



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

July 22, 2022

2535 Capitol Oaks Drive
Sacramento, CA 95833
Via WebEx Webinar

Board Members Present: Dr. Mountain, Board President, Chair
Mr. Dierking, Board Vice President

Staff Present: Ms. Yamaguchi, Executive Officer
Mr. Prouty, Probation Manager, Enforcement Division
Mr. Birkman, Licensing Supervisor
Ms. DeYoung, Acting Supervising Nursing Education

Consultant

Ms. Pires, Legislation and Regulations Specialist
Ms. DeCristofaro, Human Resources Analyst
Ms. Ball, Board Administration Analyst

DCA Staff Present: Mr. Swenson, Board General Counsel

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

1. Call to Order

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

Committee members introduced themselves. Ms. Yamaguchi introduced board staff. Mr. Swenson, Board General Counsel, introduced himself.

2. Operations Report – Ms. Yamaguchi

Ms. Yamaguchi shared that since the last time the committee met, there has been a lot of internal progress. The board has accomplished several personnel actions, including many new hires in both the Licensing and Enforcement Divisions. Ms. Yamaguchi reported that, Ms. DeCristofaro, who is in attendance, has also joined the board as the Human Resources analyst. She continued to report that organizationally, the board has been working within each division to

streamline processes; the results presented in the stable statistics reported out at each Board Meeting. The board is conducting interviews for the new Assistant Executive Officer on August 5th; and look forward to future updates on the progress made on filling this position.

Committee Discussion: None.

3. Enforcement Division Report – Mr. Prouty.

Mr. Prouty reported to the committee that at the last committee meeting Ms. Wood reported that Enforcement had 924 open cases and that case aging was 261 days. The current statistics are 892 open cases and case aging is down to 243 days. He continued to update the committee that there have been three (3) Program Technician III hires in LACRU and Curtis Gardner has joined the team as the probation manager; he comes from another board where he was the sole probation monitor for the past 5 years, so he joins our board with extensive DCA probation experience.

Committee Discussion: None.

4. Education Division Report – Ms. DeYoung.

Ms. DeYoung updated the committee with the following statistics:

- Number of approved programs 155 (143 VN & 12 PT)
 - Program breakdown
 - ROP – 4
 - Adult Schools – 16
 - Community Colleges – 44
 - Private programs – 91
- Programs on provisions – 6
- Number of proposed programs currently assigned to an NEC – 14
- Site visits 4/1/2022-6/30/2022– 23
 - Most site visits were related to continues approval process

Ms. DeYoung continued to report how the pandemic has affected school programs, specifically that both VN & PT programs have had to be creative with various clinical modalities during the pandemic to develop the temporary plans to accomplish their clinical hours. Now over 2 years into the pandemic; NEC's are working with 29 programs that are still in need of these alternative modalities for accomplishing clinical hours as a result of the pandemic.

Ms. DeYoung gave an update on the initial program approval for new programs. Specifically, the Division has received 6 of the 9 new school program applications; these are of the programs that submitted their letter of intent by February 2, 2022 and who were on the board's waitlist on or before December

31, 2019. These programs have submitted their complete application and have been assigned an NEC. She continued to share that the Division is preparing to conduct online trainings, like those conducted last year. The Division is preparing to conduct these trainings this fall via MS Teams. The trainings are envisioned for prospective proposed programs, including administrators and staff to help them prepare the documentation for their new school program application(s). Currently, a save the date for these trainings is scheduled to be sent out August 1, 2022.

Ms. DeYoung gave a staffing update, including one (1) vacant PT position and two (2) additional NEC and 1 AGPA position(s). The Division is conducting interviews for all these open positions and hope to have the positions filled soon. Lastly, Ms. DeYoung shared that the Fall 2022 Directors Forum has been scheduled for September 14 and 15, 2022 hosted online via WebEx; the Division is currently scheduling speakers to present at the forum.

Committee Discussion: None.

5. Licensing Report – Mr. Birkman.

Mr. Birkman updated the committee that since the last meeting, the Licensing Division has filled two (2) vacant positions; but currently has three (3) open positions and are working diligently to fill all positions. He continued to share that processing times remain wonderful and there is no change from the last report on phones; specifically, 95% of calls are answered and wait times remain at about two (2) minutes. Mr. Birkman continued to share that the Division is working on a new training matrix with one of the new hires and is happy to be able to report out that the new matrix appears to be working very well.

Committee Discussion: None.

6. Legislation and Regulations – Ms. Pires and Ms. Yamaguchi.

a. Update on Regulations Packages

Ms. Pires updated the committee on the regulations packages that staff has been working on. She prefaced her update reminding the committee that the Board's 2022 Rulemaking Calendar was adopted by the full board on Friday November 19, 2021 and staff has been proceeding as the board directed. The rulemaking calendar has been published to the board's website under the "about us" tab in the laws and regulations section.

Ms. Pires continued with an update sharing that the emergency regulations for program approval was approved by the Office of Administrative Law (OAL) and was made effective as of June 27, 2022. The Business and Professions Code section 2881.2 & 4531.1 required adoption and promulgation of these regulations by June 30, 2022. Ms.

Pires explained the DCA legal affairs gave board staff a timetable of milestones to make this statutory requirement; kudos extended to both general and regulations counsel, Mr. Swenson and Ms. Schiedge for their incredible support in promulgating and getting this package approved. As emergency regulations go, our next step options are to file a certificate of compliance before June 27, 2023, or file regular rulemaking in lieu of the certificate. Ms. Pires continued to update the committee on the Fee Schedule package, in that it was sent to BCHS on July 11 with an expediated review request. Upon approval, we will file this package with OAL; this rulemaking will be effective upon filing.

b. Leg/Reg Committee August 4, 2022

Ms. Yamaguchi shared with the committee that the Leg/Reg Committee will be meeting on August 4, 2022.

c. BVNPT Bill Tracking

Ms. Yamaguchi shared an update on the current bills board staff are actively tracking and working with. Specifically sharing updates on: SB 1436; Respiratory Care Board (RCB) Sunset Bill. This bill adds language related to training and adding LVN's to work with ventilators. The bill itself has been worked with a bit, at least the section that effects BVNPT. Ms. Yamaguchi was pleased to update the committee that they did take notice of our concerns regarding mutually enforcing the law and in addition, there has been some added language that would require RCB to take the lead in terms of data gathering and the start of the complaint process; but also make certain that all the information between both boards is shared quickly and efficiently. As a sunset bill, it is expected to move expeditiously through the rest of the process and to the Governor's desk. This bill is not expected to be vetoed.

SB 994, a bill allowing Naturopathic Doctors to supervise LVN's. Ms. Yamaguchi updated the committee that since the May meeting where the Board took a neutral position but to express concerns, the staff and counsel have been working a lot discussing this bill both amongst ourselves and with the other players including the authors office, the sponsors and the legislative committees staffers. She continued to update that as staff continues to research and analyze this bill as written, numerous concerns have surfaced. That said, staff and counsel have been working on proposed amendments to provide to the author and sponsors. In addition, staff has scheduled a Leg/Reg Committee Meeting for August 4th, and this bill is on the agenda. Staff plans to share our analysis with the Committee to have them bring a recommendation to the full board on August 12th.

Ms. Pires recommended that the full board see the proposed amendments for SB 994. Ms. Yamaguchi confirmed that the proper resource documents

will be provided for the agenda discussion at the August Board Meeting. The proposed amendments suggest a great deal of cautious thought; reminding committee members that at the May Board Meeting, counsel Schieldge shared quite directly that the way the bill was written it would be impossible to craft regulations to implement. Ms. Yamaguchi added that while the drafted amendments would not make the process perfect, they would allow for safer implementation, better serving all stakeholders.

Ms. Yamaguchi updated the committee that while AB 1733 did not move through the legislature, most provisions of the bill were added to the budget bill in SB 189, which has been chaptered. The provisions of SB 189 that pertain to the Bagley-Keene Open Meeting Act re-constitutes, for a year, the same conditions of the now expired Governors Executive Order that allowed open meetings via the online platforms; these provisions are identical to be able to continue to work under the same conditions as during the pandemic. It is staff's understanding that multiple entities will be watching all agencies to make certain that this departure from the language of the Act is not taken advantage of, ensuring that public access remains paramount and is not affected. Ms. Yamaguchi shared that as listed on the agenda, staff would like to discuss the remainder of this year and into next year now that meeting entirely via WebEx is an option. It is known that our August Board Meeting will be completely via WebEx; but with that said, the May Board Meeting was very productive and positive and as such, we should consider hybrid, WebEx, and in-person options for future meetings.

Committee Discussion: Dr, Mountain asked what the proposal is to manage a mixed schedule for hosting the full board meetings now that the provisions have been extended? Ms. Yamaguchi responded by leading into the next agenda item.

7. Discuss November Board Meeting – Ms. Yamaguchi.

Ms. Yamaguchi shared with the committee that historically, in-person meetings have consisted of agenda's containing petitioner hearings, board member trainings, orientations, or development, sometimes a mix of multiple special actions. At this time, staff believes there will be a lot of business for the November meeting and considering that it takes a great deal of time and effort to get an in-person meeting put together, does the committee have any concepts to consider?

Ms. Yamaguchi stated that going forward, she believes the board would be best served by splitting up the platform in which full board meetings are hosted, 2 WebEx and 2 in-person or any mix of or even hybrid offering both; but essentially not doing one or the other exclusively.

Board Discussion: Dr. Mountain responded that she supports the mix concept and that the board will need to discuss further about logistics to make it “fair” for members and anyone required to attend the meeting; this will definitely require thought and planning.

Ms. Yamaguchi added that because of the hybrid option, we could still allow WebEx at an in-person meeting. There is room for discussion and will likely be determined by what is coming forth on each agenda. Adding that February board elections are easier in-person, which is also something to consider.

Mr. Dierking believes that it is reasonable to move forward with multiple options and splitting the platform styles. He then posed the question as to whether any board members had transportation issues when meeting in-person in May. Ms. Yamaguchi confirmed that there were no transportation issues in May.

Ms. Yamaguchi posed the question to committee members of how to frame this topic at the full board meeting. Dr. Mountain expressed her interest in hearing the thoughts of all members; stating that an open discussion at the full board meeting will be beneficial to hear all opinions and/or suggestions.

Ms. Yamaguchi continued to share that in-person meetings allow connection, networking and bonding for members and staff; that she would also be interested in hearing what members would like to see as it related to trainings and members development too; these sessions would be similar to the issue-oriented sessions previously hosted, mostly related to the Education Division. These sessions were well received, allowing staff to bring in stakeholders and have robust conversations on the future and where the board should be looking to evolve.

Dr. Mountain agreed with everything Ms. Yamaguchi said. She would like to be able to give Board Members a heads up on this discussion to allow them time to think and gather thoughts, something she finds herself wanting/needing to do.

Mr. Dierking agreed. He believes the concept is great to save time and money but does not want to discount the critical need for in-person meetings for the bonding experience and other items previously mentioned.

Ms. Yamaguchi proposed to add to the August 12 full board meeting agenda, a discussion on concepts and suggestions for both the platform in which to host future meetings and suggestions for specific special sessions current members would like to see.

Dr. Mountain agreed and would like specific discussion on which meetings may be best served as in-person.

8. Next Board Meeting

- a. August Board Meeting – Friday, August 12, 2022, via WebEx

9. Board Member Accountability – Ms. Yamaguchi.

- a. Ballots

Ms. Yamaguchi updated the Committee that Board Members are doing very well participating in voting and submitting their ballots timely. The board appreciates the solid response of ballots from sitting members, allowing for stable decisions despite the two (2) current vacancies on the board.

Mr. Prouty thanked Dr. Mountain and Mr. Dierking for their regular participation and for setting a great example for the other members. Due to the positive voting trends, the board has not seen any quorum issues with all members regularly participating; these actions have assisted with the stability (and decrease) of Enforcement case aging and other statistics. Mr. Prouty continued to update the committee that if/when Enforcement must follow-up with a member, they are responsive, and all communications are pleasant experiences.

Committee Discussion: Ms. Yamaguchi posed a question not on the agenda. Ms. Yamaguchi asked the committee members whether they see a need for or a desire to see a running tracking of the overall attendance of members at both committee and full board meetings? Ms. Yamaguchi continued that this data is already gathered and reported out in the Annual Report and is reported to Agency. There is no current issue; so, would the committee rather only see attendance in the event of an issue?

Dr. Mountain responded that she did not see a need for this unless an issue arises. Mr. Dierking agrees.

10. Next Executive Committee Meeting: TBD September 2022

The next Executive Committee Meeting has been scheduled for Friday, September 16, 2022, from 2:00pm – 4:00pm or upon the completion of business.

11. Suggestions for Future Agenda Items.

None received. Ms. Yamaguchi proposed to Committee Members the option to share any suggestions with staff any time until a week or so before the next committee meeting.

12. Executive Session (Closed).

Mr. Dierking asked about conforming to the Bagley-Keene Open Meeting Act requirement for an Executive Session. Mr. Swenson confirmed that this Committee Meeting did not meet requirements of the Act, as defined.

13. Adjournment

The open meeting adjourned at approximately 2:40 pm.

Prepared by: _____ Date: _____

Elaine Yamaguchi

Executive Officer

Approved by: _____ Date: _____

Dr. Carel Mountain, Education Member

Board President