

## COMPLAINT PROCESS AUDIT SUBCOMMITTEE

January 22, 2019

### Chronology

- 12/20/18 Kevin Lazarcheff & Jeff Pollard, 6<sup>th</sup> joint review of cases
- 08/28/18 6<sup>th</sup> subcommittee report to MDC
- 08/09/18 Kevin Lazarcheff & Jeff Pollard, 5<sup>th</sup> joint review of cases
- 02/20/18 5<sup>th</sup> subcommittee report to MDC
- 11/27/17 Bill Grant & Jeff Pollard, 4<sup>th</sup> joint review of cases
- 04/18/17 4<sup>th</sup> subcommittee report to MDC
- 04/17/17 Expert witness training Sacramento attended by Bill Grant & Jeff Pollard
- 04/06/17 Bill Grant & Jeff Pollard, 3<sup>rd</sup> joint review of cases
- 01/17/17 3<sup>rd</sup> subcommittee report to MDC
- 11/03/16 Expert witness roundtable San Diego attended by Bill Grant & Jeff Pollard
- 07/19/16 2<sup>nd</sup> subcommittee report to MDC
- 06/27/16 Diana Woodward-Hagle, Jeff Pollard, Candace Raney, & Annemarie Del Mugnaio meet as Expert Witness Guidelines Subcommittee
- 06/01/16 Bill Grant & Jeff Pollard 2<sup>nd</sup> joint review of cases
- 05/04/16 Expert witness training Sacramento (did not attend)
- 02/09/16 Expert Witness Guidelines Subcommittee, Diana Woodward-Hagle & Jeff Pollard
- 01/20/16 VMB assigns Expert Witness Guidelines to MDC
- 01/19/16 1<sup>st</sup> subcommittee report to MDC
- 01/06/16 Bill Grant & Jeff Pollard review cases
- 10/05/15 Jeff Pollard reviews cases
- 09/24/15 Bill Grant reviews cases
- 09/18/15 Teleconference: EO, Annemarie Del Mugnaio, Enforcement Program Mgr Candace Raney, Bill Grant & Jeff Pollard
- 08/01/15 MDC Chair, Jon Klingborg forms subcommittee with Bill Grant & Jeff Pollard
- 07/21/15 VMB assigns Complaint Process Audit Task Force to MDC

## **HIGHLIGHTS**

### **July 2015**

Goals of the MDC subcommittee in review of closed disciplinary cases:

The purpose of the taskforce (subcommittee) is to review enforcement cases and identify areas of opportunity for process improvement of complaint handling with a focus on examining expert witness reports and ultimate case outcomes.

The Subcommittee will conduct a review of a statistically significant and representative sample of closed disciplinary cases. Selection of the cases for review will be based upon a sampling of the following:

- Cases with disagreement among VMB consultants/experts
- Cases that are more factually complex
- Cases that have been closed within the past 3 fiscal years
- More generic cases for a purely random sampling

### **Nov 2015**

Length of time a complaint requires for processing.

Experts are generally consistent case-to-case but not expert-to-expert.

Varied formats from expert to expert. The complaint review template seems ideal.

Expert's speculation on respondent's action or thinking: not useful.

VMB medical consultants are more accurate in assessing SOC and application of VPA.

Recommendations:

Improved EW training.

Development of EW Manual & biannual EW training.

### **June 2016**

Cases reviewed prior to 2013 were more inconsistent in terms of EW conclusions and application of VPA.

EW need to examine if deviation from the SOC resulted in a poor outcome or if there was no correlation.

Motivation for the complaint is not in the purview of the EW.

The order in which an EW reviews a case may influence his/her conclusion.

Recognize bias.

Respondents often are not their own best advocate. Neither are their legal counsel at times.

### **January 2017**

EW Roundtable San Diego Nov 2016

Review of SOC, Statute -> Regulation -> Code, Flowchart (included), EW Guidelines (Diana Woodward Hagle), Testimony at Hearing (Diann Sokoloff), multiple EWs.

### **April 2017**

EW Training Sacramento

SOC, Negligence vs Incompetence, Deception, Fraud, Levels of Proof, Revised EW Manual, Testifying, Written Decisions by ALJ.

### **February 2018**

All cases reviewed written by current EW all of whom attended recent EW training sessions.

Organization and collation much better than older cases in previous reviews.

Describing medical/surgical issues in layman's terms is important.

Recommend continued EW training with coordination of MDC subcommittee & VMB.

Bias. Fair and objective evaluation.

### **August 2018**

Language EW uses ("fuzzy writing") and bias exhibited.

Translation of EW report to DAG's accusation to ALJ's Decision & Order.

Importance of EW template and appropriate editing (format, font, spacing, typos).

Recommend continued EW training.

### **December 2018**

14 cases, 8 DVMs, 4 license surrenders, 4 cases with EW specialists (2 for VMB, 2 for respondents).

Anatomy of a complaint; source (3), cause (many), mitigation (medical records), cost.

Required VMB notices (e.g., Abandoned Animal Act, No personnel after hours, Written Rx upon request) & licensee unfamiliarity with VPA (innumerable examples).

MDC: Multidisciplinary Committee

VMB: Veterinary Medical Board

SOC: Standard of Care

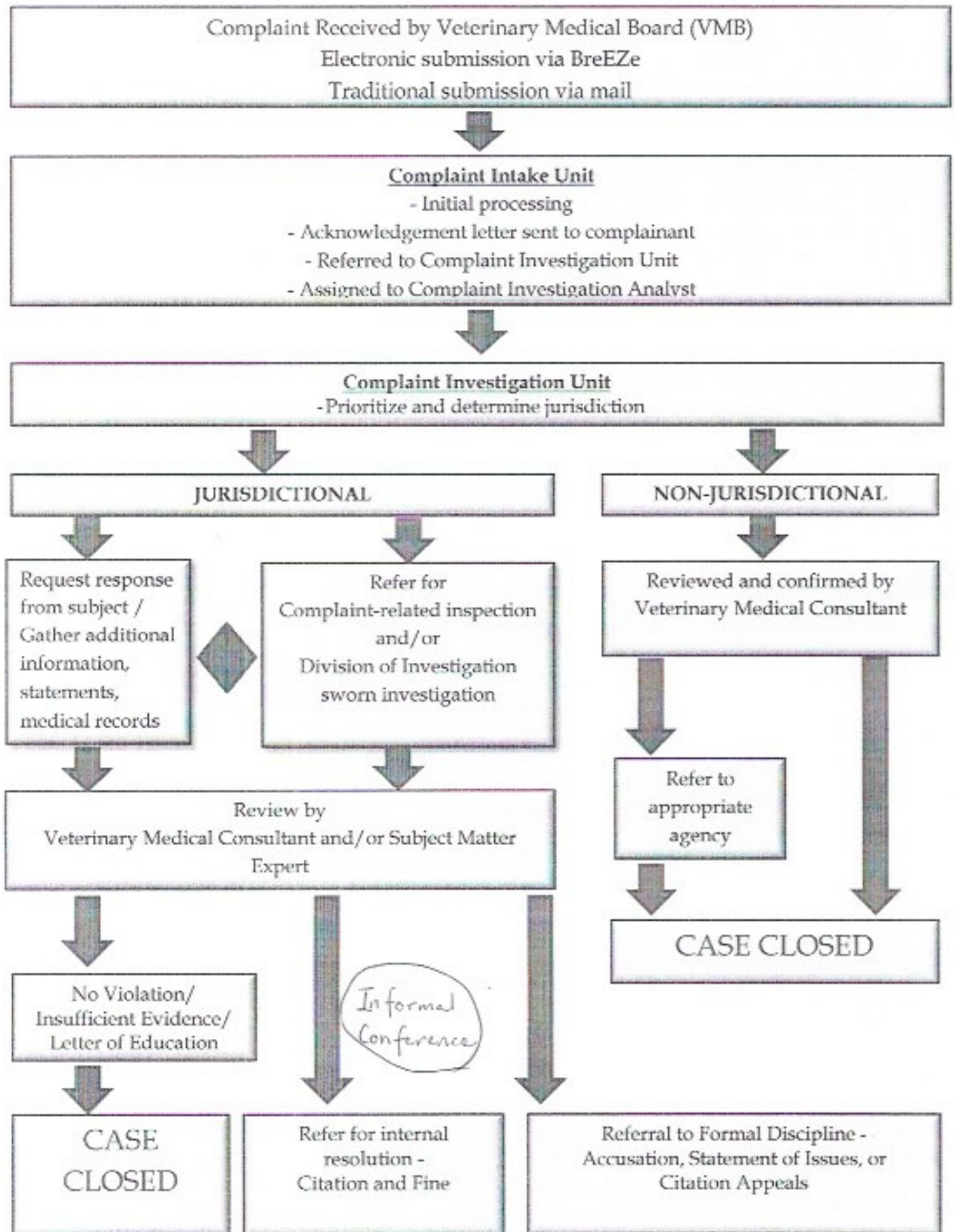
EW: Expert Witness

VPA: Veterinary Practice Act

ALJ: Administrative Law Judge

DAG: Deputy Attorney General

# COMPLAINT INVESTIGATION FLOWCHART



# ACCUSATION / STATEMENT OF ISSUES / CITATION APPEALS

Enforcement staff referral to AGO for Accusation / Statement of Issues

Charging document prepared and served by AG

Notice of Defense filed by respondent?

No

Yes

Default decision prepared by AG

Proposed Settlement via stipulated decision

Hearing held before an Administrative Law Judge

Board

Proposed Decision

Adopt

Reject / Non-Adopt

Board Vote  
(Proposed and Default Decision)

NO VOTE -  
Effective by  
operation of law  
(100 days)  
CASE CLOSED

CASE  
CLOSED

Adopt

Non-adopt

Reconsideration  
/ Remand

Transcript

Argument

BOARD CONSIDERATION AND DECISION

Appeal

No Appeal  
Decision is  
Final

Writ Superior Court

Uphold Board  
Decision

Remand  
(Argument before  
Board)

BOARD CONSIDERATION AND DECISION

Dismissal

Does not require staff  
monitoring, e.g. revocation

Requires staff monitoring,  
e.g. suspension/probation

CASE  
CLOSED

Petition for  
Reinstatement/Modification -  
Hearing held before an ALJ

BOARD  
CONSIDERATION  
AND DECISION