



## Agenda Item 9.0

### **Report of the Enforcement/Intervention Committee**

BRN Board Meeting | February 28-29, 2024

# Enforcement/Intervention Committee

## February 28-29, 2024

### Table of Contents

<b>9.1</b>	<b>Information only:</b> Enforcement and Investigation update	<b>3</b>
<b>9.2</b>	<b>Discussion and possible action:</b> Name change of the Enforcement/Intervention Committee (EIC) to Enforcement, Investigation, and Intervention Committee (EIIC)	<b>18</b>
<b>9.3</b>	<b>Information Only:</b> Presentation on the Intervention Program, including but not limited to statistics, program updates, the intervention evaluation committee's roles and responsibilities	<b>20</b>
<b>9.4</b>	<b>Discussion and possible action:</b> Direct Board staff to initiate drafting regulatory language for revisions and/or additions to California Code of Regulations (CCR), title 16, Article 4.1 Intervention Program Guidelines	<b>22</b>
<b>9.5</b>	<b>Discussion and possible action:</b> Appointment of Intervention Evaluation Committee (IEC) members	<b>24</b>



## Agenda Item 9.1

### **Information Only: Enforcement and Investigation Update**

BRN Board Meeting | February 28-29, 2024

**BOARD OF REGISTERED NURSING**  
**Agenda Item Summary**

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**AGENDA ITEM:** 9.1  
**DATE:** February 28-29, 2024

**ACTION REQUESTED:**     **Information Only:** Enforcement, Intervention & Investigations Update

**REQUESTED BY:**           Patricia Wynne, Esq., Chairperson

**ACCOMPLISHMENTS:**

**General Enforcement and Investigations**

At the August 2022 Board meeting the Board voted to join the National Council of State Boards of Nursing (NCSBN) pilot study to test substance use disorder (SUD) monitoring program guidelines. This is a five-year study of alternative to discipline programs for nurses and we will provide data biannually for the next five years to see if the nurses can return safely to practice.

The Office of Organizational Improvement (OIO) continues working with the Enforcement Division and Investigations Division, assessing, and mapping workflows, timeframes, and procedures to streamline and improve internal processes. The OIO team is working with Subject Matter Experts (SMEs) from each unit and staffing level. We will continue to report on the progress of this project in future meetings.

The Board of Registered Nursing (BRN) continues to recruit qualified registered nurses with professional and educational backgrounds as Expert Practice Consultants (EPC) to review investigative case materials, prepare written opinions, and evaluate whether an RN deviated from the standards of nursing practice.

The BRN is in critical need of EPCs in the following areas:

- Long Term Care/Skilled Nursing Facility/Geriatric
- Acute Rehabilitation
- School Nurse
- Medical/Surgical (NPF)
- Pediatric ICU (NPF)
- CCU/Telemetry (NPF)
- Dialysis (NPF)

For more information about the Expert Practice Consultant program, please visit the BRN website: <http://rn.ca.gov/enforcement/expwit.shtml>.

Or email us at [Expert.BRN@dca.ca.gov](mailto:Expert.BRN@dca.ca.gov)

## **Complaint Intake**

The Complaint Intake Unit (CIU) analysts continue to request all case investigations utilizing both Division of Investigations (DOI) Case Administrative and Tracking System (CATS) and the BRN Enforcement Activity Reporting System (EARS) systems.

Triaging of cases are conducted on an as needed basis, in collaboration with both DOI and BRN Investigations.

CIU continues to review processes and procedures in order to address complaints efficiently and provide complaint acknowledgment within the statutory 10 days.

## **Investigations**

The Investigations Division continues to improve processes and procedures. On October 30, 2023, the DCA Portfolio Management Team approved the BRN BreEZe Time tracking Functionality request for Impact Assessment. This BreEZe functionality will improve efficiency and eliminate the need for EARS.

As of December 1, 2023, the Investigations Division is fully staffed and continues to utilize retired annuitants and limited term Special Investigators (SI) to keep caseloads below 30 cases per investigator. The SIs have an average of 21 active cases.

## **Discipline**

As of February 9, 2024, only 11 percent of our pending cases have been at the Attorney General's Office (AGO) over a year.

The Office of Administrative Hearings (OAH) is beginning to hold in person hearings, however, if all parties agree, the hearing may be held remotely via Microsoft Teams or other online platforms.

## **Probation**

The Probation Unit continues to review all processes and procedures to ensure cases are processed as efficiently as possible, and implement any improvements identified.

Tolled (out of state) probationers are contacted biannually to verify out of state residency and ensure compliance with their conditions of probation.

Active in state probationers are reviewed quarterly to ensure compliance with their conditions of probation. They are also reviewed when information is received, regarding the probationer and/or subsequent complaints.

Probation monitors each have an average of 44 active cases.

## **Intervention**

The Executive Officer, Loretta Melby, has delegated authority of Intervention Program Manager to Jaspreet Pabla, pursuant to BPC 2770.1(c), effective Monday January 22, 2024.

Management has been attending all Intervention Evaluation Committee (IEC) meetings and providing education to IEC members and participants. Additionally, identifying possible gaps in the regulation for the Intervention Program.

We conducted training for all IEC members on December 5-6, 2023. We provided updated IEC guides and will continue to make updates as needed.

We are also working closely with our vendor, Maximus, to discuss and develop best practices, identify areas of improvement and ensure adherence to all laws and regulations.

The Board continues to recruit IEC members with knowledge and experience in substance use disorder (SUD) treatment, recovery and mental health. Currently, there are three (3) vacancies but if the Board approves the recommendations for appointment in Agenda Item Summary 9.5, IEC's will have no vacancies.

**To apply for an IEC position, you can find the application on our website at <https://rn.ca.gov/intervention>**

Board of Registered Nursing  
Enforcement Statistics  
Fiscal Year 2023/2024 as of 2/20/2024

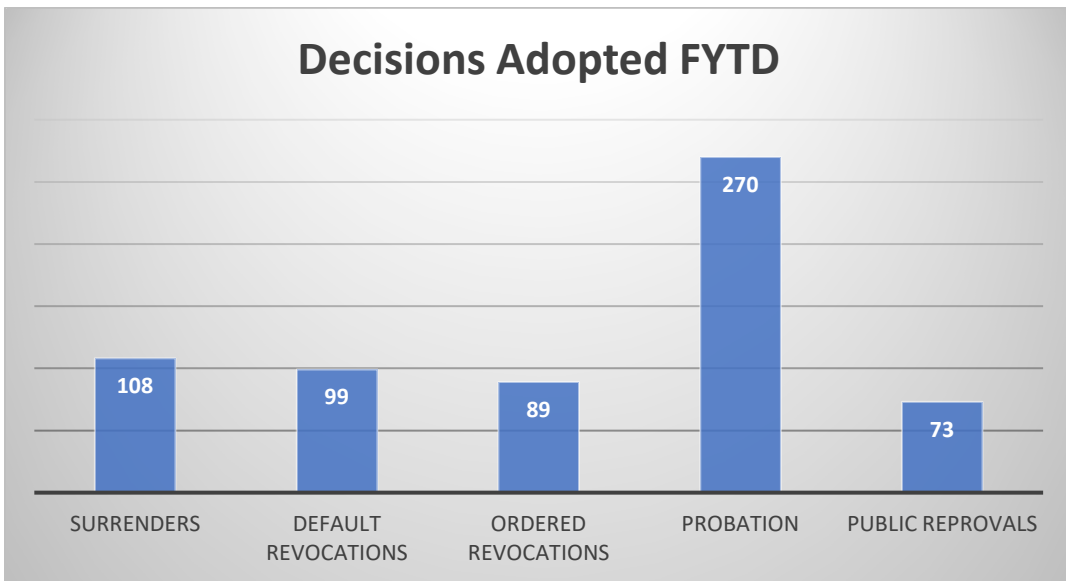
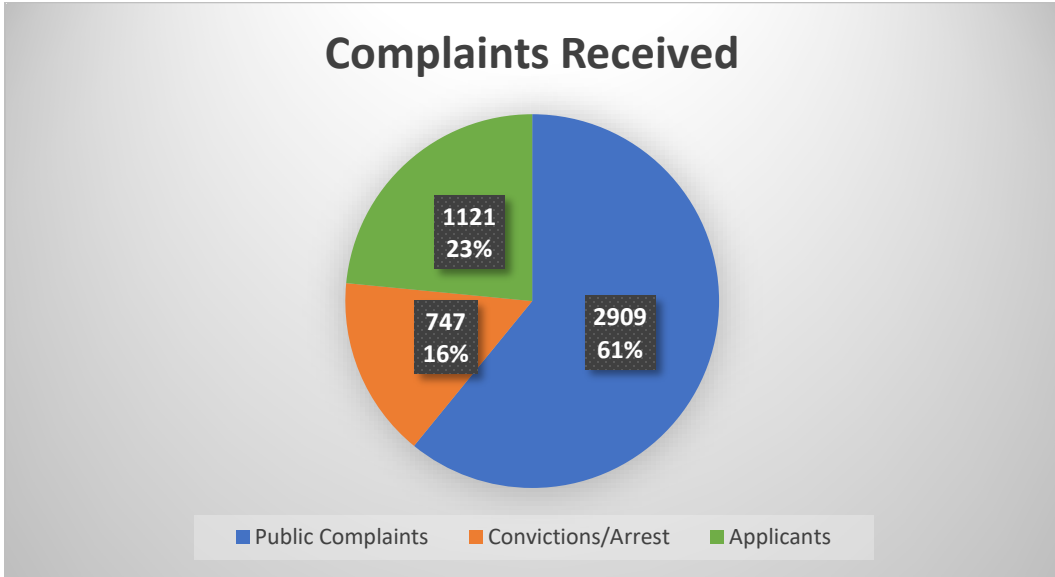
<b>Complaint Intake</b>	Public Complaints	2909
	Convictions/Arrest	747
	Applicants	1121
	<b>Total Received</b>	<b>4777</b>
	Complaints Pending	1564
	>1 year	323
	Convictions/Arrests Pending	733
	>1 year	150
	Applicants Pending	84
	>1 year	3
	Expert Review Pending Referral	16
	>1 year	0
	Expert Review Pending Receipt	20
	>1 year	0
<b>Intervention</b>	Total Participants	236
	Intakes	46
	Self-Referral	10
	Board Referral	36
	Closures	46
	Successful	32
	Not Successful	14
	RNs Referred	1700
Accepted by IEC	38	
<b>Citation and Fine</b>	Citations Issued	203
	Informal Conference	
	Modified	1
	Dismissed	4
	Upheld	0
	Amount Ordered	\$24,750.00
	Amount Received	\$37,285.00
	Amount Referred to FTB	\$40,975.00
Amount Received from FTB	\$5,525.00	

<b>Discipline</b>	AG Referrals		
		Cases	893
	Cases Pending		
		< 1 Year	726
		> 1 Year	72
		> 2 Year	11
	Cases Pending >1 Year W/O Pleading Filed		19
	Cases Pending Hearing		158
	Average Days at AG		307
	Pending Board Vote		51
<b>Legal Support</b>	Interim Suspension Orders (ISO)		0
		PC 23	5
	Pleadings Served		
		Accusations	538
		Statements of Issue	8
		Orders to Compel	74
		Petitions to revoke Probation	47
	Withdrawals of Pleadings		24
	Decisions Adopted		
		Surrenders	108
		Default Revocations	99
		Ordered Revocations	89
		Probation	270
		Public Reprovals	73
<b>Investigations</b>	BRN Cases Referred		501
		Rejected	42
		Supplemental Requested	11
		Triage	21
	BRN Cases Pending		554
		>1 year	65
	BRN Cases Completed		583
	DOI Cases Referred		346
		Rejected	12
		Supplemental Requested	15
	DOI Cases Pending		319
		>1 year	112
	DOI Cases Completed		294
	DOI Pilot Cases Initiated		473
	DOI Pilot Cases Pending		15
	DOI Pilot Case Closed		458

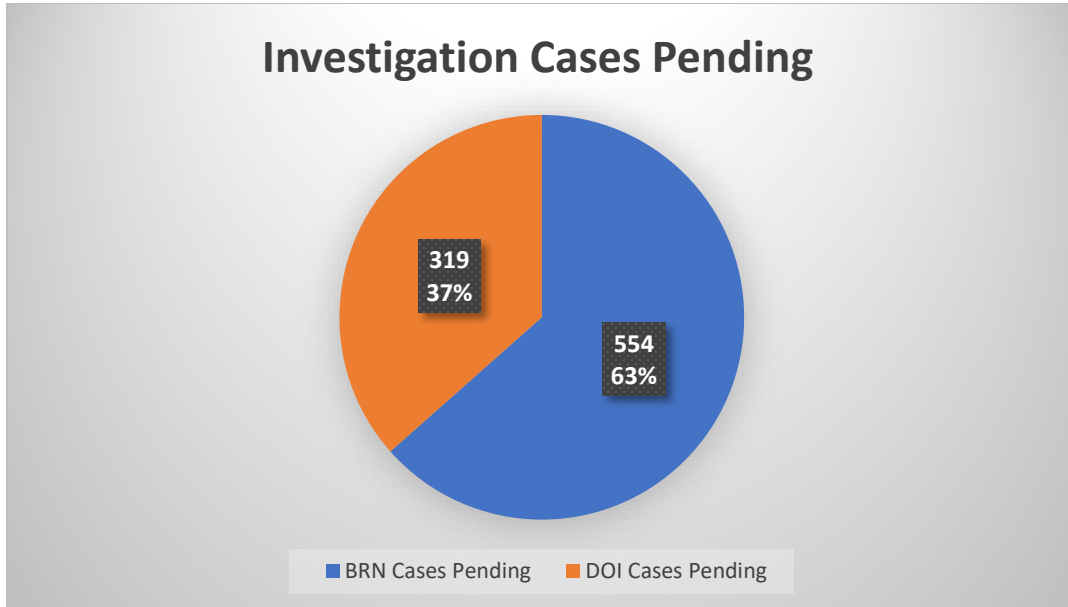


<b>Probation</b>	Active In-State Probationers	628
	Tolled Probationers	461
	Revoked	14
	Surrendered	32
	Completed	113
	Subsequent Cases Pending at AG	
	<1 Year	44
	>1 Years	7
	>2 Years	0
<b>Total Case Processing Time</b>	Average Days to Complete	661
	> 540 Days	55%
	< 540 Days	45%
	DCA goal of 540 days for all healing arts boards	

**Graphs Based on Table A**



## Investigation Cases Pending



### BRN Performance Measure YTD 22/23

**TABLE B**

<b>Performance Measure 4 - AG Transmittals</b>						
	<b>Case Volume</b>	<b>Intake</b>	<b>Investigation</b>	<b>Pre-AG Time</b>	<b>Post AG Time</b>	<b>Cycle Time</b>
<i>September</i>	98	9	359	10	304	682
<i>October</i>	75	6	357	9	329	701
<i>November</i>	113	1	308	9	300	618
<i>December</i>	108	6	362	12	312	692
<i>January</i>	95	4	313	11	299	628
<i>February</i>	56	6	410	1	310	727

If you would like more information on our enforcement statistics, please go to [https://www.dca.ca.gov/data/enforcement\\_performance.shtml](https://www.dca.ca.gov/data/enforcement_performance.shtml)

**NEXT STEPS:** Continue to Monitor

**PERSONS TO CONTACT:** Shannon Johnson, Enforcement Division Chief  
(916) 515-5265  
Nichole Bowles, Investigations Division Deputy Chief  
(916) 597-7345

## ENFORCEMENT PROCESS STATISTICS

### REFERENCE GUIDE

#### **Complaint Intake**

- Complaints Received
  - The total number of public complaints received. This includes other state agencies and Boards.
- Convictions/Arrests
  - The total number of complaints received due to an arrest and/or subsequent conviction. These are reported by Criminal Offender Record Information (CORI) from the California Department of Justice (DOJ).
- Applicants
  - The total number of applications received from Board of Registered Nursing (BRN or Board) licensing, in where the applicant disclosed a previous criminal history or discipline by another state board.
- Complaints Pending
  - The number of complaints that are pending in the Complaint Intake Unit (CIU).
- Convictions/Arrests Pending
  - The number of Convictions/Arrests that are pending in CIU.
- Applicants Pending
  - The number of Applicants that are pending in CIU.

#### **Intervention**

- Total Participants
  - The current number of participants in the Intervention Program.
- Self-Referrals
  - The number of referrals in where the RN has contacted the Intervention Program on their own, without a complaint being filed.
    - Declined
      - The number of self-referrals that decided to decline the Intervention Program after receiving program information.
    - Accepted
      - The number of self-referrals that have accepted and entered the Intervention Program.
- Board-Referrals
  - The number of referrals in where the RN received an invitation by the Board, based on a complaint that involved drugs, alcohol or mental illness.
    - No Response

- The number of Board referrals that didn't respond to the invitation.
  - Declined
    - The number of Board referrals that decided to decline the program after receiving program information.
  - Accepted
    - The number of Board referrals that have accepted and entered the program.
- Terminations
  - The number of RN's that were terminated from the program for any reason.
- Successful Completions
  - The number of RN's that were able to successfully complete the program.

### **Citation & Fine**

- Citations Issued
  - The total number of citations issued.
- Formal Hearing
  - The number of hearings requested by the RN. The formal hearing is transmitted to the Attorney General's Office (AGO) and is heard by an Administrative Law Judge (ALJ). The results of this hearing would be either modify, dismiss or uphold the citation.
- Informal Conference
  - The number of informal conferences conducted after an appeal is made by the Respondent. The results of the informal conference would be either modify, dismiss or uphold the citation.
- Amount Ordered
  - The total fine amount that has been ordered from all citations issued during the Fiscal Year (FY).
- Amount received
  - The total fine amount received by the Board during the FY.
- Amount referred to Franchise Tax Board (FTB)
  - The total amount of fines referred to FTB, in an attempt to retrieve the fines through California Income tax.
- Amount received from FTB
  - The total amount of fines received from FTB from California Income tax.

### **Discipline**

- Attorney General (AG) referrals
  - The total number of cases referred to the AG.
- Cases pending

- The total number of cases that are pending a final disposition in the disciplinary process.
- Cases pending hearing
  - The total number of cases that are awaiting a hearing before an ALJ.
- Average days at AGO
  - This is the average number of days that cases are at the AGO for prosecution.
- Pending Board vote
  - The total number of cases that are awaiting a vote by the Board.

### **Legal Support**

- Interim Suspension Order (ISO)
  - Licenses suspended by an Administrative Law Judge due to the seriousness of the allegations in advance of the filing of an accusation and pending a final determination of the licensee's fitness to practice and provide nursing care.
- Penal Code 23 (PC23)
  - Licenses suspended from practice as a registered nurse or restricted in how he or she may practice registered nursing ordered by a judge during a criminal proceeding.
- Pleadings served
  - The total number of pleadings that have been served. This includes Accusations, Statements of Issue, Orders to Compel and Petitions to Revoke Probation.
- Withdrawals of pleadings
  - The total number of pleadings that the Board has withdrawn, and no action was taken.
- Decisions adopted
  - The total number of final Decisions that were adopted by the Board. This includes Surrenders, Default Revocations, Ordered Revocations, Probation and Public Reprovals.

### **Investigations**

- BRN cases referred
  - This is the total number of cases that were referred to BRN Investigations.
  - Rejected
    - The total number that were rejected. Rejected cases are either referred to Division of Investigation (DOI), per Consumer Protection Enforcement Initiative (CPEI), closed or sent for citation.
  - Supplemental requested
    - The total number of cases that needed additional investigation for evidence or interviews. These are normally requested by BRN staff, AG or Expert.
  - Triage

- The total number of cases that require additional information and discussion to determine the CPEI level, before assignment to either BRN Investigations or DOI.
- BRN cases pending
  - Total number of cases pending with BRN Investigations.
    - The total number of cases pending that are over 1 year old with BRN Investigations.
- BRN cases completed
  - The total number of cases that have been completed by BRN Investigations.
- DOI cases referred
  - This is the total number of cases that were referred to DOI.
  - Rejected
    - The total number that were rejected. Rejected cases are either referred to BRN Investigations per Consumer Protection Enforcement Initiative (CPEI), closed or sent for citation.
  - Supplemental requested
    - The total number of DOI cases that needed additional investigation for evidence or interviews. These are normally requested by BRN staff, AG or Expert.
- DOI cases pending
  - Total number of cases pending with DOI
    - Cases over 1 year old
      - The total number of cases pending that are over 1 year old with DOI.
- DOI cases completed
  - The total number of cases that have been completed by DOI.
- DOI pilot cases initiated
  - The total number of cases that were sent to BRN for investigation, that were outside the CPEI guidelines, and would have normally been sent to DOI for investigation.
- DOI pilot cases pending
  - The number of cases that were referred to DOI and are still pending completion.
- DOI pilot cases closed
  - The number of cases that were referred to DOI and have been completed.

### **Probation**

- Active in state probationers
  - 616 The total number of current/active in state probationers.
- Tolled probationers

- 429 The total number of probationers that reside outside of California. These probation cases are placed on hold until the RN returns to California.
- Revoked
  - The total number of probationers that have been revoked.
- Surrendered
  - The total number of probationers that have surrendered their license.
- Completed
  - The total number of probationers that have successfully completed probation.
- Subsequent cases pending at AGO
  - 58 The total number of probationers that have had subsequent discipline and transmitted back to the AG for further disciplinary action.
    - Over 1 year
      - 4 The number of probationary cases that have been pending at the AGO for over 1 years.
    - Over 2 years
      - 0 The number of probationary cases that have been pending at the AGO for over 2 years.

### **Total Case Processing Time**

- Average days to complete
  - The average days currently taking to complete a case from complaint receipt to final Decision
    - Over 540 days
      - The percentage of cases that BRN **is not** meeting the DCA goal of 540 days for case completion.
    - Under 540 days
      - The percentage of cases that BRN is meeting the DCA goal of 540 days for case completion.
  - *Note – DCA's goal for all healing arts boards **is** to complete on an average of 540 days or less.*

### **Table A**

Enforcement and Investigation statistical data FY to date. See guide above for reference.

### **Table B**

BRN's Performance Measure 4, FY to date, by month. This is an average of case time from complaint intake to final disposition, broken down by intake, investigation, pre-AG and post AG time.



- Case volume is the total number of cases received in that month.
- Intake is the average time for intake to process and refer to investigation.
- Investigation is the average time for an investigation of the case.
  - This includes desk investigation, BRN investigation and DOI investigation.
- Pre AG time is the average amount of time from the closure of the investigation to AG referral.
- Post AG time is the average time from AG referral to final disposition of the case.
  - This includes the AG time, hearing, Board vote and case processing.
- Average total time is the average of a case from complaint intake to final disposition.

### **Table C**

This is DCA's reported Performance Measure 4, which is the formal disciplinary cycle time for all DCA entities.

More information on DCA's enforcement reports can be found at <https://www.dca.ca.gov/data/enforcement.shtml>



## Agenda Item 9.2

### **Discussion and Possible Action Regarding Appointment of Intervention Evaluation Committee (IEC) Members**

BRN Board Meeting | November 15-16, 2023

**BOARD OF REGISTERED NURSING**  
**Agenda Item Summary**

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**AGENDA ITEM: 9.2**  
**DATE: February 28-29, 2024**

**ACTION REQUESTED:** Discussion and possible action: Name change of the Enforcement/Intervention Committee (EIC) to Enforcement, Investigation, and Intervention Committee (EIIC)

**REQUESTED BY:** Patricia Wynne, Esq., Chairperson

**BACKGROUND:** To incorporate all units reporting to this committee, a name change is being requested. The name will change from the Enforcement/Intervention Committee to the Enforcement, Investigation and Intervention Committee

**PERSON TO CONTACT:** Shannon Johnson, Enforcement Division Chief  
(916) 515-5265



## Agenda Item 9.3

**Information Only:** Presentation on the Intervention Program, including but not limited to statistics, program updates, the intervention evaluation committee's roles and responsibilities

BRN Board Meeting | February 28-29, 2024

**BOARD OF REGISTERED NURSING**  
**Agenda Item Summary**

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**AGENDA ITEM:** 9.3  
**DATE:** February 28-29, 2024

**ACTION REQUESTED:** Information Only: Presentation on the Intervention Program, including but not limited to statistics, program updates, the intervention evaluation committee's roles and responsibilities

**REQUESTED BY:** Patricia Wynne, Esq., Chairperson

**BACKGROUND:** The Intervention Program is a voluntary alternative to formal discipline for registered nurses with a substance use disorder or mental illness. The Intervention Program is governed by Business and Professions Code sections [2770 to 2770.14](#), Uniform Standards found within Business and Professions Code section [315-315.4](#), and California Code of Regulation, Title 16, Division 14, Article 4.1 regulation [1446-1449](#). The Uniform Standards Regarding Substance-Abusing Healing Arts Licensees have been in effect since April 2011. General information on the [Intervention Program](#) can be on the website.

The Intervention Program delivers a person-centered recovery-oriented plan that will change as the participant moves through their recovery. The Intervention Program is aligned with the Board's mission of consumer protection by providing RNs with access to effective treatment services and a means of returning to safe practice when appropriate.

**PERSON TO CONTACT:** Shannon Johnson, Enforcement Division Chief  
(916) 515-5265



## Agenda Item 9.4

**Discussion and possible action:** Direct Board staff to initiate drafting regulatory language for revisions and/or additions to California Code of Regulations (CCR), title 16, Article 4.1 Intervention Program Guidelines

BRN Board Meeting | February 28-29, 2024

**BOARD OF REGISTERED NURSING**  
**Agenda Item Summary**

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**AGENDA ITEM:** 9.4  
**DATE:** February 28-29, 2024

- ACTION REQUESTED:** Discussion and possible action: Direct Board staff to initiate drafting regulatory language for revisions and/or additions to California Code of Regulations (CCR), title 16, Article 4.1 Intervention Program Guidelines
- REQUESTED BY:** Patricia Wynne, Esq., Chairperson
- BACKGROUND:** The Board staff is researching updates to the Intervention Program regulations to address any necessary clarification and/or gaps in the existing regulatory language. This will allow the delivery of an efficient and effective intervention program for RNs with a substance use disorder and/or mental illness.
- Board staff is requesting authority to initiate the rule making process for proposed regulatory language for future consideration by the Board.
- NEXT STEPS:** Continue research and formulation of proposed regulatory language for consideration by the Board.
- PERSON TO CONTACT:** Shannon Johnson, Enforcement Division Chief  
(916) 515-5265



## Agenda Item 9.5

**Discussion and possible action:** Appointment of Intervention Evaluation Committee (IEC) members

BRN Board Meeting | February 28-29, 2024



**BOARD OF REGISTERED NURSING**  
**Agenda Item Summary**

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**AGENDA ITEM:** 9.5  
**DATE:** February 28-29, 2024

**ACTION REQUESTED:** Discussion and possible action regarding appointment of Intervention Evaluation Committee Members

**REQUESTED BY:** Patricia Wynne, Esq., Chairperson

**BACKGROUND:**

In accordance with Business and Professions Code section [2770.2](#), the Board of Registered Nursing is responsible for appointing persons to serve on an Intervention Evaluation Committee (IEC). Each IEC is composed of three registered nurses, one physician and one public member who possess knowledge and expertise in substance use disorder or mental health.

**APPOINTMENTS:**

If approved, all IECs will have full membership.

<b>Name</b>	<b>Member Type</b>	<b>IEC</b>	<b>Appointment Type</b>	<b>Term Expiration</b>
Rebecca Gastelum	Public	3	Appointment	02/28/2028
Darcy Hostetter-Lewis	Nurse	11	Appointment	02/28/2028
Wade Murad	Physician	12	Appointment	02/28/2028

**NEXT STEPS:** Continue recruitment efforts

**PERSON TO CONTACT:** Shannon Johnson, Enforcement Division Chief  
(916) 515-5265