



### **December 2009, vol. 3**

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 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.

Volumes 1 and 2 of this report include a timeline of actions taken to date. Volume 3 includes an overview of the retroactive fingerprinting process underway at BRN and other healing arts boards.

### **Enforcement Actions Timeline: November– December 2009**

#### ➤ BRN Retroactive Fingerprinting

- Retroactive fingerprinting efforts, which began in March 2009, have provided BRN the ability to gather fingerprinting results and take action against licensees who represent a potential threat to public safety.
- As of December 9, 2009, BRN has received 128,314 fingerprint results (about one-third of total number of its collection efforts), with 14,786 fingerprints rejected.
- As of November 11, 2009, 404 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 1,904 complaints with convictions (Please note: multiple complaints can be associated with one individual).
  - 1,292 complaints have been closed.
  - 581 complaints are pending.
  - 1 accusation has been filed.
- Efficiencies gained with BRN's fingerprint collection process will be shared and implemented with other boards to ensure a systemic, global enhancement of processes of collection, processing of fingerprints and criminal records.
- Update on Healing Arts Boards Retroactive Fingerprinting Regulations.
  - Four boards have put into place regulations that require licensees who were issued a license before mandatory fingerprinting regulations took effect to be fingerprinted. Nine boards are in the process of adopting such regulations. See chart for details. See chart on page 4.

### **Enforcement Actions**

- Between July 1, 2009 and December 9, 2009 the BRN filed 259 accusations against licensees. In comparison, during the same time period in 2008, the number of accusations filed was 126.
  - This includes the following actions: revocation, probation, suspension/probation, license surrendered, public reprimand/reproval and other.
- Between July 1, 2009 and December 9, 2009 the BRN referred 272 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 206.
  - [Chart](#) listing individual cases and links to public documents for each case will be updated on a quarterly basis. Volume 4 of the Enforcement Progress Report, to be published January 2010, will include an updated chart.



➤ Diversion

- November 19, 2009 – Established by SB 1441, DCA created Substance Abuse Coordination Committee charged with developing consistent, uniform standards to monitor and regulate licensees with substance abuse problems to ensure the highest standards of consumer protection.
- [SB1441](#) requires all healing arts boards to adopt the new standards.
  - The new standards:
    - Allow quick removal from practice of licensees who pose a danger to consumers;
    - Require that any substance abuse treatment vendor report licensee noncompliance within one day;
    - Institute worksite monitoring for licensees who are in a diversion program but who are deemed safe to practice;
    - Allow employers and the public to know if a diversion program participant's license is inactive or possesses restrictions; and
    - Grant boards the ability to communicate with a licensee's employer regarding their diversion program participation.

See DCA [press release](#) on formation of Substance Abuse Coordination Committee.

- Implementation of the new diversion program contract for all health care related boards will begin 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 which have been designated for internal investigation and is preparing to request patient authorizations and various documents from health care agencies. DOI closed 500 more cases in 2009 than in 2008.



➤ Performance Measures

- DCA is developing a set of common performance measures for all the board and bureau enforcement programs. These measures establish clear performance expectations against which each program will be measured on an annual basis. The measures have been developed by DCA to ensure that resources employed to reduce investigation timelines are being used wisely and efficiently across all department boards and bureaus. This will establish a common standard for every entity under the department.

➤ Staff

- DCA has named Paul Riches as Deputy Director of Enforcement and Compliance, a newly created position. Riches most recently served as Executive Officer of the Board of Behavioral Sciences, where he used innovative strategies to cut the amount of time Board staff required to complete an investigation by more than fifty percent. The Deputy Director will partner with DCA Director Brian Stiger to oversee all enforcement programs for all boards and bureaus within DCA, with a focus on reducing enforcement timeframes for all healing arts boards.

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

December 2009

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	Spring 2009 - Board approved regulation language
Dental Hygiene Committee	Dec 2009 - Board anticipates approving regulations at Dec. mtg




Occupational Therapy	Board approved regulations, DCA approval is pending
Optometry	Aug 2009 - Board adopted regulations
Pharmacy	Oct 2009 - Board approved regulation language
Psychology	Nov 2009 - Board considered regulations
Speech-Language Pathology and Audiology	Postponed to allow work on merger with Hearing Aid Dispenser Bureau
Veterinary	Board has approved regulation language
<b>Boards that Do Not Require Retroactive Fingerprinting</b>	<b>Status</b>
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

## Consumer Safety and Protection

To help consumers avoid errors when buying and taking prescription drugs, the California State Board of Pharmacy and DCA released a video in December 2009 on the importance of consulting with a pharmacist when purchasing prescription medications. The 2.5 minute video, titled “Right Drug, Right Dose, Right Patient,” will be posted on the Pharmacy Board’s and DCA’s websites, Facebook page and YouTube channel. In the coming months, DCA will release a series of user-friendly consumer videos that aim to educate and protect consumers.

## 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. 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).