



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR  
**Board of Vocational Nursing and Psychiatric Technicians**  
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**EXECUTIVE COMMITTEE MEETING MINUTES**

**April 14, 2022**

**2535 Capitol Oaks Drive  
Sacramento, CA 95833  
Via WebEx Webinar**

**2:00 p.m. – 4:00 p.m. (or the completion of business)**

**Board Members Present:**

Dr. Mountain, Board President, Chair  
Mr. Dierking, Board Vice President

**Staff Present:**

Ms. Yamaguchi, Executive Officer  
Ms. Lyman, Assistant Executive Officer  
Ms. Wood, Enforcement Chief  
Mr. Birkman, Licensing Supervisor  
Ms. Cordeiro, Supervising Nursing Education Consultant  
Mr. Jay Prouty, Manager, Enforcement Division  
Mr. Hall, Licensing Supervisor  
Ms. Ball, Board Administration Analyst

**DCA Staff Present:**

Mr. Swenson, Board General Counsel  
Ms. Schieldge, Board Regulations Counsel

Please note: The WebEx recording content is available upon request.

1. Call to Order

Dr. Mountain called the meeting to order at 2:00 pm.

2. Operations Report – Ms. Lyman

a. Budget and Fiscal & b. Personnel and Leadership Changes

Probation Manager Rocio Llamas will be on vacation from April through June, with a retirement date of July 1, 2022; the Board will pay out her remaining vacation time in the new fiscal year totaling \$31,000. This position will be filled as soon as possible. As a side note, management must review staff leave balances and work with individual employees to adopt leave balance reduction plans for those that exceed the state maximum time.

Intake Manager Darwin Agar accepted a promotional opportunity, and his position will also be filled as soon as possible. These two vacancies leave Enforcement short two managers.

The Licensing Division has two vacant Program Technician II positions; these positions are currently posted and will likely take about a month to fill.

Arlene Nunez, an education analyst, accepted a promotion and her last day is April 15, 2022.

Maggie Archibald, our Human Resources liaison, received a promotional offer and her start date will either be May 1st or May 16th, with Caltrans.

The Enforcement Division has re-classified 2 Staff Services Analyst positions to Program Technician III positions. Ms. Wood explained the reasoning for the re-classification. Specifically, through audits and reviewing processes, Ms. Wood has been working to streamline processes, allowing each classification level to focus on the specific duties of that classification, without doing an unwarranted amount of lower-level workload. Upon review of the workload assigned to the current SSA positions, it is clear that the work falls into technical work at the PTIII classification level. This re-class will save the Board \$24,000 per year, per position and allows staff to ensure each classification focus' on their appropriate level of work.

Ms. Lyman continued to share that the Board will be hiring 2 Nursing Education Consultants and 1 Associate Governmental Program Analyst (AGPA) from the budget change proposal. In Enforcement, one AGPA is on a leave of absence until January 2023 and two additional analysts are on leave for a few more weeks. The combined retirements, promotions, and leaves Enforcement is shorthanded, but doing great handling the workload in the interim. This is not sustainable, of course, and again, we will be recruiting for these positions as swiftly as we can.

Ms. Lyman reported that staff met with DCA Budgets April 13<sup>th</sup> to discuss the board's structural imbalance. Budgets staff provided easily digestible information and will co-present at the May Board Meeting to discuss the structural imbalance in personnel services, which in turn will allow a very informative discussion on this topic. Dr. Mountain thanked staff and expressed that she was looking forward to this presentation.

**Committee Discussion:**

Mr. Dierking asked is there is a maximum number of hours allowed for vacation time. Ms. Lyman and Mr. Swenson explained that the State has a cap of 640 hours; but this is not a hard cap, as staff can continue accruing time beyond this number. State agencies are required to pay out all hours at retirement, even if

above the cap; labor laws require payment of all hours, even if more than 640 hours. Ms. Yamaguchi explained that excessive leave balance hours is something the state has seen for years but it has become more pressing in the last about 10 years when furlough days were implemented, and people did not take time off like they had been. Now, in COVID years, there has been an added level of hour increases, as even more people have not been traveling and taking time like before.

3. Enforcement Division Report – Ms. Wood.

Ms. Wood updated the committee with number of open cases and current case aging time; Enforcement has 924 open cases and 261 days. The Enforcement Division is continuing to work together to maintain the decrease in these numbers. Ms. Wood shared that in Enforcement, there are Seven (7) vacancies, including two (2) manager positions, as Ms. Lyman shared. Current managers are working together to hold the Division together until positions are filled.

**Committee Discussion:**

Dr. Mountain asked whether COVID has had any impact on the Enforcement numbers. Ms. Wood responding by sharing the number of cases at intake over the past few quarters; 366 cases first quarter, 319 case second quarter and 367 third quarter (this quarter). These numbers indicate stable intake; we have not seen an COVID specific decrease or increase. Ms. Wood continued to share that Enforcement intake cases increased based on society behavior; holidays with more criminal arrests create this ebb and flow.

a. Citation Report.

Ms. Woods shared an update regarding the citation discussed previously that the Enforcement report has been completed. The finding is that the agency failed to appropriately report the incident. Enforcement staff will now be working with legal to issue the citation.

4. Education Division Report – Ms. Cordeiro.

Ms. Cordeiro reported that the Education Division is preparing for the May 2<sup>nd</sup> deadline for cohort 1 of the Program Approvals to submit their complete packets. Ms. Cordeiro recognized the staff that worked tirelessly to prepare all the Education documents for the April 7<sup>th</sup> Board meeting; Elaine Yamaguchi, Vicki Lyman, Doris Pires, Kristy Schieldge (Regulations Counsel), and Kenneth Swenson (Board Counsel). Dr. Mountain shared her thanks and agreement to this recognition and continued to thank Ms. Schieldge specifically for the detailed review of the document packet during the meeting so that all Members were able understand the intent.

a. Clinical Requirements Discussion.

Ms. Cordeiro shared that during the April 7<sup>th</sup> Board Meeting, the board received a public comment expressing the opinion that California requires an excessive number of clinical hours, 940 hours. This public comment referenced other states with less hours, for example a 300-hour minimum in Washington. The comment continued to claim that the California requirement is a burden for students that need to get through school to get into the workforce.

Ms. Cordeiro shared that the Education Division staff have discussed this topic and that they are not necessarily opposed as there could be some merit to this comment; however, this is not an easy decision, and this would be something that will require a lot of attention and research to properly determine. As such, board staff do not have the bandwidth or resources to pursue.

### **Committee Discussion:**

Dr. Mountain expressed her opinion that this is not the right time to cut clinical hours; she has heard that acute care facilities are considering rehiring LVN's. Dr. Mountain believes that if these hours are cut, students will not be properly prepared for the amount and level of illness in these facilities. Dr. Mountain continued that it would be more conducive to explore other options to help serve the underserved students mentioned in the public comment. Due to Dr. Mountain's experience, it is known that clinical experience is where "rubber hits the road" and allows students to take theory from the mind into action and creating that understanding of what they are doing. The information shared in the public comment intrigues Dr. Mountain and she would be interested to see some studies.

Ms. Cordeiro shared her agreement with Dr. Mountain's statements, especially that 300 hours is not sufficient. And asked to confirm that acute care facilities are talking about rehiring LVN's as staff and as students? Dr. Mountain confirmed, yes, both; and there is discussion about hiring LVN's on the med-surg floors. Dr. Mountain commented that this is why the state needs to ensure that students are properly prepared.

Mr. Dierking shared his agreement that program quality control issues may arise between the programs and the competency of the licensees. Specifically, he wondered what the relationship between clinical hour studies and safe practice are. Mr. Dierking believes that research-based validation studies are necessary before further consideration. Dr. Mountain agreed with Mr. Dierking.

Ms. Ball asked if the comment would like to include a discussion on the comment Member Nieblas made at the same meeting, relating to the public comment topic of accessibility.

Ms. Yamaguchi shared that Ms. Cordeiro is correct in that staff time and resources are not available this year, but, as the Board works through the review, update and completion of the strategic plan, accessibility could potentially go to the Education and Practice Committee or an ad-hoc committee. Ms. Yamaguchi

continued with the need to be cautious, with the two vacant Member seats being that of licensees whom we would need to most input from. Ms. Yamaguchi confirmed that these are conversations the board wants to have and needs to have. With proper planning, Ms. Yamaguchi recommended these conversations be presented at the November Board Meeting. Dr. Mountain requested to a clarification of the topic of the discussion. Ms. Yamaguchi responded that both, clinical hours, and the student ADA accommodation questions we have received. Ms. Yamaguchi continued to share that these questions and concerns come at a time the board is launching an ambitious change to program approval, while looking more critically at the regulatory requirements; these concerns are all about the way we educate and train. This is going to be a long conversation; Ms. Yamaguchi recommends that the conversation be held like a town hall conversation; going on to share, possibly next year once the board is further along in the procedures being launched now. Maintaining the topic of clinical hours, Ms. Yamaguchi shared that she has received comments regarding California clinical hours from other states, over the years, but still believe these hours are for good reasons. The board is not opposed to a review to determine whether the number is deemed appropriate, shown that the hours be decreased, or are they lacking and need to be increased; the board wants to review and proceed in the most efficient and proper manner for students and licensees.

Dr. Mountain expressed her agreement. She continued to address the disability accommodations in that education is important and there are certain disabilities that can be worked with and some that make it difficult to allow, based on regulations at healthcare facilities, specifically. Dr. Mountain advised that once a student becomes a nurse, if a disability is developed, it is much easier to transition into other nursing related duties, however, as a student, clinical facility requirements can limit certain disabilities to be accommodated. Ms. Yamaguchi asked whether students with these disabilities could potentially go into telehealth. Could people with disabilities that limit their ability in-house be trained specific for telehealth? Dr. Mountain responded that the difficulty with that concept is that in telehealth, the medical professional need to have a robust medical experience to be able to properly interpret the issue, know what questions to ask to be able to assist the person without medical background. These gaps provide many pros and cons to telehealth, overall. Seeing patients provides a depth of knowledge that cannot be replaced.

Ms. Cordeiro shared that many students with disabilities are admitted to nursing school; it is dependent on the disability and the student's ability to meet the clinical requirements and objectives for patient care and safety. Dr. Mountain agreed and continued with, admitting students with disabilities is a case-by-case consideration.

Ms. Yamaguchi appreciated this conversation, and shared that what Ms. Nieblas was saying, as an advocate for people with disabilities for years, and given our litigious society, it is likely to see a lawsuit sooner or later. This conversation is one that the BVNPT will want to lead, and Ms. Yamaguchi advised that staff

include the Board of Registered Nursing, because they are likely have similar conversations. Dr. Mountain agreed.

Ms. Yamaguchi reiterated that this conversation should begin in the Fall.

5. Licensing Report – Ms. Brown.

In Ms. Brown's absence, Mr. Birkman provided the licensing update. Mr. Birkman shared that two (2) vacancies have been filled; while two (2) positions are open and have been open for recruitment. The applications for these positions will be able to be reviewed on or after April 27, 2022. Licensing processing times remain outstanding while veteran staff train new hires. In addition, Licensing phone times remain at 95% answer rate with a 2-minute average wait time.

**Committee Discussion:** None.

6. Legislation and Regulations – Ms. Pires.

In Ms. Pires absence, Ms. Yamaguchi deferred items a. and b. to Ms. Schieldge, Regulations Counsel.

a. Update on Fee Structure Rulemaking – Next Steps

Ms. Schieldge shared that board staff is working on the necessary documents for the Fee Structure modified text, including the notice of modified text. In addition, staff is working on the next steps for the notice and the following public comment period. The May Board meeting will include additional steps.

b. Update on Emergency Regulations – Next Steps

Ms. Schieldge shared that for the Emergency Regulations, staff and Counsel are completing the mandatory documents necessary to file with the Office of Administrative Law (OAL). This includes budget documents and other documents for the public notice. Ms. Schieldge continued to share a detailed explanation of the process necessary to file.

c. New Legislation

Ms. Yamaguchi reminded the Committee that the Board took a position on two (2) bills at the April 7<sup>th</sup> meeting. At this time, staff would like to bring forward Senate Bill 994, Vocational nursing, direction of naturopathic doctor; essentially adding Naturopathic Doctors into our practice act. Ms. Yamaguchi gave a high-level overview of the bill, as written; sharing that there is a hearing scheduled for April 18<sup>th</sup> will likely be amended. Ms. Yamaguchi continued to share that there have been many conversations and staff is able to consider the pros and cons of this bill, including conversations with all the parties involved, the bill would require each licensee to practice within their specific scope of practice. Board staff will

be preparing resources for the Board to take a position at the May meeting.

**Committee Discussion:** Dr. Mountain asked whether or not staff sees this bill helping LVN's beyond the additional places to work? Ms. Yamaguchi responded that staff does not believe so and believes that this benefits mostly the Naturopathic Doctors.

Mr. Dierking shared that the Naturopathic Committee discussed this bill at their last meeting, then asked if they had taken a position. Ms. Yamaguchi answered that this is their bill, they are the sponsor.

7. April 7, 2022 Board Meeting Recap – Ms. Yamaguchi.

This item has been discussed under previous agenda items.

8. Next Board Meeting.

a. May Board Meeting – May 19 & May 20, 2022

Dr. Mountain asked to confirm that this meeting is a 2-day, in-person meeting. Ms. Yamaguchi confirmed, this is a 2-day in-person Board meeting. The first day, May 19, will be a training and orientation day for members and staff. Staff is currently working on that program as there is a long list of topics to cover.

9. Board Member Accountability – Ms. Yamaguchi.

a. Ballots

Ms. Yamaguchi shared the ballot summary to date; showing that most members are voting regularly. Ms. Yamaguchi continued with thanking the Enforcement staff for their support and assistance in distribution and lending aid to Members when there are questions. This support is allowing increased engagement by Members.

b. Board Member Information for Website

Ms. Yamaguchi updated the Committee sharing that only a few Members have submitted/responded to the request for bios and headshots; staff will be following up. Staff continue to believe that the boards stakeholders should know who is on the Board and what the qualifications are, to share exactly what they bring to the table. Ms. Yamaguchi continued that the Governor's office and DCA are still working to fill the last two (2) seats, but we have not heard anything recently.

**Committee Discussion:** None.

10. Next Executive Committee Meeting: May 2022.

Ms. Yamaguchi advised that in the recent past, there have been pressing matters to discuss ahead of the scheduled Board Meeting, however, regular practice used to be that if there is no pressing matters, the Executive Committee foregoes meeting in the month of the regular Board Meeting. Ms. Yamaguchi asked, if no objection, to schedule the next meeting in June. There was no objection by Committee members.

Discussion pursued regarding a date that worked on everyone's calendar. June meeting is scheduled for June 7, 2022, from 2:00-4:00pm. (or until the completion of business).

11. Suggestions for Future Agenda Items.

None received.

12. Adjournment

Dr. Mountain adjourned the committee meeting at 2:56 pm.

Prepared by: \_\_\_\_\_ Date: \_\_\_\_\_

**Elaine Yamaguchi**

Executive Officer

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

**Dr. Carel Mountain, Education Member**

Board President