18. What are the board's performance targets/expectations for its licensing[1] 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 fiscal years reflect that the Board is meeting the established expectation. It takes the Board about 22-27 days to provide an applicant written notice whether the application is complete (and approved) or whether additional documentation is required.

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

The Board 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 section 4112.

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

Table 6. Licensee Population

		FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Occupational Therapist	Active	4777	5054	5223	5293
	Inactive	394	408	407	364
	Out-of-State	1025	1147	1246	1359
	Out-of-Country	42	46	38	40
	Delinquent *	177	172	157	187
Occupational Therapy Assistant	Active	838	907	1021	1085
	Inactive	68	66	76	49
	Out-of-State	198	239	259	292
	Out-of-Country	0	0	1	1
	Delinquent *	26	21	27	30
	Out-of-Country	0	0	0	0

[1] The term "license" in this document includes a license certificate or registration.

Table 7a.
Licensing Data for Occupational Therapists

	Application Type OT	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2013/14	(Exam)						-	-			
	(License)	986	786	28	854	81	-	-	17	57	-
	(Renewal)		5634				-	-			
FY 2014/15	(Exam)						-	-			
	(License)	973	575	15	961	92	-	-	29	60	-
	(Renewal)		5787				-	-			
FY 2015/16	(Exam)						-	-			
	(License)	1105	1293	25	1078	96	-	-	22	64	-
	(Renewal)		5844				-	-			

Licensing Data for Occupational Therapist Assistants

	Application Type OTA	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2013/14	(Exam)						-	-			
	(License)	325	370	13	290	25	-	-	19	74	-
	(Renewal)		994				-	-			
FY 2014/15	(Exam)						-	-			
	(License)	341	372	3	322	29	-	-	18	86	-
	(Renewal)		1124				-	-			
FY 2015/16	(Exam)						-	-			
	(License)	399	369	11	388	55	-	-	21	68	-
	(Renewal)		1164				-	-			

*Optional. List if tracked by the board.

Table 7b. Total Licensing Data

	FY 2013/14	FY 2014/15	FY 2015/16
Initial Licensing Data for OT and OTA:			
Initial OT License/Initial Exam Applications Received	986	973	1105
Initial OT License/Initial Exam Applications Approved	786	575	1293
Initial OT License/Initial Exam Applications Closed	28	15	25
OT Licenses Issued	854	961	1078
Initial OTA License/Initial Exam Applications Received	325	341	399
Initial OTA License/Initial Exam Applications Approved	370	372	369
Initial OTA License/Initial Exam Applications Closed	13	3	11
OTA Licenses Issued	290	322	388

Table 7b. Total Licensing Data (cont)			
	FY 2013/14	FY 2014/15	FY 2015/16
Initial License/Initial Exam Pending Application Data for OT and OTA:			
Pending OT Applications (Total at close of FY)	81	92	96
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)	25	29	55
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) for OT and OTA:			
Average Days to OT Application Approval (All – Complete/Incomplete)	42	39	44
Average Days to OT Application Approval (Incomplete applications)*	57	69	64
Average Days to OT Application Approval (Complete applications)*	17	29	22
Average Days to OTA Application Approval (All – Complete/Incomplete)	52	42	32
Average Days to OTA Application Approval (Incomplete applications)*	74	86	68
Average Days to OTA Application Approval (Complete applications)*	19	18	21
License Renewal Data:			
License Renewed	**See Table 7a above**		

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

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

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 verification from the issuing authority. The license verification is used as a primary source to determine if the applicant had a license or certificate that had been disciplined by another state or province. (This process also allows the Board to determine 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 allows the Board to determine if the applicant has been truthful in the application process.)

b. Does the board fingerprint all applicants?

As part of the licensure process, all applicants are 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 complete and submit fingerprint cards directly to the Board; the Board then forwards the cards to the DOJ for manual processing. 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.

All current licensees have been fingerprinted before their initial license application was approved in order to verify whether an applicant has been convicted of crimes in the past, and also to provide the Board with subsequent arrest information. Thus, the fingerprint image is "maintained" by the Department of Justice. With the fingerprints maintained by DOJ, the Board also received subsequent arrest and subsequent conviction reports. This allows the Board to open a 'case' and follow the arrest through the process and follow up on the conviction to determine if is substantially related to the qualifications, functions or duties of an occupational therapy practitioner.

Whether notified of an arrest that leads to a conviction or notification of the conviction, in either case, if the conviction is deemed to be substantially related, it becomes the basis for the Board to take disciplinary action against the licensee. (This process also allows the Board to determine if the licensee was truthful in completing the renewal application.)

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?

Previously, the federal government maintained two databanks: the National Practitioner Data Bank (NPDB) and the Healthcare Integrity & Protection Data Bank (HIPDB). In May 2013, these two databanks (and reporting requirements) were merged into one and now is referred to only as the NPDB. The NPDB collects information and maintains reports on:

- Federal and state licensure and certification actions
- Health care-related criminal convictions and civil judgments
- Medicare and Medicaid exclusions
- Medical malpractice payments
- Adverse clinical privileges actions
- Adverse professional society membership actions
- Other adjudicated actions or decisions

The intent of the databank is to improve the quality of health care by encouraging state licensing boards, hospitals, health care employers, other health care entities, and professional societies to identify and discipline those licensees who engage in illegal or unprofessional behavior; and to restrict the ability of incompetent health care practitioners from moving from state-to-state without disclosure or discovery of previous discipline, 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:

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

The Board reports all disciplinary actions taken against applicants and licensees to the NPDB as required by federal law.

During the period May 2010 to December 2013, the Board used the 'Continuous Query' feature for applicants as well as licensees placed on probation during the period May 2010 to December 2013. During that period, the Board it spent more than $13,200 on 2,317 enrollments in the 'continuous query' and the subsequent renewals. The Board only received two 'hits' (or reports) during the 2 ½+ years the NPDB was being queried. Based on the lack of 'hits' received, it was determined this was not the most efficient use of Board funds. A reason for the lack of 'hits' may be that few other occupational therapy state regulatory boards report actions to the databank as required by federal law.

The Board is satisfied with existing processes used for the applicant qualification process, which protects the public's interests. Applicants are required to submit fingerprints for background checks with the Department of Justice and Federal Bureau of Investigation. Individuals that have been licensed in another state(s) applying for a California license must submit a license verification from each state agency were they hold a license that indicates if their license has ever been disciplined by that agency. For these reasons the Board has not created a plan nor sought legislation that would require applicants to pay for the national practitioner data bank query fee.

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.

22. 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 boards. Any person from another state seeking licensure in California as an Occupational Therapist (OT) or Occupational Therapy Assistant (OTA) 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 the National Board for Certification in Occupational Therapy, Inc.(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 foreign occupational therapy assistant programs recognized; only graduates of United States occupational therapy assistant programs are eligible to take the NBCOT examination.) Pursuant to BPC section 30, applicants shall provide either an individual taxpayer identification number or a 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.
>
> (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.
>
> (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 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 to 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 disclose these licenses, registrations or certificates and request a license verification 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.

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

Existing law, BPC section 2570.6, establishes that an applicant for licensure must successfully complete an occupational therapy academic program that has been accredited by the Accreditation Council on Occupational Therapy Education (ACOTE). Existing law, BPC section 2570.7, also establishes an applicant for state licensure must pass the examination administered by NBCOT. In order for NBCOT to allow a candidate to sit for the certification examination the candidate must provide evidence (a transcript) they successfully completed an OT or OTA educational program that is accredited by ACOTE; graduates of a foreign educational program must submit evidence to NBCOT that the program they completed contained substantially equivalent courses to the education curriculum required of program accredited by ACOTE.

As previously reported there is a pathway for OTAs to qualify by having completed military education and training. This is because all military OTA programs have been accredited by ACOTE and meet NBCOT's eligibility requirements for the COTA examination.

A review the qualification requirements for any occupational therapists serving in the Army, Navy, and Air Force, indicates that completion of an accredited occupational therapy degree program and passage of the NBCOT examination is required.

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

The Board does not currently track applicants who are veterans. However, the Board updated the (paper) application for licensure to ask whether the applicant is currently in the U.S. military or has ever been in the military, consistent with BPC section 114.5. Additionally there is a section where the applicant can identify the branch of military in which they are currently serving or have served.

Upcoming enhancements to the BreEZe computer system will be implemented in the future to assist Board staff in the tracking of applicants' military status.

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

Board staff has not received an application in which the applicant offered military education, training or experience towards meeting licensing or credentialing requirements for an OT license. Effective August 2008, the minimum educational program increased from a baccalaureate degree to a post baccalaureate degree (Master's degree in occupational therapy) in order for applicants to be eligible to take the examination. The Board is not aware of any military education or training program that has been deemed equivalent to a Masters' degree or that has been accredited ACOTE.

Board staff has received applications for an OTA license in which military education, and training has been used to meet licensing requirements. These applications were treated as any other application that included a transcript provided from ACOTE-accredited OTA program.

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

Military OTA programs have been accredited by ACOTE and meet NBCOT's educational requirements for applicants to be eligible to take the COTA examination. Thus OTA education and experience obtained in the armed services of the United States apply toward licensure requirements and no regulations are needed.

Since the minimum education level to qualify to be eligible to take the occupational therapist examination is a Master's degree, military education and training does not qualify.

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

Although it is infrequent that a licensee notifies Board staff of their military service and requests a waiver, Board staff has waived fees in the past. Future enhancements to BreEZe are in process and once implemented, will assist Board staff in the tracking of these types of requests.

Due to the infrequency of this request, the impact on Board revenues is insignificant.

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

The Board does not currently have a way to track the number of applicants who seek expedited processing under this provision but the numbers are few. Upcoming enhancement to BreEZe will identify applications that require expedited processing pursuant to BPC section 115.5 and the Board will be able to provide statistical data in the future.

24. **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, revoked, or reported deceased. The NLI notification is also submitted to DOJ when an application for licensure is abandoned. All NLI notifications are faxed to DOJ and a copy of the form is retained.

Due to the fact that some applicants submit their fingerprints to DOJ but never submit an application for licensure to the Board, there is 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.

There is not a back log of NLI notifications to be sent to DOJ.

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

Pursuant to BPC Section 2570.7, each applicant for licensure shall successfully complete the entry level certification examination for occupational therapists or occupational therapy assistants. The entry-level examinations administered by NBCOT are to determine whether the candidate for licensure is able to demonstrate entry-level competence as an occupational therapist or occupational therapy assistant. The examinations administered by NBCOT are offered in English only, and passage of the examinations administered by NBCOT is a minimum licensure requirement for the United States and Puerto Rico.

Currently, a California specific examination is not required.

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

The National examinations data is not available by fiscal year; NBCOT has provided pass rates by calendar year only.

Examinations

Table 8. Examination Data	
National Examination	
License Type	**Occupational Therapist**
Exam Title	***OCCUPATIONAL THERAPIST REGISTERED - OTR***
FY 2012/13	Examination data not available by fiscal year; calendar year data for first time test takers in table below
FY 2013/14	
FY 2014/15	
FY 2015/16	
Date of Last OA	2012
Name of OA Developer	NBCOT
Target OA Date	2017
License Type	**Occupational Therapy Assistant**
Exam Title	***CERTIFIED OCCUPATIONAL THERAPY ASSISTANT - COTA***
FY 2012/13	Examination data not available by fiscal year; calendar year data for first time test takers in table below
FY 2013/14	
FY 2014/15	
FY 2015/16	
Date of Last OA	2012
Name of OA Developer	NBCOT
Target OA Date	2017

OCCUPATIONAL THERAPIST
Examination Statistics

Year	National Candidates	National Pass rate	California Candidates	California Pass rate
2012	4931	86%	339	85%
2013	5411	84%	355	84%
2014	5758	86%	379	85%
2015	6067	87%	411	84%

OCCUPATIONAL THERAPY ASSISTANT
Examination Statistics

Year	National Candidates	National Pass rate	California Candidates	California Pass rate
2012	3806	81%	116	80%
2013	4354	84%	166	80%
2014	4607	82%	179	77%
2015	4949	79%	257	72%

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

The NBCOT uses computer-based testing to administer the examinations required to demonstrate competence as an occupational therapist or an occupational therapy assistant. The examinations are administered at Prometric Test Centers worldwide, 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 offer evening hours for candidate convenience.

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

Candidates are encouraged to review the Certification Examination Handbook, which is available on 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 an examination application and successfully pass the required examination.

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 to NBCOT, they must also 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 when available from the college or university's Registrars' Office

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

The official score report is provided directly to the Board via an on-line secure portal, once the candidate makes the request to NBCOT.

28. 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 ACOTE and passage of the examinations administered by NBCOT.

School approvals

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

The ACOTE approves all occupational therapy educational programs; the Board does not work directly with BPPE.

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

Not applicable; the Board does not approve the schools, review them or remove them.

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

Not applicable; the Board does not approve schools or educational programs.

Continuing Education/Competency Requirements

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

Occupational therapy practitioners are required to complete 24 professional development units (PDUs) to demonstrate continuing 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.

CCR section 416(a)(1) defines professional development activities as:

1. One hour of participation in a professional development activity qualifies for one PDU;
2. One academic credit equals 10 PDUs;
3. One Continuing Education Unit (CEU) equals 10 PDUs.

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

On the renewal application, 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. Certificates of completion are not required to be submitted at the time of renewal.

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

The Board randomly audits renewing licensees to determine compliance with the PDU requirement. The Board has established a goal of conducting audits on 10-5% of its active renewals.

c. What are consequences for failing a CE audit?

A citation and fine is issued to licensees who fail to demonstrate completion of the PDUs required for renewal. Incorporated within the citation is an Order of Abatement that requires the licensee to complete the deficiency that exists. (That may be as few as one hour or could be as many as all 24 hours required for renewal.) Licensees that fail to comply with the Order of Abatement are 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? What is the percentage of CE failure?

To date, 2,074 audits have been conducted. Of those 2,074 audits, 217 licensees were referred to the Board's Enforcement Unit, for either not responding to the audit or for failing to demonstrate completion of the required 24 PDUs. Of the 217 cases opened by Enforcement, 151 licensees were issued a citation.

Fiscal Year	Audits Completed	Audits Failed	% Audits Failed
2012/13	479	50	10.4
2013/14	501	45	8.98
2014/15	746	83	11.13
2015/16	348	39	11.21
Totals	2,074	217	Avg: 10.43

Audits are not completed for those licensees whose licenses are on inactive status or renewing their license for the first time; both of these categories of licensees aren't required to complete PDUs and therefore shouldn't be audited.

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(b) 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.

In addition to the above, the Board also accepts coursework or programs that: contributes directly to the professional knowledge, skill, and ability and relates directly to the practice of occupational therapy. The activity must be objectively measurable in terms of the hours involved.

The licensee must receive a 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 supervise a student completing the fieldwork required by their educational program; participate in structured special interest or study groups; mentor a practitioner or structured mentoring with an individual skilled in a particular area; publish an article in a peer-reviewed or non-peer reviewed publication; publish a chapter in an occupational therapy or related professional textbook; attend a Board meeting or Board outreach activity.

Thus, licensees are able to complete the PDU requirement by enrolling in continuing education coursework through a variety of online providers, participating in in-service trainings 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 providers or courses, nor does it use a private vendor Per CCR section 4161, professional development opportunities offered by the American Occupational Therapy Association or Occupational Therapy Association of California are also accepted.

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 licensee's continuing competence.

Due to the lack of evidence-based research available, the Board is not planning to move forward with performance-based assessments of licensees at this time.

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

The Board established a performance target of no more than two days to assign a complaint to an investigator (from the date of receipt). The Board consistently achieves this goal.

The Board established a target of no more than 270 days, from the date the complaint is received to its closure; excluding cases that are referred to the AGO for formal discipline.

The Board established a target of no more than 540 days to complete the entire enforcement process (from date of receipt of complaint) for cases resulting in discipline against a licensee.

The Board established a target of no more than ten days (from the effective date of the Board's decision imposing probation) to when a probation monitor makes first contact with a probationer. The Board consistently achieves this goal.

The Board established a target of no more than ten days from the date a probation violation is identified/reported (to the Board) to the date the monitor initiates appropriate action. The Board consistently achieves this goal.

Performance Targets				
	Target Days	FY 2013/14	FY 2014/15	FY 2015/16
Average number of days from complaint receipt to the date the complaint was assigned to an investigator (PM2)	2	1	1	1
Minimum-Maximum-Ave per month		1-1	1- 2	1- 2
Average number of days from complaint receipt to closure of the investigation process; excludes cases sent to AGO (PM3)	270	97	145	141
Minimum days – Maximum days (avg/qtr)		73 -158	107- 161	122-169
Average number of days to complete the entire enforcement process for cases resulting in discipline. (PM4)	540	626	592	480
Minimum days – Maximum days (avg/qtr)		496 - 997	312 - 1452	447-541
Average number of days from monitor assignment to the date the monitor first makes contact with (new) probationer (PM7)	10	1	4	1
Minimum days – Maximum days (avg/qtr)		1 - 2	1 - 6	1
Average number of days from the date a violation is reported to the date the monitor initiates appropriate action (PM8)	10	1	3	3
		Same as above	Same as above	1 - 4

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

The number of complaints received in FY 2015/16 (285) reflects a decrease from prior fiscal years. This is primarily due to (1) Board staff suspended opening internal complaints against licensees for failing to provide notice of an address change and (2) a reduction to the number continuing education audits performed. This was due to a significant amount of time spent and the number of enforcement staff being devoted to the design, configuration, and testing of the BreEZe system in (calendar years) 2014 and 2015. Even with the significant decrease in complaints in 2015/16, the total number of complaints received for the three fiscal year reporting period (1,512) represents an increase from the total number of complaints reported in the 2012 sunset report (1,455).

The number of convictions and arrests reported to the Board has increased 24% since the 2012 Sunset Report. Data indicates the Board received 116 reports in 2013/14; 146 reports in 2014/15; and 139 reports in 2015/16, for a total of 401 reports. The Board's 2012 Sunset Report indicated that it had received 323 reports during the three year reporting period.

Due to enforcement staff being devoted to the BreEZe project, the number of pending investigations at the end of FY 2015/16 reflects an increase from the prior fiscal year. At the end of FY 2014/15 the Board had 326 investigations pending; FY 2015/16 closed with 509 investigations pending.

Through the BCP process the Board was authorized six new enforcement positions in July 2016. The Board is currently in the recruitment process and anticipates four analyst positions will be filled by December 2016 and the balance of positions filled by March or April 2107. Due to the increase in staffing, the Board anticipates the number of pending investigations will be reduced by December 2017.

Table 9a. Enforcement Statistics

	FY 2013/14	FY 2014/15	FY 2015/16
COMPLAINT			
Intake			
Received	633	594	285
Closed	0	1	2
Referred to INV	633	591	280
Average Time to Close	1	1	1
Pending (close of FY)	0	2	3
Source of Complaint			
Public	53	34	23
Licensee/Professional Groups	3	6	4
Governmental Agencies	6	5	5
Other	571	549	253

	FY 2013/14	FY 2014/15	FY 2015/16
Conviction / Arrest			
CONV Received	116	146	139
CONV Closed	116	146	139
Average Time to Close	1	1	1
CONV Pending (close of FY)	0	0	
LICENSE DENIAL			
License Applications Denied	1	2	1
SOIs Filed	5	4	2
SOIs Withdrawn	0	0	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI	298	318	287
ACCUSATION			
Accusations Filed	5	3	10
Accusations Withdrawn	1	0	0
Accusations Dismissed	0	0	0
Accusations Declined	0	0	0
Average Days Accusations	512	394	583
Pending (close of FY)	11	11	13

Table 9b. Enforcement Statistics (continued)

	FY 2013/14	FY 2014/15	FY 2015/16
DISCIPLINE			
Disciplinary Actions			
Proposed/Default Decisions	5	3	4
Stipulations	10	4	5
Average Days to Complete	704	666	462
AG Cases Initiated	12	12	14
AG Cases Pending (close of FY)	11	11	13
Disciplinary Outcomes TOTALS	14	4	8
Revocation	2	0	1
Voluntary Surrender	2	1	3
Suspension	0	0	0
Probation with Suspension	1	0	0
Probation	6	2	4
Public Reprimand	1	1	0
Probationary License Issued	2	1	1
Other	2	0	0
PROBATION			
New Probationers	6	3	5
Probations Successfully Completed	6	4	2
Probationers (close of FY)	17	17	18
Petitions to Revoke Probation	1	1	0
Probations Revoked	1	0	1
Probations Modified	1	0	0
Probations Extended	0	0	0
Probationers Subject to Drug Testing	10	10	8
Drug Tests Ordered	354	400	256
Positive Drug Tests	9	10	2
Petition for Reinstatement Granted	1	0	1

DIVERSION	
New Participants	NOT APPLICABLE The Board does not have a Diversion Program
Successful Completions	
Participants (close of FY)	
Terminations	
Terminations for Public Threat	
Drug Tests Ordered	
Positive Drug Tests	

Table 9c. Enforcement Statistics (continued)			
	FY 2013/14	FY 2014/15	FY 2015/16
INVESTIGATION			
All Investigations			
First Assigned	749	737	419
Closed	633	737	243
Average days to close	100	146	146
Pending (close of FY)	320	326	509
Desk Investigations	749	737	419
Closed	633	737	146
Average days to close	100	146	146
Pending (close of FY)	320	326	509
Non-Sworn Investigation	Not applicable		
Sworn Investigation	33	59	11
Closed	32	44	16
Average days to close	267	249	232
Pending (close of FY)	15	31	3
COMPLIANCE ACTION			
ISO & TRO Issued	0	0	0
PC 23 Orders Requested	2	0	1
Other Suspension Orders	0	1	1
Public Letter of Reprimand	1	1	0
Cease & Desist/Warning	118	84	22
Referred for Diversion	Not applicable		
Compel Examination	0	0	1
CITATION AND FINE			
Citations Issued	145	296	525
Average Days to Complete	123	176	266
Amount of Fines Assessed	$30,326	$42,451	$18,525
Reduced, Withdrawn, Dismissed	16	27	8
Amount Collected	$29,207	$35,933	$15,675
CRIMINAL ACTION			
Referred for Criminal Prosecution	1	0	1

Table 10. Enforcement Aging						
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
1 Year	2	2	0	4	8	20.5%
2 Years	1	8	6	7	22	56.4%
3 Years	1	2	0	2	5	12.8%
4 Years	0	3	1	0	4	10.3%
Over 4 Years	0	0	0	0	0	
Total Cases Closed	4	15	7	13	39	
Investigations (Average %)						
Closed Within:						
90 Days	343	373	267	130	1,113	52.9%
180 Days	121	171	279	33	604	28.7%
1 Year	16	74	147	60	297	14.1%
2 Years	12	11	43	15	81	3.8%
3 Years	1	4	1	5	11	0.5%
Over 3 Years	0	0	0	0	0	
Total Cases Closed	493	633	737	243	2,106	

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

There has been a decrease in the number of disciplinary actions taken by the Board when compared to the 2012 Sunset Report. In the three fiscal years that encompass this report the cumulative total of number of license revocations/surrenders was nine; 17 licensees were placed on probation. In the prior Sunset Report the Board reported a cumulative total of 12 license revocations/surrenders and 38 licensees being placed on probation.

The reason for the drop in formal disciplinary actions could be attributed to the higher than normal number of pending investigations and the limited staffing resources available to investigate complaints during the reporting period.

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

The 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 slight modifications were made prior to its adoption. The Board's *Complaint Prioritization Guidelines* are included as Attachment E in Section 12.

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

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

    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(a) requires the clerk of the court to notify the Board of any filings against a licensee charging a felony. BPC Section 803.5(b) also requires the clerk of the court to notify the Board, within 48 hours after the conviction, by transmitting a certified copy of the record of conviction to the Board.

    The Board also relies on subsequent arrest and subsequent conviction notification from the Department of Justice.

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

    The Board had only one Section 800 report in the reporting period that reported a settlement in the amount of $47,500.

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

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

    With limited exceptions, the Board has not settled any cases prior to the filing of an Accusation or *Statement of Issues.* The Board settled 16 cases with nine cases being decided by a hearing in the last four Fiscal Years. The table below displays the data for cases that were 'settled' compared to the number of cases that went to Hearing.

CASES - SETTLEMENTS v HEARING				
	2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Cases settled – Pre-Accusation	0	0	0	0
Cases settled – Post-Accusation	1	8	3	4
Cases decided by a Hearing	2	4	1	2

Note - Board staff uses what is (internally) called the 'Quick Stip' process. In an effort to speed up the administrative process for applicants who are being denied licensure pursuant to BPC 480, and as long as the case warrants settlement, Board staff will contact the applicant to ascertain if they would be willing to have a license granted with probation terms. Board staff advises the applicant of the terms and conditions that are being sought. If the applicant agrees with the terms and conditions presented, staff forwards the case to a Supervising Deputy Attorney General (SDAG) that oversees a Legal Assistant Team (LAT): The LAT, under the SDAG's supervision, then prepares a Statement of Issues (SOI) outlining the charges and the Stipulated Settlement and Disciplinary Order.

This collaborative approach streamlines the standard adjudication process where the Board would forward the case to an AG office in the proximity of the applicant, the case would then be assigned to a Deputy Attorney General (DAG), an SOI would be prepared and served, and then the applicant would have an opportunity to inquire if settlement was a possibility or otherwise schedule a hearing. We hesitate to call this a settlement pre-accusation because no formal signed or binding agreement is entered into between the applicant and staff prior to the service of the Statement of Issues. Moreover, the Board must consider the settlement terms and either adopt it or send the case to a hearing with an Administrative Law Judge.

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

The percentage of cases settled in each respective Fiscal Year is reflected in the table below. The cumulative percentage of the four Fiscal Years is 64% (16 cases settled with 9 cases decided by hearing or default).

Note: Five (5) of the settlements reported in this data set resulted in Surrender of a license. The data set below only pertains to Accusations. It does not include Statement of Issues cases or subsequent disciplinary action taken against a licensee placed on probation.

CASES - SETTLEMENTS v HEARING				
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
# of Cases Settled – Pre-Accusation		0	0	0
# of Cases Settled – Post-Accusation	1	8	3	4
Total Cases Settled	1	8	3	4
# of Cases Decided by a Hearing	2	4	1	2
% of Cases Settled	33.3%	66.6%	75.0%	66.6%

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

The Board has no statute of limitations for administrative violations. Board staff typically works with DCA's Division of Investigation (DOI) in matters 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.

40. 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.~~

The Board investigates all complaints or reports of unlicensed practice. The vast majority of unlicensed practice cases pertain to licensees that renew delinquently. These cases are typically resolved with a citation and fine. The fine can range from $50 to $5,000, based on the amount of time the licensee practiced without a current and active license as set forth in 16 CCR section 4141. In an effort to provide the Committee with statistical data regarding the frequency the Board has issued citations for unlicensed practice we are providing the following: the Board issued 14 citations in FY 2012/13, 13 citations in FY 2013/14, 24 citations in 2014/15, and 11 citations in FY 2015/16. The minimum fine assessment was $125 and the maximum was $5,000.

The Board also investigated three unlicensed practice matters that resulted in criminal convictions; descriptions are as follows::

- An individual holding herself out as an occupational therapist in the Long Beach area was convicted of a misdemeanor in July 2016. The individual who had an educational background in occupational therapy stole the identity of a licensed occupational therapist with a similar name to gain employment under false pretense from 2009 through August 4, 2015. This matter came to the Board's attention when the subject's employer reported the individual in question was unable to produce a copy of her initial wall certificate for inspection. The employer then emailed a copy of the subject's renewal pocket license to Board staff for inspection and the license was determined to have discrepancies.

- An individual holding himself out as being able to provide occupational therapy services in Santa Barbara County was convicted of a misdemeanor in March 2016. The individual and a family member were fraudulently representing they were licensed health professions while rendering home health services for direct payment to a client in the San Luis Obispo area. They were also soliciting to provide professional home care services for direct payment to other families in the area.

- An occupational therapy assistant was convicted of a felony offense in October 2014 for practicing unlicensed as an occupational therapist. The individual misrepresented his credentials and provided an altered license to an employer to gain employment under false pretense. The subject had previously been issued a warning from the Board for functioning in an autonomous manner. The subject's occupational therapy assistant license was ultimately surrendered in an administrative action in February 2016.

The Board also had one extraordinary case where an individual claimed being unaware of the licensing requirement going into effect in January 1, 2003. The individual practiced legally in California under 'Title' prior to the licensing requirement going into effect. She moved to another state sometime before the licensing requirement went into effect and returned to California in the Fall of 2003. The individual secured a job with an employer that was seemingly unaware of the licensing requirement and remained employed with that agency until September 2013. The subject discovered she had been practicing unlicensed for approximately 10 years when she was asked to provide a copy of her state

license to a potential new employer. The subject then submitted an application for licensure and ultimately had a hearing before the Board. Applicant/appellant was granted a license with probation terms and conditions. However, the subject has not demonstrated she has met a condition precedent to the license being issued: taking and passing the national certification examination.

Cite and Fine

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

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

There have been no regulatory amendments since the last Sunset Review.

Increase of Citation Fine to $5,000

The Board increased its maximum fines to the $5,000 statutory limit, effective August 19, 2011. Class "A" citations may be issued under specific circumstances that are more serious in nature and/or resulted in or had significant potential for patient harm. These specific violations include, but are not limited to:

1. 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. Failing to provide adequate supervision to an occupational therapy assistant that resulted in harm to the patient.
3. Fraudulent medical billing.
4. Practicing without a current and active license for more than one year.
5. An occupational therapy assistant functioning autonomously.
6. The cited person has a history of two or more prior citations of the same or similar violations.

42. How is cite 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 of another person, unlicensed practice for more than one year or involve 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.

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

The table below sets forth the data on citation appeals.

CITATION AND FINE				
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Citations Issued	157	145	296	52
Informal Conferences *Requested*	23	27	20	7
Informal Conferences *Withdrawn*	0	0	0	0
Informal Conferences *Held*	23	27	19	7
Administrative Hearing Requested	8	4	3	1
Administrative Hearing Withdrawn	8	4	3	1
Administrative Hearing Held with ALJ	0	0	0	0

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

The most common violations for which violations are issued include:

- Unprofessional conduct - Incompetence, Gross Negligence, Repeated Negligent Acts, Conviction of Practicing Medicine,
- Unlicensed practice - Practicing with an expired license or with an inactive license,
- Failure to complete professional development units as required for license renewal,
- Failure to disclose criminal convictions or disciplinary action taken by another state, and
- Failure to provide a timely address change.

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

The average citation fine pre-appeal is $185. Citations issued in the last four fiscal years have been issued with fines ranging between $50 (address change violation) and $5,000.00 (unlicensed practice). The final citation fine amount post-appeal averaged $174 over the last four fiscal years.

The table below indicates the number of informal appeals and how many citations were reduced. *(More info to be added here re: fine amounts)*

CITATION AND FINE			
	FY 2013/14	FY 2014/15	FY 2015/16
Informal Citation Review Conference Held	27	19	7
Number of citations with fine amount upheld	16	15	3
Number of citations with fine amount reduced	2	3	1

46. 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.

CITATION AND FINE			
	FY 2013/14	FY 2014/15	FY 2015/16
Number of citations with fine amount unpaid	$4701	$5813	$3975
Citations total unpaid	24	72	5
Number of citations referred to FTB	4	14	1
Number of citations collected by FTB	9	7	4
Dollars intercepted by FTB and forwarded to Board	$750	$350.36	$249.64

Cost Recovery and Restitution

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

The Board 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 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.

Efforts have not changed since the last sunset review as the Board continues to request cost recovery in every case that is adjudicated and requests restitution in those cases that warrant the request.

48. How many and how much is ordered by the board 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.

49. 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.

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

The Board uses 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. In addition to the FTB action, California Code of Regulation (CCR) Section 4140 (d) states that the full amount of an assessed, non-contested fine shall be added to the fee for renewal of the license and the license won't be renewed without payment of the both the renewal fee and the fine.

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

When seeking discipline against a licensee, the Board will request the Office of the Attorney General to seek restitution when a consumer or employer has been defrauded.

Examples of cases where restitution could be requested, includes situations where a licensee provided services to a consumer while their license was not current and active; where a licensee provides (contracted) services but is unable to provide documentation or treatment records to support the services for which they billed as having been provided. Unlicensed practice and fraud are two examples of cases where the Board has sought restitution, however that does not mean the Board would not consider seeking restitution in other types of cases if the facts and circumstances support and warrant restitution to a consumer

The Board successfully placed a licensee on probation for fraudulently billing two separate Regional Centers (employers). A Restitution term was included in the Decision and Order that stated the failure to pay that restitution would be considered a probation violation. In addition, the restitution was required to be paid in full or the probation term would be automatically extended until the fine was paid.

The Board had two additional cases in which it intended to include a Restitution term in the Probation orders.

The first case resulted in a surrender of the practitioner's license and the second case resulted in a public reprimand ordered by an Administrative Law Judge that contained an order to reimburse the Board a portion of its costs but did not include the order of restitution to the licensee's former employer.

["Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act]

Table 11. Cost Recovery				(list dollars in thousands)
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Total Enforcement Expenditures	106	394	151	137
Potential Cases for Recovery *	3	12	4	6
Cases Recovery Ordered	1	8	4	3
Amount of Cost Recovery Ordered	$3	* $36	$17	$6
Amount Collected	$7	$11	$12	$19

* -cost recovery reported in the 2013-14 Annual Report was $28,730. Due to new

Table 12. Restitution				(list dollars in
	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16
Amount Ordered	$0	$149	$0	$0
Amount Collected	$0	$60	$0	$0