



MEMORANDUM

DATE	April 4, 2023
TO	Veterinary Medical Board (Board)
FROM	<u>Enforcement Managers</u> Matt McKinney Patty Rodriguez Robert Stephanopoulos
SUBJECT	Agenda Item 16.C. Enforcement Report

Staff Update

Since its last meeting, the Board hired enforcement analyst, Usa Visuthicho. Ms. Visuthicho spent the last three years working with Contractors State License Board’s investigators on complaint investigation.

One of the Board’s newest enforcement technicians, Minh Nguyen, accepted a promotional position at the Department of Toxic Substances Control in March of 2023. Ms. Nguyen has been a wonderful member of the VMB team and was a huge help in getting complaint assignment timeframes back to their performance targets. We wish her well in her new position. The Board has already posted the vacant position and anticipates filling the position before the July Board meeting.

Inspections

Two new inspectors for the Santa Clara and San Diego areas were recently hired. The inspector for the Orange County area resigned due to professional obligations, and staff is working to recruit a replacement for this area.

A vendor for the mobile inspection app has been selected. DCA’s Office of Information Services (OIS) recently met with the vendor to discuss integration of the application to Breeze, implementation timelines, costs, planning and next steps.

Intake

Due to the efforts of Intake and the hiring of Ms. Nguyen, the Board was able to meet its performance target.

Based on the number of complaints and convictions received so far this year, the Board is projected to receive 1801 complaints, exceeding the prior record year. The Board’s continued process improvements and efficiencies will assist with this increase; however, additional staff will inevitably be needed to keep up with the increasing workload.

Investigations

The Board began FY 2022/23 with nearly 3,900 cases pending, which was exponentially rising year over year. Due to staff efforts, implemented efficiencies, and redirected resources, the Board is currently able to close slightly more complaints than it

receives with existing resources. The Board's pending complaints have decreased to 3,814 complaints since the start of the fiscal year. The Board anticipates recruiting student interns over the summer to assist with technical aspects of the enforcement process.

Since the start of the fiscal year, the Enforcement Unit has closed 1,451 investigations, 27% of which were less than one year old, and 66% percent were less than three years old. The average number of days from receipt of a complaint to the assignment of an analyst decreased 47% compared to last fiscal year. In addition, the average number of days to complete an investigation as also decreased.

Enforcement Process Updates

Complaint Communication Improvement

Currently, when the Board receives a complaint filed against a premises regarding care provided to an animal patient without identifying a veterinarian, the complaint is opened against the Managing Licensee (MGL). If it is determined during an investigation that a different veterinarian provided the care in question, the respondent is changed to the treating veterinarian. When this update occurred previously, the Board did not always communicate this change to the MGL. To improve transparency and communication, the Board now notifies the MGL if they are no longer associated with the complaint. The investigation, however, may still continue.

Consultants and Subject Matter Experts (SME)

As of April 4, 2023, the Board has 646 cases against 356 respondents waiting for a SME review. In late March 2023, the Board's Enforcement Unit transitioned three seasoned SMEs to serve as Board consultants, bringing the total consultants to five. These five consultants will now quickly screen the cases pending review to determine if a full SME review is necessary.

If no violation or only recordkeeping violations are found during the consultant's review, they will write a report to staff describing their findings, which the enforcement analysts will use to either close the complaint or draft a closing educational letter to the Respondent identifying the medical record keeping violations. Conversely, as soon as a consultant determines a standard of care deviation may have occurred or requires a more in-depth review, they will conclude their review of the complaint by informing an enforcement manager that an SME's review is required.

This process improvement has already proved to be a massive help in processing cases, as consultants can typically finalize a review (or several reviews) in a day. Since starting this process mid-March, one of the Board's consultants was able to screen 13 cases within a single week.

Continuous Improvement Team

During the last meeting, the Board's Enforcement Unit introduced its newly implemented Continuous Improvement Team (CIT). The CIT was established to encourage Board staff to identify areas where processes and procedures utilized by the Board can be improved and/or streamlined and work with fellow staff members to implement change. The CIT is comprised entirely of Board staff members in the Enforcement, Licensing,

and Administrative Units. The CIT's mission statement, created by CIT members, is as follows:

The staff-centered Continuous Improvement Team enhances the [Veterinary Medical] Board's organizational effectiveness through identifying and implementing process improvements to better serve stakeholders at all levels.

The CIT is currently co-chaired by Lead Probation Monitor Jeffrey Weiler and Lead Enforcement Analyst Tara Reasoner and held their inaugural meeting on February 13, 2023. Approximately 16 members of the Board's staff have currently elected to participate in the CIT, which includes analysts and technicians.

The CIT's next meeting date is currently pending, and the frequency at which the CIT meets will be somewhat dependent on the projects identified and their level of involvement.

Subject Matter Expert Program

At the end of February, the Board held the first Quarterly Subject Matter Expert (Expert) training event. This event was constructed in an informal format to provide an open forum for Experts to ask general case questions, discuss review procedures, and open a dialogue on clinical care opinions in an organic environment. The training was held via videoconference and attended by most of our contracted Experts, the Board's Deputy Attorney General (DAG) liaison, Karen Denvir, the Complaint Process Audit Subcommittee (Subcommittee), and members of Board staff.

Feedback from Ms. Denvir covered concerns surrounding testifying and what to expect during an administrative hearing and recommendations on components of a review that are extremely helpful to DAGs. This led to an example of definitions used in pleadings as well as the potential for a training on testifying.

In addition, the Subcommittee covered overall impressions of the Expert reports they had reviewed and responded to the comments from the 'real-world' scenario survey sent to Experts at the end of 2022. This led to the group having an in-depth discussion on the 'standard of care,' including what it is, how to establish it, and how different situations may factor into that determination. This also touched on the difference between the 'gold standard' and 'minimum standard', and how this might apply in the construction of a review.

Further, the Board's more seasoned Experts provided tips and input on how to begin reviewing a case, information to look for, and things to avoid. This also led to several of the newer Experts asking and obtaining the contact information of these veteran Experts for guidance.

Some of the other topics covered during this training included:

- How violations involving a subsequent treating veterinarian (not mentioned in the complaint) factor into a complaint review.
- Establishing the severity of departures found during an Expert review.
- Items that should/shouldn't be included in a report.

- Recommended order to review an investigative file (medical records first, then look at the complaint, etc.).
- Examples of “good reports,” according to staff, veteran Experts, and the Attorney General’s Office.
- Suggestions on case assignment, organization, and review (PDF(s), multiple case reviews, payment for grouped cases).
- Requests for staff, DAG, and seasoned Expert feedback on case reviews to improve readability and overall strength.
- Discussion on record keeping violations vs. failure to perform.

The training was tremendously informative to all involved, and feedback from those who attended was extremely positive.

Public Information Update

In 2020, the Board began posting enforcement actions on its website with brief descriptions of the causes for action. Since that time, the individual analysts have been responsible for posting the actions and descriptions to the website.

With multiple analysts drafting these descriptions, the way information was described was not always consistent and differed from one description to another. At the end of 2022, the Enforcement Unit increased consistency by having one technician responsible for writing the descriptions and posting the information to the Board’s website in a timely manner.

Each description is now reviewed by the Board’s Lead Enforcement Analyst before posting to the website. Management will also randomly spot check the information on the Board’s website to ensure the information to consumers is consistent, clear and concise.

Probation

The Probation Monitors are actively investigating 68 pending enforcement complaints against 24 probationers. Currently, there are two Petitions for Early Termination pending with the probation unit. Since the last meeting, the Probation unit has filed two Petitions for Revocation/Accusation.

Since the last update, no new licensees began probation and four completed their probation, leaving 51 total probationers, 13 of which are tolled.

SF SPCA, et al. v. Jessica Sieferman Costs

Board staff continues to monitor the associated costs for the pending federal lawsuit as requested by Board during the July 2021 Board meeting. As of March 1, 2023, total Board expenditures in Attorney General costs are \$32,450.

Disciplinary Action Vote Results

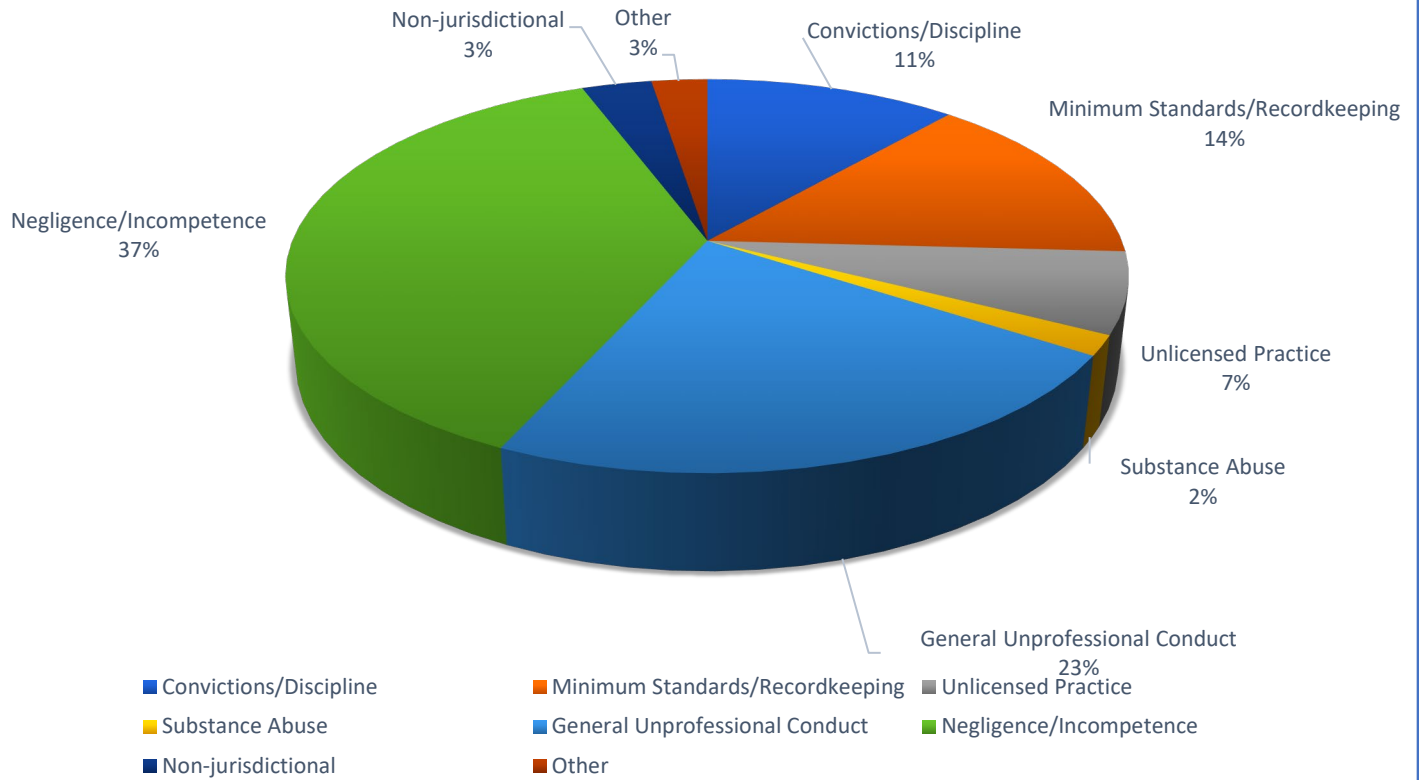
Since the last Board meeting, the Board adopted the following five citation/disciplinary matters:

DEFAULT DECISION	VOTE	RESULT
Charles Winston Volz (Case No. 4602017001055)	7 – Adopt	Adopt
PROPOSED DECISION	VOTE	RESULT
Gabriele Gross (Case No. 4602017000366)	6 – Adopt	Adopt
STIPULATION FOR PROBATIONARY REGISTRATION	VOTE	RESULT
Aisha Moland (Case No. 4602022000841)	7 – Adopt	Adopt
STIPULATED SETTLEMENT	VOTE	RESULT
J. Wade Byrd (Case No. 4602021000373)	6 – Adopt 1 – Hold for Discussion	Adopt
PETITION FOR REINSTATEMENT	VOTE	RESULT
Hong Rak Park, DVM (Case No. 4602023000452)	7 – Adopt	Adopt

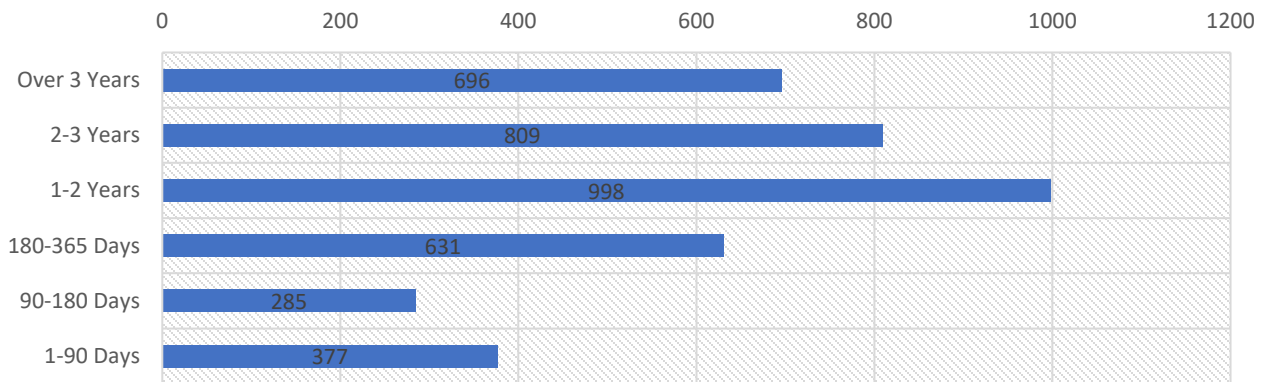
Attachment

1. Enforcement Statistics

FY 22/23 YTD Complaints Received by Violation Type



Pending Cases



Summary of Enforcement Activity												
Enforcement Activity	20/21	21/22	2022/2023									
	YTD	YTD	July	Aug.	Sep.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	YTD
Consumer Complaints – Intake												
Received	1499	1519	144	131	133	144	124	119	125	135	136	1191
Closed Without Referral for Investigation	4	77	3	2	4	13	8	11	10	6	6	63
Referred for Investigation	1485	1448	103	126	134	163	123	106	118	124	131	1128
Pending	29	16	48	51	46	14	7	9	7	11	10	10
Conviction/Arrest Notification Complaints												
Received	146	186	6	20	21	20	8	17	24	18	26	160
Closed Without Referral for Investigation	3	3	0	0	1	1	0	0	0	0	1	3
Referred for Investigation	141	184	3	12	18	31	9	16	25	18	24	156
Pending	2	1	3	11	13	1	0	1	0	0	1	1
Inspections												
Conducted	50	41	9	5	4	6	9	13	16	15	6	83
Citations Issued	0	10	0	0	0	1	2	0	0	2	0	5
Investigations												
Open	1626	1,632	106	138	152	194	132	122	143	142	155	1,284
Closed	560	1,297	132	171	168	181	150	186	141	150	172	1,451
Pending	3545	3,885	3,879	3,847	3,831	3,847	3,830	3,775	3,809	3,812	3,814	3,814
Cases Closed within Timeframe to Complete Intake and Investigations												
Up to 90 Days	339	274	27	32	31	41	27	72	36	27	46	339
91 to 180 Days	29	65	7	7	5	7	6	7	8	7	2	56
181 Days to 1 Year	36	116	14	19	4	7	13	18	12	11	13	111
1 to 2 Years	62	145	18	26	26	22	28	20	33	29	31	233
2 to 3 Years	22	167	18	24	22	36	31	34	16	18	26	225
Over 3 Years	72	530	48	63	80	68	45	35	36	58	54	487
Average Number of Days from Receipt of Complaint to Assignment of Investigator (start of investigation)	9	34	22	22	23	18	14	18	19	18	15	18
Average Number of Days for All Investigation Outcomes (from start investigation to referral for prosecution or case closure without referral for prosecution)	300	763	719	752	835	760	735	528	620	775	690	711
Average Number of Days to from Receipt of Complaint to Referral for Prosecution or Case Closure Without Referral for Prosecution	309	796	740	773	857	777	752	546	627	799	704	729
Citations and Fines												
Issued without a Fine	0	0	0	0	0	0	0	0	0	0	0	0
Issued with a Fine	16	48	1	4	0	4	7	5	0	2	0	23
Withdrawn/Dismissed/Reduced	0	7	1	1	0	1	0	0	0	0	0	3
Average Number of Days to Issue a Citation and Fine (from complaint receipt/inspection conducted to citation issued)	1581	1293	306	1131	N/A	1828	1507	1311	N/A	1684	N/A	1418
Total Amount of Fines												
Assessed	\$38,004	\$203,250	\$5,000	\$17,000	\$0	\$20,000	\$35,000	\$21,500	\$0	\$10,000	\$0	\$108,500
Withdrawn/Dismissed/Reduced	0	\$14,500	\$5,000	\$5,000	\$0	\$5,000	\$0	\$0	\$0	\$0	\$0	\$15,000
Collected	\$21,504	\$129,366	\$13,779	\$8,779	\$9,218	\$2,505	\$5,455	\$10,860	\$27,200	\$3,605	\$6,655	\$88,056
Criminal/Civil Actions												
Referrals for Criminal/Civil Action	2	6	0	0	0	0	0	0	0	0	0	0
Criminal Actions Filed	0	0	0	0	0	0	0	0	0	0	1	1
Civil Actions Filed	0	0	0	0	0	0	0	0	0	0	0	0
Office of the Attorney General/Disciplinary Actions												
Cases Opened/Initiated	40	77	9	30	1	3	22	6	3	8	0	82
Cases Closed	23	11	3	3	2	5	1	4	2	0	5	25
Cases Pending	52	89	94	121	120	119	136	138	139	146	140	140

Number of Days to Complete AG Cases													
Up to 1 Year	1	1	0	0	0	0	0	0	0	0	0	0	0
1 to 2 Years	3	3	0	0	2	1	0	1	0	0	0	0	4
2 to 3 Years	4	0	0	1	0	1	0	0	0	0	0	0	2
Over 3 Years	15	7	3	2	0	3	1	3	2	0	5	12	
Average Number of Days to Impose Discipline	1237	1,189	1,668	1,084	468	1,325	660	1,562	2,054	0	1,162	1,306	
Formal Actions Filed/Withdrawn/Dismissed													
Statement of Issues Filed	1	0	0	0	0	0	0	0	0	0	0	0	0
Accusations Filed	10	22	1	0	0	2	4	3	1	0	2	13	
Restraining/Restriction/Suspension Orders Granted	0	1	0	0	0	0	0	0	0	0	0	0	0
Statement of Issues Withdrawn/Dismissed	1	0	0	0	0	0	0	0	0	0	0	0	0
Accusations Withdrawn/Dismissed	2	2	0	0	0	0	0	0	0	0	0	0	0
Average Number of Days from Closure of Investigation to Imposing Formal Discipline	964	475	225	769	338	513	287	660	456	N/A	1005	603	
Administrative Outcomes/Final Orders													
License Applications Denied	0	0	0	0	0	0	0	0	0	0	0	0	0
Revocation	7	2	1	0	0	0	0	0	0	0	0	0	1
Surrender of License	10	1	1	0	0	0	0	2	1	0	0	0	4
Probation with Suspension	1	0	0	0	0	0	0	0	0	0	0	0	0
Suspension Only	0	0	0	0	0	0	0	0	0	0	0	0	0
Probation Only	8	4	1	1	1	2	0	2	0	0	0	0	7
Public Reprimand/Public Reprimand	0	1	0	0	0	0	0	0	0	0	0	0	0
Other Decisions	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	26	8	3	1	1	2	0	4	1	0	0	0	12
Probation													
Probations Completed	N/A	21	1	2	2	3	2	0	1	2	1	14	
Probationers Pending	N/A	59	57	56	56	54	53	55	54	52	51	51	
Subsequent Discipline													
Probations Revoked	N/A	0	0	0	0	0	0	0	0	0	0	0	0
Probationers License Surrendered	N/A	0	0	0	0	0	0	1	0	0	0	0	1
Additional Probation Only	N/A	1	0	0	0	0	0	0	0	0	0	0	0
Suspension Only Added	N/A	0	0	0	0	0	0	0	0	0	0	0	0
Other Conditions Added Only	N/A	0	0	0	0	0	0	0	0	0	0	0	0
Other Probation Outcome	N/A	0	0	0	0	0	0	0	0	0	0	0	0
Petition for Modification or Termination of Probation													
Granted	4	1	1	0	1	1	0	0	0	0	0	0	3
Denied	2	0	0	0	0	0	0	0	0	0	0	0	0
Petition for Reinstatement of Revoked License/Registration/Certification													
Granted	2	0	0	0	0	0	0	0	0	0	0	0	0
Denied	1	0	1	0	0	0	0	0	0	0	0	0	1
Cost Recovery													
Ordered	\$119,392	\$135,133	\$15,000	\$19,158	\$131,424	\$8,846	\$500	\$94,962	\$0	\$0	\$0	\$0	\$269,890
Collected	\$42,799	\$28,393	\$800	\$800	\$1,150	\$7,851	\$7,417	\$30,649	\$3,125	\$11,779	\$6,590	\$0	\$70,161
Restitution to Consumers/Refunds/Savings													
Restitution Ordered	\$3,880	\$13,251	\$0	\$12,433	\$0	\$6,250	\$0	\$0	\$0	\$0	\$0	\$0	\$18,683
Amount Refunded	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rework at no Charge	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Adjustments/Returns/Exchanges	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings Achieved for Consumers	\$3,880	\$13,251	\$0	\$12,433	\$0	\$6,250	\$0	\$0	\$0	\$0	\$0	\$0	\$18,683