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To: Consumer Protection Committee Members **Date:** September 28, 2017

From: Rob Stephanopoulos **Telephone:** (916) 575-7185
Assistant Executive Officer

Subject: **Agenda Item 3 – Discussion and Possible Action Regarding Board Strategic Plan “Enforcement” Objectives**

Once the Board approved its Strategic Plan, the Department of Consumer Affairs’ (DCA) SOLID team met with staff to develop an action plan to implement the Board’s goals and objectives. While the Executive Officer and staff are ultimately responsible for implementing Board policy, there are several objectives where staff could benefit from committee input and feedback.

Please review the proposed action plan (Attachment 1) for the Board’s “Enforcement” Objectives and provide input/feedback wherever necessary.

GOAL 4: ENFORCEMENT

The Board protects the health and safety of consumers of optometric services through the active enforcement of the laws and regulations governing the safe practice of optometry in California.

- 4.1 Review enforcement timing between initial offense and when it is conveyed to the Board to act upon in order to protect the consumer and maintain patient access to care.

Start Date: Q3 17/18		End Date: Q2 18/19	
Success Measure: Reduced cycle times between the initial offense and when it is conveyed to the Board.			
Major Tasks		Responsible Party	Completion Date
Evaluate timelines of processing a complaint using quarterly Consumer Protection Enforcement Initiative (CPEI) measurements, timelines, and Quality Business Interactive Reporting Tool (QBIRT) reports.		Lead Enforcement Analyst	March 2018
Conduct outreach with insurance companies when they take action on a licensee.		Lead Enforcement Analyst	July 2018
Develop the materials and set the outreach dates in order to establish partnerships with local District Attorney's Office and the legal system.		Lead Enforcement Analyst	July 2018
Establish partnerships with local District Attorney's Office and the legal system to conduct better outreach when there is a judgment or settlement regarding a licensee.		Lead Enforcement Analyst	December 2018

- 4.2 Explore the feasibility of participating in the FBI rap back program to expedite and enhance enforcement efforts.

Start Date: Q2 17/18		End Date: Q2 17/18	
Success Measure: Completed analysis regarding the feasibility.			
Major Tasks		Responsible Party	Completion Date
Develop materials to educate all other Executive Officers about the Federal Bureau of Investigation’s (FBI) rap back program.		Executive Officer	October 2017
Meet with the Department of Consumer Affairs (DCA) executive team to garner support to determine the feasibility of participating in the program.		Executive Officer	October 2017
Meet with the Department of Justice (DOJ) to determine the feasibility of participating in the program.		Executive Officer	December 2017
Draft an analysis of the feasibility in participating in the program and all that is necessary to accomplish this.		Executive Officer	December 2017

- 4.3 Research the possibility of changing the statute to require licensees to self-report to the Board within thirty days of conviction or other disciplinary action as a means of expediting and enhancing enforcement efforts.

Start Date: Q3 17/18		End Date: Q4 17/18	
Success Measure: Drafted analysis.			
Major Tasks		Responsible Party	Completion Date
Research and evaluate whether other programs have a statute in place that requires licensees to self-report and the means in which to implement.		Lead Enforcement Analyst	February 2018
Research the political will to determine the possibility of proposing such a statute.		Lead Enforcement Analyst	February 2018
Draft an analysis of the findings relating to the licensee self-reporting.		Lead Enforcement Analyst	April 2018

- 4.4 Research the possibility of requiring licensees to enroll in the national practitioner’s databank to expedite and enhance enforcement efforts.

Start Date: Q1 2017		End Date: Q1 2018	
Success Measure:			
Major Tasks		Responsible Party	Completion Date
Meet with DCA’s OIS team to determine necessary steps for interface.		EO	September 2017
Meet with NPDB to determine necessary steps for enrolling current and existing licensing in NPDB		EO	September 2017
Work with legislature to grant the Board authority through the Board’s Sunset Bill		EO	January 2018

- 4.5 Develop proactive methods to enforce the unlicensed sale and distribution of cosmetic contact lenses.

Start Date: Q2 17/18		End Date: Q4 17/18	
Success Measure: Methods are developed to enforce unlicensed sale and distribution of cosmetic contact lenses.			
Major Tasks		Responsible Party	Completion Date
Research and develop a plan of approach to actively seek unlicensed contact lens sales.		Lead Enforcement Analyst	March 2018
Utilize Food and Drug Administration’s (FDA) campaign materials and develop a board platform and/or additional materials to inform consumers, businesses, and other entities and encourage reporting.		Lead Enforcement Analyst	October 2017
Research relevant events/functions that distribute unlicensed cosmetic contacts and reach out and establish partnerships with the organizers of those expositions to certify vendors not to dispense nonprescription contact lenses and explore the feasibility of having a board representative be present.		Lead Enforcement Analyst	April 2018
Research and present to organizations, businesses, and other associations regarding the laws and regulations relating to the distribution of cosmetic contact lenses at events.		Lead Enforcement Analyst	May 2018
Reach out to social media promoters of cosmetic contact lens to educate them about the health and safety concerns (e.g. Facebook, Twitter, Instagram,		Lead Enforcement Analyst	April 2018

Snapchat, YouTube, Bloggers).		
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- 4.6 Establish a partnership with DCA Boards and county and state organizations to identify and address unlicensed activity (e.g. contact lens sales and expired prescriptions) in an effort to protect consumers.

Start Date: Q1 18/19		End Date: Q1 18/19	
Success Measure: Established partnerships and conducted meetings.			
Major Tasks		Responsible Party	Completion Date
Meet with local District Attorney Offices about the issue of distribution of such lenses to determine a joint approach.		Lead Enforcement Analyst	July 2018
Meet with county health departments to obtain data of use.		Lead Enforcement Analyst	July 2018
Research online contact lens sales authority of other states to determine if educational materials can be distributed to their licensees.		Lead Enforcement Analyst	July 2018
Research and meet with all state agencies with inspection authority.		Lead Enforcement Analyst	July 2018

- 4.7 Review the corrective action for compliance (and revise if necessary) in order to deter unlicensed activity.

Start Date: Q1 17/18		End Date: Q2 18/19	
Success Measure: Corrective actions reviewed and revised where necessary.			
Major Tasks		Responsible Party	Completion Date
Update corrective action procedures to include follow-up investigations to identify repeat offenders.		Lead Enforcement Analyst	March 2018
Research other Department of Consumer Affairs (DCA) programs and their corrective actions.		Lead Enforcement Analyst	December 2018
Update citation templates.		Lead Enforcement Analyst	September 2017
Collaborate with the DCA Division of Investigation		Lead	July 2018

(DOI) and Federal Trade Commission (FTC) to enforce corrective action for compliance.	Enforcement Analyst	
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- 4.8 Analyze the 2012 disciplinary guidelines for optometrists and revise where necessary, to promote consistency and fairness with enforcement decisions and enhance consumer protection.

Start Date: Q2 18/19		End Date: Q2 18/19	
Success Measure: Revised disciplinary guidelines where necessary.			
Major Tasks		Responsible Party	Completion Date
Research and recommend proposed revisions to the 2012 disciplinary guidelines for consumer protection committee consideration.		Lead Enforcement Analyst	October 2018
Collaborate with legal counsel to draft regulatory changes needed.		Policy Analyst	October 2018
Present to Board for consideration and adoption of the recommended revisions.		Lead Enforcement Analyst, and Policy Analyst	November 2018
If approved, begin the rulemaking process.		Policy Analyst	November 2018

- 4.9 Adopt disciplinary guidelines for opticians to promote consistency and fairness with enforcement decisions and enhance consumer protection.

Start Date: Q1 17/18		End Date: Q2 17/18	
Success Measure: Adopted disciplinary guidelines for opticians.			
Major Tasks		Responsible Party	Completion Date
Propose revisions to optometry disciplinary guidelines to incorporate opticians for dispensing optician committee consideration.		Lead Enforcement Analyst	September 2017
Collaborate with legal counsel to draft regulatory changes needed.		Policy Analyst	September 2017
Present to Board for consideration and adoption of the recommended revisions.		Lead Enforcement Analyst, and Policy Analyst	November 2017

If approved, begin the rulemaking process.	Policy Analyst	November 2017
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