

## MEMORANDUM

<b>DATE</b>	January 29, 2021
<b>TO</b>	Veterinary Medical Board (Board)
<b>FROM</b>	Robert Stephanopoulos. Enforcement Manager
<b>SUBJECT</b>	<b>Agenda Item 18.E. Enforcement Report</b>

### Staff Update

The Enforcement Unit has undergone some substantial changes since the last Board meeting. As previously indicated, the six limited-term analyst positions were posted, and all positions have been filled. These new analysts will be tasked with addressing the large backlog of complaints, which has been steadily increasing since 2016.

The first hire of the six new analyst positions is Amber Kruse, who joins the Board from the California Dental Association, where she was a peer review case manager. Ms. Kruse was previously responsible for gathering and analyzing evidence, coordinating with expert witnesses, and drafting and formalizing final resolutions. Ms. Kruse has already begun to fold her wealth of experience into her new position with the Board.

Ms. Kruse's appointment was quickly followed by the appointment of Daniel Strike, who was already employed at the Department of Consumer Affairs (DCA), where he worked in the executive office. He was involved in legislative/program analysis and served as a special project coordinator. In addition, Mr. Strike was previously on temporary assignment with the Board, where he assisted with the processing of applications to address the licensing backlog.

The next two new hires, Jennifer Tarrant and Melissa Caudillo, were already Board employees. Ms. Tarrant and Ms. Caudillo were in the Licensing Unit, where they processed applications for various license types. In addition, both Ms. Tarrant and Ms. Caudillo have assisted the Enforcement Unit with special projects and have experience communicating directly with applicants regarding criminal history. Unfortunately, their promotions will create vacancies in the Licensing Unit, which the Board is quickly addressing. As a result, Ms. Tarrant and Ms. Caudillo will not make their full transition to the Enforcement Unit until their prior positions have been filled and the newly hired replacements have been trained. Nevertheless, they are attending the daily enforcement meetings to expose themselves to all enforcement discussions.

Ms. Cheryl Douglas is set to start on January 19, 2021. Ms. Douglas was a human resources manager, who dealt with receiving complaints, interviewing witnesses, and drafting disciplinary action. Ms. Douglas has years of experience determining compliance with applicable laws and making recommendations based on her analysis of complaints.

Mr. Christopher Garlington is also slated to start with the Board on January 19, 2021. Mr. Garlington was previously a licensing analyst with the California Department of Social Services, where he inspected facilities, wrote official reports, and assisted in the enforcement of the Health and Safety Code. Prior to this, Mr. Garlington was a detective with the Chicago Police Department, where he collected evidence, interviewed witnesses, and drafted written reports.

This staff augmentation was desperately needed and will be a giant step toward meeting our consumer protection mandate. Training of these new staff members (as well as the veterans) is being performed in both a group and individual setting. A large part of this is our newly implemented round-table meetings. During these meetings, analysts review their oldest five to 10 cases and obtain input from the entire team. This is ideal for new analysts, as they can hear the discussions regarding case planning and decisions using real examples. In addition, this gives new analysts a comfortable place to present their cases to gain valuable perspectives.

Both staff and management have been available to assist these new hires with procedural training and case discussion. Processes are demonstrated using the MS Teams screensharing function; however, most analysts have stated that they learn better by doing and ask simply to jump into their cases and begin investigating. Management continues to have one-on-one meetings with staff to ensure that any questions or concerns that may be too sensitive to address as a group can be discussed in a private setting.

Unfortunately, the marked increase in productivity from our newly hired analysts will not occur for several months. This is due to the learning curve related to training, as well as the staff resources utilized for this purpose. In addition, as indicated above, only two of our six new analysts are working on cases, which pushes our timeframe to utilize a full team out another couple of weeks. Further, since these positions are limited-term, there is a higher risk of losing these incumbents, especially if the positions are not converted into permanent positions. Therefore, a Budget Change Proposal will be drafted in the next few months to make these positions permanent, as it is necessary to keep up with the Board's annual number of complaints received.

The staffing increases above will inevitably create another bottleneck in the enforcement process in the form of management. The number of enforcement analysts will more than double the Board's previous number and will result in a proportional output of work product. As a result, the Board is in the process of filling a limited-term manager position to account for the additional limited-term analysts. This manager will perform the same duties as the current Enforcement manager, and the Enforcement Unit will be split into two teams. This will eliminate the possibility of a manager bottleneck when reviewing case recommendations, responding to personnel issues, and working on assignments from the Board's Executive Officer.

As previously noted in both enforcement and probation reports, the Probation Unit is understaffed when compared to the number of probationers. As a result, the Board is in the process of hiring a limited-term office technician to assist the probation monitor with logging and inputting probation compliance documentation into the BreEZe system, processing of complaints against probationers, and review of high-level compliance.

#### **Office of the Attorney General (AG's Office)**

The Enforcement Unit continues to work hand-in-hand with the AG's Office to ensure timely and appropriate discipline. In addition, the Board's Deputy Attorney General (DAG) liaison, Karen Denvir, has committed to join our enforcement roundtable meeting on an as-needed basis. Her presence will allow staff members to get a DAG's perspective on cases, communicate best practices, and hear about AG's Office updates.

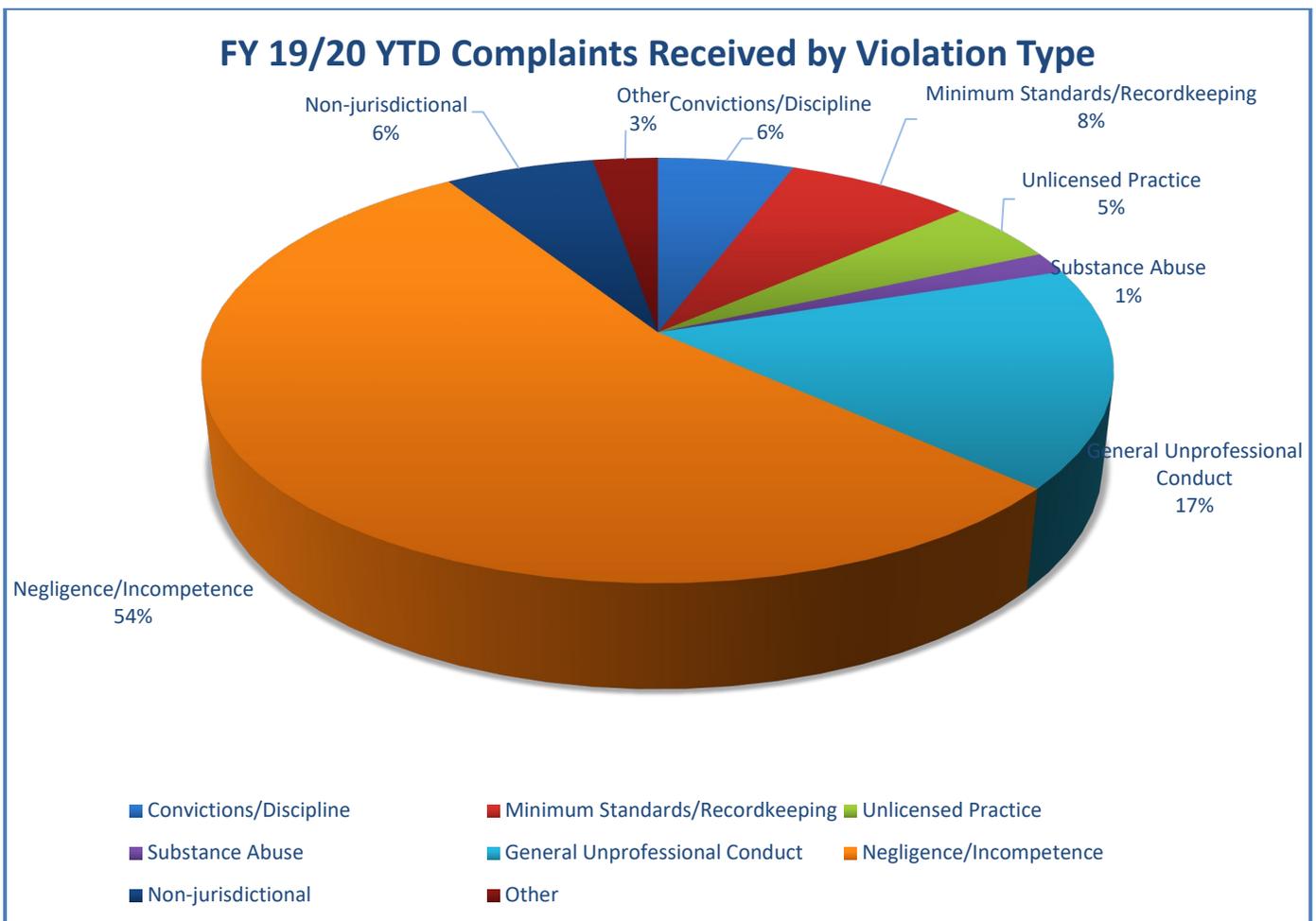
As revealed by the AG's Office's Annual [Report](#), cycle times for the filing of an accusation average about six months. Although this timeframe has improved over the previous two years by around 14% per year, staff is looking at ways to improve this metric. In response, management has reached out to our DAG liaison and the Senior Assistant Attorney General, Carl Sonne, to investigate any additional methods to expedite these pleadings.

Disciplinary case cycle times continue to rise, consistent with the Board’s focus on investigating our oldest cases. As demonstrated in the performance measures below, Fiscal Year (FY) 2020/21 discipline has predictably risen over the prior two fiscal years. The additional staff will continue to work the oldest cases, which are typically more complex and tougher to investigate due to the age of the complaint, resulting in this continued trend of higher cycle times until the backlog is resolved.

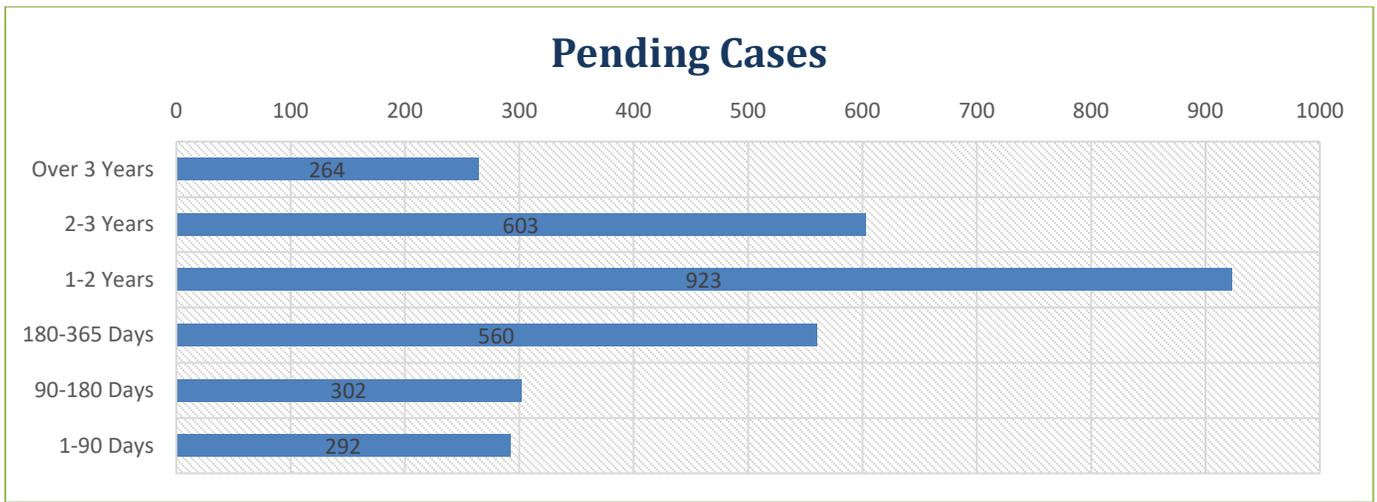
**Intake**

The Intake Unit has been doing a wonderful job of timely acknowledging and assigning complaints. There is no backlog of complaints to be processed, other than the amount received on a daily basis or over a weekend. In addition, intake is meeting its target performance cycle time of 10 days (currently averaging nine days). Moreover, it appears that the upward trend of complaints submitted to the Board continues, and this fiscal year is projected to report the highest number of complaints received.

Once again, at 54%, negligence/incompetence allegations continue to be the lion’s share of the complaints submitted to the Board. This makes triaging complaints difficult, as the majority of complainants allege that the death or serious harm to their pet was due to the negligence and/or incompetence of the treating veterinarian; those complaints must be prioritized pursuant to Business and Professions Code (BPC) section [4875.1](#).



## **Investigation**



The number of pending investigations is hovering around 3,000, with around 10% of these over three years old. As previously mentioned, enforcement analysts have been directed to investigate cases based on age; however, due to lack of resources, enforcement has been unable to keep the overwhelming complaints at bay. With the additional staff, the number of cases in the “over 3 years” category above should begin to drop and, hopefully, be eliminated as quickly as possible.

### **Division of Investigation (DOI)**

DOI continues to be utilized only when necessary. This would include undercover operations, cases which require witness statements, and investigations where safety is a concern. Consequently, DOI services have only been requested four times this fiscal year and there are currently eight pending DOI investigations. Further, the team has done a great job of communicating with DOI, resulting in the lowest investigation cycle times over the prior two years.

### **Expert Witness Program**

In September, the Complaint Process Audit Subcommittee of the Multidisciplinary Advisory Committee (MDC) reviewed eight final decisions involving expert witnesses to ensure the related expert report was consistent with the expert witness guidelines. The results of this audit can be reviewed in the meeting materials for Item 8 of the January 27, 2021 MDC meeting.

### **Strategic Plan Accomplishments for FY 2020/21**

#### **Obtain Additional Staff (Strategic Plan Objectives 1.1)**

As mentioned above, the six analyst positions requested in the Board’s Budget Change Proposal have been filled. These analysts will be tasked with reducing the backlog of complaints, which will shorten overall cycle times.

#### **Complaint Process Mapping (Strategic Plan Objectives 1.1)**

The Enforcement Unit staff continues to work with the DCA Organizational Improvement Office to map out the Board’s current procedures related to each aspect of enforcement. In addition, newly hired staff attends these meetings to get a sense of the existing processes. These process maps will directly contribute to streamlining the enforcement process, improving staff training, developing procedure manuals, and increasing enforcement efficiency.

Collaboration (Strategic Plan Objective 1.1)

As mentioned above, the Enforcement Unit continues constant communication with DOI and the AG's Office to ensure high-quality consumer protection. In addition, staff has collaborated with various agencies, such as local district attorney offices and police departments, the federal Drug Enforcement Administration, and the California Horse Racing Board.

Website Update (Strategic Plan Objective 1.3)

The Board's website has been updated to include a new web page for Public Access to Disciplinary Actions and Citations, which will provide a list by year, beginning with 2020, of all citations and disciplinary actions. The link to each year will list each citation and disciplinary action, a short summary of each individual action, and a link to the citation or disciplinary action. At this time, all 2020 Board disciplinary actions, including citations for unlicensed practice, have been loaded to the web page. By providing access to disciplinary action and citation information on the Board's website, consumers will have greater access to information, which will greatly contribute to consumer protection.

Complaint Priority (Strategic Plan Objective 1.4)

Complaints continue to be prioritized in accordance with BPC section [4875.1](#) and are investigated based on the age of these high-priority complaints. As mentioned above, the number of complaints at intake remains at a manageable level for the two intake technicians.

**Disciplinary Action Vote Results**

<b>STIPULATED SETTLEMENT</b>	<b>VOTE</b>	<b>RESULT</b>
Baljit Grewal, DVM (Case No. 4602017000189)	8 – Adopt	Adopt
David Przekop, DVM (Case No. 4602017000388)	7 – Adopt 1 – Hold for Discussion	Adopt
Lisa Devincenzi, RVT (Case No. 4602016000321)	5 – Adopt 3 – Hold for Discussion	Hold for Discussion
<b>PROPOSED DECISION</b>	<b>VOTE</b>	<b>RESULT</b>
Christine Gentry, DVM (Case No. 4602019000012)	8 – Adopt	Adopt

**Petition Hearings**

<b>PETITION FOR REINSTATEMENT / TERMINATION OF PROBATION*</b>	<b>VOTE</b>	<b>RESULT</b>
Elaine Gawlik, DVM (Case No. D1 2011 35)	6 – Approve 1 – Abstain 1 - Recuse	Approved
Amy Louise Frazee, DVM (Case No. 4602018000540)	6 – Approve 1 – Abstain 1 - Recuse	Approved

*\*As a reminder, these matters were provided to ensure they accurately reflected the Board's decision.*

## Performance Measures

COMPLAINTS AND CONVICTIONS									
	FY 2018/19	FY 2019/20	FY 2020/21						
Complaints and Convictions	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Complaints Received	1215	1139	112	132	102	142	90	101	679
Convictions Received	123	166	6	13	14	18	6	11	68
Average Days to Intake	44	10	9	13	10	12	3	5	9
Closed at Intake	2	1	0	0	0	0	1	0	1
Pending at intake	26	6	45	67	21	12	14	9	9
<i>Average Days to Intake - Average cycle time from complaint received, to assignment to an investigator.</i>									
UNLICENSED ACTIVITY COMPLAINTS RECEIVED									
	FY 2018/19	FY 2019/20	FY 2020/21						
Unlicensed Activity Complaints Received	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
	72	60	6	8	3	9	6	3	35
DESK INVESTIGATIONS									
	FY 2018/19	FY 2019/20	FY 2020/21						
Desk Investigation	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Assigned	1133	1332	84	123	161	169	94	119	750
Closed	512	625	28	21	49	73	24	48	243
Average Days to Complete	269	309	272	6	279	182	209	396	242
Pending	1790	2416	2531	2633	2745	2842	2912	2982	2982
<i>Average Days to Complete Desk Investigations - Average cycle time from complaint receipt to closure.</i>									
SWORN INVESTIGATIONS									
	FY 2018/19	FY 2019/20	FY 2020/21						
Sworn Investigations	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Assigned	20	11	0	0	2	1	0	1	4
Closed	60	11	1	1	1	3	2	0	8
Average Days to Complete	378	550	137	50	148	210	182	N/A	166
Pending	40	12	11	10	11	9	7	8	8
<i>Average Days to Complete Sworn Investigations - Average cycle time from complaint receipt to closure.</i>									
ALL TYPES OF INVESTIGATIONS									
	FY 2018/19	FY 2019/20	FY 2020/21						
All Types of Investigations	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Closed Without Discipline	509	639	25	24	50	73	26	43	241
Cycle Time - No Discipline	285	277	233	123	308	188	274	389	256
All pending cases	1779	2434	2587	2710	2777	2863	2933	2999	2999
CITATIONS									
	FY 2018/19	FY 2019/20	FY 2020/21						
Citations	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Issued	13	24	0	0	3	0	0	0	3
Avg Days to Complete Cite	1038	1316	N/A	N/A	1492	N/A	N/A	N/A	1492
Citations appealed	0	1	0	0	0	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 2018/19	FY 2019/20	FY 2020/21						
Attorney General Cases	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Initiated / Referred to the AG	77	34	5	2	1	0	0	1	9
Pending at the AG	114	99	92	86	82	70	69	56	56
Statement of Issues Filed	7	3	0	0	0	0	0	0	0
Accusations Filed	22	16	0	1	0	0	0	0	1
ATTORNEY GENERAL CASES CLOSURES									
	FY 2018/19	FY 2019/20	FY 2020/21						
AG Case Action	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Closed Without Discipline*	5	5	0	2	1	0	0	0	3
Closed With Discipline	53	33	3	4	1	6	0	3	17
Average Days to Close (Discipline)	888	1148	971	1353	1523	1697	0	1399	1242
<i>Average Days to Close a Discipline Case - Average cycle time from complaint receipt to the effective date of disciplinary order.</i>									
<i>*Closed without discipline relates to cases which have been withdrawn, dismissed, or declined by the AG's office.</i>									