



Agenda Item 9.0

Report of the Enforcement/Intervention Committee

EIC Committee Meeting | March 24, 2022

ENFORCEMENT/INTERVENTION COMMITTEE

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Agenda Item 9.2

Review and Vote on Whether to Approve Previous Meeting Minutes

EIC Committee Meeting | March 24, 2022

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF REGISTERED NURSING
ENFORCEMENT INTERVENTION
COMMITTEE MEETING MINUTES**

DRAFT

DATE: January 13, 2022

START TIME: 9:36 am

LOCATION: **NOTE:** Pursuant to Government Code section 11133, a physical meeting location is not being provided.

The Board of Registered Nursing held a public meeting via a teleconference platform.

The Enforcement and Intervention Committee of the Board of Registered Nursing held a public meeting via a teleconference platform.

Thursday, January 13, 2022 – 10:00 am – 5:00 pm Committee Meetings

9:36 am

9.0

Call to Order/Roll Call/Establishment of a Quorum

Imelda Ceja-Butkiewicz– Chair, called the meeting to order at 10:03 am. All members present. Quorum established at 9:37 am.

**Enforcement and
Intervention
Committee:**

Imelda Ceja-Butkiewicz – Committee Chair
Mary Fagan, PhD, RN, NEA-BC
Elizabeth (Betty) Woods, RN, FNP, MSN
Patricia (Tricia) Wynne

**BRN Staff
Representatives:**

Loretta Melby – Executive Officer
Reza Pejuhesh – Legal Counsel

9:38 am

9.1

Public Comment for Items Not on the Agenda; Items for Future Agendas

Note: The Committee may not discuss or take action on any matter raised during the Public Comment section that is not included on this agenda, except to decide whether to place the matter on the agenda of a future meeting. (Gov. Code, §§ 11125 & 11125.7, subd. (a).)

Public Comment for Agenda Item 9.1: No public comments.

9:40 am

9.2

Review and Vote on Whether to Approve Previous Meeting Minutes:

➤ October 7, 2021

DISCUSSION: Imelda Ceja-Butkiewicz opened this agenda items and opened for Committee discussion. There was no Committee discussion on the prior meeting minutes.

MOTION: **Imelda Ceja-Butkiewicz:** Motioned to accept the October 2021 meeting minutes.

SECOND: **Mary Fagan**

Public Comment for Agenda Item 9.2: No public comments.

VOTE:

Vote	ICB	MF	EW	PW
	Y	Y	Y	A
<u>Key:</u> Yes: Y No: N Abstain: A Absent for Vote: AB				

Motion: Passed

10:08 am

9.3

Nurse Practitioner Advisory Committee (NPAC) Updates – Informational Only

DISCUSSION: Imelda Ceja- Butkiewicz opened this agenda items and introduced Shannon Johnson, EIC Liaison to provide the information only Enforcement updates.

Shannon Johnson: Reviewed the data and explained the new charts and progress being made with the reduction of days to complete investigations within the BRN’s control. She explained the collaborative work being done with OIO and the efforts to identify best practices within other healing arts boards. Explained some of the difficulties in obtaining some of the records and provided the example of convictions records with the courts closing due to COVID.

Scarlett Treviso: Further explained the difficulties in obtaining records from facilities and other entities. She explained the efforts being researched over the last two years to obtain authority to require the facilities to provide the records to our investigators without the assistance of other law enforcement

agencies/personnel such as the Office of the Attorney General.

Loretta Melby: Provided further information that this item was listed in the Board's 2010 Sunset Report when the Board was Sunset. Furthermore, this item was placed in the Board's 2020 and 2021 Sunset Reports. The Board continues to research all means to improve our investigation times.

Imelda Ceja-Butkiewicz: Thanked Lori for the clarification. Imelda also asked about the DOI Pilot and if the extension was approved by the Board.

Loretta Melby: Explained that the one-year extension was completed per her request and no other changes were made; therefore, there was no need to go in front of the Board.

**Public Comment for
Agenda Item 9.3:**

No public comments.

10:03 am

9.4

Adjournment

Imelda Ceja- Butkiewicz adjourned the meeting at 10:03 am.

Submitted by:

Accepted by:

Shannon Johnson

Staff Liaison

California Board of Registered Nursing

Imelda Ceja-Butkiewicz

Committee Chair

Nursing Practice Committee

California Board of Registered Nursing



Agenda Item 9.3

Information Only: Enforcement and Investigation Update

EIC Committee Meeting | March 24, 2022

**BOARD OF REGISTERED NURSING
Enforcement Intervention Committee
Agenda Item Summary**

**AGENDA ITEM: 9.3
DATE: March 24, 2022**

ACTION REQUESTED: **Information Only:** Enforcement, Intervention & Investigation Update

REQUESTED BY: Imelda Ceja-Butkiewicz, Chairperson

ACCOMPLISHMENTS:

General Enforcement and Investigations

The Office of Organizational Improvement (OIO) is working with BRN to assess and map out workflow, timeframes, and procedures to streamline and improve internal processes. The OIO team is working with Subject Matter Experts (SME) from each unit and staffing level. We will continue to report on the progress of this project in future meetings.

We have conducted second interviews for both the Deputy Chief vacancies, for Complaint Intake/Intervention and Discipline/Probation. We hope to have these two positions offered by April 1, 2022.

Supervising Special Investigator, Carolyn Springer, announced her retirement that will be effective September 2022, her last day working will be March 31, 2022. We wish her well in her retirement.

Complaint Intake

OIO completed SME interviews within the Complaint Intake Unit on March 1, 2022. We look forward to receiving their mapping and recommendations in the near future.

BRN continues to recruit qualified registered nurses with the professional and educational background as Expert Practice Consultants (EPC) to review investigative case materials, prepare written opinions, and evaluate whether an RN deviated from the standards of nursing practice or is responsible for unprofessional conduct.

The BRN is in critical need of EPCs in the following areas:

- Long Term Care/Skilled Nursing Facility/Geriatric
- Acute Rehabilitation
- Hospice
- Home Health
- OP/Ambulatory/Clinic

- Cosmetic/Botox/Laser

For more information about the Expert Practice Consultant program, please visit the BRN website: <http://rn.ca.gov/enforcement/expwit.shtml>.

Or email us at Expert.BRN@dca.ca.gov

Investigations

The Attorney General’s Office (AGO), the Division of Investigation (DOI), BRN Investigations and BRN Enforcement are reviewing the 2017 “Investigating BRN Cases - Training Guide.” Based on the results from the recently conducted survey to the investigators, updates are being made to the current training guide. Our goal is to have the revised guide ready, and training conducted May 3, 2022.

Below is the chart identifying the average cases per Special Investigator over the past three years:

Table A	February 2020	February 2021	February 2022
Average Cases per Investigator	23	15	22

DOI/BRN CASE PRIORITIZATION PILOT PROJECT

DOI and BRN continue to follow the Pilot Program initiated in September 2019 that changed case referral guidelines for urgent priority Quality of Care complaints alleging significant patient harm and/or patient death.

The Pilot was reviewed, updated, and signed for continuation through December 2022.

Discipline

As of February 28, 2022, only 9% of our pending cases have been at the AG’s office for more than one year. All hearings through the Office of Administrative Hearings (OAH) continue to be held via an online platform (Microsoft Teams).

Below is the chart identifying the average cases per analyst over the past three years:

Table B	February 2020	February 2021	February 2022
Average Cases per Analyst	92	77	79

Probation

The Probation Unit SME’s have begun working with OIO to map out the probation processes.

Below is the chart identifying the average cases per analyst over the past three years:

Table C	February 2020	February 2021	February 2022
Average Cases per Monitor	83	87	84

Intervention

The Intervention Program continues to actively recruit for Intervention Evaluation Committee members. Currently, there are nine (9) vacancies.

IEC Location	Member Type
2 – Bay Area	Public
2 – Bay Area	Registered Nurse
3 – Los Angeles	Physician
4 – Irvine	Physician
5 – Fresno	Registered Nurse
6 – Palm Springs	Physician
9 – Ontario	Public
12 – Northern California	Physician
14 – Santa Ana	Registered Nurse

To apply for an IEC position, you can find the application on our website at <https://rn.ca.gov/intervention>

TABLE D

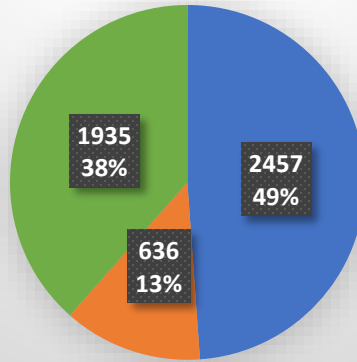
Board of Registered Nursing Enforcement Process Statistics Fiscal Year 2021 / 2022 March 3, 2022	
Complaint Intake	
Public Complaints	2457
Convictions/Arrest	636
Applicants	1935
Total Received	5028
Complaints Pending	1473
>1 year	247
Convictions/Arrests Pending	1020
>1 year	406
Applicants Pending	140
>1 year	8
Expert Review Pending Referral	43
>1 year	2
Expert Review Pending Receipt	18
>1 year	0
Intervention	
Total Participants	
Self Referrals	
Accepted	
Board Referrals	
No response	
Declined	
Accepted	
Terminations	
Successful Completions	
Citation and Fine	
Citations Issued	94
Informal Conference	
Modified	3
Dismissed	1
Upheld	0
Amount Ordered	\$78,975.00
Amount Received	\$115,885.00
Amount Referred to FTB	\$486,294.83
Amount Received from FTB	\$153,428.19

Discipline		
AG Referrals		
	Cases	885
Cases Pending		
	< 1 Year	598
	> 1 Year	50
	> 2 Year	4
	Cases Pending >1 Year W/O Pleading Filed	8
Cases Pending Hearing		115
Average Days at AG		329
Pending Board Vote		22
Legal Support		
Interim Suspension Orders (ISO)		3
	PC 23	7
	Pleadings Served	
	Accusations	419
	Statements of Issue	13
Orders to Compel		30
Petitions to revoke Probation		45
	Withdrawals of Pleadings	14
	Decisions Adopted	
	Surrenders	82
	Default Revocations	114
	Ordered Revocations	27
	Probation	45
	Public Reprovals	48
Investigations		
BRN Cases Referred		668
	Rejected	96
	Supplemental Requested	14
	Triage	6
BRN Cases Pending		502
	>1 year	16
BRN Cases Completed		583
DOI Cases Referred		417
	Rejected	69
	Supplemental Requested	30
DOI Cases Pending		566
	>1 year	88
DOI Cases Completed		311
DOI Pilot Cases Initiated		284
DOI Pilot Cases Pending		81
DOI Pilot Case Closed		203

Probation		
Active In-State Probationers		670
Tolled Probationers		412
Revoked		19
Surrendered		7
Completed		125
Subsequent Cases Pending at AG		
	< 1 Year	40
	>1 Years	1
Total Case Processing Time		
Average Days to Complete		635
	> 540 Days	56%
	< 540 Days	44%
DCA goal of 540 days for all healing arts boards		

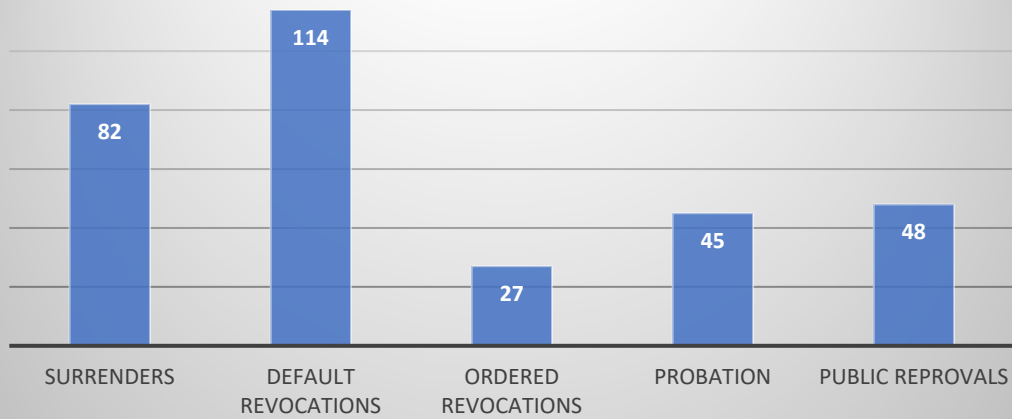
Graphs Based on Table D

Complaints Received

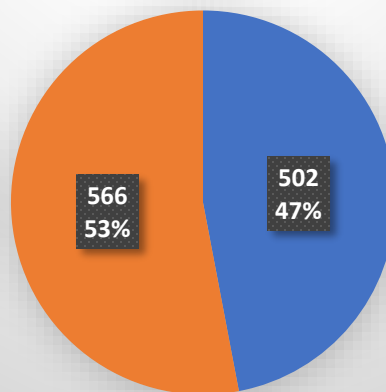


■ Public Complaints ■ Convictions/Arrest ■ Applicants

Decisions Adopted FYTD



Investigation Cases Pending



■ BRN Cases Pending ■ DOI Cases Pending

BRN Performance Measure YTD 21/22

TABLE E

Performance Measure 4 - AG Transmittals						
	Case Volume	Intake	Investigation	Pre-AG Time	Post AG Time	Average Total Time
Total/Average	340	8	287	8	324	626
July	65	7	279	9	349	644
August	55	6	252	14	320	592
September	90	7	292	8	302	609
October	65	12	323	6	316	656
November	65	7	283	3	340	632
December	64	8	331	6	343	687
January	46	9	370	2	299	680
February	61	10	273	8	388	680

TABLE F

All DCA Healing Arts & Health Entities				
SFY 2021: 12-Month PM4 - Summary by Board				
	Case Volume	Target	Actual	Variance
Grand Total	2,464	540 Days	839 Day(s)	▲ 299 Day(s)
Acupuncture Board	14	540 Days	866 Day(s)	▲ 326 Day(s)
Board of Behavioral Sciences	117	540 Days	426 Day(s)	▼ -114 Day(s)
Board of Chiropractic Examiners	20	540 Days	914 Day(s)	▲ 374 Day(s)
Board of Psychology	53	540 Days	754 Day(s)	▲ 214 Day(s)
<u>Board of Registered Nursing</u>	<u>891</u>	<u>540 Days</u>	<u>690 Day(s)</u>	<u>▲ 150 Day(s)</u>
Board of Vocational Nursing and Psychiatric Technician	222	540 Days	862 Day(s)	▲ 322 Day(s)
California Board of Occupational Therapy	17	540 Days	726 Day(s)	▲ 186 Day(s)
California State Board of Pharmacy	224	540 Days	878 Day(s)	▲ 338 Day(s)
Dental Board of CA	59	540 Days	1266 Day(s)	▲ 726 Day(s)
Dental Hygiene Board	8	540 Days	840 Day(s)	▲ 300 Day(s)
Medical Board of CA	620	540 Days	1028 Day(s)	▲ 488 Day(s)
Osteopathic Medical Board of CA	16	540 Days	933 Day(s)	▲ 393 Day(s)
Physical Therapy Board	31	540 Days	840 Day(s)	▲ 300 Day(s)
Physician Assistant Board	26	540 Days	1237 Day(s)	▲ 697 Day(s)
Podiatric Medical Board of CA	15	540 Days	1183 Day(s)	▲ 643 Day(s)
Respiratory Care Board	42	540 Days	435 Day(s)	▼ -105 Day(s)
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	8	540 Days	972 Day(s)	▲ 432 Day(s)
State Board of Optometry	9	540 Days	935 Day(s)	▲ 395 Day(s)
Veterinary Medical Board	72	540 Days	1214 Day(s)	▲ 674 Day(s)

If you would like more information on our enforcement statistics, please go to https://www.dca.ca.gov/data/enforcement_performance.shtml

NEXT STEPS: Continue to Monitor

PERSONS TO CONTACT: Shannon Johnson, Enforcement Chief
(916) 515-5268
Scarlett Treviso, Investigations Deputy Chief
(916) 508-9285

ENFORCEMENT PROCESS STATISTICS

REFERENCE GUIDE

Complaint Intake

- Complaints Received
 - The total number of public complaints received. This includes other state agencies and Boards.
- Convictions/Arrests
 - The total number of complaints received due to an arrest and/or subsequent conviction. These are reported by Criminal Offender Record Information (CORI) from the California Department of Justice (DOJ).
- Applicants
 - The total number of applications received from Board of Registered Nursing (BRN or Board) licensing, in where the applicant disclosed a previous criminal history or discipline by another state board.
- Complaints Pending
 - The number of complaints that are pending in the Complaint Intake Unit (CIU).
- Convictions/Arrests Pending
 - The number of Convictions/Arrests that are pending in CIU.
- Applicants Pending
 - The number of Applicants that are pending in CIU.

Intervention

- Total Participants
 - The current number of participants in the Intervention Program.
- Self-Referrals
 - The number of referrals in where the RN has contacted the Intervention Program on their own, without a complaint being filed.
 - Declined
 - The number of self-referrals that decided to decline the Intervention Program after receiving program information.
 - Accepted
 - The number of self-referrals that have accepted and entered the Intervention Program.
- Board-Referrals
 - The number of referrals in where the RN received an invitation by the Board, based on a complaint that involved drugs, alcohol or mental illness.
 - No Response

- The number of Board referrals that didn't respond to the invitation.
 - Declined
 - The number of Board referrals that decided to decline the program after receiving program information.
 - Accepted
 - The number of Board referrals that have accepted and entered the program.
- Terminations
 - The number of RN's that were terminated from the program for any reason.
- Successful Completions
 - The number of RN's that were able to successfully complete the program.

Citation & Fine

- Citations Issued
 - The total number of citations issued.
- Formal Hearing
 - The number of hearings requested by the RN. The formal hearing is transmitted to the Attorney General's Office (AGO) and is heard by an Administrative Law Judge (ALJ). The results of this hearing would be either modify, dismiss or uphold the citation.
- Informal Conference
 - The number of informal conferences conducted after an appeal is made by the Respondent. The results of the informal conference would be either modify, dismiss or uphold the citation.
- Amount Ordered
 - The total fine amount that has been ordered from all citations issued during the Fiscal Year (FY).
- Amount received
 - The total fine amount received by the Board during the FY.
- Amount referred to Franchise Tax Board (FTB)
 - The total amount of fines referred to FTB, in an attempt to retrieve the fines through California Income tax.
- Amount received from FTB
 - The total amount of fines received from FTB from California Income tax.

Discipline

- Attorney General (AG) referrals
 - The total number of cases referred to the AG.
- Cases pending

- The total number of cases that are pending a final disposition in the disciplinary process.
- Cases pending hearing
 - The total number of cases that are awaiting a hearing before an ALJ.
- Average days at AGO
 - This is the average number of days that cases are at the AGO for prosecution.
- Pending Board vote
 - The total number of cases that are awaiting a vote by the Board.

Legal Support

- Interim Suspension Order (ISO)
 - Licenses suspended by an Administrative Law Judge due to the seriousness of the allegations in advance of the filing of an accusation and pending a final determination of the licensee's fitness to practice and provide nursing care.
- Penal Code 23 (PC23)
 - Licenses suspended from practice as a registered nurse or restricted in how he or she may practice registered nursing ordered by a judge during a criminal proceeding.
- Pleadings served
 - The total number of pleadings that have been served. This includes Accusations, Statements of Issue, Orders to Compel and Petitions to Revoke Probation.
- Withdrawals of pleadings
 - The total number of pleadings that the Board has withdrawn, and no action was taken.
- Decisions adopted
 - The total number of final Decisions that were adopted by the Board. This includes Surrenders, Default Revocations, Ordered Revocations, Probation and Public Reprovals.

Investigations

- BRN cases referred
 - This is the total number of cases that were referred to BRN Investigations.
 - Rejected
 - The total number that were rejected. Rejected cases are either referred to Division of Investigation (DOI), per Consumer Protection Enforcement Initiative (CPEI), closed or sent for citation.
 - Supplemental requested
 - The total number of cases that needed additional investigation for evidence or interviews. These are normally requested by BRN staff, AG or Expert.
 - Triage

- The total number of cases that require additional information and discussion to determine the CPEI level, before assignment to either BRN Investigations or DOI.
- BRN cases pending
 - Total number of cases pending with BRN Investigations.
 - The total number of cases pending that are over 1 year old with BRN Investigations.
- BRN cases completed
 - The total number of cases that have been completed by BRN Investigations.
- DOI cases referred
 - This is the total number of cases that were referred to DOI.
 - Rejected
 - The total number that were rejected. Rejected cases are either referred to BRN Investigations per Consumer Protection Enforcement Initiative (CPEI), closed or sent for citation.
 - Supplemental requested
 - The total number of DOI cases that needed additional investigation for evidence or interviews. These are normally requested by BRN staff, AG or Expert.
- DOI cases pending
 - Total number of cases pending with DOI
 - Cases over 1 year old
 - The total number of cases pending that are over 1 year old with DOI.
- DOI cases completed
 - The total number of cases that have been completed by DOI.
- DOI pilot cases initiated
 - The total number of cases that were sent to BRN for investigation, that were outside the CPEI guidelines, and would have normally been sent to DOI for investigation.
- DOI pilot cases pending
 - The number of cases that were referred to DOI and are still pending completion.
- DOI pilot cases closed
 - The number of cases that were referred to DOI and have been completed.

Probation

- Active in state probationers
 - The total number of current/active in state probationers.
- Tolled probationers

- The total number of probationers that reside outside of California. These probation cases are placed on hold until the RN returns to California.
- Revoked
 - The total number of probationers that have been revoked.
- Surrendered
 - The total number of probationers that have surrendered their license.
- Completed
 - The total number of probationers that have successfully completed probation.
- Subsequent cases pending at AGO
 - The total number of probationers that have had subsequent discipline and transmitted back to the AG for further disciplinary action.
 - Over 1 year
 - The number of probationary cases that have been pending at the AGO for over 1 years.
 - Over 2 years
 - The number of probationary cases that have been pending at the AGO for over 2 years.

Total Case Processing Time

- Average days to complete
 - The average days currently taking to complete a case from complaint receipt to final Decision
 - Over 540 days
 - The percentage of cases that BRN **is not** meeting the DCA goal of 540 days for case completion.
 - Under 540 days
 - The percentage of cases that BRN is meeting the DCA goal of 540 days for case completion.
 - *Note – DCA's goal for all healing arts boards **is** to complete on an average of 540 days or less.*

Table A

The average number of cases per investigator, in the month/year noted, for the last 3 years.

Table B

The average number of cases per Discipline Analyst, in the month/year noted, for the last 3 years.

Table C

The average number of cases per Probation Monitor, in the month/year noted, for the last 3 years.

Table D

Enforcement and Investigation statistical data FY to date. See guide above for reference.

Table E

BRN's Performance Measure 4, FY to date, by month. This is an average of case time from complaint intake to final disposition, broken down by intake, investigation, pre-AG and post AG time.

- Case volume is the total number of cases received in that month.
- Intake is the average time for intake to process and refer to investigation.
- Investigation is the average time for an investigation of the case.
 - This includes desk investigation, BRN investigation and DOI investigation.
- Pre AG time is the average amount of time from the closure of the investigation to AG referral.
- Post AG time is the average time from AG referral to final disposition of the case.
 - This includes the AG time, hearing, Board vote and case processing.
- Average total time is the average of a case from complaint intake to final disposition.

Table F

This is DCA's reported Performance Measure 4, which is the formal disciplinary cycle time for all DCA entities.

More information on DCA's enforcement reports can be found at <https://www.dca.ca.gov/data/enforcement.shtml>



Agenda Item 9.4

Discussion and Possible Action Regarding Reappointment of Intervention Evaluation Committee Members

EIC Committee Meeting | March 24, 2022

**BOARD OF REGISTERED NURSING
Enforcement Intervention Committee
Agenda Item Summary**

AGENDA ITEM: 9.4
DATE: March 24, 2022

ACTION REQUESTED: Discussion and Possible Action Regarding Reappointment of Intervention Evaluation Committee Members

REQUESTED BY: Imelda Ceja-Butkiewicz, Chairperson

BACKGROUND:

In accordance with Business and Professions Code § [2770.2](#), Board of Registered Nursing is responsible for appointing persons to serve on an Intervention Evaluation Committee (IEC). Each IEC is composed of three registered nurses, one physician and one public member who possess knowledge and expertise in substance use disorder or mental health.

APPOINTMENT:

Below are the names of the candidates being considered for appointment to their respective IEC. Their applications and curriculum vitae are attached for the Board's consideration. If approved, their terms will expire as noted below.

Name	Title	IEC Location	Appointment Type	Term Expiration
Lisa Martinez, RN	Nurse Member	2, Fairfield	Reappointment	June 30, 2026
Diane Alvy, RN	Nurse Member	3, LA	Reappointment	June 30, 2026
Dianne Souza, PM	Public Member	10, San Diego	Reappointment	June 30, 2026

NEXT STEPS: Continue recruiting efforts

PERSON TO CONTACT: Shannon Johnson, Enforcement Chief
(916) 515-5265