

# Licensing Division

## Staff Report for the Behavior Analyst Advisory Board

June 7, 2022

### Personnel Updates

Gabby Machado resigned from her position on April 30, 2022. Interviews are in progress to replace her replacement.

### Statistics

#### Behavior Analysts

Fiscal Year	New	New % Online	Renewals	Renewed % Online	Population
2021	750	98%	448	99%	2980
2022 (QTR 1)	232	98%	96	99%	3180
2022 (QTR 2)	220	98%	129	99%	3368

#### Assistant Behavior Analysts

Fiscal Year	New	New % Online	Renewed	Renewed % Online	Population
2021	53	100%	26	96%	162
2022 (QTR 1)	11	99%	3	98%	166
2022 (QTR 2)	7	100%	3	100%	170

Web Contacts (emails), Current Fiscal Year 2022

Month	Number of contacts
September 2021	30
October 2021	30
November 2021	29
December 2021	23
January 2022	36
February 2022	34
March2022	39
April 2022	51

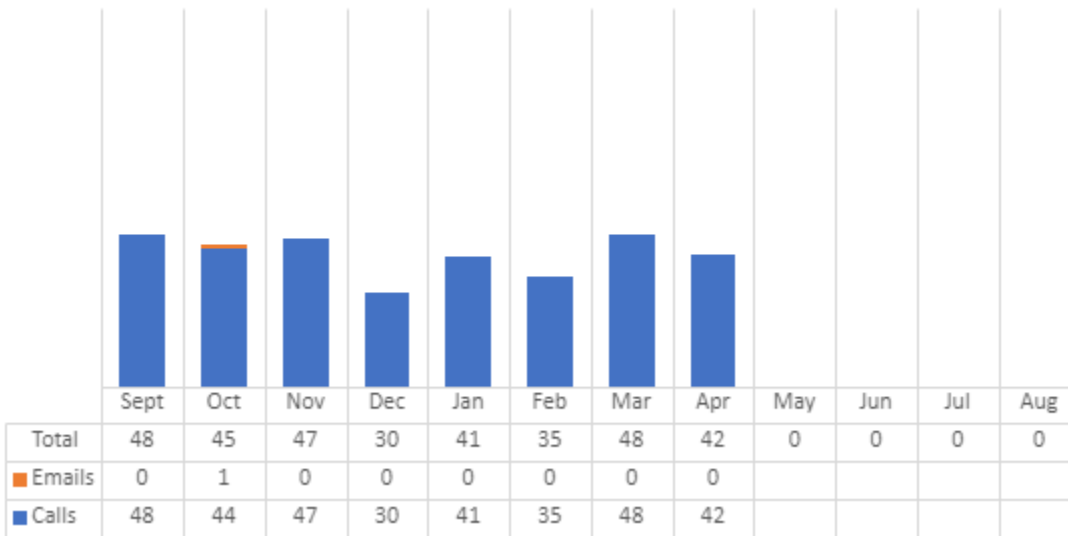
# Customer Service Division

## Staff Report for the Behavior Analyst Advisory Board

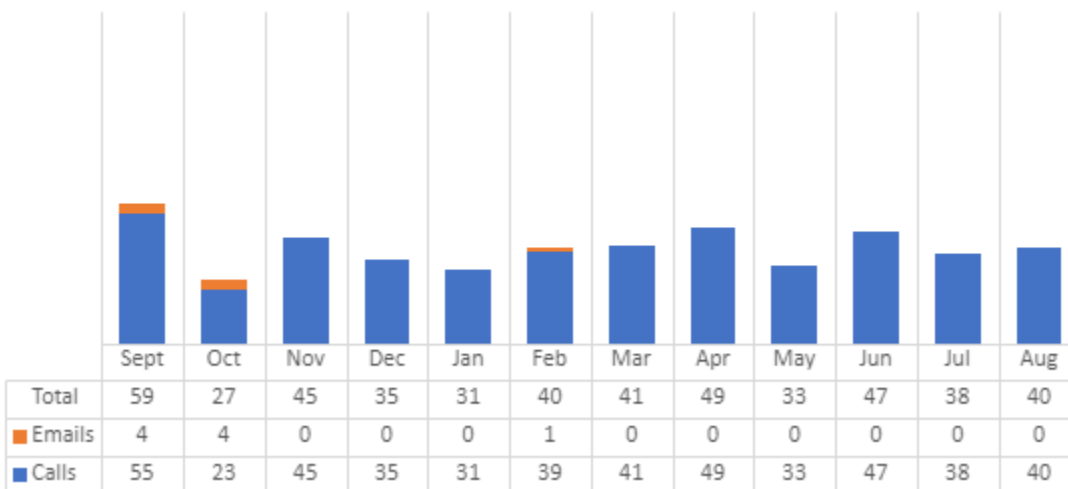
June 7, 2022

### Statistics

**LICENSED BEHAVIOR ANALYSTS  
CUSTOMER SERVICE CONTACTS FISCAL YEAR 2022**



**LICENSED BEHAVIOR ANALYSTS  
CUSTOMER SERVICE CONTACTS  
FISCAL YEAR 2021**



## Enforcement Division

### Staff Report for the Behavior Analyst Advisory Board

June 7, 2022

#### Personnel Updates:

- January 15, 2021, Lisa Grant was promoted to Legal Assistant Supervisor in the Prosecution Section of Enforcement. Lisa has worked for TDLR for over 20 years, previously serving as a Legal Assistant I, Legal Assistant II, Legal Assistant III and Senior Legal Assistant.
- On April 1, 2021, Rosemary Potter was promoted to Senior Legal Assistant in the Prosecution Section of Enforcement. Rosemary has worked for TDLR for over 13 years, previously serving as a Legal Assistant III.
- Three attorneys, Sara McKinney, Rachel Seshan, and Hunter McKinley were hired as Attorney II positions to fill the vacancies created by promotions in the Enforcement Division. These three attorneys will be working our inspections cases and our unlicensed air conditioning and electrical cases. Their hiring's were effective April 15, 2021.
- On August 1, 2021, Cynthia Marple was hired as an Attorney III. She joins TDLR from the Department of Public Safety's office of Regulatory Counsel Division where she prosecuted compliance and enforcement cases. Cynthia is a member of the Transportation Team, which focuses on cases related to Tow, Vehicle Storage Facilities, Driver's Education and Motor Fuels.
- On September 15, 2021, Kimberly (Kim) Ferreiro Mitchell was promoted to Management Analyst III. Kim has worked for TDLR for 13 ½ years, previously serving as a Legal Assistant III and Legal Assistant II.
- On September 15, 2021, Estella Ramos was promoted to Senior Legal Assistant in our Intake Section. Estella has worked for TDLR for over 6 years, previously serving as an Intake Administrative Assistant and Legal Assistant II.
- Karen Cox retired January 31, 2022, after 17 years with TDLR and over 30 years working in State Government which include stints at the Texas Workforce Commission, Texas Department of Transportation, and the Texas Railroad Commission. She was promoted to Senior Prosecutor in, January 1, 2019, where she helped oversee and mentor attorneys within the Enforcement Division. She also helped develop and facilitate our expert witness training program utilized by the

Health Professions Program. She will be greatly missed, but we wish her well in her retirement.

- On February 15, 2022, Robert Nino was promoted to the Team Lead Supervisor for the South Region Team. Robert has worked for TDLR for over 14 years with vast knowledge and experience on case investigations, sting operations and working on very complex cases. Robert also assisted in the training and mentoring on newly hired investigators. Robert has had nearly 38 years of experience as an investigator and auditor with both federal and state government, as well as private industry.

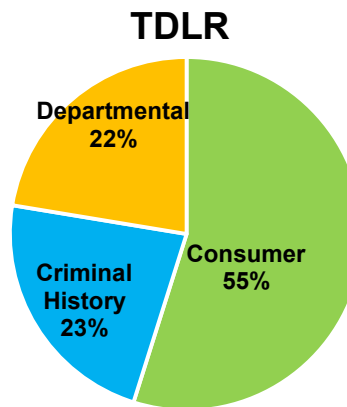
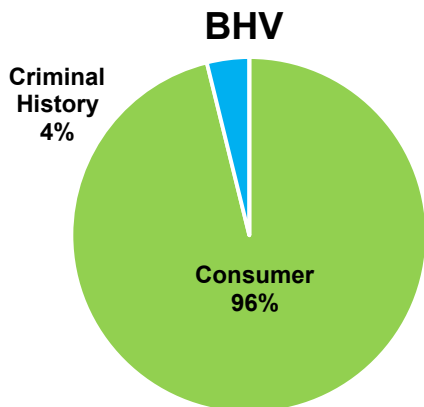
## Statistics:

Shown below are the Complaints Received, Enforcement Performance Measures and Key Statistics for the Behavior Analyst (BHV) program and for all TDLR programs combined through **March** of **Fiscal Year 2022**:

<b>Complaints Received by Source</b>	<b>BHV</b>	<b>TDLR</b>
Consumer	31	9,075
Criminal History	5	10,374
<b>Total Complaints Received</b>	<b>36</b>	<b>19,449</b>

<b>Key Statistics:</b>	<b>BHV</b>	<b>TDLR</b>
Cases opened	26	6,473
Cases closed	38	6,457
Average time to close (days)	281.74	216.96
% of cases resolved within 6 months	52.63%	57.29%
% of cases resulting in disciplinary action	7.89%	10.67%
Cases pending at end of March 2022	16	6,646

### Source of Cases Opened through March of Fiscal Year 2022



<b>Case Outcomes</b>	<b>BHV</b>	<b>TDLR</b>
Commission Orders	0	14
Default Orders	0	201
Agreed Orders	2	408
Penalties Assessed	\$2,500.00	\$1,472,575.00
Penalties Collected	\$2,000.00	\$833,384.00
Licenses Revoked (Disciplinary)	1	33
Licenses Suspended	0	4
Licenses Denied/Revoked (Criminal History)	1	106
Cease & Desist Orders	0	9
Informally Resolved	35	5,768

#### **BHV Cases closed and reasons through March of Fiscal Year 2022**

<b>Reason Closed:</b>	<b>Count</b>
Insufficient Evidence	31
Agreed Order	2
Evaluation Letter Eligible	1
Warning Letter	1
Withdrawn by Complainant	1
Revocation by Operation of Law	1

#### **BHV Alleged Violations at Opening through March of Fiscal Year 2022**

<b>Alleged Violation:</b>	<b>Count</b>
Code of Ethics	26
Criminal History	1

#### **BHV Violations Resulting in Disciplinary Action through March of Fiscal Year 2022**

<b>Violation:</b>	<b>Count</b>
Code of Ethics	2
Criminal History	1

## BHV - Additional statistics through the end of March 2022

- The median age of the 25 pending cases at the end of March is 102 days.
- The oldest case had been opened for 284 days, and the newest had been open for 41 days.

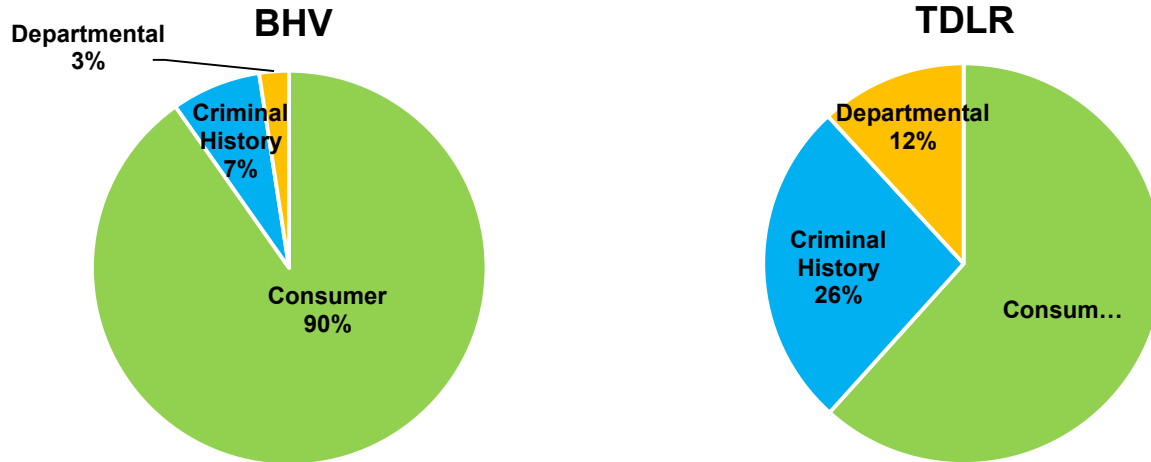
*Alleged Code of Ethics Violation at opening	Count
Failed to maintain accurate records	8
Failed to provide only services licensee is qualified to provide	6
Failed to fully and accurately inform clients	4
Inappropriate relationship	3
Failure to maintain safe environment	2
Revealed confidential information about a client	1
Failed to identify competent referral sources	1
Failed to obtain consent from client to use data for teaching purposes	1
<b>Total</b>	<b>26</b>

Shown below are the Complaints Received, Enforcement Performance Measures, and Key Statistics for the Behavior Analyst (BHV) program and for all TDLR programs combined for **Fiscal Year 2021**:

Complaints Received by Source	BHV	TDLR
Consumer	51	13,759
Criminal History	13	18,896
Total Complaints Received	64	32,655

Key Statistics:	BHV	TDLR
Cases opened	41	10,121
Cases closed	43	9,335
Average time to close (days)	187.58	209.86
% of cases resolved within 6 months	55.81%	60.00%
% of cases resulting in disciplinary action	0.00%	13.41%
Cases pending at end of FY 2021	28	6,627

## Source of Cases Opened for Fiscal Year 2021



Case Outcomes	BHV	TDLR
Commission Orders	0	44
Default Orders	0	455
Agreed Orders	0	711
Penalties Assessed	\$0	\$2,570,716.00
Penalties Collected	\$0	\$1,140,068.95
Licenses Revoked (Disciplinary)	0	103
Licenses Suspended	0	8
Licenses Denied/Revoked (Criminal History)	0	240
Cease & Desist Orders	0	19
Informally Resolved	43	7,976

### BHV Alleged Violations at Opening for Fiscal Year 2021

Violation:	Count
Code of Ethics	37
Unlicensed Activity	8
Criminal History	3

### BHV Violations Resulting in Disciplinary Action for Fiscal Year 2021

Violation:	Count
No violations resulting in Disciplinary Action for Fiscal Year 2021	N/A



## BHV Cases closed and reasons for Fiscal Year 2021

Reason Closed:	Count
Insufficient Evidence	35
Withdrawn by Complainant	3
Evaluation Letter Eligible	2
Warning Letter	1
Unable to Locate Respondent	1
License Granted	1

### Case Highlights:

- **Case Number: BHV20210003605– Cory Burgess**

On December 15, 2021, the Executive Director signed an Agreed Order that finalized the settlement agreement between the Department and Respondent Corey Burgess. As part of this negotiated settlement, Respondent accepted liability for one count of failing to keep accurate records of behavior analysis services rendered, a Class B violation. The administrative penalty assessed by the Department for this violation was \$1,000, which Respondent paid in full.

- **Case Number: BHV20190009108 - David Fowler**

On March 15, 2022, the Executive Director signed an Agreed Order that finalized the settlement agreement between the Department and Respondent David Fowler. As part of this negotiated settlement, Respondent accepted liability for one count of failing to keep accurate records of behavior analysis services rendered, a Class B violation. The administrative penalty assessed by the Department for this violation was \$1,500, which Respondent paid in full.

- **Case Number: BHV20210004391– Michael J. Leslie**

To be eligible to hold a Behavior Analyst license, TEX. OCC. CODE § 506.253(1) and 16 TEX. ADMIN. CODE § 121.21(a)(1) require current certification as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board (BACB). If an individual's certification is revoked, they become ineligible for licensure.

On October 20, 2020, the Disciplinary Committee of the BACB revoked Respondent Michael J. Leslie's certification as a Board Certified Behavior Analyst. Thus, on January 12, 2022, the Department notified Michael J. Leslie that effective October 20, 2020, his Behavior Analyst license had been revoked by operation of law.

# REGULATORY PROGRAM MANAGEMENT

## Staff Report for the Behavior Analyst Advisory Board

### June 7, 2022

#### **Current Projects**

Staff facilitated four Behavior Analyst Licensing Workgroup meetings, beginning in January 2022.

Staff has begun work on the four-year rule review for the Behavior Analysts program.

Staff is completing work on bill implementation projects from the 87<sup>th</sup> Legislative Session (R).

Staff collaborated with IT to have license issuance and expiration dates available on the public license search to assist with Medicaid enrollment and license verification.

The TDLR Health Occupations Annual Report was submitted to the Chairs of the House Licensing and Administrative Procedures Committee, House Public Health Committee, Senate Business and Commerce Committee and Senate Health and Human Services Committee on Feb 1. The report is statutorily required and contains programmatic license and complaint data. The report was emailed to the members earlier in February. It is also available on the TDLR webpage under Agency Reports.

Staff has been developing data driven analytics for programs and risk-based modeling has been a focus within RPM.

#### **Outreach**

Staff attended sessions and manned a booth at the Texas Association of Behavior Analysts in Dallas April 21-24, 2022.

The latest edition of our newsletter, the Health Monitor, was published in March 2022. A link to the newsletter can be found in the News and Updates section of the Behavior Analysts webpage. Our next edition should be released in June 2022.