



## **March-April 2010, vol. 6**

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. Beginning with this volume, the department will issue the *Enforcement Progress Report* on a bimonthly basis to document progress on enforcement reform.

The report will highlight significant events in the life of the Consumer Protection Enforcement Initiative (CPEI). 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 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 all of its health-related boards.

Although DCA will continue to issue this bimonthly report, enforcement progress from the Board of Registered Nursing (BRN) and the other healing arts boards will be highlighted on a quarterly basis, beginning with the March-April 2010 volume.

### **Budget Change Proposal (BCP 1A) Approved**

On March 24, 2010, the Assembly Budget Subcommittee approved CPEI's Budget Change Proposal (BCP 1A). This authorizes DCA's healing arts boards to hire additional staff to reduce enforcement backlogs and improve investigative processing time.

DCA Director Brian Stiger provided testimony about the need for passage of this critical proposal; Chief Deputy Director Bill Young addressed the committee's fiscal concerns relating to the proposal.



CPEI funding will come from existing board resources or license fee increases, not from the state's General Fund.

### **Enforcement Best Practices Committee**

DCA has formed a department-wide Enforcement Best Practices Committee to examine the adoption of future steps leading to a more rapid and responsive enforcement process. The committee met on February 23, 2010.

Best management practices typically refer to processes identified in public and private organizations that have performed well and are recognized as improving efficiency in specific areas.

Best practices may frequently take advantage of the most effective processes that organizations, including those in other states, use to maximize efficiency.

The committee is looking at best practices in four broad enforcement capacities:

- Complaint intake;
- Investigations;
- Discipline; and
- Probation monitoring.

Representatives from these capacities reported their findings to date, including impediments to the enforcement process and recommendations for overcoming those impediments.

Some of the obstacles perceived to be common across the enforcement process were:

- Access to other state entities' investigative reports;
- Timely access to medical and personnel records;
- Shortage of appropriately trained staff; and
- Attracting and retaining qualified investigators.



General recommendations incorporated:

- Establishing acceptable investigation timeframes;
- Standardizing data definitions; and
- Determining data collection that measures investigations in terms of cost, quantity, and quality.

### **Enforcement Academy Launch**

Two DCA Enforcement Academies took place April 19 and April 26, 2010. The Enforcement Academy is the first of its kind for DCA and consists of eight different modules held two days a week every other week for eight weeks. Each academy hosts 40 participants from a range of DCA's boards and bureaus. Participants learn about:

- methods for improving case intake
- case tracking and management
- how and when to refer cases to the Division of Investigation
- gathering document evidence
- compliance and field inspections
- formal and non-formal disciplinary actions
- probation monitoring
- proactive enforcement strategies

Feedback from participants indicated the training is a positive return on investment and a valuable opportunity for development.



## Voting Disciplinary Decisions by Mail

DCA Director Brian Stiger issued a memorandum to all DCA executive officers April 21, 2010 on voting disciplinary decisions by mail, including e-mail, to reduce delays for those decisions, particularly between board meetings.

Stiger encouraged all boards to implement electronic mail voting procedures to vote disciplinary actions and to verify their mail voting policy and procedures are current and comprehensive.

## Nursys

Nursys is a database created and maintained by the National Council of State Boards of Nursing (NCSBN) to provide licensing and disciplinary data to state (and some international) nursing boards. Nursys offers two membership levels: licensure participating board and discipline participating board.

BRN is currently a Nursys discipline participating board. BRN provides any disciplinary information on licensees within 10 days of action. NCSBN then relays the information to the federal government.

BRN is evaluating the applicant screening benefits of becoming a licensure participating board. If BRN opts for this membership upgrade, it will offset revenue loss from license verifications through license fee increases.

BRN sent its comprehensive licensee database, including active and inactive licensees, to scrub against the Healthcare Integrity and Protection Data Bank (HIPDB) to determine whether any California licensees had disciplinary actions in other states. The findings were as follows:

- Based on BRN's information, HIPDB was unable to locate 200 records. BRN verified with Nursys that the data for these records had been sent to Nursys for delivery to HIPDB. Nursys established that BRN needs to correct 80 of the 200 records.

ENFORCEMENT  
**Progress**  
REPORT



- Nursys ran active and inactive licensee records against all other states for actions taken in states other than California. This “scrub” returned approximately 3600 individuals with disciplinary actions in other states.
- Before BRN can determine the appropriate actions to take, it must reorganize the data received, analyze the disciplinary actions taken in other states, and acquire other states’ disciplinary documents. BRN anticipates the process will take several months. BRN will address the most serious disciplinary cases first.
- The cost of the scrub was \$5,275.

The Board of Vocational Nursing and Psychiatric Technicians is also required to participate in the HIPDB, in addition to its participation in the National Practitioners Data Bank (NPDB). The Board of Vocational Nursing and Psychiatric Technicians achieved compliance with NPDB/HIPDB on April 15, 2010 with addition of psychiatric disciplinary records.



## Enforcement Actions Timeline: February 2010 – April 2010

- BRN Retroactive Fingerprinting
  - From January 30, 2010 through April 29, 2010, BRN received 47,800 fingerprint results, with 3,707 fingerprints rejected.
  - As of April 29, 2010, 81,965 individuals submitted their fingerprints since the program's inception in March 2009.
  - As of April 29, 2010, 1,402 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's ineligibility to practice.
  - BRN opened 2,745 complaints with convictions (note that multiple complaints can be associated with one individual).
    - 2,296 complaints have been closed.
    - 449 complaints are pending.
    - 23 accusations have been filed.

## Update on Fingerprint Automation

Licensee fingerprint automation is well underway:

- Once the Department of Justice has completed file exchange programming, final implementation of the program is scheduled May 26, 2010 for the Board of Psychology; the Cemetery and Funeral Bureau; the Physician Assistant Committee; and the Veterinary Medical Board and Registered Veterinary Technician Examining Committee.
- Fingerprint automation is in the development phase for the Dental Hygiene Committee; the Medical Board; the Physical Therapy Board; and the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.



## Status of Retroactive Fingerprinting Requirements for Healing Arts Boards

Acupuncture Board	Final regulation package pending
Behavioral Sciences Board	Effective June 19, 2009
Dental Board/COMDA (dental assistants)	Final regulation package pending
Dental Hygiene Board	Executive Office review
Occupational Therapy Board	Effective March 26, 2010
Optometry Board	Pending Office of Administrative Law approval
Pharmacy Board	Pending Office of Administrative Law review/approval
Physician Assistant Committee	Effective November 4, 2009
Podiatric Medicine Board	Effective October 16, 2009
Psychology Board	Final regulation package pending
Registered Nursing Board	Effective (permanently) June 2, 2009. Effective (emergency) November 24, 2008.
Veterinary Medical Board/Registered Veterinary Technicians	Executive Office review.
Vocational Nursing/Psychiatric Technicians Board	Effective (permanently) August 11, 2009. Effective (emergency) January 9, 2009.

### How to File a Complaint with DCA

Access [this link](#) for a step-by-step video of how to file a complaint with DCA:



## **Future Actions**

Meaningful enforcement reform will be instituted when changes are made to the structural procedures of the investigation and disciplinary processes and streamlined efficiencies are implemented. Many of the structural changes can occur only through legislative action. The Department of Consumer Affairs continues to mandate that all healing arts boards 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).