



## Agenda Item 4.0

### **Report of the Enforcement/Investigation/Intervention Committee (EIIIC)**

BRN Board Meeting | August 21-22, 2024

# Enforcement/Investigation/Intervention Committee August 21-22, 2024

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## Agenda Item 4.1

**Discussion and possible action:** Regarding requirements for participation and completion of the Intervention Program, including requirements of working in positions involving direct or indirect patient care and/or furnishing or administering narcotics to patients; update from Executive Officer on review of individual program participant requirements

BRN Board Meeting | August 21-22, 2024

**BOARD OF REGISTERED NURSING**  
**Agenda Item Summary**

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**AGENDA ITEM:** 4.1  
**DATE:** August 21-22, 2024

**ACTION REQUESTED:** Regarding requirements for participation and completion of the Intervention Program, including requirements of working in positions involving direct or indirect patient care and/or furnishing or administering narcotics to patients; update from Executive Officer on review of individual program participant requirements.

**REQUESTED BY:** Patricia Wynne, Esq., Chairperson

**BACKGROUND:**

In 1984, state law established the Diversion Program (now Intervention Program) as an alternative to discipline. To date over 2,000 registered nurses have successfully completed the Intervention Program.

Business and Professions Code (BPC) Section [2770](#) states: “It is the intent of the Legislature that the Board of Registered Nursing seek ways and means to identify and rehabilitate registered nurses whose competency may be impaired due to abuse of alcohol and other drugs, or due to mental illness so that registered nurses so afflicted may be rehabilitated and returned to the practice of nursing in a manner that will not endanger the public health and safety. It is also the intent of the Legislature that the Board of Registered Nursing shall implement this legislation by establishing an intervention program as a voluntary alternative to traditional disciplinary actions.”

The California Board of Registered Nursing (Board or BRN) offers the Intervention Program (IP) as a voluntary, non-disciplinary, confidential, rehabilitation program for registered nurses (RNs) afflicted with substance use disorder (SUD) and/or mental illness.

BPC [2770.2](#) creates the Intervention Evaluation Committees (IEC) made up of three RNs, one Physician, and one public member. BPC [2770.8\(f\)](#) states that each committee has the responsibility to evaluate the RNs request to participate in the program, review and designate treatment services for referral, receive and review information concerning an RN participating in the program, consider whether the RN may safely continue or resume the practice of nursing, and to make recommendations to the program manager regarding the terms and conditions of the intervention agreement for each RN in the program on treatment, supervision, and monitoring requirements. This committee can also deny an applicant or terminate a participant.

The IP program manager, who is a BRN staff member, has the primary responsibility to review and evaluate the recommendations of the committees. The IP program manager will also determine if an RN who is denied admission or is terminated from the IP, for reason(s) other than successful completion, whether they present a threat to the public or their own health and safety. If a public safety or threat is determined then the name, license number, and a copy of all intervention program records for that RN is turned over to the Board’s Enforcement Division.

According to [16 CCR 1447](#) each participant shall:

- be an RN licensed by the BRN,
- reside in California,
- have mental illness or abuse alcohol and/or drugs in a manner which may affect the applicant's ability to safely perform the duties of an RN,
- voluntarily request admission to the program,
- undergo reasonable medical and/or psychiatric examinations necessary for evaluation for participation,
- cooperate by providing medical information, disclosures, authorizations and releases of liability as may be requested by the committee,
- has not been previously disciplined by the board for substance abuse or mental illness,
- has not been terminated from this or any other intervention program for non-compliance,
- agrees in writing to cooperate with the rehabilitation program designed by the committee and approved by the program manager; and
- complies with all elements of the intervention program.

The IEC and the program manager, in their discretion, determines if the RN has successfully completed the intervention program. If the RN successfully completes then all records pertaining to the RN's participation in the IP is purged.

A vital link in the recovery process is strong on-going treatment. One of the methods that can be employed is [Nurse Support Groups](#). Nurse Support groups share experience and provide strength, hope and support in addressing issues related to the process of recovery from the disease of substance use disorders and provide support regarding professional issues, including re-entry into the workplace. Nurse support group facilitators must be a RN, have expertise in the field of substance use disorders/mental illness, have a minimum of six months experience facilitating group process, if in recovery, have a minimum of five years recovery, must not have a Board accusation pending or be on Board probation, and must not be a current participant in the IP.

When a RN participant returns to work they are assigned a [Worksite Monitor](#) (WSM). This WSM assist the RN to return to work in a controlled and safe manner, supporting the mission of the IP, which is to protect the public. The role of the WSM is to assist the RN to reenter the workforce in a safe manner by providing an open line of communication between the workplace, the current IP vendor Maximus and the BRN, watch for changes in behaviors and signs of relapse or return to alcohol or drug use, observe the participant at the workplace at least one time per week, or more frequently if required by the IEC/Board, interview coworkers as necessary to ensure the participant is practicing safely, and agree to notify Maximus within one hour of noticing any signs of relapse or suspicious behavior and complete and submit monthly or quarterly reports to Maximus, as required by the IEC/Board.

[Maximus Health Services, Inc.](#) is the contracted vendor for intervention aka diversion and/or probation for the Department of Consumer Affairs' [eight healing arts boards](#). Maximus has partnered with state, federal and local governments for more than 40 years to provide communities with critical health and human service programs and they pledge to leverage their extensive experience to develop high-quality services and solutions that are cost effective and tailored to each communities' unique needs. They offer governments the ability to implement programs rapidly with scalable operations and automated systems. Maximus is located in six countries and is a "leading administrator of Medicaid enrollment broker services in the U.S.,

answers more than 7 million calls per month at our contact centers, performs more than 1.6 million assessment annually worldwide, is a premier provider of workforce-centered services in the U.S., Australia, U.K., Canada, Singapore and Saudi Arabia and delivers modernized solutions with integrated digital platforms to enhance the user experience and improve efficiencies.”

BPC [315](#) is the statutory authority for uniform standards that is used by healing arts boards in dealing with substance-abusing licensees. There are 16 uniform standards. These standards establish criteria for clinical diagnostic evaluations, temporary removal of the licensee from practice, set ability to for the licensing board to communicate with the employer, for required testing and group meeting attendance, determining what type of treatment is necessary, worksite monitoring, procedures when a licensee tests positive for a banned substance, procedure to be followed when a licensee has a confirmed use of a banned substance, specific consequences of major and minor violations, for return to practice on a full time basis, for the use of a private-sector vendor that provides intervention services, and measurable criteria and standards to determine if the program protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term.

Additionally, uniform standard 16 identifies measurable criteria and standards to determine if the program protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term. Each board shall use the following criteria to determine if its program protects patients from harm and is effective in assisting its licensees in recovering from substance abuse in the long term. 1) At least 100 percent of licensees who either entered a diversion program or whose license was placed on probation as a result of a substance abuse problem successfully completed either the program or the probation, or had their license to practice revoked or surrendered on a timely basis based on noncompliance of those programs and 2) At least 75 percent of licensees who successfully completed a diversion program or probation did not have any substantiated complaints related to substance abuse for at least five (5) years after completion.

During the June 21, 2024, Board Meeting, Board President Dolores Trujillo requested Executive Officer (EO) Loretta Melby in collaboration with Board Legal Counsel Reza Pejuhesh to conduct a review of individual program participant requirement(s). EO Melby will provide an update of her progress to date.

**RESOURCES:**

[Intervention Brochure](#)

[Uniform Standards Regarding Substance-Abusing Healing Arts Licensees](#)

[BPC 315](#)

[BPC Article 3. Intervention Program 2770-2770.14](#)

[16 CCR Article 4.1 Intervention Program Guidelines 1446-1449](#)

**PERSON TO CONTACT:**

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California Board of Registered Nursing  
[Loretta.Melby@dca.ca.gov](mailto:Loretta.Melby@dca.ca.gov)



## Agenda Item 4.2

**Information Only:**  
Enforcement and Investigation Division Update

BRN Board Meeting | August 21-22, 2024

**BOARD OF REGISTERED NURSING**  
**Agenda Item Summary**

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**AGENDA ITEM:** 4.2  
**DATE:** August 21-22, 2024

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

**REQUESTED BY:**           Patricia Wynne, Esq., Chairperson

**General Information**

At the August 2022 Board meeting, the Board voted to join the National Council of State Boards of Nursing (NCSBN) pilot study to test substance use disorder (SUD) monitoring program guidelines. This is a five-year study of alternative to discipline programs for nurses, and we will provide data biannually for the next five years to see if the nurses can return safely to practice.

The Office of Organizational Improvement (OIO) continues working with the Enforcement Division and Investigations Division, assessing and mapping workflows, timeframes, and procedures to streamline and improve internal processes. The OIO team works 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.

The Board of Registered Nursing (BRN) continues to recruit qualified registered nurses with professional and educational backgrounds 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
- School Nurse
- Medical/Surgical (NPF)
- Pediatric ICU (NPF)
- CCU/Telemetry (NPF)
- Dialysis (NPF)

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](mailto:Expert.BRN@dca.ca.gov).

**Complaint Intake**

The Complaint Intake Unit (CIU) received updated Complaint Prioritization and Referral Guidelines (CPRG), previously known as the Complaint Prioritization



Enforcement Initiative (CPEI). The CPRG was effective March 1, 2024. Analysts are utilizing the new guidelines to refer cases to the Division of Investigation (DOI) and Board of Registered Nursing (BRN) Investigations.

We continue triaging cases as needed in collaboration with DOI and BRN Investigations.

## **Investigations**

The Investigations Division reviews processes and procedures to ensure cases are processed on time. On March 27, 2024, the DCA Portfolio Management Team and OIO began the BreEZe Time Tracking process map. The BreEZe Time Tracking functionality will improve efficiency and eliminate the need for EARS.

On May 1, 2024, BRN and the Office of the Attorney General (OAG) conducted the first five-part Deputy Attorney General (DAG) training series. Participants included staff of DOI and BRN. The remaining trainings will be held in the summer and fall of 2024.

The BRN Investigations Division is actively recruiting for two limited-term Special Investigators (SI) in the Northern and Southern California regions and two full-time SIs in the Northern and Central California regions. Currently, the SIs have an average of 26 active cases.

## **Discipline**

As of August 5, 2024, only 16 percent of our pending cases have been at the OAG for over a year.

The Office of Administrative Hearings (OAH) is beginning to hold in-person hearings; however, if all parties agree, the hearing may be held remotely via online platforms. OAH will calendar cases no further than seven months out. We are monitoring this change to see if it will impact the aging of our AG cases.

## **Probation**

The Probation Unit is currently working on enhancements to the BRN website and creating an informational video that provides an overview of probation and what to expect should it be the final disposition of a case.

Probation monitors each have an average of 44 active cases.

Probation currently has one Probation Monitor vacancy, and we are actively recruiting for this position.

## **Intervention**

Management has been attending all Intervention Evaluation Committee (IEC) meetings, providing education to IEC members and participants, and identifying possible gaps in the regulation for the Intervention Program.

We are also working closely with our vendor, Maximus, to discuss and develop best practices, identify areas of improvement, and ensure adherence to all laws and regulations.

At a previous Board meeting, the Board voted to allow board staff to begin work on a regulation package.

The contract for our program vendor expires December 31, 2024. The Board is working with the additional 7 Boards to create a Request for Proposals (RFP).

The Board continues to recruit IEC members with knowledge and experience in substance use disorder (SUD) treatment, recovery, and mental health.

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

**Table A:**

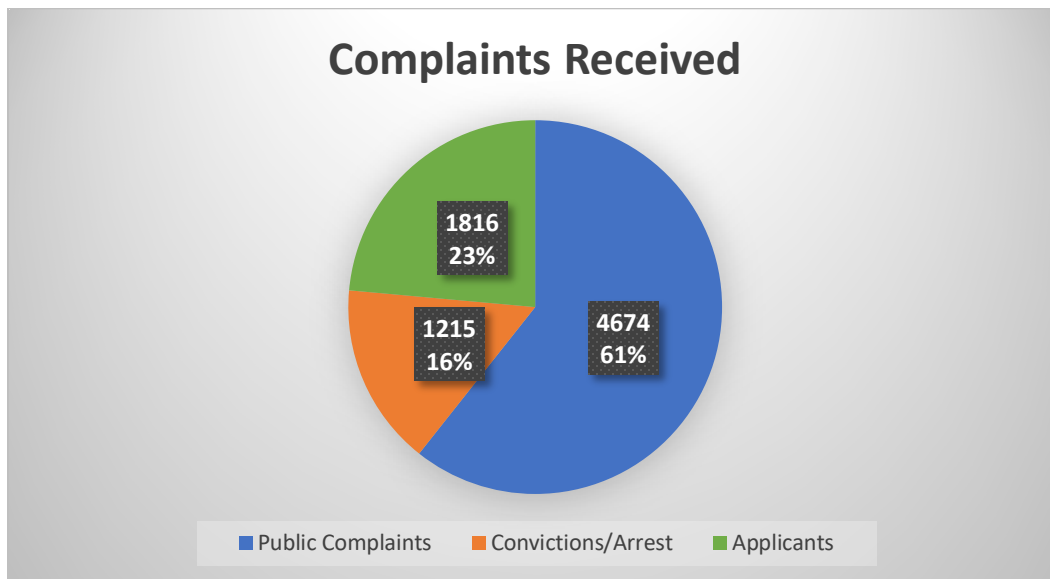
<b>Board of Registered Nursing</b> <b>Enforcement Process Statistics</b> <b>Fiscal Year 2023/2024</b>		
<b>Complaint Intake</b>	Public Complaints	4674
	Convictions/Arrest	1215
	Applicants	1816
	<b>Total Received</b>	<b>7705</b>
	Complaints Pending	1800
	>1 year	433
	Convictions/Arrests Pending	785
	>1 year	185
	Applicants Pending	96
	>1 year	9
	Expert Review Pending Referral	0
	>1 year	0
	Expert Review Pending Receipt	3
	>1 year	0
<b>Intervention</b>	<b>Total Participants</b>	<b>231</b>
	<b>Intakes</b>	<b>64</b>
	Self-Referral	12
	Board Referral	52
	<b>Closures</b>	<b>70</b>
	Successful	43
	Not Successful	27
	<b>RNs Referred</b>	<b>2770</b>
Accepted	64	
<b>Citation and Fine</b>	Citations Issued	237
	Informal Conference	
	Modified	1
	Dismissed	4
	Upheld	0
	Amount Ordered	\$24,750.00
	Amount Received	\$56,336.00
	Amount Referred to FTB	\$57,475.00

	Amount Received from FTB	\$11,531.00
<b>Discipline</b>	AG Referrals	1271
	Average Days at AG	313
	Cases Pending	
	< 1 Year	602
	> 1 Year	76
	> 2 Year	9
	Cases Pending >1 Year W/O Pleading Filed	23
	Cases Pending Hearing	161
	Pending Board Vote	40
<b>Legal Support</b>	Interim Suspension Orders (ISO)	0
	PC 23	9
	Pleadings Served	
	Accusations	881
	Statements of Issue	33
	Orders to Compel	123
	Petitions to revoke Probation	69
	Withdrawals of Pleadings	42
	Decisions Adopted	
	Surrenders	169
	Default Revocations	102
	Ordered Revocations	170
	Probation	433
	Public Reprovals	120
<b>Investigations</b>	BRN Cases Referred	945
	Rejected	64
	Supplemental Requested	23
	Triage	21
	BRN Cases Pending	649
	>1 year	38
	BRN Cases Completed	942
	DOI Cases Referred	483
	Rejected	29
	Supplemental Requested	25
	DOI Cases Pending	482
	>1 year	134
	DOI Cases Completed	383
	DOI Pilot Cases Initiated	486
	DOI Pilot Cases Pending	8*

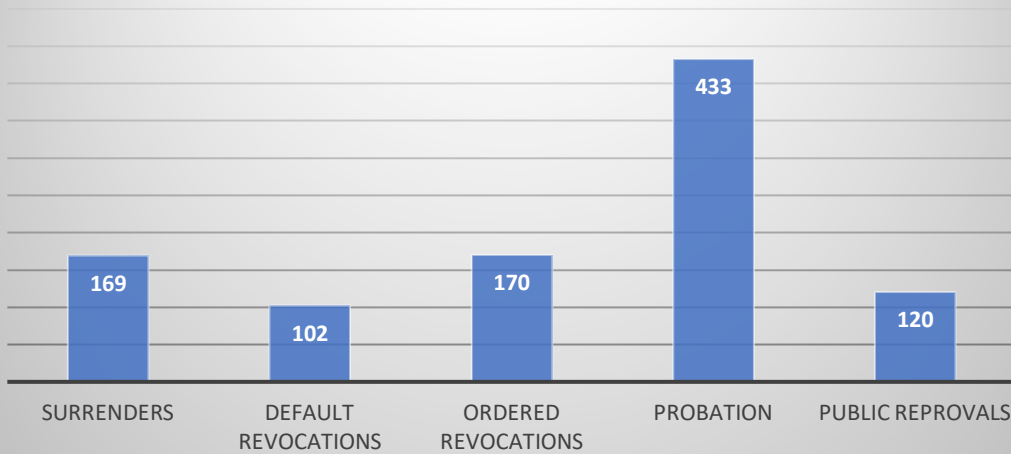
	DOI Pilot Case Closed	478
<b>Probation</b>		
<b>Probation</b>	Active In-State Probationers	664
	Tolled Probationers	485
	Revoked	21
	Surrendered	47
	Completed	187
	Subsequent Cases Pending at AG	
	<1 Year	59
	>1 Years	6
	>2 Years	1
<b>Total Case Processing Time</b>		
<b>Total Case Processing Time</b>	Average Days to Complete	680
	> 540 Days	58%
	< 540 Days	42%
	DCA goal of 540 days for all healing arts boards	

\* With the CPRG being implemented on or about March 1, 2024, the DOI Pilot was suspended. However, BRN Investigations continues to work on pending cases assigned to them under the Pilot project.

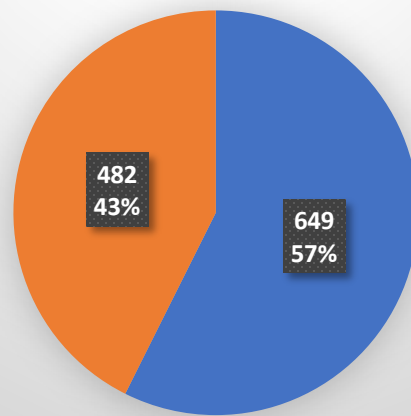
**Graphs Based on Table A**



## Decisions Adopted FYTD



## Investigation Cases Pending



■ BRN Cases Pending ■ DOI Cases Pending

## **BRN Performance Measure YTD 22/23**

### **TABLE B**

<b>Performance Measure 4 - AG Transmittals</b>						
	<b>Case Volume</b>	<b>Intake</b>	<b>Investigation</b>	<b>Pre-AG Time</b>	<b>Post AG Time</b>	<b>Cycle Time</b>
<b><i>Total/Average</i></b>	1064	6	351	13	313	682
<i>July</i>	62	7	327	3	278	615
<i>August</i>	68	6	319	6	322	653
<i>September</i>	98	9	359	9	304	681
<i>October</i>	75	6	357	9	329	701
<i>November</i>	113	1	311	9	299	619
<i>December</i>	107	6	366	12	314	697
<i>January</i>	99	4	315	21	294	634
<i>February</i>	96	5	378	10	309	702
<i>March</i>	60	5	453	15	250	723
<i>April</i>	115	3	354	18	349	725
<i>May</i>	89	4	342	21	326	693
<i>June</i>	82	17	360	16	353	746

If you would like more information on our enforcement statistics, please go to [https://www.dca.ca.gov/data/enforcement\\_performance.shtml](https://www.dca.ca.gov/data/enforcement_performance.shtml)

**NEXT STEPS:**

Continue to Monitor

**PERSONS TO CONTACT:**

Shannon Johnson, Enforcement Division Chief  
(916) 515-5265  
Nichole Bowles, Investigations Division Deputy Chief  
(916) 597-7345



## Agenda Item 4.3

**Discussion and Possible Action:**  
Appointment of Intervention Evaluation Committee Members

BRN Board Meeting | August 21-22, 2024



**BOARD OF REGISTERED NURSING**  
**Agenda Item Summary**

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**AGENDA ITEM: 4.3**  
**DATE: August 21-22, 2024**

**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.

**APPOINTMENTS:**

If approved, one (1) nurse member vacancy for IEC 7 will remain.

<b>Name</b>	<b>Member Type</b>	<b>IEC</b>	<b>Appointment Type</b>	<b>Term Expiration</b>
Richard Avila, RN	Nurse	4	Reappointment	06/30/2028
Elizabeth Haviland, RN	Nurse	5	New Appointment	08/22/2028
Joan Taylor, RN	Nurse	7	New Appointment	08/22/2028
Stephanie Evangelista, RN	Nurse	10	New Appointment	08/22/2028
Elizabeth Barrera, DO	Physician	10	New Appointment	08/22/2028

**NEXT STEPS:** Continue recruitment efforts

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