



Item: Consideration to Update Enforcement History Web Retention Policy

Item Summary: In accordance with Strategic Plan Enforcement Goal 3.1: Review and update the web retention policy, as appropriate, to ensure it is meeting current expectations of stakeholders, the Board is being presented with a draft updated policy for consideration.

- Board Action:
1. President calls the agenda item and it is presented by or as directed by the President.
  2. If the Board is willing, make a motion to:  
Update the Enforcement History Web Retention Policy as presented.  
[Alternately, a motion can be made to update the policy with other suggested changes].
  3. President may request if there is a second to the motion, if not already made.
  4. Board member discussion/edits (if applicable).
  5. Inquire for public comment / further Board discussion as applicable.
  6. Repeat motion and vote: 1) aye, in favor, 2) no, not in favor, or 3) abstain



## RESPIRATORY CARE BOARD OF CALIFORNIA

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### ENFORCEMENT HISTORY WEB RETENTION POLICY

Business and Professions Code section 3710.1 states, "Protection of the public shall be the highest priority for the Respiratory Care Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

In support of our regulatory mandate, it is the mission of the Respiratory Care Board (RCB) to protect and serve consumers by licensing qualified respiratory care practitioners and enforcing the provisions of the Respiratory Care Practice Act. This is done by intervening with administrative and disciplinary action, when necessary.

To uphold the RCB's statutory mandate and mission, information has been provided on its license status website, [www.breeze.ca.gov](http://www.breeze.ca.gov), regarding administrative and disciplinary actions taken against respiratory care practitioners.

In an effort to balance the public's right to be informed about their health care practitioners and licensee privacy concerns for those who have fulfilled the requirements of a disciplinary action against their license, the RCB has set forth the following policy as it pertains to the various types of disciplinary actions posted on its website:

**Decisions Resulting in Citation and/or Fine** - The RCB will remove disciplinary information pertaining to final decisions resulting in a Citation and/or Fine five (5) years from the date the decision was effective including the resolution of any appeal or the date the fine was paid in full, whichever is the latter.

Additionally, the RCB will consider the removal of disciplinary information from its license status website if the RCB believes the licensee poses no risk to the public, as follows:

**Decisions Resulting in Public Reprimand** - The RCB will consider the removal of disciplinary information pertaining to final decisions resulting in a Public Reprimand five (5) years from the date the decision was effective, or the date conditions were fulfilled, whichever is the latter.

**Decisions Resulting in Probation** - The RCB will consider the removal of disciplinary information pertaining to final decisions resulting in Probation seven (7) years after the successful completion of probation, provided the person has paid all outstanding costs and no further violations have occurred.

Decisions containing orders for revocation or surrender are not eligible for removal. Further, the RCB reserves the right to retain any administrative or disciplinary information or documentation on its website, when it believes it serves the best interest of the public.

**NOTE:** The RCB must comply with the California Public Records Act and provide public documents upon request, even if they are no longer posted on its website.

## ENFORCEMENT HISTORY WEB RETENTION

The Respiratory Care Board (Board) issued its first license in 1985 and has since issued over 35,000 licenses. Of these 35,000 licenses, approximately 22,000 remain active. In the last decade, the Board has taken an average of 150 administrative or disciplinary actions each year. Since 2006, disciplinary documentation and administrative actions have been made available via the Board's website. In the past year, the Board office has received requests to remove discipline information from its website, which prompted the Board to include this matter in its 2013-2016 Strategic Plan: Goal 1.3 Establish a maximum time period to post on the internet, citations, fines and disciplinary matters.

After careful consideration by the Board, it was determined that the act(s) that caused the disciplinary action must be the key factor as to whether the information is easily accessible by the public and employers through the Board's website. The Board has set a very high threshold and only that discipline where the Board believes the licensee poses no risk to the public may be removed from its website.

However, while the Board has discretion in determining how long certain information will be posted on its website, the Board must comply with the California Public Records Act and provide public documents upon request, even if they are no longer posted on the website.

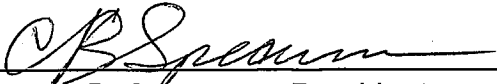
Therefore, upon request, the Board will consider the removal of disciplinary information as follows:

Decisions Resulting in a Public Reprimand: Five years from the date the decision was effective or the date conditions were fulfilled, whichever is the latter.

Issuance of Citation and Fines: Five years from the date the decision was effective including the resolution of any appeal or the date the fine was paid in full, whichever is the latter.

Decisions containing orders for suspension, probation, revocation or surrender are not eligible for removal. In addition, citation and fines involving unlicensed individuals or employers of unlicensed activity are not eligible for removal. Further, the Board reserves the right to retain any administrative or disciplinary information or documentation on its website, when it believes it serves the best interest of the public.

Adopted this 4<sup>th</sup> day of April 2014.

  
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Charles B. Spearman, President