



INTERVENTION/DISCIPLINE COMMITTEE MINUTES

DATE: March 15, 2018

SITE: Holiday Inn San Diego – Bayside
 La Playa Room
 4875 North Harbor Drive
 San Diego, California 92106
 (619) 224-3621

MEMBERS PRESENT: Barbara Yaroslavsky – Chair
 Imelda Ceja-Butkiewicz
 Cindy Klein

STAFF PRESENT: Stacie Berumen, Assistant Executive Officer
 Shannon Silberling, Deputy Chief, Discipline, Probation & Diversion
 Joseph Pacheco, Deputy Chief, Complaints and Investigations

The Chair called the meeting to order at 12:05 p.m.

9.0 REVIEW AND APPROVE MINUTES:

Approve/Not Approve: Minutes of October 4, 2017

Motion: Imelda Ceja-Butkiewicz to approve the October 2017 minutes			
Second: Cindy Klein			
CK: Yes	BY: Yes	ICB: Yes	

Approve/Not Approve: Minutes of January 11, 2018

Motion: Imelda Ceja-Butkiewicz to approve the January 2018 minutes			
Second: Cindy Klein			
CK: Yes	BY: Yes	ICB: Yes	

9.1 Complaint Intake and Investigations Update

COMPLAINT INTAKE PERFORMANCE MEASURES:

Staff Vacancies

A vacant Staff Services Analyst position is expected to be filled in March. We also have an open recruit to fill a vacant Office Technician position which is expected to be filled in early April.

Three Year Complaint Workload Analysis

The committee has requested an analysis of the BRN’s complaint workload over the past three years. The following chart illustrates the increased volume of enforcement cases received in the last three fiscal years.

	FY 14/15	FY 15/16	FY 16/17	Increase since 14/15
Public Complaints	3,302	2,991	3,830	16.0%
Arrest/Conviction Reports	1,061	1,412	1,429	34.7%
Applicants	2,318	2,970	3,769	62.6%
Total	6,681	7,373	9,028	35.1%

Fiscal Year 2018 Complaint Intake Workload Volume, as of 2/22/2017

Public Complaints Received	1,433
Licensee Arrest & Conviction Reports	950
Applicant Criminal Conviction Cases	2,401
Total Complaints Received (FY 17/18)	5,429

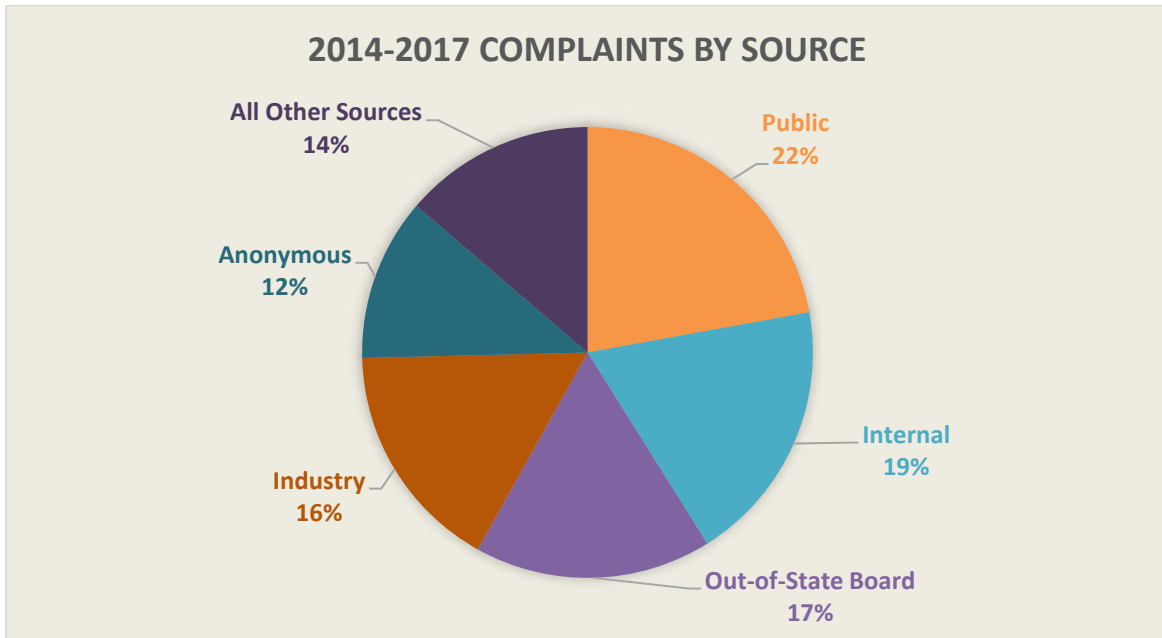
As of 2/22/2017, this year’s Applicant workload has already surpassed the Fiscal Year 2014/2015 total annual Applicant workload. To identify trends in the rapidly increasing Applicant workload, I have asked staff to conduct an in-depth analysis of the historical Applicant case data. A summary of this analysis will be ready at the next committee meeting.

Current Complaint Intake Workload, as of 2/22/2017

Complaint Intake Desk Investigations Pending (CORI and Public Complaints, not-including field investigations)	814
Desk Investigations Pending > 1 year	42
Cases Pending Expert Review	62
Applicant Desk Investigations Pending	381
Applicant Cases Pending > 1 year	17

Sources of Complaints Against Licensees

While the applicant and CORI caseloads are almost entirely a result of fingerprint criminal conviction histories from DOJ/FBI, the Public Complaint Workload comes from a variety of sources. The following chart illustrates the source of Public Complaints for the past three years.



As a result of SB 799, and in accordance with Business and Professions Code section 2761.5, the California Research Bureau (CRB) is conducting a study to review the following:

- Existing mandatory reporting requirements that alert the board to nurses who may have violated the NPA;
- review existing laws permitting, prohibiting, encouraging, or discouraging voluntary reporting to the board;
- analyzing the number of employer reports to the board, the number of those reports investigated by the board, and the final action taken by the board for each report.
- Employer reporting requirements of other boards within the department.
- Nursing reporting requirements of other states.

Enforcement Managers conducted two preliminary meetings with representatives from the CRB. BRN Staff will soon be producing data sets for CRB review and analysis.

INVESTIGATION PROGRAM UPDATE:

Staff

The BRN Investigation Unit is fully staffed, and there are no vacancies.

Program

As the BRN liaison to the Division of Investigation, I am continuing to engage DOI in monthly management meetings to discuss mutual workload and timeframe issues.

The BRN Investigation Unit continues to make significant progress in addressing aging cases. At the March 2017 Committee Report, the BRN Investigation Unit had 67 cases over one year old. They now have nine.

As of February 28, 2018, there are approximately 9 BRN Investigations cases and 61 DOI cases that have been within their respective units for more than one year.

Summary Statistics

Cumulative Investigation Referrals - Fiscal Year 2018

	No. of Cases	Percent of all Referrals
Referred to DOI	295	39%
Referred to BRN Investigation Unit	470	61%

Cumulative Investigation Closures – Fiscal year 2018

	No. of Completed Investigation Reports	Average Days to Complete Investigation	Average Cost Per Case
Division of Investigation Closures	302	286	\$7,047
BRN Investigation Unit Closures	538	238	\$2,385

Public Comment: Charlotte Moore
Sharon Goldfarb

9.2 Discipline and Probation Update

PROBATION UNIT

There are no vacancies in the probation unit. The probation unit was given approval of redirecting a vacant position from the discipline unit to the probation unit. This will decrease the cases per probation monitor. The current case load per monitor is approximately 134 cases, which includes tolled probationers. The additional position to the unit could potentially decrease the cases per monitor to 123. The average case load determined by DCA was 75 cases per monitor.

Uniform Standards, once approved, will require a more multifaceted monitoring for anyone that is deemed to meet the criteria for being chemically dependent. An analyst that is monitoring these cases, should have a reduced caseload due to the complexity of these cases.

We continue to reassess our business processes and implement changes to not only reduce our caseloads but streamline the probation process.

* Petitioners can now stipulate to early termination of probation allowing the Board to electronically vote, vs the probationer having to wait to go before the board. This new process allows for a compliant probationer to be released from probation expeditiously and removes the backlog of cases waiting to be heard by the board. To date, we have completed 92 cases and there are 10 cases pending.

We have teamed with SOLID to instruct the Probation Monitoring Module of DCA's SOLID Enforcement Academy. The most recent class was held Wednesday, January 24, 2018 and was reviewed with positive feedback from those who attended. We hope to continue this collaboration.

Probation Information	FY 2014/2015	FY 2015/2016	FY 2016/2017	Current
Active In-State Probationers	1,095	1,189	1,196	1,089
# of Chemical Dependency Probationers	707	785	787	649
Tolled Out of State Probationers	290	345	380	388
Pending Cases at AGO for further discipline of licensure	128	91	130	119
Total Probationers	1,385	1,534	1,576	1,477

CITE AND FINE

We are currently fully staffed with 1 AGPA, 1 SSA and 1 OT.

We began issuing citations for the licensees that have been non-compliant with fingerprints. We anticipate this to be completed by the end of this calendar year. As of **03/02/2018**, we have issued **141** fingerprint citations. Of those, we have received full payment on **26** and held **92** appeal conferences. We have received **71** additional non-compliant cases over the last month and anticipate receiving approximately **179** additional cases.

We had only **2** citation cases at the Attorney General's Office for a Formal Appeal Hearing. One was settled and the other withdrawn.

Citation Information	FY 2015/16	FY 2016/17	Current
Citations Issued	542	366	540
Amount Ordered	\$ 299,638	\$ 266,428	\$354,483.28
Amount Received	\$ 253,974	\$ 202,614	\$263,708.28

DISCIPLINE UNIT

We currently have one AGPA vacancy and hope to fill the position by March 2018.

We have been transmitting FastTrack (Out of State Discipline and Convictions) and Petition cases as of July 20, 2017, to the Attorney General's Office, via the Cloud. We anticipate a roll out to another office in March 2018.

As of January 1, 2018, BRN is no longer processing Default Decisions and having DCA legal review for approval. The Attorney General's Office has taken this task back over, after 7 years. This will increase case aging and case cost, not to mention potentially increasing case time for all other cases being handled at the AGO.

Cases Pending with AG	As of 2/26/18
Total cases at AG	1,487 (1,402 RN's)
Pending Board Vote	117
Final Decision Processing	76
Pending hearing	116
Over a year at AG	289

Board Final Decisions	FY 2015/16	FY 2016/17	Current
Petitions to Revoke Probation	87	120	58
Pleading Served			487
EO Signed Surrenders	255	254	100
In-House Surrenders			32
Withdrawals of SOI	15	9	5
Decisions Adopted	1,641	1,282	715

Public Comment: None

Board of Registered Nursing
 Discipline Program
 Statistical Summary
 July 1, 2017 – February 20, 2018

License Type*	Case Outcome						
	Public Reapproval	Revoked, Stayed, Probation	Revoked, Stayed, Suspension, Probation	Surrender	Revocation	Voluntary Surrender	Total FY 17/18
Registered Nurse	89	175	3	105	146	32	550
Public Health Nurse	6	21		3	3	7	40
Psych/Mental Health				1			1
Nurse Practitioner	8	5	1	3	3	3	23
NP-Furnishing #	7	5	1	3	2	3	21
Nurse-Midwife	1						1
NM-Furnishing #	1						1
Nurse Anesthetist	1	3		1	2		7
Clinical Nurse Specialist	1			1	1		3

*Specialty certifications are a subset of the Registered Nurse license. When enforcement action is taken on an RN license, all advanced certifications a nurse holds is also included in the action. More than one enforcement action may be taken (thus counted here) against an RN during the time period.

Probation Program Statistics July 1, 2017 - March 1, 2018

Probation Data	Numbers	% of Active
Male	331	30%
Female	758	70%
Chemical Dependency	649	59.6%
Required Drug-Screening	534	49.0%
Practice	284	26.1%
Mental Health	11	1.0%
Conviction - excluding chemical dependency/alcohol use	145	13.3%
Advanced Certificates	102	9%
Southern California	628	58%
Northern California	453	42%
Tolled Probationers	8	1%
Pending AG	119	11%
License Revoked Fiscal YTD	23	
License Surrendered Fiscal YTD	50	
Terminated Fiscal YTD	92	
Successfully Completed Fiscal YTD	140	
Active In-State Probationers	1089	
Completed/Revoked/Terminated /Surrendered YTD	304	
Tolled Probationers	388	
Active and Tolled Probationers	1477	

9.3 Intervention Program Update and Statistics

Staffing

I am pleased to announce that the intervention unit is fully staffed.

Program Update

On February 12, 2018, Probation Manager Elizabeth Elias and Intervention Program Manager Don Henry Walker provided an educational overview of the Intervention Program and the probationary process to the Nursing Education and Workforce Advisory Committee (NEWAC). Topics that were presented included the conditions of probation, the differences between Intervention and probation, and the importance of addressing the needs of Nurses who are challenged with Substance Use Disorder and/or Mental Illness. The presentation was well received.

On February 20th in conjunction with the Department of Consumer Affairs (DCA) Office of Public Affairs (OPA), we filmed the first half of our educational outreach video that will be added to the Boards website. The filming was onsite at Sutter Davis Hospital and we would like to take this opportunity to thank Sutter Health for the use of their facilities and their graciousness in hosting our filming. In addition to our outreach video, a new brochure and poster has also been developed by Intervention and DCA's OPA staff as part of our new educational outreach campaign.

Intervention Evaluation Committees (IEC)

There are currently three physician member vacancies. One in Oakland (IEC 13), San Jose (IEC 7) and one in Fresno (IEC 5). There are four public member vacancies. One in San Jose (IEC 7), Orange County (IEC 4), Fairfield (IEC 11) and one in Fairfield (IEC 13). There are two RN member vacancies. One in Fairfield (IEC 2) and one in Burbank (IEC 8).

Statistics – Intervention

The Statistical Summary Report is attached. As of January 31, 2018, there have been 2,266 successful completions.

Public Comment: None

Board of Registered Nursing
Intervention Program
Statistical Summary
 January 2018

COMPLAINTS REFERRED			
	Current Month	Year To Date	Program To Date
Complaints Referred	88	657	16,794

INTAKES			
	Current Month	Year To Date	Program To Date
Referral Type*			
Board-Referred	11	49	3,973
Self-Referred	4	14	1,386
TOTAL INTAKES COMPLETED	15	63	5,359

NUMBER OF PARTICIPANTS: 354 (as of January 31, 2018)

**May change after Intake*

PRESENTING PROBLEM AT INTAKE			
	Current Month	Year To Date	Program To Date
Substance Abuse (only)	8	41	3,369
Mental Illness (only)	0	2	176
Dual Diagnosis	6	19	1,728
Undetermined	1	1	86

DRUG OF CHOICE AT INTAKE		
Alcohol	7	25
Opioids	6	22
Depressants	0	4
Stimulants	0	1
Cannabinoids	0	2
Other (Hallucinogens, Inhalants, etc.)	0	2
None	2	7

CLOSURES			
	Current Month	Year To Date	Program to Date
Program Applicant Closures			
Applicant: Clinically Inappropriate	0	0	31
Applicant: No Longer Eligible	0	0	13
Applicant: Not Accepted by DEC	0	1	62
Applicant: Public Risk	0	1	99
Applicant: Sent to Board - Pre DEC	0	0	2
Applicant: Withdrawn - Pre DEC	2	9	558
Applicant: Withdrawn - Due to Program Cost	0	1	6
Program Participant Closures			
Completed	11	68	2,266
Clinically Inappropriate - Post DEC	0	3	6
No Longer Eligible - Post DEC	0	0	7
Withdrawn - Failure to Sign Contract	0	0	1

Withdrawn - Post DEC	0	0	342
Withdrawn - Due to Program Cost Post Dec	0	0	16
Terminated - Deceased	0	0	27
Terminated - Failure to Receive Benefit	0	1	126
Terminated - Moved	0	0	52
Terminated - Non Compliant	0	2	987
Terminated - Public Risk	1	4	279
TOTAL CLOSURES	14	90	4,880

INTAKE DEMOGRAPHICS			
	Current Month	Year To Date	Program to Date
Gender			
Female	14	57	4,193
Male	1	6	1,139
Unknown	0	0	27
Age Category (at Intake)			
20-24	0	0	35
25-29	1	8	437
30-34	3	8	896
35-39	2	11	1,116
40-44	4	13	1,098
45-49	3	11	867
50-54	2	6	549
55-59	0	6	255
60-64	0	0	79
65+	0	0	13
DOB Error/Not Entered	0	0	14
Ethnicity			
American Indian/Alaska Native	0	1	40
Asian/Asian Indian	3	7	135
African American	0	3	174
Hispanic	2	10	244
Native Hawaiian/Pacific Islander	1	1	32
Caucasian	8	33	4,358
Other	1	3	87
Not Reported	0	5	289
Worksite at Intake**			
Case Management	0	1	7
Clinic	2	4	128
Clinical - Public, non-profit	0	0	3
Corporation	0	0	10
Doctor's Office	0	0	46
Government Agency	0	0	8
Group Practice - profit	0	0	16
Health Maintenance Organization	0	1	9
HMO	0	1	2
Home Health Care	2	5	27
Hospital	9	46	2,736
Not Working in Nursing	1	2	6
Nursing Home	0	0	10
Other	1	3	255

Prison/Jail	0	0	14
Private Practice	0	0	9
Registery	0	0	183
Retail	0	0	1
School of Nursing	0	0	9
Telephone Advice	0	0	2
Temporary Service	0	0	4
Undetermined	0	0	567
Unemployed	0	0	1,307
**NOTE: RN licenses are placed on inactive status once an RN enrolls in the Program			
Specialty at Intake			
Chemical Dependency	0	0	9
Critical Care	3	7	937
Dental Public Health	0	0	1
Doctor's Office	0	0	27
Emergency Department	0	4	618
Gerontology	0	0	28
Home Care	2	5	109
Hospital	1	11	367
Insurance	0	0	5
Medical Surgical	1	7	1,012
None	1	1	75
Nurse Anesthesia	0	0	56
Nurse Midwife	0	0	7
Nurse Practitioner	1	2	110
Nursing Home	0	0	16
Obstetrics/Gynecology	2	6	299
Oncology	2	4	169
Operating Room	0	3	183
Other/Other Specialty	2	7	519
Pediatrics	0	3	143
Psychiatry	0	1	149
Recovery Room	0	2	107
Undetermined	0	0	413

**Enrollment is quick and easy
and available 24 hours a day,
7 days a week.**

Call (800) 522-9198

**For more information about the
Intervention Program, contact the
California Board of Registered
Nursing at (916) 574-7692 or visit
www.rn.ca.gov/intervention**



The Need for Intervention is Crucial

What is the Intervention Program?

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

Registered nurses are not immune to substance use disorders (SUDs) or mental illness. According to the Journal of Nursing Regulation, an estimated 10 to 20 percent of nurses are chemically dependent. Healthcare professionals, including RNs, may be particularly susceptible to substance abuse due to job stresses and access to controlled substances. Mental illness, such as major depression, may also affect an RN's ability to practice safely.

Unfortunately, most people suffering from a substance use disorder—a treatable brain disease—or mental illness may not recognize they have a problem. Often, they are the last to admit they need help.

When Caregivers Need Help



1747 N. Market Blvd., Suite 150
Sacramento, Ca 95834



**California Board of
Registered Nursing
Intervention Program
for Registered Nurses**



Protecting the Public is Paramount

The goal of the Intervention Program is to protect the public by:

- Promoting early identification and intervention of RNs with SUD or mental illness.
- Developing an individualized, comprehensive rehabilitation plan for RNs.
- Monitoring RNs to ensure successful rehabilitation and return to safe nursing practice.

Services Provided

For the public

- Education about the impact of SUD in nursing, how to recognize the signs and symptoms of impairment, and how to intervene when a nurse has an observed problem.
- Confidential consultation with concerned RNs, employers, colleagues, family members, and consumers.
- Effective monitoring is a better alternative to a more time-consuming disciplinary process.
- Training and consultation with employers to assure an RN's smooth transition back to safe nursing practice.

For the RN

- Encouragement, guidance, and support by dedicated professionals.
- Confidential alternative to disciplinary action.
- Assessment of treatment needs.
- Development of an individualized rehabilitation plan.
- Referral to local support services.
- Monitoring of recovery progress.
- Drug testing.
- Return to safe nursing practice.



Signs and Symptoms of a Substance Use Disorder



Behavioral

- Excessive absenteeism or tardiness
- Increased isolation
- Verbal or physical aggression
- Defensiveness

Physical

- Dilated or pin-point pupils
- Lethargic or jittery
- Changes in appearance
- Slurred, rapid, or pressured speech

Signs of impaired practice or drug diversion

- Discrepancies in medication documentation
- Discrepancies in narcotic counts
- Unwitnessed wastage of unused medications
- Frequent documentation errors
- RN asks for higher PRN doses for assigned patients

Is the Intervention Program confidential?

Yes. Confidentiality is protected by law. Once an RN enrolls, the program maintains the confidentiality of all information gathered to develop a rehabilitation plan. When an RN successfully completes the program, their record of participation is destroyed. Their record of participation may be turned over to BRN Enforcement Division in cases where an RN is terminated for non-compliance and is determined to be a threat to themselves or to the public.

Is the Intervention Program successful?

Yes! More than 2,200 registered nurses have successfully completed the program.

The program's success is attributed to the vigilant monitoring of participants for an average of three to five years; but more importantly, it is due to the encouragement, support, and guidance provided by dedicated health professionals.



How can RNs enroll?

Eligibility

RNs are eligible to enroll in the program if they:

- Are a current BRN licensee and reside in California.
- Have not been formally disciplined for substance abuse or mental illness by the board.
- Have not been terminated from any intervention program for non-compliance.
- Are mentally ill or abuse alcohol or drugs.
- Voluntarily agree to enter the program.
- Consent to appropriate medical or psychiatric evaluations.

Referral

An eligible RN may be referred to the program through:

- Self-referral – RN contacts the program directly for assistance.
- Board referral – BRN offers the program as an alternative to formal discipline, when an RN receives a complaint related to misuse or abuse of alcohol, drugs or mental illness.



When Caregivers Need Help

Registered nurses (RNs) are not immune to substance use disorders (SUDs) or mental illness. An estimated 10 to 20 percent of nurses are chemically dependent.

Job stresses and access to controlled substances make healthcare professionals, including RNs particularly susceptible.

There is help. There is hope.

The California Board of Registered Nursing offers the Intervention Program. A voluntary, non-disciplinary, confidential, rehabilitation program for RNs afflicted with an SUD or mental illness to help them achieve successful recovery and return to safe nursing practice.

The program provides:
Encouragement | Guidance |
Support | Monitoring



For more information:
rn.ca.gov/intervention
(916) 574-7692



California Board of Registered
Nursing Intervention Program
for Registered Nurses



9.3.1 Intervention Evaluation Committee Members/New Appointments

BACKGROUND:

In accordance with B & P Code Section 2770.2, the Board of Registered Nursing is responsible for appointing persons to serve on the Intervention Evaluation Committees. Each Committee for the Intervention Program is composed of three registered nurses, a physician and a public member with expertise in substance use disorders and/or mental health.

APPOINTMENTS

Below is the name of the candidate who is being recommended for appointment to the Intervention Evaluation Committee (IEC). Ms. Holman's application and résumé is attached. If approved, her term will expire June 30, 2022.

<u>NAME</u>	<u>TITLE</u>	<u>IEC</u>	<u>NO</u>
Yvette Holman	RN Member	Burbank	8

Motion: Cindy Klein to Recommend Approval of Yvette Holman to the Board			
Second: Imelda Ceja-Butkiewicz			
CK: Yes	BY: Yes	ICB: Yes	

Public Comment: None

9.4 Division of Investigation Presentation and Report

Chief David Chriss and Deputy Chief Bill Jones provided a presentation and update for DCA's Division of Investigation (DOI), the agency responsible for providing sworn peace officer law enforcement investigative services for the boards, bureaus, and programs within the Department of Consumer Affairs (DCA).

DOI's presentation included an overview of the Division of Investigation and an orientation to the scope of their responsibility and authority to conduct investigations on behalf of BRN, followed by questions from committee members.

The committee's questions focused on investigative timeframes and investigation cases pending over one-year. DOI outlined their plans to redistribute staff resources to address the aging cases and gave assurances the aging cases will be reduced in the coming months.

The committee specifically asked for data from DOI regarding the number of practice related public complaints they receive from the BRN, and how many of these practice related complaints result in referrals for criminal prosecution.

Public Comment: None

9.5 Vote on whether to recommend approval of modified Regulatory Proposal to Revise the Recommended Guidelines for Disciplinary Orders and Conditions of Probation in California Code of Regulations, Article 1, Section 1444.5, Disciplinary Guidelines

The Board of Registered Nursing (BRN) originally approved a regulatory package to amend the Recommended Guidelines for Disciplinary Orders and Conditions of Probation (Guidelines) at its June 4, 2015 board meeting. The Recommended Guidelines for Disciplinary Orders were last amended in 2003. BRN staff reviewed the Guidelines prior to the overhaul of the board members in 2010 and a regulatory proposal was initiated in March 2011 to incorporate the Uniform Standards as required by SB 1441; however, the board was sunset in December 2011 and the regulatory proposal was not acted upon by the board in time.

The language approved by the board at its June 2015 board meeting was reviewed by DCA Legal Counsel who suggested modifying the language. The board voted at the April 2016 meeting to include the necessary trigger to identify a substance abusing licensee. The language for Section 1444.5 was updated to reflect that choice which is attached for reference purposes only as the language was approved by the full board and staff is not seeking any changes to the language.

The Disciplinary Guidelines document has been updated by staff in conjunction with input from the Attorney General's office and is presented to the committee for review and possible vote.

Motion: Imelda Ceja-Butkiewicz made a motion to approve the Disciplinary Guidelines go forward to the full Board in April.		
Second: Cindy Klein		
CK: Yes	BY: Yes	ICB: Yes

Public Comment: Saskia Kim, CNA

9.6 Public Comment for Items Not on the Agenda

None

The Chair adjourned the committee meeting at approximately 1:31 p.m.

Approved:

