



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



ENFORCEMENT COMMITTEE MEETING MINUTES

August 1, 2023

Via WebEx

Time: 3PM –3:46PM

Board Members

Present Via

Teleconference:

Mr. Maxey, Public Member, Chair
 Ms. Moore, PT, Licensee Member

Staff Present

Via Teleconference:

Ms. Yamaguchi, Executive Officer
 Mr. Ito, Assistant Executive Officer
 Ms. Wood, Enforcement Division Chief
 Mr. Swenson, DCA Legal Counsel
 Ms. Schieldge, DCA Legal Counsel
 Mr. Prouty, Enforcement Manager
 Ms. Archibald, Enforcement Manager
 Mr. Weiler, Probation Manager

1. Call to Order and Introduction of Committee Members (00:04): Mr. Maxey called the meeting to order.
2. Roundtable with Enforcement Managers (00:40)
 - a. Statistics Review of each unit within the Division (1:10)
 - i. Intake and Enhanced Unit
 1. **Ms. Wood** introduced new manager Maggie Archibald (1:15)
 2. **Ms. Archibald** provided stats and updates for Intake and Enhanced Screening (01:29).
 3. **Ms. Wood** discussed issues of increase of cases coming in (3:20)
 - ii. Licensee Applicant Case Review Unit
 1. **Ms. Wood** provided stats and updates for Licensing Application, Complaint & Review (03:47)
 2. **Mr. Maxey** asked about the process of getting back to the average of last year. (4:48)
 3. **Ms. Wood** stated that we are currently working on the 1200 cases that came from licensing failing to send over the

renewals and that it will get back down to where it should be by November (5:08).

- iii. Special Investigations
 1. **Ms. Wood** provided stats and updates for the Special Investigation Unit (05:40).
 - iv. Discipline
 1. **Mr. Prouty** provided stats and updates for Discipline Unit (7:12)
 - v. Probation
 1. **Ms. Wood** introduced new manager Jeff Weiler (8:28)
 2. **Mr. Weiler** provided stats and updates for Probation Unit (8:36)
 - vi. Mr. Maxey asked for introduction of new managers (8:57)
 1. **Ms. Archibald** introduced herself (9:15)
 2. **Mr. Weiler** introduced himself (10:29)
 - vii. **Ms. Wood** provided stats for Petitioner Hearings (11:39)
 - viii. **Ms. Wood** provided stats and updates for Enforcement Division (12:37)
 - ix. **Ms. Wood** provided information on division staffing (03:10)
3. Resource Guide (13:43)
- a. Restraints for PT's and LVN's
 - i. Explain the difference between chemical and physical restraints
 - **Ms. Wood** stated that physical restraint ends when behavior ends and chemical restraints continues to restrain even after the end of behavior (14:07)
 - b. Scope of Practice
 - i. Understanding our precedential decisions (14:20)
 - ii. Clarification of common misconceptions (14:27)
 - **Ms. Wood** stated that draft will be provided and that this guide will assist the Enforcement Division and keeping people out of enforcement (14:37)
 - **Mr. Maxey** asked if there is a percentate of how many cases come from chemical restrains vs. physical restraints (14:51)
 - **Ms. Wood** stated that we have seen a couple of cases. This is also from Board President Carel Mountain's mentioning the issues of the teaching students the difference between physical restraint and chemical restraint. The Enforcement Division is also trying to provide something for schools to refer to (15:04)
4. Substance Abuse PSA (update) (15:49)
- a. Next PSA
 - i. Licensees and the Enforcement Process
 - ii. Probation- Licensee's role and responsibilities

- **Ms. Wood** reported that it's completed. Dr. Mountain (Board President), Mr. Dierking (Board Vice President), and Ms. Moore (Licensee Member) completed it and it is now at the Public Affairs Office. If we receive it back from the Public Affairs Office before the next meeting, it will be added to the agenda item for reviewing (15:50)
5. Regulatory Updates (16:50)
- a. Disciplinary Guidelines
 - **Ms. Wood** stated that Disciplinary Guidelines are in the next process for completion (16:54)
 - **Ms. Schieldge** stated that at the last Board meeting, the Board voted to initiate the rulemaking to adopt the amendments to the current disciplinary guidelines that were proposed and discussed at that meeting. Since that time, Ms. Schieldge discovered a policy issue that warrants a discussion with respect to the abstention term in the disciplinary guidelines. Ms. Schieldge recommends the Board to make sure that the policy is clear on what the probationers can or cannot take while on probation. (17:10)
 - **Mr. Maxey** asked if we're utilizing data or information from other Boards or from within our Board. (18:21)
 - **Ms. Schieldge** answered that it's within this Board. Ms. Schieldge has not found any other Board that have directly taken up the issue of usage of medical marijuana for probationers with a substance abuse disorder. There is no provision for this issue in current guidelines. (18:34)
 - **Mr. Maxey** asked, is it appropriate, to look at other states like Colorado or other states, that would have history around this topic (22:57)
 - **Ms. Schieldge** stated that it's about whether to allow people to take the substance while on probation and she has not found anyone taking the issue head on this issue because Compassionate Use Act only covers liability for criminal prosecution or sanction and licensing is a civil action. She will look at other states to see if they have regulations on whether probationers can take medicinal marijuana when someone is a licensee on probation in a substance abuse rehab program. Ms. Schieldge commented that it may be helpful to do a survey to see if the drug abuse rehabilitation program community allows marijuana consumption while in the program but ultimately, this is the Board's policy decision on this issue (23:56)
 - **Ms. Wood** announced that Ms. Moore joined the meeting via Ms. Wood's cell phone (27:27)
 - **Ms. Schieldge** summarized the current discussion for Ms. Moore (27:54)
 - **Mr. Maxey** requested examples from other Boards that are also grappling with this topic (30:32)
 - **Ms. Schieldge** stated that her research so far has revealed that this Board is the first out of the gate but there may be one other Board that she may be able to discuss with our Board depending on the other Board's upcoming Board meeting (31:08)

- **Ms. Wood** commented that she can do a survey of all the other nursing boards via NURSYS (31:36)
 - **Mr. Maxey** asked if Ms. Moore has any comments (32:00)
 - **Ms. Moore** prefers more research on it (32:12)
 - **Ms. Schieldge** stated that research will be done and commented that this is a tough issue because of hesitation from people to speak what they think about it. Ms. Schieldge has experienced a lot of staff confusion about what a prescription means versus what a recommendation means under the law and she believes staff need more clarification. Also, the Board's last proposal allows it if there's a recommendation but it doesn't explain under what circumstances it would be. Ms. Schieldge advised that an explanation is needed when you have a substance that is not regulated in terms of consumption under current laws. Ms. Schieldge will look at other states for licensing cases and commented that criminal probation cases may not be helpful since this proposal involves a civil licensing action and not a possible criminal sanction (which might be subject to the Compassionate Use Act's defenses) (32:12)
 - **Mr. Maxey** commented that this is an important topic as consumption is increased across our state and is one of a paradigm shift in decision making so he thanked Ms. Schieldge for bringing it to light and making sure we're on top of this. Mr. Maxey asked if there's anything else to add (34:38)
 - **Ms. Schieldge** asked if there's anything else she can find in terms of research before the Board meeting. (35:16)
 - **Mr. Maxey** commented about wording and putting more thought into the survey (35:49)
 - **Ms. Wood** will put something together and have Ms. Schieldge have a look (36:26)
 - **Mr. Swenson** concurs with Ms. Schieldge on it being a policy issue that would have to go before the Board. The Board needs to be reasonably and diligently gathering information so any kind of surveys or research would be helpful (36:56)
 - **Mr. Maxey** stated that this will be an ongoing conversation and research gathering exercise and he thanked Ms. Schieldge again for the conversation (38:07)
6. Suggestions for Future Agenda Items (38:18): None.
 7. Schedule next Enforcement Committee Meeting (38:59): October 17, 2023 (3 p.m. – 5 p.m.)
 8. Adjournment (40:40) : Mr. Maxey adjourned the meeting at 3:46 p.m.

The mission of the California Board of Vocational Nursing and Psychiatric Technicians (Board) is to protect the public. Public protection is paramount to the Board and its highest priority in exercising its licensing, regulatory, and disciplinary functions. Towards this end, the Board ensures that only qualified persons are licensed vocational nurses and psychiatric technicians by enforcing education requirements, standards of practice, and by educating consumers of their rights.