



Agenda Item 9.0

Report of the Enforcement/Intervention Committee

BRN Board Meeting | February 15-16, 2023

Enforcement Intervention Committee
February 15-16, 2023

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Agenda Item 9.1

Information Only - Enforcement Unit and Investigation Unit Update

BRN Board Meeting | February 15-16, 2023

BOARD OF REGISTERED NURSING
Enforcement Intervention Committee
Agenda Item Summary

AGENDA ITEM: 9.1

DATE: February 15-16, 2023

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

REQUESTED BY: Patricia Wynne, Esq., Chairperson

ACCOMPLISHMENTS:

General Enforcement and Investigations

On January 31, 2023, the Nurse Midwifery Advisory Committee (NMAC) and the Nurse Practitioner Advisory Committee (NPAC) received an overview of the Enforcement Division, to include investigation and prosecution of violations of the Nursing Practice Act, by the Enforcement Division Chief.

In November 2022, many Enforcement Division and Investigation Unit staff, completed two of two National Certified Investigator and Inspector Training (NCIT), hands-on training and certification program classes. These courses were conducted by Council on Licensure, Enforcement and Regulation (CLEAR).

We continue to work with National Council of State Boards of Nursing (NCSBN) on a five-year pilot study of alternative to discipline programs for nurses. We will provide data biannually for the next 5 years.

The Office of Organizational Improvement (OIO) continues to work with the Enforcement Division, assessing and mapping out workflows, timeframes, and procedures to streamline and improve internal processes. The OIO team is working with Subject Matter Experts (SMEs) from each unit and staffing level. We will continue to report on the progress of this project in future meetings.

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.

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

Complaint Intake

CIU analysts are collaborating with internal BRN investigations and DOI to receive training on performing initial desk investigations. This is to obtain pertinent information to determine if the Board has jurisdiction and to determine if the case remains with BRN Investigations or is sent to Division of Investigation (DOI) for investigation. These duties are in accordance with BRN's Memorandum of Understanding (MOU) with DOI.

Investigations

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 recently reviewed, and recommended changes were made. The updated pilot continues through December 2023.

Discipline

As of January 23, 2023, only 16% 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.

Probation

The probation monitors are currently working with management on procedural changes for the employment approval/modifications of a probationer's employment, as well as the process for assignment and approval of courses.

Intervention

We revised the Intervention Evaluation Committee (IEC) Guide and conducted a training for all IEC members in December 2022.

The Intervention Program continues to recruit for IEC members with knowledge and experience in substance use disorder (SUD) treatment and recovery and mental health. Currently, there are several vacancies across the state.

If the Board approves the recommendations for appointment in Agenda Item Summary 9.2, several of these vacancies will be filled.

IEC #	AREA	MEMBER TYPE
1	Sacramento	Physician
2	Bay Area	Nurse
2	Bay Area	Nurse
3	Los Angeles	Nurse
3	Los Angeles	Nurse
4	Orange County	Nurse
4	Orange County	Physician
5	Fresno	Physician
6	Palm Springs	Nurse
7	San Jose	Nurse
7	San Jose	Physician

IEC #	AREA	MEMBER TYPE
9	Ontario	Nurse
9	Ontario	Physician
10	San Diego	Nurse
10	San Diego	Nurse
10	San Diego	Physician
11	North Coast	Physician
12	N. California	Nurse
12	N. California	Nurse
12	N. California	Nurse
12	N. California	Physician

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

TABLE A

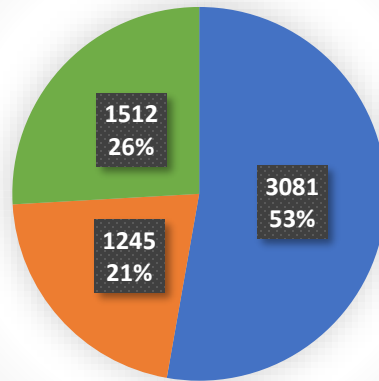
Board of Registered Nursing Enforcement Process Statistics Fiscal Year 2022/2023 Date 01/31/2023		
Complaint Intake	Public Complaints	3081
	Convictions/Arrest	1245
	Applicants	1512
	Total Received	5838
	Complaints Pending	1516
	>1 year	399
	Convictions/Arrests Pending	943
	>1 year	351
	Applicants Pending	117
	>1 year	6
	Expert Review Pending Referral	20
	>1 year	6
	Expert Review Pending Receipt	50
	>1 year	2
Intervention	Total Participants	258
	Intakes	
	Self-Referral	2
	Board Referral	30
	Closures	
	Successful	38
	Not Successful	20
	RNs Referred	
Accepted	25	
Citation and Fine	Citations Issued	96
	Informal Conference	
	Modified	0
	Dismissed	2
	Upheld	0
	Amount Ordered	\$90,000.00
	Amount Received	\$97,730.00
	Amount Referred to FTB	\$2,000.00
Amount Received from FTB	\$7,250.00	

Discipline	AG Referrals	
		558
	Cases Pending	
	< 1 Year	991
	> 1 Year	366
	> 2 Year	29
	>1 Year W/O pleading filed	84
	Cases Pending Hearing	126
	Average Days at AG	315
	Pending Board Vote	56
Legal Support	Interim Suspension Orders (ISO)	0
	PC 23	6
	Pleadings Served	
	Accusations	361
	Statements of Issue	6
	Orders to Compel	26
	Petitions to Revoke Probation	47
	Withdrawals of Pleadings	16
	Decisions Adopted	
	Surrenders	107
	Default Revocations	147
	Ordered Revocations	13
	Probation	237
	Public Reprovals	37
Investigations	BRN Cases Referred	646
	Rejected	71
	Supplemental Requested	14
	Triage	12
	BRN Cases Pending	636
	>1 year	52
	BRN Cases Completed	205
	DOI Cases Referred	265
	Rejected	87
	Supplemental Requested	22
	DOI Cases Pending	428
	>1 year	169
	DOI Cases Completed	265
	DOI Pilot Cases Initiated	439
	DOI Pilot Cases Pending	97
	DOI Pilot Case Closed	342

Probation	Active In-State Probationers	629
	Tolled Probationers	431
	Revoked	29
	Surrendered	26
	Completed	122
	Subsequent Cases Pending at AG	
	<1 Year	88
	>1 Years	15
	>2 Years	4
Total Case Processing Time	Average Days to Complete	673
	> 540 Days	59%
	< 540 Days	41%
	DCA goal of 540 days for all healing arts boards	

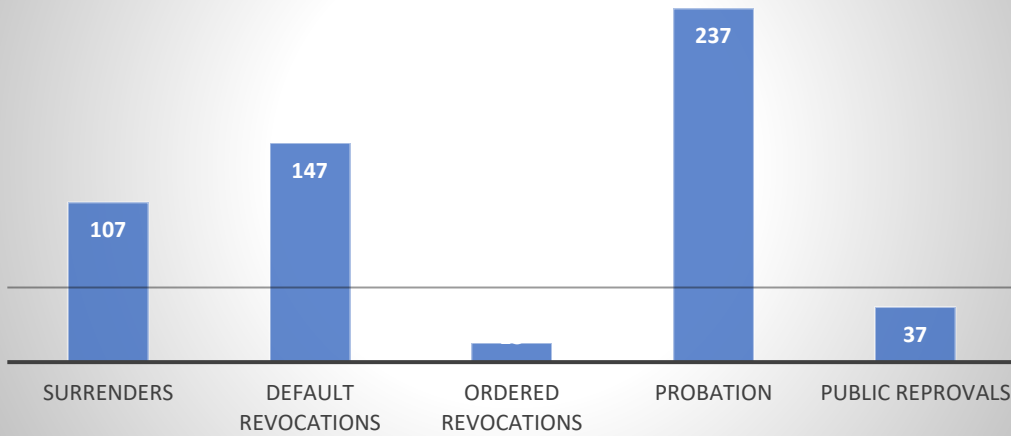
Graphs Based on Table A

Complaints Received

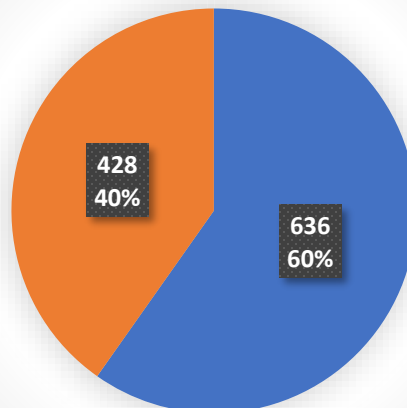


■ Public Complaints ■ Convictions/Arrest ■ Applicants

Decisions Adopted FYTD



Investigation Cases Pending



■ BRN Cases Pending ■ DOI Cases Pending

BRN Performance Measure YTD 22/23

TABLE B

Performance Measure 4 - AG Transmittals						
	Case Volume	Intake	Investigation	Pre-AG Time	Post AG Time	Cycle Time
<i>Total/Average</i>						
<i>July</i>	69	8	338	10	322	678
<i>August</i>	55	8	326	20	239	593
<i>September</i>	80	7	363	8	348	726
<i>October</i>	95	8	289	21	273	591
<i>November</i>	71	12	343	13	297	666
<i>December</i>	87	7	353	6	389	754

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

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

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

Table B

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 C

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>

Table D

This table depicts the number of RN's disciplined that also hold an advanced practice certification. The RN's may hold multiple certifications. For example, if a RN is placed on probation and they hold a PHN, NP and NPF, the table will show a discipline for each of the certifications held.



Agenda Item 9.2

Discussion and Possible Action Regarding Appointment of Intervention Evaluation Committee (IEC) Members

BRN Board Meeting | February 15-16, 2023

BOARD OF REGISTERED NURSING
Agenda Item Summary

AGENDA ITEM: 9.2
DATE: February 15-16, 2023

ACTION REQUESTED: Discussion and possible action regarding appointment of Intervention Evaluation Committee Members

REQUESTED BY: Patricia Wynne, Esq., Chairperson

BACKGROUND:

In accordance with Business and Professions Code section [2770.2](#), the 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. The applications and Curricula Vitae were provided to the Committee for their review and consideration. If approved, their terms will expire as noted below.

Name	Member Type	IEC	Appointment Type	Term Expiration
Humphrey Ogg	Nurse	2	New Appointment	6/30/2026
William Gould	Nurse	2	New Appointment	9/30/2025
Laura Thomas	Nurse	3	New Appointment	6/30/2026
Tanika Johnson	Nurse	4	New Appointment	6/30/2024
Scott Guenther	Nurse	7	New Appointment	6/30/2024
Kevin Vejar	Nurse	7	New Appointment	6/30/2024
Donna Palmer	Nurse	10	New Appointment	6/30/2025
Elizabeth Riley	Nurse	10	New Appointment	6/30/2024
Jane Newhard-Parks	Nurse	12	New Appointment	6/30/2025
Luann LaMay	Nurse	12	New Appointment	6/30/2025

NEXT STEPS: Continue recruiting efforts

PERSON TO CONTACT: Shannon Johnson, Enforcement Division Chief
(916) 515-5265