



INTERVENTION/DISCIPLINE COMMITTEE MINUTES

DATE: May 12, 2016

SITE: Embassy Suites San Francisco Airport – South San Francisco
 250 Gateway Blvd.
 South San Francisco, CA 94080

MEMBERS PRESENT: Cynthia Klein, RN, Chair
 Imelda Ceja-Butkiewicz
 Raymond Mallel

STAFF PRESENT: Stacie Berumen, Assistant Executive Officer
 Beth Scott, Deputy Chief, Discipline, Probation & Diversion
 Shannon Silberling, Deputy Chief, Complaints and Investigations
 Don Walker, Intervention Program Manager

The Chair called the meeting to order at approximately 12:05 p.m.

9.0 REVIEW AND APPROVE MINUTES:

Approve/Not Approve: Minutes of March 10, 2016

Motion: Imelda Ceja-Butkiewicz to approve the minutes			
Second: Cynthia Klein			
CK: Y	RM: Y	ICB: Y	

9.1 Complaint Intake and Investigations Update

COMPLAINT INTAKE:

Staff

We currently have one Office Technician (OT) position and one Associate Governmental Program Analyst (AGPA) vacant. We hope to have these filled by end of May.

Program

We have one analyst that continues to work with the Department of Consumer Affairs (Department) BreZE team and involved in the Reports User Group, as well as the Enforcement User Group.

The Controlled Substance Utilization Review & Evaluation System (CURES 2.0) has been up and running since July 1, 2015. Effective July 1, 2016, all California licensed furnishing/prescribing

practitioners and pharmacists must be registered to access CURES/PDMP. They can find information on the Boards website to assist them in this process.

As of April 25, 2016

Complaints Received (FY 15/16)	6,305
Complaints Pending	1,954
Arrest/Conviction (CORI & Self Report)	1,055
Complaints over 1 year	68

INVESTIGATIONS:

Staff

We are currently fully staffed in both Northern and Southern California.

Program

We continue to assign cases based on the Department's Consumer Protection Enforcement Initiative (CPEI).

As of April 25, 2016, there were approximately 44 BRN investigative cases over one year old and there are approximately 41 DOI cases over one year old, that are still open.

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

Statistics

BRN Investigations	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016
Total cases assigned	379	374	363	375	383	385
Total cases unassigned (pending)	106	155	142	177	146	147
Average days to case completion	267	265	271	320	301	295
Average cost per case	\$2,728	\$2,968	\$2,722	\$2,769	\$2,766	\$3,648
Cases closed	58	58	67	37	80	49
Division of Investigations	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016
Total cases assigned	359	328	268	274	277	291
Total cases unassigned (pending)	29	30	35	29	16	13
Average days to case completion	220	318	306	261	292	303
Average cost per case	\$4,155	\$6,696	\$7,246	\$4,350	\$5,734	\$5,544
Cases closed	40	33	33	29	21	20

Investigators are focused on clearing all aging cases.

9.2 Discipline and Probation Update

Staffing

The Probation Program has a vacancy for a probation monitor and has begun the process to fill the position.

Program – Discipline

The Discipline Unit continues to work with the Attorney General’s (AG) office to complete our cases in a timely manner and streamline our processes for efficiency.

Statistics - Discipline

Below reflects FY 14/15 (July 1, 2014 – June 30, 2015) discipline statistics:

Decisions Adopted	1,578
Pleadings served	1,067
Petitions to Revoke Probation served	104
Surrenders signed by E. O.	291

Below reflects FY 15/16 (July 1, 2015 – April 29, 2016) discipline statistics:

Decisions Adopted	1,323
Pleadings served	1,061
Petitions to Revoke Probation served	65
Surrenders signed by E. O.	215

The BRN continues to work with the DCA BreZE team to verify the accuracy of the performance measures statistics. The discipline unit has one discipline analyst dedicated to working on BreZE reports.

Program – Probation

The Probation Program has a vacancy for a probation monitor and has begun the process to fill the position.

Statistics - Probation

Statistics – July 1, 2015 to April 28, 2016

Probation Data	Numbers	% of Active
Male	337	29%
Female	823	71%
Chemical Dependency	769	66.3%
Required Drug-Screening	605	52.2%
Practice	275	23.7%

Mental Health	6	0.5%
Conviction - excluding chemical dependency/alcohol use	110	9.5%
Advanced Certificates	115	10%
Southern California	670	58%
Northern California	487	42%
Pending AG - Tolled	3	0%
Pending AG	87	8%
License Revoked Fiscal YTD	36	
License Surrendered Fiscal YTD	66	
Terminated Fiscal YTD	31	
Successfully Completed Fiscal YTD	112	
Active In-State Probationers	1,160	
Completed/Revoked/Terminated/Surrendered YTD	245	
Tolled Probationers	333	
Active and Tolled Probationers	1,493	

The average case load of active probationers per probation monitor is approximately 145. However, the average number of cases per monitor including Tolled cases is 186. There are 52 Early Termination and 9 Modification of Probation cases waiting to be heard by the Board.

9.3 Intervention Program Update and Statistics

Staffing

The Intervention program is fully staffed.

Program Update

The Intervention program contractor, MAXIMUS are scheduled to present at two upcoming outreach presentations. The first presentation is scheduled for May 11, 2016, at California State University Sacramento (CSUS) which will be catered to 78 students who will be graduating at the end of May with their Bachelor of Science in Nursing. The second presentation is scheduled for June 9th, 2016, at the Saint Francis Hospital in San Francisco. Further information will be provided at a later date.

Intervention Evaluation Committees (IEC)

There is currently one Physician member vacancy in Burbank (IEC 8).

There are currently two RN member vacancies at this time, one in San Jose (IEC 7)* and one in Burbank (IEC 8).

***Asterisk denotes pending committee recommendation for Board approval of IEC member included in Agenda Item 9.3.1**

Statistics – Intervention

The Statistical Summary Report for February 1, 2016, through March 31, 2016, is after this update. As of March 31, 2016, there have been 2,055 successful completions.

**BOARD OF REGISTERED NURSING
INTERVENTION PROGRAM
STATISTICAL SUMMARY
February 1, 2016 - March 31, 2016**

	CURRENT MONTHS	YEAR TO DATE (FY)	PROGRAM TO DATE
INTAKES COMPLETED	17	100	5,105
INTAKE INFORMATION			
Female	15	76	3,986
Male	2	24	1,092
Unknown	0	0	27
Average Age	35-44		
Most Common Worksite	Unemployed		
Most Common Specialty	ER		
Most Common Substance Abused	Alcohol/Norco		
PRESENTING PROBLEM AT INTAKE			
Substance Abuse (only)	10	47	3,199
Mental Illness (only)	1	6	168
Dual Diagnosis	6	44	1,656
Undetermined		3	82
REFERRAL TYPE*			
Board	11	79	3,758
Self	6	21	1,347
*May change after Intake			
ETHNICITY (IF KNOWN) AT INTAKE			
American Indian/Alaska Native	0	0	39
Asian/Asian Indian	0	6	120
African American	0	5	165
Hispanic	0	4	216
Native Hawaiian/Pacific Islander	0	2	29
Caucasian	17	81	4,194
Other	0	2	76
Not Reported	0	0	266
CLOSURES			
Successful Completion	17	65	2,055
Failure to Derive Benefit	1	2	123
Failure to Comply	1	5	976
Moved to Another State	0	0	52
Not Accepted by IEC	1	2	60
Voluntary Withdrawal Post-IEC	1	5	336
Voluntary Withdrawal Pre-IEC	2	12	525
Participant Withdrawn-Failure to sign co	0	0	1
Closed Public Risk	7	24	348
No Longer Eligible	0	1	17
Clinically Inappropriate	1	3	33
Client Expired	0	0	40
Sent to Board Pre-IEC	0	1	2
TOTAL CLOSURES	31	120	4,568
NUMBER OF PARTICIPANTS: 411 (as of March 31, 2016)			

9.3.1 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 Intervention Evaluation Committees. Each Committee for the Intervention Program is composed of three registered nurses, a physician and a public member with expertise in substance use disorders and/or mental health.

APPOINTMENTS

Below are the names of the candidates who are being recommended for appointment and Reappointment to the Intervention Evaluation Committees (IEC). Their applications and résumés are attached. If approved, their terms will expire June 30, 2020.

<u>NAME</u>	<u>TITLE</u>	<u>IEC</u>	<u>NO</u>
Erin Boerum	RN Member	Orange County	4
John Helmuth	RN Member	Fairfield	11
Mary McCloy	RN Member	San Jose	7
Maryn Young	RN Member	Sacramento	1
Vamsi Garlpati	Public Member	Orange County	4

REAPPOINTMENTS

<u>NAME</u>	<u>TITLE</u>	<u>IEC</u>	<u>NO</u>
Scott Bertrand	RN Member	Ontario	9
Janis Bush	RN Member	Palm Springs	6
Dianne Christoffels	RN Member	San Diego	10
Sara Cardiner	RN Member	Bay Area	2
Mary Kropf	RN Member	Oakland	13
Bobbie Leva	RN Member	Burbank	8
Michael Mayo	RN Member	Fresno	5
Patricia Mraz	RN Member	Santa Ana	14
LaFrancine Tate	Public Member	Bay Area	2

Motion: Ray Mallel to approve the Intervention Evaluation Committee member appointments and reappointments			
Second: Imelda Ceja-Butkiewicz			
CK: Y	RM: Y	ICB: Y	

RESIGNATION (For informational purposes, no vote needed)

<u>NAME</u>	<u>TITLE</u>	<u>IEC</u>	<u>NO</u>
Duane Anderson	RN Member	Burbank	8

9.4 Vote on whether to recommend approval of modified 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) approved a regulatory package to amend the Recommended Guidelines for Disciplinary Orders and Conditions of Probation (Guidelines) at its June 4, 2015 board meeting. The Recommended Guidelines for Disciplinary Orders were last amended in 2003. BRN staff reviewed the Guidelines prior to the overhaul of the board members in 2010 and 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 language approved by the board at its June 2015 board meeting was reviewed by DCA Legal Counsel who suggested modifying the language. Attached you will find the suggested language as modified by DCA Legal Counsel for your consideration and approval.

The board voted at the April 2016 meeting to include the necessary trigger to identify a substance abusing licensee. The language for Section 1444.5 was updated to reflect that choice along with the updated Disciplinary Guidelines which are presented to the committee for review and vote.

§1444.5. Disciplinary Guidelines.

(a) In reaching a decision on a disciplinary action under the Administrative Procedures Act (Government Code Section 11400 et seq.), the board shall comply with the “Uniform Standards for Substance-Abusing Licensees – Terms and Conditions,” and consider the disciplinary guidelines entitled: “Recommended Guidelines for Disciplinary Orders and Conditions of Probation” (10/0203/2016), which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; Uniform Standards apply to a substance-abusing licensee.

(1) Subject to subdivision (b), Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation -for example: the presence of mitigating factors; the presence of aggravating factors; the age of the case; or evidentiary ~~problems~~ issues.

(2) If the conduct found to be a violation involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of Section 315 of the Code. If the licensee does not rebut the presumption, then the Uniform Standards for substance-abusing licensees shall apply.

(b) Notwithstanding the disciplinary guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any acts of sexual contact, as defined in subdivision (c) of Section 729 of the Business and Professions Code, with a patient, or has committed an act or been convicted of a

sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

~~(b) Notwithstanding subsection (a), the Board shall use the uniform standards for substance abusing licensees as provided in Section 1445.51, without deviation, for each individual determined to be a substance abusing licensee.~~

Authority cited: Section 2715, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 2750, 2759, 2761 and 2762, Business and Professions Code; and Sections 11400.20 and 11425.50(c), Government Code.

HISTORY:

1. New section filed 6-17-97; operative 6-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 25).
2. Amendment of "Recommended Guidelines for Disciplinary Orders and Conditions of Probation" (incorporated by reference) and amendment of section filed 6-14-2000; operative 7-14-2000 (Register 2000, No. 24).
3. Amendment of section and Note filed 4-24-2003; operative 5-24-2003 (Register 2003, No. 17).
4. Amendment of section and Note filed 7-23-2014; operative 7-23-2014 pursuant to Government Code section 11343.4(b)(3) (Register 2014, No. 30).

~~§1444.51. Uniform Standards Related to Substance Abuse.~~

~~(a) The board shall also apply, as required, the Department of Consumer Affairs' Substance Abuse Coordination Committee's Uniform Standards Regarding Substance Abusing Healing Arts Licensees (April 2011) [hereafter "Uniform Standards"], which are hereby incorporated by reference. The "Uniform Standards" describe the mandatory conditions that apply to a substance abusing licensee, except that the board may impose more restrictive conditions if necessary to protect the public.~~

~~(b) If after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with sections 11500 et seq.), the board finds that the evidence proves that an individual is a substance abusing licensee for the purposes of section 315 of the code, then all relevant terms and conditions contained in the Disciplinary Guidelines and the "Uniform Standards" shall apply as written and be used in the order placing the licensee on probation.~~

~~(a) If after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the government Code (commencing with Sections 11500 et seq.), the Board finds that the evidence establishes that an individual is a substance abusing licensee, then the terms and conditions in the Standard Language to be Included in Every Probationary Order for Substance Abusing Licensees contained within the document entitled "Recommended Guidelines for Disciplinary Orders and Conditions of Probation", revised in March 2016, which are hereby~~

~~incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.~~

~~(b) If a licensee signs and agrees to a stipulated settlement he or she must complete a clinical diagnostic evaluation. If the licensee is deemed to be a Substance Abusing licensee he or she will be subject to the Standard Language to be Included in Every Probationary Order for Substance Abusing Licensees contained within document entitled "Recommended Guidelines for Disciplinary Orders and Conditions of Probation," revised in March 2016, which are hereby incorporated by reference.~~

~~(c) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation that are specific to a particular case or that are derived from the Board's guidelines referenced in Section 1444.5 in any order that the Board determines would provide greater public protection.~~

~~Note: Authority cited: Section 2715, Business and Professions Code and Section 11400.20, Government Code. Reference: Sections 315, 315.2, 315.4, 2750, 2759, 2761 and 2762, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.~~

Motion: Cynthia Klein to recommend that this language be approved by the Board at the June meeting.			
Second: Imelda Ceja-Butkiewicz			
CK: Y	RM: Y	ICB: Y	

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 12:38 p.m.

Approved: Raymond Mallef