

**BOARD OF REGISTERED NURSING**  
**Diversion/Discipline Committee**  
**Agenda Item Summary**

---

**AGENDA ITEM:** 9.1  
**DATE:** November 5, 2015

**ACTION REQUESTED:** Information Only: Complaint Intake and Investigations Update

**REQUESTED BY:** Cynthia Klein, RN, Chairperson

**BACKGROUND:**

**PROGRAM UPDATES**

**COMPLAINT INTAKE:**

**Staff**

We have filled our 12 month limited term Associate Governmental Program Analyst position. It was filled with a Complaint Intake Staff Services Analyst (SSA). The SSA is now being recruited for as a limited term position.

**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.

We have one analyst that is working with the Department of Consumer Affairs (Department) BreEZe team and is involved in the Reports User Group, as well as the Enforcement User Group.

The Controlled Substance Utilization Review & Evaluation System (CURES) had a soft launch July 1, 2015. CURES 2.0 is being rolled out over the next couple months. The BRN continues to work closely with the Department's Executive team and the Department of Justice (DOJ) to ensure its success.

**INVESTIGATIONS:**

**Staff**

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

**Program**

Division of Investigation (DOI) has begun the quarterly Managers' Enforcement Consortium and we had our second meeting on September 28, 2015, with guest speakers from the AG's office.

We continue to assign cases based on the Department's Consumer Protection Enforcement Initiative (CPEI). As of October 27, 2015, there were approximately 37 BRN cases over one year old that are still open and there are approximately 21 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	Apr 2015	May 2015	June 2015	July 2015	August 2015	September 2015
Total cases assigned	344	342	329	330	345	373
Total cases unassigned (pending)	162	153	166	176	179	121
Average days to case completion	215	214	247	238	232	275
Average cost per case	\$3,180	\$3,280	\$2,810	\$2,849	\$2,632	\$3,448
Cases closed	57	41	51	44	45	52
Division of Investigations	Apr 2015	May 2015	June 2015	July 2015	August 2015	September 2015
Total cases assigned	298	290	311	297	327	328
Total cases unassigned (pending)	38	53	36	49	60	71
Average days to case completion	271	271	326	325	253	302
Average cost per case	\$5,124	\$5,896	\$7,028	\$6,064	\$4,801	\$5,389
Cases closed	54	38	40	55	16	28

Investigators are focused on clearing all aging cases.

**NEXT STEP:**

Continue to review and adjust internal processes and work with DCA to create reports to monitor statistics for improvement in case processing time frames. Follow directions given by committee and/or board.

**FISCAL IMPACT, IF ANY:**

None at this time. Updates will be provided at each DDC meeting for review and possible action.

**PERSON TO CONTACT:**

Shannon Silberling, Chief  
Complaint Intake and Investigations  
(916) 515-5265

**BOARD OF REGISTERED NURSING**  
**Diversion/Discipline Committee**  
**Agenda Item Summary**

---

**AGENDA ITEM: 9.2**  
**DATE: November 5, 2015**

**ACTION REQUESTED:** Information Only: Discipline, Probation, and Diversion Unit Update

**REQUESTED BY:** Cynthia Klein, RN, Chairperson

Staffing

Recruitment efforts are underway to fill the Probation Manager position.

The Diversion Unit has filled the limited term Staff Services Analyst position with the promotion of an internal candidate.

Program – Discipline

The Discipline Unit is working 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 – October 23, 2015) discipline statistics:

Decisions Adopted	484
Pleadings served	433
Petitions to Revoke Probation served	28
Surrenders signed by E. O.	80

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 probation unit continues to improve processes and procedures to streamline our cases.

Statistics - Probation

Statistics – July 1, 2015 to October 23, 2015

Probation Data	Numbers	% of Active
Male	301	27%
Female	806	73%
Chemical Dependency	716	65%
Practice Case	274	25%
Mental Health	5	0%
Conviction (Alcohol/Drug = 109)	112	10%
Advanced Certificates	107	10%
Southern California	607	55%
Northern California	489	44%
Tolled at the AG	11	1%
Pending with AG/Board	102	9%
License Revoked YTD	13	14%
License Surrendered YTD	25	57%
Terminated YTD	9	0%
Successfully completed YTD	61	29%
Active in-state probationers	<b>1,107</b>	
Completed/Revoked/Terminated/ Surrendered YTD	108	
Tolled Probationers	304	
Active and Tolled Probationers	<b>1,391</b>	

The case load per probation monitor is approximately 134. Currently there are 29 Early Termination and 7 Modification of Probation cases waiting to be heard by the Board.

#### Program -Diversion

Effective January 1, 2016 the official name of the Diversion Program will be changed to Intervention Program pursuant to SB 800.

Due to a consistent increase in probation participants, the BRN is in need of Nurse Support Group facilitators in all geographical areas, specifically in Humboldt, Los Angeles, Orange, and San Francisco counties.

The Diversion Program hosted the annual Diversion Liaison Committee meeting on September 24, 2015, at the DoubleTree by Hilton in Downtown San Diego. Board President, Michael Jackson, the Executive Officer, Louise Bailey, the Assistant Executive Officer, Stacie Berumen, Discipline, Probation, and Diversion Chief, Beth Scott, the Diversion Program Manager, Don Henry Walker and staff, the Maximus Project Director, Virginia Matthews and case managers, along with representatives from the Diversion Evaluation Committees, two Public Members and one Nurse Support Group Facilitator were in attendance. There were approximately 29 attendees. The Diversion Liaison Committee meeting is held annually to maintain the continuity and integrity of the program in addition to providing a forum to vote on pertinent policy proposals that support the enhancement of the Diversion Program.

## Outreach

At the request of the Diversion Program manager, in a continuous effort to reach out to nurses in need and provide community outreach, Virginia Matthews, Maximus Project Manager presented information concerning Diversion and the Board of Registered Nursing to Dignity Health Dominican Hospital on September 2, 2015. The presentation was for new graduate nurses working in all areas of the hospital. The attendees were interactive and the presentation was well-received.

The BRN's Diversion Program was present at this year's California State Capitol on September 2, 2015, for the annual Recovery Happens rally. Recovery Happens is a statewide campaign for everyone to celebrate the lives of people who are recovering from alcohol and/or drug addiction. Recovery Happens provides the perfect platform to inform Californians about the positive effects that recovery and treatment have on our communities. The rally brought over 6,000 people together for a day to celebrate recovery.

On October 16, 2015, the Diversion Program staff, and the Maximus Director, Virginia Matthews, provided an educational Diversion Program presentation to The PeriAnesthesia Nurses Association of California (PANAC). The presentation was titled, The California Diversion Program and the Health Professional with Substance Use Disorders. There were approximately 90 attendees and PANAC was extremely appreciative for the presentation and for the support the Diversion Program provides for California nurses in need.

In addition to traditional outreach, the BRN is now utilizing the Department of Consumer Affairs' Facebook page as well as the new BRN's Facebook page by posting educational information about the BRN's Diversion program. The BRN is also using Twitter to send out monthly "Tweets." The Diversion Program is looking to leverage social media to assist in getting the word out about the Diversion Program and recruit dedicated people to serve as Diversion Evaluation Committee members and Nurse Support Group Facilitators.

## Diversion Evaluation Committees (DEC)

There are currently two physician member vacancies at this time. One vacancy is in Ontario (DEC 9), and the second vacancy is in North Central (DEC 12).

There is currently one RN member vacancies at this time, in Orange County (DEC 4).

There are currently two Public Member vacancies at this time. One vacancy is in Los Angeles (DEC 3), and the second is in Ontario (DEC 9)

## Statistics – Diversion

The Statistical Summary Report for July 1, 2015 through August 31, 2015 is after this update. As of August 31, 2015, there were 2,001 successful completions.

### **NEXT STEP:**

Follow directions given by committee and/or board.

### **FISCAL IMPACT, IF ANY:**

AG's budget line item will be closely monitored for Discipline and Probation. Updates will be provided at each DDC meeting for review and possible action.

### **PERSON TO CONTACT:**

Beth Scott, Chief of Discipline, Probation, and Diversion  
(916) 574-8187

**BOARD OF REGISTERED NURSING  
DIVERSION PROGRAM  
STATISTICAL SUMMARY  
Jul 1, 2015 - August 31, 2015**

	CURRENT MONTHS	YEAR TO DATE (FY)	PROGRAM TO DATE
<b>INTAKES COMPLETED</b>	19	19	5,024
<b>INTAKE INFORMATION</b>			
Female	14	14	3,924
Male	5	5	1,073
Unknown	0	0	27
Average Age	35-49		
Most Common Worksite	Unemployed		
Most Common Specialty	Med Surg/Critical Care		
Most Common Substance Abused	Norco/Alcohol		
<b>PRESENTING PROBLEM AT INTAKE</b>			
Substance Abuse (only)	9	9	3,162
Mental Illness (only)	1	1	163
Dual Diagnosis	9	9	1,620
Undetermined	0	0	79
<b>REFERRAL TYPE*</b>			
Board	15	15	3,693
Self	4	4	1,331
*May change after Intake			
<b>ETHNICITY (IF KNOWN) AT INTAKE</b>			
American Indian/Alaska Native	0	0	39
Asian/Asian Indian	1	1	115
African American	0	0	160
Hispanic	0	0	212
Native Hawaiian/Pacific Islander	1	1	28
Caucasian	17	17	4,130
Other	0	0	74
Not Reported	0	0	266
<b>CLOSURES</b>			
Successful Completion	11	11	2,001
Failure to Derive Benefit	0	0	121
Failure to Comply	1	1	972
Moved to Another State	0	0	52
Not Accepted by DEC	0	0	58
Voluntary Withdrawal Post-DEC	1	1	332
Voluntary Withdrawal Pre-DEC	2	2	515
Participant Withdrawn-Failure to sign con	0	0	1
Closed Public Risk	6	6	330
No Longer Eligible	0	0	16
Clinically Inappropriate	2	2	32
Client Expired	0	0	40
Sent to Board Pre-DEC	0	0	1
<b>TOTAL CLOSURES</b>	23	23	4,471
<b>NUMBER OF PARTICIPANTS: 426 (as of August 31, 2015)</b>			

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

---

**AGENDA ITEM:** 9.2.1  
**DATE:** November 5, 2015

**ACTION REQUESTED:** Diversion Evaluation Committee Members

**REQUESTED BY:** Cynthia Klein, RN, Chairperson

**BACKGROUND:**

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.

**RESIGNATIONS**

Below is the name of a DEC member who has resigned.

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>#</u>
Sally Barbella	RN	Orange County	4

**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>
Mihran Ask	MD	Orange County #4	Ontario #9
Peter Scheid	MD	Burbank #8	Orange County #4

**NEXT STEP:** Continue recruiting efforts.

**PERSON TO CONTACT:** Beth Scott  
Chief of Discipline, Probation, and Diversion  
(916) 574-8187

**BOARD OF REGISTERED NURSING**  
**Diversion/Discipline Committee**  
**Agenda Item Summary**

---

**AGENDA ITEM:** 9.2.2  
**DATE:** November 5, 2015

**ACTION REQUESTED:** Re-Establish Ad Hoc Committee to determine best practices for Mental Health Participants in the Diversion Program

**REQUESTED BY:** Cynthia Klein, RN, Chairperson

**BACKGROUND:**

On September 24, 2015, voting member attendees at this year's annual Diversion Liaison Committee meeting unanimously voted in favor of seeking approval to establish a Mental Health Ad Hoc Committee. The purpose of this committee would be to develop best practice strategies to meet the unique needs of nurses with mental illness and to develop a model rehabilitation plan for use by all the Diversion Evaluation Committees.

**NEXT STEP:** Follow directions given by committee and/or board.

**FISCAL IMPACT, IF ANY:** None at this time

**PERSON TO CONTACT:** Beth Scott  
Chief, Discipline, Probation, and Diversion  
(916) 574-8187

**BOARD OF REGISTERED NURSING**  
**Diversion/Discipline Committee**  
**Agenda Item Summary**

---

**AGENDA ITEM:** 9.3  
**DATE:** November 5, 2015

**ACTION REQUESTED:** Discussion and Possible Action on Petition for Modification of Penalty

**REQUESTED BY:** Cynthia Klein, RN, Chairperson

**BACKGROUND:**

The Board and staff are interested in pursuing additional options to handle petitions for reinstatement and modification of penalty workload.

Government Code section 15222 states:

“A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.”

Business and Professions Code section 2760.1(b) states:

“(b) The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.”

The Board may wish to consider accepting written argument in certain petition for modification of penalty cases where the petitioner was in complete compliance with probation conditions. A stipulated settlement could be negotiated between the Board’s legal representative and the petitioner which could then be considered either through the mail vote or in person closed session process.

**NEXT STEP:** Follow directions given by committee and/or board.

**FISCAL IMPACT, IF ANY:** None at this time

**PERSONS TO CONTACT:** Stacie Berumen  
Assistant Executive Officer  
(916) 574-7600

**BOARD OF REGISTERED NURSING**  
**Diversion/Discipline Committee**  
**Agenda Item Summary**

---

**AGENDA ITEM:** 9.4  
**DATE:** November 5, 2015

**ACTION REQUESTED:** Discussion and Possible Action on Adding Additional Discipline Meeting Dates in 2016

**REQUESTED BY:** Cynthia Klein, RN, Chairperson

**BACKGROUND:**

The Board directed staff to contact the Office of the Attorney General and Office of Administrative Hearings to see if they could handle an additional discipline day at a spring and fall 2016 committee meeting to reduce the backlog of petitioners.

Board staff will provide information regarding the board's request.

**NEXT STEP:** Follow directions given by committee and/or board.

**FISCAL IMPACT, IF ANY:** None at this time

**PERSON TO CONTACT:** Stacie Berumen  
Assistant Executive Officer  
(916) 574-7600