

Agenda Item #20.C.



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

November 4, 2016

California State Capitol
Senate Room 4203, 1315 10th Street
SACRAMENTO, CALIFORNIA

BOARD MEMBERS

PRESENT:

Samantha James-Perez, P.T. Member, President
Andrew Moreno, Public Member, Vice-President
Eric Mah, 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

STAFF PRESENT:

Kameka Brown, Executive Officer
Cheryl Anderson, Supervising Nursing Education Consultant
Jessica Gomez, Nursing Education Consultant
Faye Silverman, Nursing Education Consultant
Beth DeYoung, Nursing Education Consultant
Margarita Valdes, Nursing Education Consultant
Rocio Llamas, Enforcement Division Manager
Jay Prouty, Enforcement Division Analyst
Lanessa Guerra, Associate Governmental Program Analyst
Kristine Dano, Office Technician
Rebecca Bon, DCA Legal Counsel

10. CALL TO ORDER

The meeting was called to order by Board President, Samantha James-Perez, Friday, November 4, 2016, at the California State Capitol, Senate Room 4203, 1315 10th Street, Sacramento, CA 958.

11. PLEDGE OF ALLEGIANCE

John Vertido led those assembled in the Pledge of Allegiance

12. INTRODUCTION OF BOARD MEMBERS AND STAFF.

Ms. James-Perez took attendance of the Board Members by roll call. Board members introduced themselves by announcing their name. Kameka Brown, Executive Officer (EO), introduced staff present. Ms. James-Perez introduced Legal Counsel Rebecca Bon, DCA. Programs who voluntarily signed in were also recognized by the Board President. Public comment procedures were read. Attending programs were acknowledges, but the names were not read.

13. DISCUSSION, CONSIDERATON AND POSSIBLE ACTION ON 2016 – 2017 SUNSET OVERSIGHT REVIEW REPORT.

- Dr. Kameka Brown Executive Officer (EO) advised report is somewhat different than the traditional format. The Board was directed by the Senate and Assembly to only focus review on additional questions given. The EO discussed layout of the sunset review report, the new org chart, and overtime usage will be added to appendix. The areas to be addressed included:
 - **Board Administration:** The new organization and layout of the report which highlighted improvements of staff morale, new structure, four additional leadership positions and Board completing Strategic Planning event.
 - **Education Division:** Senate question regarding NEC vacancy rate and how we are helping in regards to obtaining clinical rotations and how we are effecting the VN shortage.
 - **Licensing Division:** Moved from one manager to two managers and a supervisor, fired and filled vacancies, working more efficiently and reduces overtime.
 - **Enforcement Division:** 100% policies and procedure, new leadership more communication between DAG and DOI, new training process within the department.

Section F: New Issues areas to be introduced to the go into legislation, includes task force recommendations, site and fine, and repeal method 3. Introducing new fee schedule requesting approval from the Board and will present to legislature.

Board Discussion:

- Mr. Mah: requested to move discussion until after schools are addressed, due to timeliness. (Board voted to continue agenda item).
- Ms. Norton: Regarding clinical rotations, due to less LVN in acute care atmosphere have we thought about adjusting the curriculum regarding Pediatrics and OB, and prepare them more to where they will by working.

Why did Breeze increase licensing increase licensing time. What is the differences between the CLEAR and NCSBN enforcement training?

- Mr. Mah: Requested to have the document marked as a DRAFT document, and address the following items and questions.

- All Board members should be listed and note the Board has a new executive officer.
- The report state we have a full complement of Board members, this is not accurate.
- Questioned if Dr. Brown is the cause for the lower vacancy rate as reported.
- Do we have a specific LVN work force data?
- Change Pie graft to make information clearer and more accurate.
- Need to add specific information regarding Board need in 5 years and causes.
- Requested clearer information regarding the California need for LVN's using number of schools opening but is this the best proxy, this does not really answer the question regarding the need for LVN's in the workforce in 5 and 10 years.
- Need more information regarding the loan repayment plan, and the need to get the information out to licensees.
- Program applications: add verbal that the moratorium on new program is similar to the language used by the BRN.
- Regarding the licensing division Provide clear information regarding the status of length of time it takes to process licensure applications, one area the report states one week and in another area is states that we have a processing issue.
- Reduction of overtime usage information is confusing, need to choose quarters or months. Need to add FTE's, and causes of vacancies.
- Breeze- the report states that the introduction of Breeze has increased licensing application time, however we state that we are now at one (1) week. This is confusing which is it?
- For any yes/no questions start with yes or no and then provide the answer.
- Enforcement cases need clarity regarding what is a sworn and a nonsworn case. Give examples what a desk investigation might look like.

MOTION: To accept the report and delegate to the EO to make changes as recommended by Board Members.

Moved: Andrew Moreno
Martinez

Seconded: Bernice Bass de

Public Comment: None.

Board Comments:

Mr. Mah: Requested all Board members see the final red line version report again prior to submission.

- Ms. James-Perez: Comfortable to accept the report and have Mr. Hah work with Dr. Brown to make changes.
- Mr. Vertido: I am Comfortable to have changes made for clarification and formatting, I am comfortable approving the report as recommended

Andrew Moreno, Bernice Bass de Martinez, John Dierking, John Vertido, Samantha James-Perez, Tammy Endozo, and Todd D’Braunstein voted in favor of motion. Eric Mah and Donna Norton not in favor of motion. **The motion passed.**

14. DISCUSSION AND POSSIBLE ACTION ON SUNSET REVIEW REPORT PROPOSED LEGISLATION

- A. Seek legislation to create New Fees for Vocational Nurses and Institutions as Presented in Fee Audit Report (October 2016).
- B. Seek Legislation Authorizing Executive Officer Default Delegation.
- C. Seek Legislation to Repeal Work Equivalency for Licensure [Business and Professions Code § 2873 (VN) and § 4511(c)(3) (PT)].
- D. Seek Legislation Authorizing the Board to Establish and Implement a Citation and Fine Program for Approved and Pre-Approved VN and PT Education Programs.

- Ms. James –Perez: We have received the report and read it. Is there anything that you want to point out or highlight?
- Dr. Brown: I just wanted to discuss these sections as we are presenting them to the legislature.

Board Discussion:

- Ms. James-Perez: Read the titles of sections A – D, and asked for Board discussion.
- Mr. Vertido: Requested Section C be held for later discussion as the information was submitted today.
- Ms. James Perez: It was handed out this morning from Dr. Wayne Williams from Curam College.
- Ms. Norton: I have not had a seen the report submitted today. I was not at the August meeting. She asked questions regarding the new fee schedules for PT and VN licenses.
 - 1- How much will the fees change and what will we will be collecting from the fee audit? Dr. Brown will resend out information sent out in the August meeting to her.
 - 2- I was under the understanding that the licensure fees will go down and a fee will be implemented onto the programs themselves?
- Ms. James-Perez: The complete fee audit is on the Board website and I am unable to pull it up right now. But you can look at it there.
- Ms. Norton: It states that fines will be implemented but page seven (7) does not say what the fines will be.
- Mr. D’Braunstein: The intention of the report is to add it to the sunset report so it will all go in together.
- Ms. Norton: voiced concern that the VN licensure will go up to \$250.
- Dr. Brown: This is a projected increase over five (5) to 10 years consistent with the cost of living.

Public Comment:

None

MOTION: To adopt recommendations A, B, & D into Sunset and seek legislation.

Moved: John Dierking

Seconded: John Vertido

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Samantha James-Perez, Tammy Endozo, Todd D'Braunstein voted in favor of motion. **The motion passed.**

Board Discussion: 13 C

- Mr. Vertido: We use 13C to assist students with licensure for schools we are closing. When we close a program, we tell the students that they can challenge the Licensure examination. If we remove 13C the students have no other avenue to seek their licensure. If they are seniors or at the end of a program and have to go to another program they will have to repeat large numbers of hours to complete a program to get their license. This will cut one of the avenues that allow students to obtain licensure.
- Mr. Mah: I thought that when we close a school we are waiting until the students complete the program.
- Mr. Vertido: That is only if we as a Board choose to wait until the students graduate. Many times we close a school effective of the date of the Board meeting.
- Dr. Brown: The NEC's take this into consideration when writing the report. If the students are near graduation the recommendation is to wait until the students graduate. If the students are closer to the beginning of the program the recommendation would be more likely to close immediately, so students can transfer into another program. However, the population that is being focused is a larger number of programs are recognizing that students at the end of the program are will not be successful in taking the licensure examination, and are not graduating these students. They are recommended to challenge the licensure examination.
- Mr. Vertido: We are seeing a large uptick in CNA's taking the required classes and challenging the licensure examination. We need to seek change in legislation regarding the qualification and standards for people using working experience.
- Ms. James-Perez: what you are saying is that you want to change 13C to not repeal Method 3, but to present to legislation changes for applicants to meet the standards.
- Mr. Vertido: Yes
- Mr. Mah: Called out a potential conflict of interest due to Mr. Vertido working for Mr. Williams.
- Ms. Norton: We have no way to qualify the work experience of the CNA who is applying for method 3.
- Ms. James-Perez: I want to make it clear this action does not affect method 4. Called for motion

MOTION: To seek legislation to repeal work equivalency for licensure [(Business and Professions Code 2873 (VN) and 4511 (c)(3) (PT)]

Moved: Donna Norton

Seconded: Bernice Bass de Martinez

Public Comment:

- Sarah Huchel, consultant, Senate Business and Professions Committee, stated the report is due December 1st. Regarding legislation we do not introduce legislature it is the author of the Sunset report. The Senate has concerns of limiting access to people entering positions that can legitimately be entered into by testing.

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Vertido, Samantha James-Perez, Tammy Endozo, voted in favor of motion. Todd D’Braunstein did not vote in favor of motion. John Dierking abstained. **The motion passed.**

15. HUMAN RESOURCES REPORT. DISCUSSION AND POSSIBLE ACTION.

- Ms. James-Perez welcomed Mr. De La Cruz and requested him to identify himself.
- **Ricardo De La Cruz, Personnel Officer, DCA Office of Human Resources**
Updated Board Members regarding items discussed on August 26, 2016.

A. NEC Recruitment and Retention

- 1) Compensation proposals have been submitted as far back as 2010, 2013, and current 2015, and was formally submitted to the California negotiation team on January 16, 2016
- 2) It is still being considered – pending
- 3) Staffing: we now have has zero vacancy rate.
- 4) We are awaiting word from California negotiations
- 5) All pay increases have to go through collective bargaining.
- 6) We are awaiting a response from the Governor’s negotiation team for response.
- 7) The next step would be:
 - Submitting a revised proposal.
 - Looking at change of classification and how it has changes. Classification has not been evaluated over the last 20 years. We need to look at the changes that we would make prior to putting a dollar amount on a classification.

Board Discussion:

- Mr. D’Braunstein: Since this has not been done in 20 years will this be something that your department will negotiate regardless how negotiations come out.
- Mr. De La Cruz: This is something that we will work with the Board and the BRN to see if this is something that we want to proceed with.
- Mr. D’Braunstein: Is 20 years a fair time to investigate?
- Mr. De La Cruz: It is how the state defines a roll or classification. Some classifications were written so well that they stand up to the test of time. The process is started by our clients, the Boards.

B. Executive Officer Salary Band Requesting a Salary Increase.

- Mr. De La Cruz reported that the Executive Officer salary band could be evaluated by the following means.

- 1) Annual performance evaluation. Yearly, the board will be contacted by me to start the evaluation process for the Executive Officer. This should be around March of 2017. The Board meets in closed session and creates a collective document. The document is shared with the executive officer. This document becomes the final evaluation. Unfortunately, Dr. Drown is at the top of her pay grade.
- 2) Exempt level increases. The Board makes a decision that a change in the current salary band is warranted. That can happen in open session. The Board did this in August 26, Board meeting. Making a recommendation of that increase would be the next steps:
 - The Board needs to make a recommendation that due to the new duties and responsibilities, and the growth of the Board the increase is developed.
 - The Board would submit a letter, specifying what circumstances have changed, what the Board vote was, and what the recommended increase would be.

Board Discussion:

- Mr. Moreno: Is that process fairly informal process where we can get feedback from you through between drafts. You just need something in writing up.
- Mr. De La Cruz: It is up to me to look at when this positions was last evaluated and considered for a pay raise and when it was last changed. The last time this positions was evaluated was 2013. It has moved with the growth of the Board, licensures, staffing, policies that have affected the Board.
- Mr. Moreno: In what instances have you seen making this changes successful?
- Mr. De La Cruz: When changes of the Board, Board issues, increase in workload and complexity are present. Natural progression may show that it has only been looked at three times over the last 13 years and the last time the pay was not increased enough. Once it is sent to the Governor's office the ultimate decision will be make. The governor's office will consider all forms of substantiation submitted. This Board does not sit within the A-Z category. It sits by itself. The Board has the flexibility to ask for a salary band increase. It is rare that a Board does not have a category for the Executive Officer sits. A chart was provided that shows where the Executive Officer pay rate stands.
- Mr. Dierking: Do you have a matrix to evaluate the complexity for the positions.
- Mr. De La Cruz: We rely on Board information to tell the story, what has changed? It needs to show supporting documentation that the last evaluation did not take the classification far enough.
- Ms. James-Perez: So we need to create a letter detailing changes and will submit it. We will move forward.
- Ms. Bass de Martinez: At the next meeting I would like to see the letter ready for the next Board meeting.
- Mr. De La Cruz: I will prepare a presentation for the next Board meeting for recruitment and retention proposal for the NEC's which is a current proposal and the steps to be taken. The proposals submitted have all included the supervising NEC. I will produce a flow sheet and documents indicating pay rates for the NEC and the Supervising NEC to the next Board meetings.

- Mr. Mah: Do we need to go down a level and work towards the NEC's pay level? We need to focus on the EO salary.
- Mr. Vertido: I appreciate the discussion. This is a fight we have been fighting for a decade. There are only 16 NEC positions in this state. I want to see that their pay is equitable to pay of colleagues working in the industry, their pay rates should reflect for their abilities, education, standards, and amount of work they do.

Public Comment:

- Miguel Cordova: Chair for Bargaining Unit 21, and Bobby Roy Vice Chair: We found in our research NECs are grossly underpaid. At the bargaining table we did present a pay raise for the NEC's. The state responded to the bargaining report. There is no response regarding the compensation of NECs. The NEC's are not included in the pay raises. The process you are talking about will work much faster. Filling the vacancies is good, we need to continue working on the retention of NEC's. However, the fact that the Board filled the positions will hurt you in getting the recruitment and retention package approved.

NO MOTION REQUIRED.

15. EXECUTIVE OFFICERS REPORT

- Ms. James-Perez: Dr. Brown we have seen and read your report. Is there any further comments you want to make at this time. She stated she liked the staff meeting survey was included.
- Mr. Mah: Asked how the Board knows that all of the completed survey comments were included and not filtered.
- Dr. Brown: Advised comments were copied and pasted.

Public Comment:

None.

NO MOTION REQUIRED.

16. REVIEW AND ADOPT BOARD MEETING MINUTES.

May and June minutes will be reviewed but we will not be reviewing the August minutes.

Board Discussion:

- Mr. D'Braunstein: In the minutes it does recognize the schools. But it does not indicate how they are recognized. Can we show this in the next meeting minutes?
- Mr. Mah: In the June 20, meeting minutes it states that I was both here and not here. Let the record show that I was here.
- Mr. Moreno: It also states that I was here and not here.
- Ms. James-Perez: The corrections I brought up have been corrected.
- Ms. Norton: It looks like the corrections I brought up in section 13 which belongs in 23 have been corrected.

- Ms. Bon: In section 23, of the May and June minutes I note that Ms. Vivian Avella had comments on Items and expenses, and I do not show them here.
- Ms. Brown: I will have staff listen to the meeting and correct the minutes

Public Comment:

MOTION: To accept May and June as corrected.

Moved: John Vertido
Martinez

Seconded: Bernice Bass de

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Samantha James-Perez, Tammy Endozo, Todd D’Braunstein all in voted in favor of the motion. **The motion passed.**

17. REVIEW AND ADOPT EXECUTIVE OFFICER’S REPORT ON DECISIONS FOR VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIAN PROGRAMS

Ms. James-Perez: We have received this report and it is in your meeting packets and we have reviewed it. Are there any questions.

Board Discussion:

None.

Public Comment:

None.

MOTION: To accept Executive Officer’s Report.

Moved: John Vertido

Seconded: Donna Norton

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Samantha James-Perez, Tammy Endozo, Todd D’Braunstein voted in favor of motion. **The motion passed.**

18. EDUCATION COMMITTEE REPORT AND RECOMMENDATIONS

- Ms. James-Perez: We are taking sections A and B separately. We will start with A.

A. Consideration and Possible Action on Recommendations Regarding Matters Related to the National Council Licensure Examination for Practical/Vocational Nurses (NCLEX/PN).

1. Education Committee Recommendation to Deny Request by Southern California Directors of Vocational Nursing Programs’ for Candidates’ Names Associated with a Program’s NCLEX/PN® Pass/Fail Statistics.
2. Education Committee Recommendation to Deny Request by Southern California Directors of Vocational Nursing Programs’ for Proposed Revisions to Testing Criteria, including:

- a. A Six Month Time Limit for a Candidate to Take the NCLEX/PN after Receiving the Authorization to Test, and
 - b. Required Authorization by Program Director Before Any Retake of the NCLEX/PN.
- Ms. Bass de Martinez Regarding Section A considerations of recommends regarding matters related to the National Council Licensure Examination for Practical/Vocational nurses (NCLEX/PN), related to matters related to testing. The Southern California presented information and we had a good discussion. It was later determined that as a Board we are restricted on taking action on this because of previous legal decisions. I would move that the Board move to accept our recommendation on Section A.
 - Ms. James-Perez: I did have a question on that. The Laura Freeman our previous council sited the California Information Practice Act. I know that other Boards have a way of receiving this information. However, if this is a legal restriction we have to follow this ruling.
 - Ms. Bass de Martinez: We were sad about the finding, and we expressed to the directors. However there are legal grounds that we must follow.
 - Mr. D'Braunstein: Motion to direct the EO to work with the BRN and see how they go about providing the information, and report back how they get around it.
 - Ms. Bon: Held with the legal decision previously provided. It has been addressed many times, and that the committee, under Robert's rules this stands as a first and second.

Board Discussion:
None

Public Comment:

- Elizabeth Estrada president, Southern California Directors of Vocational Nursing Programs, thanked Education Committee members for giving us time to speak to you at the meeting.
 - I believe that these is a way around the situation here.
 - We are governed under the same rules and regulations as the BRN and they are able to obtain the information.
 - I have found out that some time results from other school are entered into our programs which can drastically affect the passing rates for our schools. There is nothing we can do about it.
 - I have read the practice act, and can identify information for the Board to make an informed decision. We have digested all of the content. There are 70 of us and I am speaking for the directors concern. If we do not know who the outliers are there is no way for us to make improvement in our content. We need to improve our results and need our help.
 - In 2014 we sent a letter,
 - We used to get this information and for some reason it was changed
 - Offered solution of having students sign form on the Boards webpage, to provide information to designated authorities.
 - We would like help with the Legislation Committee to assist us to take this to the legislation.

- I will be of service to the board to do research for the Board, and allow us time in February on the Board agenda.
- If students are from certain cultures they are hesitant to admit they failed. Additionally, it is difficult to find information regarding students who have moved.

Board Discussion:

- Mr. D’Braunstein: The Board should reach out to the BRN and find out how they got it right, and report back to us.

Public Comments:

- Abdel Yosef: Vice President of Nursing for Unitek College. We are supporting the Southern California group. I offer our legal department to research this item. As it is, we are working blind because we do not have the information to assist our graduates.

MOTION: Accept recommendations of section 18 A.

Moved: Bernice Bass De Martinez

Seconded: John Vertido

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo voted in favor of motion. Samantha James-Perez, Todd D’Braunstein voted no. Seven to two **the motion passed.**

B. Consideration and Possible Action on Recommendations Regarding Placement of Programs on Provisional Approval.

1. Career Care Institute, Ventura, Vocational Nursing Program. Consideration of Placement on Provisional Approval; Consideration of Request to Admit Students.

Faye Silverman reported that the Career Care Institute, Ventura, Vocational Nursing Program is presented for consideration of placement on provisional approval. Provisional approval is recommended.

Additionally, the program requests approval to admit a class of 30 students to commence October 24, 2016, with an expected graduation date of February 8, 2018, to **replace** the class that graduated on July 1, 2016.

Board Discussion:

None

Program Representative:

- Dr. Corrine Stevens: I attended the committee meeting. There has been a large turnover at the program. I had to review the all of the information and I have corrected all but 7 and 8. The main one I am concerned with is violation #1. It involved a policy not in place, but it was in our fourth term student handbook, Ms. Gomez reported that 15 students had been admitted with lower admission scores and we did not provide the remediation in Math and English that was approved in that policy. This violation was incorrectly evaluated. I evaluated

each student including the ones the NEC evaluated. I only found one (1) student who was admitted under the incorrect scores. I felt I need to defend us as the information was incorrect. Other information was from student complaints made to the Board, which I was unaware of. I felt the school was punished without due process. Our ongoing admissions was taking away and we had to cancel our August and October classes. We were punished without due process.

- Dr. Corrine Stevens: The previous director has been let go and I have taken over teaching the level four class. Of the class that complained I have five (5) students who have passed the NCLEX-PN. I am requesting to be approved a class of 30 students to start in December.

Board Discussion:

- Mr. Vertido: One of the big problems was that that there was no one at the helm of the ship. You can reapply for students once you have made corrections. We will then take your request for a class under reconsideration. Are you planning to stay or find someone to take your place?

Dr. Corrine Stevens responded I am currently the DON of the program and I have no reason or thought of leaving. I have sent in a request this week to admit students. I was told I need more faculty and facilities, and I have applications in place to fill the faculty and facility positions.

- Mr. Vertido: We have to work on what we discussed at the meeting two weeks ago. We have to go with what was decided then.
- Mr. Mah: What is your request?

Dr. Corrine Stevens responded I am asking that the school be put on 30 students so I do not have to lay off staff. I request that we are not placed on provisional approval.

- Ms. Bass de Martinez: Am I correct you have submitted the request to the Board for the students?

Dr. Corrine Stevens responded: Yes I did this week. I realize that the Board has not had time to read it.

Motion: To Accept the Committee's decision and recommendations as follows:

1. Place the Career Care Institute, Ventura, Vocational Nursing Program on provisional approval for the two-year period from November 4, 2016, through November 29 2018; and issue a notice to the program to identify specific area of non-compliance and requirements for correction as referenced in Section 2526.1 of the California Code of Regulations.
2. Deny the request to admit a class of 30 students commencing on October 24, 2016, expected to graduate on February 8, 2018.
3. Require the program to correct existing violations identified during the onsite inspection, and submit a report providing evidence of implemented interventions, to include the following no later than **December 16, 2016**.
 - a. Implementation of the approved methodology, including timeline for admission and screening program applicants.

- b. Implementation of the Board approved instructional plan, and evidence all faculty members have access and understand the use of the instructional plan.
 - c. Implementation of the approved attendance policy to include identification of students for whom absences are identified and assigned and completed make-up hours.
 - d. Instruction that demonstrates a correlation between theory and clinical experiences for enrolled students.
 - e. Identification and implementation of process of providing local resources for tutoring and counseling students.
 - f. Active administration by a Board - approved director.
 - g. Instructional calendar that specifies a schedule for the provision of theory and correlated clinical rotations consistent with the curriculum for enrolled students.
 - h. Identification and implementation of process of providing sufficient resources, faculty, clinical facilities, library, staff and support services, physical space, skills laboratory and equipment to achieve the program's objectives.
 - i. Implementation of the approved methodology, including timeline implementation of evaluation of student progress and performance and determine the need for remediation or removal from the program.
4. Require the program to admit no additional classes without prior approval by the Board.
 5. Require the director's 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 commencement of a class.
 6. Require the program to submit a report to the Board no later than seven (7) months, but no later than **June 1, 2017**, and twenty – one (21) months, but no later than **August 1, 2018**. The report must include a comprehensive analysis of the program, specific actions taken to improve program 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 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. 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 Board's **November 2018** agenda for reconsideration of provisional approval.

Moved: John Dierking

Seconded: Mr. D'Braunstein:

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D'Braunstein unanimous. **The motion passed.**

- 2. **Pasadena City College Vocational Nursing Program.** Consideration of Placement on Provisional Approval. Faye Silverman, Nursing Education Consultant.

Faye Silverman reported the Pasadena City College Vocational Nursing Program was presented for consideration of placement on provisional approval.

Board Discussion:

- Ms. James-Perez- The next item is consideration of placement of Pasadena City College onto Provisional Approval. Please note that we have read the report and note that your recommendation concurs with the NEC recommendation to place the program on provisional approval.
- Bass de Martinez- The education committee is recommending acceptance of the report as written by the NEC.
- Ms. James-Perez- Is there a representative of Pasadena City College here? Ok I see no one.

MOTION: To accept the Committee's decision and recommendations as follows:

1. Place the Pasadena City College on provisional approval for the two-year period from November 4, 2016, through November 30, 2018, and issue a notice to the program to identify specific area of noncompliance and requirements for correction as referenced in Section 2526.1 (c) of the California Code of Regulations. (See Attachment D)
2. Rescind the program's ongoing admissions of one class of 45 students per year immediately.
3. 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.
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 **December 1, 2016**.
7. Require the director to submit follow - up reports in 10 months, but no later than September 1, 2017, and 22 months but no later than September 1, 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
8. Require the program to demonstrate sustained progress in correcting the violation. 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.

Moved: Andrew Moreno

Seconded Ms. James-Perez-

Public Comment:

None

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D'Braunstein unanimous. **The motion passed.**

3. **Shasta College Vocational Nursing Program.** Consideration of Placement on Provisional Approval

Margarita Valdes reported that the Shasta College Vocational Nursing Program is presented to the Education Committee for consideration of placement on provisional approval.

Board Discussion:

- Ms. James-Perez The next item is consideration of placement of Shasta College-Vocational Nursing program onto Provisional Approval. Please note that we have read the report and note that you agree with the NEC recommendation to place the program on provisional approval.
- Ms. Bass de Martinez - The education committee is recommends acceptance of the report as written by the NEC the education. We found the information presented supports the NEC's report.
- Ms. Bon- As this comes from a two person committee under Robert's Rules of Order this is both a first and second. Or you may do it again.
- Mr. Mah- I second the motion
- Ms. James-Perez- It never hurts to have a voiced seconded motion. Does Board members have any questions?
- Mr. D'Braunstein- I have a comment only having one student able test between July and September and have no other candidate test until current it drastically effected the pass tare and moved the average annual pass rate to a positive 26.
- Ms. James-Perez- Are there any other questions or comments from the Board? Seeing none is there a representative present form the college? I see none. There is a motion on the floor is there any public comment. I see no public comment.

Public Comment:

None

MOTION: To accept the Committee's decision and recommendations as follows

1. Place the Shasta College Vocational Nursing Program on provisional approval for a period of one –year from November 4, 2016 through November 30, 2017, 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, Attachment G.
2. Require the program to brings 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 director to submit follow - up reports in 10 months, but no later than September 1, 2017, and 22 months but no later than September 1, 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
6. 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.
7. 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. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.
9. Place the program on the Board's November 2017 agenda for reconsideration.

Moved: Bernice Bass de Martinez

Seconded: Mr. Mah

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D'Braunstein unanimous. **The motion passed.**

19. NURSING EDUCATION CONSULTANT REPORTS ON VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIAN PROGRAMS

A. Acceptance of Voluntary Closure of Programs on Provisional Approval

1. Carrington College, Pleasant Hill, Vocational Nursing

Donna Johnson reported that the Carrington College, Pleasant Hill, Vocational Nursing Program is presented for consideration of voluntary closure. Acceptance of the program's voluntary closure is recommended.

Program Representative:

- Janice Montgomery- I am the program director of the Carrington College San Jose College representing the Pleasant Hills campus today, we submitted the request. The last class of students graduated in July and there are no current students.

Board Discussion:

None

Motion: To accept the Committee’s decision and recommendations as follows

1. Accept the voluntary closure of the Carrington College, Pleasant Hill, Vocational Nursing Program.
2. Remove the program from the *List of Approved Vocational Nursing Programs*, effective immediately.

Public Comment: none

Moved: John Vertido

Seconded: John Dierking

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D’Braunstein. **The motion passed.**

B. Reconsideration of Provisional Approval

1. American College of Nursing Psychiatric Technician Program

Jessica Gomez reported the American College of Nursing Psychiatric Technician Program is presented for reconsideration of provisional approval. Additionally, the program requests approval to admit an evening class of 10 students to commence on December 12, 2016, with graduation expected on February 3, 2018. Denial of the program’s request to admit an additional class and revocation of provisional approval are recommended.

Board Discussion:

- Ms. James-Perez – Your report stated that on September 15, 2016 that there was a program inspection and five (5) more violations were identified. So the current violations total six (6).
- Ms. Norton- Was the program notified of the violations and did they respond by October 14.
Ms. Gomez – Yes they did and the response did not correct any of the violations and I sent back a letter stating that they had not corrected any of the violations. I received their response yesterday and you have in your packet the corrections they have made since yesterday.
- Ms. Norton- Were they just put on provisional on Nov 2015. It seems like a short time to for them to be on provisional and, they have just completed a curriculum revision. I am not opposed to short provisional times, but it seems that we have just extended the provisional and they have just completed a curriculum revision. This is a quick jump to closing the program.

Ms. Gomez- The reason for the recommendation is we have had three visits there, where we have identified violations. Each time, we have received papers and policies stating they have corrected the violations. Each time, I have made a visit the violations remain, and have not been corrected. Additionally, the program pass rate has dropped drastically from when they were placed on provisional to now.

Program Representative:

- Faye Silva, Program Director of the Psychiatric Technicians Program, and Ms. Liza Delgado, Manager, School Operations. We do not agree with the recommendations.
- Ms. Silva- Yes as Ms. Norton just stated we were just put onto probation. We were making progress, we just completed our new curriculum. We saw a lot of gaps in the curriculum, this one is much better. We have not started the curriculum yet. When it was approved we already had a class started so we have not started it yet, we were hoping to start it in December.

Board Member Discussion:

- Mr. Vertido- Why did you not implement the curriculum?
Ms. Silva- When the curriculum was approved we had already started a new class about four months prior to the approval of the curriculum.
- Mr. Vertido- So you had 8 months that you could have started the new curriculum?
Ms. Silva – It was my understanding from my NEC that I could not start the curriculum in the middle of the program.
- Mr. Vertido- So you built a new curriculum and decided not to use it, and stayed with the one that you knew was ineffective. You spent time revising a new curriculum you waited and did not implement the new curriculum.
Ms. Silva – Not completely correct. I asked for permission for mental health 1 and 2 since they were the same and we were allowed to do so, since they were the same amount of hours.
- Ms. Norton- So you implemented a portion of the new curriculum.
Ms. Silva-Yes
- Ms. Bass de Martinez- I want to make sure I am hearing things correctly. In reading the report I was led to believe there are some policies and practice issues that have not been corrected. If I hear you correctly, you do not agree with the report. Please address the policy issue.
Ms. Silva- the first violation was reporting of terminated faculty that was not completely accurate, it was because I sent a form with name that I had left out the full hyphenated name. I did not use the full last name, and I used her middle name not her first name, so she was looking for the full name. I used part of her name and she could not find it. So now I have learned my lesson to use the full name written in the approval and not the name they go by.
- Ms. Bass de Martinez- When the Board see policies not being followed it means that something is consistently happening. We also received a document that by the date stamp was received by the Board on November

3rd and today is the 4th and Board members received it this morning. In due respect we have not had the chance to review it.

Ms. Silva - The last time I was in front of you I believe it was February of this year. I brought a packet of papers for the Board members and you stated that you wish that I had sent it the day before for review so I sent it electronically last week and by mail also hoping you would receive it in time to review it before this morning.

- Ms. Bass de Martinez- At this time we only have information that we have been able to review that supports the NEC's Report.
- Dr. Brown - We consider across the program history short term or long term. Here we have seen any incremental change, and here what we have found since 2012, less than 68% of students who have taken the test are passing. Additionally, they have had a large turnover of faculty that has happened three times.
- Ms. James-Perez- We look at the situation, and you are in a tough situation, you are in Contra Costa County and we need PT programs there. However, at the same time we are looking at pass rates of 46% for the last two quarters and this is not protecting the consumers or the students getting a quality education. Then I hear that some of the violations are repeat violations, and you have reported correcting the violation and on reevaluation we find that they have not been corrected. As Ms. Norton stated, you have only been on provisional approval for one (1) year, however it is the pass rates, and the severity of the repeated violations
- Ms. Silva- May I talk about the pass rates. The school administration has been in a lot of turmoil over the last few years. The new team has come and the students were very unhappy, and they decided not to take the boards. They are now coming out of the woodwork and they are hurting us with their pass rates. I wish that we could have helped them but they were very unhappy with us.
- Mr. Mah- You have only 5 students at this time
- Ms. Silva- We only have four (4) students in the PT program.
- Mr. Mah - Only 4 for now. When approved the class, it was the Board's intention to evaluate how the students did with the new curriculum. We were planning to have them come back in May. What is the harm of letting them finish and come back in May. If we close them now, we will have 4 orphaned students. If we wait, we can see in March how those 4 students tested. I am not inclined to give you any students at this time. But I am only one vote. But I see little harm to let them finish the class and see how the students do.
- Ms. Silva- But sir, the revocation was for January after the class finishes.
- Mr. Mah- What I am saying is let the program come back in May and see how these students do. If you had no students enrolled I would be inclined to revoke now. But I don't feel that the students should be punished.
- Ms. James Perez – But the students graduate in January, so the recommendation is not to revoke until January 30th. If we wait until May will we have the pass rate results?
- Dr. Brown- This revocation will allow the students to complete the program, and the revocation would take place after the students have completed.

This action is to protect the students and future students. The second issue is when we did the new site visit we found additional violations, it was not that they had not corrected the violations but new violations were identified. This demonstrated that we do not have stable administration.

- Mr. Mah- So my questions is why not let the students complete the program and test, and see how these students to evaluate the program's progress in May.
- Ms. James Perez- I did not phrase my question correctly, this is for Dr. Brown, the SNEC, or NEC. If they graduate in January when will we get their test scores back?
Ms. Gomez- It depends on when they test the soonest they would be eligible to test would be the end of quarter 1. It is not likely that the students will test until quarter 2. It is possible that there might be one in Quarter 1, it just depends on when the candidate tests. We may or may not have test results back by May.
- Dr. Brown- Let me remind you that we are looking at totality, the national council wants us to look at not just the pass rates but at the whole program.
- Ms. Norton- With just such a short time from extension to the request for revocation, how do we work with them until May to help them? When were they noticed that the plan was to revoke?
Ms. Silva- We learned about it last Thursday.
- Ms. Norton- So in September you were notified that corrections were due. You were not notified that you would be revoked at that time.
Ms. Silva- No we were notified last Thursday.
- Mr. Mah- Each time we see you, you are notified that if the corrections are not corrected that you may be revoked. So you have been notified that this is a possibility prior to this.
- Mr. Vertido-Unannounced visits have been conducted on Oct 2014, Nov 2015, Sept 2016, each time they found violations, after the first time the violations should have been corrected. I am not inclined to continue, we have a responsibility to protect the consumers and these students are consumers. And they are attending a substandard program.

Motion: To accept the NEC report and recommendations as follows

1. Revoke American College of Nursing Psychiatric Technician Program's provisional approval, effective January 30, 2017.
2. Remove the program from the Board's *List of Approved Vocational Nursing Programs*, effective January 30, 2017.

Public Comment:

- Ms. Liza Delgado- I understands the severity of the issues, I was a graduate of the program I really understand I have seen the program from the beginning to the end. I was there for all of the visits and I have seen the violations. I am requesting reconsideration due to new management, a new director and instructors. Let us prove to you that we can be a good school and face you again in May 2017. Let me help the students. We have a new team now I have faith in this school.

Moved: Bernice Bass de Martinez

Seconded: John Vertido

Andrew Moreno (yes), Bernice Bass de Martinez (yes), Eric Mah (no), Donna Norton (no), John Dierking (yes), John Vertido (yes), Tammy Endozo (no), Samantha James-Perez (abstain), Todd D'Braunstein (yes). **Yes: 5; No: 3; Abstain: 1. The motion passed.**

2. American College of Nursing Vocational Nursing Program- Reconsideration of Provisional Approval.

Jessica Gomez reported that the American College of Nursing Vocational Nursing Program is presented for reconsideration of provisional approval. Revocation of the program's provisional approval is recommended.

Program Representative:

- Ms. Faye Sylva, Program Director and Liza *Delgado*, Manager, School Operations.
- Ms. Silva- We disagree. This will be very unfair to the students. We have been working hard with our NEC, I feel it is premature in closing the school. We recognize the pass rates have been low for the last 6 quarters. Graduates are now coming and letting us help them prepare for the licensing examination. Time provided to the past graduates is free of charge. The reoccurrence of violations is the same as with the psychiatric technicians. We have 14 students graduating next week. And we have 7 students in another class.

Board Discussion:

- Mr. Mah- This is more challenging than the last one. Due to the two classes of students. No change in recommendation.
Ms. Gomez-It was reported that the class graduated in October, I recommend that the program be closed at the end of November, allowing the one class to graduate.
- Mr. Mah- So we would have seven (7) students who are orphaned.
- Dr. Brown- Actually, this would assist the students because they are early in the program and their credits would transfer over, where if they continued further, they would have more difficulty getting into another program or having their credits transfer.
- Ms. James-Perez- as you said pass rates are not everything, but last quarter your program was at 57% and the one before that was 50%. We need to work for the consumers and if only 1 out of 2 students pass is not providing the students with a quality education.
- Mr. Mah- Are these reoccurring violations
Ms. Sylva- If you look at it this way, yes.
- Mr. Vertido- Did you not have the clinical sites, student commented that they are concerned that they are at the same clinical site through the program. Students need to have students see different routines. Why doesn't the program have a relationship with graduates? Why are they not willing to contact the program and let you know that they are testing?

Motion: To accept the NEC's Report, and change the revocation to be in affect November 30 2016, as follows:

1. Revoke American College of Nursing Vocational Nursing Program's provisional approval, effectively November 30, 2016.
2. Remove the program from the Board's *List of Approved Vocational Nursing Programs*, effectively immediately.

Public Comment:

None

Moved: Bernice Bass de Martinez

Seconded: John Vertido

Andrew Moreno (yes), Bernice Bass de Martinez (yes), Eric Mah (no), Donna Norton (no), John Dierking (yes), John Vertido (yes), Tammy Endozo (yes), Samantha James-Perez (abstain), Todd D'Braunstein (yes). **Yes: 6; No: 2; Abstain: 1. The motion passed**

3. **Casa Loma College, Van Nuys, Vocational Nursing Program** Reconsideration of Provisional Approval and Consideration of Request to Admit Students.

Faye Silverman reported that the Casa Loma College, Van Nuys, Vocational Nursing Program is presented for reconsideration of provisional approval. Additionally, the program has requested approval to admit one (1) class of thirty students beginning January 30, 2017 and graduating January 30, 2018. Extension of provisional and approval of the requested class are recommended.

Program Representative:

Stephanie Ayo-Akinyemi, program director. I do agree with the NEC recommendation. I want to add that I am working with Ms. Silverman to correct all of the violations.

Board Discussion:

- Mr. Vertido- Congratulated the director in working to correct the violations.

Motion: To accept the NEC's Report and recommendations, as follows:

1. Extend Casa Loma College, Van Nuys, Vocational Nursing program provisional approval for one year – period from November 4, 2016 through November 30, 2017; **and** place the program on the Board's November 2017 agenda for reconsideration of provisional approval.
2. Approve the Casa Loma Vocational Nursing Program's request to admit one (1) class of thirty students beginning January 30, 2017 and graduating January 30, 2018, only.
3. Continue to require the program to obtain Board approval prior to the admission of each class.
4. Continue to require the program to provide no less than one (1) instructor for every ten (10) students in clinical experiences.
5. Continue to require the director to document that adequate resources, i.e. faculty and facilities, are available to support each admitted class of students.

6. 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.
7. Require the program to submit the documentation to clear the violations, no later than December 15, 2016.
 - Documents to determine that follow through has been completed to evaluation the curriculum.
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. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.

Public Comment:

None

Moved: Todd D'Braunstein

Seconded: John Vertido

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D'Braunstein. **Yes: 9: No: 0; Abstain: 0. The motion passes.**

4. Info Tech Career College Vocational Nursing Program Reconsideration of Provisional Approval and Consideration of Request to Admit Students.

Jessica Gomez reported that the InfoTech Career College Vocational Nursing Program is presented for reconsideration of the program's provisional approval. Additionally, the program requests approval to admit a full-time day class of 20 students on November 7, 2016, graduating on March 29, 2018. Extension of provisional approval and denial of the program's requests are recommended.

Board Discussion:

- Ms. Norton- I was bothered that the other school was on provisional for one year and this one has been on provisional since 2011. So, what is the difference between the two schools?
Ms. Gomez- This school's pass rates have gone up rather than down. They did have two lower quarters, but they are going again going up. This program is correcting their violations. It was a very different way of looking at them. This program is correcting their violations and the other one did not.
- Dr. Brown- I want us to be mindful that we are not comparing one school against another. The regulations reads that you have to demonstrate improvement. Here we are seeing marked improvement.
- Ms. James-Perez- I do see that their pass rate is 75%. Have they corrected all of their violations?
Ms. Gomez- The only thing they are working on now is their curriculum. This is why the recommendation to deny the class and continue their provisional. They have a new director as of last week, and is working hard working on the curriculum.
- Ms. James-Perez- is there a representative from the program here?
Ms. Gomez- I received a letter from the school and placed it in your packet. They

agree with the recommendations and will not be coming to this meeting.

- Ms. James-Perez- Agreed that the letter stated that the program approved with the recommendations and would not be in attendance.

Motion: To accept the NEC's report and recommendations, as follows:

1. Extend Info Tech Career College Vocational Nursing Program's provisional approval for a one - year period from November 30, 2016 through November 29, 2017, and send notice accordingly.
2. Deny the program's request to admit a class of 20 full-time students on November 7, 2016, graduating on March 29, 2018.
3. Continue to 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 no later than 15 days after commencement of any class.
4. Continue the program's requirement to admit no additional students unless approved by the full Board.
5. Continue to require the program to complete the evaluation of the current curriculum and complete the major curriculum revision prior to admission of additional students.
6. 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.
7. 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.
8. Place the program on the agenda of the Board's **February 2017** meeting, for reconsideration of the program's status.

Public Comment:

None

Moved: Bernice Bass de Martinez

Seconded: John Vertido

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D'Braunstein. **Yes: 9: No: 0; Abstain: 0. The motion passes.**

5. St Joseph College of Nursing Vocational Nursing Program Reconsideration of Provisional Approval and Consideration of Request to Admit Students.

Jessica Gomez reported that the Saint Joseph's School of Nursing Vocational Nursing Program, also known as Joseph's School of Nursing Vocational Nursing Program and St. Joseph School of Nursing Vocational Nursing Program, is presented for reconsideration of provisional approval. Extension of the program's provisional approval for a one-year period is recommended.

Board Discussion:

- Ms. Norton- According to a letter we have received from the school stating they are shocked that we are on the agenda. We did not ask for any students and did not ask to come off early.”
Ms. Gomez. The reason the program is on the agenda is that an unannounced visit was conducted due to complaints we received regarding the program. I was able to verify that there was 1 issue that could be validated the other four were not identified as valid. During the visit there was a conversation that it would be nice to be on the agenda so I could get off of provisional early.
- Mr. D'Braunstein- Will this current recommendation change anything. Will they stay on the February 2017 agenda?
- Ms. James-Perez- Can we assure that they are on the February 2017, Board Meeting.
- Dr. Brown- they are automatically on the agenda.

Program Representative:

- Ms. Niki Joseph- Director of Saint Josephs. We have made progress, steady pass rate increase. We are looking forward to working with Ms. Gomez. According to the violation, we were using an old policy that was approved by Ms. Pam Hinckley who was our previous NEC.

Motion: To accept the NEC's report and recommendations, as follows:

1. Deny the Saint Joseph's School of Nursing Vocational Nursing Program's request for early removal from Provisional Approval.
2. Continue the program's provisional approval for one year November 30, 2016, to November 30, 2017, and send notice accordingly.
3. Continue to 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 no later than 15 days after commencement of any class.
4. Continue the program's requirement to admit no additional students unless approved by the Full Board.
5. Continue to require the program to complete the evaluation of the current curriculum and complete the major curriculum revision prior to admission of additional students.
6. 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.
7. 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.
8. Place the program on the agenda of the Board's **November 2017** meeting, for reconsideration of provisional approval.

Board Discussion:

- Ms. Gomez-A new policy was sent to the Board which included the HESI pre admission test. This new policy was a correction to a violation. So, the student complaint stated that she had been told that they were be given a HESI examination prior to admission and had not received it. I found that the program was not following the policy and was instead using the SLE testing.
- Mr. Mah- I feel that there was miscommunication regarding being placed on the Board agenda. I feel that this program should just be tabled until the February meeting.
- Ms. James-Perez- I understand what you are saying, and if we want to table this is fine.

Moved: John Vertido

Seconded: Todd D’Braunstein

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D’Braunstein.

Yes: 0; No: 9; Abstain: 0. The motion fails.

Motion: To table the report until February 2017 meeting, when the program will come back.

Moved: Mr. Mah

Seconded: John Vertido

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D’Braunstein.

Yes: 9; No: 0; Abstain: 0. The motion passes

C. Consideration of Request to Admit Students by Program on Provisional Approval

1- Carrington College, San Jose Request to Admit Students

Jessica Gomez reported that the Carrington College, San Jose, Vocational Nursing Program is presented for consideration of a request to admit students. Approval of the request is recommended.

Program Representative:

- Janice Montgomery- director of the Carrington College Vocational nursing program. I agree with the recommendation. We have worked very hard to increase our pass rates and our commitments to the students.

Board Discussion:

- Mr. D’Braunstein- I want to thank you for your hard work.

Motion: Accept the recommendation of the NEC and recommendations, as follows:

1. Approve Carrington College, San Jose, Vocational Nursing Program's request to admit one (1) class of 30 students to begin January 2, 2017 and graduate December 15, 2017, only.
2. Continue to require the program to admit no .additional students unless approved by the full Board.
3. Continue to require the program to provide no less than one (1) instructor for every ten (10) students in clinical experiences.
4. 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 **February 1, 2017**.

Public Comment:

None

Moved: Todd D'Braunstein

Seconded: Bernice Bass de Martinez

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D'Braunstein.

Yes: 9; No: 0; Abstain: 0. The motion passes

2-. High Desert Medical College Vocational Nursing Program

Jessica Gomez reported that the High Desert Medical College Vocational Nursing Program is presented for consideration of the program's request to admit a class of 19 full - time students on January 9. 2017, graduating on March 28, 2018. The class will **replace** the students who will graduate on November 23, 2016. Approval of the request to admit additional students is recommended with the following correction: The recommendations for admission should read, begin January 9th 2017 and graduate March 28, 2018.

Program Representative:

Michelle Welch- director of nursing, High Desert Medical College Vocational Nursing Program. We agree with the report.

Motion: To approve the NEC report with amended 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 January 9, 2017; graduating March 28, 2018, only, to **replace** the class that graduated November 23, 2016.
2. Continue to require the program to admit no additional classes unless approved by the Full 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.

Public Comment:

None

Moved: Mr. John Vertido

Seconded: Bernice Bass de Martinez

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D'Braunstein. **Yes: 9; No: 0; Abstain: 0.** The **motion passes**

3. Homestead Schools, Inc. Vocational Nursing Program

Lydia Zeigler reported that the Homestead Schools Vocational Nursing Program is presented for consideration of a request to admit students. Denial of the one (1) requested class is recommended.

Program Representative

- Adelwisa Blanco-director, Homestead Schools Inc., Vocational Nursing Program. We respectfully disagree with the recommendations. On September 20, 2016, our chief academic officer, and I meet with the Supervising NEC to work on our violations. We provided a copy of our instructional plan, and we agree that it needs revision. The issues of the program is due to the poor instructional plan. Since the proposed class does not start until January 2017, this will give us time to make the corrections. Without a class to start we cannot make the corrections by using the new instructional plan and complete an evaluation. The pass rate for quarter 3 pass rate is 88%. The third reason is the comment made by the NEC is unwarranted regarding me having egregious disregard of clinical placement. We ask that the Board looks at our efforts and approves out class.

Board Discussion:

- Mr. Mah- What happened in the observation that I might understand?
Ms. Ziegler- The program submitted the analysis. I read that the director, in her observation, of clinical and classroom the faculty members were not performing correctly, and not following the instructional plan. Students stated that the instructor was not providing the information in way they could understand. Additionally, the director wrote that the faculty were not teaching in a manner that that the students could learn. So the students were not receiving the theory required prior to taking care of the patients, so the patients were unable to safely care for the patient.
- Mr. Mah- Were you there in the class room, and did not see it. You interpreted it as unacceptable.
- Ms. Norton- So what the NEC wrote was her interpretation of what you wrote.

- Ms. Blanco- In the comprehensive analysis shows that I did to correct the issues.
- Mr. Mah- Your own report was the basis of the NEC's findings. What would you think you saw and what were you trying to say.
- Ms. Blanco- What I was saying is that since I inherited the instructional plan I know that I have to work harder to make the corrections. I have only been here one year. I asked for the guidance from the SNEC and NEC to assist me.
- Mr. Mah- Do you think you put patients at risk.
- Ms. Blanco- No, as a director I have the same responsibility to protect the consumer.
- Mr. Mah- I feel there is some miscommunication here. I have not seen what you wrote, but I believe that something that was written spurred the NEC's comments. But let it be known that your words is what prompted this observation.

Motion: to accept the NEC's report and recommendations as presented.

1. Deny Homestead Schools, Inc., Vocational Nursing Program's request to admit one (1) full-time day class of 24 students beginning January 16, 2017.
2. Require the program to submit for Board approval:
 - a. A revised curriculum by **November 15, 2016.**
 - b. Lesson plans consistent with the curriculum to be used for Board approval by **November 15, 2016.**
 - c. Proposed policy for evaluation methodology of student progress for theory and clinical to demonstrate mastery of knowledge, skills, and abilities prior to advancing in the program and determination of the need for remediation or termination from the program including but not limited to:
 - i. Plan for early identification of student deficiencies;
 - ii. Limits on number of failed courses and terms allowed;
 - iii. Timeline for implementation;
 - iv. List of criteria for measuring student performance in both theory and clinical;
 - v. Objectives to be achieved; and
 - vi. Follow-up and documentation of outcomes
3. Continue to require the program to admit no additional classes without prior approval by the full Board.
4. 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 by **January 1, 2017** and **every three (3) months, thereafter.**
5. Continue to require the program to submit follow-up reports every three (3) months. 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
6. Continue to require the program to maintain its average annual pass rate no more than 10 percentage points below the state average annual pass rate.
 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. Failure to take these corrective actions may cause the full Board to revoke the program's approval.
 9. Continue the program's placement on the Board's **May 2018** agenda for reconsideration of provisional approval.

Public Comment: None

Moved: John Vertido

Seconded: Bernice Bass de Martinez

Board Discussion:

- Mr. Mah- Does the director's responses change your decisions.
Ms. Ziegler- No it does not. Another comment, there is no remediation for students in clinical so there were remediation for students.
- Mr. Mah- The two of you need to talk. There is a very big discrepancy.
Ms. Blanco- I reported what I saw and I took action, I do not put patients in harm.
- Ms. Anderson- Ms. Blanco is correct we did meet. We did identify areas that required corrections in the instructional plan. It is due to us on November 14th, we will need time to evaluate the curriculum. I do not believe that it can be ready for the January class. This does not mean that it will not be ready for a February class. We cannot say that a curriculum is good when we do not have it. We have to have time to review it. At that point once it is reviewed I will meet with Ms. Ziegler and Ms. Blanco and see what can be done from there, but at this point the appropriate decision is to deny the class.
- Mr. Mah- Can we delegate to the Executive Officer to approve the January class?
- Mr. Vertido- I do not feel comfortable making changes in the motion.
- Ms. Anderson- With the holidays coming and the information not submitted currently, I do not believe that the new instructional plan can be reviewed and approved, to allow class admissions prior to the February Board Meeting. The program's request can be placed on the February agenda.

Andrew Moreno Bernice Bass de Martinez, Eric Mah (no), Donna Norton (abstain), John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D'Braunstein. **Yes: 7; No: 1; Abstain: 1. The motion passes.**

4. West Coast Ultrasound Institute, Beverly Hills, Vocational Nursing Program.

Lydia Zeigler reported that the West Coast Ultrasound Institute, Beverly Hills, Vocational Nursing Program is presented for consideration of a request for approval to admit one (1) full-time evening class of 15 students to begin on November 8, 2016, graduating February 4, 2018. Approval of the requested class is recommended

Program Representative:

- **Hany Nashed-** program director, West Coast Ultrasound, Beverly Hills, Vocational Nursing Program. We are in agreement with the recommendations. I have been in my position since April 27th to correct the violation.
- **Ms. James-Perez-** There is a recommendation for you to submit a report to the board by November 20th are you aware of this.
- **Mr. Nashed-** I am well on my way to completing it.

Motion: Accept the NEC's report and recommendations as presented:

1. Approve West Coast Ultrasound Institute Vocational Nursing Program's request to admit a class of 15 students to commence on November 8, 2016, graduating February 4, 2018.
2. Continue the program's requirement to admit no additional classes without prior approval by the full Board.
3. Continue the program's requirement to bring its average annual pass rate to no more than 10 percentage points below the State average annual pass rate.
4. Continue the program's requirement to submit a report to the Board within six (6) months, but no later than **November 30, 2016**, and 21 months, but no later than **February 1, 2018**. The report must include a comprehensive analysis of the program, specific actions taken to improve program 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.
5. 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.
6. 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.
7. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.
8. Continue the program's placement on the **May 2018** Board agenda for reconsideration of provisional approval.

Public Comment: None

Moved: Todd D'Braunstein

Seconded: John Dierking

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D'Braunstein. **Yes: 9; No: 0; Abstain: 0. the motion passes.**

Item 23. REPORT ON AND DISCUSSION OF ADMINISTRATIVE AND ENFORCEMENT MONITOR PHASE II RESULTS, PURSUANT TO BUSINESS AND PROFESSIONS CODE 2847.5, AB 179

Ms. James-Perez stated that Board members did receive a full report by Mr. Frank. This report has already been sent to the legislature. It cannot be amended in any way. DCA has already sent their report, our report will be written and sent with the Sunset report.

- Mr. Frank- I had not anticipated making a report. I am prepared to answer questions.

Board Discussion:

- Mr. Vertido- In reviewing data in chapter 7 regarding leadership who did you engage to obtain this information. Do they supervise one or more areas?
Mr. Frank- I am confused where you are referencing the leadership team in chapter 7. Chapter 7 does not contain information regarding the leadership team.
- Mr. Vertido- I withdraw my question.
- Mr. Mah- I was not at the last meeting. I have asked for root cause analysis as to what got us here, I want to prevent this from happening again. I have not seen so far information as to how the staffing rations, DCA oversight, and the Governor's office had a role in getting us here. He discussed issues of in the past only having 6 Board members. We now have a new board. I hope the Governor will keep out board staffed. We cannot operate in a vacuum, this included a well-staffed Board, DCA

offering a budget. If information was falsified how can we prevent this from happening again?

Mr. Frank. The scope of my assessment is limited to this Board. It was not the focus to assess blame. We are looking for an improvement plan. It is not going back to assess blame. The scope is tagged ton this Board not on DCA or the Governor's office. I understand that with only 6 members did hamper your ability to do your job.

- Mr. Mah- How do we prevent this from happening again, the Board is the first level of responsibility, to make sure that enforcement is doing with they need to do. Chapter 7 indicates there are three areas that have been deficient for 10 years.
 - 1- Affective orientation for new members to enable them to exercise oversight
 - 2- Have active and engaged committees
 - 3- Sample reporting template was developed for this board enforcement can use to ensure DCA and the Board has accurate information regarding backloads. It provides accuracy and transparency.

I do not know what DCA does. As a Board member I do not know what they can assist us with.

- Mr. Vertido- You interviewed all board members. We are all volunteers. The day-to-day operations is run around the EO. We are a policy making body and makes recommendations. Who did you interview on the leadership team who is here day-to-day?

Mr. Frank- That section is related to the survey of the Board members, and interviews of the Board members, the training they received, the committee, and provision of information to the Board.

- Mr. Vertido- Then the error is you only got part of the information. The Executive Officer and the management staff would be the ones who are doing the day-to-day work to see their perspectives. We are only here part time.
- Ms. James-Perez- This survey has some issue. The answers were historical. Will anything change in a future report that will represent current information?
- Dr. Brown- In June, a subsequent report I prepared, contained a recap of that survey a Draft of appendix A and presented back to the Executive Officer and the enforcement manger, and never got anything back.

Mr. Frank- I was presented with a survey that was developed by the EO and I was not part of development the surveyed. I would have been happy to collaborate. The survey was an internal survey that has some issues.

- Dr. Brown- The second survey was the exact same questions and initially sent to DCA and was administered by DCA.
- Brian Clifford- DCA contract manager. I did not see the second survey. The first time I saw it was with Mr. Frank.
- Dr. Brown- We were just submitting updated information.
- Mr. Mah- What is your roll in the DCA. I am just looking for accountability.
- Mr. Clifford- I supervise Mr. Frank's contract.

- Sarah Huchel- I work with the Senate Business and Professions Committee. AB 179 requested Mr. Frank to be the independent auditor of the Board.
- Mr. Frank- I have the final say was to what is in the report. The Board and staff are welcome to supply me information that they think will be helpful to understand what had happened. However, this does not mean that I will submit the information.
- Mr. Mah- We have a new director and a report it is difficult to tell when the information is being reported. The report does not delineate past for current information from the Board.
- Ms. James-Perez- I am concerned that when the contract was initiated you would initiate the monitoring at the same time that we were making great changes. Just the way things work out that we had a ton of transition.
- Mr. Frank- The survey had three (3) questions to evaluate Mr. Brooks and the previous Executive Officer not the current Executive Officer. Would you like to see the date? I can place it into the third report.
- Ms. Bernice Bass de Martinez- We would like to see data regarding the survey.
- Mr. Frank- I can place it into the third report.
- Ms. James-Perez- do you have the data from the first survey and can you get it to us, I am not sure if it will be in the third report. Can you send the information for the Board to review without it being in a report?
- Mr. Frank- The survey was put in confidential. Do you want the survey or the recap?
- Ms. James Perez- We do not want the Legislature to read the survey and believe the answers of the survey reflect on the current leadership. We are requesting the information on the survey and we, answered it but we want to see the information.
- Ms. Norton- I tried to get my questions in 20 minutes ago... I am not so sure that we should be doing what you are requesting in Chapter 7. You are asking us as Board Members to take on more and more on. I cannot do anything more and be on any more committees. This should be done by the Board Staff.
- Mr. Moreno. How much more time commitment do you expect Board Members spend on the committees.
- Mr. Frank- I understand that this is a lot and no one would expect the Board to go from no committees to ten committees. One committee is better than no committees.
- Mr. Mah- I appreciate what we need to do. I appreciate Mr. Frank and am respectful of your time. If you are available for further question, I would appreciate it.
- Ms. James-Perez- The report has been submitted to the Legislature. The Board must submit its response by December 1; therefore, we need take action on these recommendation today to make sure that they are in the report by December 1.

- Ms. Endozo-Some of the recommendations are ones we have in place. He did not say that we need to recommend he did not say continue, but he said that we need to incorporate these actions.
- Ms. James-Perez- It is my understanding that we get to choose which recommendations we what to accept or reject.
- Ms. Huchel- If you want to accept the report for your Sunset Report that is up to you. It was not the intention of the Legislature for you to accept or reject the recommendation for this report.
- Mr. Dierking- Since the report has already been submitted, shouldn't we just receive and acknowledge the report.
- Dr. Brown- You can receive and acknowledge. According to the Assembly, the Board does not have to accept or reject the report if we have another validation method of verifying that we are doing the recommendation.

Motion: Ms. James-Perez: Certain of the recommendation have staff and resource implications especially 5(2), 5(3), 5(4), and 5(7) all have staffing implications. We have implemented 4(9), 4(6), 4(7), 4 (9), 5(8), 5(9), 5(11), 5(13), we are currently being monitored by the DCA monitor 4 (2), 5(13), 6(1), and 6(2). I agree with 4(11), and 5(1). The ones I don't disagree with and think it could they were completed by our Enforcement Committee are 5(10), 5(12), 6(2), 7(2), and 7(3). The Executive Committee can do 4(8), and 7(1). And the Education Committee in conjunction with our internal staff can do 4(3) and 5(5).

Motion Ms. James-Perez

Seconded Mr. Vertido

Board Discussion.

- Mr. Mah- I feel to rushed do we have to do this so rushed.
- Ms. James-Perez- We have a right to make a response to the legislature. We tabled this item and have not lost the ability to send in our response at the same time and the audit report. We have the responsibility to submit our response to submit the response to the sunset meeting.
- Mr. Mah- This sounds like a self-inflicted wound.
- Dr. Brown- we will be working and sending information to Mr. Frank regarding: 4.11 Complaint Coding Data; and 5.11 Complaint Intake Data

Andrew Moreno=yes; Bernice Bass de Martinez=yes; Eric Mah=yes; Donna Norton (Abstain); John Dierking=yes; John Vertido=yes; Tammy Endozo=yes; Samantha James-Perez=yes; Todd D'Braunstein=yes. **Yes: 8; No: 0; Abstain: 1. The motion passes.**

22. Attorney General's Enforcement Update.

Brett Kingsbury, Deputy Attorney General- I have some materials for you depending on what you know and do not know. You may or may not have some of the information I will present. First I would like to introduce myself, many of you know me as I have

done petition hearings in front of you. I am also the liaison for your Board since 2012. What I do in theory:

- 1- Communicate and facilitate between the AG side and the program staff about enforcements. I get information from the AG side and share it with management. I can go the other way
- 2- Counsel staff on enforcement issues Gina, Rocio, and a few investigators
- 3- Train investigators
- 4- Give update to the Board

Enforcement obtains five steps

- 1- The agency gets the complaint
- 2- Investigation - desk, field (unsworn investigators), DOI doing this well
- 3- Referral to AG's office
- 4- Trans to OAH and
- 5- Back with decisions

The stats I want to share with you concerns from the time of receipt on our end to adjudication. The definition of adjudication is when we are done.

- Send case back to you because there is not enough information and the investigation needs to continue – not enough to submit for prosecution, this has been happening a lot less.
- Default, they do not file a notice for defense. Mr. Frank's suggestion of having the EO sign them is a good one to just get them out.
- Finish the hearing
- Settle

We only look at accusations from when we receive them, to the end point. This statistic only looks at this one point which is accusation cases. Average case time 418 days this means we are keeping cases at our house for 418 days which is over what we want.

Board Discussion:

- Ms. James-Perez- I know that over a year is a very long time, but we are working on a fast track pilot program we are investigating.
- Mr. Kingsbury- Yes this is what I want to talk with you about today. I think you may in the past have a misunderstanding about how broad that has gotten here. As I was saying our goal is 365 days so we are over by 53 days. I want to talk to you about the two things we are doing to bring that down. The first thing we are doing as you mentioned is the fast track system, a subset of you cases can settle on short cause no witnesses usually can settle they can be finished it at OAH. We just completed a pilot program in San Diego. You have a large amount of short cause cases now this has been expanded as of two days ago, to include the Bay Area offices we now have three of the five DOI offices working on your fast track cases. Which include San Diego, Oakland and San Francisco.
- Ms. James-Perez- Is the BVNPT automatically enrolled into the fast track cases in these three locations.

- Mr. Kingsbury- Yes we are working only with BVNPT and the BRN. The BRN are sending historically more than the BVNPT. There will be a little blue sheet on top of the case that will send the cases.
- Dr. Brown- Can I provide you with some numbers and context to the numbers. The San Diego office was small, we sent 98 cases to the San Diego office. These were not all fast track cases. Last year we sent 11 cases for fast track and all 11 were accepted. In context last year the BRN sent 1700 cases 300 were accepted. The year prior we sent we sent 98 and of that 65% of the cases were accepted. We have set up a fast track only desk. We should see more cases as the program expands.
- Mr. Kingsbury- That was a great idea to set up a fast track desk. Since we are treating these cases a little different it is good to have one person who can work with our attorneys and better understand the processes. So expectations are more aligned as we go. Only 11 sent each year are going to the fast track basically all settling. Where they would have gotten in line with all of the other Boards trying to get a hearing date. Cases don't settle themselves it takes the hearing date to get the negotiation started to settle the case. When these cases settle it opens up hearing dates for the fast track cases where they can be scheduled and settled more quickly. You will be a significant beneficiary of this process.

The second point I have been working regularly with your in-house investigators regarding best practices in investigations. Regularly tape recording respondent interviews. Cases settle when there is certainty of where things will go. Cases with certainty by using the tapes and detailed information are causing more cases to settle.

That is really all I have.

- Mr. Dierking- What are some of the criteria for fast track
- Mr. Kingsbury- Short cause hearing which is half day or less, and have no witnesses, have to come as fast track referral.
- Mr. Dierking- Which offices are not using the Fast Track?
- Mr. Kingsley- The AG offices not using fast track are Los Angeles and Sacramento.
- Mr. Dierking- What can we do to facilitate the fast track cases? You said that you have gone over best practices with our non-sworn officers, would it help if staff on intake received your training to identify possible fast track cases?
- Mr. Kingsbury- Yes, typically many of these cases are subsequent arrest reports where there is a conviction, where civil adjudication has already occurred. This is the where most of the cases will come from.
- Mr. D'Braunstein. From your perspective, what is the top area that we could improve on? Something big or small that we should look at.
- Mr. Kingsbury- Your enforcement team over the last year has done an amazing job putting things in order. I understand what you are asking, you are forward looking, but for me it is backward looking. You are doing a much better job. Everything is going much more smoothly. Citation settlements are being done by the EO. You are working on the default days this is good. We are looking at each case, which ones we can win, and how to shave off time and the number, which is the day you receive a case and the time it takes for it to be settled. Your new investigators is setting new protocols which is helping. You are on the right track.
- Ms. James-Perez- This presentation was informational. A motion is not required

20. ENFORCEMENT COMMITTEE REPORT

Andrew Moreno, Board Vice-President and John Dierking, Board Member

- Ms. James-Perez. Our Board members are Mr. Andrew Moreno, Board Vice-President and Mr. John Dierking Board Member. Before we get into the actual report I have information that part of the report is regarding cost recovery. We may not be able to get into that part of the report today. This is under legal counsel advice. So Mr. Dierking and Mr. Moreno Ms. Anderson has emailed us your report. Is there anything that you wish to highlight or share with us?
- Mr. Moreno- Since there is no motion can Board Members ask questions?
- Ms. James-Perez- This was my original understanding, but I have been advised that this may not be the case.
- Ms. Bon- since cost recovery is not listed as an agenda item I can advise that there was no notice to the public. However this does not prevent you at all from bringing up items that you would like to bring up for future meetings.
- Ms. Norton- Two meeting ago it was requested to be placed as an agenda item. So I do not know why we can't discuss it.
- Ms. Bon- I agree, but when the agenda items was written for this meeting for the board it wasn't brought forth.
- Ms. Norton- So you are saying that we cannot discuss it. We now have an enforcement committee now, so you are saying that we would have to specifically call it out if we want to discuss it within the committee report.
- Ms. Bon- Yes. Per the Bagley Keene Open Meeting Act, all items you are going to discuss has to be on the on the agenda.
- Mr. Andrew- Does that mean that if we want to discuss the fast track information, so we cannot discuss it either?
- Ms. Bon- Where it falls within performance measures, I would entertain it would fall within notification.
- Ms. James-Perez- I can't say I understand it. But this is what legal counsel has said. I don't know what needs to happen to get this item on the agenda. I know that it is not my responsibility or other Board Members responsibility to get this on the agenda, but we have been asking meeting after meeting after meeting to get this on the agenda so we can discuss cost recovery. All I am saying is this must be on our February meeting agenda. It is completely unacceptable after the agenda has been published for us to be notified that we cannot discuss it.
- Mr. Mah- I assume it is the EO. The EO develops the agenda.
- Ms. James-Perez- And it is reviewed and approved by legal counsel.
- Ms. Bon- When we are making the agenda, I try to flush out all items that need to be discussed. This item was not brought up when we were discussing the items.
- Ms. James Perez- What I am saying forward, anyone who has listened to or attended out meetings that it is very well known that we want to talk about cost recovery. If it is not let it be known this moment that any further delay is unacceptable. This item must by on the February 2017, agenda and any why it gets there properly is not the responsibility of this Board. But whoever is responsible it must be on the agenda.
- Mr. D'Braunstein- I believe you were clear that cost recovery needs to be the February 2017.
- Ms. James-Perez- Lets just make it clear that it gets there.

- Ms. Bon- This is nothing new you can discuss anything that is on the agenda.
- Ms. James Perez- Getting back to the enforcement report Vice President Moreno or Mr. Dierking, is there anything you would like to highlight in your report.
- Mr. Dierking- Just in the idea of robust enforcement I have received positive feedback from Dr. Brown from my visit, to begin coordination visits to some of our offices. So I can make visits, and observations so I can make comments.

A. Consideration and Possible Action on Role of the Enforcement Committee

- Mr. Dierking- I have received positive feedback from Dr. Brown from my visit, to begin coordination visits to some of our offices. So I can make visits, and observations and I can make comments.
- Mr. Moreno- We have put together attachment A, which defines the role of the enforcement committee and what we will do.
- Ms. James-Perez- Thank you for putting that out. There is actually a possible action item on the role of the Enforcement Committee. So attachment A is what you are referring to as the document of the role of the Enforcement Committee. I know that Board members have had a chance to look at that. I know that this is something that we actually do need to take action on - adopt it in full or amend it in some way.

MOTION: Accept the Role of the Enforcement Committee as presented.

Public Comment:

None

Motion John Vertido

Seconded Bernice Bass de Martinez

Public Comment:

None

Board Discussion:

- Mr. Vertido- Is there a way we can include the Office of the Attorney General as an ad hoc member? And let them know that there is a meeting being held. Not that they necessarily need to attend, but that they are informed, and possibly forward their meeting minutes.
- Mr. Dierking- I don't see why not. It would be best practices to extend the invitation.
- Ms. Bon- I don't know if it's helpful that in the last paragraph it states that the committee meets routinely or quarterly. It's not clear if it done sometimes quarterly and sometimes routinely.
- Mr. Dierking- How about routinely and minimally quarterly.
- Ms. Bon- I thing that would help.
- Ms. James-Perez- so it could state regularly or routinely at least once a quarter. The maker of the motion would you like to make that correction in your motion

Motion: John Vertido

Seconded: Mr. Dierking

Public Comment:

None

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton (Abstain), John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D’Braunstein. **Yes: 9: No: 0; Abstain: 0. The Motion passes.**

B. Update of Enforcement Performance Metrics

- Ms. Norton- Regarding Performance Measure 8, I am guessing that it is the probation violation response. It says that the average response is 30 days but it is actually one day. Can you explain, and if it is one day, I don’t understand. Because we have had situations where there are violations that have gone on for a few months.
- Ms. James-Perez- Yes I did notice that that performance level was very low as well. Dr. Brown would you like to address that or should we bring Rocio up?
- Mr. Dierking- This is the length of time it takes to assign a monitor to the case.
- Dr. Brown- What this means is that we are actually doing well. From the time that someone reports a violation of their probation. We are assigning them a monitor in real time. Out of all of our Performance Measures, the one that we were still struggling on is PM4. This one, we are actually getting them a monitor quickly, versus the 30 days that has taken, which is the DCA set standard.
- Ms. Norton- I understand that, but we have witnessed occurrences that this is not true where people have violated their violation and it has been a number of months with no response to the violation.
- Dr. Brown- I can unpack this, what this is, is an average. The number will be dropped down if there is a whole lot of one days, and then you have someone that is two months adjusts the average.
- Ms. Norton- What I wrote down is that we should not do this too fast we should do it correctly.

Ms. James-Perez I believe that there may be a correction in the way we can accept or reject the Enforcement Monitor’s recommendations.

- Ms. Huchel- To clarify existing statute regarding the Board’s involvement with the Enforcement Monitor’s process. We understand that there are concerns regarding Business and Process Code 2847.5, and accommodating all of the requests of the Enforcement Monitor at this time. We would encourage you to do all that you can. We have spoken with Dr. Brown, and she has agreed to share with you some specific concerns. The Legislature will meet with your staff, with your permission, to see what we can do to make any accommodations. As far as accepting or rejecting any of the recommendations, if you would like to do that, it is not required. You can do that in the sunset review or outside of that process. We look forward to your comments as well.
- Dr. Brown- Ms. Huchel did a nice job she is referencing in AB 179 in particular and she did a great job laying it out. Of those 29 recommendations, a number of those are duplicative. We will have to direct and divert staff attention to getting those to the monitor, whether that is a duplicated report or one that he has created. So when the Board stated that the Committee could oversee, that does not negate that we will have to provide staffing and resources.
- Ms. James-Perez- So I believe that I am understanding that the recommendations that we accepted that there was never any doubt that this would not include

coordination with staff. But it was the ones that we chose not to adopt that I had brought up that had some staffing concerns those are the ones we need to change?

- Ms. Huchel-Unfortunately your acceptance or unacceptance is irrelevant. If you would like to add this to your perspective when you submit it to us, we will take that into consideration. However, that would occur outside of this process. So your obligation is to comply with all of the recommendations to the extent that he is able to do his work at this moment. In the meantime, to the extent that it is jeopardizing work, we would like to get together the Legislature, the Enforcement Monitor and your staff to see what we can do address some of the staffing concerns.
- Ms. James-Perez- So the impression we were under previously was incorrect and that impression was that we would vote to either accept or reject the recommendations.
- Ms. Huchel- No, you can still do that internally, that is an entirely valid process. What you need to do for the enforcement monitor report your vote does not impact that process.
- Ms. Norton- OK I think I understand it. We have to comply with all 29 recommendations whether we agree or disagree. We have to comply.
- Dr. Brown- This does include the one with Human Resources, the union one, I just want everyone to be aware that. The Complaint and Probation Units have an anticipated vacancy of 37%. We will be mindful that there will be other areas that will suffer.
- Ms. Endozo- So one of his recommendation concerned moving positions or reclassifying positions. That I can see as a problem.
- Ms. Huchel- I cannot comment on that because I do not know what that is but at this moment. If you can comply with his requests I do not believe it has to be done tomorrow. We can discuss this and this is something you can comment on in the future, but as far and the informational needs this is something that needs to be complied with.
- Ms. James-Perez- I think this goes without saying, but I will say it anyway. I think the agency understands that the staff we have has product activity target that they have to meet. And a reclassification will have to involve a labor negotiation. Things like that are out of our control, or needs of the Board to run day to day operations.
- Ms. Huchel- That is all very helpful information. You could prepare a supplemental informational report as part of Sunset with some of your concerns going forward.
- Ms. James-Perez- So do we need to take any action of your information?
- Ms. Huchel- No I just wanted to clarify for your EO information regarding what she is going to do under the direction of the Board.
- Ms. James-Perez- With my conversation with Mr. Frank the first day he come on it was my full intention that the Board will cooperate fully. I have talked with staff. Ms. Bayless is out and we will have Dr. Brown keep in contact.
- Ms. Huchel- thank for your time.
- Ms. James-Perez- Thank you I want it represented correctly. We have 21, 24, and 25 left. It is 5:01, do we have any indication to table these reports.
- Mr. Vertido- We are only accepting the report.
- Ms. James-Perez- OK

21. LEGISLATIVE AND REGULATIONS COMMITTEE REPORT AND RECOMMENDATIONS

Todd D'Braunstein, P.T. Board Member and John Vertido, Board Member

- Mr. Vertido- The items have been proposed. We do look forward to some of these measures being seen in a different form or bill number next cycle but we will watch and report on that.
- Ms. James Perez- The report states support on some of them but as you state the session is over and there is no need for support at this point.

Consideration and Possible Action on Recommendations Regarding Bills of Interest:

- A. AB12 (Cooley) State Government: Administrative Regulations: Review
- B. AB26 (Jones-Sawyer) Medical Cannabis
- C. AB611 (Dahle) Controlled Substances: Prescriptions: Reporting
- D. AB840 (Ridley-Thomas) Nurses and Certified Nurse Assistants: Overtime
- E. AB1939 (Patterson) Licensing Requirements
- F. AB1992 (Jones) Pupil Health: Physical Examinations
- G. AB2209 (Bonilla) Healthcare Coverage: Clinical Pathways
- H. AB2399 (Nazarian) Pregnancy: Prenatal Blood Testing
- I. AB2507 (Gordon) Telehealth: Access
- J. AB2606 (Grove) Crimes Against Children, Elders, Dependent Adults, and Persons with Disabilities
- K. SB323 (Hernandez) Nurse Practitioners: Scope of Practice
- L. SB390 (Bates) Home Health Agencies: Skilled Nursing Services
- M. SB960 (Hernandez) Medi-Cal: Telehealth: Reproductive Healthcare
- N. SB1155 (Morrell) Professions and Vocations: Licenses: Military Service
- O. SB1194 (Hill) Professions and Vocations: Board Actions and Regulations
- P. SB1217 (Stone) Healing Arts: Reporting Requirements: Professional Liability Resulting Death or Personal Injury
- Q. SB1334 (Stone) Crime Reporting: Health Practitioners: Reports

MOTION: To accept the report as written:

Public Comment:

None

Board Discussion:

None

Moved Bernice Bass de Martinez,

Seconded Donna Norton

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton, John Dierking, John Vertido, Tammy Endozo, Samantha James-Perez, Todd D'Braunstein. **Yes: 9; No: 0; Abstain: 0. the motion passes.**

22. ATTORNEY GENERAL'S ENFORCEMENT UPDATE

Taken out of order. See Above

23. REPORT ON AND DISCUSSION OF ADMINISTRATIVE AND ENFORCEMENT MONITOR PHASE II RESULTS, PURSUANT TO BUSINESS AND PROFESSIONS CODE 2847.5, AB 179

Taken out of order. See Above

24. UPDATE ON DISCONTINUATION OF POCKET CARD LICENSES

Dr. Kameka Brown, Executive Officer

- Dr. Brown-You have tabled this in the past and I just want to give you an update on this item. You are aware that as a Board we are trying to do everything we can do to reduce costs. We will be discontinuing pocket cards. That does not mean that we will not have a way to verify a licensure. The issue is that some people like them. The card may be issued but the next day the license may be revoked, they are walking around with a card which gives the impression that they are still active. So in the trend of most Boards, online verification is where we are going and it will be our sole means. It saves the Board \$50,000 per annum so that is a benefit that could be a staff person or two. I just want you to be aware, because next year at this time we will not have pocket cards. We are doing branding and providing information to the public, and the hospitals are aware of how they can verify a license. So I just wanted to bring that to the Boards attention.
- Ms. James-Perez- Is this an action item?
- Dr. Brown: No it is operation.
- Mr. Vertido- If we can, I would like the one time card that was presented on the presentation of the initial license.
- Dr. Brown- Ok we can look at that. However, the Breeze system last time instead of sending out one card to each person it sent out two, and we were charged for both. So let's just do one with just the date of licensure. We are moving to online verification for the most part.
- Ms. James-Perez- If this is to move forward is there a projected date?
- Dr. Brown- September 2017.
- Ms. James-Perez- Our licensees will be notified?
- Dr. Brown- we have a lot of information we are sending out to the public and our licensees. We are letting people know how this is going to happen. Once it starts it will be a two year lag time for people looking for a pocket card.

25. DISCUSSION AND POSSIBLE ACTION ON AUGMENTING BOARD MEETING FREQUENCY

Dr. Kameka Brown, Executive Officer

Dr. Brown- Let me just put this out there. More than 60% of you stated that because of the marathon board meetings, you would be open:

- A. To change to a meeting quarterly for three days, or
- B. Meeting every other month.

I just want to put it on the table that with more NEC's more review comes, with more review comes more review that you have to sign off. And as our Enforcement Division becomes more nimble in what they are doing, it will require more probation hearings before the Board. Finally as you do more things with the

committees this will rise up to more reporting so we need to consider the length of board meetings.

Board Discussion:

- Ms. James-Perez- Yes we do see that with the number of NEC's, more committee work is being generated, and as enforcement starts taking off we will need to hear more reports and cases. That leaves us in the position of having very long meetings, which we have been having, or adding an extra day somewhere. Three day meeting I feel is a lot. I do not know how other people feel.
- Mr. Mah- What is the frequency of the other boards, how often do they meet?
- Dr. Brown- For instance the BRN, is a larger board with more licensees, and I understand they are a larger size, but they meet 10 times a year. This is not including their Discipline Committee that meets more frequently. Their Education Committee also makes decisions and takes them to the Board. The Education Committee meets more than quarterly.
- Mr. Mah- Once a month for a two day meeting?
- Dr. Brown- A two day meeting 10 times a year.
- Ms. Endozo- This is an 8 hour meeting?
- Ms. James-Perez- Yes this is what I understand from speaking with President Jackson. They are a larger Board and in respect of Board Members we have stated that we have work schedules and we are not full time Board members. This is not a full time job. And I know that you all have work commitments and other commitments. I love having everyone here. I wish that we could have everyone here all the time. Just putting it out there, we only need corium to conduct business. If it becomes an overwhelming restraint know that we only need corium to function. There have been days when one or two, or three Board members have not been here, and we still conducted our business. You do know that this is an option.
- Mr. Mah- This is perfectly reasonable. If we are going to increase frequency, we just have to make sure that we have at least seven (7) members available. I know a quorum is six (6) Board Members; but six (6) does not allow for one person to step out of the room. To me, I am always sensitive on the impact it has on staff including my suggestions I want to have for the next meeting. I know that these things take time, so I almost do not want to ask. I am fine with increasing the frequency of meetings and if we can't make quorum, we can't make a quorum. We will have to revise the administrative manual because it is a bit punitive when you don't make a meeting. How about the Medical Board? They are probably not as busy as we are.
- Dr. Brown- One of the reasons is because of the mandatory reporting that we have. That increases the number of petitioners we have and that is unique to us. Remember that some of the impact is on the NEC's. They are impacted by time constraints on the availability of examination statistical data. One way of accomplishing required tasks is if the Board increases the frequency of meetings, allocate some for Enforcement issues and others for issues from the Board's committees. Remember, it will also impact your school data depending on what date you meet in the month.

- Mr. Vertido- It is always the possibility. We used to have a two and a half day meeting in February each year. Keep it quarterly like we are doing it now. I don't know if it would make a difference if we made it two 3-day meetings, and two 2-day meetings. Two and two versus four two days. As you said it takes time for the staff to accumulate the data. The EO and staff were stretched with two (2) committee meetings, and a Board meeting within the last couple of weeks. So I think we need to space it out to allow staff time to take a breath and prepare for the next meeting. I suggest that we meet quarterly but have them two and two.
- Ms. James-Perez- Things do come up, they came up when John Brooks was here, and now with our current administration. We have to admit we have called for special meetings. So know that this can happen.
- Mr. D'Braunstein- Do we need a motion on this to carry it through?
- Ms. James Perez- Let me take a stab at it, move to give our EO the flexibility in researching and scheduling meetings as needed with communication with Board members.
- Mr. Mah- I think we need to look at this, and the workload impact by increasing the meeting frequency. In other words let's staff up, and if we are not staffed up to a level that we can do our job, then let's not increase our meetings. This may impact licensees who want their licenses back, but they just have to wait.
- Dr. Brown- Please remember that while this is going on, we still have an internal audit that is going on. With these 29 recommendations that the enforcement monitor said are required every 30 days. That particular report we had two employees dedicated to the data not including the enforcement monitor would meet with the chief enforcement manager for eight hours, several days through the week. So now you have had a loss on two different departments of three people. I want you to be mindful that we are at our max and we have a 12% vacancy rate. The amount of reporting required of the Board is huge. Finance did not approve any more positions for us. So we are at a loss.
- Ms. Norton- I heard what you said but I would like to see, if as a Board, there is a possible way to be more efficient in the days we do have rather than stretching it out. If we could take a look at where we get jammed up, and what we can do to prepare ourselves so we do not have that jam up. I would like to see that looked at before we simply say we are willing to increase the days we are going to do.
- Ms. James-Perez- Some of the stuff that has gone behind the scenes, that Board Members might not be aware of, is that the Executive Officer and the management team looked at how the meeting are put together, and tried to streamline some things. Certain reports are now given by Dr. Brown and certain reports are streamlines. As you know we do not have breaks during the meeting. You all take breaks as needed. We have cut out several things actually. The work is increasing and the meeting are going to get fuller in content, at the same time we are slimming them down.
- Bernice Bass de Martinez- While it is difficult for all of us putting in more time than was originally intended, it is clear that we need more meeting time together. I would strongly recommend that whatever we do, we try to put the dates out far enough in advance. Many of us live in different places and have

different lives. Everyone need to plan and focus, if at all possible, to be present at those times. Trying to make some decision earlier rather than later for the year 2017 would be very critical.

- Ms. James-Perez- We have been signaled that we have to wrap up to vacate the room. We need to move on this or table it. Honestly we are out of time so, Mr. D’Braunstein, Dr. Bass de Martinez.

Motion: Move to let the EO and staff propose meeting dates to us, and some structure as to what this might look like.

Public Comment:

None

Board Discussion:

None

Motion: Bernice Bass de Martinez

Seconded: Samantha James-Perez

Andrew Moreno, Bernice Bass de Martinez, Eric Mah, Donna Norton (Abstain), John Vertido, Tammy Endozo, Samantha James-Perez, Todd D’Braunstein. **Yes: 8; No: 0; Abstain: 1. The Motion Passes**

26. PUBLIC COMMENT:

None

27. SUGGESTIONS FOR FUTURE AGENDA ITEMS

None

28. ADJOURNMENT

The meeting adjourned at 5:00 p.m.

Prepared By: _____ Date: _____

Dr. Kameka Brown
Executive Officer

Approved By: _____ Date: _____

Samantha James-Perez
President