



Agenda Item 9.0

Report of the Enforcement Intervention Committee

BRN Committee Meeting | June 23, 2022

Enforcement/Intervention Committee
June 23, 2022

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Agenda Item 9.2

Review and Vote on Whether to Approve Previous Meeting Minutes

BRN Committee Meeting | June 23, 2022

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

DRAFT

DATE: March 24, 2022

START TIME: 4:23 pm

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

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

Thursday, March 24, 2022 - 9:00 am - 5:00pm Committee Meeting

4:23 pm

9.0

Call to Order/Roll Call/Establishment of a Quorum
Mary Fagan called the meeting to order at 4:23 pm. All members present with the exception of Imelda Ceja-Butkiewicz who was excused. Quorum established at 4:24 pm.

**Enforcement and
Intervention
Committee:**

Imelda Ceja-Butkiewicz, Public Member - Chairperson
Dr. Mary Fagan, Ph.D., R.N., NEA-BC, Nurse Services Administration Member
Elizabeth A. Woods, RN, FNP, MSN, Advanced Practice Member
Patricia Wynne, Esq., Public Member

**BRN Staff
Representatives:**

Shannon Johnson, Chief of Enforcement Division
Loretta Melby, RN, MSN, Executive Officer
Reza Pejuhesh, DCA Legal Attorney

4:24 pm

9.1

Public Comment for Items Not on the Agenda; Items for Future Agendas

Public Comment for
Agenda Item 9.1:

No request for public comment.

4:25 pm

9.2

Review and Vote on Whether to Approve Previous Meeting Minutes
➤ January 13, 2022

MOTION: Mary Fagan: Approve with edits

1. Item 9.0 should be edited to reflect 9:37 am as the time quorum was established.

2. Item 9.3 should be edited to reflect topic as Nurse Practice Committee, rather than Nurse Practitioner Advisory Committee.

SECOND: Patricia Wynne

Public Comment for Agenda Item 9.2: No request for public comment.

VOTE:

Vote	ICB	MF	EW	PW
	AB	Y	Y	Y
Key: Yes: Y No: N Abstain: A Absent for Vote: AB				
Motion Passed				

4:29 pm **9.3** **Information Only: Enforcement and Investigation Update**

Presented by: Shannon Johnson, Enforcement Chief

Public Comment for Agenda Item 9.3: No request for public comment.

4:37 pm **9.4** **Discussion and Possible Action Regarding Reappointment of Intervention Evaluation Committee Members**

Presented by: Shannon Johnson

Name	IEC	IEC Location	Appointment Type	Term Expiration
Lisa Martinez, RN	2	Fairfield	Reappointment	June 30, 2026
Diane Alvy, RN	3	LA	Reappointment	June 30, 2026
Dianne Souza, PM	10	San Diego	Reappointment	June 30, 2026

MOTION: Mary Fagin - Motion to Accept the reappointment of the three Intervention Evaluation Committee Members.

SECOND: Patricia Wynne

Public Comment for Agenda Item 9.4: No request for public comment.

VOTE:

Vote	ICB	MF	EW	PW
	AB	Y	Y	Y
Key: Yes: Y No: N Abstain: A Absent for Vote: AB				

Motion Passed

4:40 pm

9.5

Adjournment

Mary Fagan adjourned the meeting at 4:40 pm.

Submitted by:

Accepted by:

Shannon Johnson, Enforcement Chief

Staff Liaison

Enforcement/Intervention Committee

California Board of Registered Nursing

Enforcement/Intervention Committee

California Board of Registered Nursing



Agenda Item 9.3

Information Only: Enforcement and Investigation Update

BRN Committee Meeting | June 23, 2022

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

AGENDA ITEM: 9.3
DATE: June 23, 2022

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

REQUESTED BY: Vacant, Chairperson

ACCOMPLISHMENTS:

General Enforcement and Investigations

The Office of Organizational Improvement (OIO) continues to work with BRN assessing and mapping out workflow, timeframes, and procedures to streamline and improve internal processes. The OIO team is 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.

Investigations has completed the first round of interviews for the Supervising Special Investigator I (SSI I) for the Central Region. Second interviews were held mid-May and we have a goal of July 1st to have the position filled.

The Attorney General’s Office (AGO), the Division of Investigation (DOI), BRN Investigations and BRN Enforcement reviewed the 2017 “Investigating BRN Cases - Training Guide.” Updates were made to the current training guide. Training was held May 12, 2022, for all enforcement and investigations staff.

There will be another training class for Investigations and Enforcement staff on June 28, 2022, focusing on Nurse Anesthetist scope of practice.

Complaint Intake

We are actively recruiting for the vacant Complaint Intake Unit (CIU) Manager (SSM I) position, first interviews were concluded on June 8, 2022.

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

Investigations

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

Table A	June 2020	June 2021	June 2022
Average Cases per Investigator	23	17	21

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 May 31, 2022, only 8% of our pending cases have been at the AG's office for more than one year. All hearings through the Office of Administrative Hearings (OAH) continue to be held via an online platform (Microsoft Teams). We are actively recruiting for the vacant Discipline Manager (SSM I) position, interviews are scheduled for June 13-20, 2022.

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

Table B	June 2020	June 2021	June 2022
Average Cases per Analyst	100	65	77

Probation

The Probation Unit SME's have begun working with OIO to map out the probation processes. We are actively recruiting for the vacant Probation Manager (SSM I) position, interviews are scheduled for June 13-20, 2022. We also have an open LT-OT position that was re-posted June 3, 2022.

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

Table C	June 2020	June 2021	June 2022
Average Cases per Monitor	83	87	75

Intervention

The Intervention Program continues to recruit for Intervention Evaluation Committee members with knowledge and experience substance use disorder treatment and recovery. Currently, there are thirteen (13) vacancies.

IEC Location	Member Type
1 – Sacramento	Registered Nurse
2 – Bay Area	Public
3 – Los Angeles	Physician
4 – Irvine	Physician
5 – Fresno	Registered Nurse
6 – Palm Springs	Physician
6 – Palm Springs	Registered Nurse*
7 – San Jose	Physician
9 – Ontario	Public
9 – Ontario	Registered Nurse*
11 – North Coast	Physician
12 – Northern California	Physician
12 – Northern California	Public

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

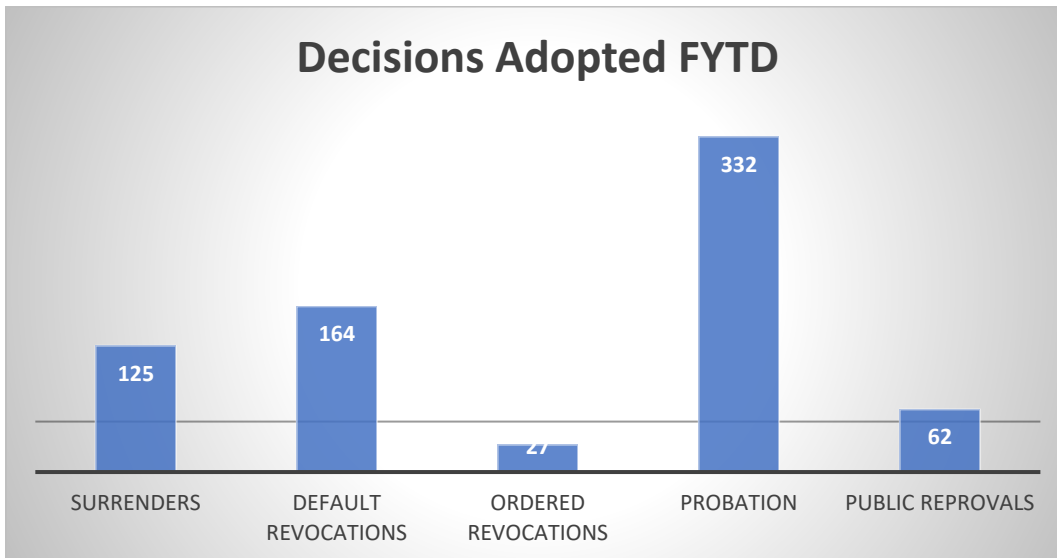
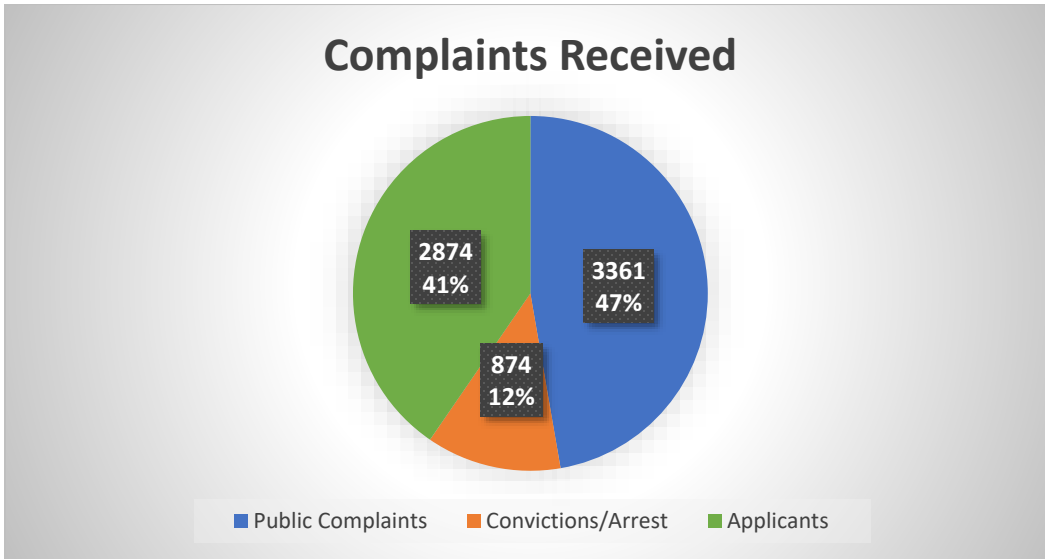
TABLE D

	Board of Registered Nursing	
	Enforcement Process Statistics	
	Fiscal Year 2021/2022	
	Date 6/2/2022	
<i>Complaint Intake</i>	Public Complaints	3361
	Convictions/Arrest	874
	Applicants	2874
	Total Received	7109
	Complaints Pending	1373
	>1 year	404
	Convictions/Arrests Pending	992
	>1 year	444
	Applicants Pending	164
	>1 year	20
	Expert Review Pending Referral	21
	>1 year	2
	Expert Review Pending Receipt	41
>1 year	0	
<i>Intervention</i>	Total Participants	284
	Intakes	98
	Self-Referral	7
	Board Referral	91
	Closures	116
	Successful	79
	Not Successful	37
	RNs Referred*	781
	Accepted	67
<i>Citation and Fine</i>	Citations Issued	137
	Informal Conference	0
	Modified	3
	Dismissed	2
	Upheld	0
	Amount Ordered	\$112,900.00
	Amount Received	\$169,930.00
	Amount Referred to FTB	\$11,000.00

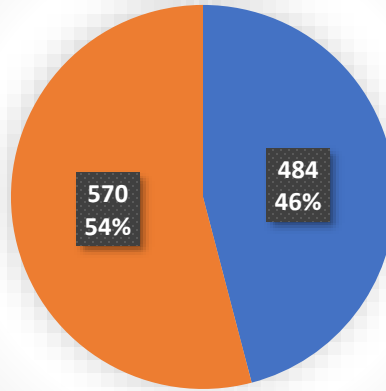
	Amount Received from FTB	\$5,110.00
Discipline	AG Referrals	1107
	Cases Pending	
	< 1 Year	692
	> 1 Year	68
	> 2 Year	8
	>1 Year W/O Pleading Filed	33
	Cases Pending Hearing	134
	Average Days at AG	320
	Pending Board Vote	44
Legal Support	Interim Suspension Orders (ISO)	4
	PC 23	11
	Pleadings Served	
	Accusations	628
	Statements of Issue	14
	Orders to Compel	56
	Petitions to revoke Probation	58
	Withdrawals of Pleadings	17
	Decisions Adopted	
	Surrenders	125
	Default Revocations	164
	Ordered Revocations	27
	Probation	332
	Public Reprovals	62
Investigations	BRN Cases Referred	917
	Rejected	117
	Supplemental Requested	19
	Triage	10
	BRN Cases Pending	484
	>1 year	36
	BRN Cases Completed	849
	DOI Cases Referred	542
	Rejected	99
	Supplemental Requested	58
	DOI Cases Pending	570
	>1 year	196
	DOI Cases Completed	419
	DOI Pilot Cases Initiated	330
	DOI Pilot Cases Pending	76

	DOI Pilot Case Closed	254
<i>Probation</i>	Active In-State Probationers	630
	Tolled Probationers	419
	Revoked	27
	Surrendered	61
	Completed	193
	Subsequent Cases Pending at AG	
	<1 Year	46
	>1 Year	6
	>2 Years	4
<i>Total Case Processing Time</i>	Average Days to Complete	641
	> 540 Days	56%
	< 540 Days	44%
	DCA goal of 540 days for all healing arts boards	

Graphs Based on Table D



Investigation Cases Pending



■ BRN Cases Pending ■ DOI Cases Pending

BRN Performance Measure YTD 21/22

TABLE E

Performance Measure 4 - AG Transmittals						
	Case Volume	Intake	Investigation	Pre-AG Time	Post AG Time	Cycle Time
Total/Average	340	8	287	8	324	626
<i>July</i>	65	7	279	9	349	644
<i>August</i>	55	6	252	14	320	592
<i>September</i>	90	7	292	8	302	609
<i>October</i>	65	12	323	6	316	656
<i>November</i>	65	7	283	3	340	632
<i>December</i>	64	8	331	6	343	687
<i>January</i>	46	9	370	2	299	680
<i>February</i>	61	10	273	8	388	680
<i>March</i>	63	10	341	4	362	717
<i>April</i>	72	9	398	9	279	695
<i>May</i>	66	7	375	13	268	664

TABLE F

All DCA Healing Arts & Health Entities				
SFY 2021: 12-Month PM4 - Summary by Board				
	Case Volume	Target	Actual	Variance
Grand Total	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)
Board of Registered Nursing	891	540 Days	690 Day(s)	▲ 150 Day(s)
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

NEXT STEPS:

Continue to Monitor

PERSONS TO CONTACT:

Shannon Johnson, Enforcement Division 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 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 Board of Registered Nursing (BRN or Board) licensing, in 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 in 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 in 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 RN's that were terminated from the program for any reason.
- Successful Completions
 - The number of RN's that were able to successfully complete the program.

Citation & Fine

- Citations Issued
 - The total number of citations issued.
- Formal Hearing
 - The number of hearings requested by the RN. The formal hearing is transmitted to the Attorney General's Office (AGO) and is heard by an Administrative Law Judge (ALJ). The results of this hearing would be 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 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.
- 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
 - This is 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

- Interim Suspension Order (ISO)
 - Licenses suspended by an Administrative Law Judge due to the seriousness of the allegations in advance of the filing of an accusation and pending a final determination of the licensee's fitness to practice and provide nursing care.
- Penal Code 23 (PC23)
 - Licenses suspended from practice as a registered nurse or restricted in how he or she may practice registered nursing ordered by a judge during a criminal proceeding.
- Pleadings served
 - The total number of pleadings that have been served. This includes Accusations, Statements of Issue, 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.
 - The total number of cases pending that are over 1 year old with BRN Investigations.
- BRN cases completed
 - The total number of cases that have been completed by BRN Investigations.
- 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 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, that were outside the CPEI guidelines, and would have normally been sent to DOI for investigation.
- DOI pilot cases pending
 - The number of cases that were referred to DOI and are still pending completion.
- DOI pilot cases closed
 - The number of cases that were referred to DOI 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 have been 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 discipline and 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 years.
 - 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 days currently taking 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 on 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 intake to process and refer to investigation.
- 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>



Agenda Item 9.4

Discussion and Possible Action Regarding Reappointment of Intervention Evaluation Committee Members

BRN Committee Meeting | June 23, 2022

**BOARD OF REGISTERED NURSING
Intervention/Discipline Committee Meeting
Agenda Item Summary**

AGENDA ITEM: 9.4

DATE: June 23, 2022

ACTION REQUESTED: Discussion and Possible Action Regarding Appointment of Intervention Evaluation Committee Members

REQUESTED BY: Vacant, Chairperson

BACKGROUND:

In accordance with Business and Professions Code § [2770.2](#), Board of Registered Nursing is responsible for appointing persons to serve on an Intervention Evaluation Committee (IEC). Each IEC is composed of three registered nurses, one physician and one public member who possess knowledge and expertise in substance use disorder or mental health.

APPOINTMENT:

Below are the names of the candidates being considered for appointment to their respective IEC. Their applications and curriculum vitae are attached for the Board's consideration. If approved, their terms will expire as noted below.

Name	IEC	IEC Location	Appointment Type	Term Expiration
Betty Jackson-Steward, RN	9	Ontario	Appointment	30-Jun-26
Colleen Burks, RN	6	Palm Desert	Appointment	30-Jun-26
Mary Richards, RN	7	San Jose	Reappointment	30-Jun-26

NEXT STEPS: Continue recruiting efforts

PERSON TO CONTACT: Shannon Johnson, Enforcement Division Chief
(916) 574-8988