

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF REGISTERED NURSING
BOARD MEETING MINUTES**

Date: February 26, 2025

9:05 a.m.

Start Time: 9:05 a.m.

Location:

**Department of Consumer Affairs
1747 North Market Blvd. Hearing Room (Suite 186)
Sacramento, CA 95834**

The Board of Registered Nursing additionally offered the public meeting via a teleconference platform.

Wednesday, February 26, 2025 - 9:00 a.m. Board Meeting

9:05 a.m.

1.0

Call to Order/Roll Call/Establishment of a Quorum

Dolores Trujillo, RN, President, called the meeting to order at: 9:05 a.m. All members present. Quorum established at 9:07 a.m.

Board Members: Dolores Trujillo, RN – President
Nilu Patel, DNAP, CRNA, FAANA – Vice President
Jovita Dominguez, BSN, RN
Patricia “Tricia” Wynne, Esq.
Roi David Lollar
Vicki Granowitz
Alison Cormack

BRN Staff: Loretta (Lori) Melby, RN, MSN – Executive Officer
Reza Pejuhesh – DCA Legal Affairs Division, Attorney

9:07 a.m.

2.0

General instructions for the format of a teleconference call

The meeting moderator provided general instructions to members of the public on public participation during the meeting.

9:09 a.m.

3.0

Public comment for items not on the agenda; items for future agendas

**Public Comment(s)
for Agenda Item
3.0:**

Matthew A. – Over the last year, the BRN has repeatedly and publicly been touting all the “changes” it’s making to its intervention program, including more transparency. Unfortunately, what is said publicly is completely different than what’s happening behind closed doors. He’s here to inform the diversion participants and the board members of the BRN’s refusal to notify participants about the disclosure of their confidential information. In May 2024, he submitted a public records request regarding documents related to the intervention program. He repeated that this is a public records request that anyone can make, be it a reporter, a police officer, a gardener, a stalker, any Joe Schmo. In October, the BRN informed him there was a delay in producing the documents because it was reviewing the documents “in order to avoid disclosure of confidential information and pursuant to business and professions code.” Right before Christmas, the BRN produced hundreds of pages of completely unredacted information containing participant names, their conversation within the BRN and other sensitive and statutorily confidential information. As admitted by the BRN’s October email to him this information is “confidential information pursuant to the business and professions code.” The same day he received the information, he immediately informed the BRN of this unredacted information and asked whether it would notify participants about the release of their confidential information. This was over two months ago. Rather than owning up to their mistake, the BRN tried to hide their mistake just as it has done with the intervention program over the last year and a half. Instead of notifying participants, the BRN did what it does best in this situation and tried to threaten his license by “reminding him of his obligation as an attorney to keep the information confidential.” Unfortunately, for the BRN it has no authority over his license. He has not and will not disclose the confidential information because unlike the BRN, he respects the intervention participants’ confidential information and abides by the law. This also raises a question. If these documents were produced to him completely unredacted, how many other public records requests has BRN sent out containing the confidential information that they’re not telling participants about? The BRN’s response to this question was trust us. He doesn’t trust them and neither should anyone else since they clearly refuse to notify participants that their information was released. Lastly, if anybody wants to know what the BRN staff really thinks about diversion participants, he recommends requesting Microsoft team chat logs during these meeting days. Since the BRN refuses to tell participants their confidential information was released, if anybody would like to know whether their name was publicly disclosed, you could contact his law office, and provided his telephone number.

Reza Pejuhesh asked if he could respond to the commenter. He said there were some strong statements made. He’s been in contact with that individual. He made his public records request months ago. He finds it incredibly unfortunate, the disheartening way he tried to portray it as an intentional attempt to hide anything. Additionally, the accusation

that the board has disclosed confidential information and tried to hide that also, is incredibly disheartening to him. He'll say it now, it's a spin on what occurred. This individual, he won't identify him, made a PRA request; during Reza's leave of absence, his substitute council assisted with the PRA request and there was an inadvertent failure to redact some of the records. He believes some of them were redacted, but some information did end up in the hands of this individual who made the request who is an attorney and who has fiduciary duties to not disclose information that was provided to him inadvertently. Efforts to remind the commenter of that obligation were not a threat and he's shocked that he took it as such. He never spoke back as if he felt threatened or intimidated. He's portraying it as a threat against his license, when it was an effort to retain the confidentiality of the information that should not have gone out. To his credit he did return the records that were provided to him promptly as he was requested to do. We are appreciative of that. Meanwhile, since he returned from his leave, he's been reviewing the records, providing them to him in batches with appropriate redactions being made. We are doing our best to fulfill this public records request, which covers thousands and thousands of pages and requires a review to ensure that no confidential or privileged information goes out. This is a routine process. He's getting the records that he asked for in batches. He finds it incredibly sad and is shocked the way this comment has come about. The commenter didn't reach out to him to say that he felt threatened or say that we were hiding information or to discuss the issue of disclosure notice. He asked him if the BRN was going to be providing a disclosure notice prior to going through the records and Reza told him he would be looking at the records, identifying what was disclosed, and researching the duty to provide a notice. The public commenter never followed up, so he doesn't know where the commenter even thinks we stand on that. But a lot of what was said, from his perspective, is the board doing what it's supposed to do to respond to this enormous PRA request. He understands there's a lot of tension with it being the intervention program and some of the changes that the commenter and his clients would like to see that aren't occurring as quickly as they'd like to see. The situation is different from what was said by the commenter. He invites the commenter to reach out to him. He's back in the office and has an open door and is open to speak to the commenter if he has concerns that he'd like to address rather than blasting them out in public comment.

Paradise – Since 2020 anyone with a dismissed charge or expunged conviction or misdemeanor older than seven years at the time of the submitted application will not have any action taken against them by the board. Those that met these criteria before the current rule are still dealing with the indefinite online Breeze and Nursys public record of our dismissed charges for years after being placed on probation. In her case these convictions are from 20 years old when she was a teenager and she would like this added to a future BRN agenda.

Loretta Melby said it is on today's agenda, item 5.5

DJH – She wanted the required distance for testing for intervention and probation to be considered on a future agenda. She said 50 miles is the limit and is not the same in all areas especially in rural areas. She said maps don't pull directly from her address but at the town center which is 15 miles from where she lives. She said the closest Vault testing site is 51 miles from her home. She must stay late to make up the time at work. She said she's traveling in March and the closest testing site is 36 miles and she will not have a car so will have to use an Uber and cost \$180.

Surani Hayre-Kwan, FNP – One thing that hasn't been on the agenda and she'd like to see added is the incorrect language that remains on the board website regarding nurse practitioner attestation, specifically post enactment of Senate Bill 1451. She had several discussions with the leadership team of CANP who had been in discussions with the BRN asking to notify nurse practitioners with legacy certifications wanting to apply for the 103 certifications to wait. In January, the BRN said the website would not be prepared, but it is well past that deadline and approaching March and the language in the portal of the BRN for attestation remains incorrect. She does the "Ask a Practice Question" for California Association for Nurse Practitioners and continues to get multiple emails every week from nurse practitioners and employers struggling to understand why the language hasn't changed on the BRN website. She's available to discuss this when the board puts it on the agenda.

9:27 a.m.

4.0

Review and possible action: Approval of prior meeting minutes

4.1 November 20-21, 2024

Board Discussion: No comments or questions.

Motion: **Patricia Wynne:** Motion to Approve the minutes from November 20-21, 2024, and allow BRN staff to make non-substantive changes to correct name misspellings and/or typos that may be discovered in the document.

Second: **Alison Cormack**

**Public Comments
for Agenda Item(s)**

4.0: No public comments in any location.

Vote:

Vote:	DT	AC	PW	JD	NP	DL	VG
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	Y	Y	Y	Y	Y	Y	Y
	<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB						

Motion Passed

9:29 a.m. 5.0 Report of the Administrative Committee

9:29 a.m. 5.1 Executive Officer Report

Board Discussion: No comments or questions.

**Public Comment(s)
for Agenda Item**

5.1: No public comments in any location.

9:33 a.m. 5.2 Information only: 2022-2025 Strategic Plan and goal progression

Board Discussion: Patricia Wynne said it is great to see staff addressing licensing delays. She asked how long it would take to review an incomplete application.

Loretta Melby said it takes about two weeks. The transcripts are electronic as approved by the board previously. She said the law requires board staff to request pre-requisite education if it isn't provided by the applicant. That will cause a delay in processing. There is another process for staff to review the information once it's submitted. It is a lengthy process.

Alison Cormack said this report has improved greatly in the two years since she's been on the board. She said continuing education has not been talked about a lot. She asked if the audit is about the quality of the continuing education classes.

Loretta Melby said a budget change proposal was approved in 2018 establishing a continuing education and research unit but there had to be some changes and a reorganization and recently we lost 19 positions in a budget cut. We do have an NEC reviewing all new CE applications, we are mapping the various processes and will be making improvements to meet the actions reported to the legislature in reports turned into them in 2019 and 2020. With the NP CE requirements passed last year the board has asked for one position and there will be a hearing in April and May to discuss this.

David Lollar said the list is overwhelming and appreciates the progress being made in each category.

Nilu Patel asked about the survey regarding the Strategic Plan and when they can get information from it.

Loretta Melby said that is for the new Strategic Plan that will be developed this year. She said it closed on January 31, 2025, and a meeting will be held to discuss that moving forward. She said there is a meeting in April for the upcoming Strategic Plan.

**Public Comment(s)
for Agenda Item**

5.2: No public comments in any location.

9:54 a.m. break until 10:05 a.m.

Quorum reestablished at 10:06 a.m. (All members present)

10:06 a.m.

5.3 Information only: Presentation by DCA Budget Office on the following:

5.3.1 Registered Nursing Fund condition

5.3.2 Budget Letter (BL) 24-20; BL 24-24; and BL 25-01

Board Discussion: Patricia Wynne asked about position elimination and how might the number be. Does this agenda item result in more positions being eliminated?

Loretta Melby said the information addressed in the Strategic Plan addresses the vacant positions for the Budget Letter.

Alison Cormack appreciates the comprehensive information. She does not understand page 44 in the current year under total resources, the fourth line of expenditures. She said it looks like the board got \$10 million in funding provided by the state from the general fund that does not recur.

Suzanne Balkis, DCA, said that was from HQ and was supposed to be separated between 39333 and 6666 and was supposed to start in 2023 and 2024. The board did not use it, so it was moved to the following year which is the current year.

Loretta Melby said it was from HCAI for nursing workforce for Horne and the other was for the PHN renewal and initial certifications where the licensee did not have to pay for them. Legislation was pursued and passed where there are no more renewal fees for PHN.

Nilu Patel wanted to acknowledge the consideration given to RNs in southern California to delay their fees due to the fires.

**Public Comment(s)
for Agenda Item**

5.3: No public comments in any location.

10:19 a.m.

5.4 Information only: Presentation on travel requirements for licensees on probation or in the Intervention Program

Board Discussion: Patricia Wynne asked about the different swab testing that was brought up about five to six months ago.

Tim Buntjer said he intended to meet with Vault to discuss but was unable due to being out of the office. He reviewed the contract, and it is in there for probation. They must figure out how that would be done for modalities, how the tests would be collected, security of the test to make sure the sample is submitted from the probationer and isn't tampered enroute to the testing facility.

Loretta Melby spoke about Vault and testing. She said there are 373 collection sites in California in 49 of the 58 counties. Some participants in probation and intervention must travel long distances. They are working with the new vendor for the Intervention Program, Premier who continued the contract with Vault and are working to expand testing sites including saliva testing. They do blood, saliva, fingernails, and hair. They do DNA testing of the participant if they want to do saliva testing. That requires additional levels of testing to ensure the test is from the participant. She met with the EO from Montana due to their rural aspect and their primary mode of testing is saliva. They use peth, fingernail and hair testing to validate the saliva testing. That is what California is looking at now. California has saliva testing and allow travel. She said Tim Buntjer looked at the contract and they are looking at processes to put it into place for probation.

Tim Buntjer spoke about the travel to Argentina and the difficulty in testing and whether probationers are tolled while they travel. When tolled they don't have to comply with any of the conditions. Then testing would resume when they return to California. There are differences in travel for probation and intervention.

Loretta Melby said there are differences between probation and intervention and the two are kept separate within the board and have different guidelines for each one. Probation can be tolled while intervention cannot be. It can sometimes be difficult not to mix the two processes up.

Reza Pejuhesh spoke about the Uniform Standards and tolling of testing while on probation.

Loretta Melby said the new vendor began and has new processes they are working on.

**Public Comment(s)
for Agenda Item**

5.4: No public comments in any location.

10:31 a.m.

5.5 Information only: Overview on adjudication under the Administrative Procedure Act, including discussion of proposed decisions, stipulations, and reinstatements

Board Discussion: Before the presentation Reza Pejuhesh brought up the public comment earlier in the meeting and whether it would be covered during this presentation.

Tim Buntjer said he has information about record retention at the end.

Reza Pejuhesh said another agenda item may be needed in the future to address the commenter earlier.

David Lollar spoke about decisions for unsafe to practice and if there is a rubric for unsafe to practice as a range if there is a gray area.

Tim Buntjer said for 820 cases they heavily rely on the evaluator to determine what level of unsafe the practitioner is. The examiner is asked to identify what level of probation, if the reasons being unsafe can be resolved or addressed. If there is probation, whether there is drug testing, monitor prescriptions, ongoing therapy, whether they would be safe to practice. Some evaluations result in a finding of unsafe to practice that go forward for revocation and ask for a license surrender but it depends on what the examiners tell BRN staff.

Loretta Melby said the exams are done by qualified practitioners who meet certain criteria. The evaluations can take up to 8 hours reviewing data and conducting interviews. This is done by all healing arts boards.

Tim Buntjer said the examiners may speak with employers and support network during the evaluation.

Loretta Melby said the board president asked to add an agenda item for licensees deemed unsafe and their behavior and risk towards the

board members and staff. What happens after that, security at future board meetings, etc.

Patricia Wynne asked about a citation case.

Tim Buntjer said they are informal actions that do not come before the board for vote with the exception being if a case is appealed to an administrative hearing with a proposed decision issued that would be seen and voted on by the board. They are typically very low-level cases of DUIs with minor aggravation or CEUs.

Loretta Melby said a common one is address of record for a RN who does not notify the board within 30 days of a change in address of record. Fines have not been done much this year and they are not disciplinary actions.

Patricia Wynne asked if there is a number limit of citations issued that could turn disciplinary.

Loretta Melby said she hasn't seen that.

Patricia Wynne said she appreciates the presentation and knows there are two different systems going. She said she understands the federal part but wondered if the state is doing everything they can because it doesn't seem fair if the person was convicted 20 years ago when they were a teenager. She wondered if after a certain amount of time those offenses go away.

Tim Buntjer said they don't go away even though the public record may be removed from the website. He said BRN staff cannot retroactively apply a law to previous cases brought before the board.

Patricia Wynne would like to see a fair resolution.

Loretta Melby said that would require a legislative change to the current requirement looking retroactively. This only affects the Breeze license lookup of the California license. This does not affect the Nursys or National Practitioner Data Bank that keeps the information indefinitely based on federal law. The applicant cases look at criminal history and they also look at previous discipline on a RN license in any other state.

Nilu Patel said she appreciated the presentation and that he provides board member orientation about two weeks after starting. She said it has been a steep learning curve for her and asked for further clarification regarding what's unsafe and if they are categorized to

mean they exhibited mental health issues, substance abuse disorders to those that have practice issues and are we providing expectations based on those things.

Tim Buntjer said there are a whole host of cases that can go that route. They can get an arrest for domestic violence but when looking at the arrest report they notice the person was intoxicated, making nonsensical statements, showing signs of psychosis then they would have an examiner look at this to determine if there is a pattern of behavior. He gave some other types of examples.

Loretta Melby said probation and intervention are different and gave context for the intervention program. She spoke about the different requirements for those in probation and monitoring them as well as those in the intervention program to ensure they are safe to practice. There are differences between the two programs.

Alison Cormack appreciates the information. She said most nurses are not disciplined.

Tim Buntjer said he hasn't reviewed the stats but the board disciplines 1% of the nursing population which is an extremely small number.

Alison Cormack asked what information is posted to the web for 10 years.

Tim Buntjer said the final decision and accusation are posted.

Alison Cormack asked what the percentage of cases is DUIs.

Tim Buntjer said he doesn't know that number.

Alison Cormack said it's high, a big component of what they see. She said she wanted to give a Public Service Announcement that a DUI is important to how it can affect their nursing license.

Loretta Melby and Tim Buntjer spoke about the relationship of getting a DUI to what can happen regarding discipline and the substantial relationship to practice.

Vicki Granowitz appreciates the presentation. She said it should be explained that the proceedings before the board are not criminal and the nurses are not given a public defender and there are depositions in front of a hearing officer. She said it is heartbreaking that nurses do not realize how serious this is.

David Lollar wondered if the nursing unions provide attorneys to their members.

A conversation went on about how nurses not represented by attorneys are handled during discipline.

**Public Comment(s)
for Agenda Item**

5.5: Paradise – Said she has some suggestions that nurses be told about the federal requirement to post the information indefinitely. She said intervention participant records are private. She spoke about probation participants having their information posted indefinitely to everyone.

Cynthia Jovanov, NP – Appreciated the presentation. Will there be a detailed explanation for the licensed practitioners? She thought there was a presentation earlier this year about the hurdles a RN must go through for a DUI.

Loretta Melby said the presentation was focused on RN because that is the base license for an advanced practice nurse. It is the same process for all.

Judy Kornell, RN, Chief Executive – Asked what the professional obligation of executive nursing leaders is for reporting unprofessional conduct of a RN who is disciplined or arrested with serious allegations and serious allegations and liability associated with that if they remain in patient care.

Loretta Melby said she can't specifically address what happens at the healthcare agency through the employer perspective. The licensee is fingerprinted and is notified of any criminal record and if egregious will notify the Attorney General. She spoke about PC 23 and ISO. She said sometimes an employer will contact the board and ask why no action has been taken after they provided information. She said there is a legal process that BRN does not have complete control over. She also said nurse employers are not mandated reporters. If a nurse does something egregious, they don't have to report that to the licensing board. The board wants them to and would ask that be done but it is not a legal requirement.

Reza Pejuhesh said Loretta Melby was speaking about a general obligation to report unprofessional conduct or other misconduct by an RN. He spoke about mandatory reporting that is required for schools

and healthcare professionals. The law refers to mandated reporting for child abuse and neglect and those types of things.

Tim Buntjer said there is a reporting requirement for NPs under BPC section 805.

Loretta Melby said that is new and there is a process for that on the web.

Reza Pejuhesh said there are a few provisions in the 800 sections of the BPC.

Loretta Melby asked about 801 reporting for settlements greater than \$10,000.

Reza Pejuhesh said 801 to 805 at a minimum are titled professional reporting.

Julie – She's a NP and would like to advocate for more education up front. If she knew more, she would have made a different decision knowing she made a mistake one night many years ago, outside of work. She did extensive investigation on the website and there was no information on the website about the information remaining online for life. She was encouraged to go into probation and that was reported to the national practitioner database which will be there for life. She said she wasn't convicted, and it was one mistake.

Tim Buntjer spoke about the surrender after the probation was imposed and would have gone to the board for a vote.

Katherine Hughes, RN, SEIU – She said SEIU represents 750,000, 35,000 nurses in California. She said their representatives don't have expertise regarding the BRN in discipline and licensing. If she receives a call from a nurse, she recommends an attorney that did a presentation for them regarding BRN discipline if they want to contact them. There aren't enough nurses for that to be a priority.

William Shay, Charles Drew University – He asked about higher education responsibility if there are laws or regulations that dictate what they should report since they don't own or operate a clinical facility. They have had a dialogue with the Medical Board on remediation not being a disciplinary action about their medical residents and fellows. They struggle with their proactive responsibility in terms of impairment.

Loretta Melby said if it's a prelicensure program they do not have any reporting requirement to the board because they are not a licensee and there is no authority to act against a student. She said there is a law that prohibits schools from looking at criminal background and deciding whether or not they will enroll them. That is an area of contention with the directors of nursing because what happens in a nursing program requires direct patient care in a health care facility. The healthcare facility can deny clinical access based on criminal background. She spoke about agencies called Compio or American Databank that do criminal background checks for a seven-year period. Decisions are made at the healthcare facility which is outside the BRN. She spoke about academic institutions that create databanks they utilize to look at clinical placement. The BRN receives 40 to 60,000 applications a year and only deny one to two on an annual basis. Most applicants become nurses with full and unrestricted licenses. She spoke about probation and intervention. She pointed to the Director's Handbook. She said she cannot tell them affirmatively what to do with a student that is impaired and how to manage that.

Lunch break from 11:54 a.m. to 12:45 p.m.

Quorum reestablished at 12:47 p.m. (All members present)

12:47 p.m.

5.6 Information only: Presentation on the outcome of the Board's Enforcement Pilot Project with the Division of Investigation, the Consumer Protection Enforcement Initiative (CPEI), and the Complaint Prioritization and Referral Guidelines (CPRG) (Bus. & Prof. Code, § 328) (*Nichole Bowles and Evon Lerner Tapps present*)

Board Discussion: Patricia Wynne asked if the state auditor came up with a number of investigations.

Loretta Melby said it has been reported that a staff member came up with that number.

**Public Comment(s)
for Agenda Item**

5.6: No public comments from any location.

12:59 p.m.

5.7 Information only: Presentation on the structure, authority, roles and responsibilities, etc. of the appointed nine-member Board of Registered Nursing, and the civil service staff within the Department of Consumer Affairs; RN positions on the Board, within civil service staff and consultant(s)

Board Discussion: David Lollar asked about hiring an advocacy group or public relations group for board members.

**Public Comment(s)
for Agenda Item**

5.7: No public comments in any location.

1:18 p.m.

6.0

BRN future priorities and proposals for review and possible action

1:19 p.m.

6.1 Discussion and Possible Action: Regarding proposed regulatory text to incorporate statutory changes from SB 1451 (Ashby, Chapter 481, Statutes of 2024) and other related updates.

Board Discussion: Nilu Patel spoke about the Spanish language not having an equivalent word for Nurse Practitioner.

Loretta Melby said there is no word to describe the role either. She said there was a lot of public comment speaking about this. She went through the NPAC meetings and there was a good intention, but it was not generally accepted by the public which is why they are rolling back a lot of things.

Motion: Dolores Trujillo: Motion to adopt the proposed regulatory text to incorporate statutory changes from SB 1451 (Ashby, Chapter 481, Statutes of 2024) and other related updates, direct staff to continue with the rulemaking file and proceed with review by the Director of the Department of Consumer Affairs and the Secretary of the Business, Consumer Services, and Housing Agency. Upon their approvals, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulatory text as noticed.

Second: Alison Cormack

**Public Comment(s)
for Agenda Item**

6.1: Cynthia Jovanov, NP, CANP – She asked about 104 attestations, if the person providing the attestation must be certified in the same

category; and she explained she doesn't know how that came about and how the process would work.

Marissa Clark said the proposed text and information is on the BRN website but she is happy to clarify. She said the certification must be maintained for both 103 and 104. The reason was clarified that the NP shall not practice beyond the scope of their clinical and professional education and training, including specific areas of concentration and only practice within the limits of their knowledge and experience and national certification. She said the point is taken that the legacy may need troubleshooting, but the reason was because that provision is still explicitly in there for a 104 that their practice area must align with their national certification category.

Loretta Melby spoke about the 103, national certification, working under standardized procedures, and legacy certifications. She also spoke about working without standardized procedures in specific group settings with at least one or more physicians and surgeons. She spoke about NPs who gain training in an area outside the national certification not being able to practice as a 104 because it won't match.

Marissa Clark asked if additional language needs to be added to clarify legacy certifications in SB 1481.

Loretta Melby said it would be brought back to the board. She asked if that information answered the commenter's question.

Cynthia Jovanov said yes and no. She said most NPs are FNPs. She said she's hearing that FNPs are working in a cardiology setting and the setting which isn't addressed. She wonders if this is being overread.

Loretta Melby said if you maintain the national certification there are no limits to where you work. The group setting limits are for the 103 and doesn't carry over to 104. That is based on the limits of education and national certification and experience.

Nilu Patel asked if a FNP needs to obtain ACNP and go through the whole entire process again.

Loretta Melby said they do not.

Vote:

Vote:	DT	AC	PW	JD	NP	DL	VG
	Y	Y	Y	Y	Y	Y	Y

Key: Yes: Y No: N Abstain: A Absent for Vote: AB
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Motion Passed

1:44 p.m.

7.0

Report of the Nursing Practice Committee

1:45 p.m.

7.1 Information only: Advisory committee updates

- 7.1.1** Nurse Practitioner Advisory Committee (NPAC)
- 7.1.2** Nurse-Midwifery Advisory Committee (NMAC)
- 7.1.3** Clinical Nurse Specialist Advisory Committee (CNSAC)
- 7.1.4** Certified Registered Nurse Anesthetist Advisory Committee (CRNAAC)
- 7.1.5** Nursing Education and Workforce Advisory Committee (NEWAC)

Loretta Melby provided updates to the Board from the advisory committee meetings.

Board Discussion: Patricia Wynne asked why the three other committees did not meet.

Loretta Melby said they only meet twice a year, they are scheduled to meet after the board meeting, and she'll report out updates from each meeting timely to each board meeting.

**Public Comment(s)
for Agenda Item**

7.1.1 - 7.1.5: No public comments in any location.

1:53 p.m.

7.2 Discussion and possible action: Appointment Nurse-Midwifery Advisory Committee (NMAC) member

Board Discussion: No comments or questions.

Motion: **Nilu Patel:** Motion to Accept appointment of Kim Dau as a Nurse-Midwifery Advisory Committee member.

Second: **David Lollar**

**Public Comment(s)
for Agenda Item**

7.2: No public comments in any location.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y

	<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB
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Motion Passed

1:56 p.m.

7.3 Discussion and possible action: Appointment of NEWAC Committee member

Board Discussion: No comments or questions.

Motion: **Nilu Patel:** Motion to Accept appointment of Alice Benjamin as a Nursing Education and Workforce Advisory Committee member

Second: **Alison Cormack**

Public Comment(s) for Agenda Item

7.3: No public comments in any location.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y
	<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB						

Motion Passed

2:00 p.m.

8.0

Report of the Education/Licensing Committee (ELC)

Loretta Melby gave an explanation about the change to the agenda items and the supporting materials for this meeting.

Patricia Wynne said the changes to the materials was beneficial.

David Lollar agreed this format is beneficial.

2:05 p.m.

8.1 Discussion and possible action regarding ELC recommendations on agenda item

8.1.1 Discussion and possible action: Regarding ELC recommendations to the Board on items presented at the January 22, 2025, meeting of the ELC (a copy of the 1/22/2025 ELC meeting agenda is available here). Actions under consideration include:

- Approved curriculum revisions (16 CCR § 1426)
- Acknowledge program progress reports (16 CCR § 1423)
- Accept clinical facility approvals (16 CCR § 1427)

- Continuing approval of prelicensure nursing programs (BPC § 2788; 16 CCR § 1423),
- Continuing approval of an advanced practice (nurse practitioner) nursing program (BPC § 2788; 16 CCR § 1483.1),
- Defer taking action on the continuing approval status of an approved nursing program (BPC § 2788; 16 CCR § 1423.2(b))
- Accept substantive change requests (16 CCR § 1432), with enrollment increases

Board Discussion: No comments or questions.

Motion: **Jovita Dominguez:** Motion to Accept the recommendations of the Education/Licensing Committee for all items contained in 8.1

Second: **Patricia Wynne**

**Public Comment(s)
for Agenda Item**

8.1.1: No public comments in any location.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y
<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB							

Motion Passed

2:11 p.m.

8.2 Discussion and possible action: Regarding acceptance of substantive changes to an approved program (BPC § 2788; 16 CCR §§ 1432) (present)
Samuel Merritt University Entry Level Masters and Baccalaureate Degree Nursing Program (enrollment increase, Sacramento campus)

Board Discussion: Loretta Melby read an email sent to her. She said it will be posted with the board materials.

Shannon Ruggenberg, Program Director, UC Davis Betty Irene Moore School of Nursing at UC Davis, said there is impact in the Sacramento region, and she communicated this concern to Ms. Reyes from Samuel Merritt.

Alison Cormack said she looked at the meeting materials and the NCLEX averages are in decline for the BSN program and the ELM are below the state average. She also spent time looking at the BRN school survey interactive dashboard and the region is greater

Sacramento. She said she's used to seeing Covid decline that are now improving but this program is not improving.

David Lollar said this is a large ask compared to others previously considered by the board.

Vicki Granowitz would like to hear from the applicant.

Mary Ann McCarthy asked if there were questions. She said no but thought there were issues the applicant would like to share.

Steven Rush, school representative, said they had two asks and appreciates the ask for Oakland. He said as far as Sacramento, they met and exceed in the areas mentioned by members. There have been some decreases in NCLEX, but they are bringing those back up and are well above the 75% required by the board. He appreciates the feedback from last month's ELC. He did not think their issues or concerns with the actual request and their materials submitted show their ability to meet the requirements for that enrollment increase. They have the clinical resources needed for the enrollment increases. They are a very respected and valued healthcare partner in the Bay Area for over 115 years. They've established a really strong reputation with hospitals, clinics, and community practice sites. They continuously establish new clinical partners, and one spoke at the ELC meeting and they're able to provide enough clinical spaces and experiences to support Med Surg, Psych and Mental health, and Geriatric rotations from their site alone. They request their enrollment increase be granted because they met the requirements and if it is not supported, he be given the opportunity to address this with them.

Loretta Melby said BPC section 2786.2 addresses what the board can consider for enrollment increases. She spoke about a regulation about first time test takers and pass rates. She spoke about the various areas the board can consider for an enrollment increase.

Patricia Wynne said this request adds into a heavily impacted area. She said the board turned down a request recently in this region because it affects her sense of fairness. She's not able to support this and she knows there is a secondary proposal, and this might be a good time to talk about it, but she's interested in what other board members think.

David Lollar appreciates the work done by the school on this request.

Vicki Granowitz said her overarching concern she has with applications going into impacted areas that they've turned down previous applicants and most have terrific programs, yet they keep coming when the situation hasn't changed. She said you can't squeeze water from a stone, but this feels like insanity to her. She said they're a great school, but the math doesn't work and she's with her colleagues on this.

Alison Cormack said the other request was deferred for a new program with 135 students which she feels is a slightly different category than a smaller number of expansions that feels different to her in terms of existing placements.

Dolores Trujillo said she's noticed that the Sacramento area, where she works, the students coming into the facility are worried they won't be able to find a job when they get out. She said they are slowly being impacted. With all these enrollment increases they may need to put on the brakes, but they are doing a disservice to the students.

Loretta Melby appreciates Dolores Trujillo sharing this information but said the members cannot take into consideration nursing workforce issues. She said they hear from students they may be experiencing some difficulties finding work after graduation, but the board is forbidden by law to take that into consideration.

Steven Rush said he wishes the board could consider the workforce because they have a 98% placement rate. He said they have an ABSN and BSN. The ABSN have a 94% pass rate. He appreciates the comments about Samuel Merritt, and he too wonders why so many come forward requesting increases. He wonders if they would consider a 50% request. He said he has nothing against the other entity making the request that was deferred but it is much different to start a program and they've been around a long time.

Jovita Dominguez asked for numbers from Samuel Merritt. Steven Rush said they work in groups of eight for a cohort.

Mary Ann McCarthy and Steven Rush discussed the break down for the ELMs and ABSNs.

Carmen Ward-Sullivan, APD, corrected the numbers shown on the slide for the possible motion.

Loretta Melby asked about consistent faculty in Summer if the enrollment is reduced from 48 to 24.

Carmen said they have enough faculty and have a hiring plan for additional faculty.

Loretta Melby asked about the clinical placements.

Steven Rush said clinicals are year-round and makes it easy to rotate them through. He said it is less impacted in the summer due to other programs not having students attend in summer.

Loretta Melby spoke about the summer enrollment being one full year, so the students attend in the fall and spring as well. This still has an impact on clinical impactation. She again read the enrollment request of ELMs 16 and ABSNs 24.

Alison Cormack said this is a 25% increase for both programs, ELM and ABSN. She doesn't know what parts are being objected to by others who have been approved and others who are asking. She appreciates the demeanor, approach, and details by the program. She said 25% seems reasonable given the number of clinical placement forms that have been produced. She said this is always a struggle but seems more in line with what might be manageable.

Loretta Melby said the clinical forms are from the sites and not other academic institutions. The forms show the site has availability but does not show impact on other programs. She said the licensing requirements are the same for ELM and ABSN. The clinical components are identical.

Vicki Granowitz has a reaction to this because the school had a pretty good idea the board would say no and had a fallback position, and it wasn't included in the documentation. It didn't give the public the opportunity to decide to participate in the conversation. She would have been willing to consider this if it was included in the first ask. She says this is like a salesperson.

Loretta Melby said Steven Rush was a former board member in Wisconsin and he is well versed in the education process of a board.

Reza Pejuhesh said he wanted to add to Vicky's comment that this was agendized to the public and they knew an increase was being considered. If it was a smaller request that got larger then that might be an issue but he thinks this was properly agendized for public consideration.

Break from 2:59 – 3:10 p.m.

Quorum reestablished at 3:10 p.m.

Patricia Wynne said she understands Vicki Granowitz's comments, but schools don't always show up at the board meetings to speak up. She said she aligns with Alison Cormack and will support the motion.

Nilu Patel commends Mr. Rush for having a plan B because she was completely conflicted about this. She appreciates the compromise and thinks this is a lot better and easier for her to allow this at this point.

Jovita Dominguez asked about the hospital, if it would affect any other students.

Steven Rush said there are no students at that facility and would affect no other students from other schools.

Loretta Melby said the new facility does not have OB or Peds. She asked to read the motion with the numbers for the members.

After Public Comment:

Patricia Wynne stated that she appreciates the comments but would have liked to hear from the public before today. The first commenter said they've reported loss of clinical placements to their NECs, so they are aware. She also asked if the public would need to come to other meetings and if it will help.

Loretta Melby said the commenters should attend Education/Licensing Committee which is held virtually.

Alison Cormack asked about the clinical placements at Sequoia Living which seems to be far away, based on public comment.

Steven Rush said students are traveling a little further for clinicals. Not all students will have to travel but they have the capacity that if they needed them to go there they could. They ask students to find clinicals closest to home. They do not have difficulty hiring faculty and retaining them with good pay and benefits. They have a DNP program where many students graduate from so they can grow their own faculty.

Alison Cormack said that is consistent with what has been heard that those programs that pay better can retain faculty over those who cannot increase salaries.

Loretta Melby spoke about the types of clinical experiences for students in each of the areas of education and training.

Motion: Jovita Dominguez: Motion to Recommend acceptance of the substantive change requested by an approved program and approve the enrollment increase for Samuel Merritt Entry Level Masters and Baccalaureate Degree Nursing Program with an enrollment pattern for the ELM program at their Sacramento Campus to go from 48 students that are enrolled in the spring annually increasing that by 16 in the spring to equal 64 students annually and then for the accelerated bachelor's program at their Sacramento campus instead of 48 students three times a year they would go from their original 48 students that are twice a year in the Spring and fall to adding 24 to a summer cohort. Clarify by Board Member Cormack. 48 student spring and fall staying the same and adding 24 to a summer cohort for a total then of 120

Second: Patricia Wynne

**Public Comment(s)
for Agenda Item**

8.2: Stephanie Landers, CSUS – They object to this request on the grounds that region one lacks appropriate clinical sites as well as qualified faculty to support an additional 72 students or even the 40 students as has been amended as of this meeting. Clinical sites for this region for prelicensure programs are in short supply. While they appreciate Samuel Merritt considering non-traditional scheduling such as evenings and weekends, recent mapping of the clinical use at the regional consortium meeting demonstrates these clinical placements are already being used by other programs. Las year California Northstate University was approved for 90 students annually and University of the Pacific was approved for an enrollment increase of 40 students. It is unclear where these 130 students will be placed in the Sacramento region, let alone the additional students requested by Samuel Merritt.

Deborah Finn-Romero – She agrees with her colleague Stephanie Landers that they are losing clinical sites and having hours reduced as it is a very competitive area, and additional students will only add to the impaction on the community.

Dr. Nancy James, Dean of Nursing and Allied Health Sciences at Sierra College – She agrees completely with the previous two commenters. She cannot hire qualified faculty because they are leaving for higher paying positions. Their historical placements are being taken. This is a problem because when you enroll a student you are guaranteeing they will have clinical placements for two years. In the middle of last year her clinical site withdrew.

Julie Hold, Director at Sacramento City College – She is not in support of this request and agrees with the previous speakers. Nurse burnout at the bedside is happening as they are asked to support their students and care for the public. The nurses are being asked 24/7 to take students which is a very intense request that occurs in many programs if not all. She's not in support of this motion.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	N	Y	N	Y	N	N	N
	<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB						

Motion Failed

Second Motion: David Lollar: Motion to Deny request

Second: Vicki Granowitz

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y
	<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB						

Motion Passed

After vote:

Steven Rush said he appreciates all comments and disagrees that he's a salesperson. He is an educator and former nursing board member. He said if the board is not going to approve any more requests for this area, then he asks the board to state there is a moratorium on requests. When a school makes a request for an enrollment increase it is a labor-intensive process to go through all the forms, documentation, and preparation for these meetings to be told they've already deferred and denied other schools so they can't approve any others. He would like that publicly messaged.

Loretta Melby appreciated the comments and asked for Steven Rush to send an email to discuss next options for Samuel Merritt. To do a moratorium to any area in California on enrollment increases that would have to be agendized at a board meeting and follow any kind of legal proceedings that would happen around that and make a motion to follow through on that. She spoke about the bill that died involving clinical placement data collection from healthcare partners to get a clearer depiction of the landscape, a statewide consortium with regional focuses and any other options.

Vicki Granowitz apologized for her comment about being a salesperson.

Reza Pejuhesh said he understands the program coming in with a plan B to avoid the waste of effort that goes into these requests versus chasing a futile request. He supports the idea of some solution, but the idea of a moratorium concerns him and does not want to take any position on it now.

3:42 p.m.

8.3 Discussion and possible action: Regarding a feasibility study for new prelicensure nursing programs (16 CCR §§ 1421, 1432) (present)
Gurnick Medical Arts Baccalaureate Degree Nursing Program (secondary site San Jose)

Board Discussion: Samantha Manlosa Sanchez, school representative, presented their program request. They have eight hospitals, 10 OB, and 7 peds. She said Unitek is in Fremont which is within the 50-mile radius but another county. Unitek is open to collaborations.

Nilu Patel asked about absorbing all these students at once.

Samantha Manlosa Sanchez said they have a large campus in San Jose, and they have another set of faculty in San Jose.

Patricia Wynne said they have allowed growth of 577 students in that region in the last six years. She's curious if they've hit the ceiling yet as they may have in the Sacramento area.

Mary Ann McCarthy is not sure but said she hasn't heard a lot about San Jose. She said she's heard about the Bay Area but not San Jose.

Loretta Melby agrees with Mary Ann McCarthy. When there's room for growth that's when the programs move into the area and then hit a limit.

- Motion:** **David Lollar:** Motion to Accept the feasibility study for an alternate campus in San Jose for Gurnick Medical Arts Baccalaureate Degree Nursing Program with a projected enrollment pattern of:
- The school has requested: A projected start date of June 2025 with the following pattern:
 - 2025: In June enroll 56 students (28 generic and 28 advanced placement) and in September enroll 28 generic students for a total of 84 new BSN students for the year.

- 2026 and ongoing: Every January, enroll 56 students (28 generic and 28 advanced placement students) and, each May and September enroll 28 new generic students for a total annual enrollment of 112 students a year.

Second: Jovita Dominguez

Alison Cormack asked about the variability of the NCLEX pass rates, 70, 87, 78.6, 82.

Samantha Manlosa Sanchez said they changed their system from HESI to ATI and they are in complete partnership and working with their NEC extensively.

Alison Cormack said the trajectory is going down versus the other program going up.

Loretta Melby said the 2021 was from Covid and should even out.

**Public Comment(s)
for Agenda Item**

8.3: No public comments in any location.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y
<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB							

Motion Passed

4:01 p.m.

8.4 Information only: NCLEX updates

8.5 Information only: Licensing Update

Board Discussion: Alison Cormack pointed to page 143. She said this is the first time she's seen the quarterly pass rate below 90%.

Loretta Melby said there is a shift to NextGen NCLEX and they expect a 10% decrease. She also said there are effects from Covid education and direct patient care requirements being decreased. She spoke about the changes from the sunset bill as it relates to the direct patient care changes during Covid and moving forward. She spoke about a letter coming forward from academic partners requesting a reduction in clinical hours from 500 to 250 and pointing to a NCSBN study that requires 300 hours.

Alison Cormack thinks this is something to keep an eye on since this is on a downward trajectory.

Loretta Melby spoke about the board's responsibility to protect students through regulation of nursing education.

**Public Comment for
Agenda Item 8.4**

and 8.5: No public comments in any location.

4:12 p.m.

**Reopen Agenda Item 6.1 to modify the language in the motion to
address the public comment Title 16, CCR 1482.4(c)**

Marissa Clark introduced the modified language to be added for Title 16, CCR 1482.4(c) – “or a population focus category that was discontinued before January 1, 2017.”

Board Discussion: No comments or questions.

Motion: **David Lollar:** Motion to adopt the proposed regulatory text to incorporate statutory changes from SB 1451 (Ashby, Chapter 481, Statutes of 2024) and other related updates, direct staff to continue with the rulemaking file and proceed with review by the Director of the Department of Consumer Affairs and the Secretary of the Business, Consumer Services, and Housing Agency. Upon their approvals, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulatory text as noticed.

Second: **Nilu Patel**

**Public Comment for
Agenda Item 6.1:**

No public comments in any location.

Reza Pejuhesh said there will be other opportunities to comment on this regulation change in the future for those who may not have been on the meeting during this public comment period.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y

Motion Passed

4:32 p.m. 9.0 Closed Session

9.1 Disciplinary Matters

The Board convened in closed session pursuant to Government Code section 11126, subdivision (c)(3) to deliberate on disciplinary matters, including stipulations and proposed decisions.

5:30 p.m. Recess to February 27, 2025 – 9:00 a.m.

Thursday, February 27, 2025 – 9:00 a.m. Board Meeting

9:00 a.m. 1.0 Call to order, roll call, and establishment of a quorum

Dolores Trujillo, RN, President, called the meeting to order at: 9:00 a.m. All members present. Quorum established at 9:02 a.m.

Board Members: Dolores Trujillo, RN – President
 Nilu Patel, DNAP, CRNA, FAANA – Vice President
 Jovita Dominguez, BSN, RN
 Patricia “Tricia” Wynne, Esq.
 Roi David Lollar
 Vicki Granowitz
 Alison Cormack

BRN Staff: Loretta (Lori) Melby, RN, MSN – Executive Officer
 Reza Pejuhesh – DCA Legal Affairs Division, Attorney

2.0 General instructions for the format of a teleconference call

The meeting moderator provided general instructions to members of the public on public participation during the meeting.

9:02 a.m. 3.0 Continue with unfinished agenda items from February 26, 2025

Meeting entered Closed Session

**Open Session resumed and quorum established at 10:36 a.m.
 (All members present)**

10:37 a.m. 4.0 Report on Legislation

10:38 a.m. AB 346 (Nguyen) In-home supportive services: licensed health care professional certification

Board Discussion: Dolores Trujillo asked how the certification would be obtained.

Marissa Clark said there is a standard form provided by Public Health or Healthcare Services. Eligible professionals would sign the form. This would add this to BRN code for the eligible signing entities.

Dolores Trujillo asked if the board would be involved in any way.

Marissa Clark said she did not think so.

Nilu Patel asked if the licensed professional would be responsible for issues that could result with the patient if harm is done.

Marissa Clark said she believes they would be providing that care. She thought this is two facets by certifying eligibility for care and providing care. She said whoever is providing care would take on that liability.

Motion: Dolores Trujillo to Watch

Second: Jovita Dominguez

Public Comment(s)

for AB 346: No public comments in any location.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y
Key: Yes: Y No: N Abstain: A Absent for Vote: AB							

Motion Passed

10:45 a.m.

AB 479 (Tangipa) Criminal procedure: vacatur relief

Board Discussion: No comments or questions.

Motion: Dolores Trujillo to Support

Second: Nilu Patel

**Public Comment(s)
for Agenda Item AB**

479: Lori NP – She can understand why everyone would support this but as a NP that was involved in the disciplinary process, she was arrested, not convicted of a crime but the BRN has all that information and used it against her. She said no law or criminal court

system has punished her. All that is clear. The only entity that is a problem is the BRN. This is in the National Provider Data Bank after her. She started probation and was having a medical procedure and was not able to do probation. That is an ADA complaint, and she was told to surrender her license and come back in a year to start probation again. This makes it when her crime is ever taken care of the BRN wants to go back in. This is a mental health living type thing.

Loretta Melby said this does not have anything to do with the Intervention or Probation program.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y
	<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB						

Motion Passed

10:53 a.m.

AB 489 (Bonta) Health care professions: deceptive terms or letters: artificial intelligence

Board Discussion: Patricia Wynne asked which agency would be appropriate for this.

Marissa Clark said AG (Attorney General) could be.

Patricia Wynne asked Reza Pejuhesh if AG would act as BRN attorney in this type of situation.

Reza Pejuhesh asked if BRN would be primarily responsible for directing AG to prosecute.

Patricia Wynne said yes.

Reza Pejuhesh said it doesn't seem that way.

Loretta Melby said she spoke with AG and if BRN brought unlicensed practice to them they would not be able to do anything about it. It isn't implementable.

Motion: Nilu Patel to Watch

Second: Patricia Wynne

Loretta Melby asked if this position has any effect on the board's ability to have input on the bill.

Marissa Clark said the board can always provide technical assistance on a bill. If it's a support if amended asking the author to take action while leaning towards support.

Dolores Trujillo leans towards support because generative AI is not used honestly, originally to confuse and mislead California consumers which caused her to support this.

Patricia Wynne rescinded her Second and Nilu Patel rescinded her motion.

Amended Motion: Dolores Trujillo to Support if Amended

Second: David Lollar

**Public Comment(s)
for Agenda Item AB**

489: Matt Lujay, SEIU – They are the sponsor of this bill and appreciate the conversation today. They want to make sure if someone represents themselves as a license holder, they have the training and education and expertise and passed the test. They are open to continued collaboration to make sure enforcement works.

Katherine Hughes, RN, Nurse Alliance of SEIU California – Echoes Matt Lujay with SEIU CA.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y
	Key: Yes: Y No: N Abstain: A Absent for Vote: AB						

Motion Passed

11:06 a.m.

AB 583: (Pellerin) Death certificates

Board Discussion: No comments or questions.

Motion: Dolores Trujillo to Support

Second: Nilu Patel

**Public Comment(s)
for Agenda Item AB**

583: Aimee Paulson, CANP – She appreciates the support of the board to be in attendance at their own patients and not be required to be supervised. In addition, in the event the NP works with a physician in the same office where there is a patient death and need for a

certification signature, they also want to ensure the NP can sign on behalf of their physician colleagues when needed.

Vote:

Vote:	DT	AC	PW	JD	NP	DL	VG
	Y	Y	Y	Y	Y	Y	Y
<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB							

Motion Passed

Loretta Melby said that because the legislature is early in their process there may be a need to call a special board meeting to take positions on bills.

Patricia Wynne asked if the meeting would be virtual or in person.

Loretta Melby said it would have to be in person and that's why she wants to let the board members know in advance.

Marissa Clark gave some additional context regarding the bills and status during the legislative calendar.

Loretta Melby said there may be a need to hold a meeting in March. She also said the board is looking at scheduling for board meetings at the end of the year and early next year to work better with the legislative calendar. She will have staff work with the board to possibly schedule a meeting in March due to the bills that were introduced after the board meeting posting deadline.

11:15 a.m.

5.0

Report of Enforcement/Investigation/Intervention Committee (EIIC)

- 5.1 Information only:** Presentation by the Executive Officer regarding review of Intervention Program participants subjected to requirements of working in direct patient care and/or passing narcotics, and removal/imposition of such requirements by Intervention Evaluation Committees; review of program extension beyond three years; Intervention Program statistical data

Board Discussion: Patricia Wynne thinks the data shows a change for the better.

Vicki Granowitz thinks it's going in the right direction but is interested to hear from the public.

Loretta Melby said there are still issues that need to be addressed which is why agenda item 5.5 is here to move the focus and review the process to see how to assist the public.

Public Comment for

Agenda Item 5.1: Public commenter wrote: There is an LVN applicant who has a DWI. Does that preclude her from taking the NCLEX?

Loretta Melby said the authorization to test and ability to take NCLEX is not based on criminal background. After NCLEX is taken a determination of whether or not they're safe to license would be reviewed by enforcement to determine whether a full license or probationary license would be issued.

Reza Pejuhesh said there is no way to give a concrete opinion for an applicant as to whether a license will be given. Loretta Melby said if a person meets the educational requirements, they can test but does not guarantee a license.

Reza Pejuhesh said if a person has any type of situation they are concerned about, they can review the board's disciplinary guidelines.

11:27 a.m.

5.2 Information only: Enforcement Division update

Board Discussion: Patricia Wynne asked about table B page 11 and the huge jump in citations. Was this an anomaly?

Tim Buntjer said he thinks it was an anomaly.

Loretta Melby said it was returned mail from certificates that were sent out. A stack of mail was found that needed to be addressed.

Loretta Melby asked for table F to be updated in the materials by Tim Buntjer.

Dolores Trujillo would like to see the comparison numbers be reported out going forward.

Patricia Wynne asked for the six-month comparisons and Dolores Trujillo agreed.

Tim Buntjer asked if it is six months or fiscal year to date.

Loretta Melby said fiscal year to date but for five years.

Dolores Trujillo said that's what she would like to see.

Alison Cormack said she brought these issues up at the Enforcement Investigations, Intervention Committee. She agrees that this level of information is useful to see if something is a blip or an issue to be

addressed. She asked about the mail and whether the board should change to meet the digital changes in the world.

Loretta Melby the board does snail mail as required in the statutory language. The board has no authority over email addresses and would require a legislative change. She wants to be able to send text messages out, but the BRN does not have technology to support that. She said a board is looking at a contract and she wants to join that effort. She spoke about email addresses being changed and not monitored which is why it is important to have US mail as an option.

Public Comment for

Agenda Item 5.2: No public comments in any location.

11:43 p.m.

5.3 Information only: Investigations Division update

Board Discussion: Patricia Wynne said there was a huge jump in BRN cases referred for 2024 and wonders if that's a blip or something that happened.

Nichole Bowles said she can't pinpoint now and would need to do research to get back to the board.

Dolores Trujillo asked about the BRN investigator caseload numbers and if supervisors are carrying cases.

Nichole Bowles said she didn't report on average caseload for the supervisors but can get that number for the board. It's much lower than 29 because they still have direct oversight responsibilities. She can have the investigation analyst do some additional triage work to get additional documents or information before going to a special investigator to help alleviate that burden.

Dolores Trujillo asked about caseloads for new investigators.

Nichole Bowles said when a new investigator comes on board, they are given 10 cases, and they work with lead investigators.

Loretta Melby said the supervisors do not have a caseload; they are taking cases, so there is no average. This is not something they try to do in their roles because they are not investigators. She also said Evon Lenerd is willing to take on cases for investigation if needed. She also said they are looking at submitting a concept paper for a budget change proposal for investigative resources. She also spoke with the DCA director to see if there is something BRN is missing to address this.

Loretta Melby said Dolores Trujillo asked how long the BRN can keep the limited term positions.

Evon Lenerd Tapps said any position in the blanket can be removed by the Department of Finance in a position sweep.

Loretta Melby said when they advertise for a limited term position, they don't always get the best candidates because they want a permanent position.

Evon Lenerd Tapps spoke about the 30-case limit in the state audit. The BRN cannot assign more than 30 cases because of this. They assign the number of cases that an investigator can actively work.

**Public Comment for
Agenda Item 5.3:**

Lori NP – Does any of this panic or increase of caseload have anything with pausing the pilot? It seems like it was extended multiple times. It seems all these things are changing suddenly.

Loretta Melby said the pilot has gone on for many years, so it was more of a regular thing than a pilot. She said the pause was in collaboration with DOI due to increasing caseloads. She said there is no longer a pilot because it was made permanent with CPRG.

Nichole Bowles said the BRN is unable to predict the number of cases received or referred. There may not be a catalyst as to why cases fluctuate.

Lunch Break from 12:01 – 12:45 p.m.

Quorum reestablished at 12:45 p.m. (All members present)

12:46 p.m.

5.4 Information only: Intervention Program update

Board Discussion: Patricia Wynne asked if the IECs were involved with the Premier trainings.

Loretta Melby said no, additional training will happen later.

Vicki Granowitz asked what training is being given by staff.

Loretta Melby said Premier Health is the new vendor with a background in substance use disorder and mental health, but they

don't have knowledge of regulatory and statutory law. The training is to provide context for all the healing arts boards.

Vicki Granowitz asked if the vendor is aware of what has been going on for the last year.

Loretta Melby said she had a meeting with the CEO after securing the contract. She gave links to the meetings on the BRN website to watch to get a baseline.

Vicki Granowitz asked about the letter from Stephanie Trumm and who received it.

Loretta Melby said it was sent to all board members, herself, DCA, and Legal.

Vicki Granowitz asked if there is a regulation that says staff gives direction in the IEC meetings. She wonders what background staff have for substance abuse recovery, mental health, and chemical dependency.

Loretta Melby said various parts are in statute and regulation that requires oversight of the IECs and NSGs by the program manager designated by the Executive Officer. There is also a requirement for the vendor to visit the NSGFs for a spot check. The program manager is to participate in the IECs. Board staff is not providing guidance except to interpret any of the regulations for the members.

Vicki Granowitz asked if the program manager has training on issues related to chemical dependency for baseline knowledge?

Loretta Melby read BPC 2770.1(c) that says the program manager of the intervention program shall have background experience dealing with substance abuse issues.

Vicki Granowitz asked if there is a definition on what that means. She said they could attend one AA meeting or one Alanon meeting but it's complicated. She worked for a decade with the population and its very complicated when they're evaluating whether people are safe to return to practice.

Loretta Melby discussed the expertise and experience for IEC members.

Vicki Granowitz asked which trumps – IEC or program manager.

Loretta Melby said IEC trumps always.

Vicki Granowitz said the IEC members are volunteers and as health workers in this field tend to listen when told about law. How is the conflict dealt with?

Loretta Melby said it can be intimidating. They defer to board staff on interpretation of rules and regulations. They know this is not their area of expertise as IEC members and they try to do their best to meet requirements while using their professional experience.

Vicki Granowitz said she doesn't want to monopolize the conversation.

Loretta Melby said the AEO and Enforcement Chief will stop attending IEC meetings as Premier is on stable footing as the vendor. She said the CCMs will give their input on participant progress in the program and the IEC will make the recommendation based on that.

Vicki Granowitz asked about participants seeking graduation if there is a consistent process, standard questions, amount of time per client. She said the letter said with changes made recently that this is often inconsistent and inadequate and challenging for the participants to make a case.

Loretta Melby said prior to the changes and when meeting with prior vendor and prior IEC members there was not a lot of structure to the meetings. They would meet with the CM or CCM and participants and would just kind of ask questions and talk about what was going on. There wasn't a lot of structure, and they would have recommendations. They would ask participants a lot of input into those recommendations and a recommendation would be made that wasn't structured. It was fluid and done that same way for 40 years. It was identified in the August meeting there had been some drift where all regulations and statutory requirements were not being met and that items in the contract with the last vendor may have been altered and changed on a vote but not in alignment with the regulatory requirements. It was also discovered Bagley-Keene was not followed at every meeting. The board staff came in and aligned it into an appropriate business process that followed the rules and regulations. It was a very difficult transition for people that ran the IEC committees the old way that had drifted. When the changes were made it went from a relaxed meeting to a structured and colder feeling meeting. It wasn't the intent to drive a barrier between the members and committee or participants in the committee. It wasn't

an intent to push people out. It was intended to bring them into compliance. The participants didn't know what to do and asked for CCM help. This is now occurring with Premier who preps them before a meeting. The CCM isn't giving a report during the meetings because they've only been on the job for 1-2 months. They are new to their roles. They are observers but will have a more active role once they're comfortable. The CCMs are LCSWs or RNs. They will have the opportunity to provide feedback on the participants in the future. The CCMs should not be influencing the IEC members and their decisions, as may have been happening previously. It is a structured environment now. Board staff are present, and the plan is to have only one staff member there. She has been in contact with DCA and has asked for legal representation to be in each IEC meeting. Then there will be a BRN staff member and a DCA legal representative present.

**1:15 p.m. Public Comment for
Agenda Item 5.4:**

DJH – She had her last IEC in January 2025. It was completely different and was a positive experience. She had waited for 1-3 hours previously but only minimally delayed and Premier let her know it was delayed. She was asked if there were any asks, and she felt heard during the meeting. She wanted to know if the CCMs knew about the oral tests and if there was any education about that.

Loretta Melby said it is now being given to the CCMs by Vault.

Lori NP – She feels that California is overdoing it with enforcement as compared to the rest of the country as it involves chemical dependency. She thinks the reason California is not part of the compact has to do with enforcement being overdone. There's been a lot of inconsistency and potentially inadequate following of regulations. In terms of evidence-based practice, nothing about this meeting makes her feel like the practice of nursing as far as enforcement is evidence-based practice. She encourages the board to look at the number in terms of the RNs or NPs or APRNs who have surrendered their license after probation or encouraged to go on probation and surrender. She doesn't think their voices matter because they are so broken, but she isn't going away.

Loretta Melby said she encourages public to come forward because if they did not do so then the board would not know about them.

1:21 p.m.

5.5 Discussion and possible action: Regarding the requirements for a participant in the Intervention Program to be reinstated to a full, unrestricted license, including but not limited to the requirement that the participant demonstrate that he or she is able to practice safely

(Uniform Standard 12; Uniform Standards Regarding Substance Abusing Healing Arts Licensees)

Board Discussion: Patricia Wynne wanted to hear from other healing arts boards. She would like to know what other states are doing. She said the board has been in a hellish place for a year or two. She's spent a lot of time thinking about this. Her initial thoughts are nurses who come into probation, oftentimes there has been a problem with their safety to practice because they made mistakes in the workplace, but intervention is voluntary, and they went in because of an addiction or mental health issue. She thinks they should focus on wellness, recovery, and sobriety, and probation should be focused on competency. She has empathy for those caught in this loop that they hear from at every board meeting. She welcomes comments from the other members.

Loretta Melby said the intervention program is an alternative to discipline program. The nurses voluntarily join may have discipline – they enter intervention as an alternative to receiving discipline.

David Lollar asked if there is a way to freeze a license until the nurse can meet the work requirement? Is there a deadline when it must be done to get their license back?

Loretta Melby explained some of the Uniform Standard requirements about license status as a nurse moves through the intervention program. She said some IEC members think the participants need to work in nursing to feel the stress while in the program.

David Lollar asked if there could be some type of specialized license that limits practice.

Loretta Melby said the program is confidential so when they complete it the license is unrestricted. She said some participants say they will never work in the ER and for the first two years they don't but decide they want to go back into that area and face the issues that resulted in getting into the program.

David Lollar asked if a participant could work in a school in some type of simulation environment.

Loretta Melby said working in a school requires a RN license. There are participants working at schools. A participant must still meet the educational requirements to work in a school. There is no intervention license. The purpose of the program is to ensure they

are sober and in compliance with everything and have the tools to continue to practice without relapse.

Loretta Melby said there is no consistency from state to state. She gave some examples of different components used in other states. She said they don't require participants work but allow them to. But some IECs want certain participants to work before graduating. She said she spoke with other health EOs about these situations, and they told her it looks like it is a sobriety mental health focus, not work focus. The participant needs to work on sobriety and mental health.

Dolores Trujillo discussed this issue further with Loretta Melby looking at ways to ensure sobriety and manage relapse prevention.

Loretta Melby spoke about IEC concerns with participants being able to work at all as a RN in any area. She spoke about the issues IEC participants face when seeking employment and their participation in the Intervention Program. How can the IEC say the participant can practice safely.

Nilu Patel asked how to differentiate to advise IECs between practice issues versus substance abuse/mental health related issues and not muddying the water between the two. Does this require a different policy?

Patricia Wynne said if the board gives direction to the EO then that can be given to the IECs.

Loretta Melby said direction from the board could be helpful but might require regulations. She said one board requires work while in their program and pursued regulations for that. But she said IECs have found that a participant needs to work and are stuck in a loop until the participant can find a job. She cannot keep a participant in the program for six to seven years while they seek a job. She said the question is do they have the tools to maintain sobriety. If the board says a work requirement is needed, then regulations must be sought. She said probationers are required to work as a condition of their probation.

Evon Lenerd said there are 336 chemical dependency cases and 346 non-chemical dependency cases. She spoke about the work requirements and oversight by worksite monitors.

David Lollar said there seems to be a difference between practice and safety. He asked about using simulation to show this.

Evon Lenerd said participants don't always work at hospitals, sometimes they work as volunteers. They look at their recovery at the time they meet. She said it is a case-by-case basis when a determination is made.

Alison Cormack agrees with David Lollar and there being subsets that are those who applied to many jobs, disabled, doesn't want to work but wants to be done with the program. She spoke about a "honorable discharge." She said there may be a different answer for each of them. She said number four is a recovery approach that could have some policies applied. She also thinks there may be some who do need to work. She spoke about preventing relapse for some and protection of the public. She thinks this is a subset and not a majority. She wanted to know more about what surrender means for those who want to be done with the program.

Loretta Melby said for those outside the intervention program you must petition for surrender. It is a legal process that must be gone through. In intervention, you cannot successfully complete if your license is surrendered or inactive. They can only work with an active license.

Evon Lenerd said there are a few options for IP to successfully complete, withdraw, terminated by IEC. If the participant withdraws or is terminated, they are ineligible to reenter the program at a later date.

Alison Cormack asked about withdrawing without working doesn't determine if there is an issue.

Evon Lenerd said if they withdraw the board can continue with a disciplinary action that may have been started before they entered the program or be deemed a public safety risk.

Alison Cormack asked if a participant could withdraw if no one knows there was a problem.

Evon Lenerd said some participants self-report but then a complaint can come in later while they're in the program and an investigation is done.

Loretta Melby cited BPC section 2770.7(d) discussing public safety risk and use of intervention records.

Alison Cormack would still like to find an answer for the subset.

Patricia Wynne agreed with Alison Cormack and asked to go to public comment.

After Public Comment:

Nilu Patel thinks there needs to be a motion since they have been dealing with this for several meetings, and would like assistance from Reza Pejuhesh.

Reza Pejuhesh said there is language in Uniform Standards that is ambiguous – “demonstrate the ability to practice safely” – which requires interpretation. He said the board ended the requirement to work in direct patient care while furnishing narcotics at the end of last year, unless there is some evidence for the requirement for some participants to do so, which is appropriate. There ought to be some discretion for that requirement where it seems to fit. There is no way to limit future practice with the status quo that is feasible or practical. A contract could not be enforced if breached. Part of the board’s job is to consider worst case scenarios which many participants who are complying would balk at. Based on Alison Cormack’s point that there needs to be a balanced approach, there is no mechanism to commit someone to work in a certain area of practice after they graduate. The AG’s office won’t prepare a stipulation if there is no accusation and that would be public which is the opposite of intervention. Legislation would be needed to create some different type of license that authorizes a limited scope of practice.

Loretta Melby spoke about the different phases and requirements of the intervention program.

Patricia Wynne asked if a statement could be made to assist the IECs that work is not required to complete the intervention program.

Loretta Melby and Evon Lenerd made comments regarding what the IEC members have said or think about the work requirement, sobriety, addiction, and recovery.

Patricia Wynne asked for some type of statement.

Loretta Melby said it would be better in a motion and asked for a break to work with Reza Pejuhesh to come up with one for the board to consider.

Break 2:24 – 2:40 p.m.

Quorum reestablished at 2:41 p.m. (All members present)

Reza Pejuhesh said they discussed the parameters to provide guidance to the IECs for Uniform Standard 12. The Uniform Standard 12 is effectively law and if any statement is made to interpret the meaning that someone would have to work or not work would be considered a regulation and all the requirements that must be done for rulemaking under APA is a long process. He spoke about the status quo being an interpretation on a case-by-case basis. He referenced the comments made by Loretta Melby about IECs thinking some participants may need to practice. He spoke about training for the IECs regarding this issue. He said the board could ask the EO to continue doing what she's doing and explicitly ask her to provide guidance to the IECs to continue to review the cases for Uniform Standard 12. This won't violate APA and the IECs maintain the discretion to impose the work requirement.

Reza Pejuhesh said a possible motion could be: Direct the board's EO to work with the IECs to provide guidance on the application of uniform standard 12 including criteria number 4 does not necessarily require the participant to work as a RN; however, IECs have discretion to impose the requirement when they feel the specific case warrants it.

After Motion/Second:

Alison Cormack said she heard the word autonomy that allows the IEC to make the decision they feel as appropriate but also gives the participant some autonomy to work or choose not to work or type of work which is why she'll support the motion.

Motion: **Patricia Wynne:** Motion to Direct the board's EO to work with the IECs to provide guidance on the application of uniform standard 12 including criteria number 4 does not necessarily require the participant to work as a RN; however, IECs have discretion to impose the requirement when they feel the specific case warrants it.

Second: **Nilu Patel**

**2:02 p.m. Public Comment for
Agenda Item 5.5:**

Before Motion/Second:

Nurse 117 – She appreciates the conversation as she is one caught in the loop. She works a strong recovery program and been completely compliant with the intervention program requirements. She was an ICU nurse and has no interest in returning. She would like to return to a nursing career in outpatient or nonpatient care. She

is interested in the EO's comments and would sign a contract stating she would not work in the hospital.

Stephanie Trumm – The BRN is the only healing arts board that has a pure alternative to discipline program in California. The rest are a combination of probation and treatment. She said recovery is about accountability and autonomy versus the mandate. It would be beneficial for those who are disabled to receive support or some way to successfully complete the program as best they can. The committees wonder about training for each consultant to emphasize case by case not based on philosophy or what they were brought in for because they didn't have the tools to deal with trauma but look at how they manage their sobriety or mental health.

2:51 p.m.

After Motion/Second:

DJH – She enjoyed the robust discussion that brought up a question. She wonders if the contract for a participant needs to have the restrictions lifted prior to being able to complete the program.

Loretta Melby said everything is on a case-by-case basis. The IEC needs to release the participant to full practice as supported by sobriety and mental health is managed.

Nurse 117 – Prior, a participant requested to enter transition in the last year of the program. She said uniform standard 11 lists the criteria for a licensee to return to practice. Do the participants still have to meet that requirement to successfully complete a year prior to the third or fifth year.

Loretta Melby said the BRN removed the term transition because it is not supported in regulation or statute. There is no requirement of transition for one year. She wants the IEC to see that the participant is constantly progressing towards an unrestricted license and managing sobriety or mental health while doing so.

Commenter said she understands that what is being said is to successfully complete the program they need to be fully released to full practice before completion. The IEC needs to deem them safe to practice without restrictions even if they don't work.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y
<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB							

Motion Passed

2:59 p.m.

5.6 Discussion and possible action: Regarding the reestablishment of up to approximately five (5) Intervention Evaluation Committees (IEC) to meet program needs, and reassign current IEC members to newly reestablished IECs as appropriate

Board Discussion: Alison Cormack wonders about unintended consequences. She wonders about IECs seeing the full range of participants and the trends.

Evon Lenerd said they will implement training.

Loretta Melby said they may form specialized committees dealing with relapses or admissions or completions to see similar patterns.

Alison Cormack appreciates the information.

Motion: **David Lollar:** Motion to Accept the request to reestablish up to five (5) Intervention Evaluation Committees

Second: **Patricia Wynne**

**Public Comment for
Agenda Item 5.6:**

DJH – Something that has come up several times in NSG. She spoke about a sobriety date falling in between a quarterly meeting. She said in the past there was the opportunity to request completion, and the IEC would grant completion pending 100% compliance up to the program sobriety date.

Nurse 117 – When she joined the intervention program almost two years ago, she was told she would be seen every three months but that has not been the case for her. She and other participants in her NSG are told they must wait six months to be seen by their assigned IEC. This causes extreme hardship to not have answers regarding their work and program status. It feels like their lives and careers are being put on hold. If they could be seen by the IEC quarterly as outlined in the program it would be beneficial. She would like to know when they can expect this to go into effect.

Loretta Melby said she doesn't think they will be able to maintain a quarterly schedule. The Premier CCM is the point of contact if there are questions about the program, recovery agreement or anything. The IECs are to evaluate progress in the program and make recommendations to the program if things need to be addressed.

Vote:

Vote:	DT	AC	PW	JD	NP	DL	VG
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	Y	Y	Y	Y	Y	Y	Y
	<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB						

Motion Passed

3:12 p.m.

5.7 Discussion and possible action: Regarding the Intervention Program Subcommittee Charter

Board Discussion: No comments or questions.

Motion: **Patricia Wynne:** Motion to Accept the Intervention Program Subcommittee charter

Second: **David Lollar**

Public Comment for

Agenda Item 5.7: No public comments in any location.

Vote:

	DT	AC	PW	JD	NP	DL	VG
Vote:	Y	Y	Y	Y	Y	Y	Y
	<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB						

Motion Passed

3:15 p.m.

6.0

Adjournment

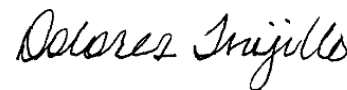
➤ Dolores Trujillo, President, adjourned the meeting at 3:15 p.m.

Submitted by:



Loretta Melby, MSN, RN
Executive Officer
California Board of Registered Nursing

Accepted by:



Dolores Trujillo, RN
President
California Board of Registered Nursing