



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR.
Board of Vocational Nursing and Psychiatric Technicians
2535 Capitol Oaks Drive Suite 205, Sacramento, CA 95833-2945
Phone 916-263-7800 Fax 916-263-7855 www.bvnpt.ca.gov



**Board of Vocational Nursing
and Psychiatric Technicians
Department of Consumer Affairs
Special Board Meeting Minutes**

DATE: Friday, April 24, 2020

LOCATION: Department of Consumer Affairs
Teleconference/Webcast

BOARD MEMBERS

PRESENT: Ms. Endozo, Board President
Dr. Bass de Martinez, Board Vice President
Ms. Amezola de Herrera, Public Member
Ms. Carpenter, Public Member
Mr. Dierking, Public Member
Mr. Maxey, Public Member
Dr. Mountain, Education Member
Ms. Norton, Licensed Vocational Nurse Member
Ms. Rubalcava, Psychiatric Technician Member
Mr. Sellers, Psychiatric Technician Member
Ms. Turner, Public Member

STAFF PRESENT: Ms. Yamaguchi, Executive Officer
Ms. Lyman, Assistant Executive Officer
Ms. Raney, Enforcement Chief
Ms. Cordeiro, Supervising Nursing Education Consultant
Mr. Prouty, Discipline Unite Manager
Mr. Matsumoto, Retired Annuitant
Ms. Saavedra, Associate Governmental Program Analyst
Ms. Pires, Legislative/n/Regulations Analyst

DCA STAFF PRESENT: Mr. Swenson, Board General Counsel
Mr. Jackson, Board Regulatory Counsel

Agenda Item 1

Call to Order, Roll Call and Establishment of Quorum

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Board President Ms. Endozo called the meeting to order at 1:03 p.m., Friday, April 24, 2020 via teleconference. Ms. Endozo took attendance of Board Members by roll call and confirmed quorum.

Agenda Item 2 Pledge of Allegiance

Ms. Endozo led the pledge of allegiance.

Agenda Item 3 Introduction of Board Members and Staff

Board Members and the Department of Consumer Affairs (DCA) Legal Staff introduced themselves. Executive Officer Yamaguchi introduced herself and the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) staff.

Board Discussion:

Mr. Maxey thanked Ms. Endozo, Dr. Bass de Martinez, the BVNPT staff, nurses and students for their work during the COVID-19 pandemic.

Ms. Turner thanked the health care professionals for providing care for patients.

Agenda Item 4 Board President Remarks

Ms. Endozo thanked the staff for their hard work.

**Agenda Item 5 Review and Possible Action on Regulations to Implement
AB 2138 (Chiu)**

Ms. Yamaguchi provided a brief summary of AB 2138. This law clarifies how the Board responds to applicants with criminal convictions. The attached regulatory language is needed for the Board to implement AB 2138.

Mr. Jackson reviewed the changes in the proposed regulatory language from the version last approved by the Board.

Board Discussion:

Mr. Sellers asked if someone with disciplinary actions is limited to the seven-year rule.

Mr. Jackson answered that it depends on their crime.

Ms. Endozo asked how it would affect someone who had to do time in prison due to a DUI.

Mr. Swenson stated it would depend on the specific crime charged.

Ms. Turner asked if a dismissal of a conviction can be considered when it is in front of the Board.

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Mr. Swenson said that once the regulation is adopted, you would not consider the fact that the conviction was dismissed.

Public Comment:

None

Motion: To accept and adopt the revised regulatory text of section 2521 of Title 16 of the California Code of Regulations relating to substantial relationship criteria for Vocational Nurses, and to submit the revised regulatory text to the Office of Administrative Law.

Moved/Seconded: Ms. Norton/Mr. Dierking

Member Name	Vote
Ms. Endozo	Yes
Dr. Bass de Martinez	Yes
Ms. Amezola De Herrera	Yes
Ms. Carpenter	Yes
Mr. Dierking	Yes
Mr. Maxey	Yes
Dr. Mountain	Yes
Ms. Norton	Yes
Ms. Rubalcava	Yes
Mr. Sellers	Yes
Ms. Turner	Yes

The motion carried.

Motion: To accept and adopt the revised regulatory text of section 2578 of Title 16 of the California Code of Regulations relating to substantial relationship criteria for Psychiatric Technicians, and to submit the revised regulatory text to the Office of Administrative Law.

Moved/Seconded: Ms. Norton/Mr. Dierking

Member Name	Vote
Ms. Endozo	Yes
Dr. Bass de Martinez	Yes
Ms. Amezola De Herrera	Yes
Ms. Carpenter	Yes
Mr. Dierking	Yes
Mr. Maxey	Yes
Dr. Mountain	Yes
Ms. Norton	Yes
Ms. Rubalcava	Yes
Mr. Sellers	Yes
Ms. Turner	Yes

The motion carried.

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Motion: To accept and adopt the revised regulatory text of section 2522 of Title 16 of the California Code of Regulations relating to rehabilitation criteria for Vocational Nurses, and to submit the revised regulatory text to the Office of Administrative Law.

Moved/Seconded: Ms. Norton/Mr. Dierking

Member Name	Vote
Ms. Endozo	Yes
Dr. Bass de Martinez	Yes
Ms. Amezola De Herrera	Yes
Ms. Carpenter	Yes
Mr. Dierking	Yes
Mr. Maxey	Yes
Dr. Mountain	Yes
Ms. Norton	Yes
Ms. Rubalcava	Yes
Mr. Sellers	Yes
Ms. Turner	Yes

The motion carried.

Motion: To accept and adopt the revised regulatory text of section 2579 of Title 16 of the California Code of Regulations relating to rehabilitation criteria for Psychiatric Technicians, and to submit the revised regulatory text to the Office of Administrative Law.

Moved/Seconded: Ms. Norton/Mr. Dierking

Member Name	Vote
Ms. Endozo	Yes
Dr. Bass de Martinez	Yes
Ms. Amezola De Herrera	Yes
Ms. Carpenter	Yes
Mr. Dierking	Yes
Mr. Maxey	Yes
Dr. Mountain	Yes
Ms. Norton	Yes
Ms. Rubalcava	Yes
Mr. Sellers	Yes
Ms. Turner	Yes

The motion carried.

Agenda Item 6 Discussion and Possible Action for May 2020 Board Meeting

- a. Discussion and Possible Action Determining How to Conduct Petitioner Hearings. The Enforcement Committee met to make a recommendation to the full Board on how to conduct the petitioner hearings for May 2020.

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Motion: Recommend to the full Board that the May 2020 petition hearings be referred to the Office of the Attorney General for hearing before an Administrative Law Judge.

Moved/Seconded: Enforcement Committee/Not Needed

Member Name	Vote
Ms. Endozo	Yes
Dr. Bass de Martinez	Abstain
Ms. Amezola De Herrera	Yes
Ms. Carpenter	Yes
Mr. Dierking	Yes
Mr. Maxey	Yes
Dr. Mountain	Yes
Ms. Norton	Yes
Ms. Rubalcava	Yes
Mr. Sellers	Yes
Ms. Turner	No

The motion carried.

Board Discussion:

Mr. Prouty provided information regarding scheduled petition hearings for the May Board Meeting. The Board still retains authority over the final decision. The process entails cases transmitted to the Attorney General's Office (AGO). The AGO schedules the hearings at the Office of Administrative Hearings (OAH).

Mr. Swenson stated that the ALJ conducts the hearing, then writes a proposed decision which is subject to the same review process as a disciplinary hearing. The Board has the final vote on the proposed decision.

Ms. Turner questioned if petitioners receive the same level of due process by referring the case to the ALJ and having Board members rule on a written decision.

Mr. Swenson referred to the Business Profession Code Section 2878.7 Subdivision C, which states "The board itself or the administrative law judge, if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision." It is the discretion of the Board whether to refer the cases to the ALJ. Additionally, the Deputy Attorney General (DAG) representing the people at the proceeding has the opportunity to examine the petitioner about issues relating to the petition itself. This does not take away due process.

Mr. Sellers asked if consideration was given to the hearings held via online and if the cases can be pushed back to the August Board meeting by adding an additional day.

Mr. Prouty stated they inquired about holding hearings via online with the Attorney General, but the logistics of getting people on the webinar would be difficult. There are

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many uncertainties and we do not know when the restrictions of the shelter in place will be lifted. to be able to add an extra day for the August Board meeting.

Ms. Turner asked why we aren't pursuing webinars to hold petition hearings.

Mr. Prouty stated all options have been considered though the one proposed is the best at this time.

Dr. Bass de Martinez suggested the Board have an emergency meeting when the shelter in place is lifted.

Ms. Carpenter has concerns about the hearing being conducted telephonically and believes you must see petitioner to make an accurate decision.

Ms. Yamaguchi will add an agenda item to the May Board meeting agenda for discussion and possible action on how the August 2020 Board meeting will be conducted. This gives the input to the full Board. It will also be discussed during the Executive Committee meeting on May 8, 2020.

Public Comment:

None

b. Discussion and Possible Action Regarding Meeting Format

The Executive Committee met to discuss the format of the May Board Meeting. The plan is to utilize the WebEx platform. DCA recommends the Board members to engage in two dry runs to get a feel for the program.

Board Discussion:

Ms. Norton questioned the benefit is using WebEx.

Ms. Yamaguchi stated that it is a stable platform and can have up to 1000 participants.

Public Comment:

None

Motion: Hold an abbreviated May Board meeting via WebEx.

Moved/Seconded: Ms. Norton/Mr. Dierking

Member Name	Vote
Ms. Endozo	Yes
Dr. Bass de Martinez	Yes
Ms. Amezola de Herrera	Yes
Ms. Carpenter	Yes
Mr. Dierking	Yes
Mr. Maxey	Yes
Dr. Mountain	Yes
Ms. Norton	Yes

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Ms. Rubalcava	Yes
Mr. Sellers	Yes
Ms. Turner	Yes

The motion carried.

Agenda Item 7 Public Comment on Items Not on the Agenda

Public Comment:

The Board received an e-mail from Tracy Truong, a first-semester LVN student. She and other students have not been getting updates on clinical hours. She would like the Board to address the issues with all LVN programs in regard to a plan to move forward.

Note: The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Section 11125 and 11125.7(a)].

Agenda Item 8 Suggestions for Future Agenda Items

Board Discussion:

Ms. Amezola de Herrera asked staff to report which petitioners for the August Board meeting can participate via WebEx.

Dr. Bass de Martinez suggested training on WebEx.

Mr. Sellers proposed follow up on agenda item six on how the hearings went at OAH and evaluate the effectiveness before the August Board meeting.

Ms. Rubalcava would like to know what happens when the audio connection fails during the meeting. Are the entire contents of the meeting uploaded to YouTube?

Ms. Turner would like to hear about other platforms for use in future petition hearings.

Ms. Endozo suggested that staff research and give a report on other platforms we can use with the full Board, ALJ, and petitioner for the August meeting if we are still under the shelter in place order.

Ms. Turner wanted to know how the schools are conducting clinicals and the impact it has on students.

Ms. Yamaguchi commented that topic will be put on an appropriate agenda.

Public Comment:

None

Agenda Item 9 Adjournment

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Ms. Endozo adjourned the meeting at 3:21 p.m.

Prepared by: SIGNATURE ON FILE Date: 3/11/2021

Elaine Yamaguchi

Executive Officer

Approved by: SIGNATURE ON FILE Date: 3/11/2021

Tammy Endozo, LVN

Board President