

# Agenda Item #20.A.



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

**August 25 - 26, 2016**

**LOS ANGELES, CALIFORNIA 90045**

Hilton Los Angeles Airport  
5711 West Century Boulevard

### BOARD MEMBERS

#### PRESENT:

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

#### BOARD MEMBER

Eric Mah, Public Member

#### ABSENT:

### 1. CALL TO ORDER, ROLL CALL, AND ESTABLISHMENT OF QUORUM

The meeting was called to order by Board President, Samantha James-Perez at 9:00 a.m., Wednesday, August 25, 2016, at the Hilton Los Angeles Airport, 5711 West Century Boulevard, Los Angeles, California 90045.

Ms. James-Perez took attendance of Board Members by roll call. A quorum was confirmed. Board Members introduced themselves.

### 2. STRATEGIC PLANNING SESSION.

3. Public Comment on Items Not on the Agenda. **Note:** *The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a)).*

### 4. RECESS UNTIL NEXT DAY.

5. **OVERVIEW OF BOARD'S PROCESS RELATED TO APPLICANT'S WITH CONVICTIONS AND POST – LICENSURE REQUIREMENTS.**
6. **QUESTIONS AND ANSWERS.**
7. **CALL TO ORDER, ROLL CALL, AND ESTABLISHMENT OF QUORUM.**

The meeting was called to order by Board President, Samantha James-Perez at 9:00 a.m., Thursday, August 25, 2016, at the Hilton Los Angeles Airport, 5711 West Century Boulevard, Los Angeles, California 90045.

Ms. James-Perez took attendance of the Board Members by roll call. A quorum was confirmed. Board Members introduced themselves.

**INTRODUCTION OF APPROVED SCHOOLS REPRESENTED AT MEETING BASED UPON VOLUNTARY SIGN-IN LIST.**

The following programs voluntarily signed in and were recognized by the Board President:

- |   |  |
|---|--|
| San Bernardino Valley Community College | LAUSD Maxine Waters Employment Center  |
| American Career College, St Francis     | Medical Allied Career College          |
| American Medical Science Center         | Pacific College                        |
| Angeles College                         | Platt College, Alhambra                |
| Brightwood College, North Hollywood     | Premier Career College                 |
| Chaffey College, Chino                  | Professional Medical Careers Institute |
| Downey Adult School                     | San Bernardino Adult School            |
| Glendale Career College                 | Santa Barbara Community College        |
| Hacienda La Puente Adult Education      | Cypress College                        |
| High Desert Medical College             |  |

8. Public Comment on Items Not on the Agenda. **Note:** *The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a)).*

**9. PETITION HEARINGS:**

A. Petitions for Reinstatement:

1. Eva Navarro
2. Carla Borem
3. Rochelle Heller
4. Amy Smith
5. Teresa Taylor

B. Petition for Modification of Probation:

1. Theresa Reyes

**10. CLOSED SESSION.**

The Board met in closed session pursuant to Government Code Section 11126(c)(3) to deliberate and vote on the above matters, and any other disciplinary matters.

**11. RECONVENE OPEN SESSION**

**12. RECESS UNTIL NEXT DAY.**

**13. CALL TO ORDER.**

The meeting was called to order by Samantha James-Perez, Board President, at 9:00 a.m., Friday, August 26, 2016, at the Hilton Los Angeles Airport, 5711 West Century Boulevard, Los Angeles, California.

Donna Norton led those assembled in the Pledge of Allegiance.

**14. INTRODUCTION OF BOARD MEMBERS AND STAFF.**

The Board Members introduced themselves. Kameka Brown, Executive Officer (EO), introduced Board staff present. Samantha James-Perez, Board President introduced Rebecca Bon, DCA Legal Counsel.

**15. INTRODUCTION OF APPROVED SCHOOLS REPRESENTED AT MEETING BASED UPON VOLUNTARY SIGN-IN LIST.**

The following programs voluntarily signed in and were recognized by the Board President:

American Career College at St. Francis	High Desert Medical College
American Career College, Los Angeles	Infotech Career College
American College of Nursing	InterCoast College, Fairfield
American Medical Science Center	LAUSD Maxine Waters Employment
Angeles College	Center
Annenberg School of Nursing	Marian College, Los Angeles
Baldy View ROP	Medical Allied Career Center
Bay Area College of Nursing, Daly City	National Career College
Bay Area College of Nursing, Palo Alto	North Orange County ROP
Brightwood College, North County	Pacific College
Brightwood College, North Hollywood.	Palo Verde Community College
Brightwood College, San Diego	Platt College, Alhambra
Casa Loma College, Van Nuys	Preferred College of Nursing, Van Nuys
CES College	Premiere Career College
Chaffey College, Chino	Santa Barbara Business College
Charter College, Soledad	Southern California Medical College
College of the Desert	Sri Sai Krish Institute
Concorde Career College, North Hollywood	Summit Career College, Anaheim
Curam College of Nursing	Summit Career College, Colton
Downey Adult School	West Coast Ultrasound Institute, Beverly
Grossmont Health Occupation Center	Hills
Hacienda La Puente Adult Education	West Coast Ultrasound Institute, Ontario
	YWCA Los Angeles Job Corps Center

Ms. James-Perez gave a brief report regarding the National Council of State Boards of Nursing (NCSBN) Annual Meeting in Chicago. Board representatives, Ms. James-Perez, Andrew Moreno, Board Vice-President, and Kameka Brown, Executive Officer, participated in forums with representatives from 50 Member Boards, four (4) Canadian Providences, and U.S. Territories. Ms. James-Perez stated it is crucial that California have a voice and remain proactive in national discussions regarding the regulation of nursing. She noted that California has the largest population of licensed vocational nurses in the country.

Ms. James-Perez informed attendees of the following changes in the agenda:

- a. **Agenda Item #22** will be presented following **Agenda Item #16**. That change will keep Education agenda items together.
- b. **Agenda Items #17** and **18** will be presented following **Agenda Item #22**.
- c. Once all the schools are completed, **Agenda Item #17**, Education Committee Report will be presented with a discussion and vote on certain authorities.
- d. **Agenda Item #20**, Report of Fee, will include some noted clarifications.
- e. A special presentation will follow presentation, discussion, and action on all Education agenda items.
- f. Due to the length of the agenda, public comments on all items will be strictly limited to three (3) minutes per speaker.

**16. CONSIDERATION OF PUBLICATION OF STUDENT NAMES WITH QUARTERLY PASS RESULTS. Southern California Directors of Vocational Nursing Programs.**

Elizabeth Estrada, President, Southern California Directors of Vocational Nursing Programs (SCDVNP), requested Board dissemination of examination statistics to programs to include the names of graduates and dates of testing provided the program submits copies of signed documents authorizing the release of confidential information. She stated such information is routinely disseminated by the CA Board of Registered Nursing (BRN). Additionally, Ms. Estrada requested the Board require eligible candidate to complete the NCLEX/PN® within six (6) months after receipt of their Authorization to Test (ATT).

**Board Discussion:**

- Ms. James-Perez acknowledged that possession of this information would assist programs in achieving and maintaining compliance regarding pass rates on the licensure examinations. However, clarification was requested as to whether program graduates could be required to take the NCLEX/PN® within a shortened prescribed amount of time.
- Ms. Bon stated that consideration of amending the time requirement for testing was not included in the Board's agenda. Therefore, the Board is precluded from discussion of the issue.
- Mr. Vertido and Ms. Norton expressed support of programs having access to the names of graduates completing the NCLEX/PN® and requested discussion of the feasibility for initiation.

- Mr. D’Braunstein recommended the Board research the authority by which the BRN releases information and the format of program.
- Ms. Avella asked if students would be admitted to programs if they refused to sign the school’s release. Ms. Estrada responded the student could be admitted without signing the release
- Mr. Dierking requested clarification that unless the student affirmatively opted out of disclosure, the default would be disclosure of exam results. Ms. Estrada responded results would not be released unless authorized by the student.
- Mr. Dierking and Ms. Avella requested comments from students as to the release of their test results to their program.
- Ms. Bass de Martinez noted that federal law, Family Educational Rights and Privacy Act (FERPA), protects the privacy of student education records. Family Educational Rights and Privacy Act (FERPA) protects the privacy of student education records. That law applies to all schools receiving funds under applicable program of the U.S. Department of Education. Further research was recommended to ensure compliance.

**MOTION: Staff research the authority and feasibility of releasing examination statistics listing names of graduates per program. That research should include the authority by which the Board of Registered Nursing (BRN) releases information to the schools**

**Moved:** Todd D’Braunstein

**Seconded:** John Vertido

**Board Discussion:**

- Mr. Moreno asked if disclosure of names only was requested. Ms. Estrada responded that only names of testers is requested.
- Ms. James-Perez reported that she spoke with Pearson Vue representatives and the Executive Officer of the BRN and is unsure if the BRN process is applicable to the Board.
- Ms. Avella stated her concerns that students’ rights are honored.
- Ms. Bon requested clarification of the intent of the motion. Mr. D’Braunstein responded a review of the BRN model is requested.
- Ms. Bon advised of logistical concerns regarding submission and holding of numerous waivers and processing by Board staff.
- Mr. Dierking asked if program’s have a good sense of their students who are likely to pass the exam based on academic and clinical assessments. Ms. Estrada responded affirmatively.
- Ms. Avella responded that students should be heard from as they are the main constituents.
- Mr. Dierking asked if the objective can be achieved with the voluntary disclosure of information to the program by the student. Ms. James-Perez concurred and noted that many states currently release this information.
- Ms. Bass de Martinez stated the Board is interested in ways to best help schools be successful and are provided the best information to ensure public protection by the licensure of only individuals who are safe and competent practitioners.

**Public Comment:**

- Jacqueline Fletcher and Roxanne Ortiz, vocational nursing students stated their opinion that a program's pass rates guide applicants in the selection of the best programs for admission and that the dissemination of accurate statistics assists schools and students aide in the improvement of schools.
- Sheila Burke, Director, Concorde College Vocational Nursing Programs, suggested amending the FERPA disclosure adding information for use and a line for graduates' authorization to release information or request the NCSBN add a line to the bottom of applicable forms.
- Arvella Battick, Director, Glendale Career College, commented that the U.S. Department of Education allows schools to disclose records without consent under FERPA.
- Mary McHugh, Director, Angeles College Vocational Nursing Program, stated she has been a consultant for programs in Nurse Licensure Compact States. She noted that such states currently include Member Boards of 25 states. She stated all participating Member Boards in compact states receive pass results without signing a release. All Directors agreed it would be helpful to have the test results for their program graduates, along with identified areas of deficiency. Such information would assist programs in preparing candidates and improve pass rates. She stated that the failure to disclose such information to programs may be a cause of the state's pass rates. She stated that California has the lowest pass rates among Member Boards.
- Marie Cordero, Secretary, SCDVNP, expressed disappointment that an amendment requiring graduates to complete the NCLEX/PN<sup>®</sup> within a prescribed amount of time was not placed on the agenda. She stated documents, dated December 2015, were sent to Board Members that included both issues. Clarification was requested relative to the process to place the item on the agenda.
- Dr. Brown recommended the Board assign the request to the Education Committee for consideration prior to the next Board meeting.
- Ms. Bon advised that the California Information Practices Act prevents the release of information linked to individuals unless authorized. She stated that program graduates could provide such information to their program of graduation.

**AMENDED MOTION: Staff research the authority and feasibility of releasing examination statistics listing names of graduates per program. That research should include the authority by which the Board of Registered Nursing (BRN) releases information to the schools and present a report to the Board with recommendations.**

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

**22. C. EDUCATION DIVISION REPORT**

- Dr. Kameka Brown, Executive Officer reported that as of September the Board will be fully staffed with six (6) Nursing Education Consultants. She explained the NECs will be strategically located in the Northern, Central, and Southern regions.

- Dr. Brown highlighted the Board's makeup of Vocational Nursing (VN) and Psychiatric Technician (PT) schools and reported that 58% are proprietary programs, for profit or profit driven programs. Further, she noted that approximately 70% of the programs under the jurisdiction of the BRN are publicly funded. This makeup influences the structure of licensing and education standards.
- Mr. Vertido noted that it has been at least eight (8) years since the Board was fully staffed with NECs.
- Dr. Brown reported that approved VN programs have a quarterly pass rate of 76% and the average annual pass rate is 78%. The quarter pass rate for VN programs on provisional approval is 58% and the average annual pass rate is 56%. California Code of Regulations Section 2530 (l) specifies programs are required to maintain an average annual pass rate that is no more than ten (10) percentage points below the state average annual pass rate for first time program candidates. As reported by Pearson Vue, the average annual pass rate for first time program graduates of all Member Boards is 82%.
- Dr. Brown reported the quarter pass rate for approved PT programs is 70% and the average annual pass rate is 69%. The quarter pass rate PT programs on provisional approval is 86% and the average annual pass rate is 56%.
- Dr. Brown reported efforts by the Veterans Administration to assist honorably discharged servicemen in assimilation into the workforce. Many such applicants seek to qualify for licensure based on the completion of equivalent education and experience.
- Despite a 42% shortage of staff, the Education Division has processed 146 requests for new faculty and 130 requests for new clinical facilities. Additionally, staff have completed inspections of 21 programs. Of that total, onsite inspections were conducted of eight (8) programs and one (1) onsite inspection was made prior to the completion of the initial class.
- Education Division also completed an analysis of new proposals seeking commencement of VN programs with follow-up letters sent to those non-responsive proposed programs.
- The Board has hired an Associate Governmental Program Analyst to assist with the analysis of new and existing programs.

**Board Discussion:**

- Ms. Avella asked the implications of programs' failure to maintain an average annual pass rate that is no more than 10% below state average annual pass rates and the effect on fulfillment of the Board's mission of protecting consumers.  
C. Anderson responded that programs' failure to maintain the required average annual pass rate negatively impact on the educational preparation and adequacy of a safe and competent workforce of LVNs and PTs. The Board's actions with respect to enforcement of regulatory requirements for VN and PT programs ensure the education of graduates who are prepared to deliver safe and competent care to consumers upon licensure and entry into professional practice.

**Public Comment:**

- Dannetta Garcia commented that California's ranking near the bottom places the State in a precarious position and impacts the consumer whom DCA protects. She stated if a student passes the exam after 15 tries, they will be granted a license equal

to a person that passes on the first attempt. That's why programs are asking for names, places, dates, when and how in order to reach a graduate who may need help. She commented that programs need to do better. She opined that increasing the number of NECs is the best thing that can happen to the Board and speaks volumes to what the process will do and the confidence the State of California will have in the Board.

- Ms. Bon suggested the issue could be placed on the agenda for discussion at a future meeting. She reminded the public to refrain from re-litigating or commenting on subjects already discussed.
- Ms. Garcia commented on the graphs showing a decline in the number of programs. She suggested replacing the moratorium on the website with a statement indicating the moratorium has been lifted, in part, and the Board is accepting program applications for consideration.

#### **17. EDUCATION COMMITTEE REPORT:**

Mr. Vertido and Ms. Bass de Martinez are Board members on the committee.

- Ms. Bass de Martinez announced the current Education Committee held its initial meeting on July 18, 2016. The function of the Committee is to gather public input and make recommendations to the Board for action relative to the education of safe and competent LVNs and PTs. The Committee is charged with reviewing standards established by the Board and ensuring uniformity in application. Additionally, the Committee seeks to raise program pass rates to meet or exceed the national average annual pass rate. Lastly, the Committee seeks to eliminate opportunities for fraud in educational activities by having regular scheduled reviews. The Committee considers the health care needs of the consumer, applicable research, entry level competencies necessary for safe effective practice, and curricular content and hours required for achievement. The Committee's actions will assist the Board in establishment and promotion of a clear vision that ultimately results in the education of safe and competent licensees.
- Mr. Vertido stated the Committee will work with the Education Division in streamlining the process for reviewing initial proposals and reduce the time for Board response. In so doing, the Committee will expedite the approval of new programs. The Committee plans to meet monthly to assist new and existing programs and reduce time delays.
- Ms. Bass de Martinez stated the Committee will make recommendations for Board action regarding each program. The Committee will respond to questions from Board Members to assist in reaching decisions consistent with investigatory findings.
- Ms. James-Perez noted apparent confusion. She clarified that the Board will hear from the Committee first. The school will then have a chance to respond before the Board.
- Ms. Avella inquired if Board Members should assume that recommendations made by the Education Committee are the same as recommendations made by staff.
- Ms. Bon responded that Board Members will hear the report from each program. Board Members will hear recommendations from staff and the Education Committee prior to rendering decisions on recommendations.
- Ms. Avella asked if the Education Committee will pre - review all programs considered for placement on provisional approval.

- Ms. Norton inquired if the Education Committee will only meet with programs considered for placement on provisional approval and if those programs will also be required to come before the Board. She opined that such a process appears to be duplicative.
- Ms. Norton inquired as to how the Education Committee will gather public input and make recommendations for Board action.
- Ms. James-Perez responded that the function of the Education Committee is new and directed revision and reorganization of Committee recommendations on future agendas.
- Ms. Bass de Martinez clarified that the Committee may either concur with the NEC's recommendations or modify them.
- Ms. Norton commented that the Committee will be meeting monthly while the Board meets quarterly.
- Ms. James-Perez responded that the Board will consider and vote on the Committee's role.
- Ms. Norton commented the Board should have decided on the Committee's role and function prior to receiving reports.
- Ms. James-Perez responded that the Board was advised by Legal Counsel to present the issue as is.

### **Consideration of Placement on Provisional Approval.**

Ms. James-Perez reminded Board Members that the Education Committee will present each program with recommendations. Board Members will be able to ask questions of the Committee and assigned Nursing Education Consultant. The program can make a statement for the Board's consideration.

Ms. Bon advised the Board to continue the agenda as noticed and have the NEC present a report on the program and respond to questions from Board Members. The Education Committee could then make its recommendations.

#### **A. Charter College, Canyon Country, Vocational Nursing Program.** Consideration of Placement on Provisional Approval.

Donna Johnson, NEC, reported the program was presented for consideration of placement on provisional approval due to noncompliance with regulatory requirements regarding program pass rates. Specifically, the program's average annual pass rates have been greater than ten (10) percentage points below the state average pass rates for first time program graduates for 10 of the previous 12 quarters. Currently the program's average annual pass rate is 60%. The program is also noncompliant with other regulatory requirements with six (6) violations identified during an unannounced onsite inspection conducted on June 16, 2016. The program now has an approved director. That approval corrects one identified violation; however, there are no changes in recommendations. Additionally, school administration has indicated an intent to close the program in November 2016.

#### **Committee Presentation:**

- Mr. Vertido stated that the program lacked clinical skills, noting some of the problems and the results.
- Mr. Vertido stated Committee recommendations.
- Ms. Bon advised that Board Members have read the report of the NEC and that all recommendations as presented should not be read. The Board should request input from the program.
- Ms. James-Perez agreed and apologized to Mr. Vertido and requested presentation of the Education Committee's recommendations.
- Mr. Vertido responded that the Education Committee endorses nine (9) recommendations made by the NEC.

**Board Discussion:**

- Mr. Dierking inquired if new information as presented impacted the recommendations made by the NEC and the Education Committee. The NEC responded there would be an impact since the school has submitted an intent to close in November 2016.
- Ms. James-Perez asked if there were revisions to the submitted recommendations. The NEC responded that there are no recommended revisions.
- Ms. Avella asked the NEC if the Education Committee report represents her recommendations. The NEC responded that the Committee had accepted recommendations as included in the report.
- Ms. Avella voiced concerns regarding Agenda Item #17. Education Committee Report that says it's written by B Bass de Martinez and Mr. Vertido. She stated a desire written verification of consistency with recommendations presented by the NEC.
- Ms. Norton agreed that the NEC report and the Education Committee report are exactly the same so they are doing double work. Further, she stated that it is difficult to ascertain the difference between the NEC report and the Education Committee report.
- Ms. Bass de Martinez clarified that Board Members are not seeing a difference between NEC recommendations and the Education Committee's recommendations for this program.
- Ms. Avella expressed concerns that the report is dated June 2016 and that having an interim step could make the information outdated and create extra work. She stated that she would like recommendations to be as current as possible.
- Ms. James-Perez acknowledged Board Members concerns and advised that the Committee's role and authority as delegated by the Board will be addressed.

**Program Representative:**

- Christina Baja, President, Charter College, Canyon Country, stated the school agrees with the recommendation for provisional status and stated the college has struggled with limited clinical sites and has decided to close the program and notified students yesterday. She reported that the program Director will remain with the school until closure on November 30, 2016. The program plans a teach-out for two (2) students enrolled in Term 3, with graduation projected for

November 6, 2016. A closure date of November 30, 2016 will give the college sufficient time required to enter grades, clinical hours, lecture hours, registrar process, and give the Director time required to submit applications for licensure to the Board. Of the nine (9) students enrolled in Term 1, all have withdrawn from the program. Program representatives have met with multiple schools in the area to ascertain their acceptance of student's Term 1 transcripts for credit. Seven (7) students are scheduled to begin Term 2 in other programs on Monday. The remaining two (2) students have expressed interest in two (2) schools that will accept their Term 1 transcripts. Charter College plans to return all Term 2 tuition and Title 4 funding. In the best interest of the students, any balances on record will be zeroed out to eliminate any financial obligation to the college after departure.

**Board Discussion:**

- Mr. D'Braunstein noted that November 30 is midweek and asked whether extending the program's approval to Friday, December 2 would be helpful or cause more confusion. Ms. Baja responded that the extra two (2) days would be helpful, but the school determined the date in accordance with the end of the month.
- Ms. Bon advised that the motion should be in line with the agenda item placing the program on provisional approval. The secondary matter of voluntary closure could be handled by staff with the removal of the school from the list of approved schools.
- Ms. James-Perez clarified that the motion was to place Charter College, Canyon Country, Vocational Nursing Program on provisional approval for the two year period from August 26, 2016 through August 25, 2018.

**MOTION: Accept the report and adopt the recommendations as follows:**

1. Place the Charter College, Canyon Country, Vocational Nursing Program on provisional approval for the two-year period from August 26, 2016, through August 25, 2018, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction as referenced in Section 2526.1 (e) of the California Code of Regulations (see Attachment F).
2. Require the program to bring its average annual pass rate to no more than (10) ten percentage points below the State average annual pass rate.
3. Require the program to provide no less than one (1) instructor for every ten (10) students in clinical experiences.
4. Require the program to obtain Board approval prior to the admission of each additional class.
5. Require the program director to submit, under penalty of perjury, the names of all enrolled students, date of admission, placement in the curriculum, and expected date of graduation by **September 30, 2016**.

6. Require the director to submit follow - up reports in 10 months, but no later than May 15, 2017, and 22 months but no later than May 15, 2018. The report must include a comprehensive analysis of the program, specific actions taken with revisions to improve pass rates, timeline for implementation, and the effect of employed interventions. The following elements must be addressed in the analysis:
  - a. Admission Criteria
  - b. Screening and Selection Criteria
  - c. Terminal Objectives
  - d. Curriculum Objectives
  - e. Instructional Plan
  - f. Theory and Clinical Objectives for Each Course
  - g. Lesson Plans for Each Course
  - h. Textbooks
  - i. Attendance Policy
  - j. Remediation Policy
  - k. Evaluations of Theory and Clinical Faculty
  - l. Evaluations of Theory Presentations
  - m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations
  - n. Evaluation of Student Achievement
  - o. Current Enrollment
7. Require the program to demonstrate sustained progress in correcting the violations. If the program fails to satisfactorily demonstrate sustained progress the full Board may revoke the program's approval.
8. Require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
9. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.

**Moved:** Todd D'Braunstein

**Seconded:** Donna Norton

**Board Discussion:**

- Mr. Dierking requested clarification the motion as to whether Board Members are voting to adopt Education Committee recommendations from the NEC or accept recommendations from the Education Committee?
- Ms. Bon responded the motion is to adopt the NEC report.

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

**B. Santa Barbara Business College, Rancho Mirage, Vocational Nursing Program.**  
Consideration of Placement on Provisional Approval; Consideration of Request to Admit Students.

Jessica Gomez reported that Santa Barbara Business College, Rancho Mirage, Vocational Nursing Program was presented for consideration of placement on provisional approval due to noncompliance with California Code of Regulations Section 2530 (I). Specifically, published examination statistics confirm the program's noncompliance for six (6) consecutive quarters.

**Program Representative:**

Peggy Revetto, Program Director, stated the program accepted the Board's recommendations. She said she has been director of the program for six (6) months and taught at in the program the previous year. She stated that she has reviewed many areas and made changes to achieve improvement. She stated that the program's last passing rates were 90 and 100% and looks forward to any welcome suggestions from the Board.

**MOTION: Accept the report and adopt the recommendations as follows:**

1. Place the Santa Barbara Business College, Rancho Mirage, Vocational Nursing Program on provisional approval for the two-year period from August 26, 2016, through August 25, 2018, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction as referenced in Section 2526.1 (e) of the California Code of Regulations.
2. Require the program to bring its average annual pass rate to no more than (10) ten percentage points below the State average annual pass rate.
3. **Deny** the program's request for approval to admit a class of 20 students on September 6, 2016, with a projected graduation date of November 16, 2017; only, to **replace** the class graduating September 1, 2016.
4. Require the program to provide no less than one (1) instructor for every ten (10) students in clinical experiences.
5. Require the program to obtain Board approval prior to the admission of each additional class.
6. Require the program director to submit, under penalty of perjury, the names of all enrolled students, date of admission, placement in the curriculum, and expected date of graduation by **September 30, 2016**.
7. Require the director to submit follow - up reports in 10 months, but no later than May 15, 2017, and 22 months but no later than May 15, 2018. Require the program to submit a follow-up report in 10 months but no later than and 22 months but no later than July 1, 2011. The report must include a comprehensive analysis of the program, specific actions taken with revisions to improve pass

rates, timeline for implementation, and the effect of employed interventions. The following elements must be addressed in the analysis:

- a. Admission Criteria
  - b. Screening and Selection Criteria
  - c. Terminal Objectives
  - d. Curriculum Objectives
  - e. Instructional Plan
  - f. Theory and Clinical Objectives for Each Course
  - g. Lesson Plans for Each Course
  - h. Textbooks
  - i. Attendance Policy
  - j. Remediation Policy
  - k. Evaluations of Theory and Clinical Faculty
  - l. Evaluations of Theory Presentations
  - m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations
  - n. Evaluation of Student Achievement
  - o. Current Enrollment
8. Require the program to demonstrate sustained progress in correcting the violations. If the program fails to satisfactorily demonstrate sustained progress the full Board may revoke the program's approval.
  9. Require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
  10. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.
  11. Place the program on the **Committee's July 2018** agenda for reconsideration of provisional approval.

**Moved:** Todd D'Braunstein

**Seconded:** John Dierking

**Public Comment:**

Carolyn Santiago, Director, Santa Barbara Business College, Bakersfield, Vocational Nursing Program, stated that she and Dawn Lopez, Director, Santa Barbara Business College, Santa Maria, Vocational Nursing Program, will fully support and assist Ms. Revetto. Further, she noted that the Santa Barbara Business College, Bakersfield, Vocational Nursing Program has been in the same situation. The program is now off of provisional approval and will work to achieve the same for the Santa Barbara Business College, Rancho Mirage, Vocational Nursing Program.

**Board Discussion:**

- Ms. Endozo noted a discrepancy on Recommendation #3 between the NECs recommendation and that of the Education Committee.
- Ms. Bass de Martinez explained that the Education Committee's recommendation was based on the report of the NEC, in addition to information presented during the Committee meeting and recent reported changes with the school.
- Ms. James-Perez asked if the program accepted the recommendations of the Education Committee. Ms. Revetto responded affirmatively, stating the program is in agreement with the modification of the Education Committee.
- Ms. James-Perez noted that Mr. D'Braunstein's motion was to accept the recommendations of the NEC.
- Ms. Norton asked if Ms. Revetto understood the modification of the Education Committee to deny the program's request for approval to admit an additional class, whereas the NEC recommendation was to approve the program's request to admit an additional class. Ms. Revetto responded that she was not aware of the Education Committee's recommendation to deny the program's request for approval to admit an additional class.
- Ms. Bon clarified with Ms. Revetto that the program is in agreement with the NECs recommendations to allow the admittance of more students. The motion on the floor was the same to accept the NECs recommendations.
- Ms. Avella stated the motion for the Board's consideration is acceptance of NECs recommendations.
- Ms. James-Perez advised the program director that the only modification the Education Committee made was to deny the program's request to admit a class of 20 students. The NEC had recommended to allow the admittance of 20 new students. The current motion on the floor was to accept the NECs recommendations.

**Program Representative:**

Peggy Revetto, program director, stated the program has one class of nine (9) students that is scheduled to graduate in September 2016. Therefore, the Board's denial of the program's request would result in the program having no students. The program would be unable to demonstrate improvement without students.

**Withdrawal of Second:** John. Dierking

**Seconded:** Vivien Avella

**Board Discussion:**

- Mr. Dierking asked whether there was anything further from the Education Committee, specifically regarding Recommendation #3.
- Ms. Norton questioned the Education Committee's rationale for the recommendation to deny the request to admit an additional class and if the Committee was aware that denying the request would mean the program would have no students.
- Mr. Vertido responded that the Education Committee was aware of the impact of its recommendation. He reported that in considering the program's status, the Committee received information from the assigned NEC; however, the program failed to have a representative attend and provide input at the Committee meeting.

- Ms. Avella voiced support for the NEC recommendation as this is the first time the program is being put on provisional approval. She noted that placing the program on provisional approval will require the program to obtain Board approval prior to the admission of additional classes, while denial of the request will essentially put the program out of business. She stated that the Board has previously allowed program's to admit a class to show the effects of its improvements. She asked the NEC for a recommendation(s) regarding the program's request.  
The NEC responded that she had a phone conversation with Ms. Revetto a couple of days before the meeting and was asked if she had to attend the meeting. Ms. Gomez stated that she replied that she could not require her to attend the meeting, however such attendance was highly recommended.
- Ms. James-Perez commented the misunderstanding may have occurred as the Education Committee's role is new.
- Ms. Endozo questioned the NEC regarding the program's pass rates noting that reported statistics include data through Quarter 1 2016. The NEC responded that the date of the Committee meeting necessitated the completion of the report prior to the Board's receipt of pass rates for Quarter 2 – 2016.
- Ms. Avella stated that it sounds like the updated information speaks positively towards the program.
- Dr. Brown reminded Board members that the Education Committee had considered the program's pass rates, the number of approved faculty, faculty retention, and faculty turnover. She reminded Board Members that the NECs and SNEC are consultants and should not be pressed to justify their recommendations and be placed on the defensive.
- Ms. Avella voiced concern that NECs have the most current information required to make recommendations, but feels writing a report for the Education Committee in advance can impede their decision making.
- Ms. Norton commented that the Board is voting on the NEC's recommendations, not the Education Committee's recommendation and that the difference between the two creates confusion.
- Ms. James-Perez clarified that the Education Committee report is presented. If Board Members agree with the Committee report, modification of the motion is required.
- Mr. Dierking asked the NEC if material changes have been identified since writing the report in June that would affect her recommendations. The NEC responded that she concurs with recommendations of the Education Committee.
- Ms. James-Perez clarified with the NEC that with the information submitted to the Board at present, she would modify her recommendations to concur with the Education Committee's recommendations to deny the program's request to admit an additional class.

**Program Representative:**

Ms. Revetto reported miscommunication with the NEC. She stated she did not receive notification of the meeting. After speaking to the NEC she realized she missed the meeting, talked to their IT person who said the email apparently went into a file that never made it to the server. She stated that she had assumed Ms. Gomez was referring to the Board meeting as she was a new Director and did not realize that the program was being presented at an Education Committee meeting. Further, she

reported that the last program graduates completed the NCLEX/PN® in July 2016. Of the total tested, 10 out of 11 passed the NCLEX/PN®, a pass rate of 90%.

**MOTION: Accept the report and adopt the recommendations as follows:**

1. Place the Santa Barbara Business College, Rancho Mirage, Vocational Nursing Program on provisional approval for the two-year period from August 26, 2016, through August 25, 2018, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction as referenced in Section 2526.1 (e) of the California Code of Regulations.
2. Require the program to bring its average annual pass rate to no more than (10) ten percentage points below the State average annual pass rate.
3. **Deny** the program's request for approval to admit a class of 20 students on September 6, 2016, with a projected graduation date of November 16, 2017; only, to **replace** the class graduating September 1, 2016.
4. Require the program to provide no less than one (1) instructor for every ten (10) students in clinical experiences.
5. Require the program to obtain Board approval prior to the admission of each additional class.
6. Require the program director to submit, under penalty of perjury, the names of all enrolled students, date of admission, placement in the curriculum, and expected date of graduation by **September 30, 2016**.
7. Require the director to submit follow - up reports in 10 months, but no later than May 15, 2017, and 22 months but no later than May 15, 2018. Require the program to submit a follow-up report in 10 months but no later than and 22 months but no later than July 1, 2011. The report must include a comprehensive analysis of the program, specific actions taken with revisions to improve pass rates, timeline for implementation, and the effect of employed interventions. The following elements must be addressed in the analysis:
  - a. Admission Criteria
  - b. Screening and Selection Criteria
  - c. Terminal Objectives
  - d. Curriculum Objectives
  - e. Instructional Plan
  - f. Theory and Clinical Objectives for Each Course
  - g. Lesson Plans for Each Course
  - h. Textbooks
  - i. Attendance Policy
  - j. Remediation Policy
  - k. Evaluations of Theory and Clinical Faculty
  - l. Evaluations of Theory Presentations

- m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations
  - n. Evaluation of Student Achievement
  - o. Current Enrollment
8. Require the program to demonstrate sustained progress in correcting the violations. If the program fails to satisfactorily demonstrate sustained progress the full Board may revoke the program's approval.
  9. Require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
  10. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.
  11. Place the program on the **Committee's July 2018** agenda for reconsideration of provisional approval.

**Public Comment:** None

**Board Discussion:** None.

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

**C. Trinity School of Health and Allied Sciences Vocational Nursing Program.**  
Consideration Placement on Provisional Approval.

Jessica Gomez reported that the Trinity School of Health and Allied Sciences Vocational Nursing Program was presented for consideration of placement on provisional approval due to noncompliance with California Code of Regulations Section. Specifically, 12 violations were identified during an unannounced onsite inspection of the program.

**Board Discussion:**

- Ms. James-Perez asked the NEC if she agrees with recommendations as presented in her report and if the NEC recommendations differ from recommendations reported by the Education Committee.
- The NEC responded that she agrees with recommendations in the presented report and NEC recommendations do not differ from recommendations as reported by the Education Committee.

**Program Representative:**

A representative from the Trinity School of Health and Allied Sciences Vocational Nursing Program was not in attendance.

**MOTION: Accept the report and adopt the recommendations as follows:**

1. Place the Trinity School of Health and Allied Sciences Vocational Nursing Program on provisional approval for the two-year period from August 26, 2016, through August 25, 2018, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction as referenced in Section 2526.1 (e) of the California Code of Regulations (see Attachment G).
2. Require the program to bring its average annual pass rate to no more than (10) ten (10) percentage points below the State average annual pass rate.
3. Require the program to correct all violations identified during the onsite inspections, and submit a report identifying implemented interventions and timelines no later than **September 1, 2016**.
4. Require the program to provide no less than one (1) instructor for every ten (10) students in clinical experiences.
5. Require the program to obtain Board approval prior to the admission of each additional class.
6. Require the program director to submit, under penalty of perjury, the names of all enrolled students, date of admission, placement in the curriculum, and expected date of graduation by **September 30, 2016**.
7. Require the director to submit follow-up reports in 10 months, but no later than May 15, 2017, and 22 months but no later than May 15, 2018. Require the program to submit a follow-up report in 10 months but no later than and 22 months but no later than July 1, 2011. The report must include a comprehensive analysis of the program, specific actions taken with revisions to improve pass rates, timeline for implementation, and the effect of employed interventions. The following elements must be addressed in the analysis:
  - a. Admission Criteria
  - b. Screening and Selection Criteria
  - c. Terminal Objectives
  - d. Curriculum Objectives
  - e. Instructional Plan
  - f. Theory and Clinical Objectives for Each Course
  - g. Lesson Plans for Each Course
  - h. Textbooks
  - i. Attendance Policy
  - j. Remediation Policy
  - k. Evaluations of Theory and Clinical Faculty
  - l. Evaluations of Theory Presentations
  - m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations

- n. Evaluation of Student Achievement
  - o. Current Enrollment
8. Require the program to demonstrate sustained progress in correcting the violations. If the program fails to satisfactorily demonstrate sustained progress the full Board may revoke the program's approval.
  9. Require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
  10. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.
  11. Place the program on the **Committee's July 2018** agenda for reconsideration of provisional approval.

**Moved:** Andrew Moreno

**Seconded:** John Vertido

**Public Comment:** None

**Board Discussion:** None.

Donna Norton, John Vertido, Tammy Endozo, Andrew Moreno, Samantha James-Perez, Vivien Avella, and John Dierking, voted in favor of the motion. Todd D'Braunstein was absent. **The motion passed.**

**18. Education Division Reports Regarding Vocational Nursing and Psychiatric Technician Programs.**

**18. A. Consideration of Request to Admit Students by Programs on Provisional Approval**

**1. American College of Nursing Vocational Nursing Program.**  
Consideration of Request to Admit Students.

Jessica Gomez reported that the American College of Nursing Vocational Nursing Program was presented for consideration of a request to admit an evening class of 20 students commencing on August 29, 2016, and scheduled to graduate on September 20, 2017. Denial of the request of 20 students and approval of a class of 10 students is recommended.

**Board Discussion:** None.

**Program Representative:**

Faye Silva, Program Director, voiced agreement with the NECs recommendations. Ms. Silva thanked the consultant for her guidance and support.

**MOTION: To accept the report and adopt the recommendations as follows:**

**Moved:** Andrew Moreno

**Seconded:** Bernice Bass de Martinez

1. Deny approval of American College of Nursing Vocational Nursing Program's request to admit and evening class of 20 students commencing on August 29, 2016, and scheduled to graduate on September 20, 2017.
2. Approve the program's admission of an evening class of 10 students commencing on August 29, 2016, and scheduled to graduate on September 20, 2017.
3. Continue to require the program to obtain approval by the Board prior to the admission of additional classes.
4. Continue to require the program to maintain a 1:10 instructor to student ratio in all clinical activities.
5. Continue to require the program director to submit, under penalty of perjury, the names of all enrolled students, date of admission, placement in the curriculum, and expected date of graduation within 15 days of the class start.
6. Continue to require the Director to submit a report to the Board no later than **March 15, 2017**. The report must include:
  - a. A comprehensive analysis of the program,
  - b. Specific actions taken to improve program pass rates,
  - c. Timeline for implementation, and the effect of employed interventions.
7. As noticed in Board correspondence dated June 12, 2015, failure to make or maintain required corrective actions may cause the full Board to revoke the program's approval.

**Public Comment:** None

**Board Discussion:** None.

**Moved:** Andrew Moreno

**Seconded:** Bernice Bass de Martinez

John Dierking, Vivien Avella, Samantha James-Perez, Andrew Moreno, Tammy Endozo, Bernice Bass de Martinez, and Donna Norton voted in favor of the motion. Todd D'Braunstein and John Vertido were absent. **The motion passed.**

**2. High Desert Medical College Vocational Nursing Program.**  
Consideration of Request to Admit Students.

Jessica Gomez reported that the High Desert Medical College Vocational Nursing Program was presented for consideration of the program's request to admit a class of 19 full time students on October 10, 2016, graduating on December 7, 2017. Approval of the request to admit additional students is recommended.

**Board Discussion:** None.

**Program Representative:**

Dr. Michelle Welch, Program Director, voiced agreement with the consultant's recommendations.

**MOTION: To accept the report and adopt the recommendations as follows:**

1. Approve High Desert Medical College Vocational Nursing Program's request to admit a full-time class of 19 students to begin on October 10, 2016; graduating December 7, 2017, only, to **replace** the class that graduated April 13, 2015.
2. Continue to require the program to admit no additional classes unless approved by the Board.
3. Continue the program director's requirement to submit, under penalty of perjury, the names of all enrolled students, date of admission, placement in the curriculum, and expected date of graduation, no later than 15 days after class commencement.
4. Continue to require the program to maintain a 1:10 instructor to student ratio in all clinical education.
5. Continue the program's requirement to maintain its average annual pass rate at no more than ten (10) percentage points below the state average annual pass rates.
6. Continue to require the program to demonstrate incremental progress in correcting the violations. If the program fails to satisfactorily demonstrate incremental progress, the full Board may revoke the program's approval.

**Moved:** Bernice Bass de Martinez

**Seconded:** Andrew Moreno

**Public Comment:** None

**Board Discussion:** None.

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

**3. Homestead Schools, Inc., Vocational Nursing Program.** Consideration of Request to Admit Students.

Lydia Zeigler reported that the Homestead Schools Vocational Nursing Program was presented for consideration of the director’s request to admit students. Approval of one (1) of the three (3) requested classes was recommended.

**Board Discussion:** None.

**Program Representation:**

Adelwisa Blanco, Program Director, voiced agreement with the consultant’s recommendation, with a change from one full time class of 24 to one part time class of 24 beginning September 10, 2016, graduating July 20, 2018. She stated the program has been asked for a part time class for over a year and have many prospective students. Further, she reported that the program has secured faculty and facilities based on a part time class and approval of a part time class would allow them to be more efficient.

**Board Discussion:**

- Ms. James-Perez clarified that as presented, approval of the following is recommended.
  - a. Approve the program’s request to admit one (1) full-time Day class of 24 students beginning September 19, 2016, graduating September 29, 2017, only.
  - b. Deny the program’s request to admit one (1) part-time class of 24 students beginning September 10, 2016, graduating July 20, 2018, only.
  - c. Deny the program’s request to admit one (1) full-time Evening class of 24 students beginning October 17, 2016, graduating October 20, 2017, only.

Comments of the director indicate the program desires to change the request from the admission of a full time class to a part time class.

- Ms. James-Perez requested the consultant’s opinion and if the requested change was supported by an assessment of program

resources. The NEC responded that program resources supported approval of the requested change.

- Ms. Avella asked the impact of the change on graduation dates.
- Ms. James-Perez clarified that the program is requesting withdrawal of Recommendation #1, approval to admit one (1) full-time Day class of 24 students beginning September 19, 2016, graduating September 29, 2017, **only**. The program is requesting reconsideration of Recommendation #2, denial of the request to admit one (1) part-time class of 24 students beginning September 10, 2016, graduating July 20, 2018, only.
- Ms. Avella voiced concern that having a part time class extends the projected date of graduation, and thus increases the time before additional examination data is available. The program director responded that the program would work closely with the NEC and SNEC.
- Ms. Bass de Martinez asked the program's rationale for switching from part time to full time classes. The program director stated the program has requested a part time class and has secured faculty to accommodate the requested part time class.
- Ms. Bass de Martinez noted that changing the full time class to a part time class requires revision in the presentation of the curriculum, and delay information to the Board. Further, she asked the director to comment on the impact of offering a part time class on the program's agreement with clinical facilities at which clinical rotations are assigned. She cited insufficient clinical sites as part of the reason for the recommendation of denial in the original report.

The program director responded that the program has agreements with clinical facilities to accommodate the requested number of students and the extended time frame. The instructional plan is presented to provide the subjects needed and in a sequence to cover a part time class. The school's head of admissions stated the program has many full time working students who want to advance in their careers, but can only attend part time. The school desires to give them that opportunity.

- Mr. Dierking requested clarification from the consultant if withdrawal of Recommendation #1 and reconsideration of Recommendation #2 would cause problematic challenges. The NEC responded that program resources could support the program's request for approval of a part class.

**MOTION: Remove recommendation number one, approve recommendation number two, authorizing the program's admission of a part-time class, and accept recommendations 3 through 10 as follows.**

1. Deny the program's request to admit one (1) part-time class of 24 students beginning September 10, 2016, graduating July 20, 2018, only.

2. Approve the program's request to admit one (1) part-time Evening class of 24 students beginning October 17, 2016, graduating October 20, 2017, **only**.
3. Place the program on the Board's **November 2016** agenda for reconsideration of provisional approval.
4. Continue to require the program to admit no additional classes without prior approval by the full Board.
5. Require the program director to submit, under penalty of perjury, the names of all enrolled students, date of admission, placement in the curriculum, and expected date of graduation by **October 1, 2016** and **every three (3) months, thereafter**.
6. Continue to require the program to submit follow-up reports no later than **October 1, 2016**, and **October 1, 2017**. The reports must include a comprehensive analysis of the program, specific actions taken to improve pass rates and to correct all violations, a timeline for implementation, and the effect of employed interventions. The analysis must include, but should not be limited, to the following elements:
  - a. Admission Criteria
  - b. Screening and Selection Criteria
  - c. Terminal Objectives
  - d. Curriculum Objectives
  - e. Instructional Plan
  - f. Theory and Clinical Objectives for Each Course
  - g. Lesson Plans for Each Course
  - h. Textbooks
  - i. Attendance Policy
  - j. Remediation Policy
  - k. Evaluations of Theory and Clinical Faculty
  - l. Evaluations of Theory Presentations
  - m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations
  - n. Evaluation of Student Achievement
  - o. Current Enrollment
7. Continue to require the program to maintain its average annual pass rate no more than (10) ten percentage points below the State average annual pass rate.
8. Continue to require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section

2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.

9. Failure to take these corrective actions may cause the full Board to revoke the program's approval.

**Moved:** Donna Norton

**Seconded:** Samantha James-Perez

**Public Comment:** None

**Board Discussion:** None.

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

## **18. B. Reconsideration of Provisional Approval**

### **18.B.1.Casa Loma College, Van Nuys, Vocational Nursing Program.** Reconsideration of Provisional Approval.

Lydia Zeigler reported that the Casa Loma College, Van Nuys, Vocational Nursing Program was presented for reconsideration of provisional approval. Extension of provisional approval through November 30, 2016, was recommended.

**Board Discussion:** None

**Program Representative:**

Stephanie Ayo-Akinyemi, Program Director, voiced agreement with the consultant's recommendations. Further, the director expressed her thanks to Dr. Brown and consultants for meeting with the school's administrator and her and hopes to return in November with positive results.

**Board Discussion:** None

**MOTION: Accept the report and adopt the recommendations as follows:**

1. Extend the provisional approval of the Casa Loma College, Van Nuys, Vocational Nursing Program from September 1, 2016 through November 30, 2016.
2. Continue the program's requirement to provide no less than one (1) instructor for every ten (10) students in clinical experiences.
3. Continue the program's requirement to admit no additional classes without prior approval by the full Board.

4. Continue the program's requirement to submit clinical placement plans for all enrolled students throughout their program of study using the provided Faculty/Student Clinical Assignment Form, the Maternity Faculty/Student Clinical Assignment Form, and the Pediatric Faculty/Student Clinical Assignment Forms and completing them as instructed. The placement plans were due **no later than June 15, 2016**.
5. Require the program's requirement to submit a comprehensive analysis of the program, specific actions taken to improve pass rates, timeline for implementation, and the effect of employed interventions. The report is due **no later than September 30, 2016**. The following elements must be addressed in the analysis:
  - a. Admission Criteria
  - b. Screening and Selection Criteria
  - c. Terminal Objectives
  - d. Curriculum Objectives
  - e. Instructional Plan
  - f. Theory and Clinical Objectives for Each Course
  - g. Lesson Plans for Each Course
  - h. Textbooks
  - i. Attendance Policy
  - j. Remediation Policy
  - k. Evaluations of Theory and Clinical Faculty
  - l. Evaluations of Theory Presentations
  - m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations
  - n. Evaluation of Student Achievement
  - o. Current Enrollment
6. Continue the program's requirement to bring its average annual pass rate to no more than (10) ten percentage points below the State average annual pass rate.
7. Continue the program's requirement to demonstrate incremental progress in correcting the violations. If the program fails to satisfactorily demonstrate incremental progress the full Board may revoke the program's approval.
8. Continue the program's requirement to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
9. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.

10. Place the program on the **November 2016** Board meeting for reconsideration of provisional approval.

**Moved:** Todd D'Braunstein

**Seconded:** Vivien Avella

**Public Comment:** None

**Board Discussion:** None.

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

**18. B.2.CNI College Vocational Nursing Program.** Reconsideration of Provisional Approval

Donna Johnson reported that the CNI College Vocational Nursing Program was presented for reconsideration of provisional approval. In addition, the program has requested approval to admit students. The recommendation is to extend provisional approval through February 2017 and to deny the request to admit students.

**Program Representative:**

A representative from the CNI College Vocational Nursing Program was not in attendance.

**Board Discussion:**

- Ms. Avella expressed concerns regarding the program's history and asked the NEC if there are protocols followed to ensure close contact with the program. The NEC responded the Education Division has protocols that ensure close contact with assigned programs.
- Ms. Norton asked if the program is in compliance with required corrections as specified in the Notice of Change in Approval Status. The NEC responded program compliance has been closely monitored and that monitoring of the program will continue.

**MOTION: To accept the report and adopt the recommendations as follows:**

1. Extend provisional approval of the CNI College Vocational Nursing Program for the six (6) month period from September 1, 2016, through February 29, 2017. (Attachment F)
2. Place the program on the February 2017 Board agenda for reconsideration of provisional approval.
3. Deny the program's request to admit one (1) part-time class of 40 students beginning October 17, 2016, graduating April 19, 2018.

4. Deny the program's request to admit one (1) full-time class of 40 students beginning October 24, 2016, graduating January 15, 2017.
5. Continue to require the program to provide no less than one (1) instructor for every ten (10) students in clinical experiences.
6. Continue to require the program to admit no additional classes without prior approval by the Board.
7. Require the program director to submit, under penalty of perjury, the names of all enrolled students, date of admission, placement in the curriculum, and expected date of graduation by **September 15, 2016**.
8. Continue to require the program to bring its average annual pass rate to no more than (10) ten percentage points below the State average annual pass rate.
9. Continue to require the program to demonstrate progress in correcting the violations. If the program fails to satisfactorily demonstrate progress the full Board may revoke the program's approval.
10. Continue to require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
11. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.

**Moved:** John Vertido

**Seconded:** Bernice Bass de Martinez

**Public Comment:** None

**Board Discussion:** None.

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

**18.B.3. InfoTech Career College Vocational Nursing Program, Reconsideration of Provisional Approval; Consideration of Request to Admit Students.**

Jessica Gomez reported that the InfoTech Career College Vocational Nursing Program was presented for reconsideration of provisional approval. Additionally, the program requests approval to admit a full-time day class of 20 students on September 6, 2016, graduating on February 15, 2018. This class

would **replace** the class that graduated on February 20, 2016. Extension of provisional approval and denial of the program's requests are recommended.

**Program Representative:**

Asima Jabbar, Program Director, and Anita Garg, School Director, represented the program were present. Ms. Jabbar thanked the Board and NEC for her guidance and requested permission to admit a class of 15 students. She stressed the program followed the directions given by the NEC and now has 13 clinical sites and more qualified instructors, including nine (9) RNs and one (1) LVN.

**Board Discussion:**

- Ms. James-Perez requested clarification of Recommendation #3. The program had requested approval to admit twenty (20) students; the consultant's recommendation is to approve the program's admission of fifteen (15) students. The NEC responded that concerns were identified regarding the curriculum and the program's low passing rates. Her recommendation has not changed.
- Ms. James-Perez asked the program's total enrollment if the request to admit students is denied.

The director responded the program would have 26 students with 19 scheduled to graduate in January 2017.

- Ms. Norton requested clarification of the program's outdated curriculum.

The director responded that she received an email from the NEC asking if she compared the 2014 NCLEX test plan with their curriculum. The director reported:

- 1) A problem with the curriculum has not been identified;
- 2) The program evaluates students and instructors every three (3) months; the program's pass rates dropped suddenly last quarter when three (3) of the program's four (4) graduates failed the licensure examination. One (1) of those graduates completed the program in 2013. She reported that the program had attempted to contact the graduate for a review; however, the graduate did not reply until failing the examination. The second student graduated in 2015. The program offered a review class. After completion, the graduate passed the examination within a month. The third student reported a panic attack and couldn't finish the exam.

The director voiced disagreement with the consultant's assessment regarding the curriculum. She noted that she has experience developing a curriculum from scratch and would have completed changes if required. She feels the weakness identified resulted from the lack of a variety of clinical sites.

- Ms. James-Perez asked the NEC whether the curriculum is outdated and to explain. The NEC responded that the program has submitted no evidence confirming evaluation of the curriculum since 2014.
- Dr. Brown clarified that the assigned consultants and SNEC reviewed the program curriculum and identified no substantive revisions between the 2012 and 2014 curriculum except for the changing of dates.
- Ms. James-Perez asked the director if she was aware that the NEC recommended an update of the curriculum.  
The director acknowledged confusion between information requested by the consultant and that submitted. She stated the consultant provided the new test plan and asked if she had completed the evaluation. She reported that she understood the consultant wanted her to place 2014 on her curriculum.
- Mr. Vertido requested the director address the identified shortage of approved clinical facilities, noting that the report, dated February 26, 2016, states the program has only two (2) approved clinical sites. The director responded that the program has 13 approved clinical sites.
- Ms. James-Perez noted a discrepancy between the number of approved clinical sites as reported by the program and those reported by the consultant. The director acknowledged the discrepancy and provided a list of the program's clinical sites.
- Mr. Vertido asked the director to identify new clinical sites added by the program. The director responded the program had acquired three (3) sub-acute, two (2) pediatric, and three (3) OB clinical sites.
- Mr. D'Braunstein expressed the necessity of Board Members focusing on the consultant's recommendations.

**MOTION: Accept the report and adopt the recommendations as follows:**

**Moved:** Todd D'Braunstein

**Seconded:** John Dierking

1. Deny the Info Tech Career College Vocational Nursing Program's request for early termination of provisional approval.
2. Continue the program's provisional approval as previously determined by the Board through November 31, 2016.
3. Deny the program's request to admit a class of 20 full-time students on September 6, 2016, graduating on February 15, 2018.
4. Require the program to obtain adequate Board approved clinical facilities as to number, type, and variety of patients treated to afford students clinical experiences in all areas specified by Section 2533.
5. Require the program director to submit, under penalty of perjury, the names of all enrolled students, dates of admission, placement in the curriculum, and expected dates of graduation by **September 15, 2016**.

6. Continue the program's requirement to admit no additional students unless approved by the Board.
7. Continue to require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professionals Code, section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
8. Continue to require the program to demonstrate incremental progress in correcting the violations. If the program fails to satisfactorily demonstrate incremental progress, the full Board may revoke the program's approval.
9. Place the program on the agenda of the Board's **November 2016** meeting, for reconsideration of provisional approval.

**Public Comment:** None

**Board Discussion:**

- Ms. James-Perez noted there appeared to be mixed messages being sent as the program was told to get more clinical sites, they worked to get more clinical sites, but they are still being denied more students. The NEC responded that she was concerned about the curriculum, not just the number of clinical sites. The clinical sites were discussed due to the program's the low pass rates.
- Dr. Brown clarified that the program's currently enrolled students are scheduled to complete program requirements in July 2017. She questioned if the program will have an opportunity to utilize the clinical facilities.
- Ms. Bass de Martinez asked clarification as to the completion date(s) of corrections and changes presented in the program's new handout. The school director responded that the handout was based on the original recommendation, not new information. She stated the school desired the Board to understand that the program follows up with their students and wanted the Board to know the reasons students failed. The program director stated the program report was presented because the updated report regarding the new clinical sites had not been received from the NEC.
- Ms. Bon advised that the report for the Board's consideration is dated August 1, 2016.

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

**18.B.4. InterCoast College Vocational Nursing Program.** Reconsideration of Provisional Approval.

Mr. Vertido disclosed that he was employed by InterCoast College five (5) years previously. He denied contact with the school that may cause conflict with decisions made by the Board.

Donna Johnson reported that the InterCoast College, Fairfield, Vocational Nursing Program was presented for reconsideration of provisional approval. The program has not requested approval to admit a class of students. The recommendation is to extend provisional approval through February 2017.

**Program Representative:**

- Carla Carter, Program Director, thanked the NEC for her support and guidance and agreed with the recommendations. She stated that the program has not requested additional enrollment, despite the program's lack of students after the scheduled September 2016 graduation of currently enrolled students. She stated the program desires to show the effectiveness of its improvement plan.
- Ms. Carter stated the program requests an extension of its provisional approval based on the request of the SCDVNP, and noted that the program's pass rates remain low due to the number of 2014 graduates tested. She reported that graduates completing requirements during her tenure are passing the licensure examination.

**Board Discussion:**

- Mr. Vertido asked the director to respond to the program's utilization of teaching assistants as instructors.

The director reported that she inadvertently entered the name of the Teacher Assistant and not the assigned Instructor. When the error was identified, she wrote to Ms. Johnson. She stated the violation did not occur and that she is well aware of the regulatory requirement.

**MOTION: Accept the report and adopt the recommendations as follows:**

1. Extend provisional approval of the InterCoast College, Fairfield, Vocational Nursing Program for the five (5) month period from October 1, 2016 through February 28, 2017.
2. Place the program on the February 2017 Board agenda for reconsideration of provisional approval.
3. Require the program to provide a Board-approved Instructor for all students in clinical experiences.
4. Continue to require the program to maintain its average annual pass rate at no more than ten percentage points below the state average annual pass rates.

5. Continue to require the program to admit no additional students unless approved by the Board.
6. Continue to require the program to provide no less than one (1) clinical instructor for every 10 (ten) students in all clinical experiences.
7. Continue to require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
8. Continue to require the program to demonstrate progress in correcting the violations. If the program fails to satisfactorily demonstrate progress, the full Board may revoke the program's approval.
9. Failure to take these corrective actions may cause the full Board to revoke the program's approval.

**Moved:** John Vertido

**Seconded:** Bernice Bass de Martinez

**Public Comment:** None

**Board Discussion:** None.

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

**18.C. Consideration of Request for Reconsideration of Board's May 13, 2016 Action to Revoke Approval.**

**18.C.1. Bay Area College of Nursing, Daly City, Vocational Nursing Program.** Request for Reconsideration of Revocation.

Donna Johnson reported that the Bay Area College of Nursing, Daly City, Vocational Nursing Program was presented for reconsideration of its May 13, 2016 decision to revoke the program's provisional, effective July 31, 2016, and to remove the program from the Board's list of *Approved Vocational Nursing Programs*. The recommendation is to uphold the May 13, 2016 decision.

**Program Representative:**

- Danetta Garcia reported representation for the program director. She reported that after the Board's May decision, the program sent an appeal for reconsideration and numerous emails in regard to a change in NEC representation with no response. In response, she

reported a telephone call on June 7, 2016 that was four (4) minutes in length, advising that the program's appeal had been forwarded to the Legal Division. In August 2016, she reported that the program received the report that it would uphold the decision made by the Board. She said a letter should have been sent around July 26 saying the program withdrew its request for revocation because it felt it wouldn't have enough time to prepare an argument in defense of reinstatement. She stated that Board staff always submits a request to the program if they want to be on the Board agenda, to submit information by a certain date and time. She stated that Board staff failed to respond back to the program that sought support and as a result, the program withdrew its request only to find out they were being reconsidered. She stated that even though staff are busy, they should ensure all programs are getting the attention needed. She reported that the program was also told they could not change NECs because there weren't enough of them. Further, she stated that the program would like to suggest a law be put into place as soon as a program is revoked they be given six (6) months to prepare a defense.

**Board Discussion:**

- Mr. Vertido stated that published examination statistics specify that out of forty (40) quarters from July 2008 through June 2016, the program has been compliant with the State requirement only six (6) quarters. He noted that the program was requesting the Board to change a law to allow a noncompliant program to continue admitting students with a demonstrated failure to provide students the education contracted for. However, if the Board agreed with the program's request, the Board would fail to protect the consumer. He stated his disagreement with the requested six (6) month extension.

Ms. Garcia responded that the six (6) month extension would allow the program the opportunity to prepare the changes they will make for a future class prior to the year they would have to wait to request Board approval.

- Ms. Avella said once a program is removed from the list, the Board is under no obligation to notify a program to reapply a year later. The burden is on the program to submit information they desire the Board to consider.

Ms. Garcia responded that the program submitted a letter to the Board on May 25 requesting placement on the agenda, and that the program had desired a common courtesy notification regarding its request for reconsideration.

**MOTION: Accept the report and adopt the recommendations as follows:**

Uphold the Board's May 13, 2016, revocation of provisional approval of the Bay Area College of Nursing, Daly City, Vocational Nursing Program.

**Moved:** Todd D'Braunstein

**Seconded:** John Vertido

**Public Comment:** None

**Board Discussion:** None.

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

**18. C.2. Preferred College of Nursing, Van Nuys, Vocational Nursing Program.** Request for Reconsideration of Revocation.

Donna Johnson reported that the Preferred College of Nursing, Van Nuys, Vocational Nursing Program was presented for reconsideration of decisions rendered on May 13, 2016 to: 1) Deny approval of the program's request to admit one (1) class of 20 students; 2) Revoke the program's provisional approval, effective immediately; and 3) Remove the program from the Board's list of *Approved Vocational Nursing Programs*. The recommendation is to uphold the May 13, 2016 decision.

**Board Discussion:**

None

**Program Representative:**

- Alina Lanver, counsel for the Preferred College of Nursing (PCN) Vocational Nursing Program, stated the Board is urged to reverse decisions rendered on May 13, 2016 Board meeting. She stated that the program had only nine (9) days before the Board meeting, when they learned the NEC was recommending the program's right to operate was being revoked immediately. She stated that: 1) the program was only allowed three (3) minutes to refute the recommendation; and 2) believes the recommendation was unwarranted.
- Ms. Lanver stated that the Board should have allowed the program to present evidence and be permitted to question the NEC, which would have established the NEC's error. She alleged that the Board was in violation of the Business Professional Code, as it failed to hold a meaningful hearing showing good faith.
- Ms. Lanver alleged the NEC has been inconsistent in her recommendations and compared her client's college to other colleges put on provisional approval with lower passing rates, but granted more students. She alleged that having viewed the May 13, 2016 webcast, no admissible evidence was presented to support the decision to revoke approval of the program. Further, she alleged that the Board failed to adopt any recommendations, approve or accept the NEC's report or its contents.
- Ms. Lanver confirmed that the program sought reconsideration by the Board, but wasn't aware they were placed on the August agenda until August 16 with a

deadline to submit documents by August 18. She alleged that when the program received the report, nothing had been added even though all the deficiencies had been completed.

- Ms. Lanver stated the program is requesting the Board to reverse its decision and reconsider PCN's request to admit twenty students. She alleged the Board lacked evidence to justify decisions rendered May 13. She stated that PCN urged Board Members to reject the report and recommendations made by the NEC, stating the Board needs to have a better mechanism to allow programs facing revocation the opportunity to present their evidence and defend themselves rather than get revoked.

#### **Board Discussion:**

- Ms. James-Perez reminded attendees that the Board reviews each program based on identified findings and evidence. The Board renders decisions specific to all evidence presented including program pass rates.
- Ms. James-Perez requested legal counsel address the program counsel's allegation the Board was in violation of the Business Professional Code, as it failed to hold a meaningful hearing showing good faith.

#### **Legal Counsel Discussion:**

- Ms. Bon requested clarification of the alleged misconduct. Program counsel read California Code of Regulations 2526.1 (c) and alleged the Board had failed to provide the program an opportunity to show a good faith effort to correct the deficiencies. She stated that such failure constitutes a violation of the statute and regulation.
- Ms. Bon responded the California Code of Regulations Section 2526.1(c) states the Board may place any program on provisional approval when the program fails to meet all requirements in Chapter 6.5 and in Section 2526. If the program fails to meet all requirements at the end of the initial provisional approval period, provisional approval may be extended if the program demonstrates to the Board's satisfaction a good faith effort to correct all deficiencies. Ms. Bon advised that the Board placed the program on the May agenda to allow the program to present its good faith efforts to correct identified deficiencies. Further, she advised that a program's failure to correct delineated areas of noncompliance is cause for revocation of provisional approval. The Board is authorized to make such determination pursuant to the identified regulation.
- Ms. Lanver responded that the program had demonstrated a good faith effort at the May 13, 2016 Board meeting. She stated that PCN had notified the accrediting Bureau of Health Education Schools of its intentions to make PCN a credible and competent facility. She reported that PCN is supported by California Assembly Member Azarian. Further, she reported the investment of thousands of dollars since April 2015, to achieve goals that included: 1) establishment of PCN as an effective and high performing educational institution; and 2) working with staff to resolve issues such as paying all past due late fees. She reported issues addressed by PCN to resolve all deficiencies listed in NEC reports.

**Board Discussion:**

- Ms. James-Perez requested PCN counsel to clarify the specific hearing referenced. Additionally, she asked if counsel was requesting creation of a new mechanism to allow programs to demonstrate their efforts.

Ms. Lanver responded that it is her opinion that the current protocol limits the time allowed for presentation of a defense, provides the Board a one-sided perspective, and does a disservice to the Board. She proposed the creation of private mediation instead of presentation of program's deficiencies in a public forum.

**Program Representative:**

Elizabeth Estrada, PCN Program Director, reported that, in her opinion, the program failed to receive the required support from the assigned NEC, alleging that calls and emails were either ignored or delayed. Further, she reported that the program was asked to provide a new curriculum but received no feedback or guidance on the curriculum submitted. She voiced agreement with a new and fair procedure for addressing programs for which revocation and closure are considered. She stated that she is an experienced Director, but was allowed only five (5) months to correct identified deficiencies.

The Director reported that PCN had requested removal from the February 2016 agenda to allow time to address all violations and feels that was accomplished. She stated the program assumed its actions had corrected violations and did not expect immediate revocation at the May Board meeting. She stated that the school has been in existence for sixteen (16) years and has been successful. She reported changes at PCN over the preceding 1½ years were being addressed and that all guidelines were adhered to. The Director stated the program deserves another chance and asked that the Board's reconsideration of its prior decisions.

**Board Discussion:**

- Mr. Dierking advised that respondents should refrain from citing names of individual staff unless germane to the discussion.
- Ms. Bass de Martinez requested advice of Board counsel.
- Ms. Bon advised that the program appeared to request the Board's reconsideration of its May 2016 decision to revoke approval of the program. Further, she advised a program's failure to correct delineated areas of noncompliance is cause for revocation of provisional approval.

**MOTION: Accept the report and adopt the recommendations as follows:**

Uphold the Board's May 13, 2016, revocation of approval of the Preferred College of Nursing, Van Nuys, Vocational Nursing Program.

**Moved:** Todd D'Braunstein

**Second:** John Dierking

**Public Comment:**

- PCN legal counsel voiced opposition to the motion, stating the program made good faith efforts to correct identified deficiencies. She advised that existing regulations

allow the program to receive an extension of provisional approval if they show a good faith effort. She stated that PCN had corrected all identified violations. She requested assignment of a new NEC and an objective assessment and analysis of implemented corrections.

### **Board Discussion:**

- Mr. Vertido noted the report cited eleven (11) quarters of noncompliant average annual pass rates of first time program graduates on the licensure examination and that noncompliance continued through Quarter 2 – 2016 (April – June 2016).

Ms. Estrada denied receipt of the latest statistical report. PCN legal counsel noted that the NEC's initial report identified 12 violations two (2) years ago and the last report included three (3) violations.

- Ms. Avella identified difficulty in evaluating improvement when information has not been received from both sides. Further, she stated that the program could request to be placed on the next agenda and put together a comprehensive report for a more thorough evaluation by Board Members.
- Ms. Norton stated opposition to the program's revocation but is unsure of how to proceed.
- Ms. Avella stated the Board could vote on the motion, but the program has the right to request reconsideration.
- Ms. James-Perez clarified the program's right to request reconsideration and present additional information if the Board votes to uphold the revocation.
- Mr. Dierking stated that in his opinion, the record does not support PCN's allegations that: 1) the Board failed to give the program sufficient notice or an opportunity to be heard; and 2) PCN had received discriminatory treatment.

### **Public Comment:**

- Brian Chilstrom, Vice President, Instruction, Pacific College, reported positive experiences with the NECs in addressing and resolving programmatic issues. He stated concern that the program blamed the NEC team. He noted that he listened to the school cite the actions taken to overcome its provisional status, naming investors and the support of a member of the California Assembly. However, the school failed to mention what they did for the students. Representatives reported money spent buying equipment but failed to state the amount of money spent for students who pay tens of thousands of dollars in tuition fees for an education to become licensed. He noted that the Board is required to protect the consumer student. He urged the Board to affirm its decision and would also like to see the amount of money spent towards students during the period of provisional approval. He advised that the program is responsible for its deficiencies and current status.
- Danna Garcia alleged inconsistency by the Board in rendering decisions regarding programs. She stated that Board Member Avella's statement that the program could request reconsideration at the next Board meeting contradicts statements made regarding the Bay Area College of Nursing, Daly City, Vocational Nursing Program. She stated she recommends a six (6) month appeal process and proposed the Board seek counsel and statutory change.
- Board Member Avella responded that her comments were mischaracterized. She said when a program's approval is revoked, the program is not precluded from petitioning the Board for reconsideration. Further, she stated that decisions are not

made by one person, they are made and reviewed by Board staff and SNEC. Finally, she voiced exception to constant public criticism referring to individual staff by name.

- PCN legal counsel restated that the program has increased the hours, received letters of intent, and purchased supplies for the betterment of the students and the community. She stated it was not her intent to single out anyone but feels the program did not have an opportunity to show its good faith effort.
- Kari Weybrew voiced concurrence that the program was noncompliant with regulatory requirements regarding program pass rates. She stated the process to come before a Board is common in all states and is helpful for schools because it makes them realize their expectations.

**Board Discussion:**

- N. Marks, DCA Supervising Attorney, clarified the motion and process. She advised that a motion for reconsideration should be made by the prevailing party for the motion in May, and the Board could reconsider the decision at a future meeting.
- Ms. Bass de Martinez stated that the revocation was based on the information available to Board Members at that time. She noted based on presented information, it appears the program made a number of corrections quickly. She noted it is unclear as to why the corrections were delayed.
- Ms. Bon clarified that the motion is to uphold the Board's May decision for immediate revocation.

Ms. Norton opposed, Mr. Vertido was in favor, Ms. Bass de Martinez was in favor, Ms. Endozo opposed, Mr. Moreno opposed, Ms. James-Perez was in favor, Mr. D'Braunstein was in favor, Ms. Avella was in favor and Mr. Dierking was in favor. Six (6) in favor, three (3) opposed. **The motion passed**

**18. D. Consideration of Program Closure of a Program on Provisional Approval.**

**18. D.1. Bay Area College of Nursing, Palo Alto, vocational Nursing Program**

Donna Johnson reported that the Bay Area College of Nursing, Palo Alto, Vocational Nursing Program is presented for consideration of program closure, effective August 12, 2016. Acceptance of the program's closure is recommended.

**Board Discussion:**

Ms. James-Perez advised that no action is required by the Board as the program requested voluntary closure.

**17. Education Committee:**

Ms. James-Perez announced that as currently defined, the Education Committee is comprised of two (2) members that are appointed by the Board President. The Committee is charged with gathering public input and making recommendations to the Board for action relative to the education of safe and competent vocational nurses (VNs) and psychiatric technicians (PTs). In so doing, the Committee considers the health care needs of the consumer and applicable research. The Committee considers entry level competencies necessary for safe and effective practice and curricular content and hours

critical to achievement. The Committee considers established professional standards relative to education, health care, and the nursing profession, and assists the Board in ensuring the educational preparation, licensure, and practice of a safe and competent workforce.

The Committee considers the compliance of prelicensure educational programs with statutory and regulatory requirements and established professional standards. When noncompliance is substantiated, the Committee makes recommendations for action to the full Board up to and including modifications in the program's approval status.

### **Board Discussion:**

- Ms. Norton stated that the Committee may be a more effective way of accomplishing objectives but noted that the Committee meets monthly and the Board meets quarterly. She questioned how the Board would notify programs they were scheduled for Committee vs Board presentation.
- Dr. Brown noted that the full staff of NECs allow additional reviews of programs. Programs will be notified similar to the way they are notified to appear before the Board. Both the NEC and the SNEC send an email and a fax to the program. She noted that the Board has alternatives. The Board can have the Education Committee handle the initial provisional approvals and make recommendations, meet every month or every other month, or the Board can expand to three (3) days. She noted that the agenda is expanding beyond the eight (8) to ten (10) hour days. The Education Committee is a way to lighten the load presented for Board consideration.
- Ms. James-Perez said it was her understanding that Board discussion about the process had been prohibited due to possible violation of the Open Meeting Act. She stated that the Education Committee was formed to consider all the information and make recommendations to the full Board with additional information if indication to expedite the decision making process.
- Ms. Avella stated understanding of the goals to streamline the process but expressed concerns with the execution. She stated she desires the NECs to feel support and not increase their workload. Further, she stated the need for a clear and concise presentation of the most current information. She voiced confusion as the process was presented.
- Dr. Brown reported that the expansion of two (2) clerical roles will assist the Committee and Board. She identified three (3) options. The Board could: 1) direct programs to the Education Committee; 2) expand to three (3) days; or 3) hold meetings every (2) months rather than quarterly.
- Ms. Norton asked if the Education Committee would only meet to consider placement of programs on provisional approval.
- Ms. Bass de Martinez stated the Education Committee was asked to meet monthly as needed, but no more than that.
- Ms. Norton opined that the work of the Committee and the NEC would be duplicative and result in more reading for Board Members.
- Ms. James-Perez responded that the new process would result in increased material for review by Board Members but would provide programs a chance to be heard sooner. She stated that the Board would continue to consider all recommendations. The Education Committee role was expanded due to the projected increase in program inspections and reports for Board consideration.

- Ms. Norton asked the number of times programs would be presented for consideration by the Education Committee.
- Ms. James-Perez responded the Education Committee would consider program placement on initial provisional approval only. She reiterated that Board Members are required to vote on the duties and authority of all committees.
- Mr. Moreno suggested it would be helpful to have a summary sheet highlighting the difference between the NEC report and the committee's recommendations.
- Ms. Avella asked the NECs their recommendations and approach for Education Committee and what recommendations would streamline the process to allow staff to prioritize workload.
- C. Anderson responded the Education Division could function very well with the Education Committee and noted that the Committee report to the Board included Committee discussion in addition to NEC findings and recommendations.
- Ms. Avella asked about the timelines for the NEC writing the report for the committee and anything that happens after that. She questioned if the process actually streamlined.
- Dr. Brown stated additional clerical staff would be utilized to ensure reports are updated as required. Dr. Brown stated that utilization of the Education Committee was similar to that of other Boards and reminded that using available expertise would allow the Board to have conversations that raise the standards.
- Ms. James-Perez noted future agenda will include an increasing number of programs for the Board's consideration; however, it is not administration's intention to cause delays or more work. She also noted that utilization of the Education Committee would provide two (2) levels of review prior to presentation for Board consideration.
- Ms. Bass de Martinez stated that she did not identify increased work but saw the Committee's work as an opportunity to work with a colleague to talk to the school, ask questions, and allow more time to provide information for the program to correct the violations.
- Ms. Norton noted that the role of the committee is to gather input from the public and asked how such input would be gathered.
- Mr. D'Braunstein stated that initially the process was difficult because it is so new, and suggested further evaluation of the revised process.
- Ms. James-Perez said the full Board meets quarterly and reevaluation of the process is planned for the November meeting.
- Mr. D'Braunstein stated that he preferred the committee rather than adding an additional full day to the schedule of Board meetings.
- Ms. James-Perez said the NECs were consulted, it wasn't just thrown at them, they felt it could work and the committee was willing to put in the time. They would make the improvements given as needed at each meeting. There are two (2) issues that were brought up, one to vote as a Board if giving delegated authority to the Education Committee. If the Board votes affirmatively, a motion is required to allow the Southern Directors' request to be referred to the Education Committee.
- Ms. Bon clarified that in delegating authority, the Board was not proposing to delegate decision making authority, just recommendations.
- Ms. James-Perez clarified no school will be seen by the Education Committee only, this allows schools on initial provisional approval to be seen by the Education

Committee and Board. Both the NEC and the Education Committee will present reports and recommendations. The final decision will be made by the Board.

- Ms. Norton asked if schools would benefit from further investigations, such as schools seeking possible revocation.
- Ms. James-Perez responded yes, the Southern Region Directors is an example of that.
- Ms. Norton asked how the committee felt about that
- Mr. Vertido responded that he welcomes the opportunity to help programs address and resolve problems and help them to be successful. It would be helpful for schools that are on probation to help them one-on-one before they get a final decision from the Board.
- Mr. D’Braunstein note that when a program is placed on the agenda, typically the Board allows a year prior to reconsideration. Authorizing the program to be placed on the Committee’s agenda would provide earlier intervention to address program deficiencies negatively impacting required performance.
- Mr. Vertido says it does give program’s time to prepare for the meeting with the Committee holding them accountable for resolving problems.

**MOTION: Delegate to the Education Committee initial screening of schools to be placed on initial provisional approval and make recommendations to the Board.**

**Moved:** Samantha James-Perez

**Seconded:** Tammy Endozo

**Board Discussion:**

- Ms. Norton suggested amendment of the motion to decrease specificity and allow the Board the ability to assign other issues to the Education Committee.
- Ms. James-Perez requested clarification from legal counsel.
- Ms. Bon advised that the motion could address structuring the work of the Education Committee, for example initial provisional approval of programs or general policy items. Issues governing that structure would depend on the Board’s planned utilization of the Committee, including overall function and specific programmatic issues. A second component is the number of members for the committee.
- Ms. James-Perez noted that previously Board Members had voiced a preference for a two (2) member committee for efficiency and the amount of work accomplished.
- Ms. Bon recommended the Board consider a four (4) member committee.
- Mr. D’Braunstein suggested amending the motion to require programs to be placed on the Education Committee agenda six (6) months prior to placement on the Board agenda. He opined that earlier intervention may allow programs the opportunity to make needed corrections.

**AMENDED MOTION: Delegate to the two (2) person Education Committee initial screening of schools to be placed on initial provisional approval and make recommendation to the full Board and review other schools as deemed necessary and make recommendations to the full Board.**

**Moved:** Samantha James-Perez

**Seconded:** Tammy Endozo

**Public Comment:**

- Ms. Marks noted clarity was required regarding the meaning of other school matters.

- Ms. James-Perez responded that it was left broad on purpose to include schools that want to admit students, the directors association, schools that are being revoked, instead of listing everything individually.
- Ms. Marks asked if there would be future delegations to the Committee later and if motion was meant to allow future amendment of delegations or that all issues regarding programs would be addressed by the Education Committee. She recommended the Board notice Education Committee meetings as any committee under the Bagley Keene Act as a ten (10) day notice is required for all programs to ensure transparency, or expand the composition to a three (3) person committee.
- Ms. James-Perez noted that consideration of Mr. D’Braunstein’s amendment as a separate motion would facilitate clarity.
- Mr. D’Braunstein said he would make a separate motion.

**SECOND AMENDED MOTION: Delegate to the two (2) person Education Committee initial screening of schools to be placed on initial provisional approval and make recommendation to the full Board.**

**Moved:** Samantha James-Perez

**Seconded:** Tammy Endozo

**Board Discussion:**

- Ms. Avella expressed concern that a smaller committee composition increases the chance for bias.
- Ms. James-Perez requested clarification as to whether the recommendation is to increase composition of the committee or cease utilization of the committee.
- Ms. Avella responded a desire to cease utilization of the committee as presented.

**Public Comment:**

- Arvella Battick, director, Glendale Career College Vocational Nursing Program requested clarification if the motion would require Education Committee meetings be open to the public or private.
- Ms. James-Perez responded that the motion would require Education Committee meetings to be publicly noticed.
- Dr. Brown noted that all meetings are open to the public.
- Ms. Marks said it is her understanding the last committee meeting wasn’t noticed and agreed with Ms. Avella with a smaller committee there is a greater chance of bias so she urged the Board to consider that.
- Ms. James-Perez was concerned about the meeting not being noticed.
- Dr. Brown said there must have been a staffing error and will check into that.
- Kari Weybrew, administrator, Concorde Career College Vocational Nursing Programs, asked if the Board would consider having public advisory members who are elected or volunteer to serve a term on the Education committee.
- D. Garcia reported that she had tried twice to get on the interested party list, but didn’t receive any email notifications.
- Ms. James-Perez responded that the Board is compliant with statutory requirements specified under the Bagley Keene Open Meeting Act.

- Ms. Norton restated that she relies on the expertise of the NEC and the knowledge of the members on the Board. The Education Committee will assist the Board in providing consistent service to the schools.
- Ms. James-Perez voiced concern with specifying a number to the committee. She noted with Board members transitioning out and new Board members coming in, if a new member has the knowledge and wants to be a part of the Education committee, she wants to be able to add them without having to wait to vote on it.
- Mr. Dierking stated that committee composition should be addressed in the Board Members' Administration Procedures Manual.
- Ms. Bon advised that the procedure manual is not official and is not on the agenda. There are currently no procedures or policies, which is why the manual was drafted. The only existing policy they have is from 2010, which says the Board President determines the selection process for committees and there is a line that says Board members are in charge of two (2) to four (4) committee members. Her role is to clarify the intentions of the Board.
- Ms. James-Perez expressed a preference to delete specific committee composition and allow the assignment of three (3) Board Members if warranted.

**THIRD AMENDED MOTION: Delegate to the Education Committee initial screening of schools to be placed on initial provisional approval and make recommendation to the full Board.**

**Moved:** Samantha James-Perez

**Seconded:** Tammy Endozo

**Board Discussion:**

- Mr. D'Braunstein stated amendment of the motion to specify committee meetings will be duly noticed according to the Bagley Keene Open Meeting Act.
- Ms. Avella voiced concern that in an effort to streamline the process, the Board is creating more work and that extra work will not assist the Board in rendering required and applicable decisions.

**FOURTH AMENDED MOTION: Delegate to the Education Committee initial screening of schools to be placed on initial provisional approval and make recommendation to the full Board. All meetings will be duly noticed according to Bagley Keene act.**

**Moved:** Samantha James-Perez

**Seconded:** Tammy Endozo

**Legal Counsel:**

- Ms. Marks clarified that duly noticed or required to be noticed was such notice is not required for a two (2) person committee.
- Ms. Bon advised that the recommendation states ALL meetings will be noticed.

**PUBLIC COMMENT:**

None

Ms. Norton, Mr. Vertido, Ms. Bass de Martinez, Ms. Endozo, Mr. Moreno, Ms. James-Perez, Mr. D'Braunstein, Mr. Dierking all voted in favor. Ms. Avella voted against the motion.

**The motion passed.**

**MOTION: To place on the Education Committee agenda schools that are within two (2) quarters of coming to the full Board for reconsideration of provisional approval and present a report to be included with the full report to the Board.**

**Moved:** Todd D'Braunstein

**Seconded:** Donna Norton

**Board Discussion:**

- Mr. D'Braunstein feels schools that come before the full Board for reconsideration of provisional approval are unprepared and this step would give them a brief overview.

**PUBLIC COMMENT**

None

**BOARD DISCUSSION**

- Mr. Dierking questioned possible adverse impact on staff.
- Dr. Brown said in terms of sequencing, those two (2) quarters for reconsideration is a lot different than provisional and would cause a negative impact on staff.

Mr. Dierking, Ms. Avella, Ms. James-Perez, Mr. Moreno voted against the motion. Mr. D'Braunstein, Ms. Norton, Ms. Endozo, Mr. Vertido voted for the motion. Ms. Bass de Martinez abstained. There was a four (4) to four (4) vote and one (1) abstain. **The motion fails to pass.**

**Special Presentation**

- Ms. James-Perez made a presentation to Mr. Vertido and gave an Appreciation Award Plaque for his service on the Board from 2005-2016. She said she appreciates his knowledge and expertise. He will receive a Certificate of Recognition from his Assemblywoman.
- Mr. Vertido thanked everyone and said it has been an honor of a life time and hopes he made a positive impact to the profession.

**19. Human Resources Overview**

Ricardo DeLaCruz, Personnel Officer, DCA Office of Human Resources.

**General Update, Including staffing and procedures.**

Mr. DeLaCruz discussed the launch of a new system which is called ECOS or Examination Certification Online System which allows candidates to apply for vacancies online. In addition, he advised that hiring managers also have access to view and manage applications online that expedites the hiring process. The new system will also create an online database that will be accurate and real time with monthly stats for proper assessment.

Mr. DeLaCruz commended Dr. Brown for reducing the Board's vacancy rate by evaluating the structure and current process and taking steps required to improve Board operations. He thanked Dr. Brown for implementing changes to expedite the hiring process.

**Board Discussion:**

- Ms. Endozo asked whether the ECOS system is in conjunction with the Civil Service Improvement (CSI) project. Mr. DeLaCruz responded that ECOS is one part of the improvement launched by the California Government Operation Agency to improve the job search and make it easier for applicants.
- Dr. Brown said she asked HR for reclassification of about nine (9) positions and HR was very responsive in helping with the needs of the Board.
- Ms. James-Perez explained that the Board has gone through a restructuring of its organization, one of them being the CEA position. An update was requested. Mr. DeLaCruz responded that Dr. Brown had submitted a request to redirect the CEA position in May 2016; however, the 30 day review was paused by CalHR. The request is pending a meeting scheduled with CalHR on August 30, 2016.
- Ms. James-Perez commented on how important this redirection is to the restructuring of the Board.

**Nursing Education Consultant Salary Proposal**

Mr. DeLaCruz reported that CalHR had requested increased salary proposals in December. As of today, the Union and CalHR haven't come to an agreement with a tentative contract and the proposal is still being considered. His staff has prepared a classification specification revision in the event the state doesn't approve the increased salary.

**Board Discussion:**

- Ms. Endozo asked additional information regarding the status of the proposal. Mr. DeLaCruz responded that the proposal is with the bargaining team that negotiates with the State of California and that he was unable to discuss the contents of the proposal in open session.
- Mr. Vertido commented that NECs have not received a pay raise for more than 8 years which is a disservice to them. He supports a pay raise and would make it retroactive due to the time they put into monitoring the various schools.

**Discussion of EO Salary Band and Processes for Requesting an Increase.**

- Ms. James-Perez explained the Board was unaware of specifics of the EO salary range and identified a lack of competitiveness with the EOs for other CA Boards and Eos from other states. She noted that the previous EO had been in the position for over a decade so when the hiring committee met, they did a little research, but looking back, they should have looked into the salary range a little harder.
- Mr. Moreno inquired what it would take to start the process. Mr. DeLaCruz responded that if the Board desired to increase the salary level, the Board president may submit a proposed salary range draft. The increase may not impact Dr. Brown's salary depending on the minimum and maximum range.

- Ms. Bass de Martinez asked if HR has anything that deals with salary equity. Mr. DeLaCruz responded that DCA does not deal with salary equity, however CalHR conducts examinations of salary equity. To increase the salary, Mr. DeLaCruz recommended the Board vote to raise the band to a new minimum and new maximum and the Board should vote to approve to raise Dr. Brown's salary.
- Ms. Norton inquired as to the current exempt band and when the last increase was. Mr. DeLaCruz responded that the last increase was about two (2) years ago.
- Ms. James-Perez expressed concerns that the position has taken on more responsibilities with the restructuring of the Board. She reported that Executive Members have discussed the current salary and feel the need to increase the salary band.

**MOTION: To increase the salary band for the position of EO of the BVNPT.**

**Moved:** Mr. Moreno

**Seconded:** Mr. Vertido

**Public Comment:**

- Jon Burke, Manager, DCA Board and Bureau Relations, advised that Mr. DeLaCruz is unable to take the motion without the specific increase of the band. Further, he noted that if the Board keeps the minimum and increases the maximum there could be more options to change the EO's position.
- D. Garcia commented that she met the current EO and feels she is going to bring change to the Board and deserves a salary increase.
- Representative from DCA inquired about a second motion regarding what the increase would be.

**Board Discussion:**

- Ms. Norton said she doesn't feel comfortable making a determination based on information presented.
- Ms. James-Perez clarified the motion that the Board will direct the Executive Committee to develop a specific recommended increase and report to the Board at the next Board meeting.
- Mr. Dierking requested clarification of step increases for the EO position.
- Ms. Avella requested clarification to ensure that the salary increase is for the EO position and not specific to Dr. Brown.

Ms. Norton and Ms. Avella abstained, Mr. Vertido, Ms. Bass de Martinez, Ms. Endozo, Mr. Moreno, Ms. James-Perez, Mr. D'Braunstein, Mr. Dierking voted in favor. **The Motion passes.**

**MOTION: To direct the Executive Committee to develop a proposed salary band increase in consultation with HR Personnel and bring the recommendation back to the full Board.**

**Moved:** John Dierking

**Seconded:** Andrew Moreno

**Board Discussion:**

- Ms. Bon asked clarification of the salary range the Executive Committee would be working with.
- Mr. DeLaCruz responded that the Board determines the salary range. The Board must submit justification of factors that result in the need to increase the salary band. His role is to provide options to the Board.

**Public Comment:**

None

Ms. Norton and Ms. Avella, abstain, Mr. Vertido, Ms. Bass de Martinez Ms. Endozo, Mr. Moreno, Ms. James-Perez, Mr. D’Braunstein, and Mr. Dierking, voted in favor. **The Motion passed**

**20. Fee Audit Report.** Dan Edds, Fee Auditor.

- Ms. Avella suggested to table agenda item 20 to the November Board Meeting so that the consultant could sit with DCA Finance and EO to address issues in the report. Specifically errors in the Board’s fund reserve, which is what the report is based on and is inaccurate.
- Ms. James-Perez responded that she had spoken to the Director of DCA and they agreed she would announce the errors.
- Ms. Avella stated that she had spoken to a senior person at DCA who asked that the report be tabled.
- Ms. James-Perez requested that communication between the DCA Executive Office and Board Executive Committee be respected.

**MOTION:** To table agenda item 20, the fee audit report to the November Board Meeting.

**Moved:** Vivien Avella

**Seconded:** Todd D’Braunstein

**Public Comment:**

None

**Board Discussion:**

- Dr. Bass De Martinez asked why it is not appropriate to discuss the item at this time.
- Mr. D’Braunstein explained that Ms. Avella who has a financial back ground has significant concerns regarding the report and feels there isn’t enough time to express or review the report.
- Dr. Brown added that the concerns are related to some errors in a statement regarding reserves in the report, however the calculations are correct. We will have enough reserves to last us through fiscal year 18/19 and was something that was going to be clarified by Ms. James-Perez.
- Ms. Avella disputed Dr. Brown’s comment and pointed out the statement that the reserve is completely depleted and is running in a deficit, but DCA said there are no concerns. She explained that we are actually running a surplus of 11% and feels the report is being used as a basis to increase fees.

- Ms. James-Perez confirmed that there is language in the report on pages 7 and 13 that are to be corrected by Mr. Edds.
- Ms. Endozo inquired clarification as to origin of the request for the audit.
- Ms. James-Perez responded that it began when John Brooks was the Acting Executive Officer.
- Ms. Norton stated she desired to hear the report since they were already there.

**Public Comment:**

None

Ms. Norton, Mr. Vertido, Ms. Bass de Martinez, Ms. Endozo, Mr. Moreno, Ms. James-Perez voted against the motion, Mr. D'Braunstein, Ms. Avella, Mr. Dierking voted in favor of the motion, (6) against the motion, (3) in favor of the motion. **Motion fails.**

**Board Discussion:**

- Ms. James-Perez wanted to clarify page 7 under history of fee changes, it was written that the Board's fees hasn't been changed in the last 20 years. The Board establishes maximum and minimum fees, but there was a fee increase in 2009, which was amended through the Regulatory process. On page 7, it states the Board is operating with no reserves and on page 13, the reserve has been completely depleted. DCA clarified as of 2016 the Board has approximately 12.6 million. She clarified with Mr. Edds that he meant to say funds are depleting at a faster pace than anticipated. Mr. Edds said that he made an error regarding page 13.
- Ms. Avella asked if the graph on page 12 is based on the assumption that the Board has no reserve. She said she hasn't seen anything saying BVNPT is depleting its reserve, so she can't make any decisions based on the report.
- Mr. Edds said that the DCA Budget Office has established that in two (2) years the budget will be depleted and at some point BVNPT is going to have to start rebuilding its reserves. He took the assumption that it may take two (2) years to get the fee schedule established so he started with a zero balance. The presentation involved the scope and methodology that's needed to review net revenues, review of operations, review of Enforcement related costs, fee structures and restructure, recommendations and the next steps.
- Mr. Dierking asked if the net revenue includes cost recovery associated with discipline orders.
- Mr. Edds said monies collected based on Cost Recovery are not counted as revenue.
- Ms. Avella asked how he defines net revenue, Mr. Edds responded that net revenues are calculated by the number of annual fees processed on a daily basis.
- Ms. Avella asked how that could be a negative number.
- Mr. Edds responded it's a negative number relative to expenses.
- Ms. Avella stated that by the fiscal year 16/17, BVNPT will have a net deficit of almost 2 million dollars, she requested Mr. Edds to provide underline projections to support that. Mr. Edds explained it would take additional time. Ms. Avella wanted to know the basis of his PNO since she hasn't seen anything in writing and has a hard time going by assumptions to make a decision. There are no projections, she would like to have an explanation of growth, enforcement expenses etc., she asked him what assumptions he used.

- Mr. Edds advised that presented assumptions were based on enforcement costs not actions.
- N. Marks provided an analysis of the fund conditions from DCA's Budget Office. He noted a discrepancy on Mr. Edds report, which came from the same department. Mr. Edds offered to provide a higher level assessment and skip a couple of the report slides.
- Mr. Burke stated per the Director of DCA, that the report given to Mr. Edds included BCP funds that were not approved and are confidential.
- Ms. James-Perez confirmed that the analysis was based on BCPs that had not been approved.
- Dr. Brown commented that the BCP is for things that the Board has not had for decades, such as the telephones and expanding the Education Division.
- Mr. Edds commented that there is no dedicated funding source for education consultants in regards to specific fees. He suggested that the cost either has to be incorporated into the existing fees from licensees or a separate or restructure of the fee schedule. He commented that the best possible option would be to set up a new fee schedule.
- Ms. Avella asked what the justification was used to propose a fee for new school applications.
- Mr. Edds responded that nurse consultants spend an additional 60 hours to process, reviewing or approving new classes for the schools.
- Ms. Avella asked how do you determine which services should get charged a fee, such as enforcement with desk evaluations.
- Mr. Edds said in regards to Enforcement it's better to allocate a charge based on the unit, but with Education, it's easier to establish a fee per program.
- Mr. Vertido explained the idea of charging an application fee to programs was based on the prior suggestion of program representatives.
- Ms. Norton commented that charging the programs a fee is a better idea than raising the fees charged to the licensees.
- Ms. James-Perez commented that the Board is not ready to accept new fees since it needs to have more discussions regarding concerns from the Board members.
- Ms. Bon advised that the Board is not legally allowed to accept or discuss new fees as such action is not on the current agenda.

**Motion:** Not required.

## **21. Review and Adopt May 12-13, 2016 and June 20, 2016 Board Meeting Minutes.**

- Ms. Norton said there were corrections for the June 20 meeting that need to be made. She wasn't at the Board meeting, but is not listed as absent and there are members that were there that are listed as absent. There was a comment in the May meeting on page 38 under the adoption of the November and February Board minutes regarding her taking vacation a year in advance that comment was in regard to moving the meeting date and needs to be moved to page 23. There were some corrections that were sent out, if they could highlight the corrections it would be helpful. In the minutes it was noted by Mr. D'Braunstein to have the topic of Cost Recovery put on the agenda, but it wasn't put on the agenda.

- Mr. D’Braunstein said he believes it was missed on this agenda and that it would fall on the next agenda so he didn’t feel the need to bring it up.
- Ms. Bon advised that clarifications need to be made on the May 12 minutes and May 13 minutes. She advised tabling Board action until the corrections are made.

**MOTION: To table agenda item 21 for the next meeting to allow for corrections to be made**

**Moved:** Mr. D’Braunstein

**Seconded:** Mr. Dierking

**PUBLIC COMMENT**

None

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

**Board Discussion:**

- Ms. James-Perez requested legal clarification regarding the Board’s inability to vote on the fee audit report.
- Ms. Bon responded the agenda outlines the fee audit report, but doesn’t mention the need to vote on anything. Whatever action the Board is proposing to take, that action needs to be placed on the agenda.
- Mr. Dierking clarified that Board members usually receive a copy of the report for information, the correct language might be possible action for license fee increase.
- Ms. Bon suggested future agenda items may want to make it clear what action the Board members intend to take and the Board may want to prioritize the rest of the agenda items.

**22. Executive Officer’s Report**

**22. A. 2016 Sunset Oversight Review**

The EO provided a sample timeline and asked Board Members to consider adding an October meeting date. She also suggested the Board form an ad hoc Sunset Subcommittee to review draft iterations as they come in with the understanding the final report will come before the Board in October. She noted that the report must be submitted in November to go to the Legislature. The October meeting would be WebEx similar to previous meetings, where you would need to be in a public facility or in the Sacramento office. The suggested date is October 19, 2016.

**Board Discussion:**

- Mr. D’Braunstein asked whether the Board would want to consider doing a full day meeting in October, taking some of the November agenda items.
- Ms. Bass de Martinez said if the October meeting is going to be an all-day meeting that is a face to face meeting versus a web meeting.
- Ms. James-Perez clarified with Mr. D’Braunstein whether his intention was to have a full day meeting in person.

- Mr. D’Braunstein responded a full day in person meeting should be held in Sacramento to try to reduce items placed on the November agenda.
- Ms. Avella stated she would prefer a WebEx meeting, voicing concern regarding the impact of the increased number of meetings and difficulty in attending all scheduled meetings.
- Ms. James-Perez asked for comments regarding an all-day WebEx meeting.
- Ms. Norton stated she is open to either with the caveat that she would need to check with her employer and said she needed to leave for the airport.
- Ms. Endozo stated she does not desire an all – day teleconference due to difficulty hearing participant’s comments.
- Ms. Bass de Martinez requested clarification if the all-day meeting in October would be face to face. If there isn’t an all-day meeting, then the November meeting would go from two (2) to three (3) days. She noted that that change would not only be an extra cost to the Board, but staff would need to make travel arrangements and the public would need to be notified.
- Ms. James-Perez clarified the original discussion from the EO’s report. She reminded Board Members of the March sunset review and resulting timelines. Presentation of the report to the Board would occur at the proposed October meeting. The original intent is to have an October 19 WebEx meeting from 9:00-11:00.
- Ms. James-Perez confirmed a quorum for a teleconference from 9:00-11:00. Six (6) Board Members confirmed planned attendance. Mr. Vertido and Ms. Norton stated employer confirmation was required.

### **23. Enforcement Committee Report**

Mr. Moreno and Ms. Avella advised that the report had been disseminated to all Board Members. Further presentation is not required.

#### **PUBLIC COMMENT**

None.

#### **Board Discussion**

None

### **24. A.1. Discussion and Possible Action on Legislation and Regulations Affecting the Board.**

#### **A. Discussion of Bills of Interest to the Board and Adopt or Modify Positions on the Bills.**

- Ms. James-Perez reported that SB 1194 has been pulled from consideration to seek additional stakeholder discussions and comments.
- Mr. D’Braunstein reported that the Legislative Committee met via email for input on some of the bills and said the committee didn’t change any of opinions from those presented at the last Board meeting. He stated that the committee is watching SB 1194 closely.
- Mr. D’Braunstein requested latitude from the Board to approve or allow the Legislative Committee to meet if it’s pertinent and place an opinion for the president’s signature. Mr. D’Braunstein stated if SB 1194 reappears before the

next Board meeting, the Legislative Committee is requesting the Board delegate the review and opinion of the bill and a determination as to Board action be prepared by the committee for the president's signature.

- Ms. James-Perez expressed concern that SB 1194 has generated a lot of stakeholder comments and feedback. It affects DCA Boards and there are strong opinions on both sides, it's a very politically charged bill. Due to the sensitivity of this bill, she would like the full Board's opinion prior to submission of letters of support.
- Mr. Dierking suggested the Board closely follow the bill's progress and if anything happens, the committee will notify the Board president and the Board.

#### **24. A.2. Discussion and Possible Action to Seek Repeal of Business and Professions Code Sections 2873 (VN) and 4511 (c) (3) (PT). Qualification of Licensure Based on Equivalent Education and/or Work Experience.**

- Ms. James-Perez advised Board members that action is commonly referred to as Method 3
- Ms. Avella clarified they are not talking about Method 4, military service exemption.
- Dr. Brown said Board approval is sought to go forward with repealing authority allowing individuals to qualify for licensure through work experience. She stated that applications for licensure via military route have typically completed equivalent coursework and experience. The issue for consideration is applicants seeking licensure through work experience.
- Ms. Avella said she emailed Dr. Brown with concerns regarding the last paragraph before the recommendation. "Further, of the total candidate population passing the VN licensure examination (NCLEX/PN) or PT licensure examination (CAPTLE), approximately 80% are program graduates; the remaining 20% are equivalency candidates." This is a general statement that has nothing to do with pass rates, to continue the next sentence, "As such, only 20% of the total candidates passing VN or PT licensure examinations are able to demonstrate possession of the minimum level of competence required for the delivery of safe and competent care to today's clients in current healthcare settings upon entry into professional practice." She said she doesn't see the connection between the two sentences.
- Dr. Brown referred the issue to Ms. Anderson for a response.
- Ms. Anderson stated the information presented to the Board is the pass rate for both exams. As a rule, roughly 20%-25% of students fail any licensure examination.
- Ms. Avella asked clarification of the percentage of equivalency candidates passing the licensure examination.
- Ms. Anderson responded that roughly 20-25% of equivalency students pass the licensure examination.
- Ms. Avella noted the proposal will impact a considerable number of people. She requested statistics regarding licensees qualifying under Method 3 and the incidence of disciplinary action.
- Dr. Brown responded that Method 3 is identified when evaluating the initial application for licensure. She stated that the only way to identify such candidates is when additional documentation is requested. She noted that the Board's evaluators have identified significant areas of fraud and deficiency. Enforcement is unable to

differentiate actions based on method of qualification due to the absence of a code in BreZE.

- Ms. Avella asked if an enforcement study would identify licensees qualifying under Method 3 and the incidence of disciplinary action.
- Ms. Bayless responded there is no way the requested study can be completed currently.
- Ms. Avella stated she is looking at these people after they get their license is there a way to see they are practicing safely, is there a way to tag them and do a study?
- Ms. Bayless responded that completion of the requested study would require files to be manually pulled, analyzed, and methods of qualification identified.
- Ms. James-Perez noted that significant fraud among Method 3 candidates had been identified upon investigation. She stated that most other states require licensees to have completed an approved program.
- Mr. Vertido reported that he as a teacher, he dealt with Method 3 students and found numerous students that didn't possess required basic nursing and critical thinking skills. He found many students attempt to circumvent the actual clinical skill process and lacked the necessary skills for safe and competent professional practice as a LVN. He stated his endorsement and agreement that there has been rampant abuse of this loophole with fraud.
- Ms. Avella responded that as far as abuse of the system, people have manipulated and abused the application process to get their license via equivalency, but how does that justify changing the system? Does that mean because of a few people abusing the system we need to throw it out? Shouldn't we be trying to fix the system?
- Ms. James-Perez responded that issues considered included, but was not limited to the comparatively small number of applicants seeking qualification based on Method 3, the few who do, the low percentage of Method 3 candidates that pass the licensure examination, and the fraud and abuse. Reevaluation of the Method 3 qualification to ensure continued relevance and protection of the consumer is required.
- Ms. Bon reminded Board Members that a decision regarding the issue is recommended before commencement of the February 2017 Legislative session.
- Ms. Avella voiced concerns making generalizations, just because there are some people abusing the system, but there may be a few people who benefit from it.
- Mr. Dierking stated that he found Mr. Vertido's comments very helpful and feels there may be a resource from employers to see if there would be any difference on the professionalism or impact on patient care that may not rise to the level of Discipline. A comparative study of the skill set between traditional and nontraditional pathways to licensure would be helpful.
- Mr. Vertido said he has seen some schools offer Method 3 with two weeks of practice clinical skills without applicable theory or formal training. Such candidates pose a risk to the public. He noted that the increasing complexity of patient care is one of the justifications hospitals use not to use LVNs in acute care. As a teacher, he advised that Method 3 places people in need of healthcare at risk with nurses who do not possess the knowledge, skills, or abilities that are consistent with professional standards.

**MOTION: To move forward to look into and begin the process to repeal the Business and Professions Code Sections 2873 (VN) and 4511 (c) (3) (PT).**

**Moved:** Mr. Vertido

**Seconded:** Ms. James-Perez

### **PUBLIC COMMENT**

- Ms. Garcia commented that if the Board chooses to eliminate something because it's not cost effective, or if it takes a lot of time to evaluate, say that. Don't say they may be a criminal or they are less competent, we don't want to hear them referred to as they.
- An unidentified speaker stated that she believes in equivalency because of her work background. She went through Method 3 and checked with the Board if her background would credit her to take the test and was told yes. There are a lot of people who are trying to work this way because people have dreams and want to pursue these dreams. Riverside College has a critical thinking class, for pre LVN students, she suggests the colleges require students to take these classes. To show they are competent enough to take the test.
- Ms. James-Perez clarified she was suggesting they add pre-requisite courses to Method 3.
- Ms. Endozo asked if equivalency candidates included individuals relocating from other states.
- Ms. Anderson responded the information was not available but could be researched and a report presented. Further, she reported that an increase in the number of applicants seeking licensure via Method 3 has been identified. Of those seeking qualification based on Method 3, a decreasing number of applicants meet statutory and regulatory requirements for licensure.
- Ms. James-Perez said international and out of state candidates are also included in the Method 3 candidates.

### **Board Discussion**

- Mr. Dierking stated additional information was needed to adequately assess Method 3 applicants and determine continued utilization.
- Ms. Endozo stated the Board could refer the issue to the Education Committee for further research and analysis.

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

**MOTION: To have the Education Committee review and bring back to the Board for possible action.**

**MOVED:** Ms. Endozo

**Seconded:** Mr. Vertido

### **Board Discussion:**

Ms. Avella voiced possible bias if referred to the Education Committee.

### **PUBLIC COMMENT**

None

Mr. Vertido, Ms. Endozo, Ms. James-Perez voted in favor of the motion. Mr. Moreno, Ms. Avella, Mr. Dierking voted against the motion. Three (3) to three (3). **The motion failed.**

**24. A.3. Clarification on the Enforcement Task Force Recommendation on Authority to Delegate Adoption of Default Decisions to the Executive Officer.**

Ms. James-Perez noted that the issue was discussed in 2014. Legal counsel has advised that the Board requires a vote to proceed.

**Board Discussion:**

- Ms. Avella asked why a vote is required as it was passed by the Board.
- Ms. James-Perez responded that there was confusion over whether regulatory or statutory action was required. She reported that DCA's Deputy Director of Legal Services advised that legislative action is required and the issue requires an additional vote by Board Members.
- Ms. Avella stated that Board members were presented the information required to vote on the issue.

**MOTION: To delegate authority for Legislation to adopt Default Decisions to the Executive Officer.**

**Moved:** Vivien Avella

**Seconded:** Ms. James-Perez

**Board Discussion:**

None

**Public Comment:**

None

Mr. Vertido, Ms. Endozo, Mr. Moreno, Ms. James-Perez, Ms. Avella, Mr. Dierking all vote in favor of the motion. **The motion passed.**

**MOTION: To table items 24.B. 26, and 28 to the November meeting.**

**MOVED:** Mr. Vertido

**Seconded:** Ms. James-Perez

**Board Discussion:**

None

**Public Comment:**

None

Mr. Dierking, Ms. Avella, Ms. James-Perez, Mr. Moreno, Ms. Endozo, and Mr. Vertido voted in favor of the motion. **The motion passed.**

**25. Review and Adopt Executive Officer's Report on Decisions for Vocational Nursing and Psychiatric Technician Programs.**

**MOTION: To Accept the Executive Officer's Report**

**MOVED:** Mr. Vertido

**Seconded:** Mr. Moreno

**Board Discussion:**

None

**Public Comment:**

None

Mr. Vertido, Ms. Endozo, Mr. Moreno, Ms. James-Perez, Ms. Avella, Mr. Dierking all vote in favor of the motion. **The motion passed.**

**27. Public Comment on Items Not on the Agenda**

- Barbara Torres commented that was she denied admission to the Hacienda Adult School Vocational Nursing Program. She stated she attended the schools psychiatric technician program. She alleged the school falsified records. She reported that she was verbally abused by a clinical instructor. Additionally, she reported that the instructor failed to supervise students during class, noting students were allowed to smoke and shoot nerf guns in class.
- Ms. James-Perez asked clarification as to the year Ms. Torres attended the program.
- Ms. Torres responded that she attended the program in 2011/2012, but was threatened not to report the incidents.
- Ms. James-Perez recommended that she submit a formal complaint to the Board for investigation.

**29. Adjournment.**

The meeting adjourned at 6:46 p.m.

Prepared By: \_\_\_\_\_ Date: \_\_\_\_\_  
**Dr. Kameka Brown**  
 Executive Officer

Approved By: \_\_\_\_\_ Date: \_\_\_\_\_  
**Samantha James-Perez**  
 President