



**BOARD OF REGISTERED NURSING**  
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**Louise R. Bailey, MEd, RN, Executive Officer**



## DIVERSION/DISCIPLINE COMMITTEE MINUTES

**DATE:** October 8, 2015

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

**MEMBERS PRESENT:** Raymond Mallel, Acting Chair  
Imelda Ceja-Butkiewicz

**MEMBER NOT PRESENT:** Cynthia Klein, RN, Chair

**STAFF PRESENT:** Louise Bailey, M.Ed., RN, Executive Officer  
Beth Scott, Deputy Chief, Discipline, Probation & Diversion  
Shannon Silberling, Deputy Chief, Complaints and Investigations

The Acting Chair called the meeting to order at approximately 1:11 p.m.

### 9.0 REVIEW AND APPROVE MINUTES:

Approve/Not Approve: Minutes of August 6, 2015

<b>Motion:</b> Defer action on August 6, 2015 meeting minutes until January meeting.			
<b>Second:</b>			
<b>CK:</b>	<b>RM:</b>	<b>ICB:</b>	

### 9.1 Complaint Intake and Investigations Update

#### 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) BreZE 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.

## 9.2 Discipline, Probation, and Diversion Update

### 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	<b>1,091</b>	
Completed/Revoked/Terminated/ Surrendered YTD	81	
Tolled Probationers	300	
Active and Tolled Probationers	<b>1,391</b>	

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.

#### Diversion

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.

### **9.2.1 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 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

### **9.2.2 Develop AdHoc Mental Health Committee**

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.

### **9.3 Discussion and Possible Action on Petition for Modification of Penalty**

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

Government Code section 11522 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.

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

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.

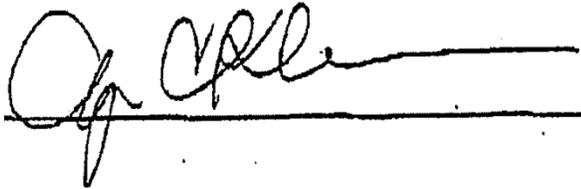
The AG's office stated a maximum of 12 petitioners per day could be handled by their staff and OAH. A suggestion that the board may need 2-4 Administrative Law Judges was also made.

**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 2:05 p.m.

Approved:

A handwritten signature in black ink, appearing to be "Opelle", written over a horizontal line. The signature is cursive and somewhat stylized.