



**DIVERSION/DISCIPLINE
COMMITTEE MEETING**

**Embassy Suites Santa Ana
Orange County Airport North
1325 E. Dyer Road
Santa Ana, CA 92705**

October 8, 2015

Thursday, October 8, 2015 – 1:00 p.m. to 2:00 p.m.-

9.0 Call to Order, Roll Call Establishment of a Quorum

9.0.1 Review and Vote on Whether to Approve the Minutes of:

➤ August 6, 2015

9.1 Complaint Intake and Investigations Update

9.2 Discipline, Probation, and Diversion Update and Statistics

9.2.1 Diversion Evaluation Committee Members/ New Appointments,
Reappointments, Transfers & Resignations

9.2.2 Re-Establish AD-HOC Committee to determine best practices for Mental
Health Participants in the Diversion Program

9.3 Discussion and Possible Action on Petition for Modification of Penalty

**9.4 Discussion and Possible Action on Adding Additional Discipline Meeting
Dates in 2016**

9.5 Public Comment for Items Not on the Agenda

9.6 Adjournment

NOTICE:

All times are approximate and subject to change. Items may be taken out of order to maintain a quorum, accommodate a speaker, or for convenience. The meeting may be canceled without notice. For verification of the meeting, call (916) 574-7600 or access the Board's Web Site at <http://www.rn.ca.gov>. Action may be taken on any item listed on this agenda, including information only items.

Public comments will be taken on agenda items at the time the item is heard. Total time allocated for public comment may be limited.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Administration Unit at (916) 574-7600 or email webmasterbrn@dca.ca.gov or send a written request to the Board of Registered Nursing Office at 1747 North Market #150, Sacramento, CA 95834. (Hearing impaired: California Relay Service: TDD phone # (800) 326-2297. Providing your request at least five (5) business days before the meeting will help to ensure the availability of the requested accommodation. Board members who are not members of this committee may attend meetings as observers only, and may not participate or vote.

BOARD OF REGISTERED NURSING
Diversion/Discipline Committee
Agenda Item Summary

AGENDA ITEM: 9.1
DATE: October 8, 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 hiring a 12 month limited term analyst position to cover for a leave of absence.

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 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

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 September 22, 2015, there were approximately 35 BRN cases over one year old that are still open and there are approximately 32 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	Mar 2015	Apr 2015	May 2015	June 2015	July 2015	August 2015
Total cases assigned	337	344	342	329	330	345
Total cases unassigned (pending)	152	162	153	166	176	179
Average days to case completion	212	215	214	247	238	232
Average cost per case	\$2,779	\$3,180	\$3,280	\$2,810	\$2,849	\$2,632
Cases closed	56	57	41	51	44	45
Division of Investigations	Mar 2015	Apr 2015	May 2015	June 2015	July 2015	August 2015
Total cases assigned	316	298	290	311	297	327
Total cases unassigned (pending)	33	38	53	36	49	60
Average days to case completion	299	271	271	326	325	253
Average cost per case	\$6,185	\$5,124	\$5,896	\$7,028	\$6,064	\$4,801
Cases closed	36	54	38	40	55	16

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: October 8, 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 one limited term Staff Service Analyst position that will be filled in the near future.

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	1578
Pleadings served	1067
Petitions to Revoke Probation served	104
Surrenders signed by E. O.	291

Below reflects FY 15/16 (July 1, 2015 – September 23, 2015) discipline statistics:

Decisions Adopted	426
Pleadings served	325
Petitions to Revoke Probation served	21
Surrenders signed by E. O.	57

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

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

Statistics - Probation

Statistics – July 1, 2015 to September 18, 2015

Probation Data	Numbers	% of Active
Male	292	27%
Female	799	73%
Chemical Dependency	707	65%
Practice Case	267	24%
Mental Health	6	1%
Conviction (Alcohol/Drug = 109)	111	10%
Advanced Certificates	109	10%
Southern California	595	55%
Northern California	487	44%
Tolled at the AG	9	1%
Pending with AG/Board	103	9%
License Revoked YTD	11	14%
License Surrendered YTD	13	57%
Terminated YTD	9	0%
Successfully completed YTD	48	29%
Active in-state probationers	1,091	
Completed/Revoked/Terminated/ Surrendered YTD	81	
Tolled Probationers	300	
Active and Tolled Probationers	1,391	

The case load per probation monitor is approximately 155. Currently there are 29 Early Termination and 8 Modification of Probation cases waiting to be heard by the Board.

Program -Diversion

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 Board of Registered Nursing'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.

In addition to traditional outreach, the Board of Registered Nursing is now utilizing the Department of Consumer Affairs Facebook page by posting educational information about the Boards Diversion program. The Board is now 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 as Nurse Support Group Facilitators.

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 Double Tree by Hilton in Downtown San Diego. Board President, Michael Jackson, the Executive Officer, Louise Bailey, the Assistant Executive Officer, Stacie Berumen, Enforcement 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.

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
INTAKES COMPLETED	19	19	5,024
INTAKE INFORMATION			
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		
PRESENTING PROBLEM AT INTAKE			
Substance Abuse (only)	9	9	3,162
Mental Illness (only)	1	1	163
Dual Diagnosis	9	9	1,620
Undetermined	0	0	79
REFERRAL TYPE*			
Board	15	15	3,693
Self	4	4	1,331
*May change after Intake			
ETHNICITY (IF KNOWN) AT INTAKE			
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
CLOSURES			
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
TOTAL CLOSURES	23	23	4,471
NUMBER OF PARTICIPANTS: 426 (as of August 31, 2015)			

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

AGENDA ITEM: 9.2.1
DATE: October 8, 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: October 8, 2015

ACTION REQUESTED: Develop Mental Health Ad Hoc Committee

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

PERSONS 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: October 8, 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: October 8, 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

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