

## MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: April 30, 2022  
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.

Program update:

The Enforcement Team has been very busy in addressing a number of topics since the last Board meeting. We are working on evaluating and updating intake, investigation and transmittal procedures as a result of the reports and data which are now generated from the investigators' time tracking to comply with the MBC's cost recovery provisions. We have also been very busy in addressing the expert reviewer program.

A positive result of the time tracking is more accurate billing to the allied health boards who also receive investigative services from HQIU. As reflected in our budget reports, MBC pays HQIU for their investigative services up front on an annual basis, then MBC bills each of the other allied health boards (PAB, Osteopath, Psychology, Podiatry) monthly based upon the hours that HQIU reports as work done for the other boards. The monthly figures for HQIU services passed through to the allied health boards has increased three-fold since the time tracking system went into effect January 1, 2022. For example, in the first half of FY 21-22, the average monthly billing to the allied health boards was \$25,000 to \$30,000 per month for a reported 160 to 200 hours per month of conducting investigations for the allied health boards. In January 2022, these billings increased to over 550 hours per month, and in March 2022, the figure was over 650 hours per month. This has increased the Board's monthly recovery of its annual investigative services outlay to HQIU to \$90,000 to \$105,000 per month. This will provide the Board with an additional positive cash flow of \$60,000 to \$75,000 per month or an estimated \$840,000 annually.

The Board continues to receive a significant number of completed investigations from HQIU which are nearing the MBC's statute of limitations. If the investigation recommends that further disciplinary action is warranted, this short timeframe directly impacts the ability of the Attorney General's Office to conduct a thorough evaluation of the evidence and causes for discipline in the case in order to forward MBC a draft accusation for our review and filing. In complex cases or those where there is a need for deputy attorney general legal guidance in the investigation's development, we are asking for the Attorney General's Office to designate the case as a joint investigation wherein a Deputy Attorney General is assigned to assist the HQIU investigator as was

done when the Board utilized Vertical Enforcement. We are also receiving a larger number of requests for legal opinions from HQIU, and more cases being identified to be assigned or designated as joint investigations as previously done under the former Vertical Enforcement model.

At the last Board meeting, members inquired about our process with the expert reviewer program. When an application for a new expert is received, the applicant is strongly encouraged to attend the expert review training course. This is an all day, Saturday training course which we provide through WebEx. This interactive training allows the participants to ask questions of the representatives from HQIU, the Attorney General's office, defense counsel and judge who are providing the training. Our most recent training session was held on April 30, 2022. After the training day, the participants are to provide a sample report for review and feedback. If approved, the expert then becomes eligible for the higher reimbursement rates of \$200 per hour for services. Once an expert has provided reports involving actual cases, it may be necessary to provide additional feedback to the expert on subjects such as formatting. In this case, staff or the medical consultant will reach out to the expert for remediation purposes. In other instances, the Board may receive multiple reports from an expert where concerns are raised about their reports and/or conduct with HQIU or the Attorney General's Office and we may choose to remove them from the active list. If remediation is possible, this will be attempted and they could be added back to the list.

#### Expert Reviewer Program:

There are currently 624 active experts in the Board's expert database. Expert program analysts receive monthly reports of experts with expiring contracts and utilize this information to renew contracts. Expert program analysts routinely process billing submitted by experts and work with HQIU, EPU and Deputy Attorney General staff to aid with selecting an expert for cases assigned to their units. Expert and medical consultant program staff submitted information to the Board's Information Systems Branch to develop an automated contract notification system. In the meantime, expert program staff are sending recruitment letters to professional medical societies and organizations. Expert reviewer training is scheduled to be held via WebEx on April 30th. Expert program staff finalized review of the updated Expert Reviewer Guidelines, which are posted on the Board's website. Expert program and medical consultant program staff created a survey to send to medical consultant and expert reviewers to request feedback on both programs. Staff in the expert program and medical consultant program will review the results of the survey, categorize the findings, and consider areas of improvement needed. Advertisement for the following specialties were in the Board's April 2022 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
- Neurological Surgery
- Neurology
- Obstetrics and Gynecology (with added expertise in Gynecologic Oncology)
- Orthopaedic Surgery
- Pediatric Endocrinology
- Pathology (preferably from: Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, and Ventura Counties)
- 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)
- Vascular Surgery
- Midwife Reviewer

#### Central Complaint Unit:

The average number of days to initiate a complaint in the Central Complaint Unit (CCU) is 5 days for FY 2021-2022, 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 97 days. CCU staff and management continue to work diligently to ensure communication with consumers is sent out 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 part-time and one full-time position, one vacant part-time Associate Governmental Program Analyst (AGPA), three vacant Staff Services Analyst (SSA) positions, and one vacant Staff Services Manager I (SSMI) position. The vacant SSA positions are due to employees transferring to other agencies. The part-time AGPA position was re-advertised. The SSA, MST and SSMI positions were advertised, applications are being reviewed to schedule interviews.

The medical consultant program receives a monthly report of consultants with expiring contracts and utilize this information to renew contracts. Medical consultant program staff continue assigning cases that require specialty review to consultants, follow up on cases checked out to consultants for 30 days or more, and routinely process billing submitted by consultants. Advertisement for the following specialties were in the Board's April 2022 newsletter:

- Cardiac Surgery
- Colon and Rectal Surgery
- Dermatology
- Gynecology
- Interventional Cardiology
- Interventional Radiology
- Neurological Surgery
- Otolaryngology
- Pain Medicine
- Physical Medicine and Rehabilitation
- Plastic Surgery
- Radiation Oncology
- Thoracic Surgery
- Vascular Surgery

#### Complaint Investigation Office

These findings are for physician and surgeon cases for the date range of 1/1/2022 through 3/31/2022.

As of April 1, 2022, the Complaint Investigation Office (CIO) non-sworn special investigators currently has a unit caseload of 174 cases which breaks down into approximately 27 cases each. In order to determine the average, we excluded the manager's position and counted one employee as 1/2 position; resulting in 6.5 total positions.

Since the last enforcement summary, CIO has closed 51 cases and transmitted 17 cases to the Attorney General's Office – 5 criminal conviction cases, 1 malpractice case, 11 vaccination exemption cases, and 6 petitions for reinstatement. Additionally, the CIO referred 2 cases for a PLR.

#### Discipline Coordination Unit:

The Discipline Coordination Unit (DCU) currently has four vacancies, one Staff Services Manager I position, two Associate Governmental Program Analyst (AGPA) positions and one Office Technician (OT) position. All vacancies have been advertised and interviews have been conducted for all positions except one AGPA. A candidate has

been selected to fill one AGPA position and that individual will report to work on May 23, 2022. The SSM I and OT positions were readvertised to increase the candidate pool and management anticipates conducting interviews for both positions in May 2022. Interviews for the remaining AGPA position will also be conducted in May 2022.

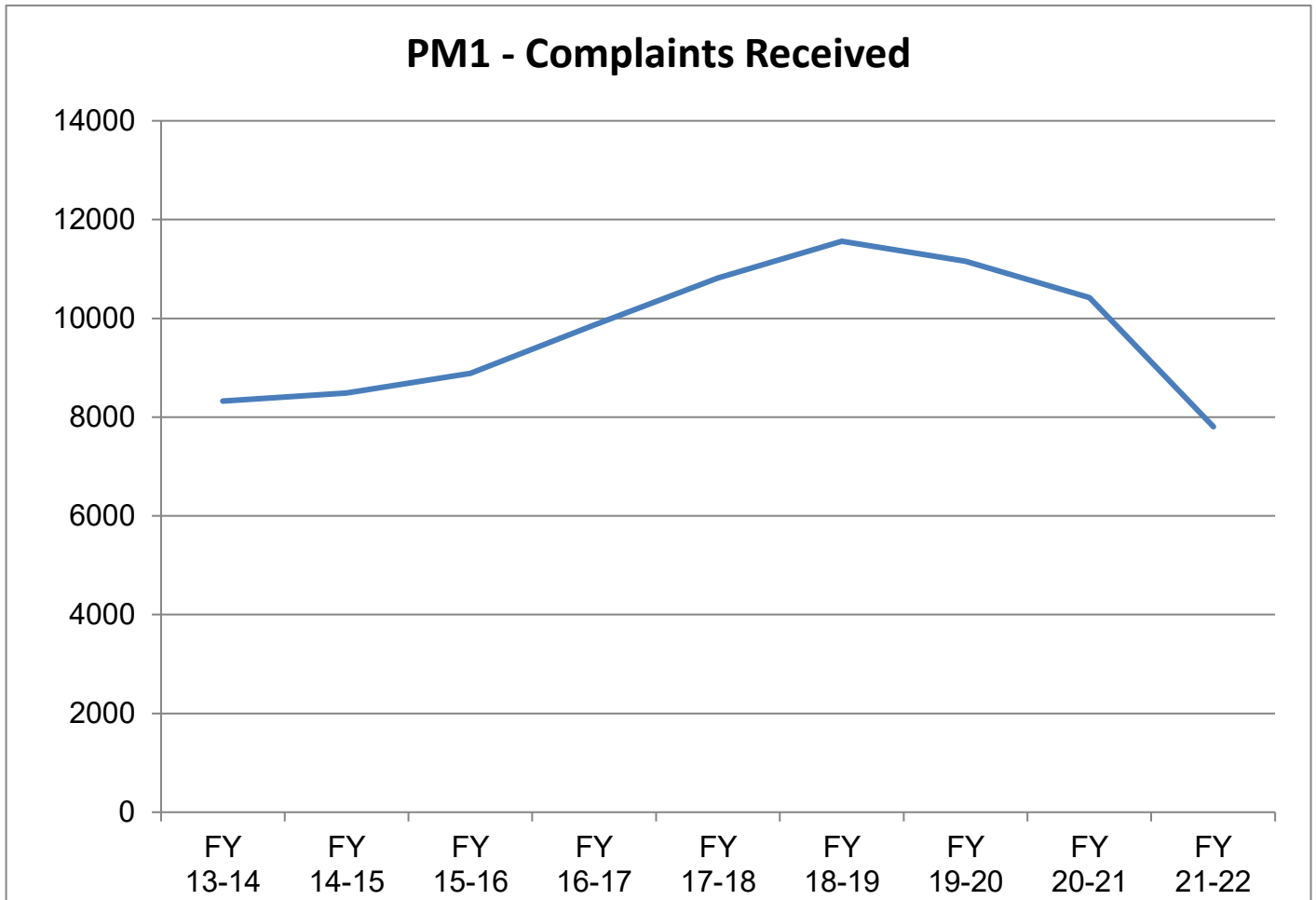
DCU management and staff continue to work on updates to the procedure manual and needed documents, while also working to file administrative actions timely.

Probation Unit:

The Probation Unit currently has two vacant Inspector positions, one in San Dimas and one in Fresno. Both vacancies have been advertised and management anticipates conducting interviews in May 2022. The conditional offer for the vacant position in Cerritos which was reported in the last summary has been finalized and the employee reported to work on April 6, 2022.

During this quarter, nine Petitions to Revoke Probation and three Accusations/Petitions to Revoke Probation have been transmitted to the Attorney General's Office. Five Petitions to Revoke Probation and four Accusations/Petitions to Revoke Probation have been filed.

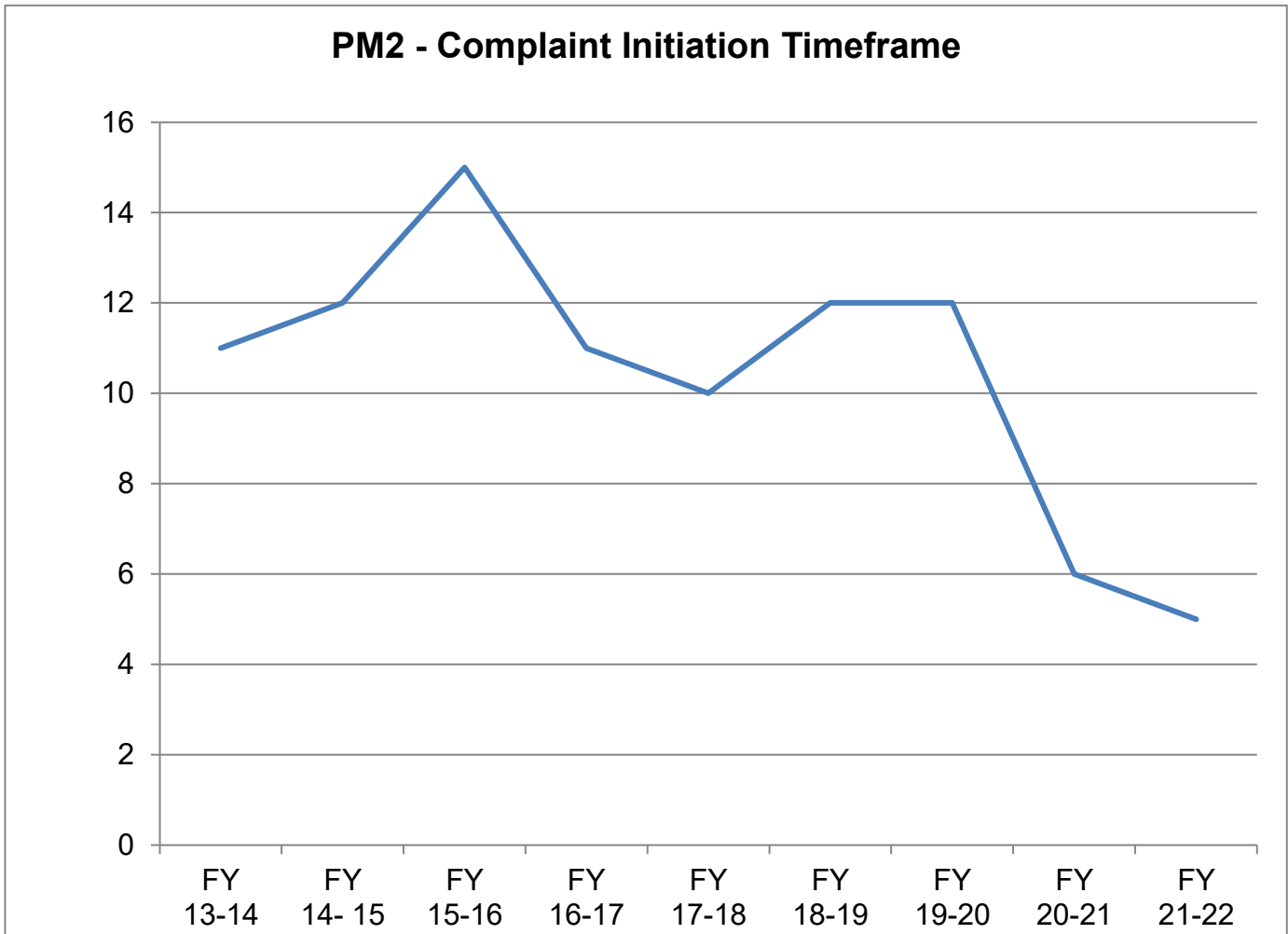
**Medical Board of California Enforcement Program  
PM1 - Complaints Received**



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
<b>Volume</b>	8325	8490	8885	9862	10817	11565	11155	10418	7810

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 21-22 figures are calculated based on reports run January 11, 2022 for date range July 1, 2021 through March 31, 2021.

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

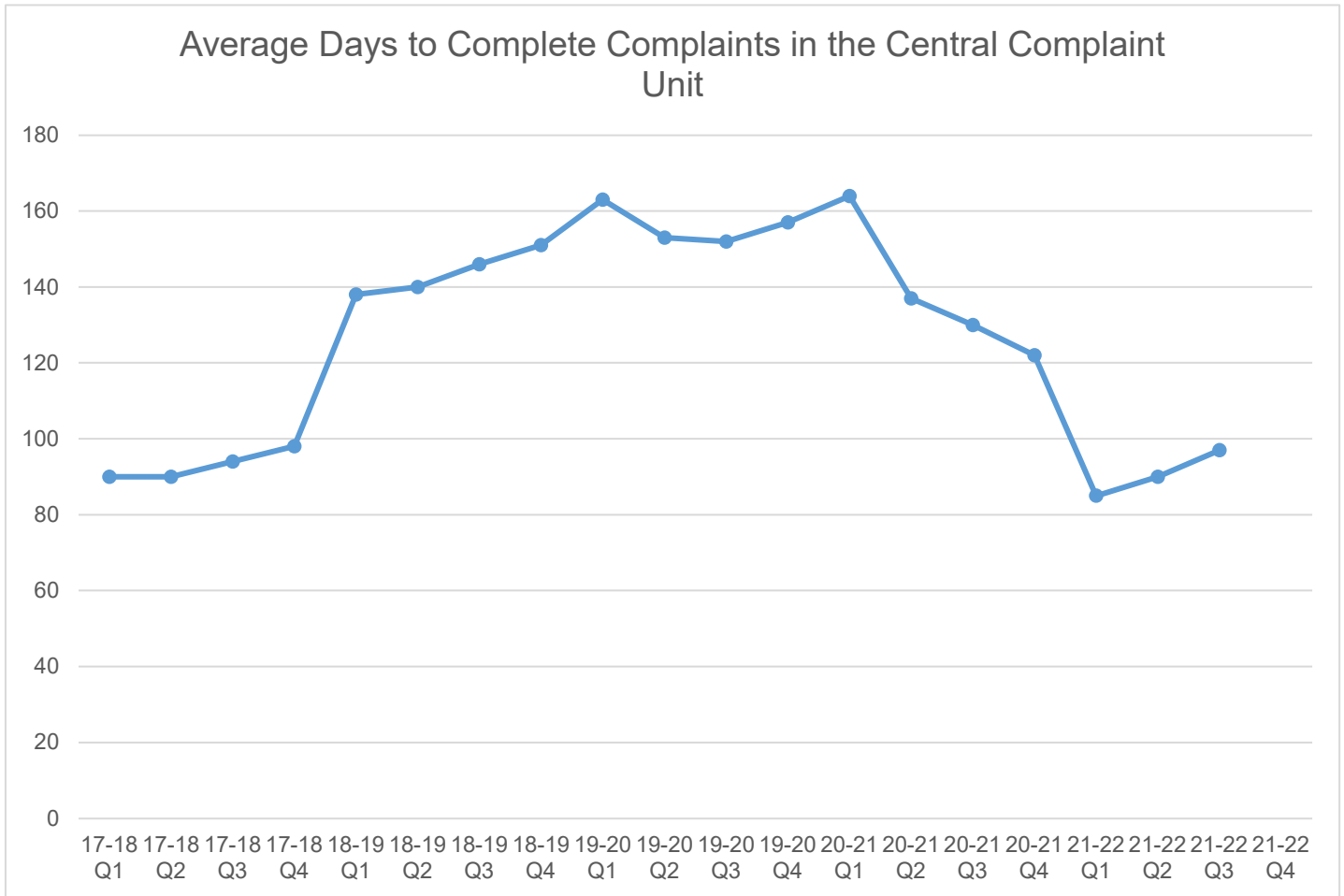


Month	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Cycle Time	11	12	15	11	10	12	12	6	5

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 21-22 figures are calculated based on reports run January 11, 2022 for date range July 1, 2021 through March 31, 2021.

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

<b>Quarter</b>	<b>Fiscal Year 17-18</b>	<b>Fiscal Year 18-19</b>	<b>Fiscal Year 19-20</b>	<b>Fiscal Year 20-21</b>	<b>Fiscal Year 21-22</b>
Quarter 1	90	138	163	164	85
Quarter 2	90	140	153	137	90
Quarter 3	94	146	152	130	97
Quarter 4	98	151	157	122	

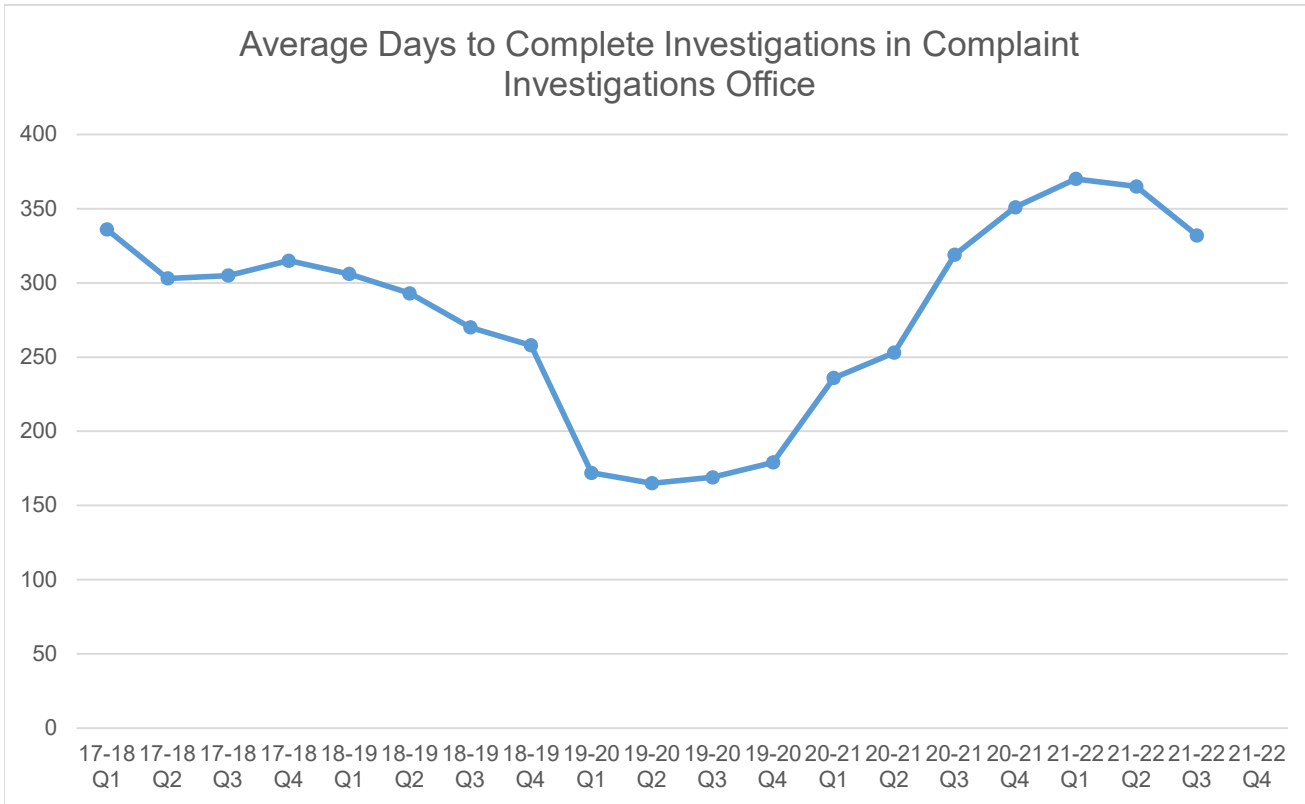


Average Days to Complete Complaints in Complaint Unit includes complaints resolved by Complaint Unit and Complaint Unit processing days for cases completed at field investigation.



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

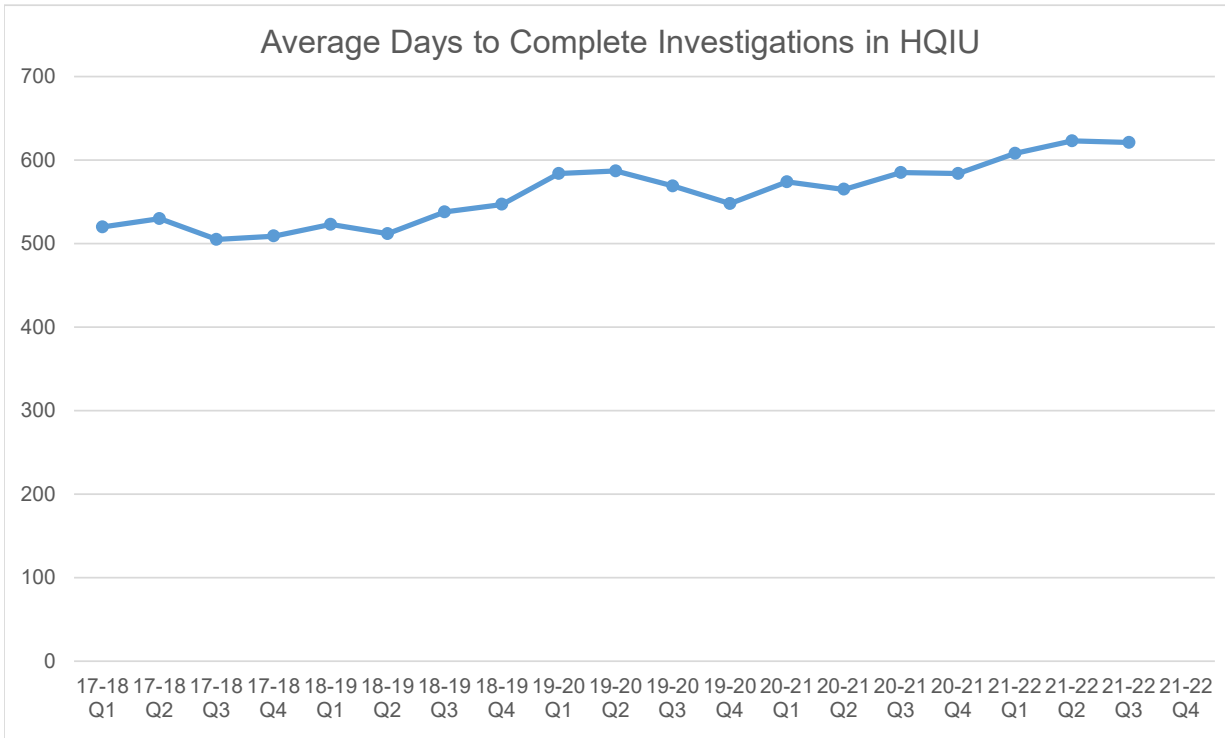
<b>Quarter</b>	<b>Fiscal Year 17-18</b>	<b>Fiscal Year 18-19</b>	<b>Fiscal Year 19-20</b>	<b>Fiscal Year 20-21</b>	<b>Fiscal Year 21-22</b>
Quarter 1	336	306	172	236	370
Quarter 2	303	293	165	253	365
Quarter 3	305	270	169	319	332
Quarter 4	315	258	179	351	



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 17-18	Fiscal Year 18-19	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22
Quarter 1	520	523	584	574	608
Quarter 2	530	512	587	565	623
Quarter 3	505	538	569	585	621
Quarter 4	509	547	548	584	



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 10 days through March 2022. Includes physician and surgeon data only.

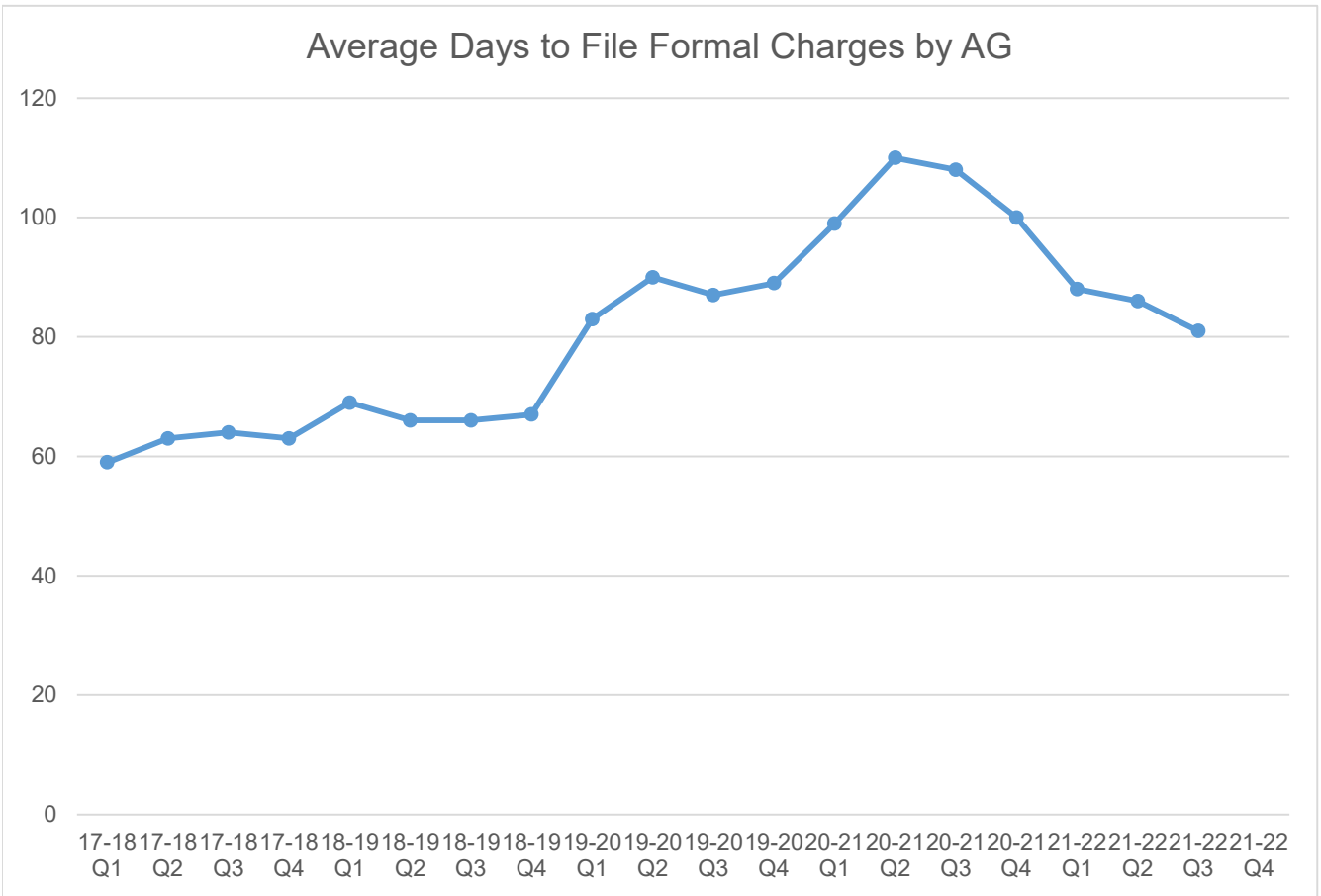
**California Enforcement Program**  
**Average HQIU Investigation Days by Case Type**

<b>Case Type by Fiscal Year</b>	<b>17-18</b>	<b>18-19</b>	<b>19-20</b>	<b>20-21</b>	<b>21-22</b>
Overall	509	548	548	584	621
Gross Negligence/Incompetence	549	597	561	588	630
Inappropriate Prescribing	564	548	665	651	725
Unlicensed Activity	450	482	529	659	641
Sexual Misconduct	493	494	426	460	532
Mental/Physical Illness	399	460	481	476	558
Self-Abuse of Drugs/Alcohol	528	413	417	416	420
Fraud	328	661	469	560	510
Conviction of a Crime	396	585	528	444	402
Unprofessional Conduct	504	565	492	483	546

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 10 days through March 2022. Includes physician and surgeon data only.

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

Quarter	Fiscal Year 17-18	Fiscal Year 18-19	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22
Quarter 1	59	69	83	99	88
Quarter 2	63	66	90	110	86
Quarter 3	64	66	87	108	81
Quarter 4	63	67	89	100	



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	17-18 Average	17-18 Median	18-19 <sup>1</sup> Average	18-19 <sup>1</sup> Median	19-20 Average	19-20 Median	20-21 Average	20-21 Median	21-22 <sup>2</sup> Average	21-22 <sup>2</sup> Median
COMPLAINT PROCESSING	98	58	151	122	157	111	122	54	97	52
INVESTIGATION PROCESSING - MBC - CIO (Complaint Investigation Office)	316	251	258	127	179	133	351	283	332	250
INVESTIGATION PROCESSING - HQIU (Health Quality Investigation Unit)	510	483	547	502	548	517	584	585	621	655
<b>TOTAL MBC &amp; HQIU DAYS</b>	119	68	179	141	171	127	143	68	173	78
<b>TOTAL MBC &amp; HQIU YEARS</b>	0.33	0.19	0.49	0.39	0.47	0.35	0.39	0.19	0.47	0.21
AG PREP - Attorney General Preparation for Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues	63	51	67	55	89	70	100	72	81	62
POST - Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues	322	285	333	311	369	345	384	351	388	368
ACCUSATION DECLINED BY AG	114	19	53	32	48	29	45	30	57	39
<b>TOTAL AG DAYS</b>	327	286	339	312	374	354	470	447	477	453
<b>TOTAL AG YEARS</b>	0.90	0.78	0.93	0.85	1.02	0.97	1.29	1.22	1.31	1.24
<b>TOTAL MBC &amp; AG DAYS</b>	926	939	1016	1057	1090	1110	1129	1193	1158	1237
<b>TOTAL MBC &amp; AG YEARS</b>	2.54	2.57	2.78	2.90	2.99	3.04	3.09	3.27	3.17	3.39

Years calculated using 365 days per year

<sup>1</sup> Effective 7/1/18 investigation processing days are from the date the case was referred to HQIU for investigation until closure or referral (this does not include Complaint Unit processing days for complaints completed at HQIU).

<sup>2</sup> Data through 3/31/22.

Includes physician and surgeon data only.

**Pending Enforcement Caseload Summary<sup>1</sup>**

Data Current as of April 29, 2022

	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
<b>Central Complaint Unit</b>	1,399	773	551	78	24	2	0	0	0	<b>2,827</b>	2,284	543	24%
<b>Complaint Investigation Unit</b>	46	40	29	21	19	9	0	0	0	<b>164</b>	179	-15	-8%
<b>Health Quality Investigation Unit</b>	159	158	149	189	437	175	4	0	0	<b>1,271</b>	1,501	-230	-15%
<b>Completed Investigations Awaiting Disposition<sup>2</sup></b>	59	0	0	0	0	0	0	0	0	<b>59</b>	24	35	146%
<b>Citation and Fine Desk</b>	32	12	21	22	68	46	0	0	0	<b>201</b>	256	-55	-21%
<b>Out-of-State Desk</b>	62	26	20	4	1	0	0	0	0	<b>113</b>	40	73	183%
<b>AG Services<sup>3</sup></b>	18	22	16	4	5	0	0	0	0	<b>65</b>	59	6	10%
<b>AG-Pre<sup>4</sup></b>	97	42	19	16	41	13	7	5	2	<b>242</b>	249	-7	-3%
<b>AG-Post<sup>5</sup></b>	70	58	74	60	89	11	9	5	4	<b>380</b>	427	-47	-11%
<b>Total by Age</b>	<b>1,942</b>	<b>1,131</b>	<b>879</b>	<b>394</b>	<b>684</b>	<b>256</b>	<b>20</b>	<b>10</b>	<b>6</b>	<b>5,322</b>	5,019	303	6%

<sup>1</sup> Includes physician and surgeon data only.  
<sup>2</sup> Represents the number of completed investigations returned by HQIU to the Board for review and determination of outcome.  
<sup>3</sup> AG Services includes petitions to compel, subpoena enforcement, and referrals for citation appeals.  
<sup>4</sup> 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.  
<sup>5</sup> 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 21/22				Total
	Quarter 1	Quarter 2	Quarter 3	Quarter 4	
<b>Administrative Outcomes</b>					
License Revoked	11	6	7		24
License Surrendered (in Lieu of Accusation or with Accusation Pending)	25	26	29		80
License Placed on Probation with Suspension	0	3	2		5
License Placed on Probation	39	37	51		127
Probationary License Issued	4	4	1		9
Public Reprimand	30	33	37		100
Other Action	1	0	0		1
<b>Referral and Compliance Actions</b>					
Citation and Administrative Fines Issued	28	36	34		98

Types of Outcomes	FY 17-18	FY 18-19	FY 19-20	FY 20-21
<b>Administrative Outcomes</b>				
License Revoked	59	60	35	49
License Surrendered (in Lieu of Accusation or with Accusation Pending)	98	95	96	125
License Placed on Probation with Suspension	5	2	4	4
License Placed on Probation	139	158	144	132
Probationary License Issued	16	22	22	19
Public Reprimand	133	135	108	154
Other Action	0	0	0	2
<b>Referral and Compliance Actions</b>				
Citation and Administrative Fines Issued	150	158	62	51