under Section 480**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.28(p): **Failing to Follow Infection Control Guidelines**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]

Section 2570.29(a): **Obtain, Possess, Administer to Self, Furnish or Administer to Others, Controlled Substance**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]

Section 2570.29(b)(1)(2) or (3): **Use Controlled Substance, Dangerous Drug, Alcohol in Manner Dangerous, Injurious to Self or Others**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]

Section 2570.29(c): **Conviction of Crime Involving Controlled Substance, Dangerous Drug, Alcohol or Falsifying a Record Involving Same**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #28, #31]

Section 2570.29(d): **Committed or Confined by Court for Intemperate Use of Controlled Substance, Dangerous Drug, Alcohol**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #28, #31]

Section 2570.29(e): **Falsify, Make Grossly Incorrect, Inconsistent, or Unintelligible Entries in Hospital/Patient Record involving Controlled Substance or Dangerous Drug**

Maximum: Revocation
Minimum: Stayed revocation and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]

GENERAL PROVISIONS OF BUSINESS AND PROFESSIONS CODE

Section 119: **Misdemeanor Pertaining to Use of a License**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]

Section 125: **Misdemeanor Pertaining to Conspiring with Unlicensed Person for Use of a License**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]

Section 125.6: **Discrimination by Licensee**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]

Section 480 (a): **Denial of Licenses**

Maximum/Minimum: Denial of license

Section 480(c): **Denial of Licenses**

Maximum/Minimum: Denial of license

Section 496: Subversion of Licensing Examinations or Administration of Examinations.

Maximum: Denial or revocation of license
Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#23, #26, #30]

Section 726: **Sexual Abuse, Misconduct, or Relations with a Patient or Client**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#25, #26, #30]

Section 730: **Performing Medical Evaluation Without Certification**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]

Section 810: **Fraudulent Claims**

Maximum: Revocation
Minimum: Stayed revocation and one (1) year probation on the following conditions:
a. Standard conditions [#1-#13]
b. Optional conditions [#26, #27, #30]

V. STANDARD CONDITIONS OF PROBATION
(to be included in all cases of probation)

1. Obey All Laws
Respondent shall obey all federal, state and local laws and regulations governing the practice of occupational therapy in California. Respondent shall submit, in writing, a full detailed account of any and all violations of the law to the Board within five (5) days of occurrence.

2. Compliance with Probation and Quarterly Reporting
Respondent shall fully comply with the terms and conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with probation. Respondent, within ten (10) days of completion of the quarter, shall submit quarterly written reports to the Board on a form obtained from the Board (Quarterly Written Report, rev. 4/2011).

3. Personal Appearances
Upon reasonable notice by the Board, respondent shall report to and make personal appearances at times and locations as the Board may direct.

4. Notification of Address and Telephone Number Change(s)
Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of his/her new address and any change in work and/or home telephone numbers.

5. Tolling for Out-of-State Practice, Residence or Extension of Probation for In-State Non-Practice
In the event respondent should leave California to reside or to practice outside the State for more than thirty (30) days, respondent shall notify the Board or its designee in writing within five (5) days of the dates of departure and return. All provisions of probation other than the quarterly report requirements, examination requirements, and education requirements, shall be held in abeyance until respondent resumes practice in California. All provisions of probation shall recommence on the effective date of resumption of practice in California, and the period of probation shall be extended for the period of time respondent was out of state.

Unless by Board order, in the event respondent is not engaging in the practice of occupational therapy while residing in California, respondent shall notify the Board or its designee in writing within five (5) days of the dates of cessation of practice and expected return to practice. All provisions of probation shall remain in effect, and the period of probation shall be extended for the period of time respondent was not engaged in the practice of occupational therapy as required by other employment requirement of this order.

6. Notification to Employer(s)
When currently employed, applying for employment in any capacity, or contracted to provide occupational therapy services. Respondent shall provide a copy of the Board's Decision to each employer, supervisor, or contractor no later than the effective date of the Decision. Respondent shall notify any prospective employer, supervisor, or contractor of his/her probationary status with the Board prior to accepting such employment. This notification shall include a copy of the Board's Accusation, Statement of Issues, Stipulated Settlement, or Disciplinary Decision (whichever applies).

The respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone numbers of all employers, supervisors and contractors and shall inform the Board in writing of the facility or facilities at which the person is providing occupational therapy services and the name(s) of the person(s) to whom the Board's decision was provided.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board, to allow the Board to communicate with the employer and supervisor or contractor regarding issues including but not limited to the licensee's work status, attendance, performance, and on-going monitoring.

Respondent shall cause each employer and supervisor or contractor to submit quarterly reports to the Board. The report shall be on a form provided by the Board, and shall include a performance evaluation and such other information as may be required by the Board (Work Performance Evaluation, rev. 02/2011).

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, within five (5) days if he/she is terminated from any occupational therapy or health care related employment with a full explanation of the circumstances surrounding the termination.

7. Employment Requirements and Limitations

During probation, respondent shall work in his/her licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, respondent shall not work for a registry or in any private duty position, except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified, and pre-determined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

During probation, Respondent shall work in his or her capacity in the State of California. If respondent is unable to secure employment in his or her capacity, or his or her license is temporarily suspended, the period of probation shall be extended for that period of time.

8. Supervision Requirements

Respondent shall obtain approval from the Board when continuing or before commencing any employment, regarding the level of supervision provided to the respondent while employed as an occupational therapist or occupational therapy assistant.

Respondent shall not function as a supervisor during the period of probation except as approved, in writing, by the Board.

9. Continuing Education Requirements

Respondent shall complete continuing education directly relevant to the violation as specified by the Board. Continuing education shall be completed within a period of time designated by the Board, which timeframe shall be incorporated as a condition of this probation.

Continuing education shall be in addition to the professional development activities required for license

renewal. The Board shall notify respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of the assigned coursework, respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Failure to satisfactorily complete the required continuing education as designated or failure to complete same no later than one year from the date of the Board's written notification shall constitute a violation of probation. Respondent is responsible for all costs of such continuing education. Upon successful completion of the course(s), respondent shall cause the instructor to furnish proof to the Board within thirty (30) days of course completion.

10. Maintenance of Valid License

Respondent shall, at all times while on probation, maintain an active current license with the Board including any period during which license is suspended or probation is tolled.

11. Cost Recovery Requirements

Where an order for recovery of costs is made, respondent shall make timely payment as directed in the Board's Decision pursuant to Business and Professions Code section 125.3. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

The Board may conditionally renew or reinstate, for a maximum of one (1) year, the license of any respondent who demonstrates financial hardship. Respondent shall enter into a formal agreement with the Board to reimburse the unpaid costs within that one (1) year period.

Except as provided above, the Board shall not renew or reinstate the license of any respondent who has failed to pay all the costs as directed in a Decision.

12. Violation of Probation

If respondent violates probation in any respect, the Board, after giving respondent notice and opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended, and respondent shall comply with all probation conditions, until the matter is final.

13. Completion of Probation

Upon successful completion of probation, respondent's license will be fully restored.

VI. OPTIONAL CONDITIONS OF PROBATION

14. Examination by a Physician

Within sixty (60) days of the effective date of the Decision, respondent shall submit to a physical examination by a physician and surgeon of his/her choice who meets minimum criteria established by the Board. The physician and surgeon shall be licensed in California and Medical Board Certified in Family Practice, Internal Medicine or a related specialty. The purpose of the examination shall be to determine respondent's ability to safely perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician and surgeon with a copy of the Board's Disciplinary Order prior to the examination. Cost of such examination shall be paid by respondent.

Respondent shall cause the physician and surgeon to complete a written medical report to be submitted directly to the Board within ninety (90) days of the effective date of the Decision. If the examining physician and surgeon finds that respondent is not physically fit to practice safely or can only practice safely with restrictions the physician shall notify the Board, in writing, within five (5) working days. The Board shall notify respondent in writing of the physician~~'s~~ and surgeon's determination of unfitness to practice and shall order the respondent to cease practice or place restrictions on respondent's practice. Respondent shall comply with any order to cease practice or restriction of his or her practice until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent in writing.

15. Psychological Evaluation

Within sixty (60) days of the effective date of the Decision, respondent shall submit to a psychiatric~~/~~ or psychological evaluation. Within twenty (20) days of the effective date of the Decision, Respondent shall submit to the Board the name of one or more proposed evaluators for prior approval by the Board to conduct a psychiatric or psychological evaluation. The evaluation shall be performed by a physician and surgeon licensed in California and Board Certified in Psychiatry, or by a clinical psychologist licensed in California. This evaluation shall be for the purpose of determining respondent's current mental, psychological and emotional fitness to safely perform all professional duties with safety to self and the public. Respondent shall provide the evaluator with a copy of the Board's Disciplinary Order prior to the evaluation. Cost of such evaluation shall be paid by respondent.

Respondent shall cause the evaluator to submit to the Board a written psychological report concerning respondent's status and progress as well as such other information as may be requested by the Board. This report shall be submitted within ninety (90) days from the effective date of the Decision.

If the evaluator finds that respondent is not psychologically fit to practice safely or can only practice safely with restrictions, the evaluator shall orally notify the Board within one (1) working day, and then notify the Board, in writing, within five (5) working days. The Board shall notify the respondent in writing of the evaluator's determination of unfitness to practice and shall order the respondent to cease practice or place restrictions on respondent's practice. Respondent shall comply with any order to cease practice or restriction of his or her practice until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent in writing.

If the evaluator finds that psychotherapy is required, respondent shall participate in a therapeutic program at the Board's discretion. Cost of such therapy shall be paid by respondent.

16. Psychotherapy

Within sixty (60) days of the effective date of the Decision, respondent shall submit to the Board the name of one (1) or more proposed therapists for prior approval. Respondent shall participate in ongoing psychotherapy with a California licensed or legally registered mental health professional approved by the Board. Within ten (10) days of receiving notification of approval by the Board, Respondent shall commence psychotherapy. Respondent shall provide the therapist with a copy of the Board's Disciplinary Order no later than the first counseling session. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy shall be paid by respondent.

Respondent shall cause the therapist to submit to the Board a written report concerning respondent's psychotherapy status and progress as well as such other information as may be requested by the Board. The initial psychotherapy report shall be submitted within ninety (90) days from the effective date of the Decision. Respondent shall cause the therapist to submit quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment and to provide such other information as may be required by the Board.

If the therapist finds that respondent is not fit to practice safely, or can only practice safely with restrictions, the therapist shall notify the Board, in writing, within five (5) working days. The Board shall notify respondent in writing of the therapist's determination of unfitness to practice and shall order the respondent to cease practice or place restrictions on respondent's practice. Respondent shall comply with any order to cease practice or restriction of his or her practice until the Board is satisfied of respondent's fitness to practice safely and has so notified respondent in writing.

17. Clinical Diagnostic Evaluation

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent is ordered to cease any practice of occupational therapy, beginning on the effective date of the Decision, pending the results of the clinical diagnostic evaluation. During this time, Respondent shall submit to random drug testing at least two (2) times per week. At any other time that Respondent is ordered to undergo a clinical diagnostic evaluation, he or she shall be ordered to cease any practice of occupational therapy for minimum of one month pending the results of a clinical diagnostic evaluation and shall, during such time, submit to drug testing at least two (2) times per week.

Upon any order to cease practice, Respondent shall not practice occupational therapy until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least one-month of negative drug test results. Respondent shall comply with any terms or conditions made by the Board as a result of the clinical diagnostic evaluation.

18. Rehabilitation Program

Within thirty (30) days of the effective date of the Decision, respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work settings, random bodily fluid or other matter testing, abstention from drugs and alcohol, use of work site monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations and other appropriate rehabilitation or monitoring programs. Cost for participation in this program shall be paid by respondent.

19. Support Groups

19a. Chemical Dependency Support/Recovery Groups

Within five (5) days of the effective date of the Decision, respondent shall begin attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous), and continue as ordered by the Board or its designee. Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

When determining the frequency of required support group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

19b. Facilitated Support Group Meetings

Within thirty (30) days of the effective date of the Decision, respondent shall begin attendance at a facilitated support group, and continue as ordered by the Board or its designee. Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

When determining the frequency of required support group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

Group Meeting Facilitator Qualifications and Requirements:

1. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or other nationally certified organization.
2. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.
3. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
4. The facilitator shall report any unexcused absence within 24 hours.

19c. Group Support/Recovery Meetings

Respondent shall begin and continue attendance at a support/recovery group (e.g., Alcoholics Anonymous, Narcotics Anonymous, or a facilitated group) as ordered by the Board or its designee. When determining the type and frequency of required support group meeting attendance, the board shall give consideration to the following:

- the licensee's history;
- the documented length of sobriety/time that has elapsed since substance use;
- the recommendation of the clinical evaluator;
- the scope and pattern of use;
- the licensee's treatment history; and,
- the nature, duration, and severity of substance abuse.

Verified documentation of attendance shall be submitted by respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board that attendance is no longer required.

If a facilitated group meeting is ordered, the group facilitator shall meet the following qualifications and requirements:

a. The meeting facilitator must have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse and shall be licensed or certified by the state or other nationally certified organization.
b. The meeting facilitator must not have a financial relationship, personal relationship, or business relationship with the licensee in the last five (5) years.
c. The group meeting facilitator shall provide to the board a signed document showing the licensee's name, the group name, the date and location of the meeting, the licensee's attendance, and the licensee's level of participation and progress.
d. The facilitator shall report any unexcused absence within 24 hours.

***NOTE TO ALJ**: Condition 19c is not necessary if 19a or 19b is ordered.*

20. Abstain from Controlled Substances

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness or condition. If under such prescription, Respondent shall cause to have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a

report identifying the medication, dosage, the date the medication was prescribed, the Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

21. Abstain from use of Alcohol
Respondent shall completely abstain from the intake of alcohol during the period of probation.

22. Submit Biological Fluid or Specimen Samples
Respondent shall immediately submit to random and directed alcohol and/or drug testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum of one-hundred and four (104) random tests per year within the first year of probation, and a minimum of fifty (50) random tests per year thereafter, for the duration of the probationary term. If Respondent tests positive for a banned substance, Respondent shall be ordered by the Board to immediately cease any practice of occupational therapy, and may not practice unless and until notified by the Board. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit to his or her drug test on the same day that he or she is notified that a test is required. All alternative testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

23. Take and Pass the Licensure Examination
Respondent shall take and pass the licensure examination currently required of new applicants for the license possessed by respondent. Respondent shall pay the established examination fees.

As a condition precedent to reinstatement of a license, respondent shall take and pass the licensure examination currently required of new applicants prior to resuming practice. Respondent shall pay the established examination and licensing fees.

All standard terms or other terms of probation shall be tolled until the respondent has successfully passed the licensure examination and notice of licensure has been mailed to respondent by the Board.

24. Worksite Monitor
Respondent shall submit the name of the proposed worksite monitor within 20 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding the Respondent and the worksite monitor's requirements and reporting responsibilities. Once a worksite monitor is approved, Respondent may not practice unless the monitor is present at the worksite. If the worksite monitor terminates the agreement with the Board and the Respondent, the Respondent shall not resume practice until another worksite monitor is approved by the Board.

Reporting by the worksite monitor to the board shall be as follows:
Any suspected substance abuse must be orally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours, the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature;

worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; worksite staff interviewed, if applicable; attendance report; any change in behavior and/or personal habits; any indicators of substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

25. Restriction on Licensed Practice
Respondent shall practice only with a specified client population, in a specified practice setting, or engage in limited occupational therapy services. These restrictions shall be specifically defined in the Decision and be appropriate to the violation. Respondent shall be required to document compliance in a manner required by the Board.

26. Suspension
Respondent is suspended from the practice of occupational therapy for _____ days beginning on the effective date of the Decision. Respondent shall be responsible for informing his or her employer of the Board's decision and the reasons for the length of suspension.

27. Restitution
Within _____ days of the effective date of this Decision, respondent shall make restitution to _____ in the amount of $_____ and shall provide the Board with proof from _____ attesting that the full restitution has been paid. In all cases, restitution shall be made before the termination of probation.

28. Criminal Probation Reports
Respondent shall provide the Board with a copy of the standard conditions of the criminal probation, copies of all criminal probation reports and the name of his/her probation officer.

29. Relinquish License and Wall Certificate
Respondent shall relinquish and shall forward or deliver the license to practice and the wall certificate to the Board within ten (10) days of the effective date of the Decision and order.

30. Notification to Clients/Cessation of Practice
In orders that provide for a cessation or suspension of practice, respondent shall comply with procedures provided by the Board regarding notification to, and management of, clients.

31. Request for Modification

"Request" as used in this standard is a request made to the Board's designee, and is not under the Administrative Procedure Act.

The licensee shall demonstrate that he or she has met the following criteria before being granted a request to modify a practice restriction ordered by the Board:
a. Demonstrated sustained compliance with current recovery program.
b. Demonstrated the ability to practice safely as evidenced by current work site reports, evaluations, and any other information relating to the licensee's substance abuse.
c. Negative alcohol and drug screening reports for at least six (6) months, two (2) positive worksite monitor reports, and complete compliance with other terms and conditions of the program.

VII. REHABILITATION CRITERIA

When considering the denial of an occupational therapy practitioner license under section 480 of the Business and Professions Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial, which also could be considered as grounds for denial under section 480 of the Business and Professions Code.
(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
(5) Evidence, if any, of rehabilitation submitted by the applicant.

When considering the suspension or revocation of the license of an occupational therapy practitioner on the grounds that the person licensed has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, shall consider the following criteria:

(1) The nature and severity of the act(s) or offense(s).
(2) Total criminal record.
(3) The time that has elapsed since commission of the act(s) or offense(s).
(4) The extent to which the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
(5) If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.
(6) Evidence, if any, of rehabilitation submitted by the licensee.

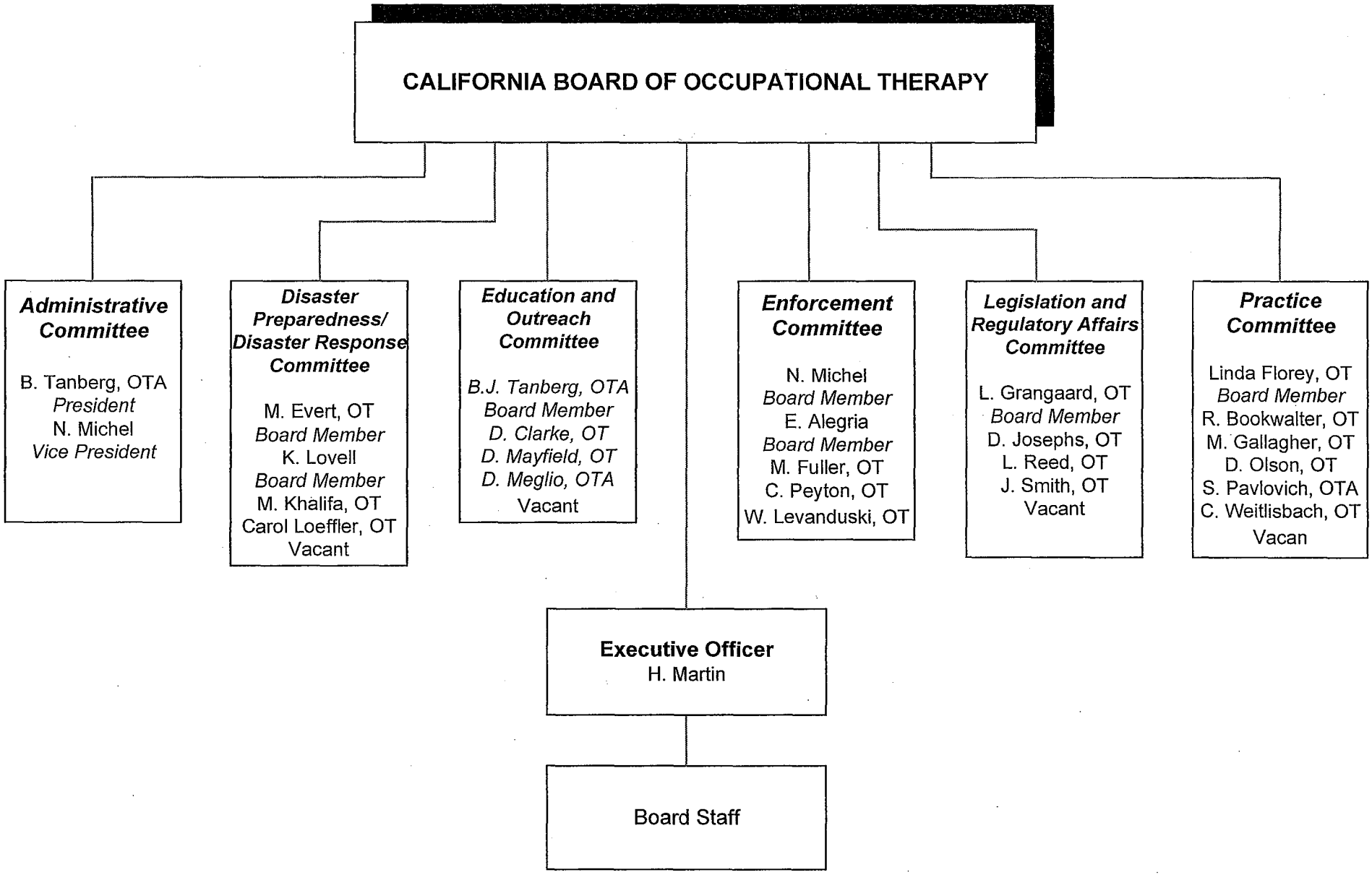
VIII. PETITION FOR REINSTATEMENT/REDUCTION IN PENALTY

When considering a petition for reinstatement of the license or a petition for reduction in penalty, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in section VII. above.

RECOMMENDED LANGUAGE FOR ISSUANCE AND PLACEMENT OF A LICENSE ON PROBATION AND REINSTATEMENT OF LICENSE [Reserved]

Attachment D:

- Board/Committee Organizational Chart; and
- Committees' Roles and Responsibilities



(September 2012)

California Board of Occupational Therapy

DISASTER PREPAREDNESS/ DISASTER RESPONSE COMMITTEE

Roles & Responsibilities

1. Identify and provide input into reducing barriers to occupational therapy roles in disaster preparedness;

2. Provide input into and work with stakeholders to reduce barriers to occupational therapist's and occupational therapy assistant's roles in disaster preparedness and response;

3. Review the laws and regulations to ensure consistency and to ensure that there are no conflicts with other laws and regulations in our policy.

4. Review the Board's Business continuity Plan and suggest updates and/or improvements;

5. Review and provide recommendations to Board staff on revisions to various applications and forms used by the Board.

Extract from Board ADMINISTRATIVE MANUAL

The purpose of the Disaster Preparedness/Disaster Response Committee is to identify and provide input into reducing barriers to occupational therapy roles in disaster preparedness and response, review the current laws and regulations to ensure consistency, be responsible for the development and maintenance of the Board's Disaster Response plan, and provide input into updates of the Board's Continuity of Operations and Continuation of Government (COOP/COG) report.

California Board of Occupational Therapy

EDUCATION / OUTREACH COMMITTEE

Roles & Responsibilities

1. Develop consumer brochures for use by the Board and Board staff;

2. Develop website content to educate consumers about occupational therapy;

3. Develop website content to educate licensees about the regulation of occupational therapy;

4. Prepare articles for newsletter to educate or provide updated information to licensees;

5. Review and provide recommendations to Board staff on revisions to various applications and forms used by the Board.

California Board of Occupational Therapy

ENFORCEMENT COMMITTEE

Roles & Responsibilities

1. Review and provide recommendations to the Board on enforcement and discipline-related proposed regulatory amendments.

2. Review the *Disciplinary Guidelines* annually and provide recommendations to the Board on suggested amendments;

3. Develop and recommend to the Board enforcement-related policies; i.e. Complaint Disclosure, etc.

4. Establish resource pool of Practice Reviewers to review medical records and Division of Investigation reports.

5. Review and provide recommendations to Board staff on applications for the Practice Reviewer Program;

6. Review and provide recommendations to Board staff on revisions to various applications and forms used by the Board;

California Board of Occupational Therapy

LEGISLATIVE AND REGULATORY AFFAIRS COMMITTEE

Roles & Responsibilities

1. Review current regulations and provide recommendations to the Board on proposed regulatory amendments;

2. Review current statute and provide recommendations to the Board on legislative proposals;

3. Review pending bills and provide recommended positions to the Board;

4. Serve as a resource to other committees.

California Board of Occupational Therapy

PRACTICE COMMITTEE

Roles & Responsibilities

1. Review and provide recommendations to Board staff on initial applications for licenses/certificates received from individuals who have not been engaged in the practice occupational therapy for five years;

2. Review and provide recommended responses to the Board on various practice issues/questions submitted by licensees and consumers;

3. Provide guidance on continuing competency audits, including reviewing and providing recommendations on audit responses, if necessary;

4. Review and provide recommendations to Board staff on applicants for the Practice Reviewer Program;

5. Review and provide recommendations to Board staff on revisions to various applications and forms used by the Board;

6. Review and provide recommendations to the Board on practice related proposed regulatory amendments.

Attachment E:

Complaint Prioritization Guidelines

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR

BOARD OF OCCUPATIONAL THERAPY
2005 Evergreen Street, Suite 2050, Sacramento, CA 95815-3831
T: (916) 263-2294 F: (916) 263-2701
E-mail: cbot@dca.ca.gov Web: www.bot.ca.gov

Complaint Prioritization Guidelines

As complaints are received, Enforcement staff will immediately review each complaint to determine the appropriate course of action based on the Board of Occupational Therapy's *Complaint Prioritization Guidelines*.

The table below sets forth guidelines for prioritization of complaints. Complaints that pose an immediate threat to the health, safety, and welfare of consumers shall be assigned an "Urgent" priority, requiring immediate and expedited processing by Board Enforcement staff and/or a high level of monitoring (daily or weekly), with law enforcement, the Division of Investigation, or the Office of the Attorney General. Such cases shall be continuously assessed and considered for an Interim Suspension Order, Penal Code section 23 hearing, or other interim action.

Depending on the underlying facts, deviation from the guidelines may be warranted. For example, a complaint based on a report from a health care practitioner data bank (categorized as "routine" in the guidelines) may be re-prioritized to a higher level of response based on the nature of the underlying act(s).

PRIORITY LEVEL	*COMPLAINT CATEGORY*
URGENT	Any act resulting in death or serious injury. Physical or mental abuse or sexual misconduct with a patient during the course of treatment or examination. Negligence or incompetence causing death or serious injury to a client or other in delivering professional services. Unlicensed activity alleged to have resulted in patient injuries. Obtain, possess, prescribe, furnish or administer to another, any controlled substance or dangerous drug or dangerous device. *(May be re-categorized to "High" or "Routine" based on the nature of the underlying acts and whether the practitioner has a pattern/history of similar conduct)* Use of any drug or alcohol resulting in impaired practice, death, or serious bodily injury to another. Practicing while under the influence of alcoholic beverages or any illegal drug, or any use within the scope of employment. Aiding and abetting unlicensed practice alleged to have resulted in patient injuries. Arrests or convictions substantially related the practice. *(May be re-categorized to "High" or "Routine" based on the nature of the underlying acts and whether the practitioner has a pattern/history of similar conduct).*

URGENT	Impairments (mental, physical or as a result of alcohol or drug abuse.) Theft of prescription drugs. Furnishing prescription drugs without a prescription.
HIGH	Negligent or incompetent professional services not causing serious injury to a client or other. Physical or mental abuse without apparent injury. Reports pursuant to Bus. & Prof. Code Section 800. (May be re-categorized based on nature of underlying act) Complaints about licensees on probation. Providing advanced practice services without supervision or appropriate approval. Multiple complaints of similar nature. Practicing on an expired license; unlicensed activity with no apparent client harm. Aiding and abetting unlicensed activity with no apparent client harm. Other acts when evidence will likely be destroyed or become unavailable.
MEDIUM	Applicant misconduct (conviction history, failure to disclose conviction(s), arrest(s), exam subversion) False/misleading advertising or professional representations. Fee or billing disputes. Fraud and/or dishonest acts; falsify patient records or timecard/records. Failure to release medical records. Breach of confidentiality. Continuing competency audit violations. Failing to provide adequate and/or appropriate supervision to an occupational therapy assistant or aide with no apparent harm to the client. National practitioner data bank reports or other reports of out-of-state discipline. *(May be re-categorized based on the nature of the underlying facts and if the practitioner is practicing/residing in California).*
LOW	Non-jurisdictional complaints. Address change violations.

Attachment F:

- Sample Cease Practice Order; and
- Sample Employer Notification

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
BOARD OF OCCUPATIONAL THERAPY
2005 Evergreen Street, Suite 2050, Sacramento, CA 95815-3831
T: (916) 263-2294 F: (916) 263-2701
E-mail: enfprg@dca.ca.gov Web: www.bot.ca.gov

SENT VIA CERTIFIED AND REGULAR MAIL
1234 5678 1234 5678 1234

[Date]

[Name]
[Address]
[City, STATE ZIP]

Dear Mr./Ms. [Last Name]:

The California Board of Occupational Therapy (Board) was notified by FirstLab, Inc. that the urinalysis specimen you provided on [date of actual test(s)] tested positive for the presence of [name of drug or banned substance], a banned substance pursuant to the Decision and Order of the Board in Case Number [CAS Case Number], effective [Probation effective date].

Pursuant to the Business and Professions Code Section 315.2, you are hereby ordered to:

> **IMMEDIATELY CEASE AND DESIST from practicing occupational therapy, and from rendering or providing any occupational therapy services in the State of California, unless and until notified otherwise by the Board.**

This cease practice order does not constitute disciplinary action.

If you have questions, you may call the Board's Probation Monitor at (916) 263-0711.

Sincerely,

Heather Martin
Executive Officer

Cc: [Probationer's email address, if known]
[Employer's email address, if known]
[Employment fax number, if known]

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
BOARD OF OCCUPATIONAL THERAPY
2005 Evergreen Street, Suite 2050, Sacramento, CA 95815-3831
T: (916) 263-2294 F: (916) 263-2701
E-mail: enfprg@dca.ca.gov Web: www.bot.ca.gov

[DATE]

[Business Name]
ATTN: [Probationer's Supervisor's Name]
[Address]
[City, STATE ZIP]

Dear Mr./Ms. [Last Name]:

The California Board of Occupational Therapy (Board) was notified by FirstLab, Inc. that the urinalysis specimen [Probationer's Name] provided on [date] tested positive for the presence of [name of drug or banned substance] a banned substance pursuant to the Decision and Order of the Board in Case Number [CAS Case Number], effective [Probation effective date].

Pursuant to the Board's Disciplinary Guidelines, [Probationer's Name] has been ordered to immediately CEASE AND DESIST the practice of occupational therapy until notified by the Board.

Due to the positive tests for the present of [name of drug or banned substance], pursuant to Business and Professions Code Section 315.2, [Probationer's Name] has been ordered to immediately CEASE AND DESIST the practice of occupational therapy until notified by the Board. Attached is a copy of the CEASE AND DESIST Order sent to [Probationer's Name].

If you have questions, you may call the Board's Probation Monitor at (916) 263-0711.

Sincerely,

Heather Martin
Executive Officer

Cc: [Facility administrator]
[Facility director of rehab]
[Facility HR Department]
[Probationer's supervisor's email address, if known]
[Employer's fax number, if known]

Attachment G:

Letter sent to Occupational Therapists

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
BOARD OF OCCUPATIONAL THERAPY
2005 Evergreen Street, Suite 2050, Sacramento, CA 95815-3831
P 916.263.2294 F 916.263.2701 | www.bot.ca.gov

October 17, 2012

To all occupational therapists:

If you are a supervisor, it is your responsibility to ensure that individuals you supervise hold the appropriate credentials before they are allowed to provide services. The Board has been informed that some practitioners are not familiar with this regulation, although it has been in place for several years.

Effective April 3, 2009, Title 16, California Code of Regulations section 4181 was amended as follows:

"The supervising occupational therapist shall determine that the occupational therapy practitioner possesses a current license, certificate or permit to practice occupational therapy prior to allowing the person to provide occupational therapy services."

You can verify the license of an occupational therapist or occupational therapy assistant on the Board's Web site, www.bot.ca.gov. Limited Permits cannot be verified online at this time. You must call the Board office to verify LPs.

You should also be aware that the Board shares information on substantiated complaints of unlicensed practice or practice on an expired license that result in disciplinary action with several state departments including Aging, Developmental Services, Education, Healthcare Services, Public Health, and Social Services. The Board also reports disciplinary action to the Healthcare Integrity Practitioner Data Bank, the National Practitioner Data Bank, the National Board for Certification in Occupational Therapy, and the American Occupational Therapy Association.

For more information regarding current and proposed regulations relating to the practice of occupational therapy, visit the Board's Web site at www.bot.ca.gov, or call the Board at 916.263.2294.

Sincerely,

/S/

Heather Martin
Executive Officer

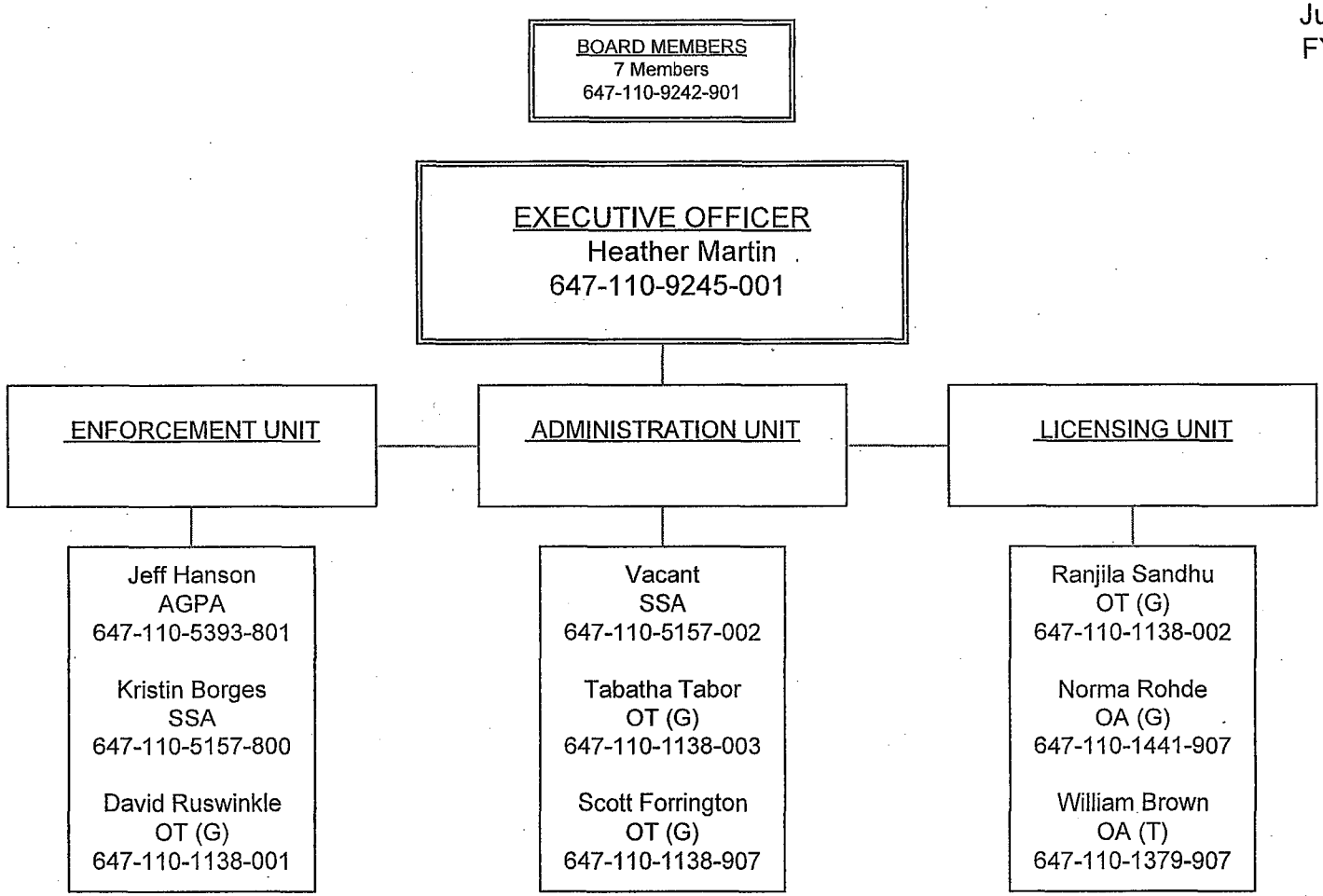
Attachment H:

Organizational Charts

DEPARTMENT OF CONSUMER AFFAIRS

OCCUPATIONAL THERAPY BOARD

July 1, 2008
FY 2008-09



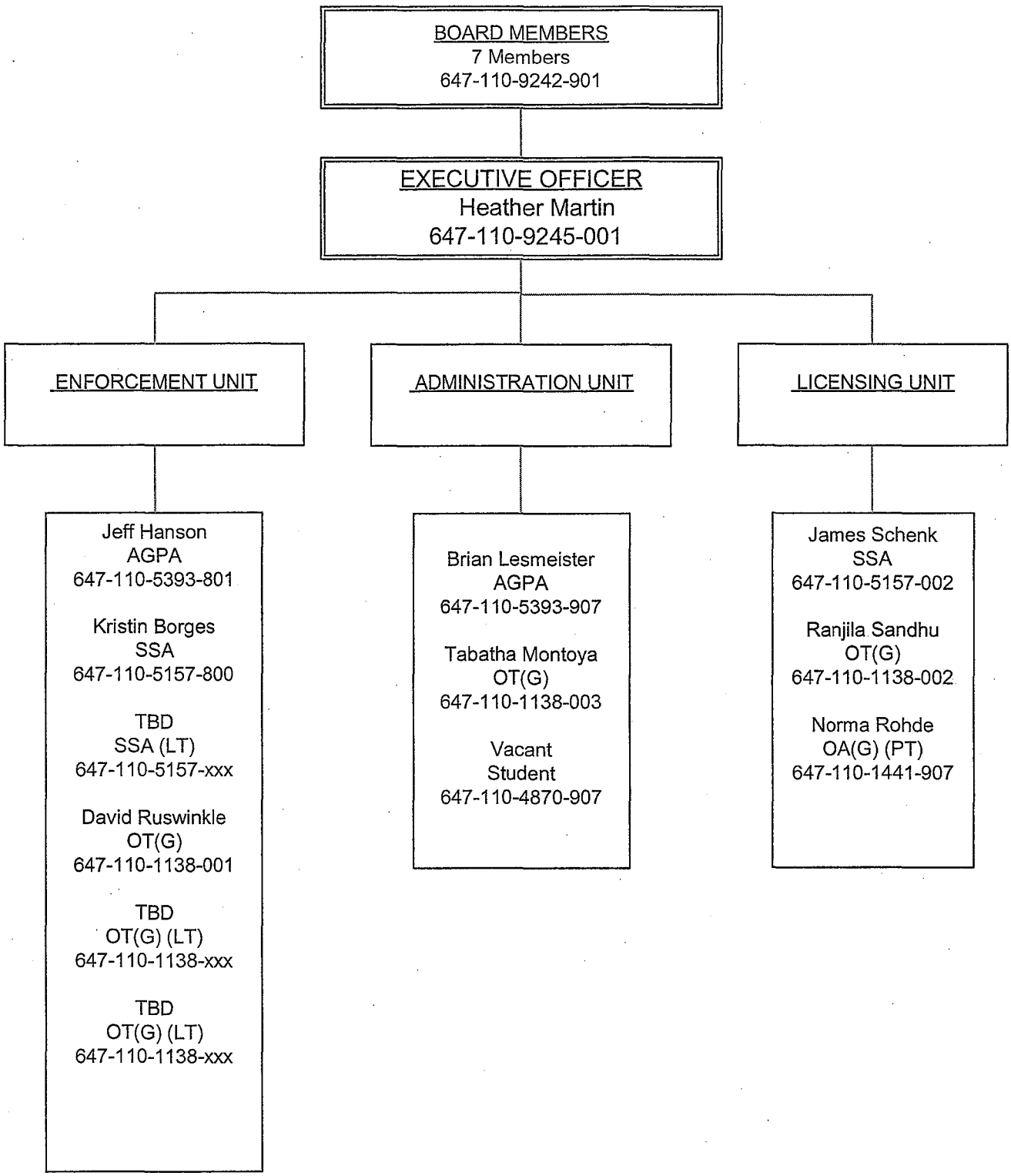
CARRIE LOPEZ, Director

Heather Martin, Executive Officer

Office of Human Resources

DEPARTMENT OF CONSUMER AFFAIRS
CA BOARD OF OCCUPATIONAL THERAPY
(Effective July 1, 2009)

FY 2009-10
Current



Patricia Harris, Acting Chief Deputy Director

Heather Martin, Executive Officer

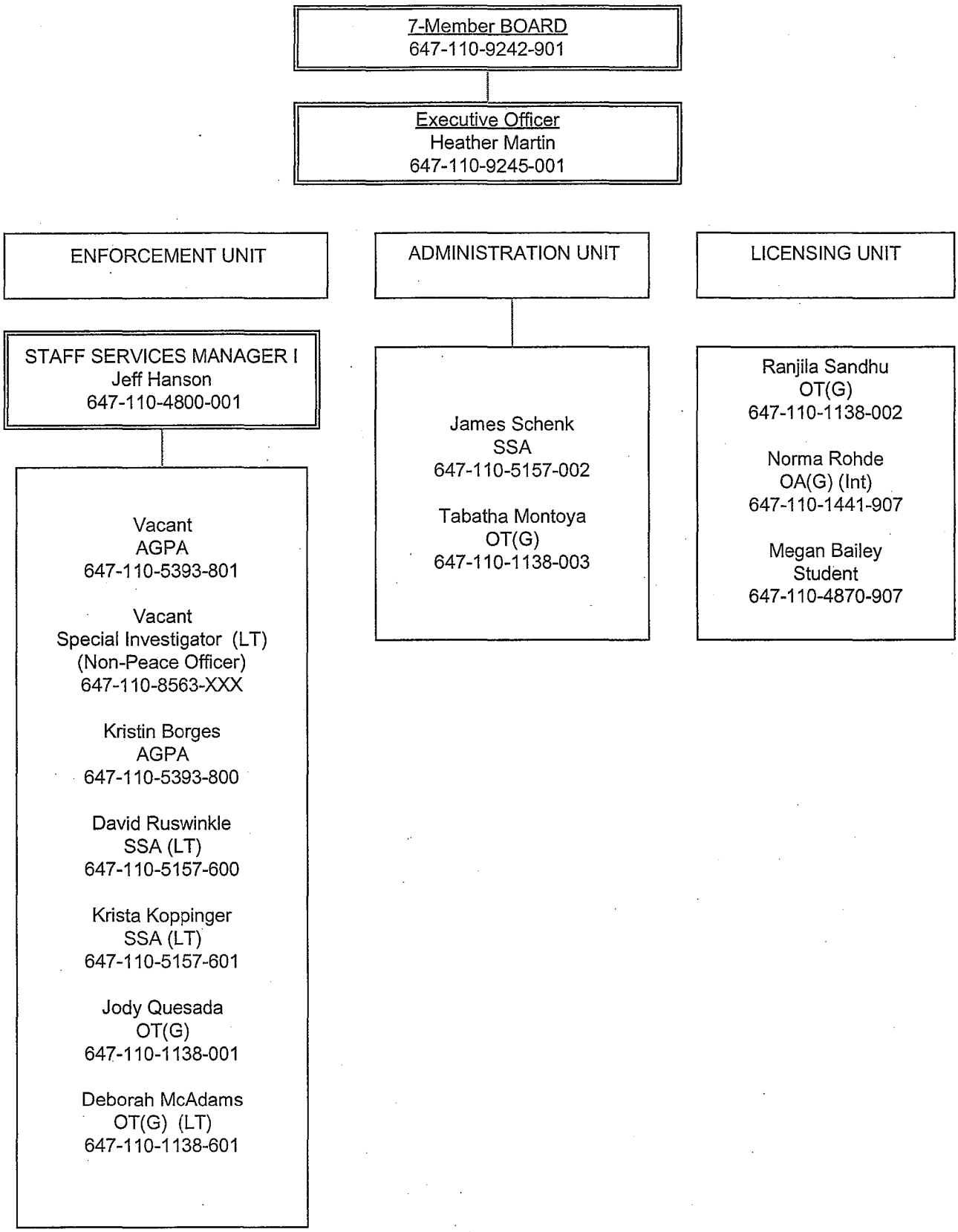
Office of Human Resources

DEPARTMENT OF CONSUMER AFFAIRS

CA BOARD OF OCCUPATIONAL THERAPY

(Effective July 1, 2010)

FY 2010-11
current



BRIAN J. STIGER, Director

HEATHER MARTIN, Executive Officer

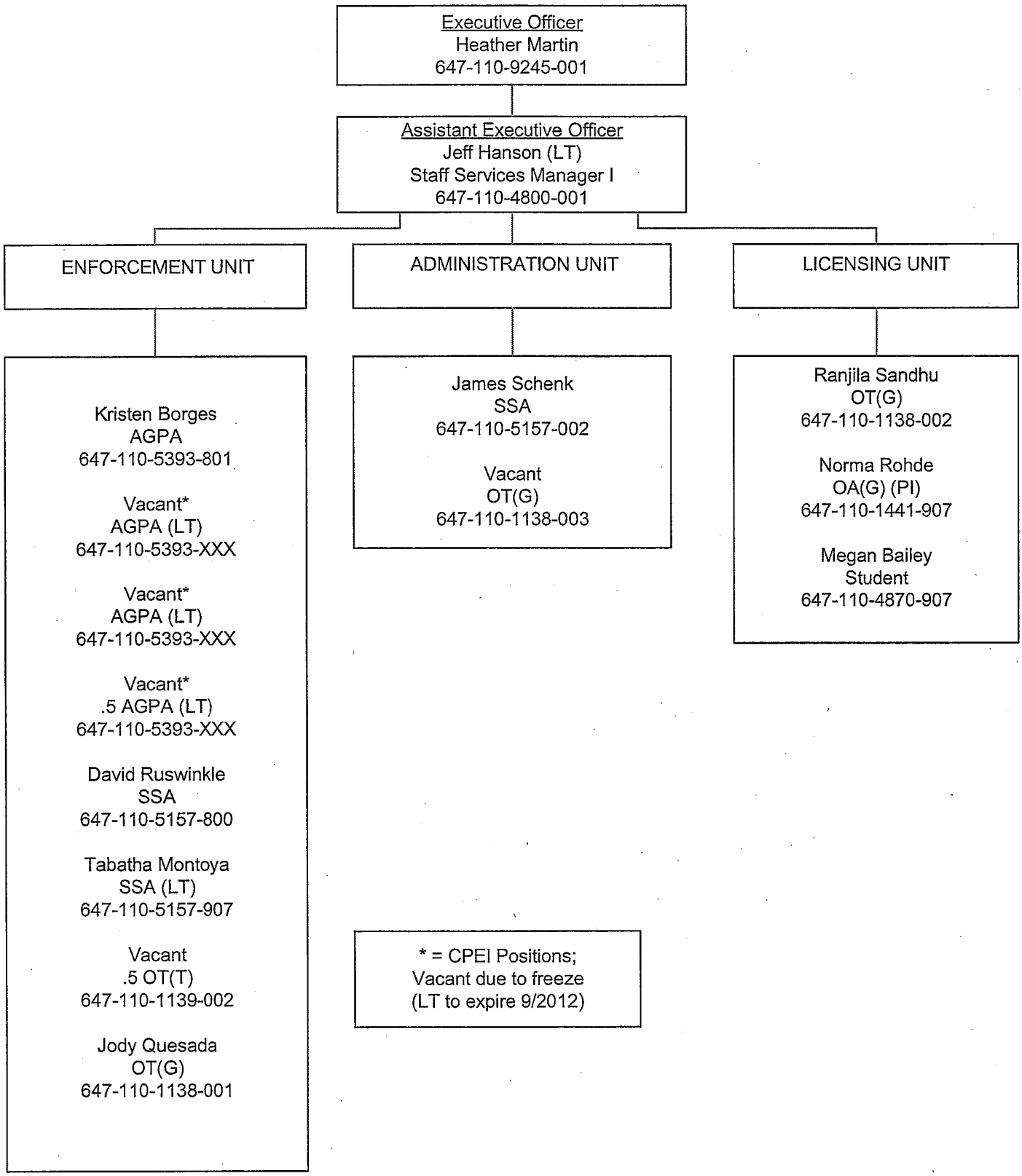
Office of Human Resources

DEPARTMENT OF CONSUMER AFFAIRS FY 2011-12

CA BOARD OF OCCUPATIONAL THERAPY

Current

(Effective July 1, 2011)



BRIAN J. STIGER, Director

HEATHER MARTIN, Executive Officer

Office of Human Resources

Attachment I:

Addendum to Sunset Report

ADMINISTRATION

The Administration Unit is an essential component of the California Board of Occupational Therapy (Board) and provides necessary administrative and technical support in the implementation of all Board programs and the Board itself (the Board members). The necessary functions include: processing incoming mail; processing requests or updating licensing files based on information received via mail, fax or email; cashiering and all related transactions; personnel transactions and leave balance reconciliation; other administrative support functions, including outreach, making travel arrangements for Board members and staff, preparing and processing of travel claims, processing and tracking training requests, supplies procurement, and contract processing.

There are other administrative duties that should be performed by assigned staff, however, due to inadequate staffing levels, the following duties are assigned on an as-needed basis, including: preparation of budget change proposals, monitoring of revenue and expenditures, preparation of annual workload and revenue statistics and equipment request; all duties that support the legislative and regulatory functions. Assigning these duties on an as-needed basis has multiple impacts, including: adversely impacting the continuity of staff of completing their regular duties; risk of increased errors due lack of familiarity with the assignment; potentially taking more time to complete the assignment due to being unfamiliar with or lacking knowledge of the subject matter and/or assignment; and increased risk of being unable to complete regularly assigned duties, including meeting time-sensitive deadlines when given other duties or assignments on an as-needed basis.

Being staffed at levels that allow assigning on-going administrative duties to staff rather than assigning a duty/function/assignment on an as-needed basis provides consistency in assignments, continuity in workload and familiarity with subject matter; regular duties will lead to an overall better work product and increased knowledge base of assigned staff.

The Administration Unit is comprised of the following positions: one permanent Office Technician (OT), a .5 OT filled at the 1.0 and Staff Services Analyst (SSA). (The SSA position has been redirected to evaluating and processing advanced practice applications and Provider applications to provide post-professional education.)

The Administration Unit is severely understaffed and continuously struggles to complete work requirements to keep these areas functioning adequately. Specifically, the outreach, budget, and legislative and regulatory function do not have sufficient staffing levels to maintain the volume of on-going workload and this workload cannot continue to be absorbed.

OUTREACH

Over the past several years, the Board has experienced an increase in correspondence and communications via telephone, fax, email, and mail. In an effort to expeditiously and effectively address public, licensee, and industry questions and concerns, and increase

awareness of regulatory requirements, the Board has begun to rely on online communication and/or technology to supplement the traditional use of hardcopy or paper.

The Board's goal is to ensure that outreach and communication is relevant, timely, and effective, in support of goals three and four of the Board's 2011 Strategic Plan. As a result, Board meeting materials are now available on the website for downloading by the viewer rather than the 'mailing' of materials; this supports the Board's Strategic Plan regarding communication and "green" communication methods and increases access. (Previously, members of the public or profession had to attend the meeting in person to obtain meeting materials.)

To further implement the Board's Strategic Plan, the Board utilizes and relies on more 'technology,' including increased consumer and licensee awareness through public announcements via Twitter and Facebook, etc.

Despite the increase in volume of correspondence received via postal mail, faxes, and emails, the Board lacks adequate staffing levels to assign this to a designated staff person. Instead, staff are assigned on an as-needed basis to monitor incoming emails and faxes, distribute the inquiries to the applicable units/staff as appropriate, respond to a variety of subjects among which include, but are not limited to, verifying licensure and disciplinary actions, advise and interpret laws and regulations, answer questions regarding the application and fingerprint requirements, continuing competency, the renewal process. The Board cannot continue to absorb this workload.

In order to properly maintain and support the Twitter and Facebook accounts, including posting updates and news alerts, i.e., regulatory hearing notices, disciplinary actions, board meetings, etc, on the Board website, and solicit feedback from the profession, the Board needs additional staff.

Due to inadequate staffing levels the Board has been unable to meet several goals identified in its Strategic Plan, including providing its licensees with quarterly updates of changes in laws and regulations and monitoring evolving trends and standards, among others. Due to inadequate staffing levels, the Board has been unable to publish a newsletter (the Board's last newsletter was published in late 2007), develop consumer brochures explaining what occupational therapy is and its benefits, and a publication for the profession, entitled "Therapy Never Includes Sex."

LICENSING

The Licensing Unit (Licensing) is a core function of the Board and responsible to ensure applicants for an occupational therapist or occupational therapy assistant license meet statutory and regulatory licensure requirements. This essential function ensures that only qualified applicants are licensed by determining that applicants have the knowledge and qualifications necessary to perform the practices of the profession. A timely, efficient system enables qualified applicants to quickly enter the workforce and provide California's consumers access to services. Adequate staffing is crucial to ensuring this mandate is accomplished effectively.

Over the past several years, the applications for licensure received by the Board and the number of licenses issued, has increased steadily. Application/license data for the past few fiscal years is as follows:

Fiscal Year	Applications Received	OT/OTA Licenses Issued
2011/12	1,006	975
2010/11	875	784
2009/10	861	798
2008/09	755	725

The Board has one only Office technician who reviews and evaluates all applications for licensure and limited permits. She is challenged every month to meet the regulatory requirement of informing the applicants, "in writing, whether the application is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application" within thirty (30) days of receipt of the application. (Section 4112, Article 2, Division 39, Title 16, California Code of Regulations.)

The licensing staff must maintain the application during the period from initial application until licensure is obtained. For example, staff corresponds with applicants, answers questions, reviews and evaluates required documentation, including official transcripts, verification of examination passage, license verification from another state, etc., reviews and updates records, i.e., address and name changes, email address change, etc. Any application that takes a considerable amount of processing time due to additional communication or correspondence can delay the process for all applicants.

The Board relies on other non-licensing staff to process applicant-related cashiering and issue the license (separation of duties required per State Administrative Manual). Other non-licensing staff also perform duties related to the licensure process, including maintaining the licensees' file and record. Record maintenance includes processing license renewals, address changes, name changes, and duplicate license requests, as well as issuing license verification letters (endorsements) to other state boards, and processing return mail, etc. This volume of workload exceeds a 1.0 full time position.

Although, redirecting staff to process licenses has resulted in several deficiencies within other program areas, licensure is a core consumer protection function of the Board. Additionally, rapid licensure allows applicants quick entry to the workforce and improves their personal financial situation as well as potentially improving the economy.

Board Recommendation: *The Board recommends approval for two additional positions within the Outreach and Licensing units: two Office Technicians to complete application and licensing processes and one OT to process foreign educated applications in a consistent and timely manner.*

CONTINUING COMPETENCY PROGRAM

Effective April 15, 2005, new regulations required all occupational therapists and occupational therapy assistants renewing their license on or after January 1, 2006, to complete 24 contact hours as a condition of renewal; the records showing participation in each professional development activity must be maintained by the licensees for four years following the renewal period. As a condition of license renewal, the licensee must sign their renewal form under penalty and perjury certifying they have met the continuing competency requirements.

Allowing licensees to 'self-certify' that that they have met the continuing competence requirement as a condition to renewing their license, was necessary due to the volume of documentation involved and the amount of staff time that would be required to review submitted documentation if every licensee submitted their certificates of completion along with their renewal.

To ensure compliance, the Board redirected a permanent intermittent Office Assistant in the Licensing Unit to conduct random audits of 5-7% of renewed licenses, on a monthly basis, rather than provide support to the application review/licensing process. The staff reviews the renewal form and verifies the licensee has attested to completing the requisite hours of continuing competency and then requests supporting documentation.

If the licensee elects not to complete continuing competency contact hours, the licensee may become delinquent or opt to enter into inactive status. Since the implementation of continuing competency requirements, the Board has undergone a vast increase in workload throughout the Board programs as the licensee population continues to grow. As a result, the number of renewals has resulted in more audits, which in turn has increased the number of enforcement actions. All these factors result in additional workload, which is no longer absorbable.

Due to the repeat requests required of licensees, the volume of follow-up correspondence has increased, resulting in a backlog. Due address the backlog and bring the period being audit more current, there was a point when many months were not audited; this enabled staff to audit more recent renewals. If the Board does not obtain adequate staffing for this program, the backlog will increase at an escalated pace.

Board Recommendation: *The Board recommends approval for one additional office Technician position to process random audits at a rate necessary to ensure compliance.*

ENFORCEMENT

The Enforcement Unit is a core function of the Board. The Board is mandated to protect the public by enforcing the Occupational Therapy Practice Act (Chapter 5.6 of the Business and Professions Code). Over the past two years, the Enforcement Unit has focused efforts on reducing its open (pending) cases and improving overall processing times to resolve complaints and disciplinary actions. It has also worked to bolster its probation monitoring and implement Business and Professions Code (BPC) Section 315.2 relating to cessation of practice for probationers who test positive for banned substances.

Monitoring of licensees on probation includes many components (e.g. monitoring substance abuse testing, monitoring and approving employment settings, reviewing quarterly reports and probationer work performance reports, communicating with probationer and their employers, and communicating with the Board's biological fluid testing vendor, etc.). To implement BPC 315.2, the Board issues cease practice orders (CPO) to licensees who test positive for a banned substance. In conjunction with a positive test, Board staff consults with the Medical Review Officer (MRO) to ensure the Board is appropriately issuing the CPO. On questionable positive tests, Board staff also consults with the MRO to determine how prescribed substances metabolize to verify the probationers' explanation for a positive test. Use of an MRO helps ensure of the integrity of the testing process; the MRO may be called to testify in the event there is a hearing to revoke probation based upon prohibited use or demonstrated abuse by a licensee.

With the increase in the number of licensees on probation for substance issues, and the increase in tasks related to probation monitoring, the 1.0 Associate Governmental Program Analyst (AGPA) currently assigned to this function is insufficient to meet workload demands.

The Board has demonstrated marked progress in reducing the number of pending complaints and improving the investigation processing. For example, the Board began fiscal year (FY) 2010/11, with *202* pending investigations with an average cycle time of *297 days* (this is the number of days from complaint receipt to closure of the investigation process). The Board closed FY 2011/12 with *126* pending complaints and reduced the average cycle time to only *74 days*. This marked improvement was due to increased staffing levels during FY 2010/11 and 2011/12 and the use of blanket positions. Without sufficient staffing levels, the CPEI limited-term positions, it is likely that the number of pending (open) complaints will increase and so will the investigation ('processing') times. These increases would be inconsistent with the goal to impose discipline swiftly and efficiently to fulfill the Board's public protection mandate.

The Board's Staff Services Manager (SSM) I position remains vacant after a two-year limited term appointment expired. This position was not filled permanently due to insufficient staffing levels - the Board not having the requisite number of analysts in the enforcement program (excluding the CPEI positions). The Board is currently exploring options with the Department to fill the SSM I position as an Assistant Executive Officer to resolve the concerns related to staffing levels and provide adequate supervision to Board staff.

Board Recommendation: *The Board recommends approval for two additional positions: one Staff Services Analyst and one Office Technician to meet ongoing workload needs, including processing of: complaint intake, assignment, and investigation; coordination of administrative and disciplinary actions and issue citations for violations of the practice act; to fulfill the Board's consumer protection mandate.*

As the number of complaints received has increased each year, those that turn into enforcement cases also increase; this increase leads to increased enforcement expenditures. The table above illustrates that expenditures for both the Office of the Attorney General (AG) and the Office of Administrative Hearings (OAH) continue to increase each year. Absorption in fiscal years 2010/11 and 2011/12 was only possible due to leaving CPEI positions vacant; without redirecting these monies, the Board would have had to request the Department of Finance augment the AG budget.

	2009/10		**2010/11**		**2011/12**	
	Budget	Expend	Budget	Expend	Budget	Expend
Attorney General	283,243	**134,638**	133,243	**138,738**	133,243	**169,585**
Off Admin Hrgs	7,000	**9,424**	1,000	**12,925**	1,000	**27,674**
Evidence/Witness	0	4,031	0	2,200	0	6,330
Court Reporter	0	1,147	0	1,285	0	3,647
DOI	74,462	67,919	31,112	28,380	73,221	70,442
Totals	364,705	217,159	165,355	**183,528**	207,464	**277,678**

Fiscal Year (FY) 2009/10 - The AG and OAH budgets were increased due to the CPEI budget change proposal; the enforcement budget underspent due to excessive augmentation.
FY 2010/11- Over-expenditure absorbed; redirected $18,173 from other line items.
FY 2011/12 - Over-expenditure absorbed; redirected $70,263 from other line items.

Despite the fact that the Board is again projected to exceed its budgeted enforcement authority, the Board has made every effort to achieve savings in other line items to mitigate the overall impact of the increased enforcement costs. However, with the expiration of 2.5 limited-term positions effective September 30, 2012, there are less funds ("salary saving" due to positions left vacant) available for redirection.

The AG and OAH budget augmentation is vital to the Board's enforcement efforts to remove or monitor those occupational therapists and occupational therapy assistants with serious practice act violations and to ensure that the utmost protection is afforded the public and consumers.

Board Recommendation: *The Board recommends approval for an additional $50,000 (budget augmentation) to accommodate the Attorney General costs and an additional $30,000 to accommodate on-going OAH costs; these increased budget requests are to accommodate costs associated with the enforcement caseload. This is essential for the Board to effectively comply with its' consumer protection mandate.*