

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF REGISTERED NURSING
ENFORCEMENT, INVESTIGATIONS, AND INTERVENTION COMMITTEE
MEETING MINUTES**

Date: October 17, 2024

3:30 p.m. Start Time: 3:30 p.m.

Location: **NOTE:** Pursuant to the provisions of Government Code section 11133 a physical meeting location was not being provided.

The Board of Registered Nursing held a public meeting via a teleconference platform.

Thursday, October 17, 2024 - BRN Enforcement, Investigations, and Intervention Committee Meeting

3:30 p.m. 1.0 Call to Order/Roll Call/Establishment of a Quorum

Patricia “Tricia” Wynne, Esq., Chairperson, called the meeting to order at: 3:30 p.m. All members present. Quorum established at 3:30 p.m.

Committee Patricia “Tricia” Wynne, Esq. - Chairperson
Members: Roi “David” Lollar
Alison Cormack

BRN Staff: Loretta “Lori” Melby, RN, MSN – Executive Officer
Shannon Johnson, Enforcement Division Chief – Staff Liaison

3:32 p.m. 2.0 Public Comment for Items Not on the Agenda; Items for Future Agendas

Note: The Committee may not discuss or take action 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 & 11125.7, subd. (a).)

Public Comment for Agenda Item 2.0: George Aulson IV – He is in the probation program. He wanted to follow up on an issue he raised during the last BRN meeting about international travel particularly in cases of family emergencies such as the death or significant health issue. The board responded in real time

stating there are no travel restrictions now that there are options for saliva testing. This can be found in archived YouTube webcast at 14:30:36 of that meeting. After that meeting, he reached out to his probation monitor for further clarification and the next steps. He was told remote testing is not approved and this response seemed to conflict with what was stated by the board. To resolve this inconsistency, he emailed a board member who responded during the meeting hoping to receive additional clarification. Unfortunately, despite sending two emails, two follow up emails since August's meeting he has not received a response. He's here seeking definitive clarification from the board. Are probation nurses allowed to travel internationally or not? If the answer is no, he respectfully asks the committee to reconsider this policy as a future agenda item. Please consider how unnecessarily cruel it is to prohibit nurses in the program from visiting their families during emergencies. This restriction prevents him from spending precious time with his eight-month-old son who has not yet met his family in Argentina. If the answer is yes, then there's more significant concern the individuals managing his case are not providing him with the accurate consistent information. They cannot demonstrate critical thinking necessary to confirm the board's official stance or seek clarification from the superior when needed. It's essential he receives reliable guidance from those overseeing his probation and without it he's left navigating the process in confusion and frustration which is both unacceptable and unprofessional. He appreciates the board's time and attention to this matter and looks forward to receiving a clear and actionable guidance for international travel for probation nurses.

Executive Officer (EO) Loretta Melby said she will follow up with his probation manager to ensure an appropriate response is given for probation. She clarified that the initial comment about travel was for intervention.

Mary Hegarty – She's been a nurse support group facilitator since 1997 and is one member of the clinical team for the intervention program. She said nurses are people. She recently had lunch with a nurse who successfully completed the intervention program. She had the opportunity to see her develop fully and completely into a healthy nurse. When she saw her at lunch was a woman who couldn't stop crying, was devastated by her last year in the program, an uncertain woman about the program criteria, sadness that information was not given to Maximus clinical team about what was going on. Please consider the damage that has been done by arbitrarily changing the standard that needs to be met by nurses who must stay in the program for one year or more regarding employment requirements.

EO Melby said the board motioned to stop the employment requirement at the August 2024 meeting based on certain requirements being met.

Tamira Bolden – She has been a nurse for over 30 years and am bringing to light things regarding enforcement and possible drug diversion accusations that are placed against someone. She was unfairly accused of drug diversion and suffered for three years under investigation. Luckily in the end was found innocent and everything was dropped but the whole process made her realize she should speak up to be an advocate for change in the system. There was an expert witness who was not vetted and did not understand her practice discipline. There is a lack of due process that took over three years holding her in professional limbo. Once this was completed at trial, she was able to show the accusations were false. She said the documentation in the records was altered and she is unable to sue the healthcare facility. She feels this is not fair and should not be allowed if it was altered. She would like a legal recourse for those falsely accused.

Kevin – He wanted to speak about international travel. His mother-in-law passed away in Thailand and he was unable to be there. He has a very good probation monitor who is responsive and treats him with kindness and respect. But she was unable to advise him or give him any direction on whether he could go, and it was the issue of testing. This happened within the last month and asks that this be put on a future agenda for a future discussion.

Lolly – She feels like it's harder to make comments these days particularly because as an advance practice nurse trying to make comments and trying to get to the APRN committee. She said there's a subcommittee about enforcement and she know how committee meetings and subcommittees of two people can't have extra people on it. It feels like people in probation and intervention can only comment on their experience at public comment. She thinks that's the problem because they are saying too much of it and it's uncomfortable to hear what's going on. She said there is no other way to know what's going on. The information on the website changes quickly and the documents she was looking for are not on the web any longer. She said the process isn't transparent at all. She wonders how this will all come out to the regular public in the end.

Julie – She's a participant and her comment is about issues with communication because she said 7.0 was removed but it has not been removed. She spoke about information being removed if there are additional patient safety issues and that was not well-defined Maximus

is saying if a nurse diverted meds at any time the participants will pass narcotics while supervised. She said the thought was this would be on a case-by-case basis but as feared it is not. She is not available to comment on this issue later in the meeting and wanted to do it now.

Diane – She also wanted to address passing narcotics.

EO Melby said this will be addressed during agenda item 7.0 and can be spoken about at that time.

3:51 p.m.

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

➤ July 16, 2024

Committee Discussion: Committee Member Cormack page 21 – change “committee should be making that decision today” she recalls saying “committee should not be making that decision today.”

Motion: Patricia Wynne Motion to approve the minutes as amended.

Second: Alison Cormack

Public Comment for Agenda Item

3.0: No Public Requests for Comments

Vote:

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

Motion Passed

3:53 p.m.

4.0 Information Only: Presentation by Department of Consumer Affairs, Procurement Section on the request for proposal process

Committee Discussion: Committee Member Alison Cormack asked if this was to review the process or how this will happen between now and January?

EO Melby said this is an overview and cannot discuss how this is going to happen between now and January as it is a confidential process.

Committee Member Cormack asked if the request for proposal (RFP) includes a task developing a transition plan and ensuring handoffs.

EO Melby said that is already included and DCA is working on that. They're working with Maximus and that is in process already.

**Public Comment
for Agenda Item
4.0:**

No Public Requests for Comments

Chair Wynne reordered the agenda to take 7.0

4:07 p.m.

7.0

Information Only: Presentation by the Executive Officer regarding cases in which these requirements were removed or imposed pursuant to the motion during the August 2024 Board meeting in which the Board directed:

1. Suspend the imposition of the requirement that participants work in direct patient care, unless there is additional evidence of patient safety issues.
2. Suspend the imposition of the requirement that participants work passing narcotics, unless there is additional evidence of patient safety issues.
3. If an IEC recommendation extends length in the program beyond three years, the Executive Officer must review and examine the evidence.

**Committee
Discussion:**

Committee Member Wynne doesn't have any questions and appreciates the willingness of EO Melby to do the deep dive into this. She knows there is a learning curve, she's not a patient person and knows it will take time to change this.

Committee Member Cormack asked 10 were brought forward and 9 were accepted.

EO Melby said 10 individuals asked to be accepted into the Intervention Program and 9 were accepted. 10 were brought before an IEC for a re-evaluation of a petition for completion.

Committee Member Cormack asked there were 15 petitions for unrestricted licenses and 14 were granted?

EO Melby said that means they completed the program.

Committee Member Cormack said congratulations and said another discussion could be to look at the IECs and their meeting frequency during an entire quarter.

EO Melby said IECs are scheduled to meet once every quarter. The number of IECs meeting right now is abnormal to try to get the most people seen and reviewed as soon as possible.

Committee Member Cormack thanked the members of IECs 1, 4, and 12 for doing the extra work.

Committee Member Lollar echoes Committee Member Wynne's comments. He said because there is a learning curve he will be interested to see how the IECs comply further along in the process at a future meeting.

EO Melby said she would share more at the next board meeting and has also asked DCA if training can be developed for the IECs and NSGFs.

Committee Member Wynne would like to agendaize this again for the next EIC meeting to see how things are going.

EO Melby said this will be a standing item for a while.

After Public Comment:

EO Melby said the IEC members are voted upon by the board and not Maximus. The IEC makes a recommendation and staff review the recommendation and it could be returned back to an IEC for reconsideration.

**Public Comment
for Agenda Item**

7.0:

Diane - a participant, said she wanted to speak about the narcotic passing requirement prior to completing the program. She's been in the program for 2 years 8 months and just had an IEC in October. She was told by her case manager that to complete the program she needed to take a bedside nurse job passing narcotics. For the past two years she's been working very happily as an advice nurse from home. She did what was suggested and took a second job in June at a facility that's about an hour and half from where she lives which is a huge burden on her family life and recovery life. She will do whatever it takes, that's what the program has taught her. However, at the October meeting she asked clearly and there was no miscommunication about whether she needs to continue to work the second job to pass narcotics to complete the program. She needs clear direction to move forward in her life. When she got her contract this week, she reviewed it, and nothing was said about whether she needed to continue working the second job. She's had a good clean record with Maximus, zero positive drug tests. She's done everything asked of her and no additional concerns of patient safety. She was a previous diverter but that has not been an issue since she's been in

the program. She has no issues with patient safety. She's asking for clear direction on whether she needs to continue killing herself to meet a requirement that may or may not need to be met for her to complete.

Rita – She wants to thank EO Melby and board members for their work on this and treating them as human beings. She has a friend in the program who fears she will be retaliated against for speaking up. She said there are still opportunities for DEC's to find evidence to lengthen someone in the program. She said this has been traumatizing. She said she needs to heal from childhood issues and this program. She said her friend wrote letters to the board and the EO but she attempts to stay quiet so she won't have to endure any more suffering or trauma. She too fears for this. She is thankful for those who are listening to the nurses.

Charlotte – She would like to echo the sentiment of the last two commenters. She's a participant who has been in the program for 2.5 years. She understands there is a learning curve about the patient care component. She said the IECs don't seem to be getting the message. She wonders how long the IECs will take to learn this isn't required. She has a meeting scheduled for December and has the same amount of limbo. She is torn because she has a job teaching obstetrics at a university but is not passing narcotics or doing patient care. She wonders if she has to complete this requirement or will she remain in limbo indefinitely. She wants to know the IECs are informed about the changes.

Julie – participant – Appreciates the follow up to this important item. She wants to know what additional patient safety concerns means and whether Maximus would be able to say a person diverted previously. She is concerned that this mandate is not written down in their contract. She said addiction medicine experts agree that this is not necessary. There is no reason why Maximus should be forcing participants to work in patient care passing narcotics. There is only ignorance and fear. She said it is not fair for participants to wait three to six months for a requirement to be removed by IEC.

Chair Wynne resumed the agenda at item 5.0

4:34 p.m.

5.0

Information Only: Overview of the recruitment and selection process of the Intervention Evaluation Committee Members and Nurse Support Group Facilitators

Committee Discussion:

Committee Member Cormack asked if the IECs have any training.

Enforcement Chief Shannon Johnson said they started training a couple of years ago. They were going to have a training at the end of the year but it's on hold due to the meetings being held right now. They also held a couple trainings for the NSGFs. They have a handbook for the IEC members and is a standing agenda item in their open meetings with their IECs to incorporate any suggestions or recommendations.

Committee Member Cormack asked if the IEC members sign or acknowledge receipt and understanding and abide by the handbook.

Enforcement Chief Johnson said there is no signature page.

Committee Member Cormack said in a previous role she found it helpful to implement that to ensure the person takes reading it seriously and can be used if there is an issue. She asked about interviewing IEC members if there were pros and cons of doing interviews for IEC members.

Enforcement Chief Johnson said she doesn't know if there's a con to interviewing them. When they get to the board members, they've met the criteria and expertise required and they have been vetted.

Committee Member Cormack said she would feel more comfortable with voting if some members of the board interviewed them first. She also thinks the application can be improved. She thought the NSGFs were independent but now knows they are recruited and managed by Maximus.

Enforcement Chief Johnson said they are recruited, and they haven't had any new facilitators for the last few years. They are independent and can set their own rates to charge. The board doesn't have any authority in that capacity and the board may consider changing the regulations.

Committee Member Cormack said that could be discussed at a future meeting. She would like a survey to be created and given to participants to see how the program is doing and how it could be improved.

Enforcement Chief Johnson said there is a survey available for all participants inside their portal.

Committee Member Cormack asked who sees the survey results.

Enforcement Chief Johnson said Maximus sees the surveys.

Committee Member Cormack said this could be an opportunity for EO Melby.

Committee Member Patricia Wynne said she didn't realize the participants paid for NSGFs. She would like to see a survey of costs for the meetings because participants are required to attend every week.

EO Melby said this information was provided previously and one meeting is free.

Enforcement Chief Johnson said the range is \$0-80 per person per month. She said there are up to 14 participants in a meeting.

Committee Member David Lollar appreciates what Committee Member Cormack said and that is the direction we should go. He is bewildered that the composition of the IEC and there being gaps in logic or common sense. He thinks applications should be reviewed better in the future.

**Public Comment
for Agenda Item
5.0:**

Nurse Mary – She has been involved with the board and very grateful for many aspects of her career. She said those that are involved with NSGs and IECs are clinical people and yet the person in charge of this process is not a clinical person. Years ago, the provider, Maximus, used to be part of this process and that concerns her. The second part is the education of the IEC members is done by non-clinical people.

Charlotte – Is glad the board is looking into the IEC members. She said the members are woefully ignorant, rude, disrespectful, accusatory and she knows this program is supposed to be an alternative to discipline and it doesn't feel that way. She feels like she's being interrogated as a witness at a murder trial. It would be nice to know who is training these individuals. Again, with no clinical background, they seem to have very little understanding what has brought the members here. She's glad costs are being considered. She knows people who chose probation instead of intervention because they could not afford to be off work. She was not allowed to go back to work for the first nine months. Luckily, she has a spouse who worked, and they were able to squeak by. All the drug testing is incredibly expensive and the NSG meetings. She pays additional fees, and everyone should be able to take advantage of this program and the cost becomes very exclusive for people not able to.

Where's the Data BRN – She appreciates the members. She wants to share her experience with this when she tried to be part of a NSG

when she started probation she cried. She's a crier and the NSGF said she's not good with the criers and gave another NSGF name which she appreciated because it's important to her. This is so important to her to do what she needs to complete. She loves her nursing support leader. She's on disability and is not well. She needs there to be a little heart to these things because this is hard.

6.0 Information Only: Presentation on the Intervention Program statistical

Committee Discussion: Agenda item not presented at this meeting but will be presented at the board meeting in November 2024.

Public Comment for Agenda Item: No Public Requests for Comments

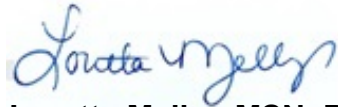
4:57 p.m.

8.0

Adjourn

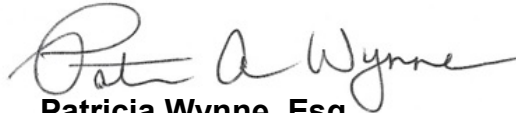
➤ Patricia Wynne, Chairperson, adjourned the meeting at 4:57 p.m.

Submitted by:



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

Accepted by:



Patricia Wynne, Esq.
EIIIC Chairperson
California Board of Registered Nursing