



**Friday, November 16, 2018**

**Dental Hygiene Committee of California**

**Enforcement Subcommittee**

**Agenda**



Notice is hereby given that a public meeting of the Enforcement Subcommittee of the Dental Hygiene Committee of California will be held as follows:

**ENFORCEMENT SUBCOMMITTEE MEETING**

**Friday, November 16, 2018**

Radisson Hotel Fresno

Conference Center

1055 Van Ness Avenue

Fresno CA 93721

9:00 am until adjournment

**Enforcement Subcommittee Members:**

Michelle Hurlbutt, Chairperson, Registered Dental Hygienist (RDH) Educator

Timothy Martinez, Doctor of Dental Medicine (DMD)

Edcelyn Pujol, Public Member

Garry Shay, Public Member

**Upon Conclusion of the Education Subcommittee meeting**

**Agenda**

**ENF 1 – Roll Call**

**ENF 2 – Public Comment for Items Not on the Agenda**

*[The DHCC may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 & 11125.7(a))]*

**ENF 3 – Chairperson's Report**

**ENF 4 – Approval of the April 20, 2018 Enforcement Subcommittee Meeting Minutes**

**ENF 5 – Enforcement Statistics & Performance Measures**

**ENF 6 – Future Agenda Items**

**ENF 7 – Adjournment**

DHCC members who are not members of this subcommittee may attend meetings as observers only, and may not participate or vote. Action may be taken on any item listed on this agenda, including information only items. Items may be taken out of order for convenience, to accommodate speakers, or maintain a quorum. All times are approximate and subject to change. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-1978 or access the Committee's Web Site at [www.dhcc.ca.gov](http://www.dhcc.ca.gov).

The meeting facilities are accessible to individuals with physical disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Brittany Alicia at (916) 576-5001 or e-mail at: [Brittany.alicia@dca.ca.gov](mailto:Brittany.alicia@dca.ca.gov) or send a written request to DHCC at 2005 Evergreen Street, Ste. 2050, Sacramento, CA 95815. Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.



*Roll Call for the Dental Hygiene Committee of California's  
Enforcement Subcommittee Meeting*

*November 16, 2018*

	Present	Absent
Michelle Hurlbutt, RDH Educator Member, Chair		
Timothy Martinez, Public Health Dentist Member		
Edcelyn Pujol, Public Member		
Garry Shay, Public Member		



**Friday, November 16, 2018**

**Dental Hygiene Committee of California**

**Enforcement Subcommittee Meeting**

**Agenda Item 2**

**Public Comment for Items Not on the Agenda**

[The DHCC may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except whether to decide to place the matter on the agenda of a future meeting (Government Code §§ 11125 & 11125.7(a))]



**Friday, November 16, 2018**

**Dental Hygiene Committee of California**

**Enforcement Subcommittee Meeting**

**Agenda Item 3**

**Chairperson's Report**

**A Verbal Report Will Be Given**



**Friday, November 16, 2018**

**Dental Hygiene Committee of California**

**Enforcement Subcommittee Meeting**

**Agenda Item 4**

**Approval of the April 20, 2018 Enforcement  
Subcommittee Meeting Minutes**



## **Enforcement Subcommittee Meeting Minutes**

### *Friday, April 20, 2018*

#### **Location:**

Doubletree by Hilton Hotel – San Diego Mission Valley  
7450 Hazard Center Drive  
San Diego, CA 92108

#### **DHCC Members Present:**

Michelle Hurlbutt, Chairperson, Registered Dental Hygienist (RDH) Educator  
Timothy Martinez, Doctor of Dental Medicine (DMD)  
Edcelyn Pujol, Public Member  
Garry Shay, Public Member

#### **DHCC Staff Present:**

Anthony Lum, Executive Officer  
Brittany Alicia, Receptionist  
Nancy Gaytan, Enforcement Analyst  
Adina Pineschi-Petty, Doctor of Dental Surgery (DDS), Education Specialist  
Jason Hurtado, Department of Consumer Affairs (DCA) Legal Counsel for the DHCC

#### **Public Present:**

JoAnn Galliano, RDH, MS, DHCC Educational Consultant and Subject Matter Expert (SME),  
Legislative Consultant  
Beth Wilson, California Dental Hygienist's Association (CDHA)  
Maureen Titus, CDHA  
Heidi Cossam, CDHA  
Karen Fischer, Executive Officer, Dental Board of California (DBC)  
Thomas Stewart, DDS, President, DBC  
Debra Daniels, President, Taft College  
Vickie Kimbrough, Taft College, Purple Pen  
Leslie Nazaroff, San Joaquin Valley College (SJVC) – Ontario  
Brenda Serpa, SJVC – Visalia  
Morgan Stacey, Duane Marris, LLP  
Kelly Reich, Western Regional Examination Board (WREB)  
Sabrina Santucho, Concorde Career College (CCC) – San Bernardino  
Jana Pierce, Shasta College  
Linda Brookman, University of Southern California (USC)  
Meg Robison, Southwestern College (SWC), Dental Hygiene Student  
Jen Stoehr, SWC Dental Hygiene Student  
Amanda Friednchs, SWC Dental Hygiene Student  
Kassandra Brown, SWC Dental Hygiene Student  
Kerrin Bradford, SWC Dental Hygiene Student  
Amelia Mosser, SWC Dental Hygiene Student  
Lisa Kamibayashi, West Los Angeles College (WLAC)



Arezou Goshtasbi, Concorde Career College (CCC) – Garden Grove  
Laurel Sampson, CCC – San Diego  
Veronica Patino, SWC  
Victoria Mayfield, SWC  
Summery Cheam, SWC  
Jeressa Balagot, SWC  
Farah Al-jay, SWC  
Jean Honny, SWC

## 1. Roll Call and Establishment of a Quorum

Dr. Michelle Hurlbutt, Chairperson of the Enforcement Subcommittee, called the meeting to order at 2:01 p.m. Roll call was taken and a quorum was established with all four members present.

## 2. Public Comments for Items Not on the Agenda

There were no comments from the public.

## 3. Chairperson's Report

Chair Hurlbutt stated that there was no Chairperson's report for this meeting.

## 4. Approval of the November 17, 2017 Enforcement Subcommittee Meeting Minutes

Chair Hurlbutt stated that only two of three DHCC Enforcement Subcommittee Members were present at the November 17, 2017 meeting; therefore, the minutes could only be accepted rather than adopted.

Chair Hurlbutt requested comments from the public or the Subcommittee. There were no comments.

The November 17, 2017 Enforcement Subcommittee Meeting Minutes were accepted.

## 5. Enforcement Statistics and Performance Measures

Nancy Gaytan, Enforcement Analyst, presented enforcement statistics for fiscal year 2017/18. During this period, there were 22 complaints and 113 convictions and/or arrests; 12 citations were issued; five cases were referred to the California State Attorney General's Office; six accusations were filed; four petitions for early termination of probation were received; 13 decisions and orders were adopted by DHCC Enforcement Subcommittee; and the current number of active probationers is 42, while an additional five are tolling probationers.

Chair Hurlbutt requested Ms. Gaytan to define tolling provisions.

Ms. Gaytan explained that tolling provisions are used if a probationer should leave California to reside or practice outside the State. While residing or practicing outside of the State, the probation is tolled until the probationer returns to California.

Ms. Gaytan presented performance measures for October 2017 to December 2017. Enforcement actions during this period were completed with greater time efficiency than the time allowed in the performance measure stated goals.

Ms. Gaytan presented aging statistics of complaint cases. Currently, there are 30 open complaints. Of the open complaints 56% are less than one year old and 44% are more than one year old. Enforcement closed 16 cases between July 1, 2017 and March 31, 2018. Ms. Gaytan stated that it took an average of 432 days to close a complaint case in comparison to the previous fiscal year, where it took an average of 575 days to close a complaint case. Ms. Gaytan concluded that Enforcement's goal is to close all cases that are two years old or older by the end of 2018.

Chair Hurlbutt requested comments from the Subcommittee members or public.

No comments received.

## 6. Discussion and Possible Action, and Recommendation to the Full Committee on the Diversion Program: Parameters for New Contract

Anthony Lum, Executive Officer (EO), stated that since inception, the Dental Hygiene Committee of California (DHCC) has had the authority to implement a diversion program that rolled over from Dental Board of California (DBC) statutes. The diversion program allows licensed individuals who have an alcohol or substance abuse issue to voluntarily enroll or have the DHCC assign them to the program. The DHCC contracted with a third-party vendor for a diversion program in 2014, and the contract will expire in 2019. When the contract was made, it was structured to parallel the DBC diversion program. Subsequently, EO Lum discovered that the diversion program was very costly to the DHCC. It was indicated by the third-party vendor that the participant only pays a \$100.00 copay and the DHCC subsidizes the remainder of the cost.

EO Lum requested the Enforcement Subcommittee to discuss and determine the parameters of a new contract, including the removal of any DHCC subsidies for the participants and any costs absorbed by the DHCC related to the diversion program. EO Lum added that the diversion program is important to continue, as the rising opioid crisis, as well as the legalization of marijuana, is of concern.

Chair Hurlbutt added that the existing contract for the diversion program is a 60/40, where the DHCC subsidizes 60% of costs and the Participant pays 40%.

EO Lum stated that the cost per month for one participant is \$365.00.

Chair Hurlbutt stated there were two past participants in the diversion program, which ultimately cost the DHCC thousands of dollars per year.

Mr. Shay stated that shifting the cost may make the licensee less likely to participate in the diversion program.

Chair Hurlbutt stated the Diversion Program poses an ethical dilemma. As a regulatory agency, knowing that someone is addicted and is continuing to practice while under the Diversion Program can be problematic. She stated the DHCC had planned to do away with the Diversion Program with the Sunset Review; however, legislators were concerned the rising opioid crisis and legalization of marijuana leaves an unknown factor. As a result, the DHCC made the decision to keep the Diversion Program to observe how the new laws affect the dental hygiene profession.

Mr. Shay stated that he would like to see a delineation in the cost between a person who volunteers to participate and a person who is assigned to a Diversion Program by the DHCC.

EO Lum recognizes Mr. Shay's concern; however, there are other potential avenues that are less expensive for individuals with alcohol and substance abuse issues.

Chair Hurlbutt stated that there is somewhat of a protection when a participant is in a Diversion Program. If an individual is complying with the Diversion Program, the investigation for that individual is halted.

EO Lum reports that it is unclear if the investigation is halted while a participant is in the Diversion Program. He stated that he would continue to research the statement in question and report back to the DHCC.

Chair Hurlbutt requested to table this topic, as more information is needed to have an educated discussion regarding the cost of the Diversion Program. She asks for the opinion of the DHCC Enforcement Subcommittee.

Mr. Shay states that he would like to have more information such as how the other boards have their Diversion Programs set up, how much the boards contribute cost wise, if there is a cost difference between participants who volunteer and those who are assigned, and the success rate of Diversion Programs.

Motion: Garry Shay moved to recommend DHCC Staff investigate Diversion Programs and provide the DHCC Members with more information such as, success rates, costs, how other Boards conduct their programs, the distinction between a participant who volunteers and one who is assigned, if there is a cost associated with the contract, and anything else the DHCC Staff feels is necessary to report.

Second: Timothy Martinez

Chair Hurlbutt requested comments from the public or the Subcommittee.

Maureen Titus, CDHA, stated that she personally feels that the DHCC should not subsidize a participant's costs in a Diversion Program, but that the participant should pay all costs. She stated that costs are part of the recovery process and the participant would be able to see the consequences of their actions if they had to pay. The participant should shoulder the responsibilities of all costs.

Linda Brookman, USC, recommended the DHCC engage a subject matter expert in Diversion Programs.

***Vote: Motion to recommend DHCC staff investigate Diversion Programs and provide the DHCC Members with more information such as: success rates, costs, how other Boards conduct their programs, the distinction between a Participant who volunteers and one who is assigned, if there is a cost associated with creating a contract, and anything else the DHCC Staff feels is necessary to report. Passed 4:0.***

Name	Aye	Nay	Abstain
Michelle Hurlbutt	X		
Timothy Martinez	X		
Edcelyn Pujol	X		
Garry Shay	X		

## 7. Discussion and Possible Action, and Recommendation to the Full Committee on Amendments to the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

EO Lum stated that there were no updates to the Uniform Standards in relation to substance abuse and disciplinary guidelines. On Monday, April 23, 2018, a meeting was held by the Department of Consumer Affairs (DCA) to review testing protocols, standard number four, regarding the frequency of testing.

Chair Hurlbutt stated that "Disciplinary Guidelines" was the first regulatory package that the DHCC passed. She suggested that it be revisited, as it was created 8 years ago. She requested the DHCC include a section in the Disciplinary Guidelines that would allow the DHCC to have probationers complete remedial education, as there is a provision for continuing education, but not remedial education. She stated that she is not ready to make a recommendation to the Subcommittee today; however, she wanted to resurface the disciplinary guidelines for discussion.

Motion: Garry Shay moved to postpone discussion of amendments to the Uniform Standards related to Substance Abuse and Disciplinary Guidelines until the next meeting.

Second: Timothy Martinez

Chair Hurlbutt requested comments from the public or the Subcommittee.

Jean Honny, SWC, requested clarification as to what the remedial education would include.

Chair Hurlbutt stated that while making discipline decisions, the DHCC would like to have the ability to make a probationer retake a specific course as part of their probationary terms.

Ms. Honny questioned if it would be subject to the same guidelines as the remedial education programs that are already in place.

Chair Hurlbutt confirmed that it would be subject to the same guidelines as the remedial education programs that are already in place.

***Vote: The motion to postpone discussion of amendments to the Uniform Standards related to Substance Abuse and Disciplinary Guidelines until the next meeting. Passed 4:0.***

Name	Aye	Nay	Abstain
Michelle Hurlbutt	X		
Timothy Martinez	X		
Edcelyn Pujol	X		
Garry Shay	X		

## 8. Future Agenda Items

No items proposed.

## 9. Adjournment

Chair Hurlbutt adjourned the Dental Hygiene Enforcement Subcommittee meeting at 2:40 p.m.



**Friday, November 16, 2018**

**Dental Hygiene Committee of California**

**Enforcement Subcommittee Meeting**

**Agenda Item 5**

**Enforcement Statistics and Performance Measures**

## DHCC ENFORCEMENT STATISTICS

	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-2019 YTD		
<b>Investigations</b>				Jul - Sep	Oct	YTD
<b>Complaints</b>						
Complaints Received	51	57	31	7	5	12
Convictions/Arrests Received	137	127	151	20	9	29
<b>Total Intake</b>	<b>188</b>	<b>183</b>	<b>182</b>	<b>27</b>	<b>11</b>	<b>38</b>
<b>Citations</b>						
Issued	29	35	24	-	4	4
Dismissed	-	1	-	-	-	-
<b>Enforcement Actions</b>						
Cases Referred to AG	17	16	5	5	-	5
Accusations Filed	7	9	8	2	2	4
Statement of Issues Filed	2	6	1	-	-	-
Petition for Early Termination of Probation	3	1	3	-	1	1
Pro/Default Decisions / Stipulations Adopted	8	19	20	4	4	8
<b>Allegations</b>						
Criminal Charges	137	127	151	20	9	29
Alcohol/Drug Related Offenses	-	2	2	-	-	-
Fraud/Misrepresentation	9	2	4	-	-	-
Short Continuing Education	-	3	-	-	-	-
Non-Jurisdictional	15	11	4	-	1	1
Failure to notify of address change	2	7	-	-	-	-
Unlicensed or Expired License	14	12	5	1	2	3
Excessive/Incompetence/Negligence	8	11	7	4	1	5
Patient Abandonment	-	-	1	-	-	-
Hippa	1	2	1	-	-	-
False Advertising	-	2	-	-	-	-
Reporting Requirements	-	1	-	-	-	-
Working Outside of Scope	2	4	7	2	1	2
<b>Probationers</b>						
Active	31	31	42	43	44	44
Tolling	4	4	5	5	4	4



## MEMORANDUM

<b>DATE</b>	October 31, 2018
<b>TO</b>	Enforcement Committee Dental Hygiene Committee of California
<b>FROM</b>	Daniel Rangel, Special Investigator
<b>SUBJECT</b>	<b>ENF 5 – Enforcement Statistics: Complaint Case Aging</b>

Below is a summary of the enforcement program's complaint case aging statistics as of **10/31/2018**:

### **Open Complaint Cases: 35**

#### **Complaint Case Aging:**

0-3 Months	7	20%
4-6 Months	2	6 %
7-9 Months	3	8 %
10-12 Months	2	6 %
1-2 years	16	46%
2+ Years	5	14%

#### **Complaint Cases Closed:**

The total number of complaint cases closed between July 1, 2018- October 31, 2018 was **3**. In comparison, the total number of complaint cases closed in FY 2017-2018 was **18**.

The average number of days a complaint took to close between July 1, 2018- October 31, 2018 was **471**, with a median of 189. In comparison, the average number of days a complaint took to close in FY 2017-2018 was **382**, with a median of 311.





## MEMORANDUM

<b>DATE</b>	November 16, 2018
<b>TO</b>	Enforcement Committee Dental Hygiene Committee of California
<b>FROM</b>	Nancy Gaytan Enforcement Analyst
<b>SUBJECT</b>	<b>ENF 5 - Q2 Performance Measures (October – December 2017)</b>

Performance Measures was established by the Department in order for each Board, Bureau or Committee to review its progress toward meeting its enforcement goals and targets. Data is collected quarterly and reported on the Department's website.

**Volume: 43** Total (9 Consumer complaints, 34 Conviction reports)  
 Number of complaints and convictions received per quarter

### Cycle Time:

- Intake – Target: 30 Days** **Q1 Average: 3 Days**  
 Average cycle time from complaint receipt, to the date the complaint was acknowledged and assigned for processing.
- Intake & Investigation – Target: 270 Days** **Q1 Average: 88 Days**  
 Average time from complaint receipt to closure of the investigation process (does not include cases sent to the Attorney General (AG) or other forms of formal discipline).
- Formal Discipline – Target: 540 Days** **Q1 Average: 746 Days**  
 Average number of days to complete the entire enforcement process for cases resulting in formal discipline (includes intake and investigation by the Committee and prosecution by the AG).
- Probation Intake – Target: 10 Days** **Q1 Average: 10**  
 Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer;

Probation Intake measures the time between when the probation monitor is assigned the case file and the date they meet with their assigned probationer to review monitoring terms and conditions. In some cases, probation monitoring may not take place until an applicant has completed all their licensing requirements.

- Probation Violation Response – Target: 10 Days** **Q3 Average: 0**  
 Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action. **None to report**

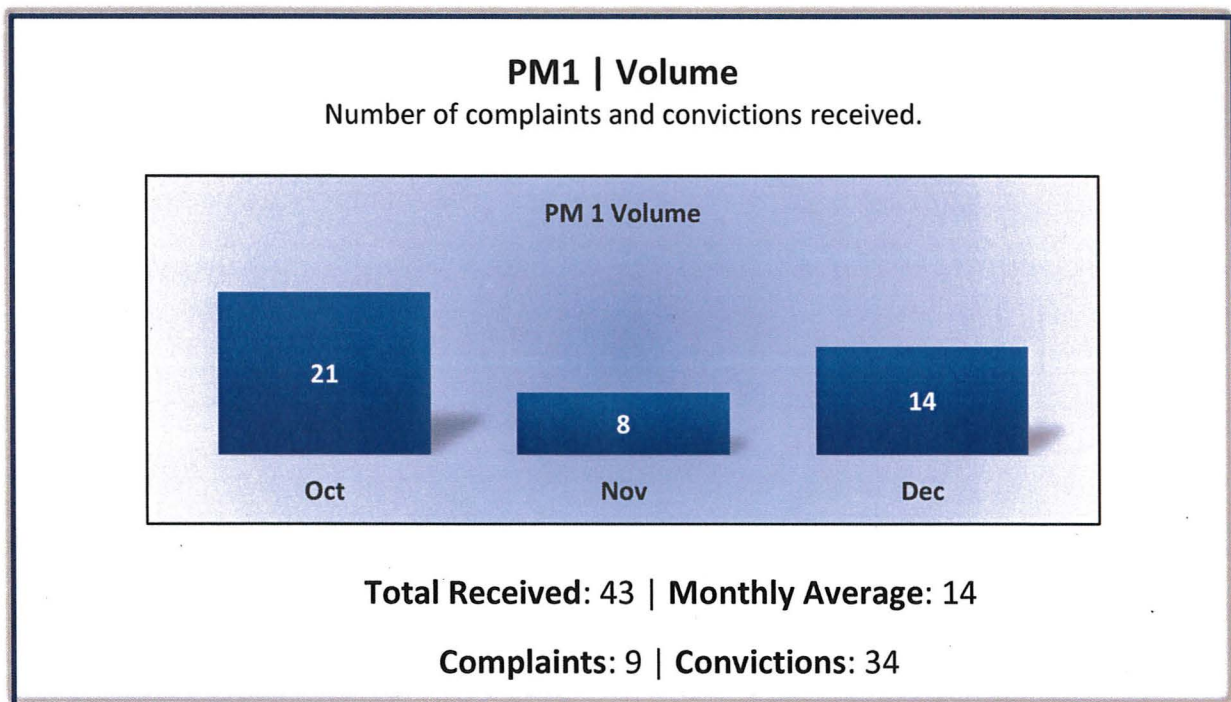
Department of Consumer Affairs

# Dental Hygiene Committee of California

## Enforcement Performance Measures

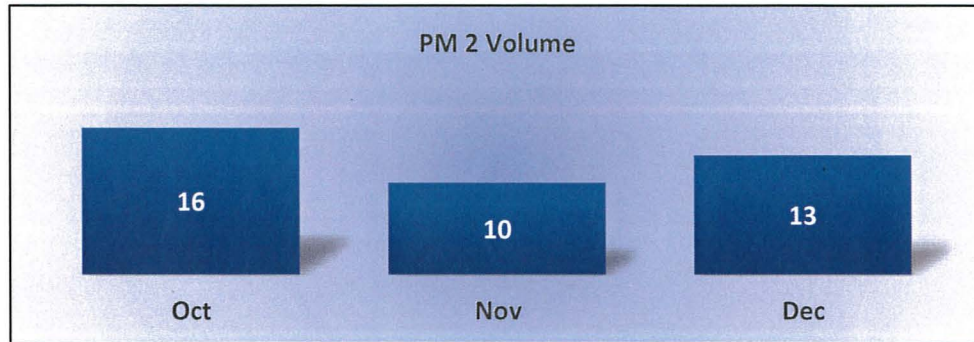
### Q2 Report (October - December 2017)

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



### PM2 | Intake – Volume

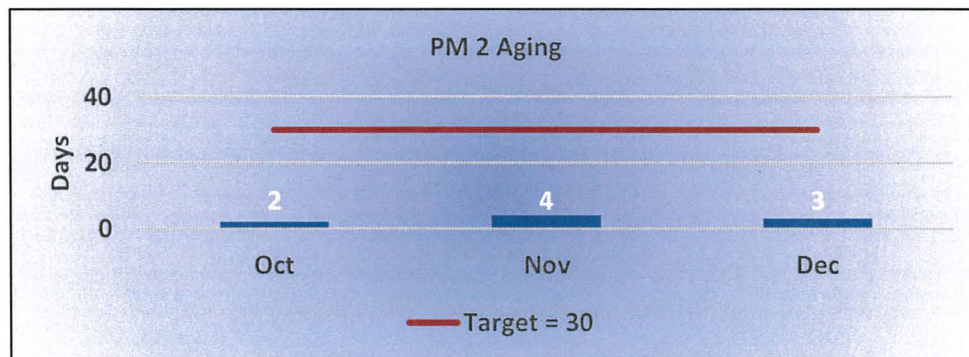
Number of complaints closed or assigned to an investigator.



**Total: 39 | Monthly Average: 13**

### PM2 | Intake – Cycle Time

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

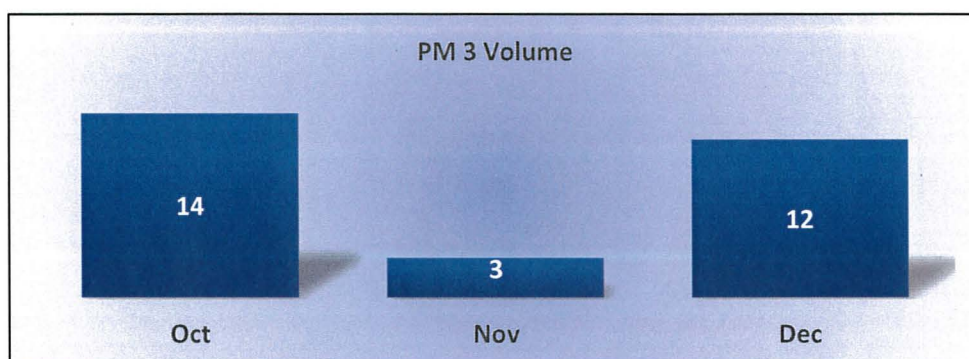


**Target Average: 30 Days | Actual Average: 3 Days**



### PM3 | Investigations – Volume

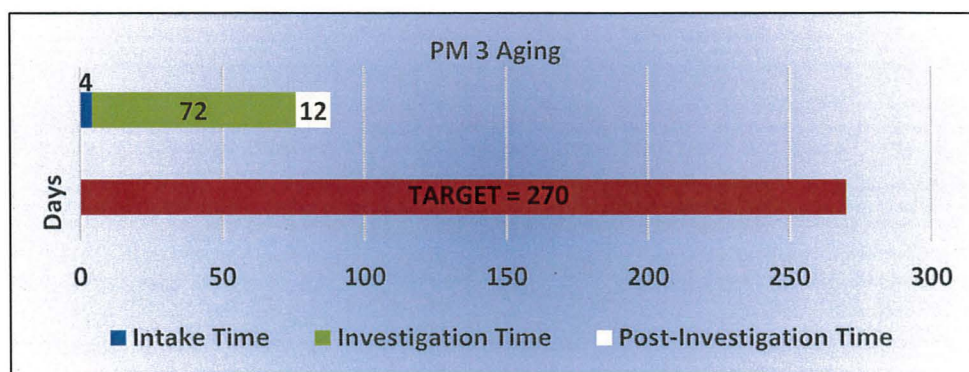
Number of investigations closed (not including cases transmitted to the Attorney General).



**Total: 29 | Monthly Average: 10**

### PM3 | Investigations – Cycle Time<sup>1</sup>

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

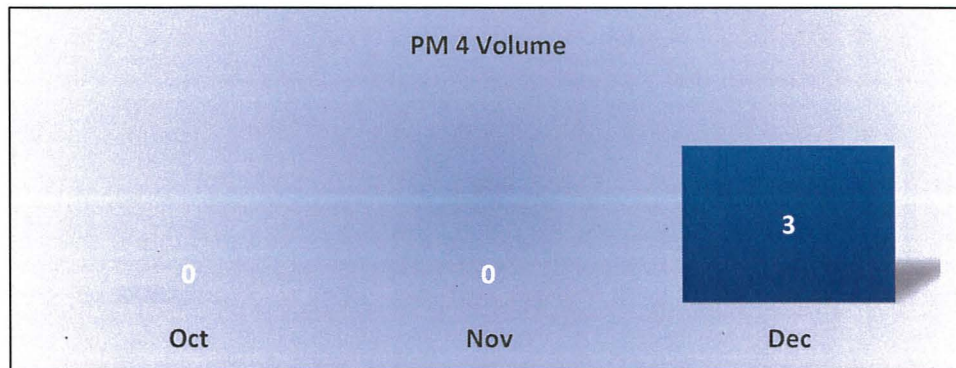


**Target Average: 270 Days | Actual Average: 88 Days**

<sup>1</sup> Due to rounding, there might be small discrepancies between the PM3 "Actual Average", and the sum of the individual case stages (i.e., Intake time + Investigation time + Post-Investigation time).

### PM4 | Formal Discipline – Volume

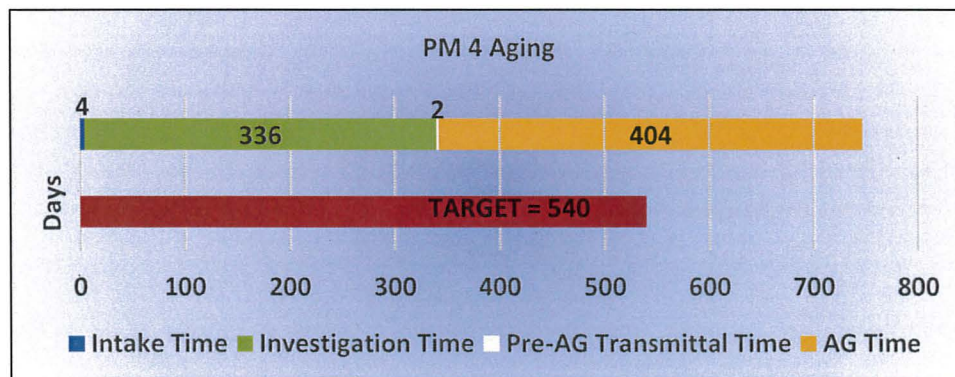
Cases closed after transmission to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).



**Total: 3 | Monthly Average: 1**

### PM4 | Formal Discipline – Cycle Time<sup>2</sup>

Average number of days to close cases transmitted to the Attorney General for formal disciplinary action. This includes formal discipline, and closures without formal discipline (e.g., withdrawals, dismissals, etc.).



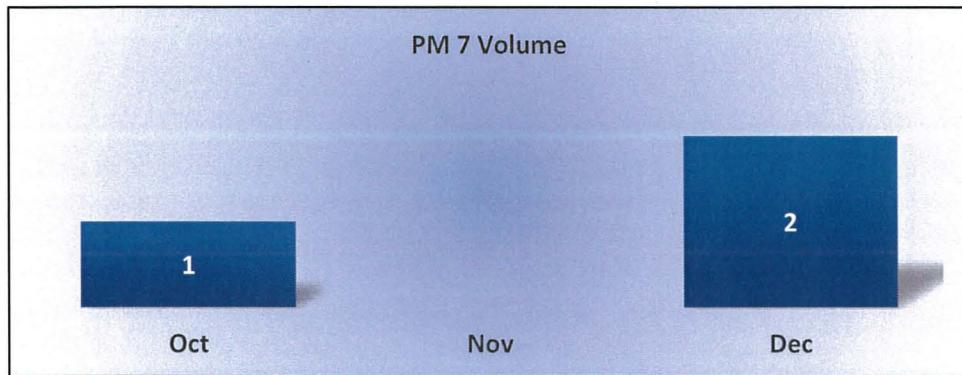
**Target Average: 540 Days | Actual Average: 746 Days**

<sup>2</sup> Due to rounding, there might be small discrepancies between the PM4 "Actual Average", and the sum of the individual case stages (i.e., Intake time + Investigation time + Pre-AG Transmittal time + AG time).



### PM7 | Probation Intake – Volume

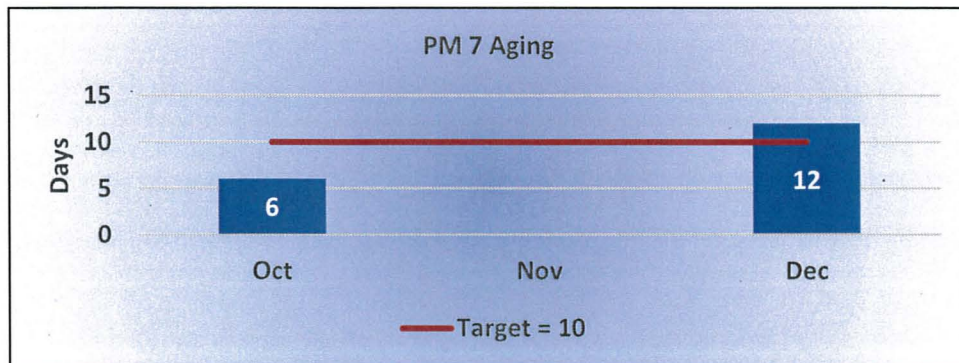
Number of new probation cases.



**Total: 3**

### PM7 | Probation Intake – Cycle Time

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



**Target Average: 10 Days | Actual Average: 10 Days**

**PM8 | Probation Violation Response – Volume**

Number of probation violation cases.

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

**PM8 | Probation Violation Response – Cycle Time**

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

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



**Friday, November 16, 2018**

**Dental Hygiene Committee of California**

**Enforcement Subcommittee Meeting**

**Agenda Item 6**

**Future Agenda Items**





**Friday, November 16, 2018**

**Dental Hygiene Committee of California**

**Enforcement Subcommittee Meeting**

**Agenda Item 7**

**Adjournment**