

Agenda Item #20.B.

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.



Board of Vocational Nursing and Psychiatric Technicians
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BOARD MEETING MINUTES

October 21, 2016

SACRAMENTO, CALIFORNIA

Department of Consumer Affairs
1625 North Market Boulevard, Room S102

BOARD MEMBERS

PRESENT:

Samantha James-Perez, P.T. Member, President
Andrew Moreno, Public Member, Vice-President
Bernice Bass de Martinez, Public Member
Tammy Endozo, L.V.N. Member
John Dierking, Public Member
Todd D'Braunstein, PT Member
John Vertido, L.V.N. Educator Member

BOARD MEMBERS

ABSENT:

Eric Mah, Public Member
Donna Norton, LVN Member

STAFF PRESENT:

Kameka Brown, Executive Officer
Cheryl Anderson, Supervising Nursing Education Consultant and
Acting Assistant Executive Officer
Ann Hutchinson, Enforcement Representative, Complaints
Division
Jennifer Almanza, Administrative Analyst
Kristine Dano
Rebecca Bon, Legal Counsel, Department of Consumer Affairs
Laura Friedman, Legal Counsel, Department of Consumer Affairs

1. CALL TO ORDER.

The meeting was called to order by Samantha James-Perez, Board President, at 9:30 a.m., Friday, October 21, 2016, at the Department of Consumer Affairs, 1625 North Market Boulevard, Hearing Room 102 Sacramento, California.

2. PLEDGE OF ALLEGIANCE.

John Vertido led those assembled to the Pledge of Allegiance.

3. INTRODUCTION OF BOARD MEMBERS AND STAFF.

The Board Members introduced themselves. Kameka Brown, Executive Officer (EO), introduced board staff present, and Rebecca Bon and Laura Friedman, the Board's Legal Counsels, Department of Consumer Affairs (DCA).

Ms. James-Perez announced that she is revising the agenda, agenda item #8 the 2016 Sunset Oversight Review report will be tabled until the next board meeting. She continued to read the public comment procedures, which are welcome on any open agenda item; the Board may not take action on issues that was raised by public comment that are not on the agenda, other to decide whether to schedule the issue for a future meeting; public comment can remain anonymous; and the Board may limit the length of time allowed for comment.

4. REPORT ON AND DISCUSSION OF ADMINISTRATIVE AND ENFORCEMENT MONITOR PHASE II RESULTS, PURSUANT TO BUSINESS AND PROFESSIONS CODE § 2847.5, AB 179 (BONILLA). Ben Frank, Administrative and Enforcement Monitor

A. Discussion and Possible Action on Enforcement Monitor Phase II Report.

Mr. Frank summarized the report by presenting various charts to show an update of Enforcement and Investigation Division recent performance and current status. He reported that corrective measures taken during the past year have contained the problems that accumulated in prior years and set into place a foundation for building a sustainable, effective and efficient Enforcement Program. Some of the improvements include a restructuring of the Licensee Applicant Arrest/Conviction Report process, a restructuring of Case Intake and screening process, an increased number of cases referred to the Division of Investigation, a significant increase in the number of completed licensee arrest/conviction report and complaint investigations, a reduction in the number of pending investigations and reductions in the average elapsed time to file pleadings and complete disciplinary actions. Mr. Frank explained with all of the improvements made, there are still large backlogs of aged cases in several key areas and continuing problems with the completeness, consistency and quality of BVNPT's workload. The amount of calendar time needed to complete investigations and impose discipline remains too long. Additional changes and further improvements to the Enforcement Division's organizational structure, workforce allocations and business processes are needed.

B. Discussion and Possible Action on Enforcement Monitor Phase II Report Recommendations.

Mr. Frank presented his recommendations which includes reviewing and overhauling the Record of Convictions form to make it more readable and understandable and reduce the frequency that license applicants misreport or over-report prior convictions. Develop and implement procedures in screening cases to decrease desk investigation. He also presented recommendations for improving compliance with CE requirements by overhauling and expanding CE compliance audit program, streamline the certificate of completion review process and assess the feasibility of imaging CE-related document submissions and enabling submission of the documents electronically. Mr. Frank stated BVNPT should work with the AG to identify ways to increase utilization of the current Fast Track Pilot Program for licensee arrest/conviction report cases, develop and implement procedures for screening licensee complaints, develop case intake procedures, and complaint case coding procedures. Maintain open lines of communication with the Division of Investigation and the AG to develop strategies to further reduce case backlogs. In order to improve the Enforcement Divisions organization and staffing, Mr. Frank recommended establishing a Probation Unit and a separate business unit that specializes in completing desk investigations. He also added that the Board should

provide briefing to the Enforcement committee members at least every quarter to provide information regarding case intake, investigation and discipline work load, backlogs and performances.

Board Discussion:

- Ms. James-Perez commented that the Board agrees with the recommendations, which are currently ongoing. She had concerns about his recommendation regarding CE requirements where it says 10-15% of the licensees receive very little or no CE units, how can he measure that data if the Board doesn't track it.
- Mr. Frank said he went through dozens of citation cases and found that there was a pattern of zero, most licensees never completed CE units.
- Ms. James-Perez said some of his recommendations are already being done and suggested some of them could be delegated to the Enforcement and Executive Committees to monitor.
- Dr. Brown said a BCP has been submitted to the budget office for the BVNPT to go paperless, which would include CE documentation.
- Ms. James-Perez said she understands we are already utilizing the Fast Track program and that someone from that program will be speaking at the next Board meeting in November. She inquired about reclassifying staff, but knows there are labor issues involved.
- Ms. Endozo asked if redirecting vacant positions would mean to reclassify or change the title of positions may cause an issue with the union and cause a workload issue.
- Mr. Frank commented that it is not necessary to change classifications but to align or match the number of positions to the different categories where the workloads exist.
- Ms. Friedman commented that since there are classification and bargaining issues, she suggests that the Board work with DCA and the Human Resources to determine existing laws that would prohibit adopting the recommendation.
- Mr. Dierking asked Mr. Frank how he came up with the statistic of 5% for CE audits.
- Mr. Frank said he used the data of non-compliant applicants and the number of staff needed as a starting point.
- Mr. Dierking asked how the coding with intake staff affects a case and how the report he is recommending will affect the DCA report the Board receives.
- Mr. Frank answered the coding is more of a management workload performance issue and the report Mr. Frank is recommending is a supplemental report to better oversee the workload for the Enforcement Division.
- Mr. Dierking asked out of all the recommendations what five or six are the most crucial.
- Mr. Frank replied: 1) to address the backlogs there needs to be a restructuring of the workload and implementation of the org chart; 2) have a fully engaged and functioning Enforcement committee.
- Mr. D'Braunstein asked whether this report has gone to the Legislature and whether he has an opportunity to update his recommendations. He understands a caseload of 60 cases for each investigator is a lot, but would like Mr. Frank to add a suggested number. He also asked what Mr. Frank means by a robust committee.
- Mr. Frank said at this point it could be identified as an addendum and currently he would recommend 20-30 cases as being ideal. Mr. Frank said it has been at least ten years since the Board has had committees.
- Mr. Moreno asked what Mr. Frank's thoughts were regarding duplication of some of the recommendations.

- Mr. Frank explained he talked to management and staff and realizes some of his recommendations have already been implemented, but there are still recommendations that haven't been addressed for a couple of years.

Public Comment:

- Coby Pizati from California Association of Psychiatric Technicians commented that creating a new position or taking positions might cause a problem with the bargaining units. He also asked for more information regarding the CE audit and how many were sent to state employees. When PT licensees who work with the state and do not comply with CE requirements, they don't work, the state is very strict with these requirements.

Motion: To move the report to November Board Meeting and to request more current data to be included to ensure accuracy of the report.

Moved: John Vertido

Seconded: Bernice Bass de Martinez

Ms. Bass de Martinez, Mr. D'Braunstein, Ms. Endozo, Ms. James-Perez, Mr. Moreno, Mr. Dierking and Mr. Vertido voted in favor of the motion. Ms. Norton and Mr. Mah were absent. **The motion passed.**

5. DEPARTMENT OF CONSUMER AFFAIRS (DCA) BUDGET OFFICE REVIEW OF CURRENT VOCATIONAL NURSE (VN)/PSYCHIATRIC TECHNICIAN (PT) FUND CONDITION.

Taylor Schick, Budget Officer, DCA

Mr. Schick presented his report with various charts as a tool to project the factors that may change the fund condition over time. He stated that the current fund for VN and PT is at \$12.6 million which is 11.2 months in reserve. Mr. Schick added that the revenue is only projected figures. He discussed that there is a significant trend with the Board's total authorized expenditure is out pacing the projected revenue at a rate of \$2 million. This fund condition is projecting the reserve will drop to \$7.9 million by 2018-2019. He described that the fund condition will be impacted by factors such as increased hours utilized by Investigation Division since more cases are referred to the division, increased employee compensations and pay raises. Mr. Schick commented that his personal estimate is that the reserve will drop close to \$2.5 million by the end of 2018-2019.

Board Discussion:

- Ms. James-Perez asked if the Budget Change Proposal is included in the report and the status.
- Mr. Schick answered that the report does not include the BCP and is only an estimated cost and increase of DOI.
- Mr. Vertido commented that it is hard to budget with the DOI pro-rata billing while the Board has a fixed income. Mr. Schick agreed to Mr. Vertido and commented that the division and the Board should communicate the utilized hours to stabilize the budget.
- Dr. Bass de Martinez commented that she was struck by the rapid potential decrease of reserve and if there is a certain level to maintain.
- Mr. Schick commented that most programs do not have a minimum but the Department of Finance tends to have a reserve of not less than 3 months. Mr. Schick also commented he

would prefer to stay at a steady rate of 6-12 months of reserve or a figure of \$8-12 million. Mr. Schick continued to provide updates on the cost of the Breeze project. He added that the Board will continue to pay for the maintenance of Breeze.

Public Comment:

None

Motion:

No motion required.

6. DISCUSSION AND POSSIBLE ACTION ON 2016 DRAFT BOARD MEMBER ADMINISTRATIVE PROCEDURE MANUAL. Dr. Kameka Brown, Executive Officer

Dr. Brown stated that the changes of the administrative procedure manual was collaborated with legal. The changes included updated regulations, provided internal updates and trainings, and narrowing and focusing on committees to work with consumer protection effectively. Dr. Brown clarified page 7 in the manual, which are the rules for contacting staff she said no one is barred from contacting staff, but to avoid redundancy it is recommended the Board members include the EO

Public Comment:

None

Board Discussion:

- Ms. Bon quoted the last paragraph on page 1 and stated that it already works with an existing law. She added that the manual also helps to include footnotes of dates when it was adopted. Ms. Bon commented that on page 7 in contacting staff, suggested to change the language to “recommended the Board members contact the following designated staff”. She commented on page 12 that the education committee already has additional task delegated and it would be helpful to explain its description.
- Mr. Moreno asked for clarification on page 2 of the manual regarding unexcused absences.
- Ms. James-Perez clarified that Board members need to notify either the Board President or the EO if they could not make it, it will be considered as an excused absence, and on the other hand, a member who is a no show will be considered an unexcused absence.
- Mr. D’Braunstein asked Ms. Bon if the manual is revised does it need to come back to the full Board. Ms. Bon explained that any changes on the manual needs to come before the full Board.

Motion: To accept the Board member Administrative Procedure Manual with the addition of adding a dateline, adding the language of recommended line of communication and adding new/recent duties of the education committee.

Moved: Samantha James-Perez

Seconded: John Vertido

Ms. Bass de Martinez, Mr. D’Braunstein, Ms. Endozo, Ms. James-Perez, Mr. Moreno, Mr. Dierking and Mr. Vertido voted in favor of the motion. **The motion passed.**

7. DISCUSSION AND POTENTIAL ACTION ON FEE AUDIT REPORT. Dan Edds, Fee Auditor

A. Discussion and Possible Adoption of New Fee Audit Schedule, and Possible Action to Adopt New Fees [California Code of Regulations § 2537.1 (VN); § 2590 and § 2590.1 (PT)].

Mr. Edds presented the process of the project based on scope and costing methodologies to establish the full cost of the services, which depends on the structure of the budget. He summarized by stating that generally, it is to identify the dollar amount and how it was allocated to various operating units. He described how projected revenue is calculated by processing of renewal times the price of the fees. He also presented the total cost in Enforcement which has increased. He recommended to set fees to recover actual full cost, raise the cap to cover regular fee increases for at least 5-10years and establish pricing guidelines.

Board Discussion:

- Mr. Vertido clarified the curriculum revision and minor changes. He continued that if there are major changes on curriculum, will the school get a second bill for the revisions.
- Mr. Edds commented that it is an internal decision to bill the institution again for the re-evaluation of the changes, but he would recommend it.

Public Comment:

- Mr. Pizzati agreed that PT fees are too high and has been a burden to licensees and would like to revisit the costs to ensure the fees are aligned.

Motion: To accept the fee and audit report by Capital Consulting.

Moved: John Vertido

Seconded: Samantha James-Perez

Ms. Bass de Martinez, Mr. D’Braunstein, Ms. Endozo, Ms. James-Perez, Mr. Moreno, Mr. Dierking and Mr. Vertido voted in favor of the motion. **The motion passed.**

B. Discussion and Possible Action on Establishment of New Academic Institution Initial License Fee.

Mr. Edds presented various charts to show cost and current revenues for VNs and PTs.

Board Discussion:

None

Public Comment:

- Mr. Pizzati commented that CAPT supports this motion.

Motion: To pursue legislation to change VN fees and institute institutional fees, initial license and renewal fees.

Moved: John Vertido

Seconded: Todd D’Braunstein

Ms. Bass de Martinez, Mr. D’Braunstein, Ms. Endozo, Ms. James-Perez, Mr. Moreno, Mr. Dierking and Mr. Vertido voted in favor of the motion. **The motion passed.**

C. Discussion and Possible Action on Establishment of New Academic Institution Renewal Fee.

Mr. Edds stated the impact of additional cost of individual licensee. He added that revenues for VNs decreased because the fees have gone down due to allocated costs for overhead support services. He recommended to set fees and raise the cap for 10 years to recover the full cost. He also suggested to establish pricing guidelines, create a value statement between institutions and individual licensees.

Board Discussion:

- Dr. Brown commented that currently there are 5 NECs, but that is not enough to cover the entire state and that it needs greater Education Division by adding 5 more NECs. She also stated that the licensing division has increased phone staff, but the goal is to establish a full call center to improve customer service.

MOTION: To initiate the rule making process to adopt the PT fees as presented.

Moved: John Vertido

Seconded: Dr. Bernice Bass de Martinez

Public Comment:

- Mr. Pizzati commented that CAPT supports the motion.

Ms. Bass de Martinez, Mr. D'Braunstein, Ms. Endozo, Ms. James-Perez, Mr. Moreno, Mr. Dierking and Mr. Vertido voted in favor of the motion. **The motion passed.**

8. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON 2016-2017 SUNSET OVERSIGHT REVIEW REPORT. Dr. Kameka Brown, Executive Officer

MOTION: NO MOTION TAKEN. This item will be placed on the November 2016 Board Meeting Agenda for consideration.

9. DISCUSSION AND POSSIBLE ACTION ON SUNSET REVIEW REPORT PROPOSED LEGISLATION. Dr. Kameka Brown, Executive Officer

MOTION: NO MOTION TAKEN. This item will be placed on the November 2016 Board Meeting Agenda for consideration.

10. PROPOSED 2017 BOARD MEETING DATES AND LOCATIONS.

Public Comment:

None

Board Discussion:

- Dr. Brown commented that at the November Board meeting on the agenda they will be discussing possibly changing meetings to bi-monthly schedule or at least 1 (one) meeting of 3 days.

MOTION: To accept the Board meeting dates for 2017.

Moved: Todd D’Braunstein

Seconded: Samantha James-Perez

Ms. Bass de Martinez, Mr. D’Braunstein, Ms. Endozo, Ms. James-Perez, Mr. Moreno, Mr. Dierking and Mr. Vertido voted in favor of the motion. **The motion passed.**

11. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA.

The Board may not discuss or take action on any matter that is not included on this agenda except to decide whether to place the matter on the agenda of a future meeting. (Government Code Section 11125 and 11125.7 (a)).

Public Comment:

None

Board Discussion:

- Ms. Endozo suggested to include Mr. Ricardo DeLa Cruz on the agenda at the November Board meeting.
- Ms. James-Perez said to put Mr. Ben Frank, the Sunset review and Mr. DeLa Cruz to the agenda for the November Board meeting.

MOTION: To put all 3 agendas to the November Board meeting.

Moved: Ms. James-Perez

Seconded: Mr. Vertido

Ms. Bass de Martinez, Mr. D’Braunstein, Ms. Endozo, Ms. James-Perez, Mr. Moreno, Mr. Dierking and Mr. Vertido voted in favor of the motion. **The motion passed.**

Ms. James-Perez said Board elections need to have a sleigh of officers for the meeting to be voted on at the February Board meeting. Mr. Vertido asked Ms. James-Perez if she would consider another term and she replied no. He then asked Mr. Moreno. It will be discussed further at the next Board meeting.

12. ADJOURNMENT.

The meeting was adjourned at 1:56 p.m.

Prepared by: _____

Date: _____

Dr. Kameka Brown
Executive Officer

Approved by: _____

Date: _____

Samantha James-Perez
President

DRAFT