



**BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS**

BVNPT 2016 Biennial Sunset Review Report

The California Board of Vocational Nursing and Psychiatric Technicians' (Board) highest priority is consumer protection through its licensing, regulatory and disciplinary functions. Established in 1951 (VN Program) and 1959 (PT Program), the Board is responsible for the administration of laws related to the education, practice and discipline of licensed vocational nurses (LVNs) and psychiatric technicians (PTs).

During this last biennial reporting period, the Board underwent a “renaissance” which included new board leadership, transforming our enforcement division and reorganizing our licensing program; all under the direction of our fully empaneled 11 member Board. Critical areas of operations were assessed with immediate improvements to our website, reception area and renewal process to support our mission of consumer protection. Most notable is the hiring of all nurse education consultants for the evaluation of school programs throughout the state.

The Board strives to springboard off current success by crafting internal procedures; documenting best-practices, as well as partnering with stakeholders to leverage new innovations.

History of the Board

In 1970, the PT Certification Program was changed to a licensure program based upon the passage of Senate Bill (SB) 298. To convert from a certification program to a licensure program, the law specified that Certified PTs would be made eligible for licensure (i.e., grandfathered) upon renewal of their certificate. In addition, any person, including persons employed in State Hospitals for the mentally ill, was made eligible for licensure upon evidence that he/she performed PT services specified by Business & Professions Code (B&P), Section 4502, of not less than two years employment within the previous five years prior to January 1, 1970. Thereafter, the applicants for a PT license were required to comply with specific education and experience requirements and pass the licensure examination.

In 1998, the name of the Board was changed to the Board of Vocational Nursing and Psychiatric Technicians. The Board carries out its mission to protect consumers through rigorous evaluations, audits and investigations.

Today, the board licenses and regulates 120,041 vocational nurses (VNs) and 11,840 psychiatric technicians (PTs) practicing in a variety of clinical settings.



We are privileged to present our 2016 Biennial Sunset Review Report reflecting a very successful 2014-2016. The tremendous, dedicated energy of the Board of Vocational Nursing and Psychiatric Technicians' (Board) staff is amazing. These past two (2) years, we experienced Board growth, realignment and improvement that bolstered our mission of consumer protection.

With consumer protection at the core of our mission, the Board strived to refocus our enforcement efforts. We kicked off fiscal year 14/15 with new Enforcement Division leadership in three key areas – Division Chief, Special Investigations, and Complaints Unit. Their leadership impact was staggering. The Division closed nearly 13,000 investigations and recovered over \$180,000 in citation and fine revenue. Additionally, the Enforcement Division revoked or accepted surrender of over 400 licenses and placed an additional 287 licenses on probation. Finally, the Division drafted all new unit procedures, training processes and data

validation checks by the end of fiscal year 15/16.

The Licensing and Administrative Services (L&AS) Division underwent a much needed workload assessment. The results of this assessment included a division restructuring, four (4) additional reception/telephone staff, two (2) additional management staff to provide unit oversight, a dedicated budget analyst, and a new Legislative/Regulatory analyst. During this biennial review, we licensed more than 16,000 vocational nurses and psychiatric technicians while spending fewer overtime dollars than the previous Sunset period. The L&AS Division was able to successfully reduce the wait time from 14-16 weeks to less than five weeks for school programs.

The Education Division plays a central role in the Board's ability to insure the preparation of safe and competent practitioners. In spite of a severe staffing shortage, the Education Division maximized available resources to achieve the Board's mission. Our Education Division completed nearly 160 institution inspections across the state. However, after nearly a decade, our Board is proud to report we have staffed all of our NEC positions.

With a full complement of Board members, our standing committees were reactivated. For example, our Legislative Committee reviewed and developed positions on 18 pending Legislation. Our Education Committee makes recommendations on initial provisional status for educational institutions as well as reviews complex regulatory issues impacting academic institutions. The other six (6) committees also met regularly: Practice, Strategic Oversight, Enforcement, Executive, Evaluation and Licensing.

Last, but certainly not least, the Board hired a new Executive Officer - the Board's fifth Executive Officer since the 1950s. Dr. Kameka Brown's vision and energy has inspired the staff and stakeholders alike, leading to our lowest vacancy rate to date (12%). The results have been increased outreach and engagement, and leveraging best practices to improve Board operations.

Thank you for the opportunity to share our success. We are proud and honored to serve the State of California.

A handwritten signature in black ink, appearing to read "S. James", is placed below the thank you message.

Samantha James – Perez

Board President



BOARD MEMBERS

SAMANTHA JAMES-PEREZ, PT MEMBER, ***BOARD PRESIDENT***
ANDREW MORENO, PUBLIC MEMBER, ***BOARD VICE-PRESIDENT***
BERNICE BASS DE MARTINEZ, PUBLIC MEMBER
TODD D'BRAUNSTEIN, PT MEMBER
JOHN DIERKING, PUBLIC MEMBER
TAMMY ENDOZO, LVN MEMBER
ERIC MAH, PUBLIC MEMBER
DONNA NORTON, LVN MEMBER
JOHN VERTIDO, LVN/EDUCATOR MEMBER
VACANT, PUBLIC MEMBER
VACANT, PUBLIC MEMBER

EXECUTIVE OFFICER

KAMEKA BROWN, PhD, MBA, NP

**BVNPT
RECOGNITION**

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Jennifer Almanza
Cheryl Anderson
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Rudy Davis
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Merlene Francis
Natalie Frost
Amy Fuentes
Dani Garrett
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Kitty Harper
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Pia Ilustrisimo-Ravelo
Mark Jaramillo
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Susan Johnson
Lori Kemp
Elizabeth King
Savanna Koop
Rocio Llamas
Wendy Lobello
Wendy Louis
Geraldyn Maracino
Matthew McLean
Melody McLean
Shari Morales
Debbie Morin
Mee Moua
Kevin Narine
Eboni Newton
Shawn Nibbelink

Arlene Nunez
Jay Prouty
Regina Rodriguez
Jonathan Romero
Michael Saenz
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INTRODUCTION:

MAJOR ACCOMPLISHMENTS

INTRODUCTION: MAJOR ACCOMPLISHMENTS

- The Board successfully transitioned to the new BreZE licensing and enforcement system on January 19, 2016. The new system enhanced on-line services including license renewal, application for examinations, applications for licensure, name and address changes, and interim permits.
- In July 2016, the Board launched its new and improved website. The new website is formatted in a more user-friendly way, providing easier navigation for our consumers, licensees and applicants.
- The Board expanded the candidate pool for the four (4) vacant Nursing Education Consultant (NEC) positions to allow qualified candidates to work in a 'home-based' capacity anywhere within California, and was able to fill all four vacancies.
- As part of the Board's outreach to its consumer stakeholders, three new brochures were developed, designed and printed: Consumer Protection and the Enforcement Program, Enforcement Division, and Protecting California's Healthcare Consumers.
- The Board overhauled the Enforcement Division, including the implementation of division-wide policies and procedures to improve case triaging, tracking, and closure.
- A Staff Satisfaction Survey was conducted that led to improved management, bidirectional engagement, increased unit meetings and staff one-on-ones with management, and development of the monthly Board Newsletter.
- Internal and external outreach expanded, including meeting with program directors, government entities and workforce interest groups to promote vocational nursing and psychiatric technician roles in the community.

INTRODUCTION:

MAJOR ACCOMPLISHMENTS (Cont.) AND MAJOR NEW LEGISLATION OR REGULATIONS

- Past leadership has mismanaged the use of Board resources. Under new management, staff resources are properly managed including the timely retirement of antiquated systems.
As a service to the public, the Board donated 30 computer desktops, including keyboards and mice to the Center for Fathers and Families in 2016. This donation allows the program to have computers accessible to low-income families, such as General Equivalency Diploma (GED) students, and Adult Services clients. The community will be able to utilize them for things such as:
 - GED preparation
 - Homework Assistance
 - Enrichment Activities
 - Job searching
 - Resume building



Major New Legislation or Regulations

On July 27, 2015, the Office of Administrative Law approved the Board's Rulemaking file that amends §§ 2517.5 and 2575.5 of the California Code of Regulations, for the purpose of updating the requirement regarding disclosure of convictions for violation of the law. Previously, applicants for VN or PT licensure were required to disclose traffic infractions not involving alcohol, dangerous drugs, or controlled substances that exceeded \$300. Effective October 1, 2015, this regulatory action amended that provision to exclude traffic infractions under \$1,000.

**BOARD
ADMINISTRATION:**

**STAFFING AND
OPERATIONS**

SECTION A: BOARD ADMINISTRATION

Staffing and Operations

Beginning in 2015, the Board has seen rapid operational and staffing changes directed at improving the morale of the Board. Following the unexpected retirement of three senior executive roles, leadership stability was needed to establish a vision and restore staff morale. Our board welcomed new integral roles that are defining the culture of the Board: Executive Officer, Enforcement Chief, Complaints Manager, Supervising Special Investigator, and Evaluations Manager. Key staff activities aimed at boosting morale were implemented including a staff recognition program, Board potlucks and Board newsletter.



In addition, the new Executive Officer met nearly all staff individually to identify and address their concerns in a private forum. Such meetings resulted in unit and Board improvement such as a reception area kiosk and desk top scanners.



A second key change was unit and division reorganization. Management assessed the needs of the Board based on its size and complexity, and determined critical roles were not apparent (adequate phone staff, a Legislative Analyst, and management), and there was a severe imbalance in management support between the units (4-Enforcement Managers to 1-Licensing Manager and 1-Supervising



BOARD ADMINISTRATION:

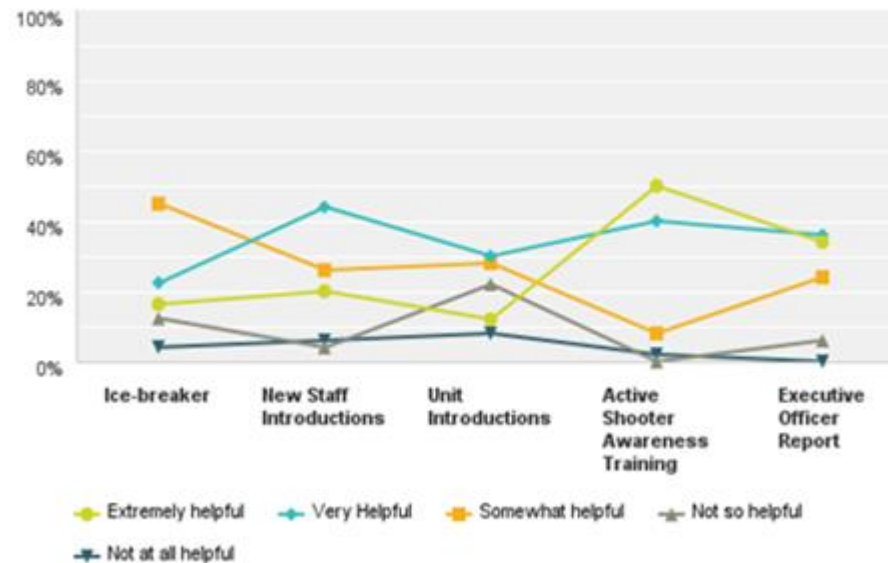
STAFFING AND OPERATIONS (CONT.)

Nursing Education Consultant). A workforce and workload analysis was conducted, which included updating staff duty statements (job descriptions). The new organizational structure provided additional management and phone staff from the reclassification of existing positions and provided much needed customer service and management support.

Board management proactively engages Board staff in weekly unit meetings, monthly one-on-ones, and quarterly All-Staff meetings to spotlight success and identify areas of improvement. Staff reported favorably following our most recent Fall Quarterly All-Staff meeting.

Q1 How would you rate the content presented?

Answered: 50 Skipped: 0



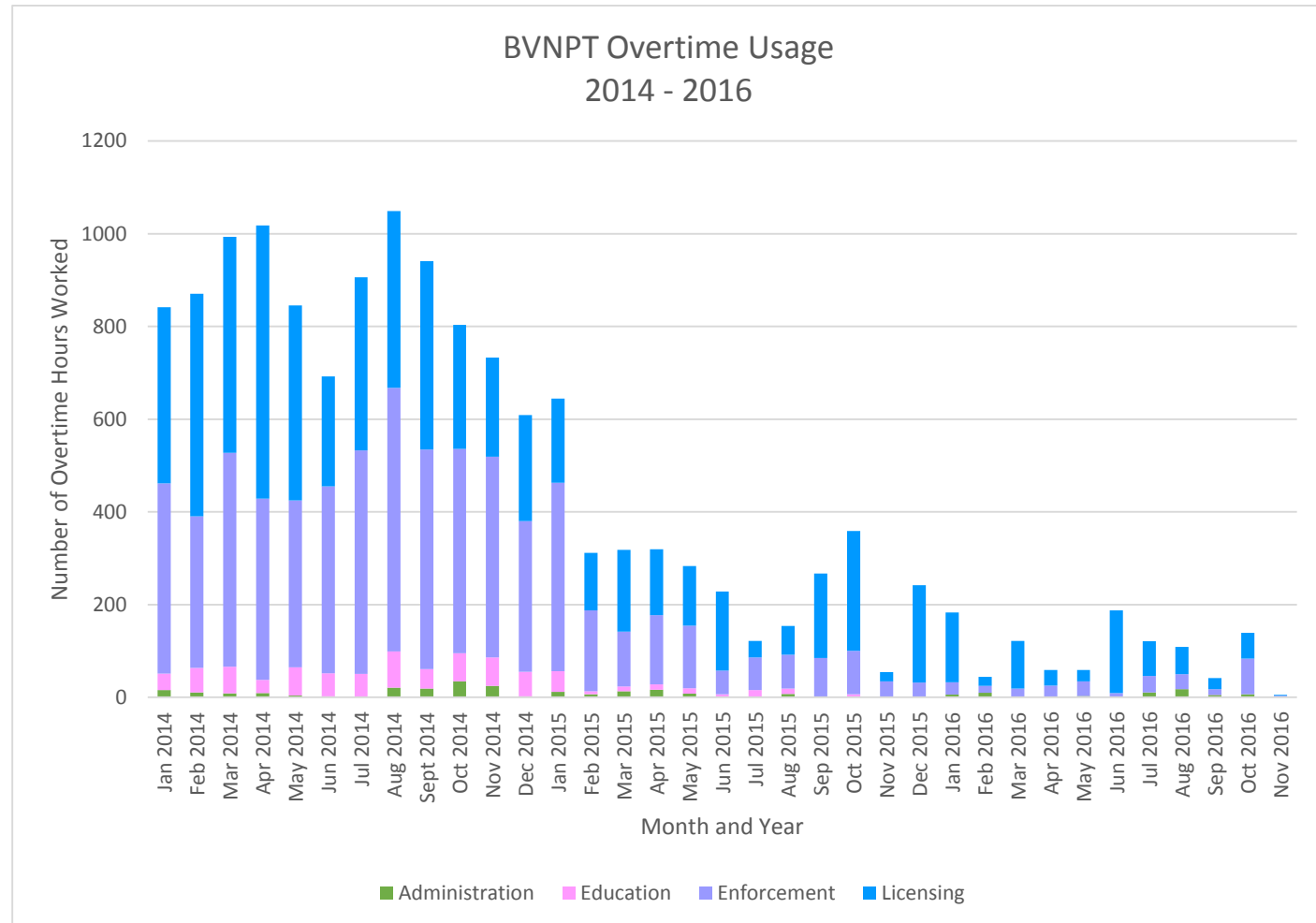


**BOARD
ADMINISTRATION:

DECREASED
OVERTIME USAGE**

Decreased Overtime Usage

In Calendar Year (CY) 2014, the Board collectively worked a total of 10,301.5 hours. In CY 2016 (as of 11/30/2016), the Board collectively worked a total of 1068.58 hours. So far, the Board has successfully and dramatically decreased overtime usage by 89.6%.





**BOARD
ADMINISTRATION:
ANTI-COMPETITIVE
ACTIONS**

What precautions has the Board taken to avoid taking anti-competitive actions which are not aligned with a clearly-stated state policy? For instance, has the Board participated in trainings (DCA or otherwise), developed guidelines or protocols, or developed lines of communication with an antitrust expert? What are the Board's thoughts on having a public member supermajority?

On February 25, 2015, Supreme Court of the United States rendered a decision on a case that arose from an antitrust challenge to the actions of a state regulatory board. A majority of the board's members are engaged in the active practice of the profession it regulates. The question presented was whether the board's actions are protected from Sherman Act regulation under the doctrine of state-action antitrust immunity, as defined and applied in the Court's decisions beginning with *Parker v. Brown*, 317 U.S. 341, 63 S. Ct. 307m 87 L. Ed. 315 (1943).

The Board is in full compliance with the Court's decision. The Board's Legislative Committee spearheaded training relative to policy review. Additionally, the Board's Executive Committee attended training and developed policies and procedures relative to antitrust. Further, the Executive Officer, Board President and Vice President attended the National Council of State Boards of Nursing (NCSBN) conference to learn more about antitrust and best practices for Board oversight.

Board members self-surveyed to determine antitrust. They responded positively to the population interest and public majority.



BOARD ADMINISTRATION:

INTERNAL OPERATIONAL AUDIT

What was the result of DCA's 2014 Internal Operational Audit of the BVNPT?

In 2014, the Board was assigned an internal operational auditor by DCA's Internal Audits Office to review the Board's core business operations. The following grid lists the various findings and recommendations from the Auditor. Furthermore, the Board has included a Status and Comment in response to each finding.

Internal Operational Audit			
	Internal Audit Findings	Status	Comment
1.	<p>The Strategic Plan is missing key components (i.e. vision, action plan, performance measurements, monitoring and tracking).</p> <p><u>Recommendation:</u> Use the Department of Finance Strategic Planning Guidelines to ensure that all components are specified in the strategic plan.</p>	Partially Complete	On August 24, 2016, the Governing Board along with key stakeholders crafted the Mission, Vision and Value Statement for the Board. Additionally, this group will develop key strategic initiatives for each division within the Board along with measurable outcomes. BVNPT staff is currently completing metrics to accompany each initiative developed.
2.	<p>Policies, procedures, and desk procedures are outdated and do not reflect accurate information.</p> <p><u>Recommendation:</u> Create and/or update desk procedures, flowcharts, policies and procedures.</p>	Partially Complete	<p>Education Division – 100% Completion Enforcement Division – 100% Completion Administrative and Licensing – 10%* Completion</p> <p>*Due to the unexpected loss of the only manager in Licensing, the procedure project was delayed. The Board is hiring two managers for that division now. We anticipate to complete the policies for this division by December 2016.</p> <p>The Board is partnering with Cal Gov Ops in a Lean Six Sigma Green Belt pilot program to</p>

**BOARD
ADMINISTRATION:**

**INTERNAL
OPERATIONAL
AUDIT
(CONT.)**

			streamline all aspects of the Board's operations and develop Evaluation Unit procedures.
3.	The board has multiple vacancies that go unfilled for more than six months. <u>Recommendation:</u> Fill vacant positions within six months.	Complete	The Board has aggressively recruited, filled and backfilled all vacancies. To date, only one vacancy is greater than six months; Assistant Executive Officer. Since March 4, 2016, the Board has proactively worked with DCA HR, CalHR and others to reclassify this position.
4.	Duty statements are not always accurate and properly completed. <u>Recommendation:</u> Update duty statements according to DCA's Department Procedure Memorandum and ensure that all employees have received, read, understand and have signed a copy of their current duty statement.	Partially Complete	Education Division – 100% Completion Enforcement Division – 45%* Completion Administrative and Licensing – 70%* Completion *All divisions will have updated duty statements by December 23, 2016.
5.	Employees are not receiving an adequate amount of training to effectively and efficiently do their jobs. <u>Recommendation:</u> Follow DCA's policy for training and development by providing an efficient amount of training to all employees.	Partially Complete	The Board has engaged in several activities to promote and increase training opportunities for staff. <u>DCA SOLID Board/Bureau Mentoring Program</u> – Pilot program to connect Board staff with mentors from other Boards/Bureaus to promote upward mobility. <u>DCA Upward Mobility Program</u> – Targeted for Office Technicians (OT) and Program Technicians

**BOARD
ADMINISTRATION:**

**INTERNAL
OPERATIONAL
AUDIT
(CONT.)**

			<p>(PT). All staff have been provided program information and are encouraged to enroll. <u>Analyst Certification</u> - Targeted for Staff Services Analyst (SSA) and Associate Governmental Program Analyst (AGPA). All staff have been provided program information and are encouraged to enroll. <u>Supervisor Training</u> – Interested SSAs and AGPAs have participated in this CalHR program. <u>DCA Leadership Academy</u> – Current Managers are or have completed all classes provided. <u>CalHR Leadership Training</u> – Three current managers have participated in this additional training.</p> <p>All divisions will have updated Individual Development Plans (IDP) by 2/6/17.</p>
6.	<p>There is excessive overtime usage within the Board. Written approval of overtime is not documented.</p> <p><u>Recommendation:</u> Overtime should be kept to a minimum and not used as a regularly scheduled feature of the job. Additionally, ensure that all overtime usage has prior written approval signed off by a supervisor and/or manager and kept for future reference.</p>	Complete	<p>The Board has developed policies that require all paid and compensatory overtime to be approved by Executive Officer in writing. To date, the Board has successfully reduced paid overtime utilization by 78.6%.</p>
7.	<p>BVNPT inadequately stores and secures sensitive Live Scan Criminal Offender Record Information (CORI).</p>	Partially Complete	<p>All staff have been reeducated and “signed off” on the proper storage of materials and are in full</p>

BOARD ADMINISTRATION:

INTERNAL OPERATIONAL AUDIT (CONT.)

	<u>Recommendation:</u> Ensure that CORI/Live Scan information is properly secured, destroyed, and limited to employees with approved DOJ clearance.		compliance as of July 1, 2016. Ongoing monitoring is conducted by management. The Board is migrating to paperless beginning in September 2016.
8.	There is inadequate file maintenance and record management. <u>Recommendation:</u> Ensure that all documents are filed in licensee files. Create and implement internal policies and procedures regarding file maintenance and records management. Train all employees regarding the expectations of the policies and procedures.	Partially Complete	Management has developed a record storage policy and staff have been educated on proper storage of records. Management has ordered additional files for storage which are due to arrive January 2017. The Board is migrating to paperless beginning in September 2016.
9.	The Board is not adequately safeguarding the social security numbers of applicants and licensees. <u>Recommendation:</u> Follow all guidelines specified in DCA's DPM regarding safeguarding social security numbers.	Partially Complete	The Board maintains a "Clean Desk" policy and does not allow sensitive materials to be in the open or on staff desks. All materials are to be securely stored. Additionally, the Board does not collect the full social on any documents. The Board is migrating to paperless beginning in September 2016.
10.	There are multiple deficiencies regarding safeguarding of state assets (i.e. keys issued, employee access, and process for securing negotiable instruments).	Partially Complete	The Board implemented the use of a safe to secure all cash and negotiable instruments at close of business each day. Access to the safe is limited to Board management. Access to the secure room is limited to management and one IT personnel. The Board will be installing security cameras in 2017.



**BOARD
ADMINISTRATION:**

**INTERNAL
OPERATIONAL
AUDIT
(CONT.)**

	<u>Recommendation:</u> Properly secure all processed and unprocessed assets and negotiable instruments. Furthermore, limit room access and key distribution to only the staff requiring access.		The Board maintains a log to account for all employee access cards.
11.	<p>The Board does not document and/or keep a record showing when the combination of the safe was last changed and the name(s) of the employees with access to the safe.</p> <p><u>Recommendation:</u> Document and keep record(s) of all changes regarding when the combination was last changed and all individuals with knowledge of the combination.</p>	Complete	The Board implemented the use of a safe and utilizes a log to identify who has access and the date of combination changes. The last change to the access code was November 2016.
12.	<p>Incoming collections of negotiable instruments (i.e. checks, money orders) are not documented by the person(s) opening the mail.</p> <p><u>Recommendation:</u> Document all negotiable instruments opened by the board's mailroom and/or person(s) opening the mail in accordance to SAM.</p>	Partially Complete	All incoming mail with cash, check or other negotiable item is documented by the person opening the mail and logged. When transferred, receiving staff log receipt of negotiable instruments. Finally, the Board is installing surveillance cameras next year.
13.	There are multiple deficiencies regarding dishonored checks (i.e. amount of uncollected dishonored checks, inadequate process for collections procedure and fee assessment, etc.).	Not Complete	Procedures and training regarding the processing of dishonored checks was completed on March 2016 and overseen by Central Cashiering. Each cashier has a manual at their desk. The Board is reviewing staff submissions of dishonored checks



**BOARD
ADMINISTRATION:**

**INTERNAL
OPERATIONAL
AUDIT
(CONT.)**

	<p><u>Recommendation:</u> Establish written policies and guidelines regarding dishonored checks and train employees. Ensure that all collection letters are sent in accordance to SAM.</p>		to increase submission rates. Anticipated improvement by Q3 16/17.
14.	<p>The Board does not process initial licenses for Vocational Nursing and Psychiatric Technicians applicants within the maximum period of time allotted. Additionally, the reporting time for renewals is inaccurate due to unviewed continuing education documents.</p> <p><u>Recommendation:</u> Process licenses within the allotted timeframes. Review all continuing education documents submitted by licensees prior to approving a license renewal.</p>	Partially Complete	<p>Effective June 1, 2016, the Board completed a reorganization and reassignment of staff in the Licensure Division. Additionally, the Board is completing a thorough analysis and revision of all policies and procedures relative to the initial and continued VN and PT licensure. That reorganization also was necessitated by unexpected occurrences as a result of BreZE implementation. Those actions were undertaken to address the increased volume of applications for initial and renewal licensees.</p> <p><u>Average processing times:</u> Endorsement Apps In-House – less than 3 weeks Endorsement Apps Online – less than 3 weeks Equivalency App Processing – less than 20 weeks Follow-Up Mail (Equivalency) – less than 2 weeks Follow-Up Mail (School) – less than 2 weeks School Apps – less than 8 weeks Online Apps – less than 12 weeks</p>
15.	<p>The Board does not always validate that applicants have successfully completed at least a high school diploma or an acceptable GED certificate when approving.</p>	Partially Complete	<p>Effective January 1, 2017, the Board will require all applicants to submit documentation substantiating high school graduation or the equivalent thereof. Substantiation can be confirmed via submission of a copy of a high</p>

**BOARD
ADMINISTRATION:**

**INTERNAL
OPERATIONAL
AUDIT
(CONT.)**

	<p>applications for licensing.</p> <p><u>Recommendation:</u> Ensure that all licensing requirements are met when approving an applicant to be licensed.</p>		<p>school diploma or GED certificate recognized by the Department of Education in any of the United States. The Board requires all applicants for VN and PT licensure to meet all requirements as specified in California Business and Professions Code §§2866 and 4511.</p>
16.	<p>There are multiple deficiencies regarding continuing education (i.e. reviewing of documents, filing, submitting documents for online renewals, policies, procedures and processes, etc.).</p> <p><u>Recommendation:</u> Ensure that all continuing education information submitted during the renewal process is reviewed and meets all requirements when determining the renewal approval of a licensee. Create, maintain and monitor tracking document(s) used for continuing education auditing. File all renewal documents in the appropriate licensee file.</p>	Not Complete	<p>The Board completes an audit of VN and PT license renewals monthly for compliance with regulatory requirements. That audit includes a random selection of renewed VN and PT licenses representing all geographic areas of the State. Effective January 1, 2017, the audited volume will be increased to include 200 VN and 100 PT licenses. Licensees for whom noncompliance is identified will be referred to the Enforcement Division for action. The Board has realigned the CE program within the Education Division; a division with more robust procedures. The Board has initiated work orders to incorporate and automate CE audits within BreZE to improve reporting and auditing.</p>
17.	<p>Complaints filed against licensees are not always processed within one year (12 months). There is no system for prioritizing complaint cases. Lastly, there are long delays in posting disciplinary actions on the board's website.</p>	Complete	<p>The use of Consumer Protection Enforcement Initiative (CPEI) case referral acceptance matrix was implemented in May 2015. Implementation required an analysis of the Board's case intake process and resulted in significant changes to the process. In October 2015, the Board filled a new position, an Intake Analyst. This position was created to help streamline the process at intake to</p>



**BOARD
ADMINISTRATION:**

**INTERNAL
OPERATIONAL
AUDIT
(CONT.)**

	<p><u>Recommendation:</u> Ensure that the complaint process is reviewed and reevaluated on a regular basis to allow for effective and efficient processing. Additionally, process all complaints within one year. Lastly, ensure that complaint results are promptly displayed on the website.</p> <p>Redirect the Discipline and Probation Section's Retired Annuitant position from the Case Management Unit to the Probation Unit, and fill the Section's vacant SSA position.</p>		<p>include an initial review of the public complaints to determine the appropriate case assignment. The prioritization of each case is determined on a case-by-case basis; depending on the facts, a different level of priority may be warranted.</p> <p>The length of the investigation is dependent upon the complexity of the case. Management monitors the cases on at least a monthly basis to ensure the cases are moving through the process effectively and efficiently. In addition, the Board has implemented procedures which specify timeframes for completion of desk investigation activities.</p>
18.	<p>Field staff investigator whereabouts, schedules, and projects are not always known to supervisors and/or managers.</p> <p><u>Recommendation:</u> Establish and communicate written policies and procedures for all employees to follow when working outside of the office and monitor for compliance.</p>	Complete	<p>The Enforcement Division has completed 100% of procedures to manage the unit. Controls are now in place to ensure all employees are accountable. Written policies and procedures regarding travel and time accounting are in place. Additional both administrative time and cost recovery time is electronically tracked.</p>

**BOARD
ADMINISTRATION:**

**MERGING
OCCUPATIONAL
LICENSING**

Historically, there has been discussion about merging occupational licensing boards. From the Board's perspective, what are the pros and cons of keeping the BVNPT as a separate board under the DCA?

In an effort to reduce operating costs and eliminate waste, the State has considered merging licensing boards. Since 2004, the discussion of merging the Board with another Board has been proposed on at least three occasions. While the Board is very much in support of reducing costs that may negatively impact consumers, there continue to be reservations expressed from the constituents the Board represents.

The merging of the Board with a larger board can have deleterious effects on the populations each board serves. The Board can potentially lose its ability to serve as an entry into the workforce by virtue of being diminished in needs and focus by the larger board. As the Board attempts to reduce barriers to licensing and practice, merging could have a negative impact on VN/PT roles. Viewed as entry to practice, the potential of VN/PT will be dwarfed and/or diminished by the priorities of other clinicians by sheer volume.

For the PT license, this could lead to the almost elimination of this license classification in the state. This impact would be felt most by veterans who transfer their clinical experience to become PTs (as would VNs). The realignment of the PT license to another board could be a misalignment due to the close clinical overlap between PTs and nursing that is not shared by any other clinical profession type. The curriculum is not aligned with any other mental health profession, however, the PT licensee requires school certification.

Currently, the Board reviews and considers policies that impact the practice of PT and VNs. The potential for a board to advocate effectively is challenging for varying types of clinicians represented and the potential for competing interests. The following graphs highlight that the Board is currently tracking (specific to VN) practice for 2015-2016. In this short time, 163 policies warranted review to identify potential impact to California practice.

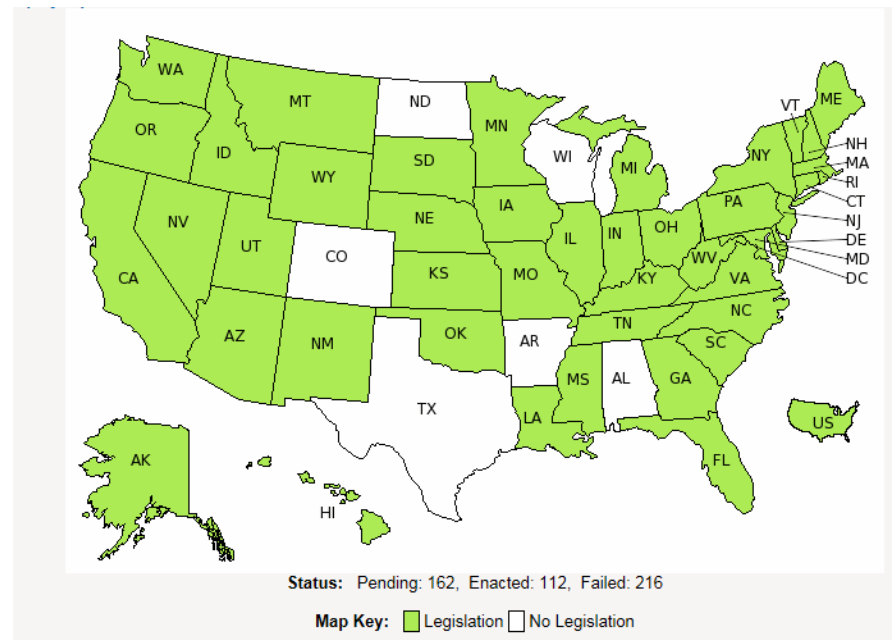
**BOARD
ADMINISTRATION:**

**MERGING
OCCUPATIONAL
LICENSING
(CONT.)**

Relevant Policies



- | | | |
|--------------------------------|-----------------------------|------------------------------|
| ■ Structure and Operations | ■ Continued Competence | ■ Criminal Background Checks |
| ■ Discipline | ■ Future Workforce | ■ LVN |
| ■ Licensing | ■ Medication Administration | ■ NCLEX |
| ■ Nurse Licensure Compact | ■ Nursing Education | ■ Nursing Practice |
| ■ Prescription Drug Monitoring | ■ Reimbursement | ■ School Nurse |



**BOARD
ADMINISTRATION:**

**STRATEGIC
PLANNING**

Strategic Planning

Our Board has completed a successful Strategic Planning retreat. With the full board present, our Mission, Vision and Values were crafted collaboratively with engaged stakeholders from the public. The Board established strategic pillars that will serve as the underpinning for key operational priorities over the next three to five years.





**BOARD
ADMINISTRATION:

FUTURE
ENHANCEMENT**

Future Enhancement

The Board critically assessed its ability to serve consumers by regular review of internal operations. Two key endeavors the Board is embarking on are digital migration of all paper files and a telephone enhancement project.

Currently, the Board houses over 250,000 original source licensee files mainly in a 20 x 24 foot file room. By digitally scanning files, we are able to store and easily retrieve the files for the consumer when requested, and repurpose this much needed space to staff desk area and break area. Since these images are primary source documents, any natural disaster (fire, earthquake, etc.) or theft will render the Board unable to replace these documents. In the case of international applications and/or closed schools, this loss could be catastrophic for an applicant. Through digital migration, the files will be archived and accessed via a secured shared drive (i.e., Cloud) for staff to assist consumers as needed. The project is slated to commence the summer of 2017.

The telephone enhancement is to update our system, which currently limits our phone queue to 13 calls before disconnecting callers and/or causing a busy signal. This will allow the Board to address the ever-growing call volume, and address consumer needs in real time. Additionally, it will afford the Board to provide tailored information to licensees and applicants that is specific to the nation's largest vocational nursing and psychiatric technician board, and thereby reducing the need for subsequent calls from consumers. Finally, it will afford the Board the ability to attend to the nearly 200 educational institutions it regulates regarding clinical education inquiries. This enhancement will include staff trained to answer healing arts board-specific questions, and will include metric tracking data for the nearly 40,000 calls received monthly. Information gleaned from this tracking will be used to draft consumer FAQs for our website.



EDUCATION DIVISION:

INTRODUCTION AND STAFF CHANGES

SECTION B: EDUCATION DIVISION

As noted in the Board's 2014 Sunset Report, the Board experienced a critical shortage in the Nursing Education Consultant (NEC) classification that dates as early as 2007. From 2009 through 2013, 80% of the Board's NEC positions were vacant. In November 2014, 60% of the NEC positions remained vacant. That prolonged shortage severely impeded the Board's ability to timely and consistently respond to existing and proposed educational programs, consumer requests for clarification of the VN and PT scopes of practice, and other critical issues.

In spite of that shortage of sufficient qualified staff, the Education Division has maximized the efforts of available staff resources for the protection of consumers. Since 2014, the following major accomplishments are highlighted.

Staff Changes

Nursing Education Consultant Classification

Effective September 21, 2016, the Board has filled all of its authorized NEC positions. To accomplish this, the Board requested and was granted authorization to hire above minimum salary. Additionally, the Board implemented limited alternative staff headquarters designations. This allowed the hiring of NECs with their homes designated as headquarters.

Today, the Education Division's staff includes a Supervising Nursing Education Consultant and five (5) NECs all of whom possess the education and experience critical to ensure protection of California consumers. In addition to possession of a Master's degree in Nursing or a related field, the cumulative experience of the current Education Division staff exceeds 100 years of professional experience in clinical practice and education. Such expertise is imperative to ensure the development and delivery of a curriculum that results in the progressive mastery of critical content required to ensure the



EDUCATION DIVISION:

STAFF CHANGES (CONT.), RECLASSIFICATION AND INSPECTION OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIAN PROGRAMS

educational preparation of safe and competent Licensed Vocational Nurses (LVNs) and Psychiatric Technicians (PTs).

Associate Governmental Program Analyst – Retired Annuitant (AGPA-RA)

The Board submitted and was approved by the Department of Consumer Affairs to hire two (2) AGPA – RAs; both positions have been filled.

Reclassification

The Board is pursuing reclassification of the Management Services Technician (MST) assigned to the Education Division to an Associate Governmental Program Analyst (AGPA). This reclassification is consistent with duties to be performed. Such reclassification will provide assistance in the performance of noncomplex analytical tasks, and, thus allow maximum utilization of NECs to perform the more complex analytical duties included in program analysis.

Inspection of Vocational Nursing (VN) and Psychiatric Technician (PT) Programs

From April 2014 through September 2016, Education Division consultant staff completed 159 inspections of approved and preapproved VN and PT programs. Inspections completed on – site totaled 59; program inspections via analysis of critical program records and materials totaled 100.

The primary role of the Board’s Education Division is the preparation of safe and competent Licensed Vocational Nurses (LVNs) and Psychiatric Technicians (PTs). Specifically, the Education Division is responsible for ensuring the development and approval of VN and PT programs that comply with requirements specified in Business & Professions Code, Division 2, Chapter 6.5, Article 4 and Chapter 10, Article 4, and California Code of Regulations, Title 16, Division 25, Chapter 1, Article 5, and Chapter

**EDUCATION
DIVISION:**

**INSPECTION OF
VOCATIONAL
NURSING AND
PSYCHIATRIC
TECHNICIAN
PROGRAMS
(CONT.)
AND
CURRENT
WORKFORCE
DATA**

2, Article 5. Those programs must provide the education required to ensure the preparation of safe and competent VNs and PTs upon entry into professional practice.

The Education Division ensures that all approved programs develop and offer a curriculum that contains specific complex scientific material that is presented in a sequence that results in the progressive mastery of critical didactic and clinical content relative to clients of all ages in current health care settings. The Education Division ensures that each curriculum contains critical professional knowledge, skills, and abilities necessary for the delivery of safe and competent client care. The Education Division ensures that each program curriculum is accurately presented utilizing current established instructional methodologies and techniques necessary to maximize students' acquisition of professional knowledge, skills, and abilities necessary to maximize student achievement. In so doing, the Education Division assists the Board in achieving its mandate of the protection of California consumers.

Are there sufficient LVN students and programs to meet statewide demands for LVNs for the next five years?

Workforce data¹ continues to project growth in the employment of nursing and psychiatric technicians. Specifically, a 16% growth in the employment of RNs and LVNs is projected from 2014 to 2024. The California Employment Development Department (EDD) has also projected growth. Employment of LVNs in the State is projected to increase by 20.9% between 2014 and 2024. It is hypothesized that this growth is a response to an increased overall need for healthcare services, escalating growth in the nation's elderly population, scientific and technological advancements, and a corresponding workforce aging, expected retirements and exodus from the profession.

¹ U.S. Bureau of Labor Statistics September 19, 2016

EDUCATION DIVISION:

CURRENT WORKFORCE DATA (CONT.)

Growth is also projected in the employment of PTs. According to the U.S. Bureau of Labor Statistics, 5% growth is projected in the employment of PTs from 2014 to 2024 across the nation. The California EDD projects employment of PTs in the State to increase by 1.2% between 2014 and 2024.

It is hypothesized that the reduced projection for California is a result of changes occurring in the sites in which client care is delivered. Historically, clients with mental disorders and developmental disabilities were provided care in State hospitals and developmental centers. Information from the Department of Developmental Services confirmed the pending closure of the remaining developmental centers in accordance with federal guidelines designating a change in the delivery of care for clients with developmental disabilities. Clients with diagnoses of developmental disabilities are now being relocated to small group homes rather than large institutions. As the sites of care change, employment or utilization of personnel will also change. Clients' needs for care remain; only the sites of delivery are changing.

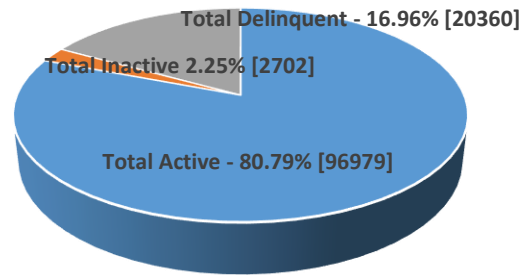
TABLE 1 – Population of Healthcare Professionals			
Healthcare Professional Classification	Employment Projections 2014 – 2024		Current California Population
	*National	**California	
Licensed Vocational Nurse	16%	20.9%	120,041
Psychiatric Technician	5%	1.2%	11,840
* US Bureau of Labor Statistics			
** California Employment Development Department			

Licensed Vocational Nurses and Psychiatric Technicians are entry-level professions. Effective October 18, 2016, existing statistics confirm that California's population of LVNs includes 120,041. California's current population of PTs includes 11,840. The current population of practitioners includes licensees holding active and inactive licenses in addition to those holding delinquent licenses.

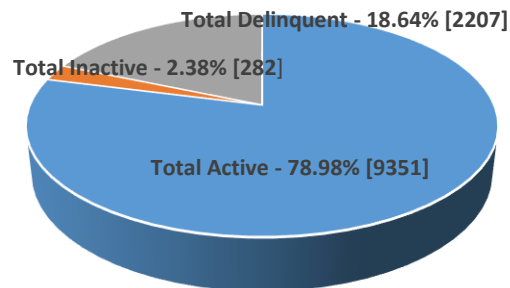
**EDUCATION
DIVISION:**

**CURRENT
WORKFORCE
DATA
(CONT.)**

**Current Healthcare Workforce
Licensed Vocational Nurses**



**Current Healthcare Workforce
Psychiatric Technicians**



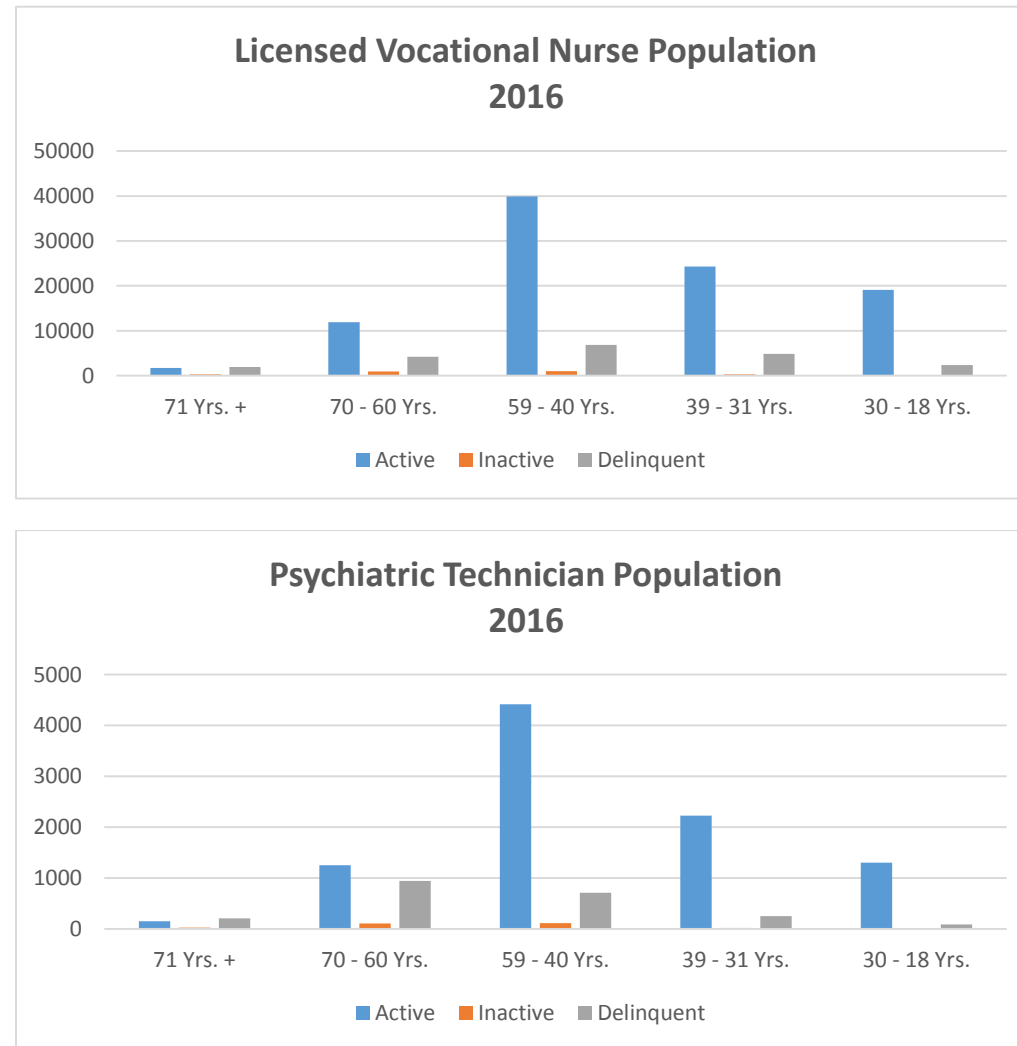
California Code of Regulations §§ 2540.1 (VN) and 2592.1 (PT) specify that licensees are required to submit proof of completion of 30 hours of continuing education that is related to their practice as a condition of re-licensure. Active licensure denotes full compliance with existing statutory and regulatory requirements for initial licensure and re-licensure. Inactive licensure denotes noncompliance with requirements for licensure. Typically, inactive licensure signifies the licensee has submitted payment of required fees; however, has not complied with continuing education requirements for re-licensure. Delinquent licensure denotes noncompliance with requirements for licensure in excess of 30 days after expiration of licensure.

A determination of the adequacy of the current program population to meet California's demands for competent LVNs and PTs over the next five (5) years necessitates further analysis of the licensee population.

**EDUCATION
DIVISION:**

**CURRENT
WORKFORCE
DATA
(CONT.)**

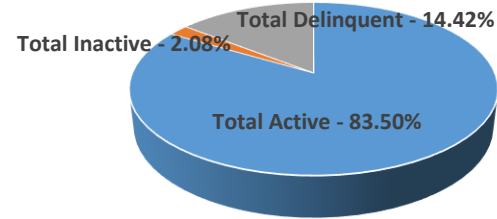
An analysis of the age distribution of VNs and PTs substantiates that the largest populations of active VNs and PTs were born between 1957 and 1976.



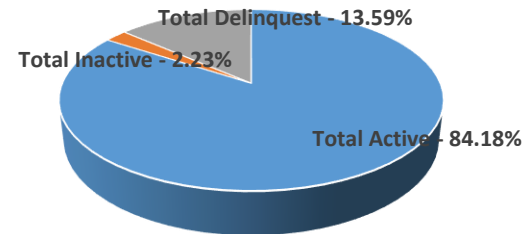
**EDUCATION
DIVISION:**

**CURRENT
WORKFORCE
DATA
(CONT.)**

**Current Workforce
Licensed Vocational Nurse Population
Ages 40 - 59 Years of Age**



**Current Workforce
Psychiatric Technician Population
Ages 40 - 59 Years of Age**



Chronologically, this population of licensees are between 40 and 59 years of age. This population of LVNs includes 47,770 licensees (Active: 39,888; Inactive: 992; Delinquent: 6,890). The population of PTs includes 5,247 licensees (Active: 4,417; Inactive: 117; Delinquent: 713).

Using a standard retirement age of 65, this population of licensees are projected to practice an additional eight (8) to twenty five (25) years – between 2022 and 2041.



EDUCATION DIVISION:

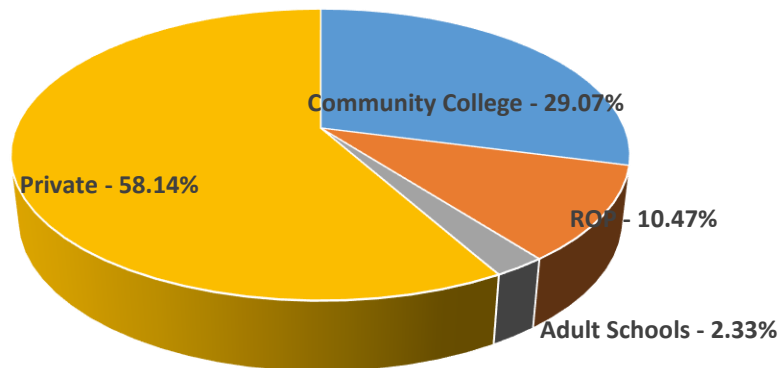
PROGRAM CLASSIFICATION

The Board is actively responding to the current and projected need with its approval of new and existing VN and PT programs. Based on the numbers of admissions approved for VN and PT programs, the graduation and licensure of VNs and PTs is projected to be adequate to meet the healthcare demands.

From 2001/2002 to 2011/2012, the number of VN programs increased 140.28%; the number of PT programs increased 14.38%. The greatest area of growth was in private programs. In 1985, community colleges comprised 70% of the total number of approved and pre-approved VN and PT programs; private programs comprised the smallest number of programs.

Effective August 1, 2016, a total of 172 programs are approved by the Board to offer educational programs leading to vocational nurse (VN) and psychiatric technician (PT) licensure. Of the total programs, 58.14% are proprietary programs; 29.07% are community college based programs; 10.47% are based in regional occupational centers; and 2.33% are based in adult schools.

VN AND PT PROGRAM CLASSIFICATION



There are five (5) VN and one PT pre-approved programs awaiting full approval, for a total of six (6) preapproved programs. An additional four (4) VN and one PT educational institutions are currently completing development of their curriculum and securing educational resources required for submission of a complete proposal requesting approval for program commencement.



EDUCATION

DIVISION:

PROGRAM CLASSIFICATION (CONT.)

Upon submission of a request for program commencement, the Board assigns a NEC to assist the school in reaching its goal for development of a proposal that includes a curriculum with critical resources that is presented in a sequence that results in students' progressive mastery of complex scientific knowledge and skills and demonstrated proficiency in performance of skills and procedures. Early in the development process, the VN or PT program director is forwarded an electronic orientation. Information presented provides an orientation and clarification relative to statutory and regulatory requirements with which programs must comply to achieve approval. The electronic orientation is followed by a teleconference with the assigned NEC. At this time, additional clarification is provided as needed.

The assigned NEC assists the director in the development of the necessary curriculum. Specifically, the consultant completes a thorough analysis of the curriculum and provides critical feedback.

Following program approval, the Education Division continues to offer assistance relative to new and existing VN and PT programs. The Division continues to work collaboratively with programs to enhance the delivery of quality education that ensures the preparation of safe and competent LVNs and PTs.

The table on the following page denotes the number of new and additional student admissions approved for VN and PT programs from FY 07/08 through FY 15/16.

**EDUCATION
DIVISION:**
**ADMISSIONS
STATISTICAL
DATA**

TABLE 2. Licensing Data by Type									
New & Additional Students Admissions Approved Per Year									
VN Programs	Actual FY 07/08	Actual FY 08/09	Actual FY 09/10	Actual FY 10/11	Actual FY 11/12	Actual FY 12/13	Actual FY 13/14	Actual FY 14/15	Actual FY 15/16
# of Students Approved for "New" Programs	533	264	150	120	30	20	157	212	167
# of Additional Students Approved for "Existing" Programs	3269	3,885	4,694	7,087	6,290	6,418	8,751	5,906	6,865
Total # of <u>New & Additional</u> Student Admissions	3,802	4,149	4,844	7207	6,320	6,438	8,908	6,118	7,032
% Growth in Admissions									84.95%
PT Programs	Actual FY 07/08	Actual FY 08/09	Actual FY 09/10	Actual FY 10/11	Actual FY 11/12	Actual FY 12/13	Actual FY 13/14	Actual FY 14/15	Actual FY 15/16
# of Students Approved for "New" Programs	30	30	30	0	30	15	30	0	20
# of Additional Students Approved for "Existing" Programs	15	30	100	225	180	636	180	485	110
Total # of <u>New & Additional</u> Student Admissions	45	60	130	225	240	651	210	485	130
% Growth in Admissions									188.89%

It must be noted that existing VN and PT programs are experiencing an increased number of applicants for admission into a limited number of class slots. That increase in addition to the number of individuals licensed is projected to provide sufficient licensees to meet the current and future needs for healthcare personnel.



EDUCATION DIVISION:

LOAN REPAYMENT PROGRAMS AND CLINICAL ROTATION AVAILABILITY

How is the BVNPT working with OSHPD to increase applicants for loan repayment programs?

Effective July 1, 2004, SB 358 (Chapter 640, Statutes of 2003) established the Health Professions Education Foundation (HPEF) under the auspices of the Office of Statewide Health Planning and Development. The HPEF was given the authority and responsibility to establish funding sources to assist various levels of nursing students with their education in return for a contractual commitment to work in an underserved area of the state following licensure. The Vocational Nurse Education Fund (VNEF) was established for VN candidates. Each LVN is assessed an additional \$5 fee when they renew their license every two years. Although the Board collects the \$5 fee, the funds are immediately transferred to the HPEF. According to the HPEF, the Office of Administrative Law approved the regulations effective July 24, 2006.

The Board has disseminated information regarding the VNEF to all programs since the passage of SB 358. Additionally, the Board has invited HPEF administrators to address the Board and to speak to groups of VN educators regarding its progress on two occasions. Further, the Board annually disseminates information to all California VN Programs regarding this program.

What is the BVNPT doing to increase clinical rotation availability for students? Are program approvals contingent on ensuring appropriate placements?

Pursuant to California Business and Professions Code §§ 2882 (VN) and 4531 (PT), all VN and PT programs are required to provide a course of instruction that includes theory instruction in addition to clinical instruction. Specifically, VN programs are required to provide clinical instruction in the care of clients with medical, surgical, and obstetrical diagnoses. Programs are also required to provide clinical experience in the care of sick children. PT programs are required to provide theory instruction that includes pathophysiology and care of clients with mental disorders and developmental disabilities. Additionally, the statute specifies that clinical inpatient experience shall be an integral part of the program. California Code of Regulation §§ 2534 (VN) and 2588 (PT) specify that VN and PT



EDUCATION DIVISION:

CLINICAL ROTATION AVAILABILITY (CONT.)

programs must have available for assignment to students, an adequate daily census of clients to afford a variety of clinical experiences that are consistent with competency – based objectives and presented theory.

The Board confirms the adequacy of program clinical placements and consistency with the current and proposed student enrollment prior to program approval. Programs are required to secure clinical facilities that provide an adequate daily census of clients sufficient to afford a variety of clinical experiences that are consistent with competency – based objectives and presented theory.

The Board has identified difficulties in the adequacy of available clinical placements that provide clinical experience in obstetrical nursing and pediatric nursing. This shortage has been identified throughout all states. Difficulties in securing sufficient clinical placements have been reported by new and existing programs. Discussion among program administrators confirms that a number of programs obtain clinical placement based on financial incentives. Such incentives reduce the availability for all programs.

The Board continually researches and analyzes optional experiences and technological advancements that may enhance or augment experiences provided by clinical facilities. Such options and advancements must offer student experiences that are consistent with the program's objectives. Clinical simulation is one such experience. It is widely recognized that clinical simulation is an important instructional tool in the educational preparation of safe and competent practitioners. However, it must be noted that clinical simulation must be used to support instructional quality and student proficiency, not supplement clinical facility placement that includes actual clinical assignment to clients. Total utilization of clinical simulation is inadequate to ensure students' competency. Students must complete required tasks and skills on living clients.

The Board continues to clarify the practice and utilization of LVNs and PTs for consumers, clinical facilities, licensees, other health professionals, and governmental agencies. Such clarification is



EDUCATION

DIVISION:

CLINICAL ROTATION AVAILABILITY (CONT.) AND CONTINUING EDUCATION PROVIDER APPROVAL AND AUDITS

typically provided in response to inquiries received telephonically and via correspondence received electronically and via U.S. mail.

Additionally, Board representatives meet with clinical facilities, private entities, and governmental representatives to clarify the theoretical and clinical preparation of VNs and PTs and corresponding utilization in the clinical setting.

Please explain the criteria by which CE providers are approved. How many CE providers have been audited?

Pursuant to authority cited in Business and Professions Code §§ 2892.5 (VN) and 4517 (PT), the Board is authorized to establish a continuing education program to ensure LVNs and PTs possess current knowledge, skills, and abilities relative to their field of study. Further, the Board is authorized to establish standards to ensure the provision of a variety of alternative forms of continuing education for licensees.

As specified in California Code of Regulations §§ 2540.3 (VN) and 2592.3 (PT), the Board is authorized to approve providers of continuing education for VNs and PTs. Individuals seeking approval as course providers are currently required to complete an application that identifies the initial course to be offered. That course must:

- Be related to the scientific knowledge and/or technical, manual skills required for VN and/or PT practice;
- Be related to direct and/or indirect client care; and
- Provide learning experiences expected to enhance the knowledge of the LVN or PT at a level above that required for initial licensure.



EDUCATION DIVISION:

CONTINUING EDUCATION PROVIDER APPROVAL AND AUDITS (CONT.)

In accordance with the realignment of unit tasks, implementation of statutes and regulations relative to the Board's continuing education program for LVNs and PTs has been recently assigned to the Education Division.

Accordingly, applications for approval of continuing education providers are processed and approved by the Division's Nursing Education Consultants. In so doing, assigned Division staff complete an analysis and evaluation of the proposed course, including the following elements:

Course Description

Pursuant to regulatory requirements, each course must be related to the practice of LVNs and/or PTs.

Learning Objectives

Providers are required to identify objectives for the proposed course that are clearly stated in measurable terms. Such objectives specify the learning standards students are expected to meet upon course completion.

Course Hours

The Provider must specify the number of theory and clinical hours to be awarded upon successful completion of the proposed course.

Evaluation Methodology

Providers are required to include the methodology by which the course and students are evaluated.

Textbooks or Required References

To ensure communication to licensees and interested consumers, a list of currently approved providers of continuing education is listed on the Board's website. Effective January 1, 2017, such information will also be listed in BreZE. This action will communicate information to licensees. Further, this technology will automatically generate a renewal notice to providers 60 to 90 days prior to approval expiration.

**EDUCATION
DIVISION:

STATUS OF
PROGRAM
APPLICATIONS**

What is the status of program applications?

Pursuant to authority cited in Business and Professions Code, Division 2, Chapter 6.5, Article 4, § 2881 (VN) and Chapter 10, Article 4, § 4531 (PT), the Board is authorized to approve all VN and PT programs. California Code of Regulations Division 25, Chapter 1, Article 5 (VN) and Chapter 2, Article 5 (PT) specify the procedure required for approval of new programs.

As specified therein, the following critical program elements are required in each submitted proposal:

- Philosophy of the Program
- Conceptual Framework
- Curriculum Objectives
- Course Outlines
- Course Objectives
- Instructional Plan
- Evaluation Methodology for Curriculum
- Qualified Faculty
- Clinical Facilities Evaluation Methodology
- Admission Criteria
- Screening and Selection Criteria
- Proposed Student Population
- Evaluation Methodology for Student Progress
- Counseling and Tutorial Resources for Students
- Student Policies
- Organizational Chart
- Evidence of Program Resources
- Terminal Objectives specifying expected student outcomes upon successful completion of the program.



EDUCATION DIVISION:

STATUS OF PROGRAM APPLICATIONS (CONT.)

- Clinical facilities that provide a sufficient number, type, and variety of clients treated to provide clinical experience of like character and quality for all enrolled students in the areas of the curriculum.

As of February 28, 2014, Board files contained a total of 146 applications for commencement of new vocational nursing (135) and psychiatric technician (10) programs requiring initial analysis. That backlog resulted from the marked increase in the number of proposals for commencement of new programs and the prolonged shortage of NECs the Board experienced from 2007 through January 7, 2015.

Preliminary analysis of submitted applications identified a number of critical deficiencies. A number of applications had been submitted without required documents. Others had been submitted without a proposed program director. While the Board had forwarded correspondence advising of deficiencies and required corrections, a number of programs had failed to respond or provide the requested documents and information. Other applicants failed to submit a proposed curriculum.

After consultation with legal counsel, the Board approved a moratorium on the processing of new proposals for commencement of VN and PT programs on February 26, 2014. The Board directed staff to remove the non – responsive proposed programs from the queue of programs to be analyzed and issue a notice to the non – responsive programs. Further, staff were directed to advise proposed programs without a current Board – approved director that their proposals would not be processed until a director, approved by the Board, is in place and advise that if such action does not occur in 30 days that the proposed program will be removed from the queue of programs to be analyzed.

The Education Division subsequently began a thorough analysis of submitted proposals to ensure compliance with statutory and regulatory requirements. Each curriculum must contain critical content that is presented in a sequence that results in enrolled students' progressive mastery of increasingly complex scientific knowledge, skills, and abilities. In so doing, each curriculum must result in the



EDUCATION

DIVISION:

STATUS OF PROGRAM APPLICATIONS (CONT.) AND NEC POSITION UPDATES

preparation of licensees able to provide safe and competent client care upon entry into professional practice.

Effective February 28, 2016, the moratorium ended. Since that time, one additional proposal and six (6) applications have been received. Effective September 1, 2016, two (2) proposals await analysis (VN - 1; PT - 1). Five (5) educational institutions (VN - 4; PT - 1) have reported continued development of the curriculum and securing educational resources required for submission of a complete proposal for program commencement. From 2014 through 2016, the Board has approved the commencement of ten (10) new VN programs.

Are all NEC positions currently full, if not, have you explored other options for attracting applicants to the NEC position besides salary? (Flexible schedules, etc.)

As noted previously, the Board experienced a critical shortage in the Nursing Education Consultant (NEC) classification that dates as early as 2007. From 2009 through 2013, 80% of the Board's NEC positions were vacant.

Effective September 21, 2016, the Board has filled all currently approved positions for the NEC classification. To accomplish this, the Board requested and was granted authorization to hire above minimum salary. Additionally, the Board implemented limited alternative staff headquarters designations. This allowed the hiring of NECs with their home designated as headquarters.



LICENSING AND ADMINISTRATIVE SERVICES DIVISION: IMPROVEMENTS

SECTION C: LICENSING AND ADMINISTRATIVE SERVICES DIVISION

The mission of the 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.

The Board currently licenses 120,041 vocational nurses (VNs) and 11,840 psychiatric technicians (PTs).

Improvements

The Licensing Division (Division) is pleased to announce that processing times for school graduates has decreased from approximately six (6) weeks to as quickly as one (1) week. This decrease in processing time has allowed some graduates to schedule their examination within one month of applying. Decreasing examination application processing times greatly assists graduates with information retention and leads to a more successful examination.

In an effort to provide our applicants, licensees and consumers with excellent customer service, the Board has increased its receptionist/phone staff by 100%, and has also created an association with the Department of Consumer Affairs (DCA) Consumer Information Center (CIC) to assist the Board with overflow calls and BreEZe technical questions. Having the ability to utilize DCA-CIC as a resource has greatly enhanced the Board's ability to respond to applicants, licensees and consumers. The Board is excited to announce that the establishment of a call-center is currently in progress. The Board's vision is to decrease call wait times, increase customer service, and consumer protection.

In addition to increasing the Board's receptionist/phone staff, the Licensing and Administrative Services Divisions were approved to hire four (4) additional positions: one Office Assistant (Mailroom), one Staff Services Analyst (International Evaluator), one Associate Governmental Program Analyst



**LICENSING AND
ADMINISTRATIVE
SERVICES DIVISION:**

**IMPROVEMENTS
(CONT.)
AND
REORGANIZATION**

(Legislation and Regulations Analyst), and an additional Staff Services Manager (Support Services). These additional positions will greatly assist the Division in appropriately distributing current workloads, thus increasing efficiency, as well as consumer and Board staff satisfaction.

Reorganization

In Fiscal Year (FY) 2014/15, the Licensing and Administrative Services Divisions were managed by one Staff Services Manager (SSMI). As a result, the assigned SSMI was responsible for effective management of the day-to-day operations for 32 employees, including the following classifications:

- Office Assistants;
- Office Technicians;
- Program Technicians I;
- Program Technicians II;
- Management Services Technician;
- Staff Services Analysts;
- Associate Governmental Program Analysts;
- Associate Information Systems Analyst; and
- Supervising Program Technician III.

In FY 2015/16, the Board's acting Executive Officer appointed a Supervising Program Technician III (SPT III). During that same FY, the Staff Services Manager (SSMI) retired from state service. Subsequent to the reorganization (see below) in an effort to improve the organization of the Licensing Division, the SPT III was reclassified to an Office Service Supervisor III, thus, allowing the Board to be compliant with staff allocation rules specified by the California Department of Human Resources.

In FY 2015/16, the Board's new Executive Officer completed a thorough analysis of the existing structure of the Divisions and associated workload of the SSMI. In so doing, the Executive Officer determined that the Division structure and workload necessitated a revised administrative structure.



**LICENSING AND
ADMINISTRATIVE
SERVICES DIVISION:

REORGANIZATION
(CONT.),
NEW LICENSING
AND
ENFORCEMENT
DATABASE
AND
CREDENTIALING
SERVICE
EVALUATION**

As a result, a vacant Staff Services Analyst position was reclassified to create a second SSMI position. This change enhances the efficiency of the Licensing and Administrative Services Divisions, and better utilizes managerial resources.

Reorganization of the Licensing and Administrative Services Divisions enhanced the Board's ability to carry out its mission to protect California consumers. Prior to the reorganization, the Divisions were managed by one SSMI. Under the reorganization, each Division is now managed by a SSMI.

New Licensing and Enforcement Database – BreEZe

In January 2016, the Board transitioned to the new BreEZe licensing and enforcement database. This new system not only provides helpful online services for our consumers, licensees and applicants, but also provides data conversion and reporting tools that allow the Licensing Division staff to capture data that could not be obtained in the old (CAS/ATS) systems.

In addition to BreEZe, as of July 2016, the Board is also able to utilize the Quality Business Interactive Reporting Tool (QBIRT) system, which allows the Board to run various reporting statistics. Previously, reports were limited and sometimes reliant on Board staff to maintain workload, processing times, pending applications, etc., using Excel or other programs.

Since the implementation of BreEZe on January 19, 2016, licensing processing times have increased, however the processing times for school graduates has decreased from six weeks to as little as one week. The Licensing Division continuously works to improve its current processes.

Credentialing Service Evaluation (Requirement of International Applicants)

Effective June 2016, the Board requires all international educational documents to be evaluated by a third party credential evaluation service agency to increase consumer protection by ensuring each applicant's educational history meets California standards.



**LICENSING AND
ADMINISTRATIVE
SERVICES DIVISION:**

**BOARD
COMMITTEES**

Please list the Board Committees that have met since the last Sunset Review.

Since the last Sunset Review, the Board now has a full complement of board members. Our standing committees were reactivated. For example, our Legislation and Regulations Committee reviewed and developed positions on 18 pending Legislation. The Education Committee makes recommendations on initial provisional status for educational institutions, as well as reviews complex regulatory issues impacting academic institutions. The other six committees have also met regularly: Enforcement, Evaluations, Executive, Licensing, Practice, and Strategic Outreach.

The following committees now meet regularly:

- Education Committee
- Enforcement Committee
- Evaluations Committee
- Executive Committee
- Legislation and Regulations Committee
- Licensing Committee
- Practice Committee
- Strategic Outreach Committee



**LICENSING AND
ADMINISTRATIVE
SERVICES DIVISION:**

FINGERPRINTING

What percentage of current licensees are fingerprinted, including those licensed pre-1998?

Business and Professions Code § 480 authorizes the Board to deny licensure to eligible candidates if the applicant has:

- (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.
- (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- (3) Done any act that if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

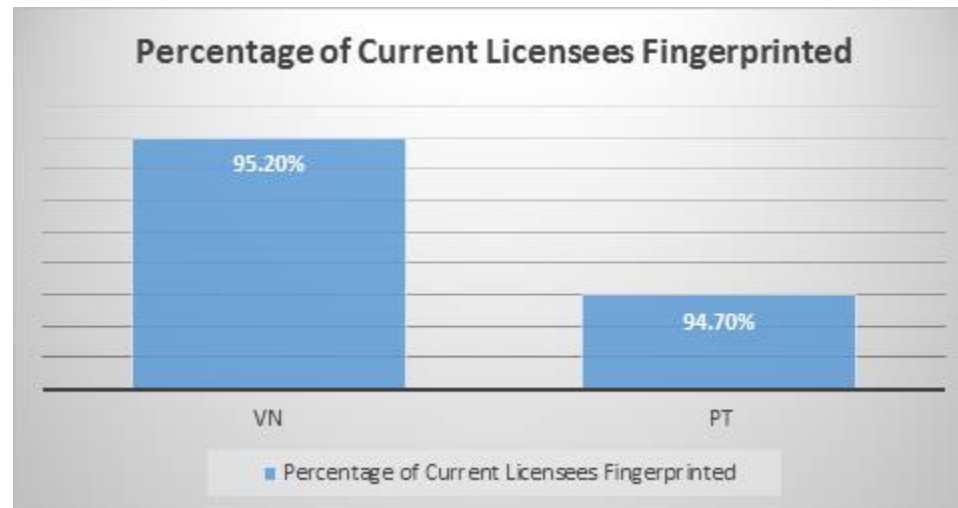
That denial is authorized provided the act or crime is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

Accordingly, the Board requires all applicants for initial or renewal VN or PT licensure to undergo a criminal history background history check by the Department of Justice (DOJ) and the Federal Bureau of Investigations (FBI). The Board withholds licensure until a report is received from both of these agencies.

**LICENSING AND
ADMINISTRATIVE
SERVICES DIVISION:**

**FINGERPRINTS
AND
ARREST/
CONVICTION
NOTIFICATIONS**

Of the total licensee population, Board records confirm compliance of 95.20% of the current VN population. Additionally, compliance is confirmed for 94.70% of the current PT population.



Does the Board get automatic arrest/conviction notifications for licensees?

Yes. Once the Board receives an initial DOJ and FBI response (required prior to licensure), the Board receives Subsequent Arrest Reports (SARs) from DOJ for all applicants and licensees. The SAR is then routed and reviewed by the Board's Enforcement Division after the applicant passes their examination. SARs for licensees are routed directly to the Enforcement Division for review.

Does every division (Licensing, Cashiering) have current procedure manuals?

Yes, Licensing has written procedure manuals; however, with the implementation of BreEZe, the board has identified the need to research best practices to further enhance our current processes. The Cashiering Unit has a written procedure manual and with the implementation of BreEZe, the Board has obtained a complete, accurate, and detailed procedure for each type of cashiering duty.

The Board ensures employees adhere to procedures through a variety of methods and measures, including the following:

- Conducting monthly one-on-one meetings with staff, and continually educating staff.
- Holding regular unit meetings to discuss processes and ensuring consistency in applying the processes.
- Conducting quarterly All-Staff meetings to provide critical Board-wide updates for staff, as well as discussing procedure changes that will directly and indirectly affect units.

The Board is leveraging established processes from other DCA Boards and Bureaus, as well as the National Council of State Boards of Nursing (NCSBN) to develop robust procedures. Additionally, we are working with the State of California Government Operations (Gov Ops) to conduct a Lean Green Belt 6-month project to streamline processes and maximize efficiency. We anticipate having this project completed by summer 2017.

Please provide metrics on current licensing statistics since the last review.

**LICENSING AND
ADMINISTRATIVE
SERVICES DIVISION:**

**LICENSING
STATISTICAL
DATA**

TABLE 3a. Licensee Population (VN Program)			
		FY 2014/15	**FY 2015/16
Vocational Nursing	Current *	104,261	98,297
	Out-of-State	4,073	3,893
	Out-of-Country	39	44
	Delinquent	23,844	20,233
* Includes active and inactive licenses			
** As of 9/9/2016			

TABLE 3b. Licensee Population (PT Program)			
		FY 2014/15	**FY 2015/16
Psychiatric Technician	Current *	10,843	9,610
	Out-of-State	162	116
	Out-of-Country	3	2
	Delinquent	2,387	2,215
* Includes active and inactive licenses			
** As of 9/9/2016			



**LICENSING AND
ADMINISTRATIVE
SERVICES DIVISION:**

**LICENSING
STATISTICAL
DATA
(CONT.)**

TABLE 4a. Licensing Data by Type (VN Program)

	Application Type	Received	Approved	Closed	Issued
FY 2014/15	(Exam)	9,951	6,074	1,644	n/a
	(License)	7,470	7,271	n/a	7,271
	(Renewal)	50,129	50,537	2,117	50,537
FY 2015/16	(Exam)	7,805	5,725	2,882	n/a
	(License)	6,784	6,100	n/a	6,100
	(Renewal)	52,385	50,348	6,149	50,348

TABLE 4b. Licensing Data by Type (PT Program)

	Application Type	Received	Approved	Closed	Issued
FY 2014/15	(Exam)	612	547	75	n/a
	(License)	491	489	n/a	485
	(Renewal)	5,641	5,687	297	5,687
FY 2015/16	(Exam)	1,067	588	57	n/a
	(License)	591	404	n/a	404
	(Renewal)	5,439	5,437	1,067	5,437



**LICENSING AND
ADMINISTRATIVE
SERVICES DIVISION:**

**LICENSING
STATISTICAL
DATA
(CONT.)**

TABLE 5a. Total Licensing Data (VN Program)		
	FY 2014/15	FY 2015/16
Initial Licensing Data:		
Initial License/Initial Exam Applications Received	17,421	14,589
Initial License/Initial Exam Applications Approved	13,345	11,825
Initial License/Initial Exam Applications Closed	1,644	2,882
License Issued	7,271	6,100
License Renewal Data:		
License Renewed	50,537	50,348

TABLE 5b. Total Licensing Data (PT Program)		
	FY 2014/15	FY 2015/16
Initial Licensing Data:		
Initial License/Initial Exam Applications Received	1,103	1,658
Initial License/Initial Exam Applications Approved	1,036	992
Initial License/Initial Exam Applications Closed	75	57
License Issued	485	404
License Renewal Data:		
License Renewed	5,687	5,437



ENFORCEMENT DIVISION:

INTRODUCTION AND LEADERSHIP

SECTION D: ENFORCEMENT DIVISION

The Board is mandated to protect consumers from dangerous practitioners in the most efficient and effective manner possible.

To this end, the Board has an aggressive enforcement program designed to protect consumers. The goal is to provide a fair and unbiased review and investigation process. Generally, most licensees serve consumers in a safe and professional manner. However, when a licensee fails to uphold their professional or ethical responsibilities, the Board conducts swift and just enforcement to protect the integrity of the profession and the safety of consumers.

From Fiscal Year 2014/15 through 2015/16, the Board:

- Closed investigations on 12,252 licensees
- Referred 654 licensees and applicants for formal discipline
- Issued 453 citations
- Collected \$182,278 in citation and fine revenue
- Revoked or accepted surrender of 408 licenses
- Placed 287 licensees on probation
- Received 1,622 complaints

Since the last Sunset report in 2014, the Enforcement Division has undergone sweeping changes and reorganization. This includes changes in leadership, procedures, conversion to a new database and relocation of staff and specific units.

Leadership

The Enforcement Division has new leadership in place that includes the Enforcement Division Chief, Complaint Unit Manager and Supervising Special Investigator. With new leadership in place, an aggressive review of processes resulted in the implementation of streamlined procedures. Additionally

ENFORCEMENT

DIVISION:

IMPROVEMENTS

the Board converted to a new database, BreZE, on January 19, 2016. This included new business processes, data conversion, and new reporting tools.

Improvements

The Board formed an Enforcement Task Force comprised of two Board members on September 13, 2013, to study all factors influencing enforcement delays and improve processing times. On November 14, 2014, the Task Force Report identified recommendations intended to increase enforcement processing efficiencies and reduce the backlog of pending cases. The Board adopted the Task Force recommendations and they are identified below.

Since the last Sunset Review, the Enforcement Division has initiated the following improvements:

- In July 2015, the Board obtained delegated subpoena authority to expedite obtaining medical and employee records for use in investigating alleged violations of the law. To support the use of this newly gained investigative tool, Board staff was provided multiple training sessions to ensure correct and proper issuance of subpoenas. (Task Force recommendation)
- The Intake Unit was created to ensure an accurate and timely assessment of each new case and assignment to the appropriate unit for investigation.
- The Citation and Fine Desk was created to issue all citations and coordinate informal conferences and appeals. The streamlining of the citation process created consistency in assessing fines and improved the processing time of citation cases.
- Initiated regular unit meetings with its staff to provide better direction, establish goals and continuously educate staff.



ENFORCEMENT DIVISION:

IMPROVEMENTS (CONT.)

- Initiated regular meetings with the Department of Consumer Affairs' (DCA) Division of Investigation (DOI). Enforcement staff and the DOI meet monthly to discuss pending investigations and to address any case aging issues. (Task Force recommendation)
- Initiated regular meetings with the Office of the Attorney General (OAG). Staff continues to communicate with the OAG on a weekly basis. (Task Force recommendation)
- Successfully converted to BreEZe on January 19, 2016. The Board dedicated significant staffing resources to User Acceptance Testing, data conversion testing and staff training to support a successful transition to BreEZe.
- Regularly participates in the DCA's Enforcement users group and the DCA's BreEZe reports users group increasing opportunities for networking and communication of information and procedures.
- The units within the Division changed physical locations to support our new business process and create improved collaboration between the units.
- Streamlined the transmittal process for cases sent to the OAG and improved the processing time for filing of pleadings.
- Streamlined the voting process - Board voting is now paperless and the frequency has been increased to two times per month. (Task Force recommendation.)
- Increased staff training. The majority of all enforcement analytical staff are participating in DCA's Analyst Certification Training. This is a series of courses offered to develop analytical skills. In October 2015 Investigation Unit staff attended the National Certified Investigator Training offered by the Council on Licensure, Enforcement and Regulation (CLEAR). In October 2016, Board Investigation staff participated in the inaugural NCSBN Investigator Training specifically designed

ENFORCEMENT

DIVISION:

IMPROVEMENTS

(CONT.)

AND

TRAFFIC VIOLATION

DECLARATIONS

for nursing board enforcement staff. In FY 2015/16 staff was provided with significant training in areas such as how to properly obtain confidential records, and preparing and issuing subpoenas.

- Created weekly, monthly and quarterly performance reports. This allows for continuous monitoring and assessment of case aging and progress towards reducing processing times.

The Board is dedicated to continuous improvement of its processes to reduce processing times and provide greater consumer protection.

In the 2015 Sunset Review Background Paper, there were several discrepancies in data reported by Board staff. What steps has the Board taken to ameliorate misreporting of data? Has the BreEZe system helped the Board to categorize and report data in a more accurate manner?

The discrepancies in data reported in the 2015 Sunset Review Background Paper were due to the legacy system having insufficient space to accurately enter all applicable codes; therefore staff had to delete codes to gain additional space and enter the most recent codes. This may have contributed to the discrepancies. Staff has been trained, provided procedure manuals, additional codes have been created for staff utilization, and there is sufficient space in the new BreEZe system. The BreEZe system has helped the Board categorize and report data more accurately. Conversion errors from the legacy systems to the new BreEZe system still exist. The Board continues to prioritize the correction of conversion errors.

Please explain what traffic violations you expect applicants to declare. What is your reasoning for collecting this information?

The Board has authority to deny licensure to a vocational nurse or psychiatric technician applicant whose criminal background is substantially related to the license applied for and/or when there is reason to believe the applicant may jeopardize consumer health and safety.



ENFORCEMENT DIVISION:

TRAFFIC VIOLATION DECLARATIONS (CONT.)

The Board may deny licensure for any of the following reasons:

Conviction of a Crime - Includes a plea or verdict of guilty or a conviction following a plea of nolo contendere.

Dishonesty - Includes the commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit him/herself or another, or substantially injure another.

Related Criminal Behavior - Commission of any act which, if done by a licensed vocational nurse or psychiatric technician, would be grounds for suspension or revocation of licensure.

Falsification of Application - Includes knowingly making a false statement of fact in the application for licensure.

Disciplinary Action Taken by Another Agency or State - Includes other California health care professional licensing boards or other governmental agencies.

Offenses That May be Excluded from Disclosure

The following offenses are the only offenses that may be excluded from disclosure:

- Traffic violations with fines under \$1,000, which do not involve alcohol, dangerous drugs, or controlled substances.
- Convictions that were adjudicated in the juvenile court (exception: if applicant was convicted as an adult while under 18 years of age).



ENFORCEMENT DIVISION:

TRAFFIC VIOLATION DECLARATIONS (CONT.) AND WRITTEN PROCEDURES

- Convictions under California Health and Safety Code §§ 11357(b), (c), (d), (e), or § 11360(b) (marijuana-related) which are two years or older.

The Board gathers information regarding an applicant's criminal history by requesting detailed information from the applicant about the conviction(s), including certified court documents, police reports, an explanation from the applicant about the circumstances surrounding the crime(s) and documentation regarding rehabilitation.

The Board evaluates the official criminal documents and supporting information to determine whether the conduct is related to the functions and duties of the profession.

If the Board determines to deny licensure, a Statement of Reasons (denial notice) is mailed to the applicant informing him/her of the right to request a hearing within 60 days from the date of the denial letter.

In order to reduce the reporting of minor traffic convictions and low-level fines that were causing inefficiencies in identifying and acting on relevant conviction/arrest reports, the Board pursued a regulation change. The previous regulation required applicants and licensees to disclose any conviction related to substance abuse or with a fine of over \$300. Effective October 2015, the fine amount increased to \$1,000. This change resulted in a 54% decrease in conviction/arrest reports received since the last Sunset Review. The Board has improved its ability to better protect the public by allowing us to focus our resources on more egregious convictions/arrest report cases.

Does the Board have written procedures?

Under new executive leadership, the Enforcement Division undertook and successfully completed written procedures. By providing each staff member with desk processes and resources tailored to each desk function along with providing continuous educational opportunities, the Board has



ENFORCEMENT

DIVISION:

WRITTEN PROCEDURES AND QUESTIONS

prepared our staff with the knowledge and skills they need to be successful in upholding our mandate to ensure the safety and welfare of California's consumers. From one-on-one case reviews with staff and secondary reviews of completed cases, to the use of management reports to ensure compliance with established metrics, the Board has increased accountability and efficiency.

The Board ensures employees adhere to the procedures through a variety of methods and measures, including the following:

- Secondary review by management of completed cases.
- Utilization of reports to ensure compliance with established metrics. Weekly and monthly reports are distributed to management and staff to identify bottlenecks in the overall process and case aging.
- One-on-one case reviews are held to assess case status, and to set deadlines and goals for case completion.
- Continuous education of staff.
- Regular roundtable meetings to discuss case handling and ensure a consistent application of procedures. This creates consistency in case handling and keeps staff informed of best practices for case processing.

To further support timely completion of cases, the procedures include expectations for completion of specific tasks.

Does the Board have written procedures and criteria for:

Referring cases to enforcement that do not involve offenses that would support denial of a license or issuance of a Notice of Warning (NOW) in conjunction with issuance of the license?

Yes. Striving to employ the best practices and procedures, the Board developed criteria for the referral of applicant cases to enforcement from licensing. Evaluation staff are now able to process applications

ENFORCEMENT DIVISION:

QUESTIONS (CONT.)

without referral to enforcement for certain offenses which would not result in denial of licensure or issuance of a NOW. For instance, traffic offenses with a fine under \$1,000 (unless related to substance abuse) are retained by licensing staff.

The criteria for referral now requires that applicants must meet all eligibility requirements and have passed the examination before referral to the Enforcement Division. The enforcement review will be the final step in the application process.

Applications identified for referral to the Enforcement Division must meet the following criteria before referral:

- Passed all required examinations;
- Met all education and experience requirements; and
- A complete Report of Conviction (ROC). (A ROC is deemed complete when accompanied with a letter of explanation for each offense, certified police reports, and certified court documents.)

Since implementation of the new process in October 2015, the Board has seen a dramatic decrease in the volume of applicant referrals.

TABLE 6. Applicant Intake		
	FY 2014/15	FY 2015/16
Received	3,320	739

ENFORCEMENT

DIVISION:

QUESTIONS (CONT.)

Determining whether to issue a Notice of Warning with the license approval or denial of licensure?

Yes. Because no two cases are the same, the Enforcement Division carries out the Board's mandate for consumer protection by reviewing applicant referrals on a case-by-case basis. While there is no blanket criteria for approval or denial of licensure, procedures identify instances when an analyst may determine to close a case with a Notice of Warning (NOW) and approve the license, or to deny the license. The NOW is used to educate the applicant and possibly prevent further violations that could result in discipline.

Identifying cases where immediate intervention is necessary?

Yes. To achieve organizational efficiency and to ensure consumer protection, the Enforcement Division established an Intake Unit in October 2015. Comprised of an enforcement technician and an analyst, the intake staff is responsible for opening, assessing and assigning complaints. Complaints are assessed according to DCA's *Complaint Prioritization Guidelines for Health Care Agencies* and given a priority of "urgent" (requiring the most immediate resources), "high" (the next highest priority), or "routine" (handled in the ordinary course of business).

As complaints are received, the intake staff immediately review each complaint to determine the appropriate course of action based on priority and the Consumer Protection Enforcement Initiative (CPEI) Case Acceptance Guidelines.

Complaints about conduct that place the public at risk receive the highest priority. All cases identified as "urgent" are referred to the attention of a lead analyst or manager to determine the appropriate course of action, such as expediting the case to investigation or seeking an Interim Suspension Order or Penal Code section 23 request. These steps ensure enforcement is swift and appropriate.



ENFORCEMENT

DIVISION:

QUESTIONS (CONT.)

Identify cases that can be handled by Complaint Unit analysts without referral to Investigations Unit or DOI?

Yes. The use of the CPEI case referral acceptance matrix was implemented in May 2015. Implementation of the matrix required an analysis of our case intake process and resulted in significant changes to the process. In October 2015, the Intake Unit was created to ensure timely case assignment to the appropriate investigative unit. The initial case review determines whether the case should be assigned to a complaint analyst, referred to a Special Investigator or referred to the Division of Investigation (DOI).

The types of cases which can be handled by a desk analyst without referral for field or sworn investigation include applicant enforcement referrals, arrests/convictions, licensee renewal disclosures, continuing education audits and out of state discipline cases. Trained analysts complete these case types at the desk investigation level, permitting non-sworn and sworn investigators to focus their efforts on higher priority cases.

Opening internal complaints?

Yes. The Intake Unit technician is responsible for opening licensee internal complaints, such as licensee renewal disclosures and continuing education audits. Separately, the Complaint Unit has an applicant technician whose sole function is related to applicant referrals from the Licensing Division.

Referral of cases to DOI?

Yes. The use of the CPEI case referral acceptance matrix was implemented in May 2015. Implementation required an analysis of the Board's case intake process and resulted in significant changes and a stronger relationship with the DOI.

ENFORCEMENT DIVISION:

QUESTIONS (CONT.)

The Intake Unit, comprised of an enforcement technician and an analyst, is responsible for opening, assessing and assigning complaints. The initial case review determines whether the case should be assigned to a complaint analyst, referred to a Special Investigator or referred to DOI.

The intake analyst refers cases for sworn investigation using the same case assignment tracking system utilized by DOI. This allows for seamless referrals and instantaneous submission of requests for service. The complaint unit manager regularly meets with its DOI liaison investigator to review case status and discuss timeframes for completing assignments. Through our collaborative efforts, our referral process has vastly improved.

Is the Board aware of the outcomes of the DCA/Department of Investigation (DOI) investigations into enforcement (e.g. mishandling of enforcement cases) and management issues during the prior management's tenure? If so, what are they? What steps has the Board staff taken to ensure problems with handling of cases and management of staff do not occur again?

In March 2016, the Board appointed a new Executive Officer, the fifth since the 1950s and the first since 1994. During the initial onboarding by the Board President and the Acting Executive Officer, the new Executive Officer was made aware that the past administration resigned abruptly due to mismanagement. During initial “meet-and-greets” with stakeholders, the Executive Officer was made aware of enforcement case mishandling, property and fiscal mismanagement and staff morale issues. The full extent of the Board’s issues was provided by the new Executive Officer to the Board President.

In April 2016, a joint meeting was held including the DCA Deputy Director of Board/Bureau Relations, the DCA Director of Legal Affairs, the DCA Division of Investigation’s Chief, Special Investigators, and Internal Affairs Chief, along with the Board President and Executive Officer. This meeting provided the Board President and Executive Officer with a historical review and outcomes of the prior Board management. The following were cited as the key issues:

- Staffing delays (e.g. not filling vacant positions in a timely fashion).



ENFORCEMENT

DIVISION:

QUESTIONS (CONT.)

- Staff morale problems and complaints (e.g. staff complaints and concern related to punitive culture).
- Excessive overtime usage.
- Misuse of governmental resources (e.g. stockpiling computers).
- High priority cases not forwarded to DOI.

Following this meeting, a second meeting was conducted in June 2016. This meeting included DCA Executive Team, DOI Internal Affairs, along with the Board's President, Vice President and Executive Officer. A review of the history of the Board was completed.

The Board has taken several steps to insure the Board promotes transparent practices with effective collaborations. The most crucial step the Board undertook in 2015 was establishing a robust and fruitful relationship with the DOI and the AG. With this liaising, the Board has adopted CPEI guidelines for case prioritization and referral. With extensive training by DOI staff, CLEAR and NCSBN, the Enforcement Division has drafted and completed processes for systematic and thorough case review to prevent case mishandling.

The second key change the Board has undertaken was the revitalization of Board committees including the Enforcement Committee. With Board members reviewing the enforcement data with their staff member representative, the Board has increased awareness into each divisions' performance measures as well as unit specific data. The Enforcement Committee, as well as other committees, can then provide a committee report to the entire Board for review.

A third change the Board has implemented is weekly and monthly metrics provided to the Executive Officer along with unit level and manager level meetings. With engaged executive leadership, there is increased scrutiny to insure data integrity is preserved as well as case closure is timely. Additionally, the Executive Officer provides Board members with a monthly report on all sections of the Board and any key issues. This is along with Executive Officer Board member one-on-one's that are ad hoc to keep members apprised on all Board issues.

**ENFORCEMENT
DIVISION:**

**QUESTIONS
(CONT.)
AND
CONSUMER
PROTECTION
ENFORCEMENT
INITIATIVE
(CPEI)**

A fourth key change is the review of all staff duty statements along with updating each individual training plan (IDP). By assessing these for the entire Board, the Board is able to identify training deficiencies that lead to mismanagement. This has included staff participating in trainings offered by DCA, CalHR as well as outside vendors. Specific to managers, each manager must complete DCA's Leadership Academy and supplement this training with CalHR training. Key trainings to which managers are directed include Communication as a Leader, and Motivational Leadership.

Finally, the Executive Officer has met with nearly each staff member individually and provided staff workplace satisfaction surveys. Using these results, the Board has commenced quarterly staff meetings, monthly newsletters along with holiday parties, a staff recognition program, and lunch and learns.

Consumer Protection Enforcement Initiative (CPEI)

During the last Sunset Review, it was discovered that the Board was not referring all eligible cases to the DOI. What steps has the Board taken to ensure that cases are sent to the DOI?

The Board implemented the use of the CPEI case referral acceptance matrix in May 2015. Implementation required an analysis of the Board's case intake process and resulted in significant changes to the process. In October 2015, the Board filled a new position, an Intake Analyst. This position was created to help streamline the process at intake to include an initial review of the public complaints to determine the appropriate case assignment.

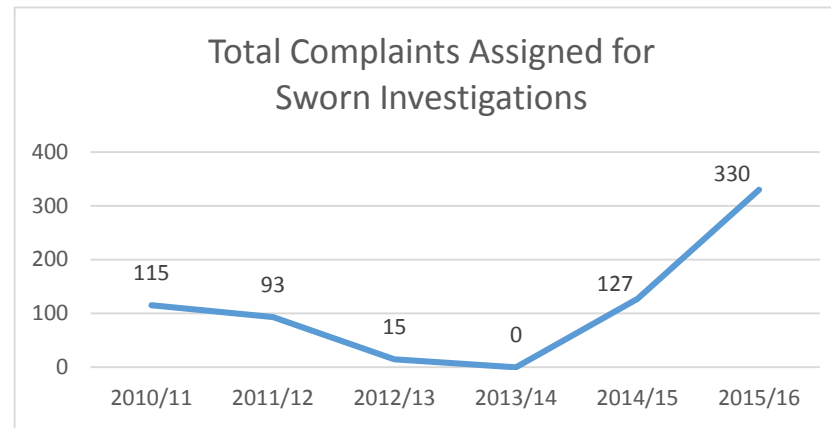
In conjunction with the CPEI guidelines, the Board uses a priority system whereby each complaint is assessed and given a priority of "urgent," "high" or "routine". Cases of an "urgent" matter – conduct that places the public at risk – are immediately referred for investigation by DOI.



ENFORCEMENT DIVISION:

CONSUMER PROTECTION ENFORCEMENT INITIATIVE (CPEI) (CONT.)

Weekly case reviews of public complaints are conducted to ensure complaints are assigned appropriately. In addition, the Board meets monthly and confers regularly with its DOI liaison investigator. Intake staff has received additional training directly from DOI investigators to better understand the CPEI guidelines and the case acceptance criteria.



With the implementation of CPEI guidelines in 2015, the Board has seen a significant increase in referral of cases to DOI.

The performance targets in the DCAs' CPEI include the goal to improve discipline case processing timeframes so that cases are completed in an average of 12 to 18 months.

As of June 30, 2015, the Board had a backlog of aged cases with 3,380 cases pending. The Board has made significant improvements since then, and has reduced the number of pending cases as of June 30, 2016 to 1,367. This is a 60% reduction in pending cases since the last fiscal year. As this legacy backlog is cleared, it is expected that our overall processing times will decrease. The Board will continue to focus efforts on reducing the overall processing times.



**ENFORCEMENT
DIVISION:**

**CONSUMER
PROTECTION
ENFORCEMENT
INITIATIVE
(CPEI)
(CONT.)**

Improved performance in meeting goals for certain phases of enforcement is promising; however, the overall target goal will take time to improve because it includes aged cases, which skew the average of the total enforcement measure.



ENFORCEMENT DIVISION:

STATISTICAL DATA AND ANALYSIS

Increase in Complaints Received during FY 2015/16 due to clearing a backlog of NURSUS reports and renewal disclosures and the new BreEZe system allowing Complaints to be filed online starting January 2016.

Decrease in number of Conviction/Arrest Reports received due to newly implemented process improvements and a regulation change effective October 2015, increasing the fine amount of reportable conviction matters from \$300 to \$1,000. Matters related to use of alcohol or controlled substance are required to be reported regardless of the fine amount.

TABLE 7a. Enforcement Statistics		
	FY 2014/15	FY 2015/16
COMPLAINT		
Intake		
Received	561	1061
Closed	0	16
Referred to INV	534	1080
Average Time to Close (days)	8	6
Pending (close of FY)	36	1
Source of Complaint		
Public	121	367
Licensee/Professional Groups	209	271
Governmental Agencies	168	159
Other	63	264
Conviction / Arrest		
CONV Received	4855	2391
CONV Assigned	4852	2412
Average Time to Close	15	11
CONV Pending (close of FY)	48	3

**ENFORCEMENT
DIVISION:

STATISTICAL
DATA
AND
ANALYSIS
(CONT.)**

TABLE 7b. Enforcement Statistics (continued)				
	FY 2014/15	FY 2015/16		
		July-Dec	Jan- June	Total
INVESTIGATION				
All Cases				
First Assigned	5,450	2,104	1,519	3,623
Closed	6,781	3,269	2,202	5,471
Average days to close*	435	332	263	304
Pending (close of FY)	3,380	2,074	1,367	1,367
Desk Investigations				
Closed	6,251	3,007	1,820	4,827
Average days to close*	419	293	141	236
Pending (close of FY)	2,518	1,130	602	602
Non-Sworn Investigation				
Closed	513	217	324	541
Average days to close*	601	729	703	713
Pending (close of FY)	731	585	376	376
Sworn Investigation				
Closed	17	45	144	189
Average days to close*	948	980	241	416
Pending (close of FY)	131	359	281	281
*In January of 2016, the Board changed from using CAS to capture our statistics and case information to using BreZE. These programs capture case statistics differently, and it is important to note the differences. CAS numbers are not necessarily comparable to BreZE numbers for case aging as cases are measured differently.				



ENFORCEMENT

DIVISION:

STATISTICAL

DATA

AND

ANALYSIS

(CONT.)

All Cases

Since our last Sunset Review, we have achieved significant decreases in the number of cases pending. From FY 2014/15 to FY 2015/16, we achieved a 60% decrease in total number of cases pending and a 30% decrease in average days to close all cases.

Desk Investigations

FY 2014/15 to FY 2015/16: Number of Pending Desk Investigations decreased by 76%, from 2518 desk investigations pending to 602 desk investigations pending.

Non-Sworn Investigations

FY 2014/15 to FY 2015/16: Number of Non-Sworn Investigations Pending decreased by 49%, from 731 non-sworn investigations pending to 376 non-sworn investigations pending. This is due to transferring cases to the Division of Investigation and due to the processing of a backlog of investigations.

Sworn Investigations

FY 2014/15 to FY 2015/16: Decrease in Average Days to Close largely due to the differences in reporting between the CAS and BreEZe systems*. Weighted average between CAS and BreEZe data for average days to close therefore not applicable.

**ENFORCEMENT
DIVISION:

STATISTICAL
DATA
AND
ANALYSIS
(CONT.)**

Disciplinary Actions Trends

The most egregious violations of the Board's statutes and regulations are referred to the AG to pursue administrative discipline. The range of outcomes for such discipline includes a public reproof to revocation of the license.

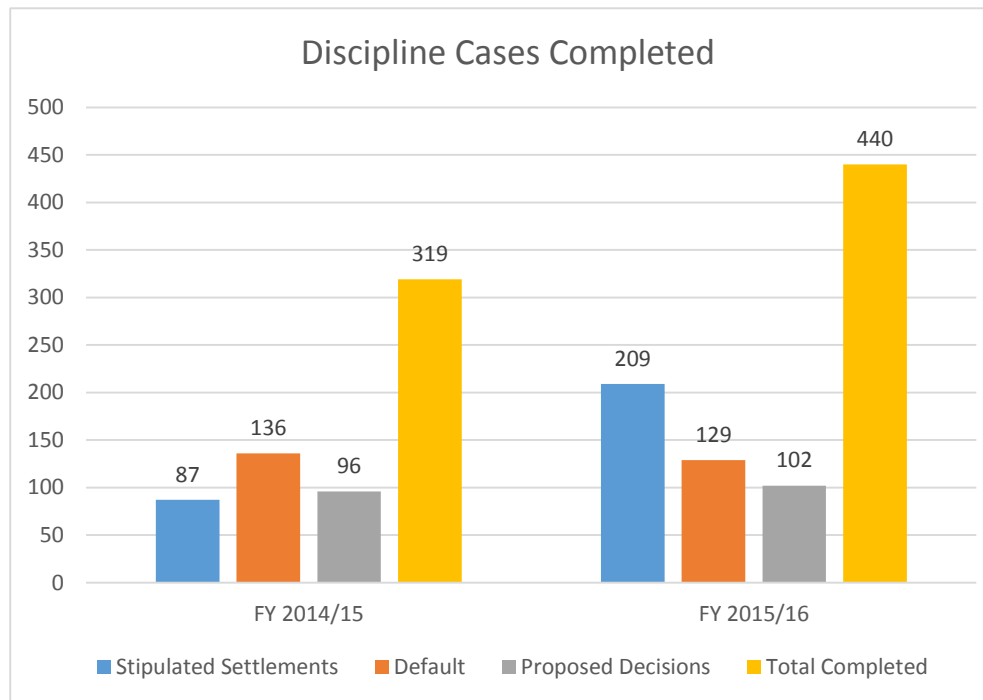
Since the last Sunset Review the Board has increased the number of Discipline Cases Completed, particularly in FY 2015/16, due to process changes that streamlined the AG process. The Board streamlined the AG transmittal process and filing of all pleadings (accusations and statements of issues).

TABLE 7c. Enforcement Statistics (continued)		
	FY 2014/15	FY 2015/16
DISCIPLINE		
AG Cases Initiated	290	364
AG Cases Pending (close of FY)	503	342
LICENSE DENIAL		
License Applications Denied	84	33
SOIs Filed	69	30
SOIs Withdrawn	5	5
SOIs Dismissed	0	0
SOIs Declined	0	0
Average Days SOI	998	788
ACCUSATION		
Accusations Filed	284	257
Accusations Withdrawn	9	3
Accusations Dismissed	1	2
Accusations Declined	4	2
Average Days Accusations	1148	1042
DISCIPLINARY ACTIONS		
Proposed/Default Decisions	232	231
Stipulations	87	209
Average Days to Complete	1129	1005
DISCIPLINARY OUTCOMES		
Revocation	163	161
Voluntary Surrender	34	50
Suspension	0	0
Probation with Suspension	2	1
Probation	65	150
Probationary License Issued	17	30
Public Letter of Reprimand	2	4
Other	36	44

**ENFORCEMENT
DIVISION
DISCIPLINE:
INTRODUCTION**

SECTION E: ENFORCEMENT DIVISION – DISCIPLINE

The Board has increased Stipulated Settlements due to focused efforts in pursuing completion of formal discipline and reducing case processing time. The discipline guidelines dictate appropriate action to pursue in the settlement process. By increasing the number of cases resolved in stipulated settlement according to discipline guidelines, this allows revocation and high profile cases to proceed to hearing more quickly.



The Board will continue to work with the AG to streamline our processes to reduce processing times.

Provided is a multi-year comparison of closure times for cases referred for action to the AG. When compared to our prior Sunset Review, the Board has made significant improvements in the number of cases pending at the AG and the number of completed discipline actions.

The Number of AG Cases Pending has decreased by 32% from FY 2014/15 to FY 2015/16.

The decrease in License Applications Denied and SOIs Filed is due to new Applicant Referral Procedures.



**ENFORCEMENT
DIVISION
DISCIPLINE:**

CITATION AND FINE

Citation and Fine

Since the last Sunset Review the Board has aggressively utilized its authority to issue citations and fines to address less egregious violations in an expedient manner. The Board finds this process to be an efficient mechanism for resolving minor violations.

Citations and fines can be a cost effective means to address minor violations. Citations are issued primarily for minor first-offense issues, minor documentation violations, and similar disciplinary actions taken by other State Boards or for some first-offense criminal convictions. On a first-offense conviction, individual factors are taken into consideration on a case-by-case basis to determine whether a citation should be issued.

The chart below demonstrates the increase of citations issued, fines assessed, fines collected, and the average time from opening a case to issuing the citation and fine for the last two (2) fiscal years

TABLE 7d. Enforcement Statistics (continued)		
	FY 2014/15	FY 2015/16
CITATION AND FINE		
Citations Issued	103	350
Average Days to Issue Citation	529	393
Amount of Fines Assessed	\$62,656	\$189,272
Reduced, Withdrawn, Dismissed	9	14
Amount Collected	\$66,017	\$116,261



**ENFORCEMENT
DIVISION
DISCIPLINE:
CASE AGING**

TABLE 8. Enforcement Aging				
	FY 2014-15	FY 2015-16	Total Cases Closed	Average %
Investigations Closed				
Closed Within:				
90 Days	2335	1942	4277	35
90-180 Days	1263	858	2121	17
180 days-1 Year	906	1115	2021	17
1-2 Years	824	879	1703	14
2-3 Years	697	455	1152	9
Over 3 Years	756	222	978	8
Total Cases Closed	6781	5471	12252	
Attorney General Cases Closed				
Closed Within:				
1 Year	0	10	10	1
1-2 Years	55	130	185	24
2-3 Years	108	155	263	35
Over 3 Years	156	145	301	40
Total Cases Closed	319	440	759	



**ENFORCEMENT
DIVISION
DISCIPLINE:**

**CASE AGING
(CONT.)**

Investigations Closed:

The number of cases closed with a case age of 2-3 years decreased, from 697 to 455, a 34.7% decrease. The number of investigations closed with a case age of over 3 years has decreased from 756 to 222 cases, a 70.6% decrease.

In FY 2014/15, investigations closed with a case age of over 2 years made up 21% of all investigations closed. Investigations this old made up only 12.4% of cases closed in FY 2015/16, a significant improvement.

In FY 2014/15, cases closed within 2 years made up 78.6% percent of all cases closed. In FY 2015/16, cases closed within 2 years made up 87.6% percent of all cases closed.

AG Cases Closed:

- FY 2014/15 to FY 2015/16: Increase in AG cases closed within one year from 0 to 10.
- FY 2014/15 to FY 2015/16: 136.36% increase in AG cases closed in 1-2 years.
- FY 2014/15 to FY 2015/16: 43.52% increase of AG cases closed in 2-3 years.
- FY 2014/15 to FY 2015/16: 7.05% decrease in AG cases closed in over 3 years.
- FY 2014/15 to FY 2015/16: 37.93% increase in AG cases closed.



ENFORCEMENT DIVISION DISCIPLINE:

PROBATION MONITORING AND DIVERSION AND ALTERNATIVES TO DIVERSION

Probation Monitoring

Licensees who are placed on probation are monitored by the Board. The average length of probation is three (3) to five (5) years, and the license is restored upon successful completion of probation.

A probationary file is established to monitor an individual's compliance with the probation requirements (i.e., cost recovery payments, remedial education course completion, and quarterly reports). When a probationer violates a term of probation, the Board has the option to revoke probation and impose previously stayed discipline.

Diversion and Alternatives to Diversion

A probationer whose Decision and Order includes "Term 20: Addictive Behavior Support Groups" is required to attend an addictive behavior support group. The Disciplinary Guidelines provide the following groups which may meet the criteria: Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Group, Al-Anon, or Gamblers Anonymous.

An alternative is a Diversion program. A Diversion program will be costly to the Board's probationers. The Diversion program costs can begin at \$300 per month. This is in addition to costs for biological fluid testing and meeting with a licensed professional. The Board's licensed vocational nurses and psychiatric technicians are entry-level professions, and a Diversion program may be cost-prohibitive.

The Board may also accept groups identified by the probationer which provide addictive behavior support. These alternative programs may include Celebrate Recovery or community-based support groups.



ENFORCEMENT

DIVISION

DISCIPLINE:

DIVERSION AND ALTERNATIVES TO

DIVERSION (CONT.)

AND

UNIFORM STANDARDS FOR SUBSTANCE ABUSING LICENSEES

There are many advantages and disadvantages to using alternative programs. Probationers may benefit more from alternative programs because they can better relate to the members than they can relate to AA members. Alternative programs may have a more personal level for the probationer to benefit from, and alternative programs may have members in similar fields/jobs as Board probationers, so they benefit from that as well. However, alternative programs may not be easy to locate, especially in smaller cities/town, and some support groups (for example, Registered Nurses Support groups) may not allow licensed vocational nurses into their support groups or have availability.

Does BVNPT adhere to the Uniform Standards Regarding Substance Abusing Licensees: bodily fluid testing, etc.?

Yes. The Board incorporated the Uniform Standards in our Disciplinary Guidelines to facilitate uniformity of disciplinary orders for substance abusing licensees and for paramount protection of the public. In December 2012, the Board's regulations were approved for the utilization of the disciplinary guidelines entitled, "Disciplinary Guidelines and Uniform Standards Related to Substance Abuse."²

The Board negotiates settlements for substance-abusing licensees to ensure that the Board is fulfilling our mandate to protect the consumer through comprehensive monitoring. All Board stipulated settlements and proposed decisions for substance-abusing licensees include the Uniform Standards to ensure licensees are subject to stringent measures. Trained probation monitors review and respond to all positive results.

Since its adoption, the Board has seen a steady increase in the number of licensees that submit to bodily fluid testing (BFT), as shown in the graph below. The number of probationers subject to BFT has increased by 68% due to the increased number of probations in FY 2015/16. The increase in new probationers is directly related to the increase in discipline outcomes resulting in probation and the processing of the legacy backlog to completed discipline.

² <http://www.bvnpt.ca.gov/pdf/discguide.pdf>

**ENFORCEMENT
DIVISION
DISCIPLINE:**

**PROBATION AND
SUBSEQUENT
DISCIPLINE
STATISTICS**

TABLE 9. Probation/Subsequent Discipline		
	FY 2014/15	FY 2015/16
PROBATION		
New Probationers	96	191
Total Probationers (close of FY)	329	429
Probations Successfully Completed	41	36
DRUG TESTING		
Probationers Subject to Drug Testing	217	312
Drug Tests Ordered	3563	5978
Positive Drug Tests <i>*include non-RX and valid RX.</i>	278	601
MODIFICATION OF PROBATION		
Filed	2	8
Granted	1	2
Denied	1	0
TERMINATION OF PROBATION		
Filed	0	3
Granted	1	2
Denied	0	1
SUBSEQUENT DISCIPLINE		
Subsequent Discipline Initiated	40	39
Petitions to Revoke Probation	19	25
Subsequent Discipline Revocation	24	24
Surrender of License	17	14
Probation With Suspension	0	0
Suspension Only	0	0
Probation (Extended)	3	2
Other Decisions	0	0



**ENFORCEMENT
DIVISION
DISCIPLINE:

PETITION FOR
REINSTATEMENT**

Petition for Reinstatement

California Business and Professions Code §§ 2878.7 and 4524 authorize a person whose license has been revoked, suspended, surrendered, or placed on probation to petition the Board for reinstatement or modification of the penalty (including modification or early termination of probation). A person's disciplinary order determines the period of time which must elapse before a person may petition.

The petition for reinstatement hearings are held quarterly in conjunction with Board meetings and our public hearings. Present at these petition hearings are an Administrative Law Judge, Deputy Attorney General, and a quorum of the board. The Board asks the petitioner about his/her rehabilitation efforts and skills and abilities to practice safely³. The Board decides whether to grant or deny the petition.⁴

FY 14/15, 26 petitions were filed and 27 petition hearings were conducted. FY 15/16, 29 petitions were filed and 20 petition hearings were conducted. Please see the following table:

TABLE 10. Reinstatements		
REINSTATEMENTS		
	FY 2014/15	FY 2015/16
Filed	26*	29*
Granted	10	17
Denied	10	10
*Data has been updated to reflect actual count.		

Authority cited: ³ California Code of Regulations Code section 2522 and 2579.

⁴ California Administrative Procedures Act section 11522



ENFORCEMENT

DIVISION

DISCIPLINE:

COST RECOVERY

Cost Recovery

California Business and Professions Code section 125.3 authorizes the recovery of investigation costs associated with the formal discipline of a license. All costs recovered are deposited into the Board's Reserve Fund.

The Board seeks cost recovery in all cases where cost recovery is authorized. Reimbursement of Board costs is a standard term of probation listed in the Board's Disciplinary Guidelines. The Board seeks the award of costs when settling cases with a stipulation, as well as with decisions provided through an administrative hearing.

Costs are a component in stipulations for surrender of a license; however, costs are typically not required to be paid until or unless the licensee reapplies for licensure. Costs are also a component in decisions or stipulations for a revocation of a license but are not required to be paid until or unless the licensee applies for reinstatement.

During the settlement process, the Board will frequently offer to reduce costs as an incentive to settle a case prior to a hearing. This strategy is beneficial to all parties in that hearing costs and time to resolve the matter are reduced, the individual may continue to practice while on probation, and the individual's violations and probation terms are publicly disclosed sooner.

Typically, most costs awarded to the Board in probation cases are paid in installments, so money awarded as costs in one year may not be fully collected until the end of the probation period, perhaps in three (3) to five (5) years.

In general the Board does not believe it will recover the costs for the majority of those with either a revoked or surrendered license.

**ENFORCEMENT
DIVISION
DISCIPLINE:**

**COST
RECOVERY
(CONT.)**

The Board does not have the authority to seek cost recovery in a Statement of Issues case (where an applicant has appealed the denial of his or her application).

TABLE 11. Cost Recovery		
	FY 2014/15 (Dollars in Thousands)	FY 2015/16 (Dollars in Thousands)
Total Enforcement Expenditures	\$7,231	\$7,238
Potential Cases for Recovery*	503	342
Cases Recovery Ordered	141	205
Amount of Cost Recovery Ordered	\$532	\$623
Amount Collected	\$169	\$183
*“Potential Cases for Recovery” are those cases in which disciplinary action has been initiated.		



ENFORCEMENT MONITOR:

RECOMMEND- ATIONS

SECTION F: ENFORCEMENT MONITOR

Recommendations

The Administrative and Enforcement Monitor (Monitor) assigned to the Board commenced his assessment in early March 2016 and will continue through February 2018. The Monitor services include conducting an assessment of the Board's Enforcement program, including procedures and specified administrative processes.

Currently during project Phase III, the Monitor is continuing to research and analyze the Board's procedures and processes. Additionally, the Monitor has initiated monitoring the recommendations for improvements from Phases I and II. Below, is the Board's position on each recommendation (Y = Agreement, N = Disagreement). Where there is lack of agreement, the Board provides an alternate oversight mechanism (e.g. Enforcement (ENF) Taskforce, Internal Audit, etc.).

**ENFORCEMENT
MONITOR:**

**RECOMMEND-
ATIONS
(CONT.)**

IV. Integrated Assessment of Targeted Business Processes

Monitor Recommendation					Board Response			
IV – 1	Critically review and overhaul Item No. 9 of the current Record of Convictions form to make it more readable and understandable and reduce the frequency that license applicants misreport or over-report prior convictions (see also Recommendation IV-5).				Based on this recommendation, the Board has not made revisions related to licensing forms, as this should be deferred for subsequent assessment by the Licensing Division, and is outside the scope of the Enforcement Division. This limited review only considered impacts to enforcement and failed to address impacts to licensing.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N					X			

ENFORCEMENT

MONITOR:

RECOMMENDATIONS (CONT.)

Monitor Recommendation					Board Response			
IV – 2	Develop and implement procedures to enable case intake staff to exercise judgement in determining whether to request records from law enforcement agencies and the courts for license applicant cases based on minor criminal offenses that occurred in the distant past and screen the cases to identify and close cases that do not require desk investigation.				This recommendation has been implemented by the Board. The current intake process enables staff to exercise judgment in determining whether to open cases and request records. Intake staff assesses each case to determine the appropriate course of action. Considering such factors as age, nature, and severity of the alleged incident.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N	X	X						

ENFORCEMENT

MONITOR:

RECOMMENDATIONS (CONT.)

Monitor Recommendation					Board Response			
IV – 3	Restructure and expand the CE Compliance Audit Program. Issue an initial standard form 30-day audit letter to a sample of at least 5 percent of renewing licensees in conjunction with issuing their license renewal notifications. If the licensee is non-responsive to the initial request, promptly issue a second/final request. If the license is non-responsive to the final request or confirms that they did not complete any (or completed very little) of the required CE, refer the case to Enforcement for issuance of a citation. Streamline the Certificate of Completion review process by limiting reviews of the documents in cases that appear to show full compliance with BVNPT’s CE requirements..				The Board has not implemented changes based on this recommendation to expand the CE program as it is premature, fails to consider Licensing Division business processes, and is outside of the scope of the Enforcement Division. Revisions related to licensing should be deferred to a subsequent assessment of the Licensing Division. This limited review only considered impacts to enforcement and failed to address impacts to licensing and staffing resources.			
	Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee
N	X				X		X	

**ENFORCEMENT
MONITOR:
RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
IV – 4	Assess the feasibility of imaging CE-related document submissions or enabling submission of the documents electronically.				This recommendation is redundant; the Board is already in the process of implementing digital imaging.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N	X				X			X

Monitor Recommendation					Board Response			
IV – 5	Critically review and overhaul Item No. 9 of the current Record of Convictions form to make it more readable and understandable and reduce the frequency that licensees misreport or over-report prior convictions when renewing their license (see also Recommendation IV-1). Develop additional programming for on-line renewals that requires confirmation when the "Yes" box is checked or to prevent further processing of the renewal application until other required fields providing additional information about the self-reported conviction are completed.				This recommendation is outside the scope of the Enforcement Division. Revisions related to licensing forms should be deferred to a subsequent assessment of the Licensing Division. This limited review only considered impacts to enforcement and failed to address impacts to licensing.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N					X			

**ENFORCEMENT
MONITOR:**

**RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
IV – 6	Work collaboratively with the AG to identify ways to increase BVNPT's utilization of the current FT Pilot Program for licensee arrest/conviction report cases and other qualifying cases.				This recommendation is redundant; this is a Board Task Force recommendation. The Board has been participating in the Fast Track Pilot Project since March 2015. Additionally, the Board regularly collaborates with the AG's office regarding ways to improve case processing and reducing processing times.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						X

Monitor Recommendation					Board Response			
IV – 7	Work collaboratively with the AG to identify ways to expand the Fast Track Pilot Program for licensee arrest/conviction report cases and other qualifying cases to other geographic regions of the state.				This recommendation is redundant; the Board has been participating in the Fast Track Pilot Project since March 2015. Additionally, the Board regularly collaborates with the AG's office regarding ways to improve case processing and reducing processing times. In July 2016, the Executive Officer and Board staff met with Linda Schneider, Senior Assistant Deputy Attorney General, to discuss case processing and areas for improvement. Subsequently, the Fast Track Program was expanded to include San Francisco and Oakland areas.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						X

**ENFORCEMENT
MONITOR:
RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
IV – 8	Develop and propose legislation to specifically provide BVNPT's governing Board with the authority to delegate approval of default decisions to the Executive Officer.				This item was a Task Force Recommendation and is in progress with the Board.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						

Monitor Recommendation					Board Response			
IV – 9	Develop and implement a structured, sustainable business process for screening licensee complaints to identify cases that do not require field investigation and assign these cases to staff that specialize in completing desk investigations of these types of cases.				The Board is unable to implement this recommendation at this time due to current workload and the legacy backlog. We do not have staffing resources at this time to implement this recommendation. In the future we may be able to redirect resources to this once the legacy backlog is eliminated.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N	X	X						

**ENFORCEMENT
MONITOR:
RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
IV – 10	Develop and implement procedures to enable case intake or screening staff (or both) to review and not open new discipline by another state/agency cases or, alternatively, screen and close discipline by another state/agency cases that do not require completion of a desk investigation. Additionally, notify agencies providing “courtesy notices” to stop doing so if the information is available to BVNPT through BreZE or they routinely post the same information to another professional licensing database that is otherwise queried by BVNPT.				The Board is unable to implement this recommendation at this time due to current workload and the legacy backlog. We do not have staffing resources at this time to implement this recommendation. In the future we may be able to redirect resources to this once the legacy backlog is eliminated. The Board has notified agencies to stop providing “courtesy notices”.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						

ENFORCEMENT MONITOR:

RECOMMEND- ATIONS (CONT.)

Monitor Recommendation					Board Response			
IV – 11	Continue to refine licensee complaint case coding procedures and practices and provide training to staff to further improve the consistency and completeness of complaint records and the tracking and reporting of Enforcement Program workload, backlog and performance information.				The Board supports this recommendation and is implementing ongoing measures. The Board has significantly improved the accuracy of case coding in the last year since converting to BreEZe in January 2016. New procedures were developed and implemented, and staff training was completed. Reports are reviewed weekly, monthly and quarterly to assess the accuracy of case coding, workload and performance.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
Y								

**ENFORCEMENT
MONITOR:**

**RECOMMEND-
ATIONS
(CONT.)**

V. Enforcement Program Organization and Staffing

Monitor Recommendation					Board Response			
V – 1	Continue identifying and assigning licensee complaint cases to available Complaint Intake and Desk Investigation Section for desk investigation pending establishment of a separate business unit that specializes in completing desk investigations of licensee complaint cases (see Recommendation V-6).				The Board supports this recommendation; however, this recommendation cannot be implemented at this time due to current workload, the legacy backlog, and limited staff resources. In the future we may be able to redirect resources to this once the legacy backlog is eliminated.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						

Monitor Recommendation					Board Response			
V – 2	To better address Probation Program workload demands for the next 2 to 3 years, continue to utilize Temporary Help to augment Probation Unit staffing (see also Recommendation V-7).				This recommendation has been completed by the Board. One Staff Service Analyst (SSA) RA is assigned to probation and has been since August 2015. The second SSA RA job bulletin was posted and is ready for the recruitment process.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N								X

**ENFORCEMENT
MONITOR:**
**RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
V - 3	As Investigation Section case backlogs and new case assignments decrease, redirect vacant positions to address other current and emerging Enforcement Program and BVNPT business needs.				The Board is unable to implement this recommendation at this time due to ongoing contract negotiations, current workload and the legacy backlog. Additionally, it is outside the scope of the Enforcement Division, and we do not have staffing resources to implement this recommendation. In the future we may be able to redirect resources to this once the legacy backlog is eliminated.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N						X		

Monitor Recommendation					Board Response			
V - 4	Redirect and consolidate available resources to enable additional screening and completion of desk investigations of on-line public complaints and licensee complaints that do not require field investigation.				The Board is unable to implement this recommendation, and it is outside the scope of the Enforcement Division. This recommendation suggests redirecting resources from the Investigations Unit which has an existing backlog. Once the legacy backlog is eliminated, staffing resources can be redirected, as needed.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N						X		

ENFORCEMENT MONITOR:

RECOMMEND- ATIONS (CONT.)

Monitor Recommendation					Board Response			
V – 5	Redirect and consolidate available resources to support expansion of the CE Audit Program, including completing additional case reviews, issuing additional citations, and tracking and collecting fines.				The Board is unable to implement this recommendation. The recommendation to expand the CE program is premature and fails to consider Licensing Division business processes. Revisions related to licensing should be deferred to a subsequent assessment of the Licensing Division. This limited review only considered impacts to enforcement and failed to address impacts to licensing and staffing resources.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N	X							

Monitor Recommendation					Board Response			
V – 6	Establish a new Desk Investigation and Field Investigation Case Review Section.				The Board is unable to implement this recommendation due to current workload, the legacy backlog, and limited staffing resources. In the future we may be able to redirect resources to this once the legacy backlog is eliminated.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N						X		

**ENFORCEMENT
MONITOR:
RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
V – 7	Establish a new Probation Section and, concurrently, reduce the utilization of Temporary Help to provide probation monitoring services.				The Board is unable to implement this recommendation due to current workload, the legacy backlog, and limited staffing resources. In the future we may be able to redirect resources to this once the legacy backlog is eliminated.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N						X		

Monitor Recommendation					Board Response			
V – 8	The Chief of Enforcement should maintain open lines of communication and meet periodically with counterparts at the Division of Investigation and the Office of the Attorney General to jointly develop and implement strategies to further reduce BVNPT case backlogs and the amount of time needed to complete investigations and impose discipline when supported by results of the investigations.				This recommendation is redundant. This item was a Task Force Recommendation, and began in May 2015 and is ongoing. Staff meets monthly with DOI and communicates on a regular basis with the Office of the Attorney General.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						X

**ENFORCEMENT
MONITOR:
RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
V – 9	Conduct individual case reviews on at least a semi-monthly basis with each of the Investigation Section's investigators. Over time, adjust the frequency and duration of the reviews as appropriate to each investigator's development needs.				This recommendation was implemented in April 2016 and is ongoing.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						X

Monitor Recommendation					Board Response			
V – 10	Continue to provide Enforcement Division staff with formal classroom type training as needed to bolster their knowledge, skills and abilities.				This recommendation was implemented in October 2015 and is ongoing. The Board is utilizing all forms of training including formal classroom training.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						X

**ENFORCEMENT
MONITOR:**

**RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
V – 11	Utilize the Division of Investigation to support initial training of newer investigators.				This recommendation is not supported by the Board. Training is addressed in V-10. On-boarding is the responsibility of the Board. We will consider all training options that align with best practices and established procedures. DOI can be a valuable resource for training; we must also consider the cost of such training and the fiscal impact to the Board. Additionally, staff is able to access training presented by DCA in collaboration with DOI.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						X

Monitor Recommendation					Board Response			
V – 12	Consider utilizing AG Liaison services at a higher level for a limited period of time to provide additional on-site applied technical assistance and training to BVNPT's investigators.				This recommendation is not supported by the Board. This was implemented in August 2015 and is ongoing. Our AG liaison has provided on-site assistance and we continue to utilize this resource. This also has a fiscal impact to the Board and requires careful consideration in determining the need for on-site applied technical assistance and training.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						X

**ENFORCEMENT
MONITOR:
RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
V – 13	Assign responsibilities and due dates for completing Annual Performance Reviews and Individual Development Plans during the 2016/17 fiscal year for all Enforcement Division managers and staff.				This recommendation is redundant and is an audit finding with a completion date set for February 2017.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N	X	X						

VI. Reporting

Monitor Recommendation					Board Response			
VI – 1	Update the Enforcement Program Workload and Performance Executive Summary Report on a quarterly basis within 30 days following the completion of each quarter and provide the report to BVNPT's Enforcement Committee and, through the Enforcement Committee, to BVNPT's governing Board. Also, post the quarterly reports on BVNPT's website.				This recommendation is not supported by the Board. Board staff utilizes weekly, monthly and quarterly reports to manage workload, assess performance and identify case aging. In addition, the Board is provided with statistical reports at each Board meeting. The reports proposed require significant staffing resources to produce on a quarterly basis. Our staffing resources should be utilized to work enforcement cases to reduce case processing times and provide improved consumer protection.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N	X	X						

**ENFORCEMENT
MONITOR:**
**RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
VI – 2	On an annual basis, develop goals for each of the key workload and performance measures listed on the Enforcement Program Workload and Performance Executive Summary Report and include the goals in all quarterly reports.				Developing goals is addressed in the role of the Enforcement Committee and the new strategic plan. The reports proposed require significant staffing resources to produce on a quarterly basis. Our staffing resources should be utilized to work enforcement cases to reduce case processing times and provide improved consumer protection.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N	X	X						X

**ENFORCEMENT
MONITOR:**

**RECOMMEND-
ATIONS
(CONT.)**

VII. Survey of Governing Board

Monitor Recommendation					Board Response			
VII – 1	Consistently provide all new Board members with substantive New Board Member Orientations and related training and reference materials <u>specific</u> to BVNPT’s Enforcement Program, and other BVNPT programs and services provided, as appropriate, that complements the Board Member Orientation Training (BMOT) provided by DCA and helps new members to better understand and fulfill their program oversight, strategic planning, policy development, Executive Officer performance evaluation and other responsibilities. Consider requesting that a representative of DCA participate in these orientations to help integrate the BVNPT-specific orientation training with the BMOT training, particularly with respect to helping the member understand and fulfill their oversight responsibilities. Overhaul the reference materials contained in the two “large binders” to make the information more useful and effective for Board member orientation, training and reference purposes.				The New Board Member General Orientation manual is being revised and developed by the Strategic Planning Committee and Executive Committee, along with Internal Audits.			
	Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee
N	X			X				

**ENFORCEMENT
MONITOR:**

**RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
VII – 2	Develop and adopt a written charter for the Enforcement Committee delineating the Committee's roles and responsibilities, including roles and responsibilities related to (1) overseeing the Board's Enforcement Program and (2) communicating Enforcement Program-related information to the full Board to support fulfillment of the Board's strategic planning, policy development, Executive Officer performance evaluation and other responsibilities. Consider developing similar charters for other Board committees, where appropriate.				This recommendation has been implemented by the Board.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						X

**ENFORCEMENT
MONITOR:**

**RECOMMEND-
ATIONS
(CONT.)**

Monitor Recommendation					Board Response			
VII – 3	Provide briefings to Enforcement Committee members, initially on at least quarterly basis, to provide information regarding case intake, investigation and discipline workloads, backlogs, and performance, performance improvement initiatives underway and planned, policy matters and other information as determined by the Committee.				This recommendation has been implemented by the Board.			
Y/N	Internal Audit	ENF Taskforce	Executive Committee	Strat Committee	Outside of scope	Labor Issue	Education Committee	Completed
N		X						X



ENFORCEMENT MONITOR:

WORKING RELATIONSHIP BETWEEN ENFORCEMENT MONITOR AND BOARD

Working Relationship between Enforcement Monitor and Board

How would the Board describe the working relationship between the Administrative and Enforcement Monitor and:

- *The Board members;*
- *The Board staff;*
- *The Project Manager; and*
- *The DCA generally?*

On February 2, 2016, DCA issued a Request for Offers to obtain the Administrative and Enforcement Monitor (Monitor) services specified by AB 179 (Hill). One submission was received and a subsequent contract to provide the services was issued to Benjamin Frank, L.L.C., on February 29, 2016. The Monitor Kick Off occurred on March 10, 2016. In collaboration with the Board's Executive Officer and Enforcement Chief, the Monitor outlined key deliverables for the two-year project along with access needs which included dedicated office space and keycard access.

The Administrative and Enforcement Monitor project began almost one year following a myriad of strategic and operational changes the Board initiated in March 2015. The Board eagerly anticipated the Monitor partnership as an avenue to document current improvements and benchmark best practices for future improvements. Of specific interest to the Board was the Administrative Division (Administrative and Licensing Division), which the Board believed warranted external review and the establishment of new workflow processes.

Administrative and Enforcement Monitor and Board Members

The Monitor engaged Board Members during the latter portion of Phase I reporting. This included Board member surveys. During the Phase I final report review, Board Members expressed a desire for outreach sooner to capture their historical perspective of Board issues as well as provide additional information related to Board oversight. With Board members serving for nearly a decade, some were



ENFORCEMENT MONITOR:

WORKING RELATIONSHIP BETWEEN ENFORCEMENT MONITOR AND BOARD (CONT.)

concerned that the Phase I report was completed without their vital input. Of specific concern to Board members was the Enforcement Taskforce Initiatives that were spearheaded by two current (at the time) Board members.

At the beginning of Phase II, the Monitor conducted one-on-one interviews with Board members. While their historical information could not be captured in future reports, the Board members provided details around staffing changes and operational decisions. A few Board members articulated concern that their interviews were heavily focused on leadership prior to 2014 without reviewing current changes. Lastly, two Board members found the interviews challenging when attempting to redirect to current operations. Upon review of the Phase II report, Board members stated their key discussion points were not included in the Monitor report in total.

Administrative and Enforcement Monitor and Staff

Between March and August 2016, the Monitor worked closely with the Enforcement Chief, with routine one-on-ones with the Executive Officer. During this time, enforcement staff interviews and data collection commenced. To support the Monitor's data collection needs, Staff Support Analysts were redirected and their workload reduced by 60%. This provided the Monitor with real time data updates, but led to increased complaint backlog. Staff interviews were routinely conducted to discuss program operations and to address data reporting needs. Associate Governmental Program Analysts (AGPA) spent approximately five hours per month reviewing data with the Monitor and Enforcement Chief following collection. This additional review time with staff led to a joint Board - Office of Information Service (OIS) meeting to develop additional codes not previously captured in BreZze. Staff were redirected to complete manual recoding to support these newly created codes. The Monitor contacted staff directly and would assign tasks germane to this project as well as the overall project. The Board was able to complete this work due to the 100% redirecting of SSA staff to support this effort; however, that redirection negatively impacted the Discipline and Probation Unit.

**ENFORCEMENT
MONITOR:

WORKING
RELATIONSHIP
BETWEEN
ENFORCEMENT
MONITOR AND
BOARD
(CONT.)**

In early June 2016, the Board noted that many Enforcement improvements were underway; however, Administration required more attention than previously outlined in the initial Administrative and Enforcement Monitor work plan. The Executive Officer discussed the needs of this section with the Monitor with his recommendation for amendments to the existing contract. During late July, a formal request to amend the contract was submitted to the Legislative consultants for consideration.

With the Monitor residing out of state, many on-site visits are compacted into a few days or a week. During this time, the Enforcement Chief's time was 100% dedicated to the Enforcement Monitor. Staff reported the Enforcement Chief meeting with the Monitor for more than eight (8) hours over three (3) days. This was in addition to lengthy phone calls and email communication.

By September 2016, the staff were expressing morale shifting and overload related to the Monitor reporting. In addition, unexpected turnover resulted in the need for previously redirected staff to return to their enforcement duties and the data needs to be spread across technology experts throughout the Board. By November 2016, the Executive Officer was serving as the Acting Enforcement Chief due to an extended leave. Although the quality of the data remained intact, the new data reporting led to anxious interactions between the Monitor and Board staff.

Administrative and Enforcement Monitor and the Project Manager

Between March and August 2016, Board leadership routinely engaged with the Enforcement Monitor independent of the DCA Project Manager. During this time, the Project Manager's unit spearheaded the Board member survey that was completed in March 2016. Additionally, the Project Manager would routinely provide feedback on draft report versions from the DCA vantage point. Since September 2016, the Project Manager has had a more visible role in the project beyond contract management.



ENFORCEMENT MONITOR:

WORKING RELATIONSHIP BETWEEN ENFORCEMENT MONITOR AND BOARD (CONT.)

Administrative and Enforcement Monitor and DCA

DCA and the Monitor have worked closely to ensure this project was launched successfully. Following the commencement of this project in March 2016, the Monitor interviewed key leaders with DCA for historical perspective on the Board's issues. Additionally, he interviewed the past Acting Executive Officer as well as the Chief for the Division of Investigation. Early on in the project, the Monitor expressed to Board staff a commitment to balanced reporting. Following the release of the Phase I report, Board members expressed concern that the Monitor report was not as neutral as hoped. This was largely around the emphasis on the DCA actions while all but omitting the Board's actions to identify Board challenges. The Monitor attempted to resolve this issue in his Board presentation which included more information around the Board's effort to identify challenges. However, upon review of the Phase II report, nearly all reported an overly negative tone to the report. On September 12, 2016, Board staff reported a marked difference in the Monitor's interactions following a DCA Executive Committee meeting. DCA has maintained close review of the Monitor reports and interactions.

NEW ISSUES:

ESTABLISHMENT OF EDUCATION CITE AND FINE PROGRAM

SECTION G: NEW ISSUES

Establishment of Education Cite and Fine Program

California Code of Regulations §§ 2526.1 (c) and 2581.1 (c) authorize the Board to place any program on provisional approval when the program does not comply with all regulatory requirements. If the program fails to meet all requirements at the end of the initial provisional approval period, the Board may extend provisional approval if the program demonstrates to the satisfaction of the Board a good faith effort to correct the deficiencies or revoke provisional approval.

If new or continuing programs fail in their attempts to remain compliant with the VN or PT regulations, the Board has authority to place the programs on provisional approval. The most frequent areas of noncompliance include, but are not limited to:

- Inadequate Faculty to Supervise Students;
- Utilization of Unapproved Faculty;
- Utilization of Unapproved Clinical Facilities;
- Inadequate numbers and types of clinical facilities to provide adequate clinical experience for students;
- Failure to adhere to the instructional plan approved by the Board;
- Failure to provide the minimum number of approved program hours;
- Failure to include required content in the curriculum;
- Failure to hold classes as scheduled;
- Misrepresentation of information submitted to the Board or to student candidates regarding the program;
- Failure to provide required resources, including textbooks, instructional materials and aids, to achieve educational goal.



NEW ISSUES:

ESTABLISHMENT OF EDUCATION CITE AND FINE PROGRAM (CONT.) AND EQUIVALENT EDUCATION AND EXPERIENCE

The ultimate goal of VN and PT programs is the education of eligible students to be successful on the respective licensure examination.

Recommendation:

The Board recommends legislation to establish a citation and fine program for vocational nursing and psychiatric technician programs.

Equivalent Education and Experience

Has the Board considered reforming "Method 3"? For additional context, please see "Recommendation 8" from the recent Little Hoover Commission report, "Jobs for Californians: Strategies to Ease Occupational Licensing Barriers, Report #234, October 2016."

Pursuant to existing statutes [Business and Professions Code §§ 2841.1 (VN) and 4501.1 (PT)], the Board is mandated to ensure consumer protection. That mandate is achieved through the education, licensure, and professional practice of safe and competent LVNs and PTs. When licensees fail to practice safely, and competently, the Board takes disciplinary action to address the licensee's noncompliance and continue consumer protection.

Under current law, applicants may qualify for licensure based on equivalent education and/or work experience. Eligibility for testing is determined based upon the requirements set forth in § 2516 of the Vocational Nursing (VN) Practice Act and § 2575 of the Psychiatric Technician (PT) Law with rules and regulations, often referred to as the "equivalency method."

Vocational Nursing

Current requirements for eligibility pursuant to 16 CCR § 2516 include 51 months of direct patient care functions provided throughout the patient's stay that encompass the breadth and depth of experience equivalent to that performed by the VN, with specifications of timeframes with which this work shall

NEW ISSUES:

EQUIVALENT EDUCATION AND EXPERIENCE (CONT.)

be performed, and locations and settings that are acceptable for on-the-job skills education. Experience certification, including showing specific dates of employment, is required to be verified by the employer and the registered nurse (RN) director or supervisor that the applicant has satisfactorily demonstrated the necessary knowledge and skills.

Psychiatric Technician

Current requirements for eligibility pursuant to 16 CCR § 2575 include 576 hours of theory and 954 hours of supervised clinical experience, taught by an individual who meets the requirements of section 2584(c)(3). Any or all of the supervised clinical bedside work experience is the performance of direct patient care functions provided throughout the patient's stay that encompass the breadth and depth of experience equivalent to that performed by the PT.

Little Hoover Recommendation:

As presented in the Little Hoover Commission report, ***"Jobs for Californians: Strategies to Ease Occupational Licensing Barriers, Report #234, October 2016,"*** the removal of barriers to occupational licensing is recommended. Specifically, Recommendation #8 states,

"The State of California should develop interim work and apprenticeship models to provide opportunities for people missing certain qualifications to work while meeting their requirements, and to promote upward mobility within career paths."

The Board supports this recommendation. The Board recognizes the critical need for a safe and competent professional healthcare workforce to deliver safe and competent care to consumers. The Board also recognizes the need and significance for professional accessibility by varied means and its critical impact on individuals seeking VN and PT licensure. Both can be accomplished while maintaining the protection of the consumer.



NEW ISSUES:

EQUIVALENT EDUCATION AND EXPERIENCE (CONT.)

Published examination statistics confirm that pass rates for candidates seeking licensure based on the completion of equivalent education and experience are substantially lower than that of program graduates. Further, analysis of program completion statistics in comparison to the population of applicants seeking VN and PT licensure based on equivalent education and experience indicates increased program utilization for candidates who complete academic requirements but fail exit examinations. Those candidates are unable to pass the licensure examination; however, in a significant number of cases, the candidate is left with exorbitant expenses as a result of their educational experience. All too frequently, they are unable to repay educational loans, etc. and are forced into default. Often, such defaults result in increased costs to consumers.

Recommendation:

The Board will seek modification of existing regulations to enhance the success of candidates seeking VN and PT licensure based on the completion of equivalent education and experience.

NEW ISSUES:

DELEGATION OF DEFAULT DECISIONS TO EXECUTIVE OFFICER

Delegation of Default Decisions to Executive Officer

In a 2009 background paper addressing the Board of Registered Nurses' (BRN) problems with enforcement delays entitled "Creating a Seamless Enforcement Program for Consumer Boards," the Former Senior Assistant Attorney General made several recommendations to improve the enforcement processes for the BRN that may be considered by the Board. One recommendation was to delegate authority to the Executive Officer (EO) for both stipulated settlements and default decisions. As asserted in this background paper, delegation of these decisions to the EO would likely result in faster dispositions of cases, which will assist in protecting public safety.

The Board's EO has authority to currently execute stipulated settlements for voluntary license surrenders. The Task Force has investigated the possibility of delegating final approval on default decisions and stipulated settlements to the EO. The Board employs more than one full-time equivalent whose efforts are solely dedicated to the administration of the mail balloting process. Delegating final approval for default and stipulated decisions to the EO would give the Board an opportunity to better optimize staff resources in this area, and would also result in potentially significant reductions in enforcement days due to these straightforward cases not having to go through formal Board approval.

With regard to the delegation of all stipulated settlements, Board members have concerns regarding the delegation of such cases, which precludes the opportunity to deliberate these cases in closed session. In light of this, the Task Force recommended further study and consideration with regard to the potential delegation of final approval of stipulated decisions to the EO and does not recommend the Board move forward in this direction.

The Administrative Procedure Act does not give the Board the authority to delegate either default or stipulated settlements (with the exception of voluntary surrender settlements) to the EO. Government Code §§ 11425.10(a)(4) and 11425.30 prohibit the decision maker from being part of the investigation and prosecution of any discipline case. The Board would have to seek approval from the legislature on this measure. The Board has the opportunity to seek the required changes in conjunction with the



NEW ISSUES:

DELEGATION OF DEFAULT DECISIONS TO EXECUTIVE OFFICER (CONT.)

current Sunset Review. At least two other DCA Healing Arts Boards in California have sought measures to more efficiently control default decisions. The Medical Board of California sought and successfully pursued statutory changes to provide the authority to delegate default discipline decisions to its EO. The BRN brought the preparation of default decisions in-house, and does not use the AG to process them. This required additional staffing and specialized training to do so. Given staffing constraints and training considerations, the Task Force does not recommend a similar strategy for the Board, but simply the delegation of final default decision approval to the EO.

Recommendation:

The Board recommends legislation seeking authority to delegate adoption of default decisions to the Executive Officer.

**NEW ISSUES:****VN/PT FUND
MERGER****VN/PT Fund Merger**

Please provide an update on the funds merger between the Psychiatric Technician and Vocational Nursing accounts that was authorized via statute following the 2015 sunset review of the Board.

On February 13, 2012, the Board approved a merger of the VN and PT Programs' funds as an alternative to a statutory amendment to raise the PT Program's fee ranges. Additionally, the fund merger would allow the Board to evaluate actual operational costs and factor in combined reversions of both the VN and PT programs to assess the fee increases fairly for each profession. The fund merger was effective July 1, 2016.

Since this merger, the Board has aggressively reduced costs as well as collected on outstanding accounts receivables. According to the DCA Budget Office, the combined funds delay a deficit and the need to increase fees for 2-3 years.

In accordance with AB 179 (Hill), a fee audit was conducted by Capital Accounting Partners, LLC. Based on this audit, the Board approved a fee schedule change during the October 2016 Board meeting. (See Appendix)



NEW ISSUES:

NEW VN, PT, AND ACADEMIC FEE SCHEDULE

New VN, PT, and Academic Fee Schedule

In accordance with AB 179 (Hill), the Board of Vocational Nursing and Psychiatric Technicians (Board) engaged Capital Accounting Partners, LLC (CAP) to prepare a detailed cost analysis of our fees. The Board's objectives for the study were to ensure that the Board is fully accounting for all of our costs and recovering adequate revenues to be reimbursed for our expenses. The Board's only sources of revenues are fees charged for each of the various licenses. Thus, the Board is fully self-supporting, so it is vital that the fees charged to licensees fully cover the costs of the program.

The scope of this study included the following objectives:

- Calculate full cost of licenses;
- Determine a fair and equitable method of allocating non-fee expenses, such as enforcement, to each license type;
- Develop revenue projections for 5-10 years to set the cap; and
- Review performance of core business processes.

The process used for collecting and analyzing the data required active participation by the Board's management and staff. We want to take this opportunity to recognize their participation, time, and effort to collect the data and discuss the analysis, results, and recommendations.

The primary observation that CAP had in evaluating fees and appropriate fee levels is that there has not been a pattern, practice, or history of regular fee adjustments. This is not unlike many of the Boards and Bureaus that make up the Department.



NEW ISSUES:

NEW VN, PT, AND ACADEMIC FEE SCHEDULE (CONT.)

Capitol Accounting Partners Recommendations:

1. Establish Fees For Educational Institutions

Requirements of the Educational Consultants have increased in recent years. One of the challenges is that many of the new institutions that are developing programs for Vocational Nursing and Psychiatric Technicians are not traditional 2 and 4-year institutions of higher education. This trend is putting stress on the work group as they often have to review programs that are not up to a standard that the traditional 2 or 4-year institutions might produce. This also means that more of these institutions are coming under provisional approval which puts additional requirements for this work group.

2. Set Caps And Adjust Fees Regularly

In CAP's view, one of the most important outcomes of a study of fees is a policy to adjust fees regularly. Staff generally receive regular cost of living adjustments, nurses and technicians generally receive cost of living adjustments, and fees should be adjusted regularly as well.

Capital Accounting Partners (CAP) has provided a 10 year forward projection of fees based on an annual increase of 4.5%. CAP recommends working with the State Legislature to set the caps at either the 5 or 10 year amount, then adjusting fees annually or at least bi-annually to maintain alignment of revenues and expenditures. CAP also recommends a formal audit of fees at the 5-year mark as processing requirements can change dramatically within this time frame. CAP recommends that adjusting fees on a regular basis be established in either practice or policy. (See Appendix)



NEW ISSUES:

NEW VN, PT, AND ACADEMIC FEE SCHEDULE (CONT.)

Recommendations:

1. The Board recommends a legislative change to increase Business and Professions Code § 2895 vocational nursing (VN) as presented by CAP in the proposed Fee Schedule.
2. The Board recommends a legislative change to establish academic institution fees as presented by CAP in the proposed Fee Schedule.
3. The Board recommends seeking a legislative change to conduct a fee audit five years post the adoption of the new fees.

Appendix

Licensing & Misc Fees / Budgeted Costs



Service #	Fee Name	Notes	Actual Work Volume	Unit Cost Summary						Annual Cost Calculations w/o Reserves		
				Direct Unit Cost	Allocated Support Costs	Enforcement Allocation	Total Cost Assigned	Current Fee / Revenue	Unit Surcharge or (Subsidy)	Revenue at Full Cost of Services	Projection of Revenues at Current Fees	Annual Surplus (subsidy)
Vocational Nursing Fee Categories												
New	Initial application for examination and license fee - California Vocational Nursing Program Graduate	May Combine with Initial License	7,878	\$ 18	\$53	\$ 134.61	\$205	\$ 150	(\$55)	\$ 1,617,152.39	\$1,181,640	(\$435,512)
New	Initial application for examination and license fee - Non California Vocational Nursing Program Graduate		1,969	\$ 18	\$53	\$ 134.61	\$205	\$ 150	(\$55)	\$ 404,255.47	\$295,410	(\$108,845)
8	Endorsement and License Fee		1,590	\$ 8	\$24	\$ 134.61	\$166	\$ 75	(\$91)	\$ 264,325.78	\$119,235	(\$145,091)
New	Verification of a California License to another State Board			\$ 18	\$52	\$ 134.61	\$204		(\$204)	\$ -		
New	Certification of a California License to a non-state Board			\$ 18	\$52	\$ 134.61	\$204		(\$204)	\$ -		
New	Request of Educational Documentation			\$ 24	\$71	\$ 134.61	\$229		(\$229)	\$ -		
2	Reexamination application fee		5,868	\$ 8	\$24	\$ 134.61	\$166	\$ 150	(\$16)	\$ 975,551.32	\$880,125	(\$95,426)
3	Interim Permit		137	\$ 8	\$24	\$ 134.61	\$166	\$ 40	(\$126)	\$ 22,778.11	\$5,480	(\$17,298)
5	Biennial Renewal for 2 years**		42,498	\$ 8	\$23	\$ 134.61	\$166	\$ 155	(\$11)	\$ 7,053,782.18	\$6,587,188	(\$466,594)
6	Delinquent Fee		1,759	\$ 4	\$11	\$ 134.61	\$150	\$ 75	(\$75)	\$ 263,389.38	\$131,895	(\$131,494)
7	Duplicate License		1,022	\$ 4	\$11	\$ 134.61	\$150	\$ 25	(\$125)	\$ 153,037.23	\$25,545	(\$127,492)
4	Initial license fee		7,319	\$ 4	\$11	\$ 134.61	\$150	\$ 150	\$0	\$ 1,096,132.78	\$1,097,800	\$1,667
				\$ -						\$ -		
				\$ -						\$ -		
				\$ -						\$ -		
				\$ -						\$ -		
				\$ -						\$ -		
				\$ -						\$ -		
				\$ -						\$ -		
Psychiatric Technician Fee Categories												
New (4)	Initial application for examination and license fee - California Psych Tech Program Graduate	May Combine with Initial License	292	\$ 33	\$97	\$ 134.61	\$265	\$ 150	(\$115)	\$ 77,196.99	\$43,725	(\$33,472)
New (4)	Initial application for examination and license fee - Non California Psych Tech Program Graduate		292	\$ 39	\$116	\$ 134.61	\$290	\$ 150	(\$140)	\$ 84,588.30	\$43,725	(\$40,863)
New (8)	Endorsement and License Fee			\$ 24	\$71	\$ 134.61	\$229	\$ 20	(\$209)	\$ -	\$20	\$20
New	Verification of a California License to another State Board			\$ 24	\$71	\$ 134.61	\$229		(\$229)	\$ -		
New	Certification of a California License to a non-state Board			\$ 24	\$71	\$ 134.61	\$229		(\$229)	\$ -		
New	Request of Educational Documentation			\$ 24	\$71	\$ 134.61	\$229		(\$229)	\$ -		
2	Reexamination application fee		295	\$ 8	\$24	\$ 134.61	\$166	\$ 150	(\$16)	\$ 49,047.74	\$44,250	(\$4,798)
3	Interim Permit		1	\$ 8	\$24	\$ 134.61	\$166	\$ 20	(\$146)	\$ 166.26	\$20	(\$146)
5	Biennial Renewal for 2 years		489	\$ 8	\$23	\$ 134.61	\$166	\$ 300	\$134	\$ 81,163.83	\$146,700	\$65,536
6	Delinquent Fee		144	\$ 8	\$24	\$ 134.61	\$166	\$ 150	(\$16)	\$ 23,941.95	\$21,600	(\$2,342)
7	Duplicate License		104	\$ 8	\$24	\$ 134.61	\$166	\$ 20	(\$146)	\$ 17,291.41	\$2,080	(\$15,211)
4	Initial license for 2 years		4,559	\$ 4	\$11	\$ 134.61	\$150	\$ 300	\$150	\$ 682,811.44	\$1,367,700	\$684,889
				\$ -						\$ -		
				\$ -						\$ -		
				\$ -						\$ -		
				\$ -						\$ -		
Miscellaneous Fees												
	Change in name and/or address			\$ 8	\$24		\$32		(\$32)	\$ -		
				\$ -						\$ -		
				\$ -						\$ -		

Licensing & Misc Fees / Budgeted Costs



Service #	Fee Name	Notes	Actual Work Volume
Educational Provider Fee Categories			
New	Initial approval to operate a nursing program		20
New	Program re-evaluation every 4 years		50
New	Curriculum revision - major		16
New	Curriculum revision - minor		1,250
New	Continuing Education Provider (Voc Nursing and Psych Tech)		46
New	I.V. Course provider certification		8
New	Blood Withdrawal Course provider certification (Voc Nursing and Psych Tech)		12
New	I.V. & B.W. Course provider certification (combination)		18
Fee # 325		Current	

Unit Cost Summary					
Direct Unit Cost	Allocated Support Costs	Enforcement Allocation	Total Cost Assigned	Current Fee / Revenue	Unit Surcharge or (Subsidy)
\$ -					
\$ 1,599	\$4,278		\$5,877		(\$5,877)
\$ 1,359	\$3,636		\$4,996		(\$4,996)
\$ 800	\$2,139		\$2,939		(\$2,939)
\$ 400	\$1,070		\$1,469		(\$1,469)
\$ 320	\$856		\$1,175	\$ 200	(\$975)
\$ 160	\$428		\$588		(\$588)
\$ 160	\$428		\$588	\$ 20	(\$568)
\$ 160	\$428		\$588		(\$588)
\$ -					
\$ -					
\$ -					

Annual Cost Calculations w/o Reserves		
Revenue at Full Cost of Services	Projection of Revenues at Current Fees	Annual Surplus (subsidy)
\$ -		
\$ 117,544.82		(\$117,545)
\$ 249,782.74		(\$249,783)
\$ 47,017.93		(\$47,018)
\$ 1,836,637.81		(\$1,836,638)
\$ 54,070.62	\$9,200	(\$44,871)
\$ 4,701.79		(\$4,702)
\$ 7,052.69	\$240	(\$6,813)
\$ 10,579		(\$10,579)
\$ -		
\$ -		

Annual Revenue Impacts		
Revenue at Full Cost of Services	Projection of Revenues at Current Fees	Annual Surplus (subsidy)
\$ 15,194,000	\$ 12,003,578	(\$3,190,422)

