



# Enforcement/Intervention Committee

Supplemental Materials to the Committee Meeting

BRN Enforcement/Intervention Committee | January 13, 2022

# Enforcement/Intervention Committee Meeting January 13, 2022

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## Agenda Item 9.2

Review and Vote on Whether to Approve Previous Meeting Minutes

BRN Enforcement/Intervention Committee | January 13, 2022

**STATE OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
BOARD OF REGISTERED NURSING  
ENFORCEMENT/INTERVENTION  
COMMITTEE MEETING MINUTES**

DRAFT

**DATE:** October 7, 2021

**START TIME:** 1:56 pm

**LOCATION:** **NOTE:** A physical meeting location was not provided pursuant to the provisions of Government Code section 11133.

The Enforcement/Intervention Committee of the Board of Registered Nursing held a public meeting via a teleconference platform.

- 1:56 pm                      **9.0**                      **Call to Order/Roll Call/Establishment of a Quorum**  
Imelda Ceja-Butkiewicz – Chair, called the meeting to order at 1:56 pm. Quorum established at 1:57 pm.
- Enforcement and Intervention Committee:** Imelda Ceja-Butkiewicz, Public Member – Committee Chair  
Elizabeth Woods, RN, FNP, MSN  
Mary Fagan, PhD, RN, NEA-BC  
Susan Naranjo, Public Member
- BRN Staff Representatives:** Shannon Johnson, Deputy Chief of Enforcement – Liaison  
Scarlett Treviso, Deputy Chief of Investigations – Liaison  
Reza Pejuhesh, Legal Counsel
- 1:58 pm                      **9.1**                      **Public Comment for Items Not on the Agenda; Items for Future Agendas**
- Public Comment for Agenda Item 9.1: No public comment.
- 1:59 pm                      **9.2**                      **Review and Vote on Whether to Approve Previous Meeting Minutes**  
➤ June 24, 2021

MOTION: **Imelda Ceja-Butkiewicz:** Motion, to accept the previous meeting minutes.

SECOND: **Elizabeth Woods**

Public Comment for  
Agenda Item 9.2: No public comment.

VOTE:

Vote	ICB	EW	SN	MF
	Y	Y	Y	Y

Key: Yes: Y | No: N | Abstain: A | Absent for Vote: AB

**Motion Passed**

2:01 pm

**9.3**

**Information Only: Enforcement Update**

Presented by: Shannon Johnson, Deputy Chief of Enforcement

**Complaint Intake:** Currently, the Board has a recruitment process going, with new hires of retire annuitant positions. The Board continues to recruit qualified nurses. The Board continues to need experts in ambulatory care, expert practice consultants and the cosmetic care fields, to name a few.

**Imelda Ceja-Butkiewicz:** Questioned why we are hiring retired annuitants?

**Shannon Johnson:** Expressed that it is easier to acquire retired annuitants for limited term, temporary fills.

**Loretta Melby:** Expressed that the retired annuitant position fills, are a resource that we can use within the State. We are able to contact retirees, in order to help out in certain roles and areas. These positions are filled on a temporary basis for retire annuitants. This helps with assistance on a quicker basis.

**Investigations Unit:** Sending 2 investigators out for further specified training. 21 cases per field Investigator, on average. The hearings continue to be done virtually. Cases are decreasing based on the work in the field that is being done.

**Probation Unit:** Recently hired and promoted an employee to the Staff Services Analyst role within this Unit. Continue to process

cases more quickly.

**Intervention Unit:** Intervention Liaison Committee meeting, will take place on October 28, 2021. Continue to actively recruit.

July 1, 2021-September 16, 2021: A total of 680 public complaints, 192 arrest/convictions and 734 applicant cases were received, in the Complaint Intake Unit.

### **9.3.1 Update of DOI/BRN Pilot Project**

Presented by Scarlett Treviso, Deputy Chief of Investigations

The second Pilot is expiring, December 2021- the DOI/BRN Unit, are currently working on renewing the Pilot, and working out the parameters, of the renewal. 203 cases have been submitted. 143 cases have been completed. 60 cases, are currently, pending.

Public Comment for  
Agenda Item 9.3:

No public comment.

2:40 pm

### **9.4**

#### **Adjournment**

Imelda Ceja-Butkiewicz, Committee Chair, adjourned the meeting at 2:40pm.

**Submitted by:**

**Accepted by:**

**Shannon Johnson**  
Staff Liaison  
Enforcement & Intervention Committee  
California Board of Registered Nursing

**Imelda Ceja-Butkiewicz**  
Chair  
Enforcement & Intervention Committee  
California Board of Registered Nursing



## Agenda Item 9.3

Information Only: Enforcement Update

BRN Enforcement/Intervention Committee | January 13, 2022

**BOARD OF REGISTERED NURSING  
Enforcement Intervention Committee  
Agenda Item Summary**

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**AGENDA ITEM:** 9.3  
**DATE:** January 13, 2022

**ACTION REQUESTED:**     **Information Only:** Enforcement, Intervention & Investigation Update

**REQUESTED BY:**             Imelda Ceja-Butkiewicz, Chairperson

**ACCOMPLISHMENTS:**

**General Enforcement and Investigations**

The Office of Organizational Improvement (OIO) will be working with BRN to assess and map out workflow, timeframes, and procedures in order to streamline and improve internal processes. The OIO team will be working with subject matter experts (SME) from each unit and staffing level. We will continue to report on the progress of this project in future meetings.

**Complaint Intake**

BRN continues to recruit qualified registered nurses with the professional and educational background as Expert Practice Consultants (EPC) to review investigative case materials, prepare written opinions, and evaluate whether an RN deviated from the standards of nursing practice or is responsible for unprofessional conduct.

The BRN is in critical need of EPCs in the following areas:

- Long Term Care/Skilled Nursing Facility/Geriatric
- Acute Rehabilitation
- Hospice
- Home Health
- OP/Ambulatory/Clinic
- Cosmetic/Botox/Laser

For more information about the Expert Practice Consultant program, please visit the BRN website: <http://rn.ca.gov/enforcement/expwit.shtml>.

Or email us at [Expert.BRN@dca.ca.gov](mailto:Expert.BRN@dca.ca.gov)

**Investigations**

The Attorney General’s Office (AGO), the Division of Investigation (DOI), BRN Investigations and BRN Enforcement are reviewing the 2017 “Investigating BRN



Cases - Training Guide.” Based on the results from the recently conducted survey to the investigators, updates are being made to the current training guide. Our goal is to have the revised guide ready and training conducted mid to late spring 2022.

Two Special Investigators attended the NCSBN Basic Board of Nursing Investigator Training course which was held virtually on October 25-28, 2021.

Investigations began performing random Probation Compliance Investigations in July 2021 throughout the state. Investigations and Probation continue to work together to refine this process.

Below is the chart identifying the average cases per Special Investigator over the past three years:

<b>Table A</b>	December 2019	December 2020	December 2021
Average Cases per Investigator	23	16	19

### **DOI BRN CASE PRIORITIZATION PILOT PROJECT**

DOI and BRN continue to follow the Pilot Program initiated in September 2019 that changed case referral guidelines for urgent priority Quality of Care complaints alleging significant patient harm and/or patient death.

The Pilot was reviewed, updated, and signed for continuation through December 2022.

### **Discipline**

As of December 14, 2021, only 13% of our pending cases have been at the AG’s office for more than one year. All hearings through Office of Administrative Hearings are being held via online platform (Microsoft Teams). The current Office Technician (T) vacancy in the Discipline Unit is in the process of being filled with a candidate by February 2022. The Discipline Unit continues to reassess all processes and procedures.

Below is the chart identifying the average cases per analyst over the past three years:

<b>Table B</b>	December 2019	December 2020	December 2021
Average Cases per Analyst	95	80	67

### **Probation**

The Probation Unit is collaborating with the Complaint Intake Unit to transition all pending subsequent complaints on probationers to be processed, reviewed, and monitored by probation monitors. The monitors are being trained to open complaints, conduct the desk investigation, and if necessary, refer the case to BRN Investigation Unit or DOI.

Below is the chart identifying the average cases per analyst over the past three years:

<b>Table C</b>	December 2019	December 2020	December 2021
Average Cases per Monitor	84	86	84

### **Intervention**

The Intervention Program is planning to hold the Intervention Liaison Committee (ILC) meeting on January 28, 2022. The ILC is a subcommittee of the Board of Registered Nursing's Enforcement and Intervention Committee, formerly known as Intervention-Discipline Committee. Its charge is to identify and examine existing and anticipated service needs.

The Intervention Program continues to actively recruit for Intervention Evaluation Committee members. Currently, there are nine (9) vacancies.

<b>IEC Location</b>	<b>Member Type</b>
2 – Bay Area	Public
2 – Bay Area	Registered Nurse
3 – Los Angeles	Physician
4 – Irvine	Physician
5 – Fresno	Registered Nurse
6 – Palm Springs	Physician
9 – Ontario	Public
12 – Northern California	Physician
14 – Santa Ana	Registered Nurse

To apply for an IEC position, you can find the application on our website at <https://rn.ca.gov/intervention>

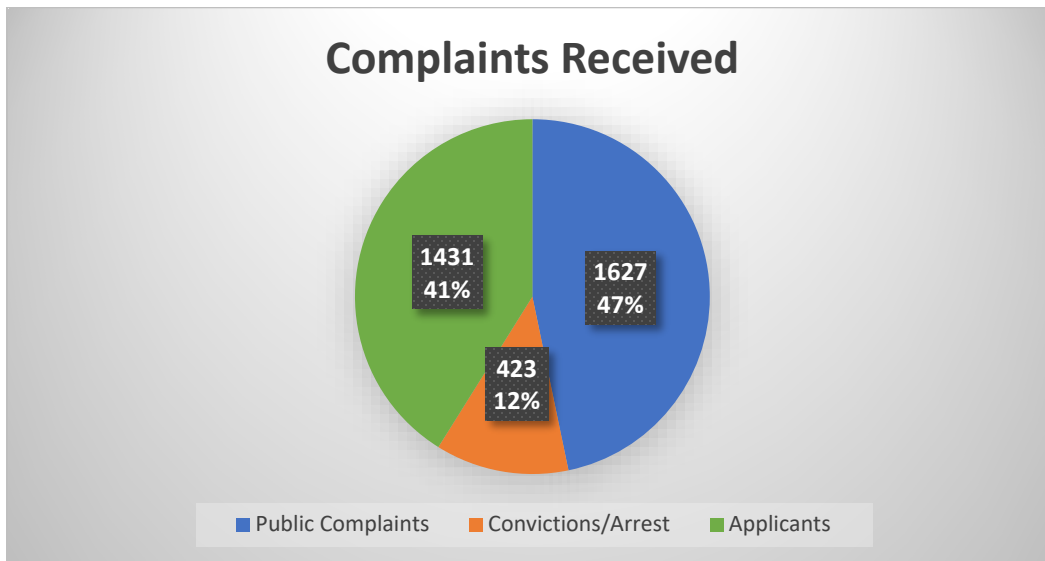
**TABLE D**

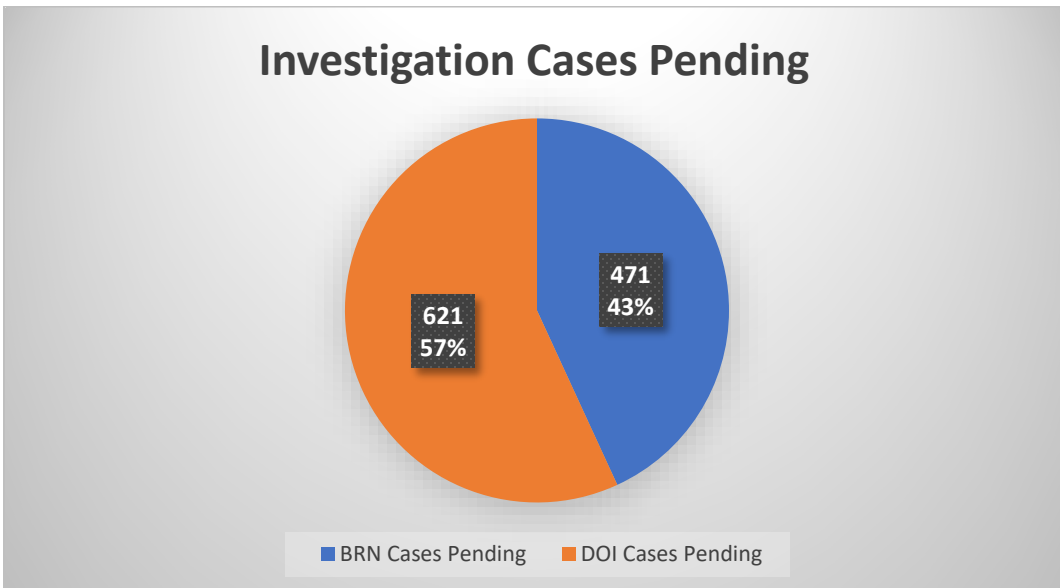
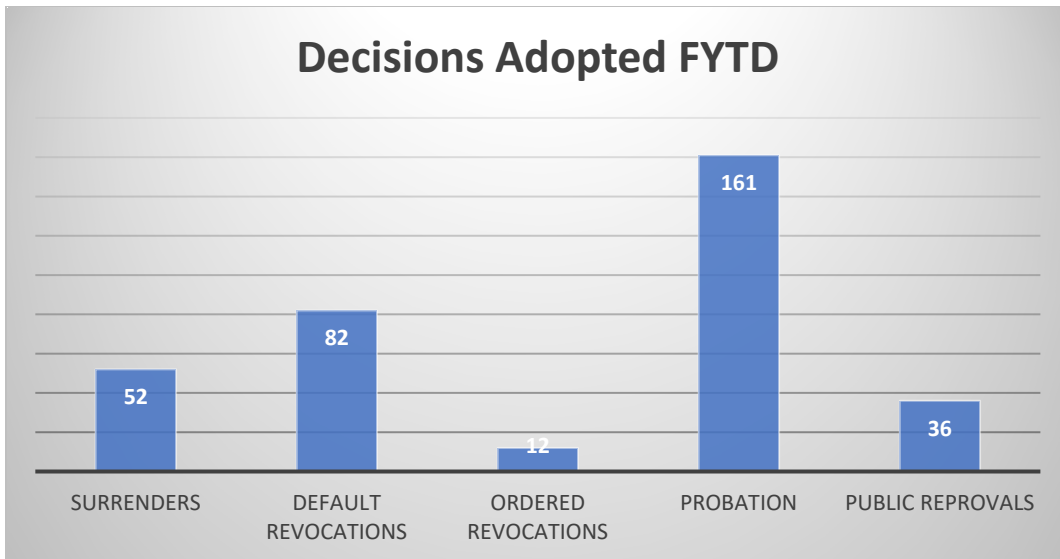
<b>Board of Registered Nursing Enforcement Process Statistics Fiscal Year 2021 / 2022 December 16, 2021</b>	
<b>Complaint Intake</b>	
Public Complaints	1627
Convictions/Arrest	423
Applicants	1431
<b>Total Received</b>	<b>3481</b>
Complaints Pending	1503
>1 year	321
Convictions/Arrests Pending	1083
>1 year	515
Applicants Pending	167
>1 year	23
Expert Review Pending Referral	58
>1 year	0
Expert Review Pending Receipt	33
>1 year	0
<b>Intervention</b>	
Total Participants	290
Self-Referrals	3
Accepted	3
Board Referrals	375
No response	134
Declined	98
Accepted	33
Terminations	13
Successful Completions	37
<b>Citation and Fine</b>	
Citations Issued	65
Informal Conference	0
Modified	0
Dismissed	0
Upheld	0
Amount Ordered	\$59,275.00
Amount Received	\$83,480.00
Amount Referred to FTB	\$2,500.00
Amount Received from FTB	\$1,860.00

<b>Discipline</b>		
AG Referrals		
	Cases	517
Cases Pending		
	< 1 Year	640
	> 1 Year	111
	> 2 Year	16
	Cases Pending >1 Year W/O Pleading Filed	20
Cases Pending Hearing		111
Average Days at AG		198
Pending Board Vote		54
<b>Legal Support</b>		
Pleadings Served		
	Accusations	252
	Statements of Issue	5
	Orders to Compel	19
	Petitions to revoke Probation	33
Withdrawals of Pleadings		7
Decisions Adopted		
	Surrenders	52
	Default Revocations	82
	Ordered Revocations	12
	Probation	161
	Public Reprovals	36
<b>Investigations</b>		
BRN Cases Referred		481
	Rejected	73
	Supplemental Requested	12
	Triage	3
BRN Cases Pending		471
	>1 year	31
BRN Cases Completed		409
DOI Cases Referred		338
	Rejected	39
	Supplemental Requested	21
DOI Cases Pending		621
	>1 year	117
DOI Cases Completed		192
DOI Pilot Cases Initiated		244
DOI Pilot Cases Pending		84
DOI Pilot Case Closed		160
<b>Probation</b>		
Active In-State Probationers		818

Tolled Probationers		440
Revoked		8
Surrendered		19
Completed		82
Subsequent Cases Pending at AG	<1 year	45
	>1 Years	8
	>2 Years	4
<b>Total Case Processing Time</b>		
Average Days to Complete		630
	> 540 Days	14%
	< 540 Days	86%
DCA goal of 540 days for all healing arts boards		

**Graphs Based on Table D**





### BRN Performance Measure YTD 21/22

#### TABLE E

<b>Performance Measure 4 - AG Transmittals</b>						
	Case Volume	Intake	Investigation	Pre-AG Time	Post AG Time	Average Total Time
<b>Total/Average</b>	340	8	287	8	324	<b>626</b>
<i>July</i>	65	7	279	9	349	<b>644</b>
<i>August</i>	55	6	252	14	320	<b>592</b>
<i>September</i>	90	7	292	8	302	<b>609</b>
<i>October</i>	65	12	323	6	316	<b>656</b>
<i>November</i>	65	7	283	3	340	<b>632</b>

**TABLE F**

<b>All DCA Healing Arts &amp; Health Entities</b>				
<b>SFY 2021: 12-Month   PM4 - Summary by Board</b>				
	<b>Case Volume</b>	<b>Target</b>	<b>Actual</b>	<b>Variance</b>
<b>Grand Total</b>	2,464	540 Days	839 Day(s)	▲ 299 Day(s)
Acupuncture Board	14	540 Days	866 Day(s)	▲ 326 Day(s)
Board of Behavioral Sciences	117	540 Days	426 Day(s)	▼ -114 Day(s)
Board of Chiropractic Examiners	20	540 Days	914 Day(s)	▲ 374 Day(s)
Board of Psychology	53	540 Days	754 Day(s)	▲ 214 Day(s)
<b><u>Board of Registered Nursing</u></b>	<b><u>891</u></b>	<b><u>540 Days</u></b>	<b><u>690 Day(s)</u></b>	<b><u>▲ 150 Day(s)</u></b>
Board of Vocational Nursing and Psychiatric Technician	222	540 Days	862 Day(s)	▲ 322 Day(s)
California Board of Occupational Therapy	17	540 Days	726 Day(s)	▲ 186 Day(s)
California State Board of Pharmacy	224	540 Days	878 Day(s)	▲ 338 Day(s)
Dental Board of CA	59	540 Days	1266 Day(s)	▲ 726 Day(s)
Dental Hygiene Board	8	540 Days	840 Day(s)	▲ 300 Day(s)
Medical Board of CA	620	540 Days	1028 Day(s)	▲ 488 Day(s)
Osteopathic Medical Board of CA	16	540 Days	933 Day(s)	▲ 393 Day(s)
Physical Therapy Board	31	540 Days	840 Day(s)	▲ 300 Day(s)
Physician Assistant Board	26	540 Days	1237 Day(s)	▲ 697 Day(s)
Podiatric Medical Board of CA	15	540 Days	1183 Day(s)	▲ 643 Day(s)
Respiratory Care Board	42	540 Days	435 Day(s)	▼ -105 Day(s)
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	8	540 Days	972 Day(s)	▲ 432 Day(s)
State Board of Optometry	9	540 Days	935 Day(s)	▲ 395 Day(s)
Veterinary Medical Board	72	540 Days	1214 Day(s)	▲ 674 Day(s)

If you would like more information on our enforcement statistics, please go to [https://www.dca.ca.gov/data/enforcement\\_performance.shtml](https://www.dca.ca.gov/data/enforcement_performance.shtml)

**NEXT STEPS:** Continue to Monitor

**PERSONS TO CONTACT:** Shannon Johnson, Enforcement Chief  
(916) 515-5268  
Scarlett Treviso, Investigations Deputy Chief  
(916) 508-9285



## **ENFORCEMENT PROCESS STATISTICS**

### **REFERENCE GUIDE**

#### **Complaint Intake**

- Complaints Received
  - The total number of public complaints received. This includes complaints received from other state agencies and boards.
- Convictions/Arrests
  - The total number of complaints received due to an arrest and/or subsequent conviction. These are reported by Criminal Offender Record Information (CORI) from the California Department of Justice (DOJ).
- Applicants
  - The total number of applications received from the Board of Registered Nursing (BRN or Board) Licensing Unit where the applicant disclosed a previous criminal history or discipline by another state board.
- Complaints Pending
  - The number of complaints that are pending in the Complaint Intake Unit (CIU).
- Convictions/Arrests Pending
  - The number of Convictions/Arrests that are pending in CIU.
- Applicants Pending
  - The number of Applicants that are pending in CIU.

#### **Intervention**

- Total Participants
  - The current number of participants in the Intervention Program.
- Self-Referrals
  - The number of referrals where the RN has contacted the Intervention Program on their own, without a complaint being filed.
    - Declined
      - The number of self-referrals that decided to decline the Intervention Program after receiving program information.
    - Accepted
      - The number of self-referrals that have accepted and entered the Intervention Program.
- Board-Referrals
  - The number of referrals where the RN received an invitation by the Board, based on a complaint that involved drugs, alcohol or mental illness.
    - No Response

- The number of Board referrals that didn't respond to the invitation.
  - Declined
    - The number of Board referrals that decided to decline the program after receiving program information.
  - Accepted
    - The number of Board referrals that have accepted and entered the program.
- Terminations
  - The number of RNs that were terminated from the program for any reason.
- Successful Completions
  - The number of RNs that were able to successfully complete the program.

### **Citation & Fine**

- Citations Issued
  - The total number of citations issued.
- Formal Hearing
  - The number of RNs that have requested a hearing. The Attorney General's Office (AGO) represents the complainant (the Board's Executive Officer) at formal hearings, and the case is heard by an Administrative Law Judge (ALJ). The results of this hearing would be to either modify, dismiss or uphold the citation.
- Informal Conference
  - The number of informal conferences conducted after an appeal is made by the Respondent. The results of the informal conference would be to either modify, dismiss or uphold the citation.
- Amount Ordered
  - The total fine amount that has been ordered from all citations issued during the Fiscal Year (FY).
- Amount Received
  - The total fine amount received by the Board during the FY.
- Amount Referred to Franchise Tax Board (FTB)
  - The total amount of fines referred to FTB in an attempt to retrieve the fines through California income tax refunds.
- Amount Received from FTB
  - The total amount of fines received from FTB from California Income tax.

### **Discipline**

- Attorney General (AG) Referrals
  - The total number of cases referred to the AG.
- Cases Pending

- The total number of cases that are pending a final disposition in the disciplinary process.
- Cases Pending Hearing
  - The total number of cases that are awaiting a hearing before an ALJ.
- Average Days at AGO
  - The average number of days that cases are at the AGO for prosecution.
- Pending Board Vote
  - The total number of cases that are awaiting a vote by the Board.

### **Legal Support**

- Pleadings Served
  - The total number of pleadings that have been served. This includes Accusations, Statements of Issues, Orders to Compel and Petitions to Revoke Probation.
- Withdrawals of Pleadings
  - The total number of pleadings that the Board has withdrawn, and no action was taken.
- Decisions Adopted
  - The total number of final Decisions that were adopted by the Board. This includes Surrenders, Default Revocations, Ordered Revocations, Probation and Public Reprovals.

### **Investigations**

- BRN Cases Referred
  - This is the total number of cases that were referred to BRN Investigations.
  - Rejected
    - The total number that were rejected. Rejected cases are either referred to Division of Investigation (DOI) per Consumer Protection Enforcement Initiative (CPEI), closed or sent for citation.
  - Supplemental Requested
    - The total number of cases that needed additional investigation for evidence or interviews. These are normally requested by BRN staff, AG or Expert.
  - Triage
    - The total number of cases that require additional information and discussion to determine the CPEI level, before assignment to either BRN Investigations or DOI.
- BRN Cases Pending
  - Total number of cases pending with BRN Investigations Unit.
    - The total number of cases pending that are over 1 year old with BRN Investigations Unit.
- BRN Cases Completed

- The total number of cases that have been completed by BRN Investigations Unit.
- DOI Cases Referred
  - This is the total number of cases that were referred to DOI.
  - Rejected
    - The total number that were rejected. Rejected cases are either referred to BRN Investigations Unit per Consumer Protection Enforcement Initiative (CPEI), closed or sent for citation.
  - Supplemental requested
    - The total number of DOI cases that needed additional investigation for evidence or interviews. These are normally requested by BRN staff, AG or Expert.
- DOI Cases Pending
  - Total number of cases pending with DOI
    - Cases over 1 year old
      - The total number of cases pending that are over 1 year old with DOI.
- DOI Cases Completed
  - The total number of cases that have been completed by DOI.
- DOI Pilot Cases Initiated
  - The total number of cases that were sent to BRN for investigation per the DOI-BRN Pilot Program and would have normally been sent to DOI for investigation under the CPEI guidelines.
- DOI Pilot Cases Pending
  - The number of cases that were referred to DOI per the DOI-BRN Pilot Program and are still pending completion.
- DOI Pilot Cases Closed
  - The number of cases that were referred to DOI per the DOI-BRN Pilot Program and have been completed.

### **Probation**

- Active In-State Probationers
  - The total number of current/active in-state probationers.
- Tolled Probationers
  - The total number of probationers that reside outside of California. These probation cases are placed on hold until the RN returns to California.
- Revoked
  - The total number of probationers that had their licenses revoked.
- Surrendered
  - The total number of probationers that have surrendered their license.
- Completed

- The total number of probationers that have successfully completed probation.
- Subsequent Cases Pending at AGO
  - The total number of probationers that have had subsequent grounds for discipline and had their cases transmitted back to the AG for further disciplinary action.
    - Over 1 year
      - The number of probationary cases that have been pending at the AGO for over 1 year.
    - Over 2 years
      - The number of probationary cases that have been pending at the AGO for over 2 years.

### **Total Case Processing Time**

- Average Days to Complete
  - The average number of days currently taken to complete a case from complaint receipt to final decision.
    - Over 540 days
      - The percentage of cases that BRN **is not** meeting the DCA goal of 540 days for case completion.
    - Under 540 days
      - The percentage of cases that BRN is meeting the DCA goal of 540 days for case completion.
  - *Note – DCA's goal for all healing arts boards **is** to complete cases within an average of 540 days or less.*

### **Table A**

The average number of cases per investigator, in the month/year noted, for the last 3 years.

### **Table B**

The average number of cases per Discipline Analyst, in the month/year noted, for the last 3 years.

### **Table C**

The average number of cases per Probation Monitor, in the month/year noted, for the last 3 years.

### **Table D**

Enforcement and Investigation statistical data FY to date. See guide above for reference.

### **Table E**

BRN's Performance Measure 4, FY to date, by month. This is an average of case time from complaint intake to final disposition, broken down by intake, investigation, pre-AG and post-AG time.

- Case volume is the total number of cases received in that month.
- Intake is the average time for the Intake Unit to process and refer the case to the Investigation Unit.
- Investigation is the average time for an investigation of the case.
  - This includes desk investigation, BRN investigation and DOI investigation.
- Pre-AG time is the average amount of time from the closure of the investigation to AG referral.
- Post-AG time is the average time from AG referral to final disposition of the case.
  - This includes the AG time, hearing, Board vote and case processing.
- Average total time is the average of a case from complaint intake to final disposition.

### **Table F**

This is DCA's reported Performance Measure 4, which is the formal disciplinary cycle time for all DCA entities.

More information on DCA's enforcement reports can be found at <https://www.dca.ca.gov/data/enforcement.shtml>.