

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: April 21, 2021
 ATTENTION: Members, Medical Board of California
 SUBJECT: Enforcement Program Summary
 STAFF CONTACT: Jenna Jones, Chief of Enforcement

Requested Action:

This report is intended to provide the Members with an update on the Enforcement Program at the Medical Board of California (Board). No action is needed at this time.

Expert Reviewer Program:

There are currently 607 active experts in the Board's expert database. Expert program analysts receive monthly reports of experts with expiring contracts and utilize this information to renew contracts. Expert program analysts routinely process billing submitted by experts and work with HQIU and Deputy Attorney General staff to provide assistance selecting an expert for cases assigned to their units. Advertisement for the following specialties were in the Board's winter 2021 Newsletter:

- Addiction Medicine with added certification in Family or Internal or Psychiatry
- Clinical Genetics
- Colon/Rectal Surgery
- Dermatology
- Family Medicine
- Gastroenterology
- Hematology
- Neurological Surgery
- Neurology
- Obstetrics and Gynecology (with added expertise in Gynecologic Oncology)
- Orthopaedic Surgery
- Pathology (preferably from: Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, and Ventura Counties)
- Pain Medicine
- Pediatric Gastroenterology
- Pediatric Surgery
- Pediatric Cardiac Surgery
- Pediatric Critical Care
- Pediatric Pulmonology
- Plastic Surgery
- Psychiatry (Forensic and Addiction)
- Radiation Oncology
- Surgery (General and Endocrine Surgery)
- Thoracic and Cardiac Surgery

- Urology (General and Gender Reassignment)
- Vascular Surgery
- Midwife Reviewer

Due to COVID-19, expert reviewer training was conducted via WebEx on April 10th.

Central Complaint Unit:

The average number of days to initiate a complaint in the Central Complaint Unit (CCU) is six (6) days for FY 2020-2021, which is within the ten day timeframe mandated by Business and Professions Code section 129(b). The average days to complete the processing of a complaint in CCU is 130 days. CCU staff and management continue to work diligently to reduce the aging of all complaint types. We need to work with staff to seek more efficient complaint handling on a more expedited basis. Meetings will be scheduled with staff to review guidelines and timeframes so we may address the newly reported complaints more timely with the intent of reducing the investigation timeframes. We also need to reach out to the complainants and clarify their complaints. Customer service is imperative and we need to provide the best service possible.

In response to concerns regarding improving communication with consumers on the status of their complaints, raised at the February Board meeting, CCU conducted a sampling of complaint files to identify if letters were sent to consumers at various stages of the complaint process. A total of 42 complaint files were reviewed and the findings are as follows. Of the 42 files reviewed, acknowledgment letters were sent in 38 of the complaint files. Requests for additional information (i.e., releases, clarification, etc.) were sent in 33 of the complaint files, when necessary. Of the 42 complaints reviewed that were referred for review by a medical consultant, 19 of the files were not yet ready for referral. Status letters were sent to consumers advising them of referral for review to a medical consultant in 10 of the complaint files, meaning letters were not sent in 13 of the complaint files. CCU managers reminded staff that status letters must be sent to consumers at various points in the complaint review process so consumers are apprised of the status throughout the complaint review process.

These findings are concerning and we need to do better. As a result we are initiating an internal audit team that will meet monthly to perform random file audits to measure compliance with timeframes, correspondence and review general file handling in CCU. This will allow us to measure and track findings while providing feedback and training to staff. In time, this review process will be expanded to include all areas of enforcement.

CCU currently has one vacant Associate Governmental Program Analyst (AGPA) position and one vacant Staff Services Analyst (SSA) position. The AGPA vacancy is due to the employee leaving state service. The AGPA position was advertised and applications are being reviewed to schedule interviews. Interviews for the vacant SSA were conducted and a tentative offer was made, pending hiring clearances.

We are seeking a way to initiate a complaint tracking system for individuals who have submitted a complaint. It would include steps such as awaiting release, medical records requested, case referred to medical consultant. IT is working with us to create this system and we are hopeful that a system can be created.

The medical consultant program receives a monthly report of consultants with expiring contracts and utilize this information to renew contracts. Medical consultant program staff continue assigning cases that require specialty review to consultants, follow up on cases checked out to consultants for 30 days or more, and routinely process billing submitted by consultants. Advertisement for the following specialties were in the Board's winter 2021 newsletter:

- Cardiac Surgery
- Colon and Rectal Surgery
- Dermatology
- Gynecology
- Interventional Cardiology
- Interventional Radiology
- Neonatal/Perinatal
- Neurological Surgery
- Pain Medicine
- Plastic Surgery
- Thoracic Surgery
- Vascular Surgery

Complaint Investigation Office:

The Complaint Investigation Office (CIO) non-sworn investigators currently have a caseload of approximately 37 cases each. Since the last enforcement summary, CIO has closed 85 cases and has transmitted 27 cases to the Attorney General's Office (AGO). Of the transmittals for administrative action, nine were criminal conviction cases, 16 were malpractice cases, two were complaints referred by the Board's CCU Medical Consultant Review Program, and two were petitions for reinstatement of licensure. The CIO also referred one case to the Board's Citation and Fine Program, and three cases for a Public Letter of Reprimand.

All CIO staff are continuing to telework and conduct interviews telephonically or via MS Teams, when possible.

Discipline Coordination Unit:

The Discipline Coordination Unit (DCU) currently has two vacant Associate Governmental Program Analyst (AGPA) positions and one vacant Office Technician (OT) position. The recruitment process for the AGPA positions is completed and selections have been made. One employee will report to work May 10, 2021, and the second employee is awaiting final approval by DCA. Interviews for the OT position were

conducted, however, no eligible candidates were identified. Therefore, the vacancy was readvertised, and a second round of interviews will be conducted in April.

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

Probation Unit:

The Probation Unit is now fully staffed. The final vacant Inspector position has been filled and the incumbent reported to work on April 19, 2021.

Following advisement of concerns expressed at the Board's Sunset Review Hearing, Probation management met to identify and discuss alternatives to the Practice Monitor nomination process. All findings and proposals will be submitted to the Chief of Enforcement by the end of April 2021.

Probation Inspectors continue to telework but have returned to conducting quarterly interviews at work sites when possible. If a face-to-face interview at a work site is not feasible due to COVID-19, interviews are conducted via MS Teams.

Responses to questions from the February 2021 Board meeting

Several questions were raised at the last Board meeting, answers to each are included.

Average cases per analyst.

CIO Staff – 38

Probation Inspectors – 33

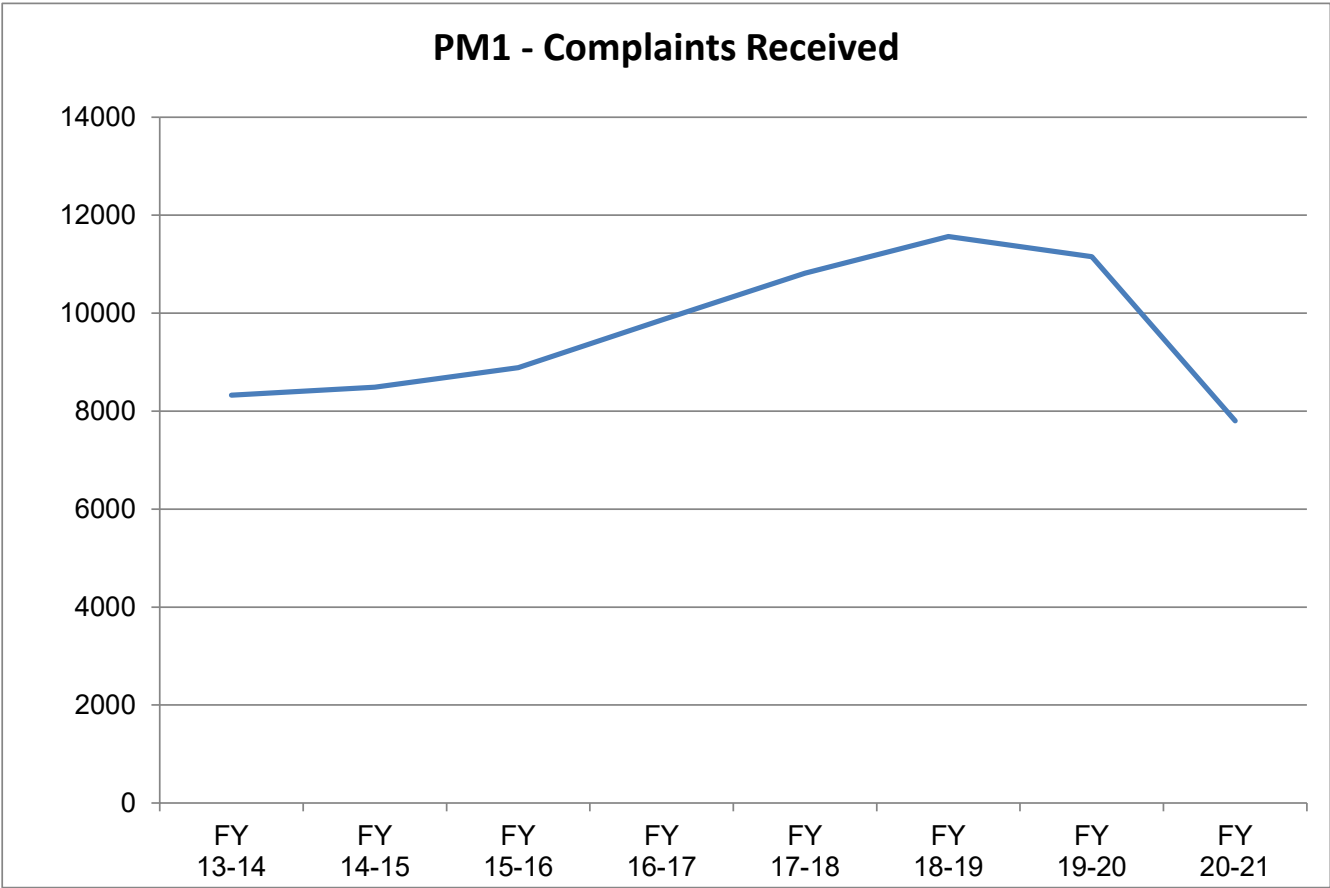
CCU Staff – 103

CME for probationers is approved by the Probation Inspectors.

Probation is not seeing difficulties in obtaining the quarterly declarations from probationers.

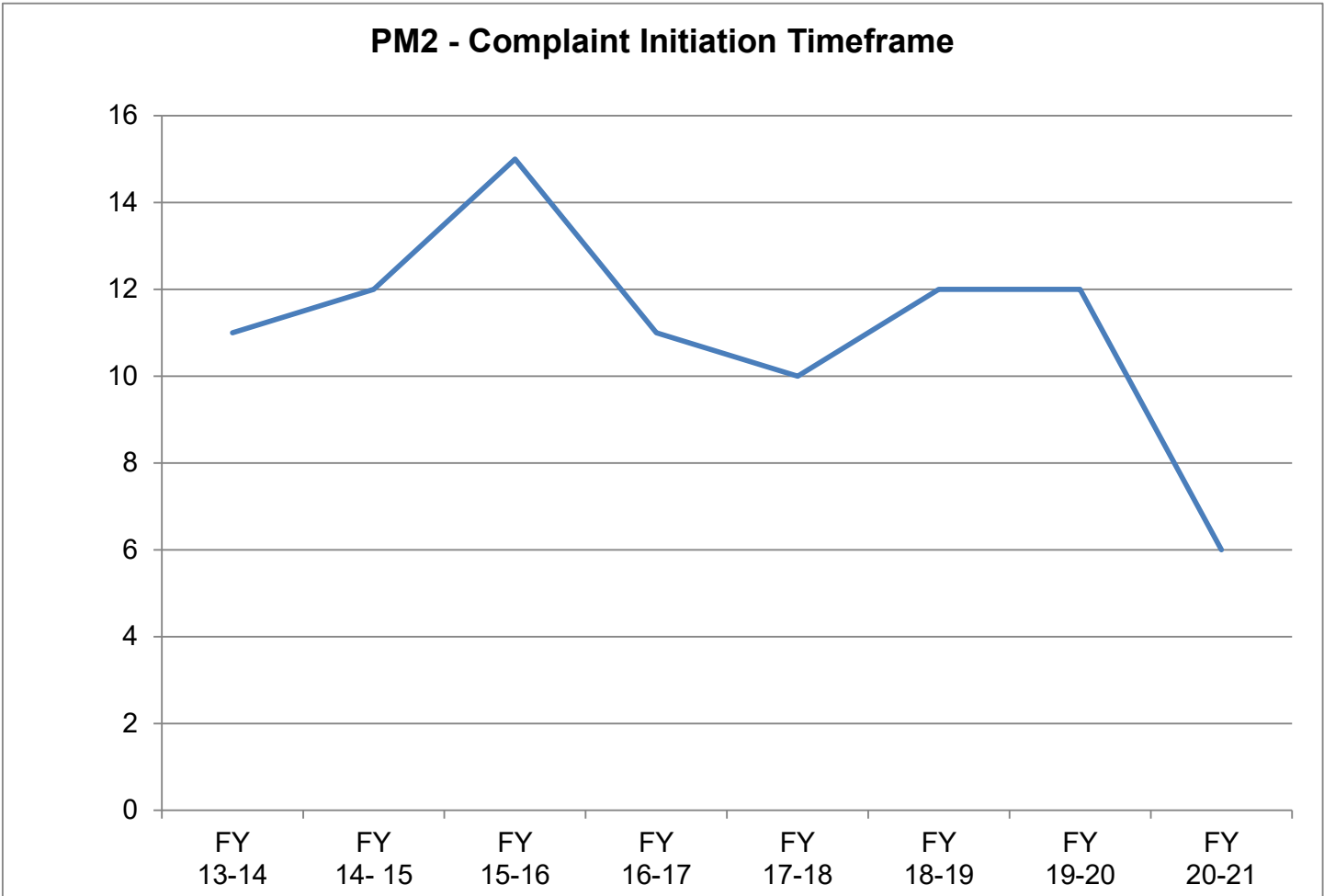
The expert demographic information is being provided by ISB (IT) and should be presented at the Board's May meeting.

Medical Board of California Enforcement Program
PM1 - Complaints Received



Month	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21
Volume	8325	8490	8885	9862	10817	11565	11155	7802

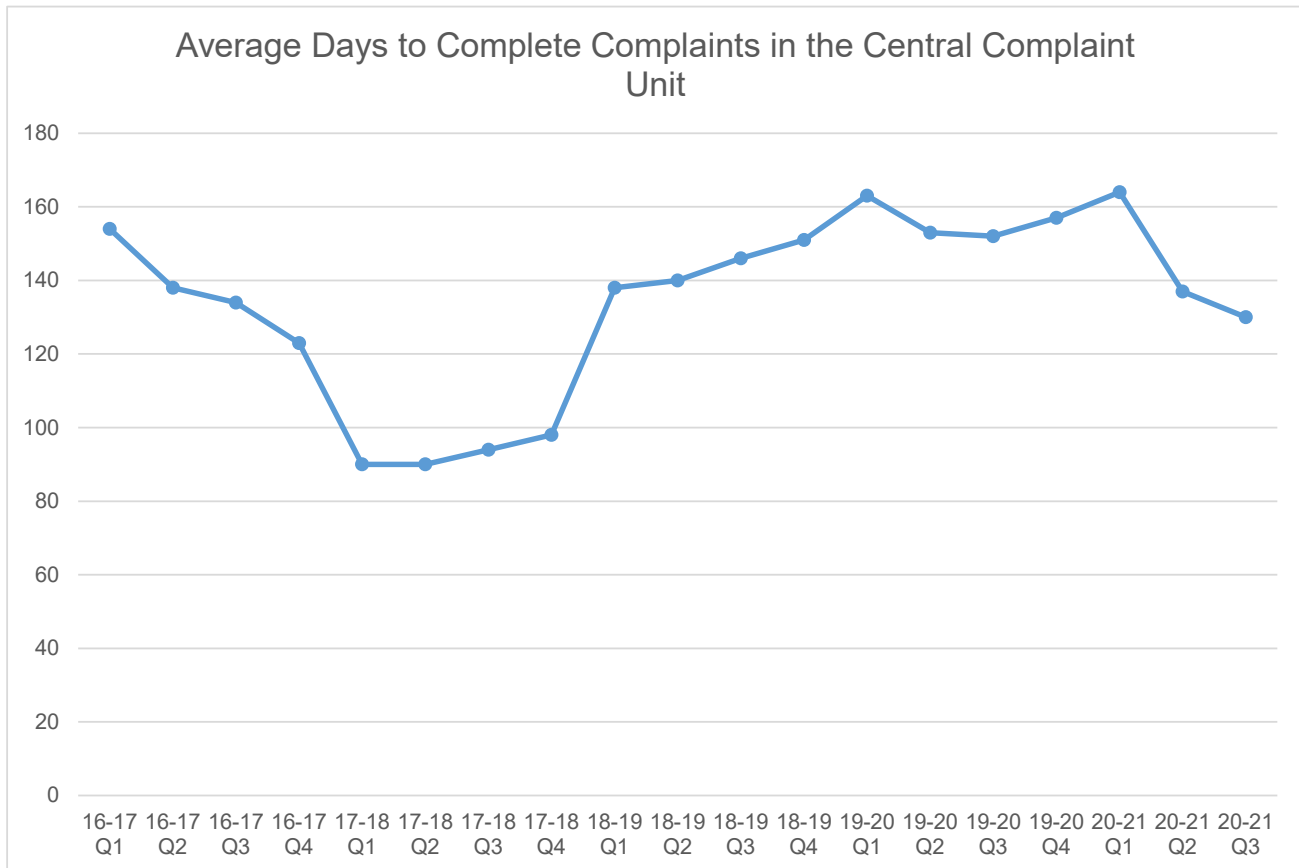
Medical Board of California Enforcement Program
PM2 - Complaint Initiation Timeframe



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

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

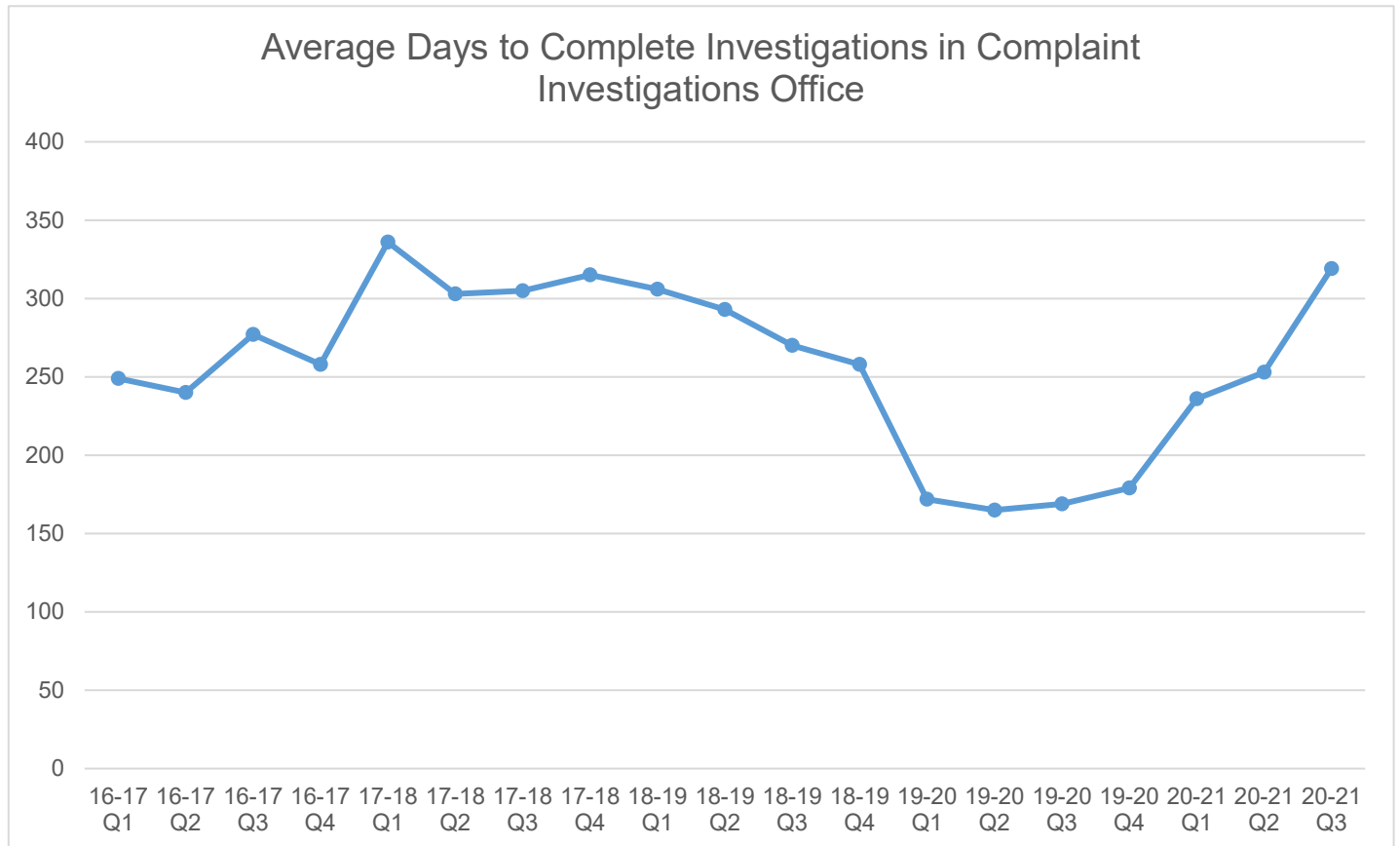
Quarter	Fiscal Year 16-17	Fiscal Year 17-18*	Fiscal Year 18-19	Fiscal Year 19-20	Fiscal Year 20-21
Quarter 1	154	90	138	163	164
Quarter 2	138	90	140	153	137
Quarter 3	134	94	146	152	130
Quarter 4	123	98	151	157	



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

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

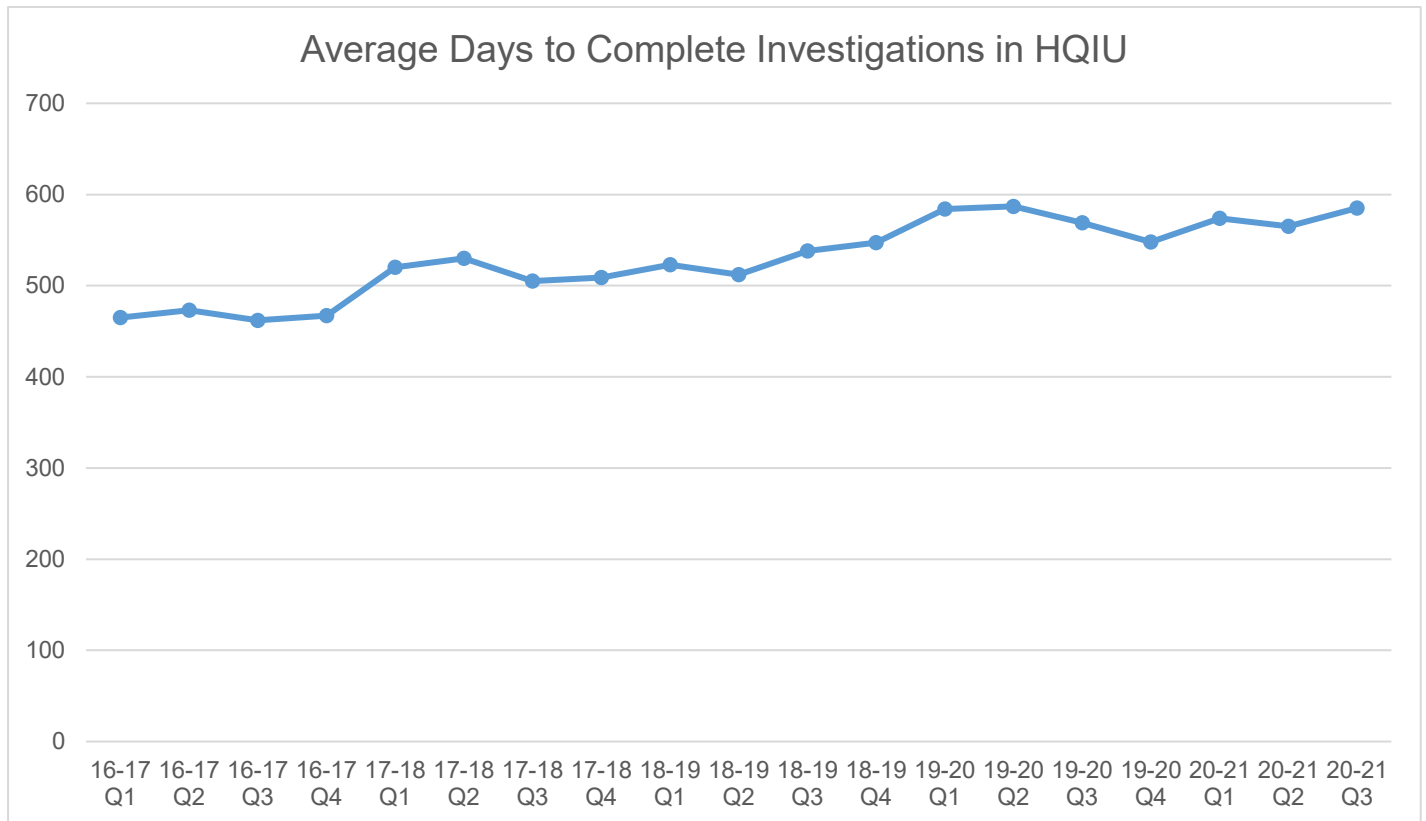
Quarter	Fiscal Year 16-17	Fiscal Year 17-18	Fiscal Year 18-19	Fiscal Year 19-20	Fiscal Year 20-21
Quarter 1	249	336	306	172	236
Quarter 2	240	303	293	165	253
Quarter 3	277	305	270	169	319
Quarter 4	258	315	258	179	



Investigation processing days are from the date case was assigned to Complaint Investigation Office (CIO) Investigator by Complaint Unit until closure or referral (does not include Complaint Unit processing days for complaints completed at CIO). Includes physician and surgeon data only.

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

Quarter	Fiscal Year 16-17	Fiscal Year 17-18	Fiscal Year 18-19	Fiscal Year 19-20	Fiscal Year 20-21
Quarter 1	465	520	523	584	574
Quarter 2	473	530	512	587	565
Quarter 3	462	505	538	569	585
Quarter 4	467	509	547	548	



Effective 7/1/18 investigation processing days are from the date the case was referred to HQIU until closure or referral (this does not include Complaint Unit processing days for complaints completed at HQIU). This includes post-investigation processing time by HQIU, and review time by the Attorney General and Board after the investigation is completed, which is an average of 20 days through March 2021. Includes physician and surgeon data only.

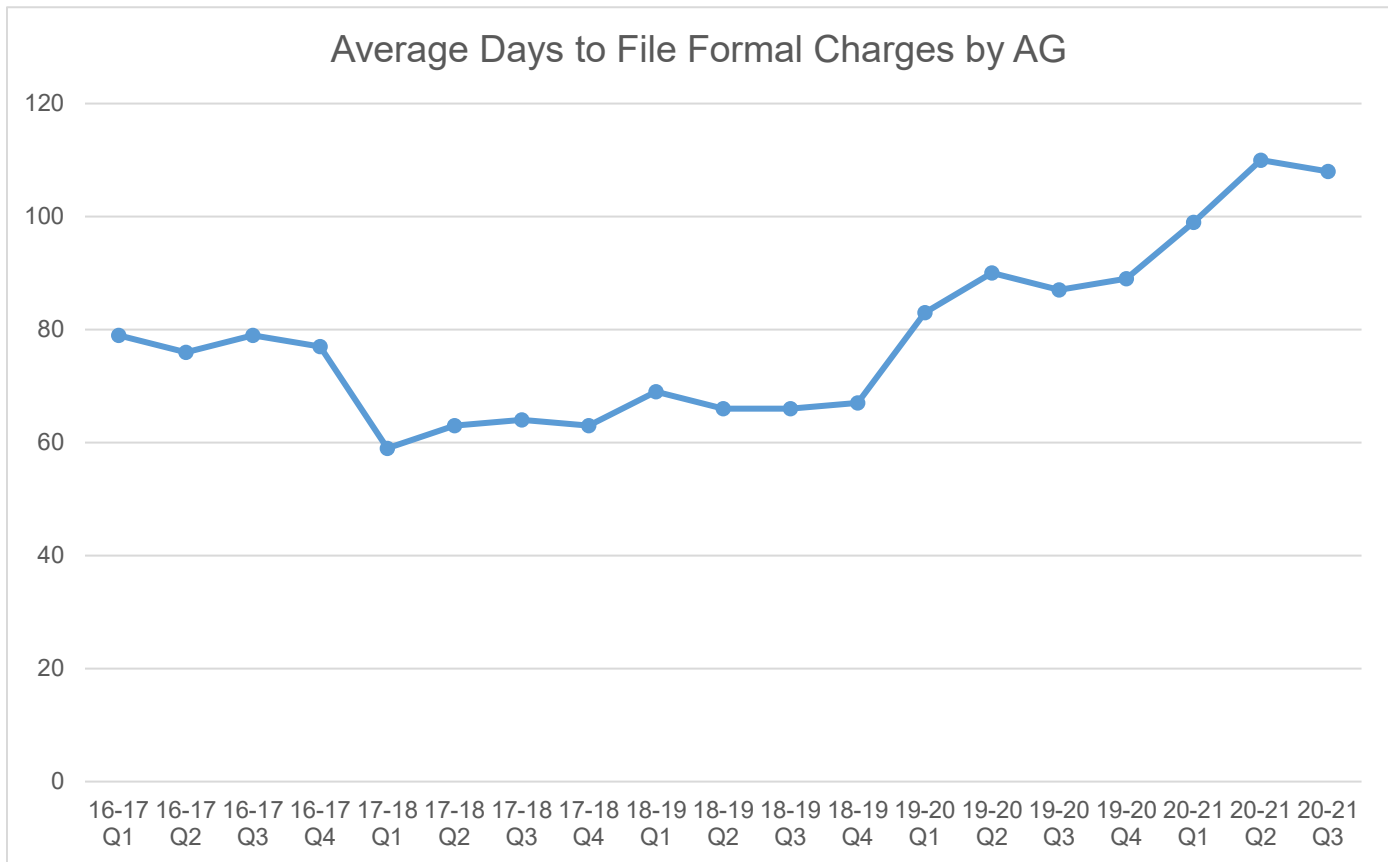
California Enforcement Program
Average HQIU Investigation Days by Case Type

Case Type by Fiscal Year	16-17	17-18	18-19	19-20	20-21
Overall	467	509	548	548	585
Gross Negligence/Incompetence	485	549	597	561	567
Inappropriate Prescribing	649	564	548	665	658
Unlicensed Activity	351	450	482	529	687
Sexual Misconduct	425	493	494	426	481
Mental/Physical Illness	373	399	460	481	450
Self-Abuse of Drugs/Alcohol	351	528	413	417	461
Fraud	492	328	661	469	576
Conviction of a Crime	455	396	585	528	498
Unprofessional Conduct	435	504	565	492	449

Effective 7/1/18 investigation processing days are from the date the case was referred to HQIU until closure or referral (this does not include Complaint Unit processing days for complaints completed at HQIU). This includes post-investigation processing time by HQIU, and review time by the Attorney General and Board after the investigation is completed, which is an average of 20 days through March 2021. Includes physician and surgeon data only.

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

Quarter	Fiscal Year 16-17	Fiscal Year 17-18	Fiscal Year 18-19	Fiscal Year 19-20	Fiscal Year 20-21
Quarter 1	79	59	69	83	99
Quarter 2	76	63	66	90	110
Quarter 3	79	64	66	87	108
Quarter 4	77	63	67	89	



Average Days to File Formal Charges are the days from the date the case is referred to the AG's Office until formal charges are filed. Includes physician and surgeon data only.

ENFORCEMENT TIMEFRAMES

Fiscal Year	16-17 Average	16-17 Median	17-18 Average	17-18 Median	18-19 ¹ Average	18-19 ¹ Median	19-20 Average	19-20 Median	20-21 ² Average	20-21 ² Median
COMPLAINT PROCESSING	123	89	98	58	151	122	157	111	130	58
INVESTIGATION PROCESSING - MBC - CIO (Complaint Investigation Office)	258	203	316	251	258	127	179	133	319	254
INVESTIGATION PROCESSING - HQIU (Health Quality Investigation Unit)	467	431	510	483	547	502	548	517	585	580
TOTAL MBC & HQIU DAYS	141	104	119	68	179	141	171	127	147	73
TOTAL MBC & HQIU YEARS	0.39	0.28	0.33	0.19	0.49	0.39	0.47	0.35	0.40	0.20
AG PREP - Attorney General Preparation for Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues	77	62	63	51	67	55	89	70	108	79
POST - Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues	455	368	322	285	333	311	369	345	383	351
ACCUSATION DECLINED BY AG	25	14	114	19	53	32	48	29	48	35
TOTAL AG DAYS	473	328	327	286	339	312	374	354	470	449
TOTAL AG YEARS	1.30	0.90	0.90	0.78	0.93	0.85	1.02	0.97	1.29	1.23
TOTAL MBC & AG DAYS	1034	1040	926	939	1016	1057	1090	1110	1128	1209
TOTAL MBC & AG YEARS	2.83	2.85	2.54	2.57	2.78	2.90	2.99	3.04	3.09	3.31

Years calculated using 365 days per year

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

² Data through 3/31/21.

Includes physican and surgeon data only.

Pending Enforcement Caseload Summary¹

Data Current as of April 20, 2021

	0-3 Months	4-6 Months	7-9 Months	10-12 Months	1 Year	2 Years	3 Years	4 Years	Over 4 Years	Total by Group	Previous Quarter Data	Variance	% Variance
Central Complaint Unit	1,108	546	392	115	62	3	0	0	0	2,226	2,375	-149	-6.27
Complaint Investigation Unit	39	24	20	23	71	30	0	0	0	207	247	-40	-16.19
Health Quality Investigation Unit	247	202	174	149	631	179	0	0	0	1,582	1,742	-160	-9.18
Completed Investigations Awaiting Disposition²	2	3	4	3	22	10	0	0	0	44	N/A	N/A	N/A
Citation and Fine Desk	36	12	23	28	134	1	1	0	0	235	218	17	7.8
Out-of-State Desk	72	26	5	2	3	0	0	0	0	108	95	13	13.68
AG Services³	26	11	11	6	6	1	0	0	0	61	50	11	22
AG-Pre⁴	120	35	42	22	48	14	6	1	1	289	339	-50	-14.75
AG-Post⁵	112	82	71	51	68	19	7	2	2	414	413	1	0.24
Total	1,762	941	742	399	1,045	257	14	3	3	5,166	5,479	-313	-5.71

¹ Includes physician and surgeon data only.

² Represents the number of completed investigations returned by HQIU to the Board for review and determination of outcome.

³ AG Services includes petitions to compel, subpoena enforcement, and referrals for citation appeals.

⁴ AG-Pre includes cases transmitted to the AG but the Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues is not yet filed.

⁵ AG-Post includes Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues that have been filed.

* Probation Monitoring caseload removed at the request of the Board.