

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: January 11, 2013
 ATTENTION: Members, Executive Committee
 SUBJECT: Consumer Protection Enforcement Initiative (CPEI) Positions
 STAFF CONTACT: Kimberly Kirchmeyer, Deputy Director

RECOMMENDED ACTION:

Staff will provide background information and an update on the CPEI positions.

BACKGROUND AND ANALYSIS:

In July 2009 there were several negative articles written regarding the length of time it was taking the Board of Registered Nursing to discipline a registered nurse who was in violation of the law. The articles also looked at the length of time it was taking other healing arts boards under the Department of Consumer Affairs (DCA) to complete investigations. It was determined by DCA that the enforcement processes of these boards was lengthy and needed to be improved to provide better consumer protection. In response to these articles, the DCA developed the CPEI. This initiative's main goal was to reduce the enforcement completion timelines by addressing three specific areas. These areas included administrative improvements, staffing and information technology resources, and legislative changes. For the staffing resources, the DCA developed a Budget Change Proposal (BCP) requesting resources for all healing arts boards. This BCP went through the budget process and was approved in 2010. Due to this BCP, the Medical Board of California (Board) received **22.5** positions effective fiscal year (FY) 2010/2011.

The Board began to fill these positions by hiring an additional manager and one Staff Services Analyst in the Central Complaint Unit. The manager would provide the review of the complaints, and the analyst's duties included seeking experts to perform the upfront review, preparing the complaint for mailing to the expert, and conducting the follow-up to ensure timely response by the expert. The Board management knew that the timeframe for the upfront expert review was increasing and these two resources would assist in this area. This left the Board with **20.5** CPEI positions.

Because the Board conducted investigations for the Osteopathic Medical Board of California (OMBC) and the Board of Psychology (BOP), 2.5 of the CPEI positions authorized for the Board were to assist in those boards' investigations. However, these boards determined that they would rather have the positions under their specific authority. Therefore, in FY 2011/2012, those 2.5 positions were taken from the Board and provided to the OMBC and the BOP. This left the Board with **18** CPEI positions.

During FY 2010/2011, the Board was required to decrease its positions due to a requested workforce cap drill. The Board had not moved to fill any of its positions due to the uncertainty of the number of positions it would lose. The final direction on how many positions the Board would lose due to the workforce cap (2.5 positions) was not provided to the Board until June 2011. With the loss of these 2.5 positions, the Board had **15.5** remaining CPEI positions.

Although the Board began to identify where to establish these 15.5 positions and into which classification, the Board was also under a hiring freeze, which required the Board to request hiring freeze exemptions for any position the Board wanted to fill. The Board had several investigator and

medical consultant positions that required exemptions, as well as several licensing positions that were vacant, and determined that those exemptions were higher priority than the establishment of new positions.

The hiring freeze was lifted in November of 2011 and the Board again began discussion to fill these positions. However, in early 2012, the Board was notified that it would be required to eliminate 18.1 positions due to the 5% salary savings reduction. Rather than eliminate existing staff, the Board used the 15.5 CPEI positions (and 2.6 vacant positions) to meet the reduction.

The Board was notified in September 2012 that it could reestablish these positions in the temporary help blanket as long as the Board always maintains a 5% vacancy rate to meet the required salary reduction level. The Board has determined that it will request the re-establishment of **14.5** positions in the following areas in order to improve the enforcement timeframes as originally planned in the CPEI.

- Six (6) positions will be used to establish a Northern Operation Safe Medicine Unit (OSM), identical to the OSM in the South. The Northern OSM will consist of 1 Supervising Investigator, 4 Investigators, and 1 Office Technician. The establishment of this office will take the unlicensed activity cases from the workload of the investigators in the northern district offices. This will reduce the investigators caseloads in the field offices and will assist in decreasing the investigation time for physicians who violate the law. This basically adds four (4) investigators for general workload.
- Two (2) positions will be used to provide the Tustin and Rancho Cucamonga district offices with the full complement of investigators. All other district offices have six investigators. Due to budget reductions several years ago, these two offices were reduced to five investigators. This increase in investigators will assist in the reduction of the number of cases assigned to each investigator thus reducing the investigation timeframe.
- Two (2) positions will be added to the Board's Expert Reviewer Program. These analyst positions will assist in the recruitment and training of the Board's expert reviewers. The Board needs additional experts and has determined that training experts not only improves the time to provide an opinion, but also improves the quality of the opinion.
- Three (3) positions will be added to the Central Complaint Unit (CCU) and the Discipline Coordination Unit (DCU) to assist in the ever increasing workload in these areas. One analyst will be assigned to the Quality of Care section and will assist with the processing of those complaints, reducing the analysts workload in this section. One analyst will be assigned to the DCU and will process the administrative cases in an effort to reduce the time it takes to prepare the disciplinary documents. Lastly, one position will be used to establish a clerical position to assist with these duties in both the CCU and the DCU. All three of the positions will assist in improving the enforcement timeframes.
- One and a half (1.5) positions will be used to conduct malpractice investigations. It is believed that this workload could be processed beginning with a desk investigation thereby reducing the number of cases referred to the field investigative staff. This will reduce the investigators workload and reduce the time it takes to investigate a complaint.

Board staff is working on preparing the paperwork for the establishment of these positions, which also requires the review and approval by DCA. All of these positions will help the Board in reducing the enforcement timeframe and meeting the original goal of the CPEI. Thus far the following positions have been sent to DCA for approval: the Northern OSM positions; the additional two investigator positions; and the three CCU/DCU positions.