

## MEMORANDUM

<b>DATE</b>	April 17, 2018
<b>TO</b>	Veterinary Medical Board
<b>FROM</b>	Robert Stephanopoulos. Enforcement Manager
<b>SUBJECT</b>	<b>Enforcement Report</b>

### Staff Update

#### Pending Cases

All pending investigations have officially been redistributed to the enforcement unit's four analysts. Investigations will now remain with a single analyst from initial assignment through discipline. Due to this increased scope of work, analysts will be collaborating regularly with one another as well as management to ensure complete understanding and consistency in the investigation process. As previously mentioned, this "start to finish" investigation model will lessen the risk of misinterpreted or lost information and increase overall staff engagement.

As mentioned during the prior Board meeting, the number of pending investigations can't be adequately addressed under current staffing levels. The Board's four enforcement analysts are each responsible for over 300 cases, which is several times the number an average analyst can/should maintain (many other boards don't break 100 cases per analyst). This large discrepancy between staff bandwidth and workload will continue to affect the enforcement numbers, resulting in higher cycle times and an ever-growing backlog of cases.

#### Process Mapping

The enforcement mapping process continues, with management looking at all existing procedures to identify duplicative/unnecessary steps to implement efficiencies. In addition, DCA's Organizational Change Management (OCM) team recently met with the Board's management team to assist with the creation of process maps for all procedures in the licensing, inspection, and enforcement sections. The OCM team will likely begin this mapping process after the end of FY 18/19. These maps will be used for desk procedure manuals, BreEZe transaction updates, and audit compliance.

#### Enforcement Process Overview

Staff will provide enforcement training during the Board's October meeting to give Board members a better understanding of the enforcement process. In addition, the Board's biological fluid testing vendor, FSSolutions, will provide an overview of their methods regarding substance abuse related testing.

#### Restitution

The enforcement team is exploring potential restitution on all cases involving complainants who were provided insufficient care by a licensee/registrant as well as those complainants who had to incur additional costs with subsequent veterinarians due to poor initial care.

Unlicensed Practice

Enforcement has begun utilizing a tool via the California Public Utilities Commission (CPUC) to curb the unlicensed practice of veterinary medicine. Pursuant to BPC §149, the Board has the ability to request the CPUC disconnect the phone service of unlicensed individual engaged in unlawful advertising of veterinary services. Enforcement will make this request whenever appropriate.

**Attorney General’s Office Updates**

Below you will find the VMB section of the Attorney General’s (AG) Annual Report for FY 17/18. According to the full report (available upon request), VMB’s cycle times are one of the highest of all DCA boards. In response, staff and management have committed to frequent communication with the Deputy Attorney Generals assigned to our referred cases as well as their Supervising Deputy Attorney Generals, when necessary. Further, settlement discussions are starting earlier in the process (upon referral to the AG’s office) to expedite discipline, which can save on costs and provide a quicker means of consumer protection. In addition, as previously indicated, VMB has submitted an AG augmentation request to avoid going over our AG budget; this request is pending.

The Veterinary Medical Board regulated 29,545 licensees in Fiscal Year 2016-17 with six license types. The Board receives consumer complaints and routinely inspects veterinary hospital premises for compliance. The Board’s cases are investigated by the Board’s own inspectors or other staff, and when appropriate, may also be referred to the Department of Consumer Affairs Division of Investigation, Investigations and Enforcement Unit. There were multiple respondents in about 23 percent of the Board’s accusation cases prosecuted by the Office of the Attorney General in Fiscal Year 2017-18. There is no statute of limitations within which to file accusations for this agency.

The tables below show data for Fiscal Year 2017-18.

Table 1 – Business and Professions Code Section 312.2, Subdivision (a)	
Number of –	Count
(1) accusation matters referred to the Attorney General.	45
(2) accusation matters rejected for filing by the Attorney General.	0
(3) accusation matters for which further investigation was requested by the Attorney General.	5
(4) accusation matters for which further investigation was received by the Attorney General.	6
(5) accusations filed.	44
(6) accusations withdrawn.	0
(7) accusation matters adjudicated by the Attorney General.	22

Table 2 is based on the adjudicated accusation matters reported under Business and Professions Code section 312.2, subdivision (a)(7) in Table 1.

Table 2 – Business and Professions Code Section 312.2, Subdivision (b)				
Average number of days for adjudicated accusation matters –	Mean	Median	SD	Count
(1) from receipt of referral by the Attorney General to when an accusation is filed.	251	197	160	22
(2) to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received.	352	366	103	4
(3) from the filing of an accusation to when a stipulated settlement is sent to the agency.	313	287	154	16
(4) from the filing of an accusation to when a default decision is sent to the agency.	79	84	28	4
(5) from the filing of an accusation to the Attorney General requesting a hearing date.	93	78	51	11
(6) from the Attorney General’s receipt of a hearing date to the commencement of a hearing.	317	317	172	2

## Expert Witness Program

The Board's expert witness program is being examined to better streamline the complete process and ensure consistency of information between the Board and its experts. To that end, enforcement staff are now responsible for facilitating the assignment of cases to experts pursuant to their contracts. Consequently, DCA's secured cloud drive will not only be utilized for the transmittal of cases, it will also be used for task order and invoices. To ensure compliance with expert contract requirements, enforcement staff have taken training specific to contracts, which should result in quicker assignment of tasks and payment for case reviews.

## Division of Investigation

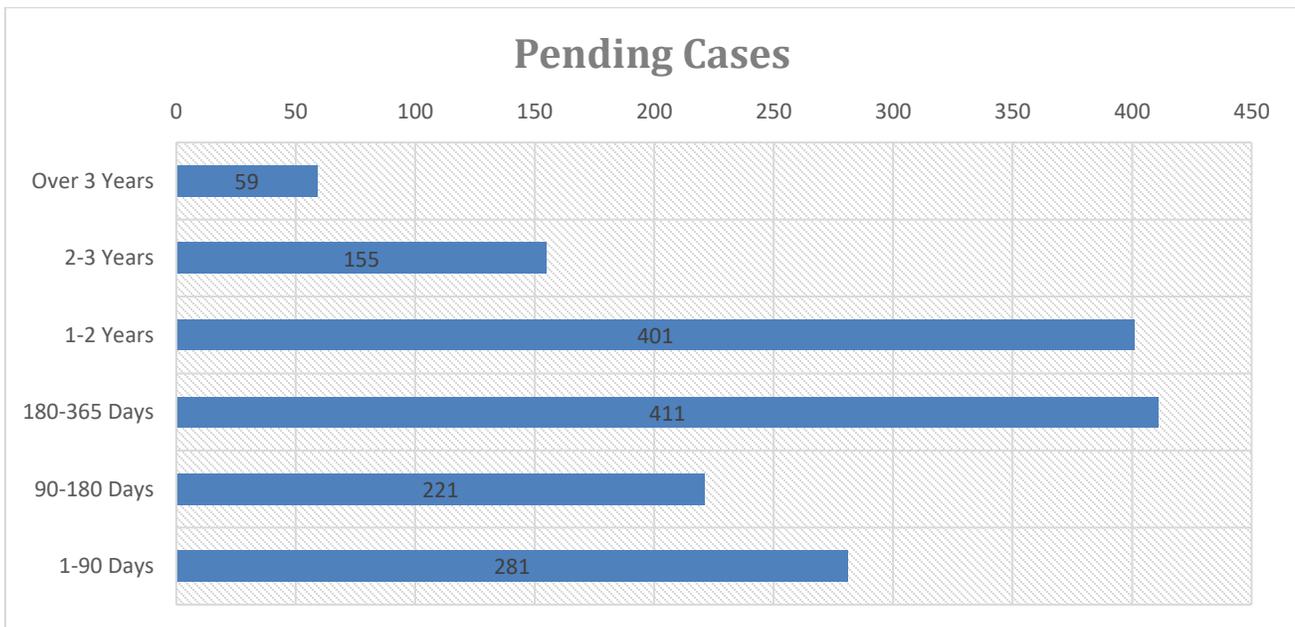
### Central Services Project

The enforcement team recently met with DCA's OCM team, who are conducting a central services project related to DOI. During this meeting enforcement discussed some of the challenges and opportunities they have come across when interacting with DOI. The OCM team hopes to put together this information to identify improvements that will benefit DOI and the boards and bureaus overall.

### DOI Investigations

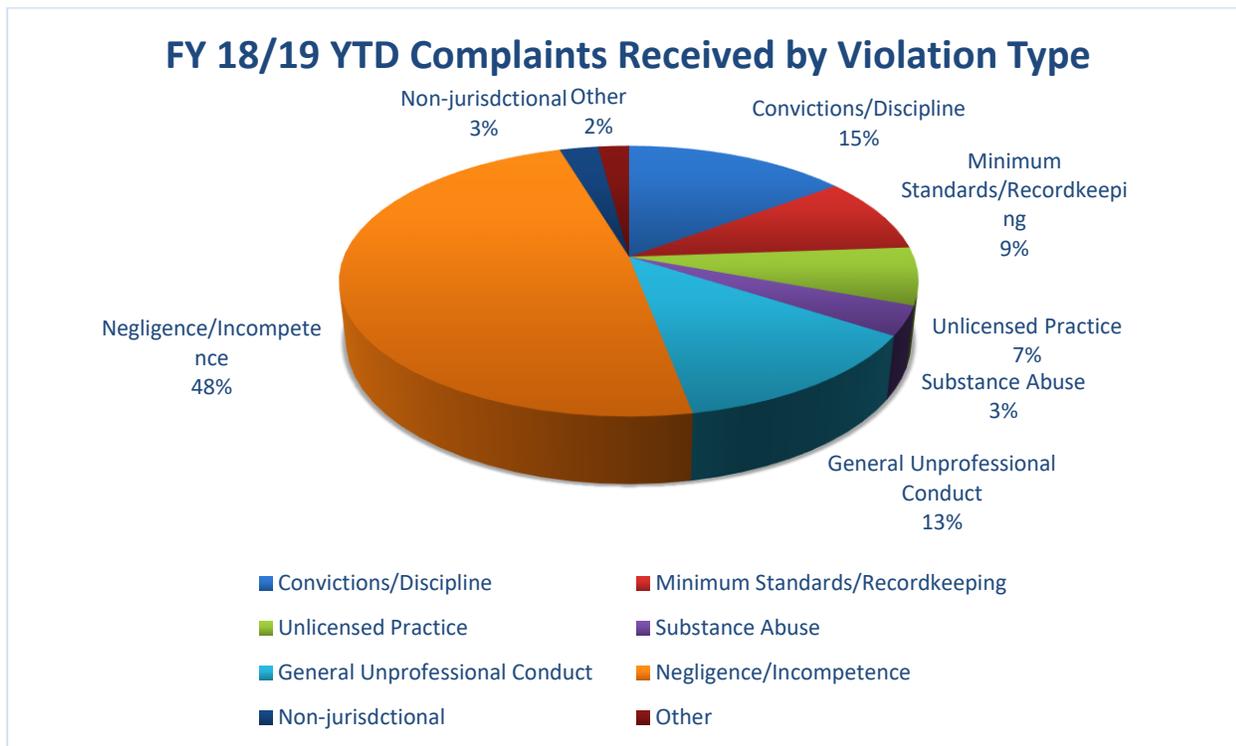
Enforcement has been more engaged in determining the necessity of DOI's involvement on many of its cases, as well as the necessity of Board inspectors in cases to be assigned to DOI. As a result, enforcement staff have begun utilizing more internal investigative opportunities as well as the Board's inspections unit on cases which may have otherwise been referred to DOI. The result of this change should be a reduction in DOI costs as well as faster investigation times without compromising quality. Cases involving extreme or exigent circumstances will likely involve a phone call between management and the supervising DOI investigator to ensure expedient response.

## Complaint Investigation



As shown in the previous graph, the number of cases over 3 years rose compared to the prior report, coming in at 59. This is due to the fact that nearly two thirds of these cases rolled over to the

3+ years category in the last quarter alone. Nevertheless, enforcement continues to prioritize the oldest cases (along with overall priority) for investigation.



The Board received a variety of complaint types last quarter, as displayed by the prior chart. Most of the complaints were fell under “Negligence/Incompetence,” which depending on the circumstances, may be the Board’s highest priority cases per BPC §[4875.1](#). This was followed by “Convictions/Discipline,” due in part to these cases being shifted from licensing to enforcement. Further, a fair portion of our cases involve complaints regarding minimum standards and recordkeeping, which can likely be addressed in concert with the Board’s inspection program. In addition to cases which don’t fall into a category, “Other” covers mental/physical impairment (1 case), fraud/deception (6 cases) and sexual misconduct (3 cases).

Pending complaints at intake rose 148 in January due to the shift of applicant convictions from licensing to enforcement that same month. These new cases added to intake’s existing backlog, as they are now tasked with logging both new and pending applicant conviction cases, along with regular complaints. Due to the hard work of the intake unit, the number of pending cases at intake was brought down to 116 at the end of March. Overtime will continue to be offered to help address the backlog.

Enforcement saw a sizeable jump in pending cases last quarter – ending at 1538, which is a direct result of the focus on more investigation-heavy cases older cases (which typically require more time). Moreover, as applicant convictions were shifted from licensing to enforcement, this resulted in a large, instant increase in pending cases (applicant convictions were not previously logged into the system by licensing).

The Board issued 3 citations last quarter resulting from its investigations; another 5-10 citation drafts are currently pending management approval.

## Probation Monitoring

The Board is currently monitoring 106 probationers and has 19 Petitions to Revoke Probation pending for issues of non-compliance.

## Mail Vote Results

The results of the February 1, 2019 and March 1, 2019 mail vote items can be viewed below.

STIPULATED SETTLEMENT	VOTE	RESULT
Hilleary, Heidi	6 – Adopt	Adopted
PROPOSED DECISION	VOTE	RESULT
Dhaliwal, Tej Pratap Singh	5 – Adopts 1 – Hold for Discussion	Adopt
STIPULATED SETTLEMENT	VOTE	RESULT
McCaffray, Teresa	6 – Adopts	Adopt
Mohiuddin, Harron	6 – Adopts	Adopt
Walker, Katherine	7 – Adopts	Adopt
Henderson, William	6 – Adopts 1 – Hold for Discussion	Adopt
REINSTATEMENT PETITION	VOTE	RESULT
Coghlan, James*	7 – Adopts	Adopt
DECISION AFTER NONADOPTION	VOTE	RESULT
Rahbari -Kharazi, Aidin*	6 – Adopts	Adopt

\*As a reminder, the Coghlan and Rahbari-Kharazi matters were provided to determine whether you had any additional revisions to the Decisions.

## Statistical Report

COMPLAINTS AND CONVICTIONS										
Complaints and Convictions	FY 2017 - 2018					FY 2018 - 2019				
	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Complaints Received	281	238	265	238	1022	235	230	297		762
Convictions Received	20	22	22	15	79	14	28	27		42
Average Days to Intake	3	3	7	12	6	50	56	33		45
Closed at Intake	0	0	0	0	0	1	1	0		2
Pending at intake	0	4	28	20	20	179	105	116		116
<i>Average Days to Intake - Average cycle time from complaint received, to assignment to an investigator.</i>										

UNLICENSED ACTIVITY COMPLAINTS RECEIVED										
Unlicensed Activity Complaints	FY 2017 - 2018					FY 2018 - 2019				
	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Received	34	27	9	24	94	19	8	5		32

DESK INVESTIGATIONS										
	FY 2017 - 2018					FY 2018 - 2019				
Desk Investigation	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Assigned	304	257	263	264	1088	95	340	318		753
Closed	201	268	186	114	769	98	171	105		374
Average Days to Complete	235	178	261	316	247	351	345	232		315
Pending	807	779	851	1002	1002	996	1151	1372		1372
<i>Average Days to Complete Desk Investigations - Average cycle time from complaint receipt to closure</i>										

SWORN INVESTIGATIONS										
	FY 2017 - 2018					FY 2018 - 2019				
Sworn Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Assigned	4	32	19	17	72	6	10	3		19
Closed	15	13	16	11	55	23	17	7		47
Average Days to Complete	490	279	482	345	349	279	400	484		353
Pending	60	77	81	81	81	62	55	50		50
<i>Average Days to Complete Sworn Investigations - Average cycle time from complaint receipt to closure.</i>										

ALL TYPES OF INVESTIGATIONS										
	FY 2017 - 2018					FY 2018 - 2019				
All Types of Investigations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Closed Without Discipline	176	243	155	263	837	83	156	116		355
Cycle Time - No Discipline	261	161	233	333	247	330	369	240		318
All pending cases	867	860	960	1103	1103	1199	1311	1538		1538

CITATIONS										
	FY 2017 - 2018					FY 2018 - 2019				
Citations	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Issued	13	2	2	8	25	0	4	3		7
Avg Days to Complete Cite	703	175	753	755	596	N/A	1081	969		1033
Citations appealed	3	0	0	0	3	0	0	0		0
<i>Average Days to Issue a Citation - Average cycle time from complaint receipt to the effective date of the citation.</i>										

ATTORNEY GENERAL CASES										
	FY 2017 - 2018					FY 2018 - 2019				
Attorney General Cases	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Initiated / Referred to the AG	27	19	15	5	66	10	8	9		27
Pending at the AG	95	100	95	86	86	75	74	68		68
Statement of Issues Filed	11	8	16	8	43	1	1	1		3
Accusations Filed	9	11	5	11	36	8	2	9		19

ATTORNEY GENERAL CASES										
AG Case Action	FY 2017 - 2018					FY 2018 - 2019				
	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Closed Without Discipline	2	2	0	1	5	4	5	1		10
Closed With Discipline*	11	10	9	15	45	12	14	9		35
Probation	7	5	7	11	30	7	9	4		20
Public Letter of Reprimand	0	0	0	0	0	1	2	0		3
Surrender of License	1	3	0	4	8	2	2	3		7
License Revoked	3	1	2	0	6	0	1	1		2
License Denied (SOI)	0	1	0	0	1	2	0	1		3
Average Days to Close	756	553	566	909	696	807	643	239		612

*Average Days to Close a Discipline Case - Average cycle time from complaint receipt to the effective date of disciplinary order.  
\*Closed without discipline relates to cases which have been withdrawn, dismissed, or declined by the AG's office.*

ATTORNEY GENERAL CASES										
AG Case Violation Type	FY 2017 - 2018					FY 2018 - 2019				
	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
Substance Abuse (A)	0	1	0	0	1	2	1	4		7
Unsafe/Unsanitary Cond (E)	0	0	0	0	0	0	0	0		0
Applicant Investigation (I)	2	3	5	6	16	0	8	0		8
Incompetence/Gross Negligence (N)	3	2	2	4	11	0	2	2		4
Unprofessional Conduct (R)	3	1	0	2	6	2	1	0		3
Criminal Conduct/Conv (V)	2	1	2	0	5	0	0	0		0
Discipline by Another State (T)	0	1	0	0	1	1	0	1		2
Unlicensed Activity (U)	1	0	0	1	2	1	0	0		1
Drug Related Offenses (D)	0	1	0	0	1	1	0	2		3
Fraud (F)	0	0	0	2	2	1	1	0		2

PROBATION										
Probation	FY 2017 - 2018					FY 2018 - 2019				
	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD	QTR 1 (Jul - Sep)	QTR 2 (Oct - Dec)	QTR 3 (Jan - Mar)	QTR 4 (Apr - Jun)	YTD
New Probation Cases	11	4	8	8	31	10	8	3		21
Probation Completed	4	7	2	0	13	8	6	6		20
Active Cases	108	106	104	100	100	104	108	106		106
Probationary Licenses	4	1	0	1	6	0	5	2		7
All applicants pending licensure	17	22	18	16	16	22	20	16		16
Tolled	6	7	6	8	8	8	8	10		26
Petition to Revoke	4	9	12	18	18	15	17	19		51