

BOARD OF REGISTERED NURSING
Diversion/Discipline Committee
Agenda Item Summary

AGENDA ITEM: 9.1
DATE: September 3, 2015

ACTION REQUESTED: Information Only: Complaint Intake and Investigations Update

REQUESTED BY: Cynthia Klein, RN, Chairperson

BACKGROUND:

PROGRAM UPDATES

COMPLAINT INTAKE:

Staff

We are currently fully staffed. We will have one case analyst going out on leave for a year beginning end of September.

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 new Controlled Substance Utilization Review & Evaluation System (CURES) had a soft launch July 1, 2015. CURES 2.0 will be rolled out to users in phases over the next several 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

Southern California

- We are currently fully staffed. We had two new investigators join our team, Denise Clark on August 17th and Kim Ngo on September 2nd.

Northern California

- We have one Special Investigator out on leave through the end of the year.

Program

Division of Investigation (DOI) has begun the quarterly Managers' Enforcement Consortium and we will be having our second meeting September 30th. This is a group of enforcement managers from across the different disciplines that come together to discuss processes, procedures, how to create efficiencies as well as possible barriers that each of us face in processing our cases.

We continue to assign cases based on the Department’s Consumer Protection Enforcement Initiative (CPEI). As of August 24, 2015, there were approximately 27 BRN cases over one year old that are still open and there are approximately 36 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	Feb 2015	Mar 2015	Apr 2015	May 2015	June 2015	July 2015
Total cases assigned	329	337	344	342	329	330
Total cases unassigned (pending)	170	152	162	153	166	176
Average days to case completion	201	212	215	214	247	238
Average cost per case	\$2,909	\$2,779	\$3,180	\$3,280	\$2,810	\$2,849
Cases closed	36	56	57	41	51	44
Division of Investigations	Feb 2015	Mar 2015	Apr 2015	May 2015	June 2015	July 2015
Total cases assigned	331	316	298	290	311	297
Total cases unassigned (pending)	20	33	38	53	36	49
Average days to case completion	270	299	271	271	326	325
Average cost per case	\$5,365	\$6,185	\$5,124	\$5,896	\$7,028	\$6,064
Cases closed	38	36	54	38	40	55

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: September 3, 2015

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

REQUESTED BY: Cynthia Klein, RN, Chairperson

Staffing

Currently the probation Unit is fully staffed.

The Discipline Unit filled the vacant Staff Services Analyst position with a promotion of the Discipline Unit Office Technician (OT). The vacant OT position was filled with an existing OT within the Enforcement Unit.

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.

On July 9, 2015 the BRN began working with the AGs office to fast-track the movement of less complex discipline cases. These cases will be assigned to specific Deputy Attorney General’s and a single discipline analyst to give focused attention to these cases. The AGs office will be able to schedule these cases with the Office of Administrative Hearings on a more expedited schedule which will benefit the Registered Nurses and the BRN.

Discipline staff is diligently reviewing past discipline cases to ensure all discipline documents are present on our website. It is anticipated this process will be completed by September 2015.

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 – August 24, 2015) discipline statistics:

Decisions Adopted	306
Pleadings served	208
Petitions to Revoke Probation served	11
Surrenders signed by E. O.	30

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

Program – Probation

Effective July 30, 2015, Sheila Granby, the Probation Program Manager retired from state service after 14 years of service. Sheila was a Probation Monitor for 4 years and the Program Manager for 3.5 years. She will be missed and we wish her continued success in her retirement. The Board of Registered Nursing would like to thank Sheila for her service.

We will advertise and recruit for this position and will fill the position in the near future. Information regarding the new Probation Program Manager will be provided at an upcoming DDC meeting.

Statistics - Probation

Statistics – FY July 1, 2014 to June 30, 2015

Probation Data	Numbers	% of Active
Male	287	27%
Female	808	73%
Chemical Dependency	707	64%
Practice Case	267	25%
Mental Health	5	0%
Conviction (Non CD)	116	12%
Advanced Certificates	113	10%
Southern California	601	55%
Northern California	479	44%
Tolled at the AG	15	1%
Pending with AG/Board	113	10%
License Revoked YTD	31	3%
License Surrendered YTD	89	8%
Terminated YTD	30	3%
Successfully completed YTD	98	9%
Active in-state probationers	1,095	
Completed/Revoked/Terminated/ Surrendered YTD	248	
Tolled Probationers	290	
Active and Tolled Probationers	1,385	

Statistics – July 1, 2015 to August 21, 2015

Probation Data	Numbers	% of Active
Male	287	26%
Female	798	74%
Chemical Dependency	694	64%
Practice Case	268	25%
Mental Health	6	1%
Conviction - excluding chemical dependency/alcohol use	117	11%
Advanced Certificates	106	10%
Southern California	594	55%
Northern California	482	44%
Pending AG - tolled	9	1%
Pending AG	98	9%
License Revoked Fiscal YTD	10	
License Surrendered Fiscal YTD	12	
Terminated Fiscal YTD	5	
Successfully completed Fiscal YTD	20	
Active in-state probationers	1,085	
Completed/Revoked/Terminated/ Surrendered Fiscal YTD	47	
Tolled Probationers	296	
Active and Tolled Probationers	1,381	

The case load per probation monitor is approximately 120

Program -Diversion

On August 5th and 6th, BRN staff and the Diversion Program contractor Maximus conducted a presentation to the Director of Nursing and Clinical Practice Peer Group (the ambulatory practice leaders) and to the Chief Nursing Officers Peer group (the hospital/inpatient leaders). Both presentations were conducted at the Kaiser Regional Offices in Oakland. The focus of the presentation was to aid front line leaders to develop or hone their ability to recognize, detect and intervene when the subtle and not so subtle signs and indications of potential alcohol and or drug abuse in the work place. Both presentations were well attended and attendees indicated they appreciated the opportunity to learn about Substance Use Disorder and how it is detectable in the workplace.

In a continuous effort to reach out to nurses in need and provide community outreach, the Diversion program has scheduled the following upcoming presentations:

The Board of Registered Nursing's Diversion program will be present at the California State Capitol on September 2, 2015, for the annual Recovery Happens rally. Recovery Happens is the 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 brings over 5,000 people together for a day to celebrate recovery.

On September 2, 2015, at 10:30AM, the Diversion program contractor Maximus will be providing a training session regarding substance use disorders and the Diversion Program to Dominican Hospital's class of 9 New Graduate RNs. Dominican Hospital is part of the Dignity Health system and is located in Santa Cruz.

In addition to the Board's traditional outreach efforts, the Diversion Program began using DCA's Facebook page and Twitter via "Tweets" to get the word out about the Program. On August 19th, DCA published initial content about the Diversion Program, and there are plans to release future online content next month.

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. Additional information can be found on the Board's website at <http://www.rn.ca.gov/diversion/div-support.shtml>.

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 north Central (DEC 12). The vacancy in Oakland (DEC 13) will be filled upon approval of the new appointee.

There are currently seven RN member vacancies at this time. One in Sacramento (DEC 1), Two in the Bay Area (DEC 2), one in Orange County (DEC 4), one in Palm Springs (DEC 6), one in San Jose (DEC 7) and one in North Coast Emeryville (DEC 11). Vacancies on DEC 1, 2, 4, 6, 7 and 11 will be filled upon approval of new appointees.

Statistics – Diversion

The Statistical Summary Report for April 1, 2015 through June 30, 2015 is after this update. As of June 30, 2015, there were 1,990 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
April 1, 2015 - June 30, 2015**

	CURRENT MONTHS	YEAR TO DATE (FY)	PROGRAM TO DATE
INTAKES COMPLETED	49	148	5,005
INTAKE INFORMATION			
Female	33	104	3,910
Male	16	44	1,068
Unknown	0	0	27
Average Age	30-54		
Most Common Worksite	Unemployed		
Most Common Specialty	Critical Care/ER		
Most Common Substance Abused	Alcohol/Norco		
PRESENTING PROBLEM AT INTAKE			
Substance Abuse (only)	19	77	3,153
Mental Illness (only)	2	5	162
Dual Diagnosis	25	59	1,611
Undetermined	3	7	79
REFERRAL TYPE*			
Board	36	113	3,670
Self	13	35	1,335
*May change after Intake			
ETHNICITY (IF KNOWN) AT INTAKE			
American Indian/Alaska Native	1	3	39
Asian/Asian Indian	1	2	114
African American	1	2	160
Hispanic	3	9	212
Native Hawaiian/Pacific Islander	2	4	27
Caucasian	41	124	4,113
Other	0	4	74
Not Reported	0	0	266
CLOSURES			
Successful Completion	30	97	1,990
Failure to Derive Benefit	0	1	121
Failure to Comply	2	11	971
Moved to Another State	0	0	52
Not Accepted by DEC	0	3	58
Voluntary Withdrawal Post-DEC	1	8	331
Voluntary Withdrawal Pre-DEC	6	27	513
Participant Withdrawn-Failure to sign con	0	1	1
Closed Public Risk	9	25	324
No Longer Eligible	0	0	16
Clinically Inappropriate	1	5	30
Client Expired	0	1	40
Sent to Board Pre-DEC	0	0	1
TOTAL CLOSURES	49	179	4,448
NUMBER OF PARTICIPANTS: 430 (as of June 30, 2015)			

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

AGENDA ITEM: 9.2.1
DATE: September 3, 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.

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 October 1, 2015 and expire September 30, 2019.

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>#</u>
Gail Sims	RN	North Coast Emeryville	11
Cheryl Janus	RN	Palm Springs	6
Christine Vourakis	RN	Bay Area	2
Michelle Buckman	RN	Orange Co	4
Rodney Collins	MD	Burbank	8
Melody Law	MD	Oakland	13

ADDED SINCE AUGUST 6, 2015, DDC MEETING

David Aust	RN	Bay Area	2
Phyllis M. Connolly	RN	San Jose	7
Robert Desrosiers	RN	Sacramento	1

RESIGNATIONS

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

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>#</u>
Elaine Bradley	RN	Palm Springs	6

TERMS EXPIRED JUNE 30, 2015

Below are the names of the DEC members whose terms have expired

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>#</u>
Leah Monterrosa	RN	North Coast Emeryville	11
Inna Zelikman	RN	Bay Area Emeryville	2
Cynthia Rinde	Public	Sacramento	1

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>#</u>
Rosemary Miller	RN	Oakland	13
Michael Parr	MD	North Central	12
Patti Velez	Public	Ontario	9
William Slavin	Public	Burbank	8

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: 9.3
DATE: September 3, 2015

ACTION REQUESTED: Update: “Uniform Standards Regarding Substance-Abusing Healing Arts Licensees” – Business and Professions Code, Section 315

REQUESTED BY: Cynthia Klein, RN, Chairperson

BACKGROUND:

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 was 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 | * Concerns with number of tests for Diversion Program participants when they are not working and have no income. |

- * Cost of testing is \$62.50 plus collection fee. Total of \$10,000 to test each year.
- * Mandatory testing each week takes away board's discretion and ability to conduct "random" testing.
- * Public comment made by ANA/C and SEIU relative to opposition of this uniform standard.

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.

Standard #9 - Procedures to follow when a licensee is confirmed to have ingested a banned substance

Public comment by ANA/C that there should be verification of use of a banned substance before removing a RN from work.

Standard #10 - Consequences for major and minor violations

No issues identified.

Standard #11 - Criteria for a licensee to meet in order to petition to return to full-time practice

No issues identified.

Standard #12 - Criteria for a licensee to meet in order to petition for an unrestricted license

Public comment by SEIU that is in favor of the way BRN currently handles this process.

Standard #13 – Diversion Program private vendor requirement that sets forth vendor reporting time for major and minor violations; approval process and a variety of criteria.

No issues identified.

Standard #14 – Diversion Program private vendor requirement to disclose name and practice restrictions for DP participants.

Applicants and participants along with their records are to remain confidential while participating in the program pursuant to B&P code section 2770.12. Disclosure of names and practice restrictions violations this statute.

Standard #15 – Diversion Program private vendor requirement to have external independent audit conducted at least once every three years.

No issues identified.

Standard #16 – Reporting criteria for Diversion and Probation to determine whether each method appropriately protects patients from.

Concern with ability to obtain requested information for probationers from BreEZe. If data is not available from BreEZe then this would require manual tracking by staff to report to legislature.

Discussion was completed regarding all of the Uniform Standards at the August 2015 DDC meeting. The Uniform Standards were submitted as part of a regulatory proposal that was approved by the Board for submission to the Office of Administrative Law at the June 2015 meeting.

NEXT STEP:

Review each standard and make a recommendation to the board. Follow directions given by committee and/or board. Complete regulatory process.

FISCAL IMPACT, IF ANY:

None at this time

PERSONS TO CONTACT:

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Assistant Executive Officer
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