STATE OF CALIFORNIA

MEDICAL BOARD OF CALIFORNIA

REPORT TO THE LEGISLATURE

VERTICAL ENFORCEMENT MODEL

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This ***Report to the Legislature, Vertical Enforcement Model***, was prepared on behalf of and in consultation with the Medical Board of California by Integrated Solutions for Business and Government, Inc. (ISBG), a California certified small business based in Sacramento, California.

ISBG would like to acknowledge and express its sincere appreciation to the dedicated staff of the Medical Board of California and the Attorney General's Health Quality Enforcement Section, whose assistance were critical to the completion of this report. A special thanks to Nancy Smith and Sean Eichelkraut for producing the statistical data upon which the report is based.

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I. EXECUTIVE SUMMARY

The mission of the Medical Board of California "is to protect health care consumers through the proper licensing and regulation of physicians and surgeons and certain allied health care professions and through the vigorous, objective enforcement of the Medical Practice Act, and to promote access to quality medical care through the Board's licensing and regulatory functions."

To this end, legislation was enacted into law to assist in streamlining the investigation and prosecution of alleged misconduct by physicians and surgeons (P&S).

Senate Bill 1950 (Figueroa), Chapter 1085, Statutes of 2002, mandated the appointment of an Enforcement Program Monitor (Monitor) to "monitor and evaluate the disciplinary system and procedures" of the Medical Board of California (MBC) for a period of two years. Two reports were required: an initial report of the findings and conclusions no later than October 1, 2003, and a final report prior to March 31, 2005.

In both the Initial and Final Reports of the ***Medical Board of California Enforcement Program Monitor,*** the Monitor recommended the vertical prosecution model whereby "the trial attorney and the investigator are assigned as the team to handle a complex case as soon as it is opened as a formal investigation". The Monitor stated that the vertical prosecution model would improve efficiency and reduce case cycle time and, thereby, ensure the quality and safety of medical care to the people of California.

Subsequently, Senate Bill 231, Chapter 674, Statutes of 2005, was enacted into law codifying the use of the vertical prosecution model effective January 1, 2006. It also required the MBC to report and make recommendations to the Governor and the Legislature on the vertical prosecution model by July 1, 2007.

As mandated, the MBC and the Health Quality Enforcement Section (HQES) of the Department of Justice (DOJ) implemented the vertical prosecution model for P&S on January 1, 2006. To avoid potential complications that might result from utilizing a different model for the investigation and prosecution[1] of Allied Health Care Professions (AH), cases investigated by the MBC on behalf of sister agencies, MBC and HQES elected to simultaneously implement the vertical prosecution model for AH cases as well. Since not all of MBC's cases lead to prosecution, the name of the new model was changed to vertical enforcement (VE), although statute still refers to a vertical prosecution model.

The MBC's ***Report to the Legislature on Vertical Enforcement*** in November 2007, stated that from January 1, 2006 through April 9, 2007, there was an overall decrease of

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[1] For purposes of this report, the term "prosecution" refers to an administrative action commenced by the filing of an accusation with the Office of Administrative Hearings, unless the context indicates otherwise.

10 days in the average time to complete an investigation, excluding all cases pending prior to implementation of the pilot. The report further stated that the statistics showed that the number of cases closed without prosecution was reduced from 145 days to 139 days; obtaining medical records was decreased from 74 days to 36 days; conducting physician interviews reduced from 60 days to 40 days; obtaining medical expert opinions went from 69 day to 36 days; filing of accusations by HQES decreased from 241 to 212 days; and obtaining interim suspension orders or temporary restraining orders decreased from 91 days to 30 days.

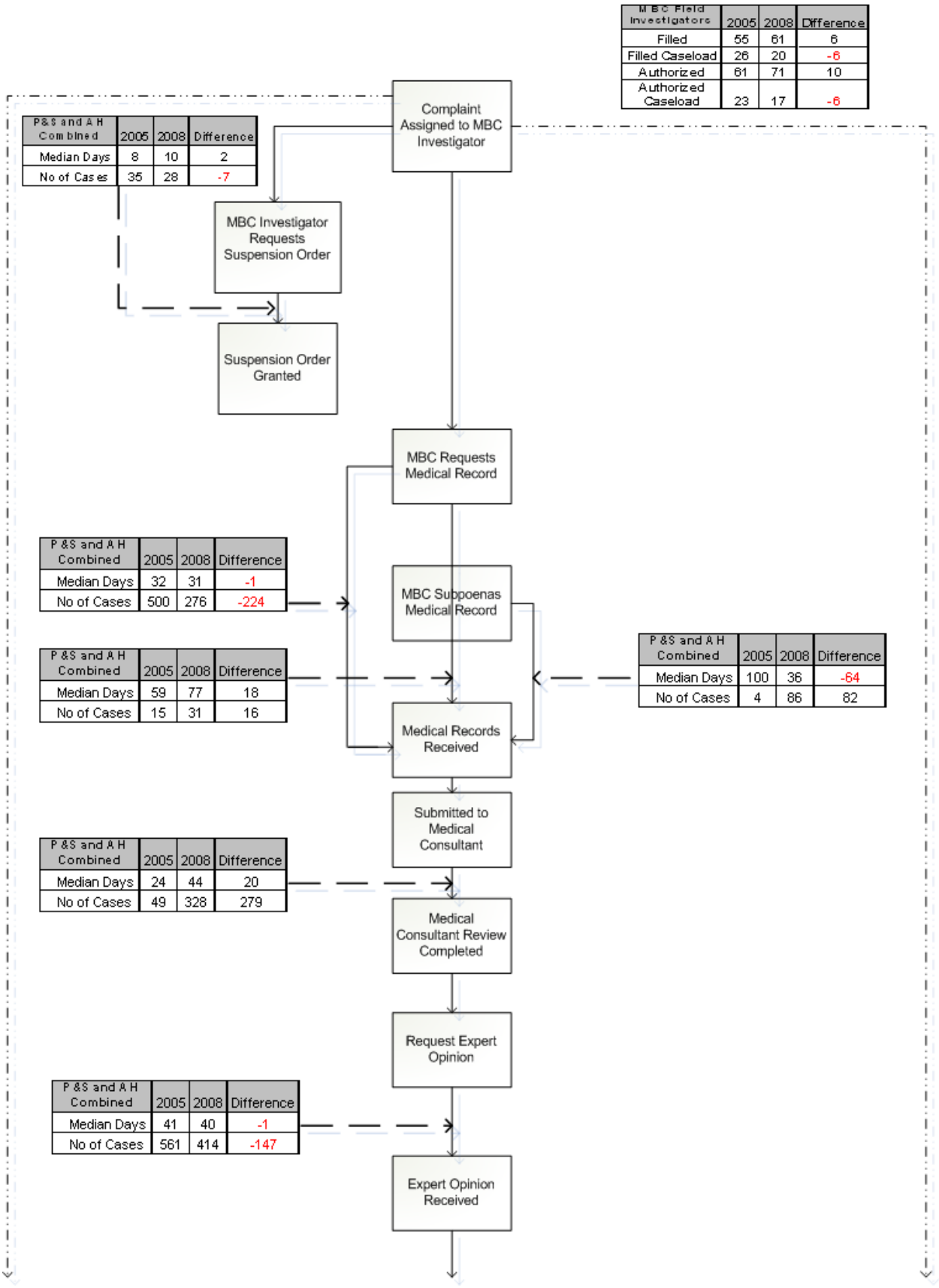
Although the initial statistical data from the pilot identified trends which suggested that the VE model can more quickly identify cases for closure, handle certain egregious complaints more expeditiously, and showed a trend of reducing the time frames to complete investigations, the pilot period did not provide sufficient time to address the Monitor's concerns regarding the time to complete prosecutions, since some MBC investigations may take over 12 months to complete and the available statistics at that time only covered a 16 month period.

Consequently, Senate Bill 797 (Ridley-Thomas), Chapter 33, Statutes of 2008, was enacted continuing the VE model until July 1, 2010, and requiring a report by the MBC on the effectiveness of VE model by July 1, 2009. This report is the result of that mandate.

The MBC commissioned Integrated Solutions for Business and Government, Inc. (ISBG) on March 13, 2009, to review data collected by the MBC for the period from January 1, 2005 (pre-VE) through December 31, 2008, and report findings and recommendations.

The statistical conclusions contained in this report are based on data provided to ISBG by MBC, which is consistent with the data provided in the Monitor's reports, the ***Report to the Legislature on Vertical Enforcement*** in November 2007, as well as all other official MBC reports. Due to the limited scope and time available to complete the report, ISBG performed no independent testing or auditing of the provided data to verify its accuracy. In addition, although outside of the scope, data separately collected and maintained by HQES was not received, and therefore, not compared with the data provided by MBC.

The following flow chart summarizes the combined P&S and AH data showing the median days aged and number of cases for select data markers. Since MBC and HQES jointly processed AH cases utilizing the VE model, AH data is included in the evaluation to account for its impact on workload.



MBC Field Investigators	2005	2008	Difference
Filled	55	61	6
Filled Caseload	26	20	-6
Authorized	61	71	10
Authorized Caseload	23	17	-6

P&S and AH Combined	2005	2008	Difference
Median Days	8	10	2
No of Cases	35	28	-7

P&S and AH Combined	2005	2008	Difference
Median Days	32	31	-1
No of Cases	500	276	-224

P&S and AH Combined	2005	2008	Difference
Median Days	59	77	18
No of Cases	15	31	16

P&S and AH Combined	2005	2008	Difference
Median Days	100	36	-64
No of Cases	4	86	82

P&S and AH Combined	2005	2008	Difference
Median Days	24	44	20
No of Cases	49	328	279

P&S and AH Combined	2005	2008	Difference
Median Days	41	40	-1
No of Cases	561	414	-147

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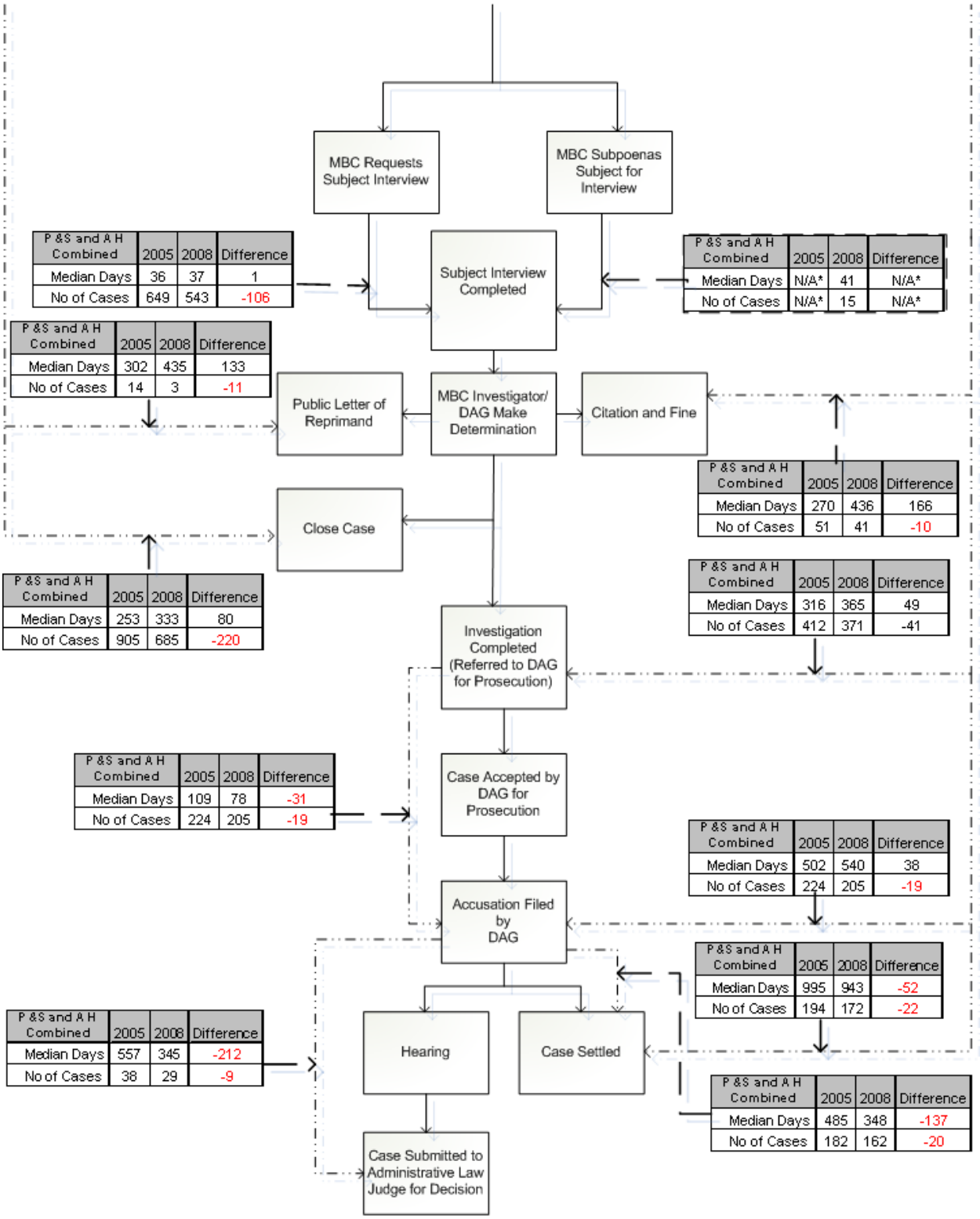

*2005 data not available.

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The following table summarizes the primary P&S and AH data, showing the increase or decrease in time for the specified data markers between 2005 and 2008.

Misc. Stats	(Pre-VE) 2005	2006	2007	2008	Difference between 2005 & 2008	Associated Table	Page
Attorney Services Hours Billed by AG	53,233.75	61,746.75	72,913.75	73,305.75	20,072.00	B3.1	262
Legal Assistant/Paralegal Hours Billed by AG	2,276.25	2,766.50	2,598.00	3,182.50	906.25	B3.1	262
MBC Enforcement Temp Help Hours Worked (excludes Med. Consultants)	150,380.00	175,438.00	205,056.00	289,914.00	139,534.00	B3.2	262
MBC Enforcement Medical Consultant Hours Worked	13,381.8	13,266.0	14,441.5	13,931.5	549.70	B3.3	263
No. of Filled Enforcement Field Investigator Positions	**55**	**51**	**51**	**61**	6.00	B3.4	263
Average Caseload per Filled MBC Field Investigator Position	**26**	**25**	**22**	**20**	-6.00	B3.4	263
No. of Authorized MBC Field Investigator Positions	61	57	59	71	10.00	B3.4	263
Average Caseload per Authorized MBC Field Investigator Position	23	22	19	17	-6.00	B3.4	263
	Combined Physician and Surgeon & Allied Health Care Stats						
	(Pre-VE) 2005	**2006**	**2007**	**2008**	**Difference between 2005 & 2008**	**Associated Table**	**Page**
Cases Referred to MBC District Office for Investigation	1,407	1,278	1,109	1,205	-202.00	B7.1a	265
Days Aged from Request to Suspension Order Granted							
Average	35	52	54	18	-17.00	B6.1	264
Median	8	3	7	10	2.00		
No of Cases	35	35	29	28	-7.00		
Days Aged from Assigned to MBC Investigator to Closed, No Prosecution							
Average	271	295	333	373	102.00	B7.1	265
Median	253	282	305	333	80.00		
No of Cases	905	783	715	685	-220.00		
Pending at Year End	1,148	1,208	1,203	1,291	143.00		
Days Aged from Assigned to MBC Investigator to Referral for Citation/Fine							
Average	276	332	392	485	209.00	B7.4	267
Median	270	324	405	436	166.00		
No of Cases	51	53	38	41	-10.00		

	Combined Physician and Surgeon & Allied Health Care Stats						
	(Pre-VE) 2005	2006	2007	2008	Difference between 2005 & 2008	Associated Table	Page
Days Aged from Assigned to MBC Investigator to Referral for Public Letter of Reprimand							
Average	344	515	463	387	43.00	B7.7	268
Median	302	555	405	435	133.00		
No of Cases	14	10	6	3	-11.00		
Days Aged from Assigned to MBC Investigator to Referral to District Attorney for Criminal Action							
Average	266	327	291	368	102.00	B7.10	270
Median	203	286	232	309	106.00		
No of Cases	38	27	41	37	-1.00		
Days Aged from Medical Records Release Request to Receipt of Medical Records (No Subpoena)							
Average	57	56	65	59	2.00	B9.1	271
Median	32	30	30	31	-1.00		
No of Cases	500	378	300	276	-224.00		
Days Aged from Subpoena Served to Receipt of Medical Records							
Average	173	64	53	92	-81.00	B9.1	271
Median	100	29	27	36	-64.00		
No of Cases	4	39	49	86	82.00		
Days Aged from Medical Records Release Request and SubpoenaServed to Receipt of Medical Records							
Average	129	168	212	210	81.00	B9.1	271
Median	59	125	206	77	18.00		
No of Cases	15	23	24	31	16.00		
Days Aged from Subject Interview Request to Subject Interview Completed							
Average	48	50	49	56	8.00	B10.1	274
Median	36	38	35	37	1.00		
No of Cases	649	502	406	543	-106.00		
Pending at Year End	102	96	139	109	7.00		
Days Aged from Subject Interview Subpoena to Subject Interview Completed							
Average	0	78	144	18	18.00	B10.1	274
Median	0	46	144	41	41.00		
No of Cases	0	5	2	15	15.00		
Pending at Year End	8	7	13	30	22.00		
Days Aged from Case Submitted to District Office Medical Consultant to Review Completed							
Average	21	56	60	88	67.00	B11.1	275
Median	24	28	31	44	20.00		
No of Cases	49	288	375	328	279.00		
Pending at Year End	36	135	178	192	156.00		

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	Combined Physician and Surgeon & Allied Health Care Stats						
	(Pre-VE) 2005	2006	2007	2008	Difference between 2005 & 2008	Associated Table	Page
Days Aged from Case Submitted to Expert for Opinion to Receipt of Expert Opinion							
Average	50	47	52	51	1.00	B12.1	277
Median	41	36	37	40	-1.00		
No of Cases	561	475	374	414	-147.00		
Pending at Year End	63	59	60	52	-11.00		
Days Aged from Case Assigned to MBC Investigator to Completed Investigation (Referred to DAG)							
Average	322	320	359	398	76.00	B13.1	278
Median	316	299	344	365	49.00		
No of Cases	412	376	360	371	-41.00		
Pending at Year End	1,148	1,208	1,203	1,291	143.00		
Days Aged from Assigned to MBC Investigator to All Outcomes (Including Disciplinary Outcomes)							
Average	451	476	507	549	98.00	B14.1	280
Median	310	343	380	436	126.00		
No of Cases	1,305	1,164	1,096	1,057	-248.00		
Pending at Year End	1,136	1,196	1,195	1,275	139.00		
Days Aged from Assigned to MBC Investigator to Settlement							
Average	1,015	1,054	936	952	-63.00	B14.4	281
Median	995	983	894	943	-52.00		
No of Cases	194	198	183	172	-22.00		
Pending at Year End	504	472	402	388	-116.00		
Days Aged from Assigned to MBC Investigator to All Disciplinary Outcomes							
Average	978	853	930	973	-5.00	B14.5	282
Median	918	854	875	901	-17.00		
No of Cases	333	318	328	301	-32.00		
Pending at Year End	505	471	402	387	-118.00		
Days Aged from Case Assigned to MBC Investigator to Accusation Filed by DAG							
Average	531	523	522	568	37.00	B14.8	283
Median	502	478	489	540	38.00		
No of Cases	224	197	249	205	-19.00		
Pending at Year End	164	179	121	142	-22.00		
Days Aged from Completed Investigation to Accusation Filed by DAG							
Average	154	175	160	147	-7.00	B15.1	285
Median	109	115	87	78	-31.00		
No of Cases	224	197	249	205	-19.00		
Pending at Year End	164	179	121	142	-22.00		
Days Aged from Accusation Filed to Case Submitted to ALJ for Decision							
Average	624	560	592	479	-145.00	B16.1	286
Median	557	393	504	345	-212.00		
No of Cases	38	15	36	29	-9.00		

	Combined Physician and Surgeon & Allied Health Care Stats						
	(Pre-VE) 2005	2006	2007	2008	Difference between 2005 & 2008	Associated Table	Page
Days Aged from Accusation Filed by DAG to Settlement							
Average	542	594	466	449	-93.00	B17.1	288
Median	485	456	361	348	-137.00		
No of Cases	182	184	170	162	-20.00		
Pending at Year End	11	8	4	18	7.00		
Days Aged from Accusation Filed by DAG to All Disciplinary Outcomes							
Average	583	572	517	532	-51.00	B17.2	288
Median	513	435	377	373	-140.00		
No of Cases	263	245	255	247	-16.00		
Pending at Year End	348	298	293	248	-100.00		
Days Aged from Accusation Filed by DAG to Revocation Outcome							
Average	534	334	606	480	-54.00	B17.5	290
Median	436	167	375	264	-172.00		
No of Cases	25	20	26	22	-3.00		
Days Aged from Accusation Filed by DAG to Surrender Outcome							
Average	410	419	222	349	-61.00	B17.5	290
Median	367	300	183	184	-183.00		
No of Cases	39	39	33	35	-4.00		
Days Aged from Accusation Filed by DAG to Suspension Only Outcome							
Average	0	319	0	0	0.00	B17.5	290
Median	0	319	0	0	0.00		
No of Cases	0	1	0	0	0.00		
Days Aged from Accusation Filed by DAG to Probation Outcome							
Average	599	560	521	467	-132.00	B17.5	291
Median	498	432	391	363	-135.00		
No of Cases	88	74	89	82	-6.00		
Days Aged from Accusation Filed by DAG to Probation with Suspension Outcome							
Average	532	531	499	509	-23.00	B17.5	291
Median	488	505	385	408	-80.00		
No of Cases	29	17	16	12	-17.00		
Days Aged from Accusation Filed by DAG to Public Reprimand Outcome							
Average	687	742	631	609	-78.00	B17.5	291
Median	703	691	490	479	-224.00		
No of Cases	55	68	55	55	0.00		

	Combined Physician and Surgeon & Allied Health Care Stats						
	(Pre-VE) 2005	2006	2007	2008	Difference between 2005 & 2008	Associated Table	Page
Days Aged from Accusation Filed by DAG to Other Decision Outcome							
Average	525	1,325	509	701	176.00	B17.5	291
Median	525	606	442	494	-31.00		
No of Cases	2	3	5	8	6.00		
Days Aged from Accusation Filed by DAG to Accusation Withdrawn/Dismissed Outcome							
Average	678	508	559	791	113.00	B17.5	292
Median	533	308	324	407	-126.00		
No of Cases	25	23	31	31	6.00		

Other Stats			
Office of Administrative Hearings Initial Hearing Dates Delayed Due to Governor's Executive Order, July - October 2008	**2008**	**Table**	**Page**
Average Days Delay	119.78	16.4	190
Median Days Delayed	112.00		
Number of Cases Delayed	23.00		

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Since statistical data alone does not fully describe the effectiveness of the VE model, interviews of MBC and HQES staff were conducted from April 9 through 15, 2009. Although the project scope contained relatively few hours to conduct interviews, it was determined that interviewing additional staff at all levels of both departments was necessary to obtain an accurate representation of how VE is being implemented. ISBG voluntarily conducted these additional interviews despite the substantial additional time required. A total of 22 staff from both departments were interviewed. Eleven (11) MBC enforcement staff were interviewed at the management, supervisory and investigative levels, all of whom were present since the onset of VE, with an average of 13 years with MBC. Additionally, 11 HQES staff were interviewed at the management, supervisory, primary and lead levels, all of whom were present since the onset of VE, with an average of 14 years experience with HQES. The following is a synopsis of the interviews:

- All believe that public safety is their number one priority;
- In general, they like their respective professions;
- Most HQES staff indicated that their current caseload is manageable and not much different than prior to VE;
- Most MBC staff stated that their caseload is too heavy;
- Both HQES and MBC are experiencing retention issues;
- MBC continues to experience recruiting problems;
- Both believe that communication between MBC investigators and Deputy Attorney Generals (DAGs) increased, but for different reasons;
- The manner in which VE is implemented is inconsistent from one HQES office to another;
- DAGs believe that VE is a vast improvement from the previous Deputy in District Office (DIDO) program; and
- Some MBC investigators believe that, as implemented, VE may be more effective, but is not more efficient.

While the management and staff of both MBC and HQES are to be commended for their hard work, dedication, professionalism and strong commitment to public protection, and made noteworthy progress in implementing VE, significant work remains before it can be concluded that the departments are able to successfully reduce overall complaint resolution time frames under this model. A summary of the recommendations for a more successful VE model is as follows:

Recommendation #1: Continue the pilot and implement the recommendations noted below and assess its effectiveness and success in two years

Although noteworthy efforts were expended by both HQES and MBC staff toward implementation of the VE model and some successes achieved, it is evident that significant room for improvement exists. Therefore, it is recommended that Recommendations 2 through 8 be implemented, the pilot be continued for two more years, and its effectiveness reassessed after two years.

Recommendation #2: Zero Tolerance of Negative Communication

While both the MBC and HQES have made considerable progress in their working relationship, additional work is necessary to ensure mutual respect and appreciation for the vital roles each bring to the process and, ultimately, to public protection. Staff interviewed identified this as a major and continuing issue directly or indirectly impacting staff statewide. Based on the statements and the level of frustration that was observed during the interviews, it was concluded that this was a major issue impacting the success of VE. In addition, there was a lack of commonly understood and mutually accepted appreciation of each other's roles and professional contributions towards resolving cases in the VE model. Since interpersonal communications between MBC investigators and HQES attorneys is key to the success of VE, it is recommended that the tone be uniformly set by executive management and every manager and supervisor of both departments that all staff work together as partners in a professional and respectful manner, and that all communications demonstrate mutual respect, courtesy and responsiveness, without exception. Any inappropriate communication must be addressed immediately, fairly and effectively.

Consideration should be given to engaging a knowledgeable outside consultant respected by both MBC and HQES to help identify, isolate and eliminate the cause(s) of such negative communications.

Recommendation #3: Clarity of Roles

It is recommended that clear and consistent direction be provided by top management regarding the roles of DAGs and MBC staff at all levels. Although the VPM identifies the VE team members and their respective roles, many of those interviewed from both departments stated that there needs to be a greater clarity and understanding of each others roles.

The meaning of Government Code (GC) Section 12529.6 wording "under the direction of" must be clearly defined and adhered to throughout both departments in a consistent manner that emphasizes teamwork and recognizes the unique training, expertise and contributions of all members of the team. If necessary, legislative changes should be sought to provide additional clarity.

Although HQES management stated that it has been HQES' position that MBC is the client, interview responses indicate that this is neither clearly understood nor accepted. Comments during the interviews indicate there is no common understanding or acceptance of the meaning of these terms at all levels in both departments. Staff interviewed revealed continuing confusion, disagreement or acceptance of the meaning of "direction" and "client", including disagreement as to who is authorized to speak on behalf of the client on a statewide basis. Therefore, management must clarify and ensure a consistent understanding and application of the term, which should be included in the joint training recommended below and incorporated in all appropriate manuals.

Recommendation #4: Consistent and Unified VE Process

The Monitor stated that: "MBC investigators and HQE prosecutors should work together in a true vertical prosecution system featuring case teams established at the initiation of the investigation and remaining together until the case is fully litigated or resolved." As implemented, according to the *Vertical Prosecution Manual* (VPM), there is a lead prosecutor and a primary prosecutor assigned to each case. "The Lead Prosecutor shall be assigned to, and shall review, each complaint referred to the District Office for investigation. In addition to the Lead Prosecutor, a second deputy attorney general shall be assigned by the Supervising Deputy Attorney General to each complaint as well. The Lead Prosecutor shall act as the primary deputy attorney general on the case for all purposes until and unless replaced by the second deputy attorney general……" Whenever, the Lead Prosecutor determines, either upon review of the original complaint or as the investigation progresses, that it is a likely a violation of law may be found, the second deputy attorney general shall replace the Lead Prosecutor as the primary deputy attorney general on the case for all purposes."

Interviewees stated that this process causes confusion and unnecessary or repetitive assignments because it is not uncommon for the lead DAGs to request different investigative tasks than the primary DAGs. This also causes delays in the interview process because it is frequently not readily known if the primary or the lead prosecutor will participate in the interviews and the process as implemented varies from office to office.

Therefore, since the current VE model is not a true vertical process as recommended by the Monitor, varies from one office to the other, and results in confusion and delays in the investigation, it is recommended that a consistent and uniform statewide true VE process, with appropriate levels of approval, be adhered to in every office. Exceptions, if any, should require an appropriate basis and level of approval and be clearly documented and published to avoid the appearance of being arbitrary or unfair. It is further recommended that consideration be given to replacing the existing multiple manuals and implementing a single joint manual that addresses the entire VE process, based on input from all who are part of the VE process through a joint task force or committee, to ensure consistency and uniform understanding of the VE model and each person's role in the VE process. In addition, the VE process itself should be reviewed for efficiency to determine if there are unnecessary duplications and methods for streamlining the overall process.

Recommendation #5: Consider Limiting VE to Specified Types or Categories of Cases or Circumstances

The data provided indicates that although there is a decrease in the time to complete a case once it is referred to the AG for prosecution, there is an overall increase in the investigatory phase of cases in the VE model.

As the Monitor noted, the vertical prosecution model is widely and successfully used by law enforcement, district attorney offices and others for specialized or complex cases. However, not all cases necessarily require handling under the VE model. To improve efficiency and effectiveness in light of the demonstrated increase in the time to complete the investigatory phase that has resulted from inclusion of all cases in the VE model, it is recommended that consideration be given to identifying specific types or categories of cases or circumstances under which VE would likely be of benefit and limit its use to those situations.

A working group consisting of management and staff from both departments should evaluate and recommend the categories of cases, circumstances or guidelines for determining which cases warrant handling in the VE process. In addition, consideration should be given to designating an intake officer(s) in the field offices to determine cases warrant VE handling in accordance with the final guidelines. An outside consultant experienced in vertical prosecution should be considered to assist in this process.

Recommendation #6: Joint Statewide Training

Although MBC management states that joint statewide training has been previously attempted, it is recommended that a mandated joint statewide training for all DAGs and investigators, regardless of their level, experience or past training, be held to assist in team building and ensure a common and consistent knowledge base. Based on the comments received from interviewees, such training should, at a minimum, include:

- Effective and efficient communication;
- Workload prioritization;
- Roles, background and training of investigators, supervisors, lead and primary DAGs and Supervising Deputy Attorney Generals (SDAGs), and the needs of each to efficiently and appropriately perform their functions;
- Definition of “client” and “direction”;
- Interviews and interview strategies;
- Obtaining appropriate expert witnesses;
- Subpoena use and preparation;
- Administrative hearing process and investigator’s role at a hearing; and
- The role and purpose of the Central Complaint Unit (CCU).

The primary purpose of the statewide training is to achieve a common foundation and understanding, as well as to foster team building between the staffs of both departments and their various field offices. Unless the training is designed and implemented to accomplish both of these critical goals, it will not be effective.

Recommendation #7: Staffing Vacancies

Staff interviewed indicated that there were recruitment and retention issues. It is recommended that the departments continue to give priority to resolving any current staffing vacancy issues. Areas to pursue include:

- Methods to increase investigators' salaries;
- Use of overtime pay;
- Use of telecommunication and alternate work schedules; and/or
- Wage subsidization in high turnover, hard to fill vacancy locations.

Consideration should be given to engage a knowledgeable consultant with experience in state government and in working with control agencies to survey past and current employees to identify and, if appropriate, help resolve areas of dissatisfaction that are contributing to the problem.

Recommendation #8: Common Server

One of the recommendations of the Monitor's reports and the previous ***Report to the Legislature, Vertical Enforcement***, was to implement an "information technology system interoperable with the current system used at DOJ". The MBC and AG have agreed to an interoperable database and are in the process of obtaining necessary control agency approvals. Although immediate implementation may consequently not be feasible at this time, there was significant support from many of those interviewed for implementation of a common or shared server accessible to both DAGs and investigators for storage of common documents and their calendars as an interim measure.

It is recommended that a working group of both AG and MBC staff be established to explore an effective and efficient method of sharing documents and information to eliminate repetitive duplication of documents and unnecessary delays in scheduling and rescheduling of subject interviews.

In conclusion, it is recommended that the most prudent course of action at this time is the continuation of the pilot with the modifications contained in Recommendations 2 through 8 to improve the implementation of the VE model, and a reassessment of its success after two years. It is important to note that additional commitment to the VE process by executive management and every manager and supervisor in each department is essential to the success of this modified VE model.

II. INTRODUCTION

BACKGROUND

The mission of the Medical Board of California "is to protect health care consumers through the proper licensing and regulation of physicians and surgeons and certain allied health care professions and through the vigorous, objective enforcement of the Medical Practice Act, and to promote access to quality medical care through the Board's licensing and regulatory functions."

The Medical Practice Act as codified in Business and Professions (B&P) Code Sections 2000-2029 establishes the Medical Board of California (MBC) within the Department of Consumer Affairs (DCA) and mandates, in B&P Code Section 2001.1, protection of the public as the highest priority of the MBC in exercising its licensing, regulatory and disciplinary functions.

The MBC's quality of medical care responsibilities as outlined in B&P Code Section 2004 are: the enforcement of disciplinary and criminal provisions of the Medical Practices Act; the administration and hearing of disciplinary actions; the implementation of disciplinary actions appropriate to findings made by a panel or an administrative law judge; the suspension, revocation, or other limiting of certificates after the conclusion of disciplinary actions; and the review of the quality of medical practice carried out by certified physicians and surgeons under the jurisdiction of the MBC.

In addition, B&P Code Section 2020 requires that the Attorney General act as legal counsel for the MBC for any judicial or administrative proceedings and, pursuant to B&P Code Section 2006, on and after January 1, 2006, redefines statutory references to investigations by the MBC, or one of its divisions, to refer to an investigation directed by employees of the Department of Justice (DOJ).

Government Code (GC) Sections 12529 and 12529.5, effective until July 1, 2010, established the Health Quality Enforcement Section (HQES) within the DOJ, whose primary responsibility is to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the MBC, selected other boards and any committee under the jurisdiction of the MBC.

HISTORY

In 2002, the Joint Legislative Sunset Review Committee recommended that the Director of DCA appoint an independent Enforcement Monitor (Monitor) to investigate and evaluate the disciplinary and enforcement policies and procedures of the MBC.

Subsequently, SB 1950 (Figueroa), Chapter 1085, Statutes of 2002, was enacted. Section 2220.1 of the B&P Code was added which mandated the appointment of a Monitor for two years and required the Monitor to report its findings to the Governor and the Legislature. The statute required that the initial report be submitted no later than October 1, 2003, and a final report prior to March 31, 2005. MBC's sunset date was extended from July 1, 2003 to July 1, 2005.

The ***Initial Enforcement Monitor Report*** was submitted on November 1, 2004. In the report, the Monitor recommended a vertical prosecution model whereby an attorney and investigator are assigned as a team to handle complex cases as soon as a case is opened as a formal investigation. The Monitor stated: "In this system, the prosecutor and investigator work together during the investigative phase to develop the investigative plan and ensure the gathering of necessary evidence to prove the elements of the offense and to address anticipated legal defenses; provide legal analysis of the incoming evidence to help shape the direction of the case; prepare subpoenas or help secure search warrants to prod uncooperative subjects or third-party witnesses; deal directly with defense attorneys when issues arise; and address settlement or plea matters, which often appear early in such cases."

With respect to the role of the investigator, the Monitor stated: "In turn, the investigator contributes a peace officer's experience and insight into the investigative plan and case strategy, and performs the field investigative tasks, including identification and location of witnesses and subjects; interviews of witnesses and subjects; obtaining and participating in the review of documentary and technical evidence; accessing criminal history and other databases; identifying and assisting with experts; planning and executing undercover operations; preparation of affidavits and specifications for search warrants, and service of those warrants; arrests and surrenders; witness assistance and evidentiary matters during trial; investigative report preparation; and other tasks usually associated with the work of trained peace officers and professional investigators."

The benefits of vertical prosecution, according to the Monitor, are:

- Improved efficiency and effectiveness arising from better communication and coordination of efforts;
- Reduced case cycle times;
- Improved commitment to cases;
- Improved morale, recruitment, and retention of experienced prosecutors and investigators;
- Improved training for investigators and prosecutors; and
- The potential for improved perception of the fairness of the process.

The Monitor report also recommended that MBC's investigators be transferred to HQES. It is important to emphasize that the Monitor also stated: "It is critical to note that the vertical prosecution model works best where all participants recognize and respect the contributions of all team members, and where attorneys, investigators, and other team members perform the functions for which they are trained and best suited.

Investigators in a vertical prosecution team are responsible for the tasks which are appropriately theirs, including essentially all the field investigative tasks involving witnesses, evidence, and related procedures. Prosecutors in a vertical prosecution team perform the tasks for which they are trained and licensed, including legal analysis and advocacy essential to preparing evidence for trial and presenting that evidence at trial."

Many of the recommendations outlined in the Monitor's report were addressed immediately by MBC, however, others required legislation.

Subsequently, SB 231 (Figueroa), Chapter 674, Statutes of 2005, was enacted instituting a two year vertical prosecution pilot, but without transferring the MBC's investigators to HQES. The GC Section 12529.6 was added requiring that effective January 1, 2006, "each complaint that is referred to a district office of the board for investigation, shall be simultaneously and jointly assigned to an investigator and to the deputy attorney general in the Health Quality Enforcement Section responsible for prosecuting the case if the investigation results in the filing of an accusation. The joint assignment of the investigator and the deputy attorney general shall exist for the duration of the disciplinary matter. During the assignment, the investigator so assigned shall, under the direction of the deputy attorney general, be responsible for obtaining the evidence required to permit the Attorney general to advise the board on legal matters such as whether the board should file a formal accusation, dismiss the complaint for a lack of evidence required to meet the applicable burden of proof, or take other appropriate legal action."

The legislation also required MBC to report and make recommendations to the Governor and the Legislature on the vertical prosecution model by July 1, 2007. Lastly, the MBC sunset date was extended to July 1, 2008.

The ***Final Enforcement Monitor Report*** was completed on November 1, 2005. As it relates to vertical prosecution, the Monitor once again recommended the full implementation of the vertical prosecution system, including the transfer of MBC's investigators to HQES after 2007.

On January 1, 2006, the MBC and the HQES implemented a vertical prosecution model. Since not all of MBC's cases lead to prosecution, the name of the new model was changed to vertical enforcement (VE), although statute still refers to a vertical prosecution model.

Both agencies agreed that the two year VE pilot include three basic elements:

- Each complaint referred to an MBC field office must be simultaneously and jointly assigned to an MBC investigator and a HQES deputy attorney general (DAG);
- The joint assignment must exist for the duration of the case; and
- Under the direction of a DAG, the assigned MBC investigator is responsible for obtaining the evidence required to allow the DAG to advise the MBC investigator

on legal matters such as whether a formal accusation should be filed, dismiss the complaint, or take other appropriate legal action.

In addition, both agencies agreed that at a minimum, the MBC investigator and the assigned DAG would confer at three specific stages of each investigation:

- Upon initial case assignment;
- Prior to the interview with the subject physician; and
- Prior to the submission of case documents for expert review.

As mandated by SB 231, MBC presented its report to the Legislature on the vertical prosecution model on November 2007. The report stated that although there were challenges in implementing the new VE model, there was, during the first 16 months of VE from January 1, 2006 through April 9, 2007, an overall decrease of 10 days in the average time to complete an investigation (exclusive of cases pending prior to implementation of the pilot). The report also indicated that the number of cases closed without prosecution during this period was reduced from 145 days to 139 days; obtaining medical records decreased from 74 days to 36 days; conducting physician interviews declined from 60 days to 40 days; obtaining medical expert opinions decreased from 69 days to 36 days; filing of accusations by HQES decreased from 241 days to 212 days; and the time to obtain interim suspension orders or temporary restraining orders was reduced from 91 days to 30 days.

According to the MBC' report, because of SB 231, HQES augmented their staff with nine new positions to assist with the new VE model, and MBC augmented their staff with four new investigator positions.

The MBC's ***Report to the Legislature on Vertical Enforcement*** on November 21, 2007 included the following recommendations:

- To fully and permanently integrate the VE model in MBC's operations;
- To move forward with co-location of HQES and MBC staff, where appropriate;
- To implement an information technology system that is interoperable with the system used at the Department of Justice; and
- To create a joint MBC and HQES manual similar to the MBC Enforcement Operations Manual (EOM) to incorporate the VE model from the receipt of a complaint until its resolution in any administrative action.

In addition, the report stated that: "Initial statistical data from the pilot period identify trends which suggest the VE model can more quickly identify cases for closure and certain egregious complaints can be handled more expeditiously. The data also suggested progress in reducing the time frames to complete investigations. However, the pilot time frame was insufficient to address the Monitor's concerns regarding the time to complete prosecutions. Since certain MBC investigations can take one year to conduct, the pilot time frame did not provide adequate time to measure the prosecutorial time line of such cases."

On October 13, 2007, the Governor signed Senate Bill 1048 (Committee on Business, Professions and Economic Development), Chapter 588, which extended MBC's sunset date until July 1, 2010.

Subsequently, SB 797 (Ridley-Thomas), Chapter 33, Statutes of 2008, added the following to GC Section 12529.6:

> "The Medical Board of California shall do both of the following:
> (1) Increase its computer capabilities and compatibilities with the Health Quality Enforcement Section in order to share case information.
> (2) Establish and implement a plan to locate its enforcement staff and the staff of the Health Quality Enforcement Section in the same offices, as appropriate, in order to carry out the intent of the vertical enforcement and prosecution model."

In addition, SB 797 called for another report to the Governor and the Legislature on the vertical enforcement and prosecution model by July 1, 2009. This report is the result of that mandate.

SCOPE

The primary purpose of this report is to evaluate the VE model by reviewing statistical data on the impact of VE on the investigation and prosecution of complaints referred to MBC's district office enforcement staff for investigation. Because MBC and HQES also jointly processed certain Allied Health Care cases utilizing the VE model, this data is also included in the evaluation in order to account for its impact on workload and provide for a larger data sample.

Interviews of select MBC and HQES staff were also conducted to supplement the statistical data obtained.

Due to time and scope constraints, comparisons with other agencies were not possible in the development of the recommendations. However, references to various other agencies' vertical prosecution processes are included in the ***Report to the Legislature Vertical Enforcement, November 21, 2007***, as well as the Monitor reports.

APPROACH AND METHODOLOGY

Annual statistical data was obtained from MBC for various data markers for the period January 1, 2005 (pre-VE) through December 31, 2008. The statistical conclusions contained in this report are based on data provided to ISBG by MBC, which is consistent with the data provided in the Monitor's reports, the ***Report to the Legislature on Vertical Enforcement*** in November 2007, as well as all other official

MBC reports. . Due to the limited scope and time available to complete the report, ISBG performed no independent testing or auditing of the provided data to verify its accuracy. In addition, although outside of the scope, data separately collected and maintained by HQES was not received, and therefore, not compared with the data provided by MBC.

References to comparisons of data between years, such as the percentage difference between 2005 and 2008, refers to a comparison of the total cases in the indicated years exclusive of cases in the intervening years. Because many of the data markers involve a comparison of a relatively small number of cases, reference should be made to the underlying data contained in the applicable appendices when determining the significance, if any, of the results of the specific statistical comparisons.

Since data alone can not provide a full understanding of the impact of VE, interviews of select HQES and MBC staff were conducted between April 9 through 15, 2009. Although the project scope contained relatively few hours to conduct interviews, it was determined that interviewing additional staff at all levels of both departments was necessary to obtain an accurate representation of how VE is being implemented. ISBG voluntarily conducted these additional interviews despite the substantial additional time required. A total of 22 staff from both departments were interviewed. Eleven (11) HQES staff were interviewed, all of whom were present since the onset of VE, with an average of 14 years experience with HQES, representing all staffing levels. Additionally, 11 MBC investigative staff were interviewed, all of whom were present at MBC since the onset of VE, with an average of 13 years with MBC, representing all staffing levels. Selection of the interviewed staff was made by HQES and MBC management and included a cross section of geographic locations and journey and supervisory levels from each agency.

This report presents data in multiple ways. Tables and charts are presented first for combined P&S and AH cases. These tables and charts are followed by the data for P&S cases only, followed by data for AH cases only, enabling review of data for each category separately.

Tables in the main body of the report are presented in the form of percentages. However, both the charts that follow the tables and the corresponding tables in Appendix B contain the actual primary data.

III. STAFFING AND CASELOAD

STAFFING

Both MBC and HQES received additional staffing to implement VE.

MBC Staffing

Per MBC's ***Report to the Legislature on Vertical Enforcement*** in November 2007, MBC had 92 sworn staff positions comprised of 71 investigators and 21 supervisors. On July 1, 2006, based on SB 213, MBC augmented its staff by four investigator positions. Of the 96 authorized positions, it reported an average statewide vacancy rate of 12.3 percent, or 11.6 vacant positions.

In 2007, MBC internally reallocated its sworn probation positions to enforcement positions and redesignated the Rancho Cucamonga probation office to an enforcement district office.

As of May 2009, MBC enforcement field staff consists of 3 Supervising Investigator (Sup) II positions, 12 Sup I positions, and 70 investigator positions, of which 10 are vacant, resulting in a 14 percent investigator vacancy rate. According to interviewed staff, the vacancies are due mainly to retirement, the VE process and workload. In addition, MBC is not receiving lateral transfers from other departments, and the current investigator list is inadequate. They also stated that certain areas, such as Fresno and San Jose, continually experiences difficulties in recruiting and retaining staff.

Between 2005 and 2008, there was a 4.11% increase in the number of hours worked by medical consultants and a 569.39% increase in the number of cases referred for medical consultant review. During this same period, there was a 183.87% increase in the average and 83.33% increase in the median days between submission of a case for DO medical consultant review and completion of the review.

The Governor's Executive Orders also had an impact on timelines. For example, between July and October 2008, 23 MBC cases scheduled before the Office of Administrative Hearings (OAH) were delayed an average of 119.78 days and a median of 112 days.

HQES Staffing

Pursuant to SB 231, HQES augmented its staff by nine DAGs to implement the VE model. According to a roster provided by HQES, this section has one Senior Assistant AG, six Supervising DAGs (SDAG), 45 DAGs (including one vacancy in Sacramento, three Senior Legal Analysts, and two DAG retired annuitants. Based on information

obtained during interviews of HQES personnel, the San Francisco Office currently has the most senior (i.e., HQES experienced) attorney staff of the four HQES offices. It was stated that in the San Diego office, 67 percent of the DAGs have two years or less experience in HQES, and in the Los Angeles office 75 percent of the DAGs have 3 or less years of HQES experience.

It must be noted that not all HQES staff are funded by MBC as they also represent other clients.

With the addition of investigation oversight responsibilities to HQES, between 2005 and 2008 there was a 37.71% increase in the number of attorney services hours and an increase of 39.81% in the number of legal assistant/paralegal hours billed to MBC by the AG. During the same period, there was an 8.48% decrease in the number of completed investigations that resulted in the filing of an accusation.

CASELOAD

Caseload levels vary between HQES and MBC staff.

MBC Caseload

Most MBC staff stated that their caseload is too heavy. The average caseload for senior MBC investigators was estimated by staff interviewed to be between 25-27, and the average for investigators was estimated at approximately 20. Most stated that a preferred workload would be about five cases less.

Review of the statistical caseload data shows the average caseload per filled MBC enforcement field investigator position was 26 in 2005, 25 in 2006, 22 in 2007 and 20 in 2008 (see Table B3.4). Since the caseload per field investigator decreased for the overall period, the statistics do not support a contention that the vacancy rate significantly impacted investigator caseload (see AG letter, Appendix C).

If all authorized MBC positions were filled, the caseload per field investigator would be 23 in 2005, 22 in 2006, 19 in 2007 and 17 in 2008.

HQES Caseload

Most HQES staff interviewed reported that their current caseload is manageable and not much different from prior to VE. Even though the DAGs are now responsible for case investigations, administrative caseloads decreased and staffing increased by nine new positions. Currently, most of the personnel interviewed estimated an average caseload of 10-20 administrative cases and 20-30 investigation cases, depending on whether the DAG is acting in a primary or lead role.

RETENTION AND RECRUITMENT

Retention and recruitment of investigators and attorneys have been a challenge, especially in some areas of the state.

MBC

Per MBC's ***Report to the Legislature on Vertical Enforcement***, in November 2007 MBC had 96 sworn staff position comprised of 21 supervisors and 75 investigators. Of the 96 authorized positions, MBC indicated it had an average statewide vacancy rate of 12.3 percent, or 11.6 vacant positions in calendar year 2006.

As of May 2009, MBC has 3 Sup II, 12 Sup I, and 70 senior/investigator positions of which 10 are vacant, resulting in a 14.29 percent vacancy rate for senior/investigator positions. According to staff interviewed, the vacancies are due mainly to early retirement, the VE process, and workload. According to supervisory staff interviewed, lateral transfers from other departments are not occurring and the current investigator list is inadequate. Furthermore, it has been extremely difficult to recruit staff for certain areas such as Fresno and San Jose, and there are long standing vacancies in these areas.

Interviewees indicated staff retention problems are mainly the result of the VE process and insufficient staffing levels. Reported perceptions as to the reasons for staff transferring to other departments or retiring early included frustration with the process, multiple approval levels, loss of autonomy, disrespectful attitude and treatment by select DAGs, roles not clearly defined or accepted, conflicting directions and heavy caseloads.

HQES

According to the roster provided by the AG's office, HQES has one Senior Assistant AG, six SDAGs, 45 DAGs (including one vacancy in Sacramento), three Senior Legal Analysts, and two retired annuitant DAGs.

Interviewees indicated that the San Francisco Office has the most senior attorney staff of the four HQES offices. It was stated that in the San Diego office, 67 percent of the DAGs have two years or less experience in HQES, and in the Los Angeles office 75 percent of the DAGs have 3 or less years of HQES experience.

Although HQES management indicates it does not have problems recruiting, retaining or promoting DAGs and that HQES is going through a transition period that explains the presence of newer DAGs, some of the AG personnel interviewed indicated that some DAGs are retiring early or transferring to other departments due to the complexity of cases, the multitude of mandates, lack of authority and the multiple levels of review.

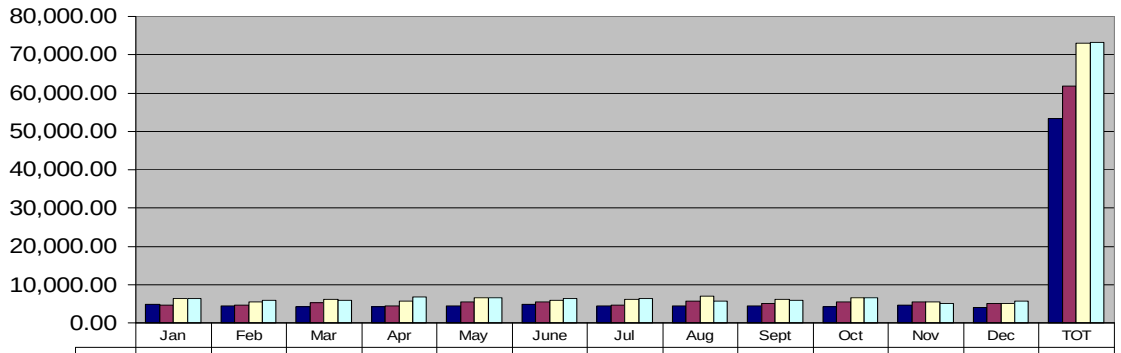
ATTORNEY GENERAL HEALTH QUALITY ENFORCEMENT SECTION ATTORNEY SERVICES HOURS BILLED TO MEDICAL BOARD

Table 3.1 below reports the Attorney General Health Quality Enforcement Section attorney services hours to the Medical Board. Between 2005 and 2008, there was a 37.71% increase in the attorney services hours billed and a 39.81% increase in the legal assistant/paralegal hours billed.

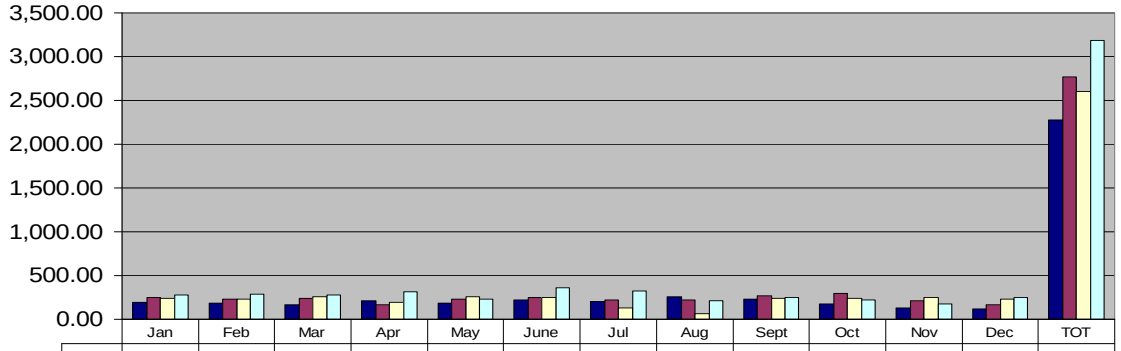
Table 3.1 – Attorney General Health Quality Enforcement Section Attorney Services Hours Billed to Medical Board

	Percentage Difference 2006 to 2007	Percentage Difference 2007 to 2008	Percentage Difference 2006 to 2008	Percentage Difference 2005 to 2008
Attorney Services	18.09%	0.54%	18.72%	37.71%
Legal Asst/Paralegal	-6.09%	22.50%	15.04%	39.81%

Charts 3.1a & b – Attorney General Health Quality Enforcement Section Attorney Services Hours Billed to Medical Board



	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sept	Oct	Nov	Dec	TOT
2005	4,905.75	4,455.50	4,336.25	4,177.75	4,487.75	4,808.00	4,445.25	4,390.50	4,374.00	4,182.50	4,627.25	4,043.25	53,233.75
2006	4,689.75	4,661.50	5,199.75	4,527.25	5,446.00	5,406.75	4,711.25	5,760.25	5,178.00	5,433.50	5,576.25	5,156.50	61,746.75
2007	6,320.50	5,526.50	6,232.25	5,769.25	6,478.00	5,990.50	6,180.75	6,933.50	6,143.50	6,653.25	5,532.25	5,153.50	72,913.75
2008	6,339.75	5,958.50	5,989.75	6,703.50	6,566.25	6,363.00	6,321.75	5,689.25	5,936.00	6,487.75	5,134.25	5,816.00	73,305.75



	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sept	Oct	Nov	Dec	TOT
2005	195.50	182.00	166.75	211.50	185.75	220.50	203.75	255.00	228.00	180.50	131.00	116.00	2,276.25
2006	248.00	229.00	245.00	162.75	234.25	253.25	225.00	220.25	269.25	291.75	217.25	170.75	2,766.50
2007	241.25	227.25	262.50	190.00	263.50	251.50	134.00	65.25	240.00	241.50	253.50	227.75	2,598.00
2008	277.25	286.75	278.25	315.50	235.50	356.50	320.25	216.50	248.75	219.75	179.25	248.25	3,182.50

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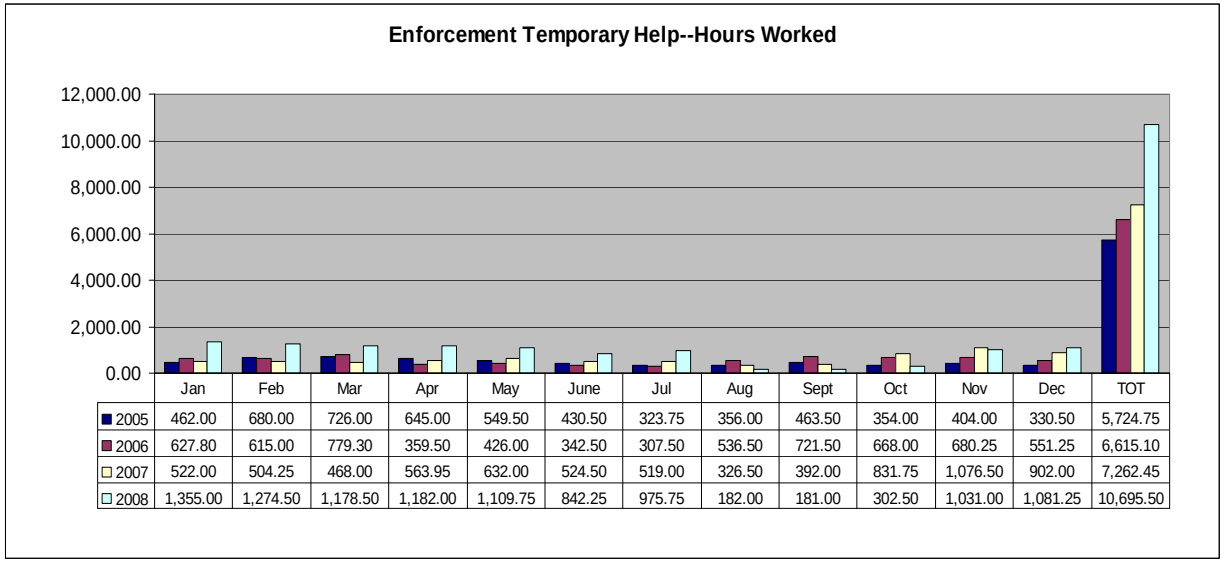
MEDICAL BOARD ENFORCEMENT TEMPORARY HELP HOURS WORKED (EXCLUDES MEDICAL CONSULTANTS)

Table 3.2 below reports the enforcement temporary help hours worked (excluding medical consultants). Between 2005 and 2008, there was an 86.83% increase in the enforcement temporary help hours worked.

Table 3.2 – Medical Board Enforcement Temporary Help Hours Worked (Excluding Medical Consultants)

	Percentage Difference 2006 to 2007	Percentage Difference 2007 to 2008	Percentage Difference 2006 to 2008	Percentage Difference 2005 to 2008
Enforcement Temporary Help Hours Worked	9.79%	47.27%	61.68%	86.83%

Chart 3.2 – Medical Board Enforcement Temporary Help Hours Worked (Excluding Medical Consultants)



	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sept	Oct	Nov	Dec	TOT
2005	462.00	680.00	726.00	645.00	549.50	430.50	323.75	356.00	463.50	354.00	404.00	330.50	5,724.75
2006	627.80	615.00	779.30	359.50	426.00	342.50	307.50	536.50	721.50	668.00	680.25	551.25	6,615.10
2007	522.00	504.25	468.00	563.95	632.00	524.50	519.00	326.50	392.00	831.75	1,076.50	902.00	7,262.45
2008	1,355.00	1,274.50	1,178.50	1,182.00	1,109.75	842.25	975.75	182.00	181.00	302.50	1,031.00	1,081.25	10,695.50

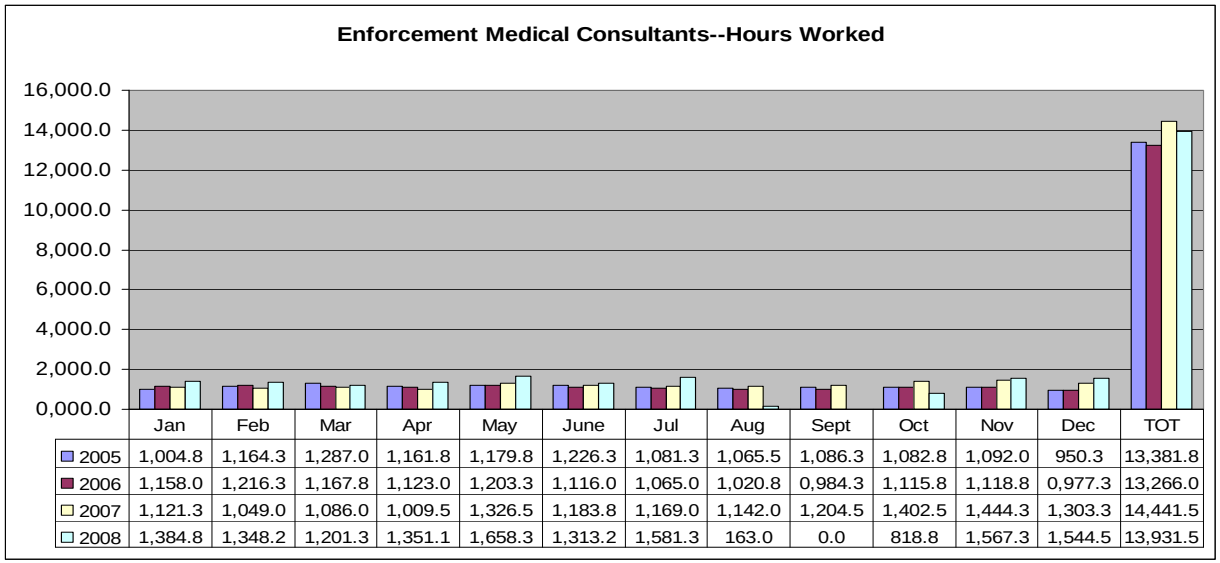
ENFORCEMENT MEDICAL CONSULTANT HOURS WORKED

Table 3.3 below reports the enforcement medical consultant hours worked. Between 2005 and 2008, there was a 4.11% increase in the enforcement medical consultant hours worked.

Table 3.3 – Enforcement Medical Consultant Hours Worked

	Percentage Difference 2006 to 2007	Percentage Difference 2007 to 2008	Percentage Difference 2006 to 2008	Percentage Difference 2005 to 2008
Enforcement Medical Consultant Hours Worked	8.86%	-3.84%	5.02%	4.11%

Chart 3.3 – Enforcement Medical Consultant Hours Worked



	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sept	Oct	Nov	Dec	TOT
2005	1,004.8	1,164.3	1,287.0	1,161.8	1,179.8	1,226.3	1,081.3	1,065.5	1,086.3	1,082.8	1,092.0	950.3	13,381.8
2006	1,158.0	1,216.3	1,167.8	1,123.0	1,203.3	1,116.0	1,065.0	1,020.8	0,984.3	1,115.8	1,118.8	0,977.3	13,266.0
2007	1,121.3	1,049.0	1,086.0	1,009.5	1,326.5	1,183.8	1,169.0	1,142.0	1,204.5	1,402.5	1,444.3	1,303.3	14,441.5
2008	1,384.8	1,348.2	1,201.3	1,351.1	1,658.3	1,313.2	1,581.3	163.0	0.0	818.8	1,567.3	1,544.5	13,931.5

MEDICAL BOARD INVESTIGATORS AND AVERAGE CASELOAD

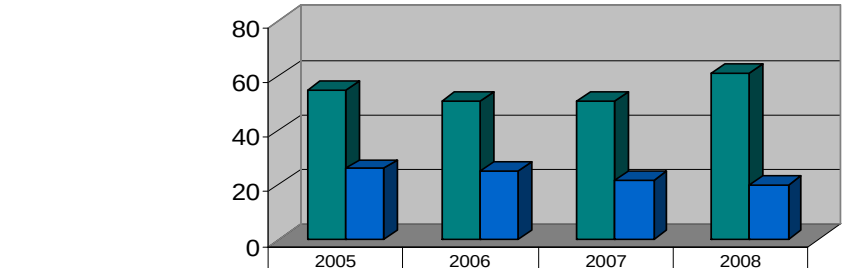
Table 3.4 below reports the number of Medical Board field investigators and average caseload. Between 2005 and 2008, there was a 10.91% increase in the number of filled investigator positions (from 55 to 61) and a 16.39% increase in the number of authorized positions (from 61 to 71). During this period, there was a 23.08% decrease in the average number of cases per filled field investigator position (from 26 to 20) and a 26.09% decrease in the numbers of cases per authorized field investigator position (from 23 to 17).

To view the primary data the following calculations are based on, please see Table B3.4 in Appendix B.

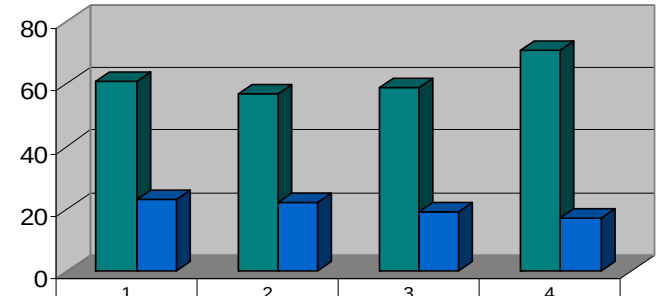
Table 3.4 – Medical Board Field Investigators and Average Caseload

	Percentage Difference 2006 to 2007	Percentage Difference 2007 to 2008	Percentage Difference 2006 to 2008	Percentage Difference 2005 to 2008
No. of Filled Enforcement Field Investigator Positons	0.00%	19.61%	19.61%	10.91%
Avg Cases per Filled Enforcemt Field Investigator	-12.00%	-9.09%	-20.00%	-23.08%
No. of Authorized Enforcement Field Investigator Positons	3.51%	20.34%	24.56%	16.39%
Avg Cases per Authorized Field Investigator Position	-13.64%	-10.53%	-22.73%	-26.09%

Charts 3.4a & b – Medical Board Field Investigators and Average Caseload



	2005	2006	2007	2008
No. of Field Investigators	55	51	51	61
Average Caseload per Field Investigator	26	25	22	20



	1	2	3	4
No. of Field Investigators	61	57	59	71
Average Caseload per Field Investigator	23	22	19	17

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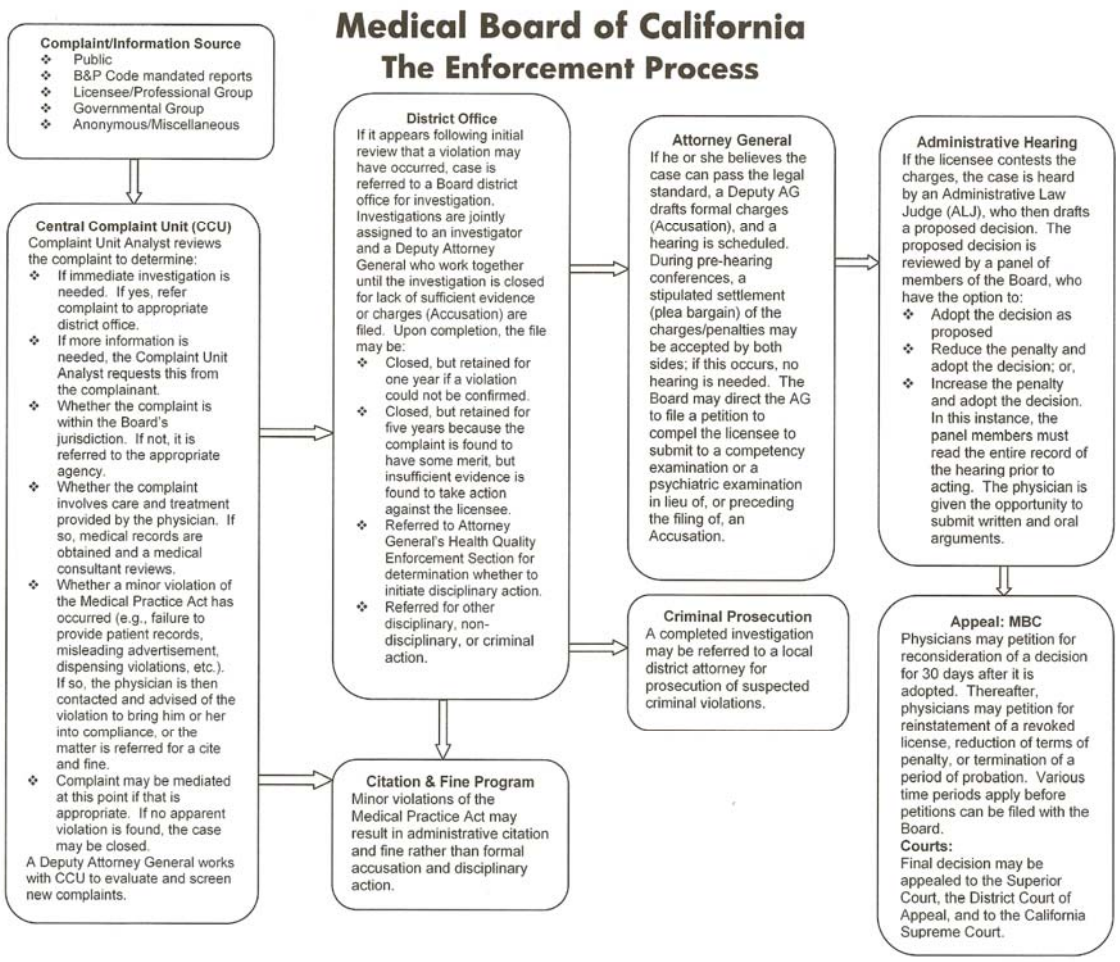
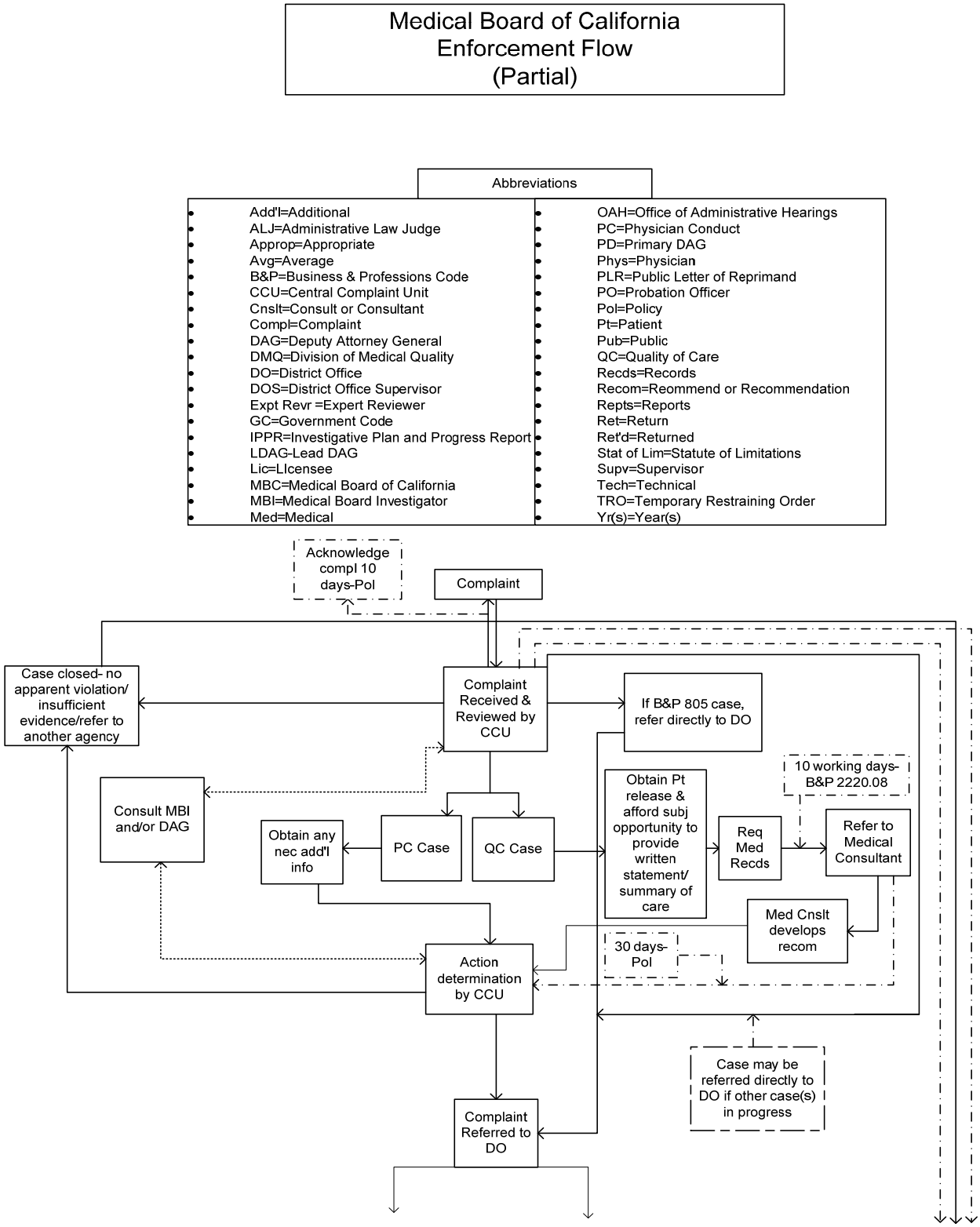
IV. MBC ENFORCEMENT PROCESS

Government Code Section 12529.6(a): "The Legislature finds and declares that the Medical Board of California, by ensuring the quality and safety of medical care, performs one of the most critical functions of state government. Because of the critical importance of the board's public health and safety function, the complexity of cases involving alleged misconduct by physicians and surgeons, and the evidentiary burden in the board's disciplinary cases, the Legislature finds and declares that using a vertical enforcement and prosecution model for those investigations is in the best interests of the people of California."

The following chart depicts the MBC enforcement process as published by MBC:



The following flow chart illustrates select steps in the vertical enforcement model utilized in the MBC enforcement:



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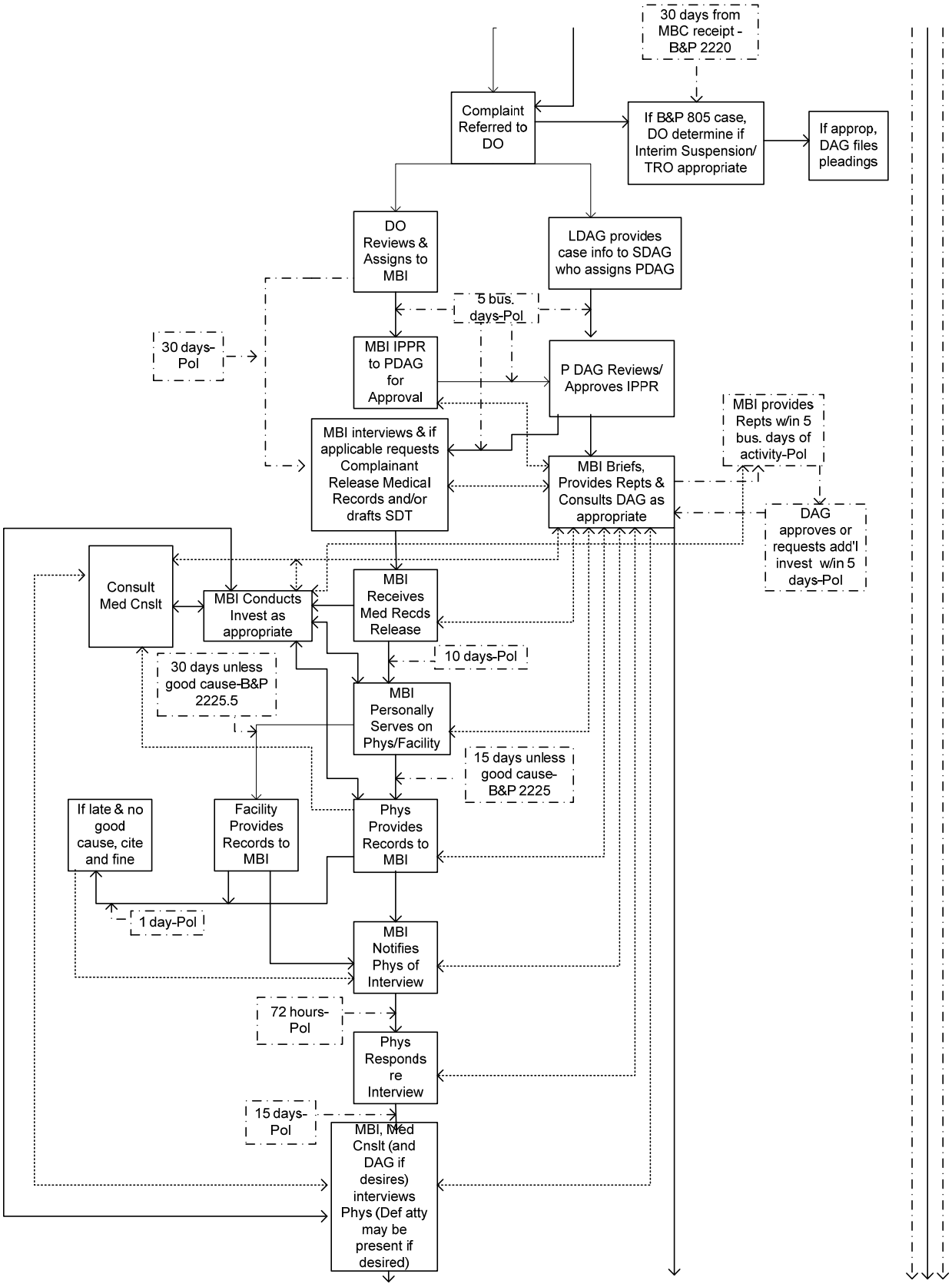

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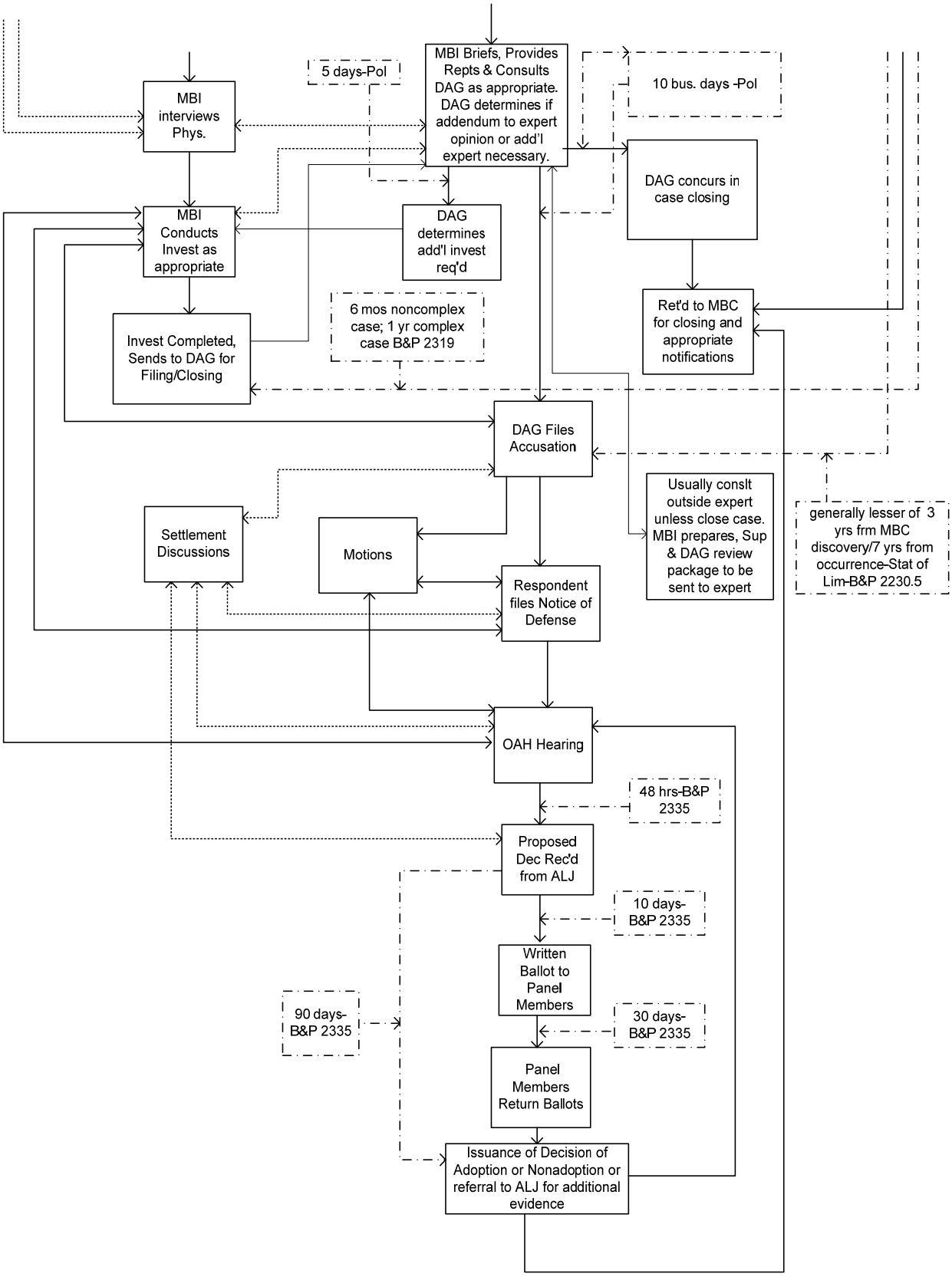

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V. PRIORITY AND COMPLEX CASES

PRIORITY CASES

Per B&P Code Section 2220.05: "In order to ensure that is resources are maximized for the protection of the public, the Medical Board of California shall prioritize its investigative and prosecutorial resources to ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority bases, as follows, with the highest priority being given to cases in the first paragraph. . ."

The priorities include:

- Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients;
- Drug or alcohol abuse involving death or serious bodily injury to a patient;
- Repeated acts of excessive prescribing, furnishing, dispensing, or administering controlled substances;
- Sexual misconduct with one or more patients; and
- Practicing medicine while under the influence of drugs or alcohol.

Priority Policy

Pursuant to the above statute and MBC's ***Enforcement Operations Manual*** (EOM) Section 6.13, MBC investigators are required to prioritize investigative and prosecutorial resources to ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Per EOM Section 9.7, when the Sup I/II becomes aware that the public health and safety is at risk, he/she may request the AG's office to obtain a Temporary Restraining Order (TRO) or an Interim Suspension Order (ISO); or when MBC becomes aware that a physician or surgeon is incarcerated resulting from a felony conviction, request an Automatic Suspension Order (ASO); or may request the AG make a Penal Code Section 23 (PC 23) court appearance on behalf of MBC.

Pursuant to the HQES and MBC ***Vertical Prosecution Manual*** (VPM), Second Edition, November 2006, the lead DAG is directed to identify those cases in which an ISO or PC 23 appearance is necessary and to notify the SDAG, who designates a primary DAG responsible for the order or appearance. The EOM Section 9.7 indicates that after an ISO is issued the DAG must file an accusation within 15 days or the ISO dissolves. After the accusation is filed, a hearing must be held within 30 days (unless respondent stipulates to a later date) and the Administrative Law Judge (ALJ) must prepare a decision within 15 days.

In accordance with EOM, Section 9.7, when an investigator is aware that there is any criminal proceeding against a licensee, the investigator, together with the Sup I, determines if a PC 23 request for intervention by the AG's Office is warranted. If so, it is presented to the lead DAG and then follows the procedures listed in the VPM.

Per EOM, Section 9.7, after a TRO is issued by the Superior Court, the DAG files an accusation within 30 days and an administrative hearing is scheduled within 30 calendar days of the date the subject requests a hearing. The Administrative Law Judge (ALJ) must render a decision within 15 days following the hearing. Failure to do so may result in the termination of the TRO by the Superior Court.

If a licensee is incarcerated pursuant to a felony conviction, the investigator requests an ASO from a DAG, who, in turn, prepares an ASO notice to the licensee and submits the notice to the MBC Executive Director for signature.

COMPLEX CASES

Pursuant to B&P Code Section 2319, the goal for cases which, in the opinion of the MBC, involve complex medical or fraud issues or complex business or financial arrangements, is no more than one year to investigate.

Complex Case Policy

The MBC's EOM identifies the factors to be taken into consideration in determining if a case is "complex" as follows:

- Multiple patients;
- Fraud/ethical violations/dishonesty cases;
- Unique legal cases;
- Unlicensed corporate practice of medicine;
- Multiple violation cases;
- Cases requiring subpoena enforcement through Superior Court;
- Records needed from more than three providers or locations;
- Drug cases requiring pharmacy audits, undercover operations, two experts, uncooperative patients, search warrants or internet purchases;
- Cases involving impairment of the subject where there is lack of complainant information and/or lack of corroboration;
- Unique patient legal status which requires determining who has the legal authority to authorize the release of the patient's medical records
- Unique medical issues; and
- Cases involving unique patients, subjects or issues.

The MBC's database does not currently distinguish between complex and noncomplex cases. Consequently, this report is not able to make such a distinction in its review or analysis of the provided data.

NOTE REGARDING TABLES AND CHARTS

This report presents data in multiple ways. Tables and charts are presented first for combined P&S and AH cases, followed by the data for P&S cases only and AH cases only, enabling review of data for each category separately. Because many of the data markers involve comparison of relatively few cases, the combined data provides a stronger basis for comparison. Reference should be made to the applicable underlying data contained in the appendices and identified in the charts in determining the significance, if any, of the specific statistical comparisons.

Tables are presented in the form of percentages. Both the charts that follow the tables and the corresponding tables in Appendix B contain the underlying primary data. The absence of a percentage increase or decrease in a table indicates that either there is no data applicable or that the denominator was "0" and that no percentage calculation is therefore possible.

The statistical conclusions contained in this report are based on data provided to ISBG by MBC, which is consistent with the data presented in the Monitor's reports, the ***Report to the Legislature on Vertical Enforcement*** in November 2007, as well as all other official MBC reports. Due to the limited scope and time available to complete the report, ISBG performed no independent testing or auditing of the provided data to verify its accuracy. In addition, although outside of the scope, data separately collected and maintained by HQES was not received, and therefore, was not compared with the data provided by MBC.

Since MBC and HQES jointly processed AH cases utilizing the VE model, this data is included in the evaluation in order to account for its impact on workload. P&S case data excludes out-of-state and headquarters cases. The AH case data includes: osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians and licensed midwives.

VI. SUSPENSION ORDERS

Pursuant to the EOM, a Temporary Restraining Order (TRO), Interim Suspension Order (ISO), Automatic Suspension Order (ASO) or PC 23 appearance, as appropriate, may be sought when the public health and safety is at risk or a physician is incarcerated as a result of a felony conviction.

Pursuant to B&P Code Section 2220, the MBC shall investigate the circumstances underlying any report received pursuant to Section 805 within 30 days to determine if an ISO or TRO should be issued.

Per EOM, an investigator should seek a TRO or an ISO when the public health and safety are at risk, such as sexual misconduct, drug or alcohol abuse, mental illness, physical illness affecting competence, criminal activity that involves actual or potential serious injury or harm to the public, multiple acts of gross negligence and/or incompetence, or physicians who fail a professional competency examination.

With regard to a TRO, the DAG must file an accusation within 30 days after a TRO is issued by the Superior Court and schedule an administrative hearing within 30 calendar days of the date the subject requests a hearing. The ALJ must render a decision within 15 days.

With regard to an ISO, after the ALJ issues an ISO, an accusation must be filed within 15 days or the ISO dissolves. After the accusation is filed, a hearing must be held within 30 days (unless respondent stipulates to a later date), and the ALJ must prepare a proposed decision within 15 days.

Pursuant to B&P Code Section 2236.1, a licensee shall be suspended automatically during any time the licensee is incarcerated after a felony conviction. An ASO notice is prepared by the DAG and signed by the MBC Executive Director notifying the licensee of the suspension and of his/her rights to a hearing.

When an investigator becomes aware of any criminal proceedings against a licensee, and the investigator and supervisor determines that a suspension or restriction of the licensee's practice is warranted, a PC 23 order is requested and the DAG represents the MBC at the criminal arraignment or preliminary hearing in the appropriate court.

For Request to Suspension Order Granted for combined Physicians and Surgeons and Allied Health cases between 2005 and 2008, there was a decrease in the average days aged from 35 days to 18 days, an increase in the median days aged from 8 days to 10 days, and a decrease in the number of cases from 35 cases to 28 cases. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FROM REQUEST TO SUSPENSION ORDER GRANTED — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 6.1 below reports the average and median calendar days aged from request to suspension order granted for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 48.57% decrease in the average days aged, a 25.00% increase in the median days aged, and a 20.00% decrease in the number of cases.

Table 6.1 – Calendar Days Aged from Request to Suspension Order Granted for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Suspension Order Granted																				
Average	3.85%		-2.00%		342.86%		-66.67%		-85.71%		-38.71%		-65.38%		-86.00%		171.43%		-48.57%	
Median (middle record-half are above and half below)	133.33%		-87.50%		950.00%		42.86%		400.00%		-52.38%		233.33%		-37.50%		400.00%		25.00%	
Record Count	-17.14%		-41.18%		5.56%		-3.45%		-50.00%		21.05%		-20.00%		-70.59%		27.78%		-20.00%	

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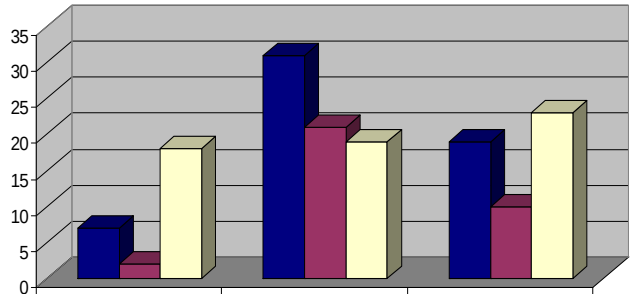
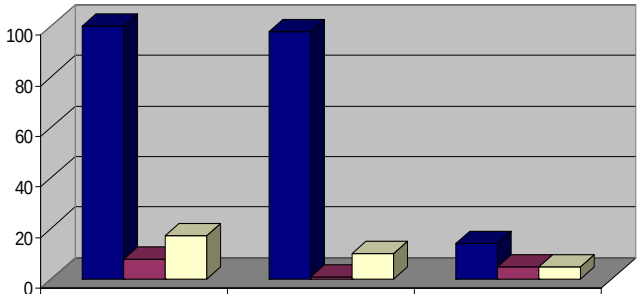
Charts 6.1a, b & c – Calendar Days Aged from Request to Suspension Order Granted for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days from Request to Granting of Order of Suspension



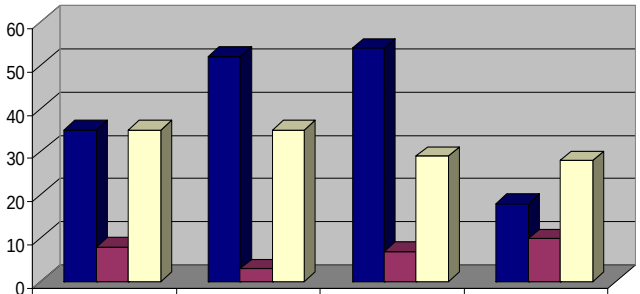
	2006	2007	2008
Average No. of Days	7	31	19
Median No. of Days	2	21	10
No. of Cases	18	19	23

P&S and AH--Non-VE Cases Only
Days from Request to Granting of Order of Suspension



	2006	2007	2008
Average No. of Days	100	98	14
Median No. of Days	8	1	5
No. of Cases	17	10	5

P&S and AH----Total Cases
Days from Request to Granting of Order of Suspension



	2005	2006	2007	2008
Average No. of Days	35	52	54	18
Median No. of Days	8	3	7	10
No. of Cases	35	35	29	28

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CALENDAR DAYS AGED FROM REQUEST TO SUSPENSION ORDER GRANTED — PHYSICIANS AND SURGEONS

Table 6.2 below reports the average and median calendar days aged from request to suspension order granted for Physicians and Surgeons cases. Between 2005 and 2008, there was a 52.50% decrease in the average days aged, a 25.00% decrease in the median days aged, and a 27.59% decrease in the number of cases.

Table 6.2 – Calendar Days Aged from Request to Suspension Order Granted for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Suspension Order Granted																				
Average	7.02%		-6.67%		800.00%		-68.85%				-44.44%		-66.67%		-83.81%		400.00%		-52.50%	
Median (middle record-half are above and half below)	550.00%		-83.33%		2200.00%		-23.08%				-56.52%		400.00%		183.33%		900.00%		25.00%	
Record Count	-11.11%		-28.57%		7.69%		-12.50%		-60.00%		21.43%		-22.22%		-71.43%		30.77%		-27.59%	

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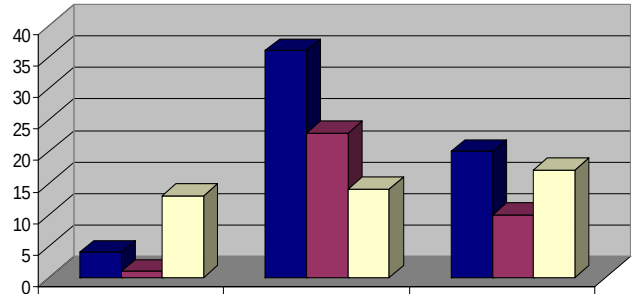
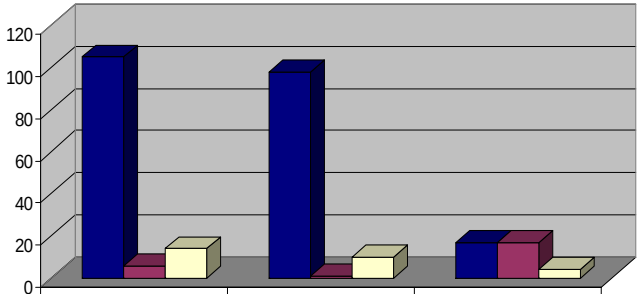
Charts 6.2a, b & c – Calendar Days Aged from Request to Suspension Order Granted for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days from Request to Granting of Order of Suspension



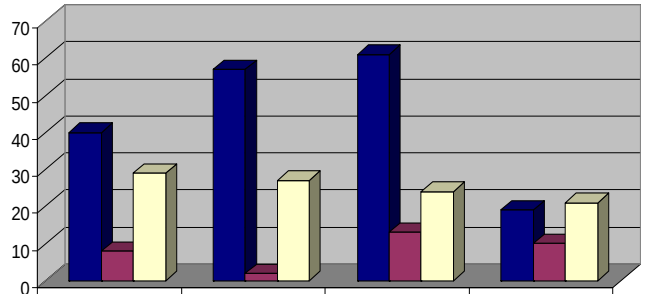
	2006	2007	2008
Average No. of Days	4	36	20
Median No. of Days	1	23	10
No. of Cases	13	14	17

Physicians and Surgeons--Non-VE Cases Only
Days from Request to Granting of Order of Suspension



	2006	2007	2008
Average No. of Days	105	98	17
Median No. of Days	6	1	17
No. of Cases	14	10	4

Physicians and Surgeons----Total Cases
Days from Request to Granting of Order of Suspension



	2005	2006	2007	2008
Average No. of Days	40	57	61	19
Median No. of Days	8	2	13	10
No. of Cases	29	27	24	21

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CALENDAR DAYS AGED FROM REQUEST TO SUSPENSION ORDER GRANTED — ALLIED HEALTH

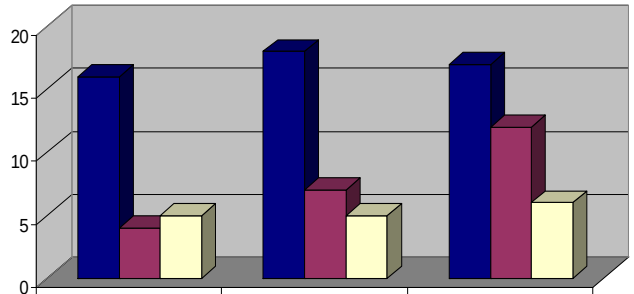
Table 6.3 below reports the average and median calendar days aged from request to suspension order granted for Allied Health Care cases. Between 2005 and 2008, there was a 36.36% decrease in the average days aged, no change in the median days aged, and a 16.67% increase in the number of cases. There were no cases pending at year end for any year.

Table 6.3 – Calendar Days Aged from Request to Suspension Order Granted for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Suspension Order Granted																				
Average	-51.35%		-100.00%		12.50%		-16.67%				-5.56%		-59.46%		-98.61%		6.25%		36.36%	
Median (middle record-half are above and half below)	-30.00%		-100.00%		75.00%		14.29%				71.43%		-20.00%		-98.25%		200.00%		0.00%	
Record Count	-37.50%		-100.00%		0.00%		40.00%				20.00%		-12.50%		-66.67%		20.00%		16.67%	

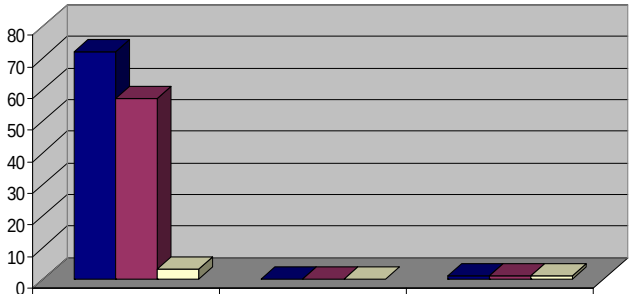
Charts 6.3a, b & c – Calendar Days Aged from Case Assigned to MBC investigator to Suspension Order Granted for Allied Health Cases

Allied Health--VE Cases Only
Days from Request to Granting of Order of Suspension



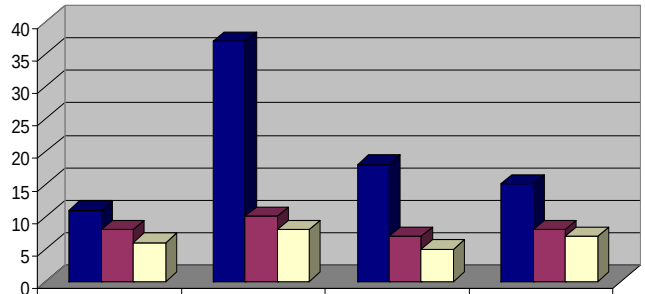
	2006	2007	2008
Average No. of Days	16	18	17
Median No. of Days	4	7	12
No. of Cases	5	5	6

Allied Health--Non-VE Cases Only
Days from Request to Granting of Order of Suspension



	2006	2007	2008
Average No. of Days	72	0	1
Median No. of Days	57	0	1
No. of Cases	3	0	1

Allied Health--Total Cases
Days from Request to Granting of Order of Suspension



	2005	2006	2007	2008
Average No. of Days	11	37	18	15
Median No. of Days	8	10	7	8
No. of Cases	6	8	5	7

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VII. VERTICAL PROSECUTION - ASSIGNED TO CLOSED, NO PROSECUTION

Per EOM Section 7.1, investigations which are “Closed-No Violations” are closed because of no violation of the law or the case is determined to be non-jurisdictional. Investigations, which are “Closed-Insufficient Evidence”, are closed because insufficient evidence is found to file formal charges.

Per the VPM, in cases which the investigation report recommends closure, the primary DAG must review the proposed closure within 10 business days and indicate either approval or disapproval. If, at any stage of the investigation, the primary DAG concludes that the investigation should be closed, he/she is required to submit a proposal to close to the lead DAG. Within 10 business days, the lead DAG shall review the proposed closure and indicate in writing either approval or disapproval of the proposal.

Per EOM Section 9.3, the MBC has the authority to issue citations and fines to physicians and surgeons as an alternative option to discipline by providing a method to address relatively minor violations of law which would not normally warrant license revocation or imposition of probationary terms. California Code of Regulations (CCR) Section 1364.11 lists the citable offenses which MBC may issue a citation.

Per EOM Section 9.4, the MBC may issue a public letter of reprimand (PLR) by stipulation or settlement after a thorough investigation is conducted, in lieu of filing or prosecuting an accusation.

The following tables and charts detail the average and median time frames from assignment to an investigator to completion without referral for filing of an accusation.

For Case Assigned to MBC Investigator to Case Closed with No Prosecution for combined Physicians and Surgeons and Allied Health cases between 2005 and 2008, there was an increase in the average days aged from 271 days to 373 days, a decrease in the median days aged from 26 days to 10 days, a decrease in the number of cases from 905 cases to 685 cases, and an increase in the number of cases pending at year end from 1148 to 1291. There was also a decrease in the total number of complaints referred to the field for investigation from 1407 to 1205. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO CASE CLOSED, NO PROSECUTION — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 7.1 below reports the average and median calendar days aged from case assigned to case closed with no prosecution for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 37.64% increase in the average days aged, a 31.62% increase in the median days aged, a 24.31% decrease in the number of cases and a 12.46% increase in the number of cases pending at year end. During this period, there was a 14.36% decrease in the number of cases referred to investigations.

Table 7.1 & 7.1a – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Case Closed Not Resulting in Prosecution																				
Average	12.88%		81.97%		94.93%		12.01%	`	31.42%		32.34%		26.44%		139.15%		157.97%		37.64%	
Median (middle record - half are above and half below)	8.16%		555.74%		23.08%		9.18%		-81.50%		-37.50%		18.09%		21.31%		-23.08%		31.62%	
Record Count	-8.68%	-0.41%	-78.62%	-79.43%	173.73%	23.65%	-4.20%	7.32%	-80.99%	-93.10%	11.45%	12.40%	-12.52%	6.87%	-95.94%	-98.58%	205.07%	38.98%	-24.31%	12.46%

	Per. Dif. 2006 to 2007	Per. Dif. 2007 to 2008	Per. Dif. 2006 to 2008	Per. Dif. 2005 to 2008
Complaints Referred	-13.22%	8.66%	-5.71%	-14.36%

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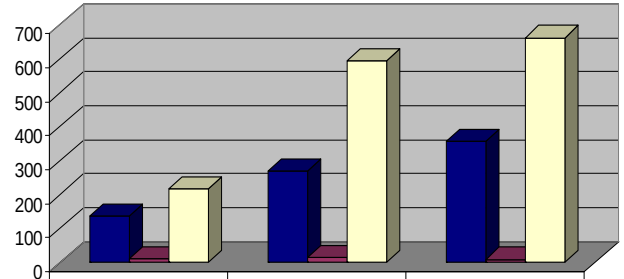
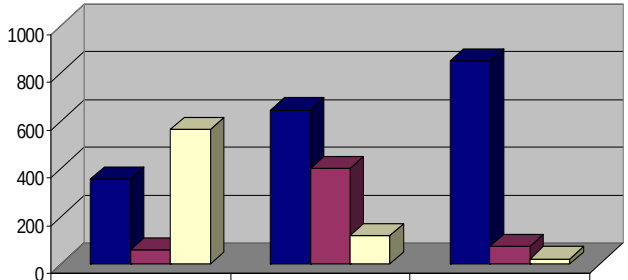
Charts 7.1a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days from Assigned to Investigator to Closed--No Prosecution



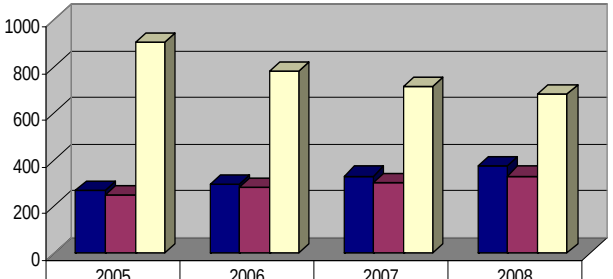
	2006	2007	2008
Average No. of Days	138	269	356
Median No. of Days	13	16	10
No. of Cases	217	594	662

P&S and AH--Non-VE Cases Only
Days from Assigned to Investigator to Closed--No Prosecution



	2006	2007	2008
Average No. of Days	355	646	849
Median No. of Days	61	400	74
No. of Cases	566	121	23

P&S and AH--Total Cases
Days from Assigned to Investigator to Closed--No Prosecution



	2005	2006	2007	2008
Average No. of Days	271	295	333	373
Median No. of Days	253	282	305	333
No. of Cases	905	783	715	685

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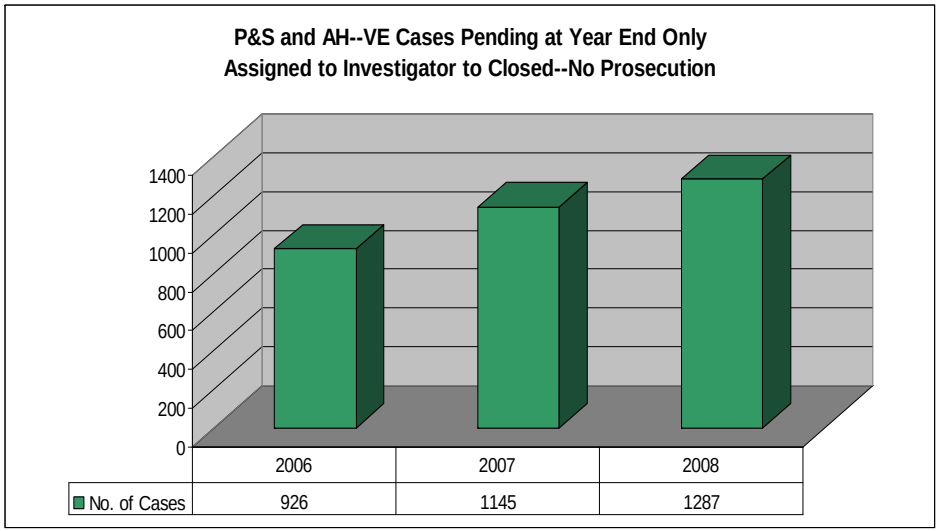
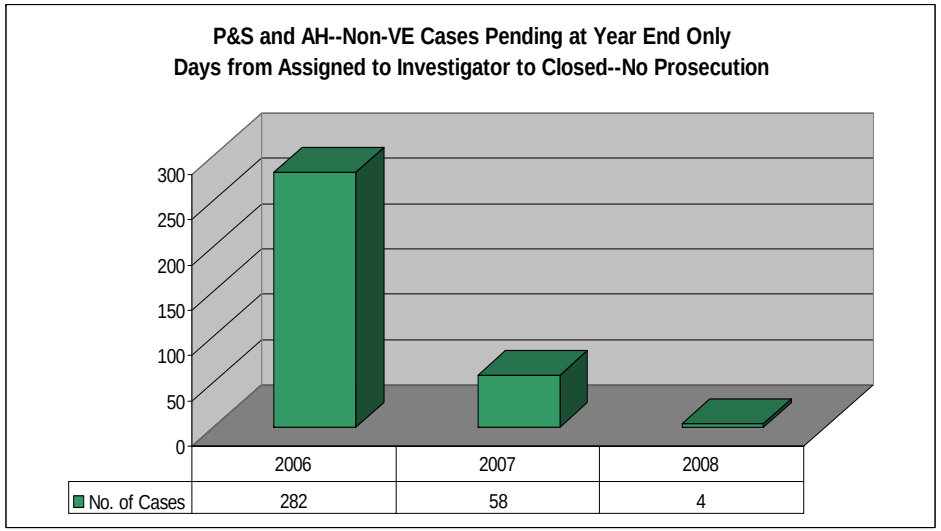
Charts 7.1d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End





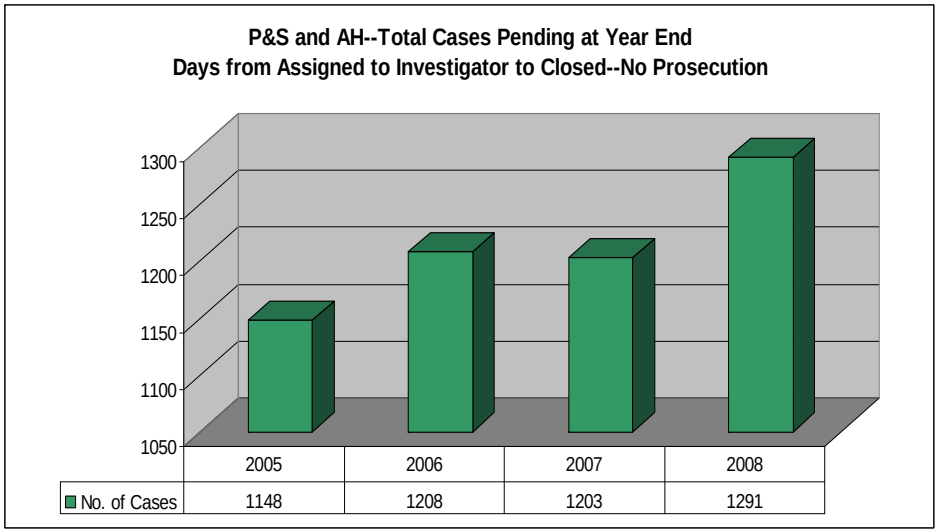


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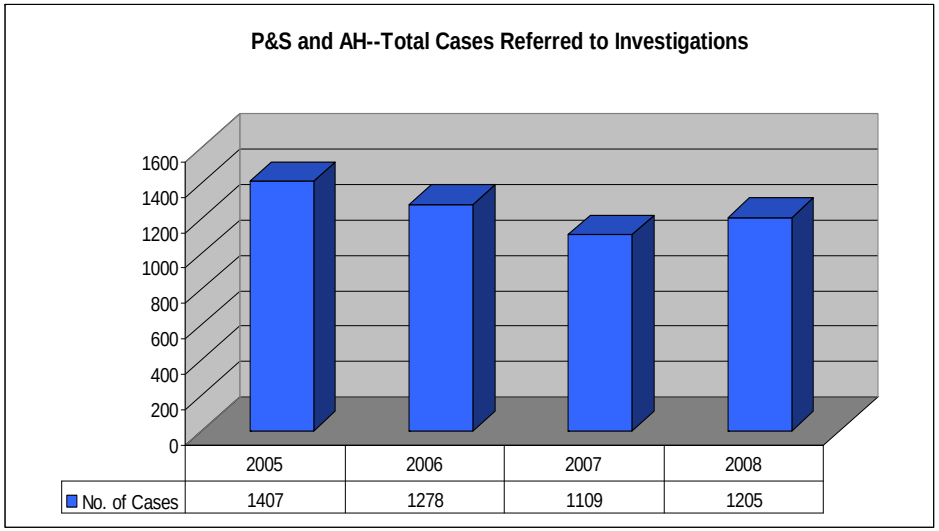
Chart 7.1g – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Physicians and Surgeons and Allied Health Cases — Total Cases Referred to Investigations



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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO CASE CLOSED, NO PROSECUTION — PHYSICIANS AND SURGEONS

Table 7.2 below reports the average and median calendar days aged from case assigned to case closed with no prosecution for Physicians and Surgeons cases. Between 2005 and 2008, there was a 38.01% increase in the average days aged, a 32.94% increase in the median days aged, a 26.36% decrease in the number of cases and a 10.85% increase in the number of cases pending at year end. During this period, there was a 14.17% decrease in the number of cases referred to Investigations.

Tables 7.2 & 7.2a – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Case Closed Not Resulting in Prosecution																				
Average	10.67%		78.55%		93.53%		12.65%		31.05%		33.09%		24.67%		133.98%		157.55%		38.01%	
Median (middle record - half are above and half below)	6.64%		86.05%		101.48%		9.84%		44.50%		19.12%		17.13%		168.84%		140.00%		32.94%	
Record Count	-8.00%	0.00%	-78.86%	-79.18%	183.60%	23.83%	-5.43%	6.14%	-80.56%	-94.12%	9.70%	11.21%	-13.00%	6.14%	-95.89%	-98.78%	211.11%	37.71%	-26.36%	10.85%

	Per. Dif. 2006 to 2007	Per. Dif. 2007 to 2008	Per. Dif. 2006 to 2008	Per. Dif. 2005 to 2008
Complaints Referred	-13.10%	7.27%	-6.78%	-14.17%

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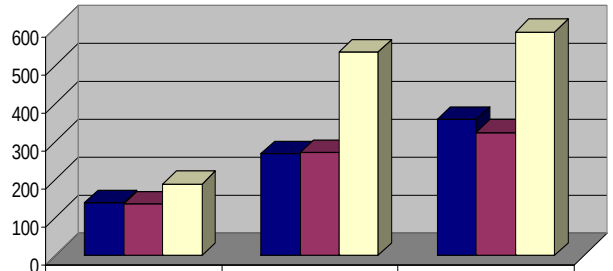
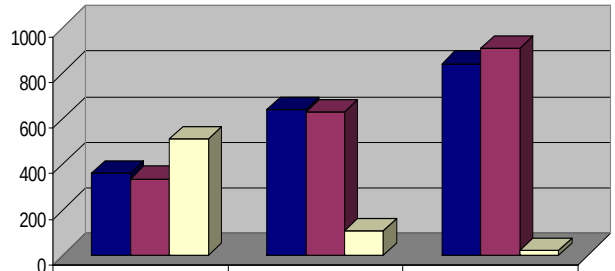
Charts 7.2a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days from Assigned to Investigator to Closed--No Prosecution



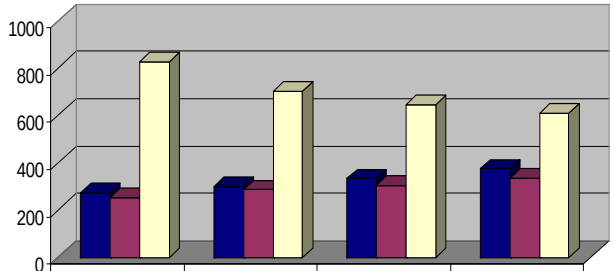
	2006	2007	2008
Average No. of Days	139	269	358
Median No. of Days	135	272	324
No. of Cases	189	536	588

Physicians and Surgeons--VE Cases Only
Days from Assigned to Investigator to Closed--No Prosecution



	2006	2007	2008
Average No. of Days	359	641	840
Median No. of Days	337	627	906
No. of Cases	511	108	21

Physicians and Surgeons--Total Cases
Days from Assigned to Investigator to Closed--No Prosecution



	2005	2006	2007	2008
Average No. of Days	271	300	332	374
Median No. of Days	252	286	305	335
No. of Cases	827	700	644	609

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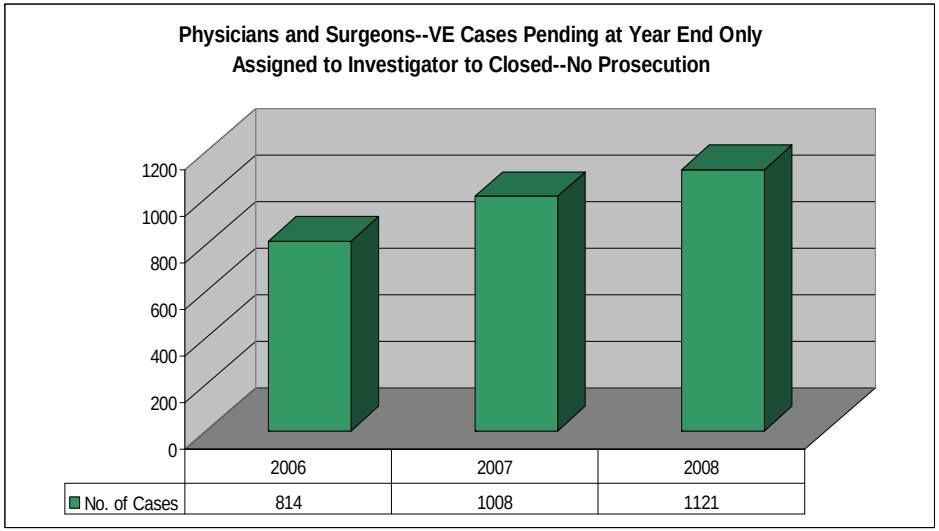
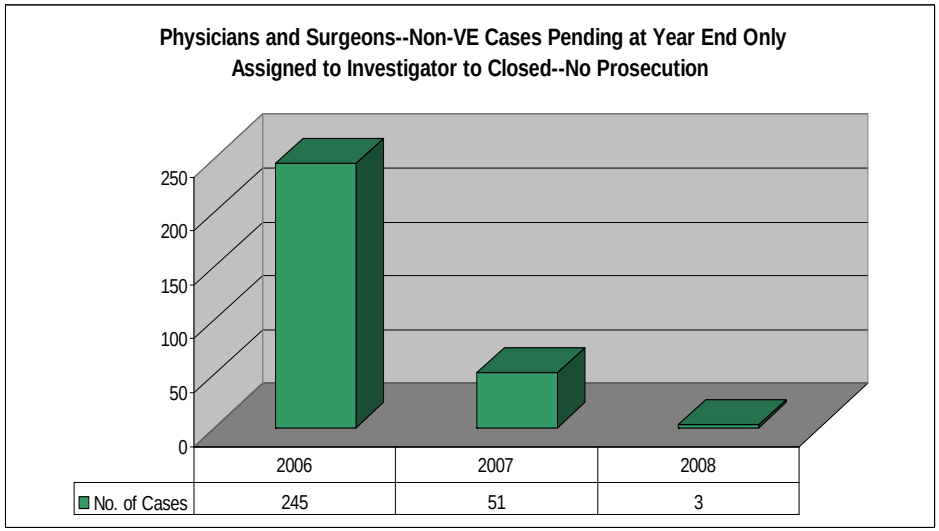
Charts 7.2d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Physicians and Surgeons Cases — Cases Pending at Year End





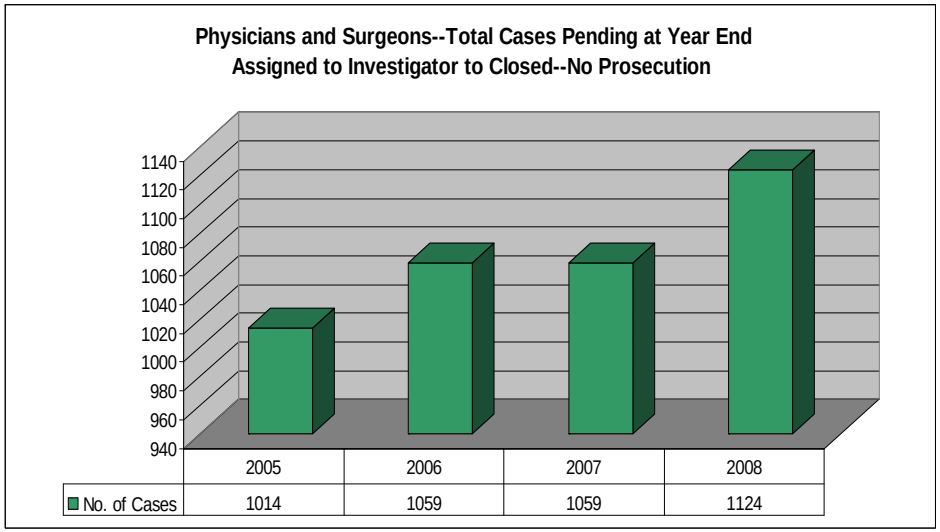


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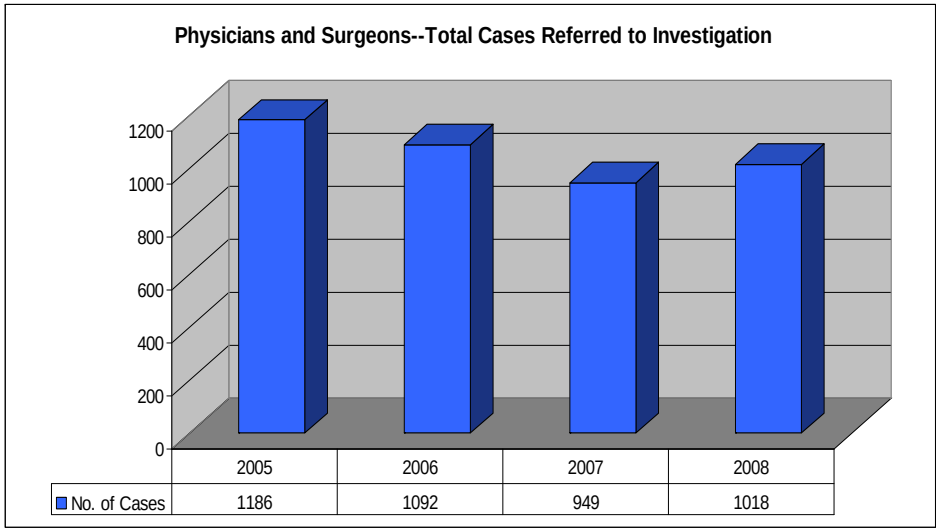
Chart 7.2g – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Physicians and Surgeons Cases — Total Cases Referred to Investigations



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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO CASE CLOSED, NO PROSECUTION — ALLIED HEALTH

Table 7.3 below reports the average and median calendar days aged from case assigned to case closed with no prosecution for Allied Health Care cases. Between 2005 and 2008, there was a 35.21% increase in the average days aged, a 19.52% increase in the median days aged, a 3.75% decrease in the number of cases and an 18.57% increase in the number of cases pending at year end. During this period, there was a 15.38% decrease in the number of cases referred to Investigations.

Tables 7.3 & 7.3a – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Case Closed Not Resulting in Prosecution																				
Average	35.71%		116.77%		110.32%		5.56%	`	37.81%		30.19%		43.25%		198.73%		173.81%		35.21%	
Median (middle record - half are above and half below)	49.32%		249.63%		265.22%		-8.26%		-5.08%		-16.67%		36.99%		231.85%		204.35%		19.52%	
Record Count	-14.46%	-3.36%	-76.36%	-81.08%	107.14%	22.32%	8.45%	15.28%	-84.62%	-85.71%	29.31%	20.44%	-7.23%	11.41%	-96.36%	-97.30%	167.86%	47.32%	-3.75%	18.57%

	Per. Dif. 2006 to 2007	Per. Dif. 2007 to 2008	Per. Dif. 2006 to 2008	Per. Dif. 2005 to 2008
Complaints Referred	-13.98%	16.88%	0.54%	-15.38%

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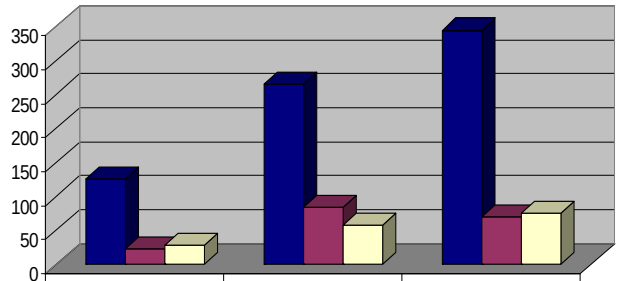
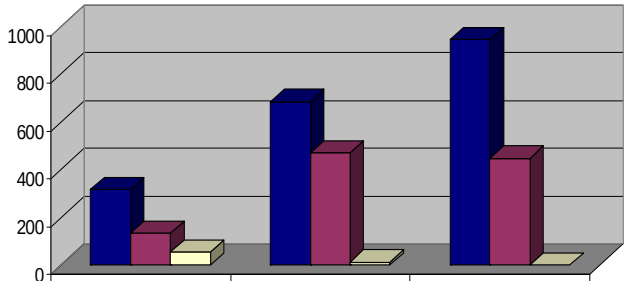
Charts 7.3a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Allied Health Cases

Allied Health--VE Cases Only
Days from Assigned to Investigator to Closed--No Prosecution



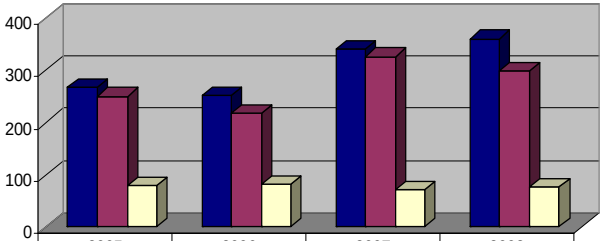
	2006	2007	2008
Average No. of Days	126	265	345
Median No. of Days	23	84	70
No. of Cases	28	58	75

Allied Health--Non-VE Cases Only
Days from Assigned to Investigator to Closed--No Prosecution



	2006	2007	2008
Average No. of Days	316	685	944
Median No. of Days	135	472	448
No. of Cases	55	13	2

Allied Health--Total Cases
Days from Assigned to Investigator to Closed--No Prosecution



	2005	2006	2007	2008
Average No. of Days	267	252	342	361
Median No. of Days	251	219	327	300
No. of Cases	80	83	71	77

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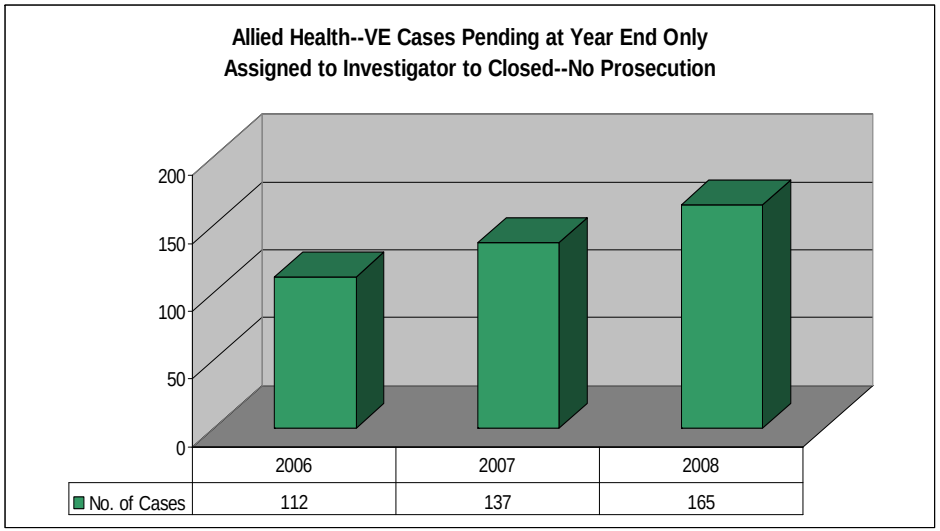
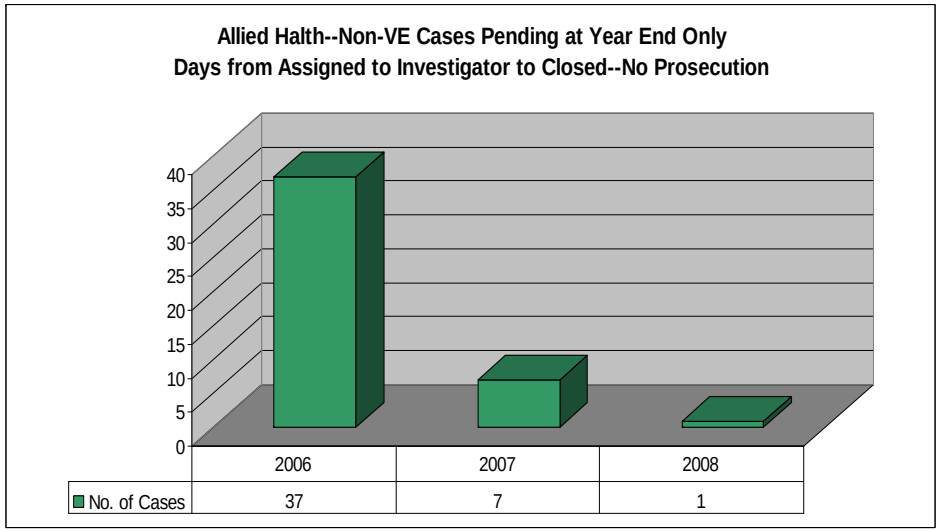
Charts 7.3d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Allied Health Cases — Cases Pending at Year End





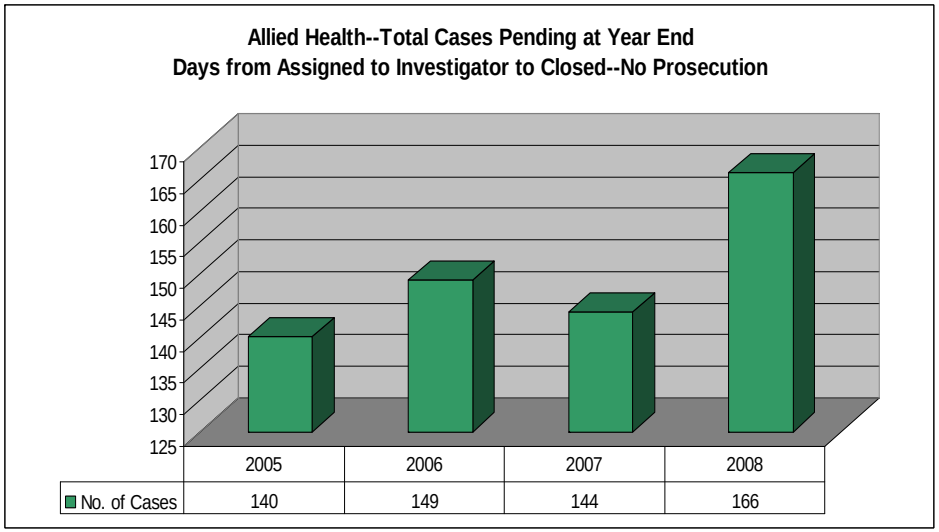


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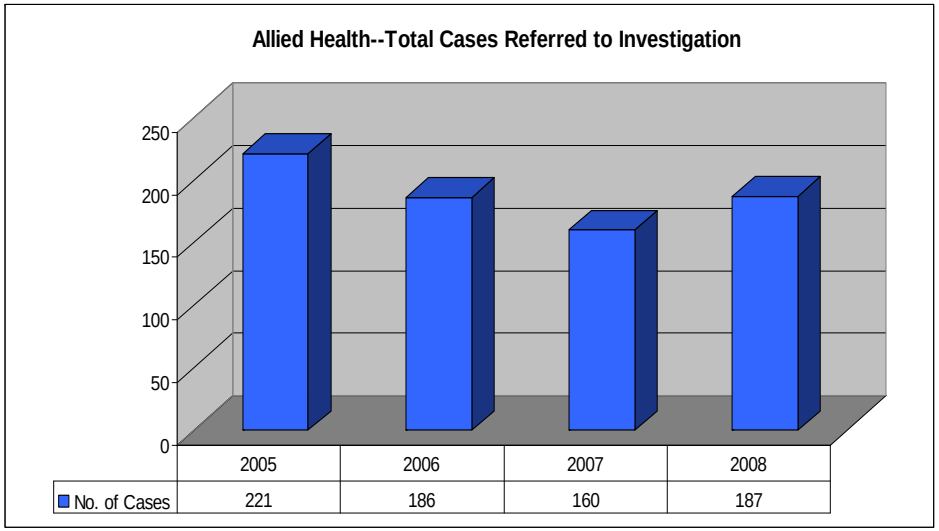
Chart 7.3g – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Allied Health Cases — Total Cases Referred to Investigations



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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO REFERRAL FOR CITATION/FINE — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 7.4 below reports the average and median calendar days aged from case assigned to investigator to referral for citation/fine for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 75.72% increase in the average days aged, a 61.48% increase in the median days aged, and a 19.61% decrease in the number of cases.

Table 7.4 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Citation/Fine for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Citation/Fine																				
Average	18.07%		85.48%		126.81%		23.72%		-20.58%		53.35%		46.08%		47.31%		247.83%		75.72%	
Median (middle record - half are above and half below)	25.00%		92.52%		140.85%		7.65%		-29.21%		21.35%		34.57%		36.29%		192.25%		61.48%	
Record Count	-28.30%		-81.82%		233.33%		7.89%		-62.50%		26.67%		-22.64%		-93.18%		322.22%		-19.61%	

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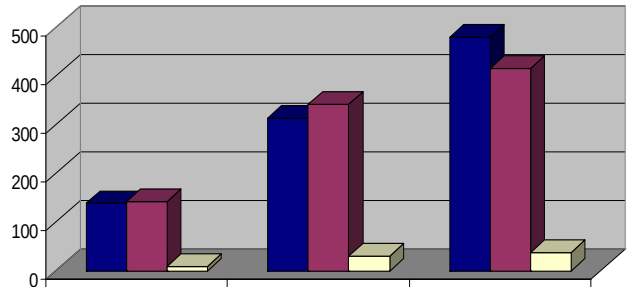
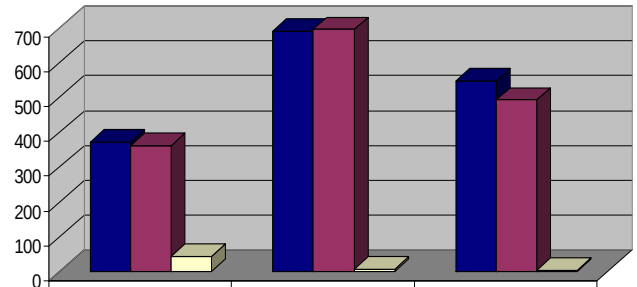
Charts 7.4a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Citation/Fine for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days From Assigned to Investigator to Referred for Citation/Fine



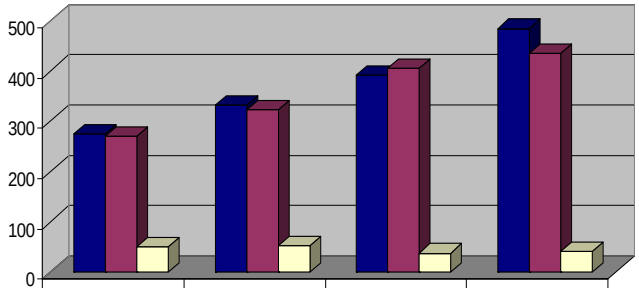
	2006	2007	2008
Average No. of Days	138	313	480
Median No. of Days	142	342	415
No. of Cases	9	30	38

P&S and AH--Non-VE Cases Only
Days From Assigned to Investigator to Referred for Citation/Fine



	2006	2007	2008
Average No. of Days	372	690	548
Median No. of Days	361	695	492
No. of Cases	44	8	3

P&S and AH--Total Cases
Days From Assigned to Investigator to Referred for Citation/Fine



	2005	2006	2007	2008
Average No. of Days	276	332	392	485
Median No. of Days	270	324	405	436
No. of Cases	51	53	38	41

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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO REFERRAL FOR CITATION/FINE — PHYSICIANS AND SURGEONS

Table 7.5 below reports the average and median calendar days aged from case assigned to investigator to referral for citation/fine for Physicians and Surgeons cases. Between 2005 and 2008, there was a 67.14% increase in the average days aged, a 64.10% increase in the median days aged, and a 34.04% decrease in the number of cases.

Table 7.5 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Citation/Fine for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Citation/Fine																				
Average	36.25%		80.53%		175.36%		4.88%		-19.05%		22.11%		42.90%		46.13%		236.23%		67.14%	
Median (middle record - half are above and half below)	45.19%		81.44%		169.01%		-1.10%		-24.89%		8.64%		43.59%		36.29%		192.25%		64.10%	
Record Count	-40.82%		-82.50%		144.44%		6.90%		-57.14%		27.27%		-36.73%		-92.50%		211.11%		-34.04%	

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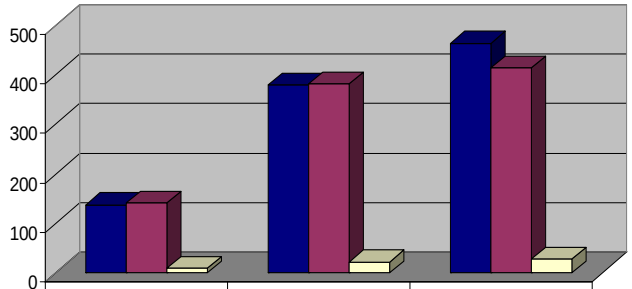
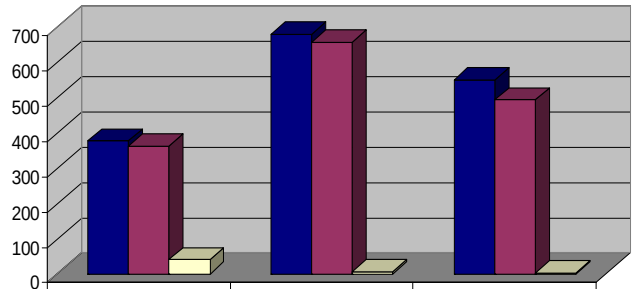
Charts 7.5a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Citation/Fine for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days From Assigned to Investigator to Referred for Citation/Fine



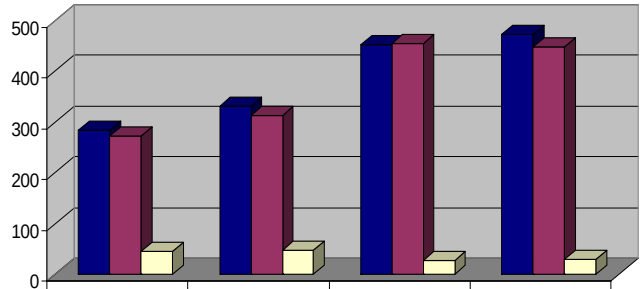
	2006	2007	2008
Average No. of Days	138	380	464
Median No. of Days	142	382	415
No. of Cases	9	22	28

Physicians and Surgeons--Non-VE Cases Only
Days From Assigned to Investigator to Referred for Citation/Fine



	2006	2007	2008
Average No. of Days	375	677	548
Median No. of Days	361	655	492
No. of Cases	40	7	3

Physicians and Surgeons--Total Cases
Days From Assigned to Investigator to Referred for Citation/Fine



	2005	2006	2007	2008
Average No. of Days	283	331	451	473
Median No. of DAys	273	312	453	448
No. of Cases	47	49	29	31

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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO REFERRAL FOR CITATION/FINE — ALLIED HEALTH

Table 7.6 below reports the average and median calendar days aged from case assigned to investigator to referral for citation/fine for Allied Health Care cases. Between 2005 and 2008, there was a 170.62% increase in the average days aged, a 116.92% increase in the median days aged, and a 150.00% increase in the number of cases.

Table 7.6 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Citation/Fine for and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Citation/Fine																				
Average	-42.07%		123.63%				161.19%		-100.00%		306.98%		51.30%		-100.00%				170.62%	
Median (middle record - half are above and half below)	-69.28%		124.93%				299.06%		-100.00%		655.36%		22.61%		-100.00%				116.92%	
Record Count	125.00%		-75.00%				11.11%		-100.00%		25.00%		150.00%		-100.00%				150.00%	

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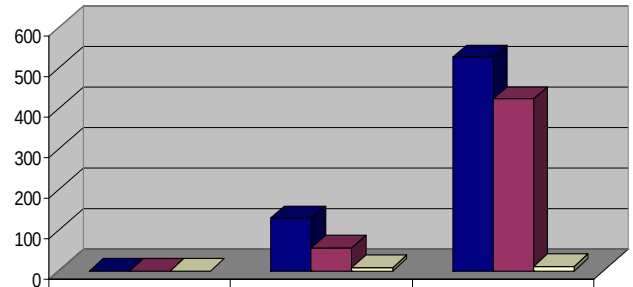
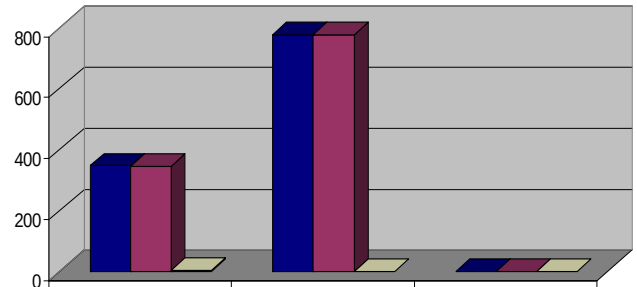
Charts 7.6a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Citation/Fine for Allied Health Cases

Allied Health--VE Cases Only
Days From Assigned to Investigator to Referred for Citation/Fine



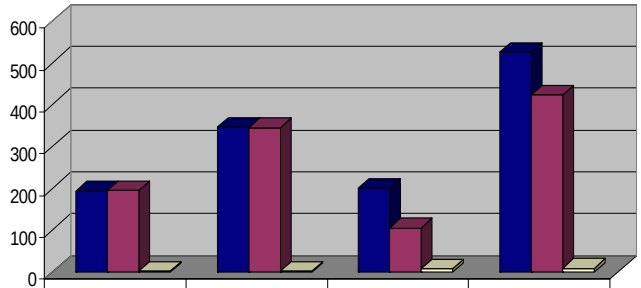
	2006	2007	2008
Average No. of Days	0	129	525
Median No. of Days	0	56	423
No. of Cases	0	8	10

Allied Health--Non-VE Cases Only
Days From Assigned to Investigator to Referred for Citation/Fine



	2006	2007	2008
Average No. of Days	347	776	0
Median No. of Days	345	776	0
No. of Cases	4	1	0

Allied Health--Total Cases
Days From Assigned to Investigator to Referred for Citation/Fine



	2005	2006	2007	2008
Average No. of Days	194	347	201	525
Median No. of Days	195	345	106	423
No. of Cases	4	4	9	10

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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO REFERRAL FOR PUBLIC LETTER OF REPRIMAND — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 7.7 below reports the average and median calendar days aged from case assigned to investigator to referral for public letter of reprimand for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 12.50% increase in the average days aged, a 44.04% increase in the median days aged, and a 78.57% decrease in the number of cases.

Table 7.7 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Public Letter of Reprimand for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Public Letter of Reprimand																				
Average	-10.10%		39.03%				-16.41%		-100.00%		14.84%		-24.85%		-100.00%				12.50%	
Median (middle record - half are above and half below)	-27.03%		29.01%				7.41%		-100.00%		27.57%		-21.62%		-100.00%				44.04%	
Record Count	-40.00%		-80.00%				-50.00%		-100.00%		-25.00%		-70.00%		-100.00%				-78.57%	

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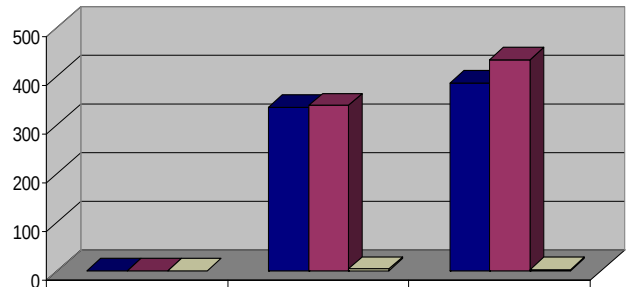
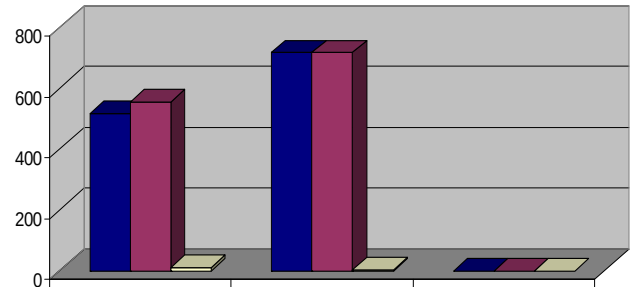
Charts 7.7a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Public Letter of Reprimand for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days From Assigned to Investigator to Referral for Public Letter of Reprimand



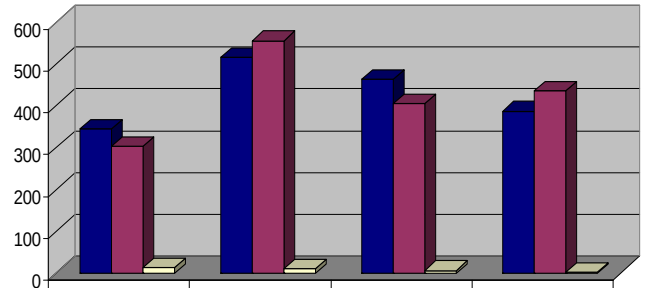
	2006	2007	2008
Average No. of Days	0	337	387
Median No. of Days	0	341	435
No. of Cases	0	4	3

P&S and AH--Non-VE Cases Only
Days From Assigned to Investigator to Referral for Public Letter of Reprimand



	2006	2007	2008
Average No. of Days	515	716	0
Median No. of Days	555	716	0
No. of Cases	10	2	0

P&S and AH--Total Cases
Days From Assigned to Investigator to Referral for Public Letter of Reprimand



	2005	2006	2007	2008
Average No. of Days	344	515	463	387
Median No. of Days	302	555	405	435
No. of Cases	14	10	6	3

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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO REFERRAL FOR PUBLIC LETTER OF REPRIMAND — PHYSICIANS AND SURGEONS

Table 7.8 below reports the average and median calendar days aged from case assigned to investigator to referral for public letter of reprimand for Physicians and Surgeons cases. Between 2005 and 2008, there was an 8.22% increase in the average days aged, a 35.99% increase in the median days aged, and a 69.23% decrease in the number of cases.

Table 7.8 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Public Letter of Reprimand for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Public Letter of Reprimand																				
Average	-10.10%		39.03%				-14.69%		-100.00%		17.21%		-23.30%		-100.00%				8.22%	
Median (middle record - half are above and half below)	-27.03%		29.01%				5.43%		-100.00%		25.22%		-23.06%		-100.00%				35.99%	
Record Count	-40.00%		-80.00%				-33.33%		-100.00%		0.00%		-60.00%		-100.00%				-69.23%	

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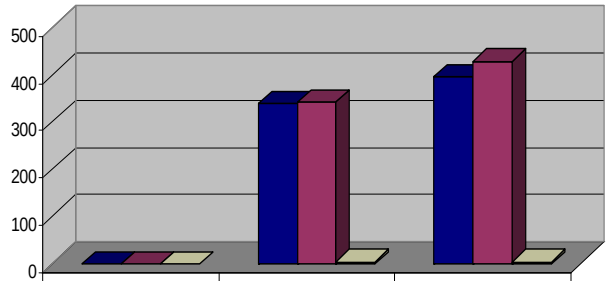
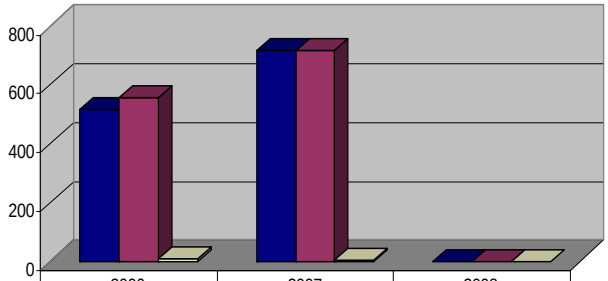
Charts 7.8a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Public Letter of Reprimand for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days From Assigned to Investigator to Referred for Public Reproval



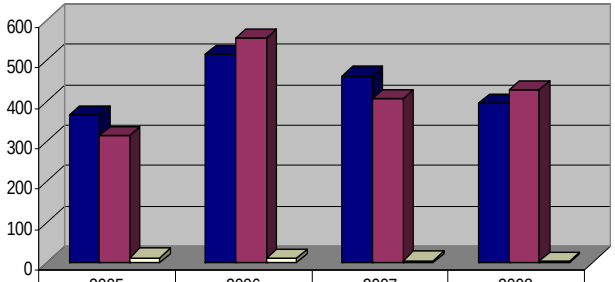
	2006	2007	2008
Average No. of Days	0	337	395
Median No. of Days	0	341	427
No. of Cases	0	4	4

Physicians and Surgeons--Non-VE Cases Only
Days From Assigned to Investigator to Referred for Public Reproval



	2006	2007	2008
Average No. of Days	515	716	0
Median No. of Days	555	716	0
No. of Cases	10	2	0

Physicians and Surgeons--Total Cases
Days From Assigned to Investigator to Referred for Public Reproval



	2005	2006	2007	2008
Average No. of Days	365	515	463	395
Median No. of Days	314	555	405	427
No. of Cases	13	10	6	4

CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO REFERRAL FOR PUBLIC LETTER OF REPRIMAND — ALLIED HEALTH

Table 7.9 below reports the average and median calendar days aged from case assigned to investigator to referral for public letter of reprimand for Allied Health Care cases. Between 2005 and 2008, there was a 100.00% decrease in the average days aged, a 100.00% decrease in the median days aged, and a 100.00% decrease in the number of cases (there was 1 case in 2005 and no cases during the remainder of this period).

Table 7.9 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Public Letter of Reprimand for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Public Letter of Reprimand																				
Average																			-100.00%	
Median (middle record - half are above and half below)																			-100.00%	
Record Count																			-100.00%	

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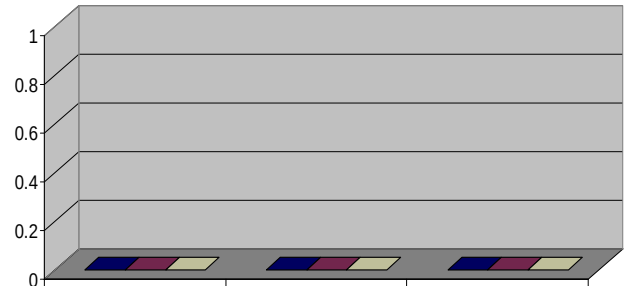
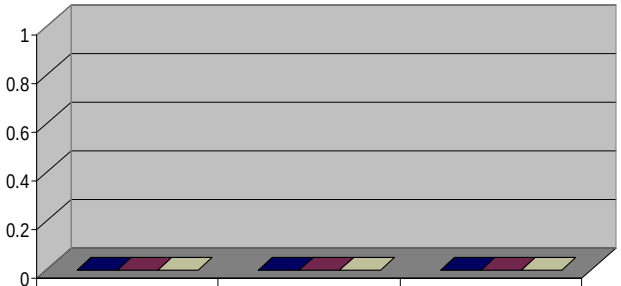
Charts 7.9a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Public Letter of Reprimand for Allied Health Cases

Allied Health--VE Cases Only
Days From Assigned to Investigator to Referral for Public Letter of Reprimand



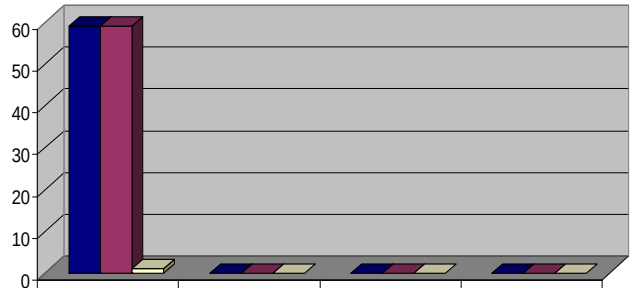
	2006	2007	2008
Average No. of Days	0	0	0
Median No. of Days	0	0	0
No. of Cases	0	0	0

Allied Health--Non-VE Cases Only
Days From Assigned to Investigator to Referral for Public Letter of Reprimand



	2006	2007	2008
Average No. of Days	0	0	0
Median No. of Days	0	0	0
No. of Cases	0	0	0

Allied Health--Total Cases
Days From Assigned to Investigator to Referral for Public Letter of Reprimand



	2005	2006	2007	2008
Average No. of Days	59	0	0	0
Median No. of Days	59	0	0	0
No. of Cases	1	0	0	0

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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO REFERRAL FOR CRIMINAL ACTION — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 7.10 below reports the average and median calendar days aged from case assigned to investigator to referral for criminal action for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 38.35% increase in the average days aged, a 52.22% increase in the median days aged, and a 2.63% decrease in the number of cases.

Table 7.10 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Criminal Action for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Criminal Action																				
Average	-11.01%		50.58%		56.56%		26.46%		35.60%		69.11%		12.54%		104.20%		164.75%		38.35%	
Median (middle record - half are above and half below)	-18.88%		46.85%		35.29%		33.19%		37.30%		57.61%		8.04%		101.63%		113.24%		52.22%	
Record Count	51.85%		-50.00%		255.56%		-9.76%		-66.67%		6.25%		37.04%		-83.33%		277.78%		-2.63%	

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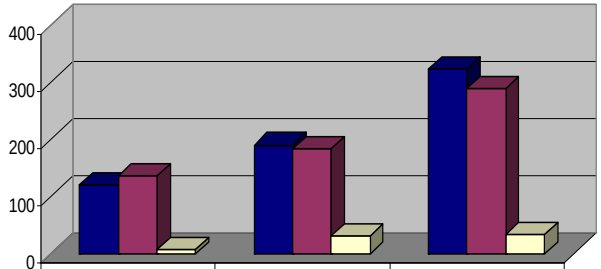
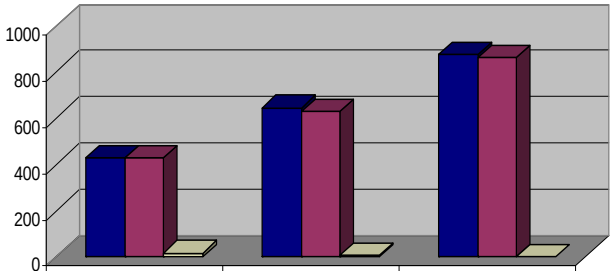
Charts 7.10a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Criminal Action for Physicians and Surgeons Cases and Allied Health Cases

P&S and AH--VE Cases Only
Days From Assigned to Investigator to Referred for Criminal Prosecution



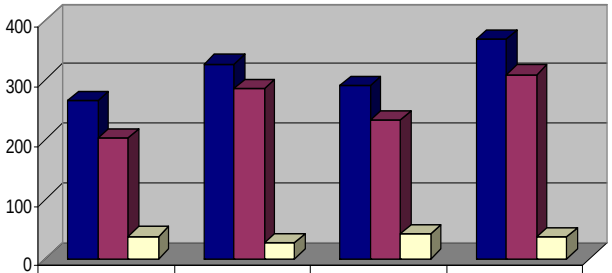
	2006	2007	2008
Average No. of Days	122	191	323
Median No. of Days	136	184	290
No. of Cases	9	32	34

P&S and AH--Non-VE Cases Only
Days From Assigned to Investigator to Referred for Criminal Prosecution



	2006	2007	2008
Average No. of Days	429	646	876
Median No. of Days	429	630	865
No. of Cases	18	9	3

P&S and AH--Total Cases
Days From Assigned to Investigator to Referred for Criminal Prosecution



	2005	2006	2007	2008
Average No. of Days	266	327	291	368
Median No. of Days	203	286	232	309
No. of Cases	38	27	41	37

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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO REFERRAL FOR CRIMINAL ACTION — PHYSICIANS AND SURGEONS

Table 7.11 below reports the average and median calendar days aged from case assigned to investigator to referral for criminal action for Physicians and Surgeons cases. Between 2005 and 2008, there was a 27.99% increase in the average days aged, a 58.10% increase in the median days aged, and a 26.47% decrease in the number of cases.

Table 7.11 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Criminal Action for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Criminal Action																				
Average	-9.82%		38.28%		65.57%		13.20%		32.66%		48.02%		2.08%		83.44%		145.08%		27.99%	
Median (middle record - half are above and half below)	-6.91%		31.98%		50.74%		0.00%		37.80%		38.05%		-6.91%		81.88%		108.09%		58.10%	
Record Count	45.83%		-46.67%		200.00%		-28.57%		-75.00%		-14.81%		4.17%		-86.67%		155.56%		-26.47%	

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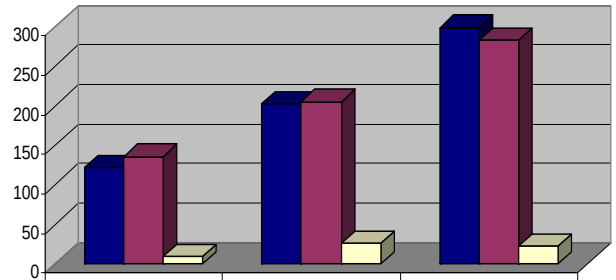
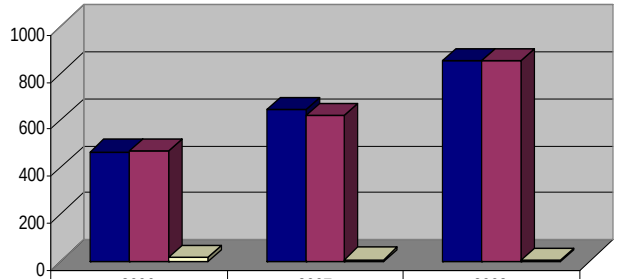
Charts 7.11a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Criminal Action for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days From Assigned to Investigator to Referred for Criminal Prosecution



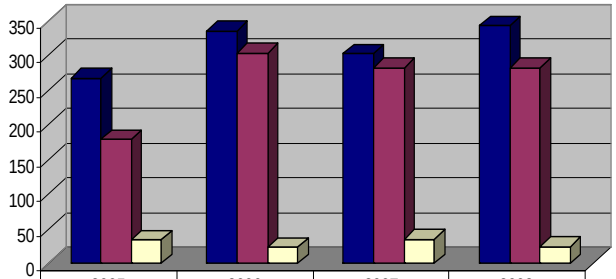
	2006	2007	2008
Average No. of Days	122	202	299
Median No. of Days	136	205	283
No. of Cases	9	27	23

Physicians and Surgeons--Non-VE Cases Only
Days From Assigned to Investigator to Referred for Criminal Prosecution



	2006	2007	2008
Average No. of Days	465	643	853
Median No. of Days	469	619	853
No. of Cases	15	8	2

Physicians and Surgeons--Total Cases
Days From Assigned to Investigator to Referred for Criminal Prosecution



	2005	2006	2007	2008
Average No. of Days	268	336	303	343
Median No. of Days	179	304	283	283
No. of Cases	34	24	35	25

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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO REFERRAL FOR CRIMINAL ACTION — ALLIED HEALTH

Table 7.12 below reports the average and median calendar days aged from case assigned to investigator to referral for criminal action for Allied Health Care cases. Between 2005 and 2008, there was a 66.67% increase in the average days aged, a 17.03% increase in the median days aged, and a 200.00% increase in the number of cases.

Table 7.12 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Criminal Action for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Criminal Action																				
Average	-11.95%		165.74%				90.05%		38.08%		186.26%		67.33%		266.93%				66.67%	
Median (middle record - half are above and half below)	-50.00%		154.58%				146.56%		38.08%		243.96%		23.28%		251.53%				17.03%	
Record Count	100.00%		-66.67%				100.00%		0.00%		120.00%		300.00%		-66.67%				200.00%	

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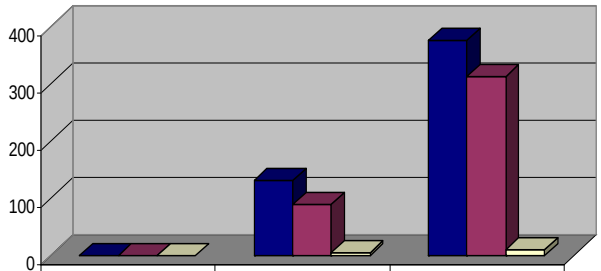
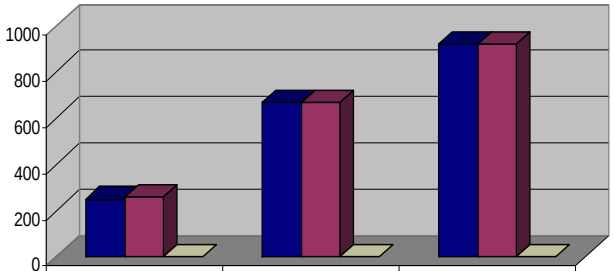
Charts 7.12a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Criminal Action for Allied Health Cases

Allied Health--VE Cases Only
Days From Assigned to Investigator to Referred for Criminal Prosecution



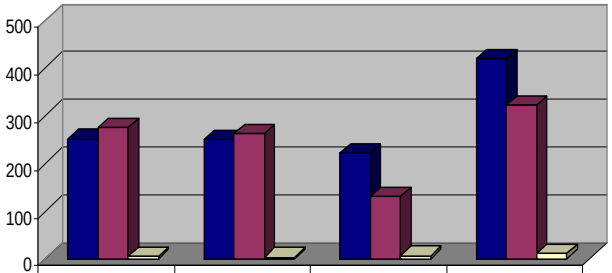
	2006	2007	2008
Average No. of Days	0	131	375
Median No. of Days	0	91	313
No. of Cases	0	5	11

Allied Health--Non-VE Cases Only
Days From Assigned to Investigator to Referred for Criminal Prosecution



	2006	2007	2008
Average No. of Days	251	667	921
Median No. of Days	262	667	921
No. of Cases	3	1	1

Allied Health--Total Cases
Days From Assigned to Investigator to Referred for Criminal Prosecution



	2005	2006	2007	2008
Average No. of Days	252	251	221	420
Median No. of Days	276	262	131	323
No. of Cases	4	3	6	12

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VIII. SUBPOENAS

The MBC and HQES primarily issue two types of subpoenas in the investigation phase: the investigational subpoena duces tecum (SDT) to obtain confidential medical records, and the investigational subpoena to appear and testify (SAT) to require a person to appear and testify to answer questions if the person refuses to be interviewed or declines to be taped during the interview.

SUBPOENA POLICY

SDT

The SDT's are utilized to assist in obtaining medical records relevant to an investigation. The EOM Section 5.3 indicates that medical records are obtained during the course of an investigation either by a signed patient authorization(s), by an investigation SDT, or by a search warrant. Pursuant to ***Joint Vertical Enforcement Guidelines*** (JVEG)**,** First Edition, April 2008: "While the responsibility to prepare the SDT package rests with the assigned investigator, the assigned primary DAG or lead prosecutor should assist the assigned investigator in the preparation of the SDT."

Pursuant to MBC EOM Section 5.3, the process for SDT is as follows:

- An investigator shall prepare an investigational SDT, when necessary, to compel the production of documents during an investigation;
- The SDT shall contain all of the information required and submit to Sup I for approval;
- The Sup I shall, within three business days, forward the SDT to the primary, or lead, DAG for approval;
- According to the both EOM and the JEVG, the DAG should review and approve the SDT package within 5 business days;
- If the DAG wants changes, revisions or modification made to either the SDT or support declarations(s), he/she has an additional 5 business days to do so; and
- If investigator does not receive a response from the DAG with 10 business days, the investigator shall forward the SDT package to the Sup II for signature and processing.

SAT

SAT's are utilized to assist in obtaining statements from the subject, complainant or witness in an investigation.

Pursuant to MBC EOM Section 5.4, the process for SAT is as follows:

- An investigator shall submit the investigation report and the investigational SAT to the Sup I for approval;
- If approved, forwards the SAT to the Sup II for review and signature; and
- After signature, returns the SAT to the Sup I.

Data and charts relevant to the use of SDTs and SATs are contained in Chapter IX, Medical Records, and Chapter X, Interviews.

IX. MEDICAL RECORDS

Effective January 1, 2005, there is a "zero tolerance" policy for delays in the production of medical records requested pursuant to an authorization to release medical records.

MEDICAL RECORDS POLICY

Per EOM Section 6.14, if medical records are required for an investigation, the following procedure applies:

- An authorization to release medical records must be obtained by an investigator within 30 days of case assignment;
- If unable to obtain a release, investigator to notify Sup I within 3 business days;
- If SDT is required, the investigator shall draft the SDT within 7 business days;
- The investigator has 10 business days to request the medical records;
- Once served, a physician has 15 days to produce the records and a health care facility has 30 days, per B&P Code Section 2225.5;
- When the request is overdue by one business day, the investigator must call the physician/medical facility; and
- B&P Code Section 2225.5 allows MBC to issue a fine of up to $1000 per day for noncompliance.

For Medical Release Request to Receipt of Medical Records (with no SDT) for combined Physicians and Surgeons and Allied Health cases between 2005 and 2008, there was an increase in the average days aged from 57 days to 59 days, a decrease in the median days aged from 32 days to 31 days, and a decrease in the number of cases from 500 cases to 276 cases. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FOR RECEIPT OF MEDICAL RECORDS — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 9.1 below reports the average and median calendar days aged from request based on a medical release to receipt of medical records for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 3.51% increase in the average days aged, a 3.13% decrease in the median days aged, and a 44.80% decrease in the number of cases.

For cases in which an SDT was issued without a medical release, between 2005 and 2008 there was a 46.82% decrease in the average days aged from the date the SDT was served to receipt of the medical records, a 64.00% decrease in the median days aged, and a 2050.00% increase in the number of cases (from 4 cases in 2005 to 86 cases in 2008).

For cases in which both a medical release and an SDT were utilized, between 2005 and 2008 there was a 62.79% increase in the average days aged, a 30.51% increase in the median days aged, and a 106.67% increase in the number of cases.

Table 9.1 – Calendar Days for Receipt of Medical Records for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Medical Release Request to Receipt of Medical Records (no SDT)																				
Average	16.07%		205.56%		67.65%		-9.23%		48.73%		-1.75%		5.36%		354.44%		64.71%		3.51%	
Median (middle record - half are above and half below)	0.00%		275.00%		25.00%		3.33%		127.22%		0.00%		3.33%		752.08%		25.00%		-3.13%	
Record Count	-20.63%		-93.24%		26.09%		-8.00%		-80.00%		-5.52%		-26.98%		-98.65%		19.13%		-44.80%	
Calendar Day Age from SDT Served to Receipt of Medical Records (no Medical Release)																				
Average	-17.19%		-66.34%		54.29%		73.58%		726.47%		62.96%		43.75%		178.22%		151.43%		-46.82%	
Median (middle record - half are above and half below)	-6.90%		-38.18%		12.50%		33.33%		726.47%		33.33%		24.14%		410.91%		50.00%		-64.00%	
Record Count	25.64%		-88.24%		113.64%		75.51%		0.00%		78.72%		120.51%		-88.24%		281.82%		2050.00%	
Calendar Day Age from Medical Release Request to SDT Request to Receipt of Medical Records																				
Average	26.19%		97.04%		110.23%		-0.94%		84.00%		-5.95%		25.00%		262.56%		97.73%		62.79%	
Median (middle record - half are above and half below)	64.80%		117.88%		391.89%		-62.62%		123.71%		-60.99%		-38.40%		387.42%		91.89%		30.51%	
Record Count	4.35%		-81.25%		200.00%		29.17%		-33.33%		38.10%		34.78%		-87.50%		314.29%		106.67%	

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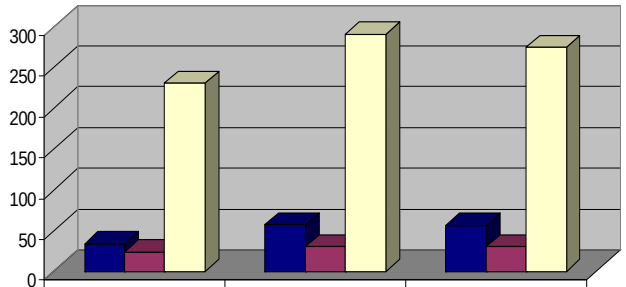
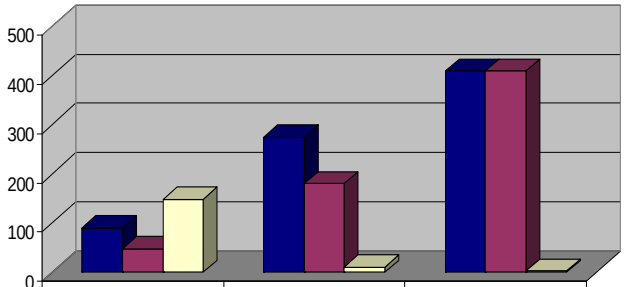
Charts 9.1a, b & c – Calendar Days Aged from Request Based on Medical Release to Receipt of Medical Records for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Request to Receipt of Medical Records (No SDT)



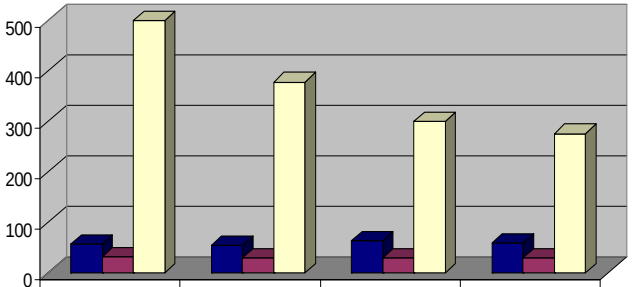
	2006	2007	2008
Average No. of Days	34	57	56
Median No. of Days	24	30	30
No. of Cases	230	290	274

P&S and AH--Non-VE Cases Only
Request to Receipt of Medical Records (No SDT)



	2006	2007	2008
Average No. of Days	90	275	409
Median No. of Days	48	180	409
No. of Cases	148	10	2

P&S and AH--Total Cases
Request to Receipt of Medical Records (No SDT)



	1	2	3	4
Series1	57	56	65	59
Series2	32	30	30	31
Series3	500	378	300	276

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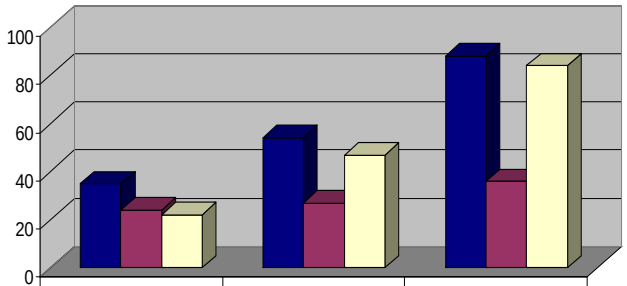
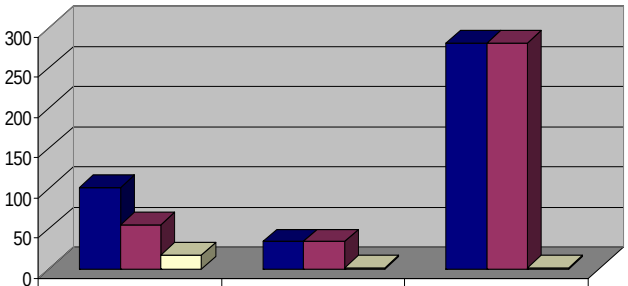
Charts 9.1d, e & f – Calendar Days Aged from Service of SDT to Receipt of Medical Records for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
SDT Served to Receipt of Medical Records



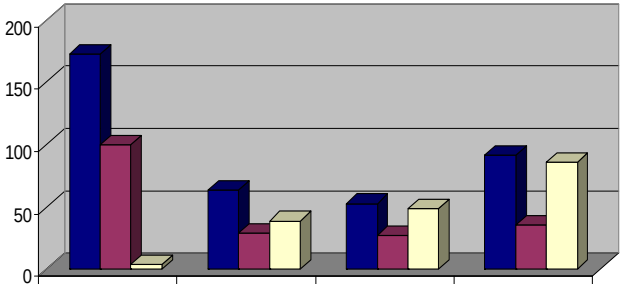
	2006	2007	2008
Average No. of Days	35	54	88
Median No. of Days	24	27	36
No. of Cases	22	47	84

P&S and AH--Non-VE Cases Only
SDT Served to Receipt of Medical Records



	2006	2007	2008
Average No. of Days	101	34	281
Median No. of Days	55	34	281
No. of Cases	17	2	2

P&S and AH--Total Cases
SDT Served to Receipt of Medical Records



	2005	2006	2007	2008
Average No. of Days	173	64	53	92
Median No. of Days	100	29	27	36
No. of Cases	4	39	49	86

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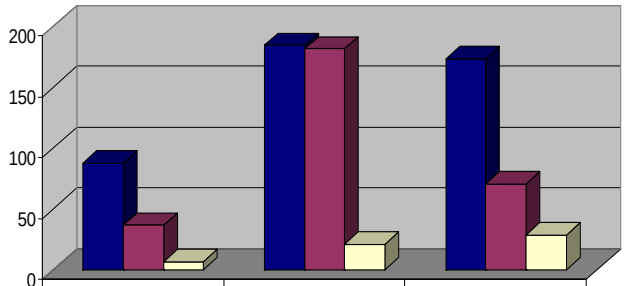
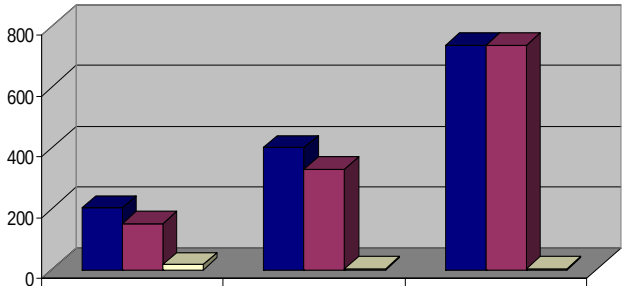
Charts 9.1g, h & i – Calendar Days Aged from Request Based on Medical Release through Service of SDT to Receipt of Medical Records for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Request and SDT to Receipt of Medical Records



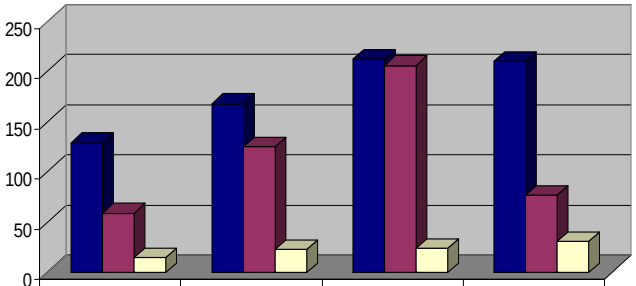
	2006	2007	2008
Average No. of Days	88	185	174
Median No. of Days	37	182	71
No. of Cases	7	21	29

P&S and AH--Non-VE Cases Only
Request and SDT to Receipt of Medical Records



	2006	2007	2008
Average No. of Days	203	400	736
Median No. of Days	151	329	736
No. of Cases	16	3	2

P&S and AH--Total Cases
Request and SDT to Receipt of Medical Records



	2005	2006	2007	2008
Average No. of Days	129	168	212	210
Median No. of Days	59	125	206	77
No. of Cases	15	23	24	31

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CALENDAR DAYS AGED FOR RECEIPT OF MEDICAL RECORDS — PHYSICIANS AND SURGEONS

Table 9.2 below reports the average and median calendar days aged from request based on a medical release to receipt of medical records for Physicians and Surgeons cases. Between 2005 and 2008, there was an 8.77% increase in the average days aged, a 3.13% decrease in the median days aged, and a 49.35% decrease in the number of cases.

For cases in which a SDT was issued without a medical release, between 2005 and 2008 there was a 43.93% decrease in the average days aged from the date the SDT was served to receipt of the medical records, a 61.00% decrease in the median days aged, and a 1900.00% increase in the number of cases (from 4 cases in 2005 to 78 cases in 2008).

For cases in which both a medical release and a SDT were utilized, between 2005 and 2008 there was a 62.79% increase in the average days aged, a 30.51% increase in the median days aged, and a 106.67% increase in the number of cases.

Table 9.2 – Calendar Days for Receipt of Medical Records for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Medical Release Request to Receipt of Medical Records (no SDT)																				
Average	15.52%		225.81%		68.57%		-7.46%		34.98%		0.00%		6.90%		339.78%		68.57%		8.77%	
Median (middle record - half are above and half below)	-3.23%		476.00%		20.00%		3.33%		42.01%		3.33%		0.00%		718.00%		24.00%		-3.13%	
Record Count	-19.53%		-93.23%		28.29%		-13.60%		-77.78%		-11.41%		-30.47%		-98.50%		13.66%		-49.35%	
Calendar Day Age from SDT Served to Receipt of Medical Records (no Medical Release)																				
Average	-17.91%		-66.34%		64.71%		76.36%		726.47%		64.29%		44.78%		178.22%		170.59%		-43.93%	
Median (middle record - half are above and half below)	-15.63%		-38.18%		-3.57%		44.44%		726.47%		44.44%		21.88%		410.91%		39.29%		-61.00%	
Record Count	38.24%		-88.24%		164.71%		70.21%		0.00%		73.33%		135.29%		-88.24%		358.82%		1900.00%	
Calendar Day Age from Medical Release Request to SDT Request to Receipt of Medical Records																				
Average	23.98%		100.00%		80.81%		-0.94%		84.00%		-2.79%		22.81%		268.00%		75.76%		62.79%	
Median (middle record - half are above and half below)	69.60%		145.52%		108.64%		-63.68%		123.71%		-57.99%		-38.40%		449.25%		-12.35%		30.51%	
Record Count	-4.76%		-80.00%		183.33%		55.00%		-33.33%		70.59%		47.62%		-86.67%		383.33%		106.67%	

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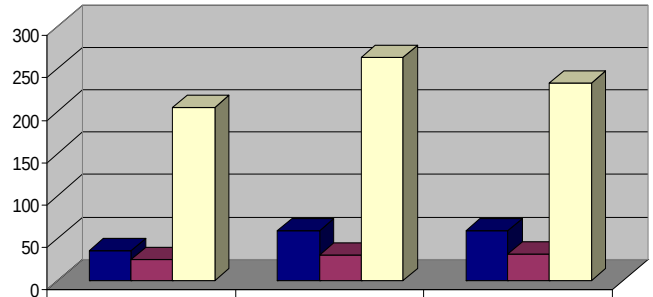
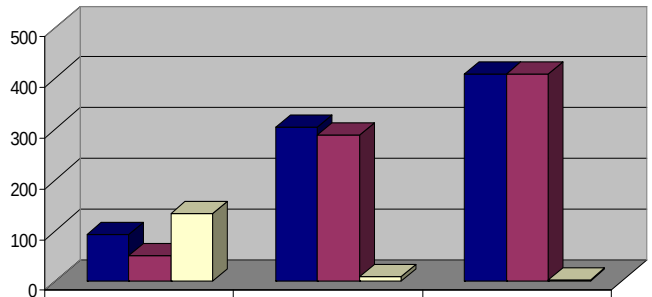
Charts 9.2a, b & c – Calendar Days Aged from Request Based on Medical Release to Receipt of Medical Records for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Request to Receipt of Medical Records (No SDT)



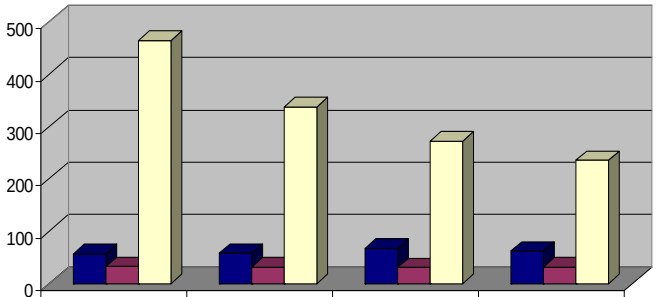
	2006	2007	2008
Average No. of Days	35	59	59
Median No. of Days	25	30	31
No. of Cases	205	263	233

Physicians and Surgeons--Non-VE Cases Only
Request to Receipt of Medical Records (No SDT)



	2006	2007	2008
Average No. of Days	93	303	409
Median No. of Days	50	288	409
No. of Cases	133	9	2

Physicians and Surgeons--Total Cases
Request to Receipt of Medical Records (No SDT)



	2005	2006	2007	2008
Average No. of Cases	57	58	67	62
Median No. of Days	32	31	30	31
No. of Cases	464	338	272	235

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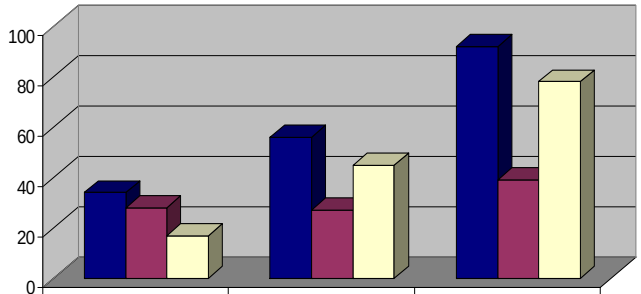
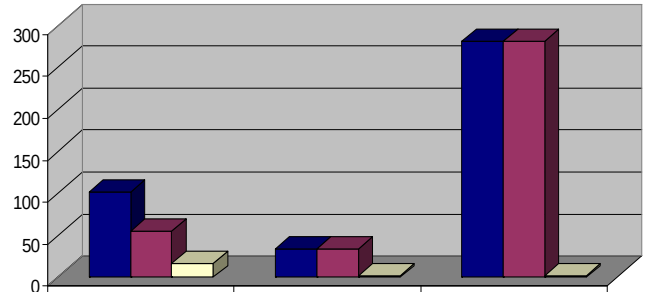
Charts 9.2d, e & f – Calendar Days Aged from Service of SDT to Receipt of Medical Records for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
SDT Served to Receipt of Medical Records



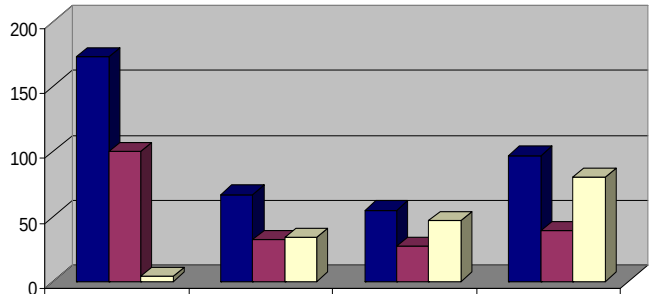
	2006	2007	2008
Average No. of Days	34	56	92
Median No. of Days	28	27	39
No. of Cases	17	45	78

Physicians and Surgeons--Non-VE Cases Only
SDT Served to Receipt of Medical Records



	2006	2007	2008
Average No. of Days	101	34	281
Median No. of Days	55	34	281
No. of Cases	17	2	2

Physicians and Surgeons--Total Cases
SDT Served to Receipt of Medical Records



	2005	2006	2007	2008
Average No. of Days	173	67	55	97
Median No. of Days	100	32	27	39
No. of Cases	4	34	47	80

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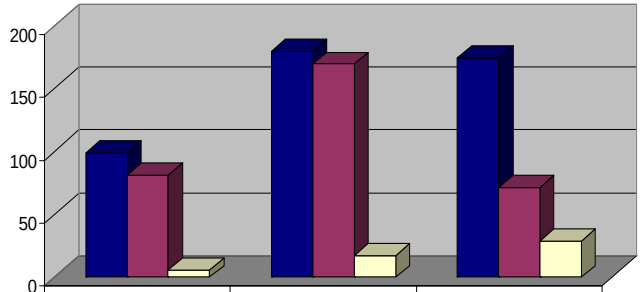
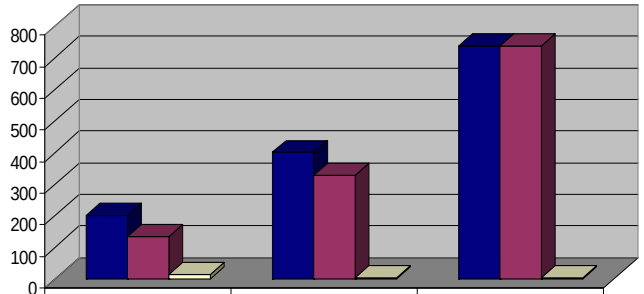
Charts 9.2g, h & i – Calendar Days Aged from Request Based on Medical Release through Service of SDT to Receipt of Medical Records for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Request and SDT to Receipt of Medical Records



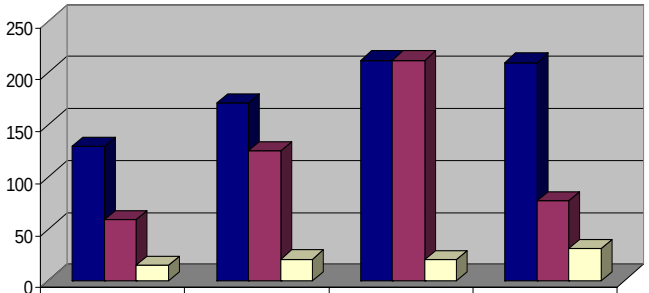
	2006	2007	2008
Average No. of Days	99	179	174
Median No. of Days	81	169	71
No. of Cases	6	17	29

Physicians and Surgeons--Non-VE Cases Only
Request and SDT to Receipt of Medical Records



	2006	2007	2008
Average No. of Days	200	400	736
Median No. of Days	134	329	736
No. of Cases	15	3	2

Physicians and Surgeons--Total Cases
Request and SDT to Receipt of Medical Records



	2005	2006	2007	2008
Average No. of Days	129	171	212	210
Median No. of Days	59	125	212	77
No. of Cases	15	21	20	31

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CALENDAR DAYS AGED FOR RECEIPT OF MEDICAL RECORDS — ALLIED HEALTH

Table 9.3 below reports the average and median calendar days aged from request based on a medical release to receipt of medical records for Allied Health Care cases. Between 2005 and 2008, there was a 27.78% decrease in the average days aged, a 15.63% decrease in the median days aged, and a 13.89% increase in the number of cases.

For cases in which an SDT was issued without a medical release and cases in which both a medical release and an SDT were utilized, the percentage increase or decrease between 2006 and 2008 could not be calculated as there were no cases in 2005.

Table 9.3 – Calendar Days for Receipt of Medical Records for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Medical Release Request to Receipt of Medical Records (no SDT)																				
Average	0.00%		-75.36%		57.14%		-9.30%		-100.00%		-11.36%		-9.30%		-100.00%		39.29%		-27.78%	
Median (middle record - half are above and half below)	-8.00%		-54.05%		35.29%		17.39%		-100.00%		17.39%		8.00%		-100.00%		58.82%		-15.63%	
Record Count	-30.00%		-93.33%		8.00%		46.43%		-100.00%		51.85%		2.50%		-100.00%		64.00%		13.89%	
Calendar Day Age from SDT Served to Receipt of Medical Records (no Medical Release)																				
Average	-66.67%				-66.67%		161.54%				161.54%		-12.82%				-12.82%			
Median (middle record - half are above and half below)	-18.75%				-18.75%		107.69%				107.69%		68.75%				68.75%			
Record Count	-60.00%				-60.00%		200.00%				200.00%		20.00%				20.00%			
Calendar Day Age from Medical Release Request to SDT Request to Receipt of Medical Records																				
Average	55.07%		-100.00%		791.67%		-100.00%				-100.00%		-100.00%		-100.00%		-100.00%			
Median (middle record - half are above and half below)	39.13%		-100.00%		700.00%		-100.00%				-100.00%		-100.00%		-100.00%		-100.00%			
Record Count	100.00%		-100.00%		300.00%		-100.00%				-100.00%		-100.00%		-100.00%		-100.00%			

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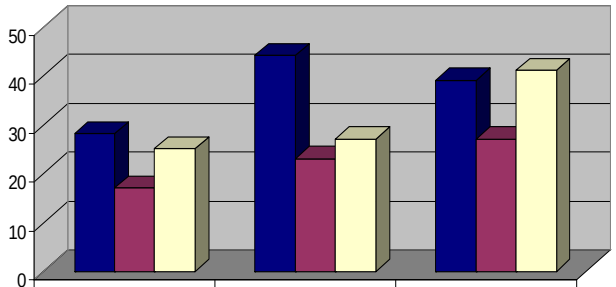
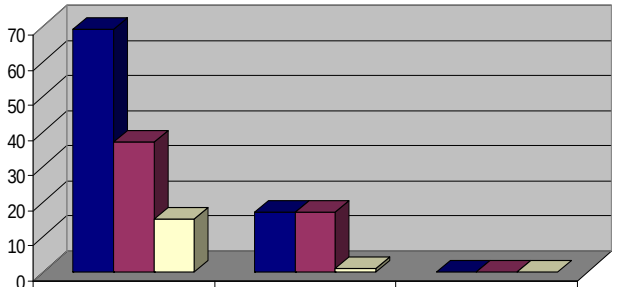
Charts 9.3a, b & c – Calendar Days Aged from Request Based on Medical Release to Receipt of Medical Records for Allied Health Cases

Allied Health--VE Cases Only
Request to Receipt of Medical Records (No SDT)



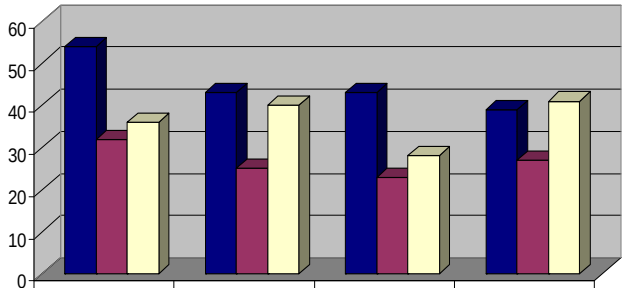
	2006	2007	2008
Average No. of Days	28	44	39
Median No. of Days	17	23	27
No. of Cases	25	27	41

Allied Health--Non-VE Cases Only
Request to Receipt of Medical Records (No SDT)



	2006	2007	2008
Average No. of Days	69	17	0
Median No. of Days	37	17	0
No. of Cases	15	1	0

Allied Health--Total Cases
Request to Receipt of Medical Records (No SDT)



	1	2	3	4
Series1	54	43	43	39
Series2	32	25	23	27
Series3	36	40	28	41

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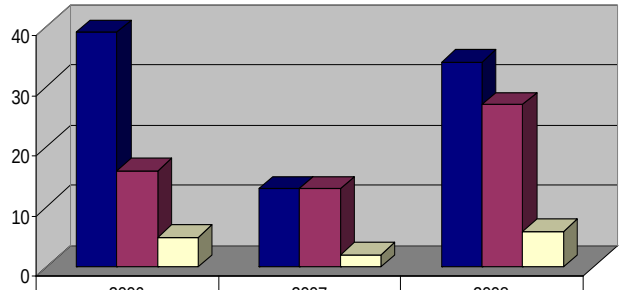
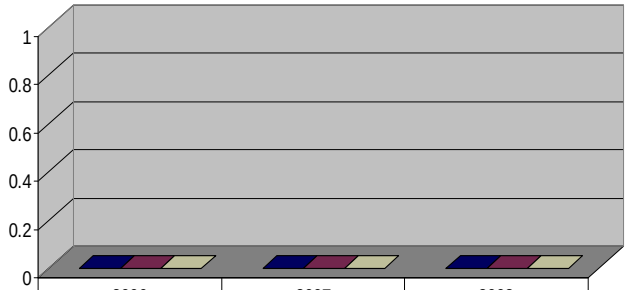
Charts 9.3d, e & f – Calendar Days Aged from Service of SDT to Receipt of Medical Records for Allied Health Cases

Allied Health--VE Cases Only
SDT Served to Receipt of Medical Records



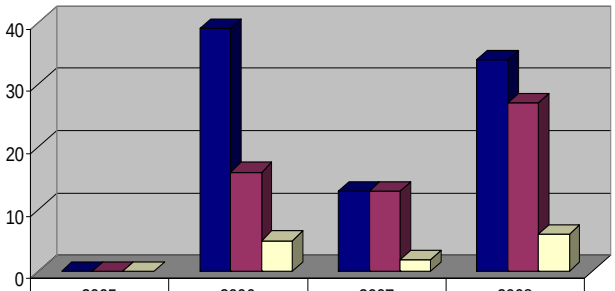
	2006	2007	2008
Average No. of Days	39	13	34
Median No. of Days	16	13	27
No. of Cases	5	2	6

Allied Health--Non-VE Cases Only
SDT Served to Receipt of Medical Records



	2006	2007	2008
Average No. of Days	0	0	0
Median No. of Days	0	0	0
No. of Cases	0	0	0

Allied Health--Total Cases
SDT Served to Receipt of Medical Records



	2005	2006	2007	2008
Average No. of Days	0	39	13	34
Median No. of Days	0	16	13	27
No. of Cases	0	5	2	6

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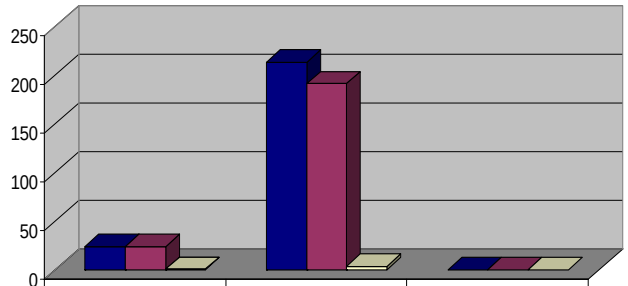
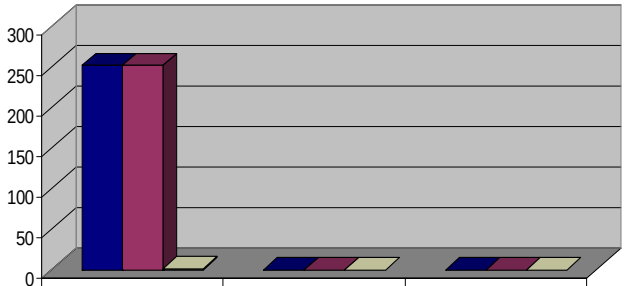
Charts 9.3g, h & i – Calendar Days Aged from Request Based on Medical Release through Service of SDT to Receipt of Medical Records for Allied Health Cases

Allied Health--VE Cases Only
Request and SDT to Receipt of Medical Records



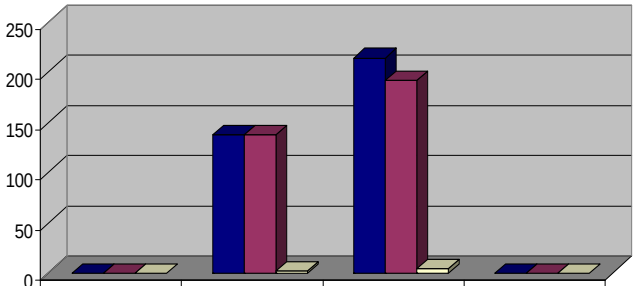
	2006	2007	2008
Average No. of Days	24	214	0
Median No. of Days	24	192	0
No. of Cases	1	4	0

Allied Health--Non-VE Cases Only
Request and SDT to Receipt of Medical Records



	2006	2007	2008
Average No. of Days	251	0	0
Median No. of Days	251	0	0
No. of Cases	1	0	0

Allied Health--Total Cases
Request and SDT to Receipt of Medical Records



	2005	2006	2007	2008
Average No. of Days	0	138	214	0
Median No. of Days	0	138	192	0
No. of Cases	0	2	4	0

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X. INTERVIEWS

Pursuant to EOM Section 6.2, an investigator shall offer all subject physicians an opportunity to an interview prior to referring a case to the AG's office for disciplinary action.

INTERVIEW POLICY

According to the both EOM and the JVEG, the prompt scheduling and completion of interviews is critical to the overall efficiency of the VE program and should be considered a high priority for both investigators and DAGs. MBC investigators are responsible for setting up the interviews, which normally includes of the following: the investigator, DAG, medical consultant, subject physician, defense attorney.

The JVEG also states that the primary DAGs, or if not available, the lead DAGs, are expected to participate in all subject interviews and certain complainant interviews. Primary DAGs should communicate their intent to participate in the interview when responding to the initial Investigation Plan and Progress Report (IPPR), and list the dates and times within the next 30 business days when they are available. If the intent to participate is not communicated, the assigned investigator may schedule and conduct the interview without the primary DAG. In addition, when new witnesses are identified with proposed interview dates, if, after the second notification, the assigned investigator still does not receive a response within five (5) business days, the investigator may conduct the interview without the primary DAG.

Pursuant to the both EOM and the JVEG, before the interview, the investigator, DAG and medical consultant should meet in person for a pre-interview meeting to discuss interview tactics, assign roles, designate areas of questioning, and organize documents. The subject interview is always recorded.

Pursuant to the JVEG: "Subject interviews are extremely important. Accordingly, it is vital that such interviews be conducted in a manner that will elicit the maximum amount of reliable information from the subject." It further states: "Although the interview should be low-key and calculated to elicit all available information, the interview should be appropriately detailed."

For Request to Subject Interview Completed for combined Physicians and Surgeons and Allied Health cases between 2005 and 2008, there was an increase in the average days aged from 48 days to 56 days, an increase in the median days aged from 36 days to 37 days, a decrease in the number of cases from 649 cases to 543 cases, and an increase in the number of cases pending at year end from 102 to 109. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FROM MAILING/SERVICE TO SUBJECT INTERVIEW — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 10.1 below reports the average and median calendar days aged from mailing/service of the request to subject interview for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 16.67% increase in the average days aged, a 2.78% increase in the median days aged, a 16.33% decrease in the number of cases, and a 6.86% increase in the number of cases pending at year end.

For cases in which a subpoena was requested, the percentage difference between 2005 and 2008 for average and median days aged cannot be computed, since this data was not available in 2005. There was a 275% increase in the number of cases pending at year end.

Table 10.1 – Calendar Days Aged from Request to Subject Interview for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Subject Interview Completed																				
Average	-2.00%		26.79%		14.63%		14.29%		-25.35%		19.15%		12.00%		-5.36%		36.59%		16.67%	
Median (middle record - half are above and half below)	-7.89%		11.63%		-8.11%		5.71%		-18.75%		8.82%		-2.63%		-9.30%		0.00%		2.78%	
Record Count	-19.12%	44.79%	-87.95%	-79.31%	114.87%	98.51%	33.74%	-21.58%	-78.38%	-83.33%	27.68%	-18.80%	8.17%	13.54%	-97.39%	-96.55%	174.36%	61.19%	-16.33%	6.86%
Calendar Day Age from Subpoena Request to Subject Interview Completed																				
Average	84.62%		128.21%				-87.50%		9.55%		-1.83%		-76.92%		150.00%					
Median (middle record - half are above and half below)	213.04%		286.96%				-71.53%		9.55%		-66.06%		-10.87%		323.91%					
Record Count	-60.00%	85.71%	-80.00%	-50.00%		900.00%	650.00%	130.77%	100.00%	-100.00%	1200.00%	200.00%	200.00%	328.57%	-60.00%	-100.00%		2900.00%		275.00%

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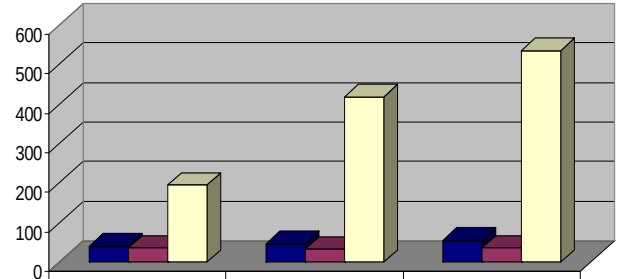
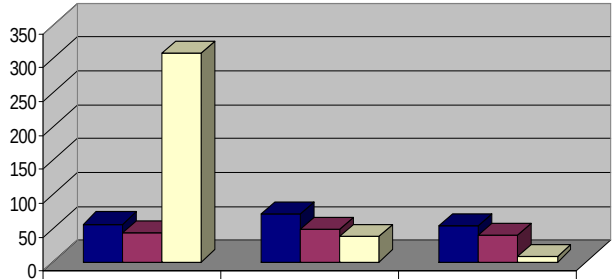
Charts 10.1a, b & c – Calendar Days Aged from Mailing/Service of Request to Subject Interview for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days From Mailing/Service of Request to Completion of Interview



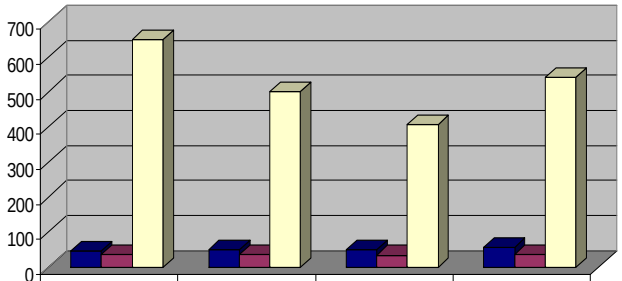
	2006	2007	2008
Average No. of Days	41	47	56
Median No. of Days	37	34	37
No. of Cases	195	419	535

P&S and AH--Non-VE Cases Only
Days From Mailing/Service of Request to Completion of Interview



	2006	2007	2008
Average No. of Days	56	71	53
Median No. of Days	43	48	39
No. of Cases	307	37	8

P&S and AH--Total Cases
Days From Mailing/Service of Request to Completion of Interview



	2005	2006	2007	2008
Average No. of Days	48	50	49	56
Median No. of Days	36	38	35	37
No. of Cases	649	502	406	543

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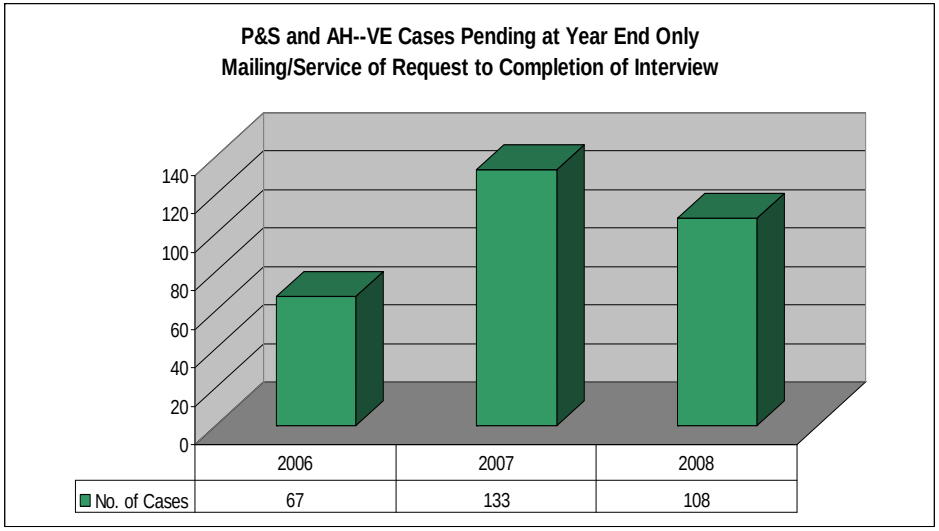
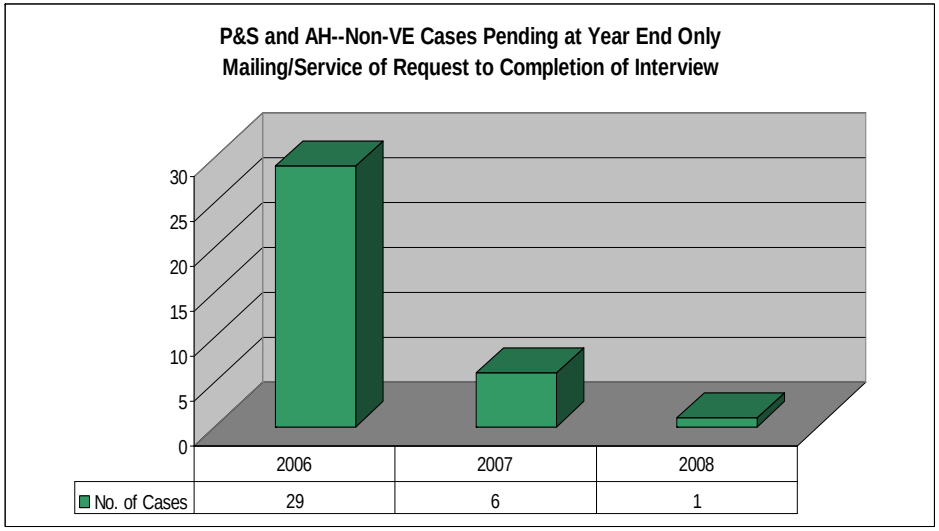
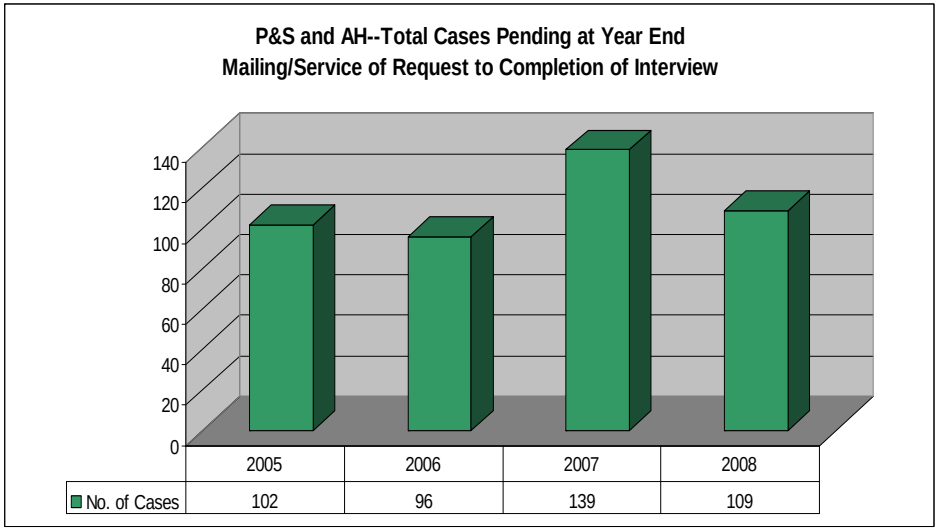
Charts 10.1d, e & f – Calendar Days Aged from Mailing/Service of Request to Subject Interview for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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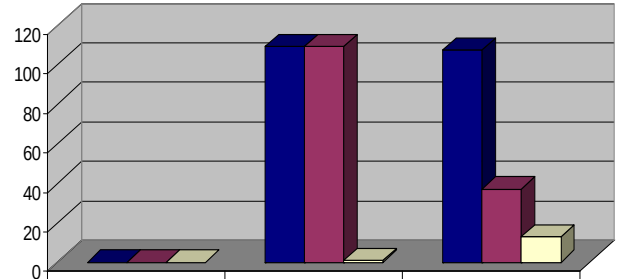
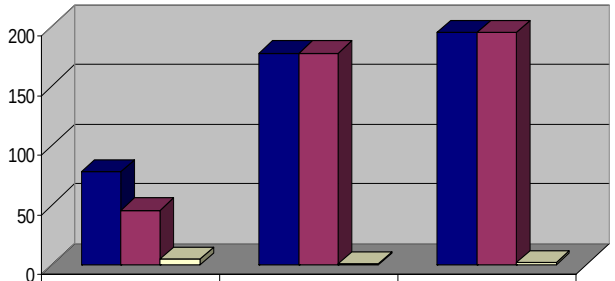
Charts 10.1g, h & i – Calendar Days Aged from Mailing/Service of Subpoena to Subject Interview for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days From Mailing/Service of Subpoena to Completion of Interview



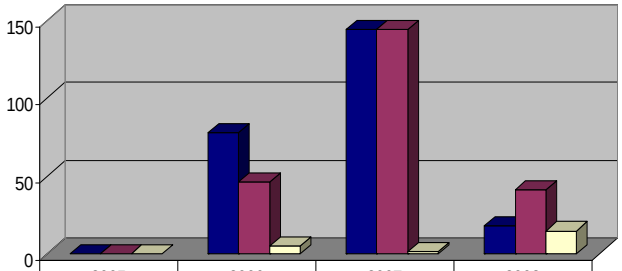
	2006	2007	2008
Average No. of Days	0	109	107
Median No. of Days	0	109	37
No. of Cases	0	1	13

P&S and AH--Non-VE Cases Only
Days From Mailing/Service of Subpoena to Completion of Interview



	2006	2007	2008
Average No. of Days	78	178	195
Median No. of Days	46	178	195
No. of Cases	5	1	2

P&S and AH--Total Cases
Days From Mailing/Service of Subpoena to Completion of Interview



	2005	2006	2007	2008
Average No. of Days	0	78	144	18
Median No. of Days	0	46	144	41
No. of Cases	0	5	2	15

Data not available for 2005

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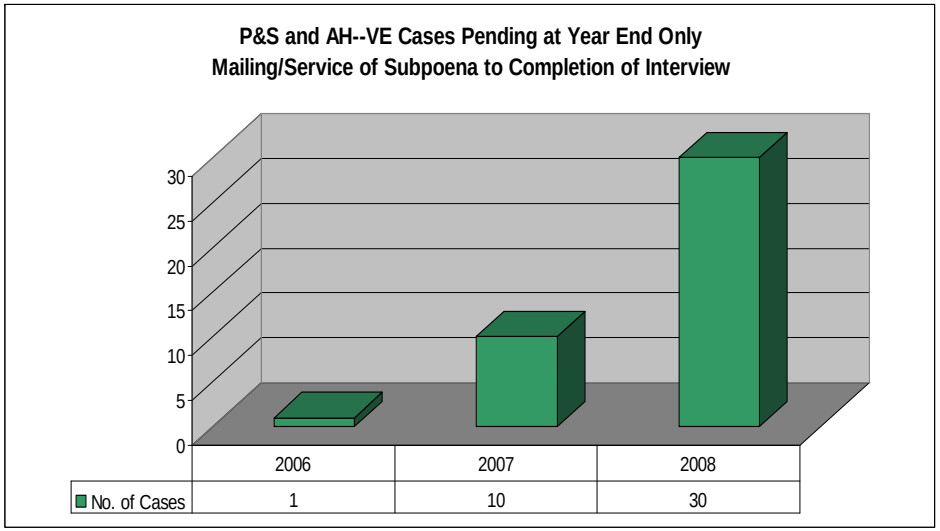
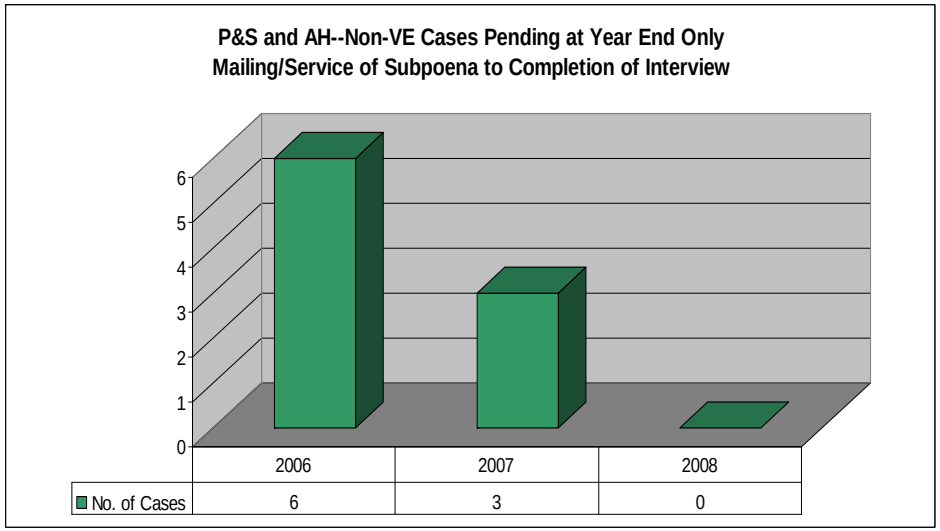
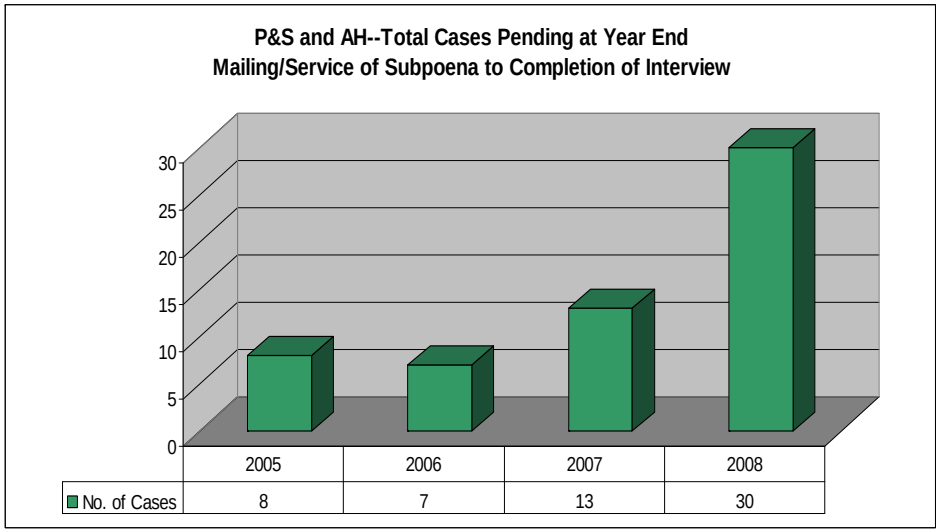
Charts 10.1g, h & i – Calendar Days Aged from Mailing/Service of Subpoena to Subject Interview for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM MAILING/SERVICE TO SUBJECT INTERVIEW — PHYSICIANS AND SURGEONS

Table 10.2 below reports the average and median calendar days aged from mailing/service of the request to subject interview for Physicians and Surgeons cases. Between 2005 and 2008, there was a 20.83% increase in the average days aged, a 2.78% increase in the median days aged, an 18.76% decrease in the number of cases, and an 11.63% increase in the number of cases pending at year end.

For cases in which a subpoena was requested, the percentage difference between 2005 and 2008 for average and median days aged cannot be computed, since this data was not available in 2005. There was a 285.71% increase in the number of cases pending at year end.

Table 10.2 – Calendar Days Aged from Request to Subject Interview for Physicians and Surgeons

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Physician Interview Completed																				
Average	0.00%		30.36%		13.95%		13.73%		-27.40%		18.37%		13.73%		-5.36%		34.88%		20.83%	
Median (middle record - half are above and half below)	-11.90%		11.36%		-5.26%		0.00%		-42.86%		2.78%		-11.90%		-36.36%		-2.63%		2.78%	
Record Count	-8.50%	44.83%	-87.64%	-76.92%	118.02%	96.72%	18.58%	-23.81%	-79.41%	-83.33%	27.47%	-20.83%	8.50%	10.34%	-97.45%	-96.15%	177.91%	55.74%	-18.76%	11.63%
Calendar Day Age from Subpoena Request to Physician Interview Completed																				
Average	84.62%		128.21%				-14.58%		21.91%		6.42%		57.69%		178.21%					
Median (middle record - half are above and half below)	213.04%		286.96%				-71.53%		21.91%		-64.22%		-10.87%		371.74%					
Record Count	-60.00%	120.00%	-80.00%	-50.00%		800.00%	550.00%	145.45%	0.00%	-100.00%	1100.00%	200.00%	160.00%	440.00%	-80.00%	-100.00%		2600.00%		285.71%

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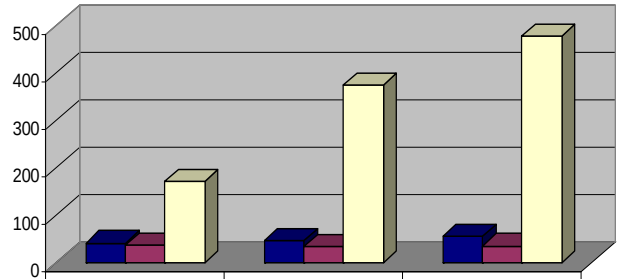
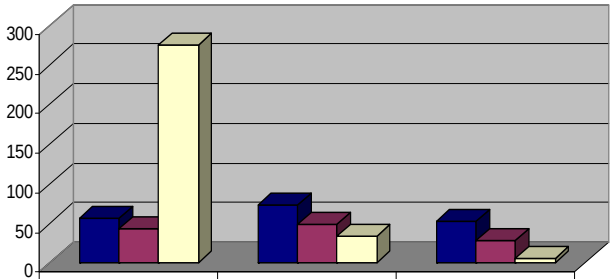
Charts 10.2a, b & c – Calendar Days Aged from Mailing/Service of Request to Subject Interview for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days From Mailing/Service of Request to Completion of Interview



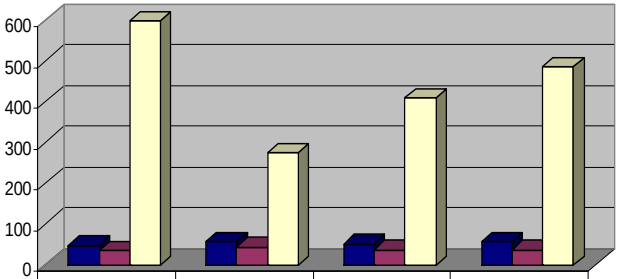
	2006	2007	2008
Average No. of Days	43	49	58
Median No. of Days	38	36	37
No. of Cases	172	375	478

Physicians and Surgeons--Non-VE Cases Only
Days From Mailing/Service of Request to Completion of Interview



	2006	2007	2008
Average No. of Days	56	73	53
Median No. of Days	44	49	28
No. of Cases	275	34	7

Physicians and Surgeons--Total Cases
Days From Mailing/Service of Request to Completion of Interview



	2005	2006	2007	2008
Average No. of Days	48	56	51	58
Median No. of Days	36	44	37	37
No. of Cases	597	275	409	485

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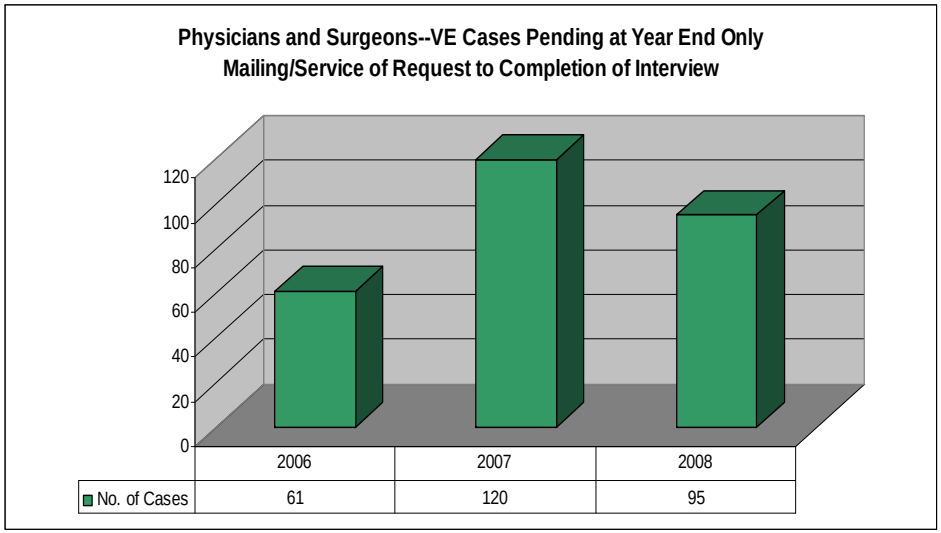
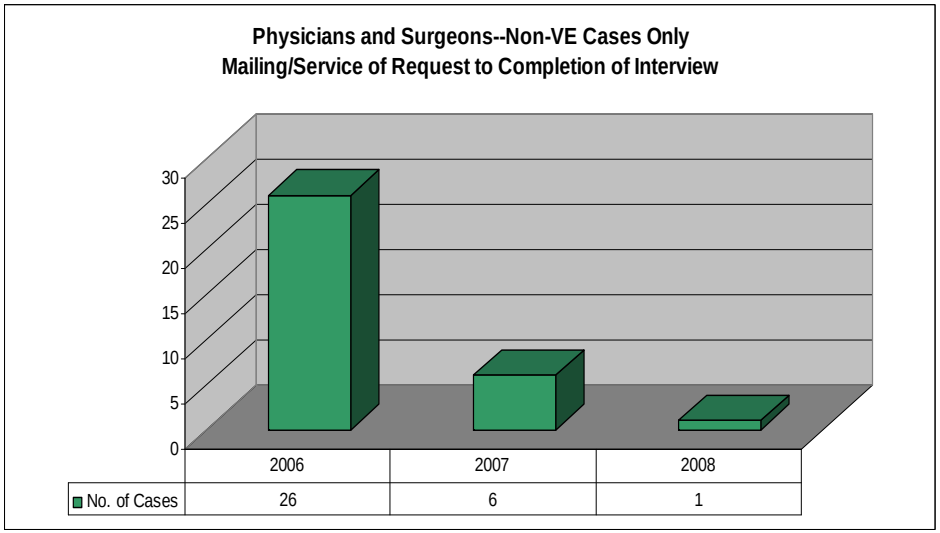
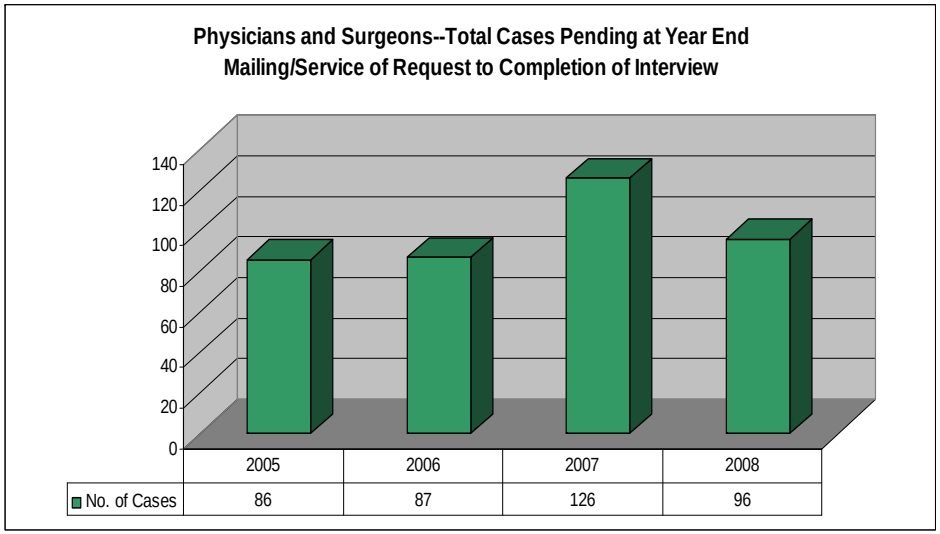
Charts 10.2d, e & f – Calendar Days Aged from Mailing/Service of Request to Subject Interview for Physicians and Surgeons — Cases Pending at Year End







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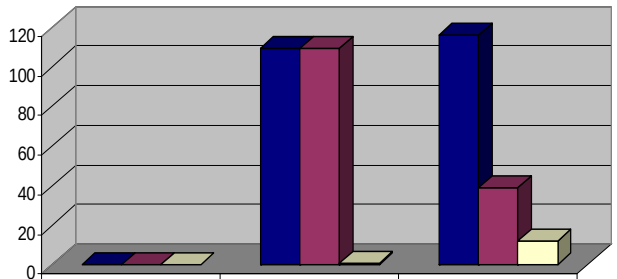
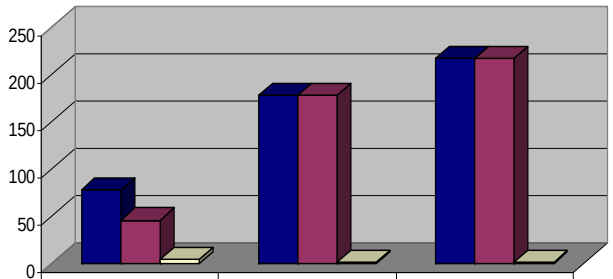
Charts 10.2g, h & i – Calendar Days Aged from Mailing/Service of Subpoena to Subject Interview for Physician and Surgeon Cases

Physicians and Surgeons--VE Cases Only
Days From Mailing/Service of Subpoena to Completion of Interview



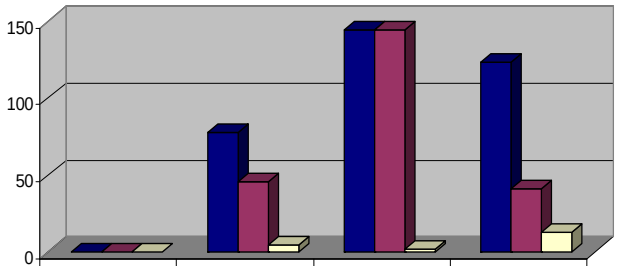
	2006	2007	2008
Average No. of Days	0	109	116
Median No. of Days	0	109	39
No. of Cases	0	1	12

Physicians and Surgeons--Non-VE Cases Only
Days From Mailing/Service of Subpoena to Completion of Interview



	2006	2007	2008
Average No. of Days	78	178	217
Median No. of Days	46	178	217
No. of Cases	5	1	1

Physicians and Surgeons--Total Cases
Days From Mailing/Service of Subpoena to Completion of Interview



	2005	2006	2007	2008
Average No. of Days	0	78	144	123
Median No. of Days	0	46	144	41
No. of Cases	0	5	2	13

Data not available for 2005

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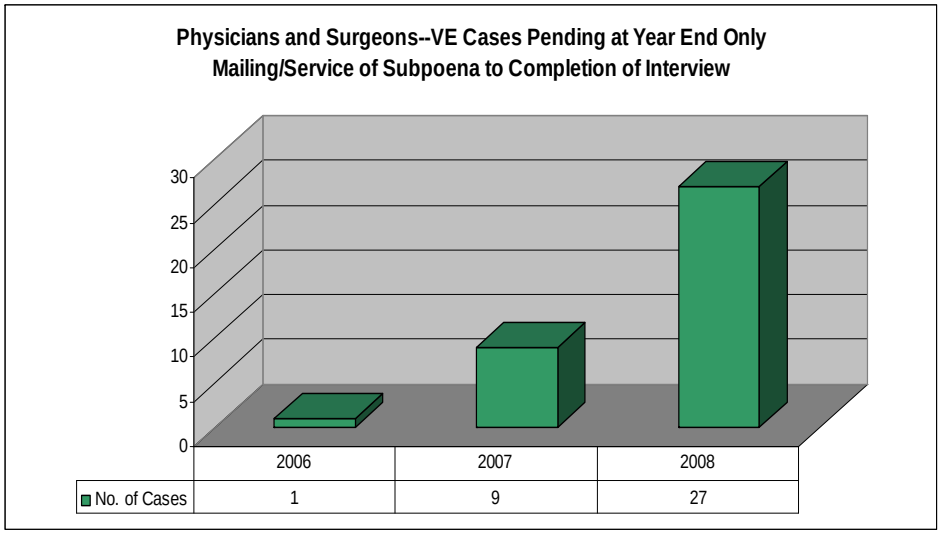
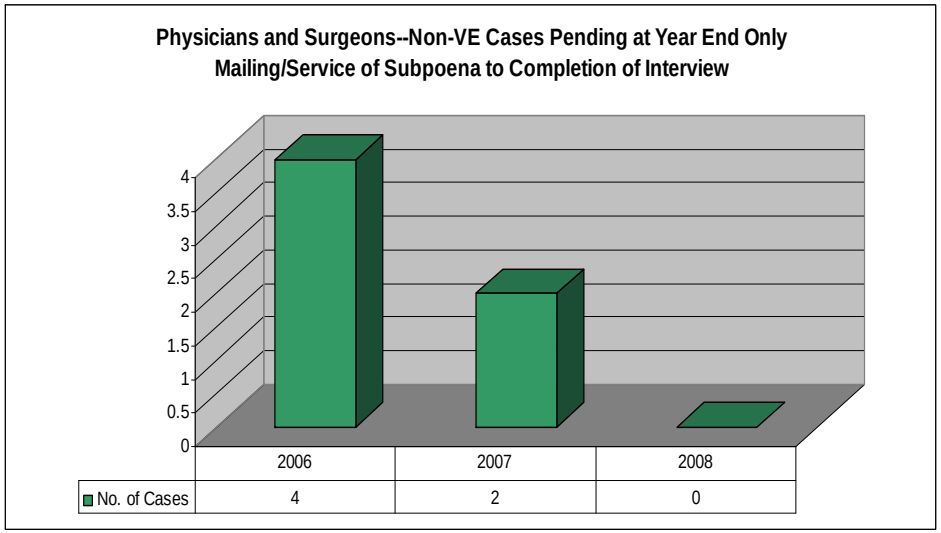
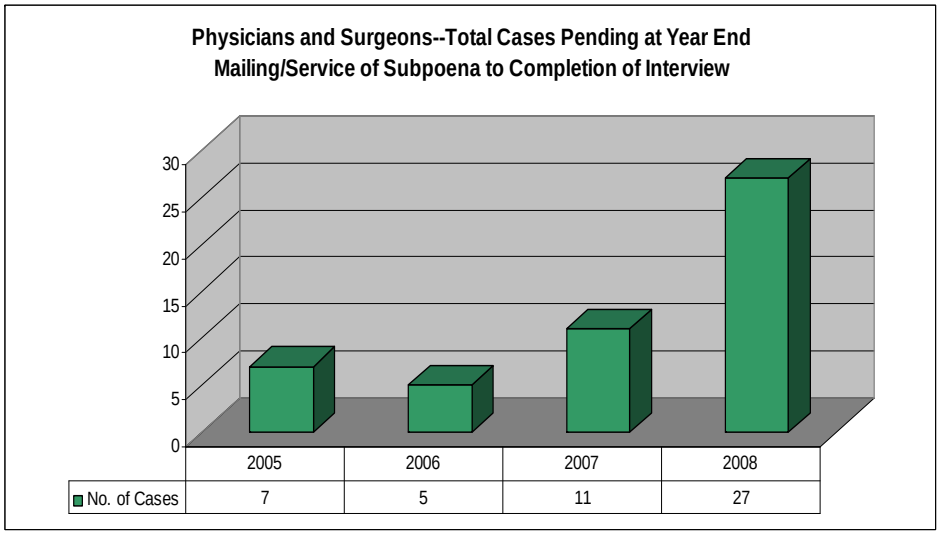
Charts 10.2g, h & i – Calendar Days Aged from Mailing/Service of Subpoena to Subject Interview for Physicians and Surgeons — Cases Pending at Year End







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CALENDAR DAYS AGED FROM MAILING/SERVICE TO SUBJECT INTERVIEW — ALLIED HEALTH

Table 10.3 below reports the average and median calendar days aged from mailing/service of the request to subject interview for Allied Health Care cases. Between 2005 and 2008, there was a 7.69% increase in the average days aged, a 6.45% increase in the median days aged, an 11.54% increase in the number of cases, and a 31.25% decrease in the number of cases pending at year end.

For cases in which a subpoena was requested, the percentage difference between 2005 and 2008 for average and median days aged cannot be computed, since this data was not available in 2005. There was a 200% increase in the number of cases pending at year end (from 1 case to 3 cases).

Table 10.3 – Calendar Days Aged from Request to Subject Interview for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Subject Interview Completed																				
Average	-17.07%		-11.76%		17.86%		23.53%		8.89%		27.27%		2.44%		-3.92%		50.00%		7.69%	
Median (middle record - half are above and half below)	-26.67%		-36.36%		19.05%		50.00%		133.33%		28.00%		10.00%		48.48%		52.38%		6.45%	
Record Count	-14.55%	44.44%	-90.63%	-100.00%	91.30%	116.67%	23.40%	-15.38%	-66.67%		29.55%	-15.38%	5.45%	22.22%	-96.88%	-100.00%	147.83%	83.33%	11.54%	-31.25%
Calendar Day Age from Subpoena Request to Subject Interview Completed*																				
Average																				
Median (middle record - half are above and half below)																				
Record Count		0.00%						50.00%		-100.00%		200.00%		50.00%		-100.00%				200.00%

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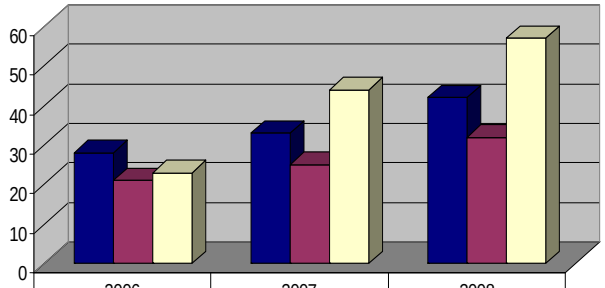
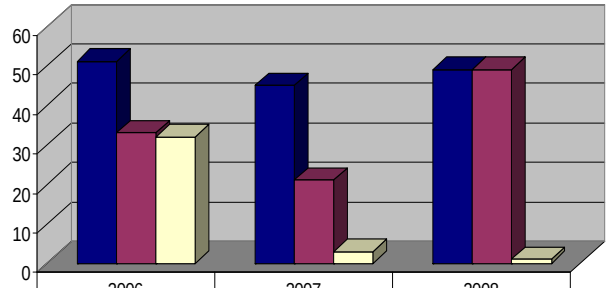
Charts 10.3a, b & c – Calendar Days Aged from Mailing/Service of Request to Subject Interview for Allied Health Cases

Allied Health--VE Cases Only
Days From Mailing/Service of Request to Completion of Interview



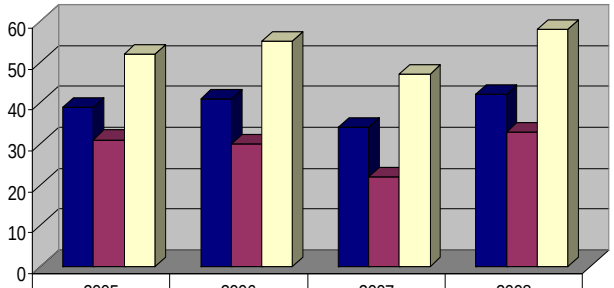
	2006	2007	2008
Average No. of Days	28	33	42
Median No. of Days	21	25	32
No. of Cases	23	44	57

Allied Health--Non-VE Cases Only
Days From Mailing/Service of Request to Completion of Interview



	2006	2007	2008
Average No. of Days	51	45	49
Median No. of Days	33	21	49
No. of Cases	32	3	1

Allied Health--Total Cases
Days From Mailing/Service of Request to Completion of Interview



	2005	2006	2007	2008
Average No. of Days	39	41	34	42
Median No. of Days	31	30	22	33
No. of Cases	52	55	47	58

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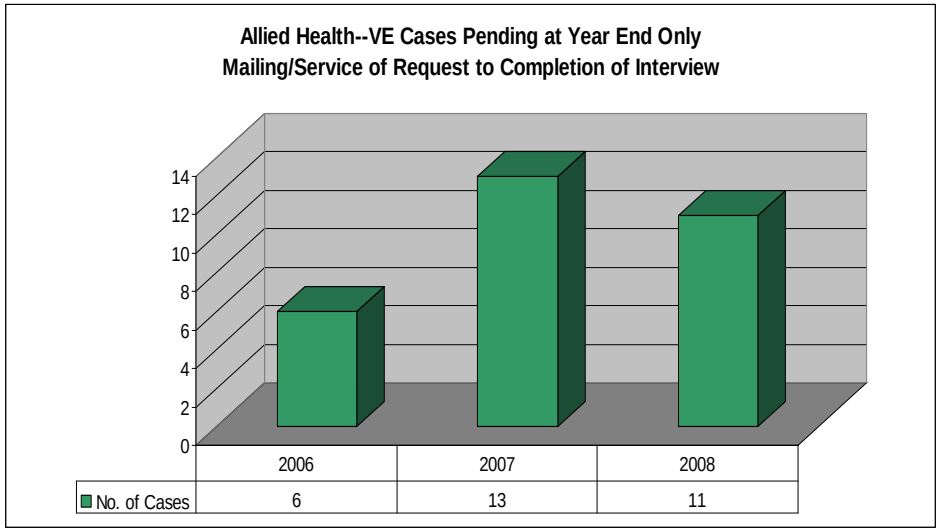
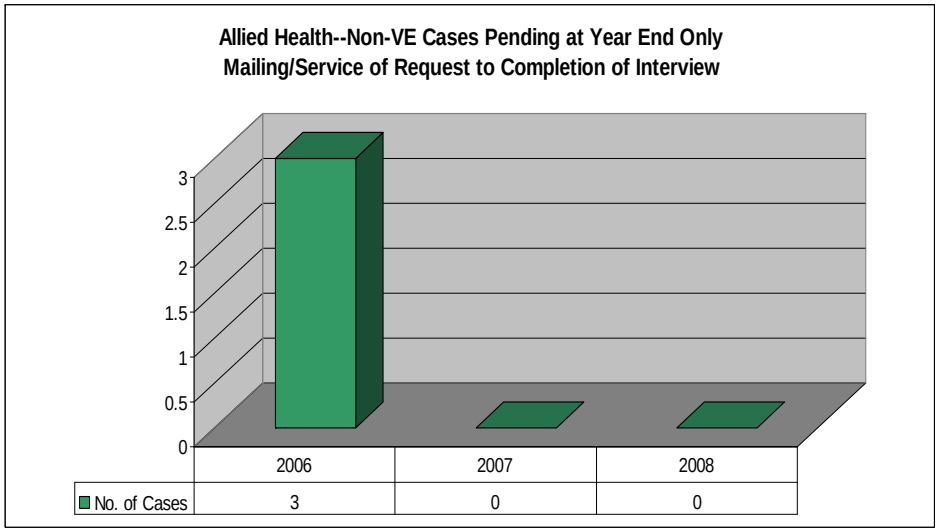
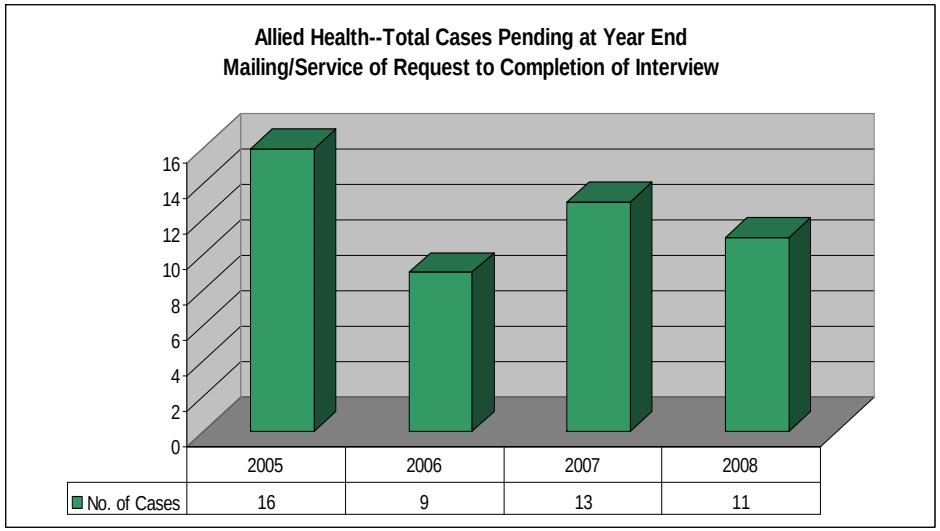
Charts 10.3d, e & f – Calendar Days Aged from Mailing/Service of Request to Subject Interview for Allied Health Cases — Cases Pending at Year End







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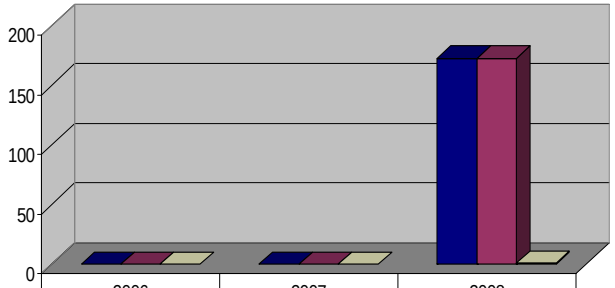
Charts 10.3g, h & i – Calendar Days Aged from Mailing/Service of Subpoena to Subject Interview for Allied Health Cases

Allied Health--VE Cases Only
Days From Mailing/Service of Subpoena to Completion of Interview

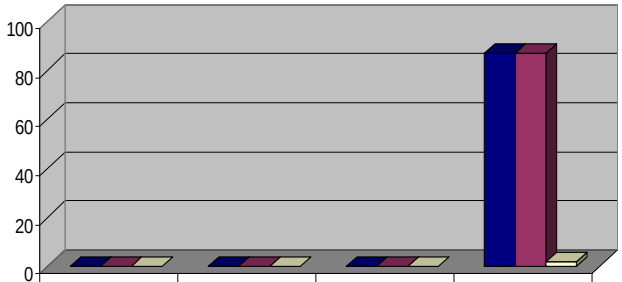
	2006	2007	2008
Average No. of Days	0	0	1
Median No. of Days	0	0	1
No. of Cases	0	0	1

Allied Health--Non-VE Cases Only
Days From Mailing/Service of Subpoena to Completion of Interview



	2006	2007	2008
Average No. of Days	0	0	173
Median No. of Days	0	0	173
No. of Cases	0	0	1

Allied Health--Total Cases
Days From Mailing/Service of Subpoena to Completion of Interview



	2005	2006	2007	2008
Average No. of Days	0	0	0	87
Median No. of Days	0	0	0	87
No. of Cases	0	0	0	2

Data not available for 2005

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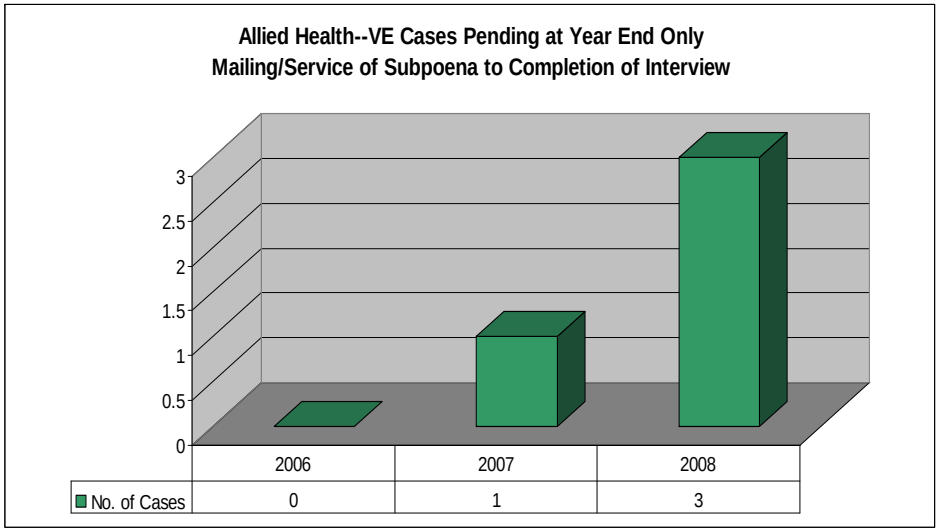
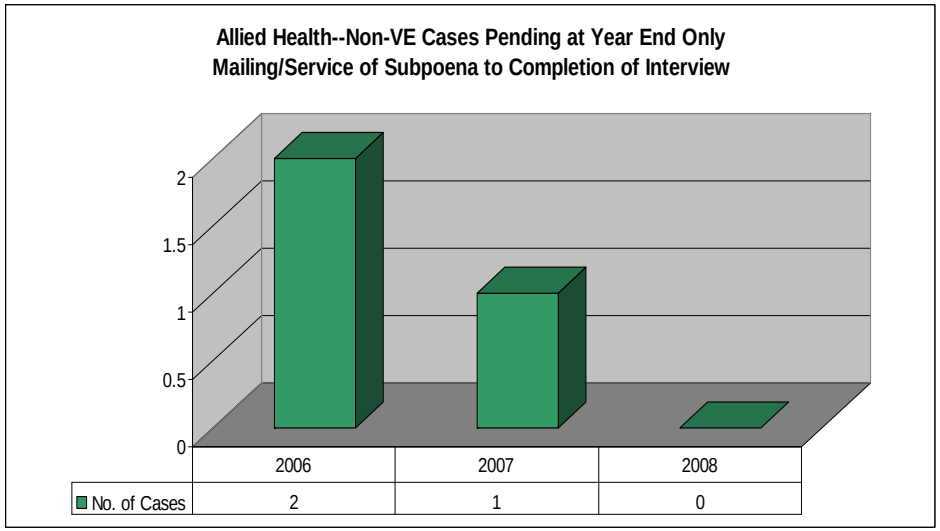
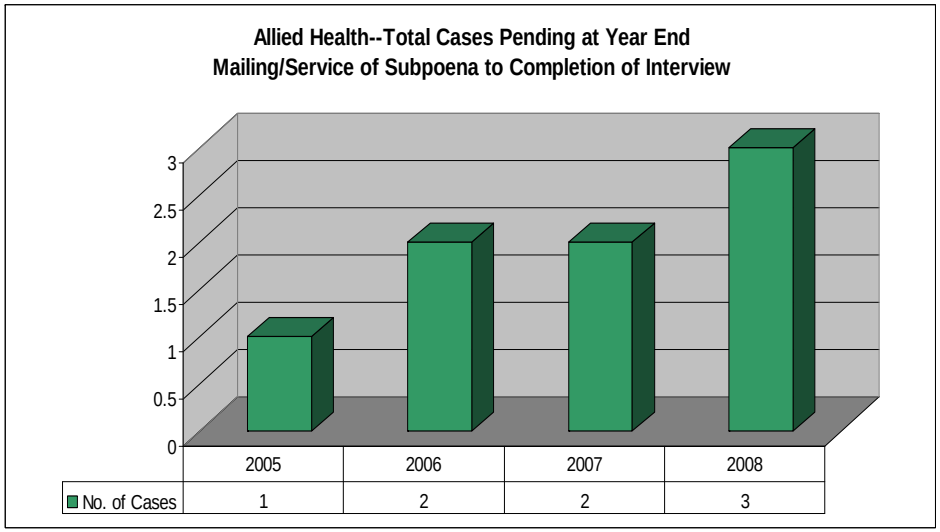
Charts 10.3g, h & i – Calendar Days Aged from Mailing/Service of Subpoena to Subject Interview for Allied Health Cases — Cases Pending at Year End







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XI. MEDICAL CONSULTANTS

MBC Policy

Per VPM, medical consultants, who reports to the respective Sup Is in the district offices, provide medical input and assistance through review of medical records, participation in subject interviews, selection of expert reviewers and evaluation of expert opinions.

For Submitted to District Office Medical Consultant for Review to Review Completed for combined Physicians and Surgeons and Allied Health cases between 2005 and 2008, there was an increase in the average days aged from 31 days to 88 days, an increase in the median days aged from 24 days to 44 days, an increase in the number of cases from 49 cases to 328 cases, and an increase in the number of cases pending at year end from 36 to 328. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FROM CASE SUBMITTED TO DISTRICT OFFICE MEDICAL CONSULTANT FOR REVIEW TO REVIEW COMPLETED — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 11.1 below reports the average and median calendar days aged from case submitted to district office medical consultant for review to review completed for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 183.87% increase in the average days aged, an 83.33% increase in the median days aged, a 569.39% increase in the number of cases, and a 433.33% increase in the number of cases pending at year end.

Questions have arisen regarding the impact of the Governor's Executive Order in 2008 on MBC investigatory time, especially with respect to Medical Consultants. Table 11.1 reports that between 2007 and 2008 there was a 46.67% increase in the average days aged (from 60 days to 88 days, see Appendix B Table B11.1), a 41.94% increase in the median days aged (from 31 days to 44 days), a 12.53% decrease in the number of cases (from 375 cases to 328 cases), and a 7.87% increase in the number of cases pending at year end (from 178 cases to 192 cases). At the same time, Table 3.3 above shows there was only a 3.84% decrease in Medical Consultant hours worked (from 14,441.5 hours to 13,933.5 hours, see Appendix B Table B3.3), which is the equivalent of a 10.30% increase in the average Medical Consultant hours per case (from 38.51 to 42.48). While the Executive Order may have had some impact, the data does not support a conclusion that it was a major cause of investigatory delays and the full impact of these delays cannot be assessed until cases affected by the Executive Order are completed (see AG letter, Appendix C).

Table 11.1 – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Date Case Submitted to District Office Medical Consultant for Review to Review Completed Date																				
Average	7.14%		35.44%		46.15%		46.67%		195.33%		47.37%		57.14%		300.00%		115.38%		183.87%	
Median (middle record - half are above and half below)	10.71%		44.00%		0.00%		41.94%		133.33%		46.67%		57.14%		236.00%		46.67%		83.33%	
Record Count	30.21%	31.85%	-80.33%	-74.36%	111.45%	75.00%	-12.53%	7.87%	-79.17%	-100.00%	-7.98%	14.29%	13.89%	42.22%	-95.90%	-100.00%	94.58%	100.00%	569.39%	433.33%

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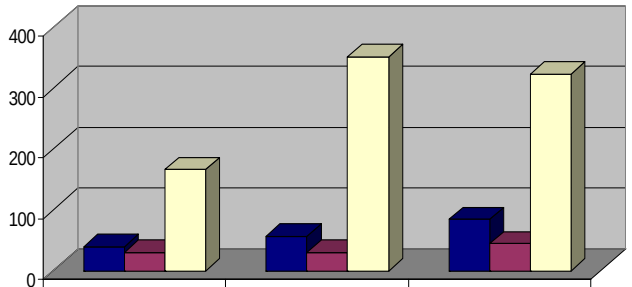
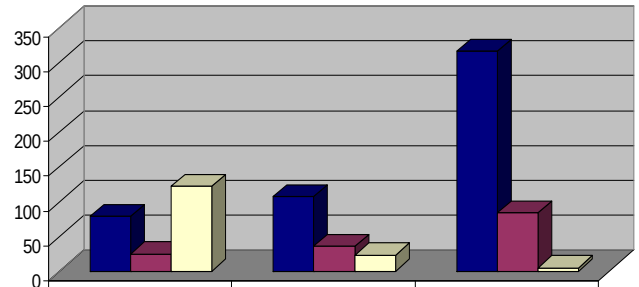
Charts 11.1a, b & c – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Physicians and Surgeons and Allied Health Cases

P&S and VH--VE Cases Only
Days from Submitted to Medical Consultant to Review Completed



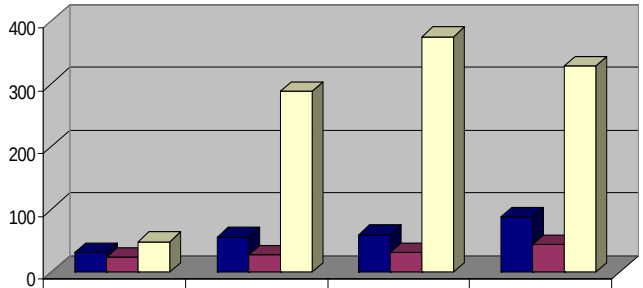
	2006	2007	2008
Average No. of Days	39	57	84
Median No. of Days	30	30	44
No. of Cases	166	351	323

P&S and VH--Non-VE Cases Only
Days from Submitted to Medical Consultant to Review Completed



	2006	2007	2008
Average No. of Days	79	107	316
Median No. of Days	25	36	84
No. of Cases	122	24	5

P&S and VH--Total Cases
Days from Submitted to Medical Consultant to Review Completed



	2005	2006	2007	2008
Average No. of Days	31	56	60	88
Median No. of Days	24	28	31	44
No. of Cases	49	288	375	328

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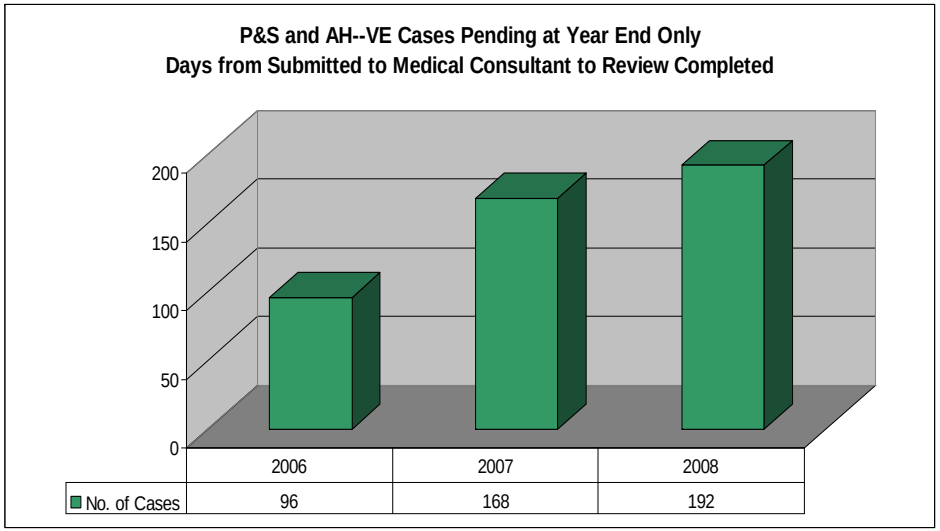
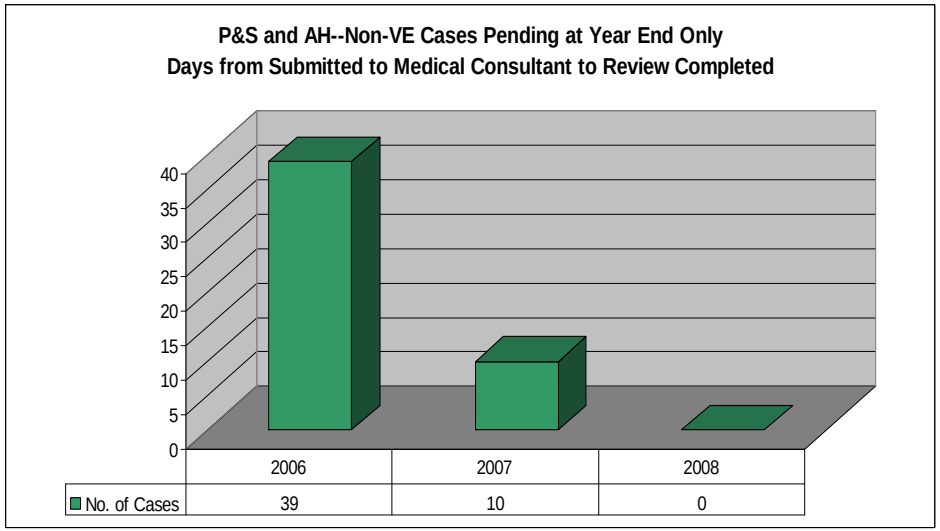
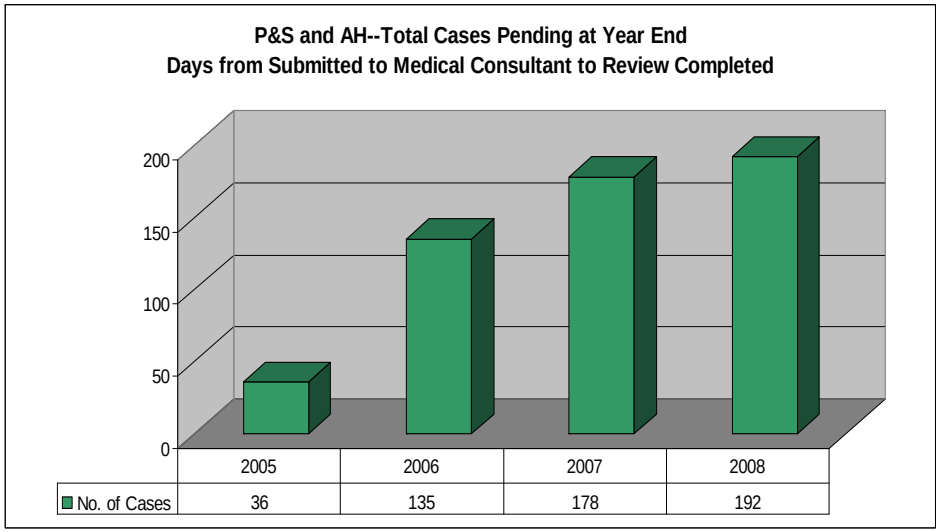
Charts 11.1d, e & f – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE SUBMITTED TO DISTRICT OFFICE MEDICAL CONSULTANT FOR REVIEW TO REVIEW COMPLETED — PHYSICIANS AND SURGEONS

Table 11.2 below reports the average and median calendar days aged from case submitted to district office medical consultant for review to review completed for Physicians and Surgeons cases. Between 2005 and 2008, there was a 187.107% increase in the average days aged, a 91.67% increase in the median days aged, a 543.75% increase in the number of cases, and a 391.43%% increase in the number of cases pending at year end.

Table 11.2 – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Date Case Submitted to District Office Medical Consultant for Review to Review Completed Date																				
Average	7.02%		43.21%		46.15%		45.90%		234.48%		50.88%		56.14%		379.01%		120.51%		187.10%	
Median (middle record - half are above and half below)	6.90%		50.00%		0.00%		48.39%		925.64%		50.00%		58.62%		1438.46%		50.00%		91.67%	
Record Count	31.64%	32.03%	-81.03%	-75.00%	113.84%	73.91%	-14.64%	1.78%	-81.82%	-100.00%	-10.29%	7.50%	12.36%	34.38%	-96.55%	-100.00%	91.82%	86.96%	543.75%	391.43%

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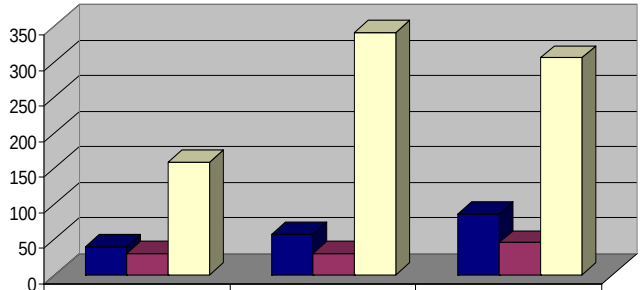
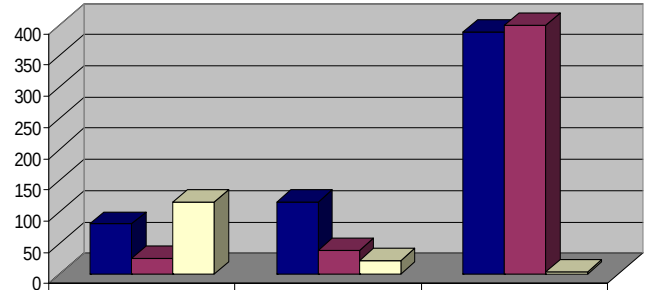
Charts 11.-2a, b & c – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days from Submitted to Medical Consultant to Review Completed



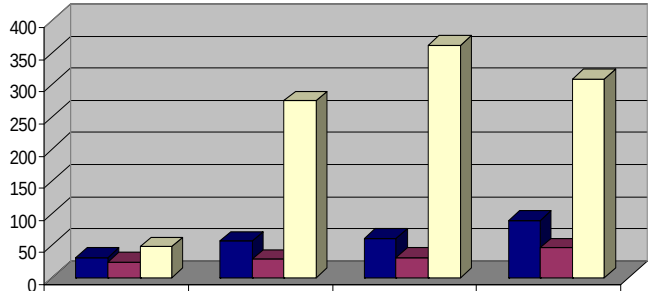
	2006	2007	2008
Average No. of Days	39	57	86
Median No. of Days	30	30	45
No. of Cases	159	340	305

Physicians and Surgeons--Non-VE Cases Only
Days from Submitted to Medical Consultant to Review Completed



	2006	2007	2008
Average No. of Days	81	116	388
Median No. of Days	26	39	400
No. of Cases	116	22	4

Physicians and Surgeons--Total Cases
Days from Submitted to Medical Consultant to Review Completed



	2005	2006	2007	2008
Average No. of Days	31	57	61	89
Median No. of Days	24	29	31	46
No. of Cases	48	275	362	309

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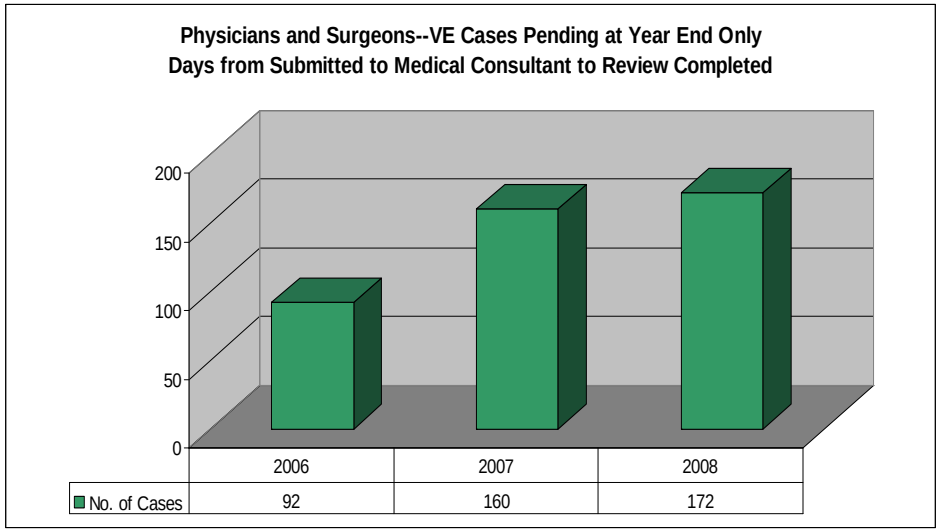
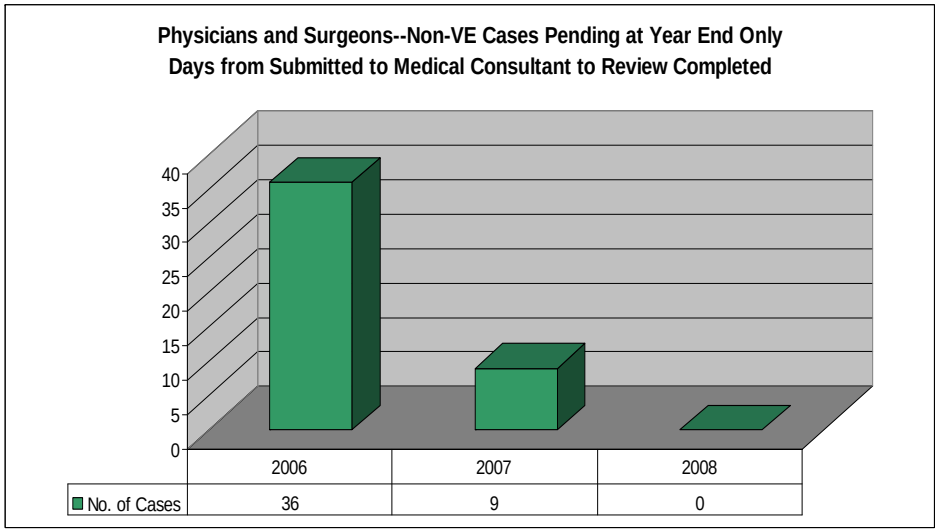
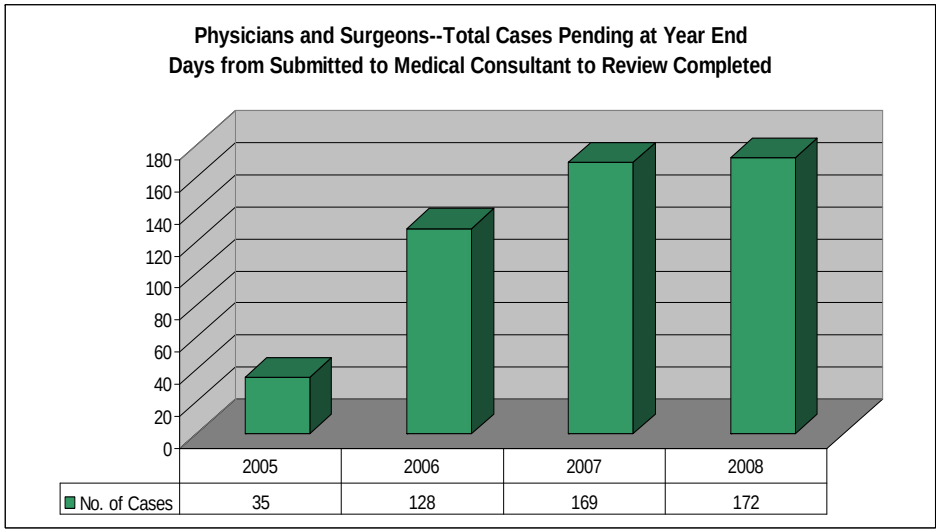
Charts 11.2d, e & f – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Physicians and Surgeons Cases— Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE SUBMITTED TO DISTRICT OFFICE MEDICAL CONSULTANT FOR REVIEW TO REVIEW COMPLETED — ALLIED HEALTH

Table 11.3 below reports the average and median calendar days aged from case submitted to district office medical consultant for review to review completed for Allied Health Care cases. Between 2005 and 2008, there was a 204.76% increase in the average days aged, a 33.33% increase in the median days aged, an 1800.00% increase in the number of cases, and a 1900.00% increase in the number of cases pending at year end.

Table 11.3 – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Date Case Submitted to District Office Medical Consultant for Review to Review Completed Date																				
Average	79.31%		-61.54%		87.50%		23.08%		180.00%		10.00%		120.69%		7.69%		106.25%		204.76%	
Median (middle record - half are above and half below)	0.00%		-28.57%		-35.71%		21.74%		180.00%		-3.70%		21.74%		100.00%		-38.10%		33.33%	
Record Count	0.00%	28.57%	-66.67%	-66.67%	57.14%	100.00%	46.15%	122.22%	-50.00%	-100.00%	63.64%	150.00%	46.15%	185.71%	-83.33%	-100.00%	157.14%	400.00%	1800.00%	1900.00%

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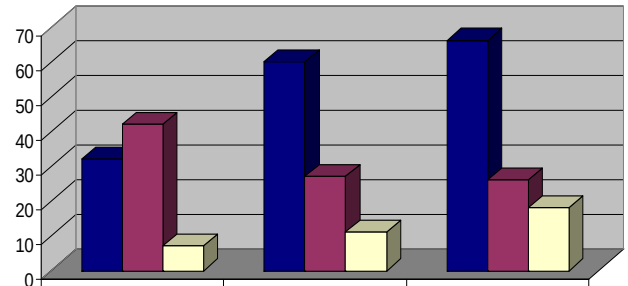
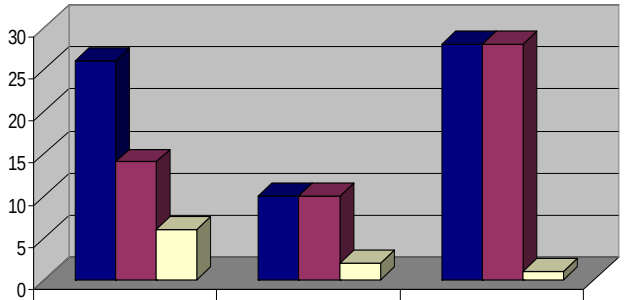
Charts 11.3a, b & c – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Allied Health Cases

Allied Health--VE Cases Only
Days from Submitted to Medical Consultant to Review Completed



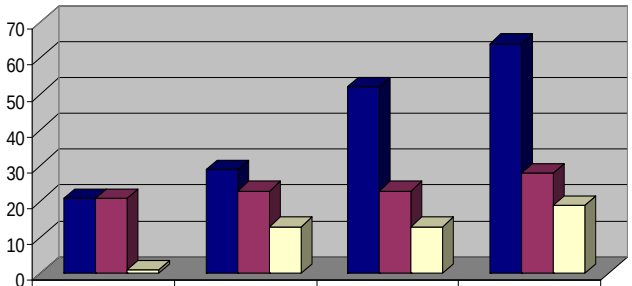
	2006	2007	2008
Average No. of Days	32	60	66
Median No. of Days	42	27	26
No. of Cases	7	11	18

Allied Health--Non-VE Cases Only
Days from Submitted to Medical Consultant to Review Completed



	2006	2007	2008
Average No. of Days	26	10	28
Median No. of Days	14	10	28
No. of Cases	6	2	1

Allied Health--Total Cases
Days from Submitted to Medical Consultant to Review Completed



	2005	2006	2007	2008
Average No. of Days	21	29	52	64
Median No. of Days	21	23	23	28
No. of Cases	1	13	13	19

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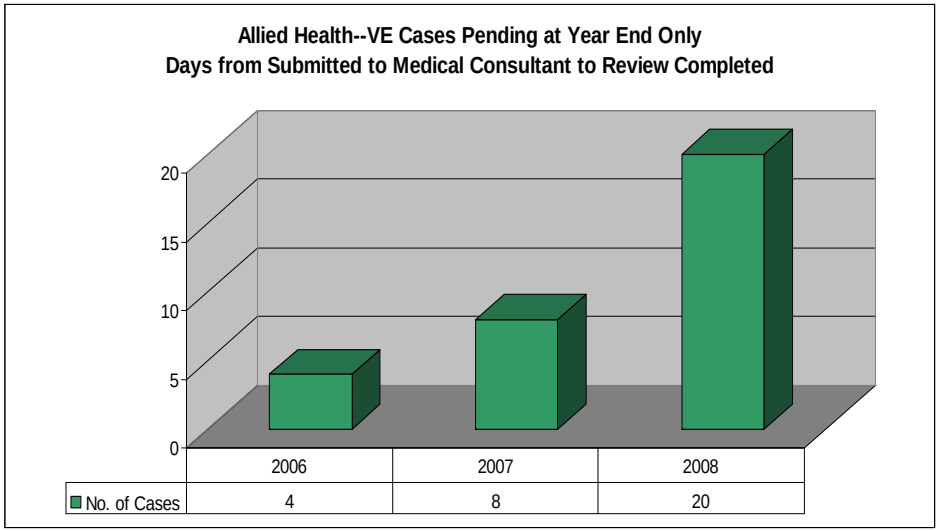
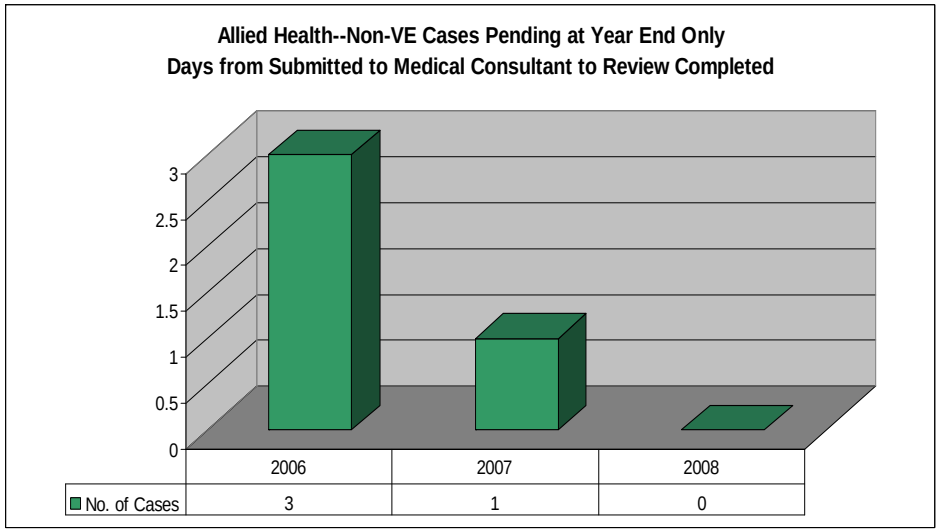
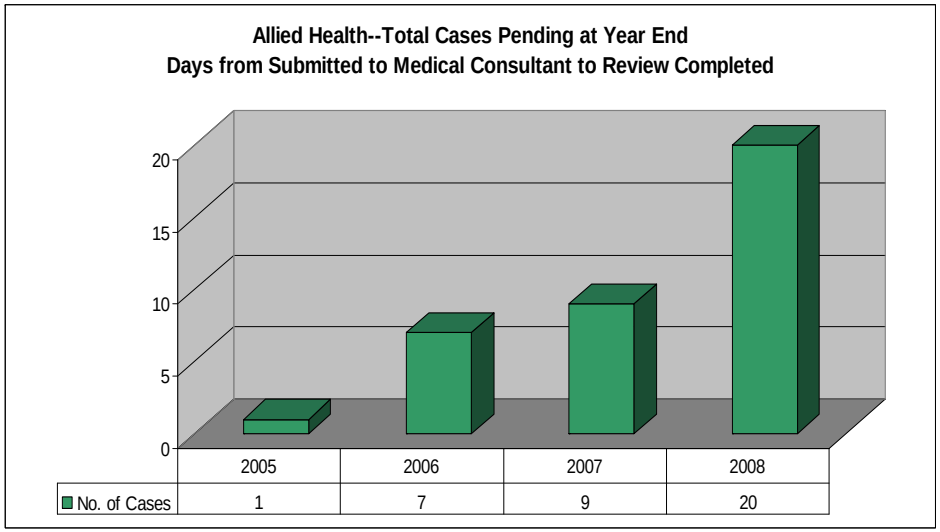
Charts 11.3d, e & f – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Allied Health Cases— Cases Pending at Year End







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XII. EXPERT REVIEWER PROGRAM

In quality of care cases against a physician, an expert opinion is required to prove or disprove that the physician performed in accordance with the prevailing standard of care. Since the burden of proof is on MBC, it must produce physician witness(es) with experience and expertise in the specialty or procedure at issue. The expert witness must review the evidence, testify to the standard of care and explain the basis for his/her opinion.

EXPERT REVIEWER POLICY

Per EOM Section 7.4, the investigator shall prepare the file for expert review and submit to Sup I for approval. After approval, per both the EOM and the JVEG, the investigator submits the file to the primary DAG who has 10 business days to review the package. If the primary DAG is unable to complete within this timeframe, the lead DAG should conduct the review.

Pursuant to EOM: "It is the policy of MBC to utilize the services of licensed physicians who are Board certified in their specialty area to provide expert reviews and opinions in MBC cases." Under extraordinary circumstances, supervising investigators may use an expert reviewer who is not a participant in the Expert Reviewer Program. The Sup I must obtain approval from the Sup II and the unapproved expert must meet the minimum qualifications set forth in the Expert Reviewer Program.

For Request to Receipt of Expert Opinion for combined Physicians and Surgeons and Allied Health cases between 2005 and 2008, there was a decrease in the average days aged from 51 days to 50 days, a decrease in the median days aged from 41 days to 39 days, a decrease in the number of cases from 518 cases to 377 cases, and a decrease in the number of cases pending at year end from 55 to 41. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FROM REQUEST TO RECEIPT OF EXPERT OPINION — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 12.1 below reports the average and median calendar days aged from mailing/delivery of the request to receipt of outside expert opinion for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 4.00% increase in the average days aged, a 2.44% decrease in the median days aged, a 26.20% decrease in the number of cases, and a 17.46% decrease in the number of cases pending at year end.

Questions have arisen regarding the impact of the Governor's Executive Order in 2008 on MBC investigatory time delays with respect to obtaining expert opinions. MBC was able to temporarily utilize resources so that the Governor's Executive Order did not impact expert witnesses. Furthermore, Table 12.1 reports that between 2007 and 2008 there was no change in the average days aged (from 52 days to 52 days, see Appendix B Table B12.1) , an 8.11% increase in the median days aged (from 36 days to 39 days), a 10.70% increase in the number of cases (from 342 cases to 377 cases), and a 13.33% decrease in the number of cases pending at year end (from 50 cases to 41 cases). Consequently, even if the Executive Order had impacted the expert witnesses, the data does not support a conclusion that it was a major cause of significant delays in obtaining expert opinions (see AG letter, Appendix C).

Table 12.1 – Calendar Days Aged from Request to Receipt of Expert Opinion for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Receipt of Expert Opinion																				
Average	10.64%		70.00%		16.22%		0.00%		-40.00%		20.93%		10.64%		2.00%		40.54%		4.00%	
Median (middle record - half are above and half below)	2.78%		51.35%		2.94%		8.11%		-23.21%		14.29%		11.11%		16.22%		17.65%		-2.44%	
Record Count	-21.26%	1.69%	-77.84%	-82.35%	202.08%	116.00%	10.70%	-13.33%	-82.14%	-83.33%	37.59%	-5.56%	-12.84%	-11.86%	-96.04%	-97.06%	315.63%	104.00%	-26.20%	-17.46%

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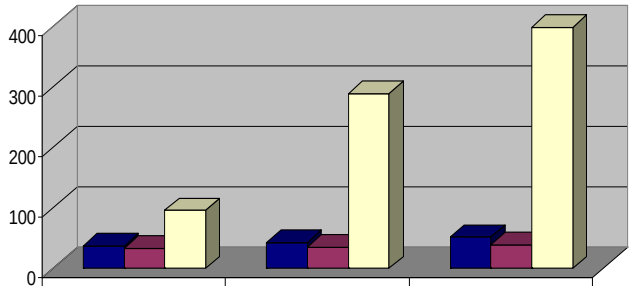
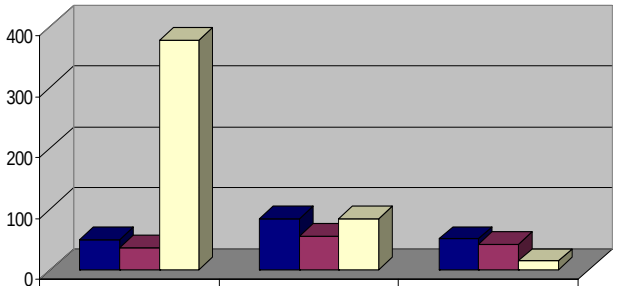
Charts 12.1a, b & c – Calendar Days Aged from Mailing/Delivery of Request to Receipt of Expert Opinion for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days From Mailing/Delivery of Request to Receipt of Outside Expert Opinion



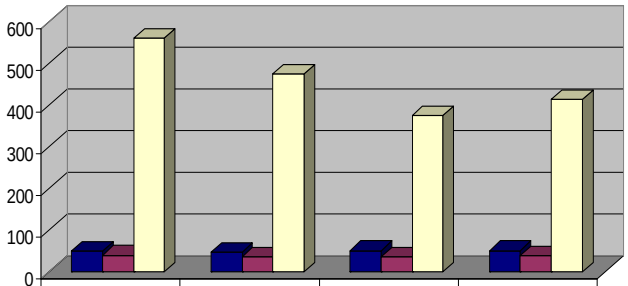
	2006	2007	2008
Average No. of Days	37	43	52
Median No. of Days	34	35	40
No. of Cases	96	290	399

P&S and AH--Non-VE Cases Only
Days From Mailing/Delivery of Request to Receipt of Outside Expert Opinion



	2006	2007	2008
Average No. of Days	50	85	51
Median No. of Days	37	56	43
No. of Cases	379	84	15

P&S and AH--Total Cases
Days From Mailing/Delivery of Request to Receipt of Outside Expert Opinion



	2005	2006	2007	2008
Average No. of Days	50	47	52	52
Median No. of Days	41	36	37	40
No. of Cases	561	475	374	414

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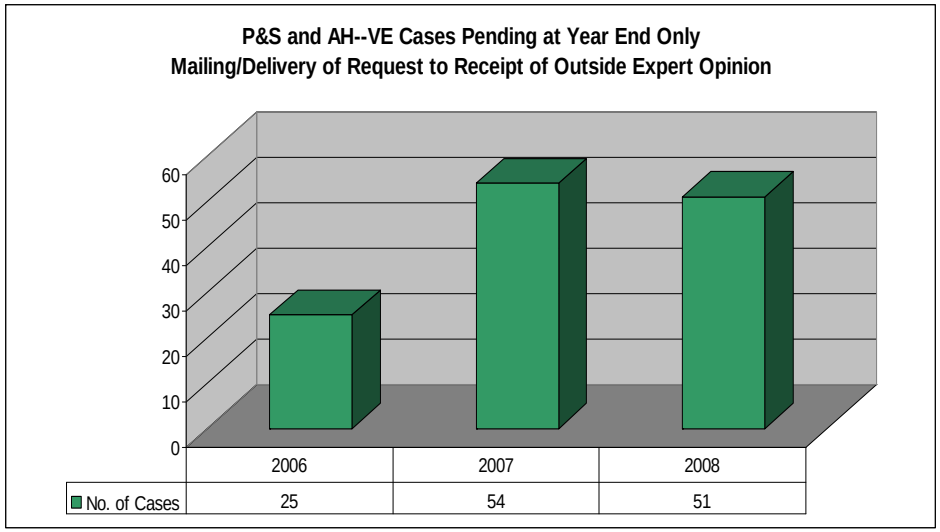
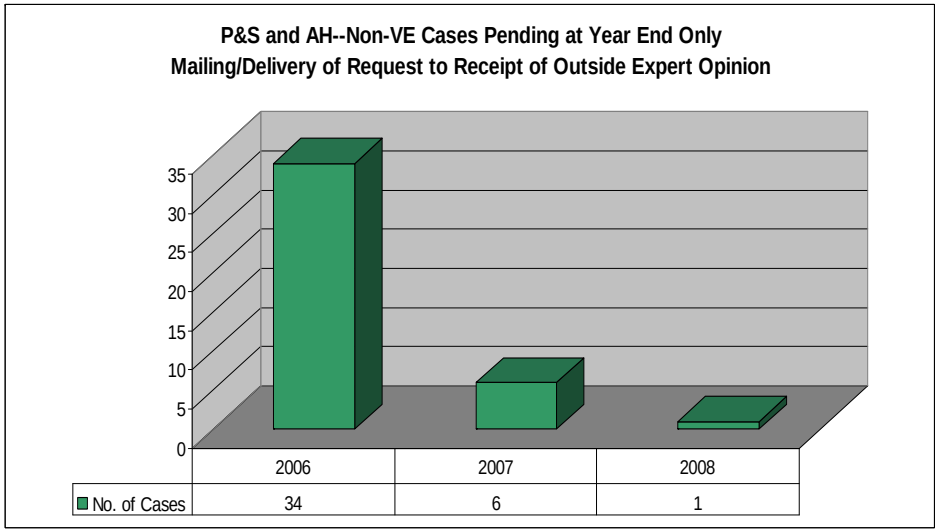
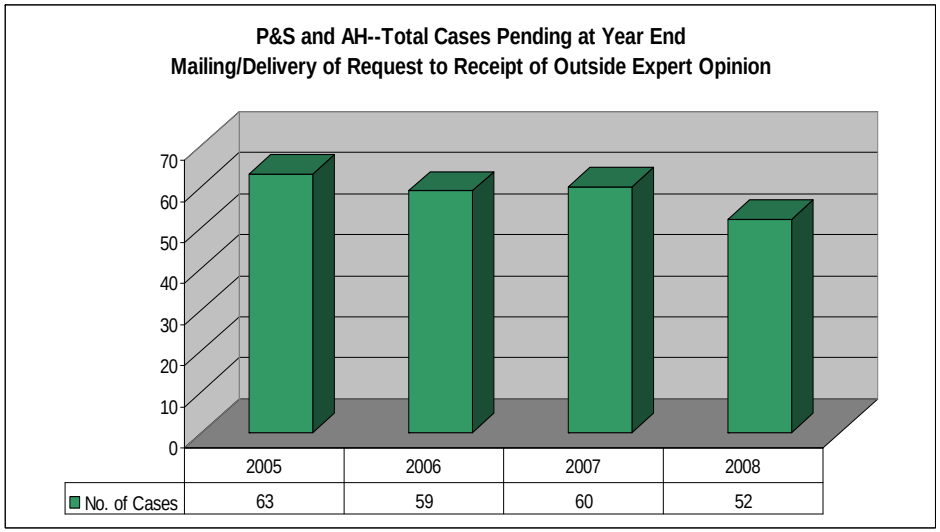
Charts 12.1d, e & f – Calendar Days Aged from Mailing/Delivery of Request to Receipt of Expert Opinion for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM REQUEST TO RECEIPT OF EXPERT OPINION — PHYSICIANS AND SURGEONS

Table 12.2 below reports the average and median calendar days aged from mailing/delivery of the request to receipt of outside expert opinion for Physicians and Surgeons cases. Between 2005 and 2008, there was a 1.96% decrease in the average days aged, a 4.88% decrease in the median days aged, a 27.22% decrease in the number of cases, and a 25.45% decrease in the number of cases pending at year end.

Table 12.2 – Calendar Days Aged from Request to Receipt of Expert Opinion for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Receipt of Expert Opinion																				
Average	8.51%		62.00%		22.86%		-1.96%		-37.04%		16.28%		6.38%		2.00%		42.86%		-1.96%	
Median (middle record - half are above and half below)	0.00%		48.65%		12.90%		8.33%		-21.82%		11.43%		8.33%		16.22%		25.81%		-4.88%	
Record Count	-18.96%	2.04%	-78.53%	-85.71%	228.05%	119.05%	10.23%	-18.00%	-79.45%	-100.00%	34.57%	-10.87%	-10.66%	-16.33%	-95.59%	-100.00%	341.46%	95.24%	-27.22%	-25.45%

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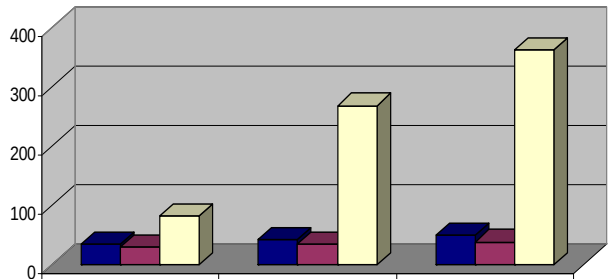
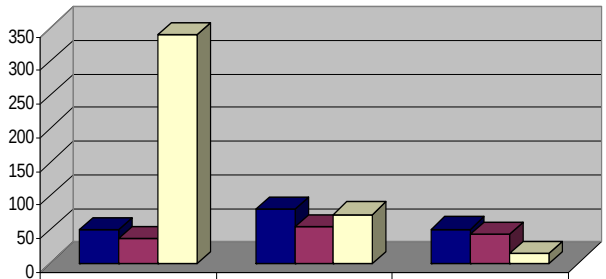
Charts 12.2a, b & c – Calendar Days Aged from Mailing/Delivery of Request to Receipt of Expert Opinion for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days From Mailing/Delivery of Request to Receipt of Outside Expert Opinion



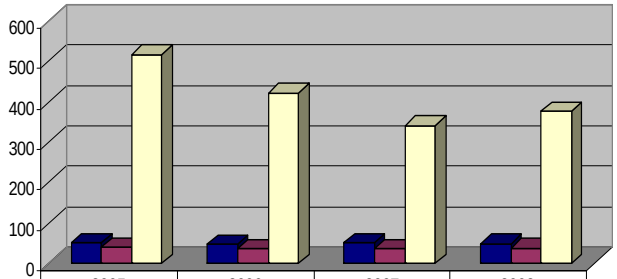
	2006	2007	2008
Average No. of Days	35	43	50
Median No. of Days	31	35	39
No. of Cases	82	269	362

Physicians and Surgeons--Non-VE Cases Only
Days From Mailing/Delivery of Request to Receipt of Outside Expert Opinion



	2006	2007	2008
Average No. of Days	50	81	51
Median No. of Days	37	55	43
No. of Cases	340	73	15

Physicians and Surgeons--Total Cases
Days From Mailing/Delivery of Request to Receipt of Outside Expert Opinion



	2005	2006	2007	2008
Average No. of Days	51	47	51	50
Median No. of Days	41	36	36	39
No. of Cases	518	422	342	377

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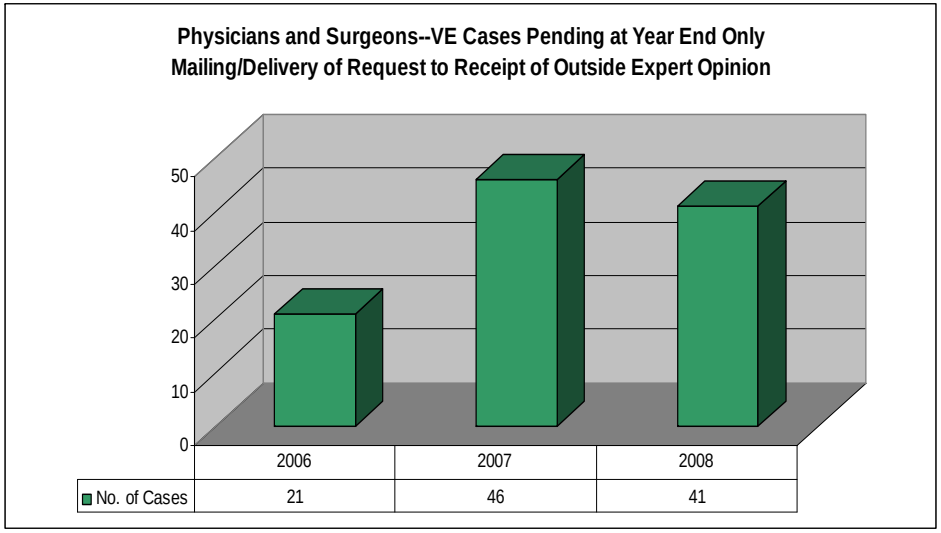
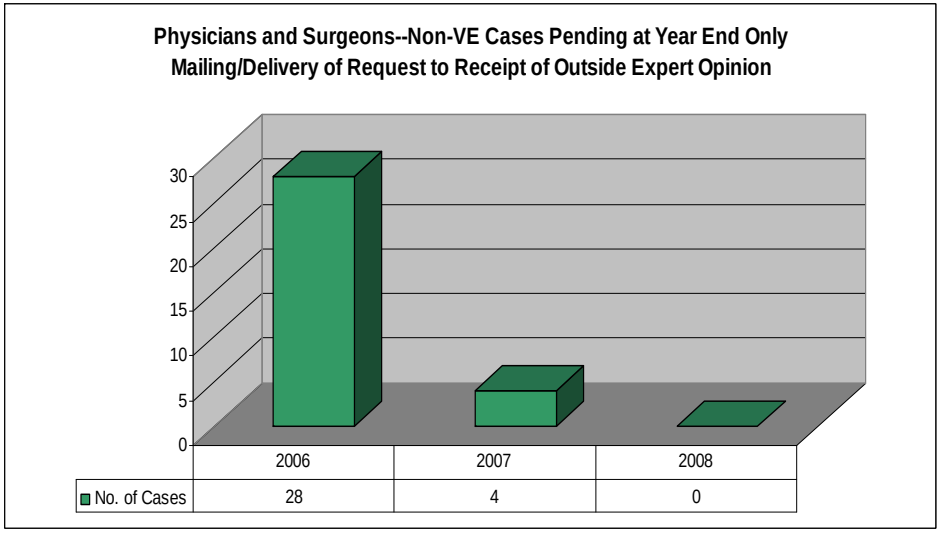
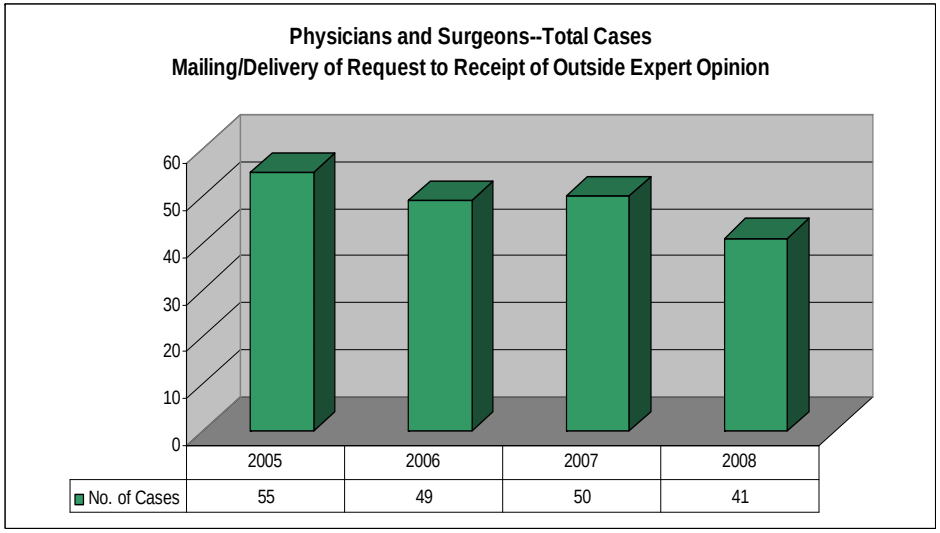
Charts 12.2d, e & f – Calendar Days Aged from Mailing/Delivery of Request to Receipt of Expert Opinion for Physicians and Surgeons — Cases Pending at Year End







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CALENDAR DAYS AGED FROM REQUEST TO RECEIPT OF EXPERT OPINION — ALLIED HEALTH

Table 12.3 below reports the average and median calendar days aged from mailing/delivery of the request to receipt of outside expert opinion for Allied Health Care cases. Between 2005 and 2008, there was an 80.95% increase in the average days aged, a 66.67% increase in the median days aged, a 16.28% decrease in the number of cases, and a 37.50% decrease in the number of cases pending at year end.

Table 12.3 – Calendar Days Aged from Request to Receipt of Expert Opinion for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Receipt of Expert Opinion																				
Average	44.68%		142.55%		-10.20%		11.76%		-100.00%		72.73%		61.70%		-100.00%		55.10%		80.95%	
Median (middle record - half are above and half below)	2.27%		75.61%		-9.09%		33.33%		-100.00%		50.00%		36.36%		-100.00%		36.36%		66.67%	
Record Count	-39.62%	0.00%	-71.79%	-66.67%	50.00%	100.00%	12.50%	10.00%	-100.00%	-50.00%	71.43%	25.00%	-32.08%	10.00%	-100.00%	-83.33%	157.14%	150.00%	-16.28%	37.50%

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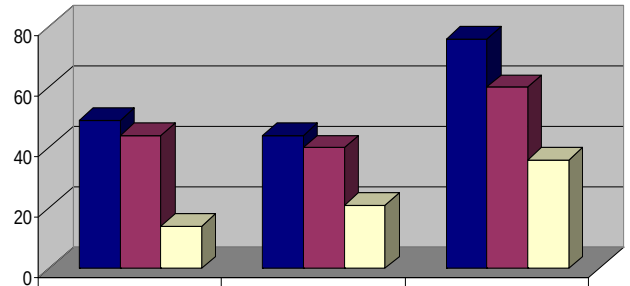
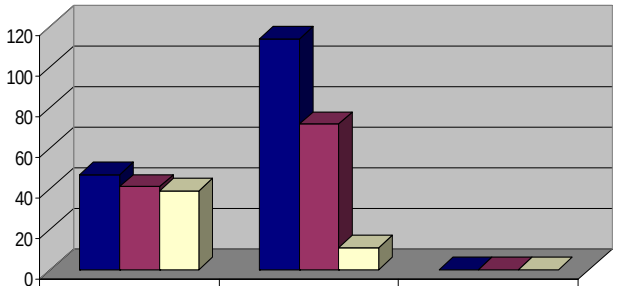
Charts 12.3a, b & c – Calendar Days Aged from Mailing/Delivery of Request to Receipt of Expert Opinion for Allied Health Cases

Allied Health--VE Cases Only
Days From Mailing/Delivery of Request to Receipt of Outside Expert Opinion



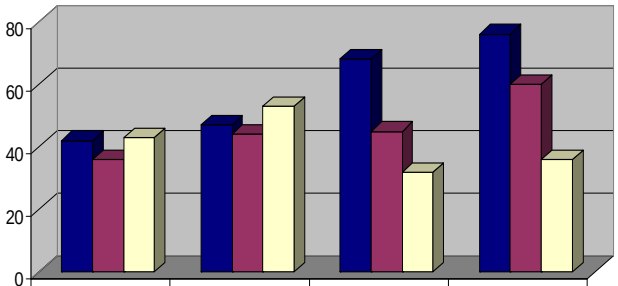
	2006	2007	2008
Average No. of Days	49	44	76
Median No. of Days	44	40	60
No. of Cases	14	21	36

Allied Health--Non-VE Cases Only
Days From Mailing/Delivery of Request to Receipt of Outside Expert Opinion



	2006	2007	2008
Average No. of Days	47	114	0
Median No. of Days	41	72	0
No. of Cases	39	11	0

Allied Health--Total Cases
Days From Mailing/Delivery of Request to Receipt of Outside Expert Opinion



	2005	2006	2007	2008
Average No. of Days	42	47	68	76
Median No. of Days	36	44	45	60
No. of Cases	43	53	32	36

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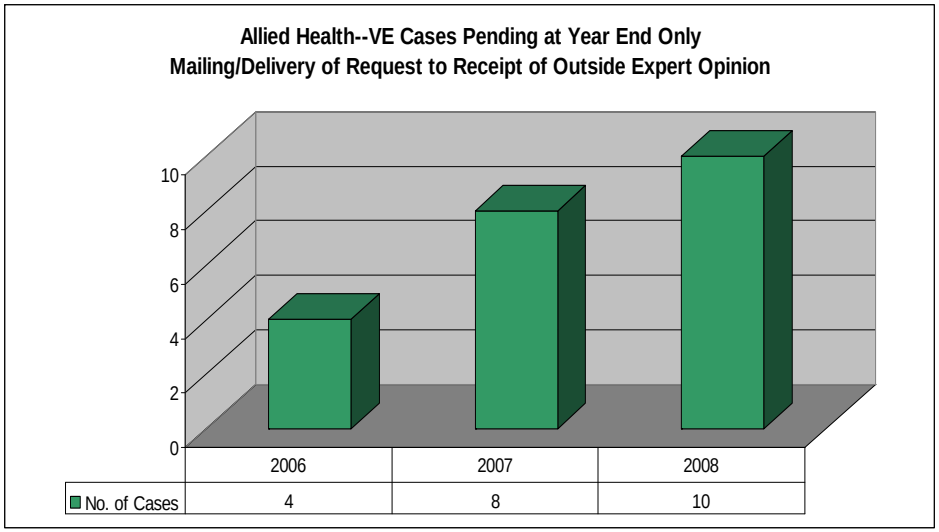
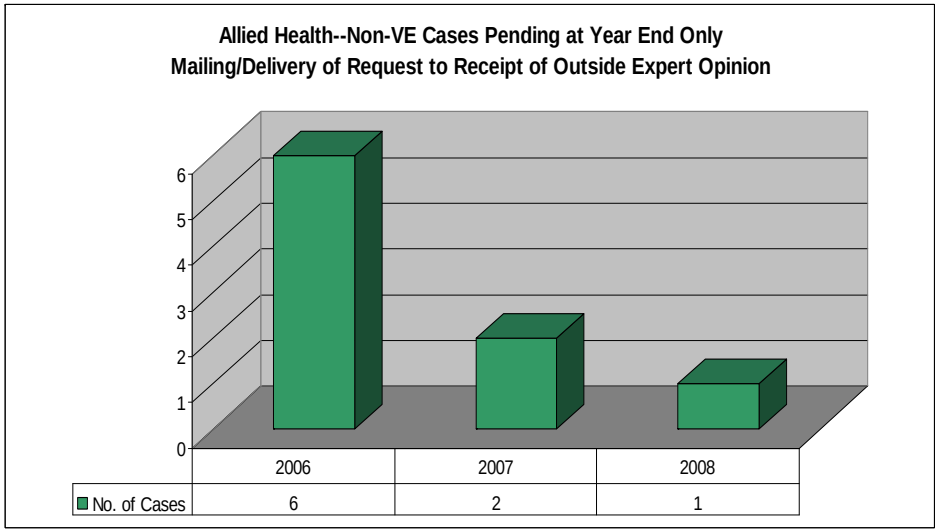
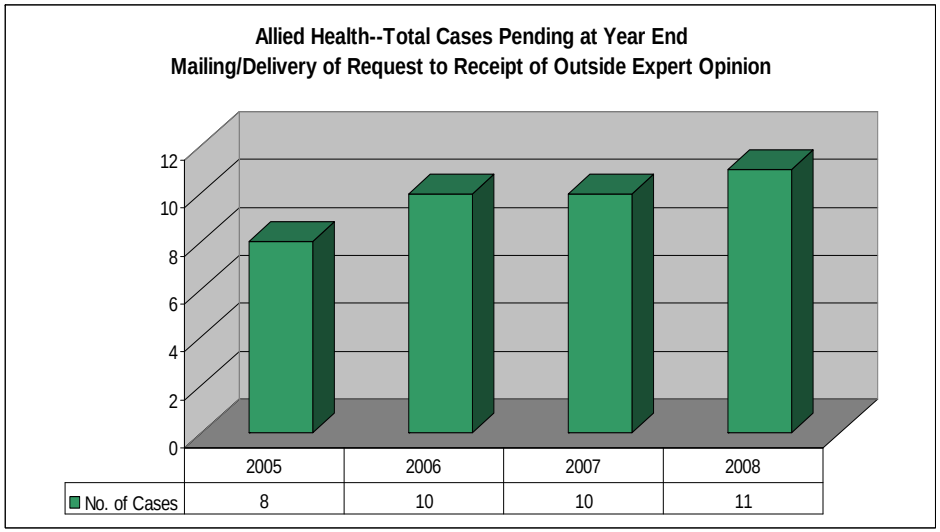
Charts 12.3d, e & f – Calendar Days Aged from Mailing/Delivery of Request to Receipt of Expert Opinion for Allied Health Cases — Cases Pending at Year End







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XIII. VERTICAL PROSECUTION - ASSIGNED TO COMPLETED INVESTIGATION

Pursuant to B&P Code Section 2319, MBC's average time from receipt of a complaint to completion of the investigation should be no more than six months for a non-complex case and no more than one year for a complex case. However, as previously noted, the MBC database does not differentiate between the two types of cases.

Per VPM, upon receipt of a complaint from the Central Complaint Unit (CCU), the case is assigned to both an investigator and primary DAG. Each investigation begins with the development and approval of an Investigation Plan and Progress Report (IPPR), which an investigator must prepare and submit to the primary DAG within five business days of the initial assignment. The primary DAG has five business days from receipt of the IPPR to review, approve or amend the plan. As the investigation progress, the IPPR must be updated preferably no more than five business days following the event.

Per JVEG, upon completion of an investigation, the Sup I must promptly notify the primary DAG that the case is ready for review. The primary DAG has five business days to determine whether the case is accepted for prosecution.

For Case Assigned to MBC Investigator to Investigation Completed (Referred to DAG) for combined Physicians and Surgeons and Allied Health cases between 2005 and 2008, there was an increase in the average days aged from 322 days to 398 days, an increase in the median days aged from 316 days to 365 days, a decrease in the number of cases from 412 cases to 371 cases, and an increase in the number of cases pending at year end from 1148 to 1291. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FROM CASE ASSIGNED TO INVESTIGATION COMPLETED — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 13.1 below reports the average and median calendar days aged from case assigned to investigation completed for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 23.60% increase in the average days aged, a 15.51% increase in the median days aged, a 9.95% decrease in the number of cases and a 12.46% increase in the number of cases pending at year end.

Table 13.1 – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation (Referred to DAG)																				
Average	12.19%		69.72%		188.24%		10.86%		37.78%		27.55%		24.38%		133.84%		267.65%		23.60%	
Median (middle record-half are above and half below)	15.05%		86.31%		320.51%		6.10%		38.38%		30.49%		22.07%		157.82%		448.72%		15.51%	
Record Count	-4.26%	-0.41%	-65.57%	-79.43%	85.94%	23.65%	3.06%	7.32%	-71.43%	-93.10%	10.08%	12.40%	-1.33%	6.87%	-90.16%	-98.58%	104.69%	38.98%	-9.95%	12.46%

***Excludes Outcomes where no Accusation Filed

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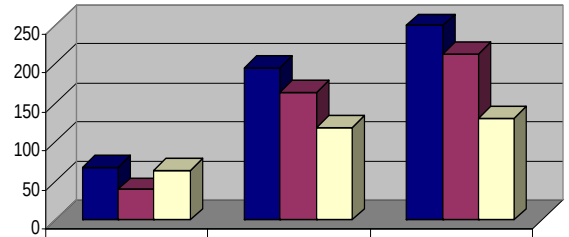
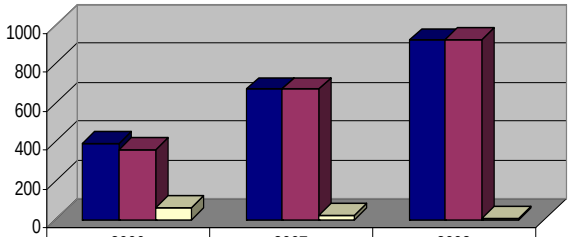
Charts 13.1a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days From Assigned to Investigator to Investigation Completed/ Referred to DAG



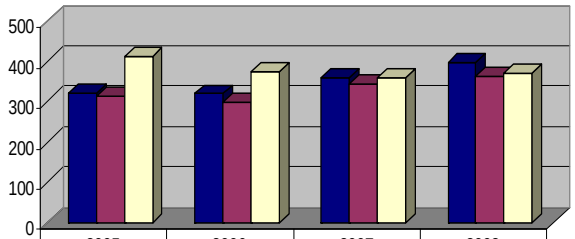
	2006	2007	2008
Average No. of Days	68	196	250
Median No. of Days	39	164	214
No. of Cases	64	119	131

P&S and AH--Non-VE Cases Only
Days From Assigned to Investigator to Investigation Completed/ Referred to DAG



	2006	2007	2008
Average No. of Days	393	667	919
Median No. of Days	358	667	923
No. of Cases	61	21	6

P&S and AH--Total Cases
Days From Assigned to Investigator to Investigation Completed/ Referred to DAG



	2005	2006	2007	2008
Average No. of Days	322	320	359	398
Median No. of Days	316	299	344	365
No. of Cases	412	376	360	371

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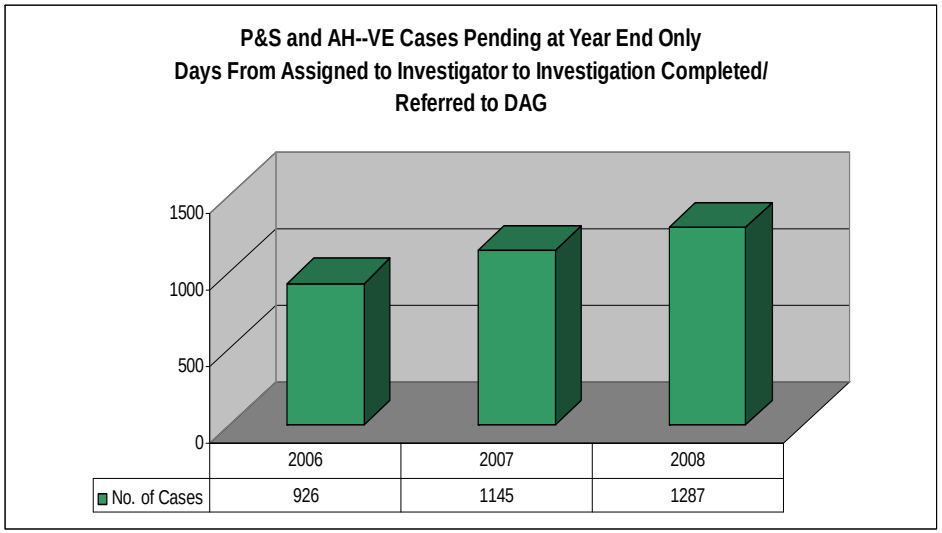
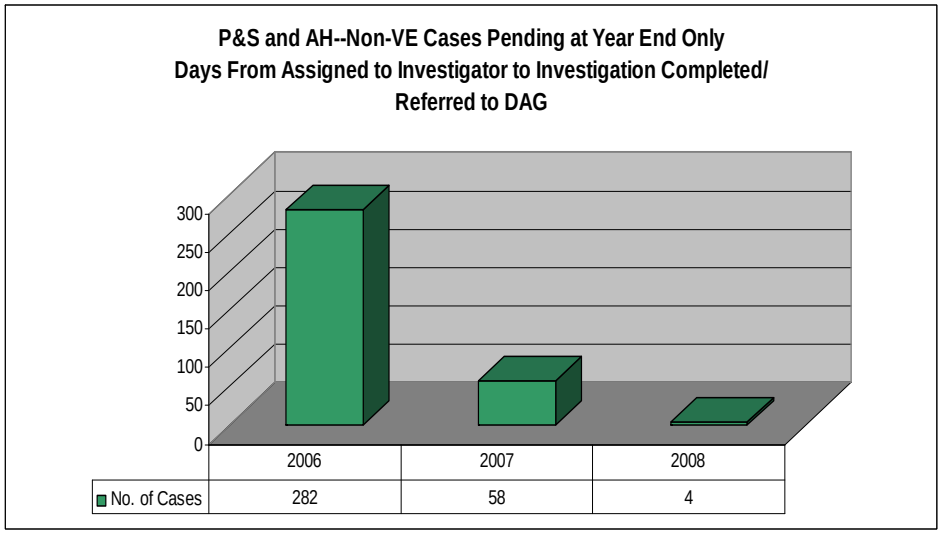
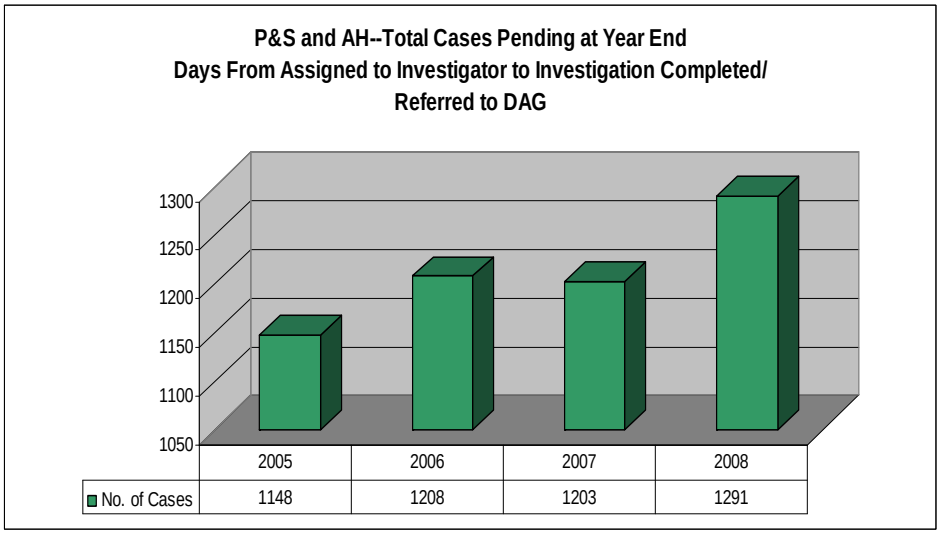
Charts 13.1d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE ASSIGNED TO INVESTIGATION COMPLETED — PHYSICIANS AND SURGEONS

Table 13.2 below reports the average and median calendar days aged from case assigned to investigation completed for Physicians and Surgeons cases. Between 2005 and 2008, there was a 22.75% increase in the average days aged, a 21.43% increase in the median days aged, a 10.91% decrease in the number of cases and an 11.89% increase in the number of cases pending at year end.

Table 13.2 – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation (Referred to DAG)																				
Average	11.11%		71.28%		157.14%		12.05%		33.68%		19.23%		24.50%		128.97%		206.59%		22.75%	
Median (middle record-half are above and half below)	8.88%		94.10%		235.71%		10.87%		26.63%		13.19%		20.71%		145.79%		280.00%		21.43%	
Record Count	-5.26%	-0.09%	-68.18%	-79.18%	148.39%	23.83%	8.89%	6.61%	-64.29%	-94.12%	12.99%	11.21%	3.16%	6.51%	-88.64%	-98.78%	180.65%	37.71%	-10.91%	11.89%

***Excludes Outcomes where no Accusation Filed

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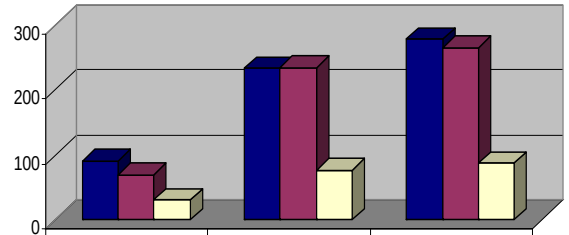
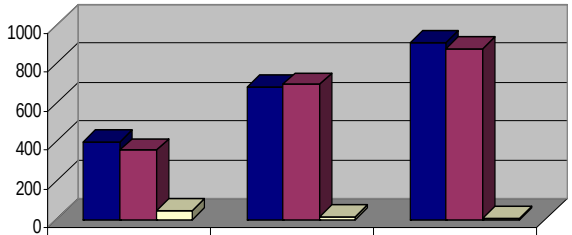
Charts 13.2-1a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days From Assigned to Investigator to Investigation Completed/
Referred to DAG



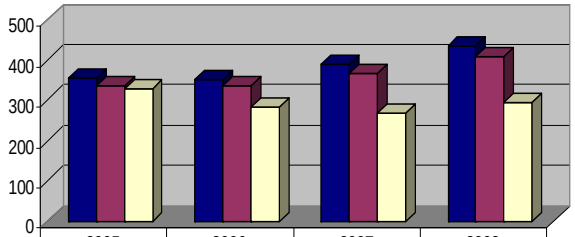
	2006	2007	2008
Average No. of Days	91	234	279
Median No. of Days	70	235	266
No. of Cases	31	77	87

Physicians and Surgeons--Non-VE Cases Only
Days From Assigned to Investigator to Investigation Completed/
Referred to AG



	2006	2007	2008
Average No. of Days	397	680	909
Median No. of Days	356	691	875
No. of Cases	44	14	5

Physicians and Surgeons--Total Cases
Days From Assigned to Investigator to Investigation Completed/
Referred to DAG



	2005	2006	2007	2008
Average No. of Days	356	351	390	437
Median No. of Days	336	338	368	408
No. of Cases	330	285	270	294

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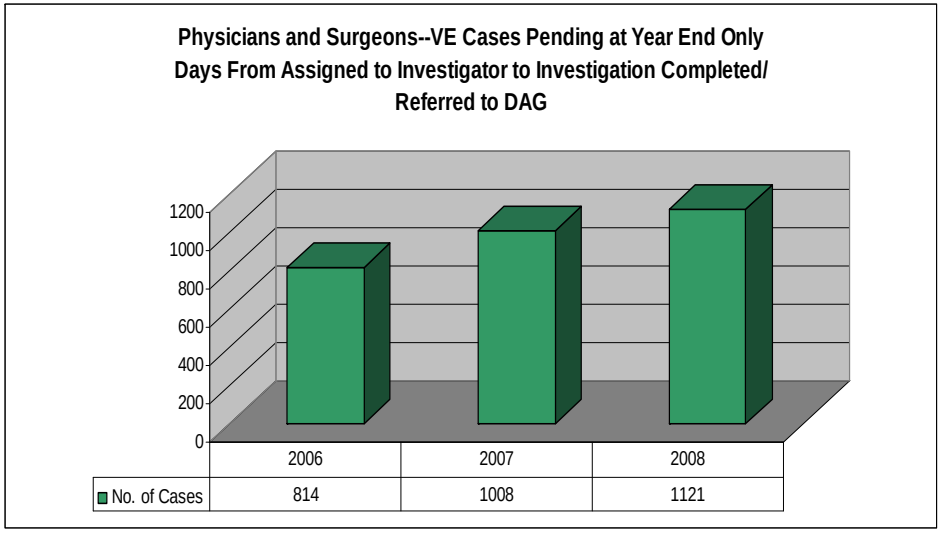
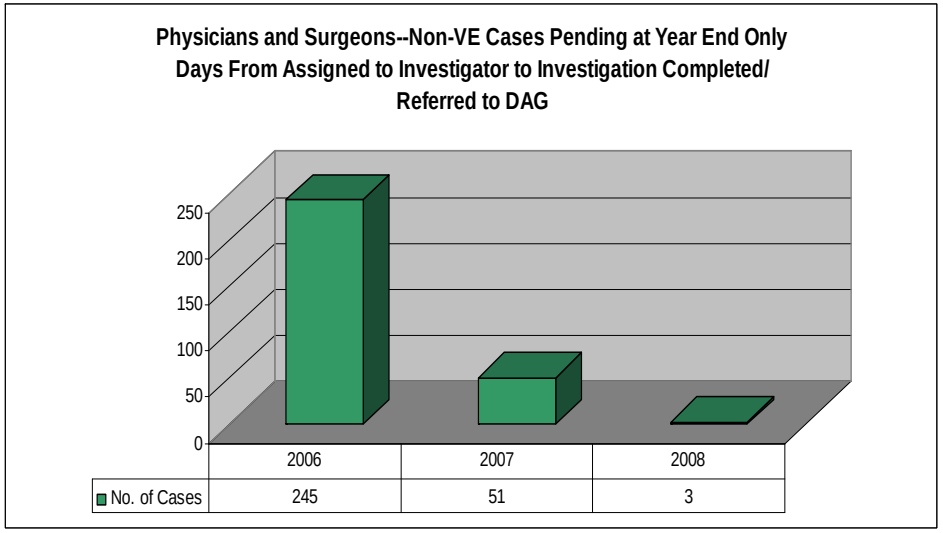
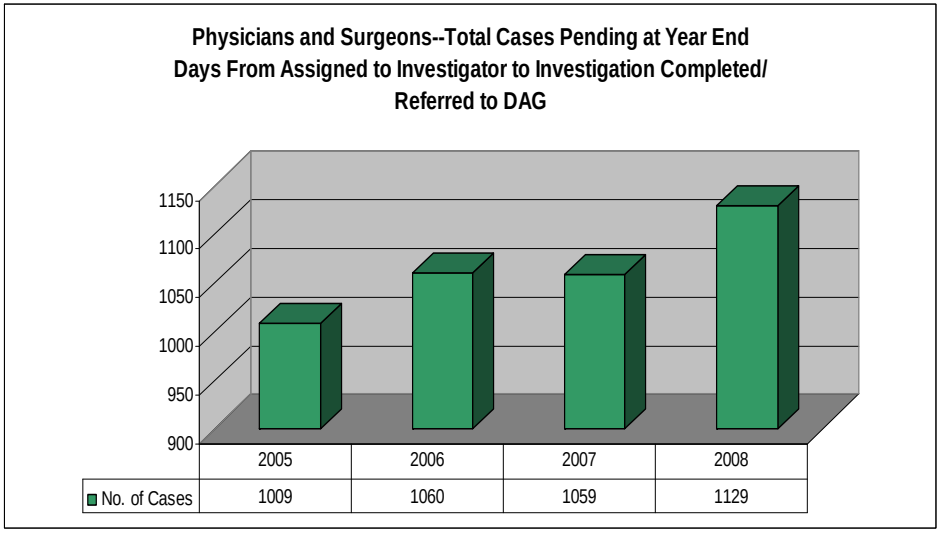
Charts 13.2d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed Physicians and Surgeons — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE ASSIGNED TO INVESTIGATION COMPLETED — ALLIED HEALTH

Table 13.3 below reports the average and median calendar days aged from case assigned to investigation completed for Allied Health Care cases. Between 2005 and 2008, there was a 34.41% increase in the average days aged, a 60.00% increase in the median days aged, a 6.10% decrease in the number of cases and an 18.75% increase in the number of cases pending at year end.

Table 13.3 – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed for and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation (Referred to DAG)																				
Average	19.91%		67.98%		172.34%		-5.66%		51.72%		51.56%		13.12%		154.86%		312.77%		34.41%	
Median (middle record-half are above and half below)	0.54%		79.30%		912.50%		6.95%		45.58%		74.07%		7.53%		161.02%		1662.50%		60.00%	
Record Count	-1.10%	-3.36%	-58.82%	-81.08%	27.27%	22.32%	-14.44%	15.28%	-85.71%	-85.71%	4.76%	21.17%	-15.38%	11.41%	-94.12%	-97.30%	33.33%	48.21%	-6.10%	18.57%

***Excludes Outcomes where no Accusation Filed

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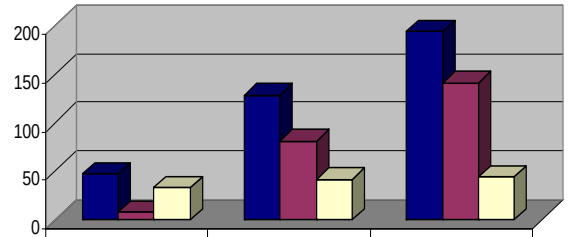
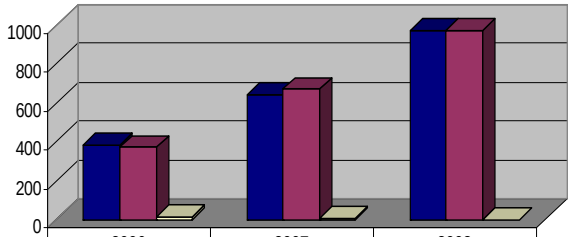
Charts 13.3a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed for Allied Health Cases

Allied Health--VE Cases Only
Days From Assigned to Investigator to Investigation Completed/ Referred to DAG



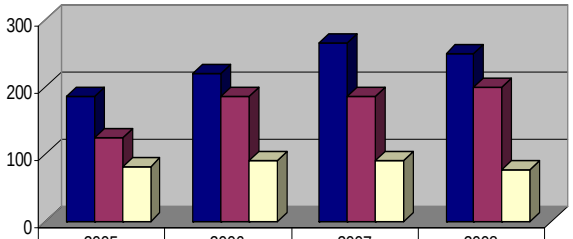
	2006	2007	2008
Average No. of Days	47	128	194
Median No. of Days	8	81	141
No. of Cases	33	42	44

Allied Health--Non-VE Cases Only
Days From Assigned to Investigator to Investigation Completed/ Referred to DAG



	2006	2007	2008
Average No. of Days	381	640	971
Median No. of Days	372	667	971
No. of Cases	17	7	1

Allied Health--Total Cases
Days From Assigned to Investigator to Investigation Completed/ Referred to DAG



	2005	2006	2007	2008
Average No. of Days	186	221	265	250
Median No. of Days	125	186	187	200
No. of Cases	82	91	90	77

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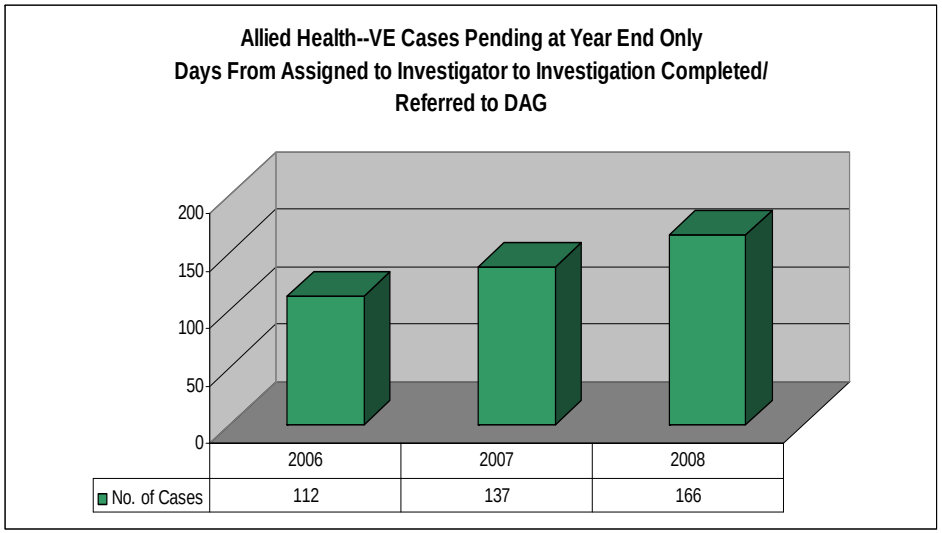
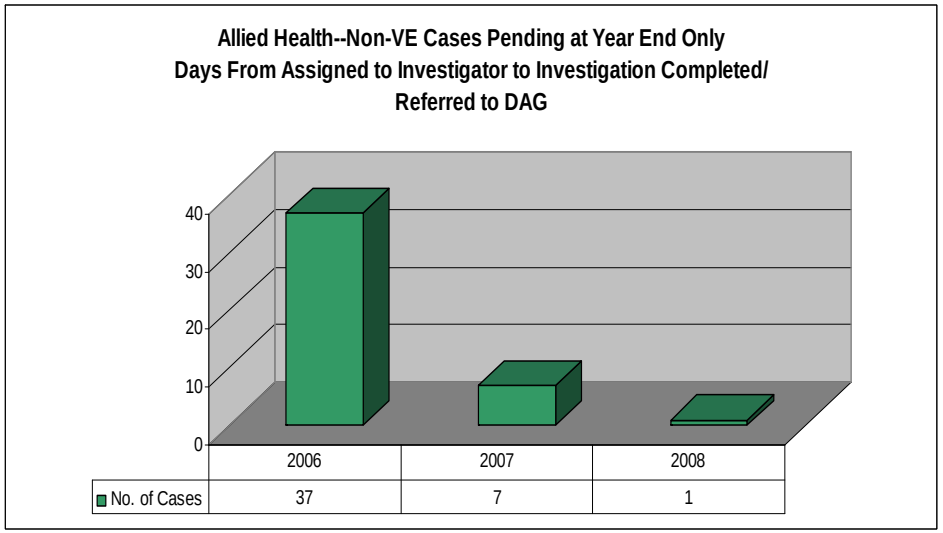
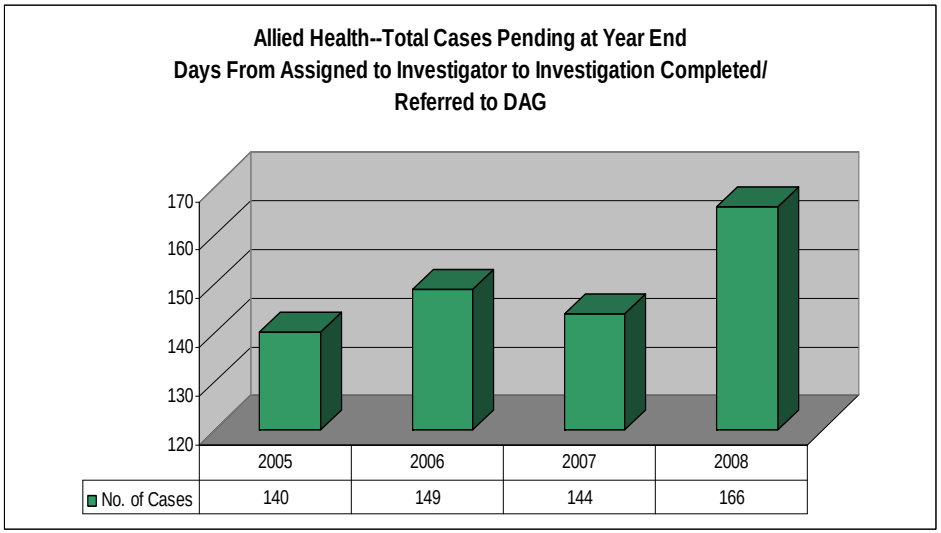
Charts 13.3d, e & f – Calendar Days Aged from Case Assigned to Investigation Completed for Allied Health Cases — Cases Pending at Year End







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XIV. VERTICAL PROSECUTION - ASSIGNED TO ALL OUTCOMES

The following tables and charts detail the average and median time frames that have occurred between the assignment of a case to an investigator until the ultimate outcome of the case.

For Case Assigned to MBC Investigator to All Outcomes for combined Physicians and Surgeons and Allied Health cases between 2005 and 2008, there was an increase in the average days aged from 451 days to 549 days, an increase in the median days aged from 310 days to 436 days, a decrease in the number of cases from 1305 cases to 1057 cases, and an increase in the number of cases pending at year end from 1136 to 1275. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO ALL OUTCOMES — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 14.1 below reports the average and median calendar days aged from case assigned to all outcomes for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 21.73% increase in the average days aged, a 40.65% increase in the median days aged, a 19.00% decrease in the number of cases and a 12.24% increase in the number of cases pending at year end.

Table 14.1 – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to ALL Outcomes																				
Average	6.51%		66.43%		92.20%		8.28%		35.46%		46.13%		15.34%		125.44%		180.85%		21.73%	
Median (middle record - half are above and half below)	10.79%		95.05%		95.71%		14.74%		39.30%		33.21%		27.11%		171.70%		160.71%		40.65%	
Record Count	-5.84%	-0.08%	-58.11%	-78.42%	190.20%	23.64%	-3.56%	6.69%	-52.21%	-95.00%	22.78%	12.07%	-9.19%	6.61%	-79.98%	-98.92%	256.33%	38.56%	-19.00%	12.24%

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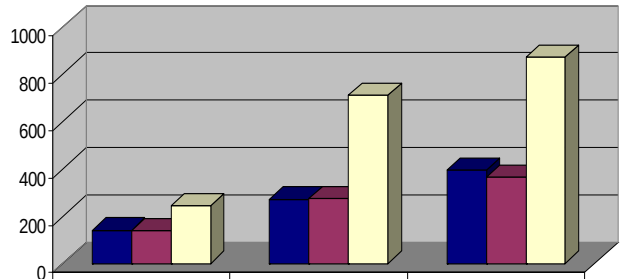
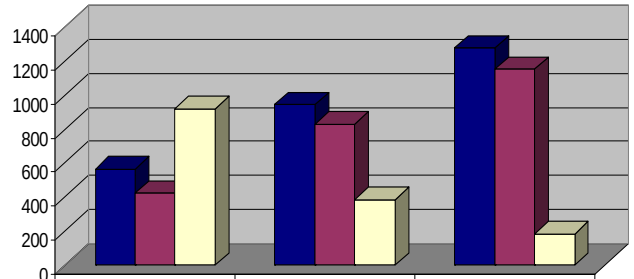
Charts 14.1a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days from Assigned to Investigator to All Outcomes



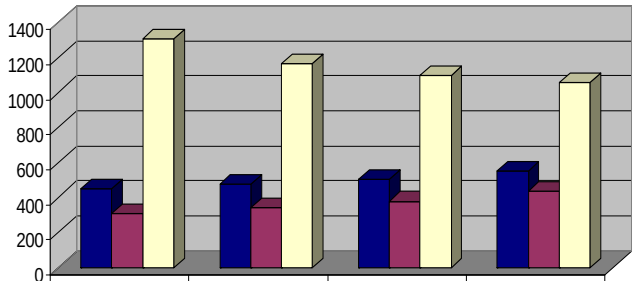
	2006	2007	2008
Average No. of Days	141	271	396
Median No. of Days	140	274	365
No. of Cases	245	711	873

P&S and AH--Non-VE Cases Only
Days from Assigned to Investigator to All Outcomes



	2006	2007	2008
Average No. of Days	566	942	1276
Median No. of Days	424	827	1152
No. of Cases	919	385	184

P&S and AH--Total Cases
Days from Assigned to Investigator to All Outcomes



	2005	2006	2007	2008
Average No. of Days	451	476	507	549
Median No. of Days	310	343	380	436
No. of Cases	1305	1164	1096	1057

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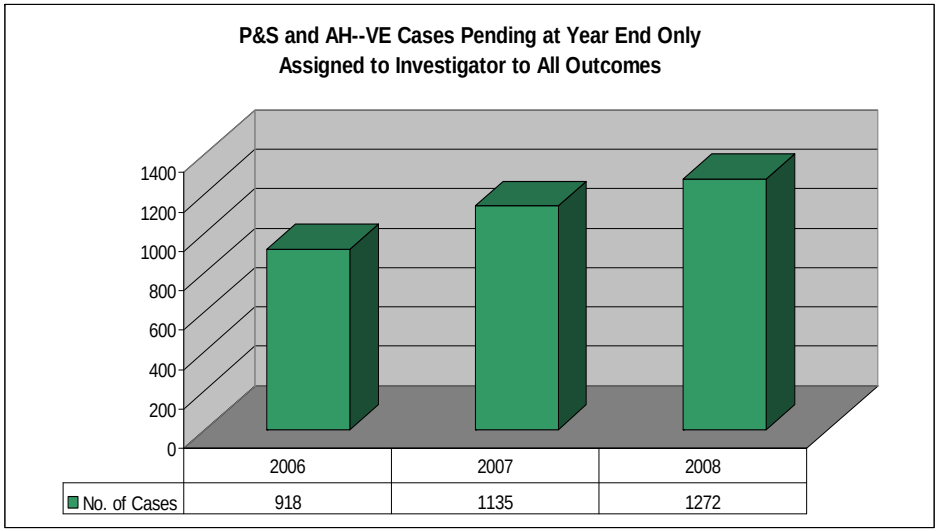
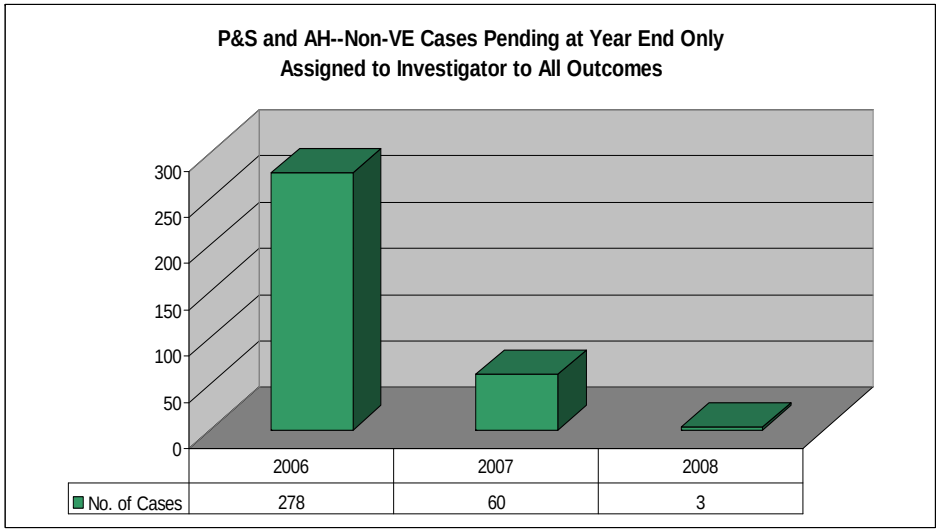
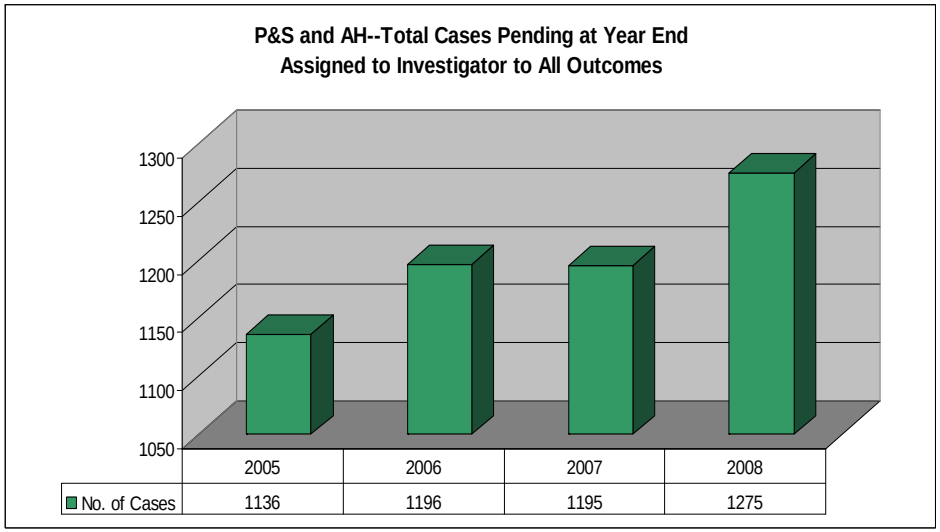
Charts 14.1d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO ALL OUTCOMES — PHYSICIANS AND SURGEONS

Table 14.2 below reports the average and median calendar days aged from case assigned to all outcomes for Physicians and Surgeons cases. Between 2005 and 2008, there was a 24.38% increase in the average days aged, a 42.16% increase in the median days aged, a 21.53% decrease in the number of cases and an 11.96% increase in the number of cases pending at year end.

Table 14.2 – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to All Outcomes																				
Average	7.76%		69.86%		95.71%		8.17%		35.18%		44.16%		16.56%		129.61%		182.14%		24.38%	
Median (middle record - half are above and half below)	10.85%		95.98%		98.55%		15.08%		41.13%		32.48%		27.57%		176.60%		163.04%		42.16%	
Record Count	-4.86%	0.28%	-58.04%	-78.17%	200.49%	24.10%	-4.15%	6.08%	-51.06%	-94.55%	21.15%	11.46%	-8.81%	6.38%	-79.46%	-98.81%	264.04%	38.31%	-21.53%	11.96%

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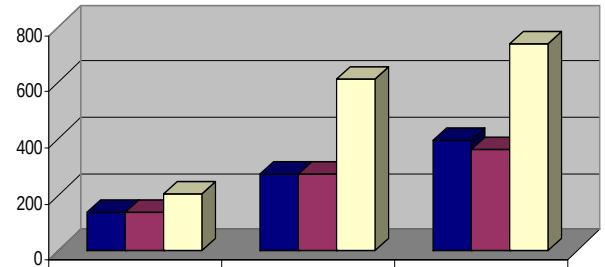
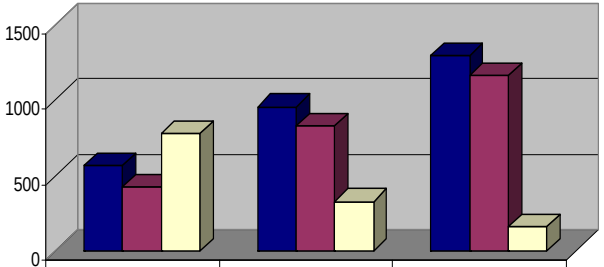
Charts 14.2a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days from Assigned to Investigator to All Outcomes



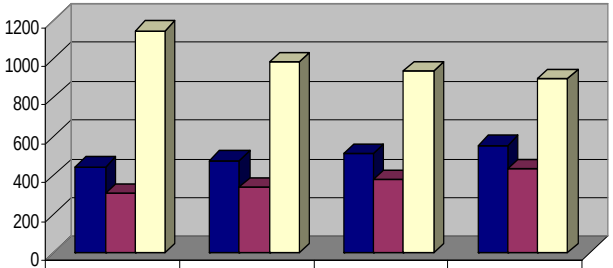
	2006	2007	2008
Average No. of Days	140	274	395
Median No. of Days	138	274	363
No. of Cases	203	610	739

Physicians and Surgeons--Non-VE Cases Only
Days from Assigned to Investigator to All Outcomes



	2006	2007	2008
Average No. of Days	564	958	1295
Median No. of Days	423	829	1170
No. of Cases	784	329	161

Physicians and Surgeons--Total Cases
Days from Assigned to Investigator to All Outcomes



	2005	2006	2007	2008
Average No. of Days	447	477	514	556
Median No. of Days	306	341	378	435
No. of Cases	1147	987	939	900

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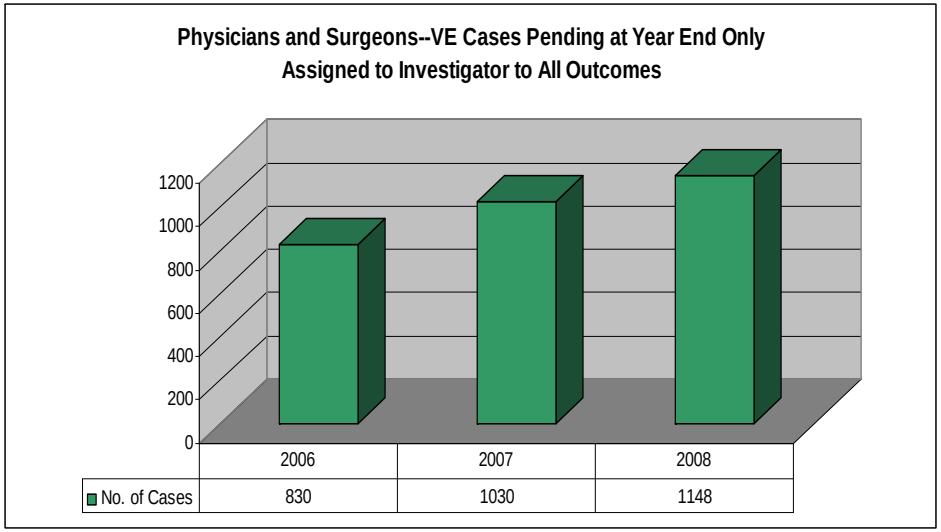
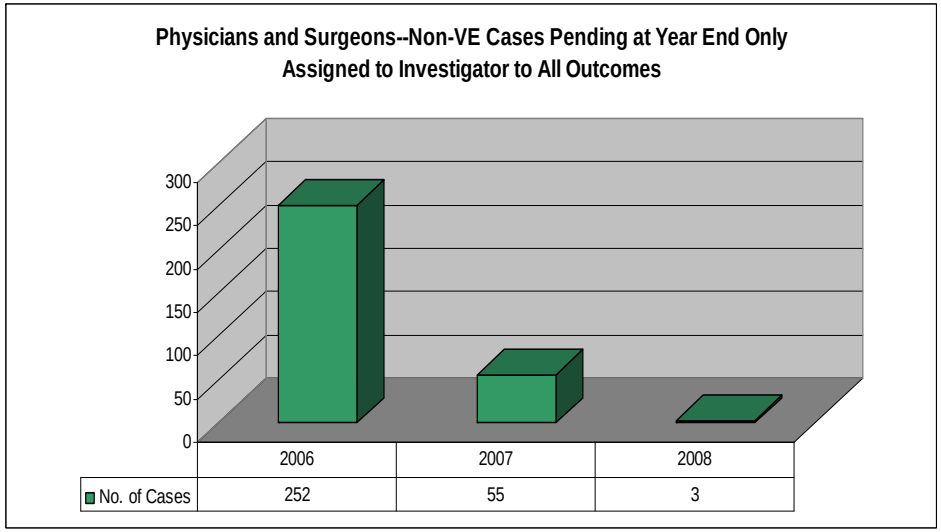
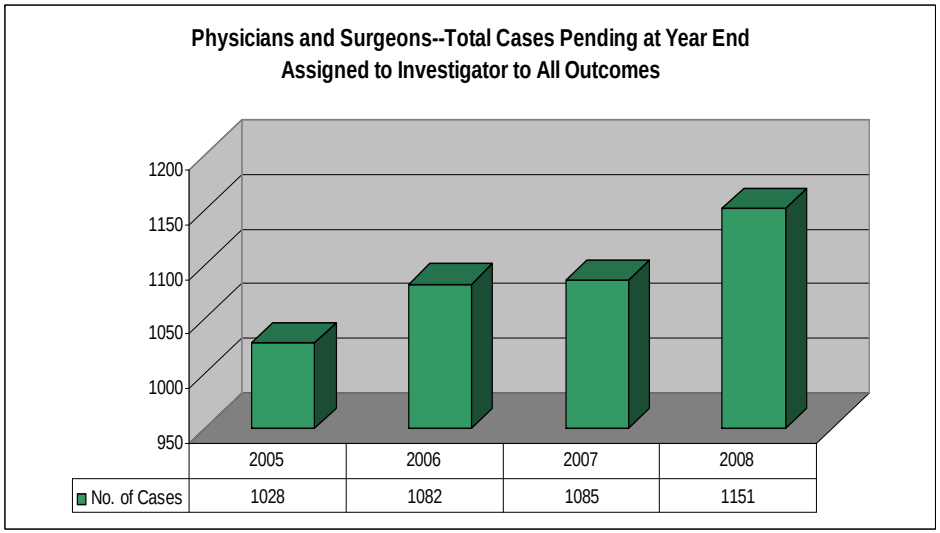
Charts 14.2d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Physicians and Surgeons — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO ALL OUTCOMES — ALLIED HEALTH

Table 14.3 below reports the average and median calendar days aged from case assigned to all outcomes for Allied Health Care cases. Between 2005 and 2008, there was a 6.67% increase in the average days aged, a 25.43% increase in the median days aged, a 0.63% decrease in the number of cases and a 14.81% increase in the number of cases pending at year end.

Table 14.3 – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to ALL Outcomes																				
Average	-1.05%		47.31%		79.17%		9.17%		34.12%		56.59%		8.02%		97.57%		180.56%		6.67%	
Median (middle record - half are above and half below)	9.70%		88.22%		68.90%		10.86%		29.69%		38.63%		21.61%		144.11%		134.15%		25.43%	
Record Count	-11.30%	-3.51%	-58.52%	-80.77%	140.48%	19.32%	0.00%	12.73%	-58.93%	-100.00%	32.67%	25.71%	-11.30%	8.77%	-82.96%	-100.00%	219.05%	50.00%	-0.63%	14.81%

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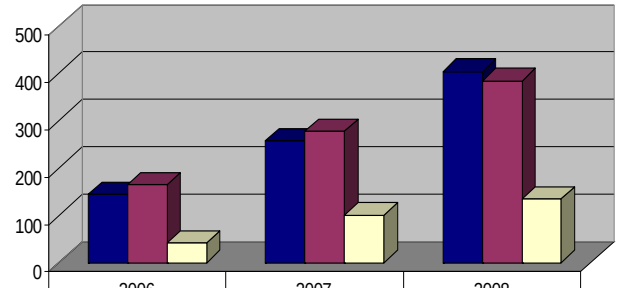
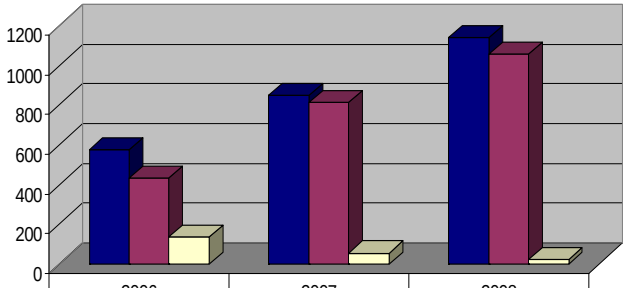
Charts 14.3a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Allied Health Cases

Allied Health--VE Cases Only
Days from Assigned to Investigator to All Outcomes



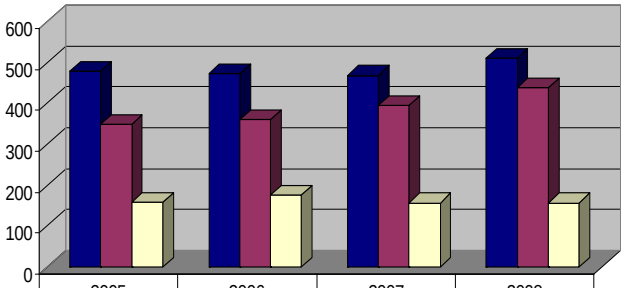
	2006	2007	2008
Average No. of Days	144	258	404
Median No. of Days	164	277	384
No. of Cases	42	101	134

Allied Health--Non-VE Cases Only
Days from Assigned to Investigator to All Outcomes



	2006	2007	2008
Average No. of Days	577	850	1140
Median No. of Days	433	815	1057
No. of Cases	135	56	23

Allied Health--Total Cases
Days from Assigned to Investigator to All Outcomes



	2005	2006	2007	2008
Average No. of Days	480	474	469	512
Median No. of Days	350	361	396	439
No. of Cases	158	177	157	157

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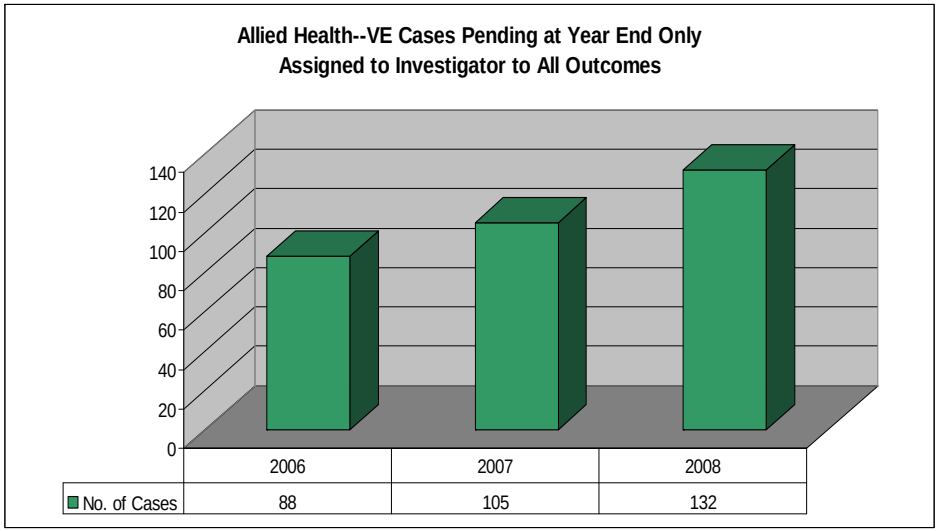
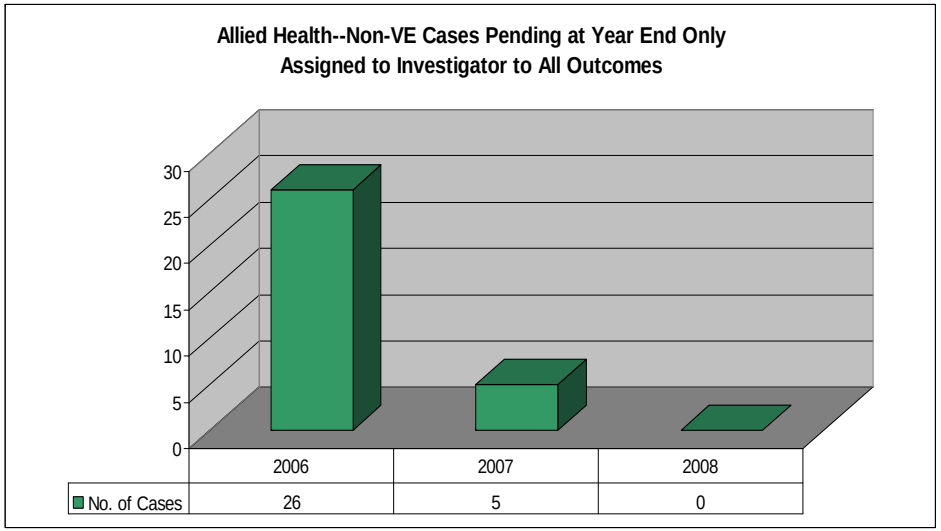
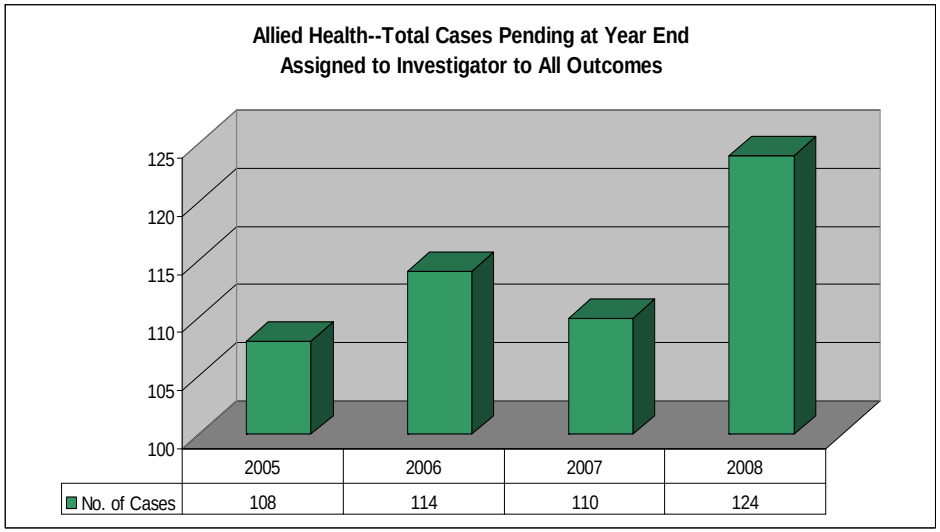
Charts 14.3d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE ASSIGNED TO MBC INVESTIGATOR TO SETTLEMENT — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 14.4 below reports the average and median calendar days aged from case assigned to settlement for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 6.21% decrease in the average days aged, a 5.23% decrease in the median days aged, an 11.34% decrease in the number of cases and a 23.02% decrease in the number of cases pending at year end.

Table 14.4 – Calendar Days Aged from Case Assigned to MBC Investigator to Settlement for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007			Percentage Difference 2007 to 2008			Percentage Difference 2006 to 2008			Percentage Difference 2005 to 2008
	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE	All
Activity										
Calendar Day Age from Date Case Assigned to Investigator to Disciplinary Outcome--Settlement										
Average	-11.20%	0.74%	134.62%	1.71%	21.17%	88.85%	-9.68%	22.06%	343.08%	-6.21%
Median (middle record - half are above and half below)	-9.05%	-1.96%	54.10%	5.48%	21.66%	118.44%	-4.07%	19.28%	236.61%	-5.23%
Record Count	-7.58%	-23.56%	428.57%	-6.01%	-41.10%	132.43%	-13.13%	-54.97%	1128.57%	-11.34%
All Pending	-14.83%	-44.78%	157.14%	-3.48%	-57.66%	63.33%	-17.80%	-76.62%	320.00%	-23.02%

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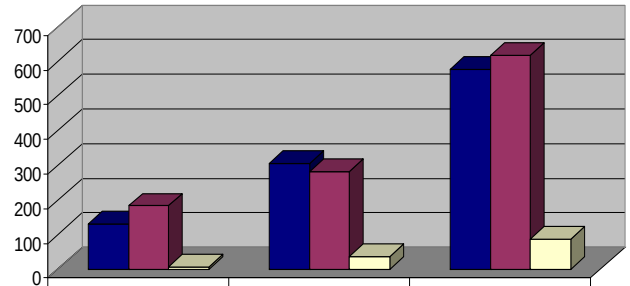
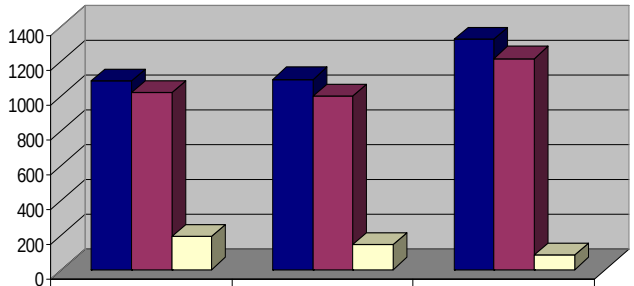
Charts 14.4a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Settlement Outcome for Physicians and Surgeons and Allied Health Cases

P&S & AH--VE Cases Only
Assigned to Investigator to Disciplinary Outcome--Settlement



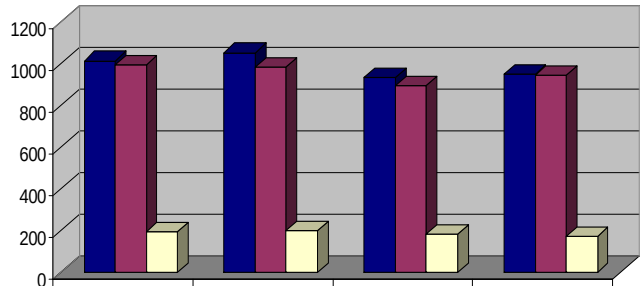
	2006	2007	2008
Average No. of Days	130	305	576
Median No. of Days	183	282	616
No. of Cases	7	37	86

P&S & AH--Non-VE Cases Only
Assigned to Investigator to Disciplinary Outcome--Settlement



	2006	2007	2008
Average No. of Days	1088	1096	1328
Median No. of Days	1022	1002	1219
No. of Cases	191	146	86

P&S & AH--Total Cases
Assigned to Investigator to Disciplinary Outcome--Settlement



	2005	2006	2007	2008
Average No. of Days	1015	1054	936	952
Median No. of Days	995	983	894	943
No. of Cases	194	198	183	172

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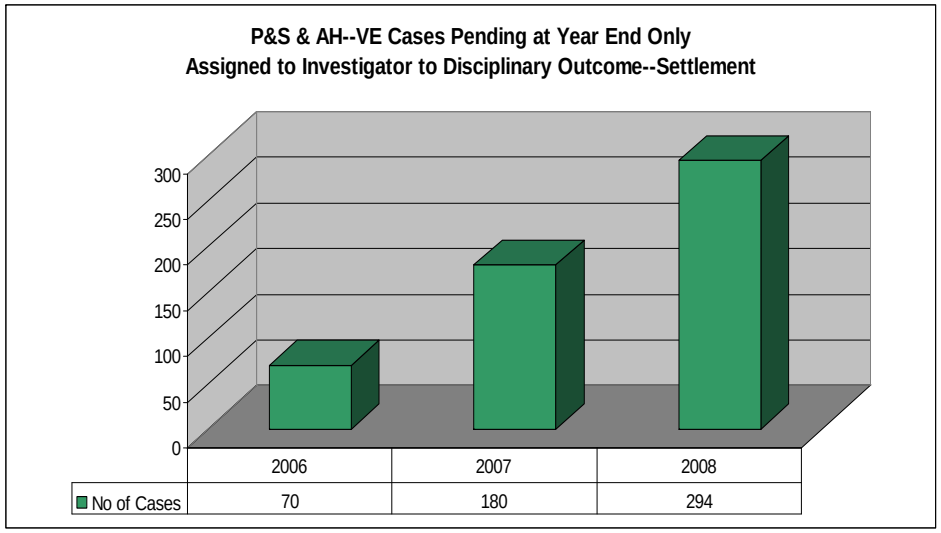
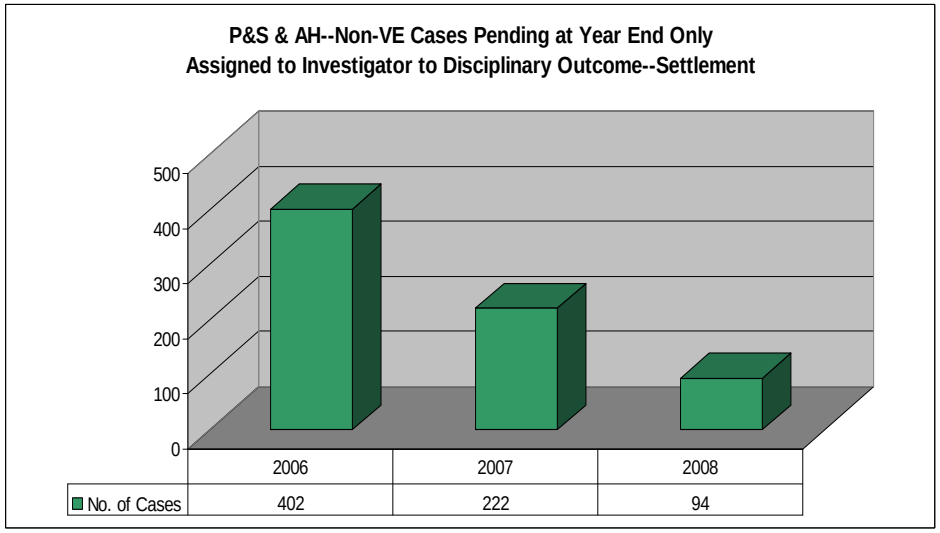
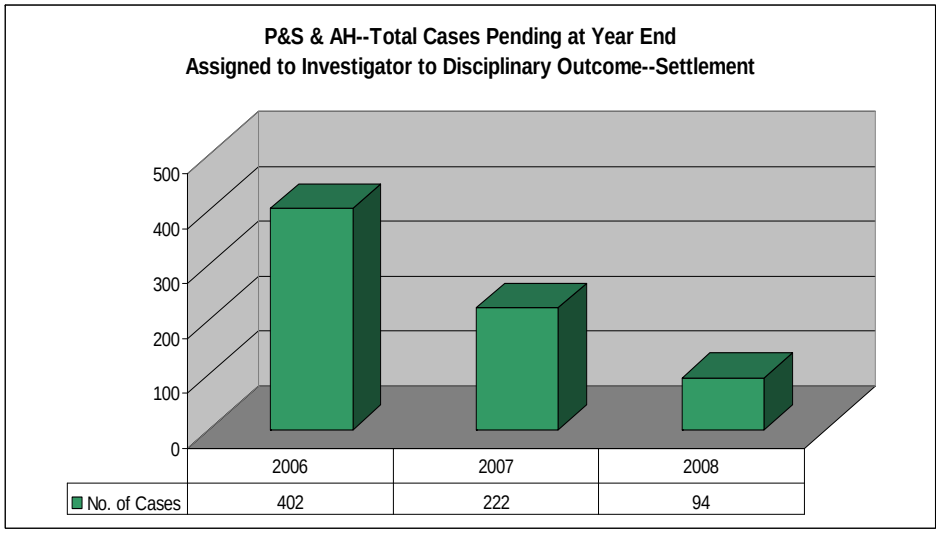
Charts 14.4d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Settlement Outcome for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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Separate data for Calendar Days Aged from Case Assigned to MBC Investigator to Settlement Outcome for Physicians and Surgeons cases only and Allied Health Care cases only were not available at the time of drafting this report.

CALENDAR DAYS AGED FROM CASE ASSIGNED TO DISCIPLINARY OUTCOME — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 14.5 below reports the average and median calendar days aged from case assigned to disciplinary outcome for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 0.51% decrease in the average days aged, a 1.85% decrease in the median days aged, 9.61% decrease in the number of cases and a 23.37% decrease in the number of cases pending at year end.

Table 14.5 – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Disciplinary Outcome																				
Average	-2.41%		10.24%		90.00%		4.62%		24.68%		64.91%		2.10%		37.45%		213.33%		-0.51%	
Median (middle record - half are above and half below)	2.46%		12.00%		65.99%		2.97%		22.62%		81.96%		5.50%		37.33%		202.03%		-1.85%	
Record Count	3.14%	-14.65%	-15.28%	-44.64%	329.41%	157.14%	-8.23%	-3.73%	-40.00%	-58.56%	102.74%	63.89%	-5.35%	-17.83%	-49.17%	-77.06%	770.59%	321.43%	-9.61%	-23.37%

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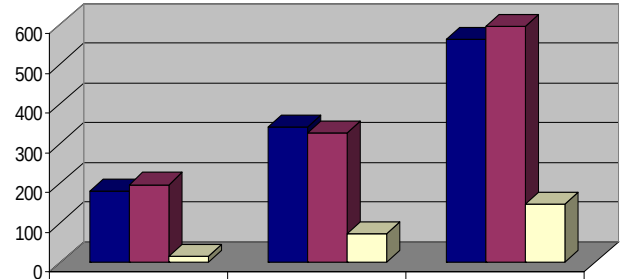
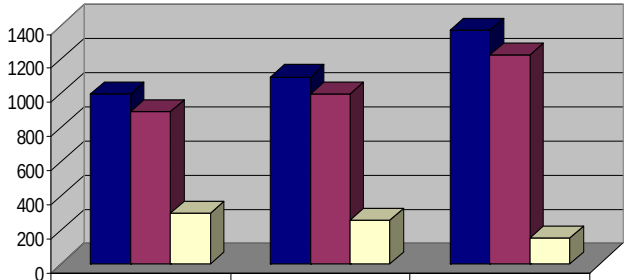
Charts 14.5a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Physicians and Surgeons and Allied Health Cases

P&S & AH--VE Cases Only
Days from Assigned to Investigator to Disciplinary Outcome



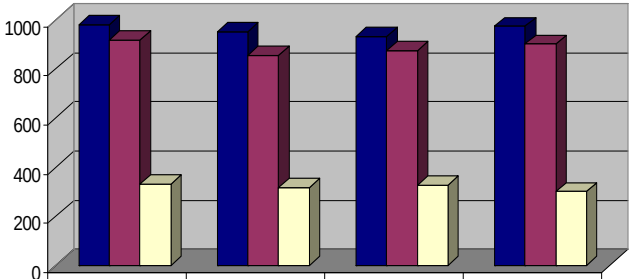
	2006	2007	2008
Average No. of Days	180	342	564
Median No. of Days	197	327	595
No. of Cases	17	73	148

P&S & AH--Non-VE Cases Only
Days from Assigned to Investigator to Disciplinary Outcome



	2006	2007	2008
Average No. of Days	996	1098	1369
Median No. of Days	892	999	1225
No. of Cases	301	255	153

P&S & AH--Total Cases
Days from Assigned to Investigator to Disciplinary Outcome



	2005	2006	2007	2008
AVerage No. of Days	978	953	930	973
Median No. of Days	918	854	875	901
No. of Cases	333	318	328	301

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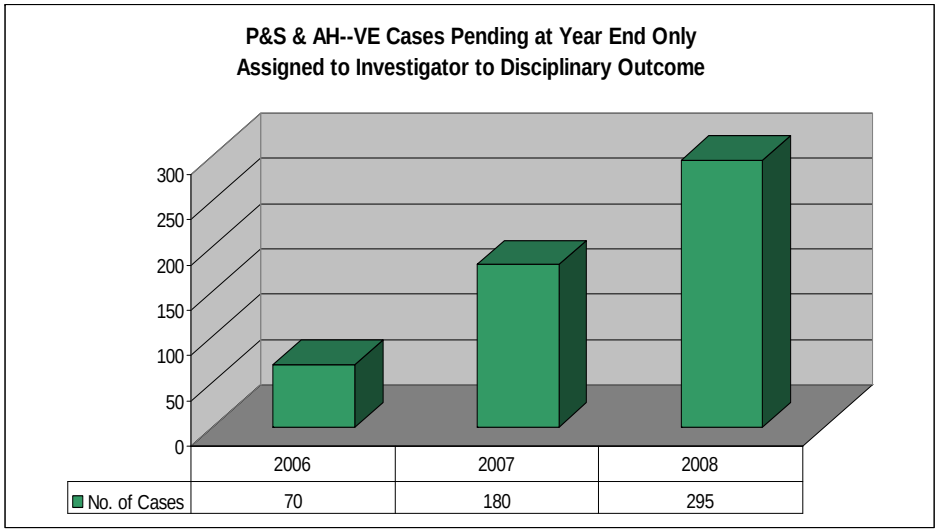
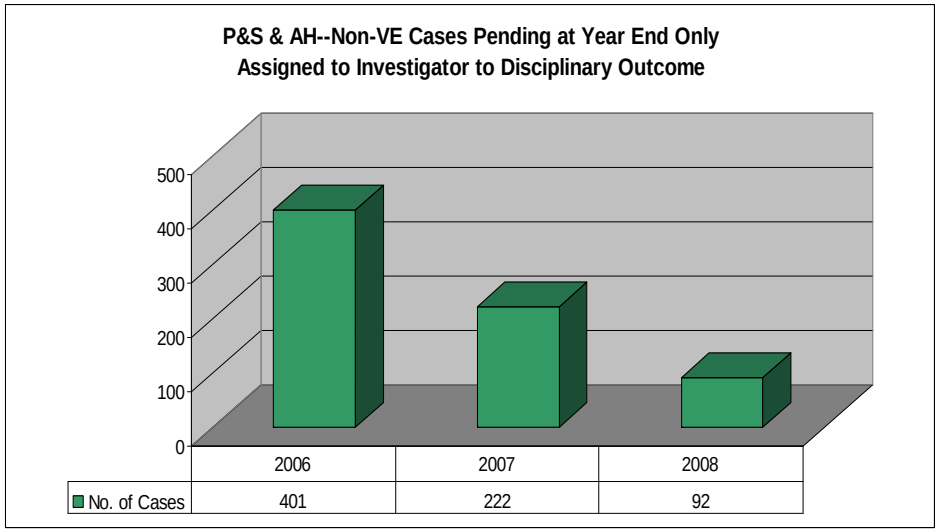
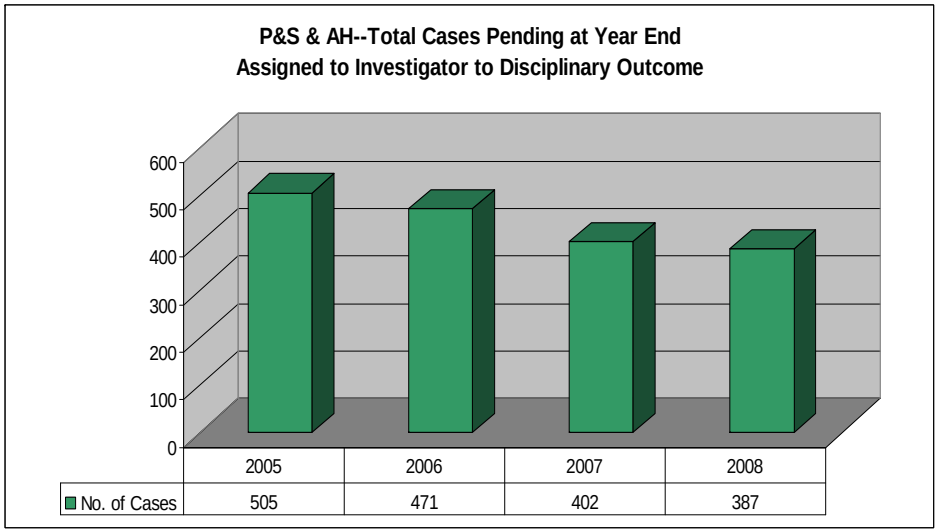
Charts 14.5d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE ASSIGNED TO DISCIPLINARY OUTCOME — PHYSICIANS AND SURGEONS

Table 14.6 below reports the average and median calendar days aged from case assigned to disciplinary outcome for Physicians and Surgeons cases. Between 2005 and 2008, there was a 0.58% increase in the average days aged, a 2.51% decrease in the median days aged, 9.54% decrease in the number of cases and a 26.50% decrease in the number of cases pending at year end.

Table 14.6 – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Disciplinary Outcome																				
Average	-3.14%		7.16%		104.86%		2.95%		23.04%		57.26%		-0.29%		31.86%		222.16%		0.58%	
Median (middle record - half are above and half below)	-4.91%		4.28%		74.51%		4.30%		20.02%		76.69%		-0.82%		25.15%		208.33%		-2.51%	
Record Count	10.00%	-18.59%	-6.17%	-45.35%	1233.33%	163.27%	-6.32%	-5.47%	-37.56%	-62.09%	160.00%	74.42%	3.04%	-23.04%	-41.41%	-79.28%	3366.67%	359.18%	-9.54%	-26.50%

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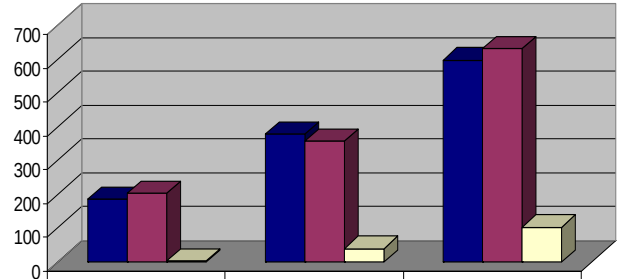
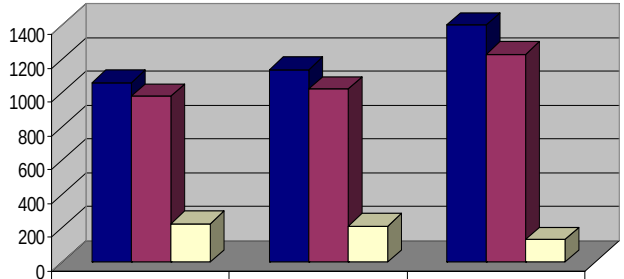
Charts 14.6a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days from Assigned to Investigator to Disciplinary Outcome



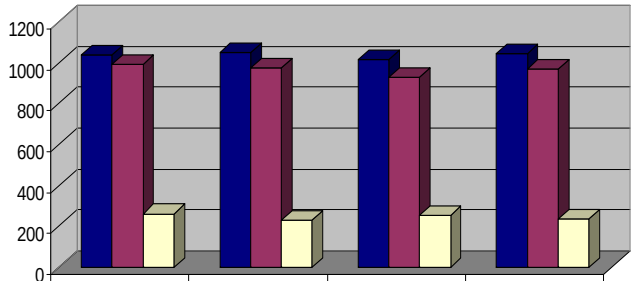
	2006	2007	2008
Average No. of Days	185	379	596
Median No. of Days	204	356	629
No. of Cases	3	40	104

Physicians and Surgeons--Non-VE Cases Only
Days from Assigned to Investigator to Disciplinary Outcome



	2006	2007	2008
Average No. of Days	1061	1137	1399
Median No. of Days	982	1024	1229
No. of Cases	227	213	133

Physicians and Surgeons--Total Cases
Days from Assigned to Investigator to Disciplinary Outcome



	2005	2006	2007	2008
Average No. of Days	1041	1050	1017	1047
Median No. of Days	995	978	930	970
No. of Cases	262	230	253	237

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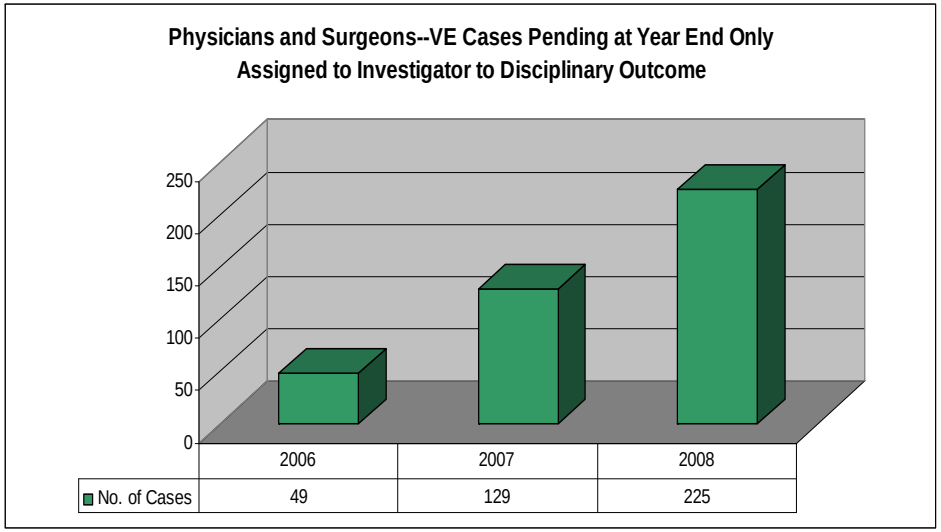
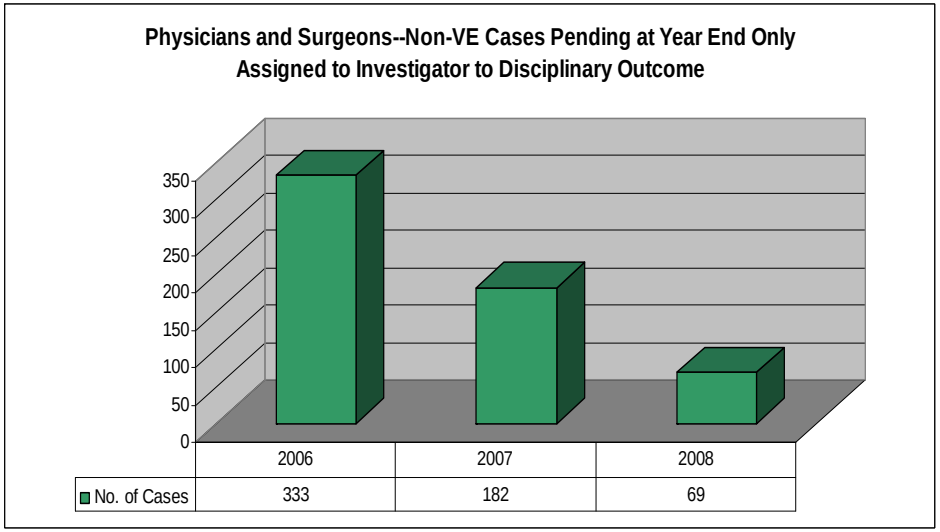
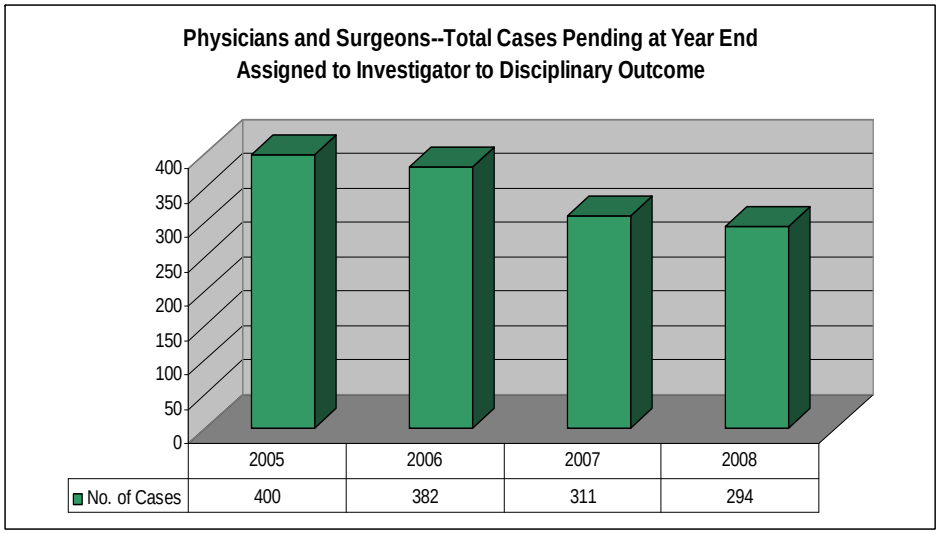
Charts 14.6d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Physicians and Surgeons Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE ASSIGNED TO DISCIPLINARY OUTCOME —ALLIED HEALTH

Table 14.7 below reports the average and median calendar days aged from case assigned to disciplinary outcome for Allied Health Care cases. Between 2005 and 2008, there was a 5.65% decrease in the average days aged, a 6.51% decrease in the median days aged, 9.86% decrease in the number of cases and a 11.43% decrease in the number of cases pending at year end.

Table 14.7 – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Disciplinary Outcome																				
Average	-9.01%		13.17%		65.92%		10.22%		29.82%		63.97%		0.29%		46.93%		172.07%		-5.65%	
Median (middle record - half are above and half below)	-0.35%		33.76%		63.68%		10.30%		17.36%		58.52%		9.91%		56.98%		159.47%		-6.51%	
Record Count	-14.77%	2.25%	-43.24%	-41.18%	135.71%	142.86%	-14.67%	2.20%	-52.38%	-42.50%	33.33%	37.25%	-27.27%	4.49%	-72.97%	-66.18%	214.29%	233.33%	-9.86%	-11.43%

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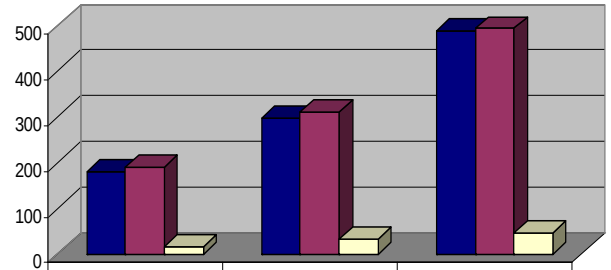
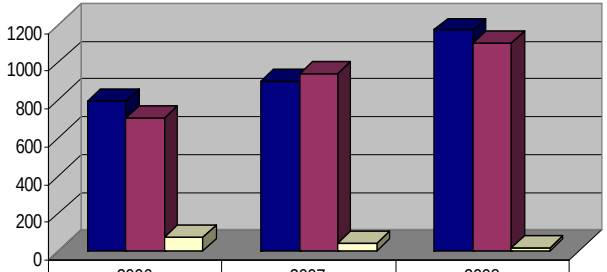
Charts 14.7a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome Allied Health Cases

Allied Health--VE Cases Only
Days from Assigned to Investigator to Disciplinary Outcome



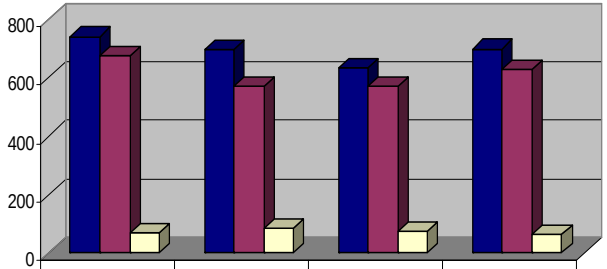
	2006	2007	2008
Average No. of Days	179	297	487
Median No. of Days	190	311	493
No. of Cases	14	33	44

Allied Health--Non-VE Cases Only
Days from Assigned to Investigator to Disciplinary Outcome



	2006	2007	2008
Average No. of Days	797	902	1171
Median No. of Days	702	939	1102
No. of Cases	74	42	20

Allied Health--Total Cases
Days from Assigned to Investigator to Disciplinary Outcome



	2005	2006	2007	2008
AVerage No. of Days	743	699	636	701
Median No. of Days	676	575	573	632
No. of Cases	71	88	75	64

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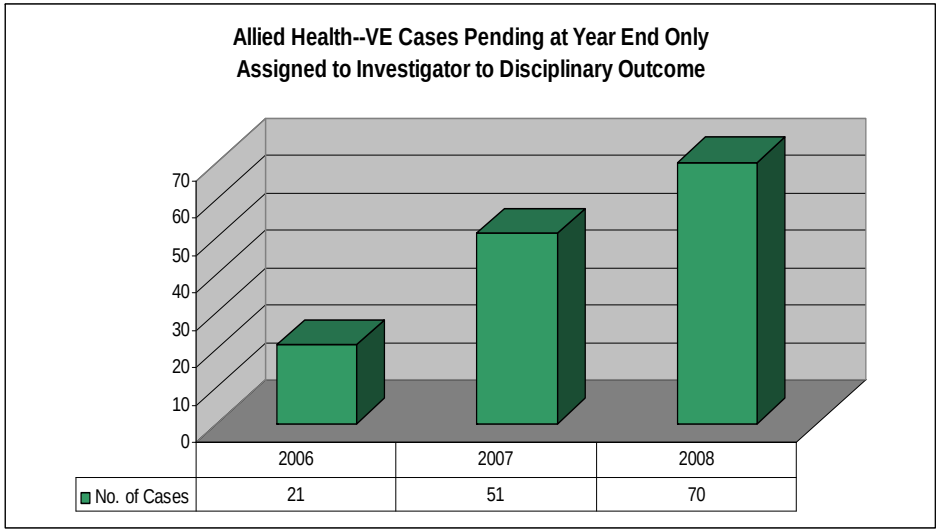
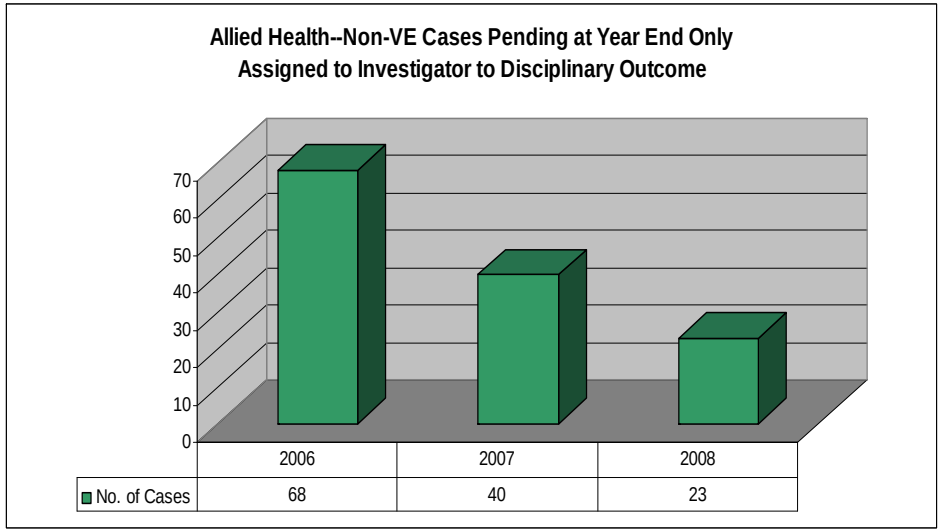
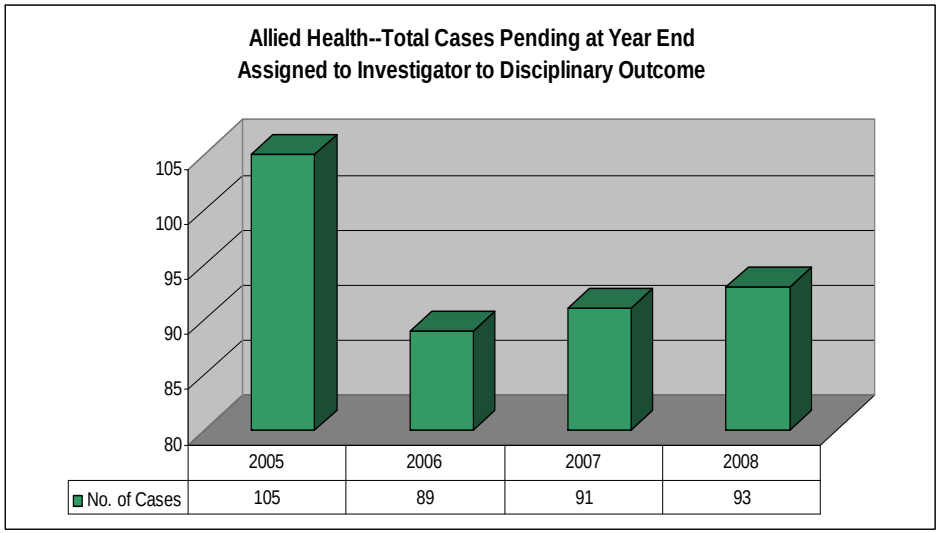
Charts 14.7d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE ASSIGNED TO ACCUSATION FILED — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 14.8 below reports the average and median calendar days aged from case assigned to accusation filed for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 6.97%% increase in the average days aged, a 7.57% increase in the median days aged, an 8.48% decrease in the number of cases and a 13.41% decrease in the number of cases pending at year end.

Table 14.8 – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation and Accusation Filed																				
Average	-0.19%		22.71%		164.23%		8.81%		35.22%		46.77%		8.60%		65.93%		287.80%		6.97%	
Median (middle record - half are above and half below)	2.30%		33.40%		249.45%		10.43%		40.06%		50.31%		12.97%		86.83%		425.27%		7.57%	
Record Count	26.40%	-32.40%	-27.22%	-68.50%	350.00%	55.77%	-17.67%	17.36%	-69.92%	-72.50%	33.33%	61.73%	4.06%	-20.67%	-78.11%	-91.34%	500.00%	151.92%	-8.48%	-13.41%

***Excludes Outcomes where no Accusation Filed

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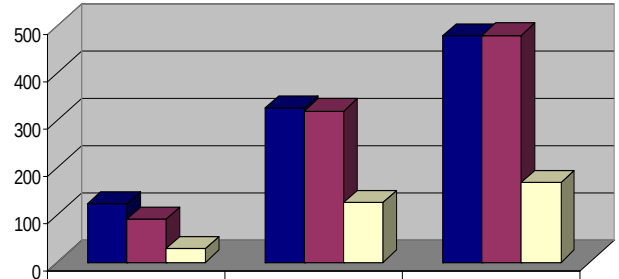
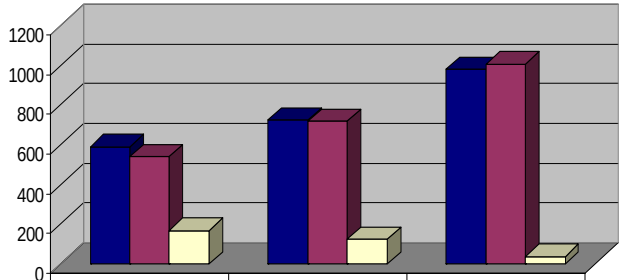
Charts 14.8a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days From Case Assigned to Investigation Completed & Accusation Filed



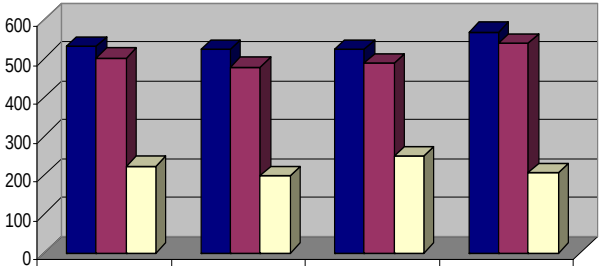
	2006	2007	2008
Average No. of Days	123	325	477
Median No. of Days	91	318	478
No. of Cases	28	126	168

P&S and AH--Non-VE Cases Only
Days From Case Assigned to Investigation Completed & Accusation Filed



	2006	2007	2008
Average No. of Days	590	724	979
Median No. of Days	539	719	1007
No. of Cases	169	123	37

P&S and AH--Total Cases
Days From Case Assigned to Investigation Completed & Accusation Filed



	2005	2006	2007	2008
Average No. of Days	531	523	522	568
Median No. of Days	502	478	489	540
No. of Cases	224	197	249	205

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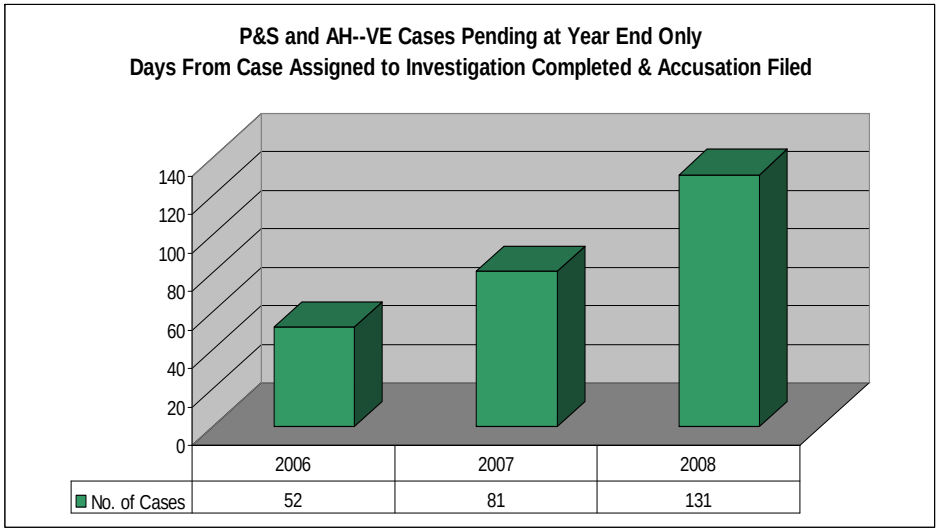
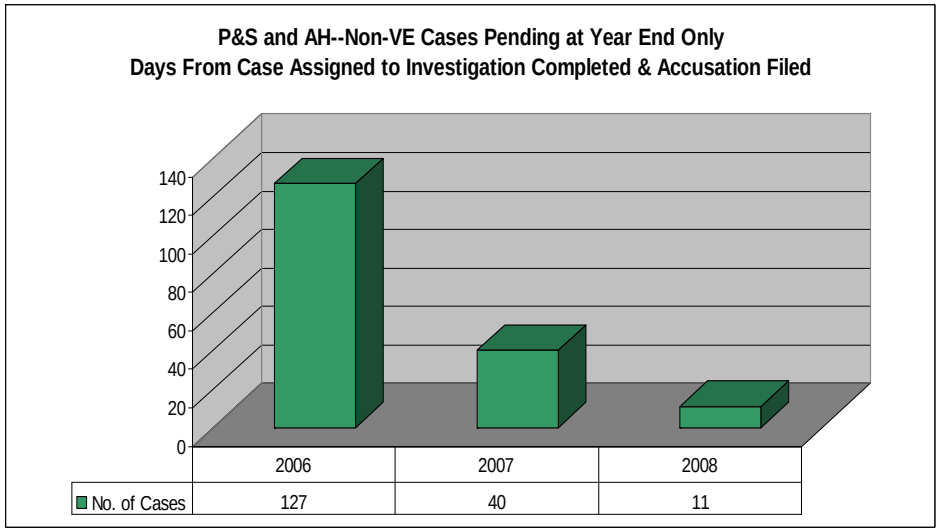
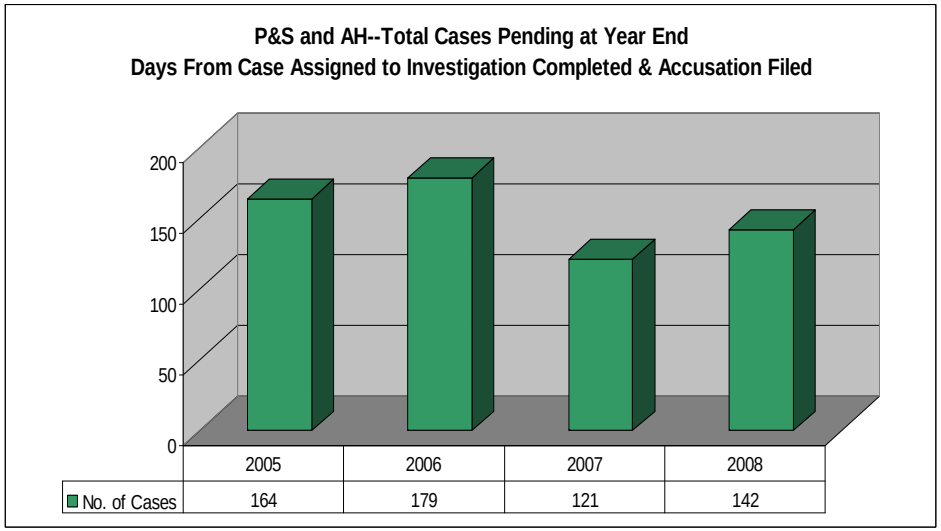
Charts 14.8d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE ASSIGNED TO ACCUSATION FILED — PHYSICIANS AND SURGEONS

Table 14.9 below reports the average and median calendar days aged from case assigned to accusation filed for Physicians and Surgeons cases. Between 2005 and 2008, there was a 0.87% decrease in the average days aged, a 0.93% increase in the median days aged, an 15.96% decrease in the number of cases and a 4.63% decrease in the number of cases pending at year end.

Table 14.9 – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation and Accusation Filed																				
Average	-3.04%		19.28%		142.86%		4.42%		26.71%		45.00%		1.25%		51.14%		252.14%		-0.87%	
Median (middle record - half are above and half below)	2.55%		28.19%		182.50%		4.02%		37.11%		43.36%		6.67%		75.76%		305.00%		0.93%	
Record Count	30.26%	-37.69%	-23.70%	-70.53%	458.82%	51.43%	-20.20%	27.16%	-73.79%	-75.00%	37.89%	81.13%	3.95%	-20.77%	-80.00%	-92.63%	670.59%	174.29%	-15.96%	-4.63%

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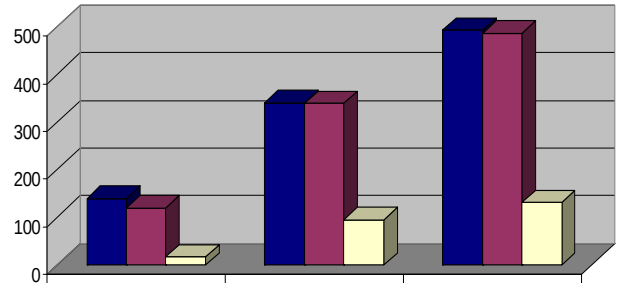
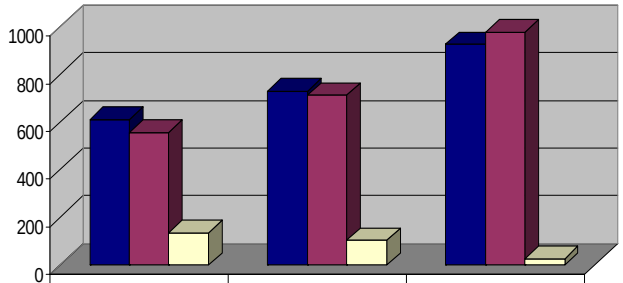
Charts 14.9 a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days From Case Assigned to Investigation Completed & Accusation Filed



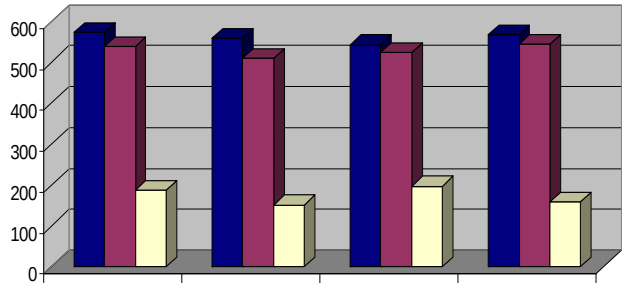
	2006	2007	2008
Average No. of Days	140	340	493
Median No. of Days	120	339	486
No. of Cases	17	95	131

Physicians and Surgeons--Non-VE Cases Only
Days From Case Assigned to Investigation Completed & Accusation Filed



	2006	2007	2008
Average No. of Days	612	730	925
Median No. of Days	557	714	979
No. of Cases	135	103	27

Physicians and Surgeons--Total Cases
Days From Case Assigned to Investigation Completed & Accusation Filed



	2005	2006	2007	2008
Average No. of Days	572	560	543	567
Median No. of Days	539	510	523	544
No. of Cases	188	152	198	158

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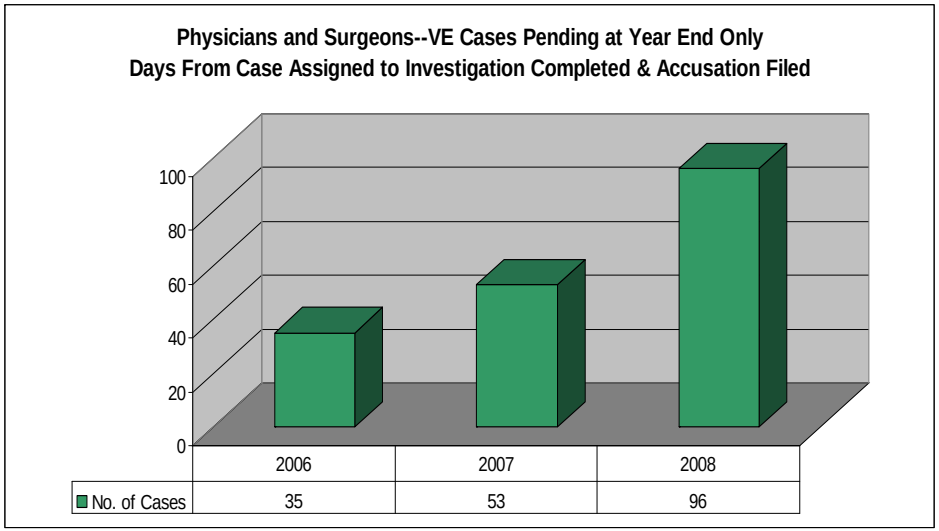
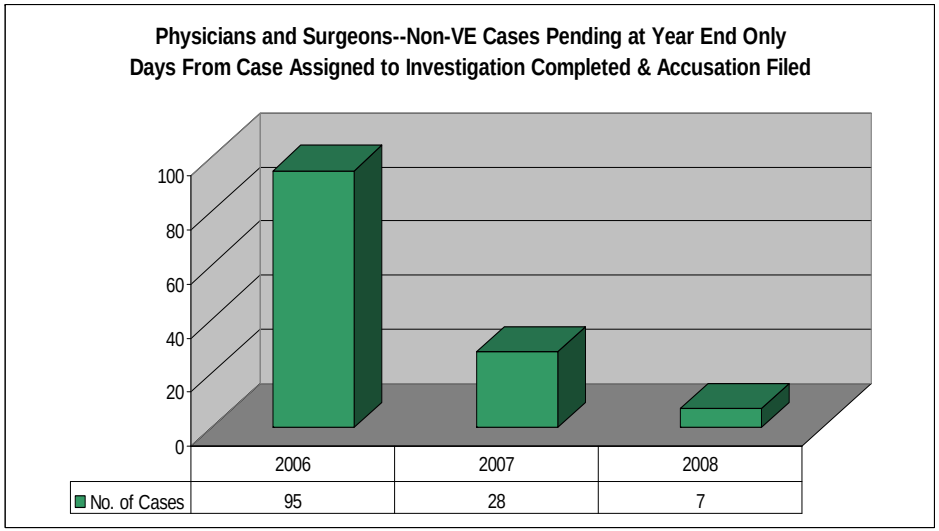
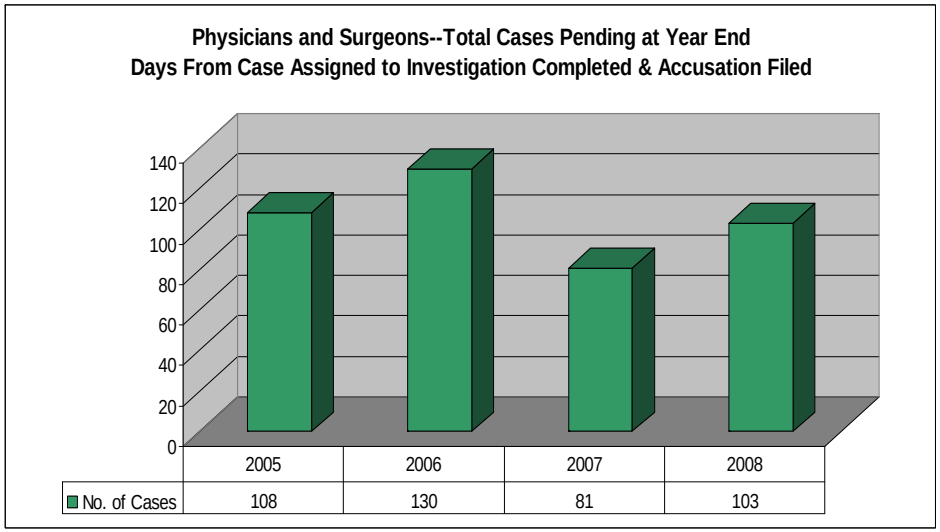
Charts 14.9 d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Physicians and Surgeons Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM CASE ASSIGNED TO ACCUSATION FILED —ALLIED HEALTH

Table 14.10 below reports the average and median calendar days aged from case assigned to accusation filed for Allied Health Care cases. Between 2005 and 2008, there was a 55.43% increase in the average days aged, a 55.26% increase in the median days aged, a 30.56% decrease in the number of cases and a 30.36% decrease in the number of cases pending at year end.

Table 14.10 – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation and Accusation Filed																				
Average	6.73%		38.20%		169.79%		33.64%		62.52%		62.93%		42.64%		124.60%		339.58%		55.43%	
Median (middle record - half are above and half below)	8.67%		57.42%		263.08%		24.65%		36.74%		81.36%		35.46%		115.25%		558.46%		55.26%	
Record Count	13.33%	-18.37%	-41.18%	-62.50%	181.82%	64.71%	-7.84%	-2.50%	-50.00%	-66.67%	19.35%	25.00%	4.44%	-20.41%	-70.59%	-87.50%	236.36%	105.88%	30.56%	-30.36%

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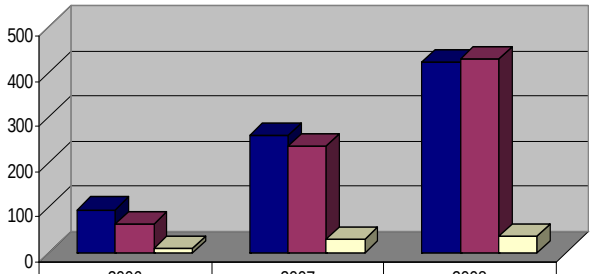
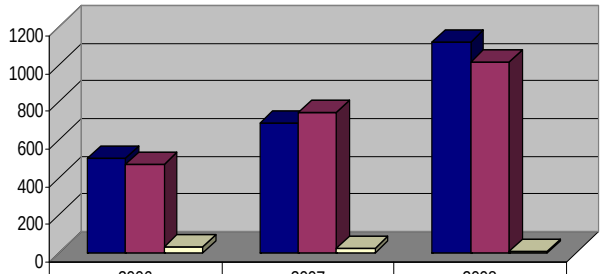
Charts 14.10a, b & c – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Allied Health Cases

Allied Health--VE Cases Only
Days From Case Assigned to Investigation Completed & Accusation Filed



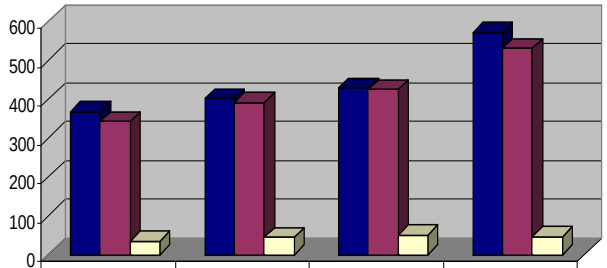
	2006	2007	2008
Average No. of Days	96	259	422
Median No. of Days	65	236	428
No. of Cases	11	31	37

Allied Health--Non-VE Cases Only
Days From Case Assigned to Investigation Completed & Accusation Filed



	2006	2007	2008
Average No. of Days	500	691	1123
Median No. of Days	472	743	1016
No. of Cases	34	20	10

Allied Health--Total Cases
Days From Case Assigned to Investigation Completed & Accusation Filed



	2005	2006	2007	2008
Average No. of Days	368	401	428	572
Median No. of Days	342	392	426	531
No. of Cases	36	45	51	47

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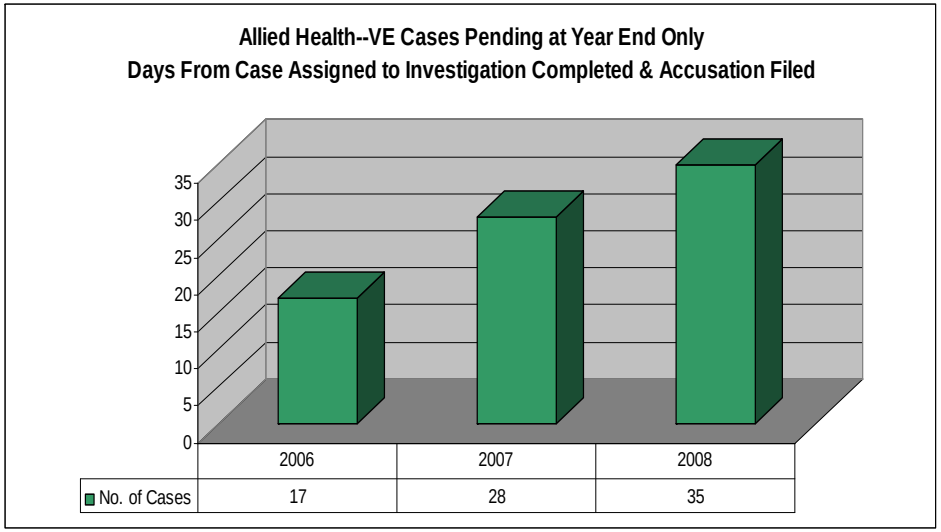
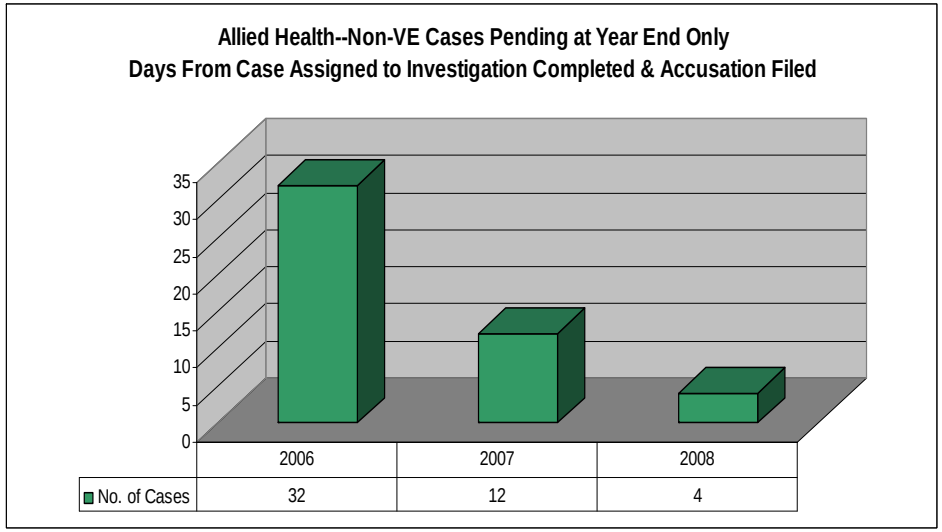
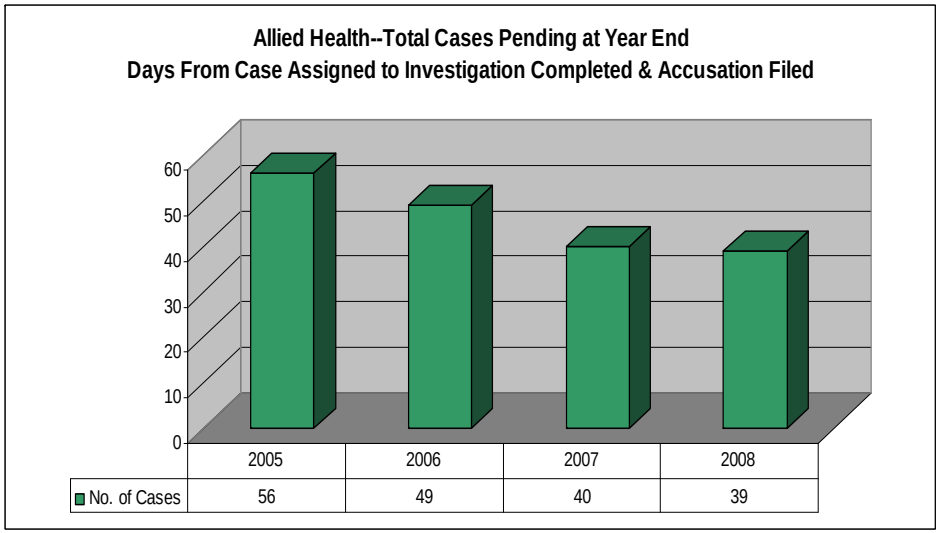
Charts 14.10d, e & f – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Allied Health Cases — Cases Pending at Year End







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XV. VERTICAL PROSECUTION - COMPLETED INVESTIGATION TO ACCUSATION FILED

Per EOM Section 7.1, discipline cases are cases which produce sufficient evidence to warrant filing formal charges. The Sup I forwards to the primary DAG the original investigation package with copies of the evidence. At this point, the investigation is technically closed and the disciplinary case is opened.

Per EOM and the JVEG, after the Sup I submits the completed investigation, the primary DAG has five business days to determine whether the case will be accepted for prosecution. If the primary DAG is unavailable, he may request the lead DAG to review the package.

Once accepted, per VPM, the primary DAG has 30 calendar days to submit a proposed accusation to the Executive Director of MBC.

For Investigation Completed to Accusation Filed for combined Physicians and Surgeons and Allied Health cases between 2005 and 2008, there was a decrease in the average days aged from 531 days to 147 days, a decrease in the median days aged from 502 days to 78 days, a decrease in the number of cases from 224 cases to 205 cases, and a decrease in the number of cases pending at year end from 164 to 142. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FROM INVESTIGATION COMPLETED TO ACCUSATION FILED — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 15.1 below reports the average and median calendar days aged from case investigation completed to accusation filed for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 4.55% decrease in the average days aged, a 28.44% decrease in the median days aged, an 8.48% decrease in the number of cases and a 13.41% decrease in the number of cases pending at year end.

Table 15.1 – Calendar Days Aged from Investigation Completed to Accusation Filed for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Completed Investigation to Accusation Filed																				
Average	-8.57%		12.12%		163.16%		-8.13%		45.50%		9.00%		-16.00%		63.13%		186.84%		-4.55%	
Median (middle record-half are above and half below)	-24.35%		12.59%		77.78%		-10.34%		44.10%		9.38%		-32.17%		62.24%		94.44%		-28.44%	
Record Count	26.40%	-32.40%	-27.22%	-68.50%	350.00%	55.77%	-17.67%	17.36%	-69.92%	-72.50%	33.33%	61.73%	4.06%	-20.67%	-78.11%	-91.34%	500.00%	151.92%	-8.48%	-13.41%

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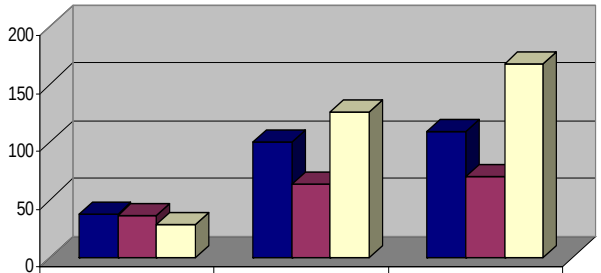
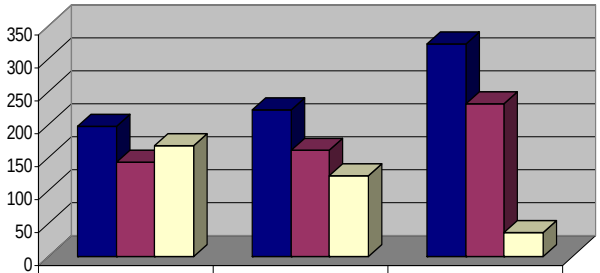
Charts 15.1a, b & c – Calendar Days Aged Investigation Completed to Accusation Filed for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days From Investigation Competed to Accusation Filed



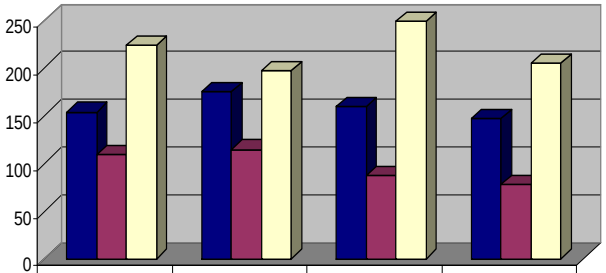
	2006	2007	2008
Average No. of Days	38	100	109
Median No. of Days	36	64	70
No. of Cases	28	126	168

P&S and AH--Non-VE Cases Only
Days From Investigation Competed to Accusation Filed



	2006	2007	2008
Average No. of Days	198	222	323
Median No. of Days	143	161	232
No. of Cases	169	123	37

P&S and AH--Total Cases
Days From Investigation Competed to Accusation Filed



	2005	2006	2007	2008
Average No. of Days	154	175	160	147
Median No. of Days	109	115	87	78
No. of Cases	224	197	249	205

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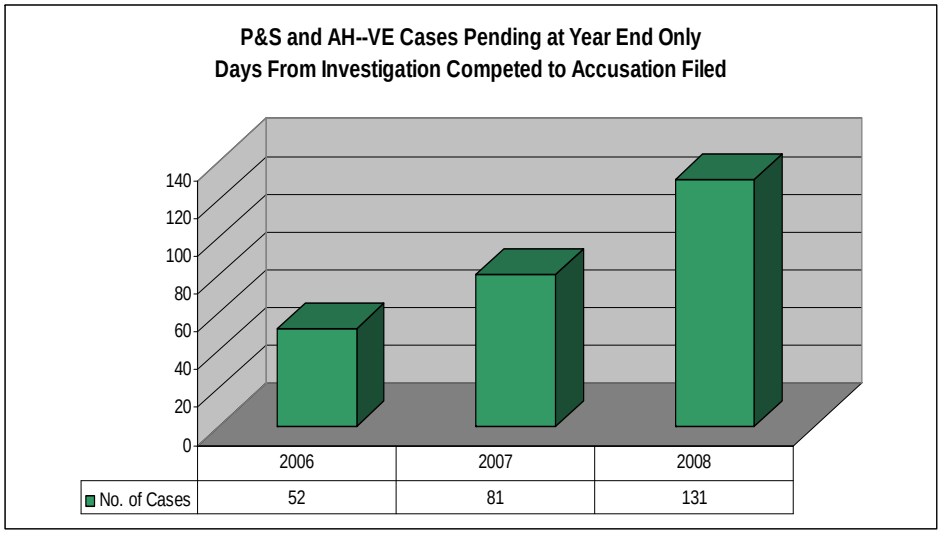
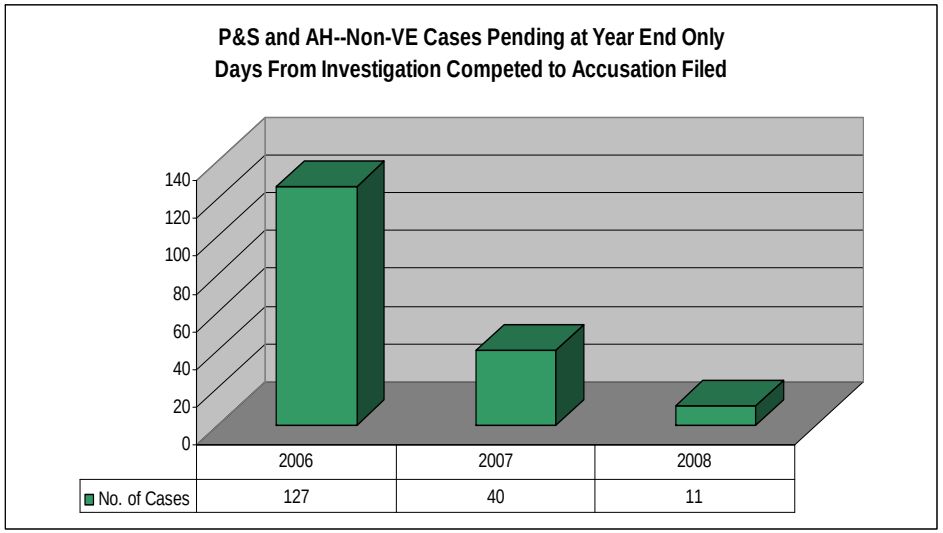
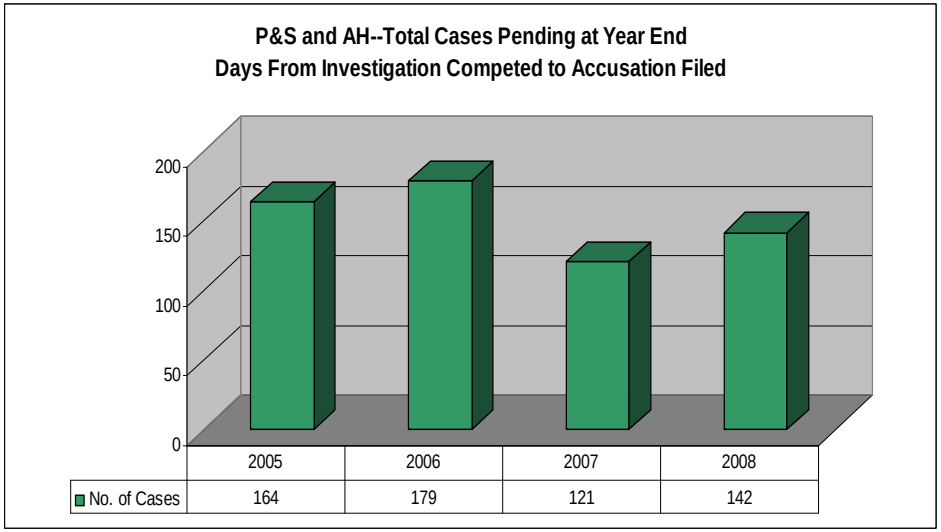
Charts 15.1d, e & f – Calendar Days Aged from Investigation Completed to Accusation Filed for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM INVESTIGATION COMPLETED TO ACCUSATION FILED — PHYSICIANS AND SURGEONS

Table 15.2 below reports the average and median calendar days aged from case investigation completed to accusation filed for Physicians and Surgeons cases. Between 2005 and 2008, there was a 28.24% decrease in the average days aged, a 38.26% decrease in the median days aged, a 15.96% decrease in the number of cases and a 4.63% decrease in the number of cases pending at year end.

Table 15.2 – Calendar Days Aged from Investigation Completed to Accusation Filed for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Completed Investigation to Accusation Filed																				
Average	-8.33%		13.20%		137.21%		-26.06%		13.00%		-6.86%		-32.22%		27.92%		120.93%		-28.24%	
Median (middle record-half are above and half below)	-27.82%		16.55%		57.45%		-26.04%		37.28%		-12.16%		-46.62%		60.00%		38.30%		-38.26%	
Record Count	30.26%	-37.69%	-23.70%	-70.53%	458.82%	51.43%	-20.20%	27.16%	-73.79%	-75.00%	37.89%	81.13%	3.95%	-20.77%	-80.00%	-92.63%	670.59%	174.29%	-15.96%	-4.63%

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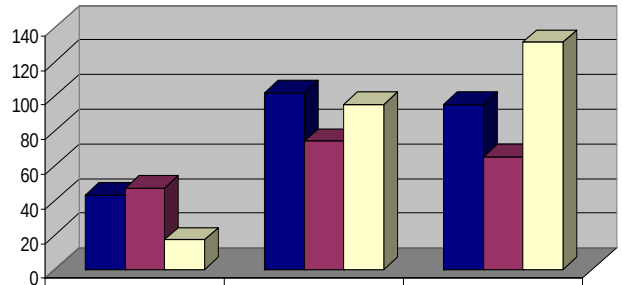
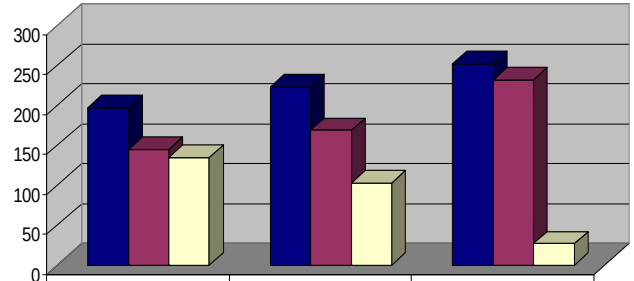
Charts 15.2a, b & c – Calendar Days Aged Investigation Completed to Accusation Filed for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days From Investigation Competed to Accusation Filed



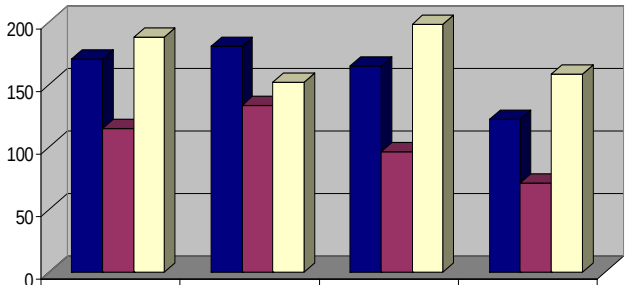
	2006	2007	2008
Average No. of Days	43	102	95
Median No. of Days	47	74	65
No. of Cases	17	95	131

Physicians and Surgeons--Non-VE Cases Only
Days From Investigation Competed to Accusation Filed



	2006	2007	2008
Average No. of Days	197	223	252
Median No. of Days	145	169	232
No. of Cases	135	103	27

Physicians and Surgeons--Total Cases
Days From Investigation Competed to Accusation Filed



	2005	2006	2007	2008
Average No. of Days	170	180	165	122
Median No. of Days	115	133	96	71
No. of Cases	188	152	198	158

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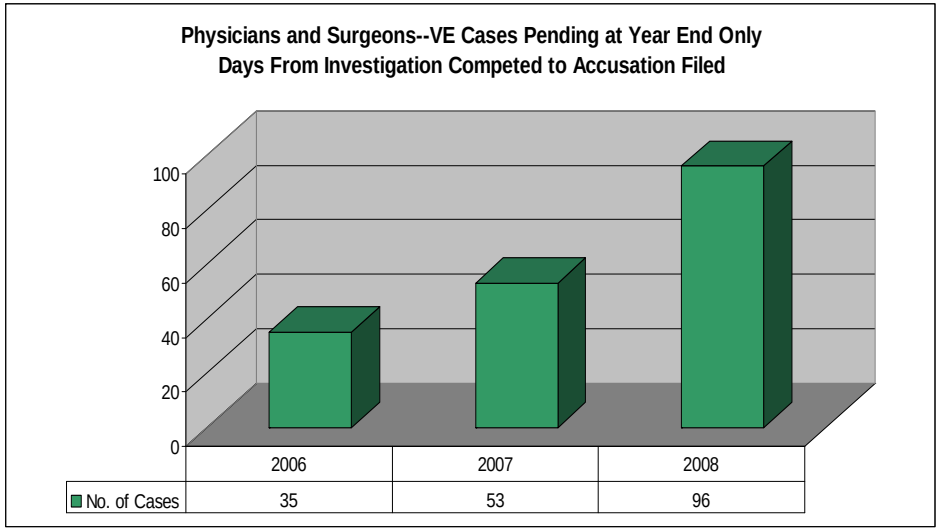
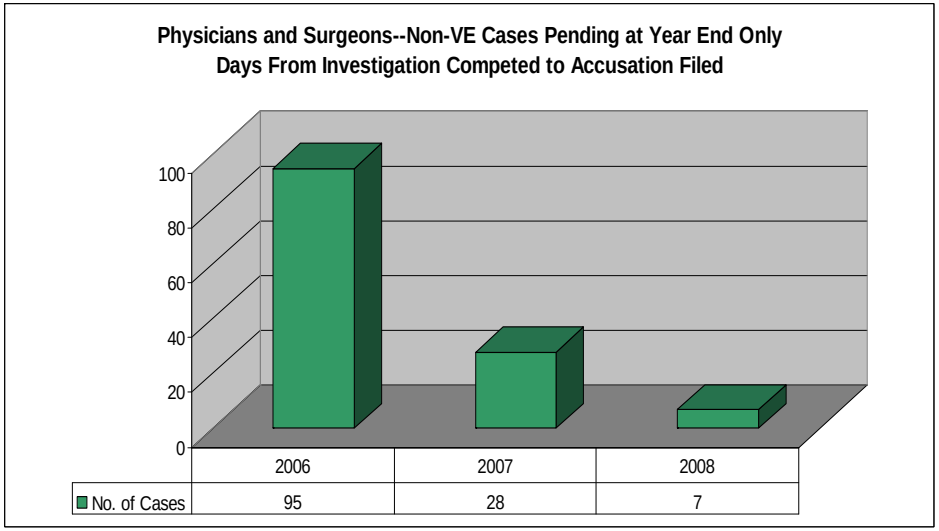
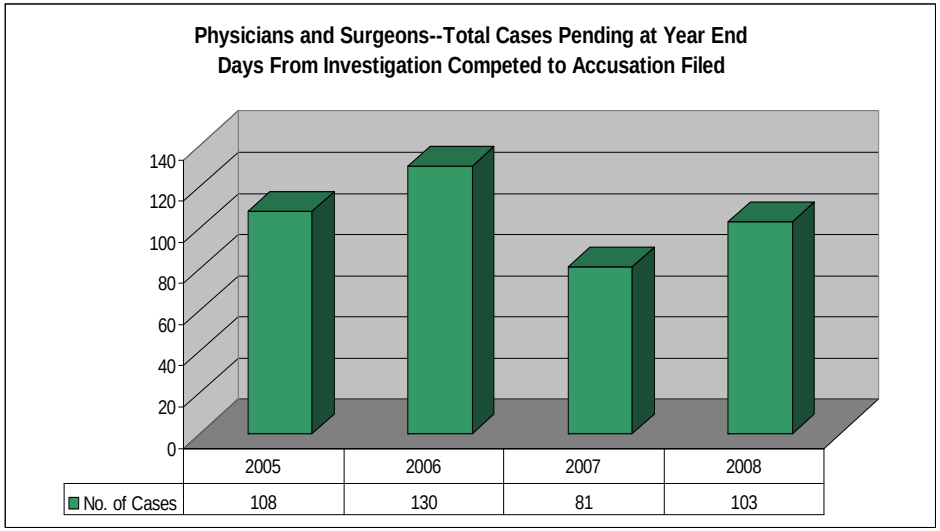
Charts 15.2d, e & f – Calendar Days Aged from Investigation Completed to Accusation Filed for Physicians and Surgeons Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM INVESTIGATION COMPLETED TO ACCUSATION FILED — ALLIED HEALTH

Table 15.3 below reports the average and median calendar days aged from case investigation completed to accusation filed for Allied Health Care cases. Between 2005 and 2008, there was an 85.71% increase in the average days aged, a 9.68% increase in the median days aged, a 30.56% increase in the number of cases and a 30.36% decrease in the number of cases pending at year end.

Table 15.3 – Calendar Days Aged from Investigation Completed to Accusation Filed for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Completed Investigation to Accusation Filed																				
Average	-19.88%		8.37%		125.81%		81.40%		133.18%		125.71%		45.34%		152.71%		409.68%		85.71%	
Median (middle record-half are above and half below)	-18.06%		-20.98%		38.24%		72.88%		174.34%		87.23%		41.67%		116.78%		158.82%		9.68%	
Record Count	13.33%	-18.37%	-41.18%	-62.50%	181.82%	64.71%	-7.84%	-2.50%	-50.00%	-66.67%	19.35%	25.00%	4.44%	-20.41%	-70.59%	-87.50%	236.36%	105.88%	30.56%	-30.36%

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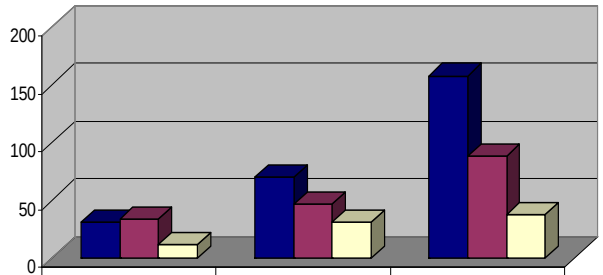
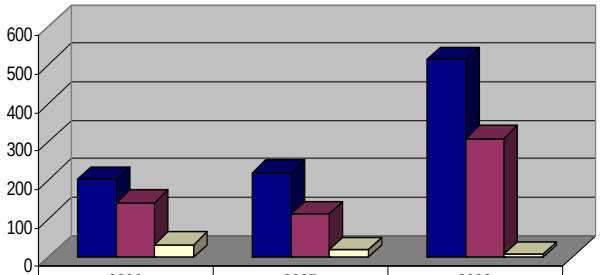
Charts 15.3a, b & c – Calendar Days Aged Investigation Completed to Accusation Filed for Allied Health Cases

Allied Health--VE Cases Only
Days From Investigation Competed to Accusation Filed



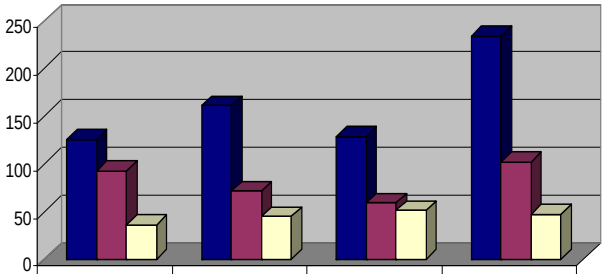
	2006	2007	2008
Average No. of Days	31	70	158
Median No. of Days	34	47	88
No. of Cases	11	31	37

Allied Health--Non-VE Cases Only
Days From Investigation Competed to Accusation Filed



	2006	2007	2008
Average No. of Days	203	220	513
Median No. of Days	143	113	310
No. of Cases	34	20	10

Allied Health--Total Cases
Days From Investigation Competed to Accusation Filed



	2005	2006	2007	2008
Average No. of Days	126	161	129	234
Median No. of Days	93	72	59	102
No. of Cases	36	45	51	47

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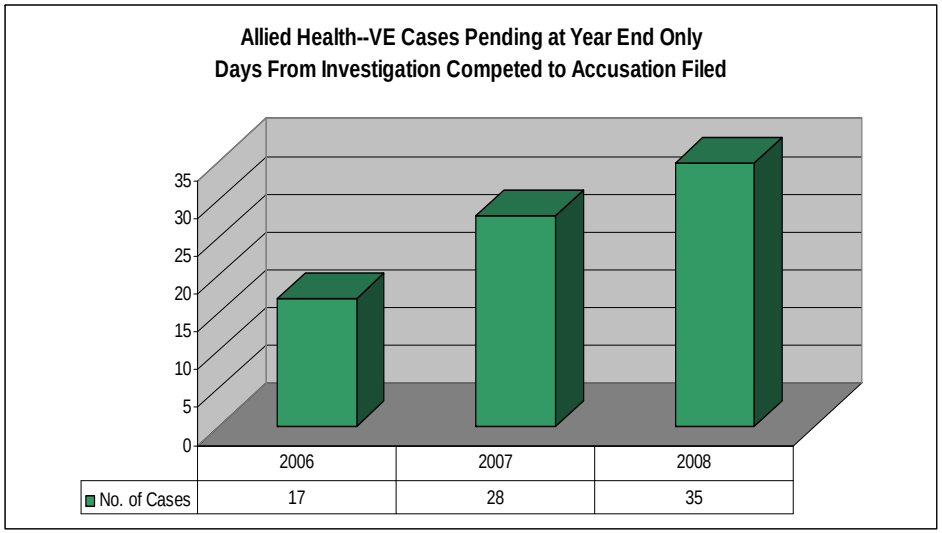
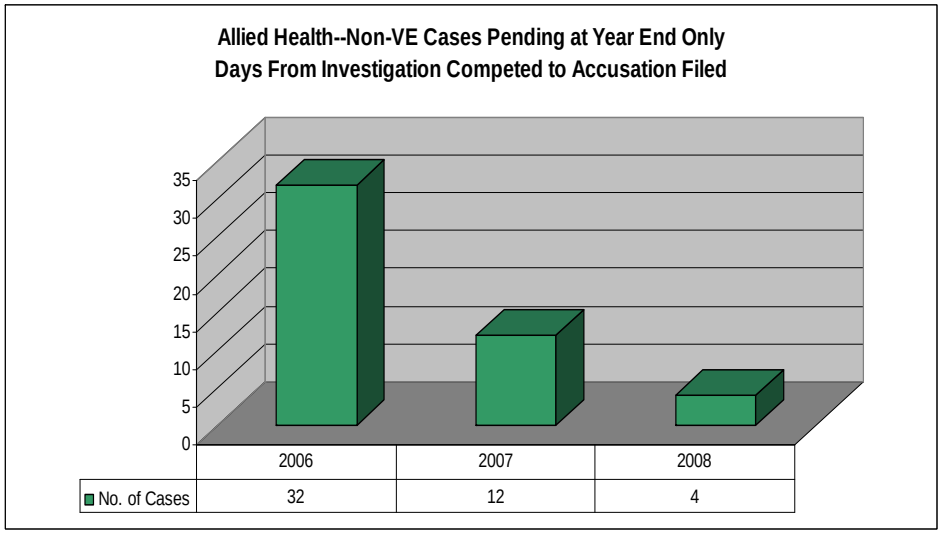
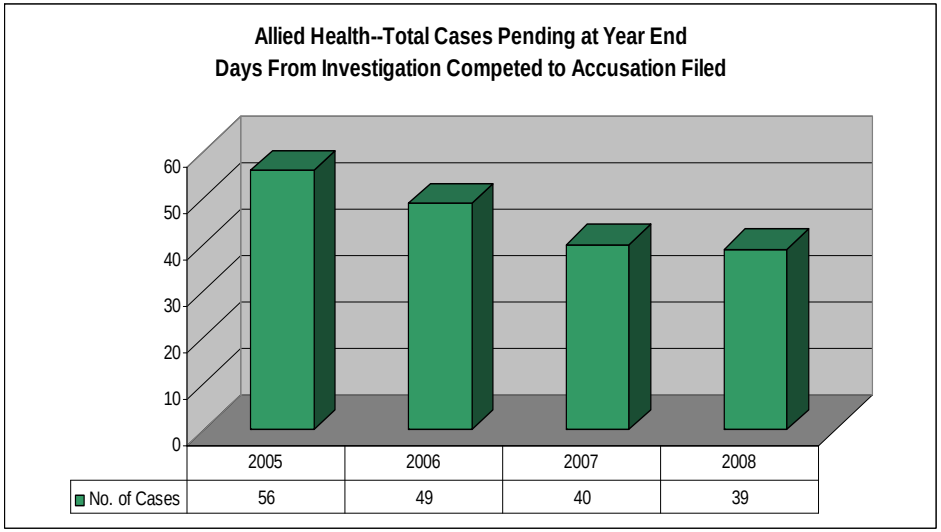
Charts 15.3d, e & f – Calendar Days Aged from Investigation Completed to Accusation Filed for Allied Health Cases — Cases Pending at Year End







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XVI. VERTICAL PROSECUTION - ACCUSATION TO SUBMISSION TO ADMINISTRATIVE LAW JUDGE

Per the VPM, within 15 calendar days of receipt of the Notice of Defense, the primary DAG shall submit a request to set with the Office of Administrative Hearings.

For Accusation Filed to Case Submitted to ALJ for Decision for combined Physicians and Surgeons and Allied Health cases between 2005 and 2008, there was a decrease in the average days aged from 624 days to 479 days, a decrease in the median days aged from 557 days to 345 days, and a decrease in the number of cases from 38 cases to 29 cases. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FROM ACCUSATION FILED TO CASE SUBMITTED TO ALJ FOR DECISION — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 16.1 below reports the average and median calendar days aged from the date the accusation was filed to the date the case was submitted to the ALJ for decision for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 23.24% decrease in the average days aged, a 38.06% increase in the median days aged, and a 23.68% decrease in the number of cases.

Table 16.1 – Calendar Days Aged from Accusation Filed to Case Submitted to ALJ for Decision for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Date Accusation Filed to Date Hearing Closed-Submit to ALJ																				
Average	5.71%		23.04%				-19.09%		4.64%		33.51%		-14.46%		28.75%				-23.24%	
Median (middle record - half are above and half below)	28.24%		70.23%				-31.55%		-13.45%		3.49%		-12.21%		47.33%				-38.06%	
Record Count	140.00%		93.33%				-19.44%		-51.72%		114.29%		93.33%		-6.67%				-23.68%	

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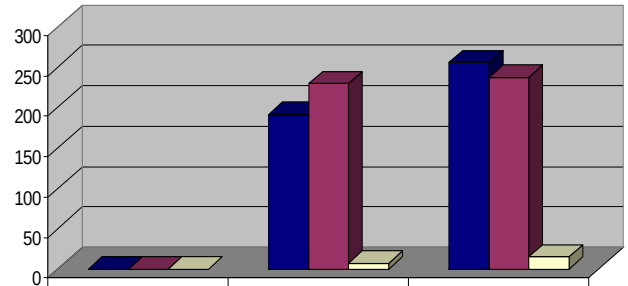
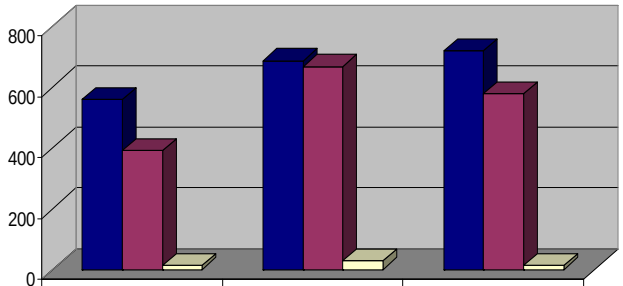
Charts 16.1a, b & c – Calendar Days Aged from Accusation Filed to Case Submitted to ALJ for Decision for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Accusation Filed to Submittal to ALJ



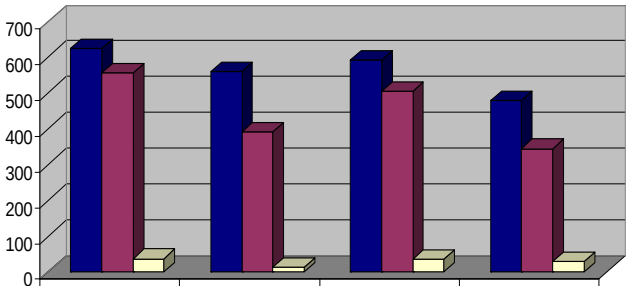
	2006	2007	2008
Average No. of Days	0	191	255
Median No. of Days	0	229	237
No. of Cases	0	7	15

P&S and AH--Non-VE Cases Only
Accusation Filed to Submittal to ALJ



	2006	2007	2008
Average No. of Days	560	689	721
Median No. of Days	393	669	579
No. of Cases	15	29	14

P&S and AH--Total Cases
Accusation Filed to Submittal to ALJ



	2005	2006	2007	2008
Average No. of Days	624	560	592	479
Median No. of Days	557	393	504	345
No. of Cases	38	15	36	29

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CALENDAR DAYS AGED FROM ACCUSATION FILED TO CASE SUBMITTED TO ALJ FOR DECISION — PHYSICIANS AND SURGEONS

Table 16.2 below reports the average and median calendar days aged from the date the accusation was filed to the date the case was submitted to the ALJ for decision for Physicians and Surgeons cases. Between 2005 and 2008, there was a 14.73% decrease in the average days aged, a 31.46% increase in the median days aged, and a 29.41% decrease in the number of cases.

Table 16.2 – Calendar Days Aged from Accusation Filed to Case Submitted to ALJ for Decision for Physicians and Surgeons

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Date Accusation Filed to Date Hearing Closed-Submit to ALJ																				
Average	-6.77%		9.90%				-3.72%		8.26%		54.97%		-10.23%		18.98%				-14.73%	
Median (middle record - half are above and half below)	19.85%		59.07%				-17.59%		-10.79%		31.00%		-1.23%		41.91%				-31.46%	
Record Count	153.85%		100.00%				-27.27%		-46.15%		42.86%		84.62%		7.69%				-29.41%	

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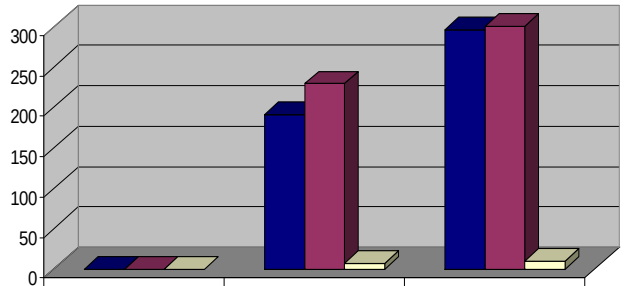
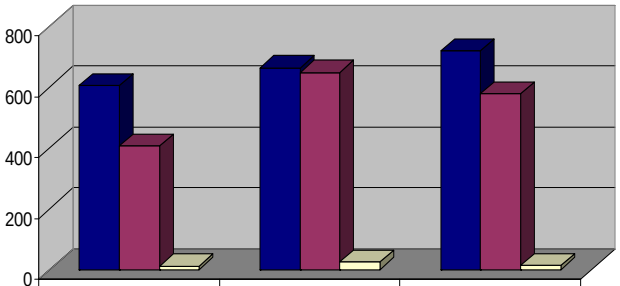
Charts 16.2a, b & c – Calendar Days Aged from Accusation Filed to Case Submitted to ALJ for Decision for Physicians and Surgeons

Physicians and Surgeons--VE Cases Only
Accusation Filed to Submittal to ALJ



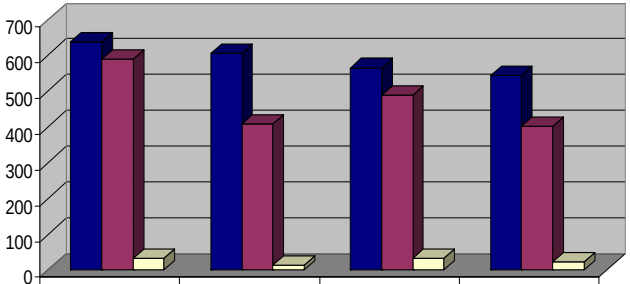
	2006	2007	2008
Average No. of Days	0	191	296
Median No. of Days	0	229	300
No. of Cases	0	7	10

Physicians and Surgeons--Non-VE Cases Only
Accusation Filed to Submittal to ALJ



	2006	2007	2008
Average No. of Days	606	666	721
Median No. of Days	408	649	579
No. of Cases	13	26	14

Physicians and Surgeons--Total Cases
Accusation Filed to Submittal to ALJ



	2005	2006	2007	2008
Average No. of Days	638	606	565	544
Median No. of Days	588	408	489	403
No. of Cases	34	13	33	24

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CALENDAR DAYS AGED FROM ACCUSATION FILED TO CASE SUBMITTED TO ALJ FOR DECISION — ALLIED HEALTH

Table 16.3 below reports the average and median calendar days aged from the date the accusation was filed to the date the case was submitted to the ALJ for decision for Allied Health Care cases. Between 2005 and 2008, there was a 65.18% decrease in the average days aged, a 61.10% decrease in the median days aged, and a 25.00% increase in the number of cases.

Table 16.3 – Calendar Days Aged from Accusation Filed to Case Submitted to ALJ for Decision for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Date Accusation Filed to Date Hearing Closed-Submit to ALJ																				
Average	245.74%		245.74%				-80.72%		-100.00%				-33.33%		-100.00%				-65.18%	
Median (middle record - half are above and half below)	306.59%		306.59%				-83.13%		-100.00%				-31.40%		-100.00%				-61.10%	
Record Count	50.00%		50.00%				66.67%		-100.00%				150.00%		-100.00%				25.00%	

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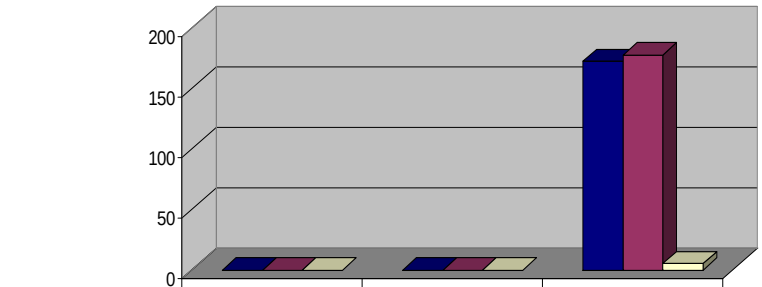
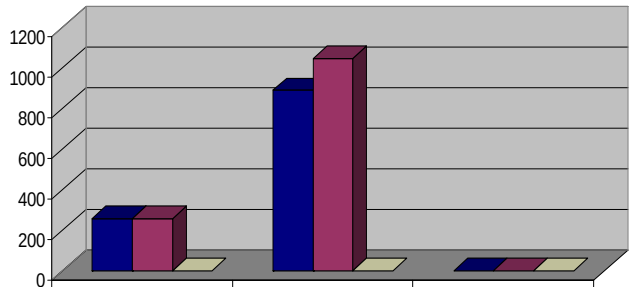
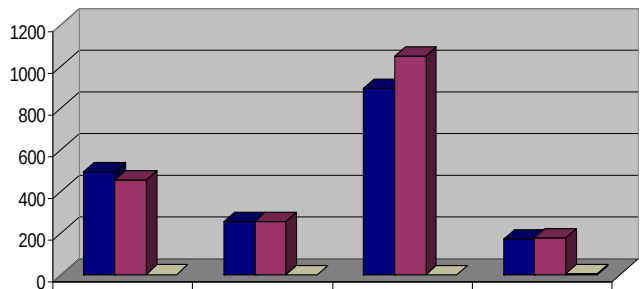
Charts 16.3a, b & c – Calendar Days Aged from Accusation Filed to Case Submitted to ALJ for Decision for Allied Health Cases



	2006	2007	2008
Average No. of Days	0	0	172
Median No. of Days	0	0	177
No. of Cases	0	0	5



	2006	2007	2008
Average No. of Days	258	892	0
Median No. of Days	258	1049	0
No. of Cases	2	3	0



	2005	2006	2007	2008
Average No. of Days	494	258	892	172
Median No. of Days	455	258	1049	177
No. of Cases	4	2	3	5

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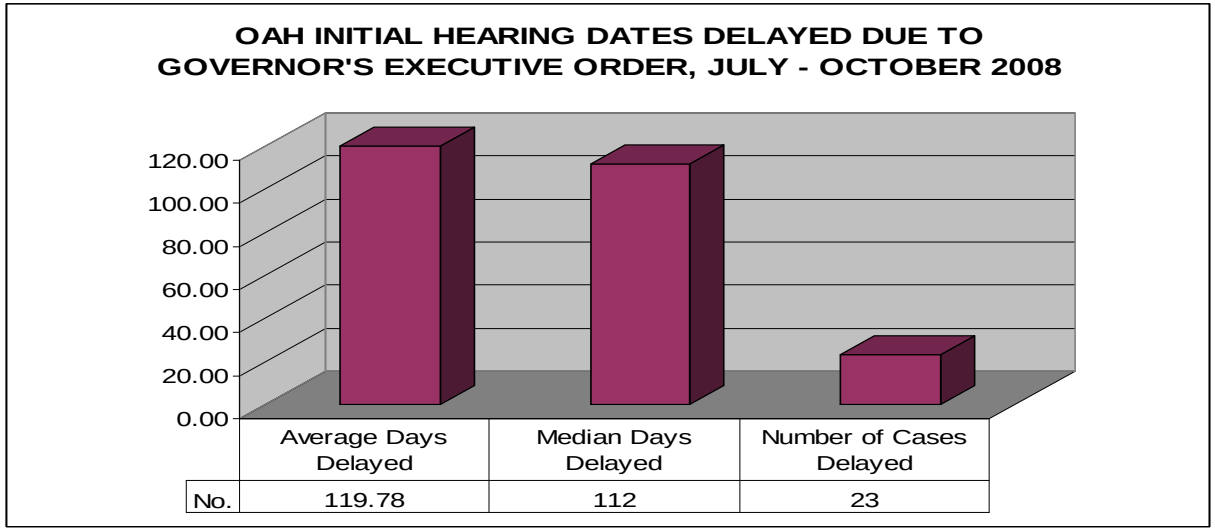
HEARINGS DELAYED DUE TO GOVERNOR'S EXECUTIVE ORDER, JULY – OCTOBER 2008

Table 16.4 below reports delays between the original initial hearing date and the continued hearing date due to a lack of available court reporters as a result of the Governor's Executive Order. Between July and October 2008, 23 Medical Board cases scheduled for OAH hearings were delayed an average of 119.78 days and a median of 112 days.

Table 16.4 – Hearings Delayed due to Governor's Executive Order, July – October 2008

	July - October 2008
Average Days Delayed	119.78
Median Days Delayed	112
Number of Cases Delayed	23

Chart 16.4 – Hearings Delayed due to Governor's Executive Order, July – October 2008



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XVII. VERTICAL PROSECUTION - ACCUSATION TO ADMINISTRATIVE OUTCOMES

The following tables and charts detail the average and median time frames that have occurred between the filing of an accusation and the indicated outcomes.

For Accusation Filed to Disciplinary Outcome for combined Physicians and Surgeons and Allied Health cases (Table 17.2) between 2005 and 2008, there was a decrease in the average days aged from 583 days to 532 days, a decrease in the median days aged from 513 days to 373 days, a decrease in the number of cases from 263 cases to 247 cases, and a decrease in the number of cases pending at year end from 348 to 248. To view the primary data upon which the following tables and charts are based, please see the corresponding table number beginning with the letter B in Appendix B.

CALENDAR DAYS AGED FROM ACCUSATION FILED TO SETTLEMENT — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 17.1 below reports the average and median calendar days aged from accusation filed to settlement for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was a 17.16% decrease in the average days aged, a 28.25% decrease in the median days aged, a 10.99% decrease in the number of cases and a 63.64% increase in the number of cases pending at year end.

Table 17.1 – Calendar Days Aged from Accusation Filed to Disciplinary Outcome - Settlement for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007			Percentage Difference 2007 to 2008			Percentage Difference 2006 to 2008			Percentage Difference 2005 to 2008
	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE	All
Activity										
Calendar Day Age from Date Accusation Filed to Disciplinary Outcome--Settlement										
Average	-21.55%	-13.95%	60.71%	-3.65%	19.50%	42.78%	-24.41%	2.82%	129.46%	-17.16%
Median (middle record - half are above and half below)	-20.83%	-11.37%	52.76%	-3.60%	15.98%	32.47%	-23.68%	2.79%	102.36%	-28.25%
Record Count	-7.61%	-20.44%	766.67%	-4.71%	-40.28%	192.31%	-11.96%	-52.49%	2433.33%	-10.99%
All Pending	75.00%	16.67%	250.00%	28.57%	-14.29%	71.43%	125.00%	0.00%	500.00%	63.64%

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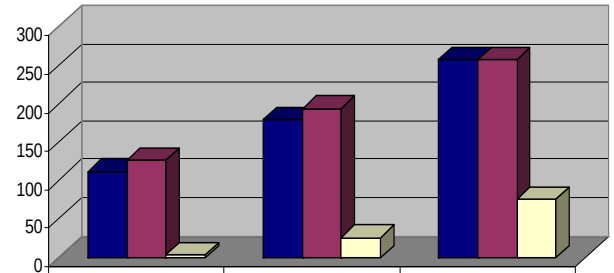
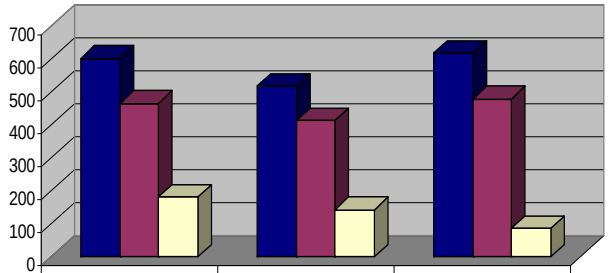
Charts 17.1a, b & c – Calendar Days Aged from Accusation Filed to Settlement for Physicians and Surgeons and Allied Health Cases

P&S & AH--VE Cases Only
Accusation Filed to Disciplinary Outcome--Settlement



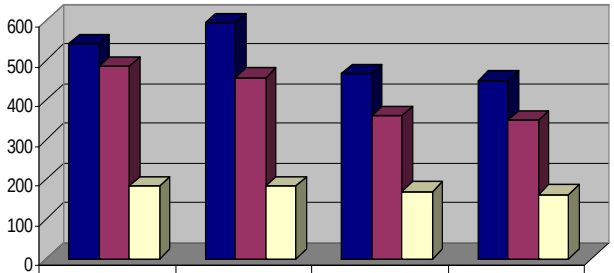
	2006	2007	2008
Average No. of Days	112	180	257
Median No. of Days	127	194	257
No. of Cases	3	26	76

P&S & AH--Non-VE Cases Only
Accusation Filed to Disciplinary Outcome--Settlement



	2006	2007	2008
Average No. of Days	602	518	619
Median No. of Days	466	413	479
No. of Cases	181	144	86

P&S & AH--Total Cases
Accusation Filed to Disciplinary Outcome--Settlement



	2005	2006	2007	2008
Average No. of Days	542	594	466	449
Median No. of Days	485	456	361	348
No. of Cases	182	184	170	162

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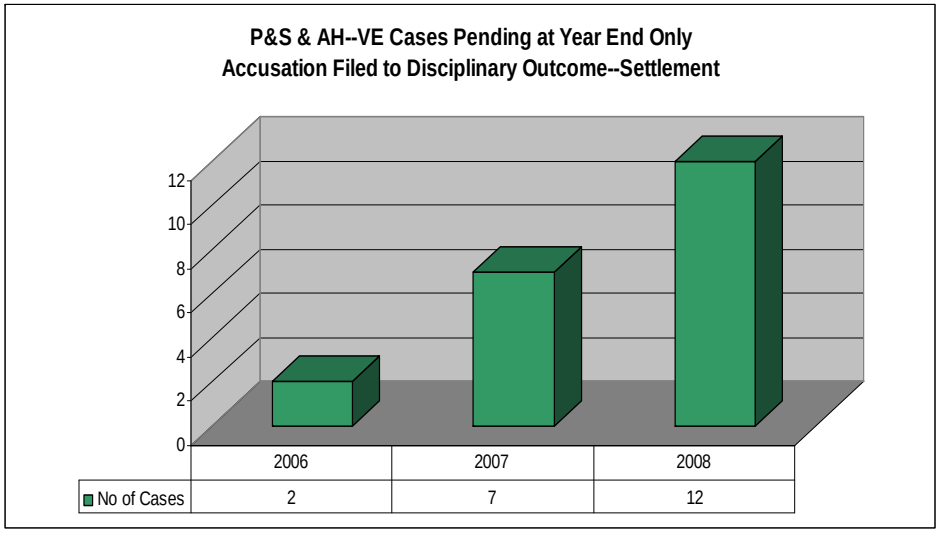
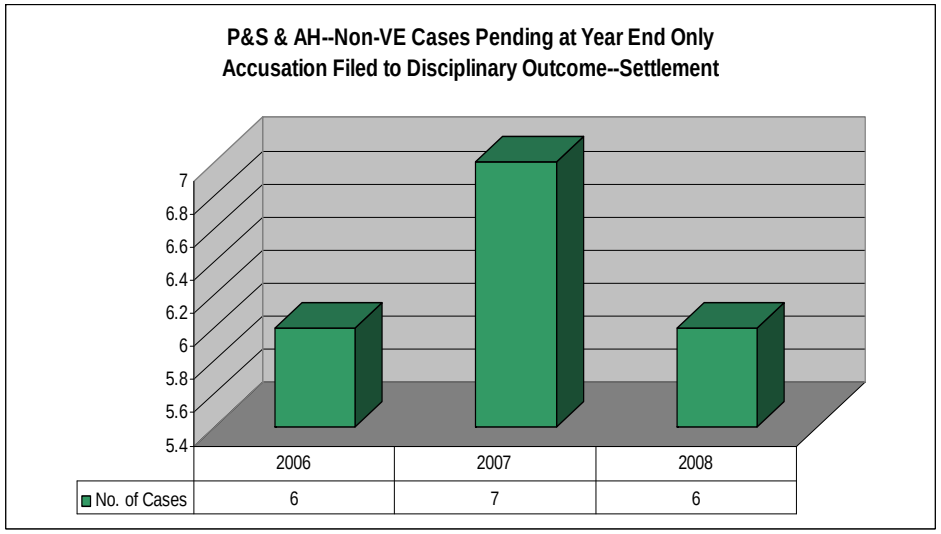
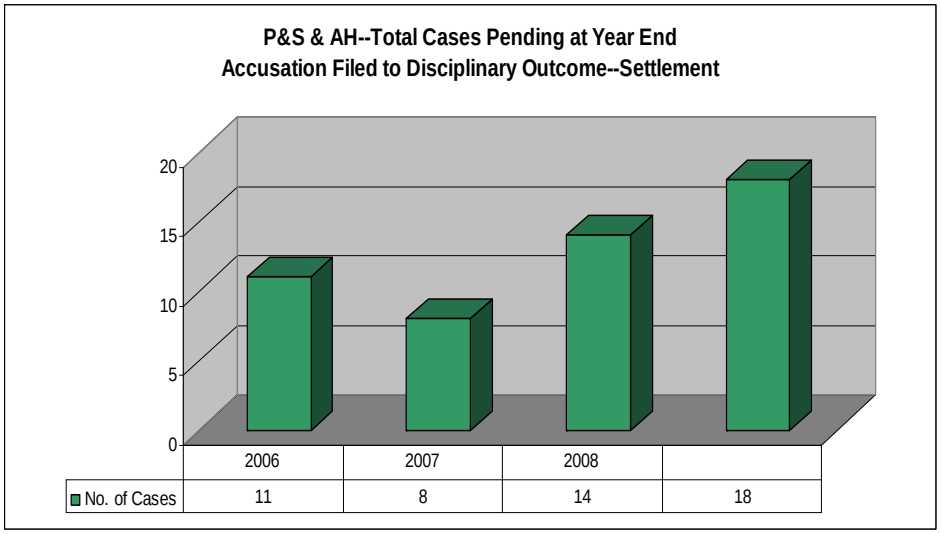
Charts 17.1d, d & f – Calendar Days Aged from Accusation Filed to Settlement for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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Separate data for Calendar Days Aged from Accusation Filed to Settlement for Physicians and Surgeons cases only and Allied Health Care cases only were not available at the time of drafting this report.

CALENDAR DAYS AGED FROM ACCUSATION FILED TO DISCIPLINARY OUTCOME — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 17.2 below reports the average and median calendar days aged from accusation filed to disciplinary outcome for Physicians and Surgeons and Allied Health Care cases. Between 2005 and 2008, there was an 8.75% decrease in the average days aged, a 27.29% decrease in the median days aged, a 6.08% decrease in the number of cases and a 28.74% decrease in the number of cases pending at year end.

Table 17.2 – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Accusation Filed to Disciplinary Outcome**																				
Average	-9.62%		-2.37%		35.92%		2.90%		32.64%		34.20%		-6.99%		29.49%		82.39%		-8.75%	
Median (middle record-half are above and half below)	-13.33%		-3.26%		72.81%		-1.06%		19.33%		29.44%		-14.25%		15.43%		123.68%		-27.29%	
Record Count	4.08%	-1.68%	-8.09%	-32.86%	290.00%	483.33%	-3.14%	-15.36%	-34.26%	-57.45%	169.23%	60.00%	0.82%	-16.78%	-39.57%	-71.43%	950.00%	833.33%	-6.08%	-28.74%

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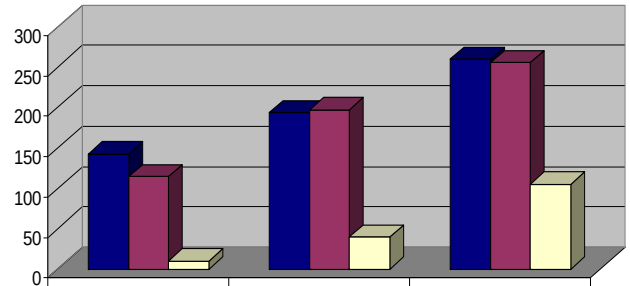
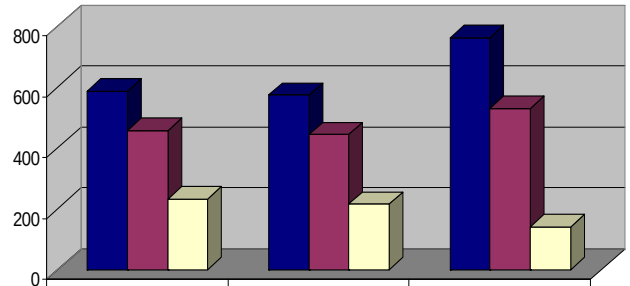
Charts 17.2a, b & c – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Physicians and Surgeons and Allied Health Cases

P&S and AH--VE Cases Only
Days From Accusation Filed to Disciplinary Outcome



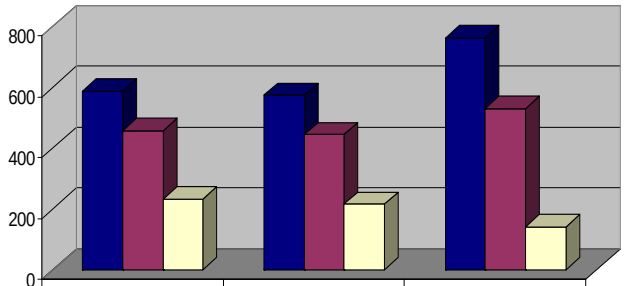
	2006	2007	2008
Average No. of Days	142	193	259
Median No. of Days	114	197	255
No. of Cases	10	39	105

P&S and AH--Non-VE Cases Only
Days From Accusation Filed to Disciplinary Outcome



	2006	2007	2008
Average No. of Days	590	576	764
Median No. of Days	460	445	531
No. of Cases	235	216	142

P&S and AH--Non-VE Cases Only
Days From Accusation Filed to Disciplinary Outcome



	2006	2007	2008
Average No. of Days	590	576	764
Median No. of Days	460	445	531
No. of Cases	235	216	142

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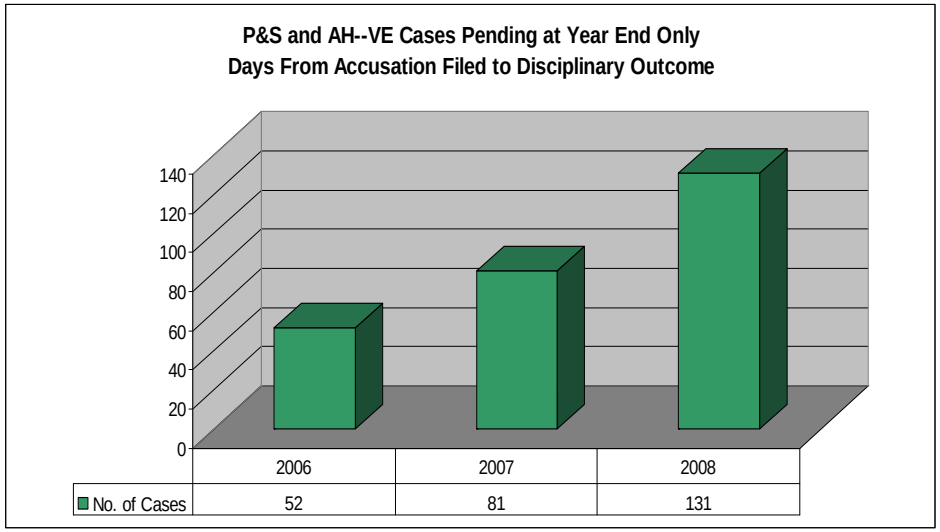
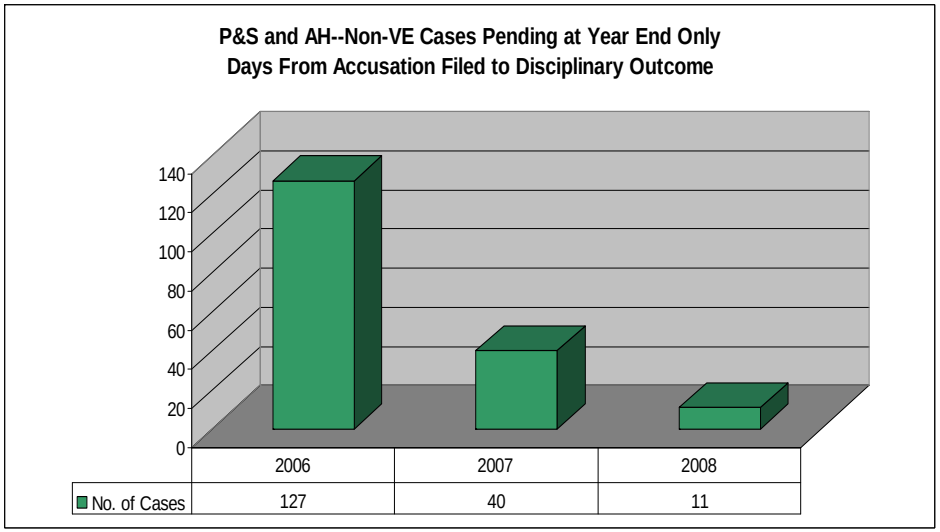
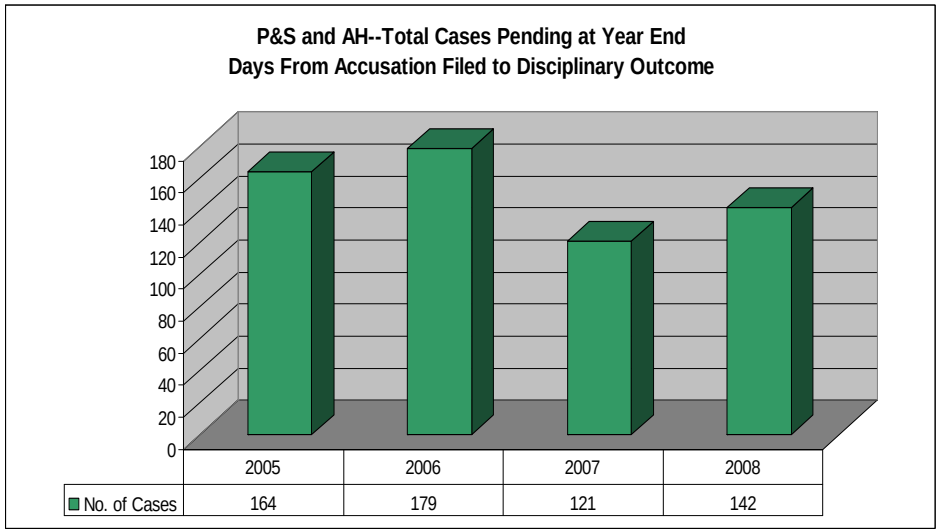
Charts 17.2d, d & f – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Physicians and Surgeons and Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM ACCUSATION FILED TO DISCIPLINARY OUTCOME — PHYSICIANS AND SURGEONS

Table 17.3 below reports the average and median calendar days aged from accusation filed to disciplinary outcome for Physicians and Surgeons cases. Between 2005 and 2008, there was a 7.27% decrease in the average days aged, a 26.86% decrease in the median days aged, a 4.69% decrease in the number of cases and a 35.55% decrease in the number of cases pending at year end.

Table 17.3 – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Accusation Filed to Disciplinary Outcome**																				
Average	-7.56%		0.17%		116.47%		2.00%		27.15%		32.07%		-5.71%		27.36%		185.88%		-7.27%	
Median (middle record-half are above and half below)	-11.80%		-0.43%		78.79%		-6.57%		22.37%		34.46%		-17.60%		21.84%		140.40%		-26.86%	
Record Count	13.02%	-6.95%	0.00%	-34.69%	833.33%	478.57%	-6.45%	-19.50%	-34.92%	-61.25%	185.71%	62.96%	5.73%	-25.10%	-34.92%	-74.69%	2566.67%	842.86%	-4.69%	-35.55%

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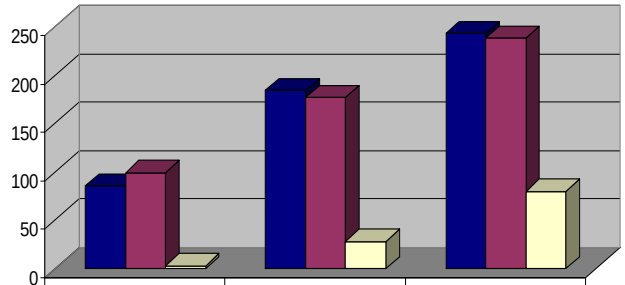
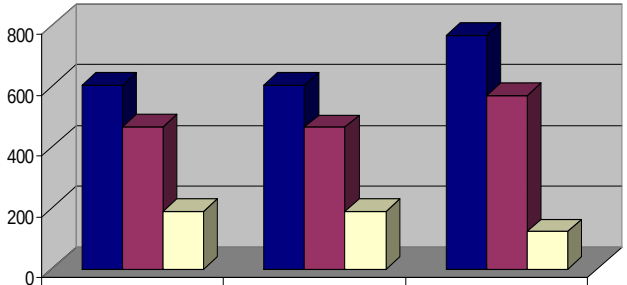
Charts 17.3a, b & c – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Physicians and Surgeons Cases

Physicians and Surgeons--VE Cases Only
Days From Accusation Filed to Disciplinary Outcome



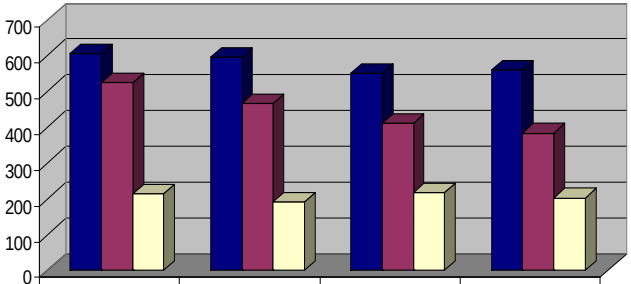
	2006	2007	2008
Average No. of Days	85	184	243
Median No. of Days	99	177	238
No. of Cases	3	28	80

Physicians and Surgeons--Non-VE Cases Only
Days From Accusation Filed to Disciplinary Outcome



	2006	2007	2008
Average No. of Days	603	604	768
Median No. of Days	467	465	569
No. of Cases	189	189	123

Physicians and Surgeons--Total Cases
Days From Accusation Filed to Disciplinary Outcome



	2005	2006	2007	2008
Average No. of Days	605	595	550	561
Median No. of Days	525	466	411	384
No. of Cases	213	192	217	203

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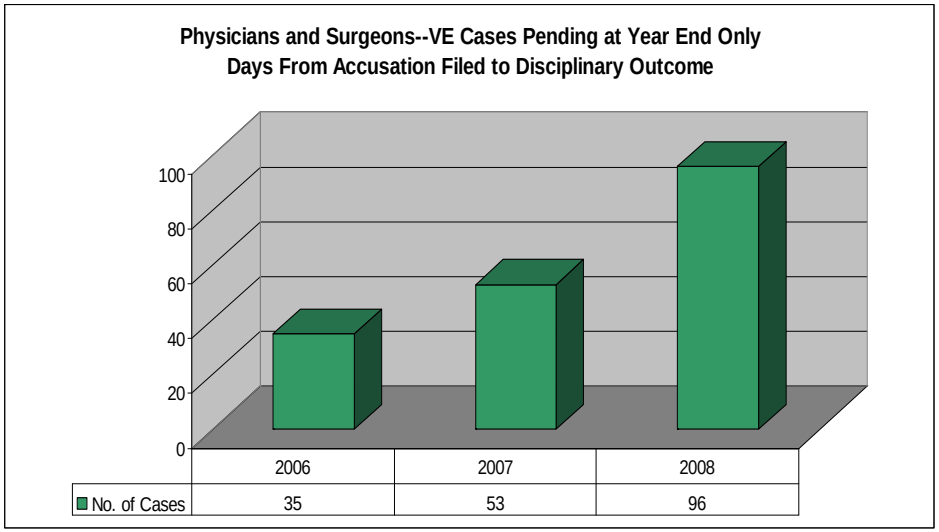
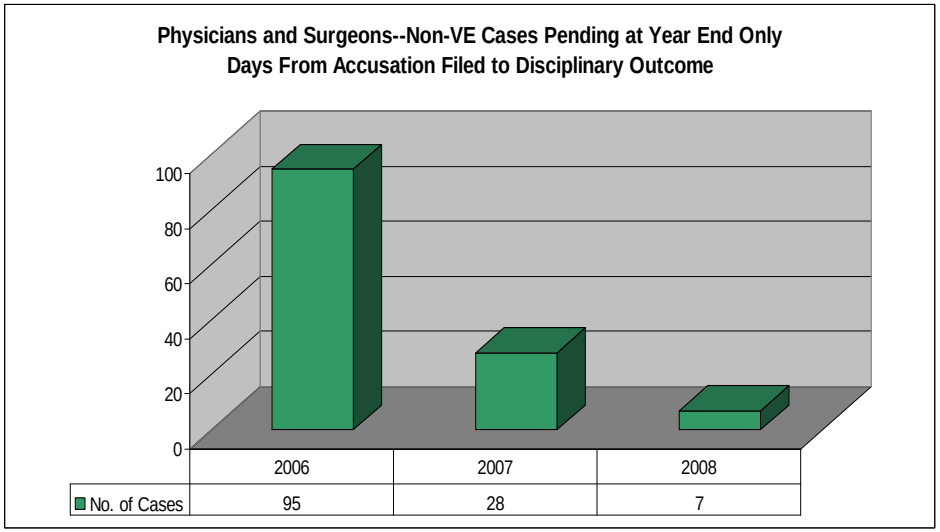
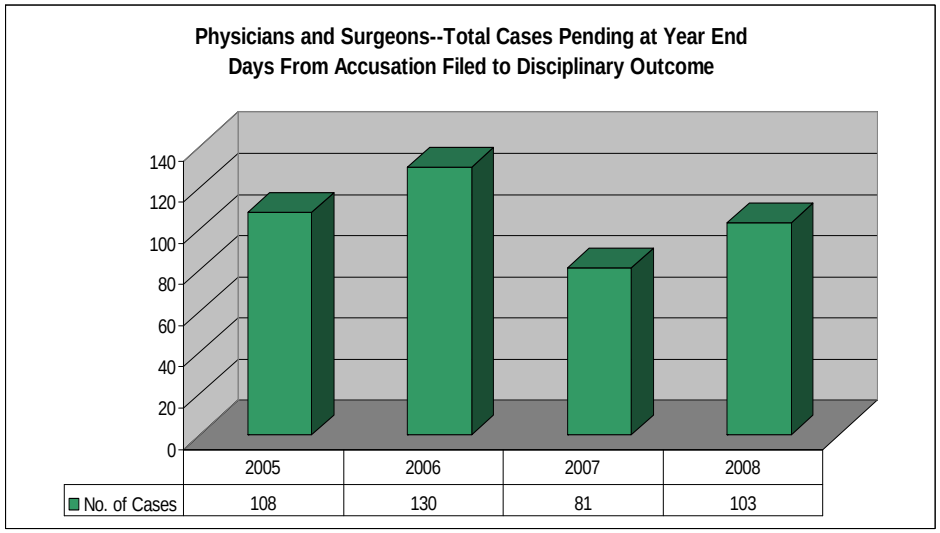
Charts 17.3d, d & f – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Physicians and Surgeons Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM ACCUSATION FILED TO DISCIPLINARY OUTCOME — ALLIED HEALTH

Table 17.4 below reports the average and median calendar days aged from accusation filed to disciplinary outcome for Allied Health Care cases. Between 2005 and 2008, there was an 18.40% decrease in the average days aged, a 30.20% decrease in the median days aged, a 12.00% decrease in the number of cases and a 14.89% increase in the number of cases pending at year end.

Table 17.4 – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Allied Health Cases

	Percentage Difference 2006 to 2007						Percentage Difference 2007 to 2008						Percentage Difference 2006 to 2008						Percentage Difference 2005 to 2008	
	All		Not VE		VE		All		Not VE		VE		All		Not VE		VE		All	
Activity		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Accusation Filed to Disciplinary Outcome**																				
Average	-31.97%		-29.24%		29.52%		20.18%		35.26%		45.12%		-18.24%		-4.28%		87.95%		-18.40%	
Median (middle record-half are above and half below)	-14.67%		-14.40%		59.06%		22.46%		26.13%		50.99%		4.49%		7.97%		140.16%		-30.20%	
Record Count	-28.30%	33.33%	-41.30%	-20.00%	57.14%	500.00%	15.79%	3.85%	-29.63%	-35.71%	127.27%	50.00%	-16.98%	38.46%	-58.70%	-48.57%	257.14%	800.00%	-12.00%	14.89%

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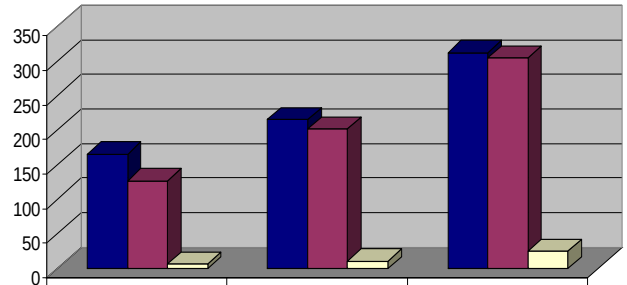
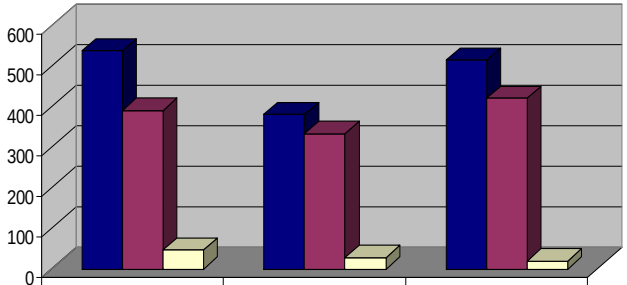
Charts 17.4a, b & c – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Allied Health Cases

Allied Health--VE Cases Only
Days From Accusation Filed to Disciplinary Outcome



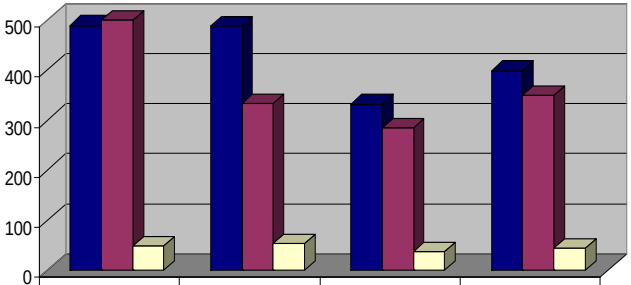
	2006	2007	2008
Average No. of Days	166	215	312
Median No. of Days	127	202	305
No. of Cases	7	11	25

Allied Health--Non-VE Cases Only
Days From Accusation Filed to Disciplinary Outcome



	2006	2007	2008
Average No. of Days	537	380	514
Median No. of Days	389	333	420
No. of Cases	46	27	19

Allied Health--Total Cases
Days From Accusation Filed to Disciplinary Outcome



	2005	2006	2007	2008
Average No. of Days	489	488	332	399
Median No. of Days	500	334	285	349
No. of Cases	50	53	38	44

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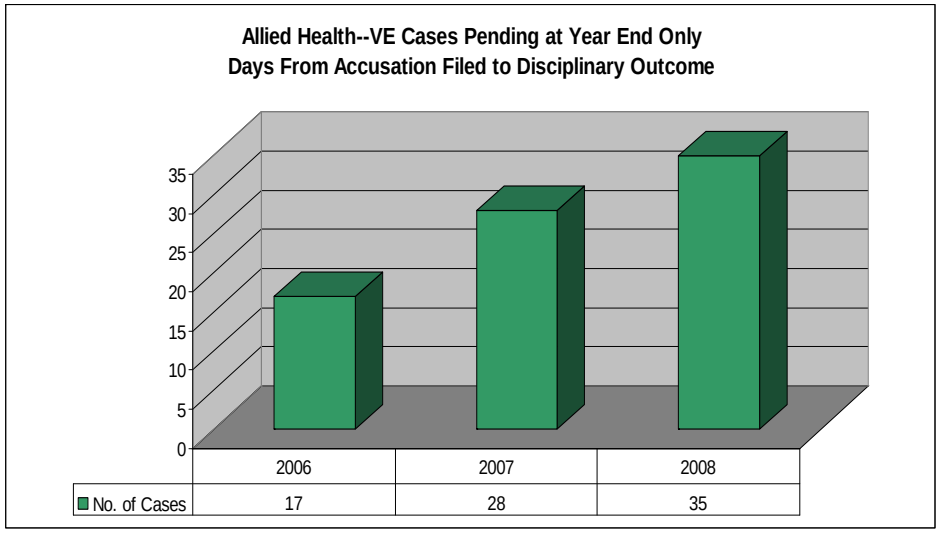
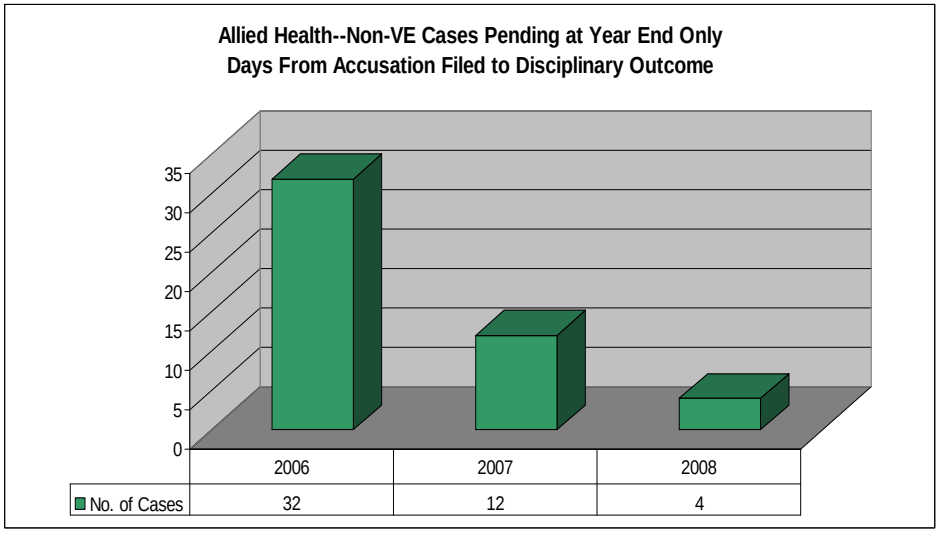
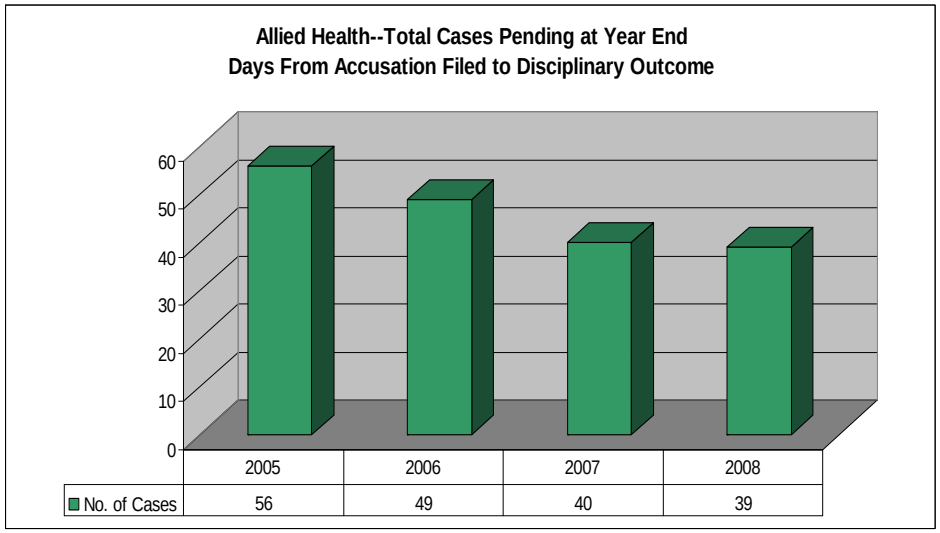
Charts 17.4d, d & f – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Allied Health Cases — Cases Pending at Year End







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CALENDAR DAYS AGED FROM ACCUSATION FILED TO ADMINISTRATIVE OUTCOMES — PHYSICIANS AND SURGEONS AND ALLIED HEALTH COMBINED

Table 17.5 below reports the average and median calendar days aged from the date the accusation was filed to the indicated administrative outcome for Physicians and Surgeons and Allied Health Care cases.

For cases resulting in revocation of license, between 2005 and 2008 there was a 10.11% decrease in the average days aged, a 39.45% decrease in the median days aged, and a 12.00% decrease in the number of cases.

For cases resulting in surrender of license, between 2005 and 2008 there was a 14.88% decrease in the average days aged, a 49.86% decrease in the median days aged, and a 10.26% decrease in the number of cases.

For cases resulting in suspension of license only, the percentage increase or decrease could not be calculated as there were no cases in 2005.

For cases resulting in probation, between 2005 and 2008 there was a 22.04% decrease in the average days aged, a 27.11% decrease in the median days aged, and a 6.82% decrease in the number of cases.

For cases resulting in probation with suspension, between 2005 and 2008 there was a 4.32% decrease in the average days aged, a 16.39% decrease in the median days aged, and a 58.62% decrease in the number of cases.

For cases resulting in public reprimand, between 2005 and 2008 there was an 11.35% decrease in the average days aged, a 31.86% decrease in the median days aged, and no change in the number of cases.

For cases resulting in other decisions, between 2005 and 2008 there was a 33.52% increase in the average days aged, a 5.90% decrease in the median days aged, and a 300.00% increase in the number of cases.

For cases resulting in a withdrawal or dismissal, between 2005 and 2008 there was a 16.67% increase in the average days aged, a 23.64% decrease in the median days aged, and a 24.00% increase in the number of cases.

Table 17.5 – Calendar Days Aged from Accusation Filed to Indicated Administrative Outcome for Physicians and Surgeons and Allied Health Cases

	Percentage Difference 2006 to 2007			Percentage Difference 2007 to 2008			Percentage Difference 2006 to 2008			Percentage Difference 2005 to 2008
	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE	All
REVOCATION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	81.44%	103.93%	-38.62%	-20.79%	24.10%	-7.80%	43.71%	153.09%	-43.41%	-10.11%
Median (middle record - half are above and half below)	124.55%	241.92%	22.75%	-29.60%	50.96%	-23.90%	58.08%	416.17%	-6.59%	-39.45%
Record Count	30.00%	11.11%	-70.00%	-15.38%	-55.00%	116.67%	10.00%	-50.00%	-35.00%	-12.00%
SURRENDER										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-47.02%	-34.47%	-71.84%	57.21%	170.93%	27.12%	-16.71%	77.55%	-64.20%	-14.88%
Median (middle record - half are above and half below)	-39.00%	-7.79%	-65.33%	0.55%	75.00%	28.85%	-38.67%	61.37%	-55.33%	-49.86%
Record Count	-15.38%	-44.44%	-66.67%	6.06%	-45.00%	84.62%	-10.26%	-69.44%	-38.46%	-10.26%
SUSPENSION ONLY										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-100.00%	-100.00%	-100.00%				-100.00%	-100.00%	-100.00%	
Median (middle record - half are above and half below)	-100.00%	-100.00%	-100.00%				-100.00%	-100.00%	-100.00%	
Record Count	-100.00%	-100.00%	-100.00%				-100.00%	-100.00%	-100.00%	
PROBATION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-6.96%	-1.25%	-52.32%	-10.36%	3.07%	11.24%	-16.61%	1.79%	-46.96%	-22.04%
Median (middle record - half are above and half below)	-9.49%	4.63%	-39.35%	-7.16%	-5.75%	1.15%	-15.97%	-1.39%	-38.66%	-27.11%
Record Count	20.27%	6.76%	-86.49%	-7.87%	-35.44%	210.00%	10.81%	-31.08%	-58.11%	-6.82%
PROBATION W/SUSPENSION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-6.03%	-7.50%	-59.70%	2.00%	36.49%	45.33%	-4.14%	26.25%	-41.43%	-4.32%
Median (middle record - half are above and half below)	-23.76%	-23.15%	-57.62%	5.97%	59.01%	29.91%	-19.21%	22.20%	-44.95%	-16.39%
Record Count	-5.88%	-6.25%	-94.12%	-25.00%	-60.00%	500.00%	-29.41%	-62.50%	-64.71%	-58.62%
PUBLIC REPRIMAND										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-14.96%	-12.40%	-60.51%	-3.49%	-12.31%	15.36%	-17.92%	-1.62%	-54.45%	-11.35%
Median (middle record - half are above and half below)	-29.09%	-22.58%	-63.82%	-2.24%	-17.01%	23.60%	-30.68%	-9.41%	-55.28%	-31.86%
Record Count	-19.12%	-23.53%	-95.59%	0.00%	26.92%	466.67%	-19.12%	-44.12%	-75.00%	0.00%
OTHER DECISION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-61.58%	-56.30%	-82.64%	37.72%	87.22%	38.70%	-47.09%	-18.19%	-75.92%	33.52%
Median (middle record - half are above and half below)	-27.06%	-4.62%	-62.05%	11.76%	18.17%	41.30%	-18.48%	12.71%	-46.37%	-5.90%
Record Count	66.67%	33.33%	-66.67%	60.00%	0.00%	300.00%	166.67%	33.33%	33.33%	300.00%
ACCUSATION WITHDRAWN/DISMISSED										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	10.04%	8.15%	-70.08%	41.50%	59.97%	103.95%	55.71%	73.01%	-38.98%	16.67%
Median (middle record - half are above and half below)	5.19%	29.43%	-56.82%	25.62%	80.57%	168.42%	32.14%	133.71%	15.91%	-23.64%
Record Count	34.78%	36.84%	-78.26%	0.00%	-19.23%	100.00%	34.78%	10.53%	-56.52%	24.00%

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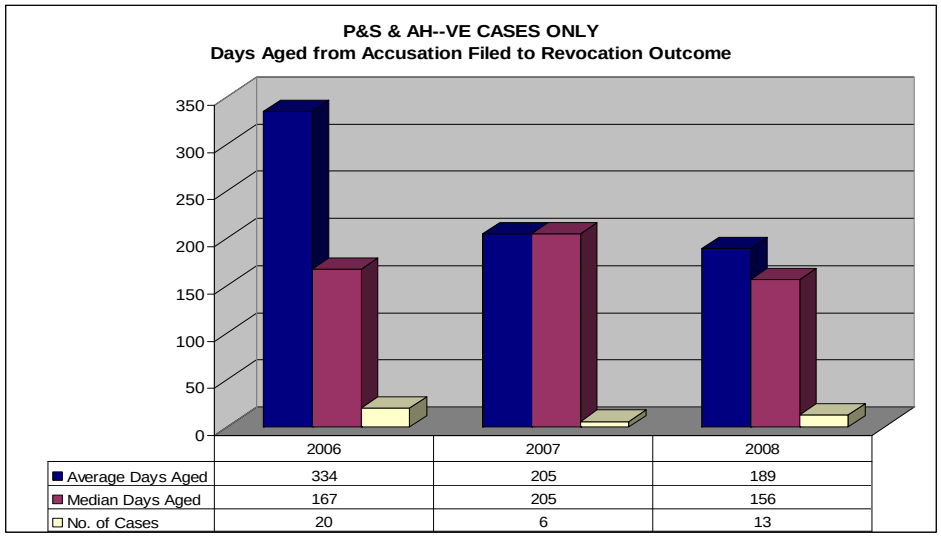
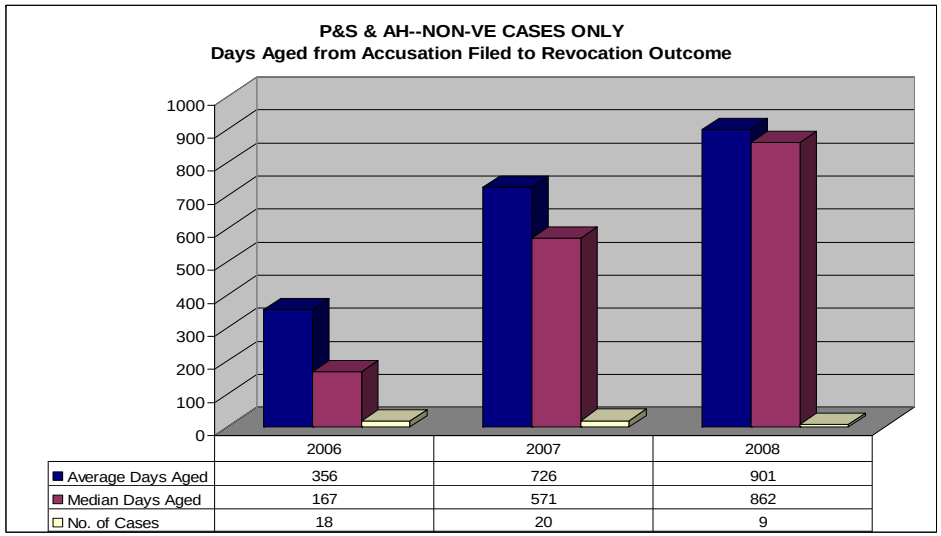
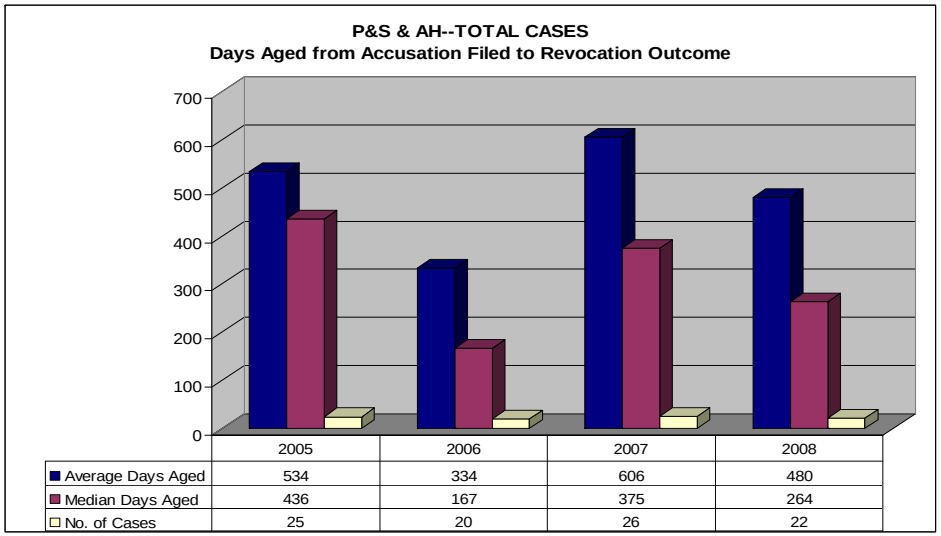
Charts 17.5a, b& c – Calendar Days Aged from Accusation Filed to Revocation Outcome for Physicians and Surgeons and Allied Health Cases



	2006	2007	2008
Average Days Aged	334	205	189
Median Days Aged	167	205	156
No. of Cases	20	6	13



	2006	2007	2008
Average Days Aged	356	726	901
Median Days Aged	167	571	862
No. of Cases	18	20	9



	2005	2006	2007	2008
Average Days Aged	534	334	606	480
Median Days Aged	436	167	375	264
No. of Cases	25	20	26	22

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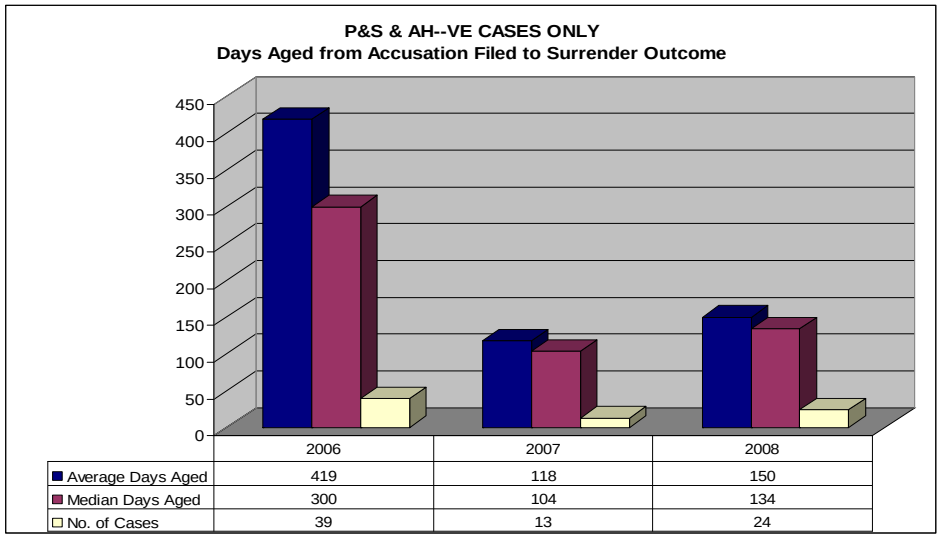
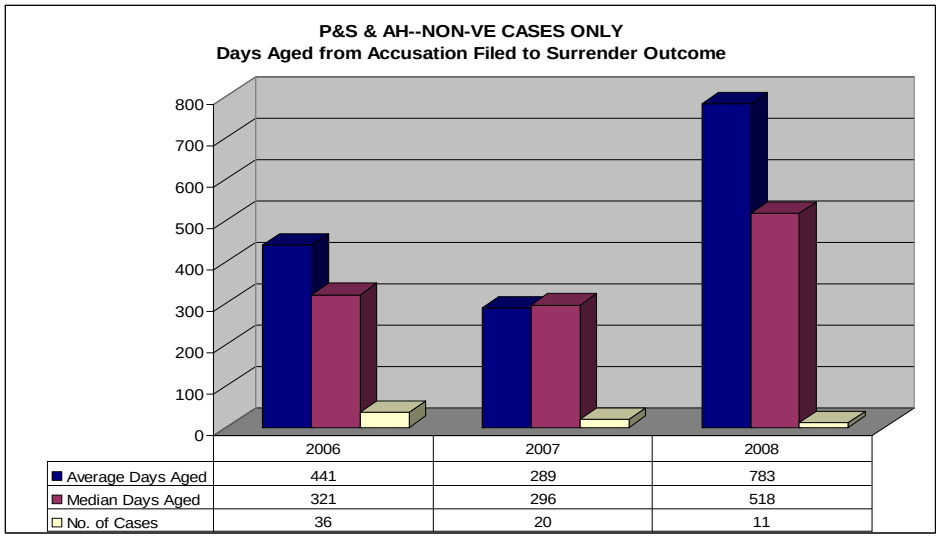
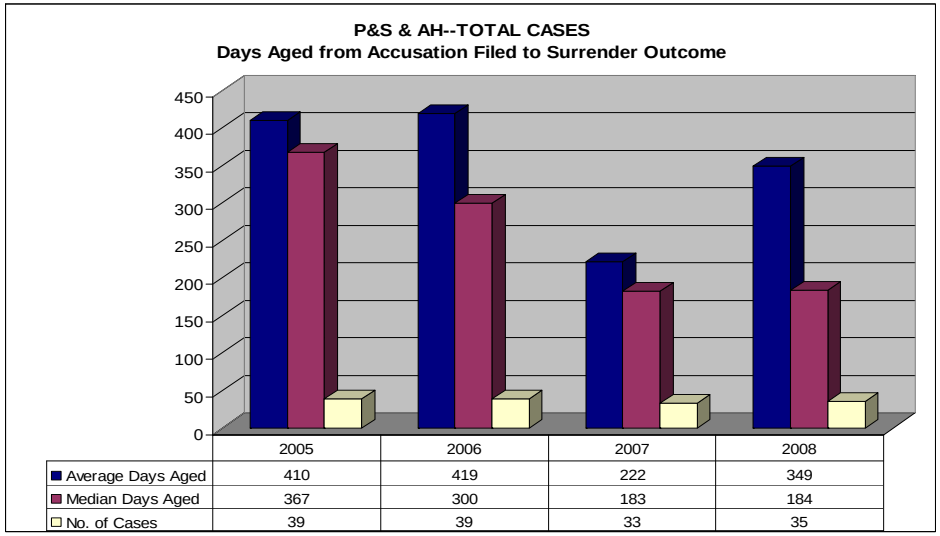
Charts 17.5d, e& f – Calendar Days Aged from Accusation Filed to Surrender Outcome for Physicians and Surgeons and Allied Health Cases



	2006	2007	2008
Average Days Aged	419	118	150
Median Days Aged	300	104	134
No. of Cases	39	13	24



	2006	2007	2008
Average Days Aged	441	289	783
Median Days Aged	321	296	518
No. of Cases	36	20	11



	2005	2006	2007	2008
Average Days Aged	410	419	222	349
Median Days Aged	367	300	183	184
No. of Cases	39	39	33	35

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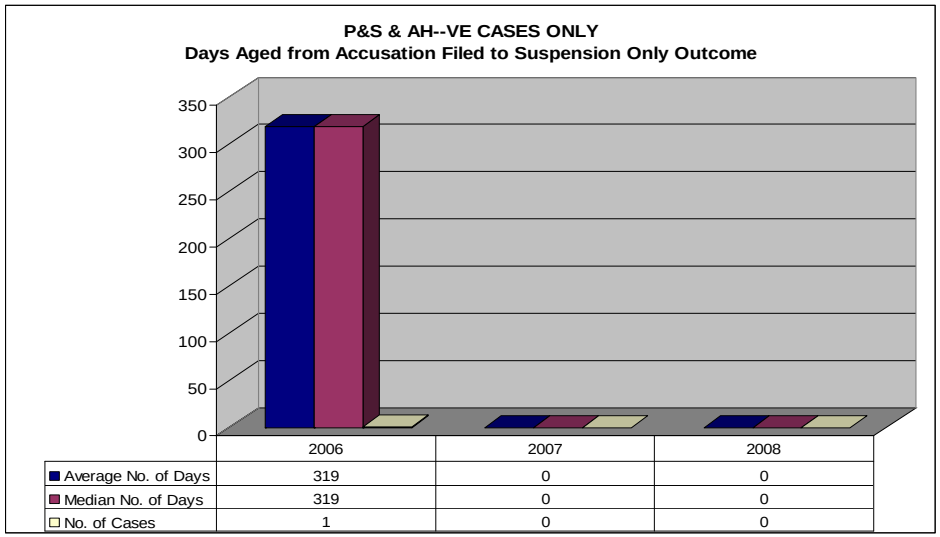
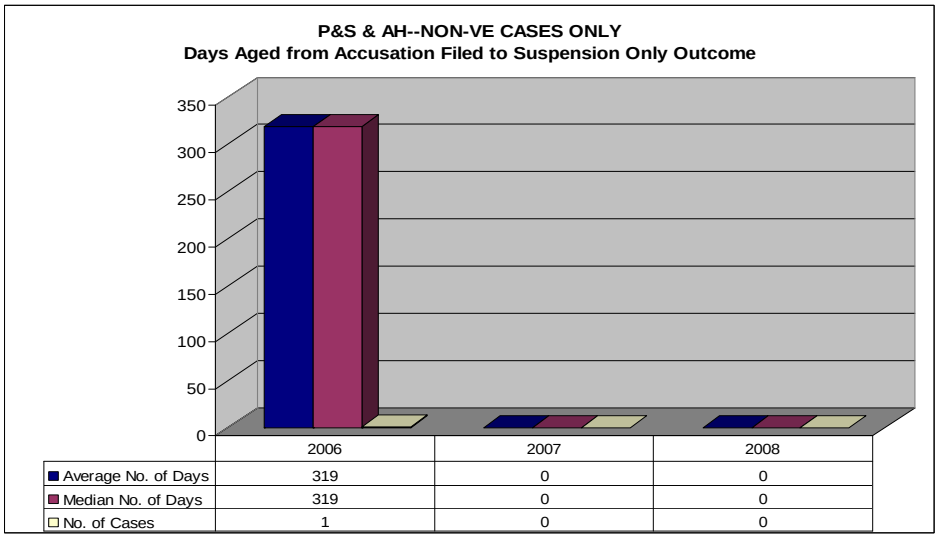
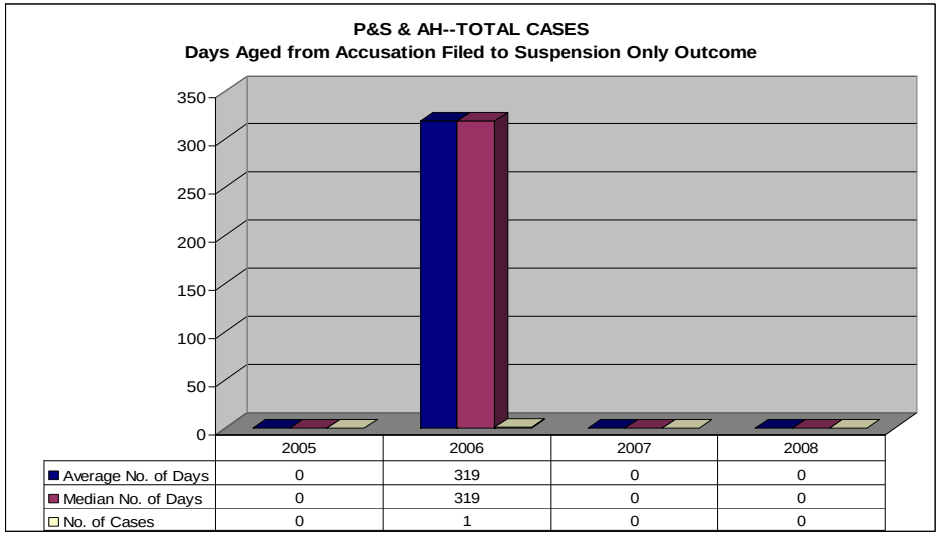
Charts 17.5g, h & i – Calendar Days Aged from Accusation Filed to Suspension Only Outcome for Physicians and Surgeons and Allied Health Cases



	2006	2007	2008
Average No. of Days	319	0	0
Median No. of Days	319	0	0
No. of Cases	1	0	0



	2006	2007	2008
Average No. of Days	319	0	0
Median No. of Days	319	0	0
No. of Cases	1	0	0



	2005	2006	2007	2008
Average No. of Days	0	319	0	0
Median No. of Days	0	319	0	0
No. of Cases	0	1	0	0

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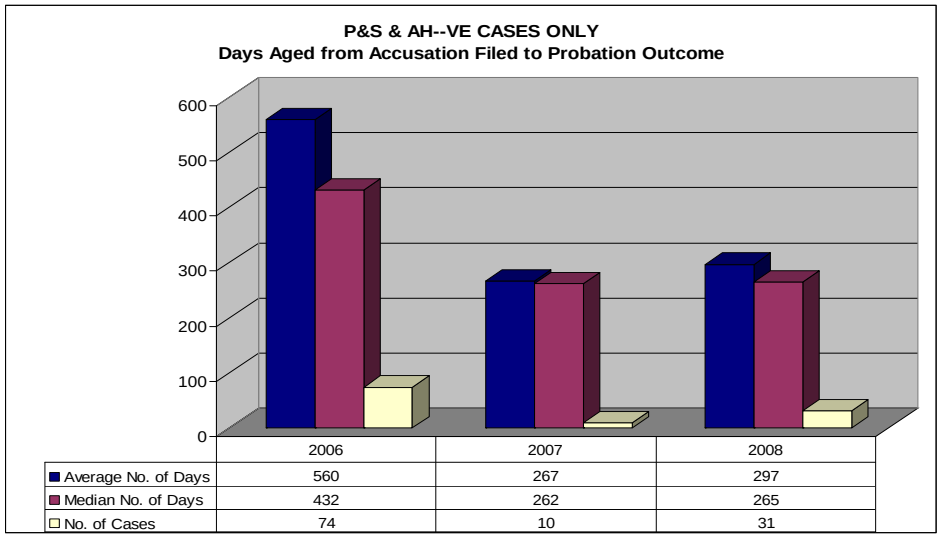
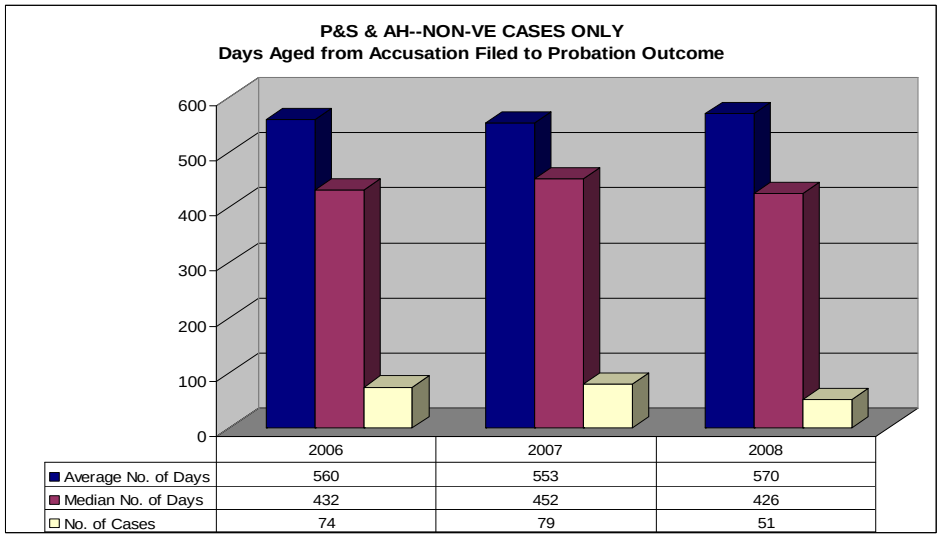
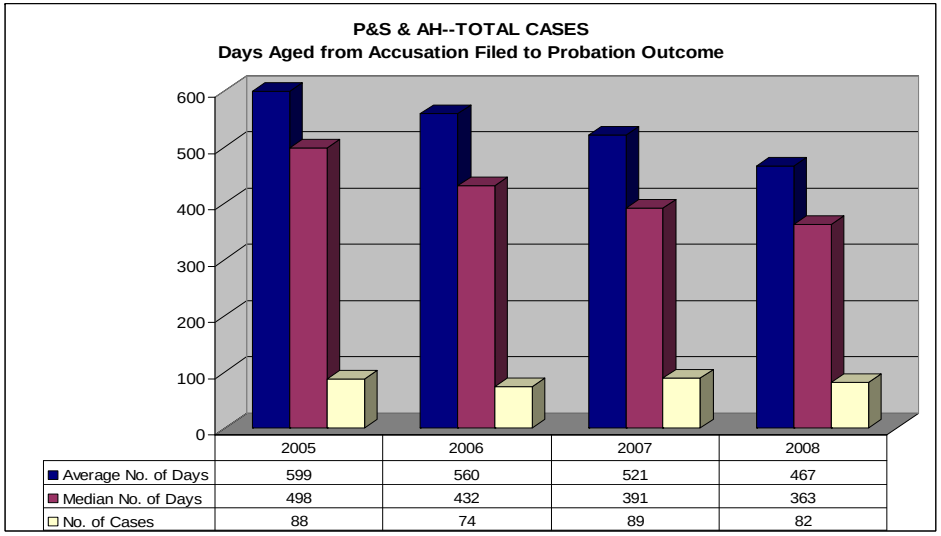
Charts 17.5j, k & l – Calendar Days Aged from Accusation Filed to Probation Outcome for Physicians and Surgeons and Allied Health Cases



	2006	2007	2008
Average No. of Days	560	267	297
Median No. of Days	432	262	265
No. of Cases	74	10	31



	2006	2007	2008
Average No. of Days	560	553	570
Median No. of Days	432	452	426
No. of Cases	74	79	51



	2005	2006	2007	2008
Average No. of Days	599	560	521	467
Median No. of Days	498	432	391	363
No. of Cases	88	74	89	82

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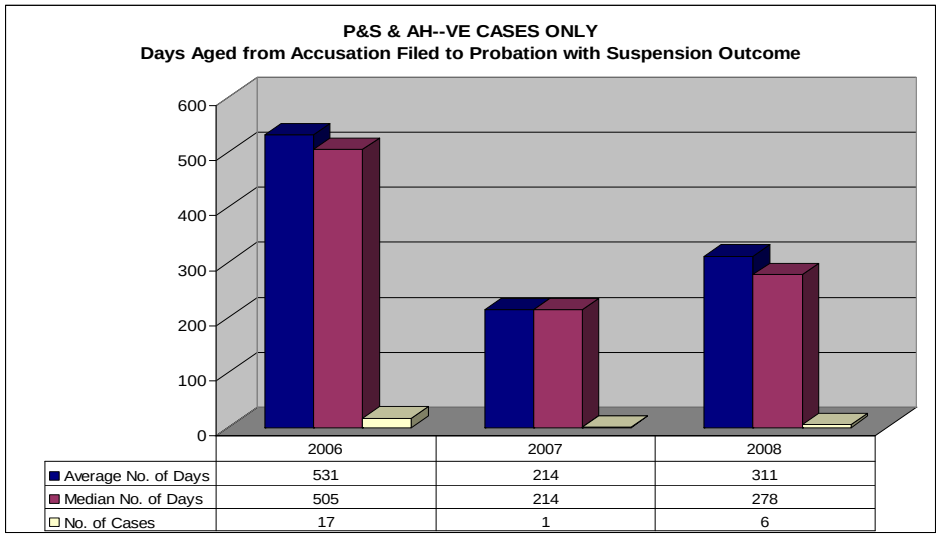
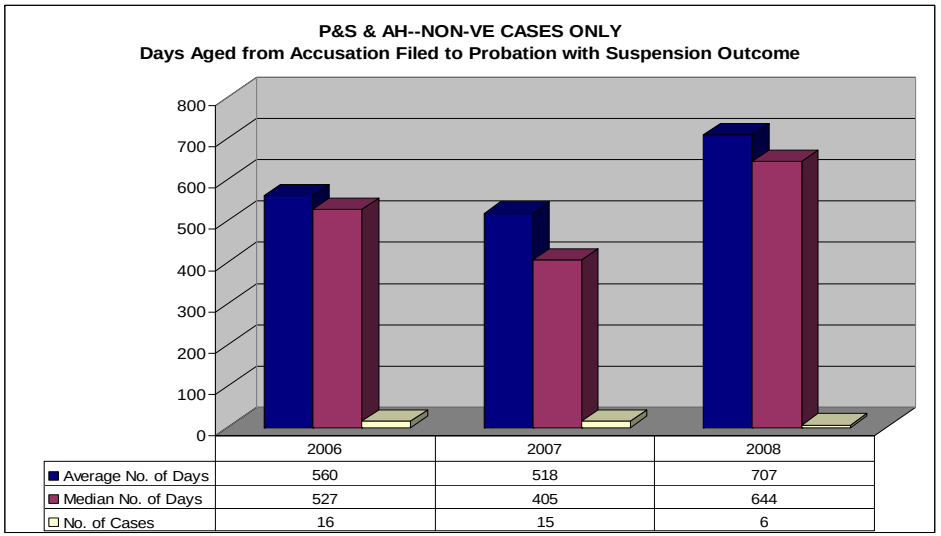
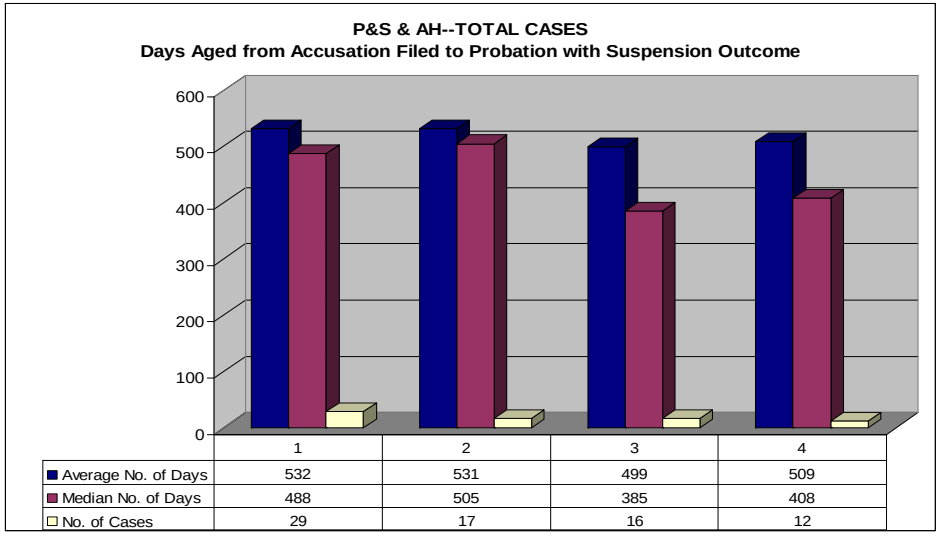
Charts 17.5m, n & o – Calendar Days Aged from Accusation Filed to Probation with Suspension Outcome for Physicians and Surgeons and Allied Health Cases



	2006	2007	2008
Average No. of Days	531	214	311
Median No. of Days	505	214	278
No. of Cases	17	1	6



	2006	2007	2008
Average No. of Days	560	518	707
Median No. of Days	527	405	644
No. of Cases	16	15	6



	1	2	3	4
Average No. of Days	532	531	499	509
Median No. of Days	488	505	385	408
No. of Cases	29	17	16	12

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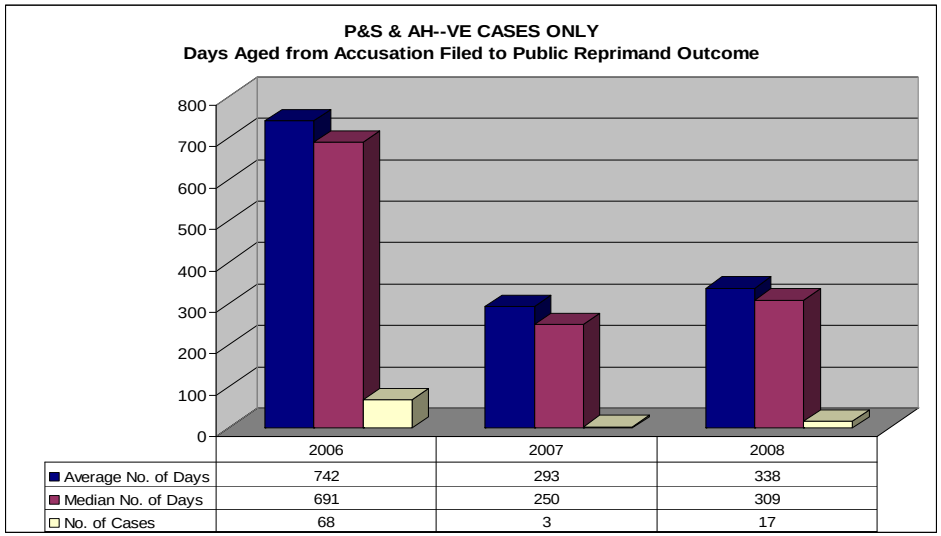
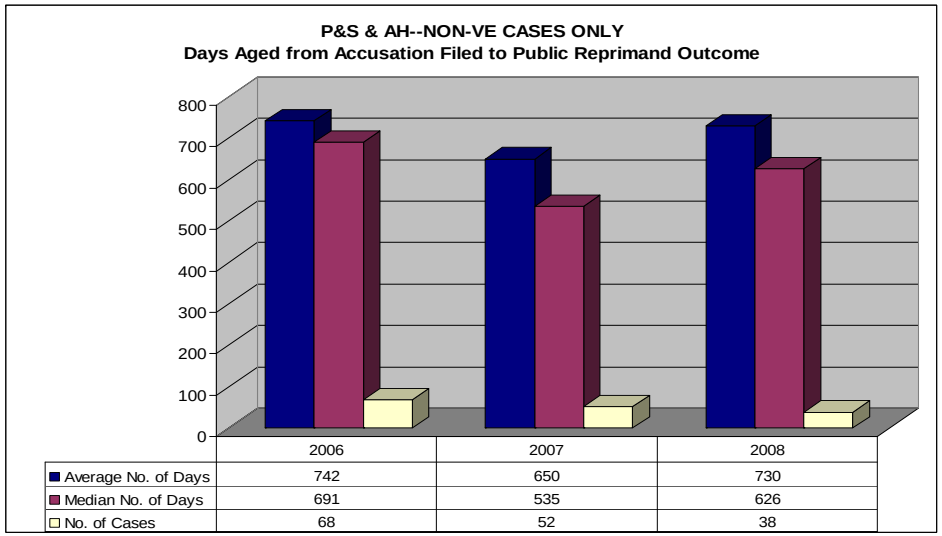
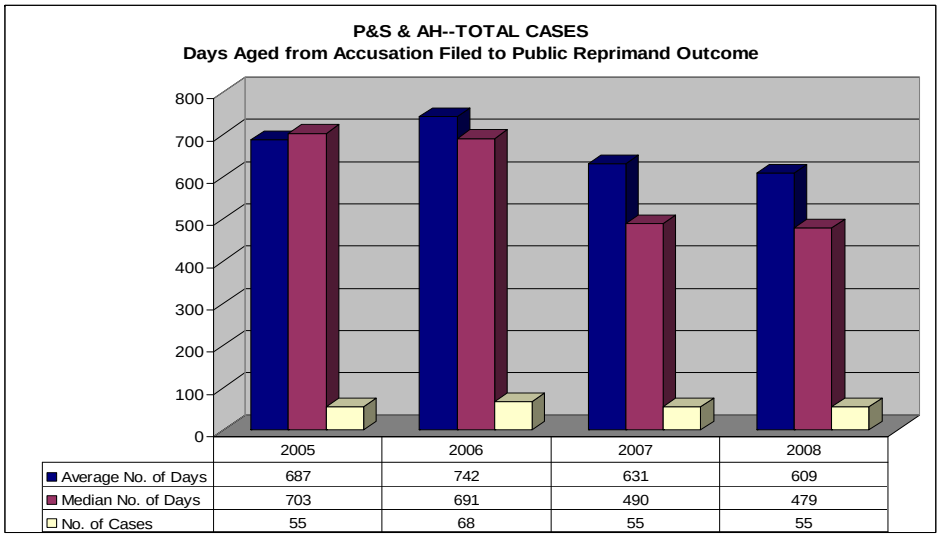
Charts 17.5p, q & r – Calendar Days Aged from Accusation Filed to Public Reprimand Outcome for Physicians and Surgeons and Allied Health Cases



	2006	2007	2008
Average No. of Days	742	293	338
Median No. of Days	691	250	309
No. of Cases	68	3	17



	2006	2007	2008
Average No. of Days	742	650	730
Median No. of Days	691	535	626
No. of Cases	68	52	38



	2005	2006	2007	2008
Average No. of Days	687	742	631	609
Median No. of Days	703	691	490	479
No. of Cases	55	68	55	55

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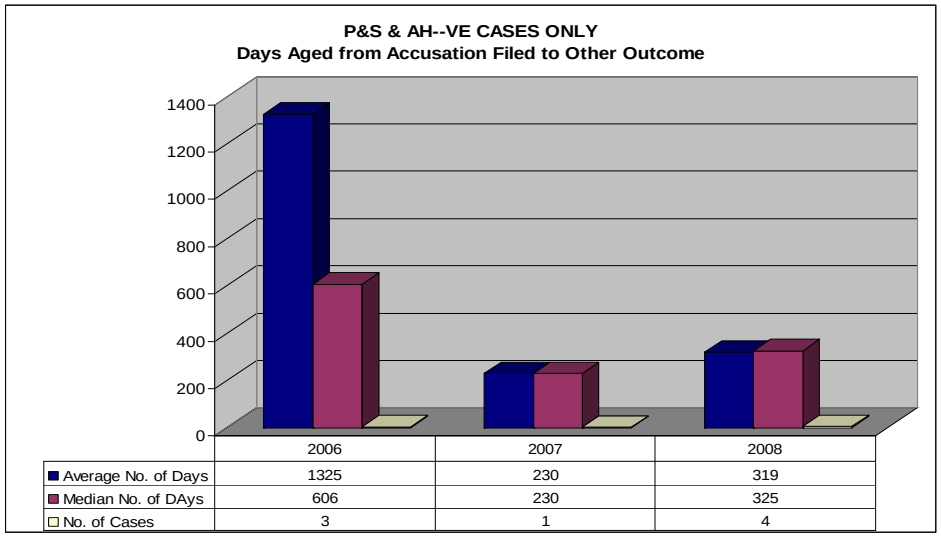
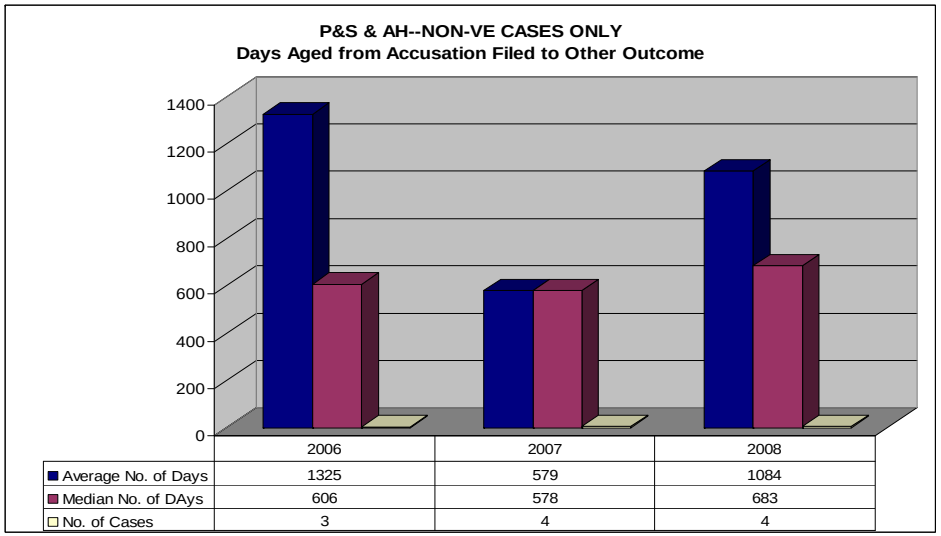
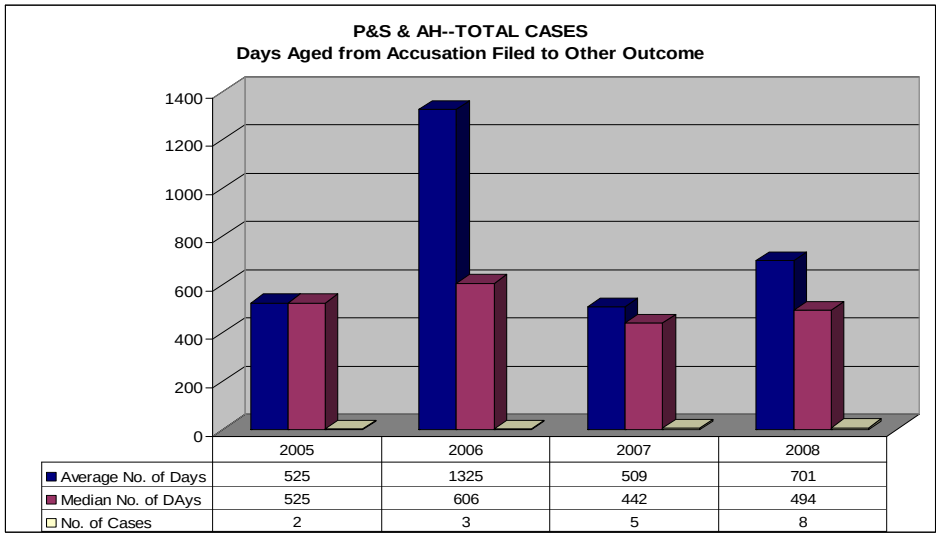
Charts 17.5s, t & u – Calendar Days Aged from Accusation Filed to Other Outcome for Physicians and Surgeons and Allied Health Cases



	2006	2007	2008
Average No. of Days	1325	230	319
Median No. of DAys	606	230	325
No. of Cases	3	1	4



	2006	2007	2008
Average No. of Days	1325	579	1084
Median No. of DAys	606	578	683
No. of Cases	3	4	4



	2005	2006	2007	2008
Average No. of Days	525	1325	509	701
Median No. of DAys	525	606	442	494
No. of Cases	2	3	5	8

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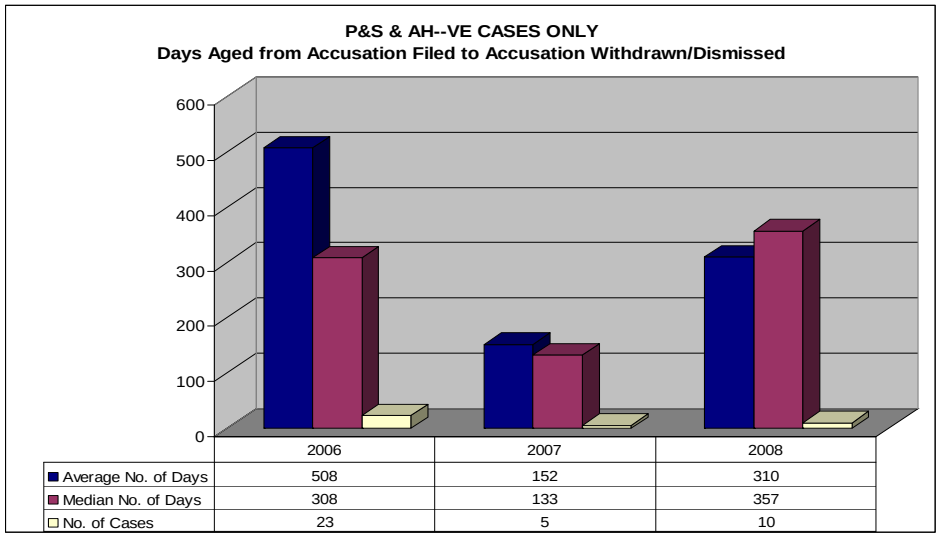
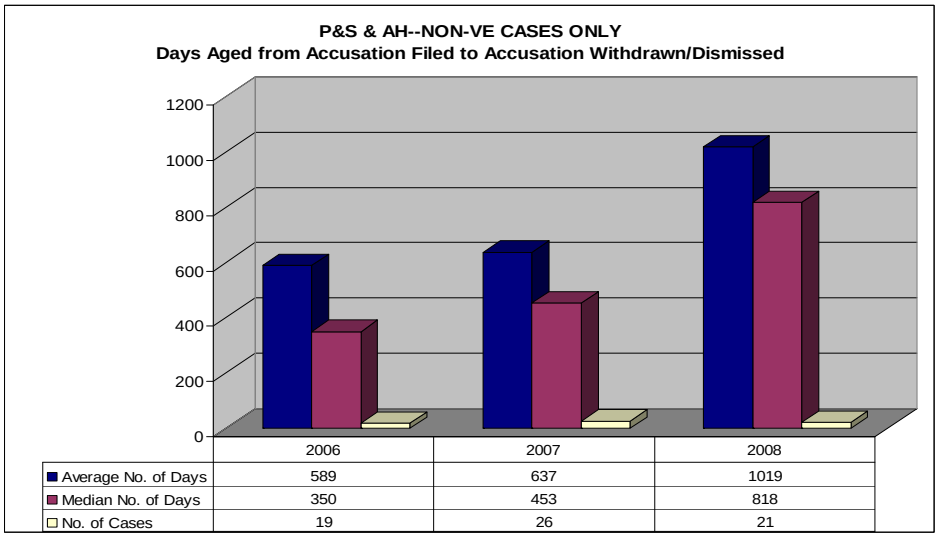
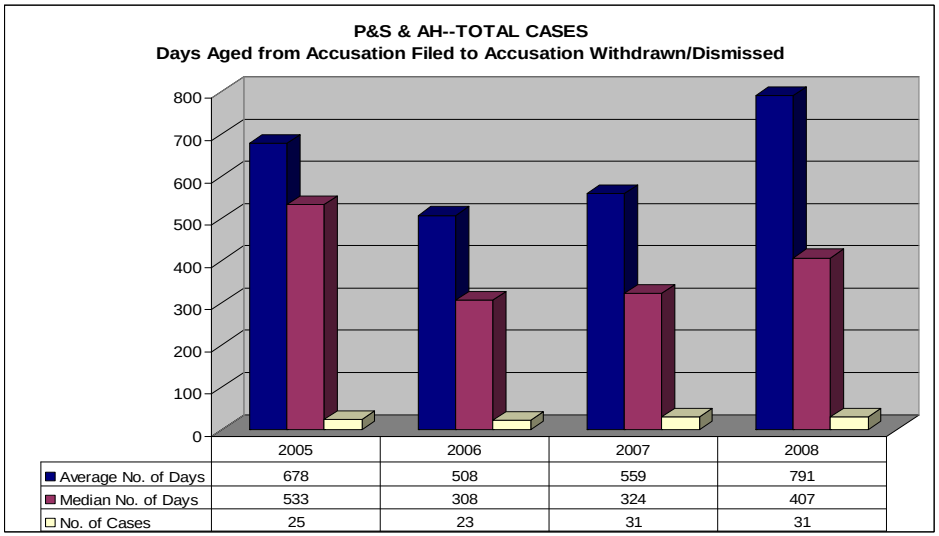
Charts 17.5v, w & x – Calendar Days Aged from Accusation Filed to Withdrawn/Dismissed Outcome for Physicians and Surgeons and Allied Health Cases







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CALENDAR DAYS AGED FROM ACCUSATION FILED TO ADMINISTRATIVE OUTCOMES — PHYSICIANS AND SURGEONS

Table 17.6 below reports the average and median calendar days aged from the date the accusation was filed to the indicated administrative outcome for Physicians and Surgeons cases.

For cases resulting in revocation of license, between 2005 and 2008 there was a 14.43% decrease in the average days aged, a 56.65% decrease in the median days aged, and a 16.67% decrease in the number of cases.

For cases resulting in surrender of license, between 2005 and 2008 there was a 14.66% decrease in the average days aged, a 50.14% decrease in the median days aged, and a 14.29% increase in the number of cases.

For cases resulting in suspension of license only, the percentage increase or decrease could not be calculated as there were no cases in 2005.

For cases resulting in probation, between 2005 and 2008 there was a 1.65% decrease in the average days aged, a 20.59% decrease in the median days aged, and a 20.00% decrease in the number of cases.

For cases resulting in probation with suspension, between 2005 and 2008 there was a 4.78% decrease in the average days aged, a 28.69% decrease in the median days aged, and a 62.50% decrease in the number of cases.

For cases resulting in public reprimand, between 2005 and 2008 there was a 9.49% decrease in the average days aged, a 29.39% decrease in the median days aged, and an 8.16% increase in the number of cases.

For cases resulting in other decisions, between 2005 and 2008 there was a 93.42% increase in the average days aged, a 15.34% decrease in the median days aged, and a 600.00% increase in the number of cases.

For cases resulting in a withdrawal or dismissal between 2005 and 2008 there was a 2.78% increase in the average days aged, a 25.73% decrease in the median days aged, and a 26.09% increase in the number of cases.

Table 17.6 – Calendar Days Aged from Accusation Filed to Indicated Administrative Outcome for Physicians and Surgeons Cases

	Percentage Difference 2006 to 2007			Percentage Difference 2007 to 2008			Percentage Difference 2006 to 2008			Percentage Difference 2005 to 2008
	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE	All
REVOCATION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	61.87%	-3.84%		-20.44%	25.34%	-11.54%	28.79%	20.53%		-14.43%
Median (middle record - half are above and half below)	135.91%	0.00%		-43.33%	50.96%	-28.57%	33.70%	50.96%		-56.55%
Record Count	81.82%	25.00%		-25.00%	-65.00%	100.00%	36.36%	-56.25%		-16.67%
SURRENDER										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-53.50%	2.12%	-17.86%	75.24%	188.93%	26.09%	-18.51%	195.05%	3.57%	-14.66%
Median (middle record - half are above and half below)	-53.06%	7.64%	-25.71%	14.29%	77.36%	28.85%	-46.36%	90.91%	-4.29%	-50.14%
Record Count	-20.00%	53.85%	1000.00%	33.33%	-50.00%	100.00%	6.67%	-23.08%	2100.00%	14.29%
SUSPENSION ONLY										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-100.00%						-100.00%			
Median (middle record - half are above and half below)	-100.00%						-100.00%			
Record Count	-100.00%						-100.00%			
PROBATION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-8.07%	-4.98%		6.81%	8.14%	-9.06%	-1.81%	2.75%		-1.65%
Median (middle record - half are above and half below)	-2.59%	-7.76%		-16.37%	5.09%	-3.82%	-18.53%	-3.06%		-20.59%
Record Count	29.31%	14.49%		-25.33%	-50.63%	183.33%	-3.45%	-43.48%		-20.00%
PROBATION W/SUSPENSION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-4.67%	1.57%		5.49%	48.26%		0.56%	50.59%		-4.78%
Median (middle record - half are above and half below)	-25.51%	10.96%		13.70%	73.33%		-15.31%	92.33%		-28.69%
Record Count	-7.14%	15.38%		-30.77%	-66.67%		-35.71%	-61.54%		-62.50%
PUBLIC REPRIMAND										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-12.82%	-2.55%		-5.05%	-12.31%	9.21%	-17.22%	9.45%		-9.49%
Median (middle record - half are above and half below)	-25.17%	-2.01%		-9.72%	-17.01%	-1.90%	-32.45%	14.65%		-29.39%
Record Count	-13.33%	4.00%		1.92%	26.92%	650.00%	-11.67%	-24.00%		8.16%
OTHER DECISION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-69.90%	0.00%		38.70%	110.88%	38.70%	-58.25%	110.88%		93.42%
Median (middle record - half are above and half below)	-73.86%	0.00%		-4.75%	20.07%	8.70%	-75.10%	20.07%		15.34%
Record Count	150.00%	0.00%		40.00%	-25.00%	300.00%	250.00%	-25.00%		600.00%
ACCUSATION WITHDRAWN/DISMISSED										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	80.43%	-4.21%	143.10%	37.63%	68.92%	119.86%	148.32%	61.80%	434.48%	2.78%
Median (middle record - half are above and half below)	34.25%	0.00%	87.93%	19.35%	85.21%	227.52%	60.24%	85.21%	515.52%	-25.73%
Record Count	75.00%	8.33%	100.00%	3.57%	-26.92%	150.00%	81.25%	-20.83%	400.00%	26.09%

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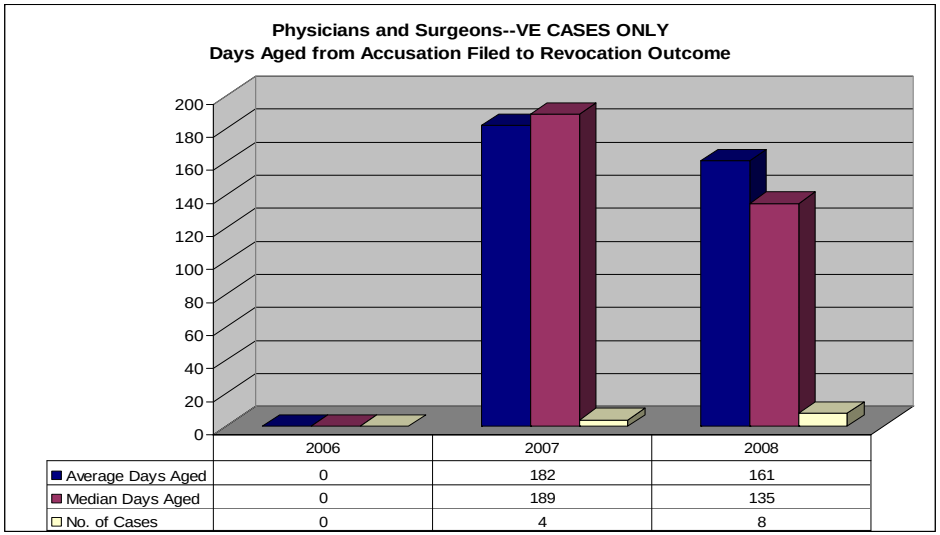
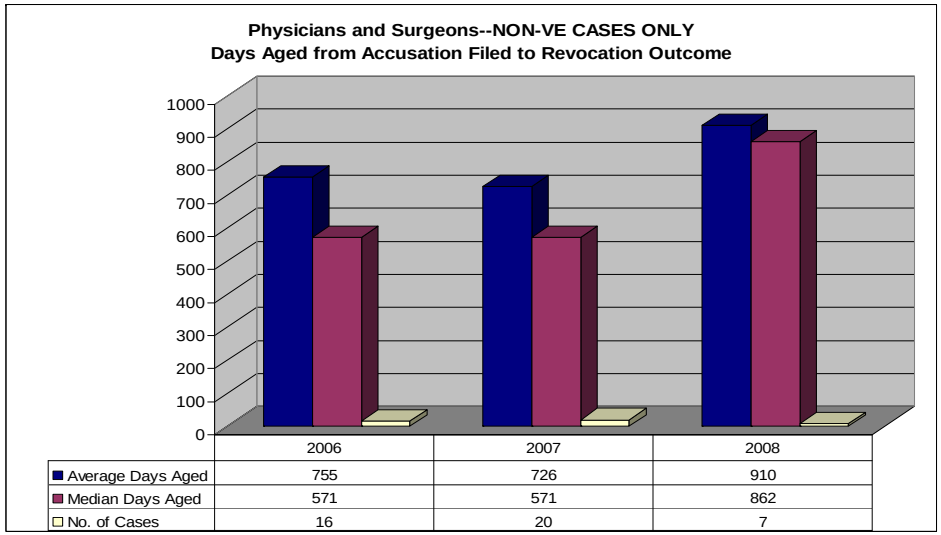
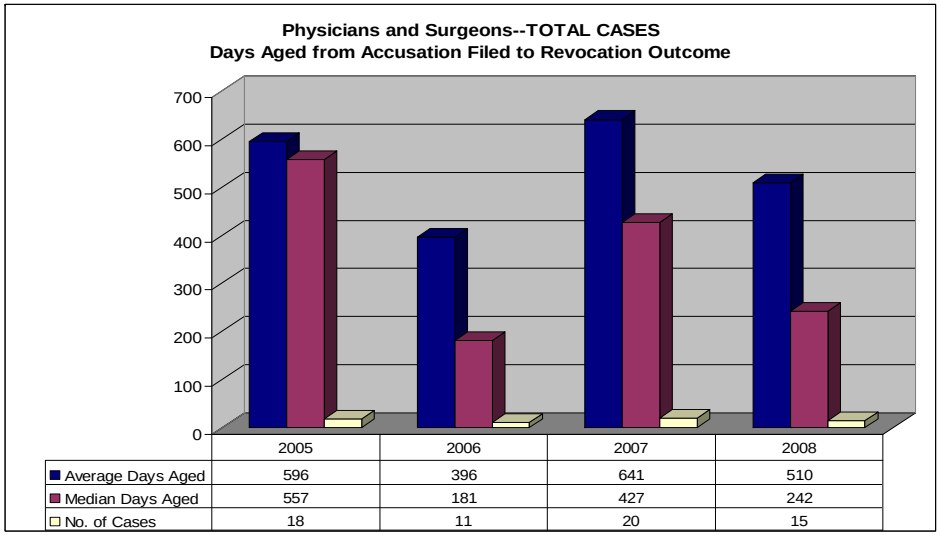
Charts 17.6a, b& c – Calendar Days Aged from Accusation Filed to Revocation Outcome for Physicians and Surgeons Cases



	2006	2007	2008
Average Days Aged	0	182	161
Median Days Aged	0	189	135
No. of Cases	0	4	8



	2006	2007	2008
Average Days Aged	755	726	910
Median Days Aged	571	571	862
No. of Cases	16	20	7



	2005	2006	2007	2008
Average Days Aged	596	396	641	510
Median Days Aged	557	181	427	242
No. of Cases	18	11	20	15

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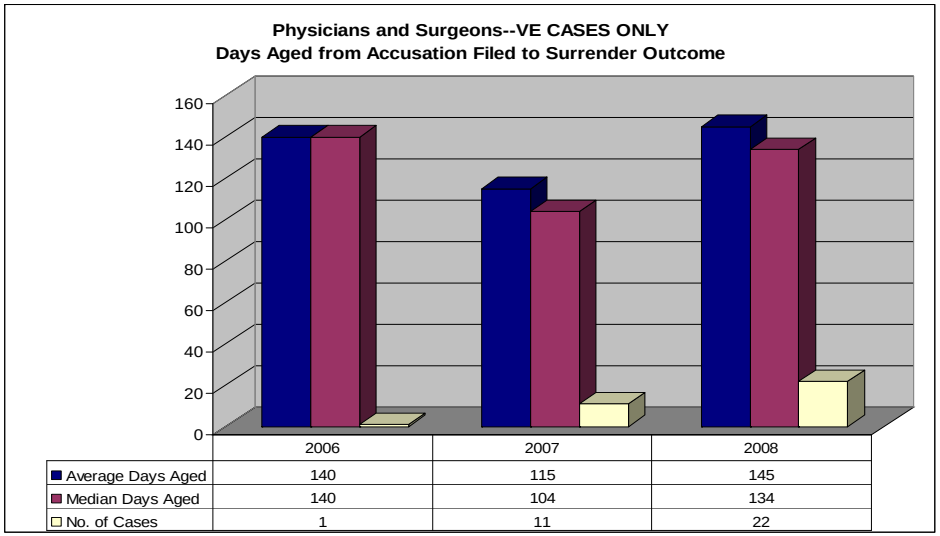
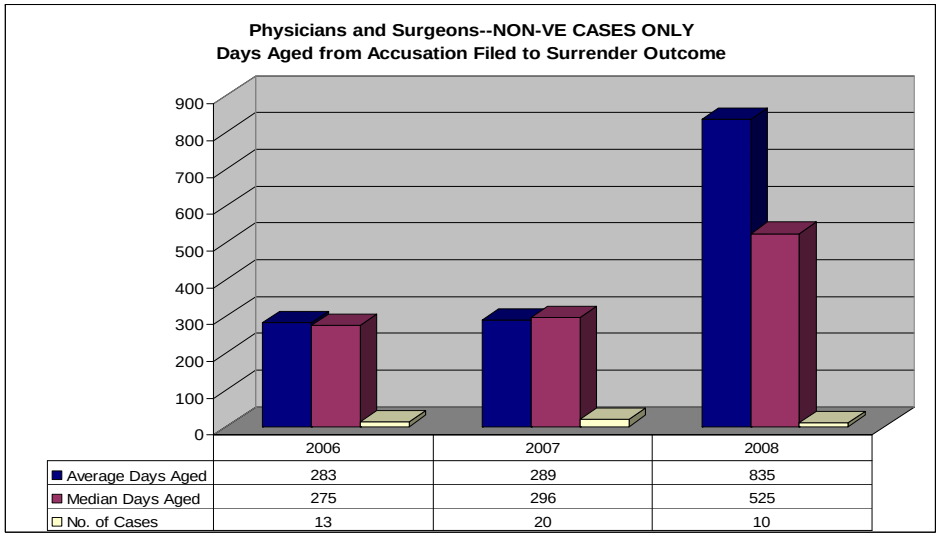
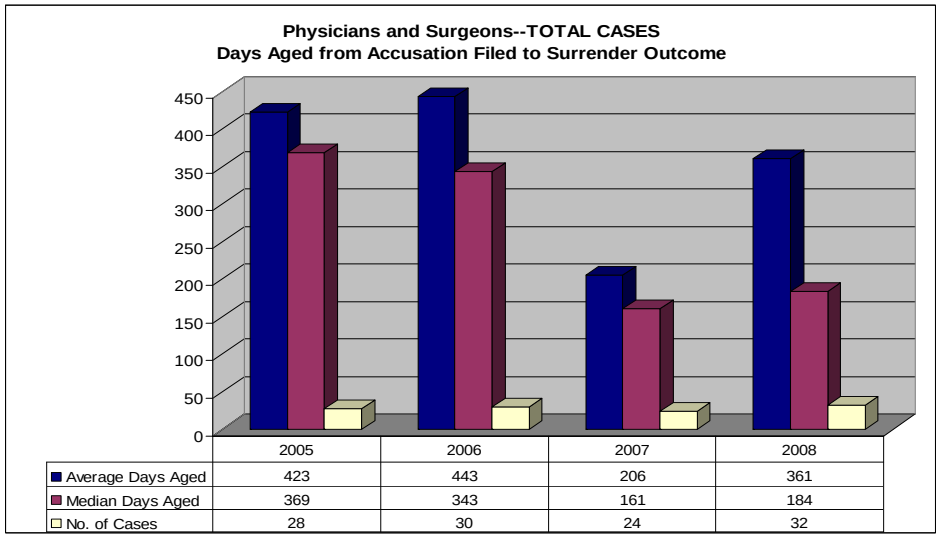
Charts 17.6d, e& f – Calendar Days Aged from Accusation Filed to Surrender Outcome for Physicians and Surgeons Cases



	2006	2007	2008
Average Days Aged	140	115	145
Median Days Aged	140	104	134
No. of Cases	1	11	22



	2006	2007	2008
Average Days Aged	283	289	835
Median Days Aged	275	296	525
No. of Cases	13	20	10



	2005	2006	2007	2008
Average Days Aged	423	443	206	361
Median Days Aged	369	343	161	184
No. of Cases	28	30	24	32

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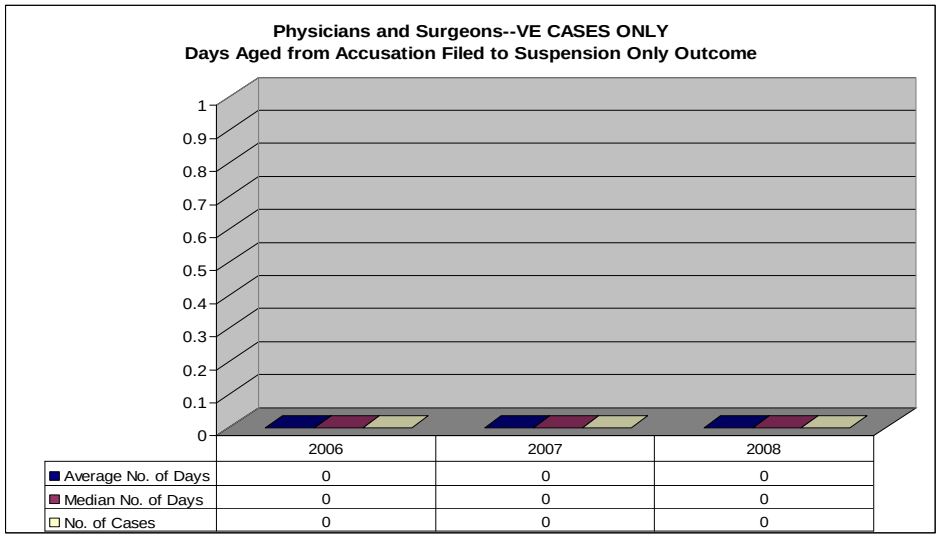
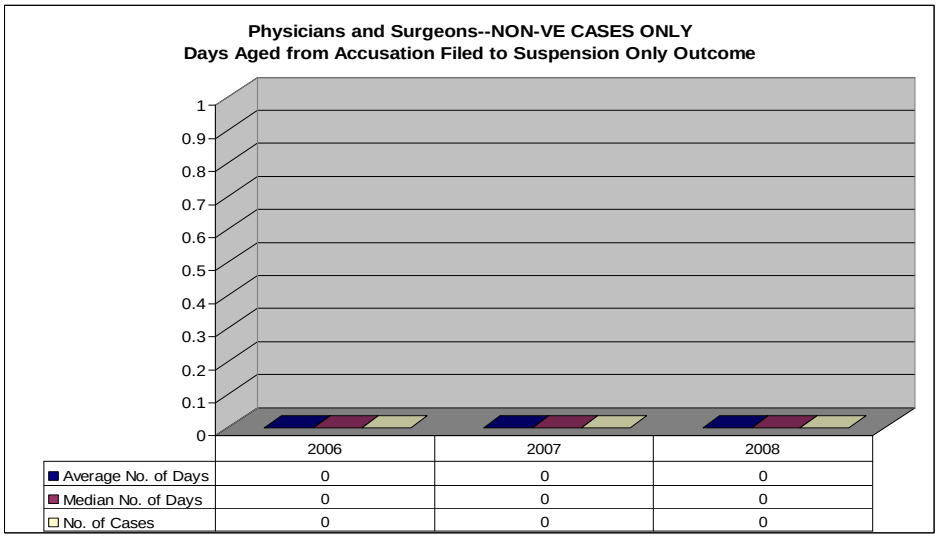
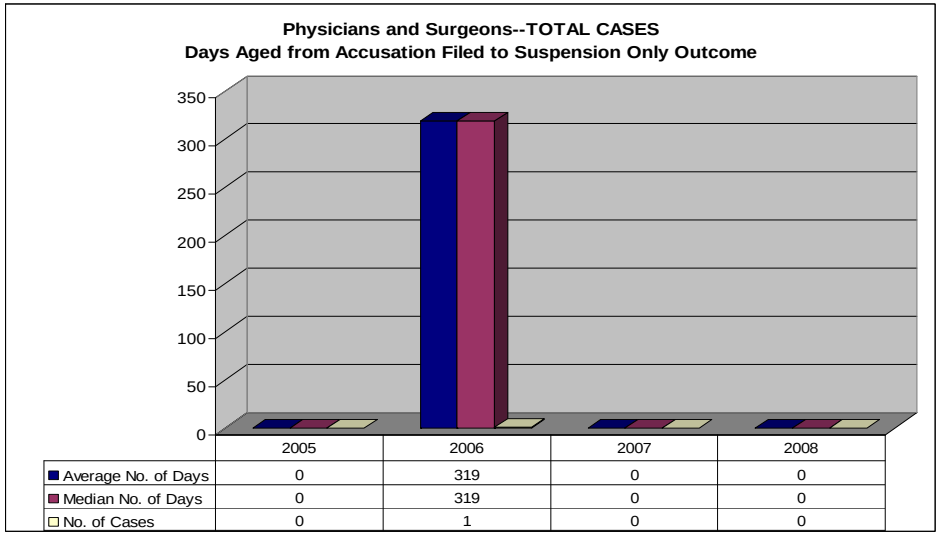
Charts 17.6g, h & i – Calendar Days Aged from Accusation Filed to Suspension Only Outcome for Physicians and Surgeons Cases







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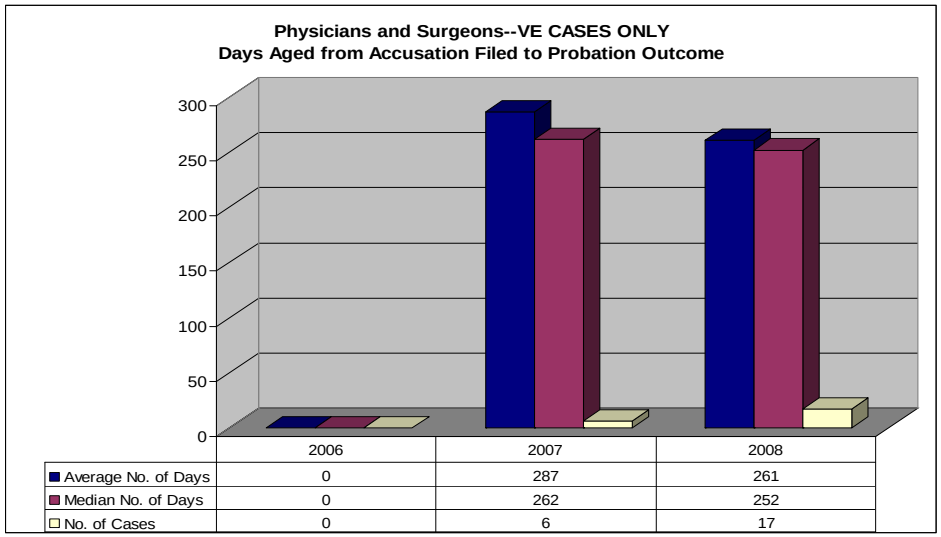
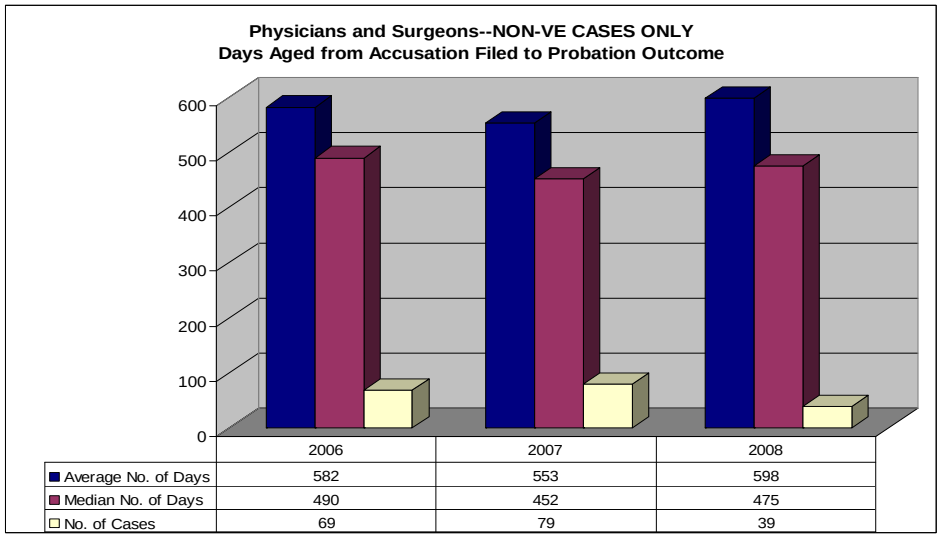
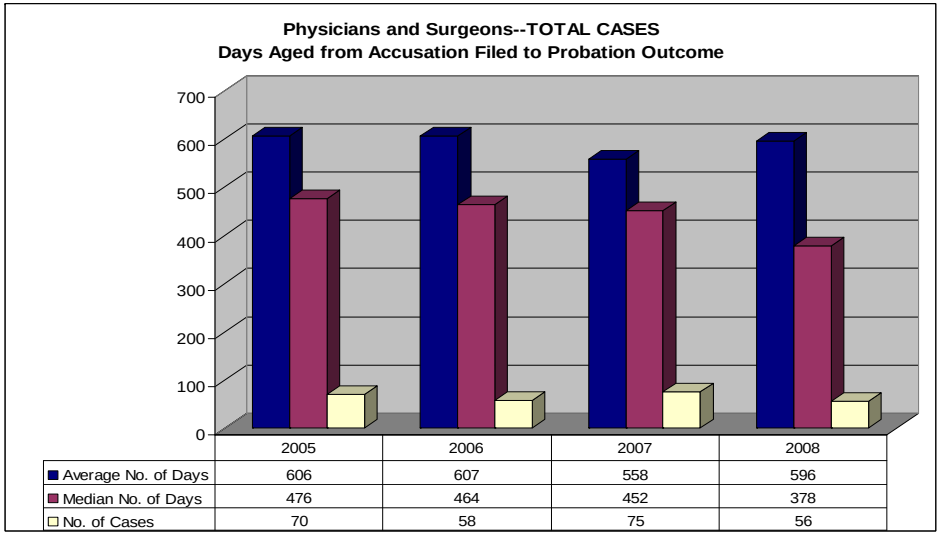
Charts 17.6j, k & l – Calendar Days Aged from Accusation Filed to Probation Outcome for Physicians and Surgeons Cases



	2006	2007	2008
Average No. of Days	0	287	261
Median No. of Days	0	262	252
No. of Cases	0	6	17



	2006	2007	2008
Average No. of Days	582	553	598
Median No. of Days	490	452	475
No. of Cases	69	79	39



	2005	2006	2007	2008
Average No. of Days	606	607	558	596
Median No. of Days	476	464	452	378
No. of Cases	70	58	75	56

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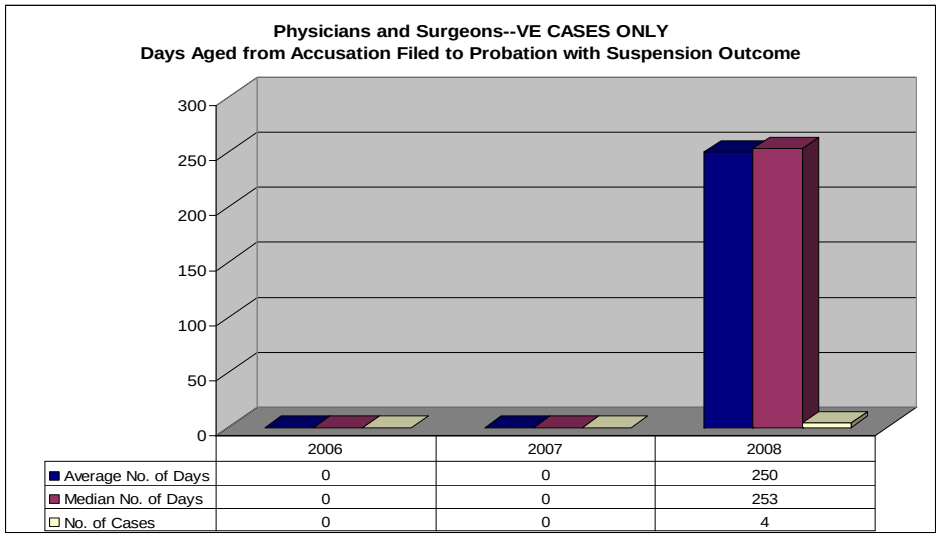
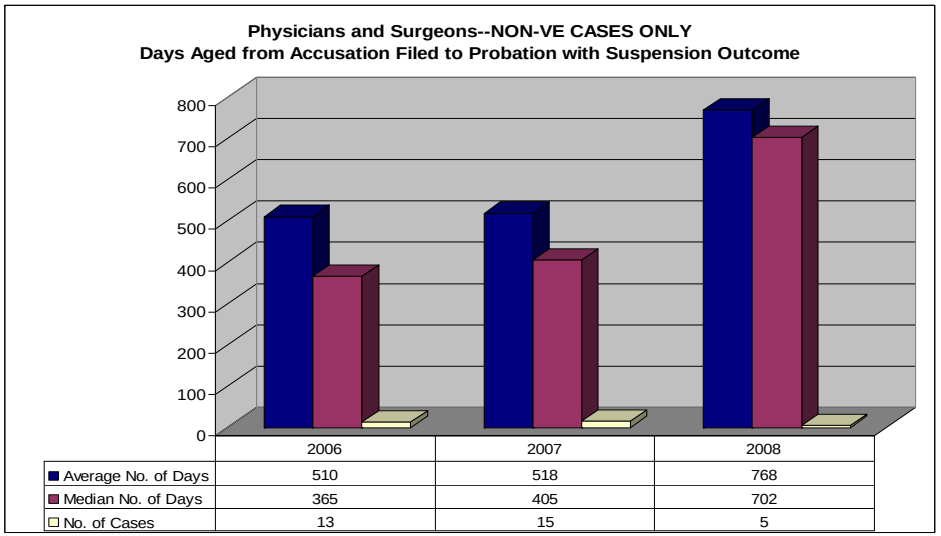
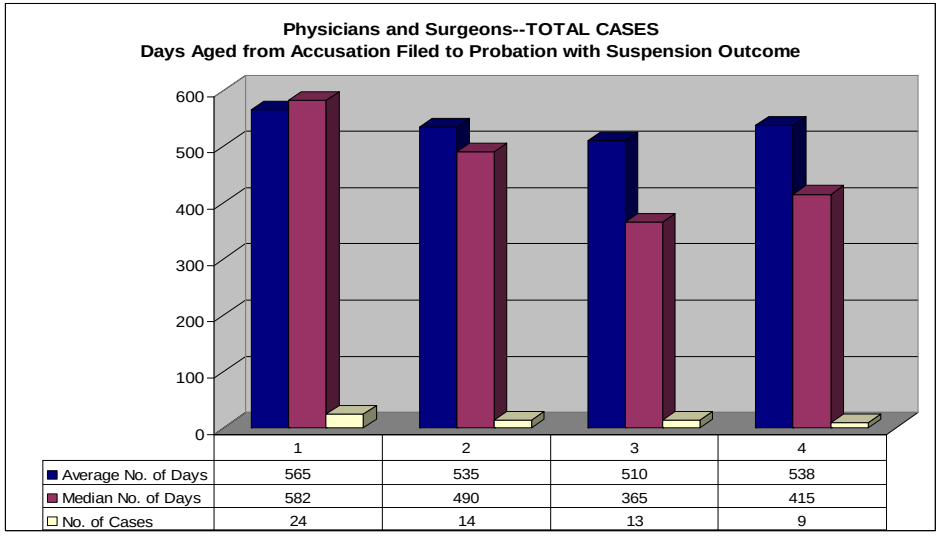
Charts 17.6m, n & o – Calendar Days Aged from Accusation Filed to Probation with Suspension Outcome for Physicians and Surgeons Cases



	2006	2007	2008
Average No. of Days	0	0	250
Median No. of Days	0	0	253
No. of Cases	0	0	4



	2006	2007	2008
Average No. of Days	510	518	768
Median No. of Days	365	405	702
No. of Cases	13	15	5



	1	2	3	4
Average No. of Days	565	535	510	538
Median No. of Days	582	490	365	415
No. of Cases	24	14	13	9

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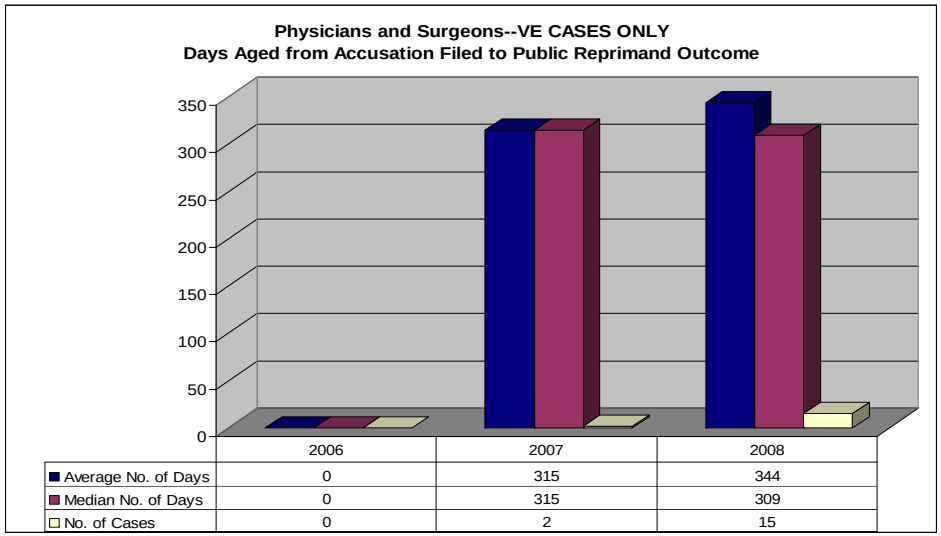
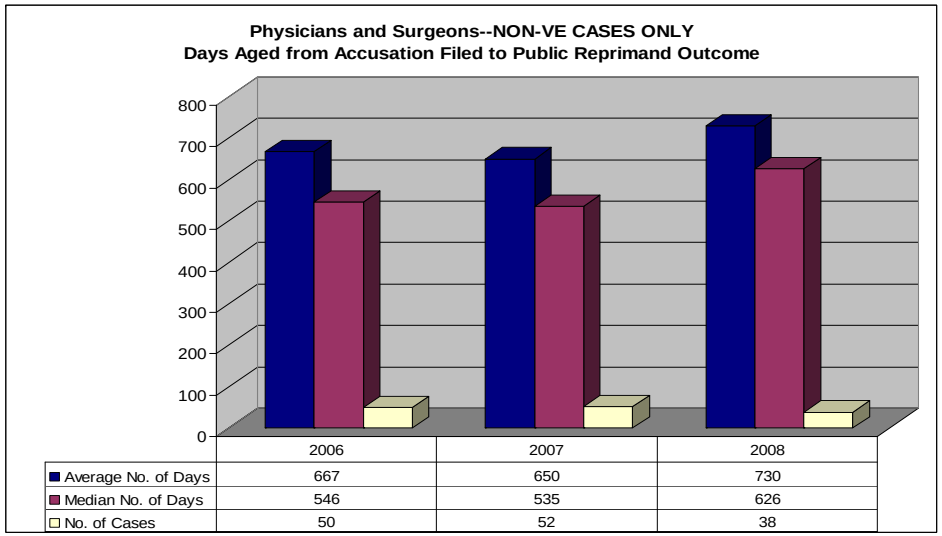
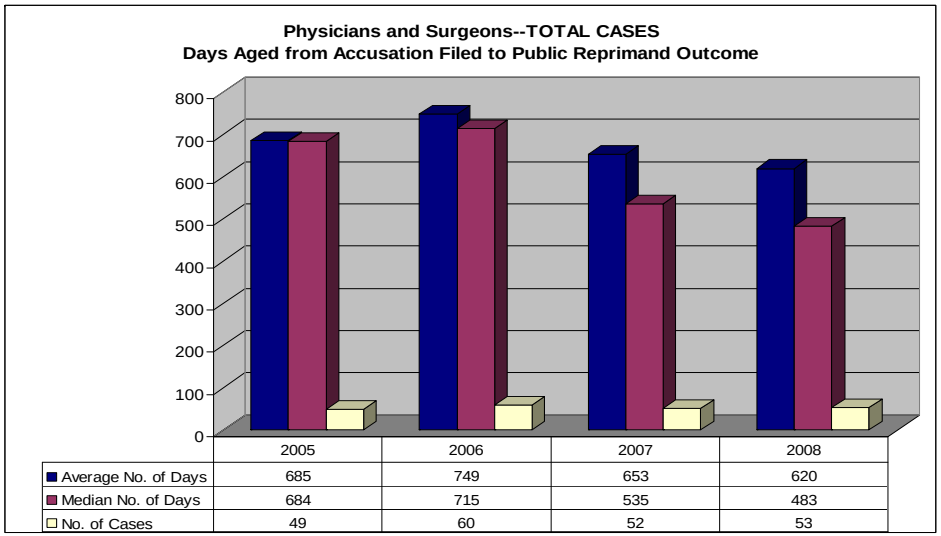
Charts 17.6p, q & r – Calendar Days Aged from Accusation Filed to Public Reprimand Outcome for Physicians and Surgeons Cases



	2006	2007	2008
Average No. of Days	0	315	344
Median No. of Days	0	315	309
No. of Cases	0	2	15



	2006	2007	2008
Average No. of Days	667	650	730
Median No. of Days	546	535	626
No. of Cases	50	52	38



	2005	2006	2007	2008
Average No. of Days	685	749	653	620
Median No. of Days	684	715	535	483
No. of Cases	49	60	52	53

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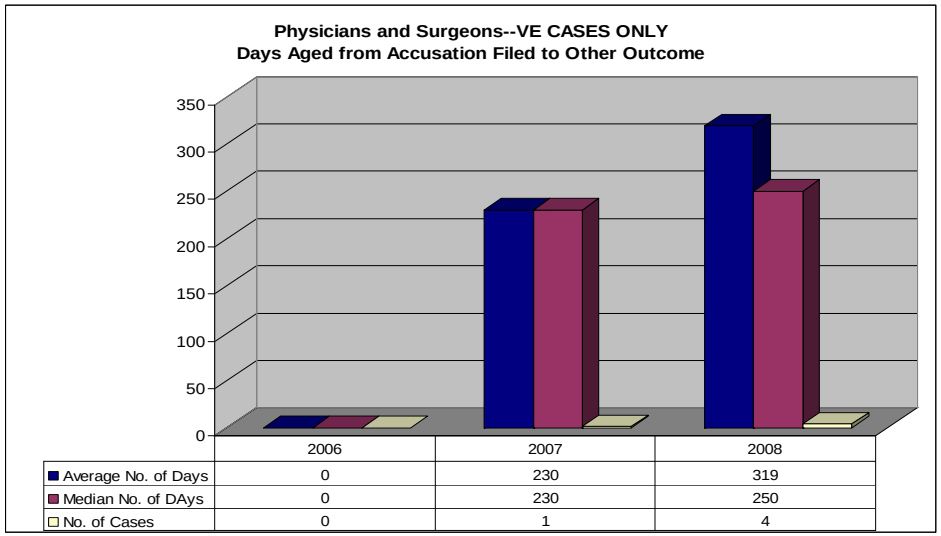
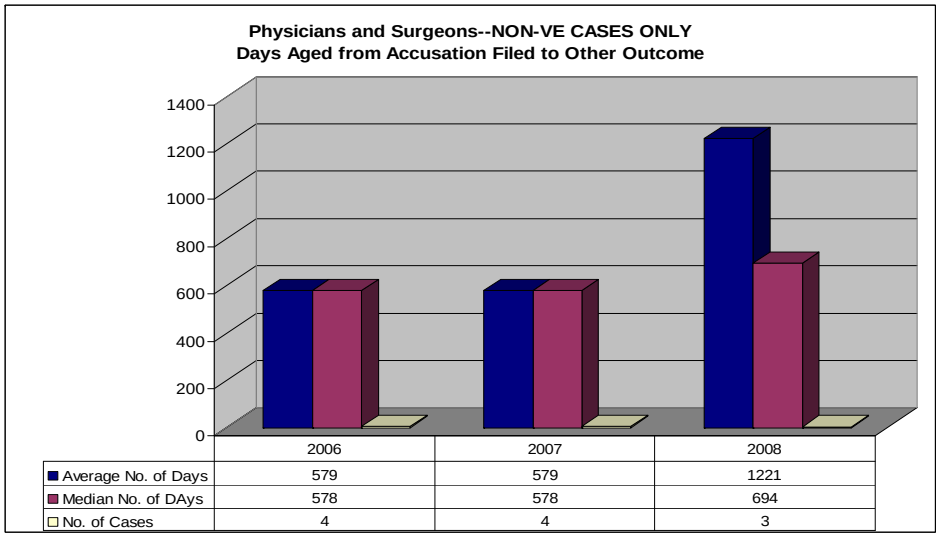
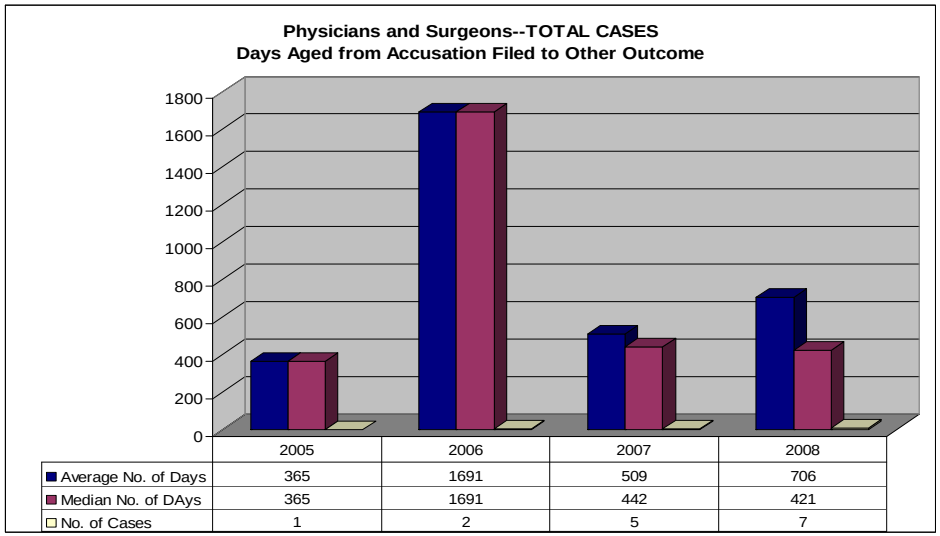
Charts 17.6s, t & u – Calendar Days Aged from Accusation Filed to Other Outcome for Physicians and Surgeons Cases



	2006	2007	2008
Average No. of Days	0	230	319
Median No. of DAys	0	230	250
No. of Cases	0	1	4



	2006	2007	2008
Average No. of Days	579	579	1221
Median No. of DAys	578	578	694
No. of Cases	4	4	3



	2005	2006	2007	2008
Average No. of Days	365	1691	509	706
Median No. of DAys	365	1691	442	421
No. of Cases	1	2	5	7

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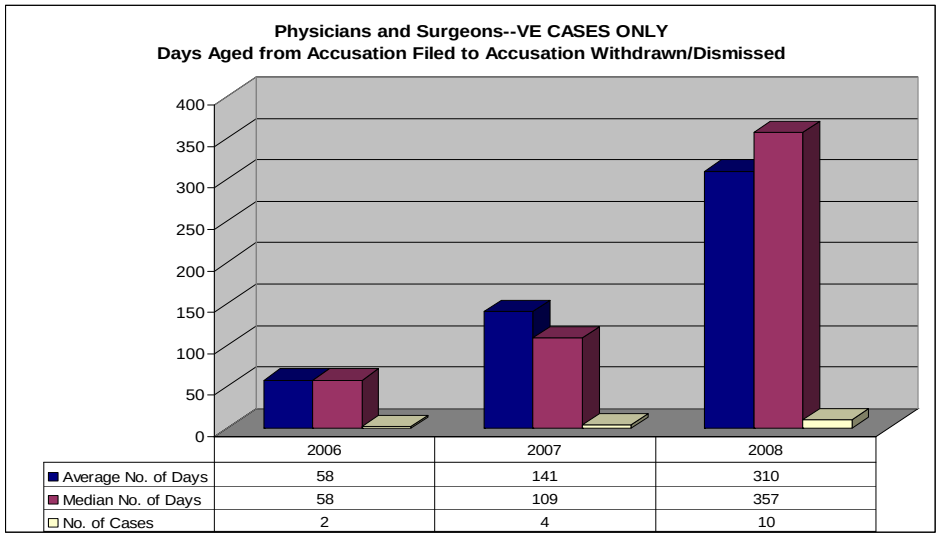
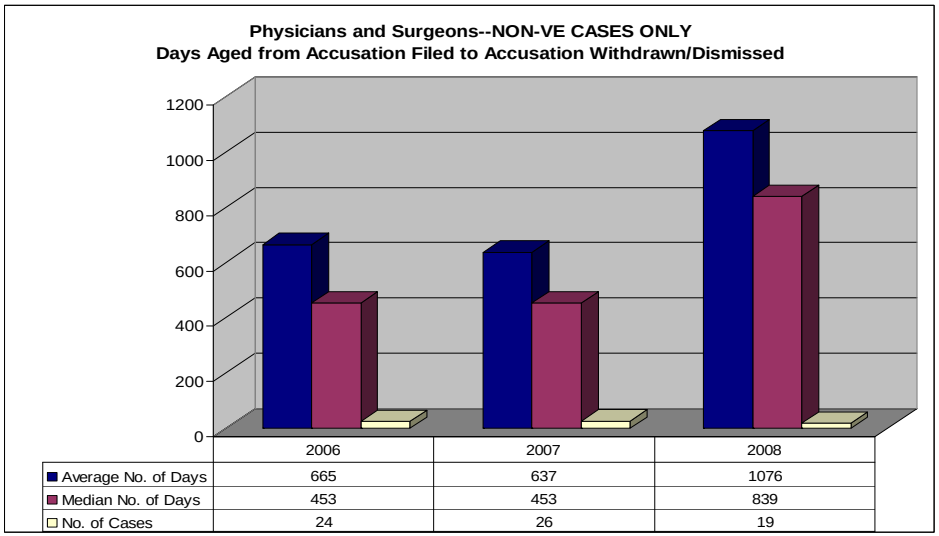
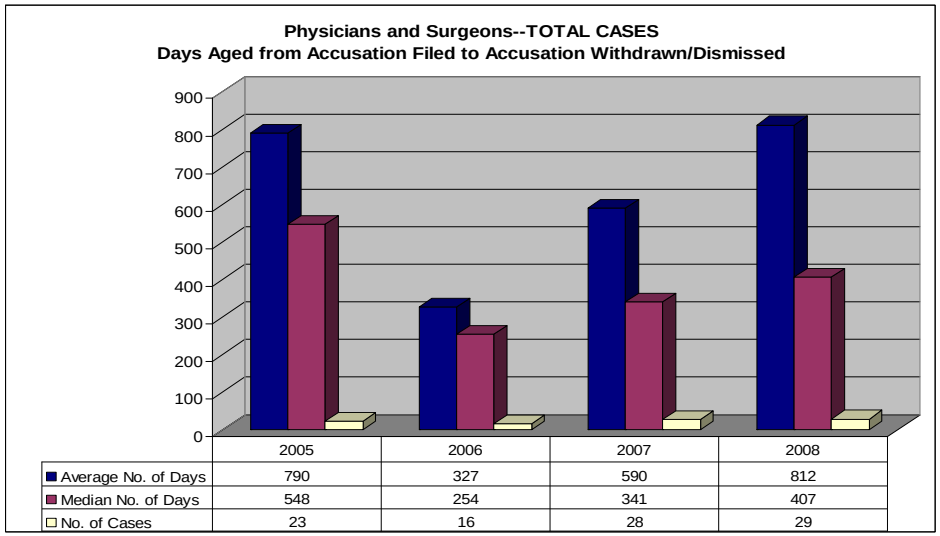
Charts 17.6v, w & x – Calendar Days Aged from Accusation Filed to Withdrawn/Dismissed Outcome for Physicians and Surgeons Cases







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CALENDAR DAYS AGED FROM ACCUSATION FILED TO ADMINISTRATIVE OUTCOMES —ALLIED HEALTH

Table 17.7 below reports the average and median calendar days aged from the date the accusation was filed to the indicated administrative outcome for Allied Health Care cases.

For cases resulting in revocation of license, between 2005 and 2008 there was a 10.64% increase in the average days aged, a 6.23% increase in the median days aged, and no change in the number of cases.

For cases resulting in surrender of license, between 2005 and 2008 there was a 41.38% decrease in the average days aged, a 20.92% decrease in the median days aged, and a 72.73% decrease in the number of cases.

For cases resulting in suspension of license only, the percentage increase or decrease could not be calculated as there were no cases in 2005.

For cases resulting in probation, between 2005 and 2008 there was a 29.12% decrease in the average days aged, a 32.32% decrease in the median days aged, and a 44.44% decrease in the number of cases.

For cases resulting in probation with suspension, between 2005 and 2008 there was a 12.53% increase in the average days aged, a 21.21% increase in the median days aged, and a 40.00% decrease in the number of cases.

For cases resulting in public reprimand, between 2005 and 2008 there was an 11.35% decrease in the average days aged, a 31.86% decrease in the median days aged, and no change in the number of cases.

For cases resulting in other decisions, between 2005 and 2008 there was a 1.90% decrease in the average days aged, a 1.90% decrease in the median days aged, and no change in the number of cases.

For cases resulting in a withdrawal or dismissal, between 2005 and 2008 there was a 51.42% increase in the average days aged, a 51.42% increase in the median days aged, and no change in the number of cases.

Table 17.7 – Calendar Days Aged from Accusation Filed to Indicated Administrative Outcome for Allied Health Cases

	Percentage Difference 2006 to 2007			Percentage Difference 2007 to 2008			Percentage Difference 2006 to 2008			Percentage Difference 2005 to 2008
	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE	All
REVOCATION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	82.16%	107.85%	36.22%	-15.10%	42.53%	-6.75%	54.65%	196.25%	27.03%	10.64%
Median (middle record - half are above and half below)	102.61%	223.53%	36.22%	-11.94%	75.35%	0.79%	78.43%	467.32%	37.30%	6.23%
Record Count	-33.33%	-42.86%	0.00%	16.67%	-50.00%	150.00%	-22.22%	-71.43%	150.00%	0.00%
SURRENDER										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-22.65%	-22.42%	-24.86%	-15.97%	-14.62%	56.15%	-35.00%	-33.76%	17.34%	-41.38%
Median (middle record - half are above and half below)	43.15%	81.22%	-24.86%	-8.87%	-28.01%	56.15%	30.46%	30.46%	17.34%	-20.92%
Record Count	0.00%	0.00%	0.00%	-66.67%	-85.71%	0.00%	-66.67%	-85.71%	0.00%	-72.73%
SUSPENSION ONLY										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average										
Median (middle record - half are above and half below)										
Record Count										
PROBATION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-18.46%	-10.00%		27.04%	36.18%	44.49%	3.59%	22.56%		-29.12%
Median (middle record - half are above and half below)	-18.32%	-15.32%		30.88%	38.30%	35.39%	6.91%	17.12%		-32.32%
Record Count	-12.50%	-37.50%		85.71%	20.00%	250.00%	62.50%	-25.00%		44.44%
PROBATION W/SUSPENSION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-11.15%	-21.58%	205.71%	-7.05%	-30.31%	102.34%	-17.42%	-45.36%	518.57%	12.53%
Median (middle record - half are above and half below)	3.17%	-21.58%	205.71%	-23.22%	-30.31%	102.34%	-20.79%	-45.36%	518.57%	21.21%
Record Count	0.00%	0.00%	0.00%	0.00%	-50.00%	100.00%	0.00%	-50.00%	100.00%	-40.00%
PUBLIC REPRIMAND										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-65.51%	-66.23%		24.27%	100.00%	18.80%	-57.14%	-100.00%		-57.93%
Median (middle record - half are above and half below)	-50.59%	-53.75%		18.80%	100.00%	18.80%	-41.30%	-100.00%		-62.12%
Record Count	-62.50%	-75.00%		-33.33%	100.00%	100.00%	-75.00%	-100.00%		-66.67%
OTHER DECISION										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-100.00%	-100.00%					13.13%	13.13%		-1.90%
Median (middle record - half are above and half below)	-100.00%	-100.00%					13.13%	13.13%		-1.90%
Record Count	-100.00%	-100.00%					0.00%	0.00%		0.00%
ACCUSATION WITHDRAWN/DISMISSED										
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year										
Average	-71.48%	-75.64%	4.23%	82.51%	62.16%	-100.00%	-47.94%	-60.49%	-100.00%	51.42%
Median (middle record - half are above and half below)	-83.42%	-76.80%	4.23%	143.65%	62.16%	-100.00%	-59.60%	-62.38%	-100.00%	51.42%
Record Count	-57.14%	-60.00%	-50.00%	-33.33%	0.00%	-100.00%	-71.43%	-60.00%	-100.00%	0.00%

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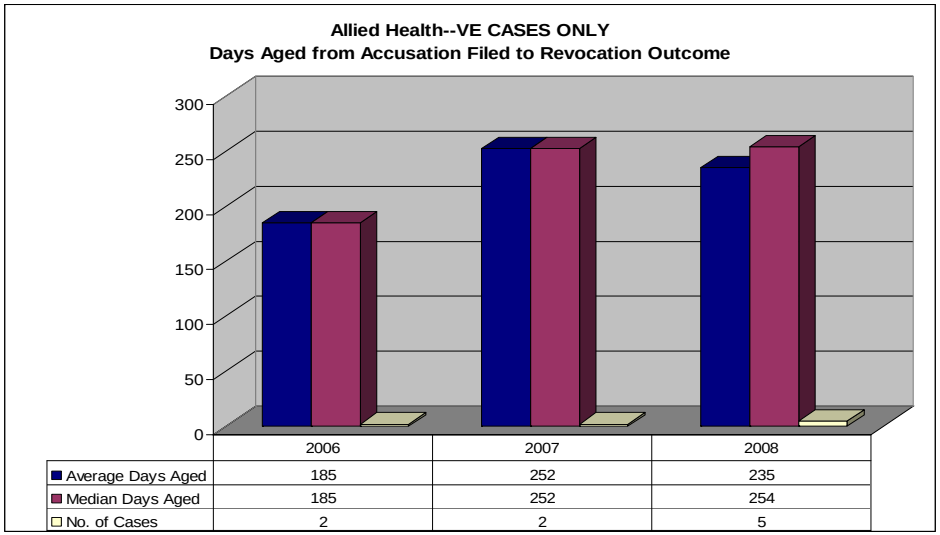
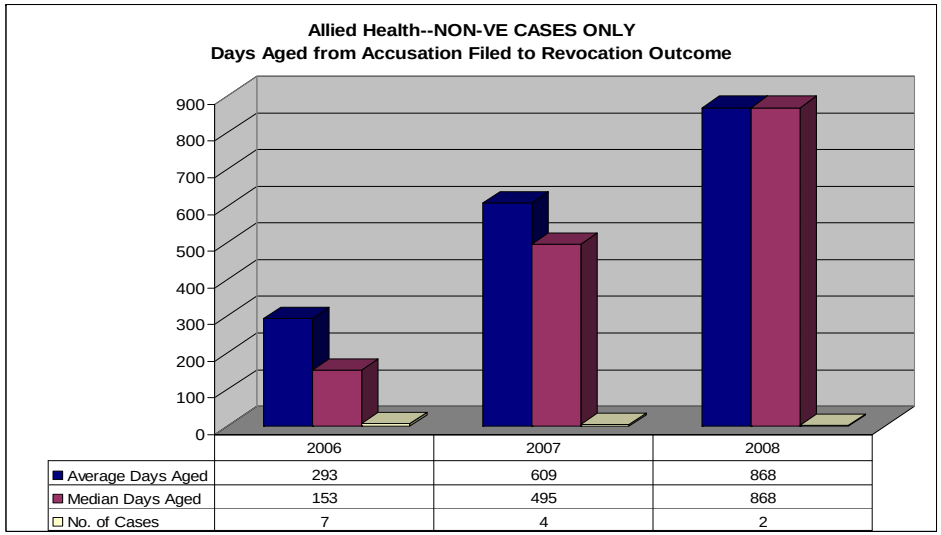
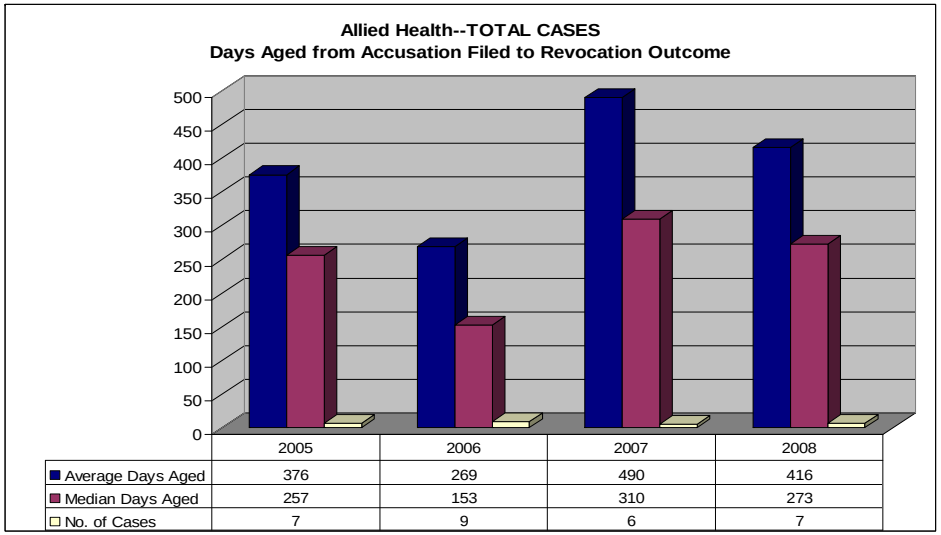
Charts 17.7a, b& c – Calendar Days Aged from Accusation Filed to Revocation Outcome for Allied Health Cases



	2006	2007	2008
Average Days Aged	185	252	235
Median Days Aged	185	252	254
No. of Cases	2	2	5



	2006	2007	2008
Average Days Aged	293	609	868
Median Days Aged	153	495	868
No. of Cases	7	4	2



	2005	2006	2007	2008
Average Days Aged	376	269	490	416
Median Days Aged	257	153	310	273
No. of Cases	7	9	6	7

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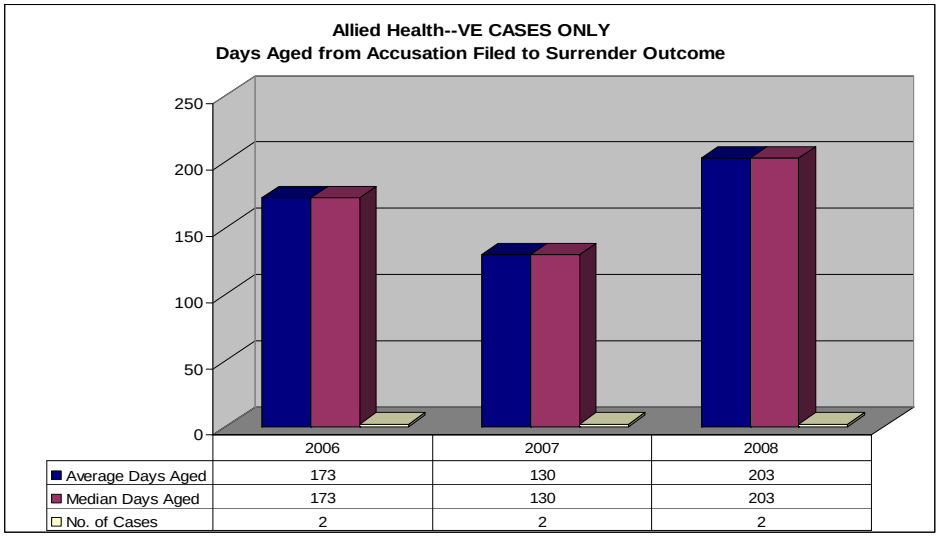
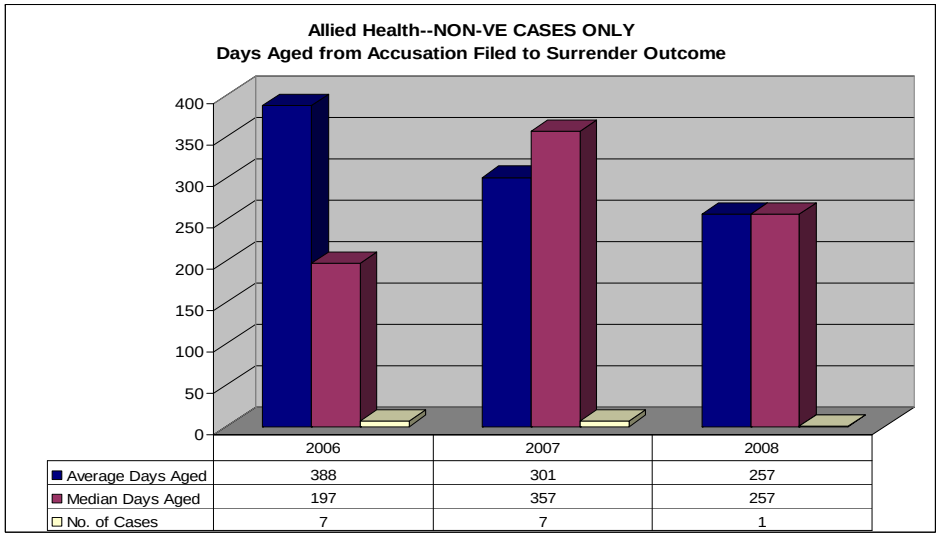
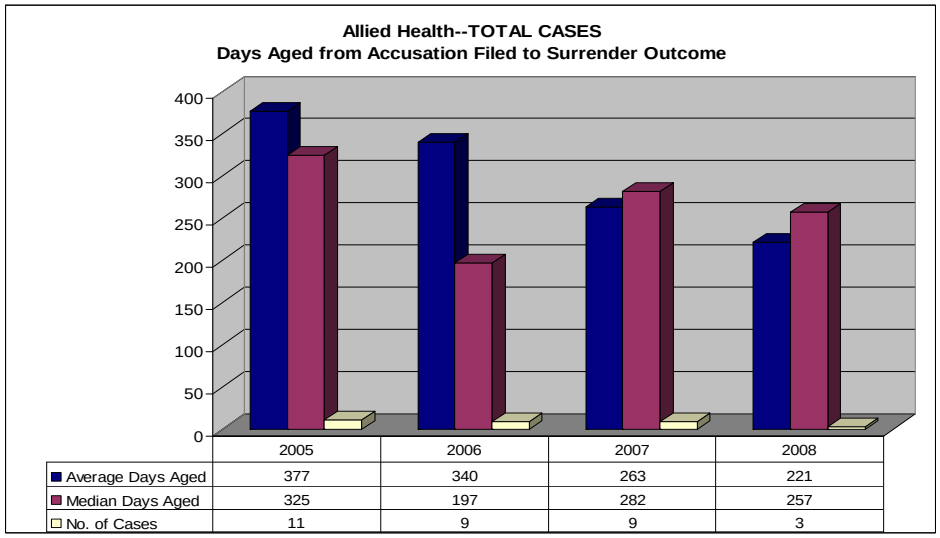
Charts 17.7d, e& f – Calendar Days Aged from Accusation Filed to Surrender Outcome for Allied Health Cases



	2006	2007	2008
Average Days Aged	173	130	203
Median Days Aged	173	130	203
No. of Cases	2	2	2



	2006	2007	2008
Average Days Aged	388	301	257
Median Days Aged	197	357	257
No. of Cases	7	7	1



	2005	2006	2007	2008
Average Days Aged	377	340	263	221
Median Days Aged	325	197	282	257
No. of Cases	11	9	9	3

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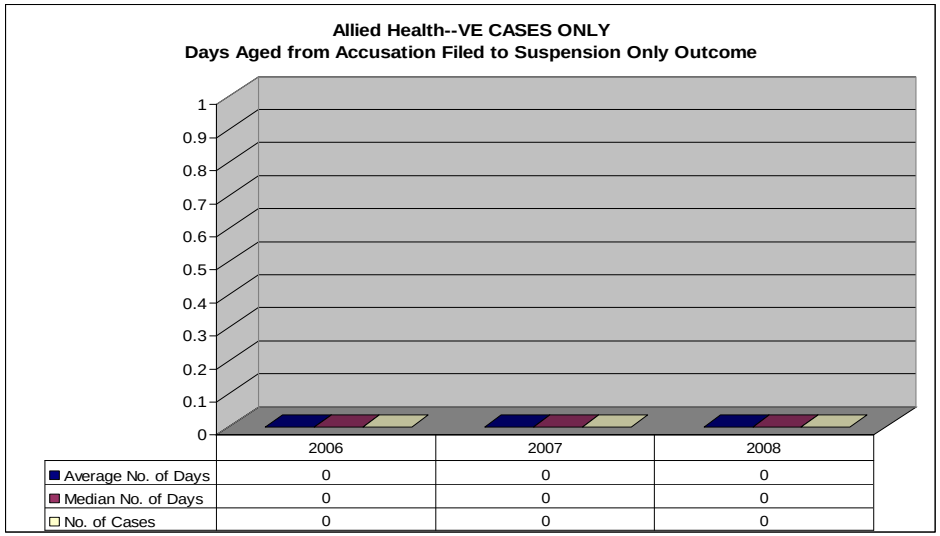
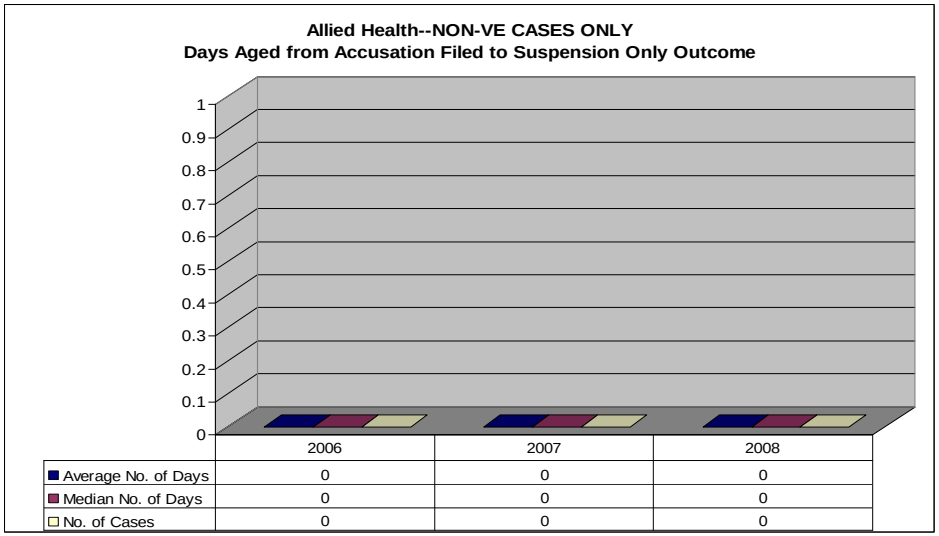
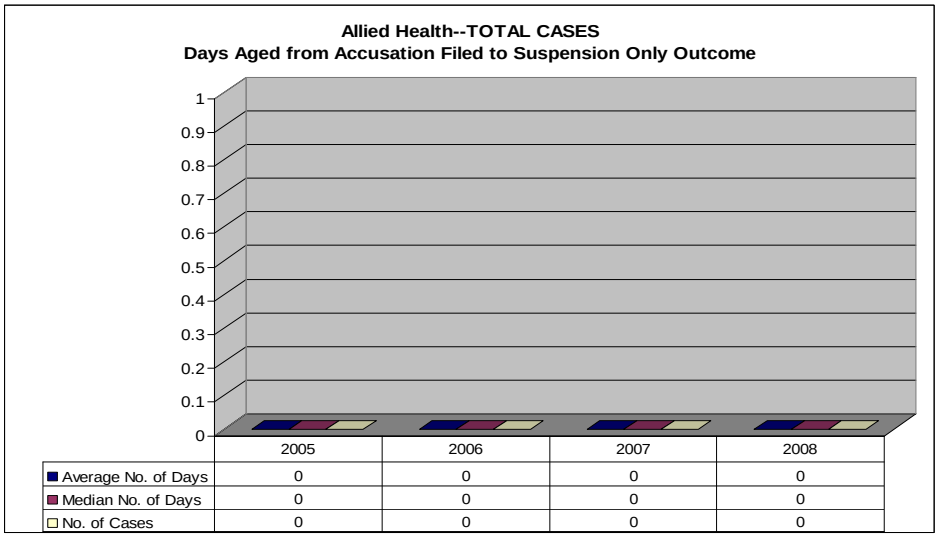
Charts 17.7g, h & i – Calendar Days Aged from Accusation Filed to Suspension Only Outcome for Allied Health Cases







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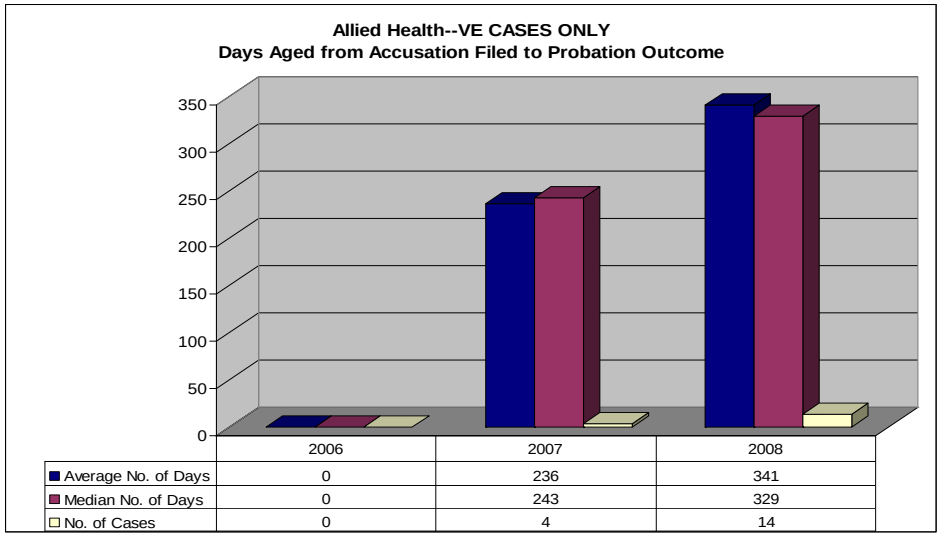
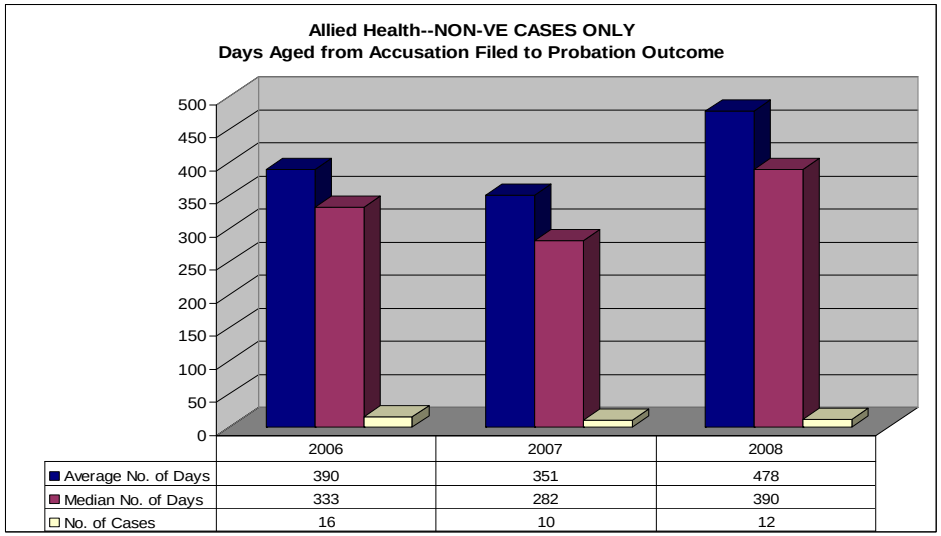
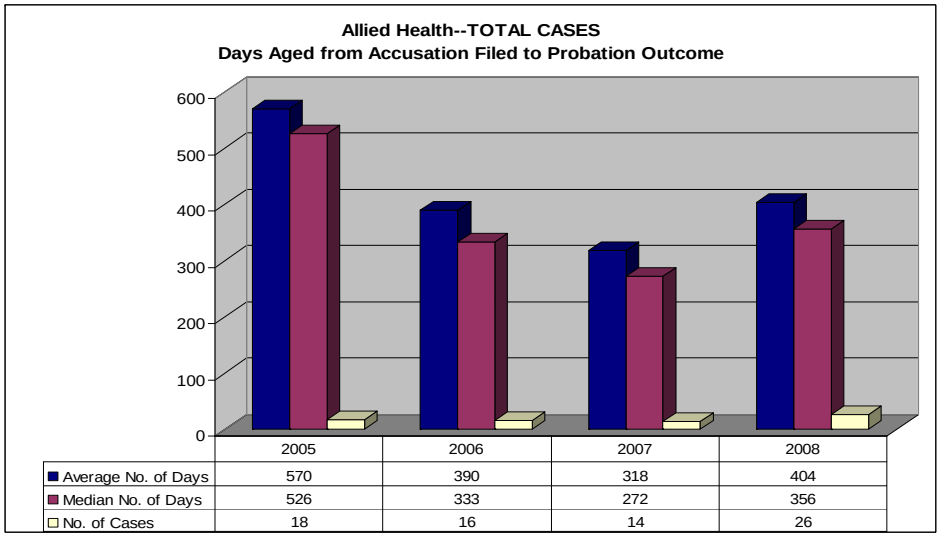
Charts 17.7j, k & l – Calendar Days Aged from Accusation Filed to Probation Outcome for Allied Health Cases



	2006	2007	2008
Average No. of Days	0	236	341
Median No. of Days	0	243	329
No. of Cases	0	4	14



	2006	2007	2008
Average No. of Days	390	351	478
Median No. of Days	333	282	390
No. of Cases	16	10	12



	2005	2006	2007	2008
Average No. of Days	570	390	318	404
Median No. of Days	526	333	272	356
No. of Cases	18	16	14	26

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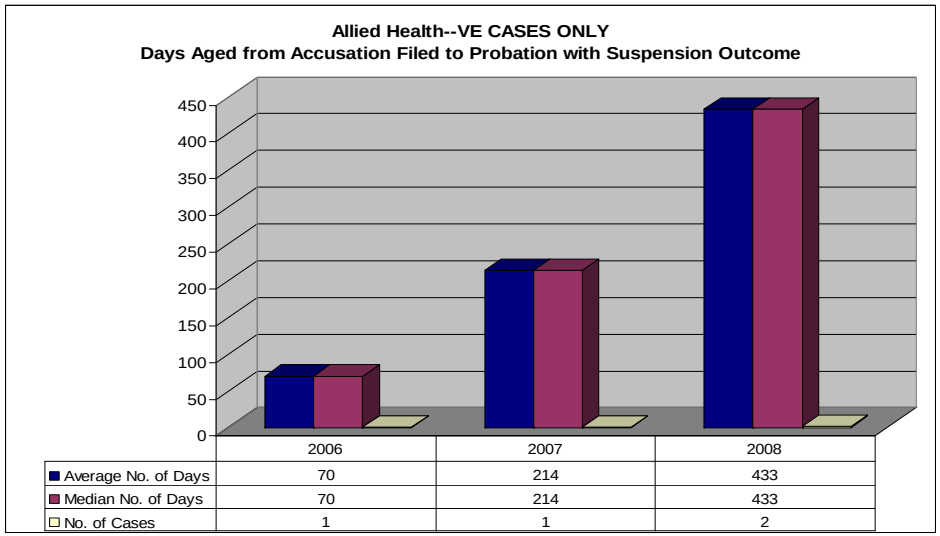
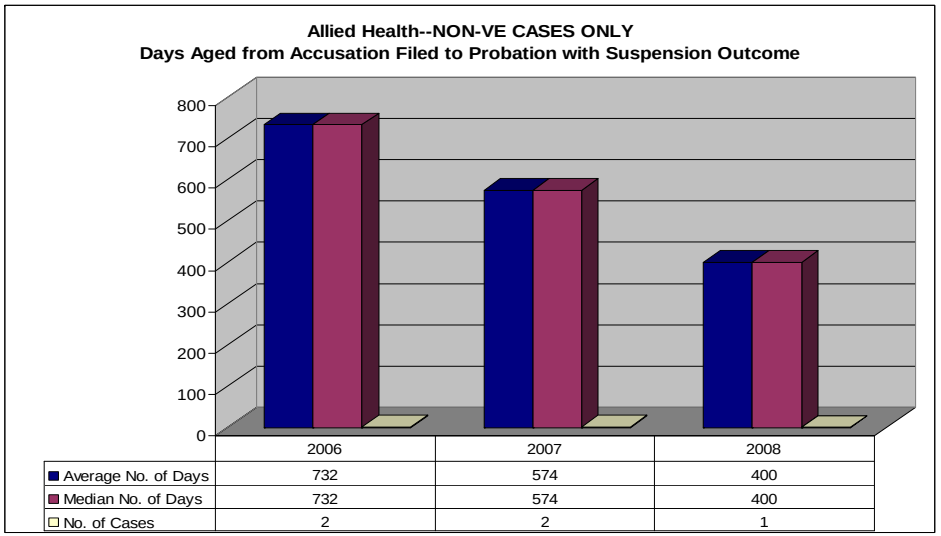
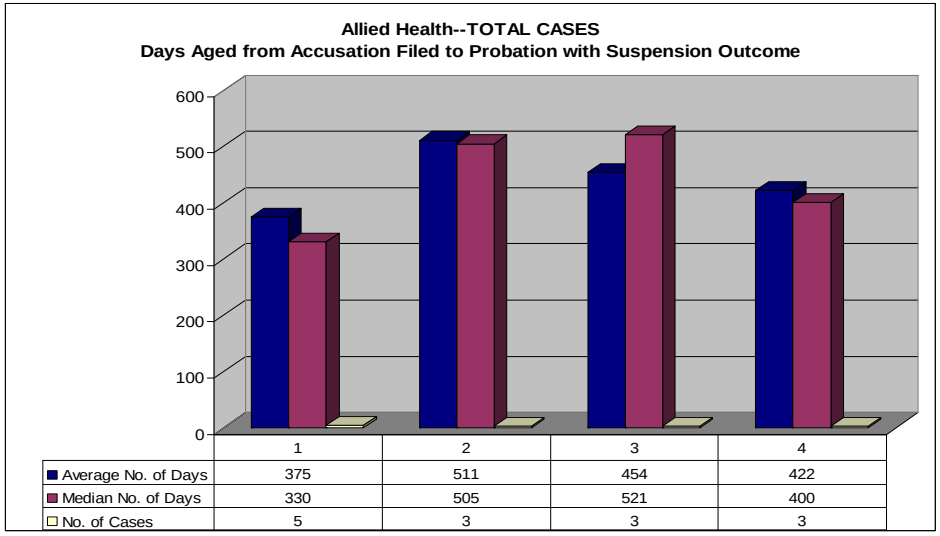
Charts 17.7m, n & o – Calendar Days Aged from Accusation Filed to Probation with Suspension Outcome for Allied Health Cases



	2006	2007	2008
Average No. of Days	70	214	433
Median No. of Days	70	214	433
No. of Cases	1	1	2



	2006	2007	2008
Average No. of Days	732	574	400
Median No. of Days	732	574	400
No. of Cases	2	2	1



	1	2	3	4
Average No. of Days	375	511	454	422
Median No. of Days	330	505	521	400
No. of Cases	5	3	3	3

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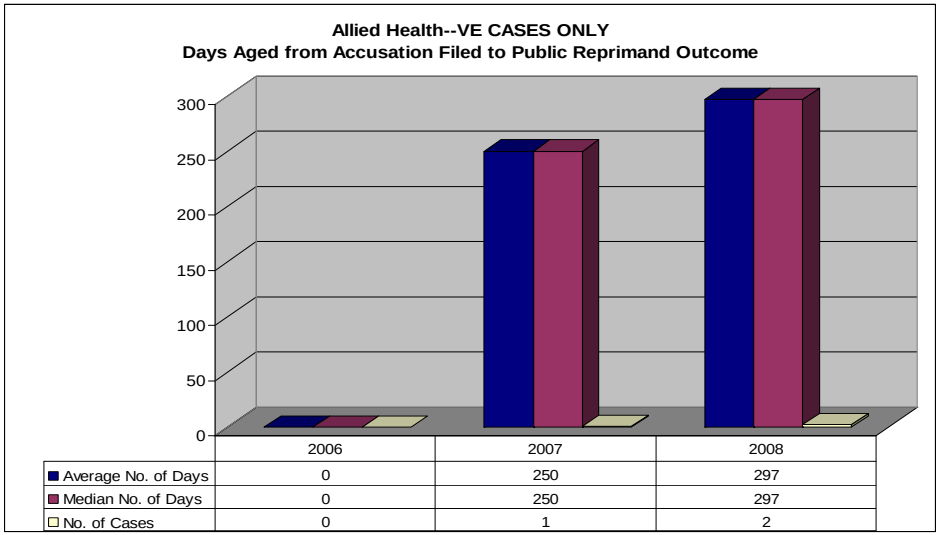
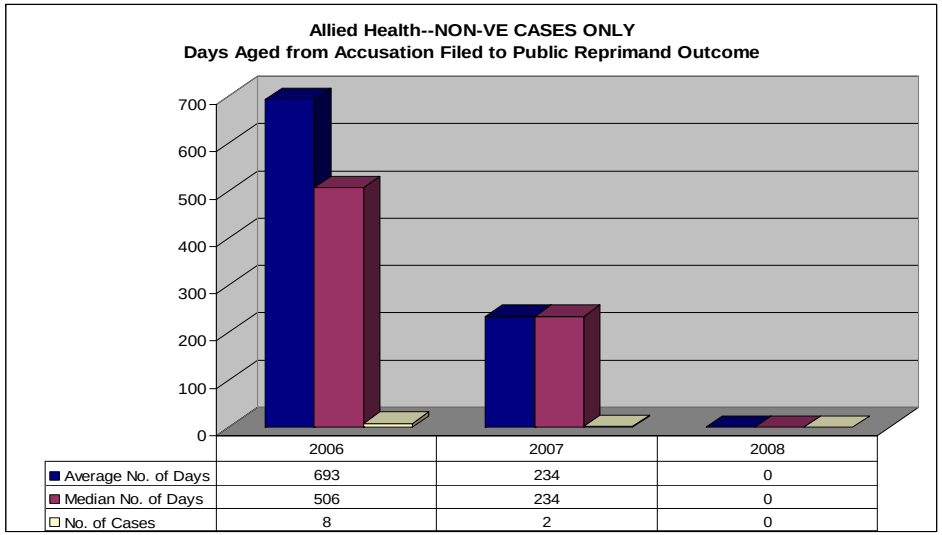
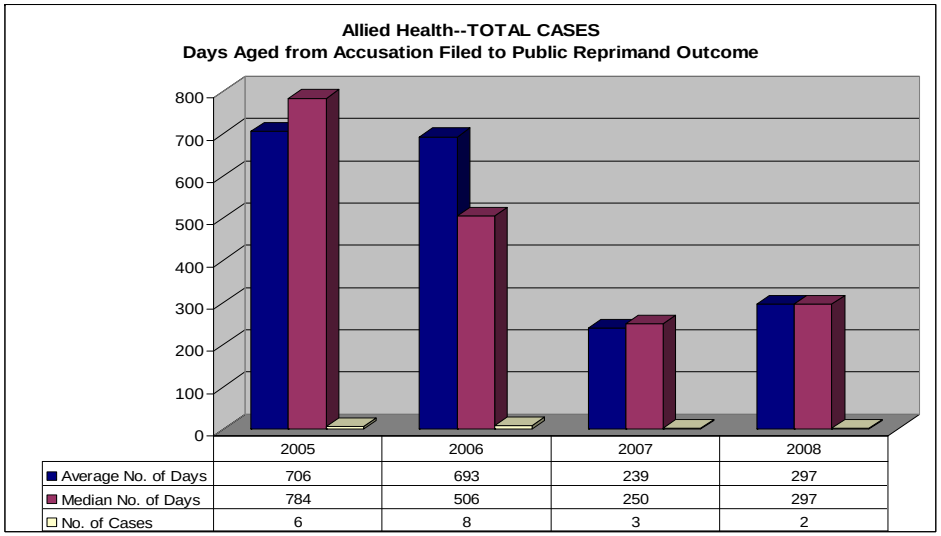
Charts 17.7p, q & r – Calendar Days Aged from Accusation Filed to Public Reprimand Outcome for Allied Health Cases



	2006	2007	2008
Average No. of Days	0	250	297
Median No. of Days	0	250	297
No. of Cases	0	1	2



	2006	2007	2008
Average No. of Days	693	234	0
Median No. of Days	506	234	0
No. of Cases	8	2	0



	2005	2006	2007	2008
Average No. of Days	706	693	239	297
Median No. of Days	784	506	250	297
No. of Cases	6	8	3	2

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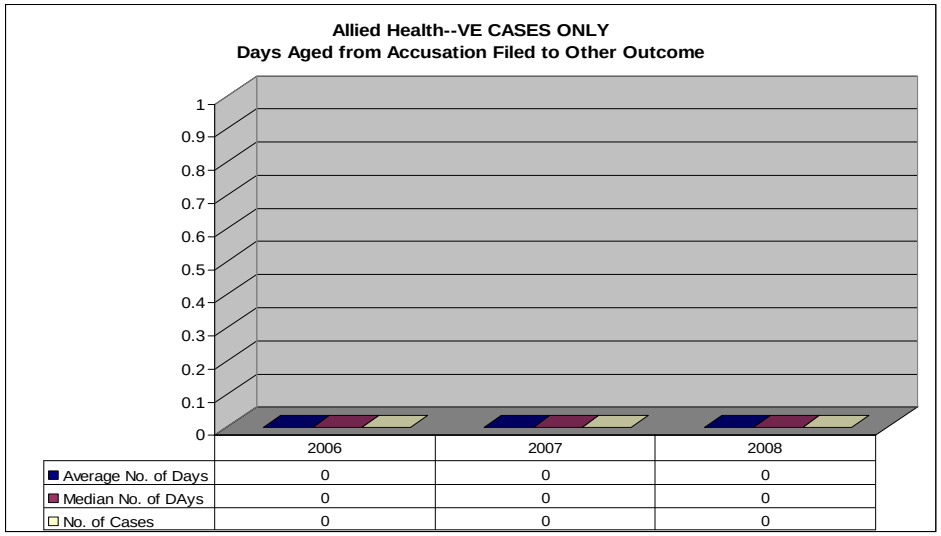
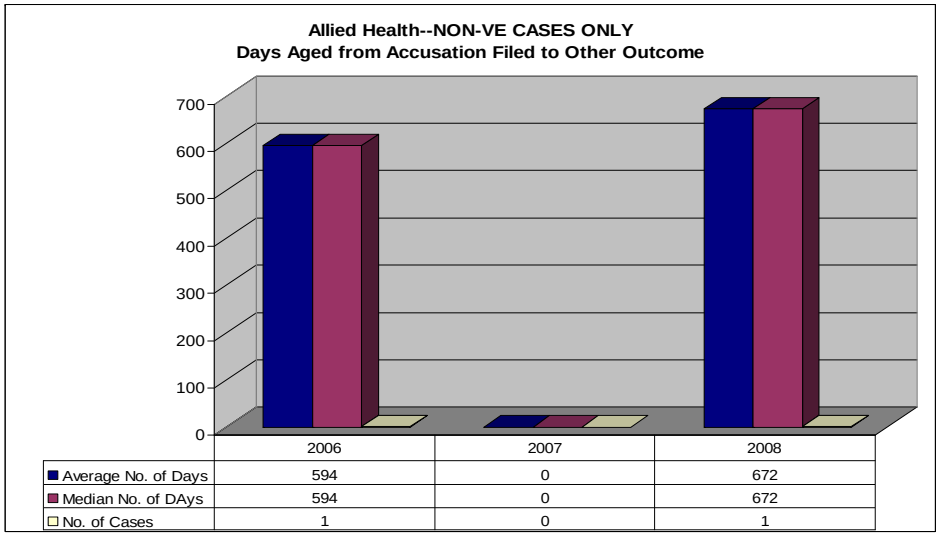
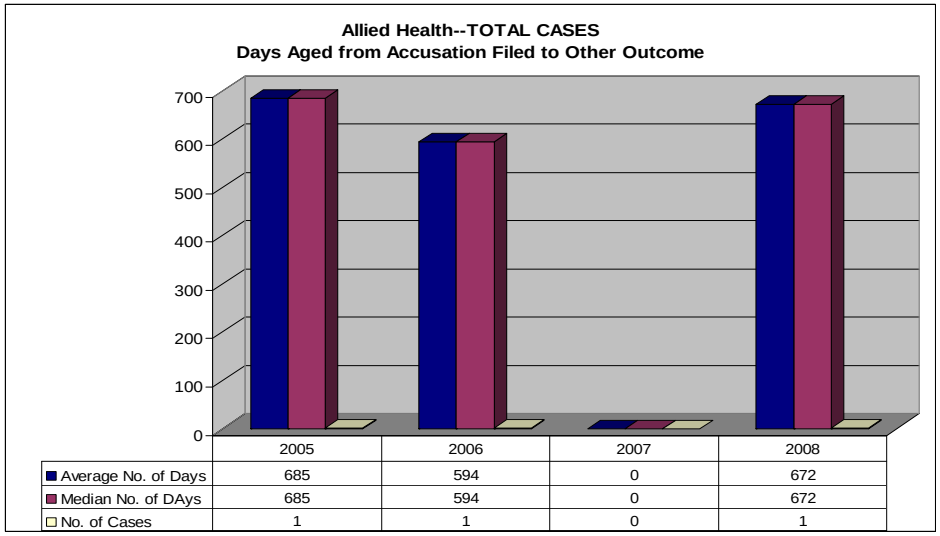
Charts 17.7s, t & u – Calendar Days Aged from Accusation Filed to Other Outcome for Allied Health Cases







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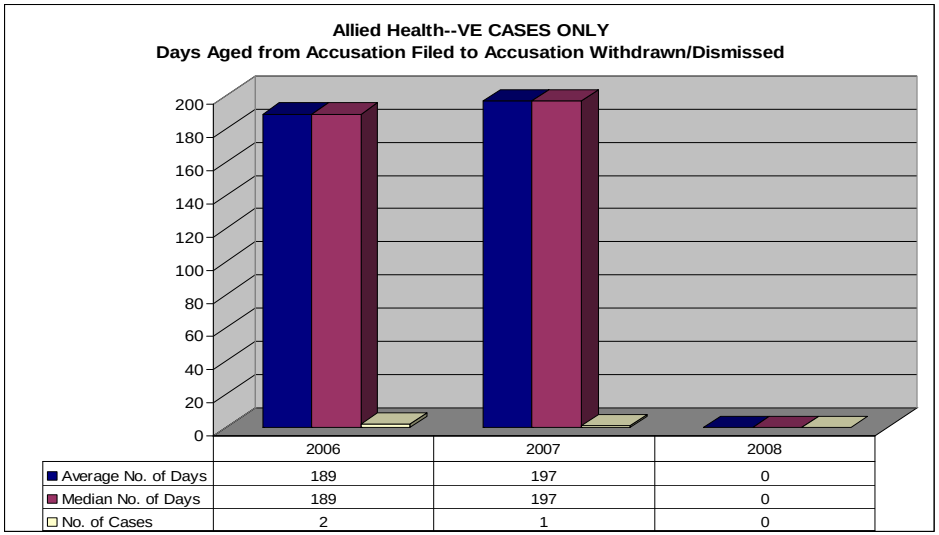
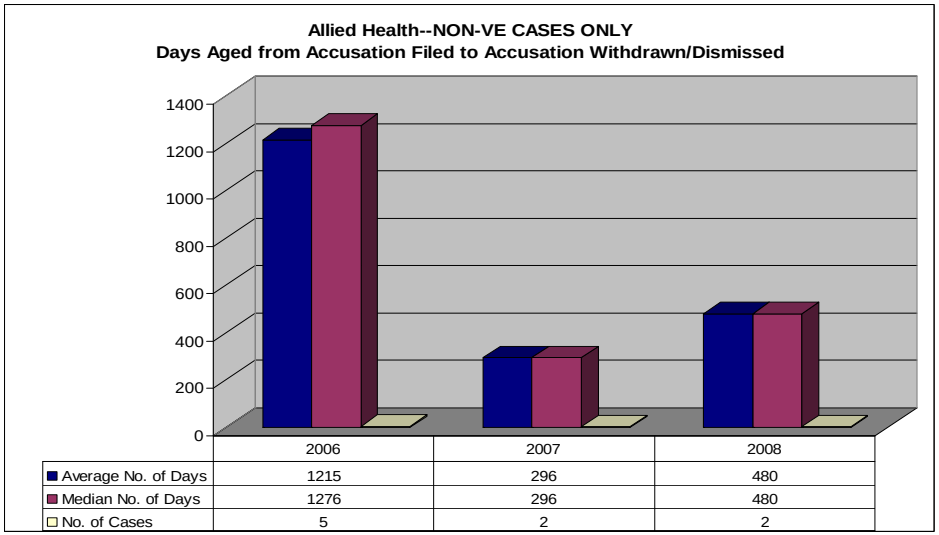
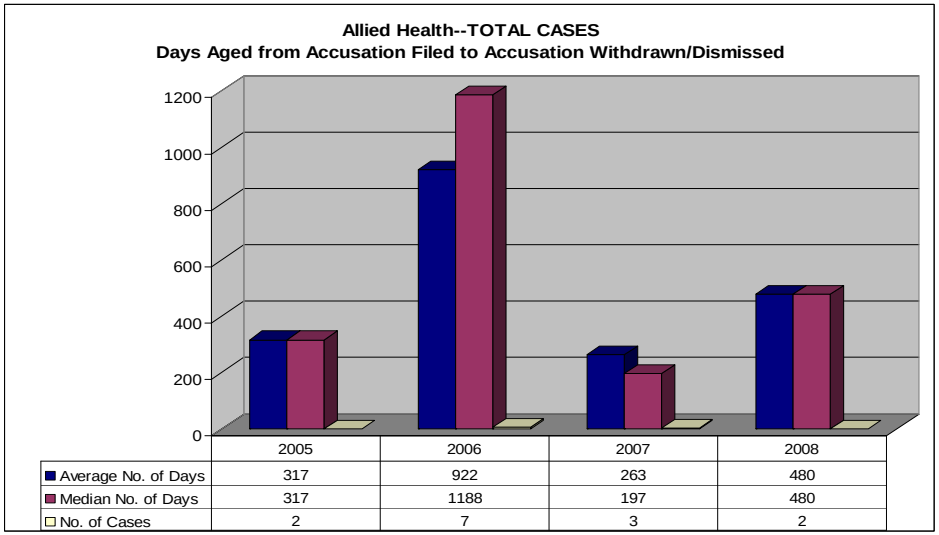
Charts 17.7v, w & x – Calendar Days Aged from Accusation Filed to Withdrawn/Dismissed Outcome for Allied Health Cases



	2006	2007	2008
Average No. of Days	189	197	0
Median No. of Days	189	197	0
No. of Cases	2	1	0



	2006	2007	2008
Average No. of Days	1215	296	480
Median No. of Days	1276	296	480
No. of Cases	5	2	2



	2005	2006	2007	2008
Average No. of Days	317	922	263	480
Median No. of Days	317	1188	197	480
No. of Cases	2	7	3	2

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XVIII. STAFF INTERVIEWS

Since statistical data alone does not fully describe the effectiveness of the VE model, interviews of MBC and HQES staff were conducted from April 9 through 15, 2009. Eleven (11) MBC enforcement staff were interviewed at the management, supervisory and investigative levels, all of whom were present since the onset of VE, with an average of 13 years with MBC. Additionally, 11 HQES staff were interviewed at the management, supervisory, primary and lead levels, all of whom were present since the onset of VE, with an average of 14 years experience with HQES.

All of the staff interviewed expressed dedication and a conscious desire to ensure public safety for the citizens of California as their primary goal. In addition, in general, they like their respective professions.

Interviewees were asked a number of questions relevant to the implementation and effectiveness of VE and its intended purpose as specified in the reports of the Monitor, legislation and select internal manuals and guidelines, as well as for recommendations for improvement. Along with what has already been stated elsewhere in this report, the below is a synopsis of the results of these interviews.

COMMUNICATION

The Monitor stated that the VE process will "improve the communication between the MBC investigators and DAGs with the goal of creating more efficient investigations and quicker case resolution".

The MBC and HQES management recognized the importance of interpersonal communications in attempting to implement a successful VE program. To that end, the JVEG states that investigators and DAGs are expected to treat each other, and all individuals with whom they come into contact in their official capacities, professionally, respectfully and with courtesy. The number one rule for effective email communication is professionalism and courtesy. MBC investigators and DAGs should be responsive to each other.

The Monitor also recognized the significance of such issues and stated: "It is critical to note that the vertical prosecution model works best where all participants recognize and respect the contributions of all team members, and where attorneys, investigators, and other team members perform the functions for which they are trained and best suited.

Although most DAGs interviewed reported that communication with investigators has improved, some believe that it has increased only out of necessity. Some MBC investigators feel that their investigation abilities are constantly questioned and the communication is negative. Even in districts where there appears to be a good

relationship between the two offices, staff in both departments stated that the relationship is restrained with underlying friction.

The GC Section 12529.6 states that: "During the assignment, the investigator so assigned shall, under the direction but not the supervision of the deputy attorney general, be responsible for obtaining the evidence required to permit the Attorney General to advise the board on legal matters such as whether the board should file a formal accusation, dismiss the complaint for a lack of evidence required to meet the applicable burden of proof, or take other appropriate legal action."

According to the VPM: "Direction," as that term is used in GC Section 12529.6, includes, but is not limited to, the authority and responsibility to direct the assigned investigator to complete investigative tasks, obtain required testimonial and documentary evidence, make periodic reports regarding the progress of the investigation, and complete additional tasks necessary to prepare and present the case for hearing."

The Monitor stated that in the vertical prosecution model, investigators are "responsible for the tasks which are appropriately theirs, including essentially all the field investigative tasks involving witnesses, evidence, and related procedures", and prosecutors "perform the tasks for which they are trained and licensed, including the legal analysis and advocacy essential to preparing evidence for trial and presenting that evidence at trial".

All three manuals (EOM, VPM and JVEG) direct that the MBC investigators and DAGs must work together as a team, and communicate and confer with each other in a professional, respectful and courteous manner. In addition, the VPM states that since the authority and responsibility to supervise investigators remains with the Sups I/II, deputies should be careful not to exercise their authority in a manner that undermines the authority of the Sups I/II. Likewise, Sups I/II must be careful not to undermine the authority of DAGs.

However, it appears from those interviewed that the term "direction" is not consistently understood or interpreted by the DAGs and investigators. Various DAGs indicated that they: direct and control the investigations; direct the investigators, as well as the investigations; or direct the investigation, not the investigator. Various MBC investigators stated that: DAGs want to control the investigations, as well as the investigators; DAGs are in charge and direct them on how to conduct the investigations; or DAGs work cooperatively and give direction when appropriate.

<u>Time Spent by Attorneys in MBC District Offices</u>

The GC Section 12529.6 provides that: "The joint assignment of the investigator and the deputy attorney general shall exist for the duration of the disciplinary matter." The VPM requires that a lead DAG be assigned to each of the MBC's district offices and that this person must be physically present to fully discharge his/her responsibilities. Since

the lead DAG's responsibility is to review each complaint referred to the district office for investigation and determine whether a complaint warrants further investigation or should be closed, in addition to acting as the primary DAG until and unless replaced by a primary DAG, the amount of time the lead DAG spent in a district office is a factor in the success in the VE process. Comments received during the interviews ranged from the attorneys not spending enough time in the district offices to be of assistance to not being aware when the attorney is in the field office because he/she just drops in, picks up information and leaves. It was also stated that attorneys spend the right amount of time in the district offices and are valued partners. Interviewees indicated that lead DAGs are in the district offices as follows:

- San Diego – twice a week
- San Bernardino – twice a week
- Tustin – once a week
- Rancho Cucamonga – once a week
- Glendale – twice a week
- Diamond Bar – twice a week but most often once a week or sometimes once or twice a month
- Cerritos – twice a week
- Valencia – twice a week
- Fresno – twice a month
- Sacramento – once a week (SDAG covers for lead DAG twice a month when lead is in Fresno)
- Pleasant Hill – once a week
- San Jose – once a week

With regard to the primary DAG:

- Rarely seen in most MBC field offices except for subject interview
- Primary DAG in SF is physically present couple days a week; 40 hours a week via email and phone

SUBPOENA PROCESS

Subpoena Duces Tecum (SDT)

According to the VPM, after determination is made that a subpoena is necessary, the preparation of the subpoena and supporting declaration is the responsibility of the investigator and must be submitted for review and approval by the primary DAG within 10 business days. Subpoena enforcement is the responsibility of the primary DAG and must be filed in the appropriate Superior Court within 30 business days of acceptance of MBC's request for enforcement.

The JVEG states that while the responsibility to prepare the SDT package rests with the investigator, the primary or lead DAG should assist the investigator in the preparation of

the SDT when requested. The SDT is approved by the primary or in his/her absence, the lead DAG. If the investigator does not receive a response from the DAG within 10 business day, the SDT is required to be forwarded to the Sup II for signature and processing.

The EOM requires that the investigator submit completed SDT requests to his/her supervisor and that the supervisor forward the SDT to the primary DAG within three business days.

When asked if the SDT process is working, most DAGs indicated that the process was satisfactory. However, some interviewees stated that in one office if investigators adhered to the written policy and forwarded the SDTs to the Sup II after 10 business days without approval of the DAG, there would be repercussions; while in another office, if an investigator is having problems with the SDT, the DAG will assist. In still another office, the DAGs write the SDT. Multiple people interviewed indicated that, even though a new template for SDTs was developed and approved by both departments, individual DAGs continue to change the template language.

Subpoena to Appear and Testify (SAT)

The EOM requires that investigators submit the investigation report and SAT to the Sup I for approval. If the Sup I approves, the SAT is forwarded to the Sup II for review and signature. Although the written policy does not appear to require it, the practice has been to then submit the SAT to the DAG for approval.

Some DAGs indicated they do not believe it is necessary for them to approve SATs since it is basically a standard form. In addition, some investigators stated that there is no practical need for approval of a standard SAT, and that investigators should be able to issue them without higher review.

INTERVIEW PROCESS

The interview process consists of scheduling the interview, pre-interview meeting and the interview.

Scheduling Interviews

The JVEG requires that the primary DAG must communicate his/her intention to participate in the interview in the IPPR, and list the dates and times within the next 30 business days when he/she is available. When a primary DAG does not communicate an intention to participate, the investigator is permitted to schedule and conduct the interview without the primary DAG's participation. If new witnesses are identified, the primary DAG must inform the investigator if he/she elects to participate in the interview. If the investigator does not hear from the primary DAG within five business days, the

investigator is authorized to schedule and conduct the new witness interview without the primary DAG.

Even with this policy, interviewees stated that many do not adhere to it and that scheduling subject interviews has become a "nightmare". On the other hand, some DAGs indicated it takes investigators one to two months to schedule an interview, while others stated that interviews are not conducted in a timely manner and that it is not uncommon to take six months to schedule an interview.

Reasons provided by interviewees for the delays included that investigators not only have to coordinate the schedules of the subject physician, physician's attorney and the medical consultant, but now also the schedule of the primary DAG, or, if not available, the lead DAG. In addition, they indicated that in some HQES offices the primary DAG does not allow the lead DAG to participate in the interviews which extends the timeframe, and last minute cancellations and rescheduling problems contributed to the delays.

Participating in Interviews

The VPM provides that the primary DAG may elect to participate in interviews, including subject interviews, while the JVEG states that primary DAGs are expected to participate in all subject interviews.

In one district office, the DAGs estimated that they participate in 50 percent of the subject interviews while the investigators estimated that DAGs participate in 90 percent of the interviews. In another district office, the DAGs stated that they participate in only 50 percent of the interviews because they do not believe it is necessary for them to participate in all subject interviews and that such interviews should never be delayed merely because of the unavailability of a DAG. In one office, interviewees reported that the primary DAG participates in 90 percent of subject interviews, while in another office it was indicated that the primary or lead DAG participates in 80 percent of the interviews. Most DAGs stated that they don't participate in complainant and key witness interviews, except for a DAG from one office who stated that sometimes they participate in complainant interviews and that they attempt to participate in most key witness interviews.

Pre-Interview Meetings

Pursuant to the EOM, VPM and JVEG, before any interview the MBC and AG participants should meet in person for a pre-interview meeting to discuss interview tactics, assign roles if necessary, designate areas of questioning, and identify and organize all documents about which the person to be interviewed will be questioned. Both the EOM and the JVEG instruct that: "It is important that all participants allocate sufficient time for the pre-interview meeting."

However, it appears from interviews with MBC and AG staff that in most instances, such pre-interview meetings do not occur or that, in a few cases, a pre-interview meeting only occurs by phone.

Interviews

Pursuant to the JVEG: "Subject interviews are extremely important. Accordingly, it is vital that such interviews be conducted in a manner that will elicit the maximum amount of reliable information from the subject." It further states: "Although the interview should be low-key and calculated to elicit all available information, the interview should be appropriately detailed."

There were multiple comments regarding the interview process ranging from some of the interviewees stating that MBC investigators must interview all subjects, whether there appears to be a case or not to reports that participation in interviews by certain DAGs elevated the interviews to an adversarial instead of a fact-finding process.

Some opined that it is not necessary for DAGs to be involved in all subject interviews and that if DAGs have additional questions, a second interview could be scheduled. Others stated that if a lead or primary DAG is not available in a timely manner, they should provide the investigator with the specific questions that they want asked.

EXPERT WITNESS PROGRAM

Per EOM: "It is the policy of MBC to utilize the services of licensed physicians who are Board certified in their specialty area to provide expert reviews and opinions in MBC cases." To accomplish this, MBC maintains a panel of pre-approved expert reviewers. Under certain circumstances, a request may be made for the use an expert reviewer who is not a participant in the Expert Reviewer Program, which is submitted to the Sup I and II for approval. Interviewees reported that such requests often also require approval from Headquarters. Such outside experts are required to meet the minimum qualifications set forth in the Expert Reviewer Program.

There were multiple comments from those interviewed regarding the quality of the expert reviewers. Most DAGs, and some investigators, believe that there needs to be a better pool of experts. In addition, there were comments that the approval process to obtain an outside expert does not comply with the EOM and that the approval process needs to be streamlined.

Staff interviewed also expressed concerns regarding the contents of the experts' reports and the appropriateness of pre-report contact with the expert.

VERTICAL ENFORCEMENT

Per VPM, the fundamental purpose underlying the VE program is "to bring investigators and deputy attorneys general together from the beginning of an investigation in order to improve coordination and teamwork, increase efficiency, and reduce investigation completion delays, all with the overall goal of increasing public protection."

Multiple, sometimes conflicting, comments were received from the staff interviewed regarding their perception of the impact of VE as implemented to date. Comments from DAGs interviewed included:

- More effective, but not necessarily more efficient;
- Vastly improves the way things are being done;
- Works well for complex cases;
- Weeds out bad cases earlier;
- Resolves cases sooner;
- Cases moving quicker out of investigation;
- Investigation takes too long;
- Timelines have increased;
- VE works well, acceptance is the problem
- MBC investigators can anticipate what is required to put a viable case together ;
- Quality of cases has improved;
- Can identify problematic cases earlier and quicker;
- Cases are stronger;
- Cases are better and consequently easier to settle;
- Fewer cases are going to OAH;
- Cases that go to hearing are much better;
- There are fewer problems in obtaining certified medical records;
- Fewer cases require additional investigation after referral for prosecution;
- Cases require additional investigation after referral for prosecution;
- Positive learning experience for investigators in understanding the prosecution process;
- Affidavits in support of subpoenas are better; and
- Too many layers of approval.

Comments from MBC investigators regarding their perceptions of the VE process included:

- No difference, haven't seen any real change;
- Quality of cases have remained the same;
- Cases are not being closed any faster;
- Number of cases going to hearing has not changed;
- Most cases are settled, but that's the same as pre VE;
- Time required to obtain certified medical records is the same;
- Since VE is not a true vertical prosecution process, same problems with repeat investigations because lead DAGs want different things than the primary DAGs;

- Learn a lot by attending OAH hearings;
- Work with too many DAGs, all with different styles and different requirements;
- Aging cases have increased;
- Time to complete investigations has increased;
- Resolution of cases takes longer;
- Everything must be approved by a DAG;
- Forever chasing DAGs to get their approval;
- Efficiency has not increased, but instead has declined;
- Too many levels of review/approval;
- Too many attorneys involved;
- A lot of delays and unreasonable requests drag out the investigations;
- Increased caseload due to DAGs not turning over the cases;
- Caseload increased because taking longer to get DAG approval;
- Many cases get reassigned;
- Trying to get a case moving with all the roadblocks is very frustrating;
- Since accusations must be filed within 30 days of receipt, DAGs return cases to investigators for more information;
- Caseload has not increased, but time to complete cases has;
- Too many delays; everything takes much longer;
- DAGs are finally being held accountable for aging cases; and
- Liked the DIDO program better.

Attorney/Client Relationship

Disparate comments were received regarding MBC's status as HQES' client since implementation of VE, ranging from MBC is still the client, to only certain people at MBC are the clients, to MBC is no longer the client.

Responsiveness

Per JVEG: MBC investigators and DAGs must be responsive to each other and should check and respond to telephone messages and emails regularly and promptly. Nevertheless, some investigators complained of a lack of responsiveness by certain DAGs to emails and phone calls.

During the interviews, there were multiple comments that investigators are frequently chasing DAGs because their approval is required for every step. Others stated that some DAGs kept cases on their desk so long that when the statute of limitations is approaching, the case is sent back asking for more information, knowing that the investigator cannot obtain the information in time.

Clarity of Roles

Although the VPM identifies the VE team members and their respective roles, many of those interviewed from both departments stated that there needs to be a greater clarity of their individual responsibilities.

For example, many DAGs were unclear as to the need for both a Sup I and a Sup II and the Assistant Chief of Enforcement and stated that their functions need to be clearly articulated. Some also questioned the need for both a medical consultant and an expert witness.

Some investigators stated that the functions of the lead and primary DAGs must be clarified because different HQES offices appear to utilize these roles differently. Some investigators also stated that it is not uncommon for the lead and primary DAG to give conflicting directions, and that the involvement of the SDAG varies depending on the HQES office. Some investigators also stated that they lost their autonomy and are basically secretaries since the DAGs now make all of the decisions, that they are constantly duplicating records for DAGs and are spending too much time coordinating DAGs' schedules for participation in subject interviews.

Dispute Resolution

The JVEG states that investigators and DAGs are expected to treat each other, and all individuals with whom they come into contact in their official capacities, professionally, respectfully and with courtesy. It further states that while disagreements may arise, investigators and DAGs are expected to ensure that such disagreements are resolved professionally, respectfully and with courtesy, never losing sight of the fact that we are all working toward the same goal, public protection for all Californians.

The EOM states that when disagreements arise between an investigator and DAG, the investigator should first discuss his/her concerns directly with the DAG in an effort to resolve the dispute. If the dispute remains unresolved, the investigator and DAG should discuss the matter with the lead DAG, Sup I and/or Sup II. If the dispute remains unresolved, the matter must be documented on a Dispute Resolution form and submitted to the SDAG whose determination shall be final.

Interviewees suggested that most conflicts requiring dispute resolution emanate from a single office and often require elevation to the Senior Assistant AG and the MBC Assistant Chief and Chief of Enforcement at Headquarters. Some supervisors estimated that 80 percent of their time is spent on disputes.

Shared Computer System and Combined Location

The GC Section 12529.6 (e) states: The Medical Board of California shall do both of the following:

(1) Increase its computer capabilities and compatibilities with the Health Quality Enforcement Section in order to share case information.

(2) Establish and implement a plan to locate its enforcement staff and the staff of the Health Quality Enforcement Section in the same offices, as appropriate, in order to carry out the intent of the vertical enforcement and prosecution model.

Shared Computer System

According to DAGs, only investigators who are part of DOJ are permitted access to their ProLaw system. MBC indicated that DAGs are able to access their system when onsite at a MBC District Office but that attempts to integrate data between the two systems have so far been unsuccessful.

DAGs and investigators both indicated that at a minimum, a shared computer drive that both DAGs and investigators could access would be helpful to enable joint access to case specific documents. They also indicated that a better method of sharing up-to-date calendar information would help in reducing the time required to schedule subject and other interviews.

Same Location

The DAGs, in general, suggested that it would be beneficial for investigators to be part of DOJ and located in the same facility. However, only some investigators agreed with this opinion.

DAGS stated that if investigators move to DOJ:

- They would acquire special agent status and receive higher pay;
- They would have greater status working at DOJ;
- Retention problems would be eliminated;
- There would be clearer lines of supervision;
- DAGs would have more authority to push cases through the process;
- There would be more direct paring of investigators and attorneys; and
- It would create greater bonding and team building.

Some DAGs suggested that only investigators, and not supervising investigators, be transferred to DOJ and that SDAGs assume responsibility for supervising the transferred investigators. Other DAGs recommended that only investigators and Sup Is be transferred.

MBC investigators suggested that:

- Special agent status would not be automatic since passage of a physical fitness test is required;
- They like working for MBC because physicians do not realize they are armed peace officers and believe this is safer;

- They are uncertain that transferring to DOJ would be desirable, but being located in the same facility could be beneficial;
- Transferring to DOJ would not eliminate disagreements with DAGs, significantly improve the current situation, and would likely negatively impact investigator retention;
- The likely pay increase would not offset the negative impact on their health of working directly for the DAGs;
- They do not believe that attorneys should directly supervise sworn peace officers; and
- They would prefer that MBC have their own attorneys.

It is apparent from the interviews that there is a significant diversity of opinion between and amongst investigators and DAGS, both as to how VE is currently implemented and as to how it should be implemented in the future.

XIX. VERTICAL ENFORCEMENT ALTERNATIVES

Six alternatives are apparent regarding the future of the VE model based on the statistical data and other information gathered to date.

The first alternative, canceling the VE pilot and resuming the previous method of investigating and prosecuting complaints, would return matters to the way they were prior to the implementation of VE, which was already deemed by the Legislature to be unacceptable.

The second alternative, continuing the current pilot unmodified for a period of time to gather additional statistical data, would continue a process that has increased an already unacceptable time frame to investigate complaints.

The third alternative, transferring MBC investigators to DOJ and consolidating responsibility for the investigation and prosecution of complaints under the AG, is not supported by the results of the current VE pilot as likely to decrease investigative time frames.

The fourth alternative, transferring responsibility for prosecuting cases to MBC and allowing MBC to hire in-house legal staff necessary to assume these duties, would be a major change that would likely result in an initial increase in case resolution timelines. The ability of MBC to timely recruit highly skilled legal staff experienced in the nuances of MBC's cases is also unknown.

The fifth alternative, co-location of DAGs and investigators in the same facility, would potentially afford benefits, but the associated costs, as well as other potential issues regarding such a move, suggest that this alternative is premature. In addition, to be successful, implementation and evaluation of the results of the recommendations in the next chapter is essential. Nevertheless, MBC advises that it has office space available for DAGs at each of its District Offices.

The sixth alternative, continuing the pilot with modifications to improve its implementation and assess its effectiveness and success in two years, is the most feasible alternative. This alternative would modify the current pilot with improvements recommended in the following chapter which are imperative for the VE model to succeed. Furthermore, additional commitment to the VE process by executive management and every manager and supervisor in each department is essential to the success of this modified VE model.

XX. RECOMMENDATIONS

Recommendations are based on independent review of the data provided data and comments received during staff interviews. Although noteworthy efforts were expended by both HQES and MBC staff toward implementation of the VE model and some successes achieved, it is evident that room for improvement exists. Recommendations for a more successful implementation of the VE model include the following:

Recommendation #1: Continue the pilot and implement the recommendations noted below and assess its effectiveness and success in two years

Although noteworthy efforts were expended by both HQES and MBC staff toward implementation of the VE model and some successes achieved, it is evident that significant room for improvement exists. Therefore, it is recommended that Recommendations 2 through 8 be implemented, the pilot be continued for two more years, and its effectiveness reassessed after two years.

Recommendation #2: Zero Tolerance of Negative Communication

As noted by the Monitor, teamwork is based on "mutual respect and colleagueship" and "doesn't mean attorneys become dictatorial or inflexible" or that "investigators lose reasonable professional independence in handling their fieldwork or are asked to do tasks beneath their job descriptions".

While both the MBC and HQES have made considerable progress in their working relationship, additional work is necessary to ensure mutual respect and appreciation for the vital roles each bring to the process and, ultimately, to public protection. Staff interviewed identified this as a major and continuing issue directly or indirectly impacting staff statewide. Based on the statements and the level of frustration that was observed during the interviews, it was concluded that this was a major issue impacting the success of VE. In addition, there was a lack of commonly understood and mutually accepted appreciation of each other's roles and professional contributions towards resolving cases in the VE model. Since interpersonal communications between MBC investigators and HQES attorneys is key to the success of VE, it is recommended that the tone be uniformly set by executive management and every manager and supervisor of both departments that all staff work together as partners in a professional and respectful manner, and that all communications demonstrate mutual respect, courtesy and responsiveness, without exception. Any inappropriate communication must be addressed immediately, fairly and effectively.

Consideration should be given to engaging a knowledgeable outside consultant respected by both MBC and HQES to help identify, isolate and eliminate the cause(s) of such negative communications.

Recommendation #3: Clarity of Roles

It is recommended that clear and consistent direction be provided by top management regarding the roles of DAGs and MBC staff at all levels. Although the VPM identifies the VE team members and their respective roles, many of those interviewed from both departments stated that there needs to be a greater clarity and understanding of each others roles.

For example, many DAGs were unclear as to the need for both a Sup I and Sup II and the Assistant Chief of Enforcement and stated that the chain of command needs to be clearly delineated. Some questioned the need for both a medical consultant and an expert witness. On the MBC side, some investigators stated that the roles between the lead and primary DAGs must be clarified because each HQES office appears to manage the roles differently. Some investigators also stated that it is not uncommon for the lead and primary DAG to give conflicting directions and that the role of the SDAG varies depending on which HQES office or team is handling a case.

The meaning of GC Section 12529.6 wording "under the direction of" must be clearly defined and adhered to throughout both departments in a consistent manner that emphasizes teamwork and recognizes the unique training, expertise and contributions of all members of the team. If necessary, legislative changes should be sought to provide additional clarity.

Although HQES management stated that it has been HQES' position that MBC is the client, interview responses indicate that this is neither clearly understood nor accepted. Comments during the interviews indicate there is no common understanding or acceptance of the meaning of these terms at all levels in both departments. Staff interviewed revealed continuing confusion, disagreement or acceptance of the meaning of "direction" and "client", including disagreement as to who is authorized to speak on behalf of the client on a statewide basis. Therefore, management must clarify and ensure a consistent understanding and application of the term, which should be included in the joint training recommended below and incorporated in all appropriate manuals (see AG letter, Appendix C).

Recommendation #4: Consistent and Unified VE Process

The Monitor stated that: "MBC investigators and HQE prosecutors should work together in a true vertical prosecution system featuring case teams established at the initiation of the investigation and remaining together until the case is fully litigated or resolved." As implemented, according to the *Vertical Prosecution Manual* (VPM), there is a lead prosecutor and a primary prosecutor assigned to each case. "The Lead Prosecutor shall be assigned to, and shall review, each complaint referred to the District Office for investigation. In addition to the Lead Prosecutor, a second deputy attorney general shall be assigned by the Supervising Deputy Attorney General to each complaint as well. The Lead Prosecutor shall act as the primary deputy attorney general on the case for all purposes until and unless replaced by the second deputy

attorney general……" Whenever, the Lead Prosecutor determines, either upon review of the original complaint or as the investigation progresses, that it is a likely a violation of law may be found, the second deputy attorney general shall replace the Lead Prosecutor as the primary deputy attorney general on the case for all purposes."

Interviewees stated that this process causes confusion and unnecessary or repetitive tasks because it is not uncommon for the lead DAGs to request different investigative tasks than the primary DAGs. This also causes delays in the interview process because it is frequently not readily known if the primary or the lead prosecutor will participate in interviews and the process as implemented varies from office to office.

Therefore, since the current VE model is not a true vertical process as recommended by the Monitor, varies from one office to the other, and results in confusion and delays in the investigation, it is recommended that a consistent and uniform statewide true VE process, with appropriate levels of approval, be adhered to in every office. Exceptions, if any, should require an appropriate basis and level of approval and be clearly documented and published to avoid the appearance of being arbitrary or unfair. It is further recommended that consideration be given to replacing the existing multiple manuals and implementing a single joint manual that addresses the entire VE process, based on input from all who are part of the VE process through a joint task force or committee, to ensure consistency and uniform understanding of the VE model and each person's role in the VE process. In addition, the VE process itself should be reviewed for efficiency to determine if there are unnecessary duplications and methods for streamlining the overall process.

Recommendation #5: Consider Limiting VE to Specified Types or Categories of Cases or Circumstances

The data provided indicates that although there is a decrease in the time to complete a case once it is referred to the AG for prosecution, there is an overall increase in the investigatory phase of cases in the VE model.

As the Monitor noted, the vertical prosecution model is widely and successfully used by law enforcement, district attorney offices and others for specialized or complex cases. However, not all cases necessarily require handling under the VE model. To improve efficiency and effectiveness in light of the demonstrated increase in the time to complete the investigatory phase that has resulted from inclusion of all cases in the VE model, it is recommended that consideration be given to identifying specific types or categories of cases or circumstances under which VE would likely be of benefit and limit its use to those situations.

A working group consisting of management and staff from both departments should evaluate and recommend the categories of cases, circumstances or guidelines for determining which cases warrant handling in the VE process. In addition, consideration should be given to designating an intake officer(s) in the field offices to determine cases

warrant VE handling in accordance with the final guidelines. An outside consultant experienced in vertical prosecution should be considered to assist in this process.

Recommendation #6: Joint Statewide Training

Although MBC management states that joint statewide training has been previously attempted, it is recommended that a mandated joint statewide training for all DAGs and investigators, regardless of their level, experience or past training, be held to assist in team building and ensure a common and consistent knowledge base. Based on the comments received from interviewees, such training should, at a minimum, include:

- Effective and efficient communication;
- Workload prioritization;
- Roles, background and training of investigators, supervisors, lead and primary DAGs and SDAGs, and the needs of each to efficiently and appropriately perform their functions;
- Definition of "client" and "direction";
- Interviews and interview strategies;
- Obtaining appropriate expert witnesses;
- Subpoena use and preparation;
- Administrative hearing process and investigator's role at a hearing; and
- The role and purpose of the Central Complaint Unit (CCU).

The primary purpose of the statewide training is to achieve a common foundation and understanding, as well as to foster team building between the staffs of both departments and their various field offices. Unless the training is designed and implemented to accomplish both of these critical goals, it will not be effective.

Recommendation #7: Staffing Vacancies

Staff interviewed indicated that there were recruitment and retention issues. It is recommended that the departments continue to give priority to resolving any current staffing vacancy issues. Areas to pursue include:

- Methods to increase investigators' salaries;
- Use of overtime pay;
- Use of telecommunication and alternate work schedules; and/or
- Wage subsidization in high turnover, hard to fill vacancy locations.

Consideration should be given to engage a knowledgeable consultant with experience in state government and in working with control agencies to survey past and current employees to identify and, if appropriate, help resolve areas of dissatisfaction that are contributing to the problem.

Staff from both departments also recommended, during the interviews, revisiting the MBC Investigator Assistant classification to reduce reliance on sworn investigators performing tasks that could be accomplished by non-sworn personnel.

Recommendation #8: Common Server

One of the recommendations of the Monitor's reports and the previous ***Report to the Legislature, Vertical Enforcement***, was to implement an "information technology system interoperable with the current system used at DOJ". The MBC and AG have agreed to an interoperable database and are in the process of obtaining necessary control agency approvals. Although immediate implementation may consequently not be feasible at this time, there was significant support from many of those interviewed for implementation of a common or shared server accessible to both DAGs and investigators for storage of common documents and their calendars as an interim measure.

It is recommended that a working group of both AG and MBC staff be established to explore an effective and efficient method of sharing documents and information to eliminate repetitive duplication of documents and unnecessary delays in scheduling and rescheduling of subject interviews.

XXI. CONCLUSION

One of the primary goals leading to the implementation of VE was the perception that doing so would significantly reduce the time to investigate and resolve complaints against licensees of MBC, thereby providing for increased public protection. While the data collected suggests overall reductions have occurred in the prosecution phase of such matters, the investigation phase has not realized such benefits, and, as a result, the overall time to resolve complaints with a disciplinary outcome has only minimally improved. Furthermore, the time to resolve all complaints regardless of the type of outcome has actually increased.

The results suggest improvement is possible if the recommended modifications are made to the current model, staff receives appropriate training in interpersonal communications and concerted efforts are made towards team building, complemented by a unified effort to provide joint oversight and consistent direction by the executive levels of both agencies.

It is, therefore, recommended that the pilot be continued with the modifications contained in Recommendations 2 through 8 to improve its implementation with a reassessment of its success after two years as the most prudent course of action at this time. It is important to note that additional commitment to the VE process by executive management and every manager and supervisor in each department is essential to the success of this modified VE model.

APPENDICES

Appendix A – Summary Data Chart

Appendix B – Primary Data

Appendix C – Response Letters

Appendix D – Abbreviations

APPENDIX A

SUMMARY DATA CHART

Table A1 –Summary of Data Analysis -- Combined Physicians and Surgeons and Allied Health Cases

	(Percentage Increase or Decrease)*					
	2008 vs. 2005	**2008 vs. 2006**	**2008 vs. 2005**	**2008 vs. 2006**	**2008 vs. 2005**	**2008 vs. 2006**
	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)
Misc. Stats						
Attorney Services Hours Billed by AG	37.71%	18.72%				
Legal Assistant/Paralegal Hours Billed by AG	39.81%	15.04%				
Enforcement Temp Help Hours Worked (excludes Med. Consultants)	86.83%	61.68%				
MBC Enforcement Medical Consultant Hours Worked	4.11%	5.02%				
No. of Filled Enforcement Field Investigator Positions	10.91%	19.61%				
Average Caseload per Filled MBC Field Investigator Position	-23.08%	-20.00%				
No. of Authorized Field Investigator Positions	16.39%	24.56%				
Average Caseload per Authorized MBC Field Investigator Position	-26.09%	-22.73%				
	Combined Physician and Surgeon & Allied Health		**Physician and Surgeon Stats**		**Allied Health Care Stats**	
	2008 vs. 2005	**2008 vs. 2006**	**2008 vs. 2005**	**2008 vs. 2006**	**2008 vs. 2005**	**2008 vs. 2006**
	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)
Cases Referred to MBC District Office for Investigation	-14.36%	-5.71%	-14.17%	-6.78%	-15.38%	0.54%
Days Aged from Request to Suspension Order Granted						
Average	-48.57%	-65.38%	-52.50%	-66.67%	36.36%	-59.46%
Median	25.00%	233.33%	25.00%	400.00%	0.00%	-20.00%
No of Cases	-20.00%	-20.00%	-27.59%	-22.22%	16.67%	-12.50%
Days Aged from Assigned to MBC Investigator to Closed, No Prosecution						
Average	37.64%	26.44%	38.01%	24.67%	35.21%	43.25%
Median	31.62%	18.09%	32.94%	17.13%	19.52%	36.99%
No of Cases	-24.31%	-12.52%	-26.36%	-13.00%	-3.75%	-7.23%
Pending at Year End	12.46%	6.87%	10.85%	6.14%	18.57%	11.41%
Days Aged from Assigned to MBC Investigator to Referral for Citation/Fine						
Average	75.72%	46.08%	67.14%	42.90%	170.62%	51.30%
Median	61.48%	34.57%	64.10%	43.59%	116.92%	22.61%
No of Cases	-19.61%	-22.64%	-34.04%	-36.73%	150.00%	150.00%

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	Combined Physician and Surgeon & Allied Health		Physician and Surgeon Stats		Allied Health Care Stats	
	2008 vs. 2005	2008 vs. 2006	2008 vs. 2005	2008 vs. 2006	2008 vs. 2005	2008 vs. 2006
	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)
Days Aged from Assigned to MBC Investigator to Referral for Public Letter of Reprimand						
Average	12.50%	-24.85%	8.22%	-23.30%	-100.00%	
Median	44.04%	-21.62%	35.99%	-23.06%	-100.00%	
No of Cases	-78.57%	-70.00%	-69.23%	-60.00%	-100.00%	
Days Aged from Assigned to MBC Investigator to Referral for Criminal Action						
Average	38.35%	12.54%	27.99%	2.08%	66.67%	67.33%
Median	52.22%	8.04%	58.10%	-6.91%	17.03%	23.38%
No of Cases	-2.63%	37.04%	-26.47%	4.17%	200.00%	300.00%
Days Aged from Medical Release Request to Receipt of Medical Records (No Subpoena)						
Average	3.51%	5.36%	8.77%	6.90%	-27.78%	-9.30%
Median	-3.13%	3.33%	-3.13%	0.00%	-15.63%	8.00%
No of Cases	-44.80%	-26.98%	-49.35%	-30.47%	13.89%	2.50%
Days Aged from Subpoena Served to Receipt of Medical Records						
Average	-46.82%	43.75%	-43.93%	44.78%		-12.82%
Median	-64.00%	24.14%	-61.00%	21.88%		68.75%
No of Cases	2050.00%	120.51%	1900.00%	135.29%		20.00%
Days Aged from Medical Release Request and Subpoena Served to Receipt of Medical Records						
Average	62.79%	25.00%	62.79%	22.81%		-100.00%
Median	30.51%	-38.40%	30.51%	-38.40%		-100.00%
No of Cases	106.67%	34.78%	106.67%	47.62%		-100.00%
Days Aged from Mailing/Service of Request to Subject Interview Completed						
Average	16.67%	12.00%	20.83%	13.73%	7.69%	2.44%
Median	2.78%	-2.63%	2.78%	-11.90%	6.45%	10.00%
No of Cases	-16.33%	8.17%	-18.76%	8.50%	11.54%	5.45%
Pending at Year End	6.86%	13.54%	11.63%	10.34%	-31.25%	
Days Aged from Mailing/Service of Subpoena to Subject Interview Completed						
Average		-76.92%		57.69%		
Median		-10.87%		-10.87%		
No of Cases		200.00%		160.00%		
Pending at Year End	275.00%	328.57%	285.71%	440.00%	200.00%	50.00%
Days Aged from Case Submitted to District Office Medical Consultant to Review Completed						
Average	183.87%	57.14%	187.10%	56.14%	204.76%	120.69%
Median	83.33%	57.14%	91.67%	58.62%	33.33%	21.74%
No of Cases	569.39%	13.89%	543.75%	12.36%	1800.00%	46.15%
Pending at Year End	433.33%	42.22%	391.43%	34.38%	1900.00%	185.71%

	Combined Physician and Surgeon & Allied Health		Physician and Surgeon Stats		Allied Health Care Stats	
	2008 vs. 2005	2008 vs. 2006	2008 vs. 2005	2008 vs. 2006	2008 vs. 2005	2008 vs. 2006
	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)
Days Aged from Request to Receipt of Expert Opinion						
Average	4.00%	10.64%	-1.96%	6.38%	80.95%	61.70%
Median	-2.44%	11.11%	-4.88%	8.33%	66.67%	36.36%
No of Cases	-26.20%	-12.84%	-27.22%	-10.66%	-16.28%	-32.08%
Pending at Year End	-17.46%	-11.86%	-25.45%	-16.33%	37.50%	10.00%
Days Aged from Case Assigned to Completed Investigation (Referred to DAG)						
Average	23.60%	24.38%	22.75%	24.50%	34.41%	13.12%
Median	15.51%	22.07%	21.43%	20.71%	60.00%	7.53%
No of Cases	-9.95%	-1.33%	-10.91%	3.16%	-6.10%	15.38%
Pending at Year End	12.46%	6.87%	11.89%	6.51%	18.57%	11.41%
Days Aged from Assigned to MBC Investigator to All Outcomes						
Average	21.73%	15.34%	24.38%	16.56%	6.67%	8.02%
Median	40.65%	27.11%	42.16%	27.57%	25.43%	21.61%
No of Cases	-19.00%	-9.19%	-21.53%	-8.81%	-0.63%	-11.30%
Pending at Year End	12.24%	6.61%	11.96%	6.38%	14.81%	8.77%
Days Aged from Assigned to MBC Investigator to Settlement						
Average	-6.21%	-9.68%				
Median	-5.23%	-4.07%				
No of Cases	-11.34%	-13.13%				
Pending at Year End	-23.02%	-17.80%				
Days Aged from Assigned to MBC Investigator to Disciplinary Outcome						
Average	-0.51%	2.10%	0.58%	-0.29%	-5.65%	0.29%
Median	-1.85%	5.50%	-2.51%	-0.82%	-6.51%	9.91%
No of Cases	-9.61%	-5.35%	9.54%	3.04%	-9.86%	-27.27%
Pending at Year End	-23.37%	-17.83%	-26.50%	-23.04%	-11.43%	4.49%
Days Aged from Case Assigned to Investigation Completed and Accusation Filed by DAG						
Average	6.97%	8.60%	-0.87%	1.25%	55.43%	42.64%
Median	7.57%	12.97%	0.93%	6.67%	55.26%	35.46%
No of Cases	-8.48%	4.06%	-15.96%	3.95%	30.56%	4.44%
Pending at Year End	-13.41%	-20.67%	-4.63%	-20.77%	-30.36%	-20.41%
Days Aged from Completed Investigation to Accusation Filed by DAG						
Average	-4.55%	-16.00%	-28.24%	-32.22%	85.71%	45.34%
Median	28.44%	-32.17%	-38.26%	-46.62%	9.68%	41.67%
No of Cases	-8.48%	4.06%	-15.96%	3.95%	30.56%	4.44%
Pending at Year End	-13.41%	-20.67%	-4.63%	-20.77%	-30.36%	-20.41%
Days Aged from Accusation Filed by DAG to Case Submitted to ALJ for Decision						
Average	-23.24%	-14.46%	-14.73%	-10.23%	-65.18%	-33.33%
Median	-38.06%	-12.21%	-31.46%	-1.23%	-61.10%	-31.40%
No of Cases	-23.68%	93.33%	-29.41%	84.62%	25.00%	150.00%

	Combined Physician and Surgeon & Allied Health		Physician and Surgeon Stats		Allied Health Care Stats	
	2008 vs. 2005	2008 vs. 2006	2008 vs. 2005	2008 vs. 2006	2008 vs. 2005	2008 vs. 2006
	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)
Days Aged from Accusation Filed by DAG to Settlement						
Average	-17.16%	-24.41%				
Median	-28.25%	-23.68%				
No of Cases	-10.99%	-11.96%				
Pending at Year End	63.64%	125.00%				
Days Aged from Accusation Filed by DAG to Disciplinary Outcome						
Average	-8.75%	-6.99%	0	-5.71%	-18.40%	-18.24%
Median	-27.29%	-14.25%	-26.86%	-17.60%	-30.20%	4.49%
No of Cases	-6.08%	0.82%	-4.69%	5.73%	-12.00%	-16.98%
Pending at Year End	-28.74%	-16.78%	-35.55%	-25.10%	14.89%	38.46%
Days Aged from Accusation Filed by DAG to Revocation Outcome						
Average	-10.11%	43.71%	-14.43%	28.79%	10.64%	54.65%
Median	-39.45%	58.08%	-56.55%	33.70%	6.23%	78.43%
No of Cases	-12.00%	10.00%	-16.67%	36.36%	0.00%	-22.22%
Days Aged from Accusation Filed by DAG to Surrender Outcome						
Average	-14.88%	-16.71%	-14.66%	-18.51%	-41.38%	-35.00%
Median	-49.86%	-38.67%	-50.14%	-46.36%	-20.92%	30.46%
No of Cases	-10.26%	-10.26%	14.29%	6.67%	-72.73%	-66.67%
Days Aged from Accusation Filed by DAG to Suspension Only Outcome						
Average		-100.00%		-100.00%		
Median		-100.00%		-100.00%		
No of Cases		100.00%		-100.00%		
Days Aged from Accusation Filed by DAG to Probation Outcome						
Average	-22.04%	-16.61%	-1.65%	-1.81%	-29.12%	3.59%
Median	-27.11%	-15.97%	-20.59%	-18.53%	-32.32%	6.91%
No of Cases	-6.82%	10.81%	-20.00%	-3.45%	44.44%	62.50%
Days Aged from Accusation Filed by DAG to Probation with Suspension Outcome						
Average	-4.32%	-4.14%	-4.78%	0.56%	12.53%	-17.42%
Median	-16.39%	-19.21%	-28.69%	-15.31%	21.21%	-20.79%
No of Cases	-58.62%	-29.41%	-62.50%	-35.71%	-40.00%	0.00%
Days Aged from Accusation Filed by DAG to Public Reprimand Outcome						
Average	-11.35%	-17.92%	-9.49%	-17.21%	-57.93%	-57.14%
Median	-31.86%	-30.68%	-29.39%	-32.45%	-62.12%	-41.30%
No of Cases	0.00%	-19.21%	8.16%	-11.67%	-66.67%	-75.00%

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`	Combined Physician and Surgeon & Allied Health		Physician and Surgeon Stats		Allied Health Care Stats	
	2008 vs. 2005	2008 vs. 2006	2008 vs. 2005	2008 vs. 2006	2008 vs. 2005	2008 vs. 2006
	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)	(Combined VE & Non VE cases)
Days Aged from Accusation Filed by DAG to Other Decision Outcome						
Average	33.52%	-47.09%	93.42%	-58.25%	-1.90%	13.13%
Median	-5.90%	-18.48%	15.34%	-75.10%	-1.90%	13.13%
No of Cases	300.00%	-166.67%	600.00%	250.00%	0.00%	0.00%
Days Aged from Accusation Filed by DAG to Accusation Withdrawn/Dismissed Outcome						
Average	16.67%	55.71%	2.78%	148.32%	51.42%	-47.94%
Median	-23.64%	32.14%	-25.73%	60.24%	51.42%	-59.60%
No of Cases	24.00%	34.78%	26.09%	81.25%	0.00%	-71.43%

Other Stats	
Office of Administrative Hearings Initial Hearing Dates Delayed Due to Governor's Executive Order, July - October 2008	
Average Days Delay	119.78
Median Days Delayed	112.00
Number of Cases Delayed	23.00

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Table A2 –Summary of Select Data Analysis -- Combined Physicians and Surgeons and Allied Health Cases

	(Percentage Increase or Decrease)
	2008 vs. 2005
	(2005 Data Pre VE, 2008 Data Combined VE & Non VE Cases)
Misc. Stats	
Attorney Services Hours Billed by AG	37.71%
Legal Assistant/Paralegal Hours Billed by AG	39.81%
Enforcement Temp Help Hours Worked (excludes Med. Consultants)	86.83%
MBC Enforcement Medical Consultant Hours Worked	4.11%
Average Caseload per Filled MBC Field Investigator Position	-23.08%
	Combined Physician and Surgeon & Allied Health Care Stats
Cases Referred to Investigations	-14.36%
Days Aged from Assigned to MBC Investigator to Closed, No Prosecution	
Average	37.64%
Median	31.62%
No of Cases	-24.31%
Days Aged from Assigned to MBC Investigator to Referral for Citation/Fine	
Average	75.72%
Median	61.48%
No of Cases	-19.61%
Days Aged from Assigned to MBC Investigator to Referral for Criminal Action	
Average	38.35%
Median	52.22%
No of Cases	-2.63%
Days Aged from Case Submitted to D.O. Medical Consultant to Review Completed	
Average	183.87%
Median	83.33%
No of Cases	569.39%
Days Aged from Assigned to MBC Investigator To Investigation Completed (Referral to DAG)	
Average	23.60%
Median	15.51%
No of Cases	-9.95%
Days Aged from Assigned to MBC Investigator to All Outcomes	
Average	21.73%
Median	40.65%
No of Cases	-19.00%
Days Aged from Assigned to MBC Investigator to Settlement	
Average	-6.21%
Median	-5.23%
No of Cases	-11.34%
Days Aged from Assigned to MBC Investigator to Disciplinary Outcome	
Average	-0.51%
Median	-1.85%
No of Cases	-9.61%
Days Aged from Completed Investigation to Accusation Filed by DAG	
Average	-4.55%
Median	28.44%
No of Cases	-8.48%
Days Aged from Accusation Filed by DAG to Disciplinary Outcome	
Average	-8.75%
Median	-27.29%
No of Cases	-6.08%
Days Aged from Accusation Filed by DAG to Accusation Withdrawn/Dismissed Outcome	
Average	16.67%
Median	-23.64%
No of Cases	24.00%
Days Aged from Accusation Filed by DAG to Settlement	
Average	-17.16%
Median	-28.25%
No of Cases	-10.99%
Other Stats **Office of Adminstrative Hearings Initial Hearing Dates Delayed Due to Governor's Executive Order, July - October 2008**	
Average Days Delay	119.78
Median Days Delayed	112.00
Number of Cases Delayed	23.00

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APPENDIX B

PRIMARY DATA

Table B3.1 – Attorney General Health Quality Enforcement Section Attorney Services Hours Billed to Medical Board

	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sept	Oct	Nov	Dec	TOT
CY 05 hours													
Attorney Services	4,905.75	4,455.50	4,336.25	4,177.75	4,487.75	4,808.00	4,445.25	4,390.50	4,374.00	4,182.50	4,627.25	4,043.25	53,233.75
Legal Asst	195.50	182.00	166.75	211.50	185.75	220.50	203.75	255.00	228.00	180.50	131.00	116.00	2,276.25
CY 06 hours													
Attorney Services	4,689.75	4,661.50	5,199.75	4,527.25	5,446.00	5,406.75	4,711.25	5,760.25	5,178.00	5,433.50	5,576.25	5,156.50	61,746.75
Legal Asst	248.00	229.00	245.00	162.75	234.25	253.25	225.00	220.25	269.25	291.75	217.25	170.75	2,766.50
CY 07 hours													
Attorney Services	6,320.50	5,526.50	6,232.25	5,769.25	6,478.00	5,990.50	6,180.75	6,933.50	6,143.50	6,653.25	5,532.25	5,153.50	72,913.75
Legal Asst (Paralegal as of Jul 07)	241.25	227.25	262.50	190.00	263.50	251.50	134.00	65.25	240.00	241.50	253.50	227.75	2,598.00
CY 08 hours													
Attorney Services	6,339.75	5,958.50	5,989.75	6,703.50	6,566.25	6,363.00	6,321.75	5,689.25	5,936.00	6,487.75	5,134.25	5,816.00	73,305.75
Paralegal	277.25	286.75	278.25	315.50	235.50	356.50	320.25	216.50	248.75	219.75	179.25	248.25	3,182.50

Table B3.2 – Medical Board Enforcement Temporary Help Hours Worked (Excluding Medical Consultants)

	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sept	Oct	Nov	Dec	TOT
Enforce (170-184) CY 05 hours	462.00	680.00	726.00	645.00	549.50	430.50	323.75	356.00	463.50	354.00	404.00	330.50	5,724.75
	$ 12,890.00	19,188.00	20,258.00	18,081.00	15,276.00	11,156.00	9,379.00	8,823.00	10,885.00	7,914.00	9,308.00	7,222.00	150,380.00
Enforce (170-184) CY 06 hours	627.80	615.00	779.30	359.50	426.00	342.50	307.50	536.50	721.50	668.00	680.25	551.25	6,615.10
	$ 17,496.00	17,069.00	20,325.00	8,708.00	10,628.00	8,013.00	7,829.00	12,538.00	18,447.00	19,453.00	19,450.00	15,482.00	175,438.00
Enforce (170-184) CY 07 hours	522.00	504.25	468.00	563.95	632.00	524.50	519.00	326.50	392.00	831.75	1,076.50	902.00	7,262.45
	$ 13,802.00	13,419.00	11,719.00	16,666.00	18,822.00	12,975.00	10,060.00	9,385.00	11,988.00	27,898.00	34,277.00	24,045.00	205,056.00
Enforce (170-184) CY 08 hours	1,355.00	1,274.50	1,178.50	1,182.00	1,109.75	842.25	975.75	182.00	181.00	302.50	1,031.00	1,081.25	10,695.50
	$ 40,699.00	36,607.00	33,726.00	30,737.00	28,434.00	22,418.00	23,668.00	4,571.00	4,692.00	8,567.00	26,256.00	29,539.00	289,914.00

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Table B3.3 – Enforcement Medical Consultant Hours Worked

	No. of Consultants	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sept	Oct	Nov	Dec	TOT
CY 05	20-23	1,004.8	1,164.3	1,287.0	1,161.8	1,179.8	1,226.3	1,081.3	1,065.5	1,086.3	1,082.8	1,092.0	950.3	13,381.8
CY 06	20	1,158.0	1,216.3	1,167.8	1,123.0	1,203.3	1,116.0	1,065.0	1,020.8	0,984.3	1,115.8	1,118.8	0,977.3	13,266.0
CY 07	20-25	1,121.3	1,049.0	1,086.0	1,009.5	1,326.5	1,183.8	1,169.0	1,142.0	1,204.5	1,402.5	1,444.3	1,303.3	14,441.5
CY 08	25-26	1,384.8	1,348.2	1,201.3	1,351.1	1,658.3	1,313.2	1,581.3	163.0	0.0	818.8	1,567.3	1,544.5	13,931.5

Table B3.4 – Medical Board Field Investigators and Average Caseload

	2005	2006	2007	2008
No. of Filled Enforcement Field Investigator Positons	55	51	51	61
Avg Cases per Filled Enforcemt Field Investigator	26	25	22	20
No. of Authorized Enforcement Field Investigator Positons	61	57	59	71
Avg Cases per Authorized Field Investigator Position	23	22	19	17

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Table B6.1 – Calendar Days Aged from Request to Suspension Order Granted for Physicians and Surgeon and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending
Calendar Day Age from Request to Suspension Order Granted																				
Average	35		52		100		7		54		98		31		18		14		19	
Median (middle record-half are above and half below)	8		3		8		2		7		1		21		10		5		10	
Record Count	35	0	35	0	17	0	18	0	29	0	10	0	19	0	28	0	5	0	23	0

*Allied Health Care Professionals Cases Includes:
osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives
**Excludes Out of state and Headquarters Cases

Table B6.2 – Calendar Days Aged from Request to Suspension Order Granted for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending
Calendar Day Age from Request to Suspension Order Granted																				
Average	40		57		105		4		61		98		36		19		17		20	
Median (middle record-half are above and half below)	8		2		6		1		13		1		23		10		17		10	
Record Count	29	0	27	0	14	0	13	0	24	0	10	0	14	0	21	0	4	0	17	0

*Excludes Out of State and Headquarters Cases

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Table B6.3 – Calendar Days Aged from Request to Suspension Order Granted for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending	Granted	Pending
Calendar Day Age from Request to Suspension Order Granted																				
Average	11		37		72		16		18		0		18		15		1		17	
Median (middle record-half are above and half below)	8		10		57		4		7		0		7		8		1		12	
Record Count	6	0	8	0	3	0	5	0	5	0	0	0	5	0	7	0	1	0	6	0

**Allied Health Care Professionals Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Table B7.1 & B7.1a – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
Complaints Referred to Investigation	1407		1278						1109						1205					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending
Calendar Day Age from Case Assigned to Case Closed Not Resulting in Prosecution																				
Average	271		295		355		138		333		646		269		373		849		356	
Median (middle record - half are above and half below)	253		282		61		13		305		400		16		333		74		10	
Record Count	905	1148	783	1208	566	282	217	926	715	1203	121	58	594	1145	685	1291	23	4	662	1287

*Allied Health Care Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

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Tables B7.2 & B7.2a – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Physicians and Surgeons Cases

	2005		2006						2007						2008					
Complaints Referred to Investigation	1186		1092						949						1018					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending
Calendar Day Age from Case Assigned to Case Closed Not Resulting in Prosecution																				
Average	271		300		359		139		332		641		269		374		840		358	
Median (middle record - half are above and half below)	252		286		337		135		305		627		272		335		906		324	
Record Count	827	1014	700	1059	511	245	189	814	644	1059	108	51	536	1008	609	1124	21	3	588	1121

*Excludes Out of State and Headquarters Cases

Tables B7.3 & B7.3a – Calendar Days Aged from Case Assigned to MBC Investigator to Case Closed with No Prosecution for Allied Health Cases

	2005		2006						2007						2008					
Complaints Referred to Investigation	221		186						160						187					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending
Calendar Day Age from Case Assigned to Case Closed Not Resulting in Prosecution																				
Average	267		252		316		126		342		685		265		361		944		345	
Median (middle record - half are above and half below)	251		219		135		23		327		472		84		300		448		70	
Record Count	80	140	83	149	55	37	28	112	71	144	13	7	58	137	77	166	2	1	75	165

*Allied Health Care Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

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Table B7.4 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Citation/Fine for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Citation/Fine																				
Average	276		332		372		138		392		690		313		485		548		480	
Median (middle record - half are above and half below)	270		324		361		142		405		695		342		436		492		415	
Record Count	51	0	53	0	44	0	9	0	38	0	8	0	30	0	41	0	3	0	38	0

*Allied Health Care Profesionals Includes:
osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives
**Excludes Out of State and Headquarters Cases

Table B7.5 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Citation/Fine for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending
Calendar Day Age from Investigation Assigned to Referral for Citation/Fine																				
Average	283		331		375		138		451		677		380		473		548		464	
Median (middle record - half are above and half below)	273		312		361		142		453		655		382		448		492		415	
Record Count	47	0	49	0	40	0	9	0	29	0	7	0	22	0	31	0	3	0	28	0

*Excludes Out of State and Headquarters Cases

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Table B7.6 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Citation/Fine for and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Citation/Fine																				
Average	194		347		347		0		201		776		129		525		0		525	
Median (middle record - half are above and half below)	195		345		345		0		106		776		56		423		0		423	
Record Count	4	0	4	0	4	0	0	0	9	0	1	0	8	0	10	0	0	0	10	0

*May include time from initial request for interview if there was no response and a subsequent subpoena was issued.

**Allied Health Care Profesionals Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Table B7.7 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Public Letter of Reprimand for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Subject Interview Completed																				
Average	48		50		56		41		49		71		47		56		53		56	
Median (middle record - half are above and half below)	36		38		43		37		35		48		34		37		39		37	
Record Count	649	102	502	96	307	29	195	67	406	139	37	6	419	133	543	109	8	1	535	108
Calendar Day Age from Subpoena Request to Subject Interview Completed																				
Average	0		78		78		0		144		178		109		18		195		107	
Median (middle record - half are above and half below)	0		46		46		0		144		178		109		41		195		37	
Record Count	0	8	5	7	5	6	0	1	2	13	1	3	1	10	15	30	2	0	13	30
Calendar Day Age from Request to Receipt of Expert Opinion																				
Average	50		47		50		37		52		85		43		52		51		52	
Median (middle record - half are above and half below)	41		36		37		34		37		56		35		40		43		40	
Record Count	561	63	475	59	379	34	96	25	374	60	84	6	290	54	414	52	15	1	399	51
Calendar Day Age from Investigation Assigned to Referral for Criminal Action																				
Average	266		327		429		122		291		646		191		368		876		323	
Median (middle record - half are above and half below)	203		286		429		136		232		630		184		309		865		290	
Record Count	38	0	27	0	18	0	9	0	41	0	9	0	32	0	37	0	3	0	34	0
Calendar Day Age from Investigation Assigned to Referral for Public Letter of Reprimand																				
Average	344		515		515		0		463		716		337		387		0		387	
Median (middle record - half are above and half below)	302		555		555		0		405		716		341		435		0		435	
Record Count	14	0	10	0	10	0	0	0	6	0	2	0	4	0	3	0	0	0	3	0
Calendar Day Age from Investigation Assigned to Referral for Citation/Fine																				
Average	276		332		372		138		392		690		313		485		548		480	
Median (middle record - half are above and half below)	270		324		361		142		405		695		342		436		492		415	
Record Count	51	0	53	0	44	0	9	0	38	0	8	0	30	0	41	0	3	0	38	0

*Allied Health Care Profesionals Includes:
osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives
**Excludes Out of State and Headquarters Cases

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Table B7.8 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Public Letter of Reprimand for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending
Calendar Day Age from Investigation Assigned to Referral for Public Letter of Reprimand																				
Average	365		515		515		0		463		716		337		395		0		395	
Median (middle record - half are above and half below)	314		555		555		0		405		716		341		427		0		427	
Record Count	13	0	10	0	10	0	0	0	6	0	2	0	4	0	4	0	0	0	4	0

*Excludes Out of State and Headquarters Cases

Table B7.9 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Public Letter of Reprimand for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Public Letter of Reprimand																				
Average	59		0		0		0		0		0		0		0		0		0	
Median (middle record - half are above and half below)	59		0		0		0		0		0		0		0		0		0	
Record Count	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

*May include time from initial request for interview if there was no response and a subsequent subpoena was issued.

**Allied Health Care Profesionals Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

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Table B7.10 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Criminal Action for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Record Count	561	63	475	59	379	34	96	25	374	60	84	6	290	54	414	52	15	1	399	51
Calendar Day Age from Investigation Assigned to Referral for Criminal Action																				
Average	266		327		429		122		291		646		191		368		876		323	
Median (middle record - half are above and half below)	203		286		429		136		232		630		184		309		865		290	
Record Count	38	0	27	0	18	0	9	0	41	0	9	0	32	0	37	0	3	0	34	0

*Allied Health Care Profesionals Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarters Cases

Table B7.11 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Criminal Action for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending
Calendar Day Age from Investigation Assigned to Referral for Criminal Action CRIMINL CASES CASES																				
Average	268		336		465		122		303		643		202		343		853		299	
Median (middle record - half are above and half below)	179		304		469		136		283		619		205		283		853		283	
Record Count	34	0	24	0	15	0	9	0	35	0	8	0	27	0	25	0	2	0	23	0

*Excludes Out of State and Headquarters Cases

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Table B7.12 – Calendar Days Aged from Case Assigned to MBC Investigator to Referral for Criminal Action for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Investigation Assigned to Referral for Criminal Action																				
Average	252		251		251		0		221		667		131		420		921		375	
Median (middle record - half are above and half below)	276		262		262		0		131		667		91		323		921		313	
Record Count	4	0	3	0	3	0	0	0	6	0	1	0	5	0	12	0	1	0	11	0

*May include time from initial request for interview if there was no response and a subsequent subpoena was issued.

**Allied Health Care Profesionals Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Table B9.1 – Calendar Days for Receipt of Medical Records for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE																			
Calendar Day Age from Medical Release Request to Receipt of Medical Records (no SDT)																				
Average	57		56		90		34		65		275		57		59		409		56	
Median (middle record - half are above and half below)	32		30		48		24		30		180		30		31		409		30	
Record Count	500		378		148		230		300		10		290		276		2		274	
Calendar Day Age from SDT Served to Receipt of Medical Records (no Medical Release)																				
Average	173		64		101		35		53		34		54		92		281		88	
Median (middle record - half are above and half below)	100		29		55		24		27		34		27		36		281		36	
Record Count	4		39		17		22		49		2		47		86		2		84	
Calendar Day Age from Medical Release Request to SDT Request to Receipt of Medical Records																				
Average	129		168		203		88		212		400		185		210		736		174	
Median (middle record - half are above and half below)	59		125		151		37		206		329		182		77		736		71	
Record Count	15		23		16		7		24		3		21		31		2		29	

*Allied Health Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarters Cases

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Table B9.2 – Calendar Days for Receipt of Medical Records for Physicians and Surgeons Cases

	2005	2006			2007			2008		
	All	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE
Activity	Prior to VE									
Calendar Day Age from Medical Release Request to Receipt of Medical Records (no SDT)										
Average	57	58	93	35	67	303	59	62	409	59
Median (middle record - half are above and half below)	32	31	50	25	30	288	30	31	409	31
Record Count	464	338	133	205	272	9	263	235	2	233
Calendar Day Age from SDT Served to Receipt of Medical Records (no Medical Release)										
Average	173	67	101	34	55	34	56	97	281	92
Median (middle record - half are above and half below)	100	32	55	28	27	34	27	39	281	39
Record Count	4	34	17	17	47	2	45	80	2	78
Calendar Day Age from Medical Release Request to SDT Request to Receipt of Medical Records										
Average	129	171	200	99	212	400	179	210	736	174
Median (middle record - half are above and half below)	59	125	134	81	212	329	169	77	736	71
Record Count	15	21	15	6	20	3	17	31	2	29

*Excludes Out of State and Headquarters Cases.

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Table B9.3 – Calendar Days for Receipt of Medical Records for Allied Health Cases

	2005	2006			2007			2008		
	All	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE
Activity	Prior to VE									
Calendar Day Age from Medical Release Request to Receipt of Medical Records (no SDT)										
Average	54	43	69	28	43	17	44	39	0	39
Median (middle record - half are above and half below)	32	25	37	17	23	17	23	27	0	27
Record Count	36	40	15	25	28	1	27	41	0	41
Calendar Day Age from SDT Served to Receipt of Medical Records (no Medical Release)										
Average	0	39	0	39	13	0	13	34	0	34
Median (middle record - half are above and half below)	0	16	0	16	13	0	13	27	0	27
Record Count	0	5	0	5	2	0	2	6	0	6
Calendar Day Age from Medical Release Request to SDT Request to Receipt of Medical Records										
Average	0	138	251	24	214	0	214	0	0	0
Median (middle record - half are above and half below)	0	138	251	24	192	0	192	0	0	0
Record Count	0	2	1	1	4	0	4	0	0	0

**Allied Health Professions Cases Includes:
osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

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Table B10.1 – Calendar Days Aged from Request to Subject Interview for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Subject Interview Completed																				
Average	48		50		56		41		49		71		47		56		53		56	
Median (middle record - half are above and half below)	36		38		43		37		35		48		34		37		39		37	
Record Count	649	102	502	96	307	29	195	67	406	139	37	6	419	133	543	109	8	1	535	108
Calendar Day Age from Subpoena Request to Subject Interview Completed																				
Average	0		78		78		0		144		178		109		18		195		107	
Median (middle record - half are above and half below)	0		46		46		0		144		178		109		41		195		37	
Record Count	0	8	5	7	5	6	0	1	2	13	1	3	1	10	15	30	2	0	13	30

*Allied Health Care Profesionals Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarters Cases

Calendar Days Aged from Subpoena Request to Subject Interview Completed data not available for 2005.

Table B10.2 – Calendar Days Aged from Request to Subject Interview for Physicians and Surgeons

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending
Calendar Day Age from Request to Physician Interview Completed																				
Average	48		51		56		43		51		73		49		58		53		58	
Median (middle record - half are above and half below)	36		42		44		38		37		49		36		37		28		37	
Record Count	597	86	447	87	275	26	172	61	409	126	34	6	375	120	485	96	7	1	478	95
Calendar Day Age from Subpoena Request to Physician Interview Completed																				
Average	0		78		78		0		144		178		109		123		217		116	
Median (middle record - half are above and half below)	0		46		46		0		144		178		109		41		217		39	
Record Count	0	7	5	5	5	4	0	1	2	11	1	2	1	9	13	27	1	0	12	27

*Excludes Out of State and Headquarters Cases

Calendar Days Aged from Subpoena Request to Subject Interview Completed data not available for 2005.

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Table B10.3 – Calendar Days Aged from Request to Subject Interview for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Subject Interview Completed																				
Average	39		41		51		28		34		45		33		42		49		42	
Median (middle record - half are above and half below)	31		30		33		21		22		21		25		33		49		32	
Record Count	52	16	55	9	32	3	23	6	47	13	3	0	44	13	58	11	1	0	57	11
Calendar Day Age from Subpoena Request to Subject Interview Completed*																				
Average	0		0		0		0		0		0		0		87		173		1	
Median (middle record - half are above and half below)	0		0		0		0		0		0		0		87		173		1	
Record Count	0	1	0	2	0	2	0	0	0	2	0	1	0	1	2	3	1	0	1	3

*May include time from initial request for interview if there was no response and a subsequent subpoena was issued.

**Allied Health Care Profesionals Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Calendar Days Aged from Subpoena Request to Subject Interview Completed data not available for 2005.

Table B11.1 – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Date Case Submitted to District Office Medical Consultant for Review to Review Completed Date																				
Average	31		56		79		39		60		107		57		88		316		84	
Median (middle record - half are above and half below)	24		28		25		30		31		36		30		44		84		44	
Record Count	49	36	288	135	122	39	166	96	375	178	24	10	351	168	328	192	5	0	323	192

*Allied Health Care professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarter Cases

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Table B11.2 – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Date Case Submitted to District Office Medical Consultant for Review to Review Completed Date																				
Average	31		57		81		39		61		116		57		89		388		86	
Median (middle record - half are above and half below)	24		29		26		30		31		39		30		46		400		45	
Record Count	48	35	275	128	116	36	159	92	362	169	22	9	340	160	309	172	4	0	305	172

*Excludes Out of State and Headquarter Cases

Table B11.3 – Calendar Days Aged from Case Submitted to District Office Medical Consultant for Review to Review Completed for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Date Case Submitted to District Office Medical Consultant for Review to Review Completed Date																				
Average	21		29		26		32		52		10		60		64		28		66	
Median (middle record - half are above and half below)	21		23		14		42		23		10		27		28		28		26	
Record Count	1	1	13	7	6	3	7	4	13	9	2	1	11	8	19	20	1	0	18	20

**Allied Health Care professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

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Table B12.1 – Calendar Days Aged from Request to Receipt of Expert Opinion for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Receipt of Expert Opinion																				
Average	50		47		50		37		52		85		43		52		51		52	
Median (middle record - half are above and half below)	41		36		37		34		37		56		35		40		43		40	
Record Count	561	63	475	59	379	34	96	25	374	60	84	6	290	54	414	52	15	1	399	51

*Allied Health Care Profesionals Includes:
osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives
**Excludes Out of State and Headquarters Cases

Table B12.2 – Calendar Days Aged from Request to Receipt of Expert Opinion for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending	Activity	Pending
Calendar Day Age from Request to Receipt of Expert Opinion																				
Average	51		47		50		35		51		81		43		50		51		50	
Median (middle record - half are above and half below)	41		36		37		31		36		55		35		39		43		39	
Record Count	518	55	422	49	340	28	82	21	342	50	73	4	269	46	377	41	15	0	362	41

*Excludes Out of State and Headquarters Cases

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Table B12.3 – Calendar Days Aged from Request to Receipt of Expert Opinion for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Request to Receipt of Expert Opinion																				
Average	42		47		47		49		68		114		44		76		0		76	
Median (middle record - half are above and half below)	36		44		41		44		45		72		40		60		0		60	
Record Count	43	8	53	10	39	6	14	4	32	10	11	2	21	8	36	11	0	1	36	10

*May include time from initial request for interview if there was no response and a subsequent subpoena was issued.

**Allied Health Care Profesionals Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Table B13.1 – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation (Referred to DAG)																				
Average	322		320		393		68		359		667		196		398		919		250	
Median (middle record-half are above and half below)	316		299		358		39		344		667		164		365		923		214	
Record Count	412	1148	376	1208	61	282	64	926	360	1203	21	58	119	1145	371	1291	6	4	131	1287

*Allied Health Care Profesionals Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

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Table B13.2 – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation (Referred to DAG)																				
Average	356		351		397		91		390		680		234		437		909		279	
Median (middle record-half are above and half below)	336		338		356		70		368		691		235		408		875		266	
Record Count	330	1009	285	1060	44	245	31	814	270	1059	14	51	77	1008	294	1129	5	3	87	1121

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

Table B13.3 – Calendar Days Aged from Case Assigned to MBC Investigator to Investigation Completed for and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation (Referred to DAG)																				
Average	186		221		381		47		265		640		128		250		971		194	
Median (middle record-half are above and half below)	125		186		372		8		187		667		81		200		971		141	
Record Count	82	140	91	149	17	37	33	112	90	144	7	7	42	137	77	166	1	1	44	166

*Allied Health Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

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Table B14.1 – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending
Calendar Day Age from Case Assigned to ALL Outcomes																				
Average	451		476		566		141		507		942		271		549		1276		396	
Median (middle record - half are above and half below)	310		343		424		140		380		827		274		436		1152		365	
Record Count	1305	1136	1164	1196	919	278	245	918	1096	1195	385	60	711	1135	1057	1275	184	3	873	1272

*Excludes Out of State and Headquarter Cases

**Allied Health Care Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Table B14.2 – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending
Calendar Day Age from Case Assigned to All Outcomes																				
Average	447		477		564		140		514		958		274		556		1295		395	
Median (middle record - half are above and half below)	306		341		423		138		378		829		274		435		1170		363	
Record Count	1147	1028	987	1082	784	252	203	830	939	1085	329	55	610	1030	900	1151	161	3	739	1148

*Excludes Out of State and Headquarters Cases

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Table B14.3 – Calendar Days Aged from Case Assigned to MBC Investigator to All Outcomes for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending
Calendar Day Age from Case Assigned to ALL Outcomes																				
Average	480		474		577		144		469		850		258		512		1140		404	
Median (middle record - half are above and half below)	350		361		433		164		396		815		277		439		1057		384	
Record Count	158	108	177	114	135	26	42	88	157	110	56	5	101	105	157	124	23	0	134	132

**Allied Health Care Professions Cases Includes:
osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Table B 14.4 – Calendar Days Aged from Case Assigned to MBC Investigator to Settlement for Physicians and Surgeons and Allied Health Cases

	2005	2006			2007			2008		
	All	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE
Activity	Prior to VE									
Calendar Day Age from Date Case Assigned to Investigator to Disciplinary Outcome--Settlement										
Average	1015	1054	1088	130	936	1096	305	952	1328	576
Median (middle record - half are above and half below)	995	983	1022	183	894	1002	282	943	1219	616
Record Count	194	198	191	7	183	146	37	172	86	86
All Pending	504	472	402	70	402	222	180	388	94	294

*Excludes Out of State and Headquarter Cases
**Allied health Care Professions Cases Includes:
osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Separate Calendar Days Aged from Case Assigned to MBC Investigator to Settlement Outcome data for Physicians and Surgeons cases alone and Allied Health Care cases alone was not available as of the time this report was prepared.

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Table B14.5 – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending
Calendar Day Age from Case Assigned to Disciplinary Outcome																				
Average	978		953		996		180		930		1098		342		973		1369		564	
Median (middle record - half are above and half below)	918		854		892		197		875		999		327		901		1225		595	
Record Count	333	505	318	471	301	401	17	70	328	402	255	222	73	180	301	387	153	92	148	295

* Excludes Out of State and Headquarters Cases

**Allied Health Care Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Table B14.6 – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending
Calendar Day Age from Case Assigned to Disciplinary Outcome																				
Average	1041		1050		1061		185		1017		1137		379		1047		1399		596	
Median (middle record - half are above and half below)	995		978		982		204		930		1024		356		970		1229		629	
Record Count	262	400	230	382	227	333	3	49	253	311	213	182	40	129	237	294	133	69	104	225

*Excludes Out of State and Headquarters Cases

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Table B14.7 – Calendar Days Aged from Case Assigned to MBC Investigator to Disciplinary Outcome for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending	Closed	Pending
Calendar Day Age from Case Assigned to Disciplinary Outcome																				
Average	743		699		797		179		636		902		297		701		1171		487	
Median (middle record - half are above and half below)	676		575		702		190		573		939		311		632		1102		493	
Record Count	71	105	88	89	74	68	14	21	75	91	42	40	33	51	64	93	20	23	44	70

**Allied Health Care Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Table B14.8 – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation and Accusation Filed																				
Average	531		523		590		123		522		724		325		568		979		477	
Median (middle record - half are above and half below)	502		478		539		91		489		719		318		540		1007		478	
Record Count	224	164	197	179	169	127	28	52	249	121	123	40	126	81	205	142	37	11	168	131

*Allied Health Care Profesionals Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

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Table B14.9 – Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation and Accusation Filed																				
Average	572		560		612		140		543		730		340		567		925		493	
Median (middle record - half are above and half below)	539		510		557		120		523		714		339		544		979		486	
Record Count	188	108	152	130	135	95	17	35	198	81	103	28	95	53	158	103	27	7	131	96

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

Table B14.10– Calendar Days Aged from Case Assigned to MBC Investigator to Accusation Filed for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Case Assigned to Completed Investigation and Accusation Filed																				
Average	368		401		500		96		428		691		259		572		1123		422	
Median (middle record - half are above and half below)	342		392		472		65		426		743		236		531		1016		428	
Record Count	36	56	45	49	34	32	11	17	51	40	20	12	31	28	47	39	10	4	37	35

*Allied Health Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

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Table B15.1 – Calendar Days Aged from Investigation Completed to Accusation Filed for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Completed Investigation to Accusation Filed																				
Average	154		175		198		38		160		222		100		147		323		109	
Median (middle record-half are above and half below)	109		115		143		36		87		161		64		78		232		70	
Record Count	224	164	197	179	169	127	28	52	249	121	123	40	126	81	205	142	37	11	168	131
*Allied Health Care Profesionals Includes:																				
osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives																				
**Excludes Out of State and Headquarters Cases																				
***Excludes Outcomes where no Accusation Filed																				

Table B15.2 – Calendar Days Aged from Investigation Completed to Accusation Filed for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Completed Investigation to Accusation Filed																				
Average	170		180		197		43		165		223		102		122		252		95	
Median (middle record-half are above and half below)	115		133		145		47		96		169		74		71		232		65	
Record Count	188	108	152	130	135	95	17	35	198	81	103	28	95	53	158	103	27	7	131	96

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

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Table B15.3 – Calendar Days Aged from Investigation Completed to Accusation Filed for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Completed Investigation to Accusation Filed																				
Average	126		161		203		31		129		220		70		234		513		158	
Median (middle record-half are above and half below)	93		72		143		34		59		113		47		102		310		88	
Record Count	36	56	45	49	34	32	11	17	51	40	20	12	31	28	47	39	10	4	37	35

*Allied Health Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

Table B16.1 – Calendar Days Aged from Accusation Filed to Case Submitted to ALJ for Decision for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE																			
Calendar Day Age from Date Accusation Filed to Date Hearing Closed-Submit to ALJ																				
Average	624		560		560		0		592		689		191		479		721		255	
Median (middle record - half are above and half below)	557		393		393		0		504		669		229		345		579		237	
Record Count	38		15		15		0		36		29		7		29		14		15	

*Allied Health Care professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarter Cases

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Table B16.2 – Calendar Days Aged from Accusation Filed to Case Submitted to ALJ for Decision for Physicians and Surgeons

	2005	2006			2007			2008		
	All	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE
Activity	**Prior to VE**									
Calendar Day Age from Date Accusation Filed to Date Hearing Closed-Submit to ALJ										
Average	638	606	606	0	565	666	191	544	721	296
Median (middle record - half are above and half below)	588	408	408	0	489	649	229	403	579	300
Record Count	34	13	13	0	33	26	7	24	14	10

**Excludes Out of State and Headquarter Cases

Table B16.3 – Calendar Days Aged from Accusation Filed to Case Submitted to ALJ for Decision for Allied Health Cases

	2005	2006			2007			2008		
	All	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE
Activity	**Prior to VE**									
Calendar Day Age from Date Accusation Filed to Date Hearing Closed-Submit to ALJ										
Average	494	258	258	0	892	892	0	172	0	172
Median (middle record - half are above and half below)	455	258	258	0	1049	1049	0	177	0	177
Record Count	4	2	2	0	3	3	0	5	0	5

*Allied Health Care professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

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Table B17.1 – Calendar Days Aged from Accusation Filed to Disciplinary Outcome-Settlement for Physicians and Surgeons and Allied Health Cases

	2005	2006			2007			2008		
	All	All	Not VE	VE	All	Not VE	VE	All	Not VE	VE
Activity	**Prior to VE**									
Calendar Day Age from Date Accusation Filed to Disciplinary Outcome--Settlement										
Average	542	594	602	112	466	518	180	449	619	257
Median (middle record - half are above and half below)	485	456	466	127	361	413	194	348	479	257
Record Count	182	184	181	3	170	144	26	162	86	76
All Pending	11	8	6	2	14	7	7	18	6	12

*Excludes Out of State and Headquarter Cases

**Allied health Care Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

Table B17.2 – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Physicians and Surgeons and Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Accusation Filed to Disciplinary Outcome***																				
Average	583		572		590		142		517		576		193		532		764		259	
Median (middle record-half are above and half below)	513		435		460		114		377		445		197		373		531		255	
Record Count	263	348	245	298	235	280	10	18	255	293	216	188	39	105	247	248	142	80	105	168

*Allied Health Care Profesionals Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

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Table B17.3 – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Physicians and Surgeons Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Accusation Filed to Disciplinary Outcome***																				
Average	605		595		603		85		550		604		184		561		768		243	
Median (middle record-half are above and half below)	525		466		467		99		411		465		177		384		569		238	
Record Count	213	301	192	259	189	245	3	14	217	241	189	160	28	81	203	194	123	62	80	132

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

Table 17.4 – Calendar Days Aged from Accusation Filed to Disciplinary Outcome for Allied Health Cases

	2005		2006						2007						2008					
	All		All		Not VE		VE		All		Not VE		VE		All		Not VE		VE	
Activity	Prior to VE	Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending		Pending
Calendar Day Age from Accusation Filed to Disciplinary Outcome***																				
Average	489		488		537		166		332		380		215		399		514		312	
Median (middle record-half are above and half below)	500		334		389		127		285		333		202		349		420		305	
Record Count	50	47	53	39	46	35	7	4	38	52	27	28	11	24	44	54	19	18	25	36

*Allied Health Professions Cases Includes:

osteopathic physicians and surgeons, podiatrists, physician assistants, psychologists, research psychoanalysts, dispensing opticians, licensed midwives

**Excludes Out of State and Headquarters Cases

***Excludes Outcomes where no Accusation Filed

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Table B17.5 – Calendar Days Aged from Accusation Filed to Indicated Administrative Outcome for Physicians and Surgeons and Allied Health Cases

Combined VE & Non-VE:

Revocation	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	534	334	606	480
Median (middle record - half are above and half below)	436	167	375	264
Record Count	25	20	26	22

Surrender	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	410	419	222	349
Median (middle record - half are above and half below)	367	300	183	184
Record Count	39	39	33	35

Suspension Only	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	0	319	0	0
Median (middle record - half are above and half below)	0	319	0	0
Record Count	0	1	0	0

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Probation	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	599	560	521	467
Median (middle record - half are above and half below)	498	432	391	363
Record Count	88	74	89	82

Probation w/Suspension	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Inidicated Outcome in Calendar Year				
Average	532	531	499	509
Median (middle record - half are above and half below)	488	505	385	408
Record Count	29	17	16	12

Public Reprimand	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	687	742	631	609
Median (middle record - half are above and half below)	703	691	490	479
Record Count	55	68	55	55

Other Decision	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	525	1325	509	701
Median (middle record - half are above and half below)	525	606	442	494
Record Count	2	3	5	8

Accusation Withdrawn/Dismissed	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	678	508	559	791
Median (middle record - half are above and half below)	533	308	324	407
Record Count	25	23	31	31

VE Only:

Revocation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	334	205	189
Median (middle record - half are above and half below)	167	205	156
Record Count	20	6	13

Surrender	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	419	118	150
Median (middle record - half are above and half below)	300	104	134
Record Count	39	13	24

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Suspension Only	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	319	0	0
Median (middle record - half are above and half below)	319	0	0
Record Count	1	0	0

Probation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	560	267	297
Median (middle record - half are above and half below)	432	262	265
Record Count	74	10	31

Probation w/Suspension	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Inidicated Outcome in Calendar Year			
Average	531	214	311
Median (middle record - half are above and half below)	505	214	278
Record Count	17	1	6

Public Reprimand	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	742	293	338
Median (middle record - half are above and half below)	691	250	309
Record Count	68	3	17

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Other Decision	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	1325	230	319
Median (middle record - half are above and half below)	606	230	325
Record Count	3	1	4

Accusation Withdrawn/Dismissed	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	508	152	310
Median (middle record - half are above and half below)	308	133	357
Record Count	23	5	10

Non-VE Only:

Revocation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	356	726	901
Median (middle record - half are above and half below)	167	571	862
Record Count	18	20	9

Surrender	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	441	289	783
Median (middle record - half are above and half below)	321	296	518
Record Count	36	20	11

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Suspension Only	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	319	0	0
Median (middle record - half are above and half below)	319	0	0
Record Count	1	0	0

Probation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	560	553	570
Median (middle record - half are above and half below)	432	452	426
Record Count	74	79	51

Probation w/Suspension	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Inidicated Outcome in Calendar Year			
Average	560	518	707
Median (middle record - half are above and half below)	527	405	644
Record Count	16	15	6

Public Reprimand	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	742	650	730
Median (middle record - half are above and half below)	691	535	626
Record Count	68	52	38

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Other Decision	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	1325	579	1084
Median (middle record - half are above and half below)	606	578	683
Record Count	3	4	4

Accusation Withdrawn/Dismissed	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	589	637	1019
Median (middle record - half are above and half below)	350	453	818
Record Count	19	26	21

Table B17.6 – Calendar Days Aged from Accusation Filed to Indicated Administrative Outcome for Physicians and Surgeons Cases

Combined VE and Non-VE

Revocation	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	596	396	641	510
Median (middle record - half are above and half below)	557	181	427	242
Record Count	18	11	20	15

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Surrender	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	423	443	206	361
Median (middle record - half are above and half below)	369	343	161	184
Record Count	28	30	24	32

Suspension Only	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	0	319	0	0
Median (middle record - half are above and half below)	0	319	0	0
Record Count	0	1	0	0

Probation	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	606	607	558	596
Median (middle record - half are above and half below)	476	464	452	378
Record Count	70	58	75	56

Probation w/Suspension	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Inidicated Outcome in Calendar Year				
Average	565	535	510	538
Median (middle record - half are above and half below)	582	490	365	415
Record Count	24	14	13	9

Public Reprimand	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	685	749	653	620
Median (middle record - half are above and half below)	684	715	535	483
Record Count	49	60	52	53

Other Decision	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	365	1691	509	706
Median (middle record - half are above and half below)	365	1691	442	421
Record Count	1	2	5	7

Accusation Withdrawn/Dismissed	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	790	327	590	812
Median (middle record - half are above and half below)	548	254	341	407
Record Count	23	16	28	29

VE Only:

Revocation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	182	161
Median (middle record - half are above and half below)	0	189	135
Record Count	0	4	8

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Surrender	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	140	115	145
Median (middle record - half are above and half below)	140	104	134
Record Count	1	11	22

Suspension Only	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	0	0
Median (middle record - half are above and half below)	0	0	0
Record Count	0	0	0

Probation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	287	261
Median (middle record - half are above and half below)	0	262	252
Record Count	0	6	17

Probation w/Suspension	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Inidicated Outcome in Calendar Year			
Average	0	0	250
Median (middle record - half are above and half below)	0	0	253
Record Count	0	0	4

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Public Reprimand	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	315	344
Median (middle record - half are above and half below)	0	315	309
Record Count	0	2	15

Other Decision	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	230	319
Median (middle record - half are above and half below)	0	230	250
Record Count	0	1	4

Accusation Withdrawn/Dismissed	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	58	141	310
Median (middle record - half are above and half below)	58	109	357
Record Count	2	4	10

Non-VE Only:

Revocation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	755	726	910
Median (middle record - half are above and half below)	571	571	862
Record Count	16	20	7

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Surrender	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	283	289	835
Median (middle record - half are above and half below)	275	296	525
Record Count	13	20	10

Suspension Only	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	0	0
Median (middle record - half are above and half below)	0	0	0
Record Count	0	0	0

Probation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	582	553	598
Median (middle record - half are above and half below)	490	452	475
Record Count	69	79	39

Probation w/Suspension	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	510	518	768
Median (middle record - half are above and half below)	365	405	702
Record Count	13	15	5

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Public Reprimand	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	667	650	730
Median (middle record - half are above and half below)	546	535	626
Record Count	50	52	38

Other Decision	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	579	579	1221
Median (middle record - half are above and half below)	578	578	694
Record Count	4	4	3

Accusation Withdrawn/Dismissed	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	665	637	1076
Median (middle record - half are above and half below)	453	453	839
Record Count	24	26	19

Table B17.7 – Calendar Days Aged from Accusation Filed to Indicated Administrative Outcome for Allied Health Cases

Combined VE and Non-VE:

Revocation	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	376	269	490	416
Median (middle record - half are above and half below)	257	153	310	273
Record Count	7	9	6	7

Surrender	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	377	340	263	221
Median (middle record - half are above and half below)	325	197	282	257
Record Count	11	9	9	3

Suspension Only	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	0	0	0	0
Median (middle record - half are above and half below)	0	0	0	0
Record Count	0	0	0	0

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Probation	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	570	390	318	404
Median (middle record - half are above and half below)	526	333	272	356
Record Count	18	16	14	26

Probation w/Suspension	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Inidicated Outcome in Calendar Year				
Average	375	511	454	422
Median (middle record - half are above and half below)	330	505	521	400
Record Count	5	3	3	3

Public Reprimand	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	706	693	239	297
Median (middle record - half are above and half below)	784	506	250	297
Record Count	6	8	3	2

Other Decision	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	685	594	0	672
Median (middle record - half are above and half below)	685	594	0	672
Record Count	1	1	0	1

Accusation Withdrawn/Dismissed	2005	2006	2007	2008
Activity				
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year				
Average	317	922	263	480
Median (middle record - half are above and half below)	317	1188	197	480
Record Count	2	7	3	2

VE Only:

Revocation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	185	252	235
Median (middle record - half are above and half below)	185	252	254
Record Count	2	2	5

Surrender	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	173	130	203
Median (middle record - half are above and half below)	173	130	203
Record Count	2	2	2

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Suspension Only	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	0	0
Median (middle record - half are above and half below)	0	0	0
Record Count	0	0	0

Probation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	236	341
Median (middle record - half are above and half below)	0	243	329
Record Count	0	4	14

Probation w/Suspension	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Inidicated Outcome in Calendar Year			
Average	70	214	433
Median (middle record - half are above and half below)	70	214	433
Record Count	1	1	2

Public Reprimand	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	250	297
Median (middle record - half are above and half below)	0	250	297
Record Count	0	1	2

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Other Decision	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	0	0
Median (middle record - half are above and half below)	0	0	0
Record Count	0	0	0

Accusation Withdrawn/Dismissed	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	189	197	0
Median (middle record - half are above and half below)	189	197	0
Record Count	2	1	0

Non-VE Only:

Revocation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	293	609	868
Median (middle record - half are above and half below)	153	495	868
Record Count	7	4	2

Surrender	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	388	301	257
Median (middle record - half are above and half below)	197	357	257
Record Count	7	7	1

Suspension Only	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	0	0	0
Median (middle record - half are above and half below)	0	0	0
Record Count	0	0	0

Probation	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	390	351	478
Median (middle record - half are above and half below)	333	282	390
Record Count	16	10	12

Probation w/Suspension	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Inidicated Outcome in Calendar Year			
Average	732	574	400
Median (middle record - half are above and half below)	732	574	400
Record Count	2	2	1

Public Reprimand	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	693	234	0
Median (middle record - half are above and half below)	506	234	0
Record Count	8	2	0

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Other Decision	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	594	0	672
Median (middle record - half are above and half below)	594	0	672
Record Count	1	0	1

Accusation Withdrawn/Dismissed	2006	2007	2008
Activity			
Calendar Day Age from Date Accusation Filed to Indicated Outcome in Calendar Year			
Average	1215	296	480
Median (middle record - half are above and half below)	1276	296	480
Record Count	5	2	2

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APPENDIX C

RESPONSE LETTERS

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

DEPARTMENT OF PERSONNEL ADMINISTRATION
OFFICE OF THE DIRECTOR
1515 "S" STREET, NORTH BUILDING, SUITE 400
SACRAMENTO, CA 95811-7258

June 4, 2009

Ms. A. Renee Threadgill
Chief of Enforcement
Medical Board of California
2005 Evergreen Street, Ste.1200
Sacramento, CA 95815-3831

Dear Ms. Threadgill

I am in receipt of your June 2 letter and a copy of the 307 page draft Vertical Enforcement Model. In your letter, you requested that the Department of Personnel Administration (DPA) review and provide comments for this model by June 15 in preparation for the June 18th meeting with the Board's Executive Committee.

Per Government Code Section 12529.7, the Board, in consultation with the Department of Justice, the Department of Consumer Affairs, the Department of Finance, and the Department of Personnel Administration shall report and make recommendations to the Governor and Legislature on the vertical enforcement and prosecution model created under Section 12529.6 by July 1, 2009.

Due to the short deadline, we were only able to do cursory review of the report. Based on this review, everything appears to be fine.

Please feel free to call me with any questions.

Sincerely,

David A. Gilb
Director

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DEPARTMENT OF FINANCE
ARNOLD SCHWARZENEGGER, GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

June 15, 2009

A. Renee Threadgill, Chief of Enforcement
Medical Board of California
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815-3831

Dear Ms. Threadgill:

The Department of Finance (Finance) has reviewed the Executive Summary of the Vertical Prosecution Model report provided in June 2009. We have no concerns with the information summarized in the report. Finance will consider any formal actions to continue, change, or eliminate this program during the annual budget development process.

If you have any questions, please contact Kristin Shelton, Principal Program Budget Analyst at (916) 445-8913.

Sincerely,

Kristin Shelton
for TODD JERUE
Program Budget Manager
Correction and General Government Unit

cc: Patti Harris, Acting Director, Department of Consumer Affairs

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Integrated Solutions for Business & Government, Inc.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE

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June 17, 2009

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

RE: Response of the Health Quality Enforcement Section to the
Medical Board of California's Report to the Legislature (Second Draft 6-7-09)

Dear Executive Committee:

Thank you for the opportunity to review the second draft of the Medical Board of California's Report to the Governor and Legislature on the vertical enforcement and prosecution model created under Government Code section 12529.6.[1]

As you know, pursuant to the provisions of section 12529.7, the Report must be submitted to the Governor and Legislature by July 1, 2009. The Health Quality Enforcement Section (HQE) received the second draft of the Report on June 10, 2009. As a result, since the due date for HQE's written comments was set at June 18, 2009, our review of the second draft Report, and preparation of the following comments and recommendations, was expedited. HQE looks forward to the opportunity to review and comment on subsequent drafts of the Report so that it can then fulfill its consultation obligations under section 12529.7.

This response to the second draft of the Report will address the following subjects:

I. HQE's Response to Statistical Presentation;
II. Principal Reasons for Investigation Completion Delays;
III. HQE's Response to MBC's Recommendations;
IV. Continuing Successes of the VE program; and
V. HQE's Recommendations to Further Improve the VE program.

[1] All references are to the Government Code unless otherwise indicated.

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I. HQE's Response to Statistical Presentation:

1. The 2009 draft Report includes statistics for other allied health agencies, along with multiple charts combining those statistics with statistics for physician cases, and setting them out separately as well. The Report consists of 307 pages, with a total of 242 pages devoted to statistical charts. The justification for including information related to other allied health agencies is that the combined data "provides a stronger basis from comparison." (Report, p. 33.) The inclusion of this additional information is outside the legislatively mandated scope of the Report.

   In the MBC's 2007 Report to the Legislature, statistics related to other allied health agencies were specifically excluded. The reason for doing so can be found in Government Code sections 12529.7, which requires a report to the Legislature "on the vertical enforcement and prosecution model," and 12529.6, which describes the VE model as "cases involving alleged misconduct by physicians and surgeons."

2. The statistics contained in the Report are presented in a percentage format, thus making the significance of the reported statistical variations difficult to understand. (See, e.g., Report, p. 47, Charts 7a and 7b, p. 47.)

3. The Report states that the statistical conclusions are based entirely on data provided by the MBC and no comparison has been made with data separately collected and maintained by HQE. (Report, p. 6.) However, previously, there have been significant differences between the MBC's statistical information when compared with data separately collected and maintained by HQE in the ProLaw database. For example, HQE recently presented the MBC with a statistical breakdown of the number of days it takes HQE from the date of acceptance of a case for prosecution to the date an accusation is sent to the agency for filing. Those statistics establish a statewide average of 53 days, and a statewide average of 70 days from referred to filed. Unfortunately, this important statistical measure of the continuing success of the VE program is not found in the draft Report.

4. The Report also contains several new statistical measures, including: (1) date investigation assigned to date investigation closed with no prosecution; (2) date investigation assigned to completed investigation; (3) date investigation assigned to all outcomes; (4) date investigation was completed (not accepted for prosecution, but completed) to date accusation filed (not sent for filing, filed); (5) date accusation filed to date case submitted to an ALJ; (6) date accusation filed to date of various outcomes.

   In contrast, statistics reported in the MBC's 2007 Report to the Legislature showed that "the number of cases closed without prosecution was reduced from 145 days to 139 days; obtaining medical records was decreased from 74 days to 36 days; conducting physician

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interviews reduced from 60 days to 40 days; obtaining medical expert opinions went from 69 days to 36 days; filing accusations by HQES decreased from 241 to 212 days; and obtaining interim suspension orders or temporary restraining orders decreased from 91 days to 30 days." (Report, p. 6.)

There are no comparable, straightforward statistical measures in the 2009 Report. As such, as currently drafted, the 2009 Report does not allow for a direct and easy comparison of the statistics reported to the Legislature in 2007 with those being reported in 2009.

II. Principal Reasons for Investigation Completion Delays:

The primary finding of the Report is that "[w]hile the data collected suggests overall reductions have occurred in the prosecution phase of [complaints against licensee's of the MBC], the investigation phase has not realized such benefits, and, as a result, the overall time to resolve complaints with a disciplinary outcome has only minimally improved." (Report, page 252.) HQE agrees that, under the VE model, the overall time for HQE to complete the prosecution phase of MBC cases has decreased while, at the same time, the overall time for the MBC to complete the investigation phase has increased. However, the Report entirely omits information that explains some of the principal reasons underlying the increased timelines for the MBC to complete investigations. Those reasons include:

1. Investigator vacancy rate of 14%. The absence of trained, experienced investigators appears to be the principal reason undermining the MBC's ability to complete investigations on a timely basis.

2. The constant turn-over of investigators at the MBC results in a significant loss of productivity as pending investigations are transferred from one investigator to another and, often, from one district office to another as well. This loss of productivity also continues for a considerable period of time as newly hired investigators go through the Academy and then complete their on-the-job training.

3. Some of the most experienced and productive investigators have been reassigned to train new investigators. As a result, these experienced and productive investigators have carried a reduced investigation caseload, thus contributing to additional delays in the MBC's timely completion of investigations.

4. The extremely limited availability of medical consultants, some of whom are in the MBC district office only one day a week, has severely reduced the available dates for subject interviews and completion of medical consultant work, resulting in even further delays.

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5. Finally, the issuance of the Governor's Executive Order in 2008 disrupted the MBC's enforcement program by prohibiting contracting with medical consultants and expert witnesses, thus significantly delaying the timely completion of investigations statewide.

These five reasons are some of the principal causes for the delay in the MBC's timely completion of investigations. However, of those five reasons, only the vacancy rate is mentioned in the Report and then not in a way that directly links the vacancy rate to the significant delay in the timely completion of investigations. This critical information, which explains some of the principal reasons underlying the increased timelines for the MBC to complete investigations, should be included the MBC's 2009 Report to the Governor and Legislature.

III. HQE's Response to MBC's Recommendations:

The Report begins with an Executive Summary consisting of the first 11 pages which, in all likelihood, will be the primary focus of the reader. The following is HQE's response to those recommendations.

1. The first recommendation relates to "poor interpersonal communications" between some MBC investigators and HQE attorneys which is reportedly aggravated by lack of appreciation and respect for each other. The highlighting of isolated instances of disagreement between a few MBC investigators and HQE attorneys inappropriately elevates what should be viewed as a management issue to the primary recommendation of the Report itself. This issue has already been specifically addressed in the Joint Vertical Enforcement Guidelines (JVEG) (First Edition, April 2008). (See JVEG, Section 10, p. 8, entitled "Courtesy and Cooperation.") HQE agrees with the recommendation that there should be zero tolerance of negative communication. Both HQE and MBC staff should renew their continuing efforts to ensure this important aspect of the VE program is scrupulously adhered to by their respective staff.

2. Recommendation #2 is an effort to further define the phrase "under the direction of" as contained in Government Code section 12529.6, as that statute was originally enacted in 2006. However, section 12529.6 was later amended by the Legislature to further define this phrase to mean "under the direction, but not the supervision of" the deputy attorney general. (Stats. 2008, c. 33 (S.B. 797), eff. June 23, 2008.) Thus, the Legislature has already done what the Report now recommends it do again.

   In addition, HQE and the MBC have exhaustively addressed the implementation of the direction authority by DAGs, and the supervision authority by supervising investigators, in Section III of the Vertical Prosecution Manual (Second Edition, November 2006). The balance between the DAG's direction authority and the

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supervision authority of supervising investigators is also reflected in numerous provisions of the JVEG issued in April of 2008. (See, e.g, JVEG, Section 2, regarding Investigation Plans and Progress Reports, and Section 3, regarding subpoena duces tecum procedures and emphasizing the importance of teamwork between investigators and DAGs.) Accordingly, while the phrase "under the direction, but not the supervision of" as used in section 12529.6 does not require further definition, both the MBC and HQE should continue their efforts to ensure uniform application of this legislative mandate statewide, in accordance with the applicable provisions contained in the VP Manual, as supplemented by the JVEG.

Recommendation #2 also includes the comment that "[t]he departments must also resolve the question of who is the client and ensure consistent understanding and application of the resolution." (See also, p. 243.) However, the identity of the client in MBC cases, which has remained unchanged for decades, is defined by law. During the administrative prosecution phase of an MBC case, the client is the Executive Director of the Medical Board of California. (See Cal. Code Regs., tit. 16, § 1356.) Historically, the Executive Director has also delegated various duties and responsibilities to client representatives who, in turn, act on his or her behalf for specified purposes. Examples include the Deputy Director, who has been delegated settlement authority for all administrative prosecutions in Southern California, as well as the Chief of Enforcement. Such delegations of authority in state licensing agencies are common in California. Following issuance of a final decision and order by the Medical Board, and upon the physician's filing of a petition for administrative mandamus in the superior court under Code of Civil Procedure section 1094.5 challenging that final decision and order, the client is the Medical Board itself. While the Legislature's adoption of the VE model effectuated numerous changes to the MBC's Enforcement Program, as well as to the duties and responsibilities of HQE DAGs statewide, at the same time it has not altered the legal definition of HQE's client during the administrative prosecution phase, or judicial review, of MBC cases.

Of course, whenever the MBC, individual board members or Board staff, including investigators, are sued in state or federal court for actions taken in their official capacity, the MBC itself or such named individuals are the client for purposes of that litigation. Examples include civil actions filed in state superior court challenging the constitutionality of state statutes or regulations the MBC is charged with enforcing, as well as federal civil rights actions filed in federal district court challenging actions taken by the MBC with respect to licensed physicians.

3. Recommendation #3 puts forth the idea that the VE process should be uniform statewide. HQE agrees with this recommendation and, to that end, recommends that both HQE and the MBC renew their joint efforts to ensure uniform application of the VP Manual, as supplemented by the JVEG, to reach that important goal.

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Recommendation #3 also puts forth the additional suggestion that what HQE and MBC need is another "joint manual." The MBC and HQE already have the VP Manual and JVEG, and the MBC also has its EOM. Both the VP Manual and JVEG are up-to-date, in no need of revision and are entirely consistent in content. These two documents answer most, if not all questions, on how the VE program is to be administered and should be followed statewide to ensure uniformity. Thus, while there is no need for another "joint manual," there is a strong need for HQE and MBC managers to ensure uniform application statewide of the policies and procedures already contained in the existing manual and guidelines.

4. Recommendation #4 recommends that the VE model be limited to only certain classes of cases. HQE agrees with this recommendation. In this regard, HQE recommends that cases involving other allied health care agencies be excluded from the VE program. The VE program was enacted by the Legislature to address "cases involving alleged misconduct by physicians and surgeons" (see Gov. Code, § 12529.6, subd. (a)), not cases involving other allied health care agencies. Including such cases within the VE program requires the expenditure of valuable investigator and attorney time on non-physician cases that are not mandated by the VE model as enacted by the Legislature. Also, since some allied health care agencies routinely exhaust their enforcement budget prior to the end of the fiscal year, the inclusion of such cases within the VE program results in statistics that may show significant delays in the timely completion of the investigations in those cases; thus, perhaps presenting an inaccurate statistical measure of the overall success of the program.

5. Recommendation #5 recommends a new joint statewide training program. HQE agrees with this recommendation. However, the current statewide fiscal crisis presents a significant challenge to the implementation of this recommendation. As an alternative to a joint statewide training program, a uniform training program to be conducted at each of Department of Justice offices, and in the MBC district offices, would probably present a more fiscally viable option.

6. Recommendation #6 recommends that "the departments" give priority to resolving current staffing vacancies and then goes on to identify four areas to pursue, all which pertain to the problem of MBC investigator vacancies. The inability of the MBC to retain experienced investigators is a well-documented problem that predates implementation of the VE program. (See 2007 Report to the Legislature, at pages 25-26.) This ongoing problem continues to severely undermine the MBC's ability to complete investigations on a timely basis. Until and unless this critical problem is successfully resolved, the MBC will continue to experience significant delays in their timely completion of investigations of alleged misconduct by physicians and surgeons.

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Finally, on page 8 of the Executive Summary, the statement is made "Both HQES and MBC are experiencing retention problems." As it applies to HQE, this statement is incorrect and should be revised.

7. Recommendation #7 recommends that a working group from both the Attorney General's Office and MBC be established to explore an efficient method of sharing documents. HQE agrees with this recommendation, which was originally made by the Enforcement Monitor in her Final Report to the Legislature in 2005. (See Final Report, Recommendation #3, page 203.)

8. The final recommendation (unnumbered in the second draft) is that "the most prudent course of action at this time is the continuation of the pilot with the modifications contained in Recommendations 1 through 7 to improve the implementation of the VE model, and a reassessment of its success after two years." (Report, p. 11.) HQE agrees with the recommendation that the pilot be extended for two years. HQE has already provided its responses to Recommendations 1 through 7, above.

IV. Continuing Successes of the VE Program:

In its 2007 Report to the Legislature, the MBC stated:

> "Reducing investigation completion delays, however, is only one method of measuring improved public protection. The VE pilot was implemented by the Legislature in recognition of '. . . the critical importance of the board's public health and safety function, the complexity of cases involving alleged misconduct by physicians and surgeons,' [and because of] '. . . the evidentiary burden in the board's disciplinary cases . . .' (Gov. Code, § 12529.6, subd. (a).) While difficult to objectively measure through statistics, improving coordination and teamwork between investigators and prosecutors significantly improves the quality of the investigation of these complex cases. Implementation of the VE pilot mandated by SB 231 has resulted in improvement in all of these areas. . . ." (MBC's 2007 Report to the Legislature, "Executive Summary," at p. 2.)

The improvement in coordination and teamwork cited by the MBC in its 2007 Report has continued, with a resultant improvement in the overall quality of MBC investigations. This, in turn, has been a significant contributing factor in HQE's successful reduction statewide in the number of days it takes HQE from the date of acceptance of a case for prosecution to the date an accusation is sent to the agency for filing. While MBC investigators have encountered significant challenges in the past two years including, among other things, the high investigator vacancy rate statewide, limited availability of medical consultants, as well as issuance of the Governor's Executive Order in 2008 prohibiting contracts with expert witnesses to review cases,

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in HQE's view, MBC investigators are to be highly commended for their hard work, dedication, professionalism and strong commitment to public protection. These, and other, important continuing successes of the VE program should be included in the MBC's 2009 Report to the Legislature.

V. HQE's Recommendations to Further Improve the VE Program:

Like any government program, the VE program can be improved. Accordingly, HQE presents the following three recommendations for possible inclusion in the MBC's Report.

1. Interagency Contract for the Attorney General's Office to provide the MBC with Investigative Services: As noted above, the inability of the MBC to retain experienced investigators is a well-documented problem that predates implementation of the VE program. Currently, the MBC has a 14% investigator vacancy rate. HQE recommends that the MBC consider entering into an interagency contract for the Attorney General's Office to provide investigative services to the MBC, in addition to the legal services it currently provides. Funds that would otherwise be used by the MBC to pay the salaries of the currently vacant investigator positions could be used for this purpose.

2. Video Conferencing: Under the VE Model, HQE has assumed the burden of the majority of required travel statewide between the various Attorney General's Offices and MBC district offices. As a result, DAGs spend hundreds of hours a year traveling on California freeways in order to confer with investigators, review documents and attend interviews. Implementation of a video conferencing network statewide would eliminate the necessity of some of this required travel, reduce the number of attorney hours expended driving rather than performing legal work, provide a convenient method for investigators and DAGs to readily confer when more than a simple telephone call is required and, from an environmental standpoint, would reduce the negative impact such travel places on the environment overall. HQE recommends that HQE and MBC work together to implement a video conferencing network statewide to further improve the VE program.

3. Require Physician Cooperation with MBC Investigations: A significant factor preventing the timely completion of investigations is the refusal of some physicians to cooperate during an MBC investigation. This refusal to cooperate routinely results in significant scheduling problems and delays, countless hours wasted serving and enforcing subpoenas, and delays resulting from the refusal to produce medical records or answer questions during subject interviews.

Other states have long required their licensees to cooperate with investigations being conducted by disciplinary authorities. (See, e.g., Ariz. Rev. Stat., § 32-1401, subd. 27(dd) [defining unprofessional conduct by a physician as including, among other things, "[f]ailing to furnish information in a timely manner to the board or the board's investigators or representatives if legally requested by the board."]; Ohio Rev. Code Ann., § 4731.22, subd. (B)(34) [authorizing state medical board to discipline physician for failure to cooperate in an investigation conducted by the board, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories]; MD Health Occ. Code, § 14-404, subd. (a)(33) [authorizing disciplinary action against any physician who "[f]ails to cooperate with a lawful investigation conducted by the Board."]; Wash. Rev. Code Ann., § 18.130.180 [defining unprofessional conduct to include, among other things, failure of a health care professional to cooperate with disciplinary authority by, among other things, not furnishing papers, documents, records or other items, not furnishing a full and complete explanation in writing of the complaint filed with the disciplinary authority, and not responding to subpoenas issued by the disciplinary authority]; Tenn. Code, § 63-1-117, subd. (e) ["A health care provider's willful disregard of the request for medical records pursuant to this section is grounds for disciplinary action by the licensing board that regulates the health care provider."]; also compare Cal. Bus. & Prof. Code, § 6068, subd. (i) [establishing duty of an attorney "[t]o cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against himself or herself. . . ."].)

The enactment of such a statutory requirement in California would significantly reduce the substantial delays that result of a physician's failure to cooperate during an MBC investigation which, unfortunately, have now become routine statewide.

HQE's Recommendations #1 and #2 can be implemented immediately. Permitting the Attorney General's Office to provide investigative services to the MBC would help to resolve the principal reason undermining the MBC's inability to complete investigations on a timely basis by providing trained, experienced investigators to compliment the job that is being performed by MBC investigators. At the same time, implementation of a video conferencing network statewide would result in significant savings in both investigator and attorney time, thus further improving the efficiency of the VE program. While HQE's Recommendation #3 will require legislative action, requiring physician cooperation during MBC investigations would significantly reduce not only the delays resulting from a physician's refusal to cooperate, but also save the substantial time and expense required to seek and obtain necessary court orders to enforce subpoenas, produce medical records or require physicians to answer questions during subject interviews.

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In conclusion, thank you for the opportunity to consult on the drafts of the MBC's 2009 Report to the Governor and Legislature on the VE model. HQE looks forward to the opportunity to review and comment on subsequent drafts of the Report so that it can then fulfill its consultation obligations under section 12529.7.

Sincerely,

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APPENDIX D

ABBREVIATIONS

ABBREVIATIONS

AG	Office of the Attorney General
AH	Allied Health
ALJ	Administrative Law Judge
ASO	Automatic Suspension Order
B&P	Business and Professions
CCR	California Code of Regulations
CCU	Central Complaint Unit
DAGs	Deputy Attorney Generals
DCA	Department of Consumer Affairs
DIDO	Deputy in District Office
DOJ	Department of Justice
EOM	Enforcement Operations Manual
GC	Government Code
HQES	Health Quality Enforcement Section
IPPR	Investigation Plan and Progress Report
ISO	Interim Suspension Order
JVEG	Joint Vertical Enforcement Guidelines
MBC	Medical Board of California
Monitor	Enforcement Program Monitor
OAH	Office of Administrative Hearings
P&S	Physicians and Surgeons
PC	Penal Code
PLR	Public Letter of Reprimand
SAT	Subpoena to Appear and Testify
SB	Senate Bill
SDAGS	Supervising Deputy Attorney Generals
SDT	Subpoena Duces Tecum
Sup	Supervising MBC Investigator
TRO	Temporary Restraining Order
VE	Vertical Enforcement
VPM	Vertical Prosecution Manual

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