



Consumer Protection Enforcement Initiative

BCP Independent Verification & Validation Report

March 2010

Table of Contents

I: Executive Summary	1
II: Background	4
III: Approach	6
IV: Current Healing Arts Boards Enforcement Process	10
V: Proposed Healing Arts Boards Enforcement Process	12
VI: Critical Success Factors.....	14
VII: Performance Management System.....	16
VIII: Conclusion	20
IX: Appendix	22
X: Endnotes	28

Table of Figures

Figure 1: The Components of the Balanced Scorecard.....	17
Figure 2: New Business Operating Model.....	19

I: Executive Summary

Visionary Integration Professionals, LLC (VIP) was retained by the Department of Consumer Affairs (DCA) to conduct an independent verification and validation (IV&V) of the Budget Change Proposal (BCP) prepared to support the implementation of the Consumer Protection Enforcement Initiative (CPEI).

VIP reviewed and analyzed the CPEI and the CPEI BCP; the Health Boards Enforcement Model that is proposed to be implemented in conjunction with the CPEI; the scope and status of modifications being made to existing IT systems by the Office of Information Services (OIS); and the BCP to support the selection, acquisition, and implementation of a configurable, rules-based application system to replace the existing, legacy Applicant Tracking System (ATS) and Consumer Affairs System (CAS) to the extent that the system will support the CPEI.

VIP conducted interviews with the Executive Officers and Enforcement Managers of six healing arts boards¹ to discuss:

- their plans for and progress on implementing proposed administrative improvements and workflow enhancements;
- their planned approach to recruiting, hiring, training, and integrating human resources per the plan outlined in the CPEI BCP;
- their respective views of the value to be derived from the changes being made to existing IT systems and reports by OIS to support the CPEI; and
- the sources of the data that were used as input to the Annual Statistical Profile (ASP) reports that were used in the preparation of the CPEI BCP.

VIP met with Luis Portillo, Assistant Deputy Director, Division of Legislative & Policy Review to discuss the statutory changes proposed by the CPEI, the probability of their enactment, and the probability of compliance by the affected State of California entities.

VIP also met with Yolanda Alvarez and other members of the DCA Office of Human Resources Executive Staff to discuss the status of the preparation of a plan to be developed in collaboration with the healing arts boards to recruit, hire, train and integrate non-sworn investigators.

VIP reviewed the workflow diagrams prepared by the healing arts boards that reflect an analysis of their current enforcement processes and the proposed changes that will streamline them and improve the quality of the data gathered. The boards have begun to implement the proposed changes along with retraining existing enforcement staff and plan to fully implement the proposed changes once additional resources are hired.

VIP analyzed the data that were used in the preparation of the CPEI BCP and found it to be valid and useful. The data used were extracted from the DCA FY 05-06, FY 06-07,

CPEI BCP IV&V Report

FY 07-08, and FY 08-09 Annual Reports and the ASP reports contained therein. The data source for the ASP reports is the CAS database – the best data source available.

The analytical approach taken and assumptions made by the DCA Budget Office in the preparation of the BCP supporting the implementation of the CPEI was straight forward, efficient, effective, and reasonable. The number and classification of additional resources proposed supports the goal of the CPEI – the reduction of the average enforcement completion timeline of the healing arts boards from 36 months to between 12 and 18 months by FY 2012-13 – with perhaps one exception. The analysis performed by the Budget Office was primarily focused on “formal” investigations and not on the increasing number of “desk” investigations performed by the complaint units of the healing arts boards. The boards are attempting to resolve an increasing number of cases through “desk” investigations rather than through “formal” investigations in an attempt to reduce the average enforcement completion timeline. Since the boards had not been recording and reporting the number of complaints resolved through “desk” investigations separate from “formal” investigations, the Budget Office did not have the data with which such an estimate could have been prepared. However, the number of underestimated Complaint Intake Analysts may not be a significant issue since the boards have been given the flexibility to hire either Complaint Intake Analysts or Non-Sworn Investigators to perform “desk” investigations, which will assist them in their goal of reducing the average enforcement completion timeline.

Of note is that the reduction in the average enforcement completion timeline from three years to 12-18 months by FY 2012-13 will depend on the ability of the healing arts boards to recruit, hire, train, and integrate the additional resources per the aggressive plan outlined in the BCP. The DCA Office of Human Resources has made it a top priority to assist the healing arts boards in achieving this critical success factor.

Luis Portillo, Assistant Deputy Director, Division of Legislative & Policy Review indicated that while the proposed statutory changes to successfully implement the CPEI appear to be feasible, it remains to be proven, in these difficult economic and budgetary times, whether the affected State of California entities can effectively and consistently perform to meet the new requirements imposed by statute without adding resources. Assistant Deputy Director Portillo also emphasized that while the final language of the proposed statutory changes remains open to negotiation with the affected entities, completion of negotiations and language resolution remain on target for later this year.

There are two technology-related projects the OIS has initiated that are important to the success of the CPEI. In the short-term, OIS has implemented modifications to the existing Enforcement Activity Report (EAR) and CAS systems that will assist the healing arts boards administer, track, and report time spent and progress made on complaint resolution and enforcement activities.

CPEI BCP IV&V Report

In the long-term, the selection, acquisition, and implementation of a new system to replace ATS and CAS is an important strategic initiative that will assist all DCA boards and bureaus perform more efficiently and productively, and assist the healing arts boards in their continued efforts to reduce the average enforcement completion timeline.

However, it must be emphasized that the implementation of a new system will require the boards and bureaus to transform their business operations to take advantage of the functions and features contained therein. This, most likely, will result in a temporary impact to business operations which may be reflected in the metrics being reported by the performance management and measurement system.

VIP has recommended that OIS initiate two additional projects. First, OIS conduct a review of the backlog of service requests for the CAS application with the Deputy Director for Enforcement and Compliance to determine whether there are any requests that, if implemented, would add value to the CPEI. Those requests that would add value should be prioritized for implementation.

A second project should be initiated to select, acquire, and implement a Performance Management System – an automated Balanced Scorecard system. While the improvements implemented by the DCA Deputy Director for Enforcement and Compliance to collect and report enforcement activity of the healing arts boards via the Monthly Enforcement Report to DCA are a valuable interim approach, the reported data represents lagging indicators – last months activity. The implementation of an automated Balanced Scorecard system in conjunction with the implementation of the system selected by the BreEZe project will provide the DCA and the healing arts boards with data representing actionable leading indicators.

VIP is confident that the healing arts boards will achieve the goal of the CPEI – a reduction in the average enforcement completion timeline by FY 2012-13. As progress is being measured and managed, it will be important for the DCA to continually review the staffing levels outlined in the CPEI BCP. New data being collected and reported monthly, as of January 2010, makes a distinction between cases resolved through “desk” versus “formal” investigation. Analysis of such data can be used to determine whether additional resources, underestimated in the BCP, might accelerate a reduction in the average enforcement completion timeline.

II: Background

The DCA is the umbrella entity that oversees the operations of 40 licensing boards and bureaus that regulate over 2.4 million businesses and professionals in more than 255 license categories. Among the diverse licensee categories are doctors and nurses, physical therapists and psychologists, auto mechanics and repair shops, residential, business and public works contractors, barbers and cosmetologists, security guards, and veterinarians.

In fulfilling its statutory responsibility to protect and serve California consumers, the DCA boards and bureaus license businesses and professionals, enforce professional standards, and collect payments. Each DCA board and bureau must license and regulate businesses and professionals in accordance with its individual authority under the Business and Professions Code (BPC), the California Code of Regulations (CCR), or other enabling legislation.

The 18 DCA healing arts boards and committees have the responsibility for the licensing of health professionals and for the enforcement of the board's laws and regulations. Through the examination of prospective licensees and the implementation of strict licensing requirements, the healing arts boards seek to ensure that the individuals entering a profession can clearly demonstrate a minimum level of competency in their chosen field. For the most part, licensed practitioners serve consumers in a safe and professional manner. However, when a licensee fails to uphold their professional or ethical responsibilities, a complaint is often filed that merits prompt and just enforcement to protect the integrity of the issued license and the consumers who utilize the services.

The DCA healing arts boards have a responsibility to address consumer complaints and enforce the laws and regulations that govern the various Practice Acts in a reasonable and timely manner. The boards work with the DCA Division of Investigation, the State of California Office of the Attorney General, and local district attorneys, when necessary, to remove incompetent practitioners and reduce fraud in the marketplace. A resulting disciplinary action could include an Interim Suspension Order (ISO), as well as probation, suspension, and license revocation of the licensee involved. The DCA also has the authority to assess fines and issue Citations, Notices of Violation, Letters of Reprimand, and Cease-and-Desist orders. In less serious cases, the enforcement staffs will work with licensees to eliminate or prevent performance problems.

Despite their best efforts, the DCA and the enforcement programs of the healing arts boards have been challenged to address consumer complaints and enforce the laws and regulations in a reasonable and timely manner. Various investigative, legal, and procedural impediments, including the lack of authority to secure evidence, have resulted in many complaints not being investigated for up to a year and disciplinary cases taking three years or more to be prosecuted. As a result, the ability of the DCA

and the healing arts boards to protect consumers and the integrity of issued licenses has been diminished.

In the fall of 2008, various media outlets reported that the DCA was continuing to license various practitioners despite having committed serious criminal acts, having been convicted, and having been incarcerated. Licensees were allegedly renewing their licenses, identified as licenses “In Good Standing”, and, in some cases, continuing to practice their profession without any restrictions or disciplinary actions. The DCA responded by directing all healing arts boards to seek the regulatory changes necessary to require all new applicants to be fingerprinted, as well as any existing licensee who had never been fingerprinted.

The DCA and the enforcement programs of the healing arts boards continue to be scrutinized in news articles, annual reports, and audits, which identify various program issues, deficiencies, and shortcomings. Efforts to address the root causes of these problems by adding staff, streamlining business operations, and improving coordination and communication between various governmental entities have met with modest success. This continued scrutiny and the modest success achieved with incremental improvement efforts have led the Governor to mandate that all healing arts boards at the DCA are to overhaul their enforcement and disciplinary processes.

Hence, the DCA has taken a more comprehensive, systematic approach and launched the Consumer Protection Enforcement Initiative (CPEI) to overhaul the enforcement programs at the healing arts boards. The CPEI is designed to address three specific areas:

1. Administrative Improvements;
2. Staffing and Information Technology (IT) Resources; and
3. Legislative Changes.

The goal of the CPEI is to reduce the average enforcement completion timeline from three years or more to between 12 and 18 months by FY 2012-13. The Budget Change Proposal (BCP) prepared to support the CPEI seeks various special fund augmentations for 107.0 positions and \$12,770,000 in FY 2010-11, and 138.5 positions and \$14,216,000 in FY 2011-12 and ongoing.

The DCA is funded entirely by business and professional licensing fees for its various functions, including license application processing, license renewal processing, fines, and cost recovery actions. Hence, approval and execution of the CPEI BCP does not result in a General Fund impact.

III: Approach

VIP began the independent verification and validation (IV&V) of the CPEI BCP on January 13, 2010.

The IV&V engagement was structured into four major steps:

- 1) a review of the CPEI and the CPEI BCP including the data sources, approach, and assumptions contained therein;
- 2) a review of the current, interim, and future healing arts boards enforcement models; and
- 3) a review of the scope and status of the technology-related projects initiated to support the CPEI; and
- 4) the preparation of the CPEI BCP IV&V Report.

CPEI BCP Review

VIP conducted a review of the CPEI BCP prepared by the DCA Budget Office with a focus on the process and the product. The analytical approach (*the process*) taken in the preparation of the CPEI BCP by the DCA Budget Office analysts was straight forward, efficient, effective, and reasonable. The BCP (*the product*) contains a clear presentation of the problem, a statement of the feasible alternatives to address the problem, and an accurate and well-reasoned calculation of the investment required to solve the problem – implementing the recommended alternative.

The data that was used in the preparation of the CPEI BCP by the Budget Office analysts was derived from the FY 05-06, FY 06-07, FY 07-08, and FY 08-09 Annual Statistical Profile (ASP) reports. The Consumer Affairs System (CAS) is the primary source of the data that is contained in the publicly available DCA Annual Report and the ASP reports contained therein. Although CAS is a legacy system and has shortcomings, its data is reliable and the best data source available.

Using the data derived from the ASP reports, the Budget Office analysts used trend analysis to project the future number of complaints that each healing arts board will receive as well as the number of investigations that will subsequently be opened. They calculated the average distribution of complaint type for each board using the guidelines provided by the DCA Director in his memorandum dated October 6, 2009 (Subject: UPDATED – Complaint Prioritization Guidelines for Health Care Agencies)². VIP validated the data used in their analysis and agrees with their assumption that:

- complaints categorized as “high” (priority 2) take 2.5 times longer to work than those categorized as “urgent” (priority 1); and
- complaints categorized as “routine” (priority 3) take 1.5 times longer to work than those categorized as “urgent” (priority 1).

The number of Complaint Intake Analyst positions (14.5 in FY 2010-11 and 19.0 in FY 2011-12) included in the CPEI BCP was based on the projected increase in the number of complaints using each board's existing ratio of complaints received to positions allocated to their receipt.

While VIP considers this projection to be a mathematically correct approach, it does not take into account the planned workflow enhancements and quality improvements that the boards are implementing to focus on resolving as many complaints as possible prior to opening an investigation. That is, the analysis performed by the Budget Office was primarily focused on "formal" investigations and not on the increasing number of "desk" investigations performed by the healing arts boards. And, since the boards had not been recording and reporting the number of complaints resolved through "desk" investigations separate from "formal" investigations, the Budget Office did not have the data with which such an estimate could have been prepared. However, VIP does not consider this to be a major item of concern since the boards have been given the flexibility to hire either Complaint Intake Analysts or Non-Sworn Investigators to perform "desk" investigations. This flexibility provides the healing arts boards with added managerial staffing latitude in pursuing their goal to reduce the average enforcement completion timeline.

The number of Sworn and Non-sworn Investigator positions (51.9 in FY 2010-11 and 70.0 in FY 2011-12) and Board of Pharmacy Inspector positions (14.3 in FY 2010-11 and 19.0 in FY 2011-12) included in the CPEI BCP was arrived at using a number of assumptions and algorithms. For example, using FY 2008-09 data, the most recently available data, it was assumed that of those complaints that resulted in an investigation, each healing arts board worked on 20% opened, 60% closed, and 10% pending cases. VIP validated this assumption in the aggregate. That is, while no single healing arts board will have exactly worked on the assumed distribution of complaints that resulted in an investigation, the assumption is valid when considering the aggregate number of complaints received and processed by all healing arts boards.

Also using FY 2008-09 data, the number of hours worked on each case during the investigative process was calculated differently depending upon whether or not the board used the DCA Division of Investigation (DOI). For boards that use the DOI, the total number of hours allocated to the board by DOI were divided by the total number of cases worked to determine the hours per case. For boards that do not use the DOI, the total number of investigative positions were used to derive the total number of hours that are available to be used by the board, and that total number of hours available was divided by the number of cases worked to determine the hours per case.

The assumptions and algorithms were applied to the number of projected complaints that would statistically result in the projected number of investigations opened to determine the number of Sworn and Non-sworn Investigators.

VIP considers the assumptions made and the algorithms used by the Budget Office analysts to calculate the number of Sworn and Non-sworn Investigator positions and Board of Pharmacy Inspector positions included in the BCP to be reasonable, well-founded, and effective for the intended purpose.

Healing Arts Boards Enforcement Models Review

VIP conducted a review of the current enforcement processes and practices of the healing arts boards and a review of the proposed enforcement model. Migration to the proposed enforcement model can be accomplished in two steps:

1. transformation of the current enforcement process; and
2. full implementation of the proposed enforcement model.

Analyses of the current enforcement process and proposed enforcement process can be found in sections IV: Current Healing Arts Boards Enforcement Process and V: Proposed Healing Arts Boards Enforcement Process respectively.

VIP also reviewed and analyzed the current and proposed workflow diagrams prepared by the six healing arts boards that were interviewed. Our analysis concluded that the healing arts boards have already begun to make process improvements to their enforcement activities. The adoption of the proposed future enforcement model will be dependent upon the implementation of the new application system selected by the BreEZe Project. The two-step migratory path is outlined in Table 1: Healing Arts Boards Enforcement Model in the Appendix of this report.

CPEI Technology-Related Projects

VIP reviewed the scope and status of two technology-related projects initiated to support the implementation of the CPEI:

1. modifications to the reporting subsystem of the Consumer Affairs System (CAS) to support the implementation of the Monthly Enforcement Report to DCA initiated by the Deputy Director, Enforcement and Compliance; and
2. modifications to the Enforcement Activity Report (EAR) system to help the healing arts boards administer, track, and report time spent on complaint resolutions and enforcement activities initiated by the Deputy Director, Strategic Organization, Leadership and Individual Development.

VIP has verified that the modifications to the EAR system and the reporting subsystem of CAS have been completed and implemented to support the CPEI.

VIP also has recommended that OIS initiate two additional projects. First, OIS conduct a review of the backlog of service requests for the CAS application with the Deputy

CPEI BCP IV&V Report

Director for Enforcement and Compliance to determine whether there are any requests that, if implemented, would add value to the CPEI. Those requests that would add value should be prioritized for implementation.

A second project should be initiated to select, acquire, and implement a Performance Management System and the implementation of an automated Balanced Scorecard system. While the improvements implemented by the DCA Deputy Director for Enforcement and Compliance to standardize, collect and report enforcement activity of the healing arts boards via the Monthly Enforcement Report to DCA are a valuable interim approach, the reported data represents lagging indicators – last months activity. The implementation of an automated Balanced Scorecard system in conjunction with the implementation of the system selected by the BreEZe project will provide the DCA and the healing arts boards with data representing actionable leading indicators.

IV: Current Healing Arts Boards Enforcement Process

The current enforcement process limits the ability of the DCA healing arts boards to investigate and prosecute consumer complaints in a timely manner. The current enforcement process takes an average of three years or more to complete. Inadequate resources, procedural challenges, and legal issues are among the problems that need to be addressed in order to improve consumer protection and provide due process protection to licensees by reducing the average enforcement timeline from three years or more to 12 to 18 months.

Three generic enforcement models currently exist:

1. The Medical Board and Dental Board are the only healing arts boards that record complaints, manage their cases, and conduct their own investigations;
2. Many healing arts boards record complaints, manage their cases, and refer the conducting of investigations elsewhere (e.g. DCA's DOI); and
3. Some healing arts boards manage their cases but outsource the recording of complaints and the conducting of investigations.

Consumer complaints are received by telephone, e-mail or via written communication, logged, responded to, and entered into computer-based systems. The amount of upfront data triage varies by healing arts board and frequently results in additional contact with the complainant to complete the receipt of the complaint thereby lengthening the enforcement process. Most boards strive to resolve cases through "desk" investigation³ rather than referring them to "formal" investigation⁴.

With the exception of the Medical Board and Dental Board that perform their own investigations, the boards refer cases that are unable to be resolved through "desk" investigation to another entity, such as, the DCA's Division of Investigation (DOI). This referral for "formal" investigation sometimes results in additional delay in the enforcement process due to requests for clarification or additional data, loss of control by the referring board, and excessive caseload at DCA's DOI. And, since the majority of DCA's boards and bureaus share the resources of the DOI, it is overburdened resulting in extended turnaround times and increased backlogs in the enforcement process.

All healing arts boards refer cases unresolved either through internal "desk" or "formal" investigation to the State of California Office of the Attorney General for prosecution through the Office of Administrative Hearings. These referrals can also lead to additional delay in the enforcement process because of requests for clarification or additional data, loss of control of the case by the referring board, and excessive caseload at the Office of the Attorney General.

The current enforcement process is flawed and a new enforcement process needs to be implemented based on a new enforcement model. The current enforcement model is

outlined along with the proposed new enforcement model in Table 1: Healing Arts Boards Enforcement Model in the Appendix of this report.

V: Proposed Healing Arts Boards Enforcement Process

The DCA healing arts boards are in the process of adopting a new enforcement model that will transform their current enforcement processes. The proposed enforcement model is based on three elements:

1. Increased Accountability;
2. Greater Efficiency; and
3. Putting Consumers First.

The most significant action that will lead to increased accountability for the DCA healing arts boards is the delegation of authority to each board to recruit, hire, and manage its own investigative staff.

A key component of completing investigations in a timely manner leading to greater efficiency is obtaining records. The DCA will obtain the statutory authority for the healing arts boards to inspect and copy personnel, medical and criminal history records; and obtain certified records at any place where care, treatment or services are provided without the need for releases and subpoenas.

Over time, the due process protections afforded licensees have come at the expense of California consumers. The DCA intends to seek the statutory and legislative authority to empower the DCA Director and the Executive Officers of the healing arts boards with the discretionary means necessary to put consumers first.

Implementation of the proposed enforcement model can be accomplished in two steps:

3. transformation of the current enforcement process; and
4. full implementation of the proposed enforcement model (see Table 1: Healing Arts Boards Enforcement Model in the Appendix of this report).

The successful transformation of the current enforcement process of the healing arts boards will be accomplished by:

- recruiting and hiring additional human resources;
- streamlining the enforcement workflow processes;
- improving the quality of data gathered and entered into IT systems;
- implementation of modifications to existing IT systems and reports; and
- enactment of proposed statutory and legislative modifications.

The full implementation of the proposed enforcement model will be accomplished by:

- the selection, procurement, and implementation by the BreEZe Project of a new configurable, rules-based, licensing, enforcement, and case management system;
- the selection, procurement, and implementation of an automated Performance Management System; and
- the transformation of the business processes of each healing arts board to use the functions and features the new systems referenced above.

VI: Critical Success Factors

"Critical Success Factors are the limited number of areas in which results, if they are satisfactory, will ensure successful competitive performance for the organization. They are the few key areas where things must go right for the organization or initiative to flourish. If results in these areas are not adequate, the organization's efforts for the period will be less than desired." *John F. Rockart, MIT Sloan School of Management*

The Critical Success Factors for the CPEI are:

1. Active support for and participation in the implementation of the CPEI by the:
 - DCA Executive Management Team;
 - Executive Officers and Enforcement Managers of the healing arts boards;
 - Division of Investigation within the DCA; and
 - Administrative and Information Services Division within the DCA.
2. As it pertains to the CPEI, establishment and maintenance of effective coordination with and cooperation from the:
 - State of California Office of the Attorney General;
 - State of California Office of Administrative Hearings;
 - State of California Department of Justice; and
 - State of California Department of Finance.
3. Prompt passage of the FY 2010-11 budget by the State of California legislature.
4. Implementation of the administrative improvements identified within the CPEI to improve the quality of data captured and streamline the enforcement processes of the boards within the healing arts group.
5. Recruitment, hiring, training, and integration of managers, supervisors, complaint intake analysts, non-sworn investigators, and expert consultants within the boards of the healing arts group per the timetable specified within the CPEI BCP.
6. Passage of legislation to help the boards of the healing arts group carry out their critical missions of protecting consumers and delivering due process to licensees. Such legislation includes but is not limited to:
 - Increased suspension authority for the DCA;
 - Increased access to critical information by the DCA;
 - Enforcement process efficiencies achieved by establishing deadlines on other agencies in interactions with the DCA; and
 - Licensing fees tied to the consumer price index (CPI).

7. Implementation of modifications to IT systems and reports by the Office of Information Services (OIS).
8. Selection, procurement, and implementation of a configurable, rules-based, application system to meet the examination, licensing, enforcement, administration, and cashiering requirements of the boards within the healing arts group by December 31, 2012.
9. Transformation of the business operations of the boards of the healing arts group to effectively utilize the examination, licensing, enforcement, administration, and cashiering functions and features of the implemented application system.
10. Implementation of a real-time Performance Management System that uses data within the database of the implemented application system to inform the executive management team of the DCA and managers at all levels within the boards of the healing arts group on their business operations and report progress on the CPEI to the Governor and the State of California Legislature.

VII: Performance Management System

A Performance Management System is the framework by which an organization involves its employees, as individuals and members of groups, in improving organizational effectiveness in the execution of its mission, the pursuit of its vision, and the attainment of its goals and objectives. A Performance Management System is used to communicate organizational goals and objectives, reinforce individual and group accountability for meeting those goals and objectives, and track and evaluate individual and organizational performance results. One such framework is the Balanced Scorecard.

The Balanced Scorecard is used extensively in business and industry, government, and nonprofit organizations worldwide to align business activities to the mission, vision, and strategy of the organization, improve internal and external communications, and monitor organizational performance against its goals and objectives. An effectively implemented balanced scorecard can help an organization in:

- increasing focus on strategy and results instead of tasks;
- breaking down communication silos between organizational entities;
- better understanding of and reacting to stakeholder needs;
- improving organizational performance by measuring what matters;
- helping leaders make better decisions based on leading performance indicators instead of lagging financial data;
- helping leaders budget time and resources more effectively; and
- helping leaders and employees prioritize the work they do.⁵

The development and implementation of a balanced scorecard is a nine-step process.⁶

Step 1: Specification of an organization's Mission, Vision, and Values.

Step 2: Specification of an organization's Strategic Themes.

Step 3: Specification of an organization's Strategic Goals and Objectives.

Step 4: Development of an organization's Strategic Roadmap.

Step 5: Development of Performance Measures for each Strategic Objective.

Step 6: Development of Strategic Initiatives to support the Strategic Objectives.

Step 7: Implementation of the Balanced Scorecard by using performance management software – balanced scorecard automation.

Step 8: Implementation of the enterprise-level view through "consolidation" or the department-level view through "cascading" measures.

Step 9: Evaluation of the completed balanced scorecard.

The components of the balanced scorecard are depicted below in Figure 1.



Figure 1: The Components of the Balanced Scorecard

The DCA has prepared and published the 2008-2010 Strategic Plan and is in the process of reviewing and updating the Plan. It includes a mission statement, a vision statement, a statement of its values, and its goals and objectives. The DCA has also launched several initiatives, programs, and projects to support the attainment of its goals and objectives. One such initiative is the CPEI. The DCA has also specified and defined performance measures that will enable it to measure and manage progress on achieving the goal of the CPEI. VIP has reviewed the performance measures and considers them vital to managing progress on the CPEI. The performance measures are outlined in Table 2: DCA Performance Measures in the Appendix of this report.

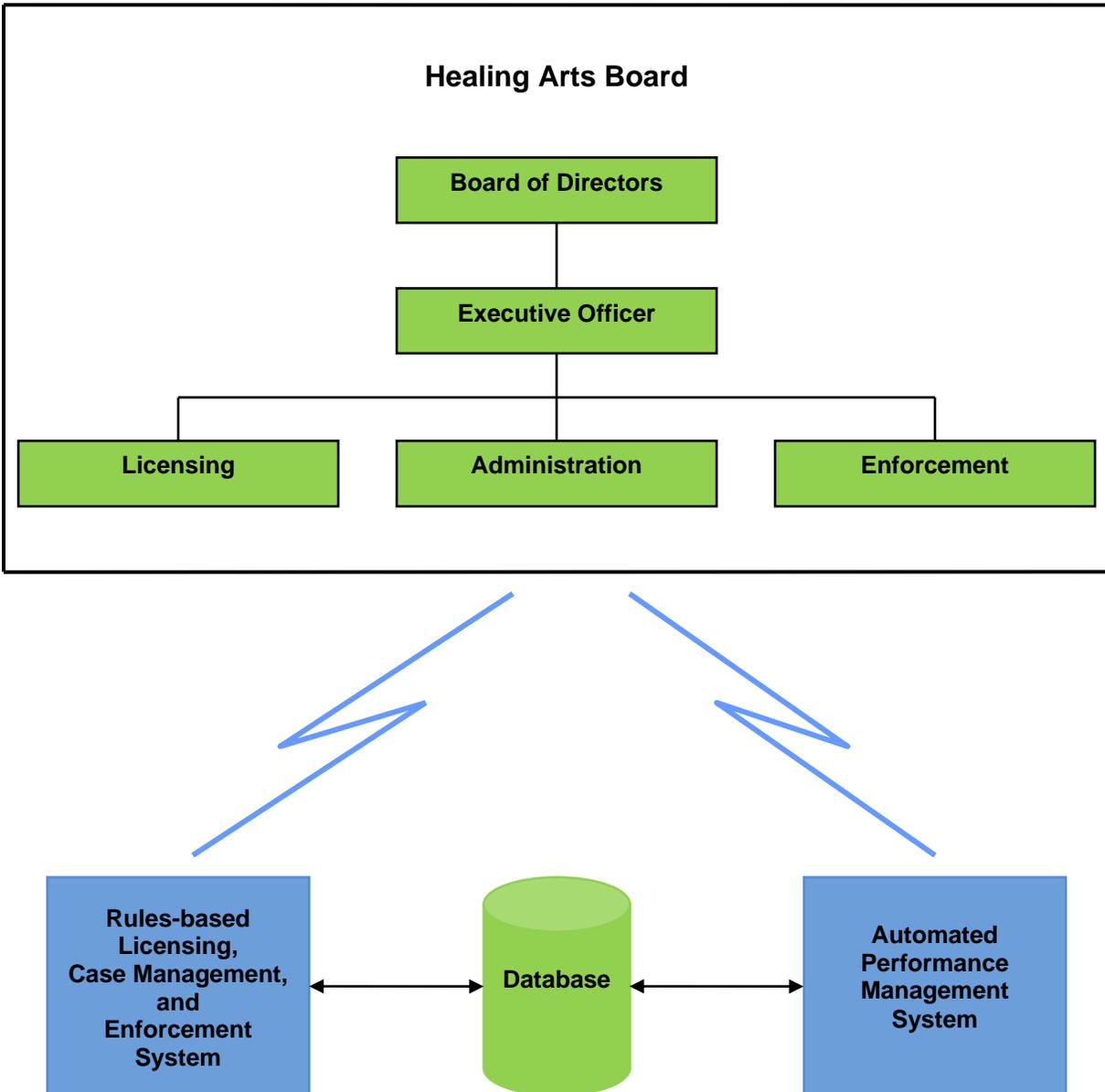
The selection, procurement, and deployment of performance management software in conjunction with the review and update of the 2008-2010 DCA Strategic Plan and the implementation of the DCA Performance Measures will enable the DCA to complete Step 7 in the nine-step process in developing and implementing a balanced scorecard.

Considering the state of available technical solutions at the DCA, that is, the Applicant Tracking System (ATS), Consumer Affairs System (CAS), and Enforcement Activity Report (EAR), the use of traditional, after-the-fact data gathering and reporting must be viewed as an interim alternative to the implementation of an automated balanced scorecard. Having each hearing arts board gather the data to prepare and deliver the Monthly Enforcement Report to the DCA will help standardize definitions, operations, and reporting categories, and improve enforcement performance.

In the long-term, a 21st century, Web 2.0⁷ approach should be taken to implement an automated balanced scorecard. This approach can leverage value from the tools and techniques currently being used in call centers and by virtual service desks. Today, web-based dashboards are systematically updated in real-time as calls are received in a call center or incidents reported to a virtual service desk.

The selection, procurement, and deployment of a automated Performance Management System to access the database of the system that will have been implemented by the BreEZe Project will replace the interim solution – the preparation and delivery of the Monthly Enforcement Report to the DCA by the healing arts boards. These investments will lead to the adoption of a new business operating model shown in Figure 2 on the following page.

Figure 2: New Business Operating Model



VIII: Conclusion

The goal of the Consumer Protection Enforcement Initiative (CPEI) is to reduce the average enforcement completion timeline of the healing arts boards from 36 months to between 12 and 18 months by FY 2012-13. This goal is based on systemically addressing three specific areas:

1. implementing administrative improvements;
2. investing in additional staff and IT resources; and
3. enacting legislative changes.

The analysis conducted by VIP of the CPEI, the BCP prepared to support its implementation, and the feedback provided by the healing arts boards interviewed during this analysis indicate that the goal of the CPEI of reducing the average enforcement completion timeline by FY 2012-13 is achievable. As progress is measured and managed in reducing the average enforcement completion timeline, a review of the staffing levels outlined in the CPEI BCP should be continually conducted to determine whether additional resources might result in an acceleration in a reduction of the timeline.

The DCA has already made progress on implementing several of the identified administrative improvements. They include:

- the “365 Project” which focused on resolving cases that were one year or older;
- delegation of subpoena authority to board executive officers to gather evidence and interview witnesses;
- establishing and filling the position of Deputy Director for Enforcement and Compliance to oversee and examine each board’s enforcement program; and
- establishing the Enforcement Academy as a vehicle for developing and delivering enhanced training programs for enforcement staff.

In addition to the above administrative improvements, important process improvement efforts identified by the healing arts boards to streamline their handling of complaints, managing their cases, investigations, and disciplinary actions are in progress.

The more transformational process improvements planned by the boards are dependent upon the additional staffing resources proposed in the BCP for the CPEI. While the boards interviewed agreed that recruiting and hiring non-sworn investigators by the boards is a transformational improvement, they placed an important emphasis on streamlining the complaint handling process. They are confident that improving the complaint handling process and the quality of the data gathered during that process will lead to the resolution of more cases through “desk” investigations thereby reducing the number of “formal” investigations and an overall reduction in the enforcement completion timeline. The flexibility given to the boards to hire either Complaint Intake

Analysts or Non-sworn Investigators to perform “desk” investigations will have an important and significant positive impact.

Parenthetically, the DCA Office of Human Resources has made the development and execution of a plan to recruit, hire, train, and integrate either Complaint Intake Analysts or Non-sworn Investigators within the healing arts boards a top priority.

The final challenge for the healing arts boards in their pursuit of fully achieving the goal of the CPEI by FY 2012-13 is in the enactment of the proposed statutory changes. The proposed statutory changes to support the CPEI can be analyzed in two categories:

1. those changes that affect the enforcement completion timeline; and
2. other proposed statutory changes that would improve the ability of the DCA and the healing arts boards to operate more effectively and productively (e.g. Director’s authority, EO’s authority, increase in fee structure, cost recovery, etc.).

The healing arts boards interviewed are aware that the proposed statutory changes are being negotiated and that said negotiations will take some time to be completed. They are concerned that even after the proposed statutory changes affecting the enforcement completion timeline are successfully negotiated and enacted, about the degree to which they will be able to be complied with by the affected State of California entities.

In summary, the healing arts boards can achieve the goal of the CPEI by FY 2012-13 if:

- the proposed enforcement models (i.e. complaint handling, “desk” and “formal” investigations, case management, and disciplinary actions) for the healing arts boards are implemented;
- a coordinated plan between the DCA Office of Human Resources and the healing arts boards for recruiting and hiring proposed staff is developed and executed;
- the flexibility of hiring either Complaint Intake Analysts and Non-sworn Investigators to perform “desk” investigations is supported;
- the modifications to IT systems and reports are successfully implemented by the Office of Information Services (OIS);
- the proposed statutory changes are promptly enacted by the State of California legislature and complied with by the affected State of California entities; and
- progress in the reduction in the average enforcement completion timeline is continually measured and managed by the DCA to determine whether additional resources to those proposed in the CPEI BCP might improve the prospects for success.

IX: Appendix

Table 1: Healing Arts Boards Enforcement Model

BUSINESS PROCESS	CURRENT ⁸	MIGRATORY STEP ⁹	FUTURE ¹⁰
Recording Complaints	<ul style="list-style-type: none"> ● Written Correspondence ● Telephone (to paper) ● Internet (e-mail) ● Process Steps: <ul style="list-style-type: none"> ➢ Complaints logged and responded ➢ No edit and validation ➢ Severity varies by board ➢ Review by staff/expert consultants 	<ul style="list-style-type: none"> ● Written Correspondence ● Telephone (to paper) ● Internet (e-mail) ● Improved Processes: <ul style="list-style-type: none"> ➢ The addition of 19 2-year, limited-term Complaint Intake Analysts ➢ Streamlined workflows enacted by each board 	<ul style="list-style-type: none"> ● Self Service and Telephone to Web Portal ● Improved Processes: <ul style="list-style-type: none"> ➢ Edit and validation ➢ Severity determined by pre-established parameters ➢ Workflow engine routes to appropriate staff/expert consultants
Conducting Investigations	<ul style="list-style-type: none"> ● Staff/Expert Consultants Review Complaints, Prioritize, and Assign the Case ● Refer Complaints Outside DCA's Purview to Appropriate Agency ● Open Investigation if Complaint Contains Violation of Law or Regulation ● Referral Varies by Board ● Investigator Logs Hours and Field Notes ● Investigator Prepares Investigation Report for Distribution and Action 	<ul style="list-style-type: none"> ● Staff/Expert Consultants Review Complaints, Prioritize, and Assign the Case ● Refer Complaints not resolved by "desk" investigation to "formal" investigation ● Investigator Logs Hours and Field Notes ● Investigator Prepares Investigation Report for Distribution and Action ● Improved Processes: <ul style="list-style-type: none"> ➢ The recruitment, hire, and training of non-sworn investigators by the boards to conduct investigations within each board ➢ Establishment of the Enforcement Academy for new and existing employees in enforcement functions 	<ul style="list-style-type: none"> ● Cases are Assigned by the Workflow Engine of a New System to Investigators Based on Pre-established Parameters ● On-site Entry by Investigator using Electronically-enabled Mobile Component of a New System ● Web Portal Access by On-site Investigator and Board ● Investigation Report is Electronically Attached to the Licensee's files ● Improved Processes: <ul style="list-style-type: none"> ➢ Parameter-driven assignment of cases ➢ Reduced manual entry of time worked on cases ➢ Actionable data for managers

BUSINESS PROCESS	CURRENT ⁸	MIGRATORY STEP ⁹	FUTURE ¹⁰
On-Site Inspections	<ul style="list-style-type: none"> ● Written Report to Document Findings by Inspectors ● Report Mailed to Board ● Manual Entry into Current System(s) 	<ul style="list-style-type: none"> ● Written Report to Document Findings by Inspectors ● Report Mailed to Board ● Manual Entry into Current System(s) 	<ul style="list-style-type: none"> ● On-site Entry by Inspector using Electronically-enabled Mobile Component of a New System ● Web Portal Access by On-site Inspector
Tracking Enforcement Activity	<ul style="list-style-type: none"> ● Initiate Administrative Actions in Conjunction with the Office of the AG and OAH ● Process Petitions or Appeals in Conjunction with an Administrative Law Judge ● Monitor Compliance with Voluntary or Disciplinary Actions 	<ul style="list-style-type: none"> ● Initiate Administrative Actions in Conjunction with the Office of the AG and OAH ● Process Petitions or Appeals in Conjunction with an Administrative Law Judge ● Monitor Compliance with Voluntary or Disciplinary Actions ● Improved Processes: <ul style="list-style-type: none"> ➢ Implementation of an automated Enforcement Activity Reporting (EAR) system to administer, track, and report time spent on enforcement activities 	<ul style="list-style-type: none"> ● Workflow Engine of a New System will Automate and Streamline the Tracking Enforcement Activity ● Improved Processes: <ul style="list-style-type: none"> ➢ Standardized, streamlined, and systemic measurement of Tracking Enforcement Activity ➢ Standardized reporting of Tracking Enforcement Activity
Conducting CE Audits	<ul style="list-style-type: none"> ● Random, Manual Selection of Licensees for CE Audit ● Written Notification Sent to Licensees for Response ● Licensees are Required to Provide Signed Attestation of CE Compliance ● Disciplinary Action is Taken for No Response 	<ul style="list-style-type: none"> ● Random, Manual Selection of Licensees for CE Audit ● Written Notification Sent to Licensees for Response ● Licensees are Required to Provide Signed Attestation of CE Compliance ● Disciplinary Action is Taken for No Response ● Improved Processes: <ul style="list-style-type: none"> ➢ Implement new reporting functions 	<ul style="list-style-type: none"> ● Workflow Engine of a New System will Automate and Streamline the Conducting CE Auditing Process ● Improved Processes: <ul style="list-style-type: none"> ➢ Standardized, streamlined, and post review of CE Audits ➢ Standardized and improved reporting of CE Audits

Table 2: DCA Performance Measures (Source: DCA SOLID)

PERFORMANCE MEASURE	DEFINITION	PURPOSE	COMPUTATION METHOD
PM1: Volume	Number of complaints received within a specified period (e.g., month, quarter, year).	To establish and communicate the complaint workload volume. To evaluate the efficiency of enforcement services.	Tally the number of complaints received during a specified time period (e.g., month, quarter, year).
PM2: Intake Cycle Time	Number of days to complete the intake step of the enforcement process – expressed as an average.	To establish and communicate the length of time to conduct an intake of a complaint. To evaluate the efficiency of enforcement services.	Average of the total number of days spent to conduct an intake of a complaint during a specified period of time (e.g., month, quarter, year).
PM3: Cycle Time of Closed Cases Not Resulting in Formal Discipline	Number of days to complete the intake and investigation steps of closed cases not resulting in formal discipline – expressed as an average. Note: The enforcement process begins on the day the complaint is received by the program and ends with the disposition without formal discipline.	To establish and communicate the average length of time to complete the enforcement process. To evaluate the efficiency of enforcement services.	Average of the total number of days it takes to complete the intake and investigation steps of the enforcement process during a specified time period (e.g., month, quarter, year).
PM4: Cycle Time of Closed Cases Resulting in Formal Discipline	Number of days to complete the intake, investigation, and discipline steps of closed cases resulting in formal discipline – expressed as an average.	To establish and communicate the average length of time to complete the enforcement process. To evaluate the efficiency of	Average of the total number of days it takes to complete the intake, investigation, and discipline steps of the enforcement process during a

PERFORMANCE MEASURE	DEFINITION	PURPOSE	COMPUTATION METHOD
	Note: The enforcement process begins on the day the complaint is received by the program and ends with the disposition with formal discipline.	enforcement services.	specified time period (e.g., month, quarter, year).
PM5: Intake and Investigation Efficiency (Cost)	Cost of the intake and investigation steps of the enforcement process (for those complaints closed without formal discipline) – expressed as an average.	To calculate the average unit cost of complaint intake and investigation. To evaluate the efficiency of enforcement services.	TBD when a cost accounting system is implemented.
PM6: Comprehensive Efficiency	Cost of the intake, investigation, and discipline steps of the enforcement process (for those complaints closed with formal discipline) – expressed as an average.	To calculate the average unit cost of complaint intake, investigation, and formal discipline. To evaluate the efficiency of enforcement services.	TBD when a cost accounting system is implemented.
PM7: Customer Satisfaction	Measure of the level of consumer satisfaction with the service provided by the DCA during the enforcement process. Areas to be surveyed may include communication, responsiveness, courteousness of staff, etc.	To establish and communicate the level of consumer satisfaction with the enforcement process. To modify and improve the steps within the enforcement process.	TBD if tools such as InstantSurvey, Zoomerang, and/or SurveyMonkey may be of value in measuring consumer satisfaction with DCA services.
PM8: Initial Contact Cycle Time – Probation Monitoring	Number of days that elapse from the time a probation monitor is assigned to a probationer to the date of first contact – expressed as an	To establish and communicate the average elapsed time from the assignment of a probation monitor to date of first contact.	Average of the total number of days that elapse from the time a probation monitor is assigned to a probationer to the date of first contact

CPEI BCP IV&V Report

PERFORMANCE MEASURE	DEFINITION	PURPOSE	COMPUTATION METHOD
	average.	To evaluate the efficiency of probation monitoring.	during a specified time period (e.g., month, quarter, year).
PM9: Violation Cycle Time – Probation Monitoring	Number of days that elapse from the time a probationer commits a license violation to the time compliance was achieved or the case was referred for discipline – expressed as an average.	<p>To establish and communicate the average elapsed time for the probation monitor to contact the probationer after the commission of a license violation.</p> <p>To evaluate the efficiency of probation monitoring.</p>	Average of the total number of days that elapse from the time a probation monitor contacts a probationer after the commission of a license violation during a specified time period (e.g., month, quarter, year).

X: Endnotes

¹ The six healing arts boards interviewed were: 1) Respiratory Care Board; 2) Board of Pharmacy; 3) Board of Registered Nursing; 4) Board of Vocational Nursing and Psychiatric Technicians; 5) Dental Board; and 6) Medical Board.

² An “urgent” complaint involves criminal charges and/or convictions, gross negligence and/or incompetence resulting in death or serious bodily injury, substance abuse, mental impairment, and sexual misconduct. A “high” complaint involves negligence and/or incompetence without serious bodily injury, physical or mental abuse without injury, and unlicensed or unregistered activity. A “routine” complaint involves fraud, unprofessional conduct, unsafe or unsanitary conditions, and contractual disputes.

³ A “desk” investigation is a collaborative process whereby a Complaint Intake Analyst (i.e. Associate Government Program Analyst) and an Expert Consultant resolve a complaint/case without having to refer the complaint/case to an Investigator.

⁴ A “formal” investigation is a collaborative process whereby a Complaint Intake Analyst (i.e. Associate Government Program Analyst) and an Expert Consultant refer a complaint/case to an Investigator for further action.

⁵ Source: Balanced Scorecard Institute, www.balancedscorecard.org.

⁶ Building & Implementing a Balanced Scorecard: Nine Steps to Success®, Balanced Scorecard Institute, 2007-2009.

⁷ Web 2.0 is defined as the perceived second generation of web development and design, which aims to facilitate communication, secure information sharing, interoperability, and collaboration.

⁸ Three generic enforcement models currently exist: 1) recording complaints and conducting investigations are performed by the respective board; 2) recording complaints are performed by the respective board and conducting investigations are referred elsewhere (e.g. DOI); and 3) recording complaints and conducting investigations are referred elsewhere.

⁹ The “migratory” enforcement model is dependent upon the successful implementation of administrative improvements by the boards, the recruitment and hiring of non-sworn investigators by the boards, and the implementation of modifications to existing IT systems by the Office of Information Services (OIS).

¹⁰ The “future” enforcement model is dependent upon the successful implementation of the BreZE project by the OIS, and the transformation of the operating environments of the boards and bureaus to utilize the functions and features of the new system.