

From: OConnell, Pam [<mailto:Pam.OConnell@insurance.ca.gov>]
Sent: Thursday, April 20, 2017 7:43 PM
To: Wallace, Petra
Subject: RE: Review of Chapters 2 and 7

Petra,

I went through both chapter 2 and 7, and considered them against the proposed new Closing Continuums material and at the end of the day, the only significant area of inconsistency that I can see is how Chapter 2 characterizes what it calls Enforcements as a type of regulatory response (section 3. Under the heading B. Regulatory Responses). Chapter 2 lists and describes the following types “enforcement” response types:

- Informal agreements;
- Voluntary compliance plans;
- Administrative complaints;
- Cease and desist orders;
- Ongoing monitoring/self-audits;
- Remediation plans;
- Negotiated settlement agreements and consent orders;
- Restitution;
- Administrative fines/penalties;
 - Post-investigation or follow-up examinations; and
 - Probations/suspensions/revocations of license.

These same types of actions are discussed in the Closing Continuums material steps a department might decide to take after having gathered all facts through whatever contact method it has selected (interrogatory, data call, exam, investigation) and evaluated those against state laws. In other words, one or more of these final outcomes would be a way for a jurisdiction to close a continuum action, depending upon what their contact with the regulated entity revealed. I believe this is the way most, if not all, jurisdictions would view these kinds of actions – they are possible ways to close out contact with the regulated entity once fact gathering has occurred. My recommendation would be to consider moving 3. Enforcements to appear under heading C. Closure in Chapter 2.

Without knowing what the Working Group will ultimately decide to do with the proposed Closing Continuums material, I looked at this from the perspective of what would make most sense regardless of whether the new material is incorporated or not.

Regards,

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