

# Licensing Division

## Staff Report for the Behavior Analyst Advisory Board December 1, 2022

### Personnel Update

Leonard Rivas will be the licensing manager for the Behavior Analyst program. The licensing division reorganized programs and the Behavior Analyst program will be added to the Health Professions team.

### Statistics

#### Behavior Analysts

Fiscal Year	New	New % Online	Renewals	Renewed % Online	Population
2021	750	98%	448	99%	2980
2022	880	98%	1580	99%	3662

#### Assistant Behavior Analysts

Fiscal Year	New	New % Online	Renewed	Renewed % Online	Population
2021	53	100%	26	96%	162
2022	37	100%	43	98%	161

## Web Contacts (emails)

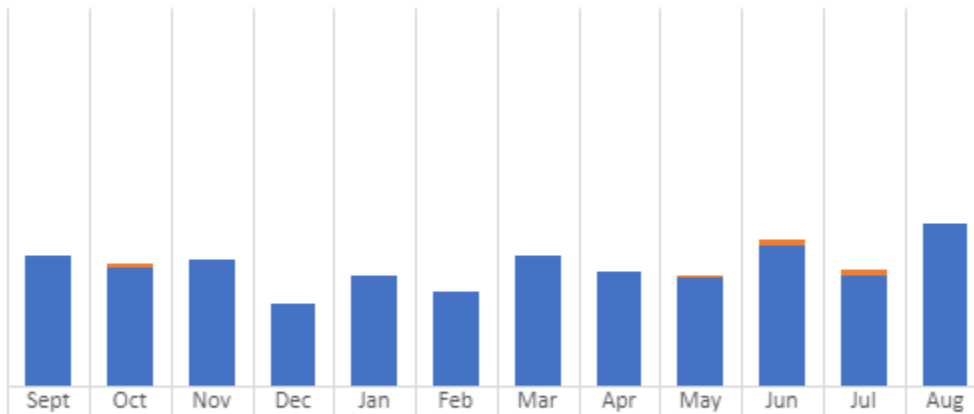
Month	Number of contacts
September 2021	30
October 2021	30
November 2021	29
December 2021	23
January 2022	36
February 2022	34
March2022	39
April 2022	51
May 2022	40
June 2022	46
July 2022	58
August 2022	62
September 2022	43
October 2022	56
Total	577

## Out of State Applicants

Applicants are not required to report out of state license information. Currently, there is not a way to track which licensees or applicants hold or held out of state licenses. All applicants must provide proof of current Behavior Analysts Certification Board certification to obtain a Texas license, whether they hold a license in another state or not.



## LICENSED BEHAVIOR ANALYSTS CUSTOMER SERVICE CONTACTS FISCAL YEAR 2022



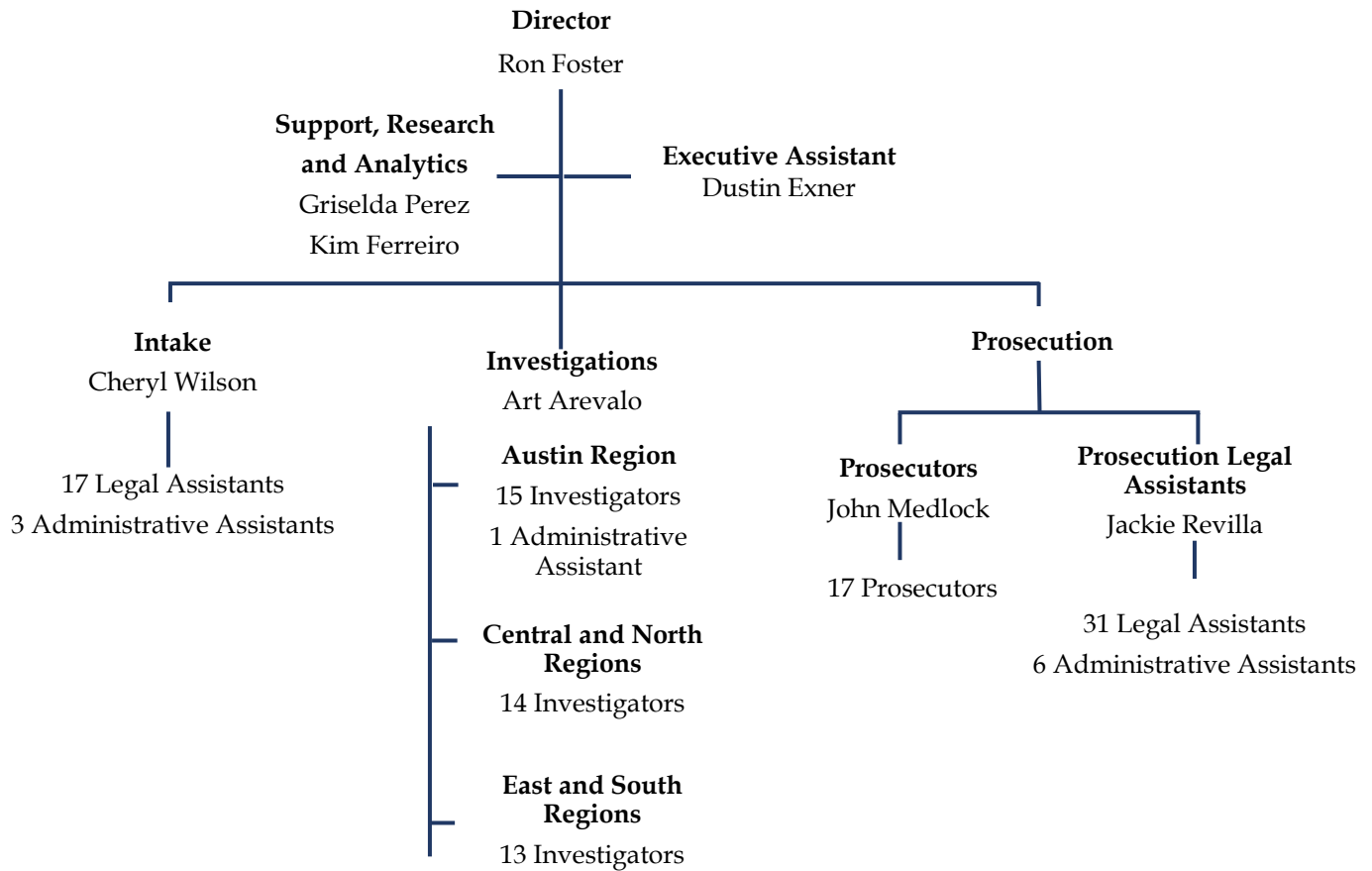
	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
Total	48	45	47	30	41	35	48	42	41	54	43	60
■ Emails	0	1	0	0	0	0	0	0	1	2	2	0
■ Calls	48	44	47	30	41	35	48	42	40	52	41	60

# Enforcement Division

## Staff Report for the Behavior Analyst Advisory Board

December 1, 2022

### Enforcement Overview:



### Who We Are and What We Do

The Enforcement Division is responsible for investigating and resolving complaints against licensees and other regulated populations in all programs regulated by the Texas Department of Licensing and Regulation (“TDLR” or “the Department”). The Enforcement Division consists primarily of investigators, attorneys, and legal assistants. These employees are organized into three sections that reflect the life cycle of a complaint as it moves through the enforcement process.

- Intake: The Intake section substantiates the agency’s jurisdiction and performs initial research on each complaint filed, ultimately making the decision whether an investigation should be opened.
- Investigations: In each case opened for investigation, the assigned investigator develops a detailed account of the facts through witness interviews, collection of

documents, and on-site inspections when necessary, and prepares a written report of the investigation.

- **Prosecution:** The Prosecution section ensures the proper disposition of each case. When the evidence reflects violations, the prosecutor may pursue administrative penalties or license sanctions, or may resolve the case informally if warranted by the circumstances. When the evidence does not indicate violations, the prosecutor will close the case. When an enforcement action leads to a hearing, the prosecutor presents the Department's case to the State Office of Administrative Hearings (SOAH) and the Commission of Licensing and Regulation.

## **How We Do It**

Within the general structure described above, the Enforcement Division utilizes specialized procedures for handling various types of complaints. Those procedures vary primarily depending upon the source of the complaint. Generally, complaints may be characterized as arising from three sources: consumers, the department, and applicants' criminal histories.

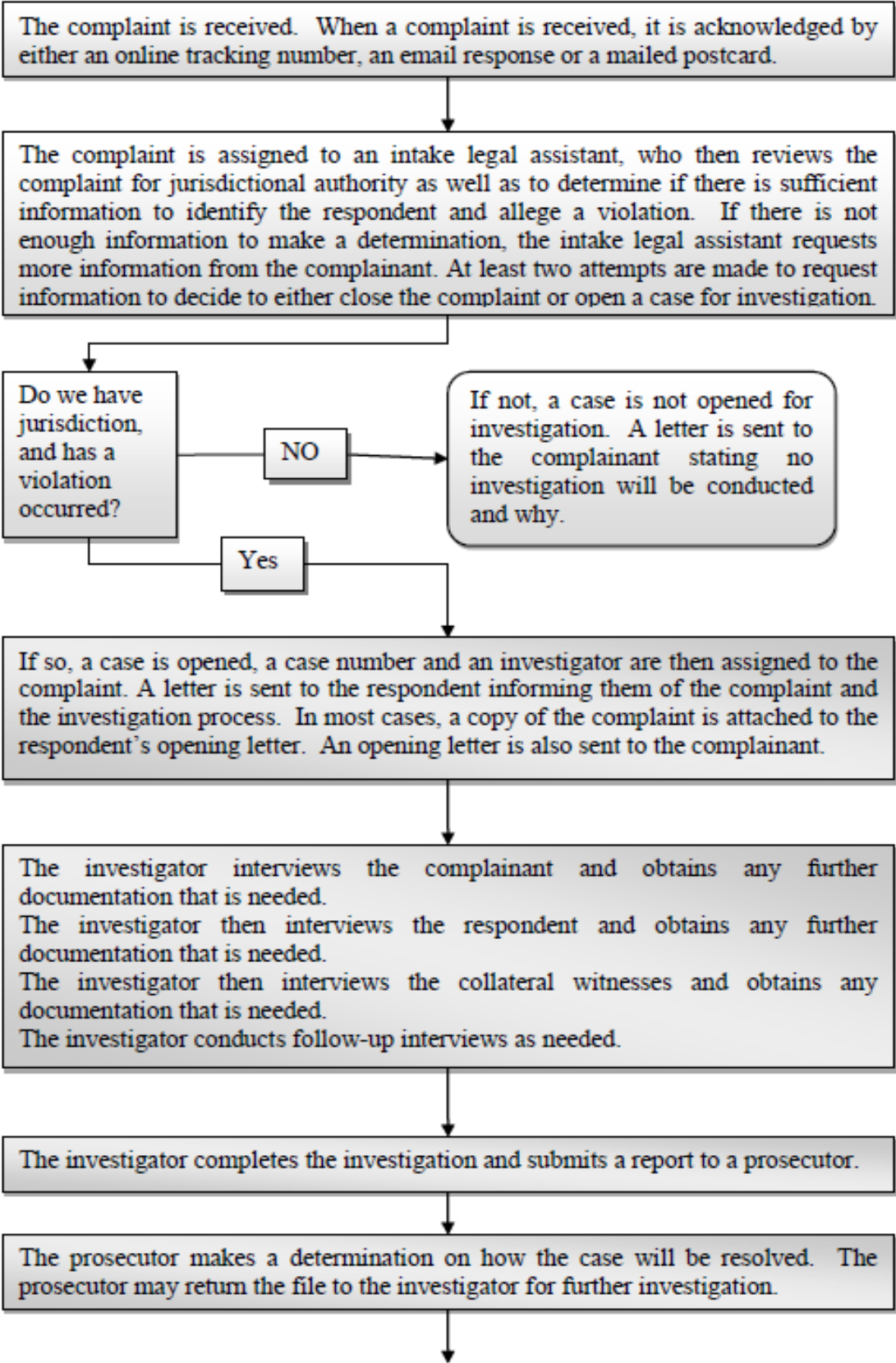
- **Consumer:** complaints from sources outside the agency, including consumers, industry, and municipal officials. *If opened for investigation by Intake, these cases undergo full investigation and are then resolved by the Prosecution section.*
- **Department:** complaints arising from periodic inspections of regulated entities conducted by the Field Inspections Division, and from proactive efforts of Enforcement field investigators. *Intake usually forwards these cases directly to a prosecutor for resolution because the evidence has already been developed by the inspector or field investigator.*
- **Criminal History:** complaints arising from criminal background checks on license applicants. *Criminal histories are initially screened by a prosecutor. If the prosecutor does not immediately clear the applicant for licensing, the prosecutor will request an investigation of the applicant's criminal history and will then decide whether to deny or revoke the applicant's license.*

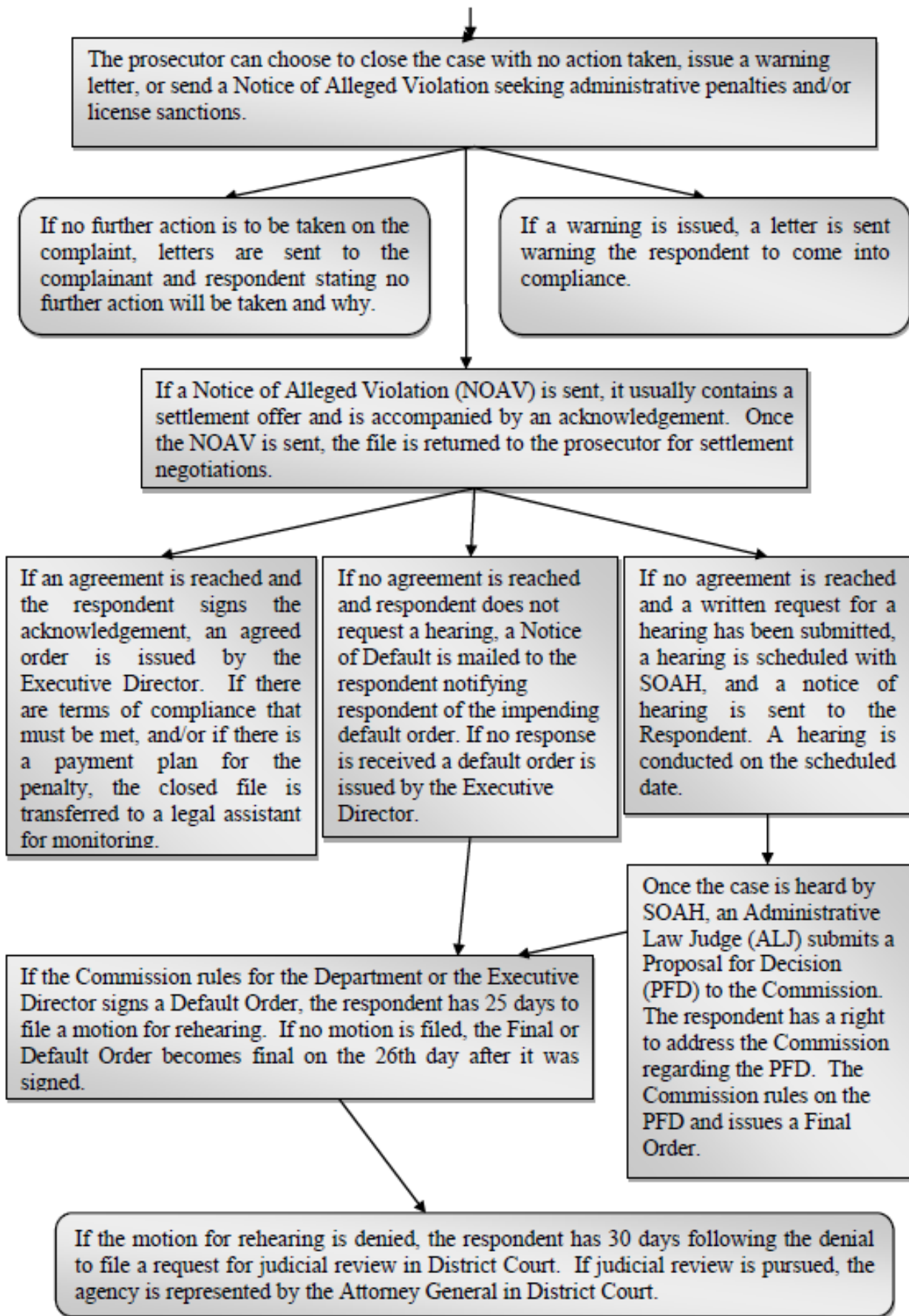
Consistency in the investigation and resolution of complaints is an essential element of effective enforcement. Enforcement works to ensure consistency by following three guidance documents that are regularly updated.

- The Complaint Resolution Procedures Manual provides detailed, standard procedures applicable to all division staff in handling complaints, from intake to investigation to final resolution.
- The Enforcement Plan describes the ranges of penalties and license sanctions that are applicable to specific alleged violations of the statutes and rules enforced by the agency.
- The Criminal Conviction Guidelines set out, for each license type regulated by TDLR, the specific criminal convictions that may render an applicant an unsuitable candidate

for the license, along with reasons why those particular crimes are considered to relate to the license.

**TDLR Enforcement Division Consumer Complaint Process**







## Personnel Updates:

- On May 1, 2022, Jessica Hurtado was promoted to Senior Prosecutor. Jessica has been with TDLR for over 4 years and has experience with a number of our programs including all the Health Related Programs, Transportation Programs, and most recently with our Criminal History Evaluation Team. Prior to joining TDLR, she spent time with the Texas Ethics Commission, Texas Workforce Commission, as well as some time in private practice.
- On May 15, 2022, Jack Phillips was promoted to the Investigations Team Lead Supervisor position for the North Region. Jack has worked for TDLR for over 7 years, previously serving as an Inspector. Jack has served Texans for over 28 years, including working for the Attorney General's and Texas Department of Criminal Justice. Jack is also a proud United States Veteran, serving 6 years in the United States Army and as a Reserve in the Texas National Guard as both a Combat Engineer and a Legal Specialist.
- Two Attorneys, Rachel Seshan and Sara McKinney, were promoted to Attorney III positions to fill the vacancies that were created by the promotions and retirements in the Enforcement Division. Rachel's promotions were effective September 1, 2022 and Sara's promotion was effective September 15, 2022.

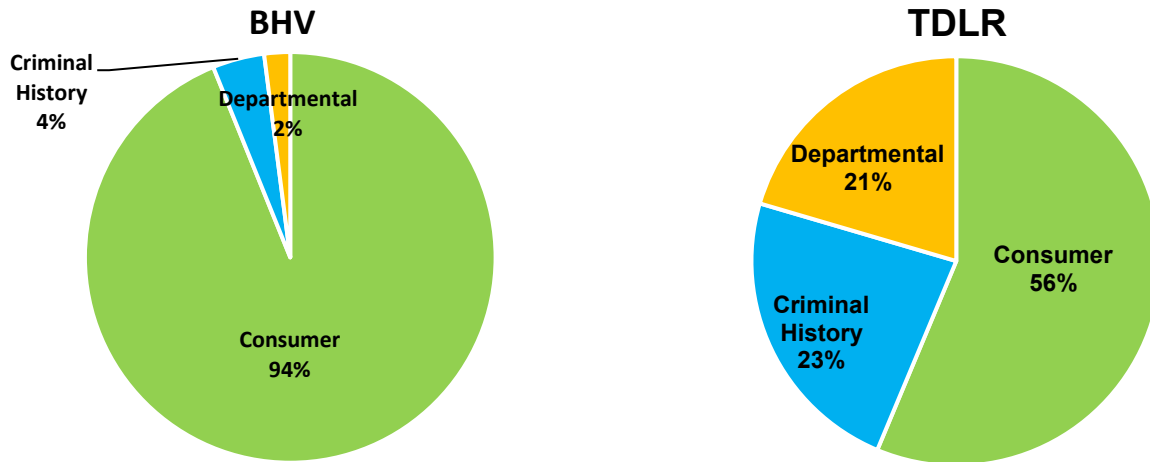
## Statistics:

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

<b>Complaints Received by Source</b>	<b>BHV</b>	<b>TDLR</b>
Consumer complaints	49	14,098
Department initiated complaints	1	2,368
Criminal History Records reviewed for licensure	68	48,488
<b>Total Complaints Received</b>	<b>118</b>	<b>64,954</b>

<b>Key Statistics:</b>	<b>BHV</b>	<b>TDLR</b>
Cases opened	49	11,663
Cases closed	62	11,754
Average time to close (days)	211.47	215.79
% of cases resolved within 6 months	59.68%	57.64%
% of cases resulting in disciplinary action	6.45%	10.81%
Cases pending at end of FY 2022	15	6,540

## Source of Cases Opened for Fiscal Year 2022



Case Outcomes	BHV	TDLR
Commission Orders	0	27
Default Orders	1	384
Agreed Orders	2	749
Penalties Assessed	\$7,500.00	\$2,588,310.00
Penalties Collected	\$2,500.00	\$1,322,419.50
Licenses Revoked (Disciplinary)	1	50
Licenses Suspended	0	4
Licenses Denied/Revoked (Criminal History)	1	182
Cease & Desist Orders	0	17
Informally Resolved	58	10,486

### BHV Cases closed and reasons for Fiscal Year 2022

Reason Closed:	Count
Insufficient Evidence	49
Warning Letter	4
Withdrawn by Complainant	3
Evaluation Letter Eligible	2
Agreed Order	2
Revocation by Operation of Law	1
Default Order	1

### BHV Alleged Violations at Opening for Fiscal Year 2022

Alleged Violation:	Count
Code of Ethics	46
Criminal History	2
Unlicensed Activity	1

## BHV Violations Resulting in Disciplinary Action for Fiscal Year 2022

Violation:	Count
Code of Ethics	3
Criminal History	1

## BHV - Additional statistics for Fiscal Year 2022

- The median age of the 15 pending cases at the end of March is 152 days.
- The oldest case had been opened for 373 days, and the newest had been open for 37 days.

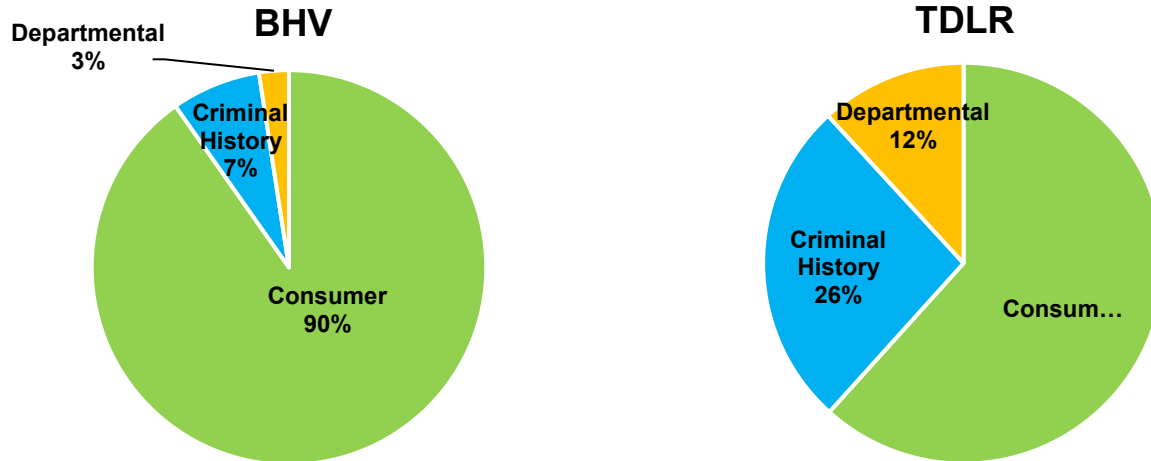
*Alleged Code of Ethics Violation at opening	Count
Failed to maintain accurate records	11
Failed to promote ethical work culture	6
Failed to provide only services a licensee is qualified to provide	6
Failed to provide clients effective treatment	5
Failed to identify competent referral sources	4
Failed to fully and accurately inform clients	4
Failed to maintain safe environment	4
Inappropriate relationship	3
Revealed confidential info about a client	1
Failed to obtain consent from client to use data for teaching purposes	1
Failed to maintain accurate records	1
<b>Total</b>	<b>46</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 complaints	50	12,463
Departmental initiated complaints	1	1,296
Criminal History Records reviewed for licensure	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 No. BHV20220006395– Chiemeka C. Anunkor d/b/a Inbloom Autism Services

On August 25, 2022, the Executive Director granted the Department’s Motion for Default and issued an Order of Default resolving an enforcement action opened against Chiemeka C. Anunkor d/b/a Inbloom Autism Services. The Order found Respondent committed the following two violations: (i) Respondent failed to fully and accurately inform his client of the nature and possible outcomes of services rendered, and (iii) Respondent breached the behavior analyst standard of care applicable to the creation and maintenance of client records.

Based on these findings, the Order imposed upon Respondent a \$5,000 administrative penalty. As of September 20, 2022, this penalty remains unpaid.

# Regulatory Program Management Division

## Staff Report for the Behavior Analyst Advisory Board

December 1, 2022

### Personnel Updates

The Medical and Health Professions Section welcomed two new team members on October 1. Rick Garza and Dina Winkfield transferred to our section from within Regulatory Program Management and we are happy to have them on our team.

### Current Projects

RPM staff assisted the Office of General Counsel with the four-year rule review for Behavior Analysts, along with other programs which are also undergoing review.

RPM staff are assisting the Office of Strategic Communications with webpage redesign and content layout.

RPM began a time-tracking data project to provide data driven analytics for programs as part of implementation of TDLR's Sunset Review.

RPM staff will be working with a team to update the continuing education review process for programs which use an audit system.

### Outreach

The latest edition of our newsletter, the Health Monitor, was published in October 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 January 2022.

# Behavior Analysts – Past 6 Months

Over the past 6 months (from May 15, 2022 – November 14, 2022), the Behavior Analysts program website had **24,267 views** – an average of 132 per day.

61 percent of those visitors accessed your site from a desktop computer, while 38 percent did so from a smart phone and 1 percent from a tablet.

Top reasons for visiting the site...

1. Apply for a Behavior Analyst License
2. Frequently Asked Questions
3. Renew a Behavior Analyst or Assistant License
4. Laws and Rules
5. Behavior Analyst Advisory Board