



**BOARD OF REGISTERED NURSING**  
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**Louise R. Bailey, MEd, RN, Executive Officer**



## DIVERSION/DISCIPLINE COMMITTEE MINUTES

- DATE:** May 7, 2015
- SITE:** The Dana on Mission Bay  
1710 W. Mission Bay Drive  
San Diego, CA 92109
- MEMBERS PRESENT:** Cynthia Klein, RN, Chair  
Raymond Mallel  
Beverly Hayden-Pugh, MA, RN
- MEMBERS NOT PRESENT:** Imelda Ceja-Butkiewicz
- STAFF PRESENT:** Louise Bailey, M.Ed., RN, Executive Officer  
Stacie Berumen, Assistant Executive Officer  
Beth Scott, Deputy Chief, Discipline, Probation & Diversion  
Shannon Silberling, Deputy Chief, Complaints and Investigations  
Ronnie Whitaker, Legislation and Regulation Analyst

The Chair called the meeting to order at approximately 1:14 p.m.

### 9.0 REVIEW AND APPROVE MINUTES:

Approve/Not Approve: Minutes of January 8, 2015

<b>Motion:</b> Cynthia Klein to accept the January 8, 2015 DDC meeting minutes.			
<b>Second:</b> Ray Mallel			
<b>CK:</b> Yes	<b>RM:</b> Yes	<b>BHP:</b> Yes	<b>ICB:</b> Absent

### 9.1 Complaint Intake and Investigations Update

#### COMPLAINT INTAKE:

##### Staff

We have a vacancy for one Limited Term Office Assistant (OA).

##### Program

Complaint intake continues to work new complaints, ensuring cases are moving to investigations in a timely manner and that aging cases are worked as a priority.

## INVESTIGATIONS:

### Staff

We have a vacancy for one southern Special Investigator.

### Program

Investigators are focused on clearing all aging cases. There are approximately 17 cases over one year old that have not been completed with BRN investigations and 25 over one year old with DOI. With the new field investigators, we have been able to keep cases in house that are more appropriate for investigation by the board. We continue to work with DOI on referring our more egregious cases.

Investigative staff continues to attend Task Force meetings and develop working relationships with allied agencies.

### Statistics

BRN Investigations	Oct 2014	Nov 2014	Dec 2014	Jan 2015	Feb 2015	Mar 2015
Total cases assigned	287	290	303	333	329	337
Total cases unassigned (pending)	80	104	144	134	170	152
Average days to case completion	294	221	218	232	201	212
Average cost per case	\$3,481	\$2,641	\$3,400	\$3,753	\$2,909	\$2,779
Cases closed	37	34	35	43	36	56
Division of Investigations	Oct 2014	Nov 2014	Dec 2014	Jan 2015	Feb 2015	Mar 2015
Total cases assigned	343	321	346	346	331	316
Total cases unassigned (pending)	31	77	45	26	20	33
Average days to case completion	265	288	263	211	270	299
Average cost per case	\$4,870	\$5,279	\$5,547	\$4,422	\$5,365	\$6,185
Cases closed	57	42	46	37	38	36

## 9.2 Discipline, Probation, and Diversion Update

### PROGRAM UPDATE

#### Staff

The Probation Unit has one Probation Monitor out on an extended medical leave, and we have filled this position with an internal candidate on a temporary basis.

The Discipline Unit has one Staff Services Analyst vacancy which has been advertised to fill.

#### Program – Discipline

The Discipline Unit is working with the Attorney General's office to complete our cases in a timely manner and streamline our processes for efficiency.

Below reflects FY2015 (July 1, 2014 – April 27, 2015) decision statistics:

Decisions Adopted	1,271
Pleadings served	796
Petitions to Revoke Probation served	93
Surrenders signed by E. O.	275

Statistics - Discipline

The BRN continues to work with the DCA BreEZe team to verify the accuracy of the performance measures statistics, formally the E19 report.

Program – Probation

The case load per probation monitor is approximately 158.

Statistics – Probation

Below are the statistics for the Probation program from July 1, 2014 to April 24, 2015.

Probation Data	Numbers	% of Active
Male	255	26%
Female	733	74%
Chemical Dependency	428	44%
Practice Case	241	24%
Mental Health	2	0%
Conviction (Alcohol/Drug = 109)	317	32%
Advanced Certificates	99	10%
Southern California	534	54%
Northern California	439	45%
Tolled at the AG	15	1%
Pending with AG/Board	122	13%
License Revoked YTD	25	2%
License Surrendered YTD	81	7%
Terminated YTD	19	1%
Successfully completed YTD	94	9%
Active in-state probationers	988	
Completed/Revoked/Terminated/ Surrendered YTD	219	
Tolled Probationers	278	
Active and Tolled Probationers	1,266	

## Program -Diversion

The vacant Associate Governmental Program Analyst position for the Diversion Unit has been filled with an internal candidate from the Discipline Unit.

FirstLab will be hosting a complimentary event on May 29, 2015, titled, "Recovery Management Services Symposium." This Symposium will provide attendees with an opportunity to learn from Medical Professionals, Laboratory and Pharmacology Authorities, Treatment and Recovery Experts, Data Management Specialists and others who are finding success in battling this epidemic. Diversion Evaluation Committee members have been invited to attend.

At the request of Katherine Hughes from SEIU, the Diversion Program contractor Maximus will be conducting a training session at the upcoming Annual Legislative Conference to be held at the Citizens Hotel in Sacramento on May 5, 2015. The training is titled, Finding our way back: The BRN Diversion Program offers intervention, referrals to treatment services, case management and monitoring for RNs who are dealing with Substance Use Disorders or Mental Illness, allowing them to return to safe practice.

The Learning Objectives are:

1. Identify the signs, symptoms and progression of the disease of Substance Use Disorders
2. Identify the roles that family members and coworkers play in the lives of individuals with Substance Use Disorders
3. Understand the history, mission, structure and components of the BRN Diversion Program in California
4. Describe the signs of diversion of medications in the healthcare setting
5. Describe the role of the worksite monitor when a Diversion Nurse returns to work

## Diversion Evaluation Committees (DEC)

There are currently three physician member vacancies at this time. One vacancy is in Ontario (DEC 9), one is in Oakland (DEC 13) and the third vacancy in San Jose (DEC 7) will be filled upon approval of new appointees.

There are currently eight RN member vacancies at this time. Two in the Bay Area (DEC 2), one in Orange County (DEC 4) two in Fresno (DEC 5), one in North Coast Emeryville (DEC 11), one in Oakland (DEC 13) and one upcoming vacancy effective May 18, 2015 in San Jose (DEC 7). Vacancies on DEC 5, 11 and 13 will be filled upon approval of new appointees.

## Statistics – Diversion

The Statistical Summary Report for February 1, 2015 through March 31, 2015 is after this update. As of March 31, 2015, there were 1,960 successful completions.

**9.2.1 Diversion Evaluation Committee Members**

In accordance with B & P Code Section 2770.2, the Board of Registered Nursing is responsible for appointing persons to serve on the Diversion Evaluation Committees. Each Committee for the Diversion Program is composed of three registered nurses, a physician and a public member with expertise in substance use disorders and/or mental health.

**NEW APPOINTMENTS**

Below are the names of the candidates who are being recommended for appointment to the Diversion Evaluation Committees (DEC). If appointed, their terms will begin on July 1, 2015 and expire June 30, 2019.

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>#</u>
Tracy Finuf	RN	North Coast Emeryville	11
Barbara Henson	RN	Fresno	5
Nancy Bito	RN	Oakland	13
Robert Watrous	Physician	San Jose	7
Dannika Schauer	RN	Bay Area	2
Denise Giusti-Bradford	Public	Burbank	8

<b>Motion:</b> Cynthia Klein to recommend approval of the new appointments to the Board			
<b>Second:</b> Beverly Hayden-Pugh			
<b>CK:</b> Yes	<b>RM:</b> Yes	<b>BHP:</b> Yes	<b>ICB:</b> Absent

**REAPPOINTMENTS**

Below are the names of the candidates who are being recommended for reappointment to the Diversion Evaluation Committees (DEC). If appointed, their terms will begin on July 1, 2015 and expire June 30, 2019.

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>#</u>
Mason Turner	Physician	Fresno	5
John Harsany Jr.	Physician	San Diego	10
George Warner	Public	Palm Springs	6
Linda Quimby-McInnes	Public	Folsom	12
Jolie Gordon-Browar	RN	Fresno	5
Jacqueline Perry	RN	Palm Springs	6
Fran Goodman	RN	San Jose	7
Cynthia Grauvogl	RN	San Diego	10
Tonia Jones	RN	Santa Ana	14

<b>Motion:</b> Cynthia Klein to recommend approval of the reappointments to the Board			
<b>Second:</b> Ray Mallel			
<b>CK:</b> Yes	<b>RM:</b> Yes	<b>BHP:</b> Yes	<b>ICB:</b> Absent

Below are the names of the candidates who are being recommended for term extensions to the Diversion Evaluation Committees (DEC). If extended, their terms will begin on July 1, 2015 and expire June 30, 2017.

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>#</u>
Stephen Miller	Public	North Coast Emeryville	11
Patricia Butler	RN	Folsom	12

<b>Motion:</b> Cynthia Klein to recommend to approve the term extensions to the Board			
<b>Second:</b> Ray Mallel			
<b>CK:</b> Yes	<b>RM:</b> Yes	<b>BHP:</b> Yes	<b>ICB:</b> Absent

### TRANSFERS

Below are the names of the DEC members who are being recommended for transfer.

<u>NAME</u>	<u>TITLE</u>	<u>FROM DEC #</u>	<u>TO DEC #</u>
Marilyn Dray	RN	Oakland #13	Sacramento #1
William Frantz	RN	Folsom #12	Sacramento #1
Gaye Wilson	RN	North Coast #11	Folsom #12
Pamela Moore	RN	San Jose #7	Fresno #5
Mary Kropf	RN	Emeryville #2	Oakland #13
Jeremy Martinez	Physician	Ontario #9	Los Angeles #3
Scott Bertrand	RN	Orange County #4	Ontario #9

### RESIGNATIONS

Below are the names of the DEC members who have resigned.

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>#</u>
Gordon Ogden	RN	Fresno	5
Richard Jaco	RN	Sacramento	1
Scott Reiter	Physician	Los Angeles	3
Mary Hegarty	RN	Fresno	5
Sharon Fritz	RN	Ontario	9
Brooke kilpatric	RN	Bay Area	2
Cathy Horowitz	RN	Sacramento	1

### 9.3 Update: “Uniform Standards Regarding Substance-Abusing Healing Art Licensees” Business and Professions Code, Section 315

As directed by the Board at its November 2013 meeting, staff conducted a comparative analysis of the Uniform Standards, Diversion Program, and Probation Program, including the potential fiscal impact. Staff met with Legal Counsel to discuss a number of issues related to Uniform Standards, including the specific recommendations from Doreathea Johnson, Deputy Director, DCA Legal Affairs. Legal Counsel advised the Board continue with the regulatory process, although the Attorney General’s

Office has not rendered its opinion relative to the Uniform Standards. The Board will be notified if changes are necessary as a result of the opinion.

Staff submitted a report of its findings to the Committee at its March 2014 meeting.

The Medical Board of California has promulgated regulations implementing the Uniform Standards. A comparison was made and is provided for the committee's consideration at the May 2014 meeting.

Staff will continue to facilitate discussion of each standard in conjunction with the attachments.

The committee reviewed the following standards:

Standard #1-Clinical Diagnostic Evaluations	Are the BRN evaluations considered "clinical diagnostic evaluations?"
Standard #2-Temporary Removal of Licensee from Practice due to Clinical Diagnostic Evaluation	Public Comment made by ANA/C who opposes testing two times per week.
Standard #3-Ability to Communicate with Licensee's Employer	No issues identified.
Standard #4-Standards for Required Testing	<ul style="list-style-type: none"><li>* Concerns with number of tests for Diversion Program participants when they are not working and have no income.</li><li>* Cost of testing is \$62.50 plus collection fee. Total of \$10,000 to test each year.</li><li>* Mandatory testing each week takes away board's discretion and ability to conduct "random" testing.</li><li>* Public comment made by ANA/C and SEIU relative to opposition of this uniform standard.</li></ul>
Standard #5-Standards for Required Group Meeting Attendance	No issues identified.
Standard #6-Standards for Type of Treatment	How many additional staff would BRN need with appropriate training in chemical dependency and/or mental health?
Standard #7-Standards for Worksite Monitoring	No issues identified.
Standard #8-Procedures when a licensee tests positive for a banned substance	Standard to immediately cease practice for positive drug test for any banned substance does not allow for due process rights of licensee. No parameter set stating what

a positive test result is. Incidental exposure to hand sanitizers can result in a low level positive and the licensee will be ordered to cease practice.

**Public Comment:**

Tricia Hunter  
Katherine Hughes

**9.4 Vote on whether to recommend approval of Regulatory Proposal to Modify the Recommended Guidelines for Disciplinary Orders and Conditions of Probation in California Code of Regulations, Article 1, Section 1444.5, Disciplinary Guidelines**

The Board of Registered Nursing (BRN) last amended the Recommended Guidelines for Disciplinary Orders and Conditions of Probation (Guidelines) in 2003. BRN staff were reviewing the Guidelines prior to the overhaul of the board members in 2010. A regulatory proposal was initiated in March 2011 to incorporate the Uniform Standards as required by SB 1441; however, the board was sunset in December 2011 and the regulatory proposal was not acted upon by the board in time.

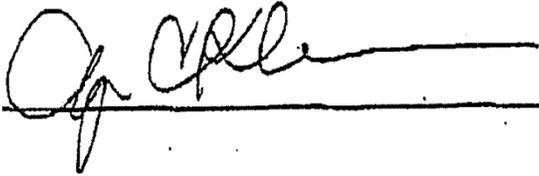
The proposed language will be provided under separate cover for consideration and discussion at the committee meeting.

**9.5 Public Comment for Items Not on the Agenda**

No public comment for items not on the agenda.

The Chair adjourned the committee meeting at approximately 1:50 p.m.

Approved: \_\_\_\_\_

A handwritten signature in black ink, appearing to be "Op" followed by a long horizontal line, is written over a printed horizontal line.