

**STATE OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
BOARD OF REGISTERED NURSING  
BOARD MEETING MINUTES**

**Date:** July 16, 2024

**9:00 a.m. Start Time:** 9:00 a.m.

**Location:** **NOTE:** The Board of Registered Nursing’s Enforcement, Investigations, and Intervention Committee (EIIC) held a public meeting in accordance with Government Code section 11123.5 that was accessible via a teleconference platform and at a physical meeting location indicated below.

1625 North Market Blvd.  
El Dorado Room N-220  
Sacramento, CA 95834

**Tuesday, July 16, 2024 – 9:00 a.m. Enforcement, Investigations, and Intervention Committee**

**9:01 a.m. 1.0 Call to Order/Roll Call/Establishment of a Quorum**

Patricia “Tricia” Wynne, Es, Esq., Chair, called the meeting to order at: 9:01 a.m. All members present. Quorum established at 9:01 a.m.

**Board Members:** Patricia “Tricia” Wynne, Esq. - Chair  
Roi David Lollar  
Alison Cormack

**Absent:**

**BRN Staff:** Loretta (Lori) Melby, RN, MSN – Executive Officer  
Reza Pejuhesh – DCA Legal Attorney  
Shannon Johnson, Enforcement Division Chief – Staff Liaison

Loretta Melby asked the committee to reorder the agenda to move agenda item 2.0 to after 6.0. Members discussed briefly to agree.

**4:20 p.m. 2.0 Public Comment for Items Not on the Agenda; Items for Future Agendas**

Please Note: The Board may not discuss or act on any matter raised during the Public Comment section that is not included on this

agenda, except to decide whether to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125 and 11125.7, subd. (a).)

**Public Comment  
for Agenda Item**

**2.0:** Toni – Expressed dissatisfaction with BRN’s Intervention Program and shared information regarding consideration around injuries, clinical reassessments, CRNAs being extended, communication and trust.

Jessica – Expressed dissatisfaction with BRN’s Intervention Program and shared information regarding the narcotics change and difficulty finding jobs to satisfy that requirement.

Anthony – Expressed dissatisfaction with BRN’s Intervention Program and the requirement of passing narcotics.

Janelle – Expressed dissatisfaction with BRN’s Intervention Program and the changes and the effects.

Danielle – Expressed dissatisfaction with BRN’s Intervention Program.

Daniel - Expressed dissatisfaction with BRN’s Intervention Program and issues around drug testing. .Virginia

Anna – Expressed dissatisfaction with BRN’s Intervention Program.

Millie – Expressed dissatisfaction with BRN’s Intervention Program and wonders if the requirements guarantee that a nurse who completes is not going to relapse.

Matthew A. – Expressed dissatisfaction with BRN’s Intervention Program and had questions around the audit that will be completed by the EO and when they should expect to hear the results. Loretta Melby said she will be presenting additional information regarding the intervention program at the August meeting.

Patricia Wynne thanked everyone for their public comment and helpful presentations.

Alison Cormack said we did not talk today whether there is a requirement to pass narcotics and asked if staff will discuss this in August.

Loretta Melby said she's discussing this with legal and this will be presented in August.

Alison Cormack said this was on the agenda in June and hopes this will be addressed in August.

Patricia Wynne asked for some more research on the 30-day requirement to be off work for missing a check in and whether another test can be requested the next day or whether zero tolerance is required.

Loretta Melby said this was brought up earlier today in Virginia Matthews' presentation that they stopped this about a week ago based on direction by Shannon.

Virginia Matthews' answered in the affirmative.

Loretta Melby wanted to make an announcement and thank the BRN moderator, Marc and thank Jennifer Roseberry who works behind the scenes. She said they are working on these issues even if the public does not feel that we are.

9:04

3.0

**Review and vote on whether to approve previous meeting minutes:**

- October 26, 2022

**Board Discussion:** Patricia Wynne said David Lollar was not able to attend the October 26, 2022, meeting. Alison Cormack was not a board member on that date. Patricia Wynne said she reviewed the minutes, and they look accurate. David Lollar accepted Patricia Wynne's review. Alison Cormack said her practice is to abstain.

**Motion: Patricia "Tricia" Wynne**

**Second: David Lollar**

9:06

**Public Comment for Agenda Item:**

No public comments on WebEx or Sacramento.

**Vote:**

	<b>PW</b>	<b>DL</b>	<b>AC</b>
Vote:	Y	Y	A
<u>Key:</u> Yes: Y   No: N   Abstain: A   Absent for Vote: AB			

9:08 a.m.

Motion Passed

9:08

**4.0 Information Only:** Overview and comparison of Intervention Program and probation

**Committee**

**Discussion:** Patricia Wynne said the board members are more familiar with the probation program since they review discipline cases. She said the intervention program is harder since it is confidential. She asked if the differences are explained to nurses, if so, how is it done.

Shannon Johnson said the nurses can contact the BRN and the differences are explained by intervention staff. She isn't sure how much information is shared if the nurses contact Maximus. She said Virginia Matthews from Maximus will be present later and may be able to answer this question.

Patricia Wynne said probation is valuable and the nurses who are in close contact with their monitor are successful. She said the intervention participants don't have the same kind of relationship and asked Shannon Johnson to explain.

Shannon Johnson explained the communication between intervention participants and Maximus. She also explained communication in probation. She said communication happens in both options.

Loretta Melby said Virginia Matthews is present and asked her to be elevated.

Alison Cormack agrees with Patricia Wynne that the members have a lack of familiarity with the intervention program and appreciates it being presented. She thinks more information could be given to nurses including the slides presented today. She likes that both programs are intensive with significant restrictions and expectations.

Reza Pejuhesh said he has slight concerns with communication that does not have staff making any suggestions to nurses on which way a nurse should go – probation or intervention.

Alison Cormack said she is not suggesting this and only sharing information on the website. She said the board keeps hearing from nurses that they don't understand or unable to find information.

Loretta Melby said there is a lot of information on the website. There is a link to intervention with videos from participants. Staff provide information about probation, different laws, and intervention as well. Flyers are sent to various organizations and hospital settings. Maximus does presentations as part of their contract to anybody that

asks about the program. Fee breakdowns are also available on the website. There is in depth information available.

Virginia Matthews agrees with everything that has been said so far. Maximus has a website that parallels much of what is on the BRN website and even a link to the website. There is more recovery information on the Maximus website since the purpose of the program back in 1985 was recovery. She said Maximus staff explain intervention and if any questions come up about probation, then they ask BRN. Maximus staff do not guide a nurse to either program.

Alison Cormack discussed costs of both programs since both are expensive. The vast majority of costs are paid by the nurse in both programs. She asked if a nurse on probation is chemical dependency related then would the nurse would pay the significant costs for treatment, therapy, and drug testing.

Shannon Johnson said both probation and intervention require payment by nurses.

Alison Cormack said she searched the BRN website and thinks there should be a general overview with links to the various places to find information.

Shannon Johnson said they are in the process of creating a video about the PowerPoint slides and revamping the probation information.

David Lollar asked if there is a way to include a range of costs and wonders if the intervention participants are spending two to three times the amount of money as probationers.

Shannon Johnson said they can provide an average and the costs on the slides include costs for testing and Vault's costs. The slides are for intervention, but one can be created for probation.

David Lollar said the IEC (Intervention Evaluation Committee) has the authority to make recommendations and wonders who has oversight over the IECs. He said the IEC recommendations lack common sense.

Shannon Johnson said the program manager, herself, and the AEO (Assistant Executive Officer) have been involved in the IEC meetings for some time to address anything that comes up during meetings to ensure they're following the uniform standards and statutes and regulations. IECs should be making recommendations based on documentation provided from the participant's overseeing physician

exams, medication management, and treatment program. Maximus receives input from nurse support group facilitators as well.

Loretta Melby explained how the IECs operate similarly to the board in the meeting process. She explained that there has been some drift in the IEC process and now the AEO, Shannon Johnson, and Jaspreet Pabla are fully involved in looking at how they function and making changes to improve their operation.

David Lollar appreciates the information to help make sense of the public comments received.

Patricia Wynne said she would like to go to public comment.

Loretta Melby reminded the public to make comments for this specific agenda item.

9:49 am

**Public Comment  
for Agenda Item:**

Janelle - Expressed dissatisfaction with BRN's Intervention Program and shared concerns with the costs associated with it and how communication needs to be improved.

NSGF in San Luis Obispo area – Expressed dissatisfaction with BRN's Intervention Program and shared concerns around cost of the program and access in rural areas.

Matthew A. – Expressed dissatisfaction with BRN's Intervention Program specifically around programs changes and communication.

Reza Pejuhesh spoke about the confidential information being shared with the board for discipline. Information about a participant who is in intervention is only shared with the board if the participant has been terminated as a public safety threat. If a participant is terminated for any other reason, then only the name and license number is reported to the board.

Matthew asked if a participant files a claim against the board that their confidential information is available for the board.

Reza read Business and Professions Code section 2770.12(c) lists when information can be provided.

Matthew said those who have accusations and go into the program have information publicly available on the BRN website so that was not accurate.

Danielle, intervention participant for past 5 ½ years – Expressed dissatisfaction with BRN's Intervention Program and shared about testing frequency and costs associated and needing better communication. She also shared her experience with her last Intervention Evaluation Committee meeting.

Tara O'Flaherty, Director of Nursing at Lifelong Medical, oversees 50+ nurses – Expressed dissatisfaction with BRN's Intervention Program and losing a staff member due to the new narcotic requirement and would like more information regarding this change and program requirements for her employees..

Loretta Melby explained that a NEC communicates with the employer about probation but that is not done in intervention. She is doing an audit and when complete information will be shared.

Danielle – Expressed dissatisfaction with BRN's Intervention Program and shared concerns about Maximus and motivations.

Toni – Expressed dissatisfaction with BRN's Intervention Program and shared that she feels there is harm being done.

Nurse 99 – Expressed dissatisfaction with BRN's Intervention Program, communication, costs, and choices between intervention and probation.

Reza Pejuhesh offered additional explanation regarding participation in the intervention program, and that it doesn't preclude any criminal action by criminal authorities. The board doesn't have control over that and presumes it was something unrelated but he doesn't know the facts. He also said that the intervention program has been characterized as voluntary but the reality is that the decision that's often faced is prosecution in an administrative hearing where one has their day in court and their opportunity to address a judge versus the option of the intervention program. He said with the threat of prosecution, it's a choice that's made. It is understandable that people think its not voluntary with that threat looming over them but that's the reality of it. He said it is noteworthy from some of the comments how that's characterized in almost a threatening and intimidating way and that is concerning.

S – Expressed dissatisfaction with BRN's Intervention Program and shared that she would have known more about the probation and intervention programs.

Chris Else – Expressed dissatisfaction with BRN’s Intervention Program and how today’s public comment was managed.

LH – Expressed dissatisfaction with BRN’s Intervention Program and requested transparency regarding both programs and the cost and requests the board to look for ways to help cover the costs.

Jessica – Expressed dissatisfaction with BRN’s Intervention Program and discussed the Montana alternative to discipline program.

Steven Fisher – Expressed dissatisfaction with BRN’s Intervention Program and would like some accountability regarding the issues being shared.

Reza explained the agenda and process the board and committee goes through and what is coming up on the agenda later today.

Anthony – Expressed dissatisfaction with BRN’s Intervention Program and the changing requirements.

GK – Expressed dissatisfaction with BRN’s Intervention Program and mentioned that this meeting was not posted on the DCA website there were also additional comments regarding Maximus and profit

Reza generally explained the contract procurement process and that a link is available on the BRN website for the public to view the meeting on WebEx and that it will be available on YouTube.

Loretta Melby said they are looking for webcasting for the rest of the meeting as she was not aware it was not done.

Patricia Wynne asked how many more commenters are waiting to speak and when a bio break could be taken.

**10:46 break until 11:00**

**Meeting resumed at 11:00 quorum re-established.**

Patricia Wynne reminded the public that the committee is informed by the public comments and is considering it in what happens going forward.

Mark – Expressed dissatisfaction with BRN’s Intervention Program and requested clarity of the path in the program.

Courtney Ivy – Expressed dissatisfaction with BRN’s Intervention Program and shared concerns regarding changes and oversight.



**Additional  
Committee  
Discussion:**

Patricia Wynne said EO Melby has assured her she's auditing the program to see how things can be improved. She asked about the comment where a person with a certain type of offense could not participate in one program or another which was not her understanding.

Shannon Johnson said if a person was previously terminated from any other intervention program or discipline against their license already would not be eligible for the program.

Loretta Melby listed the takeaways:

- Update the website with specific compare and contrast between intervention and probation.
- Follow up discussion about cost recovery.
- Potential range of potential costs for each program.
- Employers would like additional information on compare and contrast.
- Employment requests with NEC in probation and Maximus for intervention.

Patricia Wynne said that is what she shows.

Alison Cormack asked if these are changes over time or the specific instance, they find themselves in or reality that during recovery that things will change for people.

Loretta Melby said it's been three weeks since the last board meeting and she's diligently working on this. It is a very high priority for her.

11:16 a.m.

5.0

**Information Only:** Discussion regarding issues surrounding Intervention Evaluation Committees (IECs) and IEC meetings (including but not limited to discussion of: IEC member vacancy and recruitment; frequency, length, legal requirements, logistics, etc. of IEC meetings; assignment of IEC participants to IECs; etc.)

**Committee  
Discussion:**

Patricia Wynne asked how someone would get a not safe to practice label and what steps are needed to come back into compliance.

Shannon Johnson said that after the initial diagnostic evaluation, a recommendation needs to be made on treatment, employment and diagnosis. This is when nurses are in the early stages of recovery with very few that are safe to practice when they enter the program. She thinks they are looking for more recovery time. If a participant is in partial hospitalization, residential program or IOP after care then

they have another assessment to state whether they're safe to practice to get them back working. She said in the past the not safe to practice assessment was in place and going to IECs and she doesn't think it was being communicated they were not safe to practice when the decision was being made by the IEC as to a recommendation for that participant. They found several and that is why they've surpassed 50 that Maximus mentioned because several participants had to go back and have another assessment done because they were found not safe to practice with nothing else in place since that statement from the assessor. As the regulatory board, we need to ensure they're safe and if something says they're not, we can't in good faith put them out there to practice. That has been occurring the last several months.

Patricia Wynne agreed with Shannon Johnson and said a person would come into the program and in the very early days would get an assessment and then the assessment would not be revisited for a couple of years and then come before IEC and that assessment is still there.

Shannon Johnson agreed with the statement and said that was what previously occurred. It's not the role of the IEC to diagnose and should be using all the treatment information, the mental health exam, a substance abuse assessment, physical exam to determine if there's something missing where they can't make a recommendation based on what they've been provided then the IEC needs to let the board know what information is needed. The IEC can't decide which is what has been seen at some IECs. The IEC says to push the decision off and come back to the next IEC in three months and they need X, Y, and Z to be able to decide. This is what is happening in the IECs instead of making decisions based on information they do not have.

Patricia Wynne said a participant is in front of an IEC and the IEC says go back and get an assessment that you're safe to practice and asked who at Maximus does the follow up assessment. Is it the caseworker that has been working with the nurse all the way through the process or is it separate.

Shannon Johnson said the case manager is not at the level to do a diagnosis and a recommendation on diagnosis and treatment plan. She said it would need to be an assessor who is obtained by Maximus to do it. Once the participant leaves their meeting, the IEC has their discussion points and rationale, they vote and then the vote is given to the case manager at Maximus to follow through with the participant on what is needed prior to their next meeting.

Patricia Wynne asked if the assessments are being done in a timely manner or is there a backlog.

Shannon Johnson said it depends on the assessment. The initial assessments are getting done timely.

Patricia Wynne asked if the reassessments can be done within three months between IEC meetings.

Shannon Johnson explained the 820 exams that have a 45-day time limit being done and thinks three months is doable.

Alison Cormack wonders if there are similar metrics for intervention as are reported out for probation that is not confidential. She said this is not an efficient process to go to meetings and discuss these issues and wants to be able to address the issues and manage the process going forward.

Shannon Johnson said there is data, and it depends on what the board wants to see. She said there are many milestones that can be shared.

Alison Cormack said it would be helpful to see how many participants are in which year of the process. EO Melby is working on how to fix the problems for the people who have commented today. The committee has to understand what's happening and prevent issues earlier in the process. She is not certain what five metrics to see but trusts the staff to bring that information to each meeting for the committee to review and discuss. She went over the information presented by Shannon Johnson today. She wonders why there seems to be more people in the program for more than three years than there used to be. She remembers asking if IEC members are interviewed by board members and being told no. She asked about conflict of interest and if the form has been fixed for the IEC applications.

Shannon Johnson said she needs to check on that to see if it was addressed and gave an explanation about the conflict-of-interest process.

Alison Cormack asked if IECs are under the purview of Shannon Johnson's organization.

Shannon Johnson said it has always been under enforcement.

Alison Cormack asked if there are process improvements or policy considerations and if there are improvements the committee should be considering.

Shannon Johnson said there's an issue with the regulation with a lot of loopholes. There's a lot of contradictions between uniform standards and regulations. They continue to meet with Maximus at least weekly to discuss certain areas and aspects of the program and can identify areas for improvement. They've handled the IEC term service issue. Laws not being followed and ensuring they adhere to that moving forward. There is a RFP (Request for Proposal) coming up because the contract ends at the end of December and some areas could be addressed in that as well.

Alison Cormack said it would make sense for this committee to step back and take a look at this whole program in six months to figure out if it's going in the right direction and they're doing what they're supposed to be doing correctly or is there more that would be helpful. She would like to know how confident they are that the IECs operate consistently. That if any participant is seen by any IEC that the experience is similar.

Shannon Johnson said she's in almost every IEC meeting listening to the rationale discussion and she thinks they are more consistent now covering every point of the program for each individual. For example, 1.5 years ago someone could go before the IEC and be granted certain things without being safe to practice but the IECs were not looking at the uniform standards, not applying criteria, and now they've been provided with all the tools and are following the statutes, regulations, and uniform standards. She can say the IECs are consistently following them. She said some individuals have different rationale and discussion points but they have very good discussions on the cases.

David Lollar said he has one question based on what was heard before and appreciates Shannon's awareness of the systems management failure that is being addressed. He has a two-part question based on the comments and didn't get a chance to ask it at the board meeting but its relevant to this agenda item. He asked if the IECs were ever given a directive to prolong the program for the licensees and he asks this based on the surprise new requirements levied. Shannon Johnson said absolutely not. The direction given to IECs was that anyone completing the program needs to make sure they meet the criteria and uniform standard number 12 to go back to full time employment, meet the criteria and uniform standard 11 for testing and they need to meet criteria for uniform standard four. The

documents are available for the IECs during each meeting and she has them reference the criteria so they can have discussions on them. The board does not interject in a IEC discussion except to give them factual information on the case that may not have been taken into consideration. He asked if the vendor profits from a participant being extended.

Shannon Johnson said the administrative fee is paid per participant per month, but the vendor was never told to extend or gave IEC any direction to extend a participant.

Patricia Wynne asked what makes a person unsafe to practice and how it compares to probation. Is it the same assessment generally speaking or are there differences.

Shannon Johnson said the big difference for probation is they meet rehabilitation criteria within disciplinary guidelines. There's a list of items taken into consideration. If a person is new in recovery, they are not going to be set up to be successful in probation. Steps should have already been taken to rehabilitate through a criminal court order or on their own. When a probationer is offered probation or the proposed decision by an ALJ (Administrative Law Judge) is probation, it's usually because they can provide proof of some rehabilitation. If they choose to go into intervention some might not have entered any sort of treatment yet. Some might be in different levels of treatment. If a person used yesterday and the intake and assessment is today, they're probably not going to be safe to return to a RN position in patient care or with access. The assessor should determine when they do their complete review of the individuals that want to be in the program. There are various reasons but normally it's because they're still in the very early stages of recovery a lot of them don't want to go back to work immediately. They know they probably can't because there's stressors and triggers attached to it. For some to stay abstinent and really get into their recovery, meetings, treatment, medications for treatment, etc.

Patricia Wynne said relapses are part of the disease and a lot of people succeed in spite of having relapses along the way. She asked if relapses in the intervention program are treated the way they are in the probation program. If someone has a series of relapses in probation their probation monitor meets with them and they might be extended for a year or lots of different ways of addressing it. She would like to know how intervention handles them.

Shannon Johnson said if there is a positive test in probation, that's a major violation and needs to go back to the Attorney General's Office.

The laws require the case be sent back and they can either end up on probation by settling again but usually with a positive drug screen that's a little bit on the severe side. If there are multiple minor violations, they could turn into a major violation and that's up to the IEC to determine. They need to take all the information into consideration and determine if there is a relapse. If it is a relapse, where do they go from there. Some have been terminated, some have been kept in the program, so it depends on the individual and the circumstances.

Patricia Wynne said it would be good to go to public comment at this time.

Loretta Melby asked if Alison Cormack wanted detailed data that Maximus provides monthly to the board or for some type of dashboard created for the website. She wondered if the data should be brought to the committee as well as the board or full report to the board.

Alison Cormack said report to the board quarterly is the right place for it.

Loretta Melby is creating a timeline in the audit and noticed with the contract there are very specific turnaround times during the intervention process. There are very strict timeframes that will be gathered to present to the board and on the web. This information is given to the participant so they know all the expectations clearly would be a good thing going forward. She went over the various time frames for the various actions to take place for a participant.

Alison Cormack said people going into probation may be further in their recovery process if they've been through the criminal courts and that might be the reason people are being suspended or not safe to work that does happen in probation.

Loretta Melby said she'll look at that.

Patricia Wynne said it's 11:57 a.m. and might be a good time to take lunch then go into public comment.

**Break from 11:57 am to 12:30 pm**  
**Meeting resumed at 12:30 pm. Quorum re-established at 12:30 pm.**

**12:30 pm Public Comment(s)**  
**for Agenda Item:**

Matthew A. – Expressed dissatisfaction with BRN’s Intervention Program and shared experiences with IECs and Uniform Standard 12 and the narcotic requirement.

Janelle – Expressed dissatisfaction with BRN’s Intervention Program and said the main issues are forcing nurses to work bedside or give narcotics for what is an undetermined period of time. Mandating a second clinical assessment

Toni – Expressed dissatisfaction with BRN’s Intervention Program and shared that the reassessment and being safe to practice should be enough and offered her contact information for other members to reach her.

Danielle – Expressed dissatisfaction with BRN’s Intervention Program and doesn’t trust an audit from the BRN.

Nurse 99 – Expressed dissatisfaction with BRN’s Intervention Program and shared experiences with the IEC.

Danielle – Expressed dissatisfaction with BRN’s Intervention Program and shared her experience with an IEC meeting and asked for her case to be reviewed.

Mark – Expressed dissatisfaction with BRN’s Intervention Program and expressed concerns with the interpretation of Uniform Standard 12 and extending the program and would like to have more communication.

Nurse 23, a participant since March 2021 – Expressed dissatisfaction with BRN’s Intervention Program and shared her experience at an IEC meeting.

Millie – Expressed dissatisfaction with BRN’s Intervention Program and shared her experience as an IEC member. She mentioned two major changes with miscommunication..

Anthony – Expressed dissatisfaction with BRN’s Intervention Program and shared that there has been miscommunication and to consider when participants have injuries and cannot work bedside.

Anna – Expressed dissatisfaction with BRN’s Intervention Program and how the changes impacted people and their families and shared that there has been a lot of changes in case managers in the last six months.

Courtney Ivy – Expressed dissatisfaction with BRN’s Intervention Program and shared her experience as an IEC member. She

expressed concern over the review process regarding documents and notice to the participants.

David – Expressed dissatisfaction with BRN’s Intervention Program and asked the board to reconsider the policy around missed check in or dilute urine and being removed from work for 30 days and to look at participants returning to working without restrictions sooner.

Patricia Wynne said she values public but wants to reiterate that this item relates to the IEC and public comments should be kept to this subject.

M – Expressed dissatisfaction with BRN’s Intervention Program and shared concerns around the work requirements, missed tests, being off work for 30 days, missed check ins and request more communication.

LH – Expressed dissatisfaction with BRN’s Intervention Program and shared that there needs to be a more robust cross check and balance of the interpretations of the uniform standards by the IECs.

Alec – Expressed dissatisfaction with BRN’s Intervention Program and had concern with Maximus and profit.

Dolores – Expressed dissatisfaction with BRN’s Intervention Program and asked where the rules of the intervention program are and where are the written program procedures.

**Additional  
Committee  
Discussion:**

Reza Pejuhesh added information on Business and Professions Code sections 2770 through 2770.14 in the Nursing Practice Act. Title 16 of the California Code of Regulations sections 1446 through 1449.

Loretta Melby added that DCA posts the Uniform Standards on their website. When a participant joins the program, they get an agreement that outlines every single step of requirements, timeframe for returning signed documents. She’ll bring a generic copy of the contract to the next meeting.

Patricia Wynne asked Shannon Johnson about return to work as safe to practice and if it’s the same with probation and intervention.

Shannon Johnson said its different in intervention. It’s a bubble for yes or no with some narrative that can be added to it. Probation has a complete narrative history that is provided with family history, drug history, alcohol history, criminal history, physical ailments.



Patricia Wynne asked about board approved therapist and if a participant would be asked to change in the middle of their recovery program.

Shannon Johnson said she's seen in IEC that someone may be seeing a mental health or family therapist and they're asked to see a substance use disorder therapist.

Alison Cormack wondered the same thing. Interaction between IECs with case managers. There were multiple comments it was taking more than 10 days to get a written response. She said there was a comment saying it never used to be like that and the program manager is reviewing every one of these which makes sense. She asked if the program manager can overrule an IEC recommendation.

Shannon Johnson answered in the affirmative.

Alison Cormack asked if that's happened in 2024.

Shannon does not believe it has. Maximus provided notes, votes, rationale, and discussion points. Staff makes sure information is accurate and four or five sets of notes for every IEC to see what happened at the meetings. That's the only changes made to the recommendations by the committee. No changes in care plan. No changes for employment.

Alison Cormack asked about the 30-day removal from work. Is this the philosophy of intervention or a zero tolerance or a grace for one missed check in or dilute urine sample and the consequences.

Shannon Johnson said it's been different in the past. A missed check in resulted in removal from work but they recently asked Maximus not to remove them from work. Uniform Standards has violations for non-compliance for a major or minor violation and it depends. You look at a variety of issues to determine consequences. A participant must test negative for at least a month of continuous drug testing before they're allowed to return to work based on uniform standards for the consequences of removal from work.

Alison Cormack asked if we think this is clear for participants and Maximus compliance monitors and case managers.

Shannon Johnson said it's as clear as mud. She agrees with some of the comments and thinks communication needs to improve. A lot of

information needs to be shared with participants that is not being shared.

Alison Cormack is interested in having some suggestions or recommendations from experts in the field about whether or not it should be a zero-tolerance policy or whether or not some grace should be allowed. She doesn't know the right answer because she isn't an expert in addiction and the committee should be making that decision today. She appreciates the participants providing the information about the confusion and this seems like a strong consequence for people to adhere to.

Loretta Melby said there's a section in the Maximus contract with DCA talking about missed check ins or drug tests. She read the language to the committee.

Virginia Matthews said there are many layers to this. When the Uniform Standards were reviewed in 2019 by the Substance Use Coordination Committee (SUCC), she testified to this issue because for many years it has been an issue that participants cannot find a collection site due to work schedule. She said people from different states said they don't have testing on holidays and weekends or when a participant can't get to a collection site it will be accommodated and the SUCC left it as is being tested on any day of the year. It's random selection and there is no leeway to make any accommodations, but they do their best to make accommodations because it's impossible. Virginia Matthews said if you cannot demonstrate intent to avoid a test, they require two negative tests and let them return to work.

Alison Cormack asked if it's removal for 30 days or two negative tests.

Virginia Matthews said there are two parts to that. Uniform Standards say when you start the program you have to have 30 days of negative tests before you can return to work. If it's a positive test result, if it's a failure to test, if it's a major infraction it requires 30 days of negative tests. It's whether or not the failure to check in was considered a major infraction or a failure to test is where that interpretation is.

Alison Cormack asked if someone fails to check in this morning, are they removed from work and for how long.

Virginia Matthews said as of this past week they had conversations with board staff and they've agreed that Maximus will consult board staff to talk about the individual case, their test history, their

compliance history and whether they've had prior missed check ins or missed tests and make the determination based on the individual case history. The person is initially removed from work until the determination is made. An example is one that occurred yesterday and is being sent to the next IEC in the next couple of days and the IEC will make the determination of how long the person will be out of work before they can return to work. There was another person who also came up yesterday and that person had a relatively clean test record, no other infractions, no other missed calls and they were allowed to return to work. The decision was not made by Maximus but in consultation with the board and is being made on an individual case basis.

Patricia Wynne asked Loretta Melby for takeaways.

Loretta Melby provided:

- Copy of contract sample agreement posted for the next board meeting.
- Get Safe to Return to Work in advance so that it can be addressed prior to going to IEC instead of waiting for another IEC.
- How to ensure IECs operate consistently if a participant is bumped to another IEC to be seen.
- Therapist changes – why are they being done

1:50 p.m.

6.0

**Information Only:** Discussion regarding the Maximus clinical case manager (CCM) turn-over and vacancy rates; roles and responsibilities of the CCM and compliance monitor; protocols for returning Intervention Program participants' (IPP) calls; the assignment of IPPs to the IECs; and testing site locations and challenges

2:32 pm

**Committee Discussion:**

Patricia Wynne asked what the caseload is for each CCM and CM.

Virginia Matthews said the maximum is 130 per the contract but most are at 90. Patricia Wynne said it sounds like a high caseload of they're checking in every week.

Virginia Matthews said they only check in weekly when the participant is new. 130 is high but that's what the contract allows. 90 is reasonable.

Patricia Wynne said commenters spoke about call backs not happening but will wait to hear from the public commenters. Patricia

Wynne said 50 miles seems a long way for someone to travel and looks for ways to lessen the burden.

David Lollar spoke about Maximus using the drug testing company Vault when everyone knows they're dealing with nurses.

David Lollar said the last slide shown by Virginia Matthews shows why there would be testing mistakes with dilutes and yet the consequences don't change for the participants if it is not their fault. He said there's a whole other side of this story they've never heard or is being shared. It seems like this is fixable and manageable and is stunned this is allowed to go on.

Alison Cormack appreciates getting the slides in advance. She learned a lot going through this. She asked if the compliance monitors are operating proactively or reactively.

Virginia Matthews said it's both. There is a notification system that flags documents as they come in real time. But once a month they go through and look for any issues. There is a five-day time frame to respond.

Alison Cormack said the CCMs are RNs in California.

Virginia Matthews said one just left who was a licensed clinical counselor.

Alison Cormack said the agendas limit 17 participants per IEC and commenters have said they only have 10 minutes with the IEC. How is this reconciled.

Virginia Matthews said it is usually 10 participants per IEC. She said they are allowed 30–45-minute time slots for each participant. Some discussion occurs before and after the participant enters the room. Alison Cormack stated that she understands. She then asked about drug test scheduling frequency based on comments that participants were to be tested today and would miss this meeting.

Virginia Matthews explained the test scheduling process that is done randomly for the entire year. She said 26 were scheduled to test today which is what the usual number is.

Alison Cormack said it's important to understand how the schedule works and that it is not directed by a person.

Virginia Matthews explained that a test can be added to the schedule if they have a positive or missed test.

Alison Cormack appreciates all the information given about the Maximus staff, which may have been more than is necessary in public. She said it does seem like a high number given the small number of staff at Maximus. She can understand why participants are concerned with having new staff versus the staff they may have been comfortable with. She appreciates the information discussed and shared by BRN staff and Maximus. She's not sure about having an intake only IEC because she is not familiar enough with the program or processes. She wonders about a survey process to consider some of the questions with the IEC assignments. She asked how participants know about the video collection options.

Virginia Matthews said this is a fairly new process and participants have difficulty testing on weekends and holidays this has been suggested to them going forward if they're in a remote location it will be easier going forward. This is a new process for the last six to eight weeks.

Alison Cormack hopes something more official and comprehensive can be done to notify participants.

Virginia Matthews said they will put information together to send out in the next few days.

Alison Cormack asked what oral testing is for.

Virginia Matthews said its like the urine test panel for multiple substances.

Alison Cormack asked how the method is decided, hair, urine, blood.

Virginia Matthews said blood is an alcohol test with a larger window of detection in conjunction with a positive urine test. She said the hair and blood are randomly done once a year but can be added as a for cause test which is more expensive.

Alison Cormack asked how long to get the results and if they go to Vault, Maximus, BRN, participant at the same time.

Virginia Matthews said it takes about three days total for the entire process and the participant is not notified of result. Alison Cormack asked about an approved travel request and who makes the decision such as if a family member passes away in another country.

Virginia Matthews said that would be an emergency request, but they usually ask for advanced notice, three weeks if possible. They don't approve travel because they cannot restrict somebody's ability to move around. If they know where the person will be they can identify alternate meeting locations or support groups or remotely. They identify collection sites so the participant knows where to go test and collection supplies can be sent to a lab in advance. They ask participants to do a relapse prevention plan thinking about where they're going and what their concerns are with the trip. Are they visiting family, are there triggers, are they going back to some place where they started using or did issues in their history exist that might be a concern they need to face or think about related to that and they ask them to be prepared for that before they go.

Alison Cormack asked if the NSGs are run by Maximus or BRN.

Virginia Matthews said they are independent and run by nurses. Many of the facilitators are graduates of the program or nurses working in the field of substance use disorder or psychiatric nursing. In some way they have experience working with the program, or working in recovery, or in recovery. Maximus vets the applications and they know who they are but they're independent.

Alison Cormack said that information was not clear to her until today and she appreciates the time spent on understanding all this information better.

**Break from 2:59 – 3:10**

**Meeting resumed at 3:10. Quorum reestablished at 3:11 pm.**

**3:11 pm**

**Public Comment  
for Agenda Item:**

S – Expressed dissatisfaction with BRN's Intervention Program and shared concerns with Maximus and profit and testing and job requirements in rural areas.

Janelle – Expressed dissatisfaction with BRN's Intervention Program and shared frustration with communication and not knowing what her recovery plan is.

Anthony – Expressed dissatisfaction with BRN's Intervention Program and wants more information on frequency of IEC meetings, narcotic passing requirements, bedside work and the hour requirement.

Anna – Expressed dissatisfaction with BRN’s Intervention Program and shared concern regarding how long it takes to get to an IEC meetings, dilutes and the time off requirements.

Chris Else, NSGF, San Luis Obispo – Expressed dissatisfaction with BRN’s Intervention Program and discussed Maximus and Vault and was appreciative of the home testing option in rural areas.

Danielle – Expressed dissatisfaction with BRN’s Intervention Program and requested a look in to the cost of the program.

Danielle – Expressed dissatisfaction with BRN’s Intervention Program and shared issues with communication, distance to testing sites, and cost.

Courtney Ivy – Expressed dissatisfaction with BRN’s Intervention Program.

David – Expressed dissatisfaction with BRN’s Intervention Program and changes to his recovery agreement and testing requirements.

Millie – Expressed dissatisfaction with BRN’s Intervention Program and requests an independent review

Matthew A. – Expressed dissatisfaction with BRN’s Intervention Program and the lack of transparency.

LH – Expressed dissatisfaction with BRN’s Intervention Program. She shared concerns with testing and in-person meeting requirements.

Toni – Expressed dissatisfaction with BRN’s Intervention Program and shared concerns with testing and the IEC.

AR – Expressed dissatisfaction with BRN’s Intervention Program and shared concerns with the new standards of working and having narcotic access.

BRNisCriminal – Expressed dissatisfaction with BRN’s Intervention Program and shared concerns with Vault and testing and a requirement to get another job.

B – Expressed dissatisfaction with BRN’s Intervention Program, specifically around testing and the cost.

Jessica – Expressed dissatisfaction with BRN’s Intervention Program and shared about the lack of communication and requests a review with a system of accountability.

Nurse 1616 – Expressed dissatisfaction with BRN’s Intervention Program and shared experiences with lack of communication and the impact of taking the transition period away.

KM – Expressed dissatisfaction with BRN’s Intervention Program and shared about the cost and experience of the clinical reassessment.

No comments in Sacramento.

GK – Expressed dissatisfaction with BRN’s Intervention Program and said that systemic change is needed.

Em – Expressed dissatisfaction with BRN’s Intervention Program and shared that mental health only participants are required to complete drug testing and the requirement to pass narcotics and work at the bedside.

Nurse 23 – Expressed dissatisfaction with BRN’s Intervention Program and needing more communication and transparency regarding requirements and changes.

**Additional  
Committee**

**Discussion:**

Patricia Wynne said they’ve heard a lot from public comment today and in the past meetings and they are motivated to find solutions to some of the problems raised. David Lollar signed off at 4:00 pm but there is still a quorum.

Alison Cormack said she’s heard several participants who said testing was increased toward what they perceived the end of the program without a reason which is perplexing. She doesn’t understand why someone with no chemical dependency issues would be testing.

Loretta Melby asked if someone went out of the country there would be increased testing.

Virginia Matthews said a change was made to requirement four in 2019 to allow travel out of the country but testing would be increased.

4:46 p.m.

7.0

**Adjourn**

Patricia “Tricia” Wynne, Chair, adjourned the meeting at 4:46 p.m.

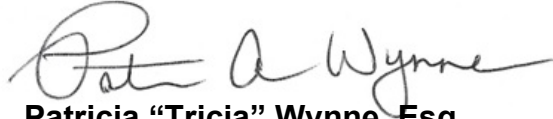


**Submitted by:**



**Loretta Melby, MSN, RN**  
Executive Officer  
California Board of Registered Nursing

**Accepted by:**



**Patricia "Tricia" Wynne, Esq.**  
President  
California Board of Registered Nursing