

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: November 3, 2023
ATTENTION: Members, Medical Board of California
SUBJECT: Enforcement Program Summary
STAFF CONTACT: Jenna Jones, Chief of Enforcement

Requested Action:

This report is intended to provide the Members with an update on the Enforcement Program at the Medical Board of California (Board). No action is needed at this time.

General Information:

The passing of SB 815 will allow Enforcement to make several much-needed additions to staff once the budget part of the process is approved. The increase in staff for the new Complaint Liaison Unit and the other positions added to conduct interviews for Quality-of-Care complaints will greatly assist the Enforcement team and the customer service provided to California consumers. We also look forward to improving the working model for the investigation process with HQIU and the Attorney General's Office. We plan to finalize the draft of new collaborative-working-process by early 2024 to enhance the quality of the investigations while reducing timelines.

Expert Reviewer Program:

There are currently 719 active experts in the Board's expert database. The expert program continued to utilize a recently updated report, to streamline the identification and renewal of expiring contracts, which has returned a higher rate of renewals. Expert program staff worked with ISB, to create a new report to streamline searching for and selecting mental and physical evaluators. Expert program continues the one-on-one training process for the recently hired AGPA. Expert program analysts routinely process billing submitted by experts and work with HQIU, EPU and Deputy Attorney General staff to aid with the selection of experts for cases assigned to their units. Expert program staff continued the process to modernize the expert program training platform and content. The procurement for the necessary software updates, critical to the process, is underway. Staff in Expert Reviewer and Medical Consultant Programs continually review applications to ensure applicants meet minimum requirements. Once confirmed, staff in both programs will initiate contracts to utilize the services of the new expert reviewers and medical consultants. Potential dates for the 2024 expert reviewer training sessions are under consideration. Additionally, marketing materials were modified to increase the recruitment of targeted specialties into the expert reviewer and medical consultant programs. Advertisement for the following specialties were in the Board's August 2023 Newsletter:

- Addiction Medicine with added certification in Family or Internal or Psychiatry
- Cardiology
- Clinical Genetics
- Colon/Rectal Surgery
- Dermatology
- Family Medicine
- Gastroenterology
- Hematology
- Interventional Cardiology
- Midwife Reviewer
- Neurological Surgery
- Neurology
- Obstetrics and Gynecology (with added expertise in Gynecologic Oncology)
- Orthopedic Surgery
- Pediatric Endocrinology
- Pathology
- Pain Medicine
- Pediatric Gastroenterology
- Pediatric Surgery
- Pediatric Cardiac Surgery
- Pediatric Critical Care
- Pediatric Pulmonology
- Plastic Surgery
- Psychiatry (Forensic and Addiction)
- Radiation Oncology
- Surgery (General and Endocrine Surgery)
- Thoracic and Cardiac Surgery
- Urology (General and Gender Reassignment)

Central Complaint Unit:

The average number of days to initiate a complaint in the Central Complaint Unit (CCU) is 4 for the first quarter of FY 2023-2024, which is within the timeframe mandated by Business and Professions Code section 129(b). The average days to complete the processing of a complaint in CCU is 128 days. CCU staff and management continue to work diligently to ensure communication with consumers is sent at various milestones throughout the complaint process, review new complaints in a timely manner, send out requests for necessary information in a timely manner, and reduce the overall aging of all complaint types.

CCU currently has two Management Service Technician (MST) vacancies (one full-time and one part-time), one vacant Associate Governmental Program Analyst (AGPA), and one vacant Staff Services Analyst position. Since the August 2023 meeting, CCU filled a vacant AGPA position, the employee reported to CCU in October. The full-time MST

position was readvertised. Management is reviewing applications for the vacant SSA position and working with human resources to schedule and conduct interviews. The part-time MST position is pending job posting. Management is working with human resources to finalize pending hiring clearances for the vacant AGPA position.

CCU management is working with the Board's Information Systems Branch (ISB) on development of the Complaint Tracking System. Management notified ISB of necessary codes for the BreEZe database related to upcoming changes to and implementation of new statutes.

CCU management and staff are working on updating procedures, reviewing, and updating letters sent to consumers, licensees, and other stakeholders.

Discipline Coordination Unit:

The Discipline Coordination Unit (DCU) currently has three vacancies, two Associate Governmental Program Analyst (AGPA) positions and one Management Services Technician (MST) position. The MST position and one AGPA position have been advertised and Management anticipates conducting interviews for both positions in December.

DCU staff and management continue to work to identify and implement needed process improvements and procedure manual updates, while simultaneously ensuring timely processing of disciplinary actions.

Probation Unit:

The Probation Unit currently has two vacant Inspector positions, one in Glendale and one in San Dimas. The position in Glendale resulted from an employee retiring. The position has been advertised and management expects to conduct interviews in December. The position in San Dimas was readvertised and management expects to also conduct interviews for that position in December.

The Fresno vacancy mentioned in the prior Enforcement Summary was redirected to Sacramento and has been filled. The employee reported to work on October 16, 2023, and is currently undergoing training.

During this quarter, six Petitions to Revoke Probation and five Accusations/Petitions to Revoke Probation have been transmitted to the Attorney General's Office. Ten Petitions to Revoke Probation have been filed and two Accusations/Petitions to Revoke Probation have been filed.

Complaint Investigation Office (CIO):

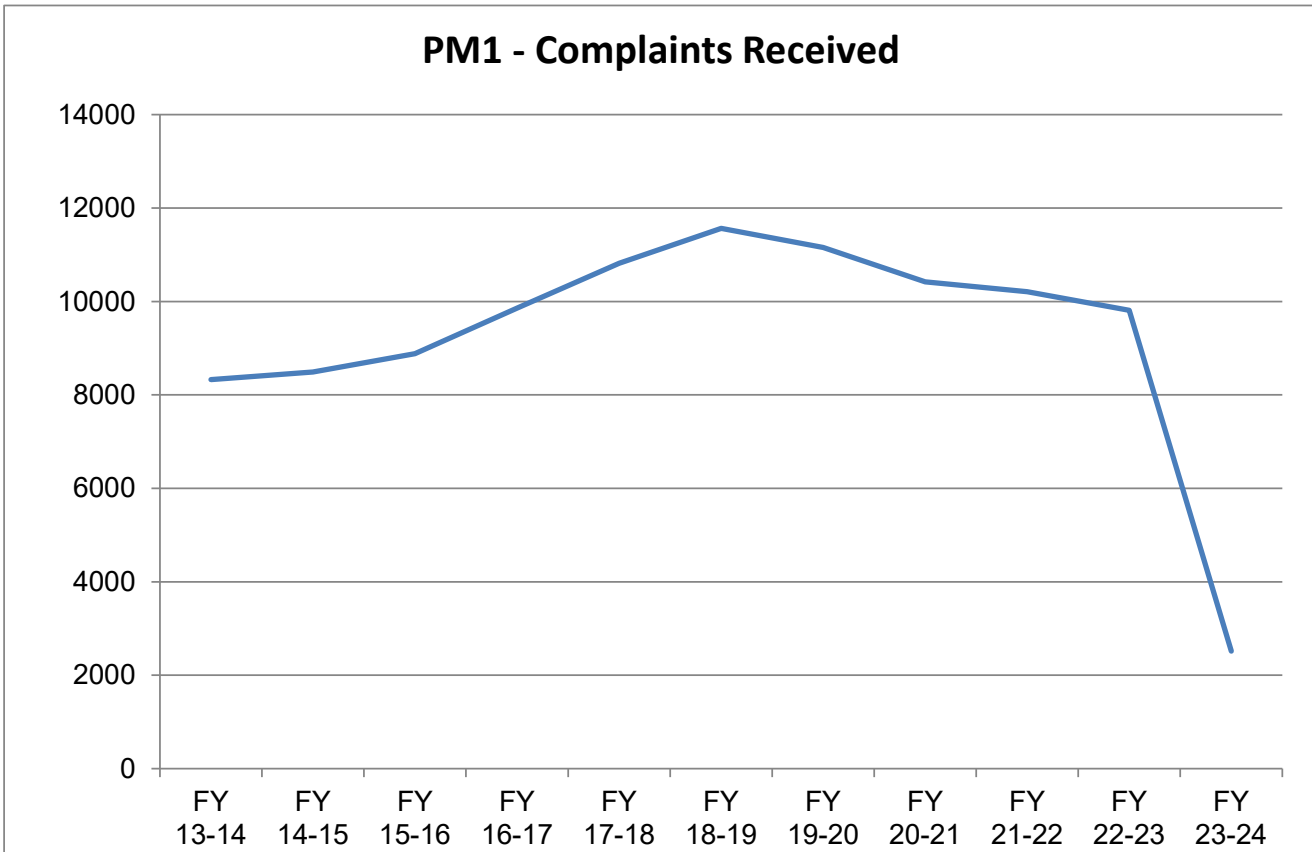
The Complaint Investigation Office (CIO) non-sworn special investigators currently has a unit caseload of 265 cases which breaks down into approximately 41 cases each. In

order to determine the average, we excluded the manager's position and counted one staff member as 1/2 position; resulting in 6.5 total positions.

Since the last enforcement summary, CIO has closed 45 cases and transmitted 25 cases to the Attorney General's Office – 12 criminal conviction cases, 6 malpractice cases, 5 vaccination exemption cases, and 2 out of state discipline cases. Additionally, the CIO referred 2 cases for a PLR.

In addition to their normal workload, they are assisting CCU with subpoenas for medical records.

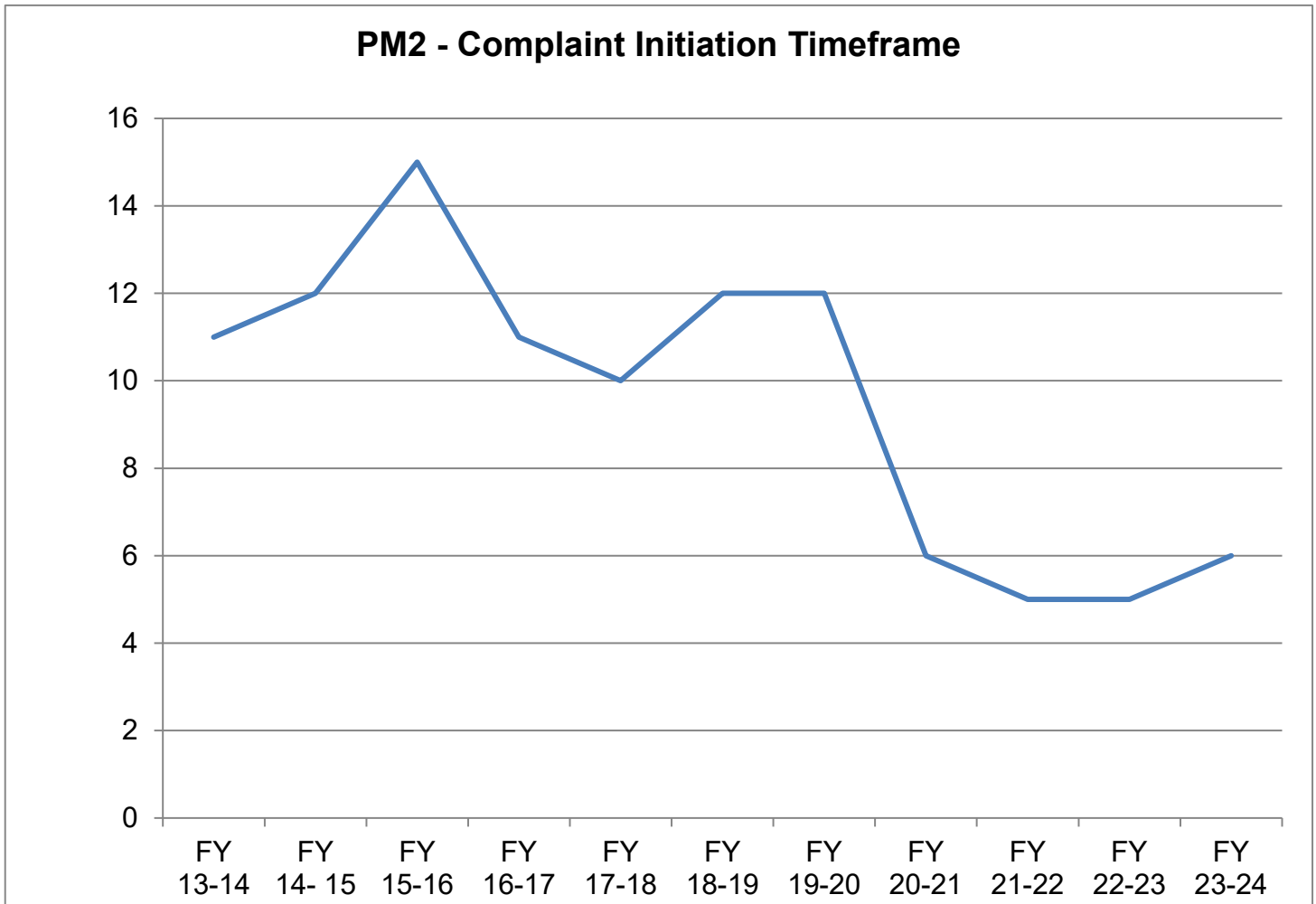
**Medical Board of California Enforcement Program
PM1 - Complaints Received**



Month	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24
Volume	8325	8490	8885	9862	10817	11565	11155	10418	10209	9812	2516

This chart displays the number of complaints received for all license types under the Medical Board (Licensed Midwife, Physician's and Surgeon's, Research Psychoanalyst, Fictitious Name Permit, Special Programs – Individual, Special Programs – Organization, Special Faculty Permit, Polysomnographic, BPC 853 Pilot Program Physician, Postgraduate Training License, and Medical Expert). When reporting Performance Measures data, the inclusion of all license types under the Medical Board is mandated by DCA. FY 22-23 figures are for date range July 1, 2023 through September 30, 2023.

**Medical Board of California Enforcement Program
PM2 - Complaint Initiation Timeframe**

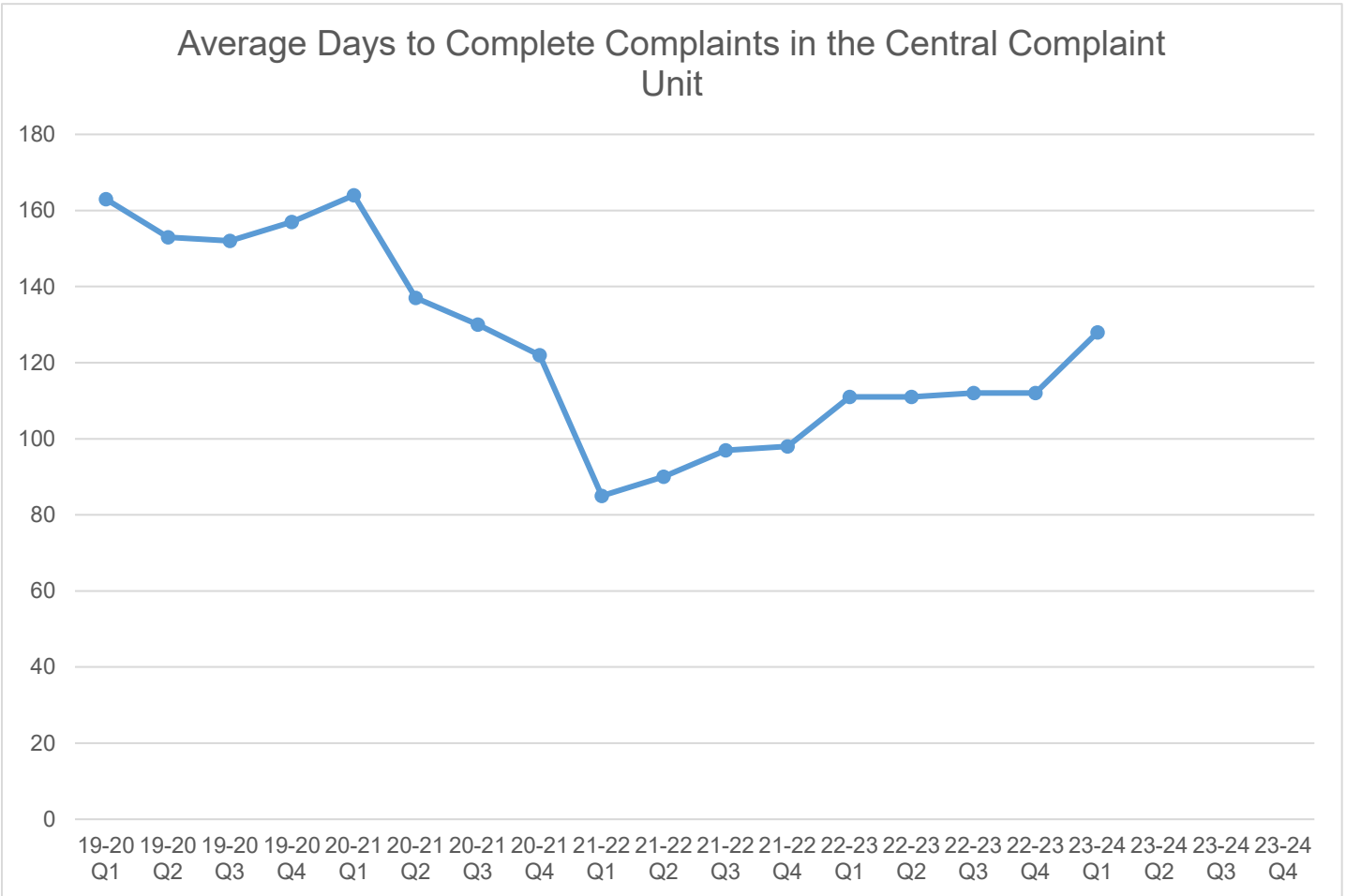


Month	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24
Cycle Time	11	12	15	11	10	12	12	6	5	5	6

This chart displays the average number of days to open/process a complaint received for all license types under the Medical Board (Licensed Midwife, Physician's and Surgeon's, Research Psychoanalyst, Fictitious Name Permit, Special Programs – Individual, Special Programs – Organization, Special Faculty Permit, Polysomnographic, BPC 853 Pilot Program Physician, Postgraduate Training License, and Medical Expert). When reporting Performance Measures data, the inclusion of all license types under the Medical Board is mandated by DCA. FY 22-23 figures are for date range July 1, 2023 through September 30, 2023.

**Medical Board of California Enforcement Program
Average Days to Complete Complaints in the Central Complaint Unit**

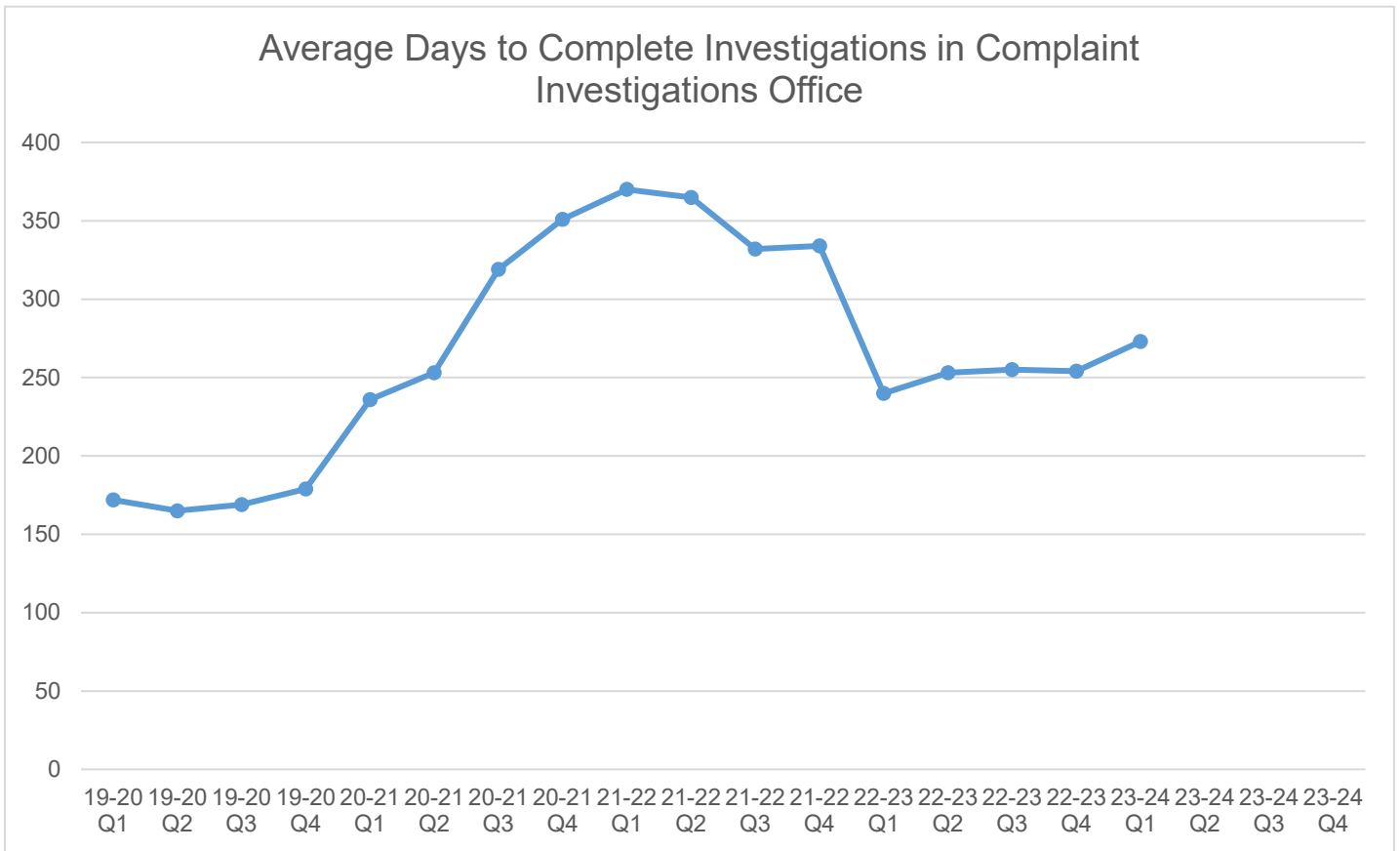
Quarter	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 22-23	Fiscal Year 23-24
Quarter 1	163	164	85	111	128
Quarter 2	153	137	90	111	
Quarter 3	152	130	97	112	
Quarter 4	157	122	98	112	



Average Days to Complete Complaints in Complaint Unit includes complaints resolved by Complaint Unit and Complaint Unit processing days for cases completed at field investigation.

**Medical Board of California Enforcement Program
Average Days to Complete Investigations in Complaint Investigations Office**

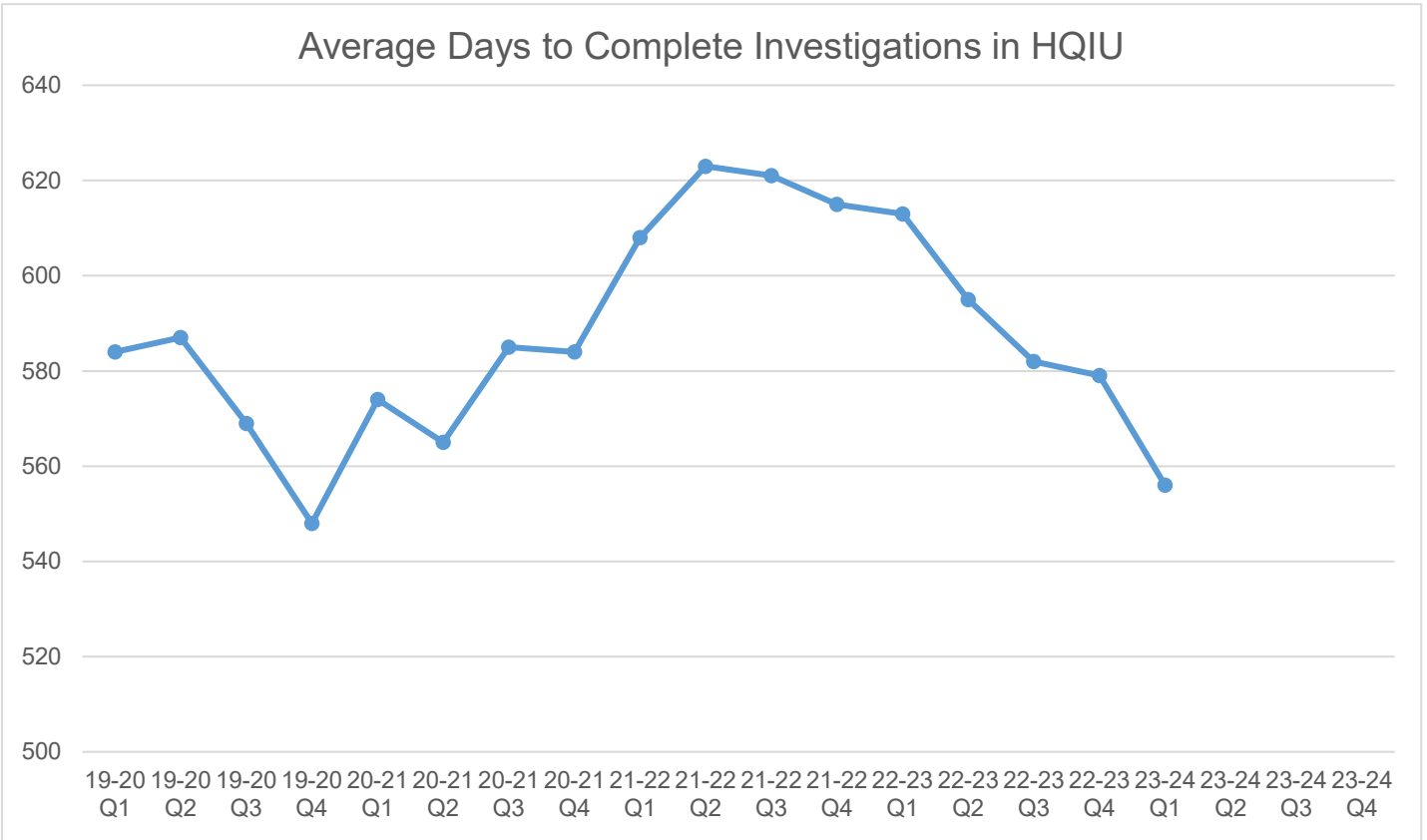
Quarter	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 22-23	Fiscal Year 23-24
Quarter 1	172	236	370	240	273
Quarter 2	165	253	365	253	
Quarter 3	169	319	332	255	
Quarter 4	179	351	334	254	



Investigation processing days are from the date case was assigned to Complaint Investigation Office (CIO) Investigator by Complaint Unit until closure or referral (does not include Complaint Unit processing days for complaints completed at CIO). Includes physician and surgeon data only.

**Medical Board of California Enforcement Program
Average Days to Complete Investigations in HQIU**

Quarter	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 22-23	Fiscal Year 23-24
Quarter 1	584	574	608	613	556
Quarter 2	587	565	623	595	
Quarter 3	569	585	621	582	
Quarter 4	548	584	615	579	



Effective 7/1/18 investigation processing days are from the date the case was referred to HQIU until closure or referral (this does not include Complaint Unit processing days for complaints completed at HQIU). This includes post-investigation processing time by HQIU, and review time by the Attorney General and Board after the investigation is completed, which is an average of 14 days through September 2023. Includes physician and surgeon data only.

California Enforcement Program
Average HQIU Investigation Days by Case Type

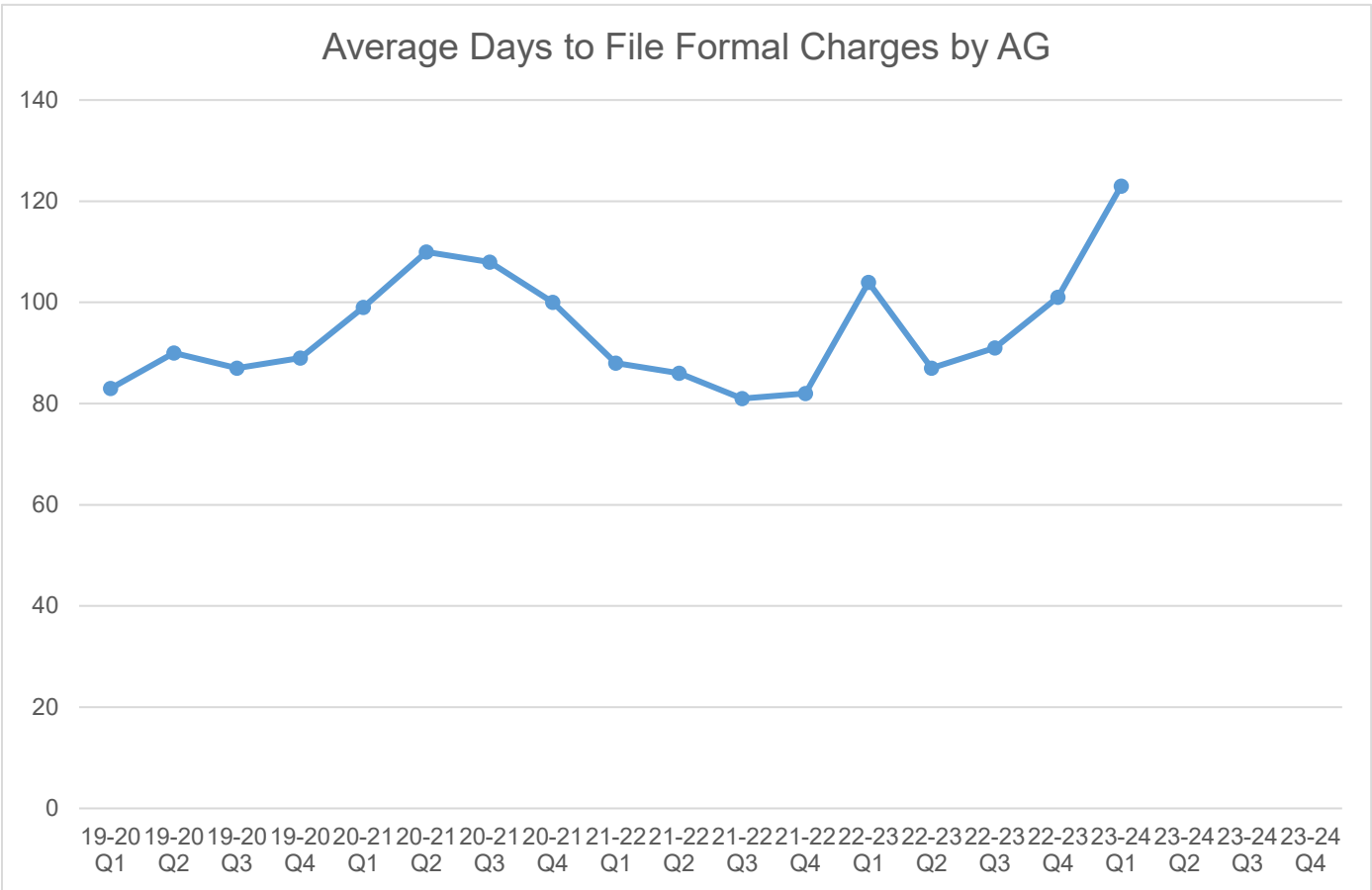
Case Type by Fiscal Year	19-20	20-21	21-22	22-23	23-24
Overall	548	584	615	579	556
Gross Negligence/Incompetence	561	588	632	621	604
Inappropriate Prescribing	665	651	714	634	557
Unlicensed Activity	529	659	636	577	524
Sexual Misconduct	426	460	580	490	522
Mental/Physical Illness	481	476	529	486	310
Self-Abuse of Drugs/Alcohol	417	416	445	469	379
Fraud	469	560	419	418	1,253
Conviction of a Crime	528	444	381	504	400
Unprofessional Conduct	492	483	564	526	580

Effective 7/1/18 investigation processing days are from the date the case was referred to HQIU until closure or referral (this does not include Complaint Unit processing days for complaints completed at HQIU). This includes post-investigation processing time by HQIU, and review time by the Attorney General and Board after the investigation is completed, which is an average of 14 days through September 2023. Includes physician and surgeon data only.

Agenda Item 6B

Medical Board of California Enforcement Program
Average Days to File Administrative Charges Prepared by the
Office of the Attorney General

Quarter	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 22-23	Fiscal Year 23-24
Quarter 1	83	99	88	104	123
Quarter 2	90	110	86	87	
Quarter 3	87	108	81	91	
Quarter 4	89	100	82	101	



Average Days to File Formal Charges are the days from the date the case is referred to the AG's Office until formal charges are filed. Includes physician and surgeon data only.

ENFORCEMENT TIMEFRAMES

Fiscal Year	19-20 Average	19-20 Median	20-21 Average	20-21 Median	21-22 Average	21-22 Median	22-23 Average	22-23 Median	23-24 ¹ Average	23-24 ¹ Median
COMPLAINT PROCESSING	157	111	122	54	98	55	112	63	128	63
INVESTIGATION PROCESSING - MBC - CIO (Complaint Investigation Office)	179	133	351	283	334	251	254	210	273	237
INVESTIGATION PROCESSING - HQIU (Health Quality Investigation Unit)	548	517	584	585	615	633	579	563	556	503
TOTAL MBC & HQIU DAYS	171	127	143	68	176	81	175	97	182	92
TOTAL MBC & HQIU YEARS	0.47	0.35	0.39	0.19	0.48	0.22	0.48	0.27	0.50	0.25
AG PREP - Attorney General Preparation for Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues	89	70	100	72	82	62	101	81	123	101
POST - Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues	369	345	384	351	388	372	487	432	487	417
ACCUSATION DECLINED BY AG	48	29	45	30	57	36	63	38	44	30
TOTAL AG DAYS	374	354	470	447	478	449	577	514	563	503
TOTAL AG YEARS	1.02	0.97	1.29	1.22	1.31	1.23	1.58	1.41	1.54	1.38
TOTAL MBC & AG DAYS	1090	1110	1129	1193	1167	1239	1343	1413	1328	1392
TOTAL MBC & AG YEARS	2.99	3.04	3.09	3.27	3.20	3.39	3.68	3.87	3.64	3.81

Years calculated using 365 days per year

¹ Data through 09/30/2023.

Includes physician and surgeon data only.

Pending Enforcement Caseload Summary¹

Data Current as of October 11, 2023

	0-3 Months	4-6 Months	7-9 Months	10-12 Months	1 Year	2 Years	3 Years	4 Years	Over 4 Years	Total by Group	Previous Quarter Data	Variance	% Variance
Central Complaint Unit	1,298	866	527	258	245	1	0	0	0	3,195	3,128	67	2%
Complaint Investigation Unit	86	59	50	31	30	5	0	0	0	261	248	13	5%
Health Quality Investigation Unit	201	159	184	157	340	100	1	0	0	1,142	1,138	4	0%
Completed Investigations Awaiting Disposition²	49	8	0	0	0	0	0	0	0	57	55	2	4%
Citation and Fine Desk	22	10	6	7	11	7	4	0	0	67	89	-22	-25%
Out-of-State Desk	79	57	59	54	189	18	0	0	0	456	402	54	13%
AG Services³	12	12	10	4	1	0	0	0	0	39	49	-10	-20%
AG-Pre⁴	83	42	37	17	47	12	6	1	0	245	250	-5	-2%
AG-Post⁵	71	44	51	38	98	29	3	1	3	338	327	11	3%
Total by Age	1,901	1,257	924	566	961	172	14	2	3	5,800	5,686	114	2%

¹ Includes physician and surgeon data only.

² Represents the number of completed investigations returned by HQIU to the Board for review and determination of outcome.

³ AG Services includes petitions to compel, subpoena enforcement, and referrals for citation appeals.

⁴ AG-Pre includes cases transmitted to the AG but the Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues is not yet filed.

⁵ AG-Post includes Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues that have been filed.

* Probation Monitoring caseload removed at the request of the Board.

Administrative Outcomes for Physicians and Surgeons by Quarter

Types of Outcomes	FY 23/24				
	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
Administrative Outcomes					
License Revoked	9				9
License Surrendered (in Lieu of Accusation or with Accusation Pending)	19				19
License Placed on Probation with Suspension	0				0
License Placed on Probation	39				39
Probationary License Issued	1				1
Public Reprimand	15				15
Other Action	0				0
Referral and Compliance Actions					
Citation and Administrative Fines Issued	42				42

Types of Outcomes	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Administrative Outcomes					
License Revoked	60	35	49	36	36
License Surrendered (in Lieu of Accusation or with Accusation Pending)	95	96	125	106	89
License Placed on Probation with Suspension	2	4	4	7	4
License Placed on Probation	158	144	132	156	153
Probationary License Issued	22	22	19	14	17
Public Reprimand	135	108	154	118	76
Other Action	0	0	2	1	4
Referral and Compliance Actions					
Citation and Administrative Fines Issued	158	62	51	122	195