



## January 2010, vol. 4

The *Enforcement Progress Report* represents the Department of Consumer Affairs (DCA)'s commitment to consumer protection; it is also an effort to increase transparency and awareness of all enforcement actions currently underway at DCA. The department will issue the *Enforcement Progress Report* on a monthly basis to document progress on enforcement reform.

The report includes a list of all current and future enforcement actions. In some instances, you will be able to click on the links to access more detailed information, press releases, reports and/or video content.

Governor Arnold Schwarzenegger has mandated that all healing arts boards at the DCA are to overhaul the enforcement and disciplinary processes and the department is heeding this call. DCA will continue to make changes to ensure consumer protection is the number one priority for the Board of Registered Nursing (BRN) and all of its health-related boards and bureaus.

To help us further accelerate our progress, Governor Schwarzenegger has proposed investing up to \$27 million in a new [Consumer Protection Enforcement Initiative \(CPEI\)](#) over the next two years.

This volume includes an overview of DCA's new Consumer Protection Enforcement Initiative which represents a multimillion dollar investment in the protection of California health care consumers.

### **Consumer Protection Enforcement Initiative (CPEI)**

DCA has launched the Consumer Protection Enforcement Initiative (CPEI) to improve the enforcement process at its healing arts boards. The initiative overhauls a decades-old enforcement infrastructure that has not served the public well in recent years. Read DCA Director Brian Stiger's op-ed, published in the Capitol Weekly, on how the CPEI better protects the safety of health care consumers:

[www.capitolweekly.net/article.php?c=ykob2lbomuh99e&xid=ykobxd04hfpk63&done=.ykoccucc8r3pug](http://www.capitolweekly.net/article.php?c=ykob2lbomuh99e&xid=ykobxd04hfpk63&done=.ykoccucc8r3pug)



You can also watch DCA Director Stiger’s monthly [video message](#) to find out more about this critical and long overdue enforcement initiative.

The CPEI focuses on:

- Administrative improvements that include targeting older, backlogged cases and developing enhanced training for enforcement staff;
- Increased resources that include authorizing healing arts boards to hire non-sworn investigators to expedite enforcement and replacing DCA’s antiquated licensing database with a system that supports current needs; and
- Continuing pursuit of legislation to help boards better protect consumer safety.

The CPEI:

- Cuts completion of the enforcement process from an average 36 months to between 12 and 18 months;
- Enables healing arts boards to more efficiently screen, monitor, and, if necessary, investigate, prosecute, or remove from practice violators of their professional standards; and
- Increases public confidence in the professionalism of California’s health care practitioners when complaints against violators are more swiftly resolved.

### **Budget Change Proposal (BCP)**

The Governor’s Budget Proposal includes a reinvestment of \$27 million in funds over the next two years to increase the department’s consumer protection mission and make a significant investment in the Consumer Enforcement Protection Initiative, which has been specifically designed to help boards under DCA reduce the average enforcement completion timeline.

Additional funds requested will come, in some cases, from existing board resources and, in other cases, from license fee increases. The proposal does not borrow any money from the General Fund.

The Governor’s budget proposes the following changes:



- Additional staff resources.
- Procurement of a new licensing and enforcement database to replace the present antiquated system and meet current needs. The Governor's Budget authorizes DCA to redirect existing funds for a new system in FY 2010-11.

### **Enforcement Actions Timeline: October 2009 – January 2010**

- BRN Retroactive Fingerprinting
  - From October 1, 2009 through December 31, 2009, BRN has received 45,784 fingerprint results, with 4,706 fingerprints rejected.
  - As of January 29, 2010, 74,676 individuals have submitted their fingerprints.
  - As of January 29, 2010, 973 licenses have been put on hold due to refusal to submit fingerprints. Refusal to submit fingerprints results in a hold on one's license and the licensee is not eligible to practice.
  - BRN opened 2,148 complaints with convictions (please note: multiple complaints can be associated with one individual).
    - 1,582 complaints have been closed.
    - 566 complaints are pending.
    - 12 accusations have been filed.
- Update on Healing Arts Boards Retroactive Fingerprinting Regulations
  - Four boards have put into place regulations that require fingerprinting of licensees who were issued a license before mandatory fingerprinting regulations took effect. Nine boards are in the process of adopting such regulations. See chart on page 5 for details.



## Enforcement Actions: October 2009 – January 2010

- Between October 1, 2009 and December 31, 2009, BRN filed 140 accusations against licensees. In comparison, during the same time period in 2008, the number of accusations filed was 85.
- Between October 1, 2009 and December 31, 2009, BRN took 122 disciplinary actions against licensees. In comparison, during the same time period in 2008, the number of disciplinary actions taken was 122.
  - This includes the following actions: revocation, probation, suspension/probation, license surrendered, public reprimand/reprovals, and others.
- Between October 1, 2009 and December 31, 2009, BRN referred 163 cases to the Attorney General’s Office. During the same time period in 2008, the number of cases referred to the AG’s office was 93.
  - Follow this [link](#) to find individual cases by month and links to public documents for each case for the last twelve months.
- Diversion
  - Under SB 1441, DCA created the Substance Abuse Coordination Committee to monitor and regulate licensees with substance abuse problems.
  - The audit of the diversion program mandated by SB 1441 – originally anticipated for completion by December 30, 2009 – is still underway and will be sent to the Legislature by June 30, 2010. Implementation of the new diversion program contract for all health care-related boards began January 1, 2010.
- Division of Investigation (DOI) Intake Task Force Addresses Current Backlog of Cases
  - To date, the Intake Task Force has reviewed all cases that have been designated for internal investigation and is preparing to request patient authorizations and various documents from health care agencies. DOI closed 37 percent more cases in 2009 than in 2008.



➤ Staff

- To view a breakdown of the CPEI position resources that have been requested in the Governor's FY 2010-11 Budget, please click on the following link:  
[http://www.dca.ca.gov/about\\_dca/cpei/position\\_detail.pdf](http://www.dca.ca.gov/about_dca/cpei/position_detail.pdf)

**Status on Retroactive Fingerprinting Requirement by Healing Arts Boards**

January 2010

Boards with Retroactive Fingerprinting Regulations in Place	Regulation Start Date
Registered Nursing	March 2009
Behavioral Sciences	June 2009
Vocational Nursing and Psychiatric Technicians	August 2009
Podiatric Medicine	October 2009
Boards with Proposed Regulations	Regulations in Process
Acupuncture	Nov 2009 - Board approved language to begin rulemaking process
Dental	Regulations hearing Feb. 4, 2010
Dental Hygiene Committee	Dec 2009 – Board approved regulatory language for retroactive fingerprint collection
Occupational Therapy	Awaiting approval by OAL
Optometry	Aug 2009 – Board adopted regulations
Pharmacy	In 45 days, comment pending
Psychology	Nov 2009 – Approved by Board
Speech-Language Pathology and Audiology	Postponed to allow work on merger with Hearing Aid Dispenser Bureau
Veterinary	Board has approved regulation language
Boards that Do Not Require Retroactive Fingerprinting	Status
Medical	Board has fingerprints on all current licensees
Osteopathic	Board has fingerprints on all current licensees
Physical Therapy	Board has fingerprints on all current licensees
Physician Assistant Committee	Board has fingerprints on all current licensees
Respiratory Care Board	Board has fingerprints on all current licensees

**Future Actions**

Meaningful enforcement reform will be instituted when changes are made to the structural procedures of the investigation and disciplinary processes and



ENFORCEMENT  
**Progress**  
REPORT



streamlined efficiencies are implemented. Many of the structural changes can occur only through legislative action. Currently, the Department of Consumer

Affairs is exploring legislative authority to complete these structural changes and continues to mandate that all healing arts boards and bureaus are operating their enforcement programs as efficiently and effectively as possible. As the Department executes its enforcement reform, this document will be updated to reflect its progress.

### **Your Suggestions for Further Improvements**

The Department of Consumer Affairs is committed to implementing changes that will make it a model for enforcement across the nation. We welcome any input you may have to help us reach that goal. Please email your suggestions to [enforcementsuggestions@dca.ca.gov](mailto:enforcementsuggestions@dca.ca.gov).