



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
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**Board of Vocational Nursing
and Psychiatric Technicians
Department of Consumer Affairs
Board Meeting Minutes**

<https://youtu.be/4cBo4nTBzIg>

DATE: Friday, May 20, 2022

**BOARD MEMBERS
PRESENT:**

Dr. Mountain, President, Education Member
Mr. Dierking, Vice President, Public Member
Ms. Brown, Public Member
Ms. Carpenter, Public Member
Mr. Hill, Psychiatric Technician Member
Mr. Maxey, Public Member
Ms. Rooks, Licensed Vocational Nurse Member

STAFF PRESENT:

Ms. Yamaguchi, Executive Officer
Ms. Lyman, Assistant Executive Officer
Ms. Wood, Enforcement Chief
Ms. Cordeiro, Supervising Nursing Education Consultant
Ms. Brown, Licensing Manager
Ms. dela Rosa, Nursing Education Consultant
Ms. DeYoung, Nursing Education Consultant
Dr. Fairchild, Nursing Education Consultant
Ms. Gomez, Nursing Education Consultant
Dr. McLeod, Nursing Education Consultant
Ms. Silverman, Nursing Education Consultant
Ms. Pires, Legislation and Regulations Specialist
Mr. Prouty, Discipline Unit Manager
Ms. Ball, Board Administration Analyst
Mr. Birkman, Licensing Supervisor
Mr. Hall, Licensing Supervisor
Mr. Wong, Licensing Analyst
Ms. D. Ramos, Licensing Analyst
Ms. I. Ramos, Licensing Analyst

DCA STAFF PRESENT: Mr. Swenson, Board General Counsel
Ms. Schieldge, Board Regulations Counsel (joined in progress)

Agenda Item 1 Call to Order, Roll Call and Establishment of Quorum

Dr. Mountain called the meeting to order at 9:05 a.m. Dr. Mountain announced housekeeping details, including confirming this meeting was held in-person at 2005 Evergreen street, in Sacramento, CA on Friday May 20, 2022. Dr. Mountain took attendance of Board members by roll call and a quorum was established. Ms. Luce and Ms. Nieblas were not present, both with an excused absence.

Agenda Item 2 Pledge of Allegiance

Mr. Hill led the room in the Pledge of Allegiance.

Agenda Item 3 Introduction of Board Staff

Ms. Yamaguchi introduced Board staff. Mr. Swenson, DCA Legal Counsel introduced himself. When Ms. Schiedge joined the meeting in progress, Mr. Swenson announced her attendance just before agenda item 5.C. II.

Agenda Item 4 Review and Approval of Meeting Minutes

Meeting Minutes for February 18, 2022, and April 7, 2022 – Review and Approval.

Motion: Approve the minutes from February 18, 2022, if no errors or omissions.
Moved/Seconded: Mr. Maxey/Ms. Brown

Board Discussion: None.

Public Comment: None.

Member Name	Vote
Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Brown	Yes
Ms. Carpenter	Yes
Mr. Hill	Yes
Ms. Luce	Absent
Mr. Maxey	Yes
Ms. Nieblas	Absent
Ms. Rooks	Yes

Motion carried unanimously.

Agenda Item 5 Education – Reports, Recommendations, and Possible Actions

A. Education Division Report – Ms. Cordeiro.

Ms. Cordeiro listed the documents put before the Board and offered her expertise if Members had any questions.

Board Discussion: Dr. Mountain asked about new programs that have completed training to start their new programs; are there still 12 programs? Ms. Cordeiro shared that there are now 9 programs; clarified that if the report lists 12, it is a typo and apologized.

Public Comment: None.

I. Review and Approval of Executive Officer Program Decisions, Reports from January 11, 2022 to March 22, 2022.

Board Discussion: None.

Public Comment: None.

Motion: Approve and adopt the Executive Officer program decisions from the dates, January 11, 2022 to March 22, 2022.

Moved/Seconded: Mr. Dierking/Mr. Maxey.

Member Name	Vote
Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Carpenter	Yes
Mr. Maxey	Yes
Ms. Luce	Absent
Ms. Nieblas	Absent
Ms. Rooks	Yes
Mr. Hill	Yes
Ms. Brown	Yes

Motion carried unanimously.

B. Request to Admit Students.

I. Healthcare Career College, Vocational Nursing Program – Ms. dela Rosa, NEC.

Ms. dela Rosa advised that there was no additional information to add to the report. No representative from the program was present.

Motion: Approve and adopt the NEC's recommendations.
Moved/Seconded: Ms. Brown/Mr. Dierking

Member Name	Vote
Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Carpenter	Yes
Mr. Maxey	Yes
Ms. Luce	Absent
Ms. Nieblas	Absent
Ms. Rooks	Yes
Mr. Hill	Yes
Ms. Brown	Yes

Motion carried unanimously.

Board Discussion: None.

Public Comment: None.

- II. University of Antelope Valley, Vocational Nursing Program, Ms. Dela Rosa, Nursing Education Consultant.

Ms. Dela Rosa confirmed that there was no additional information to add to the report. No representative from the program was present.

Motion: Approve and adopt the NEC's recommendations.
Moved/Seconded: Ms. Carpenter/Mr. Dierking

Member Name	Vote
Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Carpenter	Yes
Mr. Maxey	Yes
Ms. Luce	Absent
Ms. Nieblas	Absent
Ms. Rooks	Yes
Mr. Hill	Yes
Ms. Brown	Yes

Motion carried unanimously.

Board Discussion: None.

Public Comments: None.

III. Cypress College, Psychiatric Technician Program, Dr. McLeod, Nursing Education Consultant.

Dr. McLeod confirmed that there was no additional information to add to the report. No representative from the program was present.

Motion: Approve and adopt the NEC's recommendations.

Moved/Seconded: Ms. Rooks/Mr. Hill

Member Name	Vote
Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Carpenter	Yes
Mr. Maxey	Yes
Ms. Luce	Absent
Ms. Nieblas	Absent
Ms. Rooks	Yes
Mr. Hill	Yes
Ms. Brown	Yes

Motion carried unanimously.

Board Discussion: None.

Public Discussion: None.

C. Reconsideration of Provisional Approval, Request to Admit and Curriculum Revision.

I. Gurnick Academy, San Mateo, Vocational Nursing Program, Ms. Silverman, Nursing Education Consultant.

Ms. Silverman confirmed that there was no additional information to add to her report.

Representative from the program; Larisa Revzina, Director. Thanked Ms. Silverman for working together and having faith in Gurnick Academy. Also present was Jessica High from Duane Morris representing the school. They appreciate the recommendation from Ms. Silverman, to be fully approved and not on provisional, however, request the Board adopt the recommendation with one modification to the ongoing admissions. They request that with the program being fully approved, the school interprets that as having met the Board's requirements and that there are sufficient resources available for the students who are enrolled to be continuing; therefore, they request with full approval, that the school do not have to demonstrate ongoing application through the NEC to be able to enroll continuing students. She continued to mention that the program has been in

operation approximately 17 years and has only been on provisional once, which was a result of NCLEX pass rates, but are proud to share that pass rates are above the state minimum requirement now. Reviewing the practice act, they believe it is a slight overreach to continue to have to submit for ongoing admission as a fully approved program; therefore, they request not having to complete that step.

Ms. Silverman shared that, when a program is removed from provisional approval, there is a period of grace and no longer have to come to the Board for approval for classes but are still given oversight by the NEC and the NEC writes a report for the Executive Officer to review, like the EO reports ratified at the beginning of this meeting. This is an intermediary phase for the NEC to ensure the school is continued in the right direction. At this time, the school has six (6) quarters of good pass rates, which is why the recommendation to remove them was made; but she recommends keeping the ability to watch them closely to ensure it continues. At a future date, with continued success, recommend moving them to ongoing admissions.

Motion: Approve and adopt the NEC's recommendations.
Moved/Seconded: Ms. Brown/Mr. Hill

Member Name	Vote
Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Carpenter	Yes
Mr. Maxey	Yes
Ms. Luce	Absent
Ms. Nieblas	Absent
Ms. Rooks	Yes
Mr. Hill	Yes
Ms. Brown	Yes

Motion carried unanimously.

Board Discussion: Dr. Mountain asked what the pattern of admission Gurnick Academy is requesting. Ms. High clarified that the school is not requesting an increase in the number of students nor increasing the frequency, the request is to not have to submit documentation to the NEC. Ms. Revzina confirmed this was accurate. Ms. Silverman added that she believes the pattern of admission is twice a year. Gurnick representatives present confirmed their pattern is 30 students twice a year.

Ms. Rooks confirmed that they complied with all the NEC recommendations, and now that you are in compliance, you are saying is you feel you no longer need the oversight since you have done the work to get here? Ms. High responded that yes, we feel we have proven that we have the right resources

available and that has been demonstrated by the recommendation to come off provisional. Ms. High continued that there does not seem to be a section within the regulations that states you must submit to an NEC to have ongoing admissions for a fully approved program. Ms. Rooks thanked her for the explanation for her understanding. Ms. Rooks continued to share that she disagreed, just because there is a corrected behavior, that allows you to move forward, does not mean there is no oversight needed to ensure you continue the right path. Ms. High spoke to clarify that we respect what the Board is doing and the NEC recommendation, and do not think there should be no oversight; it is just for ongoing admissions, they do not see the part in the regulations where this would be required.

Ms. Silverman shared that due to the pandemic, there was an Executive Officer recommendation that all schools submit all documents every time they want to start a new class. Currently, there is no school that does not have this oversight by the NEC's, with or without ongoing admissions. Dr. Mountain thanked Ms. Silverman for this clarification. She continued to ask for confirmation that Gurnick has strong clinical sites for 30 students, twice a year. Ms. Revzina stated that their clinical sites were strong, even during COVID and that have had have the full clinical support for everything.

Ms. High shared that the remarks made today were generated due to the overwhelming amount of work on staff to continue to submit everything, that has already been submitted previously. She continued to say that there are strains on NEC and school staff, and we think that a better use of the time would be to support the program and students.

Dr. Mountain shared that right now, across California, clinical sites are at a premium. As a director herself, she too is doing this work and submitting the documents and believe these submissions to NEC's ensure clinical sites are available and that it is not having to go above and beyond. Clinical sites being a premium will last for a while, we see nothing changing for the foreseeable future. Ms. High shared that they understand the clinical piece but are only questioning all the other documentation that is submitted each time. talking about all the other documents that must be submitted each time.

Prior to the Member vote, Ms. Brown requested to restate the motion; motion was restated.

Public Discussion: None.

- II. Curam College, Vocational Nursing Program, Ms. Gomez, Nursing Education Consultant.

Ms. Gomez reported a typo on page 5 of the report. The report stated eight (8) consecutive quarters when it should read seven (7) as it mentions in other

places throughout the report. Mr. Dierking asked if this edit changes the conclusions made in the report. Ms. Gomez confirmed it did not. Representatives present to speak on the issues from the program were Jeff Kravitz, attorney retained to represent Curam at this hearing and Dr. Wayne Williams, President of the college. There were also three (3) students from the program to speak during public comment.

Mr. Kravitz shared that Curam College sees many diverse students (ESL), and as such these students may have difficulty in passing the test the first time. He argued that California Code of Regulations (CCR) 2530 sets first time passers as a benchmark but is not the only consideration. He continued that they have crunched the numbers, and over the past three (3) years, 81% of their students who have taken the test have passed the test to become an LVN or go on to become RN's. Mr. Kravitz shared that students have the option to take the test 45 days after not passing and continues that it does not seem rational to not include all passers in the evaluation to shut down a school during a time, people say, there are a shortage of nurses. Curam College request consideration of first time and second time passers.

Mr. Kravitz continued that it has been less than a year since the new curriculum being used by Curam and adopted by this board has been implemented to the fact that the entire first class using this curriculum hasn't even had a chance to take the test; or take it a second time. He argued that, at this time, there are six (6) students that have not even taken the exam from this class. He also argued that the CCR section referenced previously also states that there should be a two (2) year review for curriculum and that more data is, therefore, necessary before it can be determined that this school is not producing qualified students. He also argued that, if students who take the test twice cannot be considered, then students who fails the test the first time should not be offered a second opportunity to take the test.

Motion: Approve and adopt the NEC's recommendations.

Moved/Seconded: Mr. Dierking/Ms. Carpenter

Motion withdrawn

New Motion: Move to deny admittance to Curam College a full-time class of 20 students to commence on May 31, 2022 with a graduation date of March 14, 2023 as indicated in the NEC report.

Moved/Seconded: Mr. Dierking/Ms. Rooks.

Member Name	Vote
Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Carpenter	Yes
Mr. Maxey	Yes
Ms. Luce	Absent
Ms. Nieblas	Absent

Ms. Rooks	Yes
Mr. Hill	Yes
Ms. Brown	Yes

Motion carried unanimously.

Second Motion: Move to revoke the provisional approval of Curam College Vocational Nursing program effective immediately and to remove the program from the Board's list of approved vocational nursing schools effective May 20, 2022.

Moved/Seconded: Mr. Dierking/Ms. Rooks

Member Name	Vote
Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Carpenter	Yes
Mr. Maxey	Yes
Ms. Luce	Absent
Ms. Nieblas	Absent
Ms. Rooks	Yes
Mr. Hill	Yes
Ms. Brown	Abstain

Motion carried with a vote of 6 yes and 1 abstain.

Board Discussion: Dr. Mountain shared that there are statistics to show a second time test taker has a 50% less chance of passing the test; the statistics show every time the test is retaken the chance of passing decreases and this is why first-time test takers are looked at and why schools prepare students to be qualified to pass the first time. She continued to share that while she appreciates a diverse student body. It is a school's responsibility to prepare students to pass the test.

Mr. Kravitz agreed that it is the responsibility of the school, and argued that, when you say there are statistics, one needs to look at the actual statistics of the school. He continued that Curam is trying to have an actual statistical analysis and not a theoretical analysis; students who pass the test the second time are still qualified as nurses. Mr. Kravits said that the question is does the school produce qualified nurses, and the answer to the question is yes; 80% of the students that have taken the test have passed in the last 3 years.

Ms. Rooks commented that if the argument is that ESL students deserve a second chance, that is great, but questioned if the school will argue for students with limited resources, struggle with test taking or learning disabilities. She agreed with Dr. Mountain that this is a school issue; it is the

schools' responsibility to provide the education and present the information in a manner that all students can succeed.

Mr. Kravitz responded that if there is going to be a review of the qualifications and ability of the school, there should be additional data, beyond just the first-time test passers, since people are allowed to take the test more than once. He continued to remind the members that there are three (3) issues in the recommendation and that he requests that the Board considers each one individually instead of all as one. Specifically, the issues are, admittance of a new class, continue their provisional license, and/or revoke the license.

Ms. Brown asked Ms. Gomez whether the test scores are the basis for any of her recommendations? Ms. Gomez responded that the scores are a very small part. Other than the low pass rates, the attendance of the students is very important too. Ms. Gomez added that there were also discrepancies in the hours and subject-matters taught that were submitted to the NEC.

Dr. Mountain asked, "would you want your nurse to get your medication right the second time?" commenting that we need to be educating for success on the first attempt. Dr. Williams responded to Dr. Mountain, stating that they both know that the test can be taken up to seven (7) times, not just one or two, but seven, he asked Dr. Mountain if she would want the nurse who passed after seven (7) times. Dr. Mountain replied that, statistically speaking, most people do not pass during those multiple attempts. While it does happen, the statistics are very low.

Dr. Mountain requested to move on to her additional questions; first, on page 8, according to the director, theory makeup time was used for students to study anything that they felt academically weak in, not to make up missed theory objectives. When students are struggling or having problems making up time, a remediation plan needs to be developed related to student learning outcomes. Dr. Mountain asked how do you determine remediation success if there is no written remediation plan focused on those student learning outcomes? Dr. Williams responded that his was one of the issues identified, specifically, there is policy for documentation in the classroom for the instructors to complete but, unfortunately, they did not do it on a consistent basis. Dr. Williams took responsibility for this oversight and that since there was no documentation to what was missed, when they offered make-up time between terms, the offer was extended to every student to come to work on where they felt they needed work. He continued that, within this time, there was a group of students that did have specific hours they needed to make up, but because it was open to all, he was called-out because 16 people showed up for a skills lab when only 3 or 4 needed to make up the time. Dr. Mountain continued to question Dr. Williams how did he document his remediation so that he was able to follow it? Dr. Williams reiterated that they did not have the specific time but offered all the skills for students to come while staff

supervised. Dr. Mountain closed this questioning by stating that part of remediation is documentation.

Dr. Mountain asked Dr. Williams her second question, I noticed a student that missed 71 hours of theory, this is significant. How can this student go to clinical?

Dr. Mountain continued that clinical is applying what is learned in theory; missing this amount of time, she wanted to know how a student can safely go to clinical? This gives her great concern; safety is priority in the clinical setting. Dr. Mountain continued to identify that her final concern is that the reports states that there 16 students at each clinical site. Both Dr. Williams, and Ms. Gomez confirm that 16 is not correct; Dr. Mountain asked how many students they have in clinical then? Dr. Williams confirmed that they currently have seven (7) students in one group and eight (8) in the other group. Dr. Mountain thanked him for clarifying and is satisfied with this. She then asked where the students go to clinical. Dr. Williams responded that their clinical sites include long-term care, acute care, pediatrics, and obstetrics, and that they are in doctor offices. He continued that a few years ago the school was able to re-negotiate their contract from pediatrics only to ob-gyn also. Dr. Mountain then asked if the school have had any issues getting clinical sites, since this is state-wide issue. Dr. Williams confirmed they had had no issues; many of their sites had waivers from CDPH to allow the students to continue to attend. He continued to share the school has not closed due to the pandemic and has remained open the entire time.

Ms. Gomez commented that since the population of the students was brought up, being ESL and having difficulty and she noted that many of them travel from Yuba and Sutter Counties. She continued that there are other schools in and those counties that offer assistance to ESL students; so, it is concerning to see a school that is using ESL as justification, but not offering a similar program to students and consciously admitting these students into their program.

Mr. Dierking asked Ms. Gomez, after hearing the statement and testimony of Dr. Williams and counsel, which some of it was presented as argument, but some of the information may have been slightly new or corrected for purpose of clarification, does any of this change any of the recommendations you made in the report regarding this school? Ms. Gomez responded that no it does not. She is concerned; she was unable to find pediatrics taught to this group of students; which is required courses in the program.

Dr. Williams said he was surprised by this information and commented that it is interesting that this information comes up after the fact. He complained that he was found at fault for sending a corrected statement of the hours, which led to an email accusing him of misrepresentation, though he told Ms. Gomez

that the school plans to conduct a full audit of the total hours to see where the school actually stands. He claimed that the updated report was not accepted; but upon review of the report the missing data is being brought up, yet no communication was sent. Dr. Williams argued that, had he submitted a correction, he likely would have been accused of misrepresentation again. He represented that pediatrics may have been missing from the report, but it was taught, and he would have appreciated the information or for the NEC to ask for additional information.

Ms. Yamaguchi advised the Board to discuss the motion on the floor and that it may be appropriate to allow the makers of the motion to choose to separate out the issues and take action on one part and possibly defer others.

Ms. Brown asked Dr. Williams whether he attempted to get the missing pediatric hours information to his NEC? Dr. Williams responded that he did not know the hours were missing until now.

Ms. Rooks asked Dr. Williams if it was customary for someone to have to repeatedly have to tell someone what is missing in documentation that they are supposed to have? Or for the information they are requesting? She continued to say that while she understands common courtesy, there is also the responsibility that when specific information should exist in the documentation and it is not reported, there is natural assumption that the information does not exist, not that it was mistakenly omitted. Dr. Williams commented that he was just saying that he did not know it was missing until now. Ms. Rooks continued to ask Dr. Williams whether he reviews the documents he sends, especially when they are something this important?

Ms. Brown asked Ms. Gomez if she ever reached out to Dr. Williams about the missing hours in the report? Ms. Gomez confirmed that she did not. She was advised not to once counsel had been retained.

Mr. Swenson stated that the issue of the missing pediatric hours could be considered a factor in aggravation, but it is not one of the violations set forth in the report and recommendations. Ms. Gomez confirmed this fact and Mr. Swenson reiterated that the Board could consider it as an aggravation, but not a violation.

Dr. Mountain thanked the school representative for the packet of information submitted at the meeting; however, it is not possible for members to have thoroughly reviewed it. She continued to urge the members to accept the counsel's suggestion to amend the motion. Mr. Swenson reminded the members that the makers of the motion could amend it to address the request for starting a class; and then consider the other recommendation(s) separately or defer to a future board meeting. Motion can be withdrawn or amended. Motion was withdrawn and a new motion was made. (See motions at the beginning of this agenda item.)

Following the public comment, the second motion was made. Ms. Brown requested a caucus on this matter. Mr. Swenson advised that under the Bagley-Keene open meeting act, all the board business must be conducted in public.

Mr. Dierking asked Ms. Gomez, that after hearing the statements from the former students during public comment, are there any changes to the recommendations provided in the report? Ms. Gomez confirmed that the statements do not change her recommendations. She continued to state that she does not know of a single student that has taken the NCLEX that is not nervous. She also added clarification that it is not only the BVNPT that looks at first time test takers, the NCLEX itself uses the same data; that is the only report they send nation-wide, is stats on first time test takers.

Public Discussion: School counsel requested clarification on whether the students should comment before the second motion is on the floor, since it covers the license revocation? There was a second motion, but the students made their public comments before the second motion was made. Dr. Mountain announced that all public commenters have up to three (3) minutes each to comment.

Ranandeep Kaur shared that she was a former student; VN21. Lovepreet Singh, her husband and a graduate from Curam College, is not here, but he was class of VN19. She shared that he passed his test the second time; and they are now both RN's. When asked, he claims to have failed the first time due to nerves. Ms. Kaur shared that she started at Curam two months after coming to the US; the teachers helped her learn English and work through any ESL issues. Her husband is now earning his MSN and then would like to get his NP. Ms. Kaur shared that second time passers should not be considered a failure; the real world and the school world are different.

Jennat Rhatt shared that she is a recent graduate of VN24, which was under the new curriculum. She finished classes in January and took her test in April, and now works where she had her clinicals. She shared that she and her friends have chosen to commute to Curam because the colleges mentioned in Yuba City have long wait times to get into the program(s). Curam was recommended from many friends and family, all who had success. Even with ESL, the staff encouraged students and helped with the makeup hours. And that students were given opportunity to discuss topics with other classes too. She continued that the test takes a toll on a person and shared her personal experience with the stress. Ms. Rhatt added that one of the instructors would take off hours if students were misbehaving, not only if a student was absent; these hours were included in the make-up hours. She ended with sharing that her class was one of the best at clinical, which is why many of her classmates and she got hired right after graduating and passing.

Bless Inmokajan shared that she attended Curam College at the recommendation of family that previously attended. She shared that she had

a degree from college in her home country, Nigeria, Africa, and when she moved to the US was encouraged to try something different. Nursing was new to her, having had no medical or science background. She had doubts, but the faculty was great, she learned a lot from them. And she passed the exam. Ms. Inmokajan continued to share a story about a classmate who did not pass the test the first time and that it was nerves, because they studied and learned the same. She continued to share how her thought process was during the exam and clinicals when attempting to remember what to do. Confirmed that they were taught pediatric, even though it was mentioned that it was missing from submitted documents.

No additional public comment.

Agenda Item 6. Executive Officer's Report – Ms. Yamaguchi.

Ms. Yamaguchi shared that there have been no major changes since the report was shared. She opened the floor for questions, comments, or suggestions?

Board Discussion: None.

Public Discussion: None.

Agenda Item 7. Board Update from DCA – Ms. Kimberly Kirchmeyer, Director, Department of Consumer Affairs

This item was taken out of order and presented following agenda item 4.

Ms. Kirchmeyer opened her update with thanking Ms. Yamaguchi and staff for their work over the past 2 years during this time of needing to be flexible, while still doing the work for the consumers of California.

She continued to give an update and information regarding open meetings legislation, AB 1733. She advised to share all position letters and/or issues with meeting quorum, et al now that the executive order has expired, and all public meetings have had to revert to original laws with the DCA legislative office. Ms. Kirchmeyer continued with sharing current rules and guidance for safe meeting protocols and how DCA is implementing procedures to document the impact of the open meetings act and to demonstrate how the executive order was beneficial to Boards.

Ms. Kirchmeyer continued to share that BVNPT has two vacancies and requested that all members share these openings with those they know who may be qualified.

DCA is proud to announce that it has recently published its first Enlighten Licensing Report; its purpose is to enhance and enlighten streamlined licensing processes across the Boards. This report was shared with staff and will be shared soon with Members; DCA will also be hosting a brown bag event to walk through the report. The next report will be Enlighten Enforcement.

Ms. Kirchmeyer shared that the Boards and Bureau Relations just released a Quarterly Board and Bureaus Newsletter, if members did not receive it, please contact Board and Bureau Relations to update their email; this newsletter is a way to keep in contact and share information with all members. Additionally, Board and Bureau Relations Deputy Director, Carrie Holmes has left DCA as of May 13; the department is looking to fill this position. Brianna Miller, one of the program managers is also leaving the Department in June. This leaves two vacancies in the unit that are looking to be filled. In the interim, if any members have questions, please, feel free to reach out to Christine Lally or Ms. Kirchmeyer.

Ms. Kirchmeyer continued to share recent hires at DCA since the previous Board Meeting and other collaborations that DCA is participating in. She shared a reminder to all new and re-appointed Board Members that all members must attend Board Member Orientation Training within the first year of appointment or re-appointment; June 15 and Oct. 12 are the remaining dates the orientation will be held this year.

Ms. Kirchmeyer closed by thanking all members for their commitment and flexibility to ensure the Board continued to work during these times.

Board Discussion: Mr. Dierking thanked Ms. Kirchmeyer for her guidance and leadership. He asked if members could do anything for a more collegial environment to protect California consumers? Ms. Kirchmeyer responded that sharing qualified candidates for any Board or Bureau is an asset. Share information about DCA to ensure the outreach for the Department and how it assists is available; many people do not know about DCA, until there is an issue. She continued to ask; how do we share with underrepresented areas? The goal is for our licensees to mirror the diversity of California. (All DCA licensees)

Ms. Rooks thanked Ms. Kirchmeyer and her team for their outreach, professionalism, and communication. She continued to share that the staff has impressed her since appointment in Oct 2020. Ms. Kirchmeyer agreed with the sentiment and added that the DCA has an open-door policy, please contact and work with us whenever needed.

Mr. Maxey thanked Ms. Kirchmeyer for the work being done in Diversity Equity and Inclusion (DEI); and commented that we have seen a state of emergency around the country on this topic. He asked how can the board work itself into the strategy being created?

Ms. Kirchmeyer responded that a workgroup has been created and as they move forward and build on it, the group will gradually grow to include all interested parties, staff, EO's, board members, licensees.

Public Discussion: None.

Agenda Item 8. Licensing and Evaluations – Report, Recommendations, and Possible Actions.

- A. Licensing Division Report – Ms. Brown, Licensing Division Manager.

Ms. Brown started her report sharing that it was nice to meet with everyone yesterday and have the opportunity to talk about the licensing division, specifically our functions and our processes.

She continued with the licensing report, included in the meeting packet, and asked for any questions members may have. Ms. Brown noted that, at the time the report was written, it was the staff's intention to resume Continuing Education (CE) audits in May, however, after a review, it has been decided to temporarily postpone them. As reported previously, CE audits were suspended as part of the Governor's order which included a temporary waiver of the CE requirement for individual licenses that expired between March 31, 2020 and October 31, 2021. The waiver was not extended after October 2021. Board staff has concerns that licensees are not aware that this waiver was not extended. Ms. Brown shared the next steps staff are taking to ensure there is a clear notice to licensees to complete CE requirements. This notice will also be on the BVNPT website, and an email will be sent to those licensees that have renewals pending. Staff believes this postponement will also allow a full review the CE audit process. Ms. Brown shared that the waiver was put into action a month after she joined the Board therefore this allows management the time to fully review the process to make sure everything is on the up and up, review the letters that are sent, have legal review language et al. Due to the fact that when the Licensing Division finds someone out of compliance with CE it goes to the Enforcement Division, staff wants to make sure everything is complete and accurate, streamlining the process. CE audits are expected to resume this summer.

Board Discussion: Ms. Rooks asked how CE works on license renewals. Specifically, does the licensee have to show proof of CE or just enter the information on their renewal? Ms. Brown confirmed that renewal only requires to enter the courses and the hours; then the program chooses a small percentage to audit, and those licensees are requested to submit the documentation. Ms. Brown continued that due to the length of time of the now expired waiver and the number of waivers that were enacted, it is important to staff to give a clear notification to our licensees before audits resume.

Agenda Item 9. Legislative and Regulations – Report, Recommendations, and Possible Actions.

This item was taken out of order and presented following agenda item 7.

A. Committee Report – Ms. Carpenter, Committee Chair.

Ms. Carpenter shared that the Legislative and Regulations Committee met on March 23, 2022, consisting of the newly re-formed committee. At this meeting, the committee discussed and received updates on topics including the strategic plan, increasing our presence at the capitol, and creating a calendar like the rulemaking calendar to detail concepts for potential legislation. The committee meeting continued with discussion on current legislation, including an update on

AB 1733, regarding the Bagley-Keene Open Meeting Act and virtual meetings; AB 1662 which addresses pre-licensure determinations; both of which were discussed at the April 7, 2022 full board meeting. During this meeting, Ms. Pires updated the committee on the Rulemaking calendar. Mr. Swenson advised that as a public document, the calendar will enable the public to know what the board is working on; once approved it will be posted to the board's website.

B. Bill Tracking – Ms. Yamaguchi, Executive Officer.

I. [SB 994](#) (Jones) Vocational nursing: direction of naturopathic doctors.

Ms. Yamaguchi shared that SB 994, sponsored by the Naturopathic Doctors Association, at first read, seems simple, allowing LVN's to work under the direction of a licensed Naturopathic Doctor (ND). We have been discussing this concept for a couple years; it can also offer more job opportunities and open additional clinical sites. However, as staff continue to review this bill and think about the big picture, there are some logistical questions that have come up. For example, counsel was asked if we would just have to add ND to our regulations? The answer was that it would take a much more intensive review of several things, including the education (per the NECs) of both parties. Specifically, the NECs expressed concerns that the existing curriculum and that NCLEX do not include Naturopathy. This is going to be an issue for LVN students choosing this path. Ms. Yamaguchi continue that the biggest concern, as the board knows from the past couple of months, rulemaking and regulations take time and the board has a big agenda already for the next couple years. That said, she does not think this proposal is a bad thing; just that as written, it is not ready to move forward. Current staff recommendation is to ask that the bill be tabled or amended into a study bill or even possibly a pilot program to determine short term and long term. Today, Ms. Yamaguchi asks the Board to authorize staff to have these discussions with the author. She noted that other states have similar arrangements in place but that, since scopes differ, there is a need to compare scopes to determine if it is even comparable. Staff also wonder about not including PT's; over the past couple years California has seen the need for mental health professionals and to not include them, we believe, is a mistake, especially in a holistic whole personal care practice.

Ms. Schieldge noted, that from a regulatory perspective, the bill, as written, does not provide a lot to work with. She reminded everyone that a supervisor and supervisee must have the same scope; a person cannot supervise someone that has a different scope because you must be able to exercise management and control over them. To write regulations that would map that out, we must know how that would work in the statute and there is nothing in the language right now. She continued that from a regulatory standpoint, she is concerned about how to even write regulations if more specifics are not worked out in the pending legislation. As written, it would be very difficult to implement anything at all.

Motion: To accept a neutral position and take action to discuss with the author and sponsor.

Moved/Seconded: Mr. Dierking/Ms. Carpenter

Member Name	Vote
Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Carpenter	Yes
Mr. Maxey	Yes
Ms. Luce	Absent
Ms. Nieblas	Absent
Ms. Rooks	Yes
Mr. Hill	Yes
Ms. Brown	Yes

Motion carried unanimously.

Board Discussion: Ms. Carpenter asked if this was possibly a spot bill? Ms. Schieldge responded that she hoped so, since it is not doable as written. She noted that the concept needs to be more thought through. She agreed that the idea for a pilot program is great, it could help map out the relationship between the ND and LVN's. As she understands the two scopes, ND's have a much narrower scope than an LVN, in California, which bring up how they could supervise. She reiterated that, as written, it would be impossible to write regulations.

Ms. Yamaguchi commented that Counsel Schieldge raises a great point that this bill is very vague, which is why we are asking for an intermediary phase. She continued to share that scope and its variance is a concern of the Medical Board and the Medical Association too; these entities added the amendment to the bill that specified that an ND cannot direct an LVN to do anything that an ND is not licensed to do. Ms. Yamaguchi finished by reiterating that the idea is good, but the bill as written creates many concerns.

Public Discussion: Mr. Swenson announced that because the scope of practice for a VN is defined as "what is customarily taught in a nursing program"; if there are any representatives of a VN program present that would like to speak, it would be very valuable to the board.

No comments received.

II. [SB 1436](#) (Roth) as amended, Respiratory therapy.

Ms. Yamaguchi shared that SB 1436 is the Respiratory Care Board (RCB) sunset bill and while it is very uncommon for a Board to comment on

another board's sunset legislation; it is also very uncommon for a sunset bill to include language impacting another Board. The analysis staff has presented is specific to the section addressing LVN's treating patients. This topic has been a point of contention between the two boards for 25-30 years. Ms. Yamaguchi shared a short overview of what has transpired and the perspective of each party as it pertains to the situation. The concerns staff have with the current language, is again, it is narrowly constructed and again, it does not acknowledge that PTs do this type of care. It is needed for all statewide facilities to provide the necessary training in conjunction with RCB and must be developed by specialists in respiratory care. The training should be a condition of licensure and employment. We have found many large employers are providing the training, mostly at an acceptable level; but the issue is the training is not standardized or with the whole patient approach. We also know that there are not so large employers living in the shadows that will determine the training is not necessary. There is no way to regulate the training and that is a problem. Ms. Yamaguchi continued to share additional details regarding the need for regulation. She shared that respiratory care is part of the basic LVN and PT training, therefore, well within their scope. This education is to ensure the patient is safe and comfortable and the patient can be kept alive in an emergency while waiting for a doctor or respiratory professional. Overall, staff feels there is just a lot of missing details; so, we do not object to the bill, but would like to suggest changes and refinements. Staff has talked with the RCB, the DCA legislative office and the director; all agreeing it's appropriate for us to meet and discuss before bill is heard in the Assembly.

Ms. Yamaguchi stated that staff asks today for Board to authorize a neutral position and allow staff to work with the author and the Senate and Assembly committees to develop the bill language with a better training program, or that we can move forward with home healthcare and the BVNPT with RCB can work together to address other employment settings. She shared that prior to COVID, it was quite clear where LVNs work and do not work; however, since COVID, facilities have been looking at ways to better utilize LVNs and PTs, so it would be shortsighted to set tight limitations such as "only home healthcare" "only LVNs" et al. The final point Ms. Yamaguchi thought important to mention was that the bill is silent on the duration of the training, the way it is currently worded, it is foreseeable that this could be satisfied by RCB developing just a list of thou shalt and thou shalt not and giving it to employers and letting them implement it. Again, this does not allow for regulation, oversight, or a real patient centric approach. Ms. Yamaguchi ended sharing one final concern that everything changes so rapidly, this is not like a post licensure certificate in IV or blood withdrawal, this is something that training, and certification needs to be regular and ongoing, it cannot be one and done.

Motion: To approve and accept staff recommendation
Move/Second: Ms. Carpenter/ Mr. Hill

Member Name	Vote
Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Carpenter	Yes
Mr. Maxey	Yes
Ms. Luce	Absent
Ms. Nieblas	Absent
Ms. Rooks	Yes
Mr. Hill	Yes
Ms. Brown	Yes

Motion carried unanimously.

Board discussion: None.

Public Comment: None.

C. Rulemaking Update – Ms. Pires, Legislative and Regulations Specialist and Ms. Schieldge, Board Regulations Counsel.

- I. [AB 2138](#) (Chiu, Low, Chapter 995, Statutes of 2018) Substantial Relationship and Rehabilitation Criteria for Vocational Nurses –California Code of Regulations (CCR) Rulemaking Amending Title 16, Sections 2521 and 2522.

Ms. Pires share that this will be the last agenda with AB 1638 Substantial Relationship and rehabilitation Criteria for Vocational Nurses on it. This started as a package for each license, VN and PT, and for unknown reasons, the two packages were split and have been approved at two different times. She reported that the VN package was approved on April 1, 2022.

Board Discussion: None.

Public Comment: None.

- II. Fee Schedule – Rulemaking Amending CCR Title 16, Sections 2537, 2537.1, 2590, and 2590.1.

Ms. Schieldge shared that the most recent public comment period closed, and the board received no adverse comments. Staff is now preparing the final rulemaking package for submission to DCA for final internal review and approval. Staff expects to submit this soon and will provide an update at the next Board Meeting.

Board Discussion: None.

Public Comment: None.

- III. AB 1536 (Committee on Business and Professions, Chapter 632, Statutes of 2021): New School Program Approval Process -- Emergency Rulemaking

Amending CCR, Title 16, Sections 2525, 2526, 2580, and 2581 and Adopting CCR, Title 16, Sections 2537.2 and 2590.2.

Ms. Schiedge shared that staff has drafted a greater than 40-page justification document for the emergency regulations to implement the new school's approval process. This justification has been submitted to DCA for internal review and approval as of yesterday. An expedited review has been requested to be able to have it filed by the beginning of June with the Office of Administrative Law; an update will be given at the next Board Meeting. Staff hopes to receive no adverse comments allowing implementation as soon as possible. She reminded members that if it is approved on its emergency basis, staff plan to immediately begin a new regular rulemaking process with more stakeholder outreach and input on these standards. Implementing specifically, the forms for approval for both programs, as you saw at the last meeting, they are extensive, so we want to hear from the schools. She closed by thanking Ms. Pires, Ms. Lyman and the NECs for all the hard work on this package.

Board Discussion: None.

Public Comment: None.

Agenda Item 10 Enforcement – Report, Recommendations, and Possible Actions.

A. Enforcement Division Report – Ms. Wood, Chief, Enforcement Division

Ms. Wood provided an Enforcement Division Report overview; she shared that the division report was provided in the meeting packet and offered to answer any questions members had. Ms. Wood chose to highlight that the division is still under a thousand complaints, which historically for the board is impressive; complaints remain to be closed at an acceptable rate. That said, she shared that COVID-19 is still affecting the division in that most of our complaints include criminal complaints, from our subsequent arrest reports for licensees' court cases, which are still slow and there is a backlog, but we continue to stay diligent on those and hope to make more progress as the courts fully open and begin clearing their backlog. There is hope that when that happens a good number of cases will be cleared.

Board Discussion: None.

Public Comment: None

B. Enforcement Committee Report – Mr. Maxey, Committee Chair.

Mr. Maxey opened this report by thanking Ms. Wood and her team for their work decreasing the case numbers in the division. Mr. Maxey continued to present a report out on the petitioner hearings as previously requested. Specifically, the Board has heard petitions for early termination of probation, ETP, and modification of probation, and reinstatements at board meetings for decades. Previously one (1) full day of the board meetings were dedicated to these hearings with eight (8) petitions

per meeting. During the pandemic, these petitions were limited to five (5) per meeting while the demand for the petition hearings increased. He continued to share those petitioners were required to have their petitions heard in a highly public venue and submit themselves to direct questioning by the board members. Following the hearings, the board discussed the hearings in closed session and a decision granting or denying each petition was eventually issued. Overall, the process was inefficient and regarding the time and expense involved, it denied some individuals the opportunity to have their petition heard in a timely manner; this is not in line with the other disciplinary hearings conducted.

Mr. Maxey continued that all other disciplinary hearings are heard by the Office of Administrative Hearings (OAH) directly. The basic process involves board staff forwarding the applicable case documents to the Office of the Attorney General (OAG) who coordinates a mutually convenient hearing date between their office, the respondent and OAH, and the hearing location is near the respondent's residence. Following the hearing, the proposed decisions by the Administrative Law Judge (ALJ) are received and voted on by the board members. In short, by updating the petitioner hearing process, we afford the petitioners the same opportunity to be heard as others in disciplinary hearings. Finally, all petitioner hearings are sent to OAH to be heard; this decision was made at the Feb 2021 special board meeting. Since then, all 60 original petitioners have been heard by OAH. Had the board not made this decision, more than 90 petitioners would still be waiting to be heard and hearings would be scheduled out to 2025.

Board Discussion: None.

Public Comment: None.

Agenda Item 11 Discussion and Possible Action to Approve New Quarterly Newsletter

Ms. Ball, Board Administrative Analyst shared that a fact sheet outlining the concept newsletter was provided in the meeting packet. She continued to share that this newsletter will allow us to be more communicative and transparent with our licensees and stakeholders throughout the year. Ms. Ball gave an overview of the information given on the fact sheet. She shared that part of this motions will be directing staff to use the internal DCA Publishing Development and Editing (PDE) Unit, whose charges are part of our pro rata, so there are no additional charges to produce the newsletter. She explained the newsletter concept is to provide short/quick/concise information in an easily digestible manner. She finished with a short background of the board's history publishing newsletters and shared examples of other board newsletters that are produced by the PDE Unit for visual review of their abilities.

Motion: To approve and accept staff recommendation

Move/Second: Ms. Carpenter/ Mr. Maxey

Member Name	Vote
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Dr. Mountain	Yes
Mr. Dierking	Yes
Ms. Carpenter	Yes
Mr. Maxey	Yes
Ms. Luce	Absent
Ms. Nieblas	Absent
Ms. Rooks	Yes
Mr. Hill	Yes
Ms. Brown	Yes

Motion carried unanimously.

Board Discussion: Mr. Maxey expressed his thanks and that he thinks this is fantastic. He recommended that the newsletter highlight students and/or the colleges to inspire. Ms. Rooks agrees about the intent of the newsletter and that the whole idea, including Mr. Maxey’s highlight suggestion will help licensees feel included.

Ms. Rooks confirmed the newsletter will be quarterly and asked what method of distribution will be used. Ms. Ball shared that the newsletter will be emailed via the listservs that are available at the Board. She continued to share how the listservs are created and how they are used for other Board related actions. She finished by sharing that the email will notify the recipient that there is a new newsletter and will link to the BVNPT webpage where they will be able to access the newsletter. This will allow staff to track the analytics and see how successful the newsletter is.

Ms. Carpenter commented that the board has discussed a newsletter in the past and that before she must excuse herself, she wants everyone to know that she supports this completely.

Public Discussion: None.

Agenda Item 12 Presentation – 2019 Psychiatric Technicians Occupational Analysis – Office of Professional Examination Services, Department of Consumer Affairs

Heidi Lincer, Ph.D., Chief, Office of Professional Examination Services and Sanja Durman-Perez, M.A., Research Data Specialist II, Office of Professional Examination Services presented the results of the 2019 Psychiatric Technicians Occupational Analysis. Full presentation viewable at YouTube linked above from 2:26:55 – 2:57:40.

Board Discussion: Mr. Maxey commented that the diversity of sample size; demographics, does not denote who is the sample size. Is this information available, or will it be considered for future reports? Ms. Durman-Perez shared that the geographic

location and the years licensed are the only data points the Board had on their survey; therefore, that is what we are able to use. However, the convenience sample number that was looked at and considered was deemed similar to the total population sample.

Ms. Rooks shared that sample sizes are generally good at 10%, but we reached 5%? Ms. Durman-Perez responded that the sample size was actually 23%.

She continued to ask if this will be conducted again, since this was collected pre-pandemic in 2019. Ms. Durman-Perez answered that it is the intent, and believes it is the Board's intent, to include everyone and we will do what the Board requests. The Board worked very hard to achieve the percentage seen, sending out follow-ups, including the information on their website and sending subscriber alerts. Business and Professions Code (BPC) section 139 requires these studies every 5-7 years at minimum; and historically, this Board has been diligent, conducting the survey in 2014 and then again in 2019.

Dr. Mountain asked that since California is the only state with PT's, Is California the only state using the PSI test for PT's? The answer was yes; but that other states are interested in adding this profession.

Mr. Dierking shared his top take away from the presentation which included that it showed a relatively stable workforce. He would like to know, not only the highest level of education achieved, but what kind of program was attended? Public or private? Proprietary? He continued to share that it would be nice to see a legislative concept to increase funding for community colleges for these programs to increase diversity and allow more people access to the profession. Ms. Yamaguchi shared that there are 13-14 schools in California with the PT program, and only 1 or 2 are private. She concluded noting that this may change with the new program approval process, but vastly different and quite opposite of the VN programs that are 70% private programs in the state.

Public Discussion: None.

Agenda Item 13 Public Comment not on the agenda.

Public Comment: Mr. Dierking asked to make a public comment. He noted that the pandemic has revealed the resilience of not only our licensees, but also staff. Staff has been very exceedingly hard-working day in and day out, mostly from the office, and gave a shout out to the leadership and continued support of Executive Officer, Elaine Yamaguchi.

Dr. Mountain echoed the sentiment and thanked Mr. Dierking for putting it perfectly into words.

Agenda Item 14 Suggestions for future agenda items.

Board Discussion: None.

Public Comment: Ms. Lyman suggested that there be an update on the proposed programs and how everything is going after the emergency regulations are approved. She suggested that by the next meeting the regulations may be approved, and new letters of intent may be submitted; possibly from programs the Board has never heard of

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before. She added that she would like to see this as a regular agenda item because this is always going to be a huge topic for the Board; hearing updates from the NEC's that include challenges and other helpful updates to these new policies. Dr. Mountain and Ms. Rooks expressed their agreement with this suggestion.

Agenda Item 15 Adjourn Meeting.

Prepared by: _____ Date: _____

Elaine Yamaguchi

Executive Officer

Approved by: _____ Date: _____

Dr. Carel Mountain, Education Member

Board President