

AGENDA

THE MEETING OF THE

DISABILITY PROCEDURES AND SERVICES COMMITTEE

and

BOARD OF RETIREMENT*

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION

300 NORTH LAKE AVENUE, SUITE 810
PASADENA, CA 91101

9:00 A.M., WEDNESDAY, JULY 1, 2015 **

COMMITTEE MEMBERS:

Vivian H. Gray, Chair
William de la Garza, Vice Chair
William R. Pryor
Les Robbins
Yves Chery, Alternate

I. APPROVAL OF THE MINUTES

A. Approval of the minutes of the regular meeting of April 1, 2015

II. PUBLIC COMMENT

III. ACTION ITEMS

IV. FOR INFORMATION

A. Panel Physician Board Certification Requirement – Lapse of Board Certification - Edward Green, III, M.D.

B. Exacerbation, Aggravation, and Acceleration – Are these terms interchangeable?

C. Disability Retirement Services - Fiscal Year 2014-2015 Progress Report

V. GOOD OF THE ORDER

(For information purposes only)

VI. ADJOURNMENT

***The Board of Retirement has adopted a policy permitting any member of the Board to attend a standing committee meeting open to the public. In the event five (5) or more members of the Board of Retirement (including members appointed to the Committee) are in attendance, the meeting shall constitute a joint meeting of the Committee and the Board of Retirement. Members of the Board of Retirement who are not members of the Committee may attend and participate in a meeting of a Board Committee but may not vote on any matter discussed at the meeting. The only action the Committee may take at the meeting is approval of a recommendation to take further action at a subsequent meeting of the Board.**

****Although the meeting is scheduled for 9:00 a.m., it can start anytime thereafter, depending on the length of the Board of Retirement meeting. Please be on call.**

Assistive Listening Devices are available upon request. American Sign Language (ASL) Interpreters are available with at least three (3) business days notice before the meeting date.

Any documents subject to public disclosure that relate to an agenda item for an open session of the Committee, that are distributed to members of the Committee less than 72 hours prior to the meeting, will be available for public inspection at the time they are distributed to a majority of the Committee, at LACERA's offices at 300 North Lake Avenue, suite 820, Pasadena, California during normal business hours from 9:00 a.m. to 5:00 p.m. Monday through Friday.

Persons requiring an alternative format of this agenda pursuant to Section 202 of the Americans with Disabilities Act of 1990 may request one by calling the Disability Retirement Services Division at 626-564-2419 from 7:30 a.m. to 5:00 p.m. Monday through Friday, but no later than 48 hours prior to the time the meeting is to commence.

MINUTES OF THE MEETING OF THE
DISABILITY PROCEDURES AND SERVICES COMMITTEE
and
Board of Retirement**

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION
GATEWAY PLAZA - 300 N. LAKE AVENUE, SUITE 810, PASADENA, CA 91101

Wednesday, April 1, 2015, 10:19 A.M. – 12:08 P.M.

COMMITTEE MEMBERS

PRESENT: Vivian H. Gray, Chair
William de la Garza, Vice Chair
William R. Pryor
Les Robbins
Yves Chery, Alternate

ABSENT: NONE

ALSO ATTENDING:

BOARD MEMBERS AT LARGE

Shawn R. Kehoe
David L. Muir
Ronald A. Okum
Anthony Bravo
Vito M. Campese, M.D.

STAFF, ADVISORS, PARTICIPANTS

Gregg Rademacher
JJ Popowich
Steven Rice
Vincent Lim
Eugenia Der
Allison E. Barrett
Steve Tallant
Frank Boyd
James Pu
Roxana Castillo
Penny Huerta

Kathy Delino
Tamara Caldwell
Vickie Neely
Debbie Semnanian
Sandra Cortez
Maisha Coulter
Anna Kwan
Debra Martin
Maria Muro
Angie Guererro
Russell Lurina

Justin Stewart
Shamila Freeman
Hernan Barrientos
Ricardo Salinas
Karla Sarni
Barbara Tuncay
Mario Garrido
Stuart Fischer, M.D.
Rick Albert

ATTORNEYS
Thomas J. Wicke

GUEST SPEAKER
Stuart Fischer, M.D., FACC, FACP

The meeting was called to order by Chair Gray at 10:19 a.m.

I. APPROVAL OF THE MINUTES

A. Approval of minutes of the regular meeting of February 4, 2015

Mr. de la Garza made a motion, Ms. Gray seconded, to approve the minutes of the regular meeting of February 4, 2015. The motion passed unanimously.

II. PUBLIC COMMENT

III. ACTION ITEMS

A. Policy Statement for Staff Removing Disability Applications from the Board Agenda

After careful consideration, the Committee did not take any action; no changes were made to their existing procedures and policy.

B. Board Mailing (Oral Discussion)

Mr. Bernstein requested that the Committee consider returning to the two monthly mailings schedule. After further discussion, the Committee did not take any action and no changes were made to the existing mailing schedule.

IV. FOR INFORMATION

A. Presentation by James Pu, Chief Information Officer – Disability Technology Integration: Status Update

Mr. Pu and Kathy Delino provided status on the Technology Integration Project. The presentation focused on the initial deployment of digital disability packages and future plans to digitally deliver the full disability package during the next fiscal year.

B. Presentation by Stuart Fischer, M.D., FACC, FACP
Topic: Risk Factors in Coronary Artery Disease

Dr. Stuart Fischer, M.D., FACC, FACP, from Los Alamitos Cardiovascular Medical Office and professor of medicine at UC Irvine provided an educational presentation on Coronary Artery Disease.

V. GOOD OF THE ORDER

The Committee and staff thanked all guest speakers for their presentations.

VI. ADJOURNMENT

With no further business to come before the Disability Procedures and Services Committee, the meeting was adjourned at 12:08 p.m.

****The Board of Retirement has adopted a policy permitting any member of the Board to attend a standing committee meeting open to the public. In the event five (5) or more members of the Board of Retirement (including members appointed to the Committee) are in attendance, the meeting shall constitute a joint meeting of the Committee and the Board of Retirement. Members of the Board of Retirement who are not members of the Committee may attend and participate in a meeting of a Board Committee but may not vote on any matter discussed at the meeting. The only action the Committee may take at the meeting is approval of a recommendation to take further action at a subsequent meeting of the Board.**



June 19, 2015

TO: Disability Procedures and Services Committee
Vivian H. Gray, Chair
William de la Garza, Vice Chair
William R. Pryor
Les Robbins
Yves Chery, Alternate

FROM: Tamara L. Caldwell, Acting Division Manager
Disability Retirement Services 

FOR: July 1, 2015 Disability Procedures and Services Committee Meeting

**SUBJECT: PANEL PHYSICIAN BOARD CERTIFICATION REQUIREMENT –
LAPSE OF CERTIFICATION BY EDWARD GREEN, III, M.D.**

BACKGROUND

On May 21, 2015, Debbie Semnanian, Supervisor was advised by Rick Albert, Marketing Representative to Edward Green III, M.D., of the lapse of Dr. Green's board certification, citing a family medical emergency involving his 4-year old son as the main cause for the lapse. Staff reminded Mr. Albert of the Board of Retirement's policy to only contract with board certified physicians and the issue would be escalated to the Division Manager to determine how to address this issue (Attachment A).

Mr. Albert informed staff that Dr. Green anticipates renewing his certification, but this may take up to 12 months to complete, stating the recertification process requires a trip to Chicago to take an oral test in addition to submitting information to the review board. Mr. Albert, states, "Dr. Green is board eligible and no less of a doctor than he was before his certification lapsed."

Upon notification, the Division Manager immediately reported the issue to Assistant Executive Officer JJ Popowich. On May 27, 2015, Frank Boyd, Sr. Staff Counsel and Debbie Semnanian conducted a conference call with Dr. Green to discuss his certification status and advise that he would be placed on suspension until further notice.

Below is a summary of the immediate actions taken once we learned of Dr. Green's certification lapse, including additional actions currently in progress that should mitigate a repeat occurrence with other panel physician in the future.

SUMMARY OF ACTIONS TAKEN UPON NOTIFICATION

Action Taken	Status
Suspend usage of Dr. Green until further notice	Completed 5/21/15
Cancel any pending medical appointments with Dr. Green and reschedule with a different orthopedist	Completed 5/22/15
Identify all outstanding pending medical reports and request the Dr. Green complete them as soon as possible	Completed 5/22/15
Cancel Board presentation scheduled for July 1, 2015	Completed 5/21/15
Conduct conference call with Dr. Green to determine when his certification lapsed and whether there are any plans for renewal.	Completed 5/27/15
Contact all panel physician and request documentation of medical licensing, board certification, and insurance coverage to ensure all panel physicians files are current (Attachment B)	Letters Mailed 6/11/15
Obtain information from the American Board of Orthopedic Surgery confirming Dr. Green's certification expiration date Board Certification – 12/31/13 (Attachment C)	Completed 6/16/15
Review existing procedure for reviewing panel physician licensing and certification Findings: It is Disability Retirement Services Division practice to verify medical licensing, insurance coverage and board certification when LACERA and Physician first enter into contract. Medical licensing is audited annually; however, board certification and insurance coverage does not appear to be checked routinely. Staff found that there are no written procedures outlining auditing process. Recommendation: Develop Disability Retirement Services Division written auditing procedure to ensure frequent monitoring of panel physician licensing, certification, and insurance coverage.	In-Process
Legal Counsel to review Panel Physician contracts to determine whether contract provides language to address licensing, board certification, and insurance coverage requirements.	In-Process
Inform Disability Procedures and Services Committee	Agendize for 7/1/15 Committee Meeting

Staff will update this Committee once all tasks have been completed.

Attachments

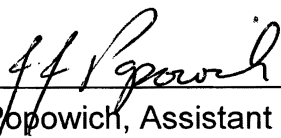
/TLC

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June 19, 2015

RE: Board Certification Lapse – Green

Noted and Reviewed:



JJ Popowich, Assistant Executive Officer

Date: 6/23/15

ATTACHMENT A

ATTACHMENT A



LACERA

96 JAN 23 PM 3: 22

DISABILITY

January 23, 1996

TO: Each Member
Board of Retirement

FROM: Disability Procedures & Services Committee
Jack Thomas, Chairman
Alex Soteras
Edgar Twine
Cody Ferguson
Warren Bennett (Alternate)

SUBJECT: Hiring of Panel Physicians

Jack Thomas
by [signature]

On January 3, 1996, during its regular meeting, the Professional Services Committee reviewed procedures regarding the hiring of LACERA's panel physicians.

After discussion of the issue with our medical advisor, the committee determined that it is in LACERA's best interest to hire only board certified physicians. Dr. Kuzma noted that all medical specialties do not have board certification.

THEREFORE, IT IS RECOMMENDED that when board certification is available within a specialty, only physicians who are board certified may be appointed to LACERA's panel of physicians.

FMB:vc

c: Marsha D. Richter
Jerry Hampton
David L. Muir
Sylvia Miller

ATTACHMENT B

ATTACHMENT B



June 11, 2015

Doctors Name
Doctors Address

RE: Board Certification

Dear LACERA Panel Doctor:

As you are aware, the LACERA Board of Retirement requires that each of our panel physicians not only hold a current medical license, but also be board certified, and maintain medical malpractice insurance with a single limit of at least \$1 million per occurrence. At this time, we would like update our records and request that you provide proof of each of these three items.

Please make sure that your license and certification clearly show an issued and expiration date. We are requesting that you provide this information no later than June 22, 2014. A self-addressed envelope is enclosed for your convenience.

If you have any questions regarding this request, please do not hesitate to call me directly at (626) 564-2418.

Thank you for serving as one of our medical panel physicians.

Sincerely,

Debbie Semnanian
Disability Retirement Specialist Supervisor

ATTACHMENT C

ATTACHMENT C



AMERICAN BOARD OF ORTHOPAEDIC SURGERY, INC.

Member Board of the American Board of Medical Specialties

400 SILVER CEDAR COURT
CHAPEL HILL, NORTH CAROLINA 27514

PHONE: 919/929-7103

FAX: 919/942-8988

www.abos.org

2014 - 2015

June 17, 2015

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ANNUNZIATO AMENDOLA, MD

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Executive Director
SHEPARD R. HURWITZ, MD

Legal Counsel
THOMAS G. ABRAM, JD

Francis J. Boyd, Senior Staff Attorney
LACERA
300 N. Lake Avenue #620
Pasadena, CA 91101

Re: Green III, Edward, MD

Dear Sir/Madam:

We have received your letter requesting board status of the above-referenced physician and that information is provided as follows:

Currently not certified.
Certified 07/11/2003 through 12/31/2013.
Participating in MOC.

The Board does not confer a legal qualification or license to practice medicine and does not determine who may practice orthopaedic surgery, obtain hospital staff privileges or become a member in any organization.

If we can be of any further assistance, please contact our office.

Yours sincerely,

Shepard R. Hurwitz, M.D.
Executive Director

June 16, 2015

American Board of Orthopedic Surgery
400 Silver Cedar Court
Chapel Hill, North Carolina, 27514

Re: Edward Green III, M.D. – Written Verification of Current Board Status

Dear Members of the Board:

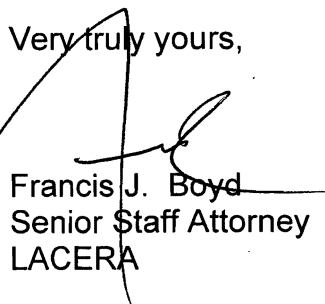
The Los Angeles County Employment Retirement Association, (LACERA) has contracted with Dr. Edward Green to perform orthopedic evaluations for members who are applying for Disability Retirement. We have recently learned that Dr. Green has not renewed his Board Certification in Orthopedic Surgery.

The Board of Retirement needs to know the date that his certification lapsed. Therefore, we have enclosed a Statement of Release signed by Dr. Green, which indicates he has given permission for you to send written verification of his board status to LACERA.

We are asking that you please provide us with this information at your earliest convenience.

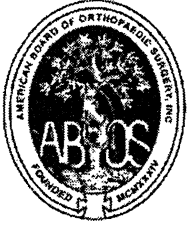
Thank you for your assistance in this matter.

Very truly yours,



Francis J. Boyd
Senior Staff Attorney
LACERA

Encl.



AMERICAN BOARD OF ORTHOPAEDIC SURGERY
 400 SILVER CEDAR COURT
 CHAPEL HILL, NORTH CAROLINA 27514
 PHONE: (919) 929-7103
 FAX: (919) 942-8988

Member Board of the American Board of Medical Specialties

2015 JUN 12 AM 11:15
 LACERA
 DISABILITY

Physician's Full Name: Edward Green, III, M.D.
 Address: 1040 Elm Ave., Suite 100
Long Beach, CA 90813
 Phone Number: (562) 591-4444
 Last 4 of SSN# or DOB (for identification purposes only): 3929

Please state your reason for requesting written verification:

The Los Angeles County Employment Retirement Assoc. (LACERA) has
contracted with Dr. Green to perform orthopedic evaluations for members applying for
a disability retirement. We have learned that Dr. Green has not renewed his Board Certification.
The Board of Retirement needs to know the date that his certification lapsed.

Address to mail verification and/or email address for PDF:

Francis J. Boyd, Senior Staff Atty.
LACERA
300 N. Lake Ave # 620
Pasadena, CA 91101
FBoyd@LACERA.com

STATEMENT OF RELEASE

I, Edward Green, MD am giving permission for ABOS to send written
 verification of my board status to LACERA

Signature: [Signature] at the address above. Date: 6/10/15

Complete requests can be faxed or mailed to ABOS or emailed to sparker@abos.org, Please allow 10
 business days for request to be completed and mailed.

**FOR INFORMATION ONLY**

June 24, 2015

TO: Disability Procedures and Services Committee
Vivian H. Gray, Chair
William de la Garza, Vice Chair
William R. Pryor
Les Robbins
Yves Chery, Alternate

FROM: Francis J. Boyd 
Senior Staff Counsel

FOR: July 1, 2015 Disability Procedures and Services Committee Meeting

SUBJECT: EXACERBATION, AGGRAVATION, and ACCELERATION

The Presentation outlines the legal distinction between the terms Aggravation, Exacerbation, and Acceleration in regard to Causation. This information will provide guidance as you navigate through issues that relate to Disability Retirement.

Please feel free to contact me with any questions. Thank you.

FJB:se

Attachments

Aggravation

Exacerbation

Acceleration

CAUSATION IN DISABILITY RETIREMENT

DEFINITIONS

Webster's Dictionary &
Dorland's Medical Dictionary

Aggravate: to make worse

Exacerbate: 1) to increase the severity of a disease or any of its symptoms (*Dorland's Med Dict.*)

Accelerate: 1) to increase the speed of; 2) to bring about sooner the expected.



Aggravation vs. Exacerbation

There is no legal distinction between the term “aggravation” and “exacerbation” in regard to causation.

KEY: Did the work cause a *temporary* or *permanent* aggravation or exacerbation.



Misuse of the word “exacerbation”

The term
“exacerbation” is a
shortcut term used in
the workers’
compensation arena to
mean a temporary
exacerbation of a
medical condition.

WORK INJURY CLAIM FORM

Failure to complete this form in its entirety may result in a delay in processing this claim.

FILING CLAIM FOR (check all that apply):
 Accidental Injury Only
 Injury With Disability
 Injury With Hospitalization
 Disability - Date Occurred

Accident Policy Number	Short-Term Disability Policy Number	Hospital Intensity Policy Number	Hospital Intensity Care Policy Number	Line Policy Number	Hospital Health Event Policy Number

Holder/Patient Information
Physician's Statement. If you are filing for disability, you must also complete and sign Section C: Employer's Statement and sign Section D: Employee's Statement and sign Section E: Employer's Statement and sign Section F: Employee's Statement.

Relevant Question

- ▣ Did the employment cause any permanent aggravation or acceleration to the underlying medical condition that causes the applicant to be incapacitated?
- ▣ **Permanent aggravation:** Did the employment make the medical condition permanently worse?
- ▣ **Acceleration:** Did the employment make the applicant incapacitated sooner?

LEGAL GENESIS FOR AGGRAVATION AND ACCELERATION

Tanenbaum v. Industrial Accident Commission
(1935) 4 Cal.2d 615. **California Supreme Court**

- ▣ “It is now definitely settled that the **acceleration, aggravation, or ‘lighting up’ of a pre-existing disease** is an injury in the occupation causing the same.”
- ▣ The underlying theory is that the employer takes the employee subject to his condition when he enters the employment.

CERL Legal Foundation

Government Code section 31720:

Any member permanently incapacitated for the performance of duty shall be retired for disability regardless of age if, only if:

- (a) The member's incapacity is the result of an injury or disease arising out of and in the course of the member's employment, and such employment contributes substantially to such incapacity . . .

Gelman v. Board of Retirement (1978) 85 Cal.App.3d 92

- It is not the law that the aggravation must be the sole or proximate cause of the disability. . . . Instead the law, both statutory and decisional, is clear that all that is required is a material and traceable connection to appellant's mental deterioration that was caused by the stress of the county job.

Gurule v. Board of Retirement (1978) 85 Cal.App. 3d 92.

- ▣ The Court interpreted *Gelman*
- ▣ *Gelman* said that the acceleration or aggravation of a preexisting condition is an incapacity that is the result of **an injury arising out of the course of employment** and therefore entitles the employee to a service-connected disability retirement.

Lundak v. Board of Retirement (1983) 142 Cal.App.3d 1040

- ▣ . . . It has been held, based on reasoning parallel to that behind the principle in workers' compensation law, that an employer takes his employee as he finds him, and therefore an acceleration or aggravation of a preexisting disability becomes a service-connected injury of that employment [citations], and that an applicant for a government retirement pension will be awarded service-connected benefits **where he or she can show a material and traceable connection between the disability and employment.**

Bowen v. Board of Retirement (1986) 42 Cal.3d 572

- ▣ An “infinitesimal” or “inconsequential” connection between employment and disability would be **insufficient** for a service-connected disability retirement.
- ▣ While a causal connection between the job stress and the disability may be a small part of the causal factors, it must nevertheless be **real and measurable**. There must be substantial evidence of some connection between the disability and the job.

Workers' Compensation vs. CERL

- ▣ Compensable Injury
 - ▣ Vs
- ▣ Permanent Incapacity

Workers' Compensation

- Aggravation of an existing infirmity is **COMPENSABLE** as an injury which is the result of cumulative work effects.
Turner v. Workman's Comp. Appeals Bd. (1974) 42 Cal.App.3d 1036.
- “**Compensable**” means that the aggravation amounts to a work-related injury that results in a right to workers' compensation benefits, such as a disability indemnity and medical treatment.
- Aggravation of an injury, illness, or pre-existing infirmity that causes the need for medical care, **even though it causes no disability at all – temporary or permanent.**

CERL

Bowen instructs that the only type of aggravation that is relevant in CERL is one that is a *real and measurable* cause of permanent incapacity for duty.

A permanent incapacity for duty is not service-connected if the work-related aggravation is **infinitesimal or inconsequential to the genesis of the permanent incapacity.**

Relevant question in CERL:

- ▣ Did the employment cause any permanent aggravation or acceleration to the underlying medical condition that causes the applicant to be incapacitated?



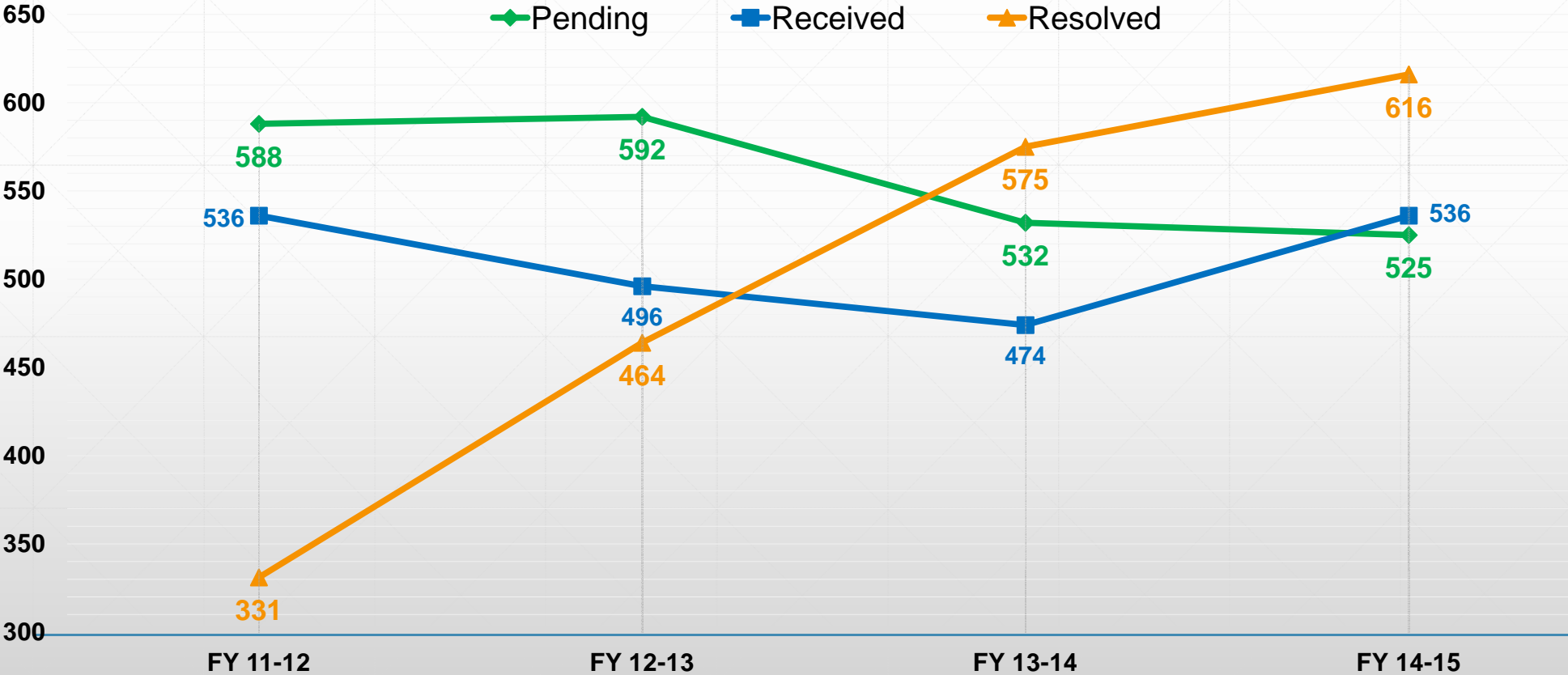
QUESTIONS?



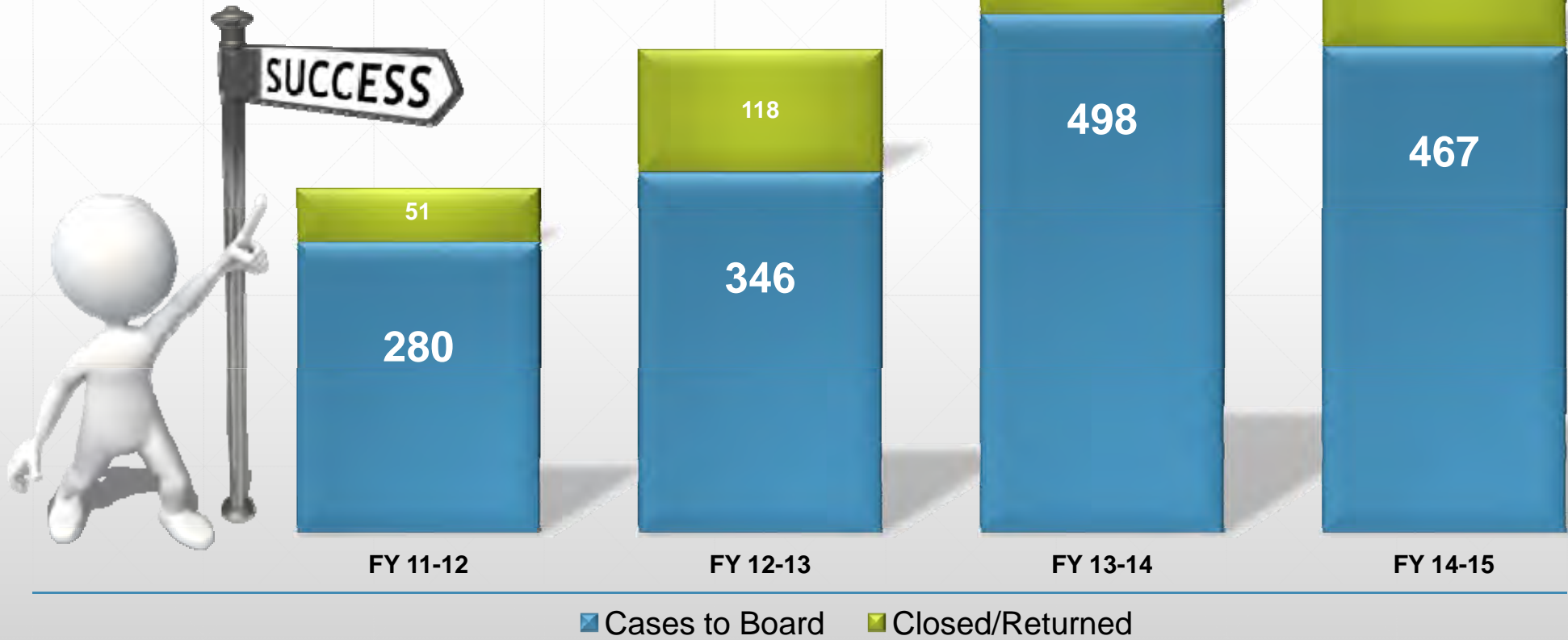
DISABILITY RETIREMENT SERVICES

FY 2014-2015 PROGRESS REPORT

DISABILITY APPLICATIONS @ A GLANCE




DIVISION PRODUCTIVITY

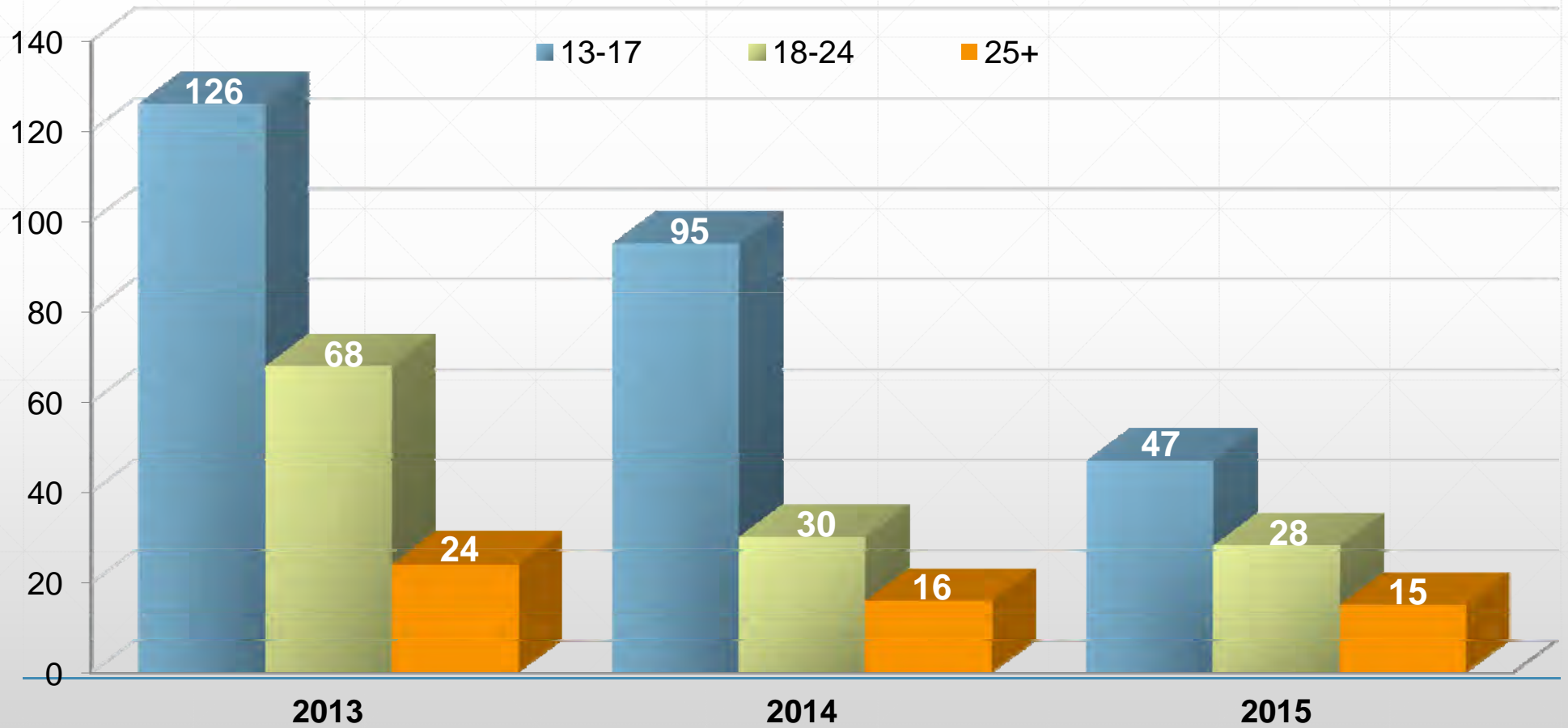


AVERAGE PROCESSING TIMES (IN MONTHS)



FY 14-15	
14.67	12.00

THE “BACKLOG” OUR PROGRESS



WHAT ELSE HAVE WE BEEN DOING

- **328** hours of counseling
- **16** sessions of departmental training and outreach

