## OFFICE OF ADMINISTRATIVE HEARINGS STATE OF CALIFORNIA



### **Case-related Data Report Pursuant**

### to California Business and

**Professions Code Section 312.1** 

January 2020

#### **Office of Administrative Hearings**

#### Zackery P. Morazzini, Director and Chief Administrative Law Judge

#### Report to the Governor, the Legislature and the Department of Consumer Affairs

#### **Executive Summary**

This report is required by Business and Professions Code section 312.1, effective January 1, 2015. Business and Professions Code section 312.1 directs the Office of Administrative Hearings (OAH) to provide specified case-related data yearly to the Governor, the Legislature and the Department of Consumer Affairs (DCA), commencing January 1, 2016. This is the fifth annual report and it contains data for the 2018-19 fiscal year.

#### **Measures Reported**

Business and Professions Code section 312.1 requires OAH to provide the following case-related data for the previous fiscal year:

- A.) Number of cases referred by each constituent entity to each office of OAH for a hearing.
- B.) Average number of days from receiving a request to setting a hearing date at each office of OAH.
- C.) Average number of days from setting a hearing to conducting the hearing.

D.) Average number of days after conducting a hearing to transmitting the proposed decision by each office of OAH.

#### Analysis

Along with the required data, this report also contains a summary of three fiscal years and a comparison to the last fiscal year's report. This comparison data assists in identifying areas where improvement has been made and areas where additional improvement is needed.

For fiscal year 2018-19, DCA filings with OAH were reduced 5 percent from the previous year. OAH has generally maintained or improved upon case setting timelines and decision processing times over the previous year. Average case setting times were reduced by 25 percent. The average time from setting a hearing to conducting the hearing increased slightly (3 percent). There was no year-to-year change to the average number of days from decision submission to decision issuance (22 days), and this number continues to remain well below the target of 30 days.

### **Report Detail**

#### Business and Professions Code Section 312.1, subdivision (a)

Table A provides the number of cases referred to each OAH office by each DCA agency. DCA agencies are in rows. OAH offices are in columns. The final column is the total cases for all OAH offices. The final row totals each column.

During 2018-19, OAH received a total of **3,678** cases, a decrease of 5 percent compared to the prior fiscal year.

Table A: Total number of cases for fiscal year 2018-19							
DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH total		
Acupuncture Board	7	6	3	-	16		
Board for Professional Engineers, Land Surveyors and Geologists	16	2	2	8	28		
Board for Professional Engineers, Land Surveyors and Geologists - Engineers & Land Surveyors	1	-	2	-	3		
Board of Accountancy	11	3	11	7	32		
Board of Barbering and Cosmetology	30	5	12	31	78		

Tabl	Table A: Total number of cases for fiscal year 2018-19							
DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH total			
Board of Behavioral Sciences	46	16	29	32	123			
Board of Chiropractic Examiners	11	7	5	7	30			
Board of Occupational Therapy	11	2	2	3	18			
Board of Optometry	4	1	5	4	14			
Board of Pharmacy	93	28	37	31	189			
Board of Podiatric Medicine	3	1	-	2	6			
Board of Psychology	18	8	7	6	39			
Board of Registered Nursing	205	134	179	124	642			
Board of Vocational Nursing and Psychiatric Technicians - Psychiatric Technicians	6	1	14	1	22			
Board of Vocational Nursing and Psychiatric Technicians - Vocational Nursing	87	34	59	33	213			

Table A: Total number of cases for fiscal year 2018-19							
DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH total		
Bureau for Private Postsecondary Education	16	4	-	8	28		
Bureau of Automotive Repair	179	21	19	56	275		
Bureau of Automotive Repair - Smog Check	221	66	74	74	435		
Bureau of Real Estate Appraisers	5	2	-	1	8		
Bureau of Security and Investigative Services	86	31	29	21	167		
California Architects Board	-	-	1	2	3		
Cemetery and Funeral Bureau - Crematories	2	2	-	-	4		
Contractors State License Board	259	102	125	116	602		
Court Reporters Board of California	1	1	1	1	4		
Dental Board of California	25	7	15	22	69		

Table A: Total number of cases for fiscal year 2018-19								
DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH total			
Dental Hygiene Committee of California <sup>1</sup>	1	-	1	-	2			
Electronic and Appliance Repair, Home Furnishings and Thermal Insulation	-	1	1	-	2			
Medical Board of California	155	118	83	80	436			
Osteopathic Medical Board of California	6	1	3	2	12			
Physical Therapy Board of California	11	3	8	6	28			
Physician Assistant Board	10	7	7	7	31			
Professional Fiduciaries Bureau	1	-	-	-	1			
Respiratory Care Board	6	9	6	7	28			
Speech-Language Pathology and	4	1	4	1	10			

<sup>1</sup> As of January 1, 2019, the Dental Hygiene Committee of California became the Dental Hygiene Board of California. No cases were filed during the 2018-19 fiscal year under the Dental Hygiene Board of California.

Tab	able A: Total number of cases for fiscal year 2018-19						
DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH total		
Audiology and Hearing Aid Dispensers Board							
Structural Pest Control Board	15	6	12	8	41		
Veterinary Medical Board and Registered Veterinary Technician Examining Committee	14	4	6	12	36		
Cemetery and Funeral Bureau - Establishments	1	1	-	-	2		
Bureau of Household Goods and Services <sup>2</sup>	-	1	-	-	1		
Total cases	1567	636	762	713	3678 <sup>3</sup>		

<sup>&</sup>lt;sup>2</sup> As of January 1, 2019, the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation became the Bureau of Household Goods and Services. During the 2018-19 fiscal year, OAH received cases filed under both agencies.

<sup>&</sup>lt;sup>3</sup> As of July 1, 2018, the Bureau of Real Estate became the Department of Real Estate and was removed from the Department of Consumer Affairs. Therefore, they are no longer included in this report.

Table B compares case filings for fiscal years 2016-17, 2017-18 and 2018-19, and shows the change and percent change from the previous year. OAH offices are in rows and fiscal years, change and percent change are in columns. The final row shows the OAH totals for each column.

Table B: Case filings Fiscal year comparison									
Office	2016-17	2017-18	2018-19	Change	% Change				
Los Angeles	1589	1556	1567	11	1%				
Oakland	750	765	636	-129	-17%				
Sacramento	1039	924	762	-162	-18%				
San Diego	815	632	713	81	13%				
OAH total	4193	3877	3678	-199	-5%				

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### Business and Professions Code Section 312.1, subdivision (b)

Table C provides the average number of days from receiving a request to setting a hearing date for all DCA agencies by each OAH regional office. DCA agencies are in rows. OAH offices are in columns. The final column shows the overall OAH average. The final row shows the overall average for each column. For OAH statewide, the average number of days has decreased by 25 percent over the prior fiscal year.

Table C: Average number of days to set hearing date by OAH office in fiscal year 2018-19								
DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average			
Acupuncture Board	3	7	2	-	4			
Board for Professional Engineers, Land Surveyors and Geologists - Engineers & Land Surveyors	4	8	8	0	3			
Board of Accountancy	1	6	1	4	2			
Board of Barbering and Cosmetology	2	6	2	2	2			
Board of Behavioral Sciences	3	0	2	0	2			
Board of Chiropractic Examiners	3	4	1	0	2			

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Board of Occupational Therapy	2	7	3	0	3
Board of Optometry	68	1	7	0	32
Board of Pharmacy	3	4	1	1	3
Board of Podiatric Medicine	3	-	-	0	2
Board of Psychology	3	5	1	2	3
Board of Registered Nursing	5	7	1	1	4
Board of Vocational Nursing and Psychiatric Technicians - Vocational Nursing	3	6	3	2	3
Bureau for Private Postsecondary Education	3	6	-	1	2
Bureau of Automotive Repair	3	6	2	1	3
Bureau of Automotive Repair - Smog Check	5	6	2	1	4
Bureau of Real Estate Appraisers	2	7	-	-	3

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Bureau of Security and Investigative Services	2	4	1	1	2
California Architects Board	-	-	1	0	1
Cemetery and Funeral Bureau - Crematories	2	1	-	-	2
Contractors State License Board <sup>1</sup>	4	4	2	1	3
Court Reporters Board of California	10	-	4	0	5
Dental Board of California	5	7	2	2	4
Dental Hygiene Committee of California	-	-	1	-	1
Electronic and Appliance Repair, Home Furnishings and Thermal Insulation	-	-	1	-	1
Medical Board of California	4	4	2	5	3

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Osteopathic Medical Board of California	4	0	1	0	2
Physical Therapy Board of California	2	0	1	0	1
Physician Assistant Board	4	3	97	0	28
Respiratory Care Board	3	3	2	1	2
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	4	1	3	-	3
Structural Pest Control Board	2	14	0	1	2
Veterinary Medical Board and Registered Veterinary Technician Examining Committee	3	2	1	2	2

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Board for Professional Engineers, Land Surveyors and Geologists-Engineers & Land Surveyors	1	-	4	-	3
Board of Vocational Nursing and Psychiatric Technicians - Psychiatric Technicians	1	1	1	0	1
Professional Fiduciaries Bureau	0	-	-	_	0
Cemetery and Funeral Bureau - Establishments	5	1	-	-	3
Bureau of Household Goods and Services	_	5	_	_	5
Total average days	4	5	3	1	3

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Table D compares the average case setting times for OAH offices for fiscal years 2016-17, 2017-18, and 2018-19, and shows the change and percent change over the previous year. OAH offices are in rows. Fiscal years, change and percent change are in columns. The final row shows the overall average, change and percent change.

Table D: Average setting times Fiscal year comparison									
Office	2016-17	2017-18	2018-19	Change	% Change				
Los Angeles	8	4	4	0	0%				
Oakland	6	6	5	-1	-17%				
Sacramento	2	2	3	1	50%				
San Diego	3	2	1	-1	-50%				
OAH total	5	4	3	-1	-25%				

#### Business and Professions Code Section 312.1, subdivision (c)

Table E provides the average number of days from setting a hearing to conducting the hearing by each regional OAH office. The average number of days is shown with a case count in parentheses for each DCA agency. The case count is the number of cases used to calculate each average. DCA agencies are in rows. OAH offices are in columns. The final column is the OAH overall average and case count. The final row is the overall average and case count for each column.

On average statewide, there was a slight increase of 3 percent over the prior fiscal year.

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Acupuncture Board	119 (1)	41 (3)	-	-	61 (4)
Board for Professional Engineers, Land Surveyors and Geologists	172 (8)	133 (1)	130 (2)	180 (2)	164 (13)
Board for Professional Engineers, Land Surveyors and Geologists - Engineers & Land Surveyors	-	113 (1)	125 (1)	31 (1)	90 (3)
Board of Accountancy	118 (7)	171 (3)	112 (6)	48 (3)	114 (19)
Board of Barbering and Cosmetology	120 (14)	71 (2)	60 (12)	87 (16)	89 (44)
Board of Behavioral Sciences	142 (25)	73 (13)	65 (18)	64 (19)	92 (75)
Board of Chiropractic Examiners	120 (8)	55 (5)	51 (5)	41 (3)	77 (21)

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Board of Occupational Therapy	164 (5)	134 (1)	138 (1)	138 (1)	154 (8)
Board of Optometry	161 (1)	45 (2)	188 (1)	144 (2)	121 (6)
Board of Pharmacy	102 (55)	142 (10)	96 (21)	136 (13)	109 (99)
Board of Podiatric Medicine	105 (1)	-	-	-	105 (1)
Board of Psychology	89 (9)	59 (4)	115 (4)	37 (3)	80 (20)
Board of Registered Nursing	97 (87)	96 (68)	88 (90)	103 (39)	95 (284)
Board of Vocational Nursing and Psychiatric Technicians - Psychiatric Technicians	161 (1)	19 (1)	151 (6)	105 (1)	133 (9)

for hearings that occurred in fiscal year 2018-19							
DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average		
Board of Vocational Nursing and Psychiatric Technicians - Vocational Nursing	111(55)	116 (24)	59 (33)	135 (11)	100 (123)		
Bureau for Private Postsecondary Education	109 (3)	150 (3)	65 (1)	124 (3)	121 (10)		
Bureau of Automotive Repair	169 (102)	111 (10)	102 (7)	127 (18)	156 (137)		
Bureau of Automotive Repair - Smog Check	137 (117)	124 (37)	119 (58)	129 (13)	130 (225)		
Bureau of Real Estate Appraisers	169 (1)	109 (1)	-	-	139 (2)		
Bureau of Security and Investigative Services	91 (41)	73 (27)	71 (19)	92 (11)	82 (98)		
California Architects Board	-	-	-	19 (1)	19 (1)		
Cemetery and Funeral Bureau - Crematories	172 (1)	65 (1)	_	-	118 (2)		

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Cemetery and Funeral Bureau - Establishments	305 (1)	-	-	-	305 (1)
Contractors State License Board	134 (114)	116 (49)	108 (81)	129 (44)	122 (288)
Court Reporters Board of California	-	77 (2)	49 (1)	84 (1)	72 (4)
Dental Board of California	111 (14)	121 (1)	98 (8)	115 (8)	109 (31)
Dental Hygiene Committee of California	-	-	190 (1)	-	190 (1)
Electronic and Appliance Repair, Home Furnishings and Thermal Insulation	-	42 (1)	-	-	42 (1)
Medical Board of California	122 (56)	74 (81)	83 (30)	70 (27)	89 (194)
Osteopathic Medical Board of California	21 (2)	136 (1)	51 (2)	-	56 (5)
Physical Therapy Board of California	85 (5)	-	53 (3)	76 (2)	74 (10)

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Physician Assistant Board	-	52 (2)	40 (2)	64 (3)	54 (7)
Respiratory Care Board	185 (3)	58 (4)	68 (7)	51 (5)	80 (19)
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	146 (3)	58 (1)	45 (1)	-	108 (5)
Structural Pest Control Board	72 (12)	114 (6)	47 (6)	144 (3)	84 (27)
Veterinary Medical Board and Registered Veterinary Technician Examining Committee	141 (4)	155 (3)	42 (5)	114 (5)	107 (17)
Total average days (hearing count)	126 (756)	96 (368)	91 (432)	103 (258)	108 (1814)

Note: This chart reports cases that went to hearing during the fiscal year, regardless of when the case was filed with OAH.

Table F compares the average number of days from setting a hearing to conducting a hearing for fiscal years 2016-17, 2017-18, and 2018-19 and shows the change and percent change over the previous year. OAH offices are in rows. Fiscal years, change and percent change are in columns. The final rows show the overall averages, change, percent change and the overall number of hearings held.

Table F: Average days from setting hearing to conducting hearing; number of hearings Fiscal year comparison								
Office	2016-17	2017-18	2018-19	Change	% Change			
Los Angeles average	129	123	126	3	2%			
Los Angeles no. of hearings	750	754	756	2	0%			
Oakland average	89	96	96	0	0%			
Oakland no. of hearings	389	413	368	-45	-11%			
Sacramento average	79	89	91	2	2%			
Sacramento no. of hearings	459	295	432	137	46%			
San Diego average	98	89	103	14	16%			
San Diego no. of hearings	369	295	258	-37	-12%			
Overall OAH average	104	105	108	3	3%			
Total no. of hearings	1967	1808	1814	6	0%			

### Business and Professions Code Section 312.1, subdivision (d)

Table G provides the average number of days after conducting a hearing to transmitting the proposed decision by each regional OAH office. The average number of days is shown with a decision count in parentheses for each DCA agency. The decision count is the number of decisions issued used to calculate each average. DCA agencies are in rows. OAH offices are in columns. The final column shows the OAH overall average and decision count for each agency. The final row shows the overall average and decision count for each OAH office.

proposed decision for decisions issued during fiscal year 2018-19							
DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average		
Acupuncture Board	23 (2)	22 (3)	-	10 (2)	19 (7)		
Board for Professional Engineers, Land Surveyors and Geologists	13 (4)	-	28 (2)	18 (1)	18 (7)		
Board for Professional Engineers, Land Surveyors and Geologists - Engineers & Land Surveyors	-	35 (1)	-	(28) 2	33 (3)		

Statewide, the average remains at **22** days, and is well below the 30-day target.

Table G: Average number of days from conducting a hearing to transmitting the

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Board of Accountancy	19 (5)	26 (2)	18 (4)	24 (3)	21 (14)
Board of Barbering and Cosmetology	24 (11)	26 (1)	16 (9)	20 (14)	20 (35)
Board of Behavioral Sciences	26 (24)	22 (9)	22 (18)	25 (17)	24 (68)
Board of Chiropractic Examiners	25 (9)	11 (4)	31 (5)	20 (3)	23 (21)
Board of Occupational Therapy	26 (9)	-	23 (1)	30 (1)	26 (6)
Board of Optometry	33 (1)	11 (2)	30 (1)	28 (3)	24 (7)
Board of Pharmacy	26 (45)	17 (8)	21 (20)	28 (11)	24 (84)
Board of Podiatric Medicine	30 (1)	-	-	-	30 (1)
Board of Psychology	30 (8)	13 (4)	28 (5)	19 (3)	24 (20)
Board of Registered Nursing	21 (73)	23 (64)	21 (89)	26 (37)	22 (263)

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Board of Vocational Nursing and Psychiatric Technicians - Psychiatric Technicians	27 (1)	12 (1)	26 (4)	24 (1)	24 (7)
Board of Vocational Nursing and Psychiatric Technicians - Vocational Nursing	24 (49)	18 (21)	25 (28)	25 (7)	23 (105)
Bureau for Private Postsecondary Education	19 (2)	14 (2)	34 (1)	30 (2)	23 (7)
Bureau of Automotive Repair	24 (81)	23 (7)	29 (4)	25 (13)	24 (105)
Bureau of Automotive Repair - Smog Check	23 (107)	17 (30)	22 (58)	22 (12)	22 (207)
Bureau of Real Estate Appraisers	29 (1)	20 (1)	-	-	24 (2)
Bureau of Security and Investigative Services	21 (22)	16 (20)	17 (9)	22 (8)	19 (59)
California Architects Board	-	28 (1)	-	27 (1)	27 (2)

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Cemetery and Funeral Bureau - Crematories	33 (1)	33 (1)	-	-	33 (2)
Cemetery and Funeral Bureau - Establishments	21 (1)	-	-	-	21 (1)
Contractors State License Board	22 (61)	21 (34)	22 (58)	20 (29)	21 (182)
Court Reporters Board of California	-	17 (2)	21 (1)	-	19 (2)
Dental Board of California	24 (14)	9 (1)	21 (1)	-	19 (3)
Dental Hygiene Committee of California	-	-	30 (1)	-	30 (1)
Electronic and Appliance Repair, Home Furnishings and Thermal Insulation	-	30 (1)	_	-	30 (1)
Medical Board of California	24 (47)	16 (68)	27 (25)	22 (20)	21 (160)
Osteopathic Medical Board of California	32 (2)	22 (1)	33 (2)	_	30 (5)

DCA agency	Los Angeles	Oakland	Sacramento	San Diego	OAH average
Physical Therapy Board of California	21 (4)	-	28 (4)	16 (2)	23 (10)
Physician Assistant Board	-	8 (2)	29 (1)	17 (2)	16 (5)
Respiratory Care Board	28 (4)	24 (4)	22 (6)	9 (3)	21 (17)
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	23 (3)	25 (1)	21 (1)	-	23 (5)
Structural Pest Control Board	20 (10)	10 (4)	26 (6)	16 (2)	19 (22)
Veterinary Medical Board and Registered Veterinary Technician Examining Committee	23 (3)	31 (3)	23 (7)	32 (6)	27 (19)
Total average days	23 (601)	19 (303)	23 (376)	23 (213)	22 (1493)
(decision count)					

Note: This chart reports cases in which a decision was issued during the fiscal year, regardless of when the case was filed with OAH.

Table H compares the average number of days to decision issuance and the number of decisions for each OAH office for fiscal years 2016-17, 2017-18 and 2018-19, and the change and percent change over the previous fiscal year. OAH offices' average and number of decisions are in rows. Fiscal years, change and percent change are in columns. The final rows show the overall averages and decision counts for each fiscal year, and the overall change and percent change.

Table H: Average decision issuance time; number of decisions Fiscal year comparison								
Office	2016-17	2017-18	2018-19	Change	% Change			
Los Angeles average	24	23	23	0	0%			
Los Angeles no. of decisions	579	631	601	30	5%			
Oakland average	20	20	19	-1	-5%			
Oakland no. of decisions	314	300	303	3	1%			
Sacramento average	20	21	23	-2	<b>-9</b> %			
Sacramento no. of decisions	402	369	376	7	2%			
San Diego average	23	25	23	-2	-8%			
San Diego no. of decisions	289	263	213	-50	-19%			
Overall OAH average	22	22	22	0	0%			
Total no. of decisions	1584	1563	1493	-70	-4%			

If you have any questions regarding this report, please contact Tzer Lor-Snyder by phone at (916) 263-0550 or by email at <u>Tzer.lorsnyder@dgs.ca.gov</u>.

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