



BOARD MEETING MINUTES

September 6, 2012

LOS ANGELES, CALIFORNIA

BOARD MEMBERS

PRESENT:

Todd D'Braunstein, P.T. Member, President
Victor King, Public Member
Jessica Leavitt, Public Member
Eric Mah, Public Member
Mark Stanfield, L.V.N. Member
John Vertido, L.V.N. Educator Member

BOARD MEMBERS

ABSENT:

Ling-Ling Chang, Public Member

STAFF PRESENT:

Teresa Bello-Jones, J.D., M.S.N., R.N., Executive Officer
Cheryl Anderson, Supervising Nursing Education Consultant
Karen Newquist, Enforcement Division Chief
Pam Hinckley, Nursing Education Consultant
Mark Ito, Licensing Program Analyst
Linda Ruyters, Administrative Analyst
Laura Freedman Eidson, Legal Counsel, Department of Consumer Affairs
Simone Renteria, Legal Counsel, Department of Consumer Affairs

1. CALL TO ORDER

The meeting was called to order by the President, Todd D'Braunstein, at 9:02 a.m., September 6, 2012, at the Radisson Hotel Los Angeles Airport, 6225 West Century Boulevard, Los Angeles, CA 90045.

2. PLEDGE OF ALLEGIANCE

Mr. Stanfield led those assembled in the Pledge of Allegiance.

3. INTRODUCTION OF BOARD MEMBERS AND STAFF

The Board Members introduced themselves. Teresa Bello-Jones, Executive Officer (EO), introduced the staff present.

4. ELECTION OF VICE PRESIDENT

MOTION: To elect Mark Stanfield as Board Vice President.

Public Comment: None received.

Board Discussion: None received.

Moved/Seconded: John Vertido/Victor King
Support: 6 **Oppose:** 0 **Abstain:** 0

5. INTRODUCTION OF APPROVED SCHOOLS REPRESENTED AT MEETING BASED UPON VOLUNTARY SIGN-IN LIST. The following programs voluntarily signed in and were recognized by the Board President:

Advanced Pro Nursing Institute	Concorde Career College – Woodland Hills
American Career College	Curam College of Nursing
American Medical Sciences Center	Downey Adult School
Angeles Institute	Four D College – Colton
Annenberg School of Nursing	Glendale Career College
Bay Area College of Nursing – Daly City	Grossmont Health Occupations Center
Bay Area College of Nursing – Palo Alto	High Desert Medical College
Bethesda University of California	Los Angeles Job Corps
Career Care Institute – Lancaster	LA Unified School District – Jordan Locke
Career Care Institute – Moreno Valley	LA Unified School District – Maxine Waters
Career Care Institute – Ventura	Medical Allied Career Center
Career Networks Institute	Mt. San Antonio College
Casa Loma College – Hawthorne	North West College – Glendale
Casa Loma College – Van Nuys	North West College – Pasadena
Charter College	Solano College of Nursing
Colton, Redlands, Yucaipa ROP	Southern California Medical College
Community Enhancement Services College	St. Francis Career College
Concorde Career College – Garden Grove	Stanton University
Concorde Career College – San Bernardino	Summit Career College
Concorde Career College – San Diego	Trinity Vocational Center
Concorde Career College – W. Los Angeles	Valley School of Allied Health

6. BOARD PRESIDENT’S MESSAGE: MEETING AND PUBLIC COMMENT PROCEDURES

Mr. D’Braunstein read a special notice addressing the Board’s legal mandate and procedure to have an issue placed on the Board Meeting agenda. He announced that public comment is welcome on any open agenda item prior to the Board’s discussion; however, no action may be taken at this time on any item not on the agenda and the Board may limit the length of time allowed for comment.

7. EXECUTIVE OFFICER’S REPORT

Teresa Bello-Jones provided an update on Board activities relative to:

- Board Member Vacancies
- Budgets
- Education Division
- Licensure Examinations
- Liaison Activities
- Personnel
- Customer Service Surveys
- BreEZe

Public Comment: None received.

Board Discussion:

- Mr. Mah asked for clarification on what is meant by stating that liaison activities are conducted "at no cost to the public." The EO explained that the reported Board member and staff travels did not result in any costs to the Board or State. Mr. Mah stated that he felt it is reasonable to allow costs for mission critical travel, especially since the Board is self-funded.
- Mr. Mah requested results from the Customer Service Surveys. The EO responded that the survey results are reported in the annual report and strategic plan. The EO also stated that she would provide Mr. Mah with a copy.
- Mr. Vertido said he and other Board members are happy to attend speaking engagements on behalf of the Board, even if travel costs are "out-of-pocket." The EO informed the Board members that all travel must be approved by the Department of Consumer Affairs (DCA), even if it is at no cost to the State.

8. CONSENT CALENDAR

A. Adoption of May 10-11, 2012 Board Meeting Minutes.

B. EO's Report on Decisions for Vocational Nursing (VN) and Psychiatric Technician (PT) Programs.

Public Comment: None received.

Board Discussion:

- Mr. Mah requested that Item #8.C. be handled separately from Items 8.A. and 8.B.

MOTION: To adopt the May 10 – 11, 2012, Board Meeting Minutes and adopt the EO's Report on Decisions for VN and PT Programs.

Moved/Seconded: John Vertido/Mark Stanfield

Support: 6 **Oppose:** 0 **Abstain:** 0

C. Adoption of 2013 Board Meeting Dates and Locations.

Public Comment: None received.

Board Discussion:

- Mr. Mah asked for clarification regarding travel to Board meetings, in reference to the Governor's Executive Order which places limits on travel. He said that Board meetings could be held in Sacramento, if necessary, to limit travel for Board members and staff. The EO explained that Board meetings are considered mission critical and are, therefore, exempt from the travel ban. She then asked Ms. Ruyters to explain the difficulty experienced when trying to locate a site in Sacramento for Board meetings.

MOTION: To approve the 2013 Board Meeting Dates and Locations as presented.

Moved/Seconded: Eric Mah/John Vertido

Support: 6 **Oppose:** 0 **Abstain:** 0

9. PRESENTATION OF THE LEGISLATIVE REPORT

Linda Ruyters, Administrative Analyst, reported there are currently 32 bills being tracked, including Assembly Bills 338, 1504, 1537, 1588, 1904, 1914, 1932, 1969, 1976, 1982, 2041, 2090, 2091, 2213, 2370, 2389, 2401, 2458, and 2570; Senate Bills 60, 103, 122, 975, 1025, 1099, 1165, 1374, 1381, and 1520.

Public Comment: None received.

Board Discussion: None received.

MOTION: To accept the report as presented.

Moved/Seconded: John Vertido/Victor King
Support: 6 **Oppose:** 0 **Abstain:** 0

10. ENFORCEMENT DIVISION REPORT

Karen Newquist, Enforcement Division Chief, presented the Enforcement Division Report relative to the following:

- A. Enforcement Performance Measures
- B. Proposed Regulatory Actions
- C. Enforcement Division Updates
- D. Enforcement Division Statistics

Public Comment: None received.

Board Discussion:

- Mr. Mah said the additional information and revisions made to the statistical reports were very useful. He asked Ms. Newquist to add in writing that there was a change in methodology for calculating "Average Days to Close Complaints."
- Mr. King agreed with Mr. Mah's comments and also asked if the change to using a weighted average was done for all fiscal years in the report. Ms. Newquist responded that all fiscal years were updated.
- Mr. D'Braunstein asked for information regarding the pool of experts available for the Expert Witness Program. Mr. Newquist said the current number of expert witnesses available to the Board is extremely low. She further explained that these individuals work on a contractual basis and are called upon when their professional expertise is required on a case potentially involving gross negligence or incompetence. The expert witness provides written opinions and testifies at administrative hearings.
- The EO said the Board is always looking for additional expert witnesses.
- Mr. Mah asked what happens to the money collected from cost recovery. The EO said the money goes into the Board's fund.

MOTION: To accept the report as presented.

Moved/Seconded: John Vertido/Mark Stanfield
Support: 6 **Oppose:** 0 **Abstain:** 0

11.A. PROPOSED REGULATORY ACTION TO IMPLEMENT SB 1441, UNIFORM STANDARDS FOR SUBSTANCE-ABUSING LICENSEES AND REVISION OF DISCIPLINARY GUIDELINES.

Ms. Ruyters provided an update on the proposed regulatory action. On July 6, 2012, the rulemaking file was submitted to the DCA. On July 29, 2012, the DCA recommended changes to the proposed regulatory language and granted a 90-day extension to October 17, 2012, for submission of the final rulemaking file to the Office of Administrative Law (OAL). On July 30, 2012, the Board noticed the modified text. The 15-day comment period regarding the modified text ended on August 14, 2012. Comments related to the proposed changes were received from Bonnie Castillo, Director, Government Relations, California Nurses Association. Ms. Castillo's comments were in support of the proposed regulations.

Public Comment: None received.

Board Discussion: None received.

MOTION: To accept the report and adopt the recommendations as follows:

1. Approve the regulatory proposal as modified on July 30, 2012, to amend Division 25 of Title 16, California Code of Regulations, to amend Sections 2524 (VN Regulations) and 2579.10 (PT Regulations).
2. Direct staff to submit the rulemaking file to the DCA and to the Office of Administrative Law for final approval; and,
3. Authorize the EO to make non-substantive changes as are required by the Director of the DCA and the OAL.

Moved/Seconded: John Vertido/Mark Stanfield

Support: 6 **Oppose:** 0 **Abstain:** 0

11.B. PROPOSED REGULATORY ACTION TO IMPLEMENT SB 539, MANDATORY REPORTING REQUIREMENTS.

Ms. Ruyters provided an update on the proposed regulatory action. The notice of proposed regulations was published on August 17, 2012, and a public hearing is scheduled for October 2, 2012.

No Board action required.

11.C. PROPOSED REGULATORY ACTION TO IMPLEMENT AB 2699, SPONSORED HEALTH CARE EVENTS – REQUIREMENTS FOR EXEMPTION.

Mark Ito, Licensing Program Analyst, provided an update on the proposed regulatory action. On July 20, 2012, the Board resubmitted the rulemaking file to OAL for approval. On August 31, 2012, OAL approved the proposed regulations.

No Board action required.

12. EDUCATION DIVISION REPORTS REGARDING VN & PT PROGRAMS

12.A.1. Career Development Institute Vocational Nursing Program – Reconsideration of Provisional Approval; Consideration of Request to Admit Students.

Cheryl Anderson, Supervising Nursing Education Consultant (SNEC), reported that the program was placed on provisional approval on October 7, 2009, for two years due to low pass rates. On September 9, 2011, the Board extended the program's provisional approval for one year.

Since initial placement on provisional approval, the program has graduated 21 students. 84.61% of the total tested, passed the NCLEX/PN®. The program has maintained a 100% average annual pass rate for nine quarters.

Program Representative:

Helen Hansen, Program Director; Janis Newton, School President

- Ms. Hansen reported the program has implemented changes including the requirement for higher entrance scores, mandatory tutoring, and the use of ATI throughout the program.
- Ms. Newton thanked Ms. Anderson for her support.

Board Discussion:

- Mr. Vertido commended the program on their achievement. He also recommended that their students take the test as soon as possible after graduation in order to increase the probability of passing the first time.

MOTION: To accept the report and adopt the recommendations as follows:

1. Grant full approval of the Career Development Institute Vocational Nursing Program for the four-year period from October 1, 2012, through September 30, 2016, and issue a certificate accordingly.
2. Approve the program's request to admit 30 students into a part-time class commencing November 5, 2012 only, graduating May 12, 2014, to replace students scheduled to graduate August 6, 2012.
3. Require the program to obtain Board approval prior to the admission of each class.

Moved/Seconded: John Vertido/Mark Stanfield

Support: 6 **Oppose:** 0 **Abstain:** 0

12.A.2. Medical Allied Career Vocational Nursing Program – Reconsideration of Provisional Approval; Consideration of Request to Admit Students.

Pam Hinckley, Nursing Education Consultant (NEC), reported that the Board placed the program on provisional approval on September 16, 2010, for two years due to noncompliance with regulatory requirements relative to licensure pass rates. At that time, the program's average annual pass rate was 44%. Subsequent to the September Board meeting, the program increased its licensure pass rate to 67% over a four-quarter period. Since the first two quarters of 2011, the program's average annual pass rates have decreased from 67% to 60% and further fell to 33% and then 25%. Currently, the program's average annual pass rate is 33%. The program's declining average annual pass rates support the recommendation to extend the provisional approval.

Program Representative:

Alfie Ignacio, Program Director

- Mr. Ignacio acknowledged an understanding of the seriousness of the problems within the program.
- The program has implemented steps to correct the problems including requiring students to attend a mandatory NCLEX review for four weeks at the end of the program, and changing the curriculum incorporating HESI and ATI,.
- As a new director he reported his intent to provide a new perspective to the program.
- He will continue to monitor and correct problems in the program.

Public Comment: None received.

Board Discussion:

- Mr. Vertido asked if the program director has the support of the owner and if the program director will assure an open line of communication with Board staff. Mr. Ignacio responded that he does have the support of the owner and will maintain an open line of communication with Board staff.
- Ms. Bello-Jones asked the program director if he will be able to complete the requested report in 30 days. He assured her it would be done. She then asked if he has the support of the faculty. Mr. Ignacio responded that he has the support of the faculty.
- Ms. Anderson asked if the program's revised curriculum has been submitted to the Board. If not, Mr. Ignacio will need to ensure that is done as soon as possible. Mr. Ignacio responded that the changes have been submitted, but not reviewed by the NEC as yet.
- Mr. D'Braunstein reminded the program representative that failure to comply with all requirements could result in revocation.

MOTION: To accept the report and adopt the recommendations as follows:

1. Extend Provisional Approval for the Medical Allied Career Center Vocational Nursing Program for a one (1) year period from September 6, 2012, through September 30, 2013, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction as referenced in Section 2526.1 (e) of the California Code of Regulations
2. Deny the program's request to admit a part-time, evening class of 15 students commencing November 5, 2012, graduating June 29, 2014. This class would replace a class that graduated October 7, 2011.
3. Deny the program's request to admit a full-time, class of 15 students commencing on February 4, 2013, graduating on April 20, 2014. This class would replace the class scheduled to graduate December 2, 2012.
4. Require the program to increase its average annual pass rate to no more than ten (10) percentage points below the state average annual pass rate.
5. Require the program to submit a follow-up report in one (1) month, but no later than October 1, 2012, and nine (9) months, but no later than June 1, 2013. The report must include a comprehensive analysis of the program, specific actions taken to improve program pass rates, a timeline for implementation, and the effect of employed interventions. The following elements must be addressed in the analysis.
 - a. Admission Criteria.
 - b. Screening and Selection Criteria.
 - c. Terminal Objectives.
 - d. Curriculum Objectives.

- e. Instructional Plan.
 - f. Theory and Clinical Objectives for Each Course.
 - g. Lesson Plans for Each Course.
 - h. Textbooks.
 - i. Attendance Policy.
 - j. Remediation Policy.
 - k. Evaluations of Theory and Clinical Faculty.
 - l. Evaluations of Theory Presentations.
 - m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations.
 - n. Evaluation of Student Achievement.
 - o. Current Enrollment.
6. Require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
 7. Require the program to demonstrate incremental progress in correcting the violations. If the program fails to satisfactorily demonstrate incremental progress, the full Board may revoke the program's approval.
 8. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.
 9. Require the program to admit no additional classes without prior approval by the full Board.
 10. Place the program on the September 2013 Board agenda for reconsideration of provisional approval.

Moved/Seconded: John Vertido/Mark Stanfield

Support: 6 **Oppose:** 0 **Abstain:** 0

12.A.3. Valley School of Allied Health Vocational Nursing Program – Reconsideration of Provisional Approval.

Ms. Hinckley, reported that the Board placed the program on provisional approval on September 16, 2010, for two years due to noncompliance with regulatory requirements relative to licensure pass rates. At that time, the program's average annual pass rate was 49%. Currently, the average annual pass rate represents a decrease of eleven (11) percentage points from Quarter 4 2011 and a decrease of four (4) percentage points from Quarter 1 2012.

Program Representative:

Cora Fajardo, School Administrator

- Ms. Fajardo said she and other program staff will work hard to increase the pass rate.

Public Comment: None received.

Board Discussion:

- Mr. D'Braunstein disclosed that prior to the start of the Board meeting, he and Ms. Anderson were approached by Norma Jones, the Program Director, who said she was unable to stay for the Board meeting due to a pressing matter.
- Mr. Vertido asked what the program has been doing for the past two years. Ms. Fajardo responded the program has been working very closely with their students.

One factor the program has identified is that the students don't take the test when they are first eligible.

- Mr. Vertido stated that every program has the same issues and suggested the program network with other schools and maintain an open line of communication with their Board Nursing Education Consultant.

MOTION: To accept the report and adopt the recommendations as follows:

1. Extend provisional approval of Valley School of Allied Health Vocational Nursing Program for the two-year period from September 6, 2012 through September 30, 2014, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction as referenced in Section 2526.1 (e) of the California Code of Regulations (see Attachment D).
2. Approve Valley School of Allied Health Vocational Nursing Program's request to admit a full-time class of 20 students on September 10, 2012, only, graduating October 20, 2013, to replace students who will graduate September 7, 2012.
3. Require the program to bring its average annual pass rate to no more than ten (10) percentage points below the State average annual pass rate for four (4) consecutive quarters.
4. Require the program to demonstrate incremental progress in correcting the violation. If the program fails to satisfactorily demonstrate incremental progress, the full Board may revoke the program's accreditation.
5. Require the program to show documented progress by submitting a follow-up report in nine (9) months, but no later than June 1, 2013, and 21 months, but no later than June 1, 2014. The report must include a comprehensive analysis of the program, specific actions taken to improve program pass rates, timeline for implementation, and the effect of employed interventions. The following elements must be addressed in the analysis:
 - a. Current Student Enrollment.
 - b. Admission Criteria.
 - c. Screening and Selection Criteria.
 - d. Terminal Objectives.
 - e. Curriculum Objectives.
 - f. Instructional Plan.
 - g. Theory and Clinical Objectives for Each Course.
 - h. Lesson Plans for Each Course.
 - i. Textbooks.
 - j. Attendance Policy.
 - k. Remediation Policy.
 - l. Evaluations of Theory and Clinical Faculty.
 - m. Evaluations of Theory Presentations.
 - n. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations.
 - o. Evaluation of Student Achievement.
6. Require the program to comply with all approval standards in article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code section 2880, and article 5 of the Board's regulations, commencing at California Code of Regulations, title 16, section 2526.
7. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.

8. Continue the program's requirement to obtain approval by the Board prior to the admission of future classes.

Moved/Seconded: John Vertido/Mark Stanfield

Support: 6 **Oppose:** 0 **Abstain:** 0

12.A.4. Advanced Computing Institute Vocational Nursing Program – Consideration of Provisional Approval; Consideration of Request to Admit Students.

Ms. Hinckley, reported that the program is presented to the Board for placement on provisional approval due to noncompliance with regulatory requirements relative to licensure pass rates. Published program statistics confirm that the program's pass rates have been significantly below state average annual pass rates for 16 of 18 quarters. Over the last ten consecutive quarters, January – March 2010 through April – June 2012, the program's average annual pass rates have ranged from 14 to 43 percentage points below state average annual pass rates. No students are currently enrolled in classes.

Program Representative: None present.

Public Comment: None received.

Board Discussion:

- Mr. Vertido said he is concerned that no program representative is present and asked the NEC to follow up with the program as to why a representative was not present .
- Mr. D'Braunstein and Ms. Renteria reminded Mr. Vertido there is no legal requirement that a representative attend the Board meeting.
- Mr. Mah said he would be in favor of lowering the number of students to ten.
- Mr. Vertido said such a low number of students might not be financially viable for the program.

MOTION: To accept the report and adopt the recommendations as follows:

1. Approve Advanced Computing Institute Vocational Nursing Program's full-time curriculum revision of 616 theory and 1032 clinical hours for a total of 1648 hours.
2. Require the program to submit the part-time curriculum revision by December 14, 2012.
3. Place Advanced Computing Institute Vocational Nursing Program on provisional approval for the two-year period from September 6, 2012, through September 30, 2014, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction as referenced in Section 2526.1 (e) of the California Code of Regulations.
4. Require the program to bring its average annual pass rate to no more than ten (10) percentage points below the State average annual pass rate.
5. Deny the program's request to admit a day class of 30 full-time students on September 24, 2012, graduating on August 30, 2013, to replace a class that graduated July 29, 2011.
6. Approve the program's request to admit a day class of 20 full-time students on September 24, 2012, only, graduating on August 30, 2013, to replace a class that graduated on July 29, 2011.

7. Deny the program's request to admit an evening, part-time class of 30 students on September 17, 2012, graduating April 18, 2014, to replace students who graduated July 14, 2012.
8. Require the program to admit no additional classes without prior approval by the full Board.
9. Require the program to submit follow-up reports in nine months, but no later than June 1, 2013, and 21 months, but no later than June 1, 2014. The reports must include a comprehensive analysis of the program, specific actions taken to improve program pass rates, timeline for implementation, and the effect of employed interventions. The following elements must be addressed in the analysis.
 - a. Admission Criteria.
 - b. Screening and Selection Criteria.
 - c. Terminal Objectives.
 - d. Curriculum Objectives.
 - e. Instructional Plan.
 - f. Theory and Clinical Objectives for Each Course.
 - g. Lesson Plans for Each Course.
 - h. Textbooks.
 - i. Attendance Policy.
 - j. Remediation Policy.
 - k. Evaluations of Theory and Clinical Faculty.
 - l. Evaluations of Theory Presentations.
 - m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations.
 - n. Evaluation of Student Achievement.
 - o. Current Enrollment.
10. Require the program to comply with all accreditation standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
11. Require the program to demonstrate incremental progress in correcting the violations. If the program fails to satisfactorily demonstrate incremental progress, the full Board may revoke the program's accreditation.
12. Failure to take any of these corrective actions may cause the full Board to revoke the program's accreditation.
14. Place the program on the September 2014 Board agenda for reconsideration of provisional approval.

Moved/Seconded: Mark Stanfield/John Vertido

Support: 6 **Oppose:** 0 **Abstain:** 0

12.A.5. Bay Area College of Nursing, Daly City, Vocational Nursing Program – Consideration of Provisional Approval; Consideration of Request to Admit Students.

Ms. Anderson reported that the program is presented to the Board for placement on provisional approval due to noncompliance with regulatory requirements relative to licensure pass rates. The program has failed to maintain average annual pass rates that are within ten percentage points of state average annual pass rates for 14 of the previous 16 quarters. As such, the program's average annual pass rates have been compliant with regulatory requirements 12.50% of the total quarters and noncompliance 87.50% of the total quarters. For the most recent reporting period, April – June 2012, the program's quarterly pass rate is 38%; its average annual pass rate is 45%. As such, the program's average annual pass rate is 29 percentage points below the state average annual pass rate.

Program Representative:

Rachelle Cagampan-Mendoza, Program Director

- Ms. Cagampan-Mendoza thanked Ms. Anderson for her support and recommendations.
- She has submitted a comprehensive analysis.
- Measures have been implemented to improve the annual pass rates.
- The admissions policy has been strengthened.
- ATI and other NCLEX resources have been incorporated into the program.
- She said "I'm here and I'm serious about the situation."

Public Comment: None received.

Board Discussion:

- Mr. Vertido told the program representative that he appreciated her willingness to stand before the Board, her forthrightness in admitting the program has issues, and her willingness to face them. He asked why the program previously did not consider high school GPA as screening criteria. She responded that the program previously used an admissions test exclusively, but now also considers high school GPA.

MOTION: To accept the report and adopt the recommendations as follows:

1. Place the Bay Area College of Nursing, Daly City, Vocational Nursing Program on provisional approval for the two – year period from September 6, 2012, through September 30, 2014, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction, as referenced in Section 2526.1 (e) of the California Code of Regulations.
2. Require the program to bring its average annual pass rate to no more than ten (10) percentage points below the state average annual pass rates.
3. Approve the program's request to admit an evening class of twenty (20) students plus two (2) alternates commencing October 31, 2012, and graduating January 26, 2014.
4. Require the program to obtain approval by the full Board prior to the admission of additional students.
5. Require the program to submit follow – up reports in nine (9) months, but no later than June 1, 2013, and 21 months, but no later than June 1, 2014. The reports must include a comprehensive analysis of the program, specific actions to improve program pass rates, timeline for implementation, and expected outcomes. The following elements must be addressed in the analysis.

- a. Admission Criteria.
 - b. Screening and Selection Criteria.
 - c. Terminal Objectives.
 - d. Curriculum Objectives.
 - e. Instructional Plan.
 - f. Theory and Clinical Objectives for Each Course.
 - g. Lesson Plans for Each Course.
 - h. Textbooks.
 - i. Attendance Policy.
 - j. Remediation Policy.
 - k. Evaluations of Theory and Clinical Faculty.
 - l. Evaluations of Theory Presentations.
 - m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations.
 - n. Evaluation of Student Achievement.
 - o. Current Enrollment.
6. Require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
 7. Require the program to demonstrate incremental progress in correcting the violation. If the program fails to satisfactorily demonstrate incremental progress, the full Board may revoke the program's approval.
 8. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.
 9. Place the program on the September 2014 Board agenda for reconsideration of provisional approval.

Moved/Seconded: John Vertido/Victor King

Support: 6 **Oppose:** 0 **Abstain:** 0

12.A.6. Career Care Institute, Moreno Valley, Vocational Nursing Program – Consideration of Provisional Approval; Consideration of Request to Admit Students.

Ms. Hinckley reported the program was presented to the Board for placement on provisional approval due to noncompliance with regulatory requirements relative to licensure pass rates. Published examination statistics substantiate that the program has eight (8) consecutive quarters of poor licensure pass rates. Currently, the program's quarterly pass rate is 0% and the average annual pass rate is 52%. As such, the program's average annual pass rate is 22 percentage points below the state average annual pass rate.

Program Representative:

Winifred Olajide, Program Director

- Ms. Olajide reported the program has a total of 13 students enrolled, divided into two clinical groups. The program's standards allow no more than 10:1 ratio for clinicals.
- She thanked Ms. Hinckley for always being available for assistance.
- The October class will be her first level one class.
- Ms. Olajide will personally interview all admissions applicants.
- The students will take ATI assessments throughout the program. Remediation is offered immediately for any student needing it.

- She would like to have an additional class.
- All students are required to take an exit exam, comprehensive ATI predictor.
- Each student has an NCLEX® personal coach after graduation.
- The program is doing outreach with all graduates to increase pass rates.

Public Comment: None received.

Board Discussion:

- Mr. Vertido questions recommendation #5, “conduct clinical classes with one instructor for each ten students.” Ms. Hinckley said the 1:10 ratio would allow more observation by the instructor than if the ratio were 1:15. He also said the Vocational Nursing Practice Act states a ratio of no more than 1:15.
- Mr. Mah asked for clarification of why this lower ratio is appropriate for this program and he asked how other Board members feel about the 1:10 ratio. Ms. Hinckley said the lower ratio would allow for better oversight by instructors.
- Mr. Stanfield said he feels it is a good idea.
- Mr. Mah said he would like to see consistency with the terms given to programs, though he understands why lower ratios could be helpful with “special needs” schools or those under special scrutiny by the Board. He said there is no research which supports lower ratios creating better outcomes. He would be in favor of striking recommendation #5.
- Mr. Vertido said a lower ratio allows for better observation and instruction by the instructor.
- Mr. Vertido asked about students who were accepted into the Moreno Valley campus, then had to commute to Lancaster. Ms. Corinne Stevens, Lancaster campus Program Director reported that the students were bussed to Lancaster twice weekly until the Moreno Valley campus was approved by an accrediting agency not affiliated with the Board. Theory classes were taught in Lancaster and clinical rotations were completed in Moreno Valley. The program lost approximately 50% of their students during this time.
- The EO asked if students were at the Moreno Valley campus prior to accreditation. Ms. Olajide assured her this did not happen.
- Mr. Mah asked if the program would have a problem with the 1:10 ratio. The program representative told him it would not be an issue.
- Mr. D’Braunstein asked if 1:10 is the program’s standard. The program representative said it is and that some clinical sites will allow only eight to ten students at any one time.
- Mr. Vertido commented on the program representative’s request for a larger class and said he would prefer “baby steps” and would not be in favor of a larger class size.

MOTION: To accept the report and adopt the recommendations as follows:

1. Place Career Care Institute, Moreno Valley, Vocational Nursing Program on provisional approval for the two-year period from September 6, 2012, through September 30, 2014, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction as referenced in Section 2526.1 (e) of the California Code of Regulations (see Attachment D.)
2. Require the program to bring its average annual pass rate to no more than ten (10) percentage points below the state average annual pass rate.

3. Deny the program's request to admit a day class of 50 full-time students on October 1, 2012, graduating on March 30, 2014, to replace a class that graduated April 8, 2012.
4. Approve the program's admission of a day class of 20 full-time students on October 1, 2012, graduating on March 30, 2014, to replace students that graduated April 8, 2012.
5. Require the program to conduct clinical classes with minimally one instructor for every ten students, an instructional ratio of 1:10.
6. Require the program to admit no additional classes without prior approval by the full Board.
7. Require the program to submit follow-up reports in nine months, but no later than June 1, 2013, and 21 months, but no later than June 1, 2014. The reports must include a comprehensive analysis of the program, specific actions taken to improve program pass rates, timeline for implementation, and the effect of employed interventions. The following elements must be addressed in the analysis.
 - a. Admission Criteria.
 - b. Screening and Selection Criteria.
 - c. Terminal Objectives.
 - d. Curriculum Objectives.
 - e. Instructional Plan.
 - f. Theory and Clinical Objectives for Each Course.
 - g. Lesson Plans for Each Course.
 - h. Textbooks.
 - i. Attendance Policy.
 - j. Remediation Policy.
 - k. Evaluations of Theory and Clinical Faculty.
 - l. Evaluations of Theory Presentations.
 - m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations.
 - n. Evaluation of Student Achievement.
 - o. Current Enrollment.
8. Require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
9. Require the program to demonstrate incremental progress in correcting the violations. If the program fails to satisfactorily demonstrate incremental progress, the full Board may revoke the program's approval.
10. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.
11. Place the program on the September 2014 Board agenda for reconsideration of provisional approval.

Moved/Seconded: John Vertido/Jessica Leavitt

Support: 6 **Oppose:** 0 **Abstain:** 0

12.A.7. Solano College of Nursing Vocational Nursing Program – Consideration of Provisional Approval; Consideration of Request to Admit Students.

Ms. Anderson reported that the program was presented to the Board for placement on provisional approval due to noncompliance with regulatory requirements relative to licensure pass rates. Additionally, submitted documents and official records confirm the program has

failed to notify the Board of the termination of approved faculty, failed to consistently obtain Board approval prior to the utilization of program faculty, and admitted eight classes without prior approval by the Board. On August 3, 2010, the program was issued a Notice of Violation relative to the admission of unapproved classes. Subsequently, the program admitted five additional classes without prior Board approval.

Program Representative:

Wayne Williams, Program Director; Leticia Weber, Owner

- Mr. Williams reported that there were allegations of student cheating. The program was unable to pursue action as the cheating was not proven.
- Students were accepted from the Around the Clock Vocational Nursing Program that had been closed by the Board; those students failed.
- The program requires students to pass an NCLEX® review test with a score of 80%.
- They have offered former students the opportunity to come back for NCLEX® review, but the students are not responsive.
- The program is now offering extended financing in an effort to help students.
- Mr. Williams asked a question about terminated/non-terminated faculty in relation to his responsibility to report this to the Board. Ms. Anderson read the appropriate regulation in response to his question.

Public Comment: None received.

Board Discussion:

- After the announcement of this agenda item but prior to its presentation, Mr. Vertido read a statement advising that he will be abstaining on this matter and would not be participating in discussions due to a possible conflict of interest, though he would not completely recuse himself as the Board would not have a quorum in that event..
- Ms. Renteria explained that Mr. Vertido's continued participation is permitted by the law under the circumstances as his participation is legally required in order for a decision to be made and as no alternative source for the Board's decision exists.
- Mr. D'Braunstein confirmed with Ms. Weber, that Mr. Williams has her full support regarding program changes, finances, etc.
- Mr. Mah asked how long Mr. Williams has been with the program. He responded he started the program in 2008.
- Mr. Mah asked for an explanation of why the program admitted new classes after the issuance of the Notice of Violation. Mr. Williams responded that he was inexperienced at the time and unaware of the requirements for class starts. He is now aware of the regulatory requirements and stated that the program will refrain from repeated occurrences. Mr. Mah added that he is quite troubled by this.
- Mr. D'Braunstein commented that the Board has the authority to revoke the program's approval for noncompliance with Board decisions.

MOTION: To accept the report and adopt the recommendations as follows:

1. Place the Solano College of Nursing Vocational Nursing Program on provisional approval for the two-year period from September 6, 2012, through September 30, 2014, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction, as referenced in Section 2526.1 (e) of the California Code of Regulations.

2. Require the program to bring its average annual pass rate to no more than ten (10) percentage points below the state average annual pass rates.
3. Deny the program's request to admit a class of ten (10) students commencing September 10, 2012, and graduating June 14, 2013.
4. Require the program to obtain approval by the full Board prior to the admission of additional students.
5. Require the program to submit follow-up reports in nine (9) months, but no later than June 1, 2013, and 21 months, but no later than June 1, 2014. The reports must include a comprehensive analysis of the program, specific actions to improve program pass rates, timeline for implementation, and expected outcomes. The following elements must be addressed in the analysis.
 - a. Admission Criteria.
 - b. Screening and Selection Criteria.
 - c. Terminal Objectives.
 - d. Curriculum Objectives.
 - e. Instructional Plan.
 - f. Theory and Clinical Objectives for Each Course.
 - g. Lesson Plans for Each Course.
 - h. Textbooks.
 - i. Attendance Policy.
 - j. Remediation Policy.
 - k. Evaluations of Theory and Clinical Faculty.
 - l. Evaluations of Theory Presentations.
 - m. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations.
 - n. Evaluation of Student Achievement.
 - o. Current Enrollment.
6. Require the program to comply with all standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code Section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
7. Require the program to demonstrate incremental progress in correcting all violations. If the program fails to satisfactorily demonstrate incremental progress, the full Board may revoke the program's approval.
8. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.
9. Place the program on the September 2014 Board agenda for reconsideration of provisional approval.

Moved/Seconded: Eric Mah/Victor King

Support: 5 **Oppose:** 0 **Abstain:** 1

12.A.8. Stanton University Vocational Nursing Program – Consideration of Provisional Approval; Consideration of Request to Admit Students.

Ms. Hinckley reported that the program was presented to the Board for placement on provisional approval due to noncompliance with regulatory requirements relative to submission of required reports, notification of faculty terminations, licensure pass rates, and program administration. The program has been without a director, minimally, nine (9) months.

Submitted information substantiates that the program failed to notify the Board of the termination of a faculty member within the time prescribed by existing regulations.

Program Representative:

Yumee Rah, Dean of Academic Affairs; Roxanne Workman, Proposed Director

- Ms. Rah thanked the Board for their consideration of granting Stanton University provisional approval.
- Ms. Workman acknowledged eight violations against the program. Stanton mailed packages to the Board listing corrective actions to be undertaken.
- Ms. Workman said if the Board would grant them a few students it would give the program an opportunity to implement their improvement plan.
- The program does plan to use ATI throughout as an assessment tool.

Public Comment: None received.

Board Discussion:

- Mr. Vertido asked for clarification regarding Stanton students being transferred to Bethesda. Ms. Hinckley responded that the information contained in the report was based on official records, information submitted by the program, and by the Bethesda University Vocational Nursing Program and that the “transfer” of students occurred without prior approval by the Board.
- He further asked if the students were then considered Stanton or Bethesda students. Ms. Hinckley responded that the program’s actions were taken without the approval of the Board.
- Mr. Vertido then asked if accreditation transfers from one program to another. Ms. Hinckley responded it does not.
- Mr. Vertido then asked if this transfer meant the students had been attending an unaccredited school. Ms. Hinckley responded that both schools are approved; however, the transfer of students was not approved by the Board.
- Mr. Vertido asked Ms. Workman for an explanation of what was going on that caused the school to transfer their students to a different school. Ms. Workman responded she was not there at the time, but it was her understanding that an evaluation was done at the school and, in the best interests of the students, an individual who is no longer with the company made the decision to transfer the students to Bethesda due to faculty and resources. Since that time Stanton has improved conditions and circumstances. Resources are now plentiful.
- Mr. Vertido reiterated that his main concern was that the students had been moved to an unaccredited program.
- Mr. Vertido asked Ms. Hinckley if it is true that Stanton had planned to transfer their accreditation to Angeles College. Ms. Hinckley verified that Stanton’s administrator communicated the school’s intent to transfer its accreditation to Angeles College.
- Mr. Vertido told Ms. Workman the consultant’s report indicated the Board had not had good communication with the program since May 2011. He hopes the program will improve their communications under her leadership.
- Ms. Bello-Jones reminded Mr. Vertido that Ms. Workman has not yet been approved as Program Director.
- Mr. Mah asked for clarification of how many students are currently enrolled. Ms. Workman responded zero. He then asked if this was due to the student transfer. Ms.

Workman said yes, this occurred in October 2011. Mr. Mah asked how many students were involved in the transfer. Ms. Workman said she had a report that showed a total of 109 students, but has nowhere near that number. She said that she could account for 48 students and that according to her data tables 22 students should be remaining, but at Bethesda – not Stanton.

- Mr. Mah verbalized a concern that the program's records are not better regarding what is happening to the students. Ms. Workman said this was due to the program not having a program director for a period of time.
- Mr. King said it would be wholesale negligence for the Board to approve any students at this time.

MOTION: To accept the report and adopt the amended recommendations as follows:

1. Place Stanton University Vocational Nursing Program on provisional approval for the five-month period from September 6, 2012, through February 28, 2013, and issue a notice to the program to identify specific areas of noncompliance and requirements for correction as referenced in Section 2526.1 (e) of the California Code of Regulations.
2. Require the program to obtain a director who meets requirements set forth in California Code of Regulations Section 2529 (c)(1) by November 1, 2012.
3. Deny the program admission of 30 students commencing August 6, 2012.
4. Require the program to admit no additional students without the approval of the full Board.
5. Place the program on the February 2013 Board agenda for reconsideration of provisional accreditation.
6. Require the program to comply with all approval standards in Article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code section 2880, and Article 5 of the Board's Regulations, commencing at California Code of Regulations, Title 16, Section 2526.
7. Require the program to demonstrate incremental progress in correcting the violations. If the program fails to satisfactorily demonstrate incremental progress, the full Board may revoke the program's approval.
8. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.

Moved/Seconded: Victor King/John Vertido

Support: 6 **Oppose:** 0 **Abstain:** 0

12.B.1. Advanced Pro Nursing Institute Vocational Nursing Program – Consideration of Request to Admit Students.

Ms. Hinckley reported that the Board placed the program on Provisional Approval at the September 9, 2011 Board meeting, due to noncompliance with regulatory requirements relative to program pass rates. The Board required the program to admit no additional students unless approved by the full Board.. At that time, the program's average annual pass rate of 60% was 16 percentage points below the state average annual pass rate.

Program Representative:

Jon Murphy, Program Director

- Mr. Murphy asked the Board to approve the requested 18 students for admission in January 2013.

- The program has been on hiatus while doing a thorough analysis and determining areas in need of improvement.
- Only ten students have been accepted into September 2012 start date.
- He said the program has an unusually high number of ESL students.
- The school is considering expanding their marketing and other plans that will turn the program around.
- The program has added virtual ATI.

Public Comment: None received.

Board Discussion:

- Mr. Mah asked Mr. Murphy if he would be able to provide elements a through f outlined in the NEC recommendations by January. Mr. Murphy stated he had already provided those elements to Ms. Hinckley and further said he will have a report ready showing how well the plan is working. Ms. Hinckley said the program still needs to show proof of what is stated in their report.
- Mr. Mah asked Mr. Murphy if he would characterize the scores on the exam as improvement, the same or worse since he was here last. Mr. Murphy said he feels the students are stronger due to the improvements that were implemented immediately after the program was placed on provisional accreditation.
- Mr. Mah asked Mr. Murphy to compare test scores now against test scores from the last time he was before the Board. Mr. Murphy said the test scores are probably flat.
- Mr. Vertido asked Ms. Hinckley if the last report received from the program was in March 2009. Ms. Hinckley said a report had been received in August 2012.
- Mr. Vertido stressed the importance of the program completing reports on a timely basis and providing the information that is requested by the Board.
- Mr. Mah would like to see prior data before granting another class.
- Mr. Vertido asked if the program would be able to keep their clinical sites with the reduced number of students. He was assured they could, for now.
- Mr. Mah is concerned that 18 students are too many for this program, in light of their past performance.

MOTION: To accept the report and adopt the amended recommendations as follows:

1. Approve the program's request for admission of a class of 18 students contingent upon the following:
 - a. Proof of implementation, as demonstrated by a report indicating the impact of program changes listed on page nine of the NEC's report, on improving the program's pass rates.

The date of class commencement shall be contingent on the consultant's review and approval of the submitted report.
2. Deny the program's request to admit a class of 18 students commencing on January 2, 2013, only, graduating on March 15, 2014.
3. Require the program to admit no additional students unless approved by the full Board.
4. Place the program on the February 2013 Board agenda for reconsideration of the program's status.

Moved/Seconded: Eric Mah/Mark Stanfield

Support: 6 **Oppose:** 0 **Abstain:** 0

12.B.2. Center for Education and Technology Vocational Nursing Program – Consideration of Request to Admit Students.

Ms. Hinckley reported that the Board placed the program on Provisional Approval on September 18, 2010, for one year due to noncompliance with the regulatory requirements relative to program pass rates. On May 20, 2011, the Board extended the program's Provisional Approval to November 10, 2011. On November 10, 2011, the program's Provisional Accreditation was extended an additional year through November 30, 2012. The Board required the program to admit no additional students unless approved by the full Board.

At the time of initial placement on Provisional Approval, the program's average annual pass rate was 0%. Currently, the program's average annual pass rate is 50%, 22 percentage points below the state average annual pass rate.

The program requests approval to admit a class of 15 students on September 11, 2012, graduating November 23, 2013, to replace students who graduated August 19, 2011.

Program Representative:

Ronoldo Varian, Program Director

- Mr. Varian reported that the program has applied to ABHES for accreditation
- New admission procedure is for the DON and Academic Advisor to interview all applicants.
- The program is looking for motivated students.
- Program has new location, new name; and is looking to improve.
- Has taken solid corrective actions.
- The Director knows all students personally, all students are doing well.

Public Comment: None received

Board Discussion: None received.

MOTION: To accept the report and adopt the recommendations as follows:

1. Approve CET-Nursing Vocational Nursing Program's request to admit a class of 15 students on September 11, 2012 graduating November 23, 2013, to replace students who graduated August 19, 2011.
2. Continue to require the program to obtain approval by the full Board prior to admission of each class.
3. Extend Provisional Approval of CET-Nursing Program for the one-year period from September 6, 2012 through September 30, 2013, and issue a notice to the program to identify specific areas of non-compliance and requirements for correction as referenced in Section 2526.1 (e) of the California Code of Regulations.
4. Require the program to bring its average annual pass rate to no more than ten (10) percentage points below the State average annual pass rate for four (4) consecutive quarters.
5. Require the program to show documented progress by submitting a follow-up report in nine (9) months, but no later than June 1, 2013. The report must include a comprehensive analysis of the program, specific actions taken to improve program pass rates, timeline for implementation, and the effect of employed interventions. The following elements must be addressed in the analysis:

- a. Current Student Enrollment.
 - b. Admission Criteria.
 - c. Screening and Selection Criteria.
 - d. Terminal Objectives.
 - e. Curriculum Objectives.
 - f. Instructional Plan.
 - g. Theory and Clinical Objectives for Each Course.
 - h. Lesson Plans for Each Course.
 - i. Textbooks.
 - j. Attendance Policy.
 - k. Remediation Policy.
 - l. Evaluations of Theory and Clinical Faculty.
 - m. Evaluations of Theory Presentations.
 - n. Evaluations of Clinical Rotations and Their Correlation to Theory Presentations.
 - o. Evaluation of Student Achievement.
6. Require the program to comply with all approval standards in article 4 of the Vocational Nursing Practice Act, commencing at Business and Professions Code section 2880, and article 5 of the California Code of Regulations, title 16, section 2526.
 7. Failure to take any of these corrective actions may cause the full Board to revoke the program's approval.
 8. Place the program on the September 2013 Board agenda for reconsideration of provisional approval.

Moved/Seconded: Jessica Leavitt/John Vertido

Support: 6 **Oppose:** 0 **Abstain:** 0

12.B.3.Valley College of Medical Careers Vocational Nursing Program – Consideration of Request to Admit Students.

Ms. Hinckley reported that the Board placed the program on Provisional Approval on November 10, 2011, for two years due to noncompliance with regulatory requirements relative to program pass rates. The program was directed to admit no additional students unless approved by the full Board.

At the time of placement on Provisional Approval, the program's average annual pass rate was 62%. Currently, the program's average annual pass rate is 37%, a decrease of 25 percentage points.

The program requests approval to admit a class of 20 full-time students on September 24, 2012, graduating December 17, 2013, to replace the day class that graduated August 13, 2012. The program additionally requests approval to admit 20 full-time evening students on September 24, 2012, graduating December 17, 2013.

Program Representative:

Tricia Devin, Program Director

- Ms. Devin reported that she became the director five months ago.
- Ms. Devin explained the curriculum.
- The program is not teaching to the exam.
- They are using ATI for remediation.

- Each student has undergone a three-way assessment.
- She has established a one to two week orientation session for new students.
- The program has implemented a paid proctorship.

Public Comment: None received.

Board Discussion:

- Mr. D’Braunstein asked for clarification regarding the paid proctorship. Ms. Devin explained this is offered for students who are in need of remediation.

MOTION: To accept the report and adopt the recommendations as follows:

1. Deny the Valley College of Medical Careers Vocational Nursing Program’s request to admit a class of 20 full-time, day students on September 24, 2012, graduating on December 30, 2013, to replace a class that graduated August 13, 2012.
2. Deny the program’s request to admit a class of 20 full-time, evening, students on September 24, 2012, graduating on December 17, 2013.
3. Continue to obtain approval by the full Board prior to the admission of additional classes.

Moved/Seconded: John Vertido/Jessica Leavitt

Support: 6 **Oppose:** 0 **Abstain:** 0

13. PUBLIC COMMENT PERIOD.

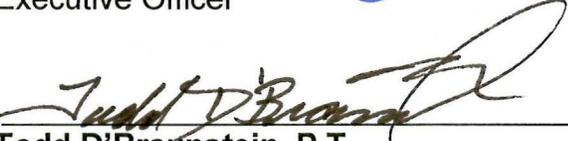
- Samantha James-Perez, PT, Pacific Clinics: Pacific Clinics values and employs many PTs and LVNs. She thanked the Board for their oversight and hard work that goes into prepping the schools. Pacific Clinics has noticed they are getting new graduates who are better prepared to enter the workforce. She is a contracted consultant for the Enforcement and Education divisions and encourages others to do the same. The work is challenging, yet rewarding at the same time. She then thanked and expressed her appreciation to Cheryl Anderson, who she said holds consultants to the highest standards and stresses integrity and quality. Ms. Anderson responded that her efforts are at the direction of the EO and the Board, and she and her staff are implementing the quality of work that is required.
- Daniel Mainea, Owner, Advanced Computing Institute: The program director was unavailable to appear before the Board earlier today due to a recent surgery. He thanked the Board for providing detailed technical support. The school has implemented significant changes and they are on the way to making all corrections. Their pass rate has risen accordingly. Advanced Computing is now offering financing to their students, separate from any government loans or grants.

14. ADJOURNMENT

The meeting adjourned at 3:20 p.m.

Prepared by: 
Teresa Bello-Jones, J.D., M.S.N., R.N.
Executive Officer

Date: 11/9/12

Approved by: 
Todd D'Braunstein, P.T.
President

Date: 11-9-12

(10/24/12)

Attachment A: Board Member's Legally Required Participation pursuant to California Code of Regulations, Title 2, section 18708



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
LEGAL AFFAIRS DIVISION
 1625 N. Market Boulevard, Suite S-309, Sacramento, CA 95834
 P (916) 574-8220 F (916) 574-8623 | www.dca.ca.gov



MEMORANDUM

DATE	October 3, 2012
TO	Teresa Bello Jones, Executive Officer Board of Vocational Nursing & Psychiatric Technicians
VIA	Don Chang, Assistant Chief Counsel Legal Affairs Division
FROM	Simone Renteria, Attorney 
SUBJECT	Board Member's Legally Required Participation pursuant to California Code of Regulations, Title 2, section 18708

The purpose of this memorandum is to document the justification for Board of Vocational Nursing and Psychiatric Technicians ("BVNPT") Board Member John Vertido's participation in agenda item number 12.A.7 during the public meeting held on September 6, 2012.

I. Summary of Facts

The Solano College of Nursing, Vocational Nursing Program was placed on BVNPT's September 6, 2012 agenda as agenda item number 12.A.7, to consider changing the program's approval status from "full approval" to "provisional approval" as a result of identified deficiencies and regulatory violations. Solano College's Nursing Program Director is Dr. Wayne Williams.

Dr. Williams is also the Program Administrator and Director of Nursing for Curam College of Nursing. As the Program Administrator and Director of Nursing, Dr. Williams is responsible for managing the daily operations of the school, overseeing the curriculum development and design, and for the selection and training of Curam College's nursing instructors. Board Member John Vertido is a nursing instructor at Curam College. Therefore, there would be a conflict of interest if Mr. Vertido participated in a decision that could adversely affect the Director responsible for his hiring and/ or training, although the nursing program at Curam College was not being considered by BVNPT.

At the September 6, 2012 BVNPT meeting, only six Board members including Mr. Vertido were present. BVNPT's quorum is legislatively mandated by Business and Professions Code section 2851, which states: "six members of the board constitute a quorum for transaction of business at

any meeting.” If Mr. Vertido had recused himself and left the room during BVNPT’s consideration of agenda item number 12.A.7, the quorum requirement would not have been met and BVNPT would be unable to take any action during his absence.

After the announcement of agenda item 12.A.7, but before the presentment of information or testimony, Mr. Vertido announced to his fellow Board members and to the public that he had a conflict of interest that precluded him from rendering a decision on the agenda item, but that he would remain on the dais and cast an “abstain” vote in order to preserve BVNPT’s quorum. As BVNPT’s legal counsel, I explained on the record that Mr. Vertido’s continued participation would be permitted by law under the circumstances if: (1) his participation is legally required in order for a decision to be made, and (2) no alternative source for the decision exists¹. In support of this conclusion, I made the findings set forth below.

II. Legal Conclusion and Analysis

Although the law prevents a public official from making, or participating in making, a decision in which he has an economic interest², the law also recognizes a narrow exception to this rule. California Code of Regulations, Title 2, section 18708(b)(4) requires that the following disclosures be made orally during the open session of the public meeting when a decision is to be made in which a public official has a financial interest, but in which his participation is still legally required:

1. The existence of the conflict and the nature of the economic interest; if the interest involves income, the source of that income;
2. A description of the circumstances under which the conflict may arise; and
3. The legal basis for concluding that there is no alternative source for the government decision.

As explained previously, the Program Administrator/ Director of Nursing to whom Mr. Vertido reports during his regular employment as an instructor at Curam College was appearing before BVNPT. Although Curam College was not at issue, rendering a decision that would have an effect on the source of Mr. Vertido’s employment and income, created a potential conflict of interest.

BVNPT is the only agency that is authorized to approve vocational nursing programs and maintain a list of schools providing those approved programs³. As such, BVNPT is the only agency that has been given both the statutory and regulatory authority to determine whether a vocational nursing program is failing to meet all legal requirements for continued approval and to consider a program’s request to admit additional students⁴. Therefore, there is no alternative source for the government decision at issue and given the statutory mandate for a quorum of six

¹ Gov. Code section 87101

² Gov. Code section 87100

³ Business and Professions Code sections 2880; 2881

⁴ CA Code of Regulations, Title 16, section 2526.1

Teresa Bello-Jones, Executive Officer
October 2, 2012
Page 3

members and the availability of only six members on September 6, 2012, Mr. Vertido's participation was legally required.

Further, since agenda item 12.A.7 involved the consideration of a change in a nursing program's approval, it would not have been reasonable to postpone this agenda item until a quorum of members without conflicts of interest are available. Such a delay could potentially cause harm to current and future students and pursuant to Business and Professions Code section 2841.1, "whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

III. Recommendation

CA Code of Regulations, Title 2, section 18708(b)(4) requires that this memorandum be made part of the official public record by being placed in a public file of the agency within 30 days after the meeting.

Therefore, it is recommended that this memorandum be included as an attachment to the minutes of the September 6, 2012 BVNPT meeting.

Please let us know if you have any questions or concerns.