



## MEMORANDUM

<b>DATE</b>	July 7, 2021
<b>TO</b>	Veterinary Medical Board (Board)
<b>FROM</b>	Enforcement Managers Robert Stephanopoulos and Matt McKinney
<b>SUBJECT</b>	<b>Agenda Item 16.D. Enforcement Report</b>

### **Staff Update**

Due to the recent changes regarding COVID-19 requirements, each member of the Enforcement Unit has returned to the office three days per week beginning in June. This included the Enforcement managers, allowing easier and more organic training, meetings, and feedback with staff. In addition, the Enforcement Unit was officially broken into two “teams” (one per manager) to permit a more focused group communication. The teams are a mix of both veteran and rookie analysts to gain a well-rounded perspective and access to experience. Each manager is responsible for a subsection of the Enforcement program (Mr. Stephanopoulos is tasked with the expert witness program and Mr. McKinney is responsible for probation).

The addition of an Enforcement manager has permitted management to increase their collaboration and communication with staff. As a result, one-on-one meetings have increased from a monthly to a weekly occurrence. Reception from staff to this increase in individualized attention has been extremely positive, contributing to a customized approach to training.

As mentioned during the prior Board meeting, Kim Phillips-Francis moved from Intake to the Probation Unit, leaving a vacancy in the Intake Unit. After advertising and interviewing for the position, management hired Cheng Vang (in June) to fill Kim’s vacancy. Mr. Vang has been learning the intake process quickly and possesses a knack for communicating with challenging callers.

Unfortunately, one of our six newly hired analysts, Chris Garlington, had to move out of the Sacramento area, preventing him from continuing his work for the Board. We wish him the best of luck and will miss him in Enforcement. Management is in the process of advertising this vacancy and hopes to fill the position by August.

As mentioned in the Administration report, Jacqui French accepted a promotional opportunity, leaving a vacancy at the Board. Since most of that position was devoted to exam development and workshops, that position will be reallocated to Enforcement.

Moreover, the Multidisciplinary Advisory Committee (MDC) will be discussing merging the Inspections Unit back with the Enforcement Unit during the July 21, 2021 MDC meeting. The Inspections and Enforcement managers met with the MDC’s Inspections Subcommittee to discuss the challenges facing both units and their desire to merge the units together as they previously were. Merging the units will minimize the number of people involved in cases and enforcement actions resulting from inspections. The ability to conduct inspections is another tool to ensure compliance, educate licensees, and further investigations. The artificial division of enforcement and inspections staff has created confusion when tracking cases, created problems when pulling data for reports, and caused animosity between different members of the

respective units. The logical step is to bring the three managers and two units together to further the Board's mandate of consumer protection.

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

As shown in the enforcement statistics below, disciplinary case cycle times continue to rise over the prior fiscal year, averaging 1,273 days this fiscal year. As previously discussed, this is consistent with the Board's focus on investigating our oldest cases. Due to the complexity of these cases and the fact that these cases are extremely old, the number of cases ending in discipline has gone down over the prior two fiscal years, with 27 cases ending in disciplinary action.

Board staff continues to work closely with Karen Denvir, the Board's Deputy Attorney General liaison, to have frank discussions on the strengths and weaknesses of a case. This type of input permits the Board to transmit appropriate cases to the AG's Office, preventing the Board from wasting funds on case transmittal and prosecution.

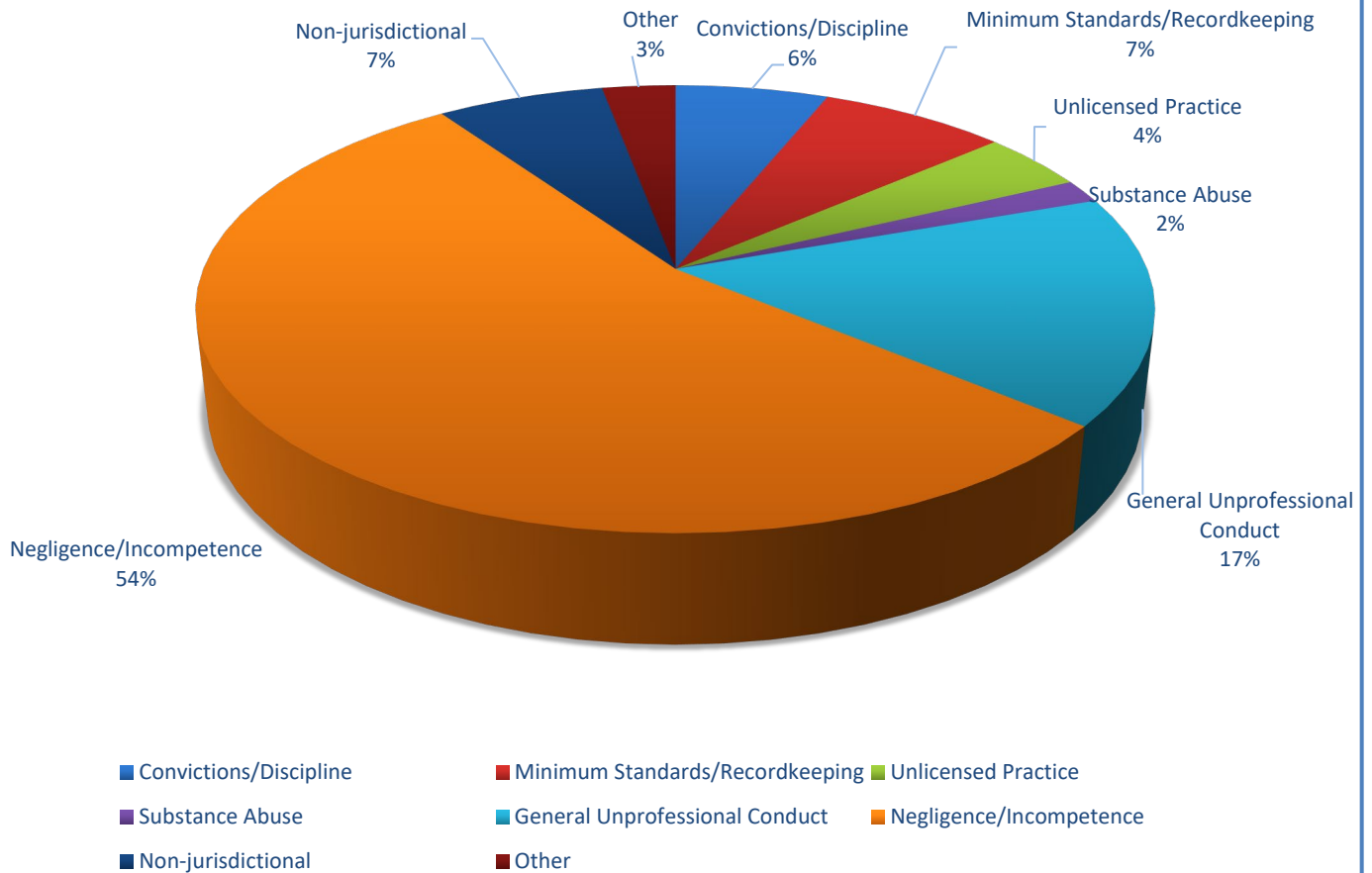
### **Intake**

Due to the staff vacancy in the Intake Unit, as well as the Sunset data project over the prior quarter, the cycle time to acknowledge a complaint rose slightly, averaging 11 days over the fiscal year. This is only one day above the performance target of 10 days, and with the appointment of Mr. Veng, the cycle time will drop below 10 days in the first quarter of FY 2021/2022. The number of pending complaints at intake also rose but fell to normal levels once Mr. Veng was hired and trained.

During FY 2020/2021, the Board received 1,487 complaints and 146 convictions, a 25% increase since the prior fiscal year and a record high for the Board. This further validates the need for additional staff, as this is nearly double the number of complaints received five years ago.

Complaints alleging negligence and/or incompetence remained steady all fiscal year at 54%, which is similar to prior years. As mentioned, this makes triaging complaints difficult, as the majority of complainants must be prioritized pursuant to Business and Professions Code (BPC) section [4875.1](#).

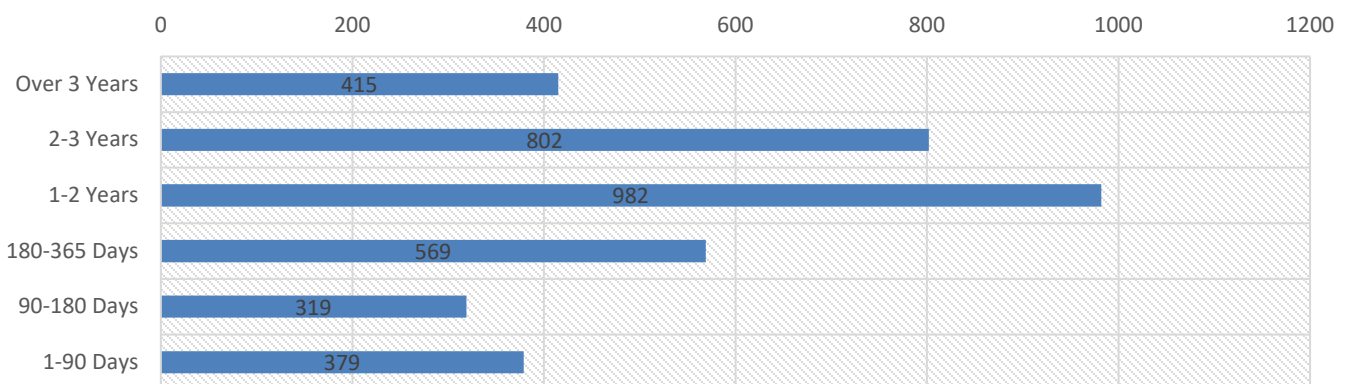
## FY 20/21 YTD Complaints Received by Violation Type



### Investigations

The number of pending investigations is just above 3,500 cases, with around 415 of these over three years old. Unfortunately, as mentioned above, investigating these extremely old, complex cases takes a much longer time, affecting the overall number of cases that can be closed (both reflected in the statistics below). With this in mind, the Board closed fewer cases this year than the prior year (although similar to FY 2018/2019), while the average cycle time increased by 10% (338 days).

### Pending Cases



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

DOI usage remains consistent with the prior fiscal year and is only utilized when absolutely necessary. However, the cycle times for DOI cases have dropped significantly over the prior fiscal year, taking about one-third of the time to complete. This is reflective of the focus on constant communication with DOI and setting clear expectations regarding time frames and tasks. As mentioned, inspections are utilized whenever possible to save the Board both time and money.

### **Expert Witness Program**

As mentioned in the July 2021 MDC Complaint Process Audit Subcommittee (Subcommittee) memorandum, Ms. Denvir is working with the Subcommittee, as well as Board staff, to develop a focused training for our Board experts. This training will cover some of the issues found by the Subcommittee and staff in expert reports. The Subcommittee is also attending the upcoming Medical Board of California's expert witness training, as well as working on creating written scenarios for Board experts to use as part of their training.

### **Strategic Plan Accomplishments for FY 2020/2021**

The objectives below were completed during the prior fiscal year; however, many other objectives are on schedule to be completed during an upcoming fiscal year. For more information, please see the Strategic Plan tracking sheet contained in this Board meeting's materials.

#### **Examine and improve the complaints audit review committee process. (Strategic Plan Objective 1.1.6) - Completed Q3 2020**

The audit process performed by the Complaint Process Audit Subcommittee was examined and improved in several ways last year. This included reviewing all types of cases recently resolved, receiving cases for review via the cloud drive, and submitting the results of those reviews via Survey Monkey. In addition, management now contacts Board experts regarding the findings of the Subcommittee to facilitate improved reports.

#### **Meeting with Enforcement teams from other Boards to identify best practices. (Strategic Plan Objective 1.1.7) - Completed Q2 2021 (ongoing)**

The Board's BreEZe single point of contact (SPOC) is constantly raising tickets and testing BreEZe fixes to increase efficiency. Part of that process is attending the enforcement user group meetings, which places SPOCs from several boards together to discuss improvements suggested and requested to determine if: they can be implemented; what other boards are currently doing; and whether a fix will benefit other boards.

#### **Train Inspection Unit on the citation process. (Strategic Plan Objective 1.2.5) - Completed Q2 2021**

After determining the need, authority, and ability of the Inspection Unit to issue citations, Inspection staff members and management were provided templates and guidance from the Enforcement Unit on the citation process.

#### **Continue to contact alleged unlicensed facilities posing as potential clients to further investigations. (Strategic Plan Objective 1.3.8) – Completed Q1 2021 (ongoing)**

Due to the overuse of DOI, Board staff had refrained from performing simple undercover phone calls to easily further an investigation. Board staff has now begun making calls (when appropriate) to help determine the proper direction of an investigation and potentially substantiate an allegation.

Clarify internal performance measurements for all steps in the investigative process. (Strategic Plan Objective 1.5.3) – Completed Q2 2021

Management met with Board staff after drafting realistic time frames for the noteworthy steps in major processes. This not only served as a roadmap for tasks, but created an expectation for staff to keep in mind. These processes included: expert transmittal; AG transmittal; citation procedure; issuing a Decision; and Board voting.

**Disciplinary Action Vote Results**

<b>DEFAULT DECISION</b>	<b>VOTE</b>	<b>RESULT</b>
Meg Davies, RVT (Case No. 4602017000955)	8 – Adopt	Adopt
<b>STIPULATED SETTLEMENT</b>	<b>VOTE</b>	<b>RESULT</b>
Michael Sterns, DVM (Case No. 4602017001022)	7 – Adopt 1 – Not Adopt	Adopt
Won Seung, DVM (Case No. 4602020000383)	8 – Adopt	Adopt

## Performance Measures

ENFORCEMENT STATISTICS FISCAL YEARS 2018 - 2021															
Veterinary Medical Board															
COMPLAINTS AND CONVICTIONS															
	FY 2018/19	FY 2019/20	FY 2020/21												
Complaints and Convictions	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.	YTD
Complaints Received	1215	1139	112	132	103	142	90	101	117	118	146	128	133	165	1487
Convictions Received	123	166	6	13	14	19	6	11	11	13	13	8	20	12	146
Average Days to Intake	44	10	9	13	10	19	10	5	4	5	8	11	12	14	11
Closed at Intake	2	1	0	0	0	3	1	0	0	0	0	0	0	0	4
Pending at intake	26	6	47	69	24	15	17	12	25	34	72	49	46	18	18
<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.	Jan.	Feb.	Mar.	Apr.	May	Jun.	YTD
	72	60	6	8	3	9	6	4	2	7	6	7	3	7	68
DESK INVESTIGATIONS															
	FY 2018/19	FY 2019/20	FY 2020/21												
Desk Investigation	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.	YTD
Assigned	1133	1332	84	123	162	170	93	117	115	122	120	158	136	183	1583
Closed	512	625	28	22	50	78	27	50	54	33	30	39	80	33	524
Average Days to Complete	269	309	272	8	274	207	257	429	370	358	255	233	496	686	338
Pending	1790	2416	2500	2601	2713	2806	2873	2942	3004	3097	3188	3310	3366	3501	3501
<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.	Jan.	Feb.	Mar.	Apr.	May	Jun.	YTD
Assigned	20	11	0	0	2	1	0	1	1	2	2	1	0	2	12
Closed	60	11	3	1	1	3	2	0	0	0	1	0	0	0	11
Average Days to Complete	378	550	133	50	148	210	182	N/A	N/A	N/A	154	N/A	N/A	N/A	159
Pending	40	12	9	8	9	7	5	6	7	9	10	11	11	13	13
<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.	Jan.	Feb.	Mar.	Apr.	May	Jun.	YTD
Closed Without Discipline	509	639	25	24	50	77	29	43	50	34	32	41	95	55	555
Cycle Time - No Discipline	285	277	228	87	265	206	262	410	305	356	240	316	347	329	290
All pending cases	1779	2434	2556	2678	2746	2828	2895	2960	3036	3140	3270	3370	3423	3532	3532
CITATIONS															
	FY 2018/19	FY 2019/20	FY 2020/21												
Citations	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.	YTD
Issued	13	24	0	0	3	0	0	0	1	1	1	7	2	2	17
Avg Days to Complete Cite	1038	1316	N/A	N/A	1492	N/A	N/A	N/A	1525	1620	1518	1628	1601	1551	1579
Citations appealed	0	1	0	0	0	0	0	0	0	0	0	0	1	1	2
<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.	Jan.	Feb.	Mar.	Apr.	May	Jun.	YTD
Initiated / Referred to the AG	77	34	5	2	1	0	0	2	4	4	3	3	9	5	38
Pending at the AG	114	99	93	85	81	69	68	56	59	61	64	66	52	54	54
Statement of Issues Filed	7	3	0	0	0	0	0	0	0	0	0	0	0	1	1
Accusations Filed	22	16	0	1	0	0	0	0	1	3	1	3	0	1	10
ATTORNEY GENERAL CASES CLOSURES															
	FY 2018/19	FY 2019/20	FY 2020/21												
AG Case Action	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.	YTD
Closed Without Discipline	10	8	0	0	0	0	0	0	0	0	0	1	0	1	2
Closed With Discipline	87	46	10	8	0	14	1	13	1	2	1	0	22	2	74
Average Days to Close (Discipline)	987	929	1048	922	N/A	1052	1547	1407	3090	877	1759	N/A	1396	1493	1253
<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 that did not end in discipline (administrative citation hearings, stipulations for citation, withdrawn cases from the AG's office, PC23, interim suspension orders, petitions for mental exam, etc.)</i>															