



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



ENFORCEMENT COMMITTEE MEETING
MINUTES

July 16, 2024

Via WebEx

Time: 3PM -3:25PM

Board Members
Present Via
Teleconference:

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

Staff Present
Via Teleconference:

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

- 1. Call to Order and Introduction of Committee Members: Mr. Maxey called the meeting to order at 3:03 p.m.
2. Roundtable with Enforcement Managers
a. Statistics Review of each unit within the Division
i. Intake and Enhanced Unit (01:20)
1. Ms. Wood provided stats and updates for Intake and Enhanced Screening
2. Mr. Maxey asked about the median of questions being asked.
3. Ms Wood responded. Intake and Enhanced Unit handles all complaints and it will be counted only if the Unit works on it. If the complaint goes straight to Special Investigations or DOI, it will not get counted.
ii. Licensee Applicant Case Review Unit (03:20)
1. Ms. Wood provided stats and updates for Licensing Application, Complaint & Review
iii. Special Investigations (04:07)
1. Ms. Wood provided stats and updates for the Special Investigation Unit
iv. Discipline (04:55)
1. Mr. Prouty provided stats and updates for Discipline Unit

- v. Probation (05:51)
 - 1. **Ms. Wood** announced new Probation Manager Rachel Vierra.
 - 2. **Ms. Wood** provided stats and updates for Probation Unit..
 - vi. Petition Hearings (06:30)
 - 1. **Ms. Wood** provided stats and updates for Petition Hearings.
 - vii. Enforcement Division (7:20)
 - 1. **Ms. Wood** provided stats and updates for Enforcement Division.
 - viii. Division Staffing (7:55)
 - 1. **Ms. Wood** provided stats and updates for division staffing.
 - 2. **Mr. Maxey** asked if the positions are virtual.
 - 3. **Ms. Wood** explained that all positions are in office.
3. Continuing Education Audit (9:01)
 - a. **Mr. Ito** provided updates. Board IT staff worked with DCA IT for Breeze Continuing Education (CE) audits. The licensee CE audits queue was removed. The next step is working with DCA's Public Information office to do an outreach on CE's, and perform a CE audit in October with the probationers first. If that goes well, the CE audit will be done on random licensees. The plan is to provide updates at the upcoming September Enforcement Committee meeting.
 4. Nightingale update (10:59)
 - a. **Ms. Wood** provided updates. Nightingale is an issue about applicants attempting to fraudulently obtain RN or LVN with fraudulent transcripts. We are working with other Boards currently. There will be another update in September on our progress.
 - b. **Ms. Moore** asked how many of these applicants are under investigation and how many are in dispute.
 - c. **Ms. Wood** responded. Out of 202, approximately 21 are still open. Most LVNs licenses were obtained appropriately, but were attempting to fraudulently obtain a Registered Nurse license. The Enforcement Division is working with the Board of Registered Nursing.
 5. Regulatory Updates
 - a. Disciplinary Guidelines (12:45)
 - i. **Ms. Wood** provided updates. Disciplinary guidelines are at the Office of Administrative Law. Ms. Shields was instrumental in getting this done.
 6. Outreach Update (13:23)
 - a. PSA Update (13:28)
 - i. **Ms. Wood** provided updates. We are waiting for Education Committee to complete their Public Service Announcement (PSA).

The Education Division is working on the subject of how to choose appropriate school to avoid Nightingale issue. We will handle the next PSA which is going to be on the subject of licensees that are on probation. At the next committee meeting Ms. Wood will ask if there's anything else that should be moved forward sooner.

b. Precedential Decisions

- i. **Ms. Wood** provided updates. The 1st Precedential Decision of the Board was an enforcement case for Botox, Juvederm, and Kybella (Sia). The Precedential Decision was sent out to Business Associations and Medical Spa Associations in Los Angeles, San Diego, Bay Area, and Sacramento, and all our licensees, as well as featured on social media. It was also sent to the Governor's Office of Business (Go-BIZ), and at a later date, California city and county code enforcement. While the Enforcement Division cannot directly link the rise in complaints for botox type complaints to the outreach, it does appear that the outreach may have been effective.
- ii. **Mr. Maxey** asked if this is a national phenomenon.
- iii. **Ms. Wood** stated that she's not sure but reach out to NCSBN for a survey. Some states have differing scopes of practice so the survey may not be as easy but we can still reach out to NCSBN.
- iv. **Mr. Maxey** expressed his curiosity on national effect and that the survey should be done if it's not causing too much work.
- v. **Ms. Wood** stated that she can have a look and asked Mr. Swenson if he wants to add anything.
- vi. **Mr. Swenson** responded. The CA Vocational Nursing Practice Act (the Practice Act) defines the scope of practice as what's taught in the programs. The administration of Botox, Juvederm, and other fillers is not taught in the programs nor is it something that falls in the basic skills that LVN students are taught in the programs. The Board has had a long-standing interpretation of the Practice Act that the scope of practice does not include the injection of Botox or other filler. There were numerous informal scope of practice guidances from NEC's over the years, and letters to counsel that uniformly answered LVNs should not be performing these sorts of injections and such acts are not within the scope of practice. The Board issued presidential decision on this issue in December of 2020. Mr. Swenson stated that as a result of this, the Practice Act was amended by SB 994 in 2022, to expressly provide that the Practice Act does not authorize LVN to give Botox, Juvederm, or other similar treatments and that is codified in BPC § 2859.1, subd. (c)(1). To summarize, the Outreach efforts have resulted in more information coming into the Board by way of complaints. Also, it was helpful in getting the Practice Act amended by SB 994 that specifically indicates that this is outside the scope of practice.

- vii. **Mr. Maxey** asked if this needs a vote from Committee Members or to be brought to the full Board for conversation or vote?
 - viii. **Ms. Wood** stated that this is Precedential Decision information for Committee Members and copy of the notes will be provided prior to the Board meeting.
7. Tracking hours for the Special Investigators
- a. Can be used for cost recovery (20:09)
 - i. **Ms. Wood** provided information. The Special Investigators will be able to track hours in Breeze. Currently, Breeze is unable to do this function. This means licensees investigated by our Special Investigators, and was found to be held accountable by the DAG, were not be charged with the cost of their investigation. Tracking hours in Breeze will be a great tool to help the Board mitigate the cost of the Enforcement Division.
8. Suggestions for Future Agenda Items (21:01) - None
9. Schedule next Enforcement Committee Meeting (21:21) – Wednesday, 9/18/2024, 3 p.m. – 4 p.m.
10. Adjournment (22:53) – Mr. Maxey adjourned the meeting

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.