



**Enforcement Committee Meeting Minutes
Wednesday, May 5, 2010
South San Francisco, CA**

Members Present:

Rebecca Downing, Public Member, Chair
John Bettinger, DDS, Vice Chair
Stephen Casagrande, DDS
Thomas Olinger, DDS

Members Absent:

Huong Le, DDS

Staff Present:

Richard DeCuir, Executive Officer
Teri Lane, Interim Enforcement Chief
Nancy Butler, Supervising Investigator 1, Northern California
Dawn Dill, Dental Assisting Unit Manager
Donna Kantner, Licensing & Examination Unit Manager
Lori Reis, Complaint & Compliance Manager
Jocelyn Campos, Enforcement Coordinator
Karen Fischer, Administrative Analyst
Sarah Wallace, Legislative/Regulatory Analyst
Kristy Schieldge, DCA Senior Staff Counsel
Greg Salute, Deputy Attorney General

Ms. Rebecca Downing, Chair, called the committee meeting to order at 4:31 p.m. Roll was called and a quorum was established.

ENF 1 – Approval of the February 25, 2010 Enforcement Committee Meeting Minutes

M/S/C (Casagrande/Olinger) to approve the Enforcement Committee meeting minutes of February 25, 2010. The motion passed unanimously.

ENF 2- A – Enforcement Program Improvement Status: Enforcement Activity Reporting (EAR) Computer System

Executive Officer Richard DeCuir reported that the Enforcement Activity Reporting system (EAR) is a monitoring system for investigators to track the cases. It will show time management on the investigations and is scheduled to begin migration to the Dental Board on the 15th of May. The Board will migrate the investigations first as the complaint unit has about 3,800 pending complaints and about 841 investigations. Because this is a new system it will have to be manually migrated from the Board's existing system and it will be time consuming. Currently it is estimated that one person can input about 25 cases per day. The computer program started out from the Medical Board and migrated to the Division of Investigation and on to the Dental Board.

Teri Lane, Interim Enforcement Chief advised that she, along with Supervising Investigator Nancy Butler and Complaint and Compliant Supervisor Lori Reis attended a training session on the new program and upon completion of the course are now considered trainers. Teri Lane stated there are things that would need to be changed to fit this program to the Dental Board's needs but in general it will be a great asset to the Board in tracking cases and help with case management.

Chair Downing asked about the features and benefits other than the standardization for all Boards. Teri Lane reports that the system currently in place is antiquated for the investigations. The program currently used is in the Microsoft Access format and the new program is web based, making access to all staff a lot easier. The staff will be able to input the hours worked on an investigation into the program from the beginning to end of the investigation and is pretty comprehensive. Richard DeCuir mentioned that the EAR program will allow tracking of an investigator's productivity like time spent on a case, how many cases have been closed, how many cases have been referred. Teri Lane also commented that modifications can be made to the EAR Program as requested by the Dental Board. This program will be used for tracking investigator's production and reporting our statistics to DCA on an annual basis.

ENF 2- B – Enforcement Program Improvement Status: Cite & Fine Program Update

Lori Reis, Complaint and Compliance manager, reported that the total number of cite and fines issued as of February 1, 2010 is seven (7). Of the seven (7) issued, one (1) Dentist returned the records and also requested an informal conference. During the conference, the subject dentist explained that due to a serious medical condition, he was out of the office and unable to provide the records. The Executive Officer is following the appeal process as set forth in California Code of Regulations (CCR), section 1023, therefore, his fines which totaled \$10,000.00 were dismissed and no further action will be taken by the Board. No response was received from three (3) dentists, so a renewal hold has been placed on each of their licenses. Dentists that have an outstanding fine will be notified by letter that their license will not be renewed until the fines have been paid. The remaining dentist is still in the time frame allowed to respond to the Board on submission of the records so this case is pending.

Chair Downing asked if subjects of these fines are objecting to the request for records or just failing to respond. Lori Reis answered that that the subjects are failing to respond. Notices are sent via courier, California Overnight, with a confirmation signature required on receipt. The Board is also looking into alternative enforcement options to require payment of fines.

Teri Lane reported that the total number of citation and fines issued by the Enforcement Unit, as of April 26, 2010, is seventeen (17). Of the seventeen (17) issued, two (2) are for quality of care complaints, issued by the Investigation unit. Each of the dentists has paid the fines but requested informal conferences.

Five (5) of the citations that were issued were issued from the Inspection Unit during office inspection. Thirteen (13) citations were issued for failure to provide records and were issued from our investigation unit, those cases are still pending.

Supervising Investigator Nancy Butler discussed that a subject dentist can also be fined in a quality of care investigation.

ENF 2- C – Enforcement Program Improvement Status: Substance Abuse Coordination Committee Update (SB 1441 & SB 1172)

Richard DeCuir stated that on January 1, 2009, SB1441 was introduced. It established a Substance Abuse Coordination Committee that was made up of Executive Officers from the fourteen (14) healing arts offices. The bill set out sixteen (16) criteria by which diversion programs and disciplinary actions involving substance abuse were to follow. Parts of these criteria have been used to write the legislation for SB1172.

Gil DeLuna with the DCA Executive Office, discussed SB1441. DCA has finalized the proposed legislative language needed to implement SB 1441. SB1172 will carry the language to provide the legal authority to implement portions of standards #2, 8, 9, 10, 14, and 15. It may be necessary for the Board to promulgate regulations to implement all aspects of the standards. Gil DeLuna asked that the full Board work with Legal Counsel and the Executive Officer to determine what is needed to implement these standards. The Department encourages the Board to place an agenda item on the next agenda indicating which standards require regulation and which can be implemented with policy change. M/S/C (Bettinger/Olinger) to have legal counsel work with staff to explore the final recommendations outlined in SB 1441 and to determine what can be implemented through regulations and/or policy. The motion passed unanimously.

ENF 3 – Enforcement Statistics

Lori Reis discussed the case aging statistics for a two (2) month period beginning February 1, 2010 through March 31, 2010. The total number of cases received for the two (2) month period was 576. The total number of cases closed was 539 and the average case closure time was 174 days.

From the time period of April 1, 2009 through March 31, 2010, a significant improvement has been shown. The streamlining and continued improvement of the average processing days to complete a case in April, 2009 has decreased from 323 days to the current 161 days. Although the number of complaints received has remained substantially the same, the total number of pending cases has been tremendously reduced from 1875 total cases in April, 2009, to the current 1211.

Lori Reis also reported that the Board now has new consultants to assist with reviewing our cases. The Board currently has one (1) permanent full time civil service general practice consultant and 13 honorarium consultants, which includes eight (8) general practitioners, one (1) oral surgeon, one (1) prosthodontist, one (1) orthodontist, one (1) periodontist, and one (1) endodontist.

Chair Downing noted improvement in complaint processing. The average processing days to complete in the complaint unit is down by half in about one year's time. Pending complaints are down by thirty percent.

Teri Lane reviewed the investigation statistics. From March, 2009 to the present, the total number of investigation files closed, filed with the Attorney General or filed with the District/City Attorney is 696. The Investigative Unit is completing an average number of 58 investigations per month.

The average number of days the investigations took to process was about 19 ½ months from the receipt of the complaint to the closure of the investigation file. The Investigative unit has about 841 open cases. There are about 409 unassigned investigations. If all cases were assigned, that would average out to over 100 per investigator. Other Boards average about 20 cases per investigator.

Case audits are in the process of being completed in both regions. Teri Lane reports that they continue to identify the cases that are a priority and are very aware of the case aging concerns. They are optimistic that with the additional staff and the lifting of the Governors mandated furloughs that the case aging statistics will continue to diminish.

Interviews for the three (3) vacant positions in the Southern Region Enforcement Unit were conducted in March and we currently have candidates in background for those positions. It is anticipated that these candidates will be with the Board within the next few months.

Teri Lane further reports that the Northern Region Enforcement Unit currently has two (2) openings for Investigators. They are currently in the process of the final stages of the background for one position and it is anticipated that the investigator will be on board starting sometime in June. The Board is in the process of recruitment for the other position.

The Southern Region Enforcement Unit has finally relocated to the new office in the City of Orange. This was a large move and they are still working on getting furniture for the office. The office is in a good location, central to three (3) freeways and is large enough to accommodate the increasing staff members.

A public member commented that the one specialty missing from the consultant base was pediatric. Teri Lane advised that an outside pediatric consultant has not been sought as our internal consultant is a pediatric dentist and he reviews all pediatric complaints.

ENF 4 – Diversion Program Update

Richard DeCuir commented that Diversion Program Update has been covered under the other items.

LaDonna Drury Klein with CADAT commented that CADAT would like to thank Mr. DeCuir and staff, particularly Lori and Abby. At CADAT's Annual Conference, for the first time in our 50 year history, the Dental Board was there and the enforcement and complaint units were represented. The Board provided a great deal of information to everyone there. We hope the Board will be part of our conference every year.

ENF 5 – SB 1111 – Effects on Enforcement and Diversion Programs

Gil DeLuna advised that SB1111 covers three main areas: administrative improvements, staffing and I.T. resources, and legislative changes. An update on these areas includes the Department's Management Academy and BCP's to increase staffing for the healing arts Boards.

SB 1111, which carried the CPEI goals, was in part, to improve the time frames for the completion of all complaints to 12 to 18 months. SB 1111 was heard before the Senate and the bill did not pass. The Department is determined to adopt some of the provisions of the original bill and the Department's Legislative Unit will be assisting the Boards in adopting some of the provisions into regulations. Mr. DeLuna distributed a list of nine items that the Department feels can be accomplished through regulation. M/S/C (Bettinger/Casagrande) to have legal counsel work with staff to determine which standards can be met with policy and or regulatory changes. The motion passed unanimously.

The Department launched its first Enforcement Academy where 40 staff members are attending the academy. They will be working on enforcement processes, time processing and interaction with the Department to develop the best practices with all healing arts Boards. The Department is receiving enforcement statistics and improvement plans for all Boards and Bureaus. Paul Riches is meeting with all Boards and discussing the improvements to be made. A future agenda item is requested to explore the final recommendations to ensure compliance with SB1441.

Public Comment

There was no additional public comment.

Adjournment

The committee meeting adjourned at 5:20 p.m.