



# MEMORANDUM

<b>DATE</b>	January 10, 2022
<b>TO</b>	Veterinary Medical Board (Board)
<b>FROM</b>	<u>Enforcement Managers</u> Matt McKinney Patty Rodriguez Robert Stephanopoulos
<b>SUBJECT</b>	<b>Agenda Item 18.C. Enforcement Report</b>

## Enforcement and Inspection Program Merge Update

During the October 2021 meeting, Board management reported on their efforts in working with the Department of Consumer Affairs' (DCA) Office of Human Resources to merge the Inspection Program back into Enforcement. As of December 17, 2021, Duty Statements for the former Inspection Analysts were signed to finalize the last stages of the merger between the Units, which is now complete.

Part of the merge also entailed the redistribution of the Board's pending cases to have greater parity between the number of assigned cases per analyst, with each analyst projected to have a caseload of approximately 243 cases. The analysts used this as an opportunity to triage the Board's current pending cases and finalize investigations which were near completion. The project was completed on November 15, 2021. Additional results of the project will be provided in greater detail in the Investigations section of this report.

## Staff Update

In December 2021, the Enforcement Program welcomed Jeff Weiler as its new Probation Monitor. Jeff comes to the Board with an extensive background in investigations gained from many years of experience with the Elk Grove Police Department and more recently El Dorado County's Code Enforcement.

Terry Perry, who worked for the Board for many years, accepted a promotional position with the Department of Industrial Relations. While we are happy to see Ms. Perry move forward in her career, we recognize her experience in navigating the Enforcement Technician desk will be missed. Interviews for the vacancy were conducted the last week of December 2021 and the Board expects to move forward with its selected candidate this month.

Board enforcement analyst, Jennifer Lee, accepted a position with the California State Teachers' Retirement System effective December 1, 2021. Although Ms. Lee spent a relatively short amount of time at the Board, we wish her the best. Interviews for the vacancy were also conducted the last week of December 2021, and the Board similarly expects to move forward with its chosen candidate in January 2022.

With the promotion of Kim Phillips-Francis to Enforcement Analyst effective September 1, 2021, the vacated Probation Technician position was filled by Rachel Adversalo, who was working at the Board in its Licensing/Administration Unit. Ms. Adversalo is keeping up with her former duties in Licensing/Administration while being introduced to her new duties as the Probation Technician and expects to make a full transition into the Unit with the backfilling of her vacated position. An offer was recently extended to the candidate who will fill that position, which is pending DCA's Human Resources' approval.

## **Inspections**

Inspectors continue to focus on follow-up inspections both routine and complaint-related. As the analyst work on older cases with an inspection, most, if not all, required a follow-up inspection. These continue to be the priority; with the reduced response time along with Inspectors reviewing medical records and compliance documentation, follow-up complaint-related inspections are experiencing significantly faster turnaround times.

## **Intake**

In Quarter 2 of FY 21/22, the average days complaints were in intake exceeded the 10-day performance target of the Board. This change in statistics can be attributed to the departure of Terry Perry and one of the two intake positions being vacant. We note an increase of approximately 100% in complaints pending at intake from September to October, and another increase of approximately 80% in December. Typically, the Board will utilize the Probation Technician to assist in coverage for intake. However, as stated in the Staff Update of this report, Ms. Adversalo is in a transitory stage. As such, enforcement analysts who were originally intake technicians with the Board have been requisitioned to assist in case opening and assigning intermittently until the backlog is cleared.

At the midpoint of FY 21/22, the Board has received 653 complaints and 89 convictions. When comparing the Q2 YTD statistics from FY 20/21 to FY 21/22, there was a decrease in the complaints received by 16 total and an increase of convictions reported by 21. The departure of Terry Perry in intake and an influx of Public Records Act requests received by the Board also resulted in the number of assigned cases being significantly lower in December 2021 compared to previous months. However, even with the number of assigned cases down, the Board is on pace to receive approximately 1,769 complaints in FY 21/22, compared to 1,583 in FY 20/21 and 1,332 in FY 19/20, which amounts to an increase of about 10% from the previous FY.

Complaints alleging negligence and/or incompetence remain the highest category at 31%, which is similar to prior years. The Board continues to see the slight increases overall in cases alleging minimum standards/recordkeeping and general unprofessional conduct, which are currently at 25% and 24% respectively halfway through the current FY. Board staff continues to prioritize complaints pursuant to Business and Professions Code (BPC) section [4875.1](#).

## **Investigations**

With the redistribution projected reported on earlier in this report and the associated complaint triage performed by the Board's Enforcement Analysts, the Board also saw significant increases in the number of complaint closures in Q2 FY 21/22, totaling 349 cases closed. The majority of case closures during the second quarter of FY 21/22 were newer cases with 209 pending three years or less and 140 over three years.

With the triage of the pending cases, the Board's Enforcement Analysts were made more aware of what the current state of their individual pending caseloads were. This has allowed for greater flexibility and efficiencies when determining what the appropriate action to take on a case is at a given time and as well as addressing more egregious complaint allegations at the time they are received. It should also be noted that, thanks in large part to the hard work and dedication of the Board's Enforcement Analysts, November and December 2021 saw the number of cases closed exceed the number of cases received.

The Board currently has roughly 3,746 pending cases, with approximately 554 of these over three years old. As previously indicated, investigating the extremely old, complex cases takes a much longer time, affecting the overall number of cases that can be closed.

Intake continues its efforts to fast-track cases which involve straightforward complaints, such as failure to comply with a records request, as well as extremely egregious cases, permitting these newer complaints to be closed much more quickly.

**Expert Witness Program**

The Board’s Deputy Attorney General (DAG) Liaison, Ms. Karen Denvir continues to finalize the training for our Board experts, which focuses on veterinary-specific issues, as well as questions and concerns that have arisen via the Subcommittee’s complaint audit process. The training is estimated to occur in the first half of 2022

**Probation**

The Board’s Probation Monitors continue to work with DCA’s BreEZe Reports Team to track probationers’ data more efficiently in BreEZe. Recently, a number of drafted reports and edits have been sent back and forth between the two offices and we hope to see the fruition of the efforts in the early stages of 2022.

Two licensees completed their probation last quarter, leaving 67 total probationers. The probation monitors are actively investigating 109 pending enforcement complaints against 36 of the probationers. Two probationers were referred to the Attorney General’s Office for a Petition to Revoke Probation last quarter.

**Attorney General’s Office**

As shown in the enforcement attached statistics, disciplinary case cycle times continue to rise over the prior three fiscal years, averaging 1,180 days this fiscal year. This is due to the Board’s focus on investigating our oldest cases, which are usually more complex.

**SF SPCA, et al. v. Jessica Sieferman Costs**

Board staff continues to monitor the associated costs for the pending federal lawsuit as requested by Board during the July 2021 Board meeting. As indicated in the breakdown below, the Board has spent \$22,385 in Attorney General costs through November 2021.

2021 Costs	
May	\$9,955
Jun.	\$2,365
Jul.	\$7,040
Aug.	\$2,640
Sep.	\$275
Oct.	\$0
Nov.	\$110
<b>Total</b>	<b>\$22,385</b>

**Disciplinary Action Vote Results**

STIPULATED SETTLEMENT	VOTE	RESULT
Jennifer Wernsing, DVM (Case No. 4602017001125)	5 – Adopt 2 – Hold for Discussion	Hold for Discussion
David Harris, DVM (Case No. 4602020001326)	7 – Adopt	Adopt

**Attachment**

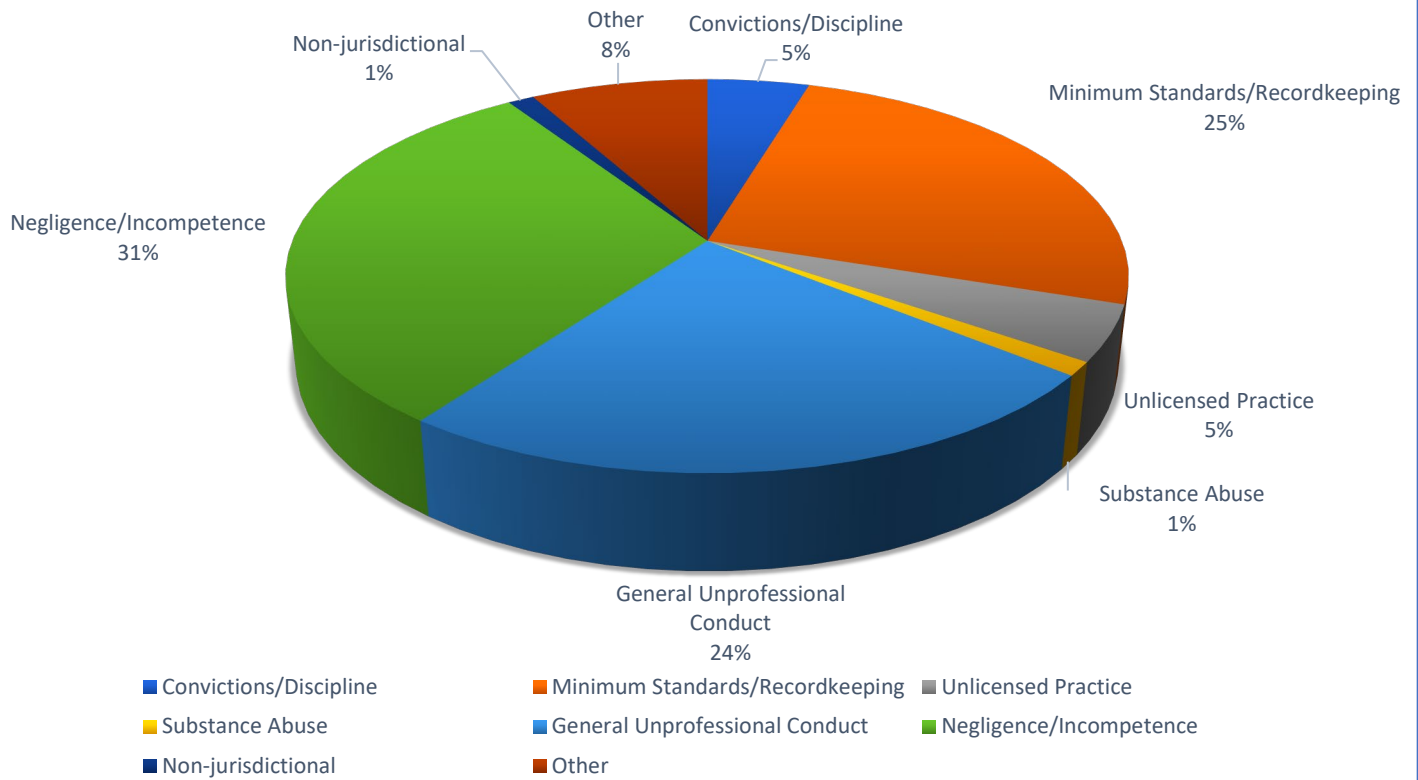
1. Enforcement Statistics

Enforcement Statistics

<b>COMPLAINTS AND CONVICTIONS</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Complaints Received	1139	1487	155	148	121	139	86	4	653
Convictions Received	166	146	11	21	19	24	13	1	89
Average Days to Intake	10	11	8	6	7	11	12	18	9
Closed without Investigation	1	4	0	7	5	2	3	0	17
Pending at intake	6	18	41	40	26	54	53	93	93
<b>UNLICENSED ACTIVITY COMPLAINTS RECEIVED</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Received	60	68	15	17	15	12	6	0	65
<b>DESK INVESTIGATIONS</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Assigned	1332	1583	150	161	150	133	98	42	734
Closed	625	524	50	59	79	81	129	139	537
Average Days to Complete	309	338	637	580	801	774	771	936	785
Pending	2416	3501	3,513	3,617	3,691	3,743	3,712	3,622	3622
<b>SWORN INVESTIGATIONS</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Assigned	11	12	2	0	9	0	1	9	21
Closed	11	11	1	0	0	0	2	1	4
Average Days to Complete	550	159	215	N/A	N/A	N/A	281	438	304
Pending	12	13	15	15	24	24	23	31	31
<b>ALL TYPES OF INVESTIGATIONS</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Closed Without Discipline	639	555	49	55	75	76	130	121	506
Cycle Time - No Discipline	277	290	550	644	765	723	738	963	765
Pending complaints/investigations	2434	3532	3569	3672	3741	3821	3788	3746	3746
<b>COMPLAINT RELATED INSPECTIONS</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Performed	52	24	1	2	1	0	3	3	7
Closed	19	33	3	0	1	1	1	1	6
Pending	68	51	51	52	51	50	49	53	49
Average Days to Complete	524	401	913	N/A	1459	224	331	475	481
<b>ROUTINE INSPECTIONS</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Performed	134	10	0	1	2	3	2	0	8
Closed	339	22	0	0	0	1	0	1	1
Pending	91	49	49	49	49	48	48	47	48
Average Days to Complete	490	804	N/A	N/A	N/A	2072	N/A	2026	2072
<b>CITATIONS</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Citations Issued	24	17	1	2	7	4	5	7	26
Avg Days to Complete Cite	1316	1579	1,568	1,554	1,010	1,316	1,260	1,503	1301
Citations appealed	1	2	0	0	0	1	0	0	1
<b>ATTORNEY GENERAL CASES</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Initiated / Referred to the AG	34	38	3	4	2	5	2	22	38
Pending at the AG	99	54	58	60	57	59	60	82	82
Statement of Issues Filed	3	1	0	0	0	0	0	0	0
Accusations Filed	16	10	1	0	2	3	0	5	11
Pet. to Revoke Probation Filed	7	1	1	0	0	1	0	0	2

<b>ATTORNEY GENERAL CASES CLOSURES</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Closed Without Discipline	8	2	0	0	3	0	0	0	3
Closed With Discipline	46	74	2	0	1	2	0	0	5
Average Days to Close (Discipline)	929	1253	1090	N/A	1502	1109	0	0	1180
<b>PROBATION</b>									
	FY 2019/20	FY 2020/21	FY 2021/22						
	YTD	YTD	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	YTD
Initiated	-	8	1	0	1	0	0	0	2
Completed	-	27	2	3	0	1	2	2	10
Tolled	-	12	10	10	10	10	10	10	10
Total Probationers	-	75	74	71	72	71	69	67	67
Biological Fluid Testing	-	22	23	23	23	23	23	23	23

### FY 21/22 YTD Complaints Received by Violation Type



### Pending Cases

