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# *Compliance Division Staff Report*

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## ***Midwives Advisory Board Meeting June 9, 2016***

### ***Personnel Updates***

- The Compliance Division interviewed several applicants for the Manager position for the new Health Professions Section of the Compliance Division. We have selected Stephen Mills, from the Department of State Health Services, to oversee the staff and operations of the new Section. Mr. Mills will begin his duties on June 15, 2016.

### ***Health Professions Section Update***

- We will be posting the notice for the other five positions in the Compliance Division's Health Professions Section.

# Midwives Advisory Board



June 9, 2016

The Education and Examination Division develops continuing education and pre-license education requirements for the department regulated programs. These requirements ensure licensees have the necessary knowledge and skills to practice their chosen profession. The Division also coordinates examination development and monitors the administration of examinations requiring knowledge and competency tests to obtain a license. Traditionally A's are used as a symbol of highest achievement. Today we continue to follow such tradition and has identified 3 A's that are critical to the success of our candidates:

- Accountability – We establish a systematic method to ensure schools are producing desired results.
- Alignment – Curricula must match required course content to be relevant when measuring individual's competency.
- Assessment – We provide key measures online so schools can access how well students are performing.

## **Personnel Updates**

Please join us in welcoming Barbara “Frances” Mendieta and Gerardo “Jerry” Gonzalez as our newest team members taking on the positions of the Accreditation & Certification Specialist.

Frances has vast experience in curriculum evaluation & development for adult education. She also has a “trainer” background where she has conducted many audits to ensure effective teaching methods and techniques were met. In addition, she was responsible for overseeing Subject Matter Experts for the development and implementation of licensing examinations for various programs at TCEQ.

Jerry, comes to us from DSHS. He facilitates the licensing activities for the Massage Therapy schools, the massage therapists, the instructors and establishments. As a previous inspector he has developed a relationship with the industry and the schools. Jerry has been able to participate with investigations by working with law enforcement on local legal and political initiatives related to sex crimes, prostitution, and human trafficking.

We would like to congratulate Alice Bradford on her new position with Department of State Health Services (DSHS). She joined our team on October 19<sup>th</sup> as an Accreditation & Certification Specialist, coming from DSHS. Her talent and knowledge will be missed. We wish her the best with her new role.

## **New Technology**

The Education and Examination Division has begun utilizing Touchpoint for emails. Touchpoint allows us to track what has been completed and the time it has taken to answer emails. Currently, E&E averages 1034 emails a month. The goal is to be able to report work our staff accomplish. As we continue to grow as a model agency our workload and performance numbers will increase. The use of Touchpoint is a step to utilizing the effectiveness of innovation.

Below are example charts you will see in our reports concerning the pass/fail ratio of the examination, information on continuing education activity, the number school inspections for the month/quarter/year and every quarter we will give you the top violations found during a school inspection.

**Examination Statistics Total  
Midwives  
As of April 30, 2016**

FY 2016 ALL		SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
<b>ACR</b>	<b>Pass</b>	41	51	79	171	60	44	85	189	77	77		154				0	514
	<b>Fail</b>	120	118	132	370	129	115	155	399	118	100		218				0	987
	<b>Subtotal</b>	161	169	211	541	189	159	240	588	195	177	0	372	0	0	0	0	1,501
	<b>Rate</b>	25.5%	30.2%	37.4%	31.6%	31.7%	27.7%	35.4%	32.1%	39.5%	43.5%	0.0%	41.4%	0.0%	0.0%	0.0%	0.0%	34.2%
	<b>No Show</b>	15	8	4	27	8	12	19	39	12	8		20				0	86
	<b>Total</b>	176	177	215	568	197	171	259	627	207	185	0	392	0	0	0	0	1,587

**Continuing Education Activity Statistics  
Midwives  
As of April 30, 2016**

CONTINUING EDUCATION ACTIVITY FY 2016	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG
<b>NEW PROVIDER REGISTRATIONS ISSUED</b>	2	0	0	2	5	3	4	12	5	2		7			
<b>PROVIDER RENEWAL LICENSES ISSUED</b>	10	17	33	60	29	34	24	87	12	15		27			
<b>TOTAL PROVIDER LICENSE COUNT (END OF MONTH)</b>	393	394	391	391	391	393	394	394	388	387		387			
<b>TOTAL NEW COURSE APPROVALS ISSUED</b>	38	27	57	122	76	57	62	195	112	58		170			
<b>TOTAL COURSE COUNT (END OF MONTH)</b>	1,605	1,621	1,682	1,682	1,703	1,618	1,661	1,661	1,631	1,661		1,661			

**School Inspection Total by Month  
Midwives  
As of April 30, 2016**

Barber Inspections	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
<b>FY 2016</b>																	
North	4	1	1	6	8	3	3	14	3	2		5				0	25
South	5	3	4	12	0	1	4	5	6	0		6				0	23
East	10	2	0	12	2	2	7	11	12	1		13				0	36
West	1	1	0	2	0	4	0	4	2	0		2				0	8
Initial Inspections	0	0	1	1	0	0	1	1	2	2		4				0	6
<b>Total</b>	20	7	6	33	10	10	15	35	25	5		30				0	98

## **BARBER SCHOOLS TOP VIOLATIONS FOUND DURING AN INSPECTION**

**Responsibilities of Barber Schools.** 16 Tex. Admin Code Ch. 82.72(n). Each barber school approved by the department shall include in its instruction the curricula approved by the department.

**Responsibilities of Barber Schools.** 16 Tex. Admin Code Ch. 82.72(g)(3). Each barber school shall have: a minimum of two canvas-type wig blocks;

**Responsibilities of Barber Schools.** 16 Tex. Admin Code Ch. 82.72(y). A school shall maintain and have available for department and/or student inspection the monthly progress report required by Texas Occupations Code, §1601.561(a), documenting the daily attendance record of each student and number of credit hours earned. The school shall maintain the monthly progress report throughout the period of the student's enrollment and for 48 months after the student completes the curriculum, withdraws, or is terminated.

**Responsibilities--Withdrawal, Reentry, or Transfer of Student.** 16 Tex. Admin Code Ch. 82.74(a). Withdrawal. Except for a documented leave of absence, schools shall electronically submit a student's withdrawal or termination to the department within 10 calendar days after the withdrawal or termination. Except for a documented leave of absence, a school shall terminate a student who does not attend a barber curriculum for 30 days.

**Responsibilities of Barber Schools.** 16 Tex. Admin Code Ch. 82.72(aa). A barber school must have at least one instructor for every 25 students on the school's premises.

# **Midwives Advisory Board**

*June 9, 2016*

## **Enforcement Division Staff Report**

### **Introduction to the Enforcement Division**

The Enforcement Division is responsible for investigating and resolving complaints against licensees and other regulated populations in all programs regulated by Texas Department of Licensing and Regulation (“TDLR” or “the Department”). The Enforcement Division consists primarily of investigators, attorneys and legal assistants. These employees are organized into three sections that reflect the life cycle of a complaint as it moves through the enforcement process.

- **Intake**: The Intake section substantiates the agency’s jurisdiction and performs initial research on each complaint filed, ultimately making the decision whether an investigation should be opened.
- **Investigations**: In each case opened for investigation, the assigned investigator develops a detailed account of the facts through witness interviews, collection of documents, and on-site inspections when necessary, and prepares a written report of the investigation.
- **Prosecution**: The Prosecution section ensures the proper disposition of each case. When the evidence reflects violations, the prosecutor may pursue administrative penalties or license sanctions, or may resolve the case informally if warranted by the circumstances. When the evidence does not indicate violations the prosecutor will close the case. When an enforcement action leads to a hearing, the prosecutor presents the Department’s case to the State Office of Administrative Hearings and the Commission of Licensing and Regulation.

Within the general structure described above, the Enforcement Division utilizes specialized procedures for handling various types of complaints. Those procedures vary primarily depending upon the source of the complaint. Generally, complaints may be characterized as arising from three sources: consumers, the department, and applicants’ criminal histories.

- **Consumer**: complaints from sources outside the agency, including consumers, industry, and municipal officials. *If opened for investigation by Intake, these cases undergo full investigation and are then resolved by the Prosecution section.*
- **Department**: complaints arising from periodic inspections of regulated entities conducted by the Field Operations Division, and from proactive efforts of Enforcement field investigators. *Intake usually forwards these cases directly to a prosecutor for resolution, because the evidence has already been developed by the inspector or field investigator.*

- Criminal History: complaints arising from criminal background checks on license applicants. The criminal history of each license applicant is initially screened by the Licensing Division. If the history includes crimes that may be a basis for denying a license, the application is referred to the Enforcement Division. *Criminal histories are initially screened by a prosecutor. If the prosecutor does not immediately clear the applicant for licensing, the prosecutor will request an investigation of the applicant's criminal history, and will then decide whether to deny or revoke the applicant's license.*

Consistency in the investigation and resolution of complaints is an essential element of effective enforcement. Enforcement works to ensure consistency by following three guidance documents that are regularly updated.

- The Complaint Resolution Procedures Manual provides detailed, standard procedures applicable to all division staff in handling complaints, from intake to investigation to final resolution.
- The Enforcement Plan describes the ranges of penalties and license sanctions that are applicable to specific alleged violations of the statutes and rules enforced by the agency.
- The Criminal Conviction Guidelines set out, for each license type regulated by TDLR, the specific criminal convictions that may render an applicant an unsuitable candidate for the license, along with reasons why those particular crimes are considered to relate to the license.

# Midwives Advisory Board

*June 9, 2016*

## Enforcement Division Staff Report

### Key Statistics

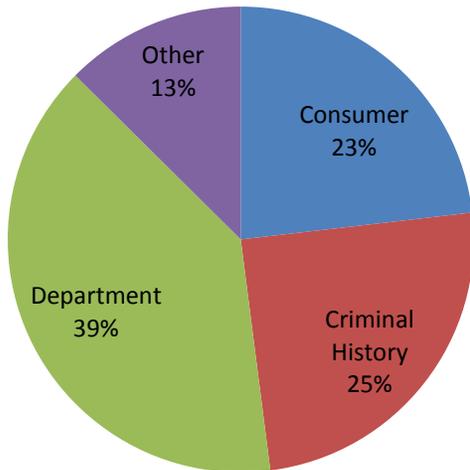
#### Performance Measures

Cases opened	10,511
Cases closed	13,155
Average time to close (days)	217
% of complaints resolved within 6 months	60.00%
% of complaints resulting in disciplinary action	26.50%

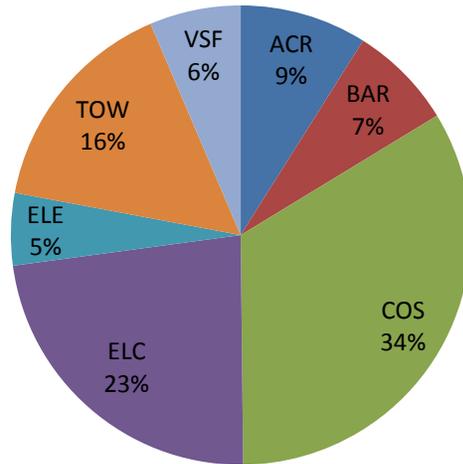
#### Fiscal Year 2015

10,511
13,155
217
60.00%
26.50%

#### Sources of Complaints



#### Complaints by Program



#### Case Outcomes

Commission Orders	48
Agreed Orders	2,270
Default Orders	912
Penalties Assessed	\$4,525,675
Penalties Collected	\$2,362,706
Licenses Revoked (Disciplinary)	161
Licenses Suspended	4
Licenses Denied/Revoked (Criminal History)	528
Cease & Desist Orders	621

#### Fiscal Year 2015

48
2,270
912
\$4,525,675
\$2,362,706
161
4
528
621

# **LICENSING DIVISION STAFF REPORT**

*"Strength from the Core"*

June 9, 2016

## **Current Projects:**

Eight people from TDLR went to DSHS April 28<sup>th</sup> for an overview of their licensing system (Versa) and hands-on training session. Yvonne Feinleib, Executive Director Midwifery Board and Orthotics and Prosthetics Board, led the training and walked through the various screens within the Versa system. TDLR staff each processed one license application and four to five TDLR employees will be scheduled to regularly go to DSHS to help process license applications throughout the summer.

## **Personnel Update:**

Leonard Rivas started as the new manager of the Health Professions team in the Licensing division on May 16. Leonard came from the Department of State Health Services where he had been issuing licenses in our new health professions programs since 2001. His most recent responsibility at DSHS was as the team lead of the Environmental licensing team, but also has almost 3 years supervisor experience and 9 years application processing experience in the programs that are transferring to us. Leonard has extensive knowledge of the Versa licensing database and online system and will be part of the team that brings the new licensing system to TDLR.

In the coming weeks, Leonard will also be participating in the interview process to select the new members of his Health Professions team and will be returning to DSHS as a TDLR staff member to help process license applications.