

## MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: April 20, 2023  
ATTENTION: Members, Medical Board of California  
SUBJECT: Enforcement Program Summary  
STAFF CONTACT: Jenna Jones, Chief of Enforcement

Requested Action:

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

Program Updates:

The Enforcement management team met with DCA to work on the Strategic Plan in early April.

The Expert Reviewer Program continues to work through the new applications to serve as Medical Consultants and Experts. We are also looking at other ways we can expand our experts in several specialties. Ms. Lubiano is meeting with the team monthly to provide assistance as we seek to improve the training and respond to the needed program improvements.

HQIU has reduced their pending investigation cases from 2340 in January 2020 to 1,273 as of April 10, 2023. New referrals to HQIU are down which reflects the decreased number of incoming complaints in CCU. We continue to meet with HQIU management to address timelines and encourage regularly scheduled and thorough case reviews to assist staff with file management and in turn address case aging. As training issues are identified, we continue to bring those matters to HQIU management's attention so they can be addressed with the individuals involved as well as rest of the HQIU team.

In light of our difficult financial position, we are seeking to assure our cost recovery figures are determined accurately. In addition to the cost recovery we seek from our licensees, the hourly rates which HQIU sets forth determines the amounts of investigation costs we can recover from the allied health boards who utilize HQIU for investigations. These other boards include agencies such as the Osteopathic and Physician Assistant boards. We continue to communicate with DCA to assure the current rates for HQIU services are accurate and fully reflect the HQIU operational costs as it affects both the cost recovery amounts we seek from licensees as well as the amount we can collect from the allied health agencies.

On a positive note, since the inception of the time tracking system, which was started in January 2022, we are seeing an increase of approximately \$60,000 per month in billing to the allied health boards over previous time periods. As of March 2023, we are on

track to recognize an additional \$700,000 this fiscal year from the allied health boards over previous years.

#### Expert Reviewer Program:

There are currently 726 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. Management worked with the Board's Information Systems Branch to implement a new report that made identifying and reaching out to experts with expiring contracts much more efficient. Expert program has one vacant Associate Governmental Program Analyst (AGPA) due to retirement. The AGPA vacancy was advertised, and interviews were conducted. Management is currently working with human resources to finalize hiring clearances and fill the vacancy. Recruitment Expert program analysts routinely process billing submitted by experts and work with HQIU, EPU and Deputy Attorney General staff to aid with selecting an expert for cases assigned to their units. Expert program staff sent recruitment letters to professional medical societies and organizations. Additionally, an email blast was sent to licensees in efforts to recruit reviewers for the Expert Reviewer and Medical Consultant Programs. Staff in both programs are reviewing the applications to ensure applicants meet requirements. Once confirmed, staff in the expert reviewer and medical consultant programs will request contracts to be able to utilize the services of the expert reviewers and medical consultants. Expert reviewer training was conducted via WebEx in April, our next trainings are set for August 12, and October 7, 2023. Advertisement for the following specialties were in the Board's April 2023 Newsletter:

- Addiction Medicine with added certification in Family or Internal or Psychiatry
- Cardiology
- Clinical Genetics
- Colon/Rectal Surgery
- Dermatology
- Family Medicine
- Gastroenterology
- Hematology
- Interventional Cardiology
- Neurological Surgery
- Neurology
- Obstetrics and Gynecology (with added expertise in Gynecologic Oncology)
- Orthopaedic Surgery
- Pathology (preferably from: Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, and Ventura Counties)
- Pediatric Endocrinology
- Pain Medicine
- Pediatric Gastroenterology
- Pediatric Surgery

- Pediatric Cardiac Surgery
- Pediatric Critical Care
- Pediatric Pulmonology
- Plastic Surgery
- Psychiatry (Forensic and Addiction)
- Radiation Oncology
- Surgery (General and Endocrine Surgery)
- Thoracic and Cardiac Surgery
- Urology (General and Gender Reassignment)
- Vascular Surgery

#### Central Complaint Unit:

The average number of days to initiate a complaint in the Central Complaint Unit (CCU) is 4 for the second quarter of FY 2022-2023, which is within the timeframe mandated by Business and Professions Code section 129(b). The average days to complete the processing of a complaint in CCU is 112 days. CCU staff and management continue to work diligently to ensure communication with consumers is sent at various milestones throughout the complaint process, review new complaints in a timely manner, send out requests for necessary information in a timely manner, and reduce the overall aging of all complaint types.

CCU currently has two Management Service Technician (MST) vacancies, two vacant Associate Governmental Program Analyst (AGPA) positions (one due to employee leaving MBC and the other due to retirement), and one vacant Staff Services Analyst (SSA) position (due to internal promotion). Since the February 2023 meeting, CCU filled one of the vacant AGPA positions and one of the vacant SSA positions, the employees started on April 12, 2023. The MST positions were readvertised. Interviews will be conducted for the vacant AGPA and SSA positions. Applications for the vacant MST positions were reviewed and interviews will be conducted.

The medical consultant program receives a monthly report of consultants with expiring contracts and utilizes this information to renew contracts. Management worked with the Board's Information Systems Branch to implement a new report that made identifying and reaching out to experts with expiring contracts much more efficient. Medical consultant program staff continue assigning cases that require specialty review to consultants, follow up on cases checked out to consultants for 30 days or more, and routinely process billing submitted by consultants. An email blast was sent to licensees in efforts to recruit reviewers for the Expert Reviewer and Medical Consultant Programs. Staff in both programs are reviewing the applications to ensure applicants meet requirements. Once confirmed, staff in the expert reviewer and medical consultant programs will request contracts to be able to utilize the services of the expert reviewers and medical consultants.

Discipline Coordination Unit:

The Discipline Coordination Unit (DCU) currently has five vacancies, four Associate Governmental Program Analyst (AGPA) positions and one Office Technician (OT) position.

All AGPA vacancies have been advertised and interviews for three of the positions have been conducted. Management is currently working with human resources to finalize hiring clearances for these three positions. Applications for the remaining AGPA position have been reviewed and recruitment efforts are currently underway.

The vacant OT position will be readvertised in May 2023.

Management and staff in DCU continue to work diligently to identify and implement needed process improvements, while simultaneously ensuring timely processing of disciplinary actions.

Probation Unit:

The Probation Unit currently has two vacant Inspector positions, one in Fresno and one in Tustin. The Inspector position in San Dimas has been filled and the employee reported to work on April 3, 2023.

Management continues their efforts to find eligible candidates for the positions in Fresno and Tustin but have been unsuccessful. Therefore, these positions remain advertised.

During this quarter, ten Petitions to Revoke Probation and two Accusations/Petitions to Revoke Probation have been transmitted to the Attorney General's Office. Eight Petitions to Revoke Probation have been filed. No Accusations/Petitions to Revoke Probation were filed.

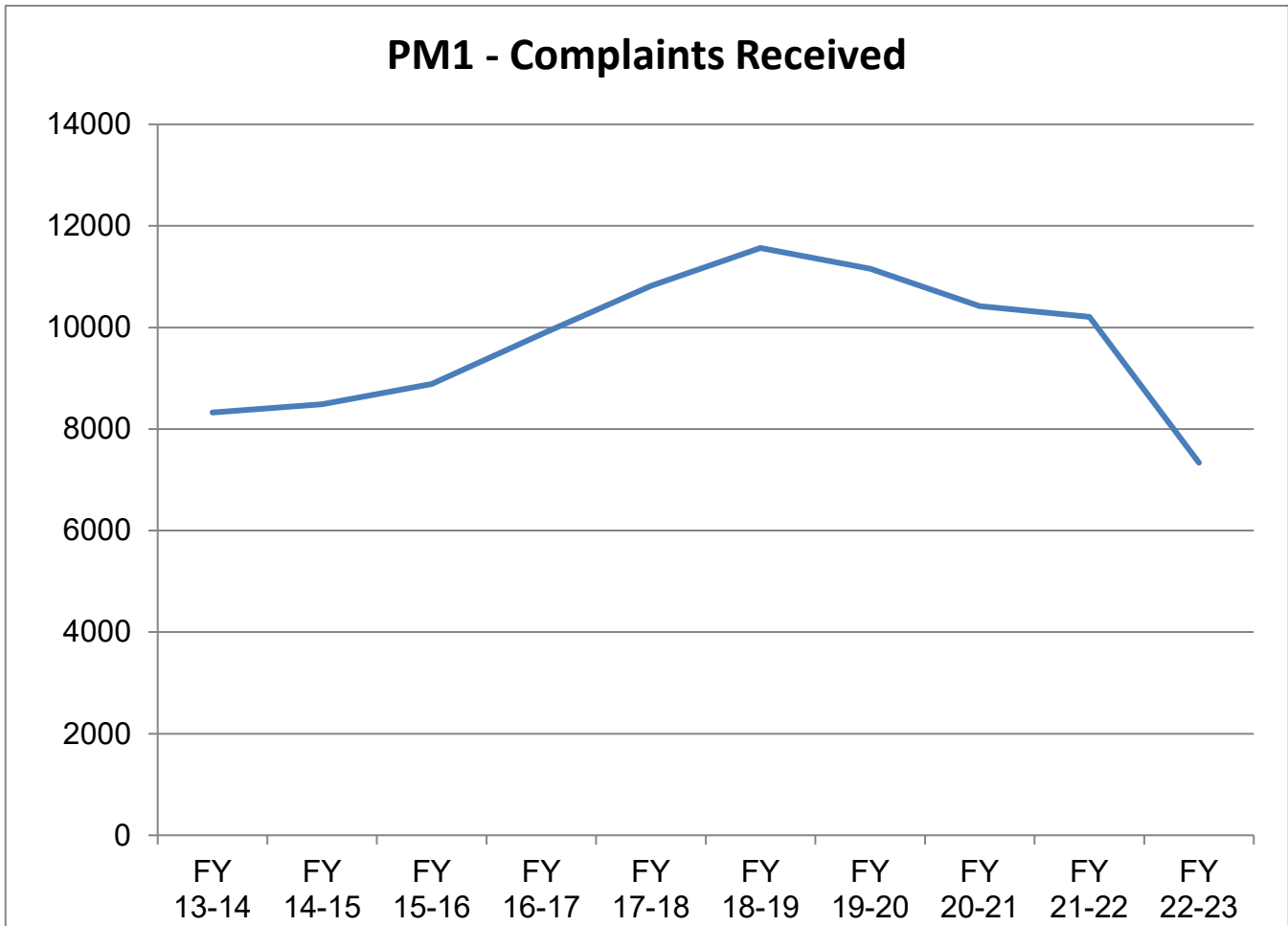
Complaint Investigation Office:

These findings are for physician and surgeon cases for the date range of January 1, 2023, through March 31, 2023.

The Complaint Investigation Office (CIO) non-sworn special investigators currently has a unit caseload of 221 cases which breaks down into approximately 34 cases each. In order to determine the average, we excluded Rashya's (the CIO manager) position and counted Lauren Nickel as 1/2 position; resulting in 6.5 total positions. Additionally, CIO is also assisting CCU with 7 cases.

Since the last enforcement summary, CIO has closed 36 cases and transmitted 17 cases to the Attorney General's Office – 10 criminal conviction cases, 4 malpractice cases, 1 vaccination exemption case, 1 aiding and abetting the unlicensed practice of medicine case, 1 fraud case, and 5 petitions for reinstatement. Additionally, the CIO referred 3 cases to the Board's Cite and Fine Program and 3 cases for a PLR.

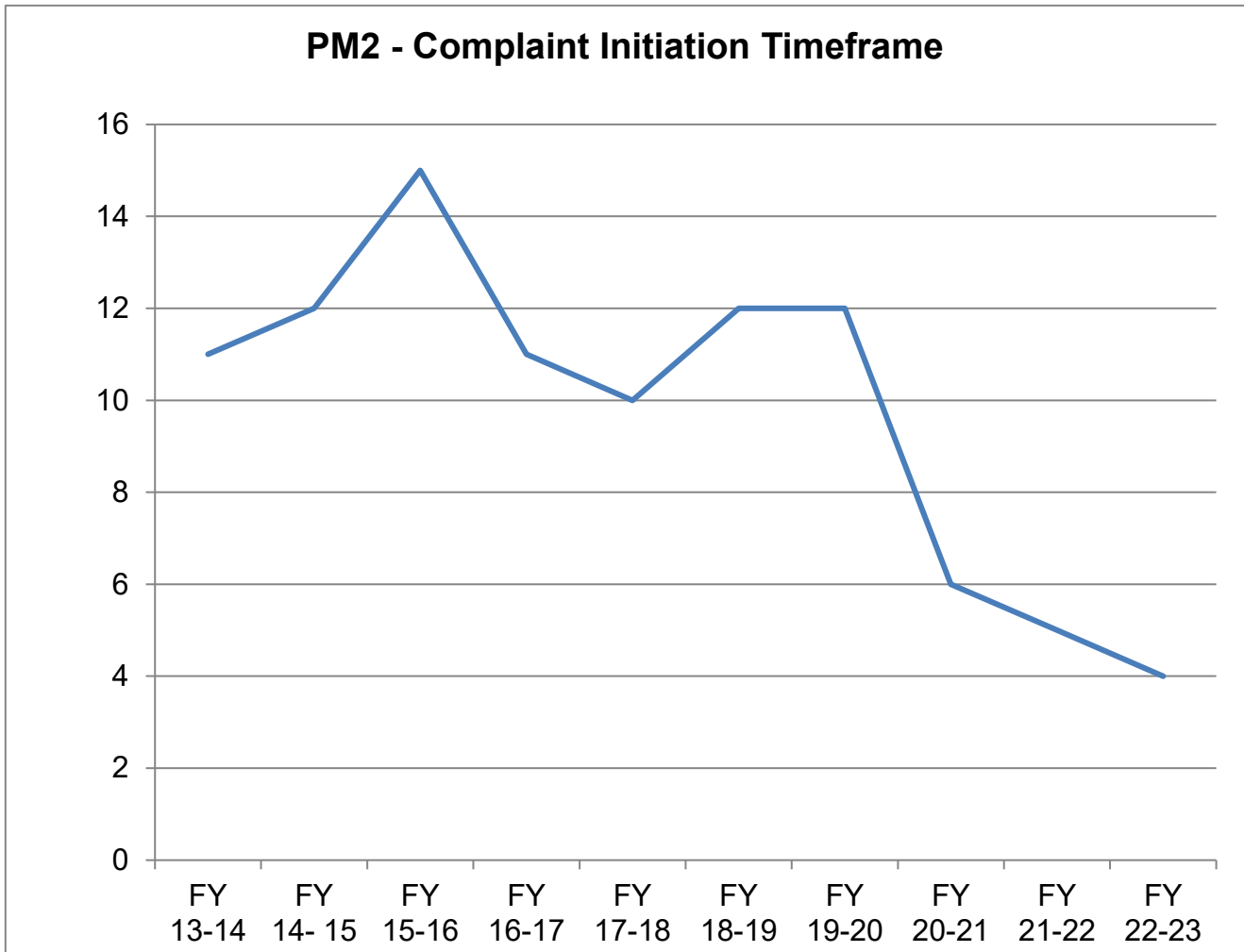
**Medical Board of California Enforcement Program  
PM1 - Complaints Received**



Month	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
<b>Volume</b>	8325	8490	8885	9862	10817	11565	11155	10418	10209	7336

This chart displays the number of complaints received for all license types under the Medical Board (Licensed Midwife, Physician's and Surgeon's, Research Psychoanalyst, Fictitious Name Permit, Special Programs – Individual, Special Programs – Organization, Special Faculty Permit, Polysomnographic, BPC 853 Pilot Program Physician, Postgraduate Training License, and Medical Expert). When reporting Performance Measures data, the inclusion of all license types under the Medical Board is mandated by DCA. FY 22-23 figures are for date range July 1, 2022 through March 31, 2023.

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

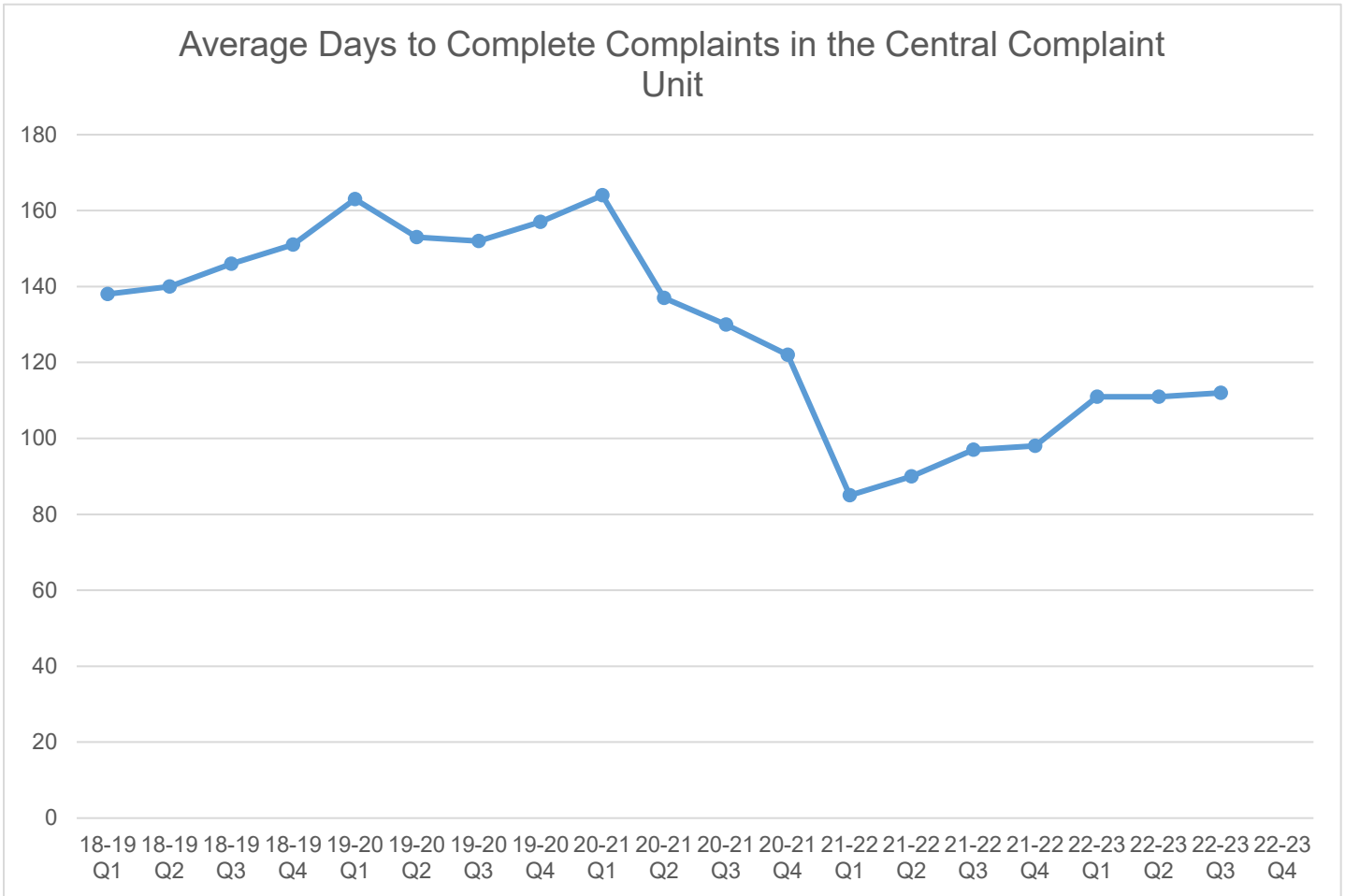


Month	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
<b>Cycle Time</b>	11	12	15	11	10	12	12	6	5	4

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

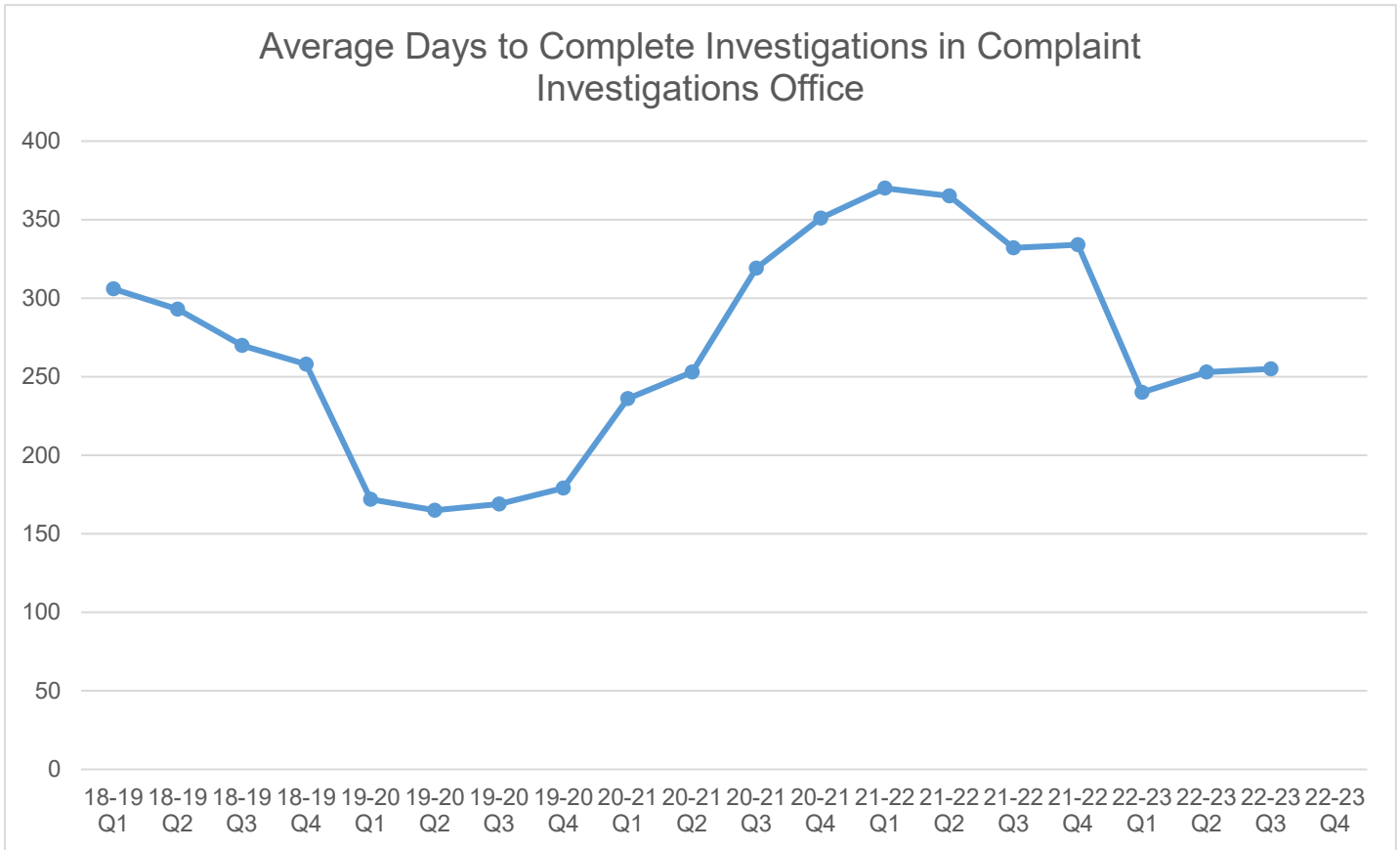
<b>Quarter</b>	<b>Fiscal Year 18-19</b>	<b>Fiscal Year 19-20</b>	<b>Fiscal Year 20-21</b>	<b>Fiscal Year 21-22</b>	<b>Fiscal Year 22-23</b>
Quarter 1	138	163	164	85	111
Quarter 2	140	153	137	90	111
Quarter 3	146	152	130	97	112
Quarter 4	151	157	122	98	



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 18-19	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 22-23
Quarter 1	306	172	236	370	240
Quarter 2	293	165	253	365	253
Quarter 3	270	169	319	332	255
Quarter 4	258	179	351	334	

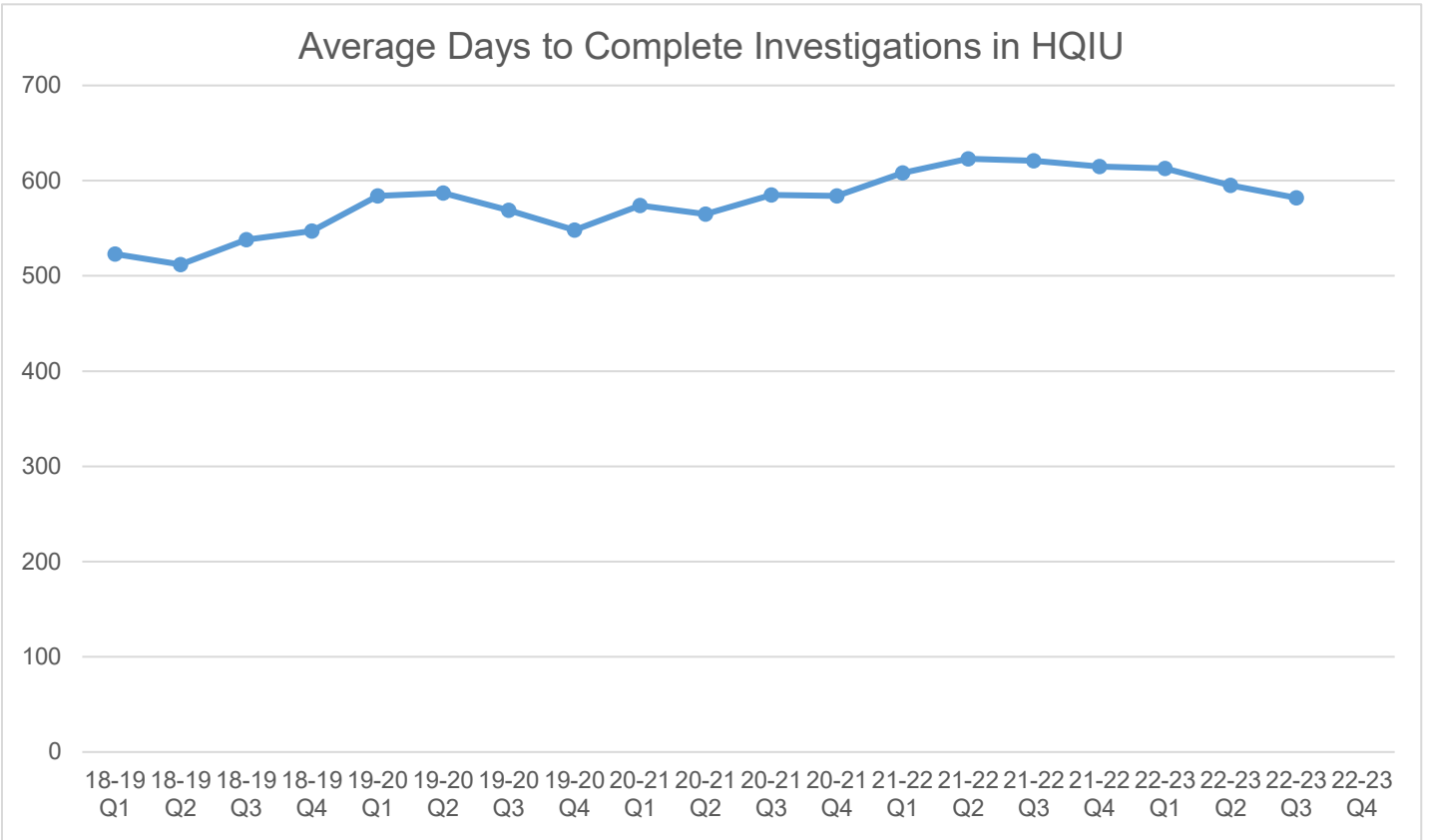


Investigation processing days are from the date case was assigned to Complaint Investigation Office (CIO) Investigator by Complaint Unit until closure or referral (does not include Complaint Unit processing days for complaints completed at CIO). Includes physician and surgeon data only.



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

Quarter	Fiscal Year 18-19	Fiscal Year 19-20	Fiscal Year 20-21	Fiscal Year 21-22	Fiscal Year 22-23
Quarter 1	523	584	574	608	613
Quarter 2	512	587	565	623	595
Quarter 3	538	569	585	621	582
Quarter 4	547	548	584	615	



Effective 7/1/18 investigation processing days are from the date the case was referred to HQIU until closure or referral (this does not include Complaint Unit processing days for complaints completed at HQIU). This includes post-investigation processing time by HQIU, and review time by the Attorney General and Board after the investigation is completed, which is an average of 13 days through March 2023. Includes physician and surgeon data only.

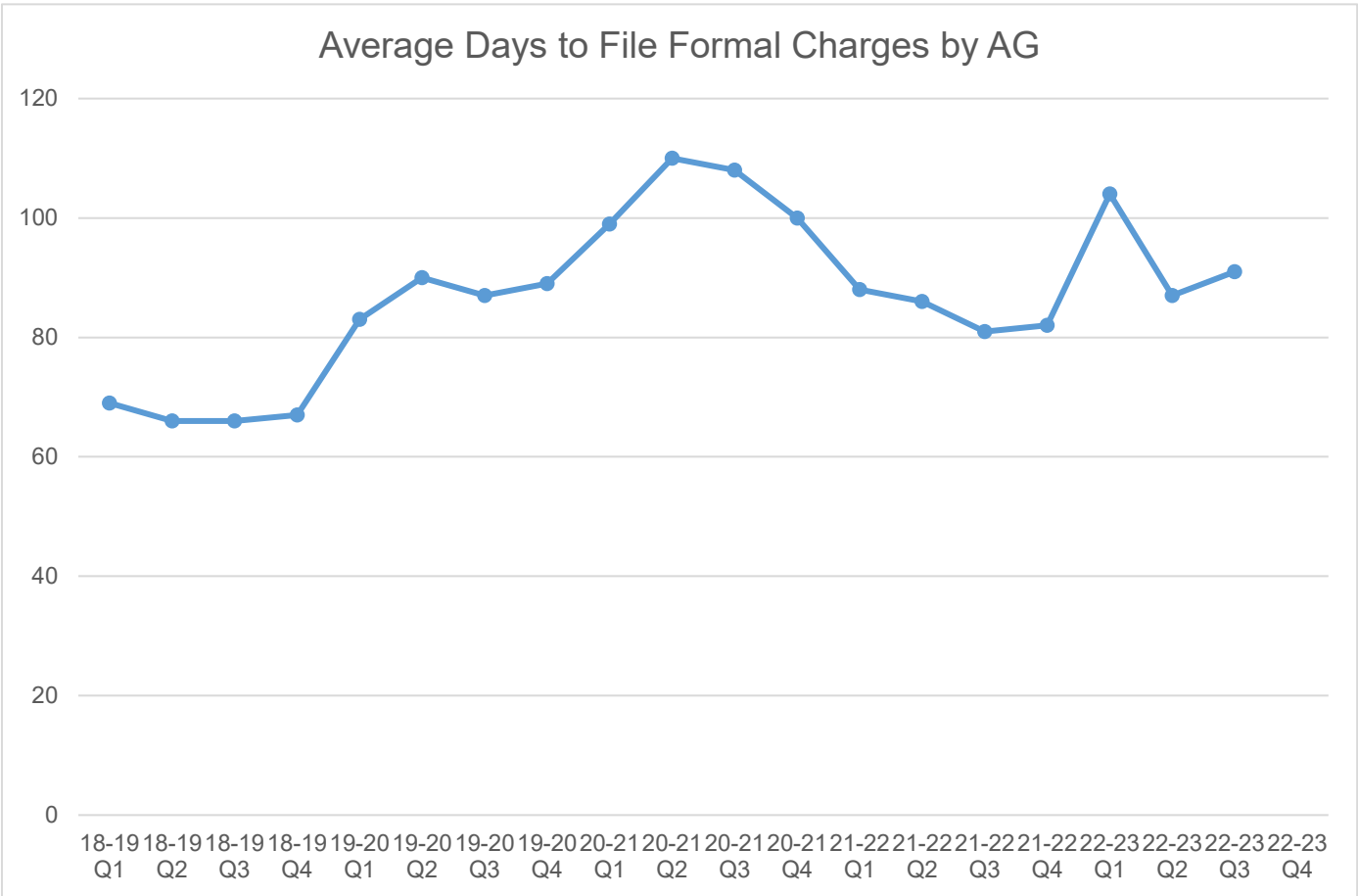
**California Enforcement Program**  
**Average HQIU Investigation Days by Case Type**

<b>Case Type by Fiscal Year</b>	<b>18-19</b>	<b>19-20</b>	<b>20-21</b>	<b>21-22</b>	<b>22-23</b>
Overall	548	548	584	615	582
Gross Negligence/Incompetence	597	561	588	632	628
Inappropriate Prescribing	548	665	651	714	670
Unlicensed Activity	482	529	659	636	620
Sexual Misconduct	494	426	460	580	495
Mental/Physical Illness	460	481	476	529	433
Self-Abuse of Drugs/Alcohol	413	417	416	445	477
Fraud	661	469	560	419	351
Conviction of a Crime	585	528	444	381	410
Unprofessional Conduct	565	492	483	564	512

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

<b>Quarter</b>	<b>Fiscal Year 18-19</b>	<b>Fiscal Year 19-20</b>	<b>Fiscal Year 20-21</b>	<b>Fiscal Year 21-22</b>	<b>Fiscal Year 22-23</b>
Quarter 1	69	83	99	88	104
Quarter 2	66	90	110	86	87
Quarter 3	66	87	108	81	91
Quarter 4	67	89	100	82	



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

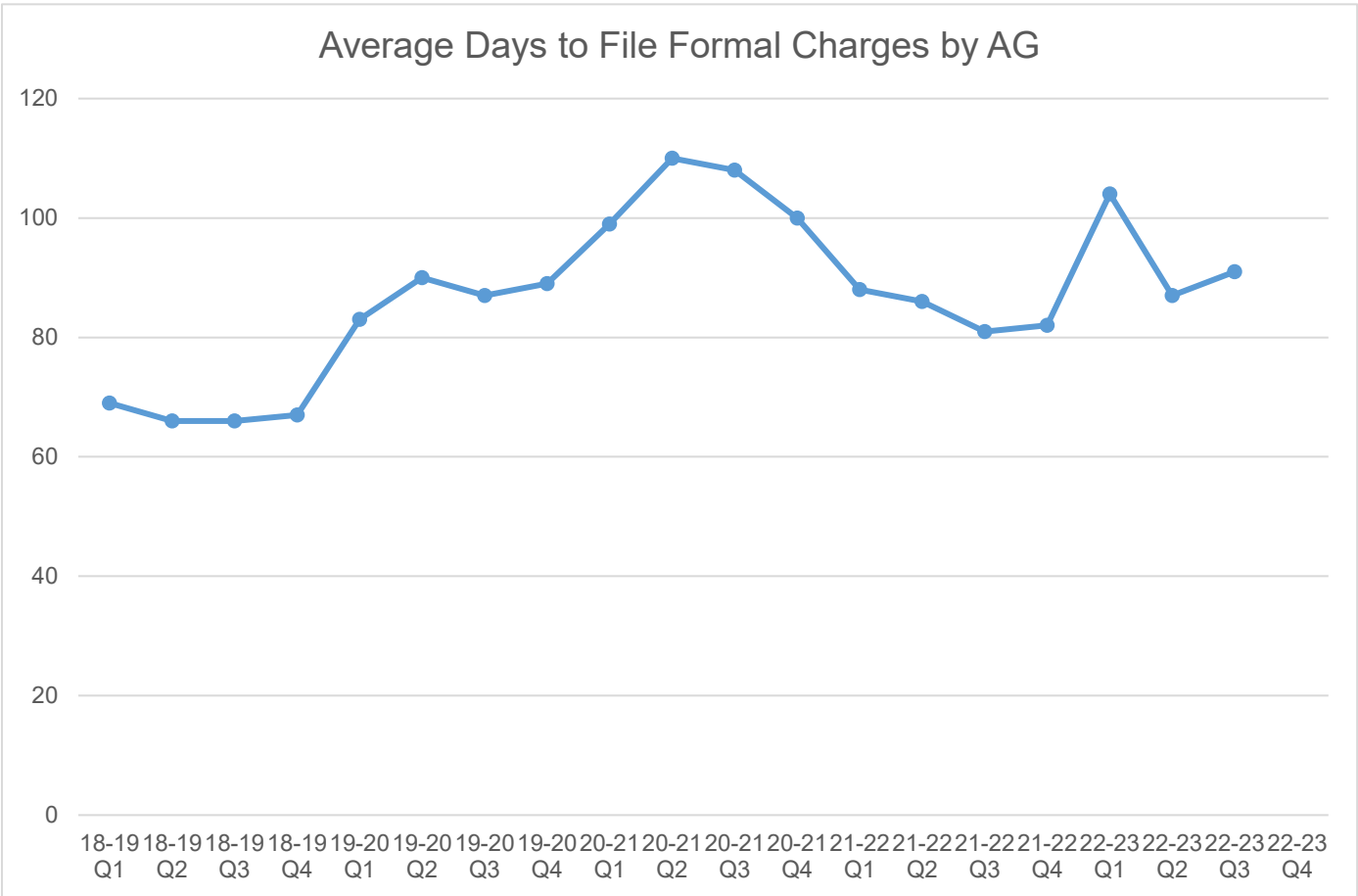
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## ENFORCEMENT TIMEFRAMES

Fiscal Year	18-19 <sup>1</sup> Average	18-19 <sup>1</sup> Median	19-20 Average	19-20 Median	20-21 Average	20-21 Median	21-22 Average	21-22 Median	22-23 <sup>2</sup> Average	22-23 <sup>2</sup> Median
COMPLAINT PROCESSING	151	122	157	111	122	54	98	55	112	59
INVESTIGATION PROCESSING - MBC - CIO (Complaint Investigation Office)	258	127	179	133	351	283	334	251	255	209
INVESTIGATION PROCESSING - HQIU (Health Quality Investigation Unit)	547	502	548	517	584	585	615	633	582	561
<b>TOTAL MBC &amp; HQIU DAYS</b>	179	141	171	127	143	68	176	81	175	97
<b>TOTAL MBC &amp; HQIU YEARS</b>	0.49	0.39	0.47	0.35	0.39	0.19	0.48	0.22	0.48	0.27
AG PREP - Attorney General Preparation for Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues	67	55	89	70	100	72	82	62	91	72
POST - Accusation/Petition to Revoke/Accusation & Petition to Revoke/Statement of Issues	333	311	369	345	384	351	388	372	488	451
ACCUSATION DECLINED BY AG	53	32	48	29	45	30	57	36	61	40
<b>TOTAL AG DAYS</b>	339	312	374	354	470	447	478	449	584	529
<b>TOTAL AG YEARS</b>	0.93	0.85	1.02	0.97	1.29	1.22	1.31	1.23	1.60	1.45
<b>TOTAL MBC &amp; AG DAYS</b>	1016	1057	1090	1110	1129	1193	1167	1239	1345	1415
<b>TOTAL MBC &amp; AG YEARS</b>	2.78	2.90	2.99	3.04	3.09	3.27	3.20	3.39	3.68	3.88

Years calculated using 365 days per year

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

<sup>2</sup> Data through 03/31/2023.

Includes physician and surgeon data only.

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

Data Current as of April 17, 2023

	0-3 Months	4-6 Months	7-9 Months	10-12 Months	1 Year	2 Years	3 Years	4 Years	Over 4 Years	Total by Group	Previous Quarter Data	Variance	% Variance
<b>Central Complaint Unit</b>	1,366	766	458	293	189	0	0	0	0	<b>3,072</b>	2,861	211	7%
<b>Complaint Investigation Unit</b>	76	61	33	19	25	2	0	0	0	<b>216</b>	184	32	17%
<b>Health Quality Investigation Unit</b>	222	176	171	153	346	107	5	0	0	<b>1,180</b>	1,204	-24	-2%
<b>Completed Investigations Awaiting Disposition<sup>2</sup></b>	20	0	0	0	0	0	0	0	0	<b>20</b>	33	-13	-39%
<b>Citation and Fine Desk</b>	22	23	15	10	38	10	2	0	0	<b>120</b>	177	-57	-32%
<b>Out-of-State Desk</b>	61	57	66	79	99	1	0	0	0	<b>363</b>	299	64	21%
<b>AG Services<sup>3</sup></b>	25	12	9	2	5	0	0	0	0	<b>53</b>	58	-5	-9%
<b>AG-Pre<sup>4</sup></b>	94	44	36	23	31	17	1	6	1	<b>253</b>	272	-19	-7%
<b>AG-Post<sup>5</sup></b>	71	50	62	50	87	21	2	4	4	<b>351</b>	376	-25	-7%
<b>Total by Age</b>	<b>1,957</b>	<b>1,189</b>	<b>850</b>	<b>629</b>	<b>820</b>	<b>158</b>	<b>10</b>	<b>10</b>	<b>5</b>	<b>5,628</b>	5,464	164	3%

<sup>1</sup> Includes physician and surgeon data only.

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

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

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

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

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

Administrative Outcomes for Physicians and Surgeons by Quarter

Types of Outcomes	FY 22/23				
	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Total
<b>Administrative Outcomes</b>					
License Revoked	7	12	11		30
License Surrendered (in Lieu of Accusation or with Accusation Pending)	23	16	30		69
License Placed on Probation with Suspension	0	2	0		2
License Placed on Probation	38	26	59		123
Probationary License Issued	3	4	2		9
Public Reprimand	21	20	23		64
Other Action	0	0	2		2
<b>Referral and Compliance Actions</b>					
Citation and Administrative Fines Issued	27	83	49		159

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





May 5, 2023

Medical Board of the State of California  
 2005 Evergreen Street, Suite 1200  
 Sacramento, CA 95815-5401

**RE: Attorney General’s Office Quarterly Update, May, 2023 Board Meeting**

Dear Board Members:

Thank you for the opportunity to provide the Attorney General’s Office quarterly update to the Medical Board of California. At the request of the interim Executive Director, we were requested to provide a budget update. The attached Frequently Asked Questions prepared by the Office of the Attorney General in 2019-20 address the Department’s Legal Services Revolving Fund (LSRF) Cost Recovery Legal Billing Rates. For fiscal year 2022-23, the legal services budget for the Medical Board of California, including the Board’s Licensing and Enforcement Divisions, Licensed Midwifery Program, and Registered Polysomnographic Program, is \$16,941,000.

Legal services costs incurred from July 1, 2022 through March 31, 2023 total \$11,094,480. Should current hourly workload trends continue through the remaining of the fiscal year, the Medical Board and its programs are projected to accrue legal services costs totaling \$14,810,958 by June 30, 2023.

Professional Type	Year-to-Date 7/1/2022 to 3/31/2023		Straight Line Projection 4/1/2023 to 6/30/2023		Total	
	Hours	Costs	Hours	Costs	Hours	Costs
DAG	43,450.00	\$9,559,000.00	14,483.33	\$3,186,333.33	57,933.33	\$12,745,333.33
Paralegal	6,478.25	\$1,328,041.25	2,159.42	\$475,071.67	8,637.67	\$1,803,112.92
Analyst	751.00	\$146,445.00	250.33	\$55,073.33	1,001.33	\$201,518.33
Forensics		\$8,925.00				\$8,925.00
Cost of Suit		\$52,068.49				\$52,068.49
<b>Total</b>	<b>50,679.25</b>	<b>\$11,094,479.74</b>	<b>16,893.08</b>	<b>\$3,716,478.33</b>	<b>67,572.33</b>	<b>\$14,810,958.07</b>

As always, the Health Quality Enforcement Section works collegially and closely with Deputy Executive Director Reji Varghese, Chief of Enforcement Jenna Jones, and their staff. We meet frequently with the Office of Administrative Hearings to assist in managing your administrative

litigation work. We continue to work with the Department of Consumer Affairs' Health Quality Investigation Unit and your Complaint Investigation Office to litigate your filed Accusations matters. As always, it is an honor and privilege to serve you

Sincerely,

A handwritten signature in black ink, appearing to read "Gloria L. Castro". The signature is fluid and cursive, with the first name being the most prominent.

GLORIA L. CASTRO  
Senior Assistant Attorney General

For ROB BONTA  
Attorney General

Enclosure

1. What are legal billing rates and why does DOJ use them?

The Department of Justice (DOJ) administers the Legal Services Revolving Fund (LSRF), which is used by the Attorney General for investigation and litigation activities, and for competent legal representation of state agencies and employees in any judicial or administrative adjudicative proceeding. Government Code 11044 authorizes DOJ to charge an amount sufficient to recover the costs incurred in providing these legal services, and therefore, clients are charged corresponding hourly billing rates for attorney, paralegal, and auditor/research analyst services.

**Government Code 11044:**

(a) The Legal Services Revolving Fund is hereby created in the State Treasury. The Department of Justice shall administer this fund. Moneys in the fund, upon appropriation by the Legislature, shall be used by the Attorney General for investigation and litigation activities taken on behalf of the state agencies employing the legal services of the department and for investigation and litigation activities funded through judgments or settlements.

(b) For state agencies, departments, or programs that are charged for the costs of legal services rendered by the Attorney General, the Attorney General shall charge an amount sufficient to recover the costs incurred in providing the legal services. These funds shall be deposited into the Legal Services Revolving Fund.

(c) Upon the request of the Attorney General in the form prescribed by the Controller, the Controller shall transfer the amount of the charges for services rendered from the agency's appropriation to the appropriation for the support of the Attorney General's office using the Controller's direct transfer process. Payments for these charges shall be credited to and in augmentation of the appropriation for the support of the Attorney General's office from which the cost of the services was or will be paid.

(d) A state agency that has a dispute regarding charges for legal services provided by the Attorney General shall notify the Attorney General, in writing, of the dispute and the basis for it. All disputes shall be resolved in accordance with subdivision (l) of Section 8474.1 of Chapter 8400 of the State Administrative Manual. Upon resolution of the dispute in favor of the state agency, the Attorney General shall provide a credit to the state agency for the amount of the charges in dispute.

2. Who is affected by the legal billing rates?

All DOJ legal clients for whom billable work is performed.

3. What was the old rate?

From July 1, 2009 through August 31, 2019, the DOJ legal billing rates were:

Attorney \$170  
 Paralegal \$120  
 Analyst \$ 99

4. What is the new rate and when does the new rate take effect?

Effective September 1, 2019, the revised DOJ legal billing rates are:

Attorney \$220  
 Paralegal \$205  
 Analyst \$195

5. Why is DOJ increasing its rates? Why is the increase so large?

DOJ's legal billing rates have been updated only six times in the last 20 years, with the last increase occurring in 2009.

<b>Previous Billing Rate Increases</b>					
<b>FY</b>	<b>Budget Letter</b>	<b>Eff.</b>	<b>Attorney</b>	<b>Paralegal</b>	<b>Analyst</b>
2000	00-23	7/1/2000	\$106	\$53	\$63
2001	01-11	7/1/2001	\$112	\$53	\$63
2004	04-37	7/1/2004	\$139	\$91	\$63
2005	04-37	7/1/2005	\$146	\$92	\$63
2006	05-27	7/1/2006	\$158	\$101	\$63
2009	08-29	7/1/2009	\$170	\$120	\$99

The old legal billing rates are no longer sufficient to cover DOJ's operational LSRF costs. On an annual basis, DOJ is assessed general salary and benefit adjustments to support the costs associated with annual increases in employee compensation and employer's retirement contributions. Pro Rata assessments are also charged to the LSRF on an annual basis to support statewide central administrative services. The cumulative impact of annual cost increases such as these that have occurred over the past 10 years, compounded by the insufficient legal billing rates, has led to the insolvency of the LSRF. The various annual budget adjustments require funding which are supported by revenues deposited into the LSRF. To mitigate the insolvency, the rates were re-evaluated and adjusted to ensure the full recovery of costs in order to continue providing critical legal services to clients.

6. Will the rates continue to increase? How frequently?

DOJ will reassess its legal billing rates on an annual basis to ensure sufficient recovery of operational costs each fiscal year. The level of increase and its frequency will be determined based on the condition of the fund.

7. How were clients notified of the rate increase?

In the January 10, 2019 Governor's Budget indicated a potential increase in DOJ's billing rates. See page 11 of the linked 2019-20 GB:

<http://www.ebudget.ca.gov/2019-20/pdf/BudgetSummary/PublicSafety.pdf>

Letters were sent on July 3, 2019 notifying clients of the rate increase effective July 1, 2019. Follow-up letters were sent on July 12, 2019 notifying clients of the adjusted effective date from July 1, 2019 to September 1, 2019.

8. How were the new rates determined?

Various annual cost increases have occurred since the rates were last increased in 2009. On an annual basis, DOJ is assessed general salary and benefit adjustments to support the costs associated with annual increases in employee compensation, and employer's retirement contributions. Pro Rata assessments are also charged to the LSRF on an annual basis to support statewide central administrative services. In 2017-18, the LSRF's fund reserves were entirely depleted.

The increase in legal services costs and the insufficient rates at which costs were recovered, created a disparity in expenditures and recoveries, which limited DOJ's ability to take on additional LSRF workload that the previous legal billing rates did not capture. Due to the insufficient collection of revenue, DOJ has been unable to fully expend its annual appropriation (budget), thereby limiting the level of services that the department can offer its client agencies.

Billing rate calculations are based on DOJ's total LSRF spending authority, excluding costs that are billed directly to the client such as expert witness fees, contracted services, professional studies, etc. The revenue required in 2019-20 to fully recover costs to the LSRF is \$242,723,000, which was the amount used to calculate the revised billing rates.

The cost recovery amount per professional type was calculated based on the percentage of total staff funded by LSRF. Professional types are classified as

either Attorneys (DAGs, SDAGs), Paralegals (Legal Analysts, Sr. Legal Analysts), or Analysts (Auditors and Research Analysts).

**\*Formula:**

Rate = Total Required Recovery per Professional Type ÷ Billable Hours per Professional Type

Rate Calculation						
Professional	Billable Positions	Recovery Total	Billable Hours Per Position	Total Billable Hours	Calculated Rates	Proposed Rates
Analyst	10	\$3,232,000	x 1,600	16,000	\$202	\$195
Paralegal	99	\$31,997,000	x 1,600	158,400	\$202	\$205
Attorney	551	\$178,083,000	x 1,600	881,600	\$217	\$220
SDAG	91	\$29,411,000	x 800	72,800		
<b>Total</b>	<b>751</b>	<b>\$242,723,000</b>		<b>1,128,800</b>		

\*The rates are set for the purposes of recovering DOJ legal services costs by professional type.

9. Who determines the final rate?

Effective July 1, 2019, the DOJ is required to provide the Joint Legislative Budget Committee and the fiscal committees of each house of the Legislature with a report that outlines its new billing rate structure, how the new structure differs from the existing one, and how this new structure ensures its costs of providing legal services are fully covered. DOJ conducts the rate analysis and determines the necessary recovery rates, but the implementation must be approved by the Department of Finance, the Legislative Analyst’s Office, and the Joint Legislative Budget Committee.

10. Does DOJ generate revenues by charging the legal billing rates?

No, the DOJ legal billing rates only recover costs incurred in the LSRF, and the DOJ may only spend this revenue as authorized by the Legislature.

11. What DOJ costs do the rates cover?

Billing rate calculations are based on DOJ's total LSRF spending authority. Costs recovered include salaries and wages, staff benefits, and all operating expense and equipment costs with the exception of costs billed directly to the client such as expert witness fees, contracted services, professional studies, etc.

12. Will I receive better service now that the new rates have gone up?

Because the rates have not increased for a decade, DOJ was limited in aligning staffing levels to the service level needs of the clients. With the revised rates, the recoveries will appropriately fund legal services costs, and as a result, will allow DOJ to fully utilize its LSRF authority, and provide flexibility in adding resources as needed by the clients.

13. What steps have DOJ taken to keep its costs down?

Historically, to work within insufficient revenues, DOJ has attained savings by holding vacancies, postponing backfills, delayed hires, shifting costs to future years, implementing spending restrictions to limit expenditures to the level of revenues available, etc. On an ongoing basis, the DOJ will continue efforts to utilize all resources in the most efficient, effective, and fiscally prudent manner.

14. Do I have to use DOJ for legal services?

Yes. The employment of the Attorney General as counsel for the representation of state agencies and employees in judicial and administrative adjudicative proceedings is mandated by statute, and ensures the overall efficiency and economy in state government.

Reference:

Government Code Sections 11040 through 11045

15. What options are available to clients that cannot afford the new rates?

Pursuant to Control Section 5.00 of the Budget Act of 2019, departments are encouraged to work with the Department of Finance to determine if an appropriation adjustment is necessary to support the increased legal services costs.

16. Who can I contact if there are additional questions?

For questions specifically about the DOJ legal billing rates, contact Maria Celerio at [maria.celerio@doj.ca.gov](mailto:maria.celerio@doj.ca.gov).