

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: October 1, 2018
ATTENTION: Members, Medical Board of California
SUBJECT: Changes to the Investigation Process with the
Elimination of Vertical Enforcement
FROM: Kimberly Kirchmeyer, Executive Director

REQUESTED ACTION:

This report is intended to provide the Members with information regarding the repeal of the vertical enforcement (VE) program and its impact to the Medical Board of California (Board). No action is needed at this time.

BACKGROUND:

Senate Bill (SB) 798 (Hill, Chapter 775, Statutes of 2017) put in a sunset date of January 1, 2019 for the VE program, and included a signing message from the Governor that directed his staff to work with the Legislature and the Attorney General's Office to determine what changes were needed. Although negotiations between the Governor's Office, the Attorney General's Office (AGO), the Department of Consumer Affairs (DCA), and the Medical Board of California (Board) took place as requested in the signing message, no bill was introduced to extend the VE program's sunset date. Therefore, effective January 1, 2019, the program will be eliminated, and the Board will return to the process it used prior to the VE program, which is currently used by the other regulatory boards within DCA such as the Board of Registered Nursing, Board of Pharmacy, Dental Board, Veterinary Medical Board and Board of Optometry. With this change the Health Quality Investigation Unit (HQIU), within the DCA, will conduct the investigation and once completed, if warranted and after discussion and agreement by the Board, the case will be transmitted to the AGO requesting the filing of an action.

The AGO is no longer jointly assigned to the Board's investigations. The investigations will be assigned to HQIU only for processing. The AGO and the Board will continue to process interim actions, such as PC 23 requests and petitions to compel, as referrals for legal action.

As established in the California Medical Practice Act, "Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount" (Business and Professions Code section 2001.1). To truly achieve consumer protection, a collaborative effort by all parties is essential to ensure that the evidence to establish a case is obtained through the appropriate process.

The attached charts identify the changes in the investigation process with the elimination of the VE program. Board staff will work with the HQIU and the AGO to ensure cases are timely moving through their respective processes, investigative and

Changes to the Investigation Process

October 1, 2018

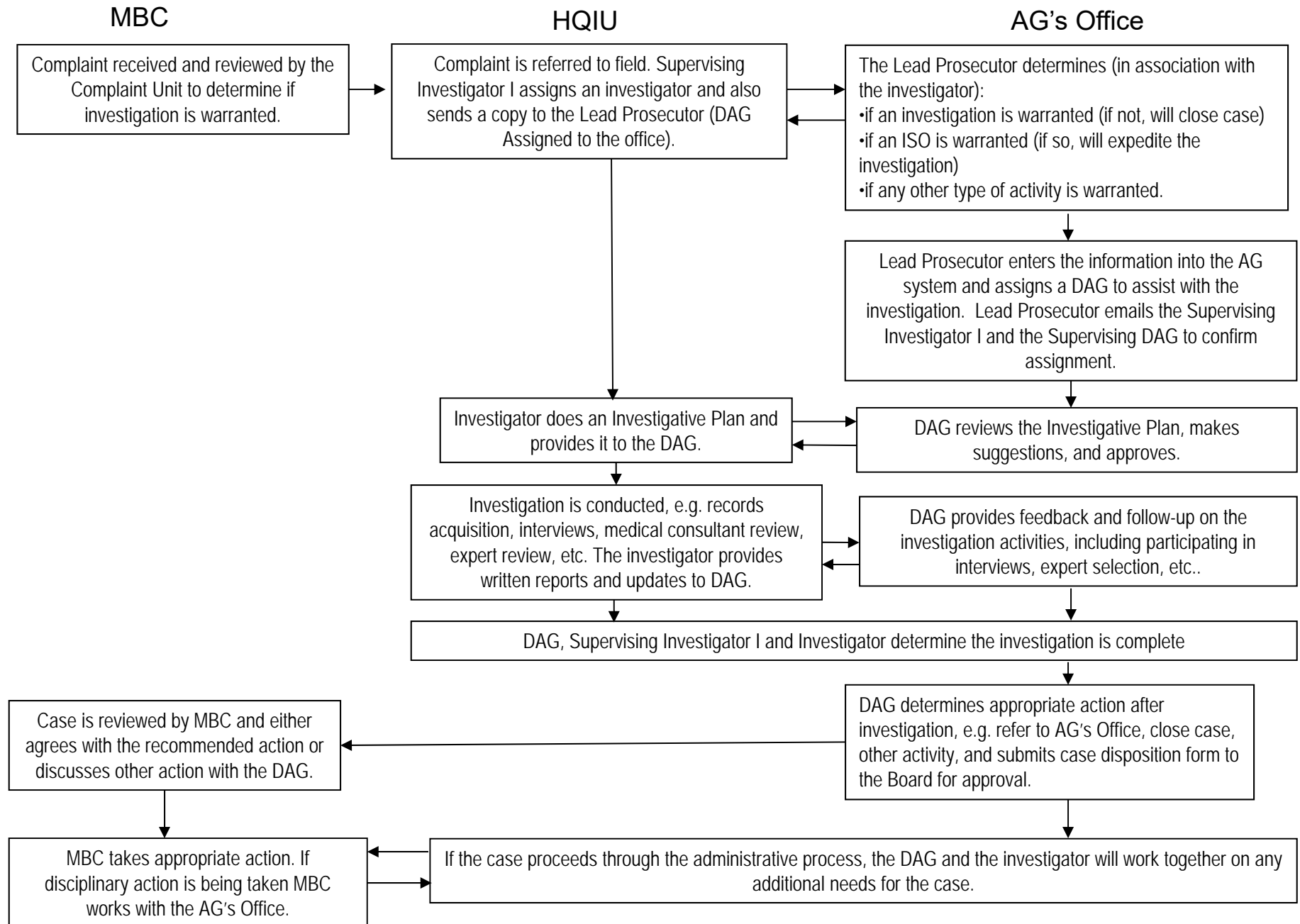
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administrative. In addition, Board staff will monitor the statute of limitations dates to send alerts on cases that are approaching filing deadlines.

Board staff will be scheduling a meeting for November 2018 with HQIU and the AGO to discuss the transition plan following the repeal of the VE statute. Prior to VE, the Board had a deputy in the district office program that allowed a deputy attorney general to assist the field office when necessary. This program was not reinstituted when VE was repealed.

A message from the Board regarding the changes to the VE program was provided to the HQIU and the AGO to be disseminated to the staff to ensure a seamless transition.

Investigation Process (current, prior to 1-1-2019)



Investigation Process (effective 1-1-2019)

