

ENFORCEMENT Progress REPORT



This new 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. Going forward, the department will issue the *Enforcement Progress Report* on a monthly basis to document progress on enforcement reform.

The report will include 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 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.

The first volume of this report includes a comprehensive timeline of actions taken to date. It is clear that a great deal of work has taken place, but much more remains to be done.

Enforcement Actions – A Timeline

- [October 9, 2008](#) - DCA directs all healing arts Boards to seek regulatory changes to require all new applicants to be fingerprinted, as well as require fingerprints from their existing licensees; the BRN also adds staff to more closely scrutinize new applicants and those who seek to renew an existing license.
- [October 9, 2008](#) - BRN is directed to require that all applicants for license renewal disclose any criminal convictions.
- [October 23, 2008](#) - BRN approves emergency regulations to secure fingerprints from all of its licensees; it becomes the first of DCA's boards to impose fingerprinting on all licensees – regardless of when they were first licensed.
- [November 24, 2008](#) – BRN emergency regulations are approved.
- January-June 2009 - BRN starts collecting fingerprints. 80,000 Criminal Offender Record Index (CORI) records are received from Department

ENFORCEMENT
Progress
REPORT



- of Justice (DOJ). BRN will take disciplinary action against problem licensees.
- March 4, 2009 - BRN and Division of Investigation (DOI) begin 365 Review which includes cases over a year old.
 - [June 2, 2009](#) – Regulations approved.
 - June 30, 2009 – BRN discusses best practices regarding monitoring recovering professionals at NCSBN (National Council of States Boards of Nursing). Board adopts policy whereby individuals who have been restricted from practice have their licenses put on inactive status.
 - [July 13, 2009](#) - New BRN board members appointed to deal with enforcement issues.
 - [July 15, 2009](#) - Governor Arnold Schwarzenegger swears in new board members to the BRN.
 - August 2009 - BRN, Department of Investigation and Attorney General staffs meet to discuss implementation of DOI Intake Task Force and review remaining cases from DOI Intake Task Force.
 - [August 12, 2009](#) - Governor Arnold Schwarzenegger issues statement regarding enforcement and backlogs at DCA and calls for system overhaul.
 - [August 12, 2009](#) - New enforcement model is presented at BRN board meeting.
 - [August 12, 2009](#) - Election of BRN officers takes place.
 - August 31, 2009 - Complaint prioritization guidelines are outlined for boards, bureaus and commissions under DCA.
 - September 2009 –Deputy Attorney Generals present training to BRN staff to serve accusations and prepare default decisions.
 - September 17, 2009 – Best Practices Committee on Enforcement holds its first meeting and will unveil final recommendations by December 31, 2009.
 - September 23, 2009 - BRN *Enforcement Improvement Proposal* is issued at board meeting.
 - September 30, 2009 – The Director of DCA will provide authority to all healing arts boards to issue investigative subpoenas to help expedite retrieval of needed documents.
 - October 1, 2009 - BRN staff will start serving all Accusations, receive all Notices of Defense, and prepare Default Decisions.

ENFORCEMENT Progress REPORT



Summary of Current Enforcement Actions

- Actions against Licensees
 - This includes the following: revocation, probation, suspension/probation, license surrendered, public reprimand/reproval and other.
 - **368** (2008-2009) vs. **339** (2007-2008)

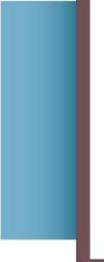
- Diversion
 - DCA has initiated an audit of the diversion program and a final report will be completed by December 31, 2009.
 - SB 1441 mandated uniform standards related to substance-abusing licensees continue to be developed and will be approved by the Substance Abuse Coordination Committee by the end of the year and submitted to the Legislature by January 1, 2010.
 - Licenses of individuals restricted from practice continue to be placed on inactive status and some of the investigations now continue in spite of their participation in the diversion program.

- Division of Investigation Intake Task Force Addresses Current Backlog of Cases
 - Following the joint review of cases by DOI and BRN, 47 cases were closed, 152 were kept at DOI and 195 were transferred to the “Intake Task Force” that will obtain medical records for review by medical experts to determine if additional investigation is necessary.
 - The BRN has implemented a case prioritization policy.
 - DOI no longer holds cases when administrative prosecution requirements are met. Rather, they will send them to the BRN for continued processing, while simultaneously continuing their investigation until criminal requirements are met and then the finalized cases will be forwarded to the BRN.

ENFORCEMENT Progress REPORT



- The Department Director has delegated subpoena authority on September 30, 2009, to the Executive Officer and the Enforcement Chief of the BRN, pending the completion of training.
- Pre-Accusation
 - When all evidence has been gathered, the case is prepared for transmittal to the Attorney General’s office for the preparation of the initial pleading (accusation). Typically, the BRN should receive the accusation within 4 months, but it can take up to one year due to heavy workloads in the AG’s office. To avoid delays, the AG’s office will no longer have Deputy Attorney Generals review the initial pleadings prepared by their office before sending them to BRN. Instead, the AG’s office and the BRN have agreed on a case management protocol for processing cases; and the AG’s office is working to hire staff to assist in preparing accusations. This will cut the time it takes to do a pre-accusations and initial pleadings from 12 months down to about 4 months.
 - Staff
 - A total of 10 positions have been assigned to BRN’s enforcement unit since October, 2008. BRN is currently seeking to fill 3 more positions.
 - Vote-by-mail Process Improvement
 - The BRN vote-by-mail process has now been improved, reducing case timelines by 30-60 days. At the August 12, 2009 meeting, board members agreed to have BRN staff send the cases for vote as they arrive, as opposed to sending them in 15 case batches.



ENFORCEMENT
Progress
REPORT



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 only occur 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.