

***SB 1111 (Negrete McLeod) – Regulatory Boards***

***Introduced February 17, 2010, Failed Passage in Committee April 22, 2010***

This bill would have enacted the Consumer Health Protection Enforcement Act that included various provisions affecting the investigation and enforcement of disciplinary actions against licensees of healing arts boards.

The following documents are included for discussion:

- SB 1111, Bill Status Report
- Letter to Colleagues from Department of Consumer Affairs Director Brian Stiger
- Press Release from Office of the Governor Arnold Schwarzenegger
- SB 1111 – The Consumer Health Protection Enforcement Act. Detailed list of provisions included in the Act.

## CURRENT BILL STATUS

MEASURE : S.B. No. 1111  
AUTHOR(S) : Negrete McLeod.  
TOPIC : Regulatory boards.  
+LAST AMENDED DATE : 04/12/2010

## TYPE OF BILL :

Inactive  
Non-Urgency  
Appropriations  
Majority Vote Required  
State-Mandated Local Program  
Fiscal  
Non-Tax Levy

LAST HIST. ACT. DATE: 04/22/2010

LAST HIST. ACTION : Set for hearing April 22. (Vote only). Set, second hearing. Failed passage in committee. (Ayes 1. Noes 1. Page 3294.)

COMM. LOCATION : SEN BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT

TITLE : An act to amend Sections 27, 116, 125.9, 155, 159.5, 160, 726, 802.1, 803, 803.5, 803.6, 1005, and 2715 of, to amend and repeal Section 125.3 of, to add Sections 27.5, 125.4, 734, 735, 736, 737, 802.2, 803.7, 1006, 1007, 1699.2, 2372, 2815.6, 2669.2, 2770.18, 3534.12, 4375, and 4873.2 to, to add Article 10.1 (commencing with Section 720) and Article 16 (commencing with Section 880) to Chapter 1 of Division 2 of, and to repeal Article 4.7 (commencing with Section 1695) of Chapter 4 of, Article 15 (commencing with Section 2360) of Chapter 5 of, Article 5.5 (commencing with Section 2662) of Chapter 5.7 of, Article 3.1 (commencing with Section 2770) of Chapter 6 of, Article 6.5 (commencing with Section 3534) of Chapter 7.7 of, Article 21 (commencing with Section 4360) of Chapter 9 of, and Article 3.5 (commencing with Section 4860) of Chapter 11 of Division 2 of, the Business and Professions Code, to add Section 12529.8 to the Government Code, and to amend Section 830.3 of the Penal Code, relating to regulatory boards, and making an appropriation therefor.



Administrator/DCANotes  
04/26/2010 09:56 AM

To DCA A - B, DCA C - D, DCA E - F, DCA External Boards,  
DCA G, DCA H, DCA I-L, DCA M-O, DCA R, DCA P-Q, DCA  
S, DCA T-Z

cc

bcc

Subject Consumer Protection Enforcement Initiative Update

Dear Colleagues:

I want to take a moment to let you know that, despite a setback last week in the Legislature, our Consumer Protection Enforcement Initiative (CPEI) continues to be the department's highest priority.

Last Thursday, Senate Bill 1111, authored by Senator Negrete McLeod and sponsored by the Department, failed to make it out of committee. SB 1111 was an important component of CPEI, and we were disappointed and perplexed that the committee didn't approve it, given the clear need for legislative reform in this area. Governor Arnold Schwarzenegger also expressed his disappointment. Senator Negrete McLeod stood alone in her efforts to provide the department with the necessary authority to quickly and effectively remove from practice those licensees who have harmed patients. We are grateful for her efforts.

While this was a disappointment, it is by no means the end of our efforts. We will continue to move forward, implementing process improvement, staff development, and performance measures, and adding enforcement resources to meet our goals. We will also urge and work with our boards to adopt regulatory language that provides authority for board executive officers to quickly investigate and prosecute licensees who violate the law.

Through your willingness to change, your hard work, and your perseverance, we have already made significant progress toward reforming our enforcement programs to better protect Californians from the most dangerous health care practitioners.

We are committed to seeing this important effort through to the end. With your continued help and support, I'm confident we will overcome all obstacles and challenges to meet our goal of improving consumer protection.

As always, thank you for your efforts and your commitment to consumer protection.

Best regards,

-Brian



# Office of the Governor

ARNOLD SCHWARZENEGGER  
THE PEOPLE'S GOVERNOR

## PRESS RELEASE

04/22/2010 GAAS:252:10 FOR IMMEDIATE RELEASE

### **Gov. Schwarzenegger Issues Statement on Senate Business, Professions and Economic Development Committee's Failure to Pass Important Consumer Protections**

Governor Arnold Schwarzenegger issued the following statement today after the Senate Business, Professions and Economic Development Committee failed to pass SB 1111 by Senator Gloria Negrete McLeod (D-Chino) that would have enacted stronger enforcement mechanisms at the healing arts boards under the Department of Consumer Affairs to better protect patients and consumers from health professionals that are incompetent, suffering from drug or alcohol addictions, or otherwise unable to practice in a safe manner:

"As soon as I became aware of a problem with one of our regulatory boards, I took immediate action to better protect patients and consumers from dangerous health professionals. I also directed my Department of Consumer Affairs to conduct a thorough review of how to strengthen our existing enforcement authority, and SB 1111 reflects that work. I applaud Senator McLeod for carrying this important legislation and her commitment to address this issue, but I am disappointed that the remainder of this Committee chose to remain silent and continue jeopardizing patient safety. By not voting for this bill today, these members are saying they side with protecting incompetent providers.

"Safeguarding patients and strengthening our state's enforcement remains a top priority of my Administration, and I intend to continue pursuing this important policy to protect patients from incompetent health providers."



# SB 1111 - The Consumer Health Protection Enforcement Act

## Preface - Title & Intent Language

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1. Information Provided on the Internet
2. Director's Authority to Audit Enforcement Programs of Healing Arts Boards
3. Cost Recovery for Actual Costs of Investigation and Enforcement and Probation Monitoring
4. Allow Boards to Contract with Collection Agency
5. Allow Healing Arts Boards to Hear Appeals of Citations and Fines
6. Authority for Healing Arts Boards to Contract for Investigative Services with Medical Board and Attorney General's Office
7. Create Within the Division of Investigation a Health Quality Enforcement Unit
8. Authority for Medical Board, Division of Investigations and Dental Board to hire non-sworn investigators. Allows Board of Registered Nursing to Hire sworn and non-Investigators, Nurse Consultants and Other Personnel
9. New Enforcement Article for all Healing Arts Care Boards
10. Authority for Executive Officers to Adopt Default Decisions and Stipulated Surrenders
11. Authority for Healing Arts Boards to Enter Into Stipulated Settlements Without Filing an Accusation
12. Director's Authority to Issue a cease practice order in cases of immanent harm.

13. Automatic Suspension of License While Incarcerated
14. Mandatory Revocation for Acts of Sexual Exploitation and Registration as Sex Offender

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15. Prohibition of Gag Clauses in Civil Dispute Settlement Agreements
16. Access to Medical Records/Documents Pursuant to Investigations
17. Access to Records/Documents from Governmental Agencies
18. Access to Records/Documents Prior to Payment Received
19. Employer of Health Care Practitioner Reporting Requirements

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20. Annual Enforcement Reports by Boards to the Department and Legislature
21. Enforcement Timeframes for the Attorney General's Office
22. Misdemeanor for Violation of Article 10.1
23. Ability to Deny or Provide Limited License for Mental Illness or Physical Illness.
24. Require Boards to Check Information Maintained by the National Practitioner Databank
25. Conviction of Sexual Misconduct – Crime Substantially Related
26. Unprofessional Conduct for Drug Related Offenses
27. Unprofessional Conduct for Failure to Cooperate with Investigation of Board
28. Reporting by Licensee of Arrest, Conviction or Disciplinary Action
29. Report of Crime or Personal Injury Judgment by Clerk of the Court
30. Report of Charges of Felony by DA, City Attorney, or Clerk of Court

31. Report of Preliminary Hearing Transcript of Felony by Clerk of Court
32. Notification of Future Arrests or Convictions from DOJ
33. Authority of Department to Adjust Fee Maximums Consistent with CPI
34. Unlicensed Practice – Public Crime
35. Sunset Dates for Diversion Programs
36. Requirement for a New Information Technology System
37. Adopt Vertical Enforcement/Prosecution Model for Healing Arts Boards

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### POSSIBLE FUTURE AMENDMENTS

1. Create Health Quality Hearing Panel at OAH to hear Health Care Cases
2. Eliminate Authority of Boards to Adopt or Non-Adopt ALJ Decision
3. Allow Boards to Conduct Disciplinary Hearings
4. No Transfer of Board's Special (Reserve) Funds to General Fund
5. Create Individual Board "Emergency Reserve Enforcement Fund"  
(use unencumbered/reserve funds for enforcement purposes only)

