

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: January 18, 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.

Program Updates:

The Expert Reviewer Program has been very busy with the receipt of a significant number of new applicants to serve as Medical Consultants and Experts. We look forward to the additions to the program. Ms. Lubiano is meeting with the team monthly to provide assistance as we seek to improve the training and respond to the needed program improvements.

We are striving to implement more cross training in each of the units starting with CCU and DCU. As positions are becoming vacant, we are revising the duty statements to be more inclusive of other roles in the unit and thereby removing or reducing the silos and compartmentalize positions that currently exist. CCU's overall pending is down to 2900 files, pre-pandemic (January 2020) it was over 5200.

HQIU has reduced their pending investigation cases from 2340 in January 2020 to 1236 as of this week. New referrals are down as well as the number of incoming complaints remains down. We continue to meet with HQIU management to address timelines and encourage regularly scheduled and thorough case reviews to assist staff with file management and in turn address case aging.

Expert Reviewer Program:

There are currently 656 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 program staff sent recruitment letters to professional medical societies and organizations. Additionally, an email blast was sent to licensees in efforts to recruit reviewers for the Expert Reviewer and Medical Consultant Programs. Staff in both programs are reviewing the applications to ensure applicants meet requirements. Once confirmed, staff in the expert reviewer and medical consultant programs will request contracts to be able to utilize the services of the expert reviewers and medical consultants. Expert reviewer

training was conducted via WebEx in January 2023. Advertisement for the following specialties were in the Board's November 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
- Pathology (preferably from: Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, and Ventura Counties)
- Pediatric Endocrinology
- 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 five (5) days for the first half of FY 2022-2023, 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 111 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 on Management Service Technician (MST) vacancy, two vacant Associate Governmental Program Analyst (AGPA), one vacant Staff Services Analyst (SSA) position, and one vacant Staff Services Manager I (SSMI) position. Interviews for the MST and SSMI vacancy were conducted, and management is working with human resources to finalize pending hiring clearances. The new manager in CCU will begin on February 1, 2023. The AGPA and SSA positions were advertised. Applications are being reviewed, and interviews will be conducted.

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. An email blast was sent to licensees in efforts to recruit reviewers for the Expert Reviewer and Medical Consultant Programs. Staff in both programs are reviewing the applications to ensure applicants meet requirements. Once confirmed, staff in the expert reviewer and medical consultant programs will request contracts to be able to utilize the services of the expert reviewers and medical consultants.

Discipline Coordination Unit:

The Discipline Coordination Unit (DCU) currently has four vacancies, three Associate Governmental Program Analyst (AGPA) positions and one Office Technician (OT) position. One team member has been on extended leave and that has created another position that is not currently staffed.

The AGPA interviews mentioned in the last summary yielded no eligible candidates and the position was readvertised. One of the two remaining AGPA positions has also been advertised. The final filing date for both vacancies has passed and applications have been reviewed. Management anticipates conducting interviews for both positions in January 2023. Recruitment efforts for the remaining AGPA position are currently underway.

Interviews for the vacant OT position will be conducted in January 2023.

The two newly hired AGPAs are progressing well through their training and are providing much needed assistance to the unit. They have been very helpful in assisting with taking on duties as we rearrange and reorganize the workflow for certain areas of the unit. Management and staff are reviewed the current processes to improve efficiency in timely processing the documentation for disciplinary matters. The new manger has been working very hard to build a cohesive team and certainly looks forward to adding staff to assist with the large workload.

Probation Unit:

The Probation Unit currently has three vacant Inspector positions, one in Fresno, one in San Dimas and one in Tustin. Management continues their efforts to find eligible candidates for the positions in Fresno and San Dimas but have been unsuccessful, therefore these positions remain advertised. The Tustin vacancy has also been advertised.

During this quarter, nine Petitions to Revoke Probation and three Accusations/Petitions to Revoke Probation have been transmitted to the Attorney General's Office. Two Petitions to Revoke Probation have been filed. One Accusation/Petition to Revoke Probation was filed.

Central Investigations Office:

As of January 1, 2023, the Complaint Investigation Office (CIO) non-sworn special investigators currently has a unit caseload of 192 cases which breaks down into approximately 30 cases each. In order to determine the average, we excluded Rashya's position and counted Lauren Nickel as 1/2 position; resulting in 6.5 total positions.

CIO has been very helpful in assisting other units in Enforcement as their caseloads have fluctuated. This assistance has been greatly appreciated and it allows some cross training as well as the different units to work together to meet common goals and help reduce timeframes.

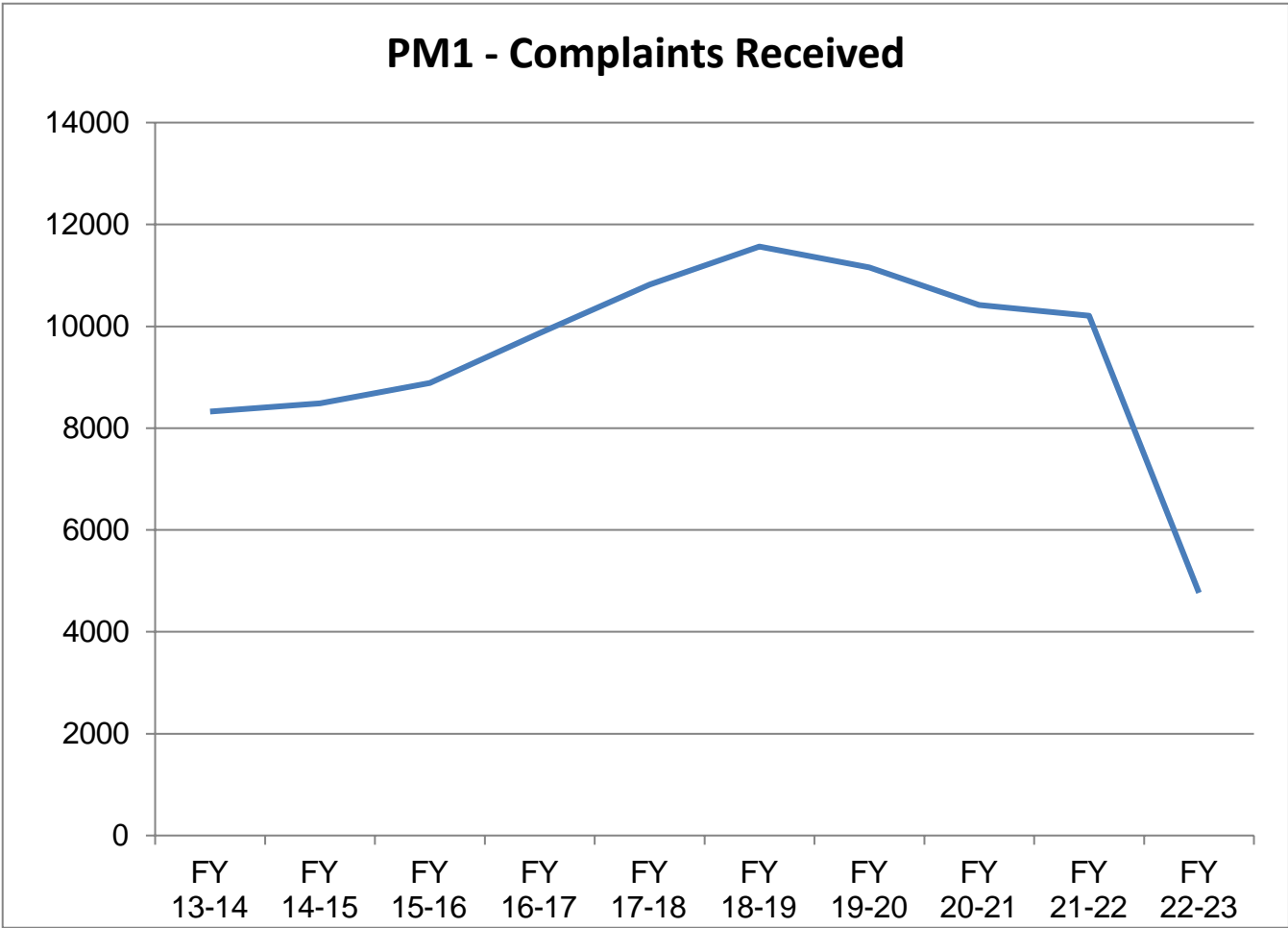
Since the last enforcement summary, CIO has closed 47 cases and transmitted 17 cases to the Attorney General's Office – 11 criminal conviction cases, 2 malpractice cases, one aiding and abetting/corporate practice of medicine case, 3 vaccination exemption cases, and 3 petitions for reinstatement. Additionally, the CIO referred 2 cases to the Board's Cite and Fine Program and 4 cases for a PLR.

These findings are for physician and surgeon cases for the date range of 10/1/2022 through 12/31/2022.

Attorney General Report

The Attorney General's office did not receive questions during the December 2022 Quarterly Board Meeting; therefore, as previously done the Attorney General's office provided a letter with an update.

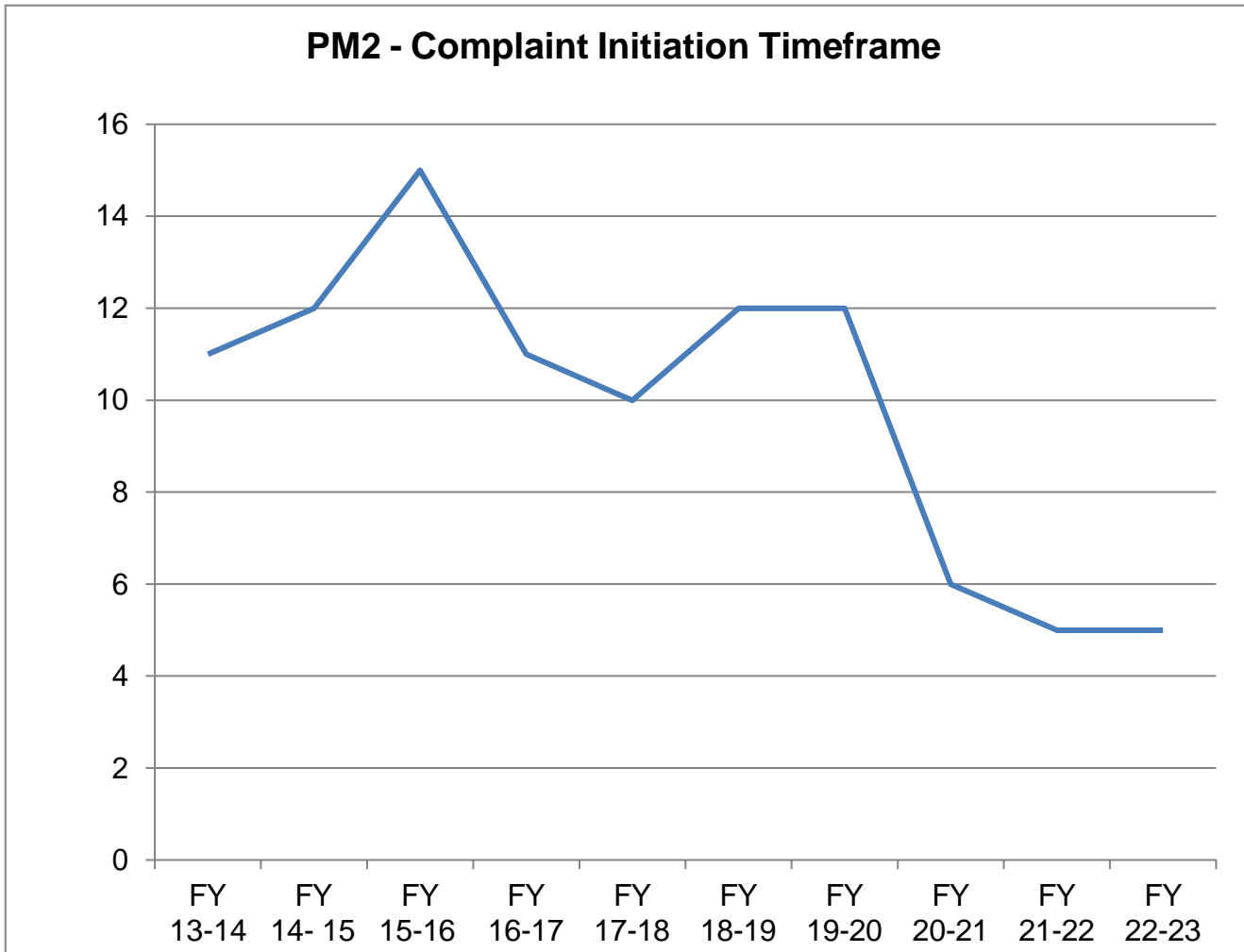
**Medical Board of California Enforcement Program
PM1 - Complaints Received**



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
Volume	8325	8490	8885	9862	10817	11565	11155	10418	10209	4768

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, 2022 through December 31, 2022.

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

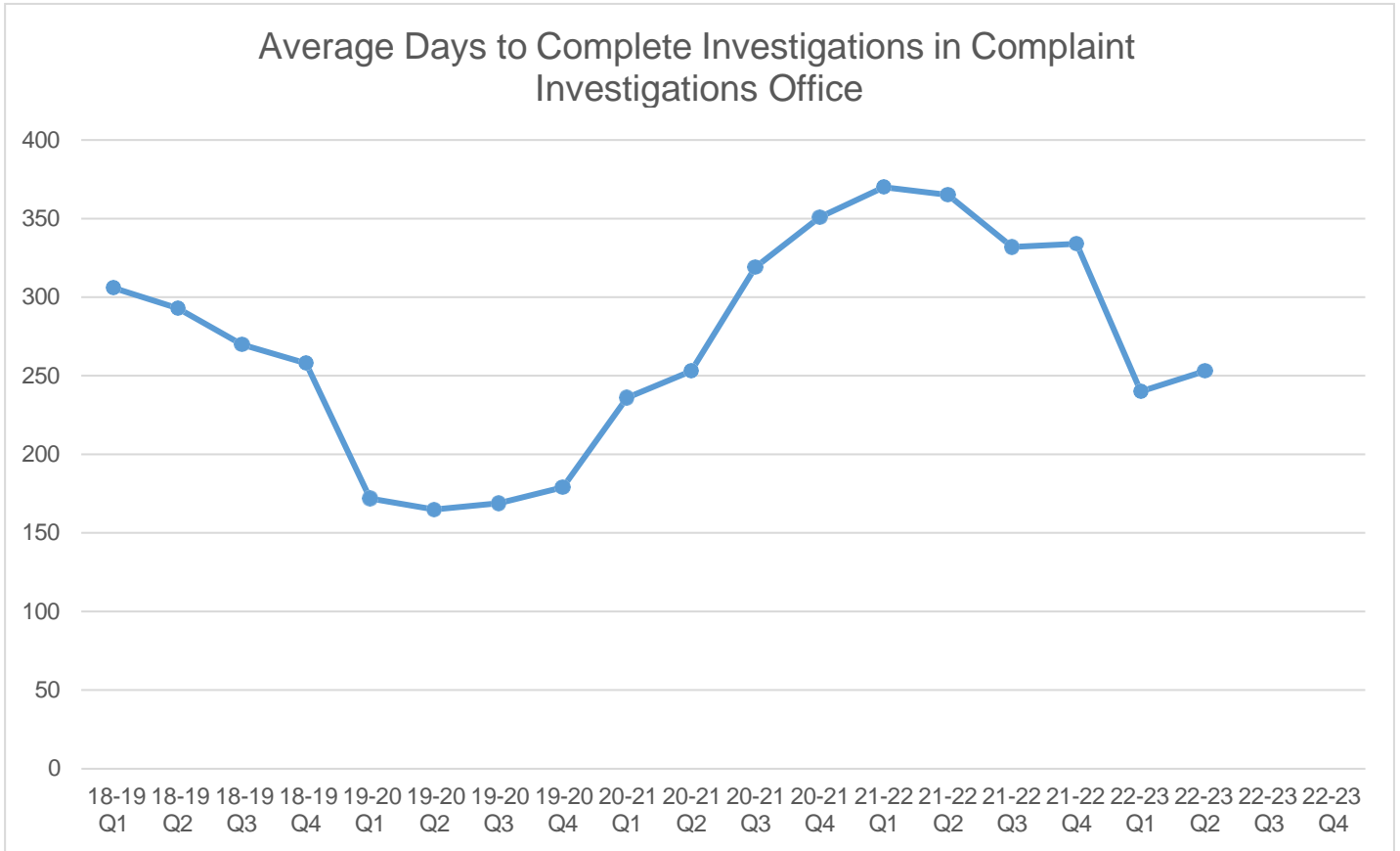


Month	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
Cycle Time	11	12	15	11	10	12	12	6	5	5

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, 2022 through December 31, 2022.

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

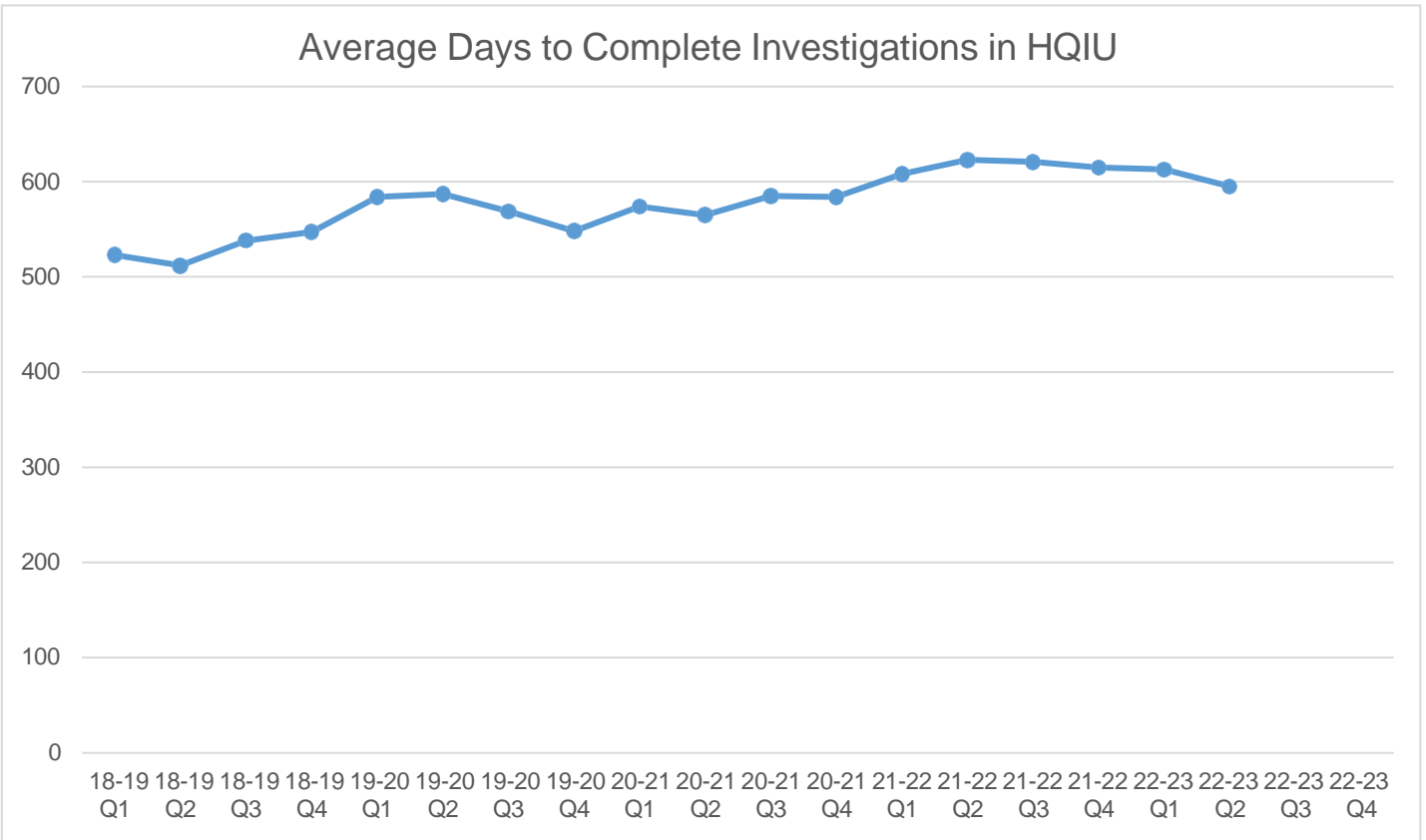
Quarter	Fiscal Year 18-19	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 22-23
Quarter 1	306	172	236	370	240
Quarter 2	293	165	253	365	253
Quarter 3	270	169	319	332	
Quarter 4	258	179	351	334	



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 18-19	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 22-23
Quarter 1	523	584	574	608	613
Quarter 2	512	587	565	623	595
Quarter 3	538	569	585	621	
Quarter 4	547	548	584	615	



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 December 2022. Includes physician and surgeon data only.

Agenda Item 6 B

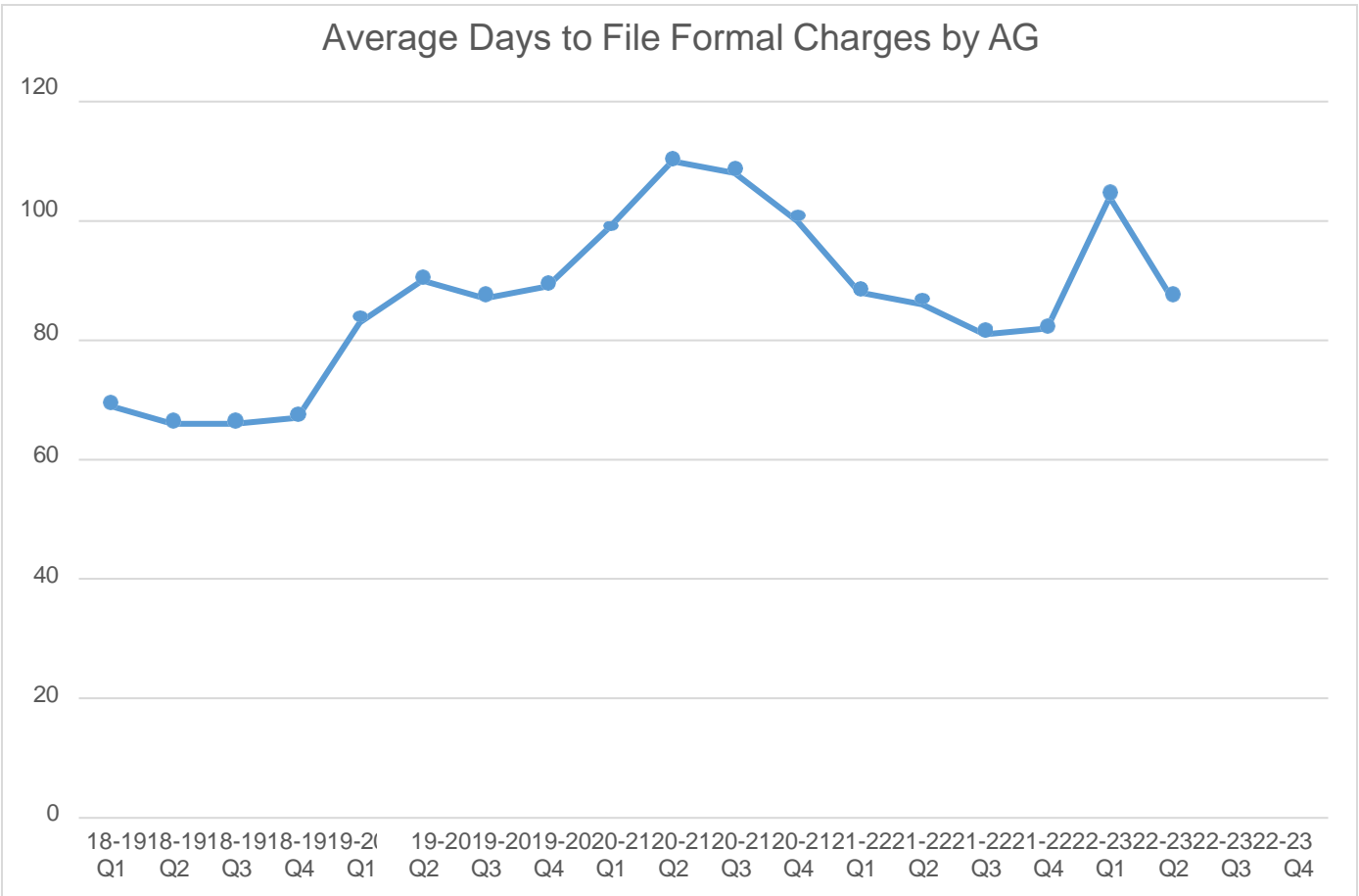
California Enforcement Program
Average HQIU Investigation Days by Case Type

Case Type by Fiscal Year	18-19	19-20	20-21	21-22	22-23
Overall	548	548	584	615	595
Gross Negligence/Incompetence	597	561	588	632	632
Inappropriate Prescribing	548	665	651	714	676
Unlicensed Activity	482	529	659	636	636
Sexual Misconduct	494	426	460	580	508
Mental/Physical Illness	460	481	476	529	528
Self-Abuse of Drugs/Alcohol	413	417	416	445	493
Fraud	661	469	560	419	414
Conviction of a Crime	585	528	444	381	330
Unprofessional Conduct	565	492	483	564	515

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 December 2022. Includes physician and surgeon data only.

Medical Board of California Enforcement Program Agenda Item 6 B
**Average Days to File Administrative Charges Prepared by the
 Office of the Attorney General**

Quarter	Fiscal Year 18-19	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 21-22
Quarter 1	69	83	99	88	104
Quarter 2	66	90	110	86	87
Quarter 3	66	87	108	81	
Quarter 4	67	89	100	82	



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	18-19 ¹ Average	18-19 ¹ Median	19-20 Average	19-20 Median	20-21 Average	20-21 Median	21-22 Average	21-22 Median	22-23 ² Average	22-23 ² Median
COMPLAINT PROCESSING	151	122	157	111	122	54	98	55	111	59
INVESTIGATION PROCESSING - MBC - CIO (Complaint Investigation Office)	258	127	179	133	351	283	334	251	253	208
INVESTIGATION PROCESSING - HQIU (Health Quality Investigation Unit)	547	502	548	517	584	585	615	633	595	569
TOTAL MBC & HQIU DAYS	179	141	171	127	143	68	176	81	179	96
TOTAL MBC & HQIU YEARS	0.49	0.39	0.47	0.35	0.39	0.19	0.48	0.22	0.49	0.26
AG PREP - Attorney General Preparation for Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues	67	55	89	70	100	72	82	62	87	69
POST - Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues	333	311	369	345	384	351	388	372	453	421
ACCUSATION DECLINED BY AG	53	32	48	29	45	30	57	36	61	39
TOTAL AG DAYS	339	312	374	354	470	447	478	449	541	502
TOTAL AG YEARS	0.93	0.85	1.02	0.97	1.29	1.22	1.31	1.23	1.48	1.38
TOTAL MBC & AG DAYS	1016	1057	1090	1110	1129	1193	1167	1239	1305	1406
TOTAL MBC & AG YEARS	2.78	2.90	2.99	3.04	3.09	3.27	3.20	3.39	3.58	3.85

Years calculated using 365 days per year

¹ 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).

² Data through 12/30/22.

Includes physician and surgeon data only.

Pending Enforcement Caseload Summary¹

Data Current as of January 12, 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	1,200	707	486	372	96	0	0	0	0	2,861	2,832	29	1%
Complaint Investigation Unit	72	47	18	15	32	0	0	0	0	184	173	11	6%
Health Quality Investigation Unit	199	181	165	169	378	108	4	0	0	1,204	1,195	9	1%
Completed Investigations Awaiting Disposition²	33	0	0	0	0	0	0	0	0	33	42	-9	-21%
Citation and Fine Desk	39	19	22	16	49	28	4	0	0	177	214	-37	-17%
Out-of-State Desk	60	71	72	55	41	0	0	0	0	299	251	48	19%
AG Services³	19	13	11	10	5	0	0	0	0	58	66	-8	-12%
AG-Pre⁴	94	61	34	22	31	15	4	10	1	272	263	9	3%
AG-Post⁵	50	69	59	57	106	21	5	5	4	376	378	-2	-1%
Total by Age	1,766	1,168	867	716	738	172	17	15	5	5,464	5,414	50	1%

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.

Types of Outcomes	FY 22/23				
	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
Administrative Outcomes					
License Revoked	7	12			19
License Surrendered (in Lieu of Accusation or with Accusation Pending)	23	16			39
License Placed on Probation with Suspension	0	2			2
License Placed on Probation	38	26			64
Probationary License Issued	3	4			7
Public Reprimand	21	20			41
Other Action	0	0			0
Referral and Compliance Actions					
Citation and Administrative Fines Issued	27	83			110

Types of Outcomes	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22
Administrative Outcomes					
License Revoked	59	60	35	49	36
License Surrendered (in Lieu of Accusation or with Accusation Pending)	98	95	96	125	106
License Placed on Probation with Suspension	5	2	4	4	7
License Placed on Probation	139	158	144	132	156
Probationary License Issued	16	22	22	19	14
Public Reprimand	133	135	108	154	118
Other Action	0	0	0	2	1
Referral and Compliance Actions					
Citation and Administrative Fines Issued	150	158	62	51	122



January 13, 2023

Medical Board of California
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815

RE: Attorney General's Office Quarterly Update, February 2023 Board Meeting

Dear Board Members:

Thank you for the opportunity to provide the Attorney General's Office Quarterly update. Of note this quarter, the sixth Attorney General's Annual Report on Accusations Prosecuted for Department of Consumer Affairs Client Agencies was published on January 1, 2023. 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 five reports.

As always, the Health Quality Enforcement Section works collegially and closely with Deputy Executive Director Reji Varghese, 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.

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