

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: February 5, 2024
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 Enforcement Updates:

In anticipation of working on the new collaborative processes with the Health Quality Investigations Unit (HQIU) and the Attorney General's Office (AGO), The Enforcement Program staff are reviewing processes in place, and documenting areas for improvement. Joint meetings are being planned between HQIU, AGO and MBC staff members soon to discuss areas of enforcement activities and jointly draft the new collaborative process.

The Enforcement Program is evaluating the processing of cases at the time of settlement to assure all expenses are accounted for when determining the investigative, expert, and legal expenses incurred, which are the bases for determining cost recovery. The Enforcement Program is working to ensure the investigative costs are properly tracked and documented with the assistance of HQIU.

The AGO recently participated in a training session for the District Medical Consultants who work under HQIU. The topics included effective subject interviews and writing memos to support subpoena actions.

In general, staff telework two days per week. The Enforcement Program is taking steps to transition to a more paperless system in its Central Complaints Unit (CCU) and the Complaint Investigation Office (CIO) to achieve cost savings associated with printing and mailing.

In anticipation of creating the new Complaint Liaison Unit, The Enforcement Program is developing workflow processes and job descriptions for the new staff positions, including staff that will conduct the complainant interviews. In addition, this includes the staffing that will handle the interviews with complainants before matters are closed at the CCU level. They will be a very important part of the enforcement team.

Central Complaint Unit:

The average number of days to initiate a complaint in the Central Complaint Unit (CCU) is six days for the first and second 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 121 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) and one vacant Staff Services Analyst position. The full-time MST position was readvertised, and management reviewed applications for the vacant SSA position and conducted interviews. CCU is awaiting posting of the part-time MST position. CCU management is working with the Board's Human Resources Unit to finalize pending hiring clearances for the full-time MST and SSA positions.

CCU management worked with the Board's Information Systems Branch (ISB) and added new codes in the BreEZe database to implement recent legislative changes. CCU management and staff continue working on updating procedures, reviewing, and updating letters sent to consumers, licensees, and other stakeholders. CCU management worked with the Board's ISB to update information on the Board's website regarding complainant impact statements, the enforcement process (to include information about impact statements), updated template letters to include language regarding the option to provide an impact statement, created a new email address where complainants may send impact statements, and created letters acknowledging receipt of impact statements.

In November 2023, CCU management received data from the California Department of Public Health regarding deaths related to opioids in 2022. CCU management is working with medical consultant staff to review the data as part of the Prescription Reviewer Program.

Expert Reviewer Program:

There are currently 724 active experts in the Board's expert database. The Expert Reviewer program continues to identify expiring contracts and over the last 90 days, sent 37 renewal reminders, which resulted in 21 experts renewing to continue work as active reviewers. Expert Reviewer program staff continue to utilize a recently created report to streamline searching for and selecting mental and physical evaluators by region. The Expert Review Program is still waiting to complete the procurement of software to implement a new online expert training platform. The next expert program training session will be held via Webex on April 13th, 2024. Advertisement for the following specialties were in the Board's January 2024 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)

Complaint Investigation Office

The following findings are for physician and surgeon cases in the second quarter of FY 2023-2024:

As of January 1, 2024, the CIO non-sworn special investigators had a unit caseload of 272 cases, which is approximately 42 cases per investigator excluding the manager position and counting one staff member as 1/2 position; resulting in 6.5 total positions.

Since the last update provided to the Board, CIO has closed 39 cases and transmitted 19 cases to the Attorney General's Office – 8 criminal conviction cases, 9 malpractice cases, 2 vaccination exemption cases, and 1 petition for reinstatement. Additionally, the CIO referred 4 cases for a PLR.

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. Interviews for the MST position were conducted, however, no suitable candidate was identified, therefore, the position will be readvertised. DCU management is reviewing applications for one of the vacant AGPA positions and anticipates conducting interviews in February. The remaining vacant AGPA position is pending job posting.

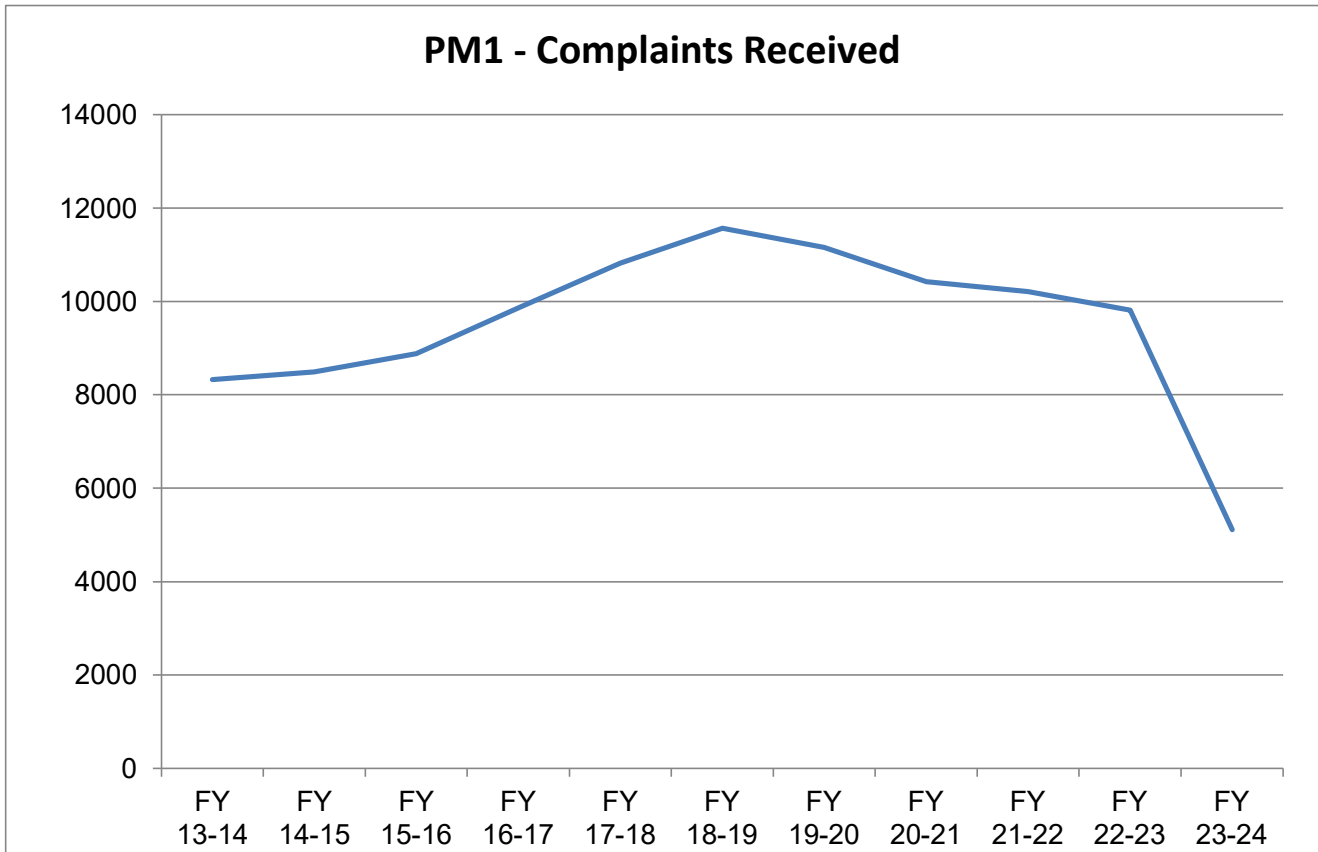
DCU staff and management continue to work to identify and implement needed process improvements and procedure manual updates, while simultaneously ensuring timely processing of disciplinary actions.

Probation Unit:

The Probation Unit currently has three vacant Inspector positions, one in Sacramento, one in Glendale and one in San Dimas. All positions have been advertised. Probation Unit management is currently reviewing applications for the Sacramento position and anticipates scheduling interviews for this position in February. Interviews for the position in Glendale will also be conducted in February. The position in San Dimas remains advertised until filled and management continues to review any applications received and conduct interviews as warranted to identify a suitable candidate.

During the 2nd quarter of FY 2023-2024 three Petitions to Revoke Probation and two Accusations/Petitions to Revoke Probation were transmitted to the Attorney General's Office. Three Petitions to Revoke Probation were filed and one Accusation/Petition to Revoke Probation was filed.

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

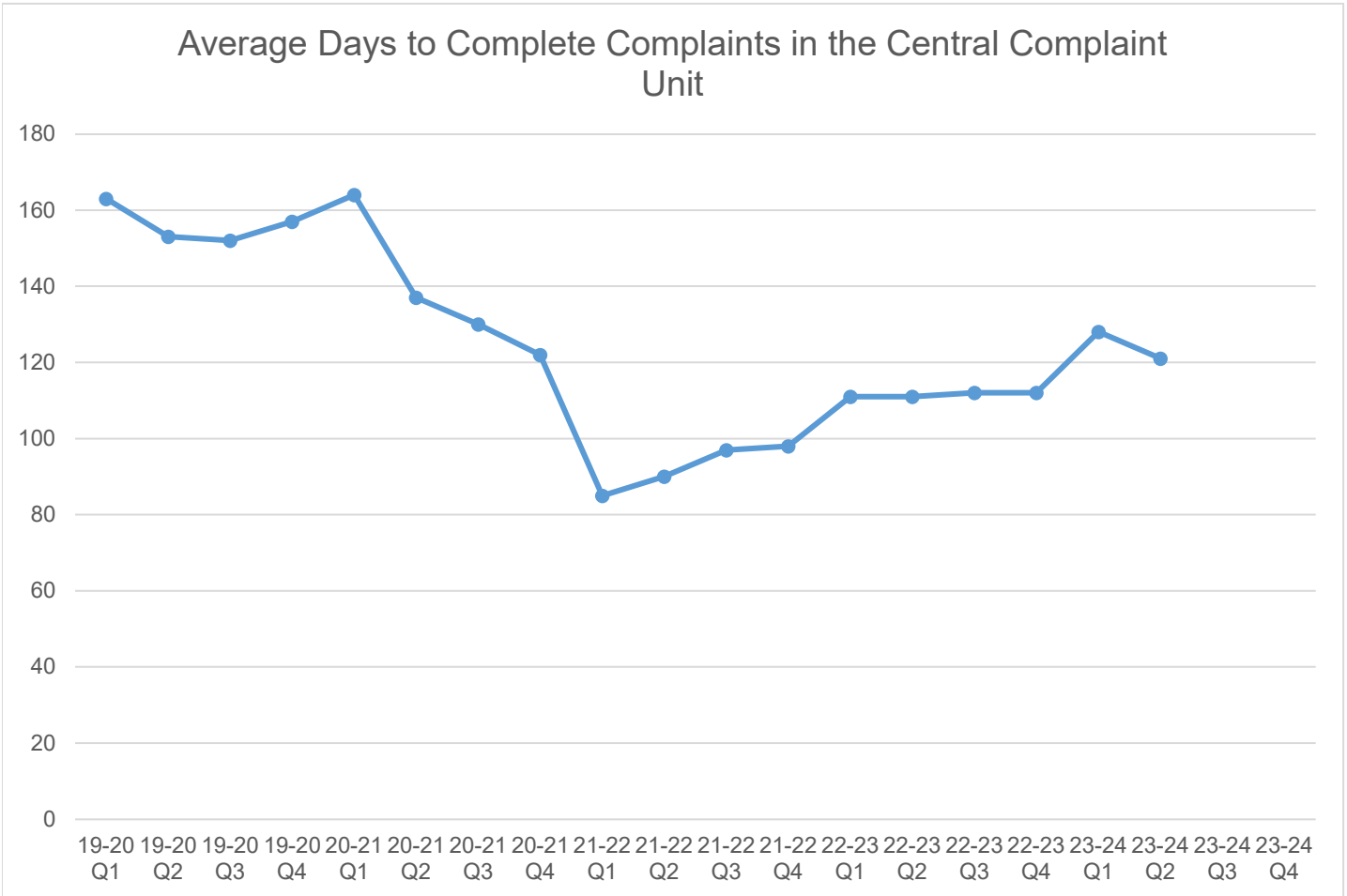


Month	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24
Volume	8325	8490	8885	9862	10817	11565	11155	10418	10209	9812	5110

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 December 31, 2023.

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

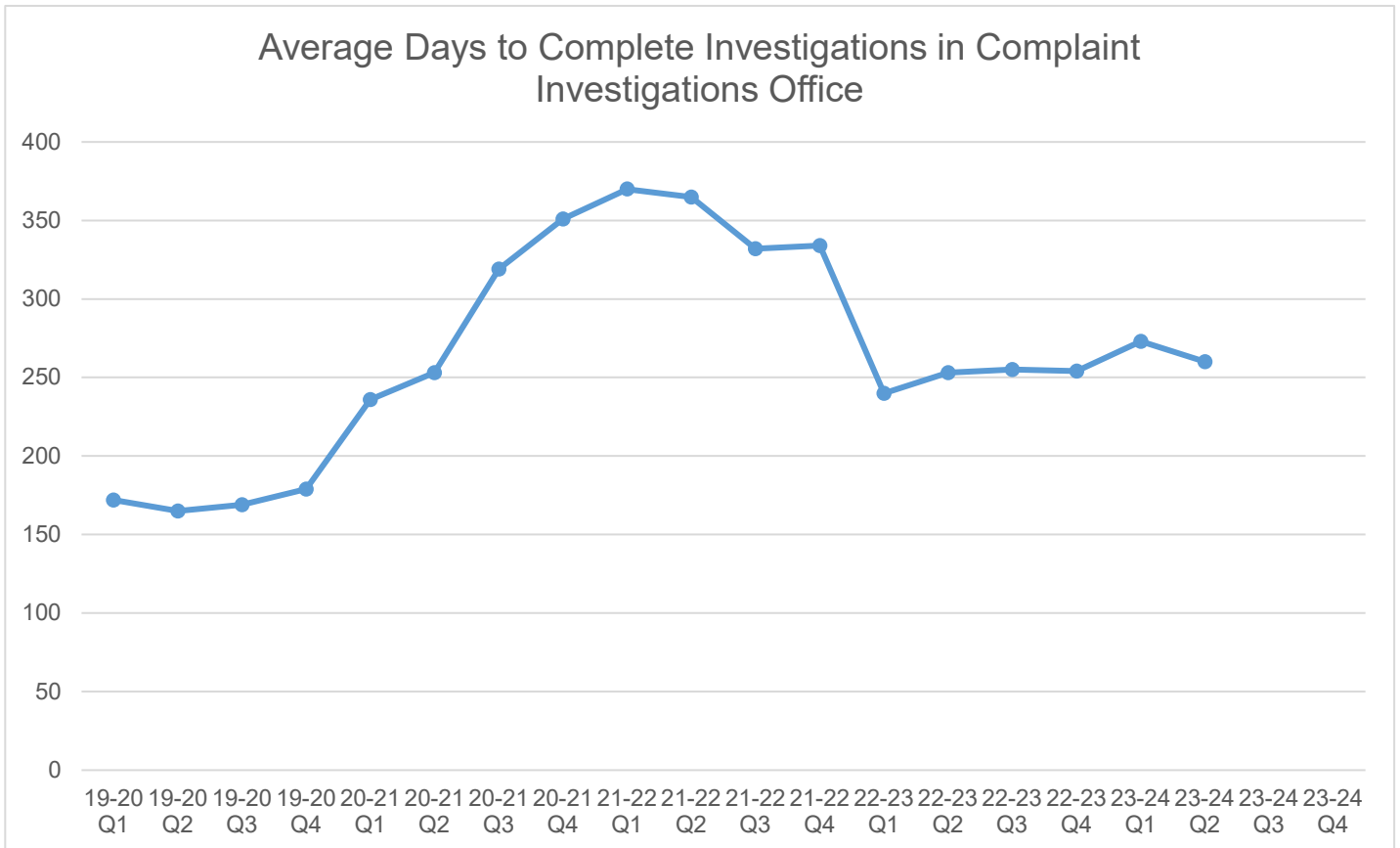
Quarter	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 22-23	Fiscal Year 23-24
Quarter 1	163	164	85	111	128
Quarter 2	153	137	90	111	121
Quarter 3	152	130	97	112	
Quarter 4	157	122	98	112	



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**

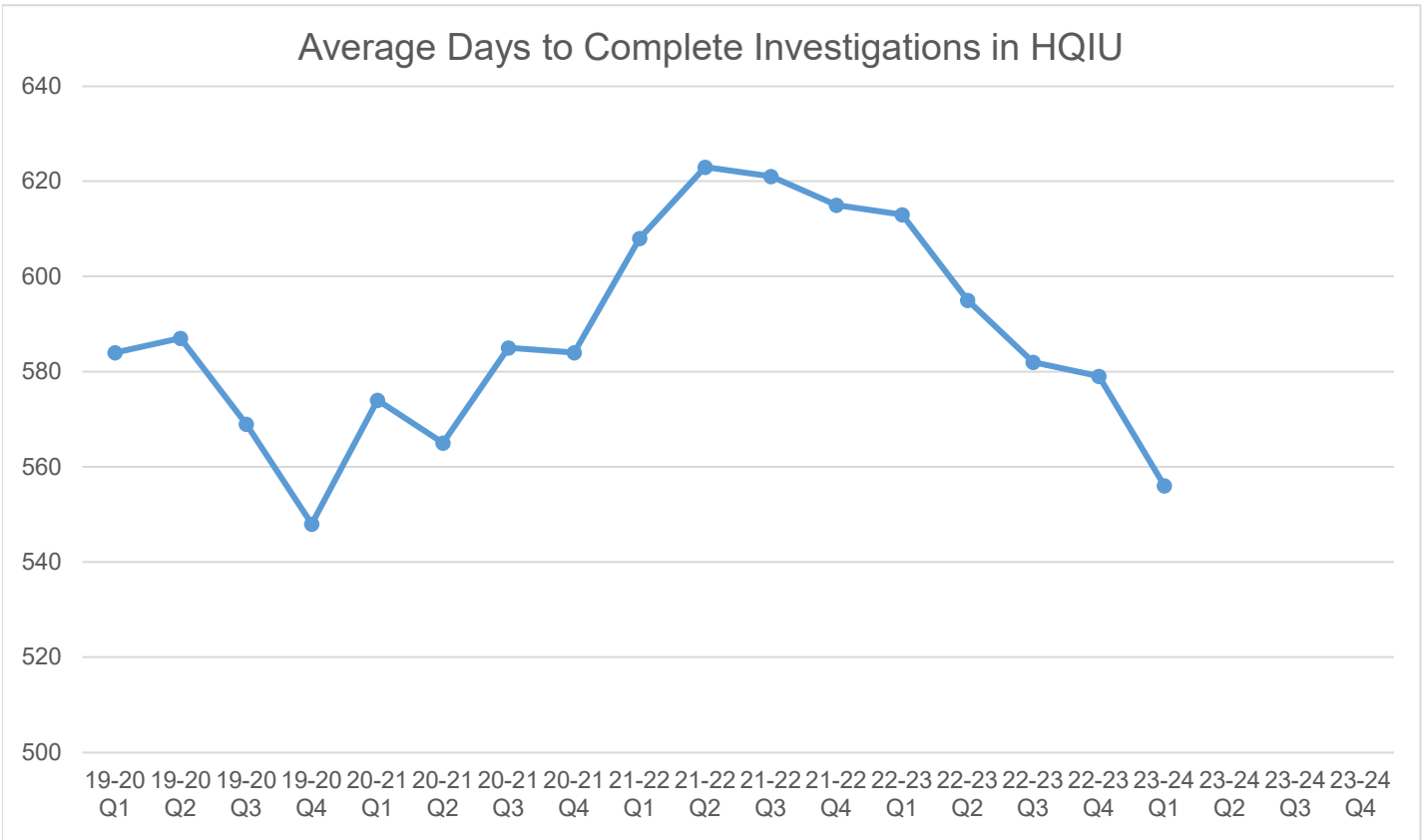
Quarter	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 22-23	Fiscal Year 23-24
Quarter 1	172	236	370	240	273
Quarter 2	165	253	365	253	260
Quarter 3	169	319	332	255	
Quarter 4	179	351	334	254	



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	545
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 16 days through December 2023. Includes physician and surgeon data only.

California Enforcement Program
Average HQIU Investigation Days by Case Type

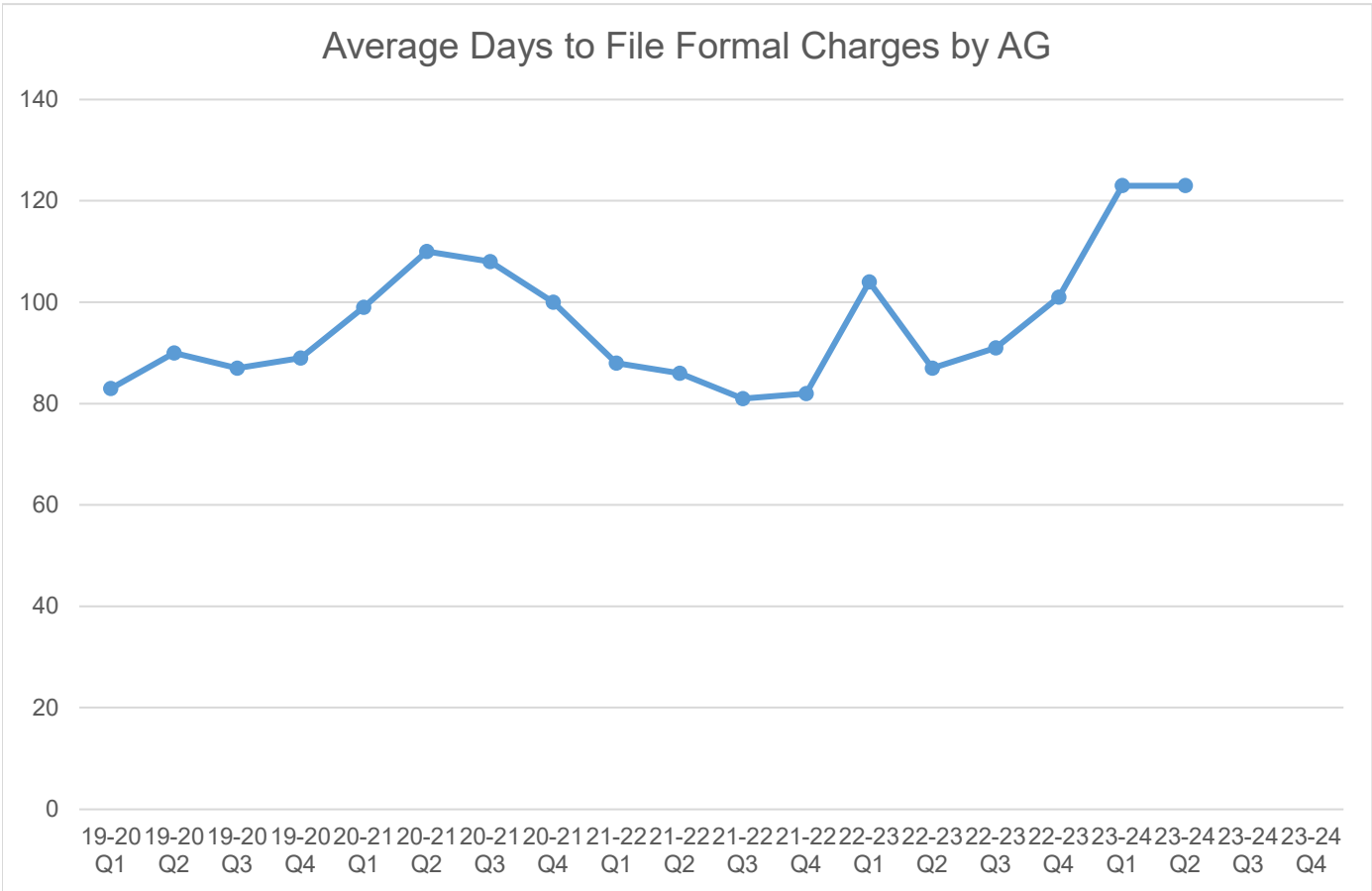
Case Type by Fiscal Year	19-20	20-21	21-22	22-23	23-24
Overall	548	584	615	579	545
Gross Negligence/Incompetence	561	588	632	621	561
Inappropriate Prescribing	665	651	714	634	576
Unlicensed Activity	529	659	636	577	488
Sexual Misconduct	426	460	580	490	504
Mental/Physical Illness	481	476	529	486	452
Self-Abuse of Drugs/Alcohol	417	416	445	469	474
Fraud	469	560	419	418	775
Conviction of a Crime	528	444	381	504	454
Unprofessional Conduct	492	483	564	526	568

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Agenda Item 6C

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	123
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	121	52
INVESTIGATION PROCESSING - MBC - CIO (Complaint Investigation Office)	179	133	351	283	334	251	254	210	260	228
INVESTIGATION PROCESSING - HQIU (Health Quality Investigation Unit)	548	517	584	585	615	633	579	563	545	504
TOTAL MBC & HQIU DAYS	171	127	143	68	176	81	175	97	174	75
TOTAL MBC & HQIU YEARS	0.47	0.35	0.39	0.19	0.48	0.22	0.48	0.27	0.48	0.21
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	473	415
ACCUSATION DECLINED BY AG	48	29	45	30	57	36	63	38	50	34
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	1311	1404
TOTAL MBC & AG YEARS	2.99	3.04	3.09	3.27	3.20	3.39	3.68	3.87	3.59	3.85

Years calculated using 365 days per year

¹ Data through 12/31/2023.

Includes physician and surgeon data only.

Types of Outcomes	FY 23/24				
	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
Administrative Outcomes					
License Revoked	9	8			17
License Surrendered (in Lieu of Accusation or with Accusation Pending)	19	27			46
License Placed on Probation with Suspension	0	0			0
License Placed on Probation	39	35			74
Probationary License Issued	1	3			4
Public Reprimand	15	24			39
Other Action	0	1			1
Referral and Compliance Actions					
Citation and Administrative Fines Issued	42	24			66

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



February 21, 2024

Medical Board of the State of California
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815-5401

RE: **Attorney General's Office Quarterly Update, February, 2024 Board Meeting**

Dear Board Members:

Thank you for the opportunity to provide the Attorney General's Office Quarterly update to you in writing. Of note this quarter, the seventh Attorney General's Annual Report on Accusations Prosecuted for Department of Consumer Affairs Client Agencies was published on January 1, 2024. The report, issued pursuant to Business and Professions Code section 312.2, is available on the Attorney General's website at: <<http://oag.ca.gov/publications>>, as are the prior six reports.

As always, the Health Quality Enforcement Section works collegially and closely with Executive Director Reji Varghese, Deputy Executive Director Marina O'Connor, Chief of Enforcement Jenna Jones, and their staff. We meet frequently with the Office of Administrative Hearings to assist in managing your administrative litigation work. We continue to work with the Department of Consumer Affairs' Health Quality Investigation Unit and your Complaint Investigation Office to litigate your filed Accusations matters.

As always, it is an honor and privilege to serve you. Should you ever have any requests for a presentation or would like to pose specific questions, we are always available to assist you.

Sincerely,

A handwritten signature in black ink, appearing to read "Gloria L. Castro".

GLORIA L. CASTRO
Senior Assistant Attorney General

For ROB BONTA
Attorney General