

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF REGISTERED NURSING
ENFORCEMENT, INVESTIGATIONS,
AND INTERVENTION COMMITTEE
MEETING MINUTES**

Date: January 22, 2025

2:45 p.m.

Start Time: 2:45 p.m.

Location: **NOTE:** Pursuant to the provisions of Government Code section 11133 a physical meeting location was not being provided.

The Board of Registered Nursing held a public meeting via a teleconference platform.

Wednesday, January 22, 2025 - BRN Enforcement, Investigations, and Intervention Committee Meeting

2:45 p.m.

1.0

Call to order/roll call/establishment of a quorum.

Patricia Wynne, Chairperson, called the meeting to order at: 2:45 p.m. All members are present. Quorum was established at 2:46 p.m.

Committee Members: Patricia "Tricia" Wynne, Esq. - Chair
Rio David Lollar
Alison Cormack

BRN Staff: Loretta (Lori) Melby, RN, MSN – Executive Officer
Reza Pejuhesh – DCA Legal Attorney
Shannon Johnson, Enforcement Division Chief – Staff Liaison
Nichole Bowles, Deputy Chief of Investigations

2:47 p.m.

2.0

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

**Public Comment for
Agenda Item 2.0:**

Paradise – She spoke about probation discipline documents being posted indefinitely on the BRN and Nursys website. She said her convictions are 20 years old and continues to harm her nursing career. She would like to put this on a

future agenda to consider changing the rules for those licensed prior to AB 2138.

Reza Pejuhesh spoke about AB 2138 and consideration of applicant criminal history prior to licensure. He said there was no language in the bill that spoke to prior applicant decisions.

Patricia Wynne asked if this would be appropriate to be a board agenda item.

Reza Pejuhesh said this could be added and spoke about dismissed accusations being brought down from the web.

Patricia Wynne asked for this to be added to a future board agenda since this has come up multiple times.

Loretta Melby said this could be added because there have been some reach outs about discipline information added to Nursys and the National Practitioner Data Banks. She said maybe February or May for sure.

Nurse – She spoke about entering the BRN's intervention program. She said she entered the program after considering it for one year. She said she was told by a BRN representative that she was not a threat to the public yet when she entered the program, she was taken out of work for one year. She said she has no history of diversion, over 70 negative drug tests, and been fully compliant. She said testing can cost more than \$1,000 per month. She's lost her job and colleagues. She said this should not be a barrier. She would like to see changes made to the work restrictions for the program.

Nurse 117 – She said she emailed Loretta Melby about reconsideration about her work decision that has resulted in being out of work for 18 months. She does not know if she'll be scheduled next month for an IEC. She said there have been hiccups in communication with the new Intervention Program contractor.

Anonymous – He said he's in Nevada with his wife and newborn baby who requires constant care due to premature birth. He said he has maintained over five years of sobriety and recovery. He is fully complied with the Nevada intervention program. He spoke about the board not having

a policy to consider an out of state recovery program. He has attempted to contact the board staff many times and has not received any response. He said he is three months shy of completion of the other state's program and does not want to leave his newborn to complete the program.

Loretta Melby said there are several emails each day requesting reconsideration of their IEC completion. There may not be an immediate response to emails. The IECs must schedule each person, as they are responsible for the decisions.

3:02 p.m.

3.0

Review and vote on whether to approve previous meeting minutes
3.1 October 17, 2024

Committee Discussion:

No comments or questions.

Motion:

Alison Cormack: Motion to Accept EIIC Meeting Minutes from October 17, 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:

David Lollar

Public Comment for Agenda Item 3.0:

No public comments in any location.

Vote:

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

3:05 p.m.

4.0

Information Only: Enforcement Division updates

Committee Discussion:

Patricia Wynne said she has two questions. She asked about Table F showing the 2020 data that looks the same as 2024.

Shannon Johnson said data has been similar and could be correct.

Patricia Wynne asked how the board could improve the time frames.

Shannon Johnson said they are always looking at ways to improve their processes. The time includes all parts of the process. She gave stats on the various steps in the process. She said they will never meet the 540-day goal. She said there have been discussions whether anyone can meet the goal.

Patricia Wynne asked what Shannon's feelings are about the data and whether there are any that keep her up at night.

Shannon Johnson said the process mapping shows the times are within days. She said she looks at all the milestones for the cases. She said nothing keeps her awake but knows improvements can be made.

Alison Cormack is excited to see the data. She asked about the video for probation that keeps getting promised.

Shannon Johnson said they finished the slides and voiceovers. As soon as that's finalized it will be sent to DCA for compilation. She doesn't have a date from DCA when it will be done.

Alison Cormack said Table A, Complaint Intake Conviction and Arrest numbers are up. She asked if this something in the universe, California, or nursing? She asked how should these be interpreted? She asked if there could be multiple complaints for one person and Shannon Johnson said yes.

Shannon Johnson said when Covid hit the complaints dropped. At the end of 2024 there was media attention, and 800 complaints were filed because of an invitation to file complaints. There are multiple complaints filed against a person.

Loretta Melby said there was a social media post encouraging people to file complaints against one licensee. She said the criminal convictions and arrests are not happening at health care facilities but in nurses' personal lives.

Alison Cormack appreciated the context.

Alison Cormack asked about the pending discipline cases for board vote taking 52 days on Table C. She said that's almost two months.

Shannon Johnson said there are 52 cases that is not a time frame.

Alison Cormack asked if there is a reason for due dates being so far out.

Shannon said she'll look at the Decisions and Appeals unit to see if that can be streamlined.

Alison Cormack said she's willing to take a month to see if they can get ahead. She said the information is helpful with the right amount and level.

**Public Comment for
Agenda Item 4.0:**

No public comments in any location.

3:23 p.m.

5.0

Information Only: Investigations Division updates

**Committee
Discussion:**

Patricia Wynne asked about the average caseload per investigator being 28 and what the ideal number of cases would be.

Nichole Bowles said the maximum is 30 cases per Special Investigator based on a survey of healing arts boards.

Loretta Melby said in the 2016 audit someone gave the number as 20 cases maximum being assigned to investigators. There was a whistleblower complaint about the number of cases and a survey was done with all the healing arts boards to come up with a more manageable number of cases which is 30. This number can be changed if it is determined the investigators could do more and the number could be updated. She said there are still more cases pending assignment. She said they spoke with the Division of Investigation (DOI), and they are still at 30. She said the BRN investigators are more comfortable with 20 cases. She said Nichole Bowles and Evon Lenerd Tapps are also helping work cases. If the cases continue to go down as they did from November and December that will help. Shannon Johnson, Nichole Bowles, and Evon Lenerd Tapps

looked at data and think the 104 cases was a blip. She said the BRN cannot go out and hire more special investigators. She then discussed the Budget Change Proposal (BCP) process. She said a BCP was submitted about three years ago and it was denied because of the high vacancy rate at the BRN. Due to the current budget situation, there may not be an opportunity to request more positions for some time.

Alison Cormack asked about Table A complaints being triaged and going on to investigations. She said there was a pretty big influx in the last six months. She asked about thoughts on that and if it could be related to Loretta Melby's explanation. She asked if the 387 to 672 is a normal variability?

Nichole Bowles said there could be a number of different factors. There is an ebb and flow, and she cannot tell when complaints will be submitted. She said there could be new investigations that would have gone to DOI and are now being referred to BRN based on the Complaint Prioritization and Referral Guidelines (CPRG).

Evon Lenerd Tapps said CPRG went into effect in March 2024.

Alison Cormack said this can be interpreted as the BRN is looking more closely at this. She also noted the DOI referrals going down during the past few years. She asked if this information was disseminated to DOI and discussed.

Nichole Bowles said they do meet and discuss this.

David Lollar appreciates the information being shared.

**Public Comment for
Agenda Item 5.0:**

A nurse at a closed psych facility – She said she didn't expect to speak but said she filed two complaints in the past, about four years ago. She said one of the cases was taken care of about a year ago. She said she filed another complaint as a patient advocate in a closed facility. She didn't know which case was resolved. She said she was told they didn't find anything wrong with one of the cases and was told she had 10 days to bring more information to the board. She said she was prepared to bring information. She said one case had to do with patient death and one was a patient reported they were raped, and the facility didn't

follow their procedure and immediately released the patient. She said as nurses they are advocates for patients. She said she would like the opportunity to sit with the board if a case is closed to be able to advocate for the patient.

Reza Pejuhesh said when a complaint is filed the complainant isn't contacted regularly during the process because it is confidential while it is under investigation. He said the board investigators are open to receiving evidence during the investigation if a complainant wants to provide it.

3:42 p.m.

6.0

Information Only: Intervention Program updates

Committee

Discussion:

Alison Cormack asked about the earlier public commenter not hearing from the new vendor. She asked if the new vendor has a 24/7 phone number.

Shannon Johnson said there is a new phone number that has been posted to the BRN website. She said the new vendor is calling all participants back.

Alison Cormack clarified asking if participants have another avenue to contact the vendor.

Shannon Johnson said a participant can send an email to the intervention email address at intervention-brn@dca.ca.gov .

Public Comment for Agenda Item 6.0:

DJH – She appreciates the email and phone numbers provided. She has not heard from her case manager except for an email. She's called and sent emails with no response yet. She has her IEC scheduled for tomorrow but if they could make those attending IECs soon a priority.

Loretta Melby said DJH could reach out directly to Shannon Johnson via her email that is listed on the BRN website. She also clarified the intervention email address would be appropriate.

Nurse 117 – She said there is no law that says a nurse must work to complete the intervention program and wants to ensure that is still the requirement now. Loretta Melby said Uniform Standard 12 says a nurse must demonstrate safe practice which is determined by each IEC on an individual

basis, but there is no specific law that says work is required to successfully complete the program.

Loretta Melby said Premier Health (new intervention program vendor) has assumed both the phone and fax number that was used by Maximus. There is a new email address that was updated on the BRN website. She said Premier Health is a medical program. She asks for patience as they come up to speed.

3:54 p.m.

6.1 Information Only: Presentation by the Executive Officer regarding cases affected by the motion during the August 2024 Board meeting (in which the Board directed:

1. Suspend the imposition of the requirement that participants work in direct patient care, unless there is additional evidence of patient safety issues.
2. Suspend the imposition of the requirement that participants work passing narcotics, unless there is additional evidence of patient safety issues.
3. If an IEC recommendation extends length in the program beyond three years, the Executive Officer must review and examine the evidence.

**Committee
Discussion:**

Patricia Wynne appreciates the extra set of eyes for this process. She said practicing safely needs a definition. She appreciates everyone working on the transition to the new vendor.

Alison Cormack appreciates the progress in the last 14 months since the public brought these issues forward, even though she knows it has been a long time. She spoke about some of the data in the meeting materials.

David Lollar agrees with what Alison Cormack said. He has a wait and see approach with the new vendor. He looks forward to discussing criteria for what practicing safely means.

Loretta Melby said that could be agendaized at the February or May board meeting.

Reza Pejuhesh said a discussion could be had about Uniform Standard 12 and might need regulations.

**Public Comment for
Agenda Item 6.1:**

Gina – She surrendered (her license) last August with 4 years and 3 months sobriety when there was a lot of confusion with the intervention program. Initially she received a Retired status that showed up on the BRN website. Then after the October meeting her status changed to Surrendered. Then her story popped up and it's been difficult for her. She completed all the initial requirements of the program and should have completed in June. She's applied to minimum wage jobs and even at Disneyland who found her story. She wishes this would change. She realizes people's stories will be posted but wanted to share.

Loretta Melby said the commenter has been in contact with the Assistant EO and is working with her.

4:15 p.m.

6.2 Discussion and possible action: Regarding the reestablishment of up to approximately five (5) Intervention Evaluation Committees to meet program needs

Committee

Discussion: Patricia Wynne agreed with Alison Cormack that the last 14 months were miserable, but they've learned a lot in this time. She's in favor of this.

David Lollar said he thinks this is necessary and is for it 100%.

Alison Cormack believes this is necessary but is concerned with the ability to fill the spots.

Shannon Johnson said there is a backlog of applicants waiting to be considered.

Motion: **Patricia Wynne:** Motion to Approve the reestablishment of up to approximately five (5) Intervention Evaluation Committees to meet program needs and recommend such action to the board.

Second: **David Lollar**

**Public Comment for
Agenda Item 6.2:**

No public comments in any location.

Vote:

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

Motion Passed

4:23 p.m.

6.3 Discussion and possible action: Regarding the Intervention Program Subcommittee charter

Committee

Discussion: Patricia Wynne reviewed it and does not think it's perfect, but it can be modified going forward if needed.

Alison Cormack said page 26 about two thirds of the way down says the subcommittee will review applications and interview if appropriate. She thought they were supposed to interview all applicants.

Patricia Wynne read it the same way.

Alison Cormack wonders why it doesn't say "will" instead of "would."

Loretta Melby read additional language where staff will review applications and forward qualified applicants to the subcommittee. She said they can work on the language before presenting it to the board. She said if an applicant does not appear qualified then they will not be considered for interview or words to that effect. She said they will discuss with DCA Legal.

Matthew Yeates said the language in the charter reflects the motion made by Dolores Trujillo at the November board meeting.

David Lollar said he's read it twice but is open to changes.

**Public Comment for
Agenda Item 6.3:**

No public comments in any location.

Motion: **Patricia Wynne:** Motion to Accept the Intervention Program Subcommittee charter with discussed revision(s), recommend approval to the Board 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

Vote:

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

Motion Passed

4:31 p.m.

7.0

Adjournment

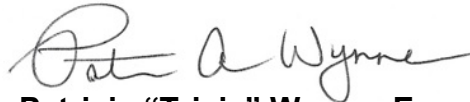
- **Patricia Wynne, Chairperson, adjourned the meeting.**

Submitted by:



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

Accepted by:



Patricia "Tricia" Wynne, Esq.
Chair
California Board of Registered Nursing